



**Contra
Costa
County**

To: Board of Supervisors

From: John Kopchik, Director, Conservation & Development Department

Date: February 12, 2019

Subject: Tolling Agreement with Verizon Wireless

RECOMMENDATION(S):

APPROVE and AUTHORIZE the Conservation and Development Director or designee to execute, on behalf of the County, a tolling agreement with GTE MobilNet of California Limited Partnership (dba Verizon Wireless) to extend the time to act on a wireless access permit application for a facility proposed to be located in the County right-of-way near 279 Smith Road in the Alamo area.

FISCAL IMPACT:

The applicant is responsible for all related costs.

BACKGROUND:

GTE MobilNet of California Limited Partnership (dba Verizon Wireless) has filed an application for a wireless access permit to construct a wireless telecommunication facility within the County public right-of-way near 279 Smith Road in the Alamo area (WA17-0016). This application was filed on November 9, 2017.

Under a ruling of the Federal Communication ("FCC"), a wireless service provider whose application has been pending for a period of 90 days for collocation applications, and 150

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY

☐ RECOMMENDATION OF BOARD

ADMINISTRATOR

COMMITTEE

Action of Board On: **02/12/2019** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor

Candace Andersen, District II
Supervisor

Diane Burgis, 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 12, 2019

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

By: Laura Cassell, Deputy

Contact: Telma Moreira (925)
674-7783

cc:

days for all other applications, is authorized to seek judicial review within 30 days on the basis that a state or local permitting authority

BACKGROUND: (CONT'D)

did not act on the application within a "reasonable time". (In Re: Petition for Declaratory Ruling to Clarify Provisions of Section 332(c)(7)(B) to ensure Timely Siting Review, Etc., FCC 09-99 (FCC November 18, 2009) (the "2009 Ruling", 45). A more recent FCC ruling prescribes shorter periods for small wireless facilities: 60 days for collocations on existing structures, and 90 days for new structures. (In the Matter of Acceleration Broadband Deployment by Removing Barriers to Infrastructure Investment, FCC 18-133 (FCC September 27, 2018) (The "2018 Ruling"). The two FCC Rulings also permit the period for a local jurisdiction's review of an application to be extended by mutual consent. (2009 Ruling, 49; 2018 Ruling 75-76).

The proposed tolling agreement would extend through February 15, 2019, the time for the County Planning Commission to act on this application, and would extend through April 18, 2019, the time for the Board of Supervisors to act on this application. The proposed tolling agreement would also prohibit Verizon Wireless from seeking a court order before April 18, 2019, that would direct the County to act on the application. In addition, the proposed tolling agreements would toll the time for Verizon to seek a court order alleging a violation of the Permit Streamlining Act to after April 18, 2019.

This Board 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 Federal Communications Commission "shot clock" requirements would require the County to act on the applications within the time prescribed by the FCC.

ATTACHMENTS

Verizon Tolling Agreement