

## STAFF REPORT

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**To:** Honorable Mayor and Members of the City Council  
Brenda Fischer, City Manager

**Through:** Kazi Haque, Planning Manager

**From:** Rodolfo Lopez, Planner I

**Date:** September 20, 2011

**RE:** **Conditional Use Permit (CUP11-01)** Shaw and Associates on behalf of Verizon Wireless is requesting approval of a CUP for a proposed cellular tower. The tower is located at 44705 W. Canyon Creek Dr. generally located a quarter (1/4) mile west of John Wayne Pkwy and one 1 mile north of Smith Enke Rd. The property is zoned General Rural (GR) Agriculture use (**Discussion and Action**).

### REQUEST

**Conditional Use Permit (CUP11-01)** Shaw and Associates c/o of Verizon Wireless is requesting approval of a Conditional Use Permit for a proposed cellular tower. The tower is located at 44705 W. Canyon Creek Dr. generally located a quarter (1/4) mile west of John Wayne Parkway and one (1) mile north of Smith Enke Rd. The property is zoned General Rural (GR) Agriculture use (**Discussion and Action**).

### RECOMMENDATION

Staff recommends denial of the Conditional Use Permit (CUP11-01) as recommended by the Planning and Zoning Commission.

### COUNCIL PRIORITIES AND/OR THEMES ADDRESSED

- Quality of Life
- Managing the Future
- Public Safety

### PROJECT INFORMATION

#### Applicant:

Shaw and Associates in c/o Verizon Wireless  
6501 E. Greenway Parkway, Suite 103-643  
Scottsdale, AZ 85254

#### Owner:

Troy Skousen  
44705 W. Canyon Creek Dr.  
Maricopa, AZ 85139

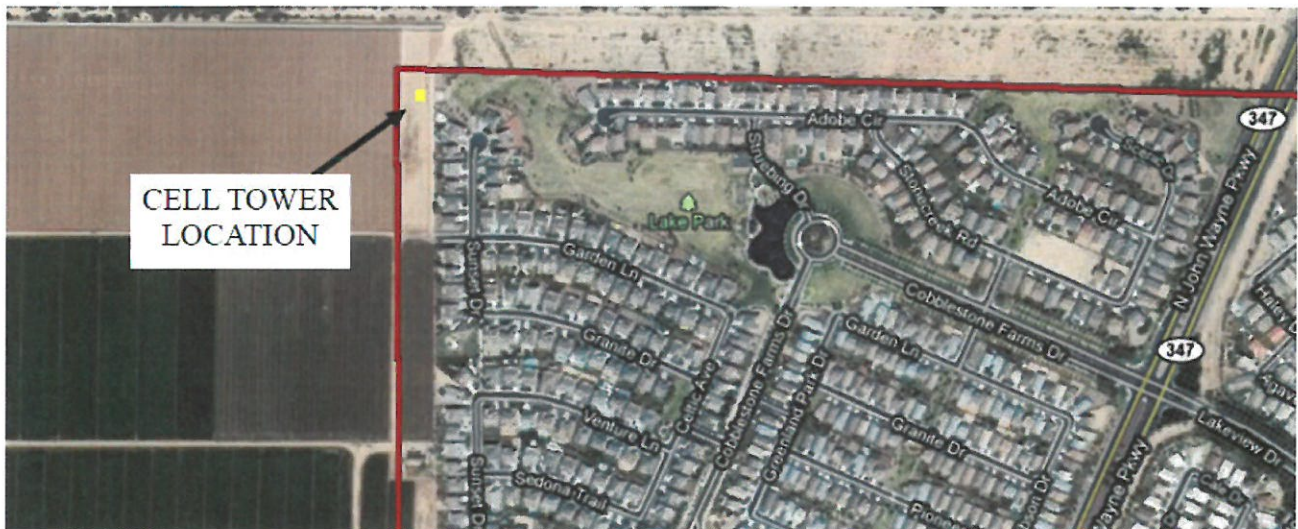
#### Surrounding land uses and Zoning Info:

|                               |      |   |                    |
|-------------------------------|------|---|--------------------|
| North: Gila River Reservation | N/A  | - | N/A                |
| East: Residential Community   | CR-3 | - | Single Family PAD  |
| South: Agricultural Use       | GR   | - | General Rural (AG) |
| West: Vacant Land             | N/A  | - | N/A                |

