

**CITY OF TEMPE
DEVELOPMENT REVIEW COMMISSION**

**Meeting Date: 10/25/2022
Agenda Item: 8**

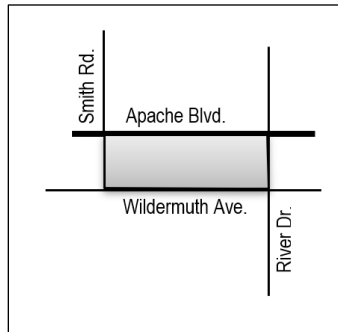
ACTION: Request a Use Permit to allow temporary outdoor vending (food trucks and retail sales) for CULDESAC – LITTLE CHOLLA MARKET, located at 2025 East Apache Boulevard. The applicant is Gammage & Burnham PLC.

FISCAL IMPACT: N/A

RECOMMENDATION: Approve, subject to conditions

BACKGROUND INFORMATION: CULDESAC – LITTLE CHOLLA MARKET (PL220237) is a proposed outdoor market to operate in the center plaza of the Eastline Village Planned Area Development, located at the southwest corner of River Drive and Apache Boulevard. The market will include food trucks and retail sales of merchandise. The request includes the following:

ZUP220044 Use Permit to allow temporary outdoor vending.



Property Owner
Applicant
Zoning District

Site Area
Vehicle Parking
Bicycle Parking
Hours of Operation

Culdesac Tempe, LLC
Manjula Vaz, Gammage & Burnham PLC
MU-4 PAD TOD (Mixed Use, High Density, Planned Area Development Overlay District, Transportation Overlay District)
16.91 acres
No additional parking required
No additional parking required
7:00 a.m. to 10:00 p.m., Monday-Sunday

ATTACHMENTS: Development Project File

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

Department Director: Jeff Tamulevich, Community Development Director

Legal review by: N/A

Prepared by: Karen Stovall, Senior Planner

Reviewed by: Steve Abrahamson, Principal Planner

COMMENTS

The applicant proposes an ongoing outdoor market in the 6,700 square-foot plaza within the Eastline Village (aka Culdesac) development, located at the southwest corner of Rive Drive and Apache Boulevard. Vending will include up to three (3) food trucks and retail goods sold from tables or small storage containers. Electric pedestals will be available for vendors to avoid the need for gas-powered generators.

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 MU-4 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 outdoor market 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 proposed market is intended to serve residents of the Culdesac project as well as the larger community. The project has been designed with a surface parking lot on the west end of the site to avoid vehicular/pedestrian conflicts; however, it is expected that most community members outside Culdesac will arrive by bicycle or on foot. The project will contain plentiful pedestrian pathways for both residents of the mixed-use project and members of the greater community to circulate through and around 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*; electric pedestals will be provided for food trucks to avoid the use of gas-powered generators. Vendors will not be permitted to use sound amplification. The proposed hours of operation will allow a quiet environment during regular sleeping hours.
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 contribute to the deterioration of the neighborhood or downgrading of property values. Instead, the use is expected to provide a walkable public open space, increase community connections, and create a space for small and local businesses to sell their goods.
4. *Compatibility with existing surrounding structures and uses*; the plaza and the proposed outdoor activities were planned into the design of the community to serve as an amenity and have been designed to be compatible with the surrounding structures and uses.
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 owner of the plaza owns the entire Culdesac community and will control activities on the property, including those within the market. Inappropriate behavior will be handled by the owner and/or its management company.

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:

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

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 CULDESAC INC. 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.
- Music and sound shall not violate the City of Tempe Noise Ordinance.

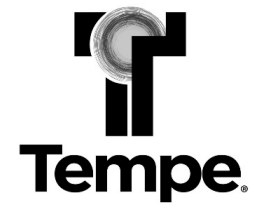
HISTORY & FACTS:

January 16, 2020 City Council approved the Zoning Map Amendment and Amended Planned Area Development Overlay for EASTLINE VILLAGE (PL190059 / ZON190001 / PAD190003), located at 2025 East Apache Boulevard.

February 27, 2020 City Council approved the Development Plan Review for a new one- to three-story mixed-use development for EASTLINE VILLAGE – PHASE I (PL190059 / DPR190118), consisting of 180 dwelling units and commercial uses, located at 2025 East Apache Boulevard.

