



**PIMA COUNTY  
DEVELOPMENT SERVICES DEPARTMENT**

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November 27, 2017

Page 1 of 4

**HEARING ADMINISTRATOR'S FINDINGS AND DECISION**

**P17CU00013**

**PIMA COUNTY (RIGHT-OF-WAY) — E. SUNRISE DRIVE**

**Type I Conditional Use – Communications Tower**

**Background & Authority**

Chapter 18.97, in accordance with Section 18.07.030.H.2.E.10 of the Pima County Zoning Code, requires a Type I conditional use permit (CUP) for a communications tower on property zoned SR. This particular request is made by Adam Brixius, of Mobilitie, LLC, on behalf of Sprint. Mobilitie proposes to construct a new forty-five foot (45') tall communications tower. The proposed installation is a wooden monopole with a small-cell antennae atop it. The associated equipment servicing the antennae will be mounted upon the pole itself; no ground-mounted equipment cabinets will be used.

**Particulars of the Request**

The property in question is within the E. Sunrise Drive public street right-of-way and is zoned Suburban Ranch (SR). The property to the immediate south is the Catalina Foothills High School (CFHS) campus. To the north are developed residential properties zoned CR-1 and TR. The applicant had originally hoped to co-locate their new small-cell antennae on one of TEP's existing poles on the north side of Sunrise Drive, but these interactions/negotiations yielded no progress over a period of several months, leading the applicant to instead pursue an entirely new free-standing pole of their own.

**Public Hearing**

In accordance with Pima County Zoning Code Section 18.97.030.F.3, a public hearing was held on this application on November 20, 2017. The applicant (Adam Brixius) presented the conditional use permit request

and answered the Hearing Administrator's various questions. The applicant's submittal package included photo simulations and narrative information, in addition to the proposed development plan for the new tower.

Two (2) members of the public attended the hearing, both of whom chose to speak on the matter. Concerns expressed by the speakers included: 1) aesthetic reservations and the desire to see some method of relocating, camouflaging or otherwise mitigating its visual impacts; 2) a recommendation that the new antennae be co-located on an existing nearby communications tower (within Quail Ridge Apartments) or on an existing pole within the CFHS campus; 3) the pole potentially conflicting with the significant pedestrian foot traffic that occurs along the roadway from CFHS students; and 4) potential safety concerns with respect to the pole's location near the Sunrise Drive vehicular travel lanes.

Staff indicated that it had received two (2) telephone inquires on this application, both of which were informational.

After hearing all of the above and further questioning the applicant regarding aspects of the public testimony and the trade-offs involved with various potential methods of camouflage or relocation, the Hearing Administrator closed the public hearing.

### **Hearing Administrator's Considerations and Comments**

After giving due consideration to the facts of this case and the public testimony presented, and after visiting the site once again following the public hearing, the Hearing Administrator offers the following points underlying this decision:

- This wireless provider's program of establishing a series of smaller, shorter poles with pole-mounted equipment boxes to expand its network, rather than a series of significantly taller and more visually obtrusive towers with ground-mounted cabinets, is generally found to be appropriate for this developed context.
- This style of antennae has a somewhat limited coverage range (hence the need for more towers), thereby restricting the extent to which it can be repositioned, for aesthetic purposes, to alternative locations. Further, the prescribe coverage objective for this tower is the Sunrise Drive roadway corridor; this objective is maximized by locating the facility within the public right-of-way.
- The proposed wooden pole is not dissimilar from the standard utility poles that are used by TEP within this and other arterial corridors throughout the metropolitan Tucson region. In visiting the site a second time following the public hearing, the Hearing Administrator notes that the series of TEP poles along the north side of Sunrise Drive not only features a continuous string of multiple power cables, but the poles are also typified by unsightly dual wooden cross-members. This existing string of utility poles will continue to represent a far more dominant visual element within the corridor than the proposed single pole which features no cross-members or wires.
- Wooden poles like the one proposed in this application are typically nine inches (9") in diameter. Such a pole would not support the additional weight and windload associated with common forms of camouflage, e.g. a faux palm tree. Utilizing any of the common camouflage alternatives would require a more substantial pole structure and base. Such towers approved in the past have been metal poles with typical diameters of 26" to 30" and ground-mounted equipment cabinets, making them a much more substantial structural and visual element within the right-of-way.
- In consideration of all of the above, it is the Hearing Administrator's position that a smaller wooden pole is generally less obtrusive and therefore more appropriate in this particular case.
- It is further the Hearing Administrator's position that, as long as the proposed wooden pole meets all applicable PCDOT setback, clear zone and safety requirements, it can be placed within the right-

of-way in a manner that does not unduly interfere with pedestrian movement nor cause a safety hazard to motorists.

