

ORDINANCE NO. 1428

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF APACHE JUNCTION, ARIZONA, APPROVING A PLANNED DEVELOPMENT MAJOR AMENDMENT, CASE PZ-2-16, FOR A 128.9-ACRE HEAVY INDUSTRIAL BY PLANNED DEVELOPMENT WITH A SPECIAL USE PERMIT FOR A MUNICIPAL SOLID WASTE LANDFILL ("B-5/PD")-ZONED PROPERTY, ORIGINALLY APPROVED BY ORDINANCE NO. 1034 AND LOCATED AT 4050 S. TOMAHAWK ROAD, BY ESTABLISHING A CLOSURE DATE FOR LANDFILL OPERATIONS, ESTABLISHING CERTAIN DEVELOPMENT STANDARDS AND INFRASTRUCTURE OBLIGATIONS RELATED TO THE DESIGN AND FINANCING OF THE CLOSURE AND RELATED POST-CLOSURE USE AND ACTIVITIES AND AMENDING OTHER PROVISIONS OF ORDINANCE NO. 1034 AS APPROPRIATE; REPEALING ANY CONFLICTING PROVISIONS; AND PROVIDING FOR SEVERABILITY.

WHEREAS, on May 19, 1998, the mayor and city council of the City of Apache Junction ("city"), passed Ordinance No. 1034, which rezoned the 128.9-acre landfill property, including the original 40-acre landfill site and an additional expansion of 88.9 acres around the original 40 acres, from General Rural ("GR") to Heavy Industrial by Planned Development with a Special Use Permit for a Municipal Solid Waste Landfill ("CI-2/PD"), with conditions; and

WHEREAS, in accordance with Ordinance No. 1034, Section II, condition "E", Apache Junction Landfill Corporation ("AJLC"), the current owner, has completed installation of a 12-inch water utility line and related water infrastructure, running along Baseline Avenue, then south on Tomahawk to the landfill; and said water line is in the process of going through the proper approval processes; and

WHEREAS, on May 6, 2014, pursuant to Ordinance No. 1402, the City adopted a new zoning ordinance and zoning district maps, effectively renaming the zoning district of the property from "CI-2/PD" to "B-5/PD", but otherwise leaving Ordinance No. 1034 in full force and effect; and

WHEREAS, discussions between AJLC and city representatives (the "parties") have commenced to identify when the closure of the

landfill will take place, how high the landfill will be at closure for community planning and aesthetic purposes, future budgetary projections, and other necessary steps related to completion of both legal and physical improvements for S. Tomahawk Road, among other things; and

WHEREAS, the parties have come to consensus on closure and related items and feel that a planned development major amendment is necessary to both update the original conditions of approval and better define the future of the landfill, and AJLC and city obligations related thereto; and

WHEREAS, on March 22, 2016, the Apache Junction Planning and Zoning Commission voted 4-2 to recommend approval of planned development major amendment case PZ-2-16, subject to conditions.

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

SECTION I. IN GENERAL

That a planned development major amendment, restating and amending the conditions of Ordinance No. 1034, for the property legally described as:

Pinal County Assessor parcel number 104-07-002; 128.9 acres generally located in portions of the Southeast quarter of Section 4, the Southwest quarter of Section 3, the Northeast quarter of Section 9 and the Northwest quarter of Section 10, all in Township 1 South, Range 8 East of the Gila and Salt River Base and Meridian, Pinal County, Arizona (a complete metes and bounds legal description of the landfill property is available for viewing at the City of Apache Junction, Development Services Department);

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

- 1) At all times the property owner/applicant or operator shall be in full compliance with the terms and conditions of the vesting deed from Allied Waste Industries, Inc., to Apache Junction Landfill

Corporation ("property owner/applicant"), recorded in the Office of the Pinal County Recorder on October 3, 1996, in Docket No. 1996-033326. At all times property owner/applicant shall be in full compliance with the terms and conditions of the State of Arizona Land Patent No. 53-100817-01.

