

Summary of CCFZ's Reasons to Revoke SU-13-07

● **Concealment of essential information by applicants.** From their first discussions with the County re their illegal business operations, until 14 days after submitting their SUP application, *the applicants concealed their illegal raw sewage storage and transfer operations from the County.* Then *Cochise County concealed these facts from the public* for an additional 25 days. Thus, *the entire citizen review process* including the notification letter to nearby neighbors from the County dated April 15, 2013, *was based on fraudulent information.* The FALSE statement on the application by Ashley Van Wart, that their business activities did NOT involve “BIOLOGICAL WASTE”, is, by itself, enough evidence for the Planning Division to administratively revoke SU-13-07, yet the Planning Division has not taken such action more than 24 days after the filing of our appeal. [The CCFZ also considers this act of fraud sufficient to cause revocation of SU-13-07 through civil court action should our appeal to the BoS fail.]

● **This business fails to meet rural land use policy 2.1 of the Saint David Plan** (BoS approved Dec 13, 2005); viz., “. . . Special Use Permits (SUPs) for commercial use should be limited to . . . businesses that serve the local area and that fit into the rural character of the vicinity, . . .” **Raw sewage transfer and storage operations DO NOT fit into the rural character of our neighborhood.** The Planning Division's memo to the P&Z Commission concludes that the Saint David Plan *both supports and opposes* this SUP. This is absurd! The CCFZ argues that the Saint David Plan should be evaluated solely on its enumerated LAND USE POLICES, not its “vision statement”. This is how it was done for both SU-06-03 and SU-08-06”

● **The applicants, without the required County and AZ Dept of Environmental Quality (ADEQ) Permits:** 1) constructed a commercial 30'x36' concrete slab foundation with covered roof for vehicle parking (without sufficient setback distance), and 2) installed a commercial, underground, 1000 gallon raw sewage containment vessel. The CCFZ considers these actions together with the transcriptions of Mr Van Wart's oral presentations at the P&Z hearing as “prima facie” evidence of willful violations by the applicants of Cochise County's Zoning Regulations.

● **Inaccurate evaluations of the nine evaluation factors** used as guide by the Planning Division to recommend approval or rejection of an SUP to the P&Z Commission. The Table below compares the Planning Division's evaluations to those performed by the CCFZ and provides references to the detailed analyses and rationale utilized by the CCFZ to arrive at its conclusions.

Factor	Description	Evaluation Results by ==>		CFZ	
		without conditions	with conditions	CFZ	Appeal Doc. Ref.
A	Compliance with Duly Adopted [St. David Area] Plan	Fav	Fav	Unfav	Appendix B
B	Compliance with Zoning District Purpose Statement	Fav	Fav	Unfav	Appendix D
C	Development along Major Streets	N/A	N/A	N/A	N/A
D	Traffic Circulation Factors	Unfav	Fav	Unfav	Appendix C
E	Adequate Services and Infrastructure	Fav	Fav	Unfav	Appendix C
F	Significant Site Development Standards	Unfav	Fav	Unfav	pp. 9 & 10
G	Public Input	Fav	Fav	Unfav	p. 10
H	Hazardous Materials	Unfav	Fav	Unfav	p. 10
I	Off-site Impacts	Unfav	Fav	Unfav	Appendix C
J	Water Conservation	N/A	N/A	Unfav	p. 10

● **Investigations of suspected additional violations** - Oral statements by the applicant during the P&Z hearing and other evidence gathered by the CCFZ led it to request in its appeal, determination of facts and subsequent reporting of the results of these investigations to the BoS and the CCFZ, of the following topics:

1. Is the applicant violating ADEQ regulations by using unlicensed septic pumping vehicles?
2. Is the applicant violating ADEQ regulations by cleaning its septic pumping vehicles less than the required frequency?
3. Is the applicant violating ADEQ regulations by failing to disinfect its septic pumping vehicles at the end of each workday?
3. How and why did the applicant advise the County that the maximum weight of his trucks was 10 tons, when in fact the largest is certainly more than twice that weight?
4. Why did the applicant, for at least 30 days after notification by the County, fail to contact ADEQ to begin the process of obtaining a permit for his illegally installed raw sewage storage container?
5. Has the applicant collected and remitted to the AZ Department of Revenue, the correct Transaction Preference Taxes for new septic systems his business has installed?
6. Did the applicant pay AZ sales tax on the raw sewage storage container he had illegally installed on his residential parcel?

● **A specific and irrefutable example of applicants lack of veracity.** In his email reply to a neighbor, Mar. 26, 2013, 8:44pm, Mr Tom Van Wart wrote, “*We aren't requesting a special permit to do anything other than to store a very modest number of portable restrooms.*” **This statement is blatantly FALSE!** [Ref: page 63 of 05-01-13 Memo fm Planning Division to P&Z Commissioners]

● The CCFZ has begun a canvas of Saint David residents and property owners, utilizing the additional information presented in its appeal document, and anticipates providing the Supervisors and the Planning Division before the hearing on July 23, 2013 with petitions completed by those individuals who support the revocation of SU-13-07.

A

Cochise Citizens for Fair Zoning (CCFZ)

An ad hoc organization of Cochise County property owners advocating rigorous interpretation and enforcement of County regulations relating to uses and rezoning of properties zoned as Rural Residential
1776 West Patton Street, Saint David, AZ, 85630, email: ccfz@mail.sdhst.com

June 25, 2013

RECEIVED
COCHISE COUNTY
BOARD OF SUPERVISORS

2013 JUN 25 A 10:55

Mr. Richard Searle, Vice-Chairman
Cochise County Board of Supervisors
1415 Melody Lane, Building G
Bisbee, Arizona 85603

Re: Appeal to revoke approval of SU-13-07 (Van Wart) to be heard at the BoS meeting July 23, 2013.

Dear Vice-Chairman Searle:

The purposes of this letter from the CCFZ are to: a) reintroduce the CCFZ, b) request a meeting between you and CCFZ members before the July 23, 2013, hearing, and c) provide copies of pertinent documents directly to the Supervisors.

Reintroducing the CCFZ - This appeal is the third instance of the CCFZ's involvement in opposing the County's Planning Division's unbalanced and procedurally-flawed promotion of the approval of Special Use Permits in RU zoned areas.

The first instance was SU-06-03 wherein the applicants falsely claimed to be a charitable organization in order to legitimize their prior illegal multi-year operation of a Guest Ranch on their 7.47 acre parcel. Approval of this SUP by the P&Z Commissioners was appealed by the CCFZ. Late in the appeal evaluation process, the CCFZ discovered that the Planning Department had ignored the Saint David Plan (approved by BoS 12-13-05). The Planning Department reversed its position and recommended to the BoS that they **DENY** this SUP on appeal. Subsequently, the applicants withdrew their SUP application and the CCFZ's appeal fee was refunded.

The second instance was SU-08-06 wherein the applicants applied for a permit to operate two guest houses for guest lodging on their 10 acre parcel, in violation of the RU-4 zoning requirement of having a minimum of 4 acres per residence. After several months of contentious communications with members of the CCFZ, the Planning Department backed off its initial advocacy of violating the Saint David Plan and recommended to the P&Z Commission approval of a Bed and Breakfast Establishment which is permitted by the Saint David Plan. The P&Z Commission approved this recommendation and no appeal was filed.

The current instance is SU-13-07, wherein the applicants provided false and incomplete information about the scope of their A-1 Port-A-Pots business which has been illegally operating for the past two years from their 4 acre RU-4 zoned parcel. In spite of these flaws, many errors in the Planning Division's Memo to the Commissioners, and potentially self-incriminating oral statements by the applicant during the P&Z hearing, the Commissioners voted 4 to 3 in favor of the conditional approval of this SUP as recommended by the Planning Division. [Please see page 2 of this letter for a summary of the CCFZ's reasons for revoking SU-13-07 on appeal.]

Request for Meeting - At a time and place of mutual convenience, the undersigned members of the CCFZ (and potentially others) respectfully request to meet with you before the BoS hearing on this matter now scheduled for July 23, 2013: a) in order for you to personally hear our requests for revocation of the approval of SU-13-07, and b) to answer any questions you may have about this matter. We have identified a local venue in Saint David which can accommodate up to forty people. We would appreciate receiving a email message from you to the letterhead email address above within the next two or three days, with your proposed date or dates. An early evening time, say between 6 to 7:30 pm would probably draw the most CCFZ attendees.

Enclosed Documents:

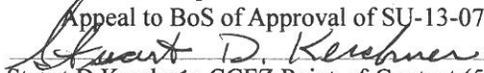
Saint David Area Plan and Map, 4 pp.

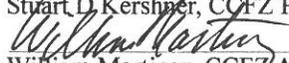
Planning Division's letter to neighbors, April 15, 2013, 2 pp.

Memorandum Re SU-13-07 to P&Z Commission, May 1, 2013, 43 pp.

Power Point presentation Re SU-13-07, May 15, 2013, 17 pp.

Appeal to BoS of Approval of SU-13-07, May 30, 2013, 40 pp.


Stuart D. Kershner, CCFZ Point-of-Contact (520-720-9543)


William Martinez, CCFZ Advocate


Cheryl L. Johnston, CCFZ Advocate


Joe White, CCFZ Advocate

COCHISE COUNTY
COMMUNITY DEVELOPMENT

"Public Programs Personal Service"

SPECIAL USE APPLICATION FOR APPEAL

NAME OF APPELLANT: Cochise Citizens for Fair Zoning (CCFZ), c/o Stuart D Kershner, point-of-contact

ADDRESS: 1776 West Patton Street, Saint David, AZ 85630

PHONE NUMBER: 520-720-9543

EMAIL ADDRESS: stuardkershner@alumni.utexas.net

NUMBER OF DOCKET APPEALED: SU-13-07

DATE OF COMMISSION DECISION: May 15, 2013

DATE OF APPEAL SUBMITTAL: May 30, 2013, FEE PAID: \$300.00 cash

In addition to the \$300 fee, the following information shall be provided before an appeal can be accepted.

1. Description of the decision being appealed. - **The entire decision to approve SU-13-07**
2. A complete statement of all reasons why the appellant believes that the decision, or any part of the decision was erroneous, arbitrary, capricious, or any abuse of discretion. **Please see the following document.**
3. Written presentation of additional testimony & evidence. **Please see the following document.**

Stuart D. Kershner CCFZ Point of Contact

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Section 1. Background and Introduction

This appeal has been prepared by some members of the ad hoc community organization, **Cochise Citizens for Fair Zoning (CCFZ)** which has been reactivated for this purpose. These members also participated in the CCFZ's successful appeal effort of SUP-06-03. For this SUP appeal we have performed additional research and investigations utilizing public records and communications with state and local government employees. For the most part, these have been beyond the scope of those conducted by the Planning Division in their preparation of the 051513 PNZ Packet.pdf. These efforts have resulted in the discovery and/or identification of numerous errors, faults, problems, omissions, or violations associated with the initiation, processing and approval of this SUP. The descriptions of some of these are presented in the **Table of Errors** constituting **Section 2** of this appeal.

There are nine different appendices which provide the backup data for the statements, hypotheses, conclusions, and requests presented in Sections 2, 3, and 4 of this appeal. It is respectfully suggested that the reader briefly scan through the pages of the appendices, before proceeding to Sections 2, 3, and 4.

APPENDIX A: BIOLOGICAL WASTE

APPENDIX B: SAINT DAVID PLAN LAND USE ANALYSIS

APPENDIX C: CCFZ ARGUMENTS OPPOSING THE PLANNING DIVISION'S COMPLIANCE CONCLUSIONS FOR FACTOR D, TRAFFIC CIRCULATION

APPENDIX D: COMPLIANCE WITH ZONING DISTRICT PURPOSE STATEMENT

APPENDIX G: HAS A-1 PORT-A-POTS BEEN ILLEGALLY OPERATING A SEPTIC PUMPER TRUCK WITHOUT BEING LICENCED BY ADEQ AND/OR THE ENVIRONMENTAL HEALTH DIVISION OF COCHISE COUNTY?

APPENDIX I: REQUEST FOR FACTUAL INFORMATION NECESSARY TO PROPERLY PREPARE AN APPEAL TO SUP-13-07 (Van Wart)

APPENDIX R: AZ REGS - ARTICLE 11. HUMAN EXCRETA

APPENDIX S: ADEQ SEWAGE PUMP TRUCK LICENSE DATA FOR THE TWO TRUCKS LICENSED TO A-1 PORT-A-POTS, INC.

APPENDIX T: TRANSCRIPTIONS OF MR. VAN WART'S PRESENTATION AND REBUTTAL AT THE P&Z HEARING MAY 15, 2013

Section 2: Table of Errors

No.	Description of Error, Fault, Problem, Omission, or Violation	Complaint(s) of Appellant with respect to Actual Action Taken	Appellant's conclusions	Corrective Action(s) requested by the Appellant	Reference to supporting evidence
1	<p>FALSE STATEMENT BY ASHLEY VAN WART ON SUP APPLICATION: Proposed use does not have any activities involving biological wastes. [Please see bottom of p 40 and top of p 41 of 051513 PNZ Packet.pdf] N.B.: Septic Tank contents are "raw sewage" which is by self-evident definition "biological waste". Please see Appendix A for additional information.</p>	<p>1. Planning staff should have immediately identified this false statement, a) insisted on its correction and b) the submission of a completed <i>Hazardous or Polluting Materials Questionnaire</i> before even accepting this application. 2. Planning staff immediately upon realizing that this false statement existed, should have: a) notified A-1 Port-A-Pots of this error, insisted on its correction and b) the submission of a completed <i>Hazardous or Polluting Materials Questionnaire, before proceeding further in processing this application. [Including delaying this docket before the P & Z Commission until all additional analysis had been completed.]</i></p>	<p>Approval of SUP-13-07 should be revoked.</p>	<p>The Board of Supervisors is requested to direct the Planning Department to exercise its administrative prerogative by revoking the Approval of SUP-13-07 because of the substantive falsehood made by the applicant in its application. [Ref: Top of p 41 of 051513 PNZ Packet.pdf]</p>	<p>Please read Appendix A for an authoritative definition of biological waste and the human infectious diseases caused by exposure to raw sewage</p>
2	<p>FACTOR A: INACCURATE CONCLUSION The Planning Division has failed to specifically analyze and evaluate the enumerated land use policies of the Saint David Plan. [This led them to the erroneous conclusion that the Saint David Plan supports this business use in its current site location.]</p>	<p>Planning staff should have carefully evaluated the actual text of Land Use Policy 2.1 and compared that text to the proposed SUP use. The portion of this Policy that best applies to this SUP is 2.1) "... SUPs for commercial use should be limited to the following: ...businesses that serve the local area AND THAT FIT INTO THE RURAL CHARACTER OF THE VICINITY"</p>	<p>This SUP DOES NOT meet the conditions of policy 2.1 because the A-1 Port-A-Pots business does not fit in to the rural character of the vicinity.</p>	<p>The Board of Supervisors is requested to disapprove this SUP because it violates the Land Use Policies of the Saint David Plan previously approved by the Board of Supervisors December 13, 2005.</p>	<p>Please read detailed analyses presented in Appendix B</p>
3	<p>FACTOR B: INACCURATE CONCLUSION The Planning Division has failed to describe or explain how the operation of a business which discharges, stores, and retrieves raw sewage on RU-4 zoned property is compatible with rural living. They apparently believe that just by their saying that it does, makes it so.</p>	<p>The Planning staff should at least describe why they conclude that a business that discharges, stores, and retrieves raw sewage on RU-4 zoned property is compatible with rural living.</p>	<p>THIS SUP DOES NOT COMPLY WITH THE ZONING DISTRICT PURPOSE STATEMENT</p>	<p>The Board of Supervisors is requested to disapprove this SUP because it fails to comply with the Zoning District Purpose Statement</p>	<p>Please read detailed analysis presented in Appendix D</p>

Section 2: Table of Errors

No.	Description of Error, Fault, Problem, Omission, or Violation	Complaint(s) of Appellant with respect to Actual Action Taken	Appellant's conclusions	Corrective Action(s) requested by the Appellant	Reference to supporting evidence
4	<p>FACTOR D: INACCURATE CONCLUSION This Traffic Circulation Factor cannot be made compliant by only improving the roadway apron at the junction of West Patton Street and Sundust Trail.</p>	<p>The approved action is inadequate to prevent significant damage to Sundust Trail during periods of heavy rains [say, annually during monsoon season] which will be caused by daily travel of their heavy sewage trucks from W Patton Street to Van Wart's driveway. N.B.: There are no bar ditches on either side of the Sundust Trail roadway.</p>	<p>Should this SUP be approved; an additional condition is the construction of an all weather roadway South on Sundust Trail to the Van Wart's driveway.</p>	<p>The Board of Supervisors is requested to vote to disapprove this SUP because it fails to comply with the Saint David Plan and Traffic Circulation Factors.</p>	<p>Please read the detailed analyses presented in Appendix C</p>

Section 3. Discussion

3.0 Overview

Contrary to the statement made by Mr. Van Wart during his rebuttal at the P&Z hearing, *“The fact is they simply do not like our presence there.”*, the appellants have **no objection to the presence** of the Van Wart family in our neighborhood.

OUR OPPOSITION IS SOLELY FOCUSED ON THE FACT THAT THEY HAVE BEEN GIVEN PERMISSION BY A FOUR TO THREE VOTE OF THE P&Z COMMISSIONERS TO CONTINUE OPERATING THEIR BUSINESS IN VIOLATION OF THE COUNTY'S ZONING REGULATIONS ON THEIR RU-4, RURAL RESIDENTIAL ZONED PROPERTY.

In fact, members of the CCFZ would like to see A-1 Port-A-Pots, Inc. business succeed, **BUT ONLY WHEN IT CONFORMS TO, AND OPERATES WITHIN ALL APPLICABLE STATE AND LOCAL STATUTES, ORDINANCES, AND REGULATIONS.** If it does not, and it is awarded exemptions, exceptions, or amnesty from any of these governmental requirements, it is receiving an unfair competitive advantage from such government entities. Should the principals of A-1 Port-A-Pots continue to seek and be granted special privileges and status by our local government to the tax disadvantage of other citizens, we believe that their customers would certainly have reservations about Mr Van Wart's claim in his presentation that they are *“outgoing and stand up people”*.

3.1 The CCFZ's observations of the behaviors of the principals of A-1 Pot-A-Pot, Inc.

In his oral presentations [Please see Appendix T] Mr. Van Wart (who is a very good salesman and a convincing orator) sold the image of his business as “small”, “philanthropic”, “endorsed by God”, “lowest prices”, “reliable emergency services”, “kept immaculately clean weekly”, “fast growth”, “100% respect of business statutes”, “not opening the business flood gates”, “no overhead”, “necessary for the Saint David community”, etc. His presentations appeared to mesmerize some of the Commissioners who voted to approve his SUP application. The presence of Ashley Van Wart in the rear of the hearing room cradling her new-born child, created an almost palpable air of sympathy for the applicant family.

The following paragraphs present some facts about A-1 Pot-A-Pot, Inc. and the actions of its President, Tom Van Wart and its Vice President Ashley Van Wart.

3.2 Questions by CCFZ: Did the applicants honestly and fully provide the County and their neighbors with correct, timely, and complete information regarding their business and their SUP application? Did they take proactive steps to comply with all applicable AZ state and County statutes, ordinances, and regulations relating to their business?

The appellants believe the following evidence shows that the answer to these questions is **NO**.

3.3 To wit:

3.3.1 In the original SUP application **Section D Hazardous or Polluting Materials**, Ashley Van Wart falsely answered **NO** to the question: *“Does the proposed use have any activities involving such materials [viz., 'biological wastes']?”* Please see item #1 in the Table of Errors.

3.3.2 In the original SUP application Section B, Ashley Van Wart incompletely described the outdoor activities as: *“Loading and off-loading restrooms. Trucks leaving in the morning and coming back and parking in the evening.”* She omitted the following activities: Transfer of raw sewage between one or more septic pump trucks into and out from an illegally installed, unlicensed 1000 gallon septic tank. The CCFZ believes that the revelation of the sewage transfer activity in the original SUP application would have created much more negative feedback from the neighborhood citizens.

3.3.3 The CCFZ believes, that perhaps even intentionally, both Tom and Ashley Van Wart **initially withheld from all County employees and from all neighbors any knowledge of their illegal installation and use of their 1000 gallon septic tank used for temporary storage of raw sewage.** On April 11, 2013, Keith Dennis was the first County employee to discover its existence, during a telephone interview with the applicant [14 days after the submittal of the SUP application.] The first public dissemination of the existence of this tank and its raw sewage storage purpose was the web posting of 051513 PNZ Packet on May 6, 2013 [25 days after the submittal of the SUP application]. **Most neighbors still do not know of its existence today.**

3.3.4 Although, the ADEQ first advised the County on April 26, 2013, that a permit was required for the 1000 gallon vault and haul raw sewage transfer tank, and the Planning Division then made it clear to Mr Van Wart that obtaining this permit was his responsibility, Mr Van Wart took no action to apply for the required permit. [This is an example of Mr Van Wart's 100% respect for *“current statutes that are in place regarding the businesses in this area.”* N.B.: Please refer to his quote in the transcript of his presentation, Appendix T.]

3.3.5 On April 5, 2013, Mr Tom Van Wart signed an ADEQ application to register an apparently, newly-purchased septic pumping truck having a tank capacity of 5000 gallons. [Please see Appendix S] [N.B.: 5000 gallons of water weighs more than **20 tons** and the structure of such a truck weighs **several more tons.**] On April 11, 2013, Mr. Van Wart advised Keith Dennis during the telephone interview that the maximum weight of any of his business trucks would be **ten tons.** [Please see Appendix I] This information was presumably provided to Keith Dennis to help the County Highway Department determine what degree of road improvements would be required. Our question to the Planning Division and to the Supervisors is: **Did Mr Van Wart intentionally provide this disinformation to the Planning Division so that the required amount of road improvements would be less expensive?** The CCFZ does not presume to know the answer to this question, but we request that the Planning Division and the Supervisors investigate this discrepancy and determine its cause and then advise the CCFZ.

