



MEMORANDUM

PUBLIC HEARING – May 24, 2017

PIMA COUNTY HEARING ADMINISTRATOR DECISION

The following case:

P17CU00001 ARIZONA IRONWOOD LLC – E. TANQUE VERDE RD

Request of TK Family LLC, representing Arizona Ironwood LLC, on property located at 11011 E. Tanque Verde Rd., in the RVC Zone, for a conditional use permit for a restaurant, in accordance with Section 18.41.040A of the Pima County Zoning Code as a Type II conditional use permit. (District 4)

has been continued to the Wednesday, July 12, 2017 hearing administrator (conditional use request) hearing to begin at 10:00 am and located in the Public Works Building, 201 N. Stone Avenue, Basement Conference Room “C”, Tucson, Arizona.

If you have questions call Janet Emel, Senior Planner at 520-724-9000.



**PIMA COUNTY
DEVELOPMENT SERVICES DEPARTMENT**

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

CARMINE DeBONIS
Director

Phone: (520) 740-6520
FAX: (520) 798-1843

May 29, 2017

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HEARING ADMINISTRATOR'S FINDINGS AND DECISION

P17CU00002

**PIMA COUNTY (RIGHT-OF-WAY) — W. VALENCIA ROAD
Type I Conditional Use – Communications 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 (CUP) for a communications tower on property zoned GR-1. This particular request is made by Adam Brixius, of Mobilitie, LLC, on behalf of Sprint. Mobilitie proposes to construct a new thirty-nine and one-half foot (39.5') 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.

Particulars of the Request

The property in question is part of the Valencia Road public street right-of-way and is zoned General Rural (GR-1). The surrounding properties are also zoned GR-1. To the north is vacant land owned by the federal government. To the south is the Casino del Sol Resort & Casino operated by the Pascua Yaqui Tribe. Already in place along the north side of Valencia Road is a continuous string of Tucson Electric Power (TEP) utility poles. The applicant had originally hoped to co-locate their new small-cell antennae on one of TEP's existing poles, but these interactions/negotiations yielded no progress over the past 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 May 24, 2017. The applicant (Adam Brixius) presented the conditional use permit request and answered the Hearing Administrator's various questions. The applicant's submittal package was comprehensive and included photo simulations and coverage maps in addition to the proposed development plan for the new tower.

No (0) members of the public attended the hearing. Staff indicated that it had received no public comment on this application.

After hearing all of the above, the Hearing Administrator verbally rendered his decision to approve the request and then 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 site as *Resource Sensitive (RS)*; this designation is based upon the vacant federal lands located north of the Valencia Road right-of-way. An existing string of TEP poles already exists along the entire north right-of-way line of this major street; the proposed new communications tower is located south of this existing continuous string and will sit fifteen feet (15') north of the Valencia Road edge of pavement.

Based upon all of the above considerations, together with the fact that the new tower will have no impact upon the designated *Resource Sensitive (RS)* federal lands to the north, 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 impact upon any of the surrounding properties nor in any way hinder their use.

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

The property lies within the right-of-way of Valencia Road, a designated major street on the Pima County Major Streets & Routes Plan (MSRP). Access to 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 GR-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 Type I communication towers of the proposed height (39.5') 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 the requested thirty-nine and one-half feet (39.5') to the top of the antennae.
- 2) The tower will be a wooden pole so as to be consistent with the other utility poles already in the area.
- 3) The tower will be located as per the submitted site plan.
- 4) The associated equipment servicing the antennae will be mounted on the pole, as shown on the submitted plan materials.

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. Since the Hearing Administrator rendered his decision verbally at the May 24, 2017 public hearing, the thirty-day protest period will commence from the public hearing date. 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. 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

May 29, 2017
Date



**PIMA COUNTY
DEVELOPMENT SERVICES DEPARTMENT**

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

CARMINE DeBONIS
Director

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HEARING ADMINISTRATOR'S FINDINGS AND DECISION

**P17CU00003
THALMA, LLC — W. INA ROAD
Type I Conditional Use – Adaptive Reuse**

Background/Authority

Chapter 18.97, in accordance with Section 18.09.020.R of the Pima County Zoning Code, requires a Type I conditional use permit for an adaptive reuse on property zoned CR-1 (Residential). This particular request is to use an existing single-family residence structure for a rejuvenation center and spa. The property in question is approximately 36,000 square feet in area and is located on the north side of Ina Road, approximately 1,500 feet east of La Canada Drive.

Public Hearing

In accordance with Pima County Zoning Code Section 18.97.030.F.3, a public hearing was held on this application on May 24, 2017. The applicant (Tom Boyle) presented the application to the Hearing Administrator and answered his various questions on the application.

