

STAFF ANALYSIS

REQUEST

Conditional Use Permit (CUP) 14-01: Clear Blue Services on behalf of Sprint Spectrum LP proposes to replace antennas on an existing tower that is owned and operated by Verizon Wireless. The site is located at property address 44870 W. Hathaway Ave.

DISCUSSION AND ACTION.

RECOMMENDATION

Planning and Zoning Commission recommends approval of **Conditional Use Permit (CUP) 14-01** subject to conditions (see Exhibit A).

PROJECT INFORMATION

Applicant:

Clear Blue Services
 11011 S. 48th St.
 Phoenix, AZ 85044

Tower Owner:

Diamond Communications LLC
 PO BOX 723597
 Atlanta, GA 31139

Client:

Sprint Spectrum
 11880 College Boulevard
 Overland Park, KS 66210

Project Location: 44870 W. Hathaway Ave.

Current Zoning: General Business (CB-2)

General Plan:

Commercial - The Commercial land use category provides for commercial nodes on individual parcels. The intent is to provide neighborhood and community scale shopping, offices, medical facilities, and subordinate multi-family residential uses which incorporate pedestrian and neighborhood needs through site planning, architecture, access, lighting and parking design.

Surrounding land uses and Zoning Info:

North: Future Sonoran Creek	CB-2	-	General Business
East: Future Fast and Friendly Carwash	CB-2	-	General Business
South: Residential	GR	-	General Rural
West: Post Office	CB-2	-	General Business

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Site Location:



CUP13-01 Verizon Microwave antenna addition

Site History:

- | | |
|---------------|---|
| March 3, 1994 | Building permit issued on March 3, 1994 for a cell tower by Pinal County. |
| July, 2007 | City of Maricopa administratively approved the request to replace a chain link enclosure fence with a brick wall enclosure and the addition of a 60kw emergency backup generator. |
| July 3, 2013 | City approves 6' diameter microwave dish to co-locate on the tower (request by Verizon Wireless). |

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Existing View of Tower: Refer to Exhibit D

Request:

The applicant's request is to replace existing antennas with larger antennas, approximately 42% larger in mass. The existing tower structure currently is 104'6" high. The tower currently carries two (2) cell carriers, Verizon (top of the tower) and Sprint (below Verizon). The replacement antennas for Sprint will be situated at 84 feet high on the tower (see Exhibit B for site plan and elevation, pg. 6). The applicant has provided the following response of why this antenna is needed at this location. The full narrative can be found in Exhibit C.

"The proposed modification to Sprint site PH63XCo39 is necessary to improve the wireless coverage currently available at the subject site.

- Applicant's narrative

Staff Analysis:

Telecommunications Act of 1996 allows local jurisdictions to regulate location, design and height, which is reflected in Article 36 Wireless Communication Facilities of the City's Zoning Code (Ordinance 12-11). However, per the Telecommunications Act of 1996, local jurisdictions cannot deny communications antennas based on perceived health or environmental impacts since the project must conform to Federal Communications Commission (FCC) regulations.

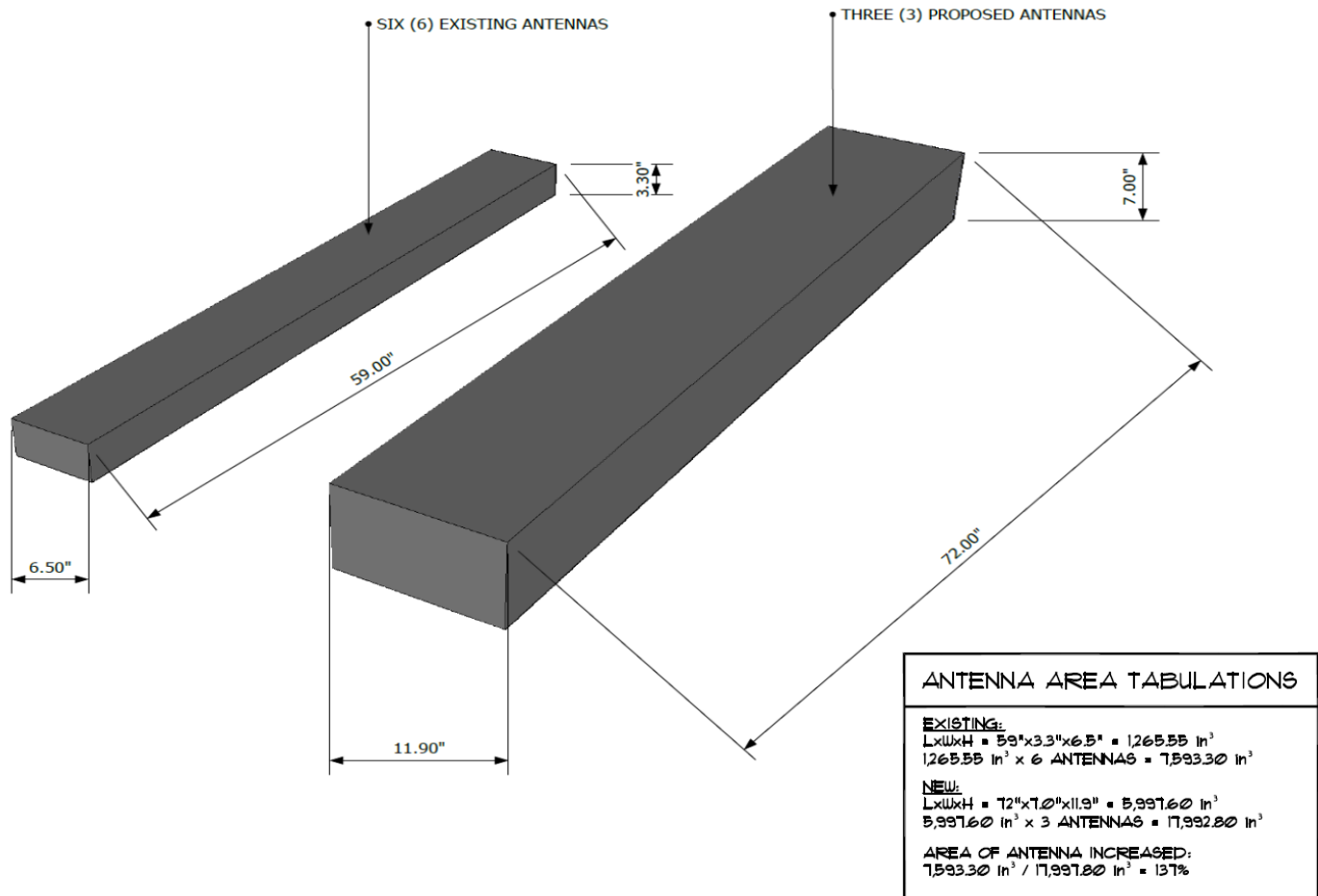
This cell tower is considered non-conforming per Article 36 Sec. I2, as it currently does not conform to height and setback standards (see definition below).

