



**PLANNING COMMISSION MEETING**  
**117 South Main Street, Monticello, Utah 84535. Commission Chambers**  
**November 09, 2023 at 6:00 PM**

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**MINUTES**

**GENERAL BUSINESS**

**Welcome / Roll Call**

PC Chair Trent Schafer called the meeting to order at 6:00 pm.

**PRESENT**

Vice-Chairman Lloyd Wilson  
Commissioner Johnston  
Commissioner Cody Nielson  
Commissioner Melissa Rigg  
Commissioner Ann Austin  
County Administrator Mack McDonald  
County Chief Deputy Attorney Mitch Maughn  
Board of County Commissioner Silvia Stubbs

**Pledge of Allegiance**

The PC conducted the Pledge of Allegiance

**Approval of Minutes**

**1. No Minutes to Approve**

**PUBLIC COMMENT**

Public Comment was offered for anything not on the agenda. Public Comment will be allowed for individual Administrative and Legislative Items.

No public comments were provided.

**LEGISLATIVE ITEMS**

**2. Consideration and Approval of a Temporary Conditional Use Permit Application for 78 East Markle, in Lasal, Zachary Feasby**

**Time stamp 02:00 (audio)**

Administrator McDonald explained the recommendation for the motions to allow a similar to the last planning commission. This application is to allow for temporary housing in a RV, while construction is taking place on the main home at 78 E Markle. There are two sections in our Ordinance that covers this use. The Temporary Use Permit which has been considered, as a temporary permit, Conditional Use and allows for no longer than six months with the possibility of extension. It can be extended for a maximum period of three extensions. Including in the Staff Report are possible conditions that you may consider, such as

*-Must comply with any State or Federal Fire Restrictions*

*-Must comply with all building permit requirements*

*-Must comply with San Juan County Health Department requirements and Utah State water system requirements.*

Administrator McDonald informed the commissioners that they would have to maintain a healthy property environment by making sure they don't dump raw sewage and maintaining the septic connection system if they had an RV. As far as the property location, the property is down the road from the main highway that comes through La Sal and the County Senior Center.

Administrator McDonald reminded the commissioners that in their staff report, if they did make a motion approving the Conditional Use Permit that they state those conditions as part of the motion. If they were to deny the Conditional Use permit they also have to state those reasons for the record for substantial evidence of why it is not been approved or have substantial evidence of why it has been approved.

Vice-Chairman Wilson asked if there were any public comment on the agenda item

Commissioner Rigg made the motion to approve it with three conditions.

*-Must comply with any State or Federal Fire Restrictions*

*-Must comply with all building permit requirements*

*-Must comply with San Juan County Health Department requirements and Utah State water system requirements.*

Commissioner Nielson had a comment about what building permit requirements they were asking for.

Administrator McDonald explained that if they were to connect electrical and water on the property, it would need to be inspected, to prevent backflow and ensure it has the proper connections. If they have their own water system, they have to make sure it is covered, as well as if they tried to connect to the septic system for the home. If he were them, he would also be building that for the RV parking, if it has the drainage system, it was to meet the building requirements for the building inspection.

Vice-Chairman Wilson asked for a second to the Motion.

Commissioner Johnston seconds the Motion.

Voting Yea: Vice-Chairman Wilson, Commissioner Johnston, Commissioner Nielson, Commissioner Walker, Commissioner Austin, and Commissioner Rigg.

Motion Carries.

**3. Consideration of an Approval of a Conditional Use Permit Allowing for a RV Park / Wedding Venue for 1515 Highway 46, Old La Sal, Timothy Lankford**

**Time stamp 08:16 (audio)**

Administrator McDonald explained how Lankford is planning on naturalizing the existing uses that are on the property as part of the resort and will be adding twelve RV sites, a community restroom, 50 foot by 150 foot pond, and they will be naturalized for fire mitigation, and to have a backup plan for additional water. They are also establishing another 75 foot by 100 foot pond, including a pergola and barn-dominium in that design. The site is comprised of two parcels. One is usable and the other is more of easement type property. It is in an A-1 zone that is Conditional Use. The property is located by the Highway.

Vice-Chairman Wilson asked to see the map, he believes the property is commercial zoned since each property next to it is commercial. He pointed out that one of the properties in the past was close to the highway within the Highway Commercial designation, where a piece of commercial touches the lot that he was on and they did a Conditional Use on it since it was within the A1 zone where this is permissible in the Commercial Zone.

Administrator McDonald showed how the highway goes through La Sal reaching out to Old La Sal.

