

**CITY OF TEMPE
DEVELOPMENT REVIEW COMMISSION**

**Meeting Date: 01/09/2024
Agenda Item: 2**

ACTION: Request a Use Permit to allow temporary outdoor vending for CAYA COFFEE & TACO CART, located at 230 East University Drive. The applicant is Espiritu Loci.

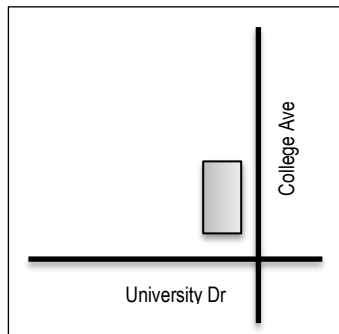
FISCAL IMPACT: N/A

RECOMMENDATION: Staff – Approve, subject to conditions

BACKGROUND INFORMATION: CAYA COFFE & TACO CART (PL230271) is a proposed outdoor food cart establishment consisting of one (1) coffee cart and one (1) taco cart. The site consists of one parcel with an existing religious worship facility in the CC, Center City zoning district. The proposed coffee and taco carts are located on the southeast corner of the parcel.

The request includes the following:

ZUP230072 Use Permit to allow temporary outdoor vending (coffee and taco carts).



Property Owner	All Saints Catholic Newman Center
Applicant	Liz Lonetti, Espiritu Loci
Zoning District	CC, TOD (City Center, Transportation Overlay District)
Site Area	36,488 s.f. (entire parcel)
Building Setbacks	0' Front, 0' Side, 0' Street side, 0' Rear
Vehicle Parking	None required in CC, TOD
Bicycle Parking	None required in CC, TOD
Hours of Operation	6 a.m. to 10 p.m., Daily

ATTACHMENTS: Development Project File

STAFF CONTACT(S): Lucas Jensen, Planner I (480) 350-8023

Department Director: Jeff Tamulevich, Community Development Director

Legal review by: N/A

Prepared by: Lucas Jensen, Planner I

Reviewed by: Mailen Pankiewicz, Principal Planner

COMMENTS

The proposed use consists of two outdoor food vending carts, up to ten (10) tables and umbrellas, seating, and three (3) trash receptacles, totaling approximately 1,125 s.f. All Saints Catholic Newman Center, a place of worship, makes up the majority of the property and has a history of outdoor vending operating on the southeast corner of the parcel where the applicant intends to operate.

PUBLIC INPUT

Staff has not received input from the public as of the publication of this report.

POLICE INPUT

The Police Department has reviewed the application materials and identified concerns related to queuing in the right of way, which were resolved through the Use Permit review process.

USE PERMIT

The proposed use requires a Use Permit to allow temporary outdoor vending within the CC, City Center zoning and TOD, Transportation Overlay districts.

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

1. *Any significant increase in vehicular or pedestrian traffic*; the proposed use is intended to serve the existing pedestrian traffic and is not anticipated to increase vehicular or pedestrian traffic. Conditions of approval have been included to address any impediments to pedestrian traffic due to activity on the site.
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 outdoor vending is not expected to create a nuisance relative to the existing conditions of the site.
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 not expected to contribute to deterioration of the neighborhood or downgrading of property values and aligns with city adopted Mill & Lake District Streetscape Principles & Guidelines to activate sidewalks.
4. *Compatibility with existing surrounding structures and uses*; the proposed outdoor vending is compatible with surrounding restaurant uses along College Avenue.
5. *Adequate control of disruptive behavior both inside and outside the premises which may create a nuisance to the surrounding area or general public*; at least one (1) employee per cart will be on premises, and high pedestrian activity is expected to control disruptive behavior inside and outside the site.

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. Hours of operation to end no later than 10:00 pm on a daily basis.

