

Zoning Administrator Hearing

Minutes



John S. Gendron
Hearing Officer

November 3, 2009 – 1:30 p.m.

View Conference Room, 2nd Floor
55 North Center Street
Mesa, Arizona, 85201

Staff Present

Angelica Guevara
Mia Lozano-Helland
Tim Lillo
Wahid Alam
Tom Ellsworth

Others Present

Doug Atkins
Tom Verploegen
Rulon Anderson
Dee Logan

CASES:

Case No.: ZA09-045

Location: 1138 South Lewis

Subject: Requesting a Special Use Permit to allow a commercial communication tower to exceed the maximum height permitted in the M-2 zoning district. (PLN2009-00324)

Decision: Approved with conditions

1. *Compliance with the site plan dated September 10, 2009 submitted for AZ-PHX519E, TMW MONOPOLE at 1136 South Lewis Street, except as modified by the conditions below.*
2. *The monopole shall have a maximum height of eighty (80') foot at the top of the proposed monopole.*
3. *The monopole shall be galvanized steel.*
4. *The antennas shall not exceed 4'-2" in length, 1'-1" in width, and 4" in depth.*
5. *The antennas shall be painted to match the color of the pole.*
6. *The antenna standoff T-arm shall not be more than 8" from the pole.*
7. *The 6' high CMU screen wall shall match the existing CMU in color, texture and crown.*
8. *Compliance with all requirements of the Building Safety Division with regard to the issuance of building permits.*

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Summary: Rulon Anderson represented the case for Clearwire. There was no one in attendance in support or against the case. Mr. Gendron asked questions related to the equipment cabinet and the availability of co-locations. Mr. Gendron approved the request based upon the staff report and recommendation.

Finding of Fact:

- 1.1** This Special Use Permit case# ZA09-45 was continued to the November 3, 2009 hearing at the October 20, 2009 hearing. The applicant revised the site plan and sent notification letters to the neighbors with an accurate site address.
- 1.2** The Special Use Permit (SUP) allows the placement of a 80-foot high monopole in an existing industrial development located at 113 South Lewis Street in the M-1 zoning district.
- 1.3** The applicant notified all property owners within 300-feet of the request and no comments or concerns were received.
- 1.4** The monopole is 80-feet high. The array consists of three sectors, with three antennas, three daps, and three microwave dishes with 2'-2" diameter. The antennas are 4'-2" in length, 1'- 1" wide, and 4" deep.
- 1.5** There is also an equipment cabinet that is screened with a proposed 6' high CMU wall around the 30' x 30' lease area with a 10' wide steel access gate..
- 1.6** The applicant, Clear Wire, is building the 80' high monopole to allow a minimum of two additional carriers, and a maximum of three carriers. However, this Special Use Permit (PLN2009-00324) allows only one carrier (Clear Wire) to install antennas on this pole. All other arriers will need future approval for co-location .
- 1.7** The monopole complies with the Commercial Communications Towers Guidelines and will be more than 167-feet from the right-of-way where only 80-feet is required. In addition, the monopole is approximately 600-feet from the nearest R1-6 zoning district to the west and approximately 596-feet from the nearest R1-6 zoning district across Center Street to the west.
- 1.8** The monopole is located within an existing industrial development zoned M-1, and will be compatible with and not detrimental to, adjacent properties or the neighborhood in general.

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Case No.: ZA09-046

Location: 0 to 100 Block of North McDonald, 0 to 100 block of South MacDonald, and 0 to 100 block of West Pepper Place (Council District 4)

Subject: Requesting a Special Use Permit to allow a Farmer's Market in the TCC zoning district. (PLN2009-00339)

Decision: Approved with conditions.