ZONING AND DEVELOPMENT CODE REFERENCE:

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



DEVELOPMENT PROJECT FILE
for
CULDESAC – LITTLE CHOLLA MARKET
(PL220237)

ATTACHMENTS:

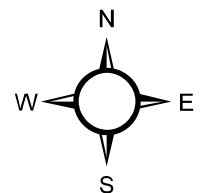
1. Location Map
2. Aerial
- 3-10. Letter of Explanation
11. Site Plan
12. Typical layout for temporary outdoor vending

Culdesac - Little Cholla Market

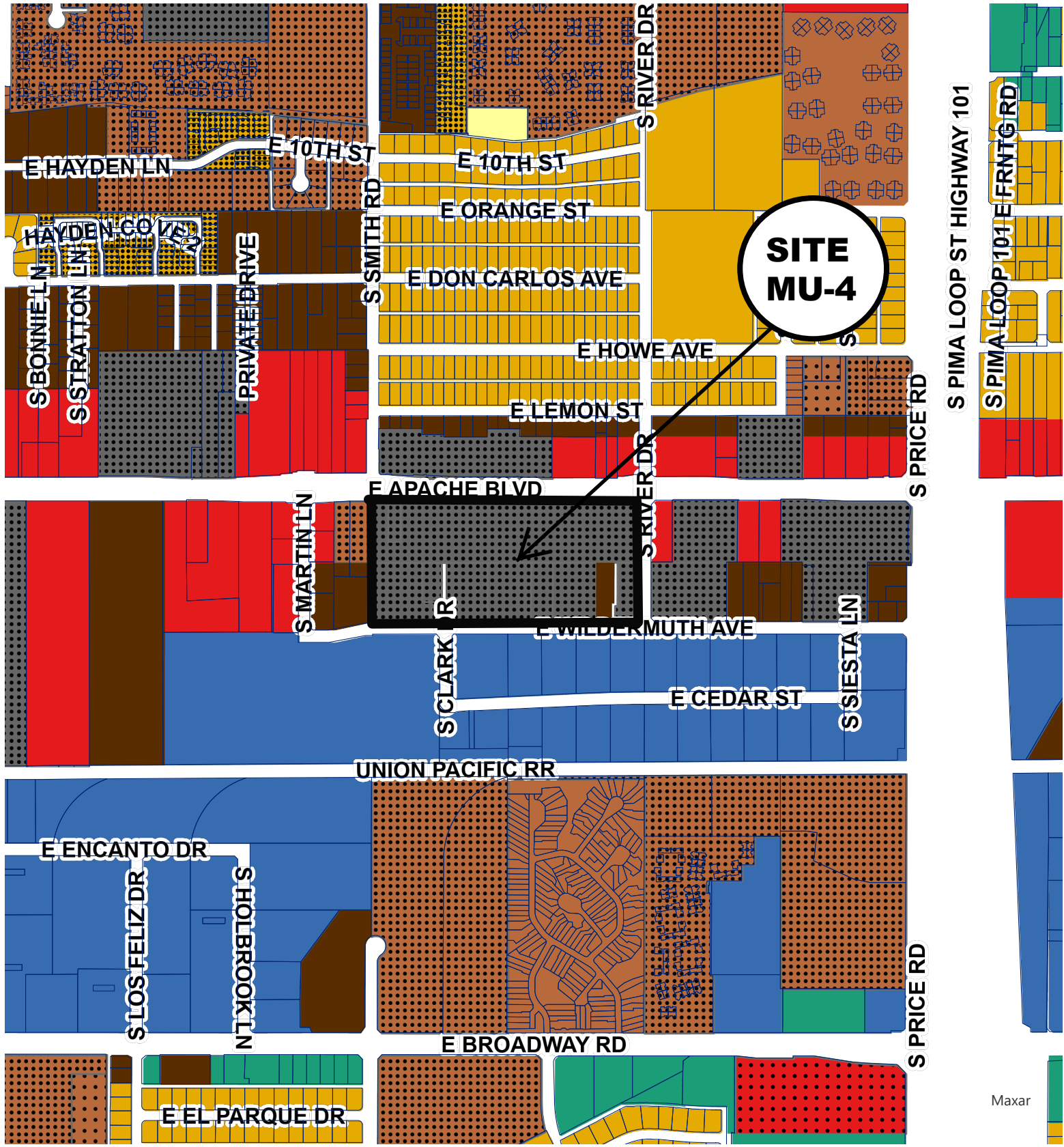
PL220237



Aerial Map



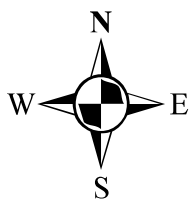
Culdesac - Little Cholla Market



- General Industrial District (GID)
- Mixed Use High (MU-4)
- Commercial Shopping and Services (CSS)
- Planned Commercial Center Neighborhood (PCC-1)
- Residential/Office (RO)
- Agricultural (AG)
- Single-Family Residential (R1-6)

