

MEMORANDUM

TO: Cochise County Planning and Zoning Commission
FROM: Robert Kirschmann, Planner II
FOR: Daniel Coxworth AICP, Development Services Director
SUBJECT: SU22-29 (Acacia) Application for a Special Use Authorization
DATE: December 16, 2022, for the January 11, 2023 Meeting

Docket SU22-29 (Acacia)

The Applicant, Dakota Pro, represented by Ms. Latoya Phipps requests a Special Use Authorization to approve a wireless communication tower of 34 feet and associated equipment.

The project is located at 3182 W Acacia Lane, Benson, Arizona. The property is also identified as Assessor Parcel Number 124-02-006R consisting of approximately 4 acres.

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.

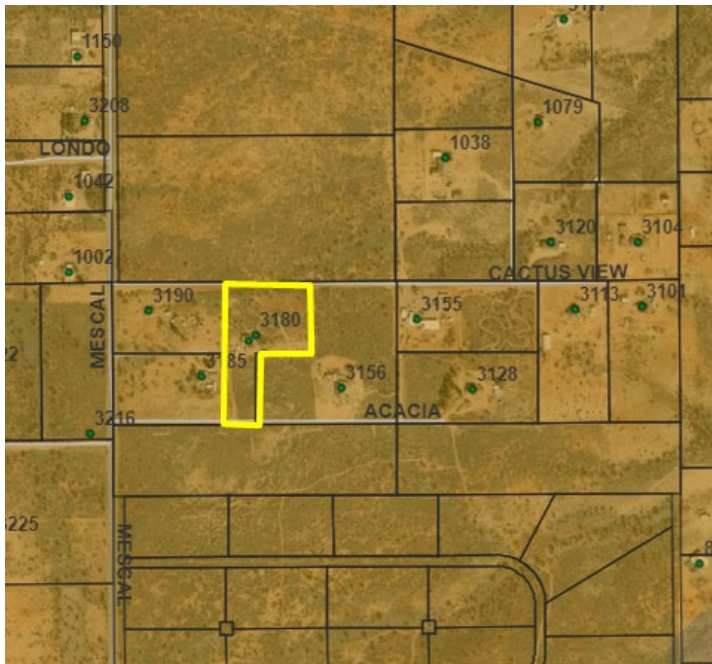


Figure 1: Request Location

I. DESCRIPTION OF SUBJECT PARCEL AND SURROUNDING USES

Site Size: 4 Acres
APN: 124-02-006R
Zoning: RU-4 (Rural, 4-acres minimum parcel)
Growth Area: Category D
Plan Designation: Rural
Area Plan: None
Existing Uses: Single Family Residence, temporary tower also onsite
Proposed Uses: Same, with 34-foot-tall communication tower

Surrounding Zoning and Uses

Relation to Subject Parcel	Zoning District	Use of Property
North	RU-4	Vacant
South	RU-4	Vacant
East	RU-4	Rural Residential
West	RU-4	Rural Residential

II. SITE HISTORY

1986 Single-family residence constructed. Sometime after that, a "temporary" tower was constructed.

III. REQUEST DESCRIPTION

The Applicant proposes a 34-foot-tall communication tower on a 4-acre rural zoned parcel. The tower is composed of factory-built steel assembled onsite and placed on a poured concrete base. The project will also include solar panels and battery backup. The final product and services will be the provision/maintenance of new Dakota Pro Service.

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 that are premised directly or indirectly on the environmental effects of radio frequency (RF) emissions, assuming that the provider complies with the Commission's RF rules.

