

People for Eldorado Mountain/Citizens for Eldorado Canyon
POB 295 Eldorado Springs, CO 80025

January 3, 2002

Jefferson County Planning Commission c/o
Susan Wood, Planner
Jefferson County Planning and Zoning Department
100 Jefferson County Parkway, Suite 3550
Golden, CO 80419-3550

Re: Case# 00015485RZP1/EXP1

Ms. Wood,

We are providing comments on PTI's "revised" ODP that we received on December 18.

In our analysis, PTI's revised ODP is tactical and not substantive. It is a disguised version of the original application for three large towers and huge ridgeline buildings. Much of the language from previous versions remains unchanged. We find nothing that would warrant a different recommendation from the Planning Commission than the one issued on November 7.

Major regulatory and policy compliance issues remain unaddressed in this "revised" proposal. Pinnacle has not resolved its access problem, its fire protection problem, the requirements of Section 15 F. 2 of the Zoning Resolution, tower face area issues, its incompatibility with visual resources, its noise incompatibility, and it still does not adequately address the protection of the NIST laboratories.

Eldorado Mountain is not an appropriate site for an industrial facility. Because PTI has not addressed substantial issues that were reasons for the denial recommendation of the Planning Commission, we believe that Staff and the Planning Commission have no alternative but to also recommend denial.

In the September Staff findings, evidence of significant visual resources was overlooked. This includes the five-county Front Range Mountain Backdrop Study, the Conda Quarry-PEM history, records of Boulder's acquisition of the State Land Board property and Conda mineral rights, the Eldorado Canyon State Park Management Plan, photographs of Eldorado Mountain showing the major exposed Flatirons rock on the east face. These visual resources are unique in Colorado and should be protected.

Recently President Bush signed into law the Allard-Udall Rocky Flats National Wildlife Refuge bill that permanently protects over 6,000 acres of Federal land in Northern Jefferson County directly east of Eldorado Mountain. The wildlife refuge gives additional land to the mosaic of other protected State, County, and Municipal parks and open space lands surrounding Eldorado Mountain. This shows the national bipartisan recognition of the importance of preserving the Mountain Backdrop in this part of Jefferson County.

Mr. Benkert maintains that State Parks has approved site access through the Eldorado Canyon State Park. This issue, however, has not been resolved. At the December meeting of the Colorado State Parks Board, Board member Edward Calloway affirmed that State Parks had not issued access to Pinnacle, and that State Parks would not discuss the matter until after Jefferson County Commissioners ruled on the application. Approval of this application prior to BLM adjudication could result in reversion of State Park land to the BLM, which would constitute a takings of public property. We feel that Jefferson County has a particular responsibility to protect the integrity of the State Park.

Squaw Mountain is a feasible, available alternative that deserves full consideration for the digital devices sought by PTI for Eldorado Mountain. The use of Squaw Mountain for digital communication towers would enable the relocation of antennas and towers off Lookout Mountain and prevent tower blight from spreading to a new, highly visible Front Range location.

We feel that it is improper for Jefferson County to base any consideration on the relative strength of radio signals from Eldorado Mountain compared to Squaw Mountain, or to compare the extent of multipath effects on receivers between the two sites and use such comparisons as the basis of a decision. Such technical issues should not pre-empt the standard of compatibility and do not belong in a rezoning decision.

At an earlier phase of the application, Mr. Benkert said on a number of occasions that the second and third towers were necessary to protect the quiet zone. He also said several times that the development would start with one tower and build the second and third as the need for tower space arose. At the December 10th hearing Mr. Benkert, speaking under oath, noted that Pinnacle would try to rezone for additional towers as needed in the future. This is consistent with the Master Site Plan outlined in Exhibit 9 of the ODP.

We request that the Planning Commission consider the history of this application to understand the full potential impacts of a major new tower farm on the Front Range adjacent to thousands of acres of public recreation and conservation lands owned by multiple jurisdictions. Many people consider this area one of the most beautiful in Colorado. We believe that Staff and the Planning Commission should both recommend denial of the proposal.

