# **Staff Report**

# PZ15-00017 (CUP) Sedona Off-Road Summary Sheet



# Community Development Department Development Services

102 Roadrunner Drive Sedona, AZ 86336 (928) 282-1154 • Fax: (928) 204-7124

Meeting Date: February 2, 2016

**Hearing Body:** Planning and Zoning Commission

**Action Requested:** Approval of a Conditional Use Permit

**Staff Recommendation** Approval, with conditions, of a 5-year Conditional Use Permit

**Location:** 320 N State Route 89A, Suite T (Sinagua Plaza)

Parcel Number: 401-13-030A

**Applicant:** Sedona Off-Road Adventures (Marc Balocco)

**Project Summary:** Request for a Conditional Use Permit for Sedona Off-Road Adventures to

operate a Jeep tour office.

Site Size: ± 2.351 acres

**Current & Proposed Zoning:** PD (Planned Development)

Current Land Use: Shopping Center (Sinagua Plaza)

**Current SCP Designation:** Commercial/Lodging

Area Zoning Area Land Uses

East:LArroyo Roble and Best WesternNorthwest:C-1 and LRetail Stores, Matterhorn InnSouthwest:PDRetail Stores, Orchards Inn, Amara

**Report Prepared By:** Cari Meyer, Senior Planner

### **Summary:**

The applicant is requesting approval of a Conditional Use Permit (CUP) to operate a Jeep tour office at 320 N State Route 89A (Sinagua Plaza). The property is zoned PD with C-1 land uses, which requires a CUP for Jeep tour offices. The applicant applied for a Tenant Occupancy permit in May 2014. The permit was mistakenly approved without meeting the requirement for obtaining a CUP. Once this error was brought to Staff's attention, Staff contacted the business owner and property owner and they have been working with Staff to obtain this CUP approval. Due to this error, this business has been operating at this location since June 2014 with no code enforcement issues or complaints.

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# **Staff Report**

PZ15-00017 (CUP) Sedona Off-Road



# Community Development Department Development Services

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#### **BACKGROUND**

Based on Coconino County Records, Sinagua Plaza was constructed in 1990. The original zoning of this property was C-1 (General Commercial) and has operated as a multi-tenant shopping center since the original construction. In 2008, this property, along with a number of surrounding properties including the retail stores from Sinagua Plaza to 89 Agave Cantina (formerly Taos Cantina), L'Auberge, and Amara Resort, were rezoned to PD (Planned Development). These properties were collectively rezoned to PD to address common parking and circulation issues, but each property maintained the same uses that were allowed under their previous zoning. In the case of Sinagua Plaza, this means the uses remained the same as the C-1 zone. For the use in question, a Jeep tour office, the C-1 zone requires a Conditional Use Permit.

In May 2014, the business owner of Sedona Off-Road Adventures submitted a Tenant Occupancy Permit Application to run a Jeep tour office out of an existing tenant suite that they would share with an existing business, Mrs. B's Sweet Tooth Café. During the review process, City Staff mistakenly approved this use without requiring a CUP. The permit was issued, inspections completed, and a Certificate of Occupancy was issued on June 11, 2014.

In the process of responding to a Public Records Request submitted in October 2015, the Tenant Occupancy permit for this business was examined and the mistake was realized. Staff contacted the business owner and met with the business owner and property owner in November 2015 to explain the situation. Though a mistake was made, it does need to be corrected. The business owner and property owner understood the situation and requirements and have been working with Staff to obtain the CUP. The business owner submitted the proper paperwork to apply for a CUP for this location on December 7, 2015.

# SITE CHARACTERISTICS

- The property is located on the southeast side of N State Route 89A between Arroyo Roble Drive and Amara Lane (See Attachment 1).
- The site is developed with a commercial shopping center and parking garage.

# **DEVELOPMENT PROPOSAL**

The applicant is proposing to operate a Jeep tour office out of one of the tenant suites.

### Access, Traffic, and Parking

- Vehicular access to the site is off of Arroyo Roble Drive or Amara Lane via N State Route 89A. There is no direct vehicular access to the site from N State Route 89A.
- There are numerous pedestrian access points to the site from the N State Route 89A sidewalk.
- Public and employee parking is available in the parking garage at the rear of the property.
- The applicant uses the existing loading areas along State Route 89A for customer pick up and drop off.

# Landscaping and Screening

- The proposed use is located within an existing tenant suite.
- The property currently has a significant amount of landscaping along the street frontage. Parking is
  in the existing garage which is screened from the street by the building. All existing landscaping will
  remain and no new landscaping is required.