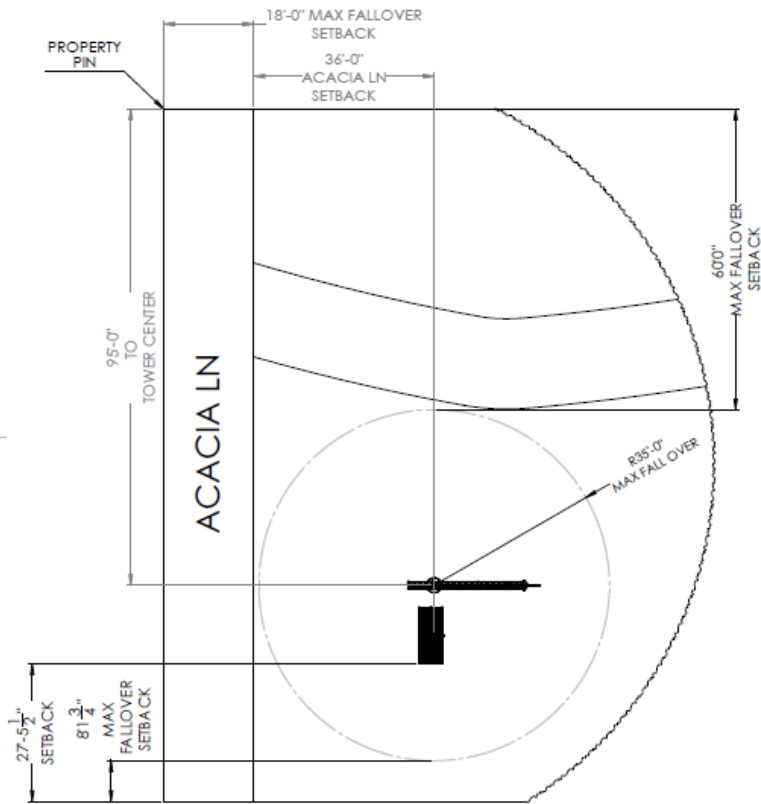


Figure 2: Site Plan

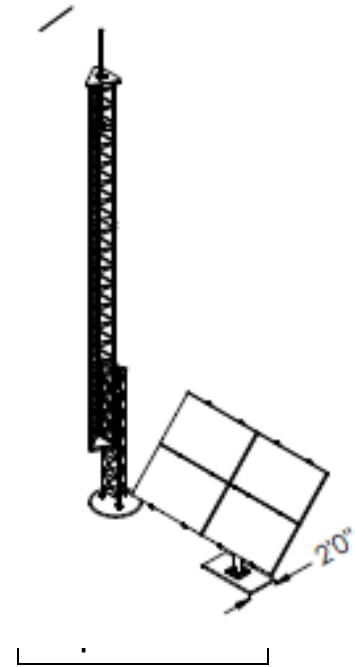


Figure 3: Elevation

IV. ANALYSIS OF IMPACTS – COMPLIANCE WITH SPECIAL USE FACTORS

Section 1716.02 of the Zoning Regulations provides a list of ten factors 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 and to determine what Conditions and/or Modifications may be needed.

With the information provided, nine (9) factors apply to this request. The project, as submitted, fully complies with eight (8) of the factors and with the requested modifications the remaining factor.

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 use as a rural residential property will not change.

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 Mescal community. As an accessory to an existing residential use, it helps support the function of residential uses in the area.

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. Acacia is a private dirt road Mescal Road is County maintained. The Engineering Department did not have any comments or conditions on this request.

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. The tower will be powered by solar with battery backup. Water, sewer/septic, natural gas, telephone, and wastewater service is not required for the proposed use.

6. Significant Site Development Standards: Complies with Modification

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 colocation, 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.	Requesting modification
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.	Requesting modification
Min Site Area	Exempt
Max height	30 feet permitted by right, no limit with SUP
Noise or Vibration	Will comply

The Applicant is requesting modifications to two(2) development Standards, setbacks, and colocation.

Setbacks (Section 1813.04):

The highest point of the facility will be 34 feet, including a whip-style antenna. Section 1813.04 requires towers be setback at least their height. As shown on the site plan, all setbacks will comply except the east setback, which is proposed 27' 5" to the solar panels but over 37 feet to the tower. The intent of these setbacks is to ensure the tower will not fall onto neighboring properties. As configured, it will not, and therefore, staff supports this request.

Co-location(Section 1813.02):

The Regulations require that towers up to 150 feet tall be able to accommodate at least two (2) providers. This tower is proposed at 34 feet because this is what was required to provide internet services to the surrounding area, while maintaining as low of a profile as possible. In order to accommodate an additional carrier, the tower would need to be much taller. Further, this is an internet provider and not a cellular communication provider. Staff supports waving the requirement to have an additional carrier on the facility.



7. Public Input: Complies

See Section IV. Public Comment for additional discussion.

