

**CITY OF TEMPE  
DEVELOPMENT REVIEW COMMISSION**

**Meeting Date: 9/22/2020  
Agenda Item: 4**

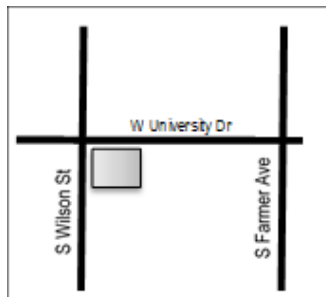
**ACTION:** Request a Use Permit to allow a tobacco retailer for WILD SIDE SMOKE SHOP, located at 405 West University Drive. The applicant is Wild Side Smoke Shop.

**FISCAL IMPACT:** N/A

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

**BACKGROUND INFORMATION:** WILD SIDE SMOKE SHOP (PL200166) is proposing to locate a tobacco retail store within and existing commercial center at 405 West University Drive, Unit #101, on the southeast corner of South Wilson Street and West University Drive in the CSS, Commercial Shopping & Services District. The request includes the following:

ZUP200037 Use Permit to allow a tobacco retailer in the CSS, Commercial Shopping and Services District.



Property Owner	Nowrooz Limited Partnership
Applicant	Wild Side Smoke Shop
Zoning District	CSS
Site Area (net)	21,284 s.f.
Building Area	4,743 s.f.
Hours of Operation	10 a.m. to 10 p.m., Su-Th; 10 a.m. to 11 p.m., F-Sa

**ATTACHMENTS:** Development Project File

**STAFF CONTACT(S):** Robbie Aaron, Planner II (480) 350-8096

Department Director: Chad Weaver, Community Development Director  
 Legal review by: N/A  
 Prepared by: Robbie Aaron, Planner II  
 Reviewed by: Steve Abrahamson, Principal Planner

## COMMENTS

Pursuant to ZDC Section 3-423, Use Separation Requirements, tobacco retailers shall not be located on a lot within 1,320 feet, measured by a straight line in any direction, from the lot line of a charter school, private school, or public school, which provides elementary or secondary education. Instructional or vocational schools are excluded from the separation requirement. The closest school is Scales Technology Academy, located approximately 2,787 feet away.

## PUBLIC INPUT

Staff has received one public comment in opposition of this request as of the publishing date of this staff summary report.

## USE PERMIT

The proposed use requires a use permit to allow a tobacco retailer in the CSS, Commercial Shopping & Services District pursuant to City of Tempe Zoning & Development Code (ZDC) Section 3-202, Permitted Uses in Commercial and Mixed-Use Districts. Furthermore, the proposed use is subject to special standards or limitations pursuant to ZDC Section 3-423, Use Separation Requirements.

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

1. *Any significant increase in vehicular or pedestrian traffic*; the proposed retail use will not significantly increase vehicular or pedestrian traffic more than what is typically generated by permitted retail and services uses.
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 retail use will not generate emissions greater than ambient levels since operations will be conducted completely within the interior of the suite.
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 retail use is consistent with the General Plan 2040 and is a permitted use subject to a use permit in this zoning district.
4. *Compatibility with existing surrounding structures and uses*; the proposed retail use is compatible with adjacent and nearby shopping centers/plazas and uses, both in scale and size.
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 applicant does not foresee an issue with disruptive behavior and places the safety and well-being of employees and customers to the highest regard. In the event disruptive behavior does become an issue the City of Tempe Police Department can require a security plan at a later date.

## REASONS FOR APPROVAL:

Based on the information provided by the applicant 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 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.

- Hours of operation to begin no earlier than ten o'clock in the morning (10:00 a.m.) and end no later than ten o'clock in the evening (10:00 p.m.), Sunday through Thursday; ten o'clock in the morning (10:00 a.m.) and end no later than eleven o'clock in the evening (11:00 p.m.), Friday and Saturday.

#### **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 WILD SIDE 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.
- 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.
- This use shall not violate the City of Tempe Smoking Ordinance or Smoke Free Arizona Act A.R.S. §36-601.01.

#### **HISTORY & FACTS:**

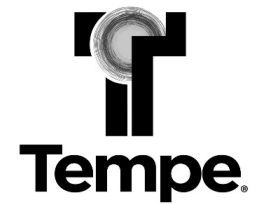
October 13, 1958            Permit issued for commercial building at 405 W University Dr.

