

**Department of  
Conservation and  
Development**

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**Contra  
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**John Kopchik**  
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(925) 674-7205

January 7, 2018

Mike & Joan Parodi  
91 Gran Via  
Alamo, CA 94507

RE: County File WA18-00004

This letter acknowledges receipt of your letter of appeal dated December 23, 2018, regarding County File #WA18-00004, which was approved by the Zoning Administrator on December 12, 2018.

Your appeal will be heard by the Contra Costa County Board of Supervisors. You will be notified by letter when the hearing has been scheduled. You should be aware that you or your representative should be present at the hearing.

If you have any questions regarding this matter, please call Susan Johnson at 925-674-7868.

Sincerely yours,

  
Ruben Hernandez  
Principal Planner

cc: Applicant/Owner  
File #WA18-0004

Contra Costa County  
Department of Conservation and Development  
Community Development Division  
30 Muir Road  
Martinez, CA

December 23, 2018

CONTRA COSTA

2018 DEC 24 PM 12:00

APPLICATION & PERMIT CENTER

WA18-0004

To: Contra Costa County Board of Supervisors

Re: Appeal to deny Permit# WA1800004 – Wireless Facility Access Permit – site address 1524 Alamo Way

This appeal respectfully requests the denial and or reconsideration of the above permit. This special permit appeal is based on the grounds that code requirements were not met and or the conditions imposed are insufficient to protect the adjacent property owner rights, health and domestic tranquility. All of the facts were not considered and findings of the hearing body are not supported by case law and the most recent publically available evidence as follows:

- 1) **Fire and Falling Apparatus Hazard:** Proposed pole replacement to a height of 50 feet with added seismically inadequate supported cell tower infrastructure presents an unreasonable fire and falling apparatus hazard in a mature residential area. There is no public evidence of studies having been performed to address this major potential hazard. The proposed tower apparatus is fragile with poorly engineered support structures, which under sever seismic activity can contribute to pole failure, with falling elements landing upon under laying high voltage wires resulting in massive shorting and fire. Precisely the failure modes causing massive fires in the recent Santa Rosa conflagration.
- 2) **Private Property Encroachment:** Proposed cell tower encroaches and trespasses through-air on adjacent properties interfering with the "ordinary use and enjoyment" of the property. An easement for electricity purposes prevents an owner from exercising any rights over the area where poles are standing. The area might not be large, but it does amount to an exclusive use of that small area. However, a wire swinging over an owner's land is trespass; therefor wireless communication is permanently encroaching given it is always trespassing while transmitting and is never off. Encroachment and trespass is a violation of law and should not be sanctioned and supported by a use permit.
- 3) **FCC Not a Public Health Authority:** The FCC health standards are not germane; the FCC has no statutory standing in defining public health standards. The FCC role is limited to control and licensing of Rf frequencies, is only concerned about workers safety when exposed to intermittent thermal radiation, and effectively silent on high frequency radiation. The FCC standards are based on historic findings and a body of evidence from Military Radar and high power microwave installations. The most recent body of evidence from public health studies is indisputable, with many reports of biological cell level damage being caused by low level exposure to High Frequency Radiation at 1/10<sup>th</sup> the FCC standard, and is thus a major Public Health issue. The FCC cannot be relied upon to set Public Health Standards.

- 4) **No Environmental Impact Report:** There is no public evidence of an Environmental Impact Study or report having been conducted or presented. Given the biological cell damage being reported in the public domain, a study and report is required, and is an unconscionable dereliction of duty if not conducted and presented to the public at large.
- 5) **No Public Health Study:** There is no public evidence of a Public Health Study or report being conducted and or presented. Given the biological cell damage being reported in the public domain, a study and report is required, and is an unconscionable dereliction of duty by CCEHD and Board of Supervisors if not conducted and presented to the public at large.
- 6) **Unlimited Future Expansion:** The planning commission failed to limit the permit scope, thus allowing for expansion to higher cell tower frequencies with only minimal oversight. Further, given the competitive nature of cellular providers others will demand similar access, with the potential for every PG&E pole having a micro cell tower. All at the detriment to public health, and individual property rights, health and domestic tranquility.
- 7) **Property Values Adversely Impacted, Alternative Sights Disregarded:** Neighborhood property values will be adversely affected in violation of CCC codes as follows:  
88-24.202(a) (2) - failure to avoid adverse visual and aesthetic impacts of wireless telecommunications facilities.  
88-24.208(a) (1) - failure to comply with design requirements that mandate a wireless facility be designed to minimize its visual and aesthetic impacts on the surrounding area.  
The 10 ancillary cell tower items are an eyesore in direct public view when entering Alamo Way. The applicant failed to provide an unobtrusive aesthetically pleasing solution. A viable alternative site is 175' south, is less obtrusive, given a new pole is already planned presents less construction to complete, and is less noticeable as it is not a street entering focal point.

We strongly believe the overwhelming and compelling evidence presented here in is reason enough to deny approval of the Wireless Facility Access Permit # WA1800004. Fear of litigations by the telecom industry should not be reason to accept their application of this unproven technology in our community. We ask the board to deny approval and join the other cities, counties and states that are doing so as well.

Sincerely,



Michael L. Parodi

*(We dispute the Planning Commission findings and staff response to our appeal; please see the following pages of line item rebuttal.)*

Following is **Appeal to deny Permit# WA1800004** and, response **disputing approval of staff and Planning Commission Recommendations** dated November 28, 2018.

### **Response to staff Summary of Appeal Point 1:**

Michael and Joan Parodi, 91 Gran Via, Alamo, CA

- A. Summary of Appeal Point 1: Replacing the existing utility pole and adding Verizon Wireless cell site infrastructure presents a "fire and falling apparatus hazard".

Staff Response: The facility will have to be compliant with all applicable Building and Fire Codes relating to the installation of the facility's equipment to ensure it will not result in an increased fire risk to people or property. Furthermore, the installation of the proposed facility is subject to review and approval of an encroachment permit to ensure that the construction of the approved facility proceeds in a safe manner. The Department of Public Works has reviewed the project, including a traffic control plan, to safely guide pedestrian, bicycle, and vehicular traffic in, around, and by construction and installation work. The Department of Public Works has provided comments and conditions of approval specific to the Encroachment Permit portion of the project. Compliance with all Encroachment Permit conditions ensures that the construction of the project does not pose a significant risk to travelers within the right-of-way. PG&E is responsible for the safety of the utility pole.