Specific Comments on the Written Restrictions:

Page2, D.1.a. "Use Area A" - "All types of electronic and telecommunications equipment including, without limitation, ... without limitation.... Such uses shall include erection and installation of towers and other antenna support structures...." The wording here is the same as that contained in the June ODP. Same intention, same uses, nothing scaled down here. The site expansion is already planned "without limitation."

Page 2. D.2.a.-d. "Use Area B" - "Road or drive ways..." We question whether such uses are compatible with the State Park to the west, or with the highly visible east face of the Mountain. Electric and telecommunications transmission lines, fences, etc. on the east side of Eldorado Mountain are not compatible with the visual resources in public and private property. The only visual consideration is that such facilities "not be visible with the naked eye when viewed from State Highway 93," yet the facilities would be highly visible from State Highways 170 and 72,

and many positions on nearby public lands that have been preserved from development to protect visual resources.

Page 2. E.1.a. Fuel Storage. The Written Restrictions would allow over 25,000 gallons of flammable and toxic liquids on site, without fire protection. The visual impacts of above ground storage are not identified. Fire mitigation of explosive and flammable substances are not planned under the proposal.

Page 3. E.1.b. Electrical substation buildings are planned to be rectangular and highly visible from State Park and public property to the west and would introduce visual incompatibility. Screening with vegetation or paint would not hide the intrusiveness of such structures.

Page 3. G. Vested rights. It would be wrong to assume that the existing site gives vested rights for expansion of the facility or somehow establishes a standard for compatibility. There is evidence that casts doubt on the legitimacy of the Special Use permits, such as the illegal access road across the State Park, and the fact that the original 60-foot tower was built without a permit. It is also highly presumptuous, if not outright incorrect, to assume that the 84-4 permit allows a tower of unlimited height, as advanced in an earlier version of this proposal.

Page 4. G.2.a.-k. Tower Standards. Any four hundred and fifty foot towers, forty-five feet wide, free-standing towers with 10-foot wide side panels, obstruction lighting and painting, would have an intrusive visual impact on Eldorado Mountain and would be in violation of visual resource policies of the NMCP and the TLUP, and would violate County policies regarding visual resources. The Written Restrictions should also include language that prohibits candelabras and any other intrusive tower or antenna shapes.

Page 4. G.2.d.-e. Applicant hasn't demonstrated any need for a new tower, and hasn't demonstrated that existing permitted towers cannot accommodate the proposed equipment. New towers should be specified in terms of square feet of surface area being removed elsewhere compared to proposed surface area. All this should be quantified in advance.

Page 4. G.2.f.-g. There is no guarantee that the FAA will not require both red and white paint and obstruction lighting. The visual impacts of the proposed tower or towers will be huge and unacceptable.

Page 5. G.2.i. This provision creates a loophole that would virtually guarantee that PTI would obtain almost everything that was included in the previous proposal rejected by the Planning Commission. The previous proposal sought to pre-empt other applicants for rezoning of other sites and should be considered as the "blueprint" for the present tactical revised ODP. This provision contrasts with the stated intention to offer a scaled-down version of the proposal.

Moreover, in an earlier version of the proposal PTI maintained that the second and third towers would be required to enable protection of the Quiet Zone. We're not sure whether this is still true, or if it ever was, but with provision, G.2.i., Pinnacle clearly seeks to leave the door open to complete site development as per its Master Site Plan that the Planning Commission recommended for denial. When the author writes "Nothing in these Written Restrictions shall limit the number of broadcast station facilities which can be placed at the site," the Planning

Commission should be on notice: approval of this plan means more tower proliferation along the Jefferson County Front Range.

Page 5. G.2.k. Birdkill. By the time Pinnacle builds the tower or towers it seeks, mitigation of birdkill will only marginally reduce avian deaths. The problem is the location and size of the towers.

