

**CITY OF TEMPE  
DEVELOPMENT REVIEW COMMISSION**

**Meeting Date: 2/11/2020  
Agenda Item: 5**

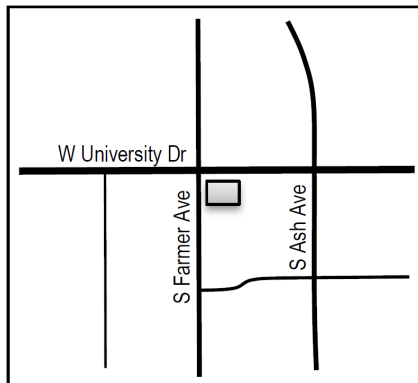
**ACTION:** Request a Use Permit to allow live entertainment for **TEMPE FARMERS MARKET**, located at 805 South Farmer Avenue.

**FISCAL IMPACT:** N/A

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

**BACKGROUND INFORMATION:** TEMPE FARMERS MARKET (PL190327) is requesting a Use Permit to allow live entertainment at an existing building within the GID, General Industrial District. The current business operates as a grocery store with a restaurant and bar/lounge area within the same building. The request includes the following:

ZUP200003 Use Permit to allow live entertainment.



Property Owner  
Applicant  
Zoning District  
Vehicle Parking  
Bicycle Parking  
Hours of Operation

Javah, LLC  
Daryle Dutton, Tempe Farmers Market  
GID  
No change in demand  
No change in demand  
8 a.m. to 2 a.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 requesting a Use Permit to have live entertainment as an ancillary use to the existing grocery store within the bar/lounge area called "The Dark Side". The applicant has a series 12 liquor license for the existing bar/lounge area. The intent of the request for this Use Permit is to provide a wide range of activities including local bands and artist performances, karaoke, open mic nights, stand-up comedy, art exhibitions, trivia, viewing parties, and other similar activities. The hours of the live entertainment will be limited by a condition of approval.

## PUBLIC INPUT

To date, no public input has been received.

## POLICE INPUT

No input from Police was received.

## USE PERMIT

The proposed use requires a Use Permit to allow live entertainment within the GID 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 of live entertainment is not expected to create more traffic than the existing use.
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 hours of operation for the live entertainment will be limited and will also be restricted to operate only indoors to reduce the impact of noise to the neighbors.
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*; live entertainment is a permitted use in the GID zone, subject to a Use Permit approval.
4. *Compatibility with existing surrounding structures and uses*; the proposed use is ancillary to the existing commercial use. Additionally, there are commercial uses to the west across Farmer Avenue as well as to the north and east of the subject property.
5. *Adequate control of disruptive behavior both inside and outside the premises which may create a nuisance to the surrounding area or general public*; an approved security plan is required with approval of the proposed use.

## 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. The live entertainment use shall take place inside only. No live entertainment will be allowed outside.
4. Live entertainment to cease at 12:00 a.m. (midnight) Sunday-Wednesday and 1:55 a.m. Thursday-Saturday.
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 March 12, 2020.

**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:**

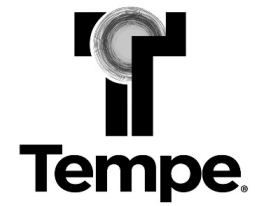
- The Use Permit is valid for Tempe Farmers Market and may be transferable to successors in interest through an administrative review with the Community Development Director, or designee.
- The use permit approval shall be void if the use is not commenced or if an application for a building permit has 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.
- Music, sound, or live entertainment shall not violate the City of Tempe Noise Ordinance.

**HISTORY & FACTS:**

None pertinent to this case.

**ZONING AND DEVELOPMENT CODE REFERENCE:**

Section 3-302 Permitted Uses in Office/Industrial Districts  
Section 6-308 Use Permit  
Section 6-313 Security Plan