### **Original Appeal Point 1:**

- 1) **Fire and Falling Apparatus Hazard:** Proposed pole replacement to a height of 50 feet with added seismically inadequate supported cell tower infrastructure presents an unreasonable fire and falling apparatus hazard in a mature residential area. There is no public evidence of studies having been performed to address this major potential hazard. The proposed tower apparatus is fragile with poorly engineered support structures, which under severe seismic activity can contribute to pole failure, with falling elements landing upon under laying high voltage wires resulting in massive shorting and fire. Precisely the failure modes causing massive fires in the recent Santa Rosa conflagration.

### **Appellant Response to "Staff Response" Summary of Appeal Point 1:**

Staff failed to respond to the main point being the potential for fire associated with falling apparatus onto hi-voltage PG&E wires below, and lack of public record of a third party, non-industry sponsored testing of seismic safety of the proposed structure placed in a highly active seismic area. Staff appears to have accepted the applicant response with little or no investigation into its veracity or credibility. Given the recent failures of PG&E and resultant fires and loss of life, this in itself is unconscionable, and bordering on criminal should such a misfortune occur. The county's first responsibility is to the safety and protection of its citizens over that of a utility and or company. CC County and Board of Supervisors are on-notice with respect to this issue.



## Response to staff Summary of Appeal Point 2:

3. Summary of Appeal Point 2: The RF emissions from the proposed cell site would encroach and trespass through the air on adjacent properties, interfering with the "ordinary use and enjoyment" of the property.

Staff Response: Small cells typically consist of two distinct parts: the electronic transceivers (also called "radios") that are connected to the traditional wired telephone lines, and the passive antennas that send the wireless signals created by the radios out to be received by individual subscriber units. Verizon Wireless proposes to utilize the Advanced Wireless Services (AWS) frequency band and the Personal Communications Service (PCS) frequency band, both of which have a public exposure limit of 1.00 mW/cm<sup>2</sup> (milliwatt per square centimeter). Pursuant to the RF Report prepared by Hammett & Edison, Inc., Consulting Engineers, the maximum RF exposure level due to the proposed Verizon operation would be 0.0056 mW/cm<sup>2</sup>, which is 0.56% of the applicable public exposure limit for a person located anywhere at ground level. The maximum RF exposure level at the second-floor elevation of any nearby building (at least 80 feet away) is 0.94% of the public exposure limit. Thus, the proposed operation would comply with the FCC guidelines limiting public exposure to RF energy and would not interfere with the "ordinary use and enjoyment" of the appellant's property. In addition, staff is unaware of any case law that limits the direction and/or location that cellular frequencies may travel through.

## Original Appeal Point 2:

- 2) **Private Property Encroachment:** Proposed cell tower encroaches and trespasses through-air on adjacent properties interfering with the "ordinary use and enjoyment" of the property. An easement for electricity purposes prevents an owner from exercising any rights over the area where poles are standing. The area might not be large, but it does amount to an exclusive use of that small area. However, a wire swinging over an owner's land is trespass; therefore wireless communication is permanently encroaching given it is always trespassing while transmitting and is never off. Encroachment and trespass is a violation of law and should not be sanctioned and supported by a use permit.

## Appellant Response to "Staff Response" Summary of Appeal Point 2:

Proposed cell tower encroaches and trespasses through-air on to adjacent properties interfering with the "ordinary use and enjoyment of the property" and our "domestic tranquility". The public right of way provisions when enacted did not contemplate the invention of wireless cell tower Transmitters and, they being placed in the public right of way, and are thus a violation of the right of way provisions. I have not and will not consent to Verizon or any other wireless provider trespassing by transmitting high frequency Rf microwave radiation into or across our property. The proposed cell towers are active devices, not passive antennas as described in the staff report. As example of trespass, no adjacent property or right of way is allowed to drain water through a property without permission of the owner; the same logic applies to microwave radiation.

## Appellant Response to "Staff Response" Summary of Appeal Point 2: continued

Just because you can't see it, does not mean it does not exist. Rf radiation can be measured and heard, and thus the area adjacent to the tower will become effectively unusable. Further, the county is not the arbiter of what interferes with a person's "ordinary use and enjoyment" of one's property. Should the proposed cell tower placement not be mitigated by CC County, it is here by on notice this will be considered a violation of personal property rights and an intentionally tortious action by all parties involved.

### Response to staff Summary of Appeal Point 3:

#### C. Summary of Appeal Point 43 The FCC cannot be relied upon to set public health standards.

Staff Response: The Federal Communications Commission (FCC) sets safety standards for RF radiation exposure for the devices it regulates, which include cell phone antennas. The County has the right to request the applicant to demonstrate how the proposed facility will conform to the radio frequency (RF) exposure standards adopted by the Federal Communications Commission, and how it will not exceed Federal Communications Commission-adopted standards regarding human exposure in areas subject to general public RF exposure, as defined by the National Council on Radiation Exposure Prevention. Once the applicant provides assurance that the project will conform to the RF exposure standards adopted by the FCC, the County is unable to deny an application based on the potential health risks associated with radio frequency emissions. Pursuant to Title 47 U.S.C. Section 332 (c)(7)(B)(iv): "no state or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Commission's regulations concerning such emissions".

### Original Appeal Point 3:

- 3) **FCC Not a Public Health Authority:** The FCC health standards are not germane; the FCC has no statutory standing in defining public health standards. The FCC role is limited to control and licensing of Rf frequencies, is only concerned about workers safety when exposed to intermittent thermal radiation, and effectively silent on high frequency radiation. The FCC standards are based on historic findings and a body of evidence from Military Radar and high power microwave installations. The most recent body of evidence from public health studies is indisputable, with many reports of biological cell level damage being caused by low level exposure to High Frequency Radiation at 1/1000<sup>th</sup> the FCC standard, and is thus a major Public Health issue. The FCC cannot be relied upon to set Public Health Standards.



