



**PIMA COUNTY
DEVELOPMENT SERVICES DEPARTMENT**

201 N. Stone Avenue, 1st Floor
Tucson, Arizona 85701-1207

CARMINE DeBONIS
Director

Phone: (520) 740-6520
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March 30, 2015

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Hearing Administrator's Approval of Time Extension

P21-14-006

**PIMA COUNTY — W. MASSINGALE ROAD
Type I Conditional Use – Communication Tower**

The above-referenced conditional use permit application was approved by the Hearing Administrator on June 11, 2014. Negotiations between the with Pima County for the final terms of the lease in question have proceeded since that date. The applicant, Adam Brixius (on behalf of Verizon Wireless), has requested a one-year time extension to complete the negotiations and allow for the subsequent permitting of the tower.

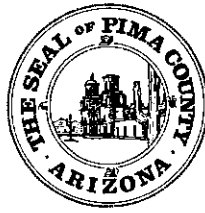
After hearing the above time extension request at the public hearing of March 24, 2015, the Hearing Administrator approved the applicant's request for a one-year time extension.

Respectfully Submitted:

A handwritten signature in black ink, appearing to read "Jim Portner", is written over a horizontal line.

Jim Portner
Pima County Hearing Administrator

March 30, 2015
Date



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HEARING ADMINISTRATOR'S FINDINGS AND DECISION

P21-14-017

**RITTER — W. AJO HIGHWAY
Type I Conditional Use – Communication Tower**

Background & Authority

Chapter 18.97, in accordance with Section 18.07.030.H.2.E of the Pima County Zoning Code, requires a Type I conditional use permit for a communications tower/utility pole replacement on property zoned SR (Suburban Ranch). This particular request is to construct a new fifty-two foot (52') tall communications tower and antennae that will replace an existing utility pole (the height of which is 37').

Particulars of the Request

The proposed tower (together with its on-the-ground equipment) will be sited more than 400' from the nearest residence in an area that is generally rural in nature. This specific area has long been somewhat of a "dead zone" for wireless service and this tower will address the existing gap in coverage. The on-the-ground equipment building will be surrounded by an 8' tall masonry wall

Public Hearing

In accordance with Pima County Zoning Code Section 18.97.030.F.3, a public hearing was held on this application on March 24, 2015. The applicant (Garrett Bair of Wavelength Management, on behalf of Verizon Wireless) presented the conditional use permit request and answered the Hearing Administrator's questions.

Two (2) members of the public attended the hearing to speak on the matter. One of the speakers was strongly in support of the request due to the generally poor wireless coverage that exists in the area and the impact this can have on emergency communications. The other speaker was in objection to the request based on visual concerns. She indicated that an alternative location was appropriate that would not impact the existing viewshed.

After hearing all of the above and after giving the applicant an opportunity to respond to the above testimony, the Hearing Administrator closed the public hearing.

Required Standards and Findings

Following are the Hearing Administrator's findings relative to the standards set by Pima County Code Sec. 18.97.030.F.3.c. These Sections stipulate that the following standards be met by the proposed use:

1. It will not be in serious conflict with the objectives of the general land use plan or the area plan in which situated.

The Comprehensive Plan designates the subject property as *Resource Transition (RT)*, the stated purpose of which is to, "preserve open space characteristics of development sensitive lands in the vicinity of public resource management units, promote development that blends with the natural landscape, etc." The subject property is in relative proximity to Tucson Mountain Park and Saguaro National Park West.

It is the Hearing Administrator's finding that the proposed tower is not inconsistent with the character of the surrounding area nor with the objectives of this *Comprehensive Plan* district. The subject context is generally rural and there are numerous site-built and mobile home residences within the general area. There is also a string of existing power poles along Ajo Highway, one of which would be replaced (and increased in height by 15') by this request. With this in mind, the general aesthetic of the area will be altered but will not be significantly worsened over the existing condition.

For all of these reason, the Hearing Administrator finds the proposed use to not be in conflict with the stated goals of the Comprehensive Plan.

2. It will provide safeguards for the protection of adjacent developed property, or if the adjacent property is undeveloped, for the legal permitted uses of such property.

The property is adjoined by unsubdivided and subdivided residential development as well as vacant parcels. No new or special safeguards are necessary to protect the surrounding neighbors, other than the aesthetic treatment of the tower to make its color consistent with the existing string of utility poles in the area. Special conditions have been crafted to address this matter.

3. It has adequate accessibility to the County road network.

The property has direct access to Ajo Highway, a paved public street which is a designated "Major Street" per the Pima County Major Streets & Routes Plan. Access is found to be adequate.

