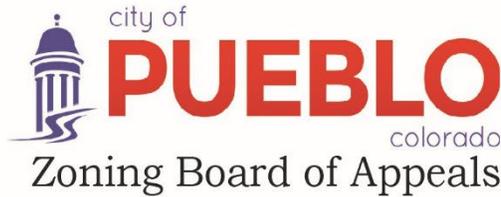


Mike Castellucci
Chair

Steve Anselmo
Vice Chair



Yvonne Lujan-Slak
Secretary

Lisa Bailey

Sarah French

ZBA-22-14 REQUEST FOR EXTENSION

To: City of Pueblo Zoning Board of Appeals

From: Bart I Mikitowicz, Senior Planner

Through: Scott Hobson, Land Use Administrative Official

Date: June 27, 2023

Subject: **Special Use Permit to allow for commercial antenna within five hundred feet (500') of a Residential Zone District.**

Location: 1721-1767 S Pueblo Blvd
(LOT 3 BLK 1 REGENCY SQUARE SUB, Parcel ID: 1509120003)

Applicant: Cornelius Whitehead

Property Owner: Andrew Lay, Regency Square LLC
1888 Sherman St. Ste 780. Denver, CO 80203

Zone District: Highway and Arterial Business (B-3 zone) district.

Concurrent Requests: None.

CLARIFICATION OF PURPOSE

The applicant, Andrew Lay, requested the extension of the Special Use Permit to for commercial antenna within five hundred feet (500') of a Residential Zone District. The Special Use Permit was granted April 26, 2022, and allowed for a commercial antenna within five hundred feet (500') of a Residential Zone District, defined as, Antenna which means "any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless communications signals or other communication signals."

Findings of fact for Use by review requirements. The request for an extension does not change the previous findings of fact.

FACTORS CONSIDERED IN GRANTING AN EXTENSION FOR A SPECIAL USE PERMIT

The request for an extension does not change the factors considered.

PLANNING AND COMMUNITY DEVELOPMENT STAFF RECOMMENDATION

Staff recommends approval of the extension with the same conditions per the original staff report:

1. Screening and fencing at the tower base should be made opaque.
2. Compatible stealthing options should be explored (at the request of the ZBA Board).

Mike Castellucci
Chair

Steve Anselmo
Vice Chair



Lisa Bailey
Secretary

Yvonne Lujan-Slak

Georgia Way

ZBA-22-14

Hearing Date: April 26, 2022

TO: City of Pueblo Zoning Board of Appeals
FROM: Bart Mikitowicz, Planner
THROUGH: Scott Hobson, Land Use Administrative Official
LOCATION: 1721 S Pueblo Blvd, Pueblo, CO 81005
APPLICANT: Regency Square LLC
PROPERTY OWNER: Regency Square LLC
YEAR BUILT: 1977
LEGAL DESCRIPTION: LOT 3 BLK 1 REGENCY SQUARE SUB
ZONE DISTRICT: Highway and Arterial Business (B-3) Zone District
PARCEL ID: 1509120003
LOT SIZE: 132,191 sqft

REQUEST:	Special Use Permit to allow for commercial antenna within five hundred feet (500') of single-family or two-family residential units
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SYNOPSIS OF REQUEST

The applicant is requesting to build a new one-hundred-thirty-foot (130') wireless communications tower on an unimproved area located behind the the Regency Square Shopping Mall. Towers are a conditional use in the B-3, Highway and Arterial Commercial Zone District. In order to receive administrative approval of a conditional use permit for a wireless communications tower, the tower must comply with Article VI, Tower and Antenna Requirements of Chapter 4 of Title XVII. Section 17-4-65 (b) (5) a. 2. requires a 500 foot or 300% of the height of the tower separation between single-family or two-family residential units. There are single-family townhomes located approximately 200+ feet from the proposed tower; and therefore, does not meet the conditions for a tower. Because the tower does not meet the conditions the applicant is requesting a Special Use Permit as permitted by the municipal code.

ANALYSIS OF REQUEST

The proposed tower is a steel 130-foot-tall monopole, that is located within a 2,000 square foot fenced area, with space identified for future lease for support equipment. The fencing is chain link with barb wire and no landscaping is proposed. Section 17-4-65, (b), (7), requires landscaping for towers that require a special use permit. However, because the proposed tower is located behind the shopping center and not visible from the western residential properties, landscaping this area does not appear to be a reasonable condition. The future ground mount equipment and chain link fencing are located behind the shopping center and are not visible from Pueblo Blvd. An opaque six-foot white vinyl fence separates the rear of the shopping center from the single-family residential townhomes and obstructs the view of the proposed chain link fence and future ground mount equipment. The proposed 130-foot steel monopole will be visible from the adjacent residential properties to the south, west and east. The tower will also be visible from the commercial properties to the north and south. Section 17-4-61, (e), (4), strongly encourages towers and antennas to be screened with "innovative camouflaging techniques." The applicant supplied two sets of plans, one set indicates that a plain steel monopole will be constructed, the second set indicates that the monopole will be camouflaged with a tree configuration. The Zoning Board of Appeals has the ability to "impose reasonable conditions to minimize any adverse effect of the

Zoning Board of Appeals ZBA-22-14 1721 S Pueblo Blvd, Pueblo, CO 81005 Report (SUP)
 proposed tower on adjoining properties. The Board has the discretion to require the tree or alternative
 camouflaging techniques.

ZONING DISTRICT AND LAND USE

Zone:		Developed with:
North	Highway and Arterial Business (B-3) Zone District	Sunflower Bank
East	Highway and Arterial Business (B-3) Zone District	Regency Square Shopping Mall
South	Highway and Arterial Business (B-3) Zone District	Regency Square Shopping Mall
West	Mixed Residential (R-4) Zone District	Single-family Residential

PUBLIC NOTICE

The property was publicly noticed in accordance with Title 17 Section 17-5-33(2) of the City of Pueblo Municipal Code. Specifically, the hearing was published in the Pueblo Chieftain, surrounding property owners within 100 feet of the property were notified by mail, and a sign was placed on the site (See Attachment E). These notices occurred at least 10 days prior to the hearing.

OTHER AGENCIES

Pueblo City/County Health	No comment
City Transportation	No comment
Pueblo Regional Building Department	No comment
Fire Department	No comment
City Public Works Department	No comment
City Stormwater Department	No comment
City Code Enforcement	No comment
Pueblo Board of Water Works	No comment
City Wastewater Department	No comment
City Parks and Recreation Department	No comment

CONDITIONS REQUIRED FOR LIMITED USE PERMIT

1. Ingress and egress to property and proposed structures thereon with reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.

Comments: Affirmative Finding. There is ingress and egress located off a private alley connected to Regency Square Shopping Mall.

2. Off-street parking and loading areas where required, with particular attention to the economic noise, glare or odor effects of the use by review on adjoining properties and properties generally in the district.

Comments: Affirmative Finding. There is available parking within the area however this use does not require parking.

3. Refuse and service areas, with reference to the items above.

Comments: Affirmative finding. There are dumpsters immediately adjacent to the site, however no refuse is being created by this use.

4. Utilities, with reference to the location's availability and compatibility.

Comments: Affirmative finding. Utilities are already established at this location.

5. Screening and buffering with reference to type, dimensions, and character.

Affirmative finding. Opaque screening and will be required at the base of the tower.

6. Signs, if any, and proposed exterior lighting with reference to glare, traffic, safety, economic effect and compatibility and harmony with properties in the district.

