

MINUTES OF THE REGULAR MEETING OF THE SHOW LOW PLANNING AND ZONING COMMISSION HELD ON OCTOBER 13, 2020 AT 7:00 P.M. IN THE CITY COUNCIL CHAMBERS, 181 NORTH 9TH STREET, SHOW LOW, NAVAJO COUNTY, ARIZONA

1. CALL TO ORDER

Chairman Bishop called the meeting to order 7:00 p.m.

2. ROLL CALL

COMMISSION MEMBERS PRESENT: Chairman Bishop, Vice Chairman Hephner, Commissioner Bess, Commissioner Wilson, Commissioner Roberts, Commissioner Jon Adams, and Commissioner Josh Adams

COMMISSION MEMBERS ABSENT: None

STAFF MEMBERS PRESENT: Justen Tregaskes, Planning and Zoning Director; Morgan Brown, City Attorney; Katie Fechtelkotter, Planner and Linda Haynes, Administrative Assistant

GUESTS PRESENT: Nancy Garera, Andrew Naronjo, Trey Dodson, Mark Brazda, Kathy Brazda, Cynthia Link, Sharon Stone, Sandy Goodrich, Christine Brady, David Behar, Lynnette Behar, Kevin Lowery, Laura Singleton, Carolyn Elorreaga, Susan Wagley, Robert Wagley, and Kim Kemp

3. INVOCATION

Commissioner Roberts gave the invocation.

4. Pledge of Allegiance

Vice Chairman Hephner led the Commission and audience in the Pledge of Allegiance

5. OLD BUSINESS

- A. Consideration of approval for a Conditional Use Permit application submitted by Young Design Corp, to allow for a 110 foot Mono-pine Cell Tower on property located at 591 N. Clark Road/3980 W. Cooley, that being A.P.N. 309-52-027B.

Ms. Fechtelkotter read the staff summary.

Nancy Smith Garera of the Young Design Group has submitted a conditional use permit application on behalf of Verizon for a 110 foot mono-pine cell tower at 591 N. Clark Rd./3980 W. Cooley, that being A.P.N. 309-52-027B. The previous staff report incorrectly stated that the request was submitted by Sunquest Financial, LLC. Sunquest Financial is the property owner. Young Design Group is the applicant. The subject property is owned by Sunquest Financial, LLC and is considered Tract A of Fairway Park Center, is currently vacant and is zoned C-2 (General Commercial). Per City Code, any new cell towers require a CUP. The property is 2.9 acres in size and is approximately 350 feet by 465 feet at the widest parts. It is an unevenly shaped property, which can be accessed off of either N. Clark Rd. or W. Cooley. There is a 20-foot wide sewer and utility easement running through the property. The subject property is commercially zoned and is adjacent to commercially zoned property except along the west property line. This tower would be privately owned and operated and would not be a City owned tower.

According to the applicant, the reason for the tower is to improve service quality in the area. The applicant has stated that the 110-foot height is necessary due to the trees and elevation changes of the surrounding properties. According to the site plan, the existing trees in the vicinity of the proposed tower were approximately 60, 62, 68, 72, and 73 feet tall. The applicant is proposing a 110-foot tall mono-pine tower, which would be approximately 40 feet taller than the surrounding trees. The applicant has provided a picture of an actual installation of one of their mono-pine towers, and it has been attached to the packet for review. For reference, the two most recently approved towers were 80 feet tall.

City Code Section 15-1-69(G)(2)(d)(1) states, "Towers must be set back a distance equal to 125 percent of the height of the tower from any adjoining lot line, but may be reduced by the commission if the goals of this ordinance would be better served thereby." Based on this requirement the setback for a 110-foot tower would be 137.5 feet from all property lines. The applicant has proposed the following setbacks; 93.8 feet to the north, 200.8 feet to the east, 158 feet to the south, and 124.7 feet to the west. Due to the dimensions of the property, it is impossible to place the tower outside of the 200-foot visual corridor protection area and meet the 137.5-foot setbacks from all property lines. Also, City Code Section 15-1-69(G)(2)(e)(1) states; "Separation from all residentially zoned properties shall be a minimum of two hundred (200) feet, but may be reduced by the commission if the goals of this ordinance would be better served thereby." To meet the 200-foot roadway visual corridor protection area, the tower would only be set back 124.7 feet from the

residentially zoned properties to the west of the subject property. Per city code, the commission may grant an allowance to reduce the fall zone and separation from residentially zoned property requirements provided, "...the goals of this ordinance would be better served thereby."

