



City of Apache Junction, Arizona

Meeting Minutes Planning and Zoning Commission

Meeting location:

City Council Chambers
at City Hall
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Apache Junction, AZ
85119

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Tuesday, March 27, 2018

7:00 PM

City Council Chambers

1. Call to Order

Chair Nesser called the meeting to order at 7:00 pm.

2. Pledge of Allegiance

Chair Nesser led the Pledge of Allegiance.

3. Roll Call

Staff present:

City Attorney Joel Stern

Development Services Director Larry Kirch

Development Services Senior Planner Rudy Esquivias

Development Services Planning Intern Danielle Jordan

Present 7 - Chairperson Nesser
 Commissioner Frank
 Commissioner Schroeder
 Commissioner McGraw
 Vice Chair Heck
 Commissioner Howard
 Commissioner Kridler

4. Consent Agenda

[18-135](#) Consideration of approval of agenda.

5. New Business

18-134

Presentation and discussion on city-initiated proposed rezoning case PZ-1-18, a request to rezone the properties along Ironwood Drive between Apache Trail and Broadway Avenue from B-1 (General Commercial) to B-2/PD (Old West Commercial by Planned Development) for the purpose of relaxing certain code requirements to make future developments easier.

Planning Intern Jordan gave a presentation on city-initiated proposed rezoning case PZ-1-18, a request to rezone the properties along Ironwood Drive between Apache Trail and Broadway Avenue from B-1 (General Commercial) to B-2/PD (Old West Commercial by Planned Development) for the purpose of relaxing certain code requirements to make future developments easier.

Commissioner Kridler asked with the changes, what type of business is the city appealing to. Planning Intern Jordan said anything that's not there already. She added currently there is a lot of storage lots and staff would like to make it easier for businesses such as retail and doctors offices. She said that VIP Park approached the city asking to increase their storage uses to which staff recommended it not be approved. This will open the area to businesses other than storage lots. Commissioner Kridler said it's business offices and professional offices. Planning Intern Jordan agreed.

Commissioner McGraw asked if there was a business that was the reason for this change. Planning Intern Jordan explained that staff is currently working with someone who is interested in building a mixed use building on the northwest corner of Ironwood and Broadway which prompted the change.

Vice Chair Heck asked if not having this new zoning has been detrimental in finding parties interested in the area or if one situation prompted the change. Director Kirch said that in the past, the commission turned down a CUP for additional RV storage and the expert witness for that applicant said the lots are shallow and nothing can go in the area except RV storage. He added staff decided to relax the front, rear and side setbacks to allow property owners to get extra depth while still maintaining landscaping. He then said it was the request by VIP Storage and subsequent denial by the commission that prompted staff to request the rezoning of the entire corridor. Vice Chair Heck asked if these changes would have benefited VIP Storage. Director Kirch said this would benefit both sides of corridor that are currently zoned B-1.

6. Public Hearings

18-140

Presentation, discussion, public hearing, and consideration of case No. CUP-1-18, a request by Dean and Bonnie Varga, represented by Michelle Dahlke of Arizona Planning and Paralegal Solutions, for approval of a conditional use permit to allow for the placement of eight temporary cargo storage containers on their property for personal use, located on a B-1 (General Commercial) zoned property at 2090 W. Superstition Boulevard, on the northeast corner of Superstition Boulevard and Ocotillo Drive.

Planning Intern Jordan announced that Michelle Dahike asked for a continuance to the April 10, 2018 Planning and Zoning Commission Meeting. She added that she will still present the information to the commission.

Planning Intern Jordan gave a presentation on case No. CUP-1-18, a request by Dean and Bonnie Varga, represented by Michelle Dahlke of Arizona Planning and Paralegal Solutions, for approval of a conditional use permit to allow for the placement of eight temporary cargo storage containers on their property for personal use, located on a B-1 (General Commercial) zoned property at 2090 W. Superstition Boulevard, on the northeast corner of Superstition Boulevard and Ocotillo Drive.

Vice Chair Heck asked how long the current cargo containers have been on the property. Senior Planner Esquivias said September. Vice Chair Heck said they put them on the property without any approval. Planning Intern Jordan said yes.

Commissioner Kridler asked if there were any stipulations that those same ones have to be there or would he be allowed to bring on the larger ones. Planning Intern Jordan replied that staff is not specifying the size of them. She added staff is suggesting these stipulations because they are requesting eight. She added, staff said no to the eight, but would allow four without a size specification. Commissioner Kridler asked if the applicant gave any indication as to what type of business they intend on bringing on the property. Planning Intern Jordan said they did not.

Commissioner Howard said the commission can dictate whether or not they keep the four they have or add the additional containers. He said that is something the commission can require.

Chair Nesser asked if the applicant would like to speak with the commission. Planning Intern Jordan said they are not in attendance.

Chair Nesser asked if there was anyone from the public wishing to speak on this item.

Hearing none, Chair Nesser closed the public portion of the meeting.

Chair Nesser opened up the floor to comments from the commission.