**Project Site Data:**

- Overall Site Acreage: +/- 8.81 Acres
- Parcel #: 512-03-013C
- Site Address: 44705 W. Canyon Creek Dr.
- Current Zoning: (GR) General Rural Zoning (Agriculture use)
- General Plan Designation: Medium Density
- Proposed Max Height: 65'
- Tower Components
  - One (1) 65' monopole
  - Nine (9) antennas

**Aerial:**



**Analysis:**

Under the City of Maricopa Zoning Ordinance, a cell tower is not specifically allowed as a use within the General Rural (GR) Zoning Designation. It is staff's determination that since the use will not conform to the zoning, a Conditional Use Permit can be recommended, as shown below from Article 23 of the Zoning Code.

**Article 23**

**Sec. 2302 ADDITIONAL USE REGULATIONS AND CONDITIONAL**

**USES:** The City Planning Commission may, as a **conditional use** in the form of a Special Use Permit, after public hearing, authorize the location of the following buildings, structures or uses in a district from which they are prohibited by this Ordinance, when found to be in the interest of the public health, safety and general welfare of the community and surrounding areas:

- a. Airport, heliport or landing field
- b. Amusement park or outdoor theater
- c. Cemetery or mausoleum
- d. Circus or carnival grounds
- e. Community building or recreation field
- f. Hospital, clinic or institution
- g. Privately and commercially operated recreational lake, swimming pool or tennis court
- h. Public or governmental buildings
- i. Race track
- j. Signs

- k. Sport arena
- l. Stable
- m. Zoo, public or private
- n. Such other uses as the Planning Commission may deem appropriate in the public interest.**

*Before issuance of any conditional use for any of the above buildings, structures or uses, or before any change of use of the premises existing at the time of the effective date of this Ordinance or as permitted herein provided, is made, preliminary plans in sufficient detail and a statement as to the proposed use of the buildings, structures and premises shall be submitted to the City Planning Commission. These plans and statement shall be referred to the Planning Commission for study and report, and for public hearing.*

*The Commission shall review such plans and statement and shall, after a careful study thereof and the effect that such buildings, structures or uses will have upon the surrounding territory, recommend such buildings, structures or uses where requested to be permitted provided the public health, safety, morals and general welfare will not be adversely affected, that ample off-street parking will be provided and that necessary safe-guards will be provided for the protection of surrounding persons and neighborhood values.*

*Any buildings, structures or uses listed in paragraph 1 of this section, existing at the effective date of this Ordinance, shall be considered a non-conforming use, unless it has qualified as provided above, and has secured a Special Use Permit, or has secured a use permit from the Board of Adjustment.*

*When found to be in the interest of the public health, safety, morals and general welfare, the Board of Adjustment is hereby authorized to approve any and all additions or structural alterations to special uses after they have qualified and have been approved by the City Planning Commission.*

Since the applicant provides a public service, in the form of cellular communication to the community, it would seem to relate to **Article 23 Section 2302 n. Such other uses that the Planning Commission may deem appropriate in the public interest**, which then qualifies the applicant to submit for a Conditional Use Permit under the above stated section.

Per the narrative submitted (refer to Exhibit B), the applicant is requesting a permit term of 25 years. However, staff is recommending a term of 10 years with the option to renew. A 10-year term will allow staff to re-visit the case for any concerns or life safety issues that may arise within the 10-year term.

▪ **Background History:**

- Before the incorporation of the City, the site has been primarily used as an agriculture use.
- Cobblestone Farms Planned Area Development adjacent to the site was approved for a residential development in 2001 by Pinal County (Case # PZ-PD-016-01).

