



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: Planning and Development
Department No.: 053
For Agenda Of: March 5, 2024
Placement: Department
Estimated Time: 75 min.
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors
FROM: Department Lisa Plowman, Director, Planning and Development
Director (805) 568-2086
Contact Info: Travis Seawards, Deputy Director, Planning and Development
(805) 568-2518
SUBJECT: Erickson Appeal of the County Planning Commission Approval of a Verizon Wireless Facility at Camino Majorca, Case No. 23APL-00040, Second Supervisorial District

County Counsel Concurrence

As to form: Yes

Other Concurrence: N/A

Auditor-Controller Concurrence

As to form: N/A

Recommended Actions:

On March 5, 2024, staff recommends that your Board take the following actions:

- a) Deny the appeal, Case No. 23APL-00040;
- b) Make the required findings for approval of the project, Case Nos. 22DVP-00000-00023, 22CDP-00000-00146, and 19BAR-00000-00222, including California Environmental Quality Act (CEQA) findings included as Attachment 1 to this Board Letter;
- c) Determine the project is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15303 included as Attachment 3 to this Board Letter; and
- d) Grant *de novo* approval of the project, Case Nos. 22DVP-00000-00023, 22CDP-00000-00146, and 19BAR-00000-00222, subject to the conditions of approval included as Attachment 2 to this Board Letter.

Summary Text:

The project is a request by Verizon Wireless to construct a new, unmanned telecommunications facility in order to increase wireless capacity in the west Isla Vista area. The project is proposed to be located on an existing 44-foot wood utility pole, with no proposed increase to the height of the pole. The pole is located in the right-of-way adjacent to Assessor's Parcel No. 075-131-013, addressed as 6897 Trigo Road in the Goleta Community Plan area, Second Supervisorial District. The proposed project is consistent with

all applicable policy and ordinance requirements, including requirements for height, size, and compliance with FCC regulations.

Background:

In October 2020, a Conditional Use Permit (Case No. 19CUP-00000-00047) application was submitted for the project at the current location at 6897 Trigo Road. Between January and March 2021, the Conditional Use Permit was reviewed at several Planning Commission hearings (January 13, January 27, and March 31, 2021), and the Commission requested that the Applicant review other locations. The alternative locations were reviewed as follows:

- 6860 Sabado Tarde Road. An application was submitted for this location, but was denied by South Board of Architectural Review (SBAR) because the pole and antennae did not blend into the environment. See summary information for this site in the following paragraph.
- 6899 Fortuna Road. This location is not in the right-of-way; it is on property owned by the Isla Vista Recreation & Park District. The District informed the Applicant that they would not entertain a project at this location.
- Collocation on existing Crown Castle facilities in the vicinity. The applicant is also unable to locate on Crown Castle facilities in the vicinity because collocating would overload the poles.

On November 9, 2022, the Applicant submitted a Development Plan and Board of Architectural Review application for a new pole near 6860 Sabado Tarde Road, in the Camino Lindo right-of-way adjacent to a vacant lot (Case Nos. 22DVP-00000-00023 and 22BAR-00000-00248). Since the time of the original Conditional Use Permit application submittal, the permit requirement changed from a Conditional Use Permit to a director-level Development Plan for Tier 2 Wireless Facilities. The South Board of Architectural Review (SBAR) reviewed this application and denied the request, Case No. 22BAR-00000-000248. Additionally, staff provided feedback to the Applicant that this location did not meet Article II Section 35-144F.C.2.7, which is a requirement that new wireless facilities be located on an existing operational public utility pole or similar support structure.

Subsequently, the Applicant analyzed and ruled out several other sites and ultimately requested to revise the Development Plan (Case No. 22DVP-00000-00023) proposal to go back to the original location at 6897 Trigo Road. On June 14, 2023, the director-level Development Plan and Coastal Development Permit were approved by the Director. The Director's approval was appealed by an aggrieved party on June 20, 2023. On June 16, 2023, the SBAR denied the request for the location at 6897 Trigo Road. The Applicant appealed the SBAR's denial decision to the Planning Commission.

