

**CITY OF TEMPE
DEVELOPMENT REVIEW COMMISSION**

**Meeting Date: 10/12/21
Agenda Item: 6**

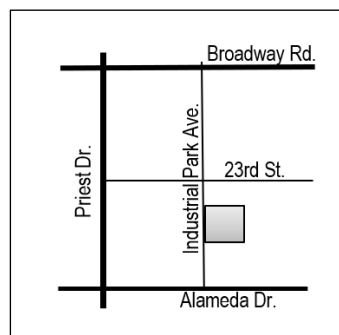
ACTION: Request a Use Permit to allow temporary outdoor vending (ghost kitchen) for GOPUFF, located at 2435 South Industrial Park Avenue. The applicant is Quarles & Brady, LLP.

FISCAL IMPACT: N/A

RECOMMENDATION: Staff – Approve, subject to conditions

BACKGROUND INFORMATION: GOPUFF (PL210246) is a proposed kitchen which would operate in a temporary structure adjacent to an existing industrial building. The building currently houses goPuff's micro-fulfillment center, which is a 24-hour warehouse and distribution facility that provides delivery of goods to customers' homes after they have purchased products online. The applicant proposes to expand the type goods offered to add fresh/hot foods, the preparation of which would occur in a trailer (ghost kitchen) located at exterior of the building. The request includes the following:

ZUP210067 Use Permit to allow temporary outdoor vending



Property Owner	Industrial Park Center
Applicant	Benjamin Graff, Quarles & Brady, LLP
Zoning District	GID (General Industrial District)
Site Area	4.71 acres
Trailer Area	248 s.f.
Trailer Height	12'-6" (XX maximum allowed)
Trailer Setbacks	32' side (0' min. required)
Vehicle Parking	No additional parking required
Bicycle Parking	No additional parking required
Hours of Operation	24 hours a day, 7 days a week

ATTACHMENTS: Development Project File

STAFF CONTACT(S): Karen Stovall, Senior Planner (480) 350-8432

Department Director: Shelly Seyler, Interim Community Development Director

Legal review by: N/A

Prepared by: Karen Stovall, Senior Planner

Reviewed by: Steve Abrahamson, Principal Planner

COMMENTS

goPuff currently operates a 24/7 micro-fulfillment center within the existing building, which is a retail operation for the online sale and delivery of goods such as cleaning supplies, over-the-counter medications, personal hygiene products, packaged and frozen food, and beverages. The applicant wishes to expand its food offerings by adding a kitchen within a trailer on the north side of the building in which hot/fresh food and drink options will be prepared for online sales and delivery. The kitchen will also operate 24/7.

PUBLIC INPUT

A neighborhood meeting is not required for this request. As of completion of this report, staff has not received any public input.

USE PERMIT

The proposed use requires a Use Permit for temporary outdoor vending within the GID zoning district. The Zoning and Development Code describes "temporary outdoor vending" as the sale of merchandise or service not within a building or a permanent structure on a site. As such, this kitchen proposed within a trailer requires a Use Permit.

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

1. *Any significant increase in vehicular or pedestrian traffic*; the applicant states that most fresh/hot food options are expected to be add-ons to orders of other convenience items, therefore no significantly increase in vehicular traffic should occur. Any increase is not expected to be at a level detrimental to the adjacent businesses or neighborhood.
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 kitchen is electric-powered, and emissions are not expected to exceed that of ambient conditions.
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 should not impact the neighborhood or property values.
4. *Compatibility with existing surrounding structures and uses*; the site is surrounded by other industrial-zoned properties, and the proposed trailer is located on the north side of one of the buildings. It will not be visible to the adjacent public street or other users of the site unless traveling in the rear of the development.
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 proposed use is not expected to create disruptive behavior; however, employees are on the site 24/7, so nuisances may be immediately addressed.

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.
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. All nonconforming building lighting shall be removed and replaced with compliant light fixtures. Details shall be resolved during Building Safety Plan Review and/or inspections.
4. If exit doors on the north side of the building do not currently include security vision panels, panels shall be added or new doors with vision panels shall be installed. Details to be approved through Building Safety Plan Review.

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:

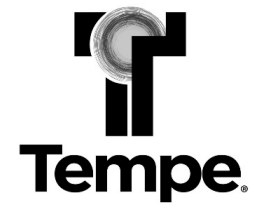
- The Use Permit is valid for GOPUFF and may be transferable to successors in interest through an administrative review with the Community Development Director, or designee.
- The use permit approval shall be void if the use is not commenced or if an application for a building permit has not been submitted,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

HISTORY & FACTS:

None relevant to this request.

ZONING AND DEVELOPMENT CODE REFERENCE:

Section 6-308 Use Permit



DEVELOPMENT PROJECT FILE

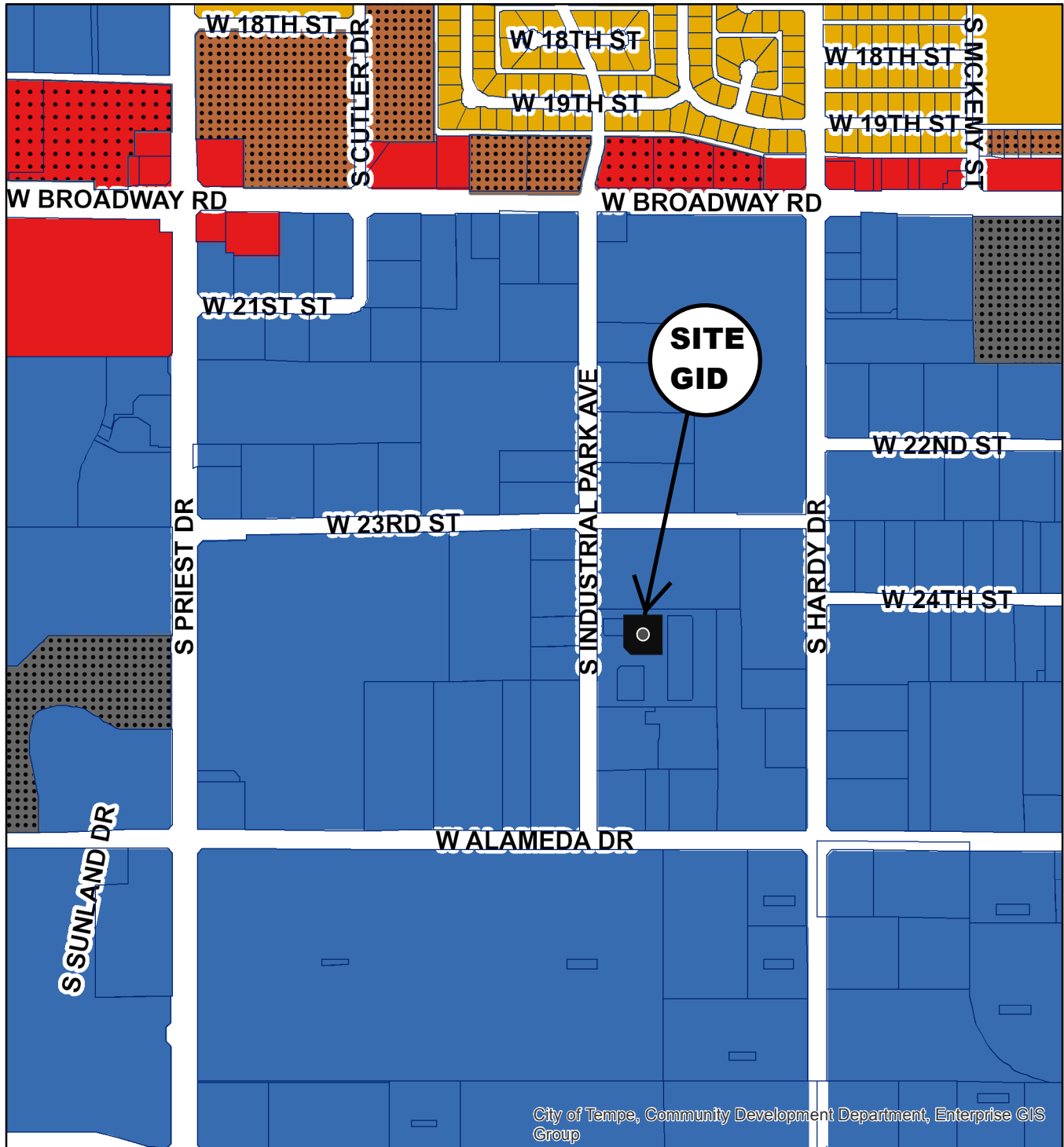
for
GOPUFF
(PL210246)







ATTACHMENTS:

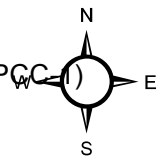
1. Location Map
2. Aerial
- 3-16. Letter of Explanation
17. Site Plan

