



City of Apache Junction
Development Services Department



PLANNING AND ZONING COMMISSION
PUBLIC HEARING ITEM

DATE: March 21, 2018

CASE NUMBER: CUP-1-18

REQUEST: A Conditional Use Permit ("CUP") application requesting to allow for the placement of eight temporary cargo storage containers (two measuring 8' by 40' and six measuring 8' by 20') for personal use.

PROPERTY OWNER: Dean and Bonnie Varga

REPRESENTATIVE: Michelle Dahlke, Arizona Planning and Paralegal Solutions

LOCATION: The subject site is located at 2090 W. Superstition Boulevard (Assessor parcel 100-36-025A)

**GENERAL PLAN/
ZONING DISTRICT:** Designated "Medium Density Residential"/Zoned General Commercial ("B-1")

**SURROUNDING
LAND USES:**

- NORTH: Cholla Vista Estates Subdivision zoned Medium Density Single-Family Detached Residential with a minimum lot size of 10,000 sq. ft. (RS-10)
- SOUTH: Various commercial lots (B-1)
- EAST: Various commercial lots (B-1)
- WEST: Various vacant commercial lots (B-1)

BACKGROUND

The subject site is located at 2090 W. Superstition Boulevard, on the northeast corner of Superstition Boulevard and Ocotillo Drive and is approximately 0.57 acres. The property is primarily vacant with four existing Conex cargo storage

containers; one 8' by 40' container and three 8' by 20' containers. There is also a chain link fence on the west and south side property line and a block wall on the north and east side property lines.

Dean and Bonnie Varga, the property owners acquired the property in August 2017 as vacant land. Under the city's former zoning ordinance, prior to 2014, the property was zoned CB-2 (General Business Zone) which is similar to the current B-1 (General Commercial) zoning district. However, the property was originally part of the Cholla Vista Estates Residential Subdivision lots 25, 26, and 27, which was approved in 1971. Throughout time the lots were combined into one parcel and the zoning designation changed. See the Cholla Vista Estates Subdivision Plat and Assessor Parcel Map attached.

According to aerial photos from past years, up until around 2003 or 2004 the property had been developed with a building and yard, possibly an auto repair business. It was in relation to that business that landscaping and screening improvements were constructed on the property, including a block wall. Then as recently as 2005 to 2010 the property was used for storage and/or contractor yard uses, allowed under the old CB-2 zone.

Under the city's new zoning ordinance, a CUP is required for storage lot uses. A separate administrative use permit ("AUP") is also required for established businesses who want to use cargo containers for business storage purposes. This property came to staff's attention because after Mr. Varga bought the property, he installed the cargo containers without CUP and AUP approvals. This CUP application seeks to remedy those issues.

PROPOSAL

Dean and Bonnie Varga are requesting a conditional use permit to allow for the placement of eight temporary (3 to 5 years) Conex storage containers on the their property, 2090 W. Superstition Boulevard, on the northeast corner of Superstition Boulevard and Ocotillo Drive, for personal use. The property is approximately +/- 0.57 acres. The applicants would like to place two 8' by 40' and six 8' by 20' cargo containers on the property. Attached is the applicant's project narrative and site plan for the placement of the temporary containers.

Currently, the property is vacant with an existing chain link fence on the west and south side property line and a block wall on the north and east side property lines (See street view photos). The applicants have also indicated that they would improve landscaping and appropriately screen the cargo containers per regulations.

The cargo containers would be a temporary use until a more permanent use of the property can be financially feasible for the property owners.

PLANNING DIVISION ANALYSIS AND FINDINGS

Relationship to General Plan:

The city's 2010 General Plan Land Use Map shows this area as "medium density residential" which conflicts with the general plan designation for the area. However, the surrounding current uses are all B-1, and have been zoned commercial for many years. The Cholla Vista Estates Residential Subdivision to the north is zoned RS-10, which does comply with the General Plan designation for the area.

Zoning/Site Context:

The city's new zoning ordinance, B-1 zone, allows outdoor storage uses subject to a CUP and once a business is established cargo containers subject to approval of a cargo container AUP by the Development Services Department Planning staff. Thus a conditional use permit is needed first for the temporary outdoor storage, which in this case consists of cargo containers. A conditional use permit is subject to approval by the Planning and Zoning Commission. Approval of a conditional use permit is subject to an evaluation of specific criteria listed below.

Evaluation of Criteria for a CUP:

Section 1-16-12-D-3 of the Zoning Ordinance establishes certain land use-related criteria for the Commission to consider when evaluating Conditional Use Permits. 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 along a major commercial corridor. Because the proposed CUP calls for temporary cargo storage containers, the applicant has not proposed on-site or off-site improvements for roadways, parking, retention or other*

improvements other than landscaping and screening of the property. However, more permanent uses have been discussed with the applicant for the future, at which time those additional on-site and off-site requirements will apply.]

- b) Negative impacts arising from the emission of odor, dust, gas, noise, lighting, vibration, smoke, heat or glare. [Currently, the property is not paved and paving the driveway/property has not been discussed. The cargo storage containers should not produce any negative odors, gas heat or glare and 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 impact from this temporary use as long as landscaping maintenance is kept up, the site is properly screened and no other outside storage is added. If the allowed time for the temporary placement of the cargo containers comes close to expiration, and no development proposal is made for a permanent use, the CUP may be brought back to the commission for renewal or revocation.]
- d) Compatibility with surrounding uses and structures. [The surrounding uses to the east, south, and west are all B-1 (General Commercial) which matches the subject site, and are largely vacant properties like the subject site. To the north is the Cholla Vista Estates Residential Subdivision. While the surrounding uses should not be negatively affected, neither does the use add anything to the neighborhood or the city with regard to employment or tax generating businesses.]
- e) Conformance with the General Plan and City policies. [Apache Junction Zoning Ordinance Section 1-6-8: Cargo Containers (attached) allows non-residential zoned properties the use of cargo containers. However, there needs to be an already established commercial (in this case) use on the property. The cargo containers are to be used in conjunction to the already established business. Currently, the subject site is vacant which does not meet this condition.]

