



*City of Apache Junction*  
*Development Services Department*



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

**DATE:** July 9, 2019

**CASE NUMBER:** CUP-1-19

**REQUEST:** Approval of a Conditional Use Permit ("CUP") to be allowed to affix signs that are larger than normally allowed under the city's sign code, on the canopy of the gas station and convenience store business located at 1571 W. Apache Trail.

**LOCATION:** 1571 W. Apache Trail, southeast corner of S. Ironwood Drive and W. Apache Trail.

**PROPERTY OWNER:** 88 Trails Corporation

**REPRESENTATIVE:** Chris Baxla of Signs Plus

**GENERAL PLAN/  
ZONING DESIGNATION:** Downtown Mixed Use; currently zoned B-2 (Old West Commercial District).

**SURROUNDING  
LAND USES/ZONING:**

**NORTH:** Circle K Store, zoned B-2;

**SOUTH:** Various commercial properties, zoned B-2/PD;

**EAST:** Various commercial properties, zoned B-2/PD;

**WEST:** Liquor store, other commercial properties, zoned B-2.

## **BACKGROUND**

The gas station and convenience store business, originally a Texaco, has existed on the property since prior to the city adopting its 1985 zoning ordinance. Pinal County assessor records state that the building was constructed in 1979. Ironwood Drive, for many years early in the city's history, was a minimally improved road. The improvements that are evident on the street today (widened street, sidewalks, curbing, gutters, streetlights, etc.) started being installed by the city around the mid to late 1990's. Improvements continue to this day.

In 2004, Texaco applied for a permit to change the signage at the store. They wanted to both remove the old monument sign structure and construct a new one in the same place; and they wanted to change signs on the building as well. Because of the fairly recent street improvements that had been done in the neighborhood, city staff was already aware that the old monument sign appeared to be encroaching into adjacent rights-of-way ("ROW"). Staff was precluded from granting a permit unless Texaco could demonstrate that the monument sign was not encroaching into the ROW. The monument sign request was removed from the permit application; Texaco put new signs on the building; and they eventually applied for a variance, case BA-1-05, to keep the monument sign in place. When their own survey drawings revealed that the monument sign was indeed encroaching into the Apache Trail ROW, they withdrew their variance request, but the monument sign remained.

The property was later sold to Shell and over the years numerous people have owned and operated the gas station. City planning and legal staffs have tried for years to work with various owners to remove the old monument sign out of the ROW. Owners have been uncooperative in removing or relocating the sign, mostly because of claims that there are not good spots elsewhere on the property to erect a new monument sign. Even though the property has changed hands several times since Texaco owned it, the business use of the property has been continuous.

In 2014 the city adopted a new zoning ordinance and by inclusion, a new sign code. Whereas the old sign code allowed the edge or face of a monument sign to be located at a zero setback to a property or ROW line, the new sign code requires a 5-foot setback from any property or ROW line.

According to the city's business license office, between September 12, 2017, and July 19, 2018 (10 months), there was finally a period of no licensed business on the property. The city's sign code, Section 1-11-13(C), states that..."the use of any legal nonconforming sign which is located on property which becomes vacant and unoccupied for a period of 6 months shall be deemed to have been discontinued, and therefore shall be removed by the owner of the property or sign." Even still, when the new property owners and business proprietors applied for a liquor license in August of 2018, staff was still trying to work with the owners on voluntary removal of the old sign, but apparently to no avail (see e-mails dated 8-7-18 and 8-21-18). Finally, on May 15, 2019, a notice of violation was sent to the new owners (letter attached). This action triggered this CUP request.

### **PROPOSAL DESCRIPTION**

This is a request by 88 Trails Corporation, represented by Chris Baxla of Signs Plus, requesting approval of a Conditional Use Permit ("CUP") to be allowed to affix signs that are larger than normally allowed under the city's sign code, on the canopy of the gas station and convenience store business located at 1571 W. Apache Trail. The 0.49-acre property (formerly a Texaco, then a Shell gas station) is zoned B-2 (Old West Commercial) and is located at the southeast corner of W. Apache Trail and S. Ironwood Drive.

Mr. Baxla is aware of the notice of violation. He stated that he and the property owners have determined that trying to erect new monument signs elsewhere on the property (such as the southwest and northeast corner areas) will not be effective, because of neighboring signs and street side landscaping. They understand that the old monument sign needs to be removed, but are requesting this CUP for larger signs on the canopy in order to be competitive (see application and narrative attached).

The city's sign code normally allows a gas station canopy sign to be no larger than 15 square feet, one sign on each side of the canopy. In exchange for removing the old monument sign and for the purpose of providing effective signage for the business, the CUP application requests 41.5-square-foot signs, one each on the west (Ironwood side), south and east sides of the canopy; and one 53.3-square-foot sign on the north (Apache Trail) side of the canopy. They feel the request is justified, especially given that the sign code would normally have allowed for a monument sign along Apache Trail to be 127-square-feet (per sign

face) in size and a monument sign along Ironwood could have been 150-square-feet (per sign face) in size; 12-foot-tall signs.

### **ANALYSIS**

Please see the proposed sign graphics for the new Marathon Gas Station. The existing canopy is approximately 104 feet wide (Apache Trail side) by 38 feet wide (Ironwood side). Even though the requested signs on the west, south and east sides of the canopy are almost three times larger than normally allowed, the proposed canopy signs are depicted as being at a reasonable scale relative to the dimensions of the canopy. The majority of the sign copy is devoted to the digital price indicators. The two main signs will really be the north and west side signs, with the proposed north side sign being the largest, but split and balanced between the west and east ends of the canopy face. Color banding ties all signs together and the lack of monument signs should help minimize visual clutter along the streets.

While staff is not completely convinced that new monument signs along Apache Trail and Ironwood would not be effective on the property, we acknowledge that there may be existing utility location constraints, removal and replacement of concrete, and possible visual interference from existing neighboring signs (Shopper's Supply) and street side trees. The idea of trying to provide effective signage solely through the use of canopy signs is intriguing. The removal of the liability of the monument sign in the ROW is another plus.

Staff looks forward to working with Marathon Gas on improvements to the building (in compliance with our design guidelines). No sign code deviations have been requested for future signs on the building. Businesses on the property have come and gone and no one can ignore the major competitor right across the street to the north. But hopefully with effective new signage and a new look for the building, this too will finally be a successful business property.

