



*City of Apache Junction*  
*Development Services Department*




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**BOARD OF ADJUSTMENT AND APPEALS**  
**PUBLIC HEARING STAFF MEMORANDUM**  
**Case BA-3-17**

**DATE:** December 6, 2017

**TO:** Board of Adjustment and Appeals

**FROM:** Lawrence J. Kirch, AICP, Development Services Director 

**SUBJECT:** December 11, 2017, Board of Adjustment and Appeals  
Public Hearing Item: Case BA-3-17, an appeal of the Zoning  
Administrator's decision by Bambi Johnson, represented by  
Adam Martinez and Thomas F. Galvin, Jr. of the Rose Law  
Group.

**Appeal Request**

Attached as **Exhibit 1**, is a copy of the appellant's Application For Appeal Of Zoning Administrator's Decision. The appellant is seeking a determination from the Board of Adjustment and Appeals as to whether the Zoning Administrator properly interpreted the zoning code with respect to Section 1-6-23 Temporary Uses and Structures and Section 1-5-3 Non-Residential Use Regulations, Table 5-3, Non-Residential Use Regulations. Appellant argues that Table 5-3 requires a CUP for "Private Outdoor Music Festivals/Events" in the B-1 General Commercial Zoning District. The appellant asserts that the Zoning Administrator erred in his interpretation that "no Conditional Use Permit is required for a property zoned B-1 to have up to four (4) private music outdoor festivals/events."

There are three (3) questions applicants are required to answer as follows:

- 1. Provide the Zoning Ordinance Section Number(s) which you believe have been incorrectly interpreted by the Zoning Administrator:**

Applicant Response: "Vol. II, Chapter 1, Zoning Ordinance, 1-6-23 Temporary Uses and Structures (A) Permits Required, No temporary uses may be establish[ed] prior to the City issuance of the appropriate permit."

**2. Describe existing and proposed use of the subject property (if applicable):**

Applicant Response: "Table 1-5-3 (Private Outdoor Music Festivals/Events) Code for B-1 Gen = "CUP" ➡ Proposed Determination "No Permit."

**3. Describe your interpretation of the Section Number(s) listed above and provide any other reasoning to support your appeal of the Zoning Administrator's decision:**

Applicant Response: "September 19, 2017, City Council Meeting (minutes) Zoning Administrator stated "No CUP required up to 4 Landuses before needing "CUP" Permit this is in an error in accordance with Vol II 1-6-23 and

- + Table 1-5-3
- + Vol II 1-1-3 Applicability
- + Vol II 1-2-4
- + Vol II 1-16-12"

**Public Notification**

The **Notice of Public Hearing** of the APACHE JUNCTION BOARD OF ADJUSTMENT was published in the Mesa Republic Community Classified section on Saturday, November 25, 2017. The applicant is tying the zoning code interpretation to the Hitching Post properties. Because the applicant does not own the property referenced in their Exhibit A, B, or C, the city has not required the applicant to post a public hearing notification sign on the property (2341 N Apache Trail, Apache Junction, AZ, 85119, parcel numbers 100-25-003, 100-25-001E, 100-25-010A, 100-25-001C, 100-25-043A. The applicant did not submit a legal description and noted that the "Legal Description of the Subject Property (if applicable): was N/Applicable" therefor, there was no mailing to any property owners nor was any sign posted in the city to advertise the case.

**Staff Analysis**

The appellant is seeking the Board's determination of several zoning ordinance provisions as they may apply to a group of properties owned by one individual. Staff believes that questions of interpretation are more generally applicable and is therefore focusing this report on the matter of whether the Zoning Administrator erred in his determination of how many events can take place on a B-1 General Commercial property prior to a CUP being required. City staff therefore is limiting its review and analysis to that question.

The following Articles/Sections of Apache Junction City Code, Volume II, Land Development Code, Chapter 1, Zoning Ordinance, are referenced in the appeal application in Question 3. Staff provides the text from the zoning code and an analysis of the particular section.

**Appellant Code Citation #1:** Article 1-1: Introductory Provisions, Section 1-1-3 Applicability

#### **§ 1-1-3 APPLICABILITY.**

(A) *Applicability to property.* This Chapter shall apply, to the extent permitted by law, to all property within the city, including all uses, structures and land owned by any private person, firm, corporation or organization, or local, state or federal agencies.

Staff Analysis: City staff concedes that the zoning regulations (Volume II, Land Development Code, Chapter 1, Zoning Ordinance) apply "to all property within the city."

**Appellant Code Citation #2:** Article 1-2: Types of Uses, Section 1-2-4 Administrative Uses

#### **§ 1-2-4 ADMINISTRATIVE USES.**

Administrative uses are those uses that are generally compatible with the land uses permitted by right in a zoning district, but which require Zoning Administrator review and issuance of an administrative use permit ("AUP") to ensure the use complies with Zoning Code standards. Uses requiring an AUP include, but are not limited to, temporary uses, cargo containers, fences, signs, outdoor events and home occupations. See Vol. II, Tables 5-1 and 5-3. The administrative process required for administrative use permit requests is provided in Vol. II, § 1-16-12(C).

Staff Analysis: City staff acknowledges that some uses in Tables 5-1 and 5-3 require an AUP.

**Appellant Code Citation #3:** Article 1-5: Zoning Bulk and Use Regulations, Section 1-5-3 Non-residential Use Regulations, Table 5-3 Non-residential Use Regulations

#### **ARTICLE 1-5: ZONING BULK AND LAND USE REGULATIONS.**

##### **§ 1-5-0 INTRODUCTION.**

The following tables illustrate and describe the use, structure and bulk requirements (e.g. setbacks, density, lots size, lot coverage, building height and lot width) for each zoning district. The Zoning Administrator shall be responsible for interpreting these zoning requirements [emphasis added].

##### **§ 1-5-3 NON-RESIDENTIAL USE REGULATIONS.**

Table 5-3 illustrates the use regulations for all non-residential zoning districts.

**TABLE 5-3: NON-RESIDENTIAL USE REGULATIONS**

USE CATEGORY	SPECIFIC USE TYPE <sup>1</sup>	B-1 Gen.	B-2 Old West	B-3 City Cen.	B-4 <sup>4</sup> Bus Park	B-5 <sup>4</sup> Ind.	PL Pub/Inst.
<b>Arts, Entertainment and Recreation (NAICS Code 71)</b>	Performing Arts Facilities	YES	YES	YES	YES	NO	YES
	Spectator Sports Facilities	CUP	CUP	CUP	CUP	CUP	CUP
	Museums and Historical Sites	YES	YES	YES	YES	NO	YES
	Zoos, Nature Parks and Botanical Gardens	CUP	CUP	CUP	CUP	NO	CUP
	Amusement Parks	CUP	CUP	CUP	CUP	NO	CUP
	Indoor Arcades	YES	YES	YES	YES	NO	NO
	Gambling Facilities	CUP	CUP	CUP	CUP	NO	CUP
	Private Recreational Facilities (Outdoor)	CUP	CUP	CUP	CUP	NO	CUP
	Private Recreational Facilities (Indoor)	YES	YES	YES	YES	NO	CUP
	Public Recreational Facilities	AUP	AUP	AUP	AUP	AUP	AUP
	Public Outdoor Music Festivals/Events	AUP	AUP	AUP	AUP	AUP	AUP
	Private Outdoor Music Festivals/Events	CUP	CUP	CUP	CUP	NO	CUP

Staff Analysis: City staff only included the pertinent excerpt from Table 5-3 relating to Arts, Entertainment and Recreation. The shaded portion of Table 5-3 states that Private Outdoor Music Festivals/Events need a CUP. The zoning administrator, as noted above shall be responsible for interpreting these zoning requirements, and has interpreted that hosting occasional events, up to four per year does not require a CUP. The appellant is arguing that hosting just one event requires a CUP.

