

RESOLUTION NO. 2021-25

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF SEDONA, ARIZONA, APPROVING AND RESTATING APPROVAL OF A CONDITIONAL USE PERMIT (PZ17-00001 CUP) FOR THE ARIZONA WATER COMPANY WATER TANK AND BOOSTER FACILITY AT 55 BELL ROCK TRAIL AND EXPLAINING PREVIOUS APPROVALS IN COMPLIANCE WITH COCONINO SUPERIOR COURT ORDER IN CASE NO. CV-201900120.

WHEREAS, on October 16, 2018, the Sedona Planning and Zoning Commission (“P&Z Commission”) approved the Conditional Use Permit PZ17-00001 (CUP) for the construction of a new 1.5 million gallon, mostly subterranean, water tank for the Arizona Water Company Water Tank and Booster Facility at 55 Bell Rock Trail based on compliance with all ordinance requirements and satisfaction of the Conditional Use Permit findings and applicable Land Development Code requirements, including LDC 402.06, 605.01, and 605.02 as outlined in the Staff Report adopted by the P&Z Commission and incorporated as part of their findings; and

WHEREAS, on January 23, 2019, the City Council of the City of Sedona (“City Council”) heard an appeal of the P&Z Commission decision to grant PZ17-00001 (CUP) and at the conclusion of the public hearing determined to uphold, with conditions, case number PZ17-00001 (CUP) for the Arizona Water Company Water Tank and Booster Facility at 55 Bell Rock Trail based on compliance with all ordinance requirements and satisfaction of the Conditional Use Permit findings and applicable Land Development Code requirements, including LDC 402.06, 605.01, and 605.02 as outlined in the Staff Report adopted by the P&Z Commission and incorporated as part of City Council findings and subject to the conditions as amended by the P&Z Commission; and

WHEREAS, on April 14, 2021, the Coconino County Superior Court ordered the City to explain the factual and legal basis for P&Z Commission decision to grant PZ17-00001 (CUP) and the City Council’s decision to uphold the CUP on appeal (the “Court Order”); and

WHEREAS, on May 18, 2021, the P&Z Commission, pursuant to the Court Order, reheard case number PZ1700001 (CUP). At the conclusion of the meeting, the P&Z Commission unanimously voted again to approve the granting of the CUP based on compliance with all ordinance requirements and satisfaction of the Conditional Use Permit findings and applicable Sedona Land Development Code (“LDC”) requirements including LDC 402.06, 605.01, and 605.02 as outlined in the Staff Report adopted by the P&Z Commission and incorporated as part of their findings; and

WHEREAS, pursuant to the Court Order, the City Council also needs to explain its factual and legal basis for upholding the granting of PZ17-00001 (CUP).

BE IT RESOLVED BY THE MAYOR AND THE COUNCIL OF THE CITY OF SEDONA, ARIZONA AS FOLLOWS:

SECTION 1. That, pursuant to Sedona Land Development Code Section 402.06(b) and Sedona Land Development Code Section 605.01, the proposed location of the conditional use as requested by the applicant, Arizona Water Company, is in accordance with the objectives of the LDC and the Single-Family Residential (RS-18) zoning district in which the site is located and supports the overall purpose for promoting and preserving residential development within the community; that the use requested by the applicant is

specifically allowed subject to a conditional use permit pursuant to Section 605.02(B)(6) of the LDC; and, that after consideration of the potentially negative operational characteristics and impacts, the applicant's proposed use is appropriate subject to conditions of approval.

SECTION 2. That, pursuant to LDC Section 402.06(c), and based on the evidence presented in the staff report and through testimony at the public hearings during which the subject application was considered by the Commission, the use requested by the applicant is unlikely to result in property damage or nuisance resulting from noise, smoke, odor, dust, vibration or illumination; that the use requested by the applicant is unlikely to result in hazards to persons and property from possible explosion, contamination, fire or flood; and, that any impact on the surrounding area resulting from unusual volume or character of traffic can be effectively mitigated. Accordingly, and subject to the conditions of approval, the granting of the conditional use permit will not be materially detrimental to the public health, safety, or welfare.

SECTION 3. That, pursuant to LDC Section 402.06(d), and based on the evidence presented in the staff report and through testimony at the public hearings during which the subject application was considered by the Commission, the applicant has designed the proposed water tank with sufficient consideration of the surrounding residential properties so that the proposed use of a 1.5 million gallon, mostly subterranean water tank, subject to the conditions of approval, is compatible with the uses permitted in the surrounding area.

SECTION 4. That, pursuant to LDC Section 402.06(e) and LDC Section 605.02(B)(6), the proposed use for a water tank, subject to the conditions of approval, complies with the provisions of the LDC regulating the Single-Family Residential (RS-18) zoning district and other ordinances that may be applicable thereto.

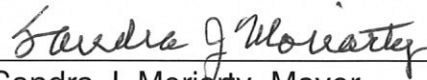
SECTION 5. That, pursuant to LDC Section 402.06(f), the subject property is currently vacant land and, accordingly, there is no expansion or change of a nonconforming use associated with this conditional use permit application.

SECTION 6. That approval of case number PZ17-0001 (CUP) is subject to the conditions for approval as outlined in the October 16, 2018 staff report.

SECTION 7. That these findings, in Sections 1-6, in addition to all of the Staff Reports and presentations provided to the P&Z Commission and City Council, each of which was previously incorporated and is incorporated reference, provided the factual and legal basis for considering and approving PZ17-00001 (CUP) by the P&Z Commission on October 18, 2018, complied with all applicable ordinance and LDC provisions, including LDC 402.06, 605.01, and 605.02, and provided the basis for City Council approval of PZ17-00001 (CUP) on January 23, 2019.

SECTION 8. That case number PZ17-00001 (CUP, DEV), Arizona Water Company Water Tank and Booster Facility at 55 Bell Rock Trail is hereby granted with conditions, to allow for a new public utility and public service substation, water tank, and pumping plant based on compliance with all ordinance requirements and satisfaction of the Conditional Use Permit findings and applicable Land Development Code and Community Plan requirements, including LDC Sections 402.06, 402.08, 605.01, and 605.02, and the conditions of approval as amended by the Planning and Zoning Commission.

PASSED AND ADOPTED by the Mayor and Council of the City of Sedona, Arizona this 29th day of September, 2021.



Sandra J. Moriarty, Mayor

ATTEST:



Susan L. Irvine, CMC, City Clerk

APPROVED AS TO FORM:



Kurt W. Christianson, City Attorney