Chair Nesser said that in the land development code, under cargo containers, it clearly says that for businesses, subsection 1-6-8, C, B, cargo containers shall be located to the rear or side of the principal building in a manner that minimizes public view from neighboring properties and/or the public street. She asked if this is assuming that most cargo containers are behind the business. Director Kirch said correct. She then said there is no business, so there's no way to put these behind a business and the only way to screen them from the public street was that the applicant would need to build a fence along Superstition Boulevard. She added that otherwise they're clearly in view of the public street. She said section C-5 clearly says the cargo container shall only be used for storage of materials for the primary business and their paperwork clearly says it's being used for personal property which isn't allowed. Chair Nesser said her problem with both of these is that if the commission allows these people to use the four they already have on there, let

alone any additional containers, the commission is allowing them to do something that has not been allowed any other business along that street to do. She said she isn't convinced that the commission should allow them to even have more than they already have on the property.

Commissioner Kridler added that they didn't do their due diligence to find out what the permitting or licensing requirements were and this is a concern for him. Chair Nesser said that was minor to her. Commissioner Kridler said one leads to the other. Director Kirch said the first conversation staff had with this gentleman, after they received the notice of violation, was that the place his business was at in Mesa was sold and he very quickly had to move stuff out so that's the reasoning why this person put the Connex Boxes on the property. He said that's when a violation went out. He explained the applicant is asking for a continuance which may very well be because the recommendation was not to allow eight and also a last-minute question on whether he could put his boat there and some other things. He added staff told him the recommendations wouldn't be changed and it was be presented to the commission. Director Kirch added the applicant was told he could ask for a continuance. He added the city attorney can tell the commission if it has to be granted or not, but the applicant has asked for a two week continuance. Director Kirch said another item they may want to consider is if the continuance is granted, have the date start in September if a two years time frame was approved.

Commissioner McGraw said that in all fairness, he would prefer to hear more from the applicant. Chair Nesser asked City Attorney Stern if it was ok to continue the item so they could hear from the applicant. City Attorney Stern said with due process and the applicant asking for a continuance, there's no prejudice to the city for waiting two more weeks. He added April 10th would be a date certain so staff wouldn't have to readvertise.

Chair Nesser asked if any other commissioners have comments, Vice Chair Heck asked if staff knows what the applicant's other business was in Mesa. Senior Planner Esquivias said the applicant told staff in the past he had a hi-fi business, which nobody buys anymore, so the containers have to do with his own personal storage. He added they discussed what type of businesses may go there, but at this point the applicant doesn't know. Senior Planner Esquivias said there isn't anything proposed, but they would like to use the two years to attract a business.

Commissioner McGraw asked how long they would have to remove the containers if the CUP were denied. Senior Planner Esquivias said that would be a code compliance issue and there would be timelines for the removal of the containers. He added normally with a second notice of violation it is another 20 days.

Chair Nesser called for a motion to continue the item until April 10th.

Vice Chair Heck moved that the Planning and Zoning Commission continue case CUP-1-18 until April 10 in order to allow the applicant to provide additional information for the commission. Commissioner Schroeder seconded the motion. The motion passed with a 7-0 vote.

Yes: 7 - Chairperson Nesser, Commissioner Frank, Commissioner Schroeder,
 Commissioner McGraw, Vice Chair Heck, Commissioner Howard and
 Commissioner Kridler

No: 0

18-143

Presentation, discussion and consideration of case CUP-9-17, a request by Mehmood Mohiuddin, represented by Ralph Pew of Pew and Lake PLC, for approval of a conditional use permit to conduct various ancillary outdoor entertainment activities on his property surrounding the Hitching Post and HP Steakhouse restaurants, including events and concerts, sand volleyball court, cornhole games, fire pits, bull-riding, putting green and other similar activities for patrons and guests of the restaurants, located on a B-1 (General Commercial)-zoned property at 2341 N. Apache Trail.

Chair Nesser asked about conditions #3, 4 and 5 referring to within one year. She asked if they should be done before any of the operations began. Vice Chair Heck said it's his sense that in a number of the conditions, that it is already assumed that there are issues with noise and lighting, but doesn't necessarily have any evidence to the fact. He added he wants to make sure both parties are protected and doesn't know if all this has to be done up front.

Chair Nesser asked if anything needs to be done about #6 where staff is recommending events be held between October 15 and May 15 while the applicant is saying from April through October. Commissioner McGraw said he doesn't have a problem with the events being held during the summer months. Chair Nesser said the commission can recommend April 1st through October 31st.

Commissioner McGraw said he's not in agreement with staffs' recommendation of a 12 foot wall. He added if the applicant is willing to put in screening along Cortez for the car lights he would be support that, but not a 12 foot wall. Chair Nesser asked Commissioner McGraw if he wanted to remove condition #1. He replied yes. Commissioner Schroeder asked if the 12 foot wall was to match another wall in the area. Director Kirch said the engineering for the current wall in place is engineered for up to 14 feet. He added the plans, engineering wise, is up to 14 feet in the existing walled in area. The 12 foot wall would surround the bull riding and the added venue area. He added that his understanding from the onset was that this would be more than sand volleyball, there would be other events with amplified music.

Chair Nesser said condition #2 states that within one year there will be a decorative eight foot block wall and shall be constructed along Lost Dutchman. Commissioner McGraw said that was overkill. Vice Chair Heck agreed and said Mr. Pew offered a modified version, a six foot fence with a mesh material.

