

**Coconino County Planning and Zoning Commission  
Meeting of January 8, 2020  
Board of Supervisors' Meeting Room  
County Administrative Center  
219 East Cherry  
Flagstaff, Arizona**

**Members Present**

Madame Chair Ontiveros  
Sat Best  
Ray Mayer  
John Ruggles  
Tyanna Burton  
Jim Clifford  
Mary Williams

**Members Absent**

Don Walters-Vice Chair

**Staff Present**

Jess McNeely, AICP, Assistant Director  
Bob Short, Principal. Planner  
Zach Schwartz, Sr. Planner  
Brian Furuya, County Attorney  
Aaron Lumpkin, County Attorney  
Marty Hernandez, Recording Secretary

Madame Chair Ontiveros called the meeting to order at 5:30PM. She noted procedures to the audience.

**I. PLEDGE OF ALLEGIANCE**

**II. APPROVAL OF MINUTES**

**MOTION:** Commissioner Burton made the motion to approve the minutes from December 4, 2019.

**SECOND:** Commissioner Ruggles seconded.

**DISCUSSION:** N/A

**VOTE:** The vote was unanimous.

**III. PUBLIC HEARINGS**

1. Case No. ZC-19-007 and SUB-19-003: A request for a Zone Change from RR- 5 (Rural Residential, 5-acre minimum parcel size) Zone to RR-2 (Rural Residential, 2-acre minimum parcel size) Zone on a 5.28 acre parcel, and an Amended Final Plat of the Fort Valley Pines Unit 1 subdivision to allow dividing the subject property to create two lots. The property is located at 5837 Rudd Tank Road in Fort Valley and is also identified as Assessor's Parcel Number 300-42-001R.

Property Owner/Applicant: Renee Turza-Chlebek, Willowbrook, Illinois  
Representative: Dana Kjellgren, Sedona, Arizona  
County Supervisor District: 1 (Art Babbott)

**STAFF:** Mr. Schwartz gave a PowerPoint presentation and summarized the staff report.

**APPLICANT:** Renee Turza-Chlebek, Willowbrook, IL, had called in telephonically. She had read the staff report and agreed with it. She had no other comments.

**PUBLIC:** NA

**COMMISSION:** All Commissioners felt it was consistent with the area plan and zoning ordinance.

**MOTION:** Commissioner Williams made the motion to recommend approval of case ZC-19-007 to the Board of Supervisors with the recommended conditions.

**SECOND:** Commissioner Ruggles seconded.

**DISCUSSION:** NA

**VOTE:** The motion passed unanimously.

**SUB-19-003:**

**MOTION:** Commissioner Ruggles made to the motion to recommend approval of case SUB-19-003 to the Board of Supervisors with the recommended conditions.

**SECOND:** Commissioner Burton seconded.

**VOTE:** The vote passed unanimously.

Madam Chair Ontiveros called for an Executive Session at 5:45 PM.

**MOTION:** Commissioner Clifford made the motion to approve the session.

**SECOND:** Commissioner Ruggles seconded.

**VOTE:** The motion passed unanimously.

The Executive session ended at 6:48PM.

**MOTION:** Commissioner Mayer made motion to return to regular session at 6:53PM.

**SECOND:** Commissioner Ruggles seconded.

**VOTE:** The motion passed unanimously.

The Hearing was reconvened at 6:53PM.

2. Case No. CUP-19-048: A request for a Conditional Use Permit for a 154-foot wireless telecommunications facility on an 8.82-acre parcel in the G (General, 10-acre minimum parcel size) Zone. The property is located at 100 Toonerville Road on the south side of Interstate 40 approximately one-half mile west of the Twin Arrows exit and is also identified as Assessor's Parcel Number 303-38-002B.

Property Owner: Darla Jurens, Mars, Iowa

Applicant: Sun State Towers, Gilbert, Arizona

Representative: Michelle Lamoureux

County Supervisor District: 4 (Jim Parks)

**STAFF:** Mr. Short gave a PowerPoint presentation and summarized the staff report. Mr. Short said staff recommended two options. The Commission could approve the CUP or continue it for 90 to 120 days.

