

**CITY OF PEORIA, ARIZONA  
COUNCIL COMMUNICATION**

CC: 32R  
Amend No.: \_\_\_\_\_

Date Prepared: July 19, 2010

Council Meeting Date: August 17, 2010

**TO:** Carl Swenson, City Manager

**THROUGH:** Susan J. Daluddung, AICP, Deputy City Manager 

**FROM:** Glen Van Nimwegen, AICP, Planning & Community Development Director 

**SUBJECT:** CU 10-0044, Clearwire Heritage Mortuary - APPEAL:  
Reverse, affirm or modify a unanimous decision by the Planning and Zoning Commission to approve a Conditional Use Permit for a proposed 65-foot high Wireless Communication Facility (WCF) and associated ground equipment at 6830 W. Thunderbird Road.

**RECOMMENDATION:**

The Mayor and Council make a final determination to reverse, affirm or modify a unanimous decision by the Planning and Zoning Commission to approve a Conditional Use Permit for a proposed 65-foot high Wireless Communication Facility (WCF) and associated ground equipment at 6830 W. Thunderbird Road.

**SUMMARY:**

The applicant is proposing a new 65-foot tall Wireless Communications Facility (WCF) disguised as a "mono-pine" with associated ground-mounted equipment to be located on the Heritage Funeral Chapel site, located at 6830 West Thunderbird Road. This site is located immediately west of the commercial center located at the NWC of 67<sup>th</sup> Avenue and Thunderbird Road. The WCF will be located in a leased area of approximately 600 (20' x 30') square feet on a 2.9 acre site utilized as a mortuary and funeral home. The leased area is located behind the mortuary and funeral home buildings to the rear of the site.

The proposed WCF will be located approximately 193 feet from the nearest residential property to the west (Longhorn Ranch) and approximately 395 feet from the nearest residential property line to the north (Peoria Heights Rancho Estates Unit One). An existing mini-storage facility serves as an intervening land use between the WCF and this residential neighborhood. The Heritage Funeral Chapel site is currently zoned Single-Family Residential (R1-35). The site has been zoned R1-35 since 1978

**CITY CLERK USE ONLY:**

- Consent Agenda
- Carry Over to Date: \_\_\_\_\_
- Approved
- Unfinished Business (Date heard previous: \_\_\_\_\_)
- New Business

ORD. # \_\_\_\_\_ RES. # \_\_\_\_\_  
LCON# \_\_\_\_\_ LIC. # \_\_\_\_\_  
Action Date: \_\_\_\_\_

(Ordinance 78-16) and was developed in 1985 as a mortuary and funeral home.

Wireless Communication Facilities are either permitted outright or through the issuance of a Conditional Use Permit (CUP) depending on the specific elements such as pole height or setback from residential districts (See staff analysis of the request in the attached July 15, 2010 Staff Report to the Planning and Zoning Commission). The WCF is proposed as an alternative structure – a “mono-pine” and is thereby exempt from the 1000-foot separation requirement between similar facilities. An existing WCF is located approximately 900 feet to the northeast on the adjacent mini-storage property. That facility is also an alternative structure (flagpole) and was approved by the City Council in June of 2002 following a neighborhood appeal of the Planning and Zoning Commission’s decision to approve the Conditional Use Permit.

Through the review and notification process of this application, staff became aware of neighborhood concerns and therefore recommended that the applicant hold a neighborhood meeting. The applicant agreed and hosted a meeting on June 16, 2010 at Centennial High School to outline and clarify the project and to discuss specific concerns from area residents. Despite the request’s compliance with Section 14-3-13 of the Zoning Ordinance (Wireless Communication Facilities), the opposition to the request remained consistent through the Planning and Zoning Commission hearing, thereby leading to this appeal.

Section 14-3-13 of the Zoning Ordinance governs Wireless Communications Facilities. The intent of this Section is to promote the use of appropriate WCF’s within the parameters established under the 1996 Telecommunications Act (and as amended thereafter) while encouraging co-location and design techniques that minimize impacts of such facilities on the community. This Act also restricts the City from making decisions that prohibit or have the effect of prohibiting these uses for commonly debated reasons such as “...environmental effects of radio frequency emissions to the extent that such facilities comply with the Federal Communications Commission’s regulations concerning such emissions” (Section 704, Federal Communications Act of 1996). In general, the City’s regulation of wireless communication facilities is limited to separation between facilities, setbacks, appearance and height.

#### **AUTHORITY AND PROCEDURE:**

Pursuant to Section 14-39-10.H any member of the public, including the applicant, may appeal a decision of the Planning and Zoning Commission to the City Council. The City Council shall base its decision on the written findings previously issued by the Planning and Zoning Commission, applicable law, the review criteria stipulated in Section 14-39-10 of the Zoning Ordinance, and guidelines promulgated by the Department.

