



**PIMA COUNTY
DEVELOPMENT SERVICES DEPARTMENT**

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HEARING ADMINISTRATOR'S FINDINGS AND DECISION

P18CU00009

PIMA COUNTY RIGHT-OF-WAY — E. SKYLINE DRIVE

Applicant: Mobilitie, LLC

Type I Conditional Use – Communications Tower

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 CB-1.

Particulars of the Request

This request is made by Mobilitie, LLC, which proposes to construct a new fifty foot (50') tall communications tower, specifically a wooden monopole with flush-panel antennae. The associated equipment and appurtenances will all be pole mounted.

The property in question is on the north side of E. Skyline Drive, within the public street right-of-way, just west of its intersection with Campbell Avenue. It is zoned CB-1, as are all of the surrounding developed commercial properties in all every directions=.

Public Hearing

In accordance with Pima County Zoning Code Section 18.97.030.F.3, a public hearing was held on this application on August 30, 2018. The applicant's representative presented the conditional use permit request and answered the Hearing Administrator's various questions. The applicant's submittal package included narrative information and propagation maps 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 inquires on this application.

After hearing all of the above and further questioning the applicant regarding the proposed color of the antennae and appurtenances, 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 (Pima Prospers) designates the subject site as *Community Activity Center (CAC)*, the purpose of which is to provide areas for the furnishing of commercial goods and services on a large-scale, regional basis for the surrounding population. The proposed tower lies at the northwest corner of a major arterial intersection; all four quadrants of the intersection are already developed for commercial uses, including a major mall, bank, and established office/retail/restaurant complexes.

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.

The proposed new communications tower is located on the north south side of Skyline Drive and will be set back from the existing roadway curb a distance sufficient to satisfy Pima County Department of Transportation criteria. Final approval of this placement will be subject to meeting all applicable DOT clear zone requirements as part of reviewing the right-of-way permit for the installation.

It is the Hearing Administrator's position that placement of the new communications tower within the existing developed commercial context can be effectuated without any material impact upon the surrounding property owners or motorists. 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 in a way that prohibits their legal or permitted uses.

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

The property lies within the right-of-way of E. Skyline 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 enforced 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 structure shall be no more than the requested fifty feet (50') to the top of the antennae.
- 2) All associated cabling and appurtenances necessary to service the antennae shall be pole mounted.
- 3) The proposed antennae and all appurtenances will be painted a brown color that reasonably matches the color 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.

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. 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 verbally announced his decision to approve this request at the August 30, 2018 public hearing on this matter, the 30-day protest period shall commence from that date.

Any party interested in filing an appeal should contact Mr. Tom Drzazgowski, Chief Zoning Inspector, 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

September 4, 2018
Date