



BOARD OF SUPERVISORS AGENDA ITEM REPORT

Requested Board Meeting Date: November 21, 2017

Title: P17CU00008 - Fryar Colby & Dunham-Fryar Rachel - S. Three Wells Ct. - Type II Conditional Use Permit

Introduction/Background:

The proposal is to use an existing graded arena area for the sale of storage sheds. The area will be used for viewing sheds that are available for purchase which will be delivered to the customers location.

Discussion:

The retail shed business is to be run by the owners of the property and is located on a property that is on Sahuarita Rd. The use is expected to be low traffic generation with a few customers in a day.

Conclusion:

The Pima County Zoning Code requires a Type II Conditional Use Permit for a retail use in RH zoning.

Recommendation:

The Pima County Hearing Administrator recommends approval of the conditional use permit.

Fiscal Impact:

None

Board of Supervisor District:

1 2 3 4 5 All

Department: Development Services Department - Planning Telephone: 520-724-9000

Contact: Tom Drzazgowski Telephone: 520-724-6675


Department Director Signature/Date:  10/30/17

Deputy County Administrator Signature/Date:  11/2/17

County Administrator Signature/Date:  11/2/2017



PIMA COUNTY
DEVELOPMENT SERVICES

TO: Honorable Steve Christy, Supervisor, District #4
FROM: Chris Poirier, Planning Official 
DATE: October 26, 2017
SUBJECT: P17CU00008 FRYAR COLBY & DUNHAM-FRYAR RACHEL – S. THREE WELLS CT.
(Conditional Use – Type II – Retail Shop)

The above referenced Conditional Use Permit is within your district and scheduled for the Board of Supervisors' **TUESDAY, November 21, 2017** hearing.

REQUEST: Conditional Use – Retail Shop

OWNER: Colby Fryar
16115 S. Three Wells Ct.
Tucson, AZ 85629

AGENT: Colby Fryar
16115 S. Three Wells Ct.
Tucson, AZ 85629

DISTRICT: 4

STAFF CONTACT: Tom Drzazgowski

PUBLIC COMMENT TO DATE: Two (2) member of the public appeared at the Conditional Use Permit hearing to address concerns.

HEARING ADMINISTRATOR RECOMMENDATION: **APPROVAL WITH STANDARD AND SPECIAL CONDITIONS.**

MAEVEEN MARIE BEHAN CONSERVATION LANDS SYSTEM: The subject tower site is located outside of the Maeveen Marie Behan Conservation Lands System.

CP/TD/ar
Attachments



BOARD OF SUPERVISORS MEMORANDUM

Subject: P17CU00008

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FOR NOVEMBER 21, 2017 MEETING OF THE BOARD OF SUPERVISORS

TO: HONORABLE BOARD OF SUPERVISORS

FROM: Chris Poirier, Planning Official 
Public Works-Development Services Department-Planning Division

DATE: October 26, 2017

ADVERTISED ITEM FOR PUBLIC HEARING

TYPE II CONDITIONAL USE PERMIT
RETAIL SHOP

P17CU00008 FRYAR COLBY & DUNHAM-FRYAR RACHEL – S. THREE WELLS CT.
Request of Colby Fryar on a site at 16115 S. Three Wells Ct., in the RH Zone, for a conditional use permit for Retail Shop, in accordance with Section 18.13.030 of the Pima County Zoning Code as a Type II conditional use permit. The Hearing Administrator recommends **APPROVAL SUBJECT TO STANDARD AND SPECIAL CONDITIONS.** (District 4)

Conditional Use Permit Hearing (September 26, 2017)

In accordance with Pima County Zoning Code Section 18.97.030.F.3, a public hearing was held on this application on September 26, 2017. The applicant presented the case to the hearing administrator and answered his questions.