Per City Code Section 15-1-69(A), the goals of this ordinance are to:

- (1) Protect residential areas and land uses from potential adverse impacts of towers and antennas;
- (2) Encourage the location of towers in non-residential areas;
- (3) Minimize the total number of towers throughout the community;
- (4) Strongly encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers;
- (5) Encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques;
- (6) Consider the public health and safety of communication towers;
- (7) Avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures; and
- (8) Protect airport approach corridors.

The applicant has not requested a variance, but a reduction to the setbacks from a residential zone and the 125 percent fall-zone setback along the north property line. This request is permitted by City Code and is not a variance. Only the Board of Adjustment can approve variances to City Code. The applicant has requested that the Planning and Zoning Commission allow a 75.3- foot reduction to the 200-foot set back from a residential zone, which would be 124.7-feet. The applicant is also requesting a 43.7-foot reduction of the 137.5- foot setback to the north property line, which would be 93.8-feet. Reductions to these setbacks are allowed by code if the Commission feels that the goals of the ordinance would be better served by the decision.

The property was posted and letters were sent to all property owners within 300-feet of the subject property. Prior to the last meeting, staff received a phone call and email from a resident identifying himself as a representative of the Fairway Park Home Owners Association (HOA). He expressed concerns of visual aesthetics, health effects, and declining property values due to the proposed tower. An email from this individual has been attached for your review.

At the regularly scheduled Planning and Zoning Commission meeting of September 22, 2020, several neighboring property owners spoke in opposition to the proposed tower. Also, several neighbors located within 300

feet of the property indicated that they had not received notice of the meeting. City staff mailed letters to all property owners within 300 of the subject property using the mailing addresses obtained from Navajo County tax records. In addition, public notice signs were posted on the subject property off both W. Cooley and N. Clark Rd. City Code Section 15-1-33(F) regarding notification requirements state, "Notice of the nature of the conditional use permit application and the date of the meeting at which it would be considered shall be posted on the property and shall be mailed to the owners of all real property within three hundred (300) feet of the property for which application is made at least ten (10) days prior to the meeting. Notwithstanding the notice requirements set forth in this section, the failure of any person or entity to receive notice shall not constitute grounds for any court to invalidate the action for which the notice was given."

This item was originally heard by the commission at the regular meeting of September 22, 2020. A number of property owners spoke in opposition to the proposed project. Concerns included health issues, impacts to property values, the reduction in the residential setback, clearing of trees, and safety. Residents also questioned the need for this specific site and suggested other locations might be better suited. Two motions to approve the request were made, with both motions failing. No motion was made to deny the application. The commission then continued this item from the September 22, 2020 meeting to October 13, 2020 in order to allow for a full commission to be present. Since the September meeting staff has received multiple emails and letters from nearby property owners in opposition to the proposed mono-pine tower. These letters and emails are attached for review.

Ms. Fechtelkotter read the Findings of Facts

Current zoning of the surrounding properties include;

North:	C-2 (General Commercial) and C-1 (Neighborhood Commercial)
South:	R1-7 (Single-family residential, seven thousand square feet) and C-2 (General Commercial)
East:	C-1 (Neighborhood Commercial)
West:	R1-7 (Single-family residential, seven thousand square feet)

The current land uses of the surrounding properties include;

North:	Dollar General
South:	Fairway Park Center Subdivision, Circle K

East: Vacant commercial
West: Fairway Park Center Subdivision

Transmittal memos were sent to all affected agencies. Applicable comments received include;

Airport Manager: A 7640 form shall be filled with the Federal Aviation Administration (FAA). The FAA has issued a determination of No hazard to air navigation, therefore lighting is not necessary.

Building Official: The monopole cell tower requires a building permit and shall meet all building codes including footings and wind loads.

Public Works: Has requested that a maintenance plan for the tower to be submitted to the Public Works Department.

