



## Report to the Planning and Zoning Commission

Prepared by the Maricopa County Planning and Development Department

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**Case:** Z2017112 – Effus Ranch Tower Project

**Hearing Date:** January 17, 2019 (continued from November 8, 2018)

**Supervisor District:** 4

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\* Denotes changes from the November 8, 2018 report

**Applicant:** William M. Smith, Matinee Media Corporation

**Owner:** Michael F. Shamp Trust, et al

**Request:** Special Use Permit (SUP) for a 150' (h) radio tower in the Rural-190 zoning district

**Site Location:** Generally located 3 miles south of the US-60 and 11 miles west of Vulture Mine Rd. in the Wickenburg area

**Site Size:** Approximate 223 acre parcel

**Density:** N/A

**County Island:** No

**County Plan:** Vision 2030 Comprehensive Plan - Rural Development Area (0-1 d.u./ac)

**Municipal Plan:** Town of Wickenburg - Rural Residential (0.25-1.0 d.u./ac.)

**Municipal Comments:** None received to date

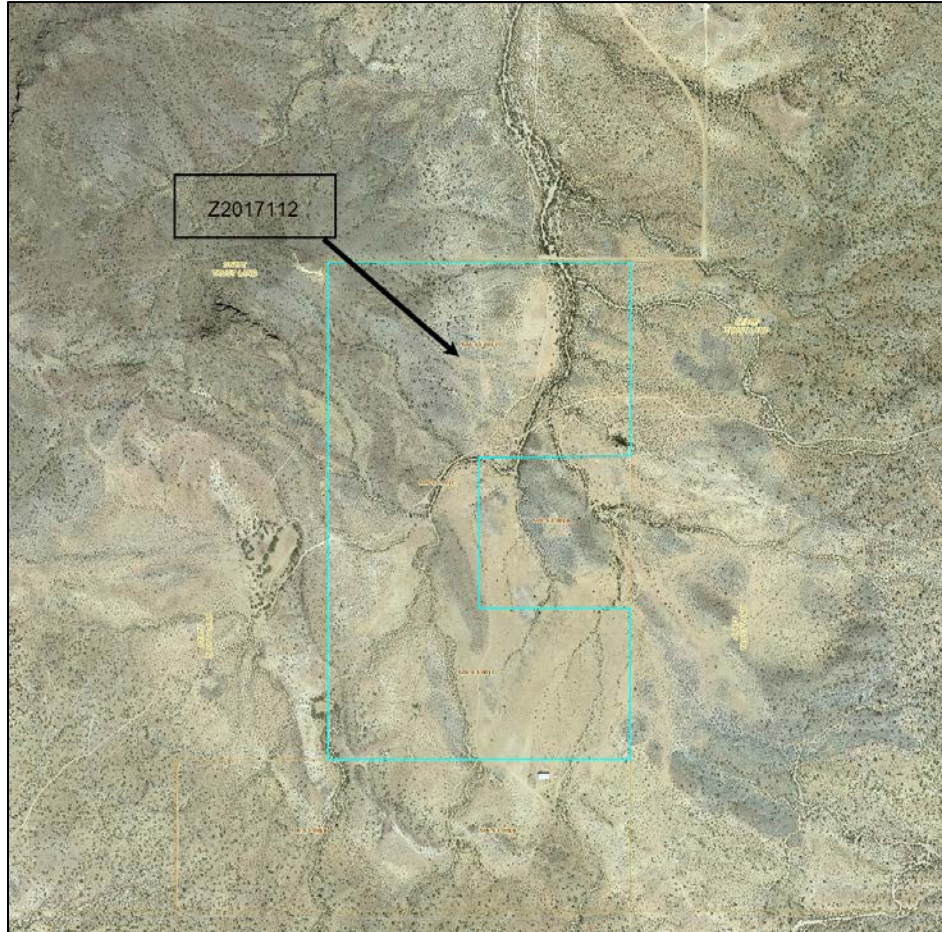
**Support/Opposition:** None known

**Recommendation:** **Approve with conditions**

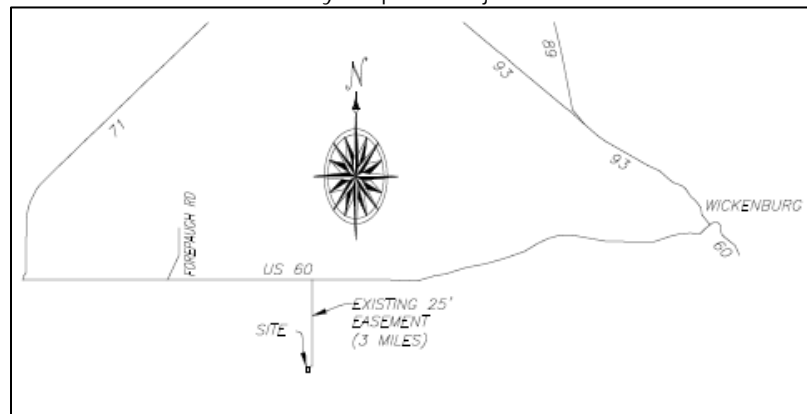
