



## *City of Apache Junction*

### *Development Services Department*



Date: June 8, 2016

To: Honorable Mayor and City Council Members

Through: Bryant Powell, City Manager  
Larry Kirch, Development Services Director

From:  Rudy Esquivias, Senior Planner/Zoning Admin.

Subject: June 21, 2016, City Council Public Hearing Item:  
PZ-6-16 (Ordinance No. 1431) Superstition Commons LLC/  
Charles Duck, Planned Development Major Amendment  
**(Continued from City Council meeting of May 17, 2016)**

#### Proposal

The new owners of Superstition Commons Townhomes Subdivision (formerly "The Haystacks") at 854 S. San Marcos Drive, represented by Charles Duck, are requesting a planned development major amendment to be allowed to construct the remaining five buildings (buildings 10 through 14) in the subdivision as 25-foot-high two-story buildings, instead of the 19-foot-high one-story basement buildings that are required now under their existing RM-1/PD zoning, approved by Ordinance No. 1196. The owners contend that the lack of comparable appraisals has made it very difficult to properly value and price their townhome units, which are constructed as four-plex single-story buildings, but with basements (one story underground, one story above).

#### Planning and Zoning Commission Hearings

The Commission heard this case on April 26, 2016. There were many neighbors of the property who attended the meeting and several spoke in opposition to the request, raising issues and concerns about the proposal. The Commissioners voted to continue the public hearing to their meeting on May 10, so that staff and the developer could come back and respond to some of the concerns which were raised. At their meeting on May 10, 2016, the Commission, by a vote of 3 to 2, voted to recommend denial of the case to the City Council. Please see the staff report which was presented to P&Z on April 26, as well as the follow-up report which was presented to them on May 10. Attached draft Ordinance No. 1431 reflects staff's updated

recommended conditions of approval which were presented to the P&Z Commission on May 10.

City Council Work Session and Public Hearing

Under Development Services' new more expedited case processing schedule (for simpler cases), this case was originally proposed to be presented to Council at a single public hearing, instead of a work session for discussion purposes and then two weeks later for public hearing and decision. However, because of the concerns which emerged from the neighborhood, staff determined that a work session with Council was in order. Council discussed the case on Monday, May 16 and held a public hearing on the case on Tuesday, May 17. Upon a written request from the developer and applicant, Chris Stratton, the Council voted to continue the PD amendment case to their meeting on June 21, 2016.

Attachments:

- Draft Ordinance No. 1431
- Continuance request letter presented at 5-17-16 CC meeting
- Updated building renderings presented at 5-17-16 CC meeting
- Response letter from developer presented at 5-16-16 CC work session
- PZ staff report update from May 10, 2016, hearing, with supplemental attachments
- PZ staff report from April 26, 2016 public hearing with all original attachments

ORDINANCE NO. 1431

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF APACHE JUNCTION, ARIZONA, APPROVING A PLANNED DEVELOPMENT MAJOR AMENDMENT, CASE PZ-6-16, FOR A +/-5 GROSS ACRES, RM-1/PD (HIGH DENSITY MULTI-FAMILY RESIDENTIAL BY PLANNED DEVELOPMENT)-ZONED TOWNHOMES SUBDIVISION KNOWN AS "SUPERSTITION COMMONS" (FORMERLY "THE HAYSTACKS"), APPROVED BY ORDINANCE NO. 1196 AND LOCATED AT 854 S. SAN MARCOS DRIVE, BY AMENDING THE DEVELOPMENT PLAN TO ALLOW AN INCREASE IN BUILDING HEIGHT FROM 19 FEET TO 25 FEET, FOR THE REMAINING FIVE BUILDINGS; REPEALING ANY CONFLICTING PROVISIONS; AND PROVIDING FOR SEVERABILITY.

WHEREAS, on April 6, 2004, Ordinance No. 1196 was passed and adopted by the mayor and city council, approving a rezoning and a planned development plan for the proposed Haystacks Subdivision; and

WHEREAS, on December 6, 2005, Resolution No. 05-26 was passed and adopted by the mayor and city council, approving the final plat for the Haystacks Subdivision; and

WHEREAS, the subject property is a platted subdivision with a private driveway and common area amenities, consisting of 56 townhome units constructed in a series of fourteen four-plex structures, of which buildings 10 through 14 (units 37 through 56) have yet to be constructed; and

WHEREAS, on June 5, 2014, the city's new zoning ordinance and zoning district maps became effective, renaming the zoning district of the property from "CR-4/PD" (Multi-family Residence Zone by Planned Development) to "RM-1/PD" (High Density Multi-family Residential by Planned Development), but otherwise still leaving all of the planned development conditions prescribed by Ordinance No. 1196 in full force and effect; and

