



City of Apache Junction
Development Services Department



**PLANNING AND ZONING COMMISSION
PUBLIC HEARING STAFF REPORT**

DATE: January 3, 2018

CASE NUMBER: PZ-4-17

OWNERS: David Dixon.

REQUEST: Rezoning request from RS-GR (General Rural Low Density Single-Family Residential) to RS-GR/PD (General Rural Low Density Single-Family Residential by Planned Development) for the purpose of changing the main structure side setback.

LOCATION: The property is located north of the northeast corner of S. Vista Road and E. 7th Avenue; a 1.62 acre parcel located at 611 S. Vista Road, Pinal County Assessor parcel number 103-04-058.

**GENERAL PLAN/
ZONING DESIGNATION:** Low Density Residential (1.25 acre minimum lots); presently zoned RS-GR.

SURROUNDING USES: North: Residential (zoned RS-GR);
South: Residential (zoned RS-GR);
East: Residential (zoned RS-GR);
West: Residential (zoned RS-GR)

BACKGROUND

The subject property located at 611 S. Vista Road (north of the northeast corner of S. Vista Road and E. 7th Avenue), is zoned General Rural Low Density Single-Family Residential (RS-GR). It was first developed with a manufactured home in 1964 before city incorporation, and under Pinal County jurisdiction. Part of the manufactured home was located within the north 33-foot Federally Patented Easement (FPE) on the property (6th Avenue alignment). When the City of Apache Junction was incorporated and the first

zoning ordinance was passed, structures that existed prior were considered legal nonconforming and not required to be removed.

In 2015 an electrical permit was applied for to upgrade the electric panel and conduit (permit #ELE2015-00047). The building inspector found that a conventional home was under construction and being built around the existing manufactured home on the subject property. A building permit for new home construction was never applied for, and a code case was created for the violation in April of 2015 (code case COD2015-01427).

In June of 2015, a building permit for a main structure was applied for (BLD2015-00209). The plans reviewer noted that the proposed structure was within the 33-foot FPE for utility purposes and did not meet the required 20-foot setback. The setback is normally measured from the inside edge of the easement. The site plan was denied and the building inspector requested revised construction plans. The owner was advised by planning staff to relinquish the 33-foot FPE for utilities along the north side of the property to mitigate some of the setback issue. At some point the manufactured home was removed from within the new structure and the conventionally constructed main dwelling was enclosed, once again without permit approvals.

The roadway easement portion of the FPE for the 6th Avenue alignment was abandoned by the City of Apache Junction in January of 2009 (Resolution No. 08-38). This relinquished the city's right to place a road through that stretch of land but the 33-foot FPE for utility purposes was still active. It is at the private property owner's discretion to abandon a utility easement with the private utility companies. The city does not permit construction over a utility easement. Mr. Dixon, the property owner, completed the relinquishments with all utility companies in 2017. The 33-foot FPE no longer exists along the north property side of the subject site. The only utility that requested to keep a partial easement of 8-feet inside the north property line is CenturyLink (see Site Plan). The current home still needs to meet an interior side setback of 20-feet from the north property line. The current distance from the property line to closest edge of the house wall is 10-feet.

Mr. Dixon applied for a variance (BA-2-17) to deviate from the main structure side setback. The Board of Adjustments and Appeals held a public hearing regarding the case on September 11, 2017. The variance request was denied (see attached Order Case No. BA-2-17) based on findings of fact: there were no

special circumstances or conditions applicable to the property that merit an appeal to city's codes, a building permit was not applied for prior to construction, and placement of new structures was self-imposed. With the variance denied, the owners options are to:

1. Appeal the decision within 30 days to the Superior Court.
2. Reconstruct the house to meet a 20-foot setback, apply for building permits.
3. Rezone the property to allow a change in the setback.

PROPOSAL

This is a request to rezone a 1.62 acre property located at 611 S. Vista Road from RS-GR (General Rural Low Density Single-Family Residential), to RS-GR/PD (General Rural Low Density Single-Family Residential by Planned Development) to change the main structure side setback requirements from 20-feet to 10-feet. The setback change request is for a main structure that was previously built on the property without permits, and is currently 10-feet from the north property line (side property line).

