

**Coconino County Planning and Zoning Commission  
Meeting of February 26, 2020  
Board of Supervisors' Meeting Room  
County Administrative Center  
219 East Cherry  
Flagstaff, Arizona**

**Members Present**

Tammy Ontiveros – Madam Chair  
Don Walters – Vice-Chair  
Sat Best  
Ray Mayer  
John Ruggles  
Jim Clifford

**Members Absent**

Tyanna Burton  
Mary Williams

**Staff Present**

Jess McNeely, Assistant Director  
Bob Short, Principal. Planner  
Melissa Shaw, Planner  
Aaron Lumpkin, county Attorney  
Marty Hernandez, Recording Secretary

Chair Ontiveros called the meeting to order at 5:32PM. She noted procedures to the audience.

**I. PLEDGE OF ALLEGIANCE**

**II. APPROVAL OF MINUTES**

**MOTION:** Commissioner Ruggles made the motion to approve the minutes from January 29, 2020.

**SECOND:** Commissioner Clifford seconded.

**DISCUSSION:** N/A

**VOTE:** The vote was unanimous.

**III. PUBLIC HEARINGS**

1. Case No. CUP-19-043: A request for a Conditional Use Permit for a memorial forest (cemetery) on five parcels totaling 160 acres in the G (General, 10-acre minimum parcel size) Zone. The property is located approximately 2.5 miles east of US Highway 180 on N Hart Prairie Road. It is also identified as Assessor's Parcel Numbers 300-25-001, 300-25-002, 300-28-001A, 300-29-001A, 300-29-001B.

Property Owner: Kniazze Trust Agreement DTD 5-11-99, Phoenix, Arizona

Applicant: Better Place Forest, San Francisco, California

Representative: Scott Roycroft, San Francisco, California

County Supervisor District: 1 (Art Babbott)

*A continuance has been requested for this hearing to March 25, 2020*

**STAFF:** Ms. Shaw gave a PowerPoint and summarized the staff report.

**APPLICANT:** Scott Roycroft, San Francisco, CA, was present but did not speak.

**PUBLIC:** No one from the public was present to speak.

**COMMISSION:** NA

**MOTION:** Commissioner Walters made a Motion to continue CUP-19-043.

**SECOND:** Commissioner Ruggles seconded.

**DISCUSSION:** NA

**VOTE:** The motion passed unanimously.

Mr. McNeely made a recommendation to enter into an executive session.

At 5:45PM, Chair Ontiveros called for Executive session.

**MOTION:** Commissioner Walters made motion to move to an executive session.

**SECOND:** Commissioner Best seconded.

**VOTE:** The vote passed unanimously.

At 6:17PM the Commissioners returned.

**MOTION:** Commissioner Walter made motion to reenter into public session at 6:17PM.

**SECOND:** Commissioner Ruggles seconded.

**VOTE:** The vote was unanimous.

2. Case No. CUP-19-048: A request for a Conditional Use Permit for a 154-foot wireless telecommunications facility on an 8.82-acre parcel in the G (General, 10-acre minimum parcel size) Zone. The property is located at 100 Toonerville Road on the south side of Interstate 40 approximately one-half mile west of the Twin Arrows exit and is also identified as Assessor's Parcel Number 303-38-002B.

Property Owner: Darla Jurrens, Mars, Iowa

Applicant: Sun State Towers, Gilbert, Arizona

Representative: Michelle Lamoureux

**STAFF:** Mr. Short gave a PowerPoint and summarized the staff report. The Commissioner wanted to clarify that there were two leases, one between NTUA and Navajo Gaming and then between NTUA and Sun State.

**APPLICANT:** Michelle Lamoureux, Gilbert, AZ, with Pinnacle Consulting was representing Verizon and Sun State. The lease would be with NTUA and Verizon while Sun State would be building the tower. Pinnacle is a consultant for Sun State and Verizon. Michelle just wanted to add the RF portion to the discussion.

Steve Kennedy, Litchfield Park, AZ, consultant for Verizon and Sun State. Per the request of the Commission, he worked with the Engineer from NTUA. He had several phone conversions and many emails. He could not share proprietary information. Mr. Kennedy spoke on capacity and coverage for the area. Verizon does have a repeater with an antennae system inside the casino. He compared coverage maps as asked. Mr. Kennedy worked a Performance Engineer at Verizon and reviewed TruCall, showing dropped call data averages 80-120 calls per day in the area. He reviewed other data information on his PowerPoint, specifically the ThroughPut quality, where the maps are showing lower quality. Drone flights were done over both areas. AT&T and T-Mobile

are on transmission poles which are significantly shorter than what Toonerville would be. Mr. Kennedy focused in on RF levels and coverage between the two sites, showing greater coverage with the proposed Toonerville site. Mr. Kennedy's conclusion shows the Toonerville site shows a greater capacity, greater ThroughPut, stronger signals for customers.

Commissioner Ruggles stated he received coverage maps from NTUA and coverage doesn't seem like much difference in percentages. Mr. Kennedy states it would be 10-15% better.

Commissioner Best thought the RSRP coverage seemed the same. Mr. Kennedy stated the coverage is still better coverage with line of sight coverage.