WHEREAS, over the years the subject property has changed ownership several times, with Superstition Commons LLC, represented by Charles Duck, being the current ownership entity, who also changed the name of the development from "The Haystacks" to "Superstition Commons"; and

WHEREAS, the new owners of the remaining lots of the Superstition Commons property have requested, through case PZ-6-16, a planned development major amendment, to construct the remaining buildings as two-story 25-foot-high buildings instead of the 19-foot-high basement unit buildings in order to mitigate the difficulty of getting comparable appraisals and construction values, along with all previously approved features and amenity areas; and

WHEREAS, on May 10, 2016, the City of Apache Junction Planning and Zoning Commission voted 3 to 2 to recommend denial of the planned development major amendment in case PZ-6-16, to amend Ordinance No. 1196; and

WHEREAS, the city council hereby determines that the proposed planned development major amendment conforms to the general regulations as specified in Apache Junction City Code, Volume II, Land Development Code, Chapter 1: Zoning Ordinance, Article 1-5: Zoning and Bulk Use Regulations, Sections 1-5-1, Table 5-1 Residential Use Regulations and 1-5-2, Table 5-2: Residential Bulk Regulations (except as otherwise conditioned herein), Section 1-4-3 Planned Development (PD) Overlay District and applicable provisions of Ordinance No. 1196.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF CITY OF APACHE JUNCTION, ARIZONA, AS FOLLOWS:

#### SECTION I IN GENERAL

That a planned development major amendment, adding conditions of approval to Ordinance No. 1196 as listed herein, to allow buildings 10 through 14 (units 37 through 56) at Superstition Commons (formerly "The Haystacks"), to be constructed at a height of 25 feet, for the parcels of land legally described as:

Buildings 10 through 14 (units 37 through 56), of The Haystacks, a residential subdivision recorded in Cabinet F, Slide 158, Pinal County Recorder's Office, and generally located in the East half of the Northeast quarter of the Northwest quarter of Section 29, Township 1 North, Range 8 East of the Gila and Salt River Base and Meridian, Pinal County, Arizona;

be and hereby is approved, subject to the following conditions of approval:

- 1) Superstition Commons (formerly "The Haystacks") shall be operated pursuant to Apache Junction City Code, Volume II, Land Development Code, Chapter 1: Zoning Ordinance, Article 1-5: Zoning and Bulk Use Regulations, Sections 1-5-1, Table 5-1 Residential Use Regulations and 1-5-2, Table 5-2 Residential Bulk Regulations (except as otherwise conditioned herein), Section 1-4-3 Planned Development (PD) Overlay District and applicable provisions of Ordinance No. 1196.
- 2) Buildings 10 through 14 (units 37 through 56) shall be constructed in substantial compliance with the conceptual elevation drawings dated May 4, 2016, contained in case file PZ-6-16, and shall be no taller than 25 feet.
- 3) The developer shall construct an eight-foot-high masonry wall, particularly on the west and south boundaries of the subdivision property.
- 4) The landscape plans of the property shall be revised to show alternating 24"-box and 36"-box trees, planted 20-feet apart from east to west, inside the property line along the south boundary of the property.
- 5) The property owners and/or the homeowners association of the Superstition Commons development shall regularly maintain the drainage channel through the property to keep it free of silt, weeds and debris, as well as maintain all other common areas, amenities and landscaping.
- 6) All outdoor lighting at Superstition Commons, including parking lot lights, shall be in compliance with the Apache Junction City Code, Volume II, Land Development Code, Chapter 1: Zoning Ordinance, Article 1-10: Outdoor Lighting Regulations.

SECTION II REPEALING ANY CONFLICTING PROVISIONS:

All ordinances and parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION III PROVIDING FOR SEVERABILITY:

If any section, sub-section, sentence, phrase, clause or portion of this ordinance, or any part of the code adopted herein by reference, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

PASSED AND ADOPTED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF APACHE JUNCTION, ARIZONA, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2016.

SIGNED AND ATTESTED TO THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2016.

\_\_\_\_\_  
JOHN S. INSALACO  
Mayor

ATTEST:

\_\_\_\_\_  
KATHLEEN CONNELLY  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
RICHARD JOEL STERN  
City Attorney



Dear Members of City Council,

I would like to thank you all for your efforts and time in preparing and hearing our request for an adjustment to current p&z to allow 2 story buildings in Superstition Commons. During the course of this process I was involved in a very serious accident and have been unable to attend and/or participate in the various hearings and meetings that have occurred.

I have allowed Charles Duck to act and speak on my behalf over the course of the process and I believe he has done an excellent job responding to and complying with all items the City of AJ has requested of him.