Because the property is already developed, the use is already established and will continue, and no new buildings, expansion or construction is proposed, other than new signage on an existing canopy, staff does not foresee any new neighborhood or other impacts. Therefore, in this this case, staff does not feel that a detailed analysis of the criteria for evaluation a CUP is warranted. However, for the Commission's benefit, Zoning Ordinance Section 1-16-12-D-3 lists the following land use-

related criteria for the Commission to consider when evaluating CUP requests:

- a) Adequacy of roadways, off-street parking, public facilities and services to accommodate the proposed use. *[The streets around the site and the property are already fully developed. If anything, removal of the existing monument sign from the ROW will also remove a liability and improve the overall adequacy of the surrounding roads.]*
- b) Negative impacts arising from the emission of odor, dust, gas, noise, lighting, vibration, smoke, heat or glare. *[The canopy signs will not create such impacts.]*
- c) Contribution to the deterioration of the neighborhood or the negative impact on neighborhood property values. *[Staff expects no negative neighborhood impacts from the canopy signs.]*
- d) Compatibility with surrounding uses and structures. *[Surrounding properties are all zoned commercial; no incompatibility issues should result.]*
- e) Conformance with the General Plan and City policies. *[The property conforms with the general plan. The tradeoff for larger signs on the canopy is no additional monument signs along Apache Trail and Ironwood, which should result in a minor reduction of visual clutter at this intersection.]*
- f) Screening and buffering of uses. *[No additional screening and buffering is necessary or required.]*
- g) Unique nature of the property, use and/or development's physical characteristics. *[There do not appear to be any physical property constraints, although the applicants contend that new monument signs on the property would be ineffective because adjacent signs and landscaping may obscure such signs.]*

#### **PUBLIC OUTREACH**

The P&Z Commission public hearing was advertised in the newspaper 15 days prior to the meeting and letters were mailed to all property owners within 300 feet of the site. The property was also posted with a sign notifying any interested parties of the CUP request and the public hearing date. No



public comments or inquiries have been received by staff as of the writing of this report.

#### PLANNING DIVISION RECOMMENDATION

Staff believes that the proposed canopy signs for Marathon Gas represent a reasonable and quality proposal which will improve the commercial corner at this busy intersection. The removal of the old and outdated monument sign in the ROW is also a welcome change. Staff recommends in favor of the CUP request for larger than normal canopy signs, subject to the conditions listed under the recommended motion.

#### RECOMMENDED MOTION

I move that the Planning and Commission (APPROVE/DENY) case CUP-1-19, a Conditional Use Permit application by 88 Trails Corporation, represented by Chris Baxla of Signs Plus, requesting approval of canopy signs larger than normally allowed by the city's sign code, to be located on a 0.49-acre, B-2 (Old West Commercial)-zoned property located at 1571 W. Apache Trail, at the southeast corner of S. Ironwood Drive and W. Apache Trail, in accordance with the following findings:

- A) The approval of the CUP will help resolve a long existing right-of-way encroachment issue, thus reducing liability for the property owner and the city, and improving the overall adequacy of adjacent roadways;
- B) The canopy signs propose no negative impacts relative to lighting or glare, deterioration of the neighborhood, compatibility with surrounding uses or conflicts with the city's general plan;

And subject to the following conditions of approval:

- 1) The proposed canopy signs shall be properly permitted and applied to the existing canopy as depicted in the submitted sign package for Marathon Gas, including the colors, features, proportions, architectural styling, heights, sizes, location and elevation concepts, all in substantial compliance and as presented in CUP case CUP-1-19.

- 2) In exchange for the sizes of the canopy signs deviating from the city's sign code, the applicants shall forego the installation of monument signs on the property.
- 3) Future signs proposed to be attached to the building shall comply with the city's sign code.
- 4) Further deviations from the city's sign code or from the conditions prescribed herein, will require a CUP amendment process subject to approval by the city's Planning and Zoning Commission
- 5) 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-1-19 permit approval.
- 6) This CUP is conditionally approved pursuant to the Apache Junction City Code, Volume II, Land Development Code, Chapter 1, Zoning Ordinance, Article 1-11 Sign Regulations, Section 1-11-15 Modifications and Appeals, Subsection A CUP Modifications; and Article 1-16, Administration, Section 1-16-12, Conditional Use Permits.

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.

Prepared by:

  
Rudy Esquivias, Senior Planner/Z.A.

Attachments:

- Application and Narrative for CUP-1-19
- CUP-1-19 Vicinity Map
- Zoning and Neighborhood Aerial Map
- Encroachment Graphic
- CUP-1-19 Proposed Signs
- E-mails dated 8-7-18 and 8-21-18
- NOV Letter dated 5-15-19



# City of Apache Junction

Development Services Department  
Conditional Use Permit Application



## Exhibit A: Planning and Zoning Application Form

Type of application:

- ☐ Residential use/extension/amendment
- ☐ Non-residential use/extension/amendment
- ☐ Comprehensive Sign Package
- ☐ Landscape Ordinance Appeal

### SITE INFORMATION

SITE ADDRESS/LOCATION 1571 W. Apache<sup>tr</sup> ASSESSORS PARCEL NO 10116007 C  
GROSS AREA: \_\_\_\_\_ NET AREA .80 EXISTING ZONING B-2

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

The West 160.30 feet of the North 217.0 feet of the SW  
Quarter of section 20, Township 1 North, Range 8 East of  
Gila and Salt River Base and Meridian, Pinal County, AZ

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

In exchange for Removing Existing Groundsign & Forgoing New  
monuments totalling 277 Sq ft, we would like to increase  
the Allowed Sq Footage of the Canopy to 180 Sq Feet

### APPLICANT INFORMATION

Property Owner(s) 88 Trails Corp  
Address 14250 Ventura Blvd Sherman Oaks Ca 91423  
Phone Number \_\_\_\_\_ Fax Number \_\_\_\_\_ Email \_\_\_\_\_

Applicant Contact Person/Project Manager Sigas Plus / Chris Baxla  
Address 2507 W Villa Rita Phoenix AZ 85023  
Phone Number 625-640-0871 Fax Number \_\_\_\_\_ Email cbaxla@arizonasignsplus.com

