



Board of Adjustment STAFF REPORT

AGENDA

TO: CASA GRANDE BOARD OF ADJUSTMENT

FROM: James Gagliardi, City Planner

MEETING DATE: October 14, 2014

REQUEST

Request by Ben Lee of Water Works Engineers, on behalf of Arizona Water Company for the following land use approval for a new water treatment and equipment within the R-1 zone district at 1300 N Henness Rd (APN # 505-23-002J):

1. **DSA-14-00158: Variance request** from Table 17.20.140 of the City Code to allow:
 - a. A front setback of 10 ft. where 20 ft. is required
 - b. A rear setback 5 ft. where 20 ft. is required
 - c. A side setback of 6.5 ft. where 10 ft. is required from the south-side property line.

APPLICANT/OWNER

Ben Lee, Water Works Engineers
7580 N Dobson Rd #200
Scottsdale, AZ 85256
Phone: 480-661-1742 X112
Email: benl@wwengineers.com

Arizona Water Company
3805 N Black Canyon Hwy
Phoenix, AZ 85015
Phone: 602-240-6860
Email: jwilson@azwater.com

HISTORY

October 2, 1989: The site was annexed into the City limits of Casa Grande with Ordinance No. 1178.18 known as the "I-194 Ordinance" and subsequently zoned UR.

May 5, 2005: Conditional Use Permit and Site Plan approved (CGPZ-088-005) by the Planning & Zoning Commission for the allowance of a well site and arsenic treatment facility upon a UR-zoned property.

May 10, 2005: Variance approved by the Board of Adjustment (BOA-01-005) allowing for an 8 ft. rear yard and 8 ft. side yard setback where 50 ft. is required to accommodate the facility.

October 6, 2014: 1st Reading of Ordinance by City Council approving a zone change from UR (Urban Ranch) to R-1 (Single-family residential) (DSA-14-00116)

Surrounding Land Use and Zoning

Direction	General Plan Designation	Existing Zoning	Current Uses
North	<i>Neighborhoods</i>	PAD – Palm Creek	Manufactured housing
South	<i>Neighborhoods</i>	PAD – Palm Creek	Manufactured housing
East	<i>Neighborhoods</i>	PAD – Palm Creek	Manufactured housing
West	<i>Neighborhoods</i>	R-2 (multi-family residential)	Single family residences

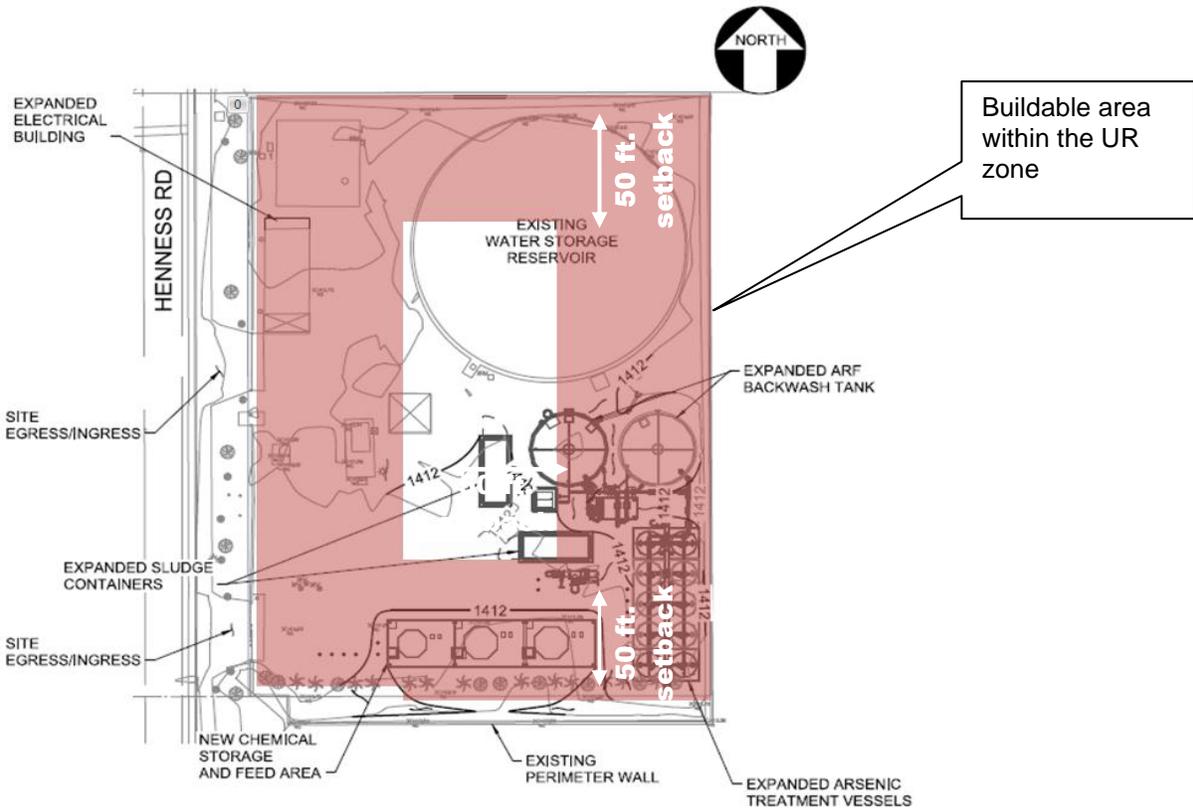
Aerial of the site:



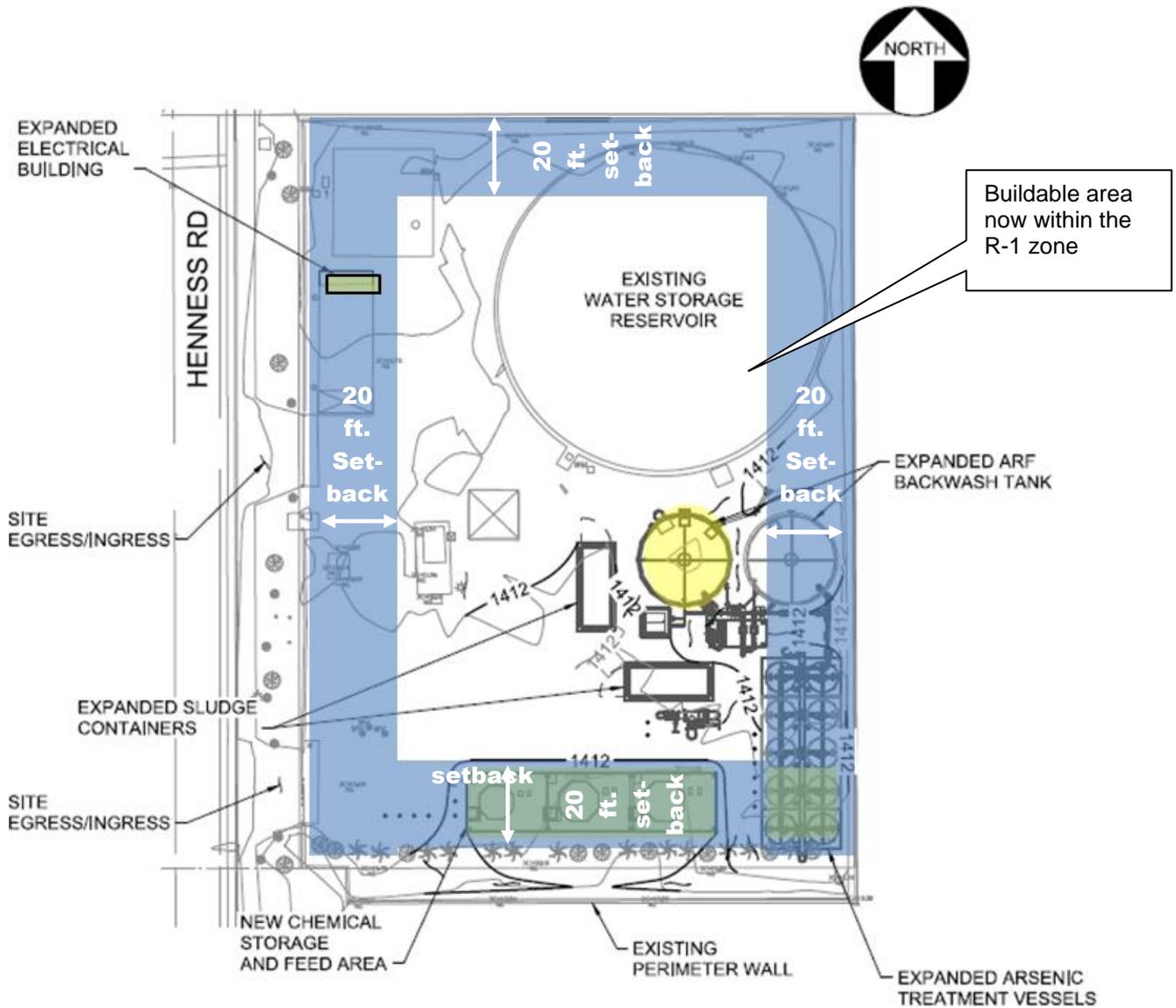
Overview

This Arizona Water Company site has been in operation since 1980, prior to annexation into the City of Casa Grande. In addition to a well, the property consists of an arsenic removal facility, water storage reservoir, and a booster pump station. In 2005, the site received a Conditional Use Permit for additional equipment. This equipment required a variance to the setbacks, which was subsequently approved by the Board of Adjustment (Exhibit A), modifying the site plan associated with the Conditional Use Permit (Exhibit B). As an UR-zoned property, 50 ft. setbacks are required from structures to all property lines for conditionally permitted uses. The variance granted in 2005 approved an 8 ft. rear yard setback and an 8 ft. south side yard setback for the placement of the particular equipment proposed.

Arizona Water Company requests to expand the arsenic removal facility to increase treatment capacity to meet water supply demands of the community as further described in the applicant's justification statement (Exhibit C). The location for the additional equipment proposes a ten (10) ft. setback from the front property line, a five (5) ft. setback from the rear property line, and a 6.5 ft. setback from the south property line. The heights of that equipment that will be encroaching into the 20 ft. setback vary between 13 ft.-17 ft. but no taller than existing structures already on the site. As an UR-zoned property, this was especially problematic because many of the existing structures encroach into the required setbacks, and the new proposed equipment would require a substantial variance request from the 50 ft. required setback.