3.3.6 According to information received verbally from the AZ Department of Revenue, the A-1 Port-A-Pot, Inc. corporation does not have a regular Transaction Privilege Tax account with the Department of Revenue. [N.B.: The common name for the AZ Transaction Privilege Tax is the AZ Sales Tax.] According to the AZ Department of Revenue, whenever a provider of goods and/or services engages in a commercial construction transaction in AZ, the provider is obliged to collect the appropriate sales tax amount from its customer calculated on the selling price of **only the materials** used in the construction project. Mr Van Wart stated twice, in his presentations that he is in the business of **installing septic tanks** as well as pumping them out and repairing them. As a evaluation component of this appeal, we request that the Planning Division determine whether the applicant collected AZ Sales Tax and remitted it to the AZ Department of Revenue for each of the septic tank and septic systems installations performed since he first engaged in this business. Should it be determined that the applicant **did** collect and remit to the AZ Department of Revenue the correct amount of Sales Tax, this fact would clearly reflect **positively** on the applicant's claim that they are *“outgoing and stand up people”*. On the other

hand, should it be determined that the applicant **did not** collect and remit to the AZ Department of Revenue the correct amount of Sales Tax, this fact would clearly reflect **negatively** on the applicant's claim that they are *"outgoing and stand up people"*. The CCFZ requests that these results be forwarded to the CCFZ as soon as they have been received and that they also be included in the packet prepared for and delivered to the Supervisors in advance of the appeal hearing for this SUP.

3.3.7 On April 11, 2013, Mr Van Wart first revealed to the County that a 1000 gallon residential septic tank was installed on his property. In his presentation May 15, 2013, he revealed that this tank was built by Dad's septic, that it is moveable, and that it holds water. We do not know who installed it, who purchased it, and when and under what circumstances it was installed. We do know that this entire transaction and installation was performed "under the radar" of both the Cochise County government and the ADEQ. We do know that after he was informed that he was responsible for obtaining the required permit from ADEQ, he took no action to obtain one. Since the applicant is the end "retail" user of this tank, the AZ Department of Revenue requires that AZ Sales Tax be paid on the price of this tank, regardless of whether he installed it himself, or whether someone else installed it. As a evaluation component of this appeal, we request that the Planning Division determine whether the applicant paid AZ Sales Tax on his purchase price of this tank. Should it be determined that the applicant **did** pay the correct amount of Sales Tax, this fact would clearly reflect **positively** on the applicant's claim that they are *"outgoing and stand up people"*. On the other hand should it be determined that the applicant **did not** pay the correct amount of Sales Tax, this fact would clearly reflect **negatively** on the applicant's claim that they are *"outgoing and stand up people"*.

3.3.8 During his presentation at the P&Z hearing on 5-15-13, Mr Van Wart stated he uses a septic truck with a 325 gallon tank to service portable restrooms. [Please see Appendix T] The ADEQ regulations state that a septic pumper truck must have a tank of not less than 750 gallon capacity in order to be licensed for such service. [Please see Appendix R] As a evaluation component of this appeal, we request that the Planning Division determine whether the applicant violated AZ regulations that require septic pumping trucks to have a tank of at least 750 gallons. Should it be determined that the applicant **did** the violate this regulation the Planning Division is requested to immediately file a complaint to that effect on the ADEQ web site. The CCFZ requests that the Supervisors take this evidence into consideration in deciding whether to revoke the approval of this SUP by the P&Z Commissioners.

3.3.9 During his presentation at the P&Z hearing on 5-15-13, Mr Van Wart states, at [26:28 into the recording] "We did so, not necessarily to u h . . hide the fact that we were running a business . . ". The CCFZ believes that this statement suggests that Tom Van Wart was very aware that the business activities of his Port-A-Pot business were in violation of the County's Zoning Regulations well before his property was inspected by the County employees. The CCFZ requests that the Supervisors take this evidence into consideration in deciding whether to revoke the approval of this SUP by the P&Z Commissioners.

3.3.10 During his presentation at the P&Z hearing on 5-15-13, Mr. Van Wart states, [~30:00] "I have two trucks that leave in the the beginning of the day and come back, and **they leave clean and they come back clean.**" He also states, [27:24] "Basically we have one truck that's 325 gallons, that rarely ever gets full; and we use that for portable restrooms. **My guy, at the end of the day, he can't dump in Sierra Vista because it's closed, he'll dump in there,** I'll pump it into my truck and we'll haul it to Tucson or Sierra Vista the next day . . ."The CCFZ notes that these two statements are clearly in conflict, but we assume that on some days he does one and on some days he does the other. The CCFZ notes however, that the first statement leaves the impression with listeners, that his septic pump trucks are always clean when they return to be parked on his property at the end of each day. The CCFZ

requests that the Supervisors take this evidence into consideration in deciding whether to revoke the approval of this SUP by the P&Z Commissioners.

3.3.11 The Planning Division's answer to CCFZ's question #5 in Appendix I reveals that the construction of the 36 ft by 30 ft concrete slab, sheet metal roofed structure used for parking the commercial septic pump trucks, was never permitted by County. It therefore has not been added to the property tax rolls through an increased assessed value. The CCFZ requests that the County act to add this structure to its tax rolls and tax it at the commercial rate of 19% vs. the residential rate of 10%. Once these actions have been completed, the applicant's could then claim more positively, that they are ***"outgoing and stand up people"***.

3.3.12 During his presentation at the P&Z hearing on 5-15-13, Mr. Van Wart states, [~29:03] *"My truck, the first truck I built; it wasn't the fanciest truck in the world. The unit was brand new, the truck was not. But I'll tell you this, it gets cleaned every single week."* [please see Appendix T]

The ADEQ letter to A-1 Port-A-Pots dated February 12, 2009, [please see Appendix S] which transmits ADEQ license No. 2116, quotes AZ regulations as follows, *"At the end of each day's work, all portable containers, transportation containers, suction pumps, hose and other tools must be cleaned and disinfected. [A.A.C. R18-13-1112(A)(7)].* The CCFZ observes that Mr Van Wart is **almost bragging to the P&Z Commissioners about cleaning his vehicles once a week**, while the ADEQ regulations require that licensed Septic Pump **Trucks must be cleaned and disinfected at the end of each work day**. It appears to the CCFZ that Mr Van Wart is performing his truck cleaning only 1/7 th as frequently as he should be, and is therefore in violation of ADEQ regulations.

The CCFZ requests that the Planning Division take whatever action is necessary to have the the appropriate inspection and/or enforcement personnel within the County government organization evaluate this discrepancy, take the appropriate enforcement actions if they find A-1 Port-A-Pots is violating these ADEQ regulations and report their findings back to the Planning Division. The CCFZ further requests that these results be forwarded to the CCFZ as soon as they have been received and that they also be included in the packet prepared for and delivered to the Supervisors in advance of the appeal hearing for this SUP. Once the County and Mr Van Wart have implemented a truck cleaning schedule and procedure that complies with the ADEQ regulations, he should be able to again claim that they are ***"outgoing and stand up people"***.

Section 4. Summary, Recommendations, and Requests

4.1 Summary

CCFZ's observations on the behavior of the Planning Division

In their preparation for this SUP recommendation, the Planning Division deserves credit for their concern about road damage at the junction of Sundust Trail and W. Patton Street, and their inquiry to the ADEQ with respect to AZ state regulations related to septic tanks buried for storage purposes, rather than for septic system purposes.

However, the CCFZ's praise for their behavior in the above two matters is overwhelmed by our adverse opinion of their actions and judgments in other areas of this SUP.

For example the CCFZ presents below its own SUMMARY AND CONCLUSIONS which are contrasted with those provided by the Planning Division on page 33 of the 051513 PNZ Packet.

Factors in Favor of Approving the Special Use

[N.B.: The color ■ is used to identify the Planning Division's conclusions. The color ■ is used to identify those of the CCFZ in this appeal document.]

1. Instead of, *"With the Conditions of Approval recommended by staff, the request complies with the eight applicable Special Use factors used by staff to analyze such requests;"*

the CCFZ's conclusions are as follow.

A. Compliance with Duly Adopted Plans: Does not comply

Please see item 2 in the Table of Errors and Appendix B for our detailed explanation.

B. Compliance with the Zoning District Purpose Statement: Does not comply

Please see item 3 in the Table of Errors and Appendix D for our detailed explanation.

C. Development Along Major Streets: Not Applicable - the CCFZ agrees.

D. Traffic Circulation Factors: Does not comply

Please see item 4 in the Table of Errors and Appendix C for our detailed explanation.

E. Adequate Services and Infrastructure: Does not comply

Please see item 4 in the Table of Errors and Appendix C for our detailed explanation.

F. Significant Site Development Standards: Does not comply

The site is equipped with a covered parking structure used to shelter the pump trucks which was constructed without a permit from the County. Further, this structure is 25-feet from the southern

property line, which means it does not comply with the 40-foot setback required for Special Uses in the Rural Districts. In addition, there is no evidence that this structure was constructed by an ROC licensed contractor. If it was not, its use for commercial purposes violates AZ state regulations.

G. Public Input: Does not comply

The Applicant completed the Citizen Review process but failed to disclose at that time, to any and all other parties the existence and use of the illegally installed 1000 gallon septic tank for the temporary storage of raw sewage. Because of this omission of essential negative information, the CCFZ contends that all positive comments returned must be invalidated because their comments were based on a false set of facts.

H. Hazardous Materials: Does not comply

First, both the applicant and the County have ignored, and as of this date still ignore, the fact that "biological waste" is "hazardous waste" and upon exposure to humans can cause significant infections from many different pathogens. [Please see item 1 in the Table of Errors and Appendix A].

In addition, no provisions have been mandated in the approval of this SUP to collect and sanitarily dispose of spilled sewage resulting from maintenance of the sewage pumps [replacement of worn seals, bearing, impellers, etc.] and from the contaminated water falling to the ground during the ADEQ required daily washing and disinfecting of the sewage pump trucks.

I. Off-Site Impacts: Does not comply

Please see item 4 in the Table of Errors and Appendix C for our detailed explanation.

J. Water Conservation: Does not comply

Presumably water will be used on site for washing the contaminated septic pump trucks at the end of each work day to comply with ADEQ regulations. No provisions have been mandated in the approval of this SUP to collect and sanitarily dispose of spilled sewage resulting from maintenance of the sewage pumps [replacement of worn seals, bearing, impellers, etc.] and from the contaminated water falling to the ground during the ADEQ required daily washing and disinfecting of the sewage pump trucks.

2. The St. David Area Plan supports, in its Vision Statements and Policies, locally-owned businesses that serve the local area;

This item #2 should not be considered because it is a duplication of Factor A already evaluated above.

3. Off-site impacts can be effectively mitigated with the Conditions of Approval recommended by Staff; and

This item #3 should not be considered because it is a duplication of Factor I already evaluated above.

4. Three neighboring property owners have expressed support for the request in writing one in response to the Citizen Review, and two in response to County mailings.

This item #4 should not be considered because it is a duplication of Factor G already evaluated above.

In summary the CCFZ assesses nine (9) rather than (8) applicable factors. It concludes that all nine (9)

DO NOT COMPLY. THEREFORE ALL NINE ARE COUNTED AS FACTORS AGAINST THIS SPECIAL USE

Factors Against Allowing the Special Use

1. The Applicant established the land use without a permit; the Special Use request is intended to rectify a violation; The applicant established this commercial use without a permit and also constructed his vehicle parking structure without a permit.

2. Although the St. David Area Plan is generally supportive of Special Uses that serve the local residents, such uses are encouraged in Neighborhood Business Districts, or areas with a Neighborhood Conservation designation, not in Rural Residential Areas as in this case; and While the CCFZ agrees with this statement, it believes that only the enumerated Land Use Policies should be utilized to evaluate compliance or non-compliance with the Saint David Plan. The vision statements should not be utilized for this purpose. [This is also the particularly emphatic position of Mr. Peter Moran, a charter member of the CCFZ, and also a member of the joint committee of the Planning Department and long term Saint David residents who produced the current Saint David Plan which was approved by the Board of Supervisors in December 2005.]

4.2 Recommendations

The CCFZ recommends that the Supervisors revoke the approval of SUP-13-07 based on the additional information provided in this appeal document.

However, as stated earlier the CCFZ would like for the A-1 Port-A-Pots business to continue as a going concern in the Saint David area. To that end we respectfully repeat here the suggestions in the last paragraph of Appendix B. To wit.

One suggestion from some members of the CCFZ is that the Van Wart family might be able to lease or purchase a small parcel located within the NC area of the Saint David Plan and relocate the outdoor activities of their business to this location. It is located only 1.5 to 2.5 miles from their residence, and travel between the two locations could be accomplished most days via bicycle, if one of their existing vehicles was deemed unsuitable. In such a location they would not be required to “FIT INTO THE RURAL CHARACTER OF THE VICINITY” and would probably be more likely to find entrance and exit roadways that would not require so much of their resources to be invested in roadway improvements. We do not believe that the County's Zoning Regulations require them to obtain a special use permit for them to continue their indoor office related business activities at their residence.

4.3 Requests

The CCFZ respectfully requests that the Board of Supervisors, by majority vote at the appeal hearing on this matter, revoke the the approval of SUP-13-07 enacted by the P&Z Commission May 15, 2013.

APPENDIX A: BIOLOGICAL WASTE

Definition: [taken from <http://www.purdue.edu/rem/eh/biowaste.htm>]

Category 1 biological waste includes any human-derived biological or substance known, assumed, or suspected of being infectious to humans, plants, or animals before treatment that may cause harm to the general public if released into the environment.

Health Problems That Could Result from Sewage Contact

information extracted from: <http://www.alladinrestoration.com/sewage-biohazard-waste>

Here are some of the infectious ailments and diseases you could face if you encounter sewage:

- *Hepatitis A*, which is an acute liver infection that afflicts more than 10 million Americans each and every year.
- *Salmonella*, a bacterial infection that causes symptoms like nausea, diarrhea, stomach cramping, vomiting and weakness. If left untreated, salmonella can even lead to more serious diseases, such as typhoid fever.
- *Bacillary dysentery*, which is a type of dysentery caused by interaction with harmful bacteria. Dysentery also causes diarrhea, nausea, vomiting and so forth, and can be extremely taxing on the body if immediate medical care is not sought.
- *Intestinal infections*. In addition to the aforementioned ailments, there are other types of intestinal infections that may be sustained from contact with raw sewage.
- *Skin infections*. When sewage comes in contact with exposed skin, a painful or itchy rash could be the result.
- *Eye infections*.
- *Respiratory infections*. This is of particular concern if the sewage problem is left untreated, as water damage can easily lead to mold growth, and mold releases spores that can be harmful or even fatal when inhaled by living organisms. Keep an eye out for “black mold,” a notoriously noxious strain, and never attempt to remove such mold on your own – a mold removal specialist must be contacted.

Any of these problems could escalate into even more serious afflictions, and in some cases could even prove to be fatal, especially if the liver, blood or kidneys are involved.

APPENDIX B: SAINT DAVID PLAN LAND USE ANALYSIS

Question: Does the A-1 Port-A-Pot, Inc. business comply with the RU-4 Category D Zoned portion of the Saint David Plan?

We believe that the evaluation statement in the packet prepared by the Planning Division which is quoted below, is invalid and incorrect because it fails to consider and evaluate the actual text of Land Use Policies 2.1 and compare that text to the proposed SUP use. Therefore, we believe the Planning Divisions decision and recommendation in this matter is both arbitrary and capricious.

The text of the 051513 packet.pdf is quoted below.

The business is within the boundaries of the St. David Area Plan.

As a sub-set of the overall County Comprehensive Plan, the St. David Area Plan was adopted in 2005 as a policy guideline for future development in the community. In the Plan document there are a number of Vision Statements that articulate the community goals for future development, as well as specific policy statements that apply to rezoning and Special Use requests. Both the Vision Statements and policies emphasize support for businesses that serve the local area, particularly with regard to the rural residential nature of the area. One Vision Statement suggests support for "locally owned and operated small scale, neighborhood-serving businesses." The Applicant's business does serve the needs of the rural St. David community in its capacity as a septic service, although the portable restroom portion of the business is more regional in nature.

The A-1 Port-A-Pot business is accurately described as: the distribution, rental, return, and storage on premises of portable restrooms; the collection, temporary storage on premises, and transfer of raw sewage to sewage treatment facilities; the installation, pumping, cleaning, and repair of septic tanks and septic systems; and the dispatching, parking, washing on premises, and disinfecting septic pumping trucks and associated equipment used for the septic tank and septic system activities.

The portion of the Land Use Policy that best applies to this SUP is Paragraph 2.1) "... SUPs for commercial use should be limited to the following: ...businesses that serve the local area **AND THAT FIT INTO THE RURAL CHARACTER OF THE VICINITY**"

WE STRONGLY DISAGREE WITH THE UNSUPPORTED CONCLUSION IN THE PACKET TEXT THAT THE A-1 PORT-A-POT BUSINESS FITS INTO THE RURAL CHARACTER OF THE VICINITY.

There are no other businesses in our local vicinity, in say a two mile radius, that park overnight as many as three large trucks, much less on-load and off-load on a daily basis hundreds of gallons of raw sewage, and store outside in full view of the neighbors up to 30 portable restrooms. Sewage storing and/or processing plants are usually located in the industrial or commercially zoned urban areas, For example, the most convenient sewage treatment plants to Saint David are located in Sierra Vista and Tucson. Other than the current illegal sewage storage plant under consideration in this appeal, there are no others in our vicinity. Thus, there is no other similar activity in the RU-4 Category D portion of the Saint David Plan area for the A-1 Port-A-Pot business to fit into. The CCFZ concludes that contrary to the Planning Division's determination, the A-1 Port-A-Pot business DOES NOT fit into the rural character of the vicinity.

N.B.: In Saint David, Dads Septic, located at 321 North Miller Lane is a small septic tank business that manufactures concrete septic tanks, and installs new septic systems and maintains existing ones. Notably, it is located in the Neighborhood Conservation (NC) portion of the Saint David Plan Map and therefore it is governed by the less restrictive land use policy in paragraph 2.2 of the Saint David Plan, rather than paragraph 2.1 which applies to the current parcel under consideration.

One suggestion from some members of the CCFZ is that the Van Wart family might be able to lease or purchase a small parcel located within the NC area of the Saint David Plan and relocate the outdoor activities of their business to this location. It is located only 1.5 to 2.5 miles from their residence, and travel between the two locations could be accomplished most days via bicycle, if one of their existing vehicles was deemed unsuitable. In such a location they would not be required to "FIT INTO THE RURAL CHARACTER OF THE VICINITY" and would probably be more likely to find entrance and exit roadways that would not require so much of their resources to be invested in roadway improvements. We do not believe that the County's Zoning Regulations require them to obtain a special use permit for them to continue their indoor office related business activities at their residence.

APPENDIX C: CCFZ ARGUMENTS OPPOSING THE PLANNING DIVISION'S COMPLIANCE CONCLUSIONS FOR FACTOR D, TRAFFIC CIRCULATION

It appears to the CCFZ membership that the **Saint David Plan** never contemplated a situation wherein the County would be advocating a plan requiring a small business to improve a roadway to accommodate the heavy and frequent traffic that this small business required.

First, we conclude that the improvements enumerated in 051513 PNZ Packet.pdf are clearly insufficient in the long term for the following reasons:

1. Whenever there is a heavy and intense rain, during the monsoon season or at other times, the Sundust Trail is rapidly turned into a rutted muddy road surface by any vehicular traffic. There are no bar ditches on either side of the Sundust Trail roadway to assist the runoff of the heavy rainwater. The now specified apron does nothing to mitigate this damage beyond its construction boundary to the South. Heavy truck traffic, even if only a few trips per day, will continue to rut this road excessively a distance from the South boundary of the apron to the South boundary of the entrance of the applicant's driveway. greatly exacerbates this situation.

There are three rural residences that use the Sundust Trail roadway for access to their own parcels, two others in addition to the Van Wart's. All of them are adversely affected by the increased ruttage caused by A-1 Pot-A-Pots heavy trucks during any heavy rain event. To eliminate these adverse effects, the Sundust Trail roadway must be improved enough to prevent this additional rainstorm ruttage due to A-1 Port-A-Pots trucks, the entire distance from the Van Wart's driveway to the junction of Sundust Trail and West Patton Street.

N.B.: During the investigation and research performed to prepare this appeal, one of our CCFZ members discovered that Mr. Van Wart in April 2013, registered an additional septic pumping truck having a tank capacity of 5000 gallons with ADEQ. [Please see Appendix T] We believe that the GVW and maybe even the number of axles will be much larger than the earlier information provided to the Planning Division by Mr Van Wart. As far as we know as of this time, Mr Van Wart has not yet volunteered his knowledge of the existence of this ADEQ licensed vehicle to any County employee. The CCFZ requests that the County Highway Dept reassess their design requirements for the apron as well our request to require roadway improvements all the way South to Van Wart's driveway in the knowledge that heavier trucks will be employed. Of course, should the Supervisors, agree to revoke this SUP as the CCFZ is requesting, none of this additional evaluation and design will be needed.

APPENDIX D: COMPLIANCE WITH ZONING DISTRICT PURPOSE STATEMENT

Question: Does the A-1 Port-A-Pot, Inc. business comply with Section 601.02 of the Zoning Regulations, viz., “those types of non-residential and non-agricultural activities which serve local needs, or provide a service **AND ARE COMPATIBLE WITH RURAL LIVING?**”

The CCFZ has no quarrel with the assessment that the applicant's business serves local needs or provides a service. However, it seems to us that the Planning Division is being arbitrary and capricious by asserting that the applicant's business is compatible with rural living without even providing a single word of discussion or rationale as to how or why they believe it meets this compatibility standard. One does not make something compatible with something else by just saying so. This approach smacks of the “Big Lie” and totalitarian government techniques employed by the Nazi's in World War II.

We challenge the Planning Division to explain in writing in their public packet prepared for the Supervisors prior to the appeal hearing, how and why they conclude that the applicant's business is compatible with rural living.

CCFZ's Logical Rebuttal Arguments:

Step 1: In rebuttal to the Planning Division's currently published conclusion on this issue, one first must describe accurately the activities and scope of the business under consideration. To wit.

The A-1 Port-A-Pot business is accurately described as: the distribution, rental, cleaning, return, and storage on premises of portable restrooms; the collection, temporary storage on premises, and transfer of raw sewage to sewage treatment facilities; the installation, pumping, cleaning, and repair of septic tanks and septic systems; and the dispatching, parking, washing on premises, and disinfecting septic pumping trucks and associated equipment used for the septic tank and septic system activities.

Step 2: Next, one should understand and select the different meanings and nuances of the word, *compatible*, that are meaningful for the two entities involved, viz., the Port-A-Pot business and Rural Living. We have selected the following meanings as being the most germane. 1. Capable of existing or performing in harmonious, agreeable, or congenial combination with each other, 2. (of two things) able to exist or occur together without problems or conflict.

Step 3: One must then identify and describe examples of compatibility and incompatibility between the two entities under consideration.

Some instances of incompatibility between our two subject entities are the following.

