

**CITY OF TEMPE
DEVELOPMENT REVIEW COMMISSION**

**Meeting Date: 12/8/2020
Agenda Item: 6**

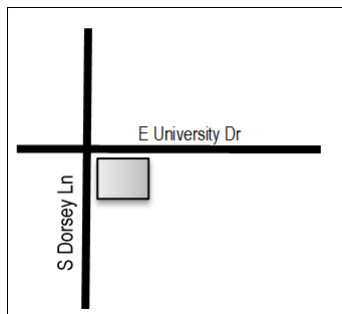
ACTION: Request a Use Permit to allow a tobacco retailer for SKYWATER SMOKE SHOP, located at 1301 East University Drive. The applicant is Yiru Chen.

FISCAL IMPACT: N/A

RECOMMENDATION: Staff – Approve, subject to conditions

BACKGROUND INFORMATION: SKYWATER SMOKE SHOP (PL200243) is proposing to locate a tobacco retail store within an existing commercial center at 1301 East University Drive, Suite 117, on the southeast corner of South Dorsey Lane and East University Drive in the PCC-1, Planned Commercial Center, Neighborhood Zoning District. The request includes the following:

ZUP200057 Use Permit to allow a tobacco retailer in the PCC-1, Planned Commercial Center, Neighborhood District.



Property Owner	MARTIN BLOOM INVESTMENTS/TIBURON INVESTMENTS
Applicant	Yiru Chen
Zoning District	PCC-1
Site Area	147,783 s.f.
Building Area	42,304 s.f.
Suite Area	1,993 s.f.
Hours of Operation	Daily, 10 a.m. to 10 p.m.

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 New School for the Arts & Academics, located approximately 1,550 feet away.

PUBLIC INPUT

Staff has received no public comments 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 PCC-1, Planned Commercial Center, Neighborhood 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 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:

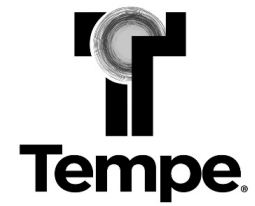
- The Use Permit is valid for SKYWATER SMOKE SHOP and may be transferable to successors in interest through an administrative review with the Community Development Director, or designee.
- The use permit approval shall be void if the use is not commenced or if an application for a building permit has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

July 2, 1986 Permit issued for commercial building at 1301 E 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



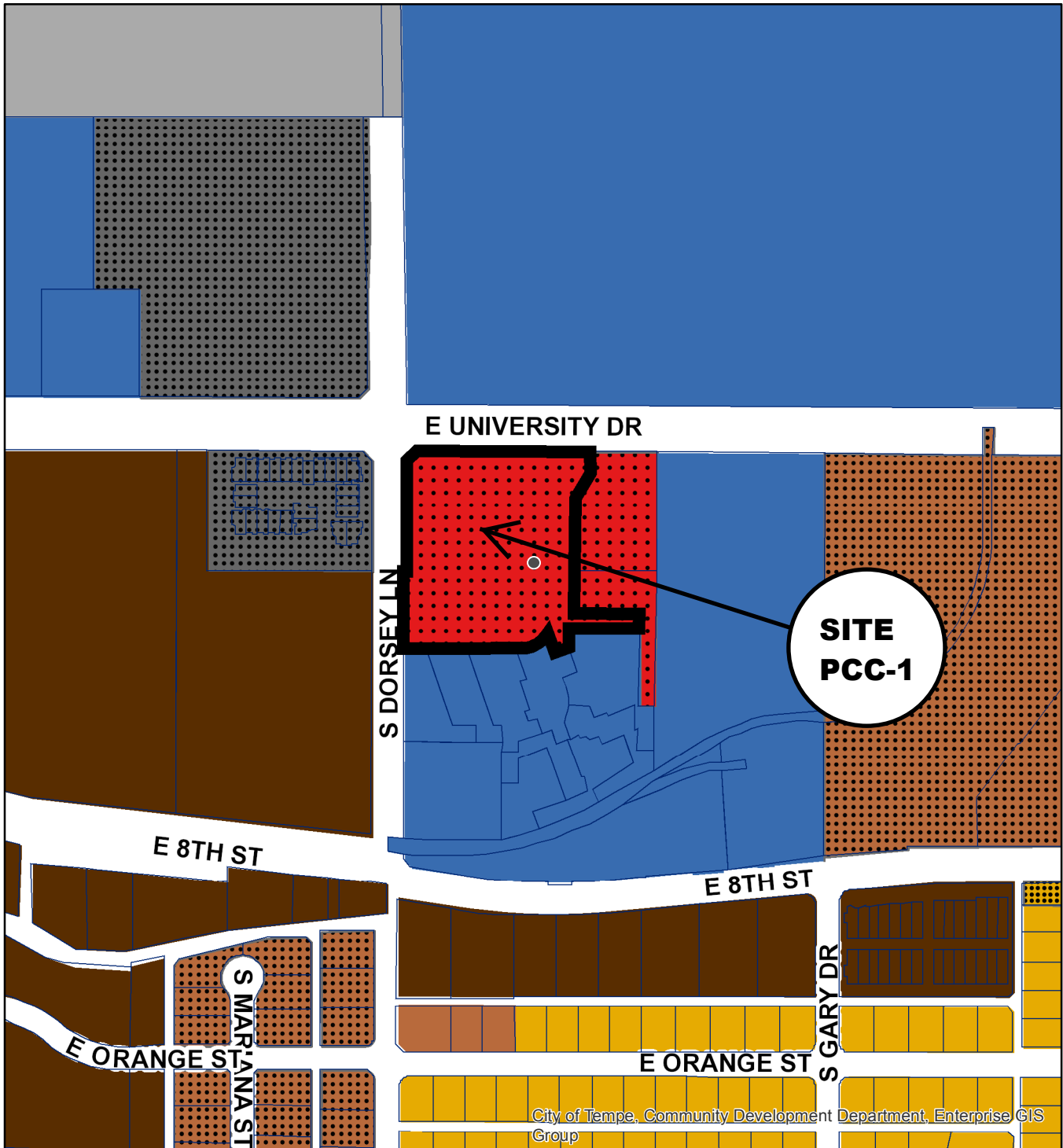
DEVELOPMENT PROJECT FILE
for
SKYWATER SMOKE SHOP
(PL200243)










