

ORDINANCE NO. 13-766

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF CHINO VALLEY, COUNTY OF YAVAPAI, ARIZONA, TO PROVIDE FOR THE CONDITIONAL USE PERMIT FOR A WIRELESS COMMUNICATIONS TOWER, 99 FEET IN HEIGHT, TO BE LOCATED ON ASSESSOR'S PARCEL NUMBER 306-14-021C IN THE COMMERCIAL HEAVY (CH) ZONING DISTRICT

WHEREAS, Clear Blue Services, representing AT&T, has filed an application with the Town of Chino Valley ("Town") requesting a Conditional Use Permit for a Wireless Communications Tower, 99 feet in height, to be constructed on a 30'x40' leased parcel in the southeast corner of a one-acre property at 2655 N SR 89, owned by Mannix Holdings LLC, and identified as APN 306-14-021C; and

WHEREAS, the requested Conditional Use Permit was noticed in conformance with the applicable State Statutes and Local Ordinances; and

WHEREAS, on October 29, 2012, a "neighborhood meeting" was held in conformance with the requirement set forth in the Town's Unified Development Ordinance ("UDO"); and

WHEREAS, the Planning and Zoning Commission ("Commission") conducted a Public Hearing on February 19, 2013, during which testimony was presented by Town staff, the applicant and others; and

WHEREAS, subsequent to the Public Hearing and discussion the Commission elected by a 5-0 vote (Commissioner Florence Sloan absent) to forward the application to the Town Council with a recommendation for approval with certain Findings and Stipulations; and

WHEREAS, at their regular meeting of March 26, 2013, the Town Council confirmed the recommendation of the Commission by electing to adopt this Ordinance and thereby approve the requested Conditional Use Permit with the Findings and Stipulations cited in Section 1 of this Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF CHINO VALLEY, COUNTY OF YAVAPAI, ARIZONA:

Section 1. That the Conditional Use Permit for a Wireless Communications Tower, 99 feet in height, is hereby approved to be constructed upon the southeast corner of real property legally described as 2655 North SR 89 and identified on the date of the adoption of this Ordinance as Assessor's Parcel Number 306-14-021C, located

on the east side of SR 89, approximately 600 feet north of Road 3 ½ North, with the following Findings and Stipulations:

FINDINGS: As required by Section 1.9.3 of the Town of Chino Valley Unified Development Ordinance:

1. That the CUP will not be materially detrimental to persons residing or working in the vicinity adjacent to the property, to the neighborhood, or to the public welfare; and
2. That the proposed use is reasonably compatible with uses permitted in the surrounding area.

ZONING STIPULATIONS:

1. Applicant agrees that the approval of this Conditional Use Permit confers no entitlements or rights to the owner or applicant other than those that are vested as a Conditional Use in the CH Zoning District.
2. That the Property Owner/Applicant agrees to comply with the codified procedures set forth in the Town of Chino Valley's UDO.
3. That the CUP is granted for an indefinite period of time, however upon initiation by the Planning Commission the Permit may be reviewed at any time and after conducting a Public Hearing the Commission may recommend that the Town Council amend, modify or revoke the CUP.
4. That if the tower is not operated for a continuous period of ninety (90) days it shall be considered abandoned, and the owner of the tower shall remove the tower within ninety (90) days of receipt of notice from the Town notifying the owner of such abandonment. Failure to remove an abandoned tower within said ninety (90) day period shall be grounds to remove the tower at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower for the prescribed period (Section 4.25 J).

ENGINEERING STIPULATIONS:

1. That the Applicant shall submit a paving and drainage plan and receive approval from the Town prior to the submittal of a building permit.
2. That since the property is adjacent to SR 89, Engineering has no additional stipulations.

GENERAL STIPULATIONS:

1. That the effective operation of this Ordinance Number 13-766 is expressly conditioned upon the effective operation of Ordinance Number 13-767 regarding amendments to the Town Unified Development Ordinance, Section 4.25, pursuant to Town Code Section 36.04 and any other applicable law or ordinance.
2. That the effective operation-date of this Ordinance Number 13-766 shall be no earlier than one (1) day following the effective operation-date of Ordinance Number 13-767.

Section 2. That this Ordinance repeals any prior enactment by the Town of Chino Valley that is inconsistent herewith.

Section 3. If any section, subsection, sentence, clause, phrase or portion of this Ordinance or any part of the UDO adopted herein by reference is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

PASSED AND ADOPTED by the Mayor and Common Council of the Town of Chino Valley, Arizona this 26th day of March, 2013.

Chris Marley, Mayor

ATTEST:

APPROVED AS TO FORM:

Jami C. Lewis, Town Clerk

Musgrove Drutz & Kack, PC
Town Attorney