Comments: Affirmative finding. As a cell tower antenna is no additional signage or lighting anticipated with this permit type.

7. Required yards and other open space.

Comment: Negative finding. The tower does not meet the required separation distance from the residential zone district to the west of the property.

8. General compatibility with adjacent properties and other properties in the district.

Comments: Neutral. The tower is compatible with the Arterial Commercial Mixed Use future land use however the tower is approximately one-hundred feet taller than any surrounding structures and is inadequately spaced from the adjacent residential districts.

PLANNING AND COMMUNITY DEVELOPMENT STAFF RECOMMENDATION

If the Board chooses to approve this Special Use Permit staff recommends Standard Permit Conditions 1 through 13 as including.

- a. Screening and fencing at the tower base should be made opaque.
- b. Compatible stealthing options should be explored (at the request of the ZBA Board).

ATTACHMENTS

- A. Standard Permit Conditions
- B. Site Map
- C. Aerial Map
- D. Zoning Map
- E. Comprehensive Plan Map
- F. Public Notice Photo
- G. Site Photographs
- H. Application
- I. Supporting documentation

Exhibit A. Standard Permit Conditions

Standard Permit Conditions Date of Issuance of Permit: ZBA-22-14	
1.	Time Limits Zoning permit shall become invalid unless work or action authorized by permit is fully executed by 4/26/2023
2.	Required Revisions Any revisions or additions to plans required as a result of approval must be submitted and stamped “approved” prior to the sign-off of the building permit routing slip or business license.
3.	Changes The project shall be completed as shown on the plans, which have been stamped “approved” and dated by the Department of Planning and Community Development. The project shall not deviate from the approved plans without prior written approval from the Department of Planning and Community Development.
4.	Property Inspection By acceptance of this permit, Permit holder authorizes City Officials and/or their authorized representatives, access to the subject property for purpose of observing work in progress, inspecting and/or measuring the property or improvements as long as the use authorized by this permit remains in effect.
5.	Certificate of Occupancy A certificate of occupancy must be issued by Regional Building <u>PRIOR</u> to use and/or occupancy of the subject premises. Prior to issuance, the Department of Planning and Community Development must certify that work has been completed in accordance with approved plans and that applicable conditions have been met. The Permit holder may be required to provide a Letter of Credit to obtain a Certificate of Occupancy prior to completion of all required improvements.
6.	Completion and Maintenance of Improvements and Landscaping Permit holder or successor in interest is responsible for completing all improvements shown on approved plans. By acceptance of this permit, Permit holder agrees to maintain all improvements in a satisfactory condition. Any landscaping installed according to the approved plan which becomes diseased or dies shall be replaced by similar species and size no later than the first available planting season.
7.	Building Permit; Other Permits Permit holder is solely responsible for obtaining <u>BUILDING PERMIT</u> and all other applicable local, state and federal permits.
8.	Off-Site Drainage Issuance of this permit does not authorize the discharge of stormwater runoff or other surface drainage from the subject premises onto adjoining property or properties.
9.	Appeals of a decision of the Land Use Administrator can occur up to thirty (30) days following such decision. Appeals of Zoning Board of Appeals decisions can occur up to thirty (30) days following final decision. Any work done in connection with this permit prior to the expiration of all applicable appeal periods is done <u>SOLELY</u> at the risk of the Permit holder.
10.	Errors Permit holder is solely responsible for the accuracy of all information contained in the Zoning Permit form and in accompanying documentation. Any errors contained therein may invalidate the Zoning Permit and may result in issuance of a code violation citation and prosecution.
11.	Transfer of Ownership In the event of a transfer of ownership, partial or whole, of the subject premises, the transferee shall become Permit holder and subject to compliance with the terms and conditions of this permit.
12.	Violations/Penalties A violation of any of the conditions of this permit or of any provision of the Pueblo Municipal Code may result in a penalty of up to three hundred dollars (\$300) per day.
13.	Incorporation and Reference of All Plans Presented to the Zoning Board of Appeals. This approval incorporates by reference all plans and drawings presented and all verbal representations by the applicant at Zoning Board of Appeals meetings and hearings on the subject application to the extent that they are not in conflict with other stated conditions or regulations.

Exhibit D. Zoning Map (Zoning Map Amendments Recommended)