Chair Nesser said condition #7 says AJPD off duty officers first. Commissioner McGraw agreed. Chair Nesser asked City Attorney Stern if they should be law enforcement officers. City Attorney Stern said yes, it should be law enforcement and not security and if AJPD are not available another law enforcement agency can be used.

Commissioner Schroeder said #17 says the CUP is not transferable. He said that wouldn't entice a buyer and the applicant should be able to do that. Several commissioners agreed. He then asked about condition #4 of Mr. Pew's recommendation about a permanent bathroom. Vice Chair Heck said he agreed with Mr. Pew that in one year, the property owner will meet with Pinal County Health department to review what is necessary. Several commission members agreed.

Chair Nesser called for a ten minute break.

The commission discussed the staff recommendations of the staff report dated March 27, 2018.

Chair Nesser called for a motion.

Vice Chair Heck moved that the Planning and Zoning Commission approve case CUP-9-17, a

request by Mehmood Mohiuddin, to conduct various outdoor entertainment activities on property surrounding the Hitching Post and Hitching Post Steakhouse restaurants, all owned by Mr. Mohiuddin; activities may include gazebo and water feature, event and concert area including weddings, concerts, car shows, art fairs, wrestling shows, other events, sand volleyball court, cornhole games, fire pits, bull-riding and event arena, putting green and other similar activities for his patrons, as well as parking for the activities and events subject to the following conditions of findings from section 1-16-12-D-3 of the zoning code:

- a) The commission determines that the roadways adjacent to the property are adequate for handling the increased business and increase in patrons to the property. The commission does have some concern about off-street parking and the fact that there has been parking occurring on the west side of 88, which is not legal, however, it still believes there is adequate parking on the site. The commission has found that the public facilities are able to accommodate the increase in patrons with the approval or with the necessity of using porta-johns, if necessary.
- b) The commission's findings relative to emission of odor, dust, gas, noise, lighting, vibrations, smoke, heat or glare, was that the findings were not conclusive. The commission was not able to substantiate that the noise levels, nor lighting, nor the other issues were significant or had a negative impact on the surrounding community.
- c) The findings of the commission are that there will be no negative impact to the community in terms of the deterioration of the neighborhood, nor the property values of said homes of neighbors.
- d) The commission's findings relative to surrounding uses and structures are, the CUP is compatible with the surrounding area, of which there are commercial properties to the west and north, and those businesses are not affected. The findings were such that they could not determine significant negative impact to the residential properties to the east and south.
- e) The commission's findings are that this CUP application does conform with the general plan and city policies.
- f) The commission's findings are that there is a need to identify certain screening and buffering elements to this application and they will be recommended in the conditions.
- g) The commission does recognize that this is a unique property and obviously as such, it's the opportunity for different uses that reflect the culture and the heritage of Apache Junction. The commission's findings are that they believe it is important to be able to help the Hitching Post to achieve these goals.

In addition the motions include approval based on the following conditions based on the staff report of March 27, 2018.

(Condition #1 of the staff report of March 27, 2018 was deleted by the commission. With this deletion, the numbers of the conditions changed. Condition #2 is condition #1 and so forth.)

- 1) Within one year of CUP approval, a properly engineered and permitted 6-foot chain link fence with wood slats shall be constructed along the E. Lost Dutchman Boulevard and N. Cortez Road frontages of the east parking lot of the Hitching Post. Said fence shall be set back 10 feet from the edge of the right-of-way and reserve a 20-foot by 20-foot cutoff corner for visibility. Outside of said fence facing Lost Dutchman and Cortez, within the 10-foot strip, the property owner shall install landscaping and irrigation improvements in compliance with the city's "landscape code", Apache Junction City Code, Volume II, Land Development Code, Chapter 1, Zoning Ordinance, Article 1-8, Landscape Regulations. Said landscape plan is subject to review and approval by the city's development services department planning division.

- 2) To remain as written.
 - 3) Within one year of CUP approval, the property owner, together with the Pinal County health department and the city building official, will review occupancy load estimates for all customer accessible activity areas and make a determination on the adequacy of restroom facilities to serve the new outdoor activity areas.
 - 4) To remain as stated.
 - 5) No more than fifteen (15) concerts and/or other events with outdoor amplified music shall be held in the western town area south of the Hitching Post only and said events shall end by 10pm, local time. These events will be held only between April 1st to October 31st. Other events in this area which do not involve any kind of amplified music or loud speakers are unlimited in number. Lights shall be shut off for any events held in the western town area no later than 10pm.
 - 6) For all outdoor concerts or similar events held in the western town area, the venue operators shall hire off-duty Apache Junction police officers for traffic control and safety. If the venue operator confirms with AJPD management that no off-duty AJPD officers are available, other law enforcement agencies may be considered. The rest can remain as stated.
 - 7) Hours for bull-riding events under this CUP shall last from 8pm to 10pm. Everything else remains the same.
 - 8) Remains the same.
 - 9) All music and/or announcer loudspeakers used for events held in the bull-riding arena shall be shut off at 10pm.
 - 10) Remains the same.
 - 11) All activities held in the newly defined east expansion area shall end at 10pm, including any ambient music.
 - 12) Keep worded as is.
 - 13) Remains as is.
 - 14) Stays the same.
 - 15) Stays the same.
- (Condition #17 as stated in the staff report of March 27, 2018 was deleted by the commission. With this deletion, the conditions were renumbered accordingly.)
- 16) To be read as stated.
 - 17) Remains as is.
 - 18) Remains as stated.
 - 19) Remains as is.
- Conditions 20 through 25 will remain as stated.

