

**CITY OF TEMPE  
DEVELOPMENT REVIEW COMMISSION**

**Meeting Date: 07/09/2019  
Agenda Item: 8**

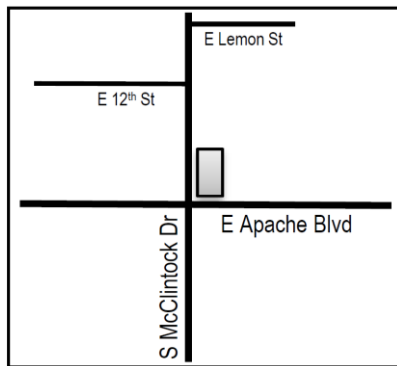
**ACTION:** Request a Use Permit to allow a tobacco retailer for **88 SMOKE & VAPE**, located at 1800 East Apache Boulevard. The applicant is Drip More, LP. **(PL190128)**

**FISCAL IMPACT:** N/A

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

**BACKGROUND INFORMATION:** 88 SMOKE & VAPE is requesting a Use Permit to allow a tobacco retailer within the CSS, Commercial Shopping and Services District and TOD, Transportation Overlay District. The request includes the following:

ZUP190040 Use Permit to allow a tobacco retailer



Property Owner  
Applicant  
Zoning & Overlay Districts  
Site Area  
Vehicle Parking  
Bicycle Parking  
Hours of Operation

Western American Investments  
Jessie Hurst, Drip More, LP  
CSS, TOD  
17,155 s.f.  
No change in demand  
No change in demand  
9 a.m. to 9 p.m., Daily

**ATTACHMENTS:** Development Project File

**STAFF CONTACT(S):** Dalton Guerra, Planner I (480) 350-8652

Department Director: Chad Weaver, Community Development Director  
Legal review by: N/A  
Prepared by: Dalton Guerra, Planner I  
Reviewed by: Steve Abrahamson, Principal Planner

## **COMMENTS**

The applicant is applying for a Use Permit to operate a tobacco retailer in an existing building that was previously a retail store. Tobacco retail is a permitted use within the CSS and TOD overlay subject to a Use Permit and a 1,320 ft separation requirement from a charter, private, or public school which provides elementary or secondary education. There is no change in use and no additions are proposed to the existing building. Therefore, there is no change in demand for parking and no site modifications will be required to accommodate the new business.

## **PUBLIC INPUT**

To date, staff has received one email in opposition to the request. One member of the public stated that the proposed business is unhealthy and not a good use for the area. They recommended a number of different uses including a juice bar, coffee shop, flower shop, and a drive-through.

## **POLICE INPUT**

Police had no concerns with this request.

## **USE PERMIT**

The proposed use requires a Use Permit to operate a tobacco retailer within the CSS and 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 is not expected to increase vehicular traffic because there is no change in use from retail to retail for this site.
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 business owner indicates that there will be no smoking/vaping permitted outside of the building.
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*; tobacco retail is a permitted use within the CSS and TOD overlay districts subject to a Use Permit and meeting the separation requirements. This site meets the separation requirement provision in Section 3-423 of the Zoning and Development Code.
4. *Compatibility with existing surrounding structures and uses*; this site is on the corner of two arterial streets and is surrounded by CSS zoned properties with commercial uses.
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 owner indicates that company policies will address any potential disruptive behavior

## **REASONS FOR APPROVAL:**

Based on the information provided by the applicant, the public input received and the above analysis staff supports approval of the requested Use Permits. This request meets the required criteria and will conform to the conditions.

## **SHOULD AN AFFIRMATIVE ACTION BE TAKEN ON THIS REQUEST, THE FOLLOWING NUMBERED CONDITIONS OF APPROVAL SHALL APPLY, BUT MAY BE AMENDED BY THE DECISION-MAKING BODY.**

### **CONDITION(S) OF APPROVAL:**

1. 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.

2. All permits and clearances required by the Building Safety Division shall be obtained prior to the Use Permit becoming effective. If consumption of vape products is conducted in the premises, the owner/management is responsible to adhere to the city Adopted International Mechanical Code.
3. All required Federal, State, County, and Municipal permits, licenses, and clearances 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. This use shall not violate the City of Tempe Smoking Ordinance or Smoke Free Arizona Act A.R.S. §36-601.01.

**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 88 Smoke and Vape 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/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.

**HISTORY & FACTS:**

None pertinent to this case.

