

# Staff Summary Report



Hearing Officer Hearing Date: December 16, 2008

Agenda Item Number: 4

**SUBJECT:** This is a public hearing for a request by **ARIZONA MILLS (PL080395)** located at 5000 Arizona Mills Circle for one (1) use permit.

**DOCUMENT NAME:** 20081216dsdp01

**PLANNED DEVELOPMENT (0406)**

**SUPPORTING DOCS:** Yes

**COMMENTS:** Hold a public hearing for a request by **ARIZONA MILLS (PL080395)** (Todd Olson, applicant/property owner) located at 5000 Arizona Mills Circle in the RCC, Regional Commercial Center District for:

**ZUP08166** Use permit to allow outdoor retailing (periodic auto sales) events.

**PREPARED BY:** Derek Partridge, Planner I (480-350-8867)

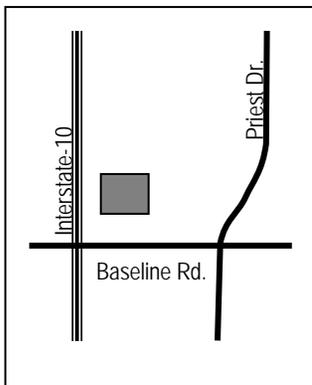
**REVIEWED BY:** Steve Abrahamson, Planning & Zoning Coordinator (480-350-8359) *SEA*

**LEGAL REVIEW BY:** N/A

**FISCAL NOTE:** N/A

**RECOMMENDATION:** Staff – Approval subject to Conditions

**ADDITIONAL INFO:** The applicant is requesting a use permit to allow outdoor retailing (periodic auto sales) events at 5000 Arizona Mills Circle in the RCC, Regional Commercial Center District. The outdoor retailing would be limited to a small portion of the Arizona Mills Shopping Center parking lot, utilizing approximately 240 parking spaces in the southwest portion of the parking lot near the intersection of I-10 and Baseline Road. Staff recommends approval of the use permit. To date, staff has received four (4) inquiries on this request.



**PAGES:**

1. List of Attachments
2. Comments
3. Reasons for Approval; Conditions of Approval; History & Facts/Description
4. Zoning & Development Code Reference

**ATTACHMENTS:**

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

## COMMENTS:

The applicant, Todd Olson, the General Manager of Arizona Mills Mall with Simon, Inc., is requesting a use permit to allow for periodic auto sales to be located in the southwest corner of the parking lot of the regional shopping center. The proposed retailing would take place approximately one (1) weekend every month between the months of January and October, totaling ten (10) events per year, as requested by the applicant. The area would utilize approximately 240 parking spaces of the 6,370 available parking spaces at the Arizona Mills Shopping Center. An approved parking analysis dated 9/20/1996 shows a requirement of 5,292 parking spaces, therefore, the site has a surplus of 1,078 parking spaces. To date, staff has received four (4) inquiries on this request.

## Use Permit

The Zoning and Development Code requires a use permit for outdoor retailing (periodic auto sales) in the RCC, Regional Commercial Center District. This use permit request appears to meet all applicable tests in the following manner:

Evaluating the use permit, the proposal passes the use permit tests listed below:

- a. Any significant increase in vehicular or pedestrian traffic in adjacent areas;
  - There will not be significant increase in vehicular or pedestrian traffic in adjacent areas. The outdoor auto sales will take advantage of existing shopping mall customers and will occupy excess parking distant from the mall itself.
- b. 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 use should not create nuisance. The use will be in the parking lot of an existing shopping mall and will be set up similar to a used car lot.
- 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 area is comprised of primarily shopping, entertainment and restaurant uses. The periodic sales events should not affect the property values or neighborhoods of the surrounding area.
- d. Compatibility with existing surrounding structures and uses;
  - The proposed use is temporary auto sales/retail; the surrounding uses include a shopping mall, hotel, restaurants, entertainment and other retail uses. The proposed use should be complementary to the existing uses in the area, as the uses will complement 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.
  - The parking area used for the auto sales is furthest from the entrance to the shopping center and will not occur during peak seasons of the year. Since the shopping center is in excess of its actual parking use, no nuisance should be generated to the surrounding area or general public.

## Conclusion

Staff recommends approval of the use permit subject to conditions. Staff is recommending that the maximum number of events (periodic auto sales) be limited to four (4) events per year. Past City Council policies have supported four (4) events per year for the Arizona Mills and other similar locations. This request formalizes the previous policy and the allowance of only four events is consistent with the original policy.

**REASON(S) FOR APPROVAL:**

1. No apparent nuisance resulting from noise, smoke, odor, dust, vibration, or glare.
2. Traffic generated by this use should not be excessive.
3. The proposed use appears to be compatible with the building, site and adjacent property.