Staff advised the applicant to seek a zone change to R1. Development standards of an R-1 zone are more appropriate for the existing site and its land area, making this site more conforming to City Code. R-1 is also less restrictive with regard to setbacks for conditionally approved uses. Within the R-1 zone, 20 ft. is the required setback from the front, rear, and side property lines. Planning & Zoning heard the zone change request and forwarded a recommendation to City Council to approve the rezone at its September 4, 2014 hearing (Exhibit D). Upon first reading on October 6, 2014, City Council approved of the zone change, officially to be adopted into ordinance November 18. Though variances are still needed to accommodate the proposed equipment, the pursuit of a zone change demonstrates that all possible recourse has been taken by the applicant to comply with City Code. Should the variance requests be approved by the Board of Adjustment, a Major Site Plan amendment will be submitted for consideration by Planning Commission (Exhibit E).



CONFORMANCE WITH THE VARIANCE CRITERIA

In reviewing a Variance request, the Board of Adjustment shall find that the request satisfies the considerations listed below per Section 17.54 of the City Code.

The applicant has provided justification for the variance criteria as provided in their justification statement (Exhibit C).

A. That there are special circumstances or conditions applicable to the property referred to in the application which do not prevail on other property in that zone;

- The use of the property is quite different from other properties within the same zone district. As a well site, and more specifically an arsenic

treatment facility for the City's water supply, the particular placement of additional equipment is necessary for the proper functioning of the site.

