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100951-00001

April 24, 2025

Mayor Chip Wilson
Councilmember Bryan Soller
Councilmember Bambi Johnson
Councilmember Darryl Cross
300 E. Superstition Blvd.
Apache Junction, AZ 85119

Vice Mayor Robert Schroeder
Councilmember Tess Nesser
Councilmember Peter Heck

Re: *Appeal of P-24-104-CUP*

Dear Mayor and Councilmembers:

The undersigned represents Wolff Enterprises III, LLC in their request for a Conditional Use Permit (CUP) that was presented before the Apache Junction Planning and Zoning Commission (Commission) on April 8, 2025. During that public hearing, by a vote of 2-5, the Commission did not approve the requested CUP, which was to allow multi-family residential within the B-3 City Center Zoning District.

Pursuant to Section 1-16-12 (D)(7) of the Apache Junction Land Development Code, on behalf of Wolff Enterprises III, LLC as the applicant and Wayne Ness in care of the Berth C Ness Revocable Trust as the landowner, we respectfully file this appeal of the Commission's denial of the CUP to the City Council.

In their denial of the CUP, with their split vote, we believe the Commission erred in their findings for a number of reasons, including but not limited to those enumerated below.

1. The requested CUP has a staff recommendation for approval. We provided strong evidence that all of the 7 findings necessary for a CUP were satisfied. Additionally, your staff would not have made that recommendation for approval if they did not agree that the 7 findings were met.

2. The Commission completely overlooked the findings of our traffic study, which had been prepared according to City Engineering Standards and reviewed and approved by the City Engineer. This report demonstrated that, even with the additional traffic from the proposed development of multi-family residential, all the surrounding roadways and intersections would still perform at an acceptable level of service.
3. The Commission, while expressing independent concerns over the traffic, ignored that of the only three main categories of potential uses allowed on the property's B-3 City Center Zoning District, (retail, office, and residential) that residential is the lowest traffic generating use. The only other proposed uses offered by the Commission was more retail, which would compete with the City's Downtown property and produce more traffic; and single family homes, which is not permissible in this zoning district.
4. Most importantly, the Planning Commission made a specific finding that the project was consistent with the City's voter-approved General Plan and then went on to ignore that plan and the City's recently approved Concentrated Downtown Master Plan, which outright encourages this property to be developed with residential.
5. The Planning Commission completely ignored the salutary and symbiotic relationship between the vision for the Apache Junction's planned downtown and the multi-family residential proposed via the CUP on the subject property.

We feel the City Council must decide this important decision. Accordingly, we have filed this appeal.

Very truly,

GILBERT BLILIE PLLC



Paul E. Gilbert

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PEG: arj

Cc: Bryant Powell, City Manager
Richard Joel Stern, City Attorney
Rudy Esquivias, Development Services Director
Sidney Urias, Development Services Deputy Director