1. The large and heavy trucks of A-1 Port-A-Pots that will damage the existing rural living roadways.
2. The large and heavy trucks of A-1 Port-A-Pots that will create additional dust that will be blown onto neighbors rural residential property.
3. The presence of stored Port-A-Pots and commercial vehicles in the view of nearby neighbors who would otherwise be viewing natural, not man-made surroundings.
4. The existence of a 1000 gallon raw sewage storage facility and the daily transfer of hundreds of

gallons of raw sewage between this fixed, in-ground septic tank and sewage pump trucks, which can create objectionable odors, noise from pumps and engines, and infectious situations for humans whenever there is an inadvertent or maintenance related spill or discharge of raw sewage. None of these environmental exposures occur in the absence of the business activity of A-1 Port-A-Pots.

Step 4: Draw conclusions of compatibility or incompatibility by comparing the number, and degree of adverse impacts on the rural living environment caused by the business activities of A-1 Port-A-Pots.

In the above rebuttal the CCFZ could identify no compatibility example, so our conclusion is obvious.

THE A-1 PORT-A-POTS BUSINESS IS NOT COMPATIBLE WITH RURAL LIVING. Q.E.D.

APPENDIX G: HAS A-1 PORT-A-POTS BEEN ILLEGALLY OPERATING A SEPTIC PUMPER TRUCK WITHOUT BEING LICENCED BY ADEQ AND/OR THE ENVIORONMENTAL HEALTH DIVISION OF COCHISE COUNTY?

FACT No. 1:

During the audio recording of the P&Z hearing on 5-15-13, Mr Van Wart states [@~28 min:24 sec]
"Basically we have **one truck that's 325 gallons**, that rarely ever gets full; and we use that for portable restrooms. My guy, at the end of the day, he can't dump in Sierra Vista because it's closed, he'll dump in there [i.e., into the 1000 gallon residential septic tank which was installed by A-1 Port-A-Pots, 144 Sundust Trail, without first obtaining the necessary permits from ADEQ], I'll pump it into my truck and we'll haul it to Tucson or Sierra Vista the next day, . . ."

FACT No. 2:

The text of AZ Administrative Regulation **R18-13-1103. General Requirements** follows:

A. Any person owning or operating a vehicle or appurtenant equipment used to store, collect, transport, or dispose of sewage or human excreta that is removed from a septic tank or other on-site waste water treatment facility; earth pit privy, pail or can type privy, or other type of privy; sewage vault; or fixed or transportable chemical toilet shall obtain a license for each vehicle from the Department. The person shall apply, in writing, on forms furnished by the Department and shall demonstrate that each vehicle is designed and constructed to meet the requirements of this Article.

FACT No. 3:

The text of AZ Administrative Regulation **R18-13-1112. Sanitary Requirements** follows:

A. A person owning or operating a vehicle or appurtenant equipment to collect, store, transport, or dispose of sewage or human excreta shall ensure that:

2. The vehicle is equipped with a leak-proof and fly-tight container that has a capacity of at least 750 gallons and all portable containers, pumps, hoses, tools, and other implements are stored within a covered and fly-tight enclosure when not in use;

FACT No. 4:

A member of the Cochise Citizens for Fair Zoning organization, contacted the ADEQ by telephone in mid-May 2013; talked with Donna and requested information on each Septic Tank Pumper Truck currently licensed by the ADEQ to A-1 Port-a-Pots. As a result of this request he received from ADEQ the only registration documents they could locate; two sets of Septic Hauler License Documents which are provided in Appendix S of this appeal. The earliest set, five pages, **License # 2116**, dated 2-12-2009 for a truck with a 1500 gallon tank capacity; and the most recent set, four pages, **License # 2348**, dated 4-16-2013, for a truck with a 5000 gallon tank capacity. Apparently, no other Septic Tank Pumper Trucks have been licensed by the ADEQ to A-1 Port-a-Pots.

FACT No. 5:

The last paragraph on page 29 of the 051513 PNZ Packet.pdf states that the applicant has **three pump trucks carrying 250 gallon, 1,000 gallon, and 2500 gallon storage tanks.**

REQUEST TO THE PLANNING DIVISION FOR ADDITIONAL FACTUAL INFORMATION:

Please advise the CCFZ of the ADEQ License Nos. of the three septic pumper trucks depicted in the site photo of the truck parking shed on page 31 of the 051513 PNZ Packet.pdf.

ANALYSIS OF THE ABOVE FACTS:

The above facts contain conflicting information about a total of six different Septic Tank Pumper Trucks, two of which have tanks less than 750 gallons and according to ADEQ rules, cannot be licensed by them for Septic Tank Pumping. One of these is stated by the applicant to be in use for *collection, transportation, and disposal human excreta*. [Please see Appendix T] This seems to be evidence that the use of this truck for this purpose is in violation of the aforementioned ADEQ regulations.

CCFZ REQUEST TO THE PLANNING DEPARTMENT:

Members of the CCFZ are truly baffled by this conflicting information. We request that the Planning Division investigate this situation and advise the CCFZ of the correct information and the circumstances surrounding whether any incorrect or incomplete information was provided to the County by the applicant, **as soon as** they determine what information is correct. Please do not wait for the completion of any overall responses to this appeal before advising the CCFZ of these findings. Thanks.

APPENDIX I: REQUEST FOR FACTUAL INFORMATION NECESSARY TO PROPERLY PREPARE AN APPEAL TO SUP-13-07 (Van Wart)

Inquiry date to Planning Division: May 23, 2013; Answer date: May 28, 2013

1. a. Please provide the name(s) of the employee(s) of the County's Environmental Health Division with whom anyone in the Planning Division discussed the potential health hazards of raw sewage spills that might occur during raw sewage transfer between the 1000 gallon septic tank on the applicant's property and the A-1 Port-A-Pots sewage trucks.

Answer: The County Building Department has delegated authority, from the Health Dept as well as ADEQ, to address these matters as they pertain to mitigation of this. So staff spoke with building code staff, specifically our former building official Jack Holden who has since left the County.

Discussion surrounding the tank was more concerned with odor mitigation, water tightness, and overall building code compliance as opposed to spill mitigation plans.

b. Please provide the date of each contact and provide by name any suggestions or recommendations that any of these individuals made regarding this potential health hazard.

Answer: See above. Building Official comments were part of the packet distributed to P&Z Commission, and included building code compliance measures rather than spill contingencies.

2. The Definitions in the County's zoning regulations do not include the phrase "biological waste". Please quote the text of any legal definition for the subject phrase that currently exists in any regulation, ordinance, or statute issued, promulgated, or now in effect by either Cochise County or the State of Arizona, along with the the URL link to the source of this information.

Answer: The Department consulted with no such definition in formulating our recommendation.

If unable to find such a legal definition, please so state. **Answer:** see above

3. Please provide the name(s) of the employee(s) of the County's Environmental Health Division with whom anyone in the Planning Division discussed the following suggested means of mitigating the potential health hazards from described of raw sewage spills that might occur during raw sewage transfer between the 1000 gallon septic tank on the applicant's property and the A-1 Port-A-Pots sewage trucks: performing all on-site transfer of raw sewage, cleaning, washing, and/or rinsing of any apparatus, some of whose surfaces have contacted effluent, on a concrete wash pad which has a integral collecting central drain that drains into a approved septic system.

Answer: This idea was put forth by Stuart Kershner, in an email that came to County and Applicant during the Citizen Review phase of the project. This email was also transmitted to the Planning Commission as part of the packet. County Planner Keith Dennis spoke with County Planning Manager Mike Turisk and possibly Jack Holden verbally about the possibility of recommending a condition of approval that would require such. The staff did not see fit to recommend this, nor did the Commission.

A condition of approval was applied by the Commission prohibiting the Applicant from washing or rinsing portable restroom units on the property as part of the operation.

Please provide the date of each contact and provide by name any suggestions or recommendations that any of these individuals made regarding this mitigating approach.

Answer: As part of the process for formulating Staff recommendations, staff will engage in discussions in designated settings such as the weekly staff meeting that takes place Monday mornings, but also during less formal discussions during the review cycle, as information becomes available and as the reports are being written. Specific dates and times as requested are thus difficult to ascertain. ADEQ may or may not require spill contingency or mitigation plans, or concrete pads or other measures as suggested by Mr. Kershner. As is standard practice, the Commission reminded the Applicant of his responsibility to adhere such requirements as part of condition #4. The resulting commercial permit will be transmitted to ADEQ for their review and comments. Enforcement of such requirements will be a matter to be settled between the Applicant and DEQ.

4. Please provide the name of the County employee who first initiated a complaint to the ADEQ for enforcement action against A-1 Port-A-Pots for their installation and employment of a 1000 gallon residential septic tank for the commercial purpose of accumulation, storage, and removal of raw sewage, without first obtaining the required "vault and haul" permits from the ADEQ. **Answer:** Please provide the date this complaint was made and the means used, e.g., phone call, email, USPS letter, completion of the ADEQ's web page complaint form, etc. **Answer:** If no such complaint was made, please so state.

Answer: No such complaint was ever made. Staff did transmit the proposal to DEQ for comments on 4/11/2013. The comments we ultimately received are published as Attachment D of the staff report for this Docket – page 50 of the May 15, 2013 P&Z packet.

5. Please advise whether the applicant's construction of their 36 ft by 30 ft concrete slab, covered vehicle parking structure was permitted by the County before its construction; whether it was inspected and approved by the County after its construction.

Answer: There is as yet no permit for this structure. Condition #1 of the approved special use would require such permit.

Whether the County assessor's office has been advised of its construction, and whether the assessed value of their property has been updated to include this improvement.

Answer: Unknown.

6. Please advise whether the County assessor's office, currently assesses the applicant's property as a "partial business use" as opposed to "all residential use."

Answer: Unknown.

If so, please advise when this assessment was changed from all residential use. If not, please advise under what circumstances and procedures such a change is legally required and when it will be accomplished if so required.

Answer: This question would more properly be addressed to the County Assessor.

7. Please advise the measured height to the nearest "rounded-up" inch of the tallest of the stored Port-A-Pots on the applicant's property.

Answer: The County has made no such measurement.

8. Please provide the date, description of the circumstances, and the name(s) of the County employee(s) who first became aware that an underground storage septic tank had been installed by the applicants for use in their business.

Answer: County Planner Keith Dennis discovered this during a phone interview with the Applicant on 4/11/2013.

9. Please advise the dates, names of County employees and purpose(s) of any on-site visits or inspections of the applicant's property conducted in relation to this SUP.

Answer: County Transportation Planner Karen Lamberton, 4/7/2013: standard site visit pertaining to transportation. Keith Dennis, 4/12/2013: standard site visit as performed for all special use docketts. Keith Dennis, 4/17/2013: posting of public hearing notice at Patton Road/Sundust Trail intersection.

Please attach .pdf formatted copies of all written documentation (e.g., notes, memos, or reports, etc.) of these visits to your email responses to these questions.

Answer: Results of these visits are part of the packet: for County Transportation Planner Karen Lamberton, see p. 20 of packet; for County Planner Keith Dennis, see staff report.

10. During the applicant's presentation at the Commissioner's hearing on 05-15-13, he stated that his business owned and rented more than one hundred Port-A-Pots. Please advise the date, under what circumstances, and the name(s) of any County employee(s) that first learned that the A-1 Port-A-Pots rental business was as large as he then stated.

Answer: Staff learned of this figure at the hearing, when the Applicant stated it.

11. Under the approval motion for this SUP passed by the Commissioners on 05-15-13, what are the maximum number of a) Port-A-Pots, and b) business vehicles that may be parked or stored on their residential property? Neighbors have recently observed one medium sized backhoe/front loader and one small tracked backhoe, and at least one trailer parked on their property. To the best of our knowledge, none of these other vehicles were described in any of the public documentation of this SUP.

Please advise the maximum number permitted for each category, if unlimited, please so state:

	Number
Port-A-Pots: Answer:	_____
Licensed Septic Waste Trucks: Answer:	_____
Unlicensed Septic Waste Trucks Answer:	_____
Back hoes/front loaders, other excavation equipment: Answer:	_____
Trailers: Answer:	_____

Answer: The conditions of approval are the only limiting factors on this land use. No limitation for any of the above categories was imposed by the Commission. The Commission did, however, impose

A

Condition #5, which would require further public process in the event of a significant change in the scope or nature of the land use.

12. What is the GVW of A-1 Port-A-Pots sewage service vehicle, ADEQ license Number 2348? It is licensed as having a storage tank capacity of 5000 gallons, [5000 gallons of water weigh over 20 tons]. The packet for this SUP mentions 10 tons as the truck weight that the access roads to the applicant's residence must sustain.

Answer: Unknown. The Applicant stated, during the 4/11/2013 phone interview, that the maximum weight of any truck would be between 8 and 10 tons.

13. During the applicant's presentation at the Commissioner's hearing on 05-15-13, he stated that his business is growing rapidly and that it may in the future not be able to operate on his current parcel. Under the approval motion for this SUP passed by the Commissioners on 05-15-13, is this approval perpetual, without any time limit and is it transferable without the County's review to any future owner of this property? Answer: Please advise the extent of any time limitations of this approval, and any limitations with respect to future transfer of ownership of this property. Answer: If none, please so state.

Answer: The Commission grants special uses in perpetuity; the Applicants acceptance of the conditions imposed on such use are filed with the County Recorder. Unless the land use is demonstrated to have been discontinued for more than 12 months, or the land use is changed through a duly-issued permit to change the use, or unless it can be demonstrated that the Applicant has failed to abide by the conditions of approval, the special use is considered permanent, and runs with the land. Transfer of ownership would not invalidate or change the approved special use, absent any of the limiting factors just mentioned.

APPENDIX R: AZ REGS - ARTICLE 11. HUMAN EXCRETA

AZ Secretary of State Administrative Regulations - copied from:
http://www.azsos.gov/public_services/Title_18/18-13.htm

ARTICLE 11. COLLECTION, TRANSPORTATION, AND DISPOSAL OF HUMAN EXCRETA

Article 11 recodified from existing Sections in 18 A.A.C. 8, Article 6 at 8 A.A.R. 5172, effective November 27, 2002 (Supp. 02-4).

R18-13-1102. Definitions

- A. "Chemical toilet" means a toilet with a watertight, impervious pail or tank that contains a chemical solution placed directly under the seat and a pipe or conduit that connects the riser to the tank.
- B. "Department" means the Department of Environmental Quality or a local health department designated by the Department.
- C. "Earth-pit privy" means a device for disposal of human excreta in a pit in the earth.
- D. "Human excreta" means human fecal and urinary discharges and includes any waste that contains this material.
- E. "License" means a stamp, seal, or numbered certificate issued by the Department.
- F. "Pail or can type privy" means a privy equipped with a watertight container, located directly under the seat for receiving deposits of human excreta, that provides for removal of a waste receptacle that can be emptied and cleaned.
- G. "Person" means the state, a municipality, district or other political subdivision, a cooperative, institution, corporation, company, firm, partnership, or individual.
- H. "Sewage" means the waste from toilets, baths, sinks, lavatories, laundries, and other plumbing fixtures in residences, institutions, public and business buildings, mobile homes, and other places of human habitation, employment, or recreation.

Historical Note

Recodified from R18-8-602 at 8 A.A.R. 5172, effective November 27, 2002 (Supp. 02-4). Amended by final rulemaking at 9 A.A.R. 1356, effective June 7, 2003 (Supp. 03-2).

R18-13-1103. General Requirements

- A. Any person owning or operating a vehicle or appurtenant equipment used to store, collect, transport, or dispose of sewage or human excreta that is removed from a septic tank or other on-site wastewater treatment facility; earth pit privy, pail or can type privy, or other type of privy; sewage vault; or fixed or transportable chemical toilet shall obtain a license for each vehicle from the Department. The person shall apply, in writing, on forms furnished by the Department and shall demonstrate that each vehicle is designed and constructed to meet the requirements of this Article.
- B. A person shall operate and maintain the vehicle and equipment so that a health hazard, environmental nuisance, or violation of a water quality standard established under 18 A.A.C. 11 is not created.
- C. License terms.
 - 1. Each license is valid so long as the vehicle is operated by the same person for the same purpose and is maintained according to this Article.

2. The license is not transferable either from person to person or from vehicle to vehicle.
 3. The license holder shall ensure that the license number is plainly and durably inscribed in contrasting colors on the side door panels of the vehicle and the rear face of the tank in figures not less than 3 inches high, and that the numbers are legible at all times.
- D. Any person owning or operating a vehicle or appurtenant equipment used to collect, store, transport, or dispose of sewage or human excreta shall obtain a permit from the local health department in each county in which the person proposes to operate.

R18-13-1112. Sanitary Requirements

A. A person owning or operating a vehicle or appurtenant equipment to collect, store, transport, or dispose of sewage or human excreta shall ensure that:

1. Sewage and human excreta is collected, stored, transported, and disposed of in a sanitary manner and does not endanger the public health or create an environmental nuisance;
 2. The vehicle is equipped with a leak-proof and fly-tight container that has a capacity of at least 750 gallons and all portable containers, pumps, hoses, tools, and other implements are stored within a covered and fly-tight enclosure when not in use;
 3. Contents intended for removal are transferred as quickly as possible by means of a portable fly-tight container or suction pump and hose to the transportation container.
 4. The transportation container is tightly closed and made fly-tight immediately after the contents have been transferred,
 5. Portable containers are kept fly-tight while being transported to and from the vehicle,
 6. Any waste dropped or spilled in the process of collection is cleaned up immediately and the area disinfected;
 7. The vehicle, tools, and equipment are maintained in good repair at all times and, at the end of each day's work, all portable containers, transportation containers, suction pumps, hose, and other tools are cleaned and disinfected; and
 8. All wastes collected are disposed of according to the recommendations of the local county health department and that no change in the recommended method of disposal is made without its prior approval. The local county health department shall recommend disposal by one of the following methods:
 - a. At a designated point into a sewage treatment facility or sewage collection system with the approval of the owner or operator of the facility or system,
 - b. By burying all wastes from chemical toilets in an area approved by the local county health department, or
 - c. Into a sanitary landfill with approval of the owner or operator of the landfill and following any precautions designated by the owner and operator to protect the health of the workers and the public.
- B. Open dumping is prohibited except in designated areas approved by the local county health department.

R18-13-1116. Suspension and Revocation

A. If a Department inspection indicates that a licensed vehicle is not maintained and operated or work cannot be performed according to this Article, the Department shall notify the owner in writing of all violations noted.

B. The Department shall give the owner a reasonable period of time to correct the violations and comply with the provisions of this Article. If the owner fails to comply within the time limit specified, the Department may suspend or revoke the vehicle license based on the number and severity of violations. The Department shall follow the provisions of A.R.S. Title 41, Chapter, Article 10 in any suspension or revocation proceeding.

C. The Department shall consider the revocation or suspension of a permit by a local health department for violation of this Article as grounds for revocation of the vehicle license. The local health department shall immediately suspend both the vehicle license and the permit issued by the local health department for gross violation of this Article if in the opinion of the local health department a serious health hazard or environmental nuisance exists.

D. The owner of the vehicle whose license is suspended or revoked may appeal the final administrative decision as permitted under A.R.S. § 41-1092.08.

**APPENDIX S: ADEQ SEWAGE PUMP TRUCK LICENSE DATA FOR THE
TWO TRUCKS LICENSED TO A-1 PORT-A-POTS, INC.**

[Please see photocopied information on the following seven pages]



Janice K. Brewer
Governor

ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY

1110 West Washington Street • Phoenix, Arizona 85007
(602) 771-2300 • www.azdeq.gov



Patrick J. Cunningham
Acting Director

February 12, 2009
Ref: PRU09-63

Mr. Chad Graves
A1 Port A Pot
P.O. Box 1942
Benson, AZ 85602

**Re: Septic Tank Pumper License # 2116 Issued for 1997 International
VIN #1HTSCAALOVH487906**

Dear Mr. Graves:

Enclosed is the Septic Tank Pumper's License issued by Arizona Department of Environmental Quality. The license is issued for a specific vehicle and shall remain in force as long as the vehicle is operated by the same person/company and is maintained in a satisfactory manner.

Please be advised of the following:

1. Each vehicle used for collection and transportation of the waste shall be equipped with a leak-proof and fly-tight container having a capacity of at least 750 gallons. All portable containers, pumps, hose, tools and other implements must be stored within a covered and fly-tight enclosure when not in use. [A.A.C. R18-13-1112(A)(2)]
2. Any waste dropped or spilled in the process of handling must be cleaned up immediately and the area disinfected. [A.A.C. R18-13-1112(A)(6)]
3. All vehicles, tools and equipments shall be maintained in good repair at all times. At the end of each day's work, all portable containers, transportation containers, suction pumps, hose and other tools must be cleaned and disinfected. [A.A.C. R18-13-1112(A)(7)]
4. All wastes collected shall be disposed of in accordance with the recommendations of the local county health department and no change in the recommended method of disposal shall be made without its approval. [A.A.C. R18-13-1112(A)(8)]
5. The owner or operator of the vehicle or equipment used to collect, store, transport or dispose of sewage or human excreta shall obtain an additional permit from the local health department in each county in which the owner or operator proposes to operate. [A.A.C.

Northern Regional Office
1801 W. Route 66 • Suite 117 • Flagstaff, AZ 86001
(928) 779-0313

Southern Regional Office
400 West Congress Street • Suite 433 • Tucson, AZ 85701
(520) 628-6733

Printed on recycled paper

Mr. Chad Graves
Page 2 of 2
PRU09-63

R18-13-1103(D)]

The applicant shall demonstrate to the satisfaction of the Department that each vehicle is designed and constructed to meet the requirements of A.A.C. R18-13-1112.

6. Licenses are not transferable either from person to person or from vehicle to vehicle. [A.A.C. R18-13-1103(C)(2)]
7. The license holder shall ensure that the license number is plainly and durably inscribed in contrasting colors on the side door panels of the vehicle and the rear face of the tank in figures not less than 3 inches high. Such numbers must be legible at all times. [A.A.C. R18-13-1103(C)(3)]
8. If a Department inspection indicates that a licensed vehicle is not being maintained and operated in a satisfactory manner or conditions are such that the work cannot be performed in accordance with the above referenced rules, the Department may suspend or revoke the vehicle license based on the severity of the violations. [A.A.C. R18-13-1116(A) and (B)]
9. The owner of the vehicle whose license is suspended or revoked may appeal the decision as permitted under A.R.S. § 41-1092.08. [A.A.C. R18-13-1116(D)]
10. Issuance of a license may be an appealable agency action as defined under A.R.S. §41-1092(3). To appeal a decision and obtain a hearing, a notice of appeal must be filed within thirty (30) days of the date of this license.

If you have any questions, please contact me at (602) 771-4110, or toll-free at (800) 234-5677, Ext. 771-4110.

Sincerely,



Denise L. McConaghy, P.E.
Manager
Solid Waste Plan Review Unit

cc: Cochise County Environmental Health

ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY
SEPTIC TANK PUMPER LICENSE

AI Port A Pot

Issued to:

For the following vehicle:

International
MAKE

1997
YEAR

IHTSCAALOVH487906
SERIAL NUMBER

1,500 Gallons
TANK CAPACITY

This license is issued for the collection and transportation of the contents of privies, vaults and septic tanks, and is subject to the rules of the Arizona Department of Environmental Quality governing storage, collection, transportation and disposal of human excreta.