It is important to note that the words "festivals" and "events" are plural in Table 5-3. So it is clear that hosting one festival or one event would not require a CUP. So the question becomes, how many festival(s)/event(s) trigger a CUP?

Land uses in Table 5-3 describe the principal land use on a given property. The table contains a category titled Private Outdoor Music Festivals/Events which describes the principal land use as being for festivals/events, not occasional outdoor musical festivals/events. The zoning administrator, in applying the code as uniformly as is possible to all properties in the city, has determined that hosting occasional events falls under § 1-6-23 Temporary Uses and Structures and if conducted by a nonprofit, that no permit is required (see Table 6-4).

In the appellant's Exhibit A (Staff **Exhibit 1**), the zoning administrator was quoted at a city council meeting as saying "The way they have handled requests for special events is they treat this property (Hitching Post was the subject of the agenda item) no different than they treat another property. This property is zoned B-1 just like a VFW hall where they have outside events such as tailgate parties for the Super Bowl."

For example, the city recently allowed the Elks Club to host three events during the winter season and no CUP was required. Further, an AUP was not required. The events are held at the Elks club, one event is hosted by a nonprofit as a fundraiser and the other two by the Elks, which itself is a nonprofit. The appellant is relating the zoning administrator's determination to the Hitching Post. Below is a table of the events that occurred at the Hitching Post since November of 2014 including the date of the event, the title of the event, sponsor of the event and whether the event sponsor was a nonprofit or a for-profit entity. Three of the events were sponsored by non-profits and therefore no permit was needed per Table 6-4, one event was hosted by a for-profit entity and in the case of the most recent event, the music was moved indoors.

## Community and Private Events at the Hitching Post 2014-2017

Event Date:	Event Title/Headliner Band	Event Sponsor:	For-Profit or Non-profit	Subject to Table 6-4 or 6-3
11/16/14	Bellamy Brothers	Boys and Girls Club	Non-Profit	Table 6-4
01/10/15	TG Sheppard	The Usual Suspects Law Enforcement Motorcycle Club	Non-Profit	Table 6-4
11/21/15	The Confederate Railroad	The Usual Suspects Law Enforcement Motorcycle Club	Non-Profit	Table 6-4
03/12/17	Superstition Blues and Arts Festival (four bands)	Asking Mara, LLC	For-Profit John Chaves	Table 5-3
11/5/17 Event moved indoors	Daryl Singletary	Hitching Post	For-Profit	Table 5-3

### **Appellant Code Citation #4: Article 1-6 Supplemental Regulations, Section 1-6-23 Temporary Uses and Structures**

#### **§ 1-6-23 TEMPORARY USES AND STRUCTURES.**

(A) *Permits required.* Temporary uses and structures are intended to be of limited duration and will not permanently alter the character or physical facilities of the site where they occur. Certain types of temporary uses may be allowed by issuance of an administrative use permit, while others are subject to issuance of a conditional use permit.

(B) No temporary uses may be established prior to city issuance of the appropriate permit in accordance with the following:

(1) *Conditional use permit.* Temporary business uses and/or structures not identified in [Vol. II, § 1-6-3, Table 6-1](#) shall require CUP approval by Planning and Zoning Commission.

(2) *Administrative use permit.* Temporary uses and/or structures identified in [Vol. II, § 1-6-23, Table 6-3](#) may be approved by the Director through issuance of an AUP. An application for an AUP shall be filed with the Development Services Department in accordance with the "City of Apache Junction Temporary Use Application Checklist" available at the Development Services Department. Temporary uses and structures approved by an AUP shall be valid for up to 1 year, and shall be subject to the location and time limit standards provided in [Vol. II, § 1-6-23, Table 6-3](#), and, if applicable, the following additional standards:

[Note that standards (a) thru (r) have been omitted from this memorandum as they are not germane to the appeal.]

**TABLE 6-3: TEMPORARY USES AND STRUCTURES REQUIRING AUP APPROVAL<sup>1</sup>**

<b>TEMPORARY USE OR STRUCTURE</b>	<b>MAXIMUM TIME FRAME</b>	<b>LOCATION PERMITTED</b>
Temporary Office Facilities supporting existing or developing business use	1 year (renewable for additional year upon a finding of need)	Developed or developing non-residential zoned site
Construction trailers, modular units and parking to support construction and land development projects	1 year (renewable for additional year upon a finding of need)	Developed or developing non-residential zoned site
Special Events <sup>2</sup> (Applies to multiple vendor events conducted, organized and sponsored by non-profit organizations and approved by the City Council)	4 consecutive days per specific event per calendar year	Developed or vacant non-residential zoned site
Community Events <sup>3</sup> (Applies to multiple vendor events conducted, organized and sponsored by non-profit organizations)	4 consecutive days per specific event per calendar year	Developed or vacant non-residential zoned site
Private Events <sup>4</sup> (Applies to multiple vendor events conducted, organized and sponsored by for-profit organizations or businesses)	4 consecutive days per specific event per calendar year	Developed or vacant non-residential zoned site
Temporary Residence for Security Guard <sup>5</sup>	12 months	Non-residential construction site
Seasonal Holiday Sales Limited to: - Christmas/New Year's (i.e., trees, wreathes and fireworks) - Halloween (i.e., pumpkins and gourds) - 4th of July (i.e., fireworks)	30 days per holiday per location	Developed or vacant non-residential zoned site
Farmers Market, Fruit and Produce Stands (Excludes flea markets and swap meets)	3 days per week per location	Developed or vacant non-residential zoned site
Carnivals, Circuses and Fairs (See Vol. I, Chapter 8 of the Apache Junction City Code)	7 consecutive days per specific event per calendar year	Developed or vacant non-residential zoned site
Flea Markets and Swap Meets (See Vol. I, Chapter 8 of the Apache Junction City Code)	3 days per week per location	Developed non-residential zoned site
Vendors Using Carts, Booths or Kiosks (excludes food and beverage sales)	3 days per week per location	Developed non-residential zoned site
Food/Beverage Cart or Concession Trailer (See Vol. I, Chapter 8 of the Apache Junction City Code)	7 consecutive days per location	Developed non-residential zoned site

## Table 6-3 footnotes:

### Notes:

1. Approval of temporary uses not listed in [Vol. II, Table 6-3](#) above are subject to CUP approval.
2. *Special events.* Special events that are conducted, organized and sponsored solely by non-profit organizations with multiple vendors shall be approved by the City Council during the annual budget process, and shall not exceed 4 consecutive days in any calendar year. The community event shall have the purpose of promoting or benefitting the city and its residents and/or the sponsoring non-profit organizations. City Council approved special events conducted, organized and sponsored by non-profit organizations do not require Development Services Department approval. Special events may be allowed in accordance with [Vol. II, § 1-6-3, Table 6-2](#) and Apache Junction City Code, Vol. I, Chapter 8.
3. *Community events.* Community events that are conducted, organized and sponsored solely by non-profit organizations with multiple vendors shall be administratively approved by the City Manager or designee and shall not exceed 4 consecutive days in any calendar year. The community event shall have the purpose of promoting or benefitting the city and its residents and/or the sponsoring non-profit organizations. Community events are subject to the standards identified in Apache Junction City Code, Vol. I, Chapter 8.
4. *Private events.* Private events that are conducted and sponsored by for-profit organizations, agencies or businesses with multiple vendors shall be administratively approved by the City Manager or designee and shall not exceed 4 consecutive days in any calendar year. Private events may be allowed in accordance with [Vol. II, § 1-6-3, Table 6-2](#) and Apache Junction City Code, Vol. I, Chapter 8.

[Note: Only the portions of Table 5-3 pertaining to the appeal are included above and footnotes #5 *Residence for security guard* and #6 *Residence during home construction* have been omitted from this memorandum as they are not germane to the appeal.]

