

WRITTEN RECORD OF THE PINAL COUNTY BOARD OF SUPERVISORS

DENYING SUP-028-23

With respect to SUP-028-23 (the “**SUP Application**”) The Pinal County Board of Supervisors (the “**Board**”) makes the following findings in recognition of 47 USC § 332(c)(7)(B)(iii), which provides that, “[a]ny decision by a State or local government or instrumentality thereof to deny a request to place, construct, or modify personal wireless service facilities shall be in writing and supported by substantial evidence contained in a written record.”

1. **Adverse Health Concerns Not Considered.** In rendering its decision, the Board has specifically excluded from its consideration or reasoning for denial of the SUP Application any and all comments, statements, submissions, and any other materials or information regarding any potential adverse health concerns or effects over radio frequency (RF) emissions, recognizing that, “[n]o State or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Commission's regulations concerning such emissions.”<sup>1</sup>
2. **Public Protest/Aesthetics.** The Board finds that SUP Application was met with tremendous non-health concern related public opposition with respect to the specific adverse aesthetic/visual impacts of the proposed wireless communications facility (the “**Tower**”) on nearby property.<sup>2</sup> For example, in addition to public opposition expressed vocally during the public hearing in this matter, the Board received a Memorandum in Opposition filed on behalf of fifty-seven individuals (the “**Memorandum**”), which includes approximately one-hundred (100) opposition letters relating to aesthetic concerns. The Board further finds that the concerns raised are from property owners who have indicated in first-person perspective and compelling detail how they will be personally, directly and adversely affected due to the negative aesthetic/visual impact of the Tower if the SUP Application is granted and do not merely evince an opposition to wireless communications facilities in general, but are grounded in the specifics of this case.
3. **Public Protest/Property Values.** The Board finds that the SUP Application was met with tremendous non-health concern related public opposition with respect to the specific adverse impacts on nearby property values.<sup>3</sup> The Board further finds that such concerns were raised by property owners who have indicated they will be personally, directly and adversely affected by a decrease in property values if the SUP Application is granted.

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<sup>1</sup> 47 USC § 332(c)(7)(B)(iv).

<sup>2</sup> See Pinal County Development Services Code (“PCDSC”) § 2.151.010(O) (stating that, “[a] property owner may adequately demonstrate compliance with the intent of the goals and policies of the comprehensive plan but receive denial because unusual circumstances exist or because of public protest pertaining to the special use request.”)

<sup>3</sup> *Id.*

Said concerns are supplemented and supported by statements and letters set forth in the Memorandum from real estate professionals in the local area, and are, therefore, grounded in the specifics of this case and are not generalized concern over potential negative effects on property values.

4. **Lack of Hard Data - Insufficient Evidence to Establish a Need for the Proposed Tower at the Proposed Location.** The Board finds that the applicant for the SUP Application has failed to present meaningful, hard data and probative evidence to even remotely establish a need for the proposed Tower at the proposed location, as opposed to possible less intrusive viable alternative facilities or locations; that the Tower must be built to its proposed height; or otherwise that approving the SUP Application would be the only feasible means to fill a significant gap in coverage or remedy a capacity deficiency; and that there are no other potential solutions to do so. For example, although the SUP Application includes purported coverage maps and a letter from T-Mobile stating that they are seeking to install the Tower for the purpose of “improving [T-Mobile’s] coverage and expanding [its] network capacity to meet customer demand throughout Pinal County”, the same are inherently void of probative value and not supported by any actual hard data, such as denial of service records or drive test data. The Board further finds that, based on the non-health concern related testimony and evidence presented by the public, and the lack of meaningful data and probative evidence from the applicant to the contrary, the applicant has failed to show that a denial of the SUP application would materially inhibit the provision of new or additional telecommunication services or improve existing services in the area.
5. **Granting the SUP Application is Not Consistent With Local Zoning Requirements.** Without limiting any of the foregoing, and in addition thereto, the Board finds that granting the SUP Application is not consistent with the County’s zoning requirements, which expressly consider the regulation of wireless communications facilities to protect the integrity, character, and identity of neighborhoods and to minimize the adverse visual effects of towers through careful design, siting and screening.<sup>4</sup> The Board further finds that granting the SUP Application would have an inordinately negative impact on nearby properties and substantially change or materially affect the surrounding areas.<sup>5</sup>

Dated this 5<sup>th</sup> Day of June, 2024



Chair of the Board

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<sup>4</sup> PCDSC § 2.205.

<sup>5</sup> PCDSC § 2.151.010(O)(3).