This license is issued pursuant to Arizona Revised Statutes 49-104.B.14, and Arizona Administrative Code R18-13-1113 and will be valid as long as the vehicle is used for the purpose indicated above, and is maintained and operated in a satisfactory manner. This license is not transferable from person to person or vehicle to vehicle.



ROBIN A. THOMAS, MANAGER
PERMITS SECTION

NUMBER 2116

ISSUED February 12, 2009

EXPIRES N/A

THE ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY
 Office of Waste Programs
 Permits Section
 1110 W. Washington - Mail code 4415A-2
 Phoenix, Arizona 85012
 (602) 771-4123

APPLICATION FOR A SEPTIC TANK CLEANER (PUMPER) LICENSE

Please be advised that a separate application shall be made for each vehicle. Upon submittal, All application forms **MUST BE TYPED.**

70065

132571
 Name of Owner RESNER & HANCOCK CHAD GRAVES DBA A1 Port a Pot
 Name of Firm
 Address PO Box 1942
 Mailing Address PO Box 1942
 City BENSON AZ 85602
 City Benson AZ
 State AZ Zip 85602
 State AZ Zip 85602
 Telephone 520-586-2415
 Fax 520-586-3235

Request that a license be issued for the vehicle described below to collect, transport and dispose of the contents of privies, privy vaults, septic tanks and other sewage treatment systems or devices.

Make International VIN 1HTSCAAL DVH487906
 Vehicle Identification Number
 Year 1997 Tank Capacity 1,500

I (we) agree to operate this vehicle in accordance with the rules of the Arizona Department of Environmental Quality governing storage, collection, transportation and disposal of human excreta.

I (we) further agree to dispose of the material removed in accordance with the requirements of the local county health department and to obtain a permit in each county where such operations are performed.

Date 2-9-09 Applicant's Signature [Signature]

CERTIFICATE

This is to certify that an inspection has been made of the above described vehicle and it is the opinion of this Department that the vehicle does comply with the requirements of the Arizona Administrative Code, Article 6, R18-13-1112 through R18-13-1117 rules for human excreta.

Date 2-9-09
BE-1366
 County Permit Number
Donna R.S.
 County Health Officer or Sanitarian
Cochise County Env. Health
 County Health Department

State Department Action
 Approved by: [Signature]
 State License No. 2116

Disapproved by:
 Date Issued: 02/11/09

Fax # 602-771-2383
 Donna ✓

COUNTY HEALTH DEPARTMENT
SEPTIC TANK CLEANER (PUMPER)
INSPECTION REPORT FORM

2-9-09
Date of Inspection

Domina R.S.
Inspected By

AZ Post a Pot
Business Name

CHAD GRAYLES
Owner's Name

PO Box 1942
Address

PO Box 1942
Mailing Address

BENSON
City

BENSON
City

AZ 85602
State Zip

AZ 85602
State Zip

BE-1366
County Permit Number:

Willcox
Disposal Site Used:

Are the vehicle cleaning facilities adequate?

Yes No

VEHICLE INSPECTION REPORT FORM

Please provide a vehicle inspection form for each vehicle.

Arizona License Plate Number CF-47069

ADEQ License Number _____

Make International

VIN# 1HTSCAAL0VH487906

Year 1997

Tank Capacity 1,500

Is the tank capacity 750 gallons or more?

Yes No _____

Is the vehicle leak proof?

Yes No _____

Is the tank fly-tight?

Yes No _____

Is there fly-tight storage for all equipment?

Yes No _____

*Is the license number posted on each side and the rear face of the tank in 3 inches high numbers?

Yes _____ No

THE ANSWERS TO ALL QUESTIONS MUST BE YES FOR COUNTY APPROVAL

*For an initial inspection this would be marked no, all subsequence inspections this should be addressed as yes

57931



SEPTAGE HAULER LICENSE APPLICATION

ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY
APR 09 2013
WASTE PROGRAM DIVISION
PERMITS SECTION

APPLICANT CERTIFICATION AND INFORMATION

1 Company Information
Please include DBA with business name if applicable.

Business Name A-1 Port-a-Pots & Septic Services, Inc
Mailing Address P.O. Box 1758 City Benson State AZ Zip 85602
Telephone 520-586-2115 Fax 520-586-3235

2 Company Contact

Name Tom Van Wart Title Owner
Mailing Address same City _____ State _____ Zip _____
Telephone 520-686-1277 E-mail a1portapots@gmail.com
a one pot-a

3 Billing Contact (if different from above)

Name _____ Title _____
Business Name _____
Mailing Address _____ City _____ State _____ Zip _____
Telephone _____ E-mail _____

4 Location of Vehicle (if different from above)

Address 144 S. Sun Dust Trail City Benson State AZ Zip 85602
Telephone _____

5 Vehicle

Make Peterbilt VIN 1XP5D49X17N680603
Year 2007 Tank Capacity 5000

6 Certification Statement (To be completed by the applicant in item 1 above)

I agree to operate this vehicle in accordance with the rules of the Arizona Department of Environmental Quality governing storage, collection, transportation and disposal of human excreta (A.A.C. R18-13-1101, et. seq.). I further agree to dispose of the material removed in accordance with the requirements of the local county health department and to obtain a permit in each county where such operations are performed in accordance with A.A.C. R18-13-1103(D) if required.

Name (print) Tom Van Wart
Signature [Signature] Date 4/5/13

7 Initial Fee of \$250 Per Vehicle [A.A.C. R18-13-1103(C)(1)]

Check this box to indicate fee is attached. NOTE: ADEQ will not process the registration without the appropriate fee.

ADEQ ACTION

Approved Yes No ADEQ License Number 2348

Comments _____
Signature Mike Prigg Date 4-16-2013

ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY
SEPTIC TANK PUMPER LICENSE

Issued to: A-1 Port-a-Pots, Inc.

For the following vehicle:

Peterbilt 2007 1XP5D49X17N680603 5,000 Gallons
MAKE YEAR SERIAL NUMBER TANK CAPACITY

This license is issued for the collection and transportation of the contents of privies, vaults and septic tanks, and is subject to the rules of the Arizona Department of Environmental Quality governing storage, collection, transportation and disposal of human excreta.

This license is issued pursuant to Arizona Revised Statutes 49-104.B.1.A, and Arizona Administrative Code R18-13-1113 and will be valid as long as the vehicle is used for the purpose indicated above, and is maintained and operated in a satisfactory manner. This license is not transferable from person to person or vehicle to vehicle.



ROBIN A. THOMAS, MANAGER
PERMITS SECTION

NUMBER 2348
ISSUED April 16, 2013
EXPIRES N/A

**APPENDIX T: TRANSCRIPTIONS OF MR. VAN WART'S
PRESENTATION AND REBUTTAL AT THE P&Z HEARING MAY 15, 2013**

N.B.: Yellow highlights added by CCFZ

PART 1: CCFZ's [not court quality] Transcription of Tom Van Wart's P&Z presentation 05-15-13

This segment begins ~23:00 into the County's official recording of this hearing.

My name is Tom Van Wart, with my wife Ashley we currently reside at 144 Sundust. We are the owners, operators of A-1 Port-a-Pots and septic service. We purchased the business in 2008 from her family. It was a portable restroom business at the time. We had a septic truck built, that same year, so we could branch out and do septic. We didn't run the business out of the house entirely. In fact, when it was started by the first family, the office line was in Mescal. Um. . . After we had our first child, I encouraged her to start doing the books out of the house, and things like that. And then, as of last year, we started bringing the port-A-Pots back to the house. Um . . . [23:30] We own roughly 120, I would say, 90 of those are out on a regular basis. The other 30 which are usually out, um . . .are sometimes . . sometimes stored at the house, but when Keith came to take pictures of the property I informed him that without a doubt that was in this picture here that would be the most units we would store there. Um . . We service the Saint David area, Benson. I go pretty much everywhere I can go. Um . . I know that there is no residential - there is no waste water treatment facility in Saint David, therefore everyone is on a septic tank. When I started this business and started gauging my pricing, I . . my intention was to be cheaper than everyone else. I could do so because I had no overhead, I was doing it myself. And I maintain that today. Um . . . There is no one in the area that is cheaper at providing the service of cleaning, pumping, inspecting, installing and repair of a septic tank than we are. Uh . . We . . . We do . . [24:47] We pump septic tanks, we install them, repair them, we do portable restrooms, mostly for new construction, for military contracts. As far as the community, we've donated our services to a number of different functions over the years, uh . . wounded warriors. In fact, we currently employ a wounded veteran, um. . . We've employed, over the last five years; it's not that long, we've employed three different people. Um . . . We've done pro-Bono work for people in the community. Septic systems are not cheap. They're not cheap to have serviced. They're not cheap to have installed. We've done that because people fall on hard times, and uh . . We spend a lot of money in businesses in the community. We spend a lot of money on fuel, local . . . We buy there at Junction Express. We spend several thousand dollars a month. Um . . . As far as our property goes, when we bought it, it was pretty barren. It was a two bedroom house, it

wasn't old, but it was pretty rotten; garbage, and brush and things of that nature. Uh . . . I've made it my sole purpose in life to clean the place up if nothing else, but I've done a considerable amount of landscaping front and back, both grassed areas. Um . . . In other words, we've invested a lot of time and money uh . . . to improve it from an aesthetic standpoint. I've heard a lot of different feedback from a lot of different people and most of it is positive regarding the condition of our property relative to what it was five years ago. Um . . . [26:28] We did so, not necessarily to uh . . . hide the fact that we were running a business, but because we care about what it looks like. We've redone the entire place; we've redone the entire property with the exception of - you know - a piped fence around it, I think, you know, we've done quite a bit to improve what it looks like. We don't have customers coming in and out of our property on a regular basis. I have . . . I have one employee. He and I both leave in the morning and return in the evening. And when we bring our portable restrooms back, - some people have speculated whether or not they are clean - They are clean. As you can see in the packet that was enclosed, these units are brought back completely sanitized. The septic tank as was mentioned before is a 1000 gallon residential tank that's been capped at the inlet and outlet sides; and that's to prevent any sort of like leakage, but the fluid level never gets that high. [27:24] Basically we have one truck that's 325 gallons, that rarely ever gets full; and we use that for portable restrooms. My guy, at the end of the day, he can't dump in Sierra Vista because it's closed, he'll dump in there, I'll pump it into my truck and we'll haul it to Tucson or Sierra Vista the next day, and he can go on about his business. This is storage, 100% storage, temporary storage. With the other avenue that it opens up for us is that in the event that uh . . . we get an emergency call which I've had plenty. People are backed up in the middle of the night and need their tank pumped and the dump stations are closed, and even though that we have the capability to service that area. We have had a lot of support from people in the community that have said they were . . . they were glad that they had . . . that there was someone close that offered this service, but that also took care of things. I . . . I . . . We've grown this business. We've relied on God to take care of us 100% since we started. And, it's because of His Grace that I know that we have been able to grow. The lady in Sierra Vista from American Septic who is by all means my competitor, has become a pretty good personal friend. Um . . . She refers work to us because she knows that we're stand up people. When somebody calls up and asks for our opinion, I don't nickel and dime 'em. That's relevant, because that's the type of people that we are. The neighbors that know us, know us to be that way. That's evident in the condition of our equipment. My truck, the first truck I built; it wasn't the fanciest truck in the world. The unit was brand new, the truck was not.

But I'll tell you this, it gets cleaned every single week. It's the same way with my property. It's the same way with my pickup truck. It's the same way with my shop. We keep that place immaculate. And it's almost to a fault, that I'm that particular about the condition of it.

Although I understand 100%, the uh, the current statutes that are in place regarding the businesses in this area, and I, and I certainly respect that. I think. . . as far as what I know, about the type of business that we run, relative to the type of individuals that we are, we're not opening the flood gates; we're not running a rock quarry, where you're running 10 wheelers in and out of there 24/7. [30:00] I have two trucks that leave in the the beginning of the day and come back, and they leave clean and they come back clean.

And my staff is courteous, kind, approachable, as am I; if they're not, they don't fit; they go. Um . . . And so, you know, we just . . . we feel like we offer a service in the community that uh . . . is necessary. You know, I'm not building saddles, so that's a good thing. I am offering a service that is required. If your air conditioner breaks in this area, you can live without a/c, but if your sewer backs up, it's a bad deal. And I've been called on many of those assays. And if we can't get there, I bring a portable restroom to the place, till we can get that situation fixed. And that's just the way we are. So, I appreciate the time and the consideration and, . . . any other questions, just let me know. Thank you.

PART 2: CCFZ's [not court quality] Transcription of Tom Van Wart's P&Z rebuttal (~5 minutes)
05-15-13

This segment begins at ~1:03:05 into the County's official recording of this hearing.

OK. Um . With regards to the uh . . septic tank. It's 1000 gallons. It is moveable. It was put there out of necessity because of a dump station issue that we had. The Port-a-Pots are also moveable and also concealable. Uh . . The issue of the septic tank, it was built by Dad's Septic. It pretty much would be the of standard septic tanks that are used for new construction in the area and around, I know it holds water. We can put that to the test. It hasn't had any issues whatsoever. Again, it's moveable. Um . . The issue with this as I have read in the packet, um . . has been an aesthetic problem. Which, Mr. Kershner and I had an hour and 17 minute conversation on the phone to clarify these very things. He actually told me that if we were to conceal the portable restrooms it would eliminate such an eyesore, which I have no problem

doing whatsoever. I, . I mean, we will literally do whatever it takes to make this right. I didn't, . . . We're not trying to defraud, we're not trying to deface anyone's property, we are not trying to lower anyone's quality of living, we're a small business, a small family in a small community, trying to earn a living. We get up every single day and try to make a living honestly, and it's evident in the fact that we've been able to grow in five years. I could have brought in a list of customers who would testify to that very thing. That we're outgoing stand up people, and it . . . if . . . I probably should have gone to my neighbors 100%. You know, had I known it was going to cause such an issue I would have, again we didn't accumulate this mass of stuff; we don't own a bunch of stuff. We don't . . . The portable restroom businesses across the nation, that are exclusively portable restroom businesses are looking at three to five hundred units. We don't have a quarter of that. I mean, thirty of which are here on site at my property now, but we're in fire season and they'll be gone, they'll be nothing left. That said, I conveyed this to Mr. Kershner, I conveyed this to . . . I got . . . I had a correspondence from I guess, Bill Martinez and I emailed him back and I explained it: We'll do whatever we need to make it right. The fact is they simply do not like our presence there. Which I guess I can't argue with that; there is nothing I can do, you know . . . to create . . . I'm willing to do whatever I need to, but there is obviously nothing I can do to change there minds on that, which is fine. But as far as lowering property values, if a guy's been sitting on . . . if he's been sitting on property for thirty-eight years, it doesn't look like he's wanting to sell. A little piece of paradise, I mean we're talking . . . if you took a pict . . . if you turn around and took a picture over here, your talking about heavily wooded mesquite fire hazard. I mean, I've cleared my property. I've trimmed everything up.

I brought in aggregate ballast. Not necessarily just for dust control; because it looks nice. Dead pecan trees in the front. I mean, just because it qualifies as agriculture doesn't mean it's aesthetically pleasing to other people. But I'm not in that circle so I don't know. Now, all I can say is that we're willing to do whatever we need to do. And up to this point, I thought . . . I . . . I've . . . We've been pretty open about that. I do apologize for all the inconvenience. Again, we'll do whatever we need to. [end at 1:06:50]

RE: SUP-13-07

Applicants: A-1 Porta Pots and Septic Services c/o Tom and Ashley Van Wart

Purpose: Response to admission Packet submitted by CCFZ in appeal to Special Use Permit SUP-13-07.

Intro

This information has been compiled as per our right to present the facts to the Board of Supervisors prior a July 23, 2013 decision to either revoke or uphold Special Use Permit SUP-13-07. After having read the information submitted by the CCFZ, we feel that much of the information that has been submitted has been taken out of context from where it was retrieved and we feel that clarification is necessary.

We will use the structure of the appeal application to itemize the areas we feel clarification is necessary.

SECTION 2: TABLE OF ERRORS

Item 1: FALSE STATEMENT BY ASHLEY VAN WART ON SUP APPLICATION

A Fraudulent statement was not made.

"Thus, the entire citizen review process including the notification letter... April 15, 2013 was based on fraudulent information. The statement on their application by Ashley Van Wart, that the business activities did not involve "biological waste, is by itself, enough evidence for the planning division to administratively revoke SU-13-07"

Fecal Carrying Vehicles

Biological waste as classified by definition is (refer to Perdue University, Radiological and Environmental Management of www.perdue.edu) divided into three categories. Biological waste is considered hazardous waste. **None of which are mentioned in Arizona Title 18 to which fecal carrying trucks fall under.**

There is specific criteria by definition for its handling and disposal and there are three categories.

1. Bio hazardous agent ,
2. Biological waste, is any material that contains or has been contaminated by a bio hazardous.
3. Sharps, are items that are capable of puncturing, cutting, or abrading the skin.

Fecal transportation vehicles carry septage and sludge and defined as solid waste. Solid waste may to be processed into bio solids to be used for fertilizer, and or land application. Biological waste cannot.

PLEASE SEE ATTACHMENT "" FOR FURTHER CLARIFICATION OF BIOLOGICAL WASTE

Item 2: APPELLANT'S CONCLUSIONS: A-1 PORTA POTS DOES NOT FIT INTO THE RURAL CHARACTER OF THE VICINITY

As of the census^[8] of 2000, there were 1,744 people, 666 households, and 462 families residing in Saint David, AZ. At the present, there is NO municipal wastewater treatment facility in Saint David therefore

B

all of the households in this area have onsite waste water treatment methods (conventional septic systems, cesspools, seepage pits, etc.).

A-1 Porta Pots and Septic services are available 24/7 in the Saint David area.

Item 4: TRAFFIC CIRCULATION FACTOR-POTENTIAL DAMAGES TO SUNDUST TRAIL

Sundust trail is a PRIVATE access to two four acre parcels. One parcel is owned by Tom and Ashley Van Wart, and the other is now under the ownership of Jim and Marion Hayes. Mr. and Mrs. Hayes were made aware of the SUP application that A-1 Porta Pots had originally submitted and responded in favor of allowing the business to be "legitimized" at its current location. No issue or concern with the condition of this PRIVATE driveway was mentioned by them relative to improvements that should be made. Therefore, the condition of this road alone, has not been an issue up to this point.

SECTION 3: DISCUSSION

3.0 OVERVIEW

The CCFZ has denied my claim that "they simply do not like our presence here". They have gone to great lengths to prove to whoever will listen that they're little piece of paradise is in danger of being ruined by the presence of our business.

The fact is, my property is not visible from any of the appellant's homes. The only exposure they have to what they feel is unbearable is the view from Patton road as they are driving by. That said, our portable restrooms are stored on the southern portion of our property and one would be required to stare through roughly 8 acres to even see the units being stored.

I was clear with the audience and have been quoted as saying that "I will do whatever I have to" in order to make this right. The Planning commission requested that we erect a fence that would hide the units from plain site and I have every intention of doing so. They had also required us to install a commercial apron to protect Patton street from being damaged when our trucks enter the road. We fully intend to do this.

3.1 Observations of the Behaviors of A-1

I remain firm that our business is not "inspired by GOD". My business is blessed by GOD and I do my best to conduct myself in a manner that would not reflect poorly on the ONE who has blessed us. That said, the reason I had included this information to the commission was to try and plead our case as a young family of Christian business owners who were honestly trying to make a living in a tough economy. I was not trying to insult or offend anyone present.

My wife Ashley Van Wart, is the Vice President of our company. She represents our business every bit as much as I do and she has every right to be present during any of the PUBLIC hearings regarding the fate of our business. Our daughter was born 10 days prior to the original hearing and Ashley could not leave her at home so it was imperative that the child be present during this time. Again, we were not trying to offend anyone or to obtain the unfair advantage of sympathy during the hearing.

3

3.3.4

In response to the claim that we “took no action in obtaining a permit for the sewage transfer tank”. Please see the attached e-mail thread between my Ashley Van Wart and Larry A. Bogdanski from the ADEQ regarding the permitting requirements for this tank.

We do not presently have a permit for this tank just as we have yet to erect a fence around our portable restrooms. Until we know what our fate is with regard to this SUP, we have been informed that we can conduct business just as we were. When the Board of Supervisors votes on this matter, we will take what action is necessary.

3.3.5

In my phone conversation with Keith Dennis, I had agreed that the weight of our trucks would not exceed 10 tons. This was an error made by me without considering the possibility that the trucks could be fully loaded at some point. This was an honest mistake that I made without a full understanding of the ramifications that could have arisen.

That said, there is currently NO posted weight restriction on Patton road and this road is regularly travelled by much heavier vehicles.

3.3.8

The 325 gallon tank that we do have is not registered by ADEQ because ADEQ does not regulate tanks that are less than 750 gallons. ADEQ requires that trucks of less than 750 gallons be regulated by county health departments. Please see the attached e-mail thread between Tom Van Wart and Ramon G. Rivera who is an inspector with the ADEQ regarding this issue. Also, please see the attached e-mail thread between Tom Van Wart and Danny Nikitas who is the acting director of the Cochise County Environmental Health Department regarding this issue.

3.3.12

My reasons for informing the Planning and Zoning Commission that I clean my trucks every week was to illustrate to the audience that I care about the appearance of my business as a reflection of us. I wanted the panel to understand that we took pride in making sure that our trucks were clean and tidy and well organized as per ADEQ requirements.

The CCFZ responded by pasting SOME of the requirements listed by ADEQ for septage hauler trucks. It says that ADEQ requires that the vehicle, tools, and equipment are maintained and in good repair at all times. The CCFZ noted that the trucks must be cleaned and disinfected at the end of each day. This is in fact, a listed requirement however; the manner in which it is stated has caused a great deal of confusion.

I have contacted ADEQ regarding this matter and I have included an e-mail thread between Tom Van Wart and Ramon G. Rivera in which Mr. Rivera discloses as much of the information as he is currently permitted to discuss. Essentially, ADEQ realizes the relative difficulty in disinfecting the inside of a Septic Pumper truck at the end of every work day (if at all), and are currently working to clarify the definition.

Until such time as a definition can be more clearly made, we will continue to ensure that our tools and equipment (hoses, pump, stinger) are disinfected as we have always done.

Closing

It is extremely difficult to try and respond to accusations that we are not honest people especially given the manner in which the CCFZ has portrayed us. We understand this issue to be a land use issue and not a character assassination. I have included a few character letters from people and organizations that we deal with on a regular basis who would willingly testify to our character.

