



Agenda Item Number: _____

BERNALILLO COUNTY BOARD OF COUNTY COMMISSIONERS

Meeting Date: May 26, 2009

Department: Zoning, Building, Planning **Staff Contact:** Catherine VerEecke, Program Planner

TITLE: APPEAL: Special Use Permit for Amendment for a Special Use Permit to Extend an Existing Transmitter Antenna from 150 Feet to 190 Feet. (CO-90015/CSU-90015)

COUNTY PLANNING COMMISSION RECOMMENDATION:

Denial

SUMMARY:

At the April 1, 2009 public hearing, the County Planning Commission (CPC) voted (5-0; Commissioners Pacias, Melendrez excused) to recommend denial of the request for an amendment to a Special Use Permit to extend an existing transmitter antenna from 150 feet to 190 feet on Tract 104, Row 1, Unit A, West of Westland, located at 12505 Central Avenue NW, north of Central Avenue and west of 140th Street, zoned C-1 with a Special Use Permit for Specific Uses for C-2 Permissive Uses and a Transmitter Antenna, and containing approximately 4.45 acres. The decision was based on seven (7) Findings. (See Attachment 1--Notice of Decision.)

The subject property has had Special Use Permits since the 1990s. In 1994, the property received a Special Use Permit for Permissive C-2 Uses, including a mobile home, an office, and an area for storage (CZ-94-5). In 1998, the Special Use Permit was amended to allow the addition of a 150 foot Transmitter Antenna on the site (CSU-98-18). In 2002 and 2006, the Special Use Permit was amended administratively to allow co-location of wireless antennae on the existing tower. The subject property currently includes truck, vehicle, dumpster, and equipment storage, a mobile home, and the 150 foot high transmitter antenna with wireless antennae (See Attachment 2, pages 54-68). This request to increase the height of the existing antenna on the site from 150 feet to 190 feet requires a new Special Use Permit for the property on which it is located, per Section 18.C.2 of the Zoning Ordinance.

At the April 1, 2009 hearing, the CPC concluded that the request does not meet the requirements for the approval of a new Special Use Permit for the property. The CPC found that the applicant has not justified the request based on Resolution 116-86 and has not provided evidence of substantial neighborhood support as required by Section 18.B.32 of the Zoning Ordinance. In addition, the request does not comply with Section 22.5 of the Zoning Ordinance which states that wireless telecommunications towers must be concealed if they are located in a view corridor (the proposed tower, which includes a wireless telecommunications facility, is within a view corridor due to its location within 1/8 mile of designated streets—Central Ave and I-40—and the tower is not concealed). The CPC also found that other uses currently located on the site may

not be allowed under the existing Special Use Permit (See Attachment 1—Notice of Decision and Attachment 3--Draft CPC Minutes).

The applicant is now appealing the request. In the appeal justification, the agent states that the request to increase the height of the tower is consistent with Resolution 116-86, that no neighborhood opposition exists towards the request, and that Section 22.5 of the Zoning Ordinance does not apply to the subject property. In addition, the appeal document states that the owner of the tower is willing to work with the property owner regarding existing possible uses that may not be allowed by the existing Special Use Permit (Attachment 4—Appeal Application).

Criteria for Evaluating Zone Map Changes and Special Use Permit Applications

Resolution 116-86 (see Attachment 5) states that the applicant must demonstrate that the existing zoning is inappropriate because:

1. there was an error when the existing zone map was created; or
2. changed neighborhood or community conditions justifies a land use change; or
3. a different land use category is more advantageous to the community, as articulated in the Comprehensive Plan or other County Master Plan, the even though (1) and (2) above do not apply.

ATTACHMENTS:	PAGE
1. County Planning Commission Notice of Decision Letter (April 3, 2009).	3
2. County Planning Commission Information Packet	6
3. Draft CPC Minutes, April 1, 2009	74
4. Appeal application.	109
5. Resolution 116-86	118
6. Site Plan (Commissioners Only).	

STAFF ANALYSIS SUMMARY

ZONING, BUILDING & PLANNING:

Staff recommends denial of appeal.