Staff Analysis: Community events and Private events are listed in Table 6-3 and detailed in footnotes #3 and #4. There are no limits as to the number of events, only that each event cannot be held for more than four days per event per year. A community event is further described in Volume 1, Chapter 8 of the Apache Junction City Code as one that is sponsored by a nonprofit. A private event is sponsored by a for profit business. Please note that Volume I, Chapter 8 was revised on September 19, 2017 by the City council, however the changes do not materially change the issues related to this case.

An AUP is required for events, however an internal staff email from former Development Services Director Brad Steinke dated November 26, 2013 indicates that both community events and private events were to be handled by the Public Information Officer (PIO) and not the Development Services Director (November 26, 2013 email is contained in an email string dated September 22, 2014). A staff memorandum dated July 23, 2014, also indicates that community and private events are to be administrated by the PIO (see staff **Exhibits 2 and 3**).

As noted on page 5 of this memorandum, Table 6-4 provides that Temporary Use and Structures for nonprofits do not require permits. Finally, footnote #1 to Table 6-3 states "1. Approval of temporary uses not listed in [Vol. II, Table 6-3](#) above are subject to CUP approval." Community events and private events are listed in Vol. II, Table 6-3 and therefore a CUP would not be required.



**TABLE 6-4: TEMPORARY USES OR STRUCTURES NOT REQUIRING A PERMIT**

<i>TEMPORARY USE OR STRUCTURE</i>	<i>MAXIMUM TIME FRAME PERMITTED</i>	<i>LOCATION</i>
Non-Profit Organization Fundraising	No limit.	Non-Residential Zoned Property

**Appellant Code Citation #5:** *Article 1-16 Administration: Section 1-16-12 Conditional Use Permits, Administrative Use Permits and Building Permits.*

**§ 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:

[Note that subparagraphs (1) thru (7) have been omitted from this memorandum as they are not germane to the appeal.]

Staff Analysis: The appellant does not cite any specific subsection in 1-16-12 so its applicability to the main argument is unclear. City staff acknowledge that some land uses require AUPs, CUPs, and are permitted by right or prohibited entirely.

**Planning Division Conclusion and Recommendation**

Per Article 1-16: Administration, Section 1-16-1 (B), the zoning administrator's is charged with responsibility for interpreting and administering the Zoning Code.

The zoning administrator routinely determines whether a particular land use is allowable in a zoning district. A use can be either a permitted use, a conditional use, a use needing an administrative use permit or prohibited entirely. In making those determinations, it is necessary to apply the entire code not just one particular section.

The Zoning Administrator determined that Table 5-3 pertains to principal uses and not temporary uses. Footnote #1 in Table 6-3 specifies that only those uses not listed in the table require CUPs. Finally, Table 6-4 states that non-profit organization fundraising do not require permits. Therefore, the occasional use of a commercial property for music festivals and events for for-profit entities does not require a CUP. An AUP would be required unless the activity was non-profit organization fundraising. The zoning administrator determined that once a property held four music festivals/events in a given year that the primary use changed to that of a festival/event center and a CUP would be required to continue such use.

When taken in totality, a reasonable interpretation of Table 5-3 is that a pizza pub restaurant/bar (or any permitted use in the B-1 Zoning District for that matter), that has occasional events or festivals can do so without a CUP. As has been illustrated, the Hitching Post has had one festival/event outdoors by a for-profit entity in a four-year time period (2017 Blues and Arts Festival). Three events were sponsored by non-profits as community events and therefore subject to Table 6-4 and no permits were required. The music for the most recent event was moved indoors. It remains the zoning administrator's determination that when the number of festivals/events (not subject to Table 6-4), meet or exceed four in a calendar year, then the land use changes to a festivals/events center (as the principal use rather than an ancillary use).

The following paragraphs summarize the staff findings:

- 1) Table 5-3 uses the plural words "festivals" and "events," which indicates that a CUP would not be triggered for a single event or single festival. Table 5-3 is ambiguous as to the number of Private Outdoor Festivals/Events that can occur on a B-1 General Commercial property before a CUP is required. Nor is there a timeframe given in Table 5-3 as to whether the festivals/events are per calendar year.
- 2) Table 5-3 regulates principal uses on the property and not ancillary uses. The table contains a use category titled Private Outdoor Music Festivals/Events which describes the principal land use as being for Private Outdoor Music Festivals/Events, not occasional outdoor musical festivals/events. The zoning administrator, in applying the code as uniformly as is possible to all properties in the city, has determined that hosting occasional events falls under § 1-6-23 Temporary Uses and Structures.

- 3) Table 6-4 Temporary Uses or Structures Not Requiring a Permit has no limit for non-profit organization fundraising uses and exempts such uses from the requirement to have a permit of any kind.
- 4) Footnote #1 to Table 6-3 states "1. Approval of temporary uses not listed in Vol. II, Table 6-3 above are subject to CUP approval." Community events and private events are listed in Vol. II, Table 6-3 and therefore a CUP would not be required. Further, the city's past practice consistently has administered events through the PIO's office as noted in the internal city memorandum dated July 23, 2014 and an email dated November 26, 2013. These state that the community events and private events process in Volume I, Chapter 8 (but also found in the zoning code) are to be administrated by the Public Information Officer.

The Board is respectfully reminded that they must cite findings of fact to support their decision of approval or denial. Please note that a decision of *denial* of the appeal request means that the Board supports the Zoning Administrator's determination; a decision of *approval* of the appeal request means that the Board agrees with the applicant and thereby determining that if one festival or event takes place on a property zoned B-1, a CUP is required. If the Board desires to approve the applicant's request, they may also do so with conditions.

#### RECOMMENDED MOTION

I move that case BA-3-17, an appeal to the Board of Adjustment and Appeals, by Bambi Johnson, represented by Adam Martinez and Thomas F. Galvin, Jr. of the Rose Law Group requesting an appeal of the Zoning Administrator's decision that a property zoned B-1 needs a Conditional Use Permit to host one festival or one event, be (APPROVED/DENIED), with the following conditions and findings of fact:

#### Findings of Fact:

1. The applicant (**has/has not**) presented sufficient evidence to demonstrate that the zoning administrator erred in his interpretation of the zoning code.
2. Table 6-4 specifies that temporary uses for non-profits do not need any permits.
3. Table 5-3 provides for Use Categories and Specific Use Types and not ancillary uses.
4. (other findings determined by the Board?)

Conditions of Approval (only if appeal is approved):

1. \_\_\_\_\_
2. \_\_\_\_\_

[Any person aggrieved by any decision of the Board of Adjustment and Appeals may at any time within thirty days of said decision file a complaint for special action in Superior Court to review any Board decision pursuant to ARS §9-462.06.]

Attachments:

Exhibit #1 - Appellants Application dated 10/3/17

Exhibit #2 - City internal email dated Tuesday, November 26, 2013 (within email dated Monday, September 22, 2014)

Exhibit #3 - City memorandum from Brad Steinke, Director of Development Services dated July 13, 2014

EXHIBIT 1

APPLICATION FOR APPEAL OF ZONING ADMINISTRATOR'S DECISION  
CITY OF APACHE JUNCTION

I/We hereby appeal the decision of the Zoning Administrator in accordance with Article 1-16-5 of the Apache Junction, Arizona, Zoning Ordinance.

Existing Zoning Classification: B-1

Address or General Location and Site of Subject Property:

2341 N Apache Trail, Apache Junction, AZ, 85119  
AND PARCELS 7100-25-003, 100-25-001E, 100-25-010A, 100-25-001C

County Assessor's Tax Parcel #: 100-25-043A, 003, 001E, 010A, 001C (5 PARCELS)

Legal Description of Subject Property (if applicable):

N/A applicable

Please answer the following questions in the space provided, or submit a separate, signed statement if additional space is needed.