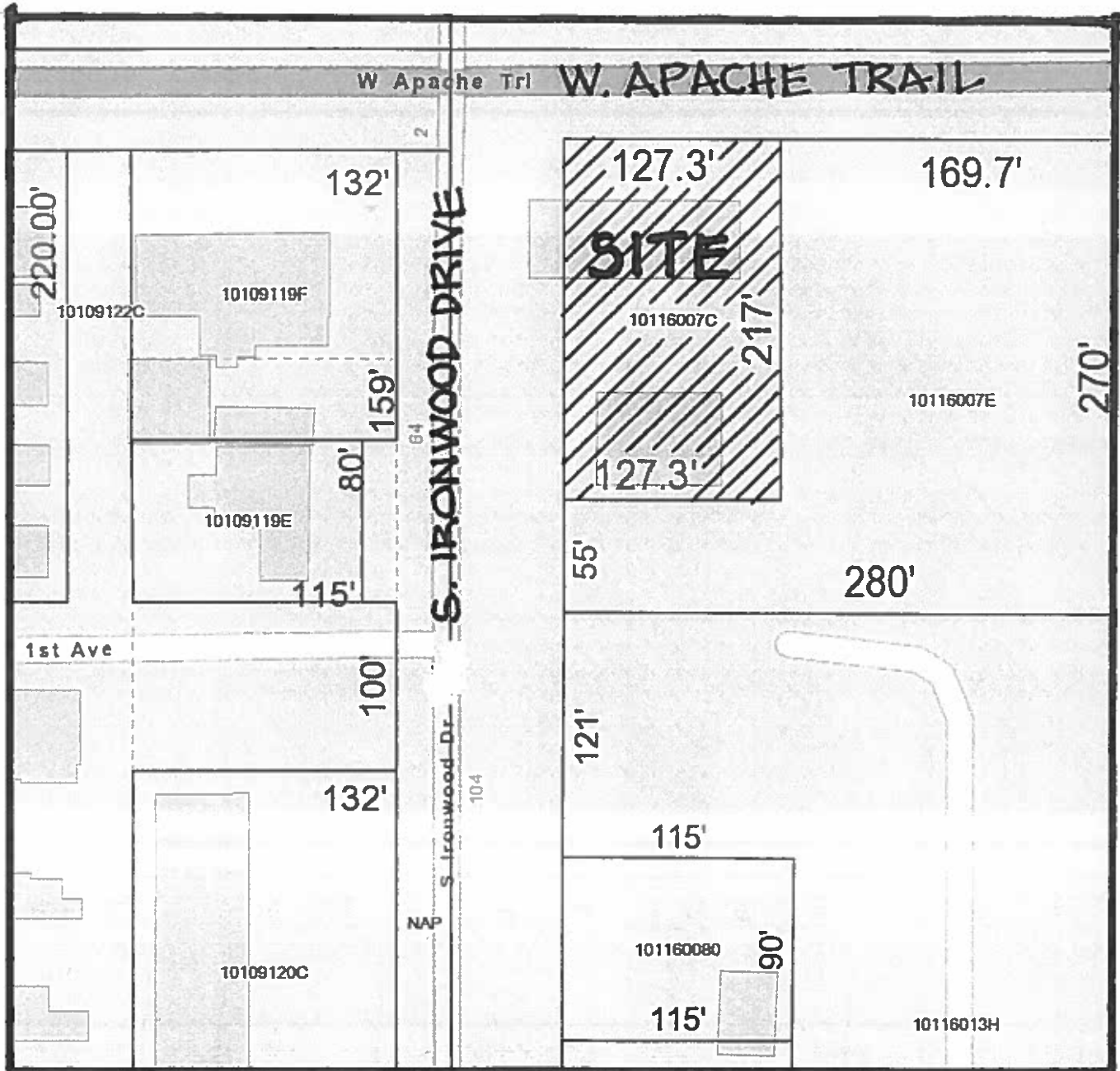
For Dept Use only	Case Number _____
PLN Number _____	Date Submitted: _____
Approved By: _____	Date Approved: _____



The owner of this station has agreed to remove the existing monument that is in the right of way, and forgo having the 2 allowed monument signs, which would total 277 square feet, in exchange for 180 square feet of signage on the canopy. with the unique layout of this station, 2 monument signs are not feasible. without any monument signs, or additional square footage on the canopy the station would not be able to advertise it's gas prices and would not be able to compete with other gas stations. it is necessary for the additional square footage on the canopy in order for the station to stay in business.

