

Weston Burrer  
Chair

Rudy Martinez  
Vice Chair

# PUEBLO

Zoning Board of Appeals

Ralph Scaplo  
Secretary

Mike Castellucci

Allison Ernst

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**Zoning Board of Appeals**  
City of Pueblo, Colorado  
Tuesday, December 27, 2011-7:00 p.m.  
Planning and Community Development Conference Room-211 East "D" Street

## Minutes

### MEETING CALLED TO ORDER

The meeting was called to order at 7:00 p.m. with Chairperson Weston Burrer presiding.

**Board Members Present:** Ralph Scaplo, Rudy Martinez and Allison Ernst

**Board Members Absent:** Mike Castellucci

**Staff Members Present:** Jeff Bailey, P.E., Assistant City Manager for Development Services; Carrie Muchow, Planner; Ramona Baca, Court Reporter and Paul Willumstad, Board Attorney.

### APPROVAL OF MINUTES

Motion to approve the minutes from the November 22, 2011 meeting by Scaplo, second by Ernst.

**Motion passed 4-0.**

### APPROVAL OF AGENDA

Motion to approve the December 27, 2011 agenda by Scaplo, second by Martinez.

**Motion passed 4-0.**

### PUBLIC HEARINGS AND ACTION

#### REGULAR AGENDA

##### Special Use Permit

#### **1. 059-2011 1500 E. Abriendo Avenue (Closser Consulting) B-4**

A **Special Use Permit** to allow an existing cell tower for the purpose of adding additional antennas.

### BACKGROUND

Staff Report by Carrie Muchow.

## Synopsis

The subject property is located in the Bessemer neighborhood. According to Section 17-4-51 (12) c. 5. of the Pueblo Municipal Code (PMC), the applicant is requesting a Special Use Permit as a Use by Review to operate an existing cell tower in order to add six (6) additional antennas to the top. The additional antennas will be at the same height as the existing ones and will allow the tower to be utilized for newer cell communication technology. The tower was originally constructed in 1997 by a different company.

The tower requires a Special Use Permit in order to expand the use of the tower because currently, according to Article VI in Title 17 of the PMC, the only Zone Districts which allow a cell tower without a Special Use Permit are I-3 and S-3 and this tower sits in a B-4 Zone. If the tower were not expanding, it would be allowed to remain as a legal, non-conforming use as it is.

## Analysis

The tower was built prior to 17-4-6 *Tower and Antenna Requirements* being added to the PMC so at the time it was constructed it was not required to get a Special Use Permit for being in a B-4 Zone. When 17-4-6 was approved and put into the PMC, the tower became legal, non-conforming. The tower meets the majority of the requirements in Section 17-4-6 and has not created a nuisance for the neighbors to date.

The uses surrounding the tower are very mixed containing everything from housing to retail to industrial and most people probably do not notice the tower at all when driving or walking by. Because the additional antennas are being added to the same support structure, at the same height as the existing ones, Staff does not believe the tower will be any more noticeable to passerby or a detriment to the neighborhood. This change is a very minor addition to a tower that would be allowed to continue to exist as it stands now if no changes were proposed.

## RECOMMENDED MOTION

Staff recommends **APPROVAL** with the following conditions:

1. Standard permit conditions 1-13.
2. All fiber optic to be installed in relation to this tower must receive prior, written permission from the Public Works Department for all installation in rights-of-way and from all land owners for all installation on private property.
3. A landscaped tree lawn must be installed along Abriendo Ave, minus the driveway area, per the requirements stated in Section 17-4-7 (b) (3) a. *Landscape Setback Area* of the PMC. The chain link fence along Abriendo Ave. must be moved to behind the landscaped area. The adjacent property owner to the South and East is in the process of also installing landscaping along Abriendo Ave. so the applicant or owner may want to coordinate efforts.
4. Currently the majority of the property is being used as an inoperable vehicle storage or salvage lot. This is not an allowed use in a B-4 Zone and must cease.
5. All future changes to the tower or property must still be approved by the Planning and Community Development Department Administrator prior to construction.

## HEARING

**Lisa Kiland, 11641 Night Heron Drive, Parker, CO appeared** and testified in favor of the application.

## **COMMISSION ACTION**

Motion to approve by Martinez, second by Ernst with the following conditions:

1. Standard permit conditions 1-13.
2. All fiber optic to be installed in relation to this tower must receive prior, written permission from the Public Works Department for all installation in rights-of-way and from all land owners for all installation on private property.
3. A landscaped tree lawn must be installed along Abriendo Ave, minus the driveway area, per the requirements stated in Section 17-4-7 (b) (3) a. *Landscape Setback Area* of the PMC. The chain link fence along Abriendo Ave. must be moved to behind the landscaped area. The adjacent property owner to the South and East is in the process of also installing landscaping along Abriendo Ave. so the applicant or owner may want to coordinate efforts.
4. Currently the majority of the property is being used as an inoperable vehicle storage or salvage lot. This is not an allowed use in a B-4 Zone and must cease.
5. All future changes to the tower or property must still be approved by the Planning and Community Development Department Administrator prior to construction.

