

**CITY OF TEMPE  
DEVELOPMENT REVIEW COMMISSION**

Meeting Date: 6/13/2017  
Agenda Item: 3

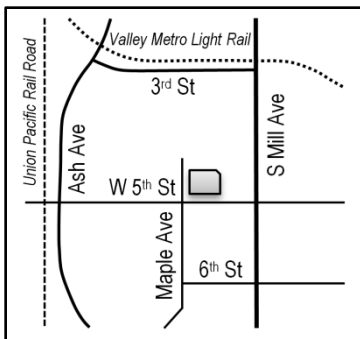
**ACTION:** Request approval of a use permit to allow a bar (Series 6) for 5TH STREET PREPARED FOOD MARKET & BAR (PL170154), located at 24 West 5th Street. The applicant is Huellmantel & Affiliates.

**FISCAL IMPACT:** N/A

**RECOMMENDATION:** Staff – Approve, subject to conditions

**BACKGROUND INFORMATION:** 5TH STREET PREPARED FOOD MARKET & BAR (PL170154) is requesting a use permit to allow a restaurant with a full service bar in the Barmeier Building located on the northeast corner of West 5<sup>th</sup> Street and South Maple Avenue in the CC, City Center District and within the TOD, Transportation Overlay District. The restaurant and bar will provide a market-style establishment with a large kitchen serving fast casual meals on weekdays with a full breakfast/brunch offered on weekends. The proposed hours of operation for the restaurant will be from 6 a.m. to 2 a.m., daily; the proposed hours for the bar will be from 10 a.m. to 2 a.m., Monday through Friday, and from 8 a.m. to 2 a.m., Saturday and Sunday. The establishment anticipates employing 60-75 persons. The request includes the following:

1. Use Permit to allow a bar (Series 6).



Property Owner	Antipesto Real Estate Holdings, LLC
Applicant	Charles Huellmantel, Huellmantel & Affiliates
Zoning District	CC (TOD)
Site Area	18,552 s.f.
Building Area	11,262 s.f.
Office Area	6,526 s.f.
Proposed Restaurant/Bar Area	4,278 s.f.
Lot Coverage	60.7%
Building Setbacks	Front – 0'; Side – 9'; Street Side – 0'; Rear – 23'
Vehicle Parking	21 spaces (17 min. required)
Bicycle Parking	0 spaces (18 min. required)
Hours of Operation	M-F, 10 a.m. to 2 a.m.; Sa-Su, 8 a.m. to 2 a.m.

**ATTACHMENTS:** Development Project File

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

Department Director: Chad Weaver, Community Development Director

Legal review by: N/A

Prepared by: Lee Jimenez, Senior Planner

Reviewed by: Suparna Dasgupta, Principal Planner

## COMMENTS

Approximately 1,200 square feet of a wraparound patio area is proposed along the southwest portion of the building. The parking lot area on the south portion of the property will be converted to a covered patio bar, adding approximately 2,400 square feet dining/bar area. Although the conceptual site/floor plan indicates twelve (12) off-street parking spaces required with twenty-one (21) spaces provided; seventeen (17) spaces are required per Zoning & Development Code (ZDC) §4-607, *Downtown Parking Standards*. The proposed project is eligible for modified ZDC development standards in regards to landscaping, lighting, and mechanical screening per ZDC §6-314, *Adaptive Reuse Program*. Should the use permit be approved, a Development Plan Review application will be required for the proposed elevation and site modifications.

## PUBLIC INPUT

To date, no public input has been received by staff.

## POLICE INPUT

A security plan is required per ZDC §6-313, *Security Plan*.

## USE PERMIT

The proposed use requires a use permit to allow a bar (series 6) within the CC, City Center District.

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

1. *Any significant increase in vehicular or pedestrian traffic*; the proposed use will cater to the existing business and residential population in the downtown area and will therefore not significantly increase vehicular or pedestrian traffic.
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 consistent with surrounding restaurant and bar uses and will not generate emissions greater than that of ambient conditions.
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 will provide another unique dining/bar experience in the downtown area while reducing the commercial vacancy rate, which is not in conflict with the City's goals, objectives, policies or adopted plans.
4. *Compatibility with existing surrounding structures and uses*; the proposed building/site modifications and use is compatible with the downtown area which is renowned for its entertainment offerings of bars and restaurants, both indoor and outdoor.
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 establishment plans to implement a strict security plan that will proactively address potential disruptive behavior and administer policies to prevent behavior from occurring and causing nuisances to the surrounding area or general public.

## REASONS FOR APPROVAL:

Based on the information provided by the applicant, the public input received and the above analysis staff recommends 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:

1. This Use Permit is valid only after a Building Permit has been obtained and 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 building plan check process.
3. All required State, County and Municipal permits or licenses shall be obtained or the Use Permit is void.
4. If there are any complaints arising from the Use Permit that are verified by a consensus of the complaining party and the City Attorney's office, the Use Permit will be reviewed by City staff to determine the need for a public hearing to re-evaluate the appropriateness of the Use Permit, which may result in termination of the Use Permit.
5. 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 July 13, 2017.

**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.

- The Use Permit is valid for 5<sup>TH</sup> ST PREPARED FOOD MARKET & BAR and may be transferable to successors in interest through an administrative review with the Community Development Director, or designee.
- 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/city-hall/community-development/planning/zoning-and-development-code> 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.
- Music or sound shall not violate the City of Tempe Noise Ordinance.
- Live entertainment (indoor or outdoor) requires a separate Use Permit.

