

# Staff Summary Report



Hearing Officer Hearing Date: November 3, 2010

Agenda Item Number: 8

**SUBJECT:** This is a public hearing for a request by the **HOUSE OF GLASS PIPES & GIFTS LLC** located at 1630 East Apache Boulevard, Suite No. 101 for one (1) use permit.

**DOCUMENT NAME:** 20101103cdng02 **PLANNED DEVELOPMENT (0406)**

**COMMENTS:** Request by **HOUSE OF GLASS PIPES & GIFTS LLC (PL100326)** (Joshua Gault/House of Glass Pipes & Gifts LLC, applicant; 1630 Apache LLC, property owner) located at 1630 East Apache Boulevard, Suite No. 101 in the CSS, Commercial Shopping & Services District for:

**ZUP10123** Use permit to allow a retail smoke shop offering tobacco and tobacco paraphernalia products.

**PREPARED BY:** Nick Graves, Planner (480-350-8690)

**REVIEWED BY:** Steve Abrahamson, Planning & Zoning Coordinator (480-350-8359) *SEA*

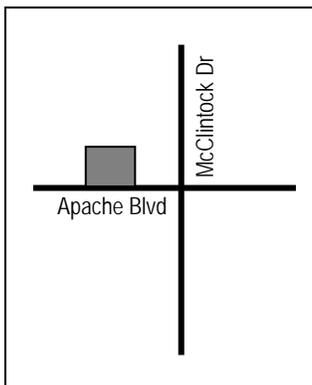
**LEGAL REVIEW BY:** N/A

**DEPARTMENT REVIEW BY:** Steve Abrahamson, Planning & Zoning Coordinator (480-350-8359)

**FISCAL NOTE:** There is no fiscal impact on City funds.

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

**ADDITIONAL INFO:** The applicant is before the Hearing Officer to request approval of a use permit to allow a retail smoke shop offering tobacco and tobacco paraphernalia products. The business will involve the sale of flavored tobacco, hookah tobacco, tobacco water pipes, tobacco hand pipes, and other accessories. There has been no public input to date regarding this request. Staff recommends approval of the request as submitted.



**PAGES:**

1. List of Attachments
2. Comments
3. Reasons for Approval; Conditions of Approval; History & Facts
4. Description; Zoning & Development Code Reference

**ATTACHMENTS:**

1. Location Map
2. Aerial Photo
3. Letter of Intent
4. Site Plan
5. Floor Plan
6. Staff Photograph

## COMMENTS:

House of Glass Pipes & Gifts LLC is before the Hearing Officer to request approval of a use permit to allow a retail smoke shop offering tobacco and tobacco paraphernalia products. The proposed store will be located within the shopping Center at 1630 East Apache Boulevard, Suite No. 101 just west of McClintock Drive along Apache Boulevard.

The business will involve the sale of flavored tobacco, hookah tobacco, tobacco water pipes, tobacco hand pipes, and other accessories. Ash trays, body cleansers, rolling papers, lights, incense, clothing, and party supplies will also be offered. To the north, the shopping center is adjacent to the R1-6 Single-Family Residential Zoning District. It is adjacent to the CSS, Commercial Shopping and Service District to the west, east, and across Apache Boulevard to the south. According to the applicant, the intended hours of operation will be Monday to Thursday from 10:00 a.m. to 9:00 p.m., Friday and Saturday from 10:00 a.m. to 2:00 a.m., and closed on Sundays. Smoking will not be permitted indoors.

The City of Tempe Zoning and Development Code tobacco retailer separation requirements, which took effect in June of 2007, prohibit a tobacco retailer from locating within 1,320 feet of a school. This proposal is not within 1,320 feet of a school, thus a tobacco retailer can be allowed subject to an approved use permit.

To date, staff has received no public input concerning this request.

