



EXTRA-TERRITORIAL ZONING AUTHORITY

**DOÑA ANA COUNTY COMMUNITY DEVELOPMENT DEPARTMENT
Doña Ana County Government Complex • 845 North Motel Blvd.
Las Cruces, New Mexico 88007 • Office: 575-647-7230**

MEETING DATE: September 21, 2016

CASE #: APP16-003

REQUEST: An appeal of the June 16, 2016, ETZ Commission approval of Case #SU16-005/Daviet

PURPOSE: Special Use Permit to construct and operate a 75' telecommunications tower facility.

APPELLANT: William & Lauranne Webber

LOCATION: 2116 Apodaca Rd.

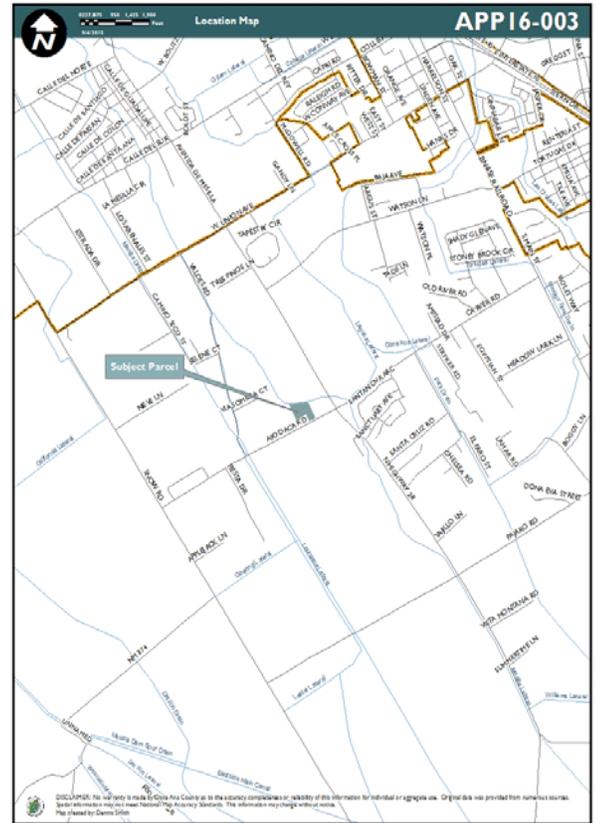
LEGAL DESCRIPTION Lot 2 of Triple "L" Acres No. 1 as recorded in the Doña Ana County Clerk's Office on 12/30/15, with Inst. 1527726

PROPERTY SIZE: 5.0-ac. (20' X 30' lease area)

CURRENT ZONING: ER3

ETZ COMMISSION DECISION: APPROVAL (7-0-0 vote)

CASE MANAGER: Steve Meadows, Planner



REPORT CONTENTS: (1) Cover Sheet, (2) Applicable Policies and Ordinances, (3) Staff Analysis, (4) ETZ Commission Hearing Staff Analysis, (5) Staff's ETZ Commission Hearing PowerPoint Presentation, (6) Applicant's ETZ Commission Hearing PowerPoint Presentation, (7) Meeting Minutes 6/16/2016, (8), Attachment 1- Verizon Site Analysis, (9) Attachment 2- Verizon Coverage & Capacity Analysis, (10) Attachment 3- Verizon Photo Simulations, (11) Attachment 4- Verizon Coverage & Capacity Narrative & Data

SURROUNDING ZONING AND LAND USE

SITE	ZONING	LAND USE
North	ER3 - Residential, 1.0-acre minimum new lot size, single family site-built homes.	Agricultural and residential uses
South	ER3M - Residential, 1.0-acre minimum new lot size, single family site-built & mobile homes.	Agricultural uses
East	ER4 - Residential, 1/2-acre minimum new lot size, single family site-built homes.	Agricultural and residential uses
West	ER3 - Residential, 1.0-acre minimum new lot size, single family site-built homes.	Agricultural and residential uses

BACKGROUND:

Existing Conditions and Zoning:

The subject property is an irregularly shaped 5.0-acre parcel within an ER3 (Residential, 1.0-acre minimum new lot size, single family site-built homes) Zoning District. Access to the property is from Apodaca Rd., a paved county maintained road, considered a minor arterial road by the Mesilla Valley MPO requiring 100' of R-O-W. The property is bounded on the north by the Mesilla Lateral, approximately 40' in width at the property line. A 1,604 sq. ft. site built home with an attached carport was constructed in 1965 and is located near the center of the subject parcel. An approximate 4,300 sq. ft. agricultural barn is located north of the residence near the telecommunications tower and facility site and an approximate 300 sq. ft. water well building is east of the residence.

Request:

CASE # APP16-003/WEBBER: William & Lauranne Webber (*Outside area of Notification List*) are **Appealing** the June 16, 2016, ETZ Commission decision to approve, by a vote of 7-0-0, **CASE #SU16-005** to construct and operate a 75' telecommunication tower facility within an ER3 (Residential, 1.0 acre minimum new lot size, single-family site-built homes) Zoning District on a 20' X 30' lease area of a 5.0 acre parcel. The applicants are requesting that the Extra-territorial Zoning Authority (ETA) **reverse** the ETZ Commission decision to **Approve** the Special Use Permit and **Deny** the original Special Use Permit request.

APPLICABLE PLANS, POLICIES, CRITERIA AND CASE LAW FOR APPROVAL

Las Cruces Extra-territorial Zoning Ordinance No. 88-02, as amended.

2.1.D EVALUATION CRITERIA

The Planning Director and the ETZ Commission may use the following general criteria when reviewing **Special Use Permits** and Zoning applications. The ETZ Commission shall have the authority to require additional specific information on any of the following criteria.

Unless additional justification is presented, the fact that there is an existing legal nonconforming use shall not be considered sufficient grounds for a zone change in order to bring that use into conformity.

2.1.D.1 Determination of potential number of homes, population and population demographics.

2.1.D.2 Determination of potential traffic flows (average daily traffic) and where they will impact the transportation system.

2.1.D.3 Determination of need for new commercial activity.

2.1.D.4 Determination of potential water and sewage needs.

2.1.D.5 Evaluation of existing infrastructure capacities and an analysis of the ability of the existing system to accommodate the new development.

2.1.D.6 The difference between capacity and impact should be stated. Those areas which are appropriate for the developer to underwrite should be negotiated between local government and developer.

2.1.D.7 The ETZ should reserve the right to place appropriate zoning categories on environmentally sensitive areas, areas of historical significance or areas which contain endangered or rare species of animal or plant life.

2.1.D.8 Any analysis required should be undertaken and paid for by the developer and verified by the ETZ Commission.

2.1.D.9 Determination of impact of a proposed zone change/special use permit on surrounding properties.

2.1.I EXTRA-TERRITORIAL AUTHORITY VOTING REQUIREMENTS ON APPEALS OF EXTRA-TERRITORIAL ZONING COMMISSION DECISIONS

The Extra-territorial Authority by a majority vote of its total membership may:

1. Reverse any order, requirement, decision or determination of an administrative official, commission or committee
2. Decide in favor of the appellant
3. Make any change in any order, requirement, decision or determination of an administrative official, commission or committee.

Section 2.4 APPEALS PROCEDURE

2.4.A APPEALS

An appeal from any order or decision of the Extra-territorial Zoning Commission may be taken to the Extra-territorial Authority by any person aggrieved. An appeal is taken by filing with the Planning Director and the Extra-territorial Authority written notice stating the nature of the appeal

and specific reasons thereof. A notice of appeal shall be considered filed with the Planning Director and the Extra-territorial Authority when delivered to the County Planning and Zoning Division and the date and time of filing shall be entered on the notice by the County Planning Staff. Within ten (10) days after receiving the notice of appeal the Planning Director shall transmit to the Extra-territorial Authority all the documents constituting the record relating to the action being appealed. In addition the Planning Director may transmit to the Extra-territorial Authority such supplementary report as he may deem necessary to present clearly the facts and circumstances of the case. Upon receipt of the documents the Extra-territorial Authority shall set the matter for hearing and instruct the Planning Director to mail a notice of the time, place and purpose of the hearing to the appellant and to fulfill the public notification requirements set forth in Subsection 2.1.G of this Article.

2.4.B APPEAL PERIOD

An appeal must be filed no later than thirty (30) days after the date the decision or order of the Extra-territorial Zoning Commission was rendered.

2.4.C BURDEN OF PROOF

When an appeal is taken to the Extra-territorial Authority, the Planning Director, on behalf of the Extra-territorial Zoning Commission, shall have the initial burden of presenting to the Extra-territorial Authority sufficient evidence and argument to justify the order or decision appealed from. The burden of presenting evidence and argument to the contrary then shifts to the appellant, who shall also have the burden of persuasion.

The burden of presenting evidence sufficient to allow the Extra-territorial Authority to reach a conclusion on the appeal, as well as the burden of persuasion on the issues set forth, remains with the appellant.

2.4.D STAY OF PROCEEDINGS

An appeal shall stay all proceedings in furtherance of the action appealed unless the appellant certifies that by reasons therein stated, a stay would cause imminent peril of life and property. Upon certification, the proceedings shall not be stayed except by order of a District Court after a notice is provided to the appellant.

2.4.E ACTION OF EXTRA-TERRITORIAL AUTHORITY

Upon hearing the appeal, the Extra-territorial Authority by a majority vote of the total membership, may reverse or affirm (in whole or part) or may modify the order, requirement or decision or determination that in its opinion ought to be made in the case before it.

4.2.E.2 ANTENNAS AND ANTENNA SUPPORTING STRUCTURES FOR TRANSMISSION OR RECEPTION OF RADIO SIGNALS

4.2.E.2.a Free-Standing or Guyed Commercial Towers- Commercial towers shall be allowed in all commercial and industrial zones except EC1. For EC1, refer to Section 4.2.E.2.b. All towers to be erected shall have a site plan review completed by the Doña Ana County Planning Department.

If the site for the tower is to be leased from another property owner, there shall be a restriction in the lease that neither party may build or place any structure within the required setback.

Allowable height of the tower shall be determined as follows:

1. Tower height shall be limited to that height which is determined by a one-to-one setback plus ten (10) percent from all property lines on the parcel up to a maximum total height of ninety (90) feet.
2. If co-location of two or more communications companies will occur on one tower, an additional 20 feet for each additional company may be added to the total height of the tower to a maximum total height of one hundred thirty (130') feet to allow for added antenna arrays and reduce/eliminate interference. A one-to-one setback plus ten (10) percent is required.

Proof of co-location (shared tower agreement, rental/lease contract or similar) shall be required and must be submitted to Doña Ana County Planning prior to the issuance of a building permit. The required setback may be waived for monopole towers that are located directly adjacent to buildings thirty (30) feet or taller. This waiver must be approved by the County Planning Director.

All structures shall be located out of falling distance of any overhead power lines. Structures shall be constructed to meet the requirements of the Uniform Building Code and shall withstand a ninety (90) mile per hour wind.

An eight (8) foot fence or anti-climb device shall be required for structures which can be freely climbed. Additional height may be allowed by Special Use Permit approval. Conditions may be attached to the SUP. A commercial tower located in any zone shall have landscaping as provided elsewhere in this Ordinance.

Commercial towers that are to be located adjacent to residential zones shall meet a two-to-one setback ratio from all property lines, unless flush mounted on existing structures or mounted on rooftops (refer to Section 4.2.E.2.c for mounting antennae on existing structures).

4.2.E.2.b Commercial Towers in Residential Zones- Any commercial tower to be located in residential zones shall only be allowed in ER1, ER1M, ER2, ER2M, ER3, ER3M, ER3H and EC1 zoning districts through approval of a Special Use Permit. Commercial towers in residential districts and neighborhood commercial districts shall meet the following criteria:

- monopole type only
- height shall be limited to that height which is determined by a two-to-one setback from all property lines up to a maximum total tower height of seventy-five (75) feet
- approval of a site plan by the Doña Ana County Planning Department prior to new construction or modification of an existing structure.

If height in excess of seventy-five (75) feet is required, approval of a Special Use Permit is needed. All other requirements of Section 4.2.E.2.a shall apply to this Section.

4.2.E.2.c Personal (Private), Free Standing or Guyed Towers- Personal towers shall be allowed by right in all zones and must meet the following criteria:

- height shall be limited to a maximum total tower height of seventy-five (75) feet
- a site plan must be approved by the Doña Ana County Planning Department prior to new construction or modification of an existing tower. All engineering data for the tower must be submitted at this time.
- Structures shall be constructed to meet the Uniform Building Code and shall withstand an eighty (80) mile per hour wind. If the structure cannot

meet the wind loading requirements, a one-to-one setback will be required.

- A minimum setback of ten (10) feet shall be required.

One tower per parcel is allowed. One additional tower may be allowed by Special Use Permit approval.

4.2.E.2.d Commercial Antennas Mounted to Existing Structures Commercial antennas may be mounted on or attached to any existing structure in commercial and industrial zones, providing that written permission by the owner of the structure is provided. A copy of this permission must be provided and a site plan review must be completed by Doña Ana County Planning prior to issuance of a building permit.

Any additional superstructure that will be added to accommodate any and all antenna arrays, such as top hats, vertical and horizontal mounting standards and the like, must meet Uniform Building Codes. Any height that will be added as a result of this construction that exceeds the height limitations in section 4.2.E.1 must have the approval of a Special Use Permit. Antennas or antenna arrays that are to be added to existing towers must comply with the regulations set forth in Section 4.2.E.2.a.

4.2.E.2.e Private Antennas Mounted to Existing Structures- Private antennas may be mounted to existing buildings in residential, commercial and industrial zones, providing the total tower height meets a one-to-one setback and does not exceed seventy-five (75) feet. Existing buildings shall meet all applicable Uniform Building Codes.

4.2.E.2.f Commercial Tower Density- Each commercial tower site shall have a one (1) mile buffer zone around it. No other commercial tower of the same use may be placed or erected within this buffer zone. On-site business communications are exempt from this clause.

NOTICE / NOTIFICATION

- 22 letters of notification were sent to property owners within the Area of Notification on September 6, 2016.
- Legal Ads were placed in the Las Cruces Sun-News on September 4, 2016.
- Agenda was placed on the DAC Web site and signs placed on the property in a timely manner.
- An email (*Pgs. 23-24*) from Mr. Webber was received Sept. 9, asking for additional materials from Verizon, Mr. Daviet, and staff and for staff to evaluate that material.
- No other correspondence was received in support or in opposition to the case.

STAFF ANALYSIS

The application was submitted on July 12, 2016, meeting the deadline for filing an appeal per Section 2.4.B (*Pg. 4 above*) of the Ordinance. The signed Order from the ETZ Commission was recorded on July 8, 2016, with Instrument #1615301 (*Pgs. 20-21 of this report*). Staff recommended **approval** of Zone Change Request Case #SU16-005/Daviet, to the ETZ Commission and on a motion to Approve Case #SU16-005, the ETZ Commission (*See attached minutes of June 16, 2016*) voted seven in favor, zero against, with zero abstentions (7-0-0), and approved the case. The ETZ Commission found that:

1. The subject property is located outside the corporate limits of the City of Las Cruces, but within the five-mile Extra-territorial Zone (ETZ) as set forth by 3-19-5(1), NMSA 1978 and

- the Joint Powers Agreement between Doña Ana County and the City of Las Cruces.
2. The 5.0 acre subject parcel is Lot 2, of the Triple "L" Acres No. 1 Subdivision, recorded December 20, 2015, in the DAC Clerk's Office with Instrument #1527726.
 3. The subject property is located within an ER3 (Residential, 1.0-acre minimum new lot size, single family site-built homes) Zoning District.
 4. A Special Use Permit is required for all Commercial Towers within ER3 Zoning Districts per Section 4.2.E.2.b.
 5. Proposed telecommunications tower will meet all setback and development requirements.
 6. One email in opposition was received on June 9 from outside the Area of Notification.
 7. The applicant has met the Evaluation Criteria of Section 2.1.D for a Special Use Permit.

Cell tower requests in the ETZ fall under Section 4.2.E.2 of the Las Cruces ETZ Ordinance No. 88-02, as amended, (*Pgs. 4-6 above*) and approval of a Special Use Permit within an ER3 Zoning District is required utilizing Section 2.1.D Evaluation Criteria (*Pg. 3 above*) to guide the decision. New cell towers also fall under the Telecommunications Act of 1996 "shot clock" provisions requiring 150 days to act on a new tower from time of application acceptance. That timeframe will expire on September 25, 2016 (April 28, 2016 - Application complete)

The appellant discusses two specific reasons for the appeal (*Narrative – Pgs. 9-18 of this report*) that the ETA should consider in this appeal of Case SU16-005/Daviet and the ETZ Commission's decision to approve a 75-foot cell tower. Those reasons are listed below:

1. *The Commissioner Daviet Problems and Need for Full Disclosure of the Big Picture.*
 - A. *This Appeal Is Not Just About This Tower in This Cornfield: It Is About The Bigger Picture of Verizon Stealthily Bankrolling Future Capacity And Running End-Arounds the Legitimate Zoning Process.*
 - B. *Commissioner Daviet Has No Business Doing Business With Verizon When Mr. Daviet Is Doing County Business that Affects Verizon.*
2. *Verizon/Daviet Present No Evidence of a Coverage Gap or Attempts to Locate a Less Intrusive Site – And Do Not Reveal that this Permit Application is Part of a Larger Objective to Establish a Whole Field of Tower Sites One By One.*
 - A. *Verizon Seeks to Trump Local Zoning Ordinances and Local Zoning Authorities By Applying the Federal Act When the Act Does Not Apply.*
 - 1) *There must be a "significant gap" in coverage; and*
 - 2) *The proposed plan to address that gap must be necessary to achieve the desired coverage; that is, Verizon must prove that there are no less "intrusive" locations to address the coverage gap or that no other viable alternatives exist.*
 - 1) *The Jabberwocky of Pretending that a Future Capacity Problem Over by the University Can Be Turned Into a Present Coverage "Gap" Down by the River.*
 - 2) *There Is No "Least Intrusive" Site for a Capacity Problem that Might Develop In Another Part of Town Sometime In the Future.*
 - a) *What is the whole site selection process?*
 - b) *What is the "big picture" of Verizon's development plans?*

The appellant discusses his concerns over the lack of information and data that was submitted to the ETZ Commission to justify the need for a new tower to fill a coverage/capacity gap in the proposed location, the site selection process and the search for the least intrusive site, as well as the negative impacts to the neighborhood by the selection of this site.

Verizon submitted additional information (*See Attachment 2, Pgs. 1-9*) containing a narrative with statistics about current and future demands (*Pgs. 7-9*) addressing the justification for the tower, and the current and anticipated coverage gap with the new cell tower and accompanying color graphs. Verizon also submitted a narrative of the data collection process and the supporting data (*See Attachment 4, Pgs. 1-4*). Additional materials and information concerning site selection and the process involved (*See Attachment 1, Pgs. 1-8*) were provided by Verizon. The information describes the process of site selection undertaken by Mr. Mark Paiz, Site Acquisition Manager, Q3 Consulting, Inc., and includes a description and the results of the process, a map of the alternate sites investigated in the area, and letters to prospective clients of three (3) of those sites. Visual renderings (*See Attachment 3, Pgs. 1-5*) from three different viewpoints showing the site with a tower camouflaged as a tree to address the visual impacts of the proposed cell tower. Staff notes that camouflaging is not required within the ETZ Ordinance, but has been recommended by staff in certain instances.

Verizon Wireless's agent, Les Gutierrez, submitted the application to County staff. Mr. Daviet was not involved and staff did not interact with Mr. Daviet during the process of submittal and analysis except for the actual signing of the application by Mr. Daviet at the Community Development Dept. on April 28, 2016. Mr. Daviet disclosed, at the beginning of his testimony during the June 16, 2016 hearing, that he was currently a member of the Planning & Zoning Commission.

SUMMARY:

Based on the original application analysis, the ETZ Commission Findings of Fact, and the supplemental data provided by Verizon, Staff continues to recommend approval of Case #SU16-005/Daviet.

EXTRA-TERRITORIAL ZONING AUTHORITY OPTIONS:

In **Appeal Case #APP16-003/Webber** and Per Section 2.1.I of the ETZ Ordinance, the ETA, by a majority vote of its total membership, may:

1. Reverse any order, requirement, decision or determination of an administrative official, commission or committee.
2. Decide in favor of the appellant.
3. Make any change in any order, requirement, decision or determination of an administrative official, commission or committee.

Appeal Narrative (Pg 1 of 10)

William and Lauranne Webber

3811 Valdes Rd
Las Cruces, New Mexico 88005
bwebber@zianet.com

July 11, 2016

Steve Meadows, Planning Director
Extra-Territorial Authority
County Planning and Zoning Division
Dona Ana County Government Complex
845 North Motel Boulevard
Las Cruces, New Mexico 88007

Re: ***Notice of Appeal of Granting of Special Use Permit, in Case No. SU 16-005 to Owner/Applicant/Agent Daviet Farms, LLC, (Dona Ana County Planning and Zoning Commissioner Greg Daviet) and Verizon Wireless (Les Gutierrez, Verizon Wireless) to Build and Operate a Commercial Cell Tower.***

Director Meadows and Members of the Extra-Territorial Authority:

Thank you for your attention to this appeal, its nature, and the reasons for which it is taken.

Nature of the Appeal

This is the notice of appeal of Bill and Lauranne Webber, who seek reversal of the granting of SU 16-005 to Daviet Farms, LLC and Verizon Wireless which occurred at the ETZ Commission meeting on June 16, 2016. Appeal is taken and filed pursuant to the Extra-territorial Zoning Ordinance No. 88-02, as amended. Mr. and Ms. Webber are nearby owners and residents who are aggrieved by the granting or recommendation of this Cell Tower Special Use Permit and they ask that the action of the ETZ Commission be reversed.

Specific Reasons for the Appeal: Why the Special Use Permit Grant Should Be Reversed

Verizon Wireless approaches these and a number of other recent and related cell tower applications by a process of flying under the radar and not showing its whole hand. There are two clusters of related problems that demand disclosure, transparency, and exercise of official authority instead of subservience. First, we address the problems surrounding a sitting P&Z Commissioner being the beneficiary of the revenues expected from this tower and the related transactional sleights of hand employed to achieve that revenue. Second, we address the problems that Verizon is not addressing a real significant coverage gap to begin with, but is “banking” future date capacity requirements that come from other parts of town. As Verizon has indicated, it *will*, and has, dragged non-compliant zoning authorities into Court in order to prove that it, Verizon, is the real authority and wields the expertise and money necessary to get its way—calling itself a good “corporate citizen” all the way to the bank (which bank, of course, is in another state).

1. The Commissioner Daviet Problems and Need for Full Disclosure of the Big Picture.

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A. This Appeal Is Not Just About This Tower in This Cornfield: It Is About The Bigger Picture of Verizon Stealthily Bankrolling Future Capacity And Running End-Arounds the Legitimate Zoning Process.

By the time late 2014 rolled around, the City, ETZ, and the County were all hard at work hammering out a Uniform Development Code that you folks know all about. The latest version we could find is located at: http://www.vivadonaanaudc.org/wp-content/uploads/2015/08/DAC_UDC_Draft4_03AUG2015.pdf. As you know, it contained a lengthy section on cell tower permits, including setbacks and buffering provisions, detailed designed plans, and placement of a tower removal bond in case the tower falls into disuse. After all, some folks think that traditional cell towers will be obsolete in not so many years. At that point, America might be littered with over 300,000 abandoned cell tower junk heaps. Verizon didn't sell off rights in over 10,000 Verizon towers for over \$5 billion for the health of the communities it serves, but for the bottom line. They call it “monetizing” cell towers. Externalizing the long-term problems in favor the the next quarterly earnings reports. With a possible Unified Development Code around the corner, Verizon made a move to monetize as many new towers as possible in the Las Cruces /ETZ/County area, before a code with teeth showed up. Before three zoning forums would be reduced to one for the good of everyone. Before people, generally and in Land Use, started questioning the big push all of a sudden in all three zoning venues. Before all three Zoning Authorities put their heads together and compare notes. We ask that these notes be compared now.

In December, 2014, the Daviet family purchased a little farm that is, most years, mostly placed in corn during the summers. There is a little farm house, barn, second small house, and some equipment pretty much in the middle of the farm. The farm is in the ETZ—blended agricultural/1 acre minimum residential zoning.

Unbeknownst to much anybody anywhere in town, Verizon was about to make a run at a *bunch* of Zoning Permits in a bunch of places—City, ETZ, and County. By early 2015, Greg Daviet had become a Dona Ana County Planning and Zoning Commissioner. While he didn't vote on ETZ zoning applications, such as the one nobody knew about until later, he was very active in development of the Uniform Development Code in the works, and he did vote on Verizon zoning applications to the County Proper.¹

Verizon had a game plan. Apply in different places, lay low, and see what happens. You see,

¹ While the following is not inclusive, by any means, the following links lead to records of the extent and nature of Commissioner Daviet's involvement Verizon and/or Uniform Development Code matters.

- Minutes of the Dona Ana County P and Z Commission, September 10, 2015 (https://donaanacounty.org/sites/default/files/agendas/pz09-10-15_Minutes.pdf)
- Minutes of the Dona Ana County P and Z Commission, October 29, 2015 (https://donaanacounty.org/sites/default/files/agendas/10-29-2015_Minutes.pdf)
- Minutes of the Dona Ana County P and Z Commission, January 14, 2016 (https://donaanacounty.org/sites/default/files/agendas/PZ_2016-01-14_Minutes.pdf)
- Minutes of the Dona Ana County P and Z Commission, April 28, 2016 (https://donaanacounty.org/sites/default/files/agendas/Minutes_04-28-16.pdf)

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people can get behind a cell tower or a water tower or a tower tower if it's really good for the community and if it's really necessary.² But who wants a 75 foot tower in the middle of a corn field. Dressing it up like a tree might work in a pecan orchard, but it wouldn't even fool a scarecrow in a cornfield. Now, we urge you, especially Staff, to look into the following. Look at the entire number of cell towers applied for by Verizon in the City, County, and ETZ for the past 10 years. Look at their locations, their industrial or commercial placement or proximity to billboards, Interstate Highways, or adjoining industrial structures such as Four Points Gin. And then compare it with the 2015 Verizon Gold Rush.³

B. Commissioner Daviet Has No Business Doing Business With Verizon When Mr. Daviet Is Doing County Business that Affects Verizon.

By December, 2015, Verizon pretty well knew it wasn't going to win at City Counsel on the Stern Road Tower. A lot of neighbors were up in arms. For reasons that were unclear at the time, Verizon was dead set against proving, well, anything. Verizon wasn't going to "prove" that there was a true and significant coverage gap—because there wasn't. It wasn't going to pursue sites that the neighbors approved of because, well, we don't know. We now know that they were going to take City Hall to Federal Court and prove, once and for all, who's in charge of zoning cell towers as between City Hall and Verizon. Verizon was going to get other cell towers up to cash in on the future capacity coming from the University before the UDC got passed and before someone else sewed up the back-up off-load dollars associated with the future data usage from the University area. One way or another, Verizon was going to have its way, even if it had to go to Court.

