

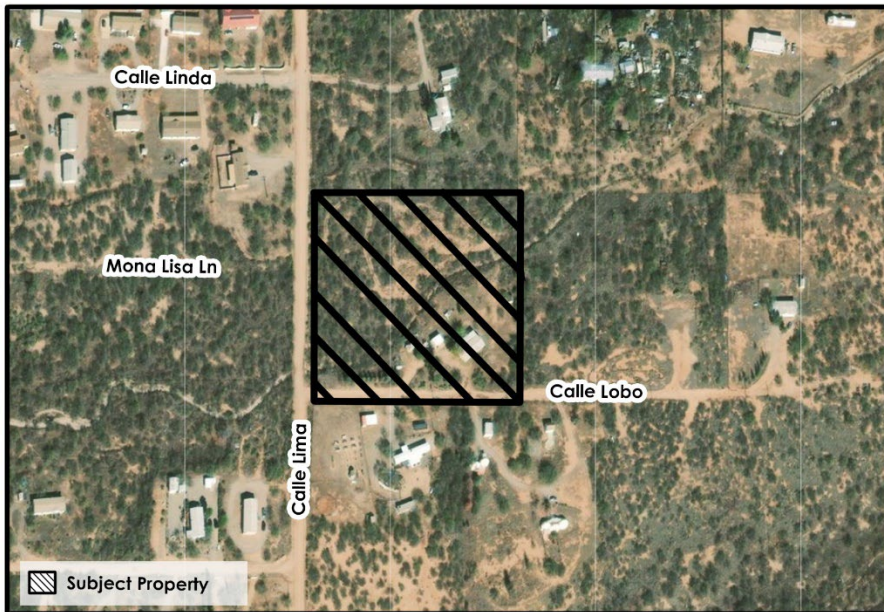
MEMORANDUM

TO: Cochise County Planning and Zoning Commission
FROM: Christine McLachlan, AICP, Planner II
FOR: Daniel Coxworth AICP, Development Services Director
SUBJECT: SU 22-11 (Calle Lobo Telecom), Application for a Special Use Authorization
DATE: May 25, 2022, for the June 8, 2022, Meeting

Docket SU 22-11 (Calle Lobo Telecom)

The applicant, HPAZNET LLC, represented by Ben Tyler, requests a Special Use Authorization to erect a 70’ tall communications tower on a rural zoned parcel in Hereford, Arizona (APN 104-82-019H). The establishment of a communications tower that exceeds 30-feet in height is subject to site development standards in Article 18 of the Zoning Regulations and requires Special Use Authorization from the Planning and Zoning Commission in a rural zoning district. The location is 6045 East Calle Lobo, Hereford, AZ.

Figure 1: Request Location



Location
 SU 22-11 Calle Lobo Telecom



I. DESCRIPTION OF SUBJECT PARCEL AND SURROUNDING USES

Site Size: 4.31 Acres
Zoning: RU-4 (Rural, 4-acres minimum parcel)

Planning, Zoning and Building Safety
 1415 Melody Lane, Building F
 Bisbee, Arizona 85603
 520-432-9300
 planningandzoning@cochise.az.gov

Growth Area: Category D
Plan Designation: Rural Residential
Area Plan: None
Existing Uses: Single Family Residential
Proposed Uses: Same, with attached new addition

Surrounding Zoning and Uses (See Figure X)

Relation to Subject Parcel	Zoning District	Use of Property
North	RU-4	Single Family Residential
South	RU-4	Single Family Residential
East	RU-4	Single Family Residential
West	R-36	Single Family Residential, low density

II. SITE HISTORY

1995 Temporary RV Permit
 1994 Mobile Home Placement
 1994 Floodplain Use Permit
 2019 ADEQ Transfer of Ownership for an on-site wastewater treatment facility

III. REQUEST DESCRIPTION

The applicant proposes to erect an RSL70L40 70'-tall free-standing telecommunications tower on a 4.31-acre rural zoned parcel. The tower is composed of factory-built steel that is assembled on-site and placed on a concrete pad with rebar reinforcement. In addition, the applicant proposes an outdoor utility shed near the tower to enclose sensitive equipment. To power the site, a 1.8 kW solar panel array is proposed. The tower and associated equipment will be surrounded by a chain link fence. The final product and services will be the provision/maintenance of high-speed broadband internet service for surrounding homes and businesses.