The property was posted and letters were sent to all property owners within three hundred (300) feet of the subject property. Staff has received phone calls and emails from area residents in opposition to the proposed mono-pine tower. These letters and emails are also attached for review.

Ms. Fechtelkoter read the staff recommendations.

After reviewing the Zoning Ordinance, Standards for Review, Findings of Fact, discussions with the applicant and public the Planning and Zoning Commission may;

APPROVE Conditional Use Permit 602-04-232 submitted by Young Design Group on behalf of Verizon Wireless to allow for a 110 foot mono-pine cell tower located at 591 N. Clark Rd./3980 W. Cooley, that being A.P.N. 309-52-027B subject to the following conditions;

1. All development shall comply with all applicable federal, state and local requirements, including; Federal Communications Commission (FCC), Federal Aviation Administration (FAA) and building permit requirements.
2. The antenna and supporting structure shall not exceed 110 feet. No addition to the height of the tower shall be permitted.
3. The tower shall be in substantial conformance with the submitted site plan and submitted Determination of No Hazard to Air Navigation.

4. A maintenance plan for the tower shall be submitted to the Planning and Zoning Department. The tower shall be maintained in accordance with this plan.
5. As indicated by the applicant, no generators shall be utilized.

-OR-

DENY Conditional Use Permit 602-04-232 submitted by Young Design Group on behalf of Verizon Wireless for a 110 foot mono-pine cell tower located at 591 N. Clark Rd./3980 W. Cooley, that being A.P.N. 309-52-027B (*stating the reason(s) why*).

Attorney Brown stated since the last hearing the City had received emails and different communications that indicated that the Planning and Zoning Commission had violated Robert's Rules of Order. Mr. Brown stated that the Conditional Use Permit was initiated by a private property owner and not the City of Show Low. He also clarified that the two motions made to approve the Conditional use Permit from the previous meeting failed, but did not violate Roberts Rules of Order. Robert's Rules of Order was what the Commission followed as a guideline but it did not override Federal Law, State Law or the City Code. If the Commission makes a motion to deny a Conditional Use Permit, the Commission must motion to deny the application and state reasons for denial. Just like the last meeting if the motion was to deny and it failed, it wouldn't automatically be approved as there would need to be motion to approve. The application was not for a variance, but was for a Conditional Use Permit, and under City Code the Commission is allowed to reduce the setbacks if the goals of the ordinance were better served thereby.

Nancy Garera, applicant from Young Design Group, PO Box 737, Queen Creek, AZ 85142, said that they had submitted additional information in a packet to the Commission and part of their research was to show not only how the tower would help the community, but first responders as well. It is also used for On-star services and communication assistance during emergency for 911 services.

Trey Dodson, RF Engineer from Young Design Group explained the proposed coverage from the plot plan and the impact the new site would have to improve speeds and coverage. Mr. Dodson said they reviewed the different locations that were provided and a lot of them where not in the area where they needed them to be to provide better coverage and did not meet the

needs of the original intent. Three of the proposed locations were less than a mile away from existing sites and the Joe Tank Road location was not near a community where it could provide better coverage.

Ms. Garera stated they designed the tower to hide it as well as possible in the trees, by designing it as a monopine and making it look like a tree. A picture was given showing an example of the towers they had previously done. The project was on a commercial property which would protect from residential areas and the towers were designed to bend over and not to fall over which was designed to protect the surrounding properties. The tower would be fenced off and locked so the public would not be able to access it and there would be no lighting. The height of the tower would minimize the number of towers needed and the antenna was in compliance with all standards and was approved by the Federal Aviation Administration. The biggest issues with all the surrounding properties were that they did not meet every set back requirement and if it gets too close to another tower it would interfere and disrupt the signal.

Commissioner Jon Adams said since they were not lowering the tower, what benefits would there be by leaving the height. Ms. Garera said to keep the trees as natural as possible, if they go any lower they found disruption in service until they hit the 95 foot level and that was why they were requesting to keep height of tower at 110 feet.

Vice Chairman Hephner asked about tower usage during peak time. Ms. Garera said the systems tell when system is working or failing due to the amount of users. Mr. Dodson said they currently have two sectors failing.

