

**CITY OF TEMPE
DEVELOPMENT REVIEW COMMISSION**

**Meeting Date: 02/27/2024
Agenda Item: 8**

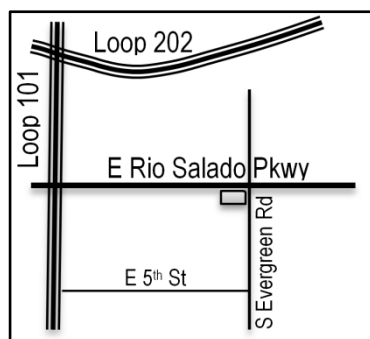
ACTION: Request approval of a Use Permit to allow outdoor retailing for CUBS SPRING TRAINING MERCHANDISE SALES (PL240012) located at 2525 East Rio Salado Parkway. The applicant is Art De Leon.

FISCAL IMPACT: N/A

RECOMMENDATION: Staff – Approve, subject to conditions

BACKGROUND INFORMATION: CUBS SPRING TRAINING MERCHANDISE SALES (PL240012) is proposing to conduct outdoor retailing of Chicago Cubs merchandise by means of a mobile sales trailer parked on an existing commercial parking lot located on the southwest corner of East Rio Salado Parkway and South Evergreen Road in the CSS, Commercial Shopping and Services District. The subject property is situated along the Tempe and Mesa boundary, south of the Chicago Cubs Spring Training Facility and Riverview Park, owned and operated by the City of Mesa. The first and second trailers are, approximately twenty (20) feet in length, nine (9) feet in width, and twelve and one half (12 ½) feet in height. The third trailer is twenty (20) feet in length, nine (9) feet in width, and eight and one half (8 ½) feet in height. The trailers will occupy the area behind the bollard and chain perimeter fencing on the northeast portion of the property. Merchandise will be displayed throughout the exterior and interior walls. Three (3) employees will conduct sale transactions through a window opening. The applicant is requesting this Use Permit for a period of five (5) years during spring training season; typically from February through the end of March. The request includes the following:

ZUP240007 Use permit to allow outdoor retailing.



Property Owner	Vlachos Enterprises, LLC
Applicant	Art De Leon, Onefro LLC.
Zoning District	CSS, Commercial Shopping and Services District
Site Area	44,816 SF
Building Area	108 SF
Vehicle Parking	2 spaces (1 min. required)
Hours of Operation	8am-6pm on game days 8am-10pm for evening games

ATTACHMENTS: Development Project File

STAFF CONTACT(S): Whitney Mayfield, Planner I+ (480) 350-8486

Department Director: Jeff Tamulevich, Community Development Director

Legal review by: N/A

Prepared by: Whitney Mayfield, Planner I+

Reviewed by: Michelle Dahlke, Planning & Zoning Coordinator

COMMENTS

This site is located on the southwest corner of East Rio Salado Parkway and North Evergreen Road. The property is not within a subdivision, is zoned Commercial Shopping and Service (CSS), and is located within the Apache Character Area Plan. The property borders the City of Mesa to the north and east of the site. The surrounding uses include the Villagio at Tempe Condominium subdivision to the south, the Cubs Stadium to the north, and multi-family residences to the east in the City of Mesa. The site is vacant and has a history of entitlements and code enforcement actions. An application for a townhouse development on the site was submitted in May 2023 however, building permits have not been issued. The applicant is seeking a five-year use permit to allow seasonal outdoor merchandise during the spring training season.

This request includes the following:

ZUP240007 Use Permit to allow seasonal outdoor merchandise sales in the CSS district.

The applicant is requesting the Development Review Commission take action on the use permits listed above.

PUBLIC INPUT

To date, no comments have been received by staff.

USE PERMIT

According to the Sections 3-202 (*Permitted Uses in Commercial and Mixed-Use Districts*) and 3-417(D) (*Outdoor Retailing*) of the Zoning and Development Code (ZDC), the proposed use requires a Use Permit to allow temporary outdoor vending within the Commercial Shopping and Services zoning district pursuant to Section 6-308 (*Use Permit*) of the ZDC.

