



ZONING EXAMINER

REPORT TO MAYOR AND COUNCIL

March 15, 2018

SE-17-172 T-Mobile – Drexel Road, R-2 (Ward 5)
Special Exception

BACKGROUND

This is a request by Reg Destree for SBA Towers IX, LLC on behalf of T-Mobile, for approval of a wireless communication facility (WCF).

The applicant requests special exception approval for the placement of an 80-foot high cellular communications monopole with associated equipment within a lease area on a parcel currently developed with a Union Pacific Railroad line.

The special exception site is located approximately 220 feet north of Drexel Road and 100 feet east of Nogales Hwy, just west of the Union Pacific Railroad tracks (see Case Location Map).

The parcel is owned by the Union Pacific Railroad and the existing use on the parcel is the railroad track, which is used for transporting goods between Tucson and Nogales.

The preliminary development plan (PDP) proposes a wireless communication tower (monopole) 80 feet in overall height (including top-mounted lightning rod), with nine antennas. The tower, not including the lightning rod, has a proposed height of 75 feet. The WCF will be placed within a 2,400 square foot lease area in the southwestern portion of a 26.62-acre elongated parcel that extends approximately 1 mile from Drexel Road on the south to Irvington Road on the north.

Mayor and Council Special Exception Procedure

A communications use of this type in the R-2 zone is subject to Sections 4.9.13.O and 4.9.4.I.2, .3, and .7 of the Unified Development Code (UDC) and requires approval through a Mayor & Council Special Exception Procedure, Sec. 3.4.4, because the tower height exceeds 50 feet. Documentation provided by the applicant indicates that no practical alternative exists. The tower and attachments will be a brown rust color.

The Mayor & Council Special Exception Procedure requires a public hearing before the Zoning Examiner after which the Zoning Examiner forwards a recommendation to the Mayor and Council for a decision to grant the request with, or without, conditions or to deny the request. The Mayor and Council may also forward the request to the Design Review Board (DRB) for design review and recommendation.

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PUBLIC HEARING SUMMARY

Public Hearing

At the March 1, 2018 public hearing, Planning and Development Services staff reported that there were 2 written approvals and 2 written protests.

The applicant spoke in support of the Special Exception. I asked the applicant why this tower is required and he stated that the primary reason for the request was because there is a gap in the service provided in the area. He explained that there are currently 4 towers surrounding this area and there is a coverage gap in the center. This new antenna will take care of this gap and provide improved service to the area.

The applicant also agreed to all of the preliminary special conditions.

Nobody else spoke in favor of this request.

There were four (4) people who spoke against the request at the public hearing. All of the people who were opposed to the request spoke about the possible health risks associated with cell towers. I explained to them each that I could not base my decision on the possible health issues associated with cell towers.

I closed the public hearing and notified the Applicant that I would have the Preliminary Report finalized within 5 days of the public hearing.

FINDINGS OF FACT

Existing and Surrounding Land Uses

Zoned C-2

The site is currently developed with a Union Pacific Railroad line.

Surrounding Land Uses

North: Zoned R-2 and I-1; Union Pacific Railroad, Commercial, Industrial, and Manufacturing

South: Zoned R-2 and C-2; Union Pacific Railroad and vacant land

East: Zoned R-2; Educational (TUSD- Drexel Elementary School)

West: Zoned C-2 and I-1; Commercial and Industrial

The special exception site is located approximately 220 feet north of Drexel Road and 100 feet east of Nogales Hwy, just west of the Union Pacific Railroad tracks (see Case Location Map).

PLANNING CONSIDERATIONS

Land Use Plans

Land use policy direction for this area is provided by Plan Tucson (PT), which supports policy that utilizes the Future Growth Scenario Map as a guide for determining the general

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location of development opportunities, development patterns, land use and transportation concepts, while also considering area and site specific issues.

Land Use Compatibility

The project site is located in an area identified on the *PT* Future Growth Scenario Map as a Neighborhood of Greater Infill Potential. These areas are residential neighborhoods and commercial districts for which there is potential for new development and redevelopment in the next several decades. *PT* policy supports the improving the appearance of above-ground utilities and structures and extending access to high-tech wireless communications facilities throughout the city. *Plan Tucson* policies protect established residential neighborhoods by supporting compatible development, including non-residential uses, where the scale and intensity of use is compatible with adjacent uses. Policy LT28.1.2 requires that wireless communication facilities be located, installed and maintained to minimize visual impacts and preserve views. Policy LT28.1.3 calls for improving the appearance of above-ground utilities and structures and extending access to high-tech wireless communication facilities throughout the city.

The project is in general compliance with the intent of the plan. The plan policies generally support new cell tower proposals when designed to minimize visual impacts on surrounding neighborhoods and when buffering is provided. The ground lease area is 60 feet by 40 feet with ground level equipment that will be screened from view by an 8-foot high masonry wall textured and painted to match nearby existing walls, and with a vehicle access gate along its south side.

Field inspection by staff indicates there are currently no billboards on the rezoning site.

DESIGN CONSIDERATIONS

Design Compatibility

The proposed monopole will include three antennas per sector with three sectors for a total of nine antennas. Mitigation measures supported by staff include placement of antennas and other attachments as close to the monopole as practical, a sector width as narrow as practical, and with all surfaces and attachments painted in a rust color to minimize visual impacts. The PDP indicates the tower will be constructed with a brown rust-colored corton steel, with all antennas, mounts, cabling and other related visible equipment painted to match. The proposed standoff dimension from the monopole to the T-bar mount is 18 inches and the width of each antenna sector is shown to be 72 inches.

