



# *City of Apache Junction*

*Development Services Department*



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

**DATE:** January 9, 2018

**CASE NUMBER:** CUP-8-17

**APPLICANT/OWNER:** Bobbie McGhee

**REQUEST:** An application requesting approval of a Conditional Use Permit to continue operating and expand a commercial horse boarding facility called Bobbie McGhee Stables.

**LOCATION:** The existing 2.5-acre boarding facility is located at 1715 N. Vista Road; the proposed 1.17-acre expansion property is directly south of it.

**GENERAL PLAN/  
ZONING DESIGNATION:** Low Density Residential (1.25-acre minimum lots); both lots currently zoned RS-54 (Low Density Single-family Detached Residential).

**SURROUNDING USES:** North: Single-family residence (zoned RS-54);  
South: Single-fam. resid. (zoned RS-54);  
East: Single-fam. resids. (zoned RS-54);  
West: Filly's parking lot (zoned RM-2).

### **BACKGROUND**

The existing 2.5-acre horse boarding business is located just north of E. Tepee Street, on the east side of N. Vista Road. Ms. McGhee has owned the property since 1999 and over the years the facility has had different names and has been rented to other boarding facility operators. Under the city's previous zoning ordinance, a commercial horse boarding business could be established subject to a 2.5-acre minimum lot size and the property being located in an area designated Low Density by the city's General Plan. In early 2011, the city's equine

regulations were amended to require a conditional use permit process for horse boarding businesses. Today, Bobbie McGhee Stables exists as a legal nonconforming use because it predates the changes to the city's zoning ordinance.

This past year, Ms. McGhee purchased the undeveloped 1.17-acre, RS-54-zoned property located right at the northeast corner of Tepee and Vista, just south of the existing facility. Under the city's new zoning ordinance, this lot could be developed with a conventional home, but could not enjoy horse privileges because it is not 1.25 gross acres in size. It too is a long existing non-conforming RS-54 lot.

Ms. McGhee discussed several options for the new property with planning staff, including: just developing it by itself for residential purposes; perhaps rezoning it to a planned development designation to allow for horse privileges on a slightly substandard property; and incorporating it into the business through a CUP process.

The surrounding neighborhood is almost all 1.25-acre or larger RS-54-zoned properties, including two other horse-boarding businesses within very close proximity to Bobbie McGhee Stables-- "D" Horse Boarding, just southwest of the subject site (1650 N. Vista) and No Fly Zone Stables, just south of the subject site (1841 E. Tepee).

### **PROPOSAL**

It is Ms. McGhee's desire to expand her boarding business to allow for additional horse pens, additional room for horse trailer parking for boarders and also to provide housing for her ranch hands in the future, possibly in the form of a bunk house. Approval of a CUP would bring both properties out of nonconformity and allow them to be combined into one property for the purpose of improving and expanding the boarding facility.

### **PLANNING STAFF ANALYSIS AND FINDINGS**

#### *Relationship to General Plan:*

The subject site and the surrounding properties to the north, east and south are designated as "Low Density Residential" by the city's General Plan. Properties to the west of the site, along N. Apache Trail, are designated "Community Commercial". According to the rules for horse-boarding contained in the city's Equine Regulations (attached), a commercial horse

boarding business does not necessarily need to be in a designated Low Density area anymore, but does need a CUP. This development proposal does not conflict with the General Plan.

*Zoning/Site Context:*

The properties are zoned RS-54, which is a city zoning district where commercial horse boarding businesses could be allowed by CUP. With the exception of a handful of properties (mostly along N. Apache Trail), most of Section 15 (being the square mile of the city bounded by Lost Dutchman, Tomahawk, Superstition and Goldfield) is zoned RS-54, with 1.25-acre or larger properties. This is ideal "horse country". Many surrounding property owners also enjoy horse privileges (see attached map exhibits).

There are two other licensed horse-boarding businesses to the west and south of the property, "D" Horse Boarding and No Fly Zone Stables, both of which are 5 gross acres in size. Bobbie McGhee Stables is already established and is not a new addition to the area. Expanding to the new property will allow Ms. McGhee to make more efficient use of her property and accommodate more customers (see narrative and conceptual site plan attached).

*Evaluation of Criteria for a CUP:*

In addition to the rules for horse boarding businesses contained in Section 1-6-7-D (attached), Section 1-16-12-D-3 of the Zoning Ordinance (also attached) establishes certain general land use-related criteria for the Commission to consider when evaluating Conditional Use Permit requests. Staff's analysis of said criteria with regard to this use is as follows:

- a) Adequacy of roadways, off-street parking, public facilities and services to accommodate the proposed use. *[The site is located in close proximity to major traffic corridors, those being N. Apache Trail and Tomahawk. The surrounding streets, particularly Teepee and Vista are paved and the site has all necessary services. RV camping for horse boarders is not being proposed at the site, nor could it be because the property is not 5 acres in size, so additional impacts to sewer/septic and traffic should be minimal. On-site improvements such as additional pens, horse shades and parking areas will be reviewed through a site plan process for setbacks and items which may require permits. A possible future bunk house or guest house would require separate services normal to a single-family dwelling.]*