Vice-Chairman Wilson showed how the commercial zone (everything in the light gray) there were never any gaps. That makes the light gray a Highway Commercial Zone.

Administrator McDonald read the Highway Commercial Conditional Use list to the Commissioners. It has including restaurant or drive-in café, motels, new and used automobile agency, farm machinery and equipment sales, nurseries and greenhouses, mobile home sales, mobile home park, drive-in theater, bowling alley, other commercial recreation facilities, automobile service station, auto accessories, accessory buildings and uses, other uses approved by the Planning Commission as being in harmony with the intent of the Highway Commercial Zone and similar in nature to the above listed uses.

Vice-Chairman Wilson believes that because other uses approved by the Planning Commission as being in harmony with the intent of the neighborhood, the commercial zone is similar in nature to the above listed uses.

Administrator McDonald pointed out if you came to look at it, it is in harmony, with similar intent and purpose of adjacencies in the neighborhood and it should be within a Highway Commercial Zone. If it gets into the gray area, in that case, they will have to consider re-designating the use in the zone. Instead of Conditional Use, you would have to consider whether or not it is a permitted use. Then you would be approving that use at that time. You can approve it as a Conditional Use, that is something you might want to consider.

Administrator McDonald said that Mr. Lankford originally had more than twelve RV stalls on the property and twelve in a rural area and, according to the Wildland Interface and Fire Code, it allowed for that twelve and under to not be connected to the public system. He believes that the barn-dominium and the existing building would also be included in that count. The property would have twelve RV stalls, barn-dominium, water, and septic. The existing use is already in place and is on its own septic system. With this approval, they would have twelve RVs, restrooms, and barn-dominium's using water and drainage that would total fourteen units that will add to the water and septic systems.

Vice-Chairman Wilson mentioned that there is a lesser volume when connecting RVs and is not considered a full single use. He believes with the Division of Drinking Water that's where the change from personal well to commercial well exists, which would include sampling and testing.

Administrator McDonald explains why he is worried about the additional uses. It makes sense for him that the original twelve RV's could stay, but once you add the barn-dominium, and the public restrooms, that count would have to be included in the capacities of the current septic system.

Commissioner Nielson asked to know how big the parcel is.

Administrator McDonald informed the commission that the parcel is 11.03 acres and is really spread out. By looking at the septic considerations, percolation, and cleaning of the waste through that system, by adding more of those units on there, pushing more water, that could become an issue.

Vice-Chairman Wilson said it could actually be motion on this. It seems that the Wildland Interface code falls back on the Building Department. The water falls back into the Division of Drinking Water or Water rights.

Administrator McDonald said that if considering it as the conditional use, that's where he would indicate as one of the conditions, to coordinate with the Division of Drinking Water to avoid a public water system or the creation of public water system and pass that off through the County Administrator, that way they don't necessarily have to come back to the Planning Commission. If approved by that condition, then he can go through, do the investigation with them just to make sure that it's okay to have all those structures on one system. They might come back and say you are required to have two. Commissioners added language that it must comply with the Health Department requirements and the Utah State Water System requirements, including having an engineer design the appropriate septic system for their uses. In the past they have allowed developers or individual property owners to develop their own septic system as long as they followed the public health inspector requirements. Anywhere outside San Juan County require engineering to be done. Engineers make it formalized to where you actually have somebody that's certified to design septic systems design. If there is a situation where that wasn't the case and they have systems installed and new inspectors go in and inspect and they don't pass. Then they can ask for a complete redesign.

Vice-Chairman Wilson advised to change and get rid of the word engineer and certified designer. Certified would be fine because there is a difference between an engineer's other title such as "environmental scientist".

Administrator McDonald agreed since the environmental scientist can actually design without being an engineer. He advises that if they are going to keep it as Conditional Use, it doesn't necessarily mean it is going to create a standard going forward.

Vice-Chairman Wilson stated that in the same notion, it is permissible and is no different than what would be required as a permissible use. It is still a "go" within what you are supposed to do.

Administrator McDonald thinks that they put it more for staff as well. As they go forward with the building permit, they have this permit, tied to the property. No matter if you were to go for a building permit, he would hopefully check off all these items.

Commissioner Rigg asked Administrator McDonald if he knew what they meant by cabin sites.

Administrator McDonald told commissioner Rigg that Mr. Lankford had that on there, and then it was denoted kind of by a different square. Commissioner Rigg pointed out that there was a square in the upper left of the map. When he looked at his site plan on the map, it didn't show any additional cabins. He pointed on the corner of the map and Mr. Lankford denoted that it was the pergola and that there were no other cabin sites shown on the site plan. He figured this square in the corner represented the restrooms.