# CUP-1-19

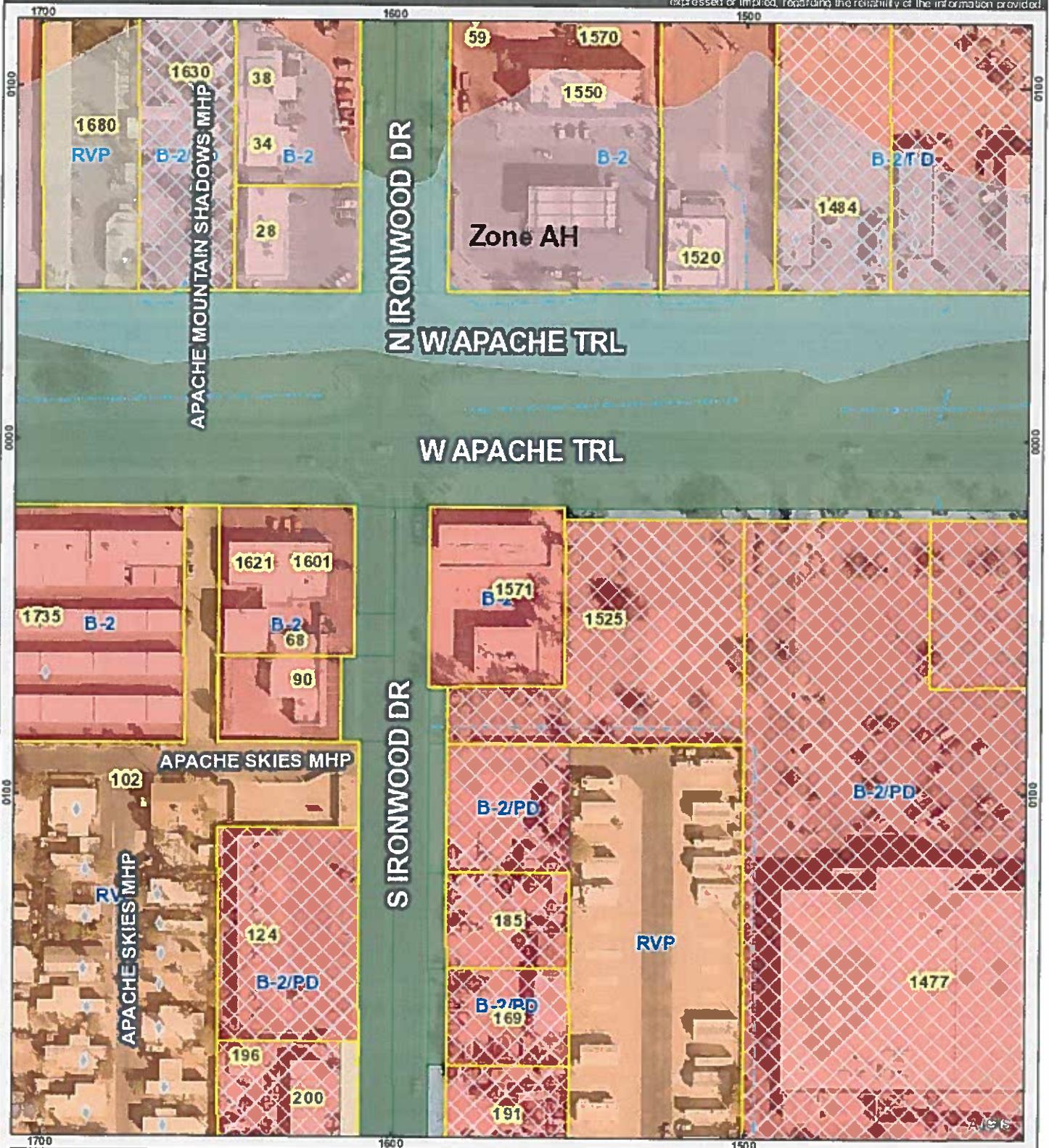
CONDITIONAL USE PERMIT REQUEST FOR  
SIGNS ON GAS STATION/CONVENIENCE MART  
CANOPY, LARGER THAN CODE NORMALLY ALLOWS.



**SITE: 1571 W. APACHE TRAIL**  
**ZONED B-2 (OLD WEST COMMERCIAL)**

# GIS Map

DISCLAIMER: This map was produced without benefit of a field survey and is not the intended use. The use of this map is for informational purposes only and the City of Apache Junction makes no warranty, expressed or implied, regarding the reliability of the information provided.



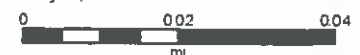
## LEGEND

- |                           |                          |         |
|---------------------------|--------------------------|---------|
| <b>Municipal Boundary</b> | PINAL COUNTY             | Zone AE |
| Apache Junction           | Addresses                | Zone AH |
| Pinal County              | Washes                   | Zone A  |
| <b>Parcels</b>            | <b>FEMA Flood Hazard</b> |         |
| CITY OF APACHE JUNCTION   | Zone AE - FLOODWAY       |         |