On December 6, 2023, the appeals of the director-level Development Plan, Coastal Development Permit, and Board of Architectural Review applications were presented to the Planning Commission. The Planning Commission considered all evidence set forth in the record and statements given by the Appellant and the Applicant, and took action to approve the project. Policy and ordinance consistency is discussed in the Planning Commission staff report dated August 17, 2023 (Attachment 5) and incorporated herein by reference.

On December 15, 2023, the Planning Commission's decision to approve the project was appealed by an aggrieved party to the Board of Supervisors. The Appellant asserts that there are errors in the application, there was a lack of a fair and impartial hearing, and the project is inconsistent with Coastal Plan policies and Article II regulations. Staff reviewed each of the appeal issues identified by the Appellant and finds they are without merit. The appeal issues and staff's response are discussed below.

Appeal Issues and Staff Responses

The appeal application (Attachment 4) contains a letter detailing the issues raised in the appeal to your Board. These issues and staff's responses are summarized below.

Appeal Issue 1:

The Appellant asserts that there has been an abuse of discretion. They claim there are inconsistencies in who Verizon says the facility will serve and what the propagation maps show. They state there have been no dropped calls by Verizon customers in this area.

Issue 1 Staff Response:

The hearing before the Board is *de novo* and therefore any claims related to abuse of discretion at the Planning Commission hearing are not relevant to the Board's decision. Further, the public hearing conducted by the Planning Commission on December 6, 2023, complied with the Brown Act and the County Planning Commission Procedures Manual¹.

The propagation maps submitted by the Applicant in March 2023 state that the primary objective for the project is to improve network coverage and capacity in the residential areas of west Isla Vista. There is no requirement in Article II to provide evidence of dropped calls in the area. The Applicant has submitted all required application materials, including an Alternative Site Analysis for 14 alternative sites, and propagation maps showing current service and service after the installation of the proposed facility. The typical Alternative Site Analysis provided for telecom projects includes approximately three alternative sites; therefore the Applicant conducted a robust analysis of the surrounding area and demonstrated that the requested location is the most suitable to meet the project objectives.

Appeal Issue 2:

The Appellant claims that there was a lack of a fair and impartial hearing. They assert that Verizon has received favorable treatment and was encouraged to apply at this location despite prior rejection of this location. They state this location is not least intrusive, and that the term least intrusive is not legally defined and is subjective. They also state that Verizon was allowed to postpone a hearing date, but they were not allowed to postpone when they had asked a month before Verizon asked.

Issue 2 Staff Response

As stated in Appeal Issue No. 1, the hearing before the Board is *de novo* and therefore any claims related to an unfair or impartial hearing at the Planning Commission are not relevant to the Board's decision. Further, the public hearing conducted by the Planning Commission on December 6, 2023, complied with the Brown Act and the County Planning Commission Procedures Manual¹.

The Appellant falsely asserts that the current project location has been denied by the Planning Commission, which is incorrect. The Applicant submitted an application in 2019, and after several Planning Commission hearings, the Applicant withdrew the application to review other locations. As discussed in the Background section above, the Applicant was forced to rule out the other locations suggested by the Planning Commission. Subsequently, the Applicant conducted a robust Alternative Sites

¹ The PC Procedures Manual is available at: <https://content.civicplus.com/api/assets/2358ee05-b225-45e5-b9a3-f66d15d3f78f> (last visited Jan 12, 2024) and available in hard copy at the Planning and Development Department offices located at 123 E. Anapamu Street, Santa Barbara, CA 93101.

Analysis, and the subject location was determined to be the only location that would not require the replacement of the pole with a taller pole, would not require a new pole, is not located on private property, or would not be infeasible due to existing equipment on the pole. The Applicant then resubmitted an application to go back to the subject location. Based on all information in the record, including the Alternative Sites Analysis of 14 different locations, the Planning Commission found the project consistent with all required findings for project approval and determined it was consistent with all applicable policies and development standards.

