

Staff Summary Report



Hearing Officer Hearing Date: September 18, 2007

Agenda Item Number: 11

SUBJECT: This is a public hearing for a request by **HARBOR FREIGHT TOOLS (PL070382)** located at 1860 East Warner Road for one (1) use permit.

DOCUMENT NAME: 20070918dssd05

PLANNED DEVELOPMENT (0406)

SUPPORTING DOCS: Yes

COMMENTS: Hold a public hearing for a request by **MCCLINTOCK FOUNTAINS - HARBOR FREIGHT TOOLS (PL070382)** (Brian O'Neil/Harbor Freight Tools, applicant; CB Richard Ellis, Inc., property owner) located at 1860 East Warner Road in the PCC-1, Planned Commercial Center Neighborhood District for:

ZUP07131 Use permit to allow an outdoor display.

PREPARED BY: Shawn Daffara, Planner II (480-858-2284)

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

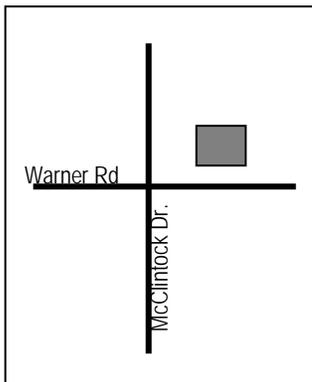
A handwritten signature in black ink, appearing to read 'SEA'.

LEGAL REVIEW BY: N/A

FISCAL NOTE: N/A

RECOMMENDATION: Staff – Approval subject to Conditions 1-6

ADDITIONAL INFO: Harbor Freight is requesting a use permit to allow outdoor display. The proposed display areas are delineated adjacent to the main entrance of the store. The outdoor display area will maintain a six (6) foot clear pedestrian walkway. To date, there has been no public input regarding these requests. Staff recommends approval of the proposals as submitted, with conditions.



PAGES:

1. List of Attachments
2. Comments; Reason(s) for Approval
3. Conditions of Approval; History & Facts/Description; Zoning & Development Code Reference

ATTACHMENTS:

1. Location Map(s)
2. Aerial Photo(s)
3. Letter of Intent
4. Site plan
5. Floor Plan
- 6-8. Staff Photograph(s)

COMMENTS:

Harbor Freight is requesting a use permit to allow outdoor display. The site is located at 1860 East Warner Road in the McClintock Fountains Shopping Center (the northeast corner of Warner Road and McClintock Drive) in the PCC-1, Planned Commercial Center Neighborhood District. The outdoor retail display will be located adjacent to the main entrance along the store frontage. The Zoning and Development Code requires a six (6') foot clear, unobstructed path.

To date, there has been no public input regarding the requests.

Use Permit

The Zoning and Development Code requires a use permits for outdoor display and vehicle displays within the PCC-2, Planned Commercial Center Comprehensive 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 use, with conditions, should not create nuisances within the commercial zoned area.
- 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. The requested use permit will not be detrimental to the surrounding area.
- d. Compatibility with existing surrounding structures and uses;
 - The proposed use appears to be compatible with surrounding uses.
The proposed development would not contribute to neighborhood deterioration or downgrade property values. The requested use permit will not be detrimental to the surrounding area.

Conclusion

Staff recommends approval of the use permit.

REASON(S) FOR APPROVAL:

1. No apparent nuisance resulting from noise, smoke, odor, dust, vibration, or glare.
2. The use appears to be compatible with the site and adjacent property.
3. There appears to be a demonstrated need for this use at the proposed location.

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

**CONDITION(S)
OF APPROVAL:**

1. The outdoor display shall not conflict with pedestrian or vehicular traffic. If any display items are moved into the sidewalk and blocks A.D.A. clearance, the business may be cited and/or returned to the Hearing Officer for review, and potential revocation of the use permits.
2. The use permit is valid for the plans as submitted to and approved by the Hearing Officer, any expansion of the outdoor display would require a new use permit.
3. If there are any complaints arising from the use permit that are verified by a consensus of the complaining party and the Development Services office, the use permit may be reviewed by city staff to determine the need for a public hearing to re-evaluate the appropriateness of the use permit.
4. Any outdoor signage associated with the vehicle display shall be reviewed by the Development Services Department - Planning Division and are limited to three (3) square feet.
5. No sound amplification shall be used for the outdoor display.
6. The outdoor display shall be removed when the business is closed. No products shall be allowed to remain outdoors when the business is closed.

HISTORY & FACTS:

February 27, 1991 BA910014: Use Permit approved for Peter Piper Pizza to allow a Video Game Room.

May 11, 2000 CC000017 (SGF 2000.16): a) Use Permit for Health Club
b) Parking by Demand approved for McClintock Fountains Shopping Center

July 18, 2000 BA000193: Use Permit approved for Smokarama BBQ to allow outdoor display.