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

1. *Any significant increase in vehicular or pedestrian traffic; although an increase in traffic is expected on game days, police presence will help mitigate traffic. Traffic volume on non-game days will be no greater than similar uses allowed by right in the CSS zoning district. The trailer can be relocated to a different portion of the lot should traffic (vehicle or pedestrian) become a concern.*
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 trailer will remain stationary for the duration of the selling season. The trailer will not have electricity, air-conditioning, or heat and will therefore not create nuisances arising from emissions during operation. The entire parking lot will be treated with four (4) inches of decomposed granite for dust control. The applicant is also installing commercial-grade vinyl event flooring planks for the customer service area located in the middle of the trailer footprint to add another layer of dust control for customers.*
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; by complying with the ZDC, the proposed use is taking measures to be as minimally intrusive to the surrounding neighborhood and support the existing Cubs Stadium.*
4. *Compatibility with existing surrounding structures and uses; the trailers will be set up at the furthest point from the adjacent residential units and facing the intersection. The trailers will be detached from a vehicle and remain stationary throughout the season. The proposed use is temporary and compatible with the Cubs stadium, and measures will be taken to keep pedestrian and vehicular traffic limited to the subject site.*
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 nature of this proposed use is not expected to cause disruptive behavior. The applicant was granted the same Use Permit in 2017 and operated in a safe and responsible manner without incident.*

REASONS FOR APPROVAL:

Based on the information provided by the applicant, the public input received and the above analysis staff recommends 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 for the plans as submitted within this application. Any additions or modifications may be submitted for review during building plan check process.
2. All required State, County and Municipal permits or licenses shall be obtained or the Use Permit is void.
3. **This Use Permit is valid for a period of five (5) years from date of approval or until the issuance of building permits for the development associated with PL230139.**
4. This Use Permit is only valid during spring training season from February 1st to March 31st.
5. Hours of operation shall begin no earlier than eight o'clock in the morning (8:00 a.m.) on game days and non-game days; and cease no later than six o'clock in the evening (6:00 p.m.) on game days and no later than ten o'clock in the evening (10:00 p.m.) on select night games.
6. Any intensification or expansion of use shall require a new Use Permit.
7. Sound amplification may not be used for sales demonstrations.
8. The trailer shall only be parked on improved paved surfaces. Pavement may be concrete, asphalt, brick or concrete pavers, or alternatively a stabilized, dust-proof, porous material (e.g. decomposed granite or asphalt millings) a minimum of four (4) inches in depth. Where decomposed granite or similar porous is used, it shall conform to the Americans with Disabilities Act Design Guidelines. Provide a pre-emergence weed control application. Final dust control measure(s) shall comply with requirements for permit issuance by the Maricopa County Air Quality Department.
9. 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, which may result in termination of the Use Permit.

Site Plan

10. The parking lot shall be dustproofed with stabilized granite a minimum four (4) inches in depth or asphalt millings. Final dust control measure(s) shall comply with requirements for permit issuance by the Maricopa County Air Quality Department.

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 CUBS SPRING TRAINING MERCHANDISE SALES 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.

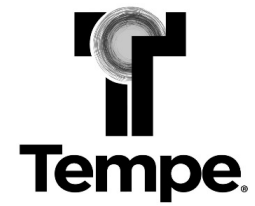
- The decision-making body, upon finding that the applicant has not taken corrective actions to resolve issues related to the permit/approval and that a continuation of the permit/approval is not in the interest of the public health, safety and general welfare, can revoke the permit/approval after providing 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.

HISTORY & FACTS:

January 27, 2015	Development Review Commission approved Use Permit for VLACHOS FAMILY ENTERPRISES (PL140393/ZUP14167) to allow a commercial parking facility.
February 26, 2015	City Council approved Zoning Map Amendment for VLACHOS FAMILY ENTERPRISES (PL140393/ZON14011) from R1-6, Single-Family Residential District to CSS, Commercial Shopping and Services District.
April 18, 2016	Community Development Department Planning Division approved Time Extension for VLACHOS FAMILY ENTERPRISES (PL160066).
March 08, 2017	The Hearing Officer approved Use Permit for CLARK STREET SPORTS (PL170030) to allow outdoor retailing.
May 30, 2023	A Development Plan Review for RIO SALADO & EVERGREEN (PL230139) has been submitted to allow the development of a twelve three-story townhome subdivision.

ZONING AND DEVELOPMENT CODE REFERENCE:

[Section 3-202, Permitted Uses in Commercial and Mixed-Use Districts](#)
[Section 6-308, Use Permit](#)