- The proposed additions are not any closer to the property lines than the site's existing equipment, except the particular footprints of that which was approved is now being elongated. There will now be more equipment the same distance to property lines as the formerly approved and existing equipment. For the same reasons the variance was necessary in 2005, a variance is needed now. However, the added effort of the changing the zone district, makes the site more conforming and lessens the degree of the variances being requested.

B. That the strict application of the regulations would work an unnecessary hardship and that the granting of the application is necessary for the preservation and enjoyment of substantial existing property rights

- The existing conditional use affords the applicant to operate the property as a water facility and enables the removal of arsenic out of the water supply. If a strict application of the 20 ft. requirement were to apply, the purpose of the conditional use would be negated because the property could not function as a water treatment facility. It would deny applicant reasonable use of the land.
- In addition to the granted conditional use permit, this property and much of its inherent property rights were provided to it prior to City annexation. The applicant has taken all possible steps to comply with the City's development standards for the expansion of the site by proposing the placement of additional equipment no closer to the property lines than the site's existing equipment. The site is now in a zone district with the least restrictive setbacks for this use, yet still restricts the applicant. A variance is the only alternative.

C. That the granting of such application will not materially affect the health or safety of persons residing or working in the neighborhood and will not be materially detrimental to the public welfare or injurious to property or improvements of the neighborhood.

- The area is bordered by a principal arterial road to the west, and the Palm Creek RV Park to the north, east, and south. There is an eight-foot wall that provides screening and a barrier between the uses and structures of the well site and Palm Creek. To the north and east of the site are Palm Creek's maintenance facility and tennis courts. There are not particular compatibility issues from those two directions.

The biggest area of concern is to the south of the well site, where there are leased plots for seasonal residents of Palm Creek. Necessary steps were already taken in 2005, however, when the previous variance was granted. To alleviate the impact that the equipment could have on the adjacent resident's

enjoyment of their space, a condition of approval was that the wall be constructed and that palm trees be planted with trunks as tall as the wall. Further steps were taken at that time to provide additional screening by planting evergreens in addition to the palm trees. This serves as added benefit because as the palm trees grew, their canopies became much taller than the wall; therefore they no longer specifically screen the site. The stoutness of the evergreens, however, sufficiently buffers the well site from the RV park. There will not be any increased noise intensity as a result of the additional equipment. In 2005 when the first variance was granted, the noise was compared to a vacuum. A condition of approval that is recommended to be carried forward from the 2005 approval is that if there is any noise beyond the limits of the enclosed site, the City, with the cooperation of the applicant, shall determine the most suitable noise mitigation to be implemented by the applicant.

- The existing wall that provides buffer from well site property and the leased RV spaces to the south is approximately 9 ft. beyond the south property line. Therefore, perceptively, this is 9 ft. of land that serves as additional spatial buffer where no structures can be placed, as the setbacks are based on the property line, not the wall itself.

Public Notification

Public hearing notification efforts for this request meet the requirement set out by City Code:

- A notice was published in the Casa Grande Dispatch on September 26, 2014.
- A notice was sent to all property owners within 200 ft. of the subject site on May 29, 2014.
- A public hearing sign was posted by the applicant on the subject site before September 29, 2014.

Inquiries/Comments

No inquires or comments have been received. Staff contacted Palm Creek's management to discuss this project with them to assess if any further outreach or steps would be preferred. Palm Creek management thanked staff for the notification but has not followed up with any additional response. Should the variance application be approved, the next step would be to obtain Major Site Plan approval in front of the Planning and Zoning Commission. Further notification will occur prior to that hearing.

STAFF RECOMMENDATION

Staff recommends the Board approve DSA-14-00158, the variance requests from Table 17.20.140 to allow:

- a.** A front setback of 10 ft. where 20 ft. is required
- b.** A rear setback 5 ft. where 20 ft. is required
- c.** A side setback of 6.5 ft. where 10 ft. is required from the south-side property line.
- d.**

with the following conditions:

1. This variance is for relief of setbacks from R-1 development standards, to become enacted by ordinance on November 18, 2014. If this property does not become R-1 zoned by ordinance, a new variance request shall be required to seek relief to setbacks within the UR zone.
2. If the equipment makes noise beyond the limits of the enclosed site, the City, with the cooperation of the applicant, shall determine the most suitable noise mitigation to be implemented by the applicant.

