HEARING ADMINISTRATOR’S FINDINGS AND DECISION

P21CU00001

STEWART TITLE & TRUST TR 3698 – W. VALENCIA ROAD

Applicant: Pinnacle Group on behalf of T-MOBILE
Type I Conditional Use – Wireless Communications Tower

Authority

Chapter 18.97, in accordance with Section 18.07.030.H of the Pima County Zoning Code, requires a Type I conditional use permit (CUP) for a communications tower on property zoned CB-1. The property in question is located on an approved, but undeveloped, commercial property at the southwest corner of W. Valencia Road and S. Wade Road.

Particulars of the Request

This request is made by Pinnacle Consulting, on behalf of T-Mobile and Stewart Title & Trust # 3698 (the property owner of record). T-Mobile proposes to a new sixty-five foot (65’) tall communications tower that would be constructed and operated by Sun States Tower Company. T-Mobile would be a tenant on the tower, which would also provide for future co-locations for other potential wireless providers.

Public Hearing

In accordance with Pima County Zoning Code Section 18.97.030.F.3, a public hearing was held on this application on February 10, 2020. The hearing was held telephonically due to the prevailing Covid-19 pandemic. The applicant’s representatives presented the conditional use permit request and answered the Hearing Administrator’s various questions. The applicant’s submittal package included narrative information and maps in addition to the proposed development plan for the new tower site.

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

After hearing all of the above, the Hearing Administrator closed the public hearing and rendered his verbal decision to approve the request, subject to the Special Conditions articulated below.
**Hearing Administrator’s Comments**

The Hearing Administrator recognizes that this request is subsequent to a prior tower application of nearly a year ago that was located further south on Wade Road and which was in much closer proximity to many existing residences. That prior application was ultimately withdrawn due to neighbor opposition.

The current request is the result of a good deal of neighborhood outreach by the applicant, together with the evaluation of several potential sites. A nearby charter school was assessed, but rejected due to the school’s legal restrictions on accepting additional sources of outside revenue. The local fire station was also evaluated, but the property owner (an HOA) declined to accommodate another tenant.

All things considered, the Hearing Administrator is satisfied that a clear good-faith effort was made by the applicant to best balance neighborhood needs against its obligation to address the existing (and substantial) gap in T-Mobile coverage which characterizes the area. These good faith efforts are appreciated.

With the above in mind, the proposed new location for this tower is found acceptable. In that Valencia Road is a designated scenic route, reasonable aesthetic measures to help mitigate the tower are appropriate and have been formalized in the *Special Conditions* attached to this approval.

**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 *Neighborhood Activity Center (NAC)*, with *Medium Intensity Urban (MIU)* to the immediate south. The purpose of the NAC designation is to provide for neighborhood level goods and services to serve nearby residential areas. Many prior communication towers have been approved and successfully located within both the same NAC and MIU districts.

   The proposed tower is located on property that is planned as a commercial/retail shopping center. Multiple towers have been approved in similar settings and have been found to integrate easily into this non-residential environment. The proposed center sits at the intersection of two major streets (Valencia Road and Wade Road), the latter of which constitutes a major gateway into the Star Valley masterplanned community and many other existing residential subdivisions. With this in mind, aesthetic considerations are pertinent.

   Based upon all of the above, the Hearing Administrator finds the proposed use to not be in conflict with the Comprehensive Plan as long as suitable measures are taken to provide a reasonable amount of visual mitigation. The proposed *Special Conditions* attached to this approval address same.

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 not have a significant impact upon any of the surrounding properties in a way that prohibits any of their legal or permitted uses.
3. **It has adequate accessibility to the County road network.**
   
   The property will take its access off Wade Road, which is 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 therefore found to be adequate, subject to the *Special Conditions* Nos. 4 & 5 below.

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 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 (65’) 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 sixty-five feet (65’) to the top of the antennae. It shall be located as shown on the submitted site plan.

2) The entire tower, cabling, antennae and all appurtenances shall be painted a rust brown color to generally match the numerous existing utility poles in the surrounding area.

3) An eight foot (8’) tall masonry wall shall surround the on-the-ground equipment area (no cyclone fence is permitted). For aesthetic purposes, the wall shall be textured with stucco or similar uniform surface and be painted a suitable desert tone. The applicant is given some discretion in this regard so as to make a good faith effort in working with the shopping center developer to choose a wall color that would best match the (future) developed property’s color palette.

4) Access to the wireless facility shall be provided as depicted on the preliminary development plan and an access easement is required prior to the issuance of a building permit. Design of the access easement shall be determined and approved during the building permit process. The access location as shown on the preliminary development plan may need to be revised to ensure access is provided via the site access driveway(s). The access easement shall be abandoned and reestablished if needed when the site is ultimately developed so as to ensure access is provided within the future internal circulation lanes.
5) Surface treatment shall be required to ensure dust control within the access easement and the right-of-way access if the shopping center site has not been developed at the time of permitting for this conditional use permit. The surface treatment shall be determined during the building permit process.

**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 rendered his verbal decision at the 10 February, 2021 public hearing, the 30-day protest period shall commence from that date.

Any party interested in filing an appeal should contact Mr. Elva Pedrego, 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:

[Signature]

February 12, 2021

Jim Portner
Date

Pima County Hearing Administrator