1. *Compliance with all health, building, fire safety, and tax and licensing regulations of the City of Mesa.*
2. *Compliance with the site plan, and narrative which delineates the operational locations of the farmer's market. Only one location option will be utilized at this time.*
3. *The City shall reserve the right to make necessary adjustments to the Special Use Permit or the site plan to ensure pedestrian safety and that the landscaping is properly maintained.*
4. *The farmer's market shall follow the Good Neighbor Policy aspects of the MACFest event including:*
 - a. *Parking --- To ensure that parking will be available to customers coming to the downtown businesses and Farmer's Market, the vendors will park their vehicles in the Pepper Street parking garage except for vendor vehicles that are used to re-supply booths or refrigerated vehicles that are required for refrigerated good.*
 - b. *Circulation --- All activities and services will meet the American with Disabilities Act requirements.*
 - c. *Safety --- Fire extinguishers will be at every table where food is prepared.*
 - d. *Coordination with Downtown Businesses --- The applicant will work with the Downtown Mesa Association, the Planning division, and business owners to coordinate sidewalk sales and to ensure that the Market will not have competing vendors or appear to have a swap meet atmosphere.*
 - e. *Solid Waste Management Plan ---Vendors will police after themselves, and the Downtown Mesa Association will assist as needed.*
 - f. *Vendor-setup may begin at 8:00 a.m. Vendor breakdown will begin immediately after the market closes. Vendors will be allowed one and a half (1 ½) hours for breakdown and cleanup.*
5. *The SUP shall expire on May 30, 2014.*

Summary: Tom Verploegen and Dee Logan represented the case. Mr. Verploegen stated that he would like condition 4.a revised to exempt the vehicles that hold refrigerated goods or other vehicles needed for re-supplying the vendor booths. Staff agreed to revise the condition. He also requested that the Special Use Permit be valid for 5 years instead of 2 years. Mr. Gendron agreed to the revisions. After discussion, Mr. Gendron approved the request based upon the

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staff report and recommendation.

Finding of Fact:

- 1.1** This Special Use Permit (SUP) allows the operation of a Farmer's Market on Saturday's from October to May between 9:00 a.m. and 2:30 p.m. The schedule coincides with the MACFest activities that were approved by Special Use Permit in 2008.
- 1.2** The location for the market will be primarily along the east and west sides of North MacDonald between Main Street and Pepper Place. Utilizing the on-street parking and sidewalks for display and sales.
- 1.3** The market will operate during other one-time events that utilize the same section of North MacDonald. During these events the market will utilize the west half of the public parking lot on the southeast corner of Pepper Place and North MacDonald. Business access and public parking will be maintained at the east parking area.
- 1.4** The market will operate during annual events that encompass both north MacDonald and the entire public parking area on Pepper (ie. Southwest Native American Arts Festival). The applicant indicated that this currently occurs twice during the farmer's market season. During this time the market will locate on South MacDonald between Main Street and the second driveway entrance to the Bank of America, utilizing the on-street parking and sidewalks for display and sales.
- 1.5** In the event that the market event becomes so successful that the vendor spaces reach capacity utilizing the on-street parking and sidewalks the Special Use Permit allows the ability for the Farmer's Market to operate within the right-of-way in accordance with the City's rules and policies governing the permitting of street closures and activities taking place within the public right of way. This configuration of operation also extends to South MacDonald during those times that North MacDonald is being used for other annual or special events.
- 1.6** The market is compatible with surrounding land uses, Town Center development objectives, and the Farmer's Market Operational Guidelines. The market is located within the Pedestrian Overlay Area (POA). The POA was approved to promote uses within the downtown that encourage pedestrian activity. The market in concert with the approved MACFest activities will further promote pedestrian activity within the downtown area.
- 1.7** The applicant operates a similar market in compliance with previous Special Use Permits along the south side of Main Street between Center Street and MacDonald. This market has brought much needed pedestrians to the downtown area for many years.