The applicant's report and neighborhood meeting minutes dated November 30, 2017, indicate that meeting attendees generally support a wireless facility in this location. The nearest residential development is a multi-family complex, zoned R-2, located approximately 550 feet to the southwest across Drexel Road and Nogales Highway, and single family home developments, also zoned R-2, approximately 650 feet to the northeast, and southeast across Drexel Road.

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The applicant has submitted a photo-simulation of the monopole, which will be set back from Nogales Highway by approximately 100 feet, and from Drexel Road by approximately 220 feet. The monopole will be visible from the surrounding residential neighborhoods, commercial developments, and from nearby streets. The applicant is proposing a monopole rather than a stealth tree design, such as a monopalm or monopine, because there are no existing tall trees in the vicinity to provide context, and because it will facilitate collocation possibilities for other future wireless carriers.

Existing vertical structures in the area consist of street light poles, nearby school light poles, and a number of electrical power poles, including large (approximately 130 feet tall) TEP lattice towers which align roughly east to west and running approximately 350 feet to the north of the site. The nearest of these towers is located approximately 500 feet northwest of the site and is equipped with wireless antennas for another carrier (Sprint), located at approximately 45 feet in centerline height. The applicant's report indicates that this tower was investigated for possible collocation but does not provide the necessary centerline antenna height (approximately 65 to 70 feet) for T-Mobile's purposes due to the numerous transmission lines which extend across and through the tower. Other existing sites are approximately one mile in each cardinal direction. None of these sites satisfied T-Mobile's the need to fill the coverage gap.

The applicant proposes to place the monopole and ground equipment within a 2,400 square foot lease area west of the Union Pacific Railroad tracks, in an area which is currently an undeveloped portion of the railroad-owned property. A portion of the total lease area is designated for a potential future carrier. Ground equipment will be housed inside equipment cabinets. The proposal does not include a backup generator. Staff recommends the masonry screen wall surrounding the lease area be painted in neutral desert colors. Staff further recommends that any graffiti be removed within 72 hours of observation. Staff acknowledges that the proposed WCF will help improve telecom services to the established neighborhoods and businesses in the area. The proposal in general compliance with Plan Tucson, and does not require a plan amendment.

Road Improvements/Vehicular Access/Circulation

Primary vehicular access to the WCF for maintenance will be parallel to the Union Pacific tracks, and is identified by a 12-foot wide access easement from Drexel Road through an existing curb cut and leading northward to an access gate in the compound wall. According to the Major Streets and Routes Plan, Drexel Road is a collector street with a 100-foot right-of-way, and Nogales Highway is designated as an arterial street with a 120-foot right-of-way.

USE-SPECIFIC STANDARDS

The applicant's proposal requires approval as a Mayor and Council Special Exception and must meet the Use-Specific Standards of UDC Sections 4.9.13.O and 4.9.4.I.2, .3, and .7. The Mayor and Council may forward the request to the Design Review Board for design review and recommendation. Below is an analysis of the performance criteria:

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UDC Section 4.9.4.I.7

The following requires approval as a special exception in accordance with Section 3.4.4, *Mayor and Council Special Exception Procedure*. The Mayor and Council may forward the Design Review Board (DRB) for design review and recommendation.

a. Wireless communication antennas, provided:

(1) The tower or antennas are not permitted by other provisions of this Section.

The 80-foot monopole in the R-2 zone does not conform to any other section of the code because it exceeds 50 feet in height.

(2) New towers require a minimum separation of one mile from any existing tower, regardless of ownership, unless documentation establishes that no practical alternative exists.

The nearest existing wireless communications facility (WCF) is approximately 500 feet northwest of the proposed site and located on a large TEP lattice tower. This tower is not suitable for collocation due to the height at which the existing power lines run through it. Other nearby verticality was investigated but none met the requirements of T-Mobile's network. The search ring to resolve the coverage gap has a radius of approximately 0.5 miles.

(3) All appropriate measures shall be taken to conceal or disguise the tower and antenna from external view.

The tower has been designed as a monopole of a corton steel rust color with all antennas, mounts and associated tower equipment painted to match pole color. For this section of the UDC, painting is considered a method of concealing or disguising a tower.

(4) All appropriate measures shall be taken to reduce the negative proliferation of visible towers and antennae by the collocation of new antennae on existing towers or with the facilities of other providers which are located or planned for development within the proposed service area.

The nearest existing WCF is approximately 3,000 feet to the northwest of the proposed site. The search ring to resolve the coverage gap has a radius of approximately 0.25 miles.

(5) Notice shall be provided to all agents designated at least 15 days prior to the date of the public hearing before the Zoning Examiner.

All policies of the Mayor and Council Special Exception Process shall be followed accordingly.

Staff finds that the proposal to be in compliance with the UDC Use-Specific Standards.

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CONCLUSION

The Zoning Examiner has reviewed the evidence provided by Staff and the testimony presented at the public hearing and finds the proposed tower to be in compliance with the UDC Use-Specific Standards.

The proposal is in compliance with the performance criteria for a wireless communication facility. The special exception request is consistent with policy direction in Plan Tucson, which supports development designed to be compatible with and sensitive to surrounding land uses. The proposed WCF has been designed to blend in with the surroundings and does not conflict with plan policies. Subject to compliance with the attached preliminary conditions, approval of the requested special exception is appropriate.

RECOMMENDATION

The Zoning Examiner recommends **approval** of the Special Exception request subject to the conditions recommended by the Planning and Development Services Department and the Zoning Examiner

Respectfully Submitted,

A handwritten signature in blue ink, appearing to read 'S. Shell', is written over a light blue horizontal line.