In Staff's evaluation of this use, no additional screening or landscaping would be required.

# **Public Input**

- The applicant mailed letters to all property owners within 500 feet of the property, informing them of the CUP Application. The applicant has not received any responses from the neighbors.
- Staff completed the public notification for this project. As of writing this report, Staff has not been contacted by any members of the public regarding this project nor received any public comments.
- As previously stated, Staff was made aware of this mistake as a result of a Public Records Request.
  However, Staff has spoken with the person who made the request and they do not have any
  concerns regarding the operation of this business at this location.
- Due to Staff's mistake, this business has operated in this location for approximately a year and a half without code enforcement complaints.

# **COMMENTS AND CONCERNS**

All internal and external review agencies were given a chance to review application. None of the agencies who responded had any comments.

# **REVIEW, COMMENTARY, AND ANALYSIS**

The following is requested from the Planning and Zoning Commission:

**CONDITIONAL USE PERMIT** Approval from the Planning and Zoning Commission

### **DISCUSSION**

Section 620.02.B.13 of the Sedona Land Development Code (SLDC) lists Jeep tour offices as a conditionally permitted use in the C-1 (General Commercial) zoning district. While this property is zoned PD (Planned Development), the allowed uses mirror those allowed in C-1.

In considering an application for a Conditional Use Permit, the review process is guided by the following criteria noted in Section 402.06 of the SLDC:

- A. That the proposed location of the conditional use is in accordance with the objectives of this Code and the purpose of the zoning district in which the site is located.
- B. That the granting of the conditional use permit will not be materially detrimental to the public health, safety or welfare. The factors to be considered in evaluating this application shall include:
  - 1. Property damage or nuisance resulting from noise, smoke, odor, dust, vibration or illumination;
  - 2. Any hazard to persons and property from possible explosion, contamination, fire or flood;
  - 3. Any impact on surrounding area resulting from unusual volume or character of traffic.
- C. That the characteristics of the use as proposed and as may be conditioned are reasonably compatible with the types of use permitted in the surrounding area.
- D. That the proposed use, as it may be conditioned, will comply with the applicable provisions of this Code, and other ordinances.
- E. That the proposed expansion or change of a nonconforming use (if applicable) is no more deleterious to other properties in the surrounding area than the existing use.

## Finding A

This is a use that is permitted with a conditional use permit. The Jeep tour office is located within an existing tenant suite. The PD zone is meant to provide for a variety of types and combination of land uses.

## Finding B

- 1. The proposed use of a Jeep tour office is not expected to have a greater impact than other similar uses such as retail or general office. Loading and unloading of Jeep tours will occur in a designated Loading area along State Route 89A. Based on the Conditions of Approval, the vehicles will be required to abide by all traffic laws related to use of these areas. Property damage or nuisance resulting from noise, smoke, odor, dust, vibration, or illumination are not anticipated due to this use.
- 2. The proposed use does not pose any danger to persons or property due to explosion, contamination, fire, or flood.
- 3. All access to the site is existing, no new access points are proposed. The center this use is proposed in is a large shopping center with a number of different uses and Uptown as a whole has a large volume of both vehicular and pedestrian traffic. There are a number of other similar locations throughout the Uptown area. This use is not anticipated to increase the volume of traffic in this area. In addition, the Uptown area is the most tourist-centric area of town. This use, as it caters primarily to tourists, is a good fit for this area. The proposed use of the existing loading area on N State Route 89A will use that area for its designed purpose and keep these activities in an area designed specifically for that purpose.

## Finding C

The use is in a commercial zone and will complement the existing, permitted uses on this site and in the general area.

## Finding D

As conditioned, the use will comply with applicable codes.

### Finding E

There are no nonconforming uses on site.

It is Staff's opinion that the request for a CUP meets the necessary findings. The Jeep tour office is consistent with the purpose of the PD (Planned Development) zoning district, the SLDC, and complements the existing permitted uses on site and in the general area. Due to a City of Sedona Staff error, the applicant has operated this business in this location for approximately a year and a half without issues.

In the past several months, Staff has fielded calls from various citizens with a concern regarding the use of the loading areas in Uptown. The complaints are generally centered around Jeep tour companies using these areas as long term parking and as an area to sell Jeep tours from, not as primarily a place to pick up and drop off customers. It should be noted that these complaints have not been about this business in particular and as this business has a location within a tenant suite in the area from which they can sell tours, it is not anticipated that this would become an ongoing issue with this applicant. While Staff is looking at ways to address this issue in a broader manner, additional conditions have been included in this permit regarding use of loading areas. As other CUPs for Jeep tour offices come up from renewal, additional conditions may be added to ensure that all similar businesses are held to the same standards.