1. Provide the Zoning Ordinance Section Number(s) which you believe has been incorrectly interpreted by the Zoning Administrator:

Vol II, Chapter 1, ZONING ORDINANCE, 1-6-23 TEMPORARY USES  
AND STRUCTURES (A) PERMITS REQUIRED "NO TEMPORARY USES  
MAY BE ESTABLISH PRIOR TO CITY ISSUANCE OF THE APPROPRIATE PERMITS

2. Describe existing and proposed use of the subject property (if applicable):

Table 1-5-3 (Private Outdoor Music Festivals/Events)  
Code FOR B-1 GEN = "CUP" → PROPOSED DETERMINATION "NO PERMIT"

3. Describe your interpretation of the Section Number(s) listed above and provide any other reasoning to support your appeal of the Zoning Administrator's decision:

\* SEPTEMBER 19, 2017 CITY COUNCIL MEETING  
\* ZONING ADMINISTRATOR STATED "NO CUP REQUIRED UP TO  
4 LAND USES BEFORE NEEDING "CUP" PERMIT  
THIS IS AN ERROR IN ACCORDANCE WITH Vol II 1-6-23 AND

+ Table 1-5-3

+ Vol II 1-1-3 Applicability


+ Vol II 1-2-4

+ Vol II 1-16-12

BA3-17  
PIN 2017-00055

ADAM MONTINEZ

THOMAS F. GALVIN, JR. ROSE LAWN GROUP  
Print Name of Applicant or Representative

  
Signature

7144 E Stetson DR Suite 300  
Mailing Address

480-240-5651  
Phone

Scottsdale AZ, 85251  
City, State, Zip Code

Bambi Johnson  
Print Name of Applicant or Representative

  
Signature

2319 N Cortez Rd  
Mailing Address

480-38-2131  
Phone

Apache Junction, AZ, 85119  
City, State, Zip Code

NOTE: The land owner or representative must sign the application. A notarized letter signed by the land owner authorizing a representative to make application in his name must accompany this application, if such representative is appointed.

SUBMIT THE COMPLETED APPLICATION FORM IN PERSON TO THE ZONING COMPLIANCE DIVISION, DEVELOPMENT SERVICES DEPARTMENT, CITY COMPLEX, 300 E. SUPERSTITION BLVD., APACHE JUNCTION, ARIZONA, TOGETHER WITH THE FOLLOWING:

1. Filing fee \$250.00 ☒
2. Legal Advertising fee \$500.00 ☐
3. Copy of current deed or subject property. - NA
4. Accurate plot plans and preliminary floor plans if applicable. - NA
5. Any supporting information you wish to provide. - ~~Contract~~ speech Exhibits A, B, C

FOR OFFICE USE ONLY

CASE NUMBER: \_\_\_\_\_

DATE FILED: \_\_\_\_\_

RECEIVED BY: \_\_\_\_\_

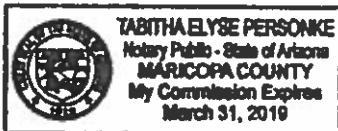
AMOUNT RECEIVED: \_\_\_\_\_

I Bambi Johnson 2319 N Cortez Rd, Apache Junction, AZ, 85119 do hereby Authorize the Rose Law Group 7144 E Stetson Drive Suite 300, Scottsdale AZ, 85252 to represent me in this application for Appeal of Zoning Administrators Decision, City of Apache Junction.

Due to the unique nature of this appeal, I give permission for Jim Duncan to deliver in person the completed application as requested and review or disseminate any further application needs to myself and the Rose Law Group as may be requested by the Zoning Compliance Division, Development Services Department, City of Apache Junction.

Signed, Bambi Johnson on this 2<sup>nd</sup> Day of October, 2017

Witnessed and Notarized below this line.



Tabitha Elyse Personke

## LEGAL ADVERTISING FEES

Arizona Revised Statute 9-812b states "in cases of laws or ordinances enacted on behalf of a private person, he shall pay the expense of publication, and may designate the newspaper." Chapter 4, Fees, Article 4-4, Planning, Zoning Review and Subdivision Fees, Section C of the City Code states that "all legal advertising and legal publication costs exceeding (\$500.00) per case shall be charged to and paid by the applicant."

A deposit of five hundred dollars (\$500.00), over and above the application fee, is required to cover the anticipated cost of advertising or publications. If the advertising and/or publication cost exceeds the five hundred dollars (\$500.00) deposit, the applicant shall be responsible for the overage before final consideration of their application. If the advertising and/or publication cost is less than five hundred dollars (\$500.00), the remainder shall be reimbursed to the applicant.

Your signature below signifies you agree with the above and this form shall act as a receipt.

Signature(s)

Bambi Johnson

Date

10/3/2017

Note: The \$500.00 Legal Advertising Fee will be required to be submitted on a check  
separate from the Application fee.



Councilmember Evans commented any security or any police for traffic, nothing.

Public Safety Director Tom Kelly stated that is correct.

Councilmember Barker commented the recommendations that came from planning and zoning show 8 very specific recommendations on lighting, sound, checking with the police to discuss any safety or circulation issues that might arise, having sufficient port-a-johns, etc. She asked if all of those have been addressed with Mr. Mohiuddin.

Senior Planner Rudy Esquivias stated he believed Mr. Mohiuddin got copies of all the recommendations made by staff.

City Clerk Kathleen Connelly stated the one that came from Rudy, absolutely.

Senior Planner Rudy Esquivias stated they are pretty standard. Things they have mentioned before, not only with regard to Mr. Mohiuddin's property but similar ones.

Councilmember Barker commented they usually do this with everyone. She asked if they do ask them if they have read this and done these things.

Senior Planner Rudy Esquivias stated he has not personally spoken to Mr. Mohiuddin up until this evening but they have communicated about these issues in the past. Every time he holds an event we talk about basically the same things.

Councilmember Barker commented she is very awed by the knowledge of the people who came up to the podium. She asked Larry if the readings of the codes were accurate and if they apply as was stated.

Development Services Director  
Larry Kirch stated people disagree with this. The way they have

(X) handled requests for special events is they treat this property no different than they treat another property. This property is zoned B-1 just like a VFW hall where they have outside events such as tailgate parties for the Super Bowl. They come in and they might go through the special events process and the process for one of the two different liquor licenses, whether they are an owner or nonprofit. He has opined, and people can challenge that through the Board of Adjustment, that they can have up to four events per year. The average has been maybe one or two. He thinks he said after that they would need a conditional use permit. As they are looking at the code through the planning and zoning commission through the fall and winter, there are inconsistencies with the code internally. Whether there is an inconsistency between chapter 8 and the zoning code, those are things for people to look at. As far as staff is concerned, they view this as any other piece of property that is allowed to have a special event. In addition, there was correspondence between his predecessor and Al's predecessor as to who gets what. For Christmas trees and things like that, they will do an administrative use permit. He has not processed a Christmas tree sale in the three years he has been here. That would also include pumpkin sales. Special events have been going through the public information officer's office. There is a separate process for those. He has never issued an administrative use permit for any type of these events. It is not to say that some of these processes cannot be looked at.

Councilmember Evans asked when he referenced B-1 if that was for the Hitching Post proper or the vacant parcel where he wants to hold the event.

Development Services Director Larry Kirch stated there are five parcels. They overlap when you look at where fences are and things like that. The house is zoned B-1.

Councilmember Evans commented the parcels where the extension of premises is to go are also considered B-1.

(X) Development Services Director Larry Kirch stated all of the five parcels that he owns are B-1.