### **Appellant Response to “Staff Response” Summary of Appeal Point 3:**

The FCC health standards are not germane; the FCC has no statutory standing in defining public health standards. The FCC role is limited to control and licensing of Rf frequencies, is only concerned about workers safety when exposed to intermittent thermal radiation, and effectively silent on high frequency radiation. The CCC BOD would be irresponsible to ignore the overwhelming and compelling data that exposes the dangers of cell towers and Rf radiation. At the very minimum, action by the CCC BOD must be a moratorium on small cell tower placement until further studies and guidelines determine the safety of implementation.

The telecom industry is rushing forward to implementation in order to get ahead of the findings of 100's of similar studies showing the dangers of small cell technology.

**The results in the following article and others like it can no longer be ignored!**

### **The World's Largest Animal Study on Cell Tower Radiation Confirms Cancer Link**

*The full article from the Environmental Health Trust can be found online at [ehtrust.org](http://ehtrust.org).*

Published 4 months ago on August 17, 2018

“The evidence indicating wireless is carcinogenic has increased and can no longer be ignored,” stated University of Toronto Dalla Lana School of Public Health Professor Emeritus Anthony B. Miller MD, Member of the Royal Colleges of Physicians of Canada and the UK, and Senior Medical Advisor to EHT who is also a long-term advisor to the World Health Organization.

“This study raises concerns that simply living close to a cell tower will pose threats to human health. Governments need to take measures to reduce exposures from cell tower emissions. Cell towers should not be near schools, hospitals or people's homes. Public health agencies need to educate the public on how to reduce exposure from all sources of wireless radiofrequency radiation—be it from cell towers or cell phones or Wi-Fi in schools,” stated David O. Carpenter MD, former Dean of the School of Public Health at the University at Albany. “This is particularly urgent because of current plans to place small 5G cell towers about every 300 meters in every street across the country. These 5G ‘small cell’ antennas will result in continuous exposure to everyone living nearby and everyone walking down the street. The increased exposures will increase risk of cancer and other diseases such as electro-hypersensitivity.”

### **Response to staff Summary of Appeal Point 4:**

D. Summary of Appeal Point #4: No Environmental Impact Report has been conducted for the proposed project.

Staff Response: The proposed project is exempt under California Environmental Quality Act (CEQA) Guidelines Section 15301(b), which identifies existing facilities of both investor and publicly-owned utilities used to provide public utility services as being exempt from review.

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## Original Appeal Point 4:

- 4) **No Environmental Impact Report:** There is no public evidence of an Environmental Impact Study or report having been conducted or presented. Given the biological cell damage being reported in the public domain, a study and report is required, and would be an unconscionable dereliction of duty if not conducted and presented to the public at large.

## Appellant Response to "Staff Response" Summary of Appeal Point 4:

Given the large and growing body of evidence of animal and plant biological cell damage being reported in the public domain, at a minimum a study and report is required. It will be considered an unconscionable dereliction of duty by the CCC BOD if a study is not conducted and presented to the public at large. Siding with the telecom industry at the detriment to the public trust would be totally irresponsible.

## Response to staff Summary of Appeal Point 5:

- E. Summary of Appeal Point 4: No public health study has been conducted for the proposed project.

Staff Response: As previously stated, the County has the right to request the applicant to demonstrate how the proposed facility will conform to the radio frequency (RF) exposure standards adopted by the Federal Communications Commission, and how it will not exceed Federal Communications Commission-adopted standards regarding human exposure in areas subject to general public RF exposure, as defined by the National Council on Radiation Exposure Prevention. A summary of the FCC's human exposure limits is shown in Figure 1 of the RF Report prepared by the firm of Hammett & Edison, Inc., Consulting Engineers for the project site. Once the applicant provides assurance that the project will conform to the RF exposure standards adopted by the FCC, the County is unable to deny an application based on the potential health risks associated with radio frequency emissions. Pursuant to Title 47 U.S.C. Section 332 (c)(7)(B)(iv): "no state or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Commission's regulations concerning such emissions".

## Original Appeal Point 5:

- 5) **No Public Health Study:** There is no public evidence of a Public Health Study or report being conducted and or presented. Given the biological cell damage being reported in the public domain, a study and report is required, and is an unconscionable dereliction of duty by CCEHD and Board of Supervisors if not conducted and presented to the public at large.



## Appellant Response to "Staff Response" Summary of Appeal Point 5:

At what point do you believe it's time to take a stand and stop approval until further studies are completed? How many people have to die or be sick before we act?

The following quote is from the FCC Q&A section on Rf radiation; weasel words at best.

"It is generally agreed that further research is needed to determine the generality of such effects and their possible relevance, if any, to human health. In the meantime, standards-setting organizations and government agencies continue to monitor the latest experimental findings to confirm their validity and determine whether changes in safety limits are needed to protect human health". *(standards-setting organizations are the telecom industry trade associations)*  
*(Fox guarding the hen house)*

In April, 2018, the [International Society of Doctors for the Environment](#) (ISDE) and its member organizations in 27 countries, adopted a declaration calling for a moratorium on the deployment of 5G (fifth generation cellular technology) in the European Union.

The declaration is entitled, "[5G networks in European Countries: appeal for a standstill in the respect of the precautionary principle.](#)"

"We believe it should be unethical to ignore the available evidence waiting a possible "a posteriori" demonstration of health damages in the presence of a present and potentially manageable risk for public health.

Thus, in the respect of the precautionary principle and of the WHO principle "health in all policies", we believe suitable the request of a standstill for the "5G experimentations" throughout Europe until an adequate and active involvement of public institutions operating in the field of environmental health (health ministry, environmental ministry, national environmental and health agencies) will be effectively planned."

In the United States, the ISDE member organization is [Physicians for Social Responsibility](#) (PSR).

## Response to staff Summary of Appeal Point 6:

- I. Summary of Appeal Point #6: The County Zoning Administrator failed to limit the permit scope, thus allowing for expansion to higher cellular frequencies with only minimal oversight. Other carriers may also choose to establish wireless telecommunications facilities on other utility poles.

Staff Response: Section 88-24.60 of the County Wireless Ordinance specifies the permits necessary to modify an approved wireless facility. A Minor Alteration Permit is required to make a minor alteration to a facility. A new Wireless Facility Access Permit is required for each substantial change to an existing facility located within a County right-of-way. A "substantial change" is defined in Title 47, Code of Federal Regulations, section 1.40001.

