

PLANNING DEPARTMENT
URBAN DESIGN & DEVELOPMENT DIVISION
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OFFICIAL NOTIFICATION OF DECISION

March 21, 2024

Pinnacle Consulting
1426 North Marvin Street,
Suite 101
Gilbert AZ, 85233

Project # PR-2023-009589
SI-2024-00025 – Waiver - Wireless Telecommunication Facility

LEGAL DESCRIPTION:

Graham Chapman, agent for Pinnacle Consulting, requests a Waiver - Wireless Telecommunications Facility, of the Setback and Separation requirements for free-standing WTFs in IDO 14-16-4-3(E)(12)(e), for all or a portion of Lots 11 & 12, Block 5, Esperanza addition, excluding the westerly portion out to the ROW, located at 840 San Mateo Blvd SE, between Trumbull Ave SE and Southern Ave SE, approximately 0.3 acres (L-17-Z)
Staff Planner: Megan Jones

On March 21, 2024, the Environmental Planning Commission (EPC) voted to APPROVE Project # PR-2023-009589, SI-2024-00025 - Waiver-WTF, based on the following Findings:

1. This request is for a Waiver- Wireless Telecommunications Facility (WTF) [IDO 14-16-6-6(Q)] for all or a portion of Lots 11 & 12, Block 5, Esperanza addition, excluding the westerly portion out to the right of way (ROW), located at 840 San Mateo Blvd SE, between Trumbull Ave. SE and Southern Ave. SE, approximately 0.3 acre (the “subject site”). A restaurant occupies the subject site.
2. The request would allow an exception to the WTF regulations, IDO §14-16-4-3(E)(12)(e), which prohibits new, free-standing WTFs within 50-feet of an existing public right of way (ROW). The applicant is requesting a waiver of 19-feet 3- inches. The WTF would be located 30-feet 9-inches from the ROW instead of the required 50 feet pursuant to IDO §14-16-4-3(E)(12)(e)(1)(b). The EPC has the authority to grant a Waiver-WTF, in whole or in part.
3. A temporary free-standing WTF, a cell on wheels (COW), is proposed in the parking lot near the center of the northern edge of the subject site. A free-standing WTF consists of a stand-alone support structure, antennas, and associated equipment and is subject to the setback and separation distance requirements in IDO §14-16-4-3(E)(12).
4. The subject site is zoned MX-L. A free-standing WTF is a permissive use in the MX-L zone district.
5. The applicant has provided drawings demonstrating that they cannot meet IDO §14-16-4-3(E)(12)(e)(1) and (e)(2), which require that a free-standing WTF be located at least 100 feet from

and existing residential zone district and at least 50 feet from an existing ROW. Therefore, has applied for a waiver (the current request).

6. In the City of Albuquerque, wireless review is an administrative process. The application for the proposed, future WTF (a 44-foot, temporary COW) is not included with the waiver, but is subject to a separate administrative review process.
7. The subject site is in an Area of Change. It is not in a designated Activity Center, but is along the San Mateo Blvd. SE Major Transit Corridor.
8. The Comprehensive Plan, the Integrated Development Ordinance (IDO), and the Federal Telecommunications Act are incorporated herein by reference and made part of the record for all purposes.
9. The request is generally consistent with the following Goal and policy from Chapter 5- Land Use:
 - A. Goal 5.3 Efficient Development Patterns: Promote development patterns that maximize the utility of existing infrastructure and public facilities and the efficient use of land to support the public good.

The subject site is in a developed area served by existing infrastructure that would be able to support future development of a WTF, which would generally contribute to the efficient use of land to support the public good.

- B. Policy 5.6.2- Areas of Change: Direct growth and more intense development to Centers, Corridors, industrial and business parks, and Metropolitan Redevelopment Areas where change is encouraged.

The subject site is located in an Area of Change, where growth and development are generally desired. Though not in a designated Activity Center, the subject site is located along San Mateo Blvd. SE, which is a designated Major Transit Corridor where more intense development is encouraged. A WTF is considered a type of industrial land use, and industrial land uses are generally more appropriate to develop in Areas of Change than in Areas of Consistency.