## Use Permit

The Zoning and Development Code requires a Tobacco Retailer to obtain a use permit in the CSS, Commercial Shopping and Services District. This use permit request meets all applicable tests in the following manner:

Evaluating the use permit, the proposal appears to pass the use permit test listed below:

- a. Any significant increase in vehicular or pedestrian traffic in adjacent areas;
  - There will be no significant increase in vehicular or pedestrian traffic in adjacent areas.
- b. Nuisance arising from the emission of odor, dust, gas, noise, vibration, smoke, heat, or glare at a level exceeding that of ambient conditions;
  - This is a retail use, similar to others within the shopping center; there should be no nuisances.
- c. 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 development would not contribute to neighborhood deterioration or downgrade property values. This use permit request is consistent with the General Plan 2030's Land Use Element. The requested use permit will not be detrimental to the surrounding area, but will further the General Plan Land Use Element Goals and Strategies.
- d. Compatibility with existing surrounding structures and uses;
  - The proposed use appears to be compatible with surrounding uses.

## Conclusion

Staff recommends approval of the use permit subject to the attached conditions of approval.

**REASONS FOR APPROVAL:**

1. Traffic generated by this use should not be excessive.
2. There will be no apparent damage or nuisance arising from noise, smoke, odor, dust, vibration or illumination.
3. The use appears to be compatible with the building, site and adjacent properties.

**SHOULD THE HEARING OFFICER ELECT TO TAKE AFFIRMATIVE ACTION ON THE REQUEST, THE FOLLOWING CONDITIONS OF APPROVAL SHOULD APPLY.**

**CONDITIONS OF APPROVAL:**

1. The use permit is valid for House of Glass Pipes & Gifts LLC and may be transferable to successors in interest through an administrative review with the Development Services Manager, or designee..
2. This use shall not violate the City of Tempe Smoking Ordinance or Smoke Free Arizona Act A.R.S. §36-601.01.
3. 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.
4. All permits and clearances required by the Building Safety Division shall be obtained prior to the use permit becoming effective. Should smoking be permitted on the premises, the owner/management is responsible to adhere to the 2003 International Mechanical Code.
5. Any intensification or expansion of the use shall require the applicant to return to the Hearing Officer for further review.
6. The gross sale of beverages and snack items may not exceed that of tobacco and hookah products.
7. All doors shall have illumination to meet five (5) foot candles at the door and two (2) foot candles within a 15' radius. Details to be approved through Building Safety Plan Review.
9. All business signs shall receive a Sign Permit. Please contact Planning staff at (480) 350-8372.
10. The applicant shall contact City of Tempe Crime Prevention Unit for a Security Plan. Contact Crime Prevention at (480) 350-8311 within 30 days of this approval by December 3, 2010.

**HISTORY & FACTS:**

May 20, 1974

A-74-3.1 – The Board of Adjustment denied a use permit request for BEN A. HATCH to operate an automobile sales outlet located at 1630 E Apache Blvd.

June 22, 1994

BA940160 – The Board of Adjustment approved a use permit request for STRAIGHT EIGHT (Billiards Hall) to allow a 24 hour per day billiards establishment located at 1630 E Apache Blvd.

October 4, 1994

BA940238 – The Hearing Officer approved a variance request for STRAIGHT EIGHT (Billiards Hall) to reduce the required on-site parking from 77 spaces to 76 spaces located at 1630 E Apache Blvd.

- January 31, 1996      BA950281 – The Board of Adjustment approved a use permit request for BAKER'S BAD BOYS to allow a karate kick boxing/self defense studio located at 1630 E Apache Blvd.
- November 5, 1996      BA960282 – The Hearing Officer approved a use permit request for ACS SUPPLY to allow a sales office for wholesale tools located 1630 E Apache Blvd.
- August 27, 1997      BA971089 – The Board of Adjustment approved two (2) requests for SONRISE COMMUNITY CHURCH located at 1630 E Apache Blvd for the following:
- a.    Use permit to allow a church consisting of a 2,000 s.f. assembly area to accommodate approximately 200 people.
  - b.    Variance to reduce the required parking from 77 spaces to 68 spaces.
- May 4, 1999      BA990101 – Hearing Officer approved a use permit request for NATIONAL BANKCARD SERVICES, Suite 101, to allow a professional telemarketing office in the C-2, Commercial District. (Zoning Ordinance 808)
- September 22, 1999      BA990203 – The Hearing Officer approved a use permit request for THE INTRAVERSE, Suite 107, to allow a 2,500 s.f. facility for a network of computers for entertainment and office purposes in the C-2, Commercial District. (Zoning Ordinance 808)
- December 21, 2000      BA000369 – The Hearing Officer approved a use permit request for PHOENIX CHURCH OF PENTECOST Suite 107, to allow a church in the C-2, Commercial District. (Zoning Ordinance 808)
- May 19, 2009      PL090148 – The Hearing Officer approved two (2) use permit requests by HAREM NIGHTS to allow a hookah lounge and live entertainment located at 1630 E Apache Blvd., Suite No. 103.
- May 19, 2010      PL090148 – The Hearing Officer revoked a use permit to allow a hookah lounge due to non-compliance with a condition of approval for HAREM NIGHTS located at 1630 E Apache Blvd., Suite No. 103.
- September 28, 2010      PL090148 – The Development Review Commission denied a request by HAREM NIGHTS to appeal the Hearing Officer's 5/19/10 decision to revoke a use permit to allow a hookah lounge located at 1630 E Apache Blvd., Suite No. 103.