Staff is recommending a 5 year Conditional Use Permit. Staff will monitor the use over the next 5 years. Any issues that arise will be addressed with the applicant. If something comes up that cannot be addressed, the City may initiate revocation proceedings. If the applicant operates without issues at this location, a longer CUP could be considered in the future.

# **Recommendation and Motion**

PZ15-00017 (CUP) Sedona Off-Road



# Community Development Department Development Services

102 Roadrunner Drive Sedona, AZ 86336 (928) 282-1154 • Fax: (928) 204-7124

### Staff Recommendation

Based on compliance with all ordinance requirements and satisfaction of the Conditional Use Permit findings of the Land Development Code, staff recommends approval of case number PZ15-00017 (CUP) subject to all applicable ordinance requirements and the attached conditions of approval.

# **Recommended Motion for Approval**

I move for approval of case number PZ15-00017 (CUP), based on compliance with all ordinance requirements and satisfaction of the Conditional Use Permit findings and applicable Land Development Code requirements and the conditions as outlined in the staff report.

## **Alternative Motion for Denial**

I move for denial of case number PZ15-00017 (CUP), based on the following findings (specify findings).

(Please note that the above motions are offered as samples only and that the Commission may make other motions as appropriate.)

# Conditions of Approval

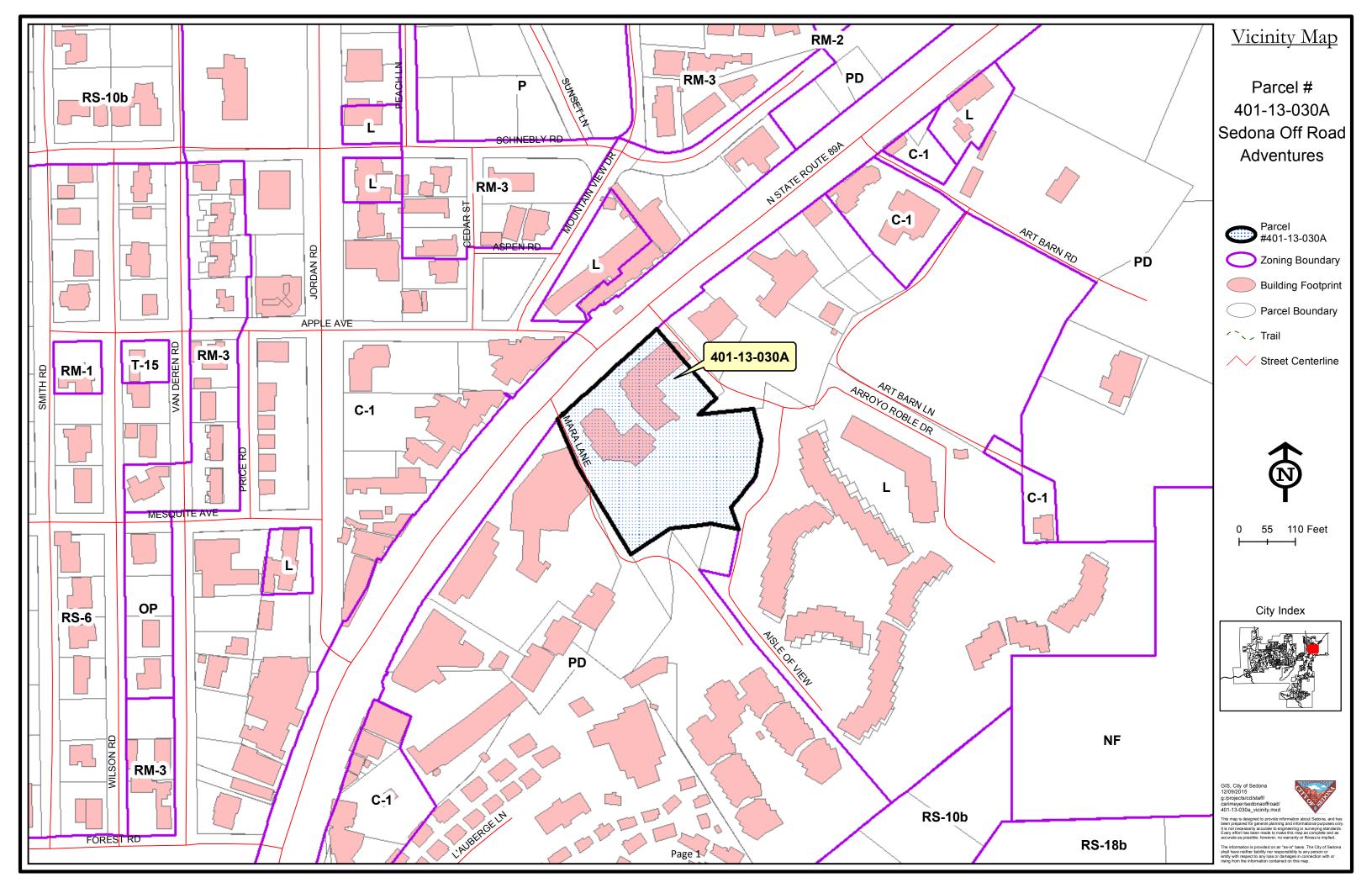
PZ15-00017 (CUP) Sedona Off-Road As proposed by Staff