**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 periodic auto sales (outdoor retailing) shall be limited to four (4) events per calendar year.
2. The duration of each event shall be limited to three (3) consecutive days.
3. Events shall not take place in the months of November or December of any year.
4. Each event requested shall be allowed no more than two (2) days for set-up before the event and two (2) days for take-down after the event.
5. A City of Tempe Application must be filled out seven (7) days prior to the set-up of any event.
6. The business or businesses involved with periodic auto sales at this location must be registered with the City of Tempe Sales Tax and License Department and abide by the provisions of Tempe City Code, Chapter 16 License, Privilege and Excise Taxes.
7. All signage for each event must be approved by Commercial Code Enforcement.
8. A security plan is required within thirty (30) days (January 16, 2009) contact Crime Prevention at (480) 858-6027.
9. All necessary clearances must be obtained from the Building Safety Division for any temporary tents or structures.
10. This approval is valid for one year or until January 1, 2010.

**HISTORY & FACTS:**

- 2004 808 Zoning Administrator Opinion: Allowing Arizona Mills Mall four (4) parking lot car sale events per year.
- July 2005 Melanie Hobden Zoning Administrator Opinion: Allowing Arizona Mills Mall six (6) parking lot car sale events per year.
- September 12, 2005 Development Services Board of Adjustment staff: Administratively approved eight (8) parking lot car sale events per year.
- March 23, 2007 Development Services Board of Adjustment staff: Administratively approved sixteen (16) parking lot car sale events per year.
- March 7, 2008 Zoning Administrator letter rescinding all previous approvals, allowing a maximum of two (2) events for the calendar year of 2009.+

**DESCRIPTION:**

Owner – Simon Property Group Inc.  
Applicant – Todd Olson  
Existing Zoning – RCC, Regional Commercial Center District  
Parking required – 5,292 spaces  
Proposed Parking required (during events) – 5,432 spaces  
Parking provided – 6,370 spaces

**ZONING AND  
DEVELOPMENT**

**CODE REFERENCE:**

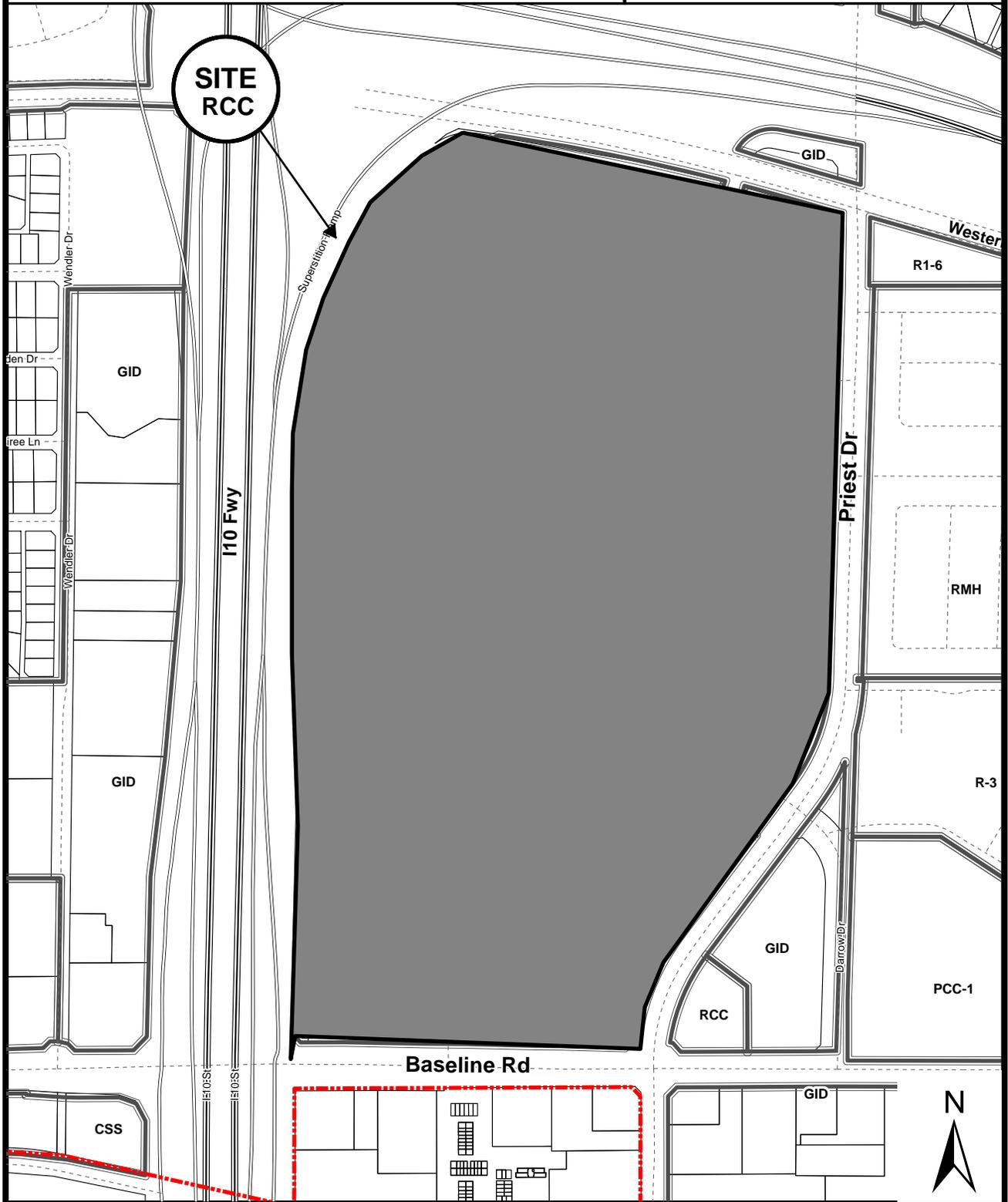
Part 3, Chapter 2, Section 3-202 – Permitted Uses in Commercial and Mixed-Use Districts

