



City of Las Cruces®

PEOPLE HELPING PEOPLE

Council Action and Executive Summary

Item # 8Ordinance/Resolution# 16-104For Meeting of _____
(Ordinance First Reading Date)For Meeting of November 2, 2015
(Adoption Date)

Please check box that applies to this item:

 QUASI JUDICIAL LEGISLATIVE ADMINISTRATIVE

TITLE: A RESOLUTION APPEALING THE DECISION OF DENIAL BY THE PLANNING AND ZONING COMMISSION ON SEPTEMBER 22, 2015 FOR A SPECIAL USE PERMIT APPLICATION TO CONSTRUCT A NEW WIRELESS COMMUNICATION FACILITY ON A PROPERTY LOCATED AT 4790 STERN DRIVE. THE SUBJECT PROPERTY ENCOMPASSES 1.552 ± ACRES AND IS ZONED C-3 (COMMERCIAL HIGH INTENSITY). SUBMITTED BY VERIZON WIRELESS/TECTONIC ENGINEERING ON BEHALF OF A & E ENTERPRISES, INC., PROPERTY OWNER (SUP-15-01).

PURPOSE(S) OF ACTION:

Appeal of a Planning and Zoning Commission Special Use Permit denial.

COUNCIL DISTRICT: 2		
Drafter/Staff Contact: Adam Ochoa	Department/Section: Community Development/ Building & Development Services	Phone: 528-3204
City Manager Signature:		

BACKGROUND / KEY ISSUES / CONTRIBUTING FACTORS:

The proposed Special Use Permit (SUP) is for a new wireless communication facility for a property located on the northwest corner of Stern Drive and Agave Drive directly west of Interstate 10. The subject property currently consist of various vacant commercial buildings. The facility proposed is a 65-foot tall stealth wireless communication tower and various associated accessory buildings and equipment that will be enclosed within an opaque rock wall. The proposed facility is adjacent to a single-family zoning district, which requires the applicant to seek a SUP to allow the new facility on the C-3 (Commercial High Intensity) zoned property. The proposed wireless communication facility will be required to follow all requirements of Section 38-59 of the 2001 Zoning Code, as amended.

The SUP required the applicant to provide a technical analysis prepared by a professional engineer for the new facility that included all of the information as required by Section 38-59F of the 2001 Zoning Code, as amended. The analysis was then required to be reviewed by an

independent qualified expert consultant. A technical analysis was prepared for the proposed new facility and the City of Las Cruces (City) hired Greg Best Consulting, Inc. to review the analysis and provide a written recommendation. The final written recommendation from the consultant was completed on June 23, 2015. The consultant concurred with the analysis of the applicant that the proposed new wireless communication facility site at 4790 Stern Drive is the best available site in this area of the City. Based upon the results of this analysis and all applicable City regulations, staff recommended approval of the SUP request.

On July 28, 2015 the Planning & Zoning Commission (P&Z) initially reviewed the proposed SUP and the P&Z postponed the case by a vote of 4-0-0, (three Commissioners absent). At the meeting and after a lengthy public discussion, the P&Z directed the applicant to seek other locations to potentially locate the proposed new wireless communication tower. After doing as directed and not identifying an alternate location, the applicant resubmitted the SUP for the reconsideration of the P&Z and, on September 22, 2015, the P&Z denied the SUP by a vote of 1-3-0 (three Commissioners absent). During the meeting several surrounding property owners voiced their protest against the proposed SUP. Before voting on the SUP, the P&Z again suggested exploring other alternative locations for the proposed wireless communication facility so as to alleviate concerns of the surrounding neighborhood. Please see Attachment "B" and Attachment "C" for more details about the discussion that took place at the P&Z meetings.

On October 5, 2015 the applicant officially submitted an appeal of the P&Z decision for the proposed SUP to City Council. Please see Exhibit "C" for the applicant's appeal and supporting documents.

SUPPORT INFORMATION:

1. Resolution.
2. Exhibit "A", Site Plan.
3. Exhibit "B", Applicant's Appeal and Supporting Documents.
4. Attachment "A", Staff Report to the P&Z for Case SUP-15-01.
5. Attachment "B", Minutes from the July 28, 2015 P & Z Meeting.
6. Attachment "C", Minutes from the September 22, 2015 P & Z Meeting.

SOURCE OF FUNDING:

Is this action already budgeted? N/A	Yes <input type="checkbox"/>		See fund summary below
	No <input type="checkbox"/>		If No, then check one below:
	<i>Budget Adjustment Attached</i>	<input type="checkbox"/>	Expense reallocated from:
		<input type="checkbox"/>	Proposed funding is from a new revenue source (i.e. grant; see details below)
		<input type="checkbox"/>	Proposed funding is from fund balance in the _____ Fund.
Does this action create any revenue? N/A	Yes <input type="checkbox"/>		Funds will be deposited into this fund: _____ in the amount of \$ _____ for FY _____.
	No <input type="checkbox"/>		There is no new revenue generated by this action.

BUDGET NARRATIVE

N/A

FUND EXPENDITURE SUMMARY:

Fund Name(s)	Account Number(s)	Expenditure Proposed	Available Budgeted Funds in Current FY	Remaining Funds	Purpose for Remaining Funds
N/A	N/A	N/A	N/A	N/A	N/A

OPTIONS / ALTERNATIVES:

1. Vote "Yes"; this will reverse the P&Z's decision of denial of case SUP-15-01 and would allow the construction of the new wireless communication facility on the subject property located at 4790 Stern Drive.
2. Vote "No"; this will uphold the P&Z's decision of denial of case SUP-15-01.
3. Vote to "Amend"; this would reverse the P&Z's decision of denial of case SUP-15-01 and would place conditions of approval on the permit.
4. Vote to "Table"; this could allow City Council to table/postpone the Ordinance and direct staff accordingly.

REFERENCE INFORMATION:

The resolution(s) and/or ordinance(s) listed below are only for reference and are not included as attachments or exhibits.

1. Ordinance 2629.

RESOLUTION NO. 16-104

A RESOLUTION APPEALING THE DECISION OF DENIAL BY THE PLANNING AND ZONING COMMISSION ON SEPTEMBER 22, 2015 FOR A SPECIAL USE PERMIT APPLICATION TO CONSTRUCT A NEW WIRELESS COMMUNICATION FACILITY ON A PROPERTY LOCATED AT 4790 STERN DRIVE. THE SUBJECT PROPERTY ENCOMPASSES 1.552 ± ACRES AND IS ZONED C-3 (COMMERCIAL HIGH INTENSITY). SUBMITTED BY VERIZON WIRELESS/TECTONIC ENGINEERING ON BEHALF OF A & E ENTERPRISES, INC., PROPERTY OWNER (SUP-15-01).

The City Council is informed that:

WHEREAS, the Planning and Zoning Commission (P&Z), after conducting a public hearing on September 22, 2015, denied the Special Use Permit (SUP) by a vote of 1-3-0 (three Commissioners absent), for a property located at 4790 Stern Drive as reflected in Exhibit "A"; and

WHEREAS, Verizon Wireless/Tectonic Engineering on behalf of A & E Enterprises, Inc., property owner, submitted an appeal of the decision of the P&Z on October 5, 2015 based on the supporting documents outlined in Exhibit "B".

NOW, THEREFORE, Be it resolved by the governing body of the City of Las Cruces:

(I)

THAT the decision of the P&Z on September 22, 2015 is hereby overturned and made part of this Resolution,

(II)

THAT the SUP is hereby approved for the subject property located at 4790 Stern Drive.

(III)

THAT City staff is hereby authorized to do all deeds necessary in the accomplishment of the herein above.

DONE AND APPROVED this _____ day of _____ 20____.

APPROVED:

Mayor

ATTEST:

City Clerk

(SEAL)

Moved by: _____

Seconded by: _____

APPROVED AS TO FORM:

ACTING

City Attorney

VOTE:

Mayor Miyagishima:	_____
Councillor Silva:	_____
Councillor Smith:	_____
Councillor Pedroza:	_____
Councillor Small:	_____
Councillor Sorg:	_____
Councillor Levatino:	_____

**APPEAL TO LAS CRUCES CITY COUNCIL OF
PLANNING AND ZONING COMMISSION DECISION**

SUMMARY INFORMATION

Applicant: Verizon Wireless
c/o John Tyke
126 West Gemini Drive
Tempe, Arizona 85283

Representative/Agent: Tectonic Engineering
c/o Les Gutierrez, Senior Site Acquisition Specialist
3150 Carlisle Blvd NE, Suite 108
Albuquerque, New Mexico 87110
505-288-7195
LGutierrez@tectonicengineering.com

Counsel for Applicant: Mark W. Williams, Esq.
Christian H. Hendrickson, Esq.
Sherman & Howard L.L.C.
633 Seventeenth Street, Suite 3000
Denver, Colorado 80202
303.299.8211
mwilliams@shermanhoward.com
chendrickson@shermanhoward.com

Case No.: SUP-15-01

Project Name: 4790 Stern Drive
(New Wireless Communications Structure Special Use Permit)

Location and Lot Size: Southwest Corner of Stern Drive and Agave Drive (~1.552 Acres)

Existing Zoning/Overlay: (C-3 Commercial High Intensity)

Existing Use: Commercial Property with Vacant Commercial Buildings

Proposed Use: Commercial Property with Vacant Commercial Buildings and New
Wireless Communication Facility

Property Owner: A&E Enterprises, Inc.

Council District: 2 (Councilor Smith)

Staff Recommendation: *Approval* of application without conditions based on findings.

Planning & Zoning Commission Final Decision: Application *denied* on September 22, 2015.

INTRODUCTION AND RELIEF REQUESTED

To promote important business, educational, and emergency service providers' needs for the public, and to facilitate other communications and data transfer, Verizon Wireless constantly and consistently expends time, effort, and resources to improve, update, and enhance its network. Through its application to build a telecommunication facility on Stern Drive (the "Application"), Verizon Wireless seeks to ensure adequate coverage and service, and to offload traffic from two existing wireless communication sites, in this vital section of Las Cruces that includes NMSU, the intersection of I-10 and I-25, and surrounding businesses and neighborhoods. This network "infill" is needed to ensure the coverage, functionality, and capacity of its network in the area, making this site of crucial importance to the public, both in the area and passing through, and to emergency responders who heavily rely on wireless voice and data services to protect the public.

Verizon Wireless' Application for this facility should be approved because:

- Verizon Wireless seeks to invest in the Las Cruces community to improve the quality of wireless service and access to data in the area.
- The proposed facility will facilitate and promote business, educational, personal, and emergency communications.
- The proposed facility addresses a coverage/capacity gap to ensure seamless and reliable coverage for users in the area.
- The proposed facility will help Las Cruces present itself as an advanced and relevant location, allowing it to stay current and "keep up" with other major and similarly-sized municipalities.
- The Application meets all requirements of the Las Cruces Land Development Code.
- City Staff and the City's independent expert engineer recommend approval.
- Failure to approve the Application will result in a violation of federal law.
- New Mexico law supports approval.

Given the purpose of the proposed facility is to absorb usage and traffic from two existing sites, the area in which it can be effectively located is quite small. Verizon Wireless demonstrated it investigated and considered all possible options within the small potential site

area between the two present sites. In so doing, it eliminated all other properties based on their location, zoning, feasibility, or availability, and ultimately was left with the proposed “Blackhawk” location as the only workable site for this wireless facility. City Staff (both internally and through an independent consultant) also reviewed the Application and proposed site and agreed this is the best location for this facility based on the capacity/coverage gap being addressed. Verizon Wireless is legally required to provide seamless coverage in the areas it is licensed to serve. Accordingly, under federal law, local governments may not prohibit the deployment of wireless facilities if the applicant demonstrates there is a gap in coverage and the proposed site is the least intrusive available means by which to address the gap. Verizon Wireless demonstrated these factors in its Application and testimony to the Commission. Consequently, the denial of this Application violates 47 U.S.C. § 332.

The Las Cruces Planning and Zoning Commission (the “Commission”) erred in denying Verizon Wireless’ Application for several reasons:

- It is uncontested Verizon Wireless submitted a fully-compliant Special Use Permit Application.
- The Commission ignored the recommendation of City Staff, which was supported by all reviewing departments and agencies, to approve the Application.
- As required by the Las Cruces Land Development Code, the City retained an independent expert consultant, who reviewed the Application and proposed location and determined, as had Verizon Wireless, that the proposed location is the best location.
- Verizon Wireless demonstrated it explored all available alternatives, and this is the best location for this facility, but the Commission continued to request Verizon Wireless consider even more unworkable alternatives outside of the area identified by the technical experts.
- Verizon Wireless made notable efforts to reach a reasonable solution. After listening to certain members of the community who attended a meeting to speak about the application, Verizon Wireless proposed several concessions, including lowering the proposed height of its facility, and offering to mask the appearance of the facility.
- Apparently yielding to a handful of opposed neighbors and their emotional objections based on vague concerns and incorrect perceptions of how this facility would look, and with no legal, procedural, technical, or reasonable basis for doing so, the Planning and Zoning Commission

went against City Staff's and others' recommendations and denied Verizon Wireless' application. The Commissioners who voted to deny the Application provided only limited bases for the denial, which did not satisfy the Las Cruces Land Development Code or federal law. In light of the circumstances surrounding the Application, the decision to deny was arbitrary and thus violates federal law.

Verizon Wireless therefore requests the Las Cruces City Council take Final Action under Land Development Code Section 38-13.A.7., and approve its Application for the construction of a new wireless communication facility at 4790 Stern Drive, Las Cruces, New Mexico.

ISSUES TO BE CONSIDERED

1. Did the Las Cruces Planning & Zoning Commission commit error by ignoring City Staff's Findings and Recommendations, by ignoring the City's independent expert, and by denying Verizon Wireless' Application to construct a telecommunications facility in the best location providing the least intrusive way to fill a capacity/coverage gap and based only on unsupported emotional and vague and generalized aesthetic objections?

2. Should Verizon Wireless' Application, which fully complies with all applicable legal and procedural requirements, which was recommended by City Planning & Zoning Staff, and which has been verified by an independent expert as being in the best available location, be approved?

The remainder of this appeal document sets forth the applicable facts, and then provides legal analysis mandating approval. The relevant Las Cruces Land Development Code sections at issue are set forth in Appendix A.

FACTUAL AND PROCEDURAL BACKGROUND

1. Verizon Wireless' Network

Verizon Wireless provides best in class wireless service to its customers and others using its network. To do so, it is continuously testing, improving, and expanding its infrastructure. Verizon Wireless has a substantial coverage footprint across the country. Nevertheless, based on the exponentially expanding use of data (such as downloading business files and emails from university and company networks, streaming music and videos, movies, and sportscasts, and other such uses), Verizon Wireless constantly must add more telecommunications sites to

address capacity issues created by the ever-increasing data usage. Where, as here, data traffic creates capacity impacts and ultimately overloads existing sites, Verizon Wireless must add new facilities in between those sites to off-load some traffic and ensure adequate coverage throughout its network. Based on the circumstances underlying this Application, the failure to allow this facility will lead to a gap in coverage, which Verizon Wireless is required under federal law to remedy. *See, e.g.*, 47 U.S.C. § 332.

2. Selection and Importance of Site Location

In this case, Verizon Wireless addresses two extremely busy sites – the first near the University Avenue/Main Street exit off of Interstate 10, and the second near the intersection of Interstate 10 and Interstate 25 – which circumstances mandate approval of this Application. To address these sites’ usage and related capacity issues, Verizon Wireless must add a site in the middle of these two heavily-trafficked facilities to offload some use, increase and improve coverage and capacity, and thus fill a coverage gap, which will result in this important area if not approved. This will allow Verizon Wireless to provide steady and reliable service to customers, emergency service providers, and other users living in the area or simply traveling through.

3. Many Alternatives Considered, But Proposed Site is Only Workable Solution

As part of its extensive site-selection process, Verizon Wireless performs substantial and in-depth technical and engineering analysis. Once capacity/coverage issues are identified in an area, Verizon Wireless reviews the existing sites and possible areas in between them to install a new network capacity-enhancing site. First, it locates the small area in which such a site can be located based on detailed RF analysis (the “Site Ring”). Then, it looks at the zoning of the properties within the Site Ring to determine potential candidates for the location of a telecommunications facility (such facilities are not allowed in all zoned districts). This significantly narrows the possible locations within the Site Ring. Next, Verizon Wireless ranks the feasibility of the remaining sites for the one which best serves the public. Finally, Verizon Wireless reaches out to owners of the potential sites to gauge their interest in entering into a long-term lease for the construction and maintenance of a telecommunications facility on their property. At each step of the process, locations that were being considered are eliminated as not feasible or available.

Verizon Wireless engaged in such a process for the Blackhawk facility proposed in the Application. Here, other than the proposed site, only a few other options were available within

the Site Ring. To be clear, everything outside the Site Ring was considered, but excluded from further consideration after all such locations were determined to be not feasible options because of their location outside of the Site Ring. In terms of options within the Site Ring, the only other possibilities on non-residential property (such facilities are not allowed in residential districts) were 1) a much lower adjacent commercial property that both was within a flood plain and would require a much taller facility to achieve the same results; 2) a possible section of land on New Mexico State University, but the University already has plans for that property and therefore declined Verizon Wireless' offer to lease a portion of that property; and 3) two nearby commercial properties on San Francisco Avenue that did not provide sufficient buildable height and could not be constructed to meet applicable setback and zoning requirements. As such, and as concluded by the City's consultant, the subject site, which is properly zoned and close to the interstate, is the best and only available option for this important and required facility.

4. Application

One May 18, 2015, Verizon Wireless submitted a proper Application that complied with all procedures and requirements. A copy of the Application and supporting documents, including 1) a completed application, 2) a letter with RF study from Verizon Wireless Senior RF Engineer Hamdi Alaaldin; and 3) other supporting and required materials, is provided herewith as Tab 1. The Application initially sought a special use permit for a telecommunications facility that would include a 75-foot, unmasked tower (painted a sand color). The various reviewing departments and agencies, including: 1) CLC Development Services; 2) Metropolitan Planning Organization (MPO); 3) CLC CD Engineering Services; 4) CLC Land Management; 5) CLC Fire & Emergency Services; 6) CLC Utilities; and 7) New Mexico Department of Transportation (NMDOT) all recommended approval of Verizon Wireless' Application. Also, in compliance with Code Section 38-59.F.6., the City retained, at Verizon Wireless' expense, an independent expert consultant which performed its own analysis. On June 23, 2015, that City-hired consultant agreed with Verizon Wireless' technical rationale and positions, and independently determined the proposed site was the best available location for this facility, concluding:

The results of the engineering analysis concur that the site proposed by Verizon is the best available site for expansion of service to increase data capacity and to provide more uniform service. This is based upon confirmation of the signal coverage analysis generated and by independent research for various sites in the general vicinity of the site area. ... So in summary, the best site is the proposed Blackhawk site.

See Tab 2, City Staff Report, Attachment #5, June 23, 2015 Report of Greg Best Consulting, Inc., p. 2. (Emphasis added.)

City of Las Cruces Planning Staff reviewed the application and assisted with ensuring proper notice was provided. Staff determined the Application fully complied with the Code and regulations, and that the proposed facility was appropriate and allowed on the property as zoned, as confirmed by the City's independent expert consultant. Staff therefore recommended approval of the Application without conditions. The comprehensive Planning & Zoning Commission Staff Report, prepared by Planner Adam Ochoa, and its attachments (a zoning/vicinity map; an aerial map; correspondence and Development Statement from Verizon Wireless regarding the site; Verizon Wireless' Application and Supplemental Application Form for Antenna, Towers, & Communication Structures; Verizon Wireless Technical Analysis with RF Study; Written Report from the City's Engineering Consultant Greg Best; and the Proposed Development Plans) are submitted as Tab 2. Notably, Staff's thorough analysis led it to reach the following ultimate Findings:

1. The subject property encompasses 1.552± acres, is zoned C-3 (Commercial High Intensity) and currently contains vacant commercial buildings.
2. An independent expert consultant has reviewed the analysis from the applicant and concurs that 4790 Stern Drive is the best available site for a new wireless communication facility with a 75-foot tall wireless communication tower in the area (2001 Zoning Code, Article 6, Section 38-59 F6).
3. The proposed new wireless communication facility follows all of the requirements for a Special Use Permit (SUP) and all standards of Section 38-59 of the 2001 Zoning Code, as amended.

5. First Planning & Zoning Commission Meeting

The First Planning and Zoning Commission meeting was held on July 28, 2015. Staff first presented the Application and its Findings, the bases for those findings, and its recommendation for approval of the Application without conditions:

Staff has reviewed the proposed Special Use Permit and based on the review by Staff and all other reviewing departments in the City of Las Cruces and the New Mexico Department of Transportation and the written recommendation from the independent expert consultant and the findings found in the staff report, staff recommends approval for the proposed SUP. See Tab 3, Staff PowerPoint Presentation from First Meeting, Slide 11.

Next, representatives of Verizon Wireless, including an RF Engineer, further explained the Application and justification for and location of the proposed facility. After that, several opposed homeowners from a nearby neighborhood spoke. Their main concerns were with the tower potentially blocking their mountain views, and they suggested alternative locations. Other concerns were raised regarding the appearance of the facility. After additional discussions with the neighbors and questions of Verizon Wireless representatives, the Commission tabled the application, asking Verizon Wireless to explore two other alternatives: 1) the NMSU property across Interstate 10; and 2) a pecan orchard over 2,000 feet away and off of the vector between the two sites Verizon Wireless is trying to off-load with the proposed facility. The relevant pages (pp. 1-30) of the minutes from the first Commission meeting are provided as Tab 4.

6. Verizon Wireless Explored Alternatives Discussed at First Meeting

Verizon Wireless further investigated the suggested alternatives. After additional discussion with NMSU, Verizon Wireless confirmed the University already had plans for the property across from the proposed location, and thus, NMSU will not allow the placement of a telecommunications facility on that property. See August 4, 2015 E-mail from Scott Eschenbrenner, Special Assistant to NMSU President, provided with Tab 5. In addition, engineering and technical analysis confirmed the second proposed location in a pecan orchard over 2,000 feet away was not feasible, which is consistent with the findings of the City's independent consultant.

7. Verizon Wireless Resubmitted Application with Concessions

After confirming the proposed location was the best and only feasible location in the Site Ring, Verizon Wireless resubmitted its Special Use Permit Application to the Planning & Zoning Commission, requesting final action. This renewed Application included changes to address some of the concerns raised by residents who attended the first Commission meeting. These included the lowering of the height of the facility by ten feet to a total of 65 feet (which is allowed by the Code), as well as the option of making stealth or masking the facility by making it look like a tree (at increased cost to Verizon Wireless). The materials Verizon Wireless submitted with its renewed application are provided herewith as Tab 5, and included 1) a Cover Letter to Adam Ochoa; 2) an e-mail from New Mexico State University declining to enter into a Lease with Verizon Wireless; 3) Photo simulations from several locations in the neighborhood surrounding the proposed wireless facility, showing both the new proposed design and height, as

well as the large existing power lines running through the subdivision; 4) photos and drawings of views and sight lines from the complaining residents' addresses and the proposed facility location showing that the views of the Organs indeed are not blocked by the facility and there is no specific basis for aesthetic concerns; 5) The signed June 23, 2015 report and recommendation of independent engineer and consultant to the City of Las Cruces, Greg Best, P.E.; and 6) a demonstration of the distance between the proposed/needed facility location and the suggested pecan orchard site, reflecting that the Blackhawk site is the only feasible site. City Staff reviewed the resubmitted Application and again ensured proper notice was provided. In addition, City Staff again found the Application to be fully compliant, appropriate and complete. City Staff, therefore, recommended approval of the renewed Application without conditions.

8. Second Planning & Zoning Meeting

At the second Commission meeting on September 22, 2015, City Staff presented the SUP Application and its Findings on the matter. Staff continued to highlight the Application complies with all legal and procedural requirements, and that it proposes a facility that is the best site for this facility, and, continuing to rely on the expert analysis of its independent consultant and approval of many other reviewing Departments and agencies, recommended approval of the Application without conditions. See Tab 6, Staff Updated Power Point Presentation Used at Second Meeting, Slides 13-15. A Verizon Wireless representative spoke about the Application and how the proposed location is not in the sightline of the majority of the homeowners in the area. Further, Verizon Wireless pointed out the much larger electric utility poles in the area, reiterated the impending coverage gap and need for this facility in this location, and explained Verizon Wireless had sufficiently considered the various alternatives.

Several of the same homeowners spoke in opposition again, this time focusing on not wanting such a facility near the entrance to their neighborhood (which currently houses a closed gas station and vacant commercial buildings). Their concerns were not specific, but focused primarily on their belief such facilities are allegedly "unsightly". The neighbors also made unsupported comments about other possible alternatives (again including NMSU property (saying Verizon Wireless did not speak with the right NMSU representative even though Verizon Wireless included an email from the identified individual in its supplemental Application), and adding, among other ideas, a suggestion of Native American land well down the road from the proposed location). Further, the residents attempted to make conclusions about the easy resolution of interference problems created by other suggested locations (that were contrary

to the City's consultant's finding that "The interference issue is a significant one" and that the proposed site was the best for resolving the interference issue), and guesses about how Verizon Wireless could address this coverage gap in other ways (including with multiple additional towers in different locations). Regardless of the lack of substantiation of the technical comments (no qualified experts have ever disputed the need for and propriety of the proposed location for this facility), the Commission was apparently persuaded by them.

9. Final Decision of Planning & Zoning Commission

By a vote of 3-1, Verizon Wireless' Special Use Permit Application (SUP-15-01) was denied. Notably, those voting to oppose the application constitute less than a majority of the full Commission, and did so based only on the "Findings and Discussion". No other reason for the decision was provided. The Commissioners opposing the Application appear to have been principally focused on alternatives that would not meet this coverage gap, vaguely looking to the residential "aesthetics" of this commercial use on a Commercial High Intensity zoned property, and ignoring the technical realities presented by both Verizon Wireless' expert and the City's independent expert. As one example of the improper factors considered by the Commissioners voting to deny the Application, one even suggested Verizon Wireless should have given more notice than legally required. These are not proper bases for denial.

THE PLANNING & ZONING COMMISSION ERRED IN DENYING THE APPLICATION

1. The Planning & Zoning Commission's Decision Violates 47 U.S.C. Sec. 332

47 U.S.C. § 332 states "the regulation of the placement, construction, and modification of personal wireless service facilities by any State or local government or instrumentality thereof— shall not prohibit or have the effect of prohibiting the provision of personal wireless services." If the party demonstrates a gap in coverage exists and the proposed facility is the least intrusive means to close the gap, then the government shall not deny the application. *T-Mobile Northeast, LLC v. Village of East Hills, et al.*, 779 F.Supp.2d 256 (E.D.N.Y. 2011); *Nextel W. Corp. v. Town of Edgewood*, 479 F.Supp.2d 1219 (D.N.M. 2006). Federal law mandates approval of this Application, and no factual or technical bases are present to warrant its denial.

In this case, Verizon Wireless demonstrated a gap in capacity in this area and this proposed facility is the least intrusive means to close the gap in capacity. *See Nextel, supra.*; *see*

also *Paule v. Santa Fe County Bd. of County Comm'rs*, 117 P.3d 240 (NM. 2005) (allowing tower many times in excess of height limitations when height was shown as necessary, in part to fulfill the purposes of federal law). As presented to the Commission in Verizon Wireless' application and RF study, this site is needed to offload the high usage from two existing sites. Such usage is steadily increasing and creating a capacity gap due to both the number of users and their growing use of data. Next, both the City's own independent consultant and Verizon Wireless underwent extensive technical analyses to determine this site is the best available site in the Site Ring, and thus the least intrusive means to close this capacity gap. Because they ignored such scientific analysis, along with the factual circumstances and zoning realities underlying this situation, the Commissioners voting to deny the Application committed error. This is because their unsubstantiated and arbitrary denial violates 47 U.S.C. § 332, as it effectively denies the continued provision of wireless service in this area necessary to serve the public and emergency responders.

2. Verizon Wireless' Application Complied with All Applicable Requirements

City of Las Cruces Staff made with several Findings regarding Verizon Wireless' Application. One of those specific Findings was that the Application meets all applicable legal and procedural requirements. Thus, Verizon's Application was proper and complete, met all design and setback requirements, and there is and can be no technical, legal, or procedural basis for its denial.

3. Planning & Zoning Commission Twice Ignored City Staff's Recommendations

City Staff further agreed, based on its own assessment of the Application, the area involved, and the findings of its independent consultant, that this is a proper and the best location for the proposed facility. This was also based on the recommended approval of the Application by seven (7) other affected and interested reviewing departments and agencies. Notwithstanding Staff's recommendation at two separate meetings that the Application be approved without condition, the Planning & Zoning Commission first tabled the Application for review of two additional alternatives, and then, after it was demonstrated those two alternatives were unavailable and unworkable, the Commission still rejected the Application.

4. No Justifiable Basis for Denial – Commission Decision is Contrary to Findings

The three Commissioners (again, a minority of the full membership of the Commission) who voted to deny the Application did so based solely on the “Findings and Discussion” from the hearing. This is erroneous for several reasons, and fails to meet the requirement of Code Section 38-10 K. that “Members of the Planning and Zoning Commission shall state the factual basis and findings for their vote.” It further violates 47 U.S.C. § 332 (c)(7)(B)(iii), which requires that “Any decision by a State or local government or instrumentality thereof to deny a request to place, construct, or modify personal wireless service facilities shall be in writing and supported by substantial evidence contained in a written record.” First, the only Findings made were those of City Staff, and those reflected that the Application met all requirements, the proposed location was the best possible location, and the Application should be approved without conditions. Thus, there were no Findings made that supported the denial of the Application. Further, as addressed in the next Section, nothing from the discussions at the Meeting created sufficient basis to change any of the Findings or otherwise deny the Application. Finally, the Commissioners did not consider and pointed to no components of the Comprehensive Plan or its Plan Elements that justified denial of the Application, as required by Code. This constitutes arbitrary and impermissible action. *See Nextel, supra.*

5. Commission Considered Hearsay, Speculation, and Unsupported Opinion Testimony

The Application was supported by extensive documentation, including technical reports, test results, and conclusions from both Verizon Wireless and independent experts. Those conclusions were never disputed by any witness or expert.

Instead, the opposition to the Application consisted of a group of area residents raising traditional “not in my backyard” objections to the proposed wireless facility. While Verizon Wireless understands their concerns and rights to raise them, it respectfully disagrees with their positions and with the notion that anything “discussed” at the hearing warranted denial of the Application. Indeed, after several of the speakers brought up general concerns regarding views of the Organ Mountains, Verizon Wireless took such concerns seriously and investigated them, only to find many of the views were not in the direction of the Organs, were blocked by mature trees, or were otherwise impacted by utility power line poles more than 30 feet taller than the proposed structure – but, in most cases, not by this facility. Further, given the precise location of

the proposed site, it turned out that the facility would not be between the homes of most of the opponents and the beautiful mountains to the east. Rather, it was out of the way, a relatively small part of their view plane, and not in their sight line to the Organs.

When their generalized view plane concerns were challenged and minimized, the opposition shifted their focus to raising generalized complaints about the location of the “unsightly” facility near the entrance to their neighborhood. City Staff pointed out the subject property is zoned “Commercial High Intensity”, adjacent to I-10, and currently has vacant commercial buildings on it, including a closed gas station. This zoning allows for a 60-foot building without further government approval or public input. The proposed facility, which will be masked, is a permitted use and will not degrade the corner on which it will be located.

Further, the opposition brought pictures of other facilities in different locations that were designed differently, had more users and attachments, and were much taller than the proposed facility. Those pictures did not accurately represent the proposed facility or its visual impact. In short, other than generally asserting they did not want the facility located in the proposed location based on vague aesthetic concerns, the opponents of this Application had no other concrete or supported reasoning for it not being allowed there.

At the second meeting, the opponents continued to speculate about other potential locations for this facility (which would not work, as discussed throughout this submission), as well as about how wireless technology works and related interference issues, and who else might be interested in leasing property for this facility. Such statements were not supported by specific facts, and should not be considered or determined sufficient to deny the Application. As one example, certain speakers attempted to put words in the mouth of Verizon Wireless’ technical engineer, notwithstanding he presented on the record to the Commission at its first meeting that this was needed and the best available site (as confirmed by the City’s expert), and that other alternatives being suggested would not work from a technical standpoint. The relevant pages (pp. 1-24) of the transcript of the second meeting are provided with this appeal packet as Tab 7.

6. Verizon Wireless Considered the Alternatives, And None Are Feasible

The proposed Blackhawk facility is the only feasible location for this facility. As the facility is working between and supporting two existing sites, it needs to be near the midpoint of those two sites, and placed appropriately so as to not create interference with other existing sites. These requirements eliminate most of the options in the area. Further, Verizon Wireless may

only locate on properties with certain zoning, which further substantially narrows the pool of possible locations. Finally, once Verizon Wireless inquires of owners of the few remaining property options to see if they are interested in a long-term lease for such a facility on their location, the subset is further reduced. Through this process, Verizon Wireless thus considers many properties in an area and narrows the possible alternatives.

Here, Verizon Wireless demonstrated it followed the process in good faith, and was left with very limited alternatives: the subject site, the property next to it (which is much lower and would require a much larger facility and still cause the same issues of concern to the current opposition), a parcel across Interstate 10 at NMSU (which was opposed to the idea as it already has plans for all land in the area that would work for Verizon Wireless), and two properties on San Francisco Avenue that would not work because of their zoning, lot size, and setback requirements. Given these considerations, and as it demonstrated, Verizon Wireless made an exhaustive and comprehensive search, and considered all possibilities between the affected existing sites that might work. When the natural narrowing of potential locations occurred through the above process, Verizon Wireless selected the best and least intrusive feasible option for filling a gap and improving services for users in and around the area.

7. Verizon Wireless Offered Several Concessions

Verizon Wireless' original application was for a traditional and unmasked 75-foot antenna/tower. After listening to the opposition, however, Verizon Wireless offered to further explore the two alternatives presented at the first Commission meeting, reduce the height of the tower by 10 feet, and mask this tower so that it blends in with the area. Notwithstanding such reasonable and material concessions, its Application was still denied. Based on the proceedings, it is clear there was nothing Verizon Wireless could do to obtain approval of a facility in this area, thus constituting the impermissible prohibition of Verizon Wireless from providing service in the area. *See Nextel* and *Paule, supra*.

8. The Experts Agree this is the Best Available Location

Verizon Wireless submitted its expert's report demonstrating both the RF-based need for this facility based on a capacity problem in the area, and thus a gap in service, as well as the lack of a possible co-location opportunity and the appropriateness of the site in question for this facility. Further, as required by the City's Land Development Code, Verizon Wireless covered

the cost of the City to hire an independent expert to review the situation. That expert, Engineer Greg Best from Greg Best Consulting, Inc., reviewed alternatives and determined this facility was the best and proper way to resolve the capacity issues and related coverage gap underlying this situation. *See Tab 2, Attachment #5.* Accordingly, the only expert testimony or opinions regarding this facility uniformly agreed this is the proper location for this important facility. And given the limited availability of alternatives, this is the only, and, thus, the least intrusive site that will meet the specifically-presented need.

9. This is a Crucial Site for Las Cruces

Las Cruces continues to benefit from its advantageous location and unique beauty, and has been experiencing substantial growth and development. But now, more than ever, its wireless and technological infrastructure must keep pace with the rest of the country. The affected area is one of Las Cruces' most important, as it holds not only New Mexico State University and its students, faculty, and visitors, but it contains the surrounding neighborhoods and many local residents. Further, it contains the intersection of I-10 and I-25, the two major thoroughfares bringing thousands of people through the area each day. A service gap in this area is clearly a "significant" gap, would be noticed by substantial users, and must be remedied. The proposed facility will enable adequate coverage, capacity, and services for those in the area (including the residents of the neighborhoods), and enhance services for emergency service providers who rely on communications as they serve the area. This site will help Las Cruces stay up with the times and relevant for those both here for a short visit or residing here permanently. Undoubtedly, in this location, Las Cruces should put its best foot forward and allow Verizon Wireless to invest in the community and provide its demonstrated high-quality service to all who will use and benefit from it in the area.

10. C-3 Zoning Allows for Intrusive Uses and Tall Buildings

The proposed facility is zoned C-3, Commercial High Intensity. This proposed use is certainly allowed for and contemplated within that zoning, as are many other, far more intrusive uses. In fact, the property owner could simply obtain a building permit and construct a 60-foot building on this site without even needing special approval or public input, as such a building is already a permitted use under the Code. The proposed use is a mere 5 feet taller, is expressly allowed by Code, and is submitted as a special use permit only because of its location in an area

also containing residentially zoned property (in actuality, due to a large neighboring lot, a flood plain next to the site, and a neighboring park, there are no occupied homes in close proximity to the site). As noted, substantial (and much taller) power lines already run through the neighborhood in the area of this facility, so this smaller and stealth communications facility, which will benefit and enhance services within that neighborhood, is both allowed by the zoning and will not create a major eyesore for those living in the area.

11. Denying This Application is Impermissible and Only Leads to More Dilemmas in the Future

Federal law prohibits a local government from taking action that has the effect of prohibiting wireless service. To preclude Verizon Wireless from constructing another facility in this area, which will ultimately create a gap in coverage, has such an effect and is not allowed. As demonstrated, this site is the best alternative for meeting the needs of the network for the customers who live in and travel through the Las Cruces area. Were this Application not approved, Verizon Wireless would have to try to identify a costly workaround that would not be as effective, could impair service and coverage in the area, and would likely require more facilities in the area (and thus potentially lead to new opposition from other area residents and more difficult decisions for all involved). Simply denying this Application will not end this issue, but rather, will simply create more challenges as this technology continues to become more widespread and in-demand.

CONCLUSION

For the foregoing reasons, Verizon Wireless' Special Use Permit Application should be approved.

DATED: October 6, 2015.

By:



Mark W. Williams, Esq.
Counsel for Verizon Wireless

TABLE OF CONTENTS

Verizon Wireless Appeal of Planning & Zoning Commission Denial of Special Use Application,
Case # SUP-15-10

Appendix A	Relevant Las Cruces Land Development Code Provisions and Language
Tab 1	Verizon Wireless Application with Supporting Materials
Tab 2	City Staff Report with Supporting Materials
Tab 3	City Staff Power Point Presentation from First Meeting
Tab 4	Transcript Excerpt from July 28, 2015 First Meeting
Tab 5	Verizon Wireless Renewed Application with Supporting Materials
Tab 6	City Staff Updated Power Point Presentation from Second Meeting
Tab 7	Transcript Excerpt from September 22, 2015 Second Meeting

APPENDIX A

RELEVANT CODE PROVISIONS AND LANGUAGE

C-3 Zoning – As set forth in Las Cruces Land Development Code Section 38-32 (Office, commercial, and industrial zoning districts.), B. (Commercial zoning districts.) 2. (zoning district descriptions), C-3 – Commercial High Intensity: “The C-3 District facilitates and encourages development of those uses which provide retail, service, and wholesale activities within the City and a regional market, whose use generally serves a population of over 15,000.” Land uses allowed with conditions can include, among many other possible uses, “Utility land uses (see section 38-33.J., Section 38-53, and Section 38-59) – Antenna, towers, communication structures and other vertical structures”, and Land uses allowed requiring a special use permit include the same “Utility land uses (see section 38-33.J., Section 38-53, and Section 38-59) – Antenna, towers, communication structures and other vertical structures”. The maximum building height in this zoned district is 60 feet, per Section 38-32.D., and the maximum tower/antenna height in the C-3 District is 65 feet. Verizon Wireless’ Application meets this criteria as it seeks approval of a permitted use at a permitted height.

Special Use Permits – Land Development Code Section 38-54 on Special Use Permits sets forth the process for applying for and obtaining a special use permit. Notably, Section 38-54 A.3. discusses Review and Approval Procedures, and makes clear that “Appeal of a Planning and Zoning Commission decision may be made to the City Council in accord with the provision of Section 38-13.” Further, under Section 38-54.B., Special Uses Enumerated, “The following are special uses that may be approved by the Planning and Zoning Commission in accord with the provisions and conditions of this Section. ... Subsection 38.33.J. Antennas, Towers, Communication Structures and Other Vertical Structures (All zoning districts). See Section 38.59.” As determined by City Staff, Verizon Wireless’ application was proper, and is seeking permission for a use contemplated and allowed by the Las Cruces Code.

Conditional Uses – Land Development Code Section 38-53 (Conditional Uses), regarding Section 38.33.J. (public/private utility installations, e.g., substations, water wells, transformers, regulators, lift stations, telecommunications site (all zoning districts)), notes that, when telecommunication and other sites are being approved, “[t]he site shall be developed and

maintained in conformance with the general character and appearance of the district, and such development shall include landscaping and suitable opaque screening in the form of a solid wall, fence, or compact shrubbery around the entire perimeter of the lot or tract A wall or fence may be up to ten feet high.” The facility Verizon Wireless seeks to build is also a permitted conditional use, and this Verizon Wireless site will comply with all applicable Code sections.

Telecommunications Facilities – Land Development Code Section 38-59 addresses “Antenna, towers, communication structures, and other vertical structures.” This Section provides design, construction, and setback requirements for telecommunication facilities. While favoring co-location where possible, the section allows for new facilities when evidence is presented that co-locating options are not available or commercially unreasonable, will create interference, or will not work (Section 38-59.D.). Notably, under 38-59.F., “Placement provisions – Freestanding communication structures and other vertical structures,” “Towers and Other Communication Structures” are specifically allowed in C-3 zoned districts up to 65 feet. Importantly, telecommunication facilities such as that being proposed, and even taller towers, can be allowed on commercial lots adjacent to residentially zoned properties under Section 38-59F.2.b. Finally, Section 38.59.F.6. discusses requirements for applications for special use permits for all commercial communication structures, including the submission of information about the service to be provided, a technical analysis of the need for such a facility, and the justification for its location. This Section specifically requires the applicant to pay for the City to retain a “qualified expert to review and provide written recommendation to the Planning and Zoning Commission of the technical information submitted as part of the application.” Verizon Wireless demonstrated there is no workable colocation site available, its proposed facility is designed in accordance with this Code section, and the facility is needed and meets all setback and other requirements. Further, as mandated, Verizon Wireless complied with the obligation of covering the City’s independent expert expenses.

Criteria for Planning & Zoning Commission Decisions –Land Development Code Section 38-10 (Planning And Zoning Commission.) K. Criteria for Decisions, provides “The Planning and Zoning Commission shall review each request in relation to the goals, objectives, and policies of the Comprehensive Plan, Plan Elements, other applicable plans, and the purpose and intent of this Code, ... and determine whether the request is consistent or inconsistent with the

stated criteria. Members of the Planning and Zoning Commission shall state the factual basis and the findings for their vote.” The Planning and Zoning Commission failed to meet these requirements based on their vague statements about their bases for voting to deny Verizon Wireless’ Application, and based on the lack of a valid and supportable reason to deny the Application.

City Council Appeals – Land Development Code Section 38-13 A. (Final Action.) states: “[a]fter recommendation from Community Development Staff, if applicable, and the Planning and Zoning Commission, the City Council shall take final action on the following: ... 7. Appeals of decisions of the Planning and Zoning Commission.” Verizon Wireless is appealing the Commission’s final recommended action taken denying Verizon Wireless’ Application.

1	WIRELESS APPLICATION
2	STAFF REPORT
3	CITY STAFF POWER POINT JULY 28 TH , 2015 PRESENTATION
4	TRANSCRIPT P#2 JULY 28 TH HEARING
5	RENEWED APPLICATION + SUPPORTING DOCUMENTS
6	CITY STAFF POWER POINT 9-22-15 HEARING
7	TRANSCRIPT FOR 9-22-15 HEARING
8	COPY OF APPEAL FEE CHECK

TAB 1



Verizon Wireless
126 W. Gemini Dr.
Tempe, Arizona 8528

May 4, 2015

Mr. Adam Ochoa, Senior Planner
Community Development
City of Las Cruces
Las Cruces, NM

RE: Verizon LSC BLACKHAWK (4790 Stern Drive)

Dear Mr. Ochoa:

Las Cruces has one off the highest demands for 4G LTE wireless data and we are making every effort to provide the data speed required for all of its customers. Verizon Wireless requires a site at 4790 Stern Drive to provide coverage necessary as shown in our Final Design, attached.

This newly designed site will be centered between Verizon sites: LSC KNOX, LSC TORTUGAS and LSC TELBROOK.

Currently LSC UNIVERSITY is experiencing huge demand for capacity through the campus and residences in this area. Data usage is on the rise at a much more rapid rate than our current network there can sustain. This rise is primarily due to the increased numbers of smart devices such as Android and Apple phones, laptops and tablets all supporting applications (Netflix, Social Media, web browsing) that require high speed connections.