- f) Screening and buffering of uses. *[Landscaping and screening in the form of a slatted chain link fence along the west and south side of the property lines will be provided, thus proposing to bring the property up to the city's current development standard for commercial lots and screening requirements for commercial properties and cargo storage containers.]*
- g) Unique nature of the property, use and/or development's physical characteristics. *[There do not appear to be any physical property constraints.]*

PUBLIC INPUT

Public hearing notices were mailed to all property owners within 300 feet of the site and the case was also advertised in the newspaper. Comments and input have been sought. Staff has yet to receive any inquiries on the proposal. The applicants also conducted their own mailing and report that there have been no responses. (See the attached Public Participation Summary)

PLANNING DIVISION RECOMMENDATION

Planning staff recommends approval of Dean and Bonnie Varga's request for a conditional use permit to allow temporary cargo storage containers at 2090 W. Superstition Boulevard, for personal use. However, staff is not in favor of bringing in more containers than have already been placed without appropriate approvals, nor with the applicants requested time frame. Staff believes allowing the owners' temporary use of the containers until a more permanent use can be established can be permitted. However, if no permanent use is established within the suggested timeline, staff would like to see the cargo containers removed or see the CUP resubmitted. Additionally, approving this CUP would allow for the property to be further cleaned up and bring it up to landscape code and other on-site improvements, like the refurbishing of the landscaping and screening of the chain link fence.

RECOMMENDED MOTION FOR APPROVAL

I move that the Planning and Zoning Commission APPROVE case CUP-1-18, a request for a Conditional Use Permit by Dean and Bonnie Varga, represented by Michelle Dahlke, Arizona Planning and Paralegal Solutions, requesting the placement of temporary cargo

storage containers for personal use at 2090 W. Superstition Boulevard, zoned General Commercial (B-1), subject to the following conditions of approval:

- 1) The applicants shall not be allowed more than four (4) temporary cargo containers on the property, which are to be painted a neutral desert tone color in accordance with Apache Junction City Code, Volume II, Land Development Code, Chapter 1: Zoning Ordinance, Article 1-6: Supplemental Regulations, Section 1-6-8 Cargo Containers within 90 days of approval of this CUP.
- 2) The chain link fence on the west and south property lines shall be completed and slatted with wood or vinyl slats within 90 days of CUP approval and no razor wire shall be permitted.
- 3) There shall be a two year time limit for the temporary use of the cargo containers. Prior to the expiration of the two year time limit, the applicants will need to resubmit another CUP for extended use of the cargo containers or remove the containers from the property.
- 4) The cargo containers shall only be used for personal use of the applicants and no other tenants shall be allowed use of the cargo containers.
- 5) The applicants shall be limited to the four Conex cargo containers, and no other outside personal storage shall be allowed.
- 6) The applicants shall refurbish and replace any missing landscaping or irrigation improvements in compliance with Apache Junction City Code, Volume II, Land Development Code, Chapter 1: Zoning Ordinance, Article 1-8: Landscape Regulations within 6 months of approval of this CUP.
- 7) The site shall be treated for dustproofing in accordance with options obtained in the city's engineering guidelines for dust control mitigation pursuant to Apache Junction City Code, Volume 1, Chapter 9, Health and Sanitation, Section 9-1-3(B) Vehicles, subsection 9-1-3(B)(6), or other solutions accepted by the Development Services Engineer.

- 8) The Planning and Zoning Commission shall reserve the right to reconsider or overturn the Conditional Use Permit approval, at a new public hearing, for non-compliance with any condition prescribed as part of said CUP-1-18 permit 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 calendar days of the Commission action, and in accordance with the applicable procedures set forth in the Apache Junction Zoning Ordinance, Section 1-16-12 (attached).



Prepared by Danielle Jordan
Planning Intern

Attachments:

- Exhibit #1 - CUP-1-18 Application
- Exhibit #2 - CUP-1-18 Project narrative
- Exhibit #3 - CUP-1-18 Vicinity Map
- Exhibit #4 - CUP-1-18 Aerial Map
- Exhibit #5 - CUP-1-18 Zoning Map
- Exhibit #6 - Assessor Parcel Map 100_36
- Exhibit #7 - Cholla Vista Estates Subdivision Plat
- Exhibit #8 - Public Participation Summary
- Exhibit #9 - Site Plan
- Exhibit #10 - Street View Photos
- Exhibit #11 - Section 1-6-8 Cargo Containers (zoning ordinance excerpt)
- Exhibit #12 - Section 1-16-12 Conditional Use Permits (zoning ordinance excerpt)
- Exhibit #13 - Section 9-1-3(B)(6) Health and Sanitation (Ordinance 1316 excerpt)



EXHIBIT A: Planning and Zoning Application Form

Office Use Only: Filing Date _____
Staff _____
Fees Received 2016
Case DAP-1-18

City of Apache Junction
DEVELOPMENT SERVICES
BUILDING DIVISION

TYPE OF APPLICATION

☐ Annexation	☐ Abandonment (Plat/Easement/ROW)	☐ Board of Adjustment
☐ Cargo Container Permit	☐ Certificate of Legal Nonconformity	☒ Conditional Use Permit
☐ Development Agreement	☐ Development Plan Review	☐ General Plan Amendment
☐ Lot Splits, Joins & Adjustments	☐ Ordinance Text Amendment	☐ Planned Development Rezoning
☐ Preliminary/Final Plat	☐ Preliminary Development Review	☐ Sign Permit
☐ Special Use Permit	☐ Temporary Use Permits	☐ Zoning Map Amendment
☐ Other _____		

SITE INFORMATION

SITE ADDRESS/LOCATION 2090 West Superstition ASSESSORS PARCEL NUMBER 100-36-025A
GROSS AREA: 0.5777 NET AREA 0.5777 EXISTING ZONING B-1

BRIEF DESCRIPTION OF THE PROPOSED PROJECT/USE: This is a request to allow for the placement of 6 storage containers on the subject property for the personal use and storage of the property owners. There will be 4 containers measuring 8.5' in height, 8' in width and 20' in length and two containers measuring 8.5' in height, 8' in width and 40' in length. A site plan has been provided which identifies the location of these containers and the screening of each from adjacent property lines.