- b) Negative impacts arising from the emission of odor, dust, gas, noise, lighting, vibration, smoke, heat or glare.  
[The facility already exists. No one has expressed any concerns and there are no complaints against the property of which staff is aware. We do not anticipate that problems will arise in the future. Dust can be mitigated with driveway and trailer parking surfaces improved with decomposed granite. Any outdoor lighting is subject to dark sky regulations.]
- c) Contribution to the deterioration of the neighborhood or the negative impact on neighborhood property values.  
[Staff expects no negative neighborhood impacts from this expansion of use, as long as maintenance is kept up. If problems emerge, the City may bring the CUP back for further review, additional mitigating conditions or reconsideration at a future public hearing should any activity allowed under the CUP become a neighborhood nuisance.]
- d) Compatibility with surrounding uses and structures.  
[Surrounding uses to the north, east and south are similarly zoned, so those properties should not be negatively affected. The restaurant/bar establishment to the west is actually a more intense use, so it should not be negatively affected either, especially since the main use is already established.]
- e) Conformance with the General Plan and City policies. [Once again, staff sees no conflict with the General Plan or city policies for this use in this area. This is the type of area for the proposed use. Neighbors notified of the proposal have not expressed any opposition or concerns regarding the CUP.]
- f) Screening and buffering of uses. [Property landscaping and screening buffers are not normally required of boarding facilities. That said however, the attached aerial image reveals a natural landscape buffer already existing along the east side of the main property; and we would encourage Ms. McGhee to maintain as much of the vegetation on the south expansion property as possible, especially along the property line with the neighboring property to the east.]

- g) Unique nature of the property, use and/or development's physical characteristics. *[Other than a non-FEMA wash which traverses the properties in a southwesterly direction, there do not appear to be any major physical constraints affecting the property. There appears to be good buildable area for future pens and bunk house.]*

#### **PUBLIC INPUT**

Staff has not received any calls, comments or public inquiries relative to the CUP request. All property owners within 300 feet of the property received public hearing notices.

#### **PLANNING STAFF RECOMMENDATION**

Staff recommends approval of this request subject to the conditions listed under the recommended motion.

#### **RECOMMENDED MOTION**

I move that the Planning and Commission (APPROVE/DENY) case CUP-8-17, a request for a Conditional Use Permit by Bobbie McGhee, to continue operating and expand a commercial horse-boarding facility, subject to the following conditions of approval:

- 1) Proper building permits shall be obtained and inspections and approvals received for any building, electrical, plumbing, remodeling, signage or other property improvements related to the horse-boarding business, if and when necessary. This shall include permits for horse shades larger than 120 square feet.
- 2) The property owner/horse-boarding business proprietor shall proceed through city and Pinal County lot combination processes for the purpose of combining the two properties into one lot.
- 3) The applicants shall develop the horse-boarding business in substantial compliance with the submitted drawings, narrative and applicable city ordinances within 12 months of the granting of CUP-8-17, or else the CUP shall become void.
- 4) The property owner shall maintain and update her business license for the facility to include the expansion property.

- 5) The future survey of the property shall be used to develop the final configuration for the combined properties, to include locations of existing and proposed structures, access points and trailer parking areas.
- 6) The Planning and Zoning Commission shall reserve the right to reconsider the Conditional Use Permit approval at a new public hearing, should the use become a demonstrated nuisance in the neighborhood or for non-compliance with any condition prescribed as part of said CUP-8-17 approval.

The Commission's decision is final, unless an aggrieved individual or party appeals said decision (in writing, with reasons and accompanied by all applicable appeal fees) to the City Council within 20 days of the Commission action, and in accordance with the applicable procedures set forth in the Apache Junction Zoning Ordinance, Section 1-16-12.



Prepared by Rudy Esquivias  
Senior Planner

Attachments:

- Exhibit #1 - CUP application and narrative
- Exhibit #2 - CUP-8-17 map exhibits
- Exhibit #3 - Conceptual site plan for combined properties
- Exhibit #4 - Zoning Ordinance Section 1-6-7-D Commercial Horse Boarding Regulations
- Exhibit #5 - Zoning Ordinance Section 1-16-12-D-3 Findings

CITY OF APACHE JUNCTION  
CONDITIONAL USE PERMIT APPLICATION FORM

Owner/Agent Information:

Name: Bobbie Mcghee Telephone: 602-769-3031

Address: 1715 N Vista Rd AZ 85119

Property Information:

Zoning Classification

Current: RS-54

Requested: Expand horse property

Property Size: 1.17 ☒ acres ☐ square feet County Tax Assessor Parcel #: 100-25-035-D

Legal Description of Property (found on County Tax Bill Notices):

Copy Inclosed

Address/Location of Property (if different from Owner Address, above): 1615 N Vista Rd

So corner of 1715 N Vista Rd  
(Bobbie's property)

AZ 85119

List all improvements to Property Clear brush/fencing

Structures/Use of Adjacent Properties:

North: Stables

South: Stables

East: Homes

West: Stables

Reason for Conditional Use Permit Request:

Extend my property for horses &  
trailers - place for a Ranch hand

FOR OFFICE USE ONLY

Case No: CUP-8-17

Date Filed: \_\_\_\_\_

Receipt No: \_\_\_\_\_

Fee Amount: \$ \_\_\_\_\_

Application Received By: \_\_\_\_\_

I/We certify that:

I/We are the owner(s) of the property described in this application for a Conditional Use Permit and have submitted copies of deeds or title reports as proof of ownership.

I/We have read the application instructions and have truthfully completed this application. I/We understand that this Permit is conditional upon time requirements, that the filing and investigation fee is non-refundable, and that the City has the option of either approval or denial of this request following conduct of a Public Hearing.

I/We, being the owner(s) of the property in this application, have appointed N/A as my/our representative agent. I/We have authorized him/her to do whatever is necessary to have this request considered favorably by the City of Apache Junction and agree that all correspondence relation to this matter should be delivered to him/her.