Commissioner Schroeder seconded the motion. Motion passed with a 6 to 1 vote.

Yes: 6 - Chairperson Nesser, Commissioner Schroeder, Commissioner McGraw, Vice Chair Heck, Commissioner Howard and Commissioner Kridler

No: 1 - Commissioner Frank

Senior Planner Esquivias gave a presentation on case CUP-9-17, a request by Mehmood Mohiuddin, represented by Ralph Pew of Pew and Lake PLC, for approval of a conditional use permit to conduct various ancillary outdoor entertainment activities on his property surrounding the Hitching Post and HP Steakhouse restaurants, including events and concerts, sand volleyball court, cornhole games, fire pits, bull-riding, putting green and other similar activities for patrons and guests of the restaurants, located on a B-1 (General Commercial)-zoned property at 2341 N. Apache Trail.

Chair Nesser asked Senior Planner Esquivias to confirm that the property owners to the east are at a higher elevation. Senior Planner Esquivias answered yes. She added that he's suggesting in the conditions that there'll be a 12 foot high wall. Senior Planner Esquivias agreed and said staff is suggesting similar fencing like the western, decorative style fence on Apache Trail be installed along the east side of the bull riding arena where there is currently a chain link fence. He added that staff would like to see the western town fence continue along the new activity area and then reconnect at the existing fence. Chair Nesser asked Senior Planner Esquivias the difference in the property elevation. He answered that he's heard there might be a 6 foot drop but hasn't seen a topography survey.

Chair Nesser then asked why staff is asking for a traffic impact analysis and is it a year and not before. Senior Planner Esquivias answered that is a question the neighbors raised and it's something for the commission to consider, if all the recommendations should be done before the outside activities are started. He added staff is suggesting a couple of things to be done within six months and the other things can take up to a year but it's the commission's discretion on whether he would be required to do everything before the new activity starts. Chair Nesser asked if there was any thought about no parking signs posted on North Apache Trail, Lost Dutchman and Cortez. Senior Planner Esquivias said the city hasn't officially made North Apache Trail a no parking zone and added that it is ADOT right of way. He also said Mr. Mohiuddin has voluntarily made it a no parking area but as the commission will see in the videos, people park there all the time. He said it's not posted by the city as no parking and people do park there.

Chair Nesser then questioned the septic system and if it is adequate for the new activities and potential increase in customers that Mr. Mohiuddin is planning. Senior Planner Esquivias answered that is why Mr. Mohiuddin needs to hire an engineer in accordance with the table in the building code. He added that is not a question that Director Kirch and himself can answer, but a question that needs to be answered by a professional. He also said in the applicant's narrative, no additional restroom facilities were proposed, but staff would like to see a professional evaluation relative to the issue.

Commissioner Kridler asked about the height differential on the block fence and asked if it is for noise reduction. Senior Planner Esquivias said staff is not sure how it would mitigate the sound. He added staff is asking for double fencing on the east side of the bull riding and an additional fence along Cortez. He said a fence along Cortez could help with the noise mitigation and light pollution the neighbors have complained about. He added that with either denial or inaction on the CUP, the bull riding on Thursdays and Saturdays can continue as is. Commissioner Kridler added that he understands the 12 foot as far as blocking sound, dust, etc. but the block wall, he

doesn't know if there is a significant difference in elevation. Senior Planner Esquivias said the block wall is not just for sound mediation but also for other impacts related to the light pollution and light trespass from the buildings and possibly other things that occur in the parking lot that the neighbors don't want to see. Commissioner Kridler said if the elevation difference is to that extent, it's really not going to block much of car headlights, but beyond that it's really not going to have that much of an impact. Director Kirch added most residential communities put up a 6 foot fence. He said it's a barrier even between residential properties. Commissioner Kridler said he understands, but going back to the effectiveness of it, his concern is if it's not really going to be effective why put out the finances.

Commissioner Kridler asked about condition #6 and if it were just in the western town area or is it inclusive of the bull riding area. Senior Planner Esquivias said the bull riding area on bull riding nights can have other events of similar or lesser intensity and there is no limit to the number of those as long as they are occurring on bull riding nights between the new suggested hours 7pm and 9pm.

Commissioner Kridler asked about condition #13 and no vehicle parking in the area to the south. He asked if it wouldn't take care of some of the issues as far as people parking across 88. Senior Planner Esquivias said staff would like it if the RV parking area went away and became a customer parking area related to activities at the Hitching Post. He added the applicant hasn't offered to delete the storage use or to put that property to a different use. He said it would solve all of their parking issues.

