



MEMORANDUM

DATE: October 3, 2018
For October 18, 2018 Hearing

TO: John Iurino
Zoning Examiner

FROM: 
Scott Clark
Planning & Development Services
Interim Director

SUBJECT: SPECIAL EXCEPTION LAND USE
PLANNING & AND DEVELOPMENT SERVICES REPORT
Mayor and Council Special Exception Procedure
SE-18-55 T-Mobile – Irvington Road, O-3 (Ward 1)

Issue – This is a request by Gary Cassel of Vertical Bridge on behalf of T-Mobile, for approval of a wireless communication facility (WCF). The special exception site is located approximately 300 feet north of Irvington Road and 2,000 feet east of Mission Road south of the west branch of Santa Cruz River (see Case Location Map). The preliminary development plan (PDP) proposes a wireless communication tower disguised as a broadleaf tree (monoelm), 70 feet in height, with eight antennas and opportunity for future collocation of antennas within the artificial branches. The WCF will be placed within a 1,050 square foot (30 feet by 35 feet) lease area on a 4.5-acre parcel owned by a church. The facility will be placed near the church parking lot, approximately 100 feet to the north of the church building.

A communications use of this type in the O-3 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 exceeds 50 feet in overall height and does not meet a 2-times-the-height setback to adjacent office zoned properties to the north and west. Documentation provided by the applicant indicates that no practical alternative exists, and measures are being taken to conceal or disguise the tower and antenna from view by painting the monopole and attachments a brownish 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.

Planning & Development Services Department Recommendation – The Planning & Development Services Department recommends approval of the special exception request, subject to the attached preliminary conditions.

Background Information

Existing Land Use: Church (religious use)

Zoning Description:

O-3: This zone provides for mid-rise, office, medical, civic, and select other uses, such as urban agriculture and renewable energy generation, that provide reasonable compatibility with adjoining residential uses.

Surrounding Zones and Land Uses:

North: Zoned R-1, R-2, and O-3; West branch of Santa Cruz River and single-family residential.

South: Zoned O-3 and C-1; Single-family residential

East: Zoned O-3; Vacant undeveloped land

West: Zoned O-3; Church

Previous Cases on the Property: None

Related Cases:

SE-18-16 T-Mobile – Valencia Road, C-1 Zone – This was a request for approval of a wireless communication facility concealed within an artificial broadleaf tree (monoelm), 70 feet in height and associated equipment as a special exception land use in a church parking lot. The site is located approximately 400 feet south of Valencia Road and 1,400 feet east of 12th Avenue. On July 10, 2018, the Mayor and Council adopted Ordinance No. 11570, allowing the special exception.

SE-15-79 Verizon – Speedway Boulevard, C-1 Zone – This was a request for approval of a wireless communication facility concealed within an artificial pine tree, 50 feet in height and associated equipment as a special exception land use. The site is located on the north side of Speedway Boulevard approximately 225 feet east of Riverview Boulevard. On February 9, 2016, the Mayor and Council adopted Ordinance No. 11339, allowing the special exception.

Applicant's Request – The applicant requests special exception approval for the placement of a 70-foot high wireless communications facility disguised as a broadleaf tree (monoelm) with associated ground equipment on an O-3 zoned parcel owned by a church.

Planning Considerations – The *Santa Cruz Area Plan* and the *Plan Tucson* provide land use guidance for this site. The *Santa Cruz Area Plan* has no specific policy direction regarding wireless communication facilities, but supports new development that is compatible with existing neighborhoods.

Plan Tucson identifies this area in the Future Growth Scenario Map as an existing neighborhood and supports new services and amenities that contribute further to neighborhood stability. Policy LT28.1.2 requires that, if possible, wireless communication facilities be located, installed and maintained to minimize visual impacts and preserve views. The applicant states that the proposed wireless communication facility will help improve telecommunication services in the surrounding neighborhoods. *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 LT28.1.3 calls for improving the appearance of above-ground utilities and structures and extending access to high-tech wireless communication facilities throughout the city.