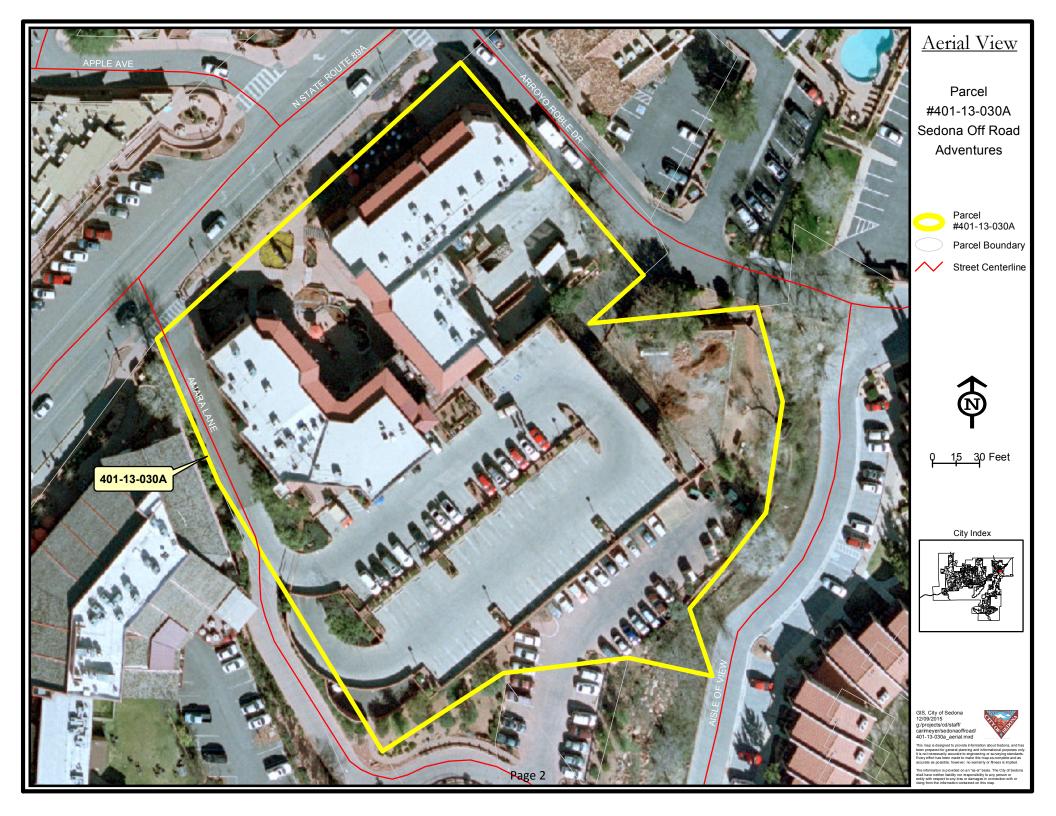


# **Community Development Department Development Services**

102 Roadrunner Drive Sedona, AZ 86336 (928) 282-1154 • Fax: (928) 204-7124

- 1. The Conditional Use Permit approval shall be valid for a period of five years and shall expire on February 17, 2021. At least 63 days prior to the expiration date, the applicant shall file a renewal application of the Conditional Use Permit. The Planning and Zoning Commission shall then reevaluate the permit application based on consistency with City ordinances, the conditions of approval, and compatibility with the surrounding area. During this period, staff will complete annual reviews and assessments of the project to ensure that its operation is consistent with the Land Development Code requirements and applicable conditions of approval.
- 2. No vehicle maintenance, repair, servicing or washing shall be permitted on the property.
- 3. Jeep passenger loading and unloading may occur in the designated loading area along N State Route 89A. Jeeps and other tour vehicles using this area must comply with all established ordinances and regulations regarding use of these areas. Additionally, Jeeps and other tour vehicles may not be located in the designated loading areas unless they are actively loading and unloading vehicles or have a scheduled tour within 5 minutes. The designated loading areas are not to be used for staging of tour vehicles awaiting passengers.
- 4. Jeeps using the designated loading areas along N State Route 89A shall not actively sell tours or solicit customers while in these areas.
- 5. Within thirty days of approval of the Conditional Use Permit, the property owner of record of subject property voluntarily agrees to sign and record a waiver acknowledging their waiver of any right to claim just compensation for diminution in value under A.R.S. §12-1134 related to the granting of this Conditional Use Permit.





# **Project Application**



# City Of Sedona Community Development Department 102 Roadrunner Drive Sedona, AZ 86336

(928) 282-1154 • Fax: (928) 204-7124

_	application is for: nceptual Review	☐ Final Review	C	] Appeal	☐ Time Extension	
_	☐ Development Review ☐ Subdivision ☐ Conditional Use Permit ☐ Zone Change		☐ Variance ☐ Major Community Plan Amendment ☐ Minor Community Plan Amendment			
PROJECT CONTACT:	Kathryn G. M	lahady	Phone:	928-774-1478	App. #:	
Address:	123 N. San Francisco St., Su	te 300, Flagstaff, AZ 86001	Cell Phone:	520-668-8422	Date Rec'd:	
E-mail:	kmahady@aw	dlaw.com	Fax:	928-774-8404	Rec'd by:	
PROJECT NAME:	Sedona Off-Ro	ad Adventures	Parcel #:		Fee Pd:	