- Single-Family Residential Planned Area Dev (R1-PAD)
- Multi-Family Residential (R-2)
- Multi-Family Residential Restricted (R-3R)
- Multi-Family Residential Limited (R-3)
- Multi-Family Residential General (R-4)
- Override 1

- Twelve Point**
- CenterlineSubType**
- ADOT
 - Canal
 - Monument
 - Private



Maxar

Culdesac™

2025 East Apache Boulevard

Tempe, AZ 85281

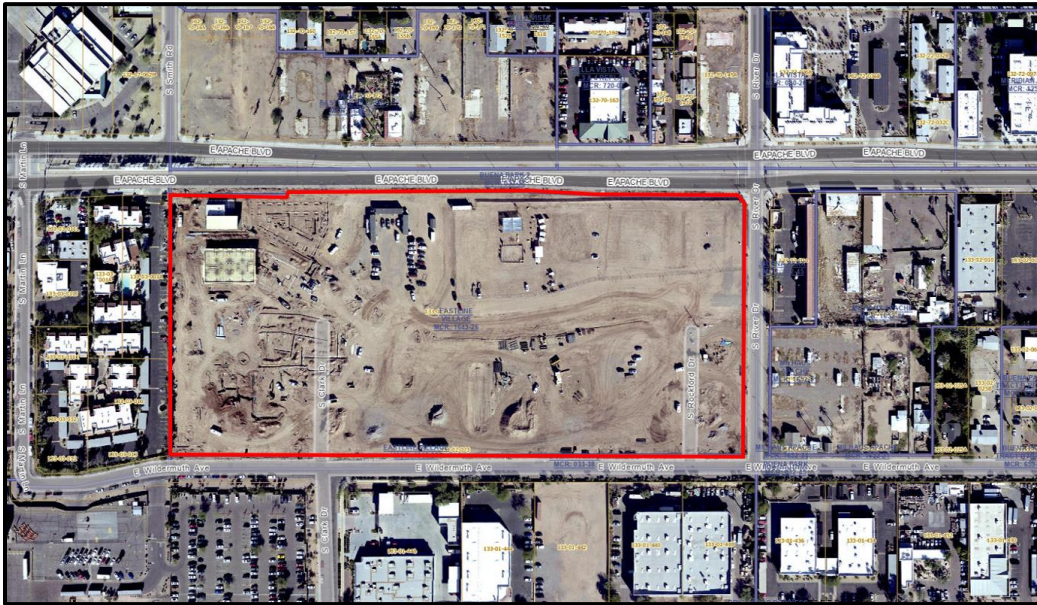
Use Permit Narrative



August 22, 2022

INTRODUCTION

Gammage & Burnham is pleased to submit this Use Permit project narrative on behalf of Culdesac, Inc.'s (Culdesac) request to the City of Tempe for a Use Permit to allow for outdoor retailing in the form of food trucks and pop-up retail. The 16.91-acre property subject to the request is located on the southwest corner of Apache Boulevard and River Drive (the "Property"). The Property is known as Maricopa County Assessor Parcel number 133-02-073, and is as shown in the graphic below, outlined in red.



Culdesac is a planned mixed-use project that is based on the principle of creating a community that is independent from automotive travel. This project is the first of its kind in Tempe and aims to accomplish its goal of providing residents access to alternate forms of transportation while bringing amenities such as retail and restaurants into the community. The goals of the Culdesac development are closely aligned with those of Tempe as laid out in the City's General Plan 2040. The successful implementation of the project will advance the City's goals in innovation, walkability, urban living and sustainability.