## **1-6-23 TEMPORARY USES AND STRUCTURES**

### **Exhibit A**

A. Permits Required. Temporary uses and structures are intended to be of limited duration and will not permanently alter the character or physical facilities of the site where they occur. Certain types of temporary uses may be allowed by issuance of an Administrative Use Permit, while others are subject to issuance of a Conditional Use Permit. No temporary uses may be established prior to City issuance of the appropriate permit in accordance with the following:

**1**

1. Conditional Use Permit. Temporary business uses and/or structures not identified in Tables 6-1 shall require CUP approval by Planning and Zoning Commission.\*

2. Administrative Use Permit. Temporary uses and/or structures identified in Table 6-3 may be approved by the Director through issuance of an AUP. An application for an AUP shall be filed with the Development Services Department in accordance with the "*City of Apache Junction Temporary Use Application Checklist*" available at the Development Services Department. Temporary uses and structures approved by an AUP shall be valid for up to one year, and shall be subject to the location and time limit standards provided in Table 6-3, and, if applicable, the following additional standards:

**2**

c. Only one temporary use permit shall be permitted for a single parcel of land at any given time.

**TABLE 6-3: TEMPORARY USES AND STRUCTURES REQUIRING AUP APPROVAL<sup>1</sup>**

**Exhibit A**

**3**

TEMPORARY USE OR STRUCTURE	MAXIMUM TIME FRAME	LOCATION PERMITTED
Private Events <sup>4</sup> (Applies to multiple vendor events conducted, organized and sponsored by <u>for-profit organizations or businesses.</u> )	4 consecutive days per specific event per calendar year	Developed or vacant non-residential zoned site

4. Private Events. Private events that are conducted and sponsored by for-profit organizations, agencies or businesses with multiple vendors shall be administratively approved by the City Manager or designee and shall not exceed four consecutive days in any calendar year. Private events may be allowed in accordance with Table 6-2 and Apache Junction City Code, Volume I, Chapter 8.

[05-06-14]

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**TABLE 6-4: TEMPORARY USES OR STRUCTURES NOT REQUIRING A PERMIT**

TEMPORARY USE OR STRUCTURE	MAXIMUM TIME FRAME PERMITTED	LOCATION
<u>Non-Profit Organization Fundraising</u>	<u>No limit.</u>	Non-Residential Zoned Property

[05-06-14]

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## 1-2-4 ADMINISTRATIVE USES

### Exhibit A

- A. Administrative uses are those uses that are generally compatible with the land uses permitted by right in a zoning district, but which require Zoning Administrator review and issuance of an Administrative Use Permit ("AUP") to ensure the use complies with Zoning Code standards. Uses requiring an AUP include, but are not limited to, temporary uses, cargo containers, fences, signs, outdoor events and home occupations. See Tables 5-1 and 5-3. The administrative process required for administrative use permit requests is provided in § 1-16-12 (C).

4

[05-06-14]

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## 1-16-12 **CONDITIONAL USE PERMITS, ADMINISTRATIVE USE PERMITS AND 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.

[05-06-14]

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Notes: Table 5-1 is Residential, Table 5-3 is Non-residential

**1-5-3 NON-RESIDENTIAL USE REGULATIONS.** Table 5-3 illustrates the use regulations for all non-residential zoning districts:

**Exhibit A**

**TABLE 5-3: NON-RESIDENTIAL USE REGULATIONS**

USE CATEGORY	SPECIFIC USE TYPE	B-1 Gen.	B-2 Old West	B-3 City Cen.	B-4 <sup>4</sup> Bus Park	B-5 <sup>4</sup> Ind.	PI Pub/Inst.
Arts, Entertainment and Recreation (NAICS Code 71)	Public Outdoor Music Festivals/Events	AUP	AUP	AUP	AUP	AUP	AUP
	Private Outdoor Music Festivals/Events	CUP	CUP	CUP	CUP	NO	CUP

[05-06-14]

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**"YES" = Permitted Use by Right.** A "Yes" indicates that the listed use is permitted by-right within the respective zoning district.

**"CUP" = Conditional Use Permit.** A "CUP" indicates that the listed use is permitted within the respective zoning district only after review and approval of a Conditional Use Permit, in accordance with the review and approval procedures of § 1-16-12 (D).

**"AUP" = Administrative Use Permit.** An "AUP" indicates that the use and/or structure is permitted within the respective zoning district following review and approval of an administrative permit by the Development Services Director or designee in accordance with § 1-16-12 (C).

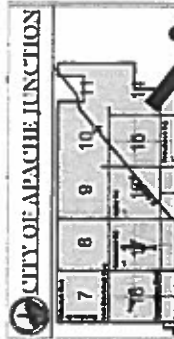
**"NO" = Prohibited Uses.** A "NO" indicates that the listed use type is expressly not allowed within the respective zoning district.

[05-06-14]

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# RS-54 is a Residential Zoning District