## Original Appeal Point 6:

- 6) **Unlimited Future Expansion:** The planning commission failed to limit the permit scope, thus allowing for expansion to higher cell tower frequencies with only minimal oversight. Further, given the competitive nature of cellular providers others will demand similar access, with the potential for every PG&E pole having a micro cell tower. All at the detriment to public health, and individual property rights, health and domestic tranquility.

## Appellant Response to "Staff Response" Summary of Appeal Point 6:

The planning commission failed to limit the permit scope, thus allowing for expansion to higher cell tower frequencies with only minimal oversight. The staff does not define "substantial change" and hides behind definitions in the federal guidelines which by their very nature are designed to exempt any changes from being subject to local regulations. The County must define the scope of changes that require public disclosure and board approval. At a minimum Rf frequency and power level changes must be pre-approved prior to implementation.

The present process as recommended is open ended with minimal to no oversight. The county's duty is to protect the public, not wireless providers.

## Response to staff Summary of Appeal Point 7:

- C. Summary of Appeal Point 67: Neighborhood property values will be adversely affected due to the visual and aesthetic impacts of the proposed construction and the failure to comply with the design guidelines, outlined in the County's Wireless Telecommunications, which mandate that a wireless facility be

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designed to minimize its visual and aesthetic impacts on the surrounding area. The applicant also failed to explore other viable options for the the proposed wireless facility.

Staff Response: Pursuant to Section 88-24.612(b)(4) of the County Wireless Telecommunications Facilities ordinance, there are four findings that must be made prior to approval of a wireless facility access permit.

*(i) The facility or substantial change will be designed in a manner that complies with the applicable requirements of Section 88-24.408.*

*(ii) The facility or substantial change will not interfere with the use of the county right-of-way, or existing improvements or utilities located on, in, under, or above the right-of-way.*

*(iii) The facility or substantial change will not interfere with any vehicular, bicycle, or pedestrian use of the county right-of-way.*

*(iv) The facility or substantial change will not cause any violation of the accessibility requirements of the Americans with Disabilities Act.*



## **Response to staff Summary of Appeal Point 7: continued**

Staff has not been presented with any conclusive data suggesting that proximity to a cellular site has a substantial negative impact on observed home sale prices in Contra Costa County. Furthermore, none of the approval findings (listed above) require analysis of the project's impact on property values in the surrounding area. Therefore, a wireless facility access permit cannot be denied for this reason.

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With regard to the potential impact a new site would have on the aesthetic quality of its surroundings, although the subject utility pole is located within the right-of-way in a single-family residential neighborhood, small cell technology is less visually invasive than traditional cell towers (see attached photo simulations). The proposed conical antenna and ancillary equipment would be painted to match the existing utility pole, which would help the cell site blend in with its surroundings (this includes the existing utility pole and telephone wires). The proposed shrouds would also help conceal the pole-mounted equipment. The pole top equipment would result in an approximately 10-foot height increase for the pole, thus complying with the County Wireless ordinance, which limits such height increases to a maximum of 10 feet. Therefore, County Zoning Administrator concluded that the proposed wireless telecommunication facility would not substantially affect the aesthetic quality of its surroundings and complies with the design requirements of Section 88-24.008 for the facilities located in the public right-of-way.

With regard to the chosen location for the cell site, pursuant to a statement from Verizon Wireless, received on August 15, 2018, alternative sites are other poles within a short distance (neighboring) from the original choice. Verizon's radio frequency engineering group identifies areas in which capacity will be an issue to network performance (such as the chosen location). Subsequent to the engineering selection is the field identification and verification of whether or not any of the "chosen" poles will actually support a small cell facility as part of a system design. Two alternative sites considered for the proposed project included a utility pole located approximately 75 feet south from the subject utility pole and another utility pole located approximately 150 feet north from the subject pole. However, many of the poles are already loaded with vertical risers, conduits, equipment, and electrical and telephone lines that prevent a small cell facility from being able to "fit" at that site. Thus, the subject pole was chosen.

### **Original Appeal Point 7:**

- 7) **Property Values Adversely Impacted, Alternative Sights Disregarded:** Neighborhood property values will be adversely affected in violation of CCC codes as follows:  
88-24.202(a) (2) - failure to avoid adverse visual and aesthetic impacts of wireless telecommunications facilities.



## **Original Appeal Point 7: continued**

88-24.208(a) (1) - failure to comply with design requirements that mandate a wireless facility be designed to minimize its visual and aesthetic impacts on the surrounding area.

The 10 ancillary cell tower items are an eyesore in direct public view when entering Alamo Way. The applicant failed to provide an unobtrusive aesthetically pleasing solution. A viable alternative site is 175' south, is less obtrusive, given a new pole is already planned presents less construction to complete, and is less noticeable as it is not a street entering focal point.

## **Appellant Response to "Staff Response" Summary of Appeal Point 7:**

It cannot be emphasized enough the neighborhood property values will be adversely affected in violation of CCC codes as follows:

88-24.202(a) (2) - failure to avoid adverse visual and aesthetic impacts of wireless telecommunications facilities.

88-24.208(a) (1) - failure to comply with design requirements that mandate a wireless facility be designed to minimize its visual and aesthetic impacts on the surrounding area.

The 10 ancillary cell tower items are an eyesore in direct public view when entering Alamo Way. The applicant failed to provide an unobtrusive aesthetically pleasing solution. A large Verizon cell tower already exists at the south west corner of Stone Valley road and highway 680. Accepting Verizon's stated need as fact is unacceptable given the available data.

The staff is effectively trying to put "lipstick on a pig", no matter how you look at the mounting of ancillary equipment; it is not in any way aesthetically pleasing. No amount of shrouding of the proposed implementation will effectively camouflage the 10 elements. To believe otherwise does not pass the "laugh test", and if you don't agree let's put it in front of your homes.

Following, is a short list of the many articles and testimony regard the loss of property values due the proximity of cell towers and residential property.