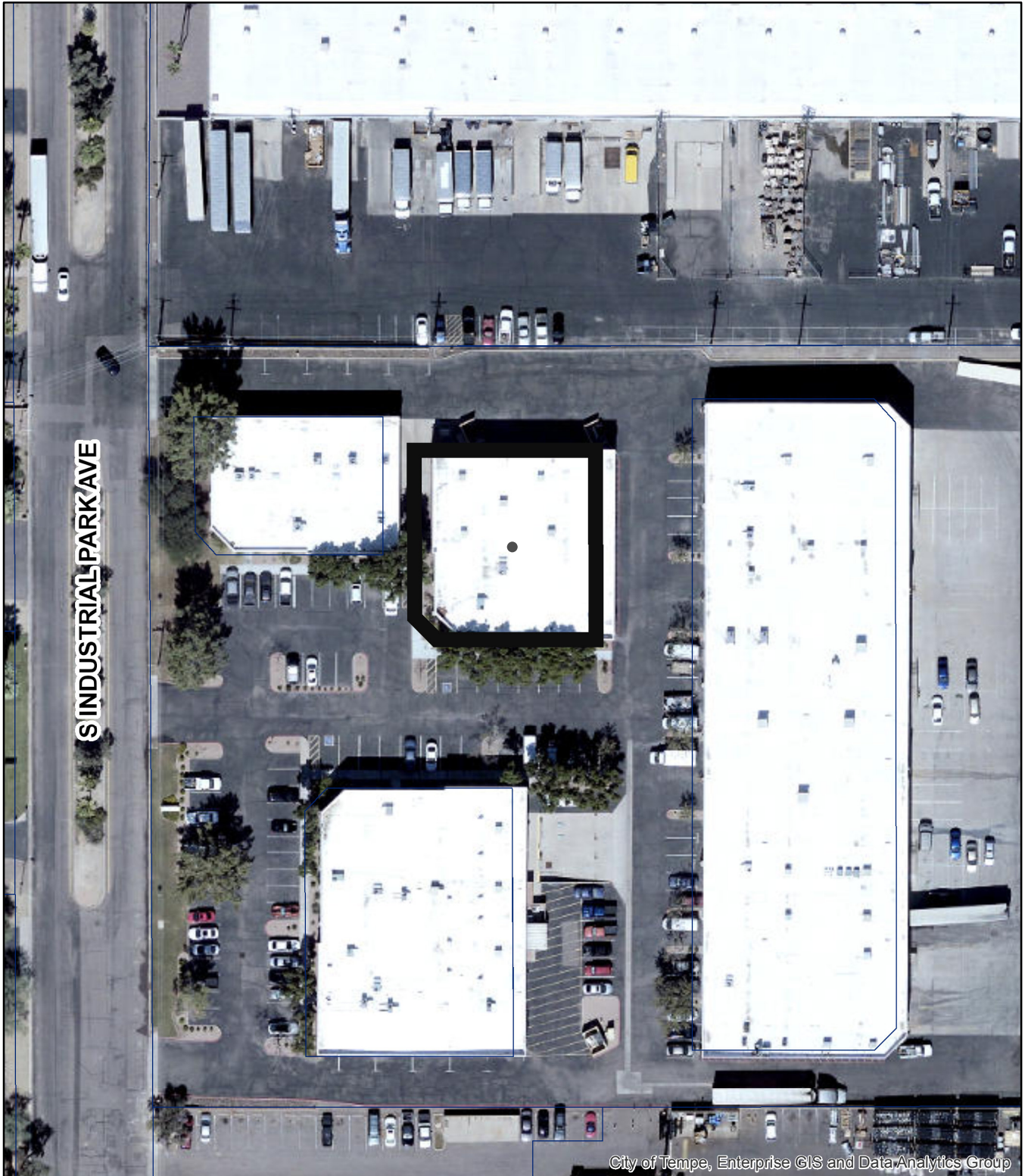
GOPUFF

PL210246

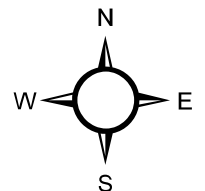


- | | |
|--|---|
|  General Industrial District (GID) |  Planned Commercial Center Neighborhood (PCCN) |
|  Mixed Use High (MU-4) |  Single-Family Residential (R1-6) |
|  Commercial Shopping and Services (CSS) |  Multi-Family Residential Limited (R-3) |





Aerial Map





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September 20, 2021

Tempe Development Review Commission
c/o Ryan Levesque
City of Tempe
Development Services Department
31 East Fifth Street
Tempe, AZ 85281

Re: Letter of Explanation regarding a request for a Use Permit to allow an outdoor detached accessory kitchen (PL210246).

Dear Mr. Levesque

Please accept this formal Letter of Explanation submitted by Quarles & Brady, LLP on behalf of our client, goBrands Inc. (dba "goPuff") regarding its existing location at 2435 South Industrial Park Avenue, Tempe, AZ 85282 (APN: 123-35-061) (the "Property"). See Aerial Maps Attached at **Tab A**. goBrands intends to expand its existing services with the approval of the requested Use Permit to allow an outdoor kitchen in a detached accessory trailer (the "Accessory Kitchen") as outlined in Section 3-417D of the Tempe Development Code regarding "Temporary Outdoor Vending" uses.

The purpose of this letter is to outline why the proposed expanding use is compatible with the zoning district, meets the legal requirements for a Use Permit, and serves as a benefit to the surrounding area and Tempe.

A. Background

1. Business Description

The location of the requested Use Permit is home to an existing goPuff micro-fulfillment center, which is equivalent to Tempe's defined use of a "warehouse and distribution facility" with a small accessory retail operation permitted in the General Industrial District ("GID"). The primary function of this micro-fulfillment center is to provide online sales of convenience type

goods for everyday needs such as cleaning supplies, home needs, over the counter medications and personal hygiene products, packaged food, frozen foods, and various drinks. Via a smartphone application, consumers may order such products, which are then delivered to their homes in approximately 20-30 minutes.

The building is approximately 8,900 sf and is currently used primarily for storage of inventory until orders are filled. The building also includes a business office area for general operations and for staff who work to fulfil orders. The retail space is currently limited to less than 3% of the micro-fulfillment center.

The current operations offer 24-hour, 7 days per week service to customers to meet convenience needs. The demand for these needs has only increased since the onset of the pandemic and the surrounding community has benefited from the ability to have convenience items delivered directly to their doors. The typical shift is a staff of 5-8 including managers and warehouse associates to manage operations and fill orders as well as 3-5 driver partners who wait onsite to deliver orders to nearby customers. goBrands utilizes independent contract drivers and therefore the use does not require the storage or use of company vehicles. Each driver partner uses their own personal vehicle to make deliveries.

2. Expanding Services

The current model includes a variety of convenience items, dry goods, drinks, snacks, and frozen foods, but goPuff is now expanding its online offerings with the Accessory Kitchen at this location to include hot and fresh food and drink options. In order to fill new online fresh food orders such as sandwiches, chicken wings, and coffee, this location requires the service provided by the Accessory Kitchen to be outside of the primary building and not within the permanent onsite structure. See Site Plan & Accessory Kitchen Location included with this request. The implementation of this retail and restaurant use is permitted with the approval of a Use Permit for "Temporary Outdoor Vending," which will allow for continued, ongoing use of the Accessory Kitchen, providing additional and diverse delivery products 7 days a week, 24 hours per day.

B. The Proposed Use Permit for Temporary Outdoor Vending Meets the Standards Set Forth by the City of Tempe Zoning Ordinance.

The Property's GID zoning allows for retail and restaurant uses within a detached accessory structure with the approval of a Use Permit pursuant to Code § 3-302. As previously stated, the Use Permit is required to appropriately expand services in this area to meet the growing demands of customers who utilize goBrands' efficient order and delivery system, especially in light of the ongoing COVID-19 pandemic. As explained below, the use permit request meets or exceeds the five criteria for use permit approval set forth in Code § 6-308. Moreover, the approval of the

request will not be detrimental to any adjacent properties or uses – in fact, the use represents the optimal utilization of the existing GID zoning and provides value to the surrounding community.

