

**CITY OF TEMPE
DEVELOPMENT REVIEW COMMISSION**

**Meeting Date: 4/28/2020
Agenda Item: 4**

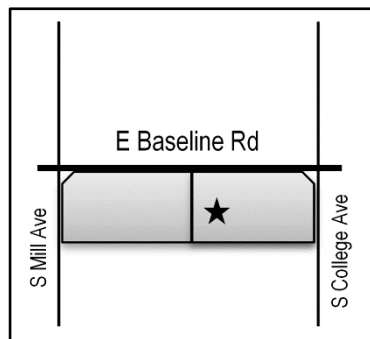
ACTION: Request a Use Permit to allow a gun shop for THE POWDER KEG, LLC, located at 209 East Baseline Road, Suite E103. The applicant is The Powder Keg, LLC.

FISCAL IMPACT: N/A

RECOMMENDATION: Staff – Approve, subject to conditions

BACKGROUND INFORMATION: THE POWDER KEG, LLC (PL200041) is proposing to operate a firearm shop in Suite E103 of the Mill Town Center, located on the south side of East Baseline Road between South Mill and College Avenues in the PCC-1, Planned commercial Center Neighborhood District. The way business will be conducted is concierge-style where clients schedule visit to view and purchase from a curated collection of higher end firearms and accessories. The shop has no signage and is approximately 250 square-feet and concealed within a kitchen and bath remodel showroom which is operated by the same shop owner. The owner is the sole employee whom will interact directly with clients. This request was originally scheduled to be heard at the March 24, 2020 Development Review Commission; however, due to the COVID-19 global pandemic, the hearing was postponed to April 28, 2020. The request includes the following:

ZUP200007 Use Permit to allow a gun shop in the PCC-1, Planned Commercial Center Neighborhood District.



Property Owner	Matthews Real Estate (Mill Town Center)
Applicant	John Gittus, The Powder Keg, LLC
Zoning District	PCC-1
Site Area	356,931 s.f. (8.19 ac)
Building Area	82,187 s.f.
Leased Area	250 s.f.
Vehicle Parking	No change in retail parking demand
Bicycle Parking	No change in retail parking demand
Hours of Operation	8 a.m. to 5 p.m., Monday through Friday

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: Steve Abrahamson, Principal Planner

COMMENTS

There will be no signage or indication that there is a firearm shop within the leased space. The shop will cater to clients who are collectors of higher end and historical firearms. The applicant is in the process of obtaining a second hand dealer license through the City of Tempe Tax & Licensing Division to buy and sell firearms. The applicant notes that the business will comply with all local, State, and federal licensing and reporting requirements, in particular, the Bureau of Alcohol Tobacco & Firearms (ATF) rules with firearm transfers.

PUBLIC INPUT

Staff has received one (1) email in support of the request from a similar business located in the same shopping center.

POLICE INPUT

On 2/14/20, Tempe Police licensing section recommended approval for the applicant's second hand dealer license application with the Tax & Licensing Division. The applicant is also working with the Crime Prevention Unit for a security plan.

USE PERMIT

The proposed use requires a Use Permit to allow a gun shop in the PCC-1 zoning district.

Section 6-308(E) Approval Criteria for Use Permits (*in italics*):

1. *Any significant increase in vehicular or pedestrian traffic*; the proposed use is not expected to generate more vehicular and pedestrian traffic than other types of retail and service uses allowed by right in the PCC-1 zoning district.
2. *Nuisance arising from the emission of odor, dust, gas, noise, vibration, smoke, heat or glare at a level exceeding that of ambient conditions*; all business activities will take place indoors and is therefore not expected to generate emissions that would otherwise cause a nuisance.
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 is permitted, subject to a use permit, in the PCC-1 zoning district which is in concert with the designed land use of the City of Tempe General Plan 2040.
4. *Compatibility with existing surrounding structures and uses*; this will be the third gun shop located at the Mill Town Center. The first gun shop, approved by the Hearing Officer on 4/3/2018, is a traditional firearms retail store, while the second, approved by the Hearing Officer on 5/6/2018, is a concierge-style gun shop, similar to THE POWDER KEG, LLC. Moreover, there will be no exterior changes to the store front or building.
5. *Adequate control of disruptive behavior both inside and outside the premises which may create a nuisance to the surrounding area or general public*; a security plan is in place which involves video surveillance, security sensors, and increased entry security.

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:

EACH NUMBERED ITEM IS A CONDITION OF APPROVAL. THE DECISION-MAKING BODY MAY MODIFY, DELETE OR ADD TO THESE CONDITIONS.