4. It has sufficient off-street parking and loading facilities, that will be developed in accordance with County engineering standards.

This is an unmanned wireless facility. Parking sufficiency will be verified at the time of permitting.

5. **It will meet County standards in terms of control of noise, smoke, glare or heat, odors, vibrations, fly, ash, dust, fumes, vapors, gasses, and other forms of air pollution, liquids and solid wastes.**

The proposed use is found to not threaten the surrounding properties in any of the above ways. Standard code requirements shall serve to adequately address these issues.

6. **Hours of operation will not be detrimental to adjoining residents.**

This is an unmanned facility; no Special Conditions or other requirements are warranted.

7. **Landscaping will be fully in conformance with zoning code regulations.**

Landscaping requirements, if any, will be verified at the time of permitting.

Hearing Administrator's Decision

This application for a Type I conditional use permit for a communications tower, on property zoned SR, is hereby approved by the Hearing Administrator. This approval is subject to the *Standard Code Requirements* and *Special Conditions* as outlined below:

Standard Conditions & Code Requirements

The Pima County Zoning Code allows a Type I communication tower and utility pole replacement of the height being proposed in this case (fifty-two feet) within the SR zone, subject to criteria below being met. The replacement pole must:

- a) Replace the existing tower or pole;
- b) Be located not more than six feet from the existing tower or pole foundation, and be within the same alignment relative to property boundaries and adjacent poles;
- c) Be no higher than the existing tower or be no more than sixteen feet beyond the height of the existing utility pole, not to exceed a maximum total height of two hundred feet;
- d) Antenna(s) are flush-mounted or do not extend from the communication tower a distance that is greater than that of the existing antennas.
- e) If a communication tower equipment area is added or expanded, a Type I conditional use permit is required. Equipment placed inside a vault, or equipment placed inside an existing walled or existing screened compound (e.g. utility substation or existing, previously approved communication tower equipment area) or equipment placed in the right-of-way of a street with a designation of an arterial or collector street or higher is exempt from the conditional use permit requirement.

Special Conditions

- 1) The height of the new tower/replacement utility pole and antennae shall be no more than fifty-two feet (52') to the top of the pole or the antennae.
- 2) The replacement pole, antennae, and any associated cabling shall be painted brown to generally match the existing utility poles in the same string.
- 3) The tower and the on-the-ground equipment building shall be located on the property as shown on the submitted site plan materials.
- 4) The equipment building and the 8' tall masonry wall surrounding it shall be painted with an earth tone color that blends with its surroundings.

Protest Period and Appeal Procedures

As is the case with all Type I conditional use applications, this decision is subject to a statutory 30-day protest period from the date of this decision. If a valid protest is received within the 30-day period, an appeal hearing will be scheduled before the Board of Supervisors, who shall then make the final decision on this conditional use permit.

In that the Hearing Administrator's decision on this case was verbally rendered and entered into the record at the public hearing of March 24, 2015, it is hereby established that the 30-day protest period shall commence from this public hearing date.

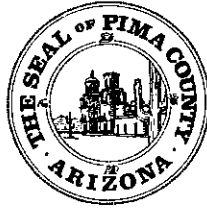
Any party interested in filing an appeal should contact Mr. Tom Drzazgowski, Pima County Deputy Chief Zoning Inspector, at phone number 724.6675. Please be advised that filing fees apply to any appeal, and that these fees are payable by the party filing the appeal request.

Respectfully Submitted:



Jim Portner
Pima County Hearing Administrator

March 30, 2015
Date



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March 30, 2015

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HEARING ADMINISTRATOR'S FINDINGS AND DECISION

P21-15-002

WEEKS — W. BOPP ROAD

Type I Conditional Use – Communication Tower

Background & Authority

Chapter 18.97, in accordance with Section 18.07.030.H.2.E of the Pima County Zoning Code, requires a Type I conditional use permit for a communications tower on property zoned GR-1 (Rural Residential). This particular request is to construct a new fifty foot (50') tall communications tower and antennae, together with an on-the-ground equipment area, on the grounds of an existing plant nursery. The applicant proposes to camouflage the tower as a palm tree.

Particulars of the Request

The proposed tower (together with its on-the-ground equipment) will be sited in the southeastern portion of the existing plant nursery. The on-the-ground equipment will be contained within a pre-fabricated building. The applicant undertook significant outreach with the surrounding property owners and held a general neighborhood meeting in January, 2015 to which all of the owners in the area were invited.