Project Address Location:	320 N. Hwy 89A Suite 1	Г., Sedona, AZ 86336	Acres:		Zoning:	
Project Description:						

OWNER NAME:	Sinagua Plaza II, LLC	APPLICANT NAME:	Marc Balocco
Address:	212 E. Gurley Street, Prescott, AZ 86301	Company Name:	Sedona Off-Road Adventures
Phone:	928-776-8460	Address:	320 N. 89A, Suite T Sedona, Arizona 86336
Cell Phone:	928-583-2579	Phone:	928-282-6656
E-mail:	dan@arizonacommercial.net	Cell Phone:	928-606-4455
		E-mail:	Marc@sedonaoffroad.com
ARCHITECT/ ENGINEER:	N/A	AUTHORIZED AGENT/OTHER:	N/A
Company Name:		Company Name:	
Address:		Address:	
E-mail:		E-mail:	
Phone:		Phone:	
Cell Phone:		Cell Phone:	
ID #/Exp. Date:			
City Business License #:			

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City of Sedona

Dept. of Community Development

104 Roadrunner Drive

Sedona, AZ 86336



123 N. San Francisco St. Suite 300 Flagstaff, Arizona 86001 (928) 774-1478 www.awdlaw.com

Sedona Office 120 Soldier Pass Road Sedona, Arizona 86336 (928) 282-5955 RE. Letter of Intent for Conditional Use Application / Permit Top Hat Expeditions, d/b/a Sedona Off-Road Adventures

Top Hat Expeditions, Inc., d/b/a Sedona Off-Road Adventures submits this Letter of Intent with its application for a Conditional Use Permit.

Top Hat Expeditions has operated tours in Sedona since 2001. The company offers sightseeing tours and transportation in Jeeps, Hummers, and other vehicles, both off-road and on paved roads in and around Sedona. Top Hat Expeditions possesses all of the necessary permits with the U.S. Forest Service for its tours, and also possesses all of the insurance necessary for operation of tours.

The company currently has a staff of 14–25 guides, all of whom possess all necessary licenses, and a fleet of 16 vehicles. The number of guides and vehicles in use varies throughout the year.

Top Hat Expeditions is extremely conscientious regarding its impact on the natural environment in and around Sedona and makes great efforts to be eco-friendly. Top Hat Expeditions uses diesel-powered vehicles and is able to transport twice as many people in its Hummers as a jeep is able to transport, cutting down on impact to the natural areas in and around Sedona.

Top Hat Expeditions is currently located at Sinagua Plaza, 320 N. Hwy 89A, Sedona, AZ 86336. This location serves as a tour sales office, a café, and a candy shop. The hours of operation for the storefront are 8.00am to 8.00pm. On average, Top Hat Expeditions sells from nine to forty-five tours from this location per day. The number of tours sold varies drastically throughout the year.