1. This Use Permit is valid only after all required Building Permits or Clearances have been obtained and the required inspections have been completed, and a Final Inspection has been passed.

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 Federal, State, County, and Municipal permits or clearances shall be obtained or the Use Permit is void.
4. The applicant shall contact the City of Tempe Crime Prevention Unit within 30 days of this approval to schedule and complete a site inspection to determine if a security plan is required to operate the business. Contact 480-858-6409 before April 23, 2020.
5. Hours of operation to begin no earlier than seven o'clock in the morning (7:00 a.m.) and end no later than seven o'clock in the evening (7:00 p.m.) on a daily basis.

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:

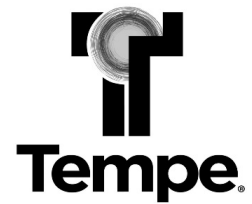
- The Use Permit is valid for The Powder Keg, LLC and may be transferable to successors in interest through an administrative review with the Community Development Director, or designee.
- The use permit approval shall be void if the use is not commenced or if an application for a building permit has 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.

HISTORY & FACTS:

- | | |
|----------------|--|
| March 6, 2018 | Hearing Officer approved Use Permit to allow a gun shop for JDR GUNS LLC (PL180030), located at 209 E Baseline Rd, Suite No. E206. |
| April 3, 2018 | Hearing Officer approved a Use Permit to allow a gun shop for ALPHA DOG FIREARMS (PL180065), located at 107 E Baseline Rd, Suite No. A2. |
| March 24, 2020 | Development Review Commission public hearing is postponed to April 28, 2020. |

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

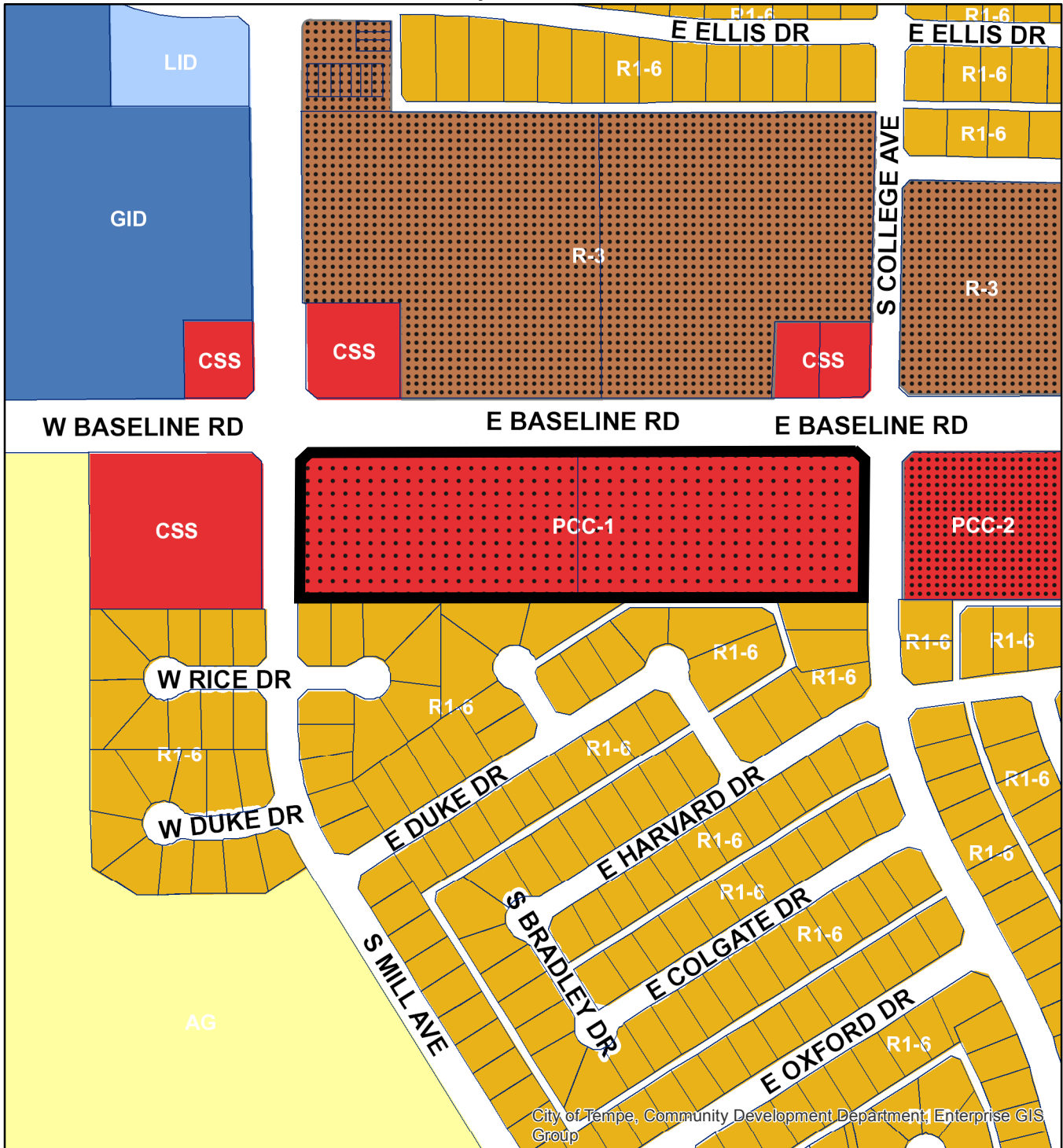
THE POWDER KEG, LLC
(PL200041)