If the City Council reverses or modifies the decision of the Commission, the Council shall direct the City Attorney to prepare written findings setting the basis for the reversal or modification.

**CONDITIONAL USE PERMIT DECISION CRITERIA:**

Pursuant to Section 14-39-10.E, Conditional Use Permits must be reviewed against the following decision criteria:

1. Whether the use is designated as a permitted Conditional Use within the zoning district in which the property is located.
2. Whether the use meets the locational and development standards provisions, as applicable for the Conditional or Special Use Permit, for the zoning district in which the property is located.
3. Whether the use is consistent with the goals, policies, and future land use map of the General Plan and specific elements of the General Plan and any adopted Specific Plan applicable to the site where the proposed use is located.
4. Whether the use is consistent with documentation and recommendations provided by reviewing City Departments.
5. Whether the use complies with all applicable city codes, standards, and guidelines governing such use.
- 6a. Compliance with specific standards established by the Planning Manager that are designed to mitigate any identified impacts that arise out of the proposed use for which the Conditional Use Permit is sought upon the surrounding area, including residential neighborhoods adjacent to the proposed site as determined by the Planning Manager; and
- 6b. Compliance with specific standards established by the Planning Manager that are designed to ensure compatibility with existing principal permitted uses and conditional uses by addressing the factors set forth in the *Intent* provision of Section 14-39-10.
- 6c. The Planning Manager shall not approve or recommend approval of any Conditional Use Permit unless the Planning Manager has received a Waiver of Proposition 207 from the Owner or Owners of the property that is the subject of the Conditional Use Permit or has determined that the absence of such Waiver of Proposition 207 is consistent with the City's General Plan and Zoning goals and regulations.

**PLANNING & ZONING COMMISSION ACTION (July 15, 2010):**

On July 15, 2010, the Planning and Zoning Commission voted unanimously to accept the findings and recommendation of staff and approve the Conditional Use Permit for the WCF use.

At the meeting, three (3) persons spoke in opposition to the request, all of which lived in the adjacent residential neighborhood to the west. The concerns raised by the

neighbors focused on the following:

- aesthetics and location of the structure;
- potential health impacts claimed to be caused by these facilities;
- impact on wildlife due to radio frequency emissions; and
- the forthcoming variance request to allow three parabolic antennas on this tower. *The Zoning Ordinance currently sets a limit of one such antenna in residential districts. When asked about this at the Planning & Zoning Commission hearing, the applicant indicated that since complete data coverage is required for the Phoenix-metro area, limiting this facility to one parabolic antenna instead of three would require the construction of two additional towers in the immediate area. The hearing for this variance has not yet been scheduled.*

#### **APPEAL OF PLANNING & ZONING COMMISSION DECISION:**

In accordance with Section 14-39-10.H of the Zoning Ordinance, a valid appeal was filed on July 19, 2010 of the Planning and Zoning Commission's decision to approve the Conditional Use Permit.

#### **ATTACHMENTS:**

- Appeal of Planning and Zoning Commission decision (dated 7/19/10)
- July 15, 2010 Planning & Zoning Commission Staff Report (Including Exhibits A-H)
- DRAFT Minutes from the July 15, 2010 Planning & Zoning Commission Hearing

**CONTACT:** Adam Pruet, AICP, Senior Planner, 623-773-5168

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# CONDITIONAL USE PERMIT

## REPORT TO THE PLANNING AND ZONING COMMISSION

**CASE NUMBER:** CU 10-0044  
**DATE:** July 15, 2010  
**AGENDA ITEM:** 3R

**Applicant:** Coal Creek Consulting (represented by Amanda Hoffman), on behalf of Clearwire Wireless

**Request:** Obtain a Conditional Use Permit to allow a 65-foot high Wireless Communication Facility (WCF) and associated ground equipment.

**Location:** Heritage Mortuary, 6830 West Thunderbird Road (W/O NWC of 67<sup>th</sup> Avenue & Thunderbird Road)

**Site Acreage:** *Mortuary Site:* 2.9 gross acres; *Lease Area:* 600 square feet

**Support / Opposition:** As of the date of this printing, Staff has received one (1) email and six (6) telephone calls expressing concern and opposition to the WCF.

**Neighborhood Meeting:** A neighborhood meeting was held on June 16, 2010. A summary of the meeting is included as Exhibit G.