City of Apache Junction



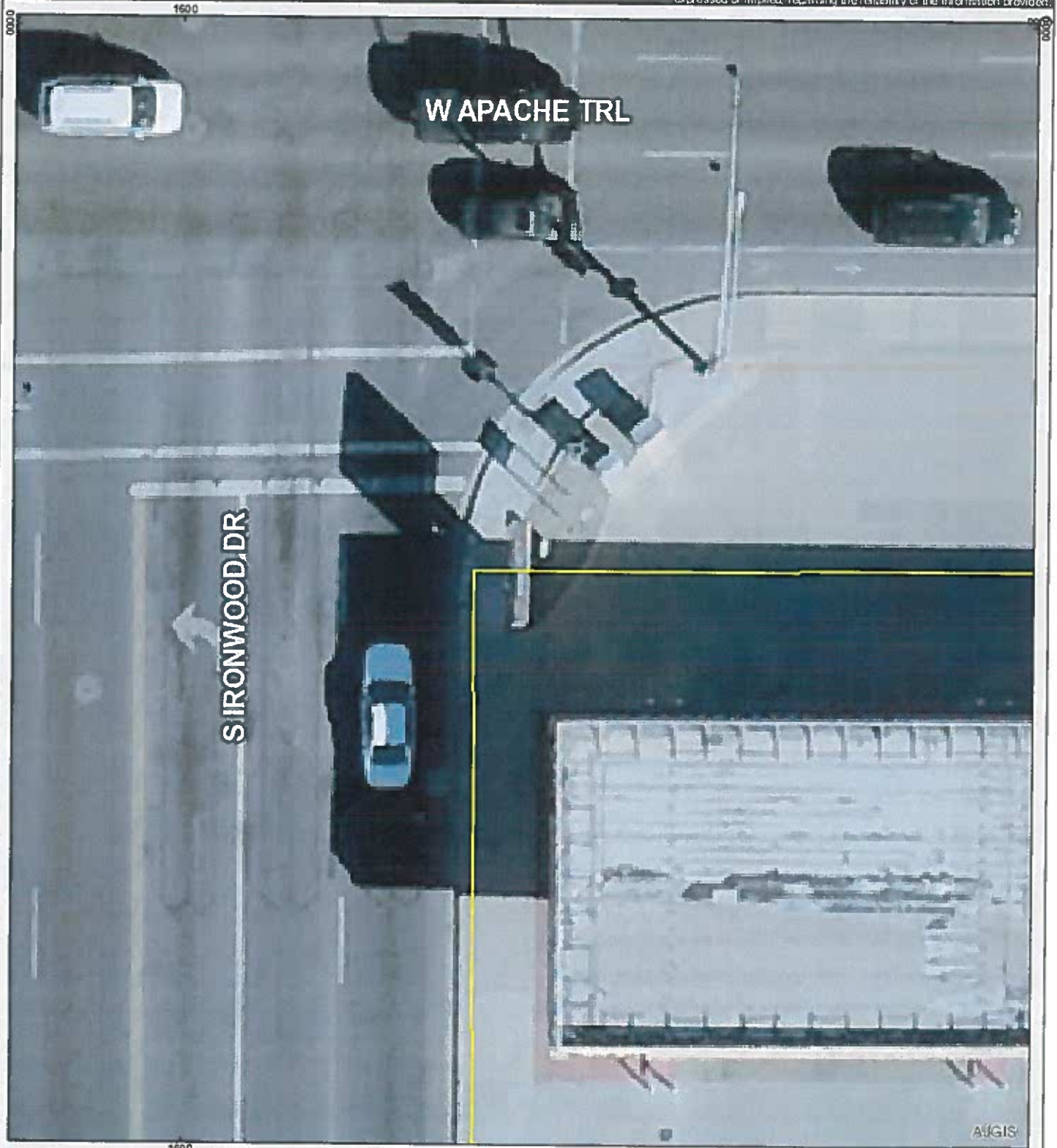
July 2, 2019





# GIS Map

DISCLAIMER: This map was produced without benefit of a field survey and is not the intended use. The use of this map is for informational purposes only and the City of Apache Junction makes no warranty, expressed or implied, regarding the reliability of the information provided.



## LEGEND

### Municipal Boundary

- Apache Junction
- Pinal County

### Parcels

- CITY OF APACHE JUNCTION

- PINAL COUNTY

- Addresses

- Washes

### FEMA Flood Hazard

- Zone AE - FLOODWAY

- Zone AE

- Zone AH

- Zone A

City of Apache Junction



July 2, 2019





1571 W. Apache Trail, Apache Junction, AZ 85120

06/12/2019

**SIGNS**<sup>PLUS</sup>

Dale Johnson

C - 928-713-8802

O - 623-780-1544

2507 W. Villa Rita Dr.

Phoenix, AZ 85023

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PROJECT:	MARATHON	LOCATION:	1571 WEST APACHE TRAIL, APACHE JUNCTION, AZ 85314
9200 Valley Rd.	Prescott Valley, Arizona	800-257-5095	
Account Executive: Gary Johnson			
Designer: BB			
Design Number: 4581			
DATE: 5/20/2019			
SCALE: AS NOTED			
REVISIONS: Rev. 1-5/23/2019			
Rev. 2-6/11/2019			

CUSTOMER APPROVAL	
BY:	
DATE:	

SHEET:	1 of 5
--------	--------

Scale: NTS

SITE MAP









PROJECT: MARATHON

LOCATION: 8200 Valley Rd.  
Prescott Valley,  
Arizona  
86314  
800-257-5095

1571 WEST APACHE TRAIL, APACHE JUNCTION, AZ

**SIGNS PLUS**

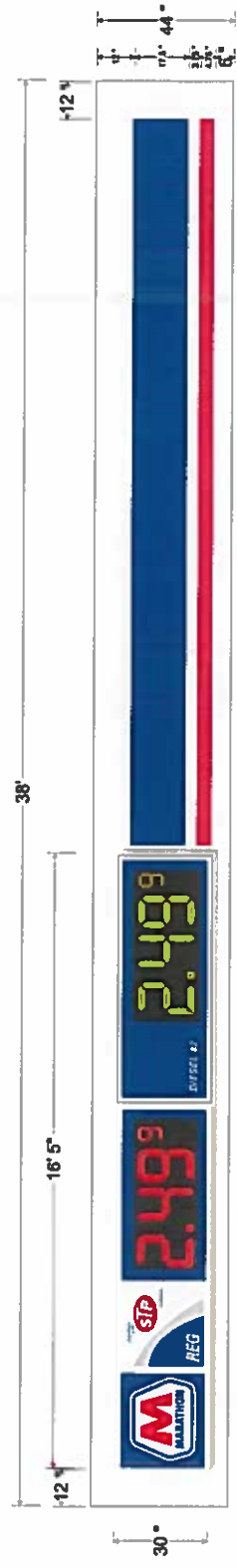
Account Executive:  
Gary Johnson  
Designer:  
BB  
Design Number:  
4581  
DATE:  
5/20/2019  
SCALE:  
AS NOTED  
REVISIONS:  
Rev. 1-5/23/2019  
Rev. 2-6/11/2019

SHEET:  
4 of 5

CUSTOMER APPROVAL  
BY: \_\_\_\_\_  
DATE: \_\_\_\_\_  
☐ NO CHANGES ☐ YES

D

TOTAL SQUARE FOOTAGE:  
41 sq. ft.



PRICER CABINETS WITH LED DISPLAYS (details below)

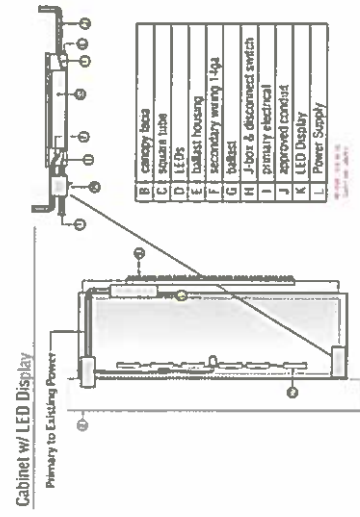
WEST ELEVATION  
Scale: 5/16" = 1'

WEST ELEVATION

FREESTANDING SIGN TO BE REMOVED



EXISTING



This sign is intended to be installed in accordance with the requirements of Article 600 of the National Electrical Code and all other applicable local codes. This includes proper grounding and bonding of the sign.