ATTACHMENTS:









1. Location Map
2. Aerial
- 3-4. Letter of Explanation
5. Site Plan
6. Store Front Photo (in lieu of Building Elevations)
7. Floor Plan
8. Interior Photo of the Business
9. Public Input

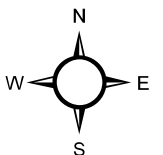
209 EAST BASELINE ROAD, SUITE E103

PL200041



City of Tempe, Community Development Department, Enterprise GIS Group

- | | |
|--|---|
|  Light Industrial District (LID) |  Planned Commercial Center General (PCC-2) |
|  General Industrial District (GID) |  Agricultural (AG) |
|  Commercial Shopping and Services (CSS) |  Single-Family Residential (R1-6) |
|  Planned Commercial Center Neighborhood (PCC-1) |  Multi-Family Residential Limited (R-3) |

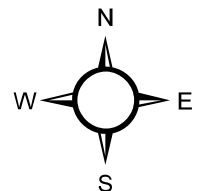


209 EAST BASELINE ROAD, SUITE E103

PL200041



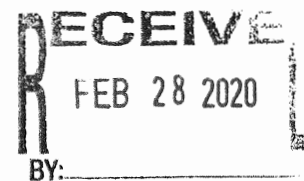
Aerial Map



Letter of Explanation

2/26/2020

The Powder Keg LLC
209 E. Baseline Road Suite E103
Tempe, Arizona 85283

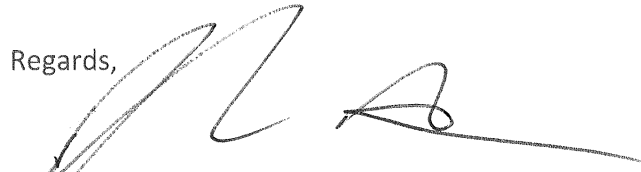


The Powder Keg LLC is a firearms shop. It is a concierge style business where clients schedule to visit to view and purchase from a curated collection of higher end firearms and accessories. The shop is a small (approx. 250 SF) room with a focus on history with historical artifacts surrounding the room. The shop is located and concealed within a kitchen and bath remodel showroom which is operated by the same owner. The product in the shop caters to clients who are collectors of higher end firearms and historical firearms. The owner is the only employee and interacts directly one-on-one with the clients. There is no signage or indication that there is a firearms shop. All customer interactions are by appointment only during normal business hours (Monday-Friday 8AM-5PM). There is no impact on local businesses or residences as the frequency of client visits is very minimal. The Powder Keg LLC has worked the Tempe Fire Department (specifically Fire Marshall Brandon Siebert), Tempe Police Department (specifically Licensing Specialist Anna Churan and the Tempe PD Property Unit Detectives) and Tempe Planning and Zoning (specifically Principle Planner Steve Abrahamson) to ensure that the facility is safe, secure and compliant. The Powder Keg LLC understands and fully complies with Tempe code, Arizona State laws, federal ATF requirements and all reporting requirements. The Powder Keg has obtained necessary licenses with the City of Tempe, The State of Arizona and the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). Below is a list of Tempe Zoning and Development Code Criteria and The Powder Keg's impact on each based on the facts stated above.