4. Relocate existing bicycle parking racks to the west of the staircase per City of Tempe Public Works Department bicycle rack detail T-578 standard.
5. All materials related to this use are to be stored indoors and out of view from public right of way outside of the hours of operation.
6. All materials and activity related to this use must be located outside public right of way during hours of operation.
7. The use shall conform to lighting standards of Part 4, Chapter 8, Lighting of the Zoning & Development Code. Specifically, all vending carts shall be illuminated to a minimum-security lighting level with five (5) foot-candles of light at finish grade, and patio space illuminated to meet 0.5 to 1 foot-candles during operating hours. All exterior lighting fixtures must be full cutoff, dark sky compliant, and parallel to the ground plane.

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 All Saints Catholic Newman Center 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.
- 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.

SIGNS: Separate plan review process is required for signs in accordance with requirements of ZDC Part 4 Chapter 9 (Signs). Refer to www.tempe.gov/signs.

HISTORY & FACTS:

- | | |
|-------------------|---|
| October 14, 1974 | Board of Adjustment approved a use permit for a fresh fruit juice stand. |
| February 20, 1996 | Board of Adjustment approved a use permit to allow a food vending cart. |
| January 23, 2002 | Board of Adjustment approved a use permit for L.A. Hot Dog to allow a hot dog cart two (2) Fridays per month and during sporting events. |
| December 23, 2002 | Hearing Officer approved a use permit for M.L.J. Universal Corporation (d.b.a. Universal Design) to allow the temporary sale of sports souvenirs. |

December 16, 2003 Hearing Officer approved a use permit for M.L.J. Universal Corporation (d.b.a. Universal Design) to allow the temporary sale of sports souvenirs.

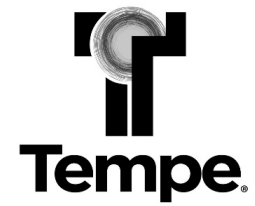
November 16, 2004 Hearing Officer approved a use permit for L.A. Hot Dog to operate a hot dog cart for the Fiesta Bowl and special events for one (1) year.

April 17, 2013 Community Development Department administratively approved the transfer of an existing use permit from Coffee Tyme, Inc. to Blue House Coffee to allow a food vending cart.

ZONING AND DEVELOPMENT CODE REFERENCE:

[Section 3-202, Permitted Uses in Commercial and Mixed-Use Districts](#)

[Section 6-308, Use Permit](#)

