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CALIFORNIA
COASTAL COMMISSION

Appeal to the
California Coastal Commission

Opposition to
Application 141196

105 Alta Drive, La Selva Beach, CA

APN: 046-021-05

Response To California Coastal Commission Staff Report

California Coastal Commission Meeting

Wednesday, August 10, 2016

Agenda Item # 16 f

Appeal No. A-3-SCO-16-0069 (Verizon Wireless, Santa Cruz County)

Keith and Cheryl Otto

234 Altivo Avenue

La Selva Beach, CA 95076

and the

Coalition to Preserve Scenic La Selva

August 4, 2016

Response To California Coastal Commission Staff Report

Summary:

This project places the largest type of wireless communication facility (WCF), a macro cell tower, within a 'Prohibited' (the most restrictive and least desired) zone district. Santa Cruz County Code requires, among other things, that a robust and thorough alternatives analysis be done to justify such placement. Statements made in Verizon's alternatives analysis acknowledge their analysis is incomplete for such justification. The California Coastal Commission should take jurisdiction and review this application.

Details:

WCF Zone Districts

There are three levels of zone districts for wireless communication facility (WCF) placements. In order of most to least favorable, those districts are:

- Allowed or permitted (areas which are not restricted or prohibited - WCFs should be located in these areas)
- Restricted (not desired)
- Prohibited (least desired; WCFs should be placed in these areas only in the most rare of circumstances)

[reference: 13.10.661 (B) and (C)]

Subject Parcel

The subject parcel, APN 046-021-05, is zoned A-P (Agriculture with Agricultural Preserve Combining District). It was stated by County staff that the parcel was in an allowed or permitted area when the Zone Administrator approved the project on December 18, 2015. As noted in testimony in the subsequent appeal hearing to the Planning Commission, lands such as this, which are designated with the P (Preserve) combining district, are classified and treated as CA (Commerical Agriculture) [reference: 13.10.473]. CA lands are in the 'Prohibited' zone district [reference: 13.10.661 (B)(1)(d)].

Exception For WCF Placement In a Prohibited Area

A WCF can be placed in a Prohibited area, but only in the most rare of circumstances, and only with a Federal Telecommunications Act (FTA) Exception. A WCF may be sited in the prohibited areas only in situations where the applicant can prove that there are no potential alternatives [reference: 13.10.661

(B)(4)]. All potential alternatives need to be investigated before one can prove that there are no potential alternatives. This would include investigating:

- other Prohibited parcels (as one or more may be less intrusive to resources such as visual resources)
- Restricted parcels (as placement on these parcels is more desirable than on Prohibited parcels)
- Allowed or permitted parcels (as placement on these parcels is most desirable)

Verizon Alternatives Analysis Is Incomplete

The Verizon alternative analysis is incomplete since the report states the

Elimination of Prohibited and Restricted Base Zones

[reference: CCC Staff Report containing Verizon Alternatives Analysis - April 13, 2016]
[CCC Staff Report PDF page 43 of 330; AKA Exhibit 3, A-3-SCO-16-0069, Page 26 of 225]

The Verizon alternatives analysis was conducted prior to the Santa Cruz County Planning Commission determination that the subject parcel was in a prohibited zone district. That determination was reach and publically disclosed at the April 27, 2016 appeal hearing.

For an alternatives analysis to be considered in any way complete, robust, and thorough, it must include Prohibited and Restricted parcels in addition to allowed or permitted parcels. All possibilities must be considered.

Additional Notes On Specific Potential Alternatives

Clark Property

The Clark Property is zoned RA (Residential Agriculture), and as such is in a Restricted zone for WCF placement (this is a more preferred zone than a Prohibited zone). The property has been dismissed because of reported issues around grading, clearing, and road access. The County seems to support such claims based on a Verizon photo shared with the County. No one with environmental expertise from the County has visited the property. In fact, no one from the County has visited the parcel. The parcel owner contends there would not be issues around grading, clearing, or road access.

KOA Campground

The KOA Campground is zoned PR (Parks, Recreation and Open Space), and as such is in an allowed or permitted zone for WCF placement (this is the most preferred or desired zone). The KOA has stated interest in hosting a WCF.

The site is less than one mile from the proposed location. The Verizon alternatives analysis implies they would consider parcels at that distance:

Eliminating prohibited and restricted base zones removed large areas of the Significant Gap from further consideration, including all properties within one mile north and east of the Proposed Facility ...

[reference: CCC Staff Report containing Verizon Alternatives Analysis - April 13, 2016]
[CCC Staff Report PDF page 43 of 330; AKA Exhibit 3, A-3-SCO-16-0069, Page 26 of 225]

Verizon later stated the KOA is too far away. Yet their alternative analysis includes

3. Renaissance High School

which is directly adjacent to the KOA Campground, and only slightly closer to the subject parcel.

See also attached map page from Verizon alternatives analysis which shows these locations.

(The Renaissance site itself was dismissed as it is a K-12 school site.)

Burden To Investigate Alternatives

The burden to investigate alternatives falls on the applicant. The applicant must prove that there are no potential alternatives [reference: 13.10.661 (B)(4)].

Conclusion:

It does not appear that a complete, robust, good faith effort around the alternatives analysis has been conducted.

We respectfully request that the California Coastal Commission take jurisdiction and review this application.

The following aerial overlay map prepared using the County's Geographic Information Systems (GIS) shows an area of approximately 2.25 square miles that, while larger than Verizon Wireless's Significant Gap, demonstrates the limited base zones in the proposed service area that allow wireless facilities, shaded as follows:

- A-P – Agriculture Preserve (green)
- PR – Parks, Recreation and Open Space (dark green)
- PF – Public and Community Facilities (gray)
- C-1 – Neighborhood Commercial (red)
- VA – Visitor Accommodation (pink)

Base Zones Allowing Wireless Facilities



FROM :

Exhibit 3
A-3-SCO-16-0069
Page 27 of 225

W16f

Hardison, Laurie@Coastal

From: Graeven, Rainey@Coastal
Sent: Thursday, August 04, 2016 4:29 PM
To: Hardison, Laurie@Coastal; Chapman, Diana@Coastal
Subject: FW: Make Verizon Play by the Rules!

From: Tim Barringer [<mailto:tim.barringer@comcast.net>]
Sent: Thursday, August 04, 2016 4:29 PM
To: Graeven, Rainey@Coastal
Subject: Make Verizon Play by the Rules!

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(Verizon Wireless, Santa Cruz

County)

California Coastal Commission Meeting
Wednesday, August 10, 2016

I oppose this proposed Wireless Verizon project because Verizon is not following the covenants for the land on which this project is to be placed.

Timothy Barringer
216 Mar Monte Ave
La Selva Beach, CA

Ms Graven,

Hardison, Laurie@Coastal

From: Graeven, Rainey@Coastal
Sent: Thursday, August 04, 2016 5:04 PM
To: Hardison, Laurie@Coastal; Chapman, Diana@Coastal
Subject: FW: Proposed Verizon cell tower project

From: Lin Miles [mailto:linmiles8@gmail.com]
Sent: Thursday, August 04, 2016 4:18 PM
To: Graeven, Rainey@Coastal
Subject: Proposed Verizon cell tower project

Hello,

I am writing to voice my strong opposition to the proposed Verizon macro cell tower in La Selva Beach. My property at 230 Altivo Ave backs onto Elena Rd. and is one of the properties in unacceptably close proximity to the proposed Verizon cell tower. It is my belief that a 50 foot wireless facility is a commercial/industrial structure that does not belong in a residential area so close to nearby homes. I have resided in La Selva Beach since 1978 and like others, was drawn to the peaceful beauty and quiet character of this village. A project of this scope seems totally inconsistent aesthetically and out of character for our small residential community.

Now that realtors must disclose proximity to a cell tower as an adverse condition, property values can be diminished from 2-20% according to some studies. This is an especially daunting prospect for those of us for whom our home is our single greatest financial asset. And decreased property values means decreased tax revenue to the county as well.

Antenna search shows that there are 16 cell towers and 54 antennas currently within 4 miles of my home so it is not the case that coverage doesn't already exist in this area. Additionally, these huge towers present public safety concerns as well. They have the potential of attracting crime, creating a noise nuisance, and most significantly, present fire and fall hazards. There are numerous cases of antennas snapping and creating severe fires. Equally numerous are instances of tower collapse due to construction error, wind, aircraft, or anchor failure:
<http://www.electronicssilent.spring.com/primers/cell-towers-cell-phones/cell-tower-fires-collapsing/>

Considering all of these factors, such a nearby communications facility would present a nuisance which will adversely affect the quiet enjoyment of my property to which I'm entitled as a home owner. Thank you in advance for your careful attention and due diligence in this matter with high hopes that you will consider an alternative site that is more acceptable to the community. From the meetings I have attended, it is clear that such alternatives exist.

Sincerely,
Lesli Min

Hardison, Laurie@Coastal

From: Graeven, Rainey@Coastal
Sent: Thursday, August 04, 2016 3:30 PM
To: Chapman, Diana@Coastal; Hardison, Laurie@Coastal
Subject: FW: Oppose Verizon Tower Site...August 10 CC Meeting....Letter and Photo
Attachments: IMG_1290 (3).JPG

From: drbruceclark [mailto:drbruceclark@aol.com]
Sent: Thursday, August 04, 2016 2:05 PM
To: Graeven, Rainey@Coastal
Subject: Oppose Verizon Tower Site...August 10 CC Meeting....Letter and Photo

RE: Appeal No. A-3-SCO-16-0069 (Verizon Wireless, Santa Cruz County)

Bruce Clark
550 Watertank Rd
La Selva Beach, CA 94506

My wife Emily and I own and live on a 16 acre property that borders the Delucchi property and proposed Verizon tower site. We are 100% in support of a new cell tower but strongly oppose this site. We believe there are several vastly more suitable, and less legally restricted, sites available. We oppose this site for the following reasons:

1. Despite what will be represented by SCC Planning and Verizon, due diligence to find a more appropriate site has not been done. The current proposed site is on a "prohibited" parcel and there is no sound reason why it should be granted a waiver until other sites have truly been explored.
2. Additional suitable sites were submitted to Planning over a several week period and they did not even visit the sites before determining their unsuitability which was based on errant information that they refused to revise. None of these other sites were on "prohibited" parcels.
3. The proposed tower will dominate and significantly diminish the view from our home. We cherish and highly value a beautiful view of the ocean and surrounding landscape from several rooms in our home. The proposed tower will be highly visible from all of them. **I have attached a photo of the "mock up" Verizon provided. You will see that even the boom used in the mock up is highly visible and it is only a few inches wide. The proposed faux watertank will be many feet wide.**
4. Despite what Verizon represents, the faux 50 foot faux tank tower will be visible from many public roads and locations including a half mile of San Andreas Road, a half mile of Watertank Road, and several other residential roads adjacent to the Delucchi parcel. On the other sites submitted the tower would be visible to essentially no one.

Given the level of displeasure voiced by dozens of La Selva residents and the availability and suitability of other sites vs. this precedent setting site in a fully "prohibited" zoning designation, I

strongly urge the Coastal Commission to intervene on the behalf of the Coalition to Preserve Scenic La Selva.

Thank you very much for your attention to this important request.

PS. See attached photo of mock-up as viewed from our living room window.

Bruce Clark, DPH
M 925.285.4083
V 831.768.8804
E drbruceclark@aol.com



Hardison, Laurie@Coastal

From: Graeven, Rainey@Coastal
Sent: Thursday, August 04, 2016 3:30 PM
To: Chapman, Diana@Coastal; Hardison, Laurie@Coastal
Subject: FW: Verizon celll tower in La Selva

From: Freddy Menge [<mailto:freddymenge@gmail.com>]
Sent: Thursday, August 04, 2016 3:27 PM
To: Graeven, Rainey@Coastal
Subject: Verizon celll tower in La Selva

Meeting

California Coastal Commission

Wednesday, August 10, 2016
Agenda Item # 16 f

Appeal No. A-3-SCO-16-0069 (Verizon Wireless, Santa Cruz

County)

Mr. Rainey,

I would, as a resident of the community of La Selva Beach, like to voice my opposition to the placement of a cell tower in a site that impacts our community. To be as brief as possible, let me condense my objections into the following series of points:

-The proposed site is too close to our community.

-The proposed site is in a prohibited zone (A-P zoning).

Burden of proof, that alternative sites don't exist, has not been met.

-Access easement (1800 feet long, expanding from 10' existing to 15' proposed) will either eat into protected farmland, or require a special variance permitting a fire road narrower (12' is the minimum for a single family residence, of which there at least one within the building envelop of the proposed tower, electrical boxes, generators, and fuel tanks) than any other development would be allowed; isn't this selective enforcement of fire codes?

-If the intent is to allow Verizon's project to eat into protected (A-P zoning) farmland, Why not admit that and situate the project farther from houses and people? Take the 1600 square foot chunk from a less sensitive area of the farmland. Even widening the access to a minimum of 12' would mean 3600 square feet of protected farmland intruded upon, better to take the smaller amount and do it in a way that the community supports (if in fact it is shown there is no other sites available).

Freddy Menge
173 Alta drive, La Selva,
CA

From: Brigit Lencioni [<mailto:brigitlencioni@me.com>]

Sent: Thursday, August 04, 2016 7:22 AM

To: Graeven, Rainey@Coastal

Subject: For todays Coastal Commission Meeting

California Coastal Commission Meeting

Wednesday, August 10, 2016

Agenda Item # 16 f

Appeal No. A-3-SCO-16-0069 (Verizon Wireless, Santa Cruz County)

We wholeheartedly oppose the projected cell tower and and sincerely hope another solution, one that works better for our entire community, can be found.

Brigit Lencioni
La Selva resident

Hardison, Laurie@Coastal

From: Graeven, Rainey@Coastal
Sent: Thursday, August 04, 2016 12:10 PM
To: Chapman, Diana@Coastal; Hardison, Laurie@Coastal
Subject: FW: Proposed LSB Verizon Macro Cell Tower

From: Hendrika Sheldon [<mailto:hshappyacres@gmail.com>]
Sent: Thursday, August 04, 2016 8:49 AM
To: Graeven, Rainey@Coastal
Subject: Proposed LSB Verizon Macro Cell Tower

Dear Rainey Graeven, My name is Hendrika Sheldon, I appose the project and are hopeful for another solution that works better for the community. Sincerely Hendrika sheldon

Hardison, Laurie@Coastal

From: Graeven, Rainey@Coastal
Sent: Thursday, August 04, 2016 12:10 PM
To: Chapman, Diana@Coastal; Hardison, Laurie@Coastal
Subject: FW: Appeal Verizon Wireless, Santa Cruz County A-3-SCO-16-0069

From: David Date [<mailto:david.p.date@gmail.com>]
Sent: Thursday, August 04, 2016 9:57 AM
To: Graeven, Rainey@Coastal
Subject: Appeal Verizon Wireless, Santa Cruz County A-3-SCO-16-0069

Hello,

My name is David Date and I am the Development Director of the La Selva Beach Board and represent nearly 1700 residents in our community. I was first made aware of this development in October when I stopped to see a public notice sign which was placed in an inconspicuous location, across the street from the parcel, and nearly a mile away from the address on application. There was massive confusion as to the location, size and proximity of the tower to peoples homes, and I set out to try to correct these shortcomings.

Not a single person of 70 notified knew of the towers location or proximity to their homes. Adding to the confusion is that the Project Planner Frank Barron had exempted the use of Mock-up displays without submitting a written finding that such a display would not better serve public notification.

Fast forward 6 months, and this case has materialized into something completely different. The Delucchi Agricultural Preserve was identified as a 'Permitted' parcel in their Search ring. In their alternatives analysis they describe eliminating 'Restricted' and 'Prohibited' parcels from their search ring prior to identifying their current parcel. It is now understood that the parcel in question is not Permitted, it is Prohibited, and it is impossible for Verizon to demonstrate that they have identified the least obtrusive option.

This development has turned into an utter embarrassment for Verizon and the County and we are asking that Coastal Commission take jurisdiction so that we can present the substantive elements in this case.

Thank you for your consideration,

David Date

LSBIA Development Director

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
PHONE: (831) 427-4863
FAX: (831) 427-4877
WEB: WWW.COASTAL.CA.GOV



W16f

Appeal Filed: 7/15/2016
49th Day: 9/2/2016
Staff: Rainey Graeven - SC
Staff Report: 7/29/2016
Hearing Date: 8/10/2016

APPEAL STAFF REPORT: SUBSTANTIAL ISSUE DETERMINATION ONLY

Appeal Number: A-3-SCO-16-0069

Applicants: Complete Wireless Consulting (for Verizon Wireless)

Appellant: Coalition to Preserve Scenic La Selva

Local Government: Santa Cruz County

Local Decision: Santa Cruz County coastal development permit number 141196 approved by the Santa Cruz County Planning Commission on April 27, 2016.

Location: On a 160.33-acre Agricultural Preserve (A-P) zoned parcel at 105 Alta Drive in unincorporated La Selva Beach in southern Santa Cruz County (APN 046-021-05).

Project Description: Construction of a 48-foot-tall Verizon wireless communications facility camouflaged as an agricultural water tank tower, including nine panel antennas enclosed within the "tank," and two equipment shelter cabinets and an emergency generator located within a fenced 40' x 40' leased area.

Staff Recommendation: No Substantial Issue

Important Hearing Procedure Note: This is a substantial issue only hearing. Testimony will be taken only on the question of whether the appeal raises a substantial issue. (*See generally* Title

14 California Code of Regulations (hereinafter, “CCR”) Section 13115.) Generally and at the discretion of the Chair, testimony is limited to three minutes total per side. Please plan your testimony accordingly. Only the Applicant, persons who opposed the application before the local government (or their representatives), and the local government shall be qualified to testify. (*Id.* Section 13117.) Others may submit comments in writing. (*Id.*) If the Commission determines that the appeal does raise a substantial issue, the de novo phase of the hearing will occur at a future Commission meeting, during which the Commission will take public testimony. (*Id.* Section 13115(b).)

SUMMARY OF STAFF RECOMMENDATION

Santa Cruz County approved a coastal development permit (CDP) to construct a new 48-foot-tall Verizon wireless communications facility (WCF) located within a fenced 40’ x 40’ leased area at 105 Alta Drive in La Selva Beach in southern Santa Cruz County. The WCF is camouflaged as an agricultural water tank tower, and includes nine panel antennas located within the “tank,” two equipment shelter cabinets, and an emergency generator.

The Appellant contends that the approved project is inconsistent with Santa Cruz County Local Coastal Program (LCP) policies related to zoning designation consistency, public views, and community character. After reviewing the local record, Commission staff has concluded that the approved project does not raise a substantial issue with respect to the project’s conformance with the Santa Cruz County LCP. Specifically, the project has been sited and designed to minimize any impact to agricultural land. Furthermore, in terms of public views and community character, the approved project does not raise substantial LCP consistency issues because it does not block public views, will be minimally visible from select scenic roads, and is disguised as an agricultural water tower in order to blend in with the surrounding rural agricultural setting. Moreover, the project is located approximately one half mile inland of Manresa State Beach, further demonstrating that this project will not have adverse impacts to significant coastal resources, particularly public coastal views.

As a result, staff recommends that the Commission determine that the appeal contentions do not raise a substantial LCP conformance issue, and that the Commission decline to take jurisdiction over the CDP for this project. The single motion necessary to implement this recommendation is found on page 4 below.

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APPENDICES

Appendix A – Substantive File Documents

EXHIBITS

- Exhibit 1 – Project Site Map
- Exhibit 2 – Project Site Images and Photographic Simulations
- Exhibit 3 – County’s Final Local Action Notice
- Exhibit 4 – Appeal of Santa Cruz County’s CDP Decision
- Exhibit 5 – Applicant’s Response to the Appeal Contentions
- Exhibit 6 – Applicable LCP Policies and Standards

I. MOTION AND RESOLUTION

Staff recommends that the Commission determine that **no substantial issue** exists with respect to the grounds on which the appeal was filed. A finding of no substantial issue would mean that the Commission will not hear the application de novo and that the local action will become final and effective. To implement this recommendation, staff recommends a **YES** vote on the following motion. Passage of this motion will result in a finding of No Substantial Issue and the local action will become final and effective. The motion passes only by affirmative vote of a majority of the Commissioners present.

***Motion:** I move that the Commission determine that Appeal Number A-3-SCO-16-0069 raises no substantial issue with respect to the grounds on which the appeal has been filed under Section 30603. I recommend a yes vote.*

***Resolution to Find No Substantial Issue.** The Commission finds that Appeal Number A-3-SCO-16-0069 does not present a substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.*

II. FINDINGS AND DECLARATIONS

A. PROJECT DESCRIPTION AND LOCATION

The County-approved project is located on a 160.33-acre Agricultural Preserve (A-P) zoned parcel at 105 Alta Drive in the unincorporated La Selva Beach community in southern Santa Cruz County. The parcel is located along the eastern/southern boundary of the community of La Selva Beach, about half-a-mile inland of Manresa State Beach. Given the distance between the project site and the beach, and the fact that the project site is at a higher elevation than the beach, the project will not be visible from the beach. More specifically, the parcel extends from just inland of San Andreas Road to just seaward of Highway 1, a designated scenic road, and is surrounded by wooded vegetation on three sides, and agricultural land on the southeastern side. An extensive grove of trees bordering the parcel line is located distinguishes the parcel and the adjacent La Selva Beach neighborhood. The project will be located near the center of the parcel, directly adjacent to minor existing agricultural development, including barns and farmhouses.

The County-approved project allows for the construction of a new 48-foot-tall Verizon wireless communications facility (WCF), which will be disguised as an agricultural water tower. Nine panel antennas will be enclosed in a cylindrical “water tank” that is 10 feet tall and 12 feet wide. The “water tank” will be situated on top of a steel lattice tower that will be painted flat brown to match the tank. The project also includes two equipment cabinets that will be constructed on the ground at the base of the tower. The tower, equipment cabinets, and a stand-by diesel generator will be placed on top of a 6-foot by 13-foot concrete slab located within a 40-foot by 40-foot leased area on the parcel, which will be enclosed by a six-foot-high chain link fence.

See **Exhibit 1** for a location map; see **Exhibit 2** for photographs of the site and surrounding area, as well as photo-simulations of the proposed WCF; and see **Exhibit 3** for the approved project plans.

B. SANTA CRUZ COUNTY CDP APPROVAL

On December 14, 2015, the Santa Cruz County Zoning Administrator considered the proposed application, heard public testimony, then continued the hearing to December 18, 2015 to allow for additional corrected noticing¹ and installation of a “mock-up” of the proposed WCF. The Zoning Administrator approved the application at the December 18, 2015 hearing after taking extensive public testimony. That approval was then appealed to the Santa Cruz County Planning Commission by the Coalition to Preserve Scenic La Selva (“Coalition”). At a public hearing on February 24, 2016, the Planning Commission considered the staff report, heard public testimony, and voted to continue the item to allow the Applicant to evaluate an alternative site on the subject parcel that would place the proposed WCF approximately 200 feet farther away from the nearest row of houses than the originally proposed location (for a total of approximately 700 feet). An additional staff report was prepared for the April 27, 2016 Planning Commission hearing, which described and evaluated the proposed new location and included a revised alternatives analysis. The Planning Commission approved a CDP for the revised project at the April 27, 2016 hearing. The Coalition appealed that decision to the Santa Cruz County Board of Supervisors. However, at a June 28, 2016 hearing, the Board of Supervisors declined to take jurisdiction over the project, which resulted in the Planning Commission’s April 27, 2016 decision becoming final.

The Coastal Commission’s Central Coast District Office received a legally sufficient Final Local Action Notice from the County on Thursday, June 30, 2016 (see **Exhibit 3**). The Coastal Commission’s ten-working-day appeal period for this action began on Friday, July 1, 2016 and concluded at 5 p.m. on Friday July 15, 2016. One valid appeal (see below) was received during the appeal period.

C. APPEAL PROCEDURES

Coastal Act Section 30603 provides for the appeal to the Coastal Commission of certain CDP decisions in jurisdictions with certified LCPs. The following categories of local CDP decisions are appealable: (a) approval of CDPs for development that is located (1) between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance, (2) on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff, and (3) in a sensitive coastal resource area; or (b) for counties, approval of CDPs for development that is not designated as the principal permitted use under the LCP. (*See* Coastal Act Section 30603(a)(1)-(4).) In addition, any local action (approval or denial) on a CDP for a major public works project (including a publicly financed recreational facility and/or a special district development) or an energy facility is appealable to the Commission. (*Id.* Section 30603(a)(5).) This project is

¹The County’s original notice for the project had mistakenly stated that the project was not appealable to the Coastal Commission.

appealable because a WCF is not designated as a principally permitted use in the A-P zone district.

The grounds for appeal under Section 30603 of the Coastal Act are limited to allegations that the development does not conform to the certified LCP or to the public access policies of the Coastal Act. Section 30625(b) of the Coastal Act requires the Commission to consider a CDP for an appealed project de novo unless a majority of the Commission finds that “no substantial issue” is raised by such allegations.² Under Section 30604(b) of the Coastal Act, if the Commission conducts the de novo portion of an appeals hearing and ultimately approves a CDP for a project, the Commission must find that the proposed development is in conformity with the certified LCP. If a CDP is approved for a project that is located between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone, Section 30604(c) of the Coastal Act also requires an additional specific finding that the development is in conformity with the public access and recreation policies of Chapter 3 of the Coastal Act. This project is not located between the nearest public road and the sea and thus this additional finding would not need to be made if the Commission were to approve the project following a de novo hearing.

The only persons qualified to testify before the Commission on the substantial issue question are the Applicant, persons who opposed the project before the local government (or their representatives), and the local government. (Title 14 CCR Section 13117.) Testimony from other persons regarding the substantial issue question must be submitted in writing. (*Id.*) Any person may testify during the de novo CDP determination stage of an appeal (if applicable).

D. SUMMARY OF APPEAL CONTENTIONS

The Appellant contends that the County-approved project raises LCP consistency questions relating to consistency with the Agricultural Preserve zoning designation and protection of visual resources. Specifically, the Appellant contends that the approved project would violate applicable LCP policies because: 1) WCFs are prohibited on land zoned A-P (Agricultural Preserve); 2) the requirements of a Federal Telecommunications Act (FTA) Exception were not satisfied; 3) the County’s findings to allow a WCF in a Prohibited Area, including the alternatives analysis, were insufficient; 4) the proposed height of the structure is inconsistent with the LCP’s height limits; 5) the project is inconsistent with the LCP’s protection of visual resources; and 6) the project is inconsistent with the LCP’s community design standards. Please see **Exhibit 5** for the complete filed appeal.

² The term “substantial issue” is not defined in the Coastal Act or in its implementing regulations. In previous decisions on appeals, the Commission has generally been guided by the following factors in making substantial issue determinations: the degree of factual and legal support for the local government’s decision; the extent and scope of the development as approved or denied by the local government; the significance of the coastal resources affected by the decision; the precedential value of the local government’s decision for future interpretations of its LCP; and, whether the appeal raises only local issues as opposed to those of regional or statewide significance. Even when the Commission chooses not to hear an appeal (by finding no substantial issue), appellants nevertheless may obtain judicial review of a local government’s CDP decision by filing a petition for a writ of mandate pursuant to the Code of Civil Procedure, Section 1094.5.

E. SUBSTANTIAL ISSUE DETERMINATION

Agricultural Preserve (A-P) Zoning Designation

The County's LCP is highly protective of agricultural land, including ensuring that it is maintained in perpetuity and that all development on agricultural land does not adversely impact agriculture and agricultural production (e.g.: aesthetically, economically, etc.).

The Appellant contends that the County-approved WCF is generally inconsistent with Implementation Plan (IP) Sections 13.10.660 through 13.10.668 and specifically with respect to Land Use Plan (LUP) policies 5.13, 5.13.6, and 5.13.7, which protect agricultural land and prohibit development and uses that would adversely impact agriculture (see **Exhibit 6** for these policies and standards). These contentions largely center around the claim that: 1) WCFs are prohibited on land zoned CA (Commercial Agriculture)/ A-P (Agricultural Preserve); and 2) the requirements of an FTA Exception were not satisfied because the necessary findings to allow a WCF in a Prohibited Area were insufficient.

In order to adequately analyze the Appellant's contentions, it is important to first explain the local process and the context within which these contentions are made, including with respect to applicable LCP policies. The County's Wireless Ordinance, which is part of the County's certified LCP, is structured to have three basic layers within which different levels of WCF review and criteria apply. Within particularly sensitive areas of the County (such as between the first public road and the shoreline, in certain residential and agricultural zoning districts, and school grounds), WCFs are generally prohibited. Within other sensitive areas of the County (e.g.: specifically identified zoning districts), WCFs are subject to strict standards, including restrictions on siting and design. In all other non-prohibited and non-restricted areas, WCFs are allowed subject to specific application, siting and design criteria. Further, special siting, design, and alternative analysis criteria apply to WCFs proposed within a designated scenic area.

The County-approved WCF is located in an A-P zoned parcel. The Zoning Administrator had initially determined that the A-P zoning district was not a "Prohibited Area" for WCFs. However, following extensive public testimony before the Zoning Administrator and the Planning Commission regarding the proposed project, and after further review of the County's Wireless Ordinance, the Planning Commission ultimately determined that WCFs are prohibited on A-P zoned parcels³, therefore subjecting the project to an FTA Exception (pursuant to IP Section 13.10.668) in order to approve a WCF at the site. Specifically, in order to grant a FTA Exception (IP Section 13.10.668) the applicant is required to prove that the application of IP Sections 13.10.660 through 13.10.668 with respect to a prohibition of WCFs "would be in violation of the Federal Telecommunications Act and that no alternatives exist which would render the approval of a Telecommunications Act exception unnecessary."⁴

³ IP Section 13.10.473 notes that lands with the "P Combining District shall also be classified in the CA District and shall be subject to the regulations of that district." As such, because the parcel is subject to the zoning regulations of CA (Commercial Agriculture), and WCFs are a prohibited use in CA designated land, WCFs are therefore a prohibited use on A-P zoned land absent a Federal FTA Exception.

⁴ The required analysis is set forth in IP Sections 13.10.661(B)(4) and 13.10.314(A)(1-4) (see **Exhibit 7** for the full text of these IP Sections). IP Section 13.10.661(B)(4) states that ... "Non-co-located wireless communication

In this case, and as required by the LCP, the Applicant prepared an alternatives analysis for the project that included nine project alternatives. The alternatives analysis concluded that the proposed project/ project site was the “least intrusive” (i.e.: it would minimize adverse impacts to agricultural, visual, and environmental resources, while still providing the necessary coverage objectives). The project site was selected as the “least intrusive” alternative because: 1) the WCF mimicked the appearance of an agricultural water tower; 2) it would be located adjacent to existing agricultural buildings, which would conceal the equipment area from view of most public vantage points; 3) there is a row of existing trees ranging from 30 to 40 feet tall east of the facility that would provide a backdrop to further help the facility blend into its surroundings; 4) the proposed facility would blend in with forested hills (as seen from the nearest public road (i.e.: San Andreas Road); and 5) it would be located over 700 feet from the nearest residential property line, exceeding setback criteria. However, as discussed above, during the first appeal hearing the Planning Commission determined that WCFs located on A-P zoned parcels require an FTA Exception pursuant to IP Section 13.10.668. This determination meant that the Applicant would need to provide additional evidence that denial of the application would violate the FTA by demonstrating that 1) there was a significant gap in coverage and 2) the project was the least intrusive means of filling that gap.

In accordance with these requirements, the Applicant prepared an engineer’s “Statement of Coverage Gap” and a revised coverage map, which both demonstrated a significant gap in coverage in this area. The Applicant also prepared a revised alternatives analysis that thoroughly evaluated nine project alternatives (see pages 22-40 of **Exhibit 3** for the revised alternatives analysis and page 91 of **Exhibit 3** for the Coverage Maps). Eight of the potential alternatives were rejected for a variety of reasons including: not meeting required residential setbacks; increased undesirable height of the WCF in order to meet coverage objectives; conversion/loss of agricultural land; and potential adverse impacts to environmentally sensitive habitat area (ESHA) and known endangered species. Ultimately, the County approved the alternative with the fewest impacts, resulting in a project located approximately 200 feet farther away from the nearest row of houses than the originally proposed location that was approximately 500 feet away from these houses, and clustered with existing farm development on the site.

County staff also found the project to be consistent with the Required Special Findings for CA and AP discretionary uses (see IP Sections 13.10.314(A)(1, 2, 4)), noting that the WCF would not restrict or adversely impact agriculture due to its placement on the 160.33 acre parcel. In this case, the WCF would be located adjacent to existing development on land that is not in agricultural production, or planned for agricultural production, because of its close proximity to the existing development. As a result, there will be no loss of any productive agricultural land. In addition, contrary to the Appellant’s contention that that the WCF will not “enhance or support the continued operation of commercial agriculture,” the placement of the WCF onsite will

facilities may be sited in the prohibited areas listed above only in situations where the applicant can prove that: a) that the proposed WCF would eliminate or substantially reduce one or more significant gaps in the applicant carrier’s network; and b) that there are no viable, technically feasible, and environmentally (e.g., visually) equivalent or superior potential alternatives (i.e., sites and/or facility types and/or designs) outside the prohibited areas identified in subsection (B) of this section that could eliminate or substantially reduce said significant gap(s).”

provide additional revenue for the property owner, thereby increasing the owner's income which could help facilitate the continued operation of commercial agriculture by enabling the owner to use the additional income for farm-related purposes.

In summary, the County thoroughly reviewed the project for consistency with the LCP's agricultural protection and wireless facilities policies and standards, including through extensive alternatives analyses and findings that the facility will not impair agricultural resources. Although the proposed WCF will be located on A-P zoned land, which is within an LCP "Prohibited Area" for WCFs, the Applicant provided sufficient evidence to qualify for an FTA Exception, i.e. the Applicant provided evidence of a "significant gap" in service, examined alternative sites, and ultimately selected the "least intrusive" alternative (the alternative that would amount in the least adverse environmental, visual, and agricultural impacts). Therefore, the Commission finds that the appeal contentions 1) through 3) regarding the County-approved project do not constitute substantial issues.

Visual Resources/ Community Character

The Appellant contends that the approved WCF raises LCP consistency questions relating to protection of visual resources because the project: 1) is located in a mapped scenic resource area within view of the ocean; 2) will be visible from a handful of locations including scenic roads; and 3) exceeds the maximum height allowed for agricultural structures within both Commercial Agriculture (CA) and A-P zoning designations. The Appellant also raises issues regarding neighborhood/ community compatibility with respect to the approved project's general visual obtrusiveness.

The Santa Cruz County LCP is highly protective of coastal zone visual resources, particularly in regards to views from public roads, agricultural vistas, and in rural scenic areas. LUP Objective 5.10a seeks to identify, protect and restore the aesthetic values of visual resources and LUP Policies 5.10.3 and 5.10.6 require protection and preservation of public and ocean vistas, respectively. See **Exhibit 6** for the LCP's applicable visual protection policies.

As mentioned above, the County-approved project will be located in La Selva Beach in Santa Cruz County off San Andreas Road, which is located within an LCP-mapped scenic area. As noted above, the parcel is located inland of the first public road (San Andreas Road) and thus will not have any direct impacts to ocean views from the road. In addition, the parcel is surrounded by wooded vegetation on three sides, which will help screen the WCF from public viewpoints located on the other side of this wooded vegetation. Furthermore, the WCF will be located in the central part of the 106.33-acre parcel, approximately 0.75 miles seaward of Highway 1, a designated scenic road, and approximately 0.5 miles inland of Manresa State Beach. The WCF's distance from both Manresa State Beach and Highway 1 demonstrates that this project will not significantly impact the coastal viewshed in this area, both in terms of views from the beach and the designated scenic road. As shown in the visual simulations in Exhibit 2, which show simulated views of the proposed project from Highway 1, San Andreas Road and a private residence, the project will either not be visible or will be barely visible from these scenic roads/areas. Moreover, the location of the approved project is situated adjacent to existing agricultural development (i.e.: barns, farm houses, etc.), and will be camouflaged as an

agricultural water tower, further minimizing visual impacts and ensuring that the WCF will blend into the rural agricultural setting in this area.⁵

With respect to the height issue, the Appellant asserts that the 48-foot height of the WCF exceeds the maximum allowed 40-foot-height limit for structures in both the A-P and CA zoning districts. The Appellant also contends that IP Section 13.10.663 (see **Exhibit 6**) requires that WCFs that exceed the allowed height for structures in the applicable zone district to be subject to a variance approval, which was not done in this case.

Specifically, IP Section 13.10.663(B)(6) requires that “[a]ll towers shall be designed to be the shortest height possible so as to minimize visual impact” and that “[A]ny applications for towers of a height more than the allowed height for structures in the zoning district must include a written justification proving the need for a tower of that height and the absence of viable alternatives that would have less visual impact, and shall, in addition to any other required findings and/or requirements, require a variance approval pursuant to SCCC 13.10.230.” In this case, the maximum height standard for the A-P zoning district is 40 feet for accessory structures. Therefore, a variance approval is required.

However, the County determined that the height exception provision set forth in IP Section 13.10.510(D)(2) (Exhibit 7) allows WCFs to exceed maximum allowable zone district heights by 25 feet up to a total height of 50 feet, and that IP Section 13.10.510(D)(2) supersedes what is understood as the established height limits established for each zone district.

The Commission does not find that the height exception standard cited by the County is (or was intended to be) applicable to commercial WCFs, but instead was intended for more ancillary structures such as chimneys, cooling towers or elevator shafts that are placed above the roof height of a structure. The term WCF (or cell tower) is found nowhere in IP Section 13.10.510(D)(2). For this reason, the Commission also finds that the County should have processed a variance to allow the WCF’s height to exceed 40 feet in the A-P zoning district. That being said, the Applicant has made significant steps to minimize the project’s visual impacts including by: 1) completing a thorough alternatives analysis; 2) moving the WCF from its originally proposed location, which would have required a 70-foot-tall WCF in order to achieve the same coverage objectives; 3) clustering the WCF with existing agricultural development on the site; and 4) changing the look of the structure from a 55-foot-tall faux pine tree to a 48-foot-tall agricultural water tower to better harmonize with the rural agricultural setting. As such, the Commission finds that, although the project presents an issue with LCP conformance in that the County should have processed a variance for the approved height of the structure, given that the additional height is limited to eight feet over what is allowed in the A-P zoning district and the applicant’s proposal to minimize the project’s visual impacts as noted above, the Appellant’s contention does not, *in this particular case*, rise to the level of a *substantial* LCP-conformance issue.

⁵ The Appellant also makes contentions about the approved project’s visual impacts to the residences in a nearby neighborhood, but the LCP protects public views, not private views.

In summary, although the proposed structure will exceed the applicable zoning district's maximum height limit and the technical requirement to obtain a variance approval was not done in this case, the project will be minimally visible from designated scenic roads, and the Applicant has adequately mitigated for any visual impacts from the scenic roads. For all of the above reasons, the approved project does not raise a substantial issue of LCP conformance with respect to visual resources.

F. CONCLUSION

When considering a project that has been appealed to it, the Commission must first determine whether the project raises a substantial issue of LCP conformity, such that the Commission should assert jurisdiction over a de novo CDP for such development. At this stage, the Commission has the discretion to find that the project does not raise a substantial issue of LCP conformance. As explained above in footnote 2, the Commission is guided in its decision of whether the issues raised in a given case are "substantial" by the following five factors: the degree of factual and legal support for the local government's decision; the extent and scope of the development as approved or denied by the County; the significance of the coastal resources affected by the decision; the precedential value of the County's decision for future interpretations of its LCP; and, whether the appeal raises only local issues as opposed to those of regional or statewide significance.

In this case, these five factors, considered together, support a conclusion that this project does not raise a substantial issue of LCP conformance. Although the County-approved project is located within a prohibited zone district (A-P/ CA), the Applicant adequately demonstrated the need for a Federal TCA Exception and fulfilled the LCP's requirements to place the WCF within a prohibited zone district. The necessary requirements and findings were fulfilled via the Applicant's demonstration of the "significant gap" and the completion of a thorough alternatives analysis, culminating in the selection of a project site that minimized adverse impacts. The project has been sited and designed to minimize adverse visual impacts through camouflaging and site relocation. By disguising the WCF as a water tower, it will better blend in with the surrounding rural and agricultural community. Moreover, the overall height of the WCF has been reduced from its originally proposed height of 70 feet to 48 feet. In terms of zoning code consistency, while the project height does exceed the zone's 40 foot maximum height and the County did not process a variance approval as required, the proposed project is visually congruent with the surrounding area, and will not adversely impact significant coastal resources. For these reasons, including because the Commission has made it clear that a variance approval is necessary for future applications in which a WCF is proposed to exceed the zoning district's height standard, a finding of no substantial issue will not create an adverse precedent for future interpretation of the LCP. Finally, the project does not raise issues of regional or statewide significance.

For the reasons stated above, the Commission finds that Appeal Number A-3-SCO-16-0069 does not present a substantial issue with respect to the grounds on which the appeal has been filed under Section 30603 of the Coastal Act and is consistent with the certified LCP and the public access policies of the Coastal Act.

APPENDIX A: SUBSTANTIVE FILE DOCUMENTS

Statement in Support of Verizon Wireless's Proposed Telecommunications Facility, 105 Alta Drive, La Selva Beach by Stefano Iachella, Radio Frequency Design Engineer, April 2016.





Photosimulation of the view looking east from Elena Road, the nearest homes.

Aqua View

105 Alta Drive
Watsonville, CA 95076



Exhibit 2
A-3-SCO-16-0069
Page 1 of 4

Existing

Photosimulation of a telephoto zoom view from the nearest possible viewpoint along Hwy 1.

Aqua View

105 Alta Drive
Watsonville, CA 95076



Proposed

Proposed water tank

Exhibit 2
A-3-SCO-16-0069
Page 2 of 4



Existing

Photosimulation of the view looking north from San Andreas Road, the nearest public viewpoint.

Aqua View

105 Alta Drive
Watsonville, CA 95076



Proposed

Exhibit 2
A-3-SCO-16-0069
Page 3 of 4



Existing

Photosimulation of the view looking northeast from the private access road. Not a public viewpoint.

Aqua View

105 Alta Drive
Watsonville, CA 95076



Proposed

Exhibit 2
A-3-SCO-16-0069
Page 4 of 4

NOTICE OF FINAL LOCAL ACTION ON COASTAL PERMIT

County of Santa Cruz

Date of Notice: June 28, 2016

Notice Sent (via certified mail) to:

California Coastal Commission
Central Coast Area Office
725 Front Street, Ste. 300
Santa Cruz, CA 95060

FINAL LOCAL ACTION NOTICE

REFERENCE # 3-SCC-16-0640
APPEAL PERIOD 7/1/16 - 7/15/16

RECEIVED

JUN 30 2016

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Please note the following **Final Santa Cruz County Action** on a coastal permit, coastal permit amendment or coastal permit extension application (all local appeals have been exhausted for this matter):

Project Information

Application No.: 141196

Project Applicant: Complete Wireless Consulting (for Verizon)

Address: 2009 V St. Sacramento, CA 95818

Phone/E-mail: (916) 764-2454 / mellis@completewireless.net

Applicant's Representative: Michelle Ellis

Address: 2009 V St. Sacramento, CA 95818

Phone/E-mail: (916) 764-2454 / mellis@completewireless.net

Project Location: 105 Alta Drive, La Selva Beach, CA (APN: 046-021-05)

Project Description: Proposal to construct a new 48-ft. tall Verizon wireless communications facility (WCF), camouflaged as an agricultural water tank tower, including 9 panel antennas located within the "tank" and two equipment shelter cabinets and an emergency generator located within a fenced 40'x40' fenced lease area. Requires a Commercial Development Permit and a Coastal Development Permit. Project is proposed to be located on a 160.3-acre Agricultural Preserve (A-P) zoned parcel off San Andreas Rd. in La Selva Beach.

Final Action Information

Final Local Action: Approved with Conditions

Final Action Body:

- ☐ Administrative Approval
☐ Zoning Administrator

- ☒ Planning Commission
☐ Board of Supervisors

Required Materials Supporting the Final Action	Enclosed	Previously sent (date)
Staff Report	x	
Adopted Findings	x	
Adopted Conditions	x	
Site Plans	x	
Elevations	x	

Additional Materials Supporting the Final Action	Enclosed	Previously sent (date)
CEQA Document	x	
Geotechnical Reports	n/a	
Biotic Reports	n/a	
Other:		
Other:		

Coastal Commission Appeal Information

- ☐ This Final Action is Not Appealable to the California Coastal Commission, the Final County of Santa Cruz Action is now effective.
- ☒ This Final Action is appealable to the California Coastal Commission. The Coastal Commission's 10-working day appeal period begins the first working day after the Coastal Commission receives adequate notice of this Final Action. The Final Action is not effective until after the Coastal Commission's appeal period has expired and no appeal has been filed. Any such appeal must be made directly to the California Coastal Commission Central Coast Area Office in Santa Cruz; there is no fee for such an appeal. Should you have any questions regarding the Coastal Commission appeal period or process, please contact the Central Coast Area Office at the address listed above, or by phone at (831) 427-4863.

Copies of this notice have also been sent via first-class mail to:

- Applicant
- Interested parties who requested mailing of notice



County of Santa Cruz

Planning Department

701 Ocean Street, 4th Floor, Santa Cruz, CA 95060
 Phone: (831) 454-2580 Fax: (831) 454-2131 TDD: (831) 454-2123
 Kathleen Molloy Previsich, Planning Director

Meeting Date: June 28, 2016
Date: June 8, 2016
To: The Board of Supervisors
From: Kathy Previsich, Planning Director
Subject: Consider Taking Jurisdiction of Application 141196 (La Selva Beach Cell Tower)

Members of the Board:

This item is an appeal of an April 27, 2016 Planning Commission (PC) decision to approve a 48-foot tall Verizon wireless communication facility (WCF) disguised as an agricultural water tank tower on a 160.33-acre agricultural parcel in La Selva Beach (Application #141196 on APN 046-021-05). On May 11, 2016, the appellant ("Coalition to Preserve Scenic La Selva") appealed this approval to your Board. Per County Code Section 18.10.340, your Board must now determine whether to accept jurisdiction or allow the PC decision to stand.