Regardless of the outcome of this hearing, we will continue to serve the community and help out where we can.

July 7, 2013

To Whom It May Concern:

This letter is in reference to Tom and Ashley Van Wart. We partnered with A-1 Septic and Port a Pots (company they own) to do septic inspections for us for several years now, in our real estate business of selling bank owned properties. Currently we do not use any other septic inspection company as we do not feel there is a reason nor a need to. They do what they say they are going to do, charge what they say they are going to charge and we never worry about the work getting done or getting done right. They are always pleasant to work with from phone calls, texts and emails to face to face meetings. Never have they been less than professional and friendly to us or other real estate professionals that we are aware of, that also use their services. Our experience with them has been nothing less than excellent from the beginning to the current and we look forward to a long working relationship and friendship with Tom and Ashley. We have no question or concern as to their integrity and/or their character.

Please feel free to contact us with any questions or concerns.

Most Sincerely,

Mike and Peg McNab
520-508-1660
azhomes@mcnabs.com
www.mcnabs.com
P.O. Box 643, Hereford AZ 85615

B



New Life
FAMILY WORSHIP CENTER
FAITH • FAMILY • FRIENDS
Rom. 12:2

642 E. Pomerene Road
Pomerene, AZ 85627
nlteachpreach@gmail.com
Office phone: 520-586-2337

To Whom it May Concern;

9 July 2013

This letter is to attest to the moral character and integrity of Tom and Ashley Van Wart. I have known Tom and Ashley for the past five years as friends, fellow church goers, and now as their pastor. They are exemplary parents and are seen as influential persons within their peer group. They are energetic participants in their church and community, and I have never heard a single person speak of them in a negative way.

Ashley is a model mom and her children reflect her hands-on, involved, child-rearing abilities. She has volunteered in children's ministries at both First Baptist Church Benson and New Life Family Worship Center in Pomerene and is always willing to pitch-in and help where needed.

Tom is an example of a young man who has his priorities straight. He is a good dad and provider for his family. He has served as a Sunday School teacher, a mentor to younger boys, and is a leader in peer group activities. He has filled my pulpit in my absence and done an admirable job.

Both Tom and Ashley are active in a physical, as well as an intellectual way that is reflected in their well-roundedness. They are highly thought of in our local communities and are seen as caring and always pleasant individuals whose honesty and veracity are beyond reproach. If I can be of any further assistance please feel free to contact me at the number or email noted.



STEVEN MEDEIROS
Teacher/Preacher
New Life Family Worship Center

"And do not be conformed to this world, but be transformed by the renewing of your mind, that you may prove what *is* that good and acceptable and perfect will of God."

Romans 12:2

B

Dennis, Keith

From: Tom and Ashley Van Wart [a1portapots@gmail.com]
Sent: Monday, July 08, 2013 8:49 AM
To: Dennis, Keith
Subject: Fwd: Question to ADEQ

Keith

Please see this e-mail thread between myself and Ramon. There should be a question from me and a response from him. Let me know you got it alright.

Thanks

----- Forwarded message -----

From: Ramon Rivera <Rivera.Ramon@azdeq.gov>
Date: Wed, Jul 3, 2013 at 1:28 PM
Subject: RE: Question to ADEQ
To: Tom and Ashley Van Wart <a1portapots@gmail.com>

After talking with my Section Manager, ADEQ is responsible for regulating septic trucks of 750 gallon capacity or greater. Trucks with less capacity are regulated by the county. I am currently tasked with gathering information that will be used to help clarify the meaning of daily "cleaned" and "disinfected", so that ADEQ can create a "substantive policy" in relation to A.A.C. § R18-13-1112(A)(7).

From: Tom and Ashley Van Wart [mailto:a1portapots@gmail.com]
Sent: Wednesday, July 03, 2013 11:20 AM
To: Ramon Rivera
Subject: Re: Question to ADEQ

Ramon

As per our earlier conversation, here is my e-mail for you to use to respond to the issue of vacuum truck daily sanitizing procedures. Please respond at your earliest as time is definitely not on our side. Thank you.

On Mon, Jun 17, 2013 at 8:15 AM, Ramon Rivera <Rivera.Ramon@azdeq.gov> wrote:

Please call me so that I can respond to your question.



Ramon G. Rivera, Inspector

Solid Waste Inspections & Compliance Unit

Arizona Department of Environmental Quality

1110 W Washington Street

Phoenix, Arizona 85007

Phone: [\(602\) 771-4881](tel:6027714881)

Fax: [\(602\) 771-4528](tel:6027714528)

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--

Tom and Ashley Van Wart
A-1 Port-a-Pots & Septic Services

P.O. Box 1758
Benson AZ 85602

[520.405.4060](tel:5204054060) c

[520.586.2115](tel:5205862115) o

[520.586.3235](tel:5205863235) f

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--

Tom and Ashley Van Wart
A-1 Port-a-Pots & Septic Services

P.O. Box 1758
Benson AZ 85602

Dennis, Keith

From: Tom and Ashley Van Wart [a1portapots@gmail.com]
Sent: Monday, July 08, 2013 8:47 AM
To: Dennis, Keith
Subject: Fwd: County regulations governing vacuum trucks...

Hi Keith

Please see the attached dialog between myself and Danny Nikitas. There should be a question from me and a response from Danny. Please let me know you got it all.

Thanks

----- Forwarded message -----

From: Nikitas, Danny <DNikitas@cochise.az.gov>
Date: Sun, Jul 7, 2013 at 7:57 PM
Subject: Re: County regulations governing vacuum trucks...
To: "a1portapots@gmail.com" <a1portapots@gmail.com>
Cc: "Johnson, Natalie" <NJohnson@cochise.az.gov>

Tom

You are correct about not needing a ADEQ license for any pumper truck under 750 gallons. Cochise County Environmental Health will inspect all your trucks annually, as we currently do, to ensure compliance with our County Sanitary Code. You have a current permit with Cochise County which covers all your pumper trucks. Please call or email if you have any additional questions.

Thank You,

Danny Nikitas, R.S.
Acting Director
Cochise County Env. Health
[520-586-8207](tel:520-586-8207)
dnikitas@cochise.az.gov

On Jul 7, 2013, at 7:35 PM, "a1portapots@gmail.com" <a1portapots@gmail.com> wrote:

> Danny

>

> As per our conversation the other day, I have an F550 truck with a 325 gallon sewage holding tank on it which is used ONLY for servicing portable restrooms. Because the tank is under 700 or 750 gallons, ADEQ does not require that we license it with them.

>

> ADEQ states that in these situations, the requirements for this tank/truck would then fall on the county health department to oversee. If I understood you correctly, you said that this truck is inspected annually the same way that the other trucks are (to ensure it is fly tight and leak proof and environmentally safe) and that all of the trucks regardless of ADEQ licensing would also fall under our current county health department permit number?

Dennis, Keith

From: Tom and Ashley Van Wart [a1portapots@gmail.com]
Sent: Monday, July 08, 2013 8:51 AM
To: Dennis, Keith
Subject: Fwd: FW: ADEQ Permit Requirements For Tank Used to Store Septage

Hi Keith

Please see the e-mail thread between myself and Larry. Please let me know you got this entire thread.

Thanks

----- Forwarded message -----

From: Larry A. Bogdanski <Bogdanski.Larry@azdeq.gov>
Date: Tue, Jun 11, 2013 at 3:00 PM
Subject: FW: ADEQ Permit Requirements For Tank Used to Store Septage
To: "a1portapots@gmail.com" <a1portapots@gmail.com>

Tom,

As we discussed by phone earlier today, attached is contact information should you wish to investigate the possibility of creation of a ADEQ general Aquifer Protection Permit (APP) for storage tanks such as yours.

Mr. Asif Majeed

Supervisor, Water Quality Division, Ground Water Section, APP and Reuse Unit

ADEQ

1110 W. Washington St.

Phoenix, AZ 85007

[\(602\) 771-4683](tel:(602)771-4683)

akm@azdeq.gov

Larry

From: Larry A. Bogdanski
Sent: Monday, June 10, 2013 9:02 AM
To: 'a1portapots@gmail.com'

Subject: RE: ADEQ Permit Requirements For Tank Used to Store Septage

Importance: High

Tom,

Sorry not to respond sooner. I was out of the office on Friday. The requirements for vacuum trucks themselves are administered by ADEQ's Solid Waste program in Phoenix. So, I will need to refer you to someone up there. (Our Tucson office, where I'm located, only has responsibility for water and air quality issues. The permit for your tank falls under our wastewater regulations, which is why I'm involved with that.)

Randy Matas

Manager, Waste Programs Inspections and Compliance Section Manager

[\(602\) 771-4849](tel:6027714849)

rgm@azdeq.gov

I'm also providing a link below to the regulations governing vacuum trucks. In the table of contents, scroll down to Title 18. Environmental Control. Then scroll further to item 13. Department of Environmental Quality – Solid Waste Management. Click on item 13. Then scroll down to R18-13-1103, General Requirements. Item B. of that section says, "A person shall operate and maintain the vehicle and equipment so that a health hazard, environmental nuisance, or violation of a water quality standard established under 18 A.A.C. 11 is not created." Phoenix should be able to tell you if there are any other things they may require beyond this.

http://www.azsos.gov/PUBLIC_SERVICES/Table_of_Contents.htm

Larry Bogdanski

[\(520\) 628-6738](tel:5206286738)

From: a1portapots@gmail.com [mailto:a1portapots@gmail.com]

Sent: Thursday, June 06, 2013 6:16 PM

To: Larry A. Bogdanski

Subject: Re: ADEQ Permit Requirements For Tank Used to Store Septage

Good day Larry

I have some questions regarding ADEQ requirements for septic vacuum trucks. Currently, I am in the process of compiling this information for an upcoming hearing we have with the county planning and zoning department (cochise). We were granted a special use permit by the Planning and zoning commission to run our business out of our home however; some neighbors are appealing this permit. In short, I need to speak with you or maybe someone in your department regarding the daily maintenance requirements for ADEQ licensed vacuum trucks. I would really appreciate your feedback please call me at any time day or night (520) 686-1277.

Thank you

Tom Van Wart

Sent from my iPad

On May 17, 2013, at 11:18 AM, "Larry A. Bogdanski" <Bogdanski.Larry@azdeq.gov> wrote:

Ashley,

It was good to talk with you this morning. As we discussed, below is a link which will take to you to the Arizona Department of Environmental Quality (ADEQ) website page which provides information regarding permitting of your tank.

<http://www.azdeq.gov/environ/water/engineering/oss.html>

ADEQ Form 222 will give you an overview of the state requirements. Specifically, you will need to obtain both a Construction Authorization (CA) and a Discharge Authorization (DA) for the tank under the provisions of a Type 4.14 General Permit for a Sewage Vault. Both will involve submittal of forms, reports and plans for approval that must be prepared, signed and sealed by a professional engineer (PE) registered in the state of Arizona. All submittals for the CA are made to and approved by the ADEQ headquarters office in Phoenix. Once the CA is obtained, all submittals for the DA are then made to and approved by our ADEQ regional office here in Tucson.

About midway down the page is a further link to information about Fees. It appears that for a Type 4.14 General Permit the base fee is \$1200, but may be more depending upon other specifics.

Again, please contact me should you have any questions at any point in the process. Thank you for your attention to this matter.

Larry Bogdanski



COCHISE COUNTY
COMMUNITY DEVELOPMENT

"Public Programs... Personal Service"

COCHISE COUNTY

APR 01 2013

PLANNING

COCHISE COUNTY PLANNING DEPARTMENT
COMMERCIAL USE/BUILDING PERMIT/SPECIAL USE PERMIT QUESTIONNAIRE
(TO BE PRINTED IN INK OR TYPED)

TAX PARCEL NUMBER 124-41-005H

APPLICANT Tom AND ASHLEY VAN WART

ADDRESS 144 SUN DUST TRAIL ST. DAVI D AZ 85630

CONTACT TELEPHONE NUMBER 520-686-1277 (T) 520 405 4060 (A)

EMAIL ADDRESS: AI POPT & PETS @ GMAIL . COM

PROPERTY OWNER (IF OTHER THAN APPLICANT) _____

ADDRESS _____

DATE SUBMITTED 3/26/13

Special Use Permit Public Hearing Fee (if applicable)	\$ _____
Building/Use Permit Fee	\$ _____
Total paid	\$ <u>300.00</u>

PART ONE - REQUIRED SUBMITTALS

1. Cochise County Joint Application (attached).
2. Questionnaire with all questions completely answered (attached).
3. A minimum of (6) copies of a site plan drawn to scale and completed with all the information requested on the attached Sample Site Plan and list of Non-residential Site Plan Requirements. (Please note that **nine (9) copies will be required for projects occurring inside the Uniform Building Code enforcement area. In addition, if the site plan is larger than 11 by 17 inches, please provide one reduced copy.**)
4. Proof of ownership/agent. If the applicant is not the property owner, provide a notarized letter from the property owner stating authorization of the Commercial Building/Use/Special Use Application.
5. Proof of Valid Commercial Contractor's License. (Note: any building used by the public and/or employees must be built by a Commercial Contractor licensed in the State of Arizona.)

6. Hazardous or Polluting Materials Questionnaire, if applicable.

OTHER ATTACHMENTS THAT MAY BE REQUIRED DEPENDING ON THE SCOPE OF THE PROJECT

1. Construction Plans (possibly stamped by a licensed Engineer or Architect)
2. Off-site Improvement Plans
3. Soils Engineering Report
4. Landscape Plan
5. Hydrology/Hydraulic Report
6. Traffic Impact Analysis (TIA): Where existing demonstrable traffic problems have already been identified such as high number of accidents, substandard road design or surface, or the road is near or over capacity, the applicant may be required to submit additional information on a TIA.
7. Material Safety Data Sheets
8. Extremely Hazardous Materials Tier Two Reports
9. Detailed Inventory of Hazardous or Polluting Materials along with a Contingency Plan for spills or releases

The Commercial Permit Coordinator/Planner will advise you as soon as possible if and when any of the above attachments are required.

PART TWO - QUESTIONNAIRE

In the following sections, thoroughly describe the proposed use that you are requesting. Attach separate pages if the lines provided are not adequate for your response. Answer each question as completely as possible to avoid confusion once the permit is issued.

SECTION A - General Description (Use separate sheets as needed)

1. What is the existing use of the property? We use it as our home
as well as storing our porta pots on the property
2. What is the proposed use or improvement? To continue to keep our
units on the property
3. Describe all activities that will occur as part of the proposed use. In your estimation, what impacts do you think these activities will have on neighboring properties? No customers enter property
therefore the only impact would be visually seeing anywhere
from 5 to 25 toilets on the back of our property
4. Describe all intermediate and final products/services that will be produced/offered/sold.
N/A... Our business consists of us going to the
customer.

5. What materials will be used to construct the building(s)? (Note, if an existing building(s), please list the construction type(s), i.e., factory built building, wood, block, metal)

N/A

6. Will the project be constructed/completed within one year or phased? One Year _____
Phased ___ if phased, describe the phases and depict on the site plan.

N/A

7. Provide the following information (when applicable):

A. Days and hours of operation: Days: 5 Hours (from 7 AM to 3 PM)

B. Number of employees: Initially: 2 Future: 3?
Number per shift Seasonal changes one shift

C. Total average daily traffic generated:

(1) How many vehicles will be entering and leaving the site.

2 entering 2 leaving

(2) Total trucks (e.g., by type, number of wheels, or weight)

3

(3) Estimate which direction(s) and on which road(s) the traffic will travel from the site?

Down Sundust to Patton (L), the Sabir turn (R)

(4) If more than one direction, estimate the percentage that travel in each direction

Monday through Friday leave at 7^{am} come back approx 4 pm

(5) At what time of day, day of week and season (if applicable) is traffic the heaviest

Circle whether you will be on public water system or private well. If private well, show the location on the site plan.

D. Estimated total gallons of water used: per day 7000 gallons per year _____

Will you use a septic system? Yes ___ No X If yes, is the septic tank system existing?

Yes ___ No ___ Show the septic tank, leach field and 100% expansion area on the site plan.

G. Does your parcel have permanent legal access*? Yes No if no, what steps are you taking to obtain such access?

*Section 1807.02A of the Cochise County Zoning Regulations stipulates that no building permit for a non-residential use shall be issued unless a site has permanent and direct access to a publicly maintained street or street where a private maintenance agreement is in place. Said access shall be not less than twenty (20) feet wide throughout its entire length and shall adjoin the site for a minimum distance of twenty (20) feet. If access is from a private road or easement provide documentation of your right to use this road or easement and a private maintenance agreement.

H. For Special Uses only - provide deed restrictions that apply to this parcel if any.

Attached _____ NA

8. Identify how the following services will be provided:

Service	Utility Company/Service Provider	Provisions to be made
Water	Well	
Sewer/Septic	Septic	
Electricity	Sulphur Springs	
Natural Gas	N/A	
Telephone	N/A	
Fire Protection	# 5T David Fire	

SECTION B - Outdoors Activities/Off-site Impacts

1. Describe any activities that will occur outdoors.

loading and off loading restrooms. Trucks leaving in the morning + coming back + parking in the evening

2. Will outdoor storage of equipment, materials or products be needed? Yes No if yes, show the location on the site plan. Describe any measures to be taken to screen this storage from neighboring properties.

The toilets and three pump trucks parked.

3. Will any noise be produced that can be heard on neighboring properties? Yes No if yes; describe the level and duration of this noise. What measures are you proposing to prevent this noise from being heard on neighboring properties?

4. Will any vibrations be produced that can be felt on neighboring properties? Yes ___ No If yes; describe the level and duration of vibrations. What measures will be taken to prevent vibrations from impacting neighboring properties? _____

5. Will odors be created? Yes ___ No If yes, what measures will be taken to prevent these odors from escaping onto neighboring properties? _____

6. Will any activities attract pests, such as flies? Yes ___ No If yes, what measures will be taken to prevent a nuisance on neighboring properties? _____

7. Will outdoor lighting be used? Yes ___ No If yes, show the location(s) on the site plan. Indicate how neighboring properties and roadways will be shielded from light spillover. Please provide manufacturer's specifications.

8. Do signs presently exist on the property? Yes ___ No If yes, please indicate type (wall, freestanding, etc.) and square footage for each sign and show location on the site plan.

A. _____ B. _____ C. _____ D. _____

9. Will any new signs be erected on site? Yes ___ No If yes, show the location(s) on the site plan. Also, draw a sketch of the sign to scale, show the copy that will go on the sign and **FILL OUT A SIGN PERMIT APPLICATION** (attached).

10. Show on-site drainage flow on the site plan. Will drainage patterns on site be changed?
Yes ___ No

If yes, will storm water be directed into the public right-of-way? Yes ___ No ___

Will washes be improved with culverts, bank protection, crossings or other means?
Yes ___ No

If yes to any of these questions, describe and/or show on the site plan.

11. What surface will be used for driveways, parking and loading areas? (i.e., none, crushed aggregate, chipseal, asphalt, other)

Crush aggregate

12. Show dimensions of parking and loading areas, width of driveway and exact location of these areas on the site plan. (See site plan requirements checklist.)

13. Will you be performing any off-site construction (e.g., access aprons, driveways, and culverts)?
Yes ___ No If yes, show details on the site plan. **Note: The County may require off-site improvements reasonably related to the impacts of the use such as road or drainage improvements.**

SECTION C - Water Conservation and Land Clearing

1. If the developed portion of the site is one acre or larger, specific measures to conserve water on-site must be addressed. Specifically, design features that will be incorporated into the development to reduce water use, provide for detention and conserve and enhance natural recharge areas must be described. The Planning Department has prepared a *Water Wise Development Guide* to assist applicants. This guide is available upon request. If the site one acre or larger, what specific water conservation measures are proposed? Describe here or show on the site plan submitted with this application.

2. How many acres will be cleared? NONE
If more than one acre is to be cleared describe the proposed dust and erosion control measures to be used (Show on site plan if appropriate.) _____

SECTION D - Hazardous or Polluting Materials

Some businesses involve materials that can contaminate the soil, air, water, waste disposal system or environment in general. Precautions must be taken to protect the environment when such products are distributed to or from the site, stored, manufactured, processed, disposed of, or released as raw materials, products, wastes, emissions, or discharges (When sold or incorporated in a product these materials are required to have Material Safety Data Sheets (MSDS) supplied by the manufacturer.) Examples of such products include but are not limited to paint, solvents, chemicals and chemical wastes, oil, pesticides, herbicides, fertilizers, radioactive materials, biological wastes etc.

Does the proposed use have any activities involving such materials?

Yes ___ No If yes, complete the attached *Hazardous or Polluting Materials Use Questionnaire*.

Note: Depending on quantities, this question does not apply to ordinary household or office products or wastes such as cleansers, waxes or office supplies. Answer YES only if the materials are involved in the commercial or special use process or if landscaping or maintenance chemicals (pesticides, fertilizers, paints, etc.) will be present in quantities greater than 50 pounds (solids) or 25 gallons (liquids).

If you answer NO to this question but in the County's experience, the type of business proposed typically uses such materials, you will be asked to complete the *Hazardous or Polluting Materials Questionnaire* prior to processing this Commercial Use/ Building/ Special Use Permit.

Applications that involve hazardous or polluting materials may take a longer than normal processing time due to the need for additional research. The Arizona Department of Environmental Quality Compliance Assistance Program can address questions about Hazardous Materials (1-800-234-5677, ext. 4333).