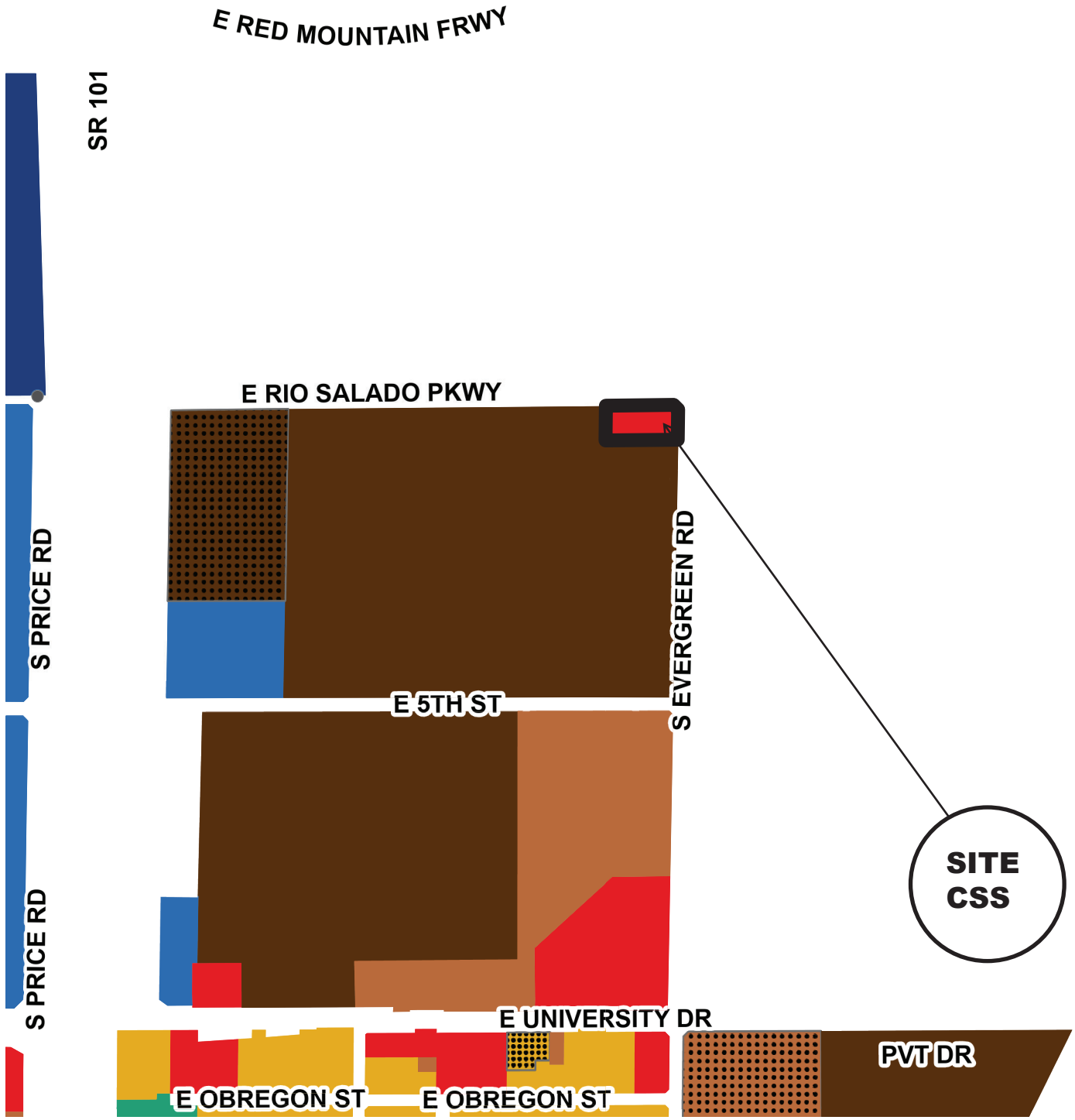
DEVELOPMENT PROJECT FILE
for
CUBS STADIUM TRAINING MERCHANDISE SALES
(PL240012)

ATTACHMENTS:

1. Site Context (Location Map, Aerial and Aerial, Site Photos)
2. Applicant's Letter of Explanation
3. Site Design (Site Plan)
5. Building Design (Material Samples)