Even if it had to do business with a County P&Z Commissioner working on the cell tower provisions in the UDC. And one who had never voted against a cell tower. And one who's family just happened to have just bought a little farm in the ETZ just ripe for the picking and locating of a lucrative cell tower in the middle of a corn field.

On November 5, 2015, Commissioner Daviet formed an LLC called "Daviet Farms, LLC," which would be, in a matter of months, the applicant in this case. A week later, on November 12, 2015, Commissioner Daviet moved and voted to approve a cell tower up on Dona Ana Road—provided, of course, that Verizon would agree to disguise it at a palm tree (likely the only fake palm tree within miles).

See https://www.donaanacounty.org/sites/default/files/agendas/PZ_11-12-15_Minutes.pdf. A few weeks later, the little farm was subdivided into three lots—with a five acre parcel being cut out of the middle, like a lopsided donut hole—for a 75 foot tower to be placed almost on top of a tiny house. One

²See, for example, the cell phone tower recently placed back in the Talavera area behind A Mountain. If you want to know what happens when there is a real coverage gap—look there. The neighbors literally pushed for it.

³ www.associationofconstructionanddevelopment.org/.../cell-tower-leases-and-buyouts ("Understand why existing cell tower leases are "gold mines" worth hundreds of thousands of dollars").

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benefit to Commissioner Daviet and Verizon was that the little five acre lot was suddenly more than 300 feet from most of the neighbors that would have been notified if the lot hadn't been subdivided.

We still don't know who paid for the subdivision work and filing, but we absolutely know that Verizon/Daviet Farms, LLC, filed this Application on April 28, 2016. That was two weeks after Commissioner Daviet voted to approve yet another cell tower up on Dona Ana Road. That's pretty serious business going for a Commissioner to be voting for a Verizon cell tower while the Commissioner and Verizon are working together on another cell tower proposal that would result in a lot of money for both. A lot of money.

Even though Commissioner Daviet was also deep in the business of working on the Uniform Development Code, and even though the off-load data banks being proposed did not conform to the new Code under development, somebody approached somebody about setting up an income stream from a cell phone tower. In the application materials, you will find that the little farm was deeded to a brand new LLC on essentially the same day the LLC was formed. "Daviet Farms, LLC" would be the applicant. Verizon would supply the zoning agent. During the entire year of 2015, the minutes would reflect that Commissioner Daviet displayed a keen and abiding interest in the Code-in-process cell tower provisions.

The ETZ Commission's recommendation for someone—anyone actually—to be able to place a seventy five foot cell tower in this cornfield should be reversed on the grounds of an abiding improper relationship between Commissioner Daviet and Verizon. Commissioner Daviet was working with Verizon to set up a revenue stream from Verizon even as he was voting for Verizon towers every chance he got. Commissioner Daviet swore at the ETZ Commission hearing that he informed somebody of something—without a transcript we cannot say exactly what. But did he tell the folks from the City, County, and ETZ who were working on the UDC that he was angling to get a cell tower for himself from Verizon—and the Tower didn't even meet the proposed UDC standards? Did he tell the County P&Z Commissioners, when he was voting for every Verizon Tower at every chance, that he was in the process of getting in on that action? That he was going to make a bunch of money on a Verizon Tower himself.

We don't know who approached who, or what was the nature and extent of the joint effort. But we do know that Commissioner Daviet's newly formed LLC stands to make tens of thousands if not hundreds of thousands of dollars in rental revenue stream over the lifetime of the cell tower lease. We don't know if there is yet a lease, who the lease might be between, whether the LLC is staked to cover the cost of removal if the tower doesn't work out or becomes obsolete, or if the LLC land is forfeited by insolvency. We don't know who came up with the bright idea of subdividing property for the sole apparent reason of cutting off the ETZ Notice provisions to go to the people in the nearby subdivision. We do know that Commissioner Daviet testified that he considered the whole farm property as one piece—so it appears that the only real reason for the subdivision is to avoid a repeat of the strong neighborhood opposition in the Stern Road case that Verizon strong-armed in federal court.

Please correct us if we are mistaken in our memories (we don't have a transcript of the ETZ hearing), but our recollection is that Commissioner Daviet claimed credit for being involved in the

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alleged “search” for less intrusive alternative sites than the middle of an open field. Specifically, the fire station across the street and a nearby dog training facility were mentioned—and, indeed, Commissioner Daviet brought up the alternative of his own mature pecan orchard across the street on Apodaca. He testified that, as it turns out, there was no available adequate access to any of that property. As if available adequate access couldn't be created. And, indeed, wouldn't an open field be a better transmission/reception field than a congested old pecan orchard anyway?

It simply must be stated that while Mr. Daviet sits on the County P&Z, while this property sits in the ETZ, the same staff reports to both. Thus, unrevealed in the record is what everyone in the know already knows: The staff recommendation of a tower for this field is the same staff that prepares recommendations for Verizon tower applications that go before Mr. Daviet's own ETZ commission. There was nary an eyebrow raised when Mr. Daviet said that his orchard wouldn't work, in part, because of interference with his crop-dusting operation. We had raised that very issue—about a tower in an open field—and Mr. Daviet assured the commission that his crop-dusting did not extend north of Apodaca, so it didn't matter. Our dogs and the Niles-Wagners are left to wonder just whose crop-dusters already sweep our homes to the north. Moreover, Mr. Daviet sent a personal letter to the neighbors who did get notification and assured them that he was going to put the field in pecans. As a final note about the integrity of the process, we raised the problem that the tower would be in the fall zone of a small rental on the subdivided lot. Staff assured the ETZ Commissioners that they could only make “suggestions” about placing the tower out of harm's way so long as the setback requirements were met. That is, the ordinance doesn't require safety on the property—only to the adjoining landowners. The various zoning authorities have repeatedly required disguising the towers as trees. Why can't the authorities require human safety as a condition of recommendation?

In sum, it isn't just the immediate neighbors who are aggrieved by the ETZ Commission recommendation. Everyone is. How about the people, including Staff and County P&Z Commissioners, who didn't know that Mr. Daviet was doing business with Verizon when he was voting on *other* Verizon business coming before the County P&Z, or when Commissioner Daviet was participating in the formulation of the cell tower provisions of the draft UDC? How about the County Zoning Authority to which we now appeal? Can anyone in *this* body stand behind a permit for a local zoning official, reviewing Verizon business in a quasi-judicial capacity, while doing business with Verizon for both of their economic benefits.

As part of the Staff Response, and Mr. Daviet/Verizon's burden of proof at hearing, we respectfully ask that the nature, extent, and duration of all contact between them from December, 2014 to present be explored thoroughly and under oath. We believe that all written records of these communications are public records—whether by private or public email or written correspondence because they all have to do with a zoning Commissioner's contacts and business with an entity appearing before Mr. Daviet as a public official. I believe that all this information, including negotiations, who contacted who, terms of any lease, the amount of money expected to exchange hands are all your business and all of our business and should be producible under Freedom of Information Act requests (IPRA in New Mexico) by anyone—any citizen, any news organization, and public official who wants the entire details out in the sunshine.

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We respectfully request that this entire matter be exposed to sunlight and that the Commission reverse the granting of this cell tower permit. If Mr. Daviet or Verizon want to turn this local matter into a federal case, let them. The discovery would have to be enlightening.

2. Verizon/Daviet Present No Evidence of a Coverage Gap or Attempts to Locate a Less Intrusive Site—And Do Not Reveal that this Permit Application Is Part of a Larger Objective to Establish a Whole Field of Tower Sites One By One.

There must be some reason why Verizon was and is so willing to go to such lengths over a cell tower permit request. There is. Its called money. And these towers—not one, but several—are mostly set up to achieve the most money for the least cost. No removal bond as will almost certainly be the case under any new Unified Code. Dealing with private persons or small businesses (like Daviet Farms, LLC) who are looking for an easy income stream. What kind of rental was/is involved with the erection of a tower on the site of a long-vacant convenience store on Stern Road? Sounds like easy picking to us—especially if the vacant landowner doesn't have to look at that tower and still gets to look at his checkbook. How is that rent compared to the rent that would be required to place such towers with sophisticated entities like Arrowhead or the University? The Stern Road controversy proved that neighbors in this community can go along with cell towers if they are truly needed and if sites are selected that are the least intrusive available sites to address the need. There, as here and elsewhere, Verizon is targeting the most intrusive targets anywhere—right in the middle of open spaces where the towers can stick out like sore thumbs or fake trees.

We all know that Verizon has staked its market share around the slogan “Can You Hear Me Now?”⁴ In this case, in this town, Verizon doesn't want the zoning authorities to hear about what is *really* going on and how it is willing to twist words and evade questions in order to get Special Use Permits in open spaces and in order to create capacities to off-load data from sites way outside the areas of data origin. When all else fails, and a zoning authority demands accountability, Verizon will sue the zoning authority for failure to abide by the Telecommunications Act of 1996, 47 U.S.C. § 332 (2006). It doesn't matter what the zoning authority thinks is best for the community. The “Act” is the Bible and the local zoning codes and authorities don't really matter. And Verizon is the self-appointed authority on the Act. If you want to know what the Act means and says, it means that Verizon can pretty much do anything it wants. Just ask them. Corporate bullies should be wary of calling themselves good corporate citizens.

The “grant us the permit or else” strategy worked in this case. ETZ staff recommended, and ETZ commissioners recommended, letting someone, actually, anyone, put a 75 foot tower in the middle of a large cornfield almost right on top of a residential rental. There is no evidence of a significant coverage gap, no evidence of any real attempt to find any real alternative site that is less intrusive than absolutely necessary. No intrusion whatsoever is necessary unless there is a real coverage gap that simply has to be addressed and corrected.

⁴A simple primer about how wireless providers use the Federal Wireless Communications Act of 1996 to trump the authority of local zoning authorities is found in D.N. Rezvani, *Can You Hear Me Now? The Race to Provide America with Universal High-Speed Coverage*, 9 WASHINGTON JOURNAL OF LAW, TECHNOLOGY & ARTS 115 (2013) (<https://digital.law.washington.edu/dspace-law/bitstream/handle/1773.1/1298/9WJLTA115.pdf?sequence=4>).

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A. Verizon Seeks to Trump Local Zoning Ordinances and Local Zoning Authorities By Applying the Federal Act When the Act Does Not Apply.

If you look at the Staff report on this case, it purports to address the “Evaluative Criteria” of the ETZ Ordinance, but Staff does not address the right of the Zoning Authorities to deny a Special Use Permit when the proposed use does not fit in. In a residential/agricultural zone, such as involved in this case, what could be *less* fitting than a 75 foot tower, whether disguised as a fake tree or not, in the middle of a corn field?

However, Verizon seeks to render the Ordinance and Zoning Authorities powerless and meaningless by insisting that the Telecommunications Act is the only thing that matters. The Act is the thing that doesn't matter because it doesn't apply in this case. In order for the Act to even apply, Verizon has to establish two things:

- 1) there must be a “significant gap” in coverage; and
- 2) the proposed plan to address that gap must be necessary to achieve the desired coverage; that is, Verizon must prove that there are no less “intrusive” locations to address the coverage gap or that no other viable alternatives exist.⁵

Here, there is no “significant gap” in *coverage*—only an anticipated, or future, *capacity* problem and that problem is localized to over by the University. Because there is no significant coverage gap on this side of town, there is no gap to fill on this side of town and, therefore, Verizon has no way of “locating” a need for this tower in any particular place so long as it can patch in to off-load data from over by the University. Future incapacities over by the University should be addressed over by the University—not in the middle of open fields over by the River. You can't turn “future incapacity” over by the University into “present coverage gap” over by the River. Unless you believe the language lessons being taught by Verizon.

1) The Jabberwocky of Pretending that a Future Capacity Problem Over by the University Can Be Turned Into a Present Coverage “Gap” Down by the River.

Verizon tosses in some brightly colored pictures of coverage over by the cornfield in which it would put a cell tower. But those pictures are pictures of really good coverage throughout our area. In fact, the only person who claims to have a coverage problem is Commissioner Daviet—and his claim is unconfirmed by Verizon testing and disproven by its own brightly covered pictures. When you study the application materials, you quickly see that Verizon is really addressing a future capacity problem that it anticipates arising by the University and the intersection of I-25 and I-10. You will find a little graph that shows a future capacity problem. However, we can't tell if that graph is Metropolitan Area wide, City-wide, confined to Verizon capacity vs. overall capacity, or what exactly it might be saying otherwise. But it surely isn't a capacity problem over by the River. In fact, you can see, in the

⁵See *MetroPCS*, 400 F.3d at 731; see also *T-Mobile Cent., LLC v. Charter Tp. of West Bloomfield*, 691 F.3d 794, 806 (6th Cir. 2012). See generally Robert B. Foster, *The Better Part of Valor is Co-Location: Recent Developments in Judicial Review of Land Use Regulation of Cellular Telecommunications Facilities under the Telecommunications Act of 1996*, 42 URB. LAW. 595, 595 (2010)

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application and the record, that the proposed tower in this cornfield is to “off-load” data for periods of extremely high data use—like during the Superbowl or when the football stadium is full of cell-phone users during the Mayfield-Cruces game. But there is not even a claim that there is a present or future capacity problem in our part of the ETZ.

And there is no evidence of a “significant” coverage problem in the first place. See, for example, *Metro PCS vs. San Francisco*, 2005 (“[t]he TCA does not assure every wireless carrier a right to seamless coverage in every area it serves,”-- the inability to cover “a few blocks in a large city” is, as a matter of law, not a “significant” coverage gap). The Act does not guarantee wireless coverage without “dead spots.” Over in our part of the ETZ, we are mostly surrounded by pecan trees that can and do buffer RF emissions. Not every coyote in the pecan fields is entitled to seamless coverage. When you look at the colored pictures, you can see that adding this tower doesn't help whatever wildlife might have smart phones in remote parts of the woods. Such dead spots are simply irrelevant to Verizon's designs. They are not interested in filling a coverage gap. They only want to fill a future capacity problem before someone else does. It's called market share—without admitting it as such. Its like putting money in the bank. Since Verizon is in the business of “monetizing” its towers by sale and lease, it already has its margins figured out before it makes a run for the money in the zoning part of the deal. That is, the margins are enlarged to the extent that the package can be put together on the cheap.

We ask Staff to tease all of the coverage gap and least intrusive site information out *before* the appeal hearing. In other cases, Verizon has testified about its intense “site-selection” process designed to locate the least intrusive site to address existing coverage gaps. They do drive tests, locate every viable site which can fill locatable gaps. They draw “site circles.” The existing coverage hole can be filled by “x” number of sites—and then Verizon looks for the least intrusive site. There is no evidence that *any* of that was done. That's because Verizon hasn't identified a “significant coverage gap” to circle its coverage “wagons” around. This isn't about filling gaps. Its about grabbing data market share. Verizon should admit the obvious. Verizon simply can't provide the “site circle” of any coverage gap—over by that circle because there is no coverage gap to circle in this part of the ETZ. The open fields are necessary to the deal—they can reach all the way across town.

Please: Staff and Commissioners: Make Verizon show you what is really going on. Moving targets are unfair, opaque, and impossible to undersand. Moving targets can bear no burden of proof for the simple reason that proof could only hurt the cause. Why the open fields to address long-distance problems?

2) There Is No “Least Intrusive” Site for a Capacity Problem that Might Develop In Another Part of Town Sometime In the Future.

When you look at the application material, please compare it to the application in the *other* application heard the same day. SU 16-004 is for yet another 75 foot tower in yet another open field with yet another appeal that there is a future capacity problem – coming from over by the University. The same capacity graph is attached. It's a cut and paste operation? Just how many towers in how many open fields does Verizon need—and why? Answer: As many as it can get. Verizon is not addressing a coverage gap in either of these applications—nor in the Stern Road site that just got

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shoved down the City's throat in Federal Court. It is not addressing an existing capacity gap anywhere in Las Cruces. The cornfield we consider here is about a mile south of Four Points Gin on Highway 28. The other, virtually identical application, addressing the same future University capacity gap—is by the River upstream on the other side of Picacho. That is, several miles away. The “site circle” is at least that big. And because they are so far away from the University, open fields is the only way to fly—long distance. If this was a commercial transaction, between a buyer and a seller, instead of between a zoning authority and an applicant, we'd have to call it an Unfair and Deceptive Trade Practice. Instead we simply urge you to see that something else is going on—and Verizon is not about to tell you. Review the record for our request to Verizon representative Les Guterrez that they open their files to the “big picture.” You'll have to see the words for yourselves, but, in effect, he said that “Verizon will show you some selected stuff, but the rest is, well, you know, proprietary.” Sometimes “proprietary” is another word for “the good stuff.” With all due respect, some stuff just isn't proprietary any more—like when the business is with a sitting Zoning Commissioner.

Verizon is warehousing cell towers, especially in open space, especially before the UDC might throw a wrench in the works, and is staking claim to every site it can get. They are not interested in whether the site is the “least intrusive”—when the future market is miles and miles away. Verizon wanted a high open space on Stern Road—not the naturally camouflaging pecan orchard next door—because open spaces give more bang for the buck. They want a tower in this cornfield—and not the pecan orchard across the street and which is owned by Commissioner Daviet—for the same reason. Open spaces receive and deliver more data. They also deliver more negative impacts. We have the distinct impression that Commissioner Daviet was involved in site selection because our recollection is that he indicated that the fire house and nearby dog training facility were also evaluated for site selection. As was Mr. Daviet's own pecan orchard. We say “appeared” because the Verizon agent evaded the two key questions:

- a) What is the whole site selection process?
- b) What is the “big picture” of Verizon's development plans?

There is no “significant” coverage gap. There is no present “capacity” deficit. Verizon has not been willing to share what is really going on.. It has applied for three or four or more towers in the last year or so—and all for the same reason. Get it while the going is good—and easy. It is time for the City, the County, and the ETZ to catch on with what is going on and to address the whole thing.

Would Staff and the ETZ Authority please demand the answers that Verizon ignored below. Open their files and their business plan. Share the entire site selection materials. Explain where any present or future significant coverage gap exists in ETZ—just draw circles around them and see how many, if any homes are in those circles. Or, are they all in the woods? Explain where any present or future capacity deficits are or might be—and when they might be real and existing. Draw circles around them. See if any of them are in ETZ to begin with. Demand that Verizon share and explain the nature, extent, and duration of communication between itself and Verizon on this or any other Verizon matter. Since the proposed site is with a sitting County P&Z commissioner, ask that the business dealings be an open book by both Verizon and Mr. Daviet—including e-mails both ways and what kind of monthly revenue flow is anticipated.

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Ask for full disclosure and transparency and see if a *prima facie* case can be made for the necessity or desirability of this tower in this cornfield—or the warehousing of other towers before the UDC is passed and before the three different pieces of the zoning authorities put their heads together and see what is really going on.

If the local authorities and the local citizenry combine their efforts, and right a wrong when a wrong is finally seen, what Verizon has been doing, and continues to do can be stopped before it blights more open fields and spaces in further parts of its community by a combination of sleight of word, evasion, and strong-arming local government with threats of making a Federal Case out of it.

Thank you for your attention and we look forward to the hearing.



William Webber



Lauranne Webber

Staff Action Letter

Las Cruces Extra-territorial Zoning Authority Las Cruces Extra-territorial Zoning Commission

City Offices
City Planning Dept.
575 S. Alameda St.
P.O. Drawer CLC
Las Cruces, NM 88005
(575) 528-3222

County Offices
County Planning Dept.
845 N. Motel Blvd.
Room 1-150
Las Cruces, NM 88007
(575) 647-7350

July 11, 2016

Greg Daviet
Daviet Farms, LLC
4020 N. Hwy. 28
Las Cruces, NM 88005

Dear Mr. Daviet,

The Las Cruces Extra-Territorial Zoning Commission (ETZC), at its regularly scheduled meeting on June 16, 2016, **approved**, by a vote of 7-0-0 (seven in favor, zero opposed and zero abstentions), your request for a Special Use Permit, Case # SU16-005, to construct a seventy-five foot (75') cell tower and telecommunications facility. Within an ER3 (Residential, 1.0-acre minimum new lot size, single family site-built homes) Zoning District.

The 5.0-acre subject parcel is located south of the City of Las Cruces, west of NM Hwy 28, within Section 6, Township 24 South, Range 2 East. The property is addressed as 2116 Apodaca Rd., Las Cruces, NM 88005. The subject parcel is described as Lot 2 of Triple "L" Acres No. 1, as filed December 30, 2015, with Instrument #1527726. It can be further identified by Parcel ID #03-24122.

There is a **thirty day (30) appeal period** from the date of the recordation of the signed ETZ Commission Order that must elapse before the decision becomes effective. If no aggrieved party to this decision appeals to the Extra-Territorial Zoning Authority (ETA), within the allotted thirty-day (30) period, the Special Use Permit will go into effect on **Monday, August 8, 2016**.

Please retain a copy of this correspondence and the enclosed certified copy of the signed and recorded Order in the event questions arise from Doña Ana County officials. Please contact me at 575-525-6121 if you have any questions.

Sincerely,



Steve Meadows
Planner

CC: Les Gutierrez
Enclosure

*A Joint City / County Organization for the Las Cruces 5-mile ETZ Area for
Growth Management, Zoning and Subdivision Administration*

Recorded Zone Change Order (Pg. 1)

ORDER FROM THE EXTRA-TERRITORIAL ZONING COMMISSION GRANTING A SPECIAL USE PERMIT

ETZ Case No. SU16-005

This matter was heard before the Extra-territorial Zoning Commission (hereinafter, the "Commission") at its regularly scheduled meeting on June 16, 2016 on an application from Daviet Farms, LLC, Les Gutierrez, Agent, for a Special Use Permit to allow Verizon Wireless to construct a seventy-five foot (75') cell tower and telecommunications facility within an ER3 (Residential, 1.0-acre minimum new lot size, single family site-built homes) Zoning District.

The 5.0-acre subject parcel is located south of the City of Las Cruces, west of NM Hwy 28, within Section 6, Township 24 South, Range 2 East. The property is addressed as 2116 Apodaca Rd., Las Cruces, NM 88005. The subject parcel is described as Lot 2 of the Triple "L" Acres No. 1 Subdivision, as filed December 30, 2015, with Instrument #1527726. It can be further identified by Parcel ID #03-24122.

Having considered the staff's analysis, evidence presented in the case record, testimony at the public hearing, and the Ordinance, Article II, Section 2.1.D, Evaluation Criteria for a Special Use Permit, the ETZ Commission hereby **FINDS** by a vote of 7-0-0 (seven in favor, zero opposed, with zero abstentions) that:

1. The subject property is located outside the corporate limits of the City of Las Cruces, but within the five-mile Extra-territorial Zone (ETZ) as set forth by 3-19-5(1), NMSA 1978 and the Joint Powers Agreement between Doña Ana County and the City of Las Cruces.
2. The 5.0 acre subject parcel is Lot 2, of the Triple "L" Acres No. 1 Subdivision, recorded December 20, 2015, in the DAC Clerk's Office with Instrument #1527726.
3. The subject property is located within an ER3 (Residential, 1.0-acre minimum new lot size, single family site-built homes) Zoning District.
4. A Special Use Permit is required for all Commercial Towers within ER3 Zoning Districts per Section 4.2.E.2.b.
5. Proposed telecommunications tower will meet all setback and development requirements.
6. One email in opposition was received on June 9 from outside the Area of Notification.
7. The applicant has met the Evaluation Criteria of Section 2.1.D for a Special Use Permit.



COUNTY OF DONA ANA) ORDER/DAC
STATE OF NEW MEXICO) ss PAGES: 2

I Hereby Certify That This Instrument Was Filed for
Record On JUL 8, 2016 02:25:13 PM
And Was Duly Recorded as Instrument # 1615301
Of The Records Of Dona Ana County



Witness My Hand And Seal Of Office,
Lynn J. Ellins, County Clerk, Dona Ana, NM

Deputy Renee Torres

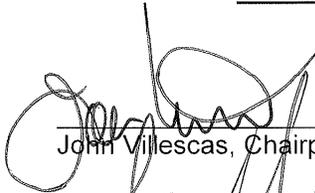
Page 1 of 2

Recorded Zone Change Order (Pg. 2)

ORDER FROM THE EXTRA-TERRITORIAL ZONING COMMISSION GRANTING A SPECIAL USE PERMIT

Based on the Findings of Fact, staff analysis, and the proposal complying with Section 2.1.D Evaluation Criteria, the Extra-territorial Zoning Commission **Approves** Case #SUP16-005/Daviet Farms, LLC, to construct a 75' telecommunications tower facility.

THE EXTRA-TERRITORIAL ZONING COMMISSION


John Villescas, Chairperson (Aye)


Jeannette M. Acosta, Secretary (Aye)


Robert H. Hearn, Member (Aye)


Mark Best, Member (Aye)


Kenneth Allin, Vice-Chair (Aye)


John S. Townsend (Aye)


Tim Sanders, Member (Aye)

Webber Email (Pg. 1 of 2)

Steve Meadows

From: Bill Webber <bwebber@zianet.com>
Sent: Friday, September 09, 2016 4:20 PM
To: Bill Webber; Lorraine Webber; Steve Meadows; Greg@dixie-ranch.com; lesgutierrez35@gmail.com; wagnerniles@comcast.net

Mr. Gutierrez, Mr. Daviet, and Mr. Meadows,

I ask that the answers to the following be provided to staff immediately and that staff address them in its case report prior to the hearing:

1. Site Circle. At our 9/6 meeting with Mr. Gutierrez and Mr. Daviet, Mr. Gutierrez told me he didn't have the site circle (aka "site ring") in his files, but he would try to get it. That means that he didn't have it at the ETZ hearing, which means there was no evidence at the ETZ that P&Z Commissioner Daviet's property even sits within a ring of geographic possibilities gathered into a site circle—which Verizon's attorney indicated was the very first step in the company's extensive site selection process
 - a. I ask that Verizon turn over not just the site circle (step 1 of the process) to both staff and to myself and the other appellants far enough in advance of hearing for Staff to incorporate it into its case analysis.
 - b. I ask that Staff ask Verizon to turn over its site selection materials for the same reason and to reverse its recommendation if it cannot get the materials and, therefore, cannot verify that Commissioner Daviet's property was not "targeted" instead of coincidentally found to be in the right place at the right time as determined by Verizon's compliance with its own "extensive site selection process."
2. On the same evening that the Daviet/Verizon application was heard by ETZ, the Martin/Verizon application was heard. That site, like this one, is for a 75 foot tower in an open field—in fact some of the same underlying tables and data were used in both cases. Under the proposed Uniform Development Code, we ask Verizon to advise Staff and to be willing to confirm under oath at hearing that the lease proposed to both Commissioner Daviet's company and the one proposed to the Martin's have identical financial terms. That is, simply, that a public official is not being offered a better deal by Verizon than a private citizen—rather this be in terms of rental payments, rental terms, escalator clauses, or assignability or duties on termination of the lease. Let me make this perfectly clear: I am not claiming that Commissioner Daviet got a better deal or that he is holding out for a better deal. I'm claiming that due diligence by staff and the zoning authorities requires eliminating the possibility when a public zoning official is the applicant and is voting on Verizon cell towers applied for just down the road, and being recommended by the same staff that serves him in his P&Z position.
3. I represent to you that Mr. Daviet repeatedly assured me that his cell phone reception has been simply horrific in his house (although the coverage, he says, is great a few hundred feet away at his pecan cleaning plant). Yet, he insists that he never brought his horrific coverage problem to the attention of Verizon—before, during, or after Verizon first contacted his family. Mr. Daviet stated he didn't even bother talking to Verizon about it after the hearing at which he admitted that he had made a private mailing to his nearby neighbors that he had a serious coverage issue.
 - a. Be that as it may, Mr. Daviet said he was willing to consider putting this tower "anywhere" on his property, so long as it solved his cell phone coverage problem at his home. I would ask Verizon and Mr. Daviet to address this coverage problem at his home to see if there is a cheaper solution than a 75 foot tower across the street. Like maybe a \$100 signal booster kit.
 - b. I would like Staff to insist that Verizon give Staff some kind of estimate as to what it would cost extra to place a tower in Mr. Daviet's trees—even if one had to lay electrical and even thicken the footings for the tower to go in the trees instead of the middle of an open field.
 - c. I would like Verizon to consider and explain why it isn't feasible to find another site in the trees across the street. I understand that this is the "cheapest" way to go. But going cheap isn't always the best way to go—especially for the neighbors and the public that lives in this town—as opposed to folks from different cities and states who stop in to process applications that the local public has to live with.
4. Finally, I ask Staff to examine, and have "Legal" examine the propriety of Mr. Daviet proposing that Verizon agree to abide by the terms of the proposed Uniform Development Code as conditions for approval. I especially ask him to do this if he is intending on voting for the UDC.
 - a. I asked Verizon agent Gutierrez at my meeting with Mr. Daviet if Verizon was willing to do that—and he said the proposed code is not the law. I asked him if he knew of any law against doing what is right. Instead of answering my question, he asked his own: He said, "Mr. Webber, exactly what is it that you want." I'd really like Commissioner Daviet to step to the plate and declare, too, that he wants any tower put on his property to conform

Webber Email (Pg. 2 of 2)

with the UDC provisions that he declares he's going to vote for. That might not be the "antiquated" law in effect this month, but it is the law Mr. Daviet favors for next year.