▪ **Setbacks:**

**NOTE:** *The applicant has agreed to amend the original site plan by providing 100 feet setback from the residential homes to the east, and the height of the tower was also reduced from 65 feet to 54 feet along with structural changes from monopole to monopalm.*

- ~~○ The applicant is proposing a maximum tower height of 65 feet height. The location of the maximum cell tower height of 65 feet will meet the required setbacks of half the distance of the structure from any property line.~~

~~▪ Sec. 2303 a ... "subject to the requirements for detached accessory buildings in the zone which located and provided a wall or hedge is used in conjunction with such facilities, its center shall be located a distance from any lot line equal to not less than one half its height."~~

▪ **Access:**

- Proper access to the site is noted on the site plan (refer to Exhibit A) from Garden Ln. to the property.

▪ **Transportation:**

- A Traffic Impact study was not required based on the amount of trips generated through the peak hours.

▪ **Landscape Plans:**

- Landscaping is not required.

▪ **Illumination:**

- None proposed.

▪ **Elevations:**

- Proposed elevations are complimentary to the area and are in conformance with the minimum City standards in GR Zoning District.
- During the June 27 Planning and Zoning meeting, the applicant proposed alternative elevations to ease the visual concern of the tower. The applicant is proposing two alternatives, one designed to look like a palm tree the other as a windmill (Refer to Exhibit E).

▪ **Public Notice:**

- The applicant has conducted the required elements of the Citizen Participation Plan that includes a neighborhood meeting, notification vial mail, newspaper publication and site posting.

▪ **Citizen Participation Plan Report:**

- Per Ordinance 07-01, the applicant has fulfilled all necessary requirements for processing a Citizen Participation Plan. This included meeting date for all public meetings, meeting notices, evidence of posting of the site, newspaper clipping of all public meeting in the local newspaper circulation, and a sign in sheet (Refer to Exhibit C).
- The report indicated that six (6) residents attended the neighborhood meeting and voiced their concerns with the proposed cell tower. Ryan Mott, with Shaw and Associates, provided responses for each concern (Refer to Exhibit C page 15).

5. Equipment storage buildings or cabinets shall comply with all applicable building codes.
6. The setback of the communication equipment and/or the accessory structures shall meet the building setback for the zoning district in which it is located. The tower shall be set back a distance equal to at least fifty percent (50%) of the height of the tower from any adjoining lot line or be constructed such that it collapse unto itself.
7. The cellular tower shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding neighbors.
8. The tower shall provide the option for future co-locations of other wireless communication providers on a reasonable and non-discriminatory basis.
9. If outdoor lighting is proposed in the future, applicant is to submit a photometric plan, cut-sheet, and specs for all outdoor lighting fixtures for review and approval by Staff. All outdoor illumination shall be directed downward and away from public street and residential uses.
10. Future changes/amendment of uses to the Conditional Use Permit not approved with this case, and or, addressed during this review shall require separate review and approval from staff and, if required the City Council.
11. The applicant/landowner shall adhere to all Federal, State, County and Local regulation, and shall submit all required development plans and secure all applicable and require approvals, permits and inspection from applicable Federal, State, County and Local regulatory agencies.
12. The cellular tower and all currently proposed antennas must meet or exceed current standards and regulation of the FAA, the FCC and any other agency of the state of federal government with the authority to regulate towers and antennas.
13. Before issuance of the final Certificate of Occupancy, the applicant shall submit and secure all required application, plans supporting documents submittals, approvals and permits from the applicable federal, state, county and any other agencies as applicable.
14. The development and operation of the proposed Facility shall be in accordance with all applicable Arizona Department of Environmental Quality (ADEQ), if applicable and other regulatory agencies rules and regulations.
15. Per International Fire Code, emergency signage must be posted and fire apparatus gate must always be kept clear. This includes any knock lock(s) that is required by the City of Maricopa Fire Department.
16. Applicant shall install all necessary knock lock(s) per the Fire Department
17. Provide 20 ft. fire apparatus access road w/ turnaround designed and maintained to support the impose loads of fire apparatus to provide all weather capabilities.
18. The applicant shall have met and complied with all applicable fire codes under the IFC 2006 as well as related NFPA guidelines to the satisfaction of the Maricopa Fire Department.
19. Prior to the building permit being issued the applicant shall provide a brief drainage statement for the cell towers that discusses the drainage patterns for the site, the floodplain, any offsite flows affecting the site, volume of retention required and volume of retention provided for the site.