PLEASE PRINT

Bobbie Mcghee  
Property Owner Name

Signature

Bobbie Mcghee

Street Address

1715 N Vista Rd ALP  
City, State, Zip 85119

Telephone

602-769-3031

Bobbie Mcghee  
Property Owner Name

Signature

Bobbie Mcghee

Street Address

City, State, Zip

n/a

Agent Name

Telephone

Signature

Street Address

City, State, Zip

Telephone

STATE OF ARIZONA )

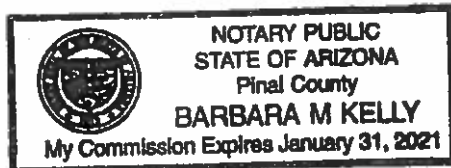
) SS

COUNTY OF PINAL )

The foregoing instrument was acknowledged before me this 15 day of NOVEMBER, 2017.

Barbara M Kelly  
Notary Public

My Commission Expires: 1/31/2021





11/2/17

My name is Bobbie McElhee and I purchased a horse boarding stable at 1715 N Vista Rd Apache Junction in 1999.

The stable is 2.5 acres and I need more room for my business.

I purchased 1.17 acres (Vacant lot) this Sept., so I could expand my stables.

I would like to develop the lot with additional pens and would also like to accomodate additional quarters for ranch hands.

The property (parcel #100-25-035 D) is non-conforming, because it is less than 1.25 acres, which means no horses in the city -

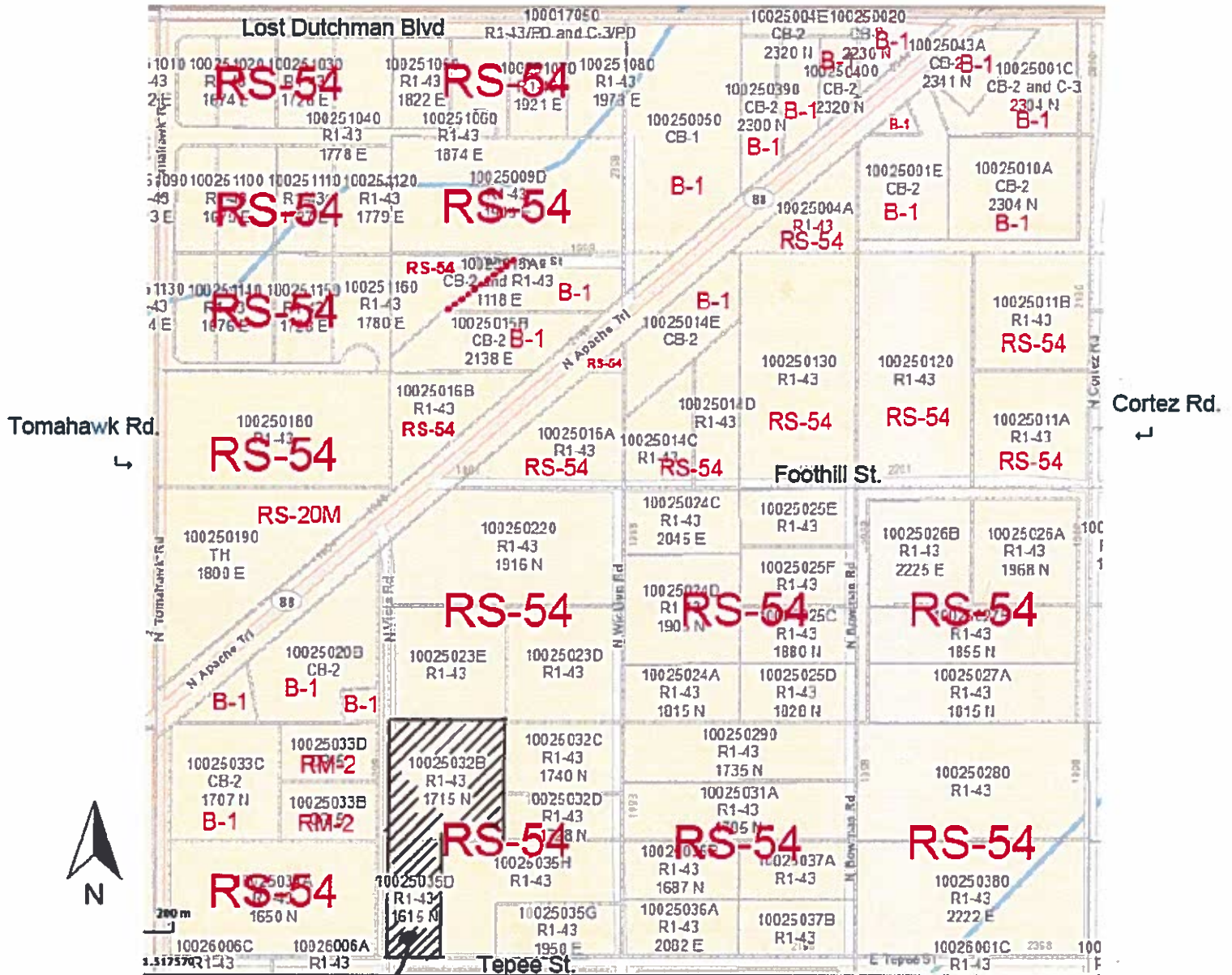
The neighbors have been notified by letter and (4) by verbal.

I am asking for a CUP and I thank you for your consideration.

Bobbie McElhee

# CUP-8-17

Section 15 NW



SITE

Section 15 NW

## ZONING + VICINITY MAP

CUP-8-17 IS A REQUEST FOR A CONDITIONAL USE PERMIT TO CONTINUE OPERATING AND EXPAND A COMMERCIAL HORSE BOARDING BUSINESS AT 1715 N. VISTA ROAD.