Commissioner Kridler asked about condition #15 and how it says in the opinion of the development services director as far as any substantial increase in intensity or major changes to the CUP. Commissioner Kridler said opinion is subjective and asked if there was a way to quantify an exact number or something because he doesn't feel good about having someone's opinion that can vary from director to director or person to person. Senior Planner Esquivias said that language was borrowed from the city's planned development zoning section. He added the planned development zoning section talks about minor and major changes to planned developments. He then said staff borrowed some of items such as increasing traffic safety concerns, excessive noise, and expansion of activity areas. He also said staff tried to define some of those issues better and added a couple of them are going to be an opinion and be subjective but in the language staff tried to identify specific items that can be looked at. Senior Planner Esquivias said the director might determine such things as complaints, accidents, or police activity that would cause this CUP to come back for the commission's consideration. Commissioner Kridler confirmed that there is no number definition. Senior Planner Esquivias said no.

Commissioner McGraw asked about the future of the septic system and if studies are needed to determine if another tank is needed. Senior Planner Esquivias replied that there is a section in the building code which defines this issue very specifically and that's what staff would like the applicant's engineer to inspect to determine if the number of customers they are expecting would warrant the need for additional restrooms. Commissioner McGraw asked if there was any other venue in Apache Junction that used port a johns on a regular basis for such events. Senior Planner Esquivias said no and asked if it were for permanent use. Commissioner McGraw said there are venues that have a port a john on a regular basis. Senior Planner Esquivias said Fillys use of a port a john is grandfathered in and goes back to the early 90's. He also said as far as tonight's applicant, their plan shows a couple of locations for port a potties. But he repeated as far as permanent use and adding additional activities, their engineer needs to determine the needs.

Commissioner Schroeder said the verbiage in the opinion of the development services director is an individual person. He said one man shouldn't be able to say that something is wrong or right and it should be at the discretion of the Planning and Zoning Commission. He added that any minor changes should go through the development services director as opposed to any major changes go through the CUP process and the commission. He said he would like to see any changes done go through the commission. Commissioner Schroeder asked if there was any access from the property to Cortez Road. Senior Planner Esquivias said there isn't any access but it is a public street and people use it. Commissioner Schroeder said if the condition was approved and more people came to the location, the fire department may say there needs to be an exit and said he should be allowed to put an exit on Cortez Road if the fire department says he needs to. Senior Planner Esquivias said that is something a traffic engineer can help decide. Commissioner Schroeder said that the deceleration lane and event signs can be put up and someone to direct traffic and test it before an engineer is required. Senior Planner Esquivias said that is at the discretion of the commission and staff's recommended conditions are trying to mitigate as many issues as possible. He said if the commission feels some of the conditions are over burdensome or unnecessary, that is the commission's discretion.

Vice Chair Heck said he would like to hear from the applicant before making any comments.

Commissioner Howard said he is perplexed about the parking. He said it is out of the applicants control and if there were signs that said no parking and customers still park there, on Cortez, it appears the applicant will be blamed over something he has no direct control over even though there's no parking. He added that research needs to be done about the type of signage utilized. He also said he agrees with Commissioner Schroeder that a trial and error is the best course to see what works and what doesn't work and go forth from that point. He said the commission has no idea what the conditions should be at this time.

Chair Nesser called on the applicant to address the commission.

Ralph Pew of Pew and Lake PLC, representing Mehmood Mohiuddin, addressed the commission. Mr. Pew gave a presentation on case CUP-9-17.

Chair Nesser opened the floor to questions by the commission.

Commissioner Kridler asked Mr. Pew to clarify the dates of condition #6 as April through October. Mr. Pew agreed.

Commissioner Kridler asked about condition #7 and not wanting to use Apache Junction police officers. Mr. Pew said they are happy to use law enforcement personnel, but thinks using only Apache Junction officers is limiting and feels allowing other law enforcement for off duty work would be easier to do. Commissioner Kridler asked City Attorney Stern for clarification if there is a policy that requires Apache Junction police officers to be offered the off duty positions within the city. City Attorney Stern replied that there is for construction activities. It is contained in contracts for construction jobs. He added that it is confusing to see outside law enforcement personnel directing traffic inside the city limits. There is other law enforcement issues related and gives the city's officers additional income resources. He said most cities require the same for construction and other activities within their jurisdiction. He then said language can be added that other agencies can be utilized if Apache Junction officers are unavailable. He said these are planned events that are scheduled in advance so there shouldn't be a problem. Mr. Pew said that can be done as long as the entire conditional use permit is not in jeopardy if they are

unable to get an off duty Apache Junction police officer. Commissioner Kridler understands his concern and added he feels more confident in law enforcement instead of security.

Commissioner Kridler asked about condition #23 and the reference to The Dash In. He asked if it was an entity any longer. Mr. Pew answered that the language came from city staff and doesn't feel the language should be there.

Commissioner Kridler asked Mr. Pew where the primary parking is for the Hitching Post. Mr. Pew answered the primary parking is on the east side. He added there is also parking in the front.

Commissioner McGraw asked if the bull riding animals will be on the property more than one day at a time and if they add junior bull riding the same time as the regular bull riding. Mr. Pew answered no, the animals will not stay overnight at the property.