All new telecommunication towers require:

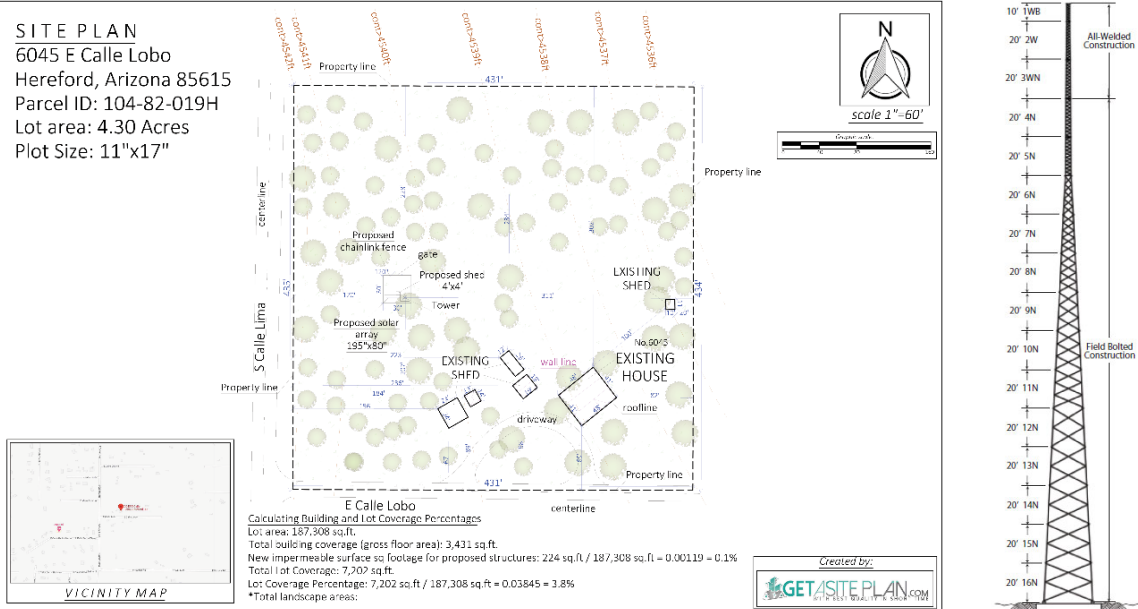
- Approval from the local governing authority for the proposed site (in this case the planning and zoning commission through a special use authorization)
- Compliance with Federal Communications Commission (FCC) rules implementing NEPA
- In the interest of aviation safety, the following may also be required:
 - Federal Aviation Administration notification and/or
 - Antenna Structure Registration.

The Federal Communications Act (Section 332 (c)(7)) preserves state and local authority over zoning and land use decisions for personal wireless service facilities but sets forth specific limitations on that authority. Specifically, local governments may not:

- unreasonably discriminate among providers of functionally equivalent services,
- regulate in a manner that prohibits or has the effect of prohibiting the provision of personal wireless services, must act on applications within a reasonable period of time,

Any application denial must be in writing and supported by substantial evidence in a written record. The statute also preempts local decisions premised directly or indirectly on the environmental effects of radio frequency (RF) emissions, assuming that the provider is in compliance with the Commission's RF rules.

Figure 2: Site Plan



IV. ANALYSIS OF IMPACTS – COMPLIANCE WITH SPECIAL USE FACTORS

Section 1716.02 of the Zoning Regulations provides a list of ten factors with which to evaluate Special Use applications. Staff uses these factors to help determine the suitability of a given Special Use request, whether to recommend approval for a Special Use Authorization, as well as to determine what Conditions and/or Modifications may be needed.

With the information provided, ten (10) factors apply to this request. The project, as submitted, fully complies with seven (7) of the factors.

