

**Minutes of the
Development Review Commission
January 26, 2016**

Minutes of the regular hearing of the Development Review Commission, of the City of Tempe, which was held at the Council Chambers, 31 East Fifth Street, Tempe, Arizona.

Present:

Paul Kent – Chair
Trevor Barger- Vice Chair
Linda Spears- Commissioner
Angela Thornton- Commissioner
David Lyon- Commissioner
Thomas Brown- Commissioner
Andrew Johnson- Commissioner

City Staff Present:

Suparna Dasgupta, Principal Planner
Steve Abrahamson, Principal Planner
Ryan Kay, Planner Technician
Sarah Adame, Comm. Dev. Admin Assistant II+

Absent:

Margaret Tinsley- Alt. Commissioner
Dan Killoren- Alt. Commissioner
Gerald Langston- Alt. Commissioner

Number of Interested Citizens Present:

Hearing convened at 6:00 p.m. and was called to order by Chair Paul Kent.

Consideration of Meeting Minutes:

- 1) **Study Session 12/08/2015**
- 2) **Regular Meeting 12/08/2015**

MOTION: Commissioner Spears motion to approve **Study Session minutes for 12/08/2015**
Seconded by Commissioner Thornton

VOTE: Approved 6-0 with Vice Chair Barger in abstention

MOTION: Commissioner Spears motion to approve **Regular Meeting minutes for 12/08/2015**
Seconded by Commissioner Thornton

Vote: Approved 7-0

THE BOARD DISCUSSED THE FOLLOWING CASE(S):

- 3) Hold a public hearing for an appeal of the decision by the Hearing Officer to approve Use Permit to allow a wireless communication facility including a monopole & related equipment **for VERIZON PHO PELICAN (PL150406)**, located at 4507 S McClintock Drive. The appellant is Elevis Delgadillo.

Case presentation by staff, Mr. Ryan Kay

Mr. Ryan Kay presented the appeal of Verizon Pho Pelican for the approval of a use permit for a wireless communications facility from the Hearing Officer.

Presentation from the Appellant, Elevis Delgadillo, Tempe

Mr. Delgadillo presented his appeal information regarding the use permit for a wireless communication facility that was approved by the Hearing Officer. Mr. Delgadillo expressed his concern regarding the impact of the cell tower that would be located behind his home and back yard that backs up to the State Route 60 and the church parking lot. His concern is that the location of the proposed facility is too close to his backyard and that it should be moved further west of his home.. Mr. Delgadillo also requested that his preference would be that that the facility be disguised as a pine or palm tree rather than being a monopole. He stated that the proposed facility negatively impacts the view from his property and could be potentially detrimental for interested property owners to purchase his property in the future.

Questions from the Commission:

Vice Chair Barger confirmed with Mr. Delgadillo that his concern was regarding the proposed location of the facility as well as from an aesthetic point of view. Mr. Delgadillo confirmed that was correct.

Commissioner Thornton asked Mr. Delgadillo how much further west would he want the cell tower to be moved. Mr. Delgadillo responded that he did not have the ability to provide exact distance.

Commissioner Thornton asked Mr. Delgadillo if the trees behind his house were on his property or the church's property. Mr. Delgadillo responded that they are on the church's property. She asked him if knew how tall the trees are expected to grow. Mr. Delgadillo responded that to his understanding those trees are fully matured.

Commissioner Thornton also asked Mr. Delgadillo whether he was able to discuss any options with the applicant of the wireless communication facility regarding mitigating his concerns. The appellant, Mr. Delgadillo, responded that there were some options discussed but no consensus was reached for a solution.

Chair Kent explained to the appellant that it is the responsibility of the Commission to review this appeal and ensure that the Hearing Officer considered all the approval criteria for the Use Permit before approving it.

Commissioner Lyon asked the appellant to clarify how he prepared the presentation. The appellant responded that it was all illustrative and not to scale.