PLANNING STAFF ANALYSIS AND FINDINGS

Relationship to General Plan:

The General Plan designates the subject site Low Density Residential (1.25 acre minimum lots). The adjacent properties are all zoned low density single-family residential. This proposal is in compliance with the General Plan.

Planned Development Zoning:

The request by the applicant is to change the main structure side setback from 20-feet to 10-feet in order for the existing house constructed without permits to meet setback requirements. The property could be rezoned to a smaller lot zoning designation that has standard 10-foot side setbacks, but the rezoning would be considered spot zoning as the surrounding properties are all zoned RS-GR. The planned development overlay allows the property to keep the RS-GR zoning, which will better suit the large lot property, and still allow a change to the side setback requirement.

Infrastructure Improvements:

Planning staff is requesting right-of-way be dedicated to the City of Apache Junction along Vista Road and 7th Avenue that

abuts the property. The property is located in the rural "Y-area" of the city, since development of a single-family residence does not have development standards the city does not wish to condition further development improvements.

Zoning/Site Context:

The requested RS-GR/PD zoning is compatible with the surrounding properties that are all zoned RS-GR and are large lot single-family properties. The only change to the property through this rezoning request will be the main residence side setback from 20-feet to 10-feet for an existing house. All other standard RS-GR zoning setbacks for main and accessory structures will remain the same. The property owner went through each of the six utility company's processes to relinquish the 33-foot FPE along the north property line. This has helped bring the property and structure further into compliance but the main home is currently encroaching into the side setback.

Public Input:

At this time staff has received input from one neighbor inquiring about the request. Staff has not received any input against the rezoning.

PLANNING DIVISION RECOMMENDATION

Planning Staff recommends approval of the proposed rezoning request as submitted. The issue of a main residence being constructed without a permit must be resolved, rezoning the property to change the side setback was one option city staff and the property owner discussed. Rezoning the property with a planned development overlay will allow the property owner to proceed with a building permit to complete construction on the existing main residence and bring the property into compliance. If the rezoning is denied, the property owner will need to reconstruct the main residence to meet the standard 20-foot side setback for an RS-GR lot.

RECOMMENDED MOTION

I move that the Planning and Zoning Commission recommend to the City Council the (APPROVAL/DENIAL) of rezoning case PZ-4-17, a request by David Dixon for a rezoning of the property at 611 S. Vista Road, from RS-GR (General Rural Low Density Single-Family Residential) to RS-GR/PD (General Rural Low Density Single-Family Residential by Planned Development) subject to the following conditions:

- 1) The property owner shall dedicate necessary right-of-way to the City of Apache Junction along Vista Road and 7th Avenue.
- 2) The main structure side setback shall be 10-feet, including any future additions or expansions.
- 3) Should a future accessory dwelling unit (guest house) be constructed on the property, the standard main structure side setback in an RS-GR zoning district must be met.
- 4) All applicable permits for conventional construction shall be applied for within 90 days from the effective date of approval of this ordinance, and plans shall be designed to current city codes prior to any further construction of the existing main residence.



Prepared by Stephanie Bubenheim
Assistant Planner

Attachments:

- Exhibit #1 - PZ-4-17 Rezoning Application
- Exhibit #2 - PZ-4-17 Zoning Map
- Exhibit #3 - PZ-4-17 Aerial Map
- Exhibit #4 - 12/2004 Map of 611 S. Vista Road
- Exhibit #5 - 2/2017 Map of 611 S. Vista Road
- Exhibit #6 - Site Plan
- Exhibit #7 - Order Case No. BA-2-17
- Exhibit #8 - Table 5-2: Residential Bulk Regulations



City of Apache Junction

Development Services Department
Conditional Use Permit Application



Exhibit A: Rezoning Application

SITE INFORMATION

SITE ADDRESS/LOCATION 611 S. VISTA RD. ASSESSORS PARCEL NO 103-04-058

GROSS AREA: 1.62 AC. NET AREA 1.62 AC. EXISTING ZONING _____

LEGAL DESCRIPTION OF PROPERTY: (found on County Tax Bill Notices or Warranty Deed) _____

SE NW SE SW & N 1/2 NW SE SW SW OF SEC. 22-1N-8E 1.62 AC

BRIEF DESCRIPTION OF THE PROPOSED PROJECT/USE FOR CONDITIONAL USE PERMIT REQUEST:

I AM REQUESTING THIS REZONING IN ORDER TO USE 10 FEET OF
MY NORTH PROPERTY EASEMENT. SET BACK.