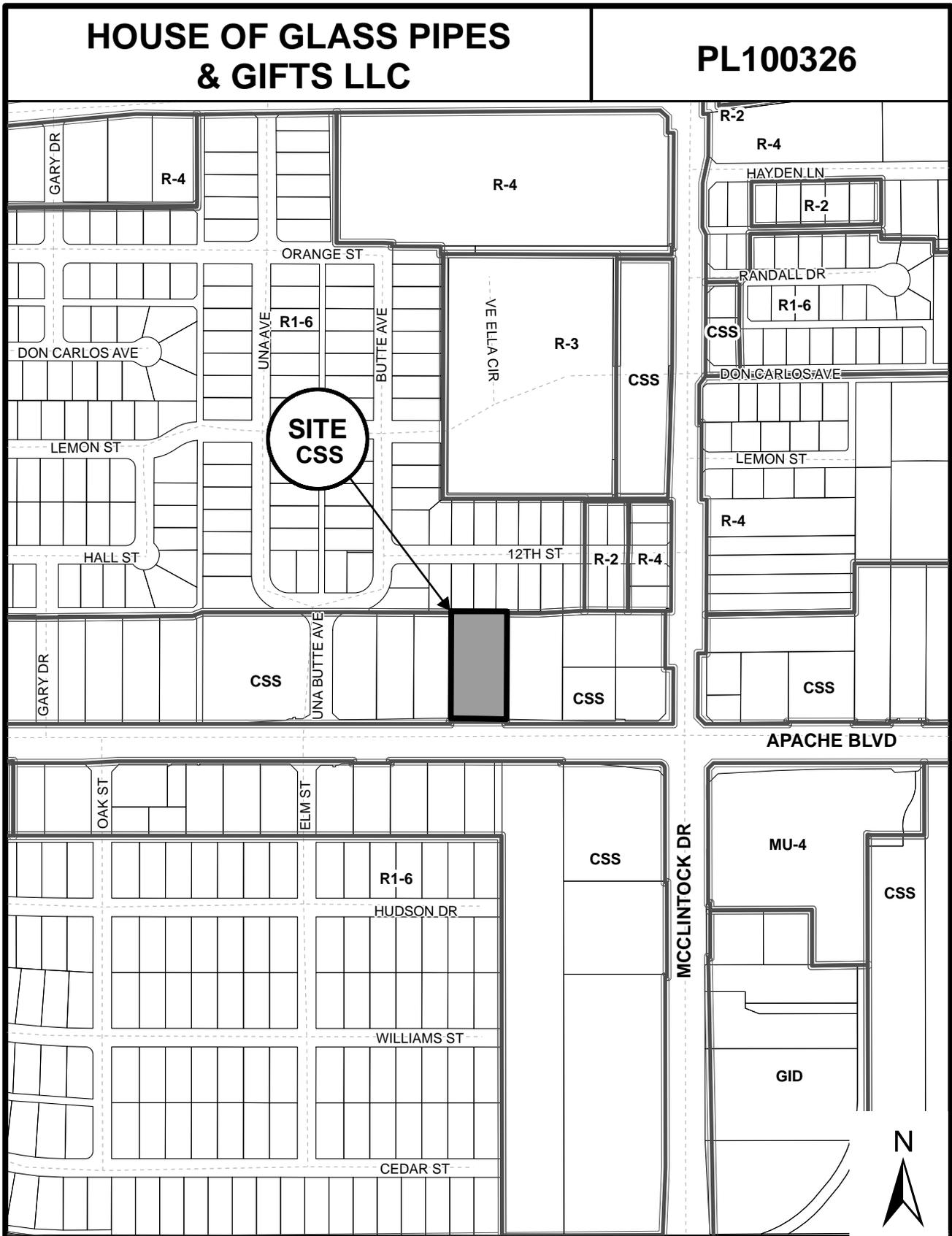
**DESCRIPTION:**

Owner – 1630 Apache LLC  
 Applicant – Joshua Gault/House of Glass Pipes & Gifts LLC  
 Existing Zoning – CSS, Commercial Shopping & Services District  
 Total Site Area – 44,277 s.f. / 1.01 acres  
 Total Building Area – 12,000 s.f.  
 Proposed Tenant Lease Space – 1,250 s.f.  
 Parking Required – 4  
 Total Site Parking Provided – 67

**ZONING AND DEVELOPMENT**

**CODE REFERENCE:**

Part 3, Chapter 2, Section 3-202 – Permitted Uses in Commercial and Mixed-Use Districts  
 Part 6, Chapter 3, Section 6-308 – Use Permit.  
 Part 6, Chapter 3, Section 6-313 – Security Plan