**APPLICANT:** Michelle Lamoureux, representative for Sun State Towers and Verizon, presented a PowerPoint to provide further details about the project. She indicated the NTUA (Navajo Tribal Utility Authority) tower is not a viable option for Verizon due to the gap in coverage and that Verizon's tower would be the least intrusive means to provide that coverage. She indicated that cell service is not a luxury; it is a necessity for communication and safety especially with first responders. They have been trying to work for over two years with NTUA without communication from NTUA and any resolutions on the lease agreements within NTUA.

Steve Kennedy, Litchfield Park, AZ, RF Engineer, consultant with Pinnacle Consulting for Verizon, presented a PowerPoint that showed maps regarding capacity, current and proposed coverage, buffering, and the finite amount of energy that can be shared. He indicated Root Metrics, a third party firm, does dry testing for every carrier for coverage quarterly. There is capacity and terrain issues in this area.

Commissioner Ruggles asked why the NTUA tower was not evaluated for coverage along with the proposed Toonerville tower. The information presented shows only half of the equation. Mr. Kennedy stated the NTUA tower was not be a viable tower due to coverage issues, as was presented previously to the Board of Supervisors a few years ago. Commissioner Ruggles wanted accurate data on coverage on the NTUA tower vs. the new tower. Steve stated the previous engineer's data provided that data. Commissioner Ruggles wanted accurate data from an RF Engineer on the coverage provided by the NTUA site.

Chair Ontiveros asked Mr. Kennedy if his testimony was true and asked if he felt the previous engineer's information was true. He answered "yes" to both questions.

Joe Glenn, attorney from Mesa, AZ for Sun State Towers wanted to share information from the FCC and the Telecommunications Act (TCA) concerning coverage gaps and the least intrusive means of constructing a tower. He stated that NTUA said they could co-locate but did not have the right to lease the space. That is why there are no antennas on the NTUA site. The site is not feasible and cannot co-locate because it is not technically feasible. It is not commercially available since they do not have the right to lease the site. Mr. Glenn said, per the FCC there must be a site available and the NTUA site is not available. The 150 day shot clock started back in November, so we are now at 60 days. He read language from the telecommunications act. He stated you cannot delay communications because you will violate the TCA. NTUA has not come through with what they said they could do in 2016. They did not have the legal authority to lease the NTUA site to Verizon.

Grant Bircher, representative for NTUA, Gallup, NM, indicated he is most familiar with the case as he worked on it before. He now works for Navajo Nation Gaming Enterprise (NNGE). Chair Ontiveros asked if the tower was available to lease today, and he said "no". The sub-lease status has been negotiated, and they are currently waiting on signatures from other agencies that need to approve the lease. Once the signatures are completed, they need Navajo Nation Economic Development to approve and to provide the rental value. He is waiting on one more signature from ONHIR (Office of Navajo and Hopi Indian Relocation). He has received an email indicating the fee amounts have been

set. Chair Ontiveros asked what the time line and schedule would be to get these signatures. Mr. Bircher stated that he could have the signatures in 2-3 days, but it would likely take longer. Chair Ontiveros asked if he could do this tomorrow, but Mr. Bircher says he did not know the schedule of the person at the ONHIR office, so he could not commit to getting the signature. Chair Ontiveros asked why there was a lack of communication between Sun State and NTUA. Sun State has tried to reach out without any response. Mr. Bircher could not answer that question.

Arash Moalemi, General Counsel for NTUA, Gallup, NM, indicated that he wants to work with Sun State to get this resolved as soon as possible so they could co-locate on the NTUA tower. He stated that he can commit his staff to work on this to move it forward.

Commissioner Best asked Ms. Lamoureux for comparable maps of the two sites. Are there maps available to compare the two sites or do we need a fresh look? The maps were not included in the packets since this is a new CUP and staff asked that we not provide this data again.

Brian Furuya, County Attorney's Office, indicated that comparing old data may perpetuate confusion. When the decision is made to approve a site, that site must be available. He indicated that when the application was submitted, it was not complete, so the (150-day) shot clock would not have started until staff had received all required information.

Michelle Lamoureux stated that NTUA is still a speculative site, and they do not have a signed document stating they can even lease it.

Mr. Short said that this was a new application for a tower since and the assumption was that the NTUA tower was not available according to the submitted application. If the tower was assumed to be unavailable, he saw no need to provide the coverage for the NTUA tower. He felt all that information had been covered before in the previous BOS appeal hearings a few years ago.

Mr. Kennedy stated he could not show coverage maps tonight.