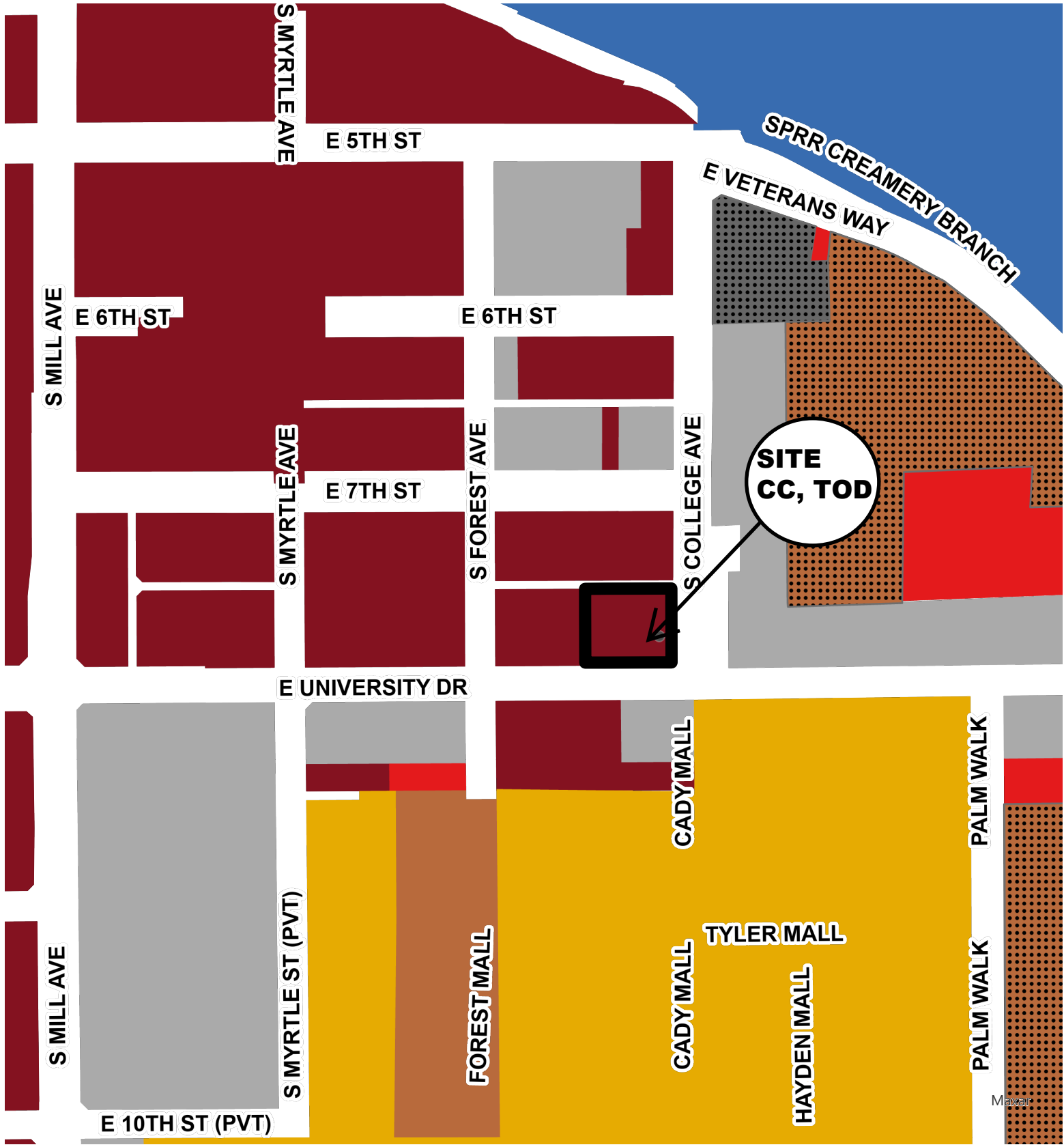


DEVELOPMENT PROJECT FILE
for
CAYA COFFEE & TACO CART
(PL230271)

ATTACHMENTS:

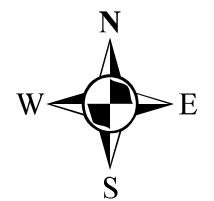
1. Location Map
2. Aerial Map
- 3-6. Applicant's Letter of Explanation
7. Site Plan
- 8-10. Site Context Photos

CAYA COFFEE & TACO CART



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

Attachment 1



A L L S A I N T S C A T H O L I C N E W M A N C E N T E R
T A C O & C O F F E E C A R T S

December 4, 2023

City of Tempe
Community Development and Planning
31 East Fifth Street
Tempe, AZ 85280

Re: All Saints Catholic Newman Center Request for use permit PL230271

Dear Mr. Jensen,

The All Saints Catholic Newman Center (ASCNC) requests a use permit for two carts allowing beverage and food service, located in the plaza of the historic St. Mary's Church at 230 East University Drive, Suite 202, in the CC City Center District. A coffee cart service use permit (PL130135/ZUP13042) was previously approved for Blue House Coffee at this location, but due to the pandemic, the service was disrupted, and the original use permit lapsed. We are now requesting a new use permit and intend to include a Mexican food cart offering tacos, burritos and such along with the coffee cart. In addition, we plan to include bistro style tables and seating. This permit does not include a request for special events hosted by the vendor or ASCNC. The approximate location is as shown in the Site Plan graphic included in this submittal and does not include area within the ROWs.