**Project Summary:**

1. Matinee Media on behalf of the land owner is requesting a permanent SUP for a 150' (h) guyed lattice FM radio tower and related equipment. The subject site is located in a remote area generally 3 miles south of US-60 and 11 miles west of Vulture Mine Rd. in the Wickenburg area. The parcel (APN 506-53-001C) has been assigned the address of 45811 N. 423<sup>rd</sup> Ave. Access is from the east side of the parcel through a 25' wide ingress/egress easement. The radio tower location is at the northwest area of the subject parcel as shown below (approximate location).

Aerial View of Subject Parcel and Surrounding Environs



Vicinity Map for Subject Site



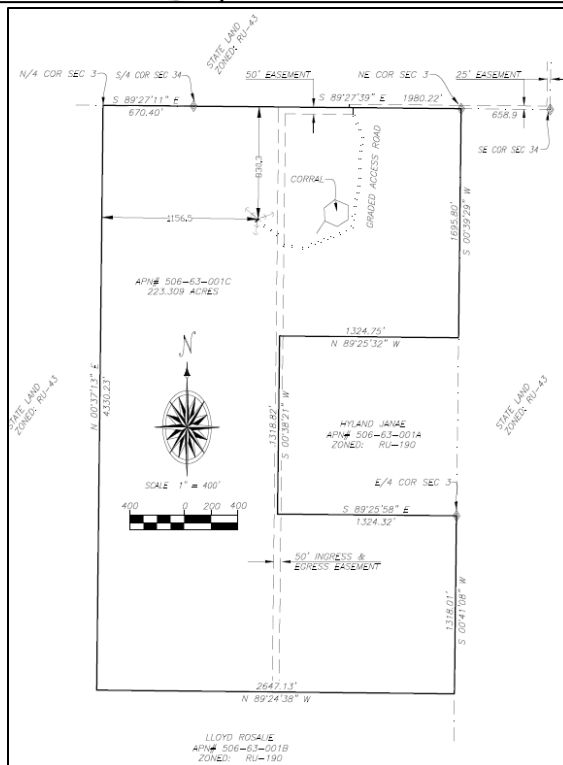
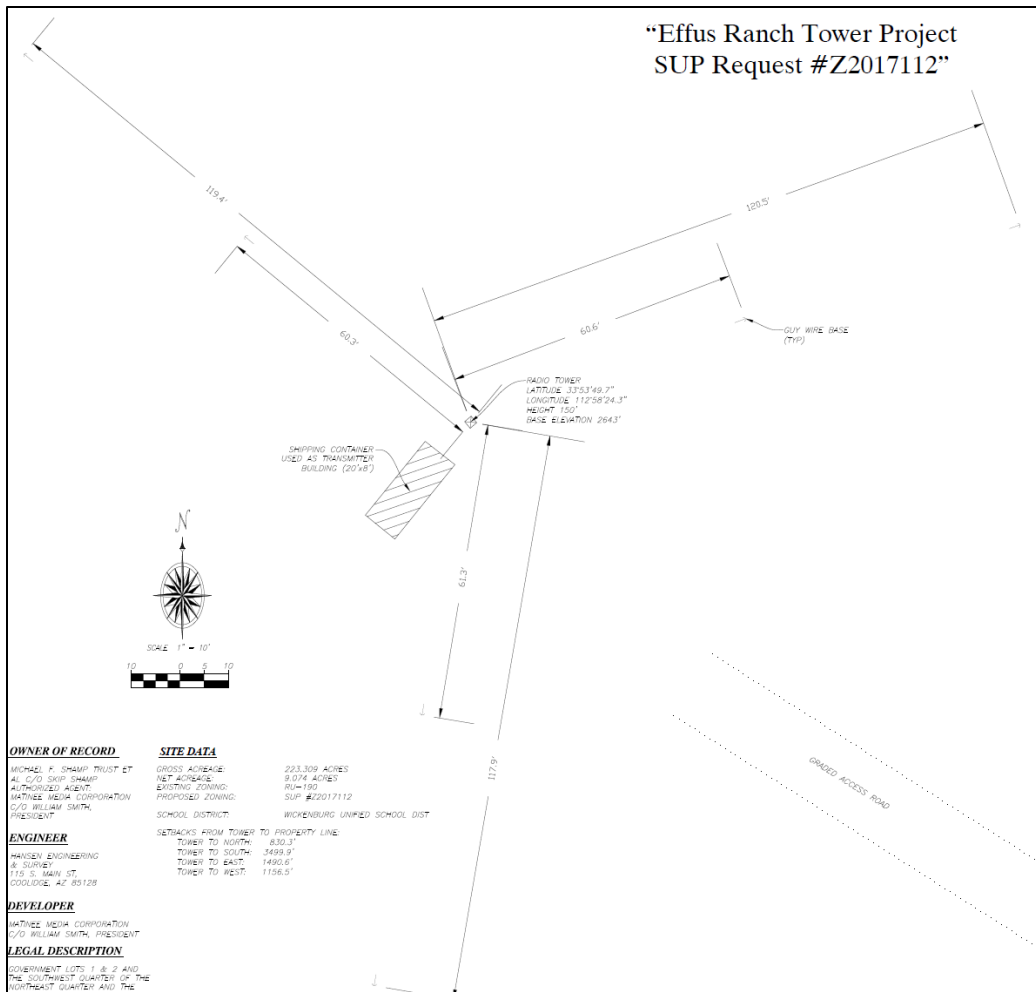
2. The subject radio tower is existing on the subject parcel without entitlement or construction permits. A Temporary Use Permit (TUP) under TU2017037 was obtained for the subject tower but expired on September 6, 2018. A subsequent TUP was filed under TU2018031 and was denied by the Board of Adjustment (BOA) on October 18, 2018. There is also a related violation case (V201702098) where a compliance agreement was executed on October 17, 2018 to bring the property into compliance by July 19, 2019. There is a related pending construction permit (B201808062), so if the SUP is approved and the permit receives final status the violation would be remedied.