- 2) At no time during the use of this land as a municipal solid waste landfill shall any area used for solid waste storage exceed one thousand seven hundred twenty feet (1720') above mean sea level. However, upon closure of the municipal solid waste landfill, the maximum height of any area used for solid waste storage shall not exceed one thousand seven hundred twenty-three feet (1723') above mean sea level.
- 3) Property owner/applicant shall provide to the city copies of any notices of deficiency or problems, or other correspondence from any county, state or federal agency relating in any way to the operation of the solid waste landfill. Such documentation must be received by the city within ten (10) calendar days from the date property owner/applicant receives such notices, correspondence or other compliance orders/consent decrees.
- 4) The landfill shall cease accepting solid waste on or before December 31, 2035, with closure being pursuant to Arizona solid waste management laws under A.R.S. § 49-701, *et seq.*
- 5) Property owner/applicant shall maintain the property in accordance with state and federal regulations after all municipal solid waste landfill operations have terminated.
- 6) The special use permit issued herein does not include the use of the parcel for the operation of either a waste tire collection site or a transfer station nor does it authorize any other use allowed in the B-5 zoning district, except for storage of solid waste hauling vehicles, equipment, and machinery, as well as the repairing thereof in a fully-enclosed structure as approved by city.

- 7) Property owner/applicant shall submit to city within twelve (12) months of council approval of this amendment to the plan of development, confirmation in manner acceptable to the city confirming the location, construction and ADEQ or ADWR approval of a twelve inch (12") water utility line extension, and other related water utilities.
- 8) Prior to closure as set forth above, property owner/applicant shall submit to the city the location and construction schedule for all necessary roadways and roadway realignments/improvements on Tomahawk Road between Baseline Road and the subject property, said improvements to include full title to right-of-way width as determined at such time by the city engineer, plus lanes of asphalt in both directions, with full curb, gutter and sidewalk within said right-of-way, all of which engineered standards shall also be determined by the city engineer.
- 9) Prior to closure as set forth above, property owner/applicant shall submit to the city a current site plan and final topographical survey, said site plan clearly delineating any structures, monitoring wells, methane collection systems, retaining structures, ancillary facilities, work shops, offices, gatehouses, weigh scales, and other accessory structures related to municipal solid waste landfill operations, and the storing and repairing of solid waste hauling vehicles, equipment and machinery; and clearly delineating the drainage control structures for onsite retention, and other onsite improvements which city deems necessary.
- 10) The landfill shall operate in general conformance to the site plan presented to city by property owner/applicant in January of 2016, and in accordance with normal procedures for the development, construction, filling, maintenance and monitoring of cells.
- 11) AJLC will create a natural barrier between the landfill and all neighborhoods, such barrier to be in the form of trees or natural landscaping to be agreed

upon between the city and the landfill.

- 12) At the entrance drive to the landfill (intersection of S. Tomahawk Road and E. Baseline Avenue), on each side of the entry drive, AJLC shall install six (6) 36" box trees, twenty-four (24) 5-gallon shrubs, ½"-minus decomposed granite groundcover and entry monumentation no taller than six feet high. The entry drive landscaping and monument improvements shall be contained within AJLC's easement drive area, be designed by a landscape architect, use xeriscape plant materials, include irrigation and shall be subject to city's Development Services Department's review, input and approval, which approval may not be unreasonably withheld by city. AJLC shall complete this landscaping no later than one year from the effective date of this amendment, and all continuing expenses, water and maintenance costs associated therewith shall be paid by AJLC until the closure date, as defined herein. At the closure date, the city shall assume all continuing expenses, water and maintenance costs associated therewith.
- 13) No later than sixty (60) days after the effective date, AJLC shall submit a groundwater monitoring plan to ADEQ. Within ninety (90) days of approval by ADEQ of the groundwater monitoring plan, and in no event, in no more than one (1) year from the effective date, AJLC shall implement a groundwater monitoring plan. AJLC shall bear all costs associated with the creation, processing, implementation and management of a groundwater monitoring plan.
- 14) AJLC shall submit a report to city annually, on the anniversary of the effective date, regarding the status and findings of the groundwater monitoring plan. AJLC may submit to city a copy of its most recent report to ADEQ to comply with this obligation. AJLC shall continue to submit its annual report for a period of thirty (30) years after the closure date, as defined herein, unless ADEQ determines at an earlier time that groundwater monitoring is no longer required, in which case AJLC's obligations under this section are terminated.

SECTION II. REPEALING ANY CONFLICTING PROVISIONS

All ordinances and parts of ordinances in conflict with the provisions of this ordinance or any part of the code adopted herein by reference are hereby repealed.

SECTION III. PROVIDING FOR SEVERABILITY

If any section, subsection, 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 6th DAY OF December, 2016.

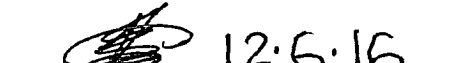
SIGNED AND ATTESTED TO THIS 6th DAY OF December, 2016.

  
JOHN S. INSALACO  
Mayor

ATTEST:

  
KATHLEEN CONNELLY  
City Clerk

APPROVED AS TO FORM:

 12.6.16  
RICHARD JOEL STERN  
City Attorney