To accommodate the entire user base in University area, we are adding several small cells and a (Distributed Antenna System) throughout the University area to handle current and future needs.

Attached RF Study:

LSC BLACKHAWK: Current LTE Coverage in the area with the LSC UNIVERISTY Site.
Areas in Blue are Excellent Coverage Green Good coverage, Pink....no indoor and OK outdoor.
Note gaps of Blue between existing Verizon sites: LSC KNOX, LSC UNIVERISTY, LSC TORTUGAS and LSC TELLBROOK.

LSC BLACKHAWK: Current LTE Coverage UNIVERSITY SITE converted to Small Cells and DAS due to excessive capacity at NMSU during games and high usage. Areas in Blue are Excellent Coverage Green Good coverage, Pink....no indoor and OK outdoor. Note gaps of Blue low coverage increase also due to the capacity demand. Between existing Verizon sites decrease substantially and areas of Pink....

LSC BLACKHAWK. Final Design with the addition of new site at 70' added along with small cell and DAS capacity at NMSU. Note: Significantly improved areas of Blue and Green to provide excellent coverage during peak times and NMSU games.

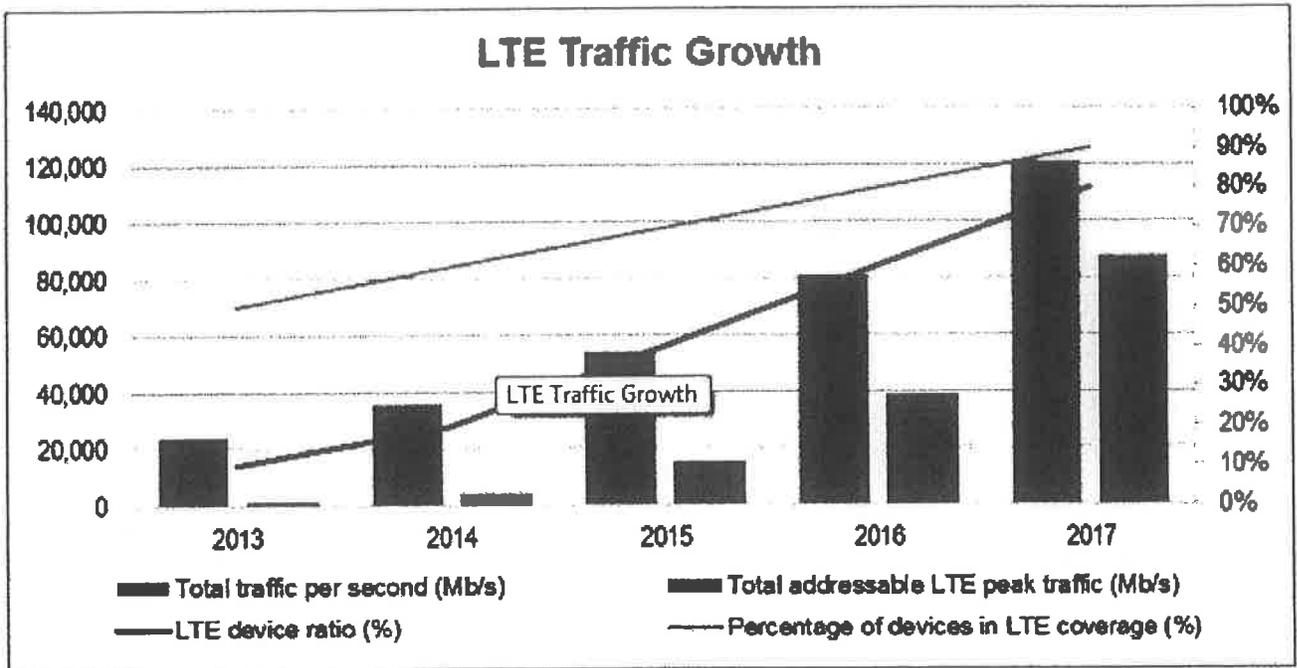
The new LSC BLACKHAWK will provide added capacity coverage to the University site as well as coverage and capacity between Verizon's existing sites shown in the final design.

Upon its initial search there were not existing structures or towers within this area that Verizon could utilize.

Traditional cellular towers were designed to provide voice and low speed data. Imagine a one lane highway, with our previous generation sites represented by a bus and our current generation sites (LTE) represented by a sports car. The bus can accommodate many passengers at the expense of the longer duration in time in reaching its destination compared to a corvette which can reach the destination in a much shorter time at the expense of only accommodating a single passenger. Voice and low data sites take much longer to run out of capacity. With more users added to the network, the speed will also get impacted exponentially. In addition to providing high speed data VZW will be offering voice service on our LTE network reducing the amount of resources available for our data services thus driving the need for solutions to maintain our marketed data speed.

In summary, the majority of new sites will be LTE high speed data sites. As more and more devices and different applications are added to the network, more and more resources are needed to support this network. Unfortunately, there are no other liable solutions other than to add more sites to handle data growth and the desired speeds.

This phenomenon is mostly due to the nature of the service and technology limitations that comes with it. Traditionally, we could support areas like a small town and connecting routes with one site. However, now we need one site in the center of the town and two or more for the supporting highways and the roads to connect the small communities to the rest of the network (see graph).



The proposed 75' painted monopole will provide Verizon with the necessary capacity to serve our customer base as well as emergency 911 users. The monopole will be designed to accommodate additional users. We respectfully ask that you grant our request our zoning approval request for this site.

Sincerely,

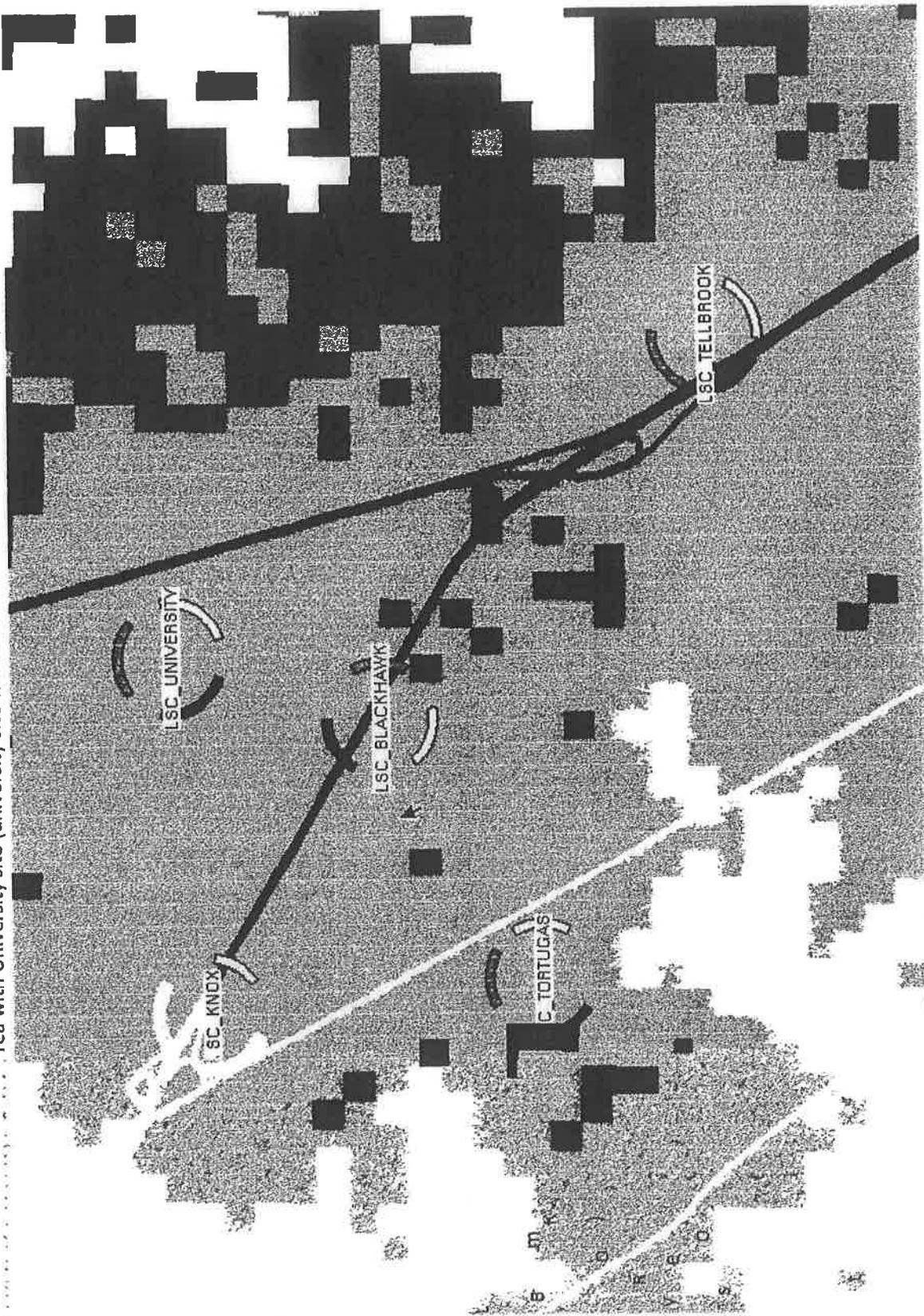
Hamdi Alaaldin, Senior RF Engineer

Verizon Wireless

Hamdi.alaaldin@verizonwireless.com

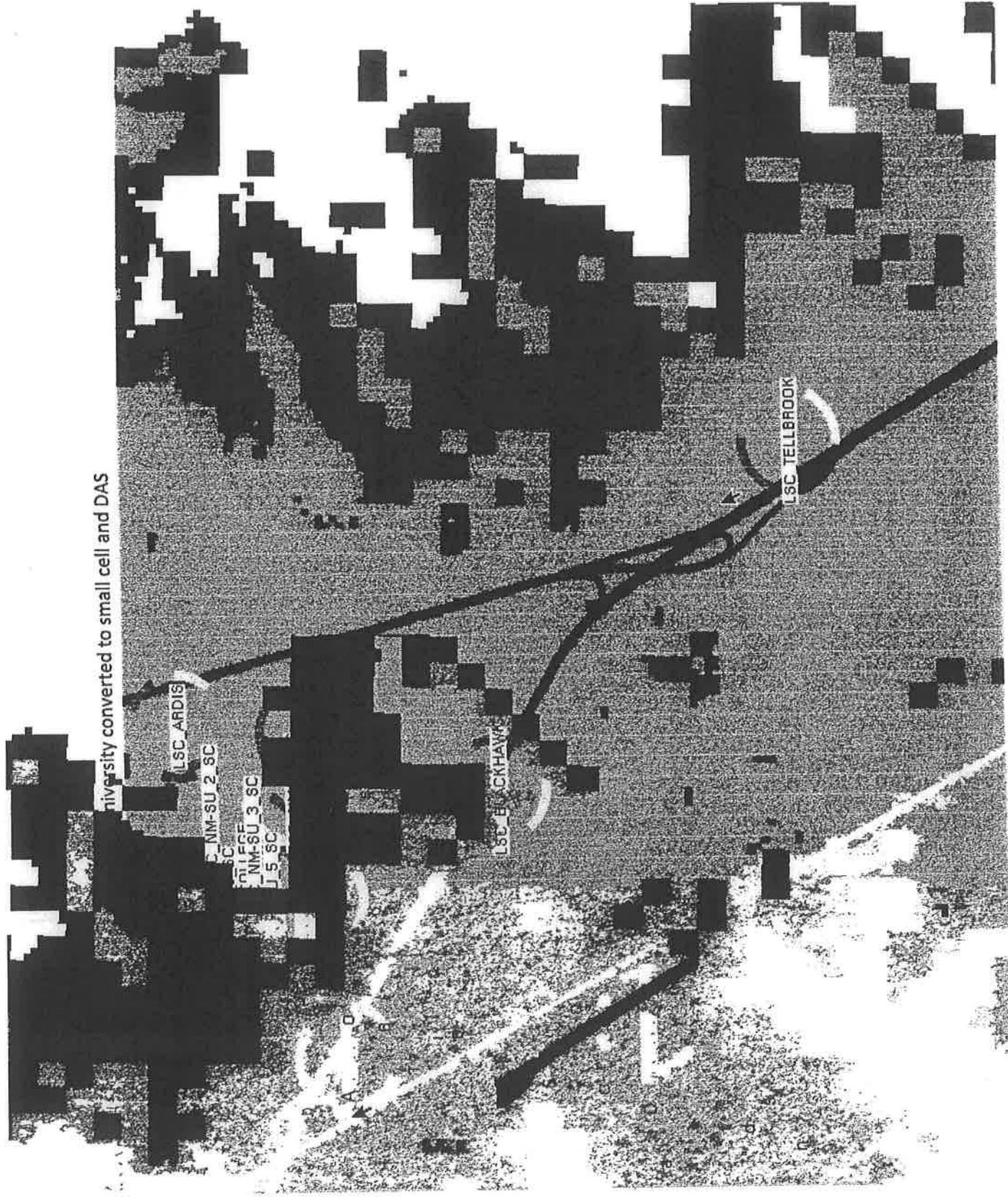
Cell 602-390-1884

Area with University site (university site will be converted to small cell and DAS system)



University site converted to Small Cell and DAS due to excessive capacity at the school during game time





iversity converted to small cell and DAS

LSC ARDIS

NM-SU 2 SC

LSC

NM-SU 3 SC

J 5 SC

LSC BLACKHAWK

LSC TELLBROOK

Coverage legend

Excellent Indoor & Outdoor

Good indoor & Outdoor

No Indoor & Ok Outdoor

Signal strength

LTE RSRP

LTE1

Clr: RSRP (dBm)

	>= -75
	>= -85
	>= -90
	>= -95

LTE RSRP

143016

TECTONIC ENGINEERING & SURVEYING CONSULTANTS, P.C.
P.O. BOX 37, 70 PLEASANT HILL ROAD
MOUNTAINVILLE, NY 10953
PHONE: (845) 534-5959



CHASE JP MORGAN CHASE BANK, N.A.
NEW YORK, NY

1-2/210

CHECK DATE

May 7, 2015

PAY Six Hundred and 00/100 Dollars

AMOUNT 600.00

TO City of Las Cruces



TRUE WATERMARK PAPER - HOLD TO LIGHT TO VIEW

PAPER CONTAINS TONER ADHESION PROPERTIES

HEAT SENSITIVE RED IMAGE DISAPPEARS WITH HEAT

⑈ 143016 ⑈ ⑆021000021⑆

6801970107⑈

TECTONIC ENGINEERING & SURVEYING CONSULTANTS, P.C.

143016

Check Date: 5/7/2015

Invoice Number	Date	Voucher	Amount	Discounts	Previous Pay	Net Amount
6022.BLACKHAWK	5/4/2015	0175963	600.00			600.00
City of Las Cruces		TOTAL	600.00			600.00
Cash Checking - JP Morgan 9 Chase		CITY OF LAS CRUCES				



Verizon Wireless
126 W. Gemini Dr.
Tempe, Arizona 8528

May 12, 2015

Mr. Adam Ochoa, Senior Planner
Community Development
City of Las Cruces
Las Cruces, NM

RE: Verizon LSC BLACKHAWK (4790 Stern Drive)

Dear Mr. Ochoa:

As per our previous emails and conversations regarding Verizon's new telecom facility to be located at 4790 Stern Drive.

The Site plan, page Z-1 shows the required setbacks, driveway access and parking stall. We will also plant trees on the SW side of the walled area to add a buffer to the R zone to the South. Currently there is only one residence adjacent to this property.

The walled area surrounding Verizon's equipment will be painted a desert tan/earth tone color as well as the monopole.

We have placed the tower in the proposed location to meet the required setbacks. The landlord has requested this location as to not impede on any future expansion of the existing structure to the rear.

We understand that our 75' request will be part of a Special User Permit. The tower height is needed to provide coverage as per the attached RF study. The monopole will be also capable of holding additional carriers in the future.

This new telecom facility is necessary to provide capacity coverage for existing sites: LSC TORTUGAS, LSC KNOX, LSC UNIVERISTY and LSC TELLBROOK. See RF Study, attached.

Also attached is the Special Use Application as well as the required Supplemental Application Form for Antenna, Towers, & Communication Structures. Photo-Simulations and fee for the SUP. After you have looked this over, Adam please let me know if you need any clarification or additional information.

Sincerely,

A handwritten signature in black ink that reads "Les F. Gutierrez". The signature is written in a cursive style with a long, sweeping underline.

Les F. Gutierrez, Senior Site Acquisition Specialist, Agents for

Verizon Wireless

**AFFIDAVIT
PLANNING AND ZONING COMMISSION**

COMES NOW the undersigned and states under oath as follows:

1. That the undersigned an applicant for a zone change, initial zoning, Zoning Code amendment, Special Use Permit, Planned Unit Development, Subdivision or site plan approval.
2. That in connection with said application, the undersigned has submitted various information, including but not limited to, a legal description of the property.
3. That information submitted is true and accurate as of the date of signing of this

Affidavit.

~~ATE ENTERPRISES, INC~~ EDWARD HAYES
 ✓ Edward J. Hayes
 Name (Print)
 ✓ *Edward J. Hayes*
 Signature

STATE OF NEW MEXICO)
)
 COUNTY OF DONA ANA) ss

The foregoing instrument was acknowledged before me this 12th day of May

✓ 2015, by Mary L. Gonzales

Mary L. Gonzales
 NOTARY PUBLIC

My Commission Expires:

10-25-15



SIGNATURE(S): By signing the application, you hereby acknowledge that **ALL** the information submitted on and with this application is true and correct to the best of your knowledge. No application will be accepted without the original signature of the owner(s) of record of the described property. If more than one owner, **ALL** owners must sign the application.

Owner(s):

Would the property owner like to receive a copy of all correspondence sent to the applicant?

Property Owner Please Initial: Yes E/H No _____

A+E ENTERPRISES, EDWARD HAYES ✓ Edward Hayes Date 5/11/15

Property Owner 1

_____ Date _____

Property Owner 2

_____ Date _____

Applicant/Representatives(s), if different from owner:

NOTE: The Owner, Applicant or legal representative must attend all public hearings.

ADDITIONAL APPLICANTS / CONTACT PERSONS, if different from owner:

Property Owner 1:

Name: _____ Title/Company: _____
Address: _____ City _____ State _____ Zip _____
Phone-Home () _____ Work() _____ Mobile() _____ Fax() _____

Property Owner 2:

Name: _____ Title/Company: _____
Address: _____ City _____ State _____ Zip _____
Phone-Home () _____ Work() _____ Mobile() _____ Fax() _____

Applicant/Representative:

✓ Name: LES BUTTERFLY Title/Company: Verizon Wireless / TECTONIC ENGINEERS
Address: 3150 CARLISLE BLVD NE #106 City ALBUQUERQUE State NM Zip 87110
Phone-Home () _____ Work() _____ Mobile (505) 244-7195 Fax (505) 630-6025

*****STAFF USE ONLY*****

Accepted by:		Fee Paid:	\$	Date Fee Paid	
Receipt No.	#	Check Number	#	Case Number	
Submittal Date		Submittal Complete		Assigned to:	

**CITY OF LAS CRUCES
SUPPLEMENTAL APPLICATION FORM FOR ANTENNA, TOWERS,
COMMUNICATION STRUCTURES, AND OTHER VERTICAL
STRUCTURES**

The City of Las Cruces recognizes that the provision of antenna, towers, communication structures, and other vertical structures and their services are highly technical enterprises subject to various federal, state, and local regulations. This supplemental application form is designed to elicit necessary and required technical information in support of a Special Use Permit ("SUP"), building permit for a Conditional Use, or Variance application for a new or modified wireless telecommunications site project or other communication structures within the City of Las Cruces.

Completion of this supplemental application is a mandatory document for a wireless and communication structures or towers. This form assists the City of Las Cruces to comply with its duties under its 2001 Zoning Code § 38-59, et seq.; Sections 253 and 332 of the Communications Act of 1934 as amended; the FCC Shot Clock Order (FCC 09-99); and other local, state, and federal laws, regulations, and court rulings. The City of Las Cruces requires that the applicant provide this information to assist it in creating a written administrative record containing substantial evidence sufficient to permit the City of Las Cruces' informed consideration of your request, and to determine the duties, rights and obligations of the City of Las Cruces and the applicant/owner of the proposed project.

No application for a new wireless site or for a modification of an existing wireless site shall be considered for determination of completeness until all required responses to this supplemental application form and required Exhibits are completed and tendered to the City of Las Cruces.

If you do not believe that a specific item of information is necessary or applies to your application, mark the item on this form with the words, "Not Applicable" and attach a detailed written explanation as to the basis for your belief (e.g., "Question 94.7 does not apply to this application because the proposed Project has no microwave transmission element.") An unsupported statement such as "Question 94.7 does not apply" is insufficient, and the determination of completeness of your application will be delayed while you provide a meaningful and detailed explanation.

Every page of this form including this page and the last page must be tendered to the City of Las Cruces. Each page including this page and the last page must be initialed where indicated. The last page must also be completed, signed, and dated.

Questions about this form or the information required by this form should be directed to the City of Las Cruces's Director of Community Development.

1.00: **Project Location and Applicant Information**

1.01: Project Physical Address (if any): 4790_Stern Drive

1.02: Project Site Number (if any): LSC_BLACKHAWK

1.03: Assessor's Parcel Number: 02-22899

1.04: Legal Name of Applicant (Wireless Carrier or DAS Firm, referred to in this form as the "Project Owner"): Verizon Wireless

1.05: Project Owner is: Verizon Wireless

1.06: Applicant's Representative is: Name: Les Gutierrez
Title: Senior Site Acquisition Manager
Firm Name: Tectonic Engineering
Address 1: 3150 Carlisle Blvd NE # 108
Address 2:
City: Albuquerque State:
NM Zip: 87110
Main Tel: Ext:
Direct Tel: 505-288-7195
Work Fax:
Mobile Tel:
Email Address:
LGutierrez@Tectonicengineering.com
Website: TectonicEngineering.com

1.07 Provide the City of Las Cruces Business License number for the Applicant or Applicant's firm listed in 1.06: N/A

2.00: **Project Owner Information Information**

2.01: Attach a letter of agency appointing the Applicant's Representative as the agent for the Project Owner in connection with this application. Designate the letter of agency as "Exhibit 2.01."

Initial here X to indicate that Exhibit 2.01 is attached hereto.

2.02: Attach a letter of agency appointing the Applicant's Representative as the agent for the underlying Property Owner in connection with this application. Designate the letter of agency as "Exhibit 2.02."

Initial here X to indicate that Exhibit 2.02 is attached hereto.

3.00: FCC License / FAA Compliance / RF Safety Disclosure Information

3.01: For each person/legal entity that will be using the project site, provide the information in Sections 3 and 4. If more than one person/legal entity, provide separate information for each person/legal entity using the project site.

Note to Distributed Antenna System (DAS) provider applicants named in 1.04: Unless the DAS provider is the FCC licensee for the proposed project, or the non-licensee to be transmitted from the site for its own purposes, the information provided in response to Sections 3 and 4 must be provided by every individual wireless licensee or non-licensee to be transmitted via the project identified in Section 1 of this form. That information must be provided on the letterhead of each entity. Each such response must also be signed by an authorized person, and that person's printed name and title, address and telephone number must be shown on the letter. DAS provider-provided responses to Section 4 are unacceptable, and will result in your application being determined to be incomplete.

3.02: For questions 3.03 through 3.09 inclusive, disclose all information for each proposed Radio Frequency signal emitter ("RF Emitter") at the project site.

3.03: Name of RF Emitter: B Band Cellular / PCS C4 / LTE 700

3.04: Mhz/ LTE AWS

3.05: RX 835-849 / 1900-1905 / 776-787 / 1720-1730.

3.06: RF Emitter's Address Line 1: 480-752-7245 / Cell 602-390-

3.07: 1884

3.08: RF Emitter's Address Line 2: 126 Gemini, Tempe AZ 85283

3.09: RF Emitter's Phone number: 602-390-1884

RF Emitter's Fax number:

RF Emitter's Contact Email address:

Use of facility: (Check all that apply)

3.10: Notice: Applicants not operating under their own FCC license(s)

- Amateur Radio
- Broadcast Radio
- Broadcast TV
- Cellular telephone
- Enhanced Specialized Mobile Radio
- Microwave
- PCS telephone
- Paging
- SMR/ESMR
- WiMax/WIFI
- Other(s) (specify): LTE 700 Mhz and LTE AWS

Formatted: Indent: Left: 0", Widow/Orphan control, Adjust space between Latin and Asian text, Adjust space between Asian text and numbers

3.11: must mark "Other" and disclose of all information required here for all entities that use the project.

3.12:

3.13: Project latitude and longitude:

32-16-06.1 N

106-44-43.7 W

3.14:

Specify DATUM used above: X
NAD 83

Project maximum height (ft AGL): 75'

Bottom of lowest transmitting antenna (ft AGL): MW TBD

RF Emissions ("Rad") center of the lowest transmitting antenna (ft AGL): MW TBD

3.15: For each licensee (i.e., "ABC Wireless" or "XYZ Wireless"), **and** for each radio service (i.e., "PCS" or "Cellular"), complete and attach a separate two page "Appendix A" form from "A Local Government Official's Guide to Transmitting Antenna RF Emission Safety: Rules, Procedures, and Practical Guidance" available by download directly from the FCC at <http://www.fcc.gov/oet/rfsafety/> (the "Appendix A Form"). Ensure that all proposed emissions from this project are accounted for on the Appendix A Forms you submit.

Distributed Antenna System (DAS) providers and all other who are not licensed by the FCC for the radio services proposed for this project and identified in 3.09: Unless the DAS provider is the FCC licensee for the proposed project or the emissions from the site are solely for the DAS provider's own transmissions, the DAS provider must provide an Appendix A form completed by each wireless carrier or wireless service provider to be transmitted through the Project at each wireless site. Appendix A Forms completed by a DAS provider are unacceptable if they are not the FCC licensee for the particular wireless service(s) to be transmitted through the project.

Designate all completed Appendix A Forms as "Exhibit 3.15."

For collocation projects: In addition to the Appendix A Form(s) which you must

submit in connection with the project identified in this application, you must also submit an Appendix A Form for each collocated RF emitter. Designate any additional RF safety compliance information as "Exhibit 3.15-A."

For consistency, all Appendix A forms submitted must use effective radiated power (ERP) units of measure. Do not use effective isotropic radiated power (EIRP). To verify your understanding of this requirement, you must append the letters "ERP" following each wattage listing in each Appendix A form you submit.

Initial here X to indicate that all required Exhibit 3.15 and 3.15-A forms are attached hereto.

- 3.16 Considering your response in Exhibit 3.15, above, and any other identifiable RF emitters that FCC OET Bulletin 65 requires be evaluated in connection with this Project, are all portions of this Project cumulatively "categorically excluded" under FCC OET 65 requirements? X Yes No
- 3.17: Does the project design or location require the Applicant to file an FAA Form 7460 or other documentation under Federal Aviation Regulation Part 77.13 et seq, or under the FCC rules? X Yes No
- 3.18: If the answer to 3.17 is NO proceed to 4.00.
- 3.19: Attach complete copies of all required FAA/FCC forms including all Exhibits and exhibits thereto, including without limitation FAA Form 7460. Designate this Exhibit, "Exhibit 3.17."

Initial here to indicate that Exhibit 3.17 is attached hereto.

4.00: Project Purpose

- 4.01: Indicate the dominant purpose of the Project (check one or more, then proceed as directed):
 - Add network capacity without adding significant new RF coverage area; Proceed to 4.03.
 - X Provide significant new radio frequency coverage in an area not already served by radio frequency coverage; Proceed to 4.03.
 - X Increase the existing RF signal level in an area with existing radio frequency coverage; Proceed to 4.03.
 - Other; Proceed to 4.02.
- 4.02 Attach a written statement fully and expansively describing all portions or elements

of the "Other" dominant purpose of this Project. Designate this Exhibit, "Exhibit 4.02."

Initial here N/A to indicate that Exhibit 4.02 is attached hereto.

4.03 Is this project intended to close or reduce what the applicant asserts to be a "significant gap" in its network? Yes No

4.04 If the answer to 4.03 is NO proceed to 4.09.

- 4.05 Attach a written statement fully and expansively describing the following:
- a. A clear description of the geographic boundary of the claimed significant gap area, and
 - b. Attach a street-level map showing the geographic boundary of the claimed significant gap stated in 4.05(a) using the same standards as in 6.02; and
 - c. Identify the size of the area, in units of square miles, of the claimed significant gap; and
 - d. Explain exactly the definition of the term "significant gap" as it applies to this project;
 - e. Explain exactly how the definition of significant gap term defined in 4.05(d) was developed, and identify who developed that definition, and when the definition was developed;
 - f. Discuss whether the significant gap term defined in 4.05(d) is identical to that term as used by some or all wireless carriers in the City of Las Cruces and/or the wireless industry as a whole, or whether that information is unknown;
 - g. Specify whether the definition of "significant gap" provided in 4.05(d) is the same definition used in by this applicant and owner in all of its prior projects submitted to the City of Las Cruces, and if not, explain all differences and the reasons for the differences.
 - h. Discuss in detail all of the following in relation to the claimed significant gap area only. Where you have relied on external data sources, indentify those sources in detail your response.
 1. Whether claimed significant gap affects significant commuter highway or railway, and if so, name each highway or railway, and how affected;
 2. Describe in detail the nature and character of that area or the number of potential users in that area who may be affected by the claimed significant gap;
 3. Describe whether the proposed facilities are needed to improve weak signals or to fill a complete void in coverage, and provide proof of either;
 4. If the claimed significant gap covers well traveled roads on which customers lack roaming capabilities, identify all such well traveled roads by name within the claimed significant gap area and provide road use information about each such road;
 5. If any "drive test" has been conducted within the claimed significant gap area, discuss in detail the methodology of how the test(s) was conducted, including details about the test equipment model numbers and location of the test equipment and antennas in or on the test vehicle, and provide all of the objective data collected during the drive test in .XLS or .CSV or similar portable spreadsheet format;
 6. If the claimed significant gap affects a commercial district, show the boundaries of the district on the map
 7. If the claimed significant gap poses a public safety risk, describe in detail the claimed risk, and the expansively discuss the basis for this claim.
 - i. If the claimed significant gap is based in whole or in part on factors regarding any factor related to switching center capacity; dropped calls; failed hand-offs;

interference from or to other cell sites; pilot channels; site hopping; degraded RXQUAL; degraded Ec/Io; and/or any failure to meet any carrier transmission goal or percentage goal, attach at least the most recent twelve months of historical data by month documenting at least (1) the results or numerical data of each claimed parameter; (2) the wireless carrier's numerical and percentage requirements for each such claimed perimeter; (3) the total number of calls attempted for each month both successfully and unsuccessfully completed; (4) the total number of calls that were not completed including failed originations; failed hand-offs; and non-normal call terminations; and (5) for every such claimed parameter that is not categorized by way of number or percentage, provide the data in the way kept by the carrier.

- j. Provide all other relevant information you want the City of Las Cruces to consider when evaluating your claim of a significant gap.

Designate this Exhibit, "Exhibit 4.05." Initial here N/A to indicate that Exhibit 4.05 is attached hereto.

- 4.06 Is the proposed project the least intrusive means to close the significant gap claimed and described in 4.05? ___ Yes ___ No N/A
- 4.07 If the answer to 4.06 is NO proceed to 4.09.
- 4.08 Attach a written statement fully and expansively describing at a minimum:
- a. Why this project is the least intrusive means to close the significant gap claimed and described in 4.05.
 - b. Identify and discuss all alternative sites and means considered to close the significant gap claimed and described in 4.05.
 - c. Whether two or more sites in lieu of the site proposed in Section 1 could close the significant gap claimed and described in 4.05, or to reduce the significant gap to be less than significant, with less impact on the community as compared with a single site? If the answer is no, please explain in narrative format the basis for that answer.
 - d. Whether the City of Las Cruces requiring two or more sites in place of the site proposed in Section 1 would prohibit or have the effect of prohibiting the applicant from providing any interstate or intrastate telecommunications service. If the response asserts that a prohibition or effective prohibition would occur, explain in detail in narrative form all of the reasons why it would
 - e. Include and attach all information whatsoever you relied on in reaching your affirmative determination in 4.06.
 - f. Include any other information you believe would assist the City of Las Cruces

make findings regarding whether the proposed project is the least intrusive means of closing the significant gap claimed and described in 4.05, or to reduce the significant gap to be less than significant.

Designate this Exhibit, "Exhibit 4.08."

Initial here N/A to indicate that Exhibit 4.08 is attached hereto. Proceed to 4.09

4.09 If any portion of the project is to utilize radio spectrum that does not require an FCC license, identify in detail the portions of the project that used unlicensed spectrum.

Designate this Exhibit, "Exhibit 4.09."

Initial here N/A to indicate that Exhibit 4.09 is attached hereto.

4.10 Is this project designed to use any form of direct site-to-site radio interconnection (i.e., microwave or donor/donee configuration, for example) with another existing or currently planned site? Yes No

4.11: If the answer to 4.10 is NO proceed to 5.00.

4.12: Attach a detailed written statement fully and expansively describing the radio interconnection proposed, and identify all other existing or planned sites that will be interconnected with this project. Designate this Exhibit, "Exhibit 4.10."

Initial here N/A to indicate that Exhibit 4.10 is attached hereto.

5.00: **Build-Out Requirements**

5.01: Do any of radio services identified in 3.09 above require the licensee to provide specific radio frequency/population build-out coverage pursuant to the underlying FCC license? Yes No

5.02: If the answer to 5.01 is NO proceed to 6.00.

5.03: Have all of the FCC build-out requirements as required by all licenses covering all radio services proposed at this Project been met? Yes No

5.04: If the answer to 5.03 is YES proceed to 6.00.

5.05: Disclose by licensee call sign identified in Section 3.02 all build-out requirements/obligations which have yet to be met, and the known or estimated date when the remaining build-out requirements will be met. Designate this Exhibit "Exhibit 5.05."

Initial here N/A to indicate that Exhibit 5.05 is attached hereto.

- 5.06 Will this proposed site be interconnected via radio frequency transmissions to any other site or sites now constructed, proposed, or anticipated? For the purpose of this question, interconnection includes one or more radio frequency links to provide for 'back-haul' from this site to a switching center or centralized node location.
 Yes No N/A

5.07: If the answer to 5.06 is NO proceed to 6.00.

- 5.08 Identify by physical address (or if none, by geographic description) all other sites, regardless of whether now constructed, proposed, or anticipated, that are to be interconnected with this project site. Disclose in technical detail the proposed method of interconnection. Designate this Exhibit "Exhibit 5.08."

Initial here N/A to indicate that Exhibit 5.08 is attached hereto.

6.00: Radio Frequency Coverage Maps

- 6.01: Where a licensee intends to provide radio frequency coverage from the project to an identified geographic coverage, the coverage maps and information requested in Section 6 are required Exhibits.

Distributed Antenna System (DAS) providers and all others who are not the RF emitters for the radio services proposed for this project and identified in 3.09: You must provide radio frequency coverage maps prepared by the FCC licensee(s) that will control the RF emissions from this project. Radio frequency coverage maps required here that are completed by a DAS provider are unacceptable if they are not the FCC licensee or in full control of the RF emitter for the particular wireless service transmitted through the project.

If no geographic coverage area is identified, initial here N/A and proceed to 7.00.

- 6.02 For the coverage maps required here, the following mandatory requirements apply. Failure to adhere to these requirements may delay your application's determination of completeness.
- a. The size of each submitted map must be no smaller than 11" by 8.5." Each map must be of the same physical size and map area scale. Each map must use the same base map (i.e., same streets and legends shown on all).
 - b. If the FCC rules for any proposed radio service defines a minimum radio frequency signal level that level must be shown on the map in a color easily distinguishable from the base paper or transparency layer, and adequately identified by RF level and map color or gradient in the map legend. If no minimum signal level is defined by the FCC rules you must indicate that in the legend of each RF coverage map. You may show other RF signal level(s) on the

map so long as they are adequately identified by objective RF level and map color or gradient in the map legend.

- 6.03: Provide a map consistent with the requirements of 6.02 showing the existing RF coverage within the City of Las Cruces on the Applicant's same network, if any (if no existing coverage, so state). This map should not depict any RF coverage to be provided by the Project. Designate this Exhibit "Exhibit 6.03."

Initial here N/A to indicate that Exhibit 6.03 is attached hereto.

- 6.04: Provide a map consistent with the requirements of 6.02 showing the RF coverage to be provided only by the Project. This map should not depict any RF coverage provided any other existing or proposed wireless sites. Designate this Exhibit "Exhibit 6.04."

Initial here N/A to indicate that Exhibit 6.04 is attached hereto.

- 6.05: Provide a map consistent with the requirements of 6.02 showing the RF coverage to be provided by the Project and by all other existing wireless sites on the same network should the Project site be activated. Designate this Exhibit "Exhibit 6.05."

Initial here N/A to indicate that Exhibit 6.05 is attached hereto.

7.00: Project Photographs and Photo Simulations

- 7.01: The Applicant shall submit photo simulations consistent with the following standards:

1. Minimum size of each base photo and each photo simulation must be 10 inches by 8 inches (landscape orientation). Each base photo and matching photo simulation must be the same size. Single sheets of 11 x 8 1/2 inches showing base photos and photo simulations on the same page are unacceptable.
2. All elements of the Project as proposed by the Applicant which can be seen from any point at ground level, or from any level within or on buildings within 500 feet of the Project must be shown in one or more close-in photo simulations (i.e., panel antennas, omni-directional antennas, GPS antennas, antenna camouflage devices, cable trays; equipment cabinets; working lights; etc.).
3. The overall Project as proposed by the Applicant must be shown in three or more area photo simulations. Base photographs must, at a minimum, be taken from widely scattered positions of 120 degrees. A map detail showing each location where a photograph was taken, the proposed site, and the direction to the site from each photo location must be included. Base photographs taken from locations that have some physical feature obscuring the Project site, and the photo simulations associated with those same base photographs, are not acceptable.

Attach all base photographs and photo simulations to this application marked as Exhibit 7.01.

The purpose of the photo simulations is to allow the City of Las Cruces to visualize the Project as completed, therefore the number of site photos, and photo simulations, and the actual or simulated camera location of these photos and photo simulations are subject to City of Las Cruces determination. The Applicant should submit photos and photo simulations consistent with these instructions, and be prepared to provide additional photos and photo simulations should they be requested by the City of Las Cruces.

The Applicant certifies by initialing in the space at the end of this paragraph that that all of the photos and photo simulations provided for Exhibit 7.01 are accurate and reliable photographic representations of the current project site and the proposed project to be constructed or modified, and that the Applicant is fully aware that the City of Las Cruces will rely on all of the photos and photo simulations provided in Exhibit 7.01 when it considers approval of this Project, and later when determining project completion.

Applicant's initials: X___ (If not initialed, this application may be deemed incomplete by the City of Las Cruces.)

8.00: **Alternative Candidate Sites**

8.01: Amateur radio applicants proceed to 9.00.

8.02: Has the Applicant or Owner or anyone working on behalf of the Applicant or Owner secured or attempted to secure any leases or lease-options or similar formal or informal agreements in connection with this Project for any sites other than the proposed project site? ___ Yes X No

8.03: If the answer to 8.02 is NO proceed to 8.05.

8.04: Provide the physical address of each such other location, and provide an expansive technical explanation as to why each such other site was disfavored over the Project Site. Designate this Exhibit "Exhibit 8.04."

Initial here N/A to indicate that Exhibit 8.04 is attached hereto.

8.05: Considering this proposed site, is it the one and only one location within or outside of the City of Las Cruces that can possibly meet the objectives of the Project? ___ Yes X No

8.06: If the answer to 8.05 is NO, proceed to 9.00.

8.07: Provide a technically expansive and detailed explanation supported as required by comprehensive radio frequency data and all other necessary information fully describing

why the proposed site is the one is it the one and only one location within or outside of the City of Las Cruces that can possibly meet the radio frequency objectives of the Project. Explain, in exact and expansive technical detail all of the objectives of this Project that can be achieved only at this project site, and why.

Designate this Exhibit "Exhibit 8.07."

Initial here N/A to indicate that Exhibit 8.07 is attached hereto.

9.00: Identification of Key Persons

9.01: Identify by name, title, company affiliation, work address, telephone number and extension, and email address the key person or persons most knowledgeable regarding this Project so that the City of Las Cruces may contact them with questions regarding the Project:

9.02 Person responsible for the final site selection for the Project;
Name: Hamdi Alaaldin & Jeff DeWalt
Title: Sr. RF Engineer/ Sr. Construction Mgr.
Company Affiliation: Verizon Wireless
Work Address: 126 West Gemini Drive, Tempe AZ 85281
Telephone / Ext.: 480-752-7245 /505-250-0004
Email Address: Hamdi.Alaaldin@Verizonwireless.com
Jeff.DeWalt@Verizonwireless.com

9.03 Person responsible for the radio frequency engineering of the Project;
Name: Hamdi Alaaldin
Title: Sr. RF Engineer
Company Affiliation: Verizon Wireless
Work Address: 126 West Gemini Drive, Tempe AZ 85281
Telephone / Ext.: 480-752-7245
Email Address: Hamdi.Alaaldin@Verizonwireless.com

9.04 Person responsible for rejection of other candidate sites evaluated, if any;
Name: Hamdi Alaaldin & Jeff DeWalt
Title: Sr. RF Engineer/ Sr. Construction Mgr
Company Affiliation: Verizon Wireless
Work Address: 126 West Gemini Drive, Tempe AZ 85281
Telephone / Ext.: 480-752-7245 /505-250-0004
Email Address: Hamdi.Alaaldin@Verizonwireless.com
Jeff.DeWalt@Verizonwireless.com

9.05 If more than one key person is now or was involved in any of the functions identified in this section at or before the time of the submission of this form, attach a separate sheet providing the same information for each additional person, and identifying which

DEVELOPMENT STATEMENT for City Subdivision/Zoning Applications

Please note: The following information is provided by the applicant for information purposes only. The applicant is not bound to the details contained in the development statement, nor is the City responsible for requiring the applicant to abide by the statement. The Planning and Zoning Commission may condition approval of the proposal at a public hearing where the public will be provided an opportunity to comment.

Applicant Information

Name of Applicant: VERIZON Wireless / TECTONIC ENGINEERS
 Contact Person: Les. F. Gutierrez
 Contact Phone Number: 505-288-7195
 Contact e-mail Address: LGUTIERVZ@TECTONICEENGINEERS.COM.
 Web site address (if applicable): N/A

Proposal Information

Name of Proposal: VERIZON NEW TELCOM FACILITY @ 4790 STERN DRIVE (LSC. BLACKHAWK)

Type of Proposal (single-family subdivision, townhouse, apartments, commercial/industrial)
NEW TELECOM FACILITY

Location of Subject Property 4790 STERN DRIVE, LAS CRUCES, NM.

(In addition to description, attach map. Map must be at least 8 1/2" x 11" in size and clearly show the relation of the subject property to the surrounding area)

Acreage of Subject Property: 1.552 ACRES.

Detailed description of current use of property. Include type and number of buildings:

SERVICE STATION / CONVENIENCE STORE - SELF STORAGE.

Detailed description of intended use of property. (Use separate sheet if necessary):

INSTALL A NEW TELECOM FACILITY ON AN EXISTING C1 LOT.

Zoning of Subject Property: C1 ← C3 Zoning by LFG

Proposed Zoning (If applicable): C1 ← C3 Zoning by LFG

Proposed number of lots N/A, to be developed in N/A phase (s).

Proposed square footage range of homes to be built from N/A to N/A

Proposed square footage and height of structures to be built (if applicable):

1,050 SQUARE FEET + A 75' MONO POLE

Anticipated hours of operation (if proposal involves non-residential uses):

A TELSON FACTORY IS A 24 hr. OPERATION

Anticipated traffic generation 1 trips per day MONTH

Anticipated development schedule: work will commence on or about 6 MONTHS FROM ^{R.P.} APPROVAL and will take 30 DAYS to complete.

How will stormwater runoff be addressed (on-lot ponding, detention facility, etc.)?

NA

Will any special landscaping, architectural or site design features be implemented into the proposal (for example, rock walls, landscaped medians or entryways, entrance signage, architectural themes, decorative lighting)? If so, please describe and attach rendering (rendering optional).

TUNNELS EXIST WILL BE CONCEALED BY A DESERT COLORED ROCK WALL, THE TUNNELS WILL BE PAINTED DESERT TAN. TREES WILL BE PLANTED ALONG THE SOUTH WALL TO HELP BUFFER.