Two (2) members of the public attended the hearing, both of whom elected to speak on the matter. Neither of the speakers expressed unilateral opposition to the request, but did raise the following issues: 1) concerns that approving a commercial use would “open the door” for much more intensive commercial activity on the property (e.g. a Circle K Store); 2) maintenance of the existing dirt street in light of the potential for increased traffics; 3) concerns as to whether the applicant/owner might sell the property to a new owner who would not be as sensitive to their neighbors and the predominant residential setting; and 4) potential impacts to the pedestrian trail that runs along Sahuarita Road (and along the applicant’s frontage).

With these matters on the record, a very reasonable and business-like discussion ensued between the owner/applicant, the neighbors in attendance, and the Hearing Administrator. In the end, there was a comfort level that the proposed use could be accommodated on the property as long as certain special conditions were put in place to protect the surrounding properties.

Staff indicated that it had received no prior public comment on the case. One of the neighbors in attendance submitted a letter on behalf of a relative (and nearby property owner) expressing her objection to the application.

Upon hearing all of the above, the Hearing Administrator closed the public hearing.

cc: Colby Fryar, 16115 S. Three Wells Ct., Tucson, AZ 85629
Tom Drzazgowski, Principal Planner
P17CU00008 File



Board of Supervisors Memorandum

P17CU00008

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FOR BOARD OF SUPERVISORS NOVEMBER 7, 2017 PUBLIC HEARING

TO: HONORABLE BOARD OF SUPERVISORS

FROM: Jim Portner, Hearing Administrator

DATE: October 3, 2017

DOCUMENT: P17CU00008

CONDITIONAL USE PERMIT REQUEST FOR PUBLIC HEARING:

Request of Colby Fryar on a site at 16115 S. Three Wells Court, in the **RH Zone**, for a conditional use permit for a Retail Shop, in accordance with Section 18.13.030 of the Pima County Zoning Code as a Type II conditional use permit. (District 4)

CASE BACKGROUND AND PARTICULARS

The applicant's request is to establish a site for the display and sale of personal storage sheds; the owner/applicant also has their personal residence on the same property. The display area would occur within an already-graded area of the site that was previously used as a horse-riding ring. Viewing and sale of the shed units would occur on the property; actual delivery of a purchased shed to the buyer would occur directly from an off-site assembly plant. The property is partially screened by existing vegetation along the site's Sahuarita Road frontage. The site takes access off of a dirt street that also serves several residential properties further to the south.

SUMMARY OF THE HEARING ADMINISTRATOR MEETING

In accordance with Pima County Zoning Code Section 18.97.030.F.3, a public hearing was held on this application on September 26, 2017. The applicant presented the case to the hearing administrator and answered his questions.

Two (2) members of the public attended the hearing, both of whom elected to speak on the matter. Neither of the speakers expressed unilateral opposition to the request, but did raise the following issues: 1) concerns that approving a commercial use would "open the door" for much more intensive commercial activity on the property (e.g. a Circle K Store); 2) maintenance of the existing dirt street in light of the potential for increased traffics; 3) concerns as to whether

the applicant/owner might sell the property to a new owner who would not be as sensitive to their neighbors and the predominant residential setting; and 4) potential impacts to the pedestrian trail that runs along Sahuarita Road (and along the applicant's frontage).

With these matters on the record, a very reasonable and business-like discussion ensued between the owner/applicant, the neighbors in attendance, and the Hearing Administrator. In the end, there was a comfort level that the proposed use could be accommodated on the property as long as certain special conditions were put in place to protect the surrounding properties.

Staff indicated that it had received no prior public comment on the case. One of the neighbors in attendance submitted a letter on behalf of a relative (and nearby property owner) expressing her objection to the application.

Upon hearing all of the above, the Hearing Administrator closed the public hearing.

HEARING ADMINISTRATOR'S RECOMMENDATION

After visiting the subject property and after considering the facts and the testimony presented at the lengthy public hearing process on this request, the Hearing Administrator recommends **APPROVAL** of this request for a Type II conditional use permit for a retail shop (display and sales area for personal storage sheds). The applicant is advised that this is a *recommendation* to the Board of Supervisors, who will make the ultimate and final decision on this CUP request.