In deciding whether to take jurisdiction of an appeal and grant further review, your Board must evaluate the information provided by an appellant and be convinced that:

1. There was an error or abuse of discretion on the part of the Planning Commission, Zoning Administrator, or other officer; and/or
2. There was a lack of a fair and impartial hearing; and/or
3. The decision appealed from is not supported by the facts presented and considered at the time the decision appealed from was made; and/or
4. There is significant new evidence relevant to the decision which could not have been presented at the time the decision appealed from was made; and/or
5. There is either error, abuse of discretion, or some other factor which renders the act done or determination made unjustified or inappropriate to the extent that a further hearing before the Board is necessary.

At the conclusion of this hearing, if your Board finds that the appellant has established sufficient grounds for the Board to take jurisdiction, your Board may grant a hearing limited to the record of the entire proceedings or decide to conduct the proceedings as if no other hearing had been held (i.e., "*de novo*"). If your Board does not find sufficient grounds to take jurisdiction, your Board should decline to schedule a hearing and the Planning Commission decision becomes final.

Background

At a public hearing on December 4, 2015, the Zoning Administrator (ZA) considered the proposed WCF application, and heard public testimony and decided to continue the hearing to December 18, 2015 to allow for additional corrected noticing and installation of a "mock-up" of the proposed WCF (the original mailed out notices had mistakenly said the project was not appealable to the Coastal Commission). At the conclusion of the continued public hearing on December 18, 2015, after considering extensive public testimony, the ZA approved Application 141196. That approval was subsequently appealed to the Planning Commission (PC) by the "Coalition to Preserve Scenic La Selva", represented by the law firm of Wittwer and Parkin.

At a public hearing on February 24, 2016, the PC considered a staff report (Attachment 2) that incorporated and responded to the appellant's letter of January 4, 2016 (Exhibit B of Attachment 1), and heard extensive public testimony. The February 24, 2016 PC hearing was continued to April 27, 2016 to allow the applicant to propose an alternative site on the subject parcel, placing the proposed cell tower some 200-feet further away from the nearest row of houses than the originally proposed location. An additional staff report was prepared for the April 27, 2016 continued hearing (Attachment 1), which described and evaluated the proposed new location, included a revised Alternatives Analysis (Exhibit A of Attachment 1) that examined and ruled out additional alternative project locations, and responded to a second appellant letter dated February 22, 2016 (Exhibit B of Attachment 2). After considering the new information and the new proposed location, and considering extensive public testimony, as well as testimony from the appellants and applicant, the Planning Commission on April 27, 2016 approved Application 141196 by a 3-2 vote, subject to slightly revised findings and conditions (see Attachment 3 for 4/27/16 PC hearing minutes).

This PC approval was subsequently appealed to your Board by the same neighborhood group ("Coalition to Preserve Scenic La Selva"), apparently no longer represented by the law firm Wittwer and Parkin, in an appeal letter dated on May 11, 2016 (Attachment 5).

Project Description

The application that is the subject of this appeal (App. No. 141196) is for a proposed 48-ft. tall Verizon wireless communications facility (WCF) cell tower disguised as an agricultural water tank tower. The project is proposed to include 9 panel antennas enclosed within the approximately 10-foot tall by approximately 12-foot diameter

cylindrical "tank" at the top of a metal lattice tower, and 2 ground-level equipment cabinets. The tower and equipment cabinets, along with an 8-foot tall stand-by diesel generator (on a 6-ft. by 13-ft. concrete slab), are proposed to be located within a 40-foot by 40-foot lease area enclosed by a 6-foot high chain link fence. The project is proposed to be located near the center of a 160.33 acre Agricultural Preserve (A-P) zoned parcel (APN 046-021-05) that forms the eastern/southern boundary of the community of La Selva Beach, accessed at 105 Alta Drive in La Selva Beach. The project requires a Commercial Development Permit, a Federal Telecommunications Act Exception (because the WCF is proposed to be located in what the Planning Commission considers to be a "prohibited" zone district), and a Coastal Development Permit that is appealable to the Coastal Commission.

A revised Alternatives Analysis (Exhibit A of Attachment 1) was submitted by the applicant prior to the second Planning Commission hearing that makes the case that the proposed site is the most viable and least visually and/or environmentally intrusive site that would meet the coverage objective and remove a significant gap in Verizon's coverage. Moreover, the proposed location for the tower on the 160.33-acre parcel was moved from its originally planned site to another site on the same property some 200-feet further away from the closest houses on Elena Drive (placing the tower some 600-feet away from those houses instead of approximately 400-feet away) making it less visible to nearby residents.

Discussion of Basis for Your Board Taking Jurisdiction

In deciding whether to take jurisdiction of an appeal and grant further review, your Board must consider whether any of the criteria set forth in County Code Section 18.10.340 have been met. Staff does not believe that there is adequate cause to accept jurisdiction of the appeals for the following reasons:

(1) There is no evidence that error or abuse of discretion on the part of the Planning Commission (PC), Zoning Administrator (ZA), or other officer occurred at the ZA and PC hearings at which the project was approved. The representatives of the County, including the ZA, the PC and staff made no errors, or abused their discretion, in any way that warrants a reconsideration of this WCF approval by your Board. There was a mistake made in the mailed out noticing for the first ZA public hearing on Dec. 4, 2015, in that the notice incorrectly failed to indicate that the project is appealable to the Coastal Commission, however this error was corrected (in a subsequent published notice) and a continued hearing was scheduled for Dec. 18, 2015. There also was no cell tower mock-up in place prior to the Dec. 4th hearing, however, the mock-up was in place for 10-days prior to the Dec. 18th ZA hearing, 10-days prior to the February 24, 2016 PC hearing, and 10-days prior to the April 27, 2016 PC hearing (in the new location).

(2) There is no evidence that the noticing of and hearings for the WCF was unfair and/or not impartial. The ZA and PC hearings were duly noticed to owners and residents located within 1,000 feet of the parcel boundaries of the subject 160.33 acre parcel, and

all interested members of the public were given adequate time to comment on the application, either in writing or orally. The members of the public were given ample time to make their case at two public hearings before the ZA and two public hearings before the PC, and their arguments were heard and considered impartially. The appellants and applicants were afforded equal time to present their case to the Planning Commission (the applicants may have had more questions directed towards them during the question and answer period, but the appellants had the opportunity to rebut).

(3) There is evidence that the approval of the subject WCF application was fully supported by the facts and findings presented and considered at the times the decisions to approve it (at ZA and PC hearings) were made. The approval of the subject WCF application was supported by considerable evidence that it will have negligible visual or other impacts from public vistas, and even though the County does not protect private views, only from a few houses on one street (Elena Drive) would the occupants be able to readily see the WCF from approximately 600-feet away. The approval was supported by considerable evidence the proposed WCF project is compliant with the provisions of the County Code and General Plan/LCP.

(4) There is no evidence that significant information or facts were deleted from consideration by the ZA or PC. There is no new significant new evidence relevant to the decision that suggests information was deleted from consideration by the ZA or PC. All arguments and evidence presented by the appellants was fully evaluated and considered through the ZA and PC public hearing processes and the project was approved by both hearing bodies. In their May 11, 2016 letter (Attachment 5), the appellants claim that the applicant did not sufficiently rule out alternative sites or the microcell option, given that the Planning Commission recently deemed the A-P zoned parcels equivalent to CA-zoned parcels, therefore making the subject parcel a "prohibited" area requiring the granting of the Federal Telecom Act Exception. However, the revised Alternatives Analysis submitted by the applicant (Exhibit A of Attachment 1) does rule out the alternative sites in allowed zone districts. The Alternatives Analysis also evaluates the possibility of locating the WCF on a neighboring parcel in the RA (Residential Agricultural) zone district (i.e., the Clark property, APN 046-351-01), the owner of which indicated a willingness to locate the WCF on his property. However, as discussed at the April 27, 2016 PC hearing, according to Environmental Planning staff and the County GIS, the Clark property is almost entirely comprised of San Andreas Coast Live Oak Woodland, a General Plan/Local Coastal Program (LCP) designated "Special Forest" and Sensitive Habitat type, which would preclude locating the WCF there because any additional clearing on the site would be prohibited by County Code Subsection 16.32.090(C)(3)(a) (Sensitive Habitat Standards). This code section limits clearing on Special Forest sites to a quarter acre, a limit which has already been exceeded on this site, and since all 3 of the possible WCF locations identified on the Clark parcel would require additional clearing of this protected habitat type, locating a WCF there would be in violation of the County Code and the General Plan/LCP.

The appellants' May 11, 2016 letter also mentions another site (the Morris parcel) that was evaluated in the original Alternatives Analysis, but was left out of the revised

Alternative Analysis. This parcel was dropped from consideration as an alternative because it is a relatively small half-acre parcel containing a home and is closely surrounded by other homes and is zoned R-1-9 (single-family residential), which is a "prohibited" area and therefore does not need to be evaluated in the Alternatives Analysis. Another potential alternative site suggested by the appellants, the KOA campground site on San Andreas Road, is outside Verizon's search ring for La Selva Beach and therefore would not achieve the coverage objective.

In addition, the option of installing one or more microcells on utility poles as an alternative to the proposed macrocell WCF was evaluated by the applicant, discussed in the ZA public hearings and ultimately rejected as a viable alternative by the applicant because microcells would provide insufficient coverage. Utility pole mounted microcells as an alternative would also necessarily result in cellular antennas being placed far closer to residences than with the currently proposed remotely located macrocell WCF, a factor that would likely render this alternative unpalatable to the community.

The appellants also cite as "new evidence" a 2004 court case (Voice Stream PCS v. City of Hillsboro, OR) in which a Federal district court in Oregon upheld the city's denial, on the basis of aesthetics, of an undisguised 120-foot cell tower (as opposed to the subject 48-foot tower disguised as a water tank tower) within 100-200 feet of homes (as opposed to the subject tower some 600-feet away from the closest home). This ruling about a dissimilar set of circumstances, from a federal district court in Oregon that is not binding here, should not be considered relevant to the Planning Commission's decision to approve this project.

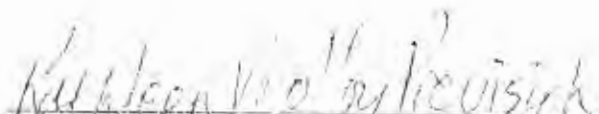
(5) There is no evidence that error, abuse of discretion, or any other factor which renders the WCF application approval unjustified or inappropriate, occurred either before or during the ZA or PC hearings to the extent that a further hearing before your Board is necessary.

Staff believes that none of the issues raised in the appellants letters (included Exhibit B of Attachment 1) provide sufficient cause to overturn the ZA's and PC's approval of this project. Staff's responses to the two appeal letters to the Planning Commission are detailed in the attached Planning Commission staff reports (Attachments 1 and 2). In addition to the concerns raised in the letters, other concerns were presented during the extensive public testimony at the two ZA hearings and the two PC hearings. Many of the issues raised at the hearings are directly or indirectly related to the radio-frequency (RF) radiation that will be emitted from the antennas. The County is prohibited by federal law from denying cell tower applications such as these on the basis of the health and/or environmental effects of RF radiation so long as the cell site complies with the FCC's RF radiation emission limits. An RF radiation emissions calculation report was prepared by a qualified consulting engineer demonstrating that no location accessible to the public will come close to exceeding FCC standard (see Exhibit D of Attachment 1). Therefore, the County is prohibited from denying this application on the basis of possible health or environmental effects from RF emissions.

Conclusion and Recommendation

This item is an appeal of an April 27, 2016 Planning Commission (PC) decision to approve a 48-foot tall Verizon wireless communication facility (WCF) disguised as an agricultural water tank tower on a 160.33-acre agricultural parcel in La Selva Beach (Application #141196 on APN 046-021-05). On May 11, 2016, the appellant ("Coalition to Preserve Scenic La Selva") appealed this approval to your Board. Per County Code Section 18.10.340, your Board must now determine whether to accept jurisdiction or allow the PC decision to stand. Staff recommends that your Board not accept jurisdiction, which would mean that the Planning Commission's approval would stand.

Submitted by:


Kathy Previsich, Planning Director 6/21/2016

Recommended:

Susan A. Mauriello, County Administrative Officer

Attachments:

- a Planning Commission April 27, 2016 Staff Report on Application 141196 (Attachment 1)
- b Planning Commission Feb 24, 2016 Staff Report (Attachment 2)
- c Minutes of April 27, 2016 Planning Commission Meeting (Attachment 3)
- d Minutes of Feb 24, 2016 Planning Commission Meeting (Attachment 4)
- e Letter Appealing Planning Commission Approval of Application 141196 (Attachment 5)



COUNTY OF SANTA CRUZ

PLANNING DEPARTMENT

701 OCEAN STREET, 4TH FLOOR, SANTA CRUZ, CA 95060
 (831) 454-2580 FAX: (831) 454-2131 TDD: (831) 454-2123
 KATHLEEN MOLLOY PREVISICH, PLANNING DIRECTOR

April 18, 2016

Agenda Date: April 27, 2016

Agenda Item #: 6

Time: after 9:00 a.m.

Planning Commission
 County of Santa Cruz
 701 Ocean Street
 Santa Cruz, CA 95060

Subject: Continued Public Hearing to Consider an Appeal of Zoning Administrator Approval of a Verizon Wireless Communications Facility (Application #141196) in La Selva Beach

Members of the Commission:

As you recall, your Commission is being asked to consider an appeal of the Zoning Administrator's (ZA) approval of a 48-ft. tall Verizon wireless communications facility (WCF) cell tower disguised as an agricultural water tank tower on a 160.3 acre agricultural parcel in La Selva Beach (see Exhibit C for ZA Staff Report). This proposal was continued to today's date from February 24, 2016 so that the project proponents could move the proposed location of the WCF approximately 250-feet to the southeast, thereby increasing the distance from the neighborhood to the northeast and reducing visual impacts to those neighbors, which is the principal basis for the appeal. As was the case with the originally proposed project, the revised proposal includes 9 panel antennas enclosed within the approximately 10-foot tall by approximately 12-foot diameter cylindrical "tank" at the top of the metal lattice tower (for a total height of 48-feet), and 2 ground-level equipment cabinets. The tower and equipment cabinets, along with an 8-foot tall stand-by diesel generator (on a 6-ft. by 13-ft. concrete slab), are still proposed to be located within a 40-foot by 40-foot lease area enclosed by a 6-foot high chain link fence. The only difference is the proposed location being moved approximately 250-feet to the southeast, on the same parcel, to reduce visual impacts to the adjacent neighborhood, increasing the distance to the nearest house (on Elena Drive) from approximately 500-feet to approximately 750-feet.

The project is still proposed to be located on the originally proposed 160.33 acre Agricultural Preserve (A-P) zoned parcel (APN 046-021-05) that forms the eastern/southern boundary of the community of La Selva Beach, accessed at 105 Alta Drive in La Selva Beach. The parcel is under a Williamson Act contract that allows non-agricultural uses that are incidental to, and do not interfere with, the primary agricultural use of the property. Construction of the proposed WCF would remove any agricultural land from production, and the WCF would not interfere with agricultural operations in any way.

Continued Appeal of ZA Approval of Application #141196
 PC Continued Hearing Date: April 27, 2016
 Page 2

The project requires a Commercial Development Permit, and a Coastal Development Permit that is appealable to the Coastal Commission. A revised Alternatives Analysis (Exhibit A) has been submitted by the applicant that makes the case that the proposed subject parcel is the most viable and least intrusive site in an allowed zone district that would meet the coverage objective and remove a significant gap in Verizon's coverage.

Pursuant to discussions at your Commission's March 22, 2016 hearing (on Application #141212), in which it was determined that cell towers proposed to be located on A-P zoned parcels require Agricultural Resource Findings (as per County Code Section 13.10.473) to be made, and that possibly a Federal Telecommunications Act Exception (as per County Code Section 13.10.668) be granted, staff has proposed language making those findings regarding this project (Exhibit H).

The Zoning Administrator's December 18, 2015 approval of this project was appealed on January 4, 2016. An appeal letter was submitted on that date by the "Coalition to Preserve Scenic La Selva" ("Coalition"), represented by the law firm Wittwer/Parkin LLP, on the basis of scenic issues, neighborhood compatibility, the project's proposed exemption from the California Environmental Quality Act (CEQA), and the application and approval process. A second appeal letter refining the arguments made in their first letter and objecting to the proposed 48-foot height of the WCF, was submitted by the appellants on February 22, 2016 (see Exhibit B for both appeal letters). In addition, late comments were received from Coastal Commission staff regarding (1) the possible need for a variance due to the height of the proposed WCF, and (2) visual character and co-location issues. Staff's responses to the specific grounds for appeal in both the appellants' January 4th and February 22nd, and responses to the Coastal Commission staff's concerns, are given below:

Staff Responses to Appellants' January 4, 2016 Letter:

The appellants' first appeal letter, dated January 4, 2016 (Exhibit B), made the following points (with staff responses following):

A. The Project is Located In a Sensitive Site Subject to Special Protections Under County Land Use Regulations, and the Project Violates Community and Neighborhood Character Standards.

The appellants' first letter claims that the proposed WCF project is inconsistent with provisions of the **General Plan/Local Coastal Program (GP/LCP) Land Use Plan** that protect scenic views and neighborhood character. The letter goes on to list several **GP/LCP** sections that protect visual resources and neighborhood character, which the appellants claim are violated, as follows:

1. GP/LCP Objective 5.10(a) - Protection of Visual Resources: This objective requires the County to protect aesthetic values of visual resources. The proposed project is consistent with this objective in that the proposed design of a faux agricultural water tank tower is visually congruent and harmonious with the agricultural setting, and thus

the project is protective of visual resources. Based on the visual simulations prepared by the applicant to assess the visual impact of the project, the project will not block public views and otherwise be inconsistent with the County's development guidelines for scenic viewsheds. To address the GP/LCP aesthetic policies and objectives, aesthetic impacts to the view corridor were analyzed in the staff report and during the Zoning Administrator hearing, and a determination was made that the proposed project would not have a significant impact on aesthetics.

2. GP/LCP Objective 5.10(b) – New Development in Visual Resource Areas: This objective requires that new development is designed to have minimal adverse visual impact. The proposed project is consistent with this objective in that, due to the agricultural nature of the area, a structure that appears to be an agricultural water tank tower is not out of character with the surrounding area, and thus the project would have minimal visual impact on visual resources. Based on the visual simulations prepared by the applicant to assess the visual impact of the project, the project will not block public views and otherwise be inconsistent with the County's development guidelines for scenic viewsheds. Staff concluded that the Project conforms to the policies and public vantage point in the GP/LCP by: conforming to the applicable setbacks and height limitations; and preserving the public view corridor of open space and preserving agricultural zoned property.

3. GP/LCP Policy 5.10.1 – Designation of Visual Resources: This GP/LCP Policy, which requires the County to designate and map regionally and publicly important visual resource areas has been accomplished, and is not relevant to the proposed project, in that the scope of project has nothing to do with the designation of GP/LCP visual resource areas. The area in which the project is proposed to be located is a designated visual resource area, but the project would not negatively impact that resource.

4. GP/LCP Policy 5.10.2 – Development Within Visual Resource Areas: This policy required projects to be evaluated against their visual context and regulated to protect visual resources. Due to the agricultural nature of the area, a structure that appears to be an agricultural water tank tower is not out of character with the surrounding area. The proposed project is consistent with this policy in that the proposed design of a faux agricultural water tank tower is visually congruent and harmonious with the agricultural setting, and this was taken into account when the project was reviewed by planning staff. In fact, the originally proposed design, a 55-ft. tall faux pine tree, was rejected in favor of the currently proposed agricultural water tank tower design for this reason. Based on the visual simulations prepared by the applicant to assess the visual impact of the project, the project will not block public views and otherwise be inconsistent with the County's development guidelines for scenic viewsheds.

5. GP/LCP Policy 5.10.3 - Protection of Public Vistas: This policy requires the County to protect "significant" public vistas. The proposed project is consistent with this policy in that the proposed design of a faux agricultural water tank tower is visually compatible and in harmony with the agricultural setting, and would be either invisible or barely visible from all public visual vantage points, significant or not. Based on the visual

simulations prepared by the applicant to assess the visual impact of the project, the project will not block public views and otherwise be inconsistent with the County's development guidelines for scenic viewsheds.

6. GP/LCP Objective 8.1 – Quality Design: This objective requires the County to require a project be designed in a way that "preserves and enhances the visual fabric of the community". The proposed project is consistent with this objective in that the proposed design of a faux water tank tower is typical of what would be found on similar agricultural parcels, and is thus visually congruent and harmonious with the agricultural setting, and will preserve the agricultural character and visual fabric of the subject parcel and surrounding agricultural parcels.

7. GP/LCP Objective 8.2 – Site and Circulation Design: This objective requires new development to be visually compatible with its surroundings. The proposed project is consistent with this objective in that, due to the agricultural nature of the area, a structure that appears to be an agricultural water tank tower is not out of character with the surrounding area.

8. GP/LCP Objective 8.4 – Residential Neighborhoods: This policy requires the County to preserve the residential use and character of urban neighborhoods and to "maintain the rural and/or agricultural character of residential development in non-urban areas". Since the project site is a working 163-acre farm that is agriculturally zoned, and the project is not "residential development", this GP/LCP Objective does not apply. There is a residential neighborhood that borders the site, with the closest house being approximately 400-feet away, but area surrounding the proposed project site is in agricultural use, therefore the project is not inconsistent with this objective.

9. GP/LCP Policy 8.4.1 – Neighborhood Character: This policy requires that "new infill development on vacant land" within established neighborhoods be consistent with the neighborhood character. Since the project site is a working 163-acre farm that is agriculturally zoned, the site is not "vacant land" and the project is not "infill development", therefore this GP/LCP Objective does not apply.

10. GP/LCP Policy 8.4.5 – Neighborhood Character Inventories: This policy requires that for residential neighborhoods, applications include a "neighborhood character visual inventory" or "equivalent information commensurate with the scope of the project". Since the project site is a working 163-acre farm that is agriculturally zoned, and the project is not residential development, such an inventory is not necessary. Nonetheless, the project design as a faux agricultural water tank tower is visually congruent and harmonious with its rural/agricultural setting, and the project meets the intent of this GP/LCP Objective.

11. GP/LCP Objective 8.6 – Building Design: This objective "encourages" building design to be visually compatible with its surroundings. The proposed project is consistent with this objective in that, due to the agricultural nature of the area, a

structure that appears to be an agricultural water tank tower is not out of character with the surrounding area.

12. GP/LCP Policy 8.6.5 – Designing with the Environment: This policy requires that development “maintain a complementary relationship with the natural environment” and “shall be low-profile and stepped-down on hillsides”. The project is consistent with the first part of this policy in that the proposed design of a faux agricultural water tank tower is visually consistent and in harmony with the surrounding agricultural area. It is also consistent with the second part because the currently proposed 48-foot tall tower is as short as possible to allow for the needed cellular coverage, and is shorter than the originally proposed 55-foot tall “monopine” tree pole or the 70-foot tall design that would be needed at an alternative site on the same property (approximately 530-feet to the east).

The appellants’ first letter also claims that the proposed WCF project is inconsistent with provisions of the **County Code/LCP Implementation Plan** that protect scenic views and neighborhood character. The letter goes on to list several **County Code/LCP** sections that protect visual resources and neighborhood character, which the appellants claim are violated, as follows:

1. 13.20.130(B)(1) – Design Criteria for Coastal Developments - Visual Compatibility: This Code section requires that development be visually compatible with the character of the surrounding area. The immediate area surrounding the proposed faux water tank tower is relatively level agricultural land devoted to the production of row crops. Portions of the subject property and adjoining properties to the north and east provide a background of additional agricultural land and wooded hillsides at higher elevations. Due to the agricultural nature of the area, a structure that appears to be an agricultural water tank tower is not out of character with the surrounding area. Based on the visual simulations prepared by the applicant to assess the visual impact of the project, the project will not block public views and otherwise be inconsistent with County Code/LCP Section 13.20.130(B)(1) and the County’s development guidelines for scenic viewsheds, including those that pertain to minimization of grading, as well as scale, coloration, and other standards which the County uses to achieve the goal of ensuring visual harmony within scenic areas.

2. 13.20.130(B)(7) – Design Criteria for Coastal Developments – Fences, Walls and Hedges: This Code section requires that fences, walls and hedges be designed so they don’t block or significantly adversely impact “significant public views”. The proposed project is not a fence, a hedge or a wall so this Code section does not apply. Moreover, the proposed WCF tower would not be visible, or be barely noticeable, from all significant public viewpoints (as demonstrated in the photo-simulations included in Exhibit E, and Exhibit H of Exhibit C).

3. 13.20.130(C)(2) – Design Criteria for Coastal Developments – Site Planning in Rural Scenic Resource Areas: This Code section requires that development be visually compatible with the character of the surrounding area. The proposed project is

consistent with this section in that the proposed design of a faux agricultural water tank tower is visually congruent and harmonious with the agricultural setting and, moreover, would not be readily visible from publicly accessible viewpoints. Due to the agricultural nature of the area, a structure that appears to be an agricultural water tank tower is not out of character with the surrounding area. Landscaping in the form of wisteria vines will be planted to grow up the chain link fence surrounding the 40-ft. by 40-ft. lease area, hiding the fence and the equipment cabinets/generator behind it from public view. Staff concluded that the project provides the required public view corridor protections and determined that the proposed project is consistent with the GP/LCP and this particular Code section.

4. 13.11.072 – Design Review – Site Design: This Code section requires development to "enhance or preserve the integrity of existing land use patterns or character" and to be visually compatible with the character of the surrounding area. The proposed project is consistent with this section in that due to the agricultural nature of the area, a structure that appears to be an agricultural water tank tower is not out of character with the surrounding area. The proposed design of a faux agricultural water tank tower is visually compatible and in harmony with the agricultural setting, and as such will not significantly impact either public or private views.

5. 13.11.073 – Design Review – Building Design: This Code section requires development to be reviewed for neighborhood compatibility. Water tanks are compatible with agricultural neighborhoods. The proposed faux water tank would appear to be part of the agricultural landscape and would be visually congruent and harmonious with the agricultural setting of the subject parcel and the surrounding agricultural parcels. The project's agricultural structure design would not be incompatible with residential areas to the north and west any more than other agricultural outbuilding, such as a barn, would be. Moreover, this type of design is as visually unobtrusive as possible for a macro-site cell tower, which is needed infrastructure in this underserved area (see the before and after coverage maps on page 4 of the applicant's Project Support Statement in Exhibit F of Exhibit C).

6. 13.11.010 – Design Review – Purpose: This section of County Code provides very broad purposes for design review including:

- Implementation of the General Plan policies regarding preserving and enhancing quality of life by guiding development activity, protecting open space, and enhancing development to achieve an esthetic and functional community;
- Implementing the interdependence of land values and esthetics to benefit the citizens of the County;
- Preserving and enhancing the beauty and environmental amenities of the County;
- Promoting and protecting the safety, convenience, comfort, prosperity and general welfare of the citizens of the County; and
- Establishing a site plan, architectural, and landscape design review function.

All of these very broad purposes are addressed in the various sections of County Code that implement them, as listed and responded to above. The proposed faux water tank tower has been evaluated by staff against all of the applicable County Code sections as discussed above and elsewhere in this report. While there may be differences of opinion as to the appropriateness of the proposed faux water tank tower, the County has reviewed it against the various County Code sections that implement the purposes of the Design Review Ordinance; there has not been a failure to do that and so there is no inconsistency between the proposal and the purposes of the Design Review Ordinance or between the County's review of the proposal and the purposes of the Design Review Ordinance.

B. The Project Does Not Conform With General Development and Performance Standards Required for Wireless Communication Facilities.

The appellants' first letter also claims that the proposed WCF project is inconsistent with provisions of the **County Code/LCP Implementation Plan** that are part of the County's Wireless Communication Facilities Ordinance. The letter goes on to list several **County Code/LCP** sections that are part of the WCF Ordinance's provisions on performance standards, which the appellants claim are violated, as follows:

1. 13.10.663 – General Development/Performance Standards for WCFs: This section of the Code is intended to ensure that WCFs preserve the visual character of the subject parcel and minimize visual impacts to the extent possible, and are generally compatible with surrounding land uses. It also requires WCF stealthing/camouflaging (such as disguising it as a water tank tower) where appropriate. The proposed project is consistent with this section in that the WCF will be disguised as an agricultural water tank tower, and thus it will be visually congruent and harmonious with the agricultural setting to the maximum extent feasible.

2. 13.10.663(A)(8) – General Development/Performance Standards for WCFs – Consistency with Other Land Use Regulations: This section of the Code is intended to ensure that WCFs comply with other sections of the Code besides the WCF Ordinance (Sec. 13.10.660-668). As demonstrated in the narrative above, the proposed project does comply with all other relevant sections of the County GP/LCP and Code. This policy also requires that County protect public vistas from scenic roads. The proposed project is consistent with this aspect of this policy in that the proposed tower would be either invisible or barely visible from all public visual vantage points along all designated scenic roads in the area (e.g., San Andreas Rd., Hwy. 1).

3. 13.10.663(B)(5) – General Development/Performance Standards for WCFs – Design Review Criteria for Visual Impact Mitigation: This section of the Code is intended to ensure that WCFs comply with other sections of the Code besides the WCF Ordinance (Sec. 13.10.660-668). As demonstrated in the narrative above, the proposed project does comply with all other relevant sections of the County GP/LCP and Code. This policy also requires that County protect public vistas from scenic roads. The proposed project is consistent with this aspect of this policy in that the proposed tower would be

either invisible or barely visible from all public visual vantage points along all designated scenic roads in the area (e.g., San Andreas Rd., Hwy. 1). The mitigation for any visual impacts here include the location of the proposed faux water tank approximately half a mile from the nearest public road or public vista point, the proposed planting of wisteria vines on the fence of the 40 foot by 40 foot equipment enclosure area, and the design of the WCF to look like an agricultural water tank tower, consistent with the agricultural uses on the parcel in question and neighboring parcels.

The appellants also claim that approval of this WCF project would "create a trend towards allowing WCFs within designated scenic areas, impacting visual resources". However, as the foregoing narrative and attached photo-simulations (see Exhibit E and Exhibit H of Exhibit C) demonstrate, this particular WCF would not create a significant visual impact from public vistas. Moreover, it does not create a precedent for allowing unsightly WCFs in scenic areas because individual WCF applications are judged on their unique individual merits and in relation to their particular locational contexts.

C. The Project is Not Exempt from the Requirements of CEQA

The appellants first and second letters also claim that the proposed WCF does not qualify for the Class 3 Categorical Exemption from the California Environmental Quality Act (CEQA) for "small construction or development projects", as was authorized by the Zoning Administrator on December 18, 2015. They cite three exceptions to the use of this Categorical Exemption that they believe apply in this case:

1. CEQA Guidelines Sec. 15300.2(a) – for small projects which "may impact on environmental resources of critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, and local agencies". The appellants specify that because this area is a designated "scenic area" by the GP/LCP, the Categorical Exemption cannot be used. However, as the foregoing narrative and attached photo-simulations (Exhibit E and Exhibit H of Exhibit C) demonstrate, this particular WCF would not create a significant visual impact from public vistas, and thus would not impact the scenic area's visual resources. Therefore, this exception does not apply.

2. CEQA Guidelines Sec. 15300.2(b) – for projects where "the cumulative impact of successive projects of the same type in the same place, over time is significant". The appellants specify that approval of this WCF project would set a precedent for more WCF projects being built with similar visual resource impacts in designated scenic areas, and therefore the small projects Categorical Exemption cannot be used. However, as the foregoing narrative and photo-simulations included in the staff report demonstrate, this particular WCF would not create a significant visual impact from public vistas. Moreover, its approval does not create a precedent for allowing unsightly WCFs in scenic areas because individual WCF applications are judged on their unique individual merits and in relation to their particular locational contexts. Therefore, this exception does not apply.

3. CEQA Guidelines Sec. 15300.2(c) – for projects “where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances”. The appellants do not specify how this exception applies. They give no examples or explanation regarding what “unusual circumstances” they are talking about. There does not appear to be any such “unusual circumstances”, therefore this exception does not apply.

D. The Coalition Did Not Receive Adequate Notice or a Fair Hearing

The appellants claim that “many” members of the Coalition living within 1,000-feet of the subject parcel did not receive mailed notice regarding the original Dec. 4, 2015 ZA hearing, and that the original mailed notice erroneously stated that the project was not appealable to the Coastal Commission. While the Planning Department’s clerical staff mailed out over 800 notices to all residents and property owners of parcels within 1,000 feet of the perimeter of the subject parcel (using the County Assessor’s mailing list), it is possible that some residents within 1,000-feet did not receive the notice due to addressing errors or the notices getting lost in the mail. While it is true that the original mailed notice did contain an error by stating that the project was not appealable to the Coastal Commission, Planning staff remedied the situation by announcing the error at the Dec. 4th hearing, and continuing the hearing to Dec. 18th with a notice published in the Santa Cruz Sentinel correctly stating that the ZA’s decision on the project is appealable to the Coastal Commission. Moreover, this concern is now moot because your Commission is now considering this appeal at today’s hearing (and also did so at the Feb. 24, 2016 hearing), which has been duly noticed by mail (to all residents and owners of parcels within 1,000-ft.), in a published notice in the Santa Cruz Sentinel, posting at the site, and on the Planning Department’s website (all indicating that the decision is appealable to the Coastal Commission). In addition, the project proponent made presentations at two evening community meetings (on February 15, 2016 and April 18, 2016) and responded to questions from the attendees.

E. Project Applicant Failed to Satisfy Application Requirements for WCFs.

The appellants correctly note that the applicant did not install a “mock-up” demonstration pole at the project site to indicate the height and location of the proposed WCF prior to the ZA hearings, however such a pole was installed during the 10-day appeal period and was reinstalled 20-days prior to the Feb. 24, 2016 Planning Commission hearing, and an additional 10-days (in the new location) prior to today’s (April 27, 2016) hearing.

The appellants’ letter also points out that the applicant did not prepare an Alternatives Analysis as per Code Section 13.10.662(C), however, the applicant did prepare an Alternatives Analysis (Exhibit A) which shows that there are no technically feasible alternative locations on allowed zoned district sites that would be environmentally equivalent or superior to the new proposed location on the subject parcel.

One alternative that the applicant evaluated is to build the WCF tower on a different location on the same parcel some 650-feet further away from the residential area to the northwest. This alternative, some 650-feet to the southeast of the proposed site, was rejected because it would have to be 22-feet taller (i.e., 70-feet total) than the proposed site/design (i.e., 48-feet tall) in order to achieve the coverage objective, and because it would involve the permanent conversion/removal of some 1,600 sq. ft. of currently cultivated agricultural land.

Another location that was ruled out was on a neighboring Residential Agricultural (RA) zoned parcel to the southeast of the proposed site (the "Clark parcel" APN 046-351-01). The owner of that parcel had stated his interest in hosting the WCF there during the first evening community meeting on February 15th, 2016. However, the applicant determined that this parcel would not work because constructing a WCF there (including cutting a new access road and creating a building pad) would involve significant grading/filling and native oak woodland vegetation removal, and also because the site does not have adequate access to the power supply needed for WCF operation. This site, also within the Coastal Zone, is almost entirely comprised of San Andreas Live Oak Woodland, a designated Sensitive Habitat Type in the General Plan/LCP and subject to the County's Sensitive Habitat Protection Ordinance, and also a preferred habitat type for the Federally and State listed endangered Santa Cruz Long-toed Salamander which breeds in nearby Ellicott Pond, plus the parcel already has a house on it. These are all factors which would preclude the level of disturbance and development necessary to locate a WCF there, according to Environmental Planning staff.

Regarding possible co-location of the proposed WCF on an existing macrocell site WCFs in the vicinity, neither staff nor the applicant are aware of any such WCFs nearby that would allow Verizon to achieve its coverage objective.

Regarding concerns raised about the radio-frequency (RF) emissions report, which estimated the RF exposure levels from the proposed WCF based on a discontinued antenna model, the applicant has submitted a new RF report (Exhibit D) based on the actual proposed antenna model that shows that the peak ("worst case") RF exposure levels will be far below the FCC limit on such exposures (i.e., 4.9% of the FCC limit at ground level, and 0.58% of that limit at the 2nd story level at the nearest house). It should be kept in mind that the County is prohibited by Federal law from denying a WCF application on the basis of the health or environmental effects of RF emissions if the levels are below the FCC limit on such emissions.

Staff Responses to Appellants' February 22, 2016 Letter and Coastal Commission Staff Comments of February 18, 2016:

The appellants' second letter, dated February 22, 2016 (in Exhibit B), in addition to reiterating some of the points made in their first letter, states that the proposed project does not meet General Plan/LCP visual resource policy objectives because the appellants interpret the County Code to limit agriculturally related structures to no more than 40-feet in height, and the proposed 48-foot tall faux water tank tower would violate

those provisions. Additionally, Coastal Commission staff comments received via email on February 18, 2016 (Exhibit F) raised concerns regarding (1) the possible need for a variance due to the height of the proposed WCF, and (2) visual character and co-location issues.

The height issue is somewhat confusing because part of the County Code states that the height limit for agricultural structures on agriculturally zoned land is 40-feet, and the appellants believe that this precludes approving a 48-foot tall WCF disguised as a water tank tower. Moreover, part of the County's WCF Ordinance (County Code Sec. 13.10.663) requires that cell towers that exceed the allowed height for structures in the applicable zone district be subject to a variance approval. However, Section 13.10.510(d)(2) of the County Code (height limit exceptions) allows certain types of non-habitable structures (e.g., chimneys, church steeples, flagpoles, non-commercial radio and television antennas, etc.) to exceed the zoning district height limits for habitable structures by 25-feet. Section 13.10.510(d)(2) also states that "free-standing antennas" may exceed the zoning district height limit for habitable structures by up to 50-feet. Therefore, staff interprets the code to say that cell towers are allowed to be 50-feet higher than the height limit for buildings and most other structures in the applicable zone district (i.e., the height limit for cell towers in the A-P zone district is 90-feet under this interpretation – see Exhibit G for Administrative Practices Guideline WCF-01). County Counsel's opinions regarding the points raised in the appellants' second letter, and the Coastal Commission staff email are as follows:

"While it is a basic principle of statutory interpretation that in case of conflict the more specific statute governs over the more general, in this case Section 13.10.663 does not actually specify the allowed height of cell towers. Instead, it relies on other provisions of the Code to establish the 'allowed height for structures in the zoning district.' The term 'allowed height' is neither defined nor used consistently in the Code. Another principle of statutory interpretation is that a term without technical meaning is used in its 'ordinary' sense. Section 13.10.510(D)(2) states that freestanding antennas may exceed the height limits by up to 25 feet above the height limits applied to certain nonhabitable structures under that subsection, which is '25 feet above the height limit allowed in any district.'

Planning Department Administrative Practices Guideline WCF-01 (Exhibit G) specifically states 'the WCF Ordinance was not intended to limit the height of WCF towers/ antennas to the height limits for habitable structures.' Therefore, WCF-01 states that the height exceptions under Section 13.10.510 as applied to the height regulations on WCFs in Section 13.10.663 shall be interpreted to allow free-standing cell towers up to a height of 50 feet higher than the height limits for habitable structures in the zoning district, without a variance. A governmental agency's interpretation of its own regulations is given deference but is not controlling over a court. More deference is given to a consistent interpretation; moreover an inconsistent application of land use standards can lead to takings or substantive due process claims.

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PC Continued Hearing Date: April 27, 2016
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Appellants argue that the project is both inconsistent with the General Plan/LCP and that it is excluded from the Class 3 CEQA exemption because the proposed faux water tank design exceeds the height limit for an actual water tank in the district. First, as discussed above the Code would allow a freestanding antenna of up to 90 feet, so the project is NOT 'by definition incompatible with the height restrictions for agricultural structures', because it is actually allowed by Code. Moreover, the reduced height in combination with the concealment design of the tower FURTHER eliminates potential visual impacts such that all required findings can be made."

County Counsel opinion above refutes the arguments made by the appellants in their second letter, and the concerns raised by Coastal Commission staff, regarding the proposed 48-foot height of the WCF being taller than what County Code allows, and thereby also refutes the appellant's claims regarding the need for full CEQA review because of the height issue.


Conclusion and Recommendation

At the conclusion of the hearing, your Commission may, on the basis of all the evidence and testimony, and after making the appropriate findings required by SCCC 18.10.230, either deny the application, approve the application, or approve the application with modifications, subject to such conditions as it deems advisable.

The proposed WCF project consisting of a 48-ft. tall faux agricultural water tank tower is consistent with all County General Plan/LCP policies and the County Code, and staff therefore recommends that your Commission take the following actions:

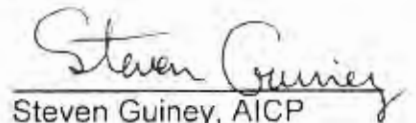
- Hold a public hearing to consider the proposed WCF;
- Approve Application No. 141196; and
- Find Application 141196 to be Categorically Exempt from further environmental review and direct the posting of a Notice of Exemption as authorized by law.

Sincerely,



Frank Barron,
Project Planner
Development Review Section

Reviewed By:



Steven Guiney, AICP
Principal Planner
Development Review Section

Continued Appeal of ZA Approval of Application #141196
PC Continued Hearing Date: April 27, 2016
Page 13

Exhibits:

- A. Revised Alternatives Analysis
- B. Appeal Letters from attorney William Parkin, representing the Coalition to Preserve Scenic La Selva, dated January 4, 2016 and February 22, 2016
- C. Zoning Administrator Staff Report for Application 141196
- D. Revised RF Emissions Calculation Study (i.e., for new location)
- E. Alternate (70-ft. tall) vs. Originally Proposed Site (48-ft. tall) and New Proposed Site (48-ft. tall) Photosimulations
- F. Coastal Commission Staff Comments of February 18, 2016
- G. Administrative Practices Guideline WCF-01 (re: allowed cell tower heights)
- H. Proposed Agricultural Resource Findings (as per County Code Section 13.10.473), and Findings needed to grant a Federal Telecommunications Act Exception (as per County Code Section 13.10.668)
- I. Revised Project Plans (i.e., showing new location)



Alternatives Analysis

Aqua View
105 Alta Drive, La Selva Beach



April 13, 2016

Summary of Site Evaluations
Conducted by Complete Wireless Consulting
Compiled by Mackenzie & Albritton LLP

EXHIBIT A

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Map of Specific Location Alternatives

I. Executive Summary

Verizon Wireless seeks to fill a significant gap in its service coverage in the La Selva Beach area of Santa Cruz County. Based on a review of alternatives as set forth in the following analysis, Verizon Wireless believes that placing antennas in a camouflaged 48-foot water tank in the center of a large agriculture-zoned property (the "Proposed Facility") constitutes the least intrusive alternative to provide service to the identified gap based on the values expressed in the Santa Cruz County Code (the "Code").

II. Significant Gap

There is a significant gap in Verizon Wireless service in the La Selva Beach area. There is currently an absence of in-building service as well as a larger area lacking in-vehicle service, affecting nearby residential neighborhoods, working agricultural establishments and important roadways. Further, nearby Verizon Wireless facilities serving the greater area are experiencing capacity exhaustion, and Verizon Wireless must place an additional facility in the vicinity of the Proposed Facility to relieve existing antenna sectors at or near exhaustion and ensure the reliability of the network. The identified "significant gap" in network coverage is more fully described in the *Statement of Verizon Wireless Radio Frequency Design Engineer Stefano Iachella* (the "Significant Gap").

III. Methodology

Once a significant gap has been determined, Verizon Wireless seeks to identify a location and design that will provide required coverage through the "least intrusive means" based upon the values expressed by local regulations. In addition to seeking the "least intrusive" alternative, sites proposed by Verizon Wireless must be feasible. In this regard, Verizon Wireless reviews the radio frequency propagation, elevation, slope, grading requirements, available electrical and telephone utilities, access, available ground space and other critical factors such as a willing landlord in completing its site analysis. Wherever feasible, Verizon Wireless seeks to deploy camouflaged or stealth wireless facilities to minimize visual impacts to surrounding properties.

Under the Code, all wireless facilities are allowed with a commercial development permit (and coastal development permit, if applicable) subject to Level V permit review by the Zoning Administrator. Code §13.10.661(A). Collocation of wireless facilities is encouraged subject to certain development standards and visual impact criteria. Code §13.10.661(G). Wireless facilities are generally prohibited in the R-1, RM and RB residential base zones, the CA commercial agriculture base zone, on K-12 school sites and along the coastline between the sea and first right-of-way. Code §13.10.661(B). New wireless facilities are discouraged in restricted (disfavored) areas including the RA and RR residential base zones, SU special use districts with a residential General Plan designation and I historic landmark and SP salamander protection area overlay districts. Collocation of wireless facilities with existing wireless facilities or utility towers is allowed in these restricted areas subject to certain development standards. Code §13.10.661(C).

With respect to visual impacts, wireless facilities must be sited in the least visually intrusive feasible location without creating resource impacts or environmental damage. Code §§13.10.661(F). Wireless facilities must be designed to minimize visual impacts using camouflage techniques (including stealth structures typically found in the built environment of the location) while minimizing visibility of the facility from significant public viewsheds. Code §§13.10.663(A)(1), 13.10.663(B)(5). Evaluation of visual impact includes review of scale, form and compatibility with community character of the neighborhood. Code §13.10.660(D)("visual impact"). The Code requires a minimum setback of 300 feet from residentially zoned parcels, with a limited waiver of this requirement if a facility is camouflaged or made inconspicuous such that visual impacts are not created. Code §13.10.663(A)(9).

