

TOWN OF CHINO VALLEY
PLANNING AND ZONING COMMISSION
Regular Meeting Minutes
Chino Valley South Campus
202 N. State Route 89
February 19, 2013
6:00 p.m.

1. CALL TO ORDER

2. ROLL CALL

Meeting was called to order at 6:00 p.m.

Members Present: Gwen Rowitsch, Chairperson
Garland Miner, Vice Chairperson
Jack Owen, Commissioner
Charles Merritt, Commissioner
Michael Edmonds, Commissioner

Staff Absent: Florence Sloan, Commissioner

Staff Present: Robert Smith, Town Manager
Dava Hoffman, Planning Consultant
Mary Brasher, Administrative Technician

3. PLEDGE OF ALLEGIANCE

4. APPROVAL OF MINUTES

4A. For consideration, discussion, and possible action regarding the regular meeting minutes of January 15, 2013.

Commissioner Rowitsch MOVED, seconded by Commissioner Merritt to approve the regular meeting minutes of January 15, 2013.
MOTION CARRIED 5-0

5. STAFF REPORT: Dava Hoffman thanked the Commissioners for their participation in the joint study session that was held January 31, 2013 and notified them that a new planner has been hired and will be on board March 4, 2013.

6. ELECTION OF OFFICERS in accordance with Section 1.4.3 of the UDO

The Commission shall elect a Chairperson and Vice Chairperson from among its own members, who shall serve for one (1) year and until their successors are elected and qualified. The Chairperson shall preside at all meetings and exercise all the usual rights, duties and prerogatives of the head of any similar organization. The Chairperson shall have the power to take evidence. The Vice Chairperson shall perform the duties of the Chairperson in the latter's absence or disability. Vacancies created by any cause shall be filled for the unexpired term by a new election.

Commissioner Merritt MOVED, seconded Commissioner Edmonds to elect Commissioner Gwen Rowitsch for Chairperson of the Planning and Zoning Commission.
MOTION CARRIED: 4-0 (Chairperson Rowitsch led the meeting)

Commissioner Owen MOVED, seconded Commissioner Merritt to elect Commissioner Garland Miner for Vice Chairperson of the Planning and Zoning Commission.
MOTION CARRIED: 4-0

7. PUBLIC HEARING

7A. This hearing will be conducted for consideration, discussion and possible recommendation to the Town Council regarding the following: Text amendments of the Unified Development Ordinance, Section 4.25 Wireless Telecommunications Facilities

The proposed text amendments are intended to provide an updating of the code reflective of newer technology and standards to ensure access to reliable wireless telecommunication services throughout Chino Valley. The following sections are proposed for text amendments:

1. Section 4.25A. Purpose
2. Section 4.25D. General Requirements
3. Section 4.25E. Permitted Uses
4. Section 4.25F. Conditional Use Permits
5. Section 4.25G. Minimum Setbacks and Separation
6. Section 4.25H. Buildings or Other Equipment Storage
7. Section 4.25I. Co-Location
8. Section 4.25K. Nonconforming Uses
9. Adding Section 4.25L. Notice

Robert Smith gave a brief presentation explaining the different types of facilities and how they should be processed through the Unified Development Ordinance (UDO). There are four distinguishing features: Organization behind the Ordinance, mitigating impacts to the community, administrative flexibility, and controlling impacts with Conditional Use Permit (CUP).

In the draft that is proposed, wireless facilities are grouped into three basic categories; concealed facilities, disguised facility, and visible. A concealed facility would be one that is housed within a building and cannot be seen, the panels are installed inside a space and then enclosed by a transparent material, the disguised facility would be one that you would have to look closely to see, and then there is the visible sites.

- Concealed sites: Potential impact is limited to nonexistent. Should be allowed in all zoning areas and quasi-public spaces not occupied by homes.
- Disguised sites: Depends on how well the disguise is executed, and the environment it's placed in. Should be allowed in all zoning areas. Restrict them in the same manner as a residential area such as; healthy setbacks, design requirements, which is included in the draft language proposed.
- Visible Sites: High visual impact, restricted to Commercial and Industrial areas with healthy setbacks to residentially zoned property, other visual sensitive areas, and specific design requirements.

There should be some projects that can be processed and approved administratively. If a project comes in and meets all the requirements of the code, design specifications and any other requirements, then the Administration should be able to process and approve those. The Commission and Council would be involved when there is a risk that has not been mitigated or when the applicant is asking for something outside the design specifications found in the code.

Disguised facilities that meet all design requirements, are not over 65', and meet other code requirements can be administratively processed. This allows a faster review process with less risk to the applicant. If the applicant requests something outside of this code, then it will be forwarded to Commission and Council.

Controlling the impacts within the draft language proposed, it's suggested that a CUP be that control mechanism. If anything falls outside the definition of what would be considered an administrative item, then it would automatically go for a CUP process.

If a concealed type of facility doesn't meet the design requirements it would go for a CUP. Examples of these are ones that are proposed in a protected view shed or on a home site within a neighborhood. The Town is not looking to have these sites within residential neighborhoods. The disguised facilities would also have to meet the design requirement that is found in the draft language of the code, The Town needs to regulate how far the antennas stick out from the pole, if it is to be constructed with a palm tree or other concealment type apparatus. The idea is to have the antenna hidden by the facade.