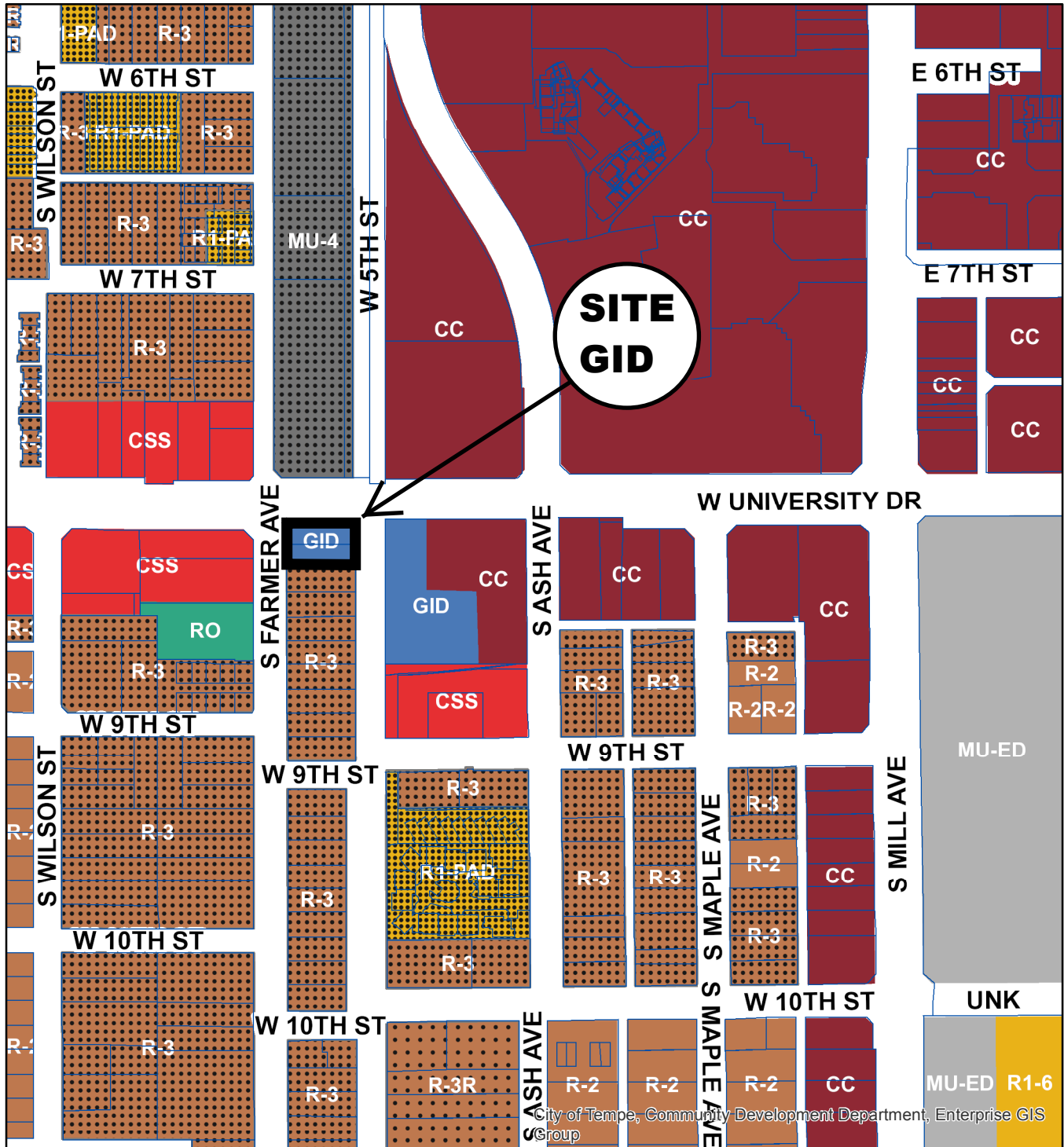
**DEVELOPMENT PROJECT FILE**  
for  
**TEMPE FARMERS MARKET**  
(PL190327)












**ATTACHMENTS:**

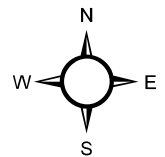
1. Location Map
2. Aerial
- 3-4. Letter of Explanation
5. Floor Plan
6. Building Elevations