1. The Accessory Kitchen will not cause a significant increase in vehicular or pedestrian traffic.

In an effort to begin operating in a timely and cost-effective manner, goBrands will install a kitchen adjacent to the north exterior wall to avoid interrupting current operations of online sales on the interior of the building. This kitchen will support the primary function of the micro-fulfillment center operations, but now allow for fresh food, hot food, and additional drink items. Customers will not interact directly with or order from the accessory kitchen. Therefore, since customers cannot visit or order food directly from the kitchen, the Accessory Kitchen will not increase vehicular or pedestrian traffic, as fresh food orders will only leave the site in route to surrounding neighborhoods, as is currently being conducted for existing sales. Moreover, multiple deliveries are combined into each delivery trip by a driver, ensuring that trip generation is limited and reduced as much as possible.

This micro-fulfillment center is centrally located within the General Industrial District and currently operates within the planned intensity of the surrounding non-retail based business. The additional hot and fresh food options will not drastically increase the traffic from the site, as the current business model shows such items will be add-ons to future orders of convenience items. For example, a family will be able to order a fresh hot coffee, a salad, as well as frozen foods, cleaning supplies and personal hygiene products.

2. The Accessory Kitchen will not emit odor, dust, gas, noise, vibration, smoke, heat, or glare at a level exceeding that of ambient conditions.

All current and proposed goBrands operations will be conducted inside the existing building or inside the detached accessory structure. The accessory kitchen will be fully enclosed, self-contained, and powered via an electrical connection directly to the existing building. The business areas surrounding the site are industrial in nature regularly using equipment and large trucks and therefore the Accessory Kitchen is a compatible use. This site is also not adjacent to any residential uses. Additionally, the types of food products proposed will not create significant odor prepare. The proposed Accessory Kitchen will maintain or stay below the current ambient levels of odor and will not create any dust, gas, noise, vibration, smoke, heat, or glare that does not already exist within ambient conditions.

3. The Accessory Kitchen will not contribute to the deterioration of the neighborhood or to the downgrading of property values.

The proposed detached accessory structure will be located outside of the north wall, near two rollup service doors and will not occupy any parking spaces or change the appearance of the front and most visible building elevations. The Accessory Kitchen will be fully screened by the existing building from all public areas and right-of-ways, consistent with the design of existing loading zones and storage areas of the GID zoned properties. The new accessory use will aid in expanding goBrands' customer offerings and will meet the growing need for convenience goods delivered during and after the pandemic.

4. The Accessory Kitchen is compatible with existing surrounding structures and uses.

The Accessory Kitchen is a fully self-contained trailer outfitted with electric refrigeration and cooking facilities, approximately 8.5 feet wide and 28 long. See the goPuff Kitchen Photos & Specs attached at **Tab B**. The Accessory Kitchen will be placed with a minimum building separation of at least 5 feet with a setback of approximately 35 feet from the north property line. Specific care was taken to place the accessory structure in such a way to maintain full circulation to other buildings and loading zones and also keep clear of the fire lane. The development will not impede the movement of vehicles or delivery trucks servicing the neighboring businesses.

The building has two existing trash enclosures, but goBrands only uses the east enclosure. The Accessory Kitchen will be placed far enough away from the west trash enclosure to allow unimpeded access. See the pictures of the placement of the Accessory Kitchen outside of the primary building Site Plan included with this request.

It is also important to note goBrands is currently working with Tempe Community Development Staff to allow the proposed Accessory Kitchen to operate as a temporary trailer pending the approval of the Use Permit. The temporary use of the Accessory Kitchen is necessary to allow for outdoor refrigeration and preparation of food items while changes to internal electrical/refrigeration capabilities are being updated. The Use Permit will then allow operations to continue providing hot/fresh food items to the surrounding community. City Staff have been very helpful and supported our application to apply for the temporary use pending the approval of the Use Permit. We believe the temporary use of the Accessory Kitchen will provide further evidence of its compatibility with the Property and surrounding uses.

5. There are adequate controls of disruptive behavior both inside and outside the Accessory Kitchen, to prevent any nuisance to the surrounding area or general public.

The design of the Accessory Kitchen will avoid the potential impact of disruptive behavior. First and foremost, the Accessory Kitchen is not accessible to the public and will only be used internally by professionally trained employees to prepare hot/fresh food items which will in turn be delivered to the surrounding community. The existing building will provide adequate screening and the placement of the detached structure will not occupy any parking spaces or disrupt circulation. Therefore, the seamless incorporation of this accessory use ensures that no nuisances or disruptive behavior will be created.

C. Conclusion

As provided by this letter, as well as the exhibits and plans submitted to the City and attached hereto, this request for a Use Permit for an Accessory Kitchen provides a service to the public which could not otherwise be provided within the existing building. The proposal meets all of the necessary criteria set forth in Section 3-417D of the Tempe Zoning and Development Code. The expanded services will provide a way to meet growing customer demands while utilizing the existing site plan in a manner compatible with the General Industrial District and surrounding uses. The Accessory Kitchen promotes a conscientious design intended to screen the proposed structure while minimizing any impact on, and maintaining the character of, the surrounding area. We appreciate the City Staff's and the Development Review Commission's time and consideration and look forward to our upcoming hearing.