**Location Map**



APACHE BLVD

**HOUSE OF GLASS PIPES & GIFTS LLC (PL100326)**

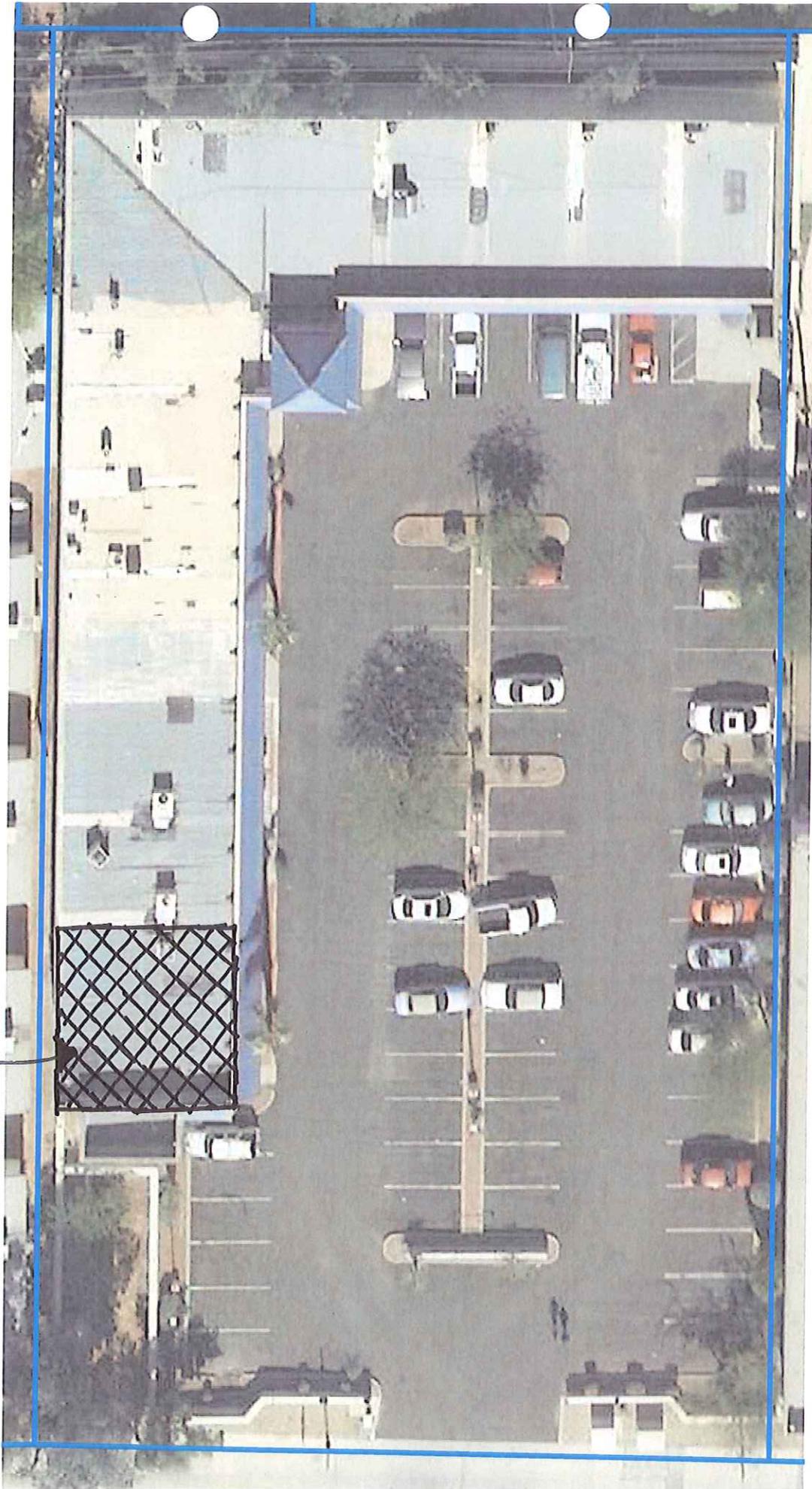
## **Letter of Explanation**

To City of Tempe,

I, Joshua Gault, and business partner Griffith Smith have plans and are in the process of opening a high-end Tobacco and tobacco accessories retail store at 1630 E. Apache blvd #101 in Tempe, AZ 85281 by the name House of Glass Pipes & Gifts LLC. We plan to have a very well lit, clean, safe, and friendly retail store that will cater to the 18 and older adult, who enjoys high-end Tobacco and Tobacco accessories. We plan to offer a variety of Flavored Tobacco, Hookah Tobacco and accessories, Tobacco water pipes, Tobacco hand pipes, and accessories.. Other items will include ashtrays, body cleansers, rolling papers, lighters, incense, clothing, and party supplies. Smoking will not be permitted