APPLICANT INFORMATION

Property Owner(s) David & Weihong Dixon

Address 611 S. VISTA RD. APACHE JCT, AZ. 85119

Phone Number 480-215-6603 Fax Number _____ Email wgdwd2009@yahoo.com

Applicant Contact Person/Project Manager _____

Address _____

Phone Number _____ Fax Number _____ Email _____

Architect/Engineer _____

Address _____

Phone Number _____ Fax Number _____ Email _____

For Dept Use only

Case Number _____

PLN Number _____ Date Submitted: _____

Approved By: _____ Date Approved: _____

Exhibit A: Rezoning Application Continued

List all existing improvements/development on the property:

Primary is a House with a detached garage.

OWNERS SIGNATURE: Dan Q Dixon

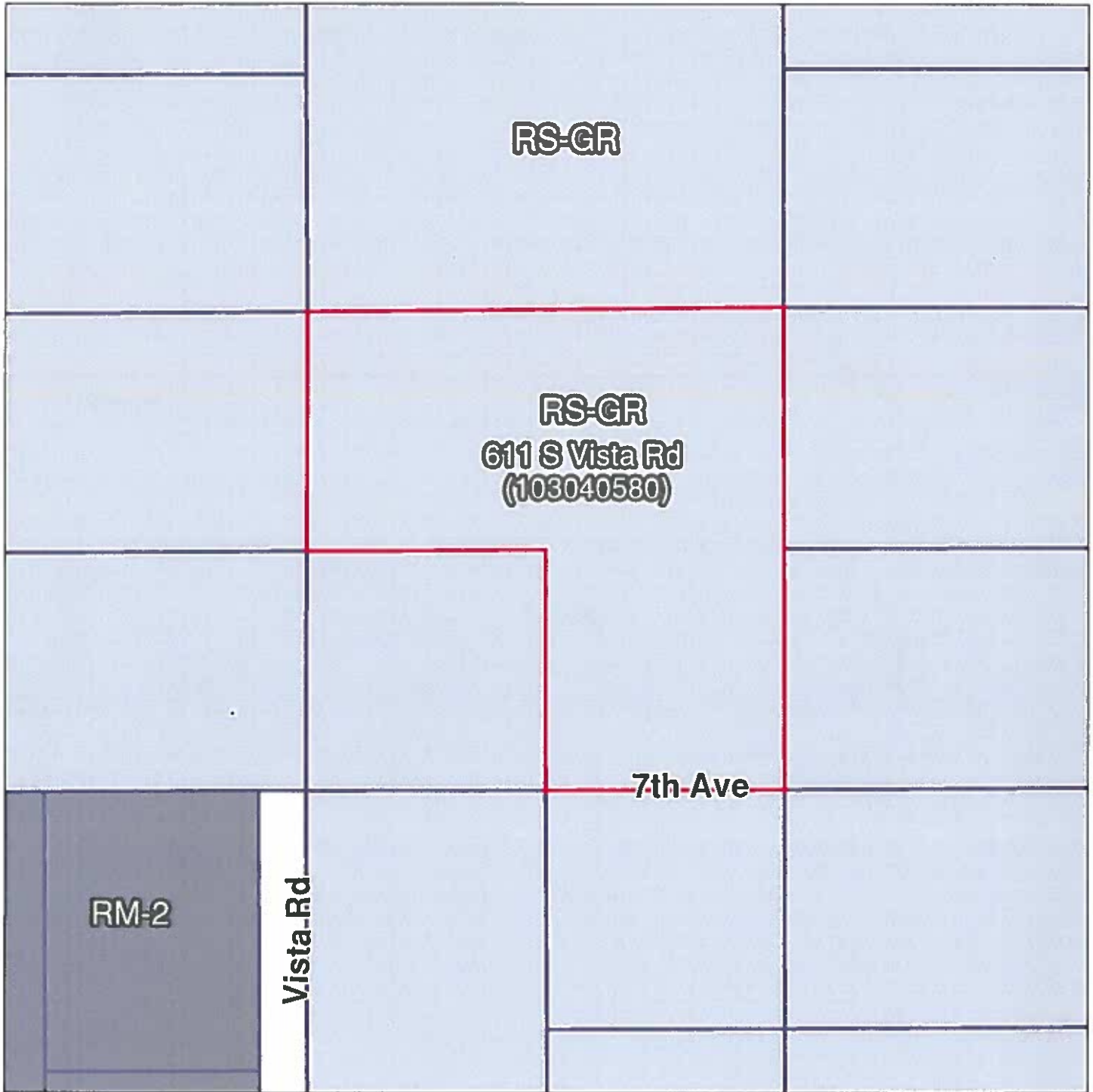
DATE: Nov. 2 2017

Submittal Documents (must be originals)

	Applicant*	Staff*
1. Exhibit A: Application Form	<u>✓</u>	<u> </u>
2. Exhibit B: Owner Certification	<u>✓</u>	<u> </u>
3. Exhibit C: Site Plan Checklist	<u>✓</u>	<u> </u>
4. Applicable site plans, elevations, etc. (15 copies of each)	<u>✓</u>	<u> </u>
5. Exhibit D: Mailing Label Certification	<u>✓</u>	<u> </u>
6. Exhibit E: Public Participation Plan w/sample letter	<u>✓</u>	<u> </u>
7. Exhibit F: Legal Advertising Fees signature	<u>✓</u>	<u> </u>
8. Exhibit G: Signed and notarized Proposition 207 Waiver	<u> </u>	<u> </u>