Commissioner Rigg understood that Mr. Lankford has on the right-side RV's and left cabins along with Commissioners Wilson and Nielson. Administrator McDonald read on the detail request it said RV's and Cabins. Made him think whether RV's or Cabins still qualifies as A1. It is an allowable use as a resort. Vice-Chairman Wilson meant to say that permissible is the same as conditional use. But it's permissible with conditions.

Commissioner Rigg asked McDonald why all the documents about water were included.

Administrator McDonald said that Mr. Lankford included the documents mainly to know that he does have water sources on the site. He has existing wells that are already established, that he has water rights to. In the case that it was a concern of water availability, that's the only indication that it has its own well and with additional water resources if he was watching the previous application for Ballard. Ballard had the pond up there that he was also going to be using for a resource for firefighting, if there were ever a fire in the area.

Administrator McDonald explained how it looks like it's already an established wetland area and he's going to make that more of a pond and a spring. He has firefighting capabilities with wells, and he has water capability. It just needs to be confirmed with the Division of Drinking Waters, is it a public water or a private water source. When does it meet the threshold into public water? He has water availability there.

Commissioner Nielson mentioned it was curious for him because the health department doesn't go by buildings or bathrooms, they go by bedrooms. He was just surprised it doesn't go more off a standard. Commissioner Wilson explained it is one of the last codes of the State of Utah

that goes off of the number of bedrooms. Administrator McDonald replied that it would need to get fixed, by getting someone else to design, certified, and stamp so they were more in compliance throughout the state.

Vice-Chairman Wilson asked if anyone would like to make a public comment on this item. No public comments were provided.

Commissioner Austin asked if it was A-1 or if it was Commercial. Administrator McDonald said it is classified as Agriculture, which is not necessary to imply that every property owner understands where the cutoff lines are.

Vice-Chairman Wilson said, if they are going to make a motion on it, they would continue as a Conditional Use within the A-1 as was submitted into the agenda.

Administrator McDonald informed that Zoning either way allows the Conditional Use process to be applied or Conditional Use. He doesn't see a harm being as a Conditional Use, that stays with the property. Whereas the permitted use you don't have to have does conditions, but he would worry about not having some of those conditions like mentioned. They can also permit use conditions on that; they will see that again later on the agenda. We are going to permit you this use, here are some conditions you'll have to comply with. To allow that permitted use to be in harmony with the zone.

Vice-Chairman Wilson stated that nine out of ten permitted uses don't come to them unless there is a question about it. Administrator McDonald said if you look at SB174 that just came out this last year. There is a big legislative push to get more of this into the administration's hands and less in the Planning Commission. It's not to circumvent any system, what is it, you take some applicants who take months and months to get through us, like the Overnight Overlay Districts, or you change the zone one month and the next month you're back in. We only meet twelve times a year, you figure you have to go through all those steps. That's five meetings, essentially, that they have to go through, after the zone change, to go through the process and legislatures are seeing this across the board. You will quickly see a new subdivision ordinance coming out for the county, to catch up with that. For most counties, the bigger counties, are due by the end of December to have this new zoning ordinance and new conditions placed in there. We're not on the list, but we figure we're at it, might as well get it in there and fix that as well. It's kind of the mantra, the State Legislators to stop with these arduous processes. That's why I didn't defer back to the Planning Commission to check this off. Administration can handle that or if we had that Land Use Administrator would go to them.

Administrator McDonald advised they can consider additional conditions. If they don't want to have the cabins compared to the RV stalls, they can place that on there or there's always that option to upright deny or even the table the discussion.

Vice-Chairman Wilson motioned to vote based on the Conditional Use permit with the following conditions:

- *Must coordinate with the Division of Drinking Water to avoid a public water system or the creation of a Public Water System and pass that off through the County Administrator*
- *Must comply with any state or federal fire restrictions*
- *Must comply with all building permit requirements*



- *Must comply with San Juan County Health Department requirements and Utah State water system requirements. Including having an engineer design the appropriate septic systems for the uses.*
- *Must comply with San Juan County business license requirements.*

Commissioner Johnston made the motion approving the Conditions with the change that the language “Including having an engineer design the appropriate septic system” for the uses to be changed to “including having a certified designer design the appropriate septic system”

Administrator McDonald said just a point of order Chair, you had mentioned that he wanted that engineering, engineer removed will have it removed in that language there and if you want to amend your motion to include that.