**Recommendation:** **Approve**, with conditions.

### AREA CONTEXT

*Table 1: Existing Land Use, Future Land Use, Current Zoning. (Exhibits A-B)*

	LAND USE	GENERAL PLAN	ZONING
Subject Property	Mortuary and Funeral Home	Estate Density Residential (0.0-2.0 du/ac); Target 1.0 du/ac.	Single-Family Residential (R1-35)
North	Mini-Storage	Estate Density Residential (0.0-2.0 du/ac) Target 1 du/ac.	Intermediate Commercial (C-2)
South	Vacant land and agricultural uses	Low Density Residential (2.0-5.0 du/ac) Target 3 du/ac.	Intermediate Commercial (C-2)
East	Commercial & office center	Estate Density Residential (0.0-2.0 du/ac). Target 1 du/ac.	Intermediate Commercial (C-2)
West	Single-family residences	Estate Density Residential (0.0-2.0 du/ac). Target 1 du/ac.	SF Residential (R1-35)

## **PROJECT DESCRIPTION**

1. The applicant is proposing a new 65-foot tall wireless communications facility (WCF) disguised as a "mono-pine" with associated ground-mounted equipment cabinet to be located on the Heritage Funeral Chapel site, located at 6830 West Thunderbird Road. This site is located immediately west of the commercial center located at the NWC of 67<sup>th</sup> Avenue and Thunderbird Road.
2. The WCF will be located in a leased area of approximately 600 (20' x 30') square feet on a 2.9 acre site utilized as a mortuary and funeral home. The leased area is located behind the mortuary and funeral home buildings to the rear of the site. Direct access to the WCF is provided by the existing drive aisle from Thunderbird Road. The required parking space for maintenance of the WCF is available on-site through existing parking.
3. The proposed WCF will be located approximately 193 feet from the nearest residential property to the west (Longhorn Ranch) and approximately 395 feet from the nearest residential property line to the north (Peoria Heights Rancho Estates Unit One). An existing mini-storage facility serves as an intervening land use between the WCF and this residential neighborhood.
4. The Heritage Funeral Chapel site is currently zoned Single-Family Residential (R1-35). The site has been zoned R1-35 since 1978 (Ordinance 78-16) and was developed in 1985 as a mortuary and funeral home.
5. Wireless Communication Facilities are either permitted outright or through the issuance of a Conditional Use Permit (CUP) depending on the specific elements such as pole height or setback from residential districts.

## **DISCUSSION AND ANALYSIS**

### *Applicability*

6. Section 14-3-13 of the Zoning Ordinance governs Wireless Communications Facilities. The intent of this Section is to promote the use of appropriate WCF's within the parameters established under the 1996 Telecommunications Act (and as amended thereafter) while encouraging co-location and design techniques that minimize impacts of such facilities on the community.
7. Pursuant to Section 14-3-13.B(3) of the Zoning Ordinance, a WCF as a *permitted principal use* is allowed a maximum height of 50 feet within a residential district. The proposed WCF requires approval of a *Conditional Use Permit* to allow the 65-feet being proposed.
8. As described in Section 14-39-10.D of the Zoning Ordinance, the purpose of a CUP is to mitigate any identified negative impacts on the surrounding

neighborhood that may result from a specific use and provide controls to ensure maximum compatibility between nearby land uses.

*Analysis*

9. One of the chief objectives of the WCF Ordinance is to encourage providers to explore co-location options on an existing pole or verticality (e.g. school ballfield light pole). As stated in the Narrative (Exhibit C), the applicant sought out opportunities to co-locate on nearby existing structures of comparable height; however the alternative sites were not feasible due to a variety of factors, including height limitations and technical constraints.
10. Section 14-3-13.C of the Zoning Ordinance contains a series of applicable development standards for WCF's permitted as a Conditional Use Permit. The following is an evaluation of the proposed WCF against these standards:

**Height:** The maximum height of a new WCF in a residential zone is 65 feet. The proposed WCF will not exceed 65 feet.

**Setback:** The pole shall be setback from residential districts no less than 110% of the height of the pole (71.5 feet). The WCF will be setback approximately 193 feet from the residential district to the west. The WCF must also be setback at least 5 feet from the abutting commercial center and must meet the principal building setback from Thunderbird (30 feet). The WCF will be setback approximately 107 feet from the commercial center and 304'-10" from the Thunderbird ROW line.

**Antennas:** The WCF can have panel and/or whip antennas and is limited to one (1) parabolic antenna (microwave) less than 24 inches in diameter. The proposal is to erect a 65 foot mono-pole and install three panel antennas and *three* parabolic antennas at a height of approximately 60 feet. To locate the three parabolic antennas at this location, the applicant has submitted a request for a variance to increase the number of allowable microwave antennas from one to three at this location. The Board of Adjustment will hear this request at a later date.