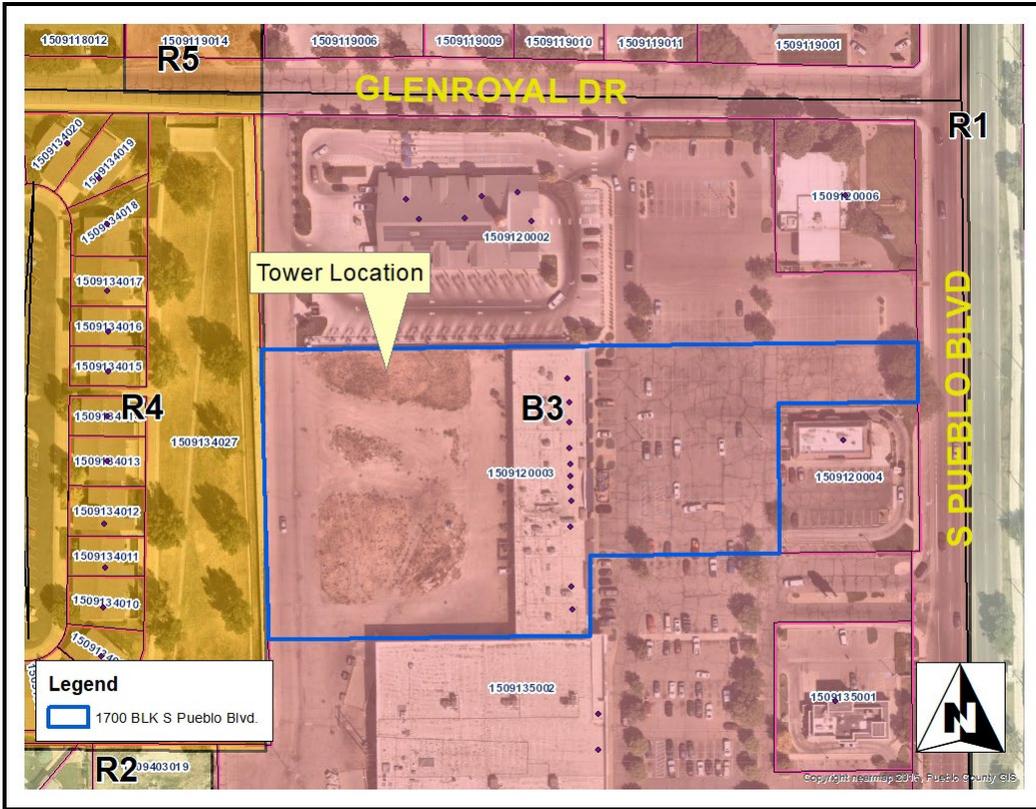


Exhibit E. Comprehensive Plan Map

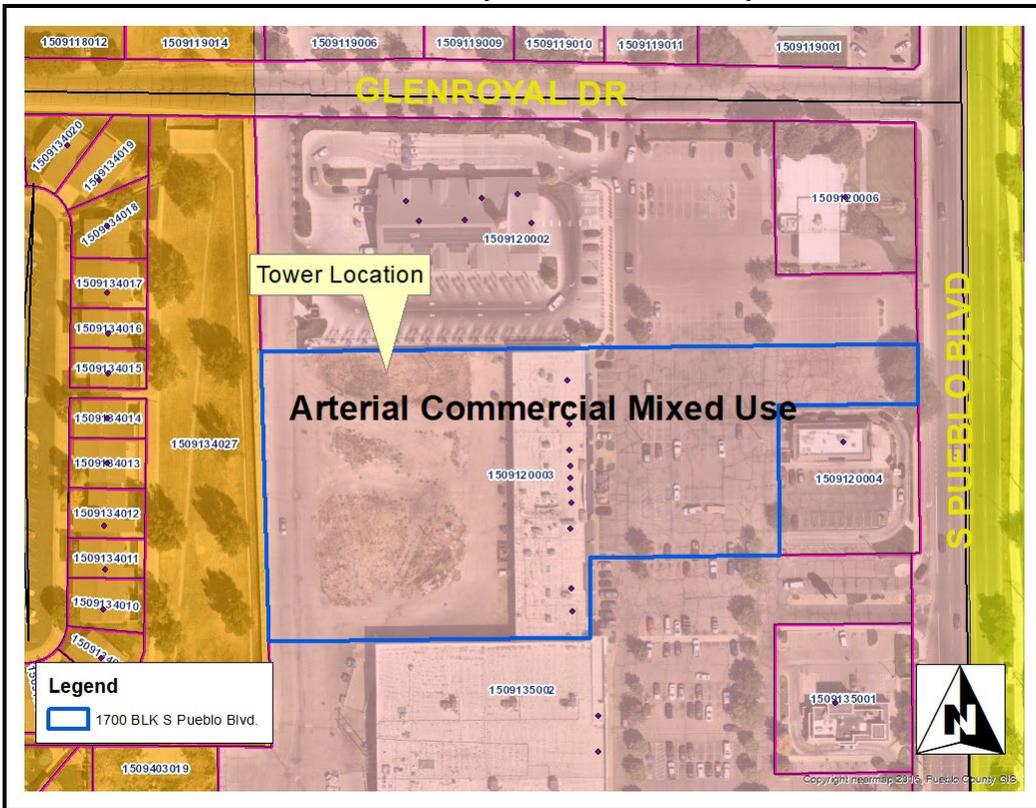


Exhibit F. Public Notice



Exhibit G. Site Photos



H. Application



03/22/2022

22-50

Zoning Board of Appeals - Special Use Permit & Variances

Status: Active

Date Created: Mar 22, 2022

Applicant

Cornelius Whitehead
cwhitehead@atlastowers.com
3002 Bluff Street Suite 300
Boulder, CO 80301
830-237-0323

Location

1721 S PUEBLO BLVD
PUEBLO, CO 81005

Owner:

REGENCY SQUARE LLC
1888 SHERMAN ST STE 500 DENVER , CO 80203

Internal

ZBA Case Number
ZBA-22-14

Planner Assigned
--

ZBA

Hearing Date
04/26/2022

Hearing Results
--

Board Conditions
--

Appeal Term End Date
--

Permit Completion Date
--

Specially Requested Hearing

Public Notice

Number of Posters
--

Number of Postcards Sent
--

Cost of Newspaper Notice
--

Public Notice Costs

0

Other Fees:

--

Public Notice costs must be paid by:

--

Public notice zoning poster must be displayed BY:

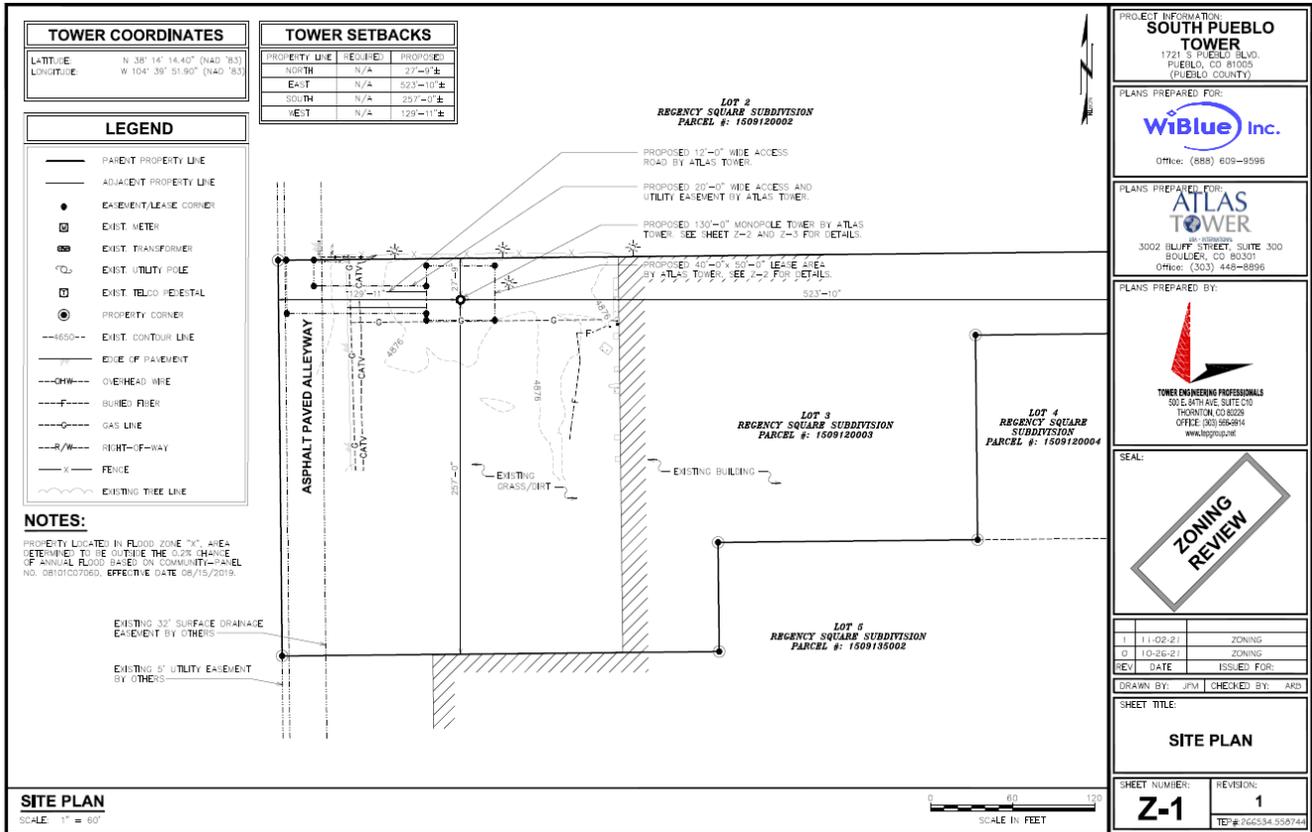
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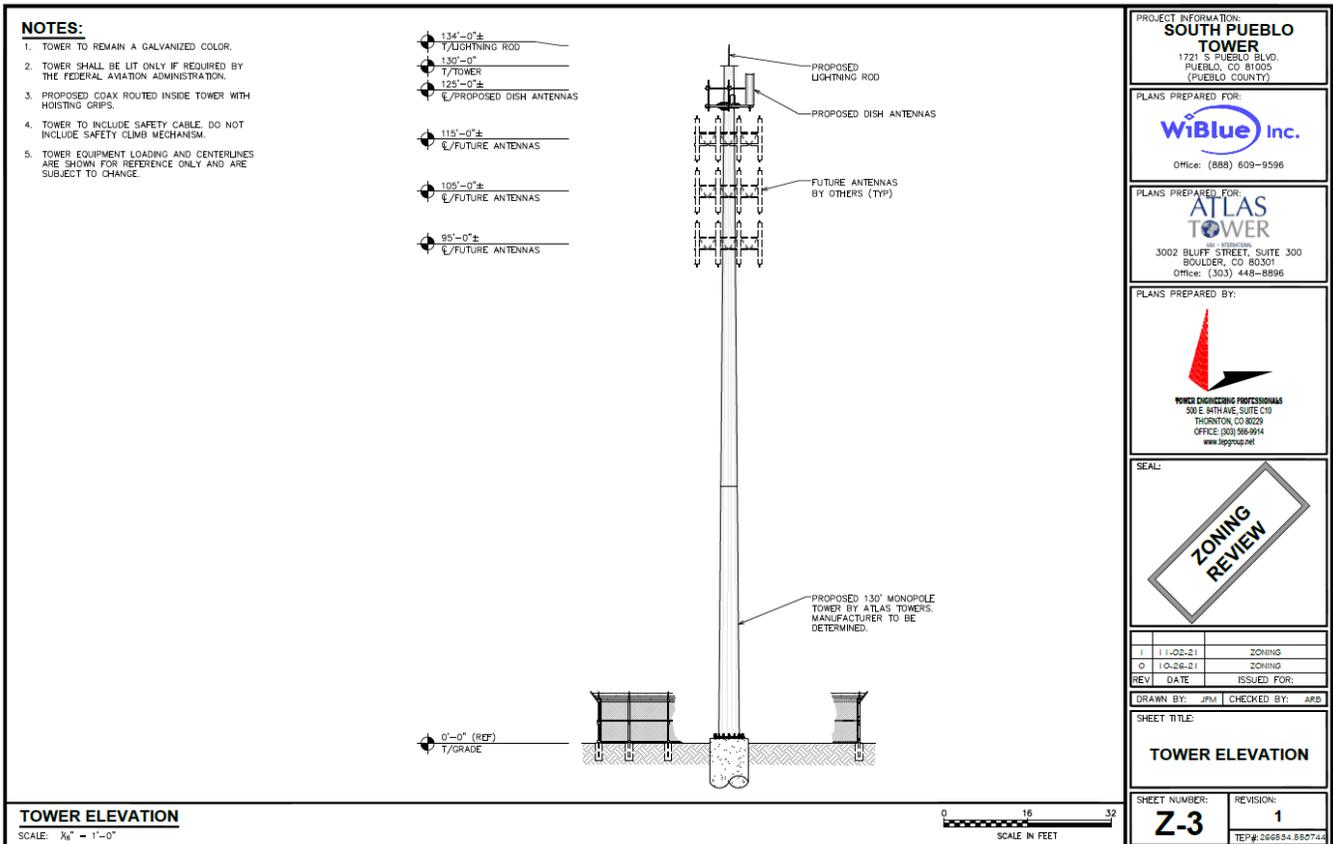
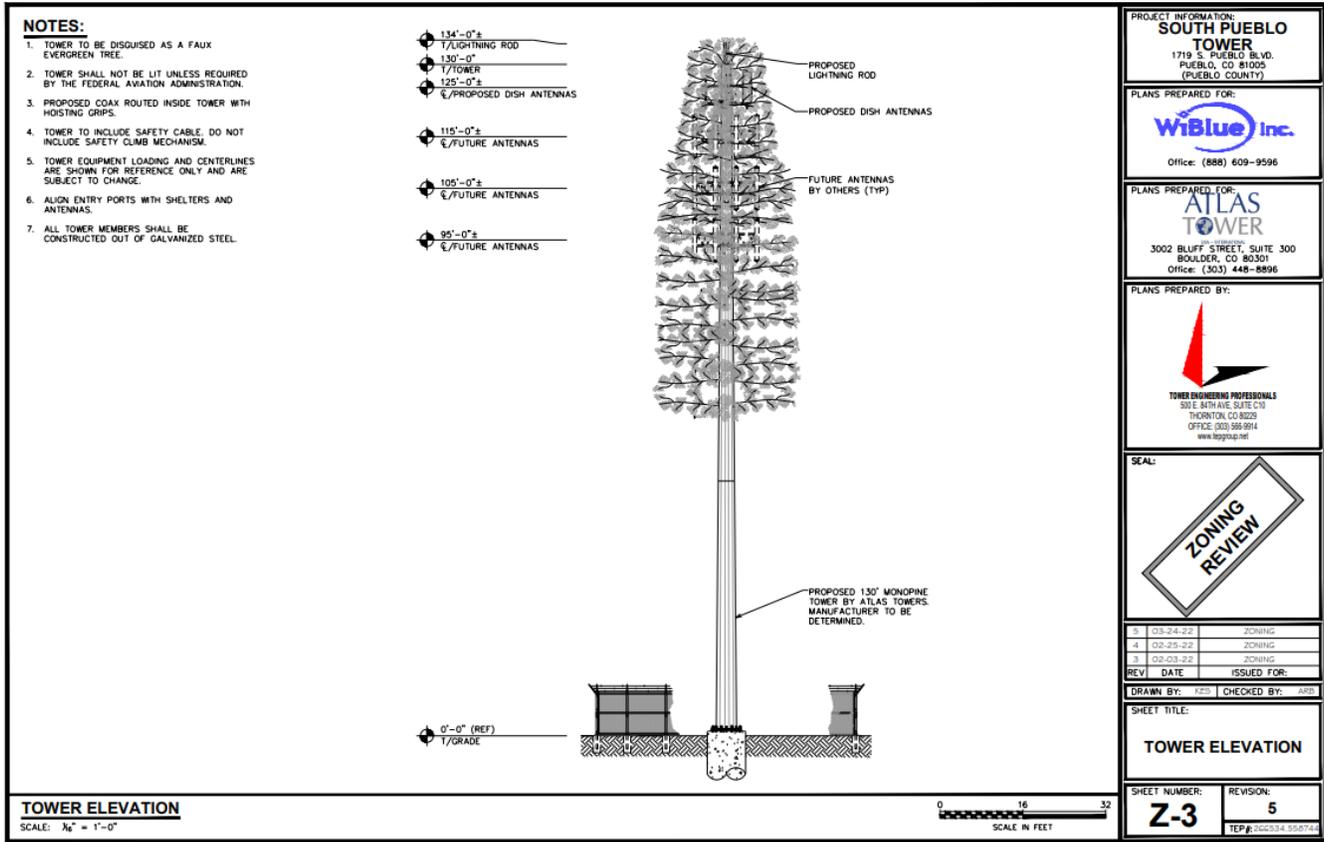
Public Notice zoning poster must be displayed UNTIL:

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Scope of Work

Exhibit I. Supporting Documents





Zoning Narrative – “South Pueblo”



April 21, 2022
City of Pueblo
Planning & Community Development
211 East D Street
Pueblo, Colorado 81003

To Whom It May Concern:

Atlas Tower 1, LLC is submitting a Cell Tower Application request to City of Pueblo Planning & Community Development Department for review of a proposed telecommunications facility build on the property of 1721 S Pueblo Blvd Pueblo, CO 81005 Pueblo County Parcel #: 1509120003. This letter shall serve as a zoning narrative response to City of Pueblo Zoning Code for the proposed 134’ stealth monopine telecommunications facility and how this project will provide the needed mobile network coverage while reducing the need for additional cellular facilities in the future. This project is being proposed and this justification is being provided in an effort to alleviate current mobile network voice, data, and first responder issues in an area that is severely lacking reliable network coverage and capacity.