IV. Analysis

Collocation Review

Per the Code's direction, Verizon Wireless first sought to identify existing wireless facilities where a collocation facility could serve the Significant Gap, but found no existing wireless facilities in the area of the Significant Gap. In fact, the closest existing wireless facility locations already host Verizon Wireless facilities. The Verizon Wireless Mar Monte facility is located on a hilltop 1.1 miles east of the Proposed Facility east of Highway 101, and the Verizon Wireless Seascapes facility is located 1.6 miles northwest of the Proposed Facility near the intersection of Seascapes Boulevard and Summer Avenue. Each of these existing Verizon Wireless facilities serves a distinct coverage objective outside of the Significant Gap. Lacking any collocation opportunities, Verizon Wireless seeks to place a new wireless facility in the Significant Gap area.

Elimination of Prohibited and Restricted Base Zones

Per the Code's direction, Verizon Wireless avoided placement of its proposed facility in base zoning districts that are prohibited and restricted (disfavored) areas, including the following zoning districts found in the vicinity of the Significant Gap:

Prohibited Base Zones

- R-1 – Single-Family Residential
- RM – Multifamily Residential
- CA – Commercial Agriculture

Restricted (Disfavored) Base Zones

- RA – Residential Agriculture
- RR – Rural Residential
- SU – Special Use (Parcels located in special use districts in the vicinity of the Significant Gap have residential land use designations under the General Plan and are therefore restricted)¹

Eliminating prohibited and restricted base zones removed large areas of the Significant Gap from further consideration, including all properties within one mile north and east of the Proposed Facility and much of the residential and agricultural areas to the west and south. Verizon Wireless determined that remaining base zones allow wireless facilities, subject to compliance with Code criteria.

¹ The western half of the parcel at 514 Playa Boulevard and the unaddressed parcel at the entrance to Manresa State Beach are zoned SU with a General Plan land use designation of O-R, but each is located between the sea and first public roadway and therefore in the prohibited coastal area.

The following aerial overlay map prepared using the County's Geographic Information Systems (GIS) shows an area of approximately 2.25 square miles that, while larger than Verizon Wireless's Significant Gap, demonstrates the limited base zones in the proposed service area that allow wireless facilities, shaded as follows:

- A-P – Agriculture Preserve (green)
- PR – Parks, Recreation and Open Space (dark green)
- PF – Public and Community Facilities (gray)
- C-1 – Neighborhood Commercial (red)
- VA – Visitor Accommodation (pink)

Base Zones Allowing Wireless Facilities



Verizon Wireless investigated one restricted (disfavored) property with a base zoning of RA due east of the Proposed Facility property as follows.

1. Clark Property

Address: 550 Water Tank Road

Elevation: 175-290 feet

Zoning: RA



Verizon Wireless reviewed this 14.6 acre property located 0.25 miles east of the Proposed Facility property at a varying higher elevation. The property owner specified three locations out of view of their residence that they were willing to lease to Verizon Wireless, all of which are located downslope in woodlands on the western half of the property. One location is near the driveway entrance, and two other locations are deeper in the woodland and accessible only by a dirt path. All three locations are on uneven terrain and would require construction of all-weather access roads as well as fire truck turnarounds. Additionally, substantial trenching would be necessary to route required utilities to the wireless facility. These improvements would require considerable grading, posing potential environmental impacts to the slopes of this property. Due to such environmental impacts, this is not a less intrusive alternative to the Proposed Facility.

Elimination of Restricted Overlay Zone and School Sites

Though located in zoning districts that allow wireless facilities, the following specific locations were discounted due to other prohibitive location criteria of the Code.

2. La Selva Beach Clubhouse

Address: 314 Estrella Avenue

Elevation: 120 feet

Zoning: PR-L



Verizon Wireless reviewed this one acre public facility located 0.5 miles west of the Proposed Facility and approximately 25 feet lower in elevation. This property is located in an L - Historic Landmark overlay district, a restricted (disfavored) area for placement of wireless facilities under the Code. Further, all portions of this property are situated within 175 feet of residentially-zoned parcels, well under the 300 foot residential setback required under the Code unless a waiver is obtained. Securing approval of a setback waiver is unlikely even for a camouflaged installation as an approximately 70 foot tall facility would be required at this location. Such a tall structure would be out of scale with structures on the property and in the surrounding neighborhood. Due to its location in a restricted (disfavored) area and the need for a setback waiver, this alternative would be disfavored in comparison to a location in an allowed zoning district where setbacks are met.

3. Renaissance High School

Address: 11 Spring Valley Road

Elevation: 125 feet

Zoning: PR



Verizon Wireless reviewed this 10 acre school facility located 0.8 miles southeast of the Proposed Facility and approximately 20 feet lower in elevation. As all K-12 school sites are prohibited locations under the Code, this is not a feasible alternative for Verizon Wireless's facility.

Elimination of Immediate Coastal Area

Though mostly located in the PR – Parks, Recreation and Open Space zone which allows wireless facilities, all areas between the sea and the first right-of-way are prohibited areas under the Code and Verizon Wireless did not consider such locations.

Elimination of Small Parcels with Setback Restrictions

Of zones in the Significant Gap allowing wireless facilities, several are composed of a few small developed parcels located adjacent to or across the street from residentially-zoned parcels. Verizon Wireless reviewed 14 such parcels as listed below. These zones are each isolated pockets within the La Selva Beach residential area.

As these small parcels are located adjacent to or across the street from residentially-zoned parcels, a wireless facility at these locations could not meet the 300 foot residential setback required under the Code unless a waiver is obtained. The standard for approval of a setback waiver would be impossible to meet even for a camouflaged facility as these locations are downslope of the Proposed Facility location

and would require a facility taller than the Proposed Facility. Such a tall facility would be out of scale with structures in the surrounding residential neighborhoods, posing substantial visual impacts. These locations are disfavored in comparison to locations in non-residential areas where setbacks are met. Obtaining a Telecommunications Act exception under Code §13.10.668 to avoid violating the federal law preemption for prohibition of service cannot apply where Verizon Wireless has identified a less intrusive alternative in the Proposed Facility that exceeds required residential setbacks and does not require a setback waiver.

VA – Visitor Accommodation

- 1535 and 1537 San Andreas Road (Two 0.27 acre parcels)

C-1 – Neighborhood Commercial

- 304 to 312 Playa Boulevard (Five 0.05 to 0.06 acre parcels)
- 308 to 310 Estrella Avenue (Three 0.05 acre parcels)
- 15 Florido Avenue (One 0.17 acre parcel)

PF – Public and Community Facilities

- 26 Florido Avenue – La Selva Beach Community Church (One 0.56 acre parcel)
- 75 Asta Street (One 0.27 acre parcel)

PR – Parks, Recreation and Open Space

- Triangle Park, Playa Boulevard (One 0.3 acre parcel)

Elimination of Large Parcels with Various Restrictions

Verizon Wireless reviewed the following three alternatives which are subject to various restrictions under the Code.

4. Oceanview Drive Open Space

Address: West of San Andreas Road

Elevation: 100 feet

Zoning: PR



Verizon Wireless reviewed this open space composed of two parcels totaling 2.56 acres, ringed by residences on San Andreas Road, Oceanview Drive, Hillview Way and Holiday Drive. Though located in an allowed PR zoning district, all portions of this open space are within 125 feet of residentially-zoned parcels, well under the 300 foot residential setback required under the Code unless a waiver is obtained. Securing approval of a setback waiver is unlikely even for a camouflaged installation as an approximately 80 foot tall facility would be required at this location, posing visual impacts to adjacent residential backyards in an area with few screening trees or structures to provide context. This location is clearly disfavored over any location that meets residential setback requirements such as the Proposed Facility location. This is not a less intrusive alternative to the Proposed Facility.

5. Ravine Areas

Address: Adjacent to Camino Al Mar, Margarita Road and Asta Drive

Elevation: 30 to 135 feet

Zoning: PR



Verizon Wireless reviewed these PR-zoned areas located along ravines adjacent to Camino Al Mar, Margarita Road and Asta Drive, consisting of 19 parcels totaling approximately 40 acres. Ravines located within the Los Barrancos de Aptos development are privately owned, as are the swimming pool and tennis courts located near the bottom of the ravine north of Camino Al Mar. Though located in an allowed zoning district, almost all of these ravine areas are within 300 feet of residentially-zoned parcels and would not meet the 300 foot setback from residentially-zoned parcels required under Code unless a waiver is obtained. Though certain south-facing slopes north of Camino Al Mar are beyond the 300 foot setback from residentially-zoned parcels, they are located between the sea and the first public road and thus are a prohibited area under the Code. Further, construction of a wireless facility foundation and access road on any of these steep ravine slopes would present potential environmental impacts to streams and other environmental resources. This is not a less intrusive alternative to the Proposed Facility.

6. Southern Pacific Railroad

Address: Unaddressed Parcels along Railroad Line

Elevation: 70 to 125 feet

Zoning: PF

Verizon Wireless reviewed PF-zoned railroad rights-of-way located near the coast, consisting of four very narrow parcels totaling approximately 15 acres. Railroad rights-of-way north of San Andreas Road are located between the sea and the first public road, a prohibited area under the Code. Railroad rights-of-way south of San Andreas Road are located adjacent to RA zoning districts, and with none of the railroad parcels exceeding a width of approximately 60 feet, a wireless facility would not meet the 300 foot setback from residentially-zoned parcels required under Code unless a waiver is obtained. Due to location in prohibited areas or residential setback restrictions, this is not a less intrusive alternative to the Proposed Facility.

Large Parcels in Allowed Base Zoning Districts

Having discounted prohibited and restricted areas, parcels that cannot meet residential setback criteria and locations where construction of a wireless facility would pose significant environmental impacts, Verizon Wireless narrowed its search to the one remaining property in the Significant Gap area with a base zoning designation favorable to wireless facilities, considering three alternate locations and designs.

7. Delucchi Property – Proposed Facility

Address: 105 Alta Drive

Elevation: 143 feet

Zoning: A-P



Verizon Wireless proposes to place a 48 foot camouflaged water tower facility in the center of this 160 acre parcel zoned A-P, Agricultural Preserve. The base zoning designation of A (agricultural) allows wireless facilities with a Level V permit. The -P (preservation) combining district overlay subjects this location to standards of the CA zone, including special findings. Verizon Wireless's panel antennas will be fully concealed within a tank structure mounted on top of an open lattice framework, and the water tower will be painted to match nearby structures on the property used for agricultural purposes. A 1,600 square foot lease area will contain radio equipment cabinets and a standby diesel generator for use in emergencies. The equipment area will be surrounded by a six foot chain link fence, and existing buildings will conceal the equipment area from view from most public vantage points. A row of established trees approximately 30 to 40 feet in height east of the Proposed Facility provides a backdrop to help the facility blend into its surroundings. When viewed from the nearest public vantage point, San Andreas Road to the west, the Proposed Facility is set against a backdrop of forested hills to the east and does not silhouette against the sky. The Proposed Facility is located over 700 feet from the nearest residential property line to the northwest, exceeding setback criteria with no requirement for a setback waiver. In fact,

Verizon Wireless has relocated the Proposed Facility approximately 220 feet to the east of the originally-proposed location, increasing the distance from residences to the northwest and further minimizing any visual impacts. Properties to the east and north support primarily agricultural uses. This is Verizon Wireless's preferred location and design for the Proposed Facility.

8. Delucchi Property – Alternate Location to Southeast

Address: 105 Alta Drive

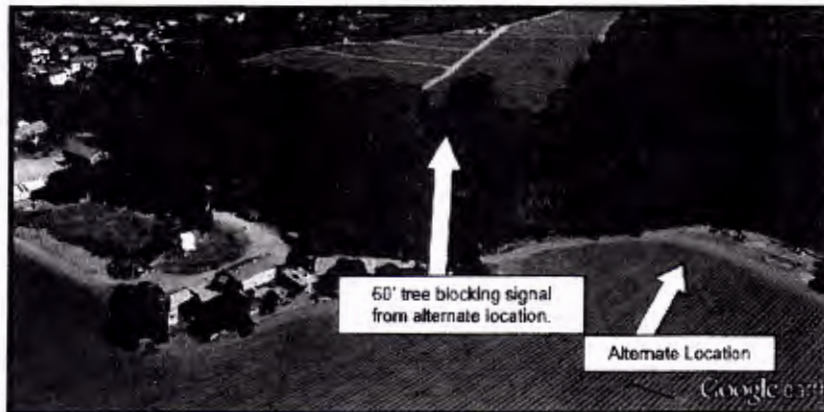
Elevation: 149 feet

Zoning: A-P



Verizon Wireless considered locating its facility in a farm equipment turnaround approximately 675 feet southeast of the Proposed Facility on the eastern edge of the same 160-acre property. As shown below, trees immediately north of this location with heights up to 60 feet would interfere with signal propagation to residential areas further north. In order for antennas to clear these trees, a much taller camouflaged water tower facility would be required at this location, with a total height of 70 feet versus 48 feet for the Proposed Facility. This alternate location is also less favorable because it is not situated near existing buildings that provide context in the agricultural setting of the Proposed Facility. Immediately north of this location, the property slopes down into a ravine at a steep angle, making construction of an access road and foundation infeasible. Due to Williamson Act restrictions on this property barring removal of cultivated areas, Verizon Wireless cannot place a facility in any of the agricultural fields to the south. The unimproved turnaround area is required for large farm equipment to traverse the property, and placement of the facility in the turnaround would require excavation of a separate turnaround area that would also remove cultivated land. Lastly, the driveway area is unavailable for placement of a facility as it is leased to a tenant farmer who is unwilling to sublease. Due to unfavorable visual impacts at this location, this is not a less intrusive alternative to the Proposed Facility.

*Depiction of Alternative 8
Delucchi Property Alternative Location to Southeast*



9. Delucchi Property – Alternate Location to Northeast

Address: 105 Alta Drive

Elevation: 160 feet

Zoning: A-P

Verizon Wireless considered an alternate location on a very small vacant area at the edge of an agricultural field approximately 600 feet northeast of the Proposed Facility location. The entire field is in otherwise in use for cultivation. The small vacant area is not served by an access road or utilities. Due to Williamson Act restrictions on this property barring removal of cultivated areas, Verizon Wireless cannot construct a necessary all-weather access road in the agricultural field. Immediately east of this location, the property slopes down into a ravine at a steep angle, making construction of an access road and foundation infeasible. Due to Williamson Act restrictions and steep slopes impeding construction, this is not a feasible alternate location for the Proposed Facility.

Conclusion

Verizon Wireless has reviewed nearby zoning districts as well as nine specific alternatives for the placement of its wireless facility to serve a Significant Gap in network coverage in the La Selva Beach area. Based upon the preferences identified in the Santa Cruz County Code, the Proposed Facility – a camouflaged water tower placed in the center of a large agriculturally-zoned parcel – clearly constitutes the least intrusive location for Verizon Wireless's facility under the values expressed by Santa Cruz County regulations.

**Verizon Wireless
Aqua View
La Selva Beach
Locations of Sites
Proposed and Alternatives**

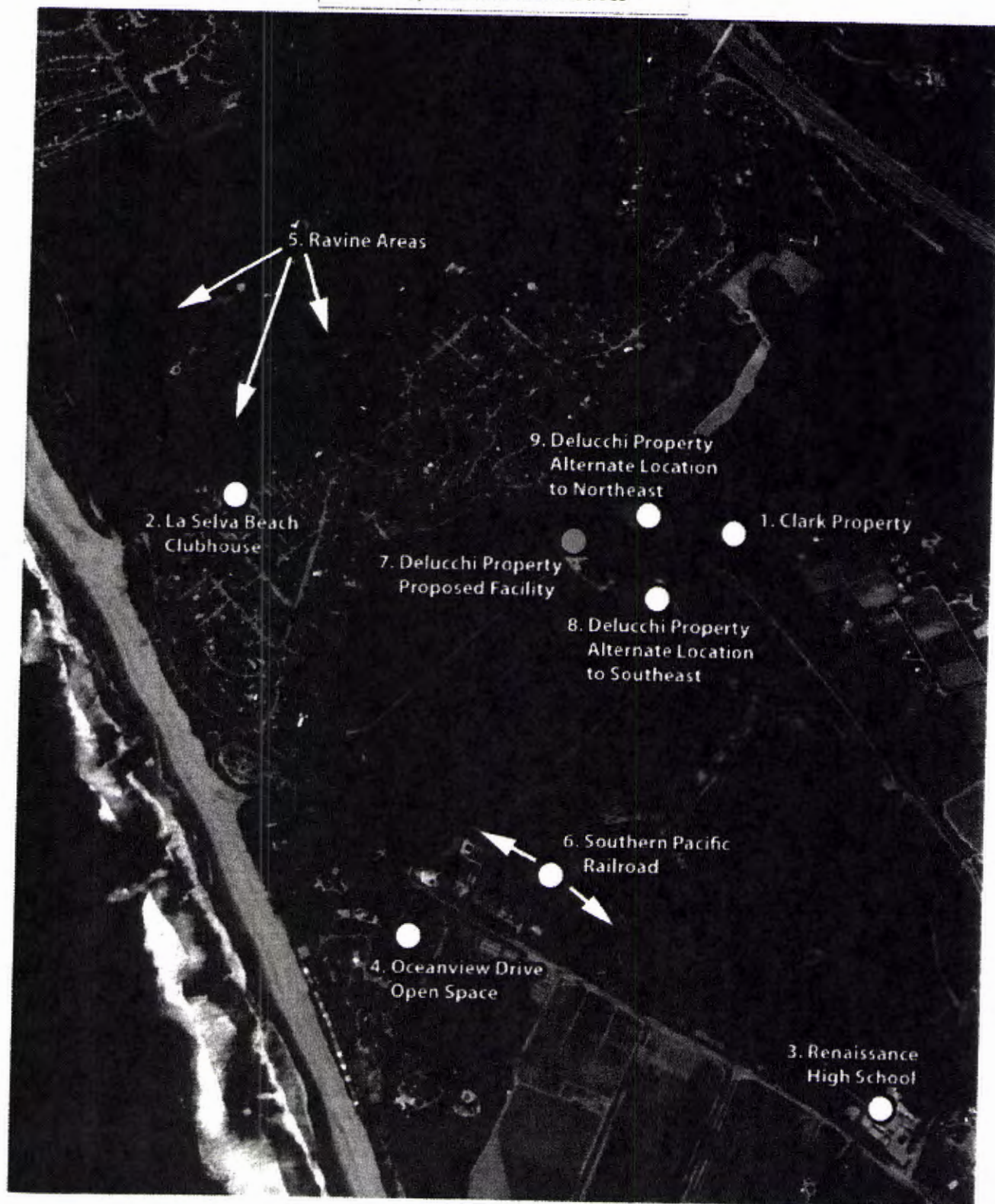


EXHIBIT A

Coverage with no site (AQUA VIEW)

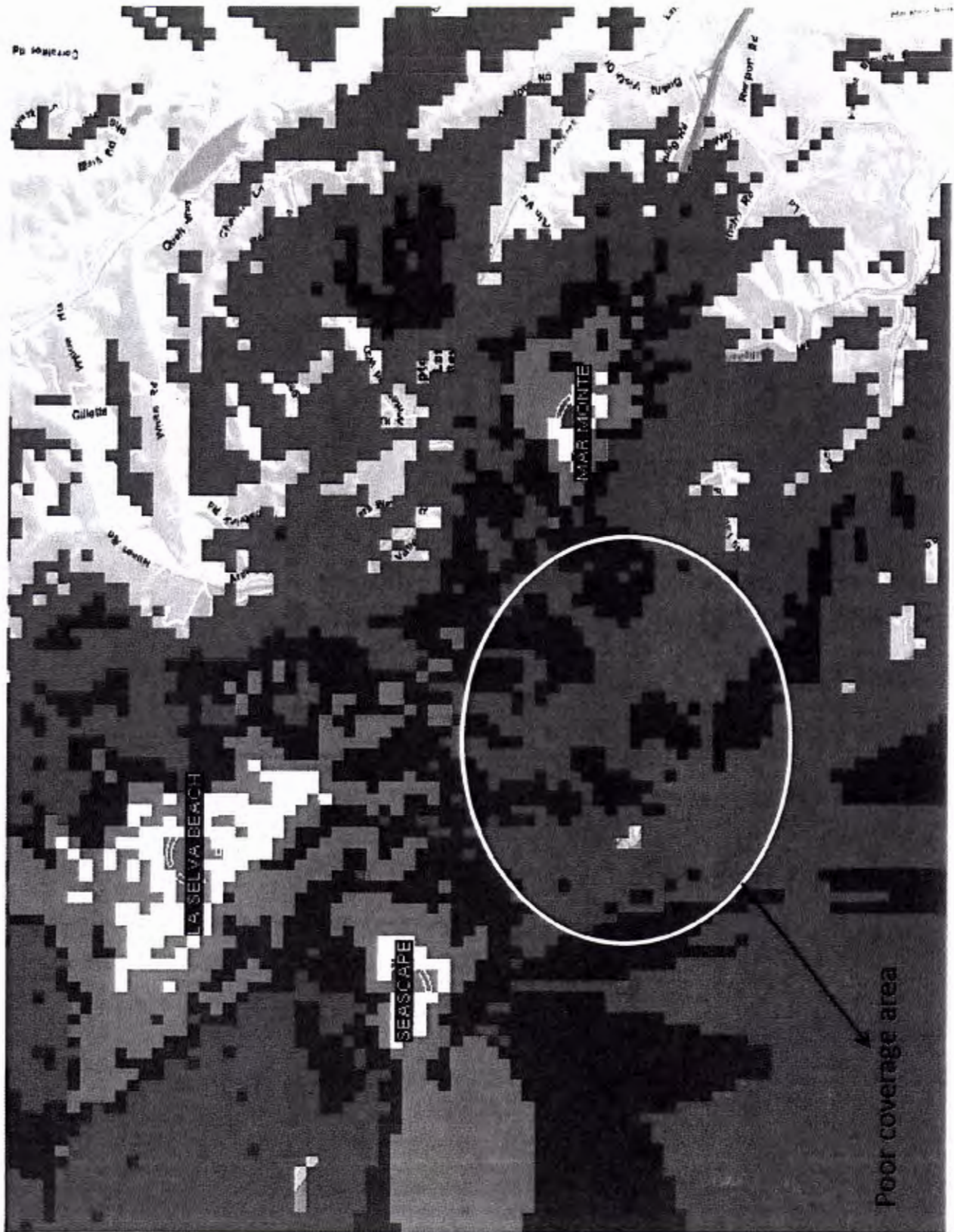


EXHIBIT A

Coverage with site (AQUA VIEW)

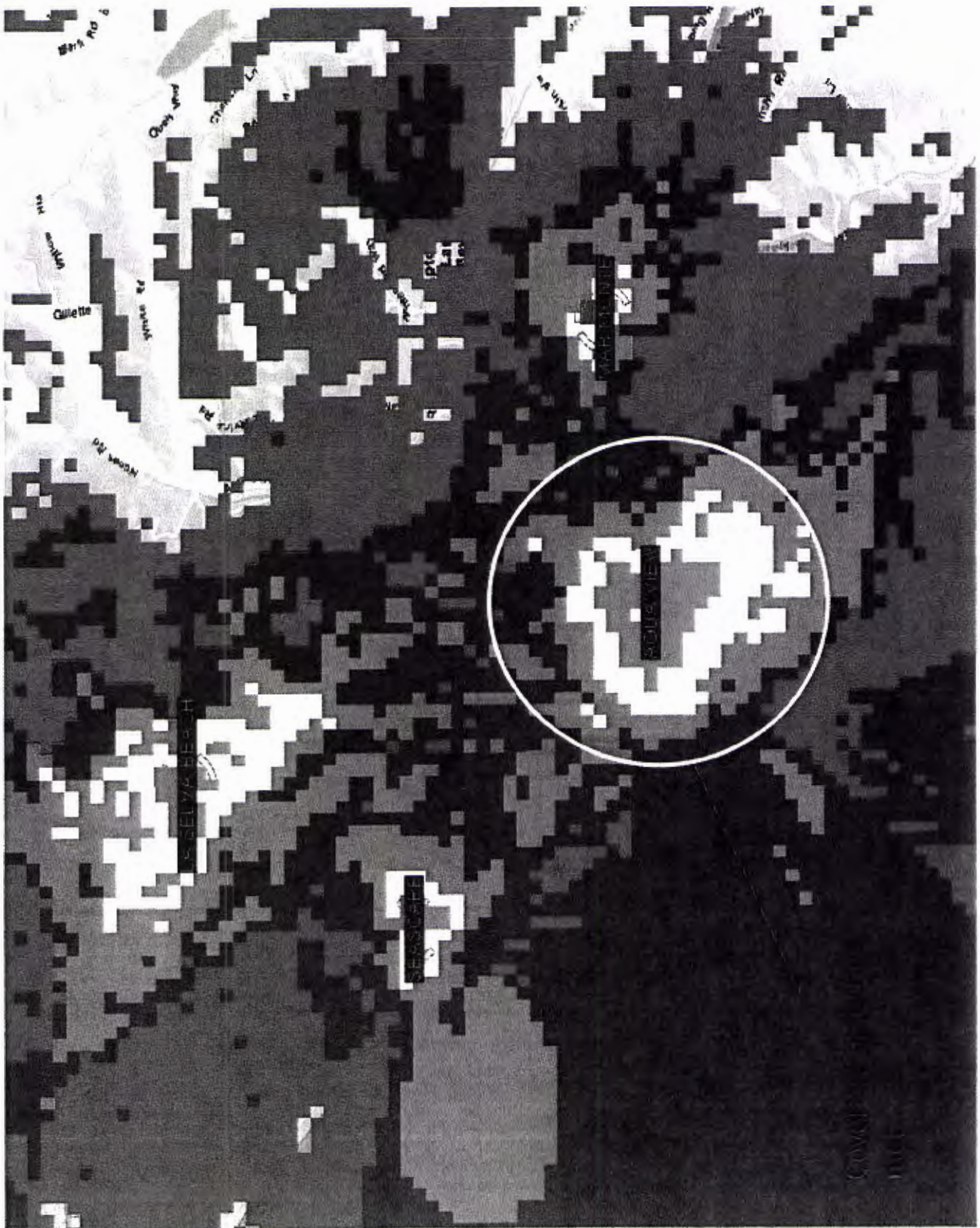


EXHIBIT A

January 4, 2016

HAND DELIVERED

Planning Commission
County of Santa Cruz
701 Ocean Street, 4th Floor
Santa Cruz, CA 95060

**Re: Appeal of Zoning Administrator Decision on December 18, 2015
Development Permit and Coastal Development Permit
Application Number 141196
APN 046-021-05
Owner: Michelle Ellis, Complete Wireless Consulting, Inc. (for Verizon)**

Dear Members of the Planning Commission:

This letter is a formal appeal, by Coalition to Preserve Scenic La Selva ("Coalition"), to the Planning Commission regarding the above-referenced decision of the Zoning Administrator. The Coalition's interest in this matter is that it is committed to preserving the neighborhood character, visual resources, and special scenic qualities of this unique community. The Coalition and its members have grave concerns because this approved proposal to construct a new 48-ft. tall Verizon wireless communication facility ("Project") violates the Santa Cruz County General Plan and Local Coastal Program Land Use Plan (General Plan/LUP), the Santa Cruz County Code, and CEQA. Most importantly, the Project, if approved, will establish a trend that will forever change the visual character of the community to the detriment of the community and the general public. We have provided a check in the amount of \$1,800 to cover the appeal fee.

In accordance with Santa Cruz County Code section 13.10.310(C), the Coalition alleges that approval is unjustified or inappropriate and such that there should be an additional hearing on the application, there was error or abuse of discretion on the part of the Zoning Administrator, there was a lack of a fair and impartial hearing, and that the decision is not supported by the facts presented for consideration leading to the approval. The specific arguments for the appeal include, but are not limited to, the issues listed below, and this letter of appeal incorporates by reference in this appeal all comments made by the Coalition and all evidence submitted to the Zoning Administrator before and at the hearing on the application at issue. Thus, the

WITTWER PARKIN LLP / 147 S. RIVER ST., STE. 221 / SANTA CRUZ, CA / 95060 / 831.429.4055

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EXHIBIT 3

Commission should consider the previous arguments and evidence submitted by the Coalition as part of its processing of this appeal. Furthermore, the Coalition reserves the right to submit additional argument, authorities and evidence prior to and at the Planning Commission's hearing on the appeal.

SPECIFIC GROUNDS FOR THE APPEAL

A. The Project Is Located In a Sensitive Site Subject To Special Protections Under County Land Use Regulations, and the Project Violates Community and Neighborhood Character Standards.

The Project would be inconsistent with provisions of the General Plan, the County Code and the Local Coastal Program that protect scenic views. The project is located within a specially-mapped and designated scenic area under the General Plan/LUP. This scenic mapping designation is based on the Project Site's proximity to, and potential to adversely affect views from scenic roads, and other public areas. In light of this special mapping, the Project Site is subject to and inconsistent with the various provisions of the General Plan/LUP related to protection of visual resources, *including but not limited to, the following:*

1. **Objective 5.10(a), Protection of Visual Resources.** To identify, protect, and restore the aesthetic values of visual resources.
2. **Objective 5.10(B), New Development in Visual Resource Areas.** To ensure that new development is appropriately designed and constructed to have minimal to no adverse impact on identified visual resources.
3. **Policy 5.10.1, Designation of Visual Resources.** Designate on the General Plan and LCP Resources Maps and define visual resources as areas having regional public importance for their natural beauty... .
4. **Policy 5.10.2, Development Within Visual Resource Areas.** Recognize that visual resources of Santa Cruz County possess diverse characteristics and that resources worthy of protection may include . . . agricultural fields, wooded forests, open meadows Require projects to be evaluated against the context of their unique environment and regulate structure height, setbacks and design to protect these resources consistent with the objectives and policies of this section

EXHIBIT 4

5. **Policy 5.10.3, Protection of Public Vistas.** Protect significant public vistas, as described in Policy 5.10.2, from all publicly used roads and vista points by minimizing disruption of landform and aesthetic character caused by grading operations, timber harvests, utility wires and poles, signs, inappropriate landscaping, and structure design. Provide necessary landscaping to screen development that is unavoidably sited within these vistas.
6. **Objective 8.1, Quality Design.** To achieve functional high quality development through design review policies which recognize the diverse characteristics of the area, maintains design creativity, and preserves and enhances the visual fabric of the community.
7. **Objective 8.2, Site and Circulation Design.** To enhance and preserve the integrity of existing land use patterns and to complement the scale and character of neighboring development by assuring that new development is sited, designed and landscaped to be functional and visually compatible and integrated with surrounding development, and to preserve and enhance the natural amenities and features unique to individual building sites, and to incorporate them into the site design.
8. **Objective 8.4, Residential Neighborhoods.** To preserve the residential use and character of existing urban neighborhoods
9. **Policy 8.4.1, Neighborhood Character.** Based on the Zoning ordinance, require new infill development on vacant land within established residential neighborhoods to be consistent with the existing residential character of the neighborhood
10. **Policy 8.4.5, Neighborhood Character Inventories.** Require new discretionary project applications to include a neighborhood character visual inventory or equivalent information commensurate with the scope of the project. The purpose of the inventory is to serve as a basis from which to develop appropriate guidelines and conditions for adoption with the project. The inventory shall at a minimum encompass the parcels surrounding the site, consider architectural and landscape style, density, lot sizes and setbacks.

EXHIBIT 13

11. **Objective 8.6, Building Design.** To encourage building design that addresses the neighborhood and community context; utilizes scale appropriate to adjacent development; and incorporates design elements that are appropriate to surrounding uses and the type of land use planned for the area.
12. **Policy 8.6.5, Designing with the Environment.** Development shall maintain a complementary relationship with the natural environment and shall be low-profile and stepped-down on hillsides.

The Project also violates County Code provisions for the protection of scenic resources and neighborhood and community character. County Code section 13.20.130(A)(2) states that projects "located in scenic areas mapped on the LCP maps or as determined during project review" must meet "all applicable standards and conditions" of Chapter 13.11. County Code section 13.11.030 defines "sensitive site" as "any property located adjacent to a scenic road or within the viewshed of a scenic road as recognized in the General Plan. The Project Site is located in a specially mapped scenic area. Thus, the project violates several County Code provisions, *including but not limited to, the following:*

1. **13.20.130(B)(1), Visual Compatibility.** All development shall be sited, designed and landscaped to be visually compatible and integrated with the character of surrounding neighborhoods or areas. Structure design should emphasize a compatible community aesthetic as opposed to maximum-sized and bulkier/boxy designs. . . .
2. **13.20.130(B)(7).** Development shall be sited and designed so that it does not block or significantly adversely impact significant public views and scenic character, including by situating lots, access roads, driveways, buildings, and other development (including fences, walls, hedges and other landscaping) to avoid view degradation and to maximize the effectiveness of topography and landscaping as a means to eliminate, if possible, and/or soften, if not possible, public view impacts.
3. **13.20.130(C)(2), Site Planning.** Development shall be sited and designed to fit the physical setting carefully so that its presence is subordinate to the natural character of the site, including through appropriately maintaining natural features

EXHIBIT 11

(e.g., streams, riparian corridors, major drainages, mature trees, dominant vegetative communities, rock outcroppings, prominent natural landforms, tree groupings, etc.) and requiring appropriate setbacks therefrom. Screening and landscaping suitable to the site shall be used to soften the visual impact of development unavoidably sited in the public viewshed.

4. **13.11.072 Site Design.** Requires all new development to “enhance or preserve the integrity of existing land use patterns or character where those exist . . . and . . . complement the scale of neighboring development.” Section 13.11.072 also requires that new development be “sited, designed and landscaped so as to be visually compatible and integrated with the character of surrounding areas.” Section 13.11.072(A)(1) requires that the certain elements of the design of the Project “be balanced and evaluated in relation to the proposed project site and surrounding development in order to create compatible development.” These elements include building location, orientation, bulk, massing and scale, relationship to natural site features, and relationship to existing structures. Section 13.11.072(B)(2)(a) requires that the Project “protect the public viewshed, where possible” and section 13.11.072(B)(2)(b) requires that the Project “minimize the impact on private views from adjacent parcels, wherever practicable.”
5. **13.11.073 regarding Building Design.** Section 13.11.073(B)(1)(b) requires the design elements of the Project be “reviewed to achieve a level of neighborhood compatibility appropriate to the architectural style, character and identity of both the proposed new building and the neighborhood.” These elements include the massing of building form, building silhouette, and building scale. The design should also address the scale of the Project in relation to adjacent buildings.
6. **13.11.010 regarding Purpose.** Section 13.11.010(C) states that one of the purposes of Chapter 13.11 is to “preserve and enhance the beauty and environmental amenities of the County by . . .protecting and ensuring . . . private developments as they relate to each other and the surrounding neighborhood”. Section 13.11.010(D) provides an additional purpose as “preserving and creating compatibility of land use and building design within neighborhoods” and “integrating the . . .appearance and locations of buildings and site improvements to best achieve a balance between private prerogatives and preferences and the public interest and welfare.”

EXHIBIT B

B. The Project Does Not Conform with General Development and Performance Standards Required for Wireless Communication Facilities.

The County provides general development and performance standards for wireless communication facilities, such as the proposed Project. County Code sections 13.10.660 through 13.10.668 establish regulations, standards and circumstances for the siting, design, construction, and operation of wireless communication facilities. Section 13.10.660(A) specifically acknowledges: "It is also the purpose of SCCC 13.10.660 through 13.10.668, inclusive, to locate and design wireless communication towers/facilities so as to minimize negative impacts, such as, but not limited to, visual impacts, agricultural and open space land resource impacts, impacts to the community and aesthetic character of the built and natural environment, attractive nuisance, noise and falling object, and the general safety, welfare and quality of life of the community." Thus, the project violates several County Code provisions, *including but not limited to, the following:*

1. **13.10.663 regarding General development/performance standards for wireless communication facilities.** Section 13.10.663(A)(1) states that: "Site location and development of wireless communications facilities shall preserve the visual character, native vegetation and aesthetic values of the parcel on which such facilities are proposed, the surrounding parcels and road rights-of-way, and the surrounding land uses to the greatest extent that is technically feasible, and shall minimize visual impacts on surrounding land and land uses to the greatest extent feasible. Facilities shall be integrated to the maximum extent feasible to the existing characteristics of the site, and every effort shall be made to avoid, or minimize to the maximum extent feasible, visibility of a wireless communication facility within significant public viewsheds. Utilization of camouflaging and/or stealth techniques shall be encouraged where appropriate. Support facilities shall be integrated to the existing characteristics of the site, so as to minimize visual impact."
2. **13.10.663(A)(8) regarding Consistency with Other County Land Use Regulations.** Section 13.10.663(A)(8) states: "All proposed wireless communication facilities shall comply with the policies of the County General Plan/Local Coastal Plan and all applicable development standards for the zoning district in which the facility is to be located, particularly policies for protection of visual resources (i.e., General Plan/LCP Section 5.10). Public vistas from scenic

EXHIBIT B

roads, as designated in General Plan Section 5.10.10, shall be afforded the highest level of protection.”

3. **13.10.663(B)(5) regarding Design Review Criteria for Visual Impact**

Mitigation. 13.10.663(B)(5) states: “Special design of wireless communication facilities may be required to mitigate potentially significant adverse visual impact, including appropriate camouflaging or utilization of stealth techniques. Use of less visually obtrusive design alternatives, such as “microcell” facility types that can be mounted upon existing utility poles, is encouraged Co-location of a new wireless communication facility onto an existing telecommunication tower shall generally be favored over construction of a new tower Public vistas from scenic roads, as designated in General plan/LCP Section 5.10.10, shall be afforded the highest level of protection.

These General Plan and Zoning Code provisions create a clear mandate that the County must consider and evaluate the Project in light of its impact on the context of the neighborhood as a whole, and must incorporate measures to ensure the protection of neighborhood character and context. The Project as designed is inconsistent with, and would in fact thwart, achievement of the foregoing goals, policies, objectives and purposes. Approval of the Project would create a trend toward allowing wireless communication facilities within designated scenic areas, impacting visual resources.

In promulgating local ordinance regarding the regulation of wireless communication facilities, the County made explicit findings acknowledging that: “The proliferation of antennas, towers, satellite dishes, and other wireless communication facility structures could create significant, adverse visual impacts. Therefore, there is a need to regulate the siting, design, and construction of wireless communication facilities to ensure that the appearance and integrity of the community is not marred by unsightly commercial facilities, particularly in residential, historically significant, scenic coastal areas, and other environmental sensitive areas.” County Code Section 13.10.660(B)(1). The Coalition is adamantly against this Project because it does not align with the County’s visual goals and objectives, and because it violates the County’s own rules. Approval of this Project would mar the scenic resources and neighborhood character of the Coalition’s community.

C. **The Project is Not Exempt from the Requirements of CEQA.**

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The Staff Report asserts that the proposed Project is exempt from environmental review based on CEQA's Class 3 Categorical Exemption for small construction or development projects pursuant to CEQA Guidelines § 15303. However, several exceptions to this exemption apply:

- 1) CEQA Guidelines section 15300.2(a) where projects which "may impact on environmental resources of critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, and local agencies";
- 2) CEQA Guidelines section 15300.2(b) for projects where "the cumulative impact of successive projects of the same type in the same place, over time is significant"; and
- 3) CEQA Guidelines section 15300.2(c) for projects "where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances."

The Project site is within a highly sensitive scenic area as specifically mapped and adopted by the Coastal Commission and County of Santa Cruz. Given the County's disregard of the viewshed protection policies, the projects sets further precedent that will result in more wireless communications facilities being built with similar impacts within designated scenic areas, causing severe visual impacts. As such, a categorical exemption is inappropriate and an Initial Study and Mitigated Negative Declaration, or an Environmental Impact Report, are legally required under CEQA.

C. The Coalition Did Not Receive Adequate Notice or a Fair Hearing.

The Coalition did not receive adequate notice or a fair hearing because the planning staff did not abide by the procedural requirements necessary for a wireless communications facility public hearing. Section 13.10.661 states that all wireless communications facilities "are subject to Level V review." It specifically requires: "[D]ue to the potential adverse visual impacts of wireless communication facilities the neighboring parcel notification distance for wireless communication facility applications is increased from the normal 300 feet to 1,000 feet from the outer boundary of the subject parcel. To further increase public notification, on-site visual mock-ups as described in SCCC 13.10.662(D) are also required for all proposed wireless communication facilities." Section 13.10.661(H).

The original Zoning Administrator hearing was set for December 4, 2015. Many residents who lived within 1,000 feet of the subject parcel did not receive notification regarding the public hearing for the Project. Furthermore, the original notice erroneously stated that the Project was not appealable to the Coastal Commission. The Planning Department continued the

hearing to December 18, 2015, but again without proper notice. Neighboring parcel notification for the Project application was not mailed out to parcels within 1,000 feet of the Project. Instead, the Planning Department posted a small notice of the December 8, 2015 public hearing in the Sentinel on the same date of the original hearing, December 4, 2015. The County Code does not allow notification for wireless communication facilities in this manner. These procedural infirmities denied the Coalition a fair hearing regarding the Project.

D. Project Applicant Failed to Satisfy Application Requirements for Wireless Communication Facilities.

The Planning Department failed to conduct the required on-site visual mock-up of the Project pursuant to Sections 13.10.661(H) and 13.10.662(D). Visual mock-ups are explicitly required for proposed wireless communications facilities such as the proposed Project: "At minimum, the on-site demonstration structure shall be in place prior to the first public hearing to consider project approval, on at least two weekend days and two weekdays between the hours of 8:00 a.m. to 6:00 p.m., for a minimum of 10 hours each day. A project description, including photo simulations of the proposed facility, shall be posted at the proposed project site for the duration of the mock-up display." Section 13.10.662(D). The Planning Director may "release an applicant from the requirement to conduct on-site visual mock-ups upon a written finding that in the specific case involved said mock-ups are not necessary to process or make a decision on the application and would not serve as effective public notice of the proposed facility." *Id.*

Here, the Planning Director gave no written finding or express release for the visual mock-up requirement. As such, visual mock-ups were required pursuant to County Code. Several requirements were not met. First, the project description and photo simulations of the proposed facility was not posted at the proposed project-site. Further, visual mock-ups were not prepared according to the requirements and schedule set forth in County Code. Because the project applicant failed to abide by the visual mock-ups requirement necessary for wireless communication facilities, this denied the residents the ability to properly assess the visual impacts of the Project within the timeframe provided under County Code—this constitutes an abuse of discretion.

Section 13.10.662(C)(2) requires evaluating "the potential for co-location with existing wireless communication facilities" The report submitted by project applicant does not explain why existing towers are unsuitable for co-location, it simply supplies a map of the current existing towers in the area. The only explanation project applicant provides for why one of the possible co-location sites is infeasible is due to the fact that Soquel Water District is unwilling to host antennas outside their water tanks. However, County Code requires evaluation of *existing* wireless communication facilities. The conclusory statements presented by project

EXHIBIT 11

applicant with regard to existing wireless communication facilities does not actually amount to evaluating the co-location potential of these existing sites.


The project applicant identified two possible sites with regard to this current Project. The project applicant concluded that the alternative site, Morris APN 045-041-35-000 would have more significant visual impacts, and so the site was not selected. However, the project applicant did not "include photo-simulations of each of the alternatives (i.e., the proposed location/facility and each of the technically feasible location/design alternatives.)" Section 13.10.662(C)(4). Because photo-simulation of the Morris site is mandatory under County Code, the project applicant failed to abide by this requirement when it submitted its application. As such, approval of the project without satisfaction of this requirement is unjustified.

Finally, the engineering report submitted to analyze the Project's compliance with appropriate guidelines limiting human exposure to radio frequency ("RF") electromagnetic fields utilizes a discontinued model of antenna for their study. The Andrew Model SBNH-1D656B antenna, which is the subject antenna of the engineering study, was discontinued over a year ago. (See Exhibit "A"). At the very least, the study should base its evaluation on a **current** antenna model that may be used for the Project. Attaching a perfunctory analysis based on a discontinued antenna model fails to properly analyze the Project's possible significant impact on the environment.

For the foregoing reasons, the Zoning Administrator approved a Project that failed to abide by both the procedural and substantive requirements necessary for wireless communications facility applications. This resulted in an unfair hearing and an improper Project approval.

Thank you for your attention to this matter, and please feel free to contact me if there are any questions regarding this appeal.

Very truly yours,
WITTWER PARKIN, LLP


William P. Parkin

cc: Frank Barron (via email)

EXHIBIT B

EXHIBIT "A"

EXHIBIT B

Product Specifications

COMMSCOPE®

POWERED BY

ANDREW

SBNH-1D6565B

Andrew® Dual Band Antenna, 698-896 MHz and 1710-2180 MHz, 65° horizontal beamwidth, internal RET

- Interleaved dipole technology providing for attractive, low wind load mechanical package
- Internal next generation actuator eliminates field installation and defines new standards for reliability

OBSOLETE

This product was discontinued on: December 31, 2014

Replaced By

SBNH-1D65B Andrew® Dualband Antenna, 698-896 MHz and 1710-2360 MHz, 65° horizontal beamwidth, internal RET.

SBNH-1D65B-SR Andrew® Dualband Antenna, 698-896 MHz and 1710-2360 MHz, 65° horizontal beamwidth, internal RET.