ATTACHMENTS:

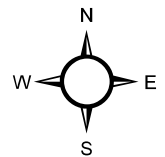
1. Location Map
2. Aerial
- 3-5. Letter of Explanation
6. Site Plan
7. Floor Plan
8. Context Photos

SKYWATER SMOKE SHOP

PL200243



- | | |
|--|---|
|  General Industrial District (GID) |  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 Limited (R-3) |
|  Planned Commercial Center Neighborhood (PCC-1) |  Multi-Family Residential General (R-4) |
|  Single-Family Residential (R1-6) | |

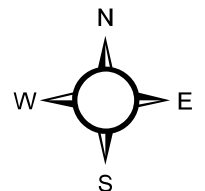


SKYWATER SMOKE SHOP

PL200243



Aerial Map



Dear Tempe city,

I want to open smoke shop in 1301 E University Dr #117, Tempe, AZ 85281.

And i have a lease contract with Plaza Landlord. And i won't change structure of the location.

All i need to do just paint wall and put on show cases.

Please approve my permit as soon as possible.

Than you so much

Yiru Chen

Application for Use Permit for Skywater Smoke Shop

Nov. 2020

Introduction:

This narrative has been written to serve as a supplemental component of the Use Permit Application submitted previously for Skywater Smoke Shop.

The applicant is Yiru Chen, who has successfully run a smoke shop at the location of Mesa, AZ (2051 S Dobson Rd,#15 Mesa, AZ 85202) and is ready to start another shop at the new location.

Summary:

Skywater Smoke Shop is a local smoke shop, focusing on relatively high-end tobacco, cigars, and smoking tools. Therefore, the target customers of Skywater Smoke Shop are college students and middle class tobacco users.

Responses to Comment Letter Dated 11/10/2020:

1. Business: Smoke Shop
2. Operation:
 - a. Hours: 10AM to 10PM
 - b. Number of Employees: Two or Three
 - c. Customers: College students and middle class tobacco users
3. Impact to the surrounding area:

In general, Skywater Smoke Shop is quite similar as a grocery store. We don't provide any trail. So there will be no odor, noise, smoke or heat at all to the surrounding area.
4. Changes to the building:

No changes to the existing structures are proposed with this permit, only some interior decoration and showcases.
5. Potential Impact
 - a. Traffic:

Since this is a B2C business, there will be normal traffic as usual.
 - b. Neighborhood:

We believe the neighborhood fits the profile of our target customer. That's one of the important reasons why Yiru Chen decided to choose this location as his second store. In this case, we are having the same wish as you to keep the neighborhood as it is.
 - c. Public welfare:

With a wholesale background, customers can have convenient access to high quality tobacco and cigars without spending more money. For tobacco users, we do believe that would be a benefit.

