



City of Apache Junction
Development Services Department



**NOTICE OF VIOLATION
ZONING**

CODE CASE #: COD2018-00751

Date: November 7, 2018

Sent via Certified Mail, Return Receipt Requested,

U.S. Regular First Class Mail, email to: hitchingpostpizzapub@gmail.com

Mr. Mehmood Mohiuddin
c/o: Dash In and Mini Mart/Hitching Post/HP Steakhouse
2341 N. Apache Trail
Apache Junction, AZ 85119

Address of Property in Violation: 2341 N. Apache Trail & 2304 North Cortez Road

Parcel Number: 100-25-043C

Legal Description of Property:

100-25- 043C -- COMMENCING AT THE NORTHEAST CORNER OF THE NORTHWEST QUARTER OF SECTION 15, TOWNSHIP 01 NORTH, RANGE 08 EAST, THENCE W-40.00 FT TO THE POINT OF BEGINNING THENCE S-212.98 FT THENCE S70D W-203.75 FT THENCE S-61.12 FT THENCE W-37.52 FT THENCE N87D W-168.38 FT THENCE N87D W-170.78 FT THENCE N07D W-43.78 FT THENCE N49D E-436.27 FT THENCE E-242.25 FT TO THE POINT OF BEGINNING, AKA LOT 1 IN SURVEY W/FEE NO 2017-093526, 2.940 ACRES

Owner(s) of Record: Mehmood Mohiuddin

Tax Bill Mailing Address: 2304 N Cortez Rd., Apache Junction, AZ 85119

The City of Apache Junction has adopted a Zoning Ordinance to protect and promote the public health, safety and general welfare. The applicable ordinances can be found in the Apache Junction City Code, Volume II, Land Development Code, which can be read here-
http://www.amlegal.com/codes/client/apache-junction_az/.

You are in violation of Apache Junction Land Development Code; Chapter 1: Zoning Ordinance, Article 1-16: Administration, Section 1-16-13, Development Agreements (see attached Exhibit A). You have an Economic Development Agreement (including amendments) with the City of Apache Junction that limits the use of the property in accordance with said agreement to the uses and areas specified on the site plan, which is an exhibit to the Economic Development Agreement. You are violating the agreement by using the land east of the Hitching Post for parking. This is a clear violation of the economic development agreement and constitutes a violation of the city zoning code.

appealed. However, the applicant is encouraged to review A.R.S. Section 9-462.06 for more information regarding the circumstances of any stay request. The board shall affix a reasonable time for hearing the appeal, and shall give notice of the hearing by publication in a newspaper of general circulation and by posting such notice pursuant to state law.

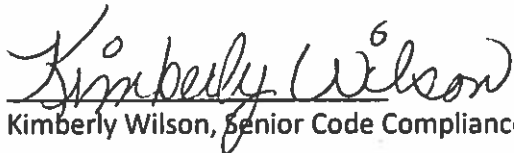
The board has the power to administer oaths and take evidence. The hearing is a quasi-judicial hearing, wherein the members act in the capacity as judges as well as fact-finders. The appellant may: 1) present evidence including any and all relevant documentation; 2) call upon witnesses to provide testimony on his or her behalf; 3) cross-examine all city witnesses; and 4) hire an attorney to represent his or her interests at the hearing. The board may reverse, affirm, wholly or partly, or modify the zoning administrator's decision, and make such requirement, decision, or determination as necessary.

To preserve his or her appellate rights, a person aggrieved by a decision of the Board must file within thirty (30) calendar days after the Board's decision, a complaint for special action in the Pinal County Superior Court challenging the Board's decision. This hearing will not be a new trial; rather it will consist of a written decision made by a superior court judge based on the evidence and testimony submitted at the BOA.

If you do retain an attorney, it is highly recommended that such person be licensed in the State of Arizona and be competent in the area of real property law.

The fee to appeal this zoning notice of violation before the BOA is \$750.00 with an additional deposit of \$500.00 due for advertising related expenses.