The proposal is in general compliance with the *Santa Cruz Area Plan* and *Plan Tucson*, and does not require a plan amendment. The plan policies generally support new cell tower proposals when designed to minimize visual impacts on surrounding neighborhoods and when buffering is provided.

The Pima Association of Governments - Transportation Planning Division (PAG-TPD) estimates that the proposed development will not generate additional measurable vehicle trips per day. Field inspection by staff indicates there are currently no billboards on the rezoning site.

Design Considerations

Land Use Compatibility – The facility will be placed near a parking lot for the existing church located on the property. The proposed monoelm will include four sectors with two antennas per sectors for a total of eight antennas. The PDP shows possible opportunities for collation of wireless antennas on two levels below the proposed T-Mobile antennas, which are depicted near the top of the faux broadleaf tree. The applicant has submitted a photo-simulation of the monoelm showing the antennas concealed by the artificial branches and leaves. The applicant has also provided radio frequency maps showing the gap in wireless communication coverage in the area and how this gap will be resolved by the proposed facility.

The nearest residential developments are a single-family home subdivision, zoned R-2, located approximately 400 feet to the north across the west branch of the Santa Cruz River, and single-family home subdivisions, zoned O-3 and C-1 located approximately 400 feet to the south across Irvington Road. The WCF will be set back from Irvington Road by approximately 300 feet. The monoelm will be visible from the surrounding residential neighborhoods, commercial developments, and from nearby streets.

The ground lease area is 1,050 square feet (30 feet by 35 feet) with ground level equipment that will be screened from view by an 8-foot high masonry wall textured and painted to match walls of the existing church building. The PDP shows existing landscape tree to remain in place with new landscaping provided to provide contest for the monoelm. The proposal does not include a backup generator. Staff recommends that any graffiti be removed within 72 hours of discovery.

In terms of wireless communication facilities, a stealth application is one that disguises the appearance of the pole and antennas to look like an element of the built or natural landscape, which could typically occur at the chosen location. A stealth application should be as close as possible in scale and appearance to the object it is disguised as, with no obvious unnatural elements. The success of a stealth application is dependent on the ability of the design and construction of the cellular site to fit into its surroundings to such a degree that it is not noticeable. Scale and proportion, site design, color, and materials, are particularly important in stealth applications insofar as they contribute, or do not contribute, to the ability of the facility to be as unobtrusive as possible. To ensure a successful stealth monoelm at this location, the following standards should be incorporated into the conditions:

- The monoelm shall not exceed 72 feet in height at top of artificial branches;
- The pole shall be covered with cladding (bark) where visible, and painted to resemble a live tree;
- Replacement of lost/damaged branches to be completed within ten working days of observation;
- All cables shall be run inside the pole, with no foot pegs or other visible appurtenances;
- All wires, wire ports and equipment shall be concealed behind the artificial branches and leaves;
- Antenna panels shall be colored or provided with a sock in a light/shade pattern to better camouflage them;
- Ground equipment to be screened by a masonry wall, existing healthy landscaping shall remain in place, and new landscaping shall be provided per the submitted PDP.
- Any future collocated antennas shall be camouflaged and concealed by artificial branches and leaves.

Road Improvements/Vehicular Access/Circulation – No road improvements are proposed with the project. Primary vehicular access to the WCF will be through the existing curb cuts and on-site parking area access lanes, and is identified by a 20-foot wide access easement from Irvington Road. According to the *Major Streets and Routes Plan*, Irvington Road is an arterial route with a future right-of-way of 150 feet.

Federal Regulations – Because this Special Exception application involves a wireless communication request, the Zoning Examiner’s consideration of the application is impacted by the application of federal laws specific to wireless communications. While federal law does not entirely preempt local decision-making authority based on legitimate zoning requirements, such as community aesthetics and compliance with stealthing requirements, it does impose the following limitations:

- 1) The decision on the application must occur within the “shot clock” period as provided under federal law, which for this type of application is 150 days. In this case, the application was accepted on August 28, 2018 and the “shot clock” period will expire on January 25, 2019. If a decision is not rendered within the “shot clock” period, the

review and consideration process is presumed to be unreasonable and affords the applicant the opportunity to file a lawsuit. If sued, the City would need to prove that it acted “reasonably” when it failed to act within the established “shot clock” period.