- a) The shop has no *significant vehicular or pedestrian traffic in the adjacent areas* due to individual customers scheduling appointment times.
- b) The shop has no *nuisances arising from the emission of odor, dust, gas, noise, vibration, smoke, heat or glare at a level exceeding that of ambient conditions* due to all activities being conducted indoors.
- c) The shop does not *contribute to the deterioration of the neighborhood or to the downgrading of property values, which is conflict with the goals, objectives or policies of the city's adopted plans for General Plan* due to the clientele who will be purchasing higher end firearms and historical items by appointment.
- d) The shop is *compatible with existing surrounding structures and uses* as there are other firearm retailers and misc. retail shops within the complex. There are no alterations to the exterior of the building.
- e) The shop has complete and *adequate control of disruptive behavior both inside and outside the premises, which may create a nuisance to the surrounding area or general public*. There is a security plan in place which involves video surveillance, security sensors, and increased

entry security. The security plan has been reviewed, inspected and approved by Tempe Police. The shop is kept locked at all times unless a customer has arrived for an appointment.

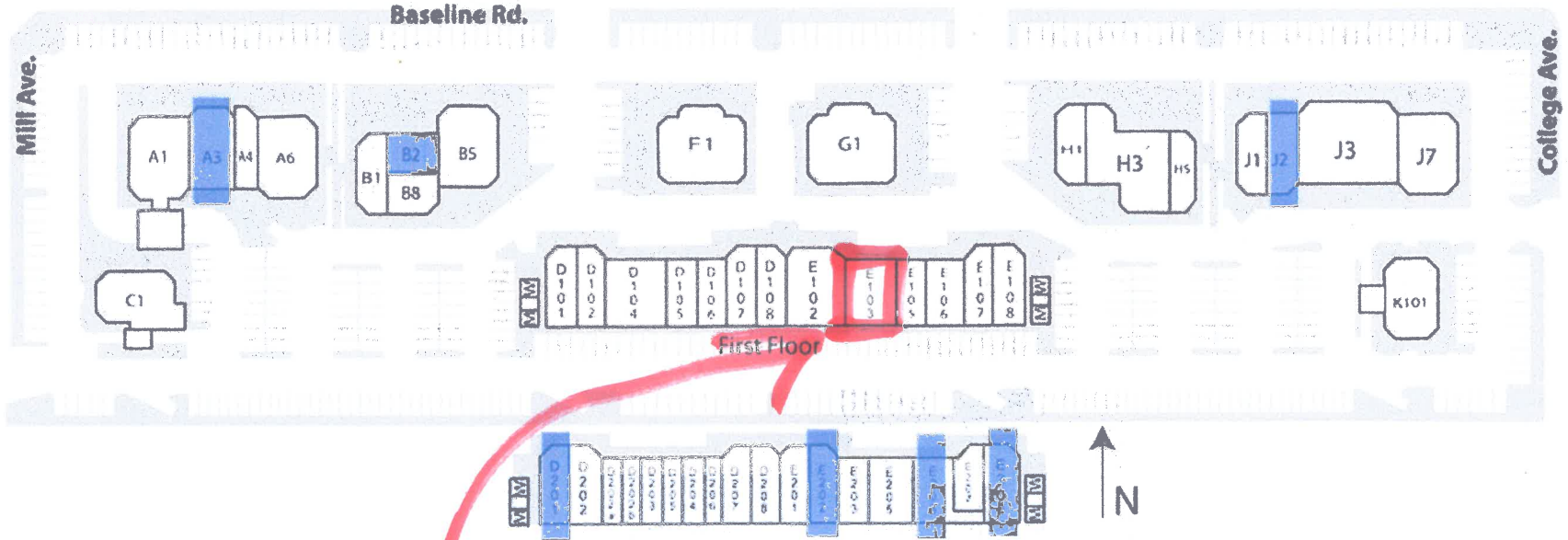
Regards,

A handwritten signature in black ink, consisting of a large, stylized 'J' followed by a cursive 'G' and a long horizontal stroke.