Page 5. G.4.a.-c. Building mounted transmission and reception antennas and devices are already a visual problem at the site. This provision would only worsen the existing problem Pinnacle has in limiting its damage to the visual resources of the area.

Page 6. G.6-7. With the building heights that would be authorized, unlimited antennas and new support grids could be 65-78 feet above the ground on the summit of Eldorado Mountain, which is perhaps twice the height of the existing ridgeline buildings and mounting grids. This is just more proliferation that policies in the NMCP and the TLUP were designed to prevent. Buildings of the proposed heights (1 & 2, Fig 2; 3, Fig. 2, and not depicted on Fig 2) would be as high or higher than the trees on the summit of Eldorado Mountain. Pinnacle could not eliminate the objectionable visual impact of its buildings with vegetative screening as proposed.

Page 6. G.7.-13. The applicant proposes to use natural colors to match the surrounding terrain, within 8 months, but such coloring will not reduce the visual intrusion of the buildings, that are truly on the edge of the ridge, that are conspicuous and annoying to many people because of the unnatural contrast with the natural background. See our attachment for photo of existing building. Expansions of such buildings, or the addition of more buildings in that location can not be "visually connected to any adjacent rock outcroppings," without totally violating the intention and the wording of policies designed to protect important visual resources. The Architectural standards defined in G.7. and 8. offer unsatisfactory and insufficient mitigation measures to remedy the huge visual impact the facility would bring. Here's some language from this section:

Upon any expansion of said buildings, or construction of additional buildings along the ridgeline, the buildings shall be designed and constructed to provide a faux ridgeline when viewed from the east or west, visually connected to any adjacent rock outcroppings. ... Equipment, including without limitation ground-mounted satellite antennas, electric transformers, HVAC and other equipment located at the site, which is visible from any off-site location with the naked eye, shall be colored or screened to match the surrounding terrain within 60 days of installation or, in the event of screening with plantings, by the following June. (page 6, Section G. 7-8)

Buildings, towers, monopoles, etc., located on such a conspicuous mountaintop can hardly be hidden by paint or vegetation, or even faux rock outcropping that covers the whole mountaintop. We estimate that to hide the buildings and antennas it would take between 400 and 600 linear feet of faux rock outcrops, 80 feet tall, but it would never look like another Flatiron. The existing building is 35 feet high and is totally visible from many heavily used trails in the State Park, many miles of trails in nearby public recreational areas, from Highway 93, Eldorado Springs Drive, Shanahan Ridge, Flagstaff Mountain, etc. The proposed expansion will ruin the view of Eldorado Mountain for local residents, thousands of visitors to the State Park and the Rocky Flats Wildlife refuge, not to mention all Denver-area residents who cherish

the Mountain Backdrop. The facility will be an eyesore from any direction, and will reflect poorly on Jefferson County, should it decide to approve this application. Other provisions in Section G on fencing, signs, lighting, retaining walls, etc. are equally offensive because of the obvious visual incompatibility of the proposed facility.

Page 7. G.14. Any blasting is clearly incompatible and undesirable on land adjacent to the State Park and Boulder Open Space. If there is a need to blast, the proposed land use is incompatible. There is presently no such loud noise in the area and it would frighten and chase away any raptors such as Peregrine falcons or Golden eagles that breed or reside in the area.

Page 7. G.16.a-d. The use of industrial noise standards of 70 db(A), applicable to generators and other equipment, on land adjacent to Eldorado Canyon State Park and Boulder Open Space is incompatible because it is inconsistent with the characteristics of recreational use, wildlife habitat. Nesting raptors would be disturbed and so would hikers, climbers, etc. The use of such public lands, now, and in the future, will be negatively impacted by the proposal.

The provisions in this ODP for permitting of devices and RF enforcement do not protect the public. We do not believe that PTI should modify County regulations governing enforcement of zoning regulations and permits, as it attempts to do in Sections H., I., J., K., and L., of the ODP. Much of this seems exactly the same as what we saw in a previous version of the proposal, that was recommended for denial.