- 2) The evaluation of the request cannot include consideration of potential environmental or health effects of radio-frequency (RF) emissions where, as here, the facility will comply with FCC regulations and standard on such emissions.
- 3) The decision on the application cannot unreasonably discriminate among providers of functionally equivalent services. A denial may be deemed to be “unreasonable discrimination” if the facility is designed and situated similarly to other previously approved facilities and is no more intrusive than those previously facilities.
- 4) The decision may not have the effect of prohibiting the provision of wireless services, or of causing a significant gap in the applying provider’s coverage. In this context, the relevant issues are: (1) whether the applicant has shown a significant gap in service coverage; and (2) whether the proposal to fill this gap is the least intrusive means of doing so, or whether there are alternative sites that would fill the gap.
- 5) In the event of a denial, that decision and its reasons must be delivered to the applicant in writing, and must be supported by substantial evidence.

Given these constraints, the Zoning Examiner’s recommendation on this application should focus on whether the applicant has demonstrated a significant coverage gap; whether that gap could be addressed through an installation at an alternative site; and whether the proposed concealment/stealth measures are sufficient to meet the City’s requirements. The Zoning Examiner should also consider how this application compares to other prior applications for similar facilities. In the event of a recommendation for denial, the reasons must be stated so they can be incorporated into a written decision and captured in the meeting minutes.

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.

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 to 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 70-foot monoelm in the O-3 zone does not conform to any other section of the code because it exceeds 50 feet in height and does not meet a 2 to 1 setback from adjacent office-zoned property.

- (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 facilities are approximately 3,000 feet to the north and 4,000 feet to the east of the proposed site. These facilities are not suitable for collocation and are not suitable to fit within the existing sites on T-Mobile's network. The search ring to resolve the coverage gap has a radius of approximately ¼ mile.

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

The tower will be disguised as a broadleaf tree.

- (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's are well over ½ mile away. The search ring to resolve the coverage gap has a radius of approximately ¼ mile.

- (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 the proposal to be in compliance with the UDC Use-Specific Standards.

Conclusion – The proposal is in compliance with the performance criteria for a wireless communication facility. The request is consistent with policy direction in the *Santa Cruz Area Plan* and *Plan Tucson*, which support development designed to be compatible with and sensitive to surrounding land uses. The proposal is designed to blend in with the surroundings and does not conflict with plan policies. Staff acknowledges that the WCF will help improve telecom services to the established neighborhoods and businesses in the area. Subject to compliance with the attached preliminary conditions, approval of the requested special exception is appropriate.

PROCEDURAL

1. A site plan in substantial compliance with the preliminary development plan dated August 17, 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 monoelm, including attachments such as antenna panels and artificial branches and leaves, shall not exceed seventy-two (72) feet in height from grade elevation.
8. The antennas shall be covered in camouflaged socks to blend with the colors of the artificial branches and leaves of the monoelm.
9. The pole shall be covered with cladding (faux bark) wherever the pole is visible, and be painted to resemble a live pine tree.
10. Replacement of lost/damaged artificial branches/leaves is to be completed within ten (10) working days of observation and artificial branches/leaves shall be colored to match live branches/leaves as closely as possible.
11. T-Mobile shall routinely monitor the facility and repair/replace any artificial branches that may become worn or damaged through time.

12. All wire ports shall be concealed behind the antennas and all equipment shall be mounted behind the antenna panels.
13. Ground equipment to be located within lease area as depicted on the preliminary development plan dated August 17, 2018.
14. 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 to match existing on-site building.
15. Six-(6) inch wide fence block or greater shall be used for perimeter walls. Graffiti shall be removed from walls within seventy-two (72) hours of discovery or notification.
16. There shall be no exterior wiring, visible footpegs, portals, cabling or cable shrouds, or other unnatural appearing features on the monoelm.
17. Landscaping, including palo verde trees and Texas sage shall be provided as depicted on the preliminary development plan (sheet L1) dated August 17, 2018. The new landscaping shall be irrigated and maintained by the wireless provider. If any of the live trees or shrubs do not survive, they shall be replaced within 30 days by the wireless provider.
18. Plans for future carriers must be approved through the special exception process.