PRE-EXISTING TOWERS. Pre-existing towers or antennas shall be allowed to continue their usage as they presently exist. Routine maintenance (including replacement with a new tower of like construction and height) shall be permitted on such pre-existing towers or antennas. New construction other than routine maintenance on a pre-existing tower or antenna shall comply with the requirements of this Article.

- City of Maricopa Article 36, Sec. I2

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The applicant is requesting to replace the existing antennas with larger antennas, approximately 137% larger than the current antenna size. See calculation below.



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Per the City adopted Wireless Communication Facilities Ordinance 12-11, if the Zoning Administrator determines that a substantial change will occur with an existing Conditional Use Permit, the applicable section in the Ordinance shall apply. In this case, based on the calculation (shown above), the Zoning Administrator determined that a substantial change will occur and will require the application of a Conditional Use Permit through the City's legislative process (see insert on next page).

*“Legally established pre-existing towers and pre-existing antennas with a valid Conditional Use Permit shall not be required to meet the requirements of this Article. **Modification to preexisting towers and antennas that substantially increase the physical dimensions of the tower, antenna, or equipment, as deemed by the Zoning Administrator or designee, are required to comply with this article.**”*

- Article 36, Sec. C4a

“If the tower or antenna does not meet the requirements of Section E above or does not meet the requisite dimensional requirements, then a conditional use permit shall be required for the construction of a tower or the placement of an antenna in all zoning districts.”

- Article 36, Sec. F1b

In addition to any standards for consideration of conditional use permit applications pursuant to Article 36, the City Council shall consider the following factors in determining whether to issue a conditional use permit, although the City Council may waive or reduce the burden on the applicant of one or more of these criteria stated below, and if the City Council concludes that the goals of Article 36 are better served thereby:

1. Height of proposed antennas

Staff Analysis: New antenna is situated 84 feet high on the existing 104'6" tower.

2. Proximity of the antennas to any residential structures and uses

Staff Analysis: There are two (2) residential homes that range a distance of 285-308 feet away from the tower (see Exhibit E). It shall also be known that the adopted General Plan land use map designates the adjacent residential properties as Commercial use. Recently, the city has received inquiries of converting these properties into commercial.

3. Nature of uses on adjacent and nearby properties

Staff Analysis: The adjacent uses to the west, north and east is entitled commercial projects that have not been developed yet. Immediately to the south is residential property with a single dwelling unit.

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4. Surrounding topography

Staff Analysis: The area is within a considerable flat area with no natural features (hills, mountains, washes, etc.)

5. Design of the antenna, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness.

Staff Analysis: The antennas proposed will be stipulated to match the color scheme of the existing tower. The applicant has submitted photo simulation for consideration (see Exhibit D).

Community Outreach:

The applicant has fulfilled all necessary requirements for processing a Citizen Participation Plan (CPP), Ordinance 07-01. This included the following (see Exhibit F for full CPP Report):

- Sending a notification letter, 15 days prior to the neighborhood meeting to all properties within 300 feet of the subject property. Notification letter included project information and meeting dates for all public meetings.
- Publishing a legal notice in the Maricopa Monitor 15 days prior to the neighborhood meeting.
- Posting a meeting sign on the property 15 days prior to the neighborhood meeting.

Public Comments:

- This case was advertised in accordance to Ordinance 07-01 and at the time of writing this report, staff has not received any form of opposition.

Planning and Zoning Commission:

On March 10, 2014 a motion was made by the Planning and Zoning Commissioner Martin to approve the Conditional Use Permit case # CUP14-01 subject to the conditions recommended by staff and was seconded by Commissioner Batt. Voice vote carried the motion 6-0.

Exhibit A: Conditions

Exhibit B: Site Plan and Elevation



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Exhibit C: Narrative

Exhibit D: Photo Simulation

Exhibit E: Site Distance Map

Exhibit F: Citizen Participation Report