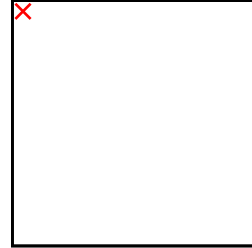


**CITY OF FLAGSTAFF**  
**STAFF SUMMARY REPORT**

**To:** The Honorable Mayor and Council  
**From:** Tiffany Antol, Zoning Code Manager  
**Date:** 03/26/2019  
**Meeting Date:** 04/02/2019



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**TITLE:**

**Appeal of the Denial by the Planning and Zoning Commission:** of Conditional Use Permit PZ-18-0011-02 requested by Pinnacle Consulting on behalf of Verizon Wireless.

**STAFF RECOMMENDED ACTION:**

Staff does not have a recommended action, other than to hear and decide the appeal.

**Executive Summary:**

Conditional Use Permit PAZ-18-00111-02 was proposed to allow the placement of a new 60-foot tall Antenna-supporting Structure (mono-pine wireless communication tower) with 6-antennas at the 55-foot level, to facilitate wireless communications. The proposed Antenna-supporting Structure would be constructed within a 900-square foot lease area on a 9.31-acre parcel located at 3600 North Fourth Street, within the R1, Single-family residential zoning district. The subject staff summary and attachments constitute the staff report for the appeal.

**Financial Impact:**

None

**Policy Impact:**

None

**Connection to Council Goal, Regional Plan and/or Team Flagstaff Strategic Plan:**

**City Council Goals**

Community Outreach - Enhance public transparency and accessibility.

**Team Flagstaff Strategic Plan**

#4 Work in partnership to enhance a safe and livable community.

#4.4 - Promote high quality of life through consistent standards rules and regulations.

**Previous Council Decision on This:**

There have been no previous Council decisions on this item.

**Options and Alternatives:**

1. The City Council may affirm the decision of the Planning & Zoning Commission (i.e., deny CUP-18-00111-02).
2. The City Council may make alternative findings from the Planning & Zoning Commission and reverse the decision of the Planning & Zoning Commission (i.e., approve CUP-18-00111-02).
3. The City Council may make alternative findings from the Planning & Zoning Commission and deny the appeal (i.e., deny CUP-18-00111-02).
4. The City Council may remand the decision back to the Planning & Zoning Commission for further review and decision.

**Background and History:**

The applicant initially filed for concept plan review on the proposed Antenna-supporting Structure in 2015. The initial application did not progress to site plan. In mid-2018 the applicant reapplied for concept plan review at the same site. The concept plan was accepted and moved forward to site plan and was finally approved by the Inter-Division Staff (IDS) in November 2018. The applicant shortly thereafter applied for the required Conditional Use Permit. The Conditional Use Permit was set for a public hearing with the Planning & Zoning Commission on January 9, 2019. All required notifications were performed including posting the property, mailing property owners within 300 feet, and placing an ad in the newspaper at least 15 days prior to the hearing.

The Planning & Zoning Commission held their first public hearing on this case on January 9, 2019. At the hearing staff presented the findings of the staff report, the applicant presented their request, and public testimony was presented. The public testimony included 24 individuals who spoke against the proposed Conditional Use Permit for the following reasons: disfavored site, location, visual pollutant, gas pipeline easement, not meeting objectives, look of the tower, viewsheds, property values, adverse effects to environmental study area, radiation health risks, fire risk, and harm to wildlife. Two individuals spoke in favor of the proposed Conditional Use Permit. Two written comment cards were submitted stating property values, devaluing home and health, and disfavored site. The Planning & Zoning Commission unanimously approved a motion to continue the public hearing to the regular meeting of February 13, 2019, and requested that the applicant hold a neighborhood meeting to discuss the request. The January 9, 2019, Planning & Zoning Commission meeting can be viewed online at <https://flagstaffaz.swagit.com/play/01092019-1758> and the minutes are attached.