SITE DETAILS

Land Owner:

REGENCY SQUARE LLC
1888 SHERMAN ST STE 500
Denver, CO 80203

Site Address:

1721 S Pueblo Blvd
Pueblo, CO 81005
Pueblo County Parcel #: 1509120003

Applicant:

Atlas Tower 1, LLC
3002 Bluff St., Suite 300
Boulder, CO 80301

Coordinates:

38° 14’ 14.40” N
104° 39’ 51.90” W

Zoning:

O – Open

Lease Area:

50’x 40’, 2,000 Sq. ft.

PROPOSAL SUMMARY

The purpose of this request is to build a 134’ Mono-pine telecommunications tower within a 2,000 sq. ft. wireless facility. Our mobile network carrier partners strive to provide excellent wireless service for their users with a network of telecommunications facilities that allows cellular users to reliably place and receive mobile-phone calls as well as utilize data services. This facility will provide critical wireless coverage to the surrounding area, which is currently underserved. As the area develops further and the existing users demand more data for their existing devices, existing infrastructure will continue to hit capacity limits and be unable to meet mobile service coverage needs and demands.

The performance of a carrier’s network consists mainly of two factors: coverage and capacity. Coverage can be thought of as the strength of a wireless signal in a given area. Capacity can be thought of as the ability of the wireless network to handle the amount of voice and data demands placed upon it. Increasing the coverage and capacity capabilities in any given area requires the development of a new telecommunications facilities that can house multiple antennas and is near mobile network users.

Cellular design has evolved so that cell sites located near high traffic or high populations areas are favored. These sites closer to population centers provide faster and more reliable service which ultimately results in fewer dropped calls and call failures for the community. This tower and facility will be used for structural support of up to four wireless providers. Each provider will install antennas on the facility once constructed and have on-the-ground base-station equipment in order to provide solid coverage.

WIRELESS TELECOMMUNICATION FACILITY CHARACTERISTICS

Visual Effect

We strive to design our facilities and locate parcels that create the least amount of community disturbance. The proposed site is on an unused portion of a commercial property. This project will be painted with a non-reflective earthy tone and repainted as necessary over time in order to eliminate any glare that would be caused by sunlight.

Frequency Of Maintenance Work On The Proposed Facility

On average, after initial installation, a carrier or its contactors would likely visit the facility about one to four times a year for maintenance, though this number could vary depending on the specific circumstances of the facility.

The Average Number Of Vehicles Visiting The Facility

The average maintenance visit by a carrier or its contractors would likely involve one pickup truck. With an average of one to four visits a year and one truck a visit, there would likely be about one pickup truck visiting the site a month, per carrier, if at full capacity.

The Average Duration Work Visits On The Facility

For typical maintenance visits, a carrier or its contactors would only be at the site a few hours, but this number could increase depending on the work that needed to be completed at the site.

Expected Noise Levels

Telecommunications facilities are essentially silent. This would be true whether there were one or three carriers. A generator could be operated on site in the rare instance that power went out. The generator would create noise, but it would not be noticeable a few hundred feet away, off of the parcel.

TITLE XVII - Zoning CHAPTER 4 - Zone Districts; Regulations; Use Index Article VI Tower and Antenna Requirements

Sec. 17-4-61. Applicability; purpose and goals.

- (a) All new towers or antennas within the City shall be subject to these requirements, except as provided in Subsections (b) through (d) below.

Applicant Response: Applicant has reviewed and accepts this requirement as written.

- (b) This Article shall not govern any tower, or the installation of any antenna, that is under seventy (70) feet in height and is either owned and operated by a federally licensed amateur radio station operator or is used exclusively as a receive-only antenna.

Applicant Response: Applicant is submitting for a new 134' monopine facility, thus this article shall govern the applicant.

- (c) Preexisting towers and preexisting antennas shall not be required to meet the requirements of this Article, other than the requirements of Sections 17-4-62(f) and (g) and Section 17-4-67.

Applicant Response: Applicant is submitting for a new 134' monopine facility, thus this article shall govern the applicant.

- (d) For purposes of implementing this Article, an AM array, consisting of one (1) or more tower units and supporting ground system which functions as one (1) AM broadcasting antenna, shall be considered one (1) tower. Measurements for setbacks and separation distances shall be measured from the outer perimeter of the towers included in the AM array. Additional tower units may be added within the perimeter of the AM array by right.

Applicant Response: Applicant is submitting for a new 134' telecommunications monopine facility, not an AM transmitter, thus this article shall govern the applicant.

- (e) The purpose of this Article is to establish general guidelines for the siting of wireless communications towers and antennas. The goals of this Article are to:
- (1) Protect residential areas and land uses from potential adverse impacts of towers and antennas;
 - (2) Encourage the location of towers in nonresidential areas;
 - (3) Minimize the total number of towers throughout the community;
 - (4) Strongly encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers;
 - (5) encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal;
 - (6) encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening and innovative camouflaging techniques;
 - (7) enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively and efficiently;
 - (8) consider the public health and safety of communication towers; and
 - (9) avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures. In furtherance of these goals, the Zoning Administrator and Zoning Board of Appeals shall give due consideration to the City's master plan, zoning map, existing land uses and environmentally sensitive areas in approving sites for the location of towers and antennas.

Applicant Response: Applicant has reviewed and accepts the purpose of this article as written. This proposal is in harmony with the goals of this article as this facility is located within a B3 zone and will be designed to host multiple mobile network carriers in order to reduce the need for future additional towers.

Sec. 17-4-62. General requirements.

- (a) Principal or Accessory Use. Antennas and towers may be considered either principal or accessory uses. A different existing use of an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot.

Applicant Response: Applicant is requesting this facility as an accessory use. The principle use of the property is a brick and mortar commercial w.

- (b) Lot Size. For purposes of determining whether the installation of a tower or antenna complies with district development regulations, including but not limited to setback requirements, lot coverage requirements and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lot.

Applicant Response: Applicant has reviewed and accepts this requirement as written.

- (c) Inventory of Existing Sites. Each applicant for an antenna and/or tower shall provide to the Zoning Administrator an inventory of its existing towers, antennas or sites approved for towers or antennas that are within the City and within three (3) miles of the corporate boundary thereof, including specific information about the location, height and design of each tower. The Zoning Administrator may share such information with other applicants applying for administrative approvals or special use permits under this Article or other organizations seeking to locate antennas within the City; provided, however, that the Zoning Administrator is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

Applicant Response: This location would be applicants only site within 3 miles of City of Pueblo boundaries, thus Applicant does not have an inventory of existing sites to disclose as required by this section.

(d) Aesthetics. Towers and antennas shall meet the following requirements:

- (1) Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.

Applicant Response: This tower shall be a dull, galvanized neutral color to reduce any visual glares.

- (2) At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening and landscaping that will blend them into the natural setting and surrounding buildings.

Applicant Response: The exterior fencing and tower shall be colored to match the existing visual aesthetic of the commercial stores on property.

- (3) If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

Applicant Response: Applicant is proposing a new tower and not to place on existing structures other than a tower, thus this section need not apply.