Respectfully,



Kimberly Wilson, Senior Code Compliance Officer

Attachments:

Exhibit A - Apache Junction Land Development Code; Chapter 1: Zoning Ordinance, Article 1-16: Administration, Section 1-16-13, Development Agreements.

Exhibit B- Development Agreement Non-compliance letter dated November 17, 2016

Exhibit C - Apache Junction Police Department Incident Reports, Incident Number 181100142 dated 11/1/18.

EXHIBIT A

[X] AJCC Apache Junction Land Development Code; Chapter 1: Zoning Ordinance, Article 1-16: Administration, Section 1-16-13, Development Agreements.

§ 1-16-13 DEVELOPMENT AGREEMENTS.

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

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

(C) *Administrative responsibility.* The city department responsible for administering development agreements will be assigned on a case by case basis. If the development agreement is focused on economic development incentives, the Economic Development Division will be responsible for administering the agreement. If, however, the development agreement is focused on land use, infrastructure and zoning requirements, the Development Services Department's Planning Division will be responsible for administering the agreement.

(D) *Legal review.* In all cases, the City Attorney shall be responsible for legal review and modification of the development agreement prior to City Council consideration.

(E) *City Council approval required.* The City Council has the final authority in approving or denying development agreements. Development agreements shall be presented to the Council for consideration at a public hearing.

AJCC § 1-16-16 VIOLATIONS, PENALTIES AND ENFORCEMENT.

(B) (6) *Criminal filings.* It is unlawful to erect, construct, reconstruct, maintain or use any land in any zoning district in violation of any regulation or any provisions of this Chapter. Any person, firm or corporation violating this Chapter or any part thereof, is guilty of a class one misdemeanor. Each and every day during which the illegal erection, construction, reconstruction, alteration, maintenance or use continues is a separate offense. The City Attorney shall have the sole authority to use his or her discretion in determining whether a criminal action should be filed. The penalty for a class one misdemeanor conviction can be up to 6-months jail time, up to \$2,500 fines or restitution, 3 years probation and other terms the court finds just.



City of Apache Junction
Development Services Department



November 17, 2016

Mr. Mehmood Mohiuddin
c/o Dash In and Mini Mart
2341 N. Apache Trail
Apache Junction, AZ 85119

PERSONALLY DELIVERED,
E-MAILED, AND SENT BY FIRST
CLASS U.S. CERTIFIED MAIL RETURN
RECEIPT REQUESTED

Subject: November 2016 – Development Agreement Non-compliance (Hours of operation of Bull Riding Venue) and City Sign Code Violations - Status

Dear Mr. Mohiuddin: *MO*

Thank you for meeting with me and Senior Planner Rudy Esquivias on Wednesday, November 2, 2016, at the Hitching Post. The purpose of the visit was to follow up on the city's determination that the sign for the RV Storage lot placed in the planter along Highway 88 at the Hitching Post was not permitted because it is considered an off-premise sign. Two monument signs on one street frontage are not permitted on one parcel anywhere in the city as per the city sign code §1-11-7.

During the site visit we discussed this sign and some other possible locations that would comply with the city's sign code. You decided that you would remove the sign faces and place them on the split-rail style fence on the immediate adjacent tax parcel. We concurred that this was a permitted location. I followed up this meeting with an email confirming that the city would not require a sign permit application to simply move the sign faces to the split rail style façade fence. On Thursday, November 10, 2016, I stopped by the Hitching Post and noted that you had already moved the signs to the new location. Thank you for your prompt attention to this particular sign issue.

Also during the meeting, we discussed the allowances for banners and signs covering windows. You stated at some point you would be removing the beer-themed window shade signs on the Pita Pockets building as you felt they were tacky and that you were going to replace them with interior window coverings instead. The city sign code allows up to 75% of window area to be covered with signs and the current beer themed window screens/signs cover more than the permitted amount.