Commissioner Walker seconded the Motion.

Commissioner Johnston made the motion to make it a certified design.

Vice-Chairman Wilson clarified John has added all of administrations recommended Conditions into this motion, excluding the word engineered to certified designer for the septic systems.

Voting Yea: Chairman Johnston, Vice-Chairman Wilson, Commissioner Nielson, Commissioner Rigg, Commissioner Walker and Commissioner Austin

Motion Carries.

#### **4. Consideration and Approval of a Conditional Use Permit for R22 East Radio Hill Road, Verizon Wireless Tower, Technology Associates EC**

##### **Time stamp 37:38 (audio)**

Administrator McDonald explained that the County has received a request from Troy Benson (present), an agent with Verizon Wireless, for the installation of a 150-foot-tall lattice tower in the A-1 Zone. The A-1 zone ordinances do currently allow for a Conditional Use for radio and television transmission towers. The county has worked with their attorneys to come up with an additional staff report to be reviewed by the Commission. It is necessary to have a discussion of the findings of facts, as part of the approval record for the Conditional Use permit.

Administrator McDonald pointed out a few items in particular to note. It is important to remember that the general plan is supported by the public and adopted by the County Commissioners. That plan should evolve with staff direction as well as ordinances. In our General Plan, it is pointed out that broadband infrastructure is a critical need and an essential function in our county. Part of the General Plan discussions were to further economic growth and expansion. Broadband is a large part of the economic development availability. There are still missing areas within the County, and this is one of those missing areas to be able to access broadband. In our 5-year vision, broadband was identified as a key hurdle for rural businesses. In our 10-year vision, broadband would open opportunities for telework, access to telehealth services, and public education to have access to broadband. Towers bring that high-speed internet, which is your federal qualifier for access to broadband. There are 26 typical permitted uses with commercial, of which these cell phone towers would support, including basic healthcare and educational opportunities and essential services. Similar to water, power, sewer,

in our communities - the internet is now becoming an essential service to operate a community. This summary covers both cell phone tower discussions on the agenda.

Administrator McDonald went on to further explain that there is a Federal Code allowable use in Zoning as part of the Telecommunications Act which prohibits zoning from excluding cell phone towers, in essence that cell phone towers shall be allowed within zoning. There have been several court cases that have gone to trial and lost. However, there is the ability to place restrictions on cell phone tower projects, such as zoning to specific areas, height requirements, types of towers, lights, colors, etc. This Federal law pushes down to state and county ordinances and codes.

The staff report concludes findings that the proposed tower will have a positive beneficial impact on the economies, security, safety and welfare of San Juan County residents and businesses. The security aspect is important to note in the event of systems failure. For example, during the eclipse there were areas recognized as “dead zones” and those were mitigated with a temporary “cell tower” rental for the event. We also had the 800MHz State Emergency Operations System. Within just a few hours all the temporary portable cell phone towers had failed. This was a critical emergency communications break in that we had county and state Fire, EMS, Sheriffs, Highway Patrol, and FEMA. Then our 800MHz also failed. The only thing that was reliable was the old VHS system. The point of sharing this event is to stress the importance of having more of these cell phone towers to provide more access across our county. The permanency of these systems will help to avoid these types of situations in our future. The old systems, such as the 800MHz radios, lose service in concrete buildings, such as in the event of an active shooter within a school building. The new radios have a built-in automatic WiFi connection that will switch over to the building WiFi system and maintain communications. Broadband services will support emergency services, schooling and telework opportunities. The state is pushing to send more employment opportunities into our rural Utah communities.

Item #2 of the staff report states that the proposed tower has unique characteristics which are appropriately addressed with conditions as part of the conditional use permit.

Item #3 of the staff report states that the proposed tower furthers a priority objective of the 2018 San Juan County General Plan to increase broadband capacity to promote economic development and enhance public health and education.

Item #4 of the staff report states that the construction and operation of the tower will not be detrimental to the health, safety or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity.

Item #5 of the staff report states that the construction and operations of the tower will comply with the intent, spirit, regulations, and conditions specified in the County land use code for such use and the zoning district where the use is to be located, as well be harmonious with the neighboring uses in the zoning district. Additionally, the project will comply with all federal regulations which protect and conserve San Juan County resources.

Item #6 of the staff report states that the proposed 150 feet height of the tower exceeds the maximum 35 feet in the San Juan County land use ordinance. Consequently, the tower will require a variance. We are this evening, working on that variance process.