Should the Board of Supervisors agree with the Hearing Administrator's recommendation for approval, it is suggested that this approval be granted subject to the following special conditions:

Special Conditions

1. This conditional use permit is only for the operation of a display and sales area for personal storage sheds. No other or more intensive commercial uses are approved for the site.
2. The shed display area shall be wholly contained within the existing graded area (former horse-riding ring) and is limited to the northern sixty feet (60') of that graded area; no more than twelve (12) shed models can be displayed at any one time.
3. The graded area shall be treated with an acceptable surface to control dust, e.g. gravel, crushed fines, or other palliative. This is especially stressed for that portion, outside of the actual display area, where there will be customer private-vehicle traffic.
4. The vehicular entry drive into the display area (from Three Wells Court) shall be widened to twenty-four feet (24') and will also be surfaced to control dust in the same manner as the sales/display/vehicular area.
5. The portion of Three Wells Court from Sahuarita Road to the vehicular entry drive (See Special Condition No. 4 above) shall be graded by the owner/applicant to provide a reasonably smooth driving surface. Said grading shall occur prior to any public shed sales and shall subsequently be completed by the owner/applicant once per year thereafter.

6. Hours of operation are limited to daylight hours only; no night-time illumination of the sales area or shed units is allowed.
7. There shall be no alterations to the existing pedestrian path that runs along Sahuarita Road.
8. No formal Development Plan process is required in conjunction with this conditional use permit application. A final site plan, in accordance with the above, shall be submitted to the Chief Zoning Inspector (CZI), who shall review it to determine its sufficiency for permitting purposes and/or to effectuate any modifications necessary to fully comply with all applicable codes. The CZI will coordinate with the Departments of Transportation and the Regional Flood Control District at his discretion.
9. This approval and the attendant use and restrictions as described above are granted only to the present owner/applicant. Any sale or transfer of the property to another party shall terminate this conditional use permit approval.

REQUIRED STANDARDS AND FINDINGS

Following are the Hearing Administrator's findings relative to the standards set by Pima County Code Sec. 18.97.030.F.3.c. These Sections stipulate that the following standards be met by the proposed use:

1. **It will not be in serious conflict with the objectives of the general land use plan or the area plan in which situated.**

The Pima County Comprehensive Plan designates this site and the surrounding private properties as *Low Intensity Rural (LIR)*, the purpose of which is to provide designated areas for the provision of low-density residential or other compatible uses.

It is the Hearing Administrator's finding that the proposed display and sales are an acceptable and compatible use if it is operated in accordance with the *Special Conditions* prescribed above. If so, it can be effectuated with minimal impact upon the surrounding property owners and is hereby found to not be in conflict with the objectives of the *Comprehensive Plan*.

2. **It will provide safeguards for the protection of adjacent developed property, or if the adjacent property is undeveloped, for the legal permitted uses of such property.**

It is the Hearing Administrator's position that the proposed conditional use, if conducted in conformance with the submitted site plan and the *Special Conditions* prescribed above, will satisfactorily safeguard the adjacent properties and their permitted uses of same.

3. **It has adequate accessibility to the County road network.**

The site has direct access to Three Wells Court, which is an unpaved, private street. Special Conditions have been crafted to facilitate its proper maintenance. This street has direct access to Sahuarita Road, which is a designated "major street" on the Pima County

Major Streets & Routes Plan. Access is found to be adequate, as long as it is conducted in accordance with the *Special Conditions* enumerated above.

4. **It has sufficient off-street parking and loading facilities, that will be developed in accordance with County engineering standards.**

Required parking shall be reviewed accordingly by the CZI at the time of final permitting.

5. **It will meet County standards in terms of control of noise, smoke, glare or heat, odors, vibrations, fly, ash, dust, fumes, vapors, gasses, and other forms of air pollution, liquids and solid wastes.**

It is the Hearing Administrator's finding that the new use poses no significant public threat in any of the above ways, including noise and odors. *Special Conditions* have been crafted to address the proper operation of this restaurant use.

6. **Hours of operation will not be detrimental to adjoining residents.**

Hours of operation are addressed in the proposed *Special Conditions*.