9. Narrative Of Proposed Request	<u> </u>	<u> </u>
10. Mailing labels (with Pinal County parcel map)	<u> </u>	<u> </u>
11. Fees	<u> </u>	<u> </u>
12. Electronic PDF of all plans	<u> </u>	<u> </u>

Keep **Exhibit E (1): Affidavit For Posting Conditional Use Permit**. This form will be turned in when the sign is posted at the site after the Public Hearing date has been assigned.

* Please initial that the document(s)/form(s) are included with the application.



City of Apache Junction **Zoning Exhibit** **PZ-4-17**

LEGEND

- Subject Site
- Parcel
- Zoning**
- RS-GR
- RM-2

DISCLAIMER: This exhibit was produced without benefit of a field survey and is not intended to represent a survey document of any kind. Distances shown hereon are approximate. Parcel lines shown hereon are approximate and may not reflect the exact position or alignment of parcel lines, roadway center lines, or easement lines.



November 15, 2017





City of Apache Junction

Aerial Exhibit

PZ-4-17

LEGEND

- Subject Site
- Parcel

DISCLAIMER: This exhibit was produced without benefit of a field survey and is not intended to represent a survey document of any kind. Distances shown hereon are approximate. Parcel lines shown hereon are approximate and may not reflect the exact position or alignment of parcel lines, roadway center lines, or easement lines.