PROJECT: MARATHON

LOCATION: 1571 WEST APACHE TRAIL, APACHE JUNCTION, AZ

9200 Valley Rd.  
Prescott Valley,  
AZ 86314  
800-257-5095

Approved Executive:  
Gary Johnson

Designer:  
BS

Design Number:  
4581

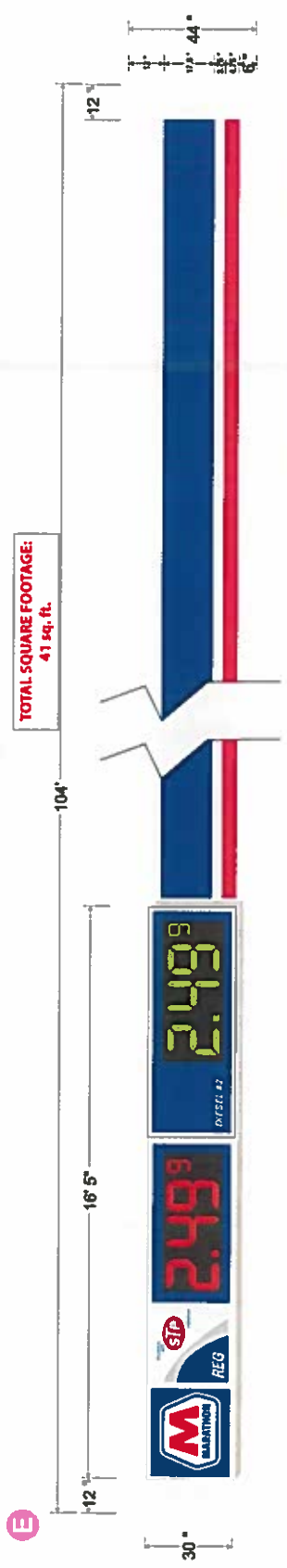
DATE:  
5/20/2019

SCALE:  
AS NOTED

REVISIONS:  
Rev. 1 5/23/2019  
Rev. 2 6/11/2019

SHEET:  
5 of 5

CUSTOMER APPROVAL  
By: \_\_\_\_\_ Date: \_\_\_\_\_  
Or: \_\_\_\_\_ Date: \_\_\_\_\_



SOUTH ELEVATION

Scale:  
5/16" = 1'

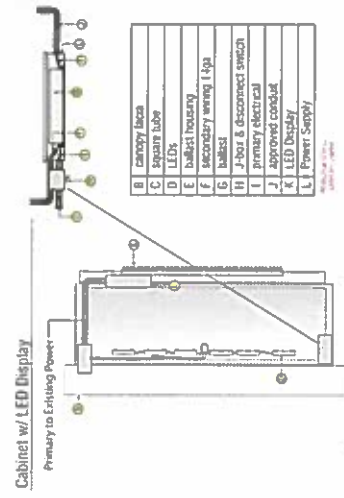
FREESTANDING SIGN TO BE REMOVED

PRICER CABINETS WITH LED DISPLAYS (details below)

SOUTH ELEVATION



EXISTING



This sign is intended to be installed in accordance with the requirements of Article 630 of the National Electrical Code and/or other applicable local codes. This includes proper grounding and bonding of the sign.

## Rudy Esquivias

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**From:** Larry Kirch  
**Sent:** Tuesday, August 07, 2018 11:49 AM  
**To:** Dave Zellner; Tracy Post; Bryant Powell; Matt Busby; Janine Hanna-Solley; Elan Vallender; Rudy Esquivias  
**Subject:** Shell Station and Senior Taco

Bryant, Matt, Dave, Tracy, Rudy, Janine, Elan

I stopped by both the Shell Station and Senior Taco as it appeared that there were workers there. At Shell the workers were painting and polishing up the floors, putting up a new chain link fence in the back and doing general cleanup. Development Services is contacting the new owner to let them know they have to move the sign out of the right-of-way and that a new one or reuse of this one has to comply with the sign code. Public Works and DSD have tried to get this taken care of for years. It's great to see them cleaning up the property and this is also a good time to get the sign issue taken care of once and for all.

Rudy and I met with Reynaldo and he had a painter painting everything. He is doing a quick – fast cleaning and painting and tells us that he has moved to Arizona and that this Senior Taco is his next project. So he is going to be doing the major remodel, hopefully sooner than November. He mentioned that his architect is going through a divorce but that he hopes this does not slow things down. So for now we are happy that something, anything is happening. We encouraged him to work with and get to know his neighbors and we pointed out the nice landscaping that Handlebar has been able to do, even if just in planter boxes.

Bryan Kabat also stopped over and introduced himself to Rey. A very good move to say if you need anything at ACE, I am right across the street!

Larry

## Rudy Esquivias

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**From:** Rudy Esquivias  
**Sent:** Tuesday, August 21, 2018 1:36 PM  
**To:** 'Andrea Lewkowitz'  
**Cc:** Larry Kirch; Danielle Jordan; Sidney Urias; Joel Stern  
**Subject:** RE: Shell station in AJ  
**Attachments:** RE: Shell Station Series 10 liquor license

Hi Andrea:

Please see the attachment concerning the old Shell station property at the southeast corner of W. Apache Trail and S. Ironwood Drive. I think it pretty much sums up the situation. We'd be happy to meet with you about resolving this matter. Thanks.

*Rudy Esquivias*

Senior Planner/Zoning Administrator  
City of Apache Junction  
300 E. Superstition Blvd.  
Apache Junction, AZ 85119  
480-474-2645  
[resquivias@ajcity.net](mailto:resquivias@ajcity.net)

**SERVICE OVER AND ABOVE THE REST**

(Development Services Department office hours: Monday through Thursday from 7:00am to 6:00pm, closed Fridays and Holidays.)

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**From:** Andrea Lewkowitz [<mailto:Andrea@lewklaw.com>]  
**Sent:** Tuesday, August 21, 2018 11:59 AM  
**To:** Rudy Esquivias  
**Subject:** RE: Shell station in AJ

Mr. Esquivias.

Can you please let me know a good time and phone number I can call you about this?  
Thank you.

*Andrea Lewkowitz*



2600 N. Central Ave.  
Suite 1775  
Phoenix, AZ 85004  
T. 602.200.7222  
F. 602.200.7234

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**From:** Joel Stern [mailto:[js Stern@ajcity.net](mailto:js Stern@ajcity.net)]  
**Sent:** Tuesday, August 21, 2018 10:51 AM  
**To:** Andrea Lewkowitz  
**Cc:** Rudy Esquivias; Larry Kirch  
**Subject:** Shell station in AJ

**Hello Andrea. I saw your dad at the liquor board a few weeks ago. He looks great!**

**Last night's item was continued to September 4<sup>th</sup> due to the notice irregularity.**

**You should be aware that there is an issue with the sign that has been in the public ROW for many many years. My understanding is that since the Shell station has been out of business for over a year, the sign has lost its nonconforming grandfather rights and the sign is now considered an illegal structure since it is located in the public ROW.**