1. Compliance with Duly Adopted Plans: Complies

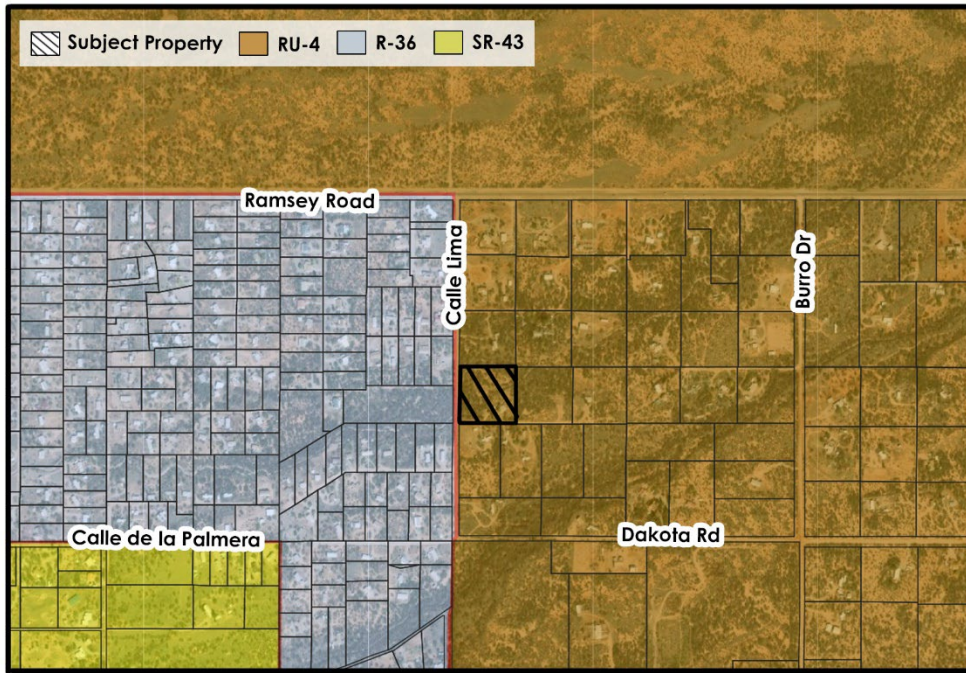
The project site is not within the boundary of any Area Plan. The Comprehensive Plan generally does not include policies that address accessory unmanned, wireless communication facilities, but these are uses commonly found throughout various areas in the County. The primary residential use will remain unchanged by this use.

2. Compliance with the Zoning District Purpose Statement: Complies

Article 6 of the Zoning Regulations states RU (Rural) Zoning Districts are established to achieve the following purposes: *To encourage those types of non-residential and non-agricultural activities which serve local needs or provide a service and are compatible with rural living (601.02)*

The proposed use is intended to provide faster and more reliable internet coverage to the Hereford community. As an accessory to an existing residential use, it helps support the function of residential uses in the area.

Figure 3: Zoning



Zoning
Su 22-11 (Calle Lobo Telecom)



3. Development along Major Streets: Complies

This criterion seeks to minimize road cuts that create unsafe traffic conflicts, hazardous traffic congestion and obstruct the functioning of arterials. There are no major throughfares or arterials that serve this parcel. Furthermore, this is an unmanned facility. Once erected, access will only be needed for periodic repairs or maintenance. This is a corner lot. Both Calle Lima and Calle Lobo are private, dirt roads. Neither are County-maintained.



The Applicant proposes ingress/egress from Calle Lima (see photo to left, above) there is a gate directly off the road. The residential use will continue to use the Calle Lobo ingress/egress. The limiting of access points and the low

traffic demand of the use, once constructed, complies with the requirement to “minimize road cuts that are associated with unsafe traffic conflicts.”

4. Traffic Circulation Factors: Complies

Specifically, this factor stipulates that the Special Use Authorization request should not result in the use of any residential street for non-residential through traffic. Apart from the initial construction crew and maintenance teams, the site is expected to receive minimal traffic during the life of its operation.

5. Adequate Services and Infrastructure: Complies

The wireless communication towers provide additional wireless service to the region. Electric power is provided by Sulfur Springs Valley Electric Co-op (SSVEC). Per the application, the equipment attached to the proposed structure will require new service. Because the owner of the structure is not the owner of record for the property, SSVEC will require an easement from the property owner prior to approval and activation of the new service. The applicant will also need to satisfy all service conditions and service entrance requirement required by SSVEC for new service. Water, sewer/septic, natural gas, telephone, and wastewater service is not required for the proposed use.