In Section H, "Permitting of Structures and Facilities," the use of the word "or" would allow Pinnacle to choose between its own rules, and those of the County. Section I., "Site Specific Permitting Regulations," seems to be another attempt to bypass existing regulations. The use of the word "may" is ambiguous and could take control away from the County. In the same paragraph, the words "and/or," repeated twice for different conditions, seem to introduce ambiguity that would make enforcement of provisions problematic. In Section I.1.g., the concept "Safe Harbor Device" is merely an attempt to remove restrictions on the placement of unsightly antennas. Many of the existing devices are already quite visible from Highway 93, and much more visible from areas near and in the State Park and numerous residences, even though the existing building is about 18 feet shorter than the one proposed, not to mention the proposed expansions of the existing structures. In I.3. "Notification Required" the word "or" would give discretion to Pinnacle about notification prior to installation and would essentially allow erection of a 30-foot device on top of a 48-foot tall building, without prior notification, or approval, of the device. In Section J., the ninety-day provision essentially places affected residential owners at a huge disadvantage in regard to RF interference. The provisions for MPE enforcement serve the interests of PTI far more than they do the public. RF interference at nearby residences, and in the State Park must be clearly addressed now, or the County is exposing itself to creating conditions for elevated risk and property harm, should it allow PTI to dictate its terms of operation.

In Section J., the notion of a "location reasonably accessible to the general public" should include all areas within public or on public open space and parks. Many climbers in the State Park and on Eldorado Mountain would be unnecessarily exposed to harmful levels of RF. This kind of protection was lacking in the earlier version of the ODP recommended for denial, but was overlooked by Staff and by the Planning Commission, presumably because other more serious problems existed that were the immediate cause for denial. Moreover, special

consideration needs to be made in regard to the nesting Peregrine falcons and Golden Eagles on Eldorado Mountain. The MPE limits apply only to people, but leave the wildlife exposed to higher cancer risk and problems associated with RF emissions.

Section J.7. offers little assurance of protection from interference because PTI would only be required to "coordinate the development and implementation of a mitigation plan with parties operating RF sources," and not actually mitigate the interference it causes. It seems that it would essentially grandfather non-complying devices now at the site.

These provisions on permitting of structures, devices, measurement and mitigation of RF interference would enable Eldorado Mountain to become another large unsightly tower farm on a highly visible, otherwise beautiful, Front Range mountain, and offer little assurance, if any, that RF interference problems would be resolved. We believe that these RF interference problems will be a significant nuisance.

Compliance with Zoning Resolution Section 15.F.1.g.

We totally disagree with the claim by PTI's representative that it shows compliance with Section 15 of the Zoning Resolution. In Exhibit 9, Pinnacle has not satisfied the requirement to demonstrate that no other site can support the proposed equipment. Approval of this proposal, with this exhibit, would essentially enable PTI to have a monopoly over county and regional tower development and antenna siting.

The Planning Commission found serious deficiencies in PTI's method of demonstrating compliance with Section 15 of the Zoning Resolution, and we do not believe that this has been resolved. This section of the application contrasts sharply with Pinnacle's claim that it offers a scaled-down version of its application. The Master plan is still to build three towers and huge ridgeline buildings, and that plan was rejected by the Planning Commission.

Jefferson County should recognize Squaw Mountain as a feasible alternative site capable of supporting the equipment proposed by Pinnacle Towers, including the two alleged potential clients, and any others that they speculate they can support. We were under the impression that that compliance with the Zoning Resolution is regulatory and not a matter of Staff discretion.

The September Staff recommendation suggested Squaw Mountain was not a valid site because the signal strength from a transmitter on Eldorado Mountain would be stronger than for the same transmitter on Squaw Mountain. We feel this is not a sufficient criteria to warrant a recommendation for approval because the relative difference is small and that based on the NIST measurements using 1 Mw EIRP transmissions and the prescribed 30 foot high antenna, signals from both sites will be above the minimum signal strength prescribed by the FCC (41dBuV/m) for the Denver region.