**HISTORY & FACTS:**

- |                   |  |
|-------------------|--|
| July 19, 1968     | Construction of the commercial building located at 24 West 5 <sup>th</sup> Street passed final inspection.   |
| December 20, 1985 | Tenant improvements for AMERICA WEST AIRLINES (BP75516) located at 24 West 5 <sup>th</sup> Street passed final inspection.   |
| May 24, 1990      | <p>City Council approved the request for TRAILS DEPARTMENT STORE (SIP.90.15) for the following located at 24 West 5<sup>th</sup> Street:</p> <ol style="list-style-type: none"> <li>1. <u>Variances:</u> <ol style="list-style-type: none"> <li>a. Reduce front yard setback from 10' to 0'.</li> <li>b. Reduce street side yard setback from 10' to 0'.</li> <li>c. Reduce minimum front and street side yard landscaping from 15' to 0' at building only.</li> <li>d. Allow parking to encroach into the front and street side yard setbacks.</li> <li>e. Reduce on-site drive from 20' to 5'.</li> <li>f. Reduce aisle width from 23' to 18' for parking area underneath building.</li> </ol> </li> </ol> |

- g. Reduce minimum required on-site landscaping from 15% to 8%.
  - h. Waive requirement for 7' landscaping islands at end of parking rows.
  - i. Waive required parking screen wall on the street side yard and replace with landscaping.
  - j. Reduce required parking from 42 spaces to 35 spaces.
2. Use Permit:
- a. Allow non-residential uses (general office and general retail) in the CCD Commercial District.

- December 18, 2001      Hearing Officer approved the use permit request by MLJ UNIVERSAL CORPORATION (BA010312) to allow the temporary sales of officially licensed Fiesta Bowl merchandise located at 24 West 5<sup>th</sup> Street in the CCD, Central Commercial Zoning District.
- December 23, 2002      Hearing Officer approved the use permit request by M.L.J. UNIVERSAL CORPORATION d.b.a. UNIVERSAL DESIGN (BA020318) to allow temporary retail sale of sports souvenirs located at 24 West Fifth Street in the CCD, Central Commercial District.
- December 21, 2004      Hearing Officer approved the request by TRAILS – UNIVERSAL DESIGN (RRC04059) for a use permit to allow temporary outdoor displays and sales during the Fiesta Bowl Football games and special events located at 24 West 5<sup>th</sup> Street in the CCD, Central Commercial District.
- February 20, 2013      Community Development Department staff approved use permit transfer from Trails Department Store (SIP-90.15) to HMSS LLC (PL130043) to allow retail sales for tobacco and tobacco accessories at 24 West 5<sup>th</sup> Street, Suite 101 in the CC, City Center District.

**ZONING AND DEVELOPMENT CODE REFERENCE:**

- §3-202, Permitted Uses in Commercial and Mixed-Use Districts
- §6-308, Use Permit
- §6-313, Security Plan
- §4-607, Downtown Parking Standards
- Part 5, Ch. 6, Transportation Overlay District



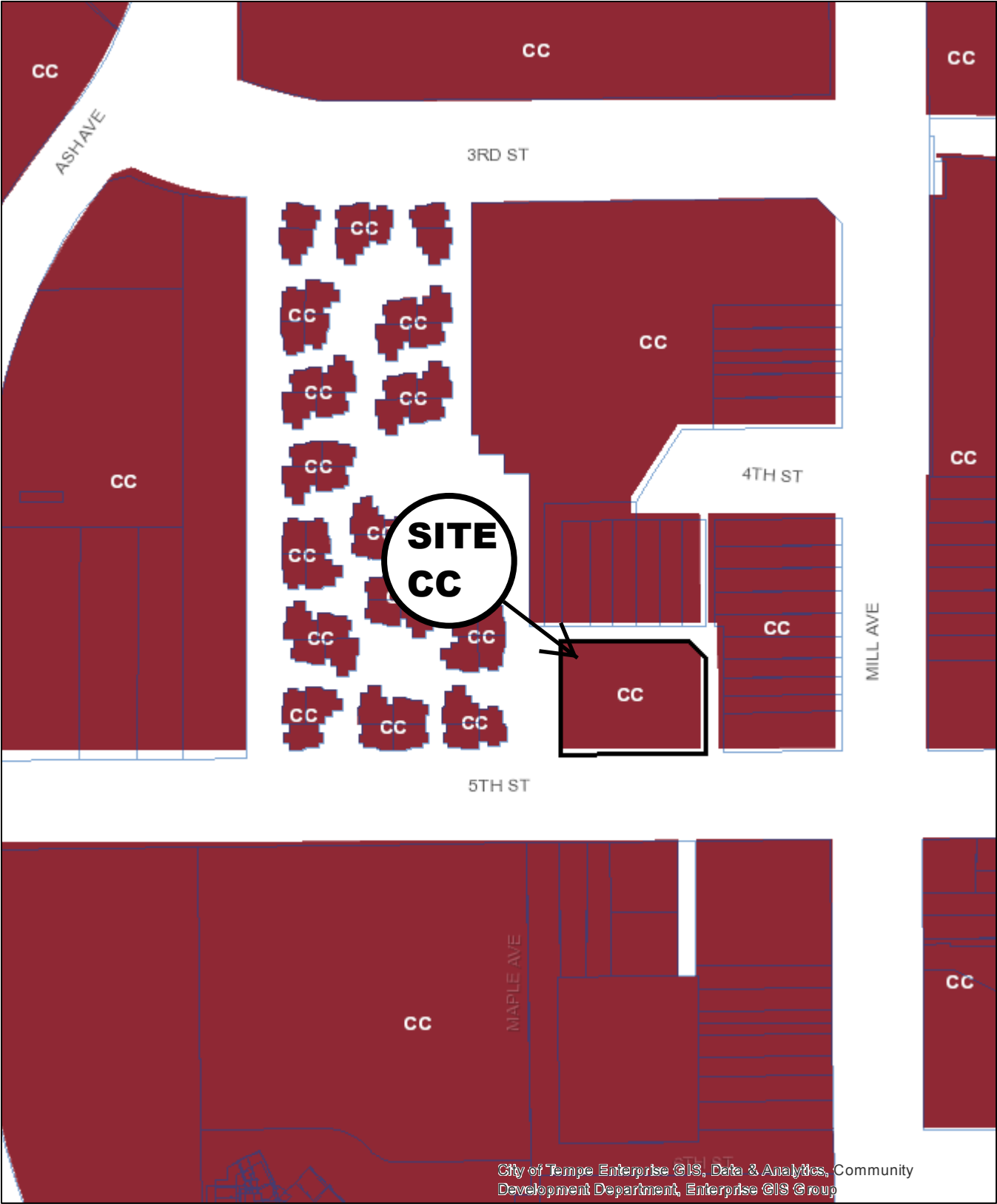
**DEVELOPMENT PROJECT FILE**  
for  
**5<sup>TH</sup> ST PREPARED FOOD MARKET & BAR**  
**(PL170154)**