## B-1 is a Commercial Zoning District



**Hitching Post &  
Dash In Storage**  
**B-1**  
**Commercial**

102617500  
R1 43 PD 100 C 3000  
RS-S4/PPD  
Chapter 1: Zoning Ordinance  
Approved by the City Council on May 6, 2014

**RESIDENTIAL**

**B-1**

**Commercial**

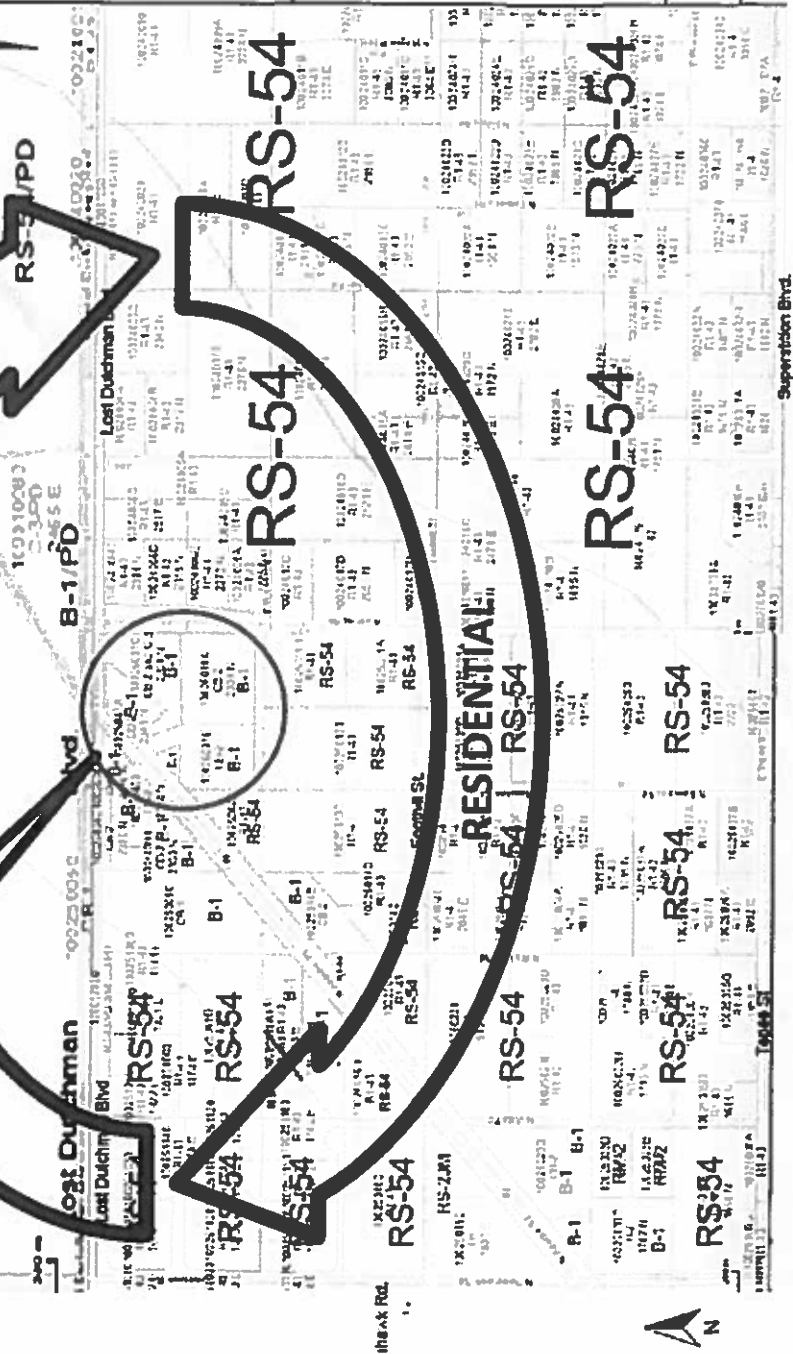


TABLE 5-3: NON-RESIDENTIAL Exhibit A

USE CATEGORY (NAACS Code 44-45)	SPECIFIC USE TYPE	B-1 Gen.
Retail Trade (NAACS Code 44-45)	New Vehicle Sales/Service/Repair	YES
	Used Vehicle Sales/Service/Repair	YES
	RV Sales/Service/Repair	CUP
	Manufactured/Mobile Home Sales	CUP
	Semi-Truck Service/Repair	CUP
	Semi-Truck Stop	NO
	Truck Transportation Terminal	NO
	Bus Transportation Terminal	CUP
	Towing Truck Parking and Storage	NO
	Scenic and Sightseeing Terminal/Parking	CUP
Transportation and Warehousing (NAACS Code 48-49)	Postal, Courier and Delivery Service	CUP
	General Warehouse and Storage (Indoor)	NO
	Mini-Warehouse	CUP
	Distribution Facilities	NO
	Outside Storage Yards	CUP
	Performing Arts Facilities	YES
	Spectator Sports Facilities	CUP
	Museums and Historical Sites	YES
	Zoos, Nature Parks and Botanical Gardens	CUP
	Amusement Parks	CUP
Arts, Entertainment and Recreation (NAACS Code 71)	Golfing Facilities	CUP
	Private Recreational Facilities (Outdoor)	CUP
	Private Outdoor Music Festivals/Events	CUP
	Restaurant/Bars/Clubs (With Amplified Outdoor Music)	CUP
	Single-Family Detached Residential	NO
	Residential Uses	NO
	Residential Uses	NO
	Residential Uses	NO
	Residential Uses	NO
	Residential Uses	NO

# Apache Junction City Code, Exhibit A

## Volume II, Land Development Code,

### Chapter 1: Zoning Ordinance

Approved by the City Council on May 6, 2014

#### 1-1-3 APPLICABILITY

- D. Relation to Other Regulations. The regulations of this Ordinance and requirements or conditions imposed pursuant to this Ordinance shall not supersede any other regulations or requirements adopted or imposed by the State of Arizona, or any federal agency that has jurisdiction by law over uses and development authorized by this Ordinance. All uses and development authorized by this Ordinance shall comply with all other such regulations and requirements. Unless otherwise specified, where conflict occurs between the provisions of this Ordinance and any other City ordinance, chapter, resolution, guideline or regulation, the more restrictive provisions shall control.

**6**



# Apache Junction City Code, Volume II, Land Development Code,

## Chapter 1: Zoning Ordinance

Approved by the City Council on May 6, 2014

### 1-1-4 INTERPRETATION, LANGUAGE RULES AND MEASUREMENT RULES

- A. Intent. This section of the Ordinance is intended to describe the rules of interpretation and the rules of measurement relative to planning and zoning regulations.
- B. Rules for Construction of Language. In interpreting the various provisions of this Ordinance, the following rules of construction shall apply:
  8. The words "shall", "will" and "must," are always mandatory and not discretionary. The words "should" and "may" are permissive.

## **The AJ City Code Vol 1 Chapter 8 Business**

**only Regulates Business's involved in Events that occur.**

**It is not a Zoning Authorization for "Temporary Land Use"**

**The Chapter 8 Events process requires an application and  
A City Staff Approval " \* No Permit is Issued".**

- it is intended for Business Licensing, Not Zoning Approvals**
- there is no Zoning Administrator Review or Approval**
- \* Property Right's Protections are in the Zoning Ordinance**

**\* See AJ City Council Meeting 6/20/17 Chapter 8 Discussion.**

### **Reference Code;**

**8-8-1 Purpose & Intent**

**8-8-1 Subparagraph (1)**

**8-8-2 Definitions; Community Event**

**8-8-2 Definitions; Event**

City Attorney Joel Stern stated the intent is not necessarily just music but any kind of loud disturbances. This language states which has the potential of creating noise, odor, dust, lighting, vibration or proposes the use of amplified music. Most of that is taken from A.R.S. § 13-2917, the general nuisance statute. It is also taken from City Code 10-1-12.

Councilmember Barker asked if they already have that language in there.

City Attorney Joel Stern stated this is for a definition.


Councilmember Barker asked if it is in there but not specifically under entertainment.

City Attorney Joel Stern stated that is correct. This was plucked out of those statutes and they discussed that when they met with the residents. Noise was definitely one of them that had strong opinions. It was one thing they wanted in here.

Councilmember Rizzi asked what happens if a mobile home park wants to put on an event. She asked if they would have to notify all the residents and get their approval.

City Attorney Joel Stern stated if they fit into the definition they would. There was discussion with the residents at one point. There were two different versions that came up. One was the Duncan version and one was the Bowling version. Mr. Bowling had a very interesting attitude about the mobile home parks and so did Mr. Duncan. At one point they all agreed that we probably would not put that in the code for a recommendation for adoption.

Councilmember Rizzi asked if the city would get into a liability issue if someone asks why they get to pick and choose.

 City Attorney Joel Stern stated the city council has discretion on many things. He wanted to point out it is not a zoning code. Chapter 8 of the city code is not Volume II, Chapter 1, which is the zoning code. The constitutional protections that were in some of the emails do not apply because it is not involving property rights.

Councilmember Rizzi commented the suggestion is to exempt mobile home parks from this kind of outdoor event.

have more events.

Councilmember Struble commented he wanted to clarify something that Councilmember Evans was talking about. Currently we have ordinances on the books we are not enforcing on this issue of events that are being held without proper licenses or stuff like that. We currently have ordinances people are violating.

City Manager Bryant Powell stated they do their very best to educate. The whole definition of an event, to him, is actually a very confusing definition like the gathering at Halloween, trick or treat at a church, all of these things in this beautiful community a lot of people love to do. There are a lot of gatherings, get togethers and crafting and so they try their very best to educate. We are not aware of any for those that meet the criteria of being in the public arena that may affect public safety, health and welfare. They try their best to bring them in and they work through the process. They have a current ordinance or framework they work through and, yes, there are people that are probably having gatherings that they need to get their hands around and do that. But he does not know how many or how often.


Councilmember Waldron commented there are a lot of gatherings that go on, market days for one at the park over here, that would never require a permit. They do not have music or loudspeakers. There are a lot of events that take place that people are free to go to that do not create a disturbance for the neighbors. They have to narrow it down to those events that actually would have music or whatever as opposed to a lot of events that take place and people do not notice.

Councilmember Barker asked if he was asking if they would have to use this process for only specific events and use another process for others.

Councilmember Waldron commented there is no process at hand. They are free to gather there at the farmer's market without any permit.

Councilmember Barker commented they do go through the city for the farmer's market.

City Manager Bryant Powell asked if they do a permit. He is not aware of anything in the city code that asks for a permit. He wanted to clarify that for Councilmember Waldron.

 Public Information Officer Al Bravo stated at this point there is no special event permit. There may have

(\*) been some different documentation over the years but having taken over this particular part of the city operation he does not issue any kind of special event permit. He does get the application when that happens and it goes through the regular process we always do. We do not issue a special event permit per se.

City Clerk Kathleen Connelly stated at the bottom of one of the pages of the application there is a signature block for various departments to sign off on it. She guesses that could be stretched to mean a permit but in that case they are talking about larger events that could produce traffic control issues, music and those type of things. We have a lot of much smaller, family-oriented, neighborhood events and those are usually the folks they do not hear from. They have their car wash to raise money for somebody who had a family tragedy.