Very truly yours,

QUARLES & BRADY LLP



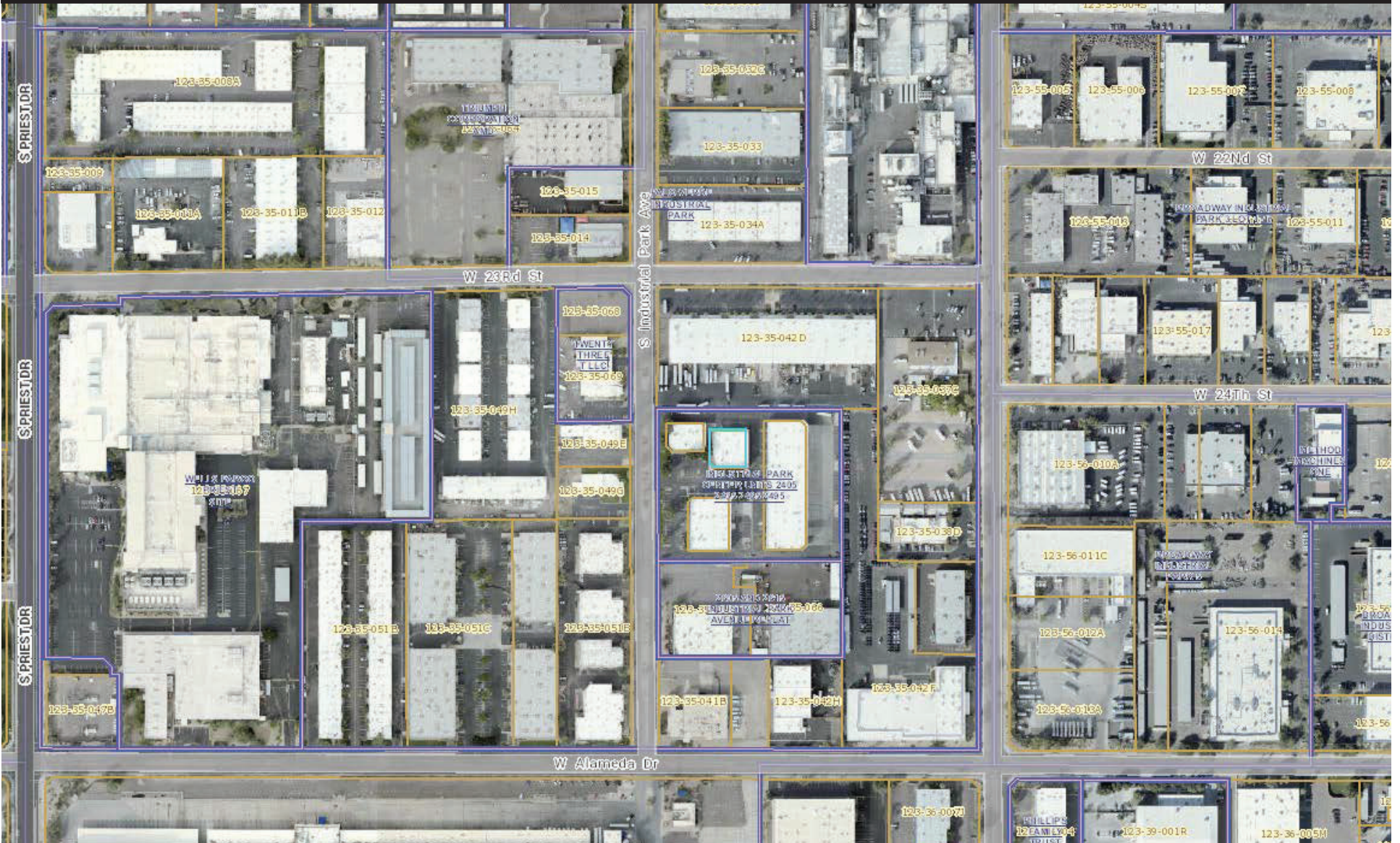
Benjamin W. Graff

Attachments

Aerial & Zoning Maps
Development Site Plan

TAB A

AERIAL MAP



APN: 123-35-071
2435 S INDUSTRIAL PARK AVE TEMPE 85282

AERIAL MAP

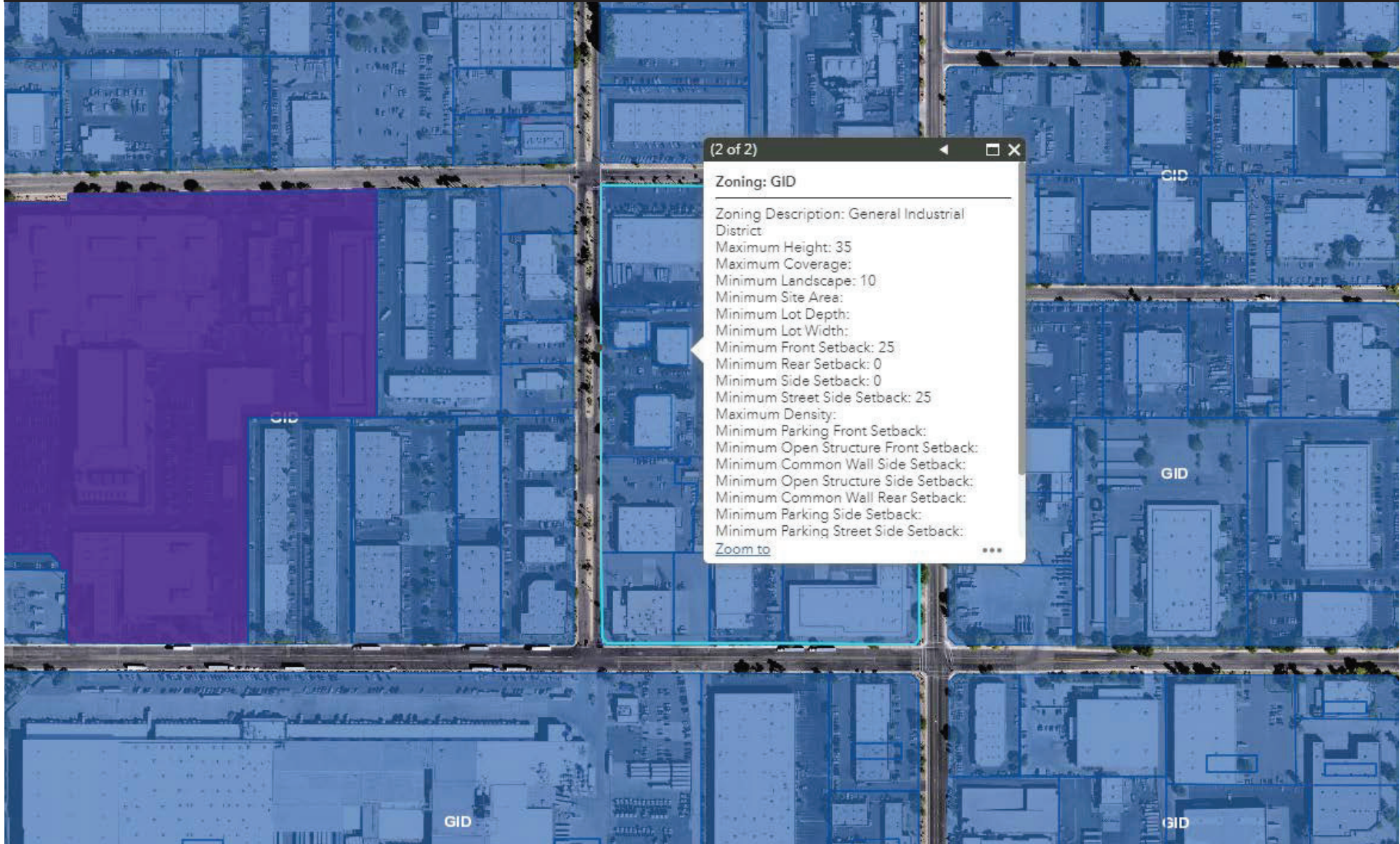


APN: 123-35-071

2435 S INDUSTRIAL PARK AVE TEMPE 85282



ZONING MAP
GID: GENERAL INDUSTRIAL DISTRICT
NO OVERLAY DISTRICTS



(2 of 2) [Close] [Maximize]