**I figure you are not the planning attorney for the item, but if you could contact Senior Planner Rudy Esquivias to fully discuss, it would benefit your client. I am certain development services will work with you and your client for an alternative sign package as we attempted with previous owners.**

**Have a great day!**

R. Joel Stern

City Attorney  
City of Apache Junction  
300 E. Superstition Blvd.  
Apache Junction, AZ 85119

(480) 474-5105

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## **Rudy Esquivias**

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**From:** Rudy Esquivias  
**Sent:** Monday, August 06, 2018 8:07 PM  
**To:** Kathy Connelly; Dave Zellner; 'John Suniga (john.suniga@sfmd.az.gov) (john.suniga@sfmd.az.gov)'  
**Cc:** Larry Kirch; Joel Stern  
**Subject:** RE: Shell Station Series 10 liquor license  
**Attachments:** Info re Shell Station, W Ap Trl & Iron.pdf

**From:** Rudy Esquivias  
**Sent:** Monday, August 06, 2018 8:03 PM  
**To:** Kathy Connelly; Dave Zellner; John Suniga ([john.suniga@sfmd.az.gov](mailto:john.suniga@sfmd.az.gov)) ([john.suniga@sfmd.az.gov](mailto:john.suniga@sfmd.az.gov))  
**Cc:** Larry Kirch; Joel Stern  
**Subject:** RE: Shell Station Series 10 liquor license

Kathy:

The Planning Division does not generally object to the re-opening of a convenience store with liquor sales on the B-2 (Old West Commercial)-zoned property at the southeast corner of W. Apache Trail and S. Ironwood Drive.

However, we take this opportunity to point out to Councilmembers that the monument sign at the northwest corner of the property is nonconforming, it encroaches into the Apache Trail right-of-way and the city has tried working with previous owners to remove or relocate the sign for several years. The city Business License Coordinator confirmed with the previous owner, that the store went out of business and closed its doors on September 12, 2017 (see attached e-mail). The current application acknowledges the previous store closing around the same time.

The city's Sign Code, Section 1-11-13(C) (also attached), states that a discontinued nonconforming sign must be removed by its owner after six months. It has been almost a year since any business occupied the property.

Staff recommends that reopening of the convenience store be conditioned upon removal or relocation of the sign to a conforming location and configuration under the city's current sign code. The city should not grant a business license for the property until the sign issue is resolved.

***Rudy Esquivias***

Senior Planner/Zoning Administrator  
City of Apache Junction  
300 E. Superstition Blvd.  
Apache Junction, AZ 85119  
480-474-2645  
[resquivias@ajcity.net](mailto:resquivias@ajcity.net)

**SERVICE OVER AND ABOVE THE REST**

(Development Services Department office hours: Monday through Thursday from 7:00am to 6:00pm, closed Fridays and Holidays.)

---

**From:** Kathy Connelly  
**Sent:** Thursday, August 02, 2018 5:30 PM  
**To:** Rudy Esquivias; Dave Zellner; John Suniga ([john.suniga@sfmd.az.gov](mailto:john.suniga@sfmd.az.gov)) ([john.suniga@sfmd.az.gov](mailto:john.suniga@sfmd.az.gov))  
**Subject:** Shell Station Series 10 liquor license

We have received a Series 10 liquor license application for the Shell station, 1571 W. Apache Trail. Please submit your department recommendations to me no later than Tuesday, August 7 at noon in order for your comments to be included in the packet for the city council special meeting scheduled for Monday, August 20, 2018. Thank you.

kc

Kathy Connelly, City Clerk  
City of Apache Junction  
300 E. Superstition Boulevard  
Apache Junction, AZ 85119  
[kconnelly@ajcity.net](mailto:kconnelly@ajcity.net)  
480-474-5061  
Monday-Thursday 7am-6pm  
Closed Fridays and holidays

## Rudy Esquivias

---

**From:** Rudy Esquivias  
**Sent:** Wednesday, January 03, 2018 10:12 PM  
**To:** Joel Stern; Stephanie Bubenheim; Emile Schmid; Kimberly Wilson  
**Cc:** Larry Kirch; Denise Moulson  
**Subject:** FW: FW: Shell closing

FYI – in case we need to keep track anyway (re: the sign in the R.O.W.), the old Shell Station on W. Apache Trail closed on Sept. 12, 2017. Thanks Denise!

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**From:** Denise Moulson  
**Sent:** Wednesday, January 03, 2018 8:15 AM  
**To:** Rudy Esquivias; Larry Kirch  
**Subject:** FW: FW: Shell closing

Denise Moulson  
Business License Coordinator  
480-474-5070  
[dmoulson@ajcity.net](mailto:dmoulson@ajcity.net)

**From:** nirayan basnet (<mailto:shell.1571@gmail.com>)  
**Sent:** Tuesday, January 02, 2018 4:59 PM  
**To:** Denise Moulson <[dmoulson@AJCity.Net](mailto:dmoulson@AJCity.Net)>  
**Subject:** Re: FW: Shell closing

Hi Denise,

Per our conversation, please be advised that the Shell 1621 located at 1571 W Apache Trl, Apache Junction, AZ, 85120 is no longer operational and has been closed as of Sep 12, 2017. The property was auctioned off by the lender First Fidelity bank due to non-payment of mortgage payment and I no longer own this property. If you have any other question, please feel free to contact me.

Thanks, Smita Basnet

On Wed, Dec 20, 2017 at 8:25 AM, Denise Moulson <[dmoulson@ajcity.net](mailto:dmoulson@ajcity.net)> wrote:

Smita

Have you had the chance to read my email regarding the closing of the store?

Denise Moulson

Business License Coordinator

480-474-5070

*dmoulson@ajcity.net*

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**From:** Denise Moulson

**Sent:** Tuesday, December 19, 2017 7:59 AM

**To:** 'shell.1571@gmail.com' <shell.1571@gmail.com>

**Subject:** Shell closing

Thank you for your time yesterday. Per our conversation I will need a letter from you the date you closed your store and the reason. Once I receive this I can close out your license with the city and you may also want to contact the state of Arizona to close that one as well.