Steven C. Shell
Zoning Examiner

ATTACHMENTS:

Public Hearing Minutes
Zoning Examiner's Special Exception Conditions

PROCEDURAL

1. A site plan in substantial compliance with the preliminary development plan dated February 13, 2018, is to be submitted and approved in accordance with *Administrative Manual*, Section 2-06.
2. The property owner shall execute a waiver of potential claims under A.R.S. Sec. 12-1134 for this zoning amendment as permitted by A.R.S. Sec. 12-1134 (I) in the form approved by the City Attorney and titled "Agreement to Waive Any Claims Against the City for Special Exception Land Use".
3. Historic or prehistoric features or artifacts discovered during future ground disturbing activities should be reported to the City of Tucson Archaeologist. Pursuant to A.R.S. 41-865 the discovery of human remains and associated objects found on private lands in Arizona must be reported to the Director of Arizona State Museum.
4. Any relocation, modification, etc., of existing utilities and/or public improvements necessitated by the proposed development shall be at no expense to the public.
5. Five years are allowed from the date of initial authorization to implement and effectuate all Code requirements and conditions of the special exception land use.
6. A copy of the Special Exception decision letter shall be included with the site plan at the time of permit application submittal.

LAND USE COMPATABILITY / CONCEALMENT MEASURES

7. The wireless communication monopole, including attachments such as lightning rod, shall not exceed eighty (80) feet in height from grade elevation.
8. Full length of monopole surface shall be corten steel finish to minimize visual impacts. Antennas and other collocating equipment shall be painted or finished to complement corten steel finish of pole.
9. There shall be no exterior wiring, visible footpegs, portals, cabling or cable shrouds, on the monopole.
10. All wire ports shall be concealed behind the antennas and all equipment shall be mounted behind the antenna panels.
11. Antenna standoff from the pole shall not exceed twenty-four (24) inches.
12. Ground equipment to be screened and located within lease area as depicted on the preliminary development plan dated February 13, 2018.

13. All walls visible from a public right-of-way and/or adjacent to existing residential development are to be painted with graffiti-resistant paint of an earthtone color.
14. Six-(6) inch wide block or greater shall be used for perimeter walls. Graffiti shall be removed from walls within seventy-two (72) hours of discovery or notification.
15. Plans for future carriers must be approved through the special exception process.
16. If required, any easements situated within any portion the lease area shall be abandoned/vacated prior to site plan approval.

AGREEMENT TO WAIVE ANY CLAIMS
AGAINST THE CITY FOR ZONING AMENDMENT

This agreement ("**Agreement**") is entered into between _____, as the owner of the property described herein ("**Owner**") and the City of Tucson ("**City**") to waive any and all claims for diminution of value that may be based upon action by the City in response to a request from the Owner. This Agreement is entered into in conformance with A.R.S. §12-1134(I).

The Owner is the holder of fee title to the property located at _____, Tucson, Arizona, (the "Property") which is more fully described in the Owner's application to the City in Case SE-17-172 and incorporated herein. The Owner, or the authorized agent of the Owner, has submitted an application to the City requesting that the City grant a Special Exception Land Use for the Property. The Owner has requested this action because the Owner has plans for the development of the Property that require the Special Exception Land Use. The Owner believes that the Special Exception Land Use for the Property will increase the value and development potential of the Property, and that this outweighs any rights or remedies that may be obtained under A.R.S. §12-1134 et. seq.

By signing this Agreement, the Owner waives any right or claim that may arise under A.R.S. §12-1134, including any claim for the reduction in the value of the Property, as a result of the enactment of the Special Exception Land Use in Case SE-17-172.

The Owner understands that City staff may propose, the Zoning Examiner may recommend and the Mayor and Council may adopt conditions to the requested Special Exception Land Use that limit the potential development of the Property. The Owner acknowledges that the Special Exception Land Use and conditions are a single, integrated legislative approval. The Owner agrees and consents to all conditions that may be imposed. The Owner retains the right to withdraw the Special Exception Land Use application prior to a vote by the Mayor and Council or to decline to implement the necessary requirements to effectuate the Special Exception Land Use if the Owner disagrees with any conditions that are proposed or approved. If the Owner does not withdraw the application, the Owner shall be deemed to have accepted all adopted conditions to the requested Special Exception Land Use. If the Owner withdraws the application or does not effectuate the Special Exception Land Use, this Agreement is null and void.

This Agreement is entered into in Arizona and will be construed and interpreted under the laws of the State of Arizona. The Owner has agreed to the form of this Agreement provided and approved by the City Attorney. The Owner has had the opportunity to consult with an attorney of the Owner's choice prior to entering this Agreement and enters it fully understanding that the Owner is waiving the rights and remedies as set forth herein.

Upon execution, this Agreement shall be recorded in the Office of the Pima County Recorder.

The Owner warrants and represents that the person or persons listed herein as the Owner is/are the owner in fee title of the Property. The Owner further agrees to indemnify and hold the City of Tucson, its officers, employees and agents harmless from any and all claims, causes of action, demands, losses, costs and expenses based upon an alleged reduction of value of the Property as a result of the City's action in Case SE-17-172.

Dated this _____ day of _____, 20__.

Owner: _____
(Name of Individual, Corporation, Partnership, or LLC, as applicable)

Owner: _____
(Name of Individual, Corporation, Partnership, or LLC, as applicable)

By: _____
(Signature of Owner or Authorized Representative, if applicable)

By: _____
(Signature of Owner or Authorized Representative, if applicable)

Its: _____
(Title of Individual Signing in Representative Capacity)

Its: _____
(Title of Individual Signing in Representative Capacity)

State of Arizona)
)
County of _____)

On this _____ day of _____, 20__, before me personally appeared _____ on the basis of satisfactory evidence to be the person who he or she claims to be, and acknowledged that he or she signed the above/attached document.