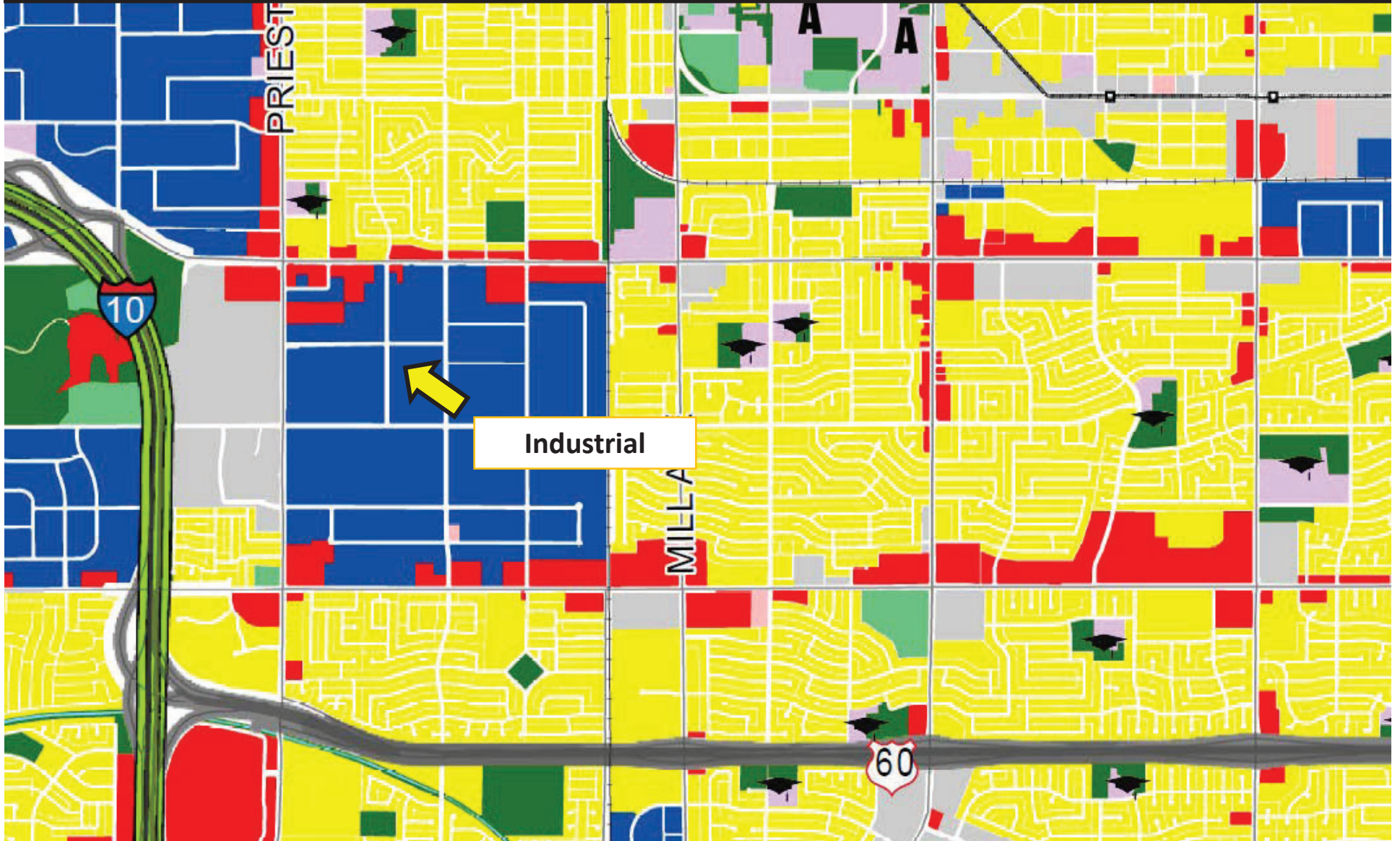
Zoning: GID

Zoning Description: General Industrial District

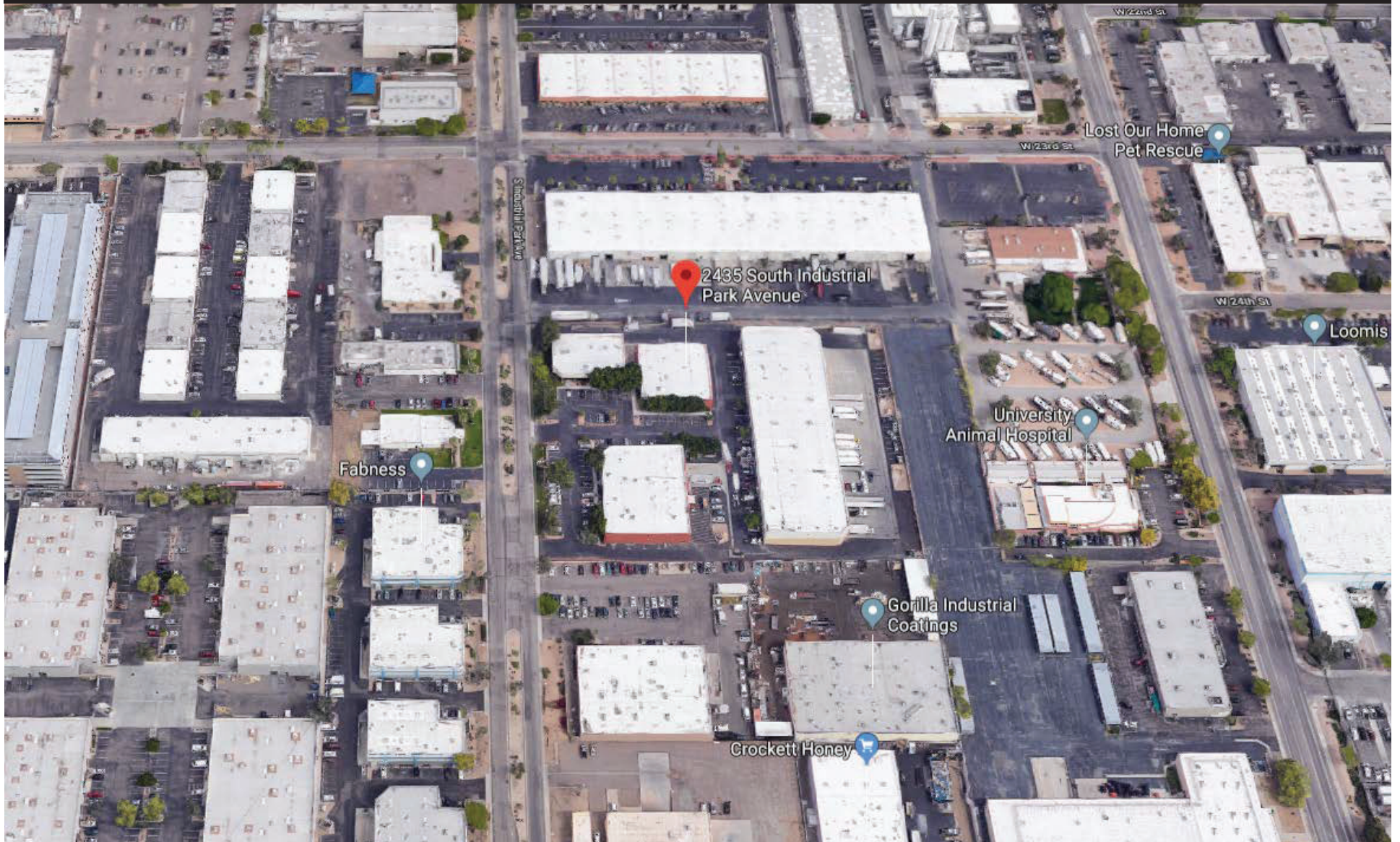
Maximum Height: 35
Maximum Coverage:
Minimum Landscape: 10
Minimum Site Area:
Minimum Lot Depth:
Minimum Lot Width:
Minimum Front Setback: 25
Minimum Rear Setback: 0
Minimum Side Setback: 0
Minimum Street Side Setback: 25
Maximum Density:
Minimum Parking Front Setback:
Minimum Open Structure Front Setback:
Minimum Common Wall Side Setback:
Minimum Open Structure Side Setback:
Minimum Common Wall Rear Setback:
Minimum Parking Side Setback:
Minimum Parking Street Side Setback:

[Zoom to](#) ...