Bernard Portilla, Chandler, AZ, RF Engineer and contractor for NTUA, did not have maps with him, but read a statement from the previous case that NTUA could provide coverage to fill Verizon's service gap. He stated that he and the engineer for Sun State tower had worked together but at this point he was not sure how the coverage had changed.

Commissioner Best asked if the two engineers could come together with the same scale, same software, and same colors to compare maps to understand the coverage.

Commissioner Clifford stated to the engineer from Sun State that there would be a dead zone if NTUA towers were used, due to topography. Mr. Portilla said he did not see this dead zone on his data using his software. Several commissioners wanted to see the comparison.

Chair Ontiveros recapped that the commissioners needed maps to compare coverage from the NTUA site and the proposed site. The Commission also wanted the paperwork and signatures from the Navajo Nation indicating the NTUA site was approved to allow co-location of the Verizon antennas on the NTUA tower.

Commissioner Clifford wanted the information ahead of time to review before the commission hearing. All agreed that having the information ahead of time would help in making the decision.

Chair Ontiveros asked counsel if the commission needed a signed agreement between Sun State and NTUA. Mr. Furuya stated it is not necessary to have the lease signed between the two parties. NTUA must have the sub-lease signed and the terms must be acceptable with the terms of lease and rental value.

All commissioners agreed that continuing the hearing until the February 26, 2020 meeting would provide a reasonable amount of time to have all documentation and maps ready.

Mr. Furuya read a direct quote from the BOS appeal case: "At the March 21<sup>st</sup>, 2017, BOS hearing, both Sun State and NTUA agreed that the NTUA site could effectively meet Verizon's coverage needs." He indicated that this was inconsistent with the testimony received at tonight's hearing.

Chair Ontiveros asked for any final questions. No one had questions.

Mr. Bircher wanted to state a critical factor and let the commissioners know that the previous Sun State attorney at the BOS appeal hearing said he would stonewall any negotiations. He stated that this was documented at the last BOS appeal hearing (of CUP-16-006).

Ms. Lamoureux indicated she wanted to pull the records on that statement from their previous attorney. She said she was at that hearing and does not remember that conversation.

Ms. Lamoureux wanted it understood that this hearing was being continued for a site that was not viable three years after being told it was available for re-location. Chair Ontiveros stated that the applicant's comments are on the record. In response to a request from Ms. Lamoureux that a decision be made on the case, Chair Ontiveros indicated that it is noted that the applicant wants a decision tonight.

William McNeely, Assistant Director of Community Development stated that since this is a consideration for a continuance, he asked Chair Ontiveros if she would consider recommending to the parties that prior to coming back to the next hearing they should do their own research to demonstrate what is fair or what they feel is fair with clear information to use as evidence.

Chair Ontiveros asked the RF Engineers to come to the podium. She stated that each party is to present their own data. Each is to use the same scale, same color and same tools. A verbal request was made from the Sun State engineer to fly a drone over NTUA property. Verbal permission was given by the NTUA engineer.

**PUBLIC:** NA

**COMMISSION:** All commissioners agreed to a continuance.

**MOTION:** Commissioner Best made a motion for continuance of CUP-19-048 until the February 26, 2020 hearing.

**SECOND:** Commissioner Ruggles seconded.

**DISCUSSION:** NA

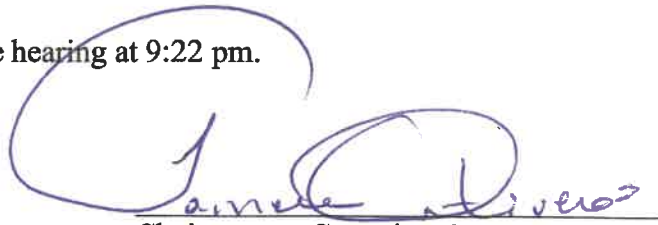
**VOTE:** The vote was unanimous.

#### **IV. CALL TO PUBLIC FOR ITEMS NOT ON THE AGENDA**

No one from the public spoke.

**V. CONTINUATION OF STUDY SESSION IF NEEDED**

Chairman Ontiveros adjourned the hearing at 9:22 pm.



Chairperson, Coconino County  
Planning and Zoning Commission

**ATTEST:**



Secretary, Coconino County  
Planning and Zoning Commission