7. **Landscaping will be fully in conformance with zoning code regulations.**

Designated landscape buffers, if any, shall be delineated on the required site plan and reviewed by the CZI at the time of final permitting.

SONORAN DESERT CONSERVATION CONCEPT PLAN/ENVIRONMENTAL ISSUES

Comprehensive Plan Regional Environmental Policies — Conservation Lands System

In December, 2001 the Board of Supervisors incorporated the Maeveen Marie Behan Conservation Lands System (MMB-CLS) into the Comprehensive Plan 2001 Update as the Regional Environmental Policies. The MMB-CLS is the heart of the Sonoran Desert Conservation Plan (SDCP). On June 21, 2005, the Board of Supervisors amended the Comprehensive Plan Regional Environmental Policies and the MMB-CLS to reflect recommendations from the SDCP Science Technical Advisory Committee that were based on new scientific and technical data. As adopted, Conservation Guidelines associated with the MMB-CLS establish conservation objectives for a variety of projects (e.g. rezoning actions, comprehensive plan amendments, Type II and Type III conditional use permits, etc.) that require a discretionary decision by the Board of Supervisors. Conservation objectives include:

1. Important Riparian Areas — 95% undisturbed natural open space
2. Biological Core Management Areas — 80% undisturbed natural open space
3. Special Species Management Areas — 80% undisturbed natural open space
4. Multiple Use Management Areas — 66-2/3% undisturbed natural open space

The subject property is **OUTSIDE OF** the MMB-CLS.

Staff Commentary on Biological Impacts

Staff has reviewed this application and finds that, as long as it is placed on the site in conformance with the submitted conceptual site plan: 1) its approval is not expected to affect any resources essential to Pima County's biological conservation priorities; and 2) it would not be in conflict with the Regional Environmental Policies of the 2001 Comprehensive Plan Update. The property has already been graded under past uses and no additional material impacts will result from the approval and operation of this conditional use permit.

Facts Confirmed by the Pima County Geographic Information System (GIS)

The following facts are confirmed by the Pima County GIS and the Sonoran Desert Conservation Plan maps with respect to this conditional use permit request:

Cactus Ferruginous Pygmy Owl. The subject property is located within an area that was not designated as former critical habitat and is part of draft recovery area. This site is not located within the Priority Conservation Area (PCA) for this species.

Western Burrowing Owl. The subject property is not located within the Priority Conservation Area for this species.

Pima Pineapple Cactus. The subject property is located within a general area that is within the Priority Conservation Area (PCA) for this species.

Needle-Spined Pineapple Cactus. The subject property is located within a general area that is outside of the known range for the Needle-Spined Pineapple cactus. It is not within the Priority Conservation Area (PCA) for this species.

DEPT. OF TRANSPORTATION & FLOOD CONTROL RECOMMENDATION:

The Department of Transportation and the Regional Flood Control District will further review the project as needed during the final permitting process.

attachments

cc: Carla Blackwell, Director, Development Services
Yves Khawam, Chief Building Official
Chris Poirier, Planning Official
Tom Drzazgowski, Chief Zoning Inspector
Colby Fryar & Rachel Dunham-Fryar, Owners and Applicants



ZONING ENFORCEMENT DIVISION
201 N. Stone Avenue, 1st Floor
Tucson, Arizona 85701-1207
(520) 724-6675

APPLICATION FOR CONDITIONAL USE PERMIT

OWNER: COLBY FRYAR PHONE: 520-730-4086

ADDRESS: 16115 S. THREEWELLS CT. CITY: SAHUARITA ZIP: 85629

APPLICANT (if not owner) _____ PHONE: _____

APPLICANT EMAIL ADDRESS: frycrc@LIVE.COM

ADDRESS: _____ CITY: _____ ZIP: _____

PROPERTY ADDRESS: _____ ZONE: _____

TAX CODE(S): 30522158K

_____ TOWNSHIP, RANGE SEC.: 19S 15E 17

LOT DIMENSIONS: 440' X 409' LOT AREA: 4.13 ac.