6. Significant Site Development Standards: Complies

Wireless Communication facilities are subject to a set of use-specific site development standards contained in Section 1813 of the Zoning Regulations. Among them are standards relative to co-location, setbacks, height standards, design, and certification, as well as noise. The proposed tower meets all site development standards, as proposed.

Development Standard	Proposed
All new communication facilities will be designed by a Registrant licensed by the State of Arizona.	Will comply
For towers up to 150-feet in height, the structure shall be designed to accommodate at least two providers.	Will comply
Certifications	Will comply (permitting)
Setbacks: must be setback from all parcel boundaries, lease boundaries and rights-of-way a distance equal to at least the height of the tallest structure in the facility, measuring from its base.	Complies - 70' height, 70' setback from all boundaries
Min Site Area	Exempt
Max height	No limit with SUP
Noise or Vibration	Will comply

7. Public Input: Does Not Comply

See Section IV. Public Comment for additional discussion.

8. Hazardous Materials: Not Applicable

The Applicant states that the use of hazardous and dangerous materials is not anticipated on site.

9. Off-Site Impacts: Complies

Major off-site impacts could include temporary construction traffic, dust, noise, and long-term dust, noise and visual impacts. Some impacts are mitigated by the proposed concept plan, while others can be mitigated by conditions.

- Odor – proposed special use will not generate noticeable odors during construction or operation.
- Noise – the application states that all tubular section of the tower and mounts will be capped to prevent noise/vibrations.
- Traffic – The project will operate remotely and will not require on-site staff; consequently, once constructed the use will not have a significant traffic impact.
- Dust - Project construction would likely generate fugitive dust, which will be mitigated with spraying from water trucks.

10. Water Conservation: Not Applicable

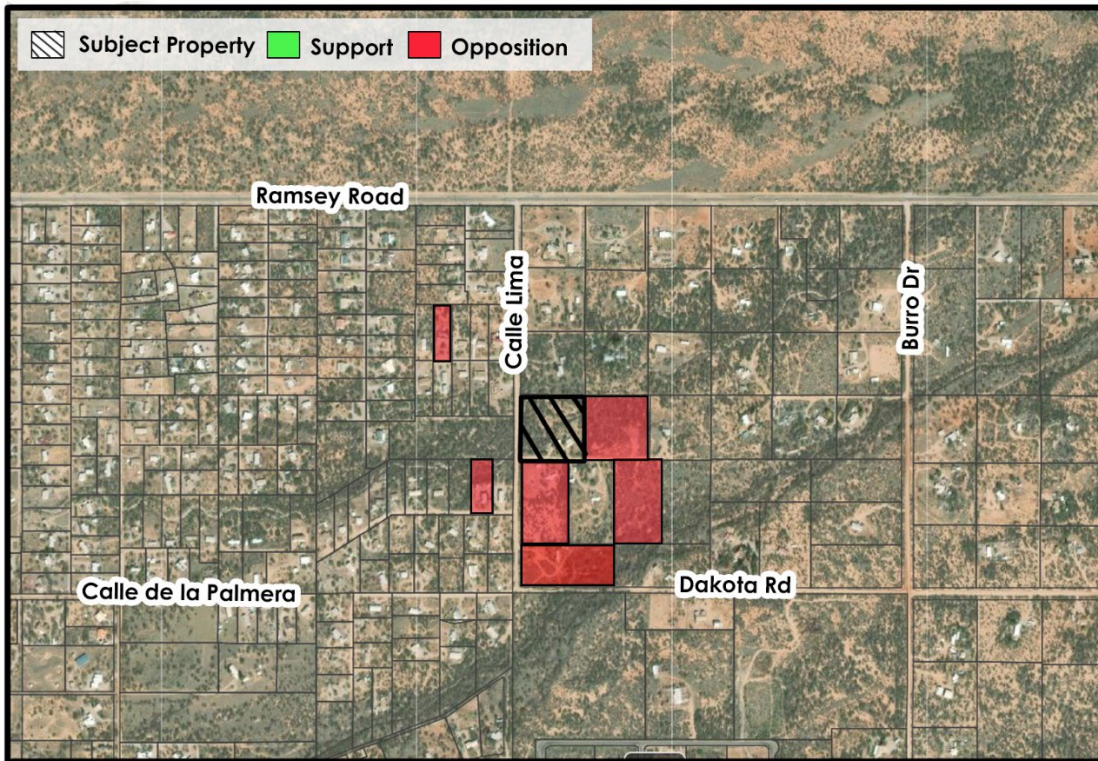
There will be no employees or customers coming to the site. The proposed Solar tower does not require on-site water.