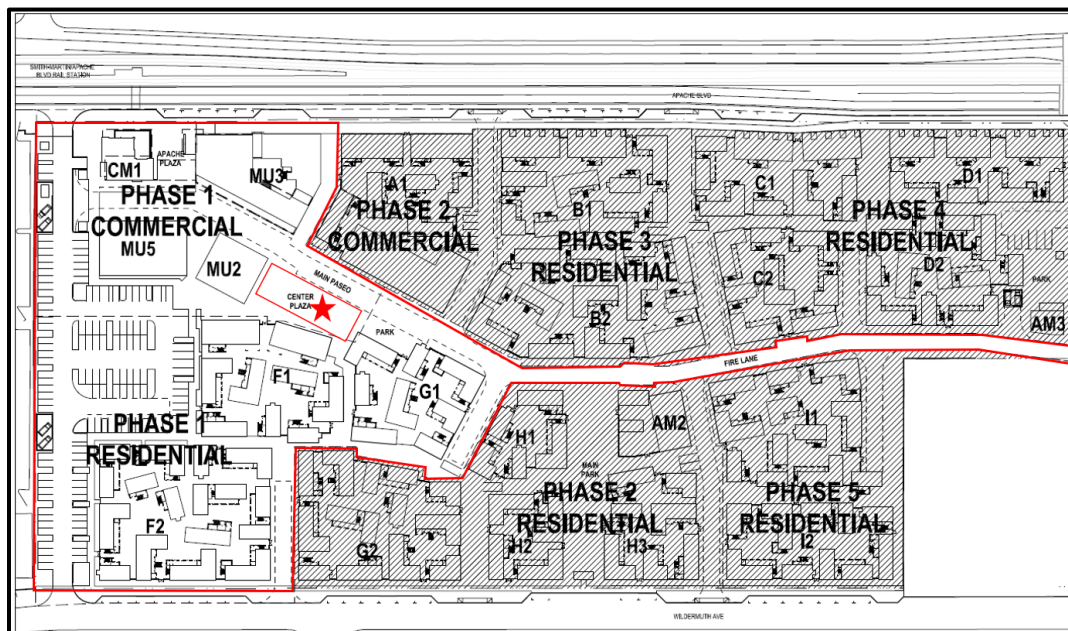
PRIOR APPROVALS

On January 16, 2020, the Tempe City Council approved a zoning map amendment application (ZON190001) and amended Planned Area Development overlay (PAD190003) to accommodate the Overall Development. The underlying zoning district is MU-4, and development standards for the district were amended with the approval of a PAD overlay.

On February 27, 2020, the Tempe City Council approved a development plan review application (DPR190118), including site and landscape plans and building elevations, for the design of the Phase I Development. Pursuant to a development agreement between Culdesac and the City of Tempe (C2019-255), design applications for future phases of Culdesac Tempe are to be processed administratively as a minor DPR.

PROJECT CONTEXT

As noted above, the Culdesac community consists of approximately 16.91 acres of land located at the southwest corner of Apache Boulevard and River Drive. Culdesac is in the process of developing Phase One of the project, directly across from the Smith-Martin/Apache Boulevard light rail station. As shown below, Phase One consists of a mix of commercial and residential uses and establishes a Main Paseo and Central Plaza (the "Plaza").



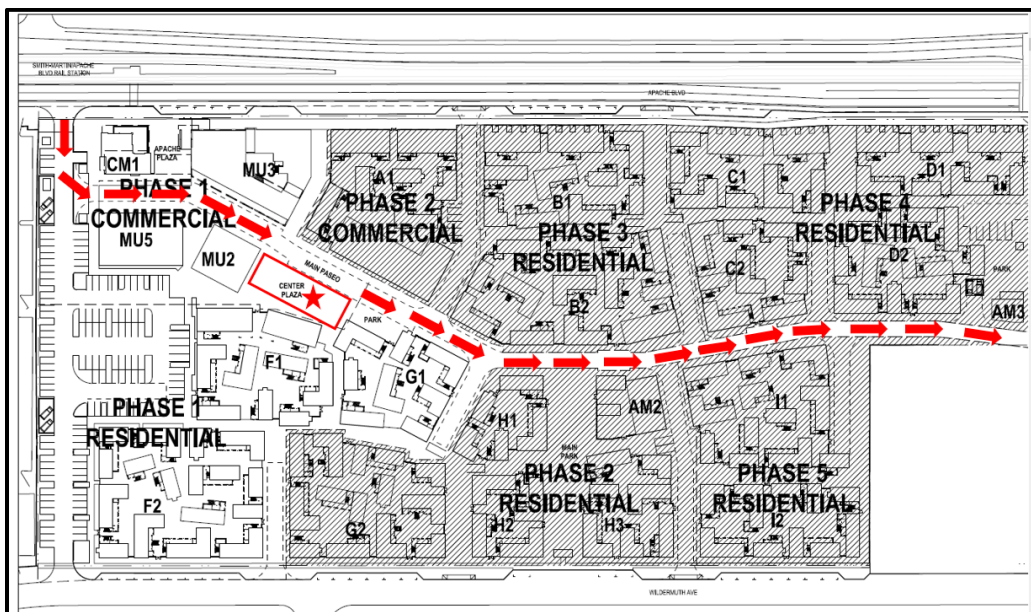
This request is for a Use Permit to allow outdoor vending in the Plaza, which will be the primary location for community gatherings as well as the home of the "Little Cholla" Market.