APPLICANT INFORMATION

Property Owner(s) Dean and Bonnie Varga
Address 1244 E. Campbell Avenue, Gilbert, Arizona 85234
Phone Number 480-278-1596 Fax Number _____ Email owcaitd@aol.com

Applicant Contact Person/Project Manager Michelle Dahlke - Arizona Planning and Paralegal Solutions
Address 940 West Fairway Drive, Mesa, Arizona 85201
Phone Number 480-228-2150 Fax Number _____ Email michelledahlke@gmail.com

Architect/Engineer N/A
Address _____
Phone Number _____ Fax Number _____ Email _____

OWNERS SIGNATURE: Dean Varga DATE: 2-07-2018

VARGA PROPERTY

Project Narrative

Conditional Use Permit and Cargo Container Administrative Permit

February 2018

This is a request for a Conditional Use Permit ("CUP") and a Cargo Container Administrative Permit ("Cargo Permit") to allow for the placement of eight Conex storage containers on a property owned by Dean and Bonnie Varga (the "Property Owners").

The subject property is located at 2090 West Superstition Boulevard in the City of Apache Junction (on the northeast corner of Superstition Boulevard and Ocotillo Road). The subject property measures .5 acres in size and is primarily vacant with four existing Conex containers. There are no structures on the subject property currently. The existing zoning designation is B-1.

The subject property is bound on the northern and eastern boundaries by an existing CMU wall and a chain link fence on the western and southern boundaries. There are currently four Conex containers on the subject property; one 8' by 40' container and three 8' by 20' containers.

The Property Owners would like to bring one additional 8' by 40' container and three additional 8' by 20' containers for a total of eight Conex containers. These containers would store the personal property of the Property Owners. There will be no commercial storage on the subject property.

Upon purchasing the subject property, the Property Owners replaced the broken sections of the chain link fence and have brought the existing landscaping back to life which includes multiple mature desert trees. The Property Owners will add additional shrubs per City landscape guidelines for cargo container screening. Additionally, the Property Owners have agreed to install slats or other chain link screening material, so the subject property is screened on all sides to both provide security and to screen the proposed Conex containers from public view.

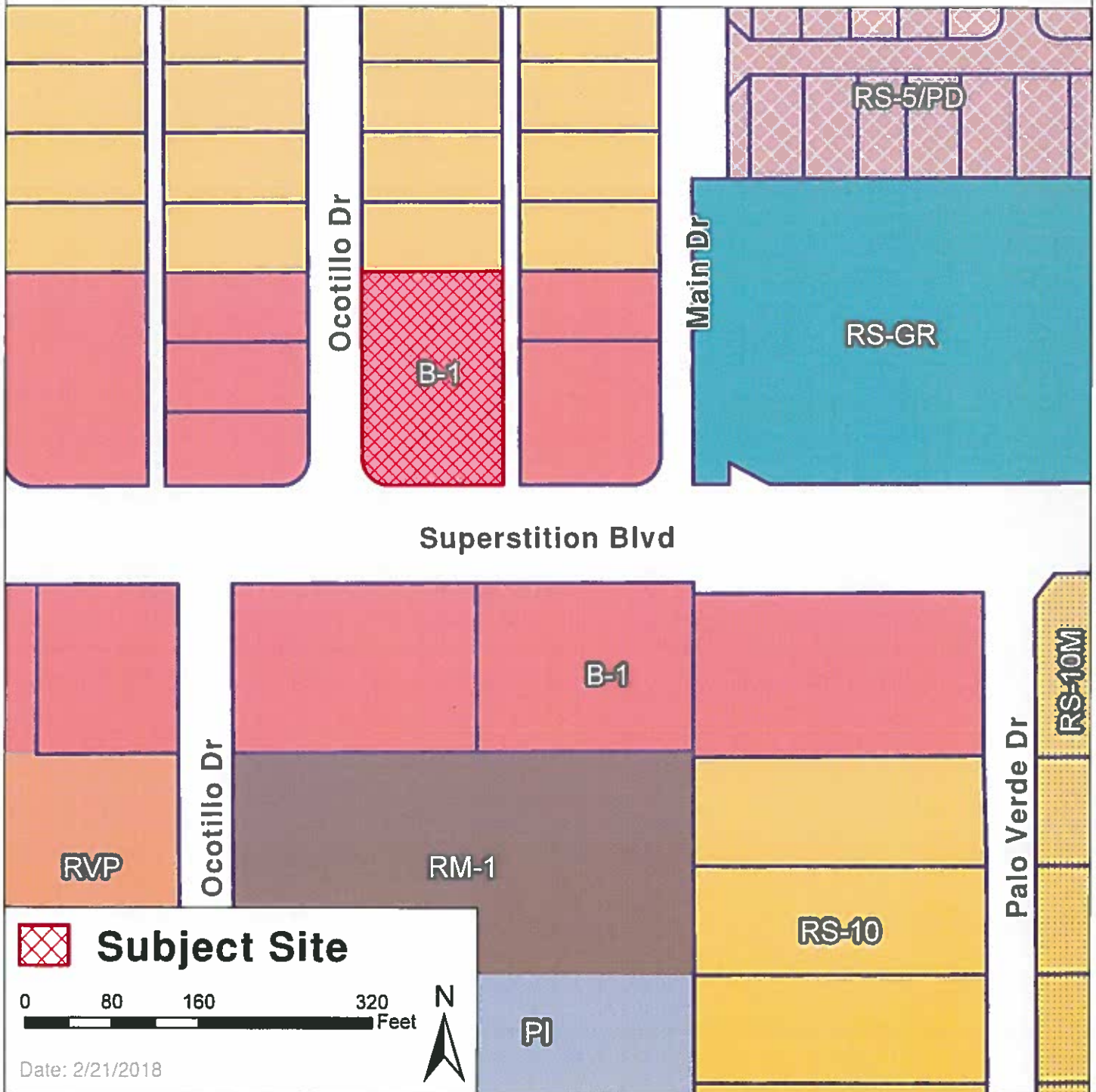
The Property Owners met with City Planning staff on multiple occasions and understand that ultimately, the City would prefer to see a more permanent development on the subject property with a land use that is outright permitted in the B-1 zoning district, without a CUP for example, or a residential use, such as multi-family or single-family development. In the interim, the Property Owners respectfully request that the Conex containers be permitted until a more permanent development is financially feasible for them which would be three to five years into the future. The storage of containers on the subject property will not negatively impact surrounding areas or result in any nuisances such as noise, dust, odor, or light and it will not impact traffic. It is a good interim use with minimal impacts on adjacent properties and the immediate area as a whole.