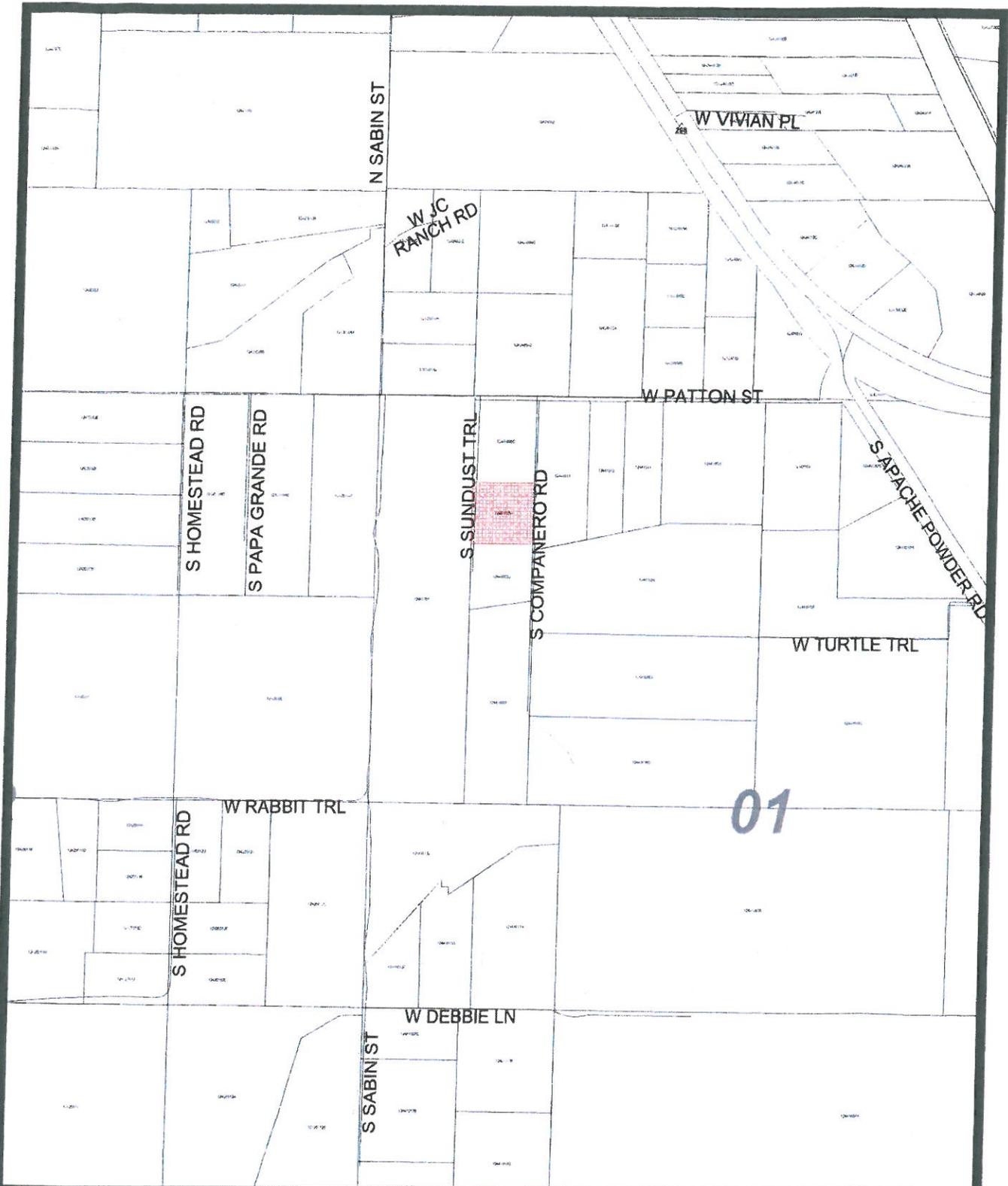
SECTION E - Applicant's Statement

I hereby certify that I am the owner or duly authorized owner's agent and all information in this questionnaire, in the Joint Permit Application and on the site plan is accurate. I understand that if any information is false, it may be grounds for revocation of the Commercial Use/ Building/ Special Use Permit.

Applicant's Signature Ashley Van Wapt

Print Applicant's Name ASHLEY VAN WAPT

Date signed 3/28/13

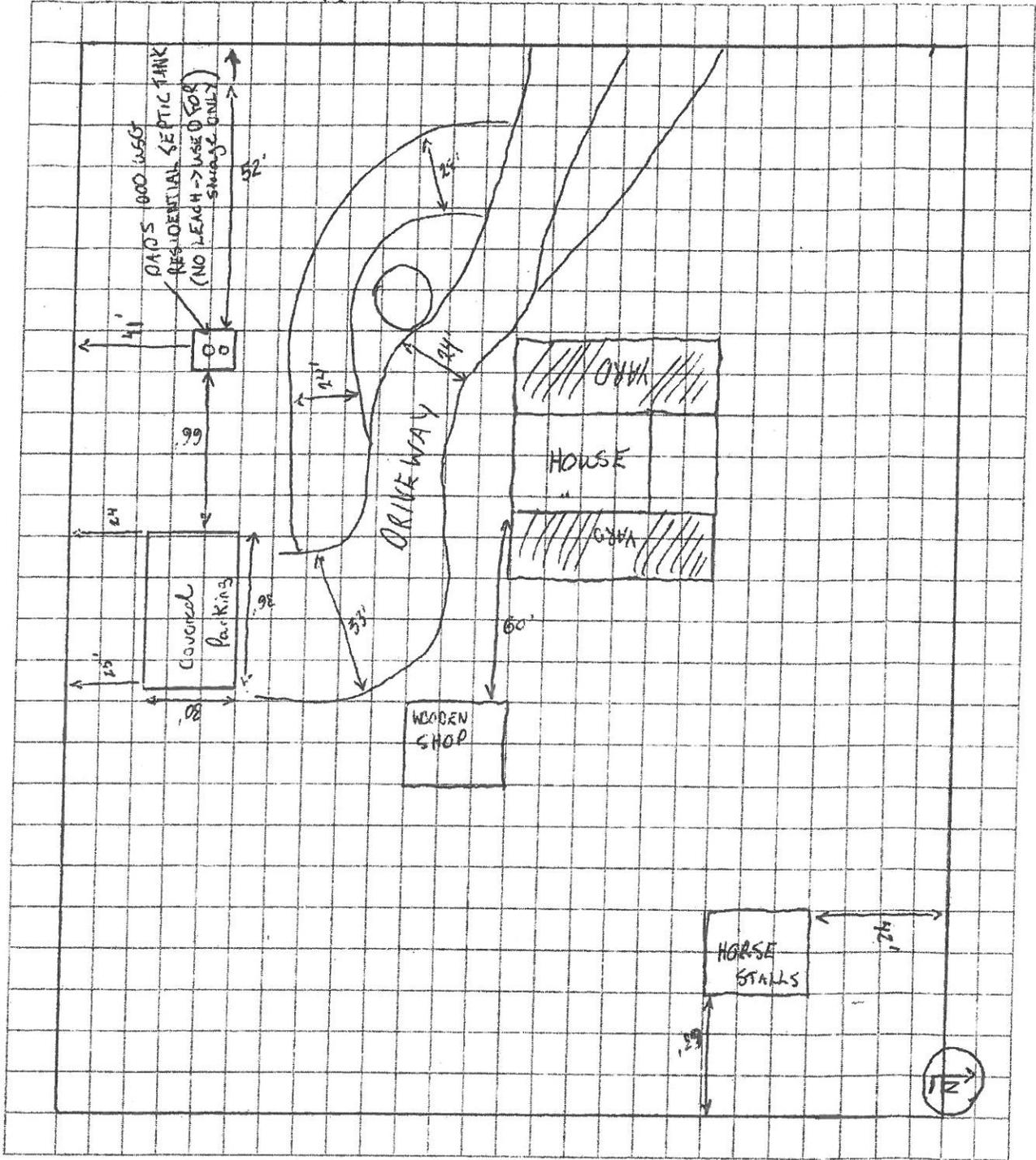


Docket SU-13-07
 (Van Wart)
 Location Map

This map is a product of the Cochise County GIS




14 SKETCHES/PLANS/MAPS (Optional)





COCHISE COUNTY COMMUNITY DEVELOPMENT

"Public Programs...Personal Service"

MEMORANDUM

Date: April 8, 2013
To: Keith Dennis, Senior Planner
From: Karen L. Lamberton, AICP, County Transportation Planner
Subject: Van Wort Portable Restroom Facilities: SU 13-07/Parcel #124-41-005H

The applicant is applying for a Special Use Authorization to continue a business of leasing portable restroom facilities (applicant states that 5 to 25 units may be stored on site) in the St. David area. Five trucks, including one large tanker type truck, were on-site during a drive-by site visit on April 7, 2013. The applicant intends to bring units to customers with no more than 3 employees planned for the future operation of this business. Access is taken from Patton Rd., a rural minor access, 24 foot cross-section, county-maintained chip-sealed roadway to S. Sundust Trail, a private roadway. S. Sundust Trail is currently a native-surfaced roadway with approximately a 20 foot cross-section, scattered gravel along portions of the roadway, gated at the right-of-way line and then flaring out to a disturbed area of +/- 50 feet at the connection with Patton Rd.

Traffic Analysis

There is no exact equivalent for this proposed land use in the ITE Manual, 8th edition. The closest match is Land Use 110/General Light Industrial estimating a range between 6.97 and 20.84 for the number of employees, area of parcel under non-residential use and total acres of the parcel. Most days this site, combined with the residential use already in place, would likely generate near the high end of a typical residential unit (about 21 trips per day) with the primary impact on the transportation system being the type of traffic not the volume of traffic. There would be heavier and larger trucks using this primitive roadway and the turning radii needed at the intersection with Patton Rd. would need to reflect the wider turning movements of these larger vehicles.

Legal Access to Site

Commercial businesses are subjected to additional requirements for access than are residential uses. Zoning Regulation 1807.02A states that legal access must be in place from the place of business to the nearest County-maintained roadway or a roadway with a Private Maintenance Agreement in place. A Private Maintenance Agreement would be required at the Commercial Permit phase for S. Sundust Trail (requires the applicant to keep the roadway in passable condition from their driveway to Patton Rd).

It *appears* that parcel owners taking access from S. Sundust Trail believe that a 30 foot ingress/egress & Utility easement exists along the east property line (Sundust Trail) as noted in a Record of Survey dated July 6, 2004 and Revised July 2, 2007. It is clear from County records that a 30 foot ingress/egress easement exists along S. Companero Rd. on the west property boundary and the expectation would

have been that this would have been the preferred access roadway for the subject parcel. On June 22, 2005 a request was made of the 911 addressing to address S. Sundust Trail and around this time parcel owners began to make frequent use of this new alignment. However, the roadway and connection to the county-maintained Patton Rd. were never legitimized, as far as the Highway Dept. records show (a common situation with unsubdivided residential parcel splits in the County). The easement itself does not appear to have been formally recorded by the property owners but does appear in real estate actions taken by parcel owners along this private roadway.

This memo is not intended to provide a title search or a finding on the validity of the S. Sundust Trail Record of Survey or easement. Parcel owners reliant on this easement (124-41-005G, H, J and F) may wish to follow up with the County assessor's office to formally record the easement currently under active use and/or consult with a Title Company or Real Estate attorney regarding this private road and survey of the S. Sundust Trail easement.

Commercial Apron Standards

The Highway Dept. Roadway Design and Construction Standards, adopted May 2003 and last Revised in October 2005, require commercial aprons to be in place for commercial uses taking access onto the County maintained surfaces. These standards and Paved Turnout Details are attached for the applicants review prior to pursuing a Commercial Permit for this proposed use.

The applicant, during the process of legitimizing this connection to the county-maintained roadway system, could request that the Highway Dept. County Engineer consider a commercial apron that meets the width (approximately 20 feet) of the existing private roadway, which matches the width of the County's typical cross-section for rural major and minor access low volume roads. Radii for this use may be modified to match with an alternate width, per MAG Detail 205, sufficient to protect the edge of pavement but yet large enough to accommodate the larger turning radii of the tanker and trucks associated with this proposed use. The final details of commercial aprons are typically completed in consultation with the Highway Dept. during the ROW/Encroachment Permit. It is the applicant responsibility to review the commercial standards and propose an appropriate design for the commercial apron at S. Sundust Trail.

It should also be noted that Cochise County is "open range" and a cattleguard may also be required to be put into place to prevent livestock or wildlife access to the county maintained roadway. Section C.3.K. may apply to this private roadway access. The subject parcel does have livestock on the site.

Recommendation and Proposed Conditions

We are no opposed to the general concept of this proposed use with the following advisory notes for the applicant regarding Highway Dept. conditions that would be required of them at the Commercial Permitting stage:

- The site plan is adequate to illustrate the concept for this Special Use authorization request. It will not be adequate at the Commercial Permit phase. The applicant is advised that a revised site plan that clearly shows dimensions as well as sight triangles (Roadway Design Standards D-300 & Zoning Regulation 1807.06) will be needed at the Commercial Permit stage. Property lines, right-of-way lines, set-backs, existing features should all be clearly identified and dimensions indicated.
- A ROW/Encroachment Permit for a commercial driveway onto the county-maintained Patton Rd. will be required concurrent with the Commercial Permit phase.

- A commercial apron, per Roadway Design & Construction Standards Section C.2.D. will be required at the Commercial Permit stage.
- A Private Maintenance Agreement for that portion of Sundust Trail from the applicant's driveway to Patton Rd. will be required at the Commercial Permit stage.

Given the low projected traffic volume of this proposed use no other off-site mitigation would be required. Should this use expand beyond that which was proposed there may be additional requirements regarding off-site improvements to S. Sundust Trail and Patton Rd.

cc: Docket SU-13-07, County Engineer, Highway Dept.

Commercial/Industrial Road/Driveway Minimum Standard Requirements

Excerpted from County H&F Department Road Design & Construction Standards & Specifications for Public Improvements (CCSS) October 11, 2005

CCSS Figure D-111 dictates the following:

- 2" minimum asphaltic concrete surface treatment over 6" minimum aggregate base course over 6" minimum compacted native material.
- Actual depth of aggregate base course to be determined by soils test of existing subgrade.
- Vertical curb and gutter Type A per MAG standard detail 220, plus sidewalk per MAG standard detail 230, where required.

Excerpts from the design standards:

- Where there is possible access to more than one road, a commercial property may take access off the higher volume road if adequate geometric improvements are constructed to the higher volume road. Geometric improvements may consist of left and right turn lanes and/or deceleration/acceleration lanes.
- Commercial driveway widths:
 - 16' minimum, but may need to be wider to accommodate truck traffic
 - 24' minimum for two-way traffic
 - 40' maximum
- Minimum return radius of 35'
- Provide adequate sight distance. Sight triangles provide areas at the corners of intersections of roads and driveways where views of approaching traffic are not obstructed. Sight distance easements shall be identified and shown at all road intersections and noted on commercial site plans, see Detail D-300. These easements will remain free of all obstructions that will obstruct vision between a height of 2.5 feet and 10 feet to include but not be limited to structures, trees, shrubbery, and signs, except utility poles, fire hydrants, and traffic control signs. Intersection sight triangles are applied to approaching vehicles and departing vehicles. Obstructions in both the horizontal plane and the vertical plane must be reviewed when designing the intersections. The sight distance triangle shall also be shown on the construction plans.
- Meet or exceed the surface type of the adjacent County maintained road to which it provides access.
- Construction shall not alter the natural drainage. Provide information regarding proposed culvert placement if required. Minimum 24" diameter corrugated metal pipe (CMP) for roadway crossings and 18" for driveways. All culverts shall have flared end sections. Driveways on minor collectors and above roads shall have the finished grade lower than the edge of pavement of the adjacent travel lane. This is to prevent any overflow drainage impacting the thru travel lane.
- Meet minimum distance from intersecting roads and medians and adjacent parcels. Measure along the right-of-way line; measure from the nearest pavement edge of any entrance or exit driveway to the right-of-way line of the nearest intersecting road or adjacent parcel. (ADOT C-06.10)
 - 150' for driveways that provide access along arterial and major collectors
 - 100' for driveways near median openings, or center driveway with the center of the median opening
 - 50' for driveways that access onto local streets
 - 7.5' minimum offset from property line in urban developments; 35' in rural setting

Refer to the complete standards and specifications document for further information.

Referenced standard illustrations include the following:

CCSS Figure D-111, Typical X-Section Commercial/Industrial Road

CCSS Figure D-134, Driveway & Landscaping within Drainage Ditch

CCSS Figure D-300, Sight Distance Triangle

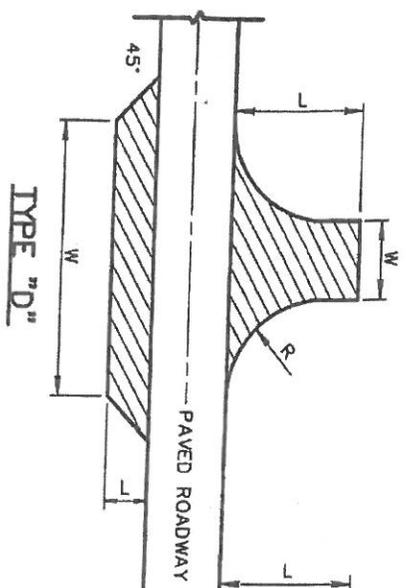
MAG Detail 205 – Paved Turnouts; MAG Detail 220 – Curb and Gutter

MAG Detail 250 – Concrete Driveway Entrances – 6" Class B 2500 psi

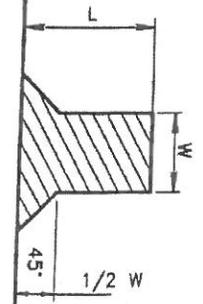
ADOT Drawing C-06.10 – Driveway & Turnout Layouts

ADOT Drawing C-13.25 Pipe, Corrugated Metal End Section

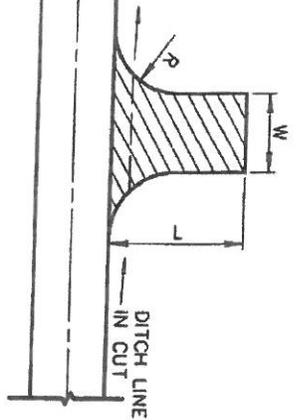
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TYPE "B"



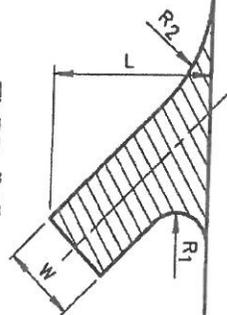
TYPE "C"



TYPE "D"



TYPE "S"

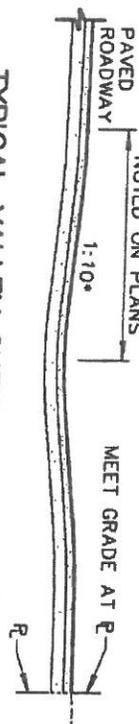


NOTES:

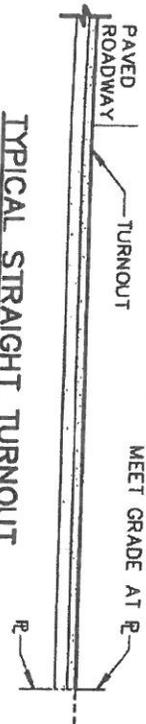
1. W - INDICATES WIDTH OF PAVED SURFACE OF TURNOUT.
L - INDICATES LENGTH OF PAVED SURFACE OF TURNOUT.
R - RADIUS.
2. SIZE AND TYPE OF TURNOUT SHALL BE NOTED ON PLANS AS FOLLOWS:
90° - NO RADIUS: WxL-SURFACE-TYPE: (12' x 30'-A.C.-TYPE "B" TURNOUT),
90° - WITH A RADIUS: WxLxR-SURFACE-TYPE: (12' x 20' x 15'-A.C.-TYPE "C",
TURNOUT), OTHER THAN 90° WITH 2 RADII-TYPE "S": WxLxR1 x R2-SURFACE-TYPE:
(12' x 20' x 15'-A.C.-TYPE "S" TURNOUT),
OR IT MAY BE NOTED ON PLANS IN CONVENTIONAL TERMS.
3. TURNOUTS TO BE STRAIGHT TYPE UNLESS OTHERWISE NOTED ON PLANS.
4. A.C. AND BASE MATERIAL THICKNESS FOR TURNOUTS SHALL BE THE SAME AS SHOWN ON THE ROADWAY SECTION, UNLESS OTHERWISE NOTED.
5. ANY EXCAVATION OR EMBANKMENT FOR TURNOUTS IS INCLUDED IN THE ROADWAY QUANTITIES.
6. TURNOUTS ARE TO BE PLACED WHERE SHOWN ON PLANS, OR AS DIRECTED BY THE ENGINEER.

10' UNLESS OTHERWISE NOTED ON PLANS

TYPICAL VALLEY GUTTER TURNOUT



TYPICAL STRAIGHT TURNOUT



* UNLESS OTHERWISE NOTED ON PLANS

DETAIL NO.

205



MUNICIPALITY OF GOVERNMENT OF MARICOPA

STANDARD DETAIL ENGLISH

REVISION

DETAIL NO.

205

Dennis, Keith

From: Holden, Jack
Sent: Wednesday, April 24, 2013 8:31 AM
To: Dennis, Keith
Subject: RE: pump comments

Keith, we do have the delegated jurisdiction for septic systems from ADEQ. Although this is not a true septic system but rather a storage tank it uses the same materials used in septic systems. The applicant should use an approved type of septic tank. If the tank is in an area where there is vehicular traffic then it needs to be rated and installed for traffic use. A concrete type tank would need a heavy duty traffic lid. I also would want the same watertightness test report we receive for septic system tanks. The dump area must be installed to prevent any spillage from contaminating the soil around the dump and the piping should have a means to close off the opening to prevent, or at least limit, odors. jack

Jack Holden CBO
Cochise County Building Official
1415 Melody Lane Building E
Bisbee, AZ 85603
520-432-9268

From: Dennis, Keith
Sent: Tuesday, April 23, 2013 3:23 PM
To: Holden, Jack
Subject: pump comments

Jack, can you give me some comments about SU-13-07 based on our conversation today? Also, if you have a good contact for ADEQ, please let me know, so I can talk with them and update our records.

Thanks.

Keith Dennis - Planner II
Cochise County Planning Department
1415 Melody Lane
Bisbee, AZ 85603
520-432-9240

"Public Programs - Personal Service"
www.CochiseCounty.com

Dennis, Keith

From: Larry A. Bogdanski [Bogdanski.Larry@azdeq.gov]
Sent: Friday, April 26, 2013 1:33 PM
To: Dennis, Keith
Cc: David A. Burchard; Raymond D. Morgan; Turisk, Mike
Subject: RE: A-1 Portapots Business - ADEQ Comments

Yes, they'll need to obtain a Construction Authorization (CA) and Discharge Authorization (DA) for the tank. This will involve submittal of various forms and construction/as-built drawings prepared by a professional engineer certified in the state of Arizona. The link below to ADEQ's website provides further links to everything that would be needed.

<http://www.azdeq.gov/environ/water/engineering/oss.html>

From: Dennis, Keith [mailto:KDennis@cochise.az.gov]
Sent: Friday, April 26, 2013 11:02 AM
To: Larry A. Bogdanski
Cc: David A. Burchard; Raymond D. Morgan; Turisk, Mike
Subject: A-1 Portapots Business - ADEQ Comments

The Applicant is working through a Special Use process for this business, and per your comments we would recommend obtaining this "vault and haul" permit a condition of approval if the Commission approves it.

Can you tell me more about what this involves? I may have to speak with the Applicant about it myself.

My thanks to you and your team for turning this around for us.

From: Larry A. Bogdanski [mailto:Bogdanski.Larry@azdeq.gov]
Sent: Friday, April 26, 2013 10:57 AM
To: Dennis, Keith
Cc: David A. Burchard; Raymond D. Morgan
Subject: FW: Re:

Keith,
David Burchard responded to us in case there was any further need for discussion before a reply went back to you. Please see the message below. We agree with and defer to David's interpretation. The septage hauler will need to get a vault and haul permit from ADEQ.