John Gittus

Owner/Operator - The Powder Keg LLC

MILL TOWNE CENTER



E103

RECEIVED
FEB 14 2020
BY: _____

ET

SUITE 204

NOW LEASING

SUITE 21

WFG WORLD FINANCIAL GROUP

LATITUDE 33 CONTRACTING

BALASAMA

SUITE 104

SUITE 303

Latitude

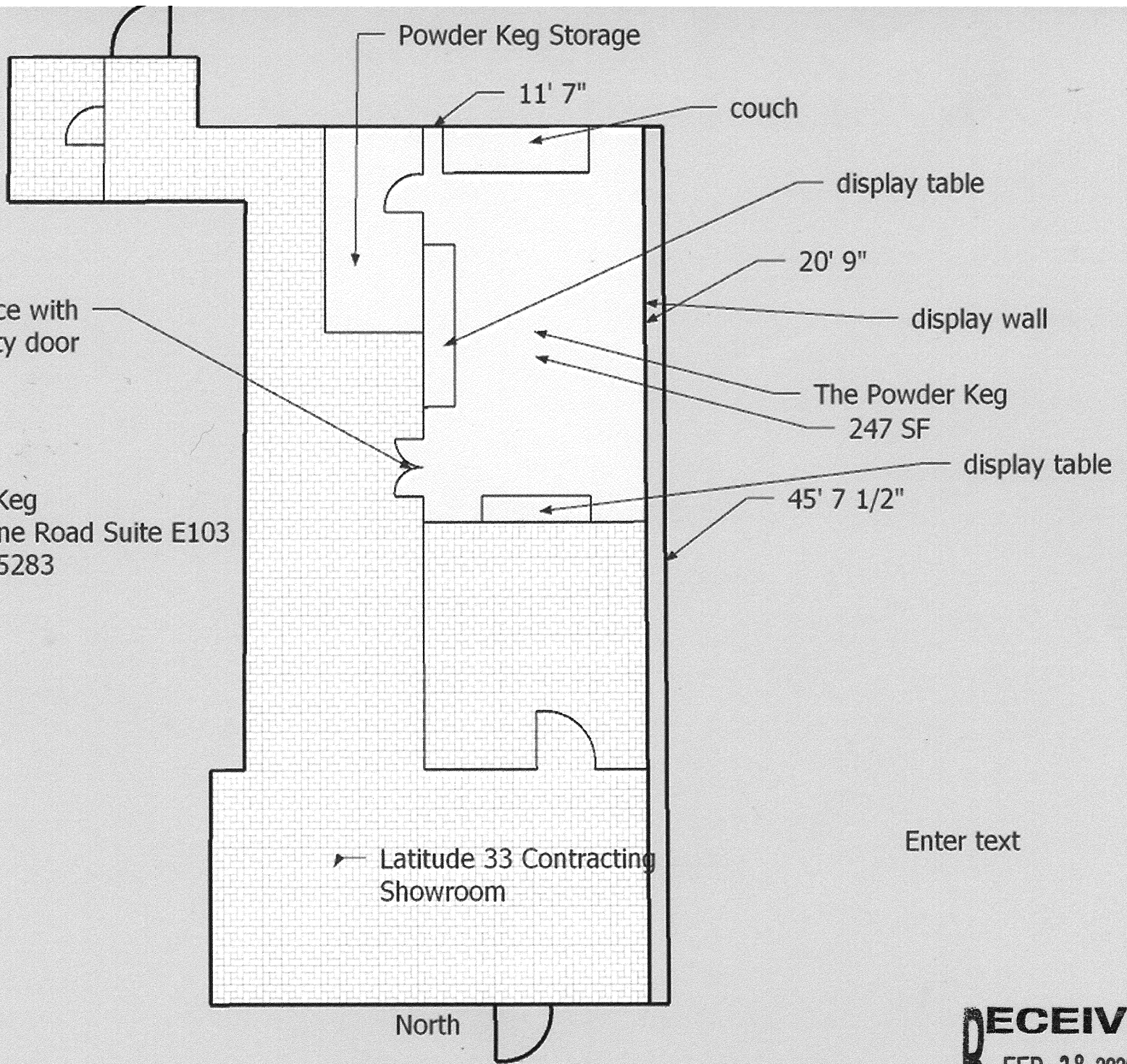
LATITUDE 33

402.411.3164

RECEIVED
FEB 14 2020
BY _____

Concealed Entrance with substantial security door

The Powder Keg
209 E. Baseline Road Suite E103
Tempe, AZ 85283



Enter text

RECEIVED
FEB 28 2020
BY: _____



ATTACHMENT 8

RECEIVED
FEB 14 2020
BY: _____

Jimenez, Lee

From: jroop@jdrgunsllc.com
Sent: Monday, March 23, 2020 10:43 AM
To: Jimenez, Lee
Subject: THE POWDER KEG, LLC (PL200041)

To who it may concern

I am writing this in support of THE POWDER KEG LLC FOR USE PERMIT PL200041

I John D. Roop the owner / manager of JDR GUNS LLC located at 209 E Baseline Rd . I have been friends with John Gittus for a couple of years. He and I work on deals together between are gun shops.