Exhibit A – Site Plan and Elevations

Exhibit B – Narrative

## STAFF REPORT

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**To:** Honorable Mayor Smith and Members of the City Council  
Brenda Fischer, City Manager

**Through:** Kazi Haque, Planning Manager

**From:** Rodolfo Lopez, Planner I

**Date:** September 20, 2011

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## ADDENDUM

This is an addendum to the previous staff report submitted for this case. Staff received new information related to the site plan and design for cell tower from the applicant, Shaw and Associates on behalf of Verizon. The proposed cell tower will be located at 44705 W. Canyon Creek Dr. generally located a quarter (1/4) mile west of John Wayne Pkwy and one 1 mile north of Smith Enke Rd. The property is zoned General Rural (GR) Agriculture use.

The above-mentioned Conditional Use Permit Case # CUP11-01 was presented to the Planning and Zoning Commission on June 27 as a public hearing agenda item. As part of the Citizen Participation Plan (CPP) Ordinance 07-01, the applicant was required to notify surrounding residents through mailings, sign posting, newspaper notices to advertise all meeting dates. The applicant was also required to hold a neighborhood meeting to better inform residents of the request. Through the process of the CPP, residents of the area had an opportunity send in their written comments to the city in opposition of this project (see staff report Exhibit C). In addition, the residents also attended the public hearings to voice their concerns and opinion during the June 27 Planning and Zoning Commission meeting. After review, the Planning Commission recommended denial and forwarded the case to the City Council. The CUP 11-01 case was also presented to the City Council on July 19 as a public hearing (Discussion Only) item on their agenda and no action was taken by the Council. At the public hearing the same concerns were voiced once again to the City Council documented in the CPP (see itemized list on next page).



**SITE NAME: AZ5 LAKE PARK**



**SURVEYOR**  
RLE CONSULTING, LLC  
PO BOX 11857  
CHANDLER, AZ 85248  
PHONE: (480) 510-9699  
FAX: (480) 504-5824  
CONTACT: RYAN FIDLER

ROLLING RAMP FOR THE FACILITY SHALL NOT INTERFERE WITH OPERATION OF OTHER COMMUNICATION DEVICES.

**PROJECT DESCRIPTION:**

THE PROJECT CONSISTS OF THE INSTALLATION AND OPERATION OF ANTENNAS AND ASSOCIATED EQUIPMENT ON THE EXISTING ROOF OF THE FACILITY. THE EQUIPMENT NETWORK FACILITY IS SHOWN IN AND NOT FOR HUMAN HABITATION.

THIS FACILITY IS A SITE APPROVED, PRE-ENGINEERED EQUIPMENT STATION, TO HOUSE ROOF EQUIPMENT AND ANTENNAS. THE EQUIPMENT SHALL BE STORED WITHIN THE FACILITY.

ALL EGRESS SHALL BE KEPT OPEN FOR THE INSIDE WITHOUT THE USE OF KEYS OR REMOTE, UNLOCKED, MANUALLY OPERATED DOOR OF SURFACE LOCKED.

NEW ANTENNAS AND ASSOCIATED EQUIPMENT SHALL BE NEW ANTENNAS AND ASSOCIATED COAXIAL CABLES.

NEW ANTENNAS.

NEW PERMANENT EQUIPMENT SHELTERS.

NEW DOOR OPERATOR.

NEW DOOR SCHEDULE WITH UNLOCKABLE ROLLING GATE.

F.C.C. COMPLIANCE:  
FACILITY IS UNBARRED AND NOT FOR HUMAN OCCUPATION.  
LANDINGS AND EXITS SHALL COMPLY WITH THE  
APPLICABLE BUILDING CODE.