Public Hearing

In accordance with Pima County Zoning Code Section 18.97.030.F.3, a public hearing was held on this application on March 24, 2015. The applicant (Shirley Crowder of Centerline Solutions, on behalf of Verizon Wireless) presented the conditional use permit request and answered the Hearing Administrator's questions.

One (1) member of the public attended the hearing to speak on the matter, this being a representative of the homeowners association for the subdivision to the north of the subject property. The speaker did not object to the application, but did request answers to certain questions regarding the health aspects of the tower and asked for justification as to why another new tower was necessary. The applicant responded accordingly,

indicating that the tower was being constructed to improve service for the more data-intensive uses of hand-held devices and not so much for the improvement of voice services. The Hearing Administrator explained that, per the Federal Telecommunications Act, health concerns were not a topic which local zoning authorities could consider in their deliberations.

After hearing all of the above and after questioning the applicant as to certain particulars of the new tower, the Hearing Administrator closed the public hearing.

Required Standards and Findings

Following are the Hearing Administrator's findings relative to the standards set by Pima County Code Sec. 18.97.030.F.3.c. These Sections stipulate that the following standards be met by the proposed use:

1. It will not be in serious conflict with the objectives of the general land use plan or the area plan in which situated.

The Comprehensive Plan designates the subject property as *Resource Transition (RT)*, the stated purpose of which is to, "preserve open space characteristics of development sensitive lands in the vicinity of public resource management units, promote development that blends with the natural landscape, etc." The subject property is in relative proximity to Tucson Mountain Park and Saguaro National Park West.

It is the Hearing Administrator's finding that the proposed tower is not inconsistent with the character of the surrounding area nor with the objectives of this *Comprehensive Plan* district. The site is developed as a plant nursery and blends well with the surrounding rural-residential properties, which include subdivided and unsubdivided holdings, as well as site-built homes and mobile homes.

The proposed tower will be camouflaged as a faux palm tree, which fits well within the existing plant nursery and is visually consistent with palm trees that exist within the viewshed further to the north. For all of these reason, the Hearing Administrator finds the proposed use to not be in conflict with the stated goals of the Comprehensive Plan.

2. It will provide safeguards for the protection of adjacent developed property, or if the adjacent property is undeveloped, for the legal permitted uses of such property.

The property is surrounded by unsubdivided and subdivided residential development. No new or special safeguards are necessary to protect the surrounding neighbors, other than the aesthetic treatment of the tower as the intended faux palm tree and the appropriate painting of the associated equipment building. Special conditions have been crafted to address these matters.

3. It has adequate accessibility to the County road network.

The property has direct access to Bopp Road, a paved public street, which then connects directly to Kinney Road, a designated "Major Street" per the Pima County Major Streets & Routes Plan. Access is found to be adequate.

4. **It has sufficient off-street parking and loading facilities, that will be developed in accordance with County engineering standards.**

This is an unmanned wireless facility. Parking sufficiency will be verified at the time of permitting.

5. **It will meet County standards in terms of control of noise, smoke, glare or heat, odors, vibrations, fly, ash, dust, fumes, vapors, gasses, and other forms of air pollution, liquids and solid wastes.**

The proposed use is found to not threaten the surrounding properties in any of the above ways. Standard code requirements shall serve to adequately address these issues.

6. **Hours of operation will not be detrimental to adjoining residents.**

This is an unmanned facility; no Special Conditions or other requirements are warranted.

7. **Landscaping will be fully in conformance with zoning code regulations.**

Landscaping requirements, if any, will be verified at the time of permitting.

Hearing Administrator's Decision

This application for a Type I conditional use permit for a communications tower, on property zoned GR-1, is hereby approved by the Hearing Administrator. This approval is subject to the *Standard Code Requirements* and *Special Conditions* as outlined below:

Standard Conditions & Code Requirements

The Pima County Zoning Code allows Type I communication towers of the proposed height (fifty feet) within the GR-1 zone, subject to the conditional use permit process.

Special Conditions

- 1) The height of the new tower shall be no more than fifty feet (50') to the top of the structure or its antennae.
- 2) The tower shall be camouflaged as a palm tree. The fronds of the faux palm tree are allowed to extend above the maximum height prescribed in Special Condition No. 1.
- 3) The panel antennae and any associated cabling, etc. will be painted to, as best as possible, match or blend with the palm fronds.
- 4) The tower and the on-the-ground equipment building shall be located on the property as shown on the submitted site plan materials.
- 5) The equipment building shall be painted with an earth tone color that blends with its surroundings.