Photo of Elevation of existing tower



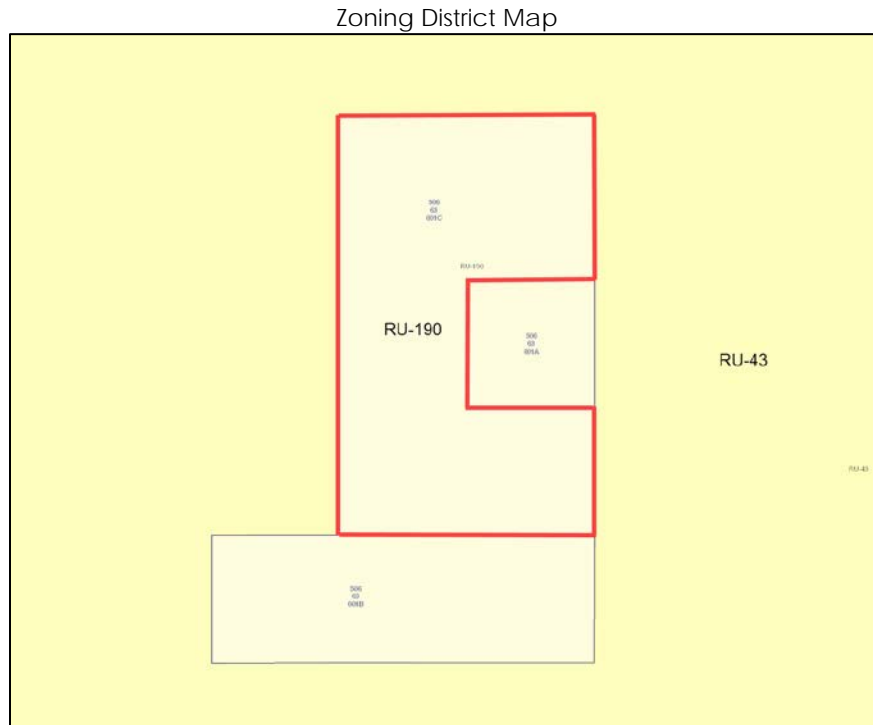
3. The guyed radio tower includes wires that extend out from the tower at maximum length of approximately 120' as shown on the site plan. The tower is approximately 1,156' (west) and 830' (north) from the respective closest property lines. It's also setback 3,500' to the south and 1,490' to the east property lines. A related 20'x8' steel shipping container (transmitter building) is located adjacent to the subject tower. There is currently a portable generator powering the tower. The only other structure located on the subject parcel is a fenced corral.

**"Effus Ranch Tower Project  
SUP Request #Z2017112"**



**Existing On-Site and Adjacent Zoning / Land Use:**

- 4. On-site: Rural-190 / Vacant with radio tower and corral
- North: Rural-43/ Vacant (State Trust Land)
- South: Rural-190 / Single-family residence
- East: Rural-190 and Rural-43 / Vacant (portion State Trust Land)
- West: Rural-43 / Vacant (State Trust Land)



**Utilities and Services:**

- 5. N/A, unmanned facility.

**Right-of-Way:**

- 6. N/A, no adjacent right-of-way to the subject site.