# TEMPE FARMERS MARKET

PL190327



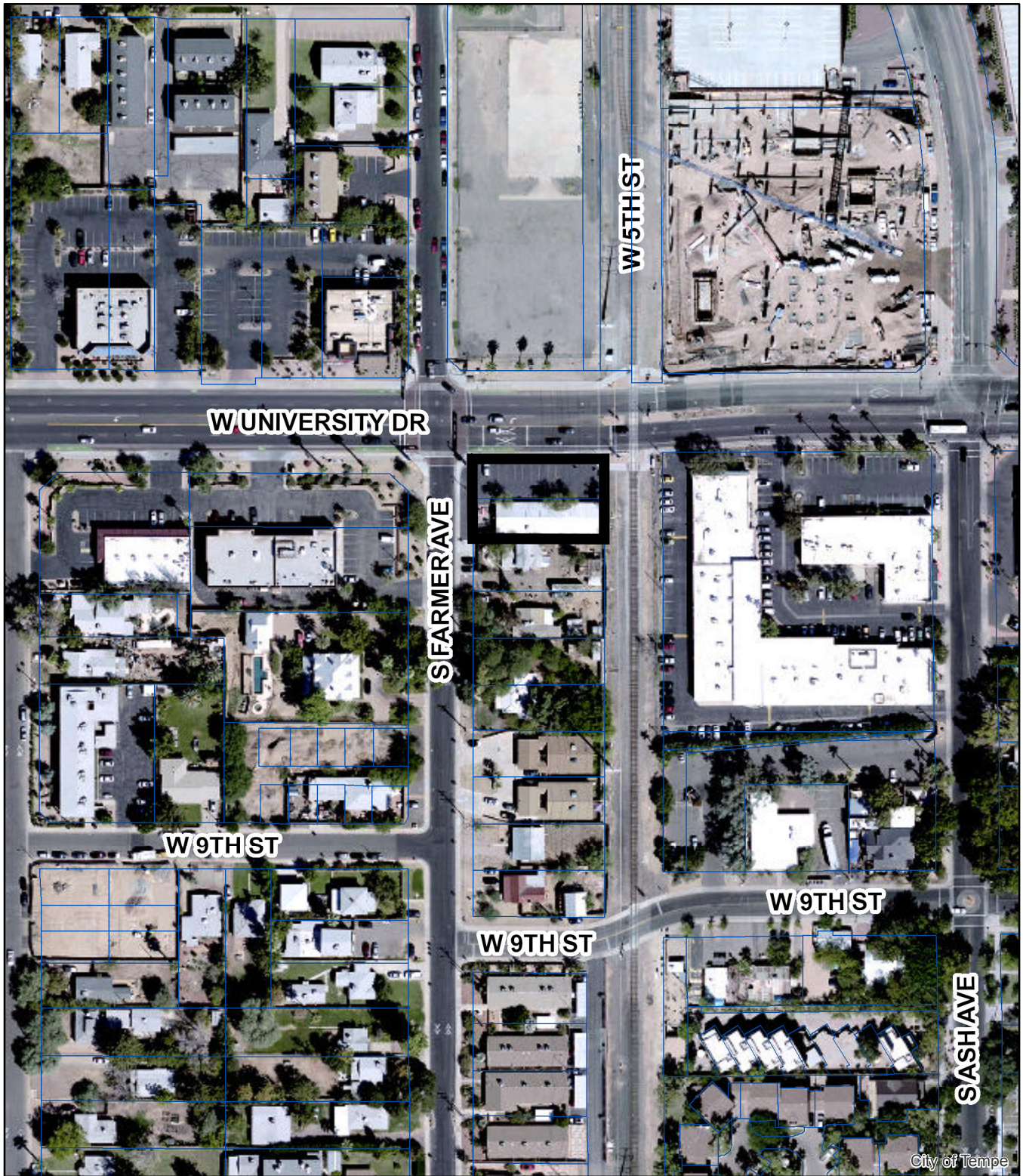
- |  |   |
|--|---|
|  General Industrial District (GID)      |  Single-Family Residential (R1-6)                    |
|  City Center (CC)                       |  Single-Family Residential Planned Area Dev (R1-PAD) |
|  Mixed Use High (MU-4)                  |  Multi-Family Residential (R-2)                      |
|  Mixed Use Educational (MU-ED)          |  Multi-Family Residential Restricted (R-3R)          |
|  Commercial Shopping and Services (CSS) |  Multi-Family Residential Limited (R-3)              |
|  Residential/Office (RO)                |   |



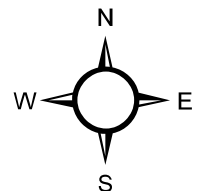


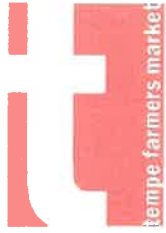
# TEMPE FARMERS MARKET

PL190327



Aerial Map





Tempe Farmers Market (TFM) is a family-owned market cafe located on the corner of University Drive and Farmer Avenue in Tempe (85281). For over ten years, TFM has been providing quick, convenient access to healthful food options within walking and/or biking distance to the Maple Ash, Mitchell Park and Farmer Arts neighborhoods.