Is the developer/owner proposing the construction of any new bus stops or bus shelters? Yes ___ No X Explain: NA

Is there existing landscaping on the property? DESERT LANDSCAPING SOME TREES.

Are there existing buffers on the property? BLDG, TREES.

Is there existing parking on the property? Yes ✓ No ___

If yes, is it paved? Yes ✓ No ___

How many spaces? NOT MARKED How many accessible? ___

Attachments

Please attach the following: (* indicates optional item)

Location map ✓

Subdivision Plat (If applicable) ✓

Proposed building elevations ✓

*renderings of architectural or site design features ✓

*other pertinent information (TUNNEL DESIGN) ✓

Statement of Hardship for Variance Requests

If you are applying for any variances, please provide a brief explanation as to whether or not your request lends support to the following questions. If you have no variance requests, please disregard this form.

1. Is there a physical hardship relative to the property (i.e. topographic constrains or right-of-way takes resulting reduced development flexibility, etc.) in question?

VERIZON IS REQUESTING AN INCREASE OF 10' (CODE ALLOWS 65'). TO ALLOW FOR MUCH BETTER COVERAGE OF THE TOWER EXISTING RESIDENCES, SURROUNDING BY RECAV THESE AS WELL AS INCREASED COVERAGE TO INTRASTATE TRAFFIC + AREAS NEAR NMSCU.

2. Is there a potential for spurring economic development at a neighborhood or city-wide level if requested allowances are granted?

Cell Service to include voice / data + internet is now almost like a utility. Most homes have dropped their home phone connection so they depend on excellent cell phone coverage to provide voice + data.

EQII, BUSINESSES + NMSCU STUDENTS Rely on Verizon's Network

3. Are there monetary considerations not as a whole, but relative to options available to meet the applicant's stated objectives when such options cause considerable monetary hardship under strict application of code provisions?

~~THE~~ VERIZON'S TELECOM SYSTEM IS A NETWORK OF MULTIPLE CELL SITES. A GAP IN SERVICE FOR COVERAGE OR CAPACITY, MEANS VERIZON'S CUSTOMERS CAN'T RECEIVE OR SEND DATA OR VOICE IN A GIVEN AREA. THIS CREATES A HARD SHIP FOR HOME OWNERS, BUSINESSES EQII PROVIDERS + ALL CELL USERS ON THE VERIZON NETWORK.



Planning & Zoning
Commission
Staff Report

Meeting Date: July 28, 2015
Drafted by: Adam Ochoa, Planner/b

CASE # SUP-15-01 **PROJECT NAME:** 4790 Stern Drive
(New Wireless Communication Structure Special Use Permit)

APPLICANT/ REPRESENTATIVE: Verizon Wireless/ Tectonic Engineering **PROPERTY OWNER:** A & E Enterprises, Inc.

LOCATION: The southwest corner of Stern Drive & Agave Drive **COUNCIL DISTRICT:** 2 (Councillor Smith)

SIZE: 1.552 ± acres **EXISTING ZONING/ OVERLAY:** C-3 (Commercial High Intensity)

REQUEST/ APPLICATION TYPE: Special Use Permit (SUP) application to allow the construction of a new wireless communication facility

EXISTING USE: Commercial property with vacant commercial buildings

PROPOSED USE: Commercial property with vacant commercial buildings and a new wireless communication facility

STAFF RECOMMENDATION: Approval without conditions based on findings

TABLE 1: CASE CHRONOLOGY

Date	Action
May 18, 2015	Application submitted to Development Services
May 18, 2015	Case sent out for review to all reviewing departments
May 26, 2015	Comments returned by all reviewing departments
June 30, 2015	Final written recommendation of a qualified professional engineer
July 1, 2015	Staff reviews and recommends approval of the proposed SUP
July 12, 2015	Newspaper advertisement
July 10, 2015	Public notice letter mailed to neighboring property owners
July 10, 2015	Sign posted on property
July 28, 2015	Planning and Zoning Commission public hearing

SECTION 1: SYNOPSIS OF PROPOSAL

The applicant is proposing to construct a new wireless communication facility on the subject property located at 4790 Stern Drive. The facility will include a 75-foot tall wireless communication tower and various associated accessory buildings and equipment that will be enclosed within an opaque rock wall. The proposed facility is adjacent to a single-family zoning district requiring the applicant to seek a Special Use Permit (SUP) to allow the new facility on the C-3 (Commercial High Intensity) zoned property. Along with the SUP is a request to allow the new tower at a maximum height of 75-feet, 10-feet taller than the maximum permitted height of 65-feet for a wireless communication tower in the C-3 zoning district. The proposed wireless communication facility will be required to follow all requirements of Section 38-59 of the 2001 Zoning Code, as amended.

TABLE 2: DEVELOPMENT STANDARDS & SITE CHARACTERISTICS

Standard	Existing	Proposed	Zoning Code Req.
Max # of DU/parcel	N/A	N/A	N/A
Max Density (DU/ac.)	N/A	N/A	40 dwelling units per acre
Lot Area	1.552 ± acres	No change	0.5 acres minimum/ no maximum
Lot Width	400 ± feet	No change	60 feet minimum
Lot Depth	155 ± feet	No change	70 feet minimum
Setbacks			
Front	20 ± feet (Existing gas pump canopy)	26 ± feet (Proposed wireless communication facility)	15 feet minimum
Secondary Front	25 ± feet (Existing gas pump canopy)	291 ± feet (Proposed wireless communication facility)	15 feet minimum
Side	178 ± feet (Existing vacant commercial building)	153 ± feet (Proposed wireless communication facility)	5 feet minimum
Rear	24 ± feet (Existing vacant commercial building)	93 ± feet (Proposed wireless communication facility)	Tower shall be setback 1 foot for each 1 foot in height of the tower plus 10% of the total height from any adjacent residential use or property (82.5 feet)
Accessory Structure	N/A	N/A	N/A
Parking			
Vehicular	13 parking stalls for the existing vacant commercial buildings	14 parking stalls (1 additional parking stall for the proposed new wireless communication facility)	14 parking stalls minimum (13 for the existing commercial buildings & 1 for the proposed new wireless communication facility)
Bicycle	0 bicycle stalls	0 bicycle stalls	N/A for the wireless communication facility

TABLE 3: SPECIAL CHARACTERISTICS

Characteristic	Applies to Project?	Explanation
EBID Facilities	No	
Medians/ Parkways Landscaping	No	
Other	N/A	

TABLE 4: ADJACENT ZONING AND LAND USE INFORMATION

Location	Existing Use	Overlay District	Zoning Designation
Subject Property	Vacant commercial buildings	N/A	C-3 (Commercial High Intensity)
North	Interstate 10		
South	Single-family residences	N/A	R-1aC (Single-Family Medium Density-Conditional)
East	Vacant/undeveloped	N/A	A-2 (Rural Agricultural District from the 1981 Zoning Code)
West	Vacant/undeveloped	N/A	C-3C (Commercial High Intensity-Conditional)

TABLE 5: PARCEL HISTORY

Number	Status
Permits # 47803	Permit for a commercial alteration of car wash bays into storage units; permit has expired
Ordinance # 2629	Zone Change from C-2 to C-3; approved in August 2011
Resolution	N/A

SECTION 2: REVIEWING DEPARTMENT/AGENCY RECOMMENDATIONS

Department Name	Approval (Yes/ No)	Conditions (Yes/No)
CLC Development Services	Yes	Yes: Approved based on the written recommendation of the qualified expert professional engineer
Metropolitan Planning Organization (MPO)	Yes	No
CLC CD Engineering Services	Yes	No
CLC Land Management	Yes	No
CLC Fire & Emergency Services	Yes	No
CLC Utilities	Yes	No
New Mexico Department of Transportation (NMDOT)	Yes	Yes: The property owner is required to apply for an access permit with NMDOT for access to Stern Drive

SECTION 3: STAFF ANALYSIS AND CONCLUSIONS

Decision Criteria

A Special Use is a use that is not permitted by right in a zoning district. A Special Use requires review and approval by the Planning and Zoning Commission to determine impacts on the surrounding area. A Special Use is required to follow all procedures as required by Section 38-54A of the 2001 Zoning Code, as amended.

Section 38-59F of the 2001 Zoning Code, as amended, states that new towers and other communication structures in the C-3 (Commercial High Intensity) zoning district adjacent to property zoned R-1c, R-1a, R-1b, R-1cM, R-1aM or R-1bM are not permitted unless approved through the special use permit process. A special use permit may also be granted to permit tower heights greater than what is allowed by the zoning district. All special use permit requests for any type of commercial communication structure shall follow submittal requirements as required within the Special Use Permit Section of the 2001 Zoning Code, as amended, including the established fee and within the established submittal deadlines. Additional provisions for all commercial communication structures are as follows:

1. A complete description of the commercial communication service to be provided or received and the proposed service area for commercial purposes.
2. A technical analysis prepared by a professional engineer for the proposed site. The analysis shall include:
 - a. A comprehensive statement and justification for the proposed structure location and site.
 - b. A communication coverage pattern calculation for the proposed structure location at:
 - i. The maximum height allowed for the respective zoning district for the site.
 - ii. The proposed height.
 - iii. At a mid-point height between the proposed height and the maximum height allowed for the zoning district of the site.
 - c. Analytical evidence demonstrating that no other location or height exists to provide the commercial communication service including cellular or similar communication service.
3. As part of the review of the special use permit application for commercial communication structures, the applicant is required to pay the established special use permit fee and all expenses associated with the city hiring a qualified expert to review and provide written recommendation to the Planning and Zoning Commission of the technical information submitted as part of the application.

Analysis

The proposed new wireless communication facility on the subject property located at 4790 Stern Drive is adjacent to an R-1aC (Single-Family Medium Density-Conditional) zoned property to the south requiring the applicant to seek approval for the new facility through the Special Use Permit (SUP) process. The current C-3 (Commercial High Intensity) zoning designation allows a wireless communication tower up to 65-feet in height. An SUP may be granted to permit a tower height greater than what is allowed by the C-3 zoning district. The applicant is proposing the wireless communication facility to include a 75-foot tall tower, 10-feet taller than what is permitted by the C-3 zoning district, and other associated accessory buildings and equipment that are to be contained within an opaque walled-off area. The proposed new facility will be required to meet all development and design requirements of Section 38-59 of 2001 Zoning Code, as amended.

The proposed SUP also requires the applicant to provide a technical analysis prepared by a professional engineer for the new facility that includes all of the information as required by Section 38-59F of the 2001 Zoning Code, as amended. The analysis is then required to be reviewed by an independent qualified expert consultant who then gives his or her written recommendation to the Planning and Zoning Commission. A technical analysis was prepared for the proposed new facility and the City of Las Cruces

hired Greg Best Consulting, Inc. to review the analysis and provide a written recommendation. The final written recommendation from the consultant was completed on June 23, 2015. The consultant concurs with the analysis of the applicant that the proposed new wireless communication facility site at 4790 Stern Drive is the best available site. The consultant also concurs with the applicant with the proposed height of the new wireless communication tower. Please see Attachment # 5 for the detailed recommendation from the consultant.

Conclusion

The location selected for the tower is on and adjacent to commercial development and zoning to the northwest and is bounded by Stern Drive, a major arterial, which is also adjacent to Interstate 25, to the northeast. The site is also adjacent to New Mexico Transportation Department right of way (zoned A-2) to the southeast. Based upon the character of the surrounding development, the site is suitable for a use such as this. Furthermore, the Applicant's technical analysis and independent review by an outside consultant determined that no other location or height exists to provide commercial communication service for this area. No input from area residents has been received regarding the proposal at this time. Based upon review of the proposal by Development Services Staff and all other reviewing departments in the City of Las Cruces and the New Mexico Department of Transportation and the written recommendation from the independent expert consultant, staff recommends approval for the proposed SUP.

DRC RECOMMENDATION

The proposal did not require review and recommendation by the Development Review Committee.

STAFF RECOMMENDATION

Staff has reviewed the proposed Special Use Permit (SUP) and based on the following findings recommends approval.

FINDINGS FOR APPROVAL

1. The subject property encompasses 1.552 ± acres, is zoned C-3 (Commercial High Intensity) and currently contains vacant commercial buildings.
2. An independent expert consultant has reviewed the analysis from the applicant and concurs that 4790 Stern Drive is the best available site for a new wireless communication facility with a 75-foot tall wireless communication tower in the area. (2001 Zoning Code, Article 6, Section 38-59 F6)
3. The proposed new wireless communication facility follows all of the requirements for a Special Use Permit (SUP) and all standards of Section 38-59 of the 2001 Zoning Code, as amended.

ATTACHMENTS

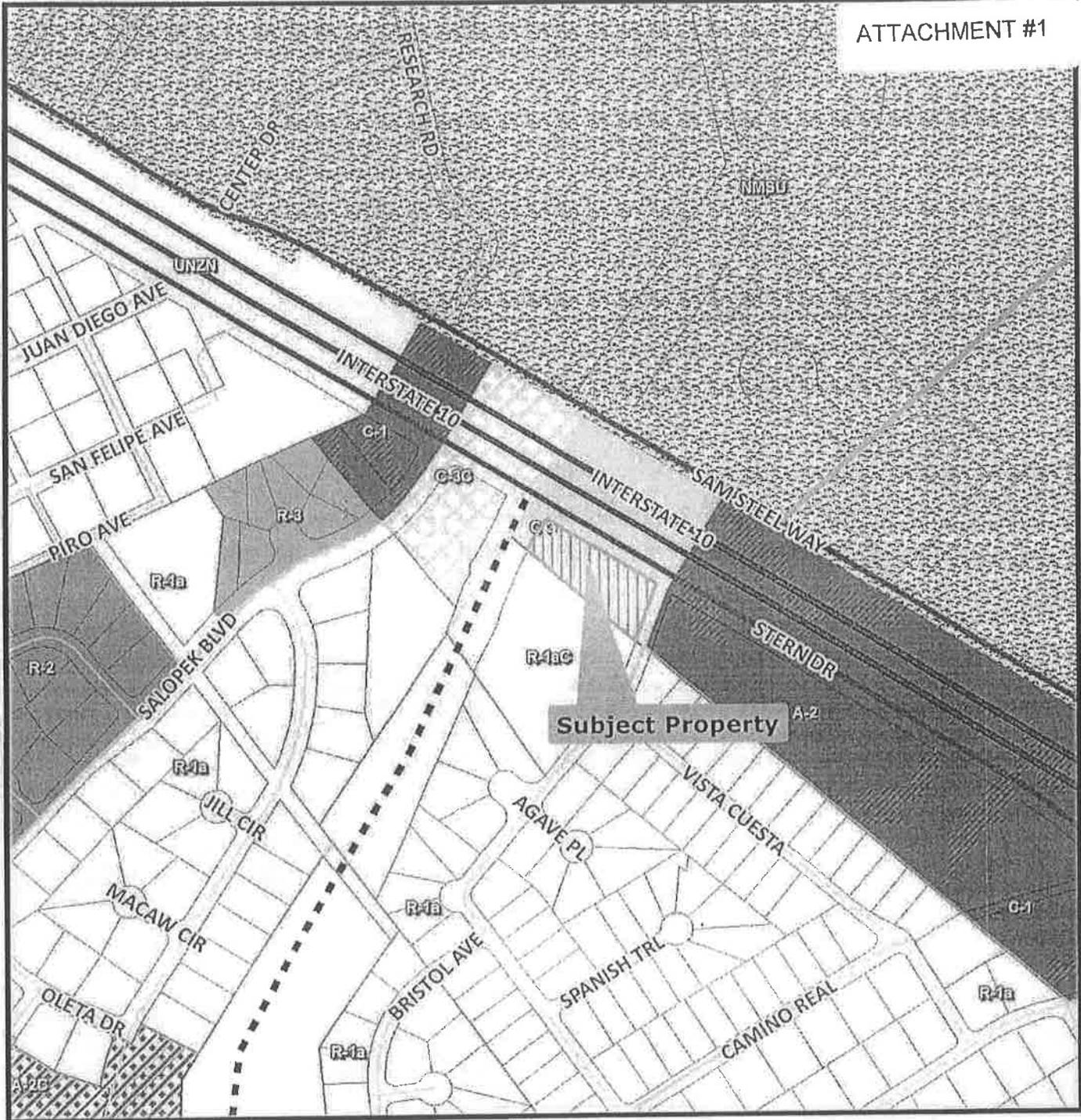
1. Zoning/Vicinity Map
2. Aerial Map
3. Development Statement
4. Applicant's Technical Analysis
5. Written Recommendation from the Consultant
6. Proposed Development Plans

ZONING: C-3
OWNER: A & E ENTERPRISES, INC.

VICINITY MAP

PARCEL: 02-22899
DATE: 05/18/2015

ATTACHMENT #1



Community Development Department
700 N Main St
Las Cruces, NM 88001
(575) 528-3222

This map was created by Community Development to assist in the administration of local zoning regulations. Neither the City of Las Cruces or the Community Development Department assumes any legal responsibilities for the information contained in this map. Users noting errors or omissions are encouraged to contact the City (575) 528-3043.

ZONING: C-3
OWNER: A & B ENTERPRISES, INC.

AERIAL MAP

PARCEL: 02-22899
DATE: 05/18/2015

ATTACHMENT #2



© Google Imagery City of Las Cruces, GIS



Community Development Department
 700 N Main St
 Las Cruces, NM 88001
 (575) 528-3222

This map was created by Community Development to assist in the administration of local zoning regulations. Neither the City of Las Cruces or the Community Development Department assumes any legal responsibilities for the information contained in this map. Users noting errors or omissions are encouraged to contact the City (575) 528-3043.

DEVELOPMENT STATEMENT for City Subdivision/Zoning Applications

Please note: The following information is provided by the applicant for information purposes only. The applicant is not bound to the details contained in the development statement, nor is the City responsible for requiring the applicant to abide by the statement. The Planning and Zoning Commission may condition approval of the proposal at a public hearing where the public will be provided an opportunity to comment.

Applicant Information

Name of Applicant: VERIZON Wireless / TECTONIC ENGINEERS
Contact Person: LES. F. GUTIERREZ
Contact Phone Number: 505-222-7195
Contact e-mail Address: LGUTIERREZ@TECTONICENGINEERING.COM
Web site address (if applicable): N/A

Proposal Information

Name of Proposal: VERIZON NEW TELECOM FACILITY @ 4790 STERN DRIVE (LSC. BLACKHAWK)

Type of Proposal (single-family subdivision, townhouse, apartments, commercial/industrial)
NEW TELECOM FACILITY

Location of Subject Property 4790 STERN DRIVE, LAS CRUCES, NM.

(In addition to description, attach map. Map must be at least 8 1/2" x 11" in size and clearly show the relation of the subject property to the surrounding area)

Acreage of Subject Property: 1.552 ACRES.

Detailed description of current use of property. Include type and number of buildings:
SERVICE STATION / CONVENIENCE STORE - SELF STORAGE.

Detailed description of intended use of property. (Use separate sheet if necessary):
INSTALL A NEW TELECOM FACILITY ON AN EXISTING C1 LOT.

Zoning of Subject Property: C1

Proposed Zoning (if applicable): C1

Proposed number of lots N/A, to be developed in N/A phase (s).

Proposed square footage range of homes to be built from N/A to N/A

Proposed square footage and height of structures to be built (if applicable):

1,050 SQUARE FEET + A 75' MONO POLE

Anticipated hours of operation (if proposal involves non-residential uses):

A TELECOM FACTORY IS A 24 H. OPERATION

Anticipated traffic generation 1 trips per day MONTH

Anticipated development schedule: work will commence on or about 6 MONTHS FROM ^{R.P. APPROX} and will take 30 DAYS. to complete.

How will stormwater runoff be addressed (on-lot ponding, detention facility, etc.)?

NA

Will any special landscaping, architectural or site design features be implemented into the proposal (for example, rock walls, landscaped medians or entryways, entrance signage, architectural themes, decorative lighting)? If so, please describe and attach rendering (rendering optional).

TUNNELS EXCEPT WILL BE CONCEALED BY A DESERT COLORED ROCK WALL, THE TUNNEL WILL BE PAINTED DESERT TAN. TREES WILL BE PLANTED ALONG THE SOUTH WALL TO HELP BUFFER.

Is the developer/owner proposing the construction of any new bus stops or bus shelters? Yes No Explain: NA

Is there existing landscaping on the property? DESERT LANDSCAPING SOME TREES.

Are there existing buffers on the property? BLDS, TREES.

Is there existing parking on the property? Yes No

If yes, is it paved? Yes No

How many spaces? NOT MARKED How many accessible?

Attachments

Please attach the following: (* indicates optional item)

Location map

Subdivision Plat (if applicable)

Proposed building elevations

*renderings of architectural or site design features

*other pertinent information (TUNNEL DESIGN)

ATTACHMENT #4



Verizon Wireless
126 W. Gemini Dr.
Tempe, Arizona 8528

May 12, 2015

Mr. Adam Ochoa, Senior Planner
Community Development
City of Las Cruces
Las Cruces, NM

RE: Verizon LSC BLACKHAWK (4790 Stern Drive)

Dear Mr. Ochoa:

As per our previous emails and conversations regarding Verizon's new telecom facility to be located at 4790 Stern Drive.

The Site plan, page Z-1 shows the required setbacks, driveway access and parking stall. We will also plant trees on the SW side of the walled area to add a buffer to the R zone to the South. Currently there is only one residence adjacent to this property.

The walled area surrounding Verizon's equipment will be painted a desert tan/earth tone color as well as the monopole.

We have placed the tower in the proposed location to meet the required setbacks. The landlord has requested this location as to not impede on any future expansion of the existing structure to the rear.

We understand that our 75' request will be part of a Special User Permit. The tower height is needed to provide coverage as per the attached RF study. The monopole will be also capable of holding additional carriers in the future.

This new telecom facility is necessary to provide capacity coverage for existing sites: LSC TORTUGAS, LSC KNOX, LSC UNIVERISTY and LSC TELLBROOK. See RF Study, attached.

Also attached is the Special Use Application as well as the required Supplemental Application Form for Antenna, Towers, & Communication Structures. Photo-Simulations and fee for the SUP. After you have looked this over, Adam please let me know if you need any clarification or additional information.

Sincerely,



Les F. Gutierrez, Senior Site Acquisition Specialist, Agents for

Verizon Wireless



Verizon Wireless
 126 W. Gemini Dr.
 Tempe, Arizona 8528

May 4, 2015

Mr. Adam Ochoa, Senior Planner
 Community Development
 City of Las Cruces
 Las Cruces, NM

RE: Verizon LSC BLACKHAWK (4790 Stern Drive)

Dear Mr. Ochoa:

Las Cruces has one off the highest demands for 4G LTE wireless data and we are making every effort to provide the data speed required for all of its customers. Verizon Wireless requires a site at 4790 Stern Drive to provide coverage necessary as shown in our Final Design, attached.

This newly designed site will be centered between Verizon sites: LSC KNOX, LSC TORTUGAS and LSC TELBROOK.

Currently LSC UNIVERSITY is experiencing huge demand for capacity through the campus and residences in this area. Data usage is on the rise at a much more rapid rate than our current network there can sustain. This rise is primarily due to the increased numbers of smart devices such as Android and Apple phones, laptops and tablets all supporting applications (Netflix, Social Media, web browsing) that require high speed connections.

To accommodate the entire user base in University area, we are adding several small cells and a (Distributed Antenna System) throughout the University area to handle current and future needs.

Attached RF Study:

LSC BLACKHAWK: Current LTE Coverage in the area with the LSC UNIVERISTY Site.
 Areas in Blue are Excellent Coverage Green Good coverage, Pink...no indoor and OK outdoor.
Note gaps of Blue between existing Verizon sites: LSC KNOX, LSC UNIVERISTY, LSC TORTUGAS and LSC TELBROOK.

LSC BLACKHAWK: Current LTE Coverage UNIVERSITY SITE converted to Small Cells and DAS due to excessive capacity at NMSU during games and high usage. Areas in Blue are Excellent Coverage Green Good coverage, Pink....no indoor and OK outdoor. Note gaps of Blue low coverage increase also due to the capacity demand. Between existing Verizon sites decrease substantially and areas of Pink....

LSC BLACKHAWK. Final Design with the addition of new site at 70' added along with small cell and DAS capacity at NMSU. Note: Significantly improved areas of Blue and Green to provide excellent coverage during peak times and NMSU games.

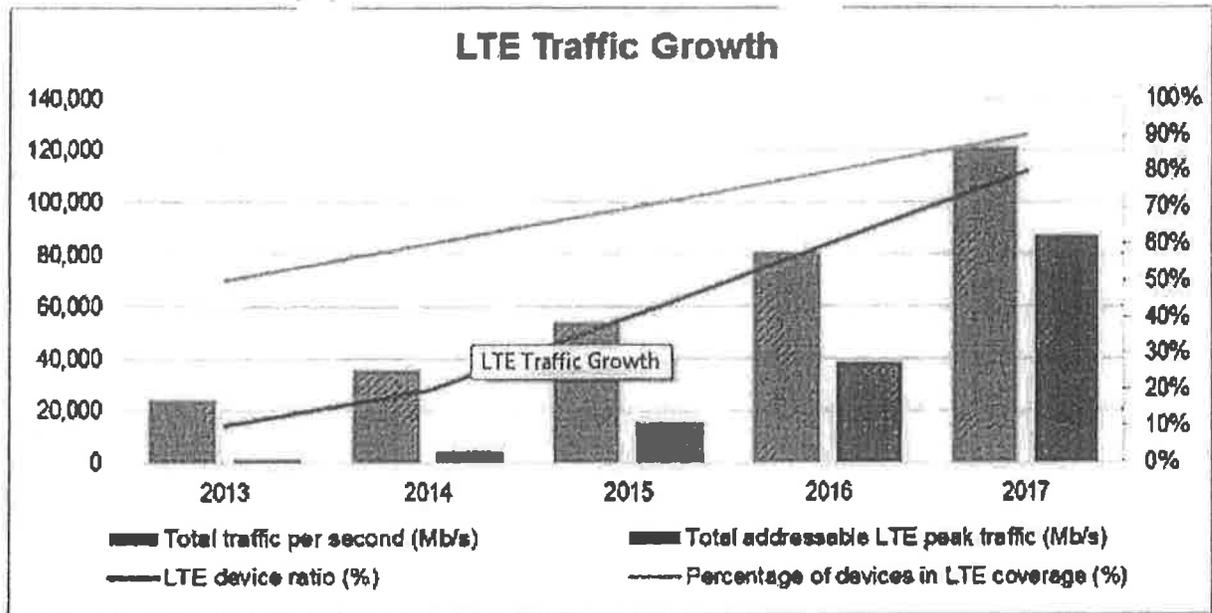
The new LSC BLACKHAWK will provide added capacity coverage to the University site as well as coverage and capacity between Verizon's existing sites shown in the final design.

Upon its initial search there were not existing structures or towers within this area that Verizon could utilize.

Traditional cellular towers were designed to provide voice and low speed data. Imagine a one lane highway, with our previous generation sites represented by a bus and our current generation sites (LTE) represented by a sports car. The bus can accommodate many passengers at the expense of the longer duration in time in reaching its destination compared to a corvette which can reach the destination in a much shorter time at the expense of only accommodating a single passenger. Voice and low data sites take much longer to run out of capacity. With more users added to the network, the speed will also get impacted exponentially. In addition to providing high speed data VZW will be offering voice service on our LTE network reducing the amount of resources available for our data services thus driving the need for solutions to maintain our marketed data speed.

In summary, the majority of new sites will be LTE high speed data sites. As more and more devices and different applications are added to the network, more and more resources are needed to support this network. Unfortunately, there are no other viable solutions other than to add more sites to handle data growth and the desired speeds.

This phenomenon is mostly due to the nature of the service and technology limitations that comes with it. Traditionally, we could support areas like a small town and connecting routes with one site. However, now we need one site in the center of the town and two or more for the supporting highways and the roads to connect the small communities to the rest of the network (see graph).



The proposed 75' painted monopole will provide Verizon with the necessary capacity to serve our customer base as well as emergency 911 users. The monopole will be designed to accommodate additional users. We respectfully ask that you grant our request our zoning approval request for this site.

Sincerely,

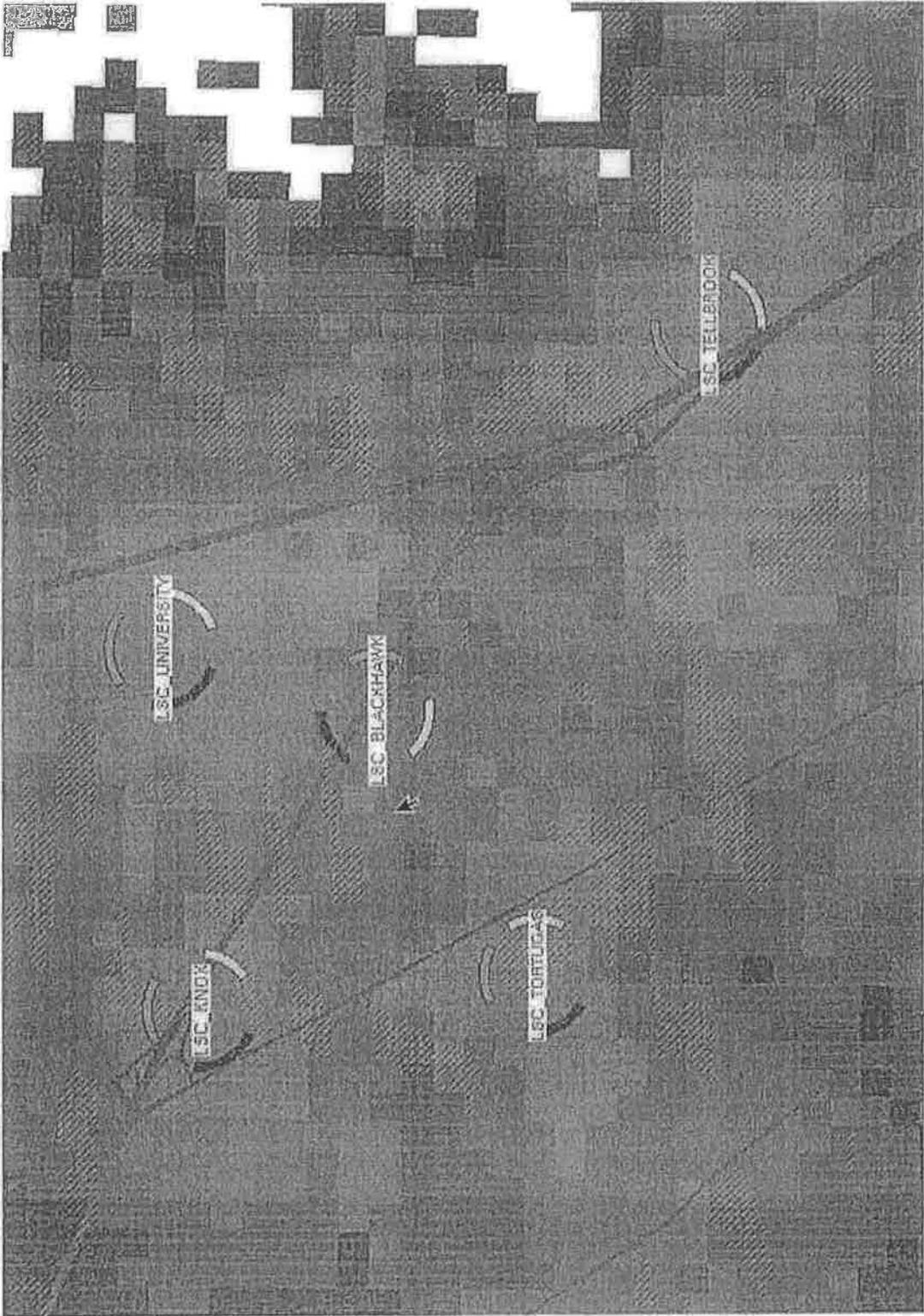
Hamdi Alaaldin, Senior RF Engineer

Verizon Wireless

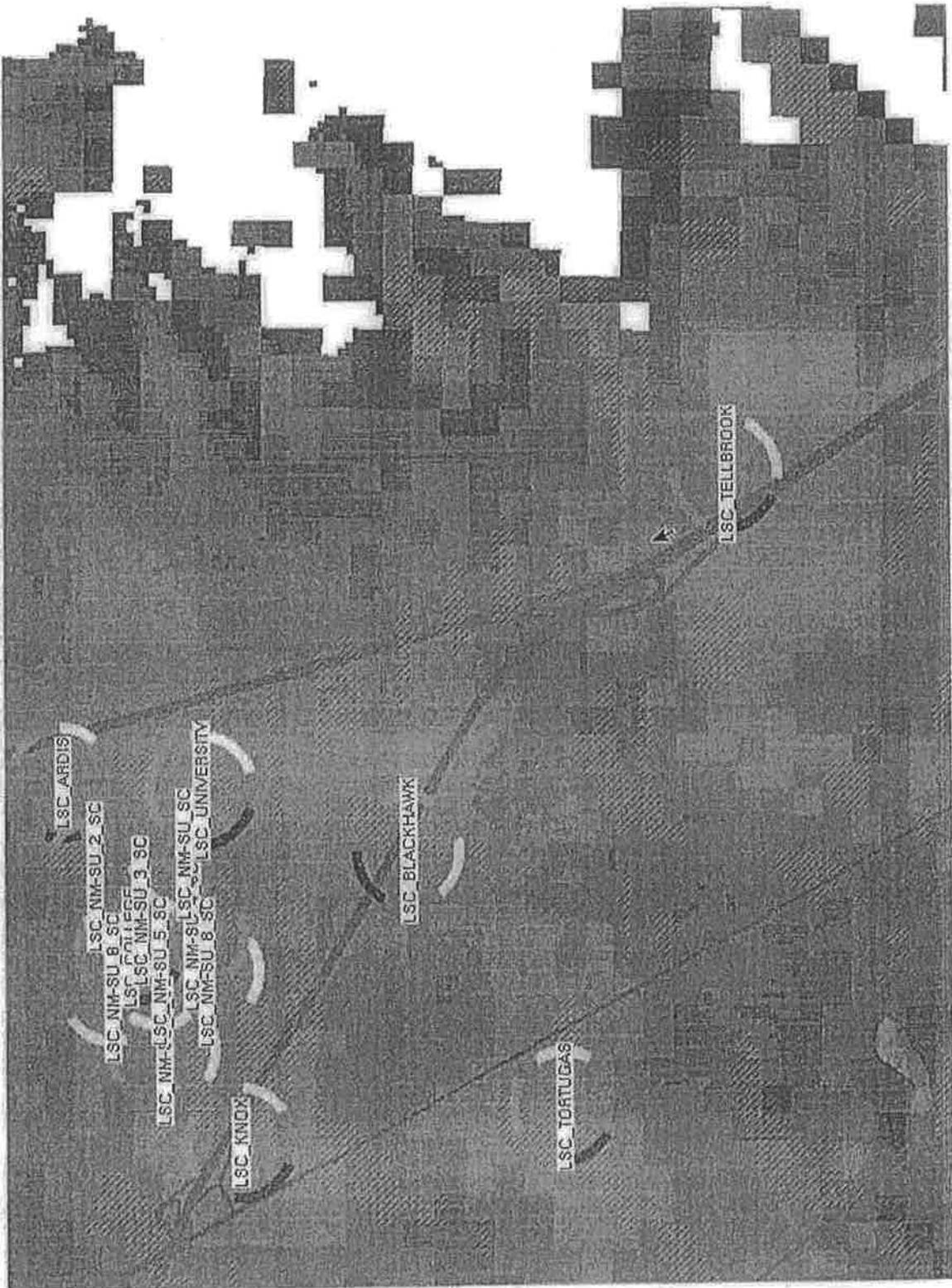
Hamdi.alaaldin@verizonwireless.com

Cell 602-390-1884

Current LTE coverage in the area with University site (university site will be converted to small cell and DAS system)



Final design with Blackhawk at 70' added and university converted to small cell and DAS



Coverage legend

Excellent Indoor & Outdoor

Good indoor & Outdoor

No Indoor & Ok Outdoor

Signal strength



LTE RSRP

LTE1

Cir. RSRP (dBm)

>= -75

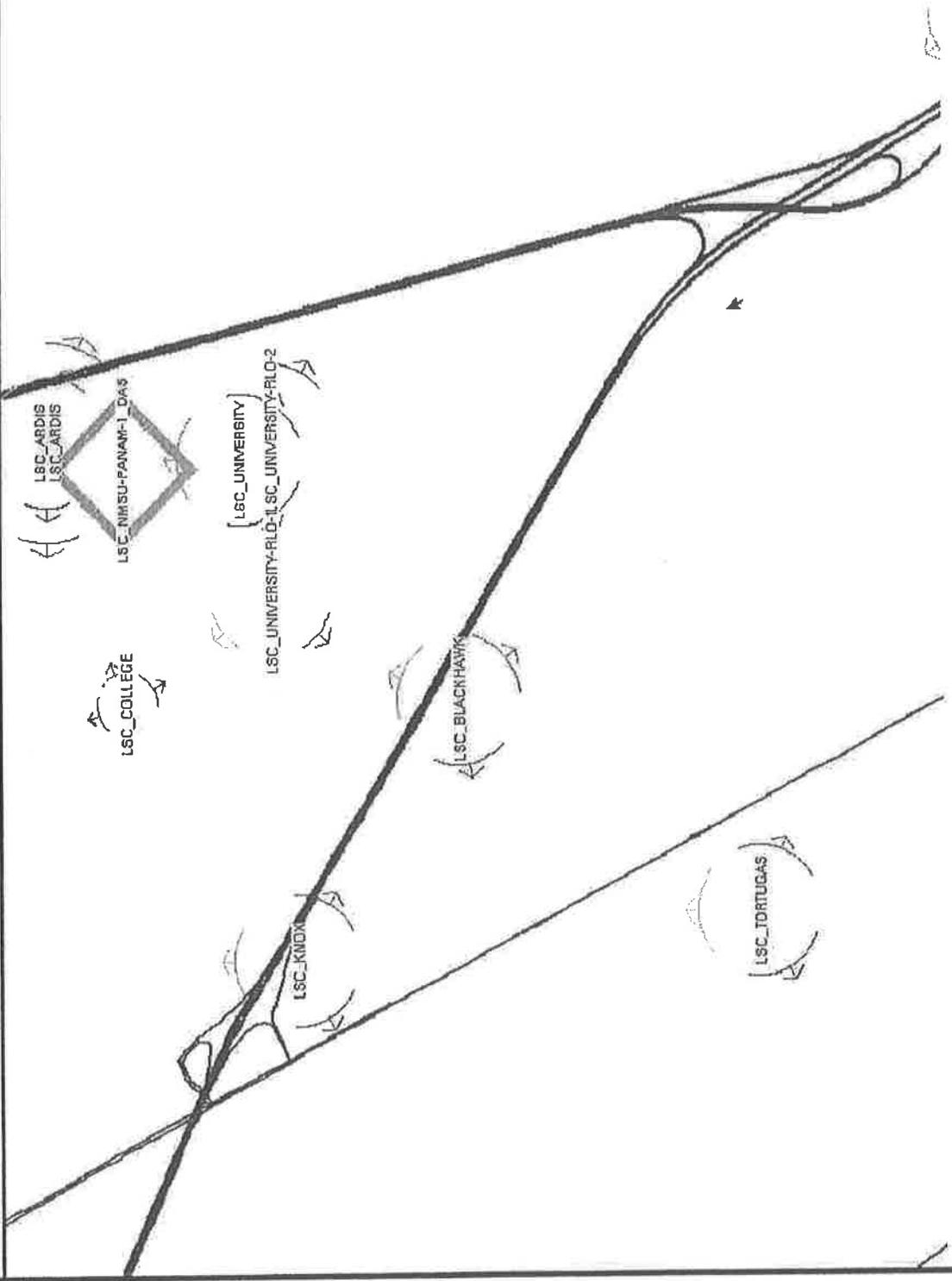
>= -85

>= -90

>= -95

LTE RLOPI

This site is for LTE capacity in El Paso switch market



SARF

Project Name : <i>LSC_BLACKHAWK - New Build</i>	Task Submitted On : <i>01/17/2014</i>
Task Submitted By : <i>Hamdi Alaaldin</i>	

Site Acquisition Request Form (SARF)

GeoPlan Market: <i>Albuquerque</i>	Region: <i>Southwest</i>	Location Name: <i>LSC_BLACKHAWK</i>
Area: <i>West</i>		Market: <i>El Paso</i>
Issue Date: <i>01/17/2014</i>	Site Name: <i>LSC_BLACKHAWK</i>	
From: <i>Hamdi Alaaldin</i>	Type: <i>RSA</i>	
Request Type: <i>New Search Area</i>		
Project Title: <i>LSC_BLACKHAWK - New Build</i>	Budget: <i>.22</i>	
Desired In-Service Date: <i>08/21/2014</i>	Site Location Type: <i>Permanent</i>	
Project Manager: <i>Connie Woodward</i>	Acquisition: <i>Site Acq Only</i>	
Priority: <i>A</i>		
Coverage Objective:		
<i>Capacity site for LSC_knox-2</i>		
Further Explanation:		
Special Instructions:		
Type of Site		
<input checked="" type="checkbox"/> 700		
Preferred Location: <i>Whatever is Available</i>		
Center of Search Ring	Street Address: <i>11 unknown st</i>	
Latitude: <i>32-16-16.45 N</i>	Search Ring Center City: <i>Las Cruces</i>	
Longitude: <i>106-45-08.26 W</i>	Search Ring Center County: <i>Dona Ana</i>	
Datum: <i>NAD83</i>	Search Ring Center State: <i>NM</i>	
Radius of Search Ring (mi): <i>0.22</i>	Search Ring Center Zip Code: <i>88001</i>	
Voltage (V):	Donor Site Name:	
Amperage (A):	Donor Site Sector:	
Phase:		
Antenna Center Line (ft AGL): <i>65.00</i>	Min Center Line (ft AGL): <i>60.00</i>	
Building Height Req.:	Max Center Line (ft AGL): <i>80.00</i>	
Generator?:		

Equipment Requirements

Number of Sectors

Whip:

Panel: *3*

Link:

Current

Quantity

Size

Future

Quantity

Size

Whip:

Panel:

Link:

12

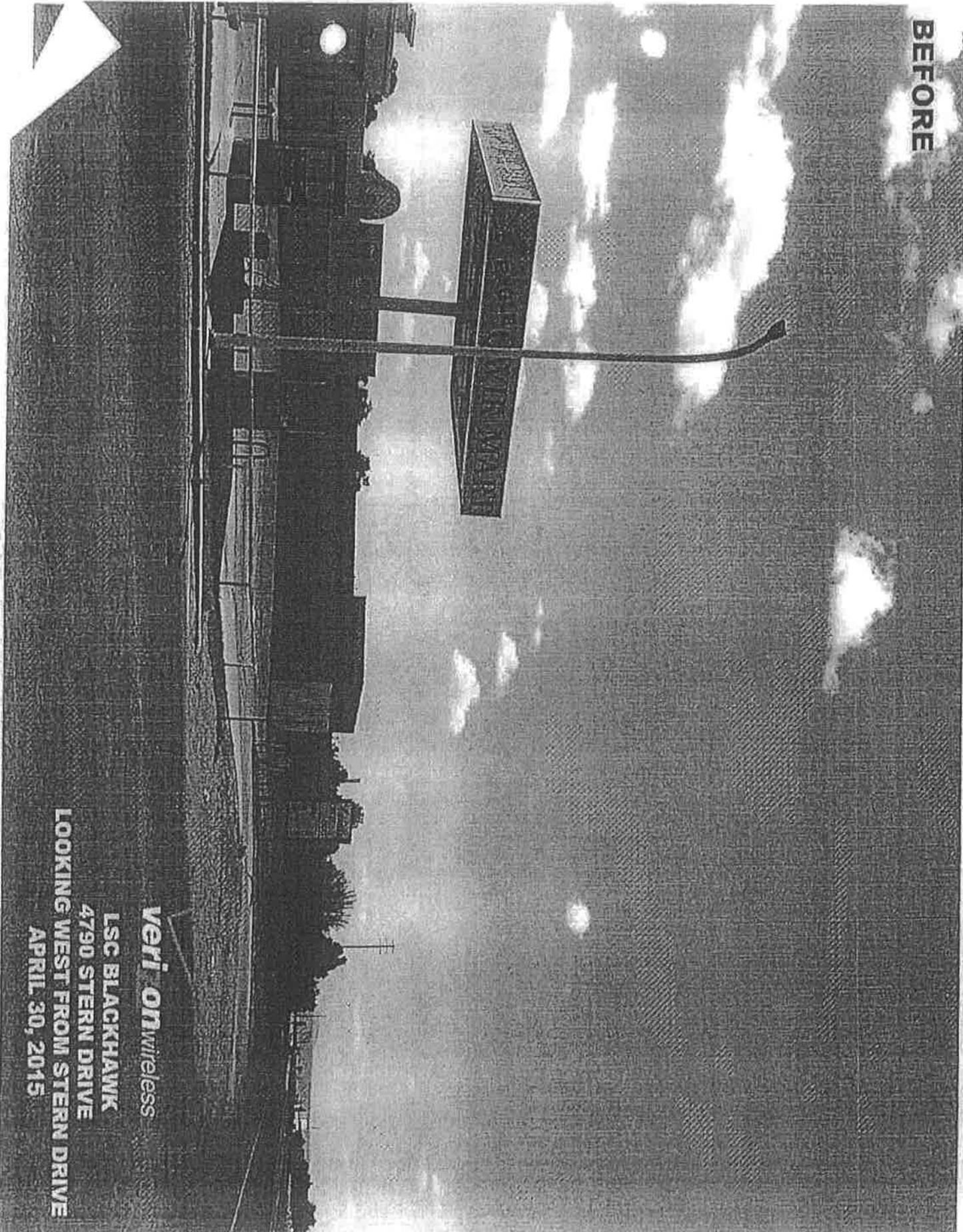
9.00

Whip:

Panel:

Link:

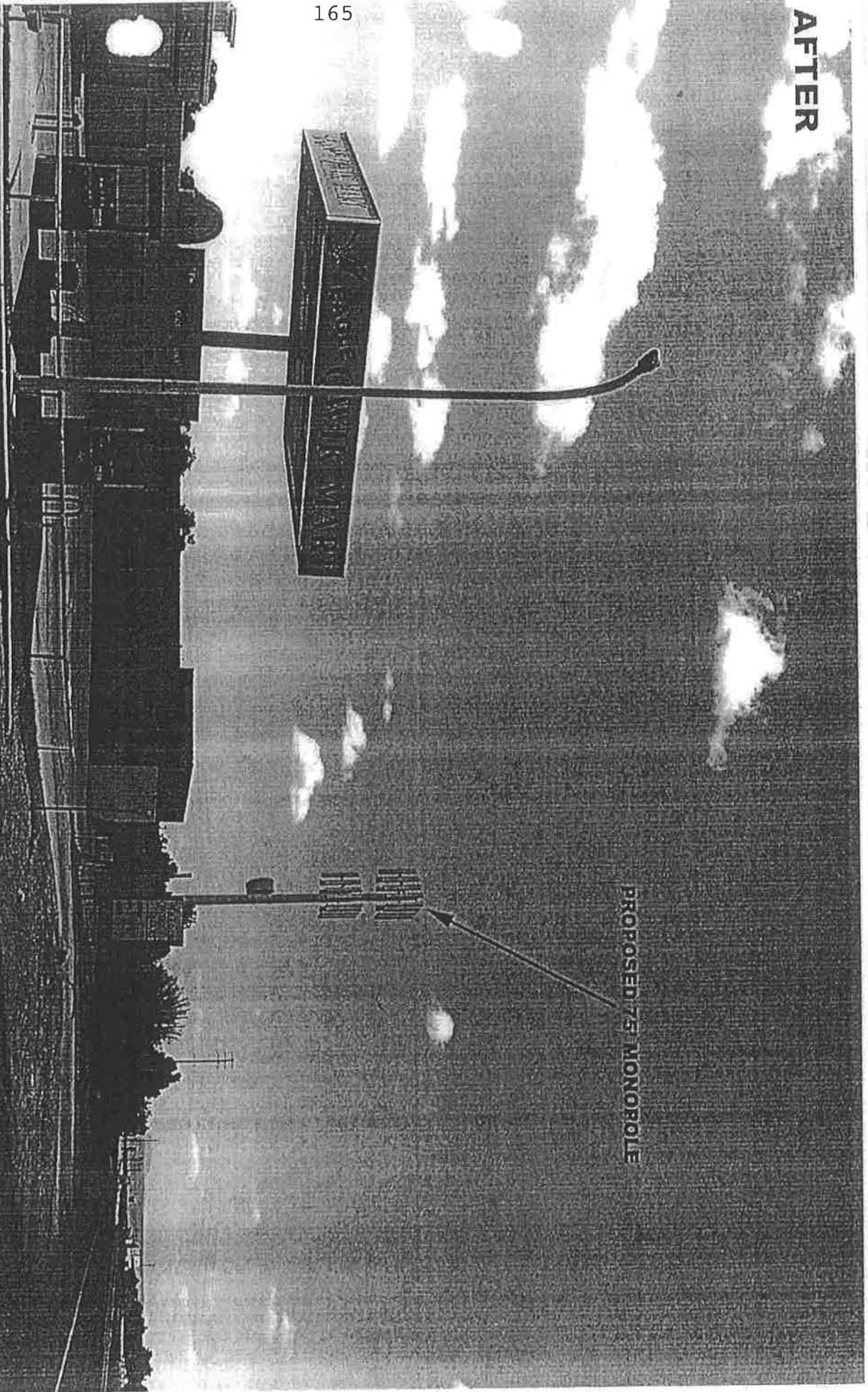
BEFORE



veri on wireless
LSC BLACKHAWK
4790 STERN DRIVE
LOOKING WEST FROM STERN DRIVE
APRIL 30, 2015

AFTER

165

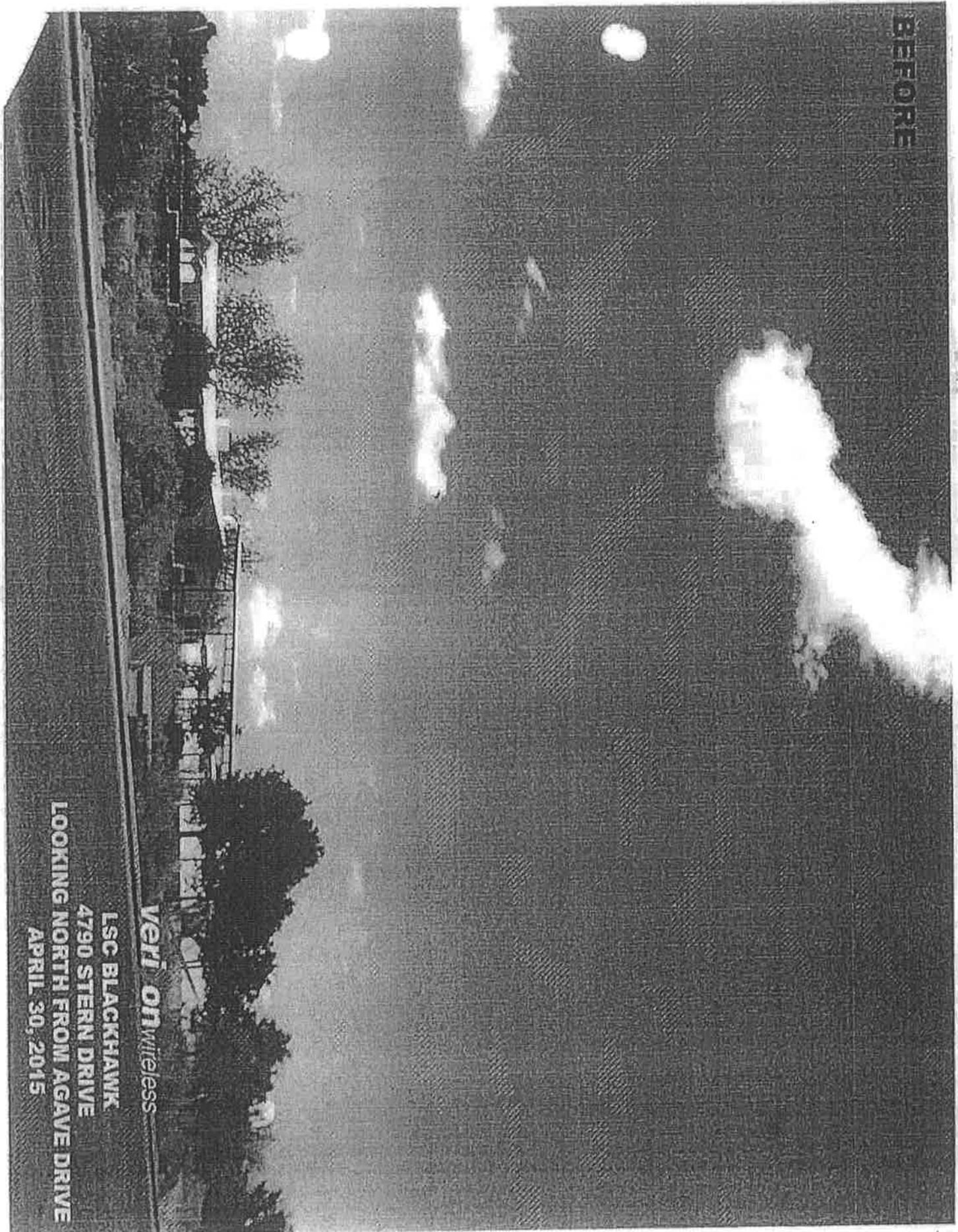


PROPOSED 75' MONOPOLE

veri on wireless

**LSC BLACKHAWK PHOTO SIMULATION
4790 STERN DRIVE
LOOKING WEST FROM STERN DRIVE
APRIL 30, 2015**

BEFORE



Veri on wireless

LSC BLACKHAWK
4790 STERN DRIVE
LOOKING NORTH FROM AGAVE DRIVE
APRIL 30, 2015

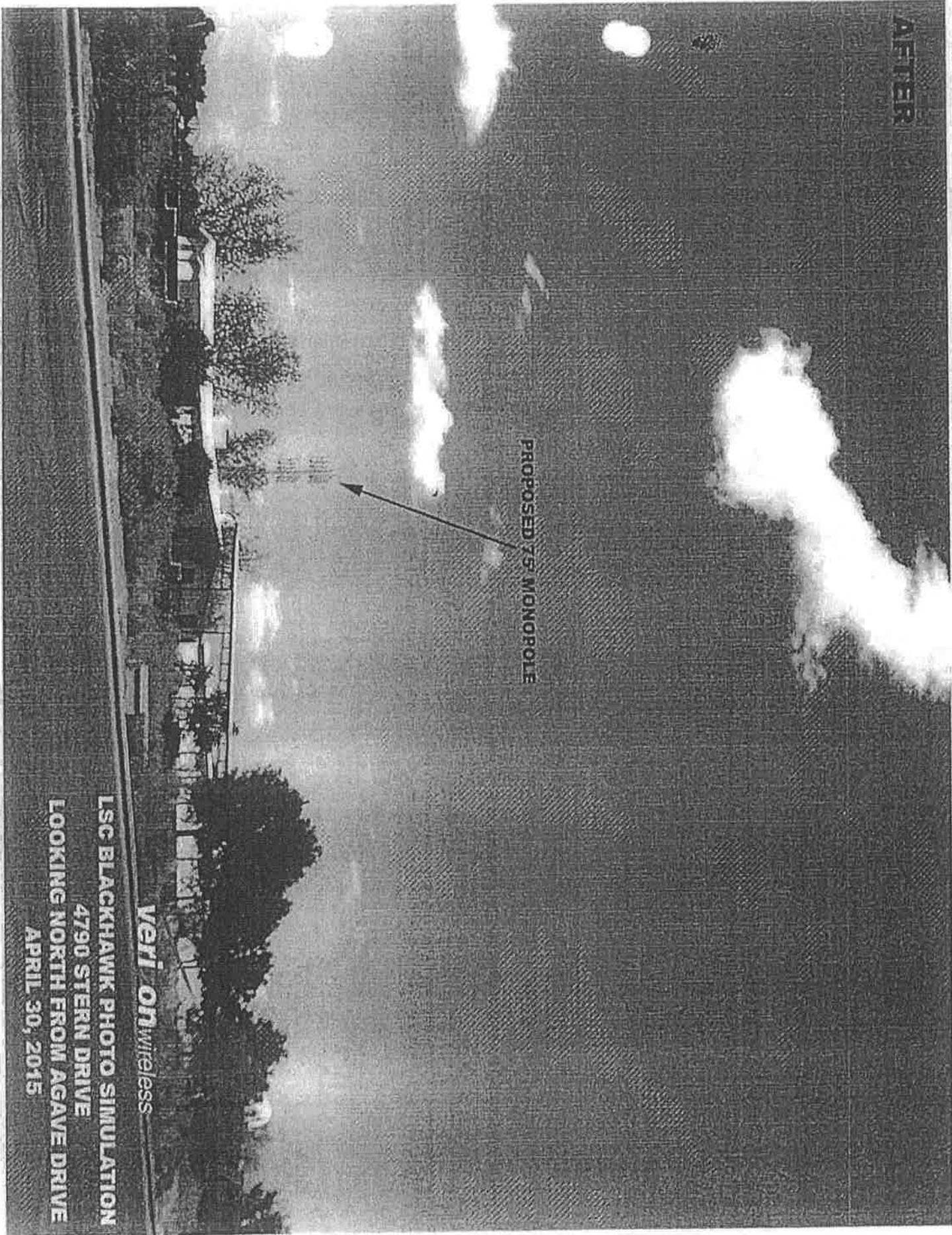
AFTER

PROPOSED 75' MONOPOLE



Veri on wireless

LSC BLACKHAWK PHOTO SIMULATION
4790 STERN DRIVE
LOOKING NORTH FROM AGAVE DRIVE
APRIL 30, 2015



**GREG BEST
CONSULTING, INC.**

9223 N. Manning Ave.
Kansas City, MO 64157
816-792-2913

June 23, 2015

CITY OF LAS CRUCES

ANALYSIS OF PROPOSED VERIZON BLACKHAWK SITE

INTRODUCTION

This report provides an evaluation according to the City of Las Cruces Zoning requirements regarding the proposed Verizon to expand communications services in the area near the New Mexico State University Campus (NMSU) within the City of Las Cruces.

EXECUTIVE SUMMARY OF REPORT

The results of the engineering analysis concur that the site proposed by Verizon is the best available site for expansion of service to increase data capacity and to provide more uniform service. This is based upon the confirmation of the signal coverage analysis generated and by independent research for various sites in the general vicinity of the site area.

DETAILED ANALYSIS AND SUMMARY OF FINDINGS

SITE ANALYSIS

The target coordinates and radius to be studied were obtained from the Tectonic Engineering. A list of 3 specific potential sites was found by looking at the area in question and attempting to evaluate signal propagation from each site. These sites include the proposed Blackhawk Site, a southern site (South) located approximately at Ringneck Dr near I-10, and an eastern site (East) located near Tamarisk Road and I-25. Both the East Site and the Blackhawk site provide excellent coverage of the desired area. A Google Earth exhibit is attached that exhibits the search ring center, showing the alternate sites (East & South), and showing two other existing sites (NMSU & Knox).

The main purpose of the new site is to off-load some traffic from a Verizon site near NMSU and another Verizon site near Union Avenue and I-10 (Knox). The primary issue is not of signal strength from the existing sites but the data traffic capacity. So the key is to find a site that would be close enough to off load some traffic from the existing sites, and provide additional data capacity close to the existing sites without causing interference from its site to the existing sites.

An ideal site was identified or chosen to provide the best compromise of capacity enhancement, signal coverage, and ability to transfer (or off-load) some data from existing sites to this new site. The search center is identified on the attached map. From there, other feasible sites where Verizon could establish operation were evaluated. The ideal site is actually is not located within the city and is zoned residential so the search radius for a suitable site had to be expanded. In order to provide the best coverage and also to increase the data handling capability, there were three sites that appear to meet this criteria. One was effectively the proposed Blackhawk location, and the others were the South Site and East Site. Each site consists of 3 antennas that can be aimed in different directions so as achieve the desired objective of increased data traffic while minimizing interference to other sites.

The interference issue is a significant one. Adding each new site requires some adjustment of the existing site equipment and operational technical parameters. The matter is similar to paint over-spray near the edges of the desired spraying area. If you get the paint sprayer to far from the area being sprayed, the width of the paint spray goes out wider and can cause a new color to

overlap an existing color. This overlap is analogous to the interference from one site to another. Likewise, if you get the paint sprayer too close to the area, then it does not cover the area to be painted adequately. So choosing the site involves more than just getting significant signal coverage over the area of interest.

In looking at the East site, its elevation is higher and provides very good coverage. In fact, the East site is actually too high at the maximum allowed height permitted by the zoning district. Like the paint spray analogy, its signal is too high near the NMSU area and can actually reduce the capacity of the NMSU site because the East site signal appears as noise or interference to the NMSU site. The proposed site, which is west of I-25, is also on NMSU owned property so a lease may not be possible or if NMSU decides the property is needed for another use at a later date, then service would suffer. If the tower site is located on the east side of I-25, that property is zoned residential and the City would not permit a cell tower site there.

The South site provides reasonable coverage but it is located so far south that very little data or voice traffic from the Knox site can be offloaded and thus does not provide the capacity enhancement needed. The South site location appears to be within some commercial zoning but it has not been significantly investigated since the data traffic capacity enhancement was not as substantial as the East site.

The Blackhawk site appears to be a good choice because of its proximity to the Knox and the NMSU sites to add data capacity enhancement while far enough away to be able to steer the antenna beams in such a way it does not cause interference to the other sites. In addition, the property area is city owned and zoned for the capability to allow Verizon to establish long-term operation.

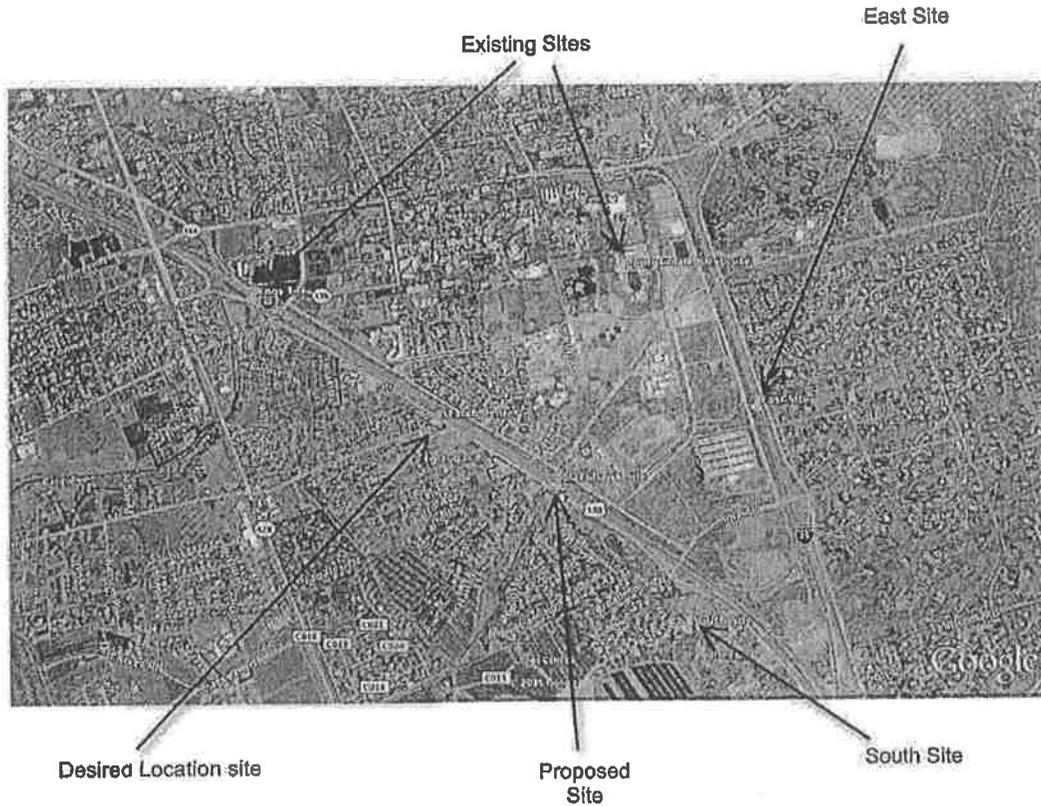
So in summary, the best site is the proposed Blackhawk site.

In addition to the proposed Blackhawk site, Verizon will be modifying the NMSU site in order to provide more uniform and consistent signal coverage (and thus more data connection capacity) over the NMSU area. This is an independent effort and will not take the place of adding the Blackhawk site.

HEIGHT ABOVE GROUND EVALUATION

In addition to the site selection, Verizon has also proposed that the antenna center be located at 70 feet above ground, and the total structure height is proposed to be 75 feet above ground level. This is above the 65 ft maximum height restriction for this area. Thus an analysis has been undertaken to try to quantify whether the additional height is justified. The analysis has evaluated the coverage at the proposed height, the maximum allowable height according to the zoning, and at the midpoint of the two heights. In this case, the difference is only 5 feet so analyses have been carried out at radiation center levels of 70 feet, 65 feet, and 67.5 feet. There are only slight differences between the proposed heights from the evaluation with the 70 feet height providing the best coverage. In the consultant's opinion, probably any one of the three heights could work. However, the 70 foot height is judged to be the best for two reasons. One is that as the signal coverage goes a little farther and the second is because it is expected that there would be less modifications to the existing sites meaning less interruption in the service (fewer dropped calls or data re-connection occurrences) during system installation and optimization.

EXHIBIT INDICATING POTENTIAL AND PROPOSED SITES IN THE LAS CRUCES AREA

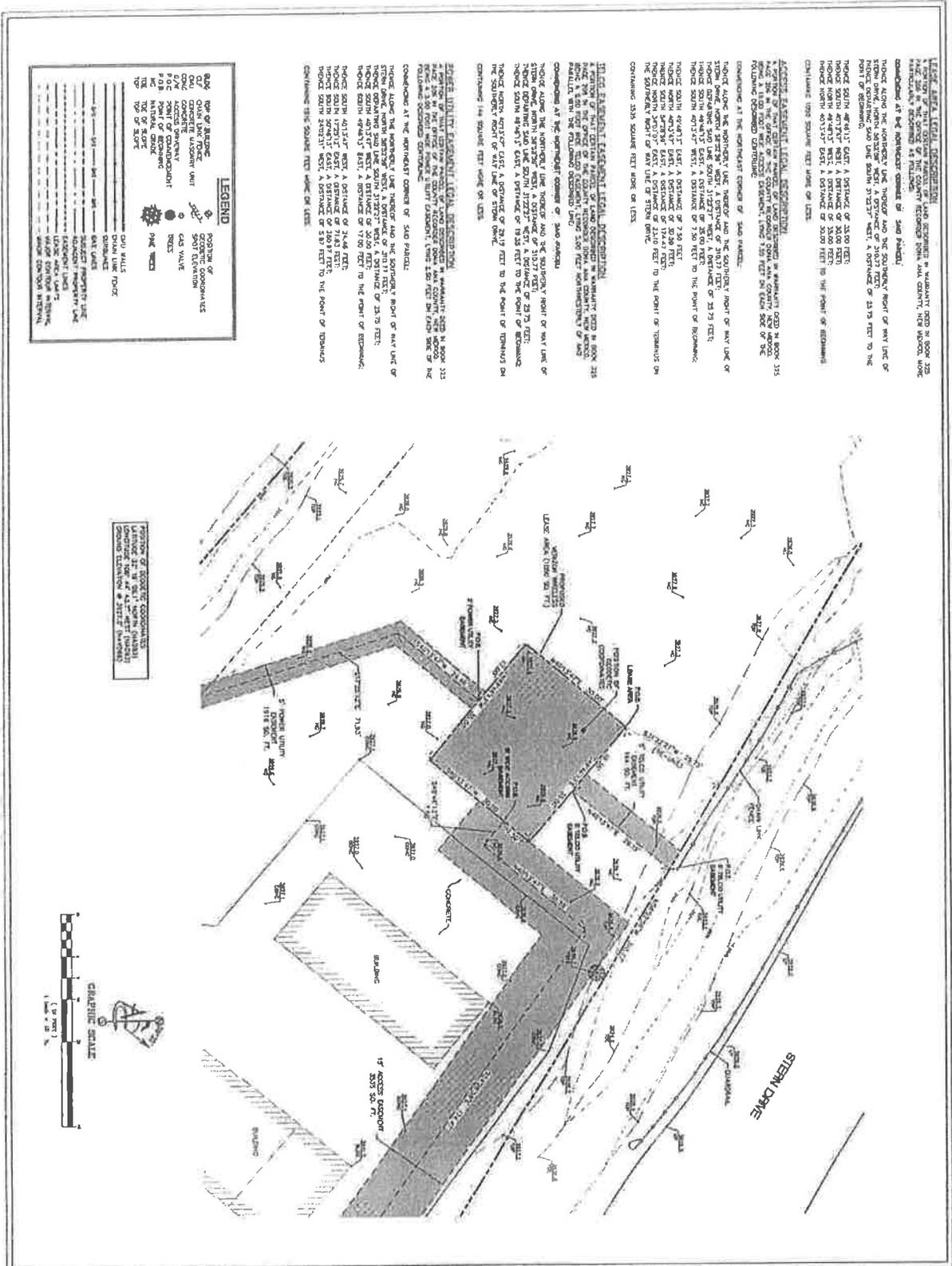


It has been my pleasure to assist with this important project and I will be happy to answer any questions regarding this report.

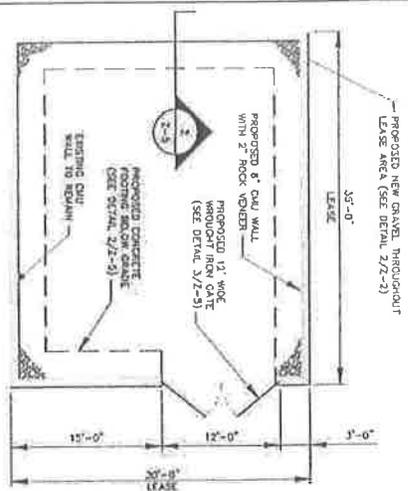
Respectfully submitted,

President

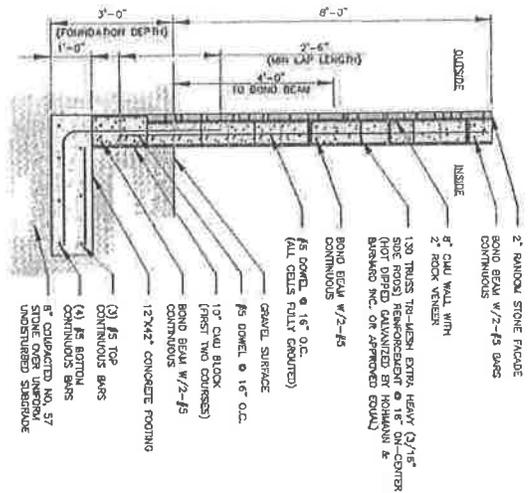
Attachments



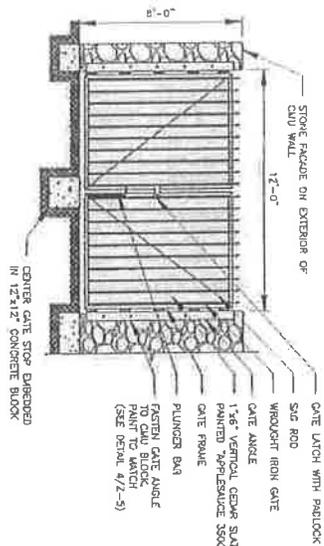
<p>Verizon wireless 100 S. CLARK DRIVE TULSA, OK 74103</p>	
<p>LSC BLACKHAWK 47th STREET DRIVE USA OFFICE NEW MEXICO BRANCH</p>	
<p>02/13/2015</p>	
<p>DATE: 02/13/15 PRELIMINARY 0 01/11/15 UPDATE</p>	<p>DATE: 02/13/15 PRELIMINARY 0 01/11/15 UPDATE</p>
<p>TECTONIC 1000 N. GARDEN AVENUE TULSA, OK 74103 918.438.1234 www.tectonic.com</p>	
<p>Ambit 110 EAST 34TH STREET, SUITE 100 TULSA, OKLAHOMA 74103-3412</p>	
<p>PROJECT NUMBER: LS-2</p>	



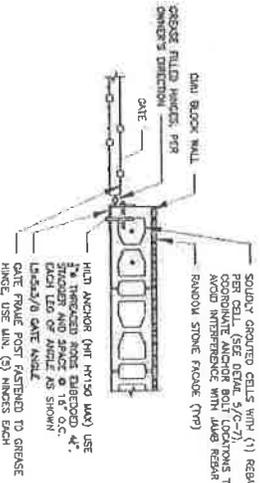
1 MASONRY WALL PLAN
SCALE: 1/8" = 1'-0"



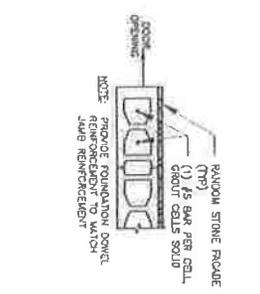
2 MASONRY WALL DETAIL
SCALE: 1/2" = 1'-0"



3 WROUGHT IRON GATE DETAIL
SCALE: 1/4" = 1'-0"



4 HINGE DETAIL
SCALE: 3/8" = 1'-0"



5 DOOR JAMB DETAIL
SCALE: 3/8" = 1'-0"

MASONRY NOTES	
1.	CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE MASONRY WORK SHALL CONFORM TO LSC SPECIFICATIONS FOR MASONRY STRUCTURES ACI 530.1.
2.	GRAVEL SHALL CONFORM TO ASTM C275. VERTICAL FOR UNIT MASONRY, TYPE W OR S.
3.	CONCRETE MASONRY UNITS SHALL BE NORMAL WEIGHT HOLLOW CONCRETE MASONRY UNITS WITH A COMPRESSIVE STRENGTH OF MASONRY (CMU) SHALL NOT BE LESS THAN 1,500 PSI.
4.	MASONRY GROUT SHALL CONFORM TO ASTM C476. GROUT FOR MASONRY AND REPTILLED DETAILS SHALL BE TYPE S-100. GROUT STRENGTH SHALL BE MINIMUM 2000 PSI (ALL CELLS FULLY DETAIL).
5.	ALL MASONRY UNITS SHALL BE PLACED IN RUNNING BOND.
6.	REINFORCED STEEL SHALL BE GRADE 60 AND COMPARE TO ASTM A615. TOLERANCE AND PLAIN BUILT-UP STEEL BARS FOR COMPONENT REINFORCEMENT SHALL BE 1/8 INCHES.
7.	JOINT REINFORCEMENT SHALL CONFORM WITH ASTM A 701. THE MAXIMUM SPACING OF JOINT REINFORCEMENT SHALL BE 48 INCHES. THE MINIMUM SPACING SHALL BE 18 INCHES.
8.	3" COVER FOR ALL REBAR IN FOOTING (TYPICAL).
9.	CONSTRUCTION TO HAVE MASONRY WALL RESPECTED PER IBC 2003 SECTION 1904.5. SPECIAL INSPECTIONS.

DEPTH OF FOOTING NOTES	
1.	CONSTRUCTION TO VERIFY ENGINEER CONCERNING ANY DEPENDENCIES.



4821 ERIKSON, SUITE 100
ARLINGTON, VA 22204
TEL: 703.441.4000
WWW.VERIZONWIRELESS.COM

WORK ORDER NUMBER: 8022 BLACKHAWK
DRAWN BY: KSD

NO.	DATE	ISSUE
0	3/11/15	PRELIMINARY
1	3/17/15	PER COMMENTS
2	4/21/15	100%
3	5/29/15	REMOVE DRAINING ROD



UNAUTHORIZED ALTERATION OR ADDITIONS TO A PLAN BEARING THE SEAL OF A LICENSED ENGINEER OR LAND SURVEYOR IS A VIOLATION OF THE STATES UNDERSTANDING REGULATIONS.

COPIES OF THIS DOCUMENT, WITHOUT A FACSIMILE OF THE SIGNATURE AND ORIGINAL SEAL, ARE NOT VALID FOR RECORD. THE PROFESSIONAL ENGINEER OR LAND SURVEYOR SHALL NOT BE CONSIDERED VALID COPIES.

SITE INFORMATION:

LSC BLACKHAWK
RAVILAND
4790 STERN DRIVE
DONA ANA COUNTY
LAS CRUCES, NM 88005
VZW PROJ# 20141032586

SHEET NUMBER: 2-5

COMPONENT DETAILS

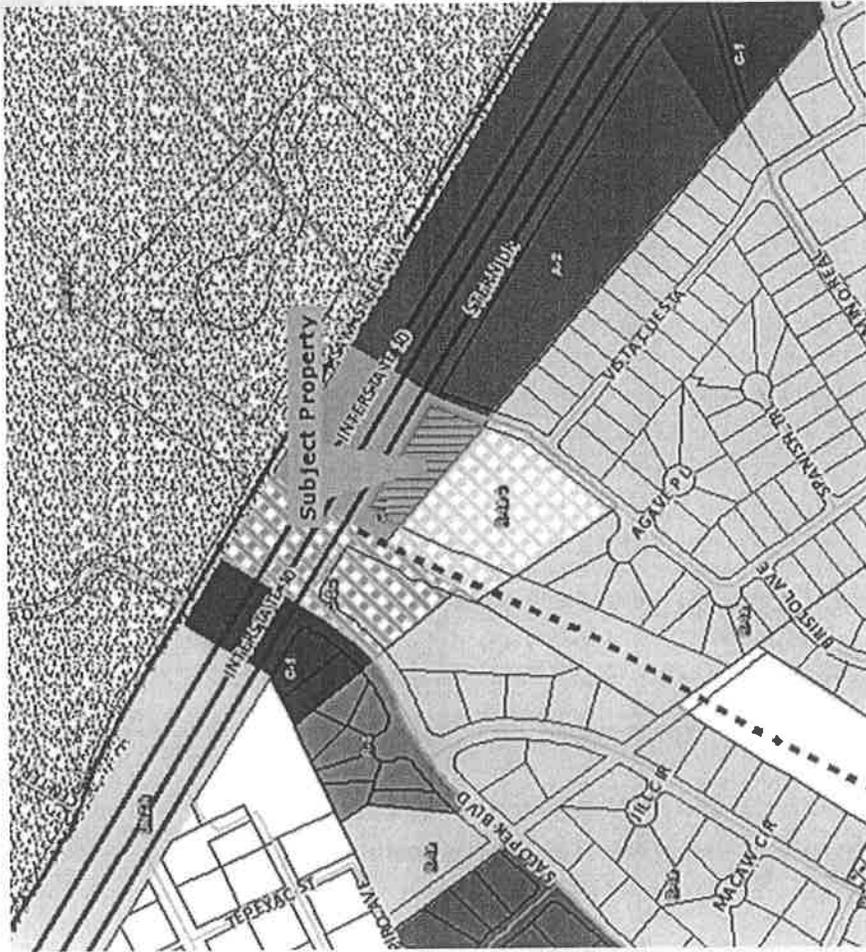
VERIZON WIRELESS SITE: LSC BLACKHAWK

TAB 3

SUP-15-01

4790 STERN DRIVE

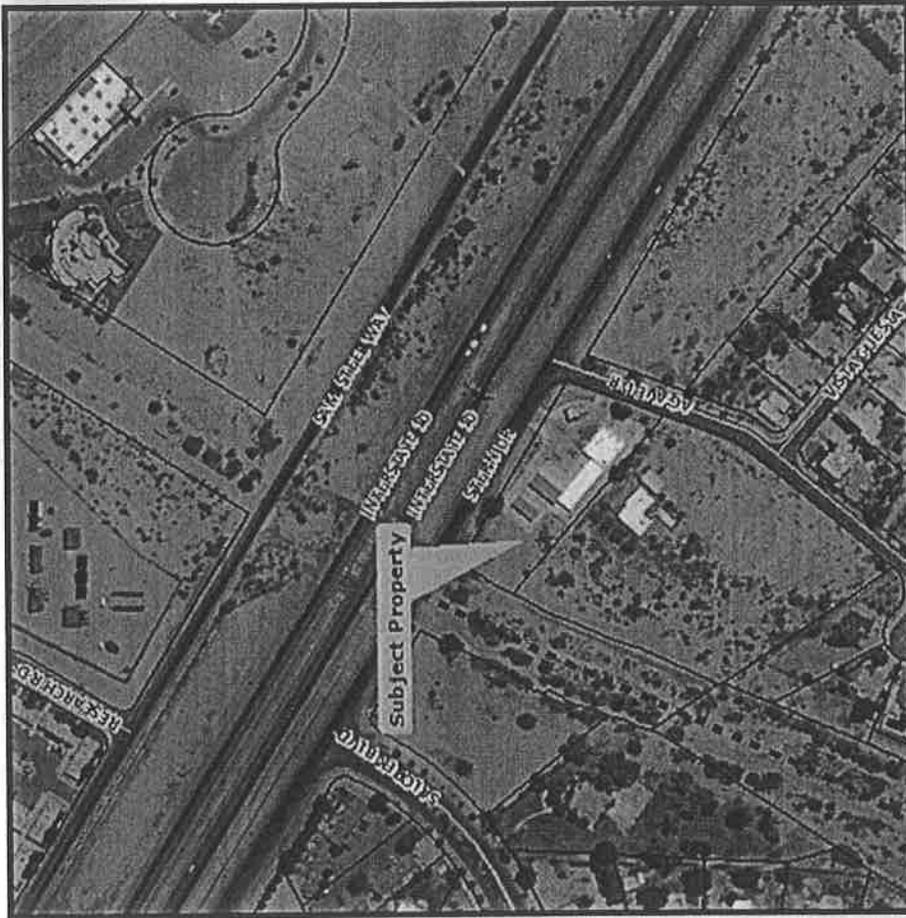
WIRELESS COMMUNICATION FACILITY SPECIAL USE
PERMIT (SUP)



Location / Zoning Map

Current Conditions

- ▶ Southwest corner of Stern Drive & Agave Drive
- ▶ 1.552 ± acres
- ▶ Zoned C-3 (Commercial High intensity)
- ▶ Commercial property with vacant commercial buildings



Aerial Map

Code Requirements

- ▶ Section 38-59F of the 2001 Zoning Code
 - ▶ New communication structures adjacent to property zoned R-1a are not permitted unless approved through the SUP process
 - ▶ A SUP may permit tower heights greater than what is allowed by the zoning district
 - ▶ Applicant is required to pay all expenses associated with the city hiring a qualified expert to review and provide written recommendation to the P&Z of the technical information submitted as part of the application

Proposal

- ▶ New wireless communication facility with a 75 foot tall wireless communication tower
- ▶ 10-foot taller than what is permitted in the C-3 zoning district (65 feet)
- ▶ Adjacent to R-1aC zoned property
- ▶ To be located to the rear of the subject property
- ▶ Meets all required setbacks
 - ▶ Including the setback from the adjacent residential lot
- ▶ Will follow all requirements of Section 38-59 of the 2001 Zoning Code

Analysis

- ▶ Analysis was prepared for the proposed new facility
- ▶ Greg Best Consulting, Inc. reviewed the analysis and provided a written recommendation on June 23, 2015
 - ▶ Concurs with the analysis of the applicant that the proposed new wireless communication facility site at 4790 Stern Drive is the best available site
 - ▶ Also concurs with the applicant with the proposed height of the new wireless communication tower

Staff Recommendation

- ▶ Staff has reviewed the proposed Special Use Permit and based on the review by Staff and all other reviewing departments in the City of Las Cruces and the New Mexico Department of Transportation and the written recommendation from the independent expert consultant and the findings found in the staff report, staff recommends approval for the proposed SUP

Staff's Findings

- ▶ The subject property encompasses 1.552 ± acres, is zoned C-3 and currently contains vacant commercial buildings
- ▶ An independent expert consultant has reviewed the analysis from the applicant and concurs that 4790 Stern Drive is the best available site for a new wireless communication facility with a 75-foot tall wireless communication tower in the area. (2001 Zoning Code, Article 6, Section 38-59 F6)
- ▶ The proposed new wireless communication facility follows all of the requirements for a Special Use Permit (SUP) and all standards of Section 38-59 of the 2001 Zoning Code, as amended

Public Input

- ▶ The City has received one email concerning the location of the new facility on the subject property

Options

- ▶ **Vote YES as recommended by staff**
- ▶ **Vote YES with Conditions**
- ▶ **Vote NO**
- ▶ **Vote to TABLE/POSTPONE and direct Staff and the applicant accordingly**

PLANNING AND ZONING COMMISSION
FOR THE
CITY OF LAS CRUCES
City Council Chambers
July 28, 2015 at 6:00 p.m.

BOARD MEMBERS PRESENT:

- Godfrey Crane, Chairman
- William Stowe, Vice-Chair
- Ruben Alvarado, Member
- Kirk Clifton, Member
- Harvey Gordon, Member

BOARD MEMBERS ABSENT:

- Charles Beard, Secretary
- Joanne Ferrary, Member

STAFF PRESENT:

- Katherine Harrison- Rogers, Senior Planner, CLC
- Adam Ochoa, Planner, CLC
- Mark Dubbin, CLC Fire Department
- Pete Connelly, CLC Deputy City Attorney
- Becky Baum, Recording Secretary, RC Creations, LLC

I. CALL TO ORDER (6:00 p.m.)

Crane: Good evening ladies and gentleman. Welcome to the Planning and Zoning Commission meeting for Tuesday, July 28th. Let me start as we usually do by introducing the Commissioners present. On my far right is Commissioner Clifton who is the Mayor's appointee. Correction, he is not, he is, who's the appointee of you Mr. Clifton?

Clifton: Levatino.

Crane: Who?

Clifton: Levatino.

Crane: Five.

Ochoa: District 6.

Crane: District 6. Thank you. And then Mr. Gordon who is the Mayor's appointee. Mr. Stowe is our Vice Chairman and he is, represents District 1. Mr. Alvarado represents District, District 3. And I'm Godfrey Crane, the

1 Chair, and I represent District 4. Commissioners Ferrary and Beard
2 cannot be with us tonight.
3

4 **II. CONFLICT OF INTEREST**

5 *At the opening of each meeting, the chairperson shall ask if any member on the*
6 *Commission or City staff has any known conflict of interest with any item on the*
7 *agenda.*
8

9 Crane: The next thing is for me to ask the Commissioners present and the City
10 people present whether anyone has a conflict of interest in relation to this
11 item, any of the items on the agenda tonight? No one so indicates. I do
12 have a problem which I'll enlarge on in just a moment.
13

14 **III. APPROVAL OF MINUTES**

15
16 1. June 23, 2015 - Regular Meeting
17

18 Crane: The next item is approval of minutes for the last meeting which was the
19 June 23rd. Does any Commissioner have any notes on the minutes of the
20 last meeting? Okay, I have three; page 13, line 19 "Mr. Fishback did you
21 attend the Planning and Zoning meeting 'at' which" I believe I probably
22 said. Second one, page 30, line 37, I've been thinking about this but I
23 believe that in the, in that line I said "that would require this road to be built
24 according to modified specs." That makes more sense in the context.
25 And finally, page 36, line 16, I think I said "just traffic director." Rather
26 than "this." Anyone else gentlemen? That seems to be it. I'll entertain a
27 motion that the minutes be accepted as modified.
28

29 Gordon: So moved.

30 Crane: Moved by Mr. Gordon.

31 Clifton: Second.

32 Crane: Seconded by Mr. Clifton. All in favor "aye."
33
34

35 MOTION PASSED UNANIMOUSLY.
36

37 Crane: Opposed? Abstentions? Passes five to zero. Thank you.
38

39
40
41 **IV. CONSENT AGENDA**

- 42
43 1. **Case IDP-15-01:** An application of Grey Handy, managing member, for an
44 Infill Development Proposal (IDP) for the expansion of the Adobe Assisted
45 Living Facility into two adjacent vacant single-family dwellings. The IDP
46 seeks a waiver from the required road classification for the expanded use.

1 The variances from existing non-conforming setbacks, and variances from
2 onsite parking requirements. The properties are located on the east side of
3 the intersection of E. Mountain Ave. and N. Virginia St. at 540 N. Virginia,
4 Parcel ID # 02-05321, 600 N. Virginia St., Parcel ID # 02-05355, and 1111 E.
5 Mountain Ave., Parcel ID # 02-05387. Proposed Use: Assisted Living
6 Facility. Council District 1 (Councilor Silva).