#### **ZONING AND DEVELOPMENT CODE REFERENCE:**

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

Section 3-423 Use Separation Requirements

Section 6-308 Use Permit



**DEVELOPMENT PROJECT FILE**  
for  
**WILD SIDE SMOKE SHOP**  
**(PL200166)**













**ATTACHMENTS:**

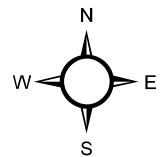
1. Location Map
2. Aerial
- 3-4. Letter of Explanation
5. Site Plan
6. Floor Plan
- 7-10. Context Photo
- 11-12. Comments Received as of September 15, 2020

# WILD SIDE SMOKE SHOP

PL200166



- |  |   |
|--|---|
|  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)                |  Multi-Family Residential General (R-4)              |

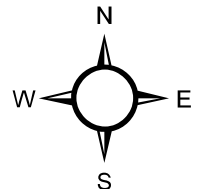


# WILD SIDE SMOKE SHOP

PL200166



Aerial Map





### **Letter of Explanation**

**Use Permit Standard Application:**

**Referencing 405 W University Avenue Tempe, Arizona 85281  
Wild Side Smoke Shop will conform to the following standards and Zoning and Development Code Criteria Section 6-308(E) as it applies.**

**Wild Side Smoke Shop is a premier US-based company that has been growing since 1999. Our mission is to provide opportunities for people to thrive, which Wild Side Smoke Shop accomplishes via operating professional retail smoke shops.**

**Our staff strives to set the standard which smoke shops are measured by, and as a company, Wild Side Smoke Shop exemplifies high energy, accountability, and a competitive spirit. The atmosphere our team creates is a safe and friendly environment.**

- A. Wild Side Smoke Shop is located at 405 W University Avenue which is an established shopping center with existing infrastructure to accommodate pedestrian and vehicular traffic. Wild Side Smoke Shop anticipates an increase in vehicular and pedestrian traffic, but not a significant level. The storefront will have anywhere from 2 to 5 employees during shift and approximately 8-12 customers during the busiest hours of operation. The pre-existing parking and sidewalks will be more than sufficient to compensate for the needs of our customers and sales associates.**
- B. Wild Side Smoke Shop does not have any practices or processes that would be considered harmful or degrading to the environment or the neighborhood. Our clean, calm retail setting will have little to no contribution to noise, vibration, dust, gas, emission of odor, smoke, heat, or glare at a level exceeding that of ambient conditions.**
- C. Wild Side Smoke Shop will be providing products and accessories which offer natural alternatives to improve our customer's health and happiness. Wild Side Smoke Shop operates 60+ locations with excellent landlord references. The proposed use aligns with the objectives of the General Plan and will have no contribution to the deterioration of the neighborhood or to the downgrading of property values.**
- D. Wild Side Smoke Shop will be joining the surrounding shopping area consisting of convenience/retail stores, and restaurants. The company's use will not result in any existing structures being altered or removed nor will any structures be added to the site.**

E. Wild Side Smoke Shop runs a professional retail business with no foreseeable problems with disruptive behavior. The company places the safety and well-being of staff and customers above all else. Staff members embody professionalism, accountability, and are provided training on how to provide a positive environment. Our hours of operation are: Sunday - Thursday 10:00 AM - 10:00 PM & Friday-Saturday 10:00 AM - 11:00 PM. These hours of operation are favorable to our customers, staff, and surrounding neighborhood and community.

Wild Side Smoke Shop is enthusiastic about joining the community of Tempe, Arizona, and is committed to growing the community by providing opportunities for people to thrive.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Slakis", written in a cursive style.