11. To meet the intent of the WCF Ordinance, the applicant has implemented stealth design techniques to increase compatibility with the existing site. Particular attention was paid to the aesthetics of the type and design of the pole for the context of the area. With the number and size of the pine trees in this area, the alternative structure proposed was a mono-pole (Exhibit E). The mono-pole will be visible from Thunderbird Road though will be partially screened by the intervening buildings on-site. Visibility from the residences to the west will also be partially screened by the existing trees along the shared property line. Visibility of the ground equipment will be minimal. The design review of the

ground equipment enclosure indicated the enclosure will be consistent with the adjacent wall.

12. In the past, the construction of wireless communication facilities camouflaged as mono-pines or mono-palms varied greatly in the quality of their appearance and the level of camouflage that they achieve. In order to assure a quality product is utilized at this site, the applicant has provided a photo-simulation of the type of mono-pine that would be installed at the proposed location for staff approval. The mono-pine would need to be consistent with the design as depicted in the documentation as provided by the applicant (Exhibits E & F).

*Notification and Neighborhood Meeting (Exhibit G)*

13. A Notice of Application was forwarded to all property owners within 300 feet of the proposal and properly noticed pursuant to Section 14-39-10 of the Peoria Zoning Ordinance. Shortly after this application was submitted, staff received one email and six telephone calls (one of the calls was from the sender of the email) regarding concern over the Wireless Communication Facility (Exhibit H).
14. Though not required by the Zoning Ordinance, the City recommended that the applicant hold a neighborhood meeting with concerned residents. To this end, a neighborhood meeting was held on June 16, 2010 at Centennial High School by the applicant (Exhibit G). Approximately ten (10) individuals were in attendance.
15. Issues that were brought up included questions regarding the overall height and width of the mono-pine, what it would look like from the properties to the west, co-location capabilities on the tower, the capacity of the antennas, and the service area for the antennas.
16. A Notice of Hearing was forwarded to all property owners within 300 feet of the proposal and properly noticed pursuant to Section 14-39-10 of the Peoria Zoning Ordinance. The attendees that were able to be located were included in this notification. The site was posted at least 15 days prior to the Public Hearing with a sign meeting the content and size requirements prescribed by the Planning Division. The applicant has provided a photo exhibit and signed affidavit attesting to the posting.

*Proposition 207*

17. The voters of Arizona approved Proposition 207, which among other things requires municipalities to compensate property owners for actions which have the effect of diminishing the value of property. The City Attorney's Office has drafted an agreement which waives the applicant's rights to future Proposition 207 claims against the City. Accordingly, the applicant has furnished a signed and notarized Proposition 207 Waiver.

## **FINDINGS AND RECOMMENDATION**

18. Based on the following findings:

- The proposed Wireless Communication Facility is compliant with the CUP WCF parameters outlined in the Zoning Ordinance with the exception of the number of permitted Parabolic antennas which will be subject to a Variance proceeding at a later date; and
- The proposal is consistent with the intent of the ordinance by minimizing the visual impacts of such facilities by camouflaging the facility as a mono-pine to blend in with existing verticality in the area; and
- The proposal will not generate adverse impacts on adjoining properties and land uses or be injurious to the public health, safety and welfare of the community; and
- The City is in receipt of a signed and notarized Proposition 207 waiver.

It is recommended that the Planning and Zoning Commission take the following action:

**Approve the request for a Conditional Use Permit under Case CU 10-0044, subject to the following conditions:**

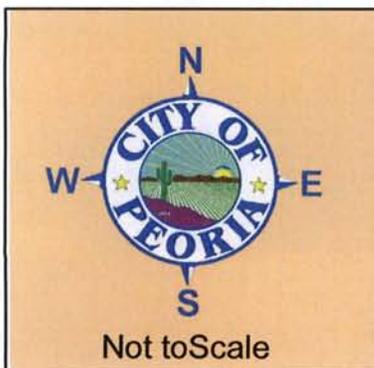
1. The use shall substantially conform to the project narrative (Exhibit C) and to the Site and Elevation Plans (Exhibits D & E) as contained in the staff report to the Planning & Zoning Commission dated July 15, 2010, except where modified herein.
2. In accordance with Section 14-39-9.F.2 of the Peoria Zoning Ordinance (1977 Edition), a building permit must be obtained within eighteen (18) months of Site Plan and Conditional Use Permit approval.