GENERAL COMPLIANCE:  
HANG USED ON THIS STRUCTURE IS NOT INTENDED FOR  
HUMAN COMFORT; IT IS SOLELY FOR ELECTRONIC  
EQUIPMENT COOLING.  
DEVELOPMENT AND USE OF THIS SITE WILL CONFORM TO  
ALL APPLICABLE CODES AND ORDINANCES.  
PROVIDE STREET ADDRESS IDENTIFICATION PER  
MUNICIPAL REQUIREMENTS.  
THE USE OF THIS SITE WILL GENERATE NO TRASH.  
THIS PROJECT DOES NOT REQUIRE WATER OR SEWER  
THIS PROJECT REQUIRES PERMANENT POWER &  
TELEPHONE CONNECTION

A.D.A. COMPLIANCE:

|                    |                            |
|--------------------|----------------------------|
| ZONING COMPLIANCE  | CITY OF MARICOPA           |
| LOCAL JURISDICTION | : 512-203-013 C            |
| ASSESSOR'S PARCEL  | : GR GENERAL LAND          |
| ZONING             | : TELECOMMUNICATION POLITY |
| USE                | : 434 860.9 S.F.           |
| PARENT PARCEL AREA | : (1 050 S.F.)             |
| LEASE AREA         | : 0                        |
| PARKING REQ'D      | : 0                        |
| PARKING PROVIDED   | : 1                        |

CLIENT 

|                          |      |
|--------------------------|------|
| INVESTMENT REVIEW        | DATE |
| CONSTRUCTION SIGNATURE   |      |
| R <sub>f</sub> SIGNATURE |      |
| REAL ESTATE SIGNATURE    |      |
| PLANS PROVIDED BY        |      |

**Seay**  
**design corp.**  
architecture / project management  
40245 E. Via Linda, Scottsdale, AZ 85238  
ph: 480 451 9609 fax: 480 451 9608

[illegible]

|   |          |                  |
|---|----------|------------------|
| 1 | 09/26/11 | REVISED LOCATION |
|   |          |                  |
|   |          |                  |
|   |          |                  |
|   |          |                  |

ARCHITECTS JOB NO. \_\_\_\_\_  
**YDC-2600**

PROJECT INFORMATION \_\_\_\_\_

**AZ5-LAKE PARK**  
44705 W. CANYON CREEK DR.  
MARICOPA, AZ. 85139

TITLE SHEET

SHEET NUMBER  
**T-1**

**SATE COORDINATES:**

|           |                    |
|-----------|--------------------|
| LATITUDE  | : 32° 04' 44.8" N  |
| LONGITUDE | : 117° 17' 17.1" W |
| ELEVATION | : 1050.9'          |

**DRAWING DIRECTIONS:**



NORTH

[illegible]

VICINITY MAP:

SR 238  
SMITH ENKE RD.  
COBBLESTONE FARMS SUBDIVISION  
SR 347  
(JOHN WAYNE PKWY.)

LESSEE / COMPANY  
VERIZON WIRELESS  
128 W. GEMINI DRIVE  
TEMPE, AZ 85283



**Federal Communications Commission  
Washington, DC 20554**

**Informational Notice of Section 106 Filings**

Date: 08/17/2011  
Reference Number: 694617

City Planner  
City of Maricopa Development Services  
45145 West Madison Avenue  
Maricopa, AZ 85139



The following new Section 106 filing has been submitted:

FILE NUMBER: 0004833060  
Purpose: New Tower Submission Packet  
Notification Date: 7AM EST 08/10/2011  
Applicant: Verizon Wireless  
Consultant: URS Corporation  
Site Name: AZ5 Lake Park  
Site Address: 44705 W. Canyon Creek Road  
Site Coordinates: 33-05-14.5 N, 112-02-51.8 W  
City: Maricopa  
County: PINAL  
State: AZ  
Lead SHPO/THPO: Arizona State Historic Preservation Office (Archeologist & Compliance Specialist)

**Consultant Contact Information:**

Name: Gene Rogge  
Title: Manager, Cultural Resources Group  
PO Box:  
Address: 7720 N. 16th Street  
Ste 100  
City: Phoenix  
State: AZ  
Zip: 85020  
Phone: (602) 861-7414  
Fax: (602) 371-1615  
Email: gene\_rogge@urscorp.com

**NOTICE OF FRAUDULENT USE OF SYSTEM, ABUSE OF PASSWORD AND RELATED MISUSE**

Use of the Section 106 system is intended to facilitate consultation under Section 106 of the National Historic Preservation Act and may contain information that is confidential, privileged or otherwise protected from disclosure under applicable laws. Any person having access to Section 106 information shall use it only for its intended purpose. Appropriate action will be taken with respect to any misuse of the system.