Electrical Specifications

Frequency Band, MHz	698-806	806-896	1710-1880	1850-1990	1920-2180
Gain, dBi	15.3	15.5	18.5	18.4	18.2
Beamwidth, Horizontal, degrees	71	67	59	57	63
Beamwidth, Vertical, degrees	12.3	10.9	5.5	5.1	4.8
Beam Tilt, degrees	0-10	0-10	0-6	0-6	0-6
USLS (First Lobe), dB	15	15	15	15	15
Front-to-Back Ratio at 180°, dB	25	27	34	35	32
CPR at Boresight, dB	26	22	25	26	24
CPR at Sector, dB	11	7	10	10	8
Isolation, dB	30	30	30	30	30
Isolation, Intersystem, dB	30	30	30	30	30
VSWR Return Loss, dB	1.5 14.0	1.5 14.0	1.5 14.0	1.5 14.0	1.5 14.0
PIM, 3rd Order, 2 x 20 W, dBc	-153	-153	-153	-153	-153
Input Power per Port, maximum, watts	400	400	300	300	300
Polarization	±45°	±45°	±45°	±45°	±45°
Impedance	50 ohm	50 ohm	50 ohm	50 ohm	50 ohm

Electrical Specifications, BASTA®

Frequency Band, MHz	698-806	806-896	1710-1880	1850-1990	1920-2180
Gain by all Beam Tilts, average, dBi	14.9	15.2	18.3	18.2	17.9
Gain by all Beam Tilts Tolerance, dB	±0.5	±0.4	±0.4	±0.3	±0.7
Gain by Beam Tilt, average, dBi	0° 15.1	0° 15.2	0° 18.5	0° 18.3	0° 18.2
	5° 15.1	5° 15.3	3° 18.4	3° 18.3	3° 18.0
	10° 14.6	10° 15.1	6° 18.1	6° 18.0	6° 17.5
Beamwidth, Horizontal Tolerance, degrees	±2.2	±2.3	±2.6	±1.4	±10.2
Beamwidth, Vertical Tolerance, degrees	±0.9	±0.5	±0.3	±0.2	±0.4
USLS, beampeak to 20° above beampeak, dB	16	17	16	17	15
Front-to-Back Total Power at 180° ± 30°, dB	21	20	29	29	27
CPR at Boresight, dB	26	22	25	26	24

EXHIBIT

Exhibit 3

A-3-SCO-16-0069

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February 22, 2016

SENT VIA EMAIL

Planning Commission
County of Santa Cruz
701 Ocean Street, 4th Floor
Santa Cruz, CA 95060

**Re: Planning Commission Agenda Item No. 6; February 24, 2016
Appeal of Zoning Administrator Decision on December 4, 2015
Development Permit Application 141196
APN 046-021-05
Applicant: Verizon Wireless**

Dear Planning Commissioners:

This office has filed the above referenced appeal regarding Development Permit Application 141196 ("Proposed Project") on behalf of the Coalition to Preserve Scenic La Selva (the "Coalition"). The focus of this letter is: (1) the impact of the Project to visual resources and incompatibility of the Project to site design objectives contrary to the policy objectives under the General Plan/LCP; (2) the lack of environmental review for a project that is located in a mapped scenic area, specifically the applicability of the claimed exemption under the California Environmental Quality Act (CEQA); and, (3) as well as the procedural infirmities associated with approval of this Project.

The Proposed Project is located within a specially-mapped and designated scenic area under the General Plan/LCP as certified by the California Coastal Commission. This scenic mapping designation is based on the Project Site's proximity to, and potential to adversely affect views from scenic roads. In light of this special mapping, the Project Site is subject to and inconsistent with the various provisions of the General Plan/LCP related to protection of visual resources as set forth in our appeal letter dated January 4, 2016.

The Proposed Project Does Not Meet General Plan/LCP Visual Resource Policy Objectives

With respect to the issue of protection of visual resources under the General Plan/LCP Objective 5.10(a), the Staff Report responds that: "The proposed project is consistent with this objective in that the proposed design of a faux agricultural water tank tower is visually congruent and harmonious with the agricultural setting, and thus the project is protective of visual resources." Staff Report, pg. 2. However, the fatal flaw in the Staff Report's justification is that the maximum height for agricultural structures in the Agricultural Preserve zoning district is only

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40 feet. County Code § 13.10.313(A)(1). Therefore, an agricultural water tank tower is prohibited from reaching 48 feet – the height of the Proposed Project. The argument reiterated throughout the Staff Report, that the Proposed Project is “visually congruent and harmonious with the agricultural setting of the subject parcel[.]” Staff Report pg. 2-5, is wholly unconvincing because an agricultural water tank tower of 48 feet in height would exceed the maximum height allowed for agricultural structures under the County Code. Constructing a 48-ft WCF tower disguised as a faux water tank cannot be said to be consistent with the objectives of the General Plan/LCP which requires the County to “identify, protect, and *restore the aesthetic values of visual resources*[.]” when the County’s own regulations prohibit agricultural structures to exceed 40 feet. Objective 5.10(a), Protection of Visual Resources (emphasis added).

The Staff Report relies almost exclusively on the proposed design of a faux agricultural water tank to support its conclusion that the Proposed Project is consistent with visual resources and public vistas objectives under the General Plan/LCP. As discussed above, the maximum height for agricultural structures within the Agricultural Preserve zoning district, is 40 feet, and so the height of the Proposed Project, at 48 feet, renders the faux agricultural water tank design incompatible with what the zoning district allows for agricultural structures. County Code requires the Project to “be balanced and evaluated in relation to the proposed project site and surrounding development in order to create compatible development.” County Code § 13.11.072(A)(1). The Proposed Project does not meet this requirement of compatibility because a water tank which exceeds 40 feet in height is by definition incompatible with the height restrictions for agricultural structures within the Agricultural Preserve zoning district at issue.

Exceptions to the CEQA Exemptions Apply to the Proposed Project and Environmental Review is Warranted

CEQA mandates that “the long-term protection of the environment... shall be the guiding criterion in public decisions.” Pub. Resources Code § 21001(d). The foremost principle under CEQA is that it is to be “interpreted in such a manner as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language.” *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 563-64 (quoting *Laurel Heights Improvement Association v. Regents of the University of California* (1988) 47 Cal.3d 376, 392). An agency’s action violates CEQA if it “thwarts the statutory goals” of “informed decisionmaking” and “informed public participation.” *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 712.

The Staff continues to assert that the Proposed Project is exempt from environmental review based on CEQA’s Class 3 Categorical Exemption for small construction or development projects pursuant to CEQA Guidelines § 15303. First, the Class 3 exemption must be viewed in light of the purpose of CEQA and that exemptions themselves are to be interpreted narrowly. Courts have held that “the overriding purpose of CEQA is to ensure that agencies regulating activities that may affect the quality of the environment give primary consideration to preventing environmental damage.” *Save Our Peninsula Committee v. Monterey County Bd. of Supervisors*

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(2001) 87 Cal.App.4th 99, 117. Furthermore, the Supreme Court has stated that CEQA "protects not only the environment but also informed self-government." *Citizens of Goleta Valley v. Board of Supervisors*, *supra*, 52 Cal.3d at 564. Erroneous reliance by an agency on a categorical exemption constitutes a prejudicial abuse of discretion and a violation of CEQA. *Azusa Land Reclamation Co. v. Main San Gabriel Basin Watermaster* (1997) 52 Cal.App.4th 1165, 1192.

Categorical exemptions are based on the California Resources Agency's determination that such projects do not have a significant impact on the environment. Pub. Resources Code § 21084; 14 Cal. Code Regs. §§ 15300 - 15354. However, "[t]he [Resources Agency's] authority to identify classes of projects exempt from environmental review is not unfettered ... '[W]here there is any reasonable possibility that a project or activity may have a significant effect on the environment, an exemption would be improper.'" *Azusa*, *supra*, 52 Cal.App.4th at 1191 (quoting *Wildlife Alive v. Chickering* (1976) 18 Cal.3d 190, 205-206). Indeed, "a categorical exemption should be construed in light of the statutory authorization limiting such exemptions to projects with ***no significant environmental effect***." Remy, et al., *Guide to CEQA* (11th ed. 2006) p. 136 (emphasis added).

In the case before you, it is clear that the Proposed Project is not exempt from CEQA review because more than one exception to the exemptions is applicable. First, CEQA Guidelines § 15300.2(a) provides an exception to the Class 3 exemption for projects which "may impact on environmental resources of hazardous ***or critical concern where designated, precisely mapped***, and officially adopted pursuant to law by federal, state, and local agencies." (Emphasis added). The County Staff concedes that the site is a specially mapped and designated scenic area: "The area in which the project is proposed to be located is a designated visual resources area . . ." Staff Report, pg. 2. However, the Staff Report claims the exception to the exemption does not apply: ". . . but the project would not negatively impact that [visual resource]." *Id.*

The current mock-up on display at the Proposed site does not reflect the actual structure being proposed, which is a 48-ft tall WCF tower disguised as an agricultural water tank tower:

The project is proposed to include 9 panel antennas enclosed within the approximately 10-foot tall by approximately 12-foot diameter cylindrical 'tank' at the top of the metal lattice tower, and 2 ground-level equipment cabinets. The tower and equipment cabinets, along with an 8-foot tall stand-by diesel generator (on a 6-ft by 13-ft concrete slab), are proposed to be located within a 40-foot by 40-foot lease area enclosed by a 6-foot high chain link fence.

Staff Report, pg. 1. The 48-ft tall WCF tower and all of its supporting structures imposes an undeniable impact on the scenic resource within this Agricultural Preserve (A-P) zoned parcel. Further, contrary to the Staff Report's response, the language of the CEQA Guidelines does not require significant visual impact from public vistas in order for the exception to the Class 3 exemption to apply. The full text of the exception to the exemption is as follows:

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- (a) Location. Classes 3, 4, 5, 6, and 11 are qualified by consideration of where the project is to be located--*a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant.* Therefore, these classes are considered to apply in all instances, except where the project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies.

14 Cal. Code Regs 15300.2(a). The applicability of the exception to the exemption does not hinge on whether there is a significant visual impact, rather, the exception focuses on the *location* of the Proposed Project. Here, the Proposed Project is squarely located within a mapped scenic area according to the General Plan/LCP, as such, the Class 3 Exemption cannot be relied upon because the location of the Proposed Project renders the exemption inapplicable. The Proposed Project is not exempt from CEQA and environmental review is required.

Second, CEQA Guidelines § 15300.2(b) provides an exception to projects where "the cumulative impact of successive projects of the same type in the same place, over time is significant." Pursuant to Public Resources Code Section 21083(b)(1) and CEQA Guidelines § 15355, an agency must consider the cumulative impacts of a project in determining whether the project may have a significant effect on the environment. "Cumulative impacts" is defined as

[T]wo or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts.

(a) The individual effects may be changes resulting from a single project or a number of separate projects.

(b) The cumulative impact from several projects is the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future projects. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time.

14 Cal. Code Regs § 15355. In the very first line of its Project statement, Verizon Wireless states that it is "seeking to improve communications service to residences, business and travelers in Santa Cruz, CA." See Exhibit F of Exhibit C. The applicant's service objective of the Proposed Project "is both to fill in a gap in coverage in the Santa Cruz County area, as well as to provide support capacity to the existing overloaded facilities: Mar Monte, La Selva Beach, and Seascape." See Exhibit F of Exhibit C. However, the maps provided by applicant demonstrate that even if the coverage objective for the current Project was satisfied, there is still poor coverage directly adjacent to the coverage area at issue. See Exhibit F of Exhibit C. Therefore, it is reasonably foreseeable that Verizon Wireless would propose future projects to service its coverage gaps within Santa Cruz County, including poor coverage areas directly within the vicinity of the current Proposed Project. And so, the cumulative impacts exception applies in this

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instance and further environmental review is warranted for the Proposed Project, given that it is reasonably foreseeable that future WCFs are likely to be proposed in the area, which Verizon Wireless documents as having poor coverage.

As the Sixth District Court of Appeal in San Jose has held, the Court's initial determination as to the appropriate scope of a categorical exemption is a question of law subject to independent, or *de novo*, review. "[Q]uestions of interpretation or application of the requirements of CEQA are matters of law. [Citations.] Thus, interpreting the scope of a CEQA exemption presents 'a question of law, subject to *de novo* review by this court.' [Citations.]" *San Lorenzo Valley* (2006) 139 Cal.App.4th 1356, 1375; 1382. The Court of Appeal has also held that: "The interpretation of an exemption presents a question of law subject to our independent review." *Save Our Big Trees v. City of Santa Cruz* (2015) 241 Cal.App.4th 694, 706. Further, "[b]ecause the exemptions operate as exceptions to CEQA, they are narrowly construed. [Citation.]" *Id.* at 1382. According to the California Supreme Court, CEQA exemptions must be narrowly construed and "[e]xemption categories are not to be expanded beyond the reasonable scope of their statutory language." *Mountain Lion Foundation v. Fish & Game Comm.* (1997) 16 Cal.4th 105, 125; *San Lorenzo Valley*, *supra*, 139 Cal.App.4th at 1382; *see also*, *McQueen v. Board of Directors* (1988) 202 Cal.App.3d 1136, 1148. Erroneous reliance by an agency on a categorical exemption constitutes a prejudicial abuse of discretion and a violation of CEQA. *Azusa*, *supra*, 52 Cal.App.4th at 1192.

In light of the specific exceptions to the Class 3 exemption that apply, and the narrow scope of exemptions as set forth by the courts, the Proposed Project before the Commission is not exempt from environmental review for the reasons set forth above.

The Applicant Failed to Satisfy the Requirements for Applications for WCFs Under County Code

Finally, the Staff Report acknowledges that the applicant failed to satisfy the requirements for application for WCFs: "The appellants note that the applicant did not install a 'mock-up' demonstration pole at the project site . . ." Staff Report pg. 7. County Code requires:

For proposed new telecommunications towers the applicant will be required to raise a temporary mast at the maximum height and at the location of the proposed tower. At minimum, the on-site demonstration structure shall be in place prior to the first public hearing to consider project approval, on at least two weekend days and two weekdays between the hours of 8:00 a.m. to 6:00 p.m., for a minimum of 10 hours each day. A project description, including photo simulations of the proposed facility, shall be posted at the proposed project site for the duration of the mock-up display.

County Code § 13.10.662(D). While the Staff Report notes that after neglecting to raise a temporary mast prior to the first public hearing, "a pole was installed during the 10-day appeal period and was reinstalled 20-days prior to the February 24, 2016 Planning Commission

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hearing[.]” Staff Report, pg. 8. This prevented full public disclosure before the Zoning Administrator considered the Project, and only because the Coalition paid the appeal fee was the mock-up provided. This is a serious breach of due process, and has shielded the Proposed Project from greater public scrutiny.

For the foregoing reasons, the Coalition respectfully requests the Planning Commission to deny the approval of Application No. 14116, find that the Application is not categorically exempt from environmental review, and find that the Application, as proposed, does not satisfy the visual resources, public vistas, and site compatibility objectives of the General Plan/LCP.

Thank you for your attention to these additional comments.

Very truly yours,
WITTWER PARKIN LLP



William P. Parkin

cc: Frank Barron (via email)



Staff Report to the Zoning Administrator

Application Number: **141196**

Applicant: Michelle Ellis, Complete Wireless Consulting, Inc. (for Verizon)
Owners: Andrew & Joy Delucchi
APN: 046-021-05

Agenda Date: December 18, 2015

Agenda Item #: 1

Time: After 9:00 a.m.

Project Description: Proposal to construct a new 48-ft. tall Verizon wireless communication facility (WCF) disguised as an agricultural water tank tower, including 9 panel antennas enclosed within the approximately 10-foot tall by approximately 12-foot diameter cylindrical "tank" at the top of the metal lattice tower, and 2 ground-level equipment cabinets. The tower and equipment cabinets, along with an 8-foot tall stand-by diesel generator (on a 6-ft. by 13-ft. concrete slab), are to be located within a 40-foot by 40-foot lease area enclosed by a 6-foot high chain link fence.

Location: Project is located on a 160.33 acre Agricultural Preserve (A-P) zoned parcel that forms the eastern/southern boundary of the community of La Selva Beach, at 105 Alta Drive in La Selva Beach.

Supervisory District: 2nd (District Supervisor: Zach Friend)

Permits Required: Requires a Commercial Development Permit and a Coastal Development Permit (decision on which is appealable to the Coastal Commission).

Technical Reviews: Soils report and grading/drainage plan required at Building Permit stage.

Staff Recommendation:

- Determine that the proposal is exempt from further Environmental Review under the California Environmental Quality Act.
- Approval of Application 141196, based on the attached findings and conditions.

Exhibits

- | | |
|-------------------------------------------------------|------------------------------|
| A. CEQA Categorical Exemption | F. Project Support Statement |
| B. Findings | G. Radio-Frequency Radiation |
| C. Conditions | Emissions Report |
| D. Project plans | H. Photo-Simulations |
| E. Assessor's, Location, Zoning and General Plan Maps | I. Acoustical Study |

County of Santa Cruz Planning Department
 701 Ocean Street, 4th Floor, Santa Cruz CA 95060

Application #: 141196
 APN: 046-021-05
 Owners: Andrew and Joy Delucchi

Parcel Information

Parcel Size: 160.33 acres
 Existing Land Use - Parcel: Agricultural
 Existing Land Use - Surrounding: Agricultural & Residential
 Project Access: Alta Dr. off San Andreas Rd.
 Planning Area: La Selva
 Land Use Designation: AG (Agriculture)
 Zone District: A-P (Agricultural Preserve)
 Coastal Zone: ☒ Inside ☐ Outside
 Appealable to Calif. Coastal Comm. ☐ Yes ☒ No

Environmental Information

Geologic Hazards: Not mapped/no physical evidence on site
 Soils: Expansive
 Fire Hazard: Not a mapped constraint
 Slopes: N/A
 Env. Sen. Habitat: Mapped on portion of parcel – but not at project site
 Grading: Minor grading proposed – Grading Plan to be submitted
 Tree Removal: No trees proposed to be removed
 Scenic: Within a GP-designated Scenic Area
 Drainage: Existing drainage adequate – Drainage plan to be submitted
 Archeology: Mapped on far SW portion of parcel only – but not at project site

Services Information

Urban/Rural Services Line: ☐ Inside ☒ Outside
 Water Supply: N/A
 Sewage Disposal: N/A
 Fire District: Pajaro FPD
 Drainage District: Flood Zone 7

History

The 160.33 acre parcel has been in agricultural use (in strawberry cultivation currently) for many years, and is currently under a Williamson Act contract. A building permit was issued in 1988 (finalized in 1990) for a 3 bedroom/3 bathroom single family dwelling on the parcel, and another for a swimming pool in 2014.

Project Setting

The project site is located immediately south/east of the community of La Selva Beach, on a 160.33 acre parcel in agricultural (row crop) use. The subject parcel is bounded by Commercial Agricultural (CA) zoned parcels to the southeast, Residential Agricultural (RA) zoned parcels to the east and south, and Single-Family Residential (R-1) zoned parcels to the west and north. The nearest residentially-zoned parcel is approximately 385-feet from the base of the proposed

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Owners: Andrew and Joy Delucchi

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The nearest residentially-zoned parcel is approximately 385-feet from the base of the proposed cell tower. No currently cultivated land will be taken out of production.

Zoning & General Plan/LCP Consistency

The subject property is a parcel of approximately 160.33 acres, located in the Coastal Zone, in the A-P (Agricultural Preserve) zone district, a designation which allows wireless communication facility uses. The proposed wireless communication facility (WCF) is a permitted use within the zone district (with Level 5 approval) and the zoning is consistent with the site's Agricultural (AG) General Plan/LCP designation. The site is within a General plan/LCP designated Scenic Area, but the project would not be readily visible from most publically accessible vantage points and the proposed faux-water tank tower design will fit in well with the agricultural setting. The proposal requires a Level 5 Commercial Development Permit and a Coastal Development Permit.

Design Review

The proposed WCF complies with the requirements of the County Design Review Ordinance, in that the proposed project will incorporate architectural design features by being disguised as an agricultural water tank tower, so as to reduce the visual impact of the proposed development on surrounding land uses and the natural landscape.

Visual Analysis

The proposed 48-foot tall faux-water tank tower WCF design will blend in well with the existing agricultural/rural backdrop, and thus the project will not significantly impact views. The alternative site analysis provided by the applicant shows that siting the tower at an a more out of the way alternate site on the same property would require extending the height of the faux water tank tower to 70-feet to achieve the coverage objective, and therefore would not result in a lesser visual impact.

Radio Frequency Emissions

A radio frequency (RF) radiation emissions calculation report has been prepared for this project by a qualified consulting engineer (Hammet & Edison). The proposed facility is calculated to result in a maximum ambient RF level of no more than 3.6% of the applicable FCC public exposure limit at ground level, and 2.7% of that limit at the second floor level of the nearest habitable structure, which is approximately 400-ft. away from the proposed WCF.

Environmental Review

Staff has determined that the proposed project is Categorically Exempt from the requirements of the California Environmental Quality Act (CEQA) because it qualifies as "New Construction or Conversion of a Small Structure" (Class 3, Section 15303). The CEQA Categorical Exemption form is attached as Exhibit A.

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Conclusion

As proposed and conditioned the project is consistent with all applicable codes and policies of the Zoning Ordinance and General Plan/LCP. Please see Exhibit "B" ("Findings") for a complete listing of findings and evidence related to the above discussion.

Staff Recommendation

- Determine that the proposal is exempt from further Environmental Review under the California Environmental Quality Act.
- **APPROVAL** of Application Number 141196, based on the attached findings and conditions.

Supplementary reports and information referred to in this report are on file and available for viewing at the Santa Cruz County Planning Department, and are hereby made a part of the administrative record for the proposed project.

The County Code and General Plan, as well as hearing agendas and additional information are available online at: www.co.santa-cruz.ca.us

Report Prepared By: Frank Barron
Santa Cruz County Planning Department
701 Ocean Street, 4th Floor
Santa Cruz CA 95060
Phone Number: (831) 454-2530
E-mail: frank.barron@co.santa-cruz.ca.us

EXHIBIT C

CALIFORNIA ENVIRONMENTAL QUALITY ACT NOTICE OF EXEMPTION

The Santa Cruz County Planning Department has reviewed the project described below and has determined that it is exempt from the provisions of CEQA as specified in Sections 15061 - 15332 of CEQA for the reason(s) which have been specified in this document.

Application Number: 141196

Assessor Parcel Number: 046-021-05

Project Location: 105 Alta Drive, La Selva Beach, CA

Project Description: Proposal to construct a 48-ft. tall Verizon WCF disguised as an agricultural water tank tower, including 9 panel antennas completely hidden and enclosed within the cylindrical "tank" at the top of the lattice tower, and 2 ground-level equipment cabinets.

Person or Agency Proposing Project: Michelle Ellis, Complete Wireless (for Verizon)

Contact Phone Number: (916) 764-2454

- A. ☐ The proposed activity is not a project under CEQA Guidelines Section 15378.
 B. ☐ The proposed activity is not subject to CEQA as specified under CEQA Guidelines Section 15060 (c).
 C. ☐ **Ministerial Project** involving only the use of fixed standards or objective measurements without personal judgment.
 D. ☐ **Statutory Exemption** other than a Ministerial Project (CEQA Guidelines Section 15260 to 15285).
 E. ☒ **Categorical Exemption**

Specify type: Type 3 - New Construction or Conversion of Small Structure (Section 15303)

F. Reasons why the project is exempt:

Construction of a wireless communication facility disguised as a 48-foot tall agricultural water tank tower is not anticipated to generate any environmental impacts.

In addition, none of the conditions described in Section 15300.2 apply to this project.



Frank Barron, Project Planner

Date:

12/18/15

Application #: 141196
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 Owners: Andrew and Joy Delucchi

Development Permit Findings

1. That the proposed location of the project and the conditions under which it would be operated or maintained will not be detrimental to the health, safety, or welfare of persons residing or working in the neighborhood or the general public, and will not result in inefficient or wasteful use of energy, and will not be materially injurious to properties or improvements in the vicinity.

This finding can be made, in that the project is located in a zoning district that permits wireless communication facility (WCF) uses and is not encumbered by physical constraints to development. Construction will comply with prevailing building technology, the California Building Code, and the County Building ordinance to insure the optimum in safety and the conservation of energy and resources. The proposed WCF will not deprive adjacent properties or the neighborhood of light, air, or open space, in that the structure meets all current setbacks that ensure access to these amenities.

2. That the proposed location of the project and the conditions under which it would be operated or maintained will be consistent with all pertinent County ordinances and the purpose of the zone district in which the site is located.

This finding can be made, in that the proposed location of the WCF and the conditions under which it would be operated or maintained will be consistent with all pertinent County ordinances and the purpose of the A-P (Agricultural Preserve) zone district as the primary use of the property will remain agricultural, with the proposed WCF being ancillary to that use, and that the WCF use will meet all current site standards for the zone district.

3. That the proposed use is consistent with all elements of the County General Plan and with any specific plan which has been adopted for the area.

This finding can be made, in that the proposed WCF use is consistent with the use and density requirements specified for the Agriculture (AG) land use designation in the County General Plan.

While the site is within a General plan/LCP designated Scenic Area, the project would not be readily visible from most publically accessible vantage points and the proposed faux-water tank tower design will fit in well with the agricultural setting. The proposed WCF will not adversely impact the light, solar opportunities, air, and/or open space available to other structures or properties, and meets all current site and development standards for the zone district, in that the WCF will not adversely shade adjacent properties, and will meet current setbacks for the zone district.

The proposed WCF will be properly proportioned to the parcel size and the character of the neighborhood as specified in General Plan Policy 8.6.1 (Maintaining a Relationship Between Structure and Parcel Sizes), in that the proposed WCF will comply with the site standards for the A-P zone district (including setbacks, lot coverage, floor area ratio, and height) and will result in a structure consistent with a design that could be approved on any similarly sized lot in the vicinity.

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Owners: Andrew and Joy Delucchi

A specific plan has not been adopted for this portion of the County.

4. That the proposed use will not overload utilities and will not generate more than the acceptable level of traffic on the streets in the vicinity.

This finding can be made, in that the proposed WCF is to be constructed on an existing 166.33 acre agricultural parcel, and that there is not expected to be any additional traffic generated by the proposed WCF project, thus the project will not adversely impact existing roads or intersections in the surrounding area.

5. That the proposed project will complement and harmonize with the existing and proposed land uses in the vicinity and will be compatible with the physical design aspects, land use intensities, and dwelling unit densities of the neighborhood.

This finding can be made, in that the proposed structure is located in a rural/agricultural area containing a agricultural land uses and agriculturally-related structures, and the proposed faux-water tank tower WCF will be consistent with that context, and will blend-in seamlessly.

6. The proposed development project is consistent with the Design Standards and Guidelines (sections 13.11.070 through 13.11.076), and any other applicable requirements of this chapter.

This finding can be made, in that the proposed 48-foot tall faux-water tank tower WCF will be of an appropriate scale and type of design that will complement the aesthetic qualities of the surrounding properties and will not reduce or visually impact available open space in the surrounding area.

EXHIBIT C

EXHIBIT B

Application #: 141196
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 Owners: Andrew and Joy Delucchi

Wireless Communication Facility Use Permit Findings

1. That the development of the proposed wireless communications facility as conditioned will not significantly affect any designated visual resources, environmentally sensitive habitat resources (as defined in the Santa Cruz County General Plan/LCP Sections 5.1, 5.10, and 8.6.6.), and/or other significant County resources, including agricultural, open space, and community character resources; or there are no other environmentally equivalent and/or superior and technically feasible alternatives to the proposed wireless communications facility as conditioned (including alternative locations and/or designs) with less visual and/or other resource impacts and the proposed facility has been modified by condition and/or project design to minimize and mitigate its visual and other resource impacts.

This finding can be made, in that the proposed faux-water tank tower WCF will blend-in seamlessly to its rural/agricultural context and thus will not be visually obtrusive. Moreover, the proposed WCF and its ground-based equipment enclosure/lease area will not take any cultivated ag land out of production, and will not impact any sensitive habitat resources or other significant County resources, including open space or community character resources. Finally, there are no other environmentally equivalent and/or superior and technically feasible alternatives to the proposed faux water tank tower design that would have less visual and/or other resource impacts.

2. That the proposed site is adequate for the development of the proposed wireless communications facility and, for sites located in one of the prohibited and/or restricted areas set forth in Sections 13.10.661(b) and 13.10.661 (c), that the applicant has demonstrated that there are not environmentally equivalent or superior and technically feasible: (1) alternative sites outside the prohibited and restricted areas; and/or (2) alternative designs for the proposed facility as conditioned.

This finding can be made, in that the proposed WCF is to consist of 9 antennas located within an faux water tank mounted upon a lattice tower that will blend in with several other nearby agricultural outbuildings on the same parcel and will not significantly affect any designated visual resources, environmentally sensitive habitat resources (as defined in the Santa Cruz County General Plan/LCP Sections 5.1, 5.10, and 8.6.6.), nor significantly affect other County resources, including agricultural (i.e., will not displace any viable agricultural land), open space, or community character resources. Moreover, there are no other environmentally equivalent and/or superior and technically feasible alternatives to the faux water tank tower design (including alternative locations and/or designs) with less visual and/or other resource impacts.

3. The subject property upon which the wireless communications facility is to be built is in compliance with all rules and regulations pertaining to zoning uses, subdivisions and any other applicable provisions of this title (County Code 13.10.660) and that all zoning violation abatement costs, if any, have been paid.

This finding can be made, in that the existing agricultural-related use of the subject property is in compliance with the requirements of the A-P (Agricultural Preserve) zone district and AG (Agriculture) General Plan designations, in which it is located, and that there are no outstanding

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or unpaid zoning violation abatement costs.

4. The proposed wireless communication facility as conditioned will not create a hazard for aircraft in flight.

This finding can be made, in that the proposed wireless communications facility will be located at a sufficient distance from Watsonville Airport (approx. 3.33 miles) and will be of a height (48-foot) too low to interfere with aircraft in flight.

5. The proposed wireless communication facility as conditioned is in compliance with all FCC and California PUC standards and requirements.

This finding can be made, in that the maximum ambient RF levels at ground level due to the proposed WCF operations are calculated to be no more than 3.6% of the most restrictive applicable (i.e., FCC) public exposure limit at ground level, and 2.7% of that limit at the second floor level of the nearest habitable structure, which is approximately 400-ft. away from the proposed WCF.

6. The proposed wireless communication facilities as conditioned are consistent with the all applicable requirements of the Local Coastal Program (LCP).

This finding can be made in that the proposed WCF is designed and located in a manner that will minimize potential impacts to scenic and biotic resources (e.g., there will be no grading/excavation or ground disturbance), and that the construction of the proposed facility will not impede access to the beach or other recreational resources. While the site is within a General plan/LCP designated Scenic Area, the project would not be readily visible from most publically accessible vantage points and the proposed faux-water tank tower design will fit in well with the agricultural setting.

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Application #: 141196
 APN: 046-021-05
 Owners: Andrew and Joy Delucchi

Conditions of Approval

Exhibit D: Project Plans, 9 sheets, prepared by MST Architects, dated 10/9/15

- I. This permit authorizes the construction of a faux water tank tower wireless communication facility. This approval does not confer legal status on any existing structure(s) or existing use(s) on the subject property that are not specifically authorized by this permit. Prior to exercising any rights granted by this permit including, without limitation, any construction or site disturbance, the applicant/owner shall:
 - A. Sign, date, and return to the Planning Department one copy of the approval to indicate acceptance and agreement with the conditions thereof.
 - B. Obtain a Building Permit from the Santa Cruz County Building Official.
 1. Any outstanding balance due to the Planning Department must be paid prior to making a Building Permit application. Applications for Building Permits will not be accepted or processed while there is an outstanding balance due.
 - C. Obtain an Encroachment Permit from the Department of Public Works for any off-site work performed in the County road right-of-way.
 - D. Submit proof that these conditions have been recorded in the official records of the County of Santa Cruz (Office of the County Recorder) within 30 days from the effective date of this permit.
- II. Prior to issuance of a Building Permit the applicant/owner shall:
 - A. Submit final architectural plans for review and approval by the Planning Department. The final plans shall be in substantial compliance with the plans marked Exhibit "D" on file with the Planning Department. Any changes from the approved Exhibit "D" for this development permit on the plans submitted for the Building Permit must be clearly called out and labeled by standard architectural methods to indicate such changes. Any changes that are not properly called out and labeled will not be authorized by any Building Permit that is issued for the proposed development. The final plans shall include the following additional information:
 1. One elevation shall indicate materials and colors as they were approved by this Discretionary Application, *including installation of additional sound buffering along fence line and removal of all proposed signage*. If specific materials and colors have not been approved with this Discretionary Application, in addition to showing the materials and colors on the elevation, the applicant shall supply a color and material board in 8 1/2" x 11" format for Planning Department review and approval.

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2. Grading, drainage, and erosion control plans.
 3. Details showing compliance with fire department requirements. If the proposed structure(s) are located within the State Responsibility Area (SRA) the requirements of the Wildland-Urban Interface code (WUI), California Building Code Chapter 7A, shall apply.
- B. Submit four copies of the approved Discretionary Permit with the Conditions of Approval attached. The Conditions of Approval shall be recorded prior to submittal, if applicable.
 - C. Meet all requirements of and pay Zone 7 drainage fees to the County Department of Public Works, Stormwater Management. Drainage fees will be assessed on the net increase in impervious area.
 - D. Obtain an Environmental Health Clearance for this project from the County Department of Environmental Health Services.
 - E. Meet all requirements and pay any applicable plan check fee of the Aptos-La Selva Beach Fire Protection District.
 - F. Submit 3 copies of a soils report prepared and stamped by a licensed Geotechnical Engineer.
- III. All construction shall be performed according to the approved plans for the Building Permit. Prior to final building inspection, the applicant/owner must meet the following conditions:
- A. All site improvements shown on the final approved Building Permit plans shall be installed.
 - B. All inspections required by the building permit shall be completed to the satisfaction of the County Building Official.
 - C. The project must comply with all recommendations of the approved soils reports.
 - D. Pursuant to Sections 16.40.040 and 16.42.080 of the County Code, if at any time during site preparation, excavation, or other ground disturbance associated with this development, any artifact or other evidence of an historic archaeological resource or a Native American cultural site is discovered, the responsible persons shall immediately cease and desist from all further site excavation and notify the Sheriff-Coroner if the discovery contains human remains, or the Planning Director if the discovery contains no human remains. The procedures established in Sections 16.40.040 and 16.42.080, shall be observed.

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EXHIBIT C

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 APN: 046-021-05
 Owners: Andrew and Joy Delucchi

IV. Operational Conditions

- A. In the event that future County inspections of the subject property disclose noncompliance with any Conditions of this approval or any violation of the County Code, the owner shall pay to the County the full cost of such County inspections, including any follow-up inspections and/or necessary enforcement actions, up to and including permit revocation.
- V. As a condition of this development approval, the holder of this development approval ("Development Approval Holder"), is required to defend, indemnify, and hold harmless the COUNTY, its officers, employees, and agents, from and against any claim (including attorneys' fees), against the COUNTY, its officers, employees, and agents to attack, set aside, void, or annul this development approval of the COUNTY or any subsequent amendment of this development approval which is requested by the Development Approval Holder.
- A. COUNTY shall promptly notify the Development Approval Holder of any claim, action, or proceeding against which the COUNTY seeks to be defended, indemnified, or held harmless. COUNTY shall cooperate fully in such defense. If COUNTY fails to notify the Development Approval Holder within sixty (60) days of any such claim, action, or proceeding, or fails to cooperate fully in the defense thereof, the Development Approval Holder shall not thereafter be responsible to defend, indemnify, or hold harmless the COUNTY if such failure to notify or cooperate was significantly prejudicial to the Development Approval Holder.
 - B. Nothing contained herein shall prohibit the COUNTY from participating in the defense of any claim, action, or proceeding if both of the following occur:
 1. COUNTY bears its own attorney's fees and costs; and
 2. COUNTY defends the action in good faith.
 - C. Settlement. The Development Approval Holder shall not be required to pay or perform any settlement unless such Development Approval Holder has approved the settlement. When representing the County, the Development Approval Holder shall not enter into any stipulation or settlement modifying or affecting the interpretation or validity of any of the terms or conditions of the development approval without the prior written consent of the County.
 - D. Successors Bound. "Development Approval Holder" shall include the applicant and the successor(s) in interest, transferee(s), and assign(s) of the applicant.

Minor variations to this permit which do not affect the overall concept or density may be approved by the Planning Director at the request of the applicant or staff in accordance with Chapter 18.10 of the County Code.

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APN: 046-021-05
Owners: Andrew and Joy Delucchi

Please note: This permit expires three years from the effective date listed below unless a building permit (or permits) is obtained for the primary structure described in the development permit (does not include demolition, temporary power pole or other site preparation permits, or accessory structures unless these are the primary subject of the development permit). Failure to exercise the building permit and to complete all of the construction under the building permit, resulting in the expiration of the building permit, will void the development permit, unless there are special circumstances as determined by the Planning Director.

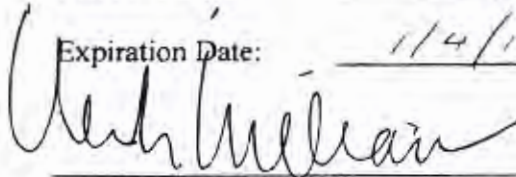
Approval Date:

12/18/15

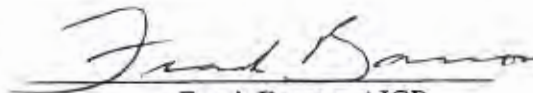
Effective Date:

1/4/16

Expiration Date:

1/4/19

Wanda Williams
Deputy Zoning Administrator



Frank Barron, AICP
Project Planner

Appeals: Any property owner, or other person aggrieved, or any other person whose interests are adversely affected by any act or determination of the Zoning Administrator, may appeal the act or determination to the Planning Commission in accordance with chapter 18.10 of the Santa Cruz County Code.

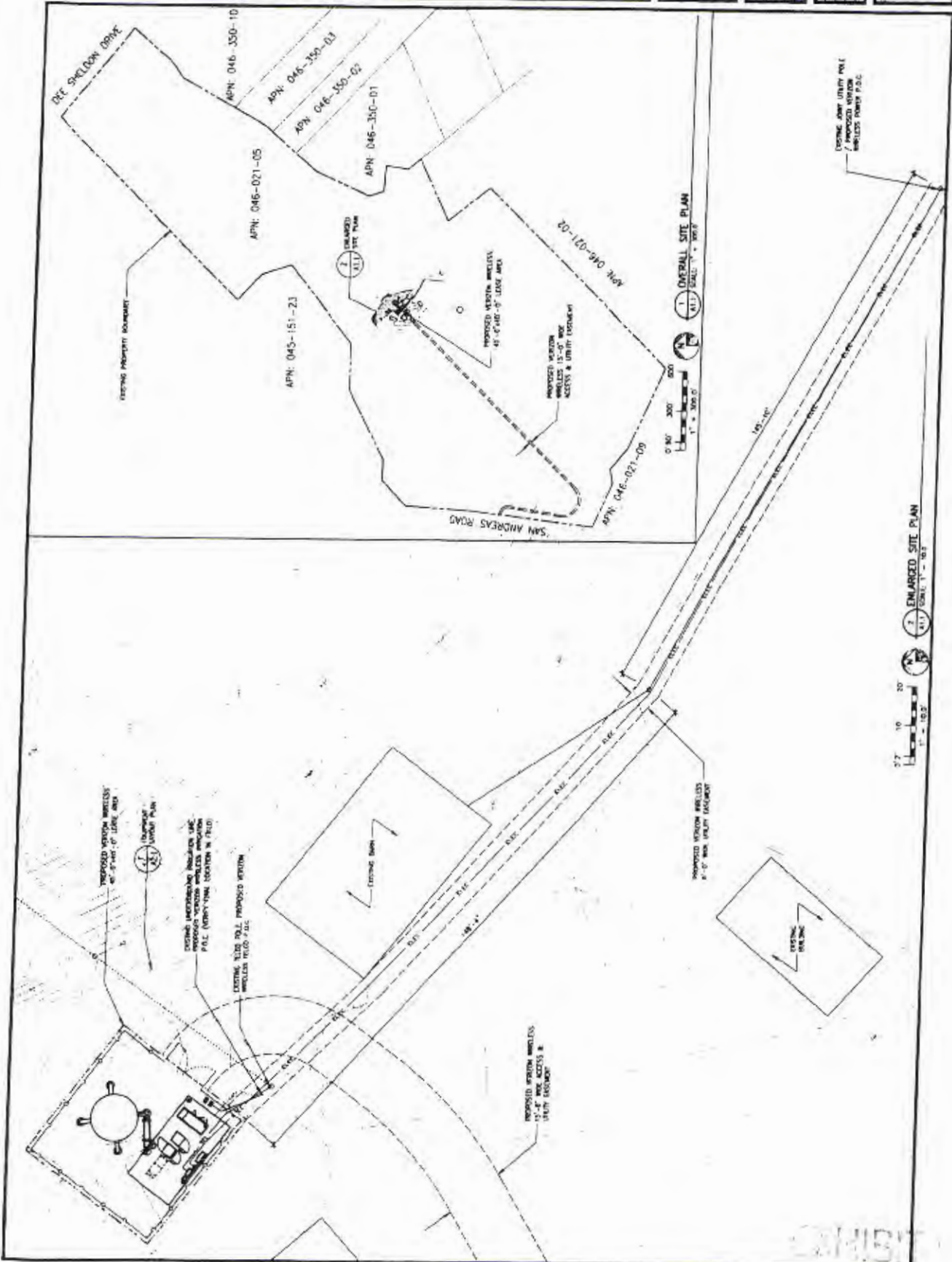
A1.1

MST ARCHITECTS
 105 ALTA DRIVE
 WATSONVILLE, CA 95076
 (408) 855-1234
 www.mstarchitects.com

VERTON WIRELESS
 105 ALTA DRIVE
 WATSONVILLE, CA 95076
 (408) 855-1234
 www.vertonwireless.com




NO. 1	NO. 2	NO. 3	NO. 4	NO. 5	NO. 6	NO. 7	NO. 8	NO. 9	NO. 10

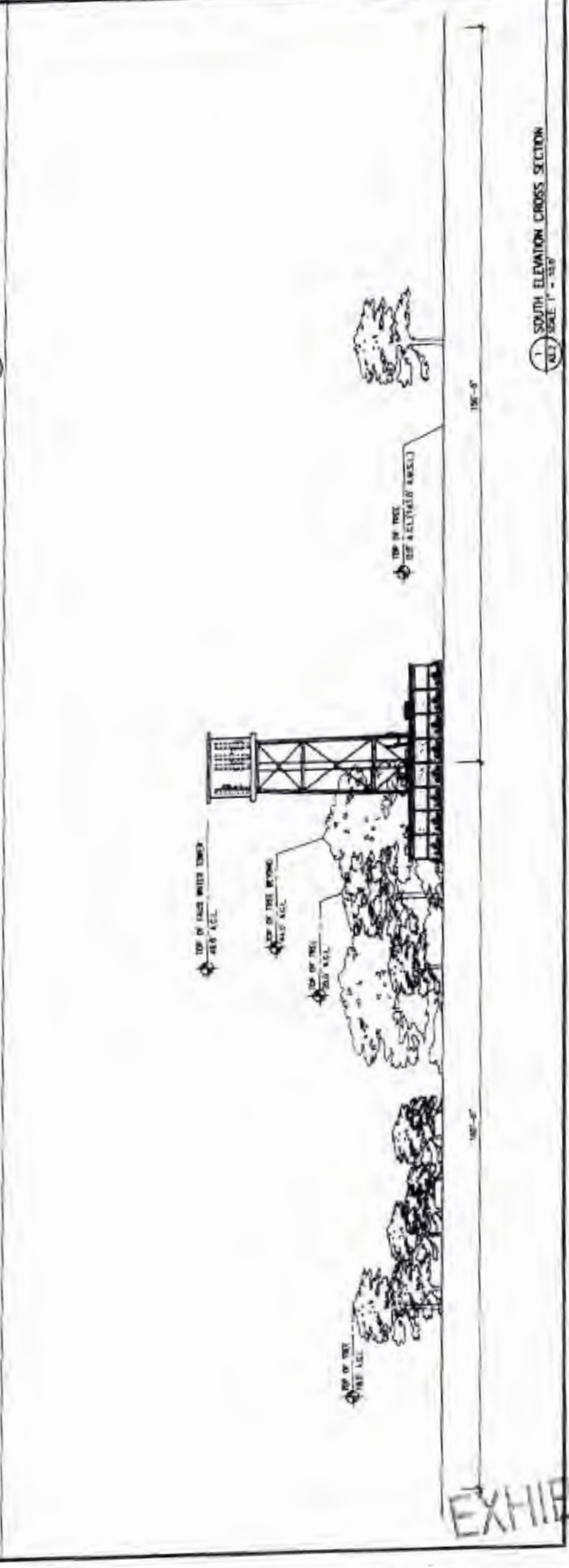
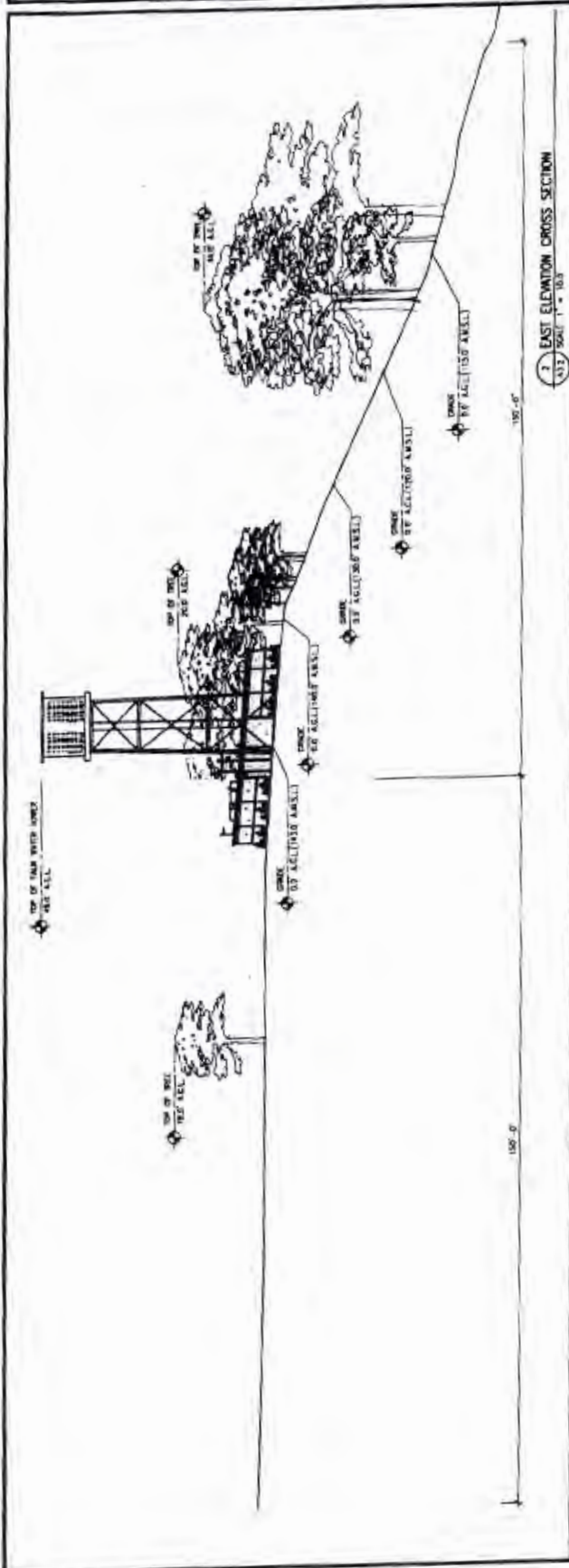