The ASCNC will contract with a beverage service operator, currently Caya Coffee, and a taco cart operator yet to be determined. ASCNC will provide service to Tempe citizens in the plaza (private property) in front of the historic St. Mary's church (230 E. University Dr.). Storage for seating, umbrellas, carts and utilities will continue to be covered under the contract negotiated with the ASCNC and their cart operators, and when not in use, all items pertaining to providing this service will be securely stored behind a locked gate on the grounds of the ASCNC and indoors in the Social Hall with easy access via the roll up garage doors per ZDC Table 3-202A. Hours of operation will generally be 6 am - 10:00 pm Monday-Sunday.

The criteria for approval of a Use Permit include addressing the following items:

- a. *Any significant increase in vehicular or pedestrian traffic;*
The carts plan to support existing pedestrian traffic. Since a coffee cart was an existing use catering to existing pedestrians, no increase in vehicular traffic is expected in this location nor will there be any additional significant increase in pedestrian traffic.
- b. *Nuisance arising from the emission of odor, dust, gas, noise, vibration, smoke, heat, or glare at a level exceeding that of ambient conditions;*
No nuisance from the smell of coffee and burritos wafting along in the mornings and early afternoons is anticipated. The closest residential land uses are the Atmosphere Apartments and Palo Verde West, as shown in the aerial photo

below. Both apartments are more than 300 feet away from this use with no direct line of sight of the plaza. Any noise generated by the presence of the carts serving coffee and burritos/tacos would be nominal compared to the existing traffic noise from the adjacent University Dr and College Avenue as well as airport overflights. The taco cart is not a food truck with a kitchen, rather food preparation will be done ahead of time in a commercial kitchen elsewhere and only served onsite. Because of the offsite preparation and the site being an existing paved plaza, no significant dust, gas, smoke, heat or glare is anticipated from these uses. In addition, the carts and plaza are screened by the church and ASCNC complex and would not be visible or audible to any residential uses. No live or amplified music is included in this use permit.



Figure 1 - Nearby Uses - There are no residential uses within more than 300' of the proposed coffee and beverage carts

- 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;*

These proposed carts are an expansion of a previously existing use and are perfectly compatible with the ASCNC and the surrounding community, as there are no residential areas immediately adjacent to or impacted by these carts. Please see the section below titled "Conformance with Mill & Lake District Streetscape Principles & Guidelines" for full compatibility with local policy.

d. *Compatibility with existing surrounding structures and uses; and*

These proposed carts are part of a previously ongoing use and are perfectly compatible with the ASCNC and the surrounding community as there are no residential areas immediately adjacent to or impacted by these carts. In addition, the other restaurants nearby include the Chop Shop, Chuckbox, Panda Express, Mypie, Nocawich and Emerald City Smoothie, none of which specialize in grab and go Mexican Food. The other uses in the area are religious, educational and office type uses and so are compatible with the proposed use.

e. *Adequate control of disruptive behavior both inside and outside the premises, which may create a nuisance to the surrounding area or general public.*

At least one employee per cart will be on premises while the carts are open for business, providing a sense of ‘eyes on the street’ and a feeling of ownership for the area and for the business, this will help minimize any disturbances that may arise. Additionally, all of the furniture and carts will be safely stored indoors on the campus of ASCNC and behind a locked gate on private property when not in use.

The following items are included in this application submittal via the Citizen Portal:

1. PLANNING APPLICATION FORM
2. PROPERTY OWNER AUTHORIZATION
3. CORRECT FEE PAYMENT
4. AFFIDAVIT OF PUBLIC NOTIFICATION
5. LETTER OF EXPLANATION
6. SITE PLAN
7. CONTEXT PHOTOS

CONFORMANCE WITH MILL & LAKE DISTRICT STREETScape PRINCIPLES & GUIDELINES

The Site is located within the area included in the Mill & Lake District Streetscape Principles & Guidelines (“Streetscape Guidelines”) adopted in 2011, for public rights-of-way. These guidelines encourage development that promotes human interactions and reinvestment while providing an interconnected streetscape and encouraging a diverse community. While this project is not within the ROWs of either University Dr or College Ave, it is immediately adjacent, and proposing to utilize the plaza space directly in front of the historic St. Mary’s Church.