Top Hat Expeditions does not intend to do any construction on the property or to make any alterations to the exterior of the property. The storefront utilizes existing external lighting and the landscaping of Sinagua Plaza.

The parking lot at the rear of Top Hat Expeditions' storefront contains over 200 nearly parking spaces. Customers and guests of Top Hat Expeditions will be able to park in this parking lot, which is reserved for customers and guests of businesses in Sinagua Plaza. Sinagua Plaza II, LLC, the owner of

the property at Sinagua Plaza, has dedicated two parking spaces for Top Hat Expeditions in this parking lot Top Hat Expeditions uses these two parking spaces to park its "rescue vehicles," vehicles that the company uses to send out to assist vehicles on tours when necessary.

Occasionally, the two rescue vehicles will remain on-site overnight. However, these vehicles are regularly moved. Top Hat Expeditions will not store any other vehicles on-site and will not service or wash any vehicles on site at any time.

Top Hat Expeditions loads and unloads passengers at the loading zone located at 276 North State Route 89 A. Top Hat Expeditions will load and unload passengers at this site between the hours of 8,00am and 6,00pm.

This location provides for safe loading and unloading of passengers on the curbside of the vehicle. The company follows all traffic laws and rules regarding loading and unloading and does not leave its vehicles in the loading zone for longer than is allowed for it to do so.

Approval of Top Hat Expeditions' Application for a Conditional Use Permit is appropriate under Section 402.06 of Sedona's Land Development Code, because

- 1) The proposed location in Sinagua Plaza is consistent with the character and use of Sinagua Plaza as a commercial center.
- 2) Granting the conditional use permit will not be materially detrimental to the public health, safety or welfare of residents of Sedona or tourists visiting Sedona because Top Hat Expeditions operates in a way that minimizes noise, exhaust, traffic, and any other potential nuisance.
- 3) Top Hat Expeditions' use of the property as a tour sales office is compatible with the types of use permitted in the commercial use in Sinagua Plaza.
- 4) Top Hat Expeditions' proposed use of the property complies with the applicable provisions of the Sedona Land Development Code, and other ordinances.
- 5) Top Hat Expeditions' proposed use of the property is no more deleterious to other properties in the surrounding area than its existing use, as Top Hat Expeditions' use of the property is solely for sale of tours and a café and candy shop that supports the sale of tours. Sinagua Plaza is a solely commercial

property area, and Top Hat Expeditions' use of the property supports the existing commercial properties in Sinagua Plaza.

Thank you for your consideration of Top Hat Expeditions' application for a Conditional Use Permit.

Sincerely,

ASPEY, WATKINS & DIESEL, PLLC

Kathryn G. Mahady

Encl.

# Citizens' Cooperation Plan and Report (SLDC 408)

Purpose: The purpose of this Citizens' Participation Plan for Sedona Off-Road Adventures is to advise citizens, property owners, neighborhood associations, agencies, schools and businesses in the vicinity of Sedona Off-Road Adventures' site at Sinagua Plaza of Sedona Off-Road Adventures' application for a Conditional Use Permit to sell tours from its storefront at Sinagua Plaza.

This plan will ensure that those potentially impacted by this application will have an adequate opportunity to learn about and comment upon the proposal.

#### Contacts:

Marc Balocco Sedona Off-Road Adventures 320 N. 89A Sedona, Arizona 86336 928-282-6656

Kathryn G. Mahady Aspey, Watkins & Diesel, PLLC 123 N. San Francisco St., Suite 300 Flagstaff, AZ 86001 928-774-1478

**Action Plan:** In order to provide effective citizen participation in conjunction with Sedona Off-Road Adventures' application for a Conditional Use Permit, Sedona Off-Road Adventures proposes to take the following actions to provide opportunities to address any real or perceived impacts Sedona Off-Road Adventures' plan may have.

- A contact list will be developed for citizens and agencies within 500 ft of Sedona Off-Road Adventures' storefront.
- 2. All persons and businesses listed on the contact list will receive a copy of the attached letter describing Sedona Off-Road Adventures' CUP application and contact information for asking questions and voicing concerns.
- 3. All phone calls and email communications will be logged and made available to city staff and commissions for review during the application process.