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TEL: 303.733.1111
FAX: 303.733.1112
WWW.MSTARCHITECTS.COM

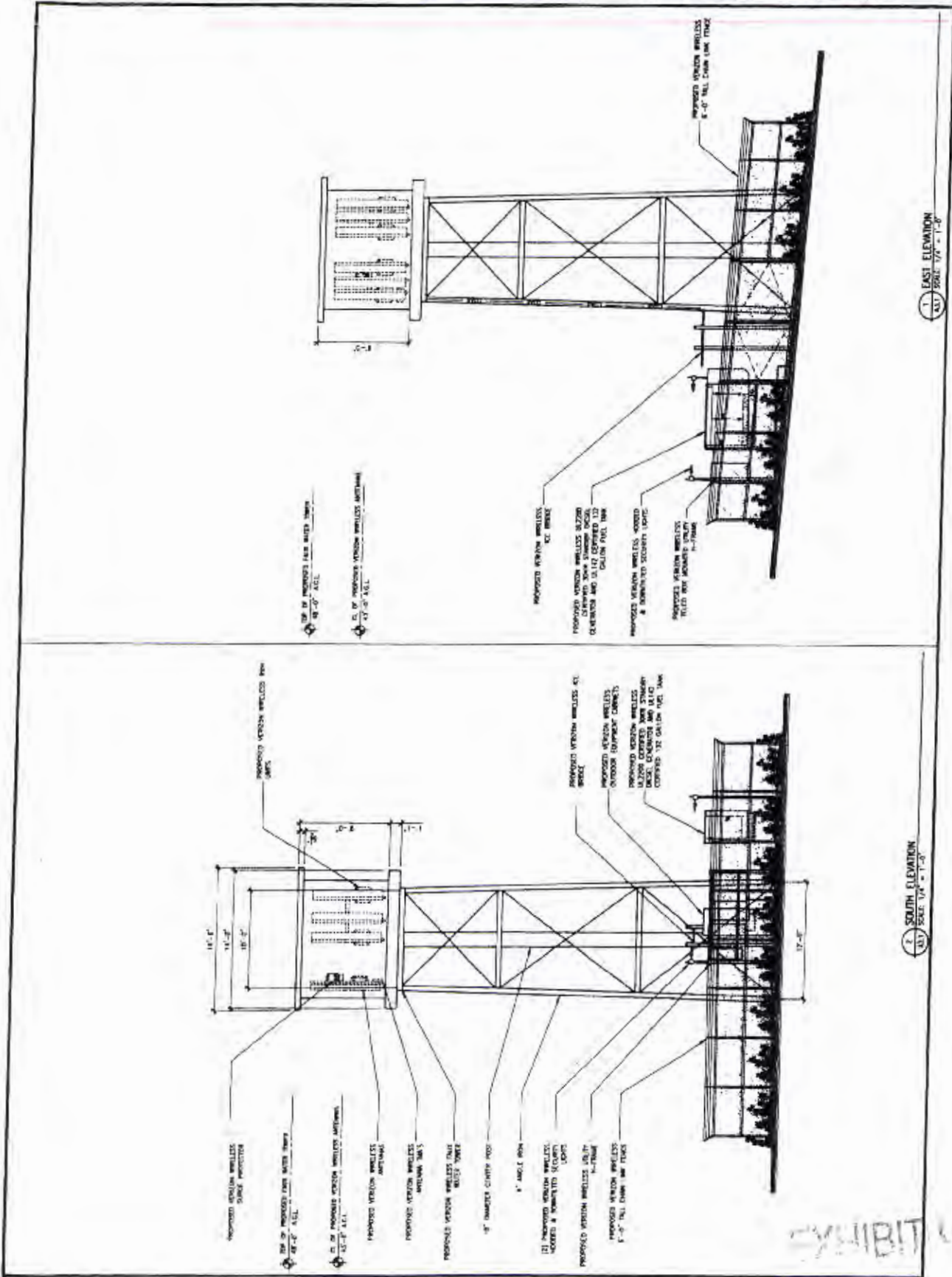
COMPLIANCE
ISO 9001:2000



105 ALTA DRIVE
WATSONVILLE, CA 95076



EXHIBIT



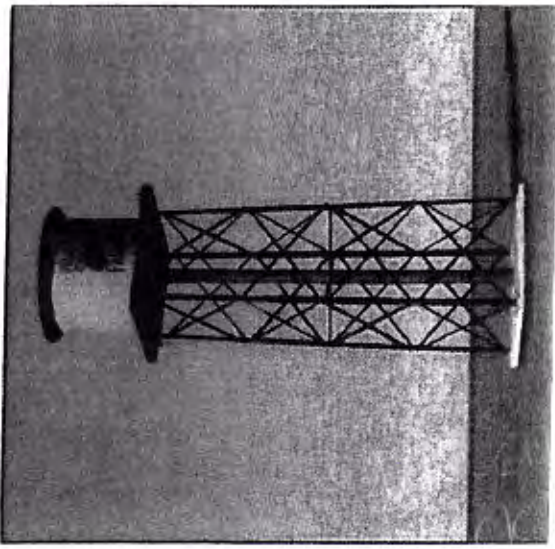
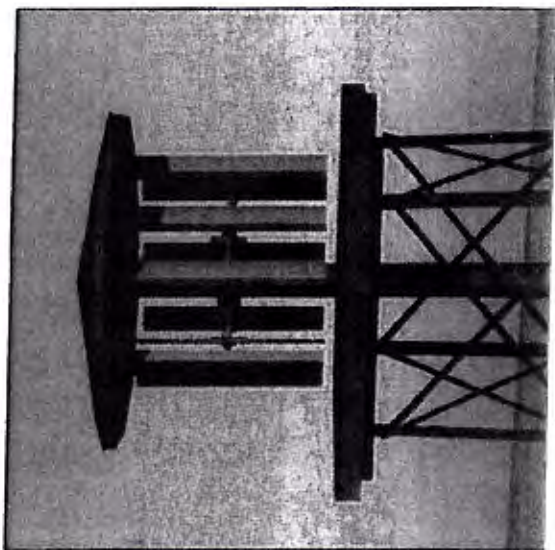
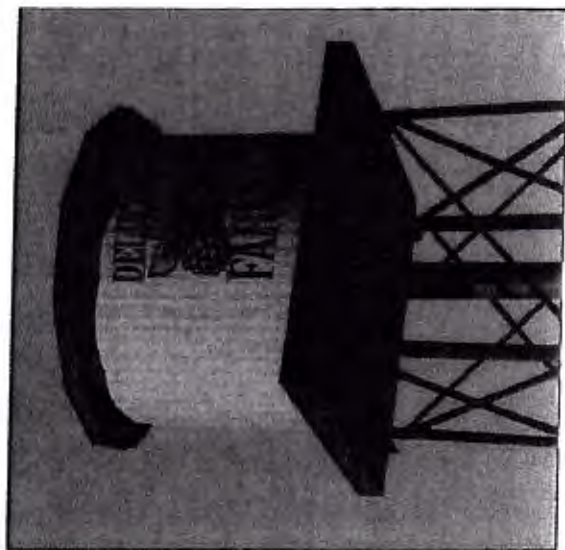
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 FAX (916) 338-1112
 WWW.MSTARCHITECTS.COM

VERIZON WIRELESS
 WATER TANK SIMULATION
 SHEET 0010



NO.	DESCRIPTION	DATE
1	WATER TANK SIMULATION	01/01/00

A3.3



WATER TANK SIMULATION
 ALL SCALE 1/4" = 1'-0"

EXHIBIT C

EXHIBIT D

L1.1



LANDSCAPING PLAN
 105 ALTA DRIVE
 WATSONVILLE, CA 95070
 408A WEN
 408A WEN
 408A WEN



DATE	10/1/10
DESIGNED BY	WEN
CHECKED BY	WEN
DATE	10/1/10
DESIGNED BY	WEN
CHECKED BY	WEN
DATE	10/1/10
DESIGNED BY	WEN
CHECKED BY	WEN

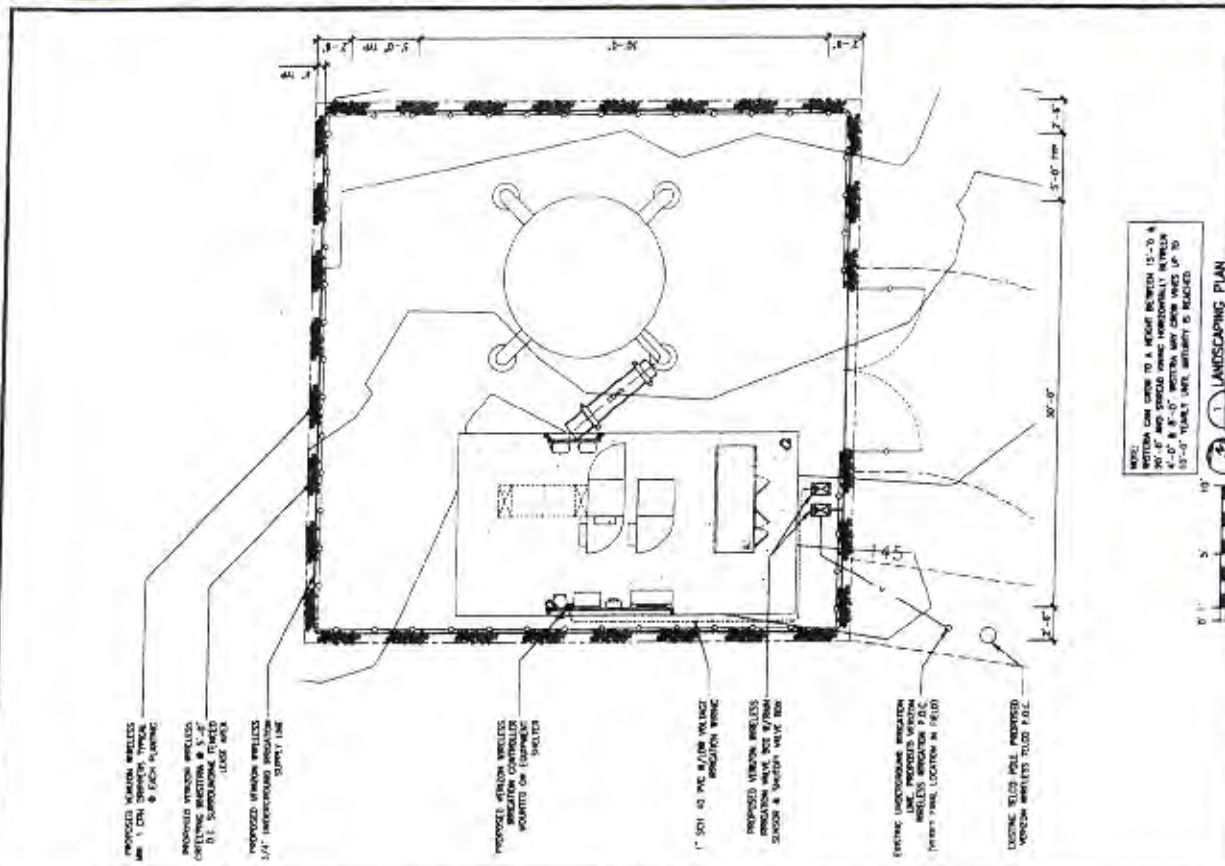


EXHIBIT C

FOR TAX PURPOSES ONLY

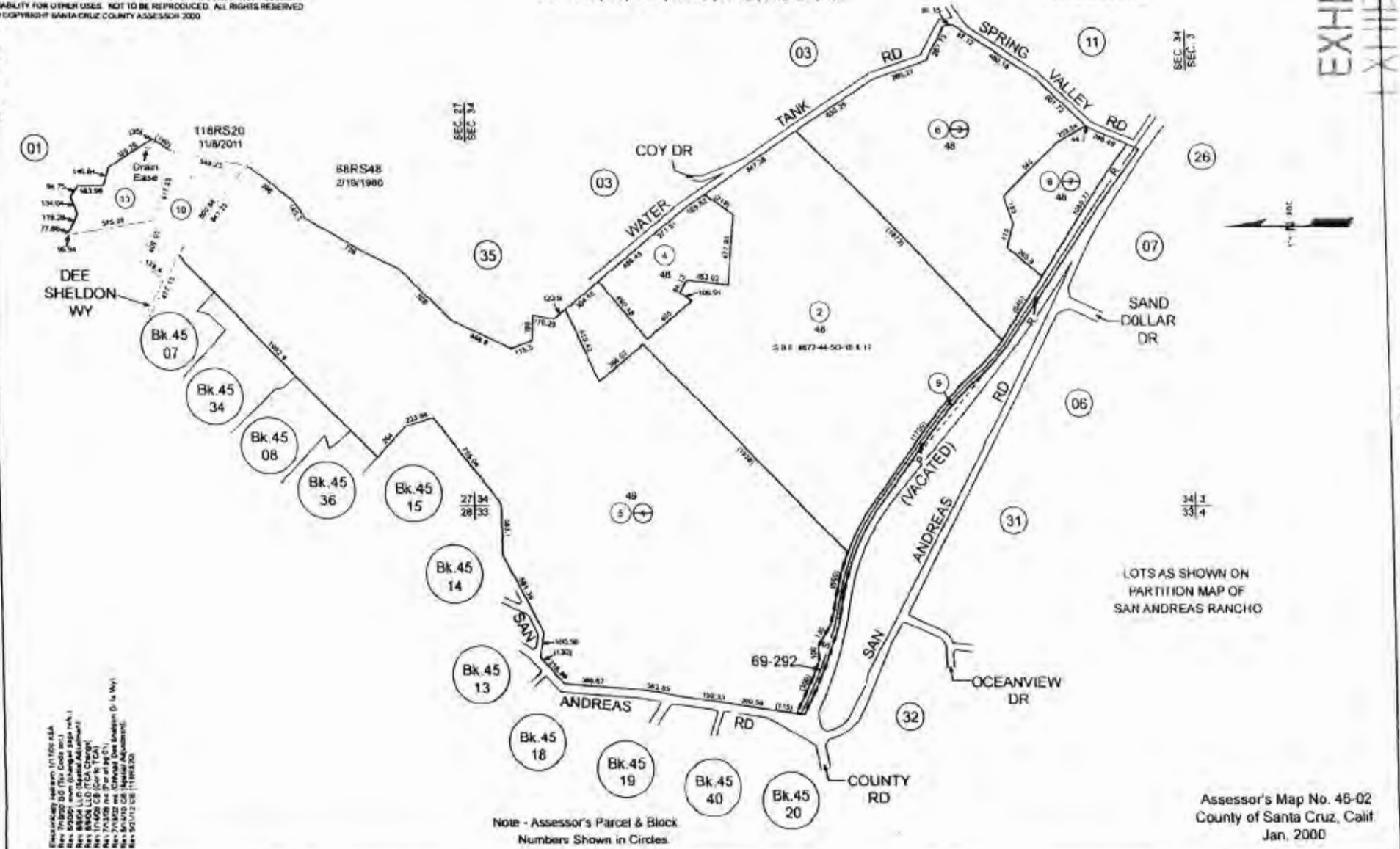
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POR. SAN ANDREAS RANCHO
SECS. 27, 33, & 34, T.11S., R.1E., M.D.B. & M.

Tax Area Code
69-282 69-292

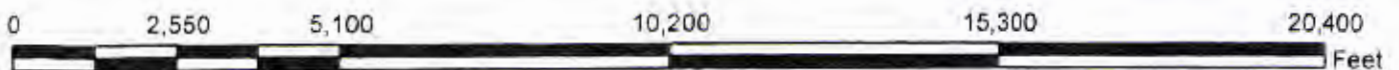
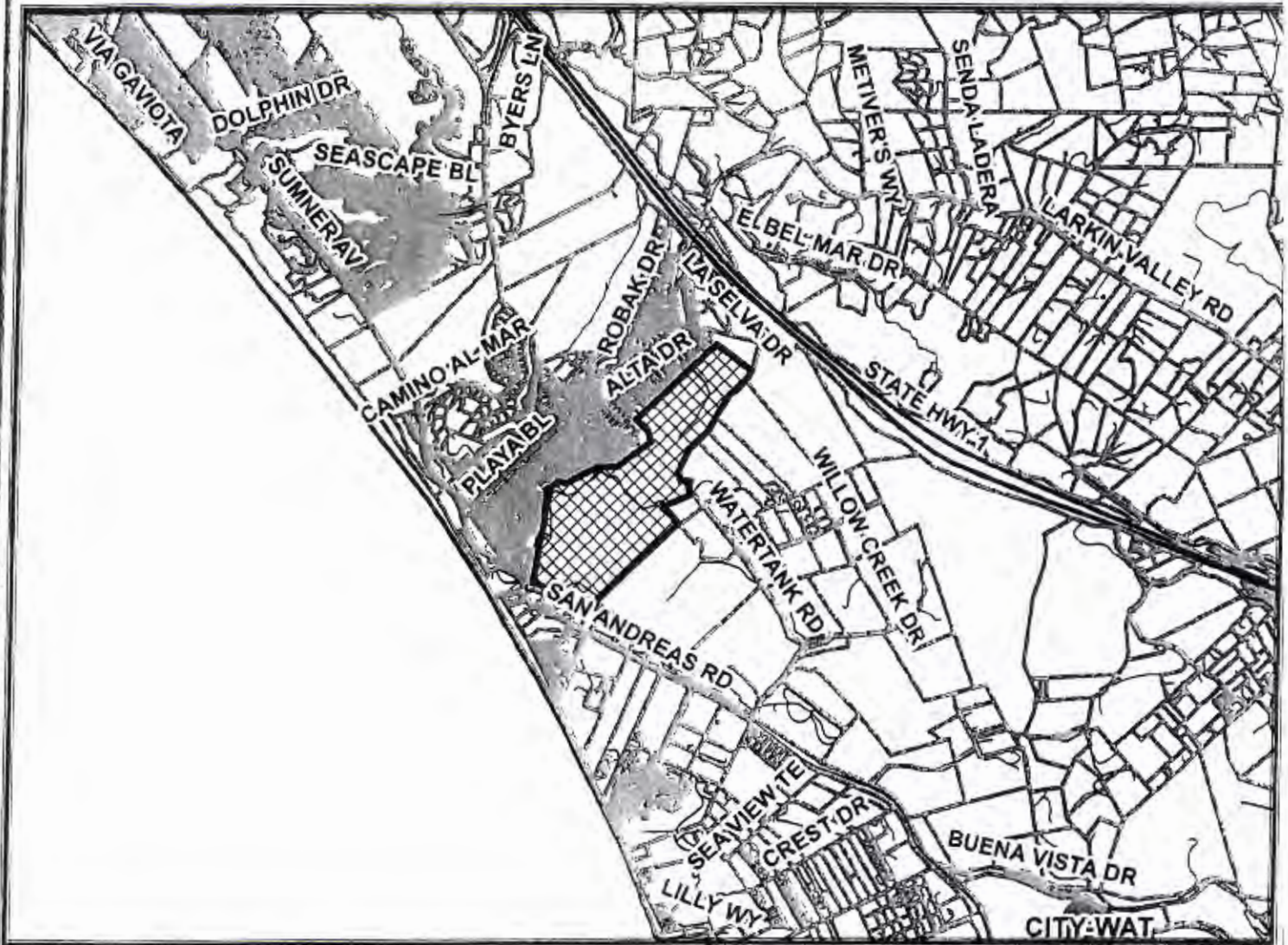
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EXHIBIT C











Location Map



LEGEND

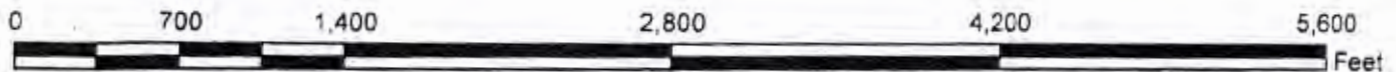
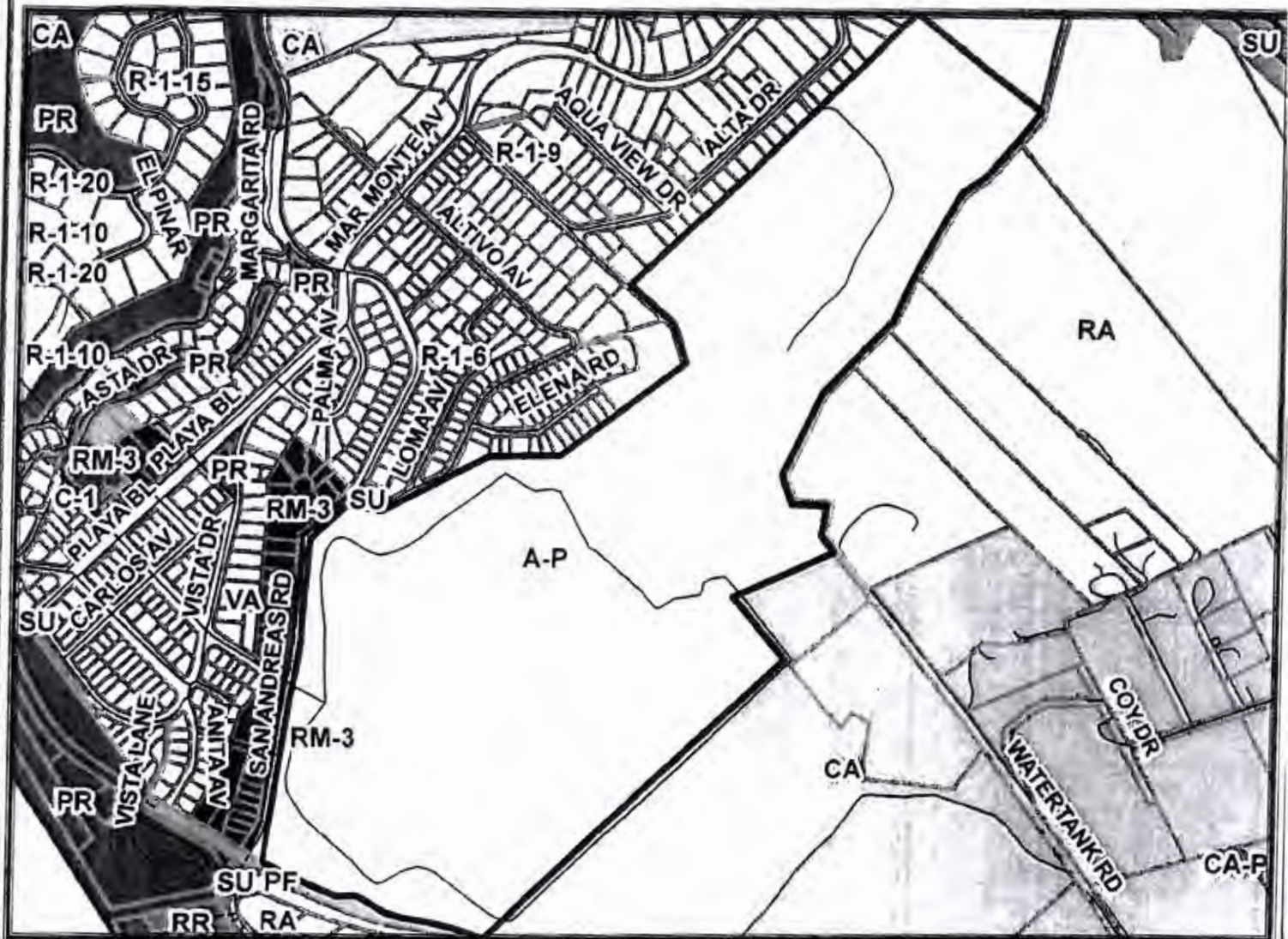
-  APN: 046-021-05
-  Assessors Parcels
-  Street
-  State Highways
-  CITY OF WATSONVILLE
-  County Boundary



Map Created by
County of Santa Cruz
Planning Department
October 2014



Zoning Map



LEGEND

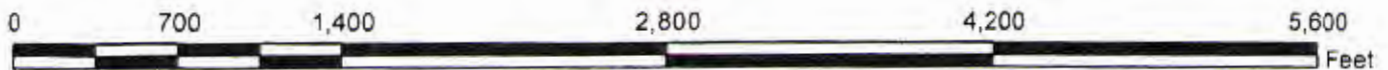
- APN 045-021-05
- Assessor's Parcel
- Street
- AGRICULTURE
- AGRICULTURE RESIDENTIAL
- AGRICULTURE COMMERCIAL
- PUBLIC FACILITY
- SPECIAL USE
- RESIDENTIAL-RURAL
- PARK
- RESIDENTIAL-MULTI FAMILY
- COMMERCIAL VISITOR ACCOM
- COMMERCIAL-NEIGHBORHOOD
- RESIDENTIAL-SINGLE FAMILY



Map Created by
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Planning Department
October 2014



General Plan Designation Map



LEGEND

- APN 046-021-05
- Agriculture
- Residential Rural
- Parks and Recreation
- Commercial Neighborhood
- Public Facilities
- Residential - Urban Low Density
- Urban Open Space
- Residential Medium Density



Map Created by
County of Santa Cruz
Planning Department
October 2014

**PROJECT SUPPORT STATEMENT
VERIZON WIRELESS**

SITE NAME: Aqua View

LOCATION: 105 Alta Drive, Watsonville, CA 95076-1622

APN: 046-021-05

Introduction

Verizon Wireless is seeking to improve communications service to residences, businesses and travelers in Santa Cruz, CA. Verizon maintains a strong customer base in Santa Cruz County and strives to improve coverage for both existing and potential customers. Verizon Wireless is currently experiencing a significant coverage gap for residential and commercial areas in Santa Cruz County along Alta Drive and Mar Monte Ave. This project will expand Verizon's existing network in an effort to improve call quality, signal strength, and wireless connection services. The increase in wireless signal strength will benefit residents, local businesses, and public safety communications systems in Santa Cruz County.

Location

Verizon Wireless proposes a new wireless communications facility on a proposed 55' tall monopole located at 105 Alta Drive, Watsonville, CA. The property is located in the Agriculture (A-P) zone. This roughly 156.62 acre property is used as Agriculture. The lease area is located in the central portion of the property. The surrounding area consists of Agricultural properties.



Project Support Statement – Verizon Wireless "SITE NAME"

Proposed Facility

The proposed facility consists of (9) Verizon Wireless panel antennas with (3) proposed antenna sectors and (3) antennas per sector to be mounted on a proposed 55' tall monopine. There are (6) Verizon Wireless RRH units that will be mounted behind the antennas with (1) proposed Verizon Wireless surge protectors mounted on the proposed 55' tall monopine. An equipment cabinet will be installed along with a 30kw standby diesel generator and 132 gallon fuel tank. A 6' tall chain link fence will be installed with a 12' access gate around the lease area perimeter. The power and telecommunications cables will be installed underground from the tower to the lease area. The unmanned facility will provide enhanced wireless network coverage 24 hours a day, 7 days a week.

Service Objective

The objective of the proposed facility is both to fill in a gap in coverage in the Santa Cruz County area, as well as to provide support capacity to the existing overloaded facilities; Mar Monte, La Selva Beach, and Seascap. In order to achieve this service objective, VZW identified a potential candidate "Search Ring". A Search Ring is a circle on a map that is determined by Verizon's Radio Frequency Engineer. The circle identifies the geographic area within which the proposed facility must be located to satisfy the intended service objective. In creating the Search Ring, the RF Engineer takes into account many factors, such as topography, proximity to existing structures, current coverage areas, existing obstructions, etc.

For a visual representation of the Search Ring, see the images below. The vast majority of the search area identified to meet VZW's coverage objectives is comprised of land that is zoned Agriculture and Residential.

Search Ring (Aerial)

[2]

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EXHIBIT 1
EXHIBIT 2

Project Support Statement – Verizon Wireless "SITE NAME"

Search Ring (Zoning)

Coverage Maps

Below is a visual depiction of the improved coverage to be provided by the proposed facility. The first map represents Verizon's existing coverage conditions in the area. The second map represents Verizon's the coverage conditions given approval of the proposed facility. The yellow, green, and light blue areas on both maps represents areas with good indoor/outdoor coverage. The dark blue areas on both maps below represents areas with good outdoor coverage. The red portions of the maps represent areas with poor quality outdoor coverage. The circle shown on the map represents the main coverage objective. It is important to point out that this is different than the Search Ring.

[3]

P29

EXHIBIT 3
EXHIBIT 3

Project Support Statement – Verizon Wireless "SITE NAME"

Existing Coverage

Coverage with no site (AQUA VIEW)



Proposed Coverage

Coverage with site (AQUA VIEW)



[4]

P30

EXHIBIT 3
EXHIBIT 3

Project Support Statement – Verizon Wireless "SITE NAME"

Alternative Site Analysis

The location of a wireless telecommunications facility to fulfill the above referenced service objective is dependent upon many different factors, such as topography, zoning regulations, existing structures, co-location opportunities, available utilities, access and a willing landlord. Wireless communication is a line-of-sight technology that requires facilities to be in relative close proximity to the wireless handsets in order to be served. Each proposed site is unique and must be investigated and evaluated on its own terms. Verizon strives to minimize visual and noise impacts for each facility and seeks to incorporate ways to preserve the local community character to the greatest extent feasible at all stages of site selection for a wireless telecommunication facility.

The site selection process for this proposed facility began in October of 2013 with the issuance of the above reference Search Ring. When identifying feasible wireless facility locations, VZW first looks for collocation opportunities on existing towers, which could potentially allow for the satisfaction of the necessary coverage objectives. In this instance, only one potential collocation opportunity was identified. This collocation opportunity was on a water tank site, located near Aqua View Drive. Unfortunately, this collocation was not identified as a feasible candidate as the Soquel Water District is not willing to entertain the concept of antennas on the outside of their water tanks. See the Existing Tower map below for further detail regarding existing towers. Once collocation opportunities on existing towers were exhausted, Verizon next looked for opportunities for roof-mounts, flush-mounts, façade-mounts, etc. Verizon was not able to find any building-mounted collocation opportunities within the necessary Search Ring.

Due to the lack of feasible collocation opportunities in this area, Verizon began a site search for feasible new build facility locations. After analyzing the relevant Santa Cruz County regulations (Zoning Code Section 13.10.660 in particular), Verizon identified all parcels within the Search Ring area which could serve as potential candidates for a new wireless facility location. A form letter was sent out to each of the (11) potential candidates identified within this Search Ring. A draft of each of those letters has been attached for reference. Of the (11) property owners notified, (3) property owners showed an interest in having their property as a candidate for a new facility. Those (3) response letters have been attached. In addition, below is a summary of each the considered candidates, and the reason each candidate was or was not selected for the new facility location.

1. **Baird -APN: 045-041-36-000 : Zoned (R-1-9)**

This candidate did not respond with interest regarding entering into a lease agreement.

2. **Hiatt -APN: 045-091-07-000 : Zoned (R-1-9)**

This candidate did not respond with interest regarding entering into a lease agreement.

3. **La Selva Beach Rec District #1 -APN: 045-182-01-000 : Zoned (PR)**

This candidate did not respond with interest regarding entering into a lease agreement.

4. **La Selva Beach Rec District #2 -APN:045-171-30-000 : Zoned (PR-L)**

This candidate did not respond with interest regarding entering into a lease agreement.

[5]

Project Support Statement – Verizon Wireless "SITE NAME"

5. Meek -APN: 045-041-31-000 : Zoned (R-1-9)

This candidate did not respond with interest regarding entering into a lease agreement.

6. Pritchard -APN: 046-021-10-000 : Zoned (RA)

This candidate did not respond with interest regarding entering into a lease agreement.

7. Silver Creek Yuba I LLC-APN: 054-261-30-000 : Zoned (CA)

This candidate did not respond with interest regarding entering into a lease agreement.

8. Soquel Creek Water District-APN: 045-092-02-000 : Zoned (R-1-9)

This candidate did not respond with interest regarding entering into a lease agreement.

9. Brown Dirt Farms LLC-APN: 046-021-02-000 : Zoned (CA)

This candidate did not respond with interest regarding entering into a lease agreement.

10. Delucchi- APN: 046-021-05-000 : Zoned (A-P)

This candidate was selected as the preferred candidate as it offers the least intrusive means for satisfying the service objective.

11. Morris -APN: 045-041-35-000 : Zoned (R-1-9)

This candidate was not selected as it was believed that a 55' monopine at this location would have more significant visual impacts than the selected candidate. Specifically, the proximity of this location to Highway 1 and the surrounding residential uses was thought to cause visual impacts.

The aerial image below shows the locations of each of the properties listed above. In addition, aerial images of each individual parcel have been attached for convenience.

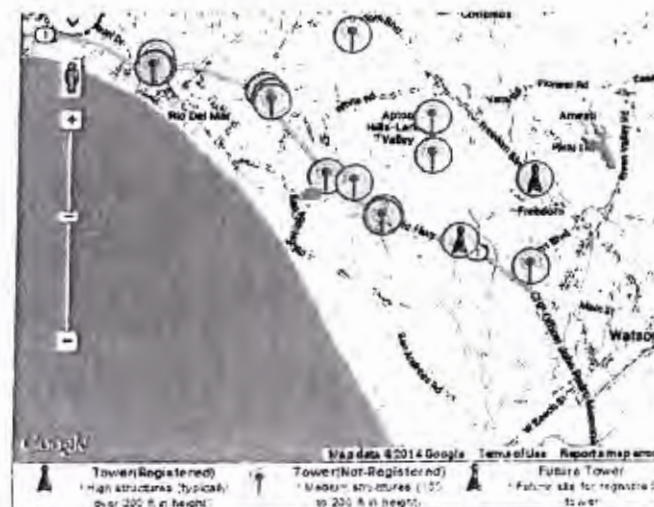


[6]

Project Support Statement – Verizon Wireless “SITE NAME”

Collocation Opportunities

The map below shows the locations of various towers within the area.

Existing Towers

Tower Search Results

Alert! 17 Towers (4 Registered 13 Not Registered) found within 4.00 miles of 100 Alta Dr, Watsonville, CA 95076

Info! The NEAREST Tower is .45 miles away and is owned by Sprint Spectrum LP.

Ok! No Applications for future Towers detected as of 03/25/14

Category	Count	Station Name	Height	Distance
Registered	(1)	Sta. Mobile Of California Limited Partnership	63 feet	1.10 miles
	(2)	Sta. Frio, LLC	50 feet	1.15 miles
	(3)	Shore Dr. Watsonville	88 feet	2.52 miles
	(4)	H. A. Miller & Sons	60 feet	3.89 miles
Not Registered	(1)	Sprint Spectrum LP	30 feet	.45 miles
	(2)	Bent	52 feet	.75 miles
	(3)	Pacific Bell Mobile Services	40 feet	1.14 miles
	(4)	Cox Wireless Of The Pacific, Inc.	50 feet	1.75 miles
	(5)	Pacific Bell Mobile Services	60 feet	1.85 miles
	(6)	Bent	41 feet	2.02 miles
	(7)	Bent	105 feet	2.15 miles
	(8)	Bent	50 feet	2.40 miles
	(9)	Bent	90 feet	2.65 miles
	(10)	Pacific Bell Mobile Services	42 feet	3.62 miles
	(11)	Pacific Bell Mobile Services	53 feet	3.68 miles
	(12)	Pacific Bell Mobile Services	40 feet	3.74 miles
	(13)	Watsonville Community Institute	80 feet	3.95 miles

Future

[7]

Project Support Statement – Verizon Wireless "SITE NAME"

Safety Benefits of Improved Wireless Service

Verizon Wireless offers its customers multiple services such as voice calls, text messaging, mobile email, picture/video messaging, mobile web, navigation, broadband access, V CAST, and E911 services. Mobile phone use has become an extremely important tool for first responders and serves as a back-up system in the event of a natural disaster. Verizon Wireless will install a standby generator at this facility to ensure quality communication for the surrounding community in the event of a natural disaster or catastrophic event. This generator will be fully contained within the equipment shelter and will provide power to the facility in the event that local power systems are offline.

Lighting

Unless tower lighting is required by the FAA the only lighting on the facility will be a shielded motion sensor light by the door on the equipment shelter.

Maintenance and Standby Generator Testing

Verizon Wireless installs a standby generator and batteries at all of its cell sites. The generator and batteries serve a vital role in Verizon's emergency and disaster preparedness plan. In the event of a power outage, Verizon Wireless communications equipment will first transition to the back-up batteries. The batteries can run the site for a few hours depending upon the demand placed upon the equipment. Should the power outage extend beyond the capacity of the batteries, the back-up generator will automatically start and continue to run the site for up to 24 hours. The standby generator will operate for approximately 15 minutes per week for maintenance purposes, during the daytime. Back-up batteries and generators allow Verizon Wireless' communications sites to continue providing valuable communications services in the event of a power outage, natural disaster or other emergency.

Construction Schedule

The construction of the facility will be in compliance with all local rules and regulations. The typical duration is two months. The crew size will range from two to ten individuals. The construction phase of the project will last approximately two months and will not exceed acceptable noise levels.

Notice of Actions Affecting Development Permit

In accordance with California Government Code Section 65945(a), Verizon Wireless requests notice of any proposal to adopt or amend the: general plan, specific plan, zoning ordinance, ordinance(s) affecting building or grading permits that would in any manner affect this development permit. Any such notice may be sent to 2009 V Street, Sacramento, CA 95818.

**Verizon Wireless • Proposed Base Station (Site No. 280018 "Aqua View")
105 Alta Drive • Watsonville, California**

Statement of Hammett & Edison, Inc., Consulting Engineers

The firm of Hammett & Edison, Inc., Consulting Engineers, has been retained on behalf of Verizon Wireless, a personal wireless telecommunications carrier, to evaluate the base station (Site No. 280018 "Aqua View") proposed to be located at 105 Alta Drive in Watsonville, California, for compliance with appropriate guidelines limiting human exposure to radio frequency ("RF") electromagnetic fields.

Executive Summary

Verizon proposes to install directional panel antennas on a tall steel pole, configured to resemble a pine tree, to be sited at 105 Alta Drive in Watsonville. The proposed operation will comply with the FCC guidelines limiting public exposure to RF energy.

Prevailing Exposure Standards

The U.S. Congress requires that the Federal Communications Commission ("FCC") evaluate its actions for possible significant impact on the environment. A summary of the FCC's exposure limits is shown in Figure 1. These limits apply for continuous exposures and are intended to provide a prudent margin of safety for all persons, regardless of age, gender, size, or health. The most restrictive FCC limit for exposures of unlimited duration to radio frequency energy for several personal wireless services are as follows:

Wireless Service	Frequency Band	Occupational Limit	Public Limit
Microwave (Point-to-Point)	5,000–80,000 MHz	5.00 mW/cm ²	1.00 mW/cm ²
BRS (Broadband Radio)	2,600	5.00	1.00
WCS (Wireless Communication)	2,300	5.00	1.00
AWS (Advanced Wireless)	2,100	5.00	1.00
PCS (Personal Communication)	1,950	5.00	1.00
Cellular	870	2.90	0.58
SMR (Specialized Mobile Radio)	855	2.85	0.57
700 MHz	700	2.40	0.48
[most restrictive frequency range]	30–300	1.00	0.20

General Facility Requirements

Base stations typically consist of two distinct parts: the electronic transceivers (also called "radios" or "channels") 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. The transceivers are often located at ground level and are connected to the antennas by coaxial cables. A small antenna for reception of GPS signals is also required, mounted with a clear view of the sky. Because of the short wavelength of the frequencies assigned by the FCC for wireless services, the



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**Verizon Wireless • Proposed Base Station (Site No. 280018 "Aqua View")
105 Alta Drive • Watsonville, California**

antennas require line-of-sight paths for their signals to propagate well and so are installed at some height above ground. The antennas are designed to concentrate their energy toward the horizon, with very little energy wasted toward the sky or the ground. This means that it is generally not possible for exposure conditions to approach the maximum permissible exposure limits without being physically very near the antennas.

Computer Modeling Method

The FCC provides direction for determining compliance in its Office of Engineering and Technology Bulletin No. 65, "Evaluating Compliance with FCC-Specified Guidelines for Human Exposure to Radio Frequency Radiation," dated August 1997. Figure 2 attached describes the calculation methodologies, reflecting the facts that a directional antenna's radiation pattern is not fully formed at locations very close by (the "near-field" effect) and that at greater distances the power level from an energy source decreases with the square of the distance from it (the "inverse square law"). The conservative nature of this method for evaluating exposure conditions has been verified by numerous field tests.

Site and Facility Description

Based upon information provided by Verizon, including construction drawings by MST Architects, dated April 7, 2014, it is proposed to install nine directional panel antennas on a new 50-foot steel pole, configured to resemble a pine tree, to be sited among several agricultural buildings at the northeast edge of the large fields to the south of Altivo Avenue and Elena Drive in Watsonville. The antennas would be mounted with up to 4° downtilt at an effective height of about 43 feet above ground and would be oriented in groups of three at about 120° spacing, to provide service in all directions. For the limited purposes of this study, it is assumed that Andrew Model SBNH-1D6565B antennas would be installed with 2° downtilt and that the maximum effective radiated power in any direction would be 9,580 watts, representing simultaneous operation at 3,440 watts for AWS, 1,520 watts for PCS, 2,680 watts for cellular, and 1,940 watts for 700 MHz service. There are reported no other wireless telecommunications base stations at the site or nearby.

Study Results

For a person anywhere at ground, the maximum RF exposure level due to the proposed Verizon operation is calculated to be 0.020 mW/cm², which is 3.6% of the applicable public exposure limit. The maximum calculated level at the second-floor elevation of residences on adjacent parcels^{*} is 2.7% of the public exposure limit. It should be noted that these results include several "worst-case"

^{*} Located about 400 feet away, based on photographs from Google Maps.



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**Verizon Wireless • Proposed Base Station (Site No. 280018 "Aqua View")
105 Alta Drive • Watsonville, California**

assumptions and therefore are expected to overstate actual power density levels from the proposed operation.

No Recommended Mitigation Measures

Due to their mounting locations, the Verizon antennas would not be accessible to the general public, and so no mitigation measures are necessary to comply with the FCC public exposure guidelines. It is presumed that Verizon will, as an FCC licensee, take adequate steps to ensure that its employees or contractors receive appropriate training and comply with FCC occupational exposure guidelines whenever work is required near the antennas themselves.

Conclusion

Based on the information and analysis above, it is the undersigned's professional opinion that operation of the base station proposed by Verizon Wireless at 105 Alta Drive in Watsonville, California, will comply with the prevailing standards for limiting public exposure to radio frequency energy and, therefore, will not for this reason cause a significant impact on the environment. The highest calculated level in publicly accessible areas is much less than the prevailing standards allow for exposures of unlimited duration. This finding is consistent with measurements of actual exposure conditions taken at other operating base stations.

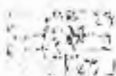
Authorship

The undersigned author of this statement is a qualified Professional Engineer, holding California Registration Nos. E-13026 and M-20676, which expire on June 30, 2015. This work has been carried out under his direction, and all statements are true and correct of his own knowledge except, where noted, when data has been supplied by others, which data he believes to be correct.