**The US Department of Housing and Urban Development (HUD) considers cell towers as "Hazards and Nuisances."**

- HUD requires its certified appraisers to take the presence of nearby cell towers into consideration when determining the value of a single family residential property.
- HUD guidelines categorize cell towers with "hazards and nuisances." HUD prohibits FHA underwriting of mortgages for homes that are within the engineered fall zone of a cell tower.
- "The appraiser must indicate whether the dwelling or related property improvements is located within the easement serving a high-voltage transmission line, radio/TV transmission tower, cell phone tower, microwave relay dish or tower, or satellite dish (radio, TV cable, etc)."
- [Read it here at the US Department of Housing and Urban Development.](#)

**The realtor industry has written several articles documenting the property devaluation after communication towers are built near property.**

*National Association of REALTORS® Lists References including EHTs page on their Cell Towers Page . More at <https://www.nar.realtor/cell-phone-towers#section-165807>*

“Impact of Communication Towers and Equipment on Nearby Property Values” prepared by Burgoyne Appraisal Company, March 7, 2017

The Cost of Convenience: Estimating the Impact of Communication Antennas on Residential Property Values (*Land Economics*, Feb. 2016)

The Lo Down on Cell Towers, Neighborhood Values, and the Secretive Telecoms(link is external) (*The Dissident Voice*, Dec. 19, 2015)

Cell Towers: Not in My Back Yard (*Tedium Blog*, Aug. 5, 2015)

“Examining invisible urban pollution and its effect on real estate value in New York City” – by William Gati in *New York Real Estate Journal* September 2017

2014 Survey by the National Institute for Science, Law and Public Policy (NISLAPP) in Washington, D.C., “Neighborhood Cell Towers & Antennas—Do They Impact a Property’s Desirability?”

- Home buyers and renters are less interested in properties located near cell towers and antennas, as well as in properties where a cell tower or group of antennas are placed on top of or attached to a building. 94% said a nearby cell tower or group of antennas would negatively impact interest in a property or the price they would be willing to pay for it.
- Read the Press Release: [Survey by the National Institute for Science, Law & Public Policy](#)
- “Cell Tower Antennas Problematic for Buyers” published in REALTOR® Magazine:

### Lawyers Write About the Property Value Drop.

Best Best and Krieger Letter to Ms. Marlene H. Dortch, Secretary Federal Communications Commission September 19, 2018 “RE” Smart Communities and Special Districts Coalition – Ex Parte Submission: Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment, WT Docket No. 17-79; Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment, WC Docket No. 17-84”

- “Further, the assumption that there is little to consider in a small cell application is belied by the definition the Commission adopts for “small wireless facility”: while it justifies its rules based on the assumption that many small cells are the size of a pizza box, a pizza box is about 1/2 cu. ft. in size, while the Commission proposes

to expedite permitting of equipment cabinets 28 cu. ft. in size – a stack of 56 pizza boxes – on front lawns throughout the country.

- Considering that the Smart Communities’ prior filings show that the addition of facilities of this size diminish property values, it is strange for the Commission to assume that approval can be granted in the regulatory blink of an eye.”
- “A good example lies in the Commission’s discussion of undergrounding.<sup>62</sup> The Commission at once appears to recognize that communities spend millions of dollars on undergrounding projects, and that allowing poles to go up in areas where poles have been take down has significant impacts on aesthetics (not to mention property values).”

**As can be seen from the previous articles and studies including the HUD guideline, property values are significantly impacted. The facts cannot be glossed over or denied, the financial impact is indisputable and unacceptable, and as such the Verizon application must be denied by the county.**

**For reference purposes the following is a copy of the staff report issued on Wednesday, November 28, 2019**







**Department of Conservation and Development**  
**County Planning Commission**

**Wednesday, November 28, 2018 – 7:00 P.M.**

**STAFF REPORT**

**Agenda Item #**

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<b>Project Title:</b>	Verizon Wireless Access Facility on PG&E Utility Pole in County Right of Way
<b>County File(s):</b>	#WA18-0004
<b>Appellants:</b>	Michael and Joan Parodi Verizon Wireless, c/o On Air, LLC
<b>Applicant:</b>	Verizon Wireless, c/o On Air, LLC
<b>Owners:</b>	PG&E and Northern California Joint Pole Association
<b>Zoning/General Plan:</b>	Single-Family Residential District (R 20) / Single-Family Residential – Low Density (SL)
<b>Site Address/Location:</b>	Right-of-Way near 1524 Alamo Way, Alamo / (APN: ROW 191-080-001)
<b>California Environmental Quality Act (CEQA) Status:</b>	The proposed project is exempt under CEQA Guidelines section 15301(b) which identifies existing facilities of both investor and publicly-owned utilities used to provide public utility services as being exempt from review
<b>Project Planner:</b>	Susan Johnson (925) 674-7868
<b>Staff Recommendation:</b>	Approve the Project (See Section II for full recommendation) with modification to Condition No. 26.

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**I. PROJECT SUMMARY**

This is an appeal of the Zoning Administrator's decision to approve a Wireless Facilities Access Permit to establish a new Verizon Wireless cell site in the public right of way, which includes replacing an existing utility pole (with a new utility

pole that will measure 10 feet taller) and the installation of a 2-foot conister antenna that will be placed on top of the utility pole and ancillary equipment attached to the utility pole. This project also includes the installation of two bollards adjacent to the utility pole.

## II. RECOMMENDATION

Staff further recommends that the County Planning Commission UPHOLD the Zoning Administrator's decision, DENY the appeal of Michael and Joan Parodi, and APPROVE the project based on the attached findings and modified Condition of Approval #26.

## III. BACKGROUND

On October 2, 2018, this application was considered by the Zoning Administrator (ZA) at a public hearing. Staff's recommendation to the ZA was to approve the Wireless Access Permit, as proposed by Verizon. After taking testimony on the project, the ZA closed the public hearing and continued it to October 15, 2018, in order to consider all of the testimony presented prior to making a decision. The ZA approved the Wireless Access Permit at the public hearing held on October 15, 2018 with the following added Condition of Approval (COA). *"Within 75 days of the antenna being installed, Verizon shall take RF power density measurements with the antenna operating to verify the level reported in the Hammett and Edison report and to ensure that the FCC public exposure limit is not exceeded in any publicly accessible area. This measurement shall be taken again on an annual basis or if any equipment is replaced. Verification of these measurements shall be submitted to CDD for review and approval."*

On October 25, 2018, neighboring property owners, Michael and Joan Parodi, appealed the ZA decision, prior to the appeal deadline.