(e) Lighting. Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views and neighborhoods.

Applicant Response: Applicant shall not light this tower unless required by the FAA.

(f) State or Federal Requirements. All towers must meet or exceed current standards and regulations of the FAA, the FCC and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this Article shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna by the City at the owner's expense.

Applicant Response: This facility shall meet all required FAA, FCC, Local, State, or Federal standards for this type of facility and agrees to abide by compliance standards as written.

(g) Building Codes, Safety Standards. To ensure the structural integrity of towers, the owner of a tower shall ensure that it is erected and maintained in compliance with standards contained in applicable state and local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the City concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have thirty (30) days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within said thirty (30) days shall constitute grounds for the removal of the tower or antenna at the owner's expense.

Applicant Response: This facility shall meet all Local, State, or Federal building code standards for this type of facility and agrees to abide by compliance standards as written.

- (h) Measurement. For purposes of measurement, tower setbacks and separation distances shall be calculated and applied to facilities located within the City irrespective of municipal and county jurisdictional boundaries.

Applicant Response: Applicant has reviewed and accepts the measurement standards as written.

- (i) Other Approvals. To the extent applicable, owners and/or operators of towers or antennas for telecommunication purposes shall certify that necessary authorization from the FCC and the Colorado Public Utilities Commission for operation of a wireless communications system in Pueblo has been obtained and file a copy of all such authorizations with the Zoning Administrator.

Applicant Response: Applicant shall obtain all necessary approvals required for this type of project and will file all copies with City of Pueblo accordingly.

- (j) In the event the owners and/or operators of any towers or antennas use or intend to use a backhaul network in connection with such towers or antennas that involve placement of lines, wire, fiber, conduit or other facilities within the public rights-of-way of the City, such owner or operator shall first have obtained either a duly authorized franchise or written consent of the City to do so. This requirement shall not apply to the extent an owner or operator's backhaul network involves only the use of lines, wire, fiber, conduit or other facilities owned by a third party telecommunications provider or cable television provider which has previously been granted a franchise or received such consent with respect to such lines, wire, fiber, conduit or other facilities.

Applicant Response: Applicant shall obtain all necessary right of way permits with the City prior to any construction beginning.

- (k) Public Notice. For purposes of this Article, any special use request, variance request or appeal of an administratively approved use or special use shall require public notice to all abutting property owners and all property owners of properties that are located within the corresponding separation distance listed in Section 17-4-65(b)(5)b, Table 2, in addition to any notice otherwise required by the Zoning Ordinance. In order to effectuate this Subsection (k), the applicant shall furnish with the application or appeal a list of names and addresses of all owners of land within said separation distances, which list shall be certified as being correct according to the records of the County Clerk and Recorder.

Applicant Response: This application shall be governed as a Administratively approved use, however Applicant will abide by all public notice requirements if necessary for approval.

- (l) Signs. No signs shall be allowed on an antenna or tower, except for required or appropriate signs located not more than six (6) feet above ground level warning of high voltage or other hazards.

Applicant Response: Applicant shall not place any signs on the antenna or tower, except for those required by project standards.

- (m) Buildings and Support Equipment. Buildings and support equipment associated with antennas or towers shall comply with the requirements of Section 17-4-66.

Applicant Response: All buildings and support equipment shall comply with section 17-4-66 requirements.

- (n) Multiple Antenna/Tower Plan. The City encourages the users of towers and antennas to submit a single application for approval of multiple towers and/or antenna sites. Applications for approval of multiple sites shall be given priority in the review process.

Applicant Response: Applicant is only requesting a singular tower with this application.

Sec. 17-4-63. Permitted uses.

- (a) General. The uses listed in this Section are deemed to be permitted uses and shall not require administrative approval or a special use permit.

Applicant Response: Applicant has reviewed and accepts the permitted uses requirements as written.

- (b) Permitted Uses. The following uses are specifically permitted:

- (1) Antennas or towers located on property owned, leased or otherwise controlled by the City provided a lease consistent with the purpose and goals of Section 17-4-61 of this Chapter authorizing such antenna or tower has been approved by the City Council. Nothing in this Subsection (b)(1), however, shall be construed to require any such lease, the granting or denial of same being within the discretion of the City Council.

Applicant Response: Applicant is not proposing this site on City owned property; thus, this section need not apply.

- (2) Antennas or towers located in an I-3 Zone District, provided the location is not less than one thousand (1,000) feet from any residentially zoned property.

Applicant Response: Applicant is proposing this facility in the B3 zone; thus, this section need not apply.

Sec. 17-4-64. Administrative approval of certain uses.

- (a) General. Except for eligible facilities requests made pursuant to Section 17-4-64.5, the following provisions shall govern the issuance of administrative approvals for towers and antennas:

- (1) The Zoning Administrator may administratively approve the uses listed in this Section.

Applicant Response: Applicant has reviewed and accepts the administrative approval requirements as written.

- (2) Each applicant for administrative approval shall apply to the Zoning Administrator providing the information set forth in Sections 17-4-65(b)(1) and 17-4-65(b)(3) of this Article and a nonrefundable fee as established by resolution of the City Council to reimburse the City for the costs of reviewing the application.

Applicant Response: Applicant has reviewed and accepts this requirement as written. Applicant has addressed Sections 17-4-65(b)(1) and 17-4-65(b)(3) of this Article later in this narrative.

- (3) The Zoning Administrator shall review the application for administrative approval and determine if the proposed use complies with Sections 17-4-62 and 17-4-65(b)(4) and 17-4-65(b)(5) of this Title.

Applicant Response: Applicant has reviewed and accepts this requirement as written. Applicant has addressed Sections 17-4-62 and 17-4-65(b)(4) and 17-4-65(b)(5) of this Title later in this narrative.

- (4) The Zoning Administrator shall respond to each such application within sixty (60) days after receiving it by either approving or denying the application. If the Zoning Administrator fails to respond to the applicant within said sixty (60) days, then the application shall be deemed to be denied.

Applicant Response: Applicant has reviewed and accepts this requirement as written.

- (5) In connection with any such administrative approval, the Zoning Administrator may, in order to encourage shared use, administratively waive any zoning district setback requirements in Section 17-4-65(b)(4) or separation distances between towers in Section 17-4-65(b)(5) by up to fifty percent (50%).

Applicant Response: Applicant has reviewed and accepts this requirement as written.

- (6) In connection with any such administrative approval, the Zoning Administrator may, in order to encourage the use of monopoles, administratively allow the reconstruction of an existing tower to monopole construction.

Applicant Response: Applicant has reviewed and accepts this requirement as written, however there are no existing towers anywhere nearby that would suit this need if modified.

- (7) If an administrative approval is denied or deemed to be denied, the applicant shall file an application for a special use permit pursuant to Section 17-4-65 prior to filing any appeal that may be available under the Zoning Ordinance.

Applicant Response: Applicant has reviewed and accepts this requirement as written.

- (b) List of Administratively Approved Uses. The following uses may be approved by the Zoning Administrator after conducting an administrative review:

Applicant Response: Applicant has reviewed and accepts the administrative approved use requirements as written.

- (1) Locating a tower or antenna, including the placement of additional buildings or other supporting equipment used in connection with said tower or antenna, in any I-3 or S-3 zone district.

Applicant Response: Applicant is proposing this facility in the B3 zone; thus, this section need not apply.

