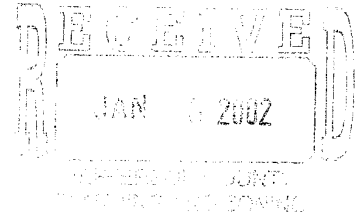


NICHOLS & ASSOCIATES

Attorneys at Law
2060 Broadway, Suite 200
Boulder, Colorado 80302



Telephone (303) 442-4300
Facsimile (303) 443-6764

E-mail: rnichols@boulderattys.com

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VIA HAND DELIVERY

Ms. Susan Wood
Jefferson County Planning &
Zoning Department
100 Jefferson County Parkway, Suite 3550
Golden, CO 80419-3550

Re: Pinnacle Towers, Inc.
Case No. 00015485RZP1 (rezoning application)

The Front Range Alliance (the "Alliance" or "FRA") submits these comments on the amended application of Pinnacle Towers Inc. ("Pinnacle"), which was filed with Jefferson County on December 7, 2001. The Alliance has already submitted numerous comments on Pinnacle's original application and revisions to the application.¹ Therefore, these comments will address only the changes made by Pinnacle in its amended application.

I. Introduction

On November 7, 2001, the Planning Commission voted to recommend denial of Pinnacle's application based on the following findings: (1) unresolved access issues; (2) unresolved fire protection issues; (3) failure to demonstrate that no existing site is available to accommodate the proposed equipment; (4) insufficient mitigation of proposed increased tower face area; (5) visual resource incompatibility; and (6) noise incompatibility. *See Resolution of the Jefferson County Planning Commission*, dated November 7, 2001.

As a result of the Planning Commission's decision, Pinnacle elected to file an amended application rather than bring its original application before the Board of County Commissioners. In its amended application, Pinnacle makes only three substantial

¹ On November 19, 2001, the Alliance submitted a bound Summary of Presentation, which summarized all of the Alliance's comments and contained numerous exhibits. The Summary of Presentation is incorporated into these comments by reference.

changes to its original proposal: (1) it deleted its proposal for a heliport; (2) it eliminated one of the proposed three towers; and (3) it limits the two proposed towers to 450 feet and 180 feet respectively. Although these are positive changes, as Pinnacle acknowledged at the December 10, 2001 hearing before the Board of County Commissioners, the amended application does not address the majority of the Planning Commission's concerns as set forth in the Resolution nor does it address the primary concerns that the Alliance and many other concerned citizens and groups have described in their previous comments. In particular, the amended application does not resolve the visual impact issues, the fire protection issues, the access issues, or the alternative sites issue.

II. Discussion

A. Visual Impacts

Pinnacle's new proposal of two towers with one at 450 feet and one at 180 feet does not resolve the visual impacts of the amended application. Policy 1 of the Visual & Noise Impacts section of the *Telecommunications Land Use Policy* ("TLUP") states that telecommunications towers "should result in minimal visual impact for those residents in the immediate area and for those in the larger community who view these facilities from a distance." According to the TLUP, the visual impact can be minimized by screening 80% of the tower or locating towers down-slope from the top of a ridgeline. The amended application does not minimize the visual impact because the 450-foot tower will still be required by the FAA to have medium intensity flashing white lights during the day and red lights at night and all but the base of the 450-foot tower will still be visible against the skyline.

The TLUP, Visual & Noise Impacts, Policy 2 states that the visual impact of the telecommunications facilities should be compatible with the aesthetic character of the surrounding area. The two proposed towers will not be compatible with the aesthetic character of the surrounding area, which consists of State Park land, Jefferson County and Boulder County Open Space, and residential and agricultural land.

To minimize the visual impact, the TLUP states that the applicant should avoid tower heights that require FAA lighting and painting, towers and antennas should be consolidated, and towers should be located away from key public viewpoints. TLUP, Visual & Noise Impacts, Policy 6. As stated above, the 450-foot tower will have day and night lighting. With respect to consolidation, although Pinnacle claims that its amended design can accommodate 11 digital television stations, 5 analog stations and 8 FM stations, Pinnacle has provided no evidence of committed tenants. In fact, in the record there are numerous letters from Denver metropolitan area stations stating that they have no intention of relocating to Eldorado Mountain. As such, consolidation of facilities is unlikely to happen. Lastly, the towers will be located on top of Eldorado Mountain along the Front Range Mountain Backdrop. This is a key view corridor. As the *Front Range Mountain Backdrop* Report found, the Front Range Mountain Backdrop is a visual

anchor for millions of residents and visitors. The addition of a lighted 450 tower on top of Eldorado Mountain would significantly impact a key public viewpoint.

Because Pinnacle's amended application does not comply with the policies of the TLUP regarding visual impacts, the amended application should be denied.

B. Fire Protection/Adequate Physical Access

The amended application deletes the heliport proposal and decreases the amount of fuel that will be stored at the site. ODP, p.2. These changes will decrease the risk of fire on top of Eldorado Mountain, but they will not eliminate the fire danger. More importantly, these changes do nothing to address the Coal Creek Canyon Fire Protection District's ("CCCFPD") main concern, which is that it does not believe that its fire trucks could reach the site in the event of a fire due to the steep grade of the road.