On October 25, 2018, Verizon Wireless c/o On Air, LLC appealed the ZA decision prior to the appeal deadline.

## IV. GENERAL INFORMATION

- A. Equations - The site is located at the intersection of Alamo Way and Danville Boulevard. All equipment will be placed on the utility pole. Pursuant to the applicant, PG&E (owner of the utility pole) is requiring that Verizon install bollards to protect the equipment.



- B. **General Plan** – The subject right-of-way is located within the Single-Family Residential – Low Density (SL) General Plan land use designation.
- C. **Zoning District** – The subject right-of-way is located within the Single-Family Residential (R-2D) zoning district.
- D. **California Environmental Quality Act (CEQA)** – The proposed project is exempt under CEQA Guidelines Section 15301(b), which identifies existing facilities of both investor and publicly-owned utilities used to provide public utility services as being exempt from review.
- E. **Right-of-way** The project is located on an existing utility pole within the Danville Boulevard right-of-way in the Alamo area of unincorporated Contra Costa County.

**V. SITE/ AREA DESCRIPTION**

The utility pole (project site) is located within the public right-of-way at the northwest corner of Alamo Way and Danville Boulevard near 1524 Alamo Way in the Alamo area of unincorporated Contra Costa County. It is adjacent to a two-lane road (Danville Boulevard) within a single-family residential neighborhood. Surrounding parcels have been developed with residential dwellings and related accessory structures. Trees are located on either side of the utility pole, which helps camouflage the site.

**VI. PROJECT DESCRIPTION**

This is an appeal of the Zoning Administrator's decision to approve a Wireless Facilities Access Permit to establish a new Verizon Wireless small cell wireless telecommunications facility in the public right-of-way, which includes the installation of a 7-foot antenna (on top of a wooden pole extension) that will be placed on top of an existing utility pole. Thus, after installation of the antenna, the existing pole, which measures 38.6 feet tall, will measure 48.6 feet tall post construction. This project also includes the installation of two (2) RRU/S32 and two (2) diplexers inside two (2) RRU shrouds, one (1) fiber demarc box, one (1) disconnect switch, one (1) distribution panel, two (2) power supply units and one (1) power meter on the new utility pole. In addition, this request also includes the

installation of two bollards adjacent to the utility pole within the public right of way.

## VII. APPEAL OF THE ZONING ADMINISTRATOR'S DECISION

On October 25, 2018, Michael and Joan Parodi filed an appeal with the Department of Conservation and Development, Community Development Division (CDD) over the decision of the Zoning Administrator (ZA) to approve the proposed project. One additional appeal of the ZA's decision, filed by the applicant, Verizon Wireless c/o On Air, LLC, was also received by CDD on October 25, 2018. The respective appeal points have been summarized and addressed below.

Michael and Joan Parodi, 91 Gran Via, Alamo, CA

- A. Summary of Appeal Point #1: Replacing the existing utility pole and adding Verizon Wireless cell site infrastructure presents a "fire and falling apparatus hazard".

Staff Response: The facility will have to be compliant with all applicable Building and Fire Codes relating to the installation of the facility's equipment to ensure it will not result in an increased fire risk to people or property. Furthermore, the installation of the proposed facility is subject to review and approval of an encroachment permit to ensure that the construction of the approved facility proceeds in a safe manner. The Department of Public Works has reviewed the project, including a traffic control plan, to safely guide pedestrian, bicycle, and vehicular traffic in, around, and by construction and installation work. The Department of Public Works has provided comments and conditions of approval specific to the Encroachment Permit portion of the project. Compliance with all Encroachment Permit conditions ensures that the construction of the project does not pose a significant risk to travelers within the right-of-way. PG&E is responsible for the safety of the utility pole.

- B. Summary of Appeal Point #2: The RF emissions from the proposed cell site would encroach and trespass through the air on adjacent properties, interfering with the "ordinary use and enjoyment" of the property.

Staff Response: Small cells typically consist of two distinct parts: the electronic transceivers (also called "radios") that are connected to the traditional wired telephone lines, and the passive antennas that send the wireless signals created by the radios out to be received by individual subscriber units. Verizon Wireless

proposes to utilize the Advanced Wireless Services (AWS) frequency band and the Personal Communications Service (PCS) frequency band, both of which have a public exposure limit of 1.00 mW/cm<sup>2</sup> (milliwatt per square centimeter). Pursuant to the RF Report prepared by Hammitt & Edison, Inc., Consulting Engineers, the maximum RF exposure level due to the proposed Verizon operation would be 0.0056 mW/cm<sup>2</sup>, which is 0.56% of the applicable public exposure limit for a person located anywhere at ground level. The maximum RF exposure level at the second-floor elevation of any nearby building (at least 60 feet away) is 0.94% of the public exposure limit. Thus, the proposed operation would comply with the FCC guidelines limiting public exposure to RF energy and would not interfere with the "ordinary use and enjoyment" of the applicant's property. In addition, staff is unaware of any case law that limits the direction and/or location that cellular frequencies may travel through.

- C. Summary of Appeal Point #3: The FCC cannot be relied upon to set public health standards.

Staff Response: The Federal Communications Commission (FCC) sets safety standards for RF radiation exposure for the devices it regulates, which include cell phone antennas. The County has the right to request the applicant to demonstrate how the proposed facility will conform to the radio frequency (RF) exposure standards adopted by the Federal Communications Commission, and how it will not exceed federal Communications Commission-adopted standards regarding human exposure in areas subject to general public RF exposure, as defined by the National Council on Radiation Exposure Prevention. Once the applicant provides assurance that the project will conform to the RF exposure standards adopted by the FCC, the County is unable to deny an application based on the potential health risks associated with radio frequency emissions. Pursuant to Title 47 U.S.C. Section 332 (c)(7)(B)(iv): "no state or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Commission's regulations concerning such emissions".

- D. Summary of Appeal Point #4: No Environmental Impact Report has been conducted for the proposed project.

Staff Response: The proposed project is exempt under California Environmental Quality Act (CEQA) Guidelines Section 15301(b), which identifies existing



facilities of both investor and publicly-owned utilities used to provide public utility services as being exempt from review

- E. Summary of Appeal Point #5: No public health study has been conducted for the proposed project.