Exhibits:

Exhibit A – Minutes from 2005 BOA Variance

Exhibit B – 2005 site plan

Exhibit C – Applicant’s justification statement

Exhibit D – Planning Commission Minutes regarding zone change

Exhibit E – New site plan

Exhibit A – Minutes from the 2005 BOA Variance

BOA Minutes
5-10-05
Page 2 of 5

BOA-01-05: Variance request for 8' setbacks along the rear and side yard property line (42' variance) by Arizona Water Company to construct a well site and arsenic treatment facility located at 1300 N. Henness Road, a portion of Section 23, T6S, R6E, G&SRM, Pinal County, Arizona, APN 505-23-002J.

Rick Miller, Planning and Development Director, gave an overview of this case as stated in Staff's report.

Surrounding properties are zoned and developed as follows:

Location	Zoning	Current Use
North	PAD Planned Area Development	Palm Creek RV Park and Golf Resort
South	PAD Planned Area Development	Palm Creek RV Park and Golf Resort
West	PAD Planned Area Development	Villa de Jardines Retirement Community
East	PAD Planned Area Development	Palm Creek Golf and RV Resort

Federal mandates have tightened the standards for water quality with respect to treatment for arsenic. The Arizona Water Company is submitting this request for a variance to allow for the construction of an arsenic treatment facility in the Henness Road well site location. The attached plans show the location of the arsenic treatment equipment and the proposed water tank that is necessary for complying with the federal water quality requirements.

The site is adjacent to the Palm Creek Golf and RV Resort's golf maintenance facility and wood shop to the north, tennis courts to the east and RV spaces to the south. The site has access entirely off of Henness Road. The treatment facility will serve to treat several other Arizona Water Company production wells. The facility represents a public health benefit by reducing a known carcinogen in the drinking water supply.

The site is zoned UR (Urban Ranch). This zoning district requires a 50' setback for conditional or accessory use structures. Surrounding property is zoned PAD allowing for a higher density recreational vehicle park and a small lot age restricted community. The 42' variance seems excessive, however, this facility could be rezoned to low density residential and the setback variance would be reduced to 12'.

The variance request is supported by City staff due to the existing well site restricted size and the federal clean water mandate that requires a reduction in the arsenic levels in our drinking water. The Planning and Zoning Commission reviewed this facility on May 5th and recommended approval of a conditional use permit subject to several conditions that will mitigate the visual impact of the well site facilities on adjacent uses.

Staff has not received written or verbal opposition to the variance request as of the date of this staff report.

Staff recommends approval of the variance as requested.

James Wilson, Senior Engineer, Arizona Water Company, P.O. Box 29006, Phoenix, AZ 85038-9006 distributed information regarding the facility and the process to the Board.

Presiding Chairman Martin questioned whether the property owners within Palm Creek were notified of this request.

Mr. Wilson informed the Board that he did not know if the residents were aware of this request.

Mr. Miller informed the Board that the City sends notification to the property owner.

Member Collings questioned whether the largest tank could be relocated north of the chlorination tanks.

Mr. Wilson agreed that the unit could be relocated.

Member Hennessey questioned the noise and whether the pumps run simultaneously.

Mr. Willson informed the Board that the pumps can run simultaneously and the noise compares to a vacuum. Mr. Wilson stated that the operation of the pumps could be set to a timer.

The Board discussed buffering, location of equipment, service and relocation of the tanks.

Presiding Chairman Martin stated that he would vote in favor of this request since the applicant agreed to move the largest tank north of the chlorination tanks.

Member Hennessey stated her concern that the residents in Palm Creek were not notified of this request.

Member Collings made a motion to approve this request with relocating the 20' tank north of the chlorination tanks and meeting the 8' foot setbacks as stated in the variance request. Member Swain seconded the motion. The following roll call vote was taken:

Member Hennessey	Nay
Member Collings	Aye
Member Swain	Aye

Presiding Chairman Martin Aye

The motion failed 3 – 1.