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(l).

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-18-55 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-18-55.

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.

- NOTES:**
- CONTRACTOR TO COORDINATE & PROVIDE PRIVATE LOCATING SERVICE PRIOR TO CONSTRUCTION.
 - CONTRACTORS SHALL CHECK IN EACH DAY WITH THE T-MOBILE NCC PRIOR TO ACCESSING SITES.
 - REFERENCE MANUFACTURERS TOWER DRAWINGS ON INSTALLATION.
 - ALL COAXIAL CABLING TO BE RUN INSIDE POLE.

LEGEND

- (P) PROPOSED
- (E) EXISTING
- (F) FUTURE
- ☼ FIRE HYDRANT
- POB POINT OF BEGINNING
- ROW RIGHT OF WAY
- WM WATER METER
- SVLT SEWER VAULT
- EVLV ELECTRIC VAULT
- EP ELECTRIC PANEL
- A.C.E. ACCESS CONTROL EASEMENT
- PROPERTY LINE
- OHE OVERHEAD ELECTRIC
- S BLUESTAKED SEWER LINE
- SPOT ELEVATION
- POSITION OF GEODETIC COORDINATES
- GV GAS VALVE
- POWER POLE
- Ⓢ SANITARY SEWER MANHOLE
- FOUND AS NOTED
- W BLUESTAKED WATER LINE
- E BLUESTAKED ELECTRIC LINE

SETBACKS TO PROPERTY LINES

- NORTH 111'-2"±
 - SOUTH 283'-0"±
 - WEST 84'-3"±
 - EAST 391'-5"±
- * SETBACKS ARE ESTIMATED FROM THE ASSESSORS MAPS, GIS INFORMATION & SURVEY BR. W.S. DATED 02/05/2018

CALL WITH SURVEYING QUESTIONS BEFORE YOU DIG
602-263-1100
1-800-STAKE-IT
(OUR STATE: ARIZONA COUNTY)