### **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 (Pima Prospers) designates the subject site as *Medium Intensity Urban (MIU)*, the purpose of which is to provide areas for medium intensity residential and other compatible uses.

Numerous communications towers have been approved in the past within the *MIU* comprehensive plan district and within Pima County rights-of-way. Recently passed State legislation further promotes the establishment and permitting of such towers within public rights-of-way and limits the authority of local zoning authorities to regulate same.

An existing string of TEP utility poles already exists along the north side of Sunrise Drive. The applicant spent several months in co-location discussions with TEP; these proved fruitless and the applicant instead chose to pursue a stand-alone pole. The proposed new communications tower is located on the south side of Sunrise Drive and will sit fifteen feet (15') south of the existing roadway curb. Final approval of this placement will be subject to meeting all applicable clear zone requirements of the Pima County Department of Transportation (PCDOT).

Based upon all of the above considerations, the Hearing Administrator finds the proposed use to not be in conflict with 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 Hearing Administrator finds that the proposed tower will have no significant impact upon any of the surrounding properties nor in any way hinder their legal use.

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

The property lies within the right-of-way of E. Sunrise Drive, a designated major street on the Pima County Major Streets & Routes Plan (MSRP). Access needs for such wireless facilities is minimal at best; 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.**

Parking sufficiency and compliance with the Zoning Code in this regard is a matter always 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.

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

This is an unmanned facility; hours of operation do not apply.

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

Landscaping requirements, if any, are a matter always verified at the time of permitting.

**Hearing Administrator's Decision**

This application for a Type I conditional use permit for a new communication tower, on property zoned SR, is hereby **approved** by the Hearing Administrator, subject to the following *Standard & Special Conditions*:

**Standard Conditions & Code Requirements**

The Pima County Zoning Code allows communication towers of the proposed height (45') within the SR zone, subject to the Type I conditional use permit process.

**Special Conditions**

- 1) The height of the new tower shall be no more than the requested forty-five feet (45') to the top of the antennae.
- 2) The tower base will be a wooden pole.
- 3) The antennae and all associated equipment shall be mounted on the pole and shall be painted a color to substantially match that of the wooden pole.
- 4) The tower will be located as per the submitted site plan; final setback from curb shall be in accordance with the Department of Transportation's clear zone requirements and all other applicable safety criteria.
- 5) All associated equipment servicing the antennae will be pole mounted, as shown on the submitted plan materials. No ground-mounted equipment boxes will be used.

**Protest Period and Appeal Procedures**

As is the case with all Type I conditional use permit 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.

Any party interested in filing an appeal should contact Mr. Artemio Hoyos, Pima County Senior Planner, at phone number 724.9000. 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

November 27, 2017  
Date



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DEVELOPMENT SERVICES DEPARTMENT**

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**HEARING ADMINISTRATOR'S FINDINGS AND DECISION**

**P17CU00014**

**PIMA COUNTY (RIGHT-OF-WAY) — E. SUNRISE DRIVE  
Type I Conditional Use – Communications Tower**

**Background & Authority**

Chapter 18.97, in accordance with Section 18.07.030.H.2.E.10 of the Pima County Zoning Code, requires a Type I conditional use permit (CUP) for a communications tower on property zoned CB-1. This particular request is made by Adam Brixius, of Mobilitie, LLC, on behalf of Sprint. Mobilitie proposes to construct a new fifty foot (50') tall communications tower. The proposed installation is a wooden monopole with a small-cell antennae atop it. The associated equipment servicing the antennae will be mounted upon the pole itself; no ground-mounted equipment cabinets will be used.

**Particulars of the Request**

The property in question is within the E. Sunrise Drive public street right-of-way and is zoned CB-1 (commercial). The property to the immediate south is a shopping center anchored by a Safeway grocery. To the north is another shopping center, which is also zoned CB-1. There are no co-location opportunities within the coverage area, since the utilities on Sunrise Drive east of Swan Road are located underground.

**Public Hearing**

In accordance with Pima County Zoning Code Section 18.97.030.F.3, a public hearing was held on this application on November 20, 2017. The applicant (Adam Brixius) presented the conditional use permit request and answered the Hearing Administrator's various questions. The applicant's submittal package included photo simulations and narrative information, in addition to the proposed development plan for the new tower.