Conditions for consideration include the following items:

- Prior to construction, the applicant shall apply for and receive a San Juan County building permit.*
- The applicant shall apply for, receive, and maintain a San Juan County business license and be subject to regular inspections associated with the business license – to include a review of compliance with the CUP conditions.*
- The construction and operation of the tower shall comply with the International Fire Code and the San Juan County Fire Policy – and be subject to inspection by fire authorities.*
- The tower shall be operated in compliance with federal regulations.*
- The tower shall not be used for outdoor advertising, signage, or similar uses without first obtaining permission from San Juan County.*
- This permit shall be null and void if the tower is abandoned as a telecommunication facility or the tower is not maintained for 90 days. After abandonment or non-maintenance, the tower shall be removed.*
- Any neighbor or adjacent property owner or person reasonably expected to be at or near the facility during construction, maintenance, or other activity which has the potential to harm an individual shall be informed of the activity and provided with safety information, as appropriate.*
- The facility shall be kept clean and free from rubbish, flammable waste material or other noxious or nuisance substances.*
- The tower will require a variance from the San Juan County land use code which establishes a maximum height for structures at 35 feet.*

Vice-Chairman Wilson asked about business licenses using this tower as a tool towards their business even if their business is located in another part of the State/County. Do they need a business license for every area that they are putting in new towers?

Administrator McDonald explained that for any entity, they would need to obtain a business license from the County if it is not already in a City.

Verizon has a store in Blanding and another in Moab. But we don't have a business from Verizon itself as providing this service. In our code we allow that if they exist in a City they wouldn't have to get a County business license. But the City business license is only covering their retail stores and not the towers.

Commissioner Nielson explained the tower situation in Blanding with a red light on a radio tower, then several other towers came in also with lights. One of the towers became unmaintained for the most part, and the tower fell over. We used to drive home to the red light, they have always had a tall tower there.

Commissioner Austin asked for clarification of the "Specific Characteristics" of this tower project. Administrator McDonald reviewed the tripod design of the tower with the commission, placement of the generator, etc. Due to the nature of the tower design, it is hard to classify these communication towers as a "structure". The tower proposed in Spanish Valley had a height of 150 feet as well. Otherwise, this tower only has a generator associated with it and no out buildings.

Tony Benson stated that typically the towers are for Verizon but verified that this tower would also be available for other carries.

Commissioner Nielson commented that he had a problem with the proximity of this tower being within the same circle of another tower previously built. This tower would expand service, but it is not really closing a gap. There are so many holes in San Juan County. Across Navajo Nation Reservation there is better service than there's ever been until you hit the County. There are still huge gaps, such as the bottom of White Mesa Hill, etc. It would be nice to have something come in to fill the emergency voids in San Juan County as far as communications are concerned.

Vice-Chairman Wilson asked if there were any public comments regarding this item. There were no public comments.

Tony Benson addressed the propagation of the project being rooted in the coverage gap between Monticello and Blanding along the highway. The attorney has asked for additional information on that coverage gap, which will be provided before the variance is approved. They have Verizon's detailed information, but it has yet to be released. Administrator McDonald followed up by saying that this information is needed to justify the heights from 35 foot and up of the tower.

Commissioner Rigg stated that she had a problem with the height of both this tower and the next tower on the agenda. She doesn't see a justification of the height in either tower. If existing towers are only 50 to 80 feet, why do we now need towers that are 125 to 150 feet. Tony Benson responded that Verizon is trying to close a very large gap on the highway, which is quite a distance from the placement of this tower. In order to get the line of sight necessary for that coverage, this tower needs to be higher up. Commissioner Austin pulled a reference stating that for every 100 feet of height gives you between 1-1 ½ miles of coverage. Benson stated that it depended on the area of coverage. In denser urban environments, you'll see shorter towers. But in an area like this with a long spread between people, taller towers are needed to gain line of sight.

Commissioner Austin mentioned she found information in her research regarding the height of towers. Various Communication Towers have different information regarding tower height and interference. She looked at Anderson Engineering's documentation on height.

Commissioner Nielson referenced a point when we first got cell service in San Juan County. One of the first towers, there were problems with reception and interference. Where this tower is already on a hill may provide for better service behind Recapture.

Administrator McDonald redirected the discussions to not be too caught up on the height as much as the use itself. The variance process allows for an applicant to go through and see if they can get a higher tower outside of the 35 feet. One of the things, we want to avoid, is to deny the application based off of the height because our ordinance allows for that to go through a variance process, which doesn't involve the Planning Commission, and has its own formal State Code and regulated process. So, if it is not allowable use, that is really what we are considering at the moment. If it is allowable, under what conditions would you place this use.