Has the hauler submitted some county-required paperwork to you which alerted you to this situation, and to which you could possibly respond and advise the hauler of the need to obtain a permit? Otherwise, we'll need to notify them directly. Thanks.

Larry

From: David A. Burchard
Sent: Thursday, April 25, 2013 9:30 AM
To: Larry A. Bogdanski; Raymond Morgan
Cc: Jerry H. Smit
Subject: FW: Re:

Hi Larry/Ray"

In accordance with 49-104 (14) (see below) we are required to have rules in place to deal with sewage storage. Right or wrong the rule classifies a vault and haul as an on site waste water treatment facility. Per ARS 49-104 (13)(c) (see below) we are required to do a design review (per rule). As a result, I believe they would need to get a vault and haul permit per

AAC R18-9-E314. As 49-104 are power and duties of the department (that the department "shall" perform), I believe they would override and exemption listed 49-250.

Sincerely,
David

ARS 49-104

13. **Prescribe reasonable rules** regarding sewage collection, treatment, disposal and reclamation systems to prevent the transmission of sewage borne or insect borne diseases. The rules shall:

(a) Prescribe minimum standards for the design of sewage collection systems and treatment, disposal and reclamation systems and for operating the systems.

(b) Provide for inspecting the premises, systems and installations and for abating as a public nuisance any collection system, process, treatment plant, disposal system or reclamation system that does not comply with the minimum standards.

(c) **Require that design documents for** all sewage collection systems, sewage collection system extensions, treatment plants, processes, devices, equipment, disposal systems, **on-site wastewater treatment facilities** and reclamation systems be submitted with a fee for review to the department and may require that the design documents anticipate and provide for future sewage treatment needs.

(d) Require that construction, reconstruction, installation or initiation of any sewage collection system, sewage collection system extension, treatment plant, process, device, equipment, disposal system, on-site wastewater treatment facility or reclamation system conform with applicable requirements.

14. **Prescribe reasonably necessary rules regarding excreta storage**, handling, treatment, transportation and disposal. The rules shall:

(a) Prescribe minimum standards for human excreta storage, handling, treatment, transportation and disposal and shall provide for inspection of premises, processes and vehicles and for abating as public nuisances any premises, processes or vehicles that do not comply with the minimum standards.

From: Dennis, Keith [<mailto:KDennis@cochise.az.gov>]
Sent: Thursday, April 25, 2013 8:17 AM
To: Dennis, Keith; Larry A. Bogdanski; David A. Burchard
Cc: David A. Burchard; Raymond D. Morgan
Subject: RE: Re:

By the way, attached is a picture if that helps.

From: Dennis, Keith
Sent: Wednesday, April 24, 2013 2:03 PM
To: 'Larry A. Bogdanski'; 'db2@azdeq.gov'
Cc: David A. Burchard; Raymond D. Morgan
Subject: RE: Re:

Well, David? What do you say?

From: Larry A. Bogdanski [<mailto:Bogdanski.Larry@azdeq.gov>]
Sent: Wednesday, April 24, 2013 2:00 PM
To: Dennis, Keith
Cc: David A. Burchard; Raymond D. Morgan
Subject: FW: Re:

Keith,

To briefly reiterate, you've asked about the appropriate APP permitting procedure/enforcement action for an underground septage storage tank in St. David. The tank (which happens to be a 1000 gallon septic tank) was constructed without an APP permit and is located as shown on the attached map. It is being used by a septage hauler only to briefly (overnight) store residential septage gathered by its trucks from other locations. The following day, the septage is pumped back out of the tank into one of the trucks and then transported to a wastewater treatment facility in Sierra Vista or Tucson for final treatment.

I've discussed this here with Ray Morgan, the P.E. in our office with final approval authority for onsite systems constructed within our southern region. We believe that the tank you've described would be exempt under APP regulations, and that no further action is necessary.

By cc on this message I'm transmitting this information to David Burchard, Supervisor of ADEQ's Wastewater and Subdivision Review Unit in Phoenix. Ray has recommended that you also contact David directly by email db2@azdeq.gov or at (602) 771-4298 to obtain his concurrence with this interpretation.

I hope this helps. Please let me know if you have further questions.
Larry

From: Dennis, Keith [<mailto:KDennis@cochise.az.gov>]
Sent: Wednesday, April 24, 2013 8:17 AM
To: Larry A. Bogdanski
Subject: FW: Re:

From: Tom and Ashley Van Wart [<mailto:a1portapots@gmail.com>]
Sent: Tuesday, April 23, 2013 5:00 PM
To: Dennis, Keith
Subject: Re:

Keith

Please see attached. I don't know how well I put it together but the measurements should be right.

On Tue, Apr 23, 2013 at 3:59 PM, Dennis, Keith <KDennis@cochise.az.gov> wrote:

Keith Dennis - Planner II

Cochise County Planning Department

Dennis, Keith

From: Dennis, Keith
Sent: Thursday, May 02, 2013 11:00 AM
To: 'Tom and Ashley Van Wart'
Subject: RE: Hello Tom & Ashley! Special Use Permit

Thanks, Tom.

From: Tom and Ashley Van Wart [<mailto:a1portapots@gmail.com>]
Sent: Wednesday, May 01, 2013 9:11 AM
To: Dennis, Keith
Subject: Re: Hello Tom & Ashley! Special Use Permit

Hi Keith

As per our conversation regarding the required setbacks for building construction, I would like to request consideration regarding the location of my barn/parking structure. At this time, I have a covered parking structure or barn that is unfortunately only 25 feet from our property line and should be 40. Given the financial commitment involved in building this structure, I would like to appeal to the appropriate authorities to allow us to keep the structure in its current location.

Thank you

Tom Van Wart

March 20, 2013

Tom and Ashley Van Wart
P.O. Box 1758
Benson AZ 85602

Dear Near By Neighbors,

You are being invited and encouraged to submit any comments regarding the use of our property at 144 S. Sundust Trail.

For the past 6 years our family has been making a living by offering services to the local community. We pump out, repair and provide septic inspections for homes that are sold in the area. We also have portable restrooms that we rent out for events, parties, construction projects.

In order to operate our business we have been storing our two trucks along with any portable restrooms that aren't currently rented (this can range from 5 to 25 units).

On March 27th we will be meeting with the Cochise County to submit your comments as well as apply for a permit for using our property in the same capacity we have been the last two years. Your input is very important to us and we look forward to hearing from you.

Best Regards,

Tom and Ashley Van Wart

Alportapots@gmail.com | 520.405.4060 | P.O. Box 1758 Benson AZ 85602

Dennis, Keith

From: a1portapots@gmail.com
Sent: Wednesday, May 01, 2013 7:17 AM
To: Dennis, Keith
Subject: Fwd: Hello Tom & Ashley! Special Use Permit

Sent from my iPad

Begin forwarded message:

From: "Kathy & Bill Martinez" <kbm2@cox.net>
Date: March 27, 2013, 4:00:25 PM MST
To: <a1portapots@gmail.com>
Subject: Re: Hello Tom & Ashley! Special Use Permit

Thank you for your feedback and we will discuss this information and get back to you.
Kathy

----- Original Message -----

From: a1portapots@gmail.com
To: Kathy and Bill Martinez
Sent: Tuesday, March 26, 2013 8:44 PM
Subject: Re: Hello Tom & Ashley! Special Use Permit

Hello Joe, Kathy, and Bill

We appreciate your response although it is unclear to us what you mean by this zoning change not being compatible. We aren't planning to upgrade or revamp our property to allow customers access to the property. We simply house 20-30 (sometimes less) clean, empty portable restrooms.

To clarify the process:

1. The portable restrooms are first pumped out completely.
2. They are then sprayed out with a mixture of fresh water and Clorox
3. Finally, the units are pumped out again to remove any sort of residual waste water leaving them dry, empty, and clean.
4. We then load the unit on our truck and bring it to the house and situate it next to the barn.

I make sure that the units are arranged neatly however; they can create an eye sore which I would gladly conceal with a wall or fence.

The issue with our letter may be that it is misleading. We aren't requesting a special permit to do anything other than to store a very modest number of portable restrooms. We are doing this because someone contacted planning and zoning to inquire about starting a portable restroom business and gave our address. They did this to avoid filing a formal complaint whereby they would have to disclose a name that we could by law, retrieve.

I guess the point is, we just want to earn a living offering a service (septic pumping, repair, replace) that is essential in a rural area with no municipal sewer service. I feel bad if we have disgruntled anyone or lowered the quality of living of our neighbors because we sure didn't mean to. We will do whatever is needed to make this work for everyone.

At the end of the day if we have to move the units somewhere else we will but I think it is important that we clarify:

1. The details of what is actually going on relative to what is being stored on our property and,
2. Our willingness to work with our neighbors to create a clean, presentable display that everyone can live with.

We do appreciate all the input.

Tom Van Wart

Sent from my iPad

On Mar 26, 2013, at 9:38 PM, "Kathy and Bill Martinez" <kbm2@cox.net> wrote:

Thank you for your letter informing us of your negotiations with Cochise County Planning & Zoning concerning the property at 144 S. Sundust Trail, St.David, Az 85630.

We, Joe White and Bill & Kathy Martinez, own 40 acres west of you, bordering S. Sundust Trail. We also own 24 acres bordering S Campanero Rd. to the east of your property.

At present, we do not feel this special use permit & zoning change would be compatible with the St. David Area Plan.

Please don't hesitate to contact us by email, if you have additional information regarding this concern.

Sincerely Your Neighbors,

Joe, Kathy & Bill

Dennis, Keith

From: a1portapots@gmail.com
Sent: Wednesday, May 01, 2013 7:16 AM
To: Dennis, Keith
Subject: Fwd: Special Use Permit

Sent from my iPad

Begin forwarded message:

From: Marion Hayes <jhayes8718@earthlink.net>
Date: March 29, 2013, 5:09:15 PM MST
To: a1portapots@gmail.com
Subject: Fw: Special Use Permit
Reply-To: Marion Hayes <jhayes8718@earthlink.net>

Ashley:

Below is the email I sent to you on Wednesday March 27th.

Thanks,
Marion Hayes

-----Forwarded Message-----

From: Marion Hayes <jhayes8718@earthlink.net>
Sent: Mar 27, 2013 6:22 AM
To: A1portapots@gmail.com
Subject: Special Use Permit

Ashley and Tom Van Wart:

As we discussed last Sunday regarding the use of your property to store portable restrooms.

As the owners of the property at 1891 W. Patton Street, we have no issue with the storing of these items on your property.

Your current process for disposing of waste and sanitization of the portalets off site for the most part appears to be adequate in maintaining a clean environment.

Sincerely,

Dennis, Keith

From: a1portapots@gmail.com
Sent: Wednesday, May 01, 2013 7:17 AM
To: Dennis, Keith
Subject: Fwd: Comments on your planned application for a Special Use Permit to operate your A-1 Porta-A-Pot and Septic business

Sent from my iPad

Begin forwarded message:

From: Stuart D Kershner <stuardkershner@alumni.utexas.net>
Date: March 27, 2013, 4:57:35 PM MST
To: a1portapots@gmail.com
Cc: pgardner@cochise.az.gov, mturisk@cochise.az.gov
Subject: Comments on your planned application for a Special Use Permit to operate your A-1 Porta-A-Pot and Septic business

Dear Mr and Mrs Van Wart:

1. Thank you for your letter dated March 20, 2013, advising your neighbors of your intent to seek a Special Use Permit from the Cochise County Planning Department for conducting your **A-1 Porta-A-Pot and Septic** business from your RU-4 zoned, rural residential property at 144 S. Sundust Trail.
2. After reviewing the current zoning regulations and the Saint David Plan and map, discussing your business on the telephone with Mr Van Wart, and then separately with Mr. Peter Gardner of the Cochise County Planning Department, and discussing your letter with a few of our neighbors, we make the following observations:
 - a. Some neighbors and ourselves are concerned about:
 - 1) the potential negative visual effects of being able to observe from neighboring roads or property parcels port-a pots stored on your property. An example of this is an instance where a prospective buyer is considering the purchase of a nearby property and is negatively influenced by the view of the stored port-a-pots, and therefore reduces the price he is willing to offer for property he has been considering to purchase.
 - 2) the potential of unsanitary conditions created by the unintended or inadvertent spillage of effluent or effluent contaminated wash or rinse water from port-a-pots, septic system service trucks, and/or other related equipment.
 - b. We believe that these concerns could be substantially mitigated by:
 - 1) storing all of your on-site port-a-pots within a not-to-exceed, 5000 square foot storage area which is enclosed on its perimeter by a permanent opaque fence, with opaque gates, high enough to prevent observation of your stored port-a-pots from any location along the boundary of your property.

2) performing all on-site cleaning, washing, and/or rinsing of any apparatus, some of whose surfaces have contacted effluent, on a concrete wash pad which has a integral collecting central drain that drains into a approved septic system.

3. Should the Planning Department recommend approval of your anticipated Special Use Permit application to the Planning and Zoning Commissioners, we expect that they would include in their recommendations, requirements to mitigate the aforementioned concerns of some of your neighbors.

4. By copy of this message to Messrs Gardner and Turisk of the Planning Department, we are requesting from the Planning Department, via email attachment, a .pdf formatted copy of their report and recommendation as soon as it becomes publicly available.
Thanks in advance.

Best regards,

Stuart D Kershner and Cheryl L Johnston
1776 West Patton Street
Saint David, AZ 85630
520-720-9543
stuartdkershner@alumni.utexas.net

C



COCHISE COUNTY COMMUNITY DEVELOPMENT

"Public Programs...Personal Service"

April 15, 2013

Re: Docket SU-13-07 (Van Wart)

Dear Property Owner:

COCHISE COUNTY

MAY 01 2013

PLANNING

The Cochise County Planning and Zoning Commission hereby gives notice a public hearing will be held at or after 4:00 p.m., on Wednesday, May 15, 2013, at the Cochise County Board of Supervisors Hearing Room, at 1415 Melody Lane, Building G, in Bisbee, Arizona, to consider the following:

Docket SU-13-07 (Van Wart): The Applicants request Special Use authorization for an equipment rental land use in a Rural District, per Section 607.22 (Retail sales, rentals, or accessory storage of materials, merchandise, supplies and equipment) of the Zoning Regulations. The Applicants seek to legitimize an existing portable restroom and septic service business on their property. Up to 25 units are stored on site and delivered to customers for use. The Applicants also store up to three pump trucks on the property.

The subject parcel (124-41-005H) is located at 144 S. Sundust Trail in St. David, AZ. The Applicants are Tom and Ashley Van Wart of the same address.

If the Commission approves the Docket, the Applicant must then obtain a commercial permit to establish the land use on the property. The commercial permit application will be subject to review by County Departments such as Building Safety, Zoning, Environmental Health, Highway and Floodplain, as well as outside agencies such as ADOT, the local fire district, the State Fire Marshall, and other interested agencies.

Any person aggrieved by a decision of the Planning Commission concerning a Special Use request may appeal within fifteen (15) days following the date of the decision. The appeal would be heard by the Cochise County Board of Supervisors and a subsequent public hearing at the same location. The appeal form may be obtained at the Planning and Zoning Department or from our website.

You are hereby advised of this public hearing as an owner of property within 1,500 feet of the site where the Special Use is requested. If you should have any written comments pertaining to this matter, you may submit ~~written comments on the attached form~~, by email, fax or mail by the due date noted, and they will be given to the Commission members. Whether or not you choose to provide written comments, you are encouraged to attend this public hearing to let your feelings be known concerning this docket. If you do not attend the public hearing but wish to know the Commission's action, please contact the Planning Department at the number referenced below.

If you have any questions regarding this matter, please do not hesitate to contact this department at (520) 432-9240. (Note occasionally, dockets are removed from the agenda just prior to a meeting. It is recommended that you contact the Planning Department to find out if this docket is still scheduled).

Sincerely,


Keith Dennis, Planner II

Email: kdennis@cochise.az.gov

Special Use: Docket SU-13-07 (Van Wart)

YES, I SUPPORT THIS REQUEST

Please state your reasons:

NO, I DO NOT SUPPORT THIS REQUEST:

Please state your reasons:

See Attachment "A"

(Attach additional sheets, if necessary)

PRINT NAME(S):

William Martinez Joseph X. White

SIGNATURE(S):

William Martinez *Joseph X. White*

YOUR TAX PARCEL NUMBER:

12441003

(the eight-digit identification number found on the tax statement from the Assessor's Office)

Your comments will be made available to the Planning Commission. Upon submission this form or any other correspondence becomes part of the public record and is available for review by the applicant or other members of the public. **Written comments must be received by our Department no later than 4 PM on Friday, May 3, 2013 if you wish the Commission to consider them before the meeting. We can not make exceptions to this deadline, however, if you miss the written comment deadline you may still make a statement at the public hearing listed above. NOTE: Please do not ask the Commissioners to accept written comments or petitions at the meeting, as they do not have sufficient time to read materials at that time. Your cooperation is greatly appreciated.**

RETURN TO: Keith Dennis, Planner II
Cochise County Planning Department
1415 Melody Lane, Building E
Bisbee, AZ 85603

61 C

May 1, 2013

To: Cochise County and Zoning Community Development

Re: Docket SU-13-07 (Van Wart)

From: Joe White, Bill & Kathy Martinez (property owners)

Attachment A:

No, we do not support this request!

We started buying property in our neighborhood in 1975. Since then we have acquired a total of four parcels, 110 acres. We have the most to lose, if this special use permit is granted.

We have submitted four forms, one for each piece of property, because in the past the Planning Department recognized us as being a single owner, instead of owning four parcels.

When the Van Warts emailed us a month ago, they claimed that they intended to store a few porta-pottys on their property and their business was run elsewhere. They are now saying that they want to "legitimize" their business on their property, which we take as running the whole operation out of there.

We are very disturbed by someone running honey wagon trucks and processing sewage (transferring effluent from one truck to another) next door to our piece of paradise and right in the middle of a neighborhood. When we invested in our property, this is not what we imagined living in nature, in a rural neighborhood, would be like. We are doubtful that porta- pottys and the like will help with ambiance or property values.

62 C

"B"

Kathy Martinez

From: <a1portapots@gmail.com>
 To: "Kathy and Bill Martinez" <kbm2@cox.net>
 Sent: Tuesday, March 26, 2013 8:44 PM
 Subject: Re: Hello Tom & Ashley! Special Use Permit
 Hello Joe, Kathy, and Bill

We appreciate your response although it is unclear to us what you mean by this zoning change not being compatible. We aren't planning to upgrade or revamp our property to allow customers access to the property. We simply house 20-30 (sometimes less) clean, empty portable restrooms.

To clarify the process:

1. The portable restrooms are first pumped out completely.
2. They are then sprayed out with a mixture of fresh water and Clorox
3. Finally, the units are pumped out again to remove any sort of residual waste water leaving them dry, empty, and clean.
4. We then load the unit on our truck and bring it to the house and situate it next to the barn.

I make sure that the units are arranged neatly however; they can create an eye sore which I would gladly conceal with a wall or fence.

The issue with our letter may be that it is misleading. We aren't requesting a special permit to do anything other than to store a very modest number of portable restrooms. We are doing this because someone contacted planning and zoning to inquire about starting a portable restroom business and gave our address. They did this to avoid filing a formal complaint whereby they would have to disclose a name that we could by law, retrieve.

I guess the point is, we just want to earn a living offering a service (septic pumping, repair, replace) that is essential in a rural area with no municipal sewer service. I feel bad if we have disgruntled anyone or lowered the quality of living of our neighbors because we sure didn't mean to. We will do whatever is needed to make this work for everyone.

At the end of the day if we have to move the units somewhere else we will but I think it is important that we clarify:

1. The details of what is actually going on relative to what is being stored on our property and,
2. Our willingness to work with our neighbors to create a clean, presentable display that everyone can live with.

We do appreciate all the input.

Tom Van Wart

Sent from my iPad

On Mar 26, 2013, at 9:38 PM, "Kathy and Bill Martinez" <kbm2@cox.net> wrote:

63

5/1/2013

C

Thank you for your letter informing us of your negotiations with Cochise County Planning & Zoning concerning the property at 144 S. Sundust Trail, St. David, Az 85630.

We, Joe White and Bill & Kathy Martinez, own 40 acres west of you, bordering S. Sundust Trail. We also own 24 acres bordering S Campanero Rd. to the east of your property.

At present, we do not feel this special use permit & zoning change would be compatible with the St. David Area Plan.

Please don't hesitate to contact us by email, if you have additional information regarding this concern.

Sincerely Your Neighbors,

Joe, Kathy & Bill

6-1
5/1/2013

Special Use: Docket SU-13-07 (Van Wart)

APR 13 2013

PLANNING

YES, I SUPPORT THIS REQUEST
Please state your reasons:

*I have no objections to a person trying to
make a living*

NO, I DO NOT SUPPORT THIS REQUEST:
Please state your reasons:

(Attach additional sheets, if necessary)

PRINT NAME(S): James R & Betty Goodman REVOCABLE TRUST

SIGNATURE(S): *Betty Goodman*

YOUR TAX PARCEL NUMBER: 124-25-00408 (the eight-digit identification number found on the tax statement from the Assessor's Office)

Your comments will be made available to the Planning Commission. Upon submission this form or any other correspondence becomes part of the public record and is available for review by the applicant or other members of the public. **Written comments must be received by our Department no later than 4 PM on Friday, May 3, 2013 if you wish the Commission to consider them before the meeting. We can not make exceptions to this deadline, however, if you miss the written comment deadline you may still make a statement at the public hearing listed above. NOTE: Please do not ask the Commissioners to accept written comments or petitions at the meeting, as they do not have sufficient time to read materials at that time. Your cooperation is greatly appreciated.**

RETURN TO: Keith Dennis, Planner II
Cochise County Planning Department
1415 Melody Lane, Building E
Bisbee, AZ 85603

650

Special Use: Docket SU-13-07 (Van Wart)

YES, I SUPPORT THIS REQUEST
Please state your reasons:

NO, I DO NOT SUPPORT THIS REQUEST:
Please state your reasons:

(Attach additional sheets, if necessary)

PRINT NAME(S): McEWEN, WANDA E.