7
8 **2. Case SUP-15-01: - MOVED TO NEW BUSINESS - PAGES 5-30.**

9
10 Crane: Now we go onto the consent agenda. Let me explain what this is, there's
11 two items on there, IDP-15-01 and SUP-15-01. These items which the
12 City Community Planning Department has decided they're probably not
13 controversial and therefore will not generate any debate so they are
14 lumped together, two of them in this case, to be voted on as a block
15 without any discussion by us or the public. The vote would be up or down
16 for the two, for the whole of the consent agenda. However, if any
17 Commissioner, or any member of the public would like to do, to have
18 some debate on either of these two issues, we will pull them off the
19 consent agenda and put them at the beginning of the new business.
20 Commissioners, any body want to take anything off the consent agenda?
21 Any member of the public wish to take either of these items? This
22 gentleman standing up. You do sir.

23
24 MEMBER OF THE PUBLIC SPEAKING, NOT AT THE MICROPHONE.

25
26 Crane: Okay, thank you that's all I need to hear right now. So we have a member
27 of the public who would like to discuss this so we will move item number
28 two, Case SUP-15-01 about the cell phone tower to new business and it
29 will be item number one of new business. May I see a show of hands as
30 to, for my guidance, who else in the room is interested in that case SUP-
31 15-01 on the tower? Okay. And how many of you, keep your hands up if
32 this applies to you, how many of you would like to come and talk at the
33 microphone for typically three minutes? One, two, three. I see three at
34 the moment. Okay sometimes that increases slightly. That helps us plan
35 how exactly to move the traffic along.

36 So, since I'm talking about procedure, let me jump forward for a
37 moment to how we handle new business. These are items on which there
38 are, we do expect there to be some discussion, so first a member of the
39 Community Planning Department will make a presentation, there might be
40 for example Mr. Ochoa, Commissioners might have some questions for
41 him. Then the applicant if present or the applicant's designated speaker
42 gets to make a presentation if they wish to, again we may have some
43 questions. And finally members of the public get to come up, identify
44 themselves, be sworn in very briefly, and to state their, their views and the
45 customary limit is three minutes apiece and we ask you not to repeat too
46 much of what other people have said. It's okay to say that you agree

1 entirely with the previous speaker or something like that. When all the
2 members of the public have spoken we close the discussion to further
3 public input, the Commissioners will have a discussion among themselves
4 and when they've all had their say we will take a vote.

5 One further item, I am going to recuse myself during the debate
6 about SUP-15-01, reason being, although it does not affect me directly as
7 a resident in the neighborhood, my wife and I have a close friend of 20
8 years who does live there. I don't see her present tonight and she may
9 not even be aware of this matter, but I know she would be mortified if I
10 participated in debate, let alone how I vote. So since we have a quorum I
11 do not need to be present to make this proceed and our Vice Chairman,
12 Mr. Stowe will chair the meeting during that period and I will probably sit
13 down there somewhere. So does anybody have any questions about
14 procedure? Have I made myself clear?

15 All right. In that case we have one item on the consent agenda,
16 IDP-15-01 on the assisted living facility and the variances. I didn't ask
17 specifically about this so let's make sure we have no problems here.
18 Does anybody here wish to take item number one off the consent agenda
19 regarding the assisted living facility? Yes Ms. Harrison-Rogers.

20
21 H-Rogers: Just a point of order that there will need to be a vote first on moving the
22 item off the consent agenda and voting on the consent agenda, and then
23 voting either "yeah" or "nay" to what's remaining on the consent agenda.
24 So sort of a two-part vote.

25
26 Crane: So what are you recommending at the moment?

27
28 H-Rogers: I'm, I'm just simply recommending that if the first item remain on the
29 consent agenda there needs to be a motion, a vote on basically removing
30 item number two, leaving item number one, and then there needs to be a
31 vote on whether the consent agenda is voted "yeah" or "nay." Do you ...
32 is that clear?

33
34 Crane: Okay. I understand. Commissioners, do I need a motion on that or, with a
35 second or? Yes, okay. I'll entertain a motion that item two, SUP-15-01 be
36 removed from the consent agenda, put on new business.

37
38 Clifton: So moved.

39
40 Crane: Moved by Mr. Clifton.

41
42 Gordon: Second.

43
44 Crane: Second by Mr. Gordon. All in favor "aye."

45
46 MOTION PASSED UNANIMOUSLY.

1
2 Crane: Opposed, "nay." Okay. And any abstentions? It passes five/nothing.
3 Thank you. And nobody indicated that they had a problem with leaving
4 number one on the consent agenda, so we will proceed with the consent
5 agenda. Commissioners, all in favor of the accepting the consent
6 agenda? I need a motion? Okay, thank you. A motion that we accept the
7 consent agenda consisting only of item one, IDP-15-01.

8
9 Gordon: So moved.

10 Crane: Moved by Mr. Gordon.

11 Clifton: Second.

12 Crane: Seconded by Mr. Clifton. All in favor "aye."

13 MOTION PASSED UNANIMOUSLY.

14 Crane: Opposed, "nay." And any abstentions? None. That passes five/nothing.

15
16
17
18
19
20
21 **V. OLD BUSINESS - NONE**

22
23 **VI. NEW BUSINESS**

24
25 **Case SUP-15-01:** Application of Verizon Wireless/Tectonic Engineering on
26 behalf of A & E Enterprises, Inc., property owner, to construct a new wireless
27 communication facility on a property encompassing 1.552+ acres, zoned C-3
28 (Commercial High Intensity) and located on the southwest corner of Stern Drive
29 and Agave Drive; a.k.a. 4790 Stern Drive; Parcel ID # 02-22899; Proposed Use:
30 The applicant is seeking to construct a new 75-foot tall wireless communication
31 structure and associated accessory structures on the subject property. Council
32 District 2 (Councilor Smith).

33
34 Crane: So we will proceed to Case SUP-15-01 and something tells me that Mr.
35 Ochoa is going to present. Is that right Mr. Ochoa?

36
37 Ochoa: Yes sir.

38
39 Crane: Go ahead please. Oh, I have to swear you in. I guess, who knows what
40 has happened since last time. Do you swear or affirm that the testimony
41 you are about to give is the truth and nothing but the truth under penalty of
42 law?

43
44 Ochoa: I do.

45
46 Crane: Go ahead please.

- 1
2 Ochoa: Adam Ochoa, Development Services for the record. First case tonight
3 gentlemen is SUP-15-01. It is a request for a Special Use Permit for a
4 wireless communication ...
5
- 6 Gordon: Excuse me Adam. I'm sorry to interrupt you, but aren't you, aren't you
7 going to recuse yourself at this point?
8
- 9 Crane: You're quite right. I had ... I am going to recuse myself. Mr. Stowe you
10 have the chair. Let me bring you the, this in case you need, need it.
11 Thank you Mr. Gordon.
12
- 13 Stowe: Mr. Ochoa you may proceed.
14
- 15 Ochoa: Thank you sir. Again, to start off again, first case tonight is SUP-15-01. It
16 is a request for approval of a wireless communication facility under a
17 Special Use Permit for a property located at 4790 Stern Drive. Subject
18 property shown here on the location and vicinity map. As you can see it's
19 directly kind of southeast of Interstate-10 here on this property here zoned
20 commercial. The property is located on the southwest corner of Stern
21 Drive and Agave Drive. Subject property currently encompasses
22 approximately 1.55 acres and again it is zoned C-3, commercial high
23 intensity. Currently on the subject property there consists a, a, a, a
24 number of vacant commercial buildings.
25 Looking here on the aerial you can see those vacant commercial
26 buildings here on the eastern side of the property where the new wireless
27 communication facility is proposed is to the rear, or to the west of those
28 facilities, back over here roughly where the arrow is pointing. Code
29 requirements you're looking at today is Section 38, 38-59F of the 2001
30 Zoning Code which states under the Zoning Code any new
31 communication structures adjacent to property zoned R-1a and other
32 single-family zoned, zoning designations are not permitted unless
33 approved through the Special Use Permit process. Through the Special
34 Use Permit process a new tower can also be granted a, a height variance,
35 in other words going taller it would be permitted in that current zoning
36 designation. The applicant is also required to pay for all the expenses
37 associated with the City and the applicant hiring a qualified expert to
38 essentially review and provide a, a written, written recommendation for an
39 analysis created by the engineer of the, for the proposed cell phone site
40 and that recommendation be brought to P&Z for your review and a, and
41 consideration.
42 The proposed facility is essentially a new wireless communication
43 facility with a 75-foot tall wireless communication structure. This is 10 feet
44 taller than what is permitted in the C-3 zoning district, 65-feet being the
45 maximum height, but again the allowance for a taller tower is
46 accompanying if you will or part of the Special Use Permit. Adjacent to

1 the property is an R, a property zoned R-1aC which is why this, they are
2 required to seek the Special Use Permit at this time. The, like I stated
3 before, the new facility is proposed to be located to the rear of the subject
4 property and the applicant has provided a site plan and building plan
5 showing that the proposed tower and facility meet all required setbacks
6 including the setback requirement for adjacent to the residential lot to the
7 south. The proposed new communications structure facility will follow all
8 requirements in Section 38-59 which is our antennas, wireless
9 communication structure section of the 2001 Zoning Code.

10 Apologize for the blurriness of this but here is the subject property
11 with the existing buildings here, with an access for the new facility off of
12 Stern Drive here. No new, no new access points off of Stern Drive or
13 Agave will be done for this proposed site which is over here roughly about
14 30 by 35 square foot site with a rock wall built around it and with some
15 landscaping provided adjacent to the south to provide some type of buffer
16 for the new facility. Shown here are those setback requirements, as you
17 can see they meet more than enough for the required setbacks. To the
18 rear they are required to provide a minimum setback of one foot for every
19 foot in height of that tower, plus 10%. They are still under that
20 requirement as well with this new facility.

21 Here, closer look as to what that new facility will look like, enclosed
22 within a rock wall as I said before the tower and all accessory and, all
23 accessory equipment to that tower. Shown here by the applicant roughly
24 where that site will be located, again to the rear of the most western,
25 western existing commercial building on that property. Here is an
26 elevation showing what that facility will look like with 75-foot tall tower, the,
27 the, the biggest reason why they are going for the 75-foot tall tower is to
28 allow for co-location. In the City of Las Cruces we encourage co-location
29 of communication structures so the taller height would allow for future
30 expansion of this tower to allow for more communication structure on one
31 tower instead of coming in for a new tower all together and relatively close
32 to this area.

33 As I stated before the City of Las Cruces and the applicant did hire
34 a professional to provide a recommendation. The analysis was prepared
35 for the proposed new facility and Greg Best Consulting reviewed this
36 analysis and provided a recommend, a written recommendation on June
37 23rd, 2015 and that is actually located as an attachment in your staff
38 report. Greg Best Consulting concurs with the analysis of the applicant
39 that the proposed new wireless communication facility at 47, 4790 Stern
40 Drive is the best available site in this area. The consultant also concurs
41 with the applicant that the proposed height is best to allow for better, to
42 allow for better coverage for the area as well.

43 With that staff did review the proposed SUP and based on the
44 review by staff and all of the reviewing departments in the City of Las
45 Cruces, as well as NMDOT since they are just adjacent to NMDOT right-
46 of-way, and based on the written recommendation from the independent

1 expert consultant and the findings found in your staff report, staff
 2 recommends approval for the proposed SUP. These are the findings that
 3 are located within your staff report; the main ones being that the proposed,
 4 that an independent, I'm sorry, that an independent expert consultant
 5 reviewed the analysis and concurred that the proposed site and height of
 6 the new wireless communication facility and tower are, they do concur,
 7 excuse me, with the analysis of the applicant for the new cell tower site
 8 and tower height. The proposed new wireless communication facility also
 9 follows all requirements of the Special Use Permit section of the 2001
 10 Zoning Code and all requirements of section 38-59 which are
 11 requirements for towers in the 2001 Zoning Code as well.

12 The City did receive an e-mail, a couple of e-mails concerning the
 13 location of the new facility on the subject property. You do have one of
 14 those e-mails in front of you. As you can see there are a number of
 15 people here as well with concerns it looks like for the new facility on the
 16 subject property. With that gentlemen is, your options tonight is: 1) to vote
 17 "yes" as recommended by staff; 2) to vote "yes" with any conditions
 18 deemed appropriate by the Planning and Zoning Commission; 3) to vote
 19 "no;" 4) to vote to table and postpone the proposed Special Use Permit
 20 and direct staff and the applicant accordingly. The applicant is here to
 21 answer any questions you might have of him, and I stand for questions.

22
 23 Stowe: Commissioner Gordon.

24
 25 Gordon: Adam I have two questions; number one could, it, it's hard for me to tell
 26 from the maps and things that we have in front of us, but what would be
 27 the closest in terms of distance on the ground from the tower to the
 28 nearest residence?

29
 30 Ochoa: Mr. Gordon. I'm sorry, Mr. Chairman, Commissioner Gordon. The, the
 31 wireless facility is directly adjacent to a residentially zoned property to the
 32 south here and the actual setback for, excuse me, that new, for that new
 33 tower from that subject property is, excuse me again, is 93 feet.

34
 35 Gordon: On that little yellow area that's what you're talking about, little
 36 checkerboard yellow area?

37
 38 Ochoa: Yes sir. That is ...

39
 40 Gordon: Are there, are there actually homes in that, on that?

41
 42 Ochoa: Mr. Chairman, Commissioner Gordon. Yes there is a home on there.

43
 44 Gordon: Okay. And then my second question is any tower of lesser height would
 45 not be accessible, would not be agreeable by the applicant?

46

- 1 Ochoa: Mr. Chairman, Commissioner Gordon. That'd be something you might
2 want to speak to the applicant about. The analysis again did concur with
3 the application from the, the independent consultant stating that the, the
4 height would be, is justified or does concur that this area should be a,
5 allowed for that, this property should be allowed that height if you will.
6
- 7 Gordon: All right I'll ask the applicant another question then.
8
- 9 Stowe: Commissioner Alvarado.
10
- 11 Alvarado: Are there any other towers as close to residences in the City as this one
12 will be?
13
- 14 Ochoa: Mr. Chairman, Commissioner Alvarado. No sir. There are a number of
15 other communication structures in the City that are right next to residential
16 zoning as this one, a couple of them that come to mind are in the Sonoma
17 Ranch area east of, of the City limits. I'm sorry, on the east side of town if
18 you will and there is one as well that's located currently at, on the Whiskey
19 Disks property relatively close to this subject property. There are some
20 residentially zoned properties that are right, that are adjacent, that are
21 close by there sir.
22
- 23 Alvarado: Are, are they more or less the same height, shorter, or taller?
24
- 25 Ochoa: Mr. Chairman, Commissioner Alvarado. The towers that are located, or
26 the tower that I know of that is located in the Sonoma Ranch area is
27 actually 85 feet, so it is taller than this tower.
28
- 29 Alvarado: Thank you.
30
- 31 Ochoa: Mr. Stowe.
32
- 33 Clifton: Mr. Chair, Commission.
34
- 35 Stowe: Yes, go ahead.
36
- 37 Clifton: Thank you. Adam, quick question. This is proper, property's currently
38 zoned C-3?
39
- 40 Ochoa: Mr. Chairman, Commissioner Clifton. That is correct.
41
- 42 Clifton: And the maximum allowable height in a C-3 zoning district is 60 feet?
43
- 44 Ochoa: Mr. Chairman, Commissioner Clifton. The maximum height actually
45 permitted in the C-3 by right is 65 feet.
46

- 1 Clifton: Sixty-five feet. So this is 10 feet taller than what's allowed by right.
2
- 3 Ochoa: That is correct sir. By right with the Special Use Permit.
4
- 5 Clifton: Okay. So if it, if a building came in for construction hypothetically for this
6 particular lot at 65 feet it could essentially be issued a building permit at
7 that height?
8
- 9 Ochoa: Mr. Chairman, Commissioner Clifton. In the C-3 zoning district I believe
10 the maximum building height is 60 feet, so technically yes, they, we, if
11 somebody came in just for a building permit for a new building there for 60
12 feet in height we would issue that.
13
- 14 Clifton: Okay. Thank you.
15
- 16 Stowe: I see no one else to, to, wants to talk on this topic.
17
- 18 PUBLIC SPEAKING NOT AT MICROPHONE.
19
- 20 Stowe: Yes, we'll get to the public.
21
- 22 PUBLIC SPEAKING, NOT AT MICROPHONE.
23
- 24 Stowe: I mean up here. Move to the next, is the applicant here? Yes would you
25 please come forward and make your presentation on this case.
26
- 27 Ochoa: Mr. Chairman if I may remind you, you might have him state his name and
28 swear him in as well sir.
29
- 30 Stowe: Yes. State your name please, and then I'll swear you in.
31
- 32 Gutierrez: Yes sir my name is Les Gutierrez. My address is 1 La Veta Circle NE,
33 Albuquerque, New Mexico and I represent Verizon Wireless.
34
- 35 Stowe: Thank you. Mr. Gutierrez do you swear or affirm that the testimony you
36 are about to give is the truth and nothing but the truth under penalty of
37 law?
38
- 39 Gutierrez: I do.
40
- 41 Stowe: Please proceed sir.
42
- 43 Gutierrez: Yes sir, Commissioners, our company, TECTONIC Engineering is the
44 engineering firm that is working on the real estate and engineering design
45 of this tower. I also have with me Mr. Hamdi Alaaldin who's the RF
46 engineer for Verizon Wireless in case there's any questions with regard to

1 why this tower needs to be here and the, and the energy levels required
2 by the FCC. We basically concur with Mr. Ochoa's presentation. We
3 don't have a lot to add. A couple of things I may add that may not be too
4 clear is this tower is going to be painted a desert sand to kind of blend in
5 with the community. It's been done before in other areas of Las Cruces.
6 And with regard to the setback I believe the setback is 93 feet. The only
7 house that is on there is a, is a little further away and that actual residence
8 probably I'm guessing more like 150 feet away from, from the tower. So
9 I'm here really to answer any questions. I think Mr. Ochoa did an, a great
10 job of presenting what we're trying to do here. If there's any specific
11 questions on the tower, the height, why we need to be there, I'd be more
12 than happy to answer those sir.

13
14 Stowe: Commissioner Gordon.

15
16 Gordon: This is a little bit off of the presentation but apparently on the other side of
17 Interstate-10 is property that is presently owned by New Mexico State
18 University. Has any attempts been made, to perhaps question them if
19 they'd be interested in hosting a, a tower where they could gain a revenue
20 from the, from where that site might rest?

21
22 Gutierrez: You know Commissioner Gordon they were approached and there are
23 some towers on NMSU property. I've done several of them at the
24 stadium. This particular area we approached them, they were not
25 interested in a tower for whatever reason. We also looked at other areas
26 along the same side of, of the freeway that we're at, unfortunately all the
27 zoning in that area is all R. This is the only commercial piece of property
28 where a tower could fit. The situation at the university is that there is so
29 much demand at the university site that Verizon now is working to try to
30 put in small cells, these are small units. I think there's a total of six or
31 eight of them that are going in, in order to handle that capacity. So this
32 tower is, is much like, not so much for coverage but it's there to design
33 and handle all the capacity on the freeway and the residential areas on
34 that side, but we did look at other locations and this was the best location
35 as stated by the engineer.

36
37 Gordon: All right thank you. And what happens if this tower isn't constructed?

38
39 Gutierrez: I beg your pardon sir.

40
41 Gordon: What happens if this tower is not constructed, what does it, what does it
42 do for Verizon as far as being able to transmit data?

43
44 Gutierrez: Well in the short-term we'll probably be okay. I'll let Mr. Alaaldin talk to
45 that a little bit further. In the short-term we'll probably be okay. Within a
46 year or so as traffic demands there'll be probably dropped calls, not good

1 internet coverage in that area, but it will be okay for a while, but Verizon
2 usually plans about a year in advance of where their needs are in terms of
3 their capacity.
4
5 Stowe: And you said your other, there's another person with you to present
6 information?
7
8 Gutierrez: I'm sorry.
9
10 Stowe: Is there, is there another person with you to present?
11
12 Gutierrez: We have no further presentation sir other than what's in this package.
13
14 Stowe: Well the, is there someone else with you?
15
16 Gutierrez: Yes. Yes sir there is. I have an engineer with me if there's questions.
17
18 Stowe: Because we need, we need to discuss the technical reasons why this is
19 been select, the site selected and any, any other issues there, technical
20 issues.
21
22 Gutierrez: Sure.
23
24 Stowe: So we'll appreciate more explanation and that you stand for questions.
25
26 Gutierrez: Sure. I have Mr. Alaaldin here, he'd be happy to do it.
27
28 Stowe: Your name sir.
29
30 Alaaldin: Mr. Chairman, my name is Hamdi Alaaldin. I live in 322 West Indigo
31 Drive, Chandler, Arizona. I'm an engineer for Verizon Wireless.
32
33 Stowe: Thank you Mr. Alaaldin. Do you swear or affirm that the testimony you are
34 about to give is the truth and nothing but the truth under penalty of law?
35
36 Alaaldin: I do.
37
38 Stowe: Please proceed, well you're standing for questions. Do you have a
39 presentation or a few comments to make?
40
41 Alaaldin: No I provided all the data that the gentleman, Greg Best asked for so I
42 thought that was all needed.
43
44 Stowe: Okay.
45
46 Alaaldin: There was no other further explanations.

- 1
2 Stowe: We have interest from the public so ...
3
4 Gordon: Well I have a question.
5
6 Stowe: A, a question by Mr. Gordon.
7
8 Gordon: Sir what would happen if the tower was shorter?
9
10 Alaaldin: We could definitely entertain that and we'll be willing to take it down to the
11 65 feet to hopefully make everybody happy. The reason we asked for too,
12 for the high was two reasons, one was co-locatable, to be able to have
13 other communication facilities for other carriers to go on; two because the
14 surrounding trees were not letting the propagation signal to go as far as
15 we wanted to, but we can certainly do the 65 feet and make it okay just for
16 Verizon. If any other carrier would like to come up they have to go a lower
17 height.
18
19 Gordon: With the advances in technology as fast as they are happening today, if
20 we table this and you came back a year from now do you think perhaps
21 times will have changed enough to, where you might be able to come up
22 with a better alternative?
23
24 Alaaldin: Unfortunately the technology's going the opposite direction, because
25 everybody's getting new phones, kids are having phones, the technology's
26 changing where you have to provide five megabytes of data speed for the
27 smart phones. And all the smart devices are going on the phones and
28 we're working on what's called M2M which is machine-to-machine, they
29 talk to each other all the time, so the technology's got to get more towers
30 and more of these facilities.
31
32 Clifton: Thank you Mr. Chair. Do, do you see an increase in your load or your
33 usage of the cell network and do you have a lot of calls that are utilized for
34 911 and emergency services?
35
36 Alaaldin: Absolutely. We, we seeing really growth exponentially, very high growth,
37 especially in Las Cruces area and that's why we providing this tower and
38 we have a lot of other plans coming up with new towers, just based strictly
39 on data and usage. And that usage, it used to be easy when it was voice,
40 we could put one side up in high mountain and be happy with it, because
41 you, voice doesn't require a lot of data speed, but when you're watching
42 movies and Netflix and all the other one on your laptop and your phones,
43 that's where NFL plays and all the other stuff is where it eats up all the
44 resources we have.
45
46 Clifton: Thank you.

- 1
2 Stowe: Very well. Members of the public, would you like to ask questions?
3 Would someone like to make a presentation first? Excuse me, Mr., Mr.
4 Alaaldin we do have a, a question for you.
5
- 6 Alaaldin: Definitely.
7
- 8 Alvarado: Yeah, I, I have a question. What, what signals, what kind of signals does
9 the tower carry?
10
- 11 Alaaldin: We're planning for having 700 megahertz right now and 2100 megahertz
12 LTE which is 4G technology at this point. This is a low power, its only 40
13 watts total coming out of the base station to the antennas.
14
- 15 Alvarado: All right. For voice data ...
16
- 17 Alaaldin: It's, right now it's only for data because the area is, is very demanding for
18 the data and, but in the future the data and voice will be combined into
19 one which is called VoLTE and your traditional voice will go away and
20 everything will be on that technology.
21
- 22 Alvarado: I see. Okay. Thank you.
23
- 24 Alaaldin: Too, I didn't clarify on one thing, yes it does carry 911 which is
25 emergency, all the emergency services. Also Verizon provides additional
26 services to the military folks where if a military high ranking official drives
27 by the area in case of emergency and there's not enough resources, we'll
28 drop other people to put them on, so we do entertain all, everybody.
29
- 30 Gordon: But then, but then you bring up another point. Let me just add one thing to
31 this. Mr. Clifton just reminded me of something. There is now a wave of
32 people giving up landlines, going strictly to using cell phone. Will this
33 tower be able to handle what kind of a demand if this continues maybe at
34 the rate that it's going before it would require another tower?
35
- 36 Alaaldin: That's a great question. What do we do every quarter, we look at every
37 tower, every sector of each tower and we run all the calls that go through
38 that tower and see what compared to the capacity of the towers in that
39 town versus the quality and versus the amount of calls that come in and
40 then we plan that every month and see what kind of a gross rate we have
41 and we plan 24 month ahead to cope for that capacity issue. So your
42 (*inaudible*), it will be more and more coming on to those towers because
43 there is reasons as you mentioned.
44
- 45 Gordon: Well will there be a point in time when this tower will be at capacity?
46

- 1 Alaaldin: Oh absolutely.
2
- 3 Gordon: So then where will you go?
4
- 5 Alaaldin: We have to either buy more frequencies or government give us more
6 frequency or build more towers, or we're coming up with other
7 technologies to offset that. We're coming up with smaller cells in the
8 areas, smaller cells only work like in universities or downtown areas,
9 where they are 20, 25-foot tall and they can only go 200 feet and they can
10 provide up to 400 people which, which is one of those small cells. So we,
11 we're putting a lot of those in as well to just cope with the traffic. We're
12 here because of the data. The data shows us that we need to go and we
13 need to build. It's, that's why we're investing in the community.
14
- 15 Gordon: You're from Verizon, what about AT&T and, and all of your competitors,
16 what are they doing as far as their facilities are concerned in building
17 towers? Where are they going?
18
- 19 Alaaldin: I can't speak for them. I thought you guys would know more about that
20 than we do. They've already been here, right?
21
- 22 Stowe: All right, it's, it's time for the gentleman with the blue shirt. Please state
23 your name.
24
- 25 Brooks: My name is Larry Brooks. I live at 318 O'Hair Drive which is one of the
26 roads that comes off of Stern Drive a little bit north of where the proposed
27 tower is.
28
- 29 Stowe: Mr. Brooks do you swear or affirm that the testimony you are about to give
30 is the truth and nothing but the truth under penalty of law?
31
- 32 Brooks: Yes I do.
33
- 34 Stowe: Please proceed.
35
- 36 Brooks: Okay, all of us here are, are using cell phones. I'm sure everybody does.
37 And we don't dispute that there's going to be an increase in data, cars are
38 using more as they go past this particular point. I think what you're gonna
39 here is an impassioned plea from the community that we love the Mesilla
40 Valley that we're in. We love the view of the mountains that we have of,
41 you know it crosses a couple of freeways but we're all on the west side of
42 the freeway. And the proposed site for this tower is going to block that
43 view of the mountains and I think that's going to be the most impassioned
44 plea that you're gonna here from the community. From this point where
45 the tower's proposed, there is another tower a mile up behind Whiskey
46 Dick's at Union and Stern. There is another tower a mile south, I'm not

1 sure about the exact location of that but it's again it's west of the freeway,
2 but it's aright along I-10. There is numerous towers that was stated by
3 Verizon on the light poles at the university a, a, football field. I mean
4 there's a plethora of them. And if you look at all of these towers I
5 understand that putting up more and more receivers on every single tower
6 that's out there, so I understand the capacity is, is growing exponentially.
7 The problem here that we see, especially if they start off with one tower
8 with one array and then they build it high enough where they're gonna put
9 two or three arrays, that view of the, of the Organ Mountains from most of
10 the properties west of this site are going to be blighted and I think again
11 that is the impassioned plea. If they had put this tower on university
12 property a little bit maybe further north where there is no you know
13 backyard views of this tower, of it blocking the Organ Mountain view, I
14 don't think they would have a problem with it and I think that's what a lot of
15 people are here are going to tell you, that it is the location of this tower,
16 also the height, we think 75 feet might be a little excessive. He says, you
17 know he's the experts, I'm sure. I'm sure they know what height their
18 tower needs to be. And we know the utility, utilization's going to be there
19 but the passion is that they are gonna block the view and if you look at the
20 zoning map right here if you see all of the, let's see the road coming in
21 that, that red site to the I guess the upper portion, okay that's the turn-in
22 at, what is it, it's not O'Hair, Salopek. Salopek Drive right there. And then
23 you come down and you make a left and that's O'Hair. So all of those
24 have backyards that face west towards, face east rather towards the
25 Organ Mountains.

26
27 Stowe: Right.

28
29 Brooks: And then all the subdivisions that are on the other side, that's the Tortugas
30 Arroyo that's in between there and so all of those people are, again these
31 are all single-family dwellings, very little obstructions in the air above
32 except as we get further away towards the university, towards the football
33 stadium. So we have an unobstructed view of the Organ Mountains. And
34 again that is our passion and I think that is why we oppose the cell tower
35 where it is, especially the height of it. Maybe if they built these 25-foot
36 towers and build it you know just for the residential communities or built
37 more of them, that might be some type of acceptable you know median.
38 But at this time, at this location I don't believe it's an acceptable thing in
39 this residential area because of the blight it will put on our view of the
40 Organ Mountains.

41
42 Stowe: Thank you.

43
44 Brooks: Thank you for your time. Appreciate it. Any other questions for me?

45
46 Stowe: Does anyone have questions for Mr. Brooks?

1
2 Brooks: Thank you.
3
4 Stowe: And the, the next citizen please. Would you state your name please?
5
6 Comeau: Sure. My name is Jerry Comeau.
7
8 Stowe: Mr. Comeau.
9
10 Comeau: I live at 4851 Visa Cuesta.
11
12 Stowe: Mr. Comeau do you swear or affirm that the testimony, testimony you are
13 about to give is the truth and nothing but the truth under penalty of law?
14
15 Comeau: I do.
16
17 Stowe: Please go ahead.
18
19 Comeau: The first thing I object to the presentation because 4790 Stern Drive at the
20 intersection of Agave is not on the southwest corner, I believe it's on the
21 northwest corner. I'd like to give an overview. Within one mile to the north
22 of this proposed tower is the Mesilla Valley Christian School. Half a mile
23 to the east is the Las Cruces Early College High School. One mile to the
24 south or less than one mile to the south is the proposed Mesilla Valley
25 Christian High School. And within a quarter mile west of the tower is the
26 City-Salopek-Stern City Park. So I believe it's gonna be an eyesore all
27 around and there are three fully occupied housing developments in the
28 area. There is, there are hundreds of acres of pecan orchards in this
29 neighborhood where I feel the tower could be put and not be an eyesore.
30 The proposed tower is adjacent to a major arroyo and you think in terms of
31 the hundred-year flood and that tower would be undermined and fall right
32 into the arroyo. And across from the tower is a bridge that carries traffic
33 east/west on I-10 from California to Texas and thinking in terms of
34 terrorism and what goes on in our world today, if that tower should fall on
35 the bridge all the traffic east/west in the southwest and part of the United
36 States would be disrupted. Anyway that's about all I got to say.
37
38 Stowe: Very well. Is there anyone else that'd like to make a comment? Yes sir,
39 step to the microphone. State your name please.
40
41 Braker: My name is Philip Braker. I live at 4805 Agave Place, Las Cruces, New
42 Mexico.
43
44 Stowe: Mr. Braker do you swear or affirm that the testimony you are about to give
45 is the truth and nothing but the truth under penalty of law?
46

1 Braker: Yes I do.
2
3 Stowe: Please proceed.
4
5 Braker: There's a, some questions I have. Now looking at this, that piece of
6 property is the only commercially zoned piece of property and I am sure
7 from Verizon's perspective it's a lot easier to deal with one property owner
8 than with the bureaucracy across Highway-10. I work there so I know
9 there's a lot of bureaucracy. However have they done studies to find out
10 how much of the load that is going to be handled by that tower?
11
12 Stowe: Please, yes.
13
14 Braker: Have they done studies to find out how much of the load that's gonna be
15 handled by that tower's coming from the university? I know they have
16 some cell phone receptacles on the university there but I suspect that
17 some of that load if not a good share of it may be coming from the
18 university if not the housing complex or something like that. If they go 500
19 - a second point I'd like to make is if they go 500 feet north across
20 Highway-10 and maybe a little you know into that property on NMSU there
21 are a lot of antenna fixtures, facilities there already. It would seem to me
22 that placing a tower along with other antenna facilities would be more
23 appropriate than putting it next to a residential, and they wouldn't have to
24 move the tower that far. I, I fully believe that that's probably an adequate
25 place. Their, their, their studies probably show that's a good place for it
26 but I don't think moving it 500 feet to move it away from residential into
27 structures that are like minded, probably have better power already in
28 existence, power close by it, would be a better place for it. Sure it's still
29 gonna affect some of the views. It's not gonna affect my view at all from
30 my house, so it, it's not, the view isn't an issue but it's a gateway to
31 residential area, and it's right there at the gateway to a residential area for
32 a lot of homes. Everybody's gonna have to ride by it. And moving it right
33 across the road, it wouldn't be noticed at all. So if, if anything I'd like the,
34 the council to table it and ask Verizon to go back and work harder with
35 NMSU and work with NMSU to get it put on place there. One; it'd help
36 NMSU because they can get some revenue off it. I understand there's a
37 bureaucracy problem but I think if this were tabled and asked I think it
38 could be worked through and I think it would be a better solution than
39 putting it next to residential, so close to residential and getting this
40 adjustment. Furthermore if they move it to the northwest just a little bit
41 you'll see that the, right next to the, right before the school, the new high
42 school they're putting there, the ground is much higher, they could put a
43 much lower tower and still have the same height. And I think they would
44 not have to worry about the attenuation over the hills and stuff like that,
45 that they're gonna have to worry about where they're putting it now with
46 the height that they have. Any feedback from Verizon on that?

1
2 Stowe: Would, would you like to comment?
3
4 Gutierrez: Yes sir.
5
6 Stowe: Come to the microphone please.
7
8 Gutierrez: Thank you for your comments. We have explored those other areas. I'm
9 not sure they're 500 feet. We would certainly look at them. We'd have to
10 look at the underlying zoning to see if they'd be permissible. But one of
11 the things that the City did do was they, they hired a consultant and the
12 consultant, we gave him the information, I'll let Mr. Alaaldin talk about it.
13 We have two other towers, we have one further south and we have one
14 further north. This tower sits right in between them and that's why it was
15 designed at this location. We have had conversations with NMSU and
16 they seem to be having their fill with new tower companies, that's why
17 were here. We're not able to work with them. So that's been our
18 experience. Thank you.
19
20 Alaaldin: May I also, may I make a quick ...
21
22 Braker: Can I, can I comment? Can I comment? NMSU can be worked with and
23 I'm sure it's not gonna be as easy as working with an individual private
24 you know property owner but I think that's one of the reasons we have a
25 Planning and Zoning Commission is to come back and look at it and say
26 you know really, yeah it may not be the easiest solution for you guys but
27 moving it into where a whole bunch of other structures are just like it is
28 probably the best. So I would ask that the Zoning Commission table this
29 and ask Verizon to give more feedback or take a second look at working
30 with NMSU. I guess of at worse case I would like to have Zoning
31 Commission to do that and, and have Verizon do a little bit more due
32 diligence to find out if NMSU can be worked with because again it's not,
33 maybe it's not 500 feet, I didn't measure it, but it's right across Highway-
34 10. If you drive by there you'll see there's a whole bunch of antennas right
35 across the road on NMSU's property. Putting it over there would be the
36 logical place in my opinion to put it. And yes, it's still gonna affect some
37 views, some people's views, but it's not right next to residential. So I
38 guess I would ask that the, the Zoning commission if nothing else to table
39 and ask them to come back and work with NMSU on something like that.
40
41 Stowe: Point taken. Just a minute please. Mr. Gordon do you have a comment?
42
43 Gordon: Well I suggested this a, a few minutes ago about talking to New Mexico
44 State. I don't, I can't believe that they would not consider the amount of
45 revenue that they could get by having it on their property. I think, I don't
46 know what the amount of rental that Verizon pays for these towers but I

1 understand that it is considerable. And also another thought is, what
2 someone before mentioned is to perhaps speak to one of the owners of
3 one of the, of the pecan groves. I mean with the way things are going now
4 with agriculture to have this additional revenue on your property for
5 something that only takes up X number of square feet but goes up 75 feet
6 in the air doesn't really affect the growth of your trees or, you know or, or,
7 or harvesting of your crop. I think there are a couple of other areas that
8 Verizon should really look into a lot more seriously than to try to come up
9 with a better solution than this.

10
11 Stowe: Yes sir. Please state your name again.

12
13 Gutierrez: Yes sir, Les Gutierrez.

14
15 Stowe: Gutierrez. Thank you.

16
17 Gutierrez: And it appears to me that, we haven't heard from the rest of the public, but
18 it appears to me that the major concern is what this tower looks like and
19 blocking it's view from the, from the mountains. They certainly like
20 everybody to have cell phone coverage and we'd also like to maybe put
21 that tower somewhere else because it looks better, but the reality of it is
22 that the tower was designed to be where it would get the maximum
23 coverage and the best coverage for, for, not only for Verizon but for its
24 customers. So maybe the issue here is what the tower looks like. If that's
25 the concern you know we, we have other options. Mr. Alaaldin suggested
26 that if we had to, we don't really want to, the code allows it, we could drop
27 it to 65 feet. There are power lines all over the City of Las Cruces that are
28 near, near homes that are probably at least that high or higher. One
29 option might be to change the design of the tower and that might make it a
30 little more palatable. We have done in the past, we don't necessarily like
31 to do it, but we could make the tower look like a tree. There are trees in
32 that area, we can make it look like a monopine, that's an option, and we
33 would consider that. But as far as the, the time and effort that we put in at
34 this point to bring this presentation to you and the approval process with
35 the City that would allow a tower at 65 feet at this place, a good option
36 might be to design it with a monopine, so I bring that up for discussion.

37
38 Stowe: We appreciate that. Mr. Gordon.

39
40 Gordon: Let me just bring something back to your attention. You said earlier that
41 the reason that this tower is where it is planned to be is because it's
42 zoned, so you really are putting it here because you really have no other
43 place. So it's not necessarily the spot that you have considered to have
44 maximum coverage, it's something that you're doing basically out of
45 necessity, cause you have no other place to put it as close as to where
46 you would really like to have it. So I don't know how much of a difference

- 1 it would be if it was here or 300 or 400 yards across 10 on New Mexico
2 State property.
3
- 4 Gutierrez: That's a very good point and I'd be happy to address that but I think I'll let
5 Mr. Alaaldin talk to that sir.
6
- 7 Stowe: Thank you.
8
- 9 Alaaldin: Hamdi Alaaldin. I'm sorry could you repeat the question one more, I just
10 want to make sure I got it correctly?
11
- 12 Gordon: All right I'll try to do that. What I said was, it was stated earlier that the
13 reason that this tower is planned to go where it is planned to be placed is
14 because the property is zoned for that. If you, maybe an ideal place for
15 this tower is a quarter of a mile down the road but you can't put it there
16 because there are houses or it's in an area that aren't, isn't zoned for it.
17 So this is, well this'll be the best place that we could possibly put it. If
18 that's the case then maybe a piece of property, a couple thousand yards
19 across 10 might be the same result.
20
- 21 Alaaldin: Yeah that much of a distance definitely does not make a whole lot of
22 difference. One clarification I want to make is, the idea of coverage is no
23 longer a valid point. There's, we're not doing any of these for coverage
24 any more. Our coverage is great. We have coverage. The main reason
25 we're doing things from now on is capacity. The sites that these
26 gentlemen brought up on the university and one mile this way and one
27 mile that way, it's all our sites. We're completely packed on those sites.
28 Our capacity is done. We cannot add any more users on those sites.
29 They are, that's why we building these sites to off load the university site,
30 to off load the other adjacent sites in the neighborhood. We have worked
31 with the university. We're adding nine more to the university. We're
32 adding internal DASP to the stadium. We're adding internal DASP to the
33 basketball stadium just because the growth of the capacity. And the
34 reason we did it to this location is because the ways tragically it takes off,
35 we want to take as much capacity away from the existing site as possible
36 and that's where this area come from and we give it to Mr. Les here, his
37 company goes out and finds locations. He brings the locations back to us,
38 we run propagation on all the available locations and we choose the best
39 one based on that criteria. I hope that answers your question.
40
- 41 Gordon: It, it does but you, you also say it is, that is the best one. What happens if
42 you go to the second best? What is, what is the difference?
43
- 44 Alaaldin: It, it depends all where the second best is and how much of the second
45 best capacity outflow is gonna give us.
46

- 1 Gordon: Well how much effort has been done to determine if it's 10% less, it's 5%
2 less, or it really doesn't make much difference? I just think that, it seems
3 to me that, I personally think that it could be a little more effort that might
4 be put into really maybe a better place than this.
5
- 6 Alaaldin: As you are well aware of this is, we, we've done this, if you, other
7 locations as well, we take it from one spot to another spot then you're
8 blocking somebody else's view and that's also a case as well. So if we
9 move it one place or the other is it gonna really eliminate all the issues.
10 As you have heard from our folks here, we're here because of the
11 community. It's all cosmetic. If could take the cosmetic issue down, take
12 the side down and change it to a stealth site where the cosmetic is not
13 such a issue that it'll work best for everybody hopefully. Thank you.
14
- 15 Stowe: Mr. Gutierrez.
16
- 17 Gutierrez: Yes Commissioner.
18
- 19 Stowe: You, you had mentioned that there is a, more information available that
20 could be made available regarding different appearance, to change the
21 appearance of the tower. Can you comment a little more tonight on that?
22
- 23 Gutierrez: Yes. In the jurisdictions that I've worked in, in New Mexico and primarily
24 in Albuquerque, there may be some here, maybe Adam can talk to them,
25 we can, we can disguise that tower to look like a, a tree. And the tree
26 would be a, a monopine. These are very, very common throughout New
27 Mexico. I'm not sure if we have any here yet. Adam maybe you can talk
28 about those. Since this was zoned C-3 it allows a regular tower there but
29 if there is objection we would be more than happy to disguise it. It's gonna
30 look like a fake tree. The antennas will be hidden in it, but it will look like a
31 tree. That is the best option at this point because there are some, it looks
32 like some Australian pines in that area. And we're also talking about
33 putting some trees behind the concealed area where the equipment is to
34 buffer it from the residential area. So we would make it look like a tree, a
35 monopine.
36
- 37 Stowe: Interesting. Some, anyone else?
38
- 39 Braker: I did have a question here regarding the statements between the two
40 gentlemen here. One of them said that they're working with NMSU to
41 provide a bunch of different towers or, or facilities on, on campus and the
42 other one said that they're hard to work with and, and I'm kind of confused
43 on that. And I, I guess we all, I think that everybody that objects
44 understands that somebody's gonna see it. I don't think there's a, a, a
45 problem with that or misunderstanding about that. I think the biggest point
46 at least to me and the people that, the neighbors that I've talked to is, it's

1 being put at the gateway to a residential section. Everybody goes by it.
2 Everybody goes by that empty gas station now and now we're gonna have
3 not only an empty gas station but we're gonna have this tower sitting
4 behind it when right across the road, Highway-10, there's a bunch of other
5 antennas already there and in my opinion putting it right across the road
6 since it doesn't seem like the, moving it that far would be an issue from
7 what this gentleman has said, I would ask them again to go back to NMSU
8 and work with NMSU to put it in a place where there's a lot of other
9 towers. It's not gonna stand out. The, it's away from the residential. It
10 just makes sense to me that that's where it should be. So thank you.

11
12 Stowe: Miss.

13
14 Clifton: Mr. Chair, quick, quick point.

15
16 Stowe: Yes. Clifton.

17
18 Clifton: If, if it was moved right across the road would it still not block the views?

19
20 VARIOUS AUDIENCE MEMBERS SPEAKING, NOT AT THE MICROPHONE.

21
22 Clifton: Could ... Okay, well I'm, I'm asking just a general question not to be
23 answered by the audience. Thank you. But it's, you relocated across the
24 road, you're still gonna see it. It's not gonna magically disappear so I
25 mean I, I think visually, sight distance wise your height would go down a
26 little bit, but across the road I don't know that it would make a difference.

27
28 Stowe: Please let me, state your name please.

29
30 Siebe: Yes my name is Cindi Siebe and I live at 4851 Vista Cuesta.

31
32 Stowe: Do you swear or affirm that the testimony you are about to give is the truth
33 and nothing but the truth under penalty of law?

34
35 Siebe: Yes I do.

36
37 Stowe: Please proceed.