I have been under the impression from my doctors that I would be able to return to Arizona and personally address the City Council when the final decision is to be made. Unfortunately, I have been informed that I am not to travel until the beginning of June. For this reason I am requesting a continuance to the rezoning process so that I can personally stand and speak before the City Council. I have watched the various hearings and sessions on line and feel that my voice is needed to provide clarity to those in opposition and reassurances to all that the requested changes will result in another finished community that all neighbors and the City of AJ are proud of.

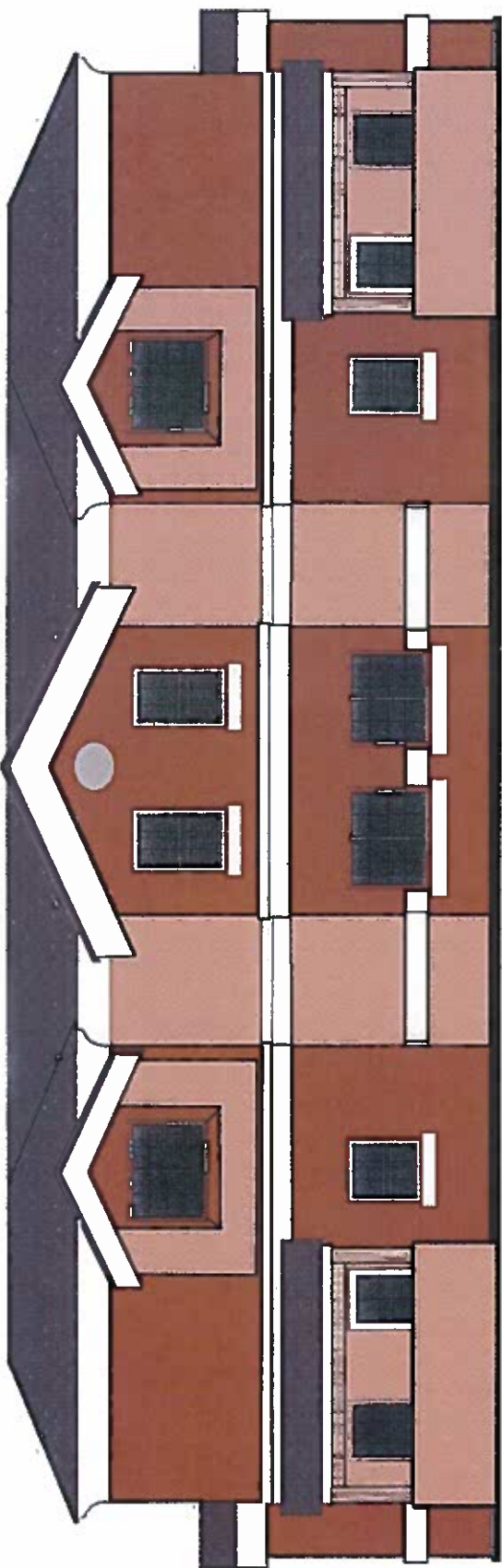
Thank you for your consideration and I hope to be allowed to personally address The City Council soon.

In the mean time I would like to invite the members of the City Council to visit the project to personally see what we are accomplishing and trying to complete. Please let me know you are available to meet for a tour of the Superstition Commons community.