Commissioner Nielson stated that he thought this was a good placement for the tower and that there had always been a tower in this location. He further went on to discuss the difference between this tower and the proposal in Spanish Valley are different in that Spanish Valley's is in the center of their community. This proposal is not that.

Commissioner Austin wanted to make sure they had assurance that Verizon is going to be able to reach the goal of closing the coverage gap. Benson stated the large investment of Verizon in such an undertaking and that there had been significant research done to ensure this area would be effectively reached. Commissioner Austin also asked about the condition of the existing tower creating redundancy. Benson explained that this tower would pick up where the old tower left off. In an urban environment, towers would be approximately every half mile apart. In this case, Commissioner Nielson estimated that the towers are 6-8 miles apart. He stated it is a substantial distance between them and that we needed more towers.

Administrator McDonald reminded the commission that the Conditional Use Permit is only good for one year. The construction of this tower would have to meet the conditions of approval within that time unless an extension is granted.

Commissioner Austin was concerned about the long-term maintenance inspections, without having County resources to complete inspections over time. Benson stated that every tower is reviewed by a structural engineer, a proper building permit application will be filed. He stated that the towers are typically over-engineered to receive a load much more than what they planned to initially be installed on it.

Administrator McDonald referenced the previous condition that the permit is null and void if the towers are not maintained for over 90-days. So that gives the company a push to always maintain as an operable tower. Commissioner Rigg would like to change the wording to be more active in that "the company must remove the tower" if in this situation.

Commissioner Nielson asked about the time period that a landowner is under contract with Verizon. Benson stated that the property owner has leased the land to Verizon for 25 years with a renewal agreement unless terminated. So, once they build a site, it's there to stay.

Commissioner Walker motioned to vote based on the conditions as follows, with the change in the language adding that if the tower is abandoned or for non-maintenance that the tower shall be removed by the Applicant/Company as presented:

*-Prior to construction, the applicant shall apply for and receive a San Juan County building permit.*

*-The applicant shall apply for, receive, and maintain a San Juan County business license and be subject to regular inspections associated with the business license – to include a review of compliance with the CUP conditions.*

*-The construction and operation of the tower shall comply with the International Fire Code and the San Juan County Fire Policy – and be subject to inspection by fire authorities.*

*-The tower shall be operated in compliance with federal regulations.*

*-The tower shall not be used for outdoor advertising, signage, or similar uses without first obtaining permission from San Juan County.*

*-This permit shall be null and void if the tower is abandoned as a telecommunication facility or the tower is not maintained for 90 days. After abandonment or non-maintenance, the tower shall be removed by the Applicant/Company.*

*-Any neighbor or adjacent property owner or person reasonably expected to be at or near the facility during construction, maintenance, or other activity which has the potential to harm an individual shall be informed of the activity and provided with safety information, as appropriate.*

*-The facility shall be kept clean and free from rubbish, flammable waste material or other noxious or nuisance substances.*

*-The tower will require a variance from the San Juan County land use code which establishes a maximum height for structures at 35 feet.*

Commissioner Austin seconded the motion.

Voting Yea: Chairman Johnston, Vice-Chairman Wilson, Commissioner Nielson, Commissioner Riggs, Commissioner Walker and Commissioner Austin

Motion carries.

**5. Consideration and Determination of a Permitted Use in the Highway Commercial (HC) District for a Telecommunications Tower to be located at 4326 East Sunny Acres Lane, Tower Development.**

**Time stamp 1:15:30 (audio)**

Administrator McDonald explained that within the staff report this was set as a Conditional Use for Spanish Valley, but it is not. It has been corrected on the Utah Public Notice website as well. The proposal is for consideration and determination of a Permitted Use in a Highway Commercial District for a telecommunications tower to be located at 4326 Sunny Acres Lane. Within the staff report, the County has received a request from Tierney Rowe, Vice President Tower Development to consider a 125-foot Telecommunications Tower to be placed in Spanish Valley located in the Highway Commercial Zone close to Highway 191 and Sunny Acrea on Parcel 26S22E3454126 behind an existing residential use property within this zone.