38
39 Siebe: I've listened to these gentlemen talk about you know how this is the only
40 spot for this tower. That it needs to be here. And this tower does not
41 need to be here. I agree with the gentleman that spoke before. I don't
42 want to be redundant but I would just really you know beg you to consider
43 that these are some old and developed residential areas that have been
44 here. They're the main residential areas. This is our backyard. And there
45 are so many areas around there were these towers could be put. There's
46 acres and acres of pecan orchards like they've said. There's NMSU. And

1 there's just, there's so many different areas that are not developed and
2 you know I would just really ask that you consider this and you know I
3 don't want a tower that looks like a tree in my backyard, it's still a tower.
4 And yes across the street you know but there is a freeway, it is not gonna
5 be as intrusive or you know horrible looking. And I just, you know I would
6 ask that you consider that this not be put here. Thank you.
7

8 Stowe: Thank you very much. Anyone else? Yes sir. State your name in the
9 microphone.

10 Bleiweiss: My name is Mark Bleiweiss. I live at 418 O'Hair.

11
12
13 Stowe: Sir do you, do you swear or affirm that the testimony you are about to give
14 is the truth and nothing but the truth under penalty, penalty of law?
15

16 Bleiweiss: I do.

17
18 Stowe: Go ahead.

19
20 Bleiweiss: Just reiterating what everybody else has said about blocking the view of
21 the Organ's and I don't care if it's a tower, if it looks like a giant
22 roadrunner, what it looks like, it's still gonna block the view. I think over
23 across the freeway by NMSU would be better. And I'm not sure if it's an
24 option as well, but just to the south of that area where I-10 joints with what
25 is it, 25 right there, there's a big area they used as a staging area when
26 they were doing construction on the freeway right there, it's the site of the
27 old fort. That's another large area, probably 10, 15 acres, I'm not sure
28 who owns it, it's probably NMSU or the highway department, but that
29 would be another possible location. Also I'm not quite sure how that area
30 unless it got grandfathered in as C-3 zoning. If you're familiar with that
31 space there's a small gas station, single level, as well as oh maybe a
32 dozen storage units, they're all single level and I can't imagine anybody
33 ever going in there and putting up a 60-foot building. It's a fairly small
34 property and again as far as C-3 zoning I'm not sure how that ever was
35 zoned that but a little neighborhood gas station there, nobody every
36 notices but putting a big tower I think would be a mistake.
37

38 Stowe: Would, would you, would it change your mind in some ways if there were,
39 if the tower were made to look more like a tree?
40

41 Bleiweiss: A fake tree is still a fake tree, it don't look like a real tree. There's no trees
42 that tall in the neighborhood. The tallest trees are probably, I don't know
43 some of the cottonwood trees in the park there you know which 35, 40
44 feet. I don't care what color it's painted it's still gonna be an eyesore to
45 the neighborhood and it would be oh about 600 feet from my property line
46 as well.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45

Stowe: Right.

Bleiweiss: And I'm not sure what kind of landscaping you can put around it to hide it to make it look anything other than what it is.

Stowe: Thank you. This is not the first meeting that we have had considering towers, cell, cell phone towers and the idea of changing the look of the tower has had some success, changing the location of the tower has had some success, albeit with perhaps technical complaints by the owners of the tower, purveyors of the signal. So this will come up more than just tonight. It's a typical situation of citizens claiming the right to a view, technicians claiming a right to provide business service. So somewhere in the middle is a compromise that makes it a little more understood by those various interests. I just say that as, as a general comment. Mr. Gutierrez do you have something to offer?

Gutierrez: I'd like to say first of all Verizon always likes to be a good citizen. Many of the people in this room might be Verizon customers, so we're here to try to come up with a plan that works for everyone. The suggestions that were made earlier about possibly going across the road, I don't know what the underlying zoning is on that at NMSU, that's state owned land. That could take a very, very long time to put a tower in. The important thing is, is that we try to follow the zone code by the City of Las Cruces and try to work out a plan where engineering and the zoning works together and that's why this site was selected. There was no intentional view to block anybody's view of a tower and that's, in many cases it may not be here in Las Cruces but in the larger municipalities these monopines are quite often used right next to residential homes. If the demand was not needed by these houses we probably wouldn't need a tower here but that's, that's our position and we want to work with the City and we'd like to work with the citizens and we're willing to lower the structure and design it to make it more pleasing, but the tower really is needed. Thank you.

Stowe: Commissioner Gordon.

Gordon: Mr. Chair I, I think I'd like to, at this point if it's apropos and right to perhaps make a motion to table this item to give Verizon the opportunity to go back and look into the possibility of maybe talking again to New Mexico State and perhaps going to some of the pecan growers and see if they can perhaps put the tower there. And maybe come back with something that's more palatable to the surrounding residents.

Stowe: Who, who is able to speak for Verizon in that regard?

1 Ochoa: Mr. Chairman just point of order, the City of Las Cruces does not govern
2 NMSU property and, nor do we govern the pecan orchards, that is the
3 County. So something was, if it is to table and postpone this and they
4 would be looking at other locations, this essentially would not come back if
5 they did find another location.
6

7 Gordon: Adam if ...
8

9 Ochoa: Just point of order.
10

11 Gordon: Adam if they were able to negotiate a, an acceptable site at New Mexico
12 State then who cares?
13

14 Clifton: I second the motion.
15

16 H-Rogers: Point of order.
17

18 Stowe: Yes.
19

20 H-Rogers: The public comment portion of this meeting is still open and was never
21 closed.
22

23 Stowe: Correct. Is there anyone else in the public that wishes to state ... yes
24 ma'am. State your name please.
25

26 Beck: My name is Susan Beck. 428 O'Hair Drive. I live right next door to Mark
27 Bleiweiss.
28

29 Stowe: Ms. Beck do you swear or affirm that the testimony you are about to give
30 is the truth and nothing but the truth under penalty of law?
31

32 Beck: I swear. I so swear.
33

34 Stowe: Go ahead.
35

36 Beck: I work for NMSU and I know the situation at the university financially is in
37 not great shape, you've probably read about it. I also know that NMSU
38 has made deals recently with other businesses in leasing or selling land,
39 so I know it is state land but I just wanted to say that NMSU is able to
40 make deals and has actually been very aggressive in making these deals
41 recently. So that's just the only point I want to make.
42

43 Stowe: Very well. Thank you. Anyone else? We'll try to round up the last few
44 speakers. State your name please.
45

- 1 McVann: My name is Phillip McVann. I live at 4124 Macaw Circle. And I just had a
2 couple questions, clarification.
3
- 4 Stowe: Do you, let me swear you in. Do you swear or ...
5
- 6 McVann: Oh yes.
7
- 8 Stowe: Or affirm that the testimony you are about to give is the truth and nothing
9 but the truth under penalty of law?
10
- 11 McVann: Yes sir. I was just looking for some clarification for some of the
12 considerations that were mentioned. Nine-one-one calls were mentioned,
13 dropping calls for military officials were mentioned, however the engineer,
14 Mr. Alaaldin had made it known that these, this tower would be primarily
15 for data so I guess my, I'm one, my question is I'm, how much 911 data do
16 you guys receive that isn't a phone call from Verizon phones?
17
- 18 Stowe: Gentlemen. Can someone answer the question on behalf of Verizon?
19
- 20 Alaaldin: Yes the, actually I did not say anything about drop calls. They have that
21 ability to make calls in case of emergency.
22
- 23 McVann: In regards to military.
24
- 25 Alaaldin: Yes.
26
- 27 McVann: You mentioned dropping calls so that they'd have priority.
28
- 29 Alaaldin: Yeah they have priority. It will drop if there's limitation of the cell site, let's
30 say there's 100 people, if there's already a 100 on it but certain military
31 folks are making a call, it will drop number 100, open up one line for them.
32 And recently we never did, he's correct we never did a 911 on only voice
33 but in the recent last month or two we are required by the FCC to also file
34 *(inaudible)* data on AWUS and LT as well.
35
- 36 McVann: And so my other comment is that it seems that we have cell towers
37 essentially triangulating; one at Whiskey Dicks, one further down, and
38 then one on NMSU and so if this is a data only tower most of these, I
39 mean it's all residential, so I'm wondering how much cellular data is
40 actually coming from our neighborhoods and how much of it's actually
41 coming from NMSU or NMSU students, students based out of the Grove
42 and if that's the case it seems to me that most of this cellular data would
43 be coming from NMSU. I don't know. I'm not an expert, just generally
44 when people are at home they use their computers like Comcast. They
45 have like cable internet so I'm wondering why NMSU if, if that is the case
46 perhaps moving it to NMSU would be a better idea. That's about it.

1
2 Stowe: Thank you. Yes ma'am. Yes sir. Please state your name.
3
4 Hayes: My name is Edward Hayes. I live at 6685 Coyote Road.
5
6 Stowe: Mr. Hayes do you swear or affirm that the testimony you are about to give
7 is the truth and nothing but the truth under penalty of law?
8
9 Hayes: I, I do.
10
11 Stowe: Proceed.
12
13 Hayes: Commissioner Gordon there was stating earlier about the buffer zone
14 there, the, I, I, I own the property and the five acres behind this property
15 has one house on it and it's located right directly behind the store, so you
16 have this buffer zone there too which is also just open space. There's
17 nothing there. There hasn't been anyone living in the house for several
18 years. I just wanted to make sure so that, you actually have that as a
19 buffer zone too because it's five acre tract behind the 1.73 acres.
20
21 Stowe: Very well.
22
23 Hayes: Okay. Thank you.
24
25 Stowe: Thank you. Try to wrap this up. Yes sir.
26
27 Braker: Excuse me. I'd like to clarify because I believe people are just ...
28
29 Stowe: Speak into the microphone please.
30
31 Braker: I believe people are just moving out of that house here a couple of months
32 ago so I would like to ask a clarification on the house that he said is right
33 next to the, the property. I know there were some students living in that
34 house. I believe they left this spring after the semester. They may have
35 been, it might've been a rental property but there was people living in that
36 house.
37
38 Clifton: Mr. Chair I might, if could remind you the public was limited to three
39 minutes per person and it seems that we may be going over that.
40
41 Stowe: Yes. I think we've heard opinions from most everyone in the room. Is
42 there, let's call, let's call a close to the public portion of comments. I think
43 we've heard from almost everyone. In that regard then we would come to
44 a time for we Commissioners.
45
46 Gordon: Is we, is my motion still in order?

1
2 Stowe: There's a motion on the floor.
3
4 Clifton: Go and recast it. Just restate the motion.
5
6 Stowe: Right.
7
8 H-Rogers: It is.
9
10 Stowe: There's a motion on the floor. Would you restate the, your motion?
11
12 Gordon: I move that we table Case number SUP-15-01 to allow Verizon to have
13 the opportunity to go back to investigate possible other locations and sites
14 for this proposed cell tower.
15
16 Clifton: I second.
17
18 Stowe: Motion's been entered and seconded.
19
20 Connelly: Mr. Chairman is, is that going to be to a date certain or just indefinitely?
21
22 Gordon: I'm Sorry. Sorry.
23
24 Stowe: Say again.
25
26 Clifton: Date specific or ...
27
28 Connelly: Is the motion to a, table it to a date certain or just to table it?
29
30 Gordon: Indefinite.
31
32 Stowe: Did, did I get a second?
33
34 Clifton: I second.
35
36 Stowe: Seconded it by ...
37
38 Clifton: Mr. Chair I seconded.
39
40 Stowe: Mr. Clifton. We'll, we'll take the roll. Commissioner Clifton.
41
42 Clifton: Aye based, based on discussion and staff presentation.
43
44 Stowe: Commissioner Gordon.
45
46 Gordon: I vote yes to table this item.

1
2 Stowe: Commissioner Alvarado.
3
4 Alvarado: Based on discussion and my opinion that I think we're blocking progress
5 for the City I'm gonna vote no.
6
7 Stowe: And Chair votes aye.
8
9 Gordon: Tabled.
10
11 Stowe: It, it's three to ...
12
13 Gordon: Three to one.
14
15 Stowe: Three to one in favor of tabling the, tabling the case. Let's take, we'll take
16 a 10-minute recess.
17
18 SHORT RECESS TAKEN.
19
20 Crane: Take your seats please ladies and gentlemen. Commissioner Stowe,
21 don't go without these all right. Is this all there is?
22
23 H-Rogers: Mr. Chair, Members of the Commission. I am not certain as to where my
24 applicant is. They were notified of the meeting several times but I do not
25 see them here. Would you like me to attempt to call them and we can
26 maybe begin with, maybe move the order of, of the agenda?
27
28 Crane: This is A1734?
29
30 H-Rogers: That would be correct.
31
32 Crane: Yes. I don't think it matters which order we take them in. Let me ask if the
33 three members of the public present, are you here for one of these two?
34 Which one please?
35
36 AUDIENCE MEMBER SPEAKING, NOT AT MICROPHONE.
37
38 Crane: The first one?
39
40 PUBLIC: No, the second one.
41
42 Crane: Second one, okay. Well it's in your interest too if we go to that. Okay let's
43 do that. And now if your applicant does not turn up, Ms. Harrison-Rogers
44 we can still, are you in a position to make a presentation for them?
45



Verizon Wireless
126 W. Gemini Dr.
Tempe, Arizona 8528

August 28, 2015

Mr. Adam Ochoa, Senior Planner
Community Development
City of Las Cruces
Las Cruces, NM

RE: Verizon LSC BLACKHAWK (4790 Stern Drive) Case SUP-15-01

Dear Mr. Ochoa:

Based on the hearing and minutes provided for the July 28th hearing, we are requesting that our tabled motion be re-opened for the September 22nd P&Z Meeting.

According to the minutes and comments by Commissioner Gordon. The majority of the concerns were over the design of our proposed 75' monopole and blockage of the view corridor for the Organ Mountains. In addition, Commissioner Gordon asked the we explore the possibility of moving our site across the Freeway on to NMSU Property and investigate the pecan orchards to the west of the proposed site.

New Possible Locations:

1. NMSU. Please see email correspondence on August 4th, 2015 from Scott Eschenbrenner, Real Estate Manager and Special Assistant to the President of NMSU. This email states that the property across from our proposed site, approximately 16 acres, is currently under negotiation with El Paso Electric for a 5 megawatt solar farm and the University would not be interested in any lease negotiations with Verizon Wireless.
2. The Pecan Orchard mentioned in the July 28th hearing is just under ½ mile from the designed site at 4790 Stern. This location will not provide Verizon's necessary RF and date coverage. As per the City's consultant's report and recommendation to the City, the proposed site at 4790 Stern is the best available site in the area.

View and Design Issues: (See Plat and Aerial Views provided by Nava Tech)

1. View Projection for Existing Residences as stated in the July 28th meeting minutes.

This was prepared by Nava Tech Associates of Las Cruces. As shown in the diagram the direct views from the various addresses show a straight line from the residences to the proposed Verizon telecom facility. VP 1-4 show some minor view shadowing to the far north east area of the Organ Mountains. VP 5-6 the views NW show none.

2. Photo-Simulations showing a new lower design of 65' maximum using a Mono-pine design and Mono-Cypress.
 - A) Photo Log. Shows projected views from 4 locations, to include the major high power transmission line running through the center of the development.
 - B) P1, S1a & Sb. Show views from behind 4851 Vista Cuesta area before and after with both a mono-cypress and mono-pine design. There are no views from this location of the Organ Mountains.
 - C) P2, S2a & S2b. Show views from behind O'Hair area before and after with a mono-cypress and mono-pine design. There is a slight view of the mountains, not sure these are the Organ Mountains.
 - D) P3, S3a & S3b. Shows views from the intersection of Agave Drive and Agave Place area before and after with a mono-cypress and mono-pine design. There are no views of any mountains in the background.
 - E) P4, S4a & S4b. Shows the views south as you enter into University Mesa Subdivision on to Salopek. View show new mono-cypress and mono-pine design. Note tall power lines in front of proposed design.
 - F) P4. Looking Southwest from O'Hair Drive. 100' Transmission lines running north and South through the subdivision.

In conclusion, Verizon believes that the new lowered design in the location proposed and recommended by the City consultant will provide the best possible voice and data service.

As a compromise Verizon is willing to change the existing 75' monopole design to a lower 65' new design of either a mono-cypress or mono-pine (preferred). We feel the new designs are not objectionable from the surrounding area views. It does not block the direct views of the Organ Mountains and there are existing major power-lines within the subdivision with much higher structures.

Therefore was ask that the City of Las Cruces Planning and Zoning Board approve our request.

Sincerely,

A handwritten signature in black ink that reads "Les F. Gutierrez". The signature is written in a cursive style with a long horizontal line extending from the end of the name.

Les F. Gutierrez, Senior Site Acquisition Specialist
Tectonic Engineering, Agent for Verizon Wireless.

Gutierrez, Les

From: Scott Eschenbrenner <sbrenner@ad.nmsu.edu>
Sent: Tuesday, August 04, 2015 3:51 PM
To: Gutierrez, Les
Cc: Carolyn Aragon
Subject: RE: Verizon Site at 4790 Stern Drive. LSC BLACKHAWK

Mr. Gutierrez,

It was a pleasure visiting with you earlier today regarding your plans for a new monopole structure in the NMSU vicinity. Based on our conversation, it appears that Verizon was looking to ground lease some property from NMSU in the vicinity of the NMSU Photovoltaic Research Facility. It appears that this land is currently being considered as a 5 megawatt solar farm facility for EL Paso Electric Company and the land that was being considered for a monopole will be within the confines of the area being considered by EPEC. I appreciate your reaching out to us but at this time we will have to pass on further negotiations for this ground lease.

Respectfully,

Scott Eschenbrenner
Special Assistant to the President
MSC SVP
New Mexico State University
88003-8001
575-646-2356

From: Gutierrez, Les [mailto:LGutierrez@tectonicengineering.com]
Sent: Tuesday, August 04, 2015 3:38 PM
To: Scott Eschenbrenner
Subject: Verizon Site at 4790 Stern Drive. LSC BLACKHAWK

Dear Mr. Eschenbrenner.

Thank you for returning my call today. As per our visit Verizon Wireless is in the zoning process with the City of Las Cruces to approve a new 65-75 monopole at 4790 Stern Drive.

Prior to you becoming the Real Estate Director for NMSU, we approached NMSU about the possibility of constructing a new monopole in the general area in the attachment there was no interest at that time. Would you mind getting back to me if that has changed?

Thank you sir.

Les

**GREG BEST
CONSULTING, INC.**

9223 N. Manning Ave.
Kansas City, MO 64157
816-792-2913

June 23, 2015

CITY OF LAS CRUCES**ANALYSIS OF PROPOSED VERIZON BLACKHAWK SITE****INTRODUCTION**

This report provides an evaluation according to the City of Las Cruces Zoning requirements regarding the proposed Verizon to expand communications services in the area near the New Mexico State University Campus (NMSU) within the City of Las Cruces.

EXECUTIVE SUMMARY OF REPORT

The results of the engineering analysis concur that the site proposed by Verizon is the best available site for expansion of service to increase data capacity and to provide more uniform service. This is based upon the confirmation of the signal coverage analysis generated and by independent research for various sites in the general vicinity of the site area.

DETAILED ANALYSIS AND SUMMARY OF FINDINGS**SITE ANALYSIS**

The target coordinates and radius to be studied were obtained from the Tectonic Engineering. A list of 3 specific potential sites was found by looking at the area in question and attempting to evaluate signal propagation from each site. These sites include the proposed Blackhawk Site, a southern site (South) located approximately at Ringneck Dr near I-10, and an eastern site (East) located near Tamarisk Road and I-25. Both the East Site and the Blackhawk site provide excellent coverage of the desired area. A Google Earth exhibit is attached that exhibits the search ring center, showing the alternate sites (East & South), and showing two other existing sites (NMSU & Knox).

The main purpose of the new site is to off-load some traffic from a Verizon site near NMSU and another Verizon site near Union Avenue and I-10 (Knox). The primary issue is not of signal strength from the existing sites but the data traffic capacity. So the key is to find a site that would be close enough to off load some traffic from the existing sites, and provide additional data capacity close to the existing sites without causing interference from its site to the existing sites.

An ideal site was identified or chosen to provide the best compromise of capacity enhancement, signal coverage, and ability to transfer (or off-load) some data from existing sites to this new site. The search center is identified on the attached map. From there, other feasible sites where Verizon could establish operation were evaluated. The ideal site is actually is not located within the city and is zoned residential so the search radius for a suitable site had to be expanded. In order to provide the best coverage and also to increase the data handling capability, there were three sites that appear to meet this criteria. One was effectively the proposed Blackhawk location, and the others were the South Site and East Site. Each site consists of 3 antennas that can be aimed in different directions so as achieve the desired objective of increased data traffic while minimizing interference to other sites.

The interference issue is a significant one. Adding each new site requires some adjustment of the existing site equipment and operational technical parameters. The matter is similar to paint over-spray near the edges of the desired spraying area. If you get the paint sprayer to far from the area being sprayed, the width of the paint spray goes out wider and can cause a new color to

overlap an existing color. This overlap is analogous to the interference from one site to another. Likewise, if you get the paint sprayer too close to the area, then it does not cover the area to be painted adequately. So choosing the site involves more than just getting significant signal coverage over the area of interest.

In looking at the East site, its elevation is higher and provides very good coverage. In fact, the East site is actually too high at the maximum allowed height permitted by the zoning district. Like the paint spray analogy, its signal is too high near the NMSU area and can actually reduce the capacity of the NMSU site because the East site signal appears as noise or interference to the NMSU site. The proposed site, which is west of I-25, is also on NMSU owned property so a lease may not be possible or if NMSU decides the property is needed for another use at a later date, then service would suffer. If the tower site is located on the east side of I-25, that property is zoned residential and the City would not permit a cell tower site there.

The South site provides reasonable coverage but it is located so far south that very little data or voice traffic from the Knox site can be offloaded and thus does not provide the capacity enhancement needed. The South site location appears to be within some commercial zoning but it has not been significantly investigated since the data traffic capacity enhancement was not as substantial as the East site.

The Blackhawk site appears to be a good choice because of its proximity to the Knox and the NMSU sites to add data capacity enhancement while far enough away to be able to steer the antenna beams in such a way it does not cause interference to the other sites. In addition, the property area is city owned and zoned for the capability to allow Verizon to establish long-term operation.

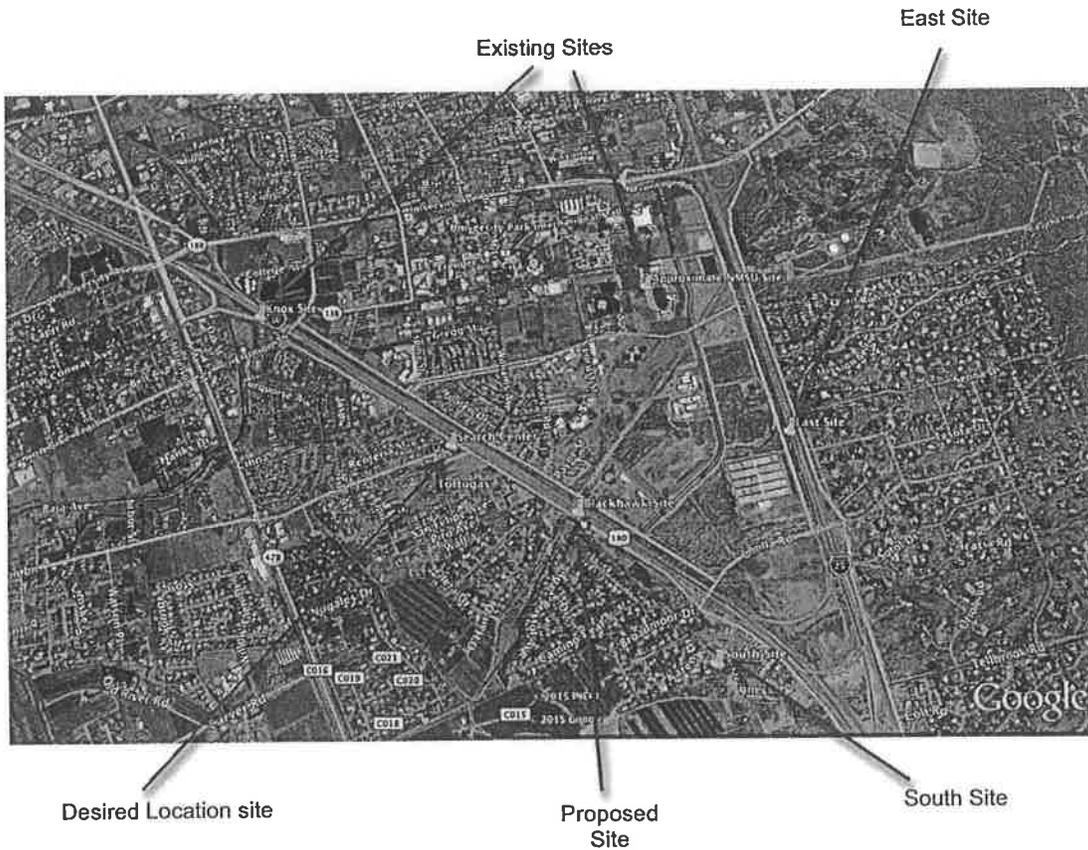
So in summary, the best site is the proposed Blackhawk site.

In addition to the proposed Blackhawk site, Verizon will be modifying the NMSU site in order to provide more uniform and consistent signal coverage (and thus more data connection capacity) over the NMSU area. This is an independent effort and will not take the place of adding the Blackhawk site.

HEIGHT ABOVE GROUND EVALUATION

In addition to the site selection, Verizon has also proposed that the antenna center be located at 70 feet above ground, and the total structure height is proposed to be 75 feet above ground level. This is above the 65 ft maximum height restriction for this area. Thus an analysis has been undertaken to try to quantify whether the additional height is justified. The analysis has evaluated the coverage at the proposed height, the maximum allowable height according to the zoning, and at the midpoint of the two heights. In this case, the difference is only 5 feet so analyses have been carried out at radiation center levels of 70 feet, 65 feet, and 67.5 feet. There are only slight differences between the proposed heights from the evaluation with the 70 feet height providing the best coverage. In the consultant's opinion, probably anyone of the three heights could work. However, the 70 foot height is judged to be the best for two reasons. One is that as the signal coverage goes a little farther and the second is because it is expected that there would be less modifications to the existing sites meaning less interruption in the service (fewer dropped calls or data re-connection occurrences) during system installation and optimization.

EXHIBIT INDICATING POTENTIAL AND PROPOSED SITES IN THE LAS CRUCES AREA

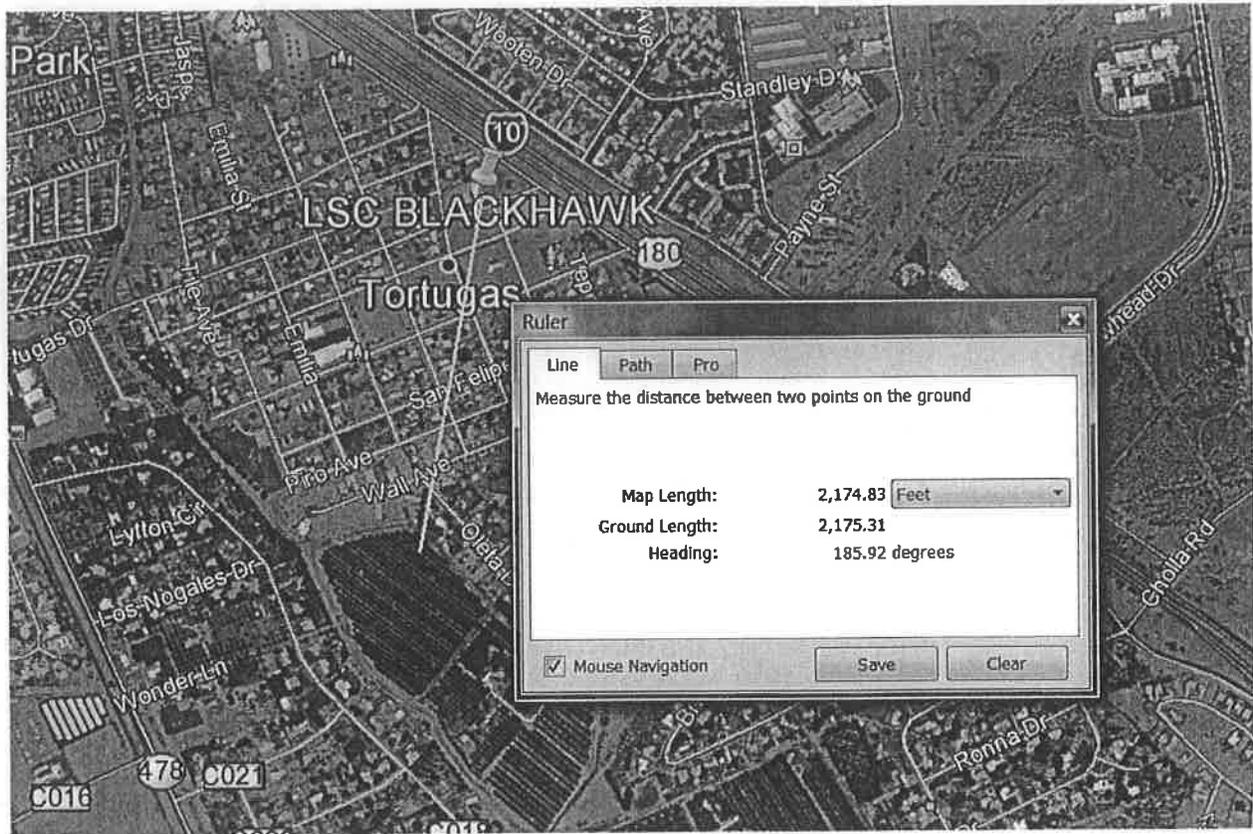


It has been my pleasure to assist with this important project and I will be happy to answer any questions regarding this report.

Respectfully submitted,

President

Attachments



New location proposed by Objecting Homeowner. Pecan Orchard. Almost 2,200' away.

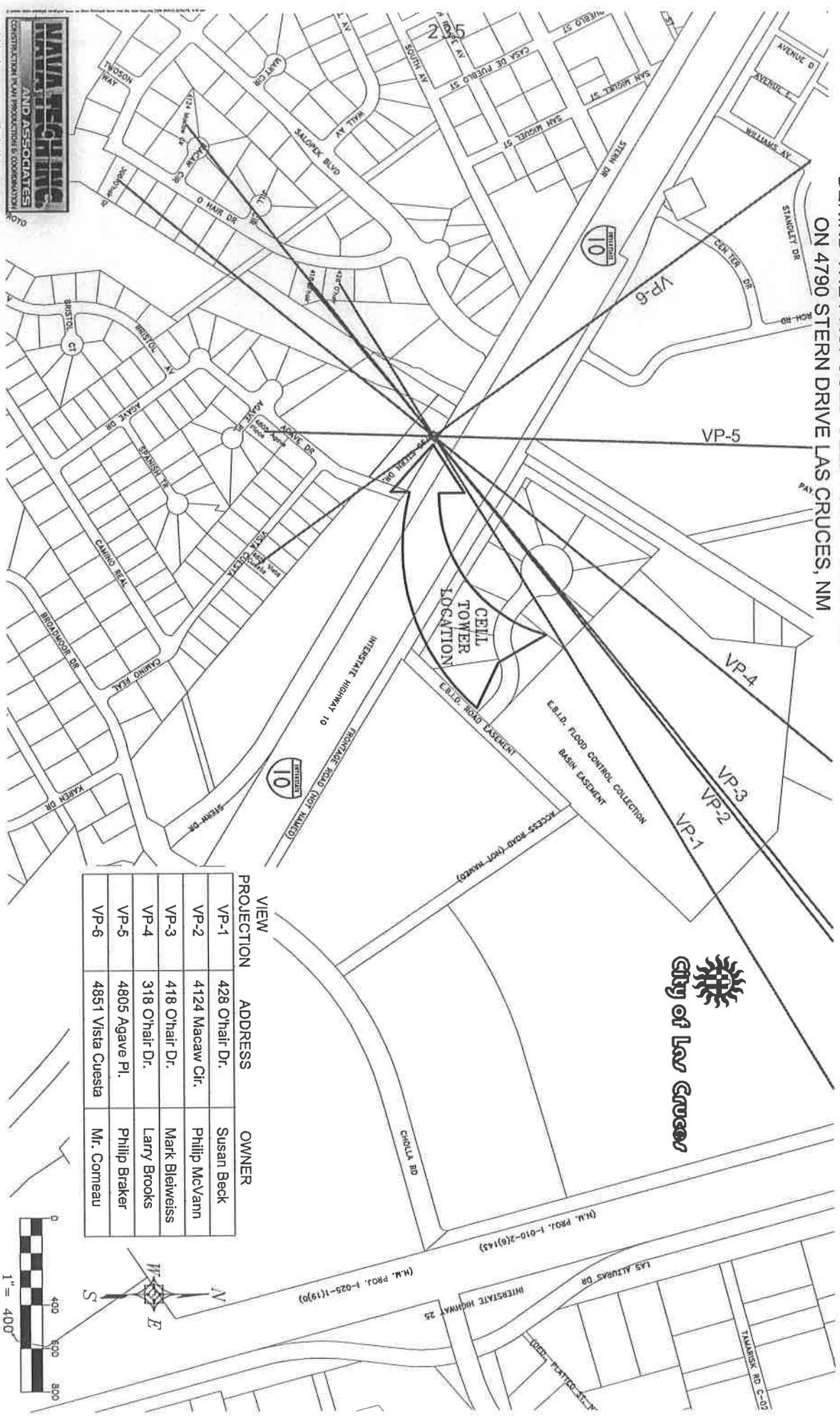
VIEW PROJECTION OF EXISTING RESIDENCES
BEHIND THE PROPOSED CELL TOWER LOCATED
ON 4790 STERN DRIVE LAS CRUCES, NM

AERIAL

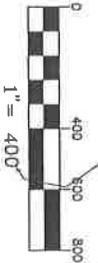


WAVELENGTH AND ASSOCIATES
 CONSTRUCTION PLAN PRODUCTION & COORDINATION
 1001 S. Salinas Ave.
 Las Cruces, NM 87801
 Office: 505.325.4600
 Fax: 505.325.4601
 Email: info@wavelength.com

VIEW PROJECTION OF EXISTING RESIDENCES BEHIND THE PROPOSED CELL TOWER LOCATED ON 4790 STERN DRIVE LAS CRUCES, NM



VIEW PROJECTION	ADDRESS	OWNER
VP-1	428 Chair Dr.	Susan Beck
VP-2	4124 Macaw Cir.	Phillip McVann
VP-3	418 Chair Dr.	Mark Bleiweiss
VP-4	318 Chair Dr.	Larry Brooks
VP-5	4805 Agave Pl.	Phillip Braker
VP-6	4851 Vista Cuesta	Mr. Comeau



MAVAVTECH INC.
AND ASSOCIATES
CONSTRUCTION TEAM PRODUCTION & CONSULTING

1818 B. Babero Dr.
Las Cruces, NM 88001
Phone: (505) 525-1400

Project #1711 - 2/2009
Drawn by: [Name]
Checked by: [Name]

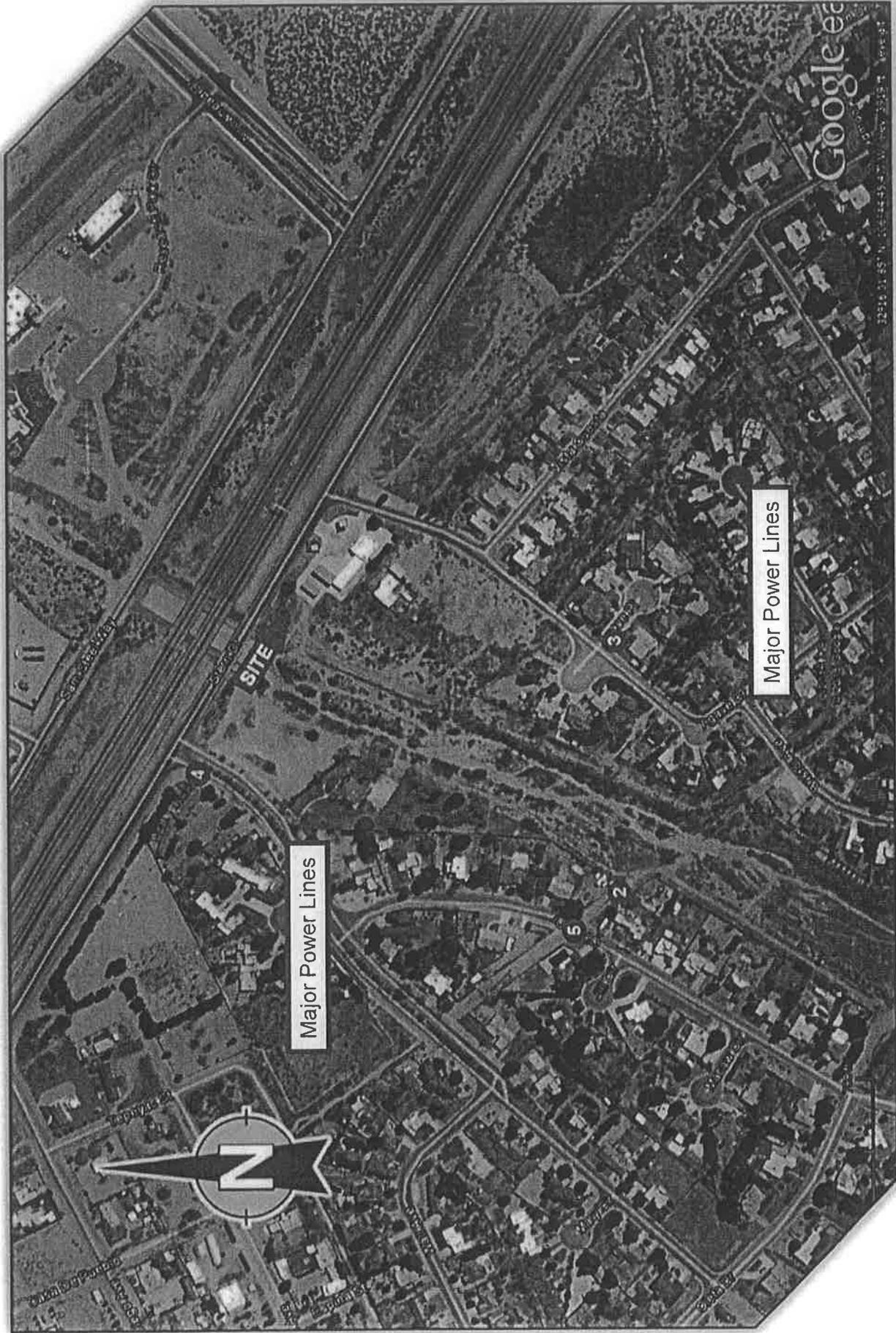


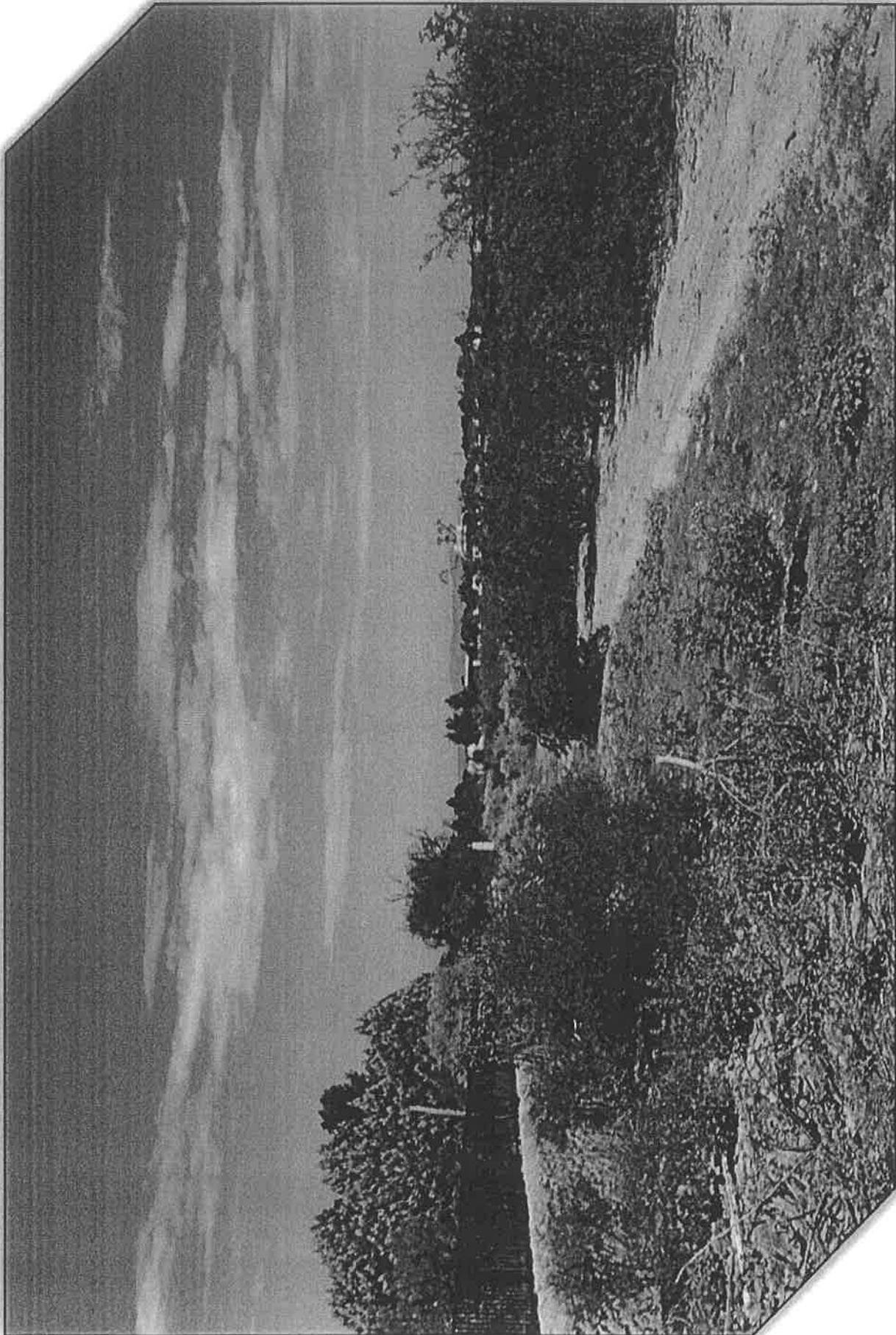
PHOTO
LOG

6022.Blackhawk

LSC Blackhawk
4790 Stern Drive
Las Cruces, New Mexico 88005

TECTONIC

Practical Solutions, Exceptional Service



Looking northwest from behind 4851 Vista Cuesta.
Proposed structure will be visible from this location.