Clear Blue SERVICES
 4114 S 20TH ST
 PHOENIX, AZ 85004 602-428-8000



PH38272AC
 CACTUS COMMUNITY
 CHURCHVILLE
 1003 W. IRONWOOD RD.
 TUCSON, AZ 85748

Project Title: PH38272AC
 CACTUS COMMUNITY
 CHURCHVILLE
 1003 W. IRONWOOD RD.
 TUCSON, AZ 85748

Project Number: US-AZ-5000

Drawn: [] Date: 07/02/18
 Checked: [] Date: 07/02/18

OVERALL SITE PLAN

Drawing Scale: AS NOTED
 Date: 07/17/18

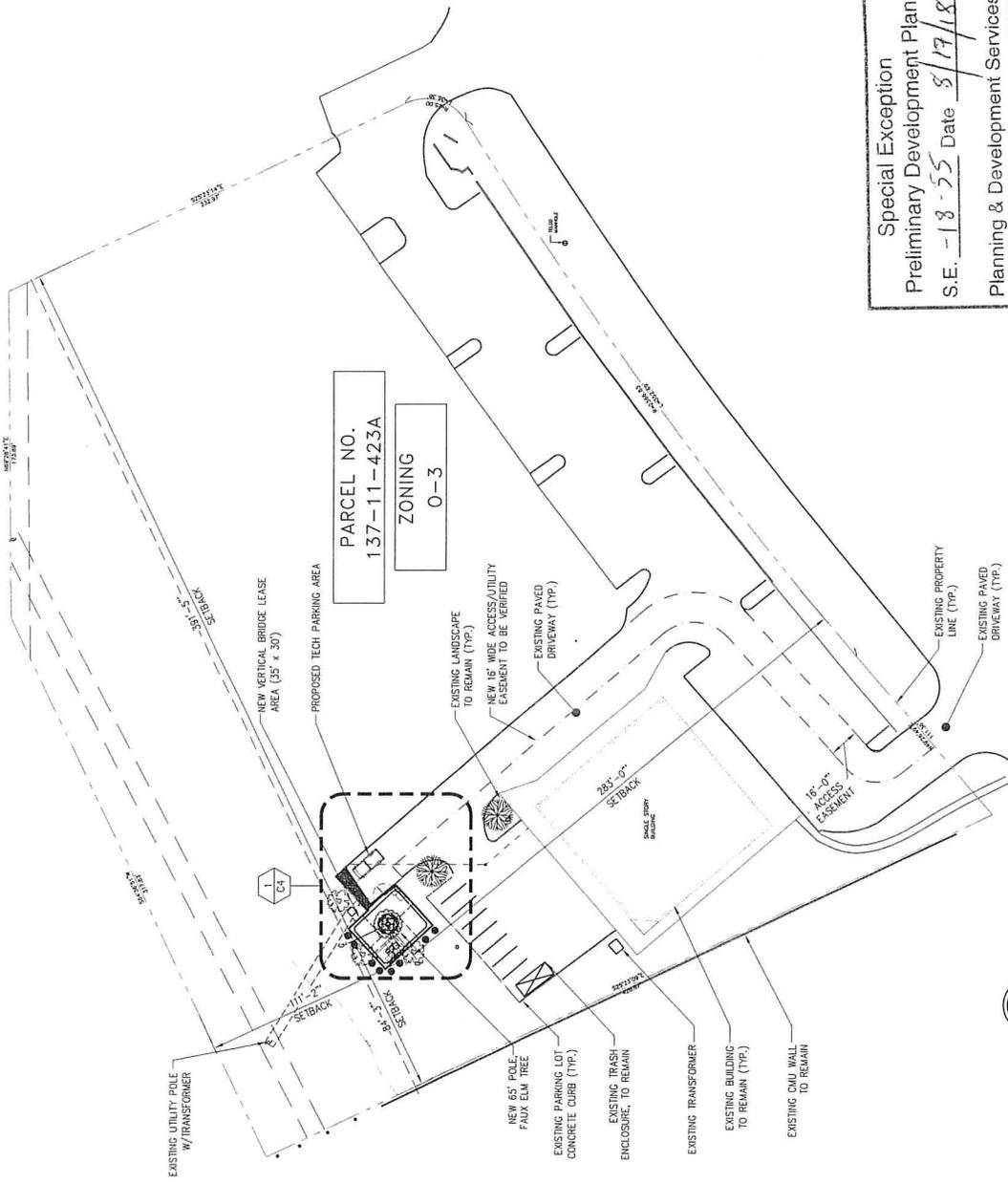
ZD

Drawing Number: **C3**

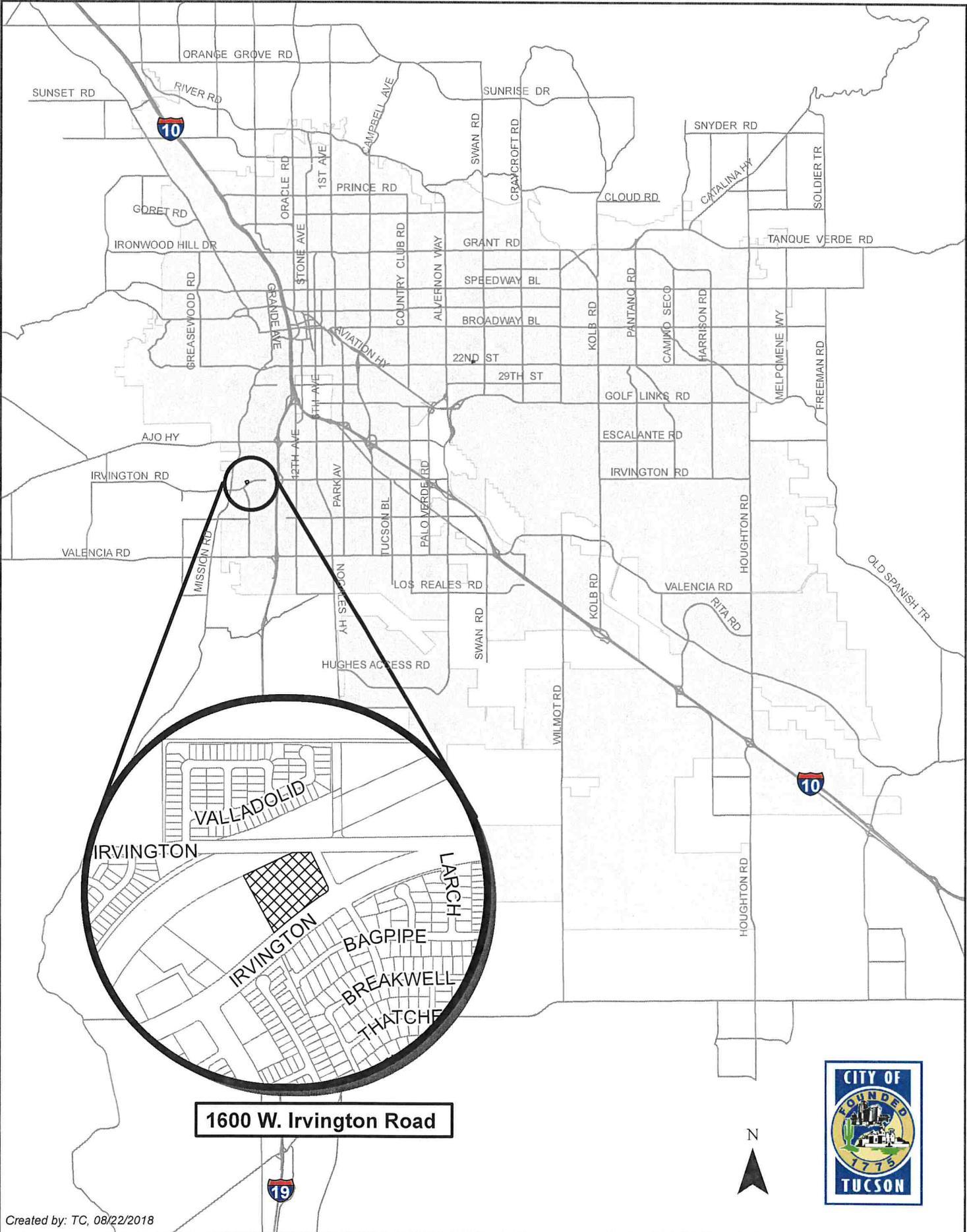
Special Exception
Preliminary Development Plan
 S.E. - 18-55 Date 5/17/18
Planning & Development Services

INFORMATION SHOWN BASED ON A FIELD SURVEY
 BY WGS DATED 02/05/18.

OVERALL SITE PLAN
 SCALE: 1" = 60' (11x17)
 SCALE: 1" = 30' (22x34)



SE-18-55
T-Mobile - Irvington Road



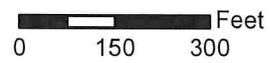
SE-18-55
T-Mobile - Irvington Road



 Area of Special Exception Request



Address: 1600 W. Irvington Road
Base Maps: Twp.15S Range13E Sec. 03
Ward: 1

 Feet
0 150 300

1 inch = 300 feet



Place
Stamp
Here

City of Tucson
Planning & Development Services
201 N. Stone
P.O. Box 27210
Tucson, Arizona 85726-7210

SE-18-55

Expose this flap - Affix stamp and return



City of Tucson PMc
Planning & Development Services
Rezoning Section
201 N. Stone Avenue
P.O. BOX 27210
Tucson, Arizona 85726-7210

SE-18-55
IMPORTANT SPECIAL EXCEPTION NOTICE ENCLOSED