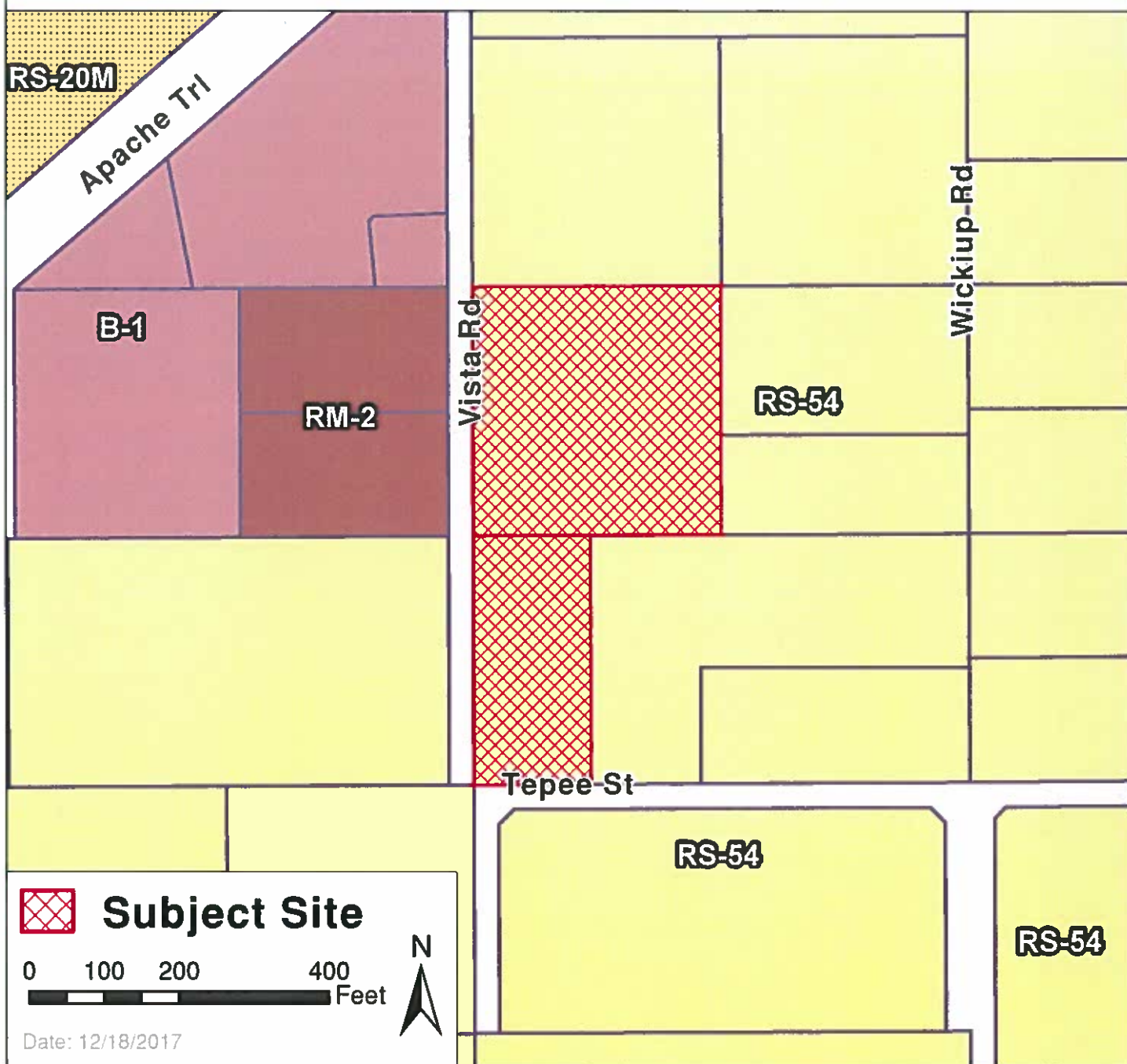
- RESIDENTIAL ZONES: RS-54, RS-20M, RM-2
- COMMERCIAL ZONES: B-1



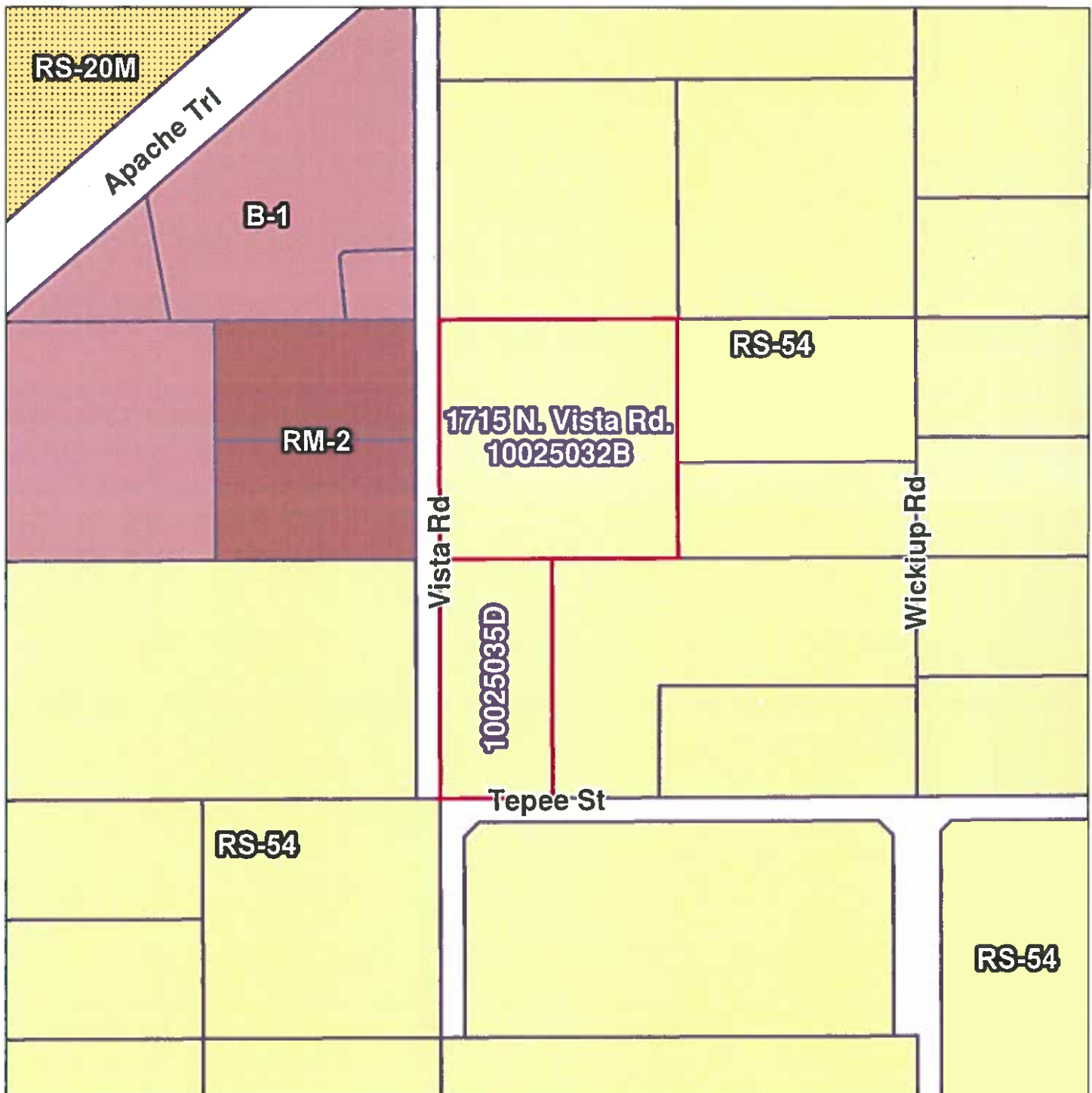
# Vicinity Map

CUP-8-17

Conditional Use Permit Request by  
Bobbie McGhee to continue operating  
and expand an existing commercial  
horse boarding facility at  
1715 N. Vista Road.







## City of Apache Junction Zoning Exhibit CUP-8-17

### **LEGEND**

- Subject Site
- Parcel