**Motion passed 4-0.**

## **VARIANCES**

### **2. 064-2011 1500 E. Abriendo Avenue (Closser Consulting) B-4**

A **Variance** to allow an existing cell tower to encroach into the side and rear setbacks, encroach into the setback distance to a single family home, allow the existing equipment shelter to be larger than 200 square feet, allow a reduction in the required landscape for the purpose of adding additional antennas to the tower.

## **BACKGROUND**

Staff Report by Carrie Muchow.

### **Synopsis**

The subject property is located in the Bessemer Neighborhood. The applicant is requesting a variance from Section 17-4-65(b) (4)a. of the Pueblo Municipal Code (PMC) to allow an existing cell tower to encroach into the required seventy five foot (75') side and rear yard setbacks by sixty five feet, three inches (65'3") for both the side and rear yard setbacks, Section 17-4-65(b)(5)a.2. of the PMC to allow an existing cell tower to encroach into the required five hundred foot (500') setback from the nearest single family home by one hundred thirty feet (130'), Section 17-4-66(c) of the PMC to allow an existing equipment shelter exceed the allowed two hundred (200) square feet by eight (8) square feet, and Section 17-4-65(b)(7) of the PMC to allow the tower compound to have no landscape buffer to screen the area.

The tower was originally constructed in 1997 by a different company than the current owner, prior to Section 17-4-6 *Tower and Antenna Requirements* going into effect, and is considered legal, non-conforming. Now, the current owner wishes to add six (6) antennas to the top of the tower which constitutes an expansion of the use and therefore requires the above Variances to make the current set up legal.

## Analysis

The tower has existed for fourteen (14) years with no complaints and Staff feels the Variances being requested cause little to no detriment to the surrounding neighborhood especially considering that if the additional antennas were not added, the tower would stay as it is anyway. The other issue is that to move the tower to meet the setback requirements or reduce the equipment shelter to the maximum size would cause an exorbitant financial burden to the owner of the tower and installing the landscape buffer per the PMC is impossible on the East and South sides, very difficult on the West side considering the access and parking arrangements, and the North side is mostly blocked by the adjacent building. Staff feels that installing landscaping along Abriendo Ave. would have a substantially larger benefit in this case than to try to fit landscaping around the compound as the PMC requires.

## RECOMMENDED MOTION

Staff recommends **APPROVAL** with the following conditions:

1. Standard permit conditions 1-13.
2. All fiber optic to be installed in relation to this tower must receive prior, written permission from the Public Works Department for all installation in rights-of-way and from all land owners for all installation on private property.
3. A landscaped tree lawn must be installed along Abriendo Ave, minus the driveway area, per the requirements stated in Section 17-4-7 (b) (3) a. *Landscape Setback Area* of the PMC. The chain link fence along Abriendo Ave. must be moved to behind the landscaped area. The adjacent property owner to the South and East is in the process of also installing landscaping along Abriendo Ave. so the applicant or owner may want to coordinate efforts.
4. Currently the majority of the property is being used as an inoperable vehicle storage or salvage lot. This is not an allowed use in a B-4 Zone and must cease.
5. All future changes to the tower or property must still be approved by the Planning and Community Development Department Administrator prior to construction.

## HEARING

**Lisa Kiland, 11641 Night Heron Drive, Parker, CO appeared** and testified in favor of the application.

## COMMISSION ACTION

Motion to approve by Martinez, second by Ernst with the following condition(s):

1. Standard permit conditions 1-13.
2. All fiber optic to be installed in relation to this tower must receive prior, written permission from the Public Works Department for all installation in rights-of-way and from all land owners for all installation on private property.
3. A landscaped tree lawn must be installed along Abriendo Ave, minus the driveway area, per the requirements stated in Section 17-4-7 (b) (3) a. *Landscape Setback Area* of the PMC. The chain link fence along Abriendo Ave. must be moved to behind the landscaped area. The adjacent property owner to the South and East is in the process of also installing landscaping along Abriendo Ave. so the applicant or owner may want to coordinate efforts.
4. Currently the majority of the property is being used as an inoperable vehicle storage or salvage lot. This is not an allowed use in a B-4 Zone and must cease.
5. All future changes to the tower or property must still be approved by the Planning and Community Development Department Administrator prior to construction.

**Motion passed 4-0.**

**ADJOURN**

There being no further business the meeting was adjourned at 7:45 p.m.