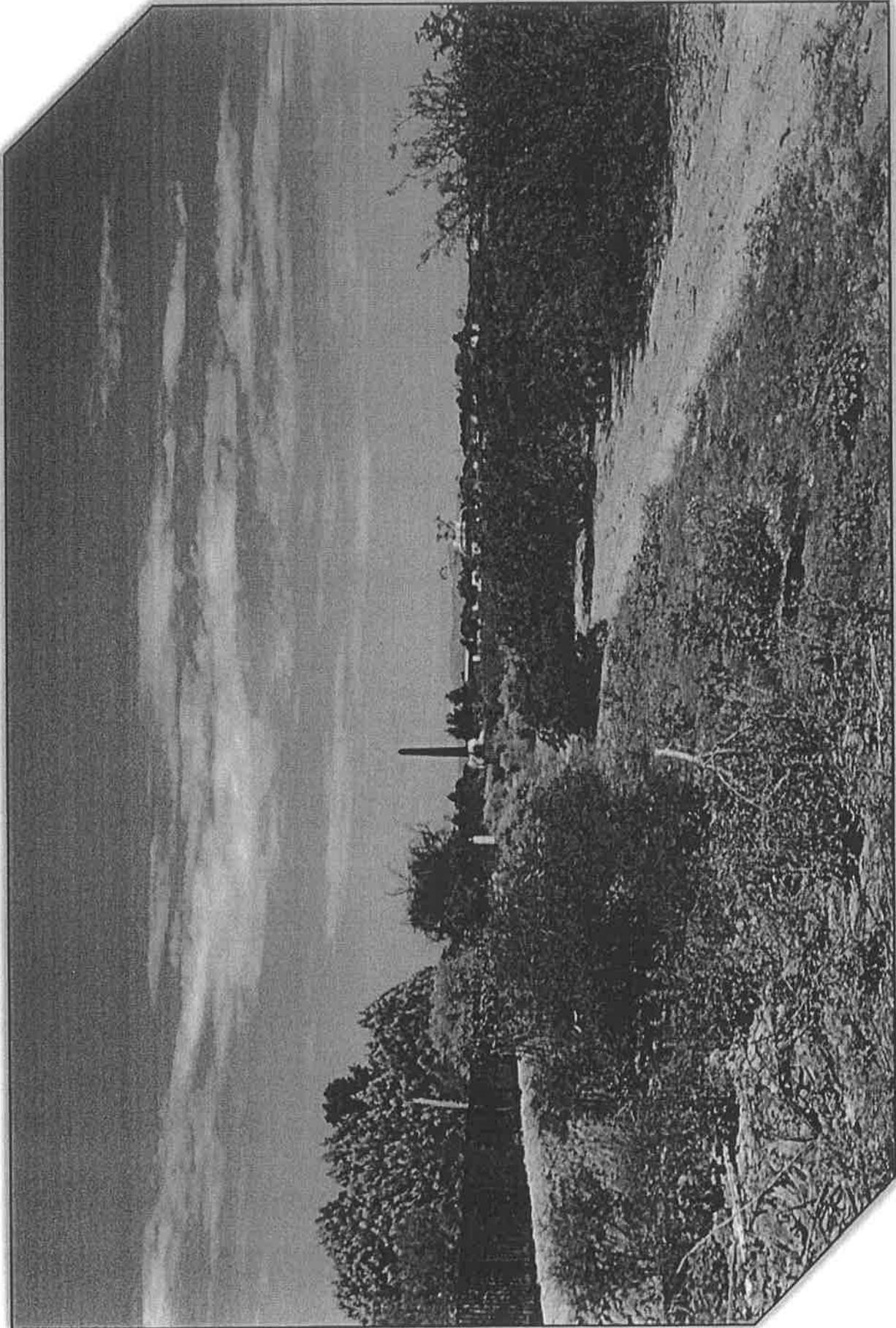
NOT TO SCALE - RENDERINGS ARE FOR DISCUSSION PURPOSES ONLY

P-1

6022.Blackhawk

TECTONIC

Practical Solutions, Exceptional Service



Looking northwest from behind 4851 Vista Cuesta.
Proposed monocypriss is visible from this location.

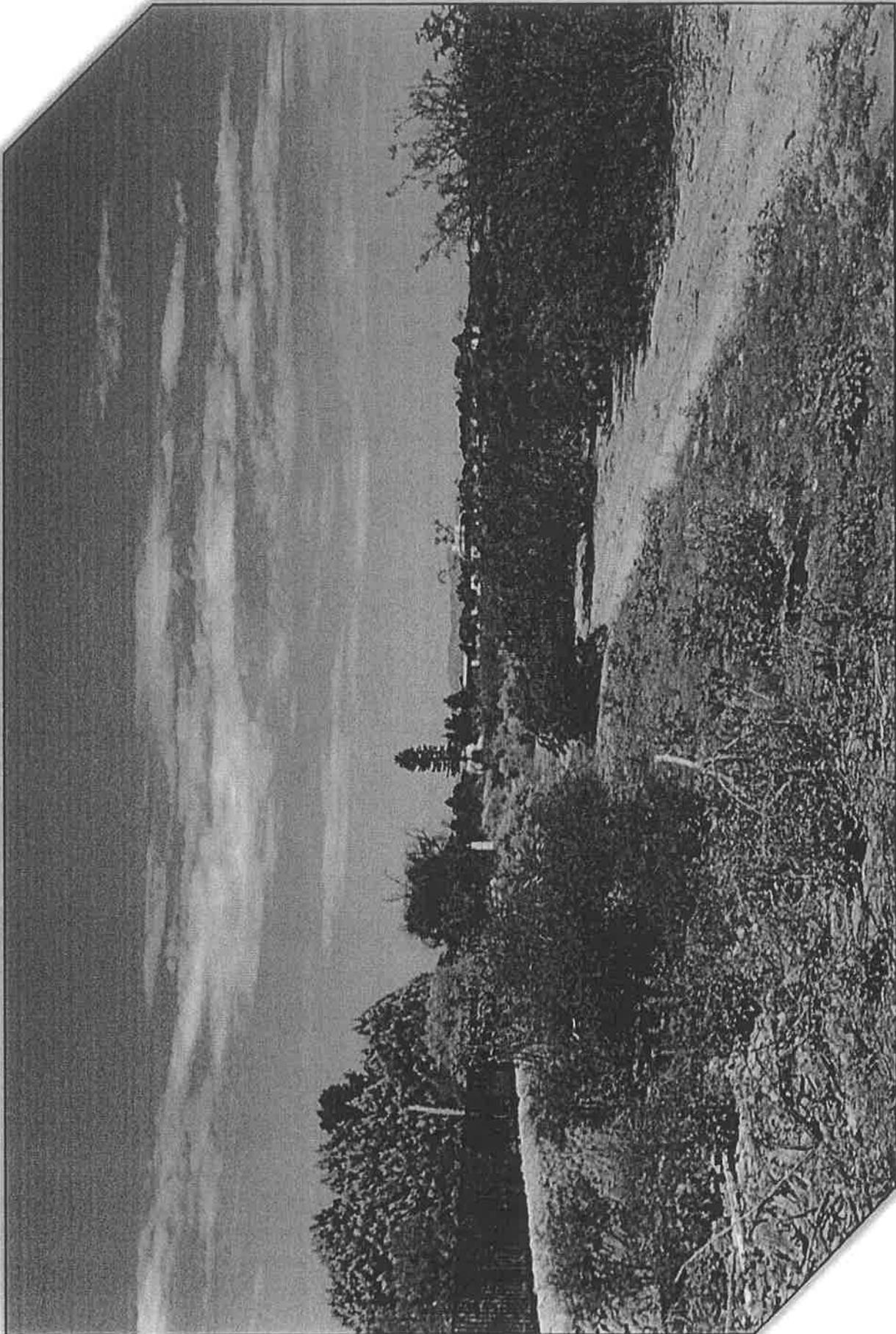
NOT TO SCALE - RENDERINGS ARE FOR DISCUSSION PURPOSES ONLY

TECTONIC

Practical Solutions, Exceptional Service

S-1a

6022.Blackhawk



Looking northwest from behind 4851 Vista Cuesta.
Proposed monopine is visible from this location.

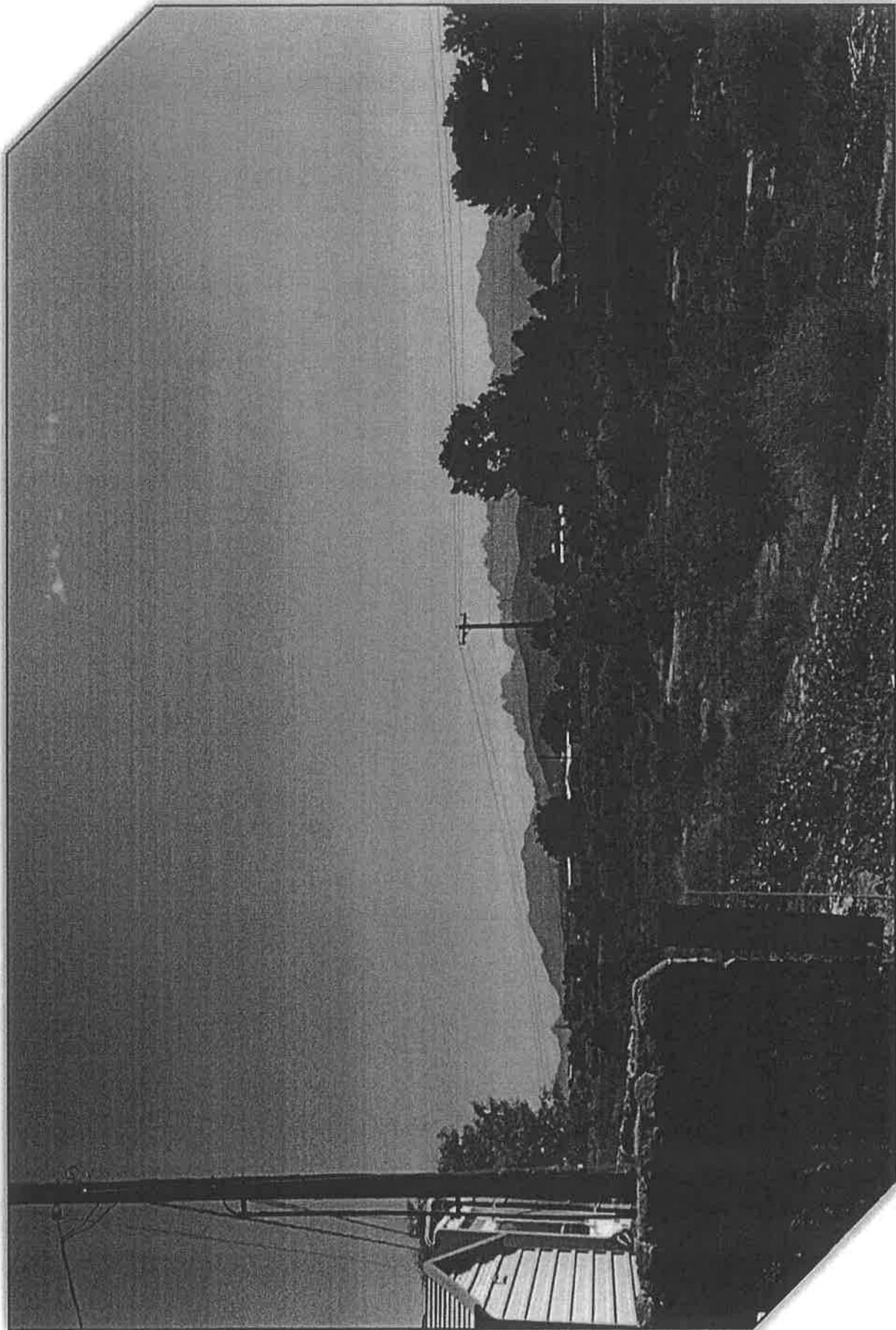
NOT TO SCALE - RENDERINGS ARE FOR DISCUSSION PURPOSES ONLY

TECTONIC

Practical Solutions. Exceptional Service

S-1b

6022. Blackhawk



Looking northeast from behind 318 O'Hair Drive.
Proposed structure will be visible from this location.

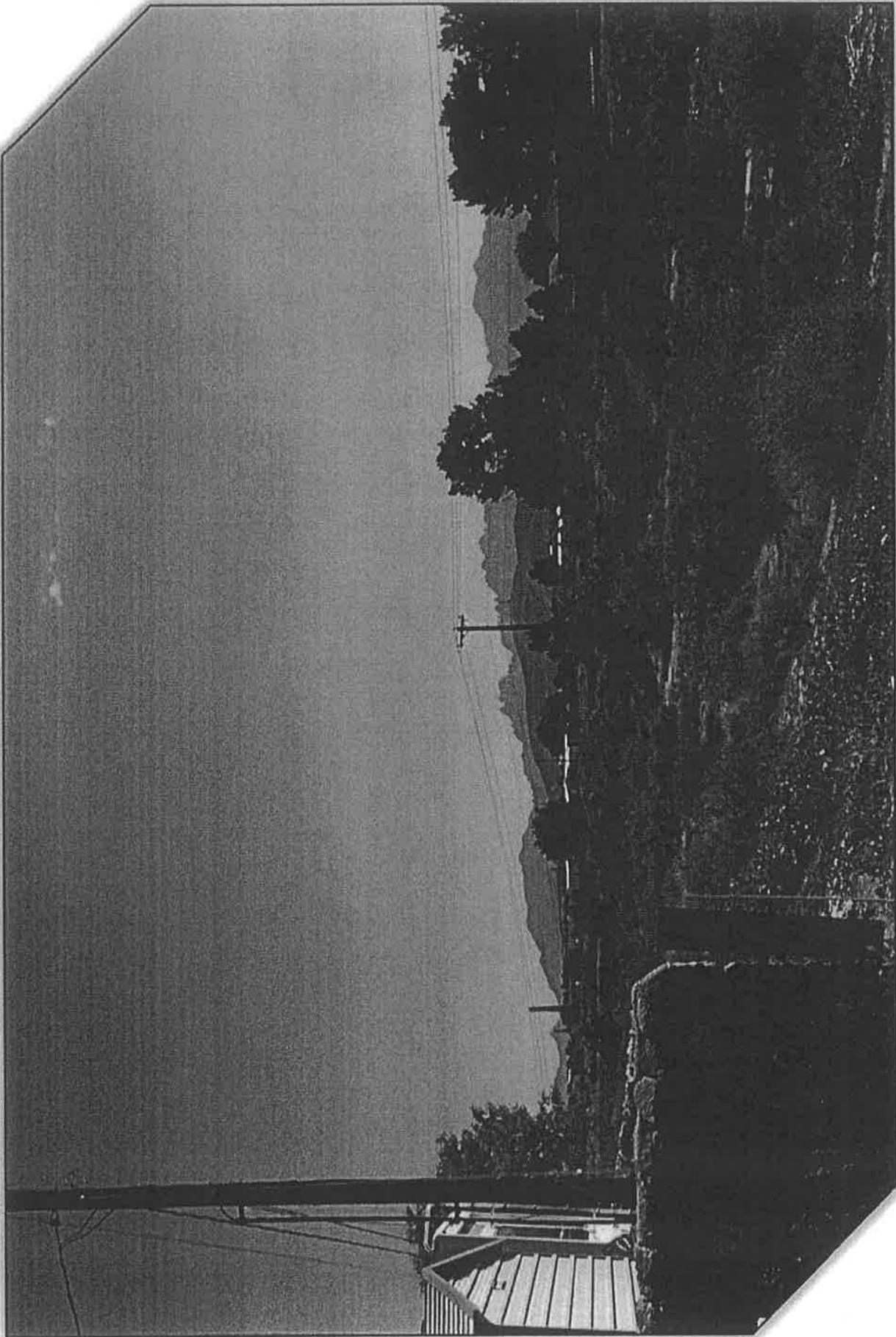
NOT TO SCALE - RENDERINGS ARE FOR DISCUSSION PURPOSES ONLY

P-2

6022.Blackhawk

TECTONIC

Practical Solutions, Exceptional Service



Looking northeast from behind 318 O'Hair Drive.
Proposed monopress is visible from this location.

NOT TO SCALE - RENDERINGS ARE FOR DISCUSSION PURPOSES ONLY

TECTONIC

Practical Solutions, Exceptional Service

S-2a

6022.Blackhawk



Looking northeast from behind 318 O'Hair Drive.
Proposed monopine is visible from this location.

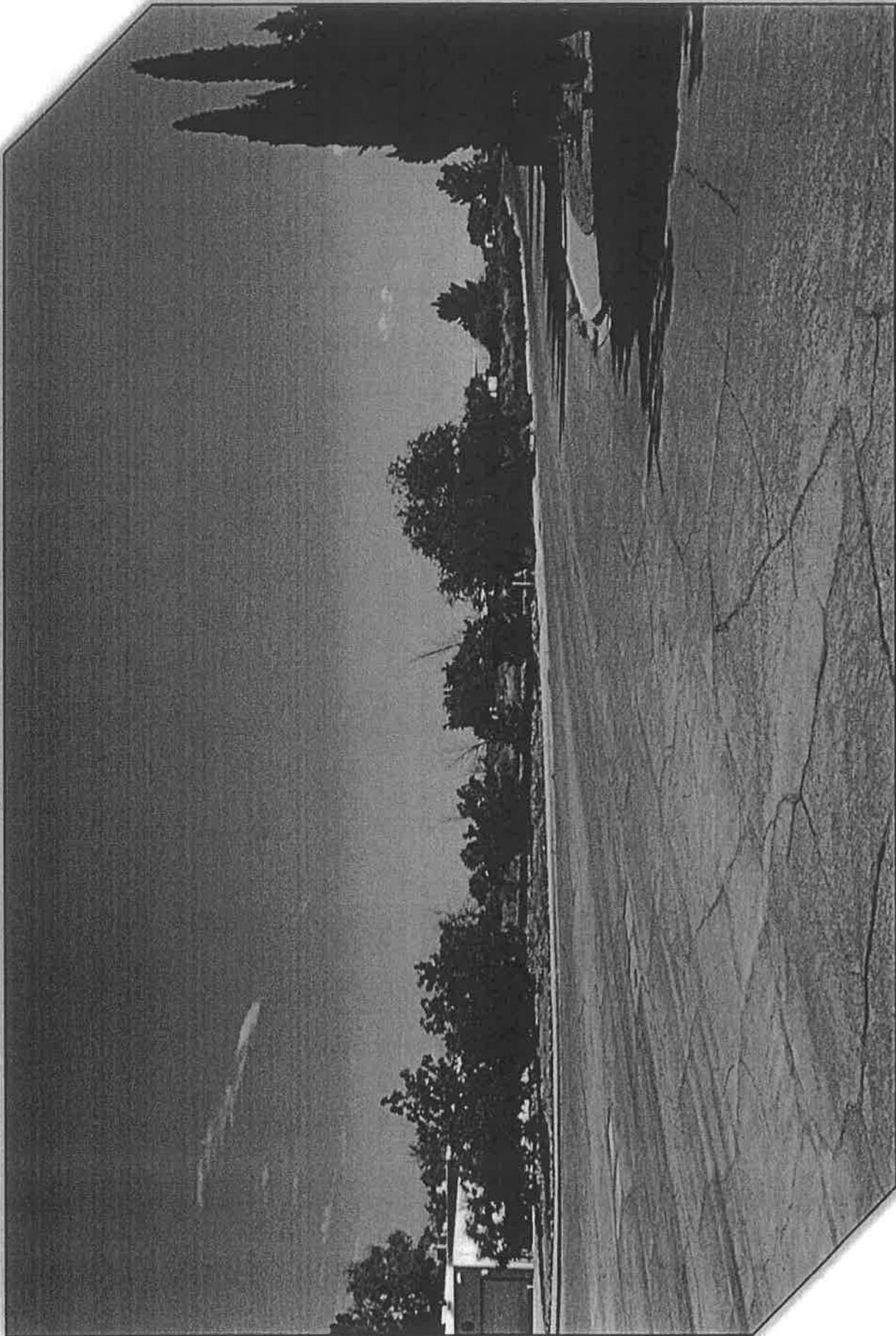
NOT TO SCALE - RENDERINGS ARE FOR DISCUSSION PURPOSES ONLY

TECTONIC

Practical Solutions, Exceptional Service

S-2b

6022.Blackhawk



Looking north from the intersection of Agave Drive & Agave Place.
Proposed structure will be visible from this location.

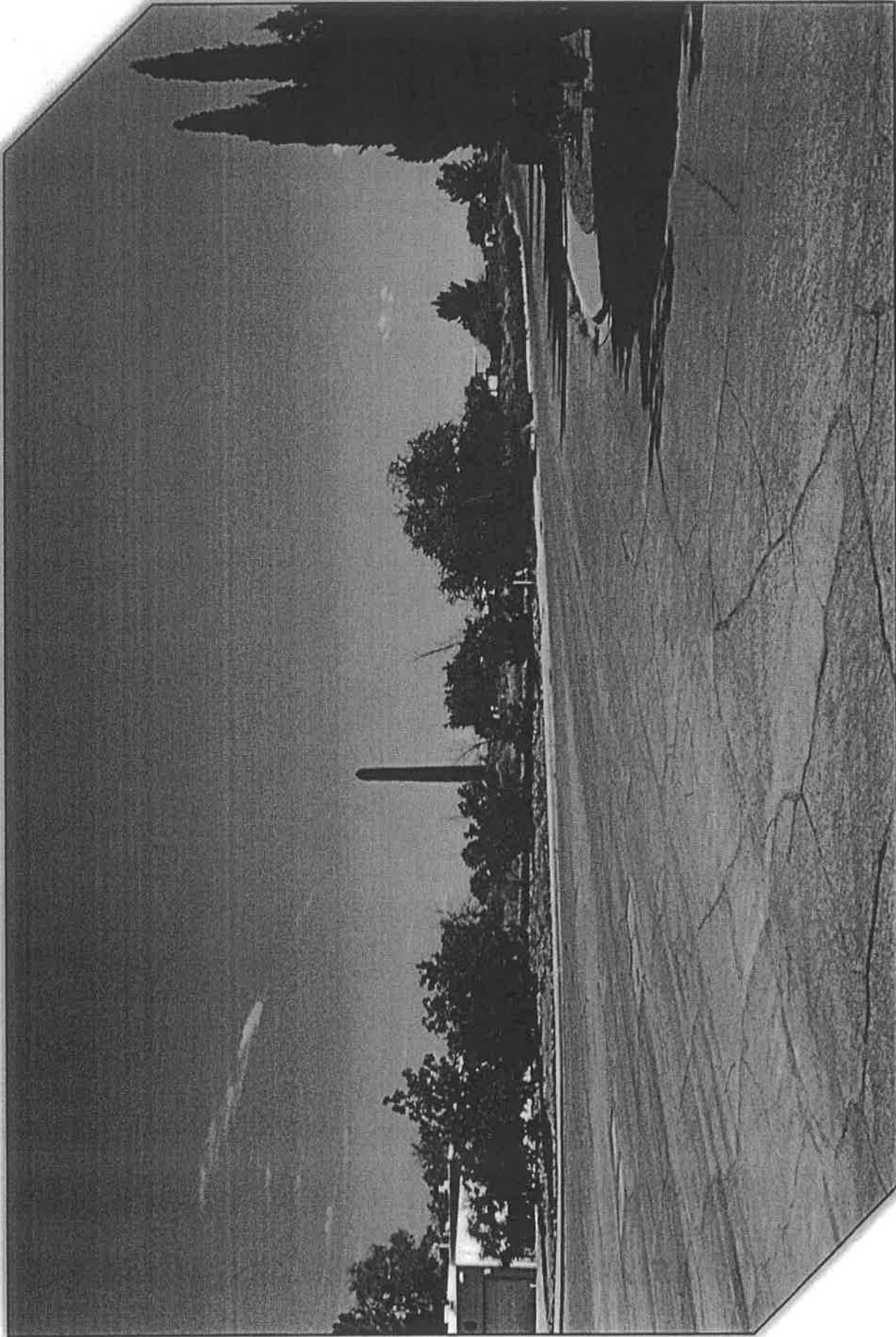
NOT TO SCALE - RENDERINGS ARE FOR DISCUSSION PURPOSES ONLY

TECTONIC

Practical Solutions, Exceptional Service

P-3

6022 Blackhawk



Looking north from the intersection of Agave Drive & Agave Place.
Proposed monocypriss is visible from this location.

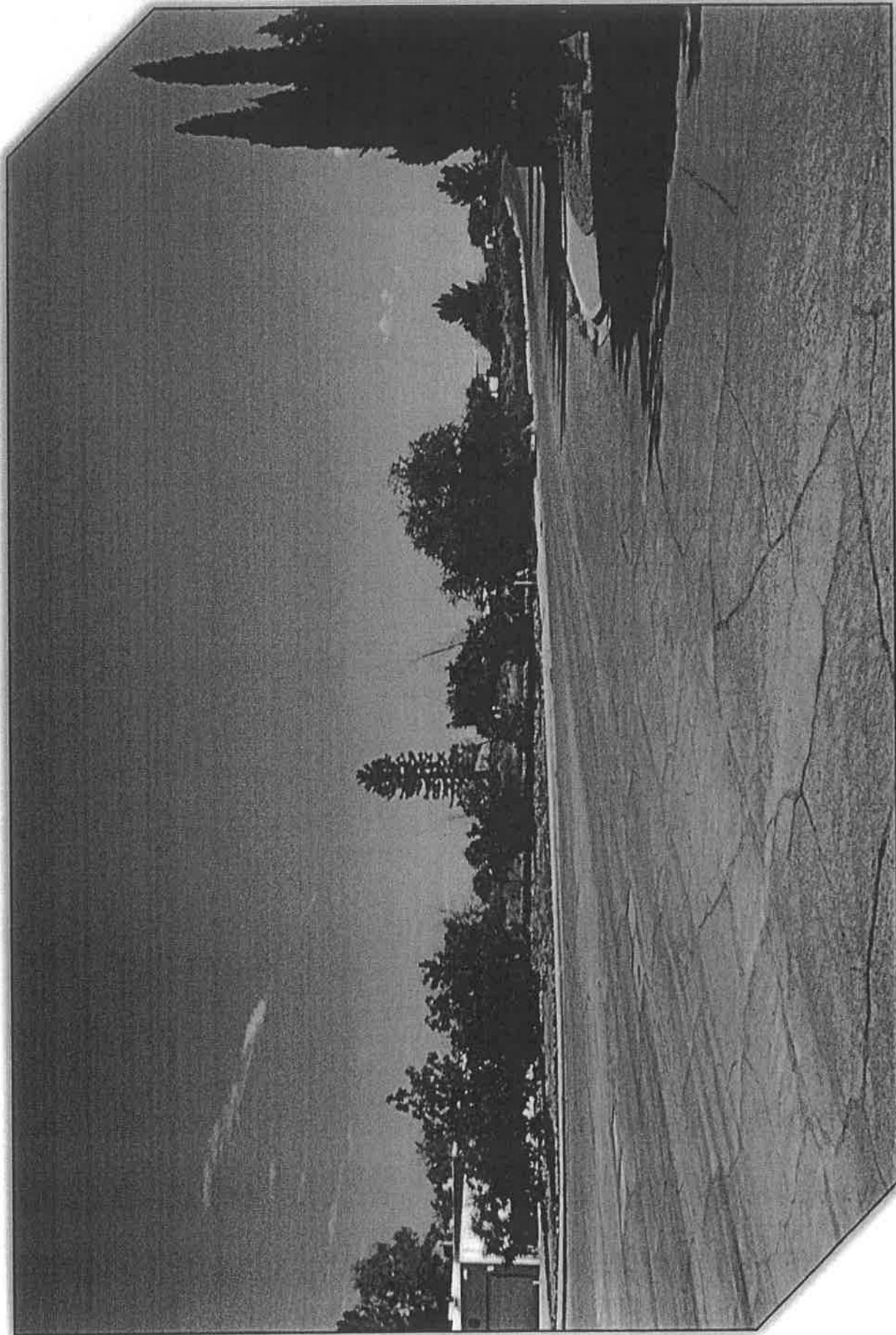
NOT TO SCALE - RENDERINGS ARE FOR DISCUSSION PURPOSES ONLY

TECTONIC

Practical Solutions, Exceptional Service

S-3a

6022.Blackhawk



Looking north from the intersection of Agave Drive & Agave Place.
Proposed monopine is visible from this location.

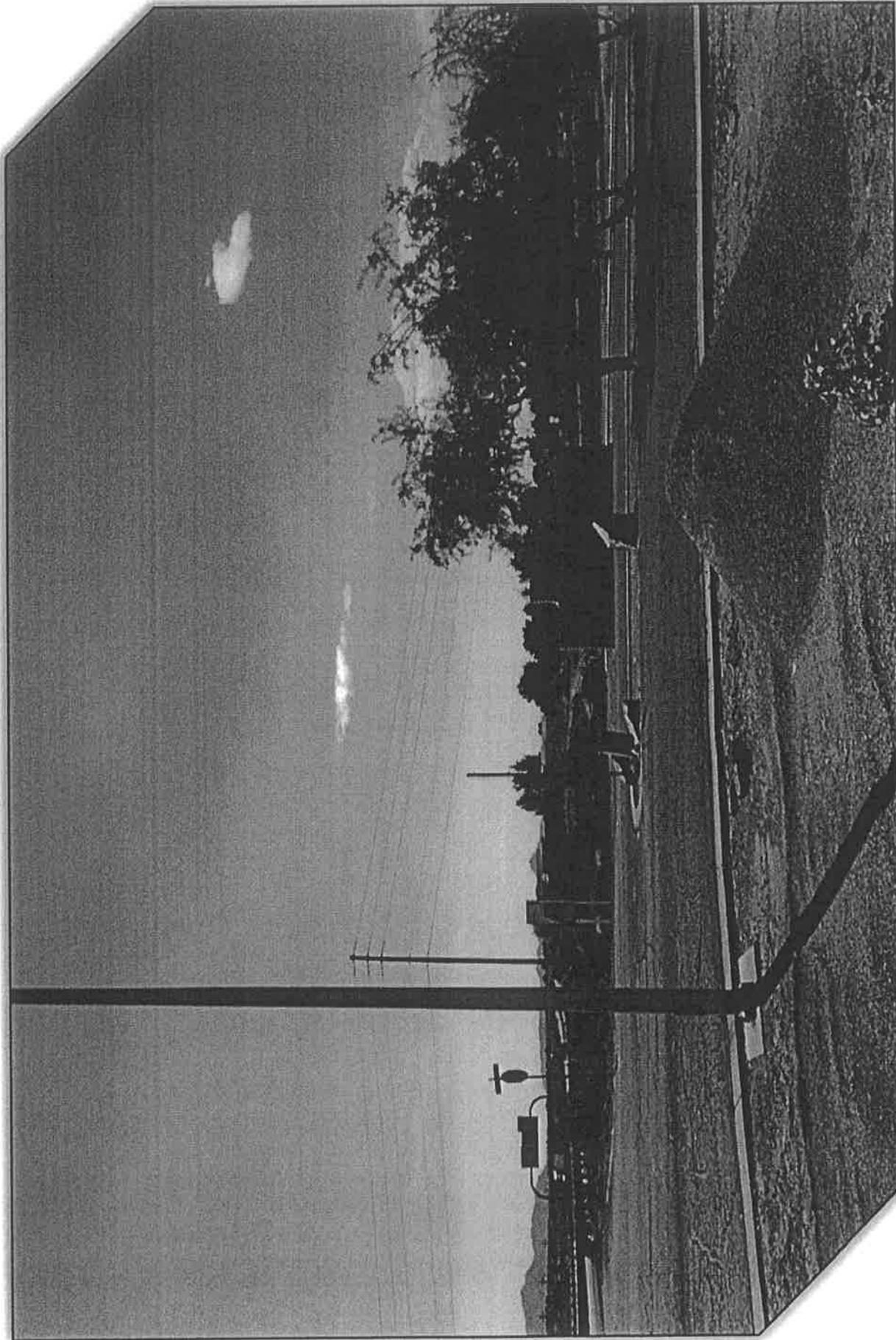
NOT TO SCALE - RENDERINGS ARE FOR DISCUSSION PURPOSES ONLY

TECTONIC

Practical Solutions. Exceptional Service

S-3b

6022.Blackhawk



Looking southeast from the intersection of Stern Drive & Salopek Boulevard.
Proposed structure will be visible from this location.

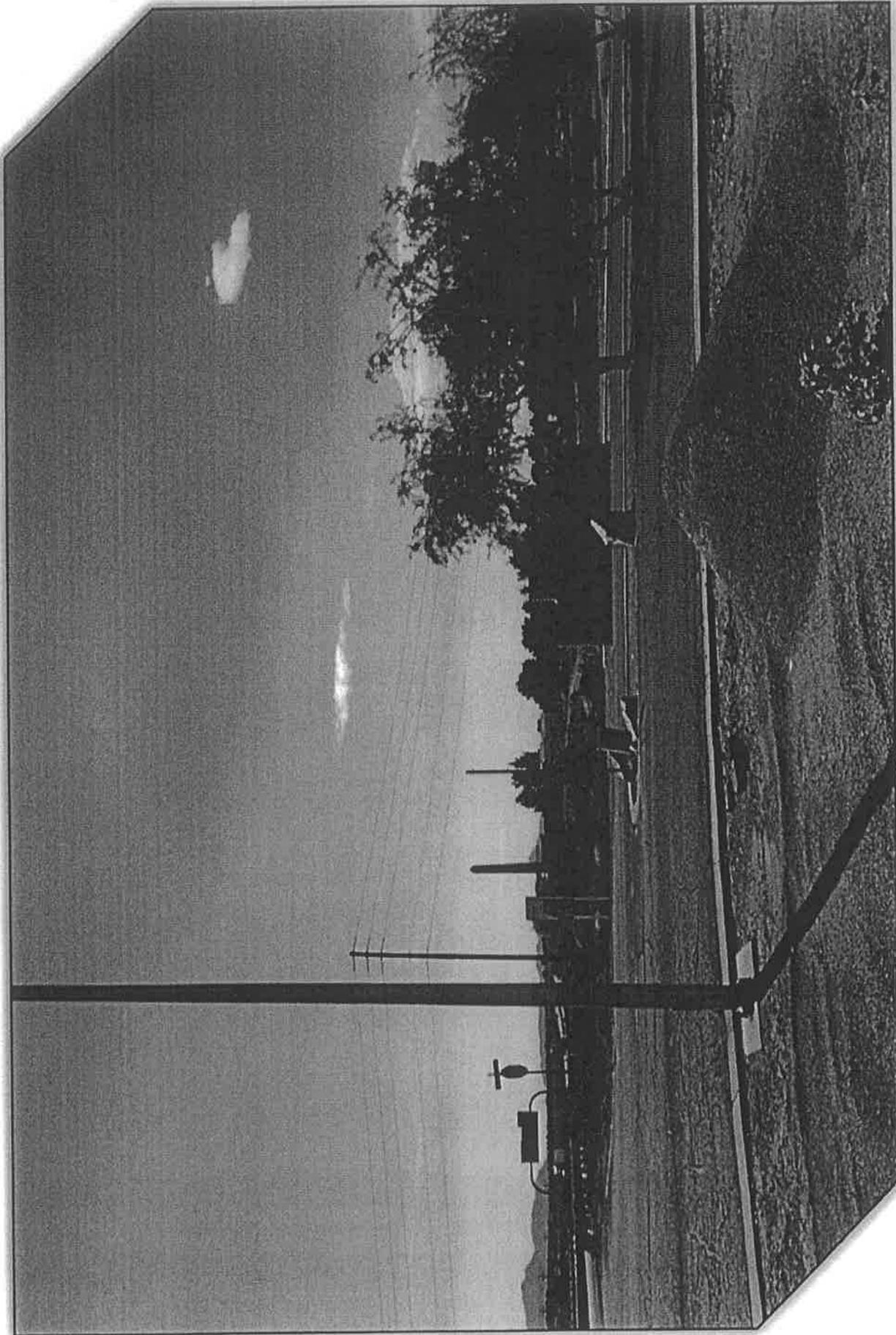
NOT TO SCALE – RENDERINGS ARE FOR DISCUSSION PURPOSES ONLY

TECTONIC

Practical Solutions, Exceptional Service

P-4

6022.Blackhawk



Looking southeast from the intersection of Stern Drive & Salopek Boulevard.
Proposed monocypriss is visible from this location.

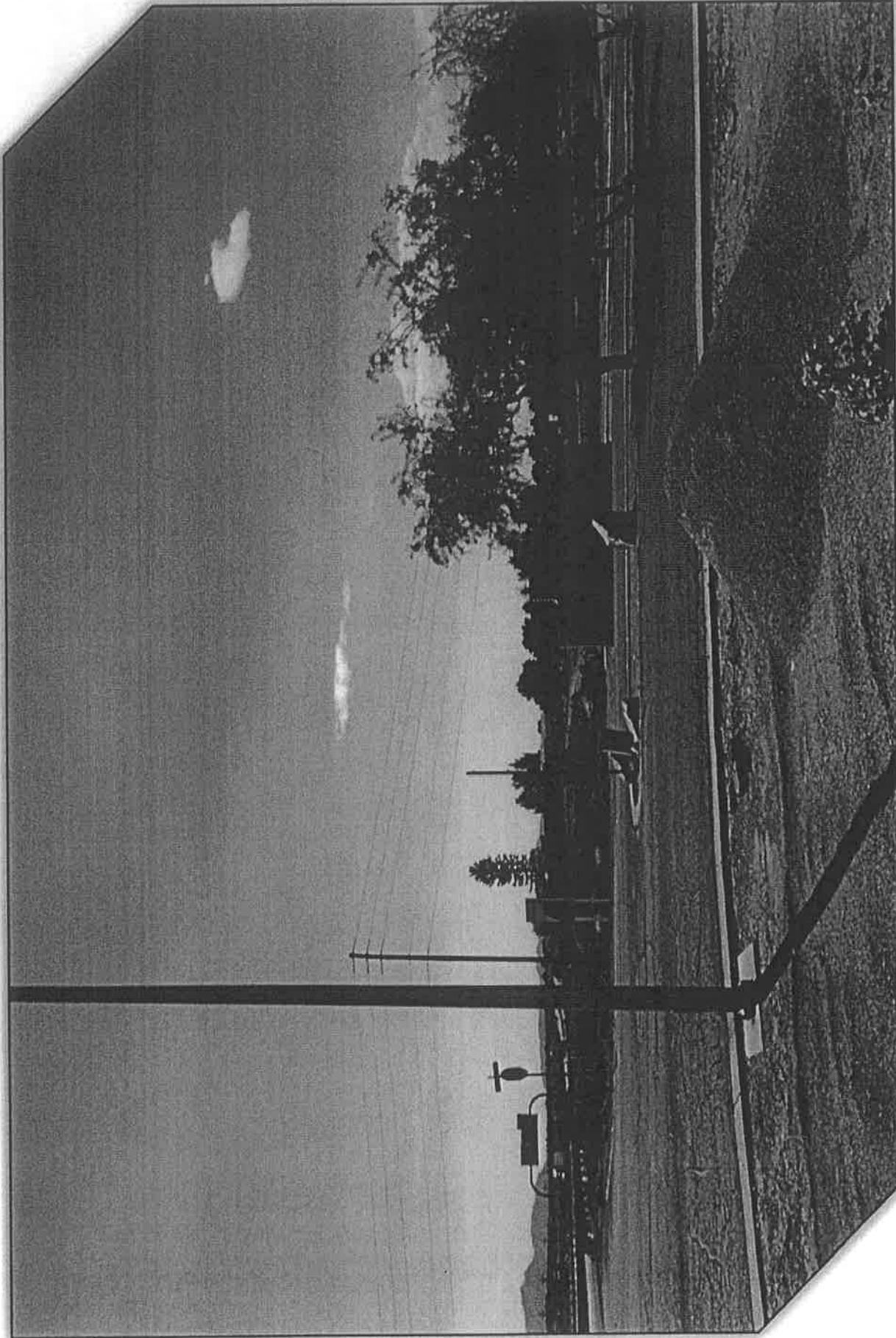
NOT TO SCALE – RENDERINGS ARE FOR DISCUSSION PURPOSES ONLY

TECTONIC

Practical Solutions, Exceptional Service

S-4a

6022.Blackhawk



Looking southeast from the intersection of Stern Drive & Salopek Boulevard.
Proposed monopine is visible from this location.

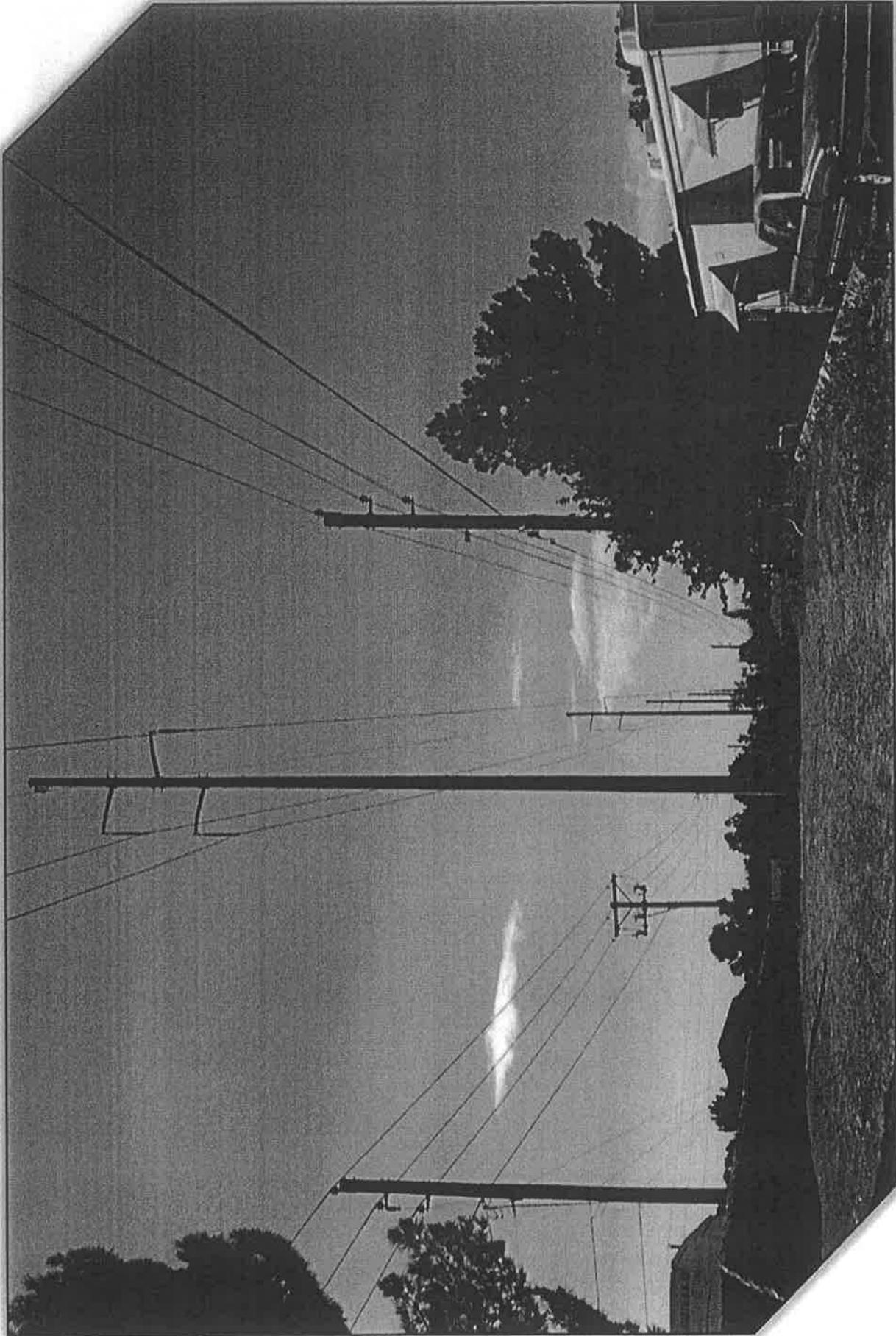
NOT TO SCALE - RENDERINGS ARE FOR DISCUSSION PURPOSES ONLY

TECTONIC

Practical Solutions, Exceptional Service

S-4b

6022.Blackhawk



Looking southeast from O'Hair Drive.
Major power lines are visible through this location.