**ATTACHMENTS:**

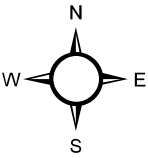
1. Location Map
2. Aerial
- 3-6. Letter of Explanation
7. Site/Floor Plan
- 8-9. Building Elevations
10. Color Elevations
11. Building Section
- 12-20. Site Photographs

# 5th Street Prepared Food Market & Bar

PL170154



 City Center (CC)

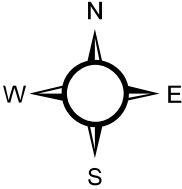


# 5th Street Prepared Food Market & Bar

PL170154



**Aerial Map**



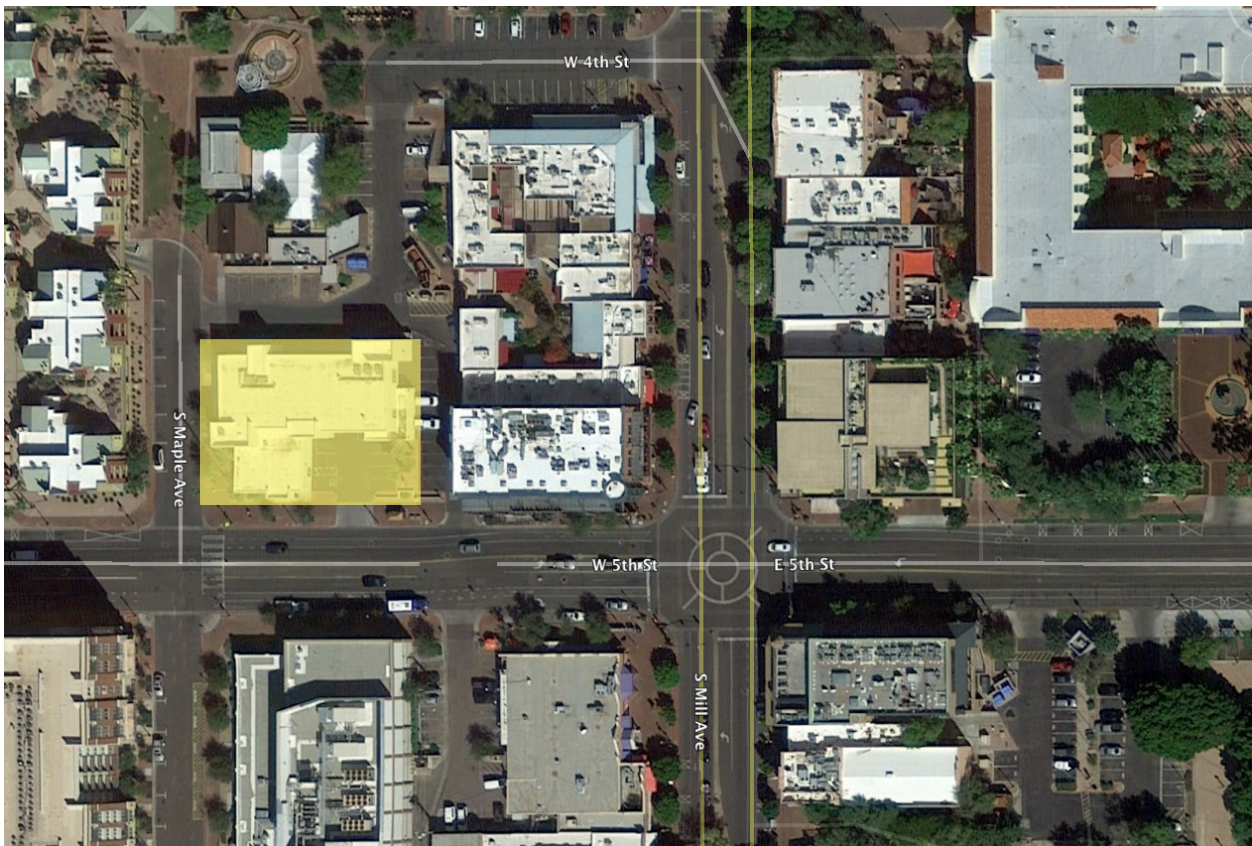
# LETTER OF EXPLANATION

## USE PERMIT

TO ALLOW A RESTAURANT & BAR WITH A SERIES 6 LIQUOR  
LICENSE IN THE CITY CENTER

### FIFTH STREET PREPARED FOOD MARKET & BAR

24 W. 5<sup>TH</sup> STREET  
TEMPE, ARIZONA 85281



APPLICANT:

**H**UELLMANTEL  
AFFILIATES

P.O. Box 1833 ✦ Tempe, Arizona 85280-1833 ✦ 480.921.2800 ✦ [charles@huellmantel.com](mailto:charles@huellmantel.com)



## SUMMARY

The purpose of this request is to obtain approval for a Use Permit to allow a restaurant/bar with a Series 6 (Bar) Liquor License in the City Center (CC) zoning district. This request for a Use Permit is part of a pending adaptive reuse project that will bring new life to a long vacant property in the heart of downtown. Previously, the building served a head shop (Trails) with a decidedly non-urban and pedestrian unfriendly configuration. The proposed reuse is both urban and pedestrian in nature.

The restaurant/bar – Fifth Street Prepared Food Market & Bar – will have a market-style atmosphere with a large, modern kitchen serving fast casual meals at affordable prices, as well as coffee, juice, espresso, and baked goods on weekdays with a full breakfast/brunch offered on weekends.

Additionally, we are proposing a covered patio bar directly adjacent to the indoor marketplace restaurant to offer additional seating for restaurant customers and a welcoming gathering place for the neighborhood. The current parking area on the southern portion of the site will be converted into an outdoor dining area.

Our proposed hours of operation for the restaurant will be from 6:00 a.m. to 2:00 a.m. daily. Bar operations will be from 8:00 a.m. to 2:00 a.m. on weekends and from 10:00 a.m. to 2:00 a.m. on weekdays. The Fifth Street Prepared Food Market & Bar plans to employ 60-75 employees.

## USE PERMIT CRITERIA AND JUSTIFICATION

Fifth Street Prepared Food Market & Bar is located in the CC zoning district. Restaurants with liquor licenses are permitted by right in the CC zoning district per the Tempe Zoning and Development Code. However, bars are considered clubs under the ZDC and require a use permit to operate in the CC. Because we will be operating under a Series 6 Liquor License, which permits full liquor service, we are requesting a use permit.