November 15, 2017





Google earth

E 7th Ave

Image © US Geological Survey

Google earth

feet
meters



12/2004



400

100

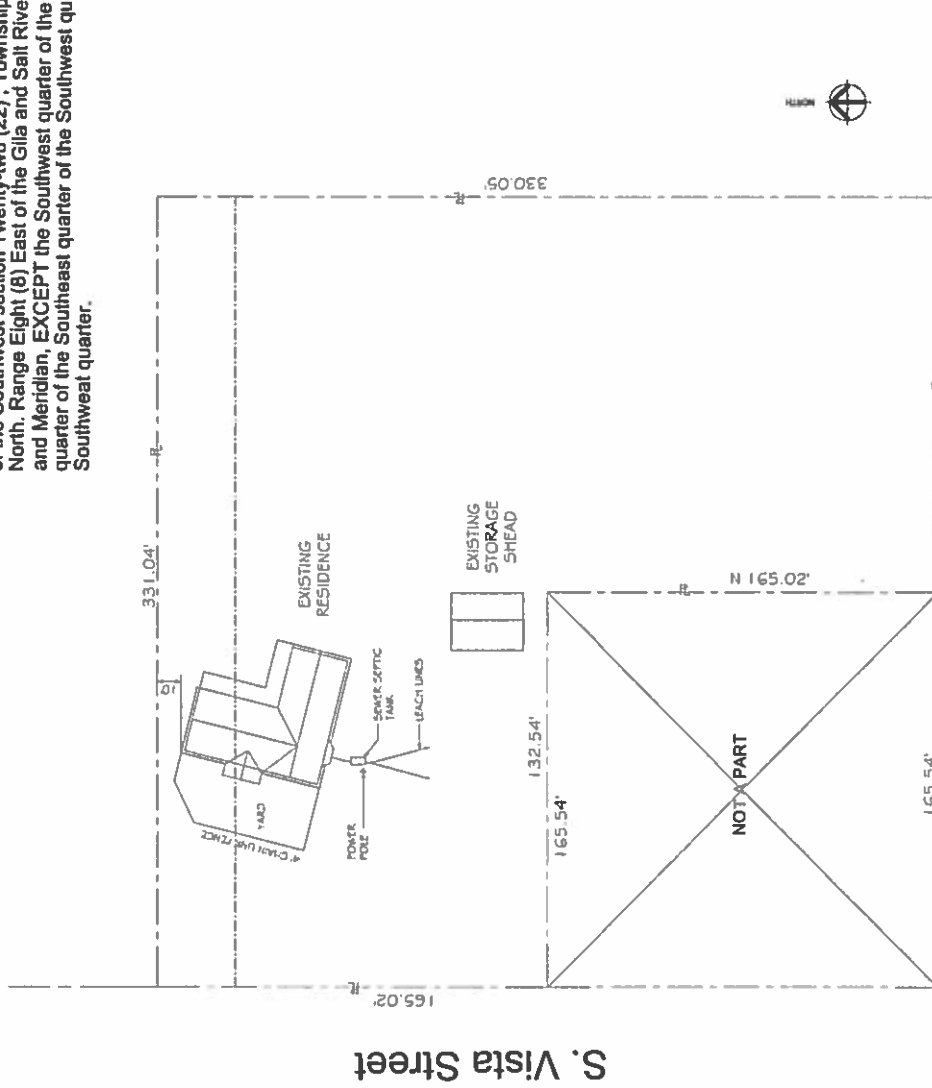
feet
meters

Google earth

2/2017

LEGAL DESCRIPTION:

Northwest quarter of the Southeast quarter of the Southwest of the Southwest section Twenty-two (22), Township One (1) North, Range Eight (8) East of the Gila and Salt River Base and Meridian, EXCEPT the Southwest quarter of the Northwest quarter of the Southeast quarter of the Southwest quarter of the Southwest quarter.



E. 7th. Avenue

SITE PLAN

06/05/15
SITE PLAN



THE ARCHITECTURAL & PLANNING
10101 N. 10TH AVENUE, SUITE 100
PHOENIX, ARIZONA 85020
TEL: 602.998.1111
WWW.THEARCHITECTURAL.COM

THE DIXON RESIDENCE
APACHE JUNCTION, ARIZONA
1111 11TH ROAD
APACHE JUNCTION, ARIZONA

NO.	DATE	DESCRIPTION
1	06/05/15	FINAL SITE PLAN

EXISTING
NEW
PLAN

811
SP-1

ORDER

BOARD OF ADJUSTMENT AND APPEALS
CITY OF APACHE JUNCTION, ARIZONA
CASE NO. BA-2-17

DATE OF PUBLIC HEARING: SEPTEMBER 11th, 2017

APPLICANT: DAVID DIXON

REPRESENTATIVES: DAVID DIXON

PROPERTY LOCATION: 611 S. VISTA ROAD

TAX ASSESSOR PARCEL #s: 103-04-058

SIZE OF SUBJECT PARCELS: +/-1.62 ACRES

ZONING DISTRICT: RS-GR (General Rural Low Density
Single-Family Residential, Conventional
or Manufactured Home, 1.25 acre minimum
lot).

REQUEST: A request by David Dixon for a variance
to the main structure side yard setback
requirements.

BOARD AUTHORIZATION: Apache Junction City Code, Volume II,
Land Development Code, Chapter 1: Zoning
Ordinance, Article 1-16: Administration,
Section 1-16-4(C) Powers and Duties,
Subsection (2), Appeals for Variances.