Detailed Description:

Yiru Chen specialized in the tobacco industry since 2016 as a wholesaler. In 2019, Yiru Chen decided to open his own smoke shop. Even under the current COVID-19 situation, his

first smoke shop turned out to be really successful and he believes this is a great time to expand his business.

As demonstrated in the summary, this spot will be used for relatively high-end tobacco, cigars and smoking tools like glass etc.. Considering the surrounding of the location, this proposed location fits all the needs that he expected.

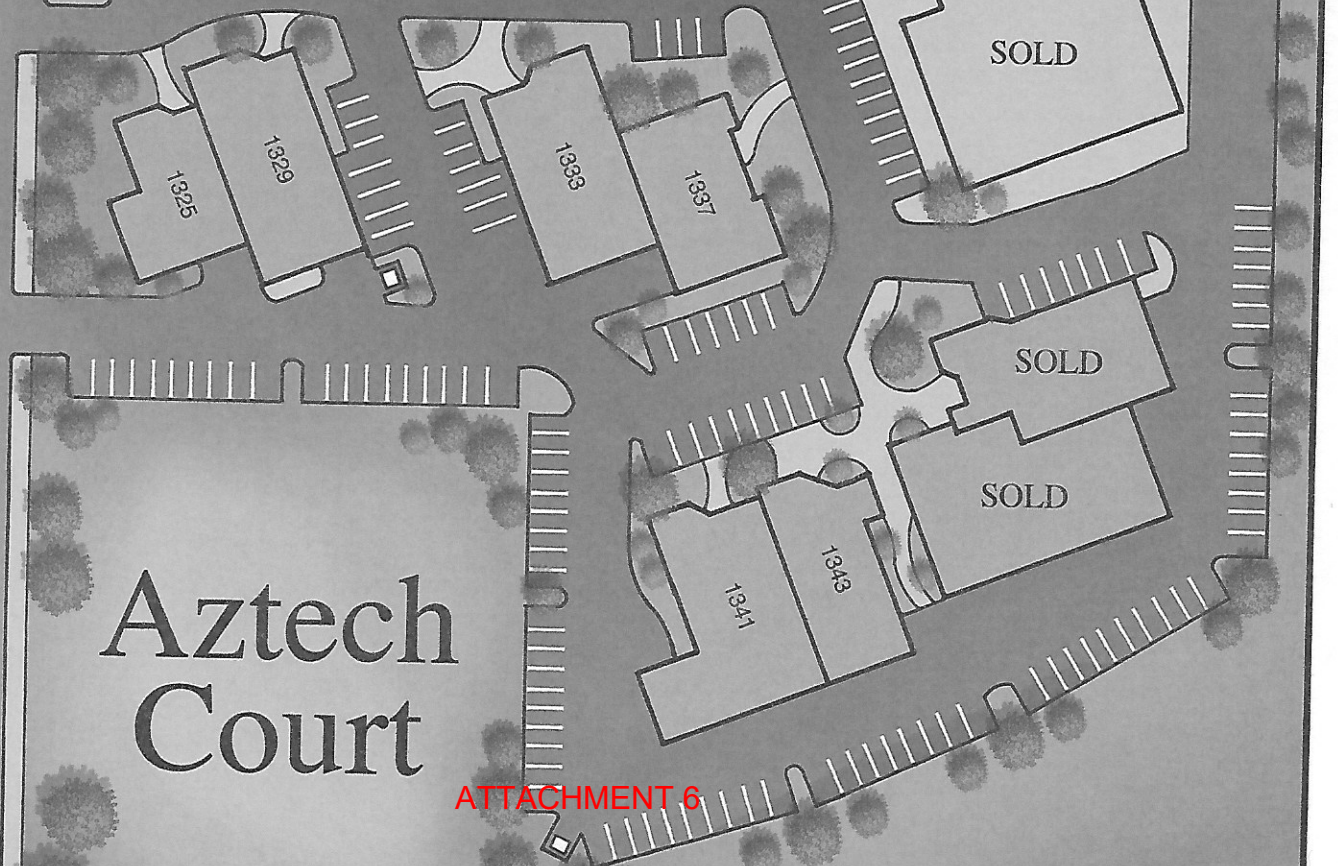
Reference - First Skywater Smoke Shop:

This location at 2051 S Dobson Rd,#15 Mesa, AZ 85202, is quite similar to this proposed location.