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- Case No.: ZA09-047
- Location: 2130 East University Drive (Council District 2)
- Subject: Requesting a Special Use Permit to allow a commercial communication tower to exceed the maximum height permitted in the R1-6 zoning district. (PLN2009-00349)
- Decision: Approved with conditions.
1. *Compliance with the site plan submitted except as modified by the conditions below.*
 2. *The monopine shall have a maximum height of seventy (70') to the top of the antennas, an additional 5' in height is allowed for the pine needles.*
 3. *The antennas shall not exceed 4'-4" in length 1'-2" in width, and 4" in depth and the microwave dishes shall not exceed 2'-2" in diameter.*
 4. *The antennas will be screened with a minimum of 2.5 branches per foot.*
 5. *The antennas shall be covered with pine needle socks to match the pine needle density and color of the monopine.*
 6. *The antenna standoff assembly shall not extend more than 8" from the pole.*
 7. *The gates shall be painted to match the screen wall.*
 8. *Compliance with all requirements of the Building Safety Division with regard to the issuance of building permits.*
- Summary: Mr. Rulon Anderson of Clearwire represented the case. Mr. Gendron asked questions regarding the physical appearance of the monopine and the possibility of a sharing of the equipment cabinet by additional carriers in the future. He also asked Mr. Anderson if there were any maintenance issues with the monopines. Mr. Anderson replied that Clearwire only uses high quality products and materials that can withstand the Arizona climate. Mr. Gendron asked Ms. Guevara about findings number six (6) regarding distance from the residential subdivision. The distance falls short by 9'. Ms. Guevara explained that staff was in support of this shortage due to the stealth design of the tower. Mr. Gendron approved the request based on the staff report and recommendation.
- Finding of Fact:
- 1.1 The requested Special Use Permit (SUP) would allow for the placement of a 70' high monopine communication tower at the existing Trinity Baptist Church campus.
 - 1.2 The applicant has notified all property owners within 300' of the request and no comments or concerns have been received.
 - 1.3 The proposed array will consist of three sectors, with three antennas, three daps, and three microwave dishes. The antenna standoff assembly shall not extend more than 8" from the pole. The antennas would be 4' 2" in length, 1' 1" wide, and 4" deep and the microwave dishes are 2'2" in diameter. The applicant proposes to screen the antennas with a minimum of 2.5 pine needle branches per foot and in addition, the antennas will be covered with pine needle socks to match the pine needle density and color.

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- 1.4** This request also includes a 20' x 25' lease area which will be surrounded by an 8' high cmu wall which will screen the proposed equipment cabinet and can accommodate additional equipment in the future. The elevation drawing shows wrought iron gates with metal backing. A condition of approval has been added requiring the gates to be painted to match the proposed screen wall.
- 1.5** The applicant has indicated that there is an existing 61' tall pine tree on the adjoining lot which will allow the monopine to blend into the area. In addition, the applicant has indicated that the monopine stealth design was selected because it allows other carriers to co-locate on the communication tower in the future. The applicant is requesting the 70' tall monopine in order to allow the antennas to clear the surrounding trees on the property. Two trees are 54' and 61' in height.
- 1.6** The proposed monopine complies with the Commercial Communications Towers Guidelines in that it will be approximately 169-feet from the University Drive right-of-way where 70 is required and 131-feet from the adjacent residential subdivision to the north where 140 is required.
- 1.7** The proposed monopine is located within a vacant portion of the existing Trinity Baptist Church and adjacent to another church, as a result, the proposed monopine would be compatible with, and not detrimental to, adjacent properties or the neighborhood in general.

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Case No.: ZA09-048

Location: 1201 West Main Street (Council District 3)

Subject: Requesting a modification of an existing Special Use Permit for a Comprehensive Sign Plan for a restaurant establishment in the C-2 zoning district. (PLN2009-00341)

Decision: Approved with conditions

- 1. Compliance with the sign plan submitted.*
- 2. The aggregate sign area of all three (3) signs shall not exceed 160 sq. ft.*
- 3. Compliance with all requirements of the Building Safety Division with regard to the issuance of building permits.*

Summary: Doug Atkins represented the case and summarized the request. Mr. Gendron asked about the existing signs currently on the restaurant building. Mr. Gendron clarified that this request will allow any other pad site in the shopping center to utilize three signs if desired. Mr. Lillo explained that staff is in support of this modification. Mr. Gendron approved the request based upon the staff report and recommendation.