### **Zoning**

- B-1
- RS-20M
- RM-2
- RS-54

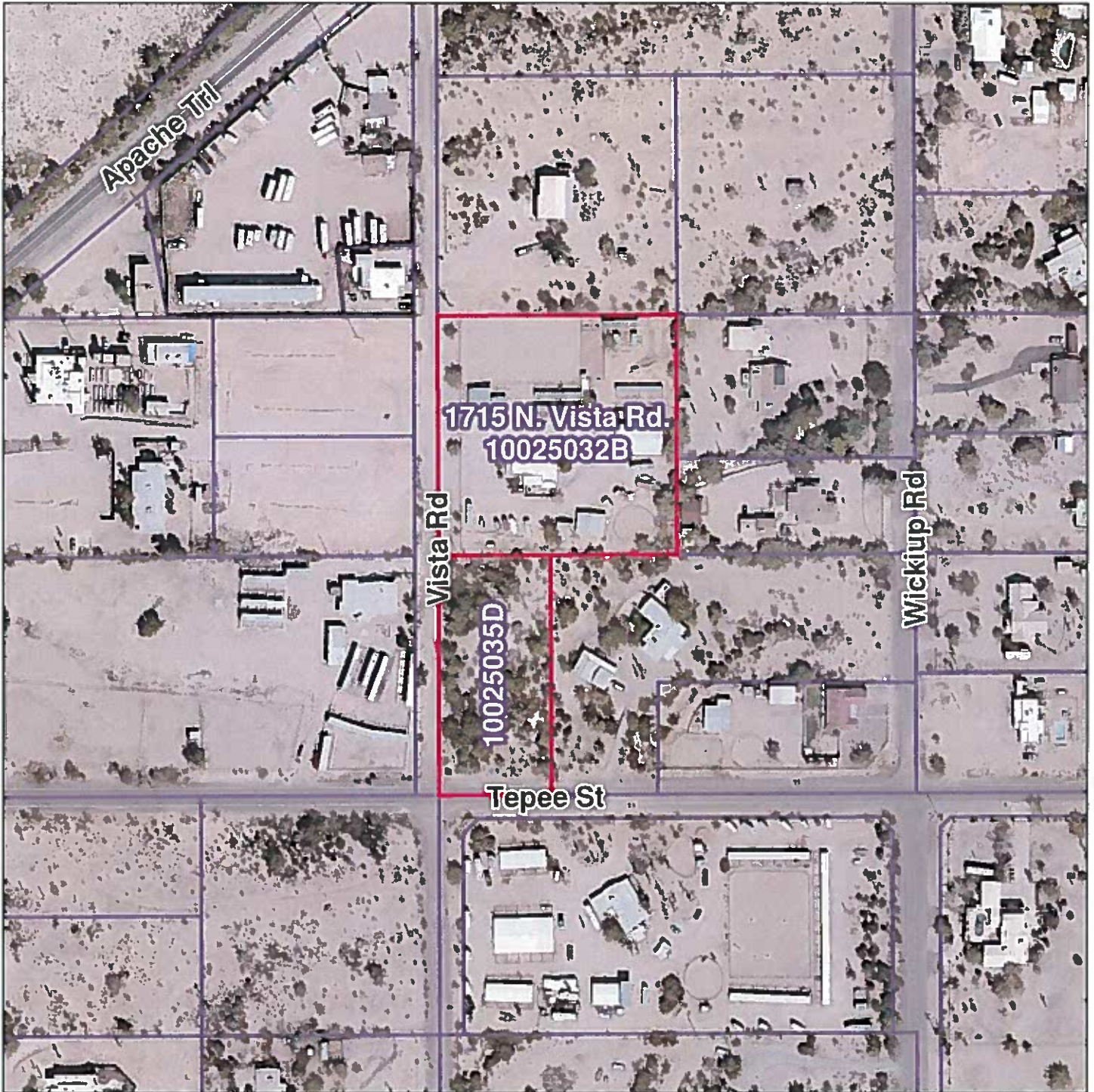
**DISCLAIMER:** This exhibit was produced without benefit of a field survey and is not intended to represent a survey document of any kind. Distances shown hereon are approximate. Parcel lines shown hereon are approximate and may not reflect the exact position or alignment of parcel lines, roadway center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