ACTION OF THE BOARD: The Board first met in Executive
Session for legal advice on the matter
pursuant to A.R.S. §38-431.03 (A)(3).
The Board reconvened in public to
consider the matter with testimony and
evidence being presented and an
opportunity for the public to be heard.
After closure of the evidentiary
hearing, the Board discussed the case

and the following motion was made
(Motion and Second by board members
Gage/Booth):

"I move that case BA-2-17, a request by David Dixon, for the Board of Adjustment and Appeals to grant a variance of Apache Junction City Code, Volume II, Chapter 1: Zoning Ordinance; Article 1-5: Zoning Bulk and Use Regulations, Section 1-5-2 Residential Bulk Regulations requesting a deviation for the main structure side setback in the RS-GR Zoning District, be DENIED subject to the following findings of fact:

Findings of Fact:

1. There are not special circumstances or conditions applicable to the property referred to in the application which merit an appeal of the city's codes.
2. A building permit was not applied for prior to construction of a new structure.
3. All matters of improper placement of new structures and setback problems are self-imposed.

VOTE: 4-0 IN FAVOR OF DENIAL OF VARIANCE. APPLICANT WAS INFORMED ON THE RECORD OF THE 30 DAY APPEAL PERIOD TO SUPERIOR COURT.

SIGNED:

 9-19-17
FRANK SCHOENBECK, VICE-CHAIRMAN DATE

ATTEST:

 9-19-17
LARRY KIRCH, EXECUTIVE SECRETARY DATE
BOARD OF ADJUSTMENT AND APPEALS

BOARD OF ADJUSTMENT ORDER - BA-2-17

Page 2 of 3

APPROVED AS TO FROM:



RICHARD JOEL STERN, CITY ATTORNEY

9.18.17

DATE

XC: David Dixon, Po Box 2924, Apache Junction, AZ 85117
Joel Stern, City Attorney
Case File BA-2-17

1-5-2 RESIDENTIAL BULK REGULATIONS. Table 5-2 illustrates the bulk regulations for all residential zoning districts:

TABLE 5-2: RESIDENTIAL BULK REGULATIONS

USE TYPE	RS-GR	RS-54 & RS-54M	RS-20 & RS-20M	RS-10 & RS-10M	RS-7 & RS-7M	RS-5	RM-1	RM-2	RM-3	MHP	RV
Minimum Lot Area per Dwelling Unit ¹	1.25 acres	1.25 acres	20,000 sf.	10,000 sf.	7,000 sf.	5,000 sf.	3,350 sf.	1,980 sf.	1,089 sf.	3,111 sf.	2,178 sf.
Maximum Density (dwelling units per acre) ³	0.80 units/ac	0.80 units/ac	2.18 units/ac	4.36 units/ac	6.22 units/ac	8.71 units/ac	13 units/ac	22 units/ac	40 units/ac	14 units/ac	20 units/ac
Minimum Development Area	Not Applicable	Not Applicable	Not Applicable	Not Applicable	Not Applicable	Not Applicable	7,000 sf.	7,000 sf.	7,000 sf.	10 acres	10 acres
Minimum Lot Width ²	100 ft.	100 ft.	80 ft.	70 ft.	60 ft.	50 ft.	60 ft.	60 ft.	60 ft.	50 ft./space	30 ft./space
Minimum Front Setback (main structure)	40 ft.	30 ft.	25 ft.	20 ft.	20 ft.	20 ft.	20 ft.	20 ft.	20 ft.	8 ft.	3 ft.
Minimum Front Setback (accessory structure) ⁴	40 ft.	30 ft. ⁸	25 ft.	20 ft.	20 ft.	20 ft.	20 ft.	20 ft.	20 ft.	8 ft.	3 ft.
Minimum Interior Side Setback ⁵ (main structure)	20 ft.	10 ft.	10 ft.	10 ft.	7 ft.	7 ft.	10 ft.	10 ft.	10 ft.	5 ft.	3 ft.
Minimum Street Side Setback ³ (all structures)	20 ft.	20 ft.	30 ft.	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.	8 ft.	3 ft.
Minimum Side Setback (accessory structure > 120 sf.) ⁴	5 ft.	10 ft. ⁹	10 ft.	10 ft.	5 ft.	5 ft.	10 ft.	10 ft.	10 ft.	5 ft.	3 ft.
Minimum Rear Setback (main structure)	40 ft.	30 ft.	20 ft.	20 ft.	20 ft.	15 ft.	20 ft.	20 ft.	20 ft.	10 ft.	5 ft.
Minimum Rear Setback (accessory structure > 120 sf.) ⁴	5 ft.	10 ft. ⁹	5 ft.	5 ft.	5 ft.	5 ft.	5 ft.	5 ft.	5 ft.	5 ft.	3 ft.
Max. Lot Coverage ⁶	30%	20%	30%	40%	50%	60%	50%	50%	70%	NA	NA
Maximum Size for Accessory Structure ⁷	No limit	2,000 sf. ⁷	See #7 below	See #7 below	See #7 below	See #7 below	See #7 below	See #7 below	See #7 below	See #7 below	See #7 below
Maximum Height for Main Structure	35 ft.	35 ft.	35 ft.	30 ft.	30 ft.	30 ft.	35 ft.	40 ft.	60 ft.	15 ft.	15 ft.
Maximum Height for Accessory Structure > 120 sf. ¹⁰	20 ft.	20 ft. ⁴	20 ft.	20 ft.	20 ft.	15 ft.	15 ft. [?]	15 ft. [?]	15 ft. [?]	20 ft.	20 ft.
Accessory Structure ≤ 120 sf. ¹⁰	See #10 below	See #10 below	See #10 below	See #10 below	See #10 below	See #10 below	See #10 below	See #10 below	See #10 below	See #10 below	See #10 below
Accessory Dwelling Units ¹¹	See #11 below	See #11 below	See #11 below	See #11 below	See #11 below	See #11 below	See #11 below	See #11 below	See #11 below	See #11 below	See #11 below