SIGNATURE(S): Wanda E. McEwen
W

YOUR TAX PARCEL NUMBER: 124-41-0058-8 (the eight-digit identification number found on the tax statement from the Assessor's Office)

Your comments will be made available to the Planning Commission. Upon submission this form or any other correspondence becomes part of the public record and is available for review by the applicant or other members of the public. **Written comments must be received by our Department no later than 4 PM on Friday, May 3, 2013 if you wish the Commission to consider them before the meeting. We can not make exceptions to this deadline, however, if you miss the written comment deadline you may still make a statement at the public hearing listed above. NOTE: Please do not ask the Commissioners to accept written comments or petitions at the meeting, as they do not have sufficient time to read materials at that time. Your cooperation is greatly appreciated.**

RETURN TO: Keith Dennis, Planner II
Cochise County Planning Department
1415 Melody Lane, Building E
Bisbee, AZ 85603

COCHISE COUNTY

MAY 01 2013

PLANNING

66
C

Special Use: Docket SU-13-07 (Van Wart)

YES, I SUPPORT THIS REQUEST

Please state your reasons:

NO, I DO NOT SUPPORT THIS REQUEST:

Please state your reasons:

1. The property is zoned R-4 (residential).
2. The St. David plan is not zoned for business - The St. David plan was created by the residents, who did not want commercial ventures in the R-4 areas.
3. Other applicants requests for special use permits have been denied because of the R-4.
4. There will be increased truck traffic on the local roads.
5. The owners should have verified the zoning before starting a business on their property.

(Attach additional sheets, if necessary)

PRINT NAME(S): Susan and Peter Moran

SIGNATURE(S): *Susan & Peter Moran*

YOUR TAX PARCEL NUMBER: 12430009 (the eight-digit identification number found on the tax statement from the Assessor's Office)

Your comments will be made available to the Planning Commission. Upon submission this form or any other correspondence becomes part of the public record and is available for review by the applicant or other members of the public. **Written comments must be received by our Department no later than 4 PM on Friday, May 3, 2013 if you wish the Commission to consider them before the meeting. We can not make exceptions to this deadline, however, if you miss the written comment deadline you may still make a statement at the public hearing listed above. NOTE: Please do not ask the Commissioners to accept written comments or petitions at the meeting, as they do not have sufficient time to read materials at that time. Your cooperation is greatly appreciated.**

COCHISE COUNTY

RETURN TO: Keith Dennis, Planner II
Cochise County Planning Department
1415 Melody Lane, Building E
Bisbee, AZ 85603

APR 22 2013 67
PLANNING

Special Use: Docket SU-13-07 (Van Wart)

YES, I SUPPORT THIS REQUEST
Please state your reasons:

NO, I DO NOT SUPPORT THIS REQUEST:
Please state your reasons:

(Attach additional sheets, if necessary)

PRINT NAME(S): M^C EWEN, MILTON E, & WANDA E.

SIGNATURE(S): Milton E. McEwen
Wanda E. McEwen

YOUR TAX PARCEL NUMBER: 124-41-0050 - 6 (the eight-digit identification number found on the tax statement from the Assessor's Office)

Your comments will be made available to the Planning Commission. Upon submission this form or any other correspondence becomes part of the public record and is available for review by the applicant or other members of the public. **Written comments must be received by our Department no later than 4 PM on Friday, May 3, 2013 if you wish the Commission to consider them before the meeting. We can not make exceptions to this deadline, however, if you miss the written comment deadline you may still make a statement at the public hearing listed above. NOTE: Please do not ask the Commissioners to accept written comments or petitions at the meeting, as they do not have sufficient time to read materials at that time. Your cooperation is greatly appreciated.**

RETURN TO: Keith Dennis, Planner II
Cochise County Planning Department
1415 Melody Lane, Building E
Bisbee, AZ 85603

COCHISE COUNTY
MAY 01 2013
PLANNING

68
C

Special Use: Docket SU-13-07 (Van Wart)

YES, I SUPPORT THIS REQUEST

Please state your reasons:

Their past use of property has not been an issue with us. As long as they don't expand upon what they are doing presently, I don't foresee a problem for us.

Paulette A. McLain

NO, I DO NOT SUPPORT THIS REQUEST:

Please state your reasons:

(Attach additional sheets, if necessary)

PRINT NAME(S):

Rodney W. McLain

Paulette A. McLain

SIGNATURE(S):

Rodney W. McLain
Paulette A. McLain

YOUR TAX PARCEL NUMBER: 124 240 13C (the eight-digit identification number found on the tax statement from the Assessor's Office)

Your comments will be made available to the Planning Commission. Upon submission this form or any other correspondence becomes part of the public record and is available for review by the applicant or other members of the public. **Written comments must be received by our Department no later than 4 PM on Friday, May 3, 2013 if you wish the Commission to consider them before the meeting. We can not make exceptions to this deadline, however, if you miss the written comment deadline you may still make a statement at the public hearing listed above. NOTE: Please do not ask the Commissioners to accept written comments or petitions at the meeting, as they do not have sufficient time to read materials at that time. Your cooperation is greatly appreciated.**

RETURN TO: Keith Dennis, Planner II
Cochise County Planning Department
1415 Melody Lane, Building E
Bisbee, AZ 85603

COCHISE COUNTY

APR 22 2013

PLANNING

69 C

Special Use: Docket SU-13-07 (Van Wart)

PLANNING

APR 2 9 2013

COCHISE COUNTY

YES, I SUPPORT THIS REQUEST

Please state your reasons:

NO, I DO NOT SUPPORT THIS REQUEST:

Please state your reasons:

This is residential agriculture area. Having bright blue white porta potties is not what I had in mind when we built our house here. ~~for~~ There is also the problem of the dust on Sabin St which they use. I am sure there is proper storage available for their business in St. David or Benson. I would like to see this area remain and retain its quiet desert setting. /

(Attach additional sheets, if necessary)

PRINT NAME(S): Colleen Clement

SIGNATURE(S): Colleen Clement

YOUR TAX PARCEL NUMBER: 124-24-004E 3 (the eight-digit identification number found on the tax statement from the Assessor's Office) 0064 991

Your comments will be made available to the Planning Commission. Upon submission this form or any other correspondence becomes part of the public record and is available for review by the applicant or other members of the public. **Written comments must be received by our Department no later than 4 PM on Friday, May 3, 2013 if you wish the Commission to consider them before the meeting. We can not make exceptions to this deadline, however, if you miss the written comment deadline you may still make a statement at the public hearing listed above. NOTE: Please do not ask the Commissioners to accept written comments or petitions at the meeting, as they do not have sufficient time to read materials at that time. Your cooperation is greatly appreciated.**

RETURN TO: Keith Dennis, Planner II
Cochise County Planning Department
1415 Melody Lane, Building E
Bisbee, AZ 85603

70

Special Use: Docket SUA-13-07 (Van Wart Appeal)

COCHISE COUNTY

JUN 13 2013

PLANNING

YES, I SUPPORT THIS REQUEST
Please state your reasons:

for special use permit

See attached

NO, I DO NOT SUPPORT THIS REQUEST:
Please state your reasons:

(Attach additional sheets, if necessary)

PRINT NAME(S): Kathy + James Randy McMillan

SIGNATURE(S): Kathy McMillan
JR McMillan

YOUR TAX PARCEL NUMBER: 124-41-011 (the eight-digit identification number found on the tax statement from the Assessor's Office)

Your comments will be made available to the Board of Supervisors. Upon submission this form or any other correspondence becomes part of the public record and is available for review by the applicant or other members of the public. **Written comments must be received by our Department no later than 4 PM on Friday, July 5, 2013 if you wish the Board to consider them before the meeting. We can not make exceptions to this deadline, however, if you miss the written comment deadline you may still make a statement at the public hearing listed above. NOTE: Please do not ask the Board to accept written comments or petitions at the meeting, as they do not have sufficient time to read materials at that time. Your cooperation is greatly appreciated.**

RETURN TO: Keith Dennis, Planner II
Cochise County Planning Department
1415 Melody Lane, Building E
Bisbee, AZ 85603

D

R & K McMillan

From: "R & K McMillan" <rmcmillan541@powerc.net>
Date: Monday, March 25, 2013 5:21 PM
To: "Ashley and Tom Van Wart" <A1portapots@gmail.com>
Subject: Special Use Permit

COCHISE COUNTY

JUN 13 2013

PLANNING

Cochise County

To whom it may concern:

It has come to our attention that Tom and Ashley Van Wart with A-1 Port-A-Pots & Septic are applying for a special use permit to continue to have their business at their residence at 144 S. Sundust Trail, in Saint David, AZ.

We own the property that adjoins them directly to the east and are the only one that adjoins them to the east. They store their port-a-pots to the back of their property which is in alignment with the back of our property.

We wish to make it known that we do NOT have a problem with this being there, or them running their business out of their property. It does not cause any problem, is well away from our house, and faces our hay barn at the back of our property. There is no noise, smell, or anything else that we have noticed that would be a negative impact on us or the neighborhood. We live in a rural area, and have space between us. They keep their property neat and clean with things properly stored. The service they offer is one that helps everyone out at one time or another, as we all have septic tanks that may need pumping from time to time, or go to events where potties are needed. They do not cause increased traffic, do not have signs, so most people would not even know it is there, other than us. We need more successful businesses in our small community, and would like to see them succeed.

You may contact us if you need anything further.

Kathy and Randy (James R.) McMillan
1855 W. Patton St.
St. David, AZ 85630
rmcmillan541@powerc.net
520-403-3767

March 25, 2013

3/25/2013

D

Special Use: Docket SUA-13-07 (Van Wart Appeal)

COCHISE COUNTY

YES, I SUPPORT THIS REQUEST

Please state your reasons:

JUN 13 2013

PLANNING

NO, I DO NOT SUPPORT THIS REQUEST:

Please state your reasons:

This special use application is based on lies from an incomplete application by the applicants. What is outrageous is the planning Dept's collusion in perpetrating these lies. This is no "small scale operation", with 130 porta-potties and the operation of an illegal sewage treatment plant, etc (the whole business) needs to be in an industrial setting.

(Attach additional sheets, if necessary)

PRINT NAME(S):

William R. Martinez Joseph X. White

SIGNATURE(S):

William R. Martinez *Joseph X. White*

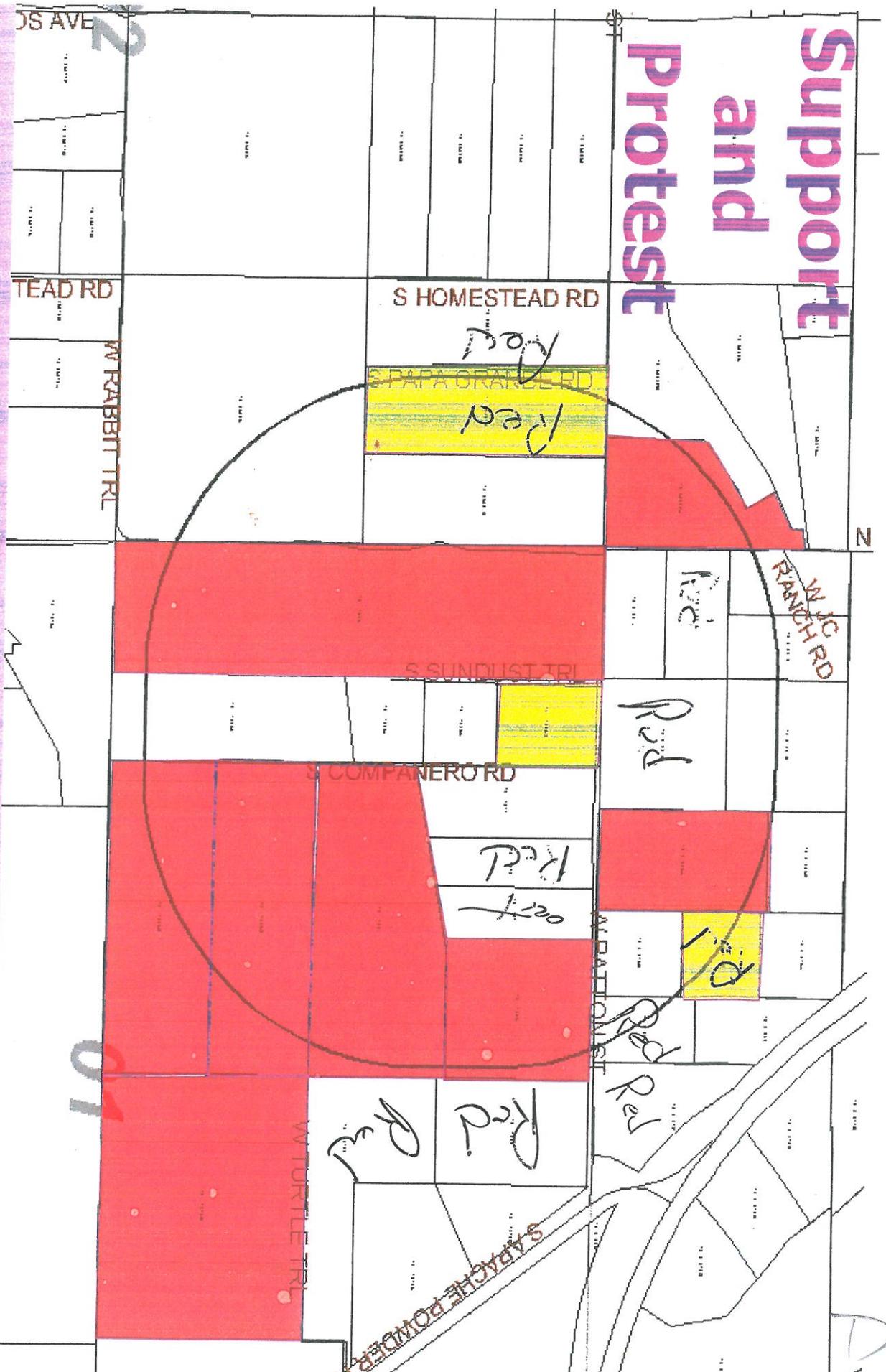
YOUR TAX PARCEL NUMBER: 124-41-004 2 (the eight-digit identification number found on the tax statement from the Assessor's Office)

Your comments will be made available to the Board of Supervisors. Upon submission this form or any other correspondence becomes part of the public record and is available for review by the applicant or other members of the public. **Written comments must be received by our Department no later than 4 PM on Friday, July 5, 2013 if you wish the Board to consider them before the meeting. We can not make exceptions to this deadline, however, if you miss the written comment deadline you may still make a statement at the public hearing listed above. NOTE: Please do not ask the Board to accept written comments or petitions at the meeting, as they do not have sufficient time to read materials at that time. Your cooperation is greatly appreciated.**

RETURN TO: Keith Dennis, Planner II
Cochise County Planning Department
1415 Melody Lane, Building E
Bisbee, AZ 85603

D

Support and Protest



The request is supported by three neighbors and opposed by four neighbors representing eight parcels within the 1,500-foot notification area COCHISE COUNTY

JUL 08 2013

PLANNING

A

The undersigned citizens of Cochise County, petition the Supervisors of Cochise County to revoke, Special Use Permit, SU-13-07, approved by a 4 to 3 vote of the County Planning and Zoning Commissioners on May 15, 2013.

	Name (printed)	Signature	Date	Street	Town	Parcel Number
1.	John H. Escapule	<i>John H. Escapule</i>	6-30-13	Patton	St David	12441002
2.	MARGARET ESCAPULE	<i>Margaret Escapule</i>	6/30/13	1503 W Patton	St David	12441002
3.	Peter C Moran	<i>Peter C Moran</i>	7/2/2013	Patton	St. David	12441002
4.	Joseph White	<i>Joseph White</i>	7-2-13	1701 W Patton	St David	12441003 12441004
5.	Joseph White	<i>Joseph White</i>	7-2-13	1701 W Patton	St David	12441003
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COCHISE COUNTY

JUL 08 2013

PLANNING

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The undersigned citizens of Cochise County, petition the Supervisors of Cochise County to revoke, Special Use Permit, SU-13-07, approved by a 4 to 3 vote of the County Planning and Zoning Commissioners on May 15, 2013.

	Name (printed)	Signature	Date	Street	Town	Parcel Number
1.	BOB KERN	<i>Bob Kern</i>	6/23/13	1875 AP. Polston	ST. DAVID	124-23-0084
2.	Dana M Kern	<i>Dana M Kern</i>	6/23/13	1875 AP. Polston	ST. DAVID	124-23-0084
3.	Paulette A. McLain	<i>Paulette A. McLain</i>	6/22/13	195 N. MILLTOWN	St David	12004010E
4.	<i>Paulette A. McLain</i>	<i>Paulette A. McLain</i>	6/23/13	1195 N. MILLTOWN	St. David	12004010E
5.	JOHN O. WHITE	<i>John O. White</i>	6/23/13	857 N. RIVER RD	ST. DAVID	124-23-0012
6.	<i>John O. White</i>	<i>John O. White</i>	6/23/13	857 N. RIVER RD	ST. DAVID	124-23-0012
7.	Michael Chambers	<i>Michael Chambers</i>	6/23/13	2207 N. RIVER	St David	12424014H
8.	Ronald Jensen	<i>Ronald Jensen</i>	6/29/13	273 Campbell St	St David	12424014H
9.	Brett Davis	<i>Brett Davis</i>	6/26/13	909 West Rose	St David	12125008F
10.	John Trotter	<i>John Trotter</i>	6/26/13	1400 W. Turtle Trl.	St. David	12441010F
11.	Gloste Cain	<i>Gloste Cain</i>	6/26/13	3017 Doe Knoll Rd	Peace N2	
12.	Auston Menade	<i>Auston Menade</i>	6/24/13	1946 E. MESA CIRE	Tombstone, AZ	
13.	Alex Parra	<i>Alex Parra</i>	6/27/13	15 N. E. Street	Tombstone AZ	
14.	Matthew S. Davis	<i>Matthew S. Davis</i>	6-27-17	1036 N. Saddle Back	Tombstone AZ	

COCHISE COUNTY

JUL 03 2013

PLANNING

[Handwritten mark]

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The undersigned citizens of Cochise County, petition the Supervisors of Cochise County to revoke, Special Use Permit, SUP-13-07, approved by a 4 to 3 vote of the County Planning and Zoning Commissioners on May 15, 2013.

	Name (printed)	Signature	Date	Street	Town	Parcel Number
1.	<i>Handwritten name</i>	<i>Handwritten signature</i>	7-1-13	1950 W. Robbie Ln,	St David	124-41-0139
2.	<i>Handwritten name</i>	<i>Handwritten signature</i>	7/5/13	1950 W. Robbie Ln E Cochise Road	St David	121-46-165
3.	Randy Vincent	<i>Handwritten signature</i>	7-10-13	1599 W. Arthur	ST David	124-24-019
4.	Ronald Cox	<i>Handwritten signature</i>	7-7-2013	1225 W. Patton	St David	124-41-012
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COCHISE COUNTY

JUL 9 8 2013

PLANNING

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The undersigned citizens of Cochise County, petition the Supervisors of Cochise County to revoke, Special Use Permit, SU-13-07, approved by a 4 to 3 vote of the County Planning and Zoning Commissioners on May 15, 2013.

	Name (printed)	Signature	Date	Street	Town	Parcel Number
1.	William Markaver	<i>W Markaver</i>	7-7-13	1701 W. Patton	St. David, AZ	124-41-010 124-41-006
2.	Katherine Markaver	<i>K Markaver</i>	7-7-13	1701 W. Patton	St. David, AZ	124-41-010 124-41-006
3.	Lyndon A. Johnson	<i>Lydon A Johnson</i>	7-7-13	8321 E. Apomatoke	St. David, AZ	120-08-009
4.	Brenda Nola	<i>Brenda Nola</i>	7-7-13	8321 E. Apomatoke	St. David, AZ	124-30-022
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COCHISE COUNTY

JUL 03 2013

PLANNING

The undersigned citizens of Cochise County, petition the Supervisors of Cochise County to revoke, Special Use Permit, SU-13-07, approved by a 4 to 3 vote of the County Planning and Zoning Commissioners on May 15, 2013.

Name (printed)	Signature	Date	Street	Town	Parcel Number
1. MARJORIE ESCOBAR	<i>[Signature]</i>	6-27-13	511 E. Bource St	Tombstone AZ	
2. Don Clancy	<i>[Signature]</i>	6-27-13	330 N Escadido	Tombstone	
3. Susan Eder-Ven	<i>[Signature]</i>	6-27-13	111 S. 1374	TOMBSTONE	
4. Ken Seifert	<i>[Signature]</i>	6-27-13	106 N 1st St	Tombstone	
5. <i>[Signature]</i>	<i>[Signature]</i>	6-27-13	11 N. 8th St	Tombstone	
6. <i>[Signature]</i>	<i>[Signature]</i>	7/28/13			
7. <i>[Signature]</i>	<i>[Signature]</i>	6-27-13			
8. MK KESSEY	<i>[Signature]</i>	6/27/13	3305 BOBB RD	BUCKET	
9. Chris Annan	<i>[Signature]</i>	6/27/13	2412 S. Ivar	Strike	
10. <i>[Signature]</i>	<i>[Signature]</i>				
11. Elizabeth Ledape	<i>[Signature]</i>	7/6/13	4508 E. Pass Blvd	Hereford	
12. R. J. Herrig	<i>[Signature]</i>	6/28/13	210 N Parkys Pl.	Tombstone	
13. Gregory Mueany	<i>[Signature]</i>	4/23/13	100 W Avenir	Dale Loma	Tombstone AZ
14. Karra Mendez	<i>[Signature]</i>	7/10/13	1910 E. Mena	Tombstone	
15. Katelyn O. Trevino	<i>[Signature]</i>	7/6/13	4925 E. Evergreen	Sierracochise County	

JUL 08 2013

PLANNING

A

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	Name (printed)	Signature	Date	Street	Town	Parcel Number
1.	Bradley V. Lewis	<i>[Signature]</i>	6-2-13	59 W SABI	ST DAVID	124-24-004H
2.	Stuart D Kershner	<i>[Signature]</i>	6-24-13	1776 W Patton St.	St David	124-24-005C
3.	HERYL L. Johnston	<i>[Signature]</i>	6-24-13	1774 W. Patton St.	St. David	124-24-005C
4.	Bill Withers	<i>[Signature]</i>	6-24-13	1640 W. Patton St.	David	124-24-005C
5.	Patrick Dennis	<i>[Signature]</i>	7-1-13	1826 W. Patton St.	David	124-24-004B
6.	Betty Goodman	<i>[Signature]</i>	7-3-13	2195 W Patton St.	David	124-25-004D 124-25-004E
7.	SKERR SWINNEY BERRY	<i>[Signature]</i>	7/5/13	43 So 2900 Eby St	David	12010021B
8.	_____	_____	_____	_____	_____	_____
9.	_____	_____	_____	_____	_____	_____
10.	_____	_____	_____	_____	_____	_____
11.	_____	_____	_____	_____	_____	_____
12.	_____	_____	_____	_____	_____	_____
13.	_____	_____	_____	_____	_____	_____
14.	_____	_____	_____	_____	_____	_____
15.	_____	_____	_____	_____	_____	_____

COCHISE COUNTY

JUL 08 2013

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