Because we satisfy the use permit conditions below, we believe the granting of our use permit request is appropriate:

*a. The granting of this Use Permit will not cause any significant vehicular or pedestrian traffic in adjacent areas:*

The granting of a Use Permit to allow a bar/restaurant with a Series 6 Liquor License will not cause any significant vehicular or pedestrian traffic in adjacent areas. Fifth Street Prepared Food Market & Bar will cater to the business and residential crowds already in the downtown walkable area and therefore will not cause any significant vehicular or pedestrian traffic in adjacent areas.

The downtown Tempe area is currently served by a variety of bars and restaurants, and the conversion of the existing Trails into a bar/restaurant is consistent with the surrounding commercial businesses. We anticipate fewer vehicular trips than the previous commercial uses in the building and expect to take advantage of the pedestrian and bicycle traffic already in the downtown as well as traffic generated from the Metro Light Rail, Tempe Modern Street Car and the Orbit system, all of which are designed to bring people into the very area of the proposed license.

*b. The granting of this Use Permit will not cause any nuisance (odor, dust, gas, noise, vibration, smoke, heat or glare, etc.) exceeding that of ambient conditions:*

The granting of this Use Permit will not cause any additional nuisance such as odor, dust, gas, vibration, smoke, heat or glare. The surrounding area contains dozens of other bars and restaurants and functions as an entertainment district, and the addition of Fifth Street Prepared Food Market & Bar is consistent with the ambient conditions.

*c. The granting of this Use Permit will not contribute to the deterioration of the neighborhood or be in conflict with the goals, objectives and policies of the City:*

The granting of this Use Permit is allowable in the City of Tempe Zoning and Development Code and consistent with the goals and objectives of Tempe and will not contribute to the deterioration of the neighborhood. Downtown Tempe is renowned for its vast entertainment offerings including a number of bars and restaurants, and the addition of Fifth Street Prepared Food Market & Bar will be an asset to the surrounding area by providing another unique dining experience downtown.

Furthermore, we are transforming the former Trails building – which has been vacant for several years – into a well landscaped and thoughtfully designed space with outdoor dining. Fifth Street Prepared Food Market & Bar will turn this neglected building into a vibrant public space, which we believe enhances the surrounding area.