Commissioner Wilson asked how long the example towers have been in place and if there had been any health issues in these sites. Ms. Garera said there had been no legal claims or health issues on these sites.

Vice Chairman Hephner asked about the C-2 zoning what a business could do at that property. Mr. Tregaskes said the property was zoned C-2, General Commercial District. It was possible for someone to come in and develop that property with the C-2 standards, which allows cutting of trees, parking lots, fences, dumpsters and a number of businesses that were a permitted use in that zoning district. Some of those permitted businesses could be an auto parts store , beer and wine facility, bowling alley, drive-thru bank, grocery store, health club, hotels, motels, movie theatres, restaurants that do

not serve alcohol and vehicle services. Additionally there were more businesses that could be placed there with a Conditional Use Permit.

Vice Chairman Hephner asked if they were leaving the trees. Mr. Tregaskes said that the trees would remain.

Commissioner Roberts asked about traffic counts in that area. Mr. Tregaskes said the City did not perform traffic counts on ADOT Highways, but had access to average daily counts, which was on and average 14,000 vehicle trips per day.

Commissioner Roberts asked how many properties were within the 200-foot setback. Mr. Tregaskes said the tower was set back 124.7 feet from the nearest adjacent property and only the top three lots on the map were within 200 feet from tower. Commissioner Roberts asked how many homes were on those three properties. Mr. Tregaskes said currently there was only one home, the rest were vacant lots.

Commissioner Jon Adams asked if a business could go onto that property without coming to Commission. Mr. Tregaskes said yes.

Commissioner Jon Adams asked if Dollar General had any complaints or comments. Mr. Tregaskes said no.

Commissioner Josh Adams asked how long the wireless communications code had been in effect. Mr. Tregaskes stated it has been in place for about 20 years and had not been updated since that time period.

Mark Brazda, 681 N. 41st Ave, had some concerns at first about the tower location, but after hearing the facts and knowing that a business like an Auto Zone could be built on that property, he would rather have the tower and keep the ponderosa trees then see them clear cut for a business.

Kevin Lowery, 680 N. 43rd Dr., presented a document with 44 signatures, signed by residents in the neighborhood that were opposed against the cell tower. Mr. Lowery expressed his concerns on the tower location due to the detrimental effects it would have on other neighboring properties.

Carolyn Elorreaga, 821 N 44th Drive, expressed concerns about the health issues in the area due to the sensitivity of the towers.

Sandy Goodrich 601 N. 43rd Avenue, expressed her concerns about the health impacts of the cell towers and the depreciation of the property values. Ms. Goodrich stated she could request a NEPA review (National Environmental Policy Act), which would assess the property and provide an analysis of the human environment impacts of the tower in that area.

Steve Wagley, 400 N. 40th Circle, said he was concerned that having the cell tower too close to his property would provide a dead zone and health issues. He also questioned who profits from the cell tower.

Lynnette Behar, 2300 N. Cottage Trail #1, expressed concerns about health issues, especially for the children.

Vice Chairman Hephner asked if the City profits from the building of a cell tower. Mr. Tregaskes said the only money the City received was an application fee and since this is not City property, the City would not receive any money from this. The City was not involved in the tower, construction or the lease.

Vice Chairman Hephner asked for clarification if there was a drop off zone if the tower was close to other homes. Mr. Dodson said no.

Commissioner Bess stated he is concerned with the reduction of the setbacks as it would affect the safety and lifestyle of the residents that live next door. Mr. Bess stated that in his opinion, the visual corridor would need to be adjusted as it affects the residents 24/7, however the ongoing traffic is only affected for a few seconds.

Commissioner Wilson provided clarification regarding Kevin Lowery's statement about the motion being denied and stated that the motion was not approved, but had not yet been denied. And although it may have been said it was denied, it was corrected by Mr. Tregaskes and he said that the motion had not been approved and it had not yet been denied.

Commissioner Josh Adams agreed that we need more cell phone coverage and would rather look at a tower than a building, he feels that a reduction

should meet the goals of the ordinance and would like everyone to review and interpret that in their way before they vote.