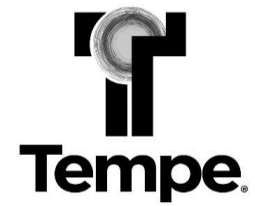
**ZONING AND DEVELOPMENT CODE REFERENCE:**

Section 3-202 Permitted Uses in Commercial and Mixed-Use Districts

Section 3-423 Separation Requirements

Section 4-203 Development Standards for Commercial and Mixed-Use Districts

Section 6-308 Use Permit



# DEVELOPMENT PROJECT FILE

for

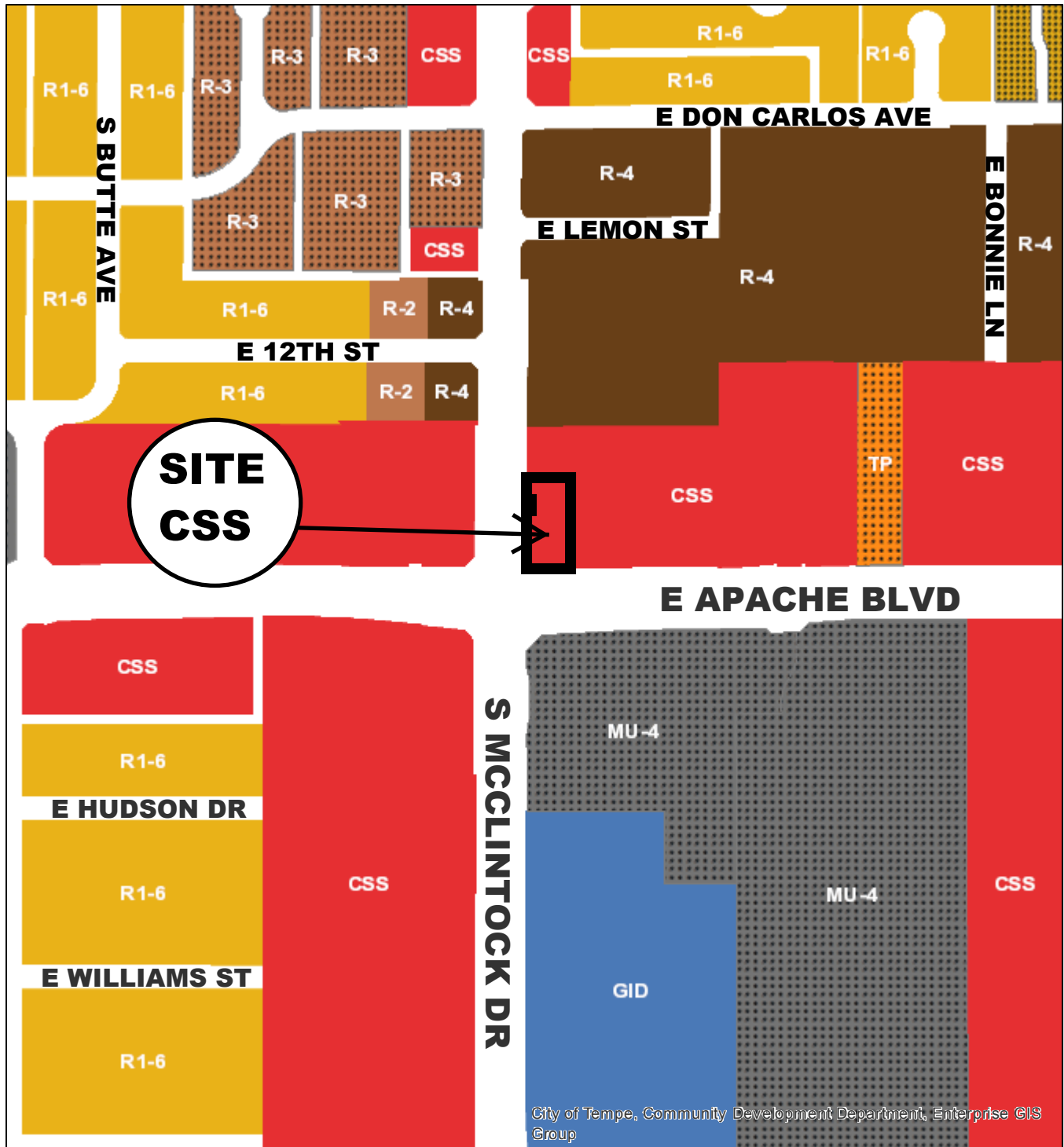
88 SMOKE & VAPE  
(PL190128)