- (2) Except for eligible facilities requests approved pursuant to Section 17-4-64.5, locating antennas on existing structures or towers consistent with the terms of Subsections a and b below.
 - a. Antennas on existing structures. Any antenna which is not attached to a tower may be approved by the Zoning Administrator as an accessory use to any commercial, industrial, professional, institutional or multifamily structure of eight (8) or more dwelling units, provided:

Applicant Response: Applicant is proposing a new facility in the B3 zone; not attaching antennas on existing structures or towers.

- b. Antennas on existing towers. An antenna which is attached to an existing tower may be approved by the Zoning Administrator and, to minimize adverse visual impacts associated with the proliferation and clustering of towers, collocation of antennas by more than one (1) carrier on existing towers shall take precedence over the construction of new towers, provided such collocation is accomplished in a manner consistent with the following:

Applicant Response: Applicant is proposing a new facility in the B3 zone; not attaching antennas on existing structures or towers.

- (3) Locating any new tower in an A-1, A-2, B-3, B-4, I-1 or I-2 zoning district, provided a licensed professional engineer certifies the tower can structurally accommodate the number of shared users proposed by the applicant, the Zoning Administrator concludes the tower is in conformity with the goals set forth in Section 17-4-61 and the requirements of Section 17-4-62; the tower meets the setback requirements in Section 17-4-65(b)(4) and separation distances in Section 17-4-65(b)(5); and the tower meets the following height and usage criteria:
 - a. For a single user, up to eighty (80) feet in height;
 - b. For two (2) users, up to one hundred ten (110) feet in height; and
 - c. For three (3) or more users, up to one hundred thirty (130) feet in height.

Applicant Response: Applicant is proposing a new facility in the B3 zone, which shall account for 4 total carriers, thus satisfying the requirements of this section thus qualifying for Administrative Approved use.

- (4) Locating any alternative tower structure in an A-1, A-2, B-3, B-4, I-1 or I-2 zoning district that in the judgment of the Zoning Administrator is in conformity with the goals set forth in Section 17-4-61 of this Chapter.

Applicant Response: Applicant is not proposing an alternative tower structure, thus this section need not apply.

- (5) Installing a cable microcell network through the use of multiple low-powered transmitters/receivers attached to existing wireline systems, such as conventional cable or telephone wires, or similar technology that does not require the use of towers.

Applicant Response: Applicant is proposing a new facility in the B3 zone; not a microcell cable network, thus this section need not apply.

Sec. 17-4-64.5. Eligible facilities requests.

- (a) Definitions. When used in this Section: (Intentionally removed)

Applicant Response: Applicant has reviewed and accepts all definitions as defined within this section.

- (b) Application Review.

Applicant Response: Applicant has reviewed and accepts all Application review standards as defined within this section.

Sec. 17-4-65. Special use permits.

- (a) The following additional provisions shall govern the issuance of special use permits for towers or antennas by the Zoning Board of Appeals:

Applicant Response: This application shall be governed by Administrative Approved Uses

- (b) Towers.

- (1) Information required. In addition to any information required for applications for special use permits pursuant to Section 17-5-33 of Chapter 5 of this Title, applicants for a special use permit for a tower shall submit the following information:

- a. A scaled site plan clearly indicating the location, type and height of the proposed tower, on-site land uses and zoning, adjacent land uses and zoning, Master Plan classification of the site and all properties within the applicable separation distances set forth in Subsection (b)(5) of this Section, adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower and any other structures, topography, parking and other information deemed by the Zoning Administrator to be necessary to assess compliance with this Article VI.

Applicant Response: Applicant has included a scaled site plan with this application

- b. Legal description of the parent tract and leased parcel (if applicable).

Applicant Response: Applicant has included legal description with this application.

- c. The setback distance between the proposed tower and the nearest residential unit, platted residentially zoned properties and unplatted residentially zoned properties.

Applicant Response: Applicant has included setback distances to closest residential areas with this application.

- d. The separation distance from other towers described in the inventory of existing sites submitted pursuant to Section 17-4-62(c) shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/ operator of the existing tower(s), if known.

Applicant Response: Applicant has included setback distances to existing towers with this application.

- e. A landscape plan showing specific landscape materials in accordance with the requirements of this Chapter or the requirements of Section 17-4-7, whichever requirements are greater.

Applicant Response: Applicant is not including landscaping with this proposed facility.

- f. Method of fencing, and finished color and, if applicable, the method of camouflage and illumination.

Applicant Response: Applicant has included method of fencing and galvanized color with this application.

- g. A descriptive statement indicating compliance with Section 17-4-62(c), (d), (e), (i), (j), (l) and (m), and Subsections (b)(4) and (b)(5) of this Section and all applicable federal, state and local laws.

Applicant Response: Applicant has included a response to Section 17-4-62(c), (d), (e), (i), (j), (l) and (m), and Subsections (b)(4) and (b)(5) of this Section

- h. A notarized statement by the applicant as to whether construction of the tower will accommodate collocation of additional antennas for future users.

Applicant Response: Applicant has included a notarized statement of collocation.

- i. Identification of the entities providing the backhaul network for the tower(s) described in the application and other cellular sites owned or operated by the applicant within the City.

Applicant Response: Applicant does not have over sites located within the City. DISH network will be responsible for connecting backhaul.

- j. A description of the suitability of the use of existing towers, other structures or alternative technology not requiring the use of towers or structures to provide the services to be provided through the use of the proposed new tower.

Applicant Response: There are not suitable existing towers within the area that is needed to provide coverage, regardless of technology.

- k. A description of the feasible location(s) of future towers or antennas within the City based upon existing physical, engineering, technological or geographical limitations in the event the proposed tower is erected.

Applicant Response: Applicant has no future planned projects within the City, however will provide information if that is to change.

- (2) Factors considered in granting special use permits for towers. In addition to any standards for consideration of special use permit applications pursuant to Section 17-5-33 of Chapter 5 of this Title, the Zoning Board of Appeals shall consider the following factors in determining whether to issue a special use permit, although the Zoning Board of Appeals may waive or reduce the burden on the applicant of one (1) or more of these criteria if the Zoning Board of Appeals concludes that the goals of this Article are better served thereby:

Applicant Response: Applicant has reviewed and accepts the factors for consideration as written.

- (3) Availability of suitable existing towers, other structures or alternative technology. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Zoning Board of Appeals that no existing tower, structure or alternative technology that does not require the use of towers or structures can accommodate the applicant's proposed antenna. An applicant shall submit information requested by the Zoning Board of Appeals related to the availability of suitable existing towers, other structures or alternative technology. Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna may consist of proof of any of the following:

- a. No existing towers or structures are located within the geographic area which meet the applicant's engineering requirements.

Applicant Response: The closest existing tower is roughly 6,196' feet away from this proposed location and is too far away to accomplish the needed coverage.

- b. Existing towers or structures are not of sufficient height to meet the applicant's engineering requirements.

Applicant Response: The closest existing tower is roughly 6,196' feet away from this proposed location and is too far away to accomplish the needed coverage, regardless of height.

- c. Existing towers or structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment.

Applicant Response: The closest existing towers are not suitable to provide coverage to this area of Pueblo.

- d. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.

Applicant Response: This proposed facility would not cause any issue with existing towers as the closest existing towers are not suitable to provide coverage to this area of Pueblo.

- e. The fees, costs or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.

Applicant Response: The closest existing towers are not suitable to provide coverage to this area of Pueblo, regardless of costs or provisions.

- f. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.