December 18, 2017







## City of Apache Junction Aerial Exhibit CUP-8-17

### **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.

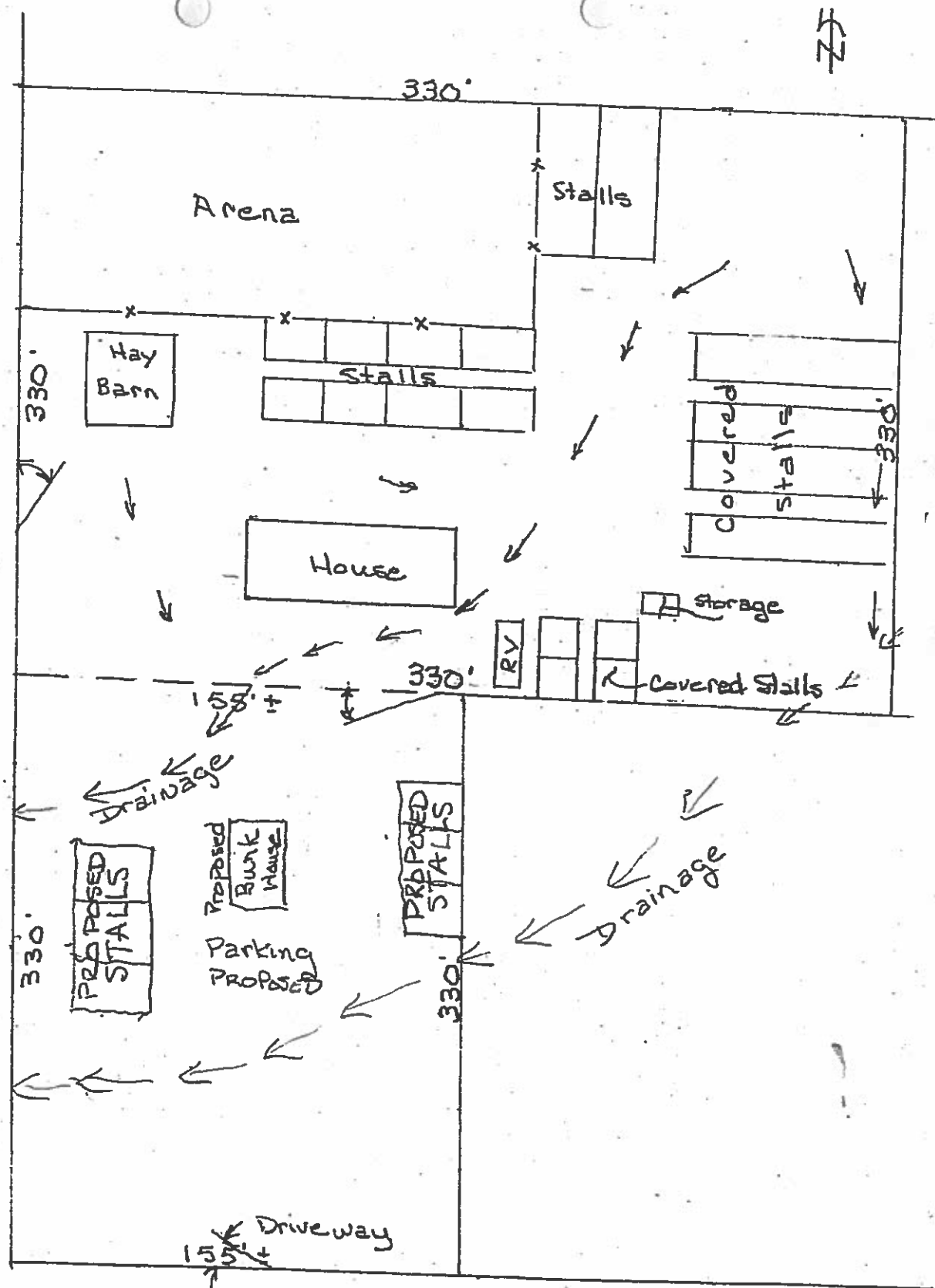


December 18, 2017

0 40 80 120 160 200 400  
 Feet

Created By Joseph Kliner

N. VISTA RD.



TEEPEE ST.

(5) *Permit required.* A CUP shall be required prior to constructing and operating a commercial rental stable.

(D) *Commercial horse boarding regulations.* The following regulations shall be applicable to commercial horse boarding within the city.