William F. Hammett
William F. Hammett, P.E.
707/996-5200

May 6, 2014



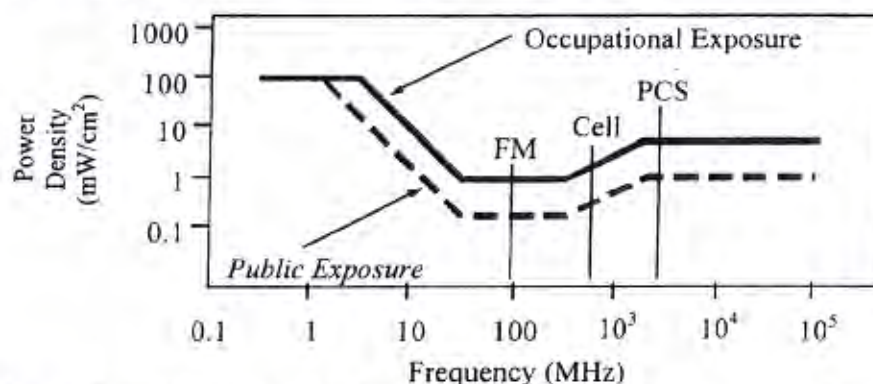
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FCC Radio Frequency Protection Guide

The U.S. Congress required (1996 Telecom Act) the Federal Communications Commission ("FCC") to adopt a nationwide human exposure standard to ensure that its licensees do not, cumulatively, have a significant impact on the environment. The FCC adopted the limits from Report No. 86, "Biological Effects and Exposure Criteria for Radiofrequency Electromagnetic Fields," published in 1986 by the Congressionally chartered National Council on Radiation Protection and Measurements ("NCRP"). Separate limits apply for occupational and public exposure conditions, with the latter limits generally five times more restrictive. The more recent standard, developed by the Institute of Electrical and Electronics Engineers and approved as American National Standard ANSI/IEEE C95.1-2006, "Safety Levels with Respect to Human Exposure to Radio Frequency Electromagnetic Fields, 3 kHz to 300 GHz," includes similar limits. These limits apply for continuous exposures from all sources and are intended to provide a prudent margin of safety for all persons, regardless of age, gender, size, or health.

As shown in the table and chart below, separate limits apply for occupational and public exposure conditions, with the latter limits (in *italics* and/or dashed) up to five times more restrictive:

Frequency Applicable Range (MHz)	Electromagnetic Fields (<i>f</i> is frequency of emission in MHz)					
	Electric Field Strength (V/m)		Magnetic Field Strength (A/m)		Equivalent Far-Field Power Density (mW/cm ²)	
0.3 – 1.34	614	<i>614</i>	1.63	<i>1.63</i>	100	<i>100</i>
1.34 – 3.0	614	<i>823.8/f</i>	1.63	<i>2.19/f</i>	100	<i>180/f²</i>
3.0 – 30	1842/f	<i>823.8/f</i>	4.89/f	<i>2.19/f</i>	900/f ²	<i>180/f²</i>
30 – 300	61.4	<i>27.5</i>	0.163	<i>0.0729</i>	1.0	<i>0.2</i>
300 – 1,500	3.54√ <i>f</i>	<i>1.59√f</i>	√ <i>f</i> /106	<i>√f/238</i>	<i>f/300</i>	<i>f/1500</i>
1,500 – 100,000	137	<i>61.4</i>	0.364	<i>0.163</i>	5.0	<i>1.0</i>



Higher levels are allowed for short periods of time, such that total exposure levels averaged over six or thirty minutes, for occupational or public settings, respectively, do not exceed the limits, and higher levels also are allowed for exposures to small areas, such that the spatially averaged levels do not exceed the limits. However, neither of these allowances is incorporated in the conservative calculation formulas in the FCC Office of Engineering and Technology Bulletin No. 65 (August 1997) for projecting field levels. Hammett & Edison has built those formulas into a proprietary program that calculates, at each location on an arbitrary rectangular grid, the total expected power density from any number of individual radio sources. The program allows for the description of buildings and uneven terrain, if required to obtain more accurate projections.

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SAN FRANCISCO

FCC Guidelines
Figure 1

RFR.CALC™ Calculation Methodology

Assessment by Calculation of Compliance with FCC Exposure Guidelines

The U.S. Congress required (1996 Telecom Act) the Federal Communications Commission ("FCC") to adopt a nationwide human exposure standard to ensure that its licensees do not, cumulatively, have a significant impact on the environment. The maximum permissible exposure limits adopted by the FCC (see Figure 1) apply for continuous exposures from all sources and are intended to provide a prudent margin of safety for all persons, regardless of age, gender, size, or health. Higher levels are allowed for short periods of time, such that total exposure levels averaged over six or thirty minutes, for occupational or public settings, respectively, do not exceed the limits.

Near Field.

Prediction methods have been developed for the near field zone of panel (directional) and whip (omnidirectional) antennas, typical at wireless telecommunications base stations, as well as dish (aperture) antennas, typically used for microwave links. The antenna patterns are not fully formed in the near field at these antennas, and the FCC Office of Engineering and Technology Bulletin No. 65 (August 1997) gives suitable formulas for calculating power density within such zones.

For a panel or whip antenna, power density $S = \frac{180}{\theta_{BW}} \times \frac{0.1 \times P_{net}}{\pi \times D \times h}$, in mW/cm²,

and for an aperture antenna, maximum power density $S_{max} = \frac{0.1 \times 16 \times \eta \times P_{net}}{\pi \times h^2}$, in mW/cm²,

where θ_{BW} = half-power beamwidth of the antenna, in degrees, and

P_{net} = net power input to the antenna, in watts,

D = distance from antenna, in meters,

h = aperture height of the antenna, in meters, and

η = aperture efficiency (unitless, typically 0.5-0.8).

The factor of 0.1 in the numerators converts to the desired units of power density.

Far Field.

OET-65 gives this formula for calculating power density in the far field of an individual RF source:

$$\text{power density } S = \frac{2.56 \times 1.64 \times 100 \times RFF^2 \times ERP}{4 \times \pi \times D^2}, \text{ in mW/cm}^2,$$

where ERP = total ERP (all polarizations), in kilowatts,

RFF = relative field factor at the direction to the actual point of calculation, and

D = distance from the center of radiation to the point of calculation, in meters.

The factor of 2.56 accounts for the increase in power density due to ground reflection, assuming a reflection coefficient of 1.6 ($1.6 \times 1.6 = 2.56$). The factor of 1.64 is the gain of a half-wave dipole relative to an isotropic radiator. The factor of 100 in the numerator converts to the desired units of power density. This formula has been built into a proprietary program that calculates, at each location on an arbitrary rectangular grid, the total expected power density from any number of individual radiation sources. The program also allows for the description of uneven terrain in the vicinity, to obtain more accurate projections.

**Verizon Wireless • Proposed Base Station (Site No. 280018 "Aqua View")
105 Alta Drive • Watsonville, California**

Statement of Hammett & Edison, Inc., Consulting Engineers

The firm of Hammett & Edison, Inc., Consulting Engineers, has been retained on behalf of Verizon Wireless, a personal wireless telecommunications carrier, to evaluate the base station (Site No. 280018 "Aqua View") proposed to be located at 105 Alta Drive in Watsonville, California, for compliance with appropriate guidelines limiting human exposure to radio frequency ("RF") electromagnetic fields.

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* Located about 400 feet away, based on photographs from Google Maps.



**Verizon Wireless • Proposed Base Station (Site No. 280018 "Aqua View")
105 Alta Drive • Watsonville, California**

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Authorship

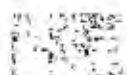
The undersigned author of this statement is a qualified Professional Engineer, holding California Registration Nos. E-13026 and M-20676, which expire on June 30, 2015. This work has been carried out under his direction, and all statements are true and correct of his own knowledge except, where noted, when data has been supplied by others, which data he believes to be correct.



William F. Hammett
William F. Hammett, P.E.

707/996-5200

May 6, 2014



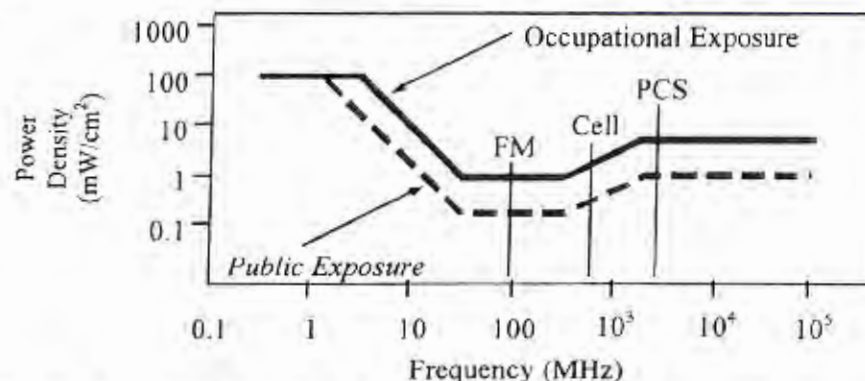
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FCC Radio Frequency Protection Guide

The U.S. Congress required (1996 Telecom Act) the Federal Communications Commission ("FCC") to adopt a nationwide human exposure standard to ensure that its licensees do not, cumulatively, have a significant impact on the environment. The FCC adopted the limits from Report No. 86, "Biological Effects and Exposure Criteria for Radiofrequency Electromagnetic Fields," published in 1986 by the Congressionally chartered National Council on Radiation Protection and Measurements ("NCRP"). Separate limits apply for occupational and public exposure conditions, with the latter limits generally five times more restrictive. The more recent standard, developed by the Institute of Electrical and Electronics Engineers and approved as American National Standard ANSI/IEEE C95.1-2006, "Safety Levels with Respect to Human Exposure to Radio Frequency Electromagnetic Fields, 3 kHz to 300 GHz," includes similar limits. These limits apply for continuous exposures from all sources and are intended to provide a prudent margin of safety for all persons, regardless of age, gender, size, or health.

As shown in the table and chart below, separate limits apply for occupational and public exposure conditions, with the latter limits (in *italics* and/or dashed) up to five times more restrictive:

Frequency Applicable Range (MHz)	Electromagnetic Fields (<i>f</i> is frequency of emission in MHz)					
	Electric Field Strength (V/m)		Magnetic Field Strength (A/m)		Equivalent Far-Field Power Density (mW/cm ²)	
0.3 – 1.34	614	<i>614</i>	1.63	<i>1.63</i>	100	<i>100</i>
1.34 – 3.0	614	<i>823.8/f</i>	1.63	<i>2.19/f</i>	100	<i>180/f²</i>
3.0 – 30	1842/f	<i>823.8/f</i>	4.89/f	<i>2.19/f</i>	900/f ²	<i>180/f²</i>
30 – 300	61.4	<i>27.5</i>	0.163	<i>0.0729</i>	1.0	<i>0.2</i>
300 – 1,500	3.54√ <i>f</i>	<i>1.59√f</i>	√ <i>f</i> /106	<i>√f/238</i>	f/300	<i>f/1500</i>
1,500 – 100,000	137	<i>61.4</i>	0.364	<i>0.163</i>	5.0	<i>1.0</i>



Higher levels are allowed for short periods of time, such that total exposure levels averaged over six or thirty minutes, for occupational or public settings, respectively, do not exceed the limits, and higher levels also are allowed for exposures to small areas, such that the spatially averaged levels do not exceed the limits. However, neither of these allowances is incorporated in the conservative calculation formulas in the FCC Office of Engineering and Technology Bulletin No. 65 (August 1997) for projecting field levels. Hammett & Edison has built those formulas into a proprietary program that calculates, at each location on an arbitrary rectangular grid, the total expected power density from any number of individual radio sources. The program allows for the description of buildings and uneven terrain, if required to obtain more accurate projections.

HAMMETT & EDISON, INC.
CONSULTING ENGINEERS
SAN FRANCISCO

FCC Guidelines
Figure 1

RFR.CALC™ Calculation Methodology

Assessment by Calculation of Compliance with FCC Exposure Guidelines

The U.S. Congress required (1996 Telecom Act) the Federal Communications Commission ("FCC") to adopt a nationwide human exposure standard to ensure that its licensees do not, cumulatively, have a significant impact on the environment. The maximum permissible exposure limits adopted by the FCC (see Figure 1) apply for continuous exposures from all sources and are intended to provide a prudent margin of safety for all persons, regardless of age, gender, size, or health. Higher levels are allowed for short periods of time, such that total exposure levels averaged over six or thirty minutes, for occupational or public settings, respectively, do not exceed the limits.

Near Field.

Prediction methods have been developed for the near field zone of panel (directional) and whip (omnidirectional) antennas, typical at wireless telecommunications base stations, as well as dish (aperture) antennas, typically used for microwave links. The antenna patterns are not fully formed in the near field at these antennas, and the FCC Office of Engineering and Technology Bulletin No. 65 (August 1997) gives suitable formulas for calculating power density within such zones.

For a panel or whip antenna, power density $S = \frac{180}{\theta_{BW}} \times \frac{0.1 \times P_{net}}{\pi \times D \times h}$, in mW/cm²,

and for an aperture antenna, maximum power density $S_{max} = \frac{0.1 \times 16 \times \eta \times P_{net}}{\pi \times h^2}$, in mW/cm²,

where θ_{BW} = half-power beamwidth of the antenna, in degrees, and

P_{net} = net power input to the antenna, in watts,

D = distance from antenna, in meters,

h = aperture height of the antenna, in meters, and

η = aperture efficiency (unitless, typically 0.5-0.8).

The factor of 0.1 in the numerators converts to the desired units of power density.

Far Field.

OET-65 gives this formula for calculating power density in the far field of an individual RF source:

$$\text{power density } S = \frac{2.56 \times 1.64 \times 100 \times RFF^2 \times ERP}{4 \times \pi \times D^2}, \text{ in mW/cm}^2,$$

where ERP = total ERP (all polarizations), in kilowatts,

RFF = relative field factor at the direction to the actual point of calculation, and

D = distance from the center of radiation to the point of calculation, in meters.

The factor of 2.56 accounts for the increase in power density due to ground reflection, assuming a reflection coefficient of 1.6 ($1.6 \times 1.6 = 2.56$). The factor of 1.64 is the gain of a half-wave dipole relative to an isotropic radiator. The factor of 100 in the numerator converts to the desired units of power density. This formula has been built into a proprietary program that calculates, at each location on an arbitrary rectangular grid, the total expected power density from any number of individual radiation sources. The program also allows for the description of uneven terrain in the vicinity, to obtain more accurate projections.

Existing

Photosimulation of a telephoto zoom view from the nearest possible viewpoint along Hwy 101.

Aqua View

105 Alta Drive
Watsonville, CA 95076

verizonwireless

Location of the alternative 70 ft water tank
not visible from Hwy 101

Proposed water tank

Proposed



Existing

Photosimulation of the view looking north from San Andreas Road, the nearest public viewpoint.

Aqua View

105 Alta Drive
Watsonville, CA 95076

verizonwireless



Proposed

P47

EXHIBIT C
EXHIBIT B



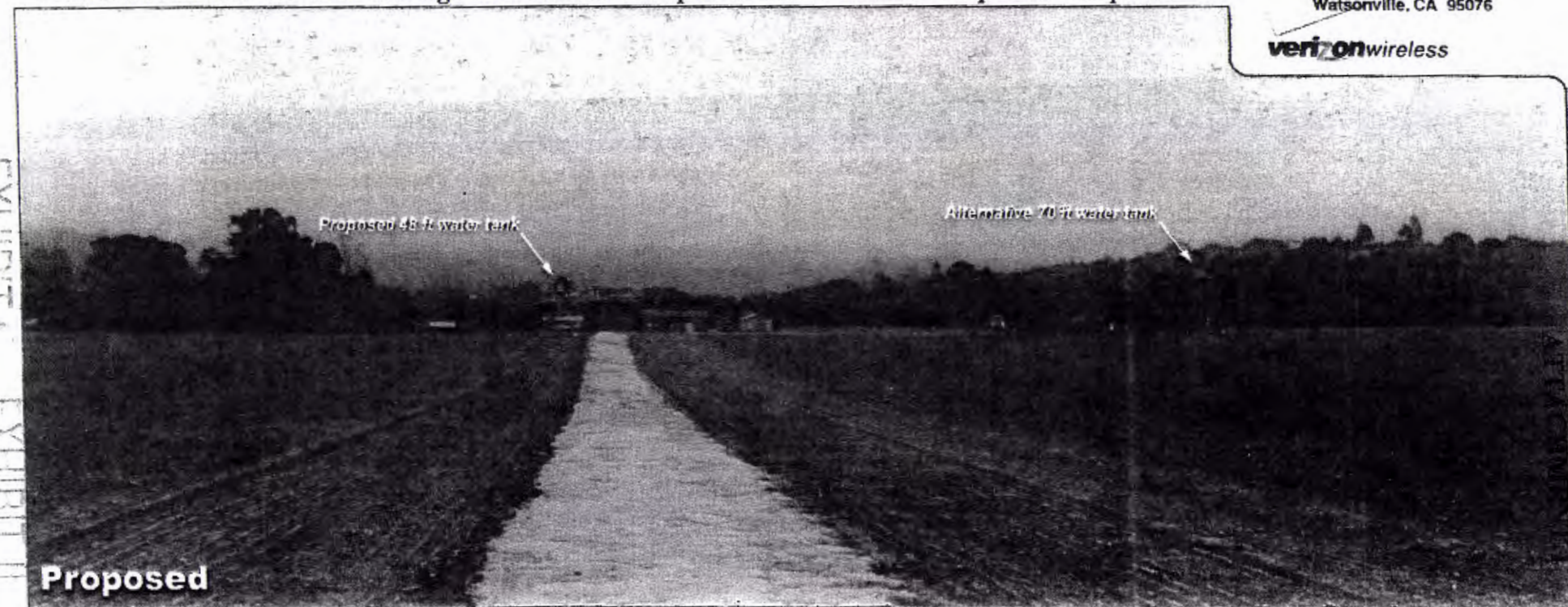
Existing

Photosimulation of the view looking northeast from the private access road. Not a public viewpoint.

Aqua View

105 Alta Drive
Watsonville, CA 95076

verizonwireless



Proposed



Existing

Photosimulation of the view looking northwest from Water Tank Road, a private drive.

Aqua View

105 Alta Drive
Watsonville, CA 95076

verizonwireless



Proposed

Proposed 48 ft water tank Alternative 70 ft water tank

P49

EXHIBIT C EXHIBIT 1

ATTACHMENT 1

Environmental Noise Analysis

Aqua View Cellular Facility

Santa Cruz County, California

BAC Job # 2014-072

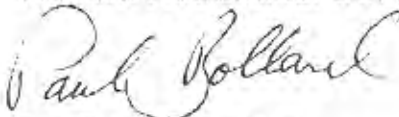
Prepared For:

Complete Wireless Consulting

Attn: Ms. Kim Le
2009 V Street
Sacramento, CA 95818

Prepared By:

Bollard Acoustical Consultants, Inc.



Paul Bollard, President

October 12, 2015



BOLLARD
Acoustical Consultants

Introduction

The Aqua View Verizon Wireless Unmanned Telecommunications Facility Project (project) proposes the construction of a faux water tank, and the installation of outdoor equipment cabinets and an emergency diesel standby generator inside a fenced area located at 105 Alta Drive in Watsonville (Santa Cruz County), California. The outdoor equipment cabinets and the emergency diesel standby generator have been identified as primary noise sources associated with the project. Please see Figure 1 for the general site location. The studied site design is dated September 22, 2015.

Bollard Acoustical Consultants, Inc. has been contracted by Complete Wireless Consulting, Inc. to complete an environmental noise assessment regarding the proposed project cellular equipment operations. Specifically, the following addresses daily noise production and exposure associated with operation of the project emergency generator and outdoor equipment cabinets.

Please refer to Appendix A for definitions of acoustical terminology used in this report. Appendix B illustrates common noise levels associated with various sources.

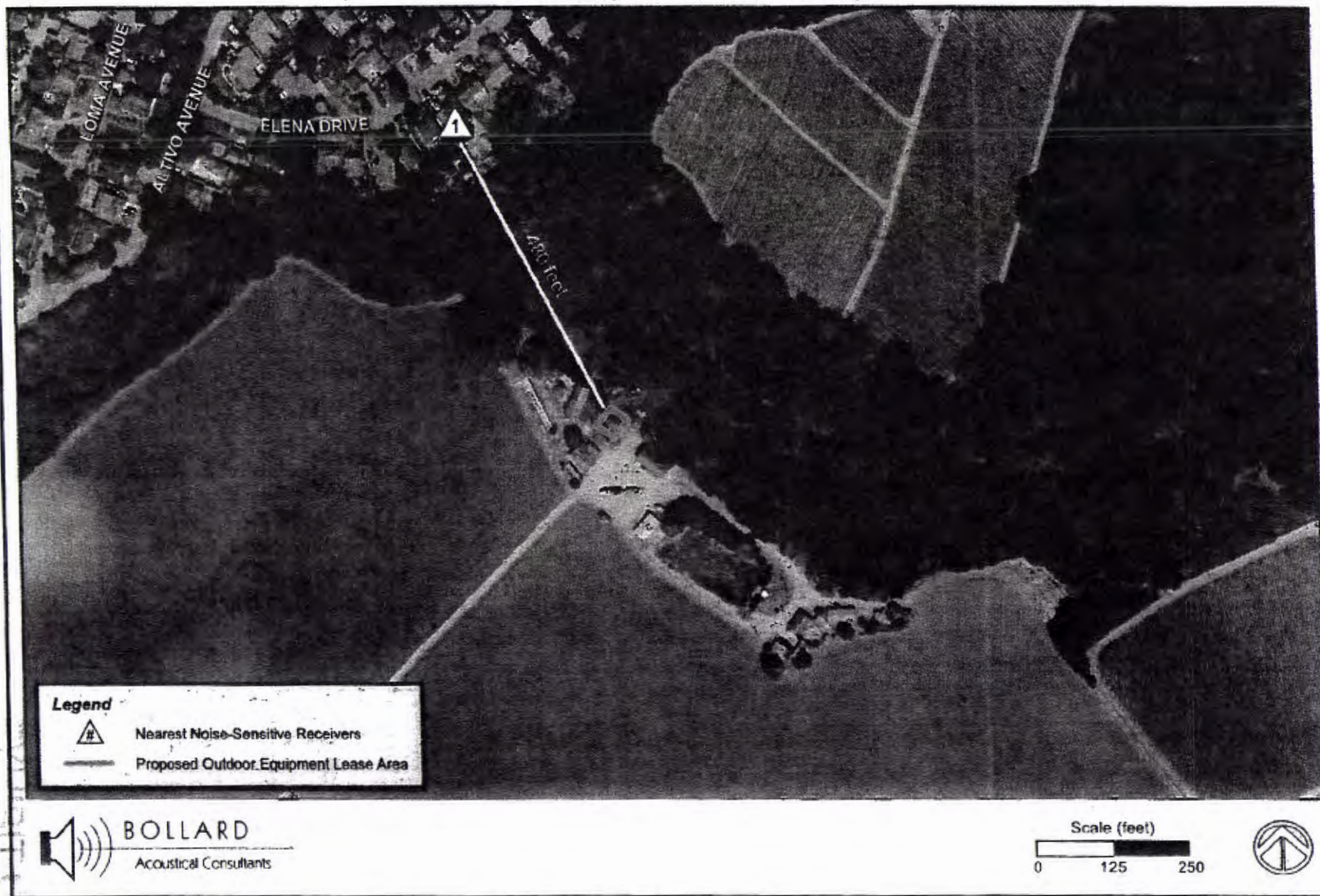
Criteria for Acceptable Noise Exposure

Santa Cruz County General Plan Noise Element

The Santa Cruz County General Plan Noise Element provides regulations regarding noise levels produced by stationary (non-transportation) noise sources. The primary objective of the Noise Element is to prescribe policies that lead to the preservation and enhancement of the quality of life for the residents of Santa Cruz County by securing and maintaining an environment free from hazardous and annoying noise. These standards are summarized below in Table 1.

Table 1 Maximum Allowable Noise Exposure for Stationary Noise Sources Santa Cruz County Noise Element of the General Plan		
Noise Level Descriptor	Daytime 7 a.m. to 10 p.m.	Nighttime 10 p.m. to 7 a.m.
Hourly L_{eq} , dB	50	45
Maximum Level (L_{max}), dB	70	65
Source: Santa Cruz County Noise Element of the General Plan		

Figure 1
Project Area and Nearest Noise-Sensitive Receivers
Aqua View Cellular Facility - Santa Cruz County, California



Santa Cruz County Code

Section 13.10.663 of the Santa Cruz County Code states that backup generators shall only be operated during power outages and for testing and maintenance purposes. If the facility is located within 100 feet of a residential dwelling unit, noise attenuation measures shall be included to reduce noise levels at the facility to a maximum exterior noise level of 60 dB L_{dn} at the property line and a maximum interior noise level of 45 L_{dn} within the nearby residence.

Noise Standards Applied to the Project

As shown in Figure 1, the proposed cellular facility is located approximately 400 feet away from the nearest identified off-site residence. Because the proposed cellular facility would be located over 100 feet away from the nearest residence, the noise level criteria presented in Section 13.10.663 of the Santa Cruz County Code would not be applicable to this project. However, the project noise emissions would still be required to comply with the County of Santa Cruz General Plan Noise Element noise level criteria, presented in Table 1.

Project Noise Generation

As discussed previously, there are two project noise sources which are considered in this evaluation; the equipment cabinet cooling systems and the emergency generator. The evaluation of potential noise impacts associated with the operation of each noise source is evaluated separately as follows:

Equipment Cabinet Noise Sources and Reference Noise Levels

The project proposes the installation of four equipment cabinets within the lease area illustrated on Figure 1. Specifically, the cabinets assumed for the project are as follows: two Ericsson eNB RBS6101, one Charles Industries 48V Power Plant and one miscellaneous cabinet cooled by a McLean Model T-20 air conditioner. The cabinets and their respective reference noise levels are provided below in Table 2. The manufacturer's noise level data specification sheets for the proposed equipment cabinets are provided as Appendix C.

Table 2 Reference Noise Level Data of Proposed Equipment Cabinets			
Equipment	Number of Cabinets	Reference Noise Level, dB	Reference Distance, feet
Ericsson eNB RBS6101	2	53	5
Charles Industries 48V Power Plant	1	60	5
McLean T-20	1	66	5
Notes: Manufacturer specification sheets provided as Appendix C.			

Generator Noise Sources and Reference Noise Levels

A Generac Industrial Power Systems Model SD030 is proposed for use at this facility to maintain cellular service during emergency power outages. The site plans indicate that the generator,

Environmental Noise Analysis
Aqua View Cellular Facility
Santa Cruz County, California
Page 3

EXHIBIT C
EXHIBIT 1

Bollard Acoustical Consultants, Inc.

located within the same lease area as the equipment cabinets, will be equipped with the Level 2 Acoustic Enclosure resulting in a reference noise level of 68 dB at 23 feet. The manufacturer's noise level data specification sheet for the proposed generator is provided as Appendix D.

The generator which is proposed at this site would only operate during emergencies (power outages) and brief daytime periods for periodic maintenance/lubrication. According to the project applicant, testing of the generator would occur twice per month, during daytime hours, for a duration of approximately 15 minutes. The emergency generator would only operate at night during power outages.

Predicted Facility Noise Levels at Nearest Residence & Property Line

As indicated in Figure 1, the cellular facility maintains a separation of 480 feet from the nearest off-site existing residence, identified as receiver 1. The project equipment maintains a separation of 410 feet from the property line of receiver 1. Assuming standard spherical spreading loss (-6 dB per doubling of distance), project-equipment noise exposure at both the nearest property line and nearest residence was calculated and the results of those calculations are presented in Table 3.

Table 3 Summary of Project-Related Noise Exposure at Nearest Residence and Property Line Aqua View Verizon Wireless Telecommunications Facility Project			
Nearest Receiver ¹	Distance from Cellular Equipment (feet)	Predicted Noise Levels (dBA)	
		Equipment Cabinets	Generator
1	480	27	42
Property Line	410	29	43
Notes:			
¹ Receiver location is shown on Figure 1.			

Because the proposed cooling fans of the equipment cabinets could potentially be in operation during nighttime hours, the operation of the equipment cabinets would be subject to the County's hourly average nighttime noise level standard of 45 dB Leq. As shown in Table 3, the predicted equipment cabinet noise levels of 27-29 dB Leq would satisfy the Santa Cruz County 45 dB Leq nighttime noise level standard. As a result, no further consideration of noise mitigation measures would be warranted for this aspect of the project.

Because the project generator would only operate during daytime hours for brief periods required for testing and maintenance, noise from generator could be subject to the County's maximum daytime noise level standard of 70 dB Lmax. However, the County may elect to apply the hourly average nighttime noise level standard of 45 dB Leq. As shown in Table 3, the predicted generator noise level of 42-43 dB would satisfy both the average and maximum daytime noise level standards. As a result, no additional noise mitigation measures would be warranted for this aspect of the project.

Environmental Noise Analysis
Aqua View Cellular Facility
Santa Cruz County, California

Page 4

EXHIBIT C
1/2/2011

Conclusions

Based on the equipment noise level data and analyses presented above, project-related equipment noise exposure is expected to satisfy the applicable Santa Cruz County noise exposure limits at the both the nearest residences and at the nearest property lines. As a result, no additional noise mitigation measures would be warranted for this project.

This concludes our environmental noise assessment for the proposed Aqua View Cellular Facility in Santa Cruz County, California. Please contact BAC at (916) 663-0500 or paulb@bacnoise.com with any questions or requests for additional information.

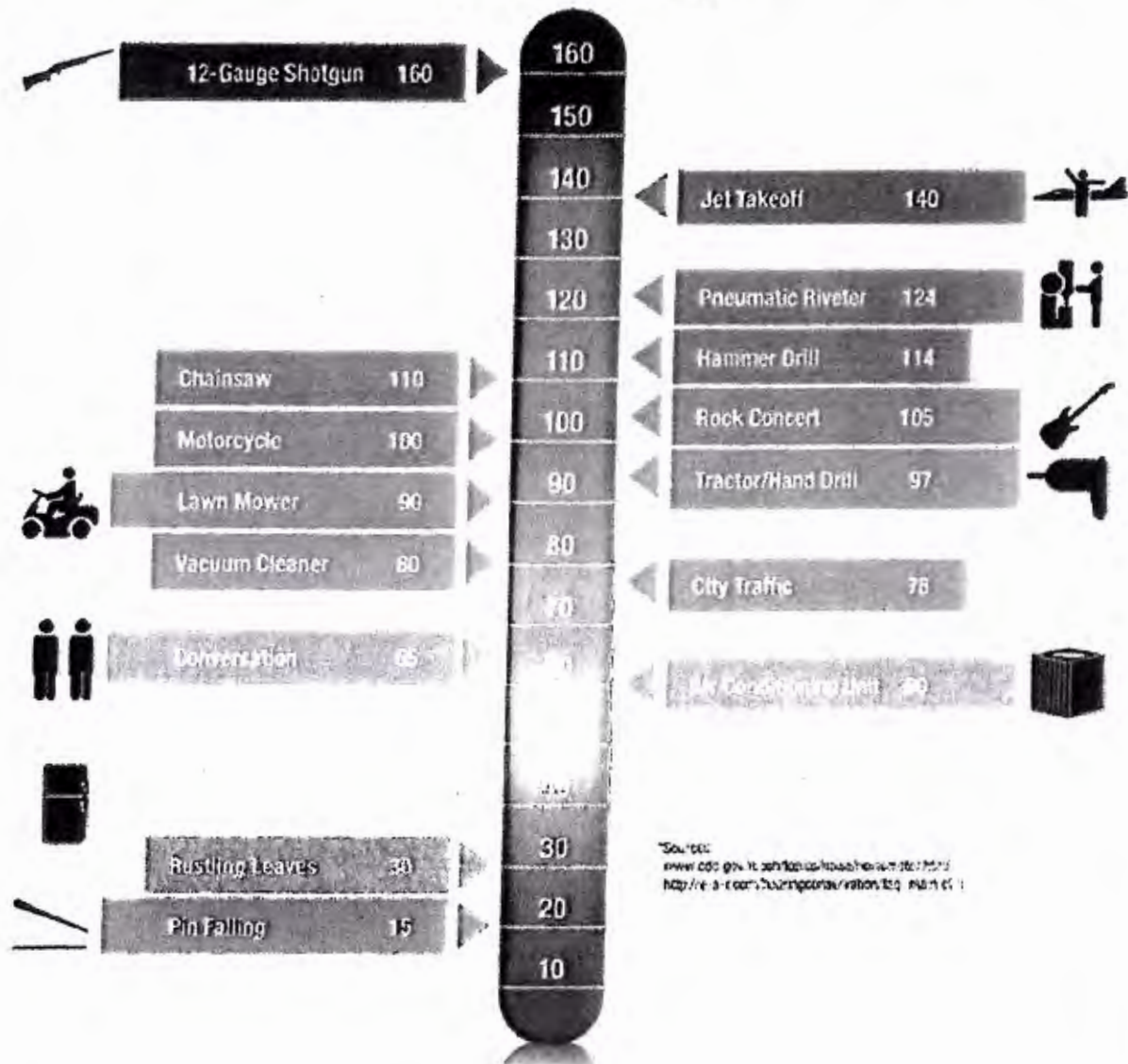
Appendix A Acoustical Terminology

Acoustics	The science of sound.
Ambient Noise	The distinctive acoustical characteristics of a given space consisting of all noise sources audible at that location. In many cases, the term ambient is used to describe an existing or pre-project condition such as the setting in an environmental noise study.
Attenuation	The reduction of an acoustic signal.
A-Weighting	A frequency-response adjustment of a sound level meter that conditions the output signal to approximate human response.
Decibel or dB	Fundamental unit of sound. A Bell is defined as the logarithm of the ratio of the sound pressure squared over the reference pressure squared. A Decibel is one-tenth of a Bell.
CNEL	Community Noise Equivalent Level. Defined as the 24-hour average noise level with noise occurring during evening hours (7 - 10 p.m.) weighted by a factor of three and nighttime hours weighted by a factor of 10 prior to averaging.
Frequency	The measure of the rapidity of alterations of a periodic signal, expressed in cycles per second or hertz.
L_{dn}	Day/Night Average Sound Level. Similar to CNEL but with no evening weighting.
Leq	Equivalent or energy-averaged sound level.
L_{max}	The highest root-mean-square (RMS) sound level measured over a given period of time.
Loudness	A subjective term for the sensation of the magnitude of sound.
Masking	The amount (or the process) by which the threshold of audibility is for one sound is raised by the presence of another (masking) sound.
Noise	Unwanted sound.
Peak Noise	The level corresponding to the highest (not RMS) sound pressure measured over a given period of time. This term is often confused with the Maximum level, which is the highest RMS level.
RT₆₀	The time it takes reverberant sound to decay by 60 dB once the source has been removed.
Sabin	The unit of sound absorption. One square foot of material absorbing 100% of incident sound has an absorption of 1 sabin.
SEL	A rating, in decibels, of a discrete event, such as an aircraft flyover or train passby, that compresses the total sound energy of the event into a 1-s time period.
Threshold of Hearing	The lowest sound that can be perceived by the human auditory system, generally considered to be 0 dB for persons with perfect hearing.
Threshold of Pain	Approximately 120 dB above the threshold of hearing.

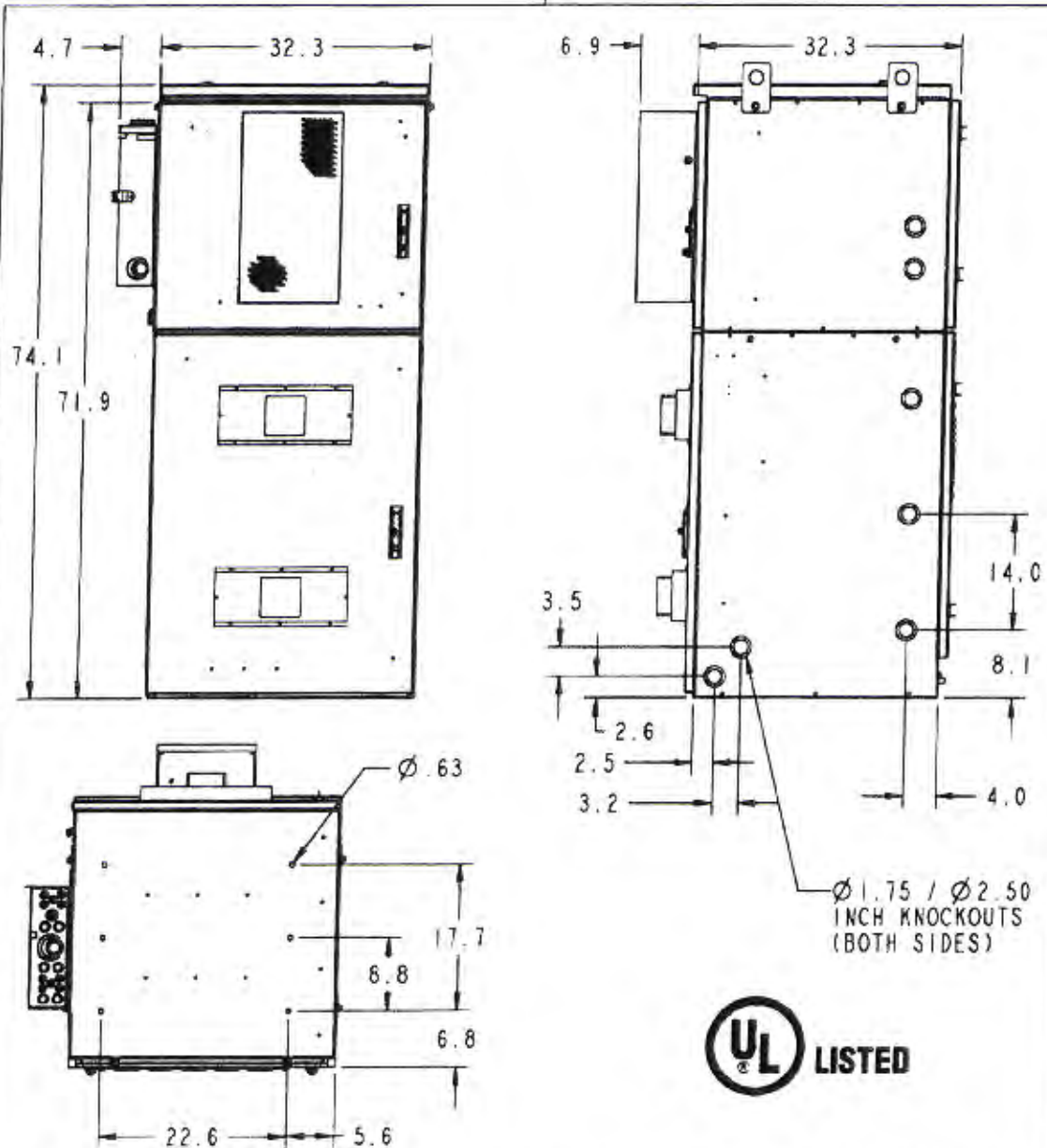


Appendix B

Typical A-Weighted Sound Levels of Common Noise Sources
Decibel Scale (dBA)*



Appendix C-1



WEIGHT WITH BATTERIES:
2296 LBS.

NorthStar NSB-170FT batteries
at 128 lbs each, Qty 12

WEIGHT WITHOUT BATTERIES:
760 LBS.

MAX NOISE LEVEL:
55-60dB

CHARLES PART #
CUBE-SS4C215XC1

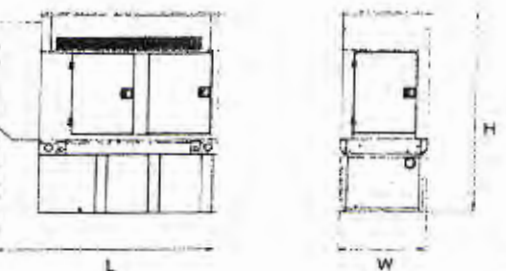
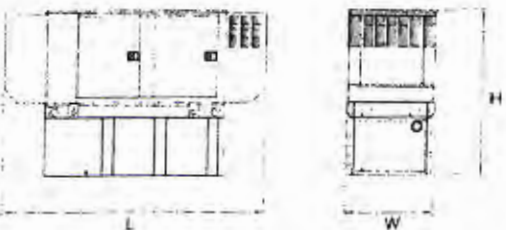
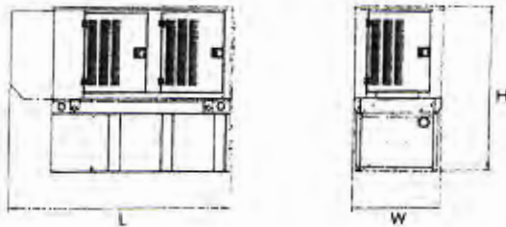
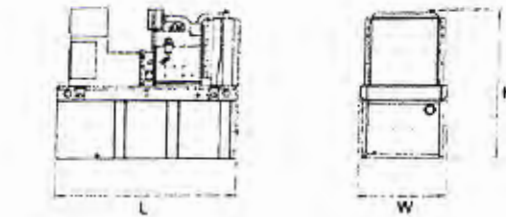


Charles Industries Ltd.
Telecommunications Group
Charles Center, 5000 Apple Drive
Bellingham, WA 98226
Telephone: 800-800-6300

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REPRODUCED, COPIED OR USED IN ANY MANNER DETRIMENTAL TO THEIR INTERESTS.

Verizon Wireless
Large Site Support Enclosure

Appendix D

GENERAC INDUSTRIAL**SD030****dimensions, weights and sound levels****30 kW Diesel****OPEN SET**

RUN TIME HOURS	USABLE CAPACITY (GAL)	L	W	H	WT	dBA*
NO TANK		76	38	46	2060	87
20	54	76	38	59	2540	
48	132	76	36	71	2770	
77	211	76	36	85	2979	
109	300	93	36	87	3042	

STANDARD ENCLOSURE

RUN TIME HOURS	USABLE CAPACITY (GAL)	L	W	H	WT	dBA*
NO TANK		95	38	50	2362	77
20	54	95	38	63	2842	
48	132	95	36	75	3072	
77	211	95	36	87	3281	
109	300	95	36	91	3344	

LEVEL 1 ACOUSTIC ENCLOSURE

RUN TIME HOURS	USABLE CAPACITY (GAL)	L	W	H	WT	dBA*
NO TANK		113	38	50	2515	70
20	54	113	38	63	2963	
48	132	113	36	75	3225	
77	211	113	36	87	3434	
109	300	113	36	91	3437	

LEVEL 2 ACOUSTIC ENCLOSURE

RUN TIME HOURS	USABLE CAPACITY (GAL)	L	W	H	WT	dBA*
NO TANK		95	38	62	2520	68
20	54	95	38	75	3000	
48	132	95	36	87	3230	
77	211	95	36	99	3435	
109	300	95	36	103	3502	

*All measurements are approximate and for estimation purposes only. Weights are without fuel in tank. Sound levels measured at 23m (75ft) and does not account for ambient site conditions.

- Tank Options
- ☐ MDEC
 - ☐ Florida DERM/DEP
 - ☐ Chicago Fire Code
 - ☐ IFCC Certification
 - ☐ ULC

Other Custom Options Available from your
Generac Industrial Power Dealer

- Options
- ☐ OPT
 - ☐ GPT
 - ☐ OPT
 - ☐ CALL
 - ☐ CALL

YOUR FACTORY RECOGNIZED GENERAC INDUSTRIAL DEALER

Specifications may change without notice. Dimensions and weights are for preliminary purposes only. Please consult a Generac Power Systems Industrial Dealer for detailed installation drawings.

Generac Power Systems, Inc. • S45 W29290 HWY 59, Waukesha, WI 53189 • generac.com
© 2012 Generac Power Systems, Inc. All rights reserved. All specifications are subject to change without notice. Bulletin 0105010589-B Printed in U.S.A. 02-15-12

Frank Barron

From: Frank Barron
Sent: Monday, November 23, 2015 4:34 PM
To: 'Moroney, Ryan@Coastal'
Cc: Wanda Williams; Steven Guiney; Ken Hart
Subject: RE: Application 141196 - new WCF at 105 Alta Drive

Hi Ryan,

Yes, you are right, this project is appealable to the Coastal Commission. We will change the agenda accordingly and make a correction announcement at the hearing.

Re: height of the cell tower, as per 13.10.510 (under Height Exceptions) commercial and utility towers/poles are not subject to the zone district height limits for structures. However, we have an Administrative Practices Guideline that allows cell towers go up to 50' higher than the height limit for structures in the zone district, so that would be 90-ft. in the A-P zone. So, at 48-ft. tall this cell tower would be well under the maximum height allowed.

And yes, your office is already on the list of recipients of the staff report. Those are going out in tomorrow's mail I believe.

Let me know if you have any other questions and have a great Thanksgiving,

Frank

From: Moroney, Ryan@Coastal [<mailto:Ryan.Moroney@coastal.ca.gov>]
Sent: Monday, November 23, 2015 1:48 PM
To: Frank Barron
Subject: Application 141196 - new WCF at 105 Alta Drive

Hi Frank;

I saw the above application is going to the ZA next Friday. Is the staff report available? In the meantime, I had a couple of preliminary questions/observations:

1. The allowable uses in A-P zone district list WCF use as a "level V" approval. Usually this means a project is not principally permitted and therefore is appealable to the Commission (IP Sections 13.20.122; 13.10.312) however the ZA notice indicates it is not appealable to the Commission. Can you please explain why not?
2. Also, the max height in the A-P zoning district for any structure is 40' (13.10.313) but the ZA notice indicates the proposed cell tower to be 48'. Is a variance being sought? Again, would appreciate your thoughts on this?

Thank you,

Ryan Moroney
 California Coastal Commission
 725 Front Street, Suite 300
 Santa Cruz, California CA 95060
 (831) 427-4863
Ryan.Moroney@coastal.ca.gov
<http://www.coastal.ca.gov/>



EXHIBIT
141196

Frank Barron

From: Frank Barron
Sent: Tuesday, November 24, 2015 10:59 AM
To: 'Randall Nacamuli'
Subject: RE: Verizon Communication Tower

Hi Randall,

The staff report, including the project plans (Exhibit D) with the site plan, will be available online by late tomorrow afternoon. You will be able to access it at:

<http://sccounty01.co.santa-cruz.ca.us/planning/plnmeetings/ASP/Display/ASPX/DisplayAgenda.aspx?MeetingDate=12/4/2015&MeetingType=2>

Just click the Zoning Administrator's Dec. 4, 2015 meeting agenda number (in this case "3") to pull up the staff report.

Let me know if you have any problems with it, keeping in mind we are out of the office Thurs. and Friday this week.