*d. The granting this Use Permit will allow the proposed building to be compatible with existing surrounding structures:*

The Use Permit to allow a bar/restaurant in the City Center is compatible with the surrounding structures. In this case, the structure has been around for some time and the project will take advantages of the City of Tempe's goal of repurposing older buildings. Dozens of other bars and restaurants are located in close proximity to the proposed Fifth Street Prepared Food Market & Bar. Additionally, a number of urban residents and office tenants are located in buildings within a short distance and would be well-served by the addition of a unique dining opportunity nearby.

*e. The granting of this Use Permit will not result in any disruptive behavior which may create a nuisance to the surrounding area or general public.*

The granting of the Use Permit to allow a bar/restaurant in the City Center will not result in any disruptive behavior which might create a nuisance to the surrounding area or general public. The design of the project is as a restaurant with a market atmosphere. Fifth Street Prepared Food Market & Bar will implement a strict security plan in conjunction with and approved by the Tempe Police Department aimed at proactively addressing potentially disruptive behavior. Additionally, our staff will be well trained at identifying the types of behavior that may become disruptive and have policies in place to prevent disruptive behavior from occurring and creating a nuisance to the surrounding area or general public.



7330 EAST EARL DRIVE #A  
SCOTTSDALE, ARIZONA 85251  
PHONE: 480-980-2120  
FAX: 480-980-2130

PLANNING ARCHITECTURE  
INTERIORS

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**PROJECT DATA**

OWNER: ANTIPESTO REAL ESTATE HOLDINGS LLC  
1400 E MC DONALD DR #01  
SCOTTSDALE, ARIZONA 85261

APPLICANT: CHARLES HUELLMANTEL

USE: FIRST FLOOR: RESTAURANT/BAR  
SECOND FLOOR: EXISTING OFFICES

ADDRESS: 24 WEST 5TH STREET  
TEMPE, ARIZONA 85281

APN NO: 132-25-513

LEGAL DESCRIPTION: TEMPE MCR 2/26 LOTS 11, 18, 19, 20, 21 AND 22 BLK 51  
EX: 37' X 15' TRIANGLE IN NE CORNER

LOT AREA: 18,552 SF. (0.426 ACRES)

BLDG. AREA: FIRST FLOOR: RESTAURANT 4,278 S.F.  
STORAGE: 458 S.F.  
SECOND FLOOR: OFFICE: 6,526 S.F.

ZONING: CC CITY CENTER

LOT COVERAGE: NO MINIMUM

REQUIREMENTS: CC DISTRICT PARKING STANDARDS  
12 SPOTS REQUIRED.

PARKING PROVIDED: 21

ALLOWABLE HEIGHT: 40'