Applicant Response: The closest existing towers are too far away from this proposed facility to be of any use.

- g. The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as a cable microcell network using multiple low-powered transmitters/receivers attached to a wireline system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.

Applicant Response: Applicant is proposing a macro tower in order to achieve the required service. Small cell technology would require many additional connected cellular sites rather than this proposed singular facility.

- (4) Setbacks. The following setback requirements shall apply to all towers for which a special use permit is required; provided, however, that the Zoning Board of Appeals may reduce the standard setback requirements if the goals of this Article VI would be better served thereby:

- a. Towers must be set back a distance equal to at least seventy-five percent (75%) of the height of the tower from any adjoining lot line.

Applicant Response: This proposal meets the 75% of tower height from the northern property line, however this location was chosen to maximize separation from nearby residential zones and put the tower location closer within the b-3 zone.

- b. Guys and accessory buildings must satisfy the minimum zoning district setback requirements.

Applicant Response: Guy wires will not be used in this project and all accessory buildings will meet minimum zone setback requirements.

- (5) Separation. The following separation requirements shall apply to all towers and antennas for which a special use permit is required; provided, however, that the Zoning Board of Appeals may reduce the standard separation requirements if the goals of this Article would be better served thereby:
- a. Separation from off-site uses/ designated areas.
 - 1. Tower separation shall be measured from the base of the tower to the lot line of the off-site uses and/or designated as specified in Table 1, except as otherwise provided in Table 1.
 - 2. Separation requirements for towers shall comply with the minimum standards established in Table 1.

Table 1

<i>Off-site Use/Designated Area</i>	<i>Separation Distance</i>
Single-family or two-family residential units ¹	500 feet or 300% height of tower, whichever is greater
Vacant single-family or two-family residentially zoned land which is either platted or has preliminary subdivision plan approval which is not expired	500 feet or 300% height of tower, ² whichever is greater
Vacant unplatted residentially zoned lands ³	200 feet or 200% height of tower, whichever is greater
Existing multifamily residential units greater than two-family units	100 feet or 100% height of tower, whichever is greater
Nonresidentially zoned lands or nonresidential uses	None; only setbacks apply

Applicant Response: The closest single family residential unit is roughly 290’ away, which is less than 500’ as required, which is what applicant is requesting approval for.

- b. Separation distances between towers.
 - 1. Separation distances between towers shall be applicable for and measured between the proposed tower and preexisting towers. The separation distances shall be measured by drawing or following a straight line between the base of the existing tower and the proposed base, pursuant to a site plan of the proposed tower. The separation distances (listed in linear feet) shall be as shown in Table 2.

**Table 2
Existing Towers - Types**

	<i>Lattice</i>	<i>Guyed</i>	<i>Monopole 75 Feet in Height or Greater</i>	<i>Monopole Less Than 75 Feet in Height</i>
Lattice	5,000	5,000	1,500	750
Guyed	5,000	5,000	1,500	750
Monopole 75 feet in height or greater	1,500	1,500	1,500	750
Monopole less than 75 feet in height	750	750	750	750

Applicant Response: The closest existing tower is roughly 6,196’ away, more than meeting this requirement.

- (6) Security fencing. Towers shall be enclosed by security fencing not less than six (6) feet in height and shall also be equipped with an appropriate anti-climbing device; provided, however, that the Zoning Board of Appeals may waive such requirements, as it deems appropriate.

Applicant Response: Applicant has proposed a 6' chain-link fence with barbed wire on top to discourage unwanted visitors in the facility.

- (7) Landscaping. The following requirements shall govern the landscaping surrounding towers for which a special use permit is required; provided, however, that the Zoning Board of Appeals may waive such requirements if the goals of this Article would be better served thereby:
- a. Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from property used for residences. The standard buffer shall consist of a landscaped strip at least four (4) feet wide outside the perimeter of the compound.
 - b. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived.
 - c. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be sufficient buffer.

Applicant Response: Applicant is not proposing any landscaping as the proposed site location has not existing trees, plants, or natural growth and is located in the rear area of a shopping center. Landscaping this project would look somewhat out of place.

Sec. 17-4-66. Buildings or other equipment storage.

- (a) Equipment cabinets or uninhabited structures used in association with antennas shall comply with all provisions of this Title applicable to accessory buildings and comply with all applicable building codes.

Applicant Response: Applicant has reviewed and accepts this requirement.

- (b) Antennas Mounted on Utility Poles or Light Poles. The equipment cabinet or structure used in association with antennas mounted on utility poles or light poles shall be located in accordance with the following:

Applicant Response: This project is a new tower thus this section need not apply.

- (c) Antennas Located on Towers. The related unmanned equipment structure shall not contain more than two hundred (200) square feet of gross floor area or be more than fifteen (15) feet in height, and shall be located in accordance with the minimum yard requirements of the zoning district in which located.

Applicant Response: Applicant has reviewed and accepts this requirement.

- (d) Modification of Building Size Requirements. The requirements of Subsections (a) through (c) may be modified by the Zoning Administrator in the case of administratively approved uses or by the Zoning Board of Appeals in the case of uses permitted by special use in order to encourage collocation.

Applicant Response: Applicant has reviewed and accepts this requirement.

Sec. 17-4-67. Removal of abandoned antennas and towers.

Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within ninety (90) days of receipt of notice from the Zoning Administrator notifying the owner of such abandonment. Failure to remove an abandoned antenna or tower within said ninety (90) days shall be grounds for the City to remove the tower or antenna at the

owner's expense. If there are two (2) or more users of a single tower, then this provision shall not become effective until all users cease using the tower.

Applicant Response: Applicant has reviewed and accepts this requirement.

Sec. 17-4-68. Nonconforming uses.

- (a) Not Expansion of Nonconforming Use. Towers that are constructed, and antennas that are installed, in accordance with the provisions of this Article VI shall not be deemed to constitute the expansion of a nonconforming use or structure.
- (b) Preexisting Towers. Preexisting towers shall be allowed to continue their usage as they presently exist. Routine maintenance (including replacement with a new tower of like construction and height) shall be permitted on such preexisting towers. New construction other than routine maintenance on a preexisting tower shall comply with the requirements of this Article.
- (c) Rebuilding Damaged or Destroyed Nonconforming Towers or Antennas. Notwithstanding Section 17-4-67, bona fide nonconforming towers or antennas that are damaged or destroyed may be rebuilt without having to first obtain administrative approval or a special use permit and without having to meet the separation requirements specified in Sections 17-4-65(b)(4) and (b)(5). The type, height and location of the tower onsite shall be of the same type and intensity as the original facility approval. Building permits to rebuild the facility shall comply with the then-applicable building codes and shall be obtained within one hundred eighty (180) days from the date the facility is damaged or destroyed. If no permit is obtained or if said permit expires, the tower or antenna shall be deemed abandoned as specified in Section 17-4-67.

Applicant Response: Applicant has reviewed and accepts this requirement.

Sec. 17-4-69. Severability.

The various parts, sections and clauses of this Article VI are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Article shall not be affected thereby.

Applicant Response: Applicant has reviewed and accepts this requirement.

CONCLUSION

This narrative represents required and supplementary information to document the technological, economic, and social necessity and benefits of a new 134' monopine telecommunications tower facility. The information provided highlights the advantages associated with a telecommunications facility at our proposed site.

Atlas Tower 1, LLC respectfully requests the approval of Cell Tower Application for this proposal.

Best Regards,

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