Commissioner Ontiveros ask about the percentage increasing. Mr. Kennedy said the need will increase as time goes on

Commissioner Ontiveros reiterated the Board and Federal Court's decision in the past. Commissioner Ontiveros asked Mr. Kennedy if it was his position that the Toonerville site would be the best for now and future coverage. He stated yes, as more users get onto the network, the more utilization moves the network higher, the impact becomes greater. Chair Ontiveros wanted

Commissioner Clifford asked if the external antennae would pick up better inside the casino. Mr. Kennedy stated that would not have any impact on outside service.

Chair Ontiveros talked about the NTUA and Navajo Gaming contracts and asked if Ms. Lamoureux had received it. Ms. Lamoureux had received it and the attorneys had quickly reviewed it. Ms. Lamoureux stated since the Navajo Nation is a sovereign nation, they have no recourse because they would not be able to go to an AZ court in case in a dispute. Verizon would have to make that business decision. Chair Ontiveros wondered why Ms. Lamoureux thought the Navajo Nation Courts were not a place to resolve disputes.

Chair Ontiveros asked if the lease amount prohibitive. There was no market comparison. Ms. Lamoureux stated there were some items of concerns in the lease; (i.e. it could be termed without cause, additional fees that are not capped).

Chair Ontiveros asked if Ms. Lamoureux knew the average lease rates in this area. Ms. Lamoureux stated yes and the NTUA lease rates were about 50% higher than the average rate for the area.

Commissioner Clifford wanted to know about the repeater in the casino. Ms. Lamoureux said that is a device that is plugged into the wall and has a short-term lease, 5 years. A macro site is a permanent fixture, usually with a 25-50 years lease.

There are several leases involved, base lease and sub-lease.

Mr. Birtcher, attorney for Navajo Gaming Enterprise, Gallup, NM, wanted to back track and honed in on the Zoning Ordinance for Coconino County. The permit does not meet criteria for the ordinances in Coconino. He emphasized the ordinance regarding the of rankings, new facilities types, scenic corridor, and the least intrusive sites. Speaking to some points, there would be differences of opinion of the engineers, and does not feel like there is a gap in coverage. The lease is done so this makes a viable site that can be collocated on. Navajo Nation courts have many options that are negotiated between both parties because they both have businesses. There would be no economic development on the nation without businesses. Mr. Birtcher did not think it was cost prohibitive since other brand name communication companies collocate on NTUA towers.

Commissioner Walters asked if the sub-lease was under the terms of the base lease. Mr. Birtcher said the base lease is the master lease and can be renewed at 25 years, but it is not under the terms of the base lease. Commissioner Walters asked if Verizon could take this out of the Navajo Court if a dispute arose. Mr. Birtcher agreed that they could since Verizon is not subject to the sub-lease. A dispute resolution is possible out of the Navajo Court if negotiated with NTUA, it is not contractually prohibitive.

Mr. Moalemi, Gallup NM, general counsel for NTUA, is licensed in several states. The sublease is a complete packet for NTUA to sublet the tower to Verizon for collating. Mr. Moalemi wanted to identify that the Navajo Nation Courts are structured as any other state court. We want to make this work. The parties have talked and have a framework of a contract. NTUA rates have been reduced to make it in line with other rates and also reduced the rate to 2018 rates. Mr. Moalemi asked Ms. Lamoureux's permission to disclose some of the fees and she agreed. The 2018 rates are being honored with favorable discounts to Verizon. The fees are as follows: Annual Colocation fee \$2000 and Annual Processing Fees \$300. The lease term is 5 years and can extend to an additional four 5-year periods. We prefer to have tenants to stay as long as possible. This term is Verizon's request. Mr. Moalemi states he would make it longer if they wish. Chair Ontiveros wanted to know if these fees were included in the lease amount, if not it raises the amount about \$2300/yearly.

Commissioner Walters asked about the rate again. Mr. Moalemi stated for this specific site it was competitive for the area, not Navajo Nation as the rates are different on the nation. It is closer to I-40 and a higher traffic area. This is not a standard Navajo Nation rate.

Chair Ontiveros wanted more specifics on "the area". The competitive rates

Commissioner Best asked if you can call and get a private lawyer to work on the Navajo Nation. Mr. Moalemi said there are many in all the surrounding areas.

Commissioner Best asked how many towers are on the Navajo Nation. Mr. Moalemi said it was proprietary information, but there are many towers collocated on the nation.

Commissioner Ruggles only had one question to ask Mr. Moalemi to see if he thought this was a viable site and the attorney answered yes.

Commissioner Clifford asked about the rates for the Twin Arrows areas. How many other carriers are in the area? He wanted to know if the rates were within industry standards, within the national average, and how the lease amounts were arrived at.

Mr. Portino, Chandler, AZ has engineered rates on the Navajo Nation for last 10 years. He has worked with Verizon, ATT, and other carriers on leases. The casino area is a hot spot, along with being by the interstate. The rates are based on highway coverage, supply and demand, and location on the tower. The rate sheet can be provided. The rates have increased due to growth and development. Rates are determined by coverage, geographical areas, utilities, power, and other factors.