The *Jefferson County Zoning Resolution*, Section 1.G.1.c(9), and the TLUP, Tower Siting & Review, Policy 1.f, require Pinnacle to demonstrate that adequate fire protection is available. At the Planning Commission hearings and in writing the CCCFPD stated that the grade of the road is in excess of applicable county standards and that in order to provide adequate fire protection, the access road to Pinnacle's site must be graded to meet county standards. See CCCFPD letter dated March 22, 2001. The amended application does not commit to making any changes in the grading of the road. Because of Pinnacle's continued failure to demonstrate adequate emergency access to the proposed site, the amended application should be denied.

C. Legal Access

Pinnacle must demonstrate that it has legal access to the site by submitting any easements necessary for access. *Jefferson County Zoning Resolution*, Section 15.F.1. Pinnacle does not have legal access to its site because a portion of the access road crosses Colorado State Park land and Pinnacle has not entered into an easement or right-of-way agreement with Colorado State Parks, which would give Pinnacle access across State Park land. See FRA letter, dated November 16, 2001. The amended application does not address or in any way resolve this lack of legal access. Because Pinnacle's amended application does not demonstrate that it has legal access to its site, the amended application should be denied.

D. Alternative Sites

The *Jefferson County Zoning Resolution*, Section 15.F.1.g, requires Pinnacle to show that the proposed towers cannot be technologically or structurally accommodated on an existing or approved tower. In Attachment No. 2 to its amended application, Pinnacle states that it "obtained letters from owners of existing or approved towers that

they are unable to support all of the facilities which PTI's originally proposed rezoning and Master Site Plan were designed to accommodate." (emphasis added). Pinnacle did not send out letters to tower owners regarding their ability to accommodate the facilities as set forth in the amended application. Nevertheless, Pinnacle claims that it has demonstrated that no alternative site can accommodate the facilities proposed in the amended application. There are numerous deficiencies in this proof regarding alternative sites.

First, Pinnacle fails to mention that Squaw Mountain Communications, which has an existing ODP approved for three towers, submitted a letter to Pinnacle and to Jefferson County indicating that it is capable of accommodating all of the TV and FM radio stations mentioned in Pinnacle's February 21, 2001 letter to telecommunications site owners. *See* Squaw Mountain letter, dated March 23, 2001. Since Squaw Mountain is capable of accommodating all of the facilities proposed in Pinnacle's original application, it is logical to presume that Squaw could also accommodate all of the facilities proposed in Pinnacle's amended application given that the amended application proposes fewer towers and would accommodate six fewer analog TV stations. *See* Amended Application, Attachment No. 2, paragraph 3.

Second, due to the fact that the amended application proposes fewer towers and would accommodate fewer TV stations, Pinnacle should be required to send another letter to all owners of existing or approved towers to determine if other tower owners in addition to Squaw would be capable of accommodating Pinnacle's proposed facilities. None of the letters from the other tower owners indicate that they would not be able to accommodate a scaled back version of Pinnacle's proposal. The response letters state only that they could not accommodate Pinnacle's original proposal of 11 DTV stations, 11 analog stations, and 8 FM radio stations.

Third, although Pinnacle proposes to accommodate 11 DTV, 5 analog stations, and 8 FM radio stations, it has submitted no evidence concerning any potential tenants. Consequently, it is unknown what facilities would actually be put on the site. Despite the fact that Pinnacle has no idea who might come to the site and has acknowledged in writing that it does not expect every station to come to its site, Pinnacle's February 21, 2001 letter to tower owners asked whether they could accommodate every Denver area station. Pinnacle should not be able to continue to rely on its initial misleading letter because the factually unsupported statements in the letter may have caused some tower owners to state that they could not accommodate Pinnacle's proposal.

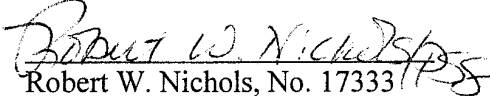
Pinnacle has failed to show that no other owner of an existing or approved tower could accommodate the facilities proposed in its amended application. Therefore, the application should be denied.

III. Conclusion

As the above discussion shows, Pinnacle's amended application fails to comply with the *Jefferson County Zoning Resolution* and the *Telecommunications Land Use Plan*. In addition, the amended application fails to address the primary concerns of the Planning Commission, the Alliance or the many other citizens and groups that have submitted comments. Therefore, Pinnacle's amended application should be denied.

Respectfully submitted,

NICHOLS & ASSOCIATES
Attorneys for the Front Range Alliance

By: 
Robert W. Nichols, No. 17333
Phillisa S. Shoemaker, No. 27029
2060 Broadway, Suite 200
Boulder, Colorado 80302
303.442.4300
303.443.6764 (fax)
rnichols@boulderattys.com
lshoemaker@boulderattys.com