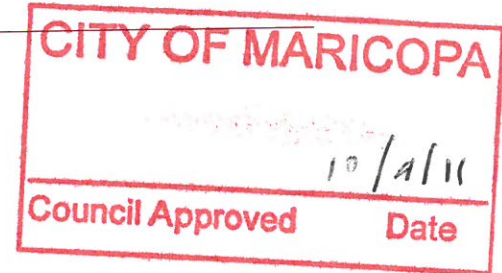
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**RECOMMENDATION**

Staff recommends denial of the Conditional Use Permit (CUP11-01) as recommended by the Planning and Zoning Commission.

**COUNCIL PRIORITIES AND/OR THEMES ADDRESSED**

- Quality of Life
- Managing the Future
- Public Safety

**PROJECT INFORMATION**

**Applicant:**

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**Owner:**

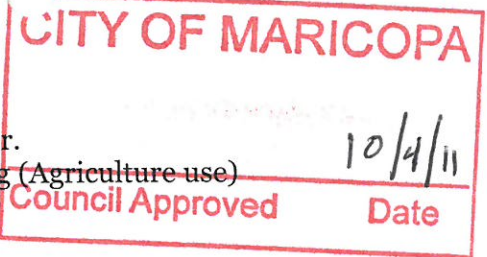
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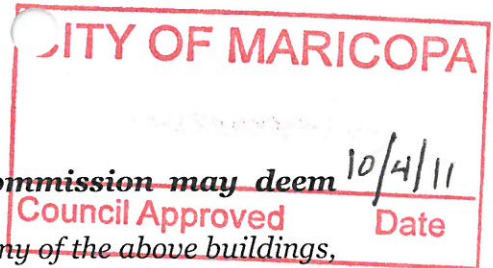
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**n. ~~Such other uses as the Planning Commission may deem appropriate in the public interest.~~**

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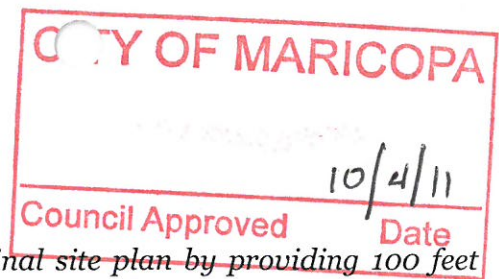
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- The report indicated that six (6) residents attended the neighborhood meeting and voiced their concerns with the proposed cell tower. Ryan Mott, with Shaw and Associates, provided responses for each concern (Refer to Exhibit C page 15).

- Based on complaints from residents that notice was not properly provided for the Planning and Zoning and Neighborhood meeting, the applicant sent a second set of notices to both the property owner tax billing address and physical property address (Refer to Exhibit D).

▪ **General:**

- Human remains and artifacts have been found in the Maricopa area. "Public law 101-601, Native American Graves Protection and Repatriation Act" and "Public law 41-865 disturbing human remains or funerary objects; rules; violation; classification; definitions," A person can be guilty of a class 5 felony if he/she intentionally possess, sells or transfers any human remains or funerary objects that are excavated or removed. In the event that human remains and/or artifacts are discovered during construction, Ak-Chin has requested that the developers stop immediately and contact the Ak-Chin Cultural Resources Office at (520) 568-1369 before any further construction continues.

### **Planning and Zoning Commission Meeting**

This case was presented to the Planning and Zoning Commission on June 27. During the Public Hearing section of the meeting, several residents from the area spoke in opposition of the request due to lack of notification, unwanted noise, obstruction of views and potential dust issues.

### **PURCHASING SUMMARY**

There is no purchasing impact associated with this request.