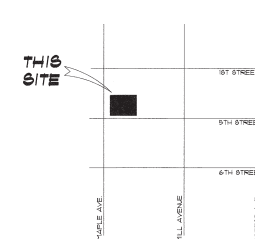
BUILDING HEIGHT: 25'-0" EXISTING TOP OF PARAPET

FIRE PROTECTION: SPRINKLERS (AFES): YES  
EMERGENCY LIGHTS: YES

CONSTRUCTION TYPE: VB (AFES); NON-SEPARATED

OCCUPANCY: A-2 BANQUET HALL  
B OFFICE  
S-2 STORAGE

**LOCATION MAP**



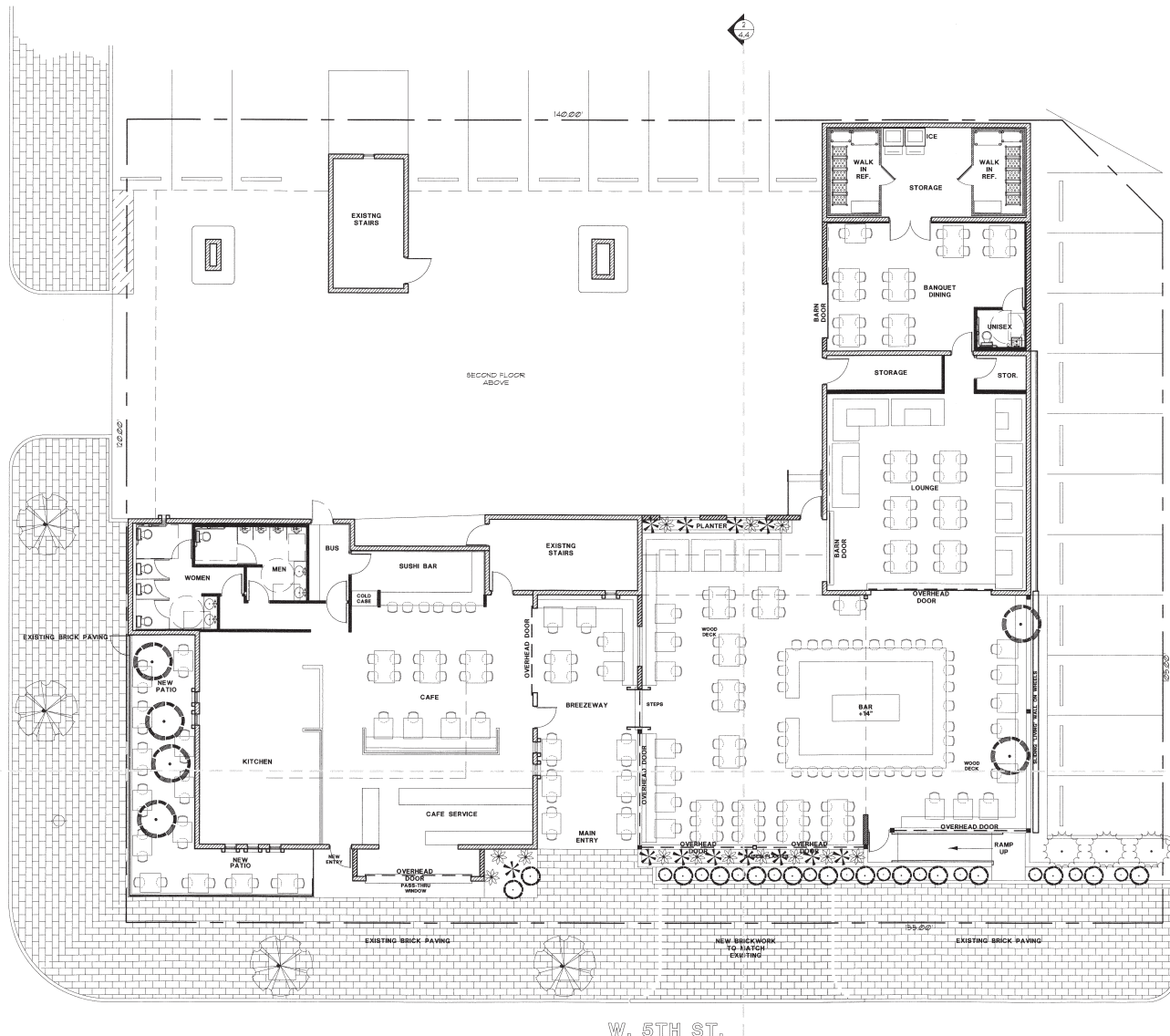
Job no: 17106

date: 2-8-17

revisions:

OWNER 3-25-17  
OWNER 4-11-17  
OWNER 4-5-17

sheet **4.1**



**SITE/FLOOR PLAN**  
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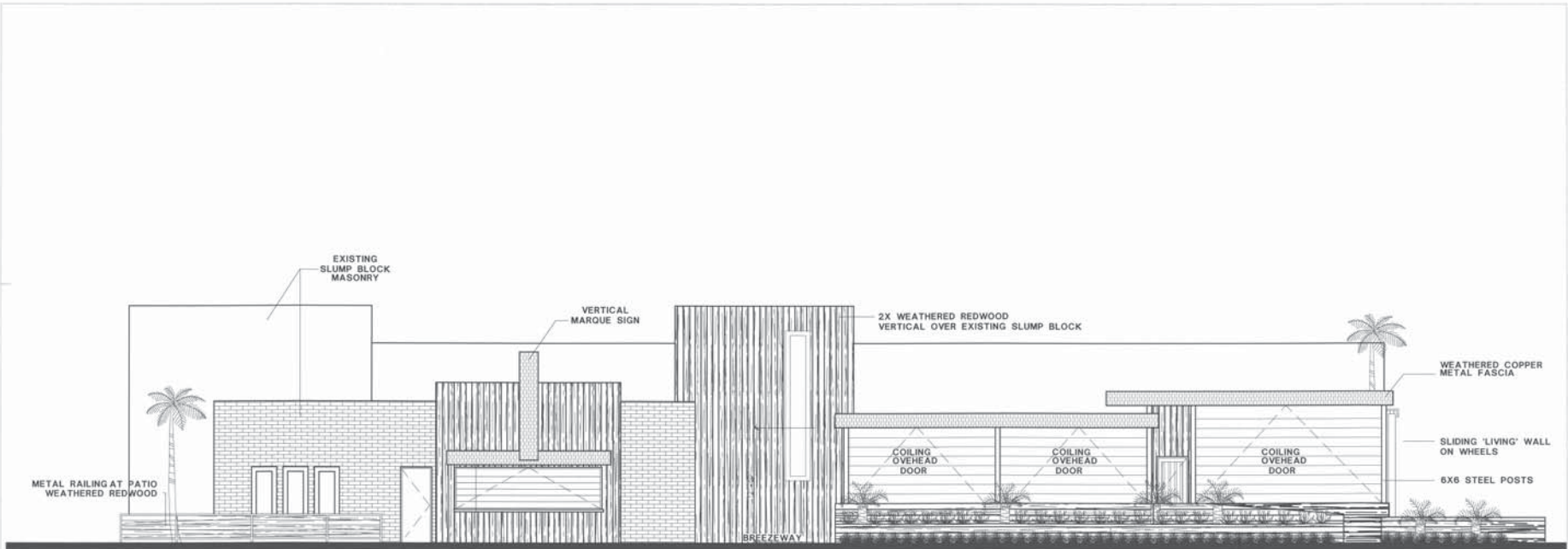
DESIGN PLAN



