

Attachment 3

Conditional Use Permit Zoning Code Analysis

The Conditional Use Permit Review Criteria contained in Section 22.5 provide the primary guidance for evaluating conditional uses. CUP's may be granted based on consideration of the following criteria shown in *italics*, followed by staff commentary:

That the granting of such conditional use permit will not be materially detrimental to public health, safety, or welfare. In arriving at this determination, the factors which shall be considered shall include the following:

Damage or nuisance arising from noise, smoke, odor, dust, vibration or illumination;

- The proposed fiber cable line does not create noise, smoke, odor, dust, vibration or illumination.

Hazard to persons and property from possible explosion, contamination, fire or flood;

- The proposed fiber cable line does not produce explosions or cause fire or flood.

Hazard occasioned by unusual volume or character of traffic.

- The proposed fiber cable line does not increase or affect the volume of traffic in the area.

That the characteristics of the use proposed in such use permit are reasonably compatible with types of uses permitted in the surrounding area.

- The fiber cable line will be installed on existing utility poles among other existing utility lines as shown in the applicants submittal Attachment 2. The proposed additional line on the poles with existing lines will be compatible with surrounding area.

In summary, the applicants proposal is consistent with the Conditional Use Permit evaluation criteria.

Zoning Code Analysis

The Zoning Code section 25.1.N.2 states the primary consideration shall be aesthetics with the following factors also considered shown in *italics*, followed by staff commentary:

Zoning Code 25.1.N.2.b.i.: The location and height of such poles and wires and the relation to the present or potential roads;

- There are no new poles installed with the proposed new fiber cable line. The cable will be attached to existing poles which are located in the right-of-way on Ina Road outside of the paved road as shown in Attachment 1.

Zoning Code 25.1.N.2.b.ii. The crossing of such lines over much traveled highways and streets;

- The line will cross over Paseo Del Norte, Northern Ave and eastward over Oracle Road, similar to other existing cables on existing poles at 25' from the ground.

Zoning Code 25.1.N.2.iii.: Proximity of such lines to schools, religious institutions and other places where people may congregate;

- The proposed fiber cable line is not near any schools or religious institutions as it is proposed through this section of Oro Valley. The existing poles where the proposed cable line will be installed follows the southern property line of the Tohono Chul Park and will be approximately 60 feet away from the nearest trails in the park.

Zoning Code 25.1.N.2.iv.: Fire or other accidental hazards from the presence of such poles and wires and the effect, if any, of the same upon the effectiveness of firefighting equipment;

- The applicant states that no electricity flows through the fiber cable line.

Zoning Code 25.1.N.2.v.: The availability of a suitable right-of-way installation;

- The existing right-of-way provides adequate space for installation and the Town will ensure the applicant uses prescribed traffic safety measures during installation.

Zoning Code 25.1.N.2.b.vi.: Future conditions which may be reasonably anticipated in the area in view of a normal course of development;

- If the existing utility poles were required to be relocated due to future road projects, it would be the applicants responsibility to arrange to move the line onto new poles. The Town would assume no costs for the relocation.

Zoning Code 25.1.N.2.bvii.: The type of terrain;

- The area where the cable will be attached to existing poles is relatively flat and does not pose any type of challenges to the proposed installation.

Zoning Code 25.1.N.2.b viii.: The practicality and feasibility of underground installation of such poles and wires with the due regard for the comparative costs between underground and over ground installations (provided, however, that a mere showing that an underground installation shall cost more than an over ground installation shall not, in itself, necessarily require issuance of a permit);

- The applicant states that cost of the proposed overhead work is approximately \$5,600 and the estimated costs to install the cable underground would be \$32,000. Installing this one section of cable line underground would be inconsistent with the overall project for the area.

Zoning Code 25.1.N.2.c.: In the event such poles and wires are for the sole purpose of carrying electricity or power or for transmitting of telephone, telegraph, or television

communication through or beyond the Town's boundaries or from one major facility to another, the practicality or feasibility of alternative or other routes shall also be considered.

- This 1,600 foot section of line is a small part of an overall larger project that travels several miles through Pima County and continues past the Oro Valley Town limits to a facility in Pima County east of Oracle Road. The applicant states this is the best route for the new line, since the poles where this 1,600 foot section of line is proposed are already in place.

General Plan Compliance

Policy 11.3.2. The Town shall continue to require all new development and improvements to existing development, both public and private, to maintain and/or enhance the character and quality of views from and along scenic corridors and public parks. The following measures will contribute to achieving this objective:

- *preserve areas of natural open space (especially habitat areas) to provide visual relief;*
- *provide large natural or naturally landscaped areas in rights-of-way along scenic corridors;*
- *work with utility providers to place utilities underground; and,*
- *discourage visually intrusive structures.*

This proposal is to install one additional fiber cable line, as the lowest hanging line, on seven existing poles. The addition of this one line should not create a discernable impact to the view of surrounding areas.