Commissioner McGraw asked why they didn't include extra parking in the CUP. Mr. Pew answered by removing the spaces it limits the number of people that can be there. He added that they didn't focus on that when they wrote the application. Commissioner McGraw asked if they are going to amend the CUP. Mr. Pew said he asked staff that it be done in both email and verbally tonight. He added the commission has the discretion to add that in the conditions. City Attorney Stern asked for input from Director Kirch and Senior Planner Esquivias. Director Kirch said from the beginning there's been questions on the parking situation. He added, parking is a problem at this time. He also added that the application said the storage lot was not part of the CUP. He said staffs' position is they need a new CUP or an amendment that's properly filed and noticed. He then said to come in at the public hearing and ask for the CUP to be amended is not good practice. Mr. Pew agreed with Director Kirch's summary.

Chair Nesser the boat storage would have been the solution to the parking issue. Senior Planner Esquivias said that is what staff believes. Chair Nesser asked if it is an issue that it be added they can use the area for parking. Director Kirch said that it is up to the commission. He added, City Attorney Stern asked for our statement. He then said Mr. Mohiuddin has a viable business and there is viable and ongoing storage at the site. He added that staff didn't look at using the storage area for parking. He added that long term that can be the plan if the event center takes off. Chair Nesser asked City Attorney Stern for legal direction on using the storage lot as parking during events or employee parking. City Attorney Stern said the application is what's filed and if the applicant wants to amend it, there's a process to follow to legally correct it. He said they should amend it and a new notice should be sent out and another public hearing should take place. He said they don't need to file a new CUP, it amends the current application.

Chair Nesser asked if they should amend condition #13 to reflect they will come back at a date certain. City Attorney Stern said they don't know what they are going to do tonight. Chair Nesser said if that was what they are going to do. City Attorney Stern said if that's the last item that they haven't discussed at midnight and the fact that staff hasn't done an analysis of the area and dust control. Chair Nesser asked if they decide on that and they continue it. City Attorney Stern said the applicant would need time to redo the application as an amendment which can be done quickly. He added staff would need time to analyze and then come back to the commission with recommendations. Mr. Pew said it would be more efficient, time wise, for the commission to vote on what is in front of them tonight and the application can be amended later. He said another possibility is to continue and add that to it. City Attorney Stern said it would be an option to vote on some items, but doesn't recommend doing it that way. He said if they are going to vote on it, all the recommendations should be voted on at the same time. He also

added that with the notice provision, there would have to be notice to all the neighbors within three hundred feet again. Senior Planner Esquivias said there would be new fees and possible additional conditions relative to the storage lot. City Attorney Stern said there would be new fees because it is technically an amendment.

Vice Chair Heck asked Mr. Pew about the 15 special events in the outdoor area and if they will be during the summer months. Mr. Pew said that is correct. Vice Chair Heck said it would be likely that the number of patrons would be less because of the time frame. Mr. Pew said that is also true. Vice Chair Heck asked if they are looking at parking issues that may not be an issue because of the number of people attending during the summer months. Mr. Pew said he would speak with the applicant to see if they should proceed as applied or still request the parking issue. Vice Chair Heck then asked if the steakhouse and saloon would only be open to those attending the event. Mr. Pew replied that during a special event like a concert, both restaurants aren't open to the public because they are busy serving people outside from the kitchen. He said once the event ends, the restaurant reopens.

Commissioner Schroeder said if the events are held in the summer time, the amount of people would be typically less than the amount attending a typical Saturday night during the winter season. Mr. Pew said that is correct but would like to confirm it with the applicant before answering definitely.

Chair Nesser asked Mr. Pew that if someone wants to have a wedding, they would close the restaurants. Mr. Pew replied that it depends on the size of the wedding.

Chair Nesser called for a 10 minute break.

Chair Nesser called the meeting to order.

Chair Nesser asked Mr. Pew if he would like to address the commission. Mr. Pew said he was able to confer with Mr. Mohiuddin regarding parking in the storage area and he wishes to withdraw his request and would like his application considered as written and filed.

Chair Nesser opened the public hearing portion of the item.

Evan Bolick of Rose Law Group, 7144 E. Stetson Dr., #300, Scottsdale addressed the commission regarding concerns by local residents. The neighbors' concerns involve parking during events, lack of a traffic impact study, and a negative impact of light and noise.

John Jirrels, 834 S. Wanda Dr., Gilbert addressed the commission regarding his support for the venue. He supports the request and feels this business is a positive addition to the community.

Bambi Johnson, 2319 N. Cortez Road, Apache Junction showed a video to the commission. Ms. Johnson asked the commission to deny the CUP request due to its incompatibility with the surrounding area and that the applicant has failed to prove there will not be pollution of dust, noise, lights, smoke and odor to the surrounding residential neighborhood.

Yvonne Walker, 1023 N. Acacia, Apache Junction supported the Hitching Post and said she has attended several events. She said she feels there's blown up hype that there's going to be a lot of people showing up. She said it's not what she's seen at the events. The Hitching Post is where they take their guests and feels this is a witch hunt.

Nick Funk, 2273 N Cortez Rd., Apache Junction showed a video to the commission. Mr. Funk asked the commission to deny the CUP because of the noise, dust and lights. He added that he's lived there 17 years and these issues started with the bull riding.

Stacey Reichwall, 2500 E. Tepee St., Apache Junction spoke in favor of the applicant's request. She feels the Hitching Post is good for the community and isn't in violation of any laws.