## ATTACHMENTS:











1. Location Map
2. Aerial
- 3-6. Letter of Explanation
7. Site Plan
8. Floor Plan
9. Site Context Photos

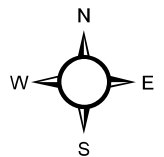
# 88 SMOKE AND VAPE

PL 190128



City of Tempe, Community Development Department, Enterprise GIS Group

- |  |   |
|--|---|
|  General Industrial District (GID)      |  Single-Family Residential Planned Area Dev (R1-PAD) |
|  Mixed Use Med-High (MU-3)              |  Multi-Family Residential (R-2)                      |
|  Mixed Use High (MU-4)                  |  Multi-Family Residential Limited (R-3)              |
|  Commercial Shopping and Services (CSS) |  Multi-Family Residential General (R-4)              |
|  Single-Family Residential (R1-6)       |  Trailer Park (TP)                                   |

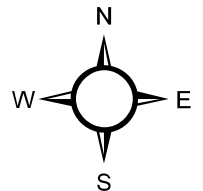


88 SMOKE AND VAPE

PL 190128



Aerial Map



VERSION 1.0

06/03/2019

# **88** SMOKE & VAPE

## LETTER OF EXPLANATION

USE PERMIT

PRESENTED BY: ADAM HURST

DRIP MORE

1110 PALMYRITA AVE STE 120, RIVERSIDE CA 92507

## LETTER OF EXPLANATION

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### USE OF PREMISES

Subject	Explanation
Company Name:	88 Smoke & Vape
Proposed Address:	1800 East Apache Blvd, Tempe AZ 85281
Premises Use:	Retail sales of smoke & vape products

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### OBJECTIVE AND DEVELOPMENT PLAN

88 Smoke & Vape plans to open a high-end smoke and vapor retail location in the Tempe area. It is our goal to offer an upscale location for the local community to safely purchase vape and smoke products in a clean and presentable environment.

All individuals will be ID checked upon entry to verify they are 18 years of age or older. During the checkout process, 88 Smoke & Vape uses a third-party age verification system (BlueCheck) to verify the customer is of legal age to purchase tobacco products. We are serious about upholding local and state laws regarding minimum age requirements for tobacco and nicotine purchases.

88 Smoke & Vape does not condone or engage in the use or sale of illegal substances such as cannabis, and will only engage in the sale of tobacco and nicotine containing products and devices.

Exterior additions to the building are for signage only which will display '88 Smoke & Vape' limited to signage size requirements set forth by the property and/or city guidelines. Interior tenant improvement (TI) is currently being designed by a third-party architect Kylieigh Merritt (Keep The Fork LLC). All TI will be submitted to the city of Tempe for plan approval, permits and to ensure zoning and development code is taken into account. Interior improvements include, new flooring, wall paint, display cases, counters, and signage.

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### BUSINESS OPERATION AND METRICS

#### HOURS OF OPERATION

9:00am – 9:00pm Seven Days Per Week

#### EMPLOYEE COUNT

5-8 employee's depending on sales volume

#### NUMBER OF EXPECTED CUSTOMERS

88 Smoke & Vape estimates a monthly revenue of \$10,000 per month for the next 12 months. An average consumer spends between \$40 -\$60 per visit; Patron foot traffic per month is estimated between 166 - 250 persons.



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## **SURROUNDING AREA**

Based on expected number of customers, 88 Smoke & Vape believes vehicular and foot traffic will not impede surrounding businesses. No smoking of cigarettes, hookah, or cigars will be permitted on premises. Sampling of e-liquid products for purchase with or without nicotine will be contained within the vapor bar area of the premises subject to city, county, and/or state laws. All exterior doors will be closed and HVAC system will be running to ensure the sampled vapor products do not bother, interfere, or become a nuisance with adjacent businesses, patrons, and the public.

All construction of interior tenant improvements will be conducted during business hours; dust, noise, vibration, and glare will be controlled to a level as not to bother surrounding businesses and its patrons.

88 Smoke & Vape will strive to be an asset to the community and will maintain a quality appearance of the interior and exterior of the premises.

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## **COMPATIBILITY WITH SURROUNDING BUSINESSES**

The surrounding businesses include a restaurant, adult book store, gas station, and hookah lounge (no longer in business). The proposed building is free standing and does not have a shared wall.