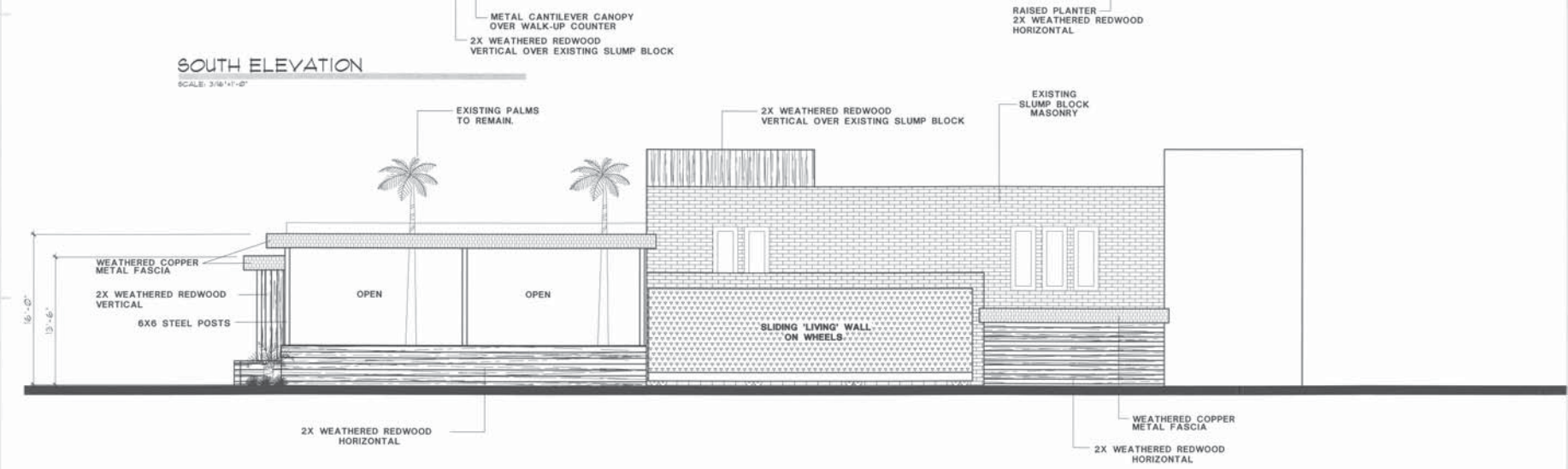
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**SOUTH ELEVATION**  
SCALE: 3/16"=1'-0"



**EAST ELEVATION**  
SCALE: 3/16"=1'-0"

REMODEL FOR:  
**24 W. 5TH STREET**  
TEMPE, ARIZONA

Job no: 17106  
date: 2-8-17  
revisions:  
OWNER 3-28-17  
OWNER 4-11-17  
OWNER 4-8-17

sheet **4.2**

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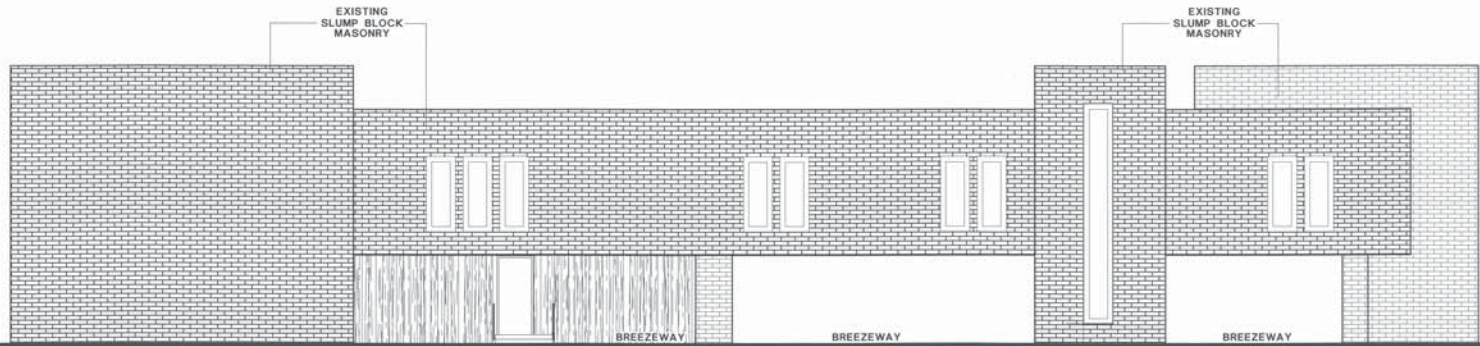
DESIGN ELEVATIONS



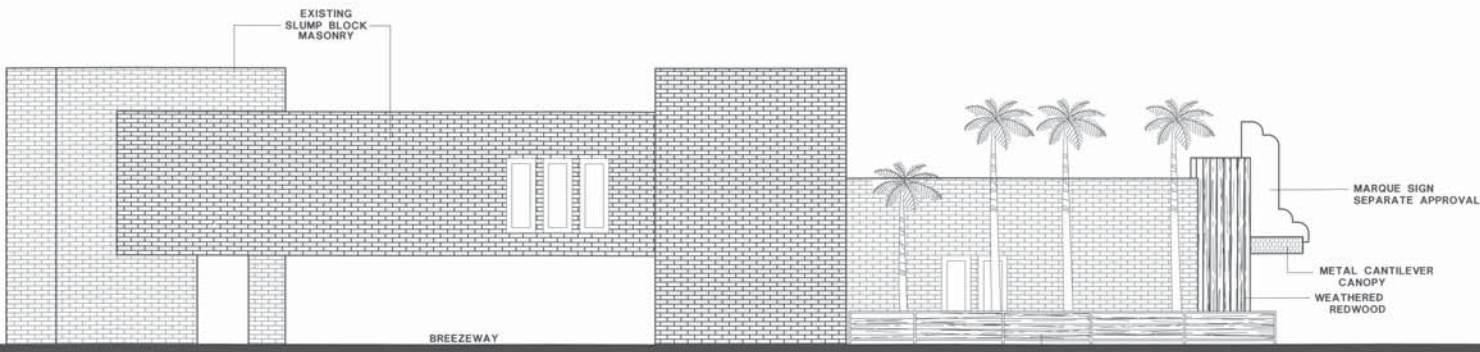
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**NORTH ELEVATION**  
SCALE: 3/16"=1'-0"