A maximum height proposed for an administrative approval, would be 65 feet because that is closely related to the current ordinance. Visible sites that are going over the height limit would be required to go through the CUP process. The objective for creating a code amendment across these three different kinds of sites would be to;

- Recognize which type of project represents a risk of visual impact to the community,
- Regulate these sites based on the visual impact they represent,
- Create guidelines and set standards for construction so the Town gets the look they are after, especially when the industry walks away from a site.
- Provide an administrative process for proposals that are fully compliant with the Town's codes in order to expedite the process.
- Provide the CUP process for any proposals asking for something special.

The most abrupt change in this amendment would be moving an actual section from one place to another.

Chairperson Rowitsch opened the public portion of the meeting.

Citizens that spoke had concerns relating to the possibility of adding a third layer of decision making with the administrative approvals proposed. That layer appears to remove the transparency in government and limits public input. Disagreed with the statement that relates to providing Town wide wireless service, because it implies that the Town is in the wireless business. Deletion of the 65 foot height limit and the objectivity of the Town Manager are in question due to his affiliation with the wireless industry.

Chairperson Rowitsch closed the public portion of the meeting.

Chairperson asked the Town Manager to address the comment about another layer of government.

Mr. Smith stated that they would not be adding another layer; they would be removing a layer of governmental process by carving out proposals that meet requirements to simplify the process which is a common approach. The applicant would need to meet significant requirement to achieve an administrative approval. Providing staff the ability to do some of the work without the Commission and Council process, the Town would effectively be providing an incentive to the industry to design and locate the facility where the Town wants it located. This allows a faster, less risky process for the industry. The purpose of the Town regulating these land uses is for the health, safety, and welfare of the community. There is a recognized correlation between robust wireless communications and a community's health, safety, welfare and economic vitality. Designing a zoning code to regulate a place and manner for which these facilities will be located, is to ensure the health, safety, and welfare of the community. The Federal Government says it's their objective to ensure that all Americans have access to wireless communications, and the Town recognizes that the robust distribution of wireless communications across our community offers quality of life to citizens that wouldn't be there if these wireless communications didn't exist. It is the Town's business to regulate where these facilities go and what they look like. In the telecommunications act of 1996, Congress specified that local government will regulate the manner and placement of these sites.

Mr. Smith stated that the ordinance specifically promotes co-locations; however if the height is limited to 65 feet, the centerline for the top set of antennas is at about 63 feet, and is not tall enough for multiple antennas to view enough area to serve the market. This restriction would force the industry to create more sites. Adding more height to an existing pole and regulating the impact on how they look, is more preferable to having multiple poles.

Mr. Smith commented that he has worked in the wireless industry in the past; however he does not currently operate a consulting firm. As soon as he was hired at the Town, he handed his projects off to his wife to complete. It is true that his LLC is not in good standing with the state, but that is due to the fact that he did not renew it. He then explained that when AT&T wanted to

construct a 99 foot tower he informed them of the height limit of 65 and instructed them that they would need to seek Commission and Council approval to deviate from the code and that is how

these amendments came about. The additional height limit was not acceptable to the Town, if the height limit is going to be relieved then there needs to be design requirements imposed in response to ensure the Town gets what they are looking for in terms of the infrastructure. The language proposed in the amendment is language that has been largely borrowed from other communities across the US that has already stood the test of litigation, and the Town attorney is also reviewing it.

To give the Commission a comfort level of the language, Mr. Smith briefly went through some of the specific requirements that the Town would be looking for with these projects, such as;

- Definitions and Purpose
- General Building Permit Requirements
- Descriptions of requirements for sites on Town owned property.
- Restriction on lighting
- Requirements regarding the type of information that must be submitted with permits.
- Requirements for sites in Quasi Residential Zones.
- Design Guidelines
- Setback Requirements
- Guidelines for Administrative Approval
- Relief for area's adjacent to Commercial Zoning
- Height Restrictions
- Guidelines for Equipment Enclosures, and Screening

Chairperson Rowitsch opened the public portion.

Commissioner Edmonds clarified that they were discussing a 99 foot tower, and asked about a requirement for a notarized letter stating applicants had intended to co-locate.

Mr. Smith stated that it wasn't included, but it could be requested of applicants to certify that they are willing to allow co-location to their site.

Commissioner Merritt commented that the Administrative Process has language that sets clear limits on what can be approved without Commission and Council input, and felt this would allow a more efficient process. He also felt that a height limit of 65 feet would not work for co-location.

Chairperson Rowitsch commented that she drove around looking for tall structures, (in CV & Phx) and the tallest item she found were light poles at ball fields and determined they were about 75 feet high, and felt that communications towers at that height would not be that noticeable. She felt that a height of 65 feet or more should be confined to Commercial or Industrial zoning, and the Town should regulate where different types of uses go, because that is the Town's job. She indicated she thought the language in this ordinance does that, but was a bit concerned with a

height of 100 feet and felt 80 feet would be a more appropriate, and could consider anything higher than that through the CUP process.