**Staff Response:** As previously stated, the County has the right to request the applicant to demonstrate how the proposed facility will conform to the radio frequency (RF) exposure standards adopted by the Federal Communications Commission, and how it will not exceed Federal Communications Commission-adopted standards regarding human exposure in areas subject to general public RF exposure, as defined by the National Council on Radiation Exposure Prevention. A summary of the FCC's human exposure limits is shown in Figure 1 of the RF Report prepared by the firm of Hammett & Edison, Inc., Consulting Engineers for the project site. Once the applicant provides assurance that the project will conform to the RF exposure standards adopted by the FCC, the County is unable to deny an application based on the potential health risks associated with radio frequency emissions. Pursuant to Title 47 U.S.C. Section 332 (c) (7)(B)(iv): "no state or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Commission's regulations concerning such emissions."

- F. Summary of Appeal Point #6: The County Zoning Administrator failed to limit the permit scope, thus allowing for expansion to higher cellular frequencies with only minimal oversight. Other carriers may also choose to establish wireless telecommunications facilities on other utility poles.

**Staff Response:** Section 88-24.60 of the County Wireless Ordinance specifies the permits necessary to modify an approved wireless facility. A Minor Alteration Permit is required to make a minor alteration to a facility. A new Wireless Facility Access Permit is required for each substantial change to an existing facility located within a County right-of-way. A "substantial change" is defined in Title 47, Code of Federal Regulations, section 1.40001.

- G. Summary of Appeal Point #7: Neighborhood property values will be adversely affected due to the visual and aesthetic impacts of the proposed construction and the failure to comply with the design guidelines, outlined in the County's Wireless Telecommunications, which mandate that a wireless facility be

designed to minimize its visual and aesthetic impacts on the surrounding area. The applicant also failed to explore other viable options for the the proposed wireless facility.

**Staff Response:** Pursuant to Section 88-24.612(b)(4) of the County Wireless Telecommunications Facilities ordinance, there are four findings that must be made prior to approval of a wireless facility access permit.

*(i) The facility or substantial change will be designed in a manner that complies with the applicable requirements of Section 88-24.618.*

*(ii) The facility or substantial change will not interfere with the use of the county right-of-way, or existing improvements or utilities located on, in, under, or above the right-of-way.*

*(iii) The facility or substantial change will not interfere with any vehicular, bicycle, or pedestrian use of the county right-of-way.*

*(iv) The facility or substantial change will not cause any violation of the accessibility requirements of the Americans with Disabilities Act.*

Staff has not been presented with any conclusive data suggesting that proximity to a cellular site has a substantial negative impact on observed home sale prices in Contra Costa County. Furthermore, none of the approval findings (listed above) require analysis of the project's impact on property values in the surrounding area. Therefore, a wireless facility access permit cannot be denied for this reason.

With regard to the potential impact a new site would have on the aesthetic quality of its surroundings, although the subject utility pole is located within the right of way in a single-family residential neighborhood, small cell technology is less visually invasive than traditional cell towers (see attached photo simulations). The proposed cantilever antenna and ancillary equipment would be painted to match the existing utility pole, which would help the cell site blend in with its surroundings (this includes the existing utility pole and telephone wires). The proposed shrouds would also help conceal the pole-mounted equipment. The pole top equipment would result in an approximately 10-foot height increase for the pole, thus complying with the County Wireless ordinance, which limits such height increases to a maximum of 10 feet. Therefore, County Zoning Administrator concluded that the proposed wireless

telecommunication facility would not substantially affect the aesthetic quality of its surroundings and complies with the design requirements of Section 88-24.408 for the facilities located in the public right-of-way.

With regard to the chosen location for the cell site, pursuant to a statement from Verizon Wireless, received on August 15, 2018, alternative sites are other poles within a short distance (neighboring) from the original choice. Verizon's radio frequency engineering group identifies areas in which capacity will be an issue to network performance (such as the chosen location). Subsequent to the engineering selection is the field identification and verification of whether or not any of the "chosen" poles will actually support a small cell facility as part of a system design. Two alternative sites considered for the proposed project included a utility pole located approximately 75 feet south from the subject utility pole and another utility pole located approximately 150 feet north from the subject pole. However, many of the poles are already loaded with vertical risers, conduits, equipment, and electrical and telephone lines that prevent a small cell facility from being able to "fit" at that site. Thus, the subject pole was chosen.

Verizon Wireless, c/o On Air, LLC (Applicant)

- A. Summary of Appeal Letter: Verizon is stating that the Zoning Administrator's requirement to take electromagnetic emissions (EME) measurements on an annual basis is illegal and unenforceable based on existing California case law.

Staff Response: Based on the review of Chapter 88-24 (Wireless Telecommunication Facilities) County's Ordinance Code, it appears that requiring EME measurements on an annual basis exceeds what the County can require under the Ordinance Code. As such, staff recommends that the Planning Commission partially grant Verizon's appeal and modify the Zoning Administrator's decision by requiring EME measurements to be taken only as follows: a) once, after the facility is in operation, and b) whenever new antennas are added.

The County has agreed to modify Condition No. 26 as follows:

Within 15 days of the antenna being installed, Verizon shall take RF power density measurements with the antenna operating to verify the level reported in the Hammett and Edison report and to ensure that the FCC public exposure level is not exceeded in any publicly accessible area. This measurement shall be



taken again on an annual basis or if any equipment is replaced added. Verification of these measurements shall be submitted to CDD for review and to confirm that the requirements of the Ordinance Code have been met.

## VIII. STAFF ANALYSIS AND DISCUSSION

- A. General Plan: The subject site is located within the Single-Family Residential – Low Density (SL) General Plan land use designation. Generally, the primary land uses permitted in the designation include detached single-family homes and accessory buildings and structures. Secondary uses generally considered to be compatible with low density homes may also be allowed. The General Plan does not explicitly identify a wireless telecommunication facility as an allowed use within the SL General Plan land use designation. However, the County has historically allowed wireless telecommunication facilities in numerous General Plan land use designations generally because they are considered as a vital utility within the County, and are typically an auxiliary use. Such is the same for the facility being reviewed under this project. The proposed small cell would not conflict with the SL General Plan land use designation because it would be located within the County right-of-way and would not impede development on surrounding residential parcels.