Protest Period and Appeal Procedures

As is the case with all Type I conditional use applications, this decision is subject to a statutory 30-day protest period from the date of this decision. If a valid protest is received within the 30-day period, an appeal hearing will be scheduled before the Board of Supervisors, who shall then make the final decision on this conditional use permit.

In that the Hearing Administrator's decision on this case was verbally rendered and entered into the record at the public hearing of March 24, 2015, it is hereby established that the 30-day protest period shall commence from this public hearing date.

Any party interested in filing an appeal should contact Mr. Tom Drzazgowski, Pima County Deputy Chief Zoning Inspector, at phone number 724.6675. Please be advised that filing fees apply to any appeal, and that these fees are payable by the party filing the appeal request.

Respectfully Submitted:



Jim Portner
Pima County Hearing Administrator

March 30, 2015

Date



Board of Supervisors Memorandum

P21-15-004

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FOR BOARD OF SUPERVISORS APRIL 14, 2015 PUBLIC HEARING

TO: HONORABLE BOARD OF SUPERVISORS
FROM: Jim Portner, Hearing Administrator
DATE: March 30, 2015

DOCUMENT: P21-15-004

CONDITIONAL USE PERMIT REQUEST FOR PUBLIC HEARING:

Request of Arroyo Colorado, LLC, on property located at 15390 W. Ajo Highway, in the **GR-1 Zone**, for a conditional use permit for retail uses and personal services (hair salon) in accordance with Section 18.97 & 18.14.030.B of the Pima County Zoning Code, as a Type II conditional use under other conditional uses. (District 3)

CASE BACKGROUND AND PARTICULARS

This particular request is to add retail and personal service uses within an existing building that possesses prior conditional use approvals for a restaurant and an office. The property has been purchased by a new owner who is actively working to establish a full complement of services in the area. This multi-use approach is viewed as an appropriate one due the general lack of services conveniently available to the surrounding residents. No expansion of the existing building is necessary to accommodate the proposed retail and/or personal service uses.

SUMMARY OF THE HEARING ADMINISTRATOR MEETING

In accordance with Pima County Zoning Code Section 18.97.030.F.3, a public hearing was held on this application on March 24, 2015. The applicant presented the case to the satisfaction of the hearing administrator and answered his questions as necessary.

No (0) members of the public attended the hearing to speak on the matter. Staff indicated that, prior to the hearing, it had received no public comment or phone calls on the case.

After hearing all of the above, the Hearing Administrator closed the public hearing.

HEARING ADMINISTRATOR'S RECOMMENDATION

After visiting the subject property, and after considering the facts and the testimony presented at the 24 March, 2015 public hearing, the Hearing Administrator recommends **APPROVAL** of this request for a Type II conditional use permit for retail and personal service uses. The applicant is advised that this is a *recommendation* to the Board of Supervisors, who will make the ultimate and final decision on this CUP request.

Should the Board of Supervisors agree with the Hearing Administrator's recommendation for approval, it is suggested that this approval be granted subject to the following standard and special conditions, which are the same in substance and content as the conditions attached to the prior office use approved on the same property:

Standard Conditions & Zoning Code Requirements

1. The retail and personal-service uses shall each be limited to no more than two thousand (2,000) square feet in area.

Special Conditions

1. This conditional use permit approval is for retail and personal service uses. Any restaurant and/or office uses of the existing structure are covered by the previously issued CUP's for this property.
2. At the time of building permits associated with the retail or personal-service uses, the applicant must provide a parking table or calculation that demonstrates the site meets applicable parking requirements of the Pima County Zoning Code.
3. No amendment to the existing approved Development Plan (Case No. P1298-142) is required.

REQUIRED STANDARDS AND FINDINGS

Following are the Hearing Administrator's findings relative to the standards set by Pima County Code Sec. 18.97.030.F.3.c. These Sections stipulate that the following standards be met by the proposed use:

1. **It will not be in serious conflict with the objectives of the general land use plan or the area plan in which situated.**

The Comprehensive Plan presently places the subject property within an area designated as *Low Intensity Rural (LIR)*, which is a district intended to, "provide areas for low density rural residential and other compatible uses."

The proposed retail and personal-service uses will occur within a building that housed a restaurant for many years and which co-existed well with its surroundings. The additional new uses, together with the previously approved restaurant and office uses, are not intrusive upon their surroundings. The Hearing Administrator finds the proposed retail and personal-service uses to be appropriate in this location and in full conformance with the Comprehensive Plan *LIR* district.