TYPE OF USE PROPOSED FOR PROPERTY (BE SPECIFIC): STORAGE SHED SALES.
SHEDS ARE DELIVERED TO SITE & SOLD FROM PROJECT
SITE.

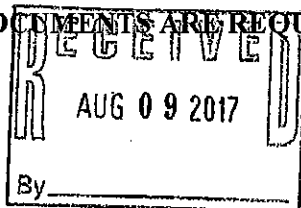
STATE THE REASONS WHY THE USE IS PROPOSED AND WHY YOU THINK IT WOULD BE COMPATIBLE WITH THE SURROUNDING AREA:

VISIBILITY FROM SAHUARITA ROAD. LOW INTENSITY
USE / MINIMAL TO NO IMPACTS TO NEIGHBORING
RESIDENCES DUE TO LOCATION NEXT TO ROADWAY & DISTANCE
TO OTHER HOUSES. RESEARCH INDICATES 5 VISITORS / DAY MAX.

ESTIMATED STARTING DATE: SEP. 1 2017 ESTIMATED COMPLETION DATE: --

THE FOLLOWING DOCUMENTS ARE REQUIRED:

Revised 08-25-14



1. Preliminary Development Plan
 - a. 5 copies are needed for Type I (In accordance with Pima County Fee Schedule)
 - b. 10 copies are needed for Type II (In accordance with Pima County Fee Schedule)
 - c. 10 copies are needed for Type III (In accordance with Pima County Fee Schedule)
 5 – 24" X 36" and 5 – 11" X 17"
 (Make check payable to Pima County Treasurer)
2. Assessor's Map showing location and boundaries of the property.
3. Assessor's Property Information showing ownership of the property.
4. Letter of Authorization if applicant is not the owner
5. Floor Plan that pertains to interior access or use if required
6. Biological Impact Report ** - For Type 2 or 3 permit requests

I, the undersigned, represent that all the facts in this application are true to the best of my knowledge.

Colby A. Fryar
 Signature of Applicant

8/9/2017
 Date

COLBY FRYAR
 Print Name

520-730-4086
 Applicant Phone Number

Applicant agrees to provide staff with written proof of notice to the United States Fish and Wildlife Service of this conditional use request at least 15 days prior to the date of the public hearing. Failure to do so may result in cancellation of the public hearing. In addition, the applicant or authorized representative must appear in person at the public hearing to present the request, otherwise the case may be dismissed.