in doors, we offer no public restrooms, and everything is sold for Tobacco use only. Every customer will be carded and any customer that is not 18 or older, or does not have a valid driver license will be asked to leave immediately. The store front will have the name of the business and hours of operations. Included will be multiple signs clearly stating that everything in the store is for Tobacco use only. Any questions or concerns please contact Joshua Gault.

House of Glass Pipes & Gifts LLC

SUITE  
101



1630 E APACHE BLVD.

SITE PLAN



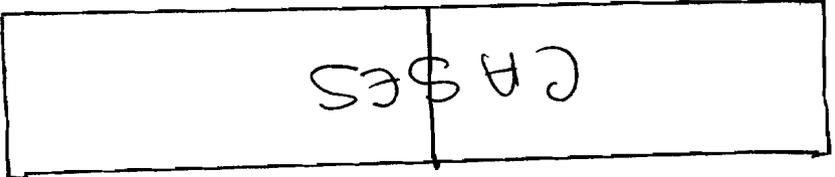
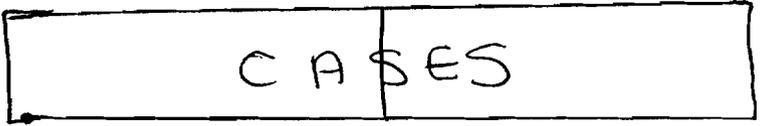
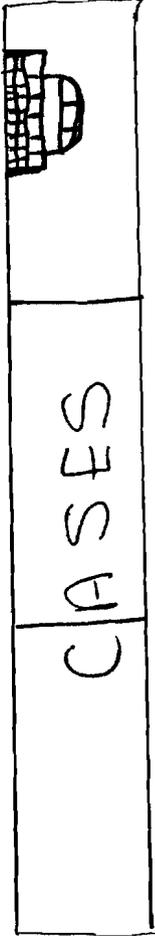
Storage / Office

Office

Storage

Bathroom

Hallway



Entrance

Entrance



**HOUSE OF GLASS PIPES & GIFTS LLC**

**1630 E APACHE BLVD., SUITE NO. 101**

**PL100326**

**FRONT OF BUSINESS**