Richard Beavers, 2225 N. Cortez, Apache Junction showed a video to the commission. Mr. Beavers expressed his concern over the events at the Hitching Post and said the dust and noise is getting worse and that he can't enjoy his property with the noise. Approval of the CUP will make things worse and asks the commission to deny the request.

Colleen Shipman, 1615 W. Mockingbird St., Apache Junction spoke in favor of approving the CUP request.

Bill Wallingford, 2055 N. Cortez Rd., Apache Junction showed a video to the commission. He said the noise has gotten worse and added he can't go outside on Thursday and Saturdays. He asked the commission to deny because of the noise.

Braden Biggs, 2492 W. Cactus Wren, Apache Junction spoke in favor of approving the CUP request. He said he attended the community meeting and feels some of the noise complaints at that meeting were valid. He added he has to deal with these issue several times a year as well, as he lives close to the Harley Davidson dealership in the city. He then said he attended an event and didn't think the noise was bad, the 12 foot fence is absurd and violates city code, noise complaints are a waste of the PD's time, the complaints are trying to put him out of business, and that the business brings in a lot of sales tax to the city.

Elysa Wallingford, 2005 N. Cortez Rd., Apache Junction showed a video to the commission. She said there is drag racing down Cortez Road and they don't need that.

Bonnie Goldsbury, 2320 N. Apache Trail, Apache Junction addressed the commission. She said she lives across the street from the Hitching Post. She added that the area is a business area and works from her home morning, noon and night. She said she is surprised at the amount of noise heard by those living on Cortez. She also said the traffic is impacted by all the business on Apache Trail, not just the Hitching Post. She also said that she isn't getting the dust, light and noise on her property.

Patrick LaClair, 2521 E. Windsong, Apache Junction showed a video to the commission. Mr. LaClair said he's called the police department over the excessive noise. He also said Mr. Pew doesn't live there. He then said when he built his house it was only Dash In. He said the neighbors are subjected to this 104 times a year and approval of the CUP request will subject them to more. He is asking the city for some kind of protection against the intrusion in their lives.

Juanita Meyer, 5402 E. 32nd Ave., Apache Junction addressed the commission. She said some of the things aren't making sense. One of the items is the drag racing. She said the Hitching Post has no control over that. She also said the noise would bother her too, but the conditions should help. She added that if there was a violation, why hasn't the Hitching Post been cited. She also said the extension of outside activities isn't towards the neighbors. She said she doesn't understand what everything is about. She added she understands the noise and said that is an addressable fixable problem. She feels the applicant has done everything

the city has asked for and just doesn't understand everything.

Bonnie Skaarland, 1925 N. Cortez Rd., Apache Junction showed a video the commission. She said she's lived in Apache Junction since 2001. She said this type of business doesn't belong in the area and the owner doesn't show any respect for his neighbors and the surrounding area. She said she had concerns over the bull riding and the safety of it. She said the owner didn't attend the neighborhood meeting and most of the questions from those in attendance were left unanswered. She added that the business can't handle the parking now, how will they handle it with these changes.

Mehmood Mohiuddin, 2304 N. Cortez Rd., Apache Junction addressed the commission. He said he's seen the videos presented and said he doesn't know where they were recorded. He said it sounds like someone recorded it inside the arena. He said the police came out and there have been no violations. There's also been dust complaints and the county came out four time with no violations. He said the Hitching Post has no control over traffic noise. He added Planning and Zoning never investigated the complaints. He also said there have been various donations to organizations. He also said he is willing to work with the neighbors. He also said the Hitching Post has paid \$1.2 million in taxes to the city, state and federal government. He said they are doing the right thing for the community. He said they put Apache Junction on the map. He added the neighbors are recording the sound inside the arena and attaching it to a video.

Anne Chapman, 2275 N. Acacia Rd., Apache Junction showed a video the commission. Ms. Chapman explained that the video is a sample of what they endure in their home two nights a week. She added they are about 1000 feet away from the Hitching Post as the crow flies. She also said they have been in their home for 22 years. She said she and her husband researched the zoning and surrounding area and knew of the restrictions put on the neighborhood to keep it rural. She said the neighborhood is not an appropriate place for this venue. She said they aren't looking to close the Hitching Post, she doesn't care what goes on inside the Hitching Post as long as it doesn't spill over into their homes. She said they can't enjoy their homes because of what is allowed. She asked the city to deny the CUP.

John Chapman, 2275 N. Acacia Rd., Apache Junction showed a video to the commission.

Jim Johnson, 2319 N. Cortez Rd., Apache Junction showed a video to the commission. He told the commission the bull gate opening activates his PTSD. He is a veteran and has served over 21 years in the military. He said the residents around the Hitching Post have nothing against the applicant or the business and commends the applicant for his charitable activities. He added that the applicant should have to prove noise won't affect the neighbors. He added that bull riding events are 104 events a year and that two times a week doesn't sound like a lot. He added noise is the most prominent and hiring an engineer to measure decibel levels is not the solution. He said with his extensive experience the only solution to get rid of the noise is to not have it, block it, or be far away from it. He said what needs to be done is to absorb or block the sound which would mean to enclose it. This was asked to be done over three years ago. He added the illegal use of the storage lot should also be addressed.