(1) *Allowed zoning districts.* Commercial horse boarding shall only be allowed in the RS-GR, RS-54 and RS-54M zoning districts.

(2) *Minimum lot area.* 2.5 gross acres.

(3) *Maximum number of horses.* None.

(4) *Permit required.* A CUP and business license shall be required prior to any new commercial horse boarding business being established in the city subsequent to February 3, 2011.

(5) *Accessory buildings and structures.* Barns and stables that house equine shall maintain a minimum 50 foot side, rear and front setback. Horse shades shall maintain the minimum accessory building setbacks in Vol. II, § 1-5-2, Table 5-2.

(6) *Horse trailer parking.*

(a) Licensed horse trailers owned by horse boarders may be parked on a commercial horse boarding property subject to the number of horse trailers not exceeding the total number of horses being boarded on-site. The parking and/or storage of a horse trailer at a specific boarding facility shall not be permitted unless the owner of the trailer has a horse boarded at the facility at the same time. Horse trailers shall be set back a minimum of 4 feet from adjacent properties and 25 feet from public road rights-of-way. Trailers shall be parked in a manner that does not interfere with safe traffic circulation and visibility as determined by the Director or designee.

(b) Prior to parking horse trailers on a commercial horse boarding property, the property owner/operator shall submit to the Development Services Department a properly scaled and dimensioned site plan that illustrates all existing buildings, setbacks and the location and layout of the parking area for horse trailers. The Development Services Director, or designee, shall review the plan and either approve, modify and approve, or disapprove the parking site plan based on an evaluation of safe traffic circulation and compliance with the standards identified above. Failure by the owner and/or operator of a boarding facility to operate and comply with this section shall be grounds for possible revocation of the business license of the facility.

(7) *Property caretaker/ranch hand accommodations.* One seasonal or full-time commercial horse boarding ranch hand, along with his or her family, shall be allowed to reside on-site. The primary purpose and responsibility of the ranch hand is to assist in the management and care of the commercial horse boarding facility. The ranch hand shall be allowed to live in the main residential building or within a travel trailer, motor home or 5th wheel RV unit on-site. The RV may be permanently connected to waste, water, gas, and/or electrical service, or may operate as a self-contained unit. Construction of a conventionally built home to accommodate the ranch may also be allowed in accordance with the accessory dwelling unit standards in Vol. II, § 1-6-19 of this Chapter.

(8) *Restroom facilities.* An operator of a commercial horse boarding facility with an on-site residence may allow the restroom facilities of the residence to be used by patrons of the facility. Alternatively, the owner/operator may provide a portable chemical toilet ("porta-potty") subject to Development Services Department review and approval of a site plan that illustrates the location and screening of the toilet.



(9) *Health and sanitation.* The operator of a horse boarding facility shall comply with all regulations for health and safety, sanitation, odor vector control and other related issues.

(10) *Related events.* Social events and parties shall be subject to the same noise, parking, traffic and health and safety regulations applied to other residential properties within the city.

(11) *Hours of operation.* Horse boarding businesses shall be allowed to operate 24 hours/day, 7 days/week.

(12) *Additional commercial services allowed.* Riding lessons and horse training services shall be allowed on licensed and approved commercial horse boarding properties. Commercial horse boarding facilities may also accommodate veterinarian, farrier, horse care specialists, and equine services visits to serve horses kept both on-site and off-site.

(13) *Sign requirements.* Commercial horse boarding facilities shall be allowed one detached, double-sided, 32-square-foot sign to include the name of the facility and the property address. The sign may be externally lit, shall comply with Dark Sky regulations, shall not be animated and shall be setback a minimum of 10 feet from the road right-of-way and side lot lines.

(14) *Runoff and waste management.* Commercial horse boarding facilities shall control the runoff of equine waste material from encroaching onto adjacent properties or rights-of-way.

(E) *Camping for horse boarders.* The following regulations shall be applicable to camping on licensed and approved commercial house boarding properties within the city.

(1) *Allowed zoning districts.* Horse boarder camping shall be allowed in the RS-GR, RS-54 and RS-54M zoning districts where a licensed commercial horse boarding facility exists.

(2) *Minimum lot area.* Five gross acres.

(3) *Permit required.* A CUP and business license shall be required prior to any camping activity being established and maintained in the city. If the RV camping use fails to operate in accordance with the approved conditions of the CUP and/or creates a public nuisance within the neighborhood, the Planning and Zoning Commission may schedule a public hearing to discuss revocation of the CUP.

(4) *Fees.* In addition to the required administrative permitting fees, the property owner shall be required to pay a one-time development impact fee for each campsite in accordance with the city's Development Fee Ordinance and fee schedule.

(5) *Maximum number of campsites allowed.* A maximum of one campsite per acre shall be allowed, with the total number of campsites not exceeding the total number of boarded horses.

(6) *Time period restrictions.* A maximum stay of 6 cumulative months per calendar year per RV camper shall be allowed.

(7) *Type of camping allowed.* Camping shall only be allowed in RVs (excluding park models), and may be operated as either a self-contained unit or with properly permitted connections to utilities. Campers must have a horse boarded at the facility. No on-site dumping of sewage waste shall be allowed unless the boarding facility is connected to the sewer district system or unless other sewage disposal system solutions are permitted by the Pinal County Health Department.

(8) *Setbacks and RV spacing.* RVs shall maintain a minimum separation of 6 feet from each other, be setback a minimum of 3 feet to a side or rear property line and 25 feet from a road right-of-way.

(9) *Minimum camping space size.* An RV camping space shall contain no less than 1,000 square feet and shall be at least 25 feet wide.