Notary Public

My Commission expires:

City of Tucson, an Arizona municipal Corporation:

By: _____
Planning & Development Services Department

This form has been approved by the City Attorney.

ZONING MEMBERS PRESENT

Steven Shell, Zoning Examiner
John Beall, Planning & Development Services
Ana Juarez, City Recording Clerk
David McGovern, Assistant City Recording Clerk

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1 ZONING EXAMINER: Welcome to tonight's public hearing.
2 Can you all hear me? Wonderful. Good evening. Welcome to tonight's
3 public hearing. My name is Steven Shell, and I'm one of the Zoning
4 Examiners for the City of Tucson.

5 Tonight, on our first case, I'll be conducting a special
6 exception hearing on behalf of the Mayor and Council, and make
7 findings of fact which I put into a report, along with my
8 recommendation which I then send along to Mayor and Council for their
9 consideration and final decision.

10 My report will be based on the information submitted to me
11 which includes the Applicant's application, Staff's report and all
12 written approvals and protests, all correspondence, and all testimony
13 which is given here tonight. I will also include into the records all
14 documents submitted to me at the close of this hearing.

15 A report - a recording of tonight's testimony will be made
16 by the City Clerk. If requested, a transcript will be prepared. With
17 that in mind, I will ask you to please speak, speak clearly into one
18 of those two microphones so that we have an accurate record of
19 tonight's hearing.

20 I'll complete the preliminary report within five working
21 days of the close of tonight's public hearing, at which time, I will

1 then prepare my final report. The final report will be issued two
2 weeks after tonight's hearing.

3 For those of you who wish to receive a copy of the
4 preliminary report, and you're not already on the principal party
5 list, please fill out one of the colored cards on the podium. I think
6 tonight they're rose-colored, or a dark burgundy.

7 A copy of the final report will be available from the
8 Planning & Development Services Department, and I will send my final
9 report along to Mayor and Council. At the scheduled public hearing
10 for the case, the Mayor and Council will then vote on this matter,
11 based on my recommendation, along with other factors.

12 Tonight's public hearing will proceed in the following
13 manner, and this will apply to both the special exemption, as well as
14 the rezoning case for the PAD on 4th. I will open the public hearing
15 and ask Mr. John Beall, who is sitting here to my right of the
16 Planning & Development Services Department to give a presentation on
17 each case.

18 After his presentation, I will then ask the Applicant, or
19 the Applicant's representative to please come forward and make his or
20 her presentation. I'll then ask to hear from anyone in the audience
21 who wishes to speak in favor of tonight's matters. Since I cannot
22 have any communication with anybody involved in the case, I would
23 invite you to please speak at this time.

24 I'll first ask to hear from anybody who wishes to speak in
25 favor of the case, followed by I'll ask someone, or anybody, who

1 wishes to speak in opposition of the case. After that, I'll then ask
2 to hear from anybody who is neutral on the matter, but still would
3 like to share their thoughts with the group.

4 After everybody from the audience has had a chance to
5 speak, I'll offer the Applicant, or the Applicant's representative a
6 chance to respond to any of the concerns or issues which were brought
7 up by either the audience or myself.

8 If you wish to speak tonight, please wait for me to call
9 you up to the podium by raising your hand. While at the podium,
10 please print your name and address on tonight's sign-in sheet, it's on
11 the clipboard. I'll then ask you to state your name and, and address
12 for the record.

13 When speaking tonight, please be brief and to the point.
14 Only speak on matters on those which are relevant to the case. Do not
15 repeat any testimony which has not been given (sic), and do not give
16 any testimony on anything other than the advertised case tonight.

17 And just for the record, we're gonna be hearing the PAD
18 rezoning, which on 4th Avenue near 8th, and we're gonna be hearing a
19 special exemption for a cell tower. I will then ask you to direct all
20 your testimony solely to me. Please do not address Staff, nor any
21 members of the audience.

22 At this point, I'd like to swear in anybody who is gonna
23 wish to speak tonight. So, if you're gonna speak tonight, or if you
24 think you even might speak tonight, I'm gonna ask you to please stand

1 at this time and raise your right hand. Do you swear or affirm to
2 tell the truth, the whole truth and nothing but the truth?

3 (Affirmative.)

4 ZONING EXAMINER: Thank you very much. I will now go ahead
5 and open the public hearing, and our first case tonight is SE-17-172,
6 the T-Mobile on Drexel Road in Ward 5. Mr. Beall, could we have a
7 report, please?

8 MR. BEALL: Yes. This is a request by Reg Destree of SBA
9 Towers IX, LLC, on behalf of T-Mobile for approval of a wireless
10 communication facility.

11 The special exception site is located approximately 220
12 feet north of Drexel Road, and 100 feet east of Nogales Highway just
13 west of the Union Pacific Railroad tracks.

14 The parcel is owned by the Union Pacific Railroad, and the
15 existing use on the parcel is the railroad track, which is used for
16 transporting goods between Tucson and Nogales.

17 Preliminary Development Plan proposes a wireless
18 communication tower, monopole, 80 feet in overall height, including
19 top-mounted lightning rod, with nine antennas. The tower, not
20 including the lightning rod, has a proposed height of 75 feet.

21 The wireless communication facility will be placed within a
22 2400 square foot lease area in the southwestern portion of a 26-acre
23 elongated parcel that extends approximately one mile from Drexel Road
24 on the south to Irvington Road on the north.