- b. I told Mr. Gutierrez that unless some intervening consideration led me to another conclusion, I would positively support putting a tower in Mr. Daviet's trees—I might say away from scenic (for now) Highway 28. I very much appreciate his expressed willingness to accept a tower anywhere on his properties. And I ask him to stand behind the proposed UDC provisions which he plans on supporting.
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- d. I ask Commissioner Daviet to do what is right by his neighbors and constituents, and leave it to Verizon to "run it past Legal." He's the applicant, not Verizon, and I thank him for sharing that he and Verizon don't even have a deal on this Tower. Verizon doesn't have a lease to stand on if Mr. Daviet insists that this tower go in his trees and follow the UDC provisions he favors for the public good—even when it is applied to his private land. Especially when it applies to his private lands.
- e. If not, I ask that he notify the public about his ongoing business prospects that were not revealed at the time that he was voting on Verizon Tower Business elsewhere. He said that he raised to P&Z at a non-voting meeting—about whether he should be weighing in on the UDC drafting because of his business with Verizon—but that doesn't take care of the public who's interests were directly affected by his voting for Verizon towers. There are due process questions affecting every undisclosed potential conflict. I ask that Staff and Mr. Gutierrez run *that* past legal.
- f. I ask Mr. Daviet to do what's right here. And if he chooses not to, I ask him not to participate in any further UDC matters.

Thank you all for your attention.

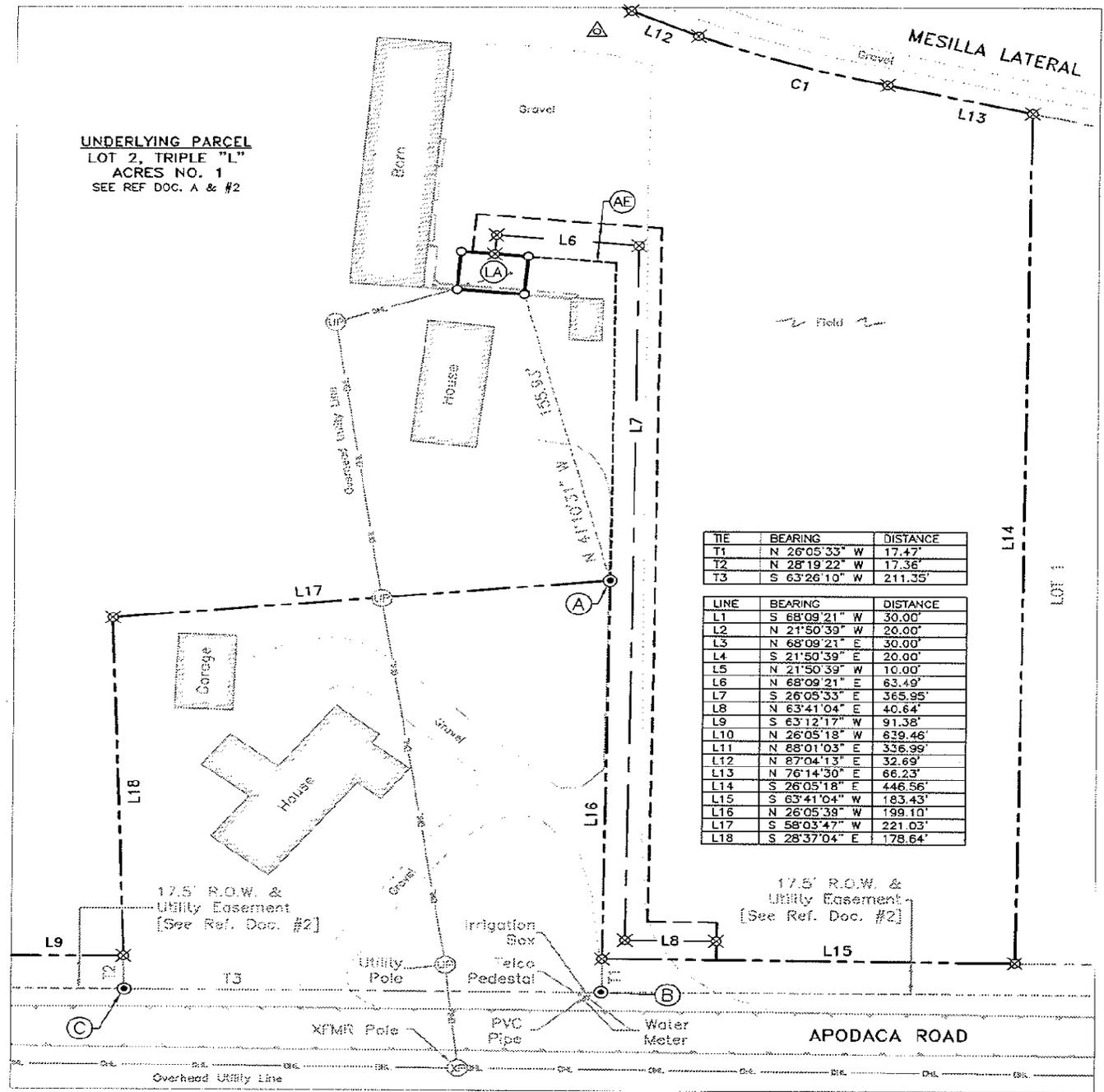
Bill Webber



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Site Plan

UNDERLYING PARCEL
LOT 2, TRIPLE "L"
ACRES NO. 1
 SEE REF DOC. A & #2



LINE	BEARING	DISTANCE
T1	N 26°05'33" W	17.47'
T2	N 28°19'22" W	17.36'
T3	S 63°26'10" W	211.35'

LINE	BEARING	DISTANCE
L1	S 68°09'21" W	30.00'
L2	N 21°50'39" W	20.00'
L3	N 68°09'21" E	30.00'
L4	S 21°50'39" E	20.00'
L5	N 21°50'39" W	10.00'
L6	N 68°09'21" E	63.49'
L7	S 26°05'33" E	365.95'
L8	N 63°41'04" E	40.64'
L9	S 63°12'17" W	91.38'
L10	N 26°05'18" W	639.46'
L11	N 88°01'03" E	336.99'
L12	N 87°04'13" E	32.69'
L13	N 76°14'30" E	66.23'
L14	S 26°05'18" E	446.56'
L15	S 63°41'04" W	183.43'
L16	N 26°05'39" W	199.10'
L17	S 58°03'47" W	221.03'
L18	S 28°37'04" E	178.64'

ACCESS AND UTILITY EASEMENT OVERVIEW

SCALE: 1" = 60'

Email Sept. 9, 2016 (pg. 1 of 2)

Steve Meadows

From: Bill Webber <bwebber@zianet.com>
Sent: Friday, September 09, 2016 4:20 PM
To: Bill Webber; Lauranne Webber; Steve Meadows; Greg@dixie-ranch.com; lesgutierrez35@gmail.com; wagnerniles@comcast.net

Mr. Gutierrez, Mr. Daviet, and Mr. Meadows,

I ask that the answers to the following be provided to staff immediately and that staff address them in its case report prior to the hearing:

1. Site Circle. At our 9/6 meeting with Mr. Gutierrez and Mr. Daviet, Mr. Gutierrez told me he didn't have the site circle (aka "site ring") in his files, but he would try to get it. That means that he didn't have it at the ETZ hearing, which means there was no evidence at the ETZ that P&Z Commissioner Daviet's property even sits within a ring of geographic possibilities gathered into a site circle—which Verizon's attorney indicated was the very first step in the company's extensive site selection process
 - a. I ask that Verizon turn over not just the site circle (step 1 of the process) to both staff and to myself and the other appellants far enough in advance of hearing for Staff to incorporate it into its case analysis.
 - b. I ask that Staff ask Verizon to turn over its site selection materials for the same reason and to reverse its recommendation if it cannot get the materials and, therefore, cannot verify that Commissioner Daviet's property was not "targeted" instead of coincidentally found to be in the right place at the right time as determined by Verizon's compliance with its own "extensive site selection process."
2. On the same evening that the Daviet/Verizon application was heard by ETZ, the Martin/Verizon application was heard. That site, like this one, is for a 75 foot tower in an open field—in fact some of the same underlying tables and data were used in both cases. Under the proposed Uniform Development Code, we ask Verizon to advise Staff and to be willing to confirm under oath at hearing that the lease proposed to both Commissioner Daviet's company and the one proposed to the Martin's have identical financial terms. That is, simply, that a public official is not being offered a better deal by Verizon than a private citizen—rather this be in terms of rental payments, rental terms, escalator clauses, or assignability or duties on termination of the lease. Let me make this perfectly clear: I am not claiming that Commissioner Daviet got a better deal or that he is holding out for a better deal. I'm claiming that due diligence by staff and the zoning authorities requires eliminating the possibility when a public zoning official is the applicant and is voting on Verizon cell towers applied for just down the road, and being recommended by the same staff that serves him in his P&Z position.
3. I represent to you that Mr. Daviet repeatedly assured me that his cell phone reception has been simply horrific in his house (although the coverage, he says, is great a few hundred feet away at his pecan cleaning plant). Yet, he insists that he never brought his horrific coverage problem to the attention of Verizon—before, during, or after Verizon first contacted his family. Mr. Daviet stated he didn't even bother talking to Verizon about it after the hearing at which he admitted that he had made a private mailing to his nearby neighbors that he had a serious coverage issue.
 - a. Be that as it may, Mr. Daviet said he was willing to consider putting this tower "anywhere" on his property, so long as it solved his cell phone coverage problem at his home. I would ask Verizon and Mr. Daviet to address this coverage problem at his home to see if there is a cheaper solution than a 75 foot tower across the street. Like maybe a \$100 signal booster kit.
 - b. I would like Staff to insist that Verizon give Staff some kind of estimate as to what it would cost extra to place a tower in Mr. Daviet's trees—even if one had to lay electrical and even thicken the footings for the tower to go in the trees instead of the middle of an open field.
 - c. I would like Verizon to consider and explain why it isn't feasible to find another site in the trees across the street. I understand that this is the "cheapest" way to go. But going cheap isn't always the best way to go—especially for the neighbors and the public that lives in this town—as opposed to folks from different cities and states who stop in to process applications that the local public has to live with.
4. Finally, I ask Staff to examine, and have "Legal" examine the propriety of Mr. Daviet proposing that Verizon agree to abide by the terms of the proposed Uniform Development Code as conditions for approval. I especially ask him to do this if he is intending on voting for the UDC.
 - a. I asked Verizon agent Gutierrez at my meeting with Mr. Daviet if Verizon was willing to do that—and he said the proposed code is not the law. I asked him if he knew of any law against doing what is right. Instead of answering my question, he asked his own: He said, "Mr. Webber, exactly what is it that you want." I'd really like Commissioner Daviet to step to the plate and declare, too, that he wants any tower put on his property to conform

Email Sept. 9, 2016 (pg. 2 of 2)

with the UDC provisions that he declares he's going to vote for. That might not be the "antiquated" law in effect this month, but it is the law Mr. Daviet favors for next year.

- b. I told Mr. Gutierrez that unless some intervening consideration led me to another conclusion, I would positively support putting a tower in Mr. Daviet's trees—I might say away from scenic (for now) Highway 28. I very much appreciate his expressed willingness to accept a tower anywhere on his properties. And I ask him to stand behind the proposed UDC provisions which he plans on supporting.
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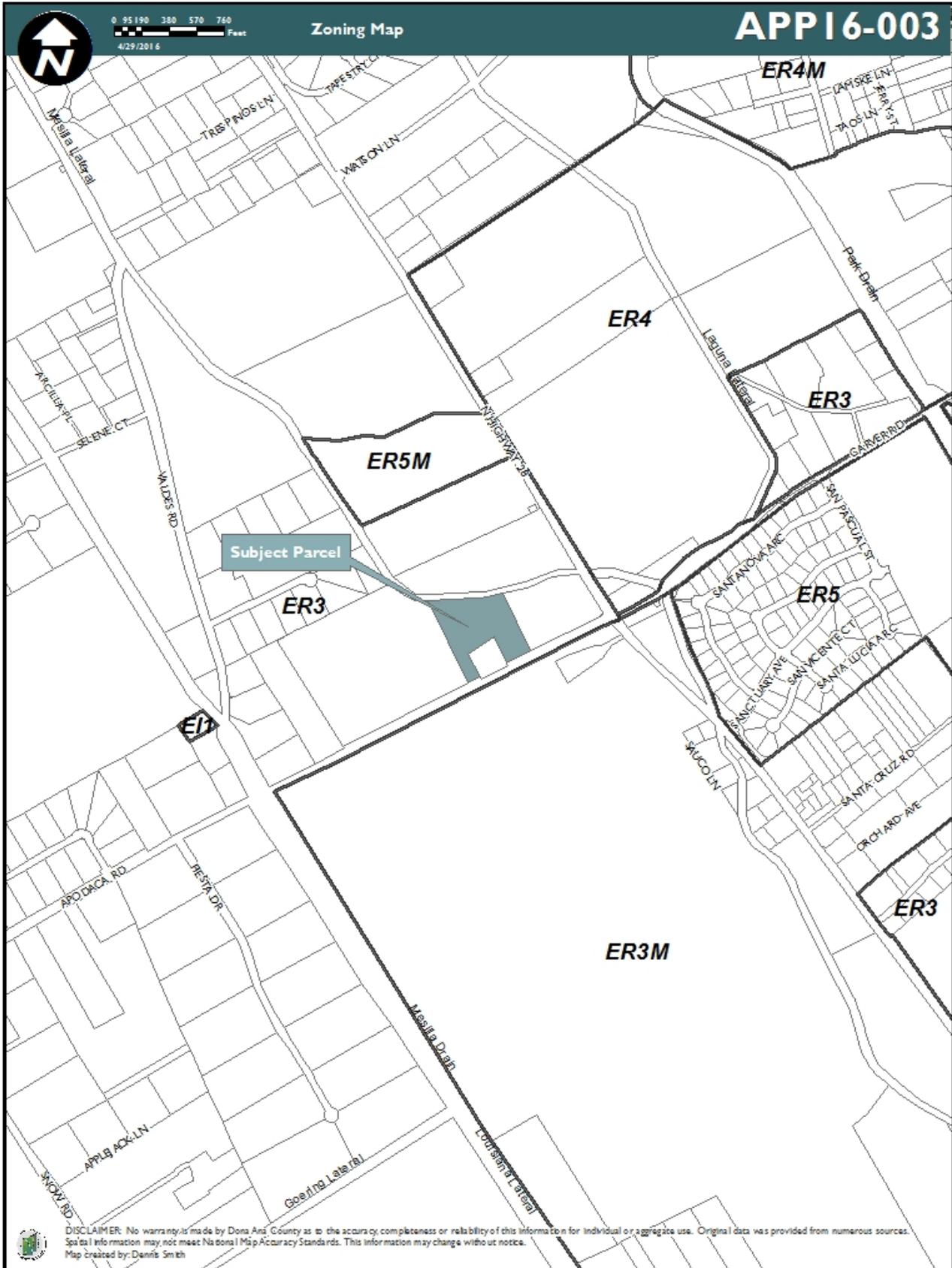
Thank you all for your attention.

Bill Webber



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Zoning Map



Close-up Aerial of Parcel



Notification Area Map



Area of Notification List

CODE	MAP_CODE	NAME	ADDRESS1	CITY	STATE	ZIP
1	4-007-139-209-205	DAVIET FARMS LLC	4020 N HWY 28	LAS CRUCES	NM	88005
2	4-007-139-165-089	KELLEY RALPH & JEAN	1437 SAN VICENTE CT	LAS CRUCES	NM	88005
3	4-007-139-188-135	WAGNER DONNA L & PETER C NILES	3750 N HWY 28	LAS CRUCES	NM	88005
4	4-007-139-100-115	WALLACE EDWARD H & WANDA	1309 WYOMING	LAS CRUCES	NM	88001-5744
5	4-007-139-085-125	WALLACE ROBERT H & AUDREY L &	1309 WYOMING	LAS CRUCES	NM	88001
6	4-007-139-250-123	JORNADA WATER COMPANY INC	225 E IDAHO #15	LAS CRUCES	NM	88005-3241
7	4-007-139-085-155	ELLIS MICHAEL G & LIZBETH G	202 CAPRI ARC	LAS CRUCES	NM	88005-3727
8	4-007-139-222-157	JOSEPH & REBECCA LUJAN FAMILY LLC	2279 VIA MANZANA	SANTA FE	NM	87507
9	4-007-139-346-158	SALOPEK FRANK & OLETA D TR	4915 SNOW RD	LAS CRUCES	NM	88005-4222
10	4-007-139-138-142	MARGARET A LORING	6555 RIO DORADO DR	LA MESA	NM	88044
11	4-007-139-120-145	BARRERA FRANK & MELISSA	PO BOX 2346	LAS CRUCES	NM	88004
12	4-007-139-263-194	DAVIET FARMS LLC	4020 N HWY 28	LAS CRUCES	NM	88005
13	4-007-139-296-172	GUERRERO CONSUELO	3919 N HIGHWAY 28	LAS CRUCES	NM	88005
14	4-007-139-115-160	GUADERRAMA OSCAR & WENDIE	2285 VIA SOMBRA CT	LAS CRUCES	NM	88005
15	4-007-139-309-179	BILOVESKY JOHN BRYAN	1806 CARVER RD	LAS CRUCES	NM	88005
16	4-007-139-086-191	GOMEZ DOLORES M & JOHN J ANDAZOLA	2365 VIA SOMBRA CT	LAS CRUCES	NM	88005
17	4-007-139-139-231	DAVIET FARMS LLC	4020 N HWY 28	LAS CRUCES	NM	88005
18	4-007-139-306-075	SALOPEK TREE SERVICE LLC	4915 SNOW RD	LAS CRUCES	NM	88005
19	4-007-139-324-195	DONA ANA COUNTY	845 N MOTEL BLVD	LAS CRUCES	NM	88007
20	4-007-139-335-186	CITY OF LAS CRUCES	PO BOX 20000	LAS CRUCES	NM	88004
21	4-007-139-335-209	DAVIET FARMS LLC	4020 N HWY 28	LAS CRUCES	NM	88005
22	4-007-139-307-450	DAVIET FARMS LLC	4020 N HWY 28	LAS CRUCES	NM	88005
23	4-007-139-218-230	DAVIET FARMS LLC	4020 N HWY 28	LAS CRUCES	NM	88005
24	4-007-139-090-255	DIAZ ISAAC SR TRUSTEE	2328 APODACA RD	LAS CRUCES	NM	88005-4233
25		NM STATE HWY DEPT.	8070 BATAAN MEMORIAL EAST	LAS CRUCES	NM	88012
26		EBID	530 S MELENDRES	LAS CRUCES	NM	88001
27		DAC ROAD DEPT.	2025 E. GRIGGS	LAS CRUCES	NM	88001

Surrounding Zoning and Land Uses

SITE	ZONING	LAND USE
North	ER3 - Residential, 1.0-acre minimum new lot size, single family site-built homes.	Agricultural and residential uses
South	ER3M - Residential, 1-acre minimum new lot size, single family site-built & mobile homes.	Agricultural uses
East	ER4 – Residential, 1/2-acre minimum new lot size, single family site-built homes	Agricultural and residential uses
West	ER3 - Residential, 1.0-acre minimum new lot size, single family site-built homes.	Residential and agricultural uses

BACKGROUND:

Existing Conditions/Zoning

The subject property is an irregularly shaped 5.0-acre parcel within an ER3 (Residential, 1.0-acre minimum new lot size, single family site-built homes) Zoning District. Access to the property is from Apodaca Rd., a paved county maintained road, considered a minor arterial road by the Mesilla Valley MPO requiring 100’ of R-O-W. The property is bounded on the north by the Mesilla Lateral, approximately 40’ in width at the property line. A 1,604 sq. ft. site built home with an attached carport was constructed in 1965 and is located near the center of the subject parcel. An approximate 4,300 sq. ft. agricultural structure is located north of the residence near the proposed cell tower site and an approximate 300 sq. ft. water well building is east of the residence.

The Request:

The applicant is requesting a Special Use Permit to construct a seventy-five foot (75’) monopole wireless communication cell tower (a.k.a., Valdes location). A 20’ X 30’ lease area is being proposed (*Page 14*) to contain the tower, equipment cabinet and an emergency generator surrounded by a 7’ CMU block wall. A twenty foot (20’) wide access and utility easement from the southern property line (Apodaca Rd.) is being proposed (*Page 14*).

APPLICABLE PLANS, POLICIES, AND CRITERIA FOR APPROVAL

- 1. Las Cruces Extra-territorial Zoning Ordinance, No. 88-02, as Amended**

2.1.D EVALUATION CRITERIA

The Planning Director and ETZ Commission may use the following general criteria when reviewing Special Use Permits and Zoning Applications. The ETZ Commission shall have the authority to require additional specific information on any of the following criteria of Article II, Section 2.1.D/Evaluation Criteria.

- 2.1.D.1 Determination of potential number of homes, population and population demographics.
- 2.1.D.2 Determination of potential traffic flows (average daily traffic) and where they will impact the transportation system.
- 2.1.D.3 Determination of need for new commercial activity.
- 2.1.D.4 Determination of potential water and sewage needs.
- 2.1.D.5 Evaluation of existing infrastructure capacities and an analysis of the ability of the existing system to accommodate the new development.
- 2.1.D.6 The difference between capacity and impact should be stated. Those areas which are appropriate for the developer to underwrite should be negotiated between local government and developer.
- 2.1.D.7 The ETZ should reserve the right to place appropriate zoning categories on environmentally sensitive areas, areas of historical significance or areas which contain endangered or rare species of animal or plant life.
- 2.1.D.8 Any analysis required should be undertaken and paid for by the developer and verified by the ETZ Commission.
- 2.1.D.9 Determination of impact of a proposed zone change on surrounding properties.

SPECIAL USE DEFINED

A special use is a use which is of an unusual or unique character and which may be offensive or incompatible in some cases within a zoning district. A special use requires review and approval by the ETZ Commission to determine impacts of the use on the surrounding area. Special Use Permits for accessory dwellings shall follow Article 7, Section 7.2 of this Ordinance.

Current Zoning District:

Section 3.1.C.2 ER3 RESIDENTIAL DISTRICT

3.1.C.2.a PURPOSE

The purpose of the ER3 zoning district is to establish residential districts of single-family site-built homes on moderate to large size lots, specifically designed to meet the demand for those persons whose lifestyles include raising and keeping of large and small animals in a semi-rural atmosphere.

3.1.C.2.b DEVELOPMENT REQUIREMENTS

The development requirements set for the ER3M district as outlined in Section 3.1.C.1.b (below) of this Article are applicable to the ER3 district.

3.1.C.2.c ER3 PERMITTED USES

The permitted uses set for the ER3M district as outlined in Section 3.1.C.1.c (below) of this Article are applicable to the ER3 district, EXCEPT that mobile homes are not allowed in the ER3 district.

3.1.C.2.d ER3 SPECIAL USE PERMITS

The Special Use Permit uses and conditions set for the ER3M district as outlined in Section 3.1.C.1.d (below) of this Article are applicable to the ER3 district.

Section 3.1.C.1 ER3M RESIDENTIAL DISTRICT

3.1.C.1.a PURPOSE

The purpose of the ER3M zoning district is to establish residential district is to establish residential districts of single-family site-built homes and mobile homes on moderate to large size lots, specifically designed to meet the demand for those persons whose lifestyles include raising and keeping of large and small animals in a semi-rural atmosphere.

3.1.C.1.b DEVELOPMENT REQUIREMENTS

Minimum lot size	1 acre (except cluster development)
Minimum lot width	100 feet
Minimum lot depth	100 feet
Minimum front setback	25 feet
Minimum side setback	15 feet
Minimum rear setback	25 feet
Maximum building height	35 feet

3.1.C.1.c ER3M PERMITTED USES

The following uses are permitted by right in the ER3M district:

1. All types of agriculture.
2. Barbed wire fences.
3. Barns and other structures normally used in connection with farming and ranching.
4. Christmas tree farms.
5. Cluster developments in accordance with Subdivision Regulations adopted by the ETZ Authority.
6. Detached single-family site-built homes and mobile homes.
7. Garage and yard sales or similar uses, limited to three (3) sales in a one (1) year period at a single address, and each sale shall be limited to three (3) consecutive days.
8. Greenhouses (non-commercial) garden and tool sheds. If detached from the main dwelling, the structures are subject to the provisions of Accessory Buildings under Article VII of the Ordinance.
9. Home Occupations subject to Section 3.4 of this Article.
10. Private swimming pools provided the provisions of Article 5 of this ordinance for fencing are met. The pool shall be no closer than five (5) feet from any property line and approval from all utilities is obtained to ensure overhead safety.
11. Raising large and small animals in accordance with Article VIII of the Ordinance.

12. Recreational vehicles such as boats, trailers or similar uses, limited to a maximum of one (1) per dwelling unit in the front and side yard, and no limitations for the rear yard, provided there is at least a distance of five (5) feet from any property line.
13. Residential type satellite dishes, television or receiving antenna, roof mounted, and not exceeding twenty (20) feet in height at the highest point of the roof.
14. Septic tanks in accordance with the regulations of the New Mexico Environmental Improvement Division (EID) and Section 3.02 of this Article.
15. Temporary real estate offices, when used in conjunction with a residential subdivision, provided such use is discontinued upon the completion of the development or within three (3) years from the date the building permit was issued, whichever is sooner.
16. The sale of agricultural and farm products such as nursery stock, poultry, rabbits, chinchillas, fish, frogs, earthworms and bees, if produced or raised on the premises.
17. Windmills built to withstand a 75 MPH wind and meet the Uniform Building Code.
18. Agriculture uses and agriculture related uses not specifically listed under Sections 3.1.A.1.c and 3.1.A.1.d of this Article are permitted by right in the ER3M district.