Thanks,

Frank Barron
 Santa Cruz Co. Planning Dept.
 (831) 454-2530

-----Original Message-----

From: Randall Nacamuli [<mailto:nacamuli@gmail.com>]
Sent: Monday, November 23, 2015 6:36 PM
To: Frank Barron
Subject: Verizon Communication Tower

Hi Mr. Barron,

I am writing I regards to the recent notice we received re: Item#3. 141196*, construction of a Verizon cell tower on Andy Delucchi's property.

I immediately border this property, and it's access, at 111 Alta drive. I would like to know where in the property the tower is going to be built. Given the size of the property, the tower location may or may not be of concern to myself and neighbors.

Thanks,

- Randall Nacamuli

Frank Barron

From: Frank Barron
Sent: Tuesday, November 24, 2015 11:02 AM
To: 'Michael S. Pettit'
Subject: RE: Item # 3. 141196 105 Alta Drive, La Selva Beach APN:046-021-05

Hi Michael,

The staff report, including the project plans (Exhibit D) and photo-simulations (Exhibit H), will be available online by late tomorrow afternoon. You will be able to access it at:

<http://sccounty01.co.santa-cruz.ca.us/planning/plnmeetings/ASP/Display/ASPX/DisplayAgenda.aspx?MeetingDate=12/4/2015&MeetingType=2>

Just click the Zoning Administrator's Dec. 4, 2015 meeting agenda number (in this case "3") to pull up the staff report.

Let me know if you have any problems with it, keeping in mind we are out of the office Thurs. and Friday this week.

Thanks,

Frank Barron
Santa Cruz Co. Planning Dept.
(831) 454-2530

From: Michael S. Pettit [<mailto:tgifford100@gmail.com>]
Sent: Tuesday, November 24, 2015 6:27 AM
To: Frank Barron
Subject: Item # 3. 141196 105 Alta Drive, La Selva Beach APN:046-021-05

Yesterday I received a Notice of Public Hearing regarding the above referenced proposal. I live on Altivo Avenue. Is there a map and/or picture or sketch of what this project will look like? If so would you send it to me?

Michael Pettit

>> Let me know if you have more questions,
>>
>> Frank Barron
>> Santa Cruz Co. Planning Dept.
>> (831) 454-2530
>>
>> -----Original Message-----
>> From: Nancy Radetsky [mailto:radwear@earthlink.net]
>> Sent: Saturday, November 28, 2015 3:26 PM
>> To: Frank Barron
>> Subject: Re: Verizon Tower
>>
>> Dear Mr. Barron,
>> I can't get the Exhibits D and H.
>> I don't see them on the website you sent. I have searched all over and cannot find them.
>> Could you please send me a direct link and not through the website in your last email.
>> Many thanks.
>> Also could you please tell me if there is a protocol that I need to follow to oppose the
>> cell tower? Are you in a position to help me? Do I need photos of my property to object
>> aesthetically?
>> I would so appreciate any help you can give me.
>> Thank you,
>> Nancy Radetsky
>> 831 334-1595
>>
>> Sent from my iPhone
>>
>>> On Nov 24, 2015, at 3:11 PM, Frank Barron <Frank.Barron@santacruzcounty.us> wrote:
>>>
>>> Hi Nancy,
>>>
>>> The staff report, including the project plans showing location (Exhibit D) and photo-
>>> simulations (Exhibit H), will be available online by late tomorrow afternoon. You will be
>>> able to access it at:
>>>
>>> <http://sccounty01.co.santa-cruz.ca.us/planning/plnmeetings/ASP/Display/ASPX/DisplayAgenda.aspx?MeetingDate=12/4/2015&MeetingType=2>
>>>
>>> Just click the Zoning Administrator's Dec. 4, 2015 meeting agenda number (in this case
>>> "3") to pull up the staff report.
>>>
>>> Let me know if you have any problems with it, keeping in mind we are out of the office
>>> Thurs. and Friday this week.
>>>
>>> Thanks,
>>>
>>> Frank Barron
>>> Santa Cruz Co. Planning Dept.
>>> (831) 454-2530
>>>
>>> -----Original Message-----
>>> From: Nancy Radetsky [mailto:radwear@earthlink.net]
>>> Sent: Tuesday, November 24, 2015 2:27 PM
>>> To: Frank Barron
>>> Subject: Verizon Tower
>>>

>>> Mr. Barron,
>>> Could you please tell me exactly where the tower would be constructed? The information I received in the mail says it is proposed to be located on a 127 acre Agriculture Preserve. Where is this?
>>> Thank you,
>>> Nancy Radetsky
>>> La Selva Beach
>>>
>>> Sent from my iPhone
>

Elizabeth Hayward

From: Frank Barron
Sent: Wednesday, December 02, 2015 2:32 PM
To: Elizabeth Hayward
Cc: Wanda Williams
Subject: FW: Cell Tower/La Selva

FYI - re: 141196

-----Original Message-----

From: Nancy Radetsky [<mailto:radwear@earthlink.net>]
Sent: Wednesday, December 02, 2015 2:18 PM
To: Frank Barron
Subject: Cell Tower/La Selva

Hi Frank,

Thank you for all the exhibits and information regarding the Verizon cell tower.
I drove out yesterday to pinpoint the location and realized that it is farther down the fields than the parcel behind my house.

I very much appreciate your time and patience in answering my questions.
If having Verizon lease the land, would that become a precedent for other cell companies to build more towers on the Delucchi property? Do you have any information concerning that?

Many thanks,
Nancy Radetsky

**Verizon Wireless • Proposed Base Station (Site No. 280018 "Aqua View")
105 Alta Drive • Watsonville, California**

Statement of Hammett & Edison, Inc., Consulting Engineers

The firm of Hammett & Edison, Inc., Consulting Engineers, has been retained on behalf of Verizon Wireless, a personal wireless telecommunications carrier, to evaluate the base station (Site No. 280018 "Aqua View") proposed to be located at 105 Alta Drive in Watsonville, California, for compliance with appropriate guidelines limiting human exposure to radio frequency ("RF") electromagnetic fields.

Executive Summary

Verizon proposes to install directional panel antennas on a tall tower to be sited at 105 Alta Drive in Watsonville. The proposed operation will comply with the FCC guidelines limiting public exposure to RF energy.

Prevailing Exposure Standards

The U.S. Congress requires that the Federal Communications Commission ("FCC") evaluate its actions for possible significant impact on the environment. A summary of the FCC's exposure limits is shown in Figure 1. These limits apply for continuous exposures and are intended to provide a prudent margin of safety for all persons, regardless of age, gender, size, or health. The most restrictive FCC limit for exposures of unlimited duration to radio frequency energy for several personal wireless services are as follows:

Wireless Service	Frequency Band	Occupational Limit	Public Limit
Microwave (Point-to-Point)	5–80 GHz	5.00 mW/cm ²	1.00 mW/cm ²
WiFi (and unlicensed uses)	2–6	5.00	1.00
BRS (Broadband Radio)	2,600 MHz	5.00	1.00
WCS (Wireless Communication)	2,300	5.00	1.00
AWS (Advanced Wireless)	2,100	5.00	1.00
PCS (Personal Communication)	1,950	5.00	1.00
Cellular	870	2.90	0.58
SMR (Specialized Mobile Radio)	855	2.85	0.57
700 MHz	700	2.40	0.48
[most restrictive frequency range]	30–300	1.00	0.20

General Facility Requirements

Base stations typically consist of two distinct parts: the electronic transceivers (also called "radios" or "channels") 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. The transceivers are often located at ground level and are connected to the antennas by coaxial cables. A small antenna for reception of GPS signals is also required, mounted with a clear view of the sky. Because of the short wavelength of the frequencies assigned by the FCC for wireless services, the

**Verizon Wireless • Proposed Base Station (Site No. 280018 "Aqua View")
105 Alta Drive • Watsonville, California**

antennas require line-of-sight paths for their signals to propagate well and so are installed at some height above ground. The antennas are designed to concentrate their energy toward the horizon, with very little energy wasted toward the sky or the ground. This means that it is generally not possible for exposure conditions to approach the maximum permissible exposure limits without being physically very near the antennas.

Computer Modeling Method

The FCC provides direction for determining compliance in its Office of Engineering and Technology Bulletin No. 65, "Evaluating Compliance with FCC-Specified Guidelines for Human Exposure to Radio Frequency Radiation," dated August 1997. Figure 2 describes the calculation methodologies, reflecting the facts that a directional antenna's radiation pattern is not fully formed at locations very close by (the "near-field" effect) and that at greater distances the power level from an energy source decreases with the square of the distance from it (the "inverse square law"). The conservative nature of this method for evaluating exposure conditions has been verified by numerous field tests.

Site and Facility Description

Based upon information provided by Verizon, including construction drawings by MST Architects, Inc., dated April 5, 2016, it is proposed to install nine Andrew Model SBNHH-1D65C directional panel antennas on a new 48-foot structure, configured to resemble a water tower, to be sited near several agricultural buildings at the north side of the large fields to the southeast of Altivo Avenue and Elena Drive in Watsonville. The antennas would employ no downtilt, would be mounted at an effective height of about 43½ feet above ground, and would be oriented in groups of three toward 10°T, 160°T, and 280°T. The maximum effective radiated power in any direction would be 9,900 watts, representing simultaneous operation at 4,240 watts for AWS, 3,890 watts for PCS, and 1,770 watts for 700 MHz service; no operation on cellular frequencies is presently proposed from this site. There are reported no other wireless telecommunications base stations at the site or nearby.

Study Results

For a person anywhere at ground, the maximum RF exposure level due to the proposed Verizon operation is calculated to be 0.048 mW/cm², which is 4.9% of the applicable public exposure limit. The maximum calculated level at the second-floor elevation of any nearby residence* is 0.58% of the public exposure limit. It should be noted that these results include several "worst-case" assumptions and therefore are expected to overstate actual power density levels from the proposed operation.

* Located at least 700 feet away, based on photographs from Google Maps.

**Verizon Wireless • Proposed Base Station (Site No. 280018 "Aqua View")
105 Alta Drive • Watsonville, California**

No Recommended Mitigation Measures

Due to their mounting location and height, the Verizon antennas would not be accessible to unauthorized persons, and so no mitigation measures are necessary to comply with the FCC public exposure guidelines. It is presumed that Verizon will, as an FCC licensee, take adequate steps to ensure that its employees or contractors receive appropriate training and comply with FCC occupational exposure guidelines whenever work is required near the antennas themselves.

Conclusion

Based on the information and analysis above, it is the undersigned's professional opinion that operation of the base station proposed by Verizon Wireless at 105 Alta Drive in Watsonville, California, will comply with the prevailing standards for limiting public exposure to radio frequency energy and, therefore, will not for this reason cause a significant impact on the environment. The highest calculated level in publicly accessible areas is much less than the prevailing standards allow for exposures of unlimited duration. This finding is consistent with measurements of actual exposure conditions taken at other operating base stations.

Authorship

The undersigned author of this statement is a qualified Professional Engineer, holding California Registration Nos. E-13026 and M-20676, which expire on June 30, 2017. This work has been carried out under his direction, and all statements are true and correct of his own knowledge except, where noted, when data has been supplied by others, which data he believes to be correct.



William F. Hammett
William F. Hammett, P.E.
707/996-5200

April 15, 2016

HAMMETT & EDISON, INC.
CONSULTING ENGINEERS
SAN FRANCISCO

A0TH.2
Page 3 of 3

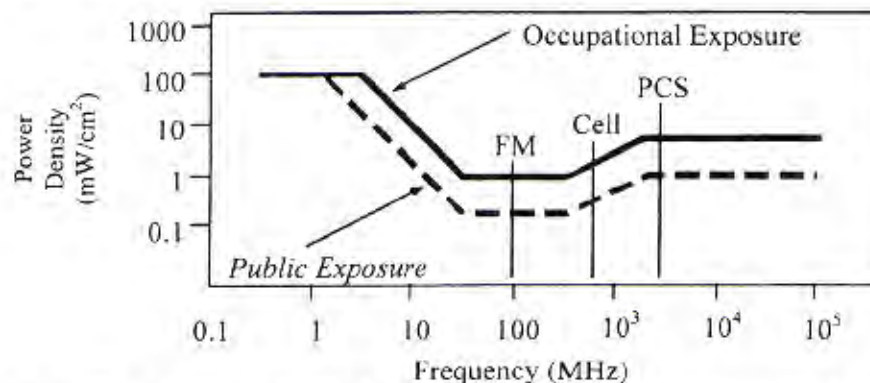
EXHIBIT

FCC Radio Frequency Protection Guide

The U.S. Congress required (1996 Telecom Act) the Federal Communications Commission ("FCC") to adopt a nationwide human exposure standard to ensure that its licensees do not, cumulatively, have a significant impact on the environment. The FCC adopted the limits from Report No. 86, "Biological Effects and Exposure Criteria for Radiofrequency Electromagnetic Fields," published in 1986 by the Congressionally chartered National Council on Radiation Protection and Measurements ("NCRP"). Separate limits apply for occupational and public exposure conditions, with the latter limits generally five times more restrictive. The more recent standard, developed by the Institute of Electrical and Electronics Engineers and approved as American National Standard ANSI/IEEE C95.1-2006, "Safety Levels with Respect to Human Exposure to Radio Frequency Electromagnetic Fields, 3 kHz to 300 GHz," includes similar limits. These limits apply for continuous exposures from all sources and are intended to provide a prudent margin of safety for all persons, regardless of age, gender, size, or health.

As shown in the table and chart below, separate limits apply for occupational and public exposure conditions, with the latter limits (in *italics* and/or dashed) up to five times more restrictive:

Frequency Applicable Range (MHz)	Electromagnetic Fields (<i>f</i> is frequency of emission in MHz)					
	Electric Field Strength (V/m)		Magnetic Field Strength (A/m)		Equivalent Far-Field Power Density (mW/cm ²)	
0.3 – 1.34	614	<i>614</i>	1.63	<i>1.63</i>	100	<i>100</i>
1.34 – 3.0	614	<i>823.8/f</i>	1.63	<i>2.19/f</i>	100	<i>180/f²</i>
3.0 – 30	1842/f	<i>823.8/f</i>	4.89/f	<i>2.19/f</i>	900/f ²	<i>180/f²</i>
30 – 300	61.4	<i>27.5</i>	0.163	<i>0.0729</i>	1.0	<i>0.2</i>
300 – 1,500	3.54√ <i>f</i>	<i>1.59√f</i>	√ <i>f</i> /106	<i>√f/238</i>	f/300	<i>f/1500</i>
1,500 – 100,000	137	<i>61.4</i>	0.364	<i>0.163</i>	5.0	<i>1.0</i>



Higher levels are allowed for short periods of time, such that total exposure levels averaged over six or thirty minutes, for occupational or public settings, respectively, do not exceed the limits, and higher levels also are allowed for exposures to small areas, such that the spatially averaged levels do not exceed the limits. However, neither of these allowances is incorporated in the conservative calculation formulas in the FCC Office of Engineering and Technology Bulletin No. 65 (August 1987) for projecting field levels. Hammett & Edison has built those formulas into a proprietary program that calculates, at each location on an arbitrary rectangular grid, the total expected power density from any number of individual radio sources. The program allows for the description of buildings and uneven terrain, if required to obtain more accurate projections.



HAMMETT & EDISON, INC.
CONSULTING ENGINEERS
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FCC Guidelines
Figure 1

EXHIBIT 0

RFR.CALC™ Calculation Methodology

Assessment by Calculation of Compliance with FCC Exposure Guidelines

The U.S. Congress required (1996 Telecom Act) the Federal Communications Commission ("FCC") to adopt a nationwide human exposure standard to ensure that its licensees do not, cumulatively, have a significant impact on the environment. The maximum permissible exposure limits adopted by the FCC (see Figure 1) apply for continuous exposures from all sources and are intended to provide a prudent margin of safety for all persons, regardless of age, gender, size, or health. Higher levels are allowed for short periods of time, such that total exposure levels averaged over six or thirty minutes, for occupational or public settings, respectively, do not exceed the limits.

Near Field.

Prediction methods have been developed for the near field zone of panel (directional) and whip (omnidirectional) antennas, typical at wireless telecommunications base stations, as well as dish (aperture) antennas, typically used for microwave links. The antenna patterns are not fully formed in the near field at these antennas, and the FCC Office of Engineering and Technology Bulletin No. 65 (August 1997) gives suitable formulas for calculating power density within such zones.

For a panel or whip antenna, power density $S = \frac{180}{\theta_{BW}} \times \frac{0.1 \times P_{net}}{\pi \times D \times h}$, in mW/cm²,

and for an aperture antenna, maximum power density $S_{max} = \frac{0.1 \times 16 \times \eta \times P_{net}}{\pi \times h^2}$, in mW/cm²,

where θ_{BW} = half-power beamwidth of the antenna, in degrees, and

P_{net} = net power input to the antenna, in watts,

D = distance from antenna, in meters,

h = aperture height of the antenna, in meters, and

η = aperture efficiency (unitless, typically 0.5-0.8).

The factor of 0.1 in the numerators converts to the desired units of power density.

Far Field.

OET-65 gives this formula for calculating power density in the far field of an individual RF source:

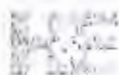
$$\text{power density } S = \frac{2.56 \times 1.64 \times 100 \times RFF^2 \times ERP}{4 \times \pi \times D^2}, \text{ in mW/cm}^2,$$

where ERP = total ERP (all polarizations), in kilowatts,

RFF = relative field factor at the direction to the actual point of calculation, and

D = distance from the center of radiation to the point of calculation, in meters.

The factor of 2.56 accounts for the increase in power density due to ground reflection, assuming a reflection coefficient of 1.6 ($1.6 \times 1.6 = 2.56$). The factor of 1.64 is the gain of a half-wave dipole relative to an isotropic radiator. The factor of 100 in the numerator converts to the desired units of power density. This formula has been built into a proprietary program that calculates, at each location on an arbitrary rectangular grid, the total expected power density from any number of individual radiation sources. The program also allows for the description of uneven terrain in the vicinity, to obtain more accurate projections.



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Methodology
Figure 2

EXHIBIT B

ORIGINAL SITE

Aerial photograph showing the viewpoints for the photosimulations.

Aqua View

105 Alta Drive
Watsonville, CA 95076

verizonwireless



ATTACHMENT 1



Existing

Aqua View

105 Alta Drive
Watsonville, CA 95076

verizonwireless

Photosimulation of the view looking northwest from Water Tank Road, a private drive.



Proposed



Existing

Photosimulation of the view looking north from San Andreas Road, the nearest public viewpoint.

Aqua View

105 Alta Drive
Watsonville, CA 95076

verizonwireless



Proposed

ATTACHMENT 1

EXHIBIT E

Existing

Photosimulation of the view looking northeast from the private access road. Not a public viewpoint.

Aqua View

105 Alta Drive
Watsonville, CA 95076

verizon wireless

Proposed

Proposed 48 ft water tank

Alternative 70 ft water tank

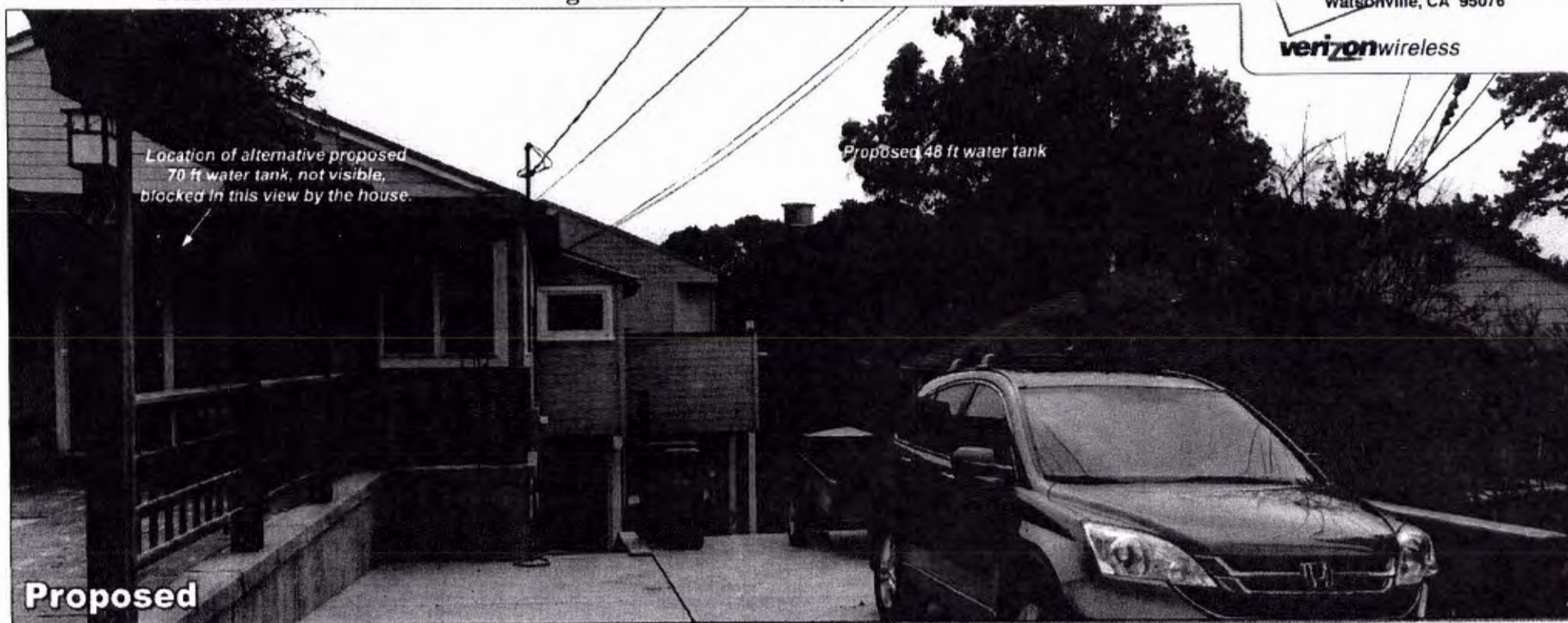


Photosimulation of the view looking east from Elena Road, the nearest homes.

Aqua View

105 Alta Drive
Watsonville, CA 95076

verizonwireless



NEW SITE

Aerial photograph showing the viewpoints for the photosimulations.

Version Date: March 2016

Aqua View
105 Alta Drive
Watsonville, CA 95076
verizonwireless

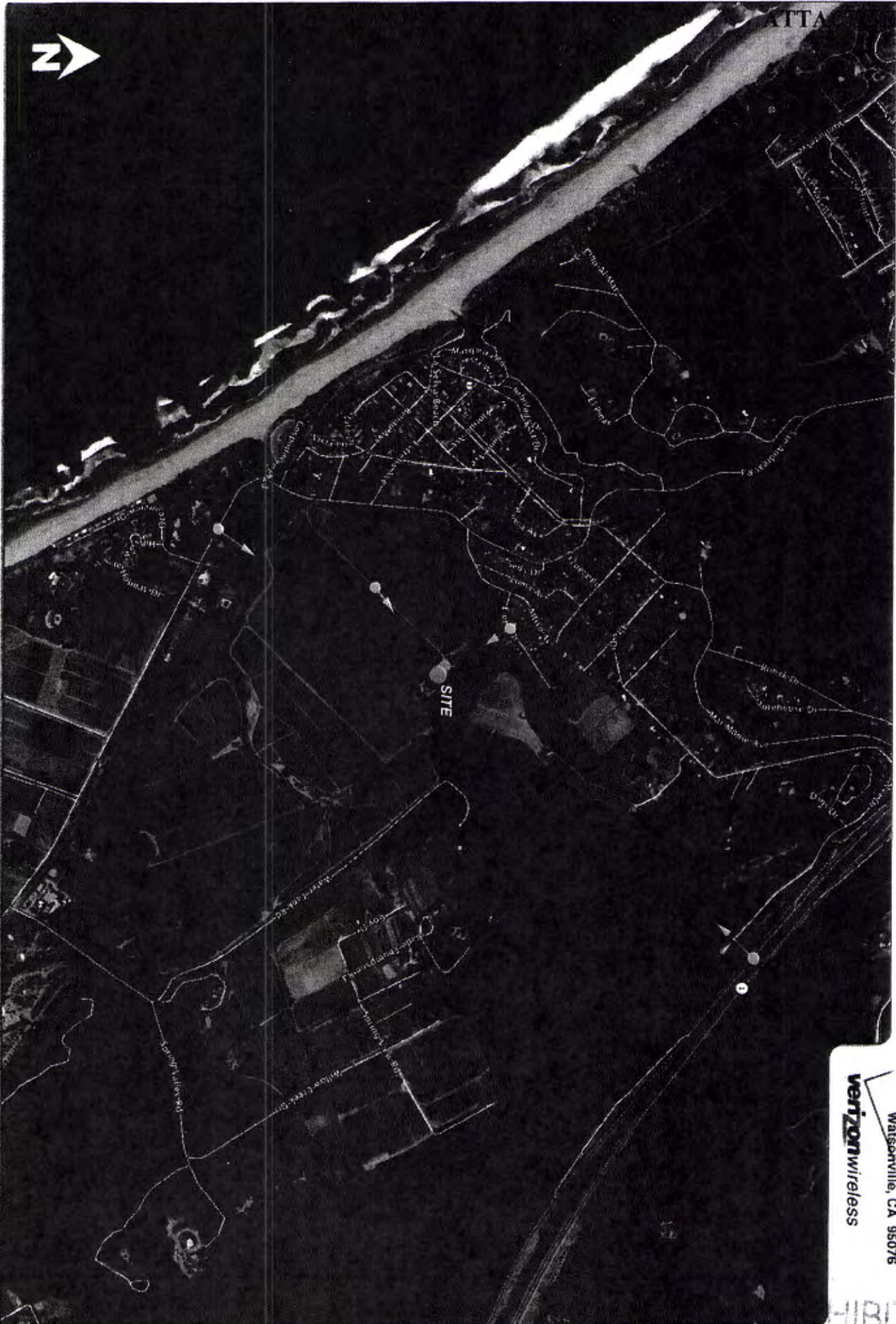


Exhibit 3

A-3-SCO-16-0069

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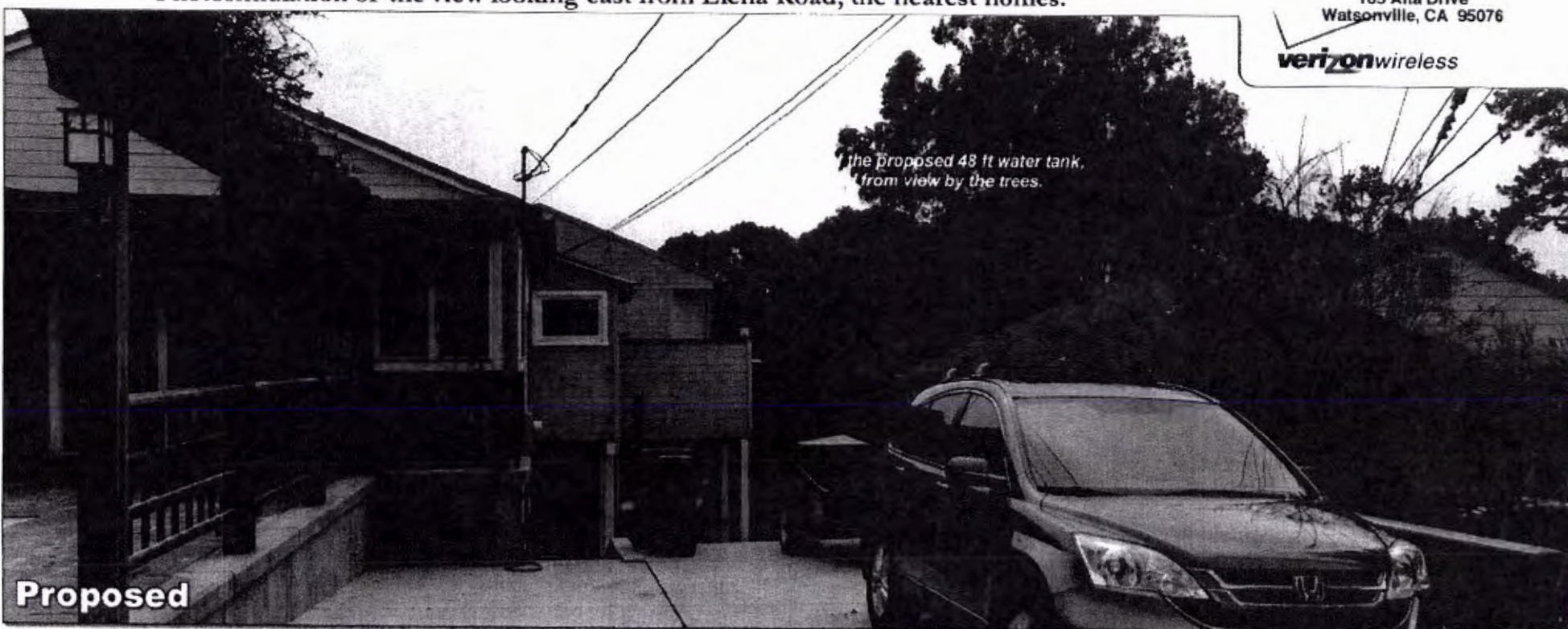
Existing

Photosimulation of the view looking east from Elena Road, the nearest homes.

Aqua View

105 Alta Drive
Watsonville, CA 95076

verizonwireless



Proposed

the proposed 48 ft water tank,
from view by the trees.

EXHIBIT 1

EXHIBIT E



Existing

Photosimulation of the view looking northeast from the private access road. Not a public viewpoint.

Aqua View

105 Alta Drive
Watsonville, CA 95076

verizonwireless



Proposed

EXHIBIT 1

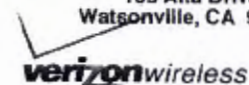
EXHIBIT E

Existing

Photosimulation of a telephoto zoom view from the nearest possible viewpoint along Hwy 101.

Aqua View

105 Alta Drive
Watsonville, CA 95076



Proposed

Proposed water tank



Existing

Photosimulation of the view looking north from San Andreas Road, the nearest public viewpoint.

Aqua View

105 Alta Drive
Watsonville, CA 95076

verizonwireless



Proposed

Frank Barron

From: Moroney, Ryan@Coastal [Ryan.Moroney@coastal.ca.gov]
Sent: Thursday, February 18, 2016 2:05 PM
To: Frank Barron
Subject: 2/24 Planning Commission Hearing - Item 6 (County Application No. 141196) Coastal Commission staff comments

Importance: High

Frank:

We were interested in providing additional comments on this project for the Planning Commission's consideration as set forth below. Please include these comments as part of the administrative record and distribute to the Planning Commission in advance of the hearing in relation to this item.

1. **The Project appears to require a variance.** IP Section 13.10.663(B)(6) requires that "[a]ll towers shall be designed to be the shortest height possible so as to minimize visual impact" and that "[A]ny applications for towers of a height more than the allowed height for structures in the zoning district must include a written justification proving the need for a tower of that height and the absence of viable alternatives that would have less visual impact, and shall, in addition to any other required findings and/or requirements, require a variance approval pursuant to SCCC 13.10.230." In this case, the maximum height standards for the A-P zoning district is 40 feet for accessory structures. Therefore, a variance approval appears to be required in this instance.

Our understanding is that the County interprets the height exception provision set forth in 13.10.510(D)(2) to allow cell towers to exceed maximum allowable zone district heights by 25 feet up to a total of 50 feet, and that 13.10.510(D)(2) supersedes what is understood as the established height limits established for each zone district. However, we do not believe that this LCP section is (or was intended to be) applicable to commercial cell towers. Indeed, that term is found nowhere in Section 13.10.510(D)(2). Moreover, by its own terms, Section 13.10.510(D)(2) references the "height limit allowed in any district." Thus, that section expressly acknowledges what is understood as the height limit in any zone district and that phrase is not intended to include height exceptions which may be authorized under 13.10.510. Additionally, 13.10.510(D) refers to a wide variety of structures, including chimneys, cooling towers, monuments, etc. whereas the wireless ordinance standards specified in 13.10.660 et seq. specifically governs commercial cell towers. When two provisions are in conflict and one of them deals specifically with the matter in question while the other is of more general application, the conflict may be avoided by applying the specific provision to the exclusion of the more general one. In other words, the IP's specific standards for wireless telecommunications facilities prevails over the general standards for other types of ancillary structures. Finally, the LCP requires that "In any case in which the interpretation or application of an LCP policy is unclear, as that policy may relate to a particular development application or project, the application or interpretation of the policy which most clearly conforms to the relevant Coastal Act policy shall be utilized." (LUP Chapter 1, page 1-20 "Interpretation"). In this case, the policy respecting the zoning district height limits and requiring a variance for any deviation more clearly conforms to Coastal Act Section 30251 regarding protection of visual resources. Thus we believe a variance is required under the LCP in order to allow the cell tower height to exceed 40 feet. We are also interested in better understanding why the additional eight feet of height is necessary and what exactly it will accomplish.

2. **Visual Character and Co-location.** IP Section 13.10.663 General development/performance standards for wireless communication facilities requires that "wireless communications facilities shall preserve the visual character, native vegetation and aesthetic values of the parcel on which such facilities are proposed ... to the greatest extent that is technically feasible, and shall minimize visual impacts on surrounding land and land uses to the greatest extent feasible. Facilities shall be integrated to the maximum extent feasible to the existing characteristics of the site, and every effort shall be made to avoid, or minimize to the maximum extent feasible,

visibility of a wireless communication facility within significant public viewsheds." Section 13.10.663 also strongly favors co-location in situations where it is the least visually obtrusive option. We believe that a shorter cell tower that complies with the zoning district height standard, or potential co-location options, may better meet these development standards.

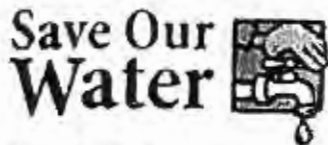
Ryan Moroney

California Coastal Commission
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<http://www.coastal.ca.gov/>



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**SANTA CRUZ COUNTY PLANNING DEPARTMENT POLICY/ORDINANCE
INTERPRETATION**

Interpretation No.: WCF-01 (Wireless Communication Facilities Ordinance)
Effective Date: May 12, 2004
Originally Issued: May 12, 2004
Revised: N/A

Issues

The Wireless Communications Facilities (WCF) Ordinance (County Code Sections 13.10.660-668) does not contain a specific height limit for cellular telecommunications towers (cell towers) or other types of WCF antenna structures (e.g., roof-mounted antennas). However, the WCF Ordinance (Sec. 13.10.663[b][6]) states that a variance is required for approval of a WCF over the height limit for structures in the zone district (this requirement was added by the Coastal Commission as part of their certification process). Because the height limits for structures in each zone district are subject to several exceptions (Sec. 13.10.510[d][2]), there has been confusion as to what height WCFs may be constructed without the need for a variance. A second issue regards potential proposals to co-locate antennas on existing towers that already exceed the height limit.

Purpose

To clarify the height to which a new WCF may be built without a variance, and clarify regulations regarding proposed co-located antennas on existing towers that exceed the height limit.

Applicable Ordinance Sections

□ 13.10.510(d)2
□ 13.10.663(b)(6)

INTERPRETATION:

1. WCF Height Limits: Section 13.10.510(d)(2) of the County Code (height limit exceptions) allows certain types of non-habitable structures (e.g., chimneys, church steeples, flagpoles, non-commercial radio and television antennas, etc.) to exceed the zoning district height limits for habitable structures by 25-feet. Section 13.10.510(d)(2) also states that "free-standing antennas" may exceed the zoning district height limit for habitable structures by up to 50-feet.

Since the WCF Ordinance was not intended to limit the height of WCF towers/antennas to the height limits for habitable structures, the County Code's exceptions to height limits (Sec. 13.10.510[d][2]) as applied to the height regulations in the WCF Ordinance (Sec. 13.10.663[b][6]) shall be interpreted¹ to allow cell towers and other types of WCFs to exceed the height limits for habitable structures without the need for a variance. Under this interpretation, height limits for free-standing cell towers can be allowed up to a height of 50-feet higher than the zoning district's height limit for habitable structures (without the need for a variance), and roof- or building-mounted antennas can be allowed up to a height of 25-feet over the height limit for habitable structures in the zoning district (without the need for a variance). However, while these would be the maximum allowed WCF heights without a variance, the WCF Ordinance strongly encourages applicants to build new WCFs as short as possible so as to minimize visual impact.

Therefore, the WCF maximum tower/antenna heights allowed in each zoning district are as follows (i.e., variances would be required for tower/antenna heights exceeding these limits):

<u>Zone District</u>	<u>Roof/Building-Mounted WCFs</u>	<u>Free-standing WCF Towers</u>
TP, PR (Allowed areas) RA, RR, SU*, ("Restricted" Areas) R-1, RM ("Prohibited" Areas)	53-feet	78-feet
RB ("Prohibited" Area)	42-feet (ocean side) 50-feet (cliff side)	67-feet (ocean side) 75-feet (cliff side)
A, AP (Allowed areas) CA ("Prohibited" Area)	65-feet	90-feet
PA, VA, C-1, C-2, CC, C-4, M-1, PF (Allowed areas)	60-feet	85-feet
M-3 (Allowed area)	65-feet	90-feet

* with a residential General Plan land use designation

NOTE: For all WCF antenna structures greater than the allowed height for habitable structures in the zone district, the findings should address the exception allowing the height limit to be exceeded (i.e., citing Section 13.10.510[d]2) in addition to the visual impact criteria specified in the WCF Ordinance (Sec. 13.10.660 through 13.10.668, inclusive).

2. Antennas Co-located onto Existing Towers that Exceed the Height Limit: Since adding an additional set of antennas onto an existing WCF tower ("co-location") will generally result in less visual impact than constructing a new separate WCF tower, co-locations on existing WCF or other towers/structures that exceed the WCF height limit shall be allowed, but only if the height of the existing WCF tower is not increased, and subject to the visual impact criteria specified in the WCF Ordinance (Sec. 13.10.660 through 13.10.668, inclusive).

Tom Burns, Planning Director

ⁱ Current Wording of Subsection 13.10.663(b)(6) – Height (of WCFs): "Any applications for towers of a height more than the allowed height for structures in the zoning district must include a written justification proving the need for a tower of that height and the absence of viable alternatives that would have less visual impact *and shall, in addition to any other required findings and/or requirements, require a variance approval pursuant to Code Section 13.10.230.*" (language added above by Coastal Commission shown in *italics*).

Interpretation: The wording "...the allowed height for structures in the zoning district..." shall be interpreted as meaning: *the allowed height for structures in the zoning district, including applicable height exceptions as referenced in subsection 13.10.510(d)(2) applicable to similar structures.*

Wording of Subsection 13.10.510(d)(2) – Zoning Ordinance Height Exceptions: "Chimneys, church spires and steeples, water tanks, cooling towers, elevators, flagpoles, monuments, non-commercial radio and television antennas, fire towers, and similar structures not used for human habitation and not covering more than ten percent of the ground area covered by the structure, may be erected to a height of not more than 25-feet above the height limit allowed in any district. Utility and commercial poles and structures may not be subject to the height limits prescribed in the district regulations.Non-commercial radio and television towers or free-standing antennas may exceed the height limits above by 25-feet with the approval of a Level IV Use Approval." (emphasis added).

Interpretation: WCF towers and antennas are similar to non-commercial radio and television antennas in their appearance and when properly disguised may appear similar to chimneys, church spires, flag poles, etc. thus, the phrase "...*similar structures not used for human habitation and not covering more than ten percent of the ground area covered by the structure*" shall be interpreted as applying to both roof/building mounted WCFs and freestanding WCF towers. Therefore, the allowed height (without a variance) of all types of WCFs is up to 25-feet above the allowed height for habitable structures in each zoning district.

The wording stating that "...*free-standing antennas may exceed the height limits above by 25-feet with the approval of a Level IV Use Approval*" shall be interpreted as meaning that, because

all WCFs already require a Level V Use Approval, free standing WCF antennas (i.e., cell towers), including monopoles and artificial tree-poles, are allowed to be up to 50-feet higher than the height limit for habitable structures in the zoning district without a variance.

The sentence stating that "*Utility and commercial poles and structures may not be subject to the height limits prescribed in the district regulations*" shall be interpreted as not relieving WCFs from the height limits (and the height limit exceptions) prescribed in the district regulations (to do so would render Section 13.10.663(b)(6) meaningless). As a result, the variance requirement in 13.10.663(b)(6) would apply to any application for a roof/building mounted antenna more than 25-feet higher than the zoning district height limit, or for a free-standing WCF tower more than 50-feet higher than the zoning district height limit.

Effect: Subject to a Level V approval, but without the need for variance approval, rooftop and other building-mounted antennas could extend up to 25-feet above the zoning district's allowed height for buildings, and free-standing, ground mounted WCF towers could extend up to 50-feet above the zoning district's allowed height for buildings. However, while these would be the maximum allowed WCF heights (without a variance), the WCF Ordinance strongly encourages applicants to build new WCFs as short as possible so as to minimize visual impact. Moreover, the WCF Ordinance also requires that findings be made that a proposed WCF will not significantly affect the County's visual resources, or if it must, that there is compelling evidence that there are no less visually obtrusive feasible alternatives.

Exhibit H:

Proposed Agricultural Development Findings for Application #141196

1. That the establishment or maintenance of this use will enhance or support the continued operation of commercial agriculture on the parcel and will not reduce, restrict or adversely affect agricultural resources, or the economic viability of commercial agricultural operations, of the area.

~~The proposed project will provide supplemental funding to the landowner (in the form of monthly rent) and will thus support the continued operation of commercial agriculture on the parcel by allowing the landowner farmer to keep farming, to maintain agriculture as a viable use of the property. Moreover, the proposed cell tower, which will not be built on cultivated land and will not reduce, restrict or adversely affect current or future agricultural operations or cultivated areas, will support agriculture on the parcel and in the area by facilitating the cellular communication that is relied upon by farm workers on the parcel and in the surrounding agricultural area. Finally, the proposed cell tower will not interfere with agricultural operations of the site or the area, nor will it induce non-agricultural development that could compromise the economic viability of the commercial agricultural operators of the area.~~

- 2 (a). That the use or structure is ancillary, incidental or accessory to the principal agricultural use of the parcel or that no other agricultural use is feasible for the parcel; or

The proposed project is incidental to the principal agricultural use of the parcel in that it will not be built on cultivated land and will not reduce, restrict or adversely affect current or future agricultural operations or cultivated areas.

- 2 (b). That no other agriculture use is feasible for the parcel; or

This finding does not apply to the project.

- 2 (c). That the use consists of an interim public use which does not impair long-term agricultural viability or consists of a permanent public use that will result in the production of recycled wastewater solely for agricultural irrigation and that limits and mitigates the impacts of facility construction on agriculture consistent with the requirements of SCCC 13.10.635; or

This finding does not apply to the project.

3. That single-family residential uses will be sited to minimize conflicts, and that all other uses will not conflict with commercial agricultural activities on site, where applicable, or in the area.

The project does not include single family residential uses. The proposed wireless facility will in no way conflict with the agricultural use of the subject property because it will not

be built on cultivated land and will not reduce, restrict or adversely affect current or future agricultural operations or cultivated areas. The proposed cell tower will not interfere with agricultural operations of the site or the area, nor will it induce non-agricultural development that could compromise the economic viability of the commercial agricultural operators of the area.

4. That the use will be sited to remove no land from production (or potential production) if any nonfarmable potential building site is available, or if this is not possible, to remove as little land as possible from production.

The proposed project will not be built on cultivated land and will not reduce, restrict or adversely affect current or future agricultural operations or cultivated areas.