Commissioner Owen agreed that 65 feet would be impractical and felt that 80 feet would be an appropriate height for Administrative Approval within the Commercial and Industrial zoning districts.

Vice Chair Miner agreed that 80 feet or less in height could be approved administratively and anything above that would require a CUP for either a Quasi Residential, Commercial, and Industrial areas.

Commissioner Edmonds asked who is ultimately responsible for the permit process and if something goes wrong with the facility.

Mr. Smith stated the property owner is essentially responsible for the property. The owner generally constructs a lease with the applicant, and their agreement does not concern the Town. If the Town has to employ compliance measures on the property, then the owner is ultimately who is responsible.

Vice Chair Miner MOVED, seconded by Commissioner Merritt to forward this item to the Town Council with a recommendation of approval for the amendments to the Wireless Communications Section E.6.A.1 of the Unified Development Ordinance (UDO) with one change to limit the height of 80 feet for Administrative Approval.
MOTION CARRIED: 6-0

7B. This hearing will be conducted for consideration, discussion and possible recommendation to the Town Council regarding the following: The application for a Conditional Use Permit (CUP) for a wireless communication tower, 99-foot in height. Clear Blue Services, which is representing AT&T, is requesting the CUP to construct a new wireless communication tower located at 2655 North State Route (SR) 89 (Assessor's Parcel Number 306-14-021C). The site is located on the east side of SR 89 approximately 600 feet north of the Road 3 1/2 North alignment and consists of approximately one acre.

Dava Hoffman stated the request is for a 99 foot tower on a zoning district of Commercial Heavy which is surrounded by Commercial property. The applicant has complied with all the public notification process for this item. Staff has reviewed the request and determined the project is in compliance with section 1.9.3 of the UDO, and recommends approval for the requested CUP with the findings and stipulations as noted in the staff report.

Mr. Scott September, Acquisition Manager for AT&T Mobility, stated this site is significant to AT&T because for the first time in almost 100 years AT&T had less hook up's on the wire line network. The old landline is being disconnected at a rate of 70,000 customers every month. There is a significant shift in communications and AT&T needs to be competitive with their service as well as provide adequate coverage for their customers.

Adam Brixius, representative for Clear Blue Services gave a brief presentation outlining the project, its location, and the gap in coverage that AT&T is trying to close using this location. He indicated that 70% of emergency calls are made wirelessly and this service needs to be reliable. He also indicated that AT&T would be willing to provide a letter that this would be a co-locatable site, even though they do not have a co-locator at this time.

Mr. Brixius showed the coverage areas that would be acquired using this site and the requirement by the Federal Government to meet customers' demands.

Commissioner Merritt asked the applicant if they could get the coverage they need at a height of 80 ft.

Mr. September indicated that he could not answer that at his time and that it's more valuable for AT&T to continue with the CUP process and obtain the 99 feet. He stated they will look into whether or not 80 feet would serve their needs because using the Administrative process for approval would be more efficient in the future. The amendments the Commission considered tonight is important because it will enable applicants to easily and quickly understand how these sites should look and where they can be placed to achieve an Administrative Review.

Chairperson Rowitsch opened the public portion of the meeting.

On resident stated they had an opportunity to place a wireless communication tower on their property and refused because they felt it was too close to a residential structure. She wondered if the proposed tower would be 300 feet from the residential structure on the property. She also asked who takes responsibility if something goes wrong with this tower.

Mr. Smith indicated this tower is locating in a Commercial zone and that 300 foot setback would not apply in this case. That setback would apply for a tower going into park space, open space, a retention pond and other similar locations. He also indicated that the applicant and property owner would be named as those responsible.

Chairperson Rowitsch closed the public portion of the meeting.

The Commissioners indicated they were satisfied with the explanations presented, but would like to see if there is a significant difference in service between the 99 foot and 80 foot height, but it was pretty apparent the applicant wants to proceed with the CUP at this time. The property this particular tower will be on sits lower than the road so the tower will not visually appear that tall. There was concern for this tower and its proximity to the residential home and asked the applicant if they would consider moving the tower further north on the site. However residences on Commercial property have to expect the uses that are primarily allowed in the Commercial zoning district.

The Commission is taxed with looking at what is proposed at the present time, and needs to make a recommendation to the Town Council. One Commissioner stated that they were against the 99 foot tower when they walked in the door, however, after hearing the presentation, and the realization that the tower over at the Police Department is almost as tall, they have changed their mind and think the location and height is appropriate.

Chairperson Rowitsch closed the public portion of the meeting.

Vice Chair Miner MOVED, seconded by Commissioner Owen, to forward this item to the Town Council with a recommendation of approval for the Conditional Use Permit (CUP) to allow a 99 foot Communications Tower with the Findings and Stipulations as noted in the staff report.

MOTION CARRIED: 6-0

8. PUBLIC COMMENTS: None

9. ADJOURN: 8:15 p.m.

Acting Chairperson Miner Date: June 4, 2013