We also discussed banners. I want to reiterate that the sign code only allows two banners per site per business. Since you have two businesses on the site, you are permitted to have a total of four banners: two for the Hitching Post and two for Pita Pockets. You are permitted to use fin flags or banners, however, the city only allows a total of two for each business. You are permitted to have four banners or two fin flags and two banners or four fin flags or any combination as long as the total does not exceed four. Based on my site visit, you are in compliance with a total of three banners. Your continued compliance with all aspects of the city sign code is an ongoing requirement.

EXHIBIT C

Apache Junction Police Department Incident Report, Incident Number 181100142

Apache Junction Police Department

[CAD Calls Search](#) [CAD Person Search](#) [RMS Case Search](#) [RMS Name Search](#) [Quick Photo](#) [ALL SEARCHES](#) [Suggestion Box](#)

View Active Calls

Call Number	181100142	OCA:	Complaint	ILLEGAL PARK
Date Received	11/01/2018 8:25 PM		How Received	Phone
Caller Name	[REDACTED]		Call Status	C
Phone Number	[REDACTED]		Priority	3
Actual Incid Location	2341 N APACHE TR APT: map		Actual Incid City	APACHE JUNCTION
Call Taker	tisch		First Unit	3p1
Call Ten Code			Call Class	P

[11/01/2018 22:53:12 : MOB : 3p1]
CHECKED THE AREA AND THERE WAS NO VEHICLE PARKED IN NO PARKING AREA.

[11/01/2018 21:27:14 : pos3 : tisch]
2319 N CORTEZ
ILL PARKING WHI TRUCK IN NO PARKING AREA

[11/01/2018 20:51:49 : MOB : 2r1]
15 cars parked in the east lot behind the business inside the fenced area

[11/01/2018 20:50:36 : MOB : 2r1]
one vehicle parked on Lost Dutchman in front of no parking sign, citation issued

[11/01/2018 20:27:21 : pos3 : tisch]
SEVERAL CALLERS OF ILLEGAL PARKING

[11/01/2018 20:26:13 : pos3 : tisch]
Cross streets: FOOTHILL ST//LOST DUTCHMAN BLVD
Landmark: HITCHING POST
Landmark Comment: ALARM PERMIT ON FILE

PARKING ALONG LD IN NO PARKING ZONE AND E PL

Time Received	11/01/2018 8:25 PM	Time Transmitted	11/01/2018 8:26 PM
Time Dispatched	11/01/2018 8:43 PM	Time Depart	
Time Enroute	11/01/2018 8:43 PM	Time Onscene	11/01/2018 8:45 PM
Time Destination		Time Complete	11/01/2018 10:53 PM
Alarm Code		Answer Pos	3
Location Comment	Landmark Comment: ALARM PERMIT ON FILE	Quadrant	

Call Log

Total Records: 7

Unit	Ten Status	Officer Name	Date Time	Comments	Operator	Patrol
2r1	ENR	SABO,CHRIS	11/01/2018 8:43 PM	2341 N APACHE TR, APACHE JUNCTION	SWITCH	ALL
2r1	ONS	SABO,CHRIS	11/01/2018 8:45 PM	2341 N APACHE TR, APACHE JUNCTION	SWITCH	ALL
2r1	COM	SABO,CHRIS	11/01/2018 8:52 PM	COM	lcarrillo	ALL
			11/01/2018 9:26 PM	Reactivated	tisch	
3p1	ENR	VALDEZ,PEDRO	11/01/2018 10:45 PM	2341 N APACHE TR, APACHE JUNCTION	SWITCH	ALL
3p1	ONS	VALDEZ,PEDRO	11/01/2018 10:50 PM	2341 N APACHE TR, APACHE JUNCTION	SWITCH	ALL
3p1	COM	VALDEZ,PEDRO	11/01/2018 10:53 PM	COM	SWITCH	ALL

Call Persons

Total Records: 0

Category	DOB	Name	Name First	Name Middle	Name Last	Name Suffix	Age Min	Age Max	Sex
No records									