- 2. It will provide safeguards for the protection of adjacent developed property, or if the adjacent property is undeveloped, for the legal permitted uses of such property.**

The proposed retail and personal-service uses will be located within a structure that was used for many years as a restaurant, which is a use of greater intensity, and which also has approval for professional offices. No safeguards are warranted beyond the minor special conditions crafted by the hearing administrator and attached to CUP approval.

- 3. It has adequate accessibility to the County road network.**

The site has direct access to Ajo Highway, which is a designated “major street” on the Pima County Major Streets & Routes Plan (MSRP). Access is found to be adequate.

- 4. It has sufficient off-street parking and loading facilities, that will be developed in accordance with County engineering standards.**

On-site parking, loading, etc. is already in place; its sufficiency will be verified by staff during the permitting process. See Special Condition No. 2.

- 5. It will meet County standards in terms of control of noise, smoke, glare or heat, odors, vibrations, fly, ash, dust, fumes, vapors, gasses, and other forms of air pollution, liquids and solid wastes.**

The proposed use is found to not threaten the surrounding properties in any of the above ways. The office use being located within the existing structure is sufficient to address these matters.

- 6. Hours of operation will not be detrimental to adjoining residents.**

Hours of operation are found to not be an issue due to the primarily day-time operation of the office use.

- 7. Landscaping will be fully in conformance with zoning code regulations.**

All required landscaping is already in place on the property.

SONORAN DESERT CONSERVATION CONCEPT PLAN/ENVIRONMENTAL ISSUES

Comprehensive Plan Regional Environmental Policies — Conservation Lands System

In December, 2001 the Board of Supervisors incorporated the Maeveen Marie Behan Conservation Lands System (MMB-CLS) into the Comprehensive Plan 2001 Update as the Regional Environmental Policies. The MMB-CLS is the heart of the Sonoran Desert Conservation Plan (SDCP). On June 21, 2005, the Board of Supervisors amended the Comprehensive Plan Regional Environmental Policies and the MMB-CLS to reflect recommendations from the SDCP Science Technical Advisory Committee that were based on new scientific and technical data. As adopted, Conservation Guidelines associated with the MMB-CLS establish conservation objectives for a variety of projects (e.g. rezoning actions, comprehensive plan amendments, Type II and Type III conditional use permits, etc.) that require a discretionary decision by the Board of Supervisors. Conservation objectives include:

1. Important Riparian Areas — 95% undisturbed natural open space
2. Biological Core Management Areas — 80% undisturbed natural open space
3. Special Species Management Areas — 80% undisturbed natural open space
4. Multiple Use Management Areas — 66-2/3% undisturbed natural open space

The subject site is located within an area that is **OUTSIDE OF** the SDCP's Biologically-Preferred Reserve System and is therefore outside of the Maeveen Marie Behan Conservation Lands System (MMB-CLS).

Staff Commentary on Biological Impacts

Staff has reviewed this application and finds that: 1) its approval is not expected to affect any resources essential to Pima County's biological conservation priorities; and 2) that it would not be in conflict with the Regional Environmental Policies of the 2001 Comprehensive Plan Update.

The subject property is a completely developed site with an existing building and attendant improvements for parking, drainage, landscaping, etc.

Facts Confirmed by the Pima County Geographic Information System (GIS)

The following facts are confirmed by the Pima County GIS and the Sonoran Desert Conservation Plan maps with respect to this conditional use permit request:

Cactus Ferruginous Pygmy Owl. The subject property is located within an area that is not designated as former critical habitat or draft recovery area. It is within Survey Zone 2. This site is not located within the Priority Conservation Area (PCA) for this species.

Western Burrowing Owl. The subject property is located within a general area designated as having low quality habitat potential for the Western Burrowing Owl. It is not within the Priority Conservation Area for this species.

Pima Pineapple Cactus. The subject property is located within a general area outside of the known range for the Pima Pineapple cactus. It is not within the Priority Conservation Area (PCA) for this species.

Needle-Spined Pineapple Cactus. The subject property is located within an area that is designated as having low potential for the Needle-Spined Pineapple cactus. It is not within the Priority Conservation Area (PCA) for this species.

DEPT. OF TRANSPORTATION & FLOOD CONTROL RECOMMENDATION:

The Department of Transportation and the Regional Flood Control District will review the project, if necessary, during the permitting process.

attachments

cc: Carmine DeBonis, Director, Development Services
Yves Khawam, Chief Building Official
Arlan Colton, Planning Official
Carmine DeBonis, Chief Zoning Inspector
Arroyo Colorado, LLC, c/o David Modisett, Owner & Applicant