Vicinity Map

CUP-1-18

Conditional Use Permit Request to allow
eight temporary cargo containers for
personal use at 2090 W. Superstition Blvd.





City of Apache Junction

Aerial Exhibit

CUP-1-18

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.

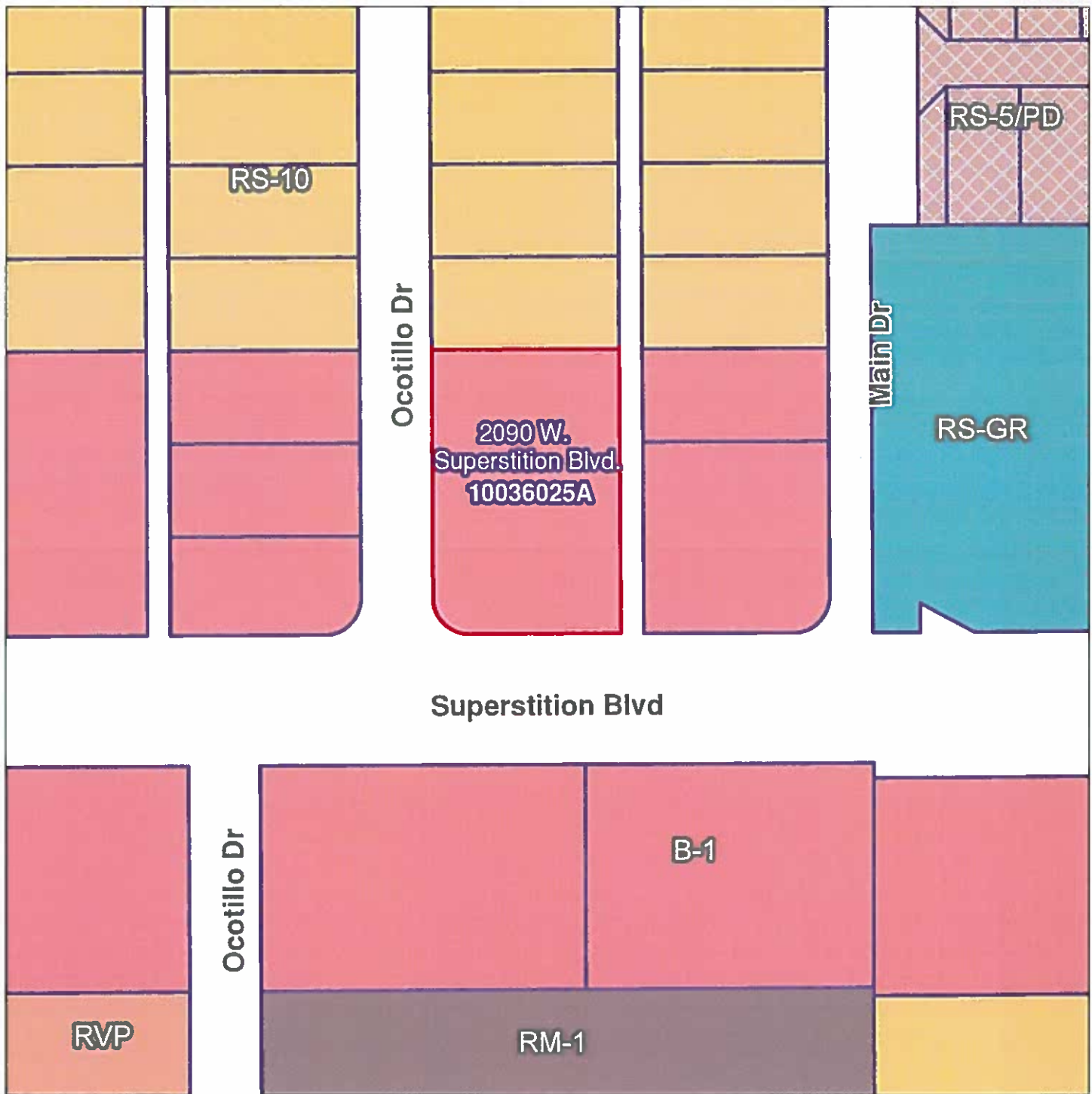


February 28, 2018

0 50 100 200 Feet



Created By Joseph Kiner



City of Apache Junction Zoning Exhibit CUP-1-18

LEGEND

- Subject Site
 - Parcel
- Zoning**
- | | |
|---|---|
| B-1 | RVP |
| RM-1 | RS-5/PD |
| RS-10 | RS-GR |

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.