(C) *Administrative use permits.* An Administrative Use Permit ("AUP") may be approved by the Zoning Administrator following review of the application and a finding that the use and/or structure complies with specific standards specified for such use and/or structure in the Zoning Code. Uses and/or structures requiring approval of an AUP, along with permit approval criteria, are identified in Tables 5-1 and 5-3 (see Vol. II, §§ 1-5-1 and 1-5-3).

(D) *Conditional use permits.* Conditional uses are those uses that are generally compatible with the land uses permitted by right in a zoning district, but which require individual Planning and Zoning Commission review and Conditional Use Permit ("CUP") approval of their location, design, operation and configuration along with the imposition of conditions in order to ensure the appropriateness of the use at a particular location. Uses requiring a CUP are identified in Tables 5-1 and 5-3 (see Vol. II, §§ 1-5-1 and 1-5-3). The CUP application and process requirements are as follows:

(1) *CUP application.* An application for a CUP shall be filed with the Development Services Department in accordance with the "City of Apache Junction Conditional Use Permit Application Checklist" available at the Development Services Department.

(2) *CUP public hearing and notice.* The Commission shall hold a public hearing on any proposed CUP or CUP amendment, and provide the following notice. The failure of any person or entity to receive notice shall not constitute grounds for any court to invalidate the actions of the Commission or Council.

(a) *Newspaper publication.* Notice of the time, date and place of the hearing, including a general description of the matter to be considered and a general description of the area affected, shall be published in a newspaper of general circulation that is published or circulated in the community. The publication notice shall be at least 15 calendar days before the hearing, and shall be published as required by A.R.S. § 9-462.04, as amended.

(b) *Property posting.* The notice of public hearing shall be posted by the applicant in accordance with the instructions provided in the application form.

(c) *Mailing notice.* The city shall notice by first class mail each real property owner, as shown on the last assessment of the property, within 300 feet of the property subject to the CUP proposal.

(3) *Findings.* A CUP may be granted upon a finding by the Commission that the use covered by the permit, the manner of its conduct, and any structure involved will not be detrimental to persons residing or working in the area, to adjacent property, to the neighborhood, or to the public welfare in general. The burden of proof for satisfying the aforementioned requirements shall rest with the applicant. In arriving at the above determination, the Commission shall consider but not be limited to the following factors:

(a) Adequacy of roadways, off-street parking, public facilities and services to accommodate the proposed use;

(b) Negative impacts arising from the emission of odor, dust, gas, noise, lighting, vibration, smoke, heat or glare;

(c) Contribution to the deterioration of the neighborhood or the negative impact on neighborhood property values;

(d) Compatibility with surrounding uses and structures;

(e) Conformance with the General Plan and city policies;

(f) Screening and buffering of uses; and

(g) Unique nature of the property, use and/or development's physical characteristics.

(4) *CUP modification of dimensional zoning standards.* When a proposed development exhibits unique characteristics related to land, topography, architectural style, scale, historical interest or other distinguishing feature that necessitates a measure of regulatory relief, CUP modification of certain dimensional zoning standards may be approved by the Commission in accordance with the findings described above in Vol. II, § 1-16-12(D)(3). The following dimensional zoning standards may be subject to this type of modification:

(a) *Accessory dwelling units.* Accessory dwelling unit size and height standards required in Vol. II, § 1-6-19 of this Chapter may be modified.

(b) *Accessory structures.* Accessory structure size, height, design and setback standards required in Vol. II, § 1-6-5 may be modified.

(c) *Landscaping.* Landscaping size, type, amount and location standards required in Vol. II, Article 1-8 may be modified.

(d) *Signs.* Sign size, type, amount and location standards required in Vol. II, Article 1-11 may be modified.

(5) *Expiration.* CUPs granted by the Commission shall be void if the use is not commenced within 12 months of the approval date or within the time stipulated by the Commission.

(6) *Revocation.* An approved CUP may be revoked by the Commission following public hearing and a finding that there has been material noncompliance with any condition prescribed in the permit and/or the use generates a demonstrated public safety, health or welfare concern.

(7) *Appeal and City Council review.* The approval or denial of a CUP by the Commission shall be final unless, within 20 calendar days from the date of the Commission's decision, the applicant or any persons aggrieved by the decision appeals the decision

to the Council. The appeal shall be in writing, filed with the Development Services Department, and shall indicate how the Commission was in error. The appeal shall be accompanied by a fee equal to 50% of the original filing fee. The appeal shall require a Council public hearing and notification provided in the same manner as required for the Planning and Zoning Commission hearing. The Council, at its public hearing, shall uphold, modify or overrule the decision of the Commission. The decision of the Council shall be final.

(Ord. 1402, passed 5-6-2014)

#### § 1-16-13 DEVELOPMENT AGREEMENTS.

(A) *Intent and purpose.* A development agreement is a contract between a local jurisdiction and a person who has ownership or control of property within the jurisdiction. The purpose of the agreement is to specify the standards and conditions that will govern development of the property. The development agreement provides assurance to the developer that he/she may proceed to develop the project subject to the rules and regulations in effect at the time of approval and that the development will not be subject to subsequent changes in regulations. Development agreements must also benefit the local jurisdiction with sufficient legal consideration. The city may include conditions (mitigation measures) that must be met to assure that a project at a specific location does not have unacceptable impacts on neighboring properties or community infrastructure. The agreement may clarify how the project will be phased, the required timing of public improvements, the developer's contribution toward funding system-wide community improvements, economic incentives and other conditions. The agreement can also facilitate enforcement of requirements, since it is a contract that details the obligations of the developer and city.

(B) *Applicability.* The use of development agreements will be based on a case by case determination by city staff.