



Contra  
Costa  
County

To: Board of Supervisors

From: John Kopchik, Director, Conservation & Development Department

Date: May 7, 2019

Subject: Verizon Wireless Access Permit #WA17-0016

**RECOMMENDATION(S):**

1. OPEN the public hearing on an appeal of a Planning Commission decision to approve a Wireless Access permit for a Verizon Wireless cell site on a utility pole located in the Smith Road right of way, near 279 Smith Road, in the Alamo area (Permit No. WA17-0016), RECEIVE testimony, and CLOSE the public hearing.
2. DETERMINE that the approval of Permit No. WA17-0016 is exempt from the California Environmental Quality Act (CEQA) under CEQA Guidelines Section 15303.
3. DIRECT the Department of Conservation and Development to file a CEQA Notice of Exemption with the County Clerk.
4. APPROVE a wireless facilities access permit for a Verizon Wireless cell site on a utility pole in the Smith Road right of way, near 279 Smith Road, in the Alamo area (Permit No. WA17-0016)
5. APPROVE the findings in support of Permit No. WA17-0016.
6. APPROVE the conditions of approval for Permit No. WA17-0016.
7. DENY the appeal of Lowell Tunison.

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY ADMINISTRATOR

☐ RECOMMENDATION OF BOARD COMMITTEE

Action of Board On: **05/07/2019** ☒ 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: May 7, 2019

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

By: Jami Napier, Deputy

Contact: Adrian Veliz (925)  
674-7798

cc:

### FISCAL IMPACT:

The applicant has paid the initial application deposit, and is obligated to pay supplemental fees to cover any and all additional staff time and materials costs associated with the processing of this application.

### BACKGROUND:

This is a hearing for an appeal of the County Planning Commission's decision to deny an appeal and uphold the decision of the County Zoning Administrator to approve a Wireless Facilities Access permit to establish a new Verizon Wireless cell site attached to an existing utility pole in the public right-of-way near 279 Smith Road, in the Alamo area of unincorporated Contra Costa County.

### Project Description:

The project is to establish a new Verizon cell site within the Smith Road right-of-way. The proposal involves installing a wooden pole extension atop the existing utility pole. A four-foot canister antenna would be mounted above the pole extension, resulting in an approximately 9.5-foot increase in overall pole height. Pole-mounted ancillary equipment is proposed between eight to eighteen feet above ground level. Ancillary equipment includes:

- Two (2) RRU units;
- Two (2) Diplexers;
- Two (2) Power supply units;
- One (1) Disconnect Switch;
- One (1) Power Meter;
- One (1) Fiber Demarc Box;
- One (1) Equipment Shroud.

### Appeal Of The County Planning Commission's Decision:

On February 25, 2019, Lowell Tunison (appellant) filed an appeal with the Department of Conservation and Development, Community Development Division, over the decision of the County Planning Commission to deny his appeal and uphold the decision of the County Zoning Administrator to approve the wireless facilities access permit for the project. The appeal points have been summarized and addressed below:

### Review of Points Raised in Appellant's Appeal Letter:

**Summary of Appeal Point #1:** *The site should be located along Stone Valley Road where other cellular facilities are located.*

**Staff Response:** This is similar to an appeal point discussed at the February 13, 2019 County Planning Commission meeting where neighbors suggested that a more appropriate location for the project would be an existing utility pole near the intersection

of Stone Valley Road and Smith Road. In response, Verizon indicated to the Commission that this location is 0.4 miles away, which would be too far away to achieve the project goal to provide additional capacity to the network. Since the proposed small cell operates at approximately 10% of the power of macro sites, it covers a relatively small geographic area. Thus, small cells are most effective in providing additional coverage to end users in close proximity to the site. Therefore, installing equipment along Stone Valley Road would not be ideally situated to provide the network capacity upgrade that Verizon indicates is needed to meet demand within their existing service area. Moreover, there is nothing in Chapter 88-24 that would allow the County to require Verizon to relocate its facility.

**Summary of Appeal Point #2:** *The conditions of approval recommended by planning staff ignore Ordinance Code Section 88-24.408(f)(2)(B), which calls for undergrounding of ancillary equipment.*

**Staff Response:** The County Wireless Ordinance does not require that ancillary equipment be placed underground. The cited code section reads as follows:

*88-24.408(f)(2)(B): An equipment enclosure that serves a facility or antenna must be installed below ground, or must be installed at grade and camouflaged. Each below-ground equipment enclosure must be accessible by a flush-to-grade portal.*

The facility does not include an equipment enclosure, as that term is defined in Ordinance Code Chapter 88-24. An equipment enclosure is a "cabinet, shelter, structure, or vault that is used to enclose and secure ancillary equipment." (Ord. Code, § 88-24.204(h).) A shroud is a covering that serves a purely aesthetic function and which is not a critical component to the security or operation of the proposed wireless facility. Further, the County Wireless Ordinance specifically contemplates the circumstance where ancillary equipment is proposed to be located outside of equipment enclosures:

*88-24.408(f)(2)(G): Ancillary equipment not enclosed in an equipment enclosure must be installed at a location the zoning administrator determines will minimize the visual and aesthetic impacts to the greatest extent feasible.*

The ancillary equipment for this facility will be pole-mounted and will be encased in a shroud, which is different from an equipment enclosure under Chapter 88-24. In approving the project, the Zoning Administrator determined that the project design minimized the visual and aesthetic impacts to the greatest extent feasible. Therefore, the proposed location of ancillary equipment does not conflict with Chapter 88-24 in this respect.

