



## **APPL-23-0008, WILSON TANK NOTICE AND ORDER APPEAL**

**CITY COUNCIL**

November 14, 2023



# APPL-23-0007

## CONTEXT



### QUICK FACTS

#### Address:

6560 Alabaster Way

#### Location:

Immediately east and adjacent to Mountain Shadows neighborhood

#### Zoning and Overlays

Zone: PF (Public Facilities)

Overlay(s): HS-O (Hillside Overlay) and WUI-O (Wildland Urban Interface Overlay)

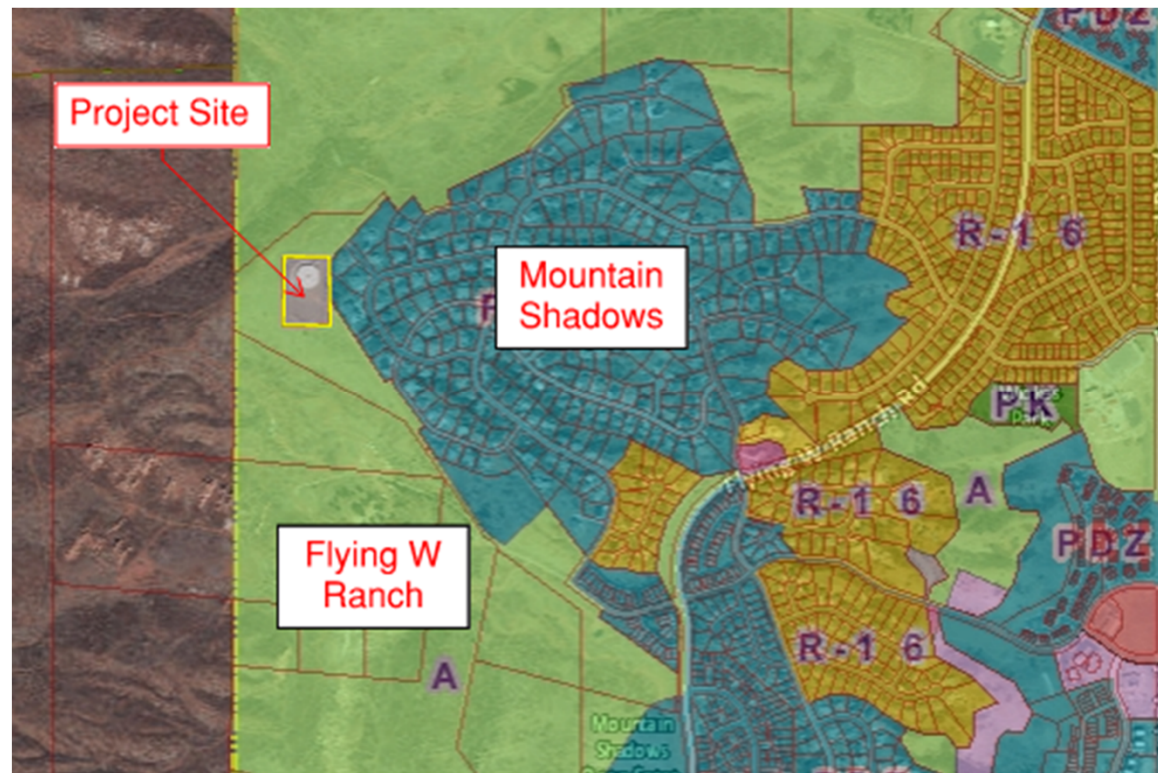
#### Site Area

3.63 Acres

#### Land Use

5 MG Water Storage Tank and Pump Station

### VICINITY MAP



# APPL-23-0008

## NOTICE AND ORDER



### PROJECT SUMMARY

File #(s):

APPL-23-0005

Project Proposal:

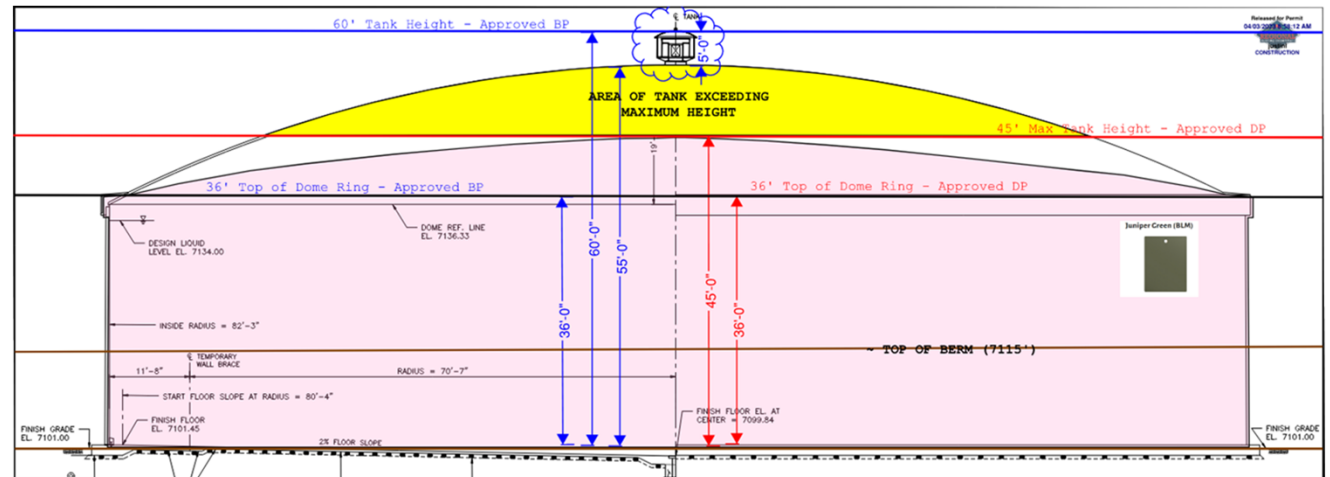
Appeal of Notice of Violation and Order to Abate

The project is not in compliance with the approved Development Plan

Application:

Appeal of Administrative Decision

### TANK HEIGHT COMPLIANCE



# APPL-23-0008

## APPEAL OF NOTICE AND ORDER



### APPEAL OF ADMINISTRATIVE DECISION (UDC SEC. 7.5.415)

- a. The decision is contrary to the express language of this UDC;
- b. The decision is erroneous; or
- c. The decision is clearly contrary to law

### PLANNING COMMISSION DECISION

City Planning Commission denied the Wilson Tank Notice and Order Appeal, upheld the Administrative Decision to issue the Notice and Order, and determined that the application did not meet the applicable review criteria:

- It is unlawful to erect a building that does not comply with all applicable provision of the UDC (Section 7.106).
- The UDC requires continued compliance with an approved development plan unless modified or amended. There is not an approved modification to the development plan (Section 7.5.515.F.4).
- City Planning has the authority to enforce the UDC which includes issuing a Notice and Order for a violation (Section 7.5.9)

# APPL-23-0008

## APPEAL CRITERIA



### APPEALS (UDC SECTION 7.5.415)

1. An application for appeal may be reversed or modified if it determined that one (1) or more of the applicable review criteria are met:
  - (a) The decision is contrary to the express language of this UDC;
  - (b) The decision is erroneous; or
  - (c) The decision is clearly contrary to law;
  
2. The basis of this appeal is that the Planning Commission's decision is contrary to the express language of the UDC, erroneous, and contrary to law.

#### **Proposed Motions:**

1. Affirm the decision of the Planning Commission and deny the appeal; or
2. Reverse the decision of the Planning Commission and approve the appeal; or
3. Modify the decision of the Planning Commission and approve the appeal; or
4. Remand the matter back to the Planning Commission for further consideration.

# APPL-23-0007 PROPOSED MOTIONS



**Should the City Council wish to affirm the Planning Commission decision for the Wilson Tank Notice and Order appeal application, the following motion is suggested:**

Deny the appeal and uphold the Planning Commission decision on the Wilson Tank Notice and Order, based upon the findings that the review criteria for deciding on an appeal as set forth in City Code Section 7.5.415.A.2 are not met.

**Should the City Council wish to reverse the Planning Commission decision for the Wilson Tank Notice and Order appeal application, the following motion is suggested.**

Approve the appeal and reverse the Planning Commission decision on the Wilson Tank Notice and Order, based upon the finding that the review criteria for deciding on an appeal as set forth in City Code Section 7.5.415.A.2 are met.

# APPL-23-0007 PROPOSED MOTIONS



**Should the City Council wish to modify the Planning Commission decision for the Wilson Tank Notice and Order appeal application, the following motion is suggested.**

Deny the appeal and modify the Planning Commission decision on the Wilson Tank Notice and Order, based upon the findings that the review criteria for deciding on an appeal as set forth in City Code Section 7.5.415.A.2 are not met and add the following condition to abate the violation:

- 1) The water storage tank is completed to comply with the approved development plan (AR-DP-00526) dated June 21, 2022.

**Should the City Council wish to remand the matter back to the City Planning Commission for further consideration, the following motion is suggested.**

Remand the matter back to the City Planning Commission for further consideration on recommended actions to abate the violation of the UDC.