Footnotes from Table 5-2:

1. **Minimum Lot Area.** Minimum lot area shall be calculated as *net land area*, with the exception of the RS-GR, RS-54 and RS-54M zoning districts, which shall be calculated as *gross land area*.
2. **Minimum Lot Width.** Minimum lot width is the distance between side lot lines measured perpendicular to the lot depth at the front setback line. Minimum lot width measurement for flag lots shall be interpreted by the Zoning Administrator. Lot width, as measured at the front setback line, shall not be less than 25% of the lot depth, unless waived by the Zoning Administrator due to unique environmental or geographic conditions.
3. **Maximum Density Calculation.** Maximum density shall be calculated as the total number of dwelling units/*net land area*, with the exception of the RS-GR, RS-54 and RS-54M zoning districts, which shall be calculated as the total number of dwelling units/*gross land area*.
4. **Setbacks for Accessory Structures Housing Livestock.** Accessory structures allowed to house large livestock (excluding equine) shall maintain a minimum side, rear and front setback of 50 feet. Accessory structures allowed to house small livestock and fowl shall maintain a minimum side and rear setback of 15 feet. Structures housing equine shall be subject to the standard accessory structure setback requirements in Table 5-2. See Section 1-6-5 of this Ordinance regarding detailed regulations for accessory buildings, and Section 1-6-17 of this Ordinance regarding additional regulations for housing of livestock. In no case shall an accessory structure (excluding equine horse shades) be located between the main building and the front lot line.

Side and Rear Street Setbacks for Accessory Structures. Side and rear setbacks for accessory structures located along a street shall comply with the side and rear setback requirements for the district in which the accessory structures are located.
5. **Setback Measurement.** Interior side setbacks are measured from an interior side lot line that is not abutting a public road right-of-way. Street side setbacks are measured from a street side lot line abutting a public road right-of-way.
6. **Lot Coverage.** Lot coverage is the ratio of the total footprint area of all structures on a lot to the gross land area, typically expressed as a percentage. The footprints of all principal and accessory structures, including garages, carports, covered patios, and covered porches, shall be added together in order to calculate lot coverage.
7. **Maximum Size for Accessory Structures in the RS-GR District.** There is no size limit on accessory structures in the RS-GR district.

Maximum Size for Accessory Structures in the RS-54 and RS-54M District. The maximum accessory structure size of 2,000 square feet for RS-54 and RS-54M zoned properties may be increased to 5,000 square feet if 100% of the property owners of adjacent properties and 50% of the property owners of those properties within 80 feet of the adjacent properties agree with the proposed increase through a petition that is drafted, signed and acknowledged in accordance with Development Services Department standards. Adjacent properties shall be defined as property