Please initial here: _____

OFFICE USE ONLY

Case #: _____ Case Title: _____

Type: _____ Fee: _____ Receipt Number: _____ Hearing Date: _____

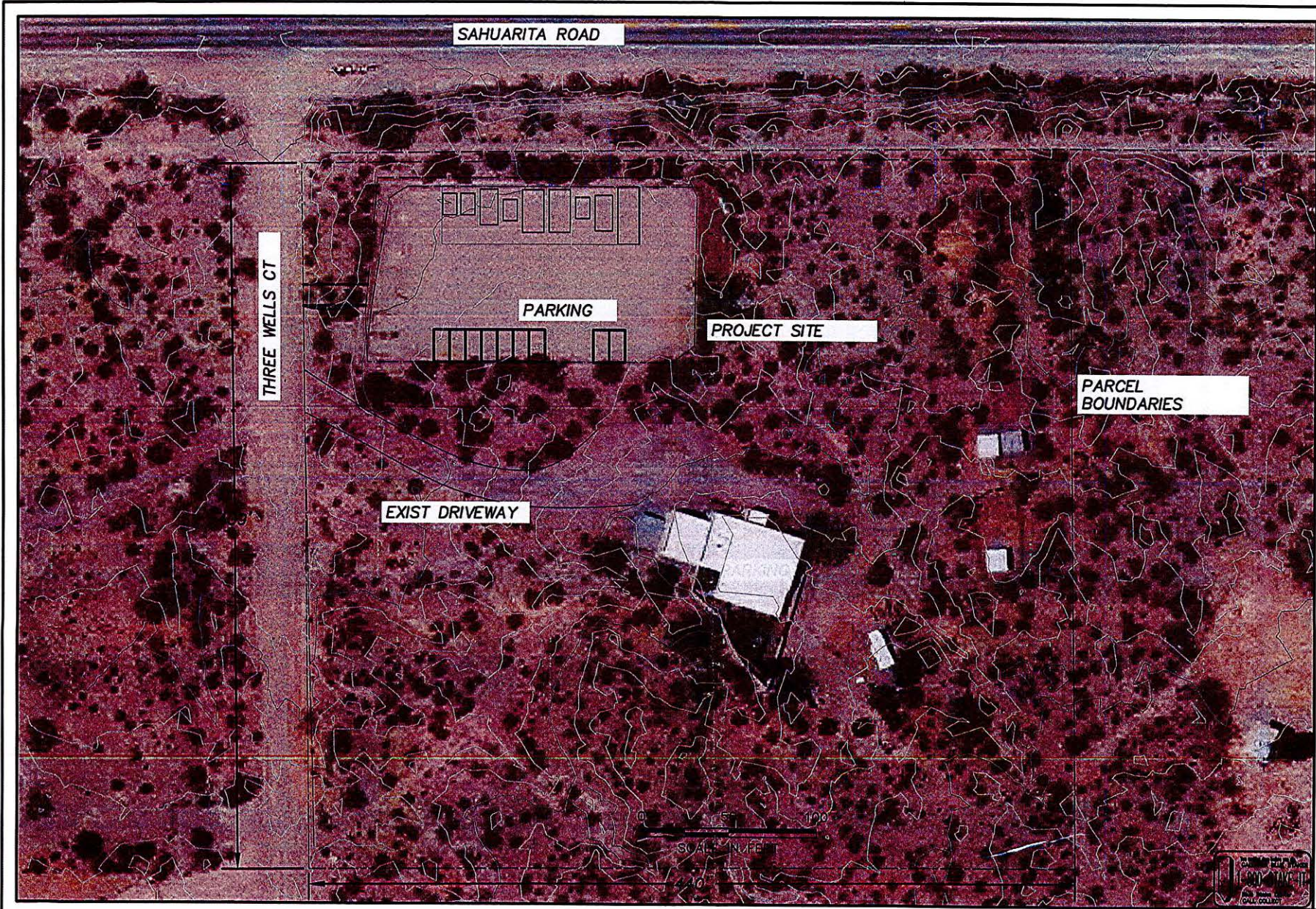
Notification Area: _____ Sections: _____

Zoning Approval: _____

Special Conditions: _____

A request for continuance of an advertised application or a change in original request by applicant, must be accompanied by an additional fee.