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## **CONTROL OF INTERIOR AND EXTERIOR PREMISES**

### **EMPLOYEE TRAINING**

88 Smoke & Vape provides extensive training to staff members based on company policy.

### **COMPANY POLICIES**

- We do not allow loitering inside or outside the premises
- No smoking of cigarettes, cigars, or hookah inside or outside the premises
- Sampling of vapor products for purchase is only allowed inside the premises at the vapor bar
- We do not allow vaping on the outside of the premises
- No entry given to individuals under the legal smoking age of 18 years or older.
- We ID and use a third-party age verification system for every purchase. No sales to individuals under the age of 18.
- We do not condone the use of or engage in the sale of illegal substances such as cannabis.
- We do not allow alcohol or drug use on the premises.
- Patrons who are disruptive or aggressive towards other customers or staff will be asked to leave the premises.
- The interior and exterior of the building will be swept clean and clear of trash and debris to uphold a high-quality standard of appearance.
- Restroom facilities and common areas inside premises will be stocked and cleaned by Cintas – a contracted sanitation company.

OFFICIAL COMPANY REPRESENTATIVE

**Brian Bereber**

Print First and Last Name

**CEO**

Title

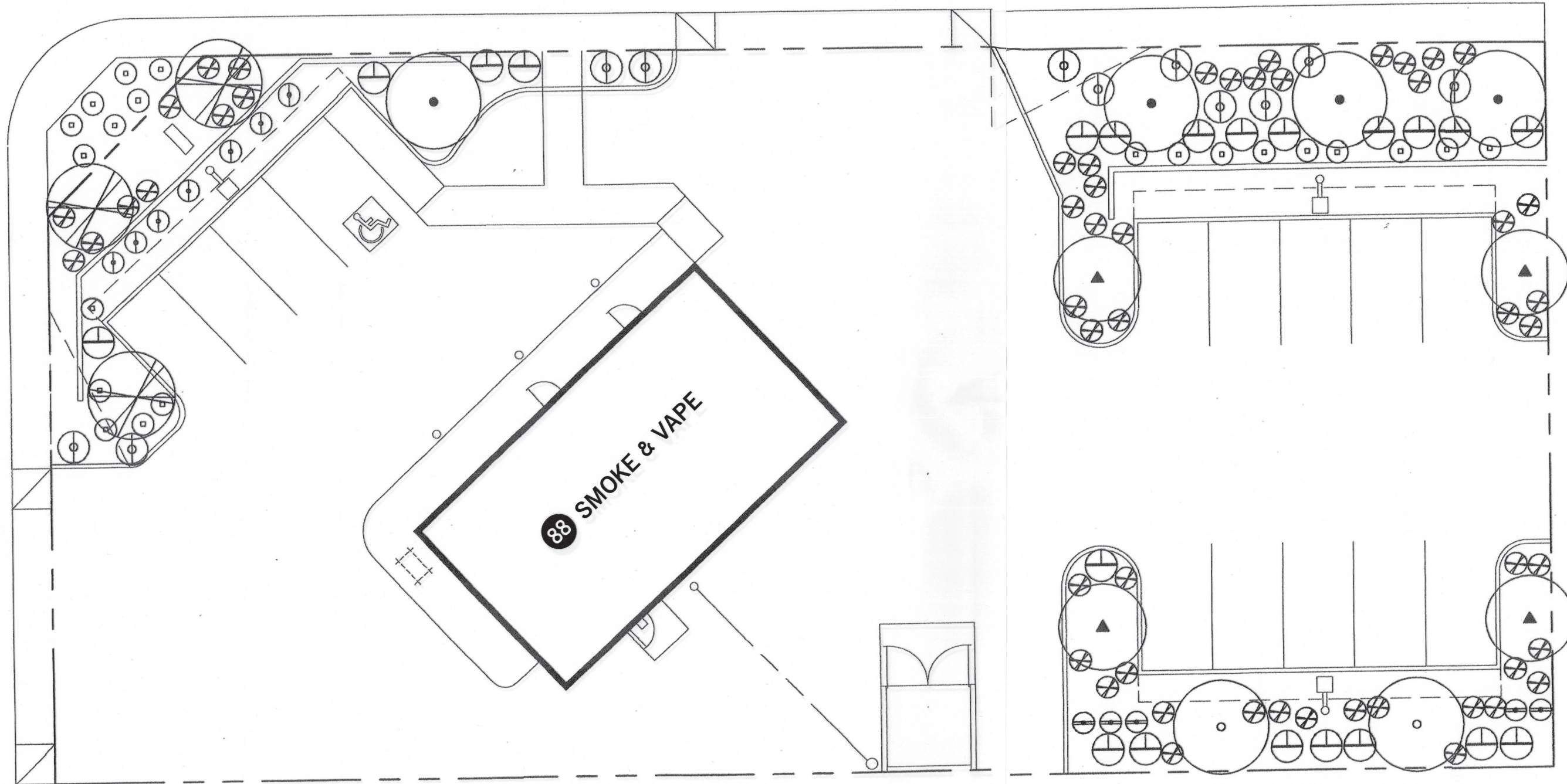


Signature

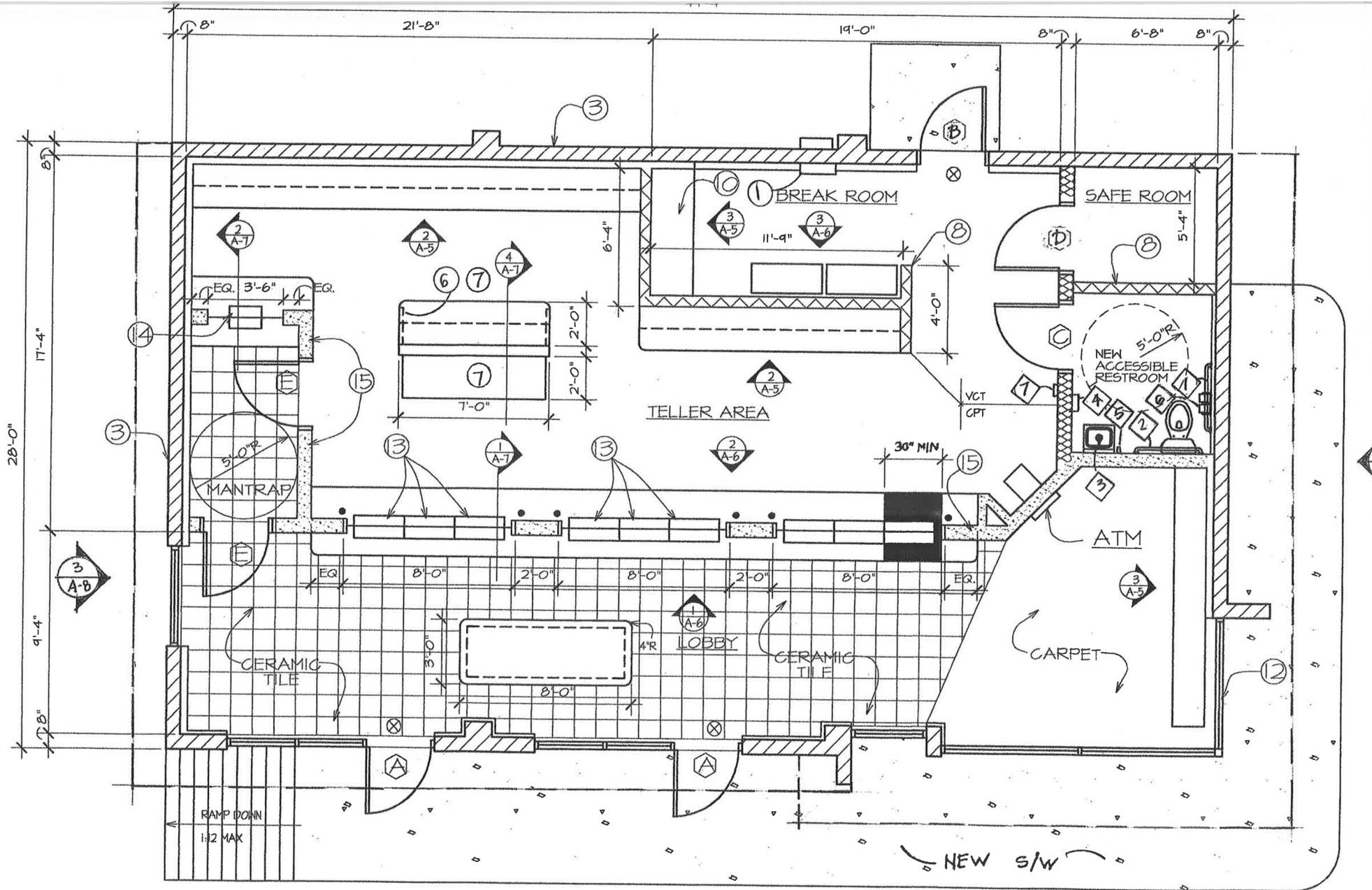
**06/03/2019**

Date.

Site Plan  
Continued



Revised layout to be provided to City of Tempe for building permit following receipt of use permit





Attachment 9