#### Schedule:

Submittal of all packet materials – December 7, 2015

Deadline for neighbors to contact Kathryn Mahady or Marc Balocco re: Citizen Participation

Outreach Letters – December 29, 2015

P&Z Work Session – January, 2016 (if necessary)

P&Z Public Hearing – Tuesday, February 2, 2016

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To Whom It May Concerna



123 N. San Francisco St. Suite 300 Flagstaff, Arizona 86001 (928) 774-1478 www.awdlaw.com

Sedona Office 120 Soldier Pass Road Sedona, Arizona 86336 (928) 282-5955 You are receiving this letter because the City of Sedona has identified your residence or business as being located within 500 feet of 320 N. 89A in Sedona, Arizona.

Top Hat Expeditions, Inc., d/b/a Sedona Off-Road Adventures has operated tours in Sedona since 2001. The company offers sightseeing tours and transportation in Jeeps, Hummers, and other vehicles, both off-road and on paved roads in and around Sedona. Sedona Off-Road Adventures possesses all of the necessary permits with the U.S. Forest Service for the tours that it offers, and also possesses all of the insurance necessary for operation of tours.

Sedona Off-Road Adventures has applied for a Conditional Use Permit ("CUP") to comply with requirements of the City of Sedona's Planning and Zoning Commission. This application for a CUP will not change, in any way, the current business that Sedona Off-Road Adventures operates. Rather, Sedona Off-Road Adventures will continue operating in exactly the same manner in which it currently operates at its current location.

Approval of the CUP will not result in any increase in traffic or congestion. Sedona Off-Road Adventures has two designated parking spaces for tour vehicles in the parking lot at the back of Sinagua Plaza. This location also provides nearly 200 free parking spaces for the company's guests. Sedona Off-Road Adventures does not intend to store vehicles long-term, nor to wash or service vehicles at this location.

Any concerns that you might have regarding Sedona Off-Road Adventures' CUP application may be directed to

Marc Balocco Sedona Off-Road Adventures 320 N. 89A Sedona, Arizona 86336 928-282-6656 Kathryn G. Mahady Aspey, Watkins & Diesel, PLLC 123 N. San Francisco St., Suite 300 Flagstaff, AZ 86001 928-774-1478

Please contact either Marc Balocco or Kathryn Mahady with any questions and/or concerns.

Sincerely,

ASPEY, WATKINS & DIESEL, PLLC

Kathryn G. Mahady

Sinagua Plaza II, LLC C/o AZ Commercial 212 E. Gurley Street Prescott, AZ 86301

City of Sedona Community Development Department 1012 Roadrunner Dr. Sedona, AZ 86336

Dear Community Development Department,

h

I represent the owner and landlord of Sinagua Plaza, 320 N. Hwy 89A and I submit this letter in support of Top Hat Expeditions, Inc., d/b/a Sedona Off-Road Adventures' application for a Conditional Use Permit to operate its tour sales office, café, and candy shop out of Sinagua Plaza.

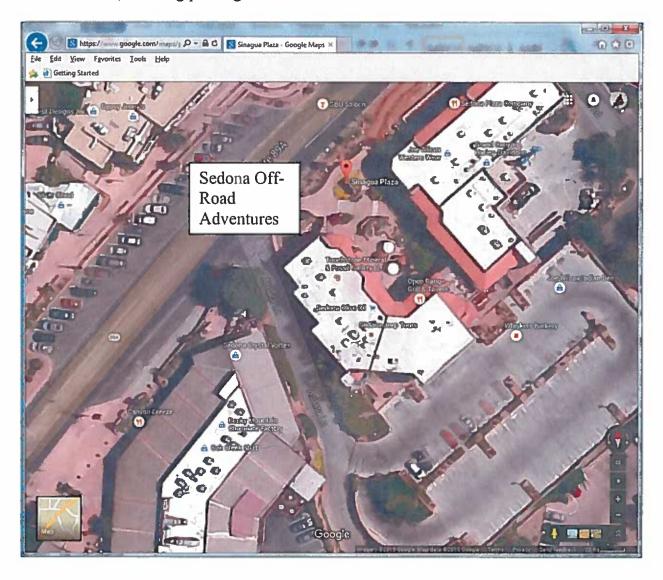
I have dedicated two parking spaces in the rear of Sinagua Plaza for use by Top Hat Expeditions, Inc., and I allow Top Hat Expeditions, Inc. to park vehicles in those spaces overnight.

I fully support Top Hat Expeditions, Inc.'s application for a Conditional Use Permit to continue to operate its tour sales office in Sinagua Plaza. As such, I authorize Top Hat Expeditions, Inc., d/b/a Sedona Off-Road Adventures to submit this application for a Conditional Use Permit to operate in the manner described in the permit application.

Sincerely.