## **ATTACHMENTS:**

Exhibits A-A1	Location Map
Exhibit B	Zoning Map
Exhibits C1-C3	Applicant Project Narrative
Exhibit D	Site Plan
Exhibit E	Elevation Plan
Exhibit F	Photo Simulation
Exhibit G	Neighborhood Meeting Summary
Exhibit H	Opposition Email

Prepared by: Lou Brannick, Development Plan Reviewer

# CU10-0044 Location Map



## CU10-0044 ClearWire / Heritage

Applicant: Coal Creek Consulting

Request: Place a 65 foot mono-pine at the rear of the existing mortuary property



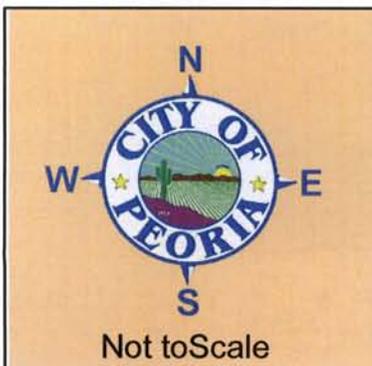
Wireless communication facility

**Exhibit A**

# CU10-0044 Location Map



**Thunderbird Road**

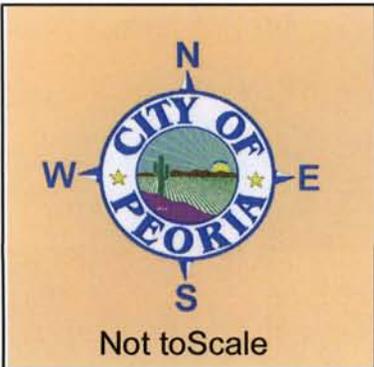


## CU10-0044 ClearWire / Heritage

Applicant: Coal Creek Consulting  
Request: Place a 65 foot mono-pine at the rear of the existing mortuary property

**Exhibit A1**

# CU10-0044 Zoning Map



## CU10-0044 ClearWire / Heritage

Applicant: Coal Creek Consulting

Request: Place a 65 foot mono-pine at the rear of the existing mortuary property

**Exhibit B**

**Clearwire Wireless Broadband  
Project Narrative for Heritage Mortuary  
PHX-615**

**Project location**

6830 W Thunderbird Ave, Peoria AZ  
Heritage Mortuary

**Description of Proposal**

The proposal includes an installation of a new unmanned telecommunication facility, a 65' monopine to include the installation of (3) new panel antennas, and (3) new parabolic antennas ((1) 12'' antenna and (2) 24'' antennas). The proposed equipment cabinet will be located within the new 10'x10' lease area.

**Relationship to Surrounding Properties**

The unmanned wireless communications facility will generate no refuse, and will use no water or sewer services. There should be no demand for police surveillance. The facility is enclosed from other buildings, minimizing any fire dangers. Emergency vehicle access is available directly to the site via existing driveway.

The project is located on a privately owned property and the parcel is currently used as a mortuary.

The surrounding area is made up of residential homes, commercial uses and the mortuary.

**Location and Accessibility**

The site technician will use a 9x18 foot parking stall for the once a month routine maintenance visit. The existing access road shall be utilized for routine maintenance of the wireless communication facility as well as emergency service repairs or any non routine visits.

**Circulation System**

The existing access will be used resulting in no change to the circulation.

**Development Schedule**

To commence upon receipt of a building permit.

## **Community Facilities and Services**

The project property is located on a large privately owned parcel.

The location, size, design, and operating characteristics of the proposed communications facility will not create unusual noise, traffic or other conditions or situations that may be objectionable, detrimental or incompatible with other permitted uses in the vicinity. This determination is supported by the following:

- The equipment associated with the communication structure operates quietly or virtually noise-free.
- The equipment does not emit fumes, smoke, or odors that could be considered objectionable.
- The communications facility is unmanned and only requires periodic maintenance that equates to approximately one vehicle trip per month.

## **Radio Frequency Emissions**

The facility will fall within the portion of the electromagnetic spectrum, which transmits non-ionizing radio waves. "Non-ionizing" electromagnetic emissions, at the low levels associated with this type of wireless technology, are not harmful to living cells. Among the items which result in non-ionizing electromagnetic emissions are police/fire/EMS radios, television broadcasts, CB radios, microwave ovens, baby monitors, home wireless phones, garage door openers, and many other items used in day to day life. Not to be confused with "ionizing" electromagnetic emissions which include ultra-violet light, medical x-rays and gamma rays.

## **Radio Frequency FCC Compliance**

The FCC has allocated a portion of the radio spectrum to be used with power required to operate a wireless communication facility. The proposed facility does not exceed 718 watts per channel and thus, the Clearwire wireless communication facility is by design a low-power system. Depending upon characteristics of the site, the actual power requirements may be reduced. When operational, the transmitted signals from the site will consist of non-ionizing waves typically generated significantly lower than the FCC standard for continuous public exposure of 900 microwatts per square centimeter.