**Summary of Appeal Point #3:** *The proposed pole-mounted equipment faces directly towards the residence at 279 Smith Road. The proposed equipment shroud makes pole-mounted equipment stand out even more.*

**Staff response:** The orientation of the proposed pole-mounted equipment was discussed at the February 13, 2019 meeting of the County Planning Commission. In testimony provided to the Commission, Verizon indicated that PG&E designates quadrants upon their utility poles, which are reserved for certain specific purposes. The location of ancillary equipment, as proposed, is within the quadrant approved by PG&E for Verizon's equipment.

Staff is receptive to public comments regarding the aesthetic value of the equipment shroud proposed with this design. The attached photo simulations depict both the proposed design (with shroud) and the original proposal (without shroud). The Zoning Administrator determined that the facility is designed in a manner that complies with the applicable requirements of Section 88-24.408. Specifically, the facility with the shroud is "designed to minimize its visual and aesthetic impacts on, and to blend in with, the surrounding area." (Ord. Code, §§ 88-24.408(a)(1) & 88-24.612(b)(4)(A)(i).)

If the Board determines that removing the shroud covering the pole-mounted equipment minimizes the facility's "visual and aesthetic impacts on" the surrounding area, and will enable it to "blend in with" the surrounding area, the Board can approve the facility without the shroud. The shroud can be eliminated from the facility without affecting the functionality of the facility. However, without the shroud, cables and conduit typically associated with the installation of wireless facilities then may be prominently visible.

#### **Project History:**

Verizon submitted County File #WA17-0016 on November 9, 2017. On November 6, 2018, the County mailed a *Notice of Intent to Render an Administrative Decision* to property owners within 300 feet of the project site. The County received a request for a public hearing on November 15, 2018.

The project was considered by the County Zoning Administrator at a public hearing held on December 17, 2018. After taking public testimony on the project, the Zoning Administrator approved the Wireless Access Permit as recommended by staff. An appeal of this decision was filed on December 24, 2018 by Karl Gross and Alamo Oaks Homeowners. Lowell Tunison is a member of the Alamo Oaks Homeowners and was a signatory on that appeal letter.

The appeal was subsequently scheduled for the County Planning Commission meeting held on February 13, 2019. After considering public testimony, the Commission made a motion to uphold the County Zoning Administrator's decision and deny the appeal of Karl Gross and Alamo Oaks Homeowners. The motion was sustained by a 6-0 vote of the Commission. On February 25, 2019, the Department received Lowell Tunison's appeal of the County Planning Commission's decision.

#### **CONSEQUENCE OF NEGATIVE ACTION:**

If the Board of Supervisors grants the appeal, the County Planning Commission decision to uphold the County Zoning Administrator's approval of a Wireless Access Permit will be overturned. Verizon Wireless would be unable to construct the proposed new Wireless Facility within the Smith Road right-of-way.

#### CLERK'S ADDENDUM

**Public Speakers: John Linden, Alice Lee, Karl Gross.**

Opened the public hearing on an appeal of a Planning Commission decision to approve a Wireless Access permit for a Verizon Wireless cell site on a utility pole located in the Smith Road right of way, near 279 Smith Road, in the Alamo area (Permit No. WA17-0016), received testimony, and closed the public hearing.

Determined that the approval of Permit No. WA17-0016 is exempt from the California Environmental Quality Act (CEQA) under CEQA Guidelines Section 15303. Directed the Department of Conservation and Development to file a CEQA Notice of Exemption with the County Clerk. Approved a wireless facilities access permit for a Verizon Wireless cell site on a utility pole in the Smith Road right of way, near 279 Smith Road, in the Alamo area (Permit No. WA17-0016); approved the findings in support of Permit No. WA17-0016; approved modified conditions of approval for Permit No. WA17-0016; and denied the appeal of Lowell Tunison. The conditions of approval for Permit No. WA17-0016 were modified to add the following conditions of approval: (1) subject to the time limits that DCD will specify in the condition of approval, Verizon shall install the facility without a shroud over the pole-mounted equipment, and, if the residents at 279 Smith Road determine a shroud is needed, Verizon shall install the shroud; and (2) subject to time limits that DCD will specify in the condition of approval, Verizon shall give the residents at 279 Smith Road the option of having a tree planted to partially block the pole, and, if requested by the residents, Verizon shall plant the tree.

#### ATTACHMENTS

Maps

Plans

Appeal Letter

Findings and COA

RF Report

Photosim (Proposed Design)

Photosim Comparison (Shroud vs No Shroud)

Power Point