### **CONCLUSION**

Staff recommends **Denial** of Case # CUP11-01, based on the June 27 Planning Commission recommendations for **Denial** for Conditional Use Permit, **Case # CUP11-01**, and the various public comments received to date (refer to Exhibit F).

If it is the desire of the City Council to overrule and approve this request for **Case # CUP11-01**, staff recommends that the stipulations attached to the staff report be also approved as condition of approval for Case # CUP11-01.

On June 27, 2011, a motion was made by Planning Commissioner Vice-Chair Tyler to **Deny** the Conditional Use Permit (CUP11-01). It was seconded by Commissioner Wade and voice vote carried the motion 6-0.

#### Conditions of Approval

1. Construction of the project shall be in conformance to the exhibits submitted with this Conditional Use Permit (CUP11-01) and as amended by the Planning and Zoning Commission and the City Council.
2. **Per the August 16 City Council meeting discussion and presentation, the applicant (Verizon) will submit the revised site plans for staff review and final approval prior to any building permits being issued.**
3. The Conditional Use Permit (CUP) will remain valid for 10 years from the date of the City Council approval; If renewal of the permit is pursued, the applicant shall be required to submit for renewal 30 days prior to expiration. **(As recommended by City Council) Renewal process shall be conducted administratively if no major changes (as determined by the Zoning Administrator) are made to the site and no public health safety issues arise.**

4. No signs shall be allowed on the property without a formal sign permit application with the City of Maricopa.
5. Equipment storage buildings or cabinets shall comply with all applicable building codes.
6. The setback of the communication equipment and/or the accessory structures shall meet the building setback for the zoning district in which it is located. The tower shall be set back a distance equal to at least fifty percent (50%) of the height of the tower from any adjoining lot line or be constructed such that it collapse unto itself.
7. The cellular tower shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding neighbors.
8. The tower shall provide the option for future co-locations of other wireless communication providers on a reasonable and non-discriminatory basis.
9. If outdoor lighting is proposed in the future, applicant is to submit a photometric plan, cut-sheet, and specs for all outdoor lighting fixtures for review and approval by Staff. All outdoor illumination shall be directed downward and away from public street and residential uses.
10. Future changes/amendment of uses to the Conditional Use Permit not approved with this case, and or, addressed during this review shall require separate review and approval from staff and, if required the City Council.
11. The applicant/landowner shall adhere to all Federal, State, County and Local regulation, and shall submit all required development plans and secure all applicable and require approvals, permits and inspection from applicable Federal, State, County and Local regulatory agencies.
12. The cellular tower and all currently proposed antennas must meet or exceed current standards and regulation of the FAA, the FCC and any other agency of the state of federal government with the authority to regulate towers and antennas.
13. Before issuance of the final Certificate of Occupancy, the applicant shall submit and secure all required application, plans supporting documents submittals, approvals and permits from the applicable federal, state, county and any other agencies as applicable.
14. The development and operation of the proposed Facility shall be in accordance with all applicable Arizona Department of Environmental Quality (ADEQ), if applicable and other regulatory agencies rules and regulations.
15. Per International Fire Code, emergency signage must be posted and fire apparatus gate must always be kept clear. This includes any knock lock(s) that is required by the City of Maricopa Fire Department.
16. Applicant shall install all necessary knock lock(s) per the Fire Department
17. Provide 20 ft. fire apparatus access road w/ turnaround designed and maintained to support the impose loads of fire apparatus to provide all weather capabilities.
18. The applicant shall have met and complied with all applicable fire codes under the IFC 2006 as well as related NFPA guidelines to the satisfaction of the Maricopa Fire Department.
19. Prior to the building permit being issued the applicant shall provide a brief drainage statement for the cell towers that discusses the drainage patterns for the site, the floodplain, any offsite flows affecting the site, volume of retention required and volume of retention provided for the site.

Exhibit B – Narrative

Exhibit C – Citizen Participation Plan Report

Exhibit D – Second Notification Letters

Exhibit E – Alternative Elevations

Exhibit F – Public Comments Received

Exhibit G – Zoning Legal Question and Response

-- End of staff report --

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| CITY OF MARICOPA |      |
| 10/4/11          |      |
| Council Approved | Date |