## **Other Information**

- No Traffic Impact Study is provided due to only one trip generation per month.
- There will be no noise, smoke, dust, odor, vibration or illumination created by the proposed use.
- The site is compatible with surrounding uses.
- The proposed wireless communication facility will meet or exceed all Federal, State, Local Government agency requirements including the Federal Communication Commission (FCC) and the Radio Frequency (RF) exposure standards.
- The proposed project will be in compliance with all sections of the zoning ordinance and code requirements.
- Existing communication facilities within a 1-mile radius of the subject site were not available or lacked appropriate radio frequency engineering design requirements.
- Public utility poles lacked the available ground space needed and the appropriate height for the Radio Frequency signal.
- Other existing vertical elements were eliminated due to unwilling landlords, unavailable height, ground space, and physical site restraints.

### **Summary**

The proposed design will be engineered certified to be in compliance with the City of Peoria Zoning ordinance, International Building, Electric and Fire Codes. The proposed wireless communication facility will meet or exceed all Federal, State, Local Government agency requirements including the Federal Communication Commission (FCC) and the Radio Frequency (RF) exposure standards.

Clearwire is excited about the opportunity to bring enhanced service to the greater Peoria area. As a result, residents and tourists will benefit from the improved coverage and options available. The improvements will help to enhance E-911, City, and Public communication services.

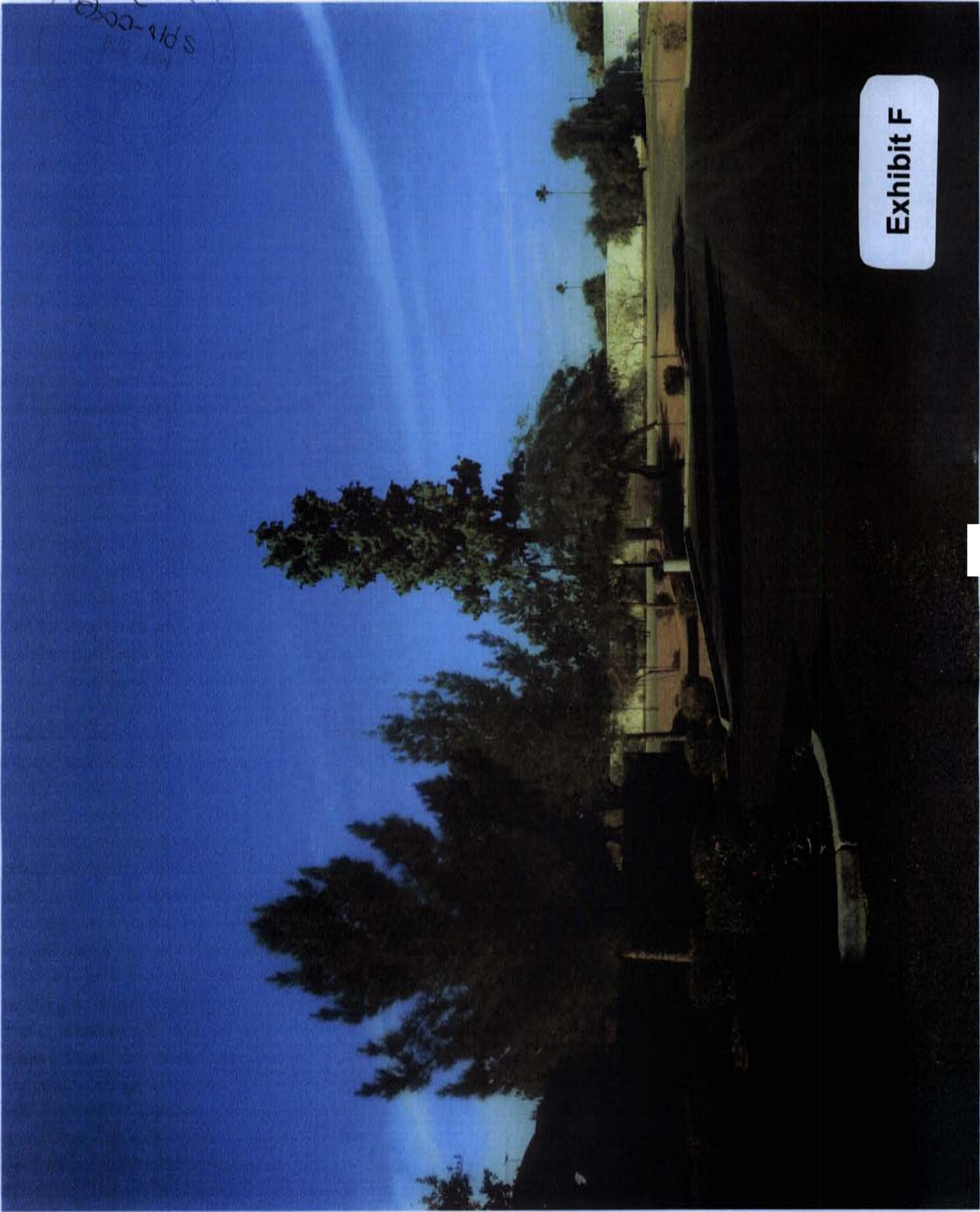
Please refer to the drawings and supplemental information for any further clarification.