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

Part 3, Chapter 4, Section 3-417 – Outdoor Retailing

ARIZONA MILLS

PL080395



Location Map



**ARIZONA MILLS (PL080395)**

## ARIZONA MILLS – REQUEST FOR AUTO SALES

Arizona Mills is requesting approval to host auto sales in one area of our parking field. Over the last eleven years Arizona Mills has hosted such events successfully.

For the eleven years we have hosted the sales, we have increased auto sales events at Arizona Mills based on demand and success of each event. The sales attract customers from all over the valley who are looking for a good price on a good vehicle and can find even more than just a car with one stop. Arizona Mills Management has not received any complaints from any of our retailers in the center or customers who shop at Arizona Mills. To the contrary, we have been thanked by some tenants as the events attract customers and drive foot traffic.

The events will take up approximately 50,000 sq. ft. of parking area or 240 parking spaces on the south west side of the property (see attached site plan/s). We are requesting ten (10) total sales events for the calendar year 2009. Events will be held one weekend per month January through October with the months of November and December not hosting sales for the convenience of our shoppers during the holiday season.

We do, however, recognize that there is a need for us to add more specific language in our agreement with the vendor who partners with us to hold the sales. Going forward the new agreement will include language to hold the vendor to a standard above previous sales to include: **Permits (Tax and License):** Proof of all required permits and license for each sales event will be turned in to Arizona Mills Management before any sale event takes place. If vendor fails to apply for and provide proof of approved applicable and required permits and license, the agreement can immediately be terminated between Arizona Mills and the vendor (specific language will need to be approved by General Council of Simon Property Group/Arizona Mills LLC). **Signage/Advertisement:** Whereby the vendor can advertise in mediums such as radio, television and print and will be authorized to hang banners on the fence that surrounds the event area but no other such signage on or near the property including signs in the ground or hanging on light or telephone poles and/or traffic lights will be permitted. **Food:** Cannot be served at the event area. Drinks such as bottled water, soda and soft drinks will be allowed for employees and customers of the event.

Also, efforts to partner with a local dealership will be top of mind with the understanding that market value for the event should not be sacrificed.

Your consideration is greatly appreciated.