3.1.C.1.d ER3M SPECIAL USE PERMITS

The following uses require a public hearing pursuant to Section 2.1.G of this Ordinance and approval by the ETZ Commission:

1. Boarding houses and rest homes
2. Cemeteries
3. Commercial stable and riding academies
4. Commercial kennels
5. Community and publicly owned recreational centers, clubhouses and similar buildings and structures open to the public
6. Day care center or child care center for seven (7) or more children
7. Guest ranches
8. Parks, golf courses, churches, schools and other public or semi-public and open recreational uses
9. Public utility installations, substations and water wells
10. Keeping of wild or exotic animals or fowl
11. Time-rental riding facilities
12. Veterinary clinics and treatment centers
13. Wineries and/or wine tasting rooms

Section 3.3.B SPECIAL USE PERMITS (SUP's)

3.3.B.1 GENERAL PROVISIONS AND PROCEDURES

A special use is a use which is not permitted by right in a zoning district. A special use requires review and approval by the ETZ Commission to determine impacts on the surrounding area. The procedures for such approval are as follows:

3.3.B.2 APPLICATION PROCEDURE

Applications for a Special Use Permit shall be obtained from the Doña Ana County Planning Division. There shall be a comprehensive statement included with each application indicating, in detail, the reason for the request, the purpose and use of the property, all improvements to be made and a site plan including the following:

- a. location of existing and proposed structures, including dimensions and setbacks
- b. existing and proposed vehicular circulation systems, including parking area, storage areas, service areas, loading areas and major points of access, including street pavement width and right-of-way
- c. location and treatment of open spaces including landscaping plan and schedule
- d. lighting
- e. signs

A drainage facilities plan or environmental impact statement may be required by the ETZ Commission.

3.3.B.3 PUBLIC HEARING AND NOTICE PROCEDURE

A public hearing shall be held by the ETZ Commission for all Special Use Permits in accordance with the provisions of Section 2.1.G of this Ordinance.

3.3.B.4 REVIEW AND APPROVAL PROCEDURE

The ETZ Commission may deny such SUP's or may grant final approval in accordance with certain conditions, with right of appeal to the ETZ Authority in accordance with the provisions of Section 3.1. Approval may also be granted with additional conditions imposed which are deemed necessary to insure that the purpose and intent of this Ordinance is met and to protect and provide safeguards for persons and property in the vicinity. Variances in the dimensional requirements for a special use may be granted by the ETZ Commission in accordance with the criteria in Section 2.3.B of this Ordinance.

3.3.B.5 TIME LIMITATIONS, REVOCATIONS AND DEVELOPMENT STANDARDS

In addition to the imposition of conditions, the ETZ Commission may impose a time limitation on the SUP. If a special use is discontinued for a period of one (1) year, said permit shall automatically expire. All improvements shall be in accord with the development standards within the district, except as otherwise authorized by the SUP. There shall be no major revisions in the site plan of the original approved special use except as approved by the ETZ Commission. Minor revisions to a site plan, following final approval, may be subsequently approved by the planning staff without a public hearing. Major revisions to the plan are subject to a regular public hearing with the same requirements as an original application.

3.3.B.5.a Major revisions shall include, but are not limited to, the following:

1. any change in land use or intensity

2. modifications of vehicular traffic volumes or circulation
3. increase in size of property or change in location or configuration of structures

3.3.B.5.b Minor changes that planning staff may approve are as follows:

1. provision of additional parking or landscaping
2. minor adjustment to parking, landscaping, lighting or signs
3. superficial changes to structures or slight variations in dimensions

Special Use Permits shall be eligible for renewal when limitations expire.

3.3.B.6 RECORDING OF THE SPECIAL USE PERMIT

After approval, the Special Use Permit shall be issued by the Planning Director or his/her designee and shall include all information, conditions, reference to site plans and other provisions of the special use. The special uses, as granted, shall be shown on a Special Use Permit map indicating its location with a designation of 'SU' and the year of expiration. Special uses shall not be considered a zone change.

4.2.E.2.b Commercial Towers in Residential Zones

Any commercial tower to be located in residential zones shall only be allowed in ER1, ER1M, ER2, ER2M, **ER3**, ER3M, ER3H and EC1 zoning districts through approval of a Special Use Permit. Commercial towers in residential districts and neighborhood commercial districts shall meet the following criteria:

- monopole type only
- height shall be limited to that height which is determined by a two-to-one setback from all property lines up to a maximum total tower height of seventy-five (75) feet
- approval of a site plan by the Doña Ana County Planning Department prior to new construction or modification of an existing structure.

4.2.E.2.f Commercial Tower Density-

Each commercial tower site shall have a one (1) mile buffer zone around it. No other commercial tower of the same use may be placed or erected within this buffer zone. On-site business communications are exempt from this clause.

AGENCY COMMENTS

DAC Engineering: 1) All stormwater runoff from all impervious areas must be contained within lot. Pond must contain 125% of required volume. 2) Non-dedicated streets or private drives within lot, tract, or parcel shall be minimum 25' width for two way and 18' for one way. 3) Provide recorded information and/or description for access easement by Building Permit issuance. 4) DAC Driveway Permit will be required. 5) A SWPPP may be required if total acres of disturbance is greater than 5,000 sq. ft. 6) Adhere to all regulatory agency comments. Some agencies may require certain permits or licenses to be obtained. 7) When submitting for other permits other comments may arise.

DAC Flood Commission: Pursuant to FEMA Flood Insurance Rate Map (FIRM) No. 35013C0633 E, the property is located within a FEMA Flood Zone Area, "Other Flood Areas"

and can be found in Flood Zone "X" (Areas of 500-yr flood). Additional reviews may warrant additional comments.

DAC Fire Marshal: Any future structures will be required to meet all fire code requirements.

DAC Codes: No violations. 5/16/16

DAC Building Services: NM licensed contractor will be required to obtain permit for installation of cell tower.

DAC Addressing Coordinator: No comments.

DAC Zoning Codes: No open case.

NMED: *Wastewater Treatment and Disposal:* No comment. *Water Supply/Water Quality:* No comment- provided. *Solid Waste Disposal:* the Solid Waste Bureau has no comment regarding solid waste matters. *Surface Water Bureau:* No comments provided.

NMDOT: No comments received.

Mesilla Valley MPO: Apodaca Rd. is a minor arterial requiring 100' R-O-W.

CLC Planning Dept: No issues. However, if the property is annexed into the City Limits, the property may require a Zone change or may need to meet building requirements for the city of Las Cruces zoning code in order to come into compliance.

EBID: No comments received.

State Eng. Office: No water rights issue with the installation of the tower.

PUBLIC NOTICE / NOTIFICATION

Twenty-two (22) letters of notification mailed to area of notification on May 31, 2016.

Agenda was posted in the Las Cruces Sun-News on May 29, 2016.

Signs were posted on the property in a timely manner.

One email was received on June 9 (*Pgs 19-22*) from Mr. Bill Webber (*outside area of list*) voicing his concerns about site selection process, no demonstrated need for this site, possible safety issues with area crop dusting, possible flashing lights, proximity to existing house and barn and potential safety issues, and potential negative impact on property values. No other correspondence or phone calls were received by staff in opposition or support of the proposal.

STAFF ANALYSIS

Special Use Permit:

The Special Use Permit (SUP) application request to construct a cell tower seventy-five-feet (75') in height on a 5.0-acre parcel located within an ER3 (Residential, 1.0-acre minimum new lot size, single family site built homes) Zoning District was received on April 28, 2016. Special Use Permits are required for all Cell Towers located within ER3 Zoning Districts per

Section 4.2.E.2.b Commercial Towers in Residential Zones (*Page 7*). Special Use Permits must meet Section 2.1.D Evaluation Criteria for approval.

Below is a brief recap of the 2.1.D Evaluation Criteria: Due to the nature of the request (a cell tower), no homes are being proposed and traffic from the project and facility will peak during construction with minimal traffic during day to day operations. Access from Apodaca Rd., a minor arterial, will be adequate for the increase in traffic during construction and for the subsequent minimal traffic involved during the operation of the facility. Verizon's Engineering justification (*Pages 11-13*) and maps (*Pages 17-18*) indicate a gap in coverage and also shows this Valdes location as a preferred location to serve those customers. Existing road, water, and utility infrastructure are adequate. No additional infrastructure requirements were received from reviewing agencies. No known areas of historical significance, environmentally sensitive areas, or any endangered species have been found on this property. Impacts to the neighborhood will increase slightly during construction phase of the project but long term impacts will be minimal. Increased voice and data capacity will positively impact the surrounding neighborhoods. Design of the facility will allow collocation of other providers' equipment and visual impacts can be mitigated by employing stealth/camouflage techniques.

2.1.D CRITERIA Evaluation Criteria

Staff analysis in bold.

2.1.D.1 Determination of the number of homes, population, and population demographics.

No homes being proposed.

2.1.D.2 Determination of potential traffic flows (average daily traffic) and where they will impact the transportation system. **Access will be from Apodaca Rd., classified as a minor arterial (100' R-O-W) to a proposed 20 foot (20') one-way access/utility easement to the telecommunications facility (*Page 14*). Construction phase traffic will be heavier than the traffic during operations which will drop to minimal levels for maintenance.**

2.1.D.3 Determination of need for new commercial activity. **Increase in number of customers and the demand for voice and data bandwidth requires a cell tower in this area according to documents submitted by applicant (*Pages 11-13*).**

2.1.D.4 Determination of potential water and sewage needs. **No water or sewer needed for the operation of cell tower. Temporary sanitation facilities and water provided by contractor during construction phase.**

2.1.D.5 Evaluation of existing infrastructure capacities and an analysis of the ability of the existing system to accommodate the new development. **Water and sewer are not required except during construction and shall be provided by contractor. Existing road, Apodaca Rd., and proposed twenty foot (20') access/utility easement (*Page 14*) will be adequate for construction and operations on the site.**

2.1.D.6 The difference between capacity and impact should be stated. Those areas that are appropriate for the developer to underwrite should be negotiated between local government and developer. **Infrastructure is adequate and no additional infrastructure facilities are being requested by any of the reviewing agencies.**

2.1.D.7 The ETZ should reserve the right to place appropriate zoning categories on environmentally sensitive areas, areas of historical significance, or areas on which contain endangered or rare species of animal or plant life. **No known areas of historical significance or any endangered species have been discovered on this parcel. No evidence submitted to staff that demonstrates any environmentally sensitive areas at this site.**

2.1.D.8 Any analysis required should be undertaken and paid for by the developer and verified by the ETZ Commission. **Applicant shall pay any fees or analysis for the project. No additional analysis or fees required at this time.**

2.1.D.9 Determination of impact of a proposed Special Use Permit on surrounding properties. **Proposed site is located in an area dominated by agricultural uses with some residential dwellings. Visual impacts can be mitigated by employing stealth/camouflage techniques. Impacts during construction will be temporary and will include additional traffic and noise, but the impact will be minimal during the lifespan of the cell tower with occasional maintenance by crews. All development requirements are met by the proposal and no variances to setbacks are being requested. The proposed telecommunications facility will positively impact the surrounding neighborhoods by providing additional capacity for voice and data requirements, enhancing emergency response to the area, and reduce the total number of towers in the area as it is designed to allow collocation of other providers' equipment (Page 12).**

Staff's analysis of the 2.1.D Evaluation Criteria indicates that the request complies with the ETZ Ordinance.

STAFF FINDINGS:

1. The subject property is located outside the corporate limits of the City of Las Cruces, but within the five-mile Extra-territorial Zone (ETZ) as set forth by 3-19-5(1), NMSA 1978 and the Joint Powers Agreement between Doña Ana County and the City of Las Cruces.
2. The 5.0 acre subject parcel is Lot 2, of the Triple "L" Acres No. 1, recorded December 20, 2015, in the DAC Clerk's Office with Instrument #1527726.
3. The subject property is located within an ER3 (Residential, 1.0-acre minimum new lot size, single family site-built homes) Zoning District.
4. A Special Use Permit is required for all Commercial Towers within ER3 Zoning Districts per Section 4.2.E.2.b.
5. Proposed telecommunications tower will meet all setback and development requirements.
6. One email in opposition was received on June 9 from outside the Area of Notification.
7. The applicant has met the Evaluation Criteria of Section 2.1.D for a Special Use Permit.

STAFF RECOMMENDATION:

Based on the Findings of Fact, staff analysis, and the proposal complying with Section 2.1.D, staff recommends **Approval** of SUP16-005/Daviet Farms, LLC, to construct and operate a 75' telecommunications facility.

Narrative



Verizon Wireless
126 W. Gemini Dr.
Tempe, Arizona 8528

April 3, 2016

Mr. Steve Meadows, Senior Planner
Community Planning Development
845 Motel Blvd
Las Cruces, NM 88007

RE: Verizon LSC LSC VALDES (2116 Apodaca Road)

Dear Mr. Meadows:

Please accept this Application for a Special Permit from Verizon Wireless. The request is for a new telecom facility to be located 2116 Apodaca Road. Las Cruces has one off the highest demands for 4G LTE wireless data and we are making every effort to provide the data speed required for all of its customers.

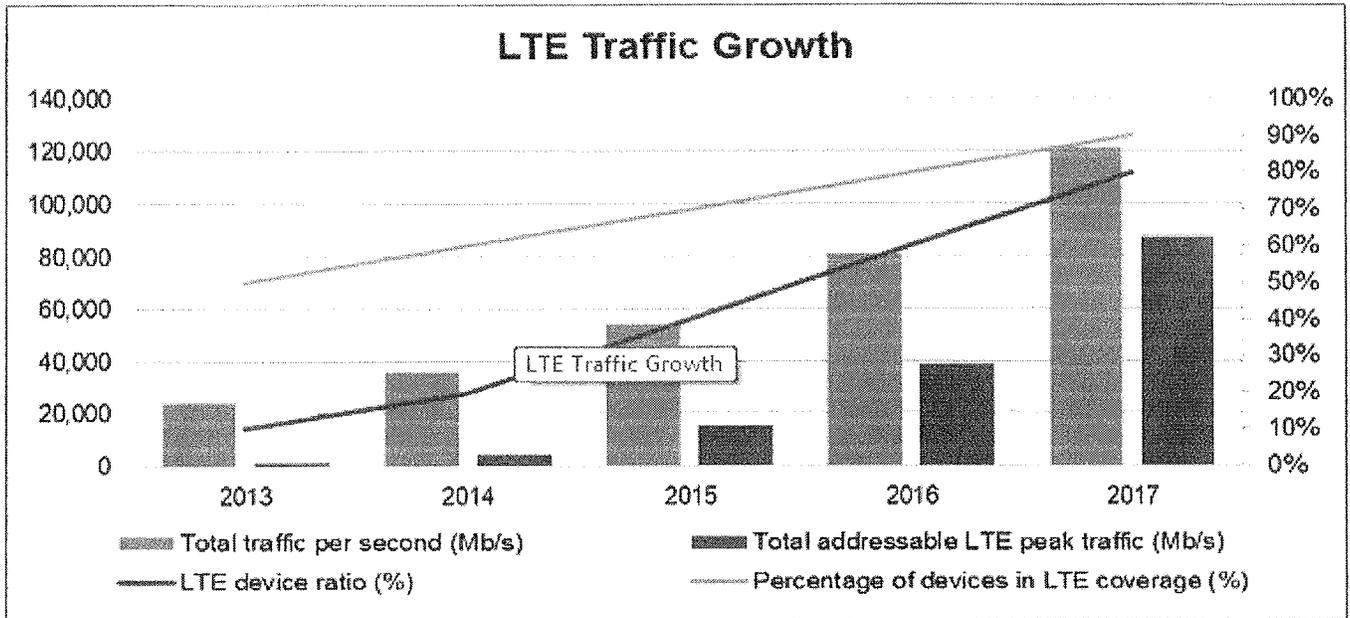
Attached are the following documents for this application:

1. Completed SUP Application.
2. Section 2.1 D Evaluation Criteria for LSC VALDES.
3. Property Owner Letter of Authorization.
4. Warranty Deed.
5. \$600 Fee for request.
6. Full set of development plans, stamped by a professional engineer.

Currently the traffic and surrounding homes are experiencing huge demand for capacity through the campus and residences in this area. Data usage is on the rise at a much more rapid rate than our current network there can sustain. This rise is primarily due to the increased numbers of smart devices such as Android and Apple phones, laptops and tablets all supporting applications (Netflix, Social Media, web browsing) that require high speed connections.

In summary, the majority of new sites will be LTE high speed data sites. As more and more devices and different applications are added to the network, more and more resources are needed to support this network. Unfortunately, there are no other liable solutions other than to add more sites to handle data growth and the desired speeds.

Narrative & Projected Growth Graph (Pg 2)



The proposed 75' monopole will provide Verizon with the necessary capacity to serve our customer base as well as emergency 911 users. The monopole will be designed to accommodate additional users. We respectfully ask that you grant our request our zoning approval request for this site.

Sincerely,

Les F. Gutierrez

Les F. Gutierrez, Agent for Verizon Wireless

LesGutierrez35@gmail.com

505-710-2079

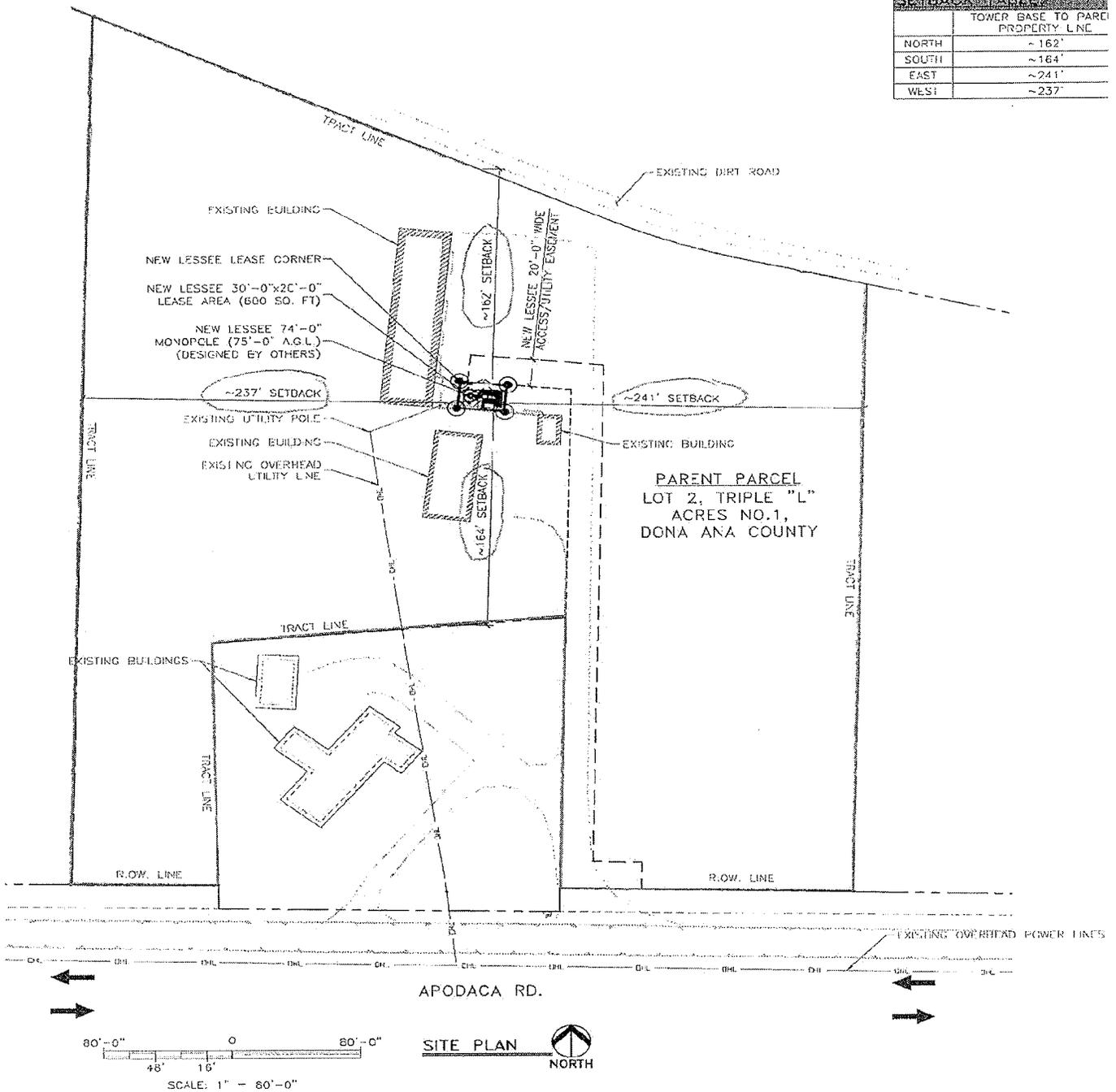
Summary

Execution summary

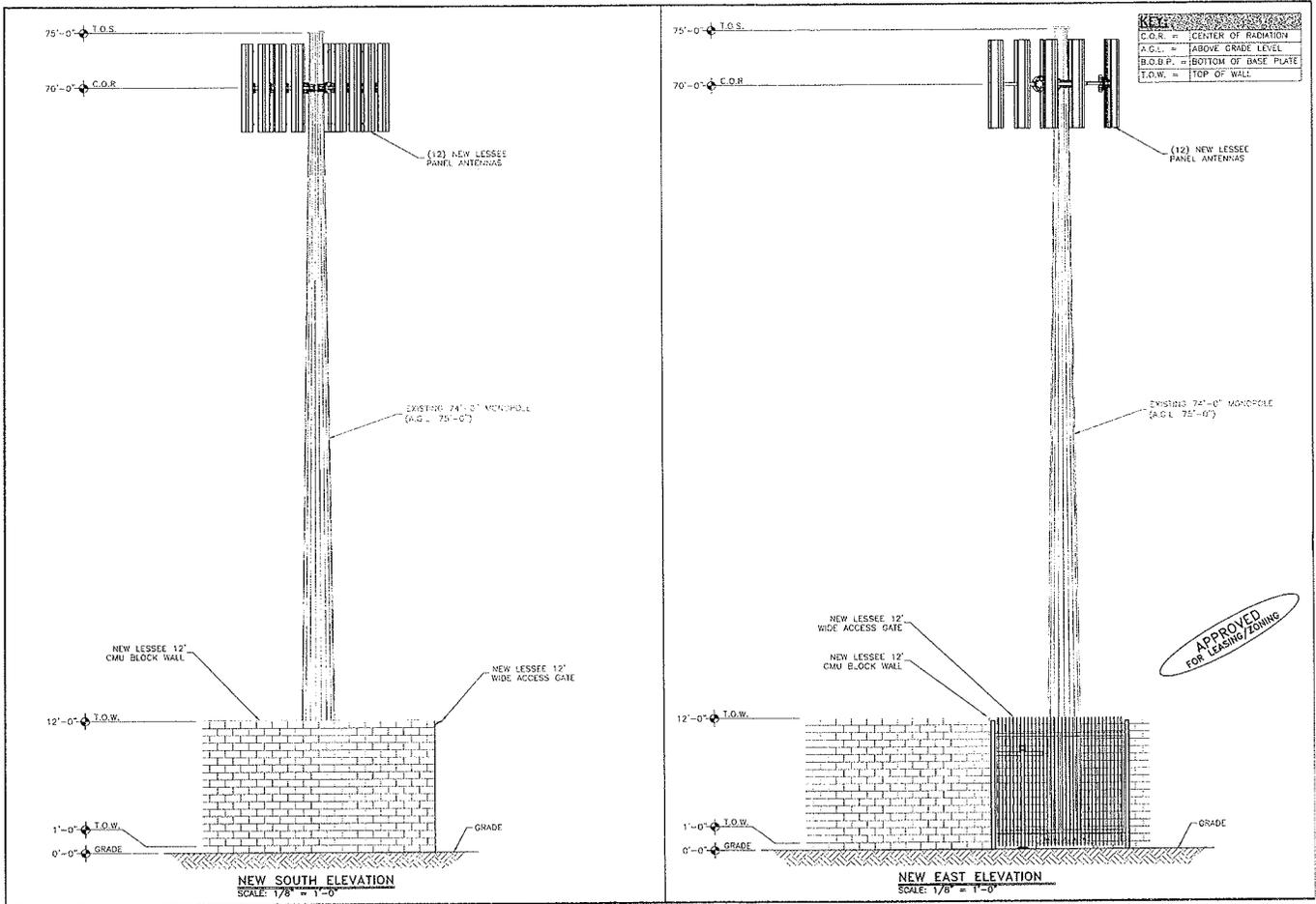
- Primary reason for LSC_Valdes site is the residential and new homes and business in the area of this site. The area is experiencing a healthy amount of growth.
- Based on capacity prediction all the existing sector of the existing sites covering this area will exhaust in the future
- We are very limited with providing additional capacity other than adding new sites since all available carriers are active to day in Las Cruces NM