Sincerely,  
Amanda Hoffman

**Exhibit C3**







SP18-00002  
11 28 29 30 31 - 1 2 3 4

Exhibit F

NEIGHBORHOOD MEETING  
CENTENNIAL HIGH SCHOOL  
DATE: June 16, 2010

PROJECT NAME: ClearWire Heritage Mortuary

PROJECT LOCATION: Heritage Mortuary  
6830 West Thunderbird Road

PROJECT DESCRIPTION: Proposed 65 foot mono-pine

ATTENDEES: Elena Bucurel  
Ioan Popa  
Joe & Margaret Greif  
Sue Bolick  
Angela Phillips  
Kevin Phillips  
Sylvia Phillips  
John Glaudel  
Jeff Nelson

NOTES FROM MEETING:

Items discussed at 6/16 Neighborhood Meeting for Heritage Mortuary Mono-Pine

- No suggestions-just don't want it.
- What is the width of the mono-pine at its widest point?
- Can we do a balloon test?
- Need a photo-sim from the neighborhood to the west.
- Concerned about co-location clients and the effects it might have in having other towers near it built.
- What type of clientele is Clearwire looking for? This is an established neighborhood that already has wireless service. What is capacity for the antennas? How far can the antennas serve?

INFORMATION SUBMITTED BY:

Amanda Hoffman  
Coal Creek Consulting  
(480) 309-4104

**Exhibit G**

**Lou Brannick**

---

**From:** [REDACTED]  
**Sent:** Wednesday, February 24, 2010 4:26 PM  
**To:** Lou Brannick  
**Subject:** Site plan and Conditional Use application, at 6830 W. Thunderbird Rd.

Hi Lou,  
I'm the person who spoke to you on the phone last Friday about this application. As I said on the telephone my husband and I would like to be notified about an public hearing or other meeting that concerns this matter. Also the denial to put s a similar cell phone tower that we also spoke about was in faact in 2001, it was denied as a violation of code. I'm not sure, but I believe it was a zoning code,  
I look forward to hearing from you at the appropriate time  
My email is [REDACTED]@[REDACTED].com. phone [REDACTED]  
Thank you,  
Deborah Harris

**Exhibit H**

**PLANNING AND ZONING COMMISSION MINUTES  
CITY OF PEORIA, ARIZONA  
COUNCIL CHAMBER  
JULY 15, 2010  
DRAFT**

A **Regular Meeting** of the Planning and Zoning Commission of the City of Peoria, Arizona, convened at 8401 W. Monroe St., Peoria, AZ in open and public session at 6:30 p.m.

**Members Present:** Chair Veda McFarland, Vice Chair Marc Melbo, Commissioners Gene Sweeney, Nancy Golden, and Leigh Strickman.

**Members Absent:** Commissioners Greg Loper and Bill Louis.

**Others Present:** Ellen Van Riper - Assistant City Attorney, Glen Van Nimwegen – Planning & Community Development Director, Adam Pruett – Senior Planner, Ed Boik – Planner, Lou Brannick – Development Plans Reviewer, and Bev Parcels – Planning Assistant.

**Opening Statement:** Read by Adam Pruett, Senior Planner.

Call for speaker request forms.

**Audience:** Twenty nine.

**Note:** The order in which items appear in the minutes is not necessarily the order in which they were discussed in the meeting.

## **CONSENT AGENDA**

All items listed with a “C” are considered to be routine by the Planning and Zoning Commission, and were enacted by one motion.

**1C**     **DISPOSITION OF ABSENCE:** Approve the absences of Commissioners Louis and Loper from the June 17, 2010 meeting.

**2C**     **MINUTES:** Approve the minutes of the Regular Meeting held June 17, 2010.

**COMMISSION ACTION:** Commissioner Strickman moved to approve the Consent Agenda items. The motion was seconded by Commissioner Golden and upon vote, carried unanimously.