Tempe Farmers Market provides produce, grocery and sundry goods; a smoothie and coffee bar; and a vegan/non vegan deli with prepared hot foods for dine-in and “grab and go” items. In 2019, TFM was approved by the City of Tempe to expand services to include a Number 12 Liquor License. The alcohol service lounge and dining area in TFM is called, “The Dark Side.” It serves a wide array of alcoholic and non-alcoholic drink options, including craft cocktails and beer. A menu of prepared food items, as well as items in the deli and market, are available for consumption. TFM’s space and offerings provide a unique variety of options for Tempe’s diverse customers. TFM maintains an active social media fan base of over 10,000 participants.

Since it opened in 2009, Tempe Farmers Market has been a hub for community activity; it is a neighborhood gathering place for meetings, events and happenings. It has provided support to many other local businesses and food-related start-ups, as well as working with the City of Tempe to host an array of successful events and performances featuring local artists and musicians. Those events were well received with positive feedback. The community and neighborhood have been overwhelmingly supportive of the prospect of live entertainment at “The Dark Side.” TFM has submitted a use permit application for live entertainment to bolster its ongoing platform and provide a venue to showcase local talent.

Tempe Farmers Market has been operating in Tempe for over ten years and is the sole operating business on site. There is sufficient, designated parking to accommodate customer needs, including the addition of live entertainment. TFM employs eleven dedicated and hard-working team members and continues to be a sustainable contributor to the economic growth, quality of life and cultural diversity in the City of Tempe.

Thank you for your consideration.  
Daryle Dutton and TFM Staff

A handwritten signature in black ink, appearing to read "Daryle Dutton". The signature is fluid and cursive, written over the printed name.

Tempe Farmers Market & The Dark Side | 805 S. Farmer Ave. | Tempe, AZ 85281  
480.557.9970 | [tempefarmersmarket@cox.net](mailto:tempefarmersmarket@cox.net) | [www.tempefarmersmarket.com](http://www.tempefarmersmarket.com)



Tempe Farmers Market  
805 S. Farmer Ave.  
Tempe, AZ 85281



To Whom it May Concern:

Tempe Farmers Market's request for a live entertainment use permit will be used for the presentation of, or participation in the following activities (all of which may be produced with amplified sound and or acoustically), including, but not limited to:

Local Talent (showcase local talent via live solo or group performance of singing, dancing, musical instrumentation, performance art, spoken/sung word, dramatic or poetic reading or similar activities), Karaoke, Open Mic, Stand-up Comedy, Art Exhibitions (including, but not limited to 2D/3D artwork, film, video, sound, installation, performance, interactive art or new media arts), Trivia/Live Gaming, Board Games, Viewing Parties, Social/Group Meetups, Charity Nights, Paint Night.

Tempe Farmers Market has been and will continue to be a neighborhood gathering spot that provides creative, fun, safe and inclusive entertainment. The approval of live entertainment at TFM will be a welcome addition and enhancement of the quality of life in Tempe.

Thank you for your consideration of this use permit.