Finding of Fact:

- 1.1** The Burger King pad site is located within a shopping plaza that has an existing comprehensive sign plan, therefore our approval is to process this request as a modification to the Comprehensive Sign Plan (CSP), case BA96-007. This will allow all existing and future pad sites a third sign if so desired.
- 1.2** This site has two attached existing signs; one on the north and east elevation of the building, each sign is 46 square feet. The request will add a third attached sign on the south elevation of the building. This sign is 15 square feet in area, bringing the total aggregate area of all 3 signs to 107 square feet which is less than permitted by the existing CSP.
- 1.3** The rationale for limiting the number of signs on a building is to reduce potential sign clutter of the facade. Burger King has a building frontage of approximately 84 linear feet adjacent to Main Street which permits the occupant a total of two signs with an aggregate sign area of 160 square feet. This plan identifies a total of three signs with an aggregate area of 107 square feet. The aggregate sign area is less than the allowances specified in the CSP, and the number of signs does not detract from the building's architecture. Therefore, the overall impact of the proposed sign will be minimal.
- 1.4** The proposed modification to the CSP will allow a total of three attached signs for all pad sites. The aggregate area of all attached signs will be 160 square feet or less as specified in the CSP.

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Case No.: ZA09-049

Location: 3150 East Southern Avenue (Council District 2)

Subject: Requesting a Special Use Permit to allow a commercial communication tower to exceed the maximum height permitted in the PF zoning district. (PLN2009-00346)

Decision: Continued to the November 17th hearing.

Summary: N/A

Finding of Fact: N/A

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Case No.: ZA09-050

Location: 1765 North Lemon (Council District 5)

Subject: Requesting a Special Use Permit to allow a detached accessory living quarters in the R1-35 zoning district. (PLN2009-00377)

Decision: Approved with conditions

1. *Compliance with the site plan submitted except as modified by the conditions below.*
2. *The accessory living quarters may not be leased or rented.*
3. *The accessory living quarters shall be served by the same utility services as the primary dwelling.*
4. *Compliance with all requirement of the Building Safety Division with regard to the issuance of building permits.*

Summary: There was no one present to represent the case. Staff provided the staff report and answered questions related to the lack of HOA approval, whether Lemon is a private or public street, contact from neighbors and the location of the garage. Being that this is new construction, Mr. Gendron asked why the project was not designed so that the accessory living quarter is directly accessible from the primary dwelling and avoid the need for a special use permit. Ms. Guevara explained that the applicant was not aware of the requirements and the owner was not willing to take the time to modify the plans and disrupt the construction schedule. Mr. Gendron approved the request based upon the staff report and recommendation.

Finding of Fact:

- 1.1 The subject parcel is 41,175 square feet in area, and is located in the Cobblestone at the Groves subdivision in the Citrus sub-area. The applicant obtained a building permit to develop the property, but has not obtained a permit to construct the detached accessory living quarters
- 1.2 The detached accessory living quarters requires a Special Use Permit because it is not directly accessible from the primary dwelling. However, it is architecturally integrated with the primary dwelling in that it utilizes similar architecture, materials, and finish.
- 1.3 The detached accessory living quarters will have an area of approximately 828 square feet, which is approximately 17% of the primary dwelling. The overall roof area for the site, including all detached structures, will be approximately 23%, where 30% is permitted.
- 1.4 The detached accessory living quarters will be the only one located on the subject property and will be constructed within the buildable area. The height of the structure is lower than the primary dwelling and the entry of the accessory living quarters will not be visible from the public right-of-way.
- 1.5 The applicant noted in the narrative that the accessory living quarters will be used for out of town guests and as a game room and will not be leased or rented. The applicant noted that the

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accessory living quarters will be served by the same utilities as the primary dwelling. The applicant did not provide evidence of approval from the Cobblestone at the Groves Custom Homesite Architectural Committee.

- 1.6** Given the larger properties in the area, similar existing detached structures in the neighborhood, and the applicant's statement that it will not be leased or rented, the detached accessory living quarters is compatible with and not detrimental to the surrounding properties.

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There being no further business to come before the Zoning Administrator, the hearing adjourned at 2:40 p.m.

The cases for this hearing were digitally recorded and are available upon request.

Respectfully submitted,

John S. Gendron
Hearing Officer

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