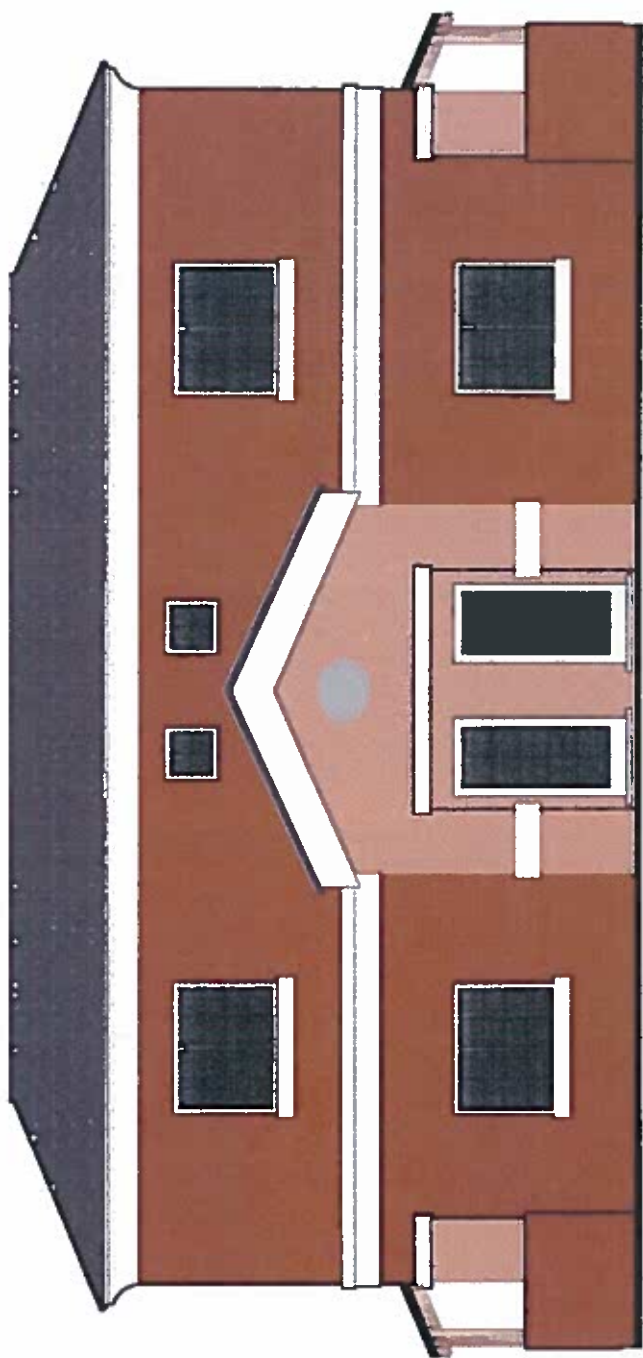
Regards,

Chris Stratton  
President  
Avalanche Investments, LLC  
Superstition Commons, LLC

SUPERSTITION COMMONS  
UPDATED RENDERINGS 5-17-16



FRONT AND REAR ELEVATION



SIDE ELEVATION





5/9/16

Dear City of AJ,

Over the course of this rezoning process there have been a number of points contested, which as the developer, I feel are not warranted as valid. In an attempt to satisfy the Planning & Zoning Commission and the City Council by providing perspective to the contesting parties I am providing this response.

There is contention surrounding the 2 story element desired to be constructed. It is our belief that we are within our legal right to request and be rewarded the approval of a 2 story home. As we have proven there is no additional obstruction of view that will be caused by the additional 6 feet in height we are requesting. From the perspective of City Ordinances we are legally allowed to request an additional 16 feet in height. But in an attempt to create a more blended structure with the surrounding homes we self imposed a 25 foot restriction to match the current Single Family Residences that surround our project. Additionally, the issue of privacy has been raised by the owner of a 2 story home. The hypocrisy raised by their contention towards privacy that they themselves violate towards their neighbors in all directions cannot go without mention. If their point is to be considered then we must be allowed 2 story approval as not to discriminate against Superstition Commons and the privacy of our home owners that are being violated by the contending party. We are following all city guidelines and recommendations and in certain cases making additional improvements to the requirements to be the best neighbor possible.

Thru the HOA we have enacted strict rules and guidelines. The HOA has on behalf of the community made a number of calls to the police to maintain the highest of standards within our control. If the council were to review the police call record made part of the public record in an attempt to demean the residents within the community I would point out the majority of the police calls have been made by the HOA on behalf of its residents. As the Police department can attest no-one has preventative control over a residents behavior, only reactionary. Some of the letters I have reviewed as part of the public record show an elitist mentality and a lack of understanding to the housing needs of a community. Apartments, condominiums, and town homes give young people, snowbirds, and less fortunate residents quality housing and provide the blended mix required for a community to thrive. Additionally, federal laws guarantee equal housing opportunity for all and any realtor can attest to the anti discrimination training they must take before their real estate license can be activated.

The economic shortcomings that are purported by the contending parties towards our residents are factually inaccurate and display an alarming propensity to ignorance. Superstition Commons currently has a wide economic footprint. From individuals that have paid cash for their homes to first time home buyers to recently



divorced single mothers and veterans that find our community a welcome haven from the dangers and security issues that exist within any city. We are proud of the positive additions our residence have made to the City of Apache Junction.

Thru out the history of this community 6 other owners have not been able to find a financial path to completion. After extensive negotiations and many attempts to complete the project as we inherited it we have been left with no additional current path to completion without the approval of the city council for our requested 2 story buildings. At this point and after a substantial loss to the developer we are making an appeal for the residents that have put their faith in us and have purchased homes. I know they would like to see a finished community with the amenities that have been approved for the community. We have put our best foot forward and have worked diligently with many employees from the City of Apache Junction to provide the best solution that will allow the community to be finished. We appreciate their time and efforts and most importantly their recommendation that we be allowed to build our proposed 2 story structure. I thank the council for their time and hope that in the near future we are finishing Superstition Commons to add another completed community to the City of Apache Junction. Thank you for your consideration and anticipated approval.

Chris Stratton  
Superstition Commons, LLC