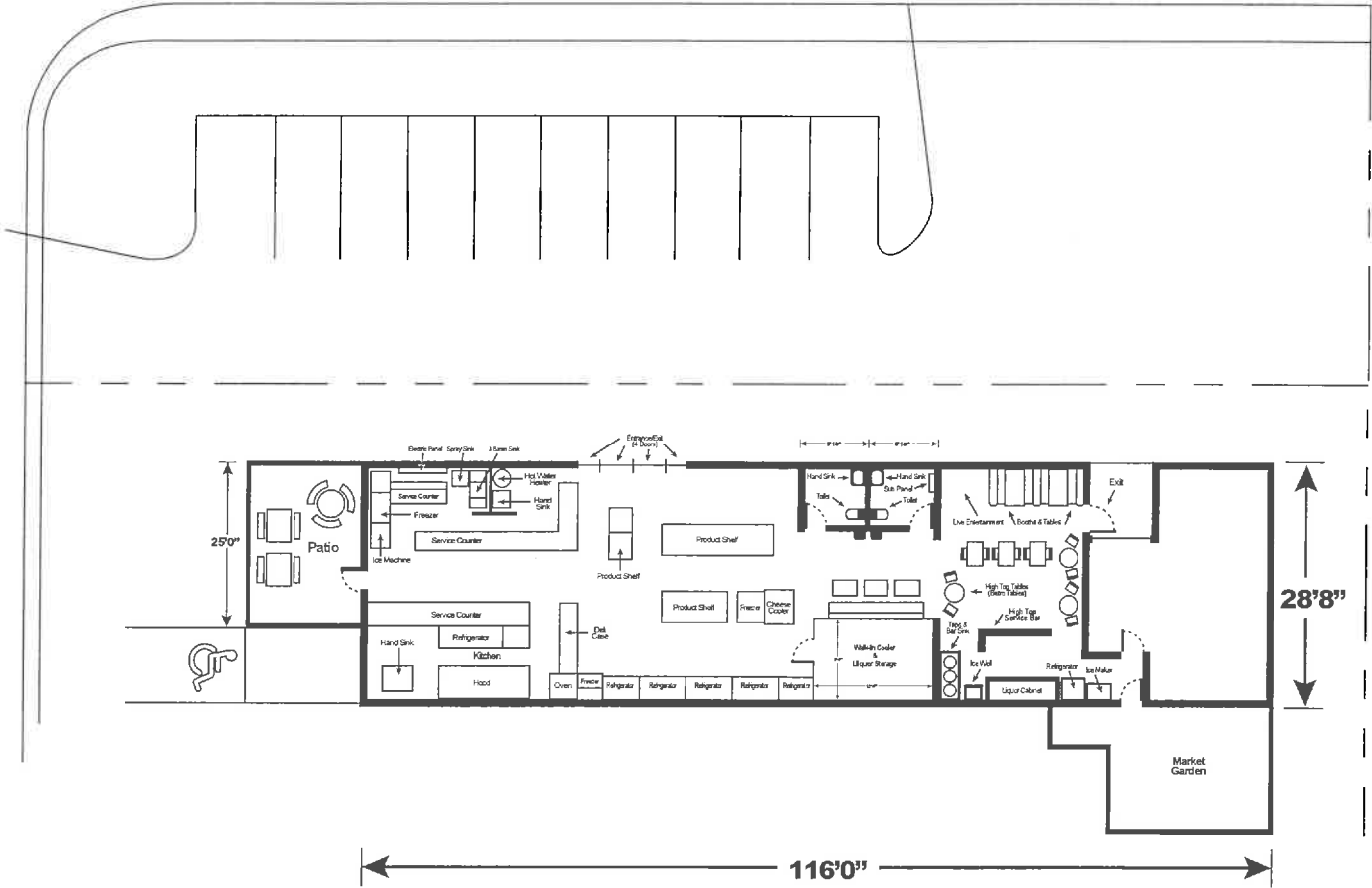
Sincerely,

*Daryle Dutton*

Daryle Dutton and the TFM family.



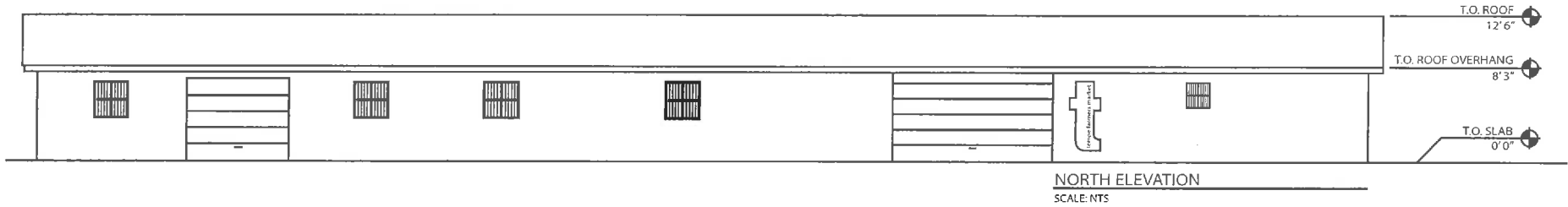
FARMER AVE



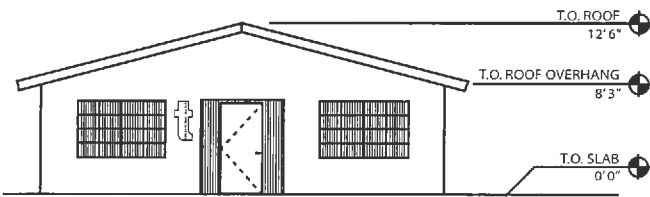
Tempe Farmers Market  
 805 S. Farmer Ave  
 Tempe, AZ 85281

Parcel #: 124-69-001  
 #: 124-69-002A  
 Existing Zoning: GID

Daryle Dutton  
 480-650-2677  
 tempefarmersmarket@cox.net  
 807 S. Wilson St.  
 Tempe, AZ 85281



NORTH ELEVATION  
SCALE: NTS



WEST ELEVATION  
SCALE: NTS

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