



**PIMA COUNTY
DEVELOPMENT SERVICES DEPARTMENT**

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October 16, 2017

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HEARING ADMINISTRATOR'S FINDINGS AND DECISION

**P17CU00009
WONG — N. THORNYDALE ROAD
(Shirley Crowder, on behalf of Verizon Wireless – Applicant)
Type I Conditional Use Permit — Communication Tower**

Background/Authority

Pima County Zoning Code Section 18.97, in accordance with Sec. 18.07.030.H.2.e.10 allows a **communication tower** of up to fifty feet (50') in height within the SR Zone, subject to a Type I conditional use permit (CUP) procedure. This particular request is to construct a fifty foot (50') tall monopole that will be camouflaged as a palm tree (i.e. be a "monopalm"). The proposed monopalm is located in the extreme southwest corner of a presently vacant 77-acre property; this property is presently in the process of being rezoned for a residential subdivision. The proposed tower site does not conflict with the proposed residential areas.

Public Hearing

In accordance with Pima County Zoning Code Section 18.97.030.F.3, a public hearing was held on this application on October 11, 2017. The applicant (Shirley Crowder, on behalf of Verizon Wireless) presented the case to the satisfaction of the Hearing Administrator and answered his questions. The applicant indicated that an evening neighborhood meeting on the application was held using a notice list prepared by Pima County. The only attendees at the meeting were the applicant and the property owner.

Five (5) members of the public attended the hearing, four (4) of whom chose to speak on the matter. The Hearing Administrator extended wide latitude to those speaking, both in terms of the duration and the substantive content of their testimony. The issues raised pertained primarily to perceived negative health effects, negative impacts on property values, and negative impacts on their existing views. One speaker also asserted, based upon personal experience in the neighborhood, that no gap in Verizon wireless service or coverage actually exists. The Hearing Administrator provided selective responses to these issues in light of prevailing federal legislation and established case law.

Staff reported that one (1) phone call was received on the case, wherein the caller expressed a desire to ensure that any new tower was far enough away from Thornydale Road such that it would not impede the future widening of this arterial. Staff confirmed that the proposed location met this criteria.

Upon hearing all of the above, 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 Pima Prospers Comprehensive Plan places the subject property in the *Medium-Low Intensity Urban (MLIU)* category, the purpose of which is "to designate areas for a mix of medium-low density residential and other compatible uses ..."

It is found that the proposed use is not inconsistent with this purpose and that the proposed tower is compatible with its prescriptions. Many cell towers throughout Pima County are, by necessity, integrated into residential neighborhoods of similar density. The adjacent properties to the west and southwest are fully developed as non-residential. In light of the above and the fact that the tower will be also camouflaged as a new monopalm installation, the Hearing Administrator finds the proposed conditional use permit to not be in serious conflict with the objectives 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 proposed use is found to not be in conflict with the surrounding properties or existing on-site uses. The testimony expressed at public hearing regarding negative impacts upon neighbor views is hereby set aside as having no legal standing.

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

The site takes direct access to Thornydale Road, which is designated as a “major street” on the County’s 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.

On-site parking, loading, etc., if any, will be verified through 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. All applicable County standards regulating communication towers will be verified through the subsequent permitting processes. Federal law (specifically the Federal Telecommunications Act of 1996) prohibits the consideration of any alleged environmental or health effects of radio frequency emissions.

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

There are no hours associated with the proposed tower; it is an unmanned facility.

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

Landscape requirements attendant to the proposed tower, if any, will be verified through the permitting process.

Hearing Administrator’s Decision

The Hearing Administrator duly considered the public testimony presented at the public hearing and did review the written materials and photographs provided by one of the speakers. The decision rendered below evaluated all testimony and materials against the prescriptions of applicable prevailing federal legislation (the Federal Telecommunications Act of 1996). It also recognized the fact that no property owner has any inherent or prescriptive legal right to a view across another’s property simply because they may have enjoyed one in the past.

With all of the above in mind, this application for a Type I conditional use permit to allow a **communication tower** within the SR zone is hereby approved subject to the following standard conditions per the Pima County Zoning Code:

Standard Conditions

The Pima County Zoning Code stipulates no standard conditions for this conditional use, other than the fact that the tower may not exceed fifty feet (50') in height.

Standard Conditions

1. The tower structure shall be no more than fifty feet (50') in height (to the top of the metal structure or antennae array) as shown in the submitted development plan materials.
2. The tower shall be camouflaged as a palm tree as shown on the submitted development plan materials. The palm fronds are allowed to extend to a height above 52'.
3. All cabling, etc. necessary to serve the antennae shall be placed internally within the monopalm "trunk" or be appropriately painted or otherwise camouflaged to visually integrate with the monopalm's aesthetics.
4. The tower shall be located on the property as shown on the submitted development plan.
5. The proposed site is in or near FEMA mapped area and Riparian Habitat. As such, the tower may be subject to additional requirements during the permitting process.

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 this written decision.

Any party interested in filing an appeal should contact Mr. Tom Drzazgowski, Pima County Chief Zoning Inspector, at phone number 740.6675. Please be advised that filing fees apply to any appeal, and that these fees are payable by the party filing the appeal request.



Jim Portner
Pima County Hearing Administrator

October 16, 2017
Date