10. The request is generally consistent with the following, applicable policy from Chapter 7- Urban Design:

Policy 7.6.3 – Utility Infrastructure: Encourage design of visible infrastructure (surface and overhead) that respects the character of neighborhoods and communities and protects significant natural and cultural features.

The request would help support development of a future WTF, a form of visible infrastructure, which would be a public utility collocation WTF. This type of WTF is generally considered to be more respectful of neighborhoods and communities than a new, free-standing tower WTF.

11. The request is mostly consistent with the following, applicable policies from Chapter 12- Infrastructure, Community Facilities, and Services:

A. Policy 12.1.1- Infrastructure Design: Encourage design of visible infrastructure (surface and overhead) that respects the character of neighborhood and communities and protects significant natural and cultural features.

The setback and separation requirements for free-standing WTFs are intended to ensure public safety by keeping minimal distance between the WTF and the public ROW and residential zoned properties. The request would reduce the required distances.

B. Policy 12.1.7- Communication Systems: Support widespread and affordable access to high-quality communication systems in order to maximize flexibility for prospective customers, businesses, and industry.

The request would accommodate the COW, which would help provide wireless service and capacity temporarily while the approved, future WTF is in the construction process. The COW would help maximize flexibility for customers, business, and industry, although it's unknown how affordable or high quality the temporary communication system would be.

12. The WTF Waiver adequately meets all of the following criteria [IDO 14-16-6-6(Q)(3)(a), as follows:

A. 1 - It is in the best interest of the community as a whole.

The waiver would help facilitate development of a future temporary WTF, a “cell on wheels” (COW). The COW would provide wireless service while a new collocation project is constructed. The request is generally in the interest of the community, although service provision can be achieved without a waiver at a different location. Any future WTF would be required to comply with the WTF regulations, which are intended to balance the need for wireless service with providing wireless sites by the least intrusive means possible.

B. 2 - It will expedite the approval of an antenna, tower, or tower alternative.

In this case, the waiver would not expedite the approval of an antenna, tower, or tower alternative because the COW was already approved conditionally, contingent upon the waiver being granted and has already been deployed. The temporary use approval for the COW was put on hold during the administrative review process because staff determined that setback requirements could not be met, as shown on scaled drawings associated with the COW application.

C. 3 - It will not jeopardize public health, safety, and welfare.

The proposed waiver would not jeopardize the public health, safety, and welfare. The waiver does not propose to vary from the requirement for an enclosure wall, but seeks to allow a 30-foot 9-inch setback from the 50-foot requirement. The WTF would meet the other required setbacks.

D. 4 - It will ameliorate either the adverse impact of antenna and tower proliferation or the adverse impact of requiring new construction of towers or antennas.

The waiver would facilitate placement of the COW, which will be temporary in nature while a collocation project (public utility collocation) is constructed on the subject site. Albuquerque's wireless regulations prefer collocation over construction of new towers. The COW is temporary and will be removed once the collocation project is operational.

E. 5 - It will better serve the stated purposes of the City's telecommunications regulations.

The WTF that the waiver would facilitate would be temporary and would serve the purpose of the City's telecommunications regulations by supporting a public utility collocation project on the subject site. The WTF regulations encourage collocation and provided bonuses to collocate on existing facilities, such as not having to conceal antennas if it's a PNM pole or an existing, non-concealed (and non-conforming) tower. Most collocations are approved by the Zoning front counter.

F. 6 - It will not allow the WTF to be taller or higher from the ground than would otherwise be allowed by this IDO.

The COW that the waiver would support is a 44-foot free-standing, temporary tower. Allowable height for a free-standing WTF is 65 feet for a single-carrier facility and 75 feet for a facility with more than one carrier. Note that a Waiver-WTF cannot be used to increase allowable height.

