



Land Use Department

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TO: Susan Wood, Case Manager
Jefferson County Planning Commissioners
FROM: Peter Fogg – Manager, Long Range Division
DATE: September 26, 2001
RE: Case Number 00015485RZP1 – Pinnacle Towers, Inc. Rezoning Request from A-1 to Planned Development to Permit Expansion of the Existing Eldorado Communications Facility

Dear Ms. Wood and Planning Commissioners:

On behalf of the City of Boulder and Boulder County Commissioners we thank you for the referral of Case 00015485RZP1 and the opportunity to comment for the public record. Additionally, the city and county have retained Dr. Ronald R. DeLyser, PhD. of the University of Denver Department of Engineering to provide us with some technical analyses. Dr. DeLyser will be presenting his conclusions to you during the September 26th public hearing as well as in writing.

The city and county of Boulder have sent several letters of opposition to Jefferson County over the past several months relative to this application. We also concur with the concerns and observations made by others in opposition during the September 5, 2001 public hearing. In short, we believe that Eldorado Mountain is an inappropriate site for this facility and that alternatives already exist, that the applicants (PTI) have not successfully met the criteria for approval contained in Jefferson County regulations and plans, and that Jefferson County is under no obligation by the FCC or Telecommunications Act of 1996 to approve a site. We offer the following for your consideration in support of our conclusions.

1) Site Appropriateness We do not find PTI's alternative site analyses to be at all compelling, particularly in their dismissal of the existing Squaw Mountain facility. Less than 18 months ago during the Lake Cedar Group/Lookout Mountain hearing process, Jefferson County staff concluded that "...Squaw Mountain, at 10,800 feet in Clear Creek County, can accommodate facilities such as these [digital, TV and FM transmission facilities] and is already zoned as a planned development zone district" (pg. 28 Jefferson County comments to FCC re: *Lake Cedar Group Petition for Expedited Special relief and Declaratory Ruling DA-00-764*). We have submitted a letter from Clear Creek County to the record describing the status of the Squaw Mountain site as well as its operating conditions and limitations. Some comparative points include:

- it is an approved and operating ODP telecommunications facility that has legal paved access without the fire protection, easement, visual impact and grade issues of concern at Eldorado Mountain;
- it can accommodate three towers under current county approval conditions;

- it is not located in the Front Range Mountain Backdrop nor is it identified as one of the top 20 species count blocks for breeding birds in the Colorado Breeding Bird Atlas (Boulder Mountain Parks/Eldorado in combination are ranked numbers one and two in the Atlas);
- it does not pose Quiet Zone interference problems to the same degree as does Eldorado Mountain; and
- it limits helipad/helicopter operations to emergencies only, unlike PTI's proposal to permit 7:30 AM – 7:30 PM operations for any reason even though the site is adjacent to Eldorado State Park and within 1,000 feet of peregrine falcon nests, a species that has only recently been delisted as threatened at the federal level but which is considered a "species of special concern" by the Colorado Division of Wildlife. Peregrines tend to rely on updrafts when flying; the helipad is located above the nesting sites.

The issues of "shadowing" and repeaters have been presented in Dr. DeLyser's materials. His conclusions complement those reached by Jim Hart for Jefferson County that all mountain sites will need to address shadowing with boosters and translators. In addition, Squaw Mountain provides a strong enough signal to satisfy the FCC requirements. One can only conclude that PTI has excluded Squaw Mountain from its acceptable alternatives analysis because they do not own or otherwise control the facility. This is not an appropriate or qualifying criterion for making a siting decision one way or another under Jefferson County regulations and policies.