February 21, 2018

0 50 100 200 Feet



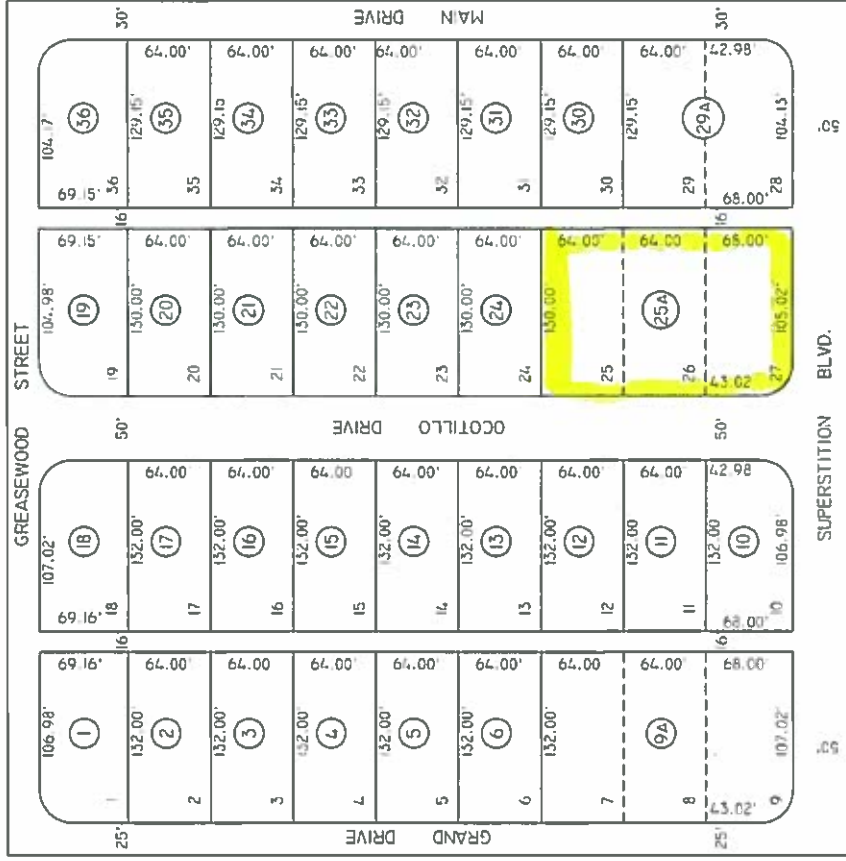
Created By Joseph Kiner

SEC. 18 SE SW SE TN.1N RG.8E

100-36

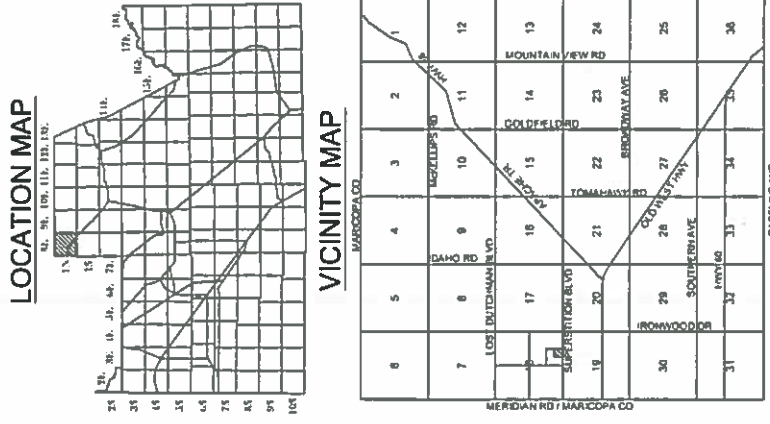
CHOLLA VISTA ESTATES

SEE MAP 100-35_3



SEE MAP 100-35_3

SEE MAP 100-35_4



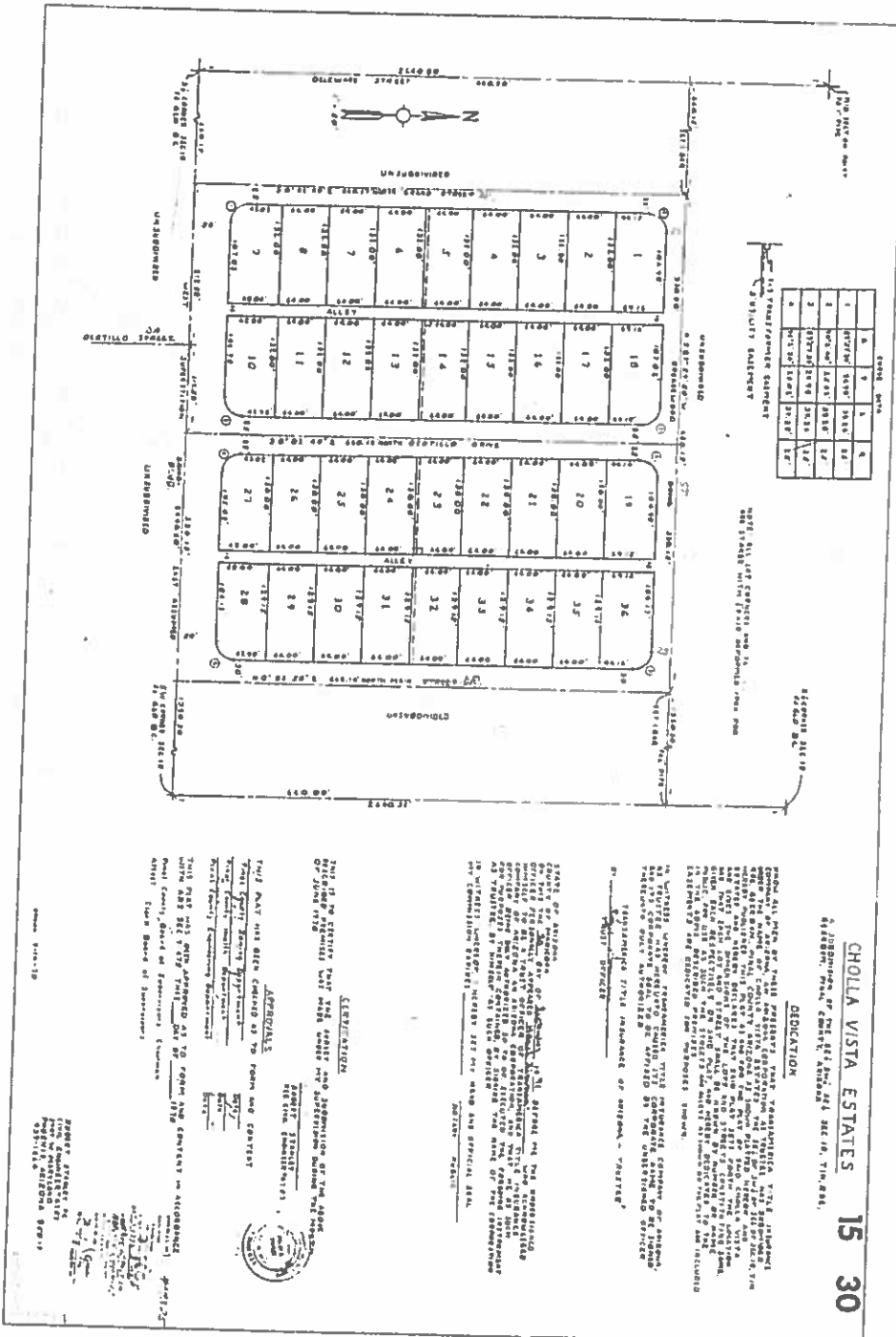
10-29-2009
UPDATED BY CC

THIS MAP IS FOR VALUATION PURPOSES ONLY.
THIS OFFICE WILL NOT ASSUME LIABILITY FOR
REPRESENTATION, MEASUREMENTS OR ACREAGE.
SURVEYS & SUBDIVISION PLATS ARE ON FILE
WITH THE PINAL COUNTY RECORDS OFFICE.

PINAL COUNTY ASSESSORS MAP

CHOLLA VISTA ESTATES

CHOLLA VISTA ESTATES



CITIZEN NOTIFICATION LETTER

CITY OF APACHE JUNCTION CASE NUMBER PLN2018-00008

2090 WEST SUPERSTITION BOULEVARD, APACHE JUNCTION, ARIZONA

February 23, 2018

Dear Neighbors,



The owners of the Subject Property have submitted a request for a Conditional Use Permit to allow for the storage of up to eight Conex containers. These containers would store the personal property of the owners. There will be no commercial storage on the Subject Property.

The Subject Property is bound to the north and east by an existing CMU wall and a chain link fence on the west and south. The property owners plan to install slats or other screening material on the existing chain link fence so the Subject Property is screened on all sides to provide both security and screening. An access gate will provide ingress and egress off Superstition Drive.

The property owners have replaced the broken sections of the chain link fence and have brought the existing landscaping back to life which includes multiple mature desert trees. The owners will maintain existing vegetation and will add additional shrubs in compliance with City landscape guidelines.

The owners feel confident that the storage of containers on the Subject Property is a good interim land use that will have minimal impacts on adjacent properties or the immediate area. If you have any questions or have any comments, please call me, the owner's representative, at (480) 228-2150 or contact me via email at michelleldahlke@gmail.com. You can also contact City Planner Danielle Jordan via email at djordan@ajcity.net and reference the City Case Number from the top of this letter.

Sincerely,

Michelle Dahlke

Michelle Dahlke
Arizona Planning and Paralegal Solutions | (480) 228-2150 | michelleldahlke@gmail.com |

1 sq. Equals 5 FT.

NORTH PROPERTY LINE
(BLOCK WALL)