Mike Slakis

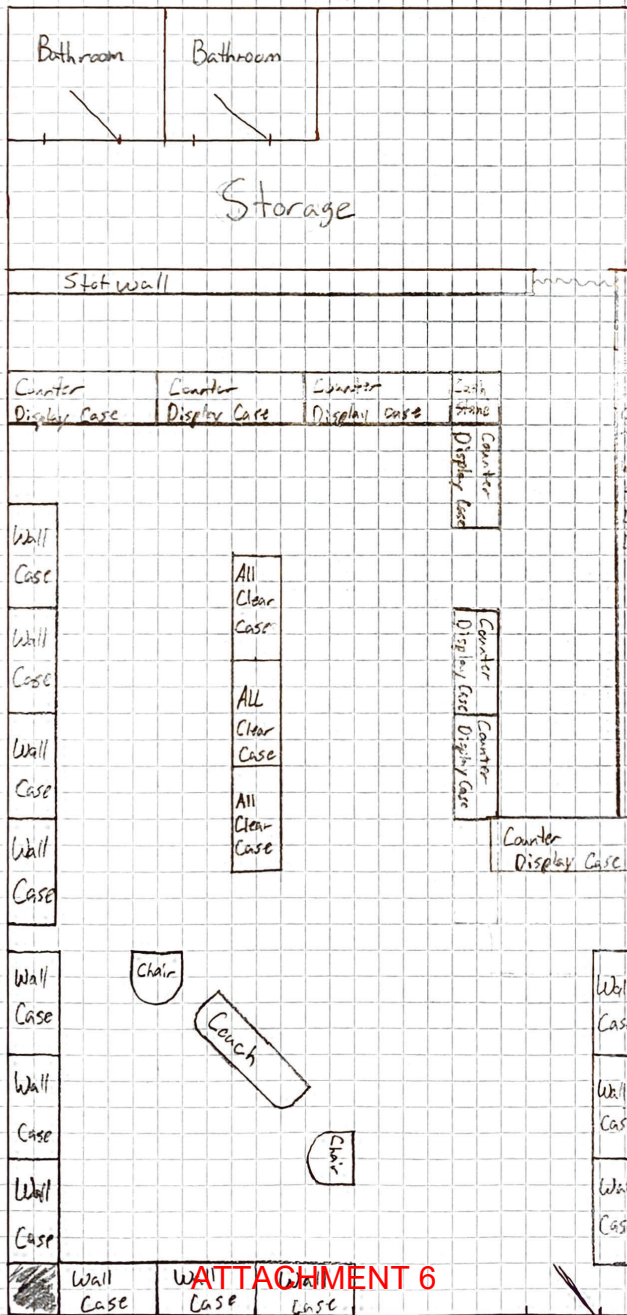
A Representative of Wild Side Smoke Shop





**ATTACHMENT 5**

Wild Side Smoke Shop  
405 W University Dr  
Unit #101  
Tempe, AZ 85281



ATTACHMENT 6





ATTACHMENT 8





**From:** [Roger L. Hatton](#)  
**To:** [Aaron, Robbie](#)  
**Subject:** Public Hearing For Wild Side Smoke Shop Use Permit  
**Date:** Sunday, September 13, 2020 11:19:36 AM

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I am apposed to the requested use permit for the following reasons which are given by the National Institutes of Health:

Tobacco contains the chemical nicotine which is addictive.  
Tobacco smoke contains more than 7,000 chemicals, at least 70 of which are known to cause cancer.  
Tobacco that is not burned is called smokeless tobacco. Including nicotine, there are at least 30 chemicals in smokeless tobacco that are known to cause cancer.

Additional health risks include the following:

Blood clots and weakness in the walls of blood vessels in the brain, which can lead to stroke.  
Blood clots in the legs, which may travel to the lungs.  
Coronary artery disease, including angina and heart attack.  
Temporarily increased blood pressure after smoking.  
Poor blood supply to the legs.  
Problems with erections because of decreased blood flow into the penis.  
Poor wound healing after surgery.  
Lung problems, such as COPD, or asthma that harder to control.  
Problems during pregnancy, such as babies born at a low birth weight, early labor, losing your baby, and cleft lip.  
Decreased ability to taste and smell.  
Harm to sperm may lead to infertility.  
Loss of sight due to an increased risk of macular degeneration.  
Tooth and gum diseases.  
Wrinkling of the skin.

Secondhand smoke can cause a higher risk of:

Heart attack and heart disease.  
Lung cancer.  
Sudden and sever reactions, including of the eye, nose, throat, and the lower respiratory tract.

Infants and children who are exposed to secondhand smoke are at risk of:

Asthma flares {children with asthma who live with a smoker are much more likely to visit the emergency room}.  
Infections of the mouth, throat, sinuses, ears, and lungs.  
Lung damage (poor lung function).  
Sudden Infant death syndrome (SIDS).

Roger L. Hatton, P. E.

Colonel, USAF, Retired

Sent from [Mail](#) for Windows 10