The Little Cholla Market is a weekly event that has been recently hosted by Culdesac on the undeveloped portion of the Property. Currently held on Thursday evenings from 6:00 PM to 9:00 PM, Little Cholla is home to a farmers' market, food trucks, shopping, music, and other activities such as dancing lessons or arts and crafts. The market encourages patrons to use alternative forms of transportation by granting a \$5 dollar shopping

voucher to visitors arriving without a car. Intended to be a feature of the community now and in the future, Little Cholla will be relocated to the Plaza upon its completion.

Project Overview

The Use Permit we are seeking is for the operation of outdoor retail in the Plaza area. Operating hours will be Monday through Sunday from 7:00 AM to 10:00 PM. The primary types of retailing that will be featured in the Plaza are food trucks and pop-up retail. There will be a rotation of food trucks that will be used for Little Cholla throughout the week, with no more than three food trucks operating at the same time. As shown below, the trucks will enter the Property on Apache Boulevard, and drive down the Main Paseo to the Plaza.



The trucks will then be positioned in specific locations on the Plaza. There will be electric pedestal connections provided to each vendor, ensuring that there will be no extra noise or emissions from gas-powered generators. Food trucks will exit the Property by following the Main Paseo onto River Drive. The pop-up retail will also be on the Plaza, arranged depending on the number of vendors present as well other activities occurring at the location. Pop-up retail will consist of general merchandise that is sold at a table or out of a small storage container.

COMPLIANCE WITH USE PERMIT FINDINGS

As shown on Table 3-202B of the Tempe Zoning and Development Code (ZDC), Outdoor Retailing is permitted in Mixed Use Districts with the approval of a Use Permit, and also

with the application of Special Use Standards. A Use Permit may only be granted upon a finding by the decision-making body, that the use covered by the permit, the manner of its conduct, and any building which is involved, will not be detrimental to persons residing or working in the vicinity, to adjacent property, to the neighborhood, or to the public welfare in general, and that the use will be in full conformity to any conditions, requirements, or standards prescribed therefore by this Code. The Use Permit Criteria outlined in Section 6-308 of the ZDC are shown below in *italics*, and the manner in which this application meets each standard is shown below in **bold** text.

1. *The use, if approved, will not create any significant increase in vehicular or pedestrian traffic.*

RESPONSE: As previously noted, Culdesac has been designed as a car-free community. There are no large parking fields within the development so there is no opportunity for visitors to the outdoor market to arrive by car. The goal of the proposed use is to provide entertainment, dining and shopping opportunities for residents of Culdesac, and the larger community, most of whom will be arriving by bicycle or on foot.

2. *The use will not create a nuisance arising from the emission of odor, dust, gas, noise, vibration, smoke, heat, or glare at a level exceeding that of ambient conditions.*

RESPONSE: As previously mentioned, there are electrical pedestals provided for the food trucks that will remove the need for gas-powered generators. This will eliminate a source of odor and noise that is typically associated with food trucks. The use of the plaza for outdoor retailing will create a festive atmosphere that will contribute to the hip, urban feel that will attract residents to Culdesac in the first place. The hours of operation will ensure that the ambient noise level is reduced and a quiet environment will be provided in the evening hours.

3. *The use will not contribute 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.*

RESPONSE: This proposed use advances the goals stated in the General Plan of pedestrian connectivity, sustainability, urban living and innovation. The plaza area will be a central feature of the community and will provide an improvement to the existing and surrounding community.