Jim Duncan, 2745 E. Smoketree St., Apache Junction showed a video to the commission. Mr. Duncan showed a zoning map of the area to the commission and showed how close the venue was to his residence. He asked the commission to deny the CUP request as he feels his property value will decrease if it is approved.

Christina Driscoll, 1852 N. Goldfield Dr., Apache Junction asked the commission to deny the CUP. She pointed out that the expansion area is towards the residences. She said that her neighbors told her they wouldn't have bought their property if they knew there would be a bull riding arena there and that most of them purchased their property before the applicant. She added that most of the planned business is for outdoor venues and all are associated with amplified PA or music. She said the applicant is asking to expand the business but isn't doing anything to mitigate adverse effects of the expansion. She added the property owners are giving up their rights for the applicant's benefit.

Cindy Nuttal, 885 N. Vista Rd., Apache Junction showed a video to the commission.

Debra Hurley, 2208 W. Baseline Rd., #209, Apache Junction addressed the commission in support of the CUP. She spoke in support of the applicant and his efforts in the community.

Having no one else wishing to address the commission, Chair Nesser closed the public hearing portion of the item.

Chair Nesser opened the item for discussion for the commission.

Commissioner Kridler said he thinks the videos are the same location and there is false information on the videos. He added all addresses are adjacent to the applicant's property. He said some of the items they are requesting are unreasonable. He also said they don't have any information on the excessive violations. He said there was only one complaint on the PD's records that was founded. The others were unfounded.

Commissioner McGraw said he agrees with the conditions Mr. Pew presented to the commission.

Vice Chair Heck said he sympathizes with the homeowners. He said if what they are presenting is correct, and although he lives close, he doesn't hear the same levels of noise. He said that he drove in the area when the bull riding was happening and didn't hear that level of noise that was being reported. He added that anyone can file a noise complaint, but what happens after the complaint is the key. He said there were was only one warning and no substantiated complaints. He said he feels the PD would not side with the applicant and do the right thing. He said the property is commercially zoned and the neighbors bought the property not expecting anything like what has happened. He added the neighbors can't dictate what goes on that property. He added he hopes that the homeowners and applicant could work it out. He added he is very concerned about parking and asked the applicant and his attorney to look into people crossing the 88.

Chair Nesser said she is concerned about the patrons of the applicant's business crossing the highway.

Commissioner McGraw said he agrees with Vice Chair Heck and agrees with the staff recommendations.

Commissioner Howard said he looks at this as a commercial property and understands some of the heartaches of the residents. He added he has had situations in his own community and says if the applicant is within the letter of the law, he can do what he is proposing.

Chair Nesser asked if the commission would like to discuss the recommendations.

Commissioner Kridler said the proposal from staff was good except for #15. He said he'd like to change 'in the opinion of the development services director' to something else. He said maybe changing the wording so that it isn't one person. He said it could be to the commission as opposed to one person. He added that he felt it is subjective in nature and doesn't believe it should be left up to one person. City Attorney Stern said the zoning administrator makes these types of decisions all the time that can be appealed to the board of adjustment and that is one person, so he believes that argument doesn't work. Commissioner Kridler said if that is the case he's ok with it, but didn't initially read it that way. Chair Nesser asked City Attorney Stern if he means that the development services director doesn't make the decisions and that's not where the situation would end. City Attorney Stern said he would like Senior Planner Esquivias to explain the condition because it's a standard condition. Senior Planner Esquivias said some of the language was borrowed from the planned development regulations and although it's not a planned development, but in order to try and define what some of the major issues might be, that's where the language came from. Staff added increase in the number of events, compatible events, etc. and it could be the director, his or her designee. City Attorney Stern said the section says if that person thinks any of the issues exist it comes back to the commission. Senior Planner Esquivias explained it's not the department director saying the CUP is revoked, it's the director becoming aware of various issues and bringing the CUP back to the commission for their review. City Attorney Stern asked if that was the same for all the conditions. Senior planner Esquivias said yes and it relates to the wording at the end that says the CUP can be brought back to the commission for due cause. City Attorney Stern said the language can be stricken from the section if the commission wishes it. City Attorney Stern said Mr. Pew wanted a right of rebuttal and added if that is the case, it needs to be opened to the public.

7. Old Business

None.

8. Information and Reports

Director Kirch announced there will be a public meeting on Wednesday, April 4 at 7pm to discuss the Active Transportation Plan. The meeting will be held in the Conference Center.

9. Director's Report

None.

10. Selection of Meeting Dates, Times, Location and Purpose

Vice Chair Heck moved that the Planning and Zoning Commission hold a regular meeting on April 10, 2018 at 7pm in the Apache Junction Council Chambers located at 300 E. Superstition Blvd. Commissioner Schroeder seconded the motion. The motion passed with a 7-0 vote.

Yes: 7 - Chairperson Nesser, Commissioner Frank, Commissioner Schroeder,
 Commissioner McGraw, Vice Chair Heck, Commissioner Howard and
 Commissioner Kridler

No: 0

11. Adjournment

Adjournment:

Meeting adjourned at 12:31 a.m.

Theresa Nesser

Chairperson