Administrator McDonald further went on to discuss the uniqueness of this project. While similar to previous discussions of why there is a need for broadband, the summary of this project stated the planned telecommunications tower will be developed and owned and operated by Infra Towers LLC (not the property owner that this is being placed on), working in cooperation with Verizon Wireless. The tower will be a 125-foot monopole with a 5-foot lightning rod. The constructed tower will comply with the International Building Code, International Electrical Code, and related architectural and engineering codes and standards, and will also be regulated by the federal agency rules and requirements. Infra Towers LLC will also be subject to the San Juan Building Permit and Fire Code, business licensing requirements. The tower will mitigate a gap in services in the vicinity. The tower will enhance service in Spanish Valley within San Juan County where enhanced remote capabilities and digital connectivity has been shown to increase productivity and innovation of companies and workers, improved connection to platforms for students and teachers, help to provide access to Telehealth providers and clinicians with access to continuous real time patient conditions and analysis. These services improve patient outcomes and reduce costs. This also provides accessibility to emergency responders to fast and reliable communication with 911 and dispatchers, reducing emergency response time and allows for better call location and accuracy. In the findings we have here is the Infra Towers LLC, telecommunications tower located at 4326 Sunny Acres Lane, Spanish Valley will benefit economic development,

healthcare and emergency response services, and remote work and educational opportunities in San Juan County. The proposed tower supports the important objectives of the 2018 General Plan, as previously discussed. The proposed tower is a permitted use in the Spanish Valley Highway Commercial District for the following reasons:

The proposed tower meets the purpose of the highway commercial district which governing ordinances specifically refers to the 2018 San Juan County General Plan by improving broadband services and infrastructure in the county.

The proposed tower is similar in purpose, intent and use to the following listed permitted uses in the Highway Commercial District: general services, governmental facilities and business activities.

Specifically, the proposed tower provides an important independent general service to the San Juan County Community.

Specifically, the proposed tower as regulated and supported by the Federal Communications Committee and is associated with government services and facilities.

Specifically, Infra Towers LLC with this planned tower is part of the telecommunications industry and will be part of the San Juan County Community of business communities.

In summary, this proposal for a telecommunications tower at 4326 Sunny Acres Lane is seeking approval for permitted use in the Highway Commercial District. Administrator McDonald explained that the Spanish Valley Ordinances that we are working with right now in the Highway Commercial District, where the proposed tower is to be located, governs land uses in that district (Chapter 6) which includes a list of typical uses permitted for that zone. In here a telecommunications tower is not listed along the Highway Commercial District typical uses. However, Chapter 6 states that the list is not exclusive and that any use not listed but determined by the Planning Commission to be similar in purpose, intent, or use shall be permitted. The Planning Commission needs to determine if this use meets in harmony with that zone intended it to be in Spanish Valley.

Vice-Chairman Wilson asked if there were any public comments regarding this item. There are no public comments on the matter.

Commissioner Rigg asked if it was possible to have a public hearing? Administrator McDonald said that it was up to the Planning Commission how to move forward. He explained that on a Conditional Use it gives the ability for the Planning Commission to have a public hearing on a conditional use but was unsure on if it was possible for a permitted use. As the governing body, the Planning Commission acts on the zoning ordinance that is established by the Board of Commissioners who sets the zoning and is it possible to push towards a public comment or public hearing with notice, but it also allows the Planning Commission to consider other uses not defined in zoning as a permitted use. One of the reasons brought before the Planning Commission previously was to get further reach and notice to the public. It was previously listed as an agenda item as a discussion, which was specifically intended to alert anybody in the County that there is a tower coming, especially within Spanish Valley. We have had that process and heard the applicant through that. This is essentially the second time that this tower and location has been brought to the Planning Commission. Those who

typically pay attention to what the Planning Commission approves of, they already receive notice on the Utah Public Notice and are very active in reaching out and sending comments to Planning Commissioners. There's already been those two public meetings that have taken place. Most of the public following Planning Agendas also know that we allow for comments to be submitted in the Planning Commission meeting for agenda items. Essentially, we've already had two public processes. This has been well known and given notice. As the ordinances have already given the Planning Commission the right to determine if this use is permitted, the Board of Commissioners have already given the zone the designation for the Planning Commission to make that judgment call.

Commissioner Rigg referenced that the previous meeting and Staff Packet made it quite clear that it's not a permitted use. There was some ambiguous language about the residential zone. The language in the Highway Commercial pushes this back to the Planning Commission and goes to the variance process for height. There are very minimal height regulations in the Spanish Valley residential piece. Current zoning allows for additional uses to be added as permitted but it is up to the Planning Commission to determine that.

Vice-Chairman Wilson stated that he had spoken with 50-60 people about this project and that most were excited about the proposed tower. He himself lives in a dead zone and the potential of this tower would change everything for them.