The applicant held a neighborhood meeting on January 30, 2019, at Trinity Heights Methodist Church. The notice was mailed to 221 property owners within 1000 feet of the subject site. Sixty-five individuals signed in at the neighborhood meeting. A copy of the neighborhood meeting report is attached.

The Planning & Zoning Commission held the continuation of the public hearing on this case on February 13, 2019. Staff provided a brief update on the application and answered questions from the Commissioners, the applicant answered questions from the Commissioners, and public comment was taken on the case. Twenty four individuals spoke against the proposed Conditional Use Permit for the following reasons: disfavored site, location, visual pollutant, gas pipeline easement, not meeting objectives, look of the tower, viewsheds, property values, adverse effects to environmental study area, radiation health risks, fire risk, harm to wildlife, and lack of findings. Two individuals spoke in favor of the Conditional Use Permit. Four written comment cards were submitted all opposed to the project. Public comment was followed by questions from the Commission to the applicant's engineer. The Commission discussion was held on the proposed project and a motion to deny PZ-18-00111-02 for lack of findings #1 and 2b as listed in the staff report carried unanimously. The February 13, 2019, Planning & Zoning Commission meeting can be viewed online at <https://flagstaffaz.swagit.com/play/02132019-1172> and the minutes are attached.

The applicant submitted an appeal request within ten (10) days of the Planning & Zoning Commission decision. A copy of the appeal letter is attached. The appeal has been noticed as a public hearing as is required by the Zoning Code including posting the property, mailing adjacent property owners (in this case within 1000 feet) and placing an ad in the newspaper.

### **Key Considerations:**

The Zoning Code requires that appeals be heard at a public hearing. The City Council can choose to hear the appeal based on the record of information provided to the Planning & Zoning Commission or on an extended record. In this case, the City Council has elected to hear this appeal based on the record as presented to the Planning & Zoning Commission. The following information pertains to the Flagstaff City Council Rules of Procedure for Public Hearings.

- A. In the case of a public hearing, the Chair shall announce prior to such hearing the total time limit, if any, to be allowed for public debate, depending upon the circumstances and public attendance. The Chair shall also announce the time limits for each individual speaker (normally no more than three minutes), and that no speaker may be heard more than once.
- B. Any person wishing to speak with the assistance of a translator shall designate such on the speaker card and be permitted to speak up to five minutes.
- C. At the discretion of the Chair, ten or more persons present at the meeting and wishing to speak may appoint a representative who may have no more than fifteen minutes to speak.
- D. Speakers may not cede any portion of their allotted time to another speaker.
- E. The order of presentation and time limits shall be as follows:
  - 1. Staff presentation (ten-minute time limit, except with specific Council permission to exceed this limit).
  - 2. Appellant presentation, only upon appellant's specific request (up to ten minutes, except with specific Council permission to exceed this limit).
  - 3. Council's questions to staff and applicant.
  - 4. Public comment (three minutes for individual speakers, up to fifteen minutes for a representative of ten or more persons present at the meeting who have contributed their time to the representative), The ten persons will be requested to identify themselves by standing and those included in the group are precluded from making comments on the same topic.
  - 5. Appellant's response, only upon appellant's specific request (5 minutes),
  - 6. Staff's response (5 minutes),
  - 7. Council deliberation and questions to staff and applicant.
- F. This rule will not preclude questions from members of the Council to the speaker where it is deemed necessary for purposes of clarification or understanding, but not for purposes of debate or argument.

Conditional Use Permits are reviewed and approved in regard to the findings identified in the Zoning Code. The findings for all Conditional Use Permits are as follows:

- 1. That the conditional use is consistent with the objectives of this Zoning Code and the purpose of the zone in which the site is located.
- 2. That granting the conditional use will not be detrimental to the public health, safety or welfare. The factors to be considered in making this finding shall include, but not be limited to:
  - a. Property damage or nuisance arising from noise, smoke, odor, dust, vibration or illumination;
  - b. Hazard to persons or property from a possible explosion, contamination, fire or flood; and