DESCRIPTION:

Owner – CB Richard Ellis, Inc.
Applicant – Brian O-Neil
Existing Zoning – PCC-1, Planned Commercial Center Neighborhood District
Site Area – 607,398 s.f. / 13.9 acres
Suite Area – 18,275 s.f.
Outdoor Display Area – 32' x 3'

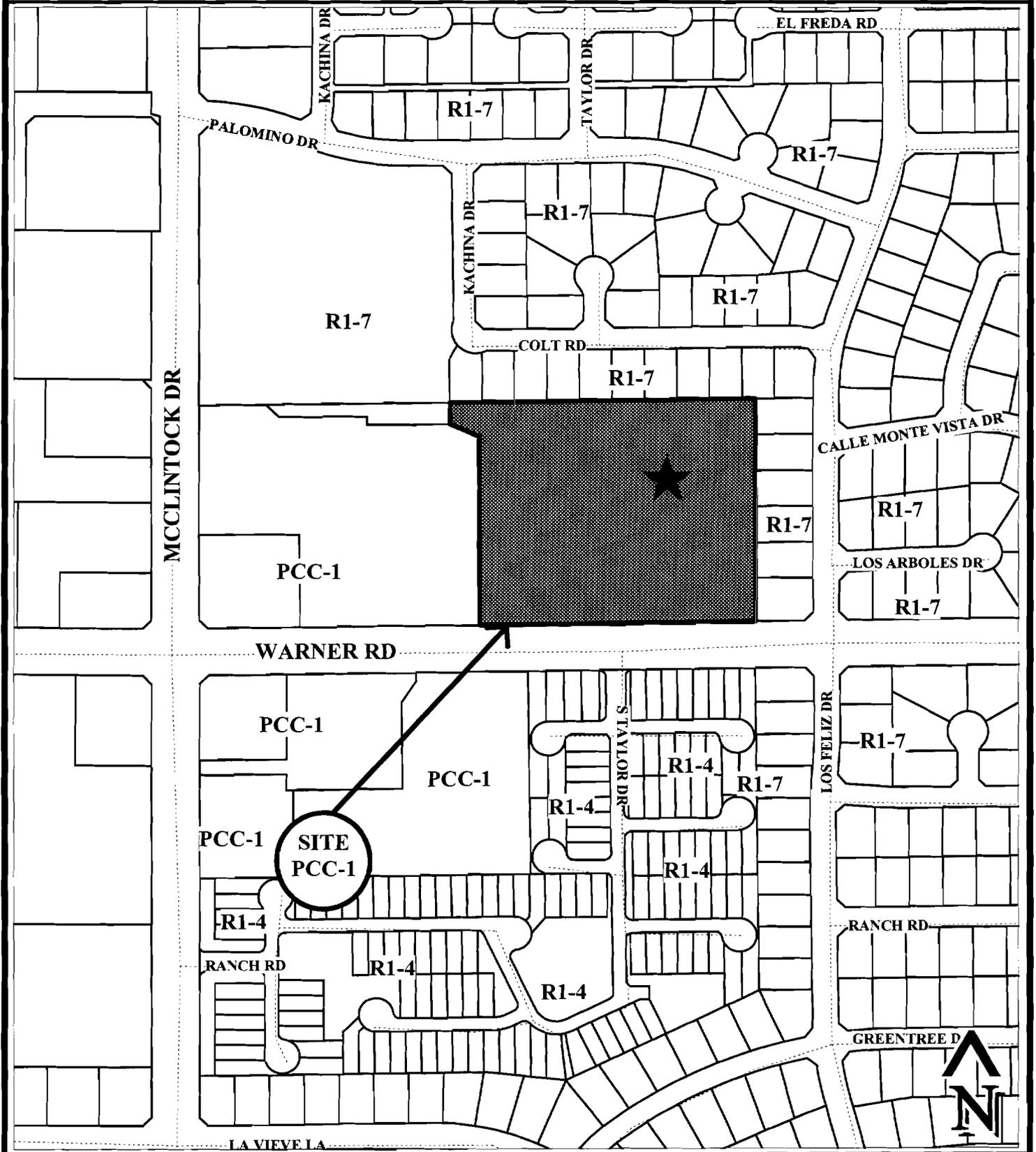
**ZONING AND
DEVELOPMENT
CODE REFERENCE:**

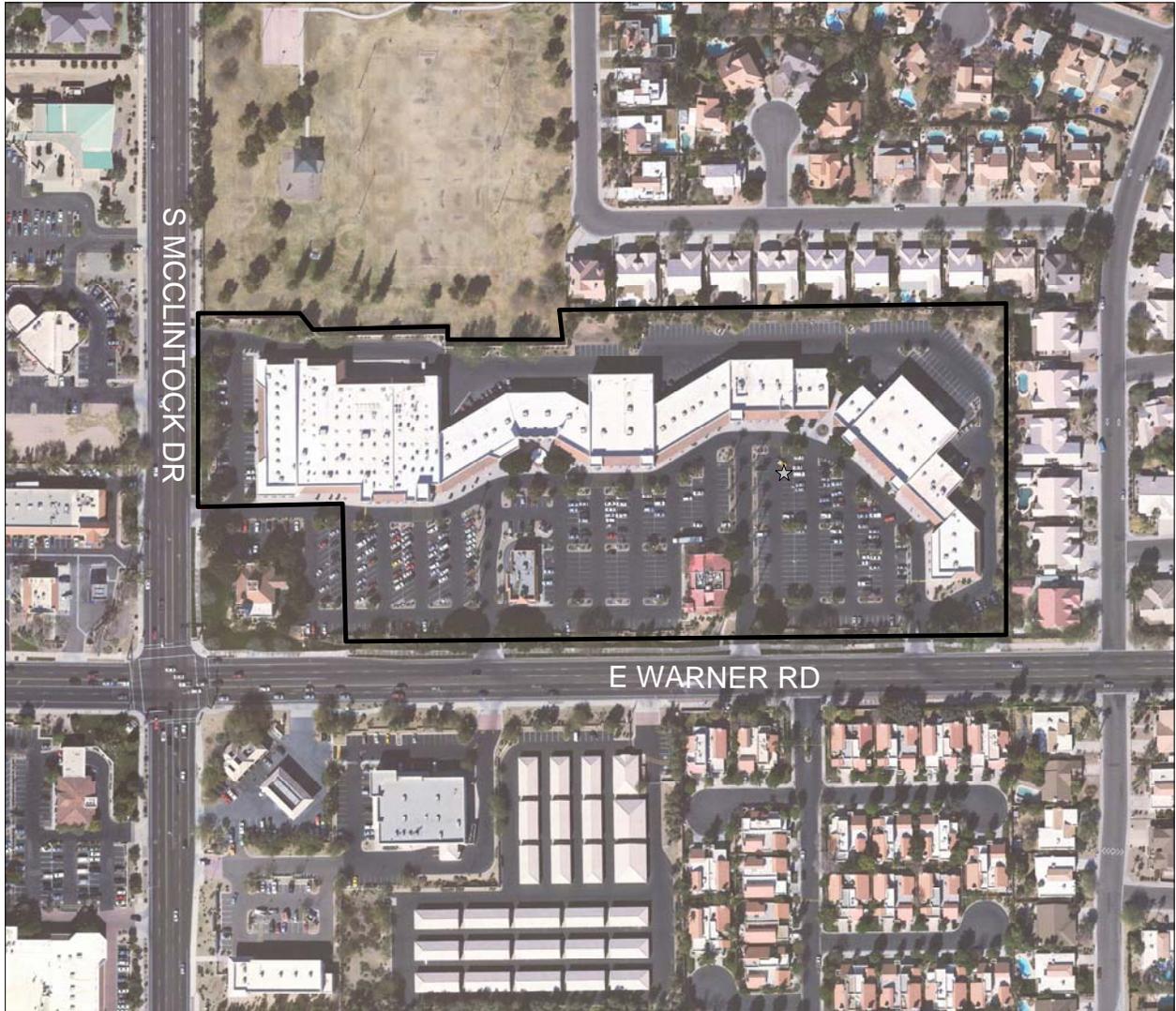
Part 3, Section 3-418: Outdoor Display

Part 6, Chapter 3, Section 6-308: Use Permit

**MCCLINTOCK FOUNTAINS -
HARBOR FREIGHT TOOLS**

PL070382





MCCLINTOCK FOUNTAINS - HARBOR FREIGHT TOOLS (PL070382)

HARBOR FREIGHT TOOLS

1860 E. WARNER STE #103

TEMPE, AZ 85248

CITY OF TEMPE PLANNING

31 E. 5th ST.

TEMPE, AZ. 85281

RE: USE PERMIT

This is a Letter of Explanation from Harbor Freight Tools located at the address above. We are a retail store open to the public and at your request we are submitting an application for a Use Permit. Approximately, four times a year, we schedule sidewalk sales for our customers. In the past, when we ran our sales, we applied for a permit to hang our banners for these events. (copy attached) Now, we've been told that we also need a Use Permit for these events. We have sidewalk sales in the months of March, June, October, and November every year. These sales run for four days, generally, Thursday, Friday, Saturday, and Sunday. We set up tables against the building 33' long on one side of the front doors and 33' on the other side of the doors on the sidewalk. Then tables in between the pillars on the sidewalk, leaving a ~~4' x 2'~~ 6' walkway down the center of the sidewalk in front of the store. (map attached) We make sure that there are no obstructions and plenty of room for the handicapped customers, so there is a 12' wide walkway in front of the store pillars. The safety of our customers and employees is a priority.

Sincerely,

Brian O'Brien
Manager



HARBOR FREIGHT TOOLS

1860 E WARNER RD

PL070382

**MAIN ENTRANCE AND SIDEWALK
(PROPOSED DISPLAY AREA)**



HARBOR FREIGHT TOOLS

1860 E WARNER RD

PL070382

FRONT OF BUSINESS: VIEW TO NORTHEAST



HARBOR FREIGHT TOOLS

1860 E WARNER RD

PL070382

**MAIN ENTRANCE AND SIDEWALK
(PROPOSED DISPLAY AREA)**