Thank you

Denise Moulson

Business License Coordinator

480-474-5070

*dmoulson@ajcity.net*



- B. Permit Expiration. If actual work to install or construct the approved sign is not commenced within one hundred and 180 days from the date of such AUP issuance, such permit shall become null and void.
- C. Permit Fee. Before issuing an AUP required by this ordinance, the City shall collect a fee in accordance with a fee schedule established in Volume I, Chapter 4 of the City Code of Ordinances.
- D. Permit Revocation. An AUP may be automatically revoked by the Zoning Administrator for lack of compliance with the standards in this chapter and/or the approved sign permit. The permit applicant shall first receive a 14 calendar day written notice from the Zoning Administrator prior to revocation.

#### **1-11-12 CONSTRUCTION REQUIREMENTS**

- A. Building Code. All signs shall be designed and constructed in accordance with the Building Code.

#### **1-11-13 NONCONFORMING AND DISCONTINUED SIGNS**

- A. Signs for a Legal Nonconforming Use. New or additional signs for a nonconforming use shall comply with the requirements of the outdoor sign regulations.
- B. Signs Rendered Nonconforming. Existing legal signs rendered nonconforming as a result of this Ordinance shall be considered legal nonconforming and allowed to continue and shall be allowed reasonable repairs and maintenance. Such legal nonconforming signs shall not be expanded, enlarged or structurally altered unless brought into conformance with the outdoor sign regulations.
- C. Signs Rendered Discontinued. The use of any legal nonconforming sign which is located on property which becomes vacant and unoccupied for a period of 6 months shall be deemed to have been discontinued, and therefore shall be removed by the owner of the property or sign.
- D. Repair and Maintenance. Any legal nonconforming sign may be continued in use and be allowed reasonable repair and maintenance. All signs, sign finishes, supports and electrical work shall be kept in good repair and safe condition, including the replacement of defective parts, painting, repainting, cleaning and other acts required for the maintenance of the sign.



# City of Apache Junction

Development Services Department

## NOTICE OF VIOLATION

### ZONING

CODE CASE #: COD2019-00488

Date: May 15, 2019

Sent via Certified and Regular

US First Class Mail, Receipt Requested

88 Trails Corp  
14250 Ventura Blvd 2<sup>nd</sup> Floor  
Sherman Oaks, CA 91423

Address of Property in Violation: 1571 W Apache Trail

Parcel Number: 101-16-007C

Legal Description of Property: THE W-160.30' OF N-217.00' OF THE SW QUARTER OF SECTION 20-1N-8E, EXCEPT THE NORTH 50.00 FT AND ALSO EXCEPT THE W-33.00 FT, ALSO EXCEPT ANY PORTION LYING WITHIN THE ROW OF U.S. HIGHWAYS 60, 70,80 AND 89, 0.80 AC (34785 SQ FT)

Owners of Record: 88 Trails Corp

Statutory Agent: Joseph Shayfar (President)

Tax Bill Mailing Address: 14250 Ventura Blvd 2<sup>nd</sup> Floor Sherman Oaks, CA 91423

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/](http://www.amlegal.com/codes/client/apache-junction_az/).

The City received a complaint regarding conditions on the property located at **1571 W Apache Trail**. An inspection by an Apache Junction Code Compliance Officer on **May 15, 2019** found violations of one or more of the following codes from the Apache Junction City Code (AJCC):

[X] AJCC

### ARTICLE 1-11: SIGN REGULATIONS

#### § 1-11-7 PROHIBITED SIGNS.

(G) Signs located in the public right-of-way or public easement except for permitted emergency hospital signs, sign walkers, political signs, garage sale signs, temporary real estate directional signs and approved permanent directional/wayfinding signs.

Planning & Zoning – Building & Safety – Code Compliance – Revenue Development  
300 E. Superstition Boulevard • Apache Junction, AZ 85119 • Ph: (480) 474-5156 • Fax (480) 982-7010

§ 1-11-13 NONCONFORMING AND DISCONTINUED SIGNS.

(C) *Signs rendered discontinued.* The use of any legal nonconforming sign which is located on property which becomes vacant and unoccupied for a period of 6 months shall be deemed to have been discontinued, and therefore shall be removed by the owner of the property or sign.

Specifically the following violations were found (*the required corrections/abatement are noted in Italics*):

(Statement of Violations and Corrections)

***Violation: Discontinued nonconforming Shell sign located in the right of way (northwest corner of property).***

***Corrective Action: Please remove the discontinued nonconforming Shell sign that is currently in the right of way.***

The City's initial and informal, attempts to have the above issues corrected or abated have not been successful, therefore we are issuing this formal Notice of Violation and requiring that the conditions noted above be corrected and abated within ***21 calendar days***.

A City of Apache Junction Code Enforcement Officer will perform a re-inspection to verify compliance on ***June 4, 2019***.

**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.

**\*Please note the following- Warning 1-** failure to comply- make requested corrections or abate the noted conditions may result in the filing of a civil or criminal misdemeanor case, depending on whether this violation is the first, second, third or fourth violation over a 24-month consecutive period.

**This is the 1<sup>st</sup> violation at this property**

**\*\*And please note the following- Warning 2-** failure to comply, failure to make requested corrections or abate the noted conditions, may result in an administrative or court abatement

action by the City, for which the owner or responsible person will be financially liable through a lien process which may include foreclosure of the property.

*If you have any questions regarding this Notice and the action required please contact Senior Code Compliance Officer Kimberly Wilson at (480) 474-5109 or [kwilson@ajcity.net](mailto:kwilson@ajcity.net).*

The City appreciates your immediate attention to the matters noted in this Violation. Failure to abate or correct will result in the issuance of civil or criminal citation.

**Appeal Rights**

You have the right to appeal this decision to the Board of Adjustment and Appeals within 30 calendar days of this letter. To exercise this right, you must request an application form and, submit a complete appeal application form with all necessary supporting documentation and information. A narrative specifying the grounds of the appeal should also be included. The complete application packet and the accompanying fees must be submitted with the Zoning Administrator at the Development Services Department, 300 E. Superstition Blvd., Apache Junction, Arizona, 85119. In most circumstances, an appeal to the Board stays all proceedings in the matter 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 Board of Adjustment.

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 a Zoning Notice of Violation before the Board of Adjustments and Appeals is \$750.00 with an additional deposit of \$500.00 due for advertising related expenses.

Respectfully,



Kimberly Wilson

Senior Code Compliance Officer