4. *The use is compatible with existing surrounding structures and uses.*

RESPONSE: The proposed use has always been envisioned within the Culdesac community. The placement of the plaza was deliberately chosen to be located within the area between the commercial and residential portions of the development. It is compatible with the surrounding structures and uses.

5. *The operator will maintain control of disruptive behavior both inside and outside the premises, which may create a nuisance to the surrounding area or general public.*

RESPONSE: As the Owner/Operator of the apartment community, Culdesac will have ultimate control over the activities that take place in the plaza area. This includes the operation details of the vendors, as well as the residents and customers of the Little Cholla marketplace. Individuals found to be in violation of the community rules and standards face penalties, if they are residents, or will not be given the opportunity to return to the marketplace if they are a vendor. Culdesac will cooperate with the City in full to ensure that the Little Cholla marketplace is a well-designed and well-planned amenity to the Culdesac community and the greater Tempe area.

COMPLIANCE WITH SPECIAL USE STANDARDS FOR OUTDOOR VENDING

Section 3-417-D of the ZDC establishes additional standards for Outdoor Vending. Outdoor vending refers to the sale of merchandise or services not within a building or permanent structure. Outdoor vending includes food trucks, grills and general merchandise offered for purchase on a daily basis, throughout the calendar year and also includes re-occurring events such as farmers markets.

The ZDC specifies standards that must be met for approval of Outdoor Vending. Each of the standards are shown below in *italics*, and the manner in which this application meets each standard is shown below in **bold** text.

1. *Must be located on the specified lot identified by the Use Permit and not in the public right-of-way, unless authorized with an encroachment permit, subject to approval by Public Works Director or designee;*

RESPONSE: The Culdesac plaza is entirely within the subject parcel, so the placement of food trucks and pop-up retail on the plaza will not impede the public right-of-way.

2. *Shall not occupy the minimum required parking areas, landscape areas, or vehicular driveways (including fire lanes);*

RESPONSE: The food trucks and pop-up retail will all be located within the plaza, it will not impede fire lanes, parking, or landscaping on the Property.

3. *Must allow for a minimum four (4) foot wide pedestrian path across any building frontage and to and from all building entrances and exits. On public sidewalks a minimum six (6) foot wide pathway clearance shall be provided*

RESPONSE: The food trucks will be placed in specific places on the plaza, and a pedestrian pathway will be provided according to this requirement.

4. *Sound amplification may not be used for sales demonstrations;*

RESPONSE: Sound amplification will not be used by outdoor vendors to advertise their products.

5. *The allowable signage, size and location of the business, and storage of equipment/materials, shall be established through the Use Permit; and*

RESPONSE: This Use Permit establishes the types of outdoor vending that will be used on the property. Tables and small storage containers will be provided by Culdesac and stored in accordance with conditions of the Use Permit.

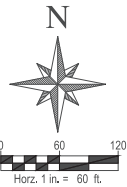
6. *Shall not include the sale of the following commodities or provide the following services on the premises; vehicle sales which have more than three (3) vehicles on display, vehicle washing or detailing, or motor vehicle repair.*

RESPONSE: These uses will not be provided by vendors at Culdesac.

CONCLUSION

When evaluating this Use Permit application, it is important to keep in mind that this use has always been contemplated during the development of the Culdesac community. The Culdesac project is as an exciting development that promotes the Tempe General Plan concepts of walkability, sustainability, and urban living. A Use Permit for Outdoor Retailing in the MU-4 zoning district is consistent with these goals and will provide unique shopping, dining and entertainment opportunities for Culdesac residents as well as the surrounding Tempe community. Moreover, compliance with the required findings and standards for outdoor retailing have been demonstrated within this application.