No (0) members of the public attended the hearing to speak on the matter. Staff indicated that it had received no (0) telephone or email inquires on this application.

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

### **Hearing Administrator's Considerations and Comments**

After giving due consideration to the facts of this case and after visiting the site once again following the public hearing, the Hearing Administrator offers the following points underlying this decision:

- This wireless provider's program of establishing a series of smaller, shorter poles with pole-mounted equipment to expand its network, rather than a series of significantly taller and more visually obtrusive towers, is generally found to be appropriate for this developed context.
- This style of antennae has a somewhat limited coverage range (hence the need for more towers), thereby restricting the extent to which it can be repositioned, for aesthetic purposes, to alternative locations. Further, the prescribe coverage objective for this tower is the Sunrise Drive roadway corridor; this objective is maximized by locating the facility within the public right-of-way.
- The proposed wooden pole is not dissimilar from the standard utility poles employed by TEP and other utilities within arterial corridors throughout the metropolitan Tucson region. The proposed pole in this conditional use permit case, however, has no unsightly dual wooden cross-members or wires associated with it, as is the case with most TEP utility poles in the public rights-of-way.
- Wooden poles like the one proposed in this application are typically nine inches (9") in diameter. Such a pole would not support the additional weight and windload associated with common forms of camouflage, e.g. a faux palm tree. Utilizing any of the common camouflage alternatives would require a more substantial pole structure and base. Such towers approved in the past have been metal poles with typical diameters of 26" to 30" and ground-mounted equipment cabinets, making them much more substantial structural and visual elements within the right-of-way.
- In consideration of all of the above, it is the Hearing Administrator's position that a smaller wooden pole is generally less obtrusive and therefore more appropriate in this particular case.
- It is further the Hearing Administrator's position that, as long as the proposed wooden pole meets all applicable PCDOT setback, clear zone and safety requirements, it can be placed within the right-of-way in a manner that does not unduly interfere with pedestrian movement nor cause a safety hazard to motorists.

### **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 (Pima Prospers) designates the subject site as *Community Activity Center (CAC)*, the purpose of which is to provide residents with retail and commercial goods and services that are needed on a daily or weekly basis.

Numerous communications towers have been approved in the past within the *CAC* comprehensive plan district and within Pima County rights-of-way. Recently passed State legislation further promotes the establishment and permitting of such towers within public rights-of-way and limits the authority of local zoning authorities to regulate same.

Based upon the above considerations and the established commercial development that surrounds the proposed tower site, the Hearing Administrator finds the proposed use to not be in conflict with 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 Hearing Administrator finds that the proposed tower will have no significant impact upon any of the surrounding properties nor in any way hinder their legal use.

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

The property lies within the right-of-way of E. Sunrise Drive, a designated major street on the Pima County Major Streets & Routes Plan (MSRP). Access needs for such wireless facilities is minimal at best; 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.**

Parking sufficiency and compliance with the Zoning Code in this regard is a matter always 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.

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

This is an unmanned facility; hours of operation do not apply.

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

Landscaping requirements, if any, are a matter always verified at the time of permitting.

**Hearing Administrator's Decision**

This application for a Type I conditional use permit for a new communication tower, on property zoned CB-1, is hereby **approved** by the Hearing Administrator, subject to the following *Standard & Special Conditions*:

*Standard Conditions & Code Requirements*

The Pima County Zoning Code allows communication towers of the proposed height (50') within the CB-1 zone, subject to the Type I conditional use permit process.

*Special Conditions*

- 1) The height of the new tower shall be no more than the requested fifty feet (50') to the top of the antennae.
- 2) The tower base will be a wooden pole.

- 3) The antennae and all associated equipment shall be mounted on the pole and shall be painted a color to substantially match that of the wooden pole.
- 4) The tower will be located as per the submitted site plan; final setback from curb shall be in accordance with the Department of Transportation's clear zone requirements and all other applicable safety criteria.
- 5) All associated equipment servicing the antennae will be pole mounted, as shown on the submitted plan materials. No ground-mounted equipment boxes will be used.

**Protest Period and Appeal Procedures**

As is the case with all Type I conditional use permit 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.

Any party interested in filing an appeal should contact Mr. Artemio Hoyos, Pima County Senior Planner, at phone number 724.9000. 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:



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Jim Portner  
Pima County Hearing Administrator

November 27, 2017  
Date