Site Plan

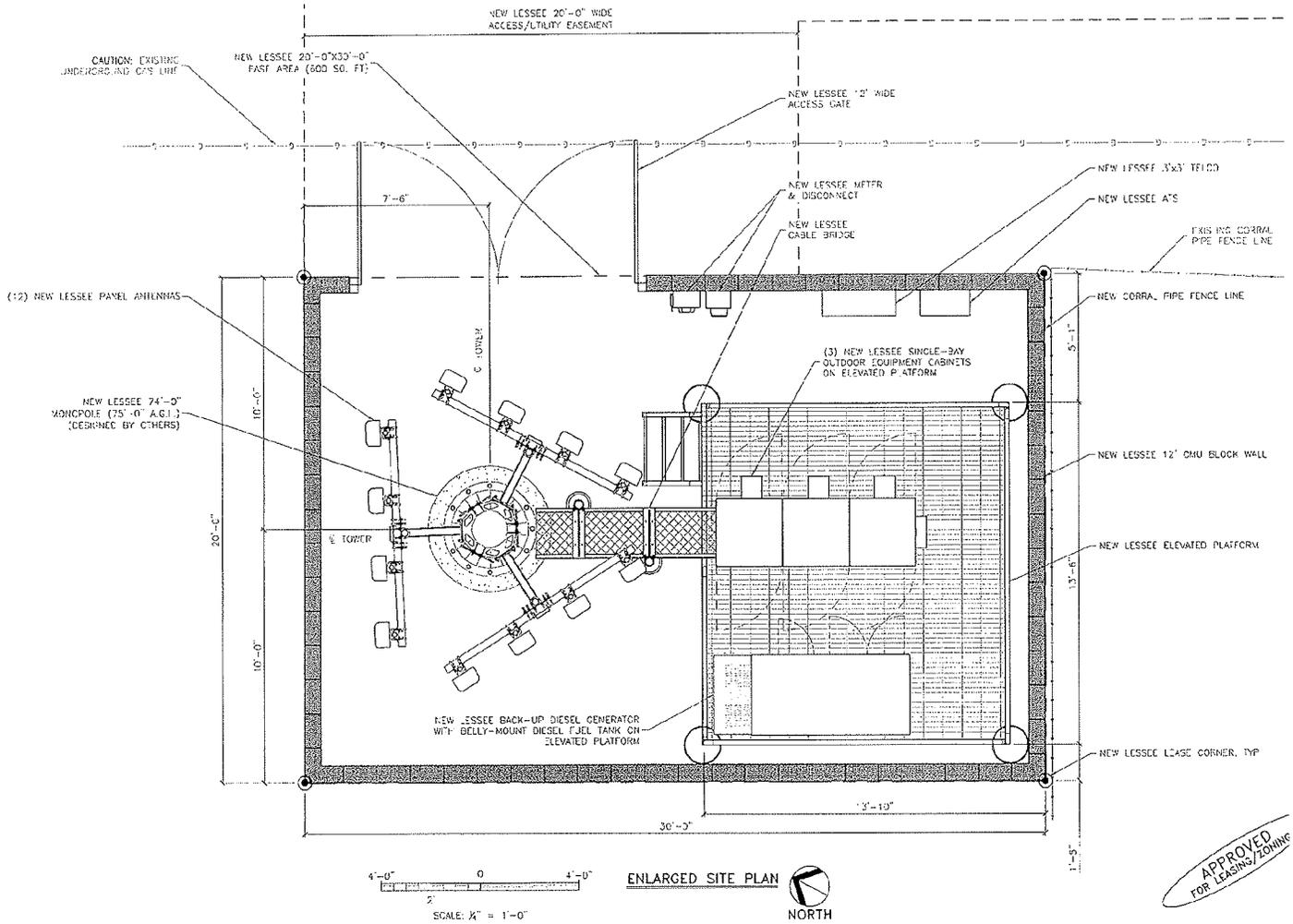
SETBACK TABLE	
	TOWER BASE TO PARENT PROPERTY LINE
NORTH	~162'
SOUTH	~164'
EAST	~241'
WEST	~237'



Depiction of a Typical Cell Tower

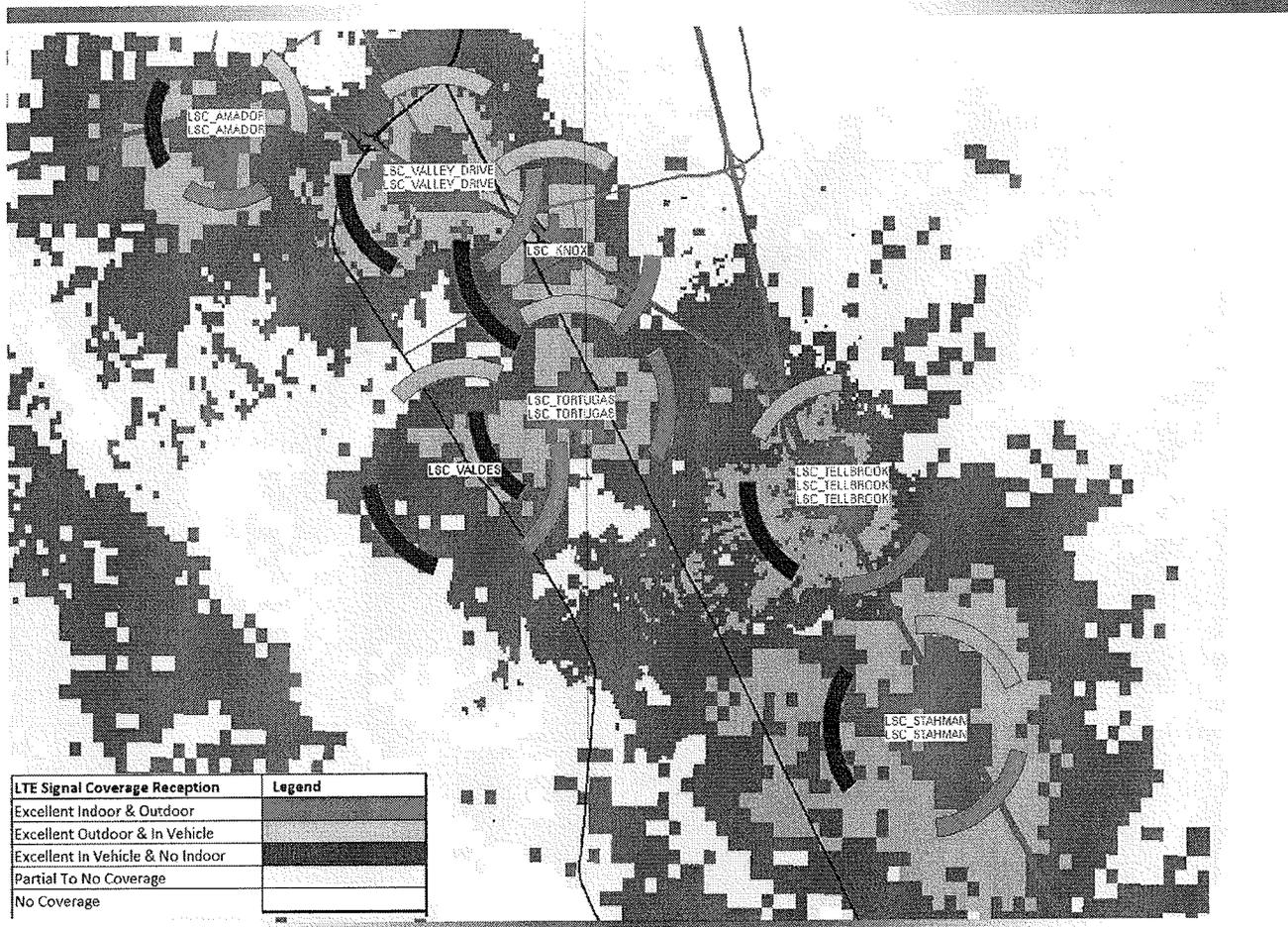


Enlarged Facility Site Plan



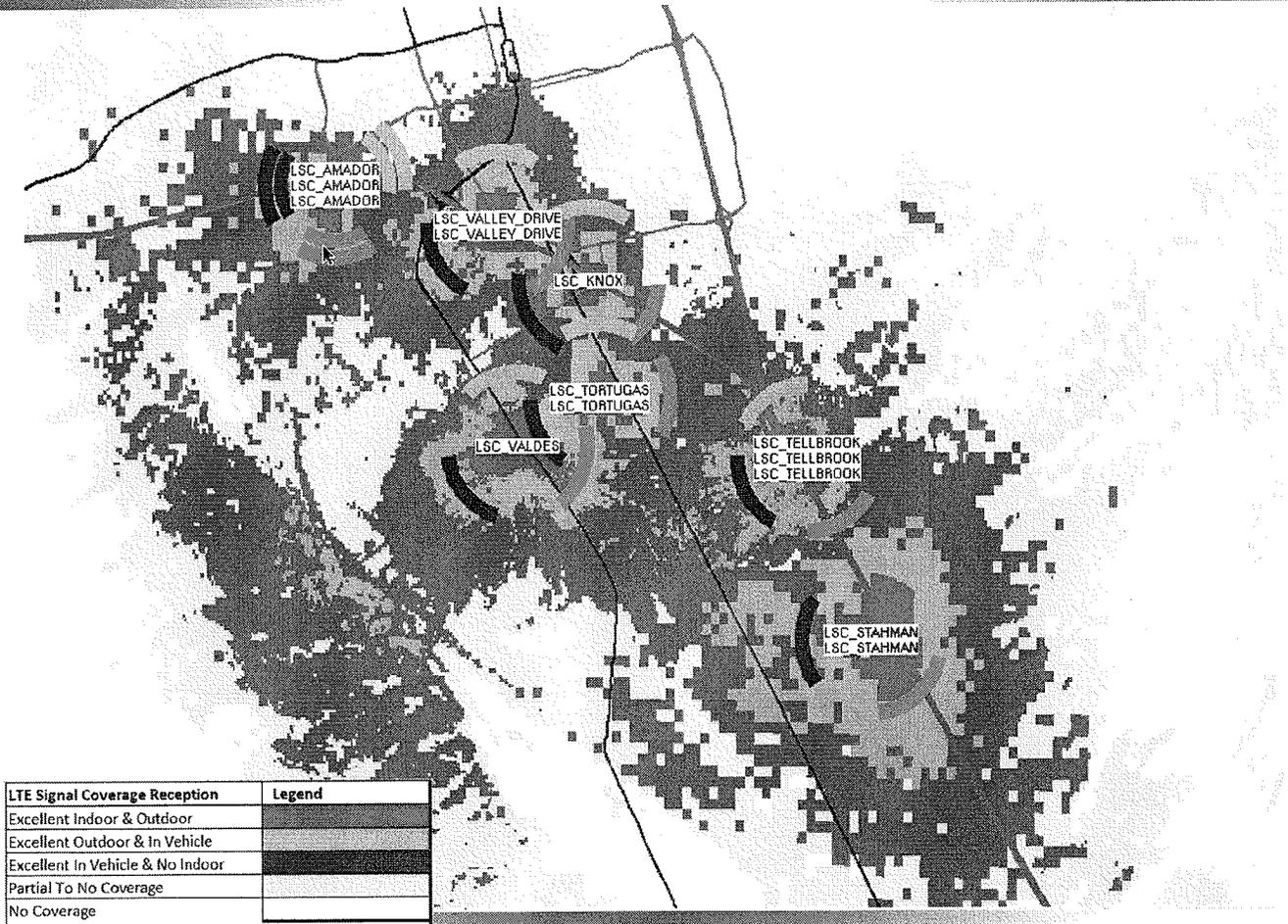
Existing Area Towers and Coverage

Existing LTE coverage in the area



Coverage with Proposed Valdes Tower

Existing LTE coverage in the area plus LSC_Valdes



Webber Email (Pg 1 of 4)

Steve Meadows

From: Bill Webber <bwebber@zianet.com>
Sent: Thursday, June 09, 2016 5:07 PM
To: Steve Meadows
Cc: Bill Webber
Subject: Case #SU16-005: Letter of protest for Commissioner's packets.



Mr. Steve Meadows, Senior Planner
Community Planning Development
845 Motel Blvd.
Las Cruces, NM 88007

Re: Case #SU16-005: Daviet Farms, LLC/Verizon: Request for Special Use Permit to erect a 75 foot cell tower within an ER3 Zoning District at 2116 Apodaca

Dr. Mr. Meadows, ETZ Commissioners, Mr. Daviet, and Verizon Agent Mr. Guitierrez,

Mr. Meadows, thank you for going over the application file with my wife and I. Commisioners, Mr. Daviet, and Mr. Guitierrez, thank you in advance for your attention to this letter. Please add this to the Commissioner's packets for next Thursday's meeting and hearing.

My wife and I have lived on Valdes Road since 1998. The purpose of this letter is to voice our opposition to the 75 foot cell tower proposed to be placed in the middle of a 100 acre field near the corner of Highway 28 and Apodaca Road. We would be grateful if this is not treated as "just" another "not in my backyard" protests—that being the characterization that some have given to people who are not fond of tall communications towers in neighborhoods. Our concern is much wider than the proposed tower being a visual "sore thumb." This looks more like planting a 75 foot flagpole in the middle of a huge field without any attempt to demonstrate a coverage need and without any evidence that other less intrusive sites were even considered. We recognize the need for cell towers and we recognize the need that such towers have to go *somewhere*. In fact, there are over a dozen within a few miles of this site. But none of them stick out like sore flagpoles. The closest site (Four Corners Gin is built in the midst of a lot of pre-existing heavy industrial infrastructure and/or agricultural equipment infrastructure. In other words, the towers are additional heavy metal to a lot of already aggregated heavy metal. Warehousing and heavy equipment storage—and 75 foot cell towers--certainly do have to go somewhere. We question and oppose putting them, not in our backyard, but in the middle of a huge open space field in our neck of the woods. Especially since the capacity problem that is being "fixed" is a problem that comes from over by NMSU. This is a problem that needs to be fixed over by NMSU. The Application fails to apprise anyone of what is really going on—unless one already "gets" it.

The Application Demonstrates No Need for a Tower in This Location.

If a Special Use Permit is to be granted in a semi-residential, semi-agricultural, zoned area where cell towers are not a permissive use, it seems like the applicant should address how the proposed use benefits people in the zone, if at all, and how intrusive or detrimentally impactful the use would be on nearby properties and to the comprehensive plan in general.

The application and supporting materials do not even claim that there is any kind of significant cell phone coverage gap in this neck of the woods. In fact, the coverage maps supplied with the application show no significant "no coverage" areas would be eliminated. There might be a couple of places back in a couple of pecan orchards, but if there is a single person who has coverage issues who would get coverage, no such person or residence is identified. A couple of "little to no" coverage areas are improved, but the maps don't assist one to identify a "coverage" gap—and, indeed, Verizon's supporting documentation indicates that this proposed tower may be going in primarily, if not exclusively, in order to address a future capacity problem—that exists in another part of town.

Webber Email (Pg 2 of 4)

In fact, the handwritten application says that “The new telecommunication facility will provide needed voice/data to Interstate 10 traffic and to nearby homes.” (emphasis added). Likewise, the Verizon cover letter to Mr. Meadows notes that “the traffic and surrounding areas are experiencing huge demand for capacity through the campus and residences in the area.” (emphasis added). It looks for all the world that the main reason for this proposed tower is not to help coverage in this neck of the woods, but to dump, or download, data from another part of town in order to plan for future growth. Also related to this is the claim that putting this 75 foot tower in the middle of this huge field will improve emergency services. Please correct me if I'm wrong, but my understanding was that emergency services (as well as military and perhaps other forms of cellular traffic) take priority over general traffic when there is a capacity congestion problem—that is the other calls get dumped. The claim of improving emergency response is a conclusion without any underlying foundation. Certainly emergency services would be improved with a 75 foot tower in each and every open field in the county, but that doesn't mean that there is a need. There is no identified factual problem or one identified person who has suffered from a lack of cell phone coverage in an emergency—but the application is about a future capacity problem over by NMSU and not a present coverage problem over here on this side of town.

In sum, there is no apparent need for this proposed tower to be put in a middle of a field just south of Mesilla to address a future problem in another part of town. (Not to mention enabling increasing cell phone traffic by people behind the wheel on I-10).

Did Verizon Employ Its Own Site Selection Process “Find” this Piece of Farmland West of Highway 28 Since It Appears to Be Primarily or Exclusively for the Purpose of Offloading Data from I 10/NMSU?

One of the recent special use permit applications two or three miles east of the present proposed site was for 4790 Stern Drive. (That's where there has been a vacant convenience store for a number of years). In an appeal document by Verizon, it was indicated that Verizon has an “extensive site-selection process” that begins with “in-depth technical and engineering analysis.” “Once capacity/coverage issues are identified in an area, Verizon reviews the existing sites and possible areas in between them to install a new network enhancing site. First it locates the small area in which such a sit can be located based upon detailed FR analysis (the “Site Ring”).

We need to see the ring or rings involved in selecting this site two miles south of Mesilla. Looks to me like there's a whole other map going on besides the zoning map and a whole other plan going on besides the Comprehensive Plan. Staff and the should demand full disclosure and submission of the “big picture” of what's going on here.

Why Is There No Substantive Discussion of Impacts on the Surrounding Area And How Can This Application be Legally Approved Without Any Evidentiary Basis for Review by The ETZ Commission?

If there is a genuine need for this kind of tower in this kind of zoning in this part of town, it's not readily and factually apparent from the application materials. To the contrary, it appears to be designed to download near capacity data from the busiest data traffic zone in town (NMSU, I-10, near I-25). In fact, the application material doesn't mention a *coverage* gap at all. If Verizon looked for a less intrusive site than the middle of a 100 acre cornfield, it's not easily found in the application materials. I cannot verify the veracity of this, but it needs to be addressed, resolved, or eliminated. One of the people close to the site said that the “owner” sent out a letter to “neighbors” (I guess we didn't qualify) that said “he” was applying for the permit because he was having trouble with his cell phone coverage and that he was planning on putting in a pecan orchard on the rest of the land. If this isn't true, it needs to be denied and be done with. If it's true but misstated in the details, that too needs to be corrects. But the problem remains: the applicant is speaking to a “coverage” gap right in our neck of the woods but Verizon is a addressing a data capacity gap over by the University. The problem is compounded if the owner/applicant's organizer sits on the Dona Ana County P&Z himself. We all need what's being advertised being the same thing being talked about by the neighbors.

But the most glaring and perhaps fatal defect in the application materials is the complete absence of a single word in the application that seems to acknowledge that there are negatives that come with putting 75 foot radiating telecommunication towers in the middle of corn fields. At least, Verizon seemed to realize that the centerpiece of the process is that “A special use requires review and approval by the ETZ Commission to determine impacts on the surrounding area.” ETZ Code, Section 3.3.B.2.

But then it ignores any and all negatives completely and simply claims that 911 emergency, fire, and police services will be improved,” and that the tower will fill a “void” in the form of “a gap incapacity in this area.” It seems like

Webber Email (Pg 3 of 4)

a stretch to call planting data from NMSU in a cornfield just south of Mesilla “this area.” But it is more than a stretch to simply ignore downsides that simply exist—and ought to be addressed. I’ll return to the combination of diminished property values and quality of desired life in a moment, but there are other issues that ought to be addressed, resolved, or eliminated. That field is has a pecan orchard across the street that may be owned by the organizer and registered agent of the Landowner applicant. Is a 75 foot tower in the middle of a field a peaceful co-existent with the frequent crop dusting that goes on just next to this tower? Are flashing lights in order? Does the tower need reflective visual enhancements to make it even more visible to low-flying aircraft. Is this a really optimal location for what some might believe to be an attractive nuisance. Is the existing house and barn going to be razed? Is it safe and permissive to even live literally in the shadow of a potentially life-crushing 75 foot tower. Can children live there even if their parents think its ok? I don’t know the answer to these questions, and maybe they are some or all non-issues upon discussion. But non-discussion doesn’t give a basis to evaluate impacts. If Mr. Daviet or someone really does put in fields of pecans, just how long until those trees are 25 feet surrounded by their 75 foot tall mother tree. Is this tree going to be disguised as a tree—and is anyone going to be fooled.

What is not a non-issue are the impacts on both property values and quality of desired life.

The “area” I now describe, for purposes of discussion, might be that bounded by Union and I-28, going West to Snow, then going South on Snow to Apodaca and East (past the subject property) to Highway 28, and then to Union. I’m not excluding other magnificent parts of the “close to Mesilla” environment—like around Calle del Norte/Snow/Glass Rd. I just pick this “area” because it’s by the proposed tower field. Since 1998, when we moved to Apodaca, there hasn’t been a whole lot of growth. Like a lot of people who find a place like this, we would love it there was no growth. And we feared when it came. I would be surprised if there are 100 new homes built in that square in the last 18 years. But our fears were not only unfounded, but quite the opposite has happened. The modest number of people who came in with new homes built really nice, upscale homes. The “horse guys” are *great* horse guys. Younger people, and older too, have come in and bought old properties—and fixed them up just fine. This is truly one of the great success stories on the South side of Mesilla—just as there are success stories on other sides of Mesilla. And there are failures. Heading West on Apodaca from Highway 28 is an advertisement as to why an outdoorsy person would want to live in this neck of the woods.

Other than literally “in my own back yard,” I can’t think of a single location in the square I described that could be more strategically located to “plant a flag” entering that stretch of land from Highway 28 onto Apodaca. We wouldn’t need a billboard to advertise our lifestyle. That tower can do all the advertising that a realtor would ever need—to sell “Price Reduced.” We have nearby prize bulls, prize horses, prize roses, and we are surrounded on three sides by magnificent pecan orchards—including, I understand, some belonging to the organizer of the applicant, Greg Daviet. I just learned he might have prize chickens too! This area is along one of the most popular sets of bicycling and jogging sections of this whole part of the valley. Lots of people walk lots of miles lots of days. And, if anyone says that these kinds of towers don’t diminish property values, please check out www.realtor.org/field-guides/field-guide-to-cell-phone-towers. If the rest of that cornfield needs a use besides agricultural, it’s going to require the most modest of development standards—the economics won’t sustain the high-end homes that have been going up, slowly but surely, for the past 20 years. Single acres in this neck of the woods go for \$60,000 to \$90,000. This flag in a field is the last think we need around here to help Verizon out with its University problem.

We ask Mr. Meadows and his Staff to consider our thoughts, we ask the Commissioners to reject the application, and we ask Mr. Daviet to pursuing the Tower. If I understand it right, and perhaps I don’t, I understand that the Applicant’s Organizer is Greg Daviet and that he sits on the County Planning & Zoning Commission. I understand that this particular “lot” was created in the middle of the field in recent months as was the applicant, Daviet Farms, LLC. I trust that Mr. Daviet himself will insist that Verizon be the very model of transparency and disclosure both to him, to his neighbors, and such as my wife and myself and all of us fortunate to live on one of God’s Little Acres—walking distance to Mesilla.

At the very, very least, we ask that this application be given further consideration and that the applicant provide a comprehensive factual basis for the need and desirability of this tower in a field. If this “capacity problem” comes from the University, why should it be exported to over here? Don’t they have any poles, towers, antennas, open

Webber Email (Pg 4 of 4)

desert over there? What are we flood plain people going to give the University folks in exchange for all that overflow data? All our leftover water?

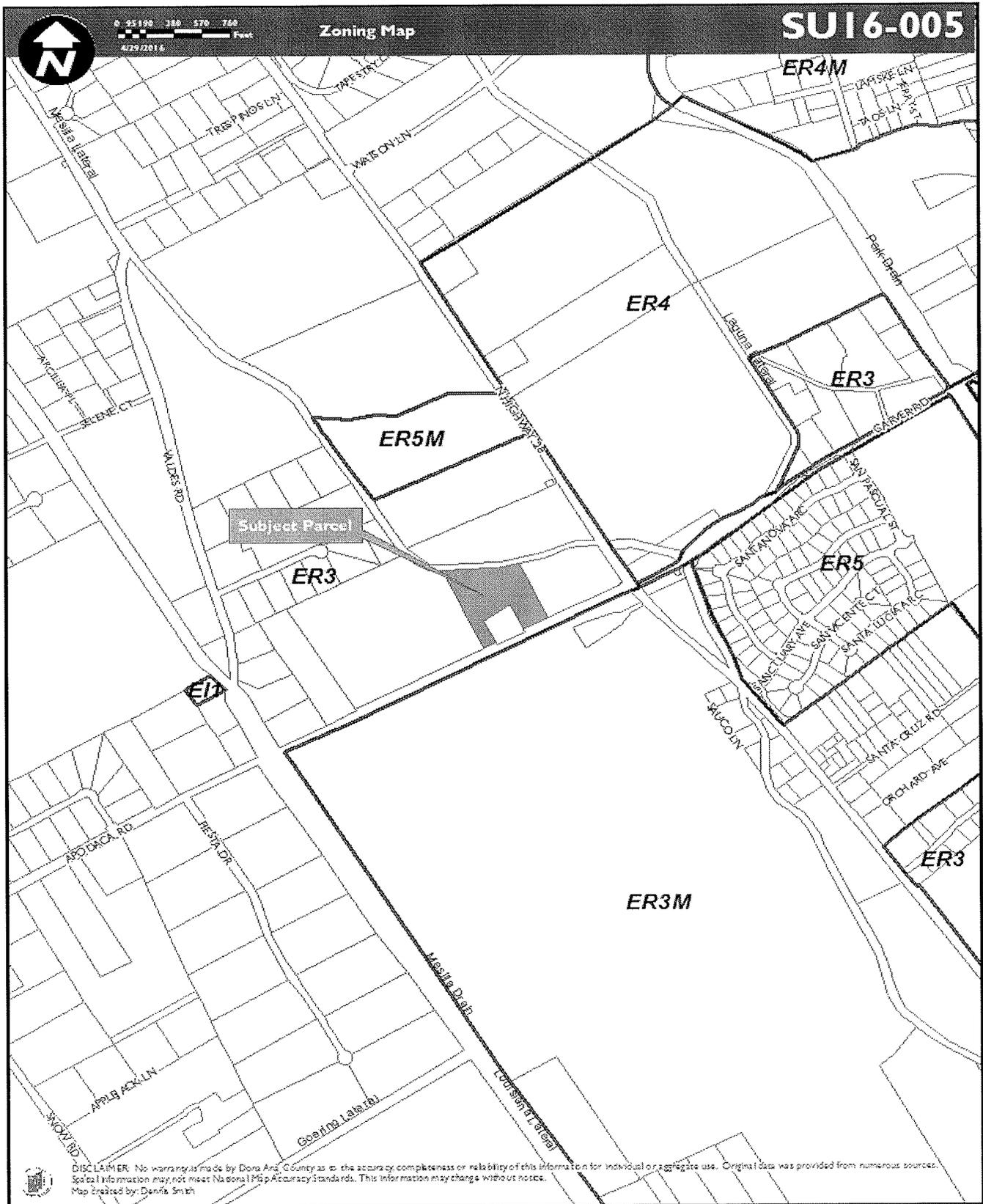
Thank you all in advance, including Mr. Daviet and Mr. Guetierrez, who I trust will have the opportunity of review this letter along with the Commissioners' other packet materials. I also thank again, especially, Mr. Meadows for his continuing and appreciated courtesies.

