



**Contra
Costa
County**

To: Board of Supervisors

From: John Kopchik, Director, Conservation & Development Department

Date: February 2, 2016

Subject: Tolling Agreement with Verizon Wireless

RECOMMENDATION(S):

APPROVE and AUTHORIZE the Conservation and Development Director, or designee, to execute a tolling agreement with GTE MobileNet of California (dba Verizon Wireless), to extend the time to act on a permit application for a wireless telecommunications facility proposed in the Alamo area of unincorporated Contra Costa County to March 31, 2016 and beyond, if needed.

FISCAL IMPACT:

None. The applicant has paid the necessary application processing fees and is obligated to pay supplemental fees to recover any and all additional staff time and materials associated with application processing.

BACKGROUND:

Verizon Wireless has filed a land use permit application to construct a stealth wireless telecommunications facility within the Alamo area (County File Number LP15-2018). The application was filed with the County on May 21, 2015. The County issued a notice of incomplete application on June 9, 2015. Verizon Wireless provided all the required information on August 5, 2015. The County issued a notice of complete application on

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

Action of Board On: **02/02/2016** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor
Candace Andersen, District II Supervisor
Mary N. Piepho, District III Supervisor
Karen Mitchoff, District IV Supervisor
Federal D. Glover, District V Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: February 2, 2016

David Twa, County Administrator and Clerk of the Board of Supervisors

By: Stephanie L. Mello, Deputy

Contact: Stan Muraoka
925-674-7781

cc:

August 6, 2015.

The County Zoning Administrator approved Verizon Wireless' land use permit application on January 4, 2016. A written appeal of the Zoning Administrator's decision was received on January 14, 2016. The appeal hearing has not yet been scheduled before the County Planning Commission.

BACKGROUND: (CONT'D)

Under a ruling of the Federal Communications Commission (FCC), a wireless service provider whose application has been pending for a period of 150 days for a new wireless telecommunications facility is authorized to seek judicial relief within 30 days on the basis that a local permitting authority did not act on the application within "a reasonable time". (FCC 09-99 Declaratory Ruling, November 18, 2009.) The ruling also permits the period for a local jurisdiction's review of an application to be extended by mutual consent. Further, a wireless service provider adversely affected by the final action or failure to act may file an action for relief within 30 days of the action or failure to act. (47 U.S.C. Section 32(c)(7)(B)(v).)

The proposed tolling agreement would extend the time for the County Planning Commission to act on the appeal to March 31, 2016, and would prohibit Verizon Wireless from seeking a court order before March 31, 2016, directing the County to act on the application, and would toll the time for Verizon Wireless to assert any claim alleging a violation of the Permit Streamlining Act (Govt. Code Section 65920 et seq.) to a date after March 31, 2016.

This Board Order also authorizes the Director of Conservation and Development, or designee, to execute extensions of the above time period if necessary.

CONSEQUENCE OF NEGATIVE ACTION:

If the Tolling Agreement is not approved, the project may be considered deemed approved.