Councilmember Waldron commented they would not be involved in the process.

City Clerk Kathleen Connelly stated she would not think so but it may not be so for my neighbor. This introduces an element of within so many feet of whatever that activity might be. She does not live in a neighborhood where there is a homeowners' association but Bryant does. If they have an event and Bryant does not like it, they could possibly be forced to go through this process. She does not know; it would be a council decision.

City Attorney Joel Stern stated in 1997-1998 he was asked to prepare an event ordinance. It was for the larger one that the city clerk is talking about. There was going to be a security provision and a permit fee. The council at that time decided it was not going to be a good idea for this community at that time. He thinks it was going to be called a special event permit or license.

City Clerk Kathleen Connelly stated it was a permit. While she is doing research on other parts of Chapter 8 she is seeing what other communities do in this area. Some of them are really complicated and others do not deal with the smaller events. There are numerous references to noise, dust, traffic control and those types of things. If they look throughout the state, she would say it is maybe 50-50 between those cities who have a very rigid process and those who have a more liberal process.

Councilmember Rizzi commented Kathy just brought up a really good point. She is going to tattle on herself here. They do car washes all the time on the spur of the moment and a band who comes out and plays in the parking

## Exhibit B

# Presented from AJCity Staff 9/20/2016

## Current operation of Hitching Post and surrounding properties

- APN 100-25-043A - Hitching Post, LLC; retail activity; Dash In/Pita Pocket; Rodeo Naked, LLC (bull riding)
- APN 100-25-001C – Dash In Commercial rental storage
- APN 100-25-003 – Vacant lot
- APN 100-25 001E & 100-25-010A – Dash In Commercial rental storage
- Non-conforming Single Family Home
- Current licensed premises for liquor license include Dash In, Hitching Post, patio along Hwy 88, patio on the east side and bull riding area.

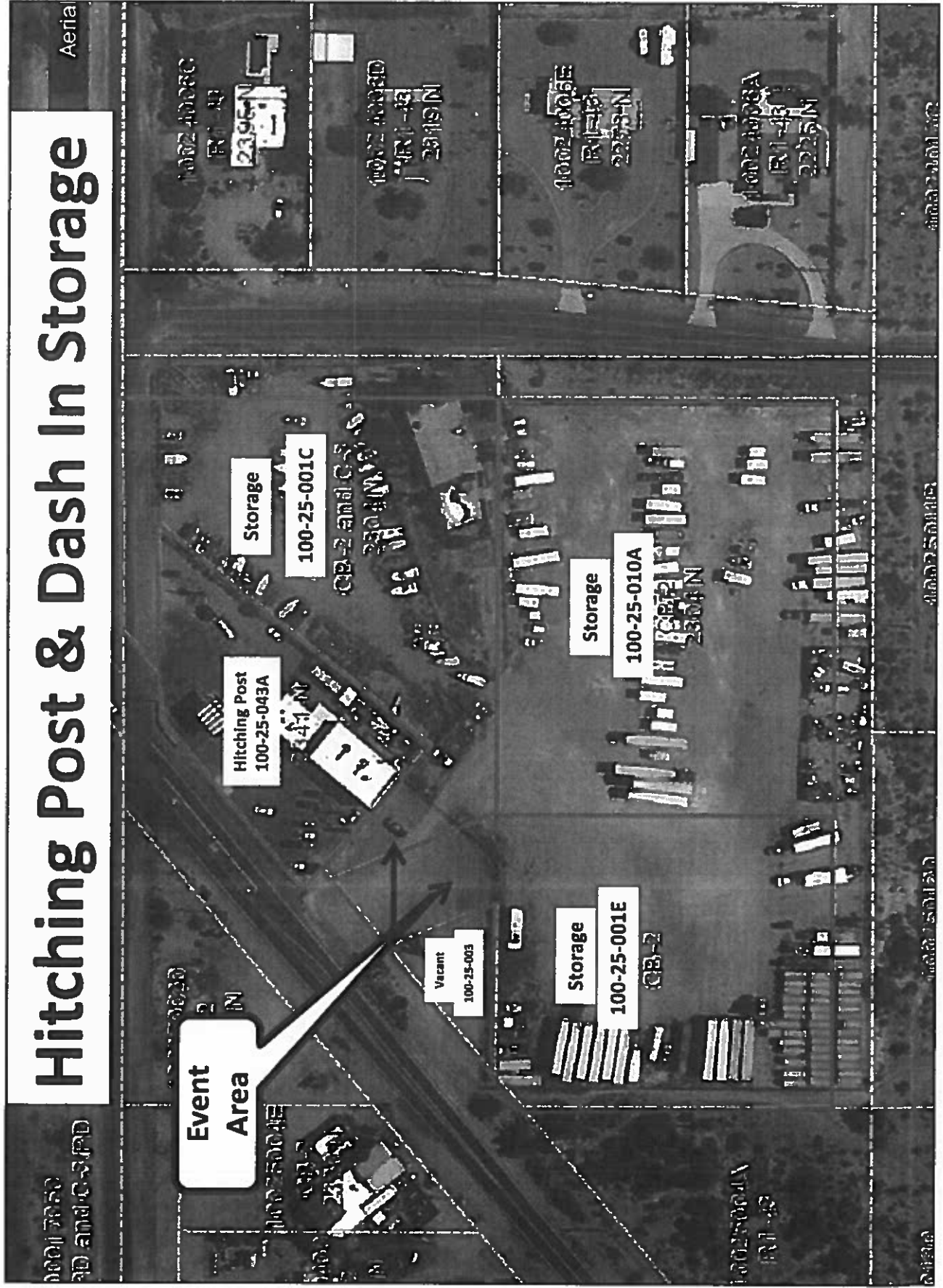
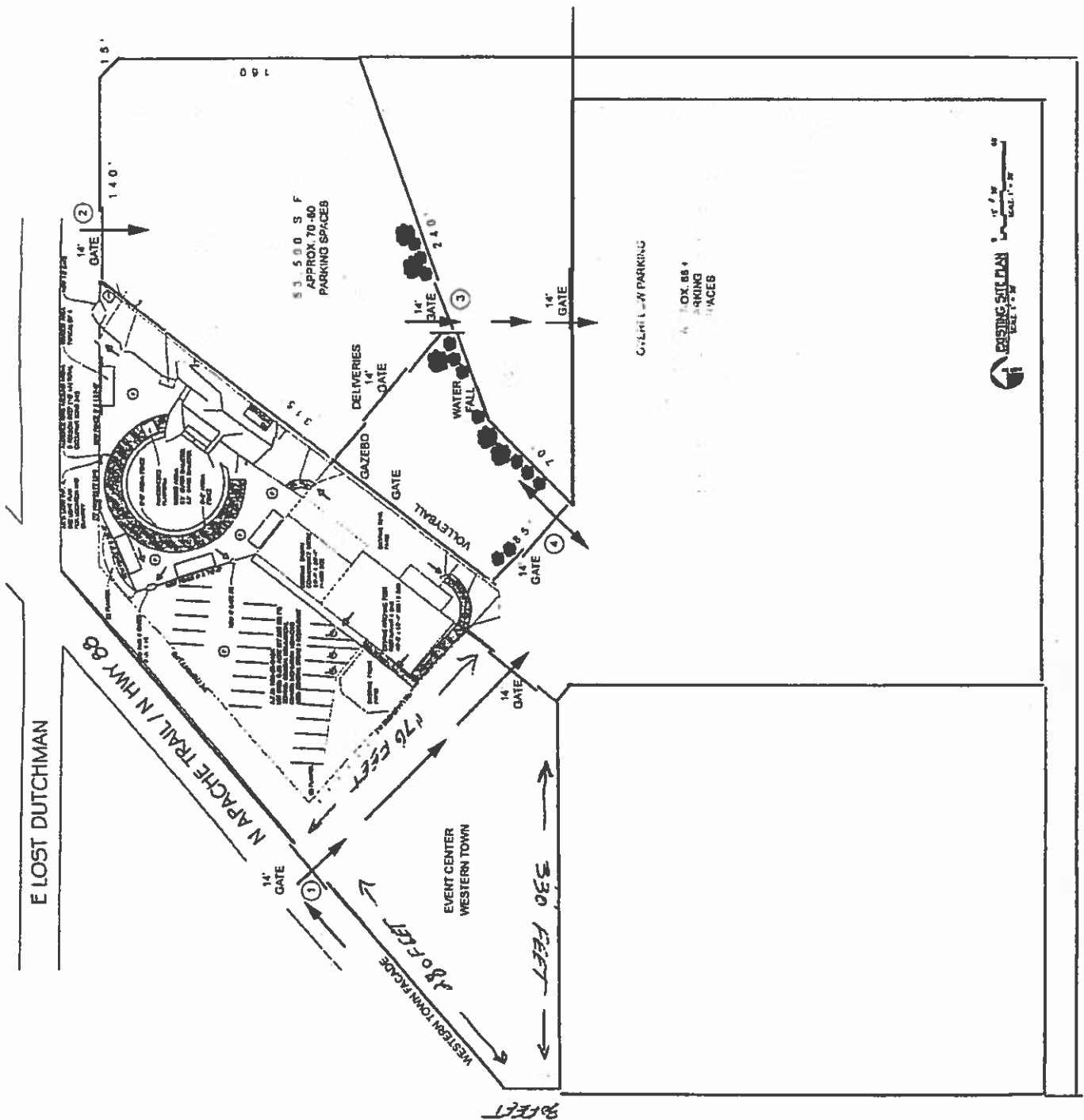