CUBS SPRINGTRAINING MERCHANDISE SALES

PL240012



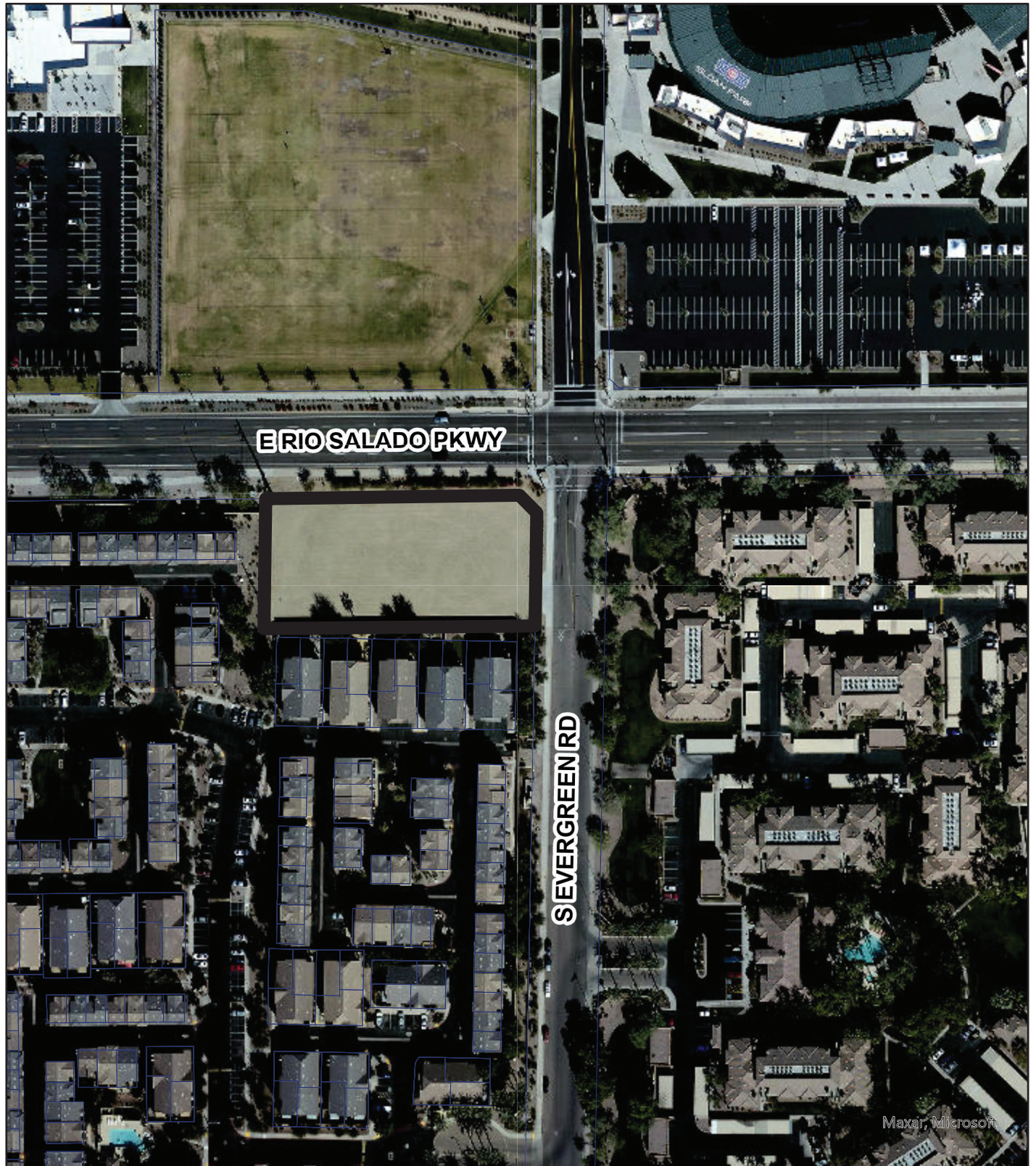
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|--|---|
| General Industrial District (GID) | Single-Family Residential Planned Area Dev (R1-PAD) |
| Heavy Industrial District (HID) | Multi-Family Residential (R-2) |
| Commercial Shopping and Services (CSS) | Multi-Family Residential Limited (R-3) |
| Residential/Office (RO) | Multi-Family Residential General (R-4) |
| Single-Family Residential (R1-6) | Multi-Family Residential High (R-5) |



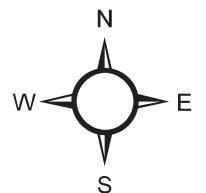
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CUBS SPRING TRAINING MERCHANDISE SALES

PL240012



Aerial Map





January 11, 2024

Use Permit letter:

We are seeking a renewal of our use permit to allow for seasonal (spring training) outdoor merchandise sales. We have operated on this lot for the same use since 2017. We set up annually in February and open every day until approximately March 30, at the conclusion of spring training. We are predominantly open daily 8am – 6pm but until 10pm on select night games. We offer two parking spots during daytime hours only. The occasional night game service is walk-up only NO PARKING. We utilize 3 professional merchandise trailers that get detached from a vehicle and remain stationary throughout the duration of the selling season. The trailers are secured with heavy duty door locks and hitch locks. The parking lot also has bollards across the whole perimeter of the lot along with bollards that utilize detachable chains via pad locks at the driveway entrance to restrict after hours access. We employ 3 local ASU students annually for this seasonal work inside of the trailers. Although the trailers remain stationary, they can be moved at any time if needed. The first and second trailers are approximately 20 feet in length by 9 feet wide by 12.5 feet high. The third trailer is smaller – it is 20 feet in length by 9 feet wide by 8.5 feet high. These will be used for the sole use of selling Cubs officially licensed merchandise to fans in the area. The trailers would be located across the street from Sloan Park and people who wanted to shop can safely do so via a streetlight, crosswalk, and police presence there to help the pedestrians cross on game days. Again, there is a pedestrian crosswalk and streetlight at Evergreen and Rio Salado. The trailers would not cause a nuisance in any way to any of the neighborhood or the public as there is no odor, dust, smoke, etc. The ENTIRE parking lot has been treated with 4 inches of decomposed granite for dust control. We also use commercial grade vinyl event flooring planks for our customer service area located in the middle of our trailer footprint (pedestrian only) which adds another layer of dust control for our customers. The only sounds that come from the trailer are the sounds of transactions occurring as it is stationary and we don't use for AC, heat, electricity, etc. We will not contribute to the deterioration of the neighborhood or conflict with the goals and policies of the City. We would be located in between a residential neighborhood and Sloan Park and are very aware that we would need to respect the quietness and security that the residents deserve. Our set up location in the lot is at the furthest point away from the residential units behind us and we are facing Rio Salado which is the main commercial road connecting other large retail businesses within the area. In 2017, we were granted this very same use permit from the City of Tempe and have operated in a safe and responsible manner without incident. Our goal is to be of continued service to the local community and visitors as well as a valued partner of the City of Tempe and its economy. We are proposing this use for the next five years every year during Spring Training. For future years during spring training, we would arrive approximately February 1 and stay until the conclusion of spring training which is always approximately March 31. We appreciate your consideration.

Thank You,

W Rio Salado Pkwy



This black line around the perimeter of the whole lot indicates the bollards that restrict access to the lot. There is only one drive entrance off of Evergreen.

The entire lot is covered with 4 inches of decomposed granite for dust control.

Parking during DAYTIME hours ONLY 8-6pm. Night game service is WALK UP ONLY.

Parking

Parking

Trailer1 20' long

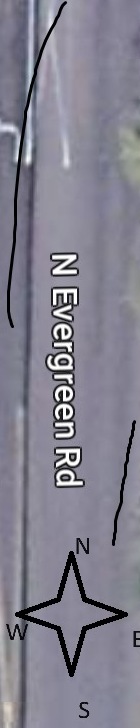
Trailer2 20' Long

Fast Trac Commercial Event Flooring Panels. Pedestrian Use Only

Trailer3 20' Long

Yellow lines indicate outdoor rated LED string lights used occasionally during night games only. These lights will be hung from the top of the trailers which are 13' high.

Driveway 32' wide only entrance into the lot.



N Evergreen Rd

Google



Search



5:07 PM 2/5/20



Westinghouse Lighting

Westinghouse 10-600 Lumen Solar Motion Sensor Lights, Wireless Outdoor Solar Security Lights for Garden, Patio, Fence & Deck (2 Pack, Black Finish)

★★★★☆ (4.0) 61 reviews

\$40.40

Price when purchased online

Add to cart

Count: 2

1 \$23.82

2 \$40.40

4 \$66.83

How you'll get this item:

Shipping Arrives Feb 21

Pickup Not available

Delivery Not available



About this item

Product details

Light up the dark with Westinghouse 10-600 Lumen Solar Motion Sensor Lights, Wireless Outdoor Solar Security Lights for Garden, Patio, Fence & Deck (2 Pack, Black Finish) light set. Use these to illuminate fencing, deck rails or steps to provide brightness where you need it most. With high output natural white LEDs, this Westinghouse solar security 2 pack light set automatically activates high output mode of 600 lumens when the built-in sensor detects movement. The unit is constructed from sturdy materials for long life. No electricity is needed and bulbs never need replacing, making this solar-powered motion light easy to install and maintenance free. It comes on when the sun goes down, and shuts off as it rises again on the following morning. The included Lithium battery charges during the day via the on board solar panel. 2 pack set Solar powered by the Sun Super bright 600 Lumen output when motion activated Includes rechargeable lithium battery Easily add security anywhere with sun light during the day

- Motion activated solar wall light
- 2 Pack Set
- Bright 600 Lumen light output
- Solar powered
- Easy installation with included hardware
- Auto on/off

We aim to show you accurate product information. Manufacturers, suppliers and others provide what you see here, and we have not verified it. [See our disclaimer](#)

\$40.40

Price when purchased online

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How you'll get this item:



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Free 90-day returns [Details](#)