It should be noted that the difference in signal strength achieved by using Eldorado Mtn verses Squaw Mtn does not even remotely address the problems of inadequate reception and sensitivity to multi-path inherent in the current DTV standard. This is discussed by the ATSC in its April 2001 report. As noted by the NIST Report, the ATSC recommends a 56 dB increase in overall link budget to compensate for these serious engineering difficulties. If achieved entirely by increasing the broadcast power, 56 dB would require a factor of x400,000 increase. In all likelihood the 56

Db will be achieved by a combination of measures including some increase in power, plus modification of the standard, lowering quality, lowering coverage, receiver technology improvements, and the use of taller receiving antennas. Moreover, the mountain topography along the Front Range greatly exacerbates the current DTV standard's inability to handle multi path. These problems should signal that the current DTV standard is not ready for prime time and that Jefferson County should heed the reluctance of the broadcast industry to proceed with costly implementation. If anything, Jefferson County should call for live testing of DTV to assure its adequacy for the region including examination of distributed tower configurations that will not offer a single point of failure like those on WTC 1.

If Jefferson County's objective is to help solve technical problems, it will require much more expertise than Hartech, Inc. and an out-of-state real estate company can provide. Jefferson County should not sacrifice the traditional standard of compatibility in a short-sighted attempt to remedy a technical issue that can not be solved by modestly increasing the strength of signal or incrementally reducing DTV multipath effects through a rezoning decision.

The visual analysis in this ODP is incomplete. There is no visual analysis for the revised plan. The original visual analysis submitted in February 2001 fails to show structures on the east face of Eldorado Mountain as proposed for use area B, and fails to show building expansions planned for existing ridgeline buildings, or what the towers would look like from positions near Eldorado and in Shanahan Ridge, and other public viewpoints. There are undefined symbols in the site plan (A1-20) that seem open to interpretation. The public and Jefferson County has no way to evaluate the effect of massive faux rock outcrops above the foreground of the Eldorado Mountain flatiron.

Conclusions

Although PTI claims that its application is substantially revised, its obvious visual impact--large ridgeline buildings and a huge tower with daytime strobes and red night lights--would still damage the visual resources of the Mountain Backdrop. The application should be rejected because of its incompatible visual impacts on significant regional visual resources. Further, we feel that failure to provide proof of access and fire protection should also be grounds for immediate rejection.

Most importantly, the fact that Squaw Mountain Communications site is feasible and available, means that the huge negative impacts of the Pinnacle proposal can be avoided. It's clear that with Mount Morrison and Lookout Mountain sites currently being or about to be reviewed for rezoning, it is crucial to look seriously at the availability of Squaw Mountain for DTV tower siting.

In this already 13-month long application, PTI has shown that it cannot prove compliance with its existing Special-use permit, and that its ultimate intention is to construct additional towers pursuant to its Master Plan. We feel that, even as a revised version of the original proposal, the present application does not meet the criteria in the Zoning Resolution and is in blatant violation of the visual resource policies of the TLUP and the NMCP.

One of the serious oversights in the previous Staff recommendation was the failure to recognize the designation of the five-county Mountain Backdrop study, that Eldorado Mountain is a strategic

land and a candidate for critical preservation, even though it was pointed out by referral agencies, and Jefferson County itself was a sponsor of the study. The visual impacts of the proposed tower farm would be as severe with one tower as with three, given that the first tower would be painted red and white and strobe-lit. Any towers on Eldorado Mountain have a negative impact on the Mountain Backdrop.

The current application is not substantively differently from the one that the Planning Commission recommended for denial on November 7. For the above reasons we urge Staff and the Planning Commission to speak with one voice and recommend denial.

Eric Johnson
People for Eldorado Mountain/ Citizens for Eldorado Canyon

Attachments: Photos of Eldorado Mountain