**Adopted Plans:**

- 7. **Vision 2030 Comprehensive Plan (adopted on January 13, 2016):** This plan designates the subject site land use as Rural Development Area (0-1 d.u./ac).
- 8. **Town of Wickenburg General Plan 2025 (adopted on April 1, 2013):** This plan designates the subject site land use as Rural Residential (0.25-1.0 d.u./ac.)

**Public Participation Summary:**

- 9. The applicant posted the property and notified all property owners within 300' of the subject site and parties of interest, in accordance with the Maricopa County's Citizen Review Process. It should be noted that the subject site was not properly posted until

September 14, 2018, However, staff has sent out the hearing notices to adjacent property owners and originally sent out the 1<sup>st</sup> submittal documents to "Areas of Interest" on November 27, 2017. These interest groups included the Town of Wickenburg, Maricopa Association of Governments (MAG), Maricopa County Sheriff's Office (MCSO), Maricopa County Department of Emergency Management (MCDEM), Arizona Game and Fish Department (AZGFD), and Federal Aviation Administration (FAA). No objections from the interest groups have been received and there is no known opposition as of writing of this report.

### **Outstanding Concerns from Reviewing Agencies:**

10. Engineering and Environmental (MCESD) have signed-off on this request.

### **Staff Analysis:**

11. \* Staff is in support of the requested SUP for the 150' (h) radio tower and related equipment. The original submittal for this case was for a 425' (h) radio tower but the applicant has since reduced the ultimate height. Although there are issues with the tower being erected without an issued permit being obtained and expired temporary entitlement for this land use, staff believes that the remote location is suitable. Where the tower is currently placed on the subject site is adjacent to mostly State Trust Land that is currently vacant. The closest setback to an adjacent property is approximately 830' (north) where there would be adequate fall protection given that the tower's height. As stated in the narrative report, the radio tower does not have regular stationed employees and will only require general maintenance. In addition, the tower does not need markings or lighting, which mitigates adverse impact on avian migration and nighttime astronomical observations and contributes to its non-intrusive features within a largely rural area. Thus, staff supports the permanent requested entitlement. Lastly, there are no concerns from reviewing agencies or Areas of Interest.
12. \* Z2017112 was continued from the November 8, 2018 P&Z hearing to allow for a related BA2018075 case, an appeal of staff's interpretation of the MCZO. It consisted of 8 requests heard by the Board of Adjustment (BOA) on December 20, 2018. The BOA dismissed 7 of the requests due to lack of jurisdiction and denied the 8<sup>th</sup> request. At the same hearing, the applicant requested a rehearing of TU2018031 in the interest of "fundamental fairness." No motion was made by the BOA and the TUP case remains denied per the BOA motion from October 18, 2018. A condition will be added to staff's recommendation of Z2017112 to include removal of the SUP upon 90 day cessation of the land use.

### **Recommendation:**

13. \* For the reasons outlined in this report, staff recommends the Commission motion for **Approval** of Z2017112, subject to conditions 'a' – 'f'.
  - a. Development of the site shall comply with the Site Plan entitled "Effus Ranch Tower Project", consisting of 1 full-size sheet, dated stamped received on October 5, 2018 except as modified by the following conditions.

- b. Development of the site shall be in conformance with the Narrative Report entitled "Effus Ranch Tower Project", consisting of 4 pages, dated stamped received on October 5, 2018 except as modified by the following conditions.
- c. The maximum height of the radio tower shall be 150'.
- d. This Special Use Permit shall not expire. However, all of the site improvements shall be removed within 90 days of cessation of the approved land use.
- e. Noncompliance with any Maricopa County Regulation shall be grounds for initiating a revocation of this Special Use Permit as set forth in the Maricopa County Zoning Ordinance.
- f. The granting of this change in use of the property has been at the request of the applicant, with the consent of the landowner. The granting of this approval allows the property to enjoy uses in excess of those permitted by the zoning existing on the date of application, subject to conditions. In the event of the failure to comply with any condition, and at the time of expiration of the Special Use Permit, the property shall revert to the zoning that existed on the date of application. It is, therefore, stipulated and agreed that either revocation due to the failure to comply with any conditions, or the expiration of the Special Use Permit, does not reduce any rights that existed on the date of application to use, divide, sell or possess the property and that there would be no diminution in value of the property from the value it held on the date of application due to such revocation or expiration of the Special Use Permit. The Special Use Permit enhances the value of the property above its value as of the date the Special Use Permit is granted and reverting to the prior zoning results in the same value of the property as if the Special Use Permit had never been granted.

Presented by: Ray Banker, Planner  
Reviewed by: Matthew Holm, AICP, Planning Supervisor

Attachments: Case Map (1 page)  
Vicinity Map (1 page)  
Site Plan (reduced 8.5"x11", 1 page)  
Narrative Report (4 pages)  
Engineering Memo (1 page)  
MCESD Memo (1 page)  
MCDEM Email (1 page)  
MCSO Email (1 page)