- c. Impact on surrounding areas arising from unusual volume or character of traffic.
- 3. That the characteristics of the conditional use as proposed and as it may be conditioned are reasonably compatible with the types of uses permitted in the surrounding area. The conditional use permit shall be issued only when the Planning Commission finds that the applicant has considered and adequately addressed the following to ensure that the proposed use will be compatible with the surrounding area:
  - a. Access, traffic, and pedestrian, bicycle and vehicular circulation;
  - b. Adequacy of the site and open space provisions, including resource protection standards, where applicable;
  - c. Noise, light, visual and other pollutants;
  - d. Proposed style and siting of structure(s), and relationship to the surrounding neighborhood;
  - e. Landscaping and screening provisions, including additional landscaping in excess of otherwise applicable minimum requirements;
  - f. Impact on public utilities;
  - g. Signage and outdoor lighting;
  - h. Dedication and development of streets adjoining the property; and
  - i. Impacts on historical, prehistoric or natural resources.

In the case of telecommunication facilities, the Planning & Zoning Commission must also make the additional findings of fact based on the type of facility proposed. In this case, the proposed application involves a disfavored site.

**Review.** The Planning Commission shall not issue a conditional use permit for a telecommunications facility, as required by subsection (B)(2) of this section, until:

- a. The applicant has submitted an application in the form set forth in subsection (F)(1) of this section;
- b. The Planning Commission has determined that the requirements set forth in subsection (C) of this section have been met; and
- c. The Planning Commission has made the findings required under Section [10-20.30.090](#), Findings Required. In addition, the following findings shall be required, where applicable:
  - (1) **For Telecommunications Facilities Not on Preferred Sites.** Applications for a conditional use permit for a telecommunications facility on a site other than a preferred site, as defined in subsection (E)(1) of this section, shall not be granted unless the applicant has shown that it made its best efforts to locate the telecommunications facility on a preferred site and that it is not technically or legally feasible or aesthetically desirable to locate the telecommunications facility on a preferred site.
  - (2) **For Towers.** Applications for a conditional use permit for a tower shall not be granted unless the applicant has shown that:
    - (a) Existing towers cannot accommodate the proposed telecommunications facility;
    - (b) The new tower will have room to co-locate additional facilities or it is not technically or legally feasible or aesthetically desirable to construct a tower with such co-location capacity; and,
    - (c) Construction of the tower will not disrupt existing utilities. In addition, the applicant also must meet the requirements set forth in subsection (D) of this section.
  - (3) **For Telecommunications Facilities on Disfavored Sites.** Applications for a conditional use permit for a telecommunications facility on a disfavored site, as defined in subsection (E)(4) of this section, shall not be granted unless the applicant has shown that:
    - (a) It has made its best efforts to locate the telecommunications facility on a site that is not a disfavored site;
    - (b) It is not technically or legally feasible or it is aesthetically undesirable to locate the telecommunications facility on a site that is not a disfavored site; and
    - (c) Denial of the conditional use permit would unreasonably discriminate among providers of functionally equivalent personal wireless services or prohibit or have the effect of prohibiting the provision of personal wireless services within the meaning of [47 U.S.C. § 332\(c\)\(7\)\(B\)\(i\)](#).

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**Attachments:**    [P&Z Staff Report](#)  
                         [CUP Applicants Supporting Documentation](#)  
                         [CUP Hearing Notice 1-9-19](#)  
                         [Staff presentation to Commission 1-9-19](#)  
                         [P&Z Minutes 1-9-19](#)  
                         [Public Comments provided to Commission on 1-9-19](#)  
                         [P&Z Memo for 2-13-19](#)  
                         [Neighborhood Meeting Proceedings](#)  
                         [Public Presentation to Commission on 1-9-19](#)  
                         [Petitions](#)  
                         [Public comments received after 1-9-19](#)  
                         [P&Z Minutes 2-13-19](#)  
                         [Final Notice of Decision](#)  
                         [Applicants appeal letter](#)  
                         [Appeal Public Notice](#)