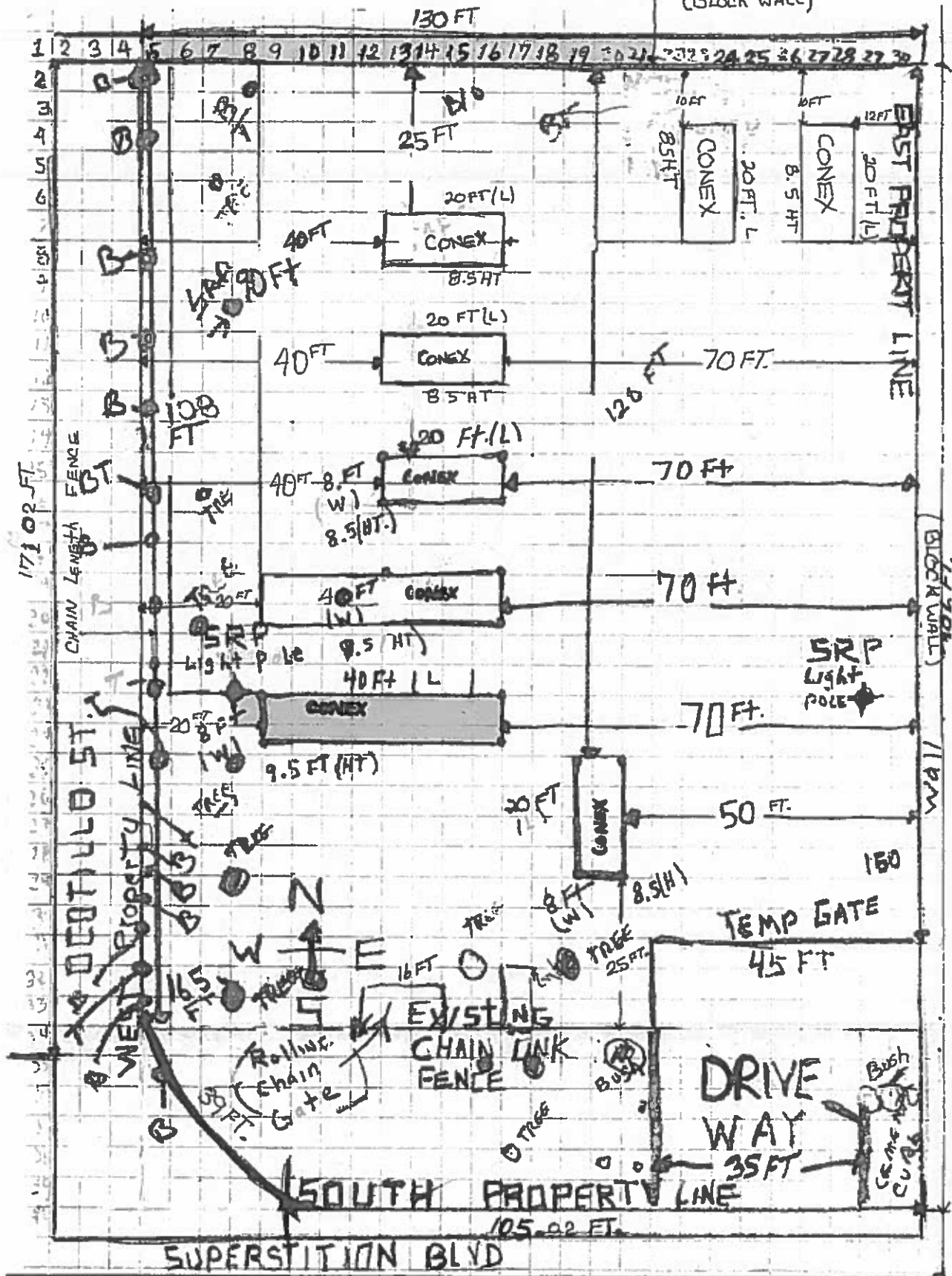




Figure 1: Looking Southeast from Northwest



Figure 2: Looking Northwest from Property Interior



Figure 3: Looking North/Northwest from Property Interior



Figure 4: Looking Southwest from Northeast

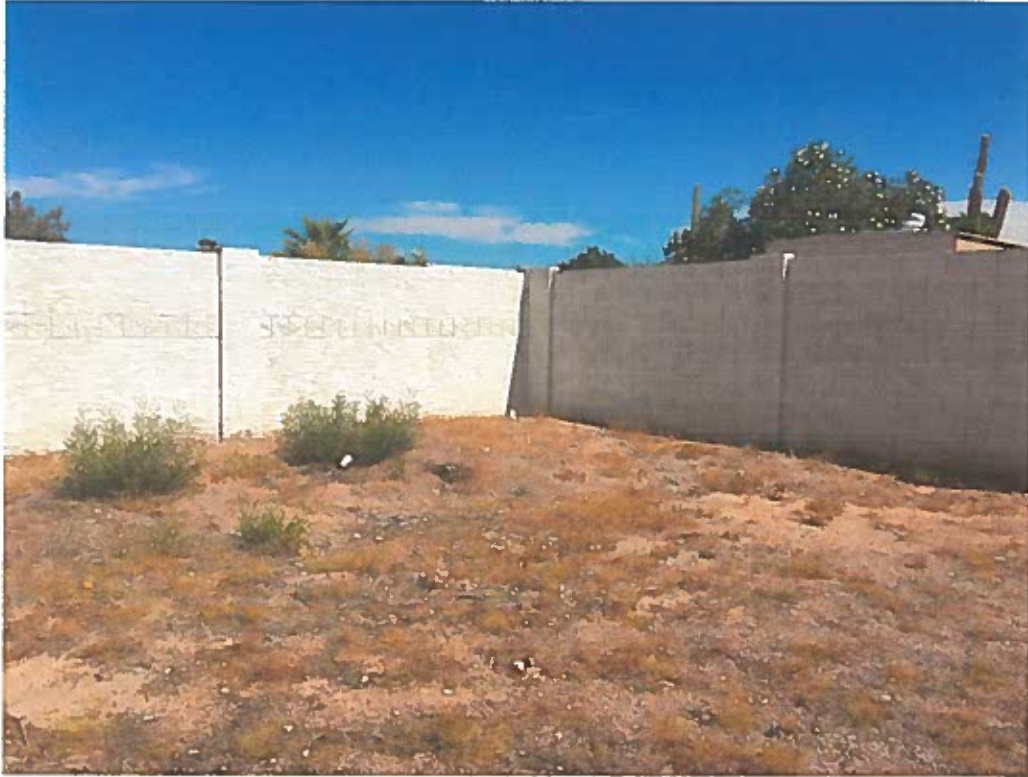


Figure 5: Looking Northeast from Property Interior



Figure 6: Looking Southeast from the Entrance of the Property



Figure 7: Looking Northwest from Southeast



Figure 8: Looking Southwest from Property Interior



Figure 9: Looking Northeast from the Southwest

§ 1-6-8 CARGO CONTAINERS.

(A) *Permit required.* Issuance of an administrative use permit ("AUP") and payment of a processing fee is required prior to installation and use of a cargo container in the city.

(B) *Residentially zoned properties.* Cargo containers on residentially zoned properties shall comply with the following:

(1) *Where and when allowed.*

(a) *Permanent use.* Cargo containers used for permanent storage shall only be permitted in the RS-GR, RS-54 and RS-54M residential zoning districts with a minimum lot size of 1.25 gross acres. Cargo container(s) shall be located to the side or rear of the principal residential structure, and shall be set back from a neighboring property line in accordance with the zoning district's minimum accessory building setbacks identified in Vol. II, § 1-5-2, Table 5-2.

(b) *Temporary use.* Cargo container(s) used for temporary storage of equipment and materials during general construction shall be permitted in any residential zoning district provided such activity is authorized by a valid building permit issued to a duly licensed and bonded contractor who has obtained a city privilege license or a property owner acting as an owner or owner/builder of a single-family residence. The temporary cargo container shall be removed within 12 months of AUP issuance.

(c) *Emergency use.* Cargo container(s) used as an emergency accommodation shall be allowed in conjunction with required and properly permitted home repairs as a result of damage caused by flood, fire, wind, or termites. The temporary cargo container shall be removed within 12 months of AUP issuance.

(2) *Use restriction.* Cargo containers shall only be used for personal storage purposes, not for business storage or as a home occupation workshop.

(3) *Maximum number and size.* One container up to 40-feet in length shall be allowed.

(4) *Utility connections.* Cargo containers for permanent storage shall be allowed an electrical connection if properly permitted.

(5) *Color and landscape screening.*

(a) Cargo containers used for permanent storage shall be uniformly painted with an earth tone color and free from surface rust and advertising signage. If the property owner wishes to custom paint the container with a color scheme different than the required uniform earth tone color, the property owner shall first receive approval from the Development Services Director or his/her designee. **EARTH TONE** shall be defined as a color scheme that draws from a color palette of browns, tans, and greens natural to the Sonoran Desert environment. The colors in an earth tone scheme are muted and flat in an emulation of the natural colors found in dirt, moss or trees, and rocks.