In response to Member Collings question, Mr. Miller informed the Board that if the property was zoned commercial, the Arizona Water Company would still have the same issues.

Member Hennessey stated that her concern is the limited space for the facility.

Mr. Kevin Pakta, Arizona Water Company, informed the Board that this is the biggest site that they have available.

Mr. James Wilson conveyed that the facility needs to be in place by January 2006.

The Board discussed the federal mandate, timing and locations.

Mr. Miller conveyed that this request is a hardship imposed by a Federal mandate.

Member Martin suggested that the applicant add a couple of feet to the height of the south wall, as well as landscaping to hide the view of facility to the residents of the RV Park.

Mr. Miller suggested adding palm trees with palm frawns, whereas the trunk height would be equal to the height of the wall and placed 6' feet on center along the interior of the south wall.

Member Hennessey conveyed that she would be willing to vote in favor of this request with the latest suggestions.

Mr. Wilson stated that they would be in agreement with the suggestions.

Member Collings made a motion to approve BOA-1-05, including the relocation of the tank, meeting the 8' setbacks and adding a condition:

1. The applicant shall install Palm Trees with a trunk height of 8' feet along the interior south property wall with 6' spacing between trees.

Member Swain seconded the motion. The following roll call vote was taken:

Member Hennessey	Aye
Member Collings	Aye
Member Swain	Aye
Presiding Chairman Martin	Aye

The motion passed 4 – 0.

Exhibit C – Applicant’s justification statement

Variance Justification Criteria and Response

The City’s zoning ordinance paragraph 17.54.040 requires an applicant seeking variance to development ordinance(s) (e.g. setbacks) to present a statement and adequate evidence in such form as the board may require for the purpose of showing:

A. *That there are special circumstances or conditions applicable to the property referred to in the application which does not prevail on other property in that zone;*

Title 17 of the Casa Grande City Code defines the requirements of various zoning categories, along with principally, conditionally, and permitted accessory uses. The Site is a water production facility that includes a groundwater well, ARF, storage reservoir, a booster pump station and ancillary equipment. As shown in Table 17.16.030 A of the City code, “Water pump station(s)” and “Water tower(s)” are conditionally allowed in residential zones.

The site has been in continuous operation since 1980, and, prior to 2005, operated under the nonconforming use clause (17.64). In 2005, a conditional use permit and variance was granted to allow construction of the ARF, storage reservoir, a booster pump station and ancillary equipment. A setback variance was granted as the UR setback requirements (50’ from on front, side and rear ‘yard’ for all conditional use structures) would have severely reduced the useable space and the Company’s use of the property.

The Company must increase water production at the site to maintain a safe and reliable supply of drinking water to satisfy the community’s growing water demand. The Company is currently in the design process to expand the ARF capacity to satisfy the community’s growing water demand. The ARF expansion is consistent with the use of the site as a water production facility since 1980, and is

consistent with the conditional use and variance granted in 2005. The new equipment proposed by this project is no closer to the property line than the existing equipment already installed under the previous conditional use permit and setback variance.

The setbacks required under Zone R-1 were established with the residential uses specifically in mind. This facility, while in a residential zone, is not a single family dwelling and has already been given a conditional use permit as a water production facility. Therefore, the use of this property is unique and the setbacks that should be applied differ from those that prevail on other residential properties in the same zone.

Exhibit 2 shows the expanded ARF vessels, located near the southeast corner of the property, with a minimum 5 ft setback from the east property line and a minimum 6.5 ft setback from the southern property line. The setbacks are consistent with minimum setback requirements previously approved for the existing ARF vessels. Exhibit 2 also shows the electrical building expansion, located near the northwest corner of the property, with a minimum 10 ft setback. The 10 ft setback is consistent with minimum setback requirement previously approved for the electrical building.

As indicated, the Site’s use remains unchanged with the ARF expansion. The proposed expansion has maintained the previously approved setback requirements for the existing equipment.