In addition, the project site is located in the General Plan Alamo-Diablo Blackhawk Specific Geographic Area. The following area policies apply to the project:

- Policy 3-111: Promote the individuality and unique character of each community based on existing community images, and
- Policy 3-120: Developments shall be reviewed to ensure the continued rural character of the area.

The new wireless facility attached to an existing utility pole would change the visual environment in the project area. However, by placing equipment on an existing utility pole, matching the equipment color to the color of the pole, and providing shrubs to create visual continuity, the facility would not substantially change the existing visual character of the area.

- B. Zoning: The subject site is located within an R-20 Single-Family Residential (R-20) zoning district. Generally speaking, the R-20 zoning district allows development of detached single-family dwellings, accessory structures and the uses normally auxiliary

to them. The project site is located within the County right-of-way and will not impede on any of the surrounding lots. Furthermore, as conditioned, the facility would be compliant with the County's Wireless Telecommunication Facilities Ordinance (Ch. 88-24) and with FCC standards, as they apply to facilities located on utility poles within a public right-of-way.

- C. County Wireless Telecommunication Facilities Ordinance (Section 88-24): The County Wireless Ordinance provides a framework for the review of proposed wireless telecommunication facilities within Contra Costa County, consistent with applicable State and Federal regulations. Pursuant to the County Wireless Telecommunication Facilities Ordinance Section 88-24.602(d), a wireless access permit is required for each new facility and each substantial change to an existing facility located within the county right-of-way. In addition to meeting all applicable requirements in subsections (a) through (e) of the design requirements (Section 88-24.408), a facility within a county right-of-way must also meet the design requirements described in Section 88-24.409(f). For example, a facility must be designed and located so that it does not impair vehicle circulation or parking within the right-of-way and no antenna may extend above the height of the pole or facility on which it is mounted by more than ten feet. As discussed in the attached Findings and Conditions of Approval, and based upon the revised plans, RF Report, and response letter submitted on August 15, 2018, staff has determined that the proposed project complies with these design requirements and the County Wireless Telecommunications Facilities Ordinance.
- D. Federal Communications Commission (FCC): The FCC has adopted radio frequency protection standards that establish "safety levels with respect to human exposure to radio frequency electromagnetic fields". The standards prescribe limits for continuous exposure to radio frequency (RF) energy.

Pursuant to the RF Report prepared by the firm of Hammitt & Edison, Inc., Consulting Engineers, the proposed operation would comply with the FCC guidelines limiting public exposure to RF energy. Small cells typically consist of two distinct parts: the electronic transceivers (also called "radios") that are connected to the traditional wired telephone lines, and the passive antennas that send the wireless signals created by the radios out to be received by individual subscriber units. Verizon Wireless proposes to utilize the Advanced Wireless Services (AWS) frequency band and the Personal Communications Service (PCS) frequency band, both of which have a public exposure limit of 100 mW/cm<sup>2</sup> (milliwatt per square centimeter). Pursuant to the RF Report

prepared by Hammett & Edison, Inc., Consulting Engineers, the maximum RF exposure level due to the proposed Verizon operation would be 0.0056 mW/cm<sup>2</sup>, which is 0.56% of the applicable public exposure limit for a person located anywhere at ground level. The maximum RF exposure level at the second-floor elevation of any nearby building (at least 20 feet away) is 0.54% of the public exposure limit. Thus, the proposed operation would comply with the FCC guidelines limiting public exposure to RF energy.

- E. **Appropriateness of the Use:** The project site is within an established single-family residential neighborhood surrounded by single-family dwellings. The subject utility pole is located within the public right of way, where telecom corporations are allowed by right in the State of California. The proposal alters the appearance of the existing utility pole in the least obtrusive manner and does not encroach upon private property. Therefore, it is an appropriate use of the public right-of-way.

**IX. CONCLUSION**

The proposed Verizon cell site complies with the County Wireless Telecommunications Facilities Ordinance and would not conflict with the Single-Family Residential, Low Density (S1) General Plan land use designation or the Single-Family Residential R-20 Zoning District. The proposed project is also consistent with State and Federal regulations governing cellular telecommunications and installation within a public right of way. Additionally, staff has determined that the project, as conditioned, is the least obtrusive design. Therefore, staff recommends that the County Planning Commission uphold the Zoning Administrator's decision to approve County File #WA18 0004, with modifications to COA #26.



**Department of  
Conservation and  
Development**

30 Muir Road  
Martinez, CA 94553-4601

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**Contra  
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County**



**John Kopchik**  
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**Aruna Bhat**  
Deputy Director

**Jason Crapo**  
Deputy Director

**Maureen Toms**  
Deputy Director

**Kelli Zenn**  
Business Operations Manager

PAYER: MIKE & JOAN PARODI  
91 GRAN VIA  
ALAMO CA 94507

APPLICATION #: CDWA18-00004

TYPE: Wireless Facility

Payment Type: Check  
Check Nbr: 7599

ACCOUNT ITEM LIST:

Item #	Description	Total Fees	Current Paid	Total Paid
0047	Appeal (\$125)	\$125.00	\$0.00	\$125.00
0047	Appeal (\$125)	\$125.00	\$0.00	\$125.00
0047	Appeal (\$125)	\$125.00	\$125.00	\$125.00
052B	Notification Fee (\$30)	\$30.00	\$0.00	\$30.00
S-060K	Wireless Facility Access Permit Fee	\$4,000.00	\$0.00	\$4,000.00
Total Fees:		\$4,405.00	Paid:	\$4,405.00
			Balance:	\$0.00

ISSUED BY: SSOTOODEH  
DATE: 12-24-2018

APPLICATION DESC: Applicant is requesting approval of a wireless access permit for the installation of a 2 ft. antenna on top of a new 55 ft. utility pole as well as 2 RRUs, 2 diplexers, 2 RRU shrouds, 1 fiber demarc box, 1 disconnect switch, 1 distribution panel, 2 power supply units and 1 pole-mounted PG&E smart meter located in the county right-of-way.

SITE ADDRESS: 1524 ALAMO WAY, ALAMO, CA 94507-1503

PARCEL: ROW-191-080

NOTES: Appeal of Planning Commission determination

Receipt Number: 180016669