8. Hazardous Materials: Complies

The Applicant states that the use of hazardous and dangerous materials is not anticipated on site. Battery storage will be in compliance with industry standards.

9. Off-Site Impacts: Complies

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

- 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 onsite 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.
- Visual- As mentioned in the opposition letters the existing and proposed tower are highly visible. Though staff understands the concerns, any property owner in the area can construct any structure(house, barn, antenna, etc.) with proper permits by right up to 30 feet. This request is a Special Use, because of the approximately four (4) foot-tall whip antenna, which pushes this into Special Use territory.

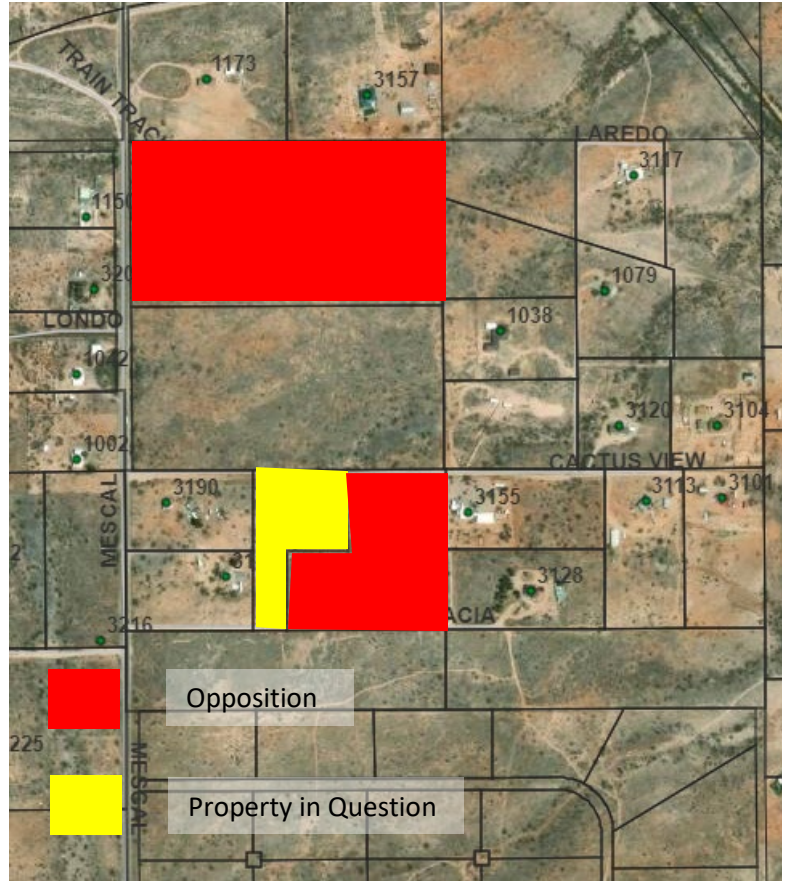
10. Water Conservation: Not Applicable

There will be no employees or customers coming to the site. The proposed tower does not require onsite 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 two (2) responses in opposition, both citing the visual impacts.



VII. WAIVERS

As discussed in detail under the Site Development Section, the Applicant requests waivers to the setbacks and the colocation requirement. Staff recommends approval of both requests.

VI. SUMMARY AND CONCLUSION

This request is for a Special Use authorization to approve a 34-foot-tall wireless communication tower on a 2-acre rural zoned parcel.

Factors in Favor of Approving the Special Use

1. The project complies with nine 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.

Factors Against Approving the Special Use

1. Two(2) letters in opposition were required;
2. Two (2) modifications/waivers are requested for this proposal.

VII. RECOMMENDATION

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

1. The maximum height of the Wireless Communication Facility shall be limited to 34';
2. No signage, other than emergency signage, will be allowed for this wireless communication facility;
3. The facility owner shall notify the County Zoning Inspector of any proposed frequency changes outside of the ranges specified within the application;
4. 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;
5. The Temporary Tower shall be removed within 90 days of the final inspection of the new facility.

Sample Motion:

Mr. Chairman, I move to approve Docket SU22-29 (Acacia), on parcel 124-02-006R, with the Conditions of Approval recommended by staff; the Factors of Approval constituting Findings of Fact.