Bill Webber

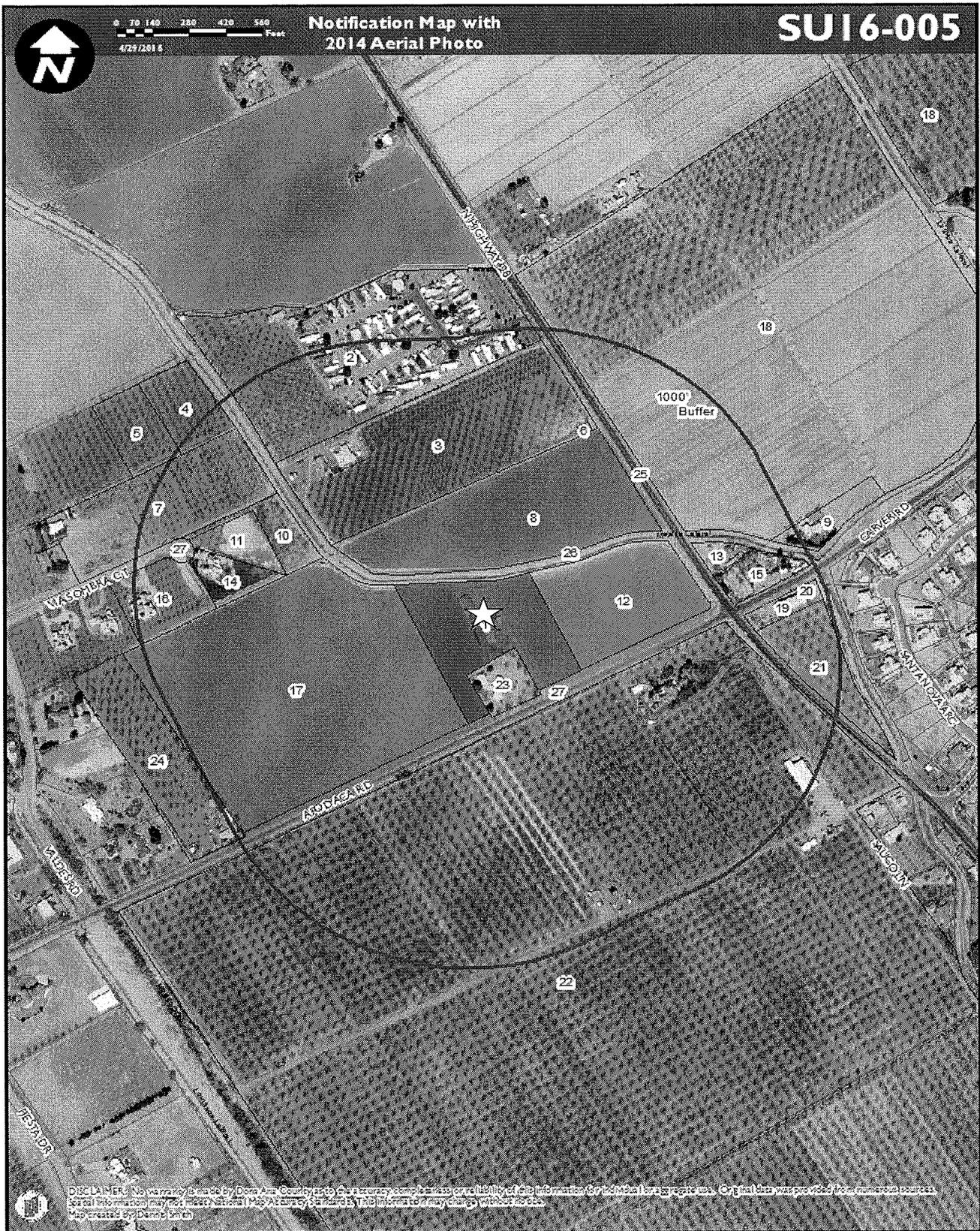
Parcel Aerial Close-up



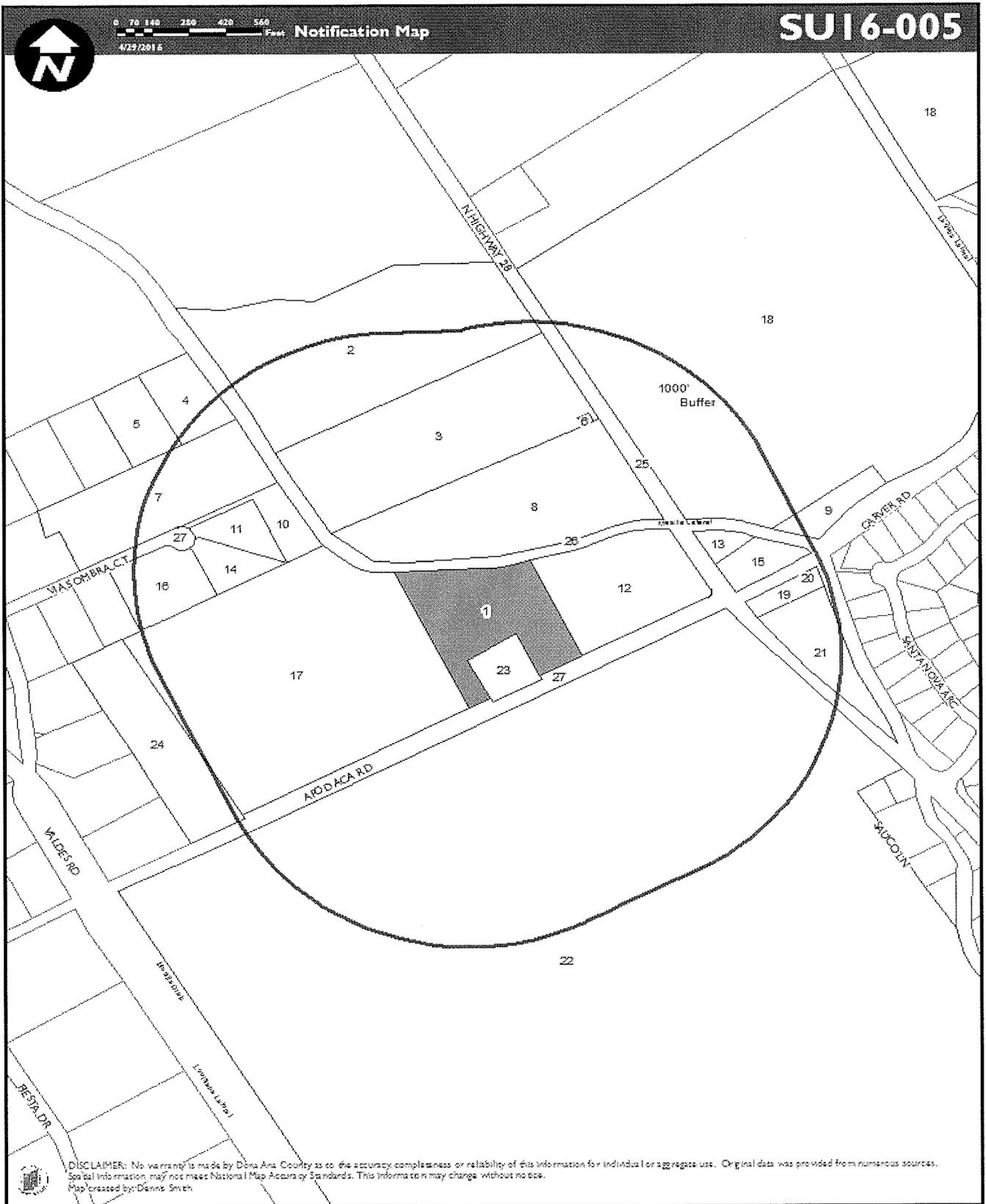
Zoning Map



Area of Notification Aerial



Area of Notification Map



DISCLAIMER: No warranty is made by Dona Ana County as to the accuracy, completeness or reliability of this information for individual or aggregate use. Original data was provided from numerous sources. Spatial information may not meet National Map Accuracy Standards. This information may change without notice.
Map created by: Dennis Smith

Area of Notification List

CODE	MAP_CODE	NAME	ADDRESS1	CITY	STATE	ZIP	C
1	4-007-139-209-205	DAVIET FARMS LLC	4020 N HWY 28	LAS CRUCES	NM	88005	
2	4-007-139-145-089	KELLEY RALPH & JEAN	1437 SAN VICENTE CT	LAS CRUCES	NM	88005	
3	4-007-139-188-135	WAGNER DONNA L & PETER C NILES	3750 N HWY 28	LAS CRUCES	NM	88005	
4	4-007-139-100-115	WALLACE EDWARD H & WANDA	1309 WYOMING	LAS CRUCES	NM	88001-5744	
5	4-007-139-085-125	WALLACE ROBERT H & AUDREY L &	1309 WYOMING	LAS CRUCES	NM	88001	
6	4-007-139-250-123	JORNADA WATER COMPANY INC	225 E IDAHO #15	LAS CRUCES	NM	88005-3241	
7	4-007-139-085-155	ELLIS MICHAEL G & LIZBETH G	202 CAPRI ARC	LAS CRUCES	NM	88005-3727	
8	4-007-139-222-157	JOSEPH & REBECCA LUJAN FAMILY LLC	2279 VIA MANZANA	SANTA FE	NM	87507	
9	4-007-139-346-158	SALOPEK FRANK & OLETA D TR	4915 SNOW RD	LAS CRUCES	NM	88005-4222	
10	4-007-139-138-142	MARGARET A LORING	6555 RIO DORADO DR	LA MESA	NM	88044	
11	4-007-139-120-145	BARRERA FRANK & MELISSA	PO BOX 2346	LAS CRUCES	NM	88004	
12	4-007-139-263-194	DAVIET FARMS LLC	4020 N HWY 28	LAS CRUCES	NM	88005	
13	4-007-139-296-172	GUERRERO CONSUELO	3919 N HIGHWAY 28	LAS CRUCES	NM	88005	
14	4-007-139-115-160	GUADERRAMA OSCAR & WENDIE	2265 VIA SOMBRA CT	LAS CRUCES	NM	88005	
15	4-007-139-309-179	BILOVESKY JOHN BRYAN	1806 CARVER RD	LAS CRUCES	NM	88005	
16	4-007-139-086-191	GOMEZ DOLORES M & JOHN J ANDAZOLA	2365 VIA SOMBRA CT	LAS CRUCES	NM	88005	
17	4-007-139-139-231	DAVIET FARMS LLC	4020 N HWY 28	LAS CRUCES	NM	88005	
18	4-007-139-306-075	SALOPEK TREE SERVICE LLC	4915 SNOW RD	LAS CRUCES	NM	88005	
19	4-007-139-324-195	DONA ANA COUNTY	845 N MOTEL BLVD	LAS CRUCES	NM	88007	
20	4-007-139-335-186	CITY OF LAS CRUCES	PO BOX 20000	LAS CRUCES	NM	88004	
21	4-007-139-335-209	DAVIET FARMS LLC	4020 N HWY 28	LAS CRUCES	NM	88005	
22	4-007-139-307-450	DAVIET FARMS LLC	4020 N HWY 28	LAS CRUCES	NM	88005	
23	4-007-139-218-230	DAVIET FARMS LLC	4020 N HWY 28	LAS CRUCES	NM	88005	
24	4-007-139-090-255	DIAZ ISAAC SR TRUSTEE	2328 APODACA RD	LAS CRUCES	NM	88005-4233	
25		NM STATE HWY DEPT.	8070 BATAAN MEMORIAL EAST	LAS CRUCES	NM	88012	
26		EBID	530 S MELENDRES	LAS CRUCES	NM	88001	
27		DAC ROAD DEPT.	2025 E. GRIGGS	LAS CRUCES	NM	88001	

Extra-Territorial Zoning Commission
Thursday, June 16, 2016 – 6:00 pm – County Commission Chambers

Community Development
Desarrollo Comunitario

Agenda Item #8 SU16-005
Steve Meadows Presenter – Planner

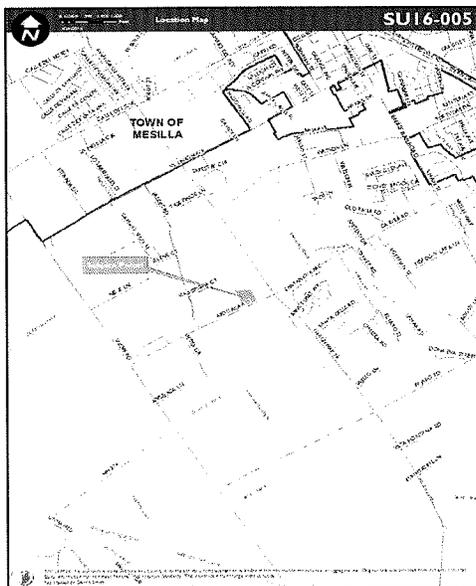
Community Development
Desarrollo Comunitario

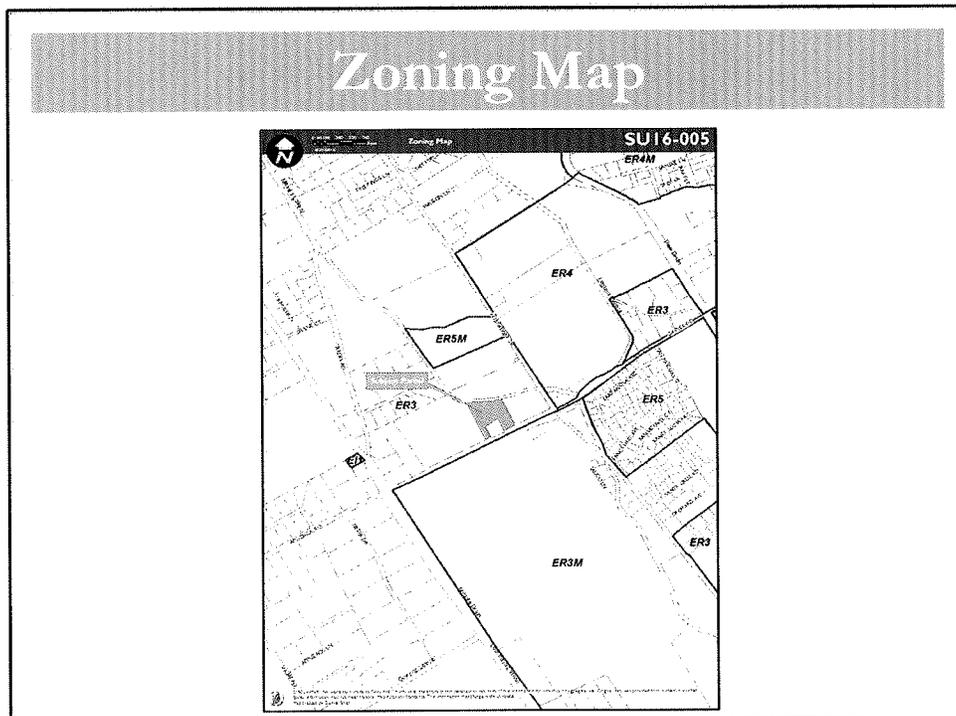
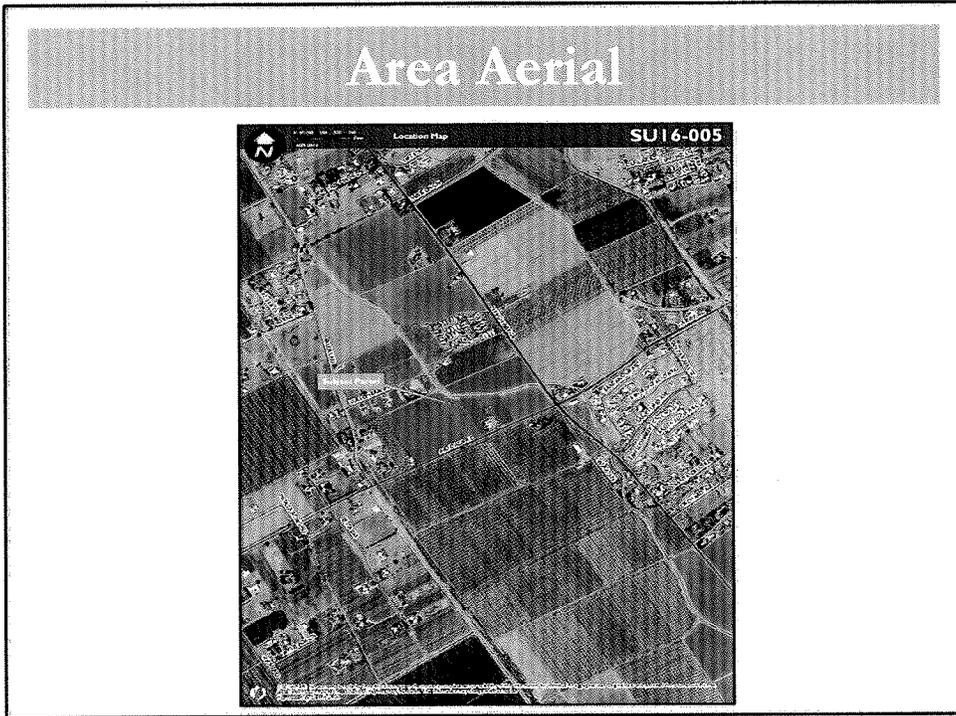
Synopsis

- **Owner/Applicant/Agent:** Daviet Farms, LLC / Verizon Wireless, Les Gutierrez, Agent
- **Location:** 2116 Apodaca Rd.
- **Zoning:** ER3 (Residential, 1-acre minimum lot size, single family site-built homes)
- **Request:** Special Use Permit
- **Purpose:** To construct a seventy-five foot (75') telecommunications tower on a 5.0 acre parcel. (20' X 30' lease area)

Community Development
Desarrollo Comunitario

Location Map

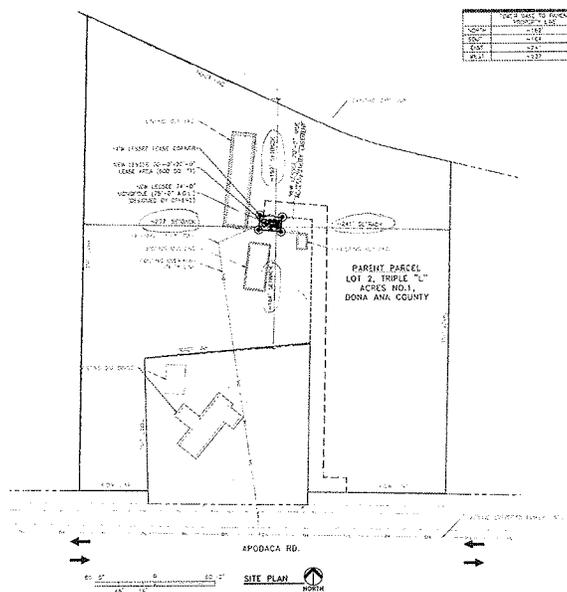


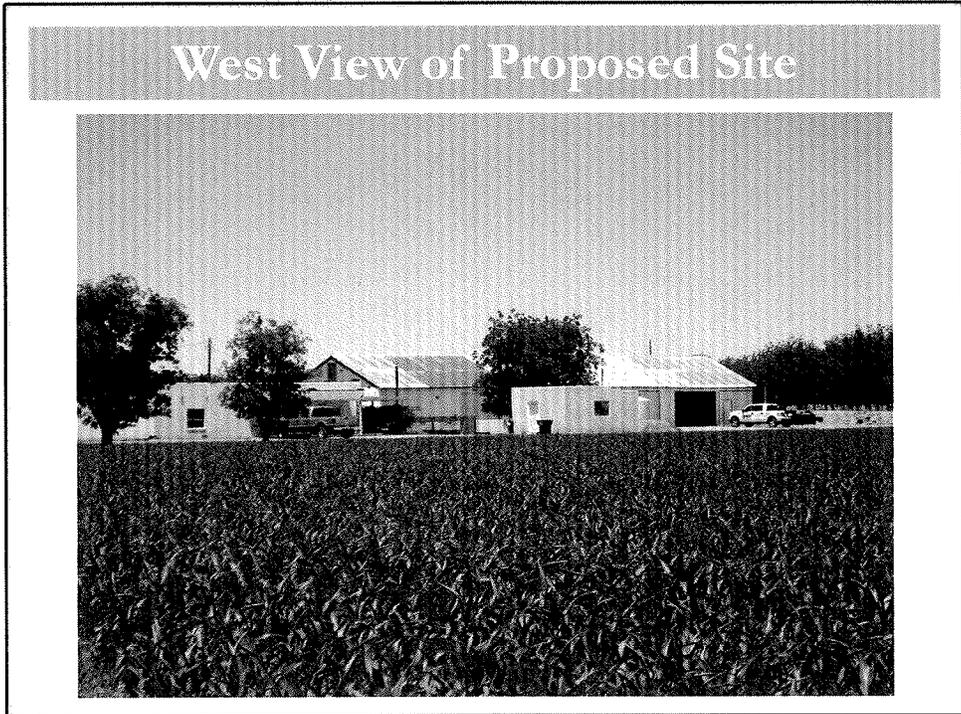
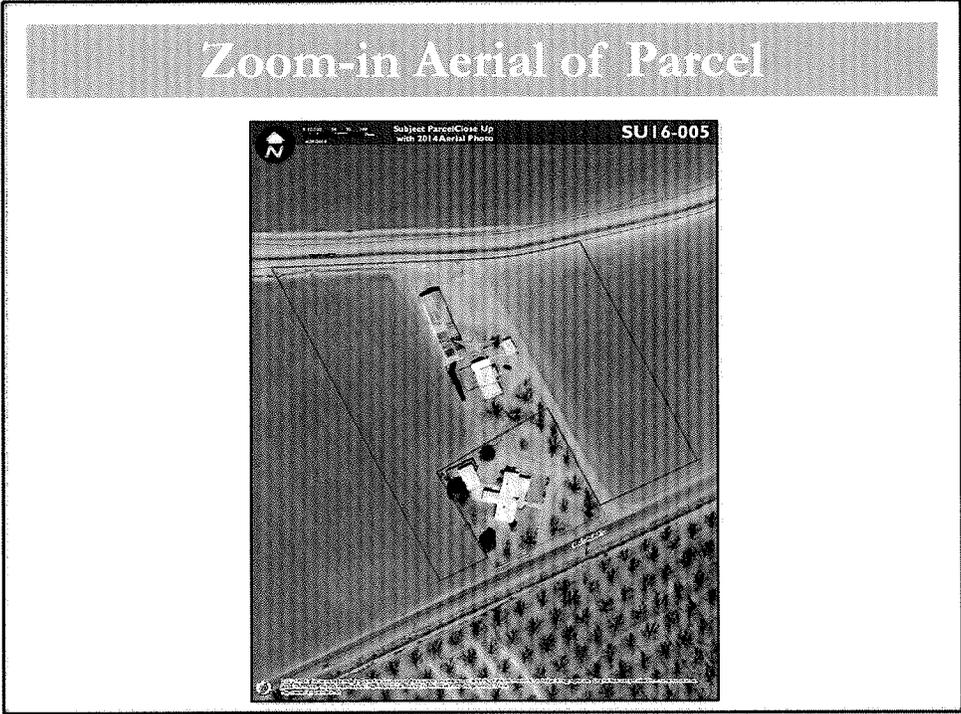


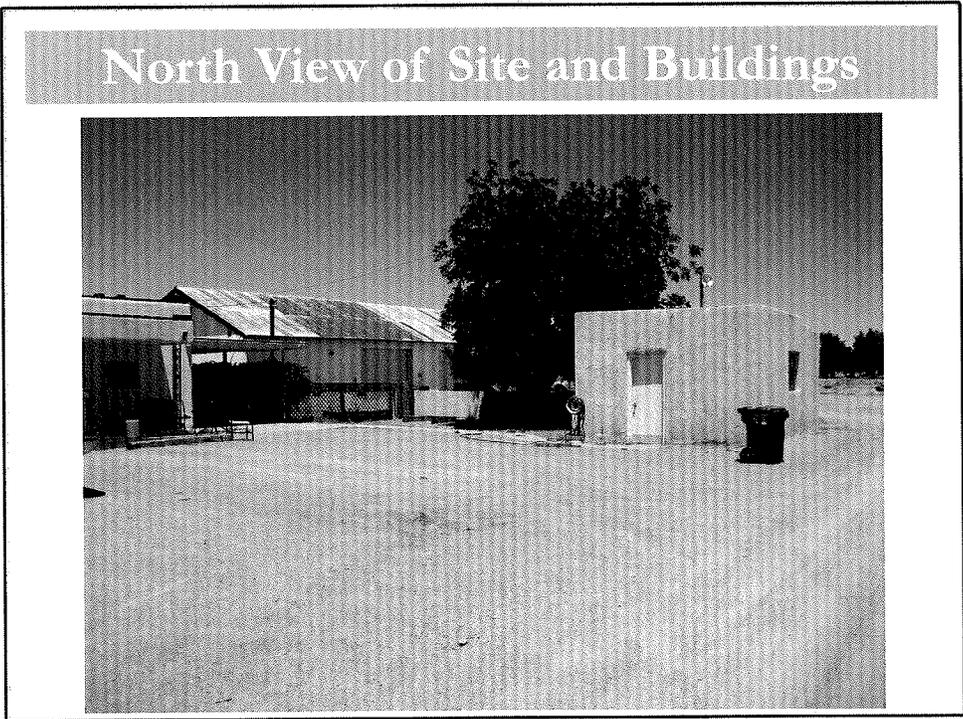
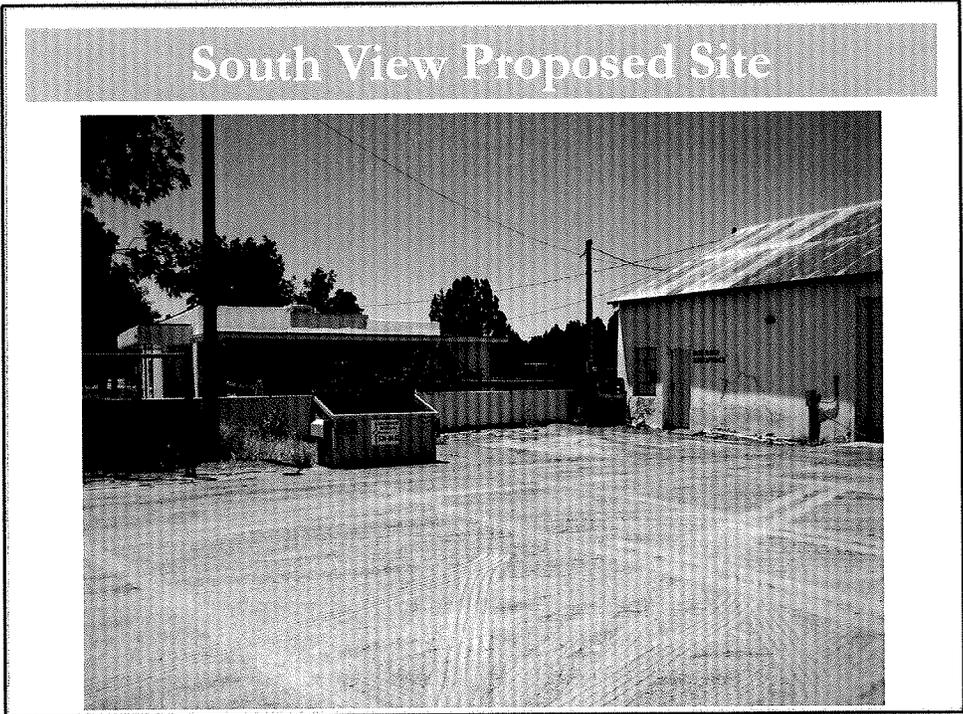
Description of Property

- 5.0-acre parcel; Lot 2, Triple "L" Acres #1 Subdivision.
- The property contains a 1,604 sq. ft. site-built dwelling and attached carport, an approximate 4,300 sq. ft. agriculture structure (barn), and a 300 sq. ft. structure.
- Access to property from Apodaca Rd., a paved, county maintained road classified as a minor arterial.
- The 40' wide EBID Mesilla Lateral is located along the northern border of the subject parcel.

Site Plan







Public Notice/Notification

- Twenty-two (22) letters of notification mailed to area of notification on May 31, 2016.
- Agenda was posted in the Las Cruces Sun-News on May 29, 2016.
- Signs were posted on the property in a timely manner.
- One email received on June 9 (Pgs 19-22) from Mr. Bill Webber (*outside area of list*) voicing concerns about the site selection process, no demonstrated need for this site, possible safety issues with area crop dusting, possible flashing lights, proximity to existing house and barn and potential safety issues, and negative impact on property values.