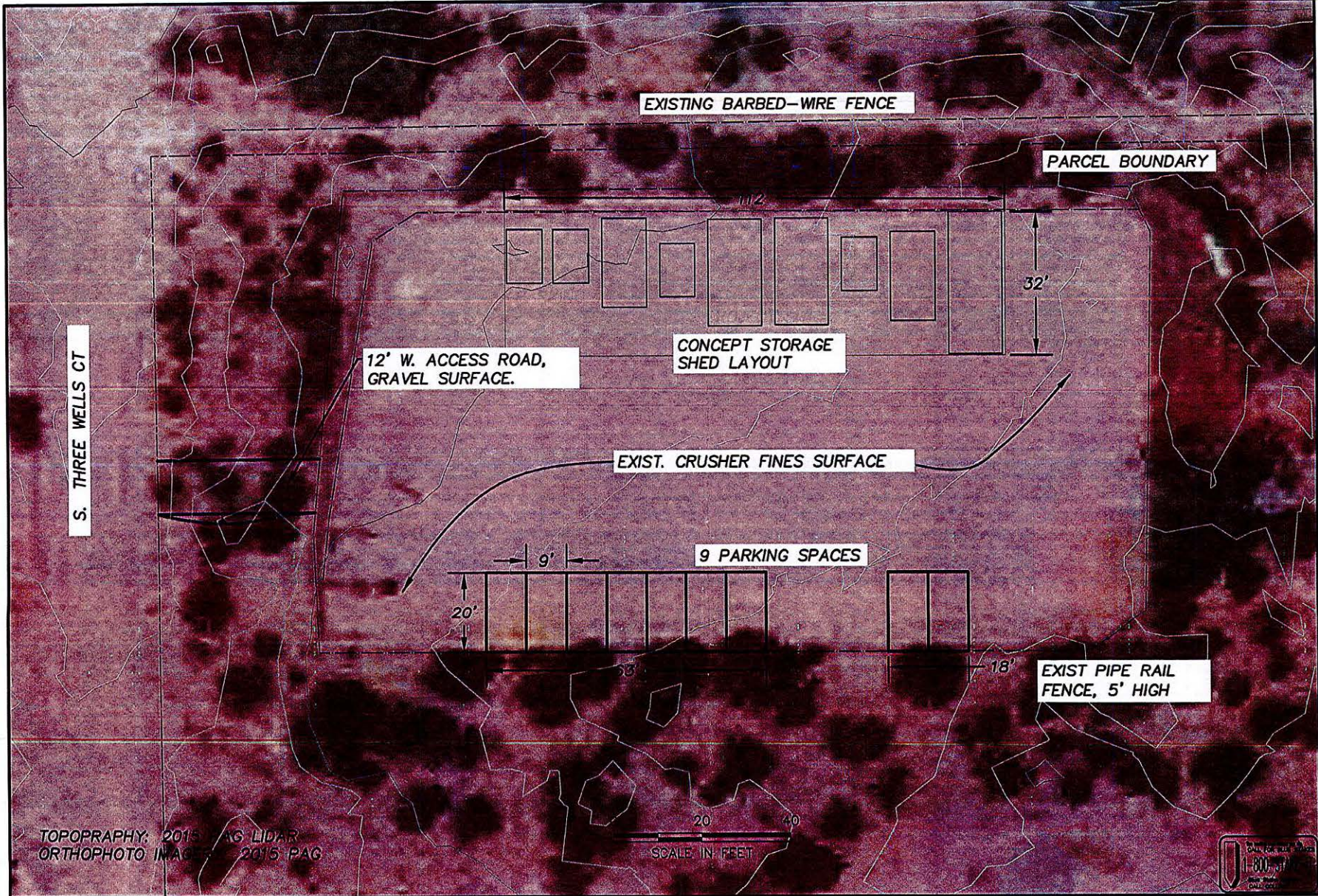
** Applicant should consult with Pima County Planning staff to determine the extent to which this requirement applies to the subject property. The Biological Impact Report pertains to expected impacts on endangered and threatened species as identified in the Sonoran Desert Conservation Plan.



NO.	REVISION DESCRIPTION	ENGINEER	DATE

DESIGNED	DATE	CHECKED	DATE

FRYAR SHEDS PROJECT
 PRELIMINARY DEVELOPMENT PLAN
 SITE MAP



S. THREE WELLS CT

EXISTING BARBED-WIRE FENCE

PARCEL BOUNDARY

12' W. ACCESS ROAD,
GRAVEL SURFACE.

CONCEPT STORAGE
SHED LAYOUT

EXIST. CRUSHER FINES SURFACE

9 PARKING SPACES

EXIST PIPE RAIL
FENCE, 5' HIGH

TOPOGRAPHY: 2015 PLAG LIDAR
ORTHOPHOTO IMAGE: 2015 PLAG

0 20 40
SCALE IN FEET



NO	REVISION DESCRIPTION	ENGINEER	DATE

DESIGNED	DATE
CHECKED	DATE
APPROVED	DATE

FRYAR SHEDS PROJECT
PRELIMINARY DEVELOPMENT PLAN
SITE PLAN

Sept. 26, 2017

Att. Tom Drzezgowski,

I am against the conditional use permit for a retail shop at 16115 S. Three Wells Ct.

This is a nice quiet residential area. Any retail business does not belong. It will lower our property values and will be a traffic problem.

Sincerely
JaEllen Cermak

JaEllen Cermak
16268 S Three Wells Ct
Sahuarita AZ 85629