1 A communications use of this type in the R-2 zone requires
2 approval through a Mayor and Council special exception procedure
3 because the tower height exceeds 50 feet. Documentation provided by
4 the Applicant indicates that no practical alternative exists. The
5 tower and attachments will be a brown rust color.

6 The nearest residential development is a multi-family
7 complex zoned R-2 located approximately 550 feet to the southwest
8 across Drexel Road and Nogales Highway, and single-family home
9 developments, also zoned R-2, approximately 650 feet to the northeast
10 and southeast across Drexel Road.

11 The proposal is in compliance with the performance criteria
12 for a wireless communication facility. Special exception request is
13 consistent with policy direction in Plan Tucson which supports
14 developments designed to be compatible with, and sensitive to
15 surrounding land uses.

16 The proposed wireless communication facility has been
17 designed to blend in with the surroundings and does not conflict with
18 Plan policies. Subject to compliance with the attached Preliminary
19 Conditions, approval of the requested special exception is
20 appropriate.

21 As of to date, there have been two approvals, and one
22 protest, and the protest is outside the 150-foot location area. So,
23 concludes Staff report.

24 ZONING EXAMINER: Wonderful. Thank you very much.

1 Is the Applicant, or the Applicant's representative here? Wonderful.
2 Reg, why don't you go ahead and state your name and address for the
3 record, if you would?

4 MR. DESTREE: My name is Reg Destree with Destree
5 Development at 22831 North 21st Street, Phoenix, Arizona, 85024.
6 And I'm representing SBA Towers IX, LLC.

7 I don't have a lot to add. I see there are a, a lot of
8 folks here. I don't believe they're here for this item, but we've
9 worked with Staff on coming up with a design that seemed appropriate
10 for this area.

11 We had our, our neighborhood meeting at the school which is
12 across the tracks, across a canal, across the road, but it's basically
13 the nearest building. There were two teachers in attendance that
14 night. No one else came.

15 I have coordinated a little bit with the principal. I also
16 gave her a copy of the notice to distribute to parents if any of them
17 were interested. I have not received any, any negative feedback. I
18 did one call from a neighbor whose agent was interested in leasing
19 land for this if it doesn't get approved on the railroad location.

20 It appears that Staff has possibly received one person
21 protesting, but we have no issue with any of the requirements that are
22 in the document. I, I think we have a pretty solid design here, and I
23 can answer any questions or rebut anything, but in the name of saving
24 time, I do not have a formal presentation together.

1 ZONING EXAMINER: Thank you very much. I'm assuming, then,
2 you've had a chance to go over the Preliminary Conditions that Staff
3 prepared?

4 MR. DESTREE: Yes, I looked, I looked (inaudible)

5 ZONING EXAMINER: And you're fine with all of the
6 conditions?

7 MR. DESTREE: Yeah. We did not have an issue.

8 ZONING EXAMINER: Wonderful. I'm also looking at your
9 coverage analysis prepared by David Dotson (ph.), III. These are
10 usually pretty technical.

11 MR. DESTREE: Yes.

12 ZONING EXAMINER: But I, I would like to hear from you that
13 this site is necessary. And I'd like you to maybe address why it's
14 necessary as far as why this person would tell me it's necessary,
15 'cause that's obviously one of the legal standings that I need to be
16 concerned with.

17 MR. DESTREE: So, I don't have the map in front of me, but
18 I do know what it generally shows is that there are sites surrounding
19 this. Each probably about a mile away in each general direction.

20 ZONING EXAMINER: Uh-huh.

21 MR. DESTREE: So, if you go north about a mile is the park,
22 and there are sites there for T-Mobile and other carriers. And east
23 and west of this location, there are also sites that T-Mobile's
24 located on.

1 Now, what ends up happening is that with sites in basically
2 all four directions surrounding this one, this area in the middle
3 becomes the effective hole, because each of those sites gets less and
4 less strong as it gets away from the actual location. So, the best
5 opportunity to fill in that hole in the gap is, excuse me, to fill in
6 that hole is to actually put the site as close to the middle of all of
7 those other locations as possible. I mean ultimately the idea is sort
8 of to create a lattice work, on the sites -

9 ZONING EXAMINER: Uh-huh.

10 MR. DESTREE: - so that each of them can handle essentially
11 the same amount of data and have the same amount of phones trying to
12 make calls on them.

13 ZONING EXAMINER: Wonderful. Well, that helps immensely.
14 And I gotta admit for the record, your site is so long. And I'm
15 amazed that we didn't get more feedback because obviously, the actual
16 site of - the actual cell site with the equipment is actually
17 relatively small. And, and it's down towards the very southern end of
18 this, but yet the property extends - I, I don't even want to know how
19 far that thing goes (inaudible)

20 MR. DESTREE: It's, it's about a mile long.

21 ZONING EXAMINER: I was just gonna say -

22 MR. DESTREE: And there were a lot of notices sent out.

23 ZONING EXAMINER: - is it about a mile?

24 MR. DESTREE: Just about.

1 ZONING EXAMINER: Okay. So, I was rather surprised that
2 with a notification area that large, we didn't hear more. So, I think
3 obviously, this is a needed thing and it's not gonna impact the
4 neighborhood. Otherwise, we would have probably heard a little bit
5 more than just health issues. Hang on one second.

6 So, obviously, we would hear more than what we've heard.
7 So, thank you very much. I don't have any other questions for you.
8 But -

9 MR. DESTREE: Thank you.

10 ZONING EXAMINER: - I might after we go through to see
11 who's here to speak in favor and, and opposition.

12 MR. DESTREE: Okay. Thank you.

13 ZONING EXAMINER: Appreciate your time. Is there anybody
14 else here wishing to speak in favor of this request? Seeing and
15 hearing none, is there anybody wishing to speak in opposition? Yes,
16 come on down. And I saw you signing in on the clipboard, so, I'm just
17 ask you now. Did you swear in?