The sidewalks section of the “Streetscape Guidelines” pg. 18 states *“In addition to pedestrian circulation routes, sidewalks within the district collectively constitute the “living room” of the community, providing space for social interaction, access to commercial, retail, residential and entertainment establishments and venues for multiple activities... Encourage interactive encroachments such as sidewalk dining and display. Define dining areas by the least restrictive means allowed by applicable statutes. When railings are required by law, they shall be designed to complement their associated architecture. Furnishings within the defined dining area shall be compatible with the character of the railing and/or building architecture, as well as removable for interior storage after business hours wherever possible”*

There is a missing middle for commercial spaces, including spaces for small startup businesses. These carts provide small business owners access to opportunities otherwise unattainable. The coffee cart owners currently sell coffee beans online, and this coffee cart is the next incremental development step for them to achieve their future goals of a brick and mortar location.

It is our intention to include bistro style tables, chairs and umbrellas that can be set out during business hours and stored onsite in the ASCNC safely behind a locked gate on private property and inaccessible to the general public, in accordance with the streetscape guidelines and ZDC Table 3-202A. We expect to include not more than 6-12 bistro tables with umbrellas on the plaza, as shown in the Site Plan. Each table would have between 2-6 chairs, depending on demand and space available. Again, this seating will be outside of the ROW and easily distinguished from the public sidewalk within the ROW due to the change in surface materials, as seen in the context photos and site plans. The public sidewalks are red brick and the Newman Center plaza is concrete with flagstone. This will provide enough visual separation between pedestrian use of the public sidewalks and the intended food and beverage cart patrons continued enjoyment of the St. Mary's Plaza. There are no curbs, steps or other ADA impediments that would hinder the enjoyment of the pop up carts by Tempe's diverse population.