Respectfully,

Todd R. Olson  
General Manager  
Arizona Mills

October 17, 2008

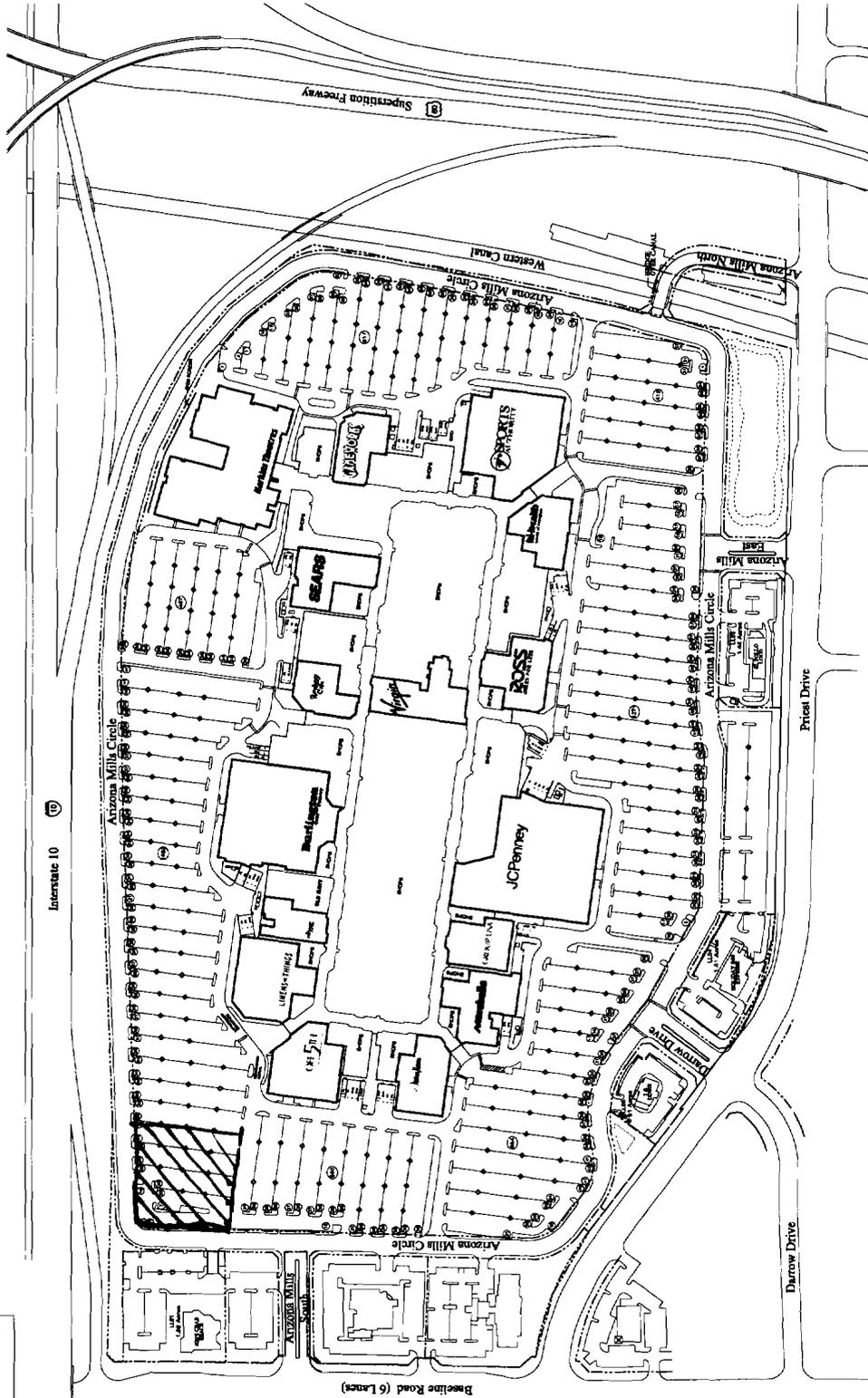
**LETTER OF EXPLANATION (to be attached to Project Submittal Application):**

Arizona Mills is looking for approval for ten (10) automotive tent sales throughout the year. Specifics are as follows:

- Dates – monthly – January through October
- Space – 50,000 SF
- Times – Friday through Sunday
- Space Location – Parking Lot 4 at the southwest corner of mall adjacent to Baseline Road and I-10 intersection



This exhibit is provided for illustrative purposes only and shall not be deemed to be a warranty, representation or agreement by the City of Phoenix, the City of Scottsdale, the City of Tempe, or the City of Chandler on this exhibit, or that any business which may be referenced on this exhibit will in any time be a component of the Center. Landlord reserves the right to modify any configurations and components of the Center in any time.



**PROJECT DATA**

MARSHALLS	31,315
HELMAN MARCUS	34,715
OFF 57th SANS	40,057
BURLINGTON COAT FACTORY	80,426
SEAN'S SPORTS	20,835
SEAN'S SPORTS OUTLET	20,835
GAERWORKS	37,348
SPORTS AUTHORITY	85,013
ROSS DRESS FOR LESS	29,845
ROSS DRESS FOR LESS OUTLET	15,774
GROUP USA	30,822
VRGIN MEGASTORE	92,330
HANNOING THEATERS	92,330
THE AVILION	20,591
PH-HEALTH	25,590
TOTAL DEPARTMENT STORE GLA	680,444
TOTAL SMALL SHOPS GLA	533,017
TOTAL GLA	1,223,461
TOTAL PARKING SPACES: 8764	
SPACING/1000 SF OF GLA: 4.89	



**Arizona Mills**  
 5000 Arizona Mills Circle  
 Tempe, AZ 85282  
 CORP # 5200



Modified: July 31, 2008





**ARIZONA MILLS**

**5000 ARIZONA MILLS CIRCLE**

**PL080395**

**SITE FOR EVENTS – VIEW TO SOUTH**