18 MS. ERROA: No.

19 ZONING EXAMINER: I didn't think I saw you. So, I'm gonna
20 ask you to please raise your right hand, and (inaudible) do you swear
21 to tell the truth, the whole truth, and nothing but the truth?

22 MS. ERROA: Yes.

23 ZONING EXAMINER: Wonderful. Would you state your name and
24 address for the record? And speak right into the microphone, 'cause
25 we do like to have a good record.

1 MS. ERROA: Okay.

2 ZONING EXAMINER: Thank you.

3 MS. ERROA: So, my name is Sally Erroa, E-R-R-O-A. And I'm
4 the property owner of 5001 South 1st Avenue, but I live next door at
5 5013 South 1st Avenue.

6 ZONING EXAMINER: Okay. And you are here to speak against
7 this cell tower?

8 MS. ERROA: Yes.

9 ZONING EXAMINER: Go ahead and tell me your concerns.

10 MS. ERROA: Well, I have concerns as far as health
11 concerns, mainly. And mainly because I don't have a lot of
12 information on the topic, but I do know that cell phone towers near
13 schools have been banned in Europe and that, you know, I've heard that
14 there have been cluster - cancer clusters near cell phone towers in
15 different areas.

16 So, I am concerned, and I'm also concerned because the area
17 of town where I live in - like you're saying you're surprised that,
18 you know, in that mile distance that no one else has, you know, come
19 out to explain. It's like an economically disadvantaged area where
20 people are less, you know, educated. There are low-income homes to
21 the south of me.

22 My family purchased about five acres of land of 1946. So,
23 I live in grandmother's home closer to the Irvington side. So, there
24 are apartments right by Irvington on 1st Avenue, and then there are
25 three homes. So, those were all originally owned by my family. And I

1 live in one of the homes now, and I plan to live there for the rest of
2 my life.

3 And then there's a new subdivision south of me. I don't
4 know how many of the homes have already been purchased, or are even
5 lived in. And then south of that is a school which he's talking about
6 where they had the meeting. And I think the school would probably
7 have the highest effect out of anybody, since it is on that southwest
8 area of that lot.

9 So, I am concerned about the students there. My son does
10 not go to that school. He goes to a charter school in town. But I'm
11 still concerned for the students at that school. And, you know, the
12 other reason you probably haven't heard of a lot of people protesting
13 this is because along 1st Avenue are the railroad tracks.

14 ZONING EXAMINER: Uh-huh.

15 MS. ERROA: So, basically, just everyone to the west of 1st
16 Avenue, or to the east of 1st Avenue, I'm sorry.

17 ZONING EXAMINER: Okay. And I'm trying to also, I couldn't
18 quite understand your first name.

19 MS. ERROA: Oh. Sally. S-A-L-L-Y.

20 ZONING EXAMINER: Okay. Wonderful. And your address was?

21 MS. ERROA: 5013 South 1st Avenue.

22 ZONING EXAMINER: 5013. 'Cause you actually filed a
23 protest, but that doesn't match the name of the person, because it
24 looks Guadalupe.

1 MS. ERROA: I'm the property owner of 5001 South 1st Avenue,
2 and my mother owns 5013, and she did -

3 ZONING EXAMINER: Uh-huh.

4 MS. ERROA: - file a protest. But I live in her house,
5 basically.

6 ZONING EXAMINER: That explains the confusion.

7 MS. ERROA: Yeah.

8 ZONING EXAMINER: Here I was gonna blame on I was blond.
9 That, that was a good one. Thank you.

10 MS. ERROA: But I did speak to a fellow neighbor who has
11 her son going to the elementary school that's really close to the
12 proposed tower. And she said she hadn't heard anything about it, not
13 from the school, not from anything in the mail. So, that concerns me
14 a little bit, too. So, she, you know, is really busy, too. And she
15 said, you know, -

16 ZONING EXAMINER: Uh-huh.

17 MS. ERROA: - "Fill me in after the hearing tonight." So,
18 I plan on filling her in, and giving her any, you know, documentation
19 that I have. But that makes me feel like there are other parents in
20 her position, too, that haven't heard a thing, even though that
21 community meeting was at Drexel.

22 ZONING EXAMINER: And if they were in the notification
23 area, they did get notified by mail because that's one of the things
24 Staff is very good about following up on, to ensure that the
25 notification process met the legal requirements of advertising.

1 So, unfortunately, though, a lot of people don't open all
2 their mail and things just - and there's still language issues. I
3 mean, so, I understand why not everybody might, might not have known
4 about it.

5 MS. ERROA: I just feel like my neighborhood, we already
6 have the train -

7 ZONING EXAMINER: Right.

8 MS. ERROA: - which is undesirable for a lot of people in
9 this area because -

10 ZONING EXAMINER: Uh-huh.

11 MS. ERROA: - of the noise. We have the Rodeo Grounds
12 nearby. You know, when they have that Monster Truck Fest at the Rodeo
13 Grounds, you know, we constantly hear those trucks. The first time I
14 heard that, I thought it was people, you know, racing down the street.

15 ZONING EXAMINER: Yeah.

16 MS. ERROA: Because we have the train there, it almost has
17 a feel on this street of being in a rural area in the middle of the
18 city.