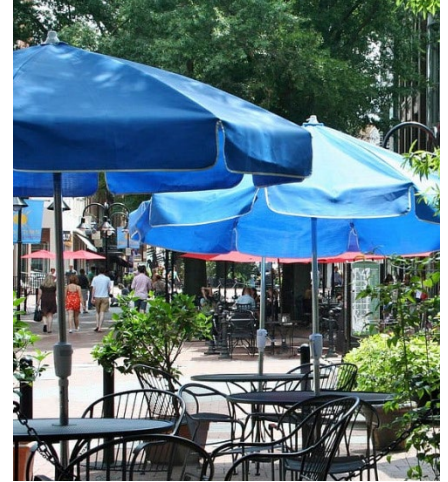


Figure 2- Inspirational Image, Outdoor Bistro Style Seating

Thank you for your time and consideration,

Trevor Barger, FAICP CUP
Founder

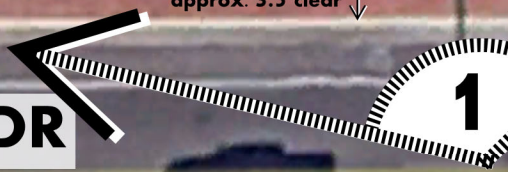
ASU NEWMAN CTR CORNER COFFEE CART

Approximate
Cart Location

S COLLEGE AVE



approx. 7' clear
SRP irrigation stand
approx. 3.5' clear



Google Earth

E UNIVERSITY DR

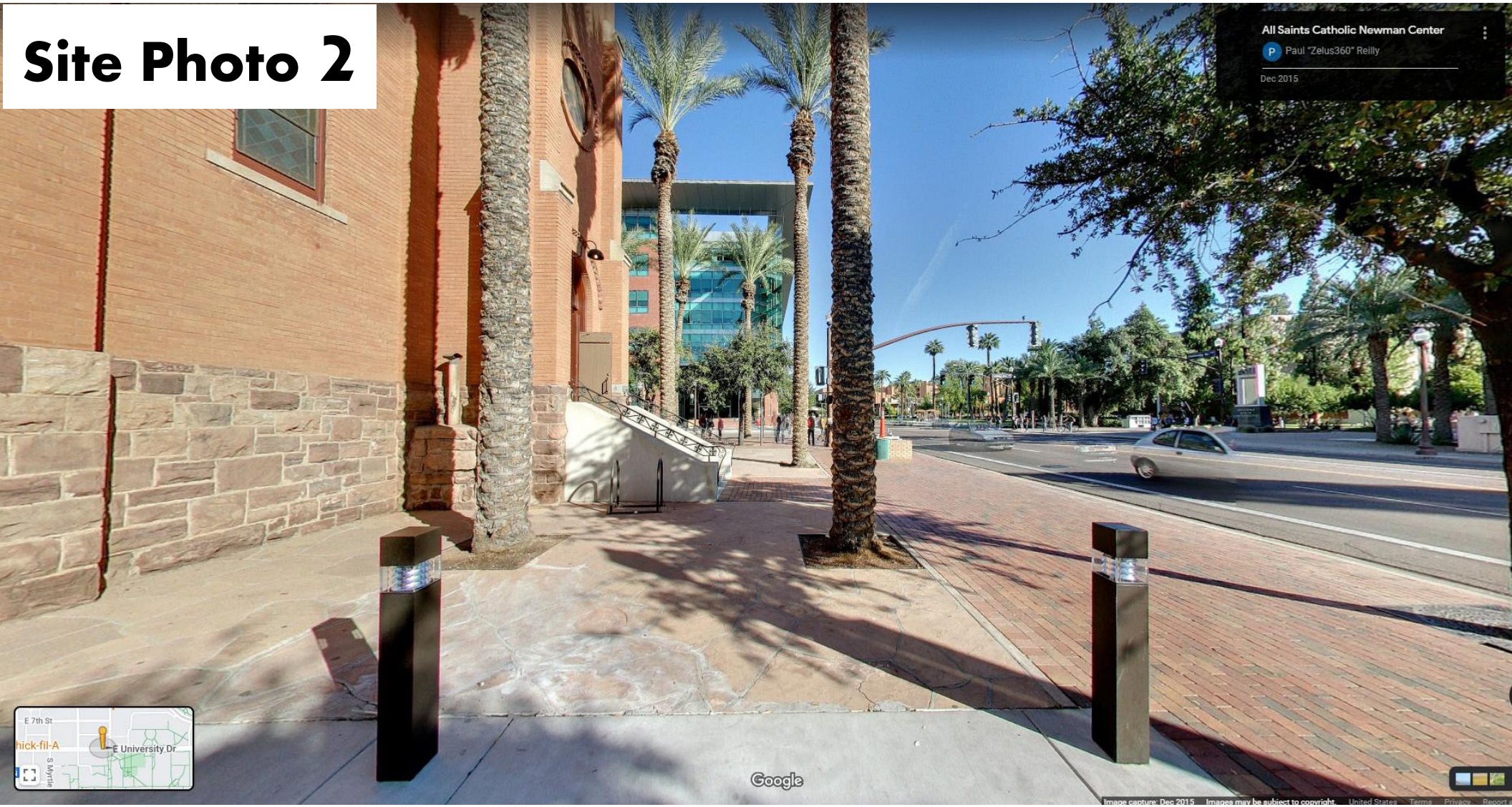
40 ft



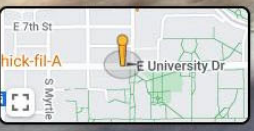
Site Photo 1



Site Photo 2



All Saints Catholic Newman Center
Paul "Zelus360" Reilly
Dec 2015



Google

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