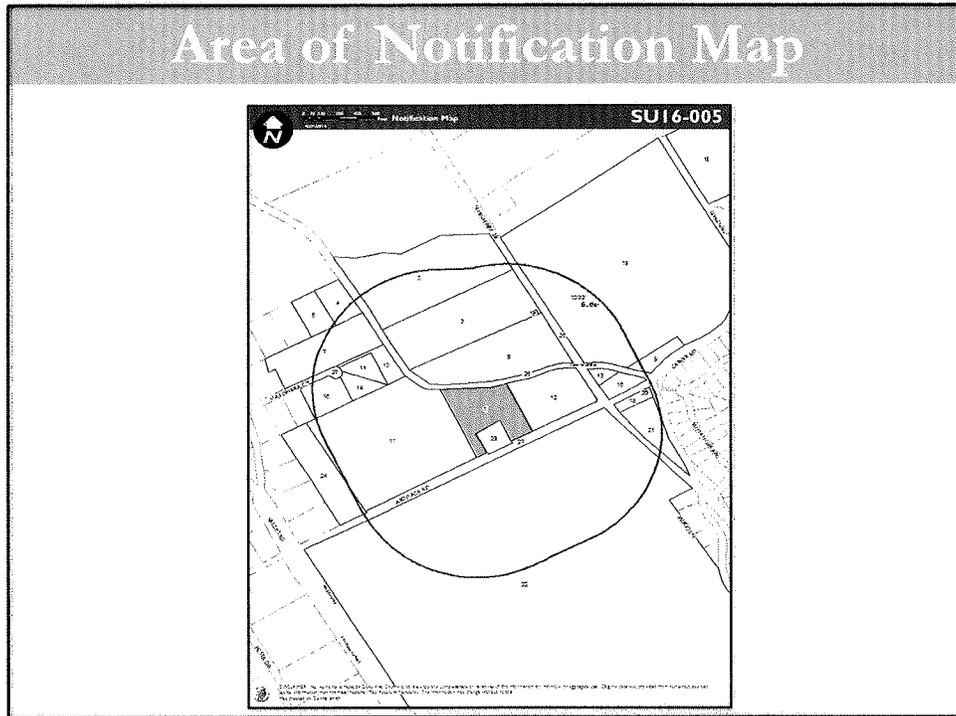
Location of Opposing Email



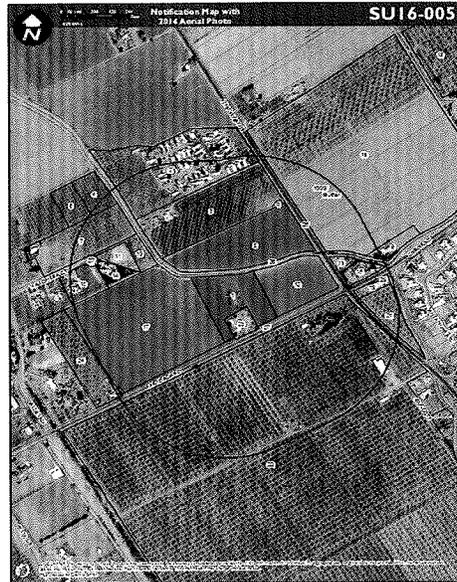
CASE # SU16-005 / Daviet

0 269 520 1040 Feet

This map was created by the Bernalillo County, N.M., in accordance with the provisions of local regulations. Bernalillo County, N.M., is not responsible for the information contained in this map. Please verify critical information and measurements for yourself. All Group, 607 2nd Street NE, Albuquerque, NM 87102. B.A.G. Geographic Information Systems, 800 N. Market Street, Las Cruces, NM 88009, (505) 648-7237.



Area of Notification Aerial View



Staff Analysis

Special Use Permit Evaluation Requirements:

- ETZ Ordinance 88-02
- Section 2.1.D Evaluation Criteria

Staff Analysis

ETZ Ordinance 88-02

- Section 4.2.E.2.b; Any commercial tower to be located in residential zones shall only be allowed in ER1, ER1M, ER2, ER2M, **ER3**, ER3M, ER3H and EC1 zoning districts through approval of a Special Use Permit. Commercial towers in residential districts and neighborhood commercial districts shall meet the following criteria:
 - Height shall be limited to that height which is determined by a two-to-one setback from all property lines up to a maximum total tower height of seventy-five (75) feet.

Staff Analysis

Section 2.1.D Evaluation Criteria

1. No homes proposed.
2. Access from Apodaca Rd., by a proposed twenty foot (20') one-way access/utility easement to the proposed facility. Construction phase traffic will be heavier than the traffic during operations which will be at minimal maintenance traffic levels.
3. Increase in number of customers and demand for voice and data bandwidth requires a cell tower in this area according to documents submitted by applicant.
4. No water/sewer needed except during construction phase, temporary sanitation facilities and water would be provided by contractor during construction phase.







**MINUTES OF THE
EXTRA-TERRITORIAL ZONING COMMISSION (ETZ) MEETING**

June 16, 2016

1. CALL TO ORDER

6:08:32

Chairman Villescascas called the regular meeting of the Extra-Territorial Zoning Commission to order at 6:08 p.m. Thursday, June 16, 2016 in the Doña Ana County Government Center, 845 N. Motel Blvd., Las Cruces, NM.

2. ROLL CALL

6:11:11

Led by: Janet Acosta, Secretary

<i>Kenneth Allin, Vice-Chairman</i>	Here
<i>Mark Best, Commissioner</i>	Here
<i>John Townsend, Commissioner</i>	Here
<i>Janet Acosta, Secretary</i>	Here
<i>Tim Sanders, Commissioner</i>	Here
<i>Robert Hearn, Commissioner</i>	Here
<i>John Villescascas, Chairman</i>	Here

3. ANNOUNCEMENTS

6:11:28

None.

4. APPROVAL OF MINUTES

6:11:30

Motion to approve the May 19, 2016 Meeting Minutes.

Motion: John Townsend

Second: Robert Hearn

<i>Kenneth Allin</i>	Yes
<i>Mark Best</i>	Yes
<i>John Townsend</i>	Yes
<i>Janet Acosta</i>	Yes
<i>Tim Sanders</i>	Yes
<i>Robert Hearn</i>	Yes
<i>John Villescascas</i>	Yes

Passed.

5. CHANGES TO THE AGENDA

6:12:02

None.

**OLD BUSINESS
REVIEW / DISCUSSION / ACTION**

6. CASE #Z16-002/PECAN BREWERY

6:12:15

Motion to approve a zone change on a 3.86-acre parcel from E11 to E13 to establish and operate a brewery and tap room. Steve Meadows, Planner, Community Development, will discuss.

Motion: Tim Sanders

Second: John Townsend

The motion to approve a zone change was made with the following conditions: 1) a Special Use Permit shall be approved by the ETZ Commission, and 2) access to the property shall be limited to W. Picacho Avenue.

An amendment was proposed that if the property ceased to be used for a brewery with a special use permit, the E13 zoning would revert to the original zoning of E11.

Motion: Robert Hearn

Second: Mark Best

A vote was taken on the amendment:

<i>Kenneth Allin</i>	Yes
<i>Mark Best</i>	Yes
<i>John Townsend</i>	No
<i>Janet Acosta</i>	No
<i>Tim Sanders</i>	No
<i>Robert Hearn</i>	Yes
<i>John Villescas</i>	Yes

Passed.

A vote was taken on the main motion that included the approved amendment as the third condition as follows: 1) a Special Use Permit shall be approved by the ETZ Commission, 2) access to the property shall be limited to W. Picacho Avenue, and 3) if the property ceases to be used for a brewery, the zoning will revert to the original E11 zoning.

<i>Kenneth Allin</i>	Yes
<i>Mark Best</i>	Yes
<i>John Townsend</i>	Yes
<i>Janet Acosta</i>	Yes
<i>Tim Sanders</i>	Yes
<i>Robert Hearn</i>	Yes
<i>John Villescas</i>	Yes

Passed.

Chair Villescas called for a short recess at 8:04 p.m. and reconvened the meeting at 8:14 p.m.

**NEW BUSINESS
REVIEW / DISCUSSION / ACTION**

**7. CASE #SU16-004/MARTIN
8:14:29**

Motion to approve a special use permit to erect a 75 foot cell tower on a 12.9-acre parcel within an ER3M Zoning District. Steve Meadows, Planner, Community Development, will discuss.

Motion: John Townsend

Second: Robert Hearn

The motion to approve the special use permit was made based on findings of fact, staff analysis, and the approval complying with Section 2.1.D.

<i>Kenneth Allin</i>	Yes
<i>Mark Best</i>	Yes
<i>John Townsend</i>	Yes
<i>Janet Acosta</i>	Yes
<i>Tim Sanders</i>	Yes
<i>Robert Hearn</i>	Yes
<i>John Villescas</i>	Yes

Passed.

**8. CASE #SU16-005/DAVIET FARMS, LLC
9:03:12**

Motion to approve a special use permit to erect a 75 ft. telecommunications tower on a 5.0-acre parcel within an ER3 Zoning District. Steve Meadows, Planner, Community Development, will discuss.

Motion: Janet Acosta

Second: John Townsend

Motion to approve a special use permit for Case #SU16-005 in order to erect a 75 foot telecommunications tower on the subject parcel.

<i>Kenneth Allin</i>	Yes
<i>Mark Best</i>	Yes
<i>John Townsend</i>	Yes
<i>Janet Acosta</i>	Yes
<i>Tim Sanders</i>	Yes
<i>Robert Hearn</i>	Yes

John Villescas

Yes

Passed.

9. ADMINISTRATIVE APPROVALS

10:04:23

Steve Meadows reported on Administrative Approvals for the month of May.

10. PUBLIC INPUT

10:08:50

None.

11. STAFF INPUT

10:09:00

Commissioner Hearn discussed the need for better information citing the traffic analysis on the first case as well as a site threshold analyses that was filled out incompletely in pencil at the last minute and wasn't signed.

Janine Divyak gave an update on the status of the UDC.

Steve Meadows discussed that in the traffic information analysis, the peak a.m. and p.m. hours show trips during a specific one-hour timeframe, not the total of trips for the entire day. Commissioner Hearn said that method of analysis is totally unrepresentative of what will happen in that area.

Commissioner Townsend asked about postponing cases and if a motion failed. Steve Meadows said that Legal responded it's a motion to postpone or not and if you say "no, we're going to hear it," you are going to hear it.

12. COMMISSION INPUT

10:_____

None.

13. ADJOURNMENT

10:16:00

Motion for adjournment at 10:16 p.m.

Motion: John Townsend

Second: Mark Best

The motion was passed by a vote of all ayes from the Commissioners present.

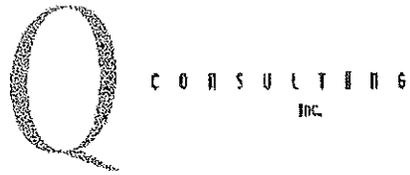
Officer: Extra-Territorial Zoning Commission

Attachment 1

From Mr. Mark Paiz, Site Acquisition Manager, Q3 Consulting, Inc.
LSC VALDES SEARCH AREA.

- 1801 Carver Road. The Firehouse property was sent a letter with no response, also the property would require a Variance due to the size of the lot and the set-backs that are required.
- I left message for the house, and lot just north of the Fire House 1802 Carver with no response, same situation here it would require a Variance for the pole here.
- I also received a lot of interest but NO Right of Entry for Salopek Tree Service LLC Not sure of the man's name he only told me he received my offer letter and was the owner. But he owns the parcel on the entire N/E side of the ring that would work for us. His Corporate Headquarters is 4915 Snow Road, Las Cruces, NM 88005.
- Nothing on the south half of the ring, due to the tree farms and the issue we would have for construction and flooding.
- And the entire N/W side of the ring is owned by Daviet, our LL.
- I also attached is a map of my search with the areas labeled with what I did and who I contacted, along with the RF search area Map.

Purposely left Blank



May 5, 2015

Leslie L Daviet
PO Box 579
Laveen, Arizona 85339

**RE: Verizon Wireless Proposal for Telecommunications Facility at 4150 Sauco Lane or
2116 Apodaca Road
(Verizon Wireless Project Name: LSC Valdez)**

Dear Leslie L Daviet,

My firm is a real estate consultant to Verizon Wireless (VAW) LLC, d/b/a Verizon Wireless ("Verizon Wireless") and related entities and partnerships. Verizon Wireless would like to explore the possibility of locating a communications facility on your property.

The proposed facility would consist of a communications tower with a height between 50' and 75' within a 35' x 35' lease area. A 12' x 26' equipment shelter will also be located within the proposed lease area for the ground based equipment and back-up power generator. Verizon Wireless requires 24-hour access to the ground based portion of the equipment facility in the event of an emergency, but the site is normally visited only one to two times per month for routine maintenance. Verizon Wireless will arrange and pay for required electric and telephone service. No water or sewage system is required for the facility. My client also offers free tower space for your communications use, if you so desire.

Verizon Wireless is willing to ~~██████████~~ per month for a facility of this type with a standard lease agreement with no major changes. The standard lease term is twenty-five years (an initial five-year term, with four consecutive five-year renewal options). Rent will increase by 5% percent per term. A long-term lease is required because (1) once the facility is operative, it becomes an integral part of Verizon Wireless' service network; and (2) the capital investment to construct the facility is substantial. Other essential provisions in the lease include:

The Lessee's right to assign the lease; terminations rights; indemnification; insurance; interference provisions; and quiet enjoyment.

It will be necessary for Verizon Wireless consultants and employees to visit the property to conduct environmental inspections, prepare a survey of the property, and possibly a radio frequency test to accurately determine the antenna height required, if your ownership is interested. My client will require the attached Right of Entry form to be completed. Please feel free to comment or denote things like "24 prior notification for any site visit; etc." on this Right of Entry form.

May 5, 2015

Page 2

If you are chosen as the selected candidate we will arrange a convenient time with you to visit the property within the next several weeks. I will be present along with Verizon Wireless engineers, architects, etc. We will work with you to determine an appropriate location for the facility and provide additional information concerning the site design, access requirements, etc. If you have a survey or the title insurance policy on the property, it would be helpful if you would have copies available at that visit. In the interim, feel free to contact me if you have questions concerning this proposal.

Direct 303.915.3428

E-mail address: Mark@q3consulting.com

Mailing Address:

Q3 Consulting

Attn: Mark Paiz

13845 West Atlantic Ave.

Lakewood, Colorado 80228

Respectfully,

Mark Paiz



May 5, 2015

Chief of the South Valley Fire Department
845 N Motel Blvd.
Las Cruces, NM 88007

**RE: Verizon Wireless Proposal for Telecommunications Facility at 1801 Carver Road
(Verizon Wireless Project Name: LSC Valdez)**

Dear Chief,

My firm is a real estate consultant to Verizon Wireless (VAW) LLC, d/b/a Verizon Wireless ("Verizon Wireless") and related entities and partnerships. Verizon Wireless would like to explore the possibility of locating a communications facility on your property.

The proposed facility would consist of a communications tower with a height between 50' and 75' within a 35' x 35' lease area. A 12' x 26' equipment shelter will also be located within the proposed lease area for the ground based equipment and back-up power generator. Verizon Wireless requires 24-hour access to the ground based portion of the equipment facility in the event of an emergency, but the site is normally visited only one to two times per month for routine maintenance. Verizon Wireless will arrange and pay for required electric and telephone service. No water or sewage system is required for the facility. My client also offers free tower space for your communications use, if you so desire.

Verizon Wireless is willing to [REDACTED] per month for a facility of this type with a standard lease agreement with no major changes. The standard lease term is twenty-five years (an initial five-year term, with four consecutive five-year renewal options). Rent will increase by 5% percent per term. A long-term lease is required because (1) once the facility is operative, it becomes an integral part of Verizon Wireless' service network; and (2) the capital investment to construct the facility is substantial. Other essential provisions in the lease include:

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May 5, 2015
Page 2

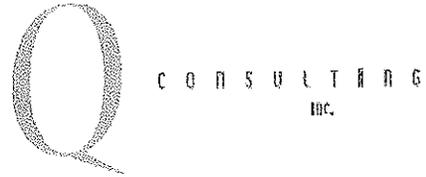
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Direct 303.915.3428
E-mail address: Mark@q3consulting.com
Mailing Address:
Q3 Consulting
Attn: Mark Paiz
13845 West Atlantic Ave.
Lakewood, Colorado 80228

Respectfully,

Mark Paiz





May 5, 2015

Salopek Tree Service LLC / Owner or Manager
4915 Snow Road
Las Cruces, NM 88005

**RE: Verizon Wireless Proposal for Telecommunications Facility at 3935 Hwy 28
(Verizon Wireless Project Name: LSC Valdez)**

To whom it may concern,

My firm is a real estate consultant to Verizon Wireless (VAW) LLC, d/b/a Verizon Wireless ("Verizon Wireless") and related entities and partnerships. Verizon Wireless would like to explore the possibility of locating a communications facility on your property.

The proposed facility would consist of a communications tower with a height between 50' and 75' within a 35' x 35' lease area. A 12' x 26' equipment shelter will also be located within the proposed lease area for the ground based equipment and back-up power generator. Verizon Wireless requires 24-hour access to the ground based portion of the equipment facility in the event of an emergency, but the site is normally visited only one to two times per month for routine maintenance. Verizon Wireless will arrange and pay for required electric and telephone service. No water or sewage system is required for the facility. My client also offers free tower space for your communications use, if you so desire.

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May 5, 2015
Page 2

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Direct 303.915.3428
E-mail address: Mark@q3consulting.com
Mailing Address:
Q3 Consulting
Attn: Mark Paiz
13845 West Atlantic Ave.
Lakewood, Colorado 80228

Respectfully,

Mark Paiz





Salopek Tree Service 4915 Snow Road is the main office number but they own this lot.

This is All David Farms, our LI.

ESC Vadez All 1 RF Selected Candidate

Knocked on this door twice.

Fire House

These are Almond tree farms and not constructible due to the watering and the flooding

San Pablo

© 1996

© 2016 Google
© 2018 INEGI

Map data © 2024 Google, Imagery © 2024 Google, PANORAMIC

Google earth





LSC_Valdes coverage and capacity analysis

Attachment 2

Hamdi Alaaldin

RF Design

September 2016

Existing LTE coverage in the area



Existing LTE coverage in the area



Existing LTE coverage in the area plus LSC_Valdes



LTE Signal Coverage Reception	Legend
Excellent Indoor & Outdoor	[Dark Gray Box]
Excellent Outdoor & In Vehicle	[Medium-Dark Gray Box]
Excellent In Vehicle & No Indoor	[Medium-Light Gray Box]
Partial To No Coverage	[Lightest Gray Box]
No Coverage	[White Box]

Voice & Data Usage Today

- On average, voice and data usage is growing exponentially based on the amount of devices being used today. Below are current statistics that are driven by the demand for additional data services from all commercial carrier customers and public agencies.
 - The demand for wireless data services is expected to grow 650% between 2013 and 2018 (CTIA, June 2015)
 - 70% of 9-1-1 calls originate from a cellular phone (FCC, March 2015)
 - 39% of households are wireless only (CTIA, June 2015), and that number is only increasing
 - More than 75% of prospective home buyers prefer strong wireless communications (RootMetrics, June 2015)

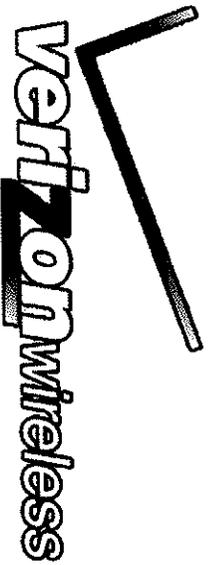
Area of low speed (map)

- Per design predictions the area of low speed has the LTE signal strength of -95 to -90 (yellow coverage on the map). Please note that 3dB is half of total power.
- Signal strength difference from outdoor to indoor is estimated to be -12dBm difference
- This area will have an estimated signal strength of -80 dBm for indoor or in buildings structures (concrete structure will be worth)
- Web browsing and data streaming (educational application) will be extremely slow or impassible in this RF (radio frequency) environment
- 4 G technology requires much more cell density than 3 G did. This fact is due to type of services running on 4G carries such as data streaming (Netflix and other streaming websites). Another reason is due to 4Gs inability to use more than one site at the same time. Users on 3 G technology had an ability to use up to 3 sites at the same time. This was accomplished by users device by adding all the powers from each site (know as soft handoff) . This gave advantage to 3G technology in areas with high capacity or low coverage. 4 G is only able to use one site at a time.

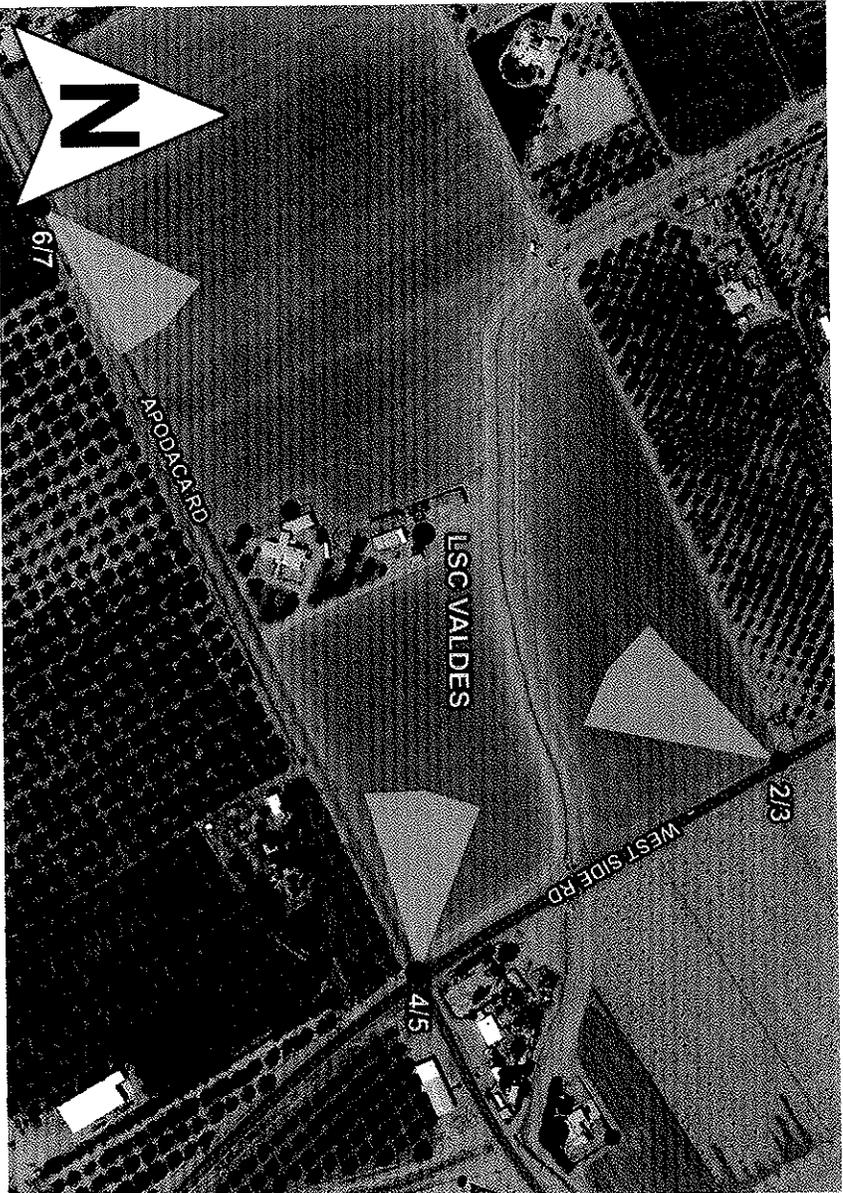
Executive Summary

- There is a significant gap for capacity and coverage in the area. Coverage gap comes from simply not having a 4 G site in the area. The capacity gap is from cell sites that are faraway that are serving this area. This would have been a non issue with 3 G technology but with 4 G sites have to be much closer to the service devices.
- Primary reason for LSC_Valdes site is the residential and new homes and business in the area of this site. The area is experiencing a healthy amount of growth.
- Based on capacity prediction all the existing sector of the existing sites covering this area will exhaust in the future
- We are very limited with providing additional capacity other then adding new sites since all available carriers are active to day in Las Cruces NM
- There are no sites in this area. The nearest site in the area is 1.17 miles away from the proposed location for this site

Attachment 3



LSC VALDES
PHOTO SIMULATION
SEPTEMBER 07, 2016



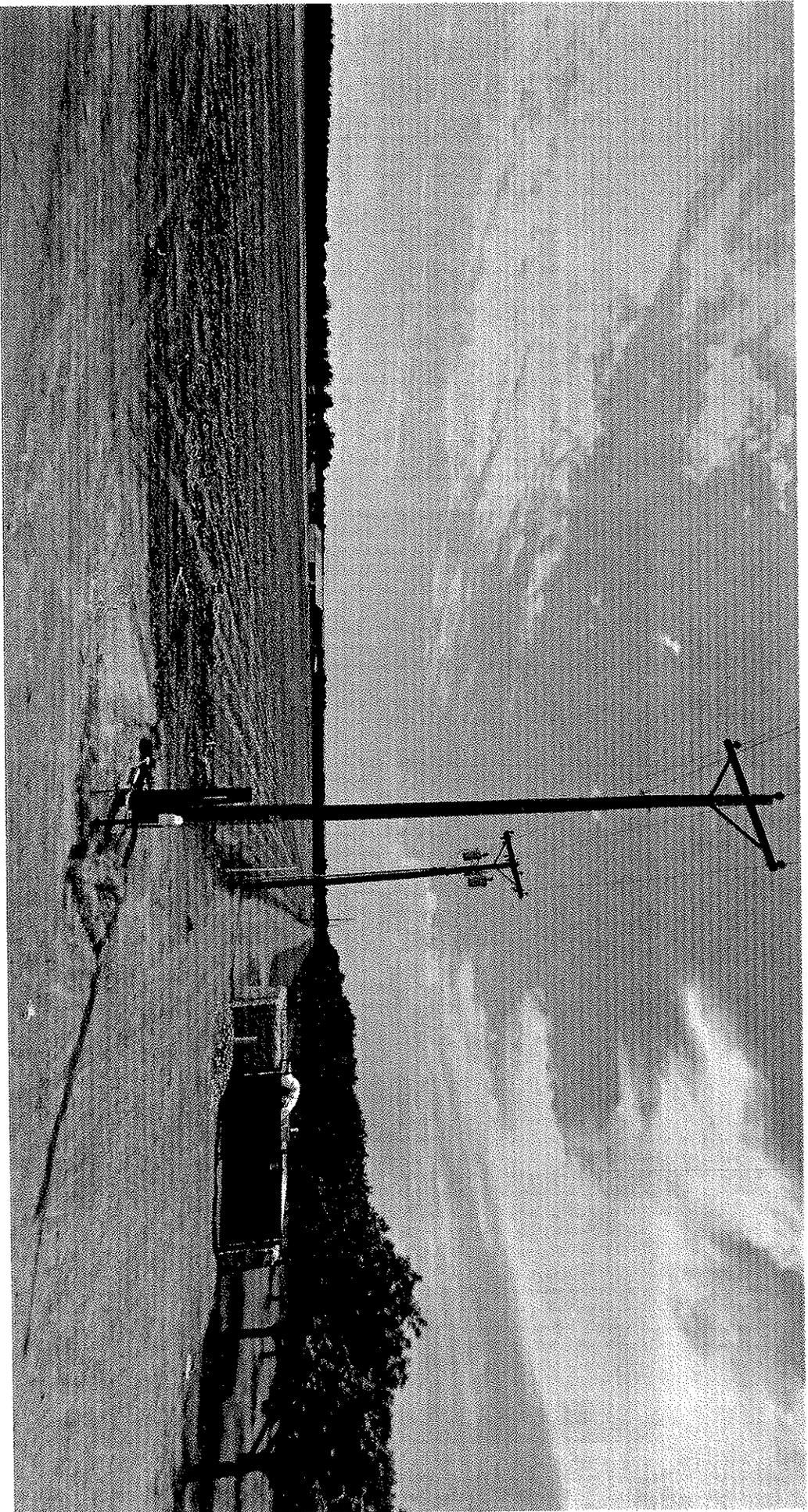
SITE ADDRESS:
2116 APODACA RD
LAS CRUCES, NM 88005
DONA ANA COUNTY

COORDINATES:
LAT: 32°15'07.699"N
LONG: 106°46'44.345"W

- CONTENTS:**
- 1: COVER
 - 2: EXISTING NORTH ELEVATION
 - 3: NORTH ELEVATION SIMULATION
 - 4: EXISTING EAST ELEVATION
 - 5: EAST ELEVATION SIMULATION
 - 6: EXISTING SOUTHWEST ELEVATION
 - 7: SOUTHWEST ELEVATION SIMULATION