The applicant indicated that he had conducted personal outreach with their neighbors on this request by attempting to personally visit the properties located within the public notice area. He indicated that the neighbors he spoke with were comfortable with the request once they understood the specifics of it and were generally supportive. With respect to their neighbor to the immediate west, he explained that he had agreed to erect a small fence and landscape screen along a portion of their western boundary so as to buffer them from any vehicular impact.

No (0) members of the public attended the hearing to speak on the matter. Staff reported that they had received no (0) public comments, telephone inquiries or written protests on the case. After hearing all of the above, the Hearing Administrator verbally rendered his decision to approve the conditional use permit, subject to standard and special conditions. He then closed the public hearing. The conditions governing the approval are presented later in this written decision.

Hearing Administrator's General Comments

The rejuvenation center/spa being proposed here is a low-intensity one that will not change or negatively impact the established residential character of the area to the north. Activity at the location will occur only between during normal daytime business hours. Access to the property will occur only via Ina Road and no access will occur into the surrounding residential neighborhood.

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 *Low Intensity Urban (LIU)*, the purpose of which is to, "designate low-intensity residential areas, together with other compatible uses."

Given the above designation, the Hearing Administrator finds that the proposed adaptive re-use is low in its intensity and that, when operated properly and in accordance with the special conditions which have been crafted, it will not alter the single-family residential character of the subject property or the surrounding area. With this in mind, the proposed use is found to be appropriate in this location and is not 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 Zoning Code has built-in safeguards for the adaptive reuse of existing single-family residential structures, including no aesthetic alteration of the structure's exterior, minimal parking allowances, access only to and from a major arterial, and generally maintaining the look and feel of a single-family residence. These standing Code prescriptions are found to be significant in safeguarding the surrounding properties. Additional *Special Conditions* have been crafted by the Hearing Administrator to address other particulars of this specific use.

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

The site has direct access to Ina Road, which is a designated "major street" on the Pima County Major Streets & Routes Plan (MSRP). Access is therefore found to be adequate.

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

Sufficient on-site parking, loading, etc. will be provided and verified by staff during the permitting process.

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, including noise. Standard Zoning Code requirements (i.e. setback, buffering, etc.), together with

the supplemental *Special Conditions* crafted by the Hearing Administrator, are considered sufficient to address these matters.

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

Hours of operation are addressed in the *Special Conditions* crafted by the Hearing Administrator.

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

Applicable landscaping requirements will be verified by staff during the permitting process.

Hearing Administrator's Decision

This application for a Type I conditional use permit for an adaptive reuse, on property zoned CR-1, is hereby approved by the Hearing Administrator. This approval is subject to the *Standard Code Requirements* outlined below, as well as the supplemental *Special Conditions* crafted by the hearing administrator. Conditions of approval are therefore as follows:

Standard Conditions & Zoning Code Requirements

1. The proposed use shall conform with all requirements of Section 18.09.020.R (Adaptive Reuse) of the Pima County Zoning Code.

Special Conditions

1. This conditional use permit is approved for a rejuvenation center & spa as described in the applicant's submitted materials, all activities of which shall occur within the confines of the existing residential structure. No other commercial uses are implied or allowed.
2. Any non-residential uses on the property which depart substantially from the above shall require a new conditional use permit application, public notice, and public hearing process.
3. Vehicular access shall occur to and from the property via Ina Road only and on-site circulation and parking shall be as per the applicant's submitted site plan.
4. Business hours shall be limited to 8:00 am to 6:00 pm.
5. A lattice fencing and landscape buffer shall be installed along a portion of the site's western boundary, so as to protect the adjacent neighbor, as depicted on the applicant's submitted site plan.
6. No formal Pima County Development Plan or review process is required. The owner/applicant shall provide a Site Plan for the property, which shall be reviewed and approved by the Chief Zoning Inspector, who shall work with the owner to insure that all pertinent annotations regarding dimensions, setbacks, required parking spaces, etc. are provided thereon.

Appeal Procedures

The owner, applicant, or any owner-of-record within the legal notification area can appeal this decision, which will result in a subsequent public hearing on this matter before the Pima County Board of Supervisors. The appeal must be filed, in writing, within thirty (30) days of the Hearing Administrator rendering his decision. In that the Hearing Administration verbally rendered his decision on this matter at the May 24, 2017 public hearing date, the thirty (30) day appeal period shall commence from that 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:

A handwritten signature in black ink, appearing to read 'J. Portner', with a vertical line extending downwards from the bottom of the signature.

Jim Portner
Pima County Hearing Administrator

May 29, 2017
Date