GENERAL PLAN



PHOTOGRAPHIC ELEVATIONS



APN: 123-35-061

2435 S INDUSTRIAL PARK AVE TEMPE 85282

Quarles & Brady LLP

ACCESSORY KITCHEN LOCATION

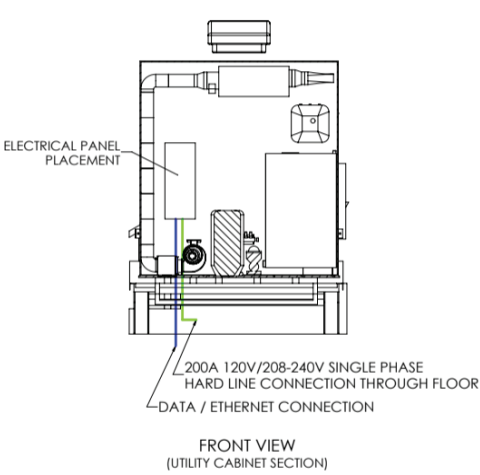
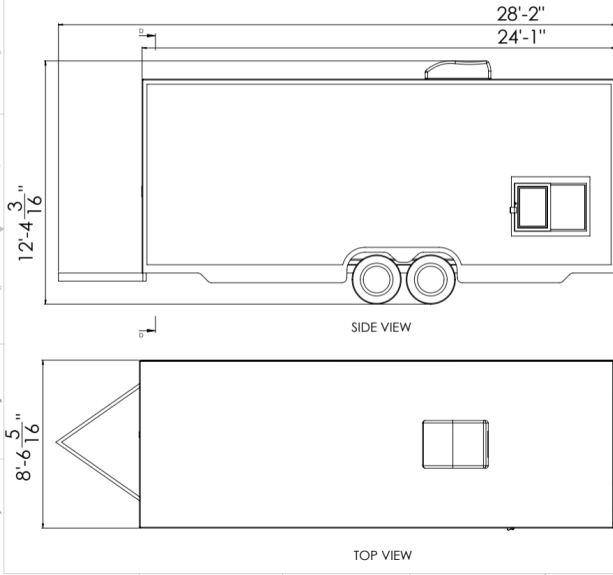


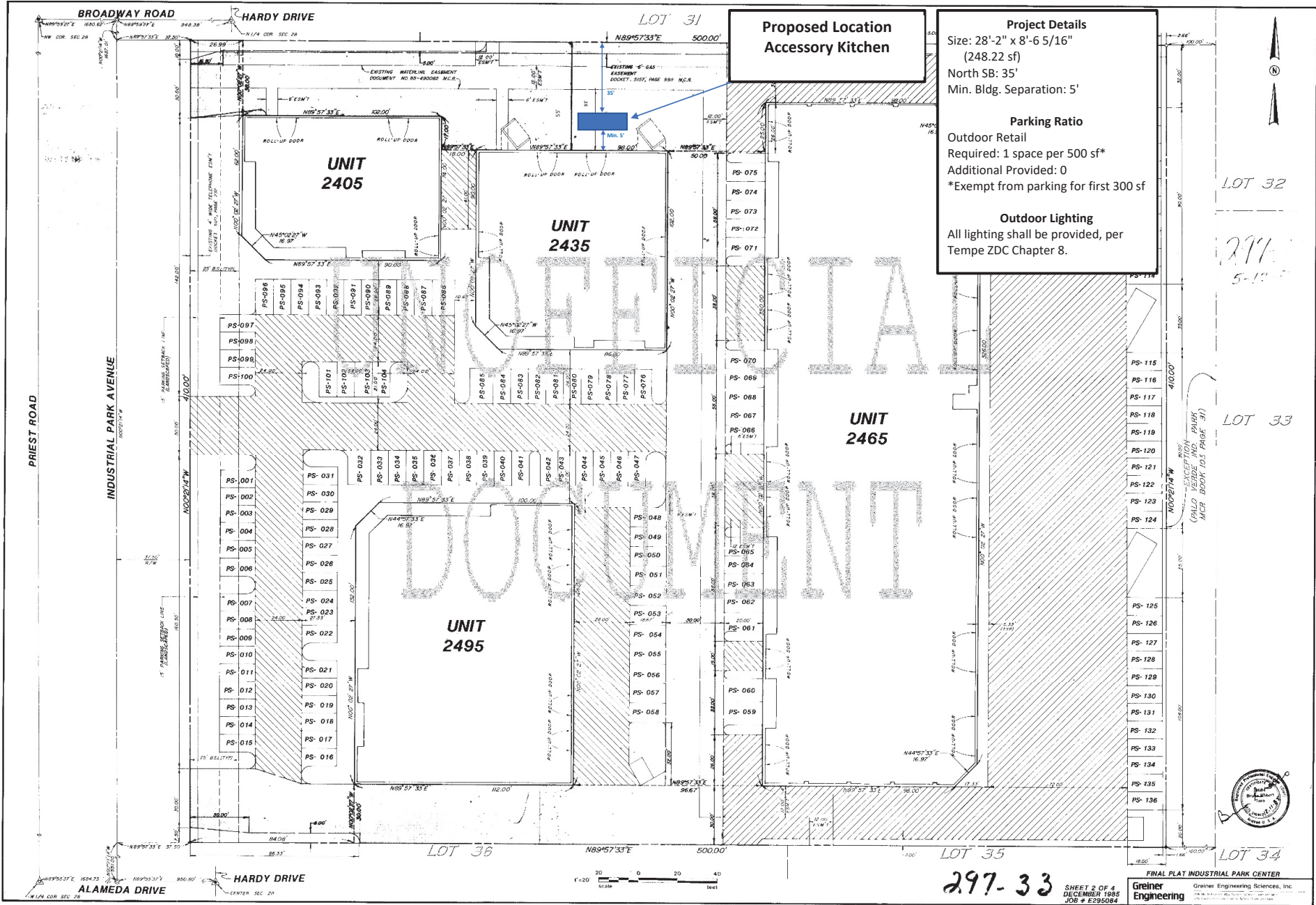
TAB B



Gopuff Kitchen Overview

Gopuff Kitchen Photos & Specs





**Proposed Location
Accessory Kitchen**

Project Details
 Size: 28'-2" x 8'-6 5/16"
 (248.22 sf)
 North SB: 35'
 Min. Bldg. Separation: 5'

Parking Ratio
 Outdoor Retail
 Required: 1 space per 500 sf*
 Additional Provided: 0
 *Exempt from parking for first 300 sf

Outdoor Lighting
 All lighting shall be provided, per
 Tempe ZDC Chapter 8.

LOT 32

LOT 33

LOT 34

LOT 36

LOT 35

297-33

SHEET 2 OF 4
 DECEMBER 1985
 JOB # E295084

FINAL PLAT INDUSTRIAL PARK CENTER
 Greiner Engineering Sciences, Inc.
 Greiner Engineering