REV-1

TOWERCOM TECHNOLOGIES, LLC
767 N Star Road Star, ID 83669 (208) 286-0266
Albuquerque, NM • Star, ID • El Paso, TX • Las Vegas, NV • Denver, CO • Irvine, CA • Tempe, AZ • West Valley, UT

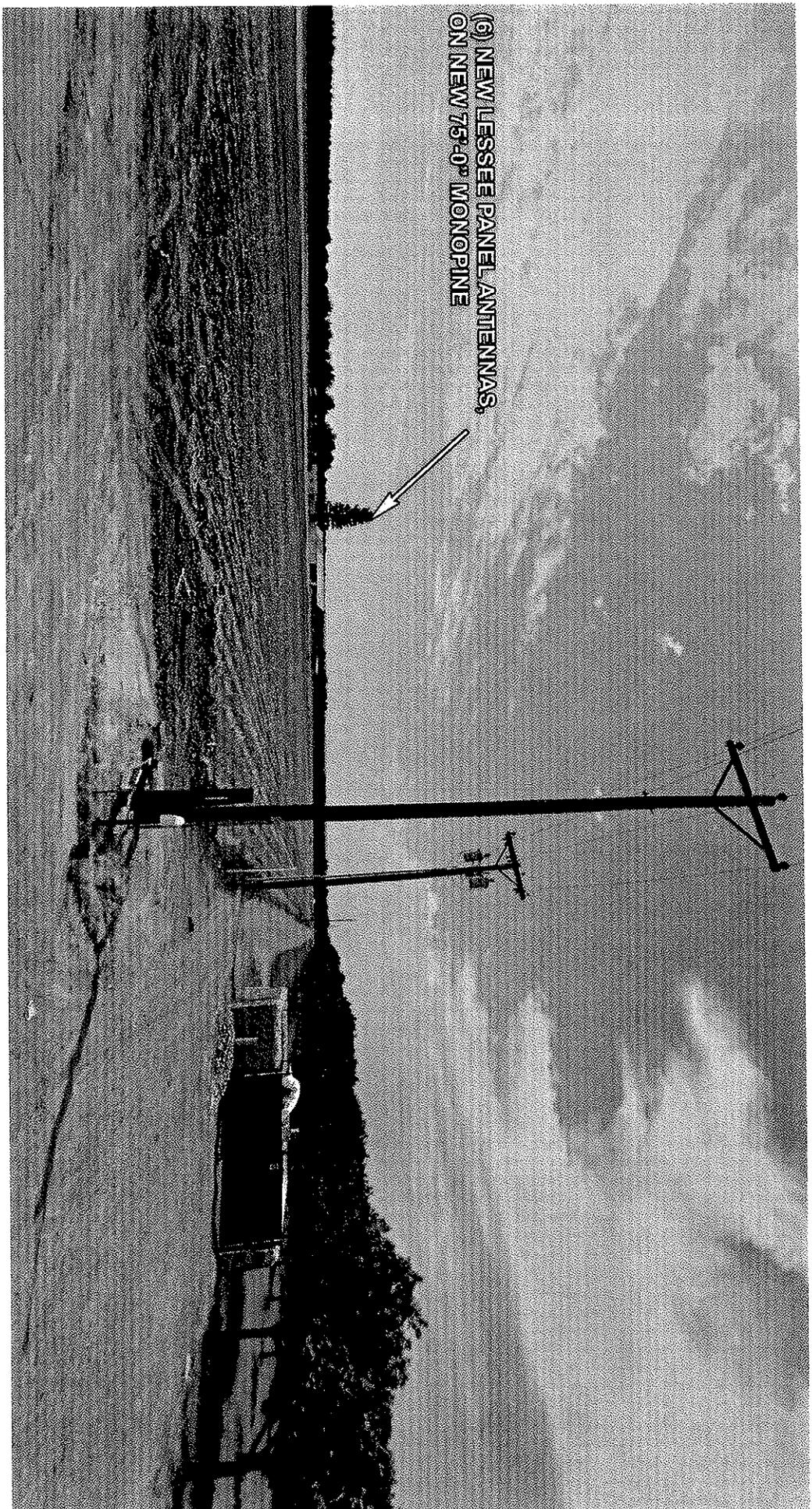


**LSC VALDES
SITE PHOTO
EXISTING NORTH ELEVATION
SEPTEMBER 07, 2016**



REV-1

TOWERCOM TECHNOLOGIES, LLC
767 N Star Road Star, ID 83669 (208) 286-0266
Albuquerque, NM • Star, ID • El Paso, TX • Las Vegas, NV • Denver, CO • Irvine, CA • Tempe, AZ • West Valley, UT



(6) NEW LESSEE PANEL ANTENNAS,
ON NEW 75-0' MONOPINE

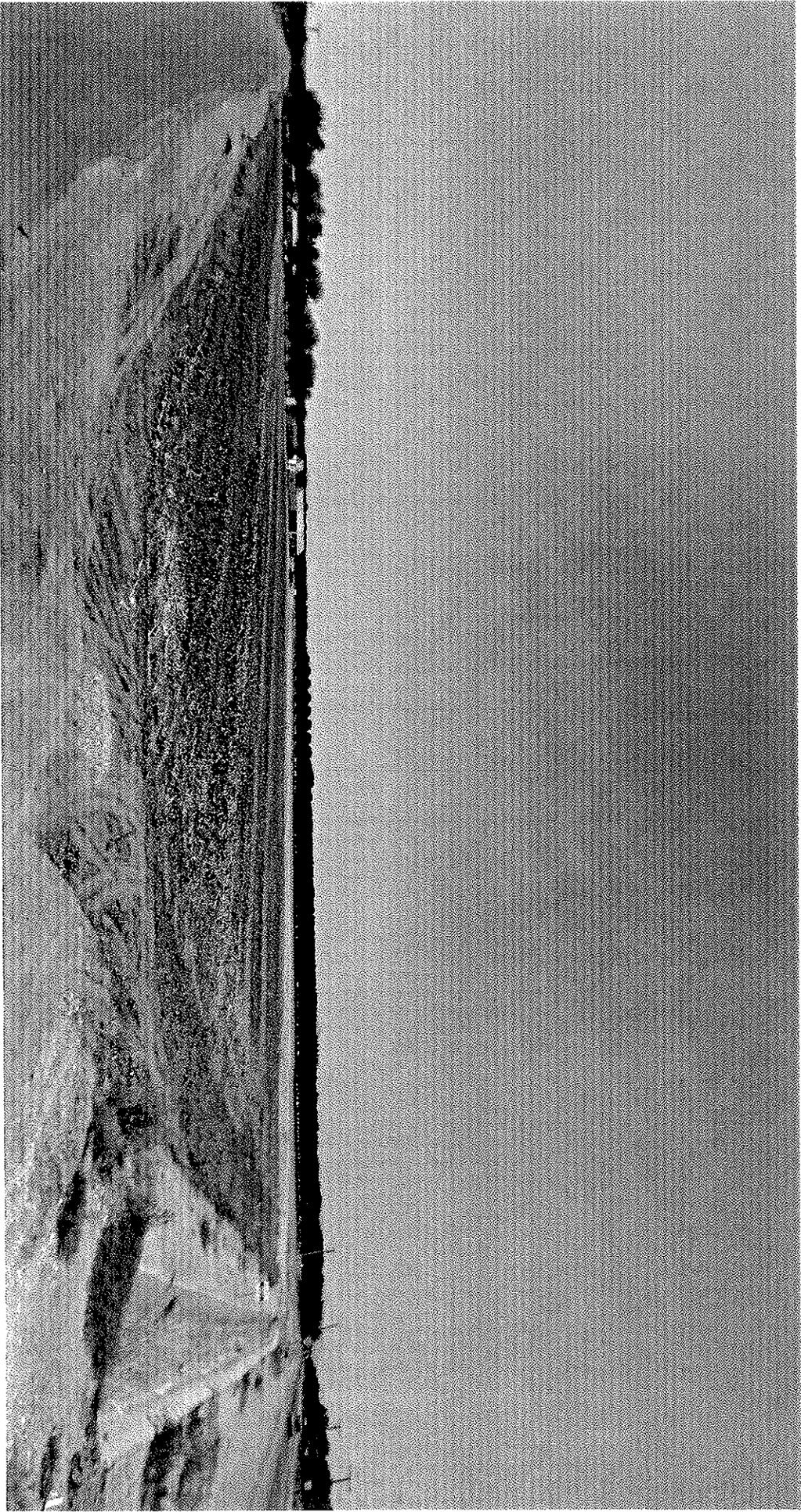


**LSC VALDES
SITE PHOTO
NORTH ELEVATION SIMULATION
SEPTEMBER 07, 2016**



REV-1

TOWERCOM TECHNOLOGIES, LLC
767 N Star Road Star, ID 83669 (208) 286-0266
Albuquerque, NM • Star, ID • El Paso, TX • Las Vegas, NV • Denver, CO • Irvine, CA • Tempe, AZ • West Valley, UT



**LSC VALDES
SITE PHOTO
EXISTING EAST ELEVATION
SEPTEMBER 07, 2016**



REV-1

TOWERCOM TECHNOLOGIES, LLC
767 N Star Road Star, ID 83669 (208) 286-0266
Albuquerque, NM • Star, ID • El Paso, TX • Las Vegas, NV • Denver, CO • Irvine, CA • Tempe, AZ • West Valley, UT

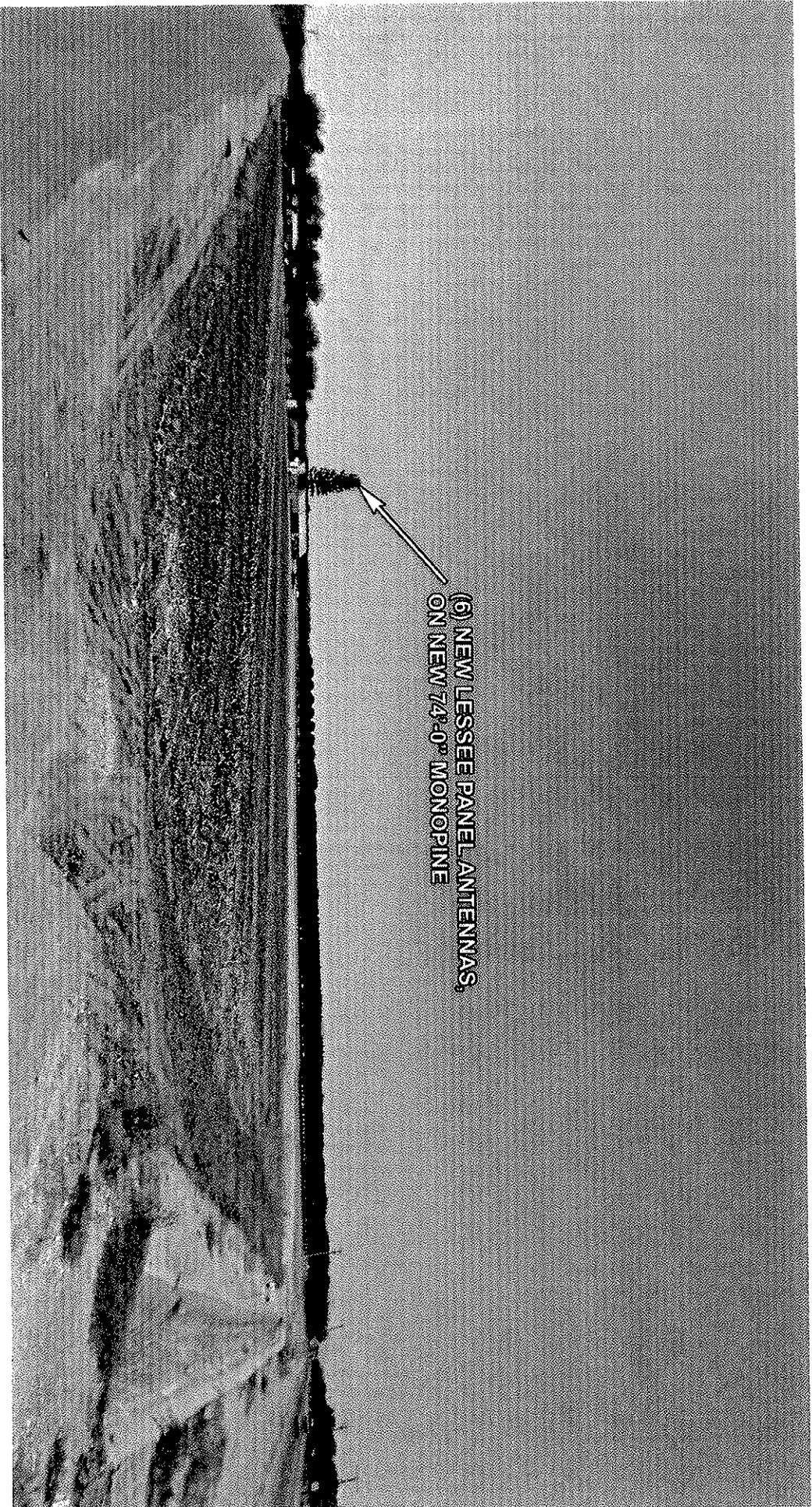


REV-1

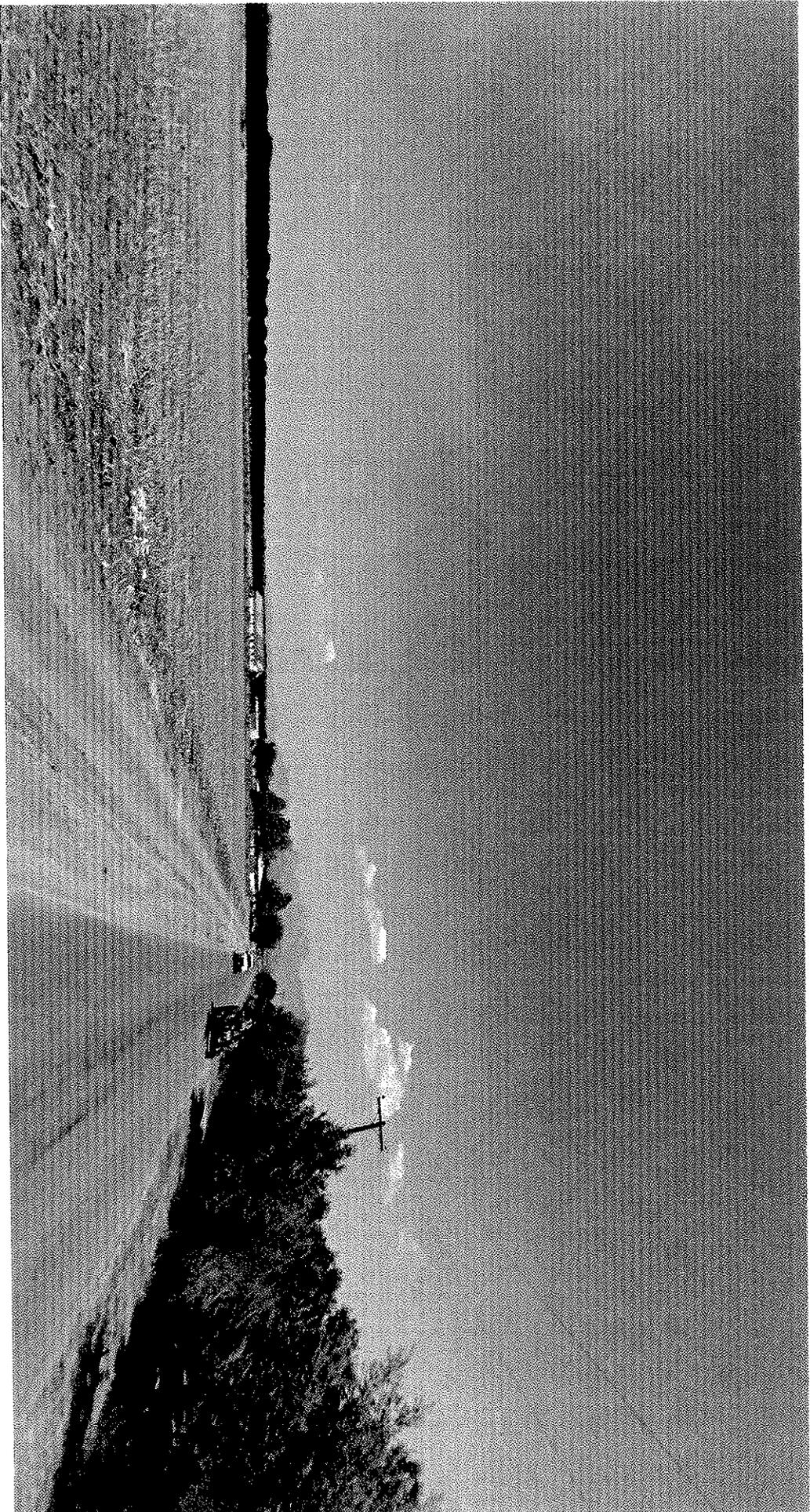
Albuquerque, NM • Star, ID • El Paso, TX • Las Vegas, NV • Denver, CO • Irvine, CA • Tempe, AZ • West Valley, UT

TOWERCOM TECHNOLOGIES, LLC
767 N Star Road Star, ID 83669 (208) 286-0266

**LSC VALDES
SITE PHOTO
EAST ELEVATION SIMULATION
SEPTEMBER 07, 2016**



**(6) NEW LESSEE PANEL ANTENNAS,
ON NEW 74'-0" MONOPILE**

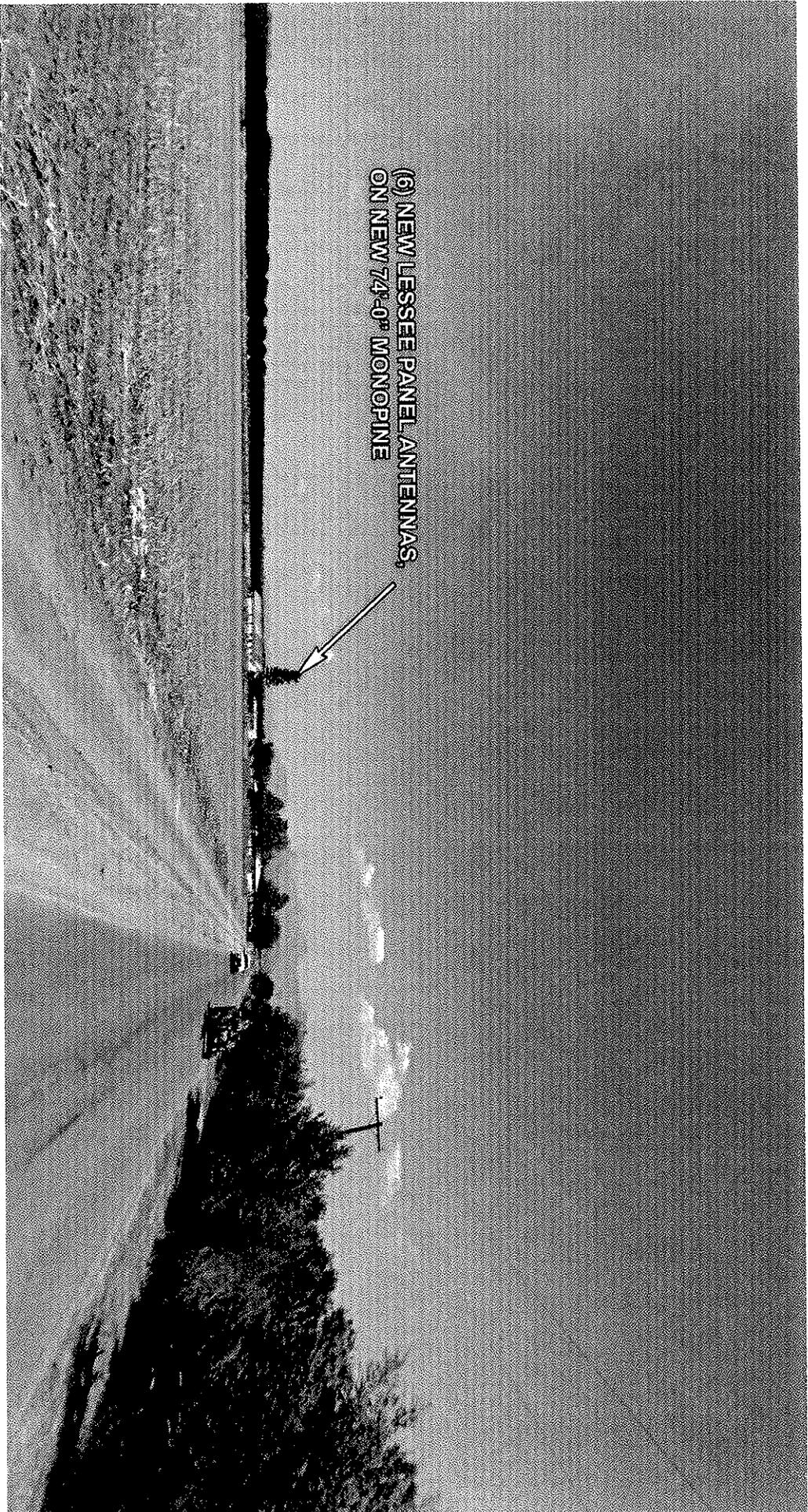


**LSC VALDES
SITE PHOTO
EXISTING SOUTHWEST ELEVATION
SEPTEMBER 07, 2016**



REV-1

TOWERCOM TECHNOLOGIES, LLC
767 N Star Road Star, ID 83669 (208) 286-0266
Albuquerque, NM • Star, ID • El Paso, TX • Las Vegas, NV • Denver, CO • Irvine, CA • Tempe, AZ • West Valley, UT



**LSC VALDES
SITE PHOTO
SOUTHWEST ELEVATION SIMULATION
SEPTEMBER 07, 2016**



REV-1

TOWERCOM TECHNOLOGIES, LLC
767 N Star Road Star, ID 83689 (208) 286-0266
Albuquerque, NM • Star, ID • El Paso, TX • Las Vegas, NV • Denver, CO • Irvine, CA • Tempe, AZ • West Valley, UT

LSC VALDES RF ENGINEERING BACKGROUND FOR RF PROPOGATION MAPS

FROM: Hamdi Alaaldin, Senior RF Engineer.

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Verizon Wireless hires a 3rd party consulting firm to go to all the cities and do a measurement for us.

The 3rd party company will identify 3 different locations that can be the best the representation for that market. For example, in the city of Las Cruces we select 3 sites that represent the clutter (trees, buildings, obstacles) and the topology of that market. After the selection they broadcast a CW (continuous wave) from these locations and record the data for every 5 to 15 meters on all the major and some minor roads in the area.

After the data collection is completed, the 3rd party then uses this data to create a clutter model for that market.

This model is created for different frequencies that VZW owns in that market.

After the model is selected for a specific technology and specific frequency we, at Verizon Engineering, input the following data in our software modeling tool.

Using:

Antenna models (antenna manufacture provide antenna patterns for each antenna at a different electrical tilt which gets imported in to the tool, see below)

Centerline of the antennas on the tower (Where the antennas will be mounted/height)

Latitude and longitude of the site (from 1A)

Ground elevation (from 1A)

Mechanical and electrical tilt of the antennas

Power for each sector

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Cable type and loss

Azimuth for each sector

Carrier frequency

The software tool then creates the RF Propagation study to show coverage and capacity.

Sincerely,

Hamdi Alaaldin

Hamdi Alaaldin, Senior RF Engineer.

	01 LTE1	02 LTE1	03 LTE1
Sector	01	02	03
Location Name	LSC VALDES	LSC VALDES	LSC VALDES
Upper 700 MHz Antenna Cen	70.0	70.0	70.0
Upper 700 MHz Antenna Moc	QS8658-2_M45	QS8658-2_M45	QS8658-2_M45
Upper 700 MHz Azimuth (deg)	350	110	230
Upper 700 MHz Mechanical T	6.0	0.0	0.0
Upper 700 MHz Total Tx Loss	2.00	2.00	2.00
Upper 700 MHz Tx Loss Con			
Upper 700 MHz Total Rx Loss	2.00	2.00	2.00
Upper 700 MHz Rx Loss Con			
Upper 700 MHz Rx Diversity	3	3	3
System Noise Temperature	777.1	777.1	777.1
Carrier	LTE1	LTE1	LTE1
Carrier Band Channel	7-5230	7-5230	7-5230
LTE Total Pwr (Watts)	40.00	40.00	40.00
Upper 700 MHz Regulatory E	47.76	47.76	47.76
RS Tx Bona (dB)	0.24	0.24	0.24
reference Signal Power (dBm)	18.00	18.00	18.00
RSRT Tx Power (dBm)	18.00	18.00	18.00
PCI	132	139	140
physical-layer Cell identity Index	0	1	2
physical-layer Cell identity group	46	46	46
MCC	311	311	311

Antenna Reference

Manufacturer	QUINTEL USA II
Antenna Model	QS8658-3-2100
Date Measured	07-01-2014
Freq. (MHz)	2100
Description	8ft. multi-band an
Antenna Type	Panel
Polarization	Cross-Polarity (-4
Calc. Max Gain (dB)	15.01
Calc. F/B (dB)	35.4
Calc. H-BW (deg)	68.0
Calc. E-BW (deg)	5.2
Azimuth Display Off	0.0
Electrical Tilt (deg)	2.0
Lower Freq (MHz)	1680
Upper Freq (MHz)	2400
Height (in)	95.98
Width (in)	12.00
Depth (in)	9.00

Horizontal		Vertical	
Angle	Gain (dBd)	Angle	Gain (dBd)
0.0	14.90	179.0	14.05
1.0	14.94	178.0	14.05
2.0	14.95	177.0	14.06
3.0	14.98	176.0	12.96
4.0	14.98	175.0	13.59
5.0	14.99	174.0	14.83
6.0	14.99	173.0	16.48
7.0	15.01	172.0	18.17
8.0	15.01	171.0	20.26
9.0	14.99	170.0	22.97
10.0	14.98	169.0	24.76
11.0	14.94	168.0	23.99
12.0	14.91	167.0	23.69
13.0	14.87	166.0	25.80
14.0	14.83	165.0	32.63
15.0	14.78	164.0	36.20