Commissioner Johnson had the appellant confirm the height of the existing cell tower from the pictures of his presentation. The appellant estimated it to be at 50 ft.

PUBLIC COMMENT: 0

Presentation from the Applicant: Rich Shaw, Verizon Wireless

Mr. Shaw discussed the cell tower's coverage area and use of data in that area. He stated that the facility is being proposed within Arizona Department of Transportation property. The applicant included that he did try to find other feasible locations before this corner was confirmed for the cell tower.

Questions from the Commission:

Chair Kent confirmed with the applicant that the cell tower cannot be moved further away because ADOT will not allow poles to be placed on the freeway ramps. However, ADOT did give the applicant space for equipment cabinets and a generator, only.

Commissioner Thornton asked if there will other service providers using this cell tower. The applicant stated that it is possible for other carriers to use the tower, but there has been no communications with other carriers for co-locating. Also, if it's disguised as a palm tree, it is not possible to co-locate. Additionally, the cell tower could not be disguised as a mono-palm or mono-pine because it will limit the coverage area. Commissioner Thornton asked if staff was working on any guidelines regarding co-location of wireless facilities because this is a growing concern with neighborhoods and their residents.

Staff, Steve Abrahamson stated that the City does request applicants for possible options for co-location and the applicant has to provide an explanation for the Use Permit.

Vice Chair Barger asked if there are any other ways of disguising this other than a pine or a palm tree, the applicant responded that it varies based on each jurisdiction and what the requirements are.

Commissioner Brown stated that he doesn't completely understand the reasoning behind being unable to move the cell tower. He is in favor of the appellant to move it more west. The applicant stated that they have obtained permission for this location and if the location is to be moved, it will have to be re-surveyed. Commissioner Brown asked if ADOT completed its review. The applicant responded, no, and that there isn't a signed lease yet.

Commissioner Barger confirmed with the applicant that Verizon will own the pole and all its equipment and it will be a ground lease with ADOT. He also confirmed that this is only neighbor with the dispute of the cell tower and that an alternate proposal to this problem was to add live vegetation to the appellant's property to help conceal the cell tower. The applicant stated they may consider it.

Response from the Appellant:

Mr. Delgadillo stated that he was the only resident that has said anything and is the only resident that is impacted by this cell tower.

Discussion from the Commission:

Commissioner Spears confirmed that the Commission's responsibility is to approve or deny but they cannot add additional stipulations related the decision. Commissioner Spears stated that she doesn't see that any of the criteria for the Use Permit has been violated. However, she advised that Verizon work with the neighbor.

Commissioner Brown expressed that he thinks that criteria number 4 is subject to interpretation, however, the rest of the criteria is not in violation.

Chair Kent agrees that number 4 is subject to interpretation and that the Hearing Officer did make the right decision approving this Use Permit. He agreed with Commissioner Spears that the applicant work with the resident.

Commissioner Lyon expressed that he does think that the cell tower use is compatible since it is being located adjacent to the freeway system.

Commissioner Thornton expressed that she visited the site of the proposed cell tower and agrees that the appellant's concern can be mitigated by planting additional vegetation in his backyard area to help conceal the cell tower.

MOTION: Commissioner Spears motions to deny the appeal for Verizon Pho Pelican upholding the approved Use Permit by the Hearing Officer.

Seconded by Commissioner Lyon

VOTE: 6-1 Vice Chair Barger in the opposition

DECISION: A request for a public hearing for an appeal of the decision by the Hearing Officer to approve Use Permit to allow a wireless communication facility including a monopole & related equipment **for VERIZON PHO PELICAN (PL150406)**, was denied.

Staff Announcements:

Suparna Dasgupta reviewed the next Study Session and Regular Agenda for February 9, 2016.

There being no further business the meeting adjourned at 6:58 pm.

Prepared by: Sarah Adame
Reviewed by: Suparna Dasgupta



Suparna Dasgupta, Principal Planner, Community Development Planning