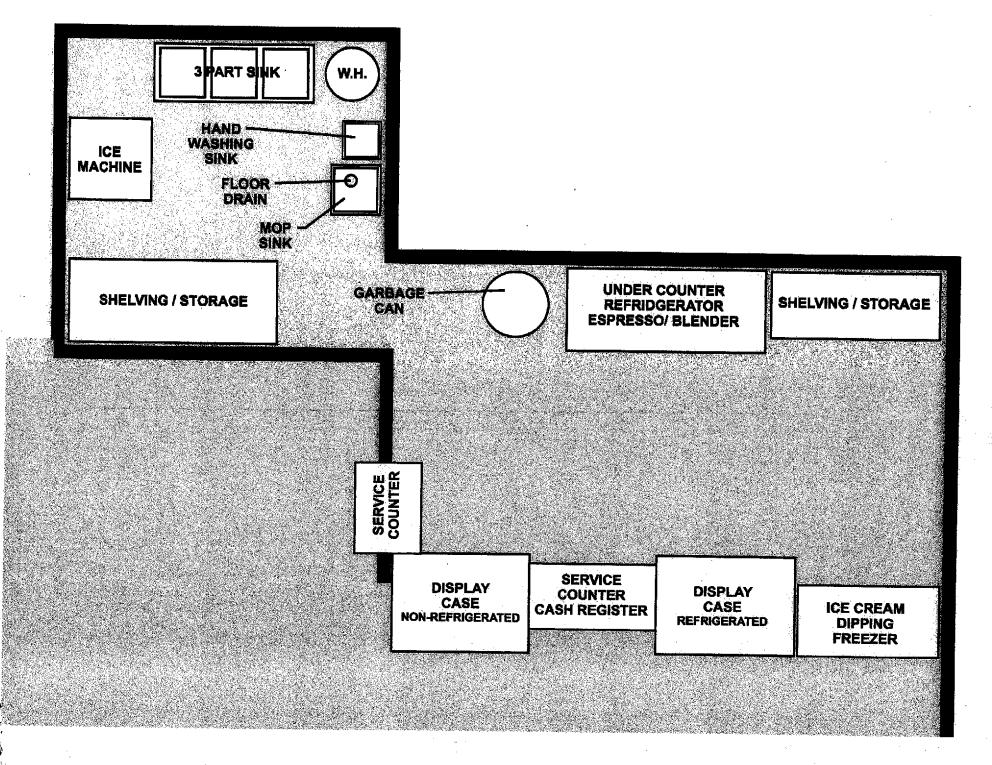
Sinagua Plaza II, LLC C/o AZ Commercial 212 E. Gurley Street Prescott, AZ 86301

# Store location, showing parking lots



# Location of store front





#### Cari Meyer - RE: Sedona Off Road CUP

From: Kathryn Mahady <kmahady@awdlaw.com>
To: Cari Meyer <CMeyer@sedonaaz.gov>

Date: 1/6/2016 6:06 PM Subject: RE: Sedona Off Road CUP

Cc: "Marc Balocco (thehummerguy@me.com)" <thehummerguy@me.com>

Attachments: Floor Plan.pdf

Cari,

Attached is the floor plan for Sedona Off-Road Adventures. Neither Mr. Balocco nor I have received any response to our Citizen Participation Letter.



#### Kathryn G. Mahady, Esq.

ASPEY, WATKINS & DIESEL, PLLC

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From: Cari Meyer [CMeyer@sedonaaz.gov]
Sent: Wednesday, January 06, 2016 11:00 AM

To: Kathryn Mahady

Subject: RE: Sedona Off Road CUP

Thank you ,

Cari

Cari Meyer, Senior Planner City of Sedona Community Development

(928) 203-5049

>>> Kathryn Mahady <<u>kmahady@awdlaw.com</u>> 1/5/2016 6:48 PM >>>

Thank you, Cari. I'll request a floor plan from Mr. Balocco. I haven't heard anything from any of the letters that we sent out, but I'm keeping a log, if anyone does contact us.



# Kathryn G. Mahady, Esq.

123 N San Francisco St, Suite 300, Flagstaff, AZ 86001 928-774-1478 | Fax 928-774-8404 | www.awdlaw.com 120 Soldiers Pass Rd, Sedona, AZ 86336 | 928-282-5955

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From: Cari Meyer [mailto:CMeyer@sedonaaz.gov]
Sent: Monday, January 04, 2016 5:40 PM

To: Kathryn Mahady

Subject: Sedona Off Road CUP

Kathryn,