**WEST ELEVATION**  
SCALE: 3/16"=1'-0"

REMODEL FOR:  
**24 W. 5TH STREET**  
TEMPE, ARIZONA

Job no: 17106  
date: 2-8-17  
revisions:  
OWNER: 3-25-17  
OWNER: 4-11-17  
OWNER: 4-5-17

sheet **4.3**

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DESIGN ELEVATIONS



**SOUTH ELEVATION**  
SCALE: 3/16"=1'-0"



**EAST ELEVATION**  
SCALE: 3/16"=1'-0"

REMODEL FOR:  
**24 W. 5TH STREET**  
TEMPE, ARIZONA

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OWNER 4-5-17

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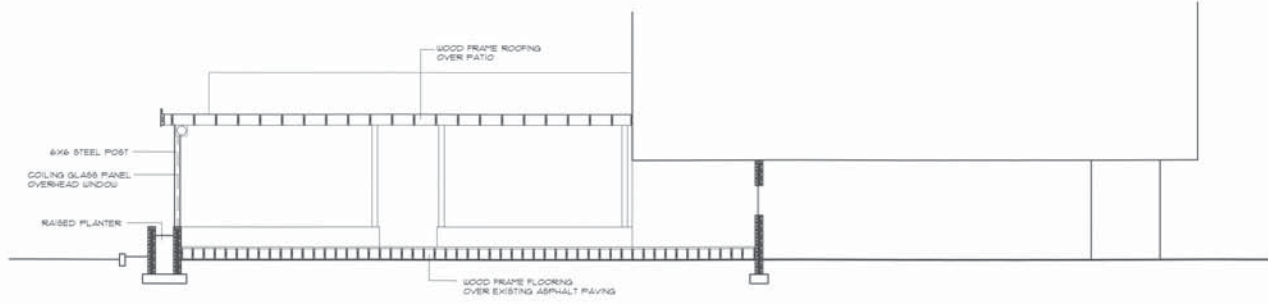
DESIGN ELEVATIONS



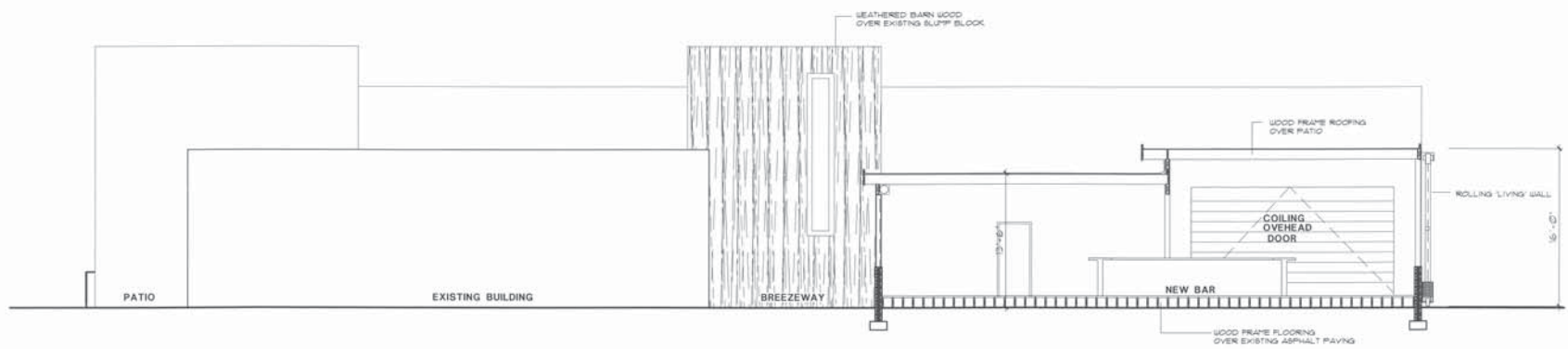
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FAX: 480-980-2130

ARCHITECTURE  
PLANNING  
INTERIORS

UNIVERSITY OF SCIENTISTS  
I have reviewed the architectural drawings and specifications for the project described herein and find them to be in accordance with the applicable building codes and standards of practice. I am not providing any warranty, expressed or implied, for the drawings or specifications. I am not responsible for any errors or omissions in the drawings or specifications. I am not responsible for any construction or other work not shown on the drawings or specifications. I am not responsible for any construction or other work not shown on the drawings or specifications. I am not responsible for any construction or other work not shown on the drawings or specifications.



**2 PATIO SECTION**  
SCALE: 3/16"=1'-0"



**1 PATIO SECTION**  
SCALE: 3/16"=1'-0"

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DESIGN SECTIONS

REMODEL FOR:  
**24 W. 5TH STREET**  
TEMPE, ARIZONA

job no: 17106

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revisions:  
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OWNER 4-11-17  
OWNER 4-5-17

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