13. The EPC has considered the following facts as required by IDO 14-16-6-6(Q)(3), Waiver-WTF:

A. The height of the proposed tower.

The proposed waiver would not affect the height of the COW or the future, proposed WTF as stated in the response to Criterion 6, above.

B. The proximity of the tower antenna to any Residential zone district or a dwelling in any other zone district.

The temporary COW WTF is proposed in the parking lot of the subject site, approximately 100 feet from the closest residential zone, R-ML. Therefore, the required minimum setback of 100 feet would be met.

C. The nature of uses on adjacent and nearby properties.

The subject site is adjacent to commercial uses to the north and south and is near single-family homes to the east and west. Abutting the site to the east is the Fire Station 11, across Southern Ave. to the south is vacant land, and abutting the site to the north is a vacant religious institution.

D. The surrounding topography.

The surrounding topography is developed and mostly flat. No significant topographical features are near the subject site.

E. The surrounding vegetation and foliage.

The subject site has little to no landscaping. Two established trees are located along San Mateo Blvd. SE. There is also one tree and yucca plants abutting the building in what appears to be a garden area. The COW would not affect landscaping on the subject site.

- F. The design of the tower or antenna, with particular reference to design characteristics that have the effect of reducing or eliminating any visual obtrusiveness.

Pursuant to the WTF regulations, concealment of free-standing WTFs is required by design and by context [IDO 14-16-4-3(E)(12)(c)]. This has been required since 2008. However, COWs have been considered a temporary use in practice and, though they are a non-concealed free-standing facility, they have been allowed. Typically, COWs are used for special events and sometimes for situations such as the current one, which involves the decommissioning of a free-standing tower. Though the COW may be considered visually obtrusive, it will be removed as soon as the approved public utility collocation WTF is deployed.

- G. The proposed ingress and egress.

The ingress and egress used to access the COW is located approximately on the northernmost center of the subject site in the parking lot.

- H. The availability of suitable existing towers or other structures.

The COW would be temporary while the public utility collocation is constructed on the same site on a replacement PNM pole. There is one existing WTF in the area, which is located approximately 1000-feet from the proposed future WTF. The existing tower was required to be decommissioned.

15. In sum, the EPC finds that the Waiver-WTF adequately fulfills the Waiver-WTF criteria in IDO 14-16-6-6(Q)(3)(a) and is consistent with a preponderance of the few, applicable Comprehensive Plan Goals and policies. The EPC has considered the facts in IDO 14-16-6-6(Q)(3)(b) in reaching its decision, as required.
16. The District 6 Coalition of Neighborhood Associations (NA), the Parkland Hills NA, and the South San Pedro NA, and property owners within 100 feet of the subject site, were notified as required. A facilitated meeting was not requested. As of this writing, Staff has not been contacted

APPEAL: If you wish to appeal this decision, you must do so within 15 days of the EPC's decision or by **April 5, 2024**. The date of the EPC's decision is not included in the 15-day period for filing an appeal, and if the 15th day falls on a Saturday, Sunday or Holiday, the next working day is considered as the deadline for filing the appeal.

For more information regarding the appeal process, please refer to Section 14-16-6-4(V) of the Integrated Development Ordinance (IDO), Administration and Enforcement. A Non-Refundable filing fee will be calculated at the Land Development Coordination Counter and is required at the time the appeal is filed. It is not possible to appeal an EPC Recommendation to the City Council since this is not a final decision.

You will receive notification if any person files an appeal. If there is no appeal, you can receive Building Permits at any time after the appeal deadline quoted above, provided all conditions imposed at the time

of approval have been met. Successful applicants are reminded that other regulations of the IDO must be complied with, even after approval of the referenced application(s).

Sincerely,

A handwritten signature in black ink that reads "Megan Jones". The signature is written in a cursive, flowing style.

for Alan M. Varela,
Planning Director

AV/MJ

cc: Pinnacle Consulting, graham.chapman@pinnacleco.net
Graham Chapman, graham.chapman@pinnacleco.net
Legal, dking@cabq.gov
EPC File