East University Drive

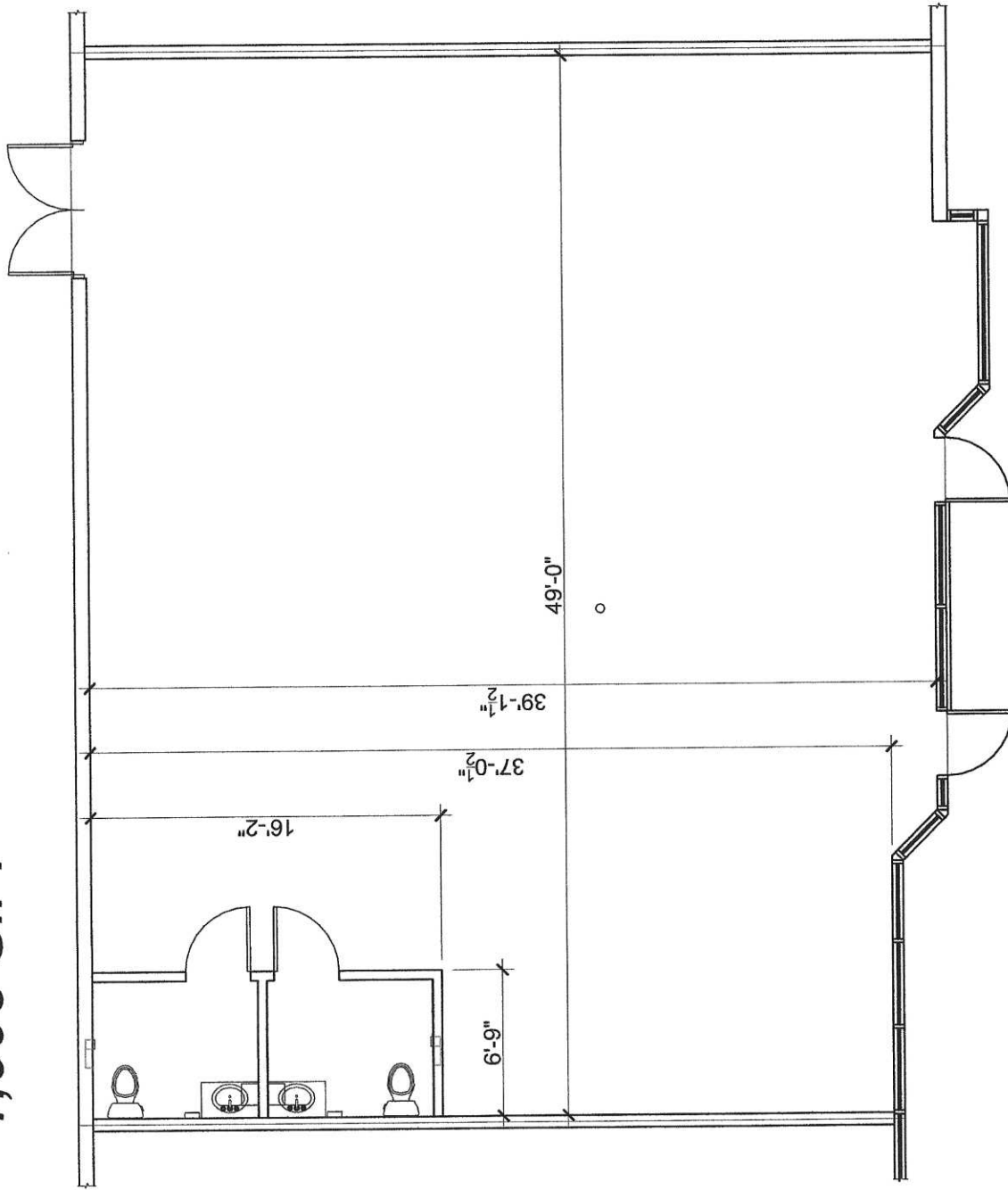
1301

South Dorsey Lane



Aztech Court

SUITE 117: 1,993 S.F.



ATTACHMENT 7

- REVISIONS
- -
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ARCHITECT

AZTECH COURT
TEMPE, AZ

1301 E.
UNIVERSITY
SUITE 207
TEMPE, AZ
SUITE
117

DPA 2016-001



02/07/16

