

**RECOMMENDED MOTION: I move to adopt the findings as submitted (*and amended*) in the April 16, 2025, meeting packet and affirm that the date of adoption for these findings constitutes the date of the Planning Commission’s final decision on VAR 25-01.**

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The Planning Commission hereby makes the following findings in relation to its decision to deny a request for a variance to exceed the maximum allowable height of principal structures in the R-1 single-family and duplex residential district as considered under case file VAR 25-01 on April 2, 2025:

Required findings under SGC 22.10.160(D)(1) – (code language in italics, text underlined for emphasis):

- a. The Commission did not find that there were, “...*special circumstances to the intended use that do not apply generally to the other properties. Special circumstances may include the shape of the parcel, the topography of the lot, the size or dimensions of the parcels, the orientation or placement of existing structures, or other circumstances that are outside the control of the property owner*” because all properties in the R-1 zone are subject to a maximum height of thirty-five (35) feet for principal structures, a limitation that does apply generally to the other properties in the vicinity and in the zone, and there were no special circumstances in relation to the physical characteristics of the parcel or pre-existing development of or on the parcel that justified granting of the variance.
- b. The Commission did not find that the variance was, “...*necessary for the preservation and enjoyment of a substantial property right or use possessed by other properties but are denied to this parcel; such uses may include the placement of garages or the expansion of structures that are commonly constructed on other parcels in the vicinity*” because no other properties in the vicinity or in the zone have a right to build a principal structure that exceeds the maximum allowable height of thirty-five (35) feet, and because telecommunications towers, particularly of the height proposed by the applicant, were not commonly constructed on other parcels in the vicinity.
- c. The Commission did not find, “*That the granting of such a variance will not be materially detrimental to the public welfare or injurious to the property, nearby parcels or public infrastructure*” because of evidence submitted through public testimony, particularly from owners of nearby parcels, regarding the negative aesthetic and viewshed impacts that would be realized by the granting of the variance, as well as the potential for negative impacts to property values of said parcels.
- d. The Commission did find, “*That the granting of such a variance will not adversely affect the comprehensive plan*” because the proposal supported Comprehensive Plan actions ED 5.3 to “maintain well-functioning infrastructure upon which commerce and economic activity depend”, and ED 5.4 “advocate for faster, more reliable cell and internet services.”

Additional findings regarding telecommunications towers classified as public facilities and utilities under SGC 22.05.1190 and regulated under 47 U.S. Code § 332 (text underlined for emphasis):

- a. The Commission did not make a finding on whether the coverage gap as described by the applicant was considered significant.
- b. The Commission did not find that the applicant met their burden to prove that their proposal was the least intrusive means of closing the asserted significant coverage gap, and also did not find that the applicant lacked available and technologically feasible alternatives to close said coverage gap for two primary reasons:
  1. The applicant did not provide the Commission with adequate analysis regarding the extent to which the coverage gap could be closed by use of a tower that did not exceed the maximum allowable height for principal structures in the zone (35 feet). Though the applicant stated that they would need more 35-foot-tall towers in the area to provide adequate coverage, they did not prove why this approach was infeasible. Additionally, the applicant did not adequately demonstrate that the proposed 120-foot height of the proposed tower was the shortest height necessary to sufficiently close the coverage gap.
  2. The applicant did not adequately substantiate that the tower could not be placed on a property zoned for commercial and/or industrial uses which the Commission found would be less intrusive than placement within the proposed residential neighborhood. The applicant stated that their inability to place the tower on a property zoned for commercial and/or industrial uses was due to the unwillingness of property owners of such parcels to sell, rather than lease, land to the applicant; the applicants further stated that their particular financial constraints made leasing land infeasible. The Commission found that that this justification was contrary to Alaska Statute 29.40.040(b)(3), which states that a variance from a land use regulation adopted by a municipality may not be granted if the variance is sought solely to relieve pecuniary hardship or inconvenience.