VICE CHAIRMAN HEPHNER MOVED TO APPROVE CUP 602-04-232 SUBMITTED BY, YOUNG DESIGN CORP ON BEHALF OF VERIZON WIRELESS, TO ALLOW FOR 110 FOOT MONO-PINE CELL TOWER ON PROPERTY LOCATED AT 591 N. CLARK ROAD/3980 W. COOLY, THAT BEING A.P.N. 309-52-027B SUBJECT TO STAFF RECOMMENDATIONS. COMMISSIONER ROBERTS SECONDED THE MOTION. PASSED 4 TO 3 WITH, CHAIRMAN BISHOP, VICE CHAIRMAN HEPHNER, COMMISSIONER ROBERTS AND COMMISSISONER JON ADAMS VOTING IN FAVOR AND COMMISSIONERS BESS, WILSON, AND JOSH ADAMS CASTING DISSENTING VOTES.

Mr. Tregaskes said as with any Conditional Use Permit, there is a seven day appeal period. If no appeal was received by the City Clerk within those seven days, this Conditional Use Permit would be considered effective.

6. NEW BUSINESS

None.

- 7. CALL TO THE PUBLIC – Any citizen desiring to speak on a matter that is within the jurisdiction of the Planning and Zoning Commission may do so at this time. Comments may be limited to three minutes per person and shall be addressed to the Planning and Zoning Commission as a whole, and not to any individual member. Issues raised shall be limited to those within the jurisdiction of the Planning and Zoning Commission. Pursuant to the Arizona Open Meeting Law, the Planning and Zoning Commission cannot discuss or act on items presented at this time. At the conclusion of the call to the public, individual Planning and Zoning Commission members may (1) respond to criticism made by those who have spoken, (2) ask staff to review a matter, and (3) ask that a matter be put on a future agenda.**

None.

8. APPROVAL OF MINUTES

- A. Planning and Zoning Commission Regular Meeting of September 22, 2020.

COMMISSIONER WILSON MOVED TO APPROVE THE PLANNING AND ZONING COMMISSION REGULAR MEETING MINUTES ON SEPTEMBER 22, 2020. VICE CHAIR HEPHNER SECONDED THE MOTION. PASSED 6 TO 0 WITH, CHAIRMAN BISHOP, VICE CHAIRMAN HEPNER AND COMMISSION MEMBERS

WILSON, ROBERTS, JOSH ADAMS AND JON ADAMS VOTING IN FAVOR. COMMISSIONER BESS ABSTAINED AS HE WAS NOT AT THE LAST MEETING.

9. SUMMARY OF CURRENT EVENTS

Commission Members

Commissioner Wilson reminded everyone that the Deuce of Clubs speed limit is only 35 mph and to help with accidents please be mindful of speed.

Commissioner Roberts said the Election is coming up and it is important each person votes regardless of what they were voting for.

Commissioner Josh Adams said please vote and thanked the public for coming out and participating and for law enforcement being at the meeting.

Commissioner Bess said the Navajo County election site has a link were you can register and track your mail in ballot.

Vice Chairman Hephner thanked everyone for being healthy and stated that the Show Low Film Festival would be happening this weekend at the WME in Pinetop-Lakeside.

Chairman Bishop appreciates the civic engagement and encourages everyone to be safe to health issues due to Covid-19

Planning and Zoning Director

Mr. Tregaskes reminded everyone that voting is happening now and to take advantage of early voting at City Hall. If you have any questions contact 928.532.4000.

10. ADJOURNMENT

There being no further business to be brought before the Planning and Zoning Commission, CHAIRMAN BISHOP ADJOURNED THE REGULAR MEETING OF THE SHOW LOW PLANNING AND ZONING COMMISSION OF OCTOBER 13, 2020 AT 8:28 PM.

ATTEST:

APPROVED:

Justen Tregaskes
Planning and Zoning Director

Eric Bishop
Chairman

CERTIFICATION

I hereby certify that the foregoing minutes were a true and correct copy of the minutes of the **REGULAR MEETING** of the Planning and Zoning Commission of Show Low held on October 13, 2020. I further certify that the meeting was duly called and held and that a quorum was present.

Dated this _____ day of _____, 20____.

Linda Haynes
Administrative Assistant