



City of Apache Junction

Development Services Department



PLANNING AND ZONING COMMISSION PUBLIC HEARING STAFF REPORT

DATE: January 14, 2025

TO: Planning and Zoning Commission

THROUGH: Rudy Esquivias, Development Services
Director
Sidney Urias, Planning Manager

FROM: Nicholas Leftwich, Planner

CASE NUMBER: P-24-1-AM

REQUEST: Text Amendment to Article 1-5: Zoning Bulk and Use Regulations regarding Conditional Use Permit Uses

BACKGROUND

On December 5, 2023, the City Council held a discussion regarding the Apache Junction Zoning Ordinance ("AJZO") regulations regarding Conditional Use Permits ("CUPs") in order to determine if the regulations and procedures for the approval of conditional use permits needed to be modified. Currently, per the Apache Junction Zoning Ordinance, Article 1-16: Administration, § 1-16-12 Conditional Use Permits, Administrative Use Permits and Building Permits, (D) Conditional Use Permits, the approval of land uses identified as requiring a CUP in AJZO, § 1-5-1 Residential Use Regulations and § 1-5-3 Non-Residential Use Regulations are subject to the sole review and approval of the Planning and Zoning Commission, unless a specific appeal to the City Council by an the applicant or an aggrieved party is filed.

The primary noted concern of the City Council discussion was that certain land use decisions are determined by the Planning and Zoning Commission, such as CUPs. CUPs can be permanent, impactful, and politically weighty and some of these decisions should be made by elected officials of the City Council in order to more properly distribute both the responsibility and accountability in making long term and lasting land use decisions.

One significant example of such land use decisions that was noted was the consideration for approval of multi-family residential uses on commercially-zoned properties through conditional use permits. Some of these CUPs effectively change the property away from functioning as a commercial property and are more akin to the land use change a rezoning is meant for, rather than the regulation of "location, design, operation and configuration," which is the AJZO defines as the purpose of CUPs in the interest of public welfare.

The City Council issued a direction to staff to look into the ordinance language and return at a future meeting with potential text amendment options that address the Council's concerns regarding the authority on land use decisions given to the Planning and Zoning Commission. Planning Staff reviewed the matter and returned to the Council on January 16, 2024 to provide the options detailing possible mechanisms to address the concerns, and to seek further direction to staff to initiate a Zoning Ordinance text amendment.

The two options presented were as follows:

-*Option 1:* A proposed amendment of Article 1-5: Zoning Bulk and Use Regulations land use tables that determine which uses are permitted by right in each zoning district and which uses require Conditional Use Permit (CUP) approval. This option would modify the existing land use tables to change what kinds of uses are approved by the Planning and Zoning Commission and which high-impact, community-sensitive land use changes should be subject to City Council approval.

-*Option 2:* A proposed amendment of the Article 1-16: Administration, § 1-16-12 Conditional Use Permits, Administrative Use Permits and Building Permits, (D) Conditional Use Permits regulations, which would change the basic definition of all CUPs to require City Council review and approval.

Staff respectfully recommended Option 1 from the position that this option would be able to fine-tune the land use tables to specifically designate City Council as the decision maker for high-impact and community sensitive land uses, while also maintaining the standard procedure of CUPs for items like minor landscaping, sign code deviations, or land uses that are generally compatible with the land uses permitted by right in a zoning district but which still require Planning and Zoning Commission oversight. The City Council then directed Staff to draft a text amendment aligned with Option 1.

EVALUATION

Following the direction to staff issued, Staff researched the city zoning ordinance and the zoning ordinance of other neighboring towns and cities to determine the best practices for land uses decision making authority and conditional use permits.

In evaluating which land use decisions would be best made by the City Council and which land uses should be conditionally approved by the Planning and Zoning Commission, the following criteria have been used:

1. Is the land use "conditional?"

"Conditional" meaning there is some aspect of its operation that requires management & coordination of design, and that the use approval can be revoked for failing to meet the operational standards established by the ordinance.

Examples of Conditional Uses: Marijuana sales in retail spaces, outdoor music, heavy manufacturing, outdoor activity

Examples of non-conditional uses: Residential development in commercial zones, parking garages, cemeteries

2. Is the land use of such high/significant impact that the decision is best made by elected leadership?

"High Impact" meaning that the land use generates exceptional levels of activity or disturbance (such as noise & traffic) or permanently affects the nature of the property.

Examples: Amusement parks, zoos, golf courses, cemeteries, airports, Multi-Family residential conversion of commercial

"Significant Impact" is meant to cover land uses that have notable community sensitivity resulting in political weight and significance.

Examples: Jails, rehab facilities, homeless shelters, gambling facilities, airports

3. Is the land use better served with a rezoning or planned development?

Examples: Mixed Use Development, Multi-family residential development, Shopping Malls

PROPOSAL

Planning Staff have prepared the proposed text amendment, attached as Exhibit #1, Draft Amendment to Apache Junction City Code, Volume II, Land Development Code, Chapter 1: Zoning Ordinance, Article 1-5: Zoning Bulk and Use Regulations, and present it to the Planning and Zoning Commission for their recommendation to the City Council.

The land use tables of Article 1-5: Zoning Bulk and Use Regulations have been modified through the evaluation of which land use decisions need the involvement and authority of the City Council, which land use decisions are fine to be made solely by the Planning and Zoning Commission, and which land use decisions would be better made as a formal rezoning or planned development proposal. Land use decisions determined to be best suited to City Council review and approval have been marked with a Footnote 9 in §1-5-3 Non-Residential Use Regulations, which reads: "9. Noted land uses shall be subject to City Council review and approval through a public hearing, following a recommendation by the Planning and Zoning Commission." No such designation is required within §1-5-1 Residential Use Regulations.


The symbology of the table has also been modified to facilitate ease in reading, and some minor corrections have been made as noted. To assist in determining what has changed, Exhibit #2 identifies text-striking in red and changes in highlighted yellow.

PLANNING DIVISION RECOMMENDATION

Planning staff recommends approval of the proposed text amendment and offers the following recommended motion to update the Apache Junction City Code, Volume II, Land Development Code, Chapter 1: Zoning Ordinance, Article 1-5: Zoning Bulk and Use Regulations.

RECOMMENDED MOTION

I move that the Planning and Zoning Commission recommend to the Apache Junction City Council the approval of text amendment case P-24-1-AM, an amendment to the Apache Junction City Code, Volume II, Land Development Code, Chapter 1: Zoning Ordinance, Article 1-5: Zoning Bulk and Use Regulations.



Prepared by Nicholas Leftwich
Planner

Attachments:

Exhibit #1 - P-24-1-AM Draft Amendment to Apache Junction City Code, Volume II, Land Development Code, Chapter 1: Zoning Ordinance, Article 1-5: Zoning Bulk and Use Regulations
Exhibit #2 - P-24-1-AM Draft Amendment Redlines