Commissioner Clifford asked how long it would take to finalize the lease. Mr. Moalemi stated the signatures could be obtained within 48 hours.

Commissioner Clifford asked why a short-term lease vs. the typical 25-year lease. Mr. Moalemi state Verizon wanted a 5-year lease with four 5-year extensions.

Chair Ontiveros asked if an agreement was signed, how quickly could Verizon locate on the tower. Mr. Broyles, Communications Systems Manager for NTUA, Window Rock, AZ stated as soon as a lease is in place, they have access to the space. Mr. Broyles stated

Verizon has the lease with the fees and has not heard back. He is willing to negotiate pricing. He cannot cap any fees placed by external parties, the Navajo and Hopi Land Commission. He can negotiate administrative fees. It is difficult to get carriers to the Navajo Nation, due to low populations.

Chair Ontiveros reviewed information thus far 1- a coverage gap has been determined 2- either we approve the tower or 3- deny the CUP because there is an alternative site.

Mr. Broyles reminded the Commission that NTUA had not presented their analysis yet and would like to have the opportunity since it differentiates from Verizon's analysis.

Commissioner Best stated it was already established that the Court and the BOS had determined that the coverage is equal. He does not feel that there would be any new information. Commissioner Ruggles agreed with the coverage issue and thought the Commission should consider the Through-Put information.

Commissioner Mayer wanted clarification on the lease terms and the lease amount.

Ms. Lamoureux agreed that the lease terms could be readdressed. Our lease rates came from area sites in Flagstaff and Williams and the NTUA amounts are 50% higher, along with the fees up to 55% higher. Ms. Lamoureux stated they could build a tower in 6-8 weeks, weather dependent.

Commissioner Ruggles said the presentation on the Through Put stated 15% difference with demands increasing, this is only part of it. The BOS did not look at or consider this point. We should provide the best service possible for the future

Commissioner Best thought NTUA should present and wanted a better clarification of Through-Put.

Mr. Kennedy stated it is speed and capability. He explained how the data traveled through the equipment and the quality and quantity of how it is received down the "pipe".

Mr. Portino explained his PowerPoint and how input data was shared. He focused on coverage. While there were signal variations, the service objectives were not affected.

Mr. Kennedy explained why his data was different as he did his analysis in 2100 MHz while NTUA used 700 Mhz.

Mr. Portino stated the focus area was incorrect on Mr. Kennedy's slide. Mr. Kennedy agreed with Mr. Portino. They both agreed with the 2100 MHz information.

Commissioner Clifford stated they were both coming up with the same information. Mr. Kennedy stated that other than the 3-5-mile area, the throughput would be the same.

Chair Ontiveros stated all things are equal other than that 3-5-mile area for the throughput.

A Break was called at 9:00PM and the Commission reconvened at 9:10PM.

Chair Ontiveros asked each commissioner for their questions. All Commissioners stated their questions had been answered.

**PUBLIC: NA**

**COMMISSION:** Commissioner Ruggles was satisfied that all technical questions had been answered. The Site is viable and available. Fees seem to be within reason since negotiations are continuing.

Commissioner Best thought on the technical side the sites are comparable. Viability is on target. Verizon is negotiating.

Commissioner Walters stated this has been going on for a while. A deal is underway but waiting to the end puts pressure on the Board and Verizon. What would the market rate

be if there was a tower in Toonerville? I would like the parties to come together and make a deal.

Commissioner Mayer thought the lease and technical issues have been resolved. Visual impact was not discussed but it does not seem to be an issue.

Commissioner Clifford thought the scientific data was available and agreed upon on both sides. It is time for Verizon and NTUA to come together and agree on a lease.

Commissioner Ruggles agreed that the comprehensive plan comes into play and NTUA site would be the best option.

Commissioner Best agreed with the first part is the Zoning Ordinances in making the findings.

Chair Ontiveros echoed all comments, saying all things are really equal in coverage, there is a less intrusive site. Is the cost prohibitive? Fees are 3<sup>rd</sup> party fees cannot be waived. The \$300/annual fee will be waived. It shows incredible faith in willingness to work on a contract. Fair market price is still not clear. NTUA is willing to negotiate rental price and the NTUA representative is willing to work on that. The Comprehensive Plan is very clear and guides us.

**MOTION:** Commissioner Best made a Motion to deny CUP-19-048.

**SECOND:** Commissioner Ruggles seconded.

**VOTE:** The vote passed unanimously.

Chair Ontiveros asked Aaron Lumpkin, County Attorney, what the next steps will be. He explained he would draft a denial letter to Sun State.

Mr. McNeely stated there would be a resolution sent stating the denial.

Commissioner Best expressed his gratitude with everyone and their patience during this long process.

#### **IV. CALL TO PUBLIC FOR ITEMS NOT ON THE AGENDA**

No one from the public spoke.

Chair Ontiveros adjourned the hearing at 9:32 pm.

#### **V. CONTINUATION OF STUDY SESSION IF NEEDED**



Chairperson, Coconino County  
Planning and Zoning Commission

**ATTEST:**



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Secretary, Coconino County  
Planning and Zoning Commission