19 ZONING EXAMINER: Uh-huh.

20 MS. ERROA: So, people think they can just get away with
21 anything.

22 ZONING EXAMINER: Okay.

23 MS. ERROA: Racing down the street (inaudible)

24 ZONING EXAMINER: Well, unfortunately, though, there's
25 certain issues that I really can't even take into account, and one of

1 them, of course, is health issues which we're not allowed to even
2 hear.

3 MS. ERROA: Oh.

4 ZONING EXAMINER: But I, but I, I, I sympathize with you,
5 obviously. And, you know, this is the place where you do get to tell
6 me your thoughts. So, I, I want to hear from everybody, so -

7 MS. ERROA: So, I just feel like this area of town kind of
8 gets the brunt of a lot of things. You know, the military planes
9 flying -,

10 ZONING EXAMINER: No, no, no.

11 MS. ERROA: - the airport.

12 ZONING EXAMINER: I was just over at 22nd and Alvernon, and
13 I couldn't hear myself over the planes rehearsing today, so -

14 MS. ERROA: So, it just, -

15 ZONING EXAMINER: - share, share with everybody here on
16 that one.

17 MS. ERROA: - it makes me nervous that now we're -

18 ZONING EXAMINER: Right.

19 MS. ERROA: - just gonna have one more thing, one more
20 undesirable (inaudible)

21 ZONING EXAMINER: Well, I appreciate you coming down,
22 Sally. I really do. So, thank you very much, and I'll take this
23 under advisement, obviously.

24 MS. ERROA: Okay. Thanks.

1 ZONING EXAMINER: Is there anybody else here wishing to
2 speak in opposition? Yes. You want to say something? And you can
3 use the lower microphone so that I can hear you. Tell me your name
4 and address.

5 MR. ERROA: Elias Erroa.

6 ZONING EXAMINER: What was your name again?

7 MR. ERROA: Elias Erroa.

8 ZONING EXAMINER: Elias? Uh-huh.

9 MR. ERROA: 85706.

10 ZONING EXAMINER: Okay.

11 MR. ERROA: Can I speak?

12 ZONING EXAMINER: Sure.

13 MR. ERROA: So, I know that the cell towers can cause
14 diseases like cancer, I've heard, just like my mom told me. And I
15 live right there, so, I'm sort of nervous about that. And I always
16 hear all these companies saying that like their connections spread all
17 through the U.S.

18 So, I'm wonder- -- I just wonder why we need more, when we
19 already have enough to connect our WiFi and our different electronics
20 and stuff.

21 ZONING EXAMINER: Those are all very good points. I think
22 I can maybe help you with one of those issues. The reason they want
23 another cell tower is because back in the old days when a lot of us
24 were just starting to use cell phone, there weren't that many of us.
25 So, just a few towers in town pretty much took care of all of us.

1 And then as everybody got phones, and it started becoming
2 more and more popular, and then little by little, the internet started
3 catching on and everybody wants WiFi and they want faster and faster
4 WiFi, so you're not buffering a movie. Unfortunately, it puts a
5 burden on the cell towers that were already here.

6 And what I asked the gentleman was that there were already
7 four towers, why did he need a fifth one? And he said it very
8 clearly. They have four of them that form a square, but they have a
9 hole right now in the middle. So, they're putting a tower, basically,
10 right smack dab in the middle of their other four towers so that
11 everybody gets better cell coverage.

12 And the other problem is the emergency services, police and
13 fire now use all the internet and all the wireless facilities. And to
14 get better 9-1-1 responses, better police response, better fire
15 department response, they need faster and better internet and wireless
16 coverage. So, that's why you're seeing more and more towers all over
17 the town.

18 MR. ERROA: Okay. Thank you for answering my question.

19 ZONING EXAMINER: Oh, my pleasure. Thank you very much. I
20 admire your confidence to come here and speak in front of a big group.
21 Not everybody can do that.

22 Is there anybody else here wishing to speak against this?
23 Is my microphone cutting in and out? Okay. 'Cause it is up here.
24 It's interesting. She raised her hand first. Did you sign in?

25 MS. DAVIS: I did not, no.

1 ZONING EXAMINER: Go ahead and sign in. It's easier to do
2 it now 'cause people tend to forget afterwards. Kind of like pay in
3 advance.

4 MS. DAVIS: Hi. Hello.

5 ZONING EXAMINER: And would you speak right into the mike
6 and state your name and address for the record?

7 MS. DAVIS: My name is Amanda Davis, and I actually - this
8 is news to me, but I was more curious if you could expand on why
9 health concerns are not allowed to be spoken about in City Council
10 meetings when I think as communities, we come here in large part due
11 to those concerns for what is happening within our community.

12 ZONING EXAMINER: To be honest with you, I don't know.
13 How's that for an answer? I apologize.

14 MS. DAVIS: I appreciate that honesty.

15 ZONING EXAMINER: I, I really don't know why we do not take
16 that into account. I'm not even familiar with the science. I know
17 every time I've ever asked it, I've always been told I was out of
18 line.

19 MS. DAVIS: Well, I, I really respect you saying that. But
20 I think the problem with here, it would be really great for all of us
21 to figure out how we can make that actually possible, because these
22 are very legitimized concerns. And I feel concerned for those
23 families. And I think that health concerns is our number one priority
24 with all of us.

25 ZONING EXAMINER: I absolutely agree with you.

1 MS. DAVIS: So, -

2 ZONING EXAMINER: I wish, I wish there was something we all
3 could do.

4 MS. DAVIS: Okay. Well, hopefully we can figure that one
5 out.

6 ZONING EXAMINER: Well, thank you for taking the time to
7 share. Who else here is wishing to - yes. You had your hand up. Go
8 ahead. Come on down.