Commissioner Austin asked to view the map again for the coverage area.

Commissioner Nielson asked for a topography comparison of various heights of towers, such as what does a 80-foot tower do versus a 120-foot tower and what coverage is lost or gained.

Vice-Chairman Wilson explained the elevation gain between Moab and Spanish Valley at about 800 feet. From the base of Spanish Valley to the edge of the map provided is estimated another 900 feet. He reinstated that he has not heard any complaints from residents about this project.

Vice-Chairman Wilson reaffirmed the importance on even his own property with such limited coverage. The use of it would be beneficial.

Administrator McDonald stated that the property owner has also spoken with neighbors in the area and she has said that there was some discussion but no one has been outright against it.

Commissioner Rigg reinforced the concern for height, but Vice-Chairman Wilson reminded all of the fact that they need to focus on the permitted use and if towers can be allowed as a permitted use.

Commissioner Austin was asked about her relevant community and if the towers there are noticeable. She stated that this was a giant obstacle right on the highway and Sunny Acres. She also referenced that the STILA parcel within Spanish Valley would need this. She further went on to state that she felt whatever they are going to build should only be built once, instead of having a bunch in the future.

Commissioner Walker commented that the location of the tower base is within an industrial park and that it fits into that.



Commissioner Nielson made a motion to approve this is in with harmony with the zoning and finds that a telecommunications tower proposed by Infra Towers the San Juan LLC at 4326 East Sunny Acres Lane in Spanish Valley is a permitted use in the Highway Commercial (HC) District.

Commissioner Johnston seconded the motion.

Voting Yea: Chairman Johnston, Vice-Chairman Wilson, Commissioner Nielson, Commissioner Walker and Commissioner Austin

Abstaining: Commissioner Rigg

Motion Carries.

Infra Towers representative, Tierney Rowe, explained on her way out that this tower would not be exclusive and the goal was to limit the amount of towers to be built by accommodating all carriers including the four major carriers: Verizon, AT&T, T-Mobile and Dish. The tower will be structurally able to accommodate all four if they wish to place equipment.

Vice-Chairman Wilson asked the representative about the bottleneck of service and coverage during times to high demand, such as Jeep Safari weekend. Rowe explained that this tower would help both with coverage as well as capacity of bandwidth.

Commissioner Nielson asked about rights of use. If the proposed towers are approved, what is the agreement between companies to have several carriers on one tower. Rowe explained that her company works a little differently in that they own the structure and then lease the space to the various carriers. There are two main models for telecommunications towers: one where the carrier themselves own the tower (as the proposal prior to this discussion) or this model of having the tower built by a third party and each carrier leases that space.

Commissioner Rigg suggested that we try to get ordinances in place for the shared space of telecommunications towers. She also questioned if a moratorium was possible at this point until those ordinances are sorted out and adopted.

Administrator McDonald advised that many of these telecommunications tower projects are being funded through federal and grant resources. Those resources are timely and a moratorium would open up the Planning Commission to potential legal issues. There was also a public comment on the height of the power lines already existing in Spanish Valley in comparison to this proposed tower. There were concerns over the expanding growth of the area and the capacities of the carriers. There are other towers with San Juan County, such as the tower near Navajo Mountain, that are not allowing collocate on their structure. Writing an ordinance to address this will have to leave room for their structural engineers to state whether or not the structure can handle it while trying to get more carriers, capacity and coverage. Funding is a critical component to many of the tower proposals coming through the Planning Commission to address the service area "Dead Zones".

Commissioner Austin asked about why it is important to know if they are using State and Federal funding. Administrator McDonald explained that the funding is not forever and for specific timeframes. Sometimes this means that the County may be leasing land for these telecommunication tower projects but timing is critical to the installation of the infrastructure using these funding sources.

Administrator McDonald also noted that the decision to permit the project this evening is allowing the project to move forward to the variance process, which would include height discussions. There is an additional step with the variance authority that evaluates the benefit or detriment of the proposal to the community.

## **BUILDING PERMIT(S) REVIEW**

### **6. November Building Permits**

**Time stamp 1:59:40 (audio)**

There are no building permits to review at this time.

## **ADJOURNMENT**

**Time stamp 2:04:00 (audio)**

Motion to adjourn was made by Commissioner Walker.

Seconded by Commissioner Rigg

Voting Yea: Chairman Johnston, Commissioner Wilson, Commissioner Austin, Commissioner Nielson, Commissioner Walker and Commissioner Rigg

Motion Carries