- B. That the strict application of the regulations would work an unnecessary hardship and that the granting of the application is necessary for the preservation and enjoyment of substantial existing property rights;**

The existing Zoning Code, as written, does not have a specific zone for water production facilities. Instead, it grants conditional use to water production facilities in any of the residential zones. Therefore, no setback requirements specific to water production facilities have been considered. In order to preserve the use of the existing site as a water production facility for Arizona Water Company to provide safe, reliable and adequate water supply, a variance to the residential setback requirements should be granted. Any other determination would be an unnecessary hardship on Arizona Water Company and the residents of Casa Grande.

- C. That the granting of such application will not materially affect the health or safety of persons residing or working in the neighborhood and will not be materially detrimental to the public welfare or injurious to property or improvements of the neighborhood.**

The granting of the application will not affect the health or safety of the neighbors or neighborhood. As stated previously, the proposed work is consistent with the existing conditional use permit and variance already granted. All work proposed will occur within the currently approved variance setback requirements.

Exhibit D – Planning Commission Minutes regarding zone change

A. **Request by Ben Lee of Water Works Engineers, on behalf of Arizona Water Company** for the following land use approval at 1300 N Henness Rd (APN # 505-23-002J):

1. **DSA-14-00116: Zone Change** from Urban Ranch (UR) to R-1 (single-family residential) to allow for reduced setback requirements to help accommodate a forthcoming proposal for placement of new treatment equipment and tank.

Jim Gagliardi, Planner, came forward and presented a brief overview of the case as stated in the Staff Report. Mr. Gagliardi stated the site is located next to Palm Creek RV Resort on the east side of Henness Road. The request is to change the zoning from Urban Ranch (UR) to Single-Family Residential (R-1), which will help legitimize the existing site conditions, by allowing a reduction in the set-backs. Mr. Gagliardi noted the existing facility has received Variance approvals from the Board of Adjustment for what is presently located on the site. No public comments were received.

Vice-Chairman Henderson questioned if this request was discussed with Palm Creek.

Mr. Gagliardi replied that the Manager of Palm Creek was notified. The Manager indicated to staff that he wanted to speak with the owners before commenting, but staff has not been contacted. Mr. Gagliardi noted that the applicant will be submitting a request for a Variance and a Major Site Plan, and staff has recommended the applicant meet with representatives of Palm Creek RV Resort to ensure that any impact the additional tank and equipment might have on the adjacent residences are mitigated as much as possible.

Member Lynch questioned if there has been any complaint from the residents of Palm Creek regarding noise or odor from the existing facility.

Mr. Gagliardi noted the east side of the facility is bordered by the tennis courts and the north side is adjacent to Palm Creek's maintenance shop. He did state the facility emits a very low sound volume. Mr. Gagliardi stated the primary concern is the two abutting spaces to the south of the facility. Currently the area is bordered by trees and a wall, but the addition of the treatment facility will be a concern and staff is waiting to hear from Palm Creek. He noted that through the Variance and Major Site Plan process staff will look at ways to mitigate any adverse impact the new equipment might have to the areas to the south.

Vice-Chairman Henderson called the applicant to come forward.

James Wilson, 3805 N. Black Canyon Hwy, Phoenix, Sr. Engineer with Arizona Water Company, came forward to address the Commission. Mr. Wilson thanked staff. He then stated their goal is to expand the facility to meet the increased demands for water.

The height of the addition will not increase and there will not be any additional site visits or noise associated with the expansion.

Vice-Chairman Henderson asked if this site is for arsenic removal, and if it is done site by site.

Mr. Wilson replied that this site is the centralized location for arsenic removal.

Vice-Chairman Henderson made a call to the public; no one came forward.

Member Tucker made a motion to forward a favorable recommendation to the City Council regarding DSA-14-00116, Zone Change from Urban Ranch (UR) to Single-Family Residential (R-1). Member Benedict seconded the motion.

The following roll call vote was recorded:

Member Gentzkow	Aye
Member Tucker	Aye
Member Lynch	Aye
Member Benedict	Aye
Vice-Chairman Henderson	Aye

The motion passed 5 – 0.