Little Cholla
Location



Wood, Pairt & Associates, Inc.
Civil Engineering
Water Resources
Land Survey
Construction Management
602.335.8500
www.woodpairt.com



WATER & SEWER PLANS
EASTLINE VILLAGE
2025 E. APACHE BLVD., TEMPE, ARIZONA
MASTER UTILITY PLAN

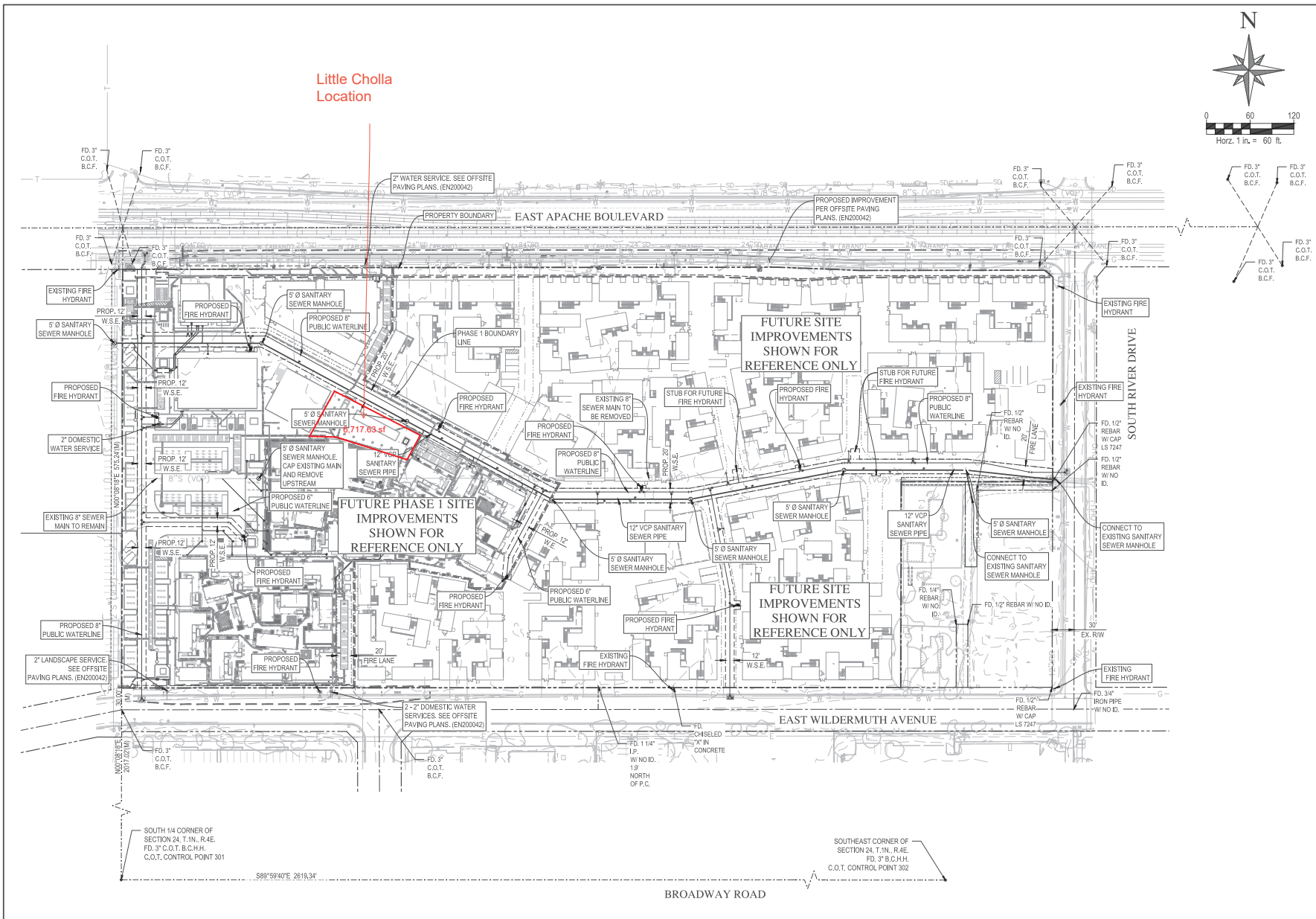
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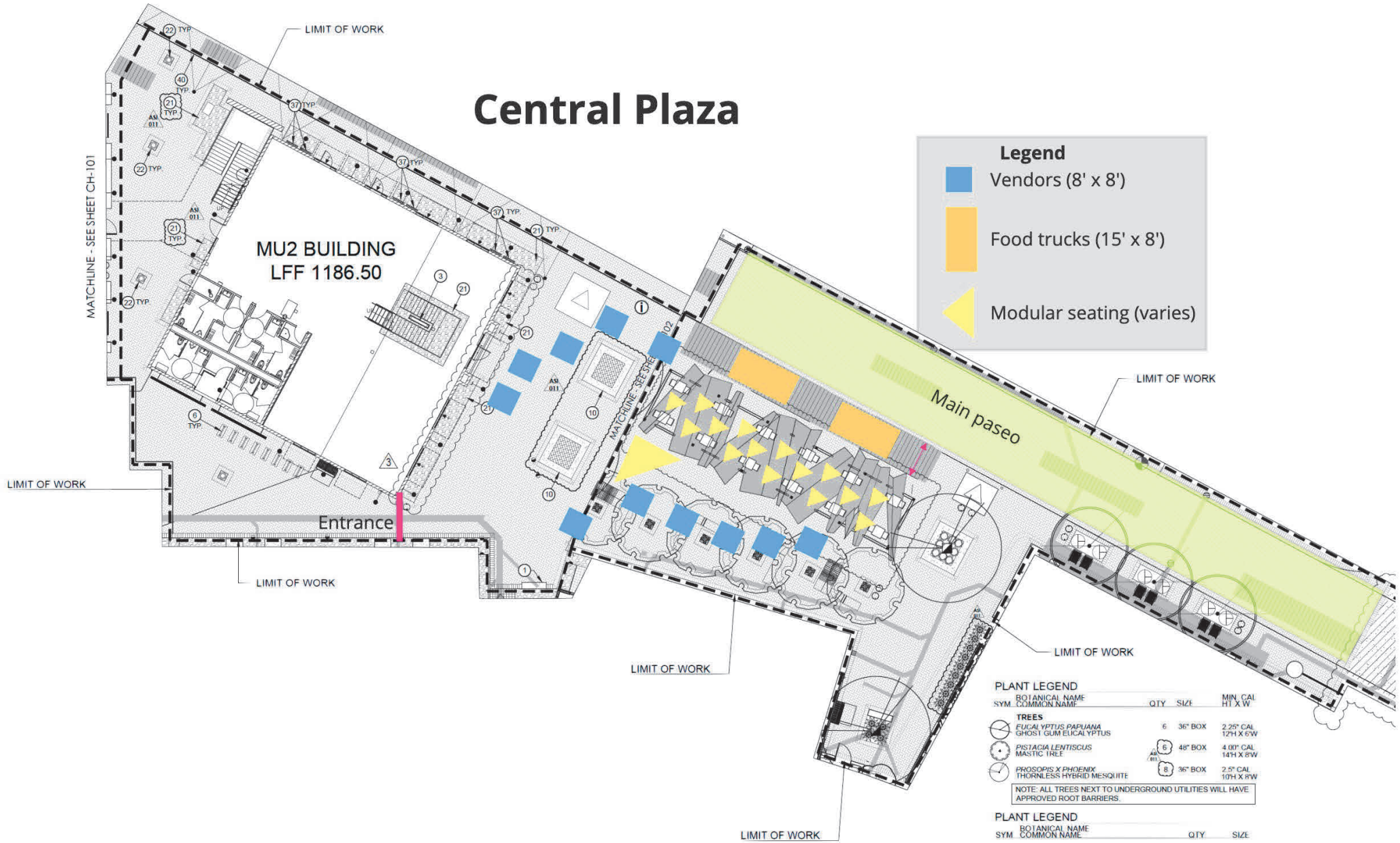


EXHIBIT 802621
SCALE (HORIZ) 1" = 60'
SCALE (VERT) N/A
DATE 03/09/2021
JOB NUMBER 184931
SHEET WS03 OF 12

DS #15102



Central Plaza



Legend

- Vendors (8' x 8')
- Food trucks (15' x 8')
- Modular seating (varies)

PLANT LEGEND

BOTANICAL NAME SYML. COMMON NAME	QTY	SIZE	MIN. CAL HT X W
TREES			
ELUCAL YPTUS PARIJANA GHOST GUM ELUCAL YPTUS	6	36" BOX	2.25' CAL 12H X 6W
PISTACIA LENTISCUS MASTIC TREE	6	48" BOX	4.00' CAL 14H X 8W
PROSOPIS X PHOENIX THORNLESS HYBRID MESQUITE	8	36" BOX	2.5' CAL 10H X 8W

NOTE: ALL TREES NEXT TO UNDERGROUND UTILITIES WILL HAVE APPROVED ROOT BARRIERS.

PLANT LEGEND

BOTANICAL NAME SYML. COMMON NAME	QTY	SIZE