VI. PUBLIC COMMENT

The applicant mailed letters to property owners within 1,000 feet of the property prior to application submittal and received no responses.

The case planner mailed letters to the same property owners within 1,000 feet of the subject property, published a legal ad in the *Sierra Vista Herald*, and posted legal notices on the property. To date, staff has received five (5) responses in opposition and no letters in support.

Figure 4: Public Comment



Public Input
 Su 22-11 (Calle Lobo Telecom)



VII. WAIVERS

None requested.

VI. SUMMARY AND CONCLUSION

This request is for a Special Use authorization to approve a 70-foot factory-built steel wireless communication tower on a 4.31-acre rural zoned parcel.

Factors in Favor of Approving the Special Use

1. The project complies with seven of the criteria used to evaluate special use requests; and
2. The proposed use would maintain and expand the range and quality of internet and wireless data coverage within the immediate area; and
3. Structurally, the tower, as proposed, could accommodate additional equipment for other wireless providers in the future. In addition, this will replace an existing tower at 6267 Burro Drive (SU 14-16).

Factors Against Approving the Special Use

1. Visual/maintenance impacts – this will result in the additional of an above-ground, 70’ tall telecommunications tower; and
2. Six letters of opposition were received.

VII. RECOMMENDATION

Based on the factors in favor of approval, staff recommends **Approval** of the Special Use request, subject to the following conditions:

1. Within 30-days of approval of the Special Use, the Applicant shall provide the County a signed Acceptance of Conditions form and a Waiver of Claims form arising from ARS Section 12-1134. Prior to operation of the Special Use, the Applicant shall apply for a building/use permit for the project within 18-months of approval. The building/use permit shall include a site plan in conformance with all applicable site development standards (except as modified) and with Section 1705 of the Zoning Regulations, the completed Special Use permit questionnaire and application, and appropriate fees. A permit must be issued within 24-months of the Special Use approval, otherwise the Special Use may be deemed void upon 30-day notification to the Applicant;
2. It is the Applicant's responsibility to obtain any additional permits or meet any additional conditions that may apply to the proposed use pursuant to other federal, state, or local laws or regulations. The applicant shall provide all certified affidavits required by Section 1813.03 of the Zoning Regulations in conjunction with project permitting. In addition, the applicant shall file a Federal Aviation Administration (FAA) Notice of Proposed Construction at least 45 days prior to installation for any facility that meets 14 CFR Part 77 (notice criteria) or if being licensed by the FCC. The applicant shall comply with any conditions recommended by the FAA and the Federal Communications Commission (FCC);
3. Any changes to the approved Special Use shall be subject to review by the Planning Division and may require additional modification and approval by the Planning and Zoning Commission;
4. The maximum height of the Wireless Communication Facility shall be limited to 70’;
5. No signage, other than emergency signage, will be allowed for this wireless communication facility;
6. The facility owner shall notify the County Zoning Inspector of any proposed frequency changes;
7. The facility owner shall be responsible for maintenance in a manner consistent with the original approval of the facility, and equipment cabinets shall display a legible contact number for reporting maintenance problems to the facility owner;
8. The facility owner shall notify the county, in writing, no less than (30) thirty days prior to any planned abandonment or discontinuance of use. Should the facility owner fail to give notice, the facility shall be considered abandoned upon the County’s discovery of discontinuation and receipt of notice. Within 90-calender days of receipt of notice, the facility owner is responsible for the complete physical removal of the tower and associated improvements and restoration the site to its original condition to the extent reasonably possible; and
9. Following construction, the applicant shall contribute to or repair the road to preconstruction condition.

Sample Motion:

Mr. Chairman, I move to approve Docket SU-20-11 (Calle Lobo Telecom), with the Conditions of Approval recommended by staff; the Factors of Approval constituting Findings of Fact.