## REGULAR AGENDA

### NEW BUSINESS:

- 3R** **PUBLIC HEARING - CU10-0044:** Coal Creek Consulting requested a Conditional Use Permit to allow a wireless communication facility consisting of a 65 foot high “mono-pine” and associated ground equipment. The property is located at 6830 West Thunderbird Road, northwest of the corner of 67<sup>th</sup> Avenue and Thunderbird.

**STAFF REPORT:** Presented by Adam Pruett – Senior Planner.

#### **COMMISSION COMMENT:**

Comments included views of the mono-pine from neighbors backyards, the tower being used for internet access, the design of the mono-pine, conducting a balloon test, the number of people to benefit from the service area, and other possible locations for the mono-pine.

#### **PUBLIC COMMENT:**

**Amanda Hoffman**, Applicant – Explained why site was chosen, the attempt by applicant to collocate on an existing site, how coverage will be improved, what views look like from the bordering neighborhood, why height needs to be 65’, that tower will be for wireless internet service, options of where the tower can be located on the site, and the distance of the mono-pine from the back wall to the neighborhood.

**Jeff Nelson**, Resident – Opposed to cell tower based on the height and how he had requested a balloon test be performed by applicant.

**Angela Phillips**, Resident – Opposed to cell tower based on design, health risks, and decline of home values.

**Kevin Phillips**, Resident – Opposed to cell tower based on number of antennas proposed, and distance from neighborhood property line.

**Ed Registrato**, Resident – Opposed to cell tower based on the affect on the wildlife in the area.

Ellen Van Riper, Assistant City Attorney, gave a brief background on the Telecommunications Act of 1996 and the rights of local jurisdictions in the approval process of wireless communication towers.

**COMMISSION ACTION:** Commissioner Strickman moved to recommend approval of case CU10-0044 subject to staff conditions. The motion was seconded by Vice Chair Melbo and upon vote, carried unanimously 5-0.

- 4R** **PUBLIC HEARING – TA09-02:** The City of Peoria proposed an amendment to several sections within the Zoning Ordinance including Article 14-2 “Definitions”, Article 14-3 “General Provisions”, Article 14-37 “Administrative and Decision Making Bodies”, Article 14-33 “Planned Area Development (P.A.D.) District”, Article 14-36 “Planned Community (PC) District”, and Article 14-39 “Administrative Procedures”. The amendment will change the definition of “Department” and all references to “Community Development Department” to reflect the Department’s renaming, modify current standards regarding

appeal times, provide for enhanced civic engagement processes and requirements, revise Conditional Use Permit evaluation criteria, and provide other minor “housekeeping” updates to Article 14-39.

**STAFF REPORT:** Presented by Adam Pruett – Senior Planner.

**COMMISSION COMMENT:**

Clarification was requested about the homeowner associations being notified.

**PUBLIC COMMENT:** None

**COMMISSION ACTION:** Commissioner Strickman moved to recommend approval of case TA09-02 to City Council. The motion was seconded by Commissioner Sweeney and upon vote, carried unanimously 5-0.

**5R PUBLIC HEARING – TA10-0101:** The City of Peoria proposed amendments to Article 14-2 titled “Definitions” and Article 14-09 titled “Non-Residential Districts” to introduce a new definition for tobacco retailer; modify definitions for tavern, bar, lounge and for retail liquor store; add tobacco retailer to the non-residential land use table; make outdoor dining/patio and drive-through restaurant conditional uses within 200-feet of residential zoning; and amend or establish use standards for gas stations, outdoor patios, and drive-through restaurants.

**STAFF REPORT:** Presented by Ed Boik – Planner.

**COMMISSION COMMENT:**

Clarification was requested on the notification to neighbors for outdoor dining patios, grandfathering in existing businesses if new owners come in or changes are made to the existing patio area, and changing wording to the fifty foot distance requirement on drive thru boxes to clarify how the landscape buffer is included.

**PUBLIC COMMENT:** None

**COMMISSION ACTION:** Commissioner Strickman moved to recommend approval of case TA10-0101 to City Council. The motion was seconded by Commissioner Sweeney and upon vote, carried unanimously 5-0.

**CALL TO THE PUBLIC:** (Non-agenda Items): None

**REPORT FROM STAFF:** None

**REPORTS FROM THE PLANNING AND ZONING COMMISSION:** None

**ADJOURNMENT:** There being no further business to come before the Planning and Zoning Commission, the meeting adjourned at 7:45 p.m.

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Veda McFarland, Chair

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Date Signed