With regard to the Appellant's request for a later hearing date, P&D staff followed standard practice for establishing the hearing date. The Appellant was notified of the September 13, 2023, hearing date on July 24, 2023. The County then worked with Verizon to extend the shot clock based on the September 13, 2023, hearing date. The Appellant notified P&D staff of a conflict with the hearing date over three weeks later, on August 14, 2023. At that point it was too late for staff to pull the item from the agenda. Verizon subsequently requested a continuance and extended the shot clock to accommodate the continuance request. The Planning Commission granted the continuance request at the September 13, 2023 hearing. Both the Appellant and Applicant have the option to request a continuance from the Planning Commission. Finally, the Applicant and Appellant were given equal time to present at the public hearing, there was time given for public comment, and all Planning Commission procedures were followed.

Appeal Issue 3:

The Appellant claims that the new structure will not be in conformance with the scale and character of the existing community, and that there are locations with less visible impact. They state that the location is on the path to recreational areas in between several parks, open spaces, and reserves, and is a similar design to other facilities in the vicinity that are not in scale and character with the surrounding parks and recreational areas.

Issue 3 Staff Response

The proposed project is consistent with all applicable Comprehensive Plan policies, including Coastal Plan Policy 4-4. Coastal Plan Policy 4-4 states:

In areas designated as urban on the land use plan maps and in designated rural neighborhoods, new structures shall be in conformance with the scale and character of the existing community. Clustered development, varied circulation patterns, and diverse housing types shall be encouraged.

The proposed project is consistent with Coastal Plan Policy 4-4 because the proposed two-foot tall and 14.6" diameter omni-directional canister antenna will be installed on a bracket and side-mounted to the existing 44' tall wood utility pole, consistent with the scale and character of other small cell wireless sites throughout the community. The Appellant also acknowledges in this Appeal Issue that the proposed site is a similar design to other facilities in the vicinity. The proposed telecommunication equipment will not substantially change the visual appearance of the existing utility pole because the equipment is limited to a two-foot antenna at 28'-8" above grade and a 20" wide by 70" long shroud affixed to the side of the utility pole at 12'-3" above grade.

To further ensure neighborhood compatibility, the project is conditioned to require that equipment be painted a non-reflective color designed to blend with the existing pole and equipment (Condition No. 6 of Attachment B). The proposed antenna and associated equipment will not be substantially visible from

surrounding public viewing areas since it will be located on an existing pole instead of a new pole, will not increase the height of the pole, and the proposed equipment will be painted to blend in with the existing wood pole. The antenna will be located on an existing operational utility pole to minimize project impacts. The project will therefore not change the character of the area as there are many utility poles, wires, and other infrastructure in the street right-of-way. The project meets all 10 development standards in Article II that apply to Tier 2 small cell wireless facilities, and all 21 development standards in Article II that apply to all telecommunications facilities.

The facility is across the street from an open space area owned by UCSB. However, there is no requirement in Article II prohibiting a telecommunications facility from being located adjacent to an open space area. The facility will not impact any public trails, and the facility is separated from the open space area by Camino Majorca, a parking area, and dense Eucalyptus trees. There are several other utility poles and lines along the Camino Majorca right-of-way that do not interfere with the use of the open space or access to the coast.

Finally, Article II Section 35-144F.C.2.a.7 states that the antenna shall be mounted on an existing operational utility pole or similar support structure unless technical requirements dictate otherwise. By locating on the existing utility pole rather than installing a new pole, impacts to visual resources are minimized.

Appeal Issue 4:

The Appellant asserts that the project is inconsistent with Article II because it is in close proximity to two other substantially visible facilities, and that more facilities will likely be installed.

Issue 4 Staff Response

The proposed project is consistent with all applicable sections of Article II. Specifically, Article II Section 35-144F.D.3.c states: “A facility that is substantially visible from a public viewing area shall not be installed closer than two miles from another substantially visible facility unless it is an existing collocated facility situated on a multiple user site.” The Article II definition of “substantially visible” is included below:

A facility is considered to be substantially visible if any portion of the facility stands out as a conspicuous feature of the landscape or breaks the skyline when viewed with the naked eye.