(b) If the container is publicly visible to adjacent neighboring properties and/or from the public street, the property owner shall install landscape screening to buffer that visible view, with a minimal initial planting height of 2 feet, and a minimum plant spacing distance of 4 feet. A planting list and guide is available at the Department of Development Services.

(6) *Structural screening.* A building permit may be required if the property owner chooses to install structural screening around the container and/or apply building materials to the container, including awnings.

(C) *Non-residentially zoned property.* Cargo containers on non-residentially zoned properties shall comply with the following:

(1) *Where allowed.* Cargo containers may be permitted in all business, industrial and public/institutional zoning districts. The location shall have a legally established commercial, industrial, or public/institutional use on the property.

(2) *Minimum lot size.* None.

(3) *Maximum number and size.* No restriction.

(4) *Minimum setbacks and site location.* Minimum side, rear and front setbacks for cargo containers shall be subject to accessory building setback requirements identified in Vol. II, § 1-5-4, Table 5-4.

(a) Cargo containers shall not be located within off-street parking areas, utility/drainage/roadway easements, landscape setback, fire lane, or within a location as to compromise emergency, pedestrian, or customer egress and ingress circulation as

determined by the Director or designee.

(b) Cargo containers shall be located to the rear or side of the principal building in a manner that minimizes public view from neighboring properties and/or the public street as determined by the Director or designee.

(5) *Use.* Cargo containers shall only be used for storage of materials for the primary business, or for temporary storage of equipment and materials during general construction provided such activity is authorized by a valid building permit issued to a duly licensed and bonded contractor who has obtained a city privilege license.

(6) *Utility connections.* Cargo containers for permanent storage shall be allowed an electrical connection if properly permitted.

(7) *Color and screening.*

(a) Cargo containers shall be uniformly painted with an earth tone color and be free from surface rust and advertising signage.

(b) If the cargo container is publicly visible to adjacent neighboring properties and/or from the public street, the property owner shall apply for a building permit to install and maintain a minimum 8-foot high structural screening that is compatible with the design and architecture of the principal building. Visual examples of acceptable structural screening devices (such as a masonry wall or completely opaque wooden fence) are available at the Department of Development Services.

(D) *Exemptions.* The only cargo containers that are completely exempt from the provisions of this Chapter are the 3 containers located at 936 W. Apache Trail, 57 E. 20th Avenue, and 2296 S. Cactus Road. These 3 cargo containers were originally exempted by Ordinance 630 and are in the same locations and condition as originally placed. Should they be replaced or removed, they lose their exempt status and all of the provisions of this section shall apply.

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

§ 1-16-12 CONDITIONAL USE PERMITS, ADMINISTRATIVE USE PERMITS AND BUILDING PERMITS.

(A) *Authorization and applicability.* It shall be unlawful to erect, construct, reconstruct, alter or change the structure, land and/or use of any property within the city without first obtaining the required building permit, administrative use permit, and/or conditional use permit from the Development Services Department.

(B) *Building permits.* The City of Apache Junction Building Official and the city's adopted building codes establish the requirements and procedures for building permits.

(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)

human and/or natural activities, such as, but not limited to, movement of soil, vehicles, equipment, blasting and wind. For the purpose of this Section, fugitive dust does not include particulate matter emitted directly from the exhaust of motor vehicles and other internal combustion engines, from portable brazing, soldering, or welding equipment and from piledrivers.

4. Apache Junction City Code, Volume I, Chapter 9, Health and Sanitation, Section 9-1-3(B) Vehicles, is amended by adding new subsections (6), (7), and (8), which shall provide as follows:

- 6) For all developments other than residential buildings with four or fewer units, affected surfaces subject to the dustproofing requirement include any areas utilized for parking, maneuvering or ingress and egress of on- or off-road vehicles. Access lanes and working surfaces for vehicles shall qualify as affected surfaces. No later than October 1, 2008, all parking, maneuvering, ingress and egress areas at developments other than residential buildings with four or fewer units must be maintained with one or more of the following permanent dustproof paving methods:
- (a) Paving with asphaltic concrete;
 - (b) Paving with Portland cement based concrete;
 - (c) Surfacing with a penetrating asphalt and a gravel surface known as chip sealing;
 - (d) Surfacing with and uniformly maintaining a two-inch deep layer of rock having a nominal size of one-quarter (1/4) inch or larger;
 - (e) Surfacing with a two-inch deep layer of recycled asphalt;
 - (f) Surfacing with any other dustproof paving treatment method that has been approved by the Development Services Director or his or her designee; or
 - (g) Demonstrating to the satisfaction of the Development Services Director or his or her designee on at least an annual basis, on a form as required by the Development Services Director and pursuant to a test method approved by the Development Services Director, that the average

threshold friction velocity of the native soil surface, corrected for non-erodible elements, is at least 100 centimeters per second. For purposes of administering this subparagraph, the Development Services Director may designate the Air Quality Control Department of Pinal County as an entity authorized to approve such applications.

For non-dustproofed surface areas that are utilized intermittently at developments other than residential buildings with four or fewer units, for a period of thirty (30) calendar days or less during the calendar year, for surfaces that are used for parking, maneuvering, ingress and egress on an intermittent, short-term basis, the owner and/or operator may, as an alternative, effect dustproofing by effecting one or more of the following pursuant to a plan approved in writing by the Development Services Director:

- i. Installation of a temporary or permanent dustproof surface;
- ii. Application of a dust suppressant; or
- iii. Routine watering of traveled surface as a dust suppressant and for the creation of an encrusted dustproof native surface after the activity ends.

Undisturbed surfaces at developments other than residential buildings with four or fewer units shall be exempt from the dustproofing requirements of this ordinance, but only if those undisturbed surfaces are fenced or otherwise clearly delineated from affected surfaces by means of a fence or other physical barrier. Delineated long-term storage stalls, where a vehicle, trailer or other item is stored and not normally removed and replaced more than once in a sixty-day period shall also be considered undisturbed surfaces.

Any dust-proofing shall be maintained in a manner that prevents visible track-out.

- 7) For any residential property with four or fewer units, affected surfaces subject to the stabilization