9 MS. KLINKHAMER: (Inaudible)

10 ZONING EXAMINER: I'm sorry. I couldn't hear you.

11 MS. KLINKHAMER: (Inaudible)

12 ZONING EXAMINER: Can you talk into a microphone?

13 MS. KLINKHAMER: (Inaudible)

14 ZONING EXAMINER: That's all right.

15 MS. KLINKHAMER: I signed one of those orange forms. Do I
16 need to sign here, too?

17 ZONING EXAMINER: Yeah. The orange ones just means that
18 you'll get a written preliminary report -

19 MS. KLINKHAMER. Oh.

20 ZONING EXAMINER: - of this case.

21 MS. KLINKHAMER: Well, let me sign in.

22 ZONING EXAMINER: Yeah, just go ahead and sign in on the,
23 the clipboard, then, and if you don't want to receive any paperwork,
24 then just go ahead and keep the card for yourself, and I won't pick it
25 up at the end of the meeting.

1 MS. KLINKHAMER: Hi. So, -

2 ZONING EXAMINER: Hello.

3 MS. KLINKHAMER: So, I just have a question -

4 ZONING EXAMINER: Can you state your name and address for
5 the record?

6 MS. KLINKHAMER: Oh, I'm sorry.

7 ZONING EXAMINER: That's all right.

8 MS. KLINKHAMER: Lauren Klinkhamer, and -

9 ZONING EXAMINER: Was that Lauren?

10 MS. KLINKHAMER: Lauren Klinkhamer, and it's 1031 North
11 Holly Avenue, Unit 14, Tucson, Arizona, 85716. I wasn't really fully
12 aware of this, but I've helped friends kind of work in that area like,
13 and I feel like there's a lot of Tucsonians that kind of either 'cause
14 the language barriers or because of like the portion of town they're
15 in, or income reasons, or different reasons.

16 Sometimes they don't have the ability like maybe some other
17 members of our community have to be able to participate as easily.
18 And I don't know if it's possible to have maybe like an outside group
19 that isn't related maybe to the City, isn't related maybe to whatever
20 this business is to be able to like look at the health concerns.

21 And to maybe, maybe have an event or something, like a
22 second thing since it is a community that is - doesn't have as much
23 oppor- -- you know, so that since there seems like this family is
24 concerned, and that it sounds like there are people, quite a few
25 members of the community that maybe just weren't aware, if maybe a

1 second attempt could be made, since it is an area that may have
2 barriers that might not be, just to make sure that, you know, before
3 they, you know, go in there that, you know, number one, it's safe.
4 And number two, people have an opportunity with, you know, to kind of
5 contribute. 'Cause I'm a little concerned hearing as a member, you
6 know, part of Tucson -

7 ZONING EXAMINER: Uh-huh.

8 MS. KLINKHAMER: - hearing this. Sorry.

9 ZONING EXAMINER: That's all right.

10 MS. KLINKHAMER: It kind of concerns me, because I just
11 want to make sure that the community isn't kind of not gonna, you
12 know, have effects, 'cause it is a problem. I have read about that
13 across the country. I, I've read about people living near areas of
14 cell towers or, you know, other things that they bring in for
15 industry. And, and cancer does happen.

16 ZONING EXAMINER: And you bring up all very valid issues.
17 I'll address the one issue of the culture on the financial barrier. I
18 can't hear health issues for legal reasons. And even if you're here
19 already, and you manage to get here, I still can't hear you.

20 So, it's whether or not we bring in a whole second group, I
21 still couldn't hear them either. Unfortunately, the kind of change
22 you're looking for is the kind of change that comes from a Grassroots
23 movement that I can't start. Basically, I have a legal position that,
24 that's bound by whatever rules I need to conform to as far as the
25 legal requirements of hearing these cases.

1 But I hear what you're saying, and to be honest with you, I
2 don't even know what the science is. I just remember back in the
3 '70's, you know, electrical power lines. You know, that was the huge
4 issue in New Jersey. And that - they proved the science, and people
5 became very aware of it. But it took a movement to get that kind of
6 going.

7 And at this point, I'm not even sure, I've been hearing
8 from the experts, we're not even gonna have cell towers in another ten
9 years. They're just gonna be obsolete. We're gonna get everything
10 from satellite systems, and it'll all be - cell towers won't even be
11 around.

12 So, I'm, I'm not sure where this is all gonna go, to be
13 honest with you. But we do have an issue right now to maintain
14 coverage. So, one of the things I really kind of lean on from a legal
15 standpoint is that the cell tower is absolutely necessary, and that
16 it's not just they want it.

17 MS. KLINKHAMER: Is the City allowed to ask the person
18 asking, or the company or whomever it is that's asking for the
19 petition to hire a outside agency to present something?

20 ZONING EXAMINER: Not when it comes to the health issues,
21 no.

22 MS. KLINKHAMER: Okay.

23 ZONING EXAMINER: No. That's, that's off limits even for
24 the City, unfortunately.

25 MS. KLINKHAMER: Okay. Thank you.

1 ZONING EXAMINER: But thank you for coming down. I
2 appreciate it. And, you know, I'm here living with you, too, so - is
3 there anybody else here wishing to speak in opposition? Seeing and
4 hearing none, is there anybody here with a neutral position that just
5 wants to get something off their mind on this case?

6 Hearing none, I'd like to go ahead and close the public
7 hearing, and I will render a decision within five days of the case.

8 (Case: SE-17-172 is closed.)

I hereby certify that, to the best of my ability the foregoing is a true and accurate transcription of the original tape-recorded conversation in the case reference on page 1 above.

Transcription Completed: 03/11/18



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