Exhibit C 9/19/2017 City Council Meeting Hitching Post AZDLLC Application





**Larry Kirch**

**From:** Constance Halonen  
**Sent:** Monday, September 22, 2014 7:35 AM  
**To:** Larry Kirch  
**Subject:** FW: Event - Christmas Tree Lot

**Importance:** High

---

**From:** Brad Steinke  
**Sent:** Tuesday, November 26, 2013 3:13 PM  
**To:** Constance Halonen  
**Cc:** Rudy Esquivias  
**Subject:** FW: Event - Christmas Tree Lot  
**Importance:** High

Constance,

This request is technically a temporary use request, which in this instance requires development services to process an administrative temporary use permit with the applicant. I'm not sure how this ended up with you, but I will follow thru with these folks. For future clarification, the following table itemizes the types of uses that staff can administratively permit in the downtown area. As I understand it, the yellow highlighted uses are those typically handled through you. We should probably talk about this.

Brad

**Table 26-2: Temporary Uses and Structures Requiring Prior Administrative Approval**

<u>Temporary Use or Structure</u>	<u>Maximum Time Frame</u>	<u>Location</u>
Temporary Office Facilities (i.e., To support existing or developing business use)	1 year (renewable by staff for additional year upon a finding of need)	Developed or developing site
Construction-Related Activities (i.e., Construction trailers, modular units and parking to support construction and land development projects)	1 year (renewable by staff for additional year upon a finding of need)	Developed or developing site
Community Events (Applies to events conducted, organized and sponsored by non-profit organizations. See Volume I, Chapter 8 of the Apache Junction City Code)	4 consecutive days per specific event per calendar year	Developed or vacant site
Private Events (Applies to events conducted, organized and sponsored by for-profit organizations/businesses. See Volume I, Chapter 8 of the Apache Junction City Code)	4 consecutive days per specific event per calendar year	Developed or vacant site

Seasonal Holiday Sales for Christmas (i.e., trees & wreaths), Halloween (i.e., pumpkins & gourds) and 4 <sup>th</sup> of July (i.e., fireworks)	30 days per holiday per location	Developed or vacant site
Farmers Market, Fruit & Produce Stands (Excludes flea markets and swap meets)	3 days per week per location	Developed or vacant site
Flea Markets and Swap Meets (See Volume I, Chapter 8 of the Apache Junction City Code)	3 days per week per location	Developed site
Vendors Using Carts, Booths or Kiosks (excludes food and beverage sales)	3 days per week per location	Developed site
Food/Beverage Cart or Concession Trailer (See Volume I, Chapter 8 of the Apache Junction City Code)	7 consecutive days per location	Developed site
Car Tent Sales (i.e., Applies only to city approved new and/or used car sites)	7 consecutive days, 4 occurrences per year	Developed site
Classic Car Shows	3 days per week per location	Developed site
Grand Openings (See Volume I, Chapter 8 of the Apache Junction City Code)	14 consecutive days	Developed site
Art Display and/or Sales	7 days per week.	Developed or vacant site

**Notes:**

1. City council approved special events conducted, organized and sponsored by non-profit organizations do not require Development Services Department approval.
2. In addition to approval from the Zoning Administrator, temporary uses listed in Table 26-2 may require approval of the Building Official, Fire Marshall and/or Police Department, and license approvals from the City Clerk's office.
3. Approval of temporary uses not listed in Table 26-2 are subject to conditional use permit or temporary use permit approval as otherwise provided in Chapter 1 (Zoning Code) of the City of Apache Junction Land Development Code.

**Table 26-3: Temporary Uses or Structures Not Requiring Prior Approval**

**Temporary Use or Structure**

**Maximum Time Frame**

Temporary Vehicle Washes by Civic and Nonprofit Organizations, or by Middle and Secondary School Groups	2 consecutive days per use. No more than 4 occurrences per parcel per year.
---	---

Sidewalk Sales: Civic and Nonprofit  
Organizations

4 days per calendar year per occurrence. No  
more than 4 occurrences per parcel per year.

---

**From:** Constance Halonen

**Sent:** Tuesday, November 26, 2013 11:16 AM

**To:** Kathy Connelly; Denise Moulson; Paul Arora; Troy Mullender; Jeff Bell; Jay Reynolds; Rudy Esquivias; Shane Kiesow;  
[tina.gerola@ajfire.org](mailto:tina.gerola@ajfire.org)

**Subject:** Event - Christmas Tree Lot

**Importance:** High

Good afternoon,

Sorry for the short notice on this one, I received the application yesterday.

Please find an event application attached from the Transitional Living Communities for a Christmas Tree lot in the Safeway parking lot. There is a letter included from Safeway giving the group permission to use their lot.

There will not be any food or alcohol at the event and there is adequate parking onsite. They are not requesting the use of any city services, but do plan to use a generator.

Please let me know if you have any questions or concerns. If you have none, please respond indicating your department's approval. I let the applicant know that I would do my best to get a response by the end of tomorrow, but that given when the application was submitted, it may not be until next week.

Thank you,  
Constance Halonen, LMSW  
Interim Community Relations Manager  
City of Apache Junction  
300 E. Superstition Blvd.  
Apache Junction, AZ 85119  
Office Number 480.474.5442  
Cell Number 480.710.9574  
*Service Over and Above the Rest*

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*EXHIBIT 3*

# City of Apache Junction

*Development Services Department*

---

To: Rudy, Kathy and Constance  
From: Brad Steinke, Director of Development Services  
Date: July 23, 2014  
RE: Temporary Use/Event Approval Protocol

I am following up on a recent meeting we had regarding administrative and legal protocol for approving temporary uses and events. My understanding is that there was consensus with the following:

1. Multiple Vendor Events Administered by Constance. Special events, community events and private events, with multiple (i.e., 2+) vendors as defined by Chapter 8, Volume I of the city code, shall be administered by Constance. This would include farmer's markets, flea markets, swap meets, circuses, fairs and similar activities with multiple vendors.
2. Single-Vendor Activities/Events Administered by Development Services. Temporary use activities/events that have no more than one vendor shall be administered by the Development Services Department.

If this does not reflect your recollection of the meeting, let's talk.