NOT TO SCALE - RENDERINGS ARE FOR DISCUSSION PURPOSES ONLY

P-4

6022.Blackhawk

TECTONIC

Practical Solutions, Exceptional Service

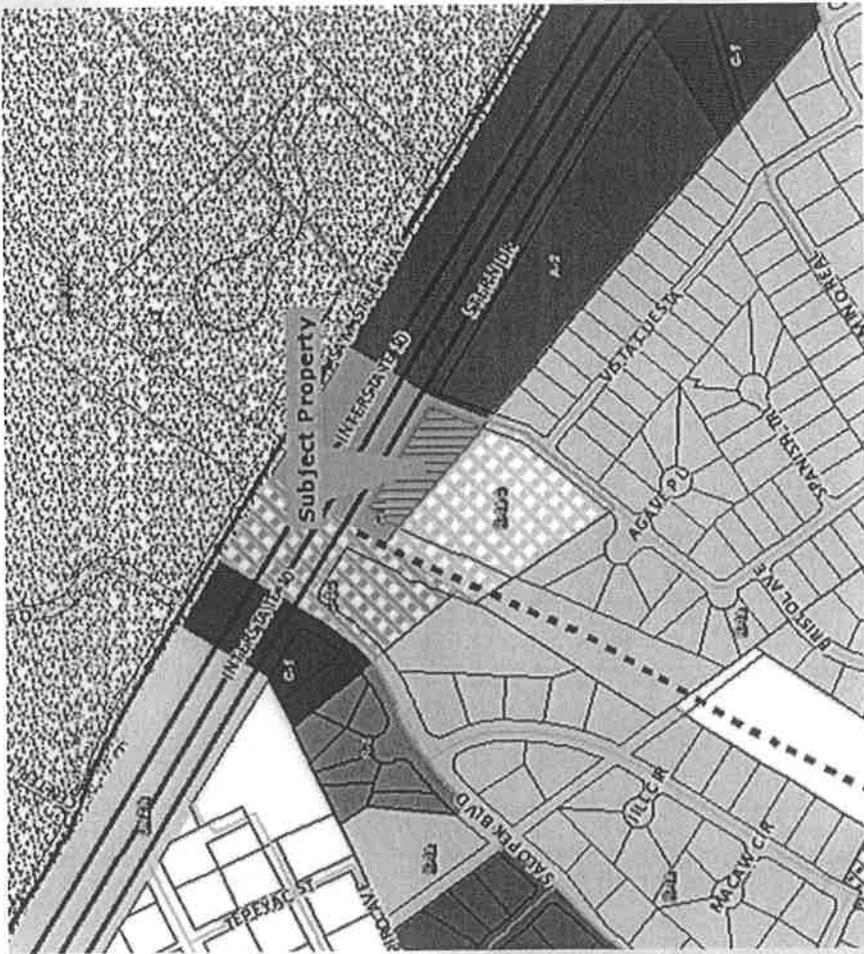
TAB 6

250

SUP-15-01

4790 STERN DRIVE

WIRELESS COMMUNICATION FACILITY SPECIAL USE
PERMIT (SUP)



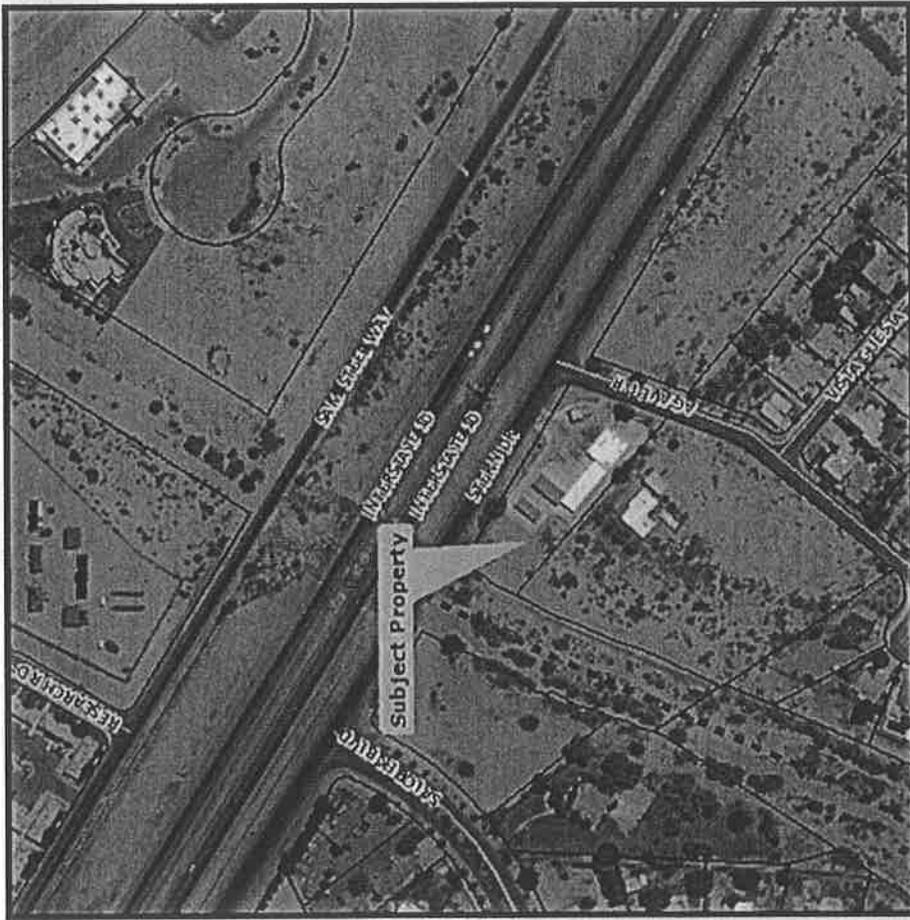
Location / Zoning Map

July 28, 2015 P & Z Meeting

- ▶ Case Postponed
- ▶ Applicant directed to seek alternate locations
 - ▶ NMSU property
 - ▶ Pecan orchard
- ▶ NMSU not interested
- ▶ Orchard too far meet the needs of applicant
- ▶ Resubmitted for Final Action by P & Z

Current Conditions

- ▶ Corner of Stern Drive & Agave Drive
- ▶ 1.552 ± acres
- ▶ Zoned C-3 (Commercial High intensity)
- ▶ Commercial property with vacant commercial buildings



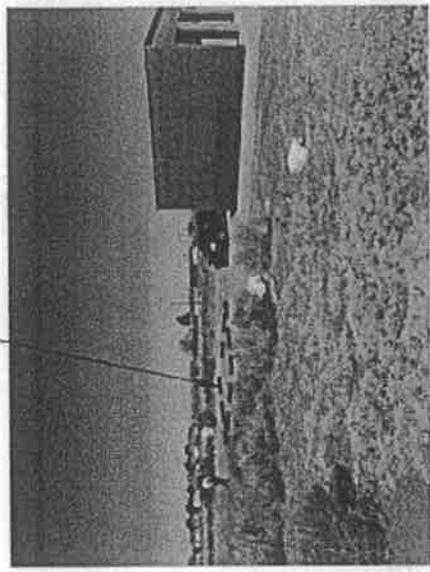
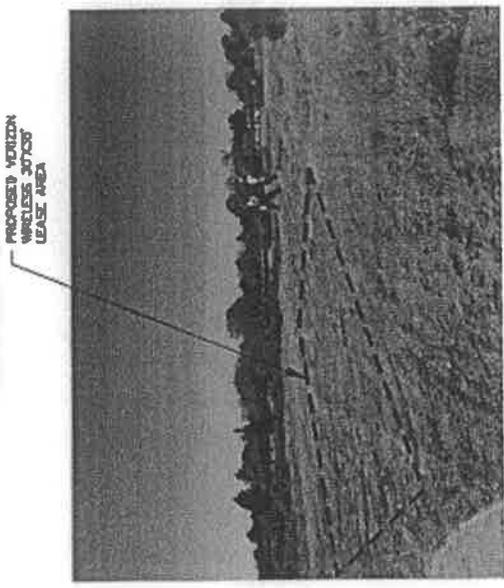
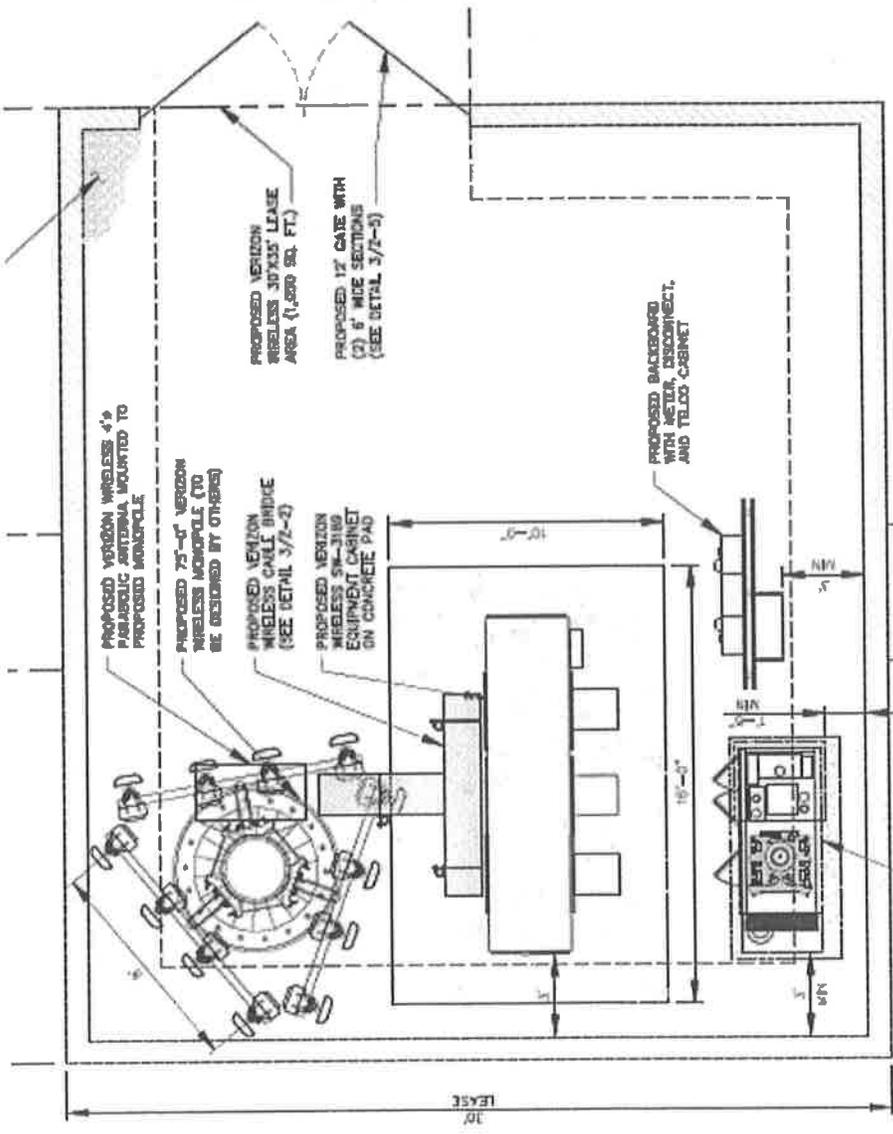
Aerial Map

Code Requirements

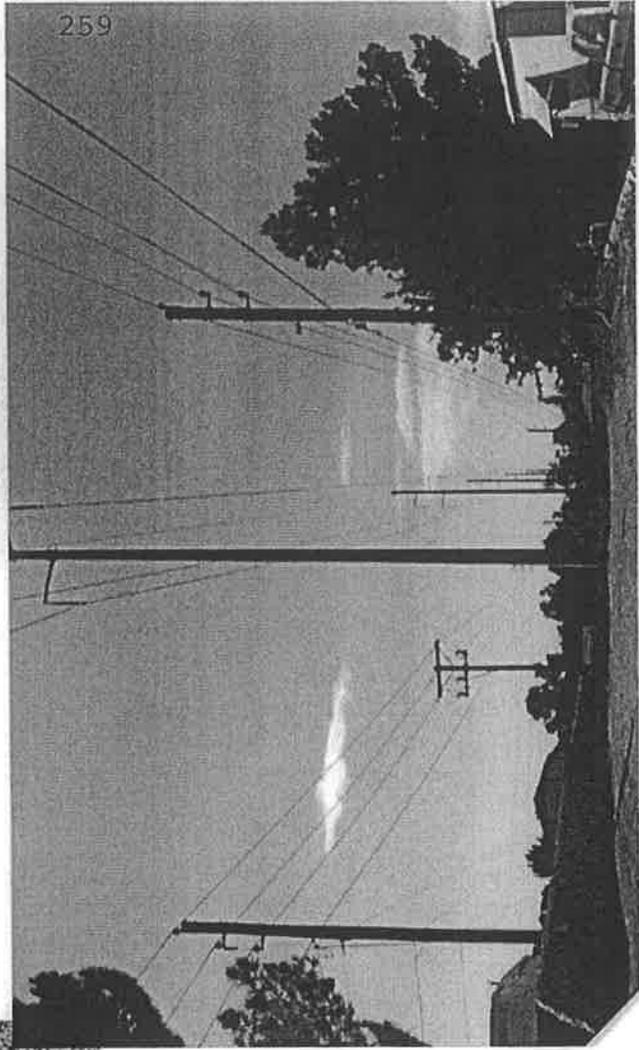
- ▶ Section 38-59F of the 2001 Zoning Code
 - ▶ New communication structures adjacent to property zoned R-1a are not permitted unless approved through the SUP process
 - ▶ Applicant is required to pay all expenses associated with the city hiring a qualified expert to review and provide written recommendation to the P&Z of the technical information submitted as part of the application

New Proposal

- ▶ New wireless communication facility with a 65 foot tall wireless communication tower
 - ▶ Tower to be a stealth tower to look as a cypress or pine tree
- ▶ Adjacent to R-1aC zoned property
- ▶ To be located to the rear of the subject property
- ▶ Meets all required setbacks
 - ▶ Including the setback from the adjacent residential lot
- ▶ Will follow all requirements of Section 38-59 of the 2001 Zoning Code

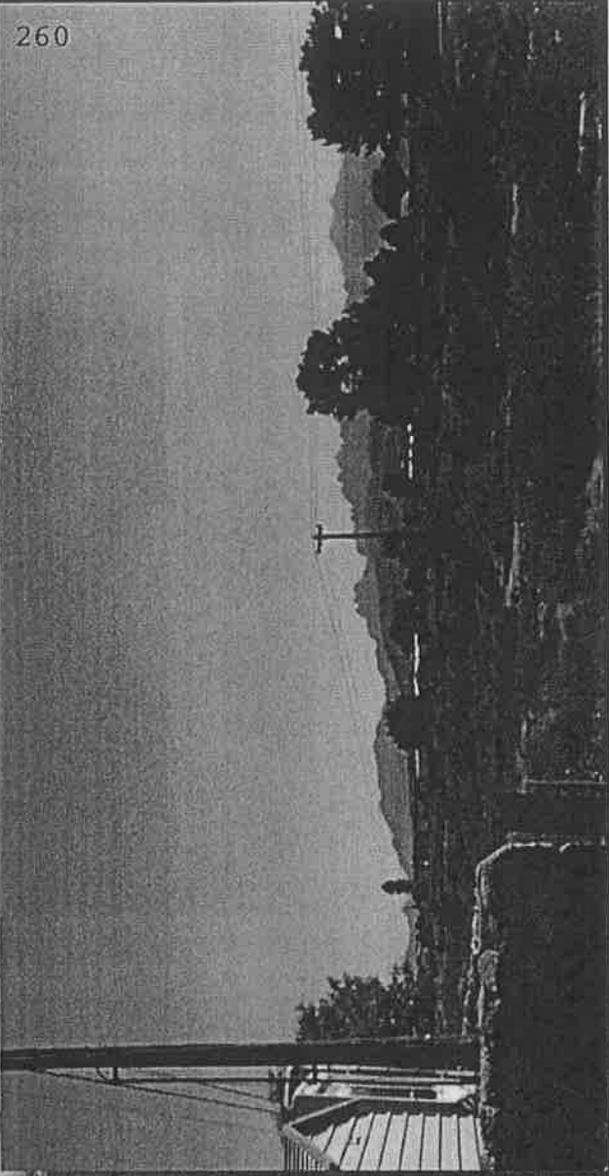


Site Plan



Surrounding Views

Vista Cuesta



260

O'Hair

Surrounding Views



Agave Dr. & Agave Pl.



Stern Dr. & Salopek Blvd.

Surrounding Views

Analysis

- ▶ Analysis was prepared for the proposed new facility
- ▶ Greg Best Consulting, Inc. reviewed the analysis and provided a written recommendation on June 23, 2015
 - ▶ Concurs with the analysis of the applicant that the proposed new wireless communication facility site at 4790 Stern Drive is the best available site

Staff Recommendation

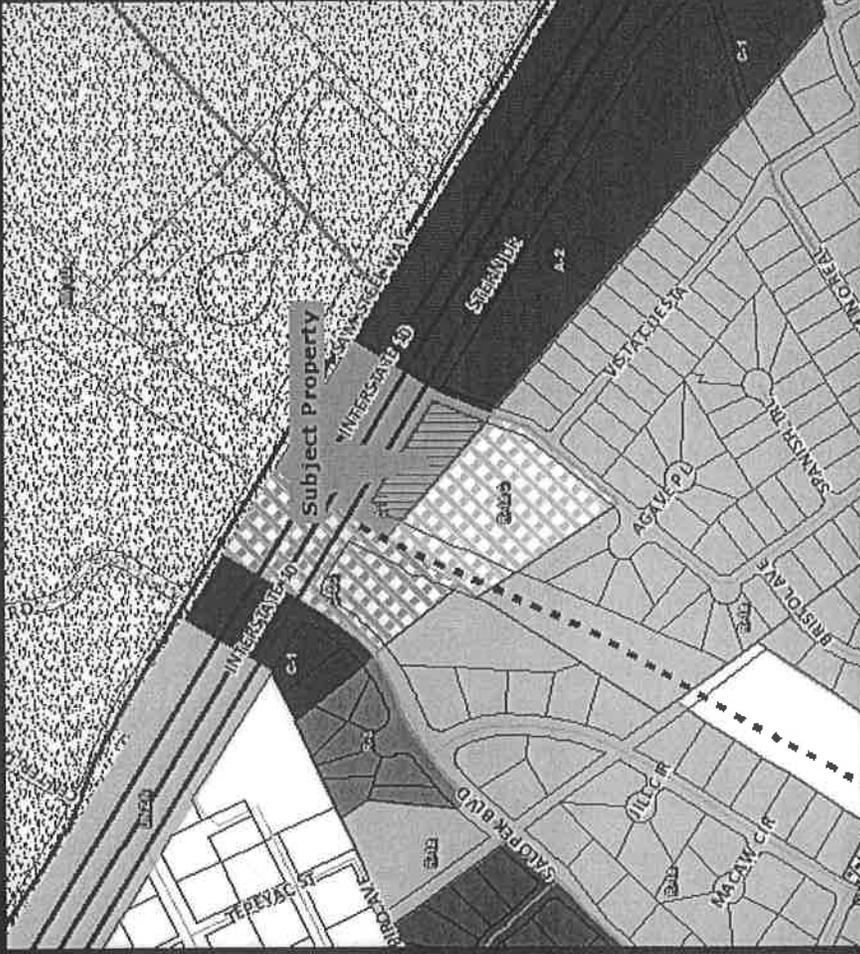
- ▶ Staff has reviewed the proposed Special Use Permit and based on the review by Staff and all other reviewing departments in the City of Las Cruces and the New Mexico Department of Transportation, the written recommendation from the independent expert consultant, the new information submitted by the applicant and the findings found in the staff report, staff recommends approval for the proposed SUP

Staff's Findings

- ▶ The subject property encompasses 1.552 ± acres, is zoned C-3 and currently contains vacant commercial buildings
- ▶ An independent expert consultant has reviewed the analysis from the applicant and concurs that 4790 Stern Drive is the best available site for a new wireless communication facility with a 65-foot tall wireless communication tower in the area. (2001 Zoning Code, Article 6, Section 38-59 F6)
- ▶ The proposed new wireless communication facility follows all of the requirements for a Special Use Permit (SUP) and all standards of Section 38-59 of the 2001 Zoning Code, as amended

Options

- ▶ Vote YES as recommended by staff
- ▶ Vote YES with Conditions
- ▶ Vote NO
- ▶ Vote to TABLE/POSTPONE and direct Staff and the applicant accordingly



Location / Zoning Map

**PLANNING AND ZONING COMMISSION
FOR THE
CITY OF LAS CRUCES
City Council Chambers
September 22, 2015 at 6:00 p.m.**

BOARD MEMBERS PRESENT:

Godfrey Crane, Chairman
William Stowe, Vice-Chair
Joanne Ferrary, Member
Harvey Gordon, Member

BOARD MEMBERS ABSENT:

Charles Beard, Secretary
Ruben Alvarado, Member
Kirk Clifton, Member

STAFF PRESENT:

Katherine Harrison- Rogers, Senior Planner, CLC
Adam Ochoa, Planner, CLC
Sara Gonzales, Planner, CLC
Mark Dubbin, CLC Fire Department
Chris Mount, CLC Fire Department
Robert Cabello, CLC Legal Staff
Becky Baum, Recording Secretary, RC Creations, LLC

I. CALL TO ORDER (6:00 p.m.)

Crane: Good evening ladies and gentlemen. The Planning and Zoning Commission meeting for the 22nd of September is called to order. Let me start as we usually do by introducing the Commissioners present; on my far right Commissioner Gordon is the Mayor's Appointee; on his left Commissioner Stowe is, represents District 1 and is also our Vice Chairman; then Commissioner Ferrary represents District 5. I'm Godfrey Crane the Chair, and I represent District 4.

II. CONFLICT OF INTEREST

At the opening of each meeting, the chairperson shall ask if any member on the Commission or City staff has any known conflict of interest with any item on the agenda.

Crane: Let me ask at this point if any Members of the Commission or any Community Development people have any conflict of interest with any item on tonight's agenda? No one so indicates. It's appropriate for me to say at this point that for those of you who were present when we discussed the case now on Old Business SUP-15-01 at our last meeting I

1 recused myself because I had a friend who was not present who I thought
2 would be very opposed to the, the proposal. It turned out that shortly after
3 that meeting I ran into her and she said she had nothing against it. She is
4 essentially neutral on the matter and so I don't feel that I am under any
5 pressure to make a decision one way or the other, any outside pressure.
6 So I will not recuse myself for that.

8 **III. APPROVAL OF MINUTES**

10 1. August 25, 2015 - Regular Meeting

12 Crane: Next item is the Approval of the Minutes for the last regular meeting, 25th
13 of August. Does any Commissioner have any adjustments?
14 Commissioner Gordon? No. Commissioner Stowe, Commissioner
15 Ferrary, and I don't either.

17 Gordon: So I make a motion that we accept the minutes.

19 Crane: Mr. Gordon ...

21 Ferrary: I'll second.

23 Crane: Moves and Ms. Ferrary seconds that we approve the minutes of the last
24 meeting. All in favor "aye."

26 **MOTION PASSED UNANIMOUSLY.**

28 Crane: Opposed? None. Is anybody abstaining? No abstentions. So it passes
29 four/nothing.

31 **IV. CONSENT AGENDA - NONE**

33 1. **Case IDP-15-02:** An Infill Development Process (IDP) application by Fabian
34 Erives on behalf of Leo Guzman, property owner, for a studio apartment
35 complex located at 1311 Alamo St. and zoned R-1a (Single-Family Medium
36 Density). The IDP proposes to utilize R-4 (Multi-dwelling High Density &
37 Limited Retail and Office) standards and requests a variance from the
38 minimum required parking spaces. The 0.31 +/- acre property is located at
39 the southeast intersection of Idaho Ave. and Alamo St. and is further
40 identified by Parcel ID # 02-26041. Proposed use: Multifamily residential.
41 Council District 3 (Councilor Pedroza).

43 2. **Case CPB-15-03:** A request to recommend approval of amendments to the
44 Community Planning Blueprint Initiative Process. The citywide planning area
45 consists of all Council Districts.

1 Crane: The next items on the agenda are the Consent Agenda. Let me explain
 2 how we handle this. These two items are items which the Community
 3 Planning Department has decided are probably noncontroversial so
 4 they're put together in the Consent Agenda and we, the Commission will
 5 take a vote on them without any debate. However, if any member of the
 6 Commission, any Community Development person, or any member of the
 7 public wishes to discuss either one of these, then we will pull it off the
 8 Consent Agenda and put it at the top of New Business. Does anybody
 9 wish to discuss any, either the two items: IDP-15-02 or CPB-15-03? No
 10 one so indicates, so I'll hear a motion that the Consent Agenda be
 11 approved.

12
 13 Ferrary: I so move.

14
 15 Crane: Commissioner Ferrary moves. Do we have a second?

16
 17 Gordon: I'll, I'll second.

18
 19 Crane: Commissioner Gordon seconds. All in favor "aye."

20
 21 MOTION PASSED UNANIMOUSLY.

22
 23 Crane: Opposed? None. So that passes four/nothing.

24
 25 **V. OLD BUSINESS - NONE**

26
 27 1. **Case SUP-15-01:** Application of Verizon Wireless/Tectonic Engineering on
 28 behalf of A & E Enterprises Inc., property owner, to construct a new stealth
 29 wireless communication facility on a property encompassing 1.552 +/- acres,
 30 zoned C-3 (Commercial High Intensity) and located on the southwest corner
 31 of Stern Drive and Agave Drive; a.k.a. 4790 Stern Drive; Parcel ID # 02-
 32 22899; Proposed use: 65-foot tall stealth wireless communication structures
 33 and associated accessory structures. Council District 2 (Councilor Smith).

34
 35 Crane: So over the page to Case SUP-15-01, application of Verizon Wireless to
 36 put up a tower at Stern Drive and Agave Drive and I, I have to tell anybody
 37 here that we discussed this issue last time and we asked the, Verizon to
 38 check out a couple of things and come back to us with, if at all possible an
 39 alternative proposal. Mr. Ochoa's going to talk to us about it. Mr. Ochoa.

40
 41 Ochoa: Thank you Mr. Chairman. Adam Ochoa, Development Services for the
 42 record. Case, first case tonight we're looking at is Case SUP-15-01. It is
 43 a proposed Special Use Permit for a new wireless communication
 44 structure or facility, excuse me, at 4790 Stern Drive. Just to remind you
 45 where the subject property is located, here in the hash marks about, south

1 of Interstate 10 and Stern Drive south of the NMSU property, Agave Drive
2 running along the south side of that property.

3 At the last meeting of the July, well not the last meeting, pardon
4 me, but at the July 28th, 2015 P&Z meeting this case was postponed by
5 the Planning and Zoning Commission. The P&Z at that time directed the
6 applicant to seek alternate locations for the proposed communication
7 structure, just naming a couple; one being NMSU being the most, I guess
8 the, the most viable as stated by the P&Z and surrounding property
9 owners and possibly a, a nearby pecan orchard. The applicant did do
10 these and as you see in your staff report they did provide an e-mail from
11 NMSU stating that they are no interested in, in providing space on NMSU
12 property for a new wireless communication structure and the applicant has
13 also shown that the proposed, the closest proposed pecan orchard would
14 not meet their needs for the proposed new tower considering it's a little too
15 far away for them to be able to have the service that they want provide in
16 that area.

17 With that the applicant did resubmit for final action by the P&Z for
18 the proposed Special Use Permit. The subject property is located on the
19 corner of Stern Drive and Agave Drive and currently encompasses
20 approximately 1.5 acres. It is currently zoned C-3, Commercial High
21 Intensity, and currently consists of a variety of vacant commercial
22 buildings. Shown here on the aerial map those vacant commercial
23 buildings and Interstate 10 here just to give another quick reference where
24 this is at. The Code sections we are looking at is under Section 38-59F of
25 the 2001 Zoning Code where it, it states that new communication
26 structures adjacent to R-1a properties or single-family zoned properties
27 are not permitted to have a new communication or, new communication
28 structures are not permitted on properties adjacent to these zoning
29 designations unless approved through the Special Use Permit process.
30 Through this process the applicant was required to pay all expenses
31 associated with the City actually hiring a qualified expert, outside expert to
32 review the, and provide written recommendation to the P&Z of the
33 technical information submitted as part of the application by the applicant.

34 The proposal has changed from the first time we did see this.
35 Originally the applicant was proposing a new wireless communication
36 facility with a 75-foot tall wireless communication tower. That has
37 changed now to a 65-foot tall wireless communication structure as well as
38 that first tower was just to be a standard tower that you could see, metal
39 towers. The new tower is actually proposed to be a stealth tower, that'll be
40 disguised to look like either a Cyprus tree or a pine tree and I have some
41 pictures kinda show you what the applicant has in mind. The, the subject
42 property is adjacent to an R-1aC property which is what is requiring this
43 Special Use Permit. The applicant is proposing to locate the new tower
44 and facility to the rear of the subject property. And in your staff report
45 you've seen all their development plans and building plans and all those
46 do seem to meet all requirements, all the requirements of Section 38-59 of

1 the 2001 Zoning Code including all the required setbacks which also
2 includes the required setback from the adjacent residential lot.

3 Shown here just a site plan of that subject property. Shown here
4 that new facility where that would be located. And of course the setbacks
5 that they easily meet all required setbacks from the front, secondary front,
6 rear, and side of that property. Again this is just an old site plan showing
7 that, where that pole would be going. Of course this is not what the
8 applicant is proposing now, they are proposing a stealth pole to look like
9 either, like I said either a Cyprus tree or a pine tree, but here are some site
10 photos of roughly where that new facility would be located at.

11 The applicant also submitted a variety of pictures for your reviewing
12 pleasure if you will. That, at that meeting at, on July 28th a number of
13 surrounding property owners had issues with their views and so forth like
14 that and the applicant did provide these pictures just to show you roughly
15 where, they took, they took pictures in the surrounding areas to show what
16 that tower, what effects that tower would take on the view of the
17 surrounding properties. The applicant did also bring up that there is
18 actually a large major power line running through the rear and they are
19 trying to do something nicer looking than that with their proposed new
20 communication structure. First picture on the top left and corner is, was
21 taken off of Vista Cuesta, you can see here this is the wireless
22 communication structure if it looked like a pine tree. Down here on the
23 bottom corner is, this, this picture was taken off of O'Hair, again here you
24 can see that pine tree/monopole proposed for the wireless communication
25 tower. This picture was taken off of the corner of Agave Drive and Agave
26 Place, again the pine tree located here is what that communication
27 structure would look like. And another picture off of Stern Drive and
28 Salopeck Boulevard look, looking south towards the property. And here is
29 that tower again giving you an artists' rendition of what that tower would
30 look like.

31 As I stated before the, the City did hire a consultant to analyze and
32 prepare recommendation for the proposed new facility. That analysis and
33 recommendation was completed by Greg Best Consulting Incorporated on
34 June 23rd, 2015. And the consultant did concur with the analysis of the
35 applicant that this proposed new wireless communication facility site, the
36 actual site itself at 4790 Stern Drive is the best available location in this
37 area for a new wireless communication structure from a, I guess from a
38 zoning standpoint, from a, and also from a, a I guess, it's usability if you
39 will. With that staff has reviewed the proposed Special Use Permit and
40 based on the review by staff and all reviewing departments of the City of
41 Las Cruces and NMDOT who did review this as well, as well as based on
42 the written recommendation from the independent consultant and the new
43 information submitted by the applicant, and of course those findings found
44 in your original staff report, staff recommends approval for the proposed
45 Special Use Permit. These are the findings that are, that staff is basing
46 their recommendation on, our findings of fact for approval.

1 Your options tonight ladies and gentlemen is 1) to vote "yes" to
 2 approve the proposed Special Use Permit as recommended by staff; 2) to
 3 vote "yes" to recommend approval, to vote "yes" to approve the proposed
 4 Special Use Permit with any conditions deemed appropriate by the P&Z;
 5 3) to vote "no" and deny the proposed Special Use Permit; or 4) vote to
 6 table/postpone the proposed Special Use Permit and direct staff and the
 7 applicant accordingly. The staff did receive an additional e-mail from a
 8 adjacent property owner, I believe you all have a, received a copy of that
 9 in front of you. He does have pictures and so forth like that for you to
 10 review for, for his I guess why he is against the proposed Special Use
 11 Permit. That is the conclusion of my presentation. The applicant is here if
 12 you have any questions for them. And I stand for questions as well.
 13

14 Crane: Thank you Mr. Ochoa. Commission, oh before we get into that. There's
 15 probably some people here from the public who may not have been at a
 16 P&Z meeting before. The Old Business and the New Business as
 17 opposed to the Consent Agenda are handled a little bit differently. As you
 18 see we have first a presentation from Community Development person.
 19 Commissioners can then ask questions of that person. Then we invite the
 20 applicant or the applicant's spokesperson to come up and make a
 21 presentation, again we can ask questions. Finally we ask members of the
 22 public who have an interest to come up and give their views, and we may
 23 ask some questions of them. There's no limit set on what Community
 24 Development or the applicant can spend by way of time, though I think we
 25 all appreciate if it's kept to a reasonable level, however when it comes to
 26 members of the public we customarily have a three-minute limit. We have
 27 a timer up here which I will set and reset as people come up. Please
 28 observe the limit because otherwise you'll be eating in other people's time
 29 and quite possibly their patience. Can I see a show of hands please of the
 30 number of people who right now think they would like to come up and
 31 make a presentation? One. One person. Two, three, four, five, six. All
 32 right that seems manageable. Sometimes we've had, actually once a
 33 hundred. I remember it well. So, let's, Commissioners, Commissioner
 34 Gordon do have a question for Mr. Ochoa?
 35

36 Gordon: Yes, a, Adam do me a favor, will you go back to the, to the pictures on
 37 your presentation for the last one shown, oops, go back to one, here it is.
 38 How far is Stern Drive and, what is that, Salopek Boulevard?
 39

40 Ochoa: Salopeck.

41
 42 Gordon: From this site, do you know?
 43

44 Ochoa: I do not know that off the top of my head sir but I will go ahead and scale
 45 that out and see what I can, if I can get you that.
 46

1 Gordon: The reason I asked is because this also on Stern Drive and I'm just
2 wondering how close it is in terms of this picture.

3

4 AUDIENCE MEMBER SPEAKING OUT, NOT AT THE MICROPHONE.

5

6 Ochoa: Mr. Chairman. You're looking at, the subject property's here. Where that
7 picture was taken was here on Stern and, and Salopek. I'll, I'll go to
8 measure that out and get you an, get you an answer for that sir.

9

10 Gordon: That's fine, I mean that's pretty close.

11

12 Ochoa: Yes sir.

13

14 Gordon: Can I ask a question from someone who has engineering knowledge from
15 Verizon other than a, an administrative person? Is there someone here?

16

17 Ochoa: Yes sir I believe they are here. They could, they could answer your
18 questions.

19

20 Gordon: Okay. I'd like to do that.

21

22 Crane: Any other Commissioner have a question for Mr. Ochoa? Then the
23 applicant or the applicant's representative come up and if you'll identify
24 yourself sir I will swear you in.

25

26 Gutierrez: Yes Commissioner Crane. My name is Les Gutierrez and I'm an agent
27 from Verizon wireless.

28

29 Crane: Okay Mr. Gutierrez do you swear or affirm that the testimony you are
30 about to give is the truth and nothing but the truth under penalty of law?

31

32 Gutierrez: I do sir.

33

34 Crane: Carry on please.

35

36 Gutierrez: Yes, once again it's a pleasure to see all of you folks again. We're here
37 today to answer any additional questions you might have about what
38 we've resubmitted and I also have with me some folks from Verizon, our
39 real estate manager and just observing, our legal council from Verizon,
40 Christian Henderson, he's from Denver. But hopefully I can answer
41 whatever questions you might have today. We concur with all of staff's
42 recommendations. We, we once again reiterate, unfortunately Mr. Hamdi
43 Alaaldin isn't here, he was the RF engineer. But the main reason that
44 we're tonight is that we have a gap in capacity coverage between existing
45 sites, and Verizon is planning ahead in order to make sure that not only all
46 the traffic on that road, but this neighborhood in the next year or so has

1 great wireless coverage. You may not be aware of this or not but about
2 40% of the homes in America now have wireless coverage and Verizon is
3 about in 120 million homes so we're in about every one to three homes.
4 So the, the focus here that we're trying to do is agree with staff's findings,
5 we agreed with the consultant that prepared the finding that this was the
6 best location. And I'm here to answer any questions that I might help
7 make things clearer for you.

8
9 Crane: Thank you sir. Commissioners. Commissioner Gordon.

10
11 Gordon: If, if this other tower is, is relatively close I, I heard some gentleman speak
12 out 100 yards, is that, is that correct, someone say that?

13
14 AUDIENCE MEMBER SPEAKING, NOT AT THE MICROPHONE.

15
16 Gordon: Okay a 100 yards. Why is it necessary to build this one?

17
18 Gutierrez: I, I'm not familiar with a tower that's close to 100 yards. I'm sorry.

19
20 Ochoa: Mr. Chairman, Commissioner Gordon. The subject property where they
21 took the picture, pardon me, I'm sorry. This picture here off the corner of
22 Stern Drive and Salopek is about, about a 100 yards away. The other
23 tower that you're speaking about off of Union Avenue is actually a fair
24 more distance to the north. It's off of Union and, and Stern Drive right next
25 to the Whiskey Dicks, so that property is actually a fair decent distance
26 away from the subject property.

27
28 Gordon: All, all right I misunderstood. I thought there was one here at this, at this
29 particular address. This is just where the photo was taken.

30
31 Ochoa: Yes sir, that is correct.

32
33 Gordon: Okay.

34
35 Ochoa: This is just to give you a perspective as to what the view is from the
36 subject property here.

37
38 Gordon: Now, now what happens, my, my next, my next question is what happens
39 if, what does Verizon do if this is not approved? Just walk away from this
40 project?

41
42 Gutierrez: Well Commissioner we'll, we'll probably come back and try to reopen this
43 case and we, we do need this site and I'd like to maybe back up a little bit.
44 The site that he was talking about, Verizon is already at that location at, at
45 Whiskey Dicks location. This is a, a, infill gap between Whiskey Dicks and
46 we just built a new site in the County that's about I guess a mile up the

- 1 road called Quality Wood Yard. So, we'll, we'll be back. We, we need to
2 have this site. It's a capacity site and it's, it's necessary for us sir.
3
- 4 Gordon: Again I don't believe you answered my question. What happens, in other
5 words you, you plan to come back before the Planning and Zoning
6 Commission again with the same proposal?
7
- 8 Gutierrez: Well we, we think we've offered some good alternatives and maybe we will
9 look at another alternative if we have to, but at this point this is the best
10 alternative for Verizon's network. We've met all the requirements required
11 by law and we met the setbacks and we're, we want to be a good citizen,
12 we want to design something that will work for the neighbors which will be
13 to their benefit long term so we're having a difficult time understanding
14 why it may not be approved.
15
- 16 Gordon: I haven't said that. I'm not trying to argue with you either, it's just that
17 you've just, a moment ago said we would look at other alternatives. Are
18 there other alternatives?
19
- 20 Gutierrez: Well we'd look at alternatives in terms of design. We've, we've already
21 vetted out the process. We've looked at NMSU as you requested. We
22 talked to that director and they weren't interested in, in that large 16-acre
23 parcel that's going across the street. That's gonna a five-megawatt solar
24 plant. I'm not sure what that's gonna look like. We've also looked at the
25 orchard that you asked us to look at and that was about 2,400 feet away
26 and it would not work for Verizon's network. We had additional sites that
27 Greg Best reviewed and those did not work so this, this is actually the best
28 site. If it's not approved what will happen in a period of time is that while
29 your phone may show four or five bars as a signal level, it's still not gonna
30 connect because we don't have the capacity for that. And Verizon doesn't
31 randomly design a system and spend hundreds of thousands of dollars
32 until we know that the network is gonna work and that's the best answer I
33 can give you at this point Mr. Gordon.
34
- 35 Gordon: I do appreciate the effort that you made upon my request to go back to
36 New Mexico State and the pecan farm and, and see if there was some
37 other place to put this. There are some efforts I can see in our packet
38 material to mitigate perhaps some of the concerns of the residents but I
39 think at this point before I, let me go (*inaudible*) and I really want to hear
40 what they have to say also.
41
- 42 Gutierrez: Certainly.
43
- 44 Crane: Ms. Harrison-Rogers do you have a question or an illumination?
45

- 1 H-Rogers: I, I do. Just in terms of process about next steps. If, if that indeed was
2 part of your question Chairman Gordon, excuse me Commissioner
3 Gordon, the applicant has the option if this evening the decision is denied,
4 to appeal it to City Council, in which case City Council would make a final
5 decision.
6
- 7 Gordon: Thank you.
- 8
- 9 Crane: Commissioner Ferrary.
- 10
- 11 Ferrary: Yes I was just wanting to make sure that it will be the monopole and 65-
12 foot would be the maximum height, is that right?
13
- 14 Gutierrez: Yes Commissioner Ferrary. Sixty-five feet would be the maximum height
15 we would go and we do prefer the monopole design but if this Commission
16 or the public would prefer a stealth design we are open to that also.
17
- 18 Ferrary: And how is the stealth design different?
19
- 20 Gutierrez: Well a monopole is just a, a single pole that goes up and antennas are,
21 are mounted right directly to that and we would paint that. That was the
22 original proposal. The stealth design would be the tree, the 65-foot tree
23 that is capable of holding Verizon's antennas as well as one other carrier
24 for the future.
25
- 26 Ferrary: Okay. Thank you.
- 27
- 28 Gutierrez: Yes ma'am.
- 29
- 30 Crane: Commissioner Stowe.
- 31
- 32 Stowe: I'm looking through the materials here provided previously and again for
33 tonight, are there some pictures you can point out to me that show the
34 view of the mountains in the background. I find no pictures that show a
35 view either with the cell tower or without but having mountains.
36
- 37 Gutierrez: Okay.
- 38
- 39 Stowe: The O'Hair picture.
- 40
- 41 Ochoa: Mr. Chairman, Commissioner Stowe. As you can see there on O'Hair
42 Drive there's one with the mountains.
43
- 44 Gordon: Ask them how (*inaudible*) view from this property.
45
- 46 AUDIENCE MEMBER SPEAKING, NOT AT THE MICROPHONE.

1
2 Gordon: The view from this property that they want to put in.
3
4 Stowe: Yeah, what, what is the view of this property.
5
6 Gutierrez: The view. Yes Commissioner Stowe. The view from that location, the
7 picture up at the top is showing the, the monopine tree, a 65-foot
8 monopine tree. The picture down below is from a different location on, I'm
9 sorry the first one was on Vista Cuesta.
10
11 Stowe: Right.
12
13 Gutierrez: And the other O'Hair is showing the pine tree to the far left and it looks like
14 it's very, very negligible and it looks like it's way far northeast of the
15 mountains from what I can see here sir.
16
17 Stowe: All right.
18
19 Gutierrez: I, I might point out we've, we've had an opportunity to, to drive the
20 neighborhood, it's a very, very nice neighborhood. One of the unique
21 features about this neighborhood is has a lot of landscaping. It has a lot of
22 mature trees, some of them look 25 or 30 feet. And as we drove through
23 the neighborhood it looked to me that a lot of the areas would block the
24 view of this cell phone tower. There are some gaps where you can, you
25 might be able to see it or discern it but because of the elevation from
26 where the tower is and it goes into the neighborhood, it drops I would
27 venture to say that most of the areas would block the view of that cell
28 phone tower.
29
30 Stowe: I see that. Very well. Thank you.
31
32 Crane: Any other questions? Okay thank you sir. Members of the public. You
33 first sir. Please come up, identify yourself and don't be offended when I
34 put up a three-minute timer.
35
36 Brooks: Okay, good evening. My name is Larry Brooks. I'm at 318 O'Hair Drive. I
37 did speak to you at the last meeting in July, and I'd like to just preface my
38 remarks with a little outrage over the underhanded way that indefinite
39 tabling of this proposal has been shown. Yes.
40
41 Crane: Let me log you in, swear you in. Okay. Do you swear or affirm Mr. Brooks
42 that the testimony you are about to give is the truth and nothing but the
43 truth under penalty of law?
44
45 Brooks: I do.
46

1 Crane: Go ahead please.

2

3 Brooks: Okay, again there's a little outrage going on here because the only sign
4 that told us that this was going to be on the agenda again was on the sign
5 that was on the site that was not changed, just the dates were changed on
6 the sign. The original proposal was actually put on a flyer and put on our
7 doorways. I live on O'Hair and, so we were notified about the original
8 meeting in July. Then we were told in the July meeting this was
9 indefinitely tabled, so we said "Okay, fine we don't have to worry about it
10 until we get notified again." There was no notification, just they changed
11 one line on the sign on the site and one person in the community saw that
12 and was able to alert us to enable us to kind of mobilize about this
13 proposal and tell you what we think about it. So I'm, I'm a little bit
14 distraught about that, about the integrity of this process if we were not
15 notified about this meeting tonight and we were not. The whole entire
16 community. And I can tell you that because I have 17 signatures from
17 University Mesa which I will provide to the committee this evening and
18 you're welcome to take this. These are all homeowners in the, they're
19 licensed, not licensed, but registered voters. We went around to the
20 community. None of them knew about this re-tabling of this motion to
21 pass this and again they were all kind of distraught about it because we
22 had told them what had happened at the last meeting and that we were
23 going back. So let me just preface my remarks with that. I don't know if
24 that helps you or not with, with what Verizon's doing here.

25 Okay, on top of that this tower is not just blocking the view of the, of
26 the mountains for a lot of the homeowners, but it's also at the gateway to
27 two communities; University Mesa and the next community over. And I'm
28 not sure if they have a proposal here tonight or proposal or a petition here
29 tonight but there was somebody else in the other community that was
30 hopefully going around with a, a petition. Is there, hopefully he'll come up
31 and talk also. But again it's not just that the tower does block the view of
32 the mountains and it does from backyard, it absolutely does cause I'm on
33 O'Hair Drive, I'm a little it further down on O'Hair Drive from Stern but it, it's
34 right at the entrance to these two communities and they're unsightly.
35 There is no doubt in my mind that this stealth proposal is not something
36 that, that is going to be easily camouflaged. If you'd like I can show you a
37 picture of the Whiskey Dick tower. May I take this up and give you a
38 picture of this? This is a photograph of the Whiskey Disk tower at Union
39 and Stern.

40

41 Crane: You know you're running short of time Mr. Brooks?

42

43 Brooks: I understand. I'm trying to talk as fast I can here.

44

45 Crane: Okay.

46