The facility is consistent with this development standard because the proposed antenna and associated equipment will not be substantially visible from surrounding public viewing areas. The proposed facility will not be a conspicuous feature of the landscape as proposed on the existing pole. The pole already has a crossarm, streetlight, and utility wires. The proposed facility will be small in size (2.3 cubic feet in volume) and will be painted to match the existing wood pole. The facility will not break the skyline, as it is located on an existing pole located adjacent to a windrow of existing trees, and the facility will not increase the height of the pole.

Appeal Issue 5:

The Appellant claims that the project is inconsistent with an ordinance requirement prohibiting antennas from protruding more than two feet horizontally. They also claim that the CEQA exemption does not apply because CEQA only allows exemptions for “limited numbers of new, small facilities”, and states that this is now the third small facility in less than 250 feet.

Issue 5 Staff Response

The Appellant is referencing a section of Article II that does not apply to the project and there is no requirement for the antenna to protrude less than two feet horizontally. Article II Section 35-144F.C.2.a.10 states that façade-mounted antennas shall not protrude more than two feet horizontally from the façade, however, this is not a façade-mounted antenna.

The CEQA exemption applies because each application for a telecommunications facility is analyzed for compliance with applicable ordinance, policy, and FCC regulations. In this case, the proposed facility is less than 2.3 cubic feet in volume and will blend in with the existing environment. Similar development in the vicinity that is developed over time in conformance with these regulations will not result in a cumulatively significant impact under CEQA.

Appeal Issue 6:

The Appellant states that the project is inconsistent with an Article II section requiring a facility in a residential zone to prove that the area proposed to be served would not otherwise be served by the carrier. Additionally, the Appellant states that if the Applicant claims they have a significant gap in a specific area, planners have authority to request proof. The Appellant also asserts that the ordinance states the Director shall establish and maintain a list of information that must accompany every application for installation of a telecommunications facility, including lists of other nearby telecommunication facilities.

Issue 6 Staff Response

The proposed project is consistent with all applicable sections of Article II. Article II does not require an Applicant to demonstrate that the area proposed to be served would not otherwise be served by the carrier.

Article II Section 35-144F.H states that the Director shall establish and maintain a list of information that must accompany every application for the installation of a telecommunication facility. Said information *may* include completed supplemental project information forms, cross-sectional area calculations, service area maps, network maps, alternative site analysis, visual analysis and impact demonstrations including mock-ups and/or photo-simulations, RF exposure studies, title reports identifying legal access, security programs, and lists of other nearby telecommunication facilities. The *required* list of information for telecommunication facilities provided in the application consists of a plan set, title report, photo simulations, radio frequency report, alternative site analysis map and report, existing and proposed wireless coverage maps, and proof of legal access. Therefore, all required application materials were provided with the initial submittal, and the submitted application materials demonstrated compliance with all Article II requirements for telecommunication facilities.

Fiscal and Facilities Impacts:

Budgeted: Yes

Total costs for processing the appeal are approximately \$9,870.00 (35 hours of staff time). The costs for processing appeals are partially offset by a General Fund subsidy in Planning and Development's adopted budget. Funding for processing this appeal is budgeted in the Planning and Development Department's Permitting Budget Program, as shown on page D-313 of the County of Santa Barbara Fiscal Year (FY) 2023-2024 Adopted Budget.

Special Instructions:

The Clerk of the Board shall publish a legal notice in *The Santa Barbara Independent* at least 10 days prior to the hearing of March 5, 2024. The Clerk of the Board shall also fulfill mailed noticing requirements. The Clerk of the Board shall forward the minute order of the hearing as well as a copy of the notice and proof of publication to the Planning and Development Department, Hearing Support, Attention: Willow Brown.

Attachments:

1. Findings for Approval
2. Conditions of Approval
3. CEQA Exemption
4. Appeal Application
5. Planning Commission Staff Report

Authored by:

Willow Brown, Planner, (805) 568-2040
Development Review Division, Planning and Development Department