2) Compliance with Jefferson County Regulations and Plans We must respectfully disagree with the staff conclusions regarding land use compatibility, visual impacts, and the adequacy or appropriateness of other proposed mitigations. Many others have already testified in opposition as well. We concur with those dissenting opinions and wish to reiterate but a few:

- Non-compliance with Section 15.f.1 of the Jefferson County Zoning Resolution (equipment being proposed cannot be accommodated on an existing tower) has been cited by others and discussed above.
- From our perspective, the size and location of the proposed facility make it literally impossible to meet the numerous criteria regarding minimization of visual impacts and protection of the integrity of open spaces/ridgelines as called for in the Jefferson County Telecommunications Land Use Plan, North Mountain Community Plan, and Zoning Resolution. By way of example, the Telecommunications Land Use Plan lists nine noise/visual impacts evaluation criteria and over 30 examples of techniques including "do's" and "don'ts" to meet the criteria. The only two credible mitigations proposed involve faux rock landscaping and an approval from the FAA, which is not guaranteed by any means. In fact, the applicant recognizes the enormity of the visual impact issue by proposing to seek FAA exemptions from tower coloration requirements (alternating orange and white) and strobe light intensity. This seems counterintuitive; in order to minimize a visual impact that is purportedly not significant anyway the applicant is requesting waivers to FAA safety requirements which have been designed specifically to make towers highly visible to aircraft.
- Access issues remain controversial and unresolved. It is reasonable to wonder if the applicants' request for virtually unregulated helicopter use to and from the site is not a tacit admission that ground access is marginal at best and impractical in most instances.

- The applicants cannot guarantee that any of the current broadcasters in the Denver metro area will lease space at this facility, nor can they guarantee that any equal face area of existing towers will be removed.
- The structural engineering report submitted for wind-loading was based on 421-foot tall towers bearing a 100 mph wind. The current application proposes towers up to 510 feet tall, and evidence submitted by Boulder County to Jefferson County on March 16, 2001 documents wind speeds in excess of 145 mph in this location. This discrepancy has not been addressed.
- Given that none of the screening criteria in the Telecommunications Land Use Plan can be realistically and effectively met, the fall-back criterion is for new facilities to be located in "close proximity to other comparable structures". In our view a facility comprised of three 510 foot towers with lights, storage tanks for 40,000 gallons of diesel fuel and 30,000 gallons of water, a 12 hour/seven days/365 days-a-year helipad, and other structures is not at all "comparable" with one unlit, unpainted tower of 160 feet in height.

3) Need for the Rezoning and Facility We concur with the conclusions regarding Jefferson County's "obligations" to approve the ODP as described in September 17, 2001 letter from Claire Levy to the Jefferson County Planning Commission. Beyond the legal analysis, there appears to be growing skepticism that the broadcast tower over-the-air delivery technology will survive as a viable and marketable product. Already over 75% of Denver area television viewers are using either cable or satellite. In light of all the other compatibility, policy and regulatory deficiencies we believe accompany this application, the prospect that over-the-air technology may become obsolete in the near future further argues against approval of the ODP.

Finally, Jefferson County is recognized as the pioneer in setting up a strong, viable open space program in the state of Colorado and indeed as one of the leaders in the West. Jefferson County should also take pride in having been one of the two parent counties that gave birth to the five-county Front Range Mountain Backdrop Project in 1994. This project, funded by Great Outdoors Colorado and written about in such journals as the American Planning Association's magazine Planning and the National Geographic, epitomized the widespread concern among elected officials, appointed officials, visitors and citizens about maintaining the ecological and aesthetic integrity of this defining Colorado landscape. Eldorado Mountain was included in the "Strategic Lands" category as defined during the Project, meaning that it ought to be afforded careful aesthetic and conservation management both for its own ecological and scenic values as well as providing a backdrop to one of the few remaining native tallgrass prairie ecosystems, running west of SH 93. As has been established during these hearings, broadcast technologies are adaptive and evolving, able to overcome the difficulties associated with diverse terrain and viewing markets. In a word, they are mobile. Eldorado Mountain is not. We urge the Jefferson County Planning Commissions to deny Case Number 00015485RPZ1, and recommend to the Jefferson County Commissioners that they do so as well. Thank you for your consideration.

Peter L. Foggy