Proposed Federal Telecommunications Act Exception Finding for Application #141196

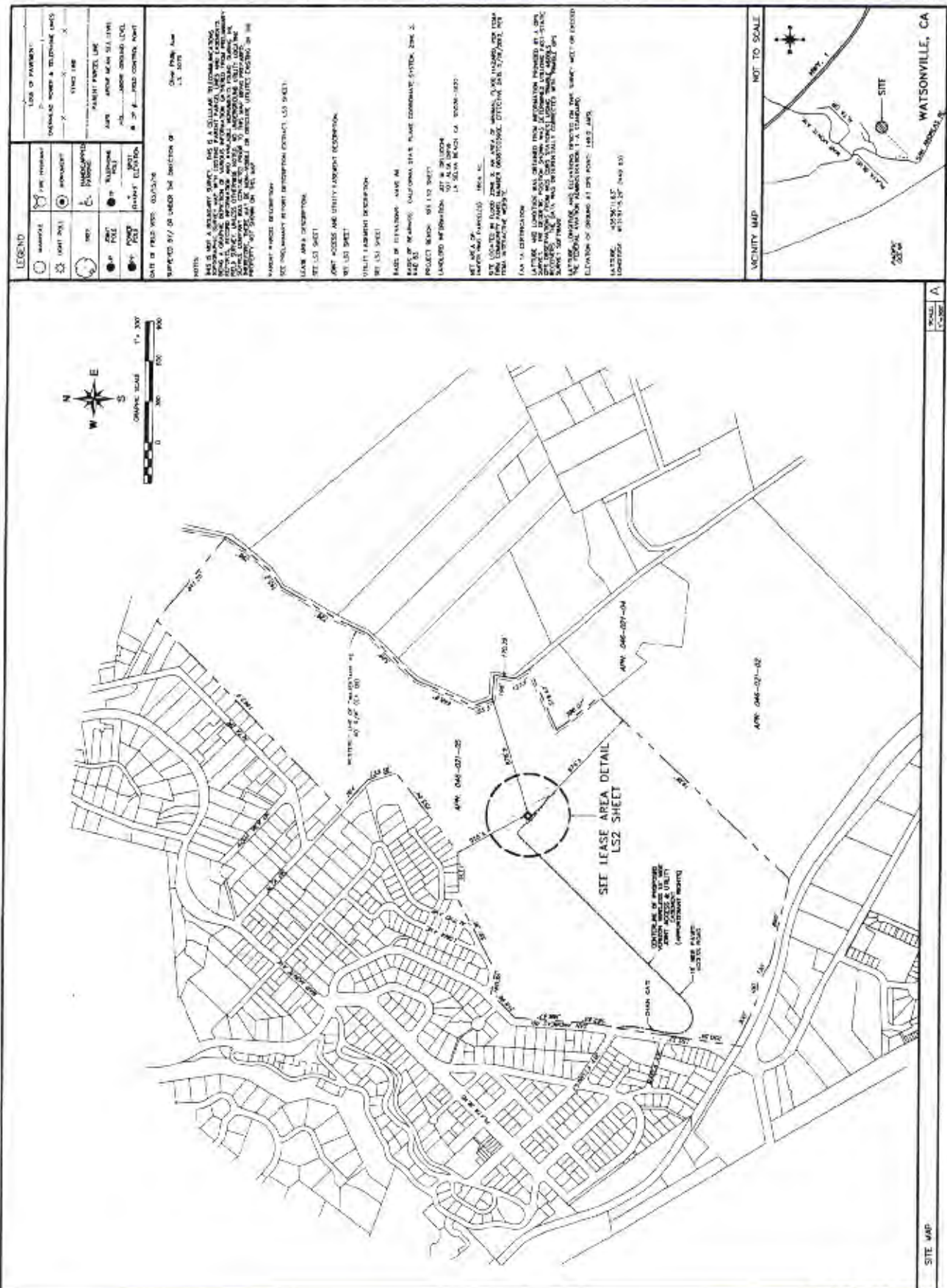
A Federal Telecom Act Exception is required to allow the construction of a WCF if it is located on a parcel that is in a "prohibited" zone, such as the Commercial Agriculture (CA) district. Even though the proposed site is A-P (Agricultural Preserve) zoned, the findings for a Federal Telecom Act Exception can be made, as per the County's WCF Ordinance, which states that WCFs cannot be constructed in "prohibited areas" except as follows (as per Sec. 13.10.661(b)(4)):

"If a Telecommunications Act Exception is approved pursuant to Section 13.10.668(a) that allows for siting a wireless communications facility within any of the....prohibited areas, then such facility shall comply with the remainder of Sections 13.10.660 through 13.10.668 inclusive, and shall be co-located. Applicants proposing new wireless communication facilities in any of the above-listed prohibited areas must submit as part of their application an Alternatives Analysis, as described in Section 13.10.662(c) below. Non-collocated wireless communication facilities may be sited in the prohibited areas listed above only in situations where the applicant can prove that:

- (i) The proposed wireless communication facility would eliminate or substantially reduce one or more significant gaps in the applicant carrier's network; and
- (ii) There are no viable, technically feasible, and environmentally (e.g., visually) equivalent or superior potential alternatives (i.e., sites and/or facility types and/or designs) outside the prohibited areas identified in Section 13.10.661(b) that could eliminate or substantially reduce said significant gap(s).

The applicant has submitted information (Exhibit A – Alternatives Analysis) indicating that the proposed WCF location is necessary to close a "significant gap" in the carrier's (Verizon's) network, and evidence indicating that no other potential sites located in permitted districts are viable. The Alternatives Analysis shows that proposed location is the least intrusive alternative to fill a significant gap in the subject carrier's network.

2D DRAWING SIGN-OFF <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 30%;">DATE</td> <td style="width: 30%;">TIME</td> <td style="width: 30%;">X</td> <td style="width: 10%;">CHK-RELEASE RETURN BY</td> </tr> <tr> <td colspan="4" style="text-align: center;"> SIGNATURE _____ DATE _____ </td> </tr> <tr> <td colspan="4">SIT ACQUISITION</td> </tr> <tr> <td colspan="4">PLANNING</td> </tr> <tr> <td colspan="4">CONSTRUCTION</td> </tr> <tr> <td colspan="4">MANAGEMENT</td> </tr> </table>	DATE	TIME	X	CHK-RELEASE RETURN BY	 SIGNATURE _____ DATE _____				SIT ACQUISITION				PLANNING				CONSTRUCTION				MANAGEMENT				<div style="text-align: center;"> AQUA VIEW 105 ALTA DRIVE WATSONVILLE, CA 95076 APN: 046-021-05 LOCATION #: 280018 </div> <div style="text-align: center;"> </div>	LOCATION PLAN WATSONVILLE, CA INDEX OF DRAWINGS <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td>1. T1.1</td> <td>TITLE SHEET LOCATION PLAN PROJECT DATA</td> </tr> <tr> <td>2. L3.1</td> <td>TOPOGRAPHIC SURVEY MAP</td> </tr> <tr> <td>3. L3.2</td> <td>TOPOGRAPHIC SURVEY MAP</td> </tr> <tr> <td>4. L3.3</td> <td>TOPOGRAPHIC SURVEY MAP</td> </tr> <tr> <td>5. A1.1</td> <td>GENERAL SITE PLAN</td> </tr> <tr> <td>6. A1.2</td> <td>GENERAL SITE PLAN</td> </tr> <tr> <td>7. A2.1</td> <td>COMPONENT LAYOUT PLAN</td> </tr> <tr> <td>8. A2.2</td> <td>COMPONENT LAYOUT PLAN</td> </tr> <tr> <td>9. A2.3</td> <td>COMPONENT LAYOUT PLAN</td> </tr> <tr> <td>10. A2.4</td> <td>COMPONENT LAYOUT PLAN</td> </tr> <tr> <td>11. A2.5</td> <td>COMPONENT LAYOUT PLAN</td> </tr> <tr> <td>12. L1.1</td> <td>LANDSCAPE PLAN</td> </tr> </table>	1. T1.1	TITLE SHEET LOCATION PLAN PROJECT DATA	2. L3.1	TOPOGRAPHIC SURVEY MAP	3. L3.2	TOPOGRAPHIC SURVEY MAP	4. L3.3	TOPOGRAPHIC SURVEY MAP	5. A1.1	GENERAL SITE PLAN	6. A1.2	GENERAL SITE PLAN	7. A2.1	COMPONENT LAYOUT PLAN	8. A2.2	COMPONENT LAYOUT PLAN	9. A2.3	COMPONENT LAYOUT PLAN	10. A2.4	COMPONENT LAYOUT PLAN	11. A2.5	COMPONENT LAYOUT PLAN	12. L1.1	LANDSCAPE PLAN
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PROJECT DIRECTORY <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;"> ARCHITECT MSA ARCHITECTS 2720 N. MISSION ST. WATSONVILLE, CA 95076 (408) 855-1111 www.msaarchitects.com </td> <td style="width: 50%;"> LANDSCAPE ARCHITECT LANDSCAPE ARCHITECTS 107 ALTA DRIVE WATSONVILLE, CA 95076 (408) 855-1111 www.landscapearchitects.com </td> </tr> </table>	ARCHITECT MSA ARCHITECTS 2720 N. MISSION ST. WATSONVILLE, CA 95076 (408) 855-1111 www.msaarchitects.com	LANDSCAPE ARCHITECT LANDSCAPE ARCHITECTS 107 ALTA DRIVE WATSONVILLE, CA 95076 (408) 855-1111 www.landscapearchitects.com	PROJECT SUMMARY <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;"> ASSIGNED ENGINE NUMBER: 046-021-05 JURISDICTION: SANTA CRUZ COUNTY OCCURRENCE: 0 (UNIMPAIRED TELECOMMUNICATIONS ACTIVITY) TYPE OF CONSTRUCTION: A-B ZONING: AGRICULTURE (A-1) </td> <td style="width: 50%;"> CODE COMPLIANCE ALL WORK AND MATERIALS SHALL BE PERFORMED AND INSTALLED IN ACCORDANCE WITH THE 2013 CALIFORNIA BUILDING STANDARDS CODE (TBC) AS ADOPTED BY THE LOCAL GOVERNMENT. THE TBC IS THE BASIS FOR THE DESIGN AND CONSTRUCTION OF THE PROJECT. THE TBC IS THE BASIS FOR THE DESIGN AND CONSTRUCTION OF THE PROJECT. THE TBC IS THE BASIS FOR THE DESIGN AND CONSTRUCTION OF THE PROJECT. </td> </tr> </table>	ASSIGNED ENGINE NUMBER: 046-021-05 JURISDICTION: SANTA CRUZ COUNTY OCCURRENCE: 0 (UNIMPAIRED TELECOMMUNICATIONS ACTIVITY) TYPE OF CONSTRUCTION: A-B ZONING: AGRICULTURE (A-1)	CODE COMPLIANCE ALL WORK AND MATERIALS SHALL BE PERFORMED AND INSTALLED IN ACCORDANCE WITH THE 2013 CALIFORNIA BUILDING STANDARDS CODE (TBC) AS ADOPTED BY THE LOCAL GOVERNMENT. THE TBC IS THE BASIS FOR THE DESIGN AND CONSTRUCTION OF THE PROJECT. THE TBC IS THE BASIS FOR THE DESIGN AND CONSTRUCTION OF THE PROJECT. THE TBC IS THE BASIS FOR THE DESIGN AND CONSTRUCTION OF THE PROJECT.	PROJECT DESCRIPTION THE PROJECT IS A 105 ALTA DRIVE, WATSONVILLE, CA 95076. THE PROJECT IS A 105 ALTA DRIVE, WATSONVILLE, CA 95076. THE PROJECT IS A 105 ALTA DRIVE, WATSONVILLE, CA 95076.																																												
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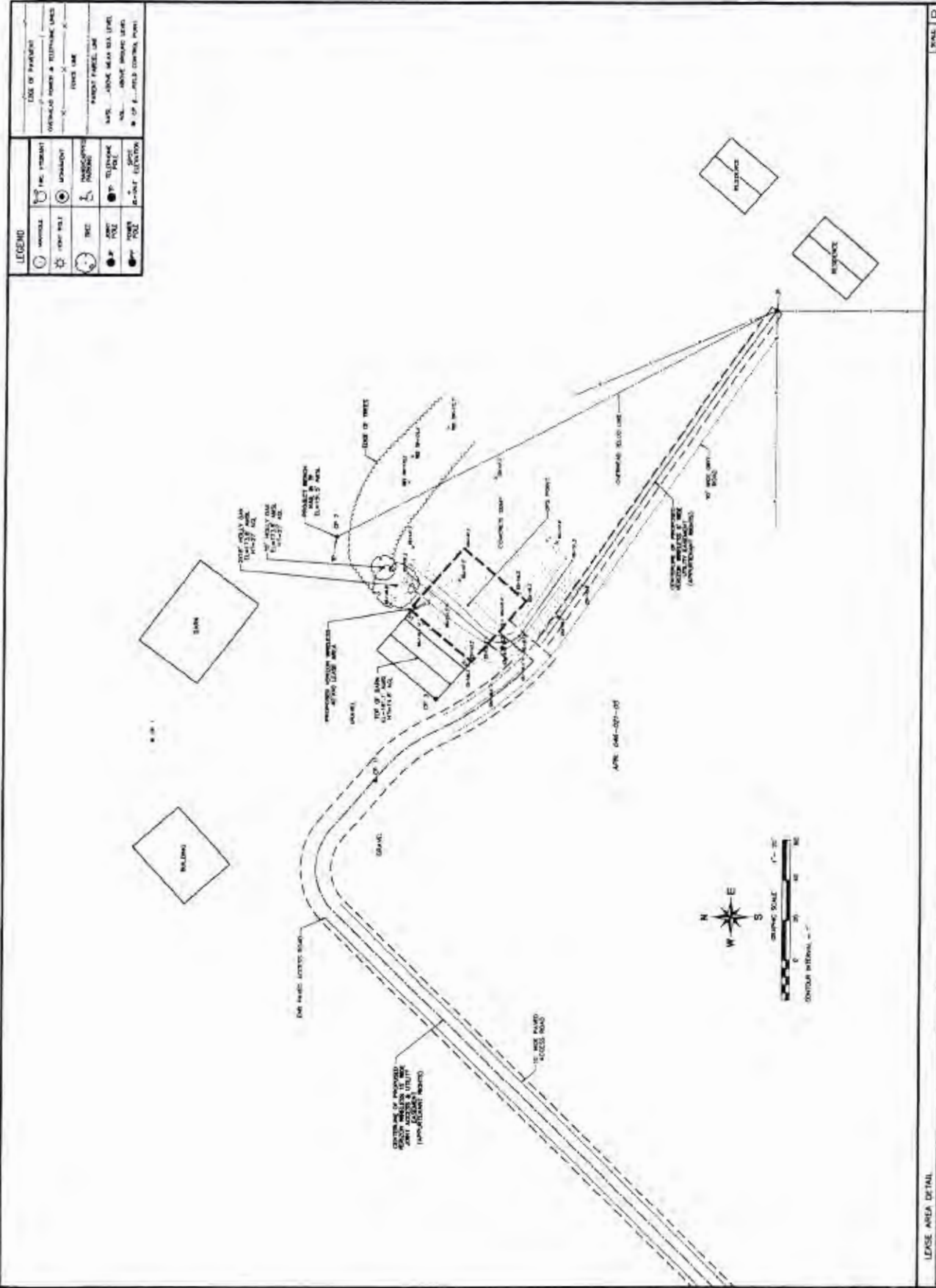
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verticon
AQUA VIEW
105 ALTA DRIVE
WATSONVILLE, CA 95075
TOPOGRAPHIC SURVEY MAP
SHEET TWO

Phil Auer Surveying
105 ALTA DRIVE
WATSONVILLE, CA 95075
TEL: (831) 837-1000
FAX: (831) 837-1001
E-MAIL: phil@philaer.com

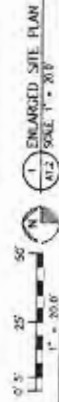
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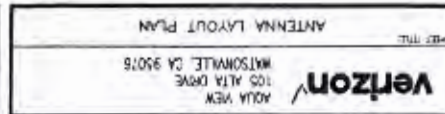
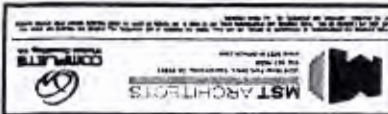
EXHIBIT 1







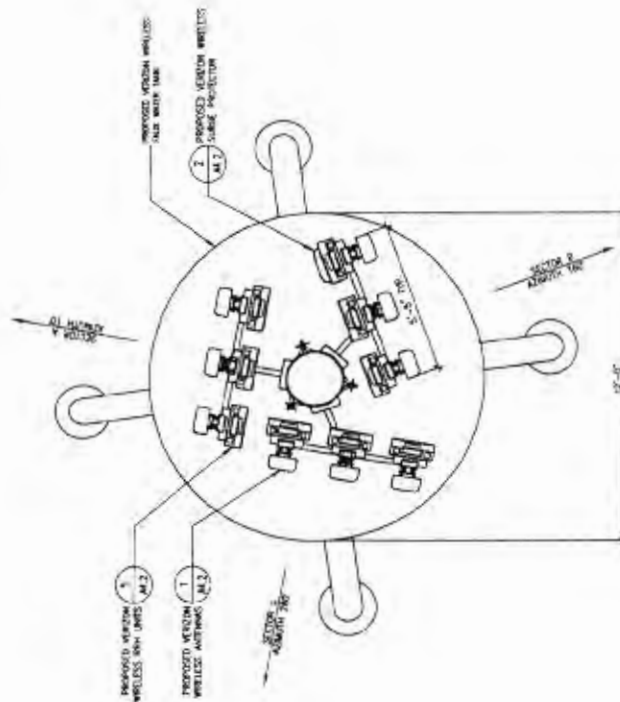




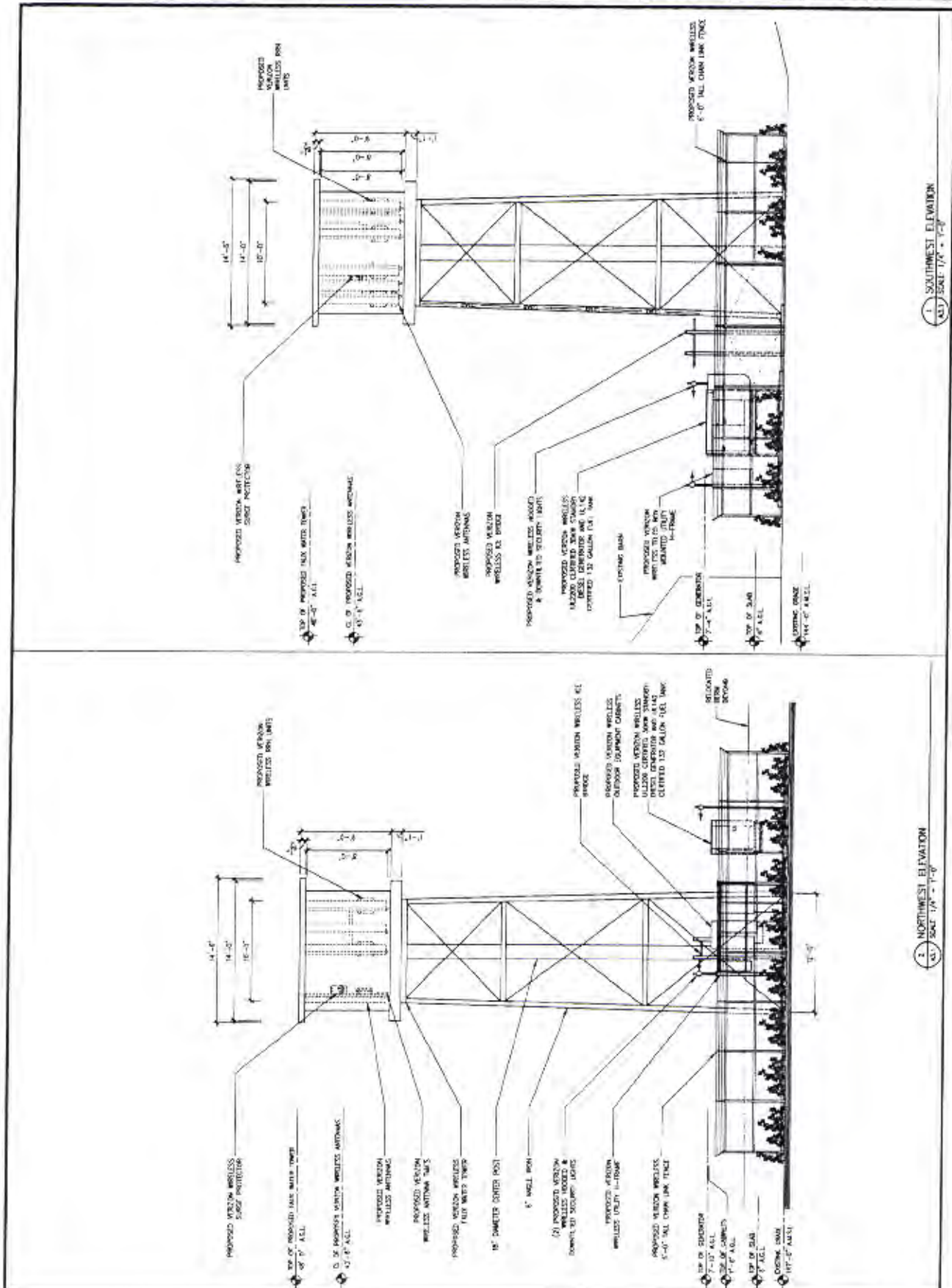
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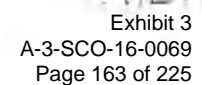
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TR	TO BE DETERMINED	0	0	0
POWER PROTECTION/SHIELD	ANTENNA LOCATIONS / HIGH TENSION CABLE	1/2		
COAXIAL CABLE	N/A	0	0	0
WET CABLE	N/A	0	0	0
TOTAL		3	3	3



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COUNTY OF SANTA CRUZ

PLANNING DEPARTMENT

701 OCEAN STREET, 4TH FLOOR, SANTA CRUZ, CA 95060
 (831) 454-2580 FAX: (831) 454-2131 TDD: (831) 454-2123
 KATHLEEN MOLLOY PREVISICH, PLANNING DIRECTOR

February 12, 2016

Agenda Date: February 24, 2016

Planning Commission
 County of Santa Cruz
 701 Ocean Street
 Santa Cruz, CA 95060

Subject: Public Hearing to Consider an Appeal of Zoning Administrator Approval of a Verizon Wireless Communications Facility (Application 141196) in La Selva Beach

Members of the Commission:

Your Commission is being asked to consider an appeal of the Zoning Administrator's (ZA) approval of a 48-ft. tall Verizon wireless communications facility (WCF) cell tower disguised as an agricultural water tank tower (see Exhibit C for ZA Staff Report). The project is proposed to include 9 panel antennas enclosed within the approximately 10-foot tall by approximately 12-foot diameter cylindrical "tank" at the top of the metal lattice tower, and 2 ground-level equipment cabinets. The tower and equipment cabinets, along with an 8-foot tall stand-by diesel generator (on a 6-ft. by 13-ft. concrete slab), are proposed to be located within a 40-foot by 40-foot lease area enclosed by a 6-foot high chain link fence. Project is proposed to be located on a 160.33 acre Agricultural Preserve (A-P) zoned parcel (APN 046-021-05) that forms the eastern/southern boundary of the community of La Selva Beach, accessed at 105 Alta Drive in La Selva Beach. The project requires a Commercial Development Permit, and a Coastal Development Permit that is appealable to the Coastal Commission. A revised Alternatives Analysis (Exhibit A) has been submitted by the applicant that makes the case that the proposed site is the most viable and least intrusive site in an allowed zone district that would meet the coverage objective and remove a significant gap in Verizon's coverage.

The Zoning Administrator's December 18, 2015 approval of this project was appealed on January 4, 2016 by the "Coalition to Preserve Scenic La Selva" ("Coalition"), represented by law firm Wittwer/Parkin LLP, on the basis of scenic issues, neighborhood compatibility, the project's proposed exemption from the California Environmental Quality Act (CEQA), and the application and approval process (see Exhibit B for appeal letter). Staff's responses to the appellants' specific grounds for appeal are given below:

A. The Project is Located In a Sensitive Site Subject to Special Protections Under County Land Use Regulations, and the Project Violates Community and Neighborhood Character Standards.

The appellants' letter claims that the proposed WCF project is inconsistent with provisions of the **General Plan/Local Coastal Program (GP/LCP) Land Use Plan** that protect scenic views and neighborhood character. The letter goes on to list several **GP/LCP** sections that protect visual resources and neighborhood character, as follows:

1. GP/LCP Objective 5.10(a) - Protection of Visual Resources: This objective requires the County to protect aesthetic values of visual resources. The proposed project is consistent with this objective in that the proposed design of a faux agricultural water tank tower is visually congruent and harmonious with the agricultural setting, and thus the project is protective of visual resources. Based on the visual simulations prepared by the applicant to assess the visual impact of the project, the project will not block public views and otherwise be inconsistent with the County's development guidelines for scenic viewsheds.
2. GP/LCP Objective 5.10(b) - New Development in Visual Resource Areas: This objective requires that new development is designed to have minimal adverse visual impact. The proposed project is consistent with this objective in that the proposed design of a faux agricultural water tank tower is visually compatible and in harmony with the agricultural setting, and thus the project would have minimal visual impact on visual resources. Based on the visual simulations prepared by the applicant to assess the visual impact of the project, the project will not block public views and otherwise be inconsistent with the County's development guidelines for scenic viewsheds.
3. GP/LCP Policy 5.10.1 - Designation of Visual Resources: This GP/LCP Policy, which requires the County to designate and map regionally and publicly important visual resource areas has been accomplished, and is not relevant to the proposed project, in that the scope of project has nothing to do with the designation of GP/LCP visual resource areas. The area in which the project is proposed to be located is a designated visual resource area, but the project would not negatively impact that resource.
4. GP/LCP Policy 5.10.2 - Development Within Visual Resource Areas: This policy required projects to be evaluated against their visual context and regulated to protect visual resources. The proposed project is consistent with this policy in that the proposed design of a faux agricultural water tank tower is visually congruent and harmonious with the agricultural setting, and this was taken into account when the project was reviewed by planning staff. In fact, the originally proposed design, a 55-ft. tall faux pine tree, was rejected in favor of the currently proposed agricultural water tank tower design for this reason. Based on the visual simulations prepared by the applicant to assess the visual impact of the project, the project will not block public views and otherwise be inconsistent with the County's development guidelines for scenic viewsheds.

5. GP/LCP Policy 5.10.3 - Protection of Public Vistas: This policy requires the County to protect "significant" public vistas. The proposed project is consistent with this policy in that the proposed design of a faux agricultural water tank tower is visually compatible and in harmony with the agricultural setting, and would be either invisible or barely visible from almost all public visual vantage points, significant or not. Based on the visual simulations prepared by the applicant to assess the visual impact of the project, the project will not block public views and otherwise be inconsistent with the County's development guidelines for scenic viewsheds.

6. GP/LCP Objective 8.1 – Quality Design: This objective requires the County to require a project be designed in a way that "preserves and enhances the visual fabric of the community". The proposed project is consistent with this objective in that the proposed design of a faux water tank tower is visually congruent and harmonious with the agricultural setting, and will preserve the agricultural character and visual fabric of the subject parcel and surrounding agricultural parcels.

7. GP/LCP Objective 8.2 – Site and Circulation Design: This objective requires new development to be visually compatible with its surroundings. The proposed project is consistent with this objective in that the proposed design of a faux agricultural water tank tower is visually compatible and in harmony with the agricultural setting.

8. GP/LCP Objective 8.4 – Residential Neighborhoods: This policy requires the County to preserve the residential use and character of urban neighborhoods and to "maintain the rural and/or agricultural character of residential development in non-urban areas". Since the project site is a working 163-acre farm that is zoned Agricultural, and the project is not "residential development", this GP/LCP Objective does not apply. There is a residential neighborhood that borders the site, with the closest house being approximately 400-feet away, but area surrounding the proposed project site is in agricultural use, therefore the project is not inconsistent with this objective.

9. GP/LCP Policy 8.4.1 – Neighborhood Character: This policy requires that "new infill development on vacant land" within established neighborhoods be consistent with the neighborhood character. Since the project site is a working 163-acre farm that is zoned Agricultural, the site is not "vacant land" and the project is not "infill development", therefore this GP/LCP Objective does not apply.

10. GP/LCP Policy 8.4.5 – Neighborhood Character Inventories: This policy requires that for residential neighborhoods, applications include a "neighborhood character visual inventory" or "equivalent information commensurate with the scope of the project". Since the project site is a working 163-acre farm that is zoned Agricultural, and the project is not residential development, such an inventory is not necessary. Nonetheless, the project design as a faux agricultural water tank tower is visually congruent and harmonious with its rural/agricultural setting, and the project meets the intent of this GP/LCP Objective.

11. GP/LCP Objective 8.6 – Building Design: This objective “encourages” building design to be visually compatible with its surroundings. The proposed project is consistent with this objective in that the proposed design of a faux agricultural water tank tower is visually compatible and in harmony with the agricultural setting.

12. GP/LCP Policy 8.6.5 – Designing with the Environment: This policy requires that development “maintain a complementary relationship with the natural environment” and “shall be low-profile and stepped-down on hillsides”. The project is consistent with the first part of this policy in that the proposed design of a faux agricultural water tank tower is visually congruent and harmonious with the agricultural setting. It is also consistent with the second part because the currently proposed 48-foot tall tower is as short as possible to allow for the needed cellular coverage, and is shorter than the originally proposed 55-foot tall “monopine” tree pole or the 70-foot tall design that would be needed at the alternative site on the same property.

The appellants’ letter also claims that the proposed WCF project is inconsistent with provisions of the **County Code/LCP Implementation Plan** that protect scenic views and neighborhood character. The letter goes on to list several **County Code/LCP** sections that protect visual resources and neighborhood character, as follows:

1. 13.20.130(B)(1) – Design Criteria for Coastal Developments - Visual Compatibility: This Code section requires that development be visually compatible with the character of the surrounding area. The proposed project is consistent with this section in that the proposed design of a faux agricultural water tank tower is visually compatible and in harmony with the agricultural setting. Based on the visual simulations prepared by the applicant to assess the visual impact of the project, the project will not block public views and otherwise be inconsistent with County Code/LCP Section 13.20.130(B)(1) and the County’s development guidelines for scenic viewsheds, including those that pertain to minimization of grading, as well as scale, coloration, and other standards which the County uses to achieve the goal of ensuring visual harmony within scenic areas.

2. 13.20.130(B)(7) – Design Criteria for Coastal Developments – Fences, Walls and Hedges: This Code section requires that fences, walls and hedges be designed so they don’t block or significantly adversely impact “significant public views”. The proposed project is not a fence, a hedge or a wall so this Code section does not apply. Moreover, the proposed WCF tower would not be visible, or be barely noticeable, from all significant public viewpoints (as demonstrated in the photo-simulations included in Exhibit E, and Exhibit H of Exhibit C).

3. 13.20.130(C)(2) – Design Criteria for Coastal Developments – Site Planning in Rural Scenic Resource Areas: This Code section requires that development be visually compatible with the character of the surrounding area. The proposed project is consistent with this section in that the proposed design of a faux agricultural water tank tower is visually congruent and harmonious with the agricultural setting and, moreover, would not be readily visible from publicly accessible viewpoints. Landscaping in the form

of wisteria vines will be planted to grow up the chain link fence surrounding the 40-ft. by 40-ft. lease area, hiding the fence and the equipment cabinets/generator behind it from public view. Staff concluded that the project provides the required public view corridor protections and determined that the proposed project is consistent with the Santa Cruz County General Plan and Local Coastal Program.

4. 13.11.072 – Design Review – Site Design: This Code section requires development to “enhance or preserve the integrity of existing land use patterns or character” and to be visually compatible with the character of the surrounding area. The proposed project is consistent with this section in that the proposed design of a faux agricultural water tank tower is visually compatible and in harmony with the agricultural setting, and as such will not significantly impact either public or private views.

5. 13.11.073 – Design Review – Building Design: This Code section requires development to be reviewed for neighborhood compatibility. The proposed project is consistent with this section in that the proposed design of a faux agricultural water tank tower is visually congruent and harmonious with the agricultural setting of the subject parcel and surrounding parcels to the east and south. The project’s agricultural building design would not be incompatible with residential areas to the north and west any more than other agricultural outbuilding such as a barn would be. Moreover, this type of design is as visually unobtrusive as possible for a macro-site cell tower, which is needed infrastructure in this underserved area (see the before and after coverage maps on page 4 of the applicant’s Project Support Statement in Exhibit F of Exhibit C).

6. 13.11.010 – Design Review – Purpose: The purposes of the Design Review Code section include ensuring that new development is compatible with surrounding land uses. The proposed project is consistent with this section in that the proposed design of a faux agricultural water tank tower is visually compatible and in harmony with the agricultural setting, and thus will not significantly impact either public or private views and will not be incompatible with nearby residential uses.

B. The Project Does Not Conform With General Development and Performance Standards Required for Wireless Communication Facilities.

The appellants’ letter also claims that the proposed WCF project is inconsistent with provisions of the **County Code/LCP Implementation Plan** that are part of the County’s Wireless Communication Facilities Ordinance. The letter goes on to list several **County Code/LCP** sections that are part of the WCF Ordinance’s provisions on performance standards, as follows:

1. 13.10.663 – General Development/Performance Standards for WCFs: This section of the Code is intended to ensure that WCFs preserve the visual character of the subject parcel and minimize visual impacts to the extent possible, and are generally compatible with surrounding land uses. It also requires WCF stealthing/camouflaging (such as disguising it as a water tank tower) where appropriate. The proposed project is consistent with this section in that the WCF will be disguised as an agricultural water

tank tower, and this it will be visually congruent and harmonious with the agricultural setting to the maximum extent feasible.

2. 13.10.663(A)(8) – General Development/Performance Standards for WCFs – Consistency with Other Land Use Regulations: This section of the Code is intended to ensure that WCFs comply with other sections of the Code besides the WCF Ordinance (Sec. 13.10.660-668). As demonstrated in the narrative above, the proposed project does comply with all other relevant sections of the County GP/LCP and Code. This policy also requires that County protect public vistas from scenic roads. The proposed project is consistent with this aspect of this policy in that the proposed tower would be either invisible or barely visible from all public visual vantage points along all designated scenic roads in the area (e.g., San Andreas Rd., Hwy. 1)

3. 13.10.663(B)(5) – General Development/Performance Standards for WCFs – Design Review Criteria for Visual Impact Mitigation: This section of the Code is intended to ensure that WCFs comply with other sections of the Code besides the WCF Ordinance (Sec. 13.10.660-668). As demonstrated in the narrative above, the proposed project does comply with all other relevant sections of the County GP/LCP and Code. This policy also requires that County protect public vistas from scenic roads. The proposed project is consistent with this aspect of this policy in that the proposed tower would be either invisible or barely visible from all public visual vantage points along all designated scenic roads in the area (e.g., San Andreas Rd., Hwy. 1).

The appellants also claim that approval of this WCF project would “create a trend towards allowing WCFs within designated scenic areas, impacting visual resources”. However, as the foregoing narrative and attached photo-simulations (see Exhibit E and Exhibit H of Exhibit C) demonstrate, this particular WCF would not create a significant visual impact from public vistas. Moreover, it does not create a precedent for allowing unsightly WCFs in scenic areas because individual WCF applications are judged on their specific merits and in relation to their particular locational contexts.

C. The Project is Not Exempt from the Requirements of CEQA

The appellants also claim that the proposed WCF does not qualify for the Class 3 Categorical Exemption from the California Environmental Quality Act (CEQA) for “small construction or development projects”, as was authorized by the Zoning Administrator on December 18, 2015. They cite three exceptions to the use of this Categorical Exemption that they believe apply in this case:

1. CEQA Guidelines Sec. 15000.2(a) – for small projects which “may impact on environmental resources of critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, and local agencies”. The appellants specify that because this area is a designated “scenic area” by the GP/LCP, the Categorical Exemption cannot be used. However, as the foregoing narrative and attached photo-simulations (Exhibit E and Exhibit H of Exhibit C) demonstrate, this particular WCF would not create a significant visual impact from public vistas, and thus

would not impact the scenic area's visual resources. Therefore, this exception does not apply.

2. CEQA Guidelines Sec. 15000.2(b) – for projects where “the cumulative impact of successive projects of the same type in the same place, over time is significant”. The appellants specify that approval of this WCF project would set a precedent for more WCF projects being built with similar visual resource impacts in designated scenic areas, and therefore the small projects Categorical Exemption cannot be used. However, as the foregoing narrative and photo-simulations included in the staff report demonstrate, this particular WCF would not create a significant visual impact from public vistas. Moreover, its approval does not create a precedent for allowing unsightly WCFs in scenic areas because individual WCF applications are judged on their specific merits and in relation to their particular locational contexts. Therefore, this exception does not apply.

3. CEQA Guidelines Sec. 15000.2(c) – for projects “where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances”. The appellants do not specify how this exception applies. They give no examples or explanation regarding what “unusual circumstances” they are talking about. There does not appear to be any such “unusual circumstances”, therefore this exception does not apply.

D. The Coalition Did Not Receive Adequate Notice or a Fair Hearing

The appellants claim that “many” members of the Coalition living within 1,000-feet of the subject parcel did not receive mailed notice regarding the original Dec. 4, 2015 ZA hearing, and that the original mailed notice erroneously stated that the project was not appealable to the Coastal Commission. While the Planning Department's clerical staff mailed out over 800 notices to all residents and property owners of parcels within 1,000 feet of the perimeter of the subject parcel (using the County Assessor's mailing list), it is possible that some residents within 1,000-feet did not receive the notice to addressing errors or the notices getting lost in the mail. While it is true that the original mailed notice did contain an error by stating that the project was not appealable to the Coastal Commission, Planning staff remedied the situation by announcing the error at the Dec. 4th hearing, and continuing the hearing to Dec. 18th with a notice published in the Santa Cruz Sentinel correctly stating that the ZA's decision on the project is appealable to the Coastal Commission. Moreover, this concern is now moot because your Commission is now considering this appeal at today's hearing, which has been duly noticed by mail (to all residents and owners of parcels within 1,000-ft.), in a published notice in the Santa Cruz Sentinel, posting at the site, and on the Planning Department's website (all indicating that the decision is appealable to the Coastal Commission).

E. Project Applicant Failed to Satisfy Application Requirements for WCFs.

The appellants correctly note that the applicant did not install a “mock-up” demonstration pole at the project site to indicate the height and location of the proposed

WCF prior to the ZA hearings, however such a pole was installed during the 10-day appeal period and was reinstalled 20-days prior to today's (Feb. 24, 2016) Planning Commission hearing.

The appellants' letter also points out that the applicant did not prepare an Alternatives Analysis as per Code Section 13.10.662(C), however an Alternatives Analysis is required only on sites that are in either a "restricted" or "prohibited" zone district under the County's WCF Ordinance, which is not the case in this situation. The project is proposed to be located on a parcel zoned "A-P" (Agricultural Preserve), which is an allowed zone for WCFs in the WCF Ordinance. Therefore, no Alternatives Analysis was required for this site, nor was there a requirement to evaluate one or more utility pole-mounted "microcells" as an alternative to the proposed "macrocell" WCF. Moreover, the proposed site is one of the only allowed zone district sites in the vicinity. Almost all the surrounding parcels are either "restricted" zones (e.g., RA – Residential Agriculture or SU - Special Use) or "prohibited" zones (e.g., R-1 – Single Family Residential, RM – Multi-family Residential, or CA – Commercial Agricultural).

One alternative that the applicant evaluated is to build the WCF tower on a different location on the same parcel some 650-feet further away from the residential area to the northwest. This alternative, some 650-feet to the southeast of the proposed site, was rejected because it would have to be 22-feet taller (i.e., 70-feet total) than the proposed site/design (i.e., 48-feet tall) in order to achieve the coverage objective, and because it would involve the permanent conversion/removal of some 1,600 sq. ft. of currently cultivated agricultural land.

Regarding possible co-location of the proposed WCF on an existing macrocell site WCFs in the vicinity, staff is not aware of any such WCFs nearby that would allow Verizon to achieve its coverage objective. Moreover, while exploring for co-location opportunities is "encouraged" by the WCF Ordinance, it is not required for WCFs proposed to be located in this zone district.

Regarding concerns raised about the radio-frequency (RF) emissions report, which estimated the RF exposure levels from the proposed WCF based on a discontinued antenna model, the applicant has submitted a new RF report (Exhibit D) based on the actual proposed antenna model that shows that the peak RF exposure levels will be far below the FCC limit on such exposures (i.e., 4.9% of the FCC limit at ground level, and 0.74% of that limit at the 2nd story level at the nearest house). It should be kept in mind that the County is prohibited by Federal law from denying a WCF application on the basis of the health or environmental effects of RF emissions if the levels are below the FCC limit on such emissions.

Conclusion and Recommendation

At the conclusion of the hearing, the Commission may, on the basis of all the evidence and testimony, and after making the appropriate findings required by SCCC 18.10.230, either deny the application, approve the application, or approve the application with modifications, subject to such conditions as it deems advisable.

The proposed WCF project consisting of a 48-ft. tall faux agricultural water tank tower is consistent with all County General Plan/LCP policies and the County Code, and staff therefore recommends that the Planning Commission take the following actions:

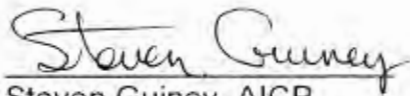
- Approve Application No. 141196; and
- Find Application 141196 to be Categorically Exempt from further environmental review and direct the posting of a Notice of Exemption as authorized by law.

Sincerely,



Frank Barron, AICP
Project Planner
Development Review Section

Reviewed By:



Steven Guiney, AICP
Principal Planner
Development Review Section

Exhibits:

- A. Revised Alternatives Analysis
- B. Appeal Letter from attorney William Parkin, representing the Coalition to Preserve Scenic La Selva, dated January 4, 2016
- C. Zoning Administrator Staff Report for Application 141196
- D. Revised RF Emissions Calculation Study
- E. Alternate vs. Proposed Site Photosimulations



County of Santa Cruz Planning Commission Minutes

Planning Department, 701 Ocean Street, Suite 400, Santa Cruz, CA 95060

Meeting Date : Wednesday, April 27, 2016 9:00 AM

Location : Board of Supervisors Chambers, Room 525
County Government Center
701 Ocean Street
Santa Cruz, CA 95060

VOTING KEY

Commissioners: Chair: Guth, ViceChair: Lazenby, Dann, Hemard, Shepherd

Alternate Commissioners: Garcia, Holbert, Aramburu, Jones, Piercy

REGULAR AGENDA ITEMS

1. 🗳️ **Roll Call**

Commissioners present: Chair Michael Guth, Vice-Chair Judith Lazenby, Commissioner Casey Hemard, Alternate Commissioner Denise Holbert, and Commissioner Renee Shepherd.

2. 🗳️ **Additions and Corrections to Agenda**

3. 🗳️ **Declaration of Ex Parte Communications**

4. 🗳️ **Oral Communications**

CONSENT ITEMS

5. 🗳️ **Approval of Minutes**

To approve the minutes of the April 13, 2016 Planning Commission meeting as submitted by the Planning Department.

ACTION: Approve the minutes of the April 13, 2016 Planning Commission meeting as submitted by the Planning Department.

MOTION/SECOND: Hemard/ Lazenby

AYES: Guth, Hemard, Lazenby and Shepherd

NOES: None

ABSTAIN: Holbert

ABSENT: None

CONTINUED ITEMS

6. 🗳️ **141196****

105 Alta Drive, La Selva Beach

APN: 046-021-05

Continuance of appeal of Zoning Administrator's Approval of Application 141196, a proposal to construct a new 48-ft. tall Verizon wireless communications facility, camouflaged as an agricultural water tank tower, including 9 panel antennas located within the "tank" and an equipment shelter. Requires a Commercial Development Permit and a Coastal Development Permit. Project is proposed to be located on a 160 acre Agricultural Preserve

(A-P) zoned parcel off San Andreas Rd. in La Selva Beach. Appealed on the basis of scenic issues, neighborhood compatibility, CEQA and the application approval process. The project may also require a Telecommunications Act Exception.

SUPERVISORIAL DIST: 2

PROJECT PLANNER: Frank Barron, (831) 454-2530

EMAIL: Frank.Barron@santacruzcounty.us

Planning Commission Hearing of 4/27/2016 Staff Report [Click Here](#)

Planning Commission Hearing of 2/24/2016 Staff Report [Click Here](#)

Zoning Administrator Hearing of 12/18/2015 Staff Report [Click Here](#)

Zoning Administrator Hearing of 12/4/2015 Staff Report [Click Here](#)

ACTION: Approve staff recommendation with revised Findings and Conditions of Approval.

Conditions of Approval revised as follows:

II.A.1

1. One elevation shall indicate materials and colors as they were approved by this Discretionary Application, **including installation of additional sound buffering along fence line and removal of all proposed signage.** If specific materials and colors have not been approved with this Discretionary Application, in addition to showing the materials and colors on the elevation, the applicant shall supply a color and material board in 8 1/2" x 11" format for Planning Department review and approval.

Findings revised as follows:

Proposed Agricultural Development Findings for Application #141196

1. That the establishment or maintenance of this use will enhance or support the continued operation of commercial agriculture on the parcel and will not reduce, restrict or adversely affect agricultural resources, or the economic viability of commercial agricultural operations, of the area.

~~The proposed project will provide supplemental funding to the landowner (in the form of monthly rent) and will thus support the continued operation of commercial agriculture on the parcel by allowing the landowner farmer to keep farming, to maintain agriculture as a viable use of the property. Moreover, the proposed cell tower, which will not be built on cultivated land and will not reduce, restrict or adversely affect current or future agricultural operations or cultivated areas, will support agriculture on the parcel and in the area by facilitating the cellular communication that is relied upon by farm workers on the parcel and in the surrounding agricultural area. Finally, the proposed cell tower will not interfere with agricultural operations of the site or the area, nor will it induce non-agricultural development that could compromise the economic viability of the commercial agricultural operators of the area.~~


MOTION/SECOND: Hemard/ Shepherd

AYES: Hemard, Guth, and Shepherd

NOES: Holbert and Lazenby

ABSTAIN: None

ABSENT: None

7.  141212

No Situs Address, Los Gatos

APN: 098-021-06

Continuance of appeal of Zoning Administrator's Approval of Application 141212 for a Commercial Development Permit to construct a 64 foot tall monopine wireless communication facility on a vacant 29.8 acre A-P (Agriculture with Agriculture Preserve Zone District) zoned parcel along the Summit, including ground mounted equipment in a 40' by 40' fenced lease area. The project may also require a Telecommunications Act Exception.

Property located on the south side of Loma Prieta Avenue, approximately 2.6 miles northeast of Summit Road, abutting the Santa Clara County line and located within the Summit Planning area.

SUPERVISORIAL DIST: 1

PROJECT PLANNER: Sheila McDaniel, 831-454-2255

EMAIL: Sheila.McDaniel@santacruzcounty.us

Planning Commission Hearing of 4/27/2016 Staff Report [Click Here](#)

Planning Commission Hearing of 4/13/2016 Staff Report [Click Here](#)

Planning Commission Hearing of 3/23/2016 Staff Report [Click Here](#)

Planning Commission Hearing of 1/13/2016 Staff Report and Exhibits [Click Here](#)

Exhibit 1A [Click Here](#)

Exhibit 1B [Click Here](#)

Exhibit 1C [Click Here](#)

Exhibit 1D [Click Here](#)

Exhibit 1E [Click Here](#)

Exhibit 1F [Click Here](#)

Exhibit 1G [Click Here](#)

Exhibit 1H [Click Here](#)

Exhibit 1I [Click Here](#)

Exhibit 1J [Click Here](#)

Zoning Administrator hearing of 11/6/2015 Staff Report [Click Here](#)

ACTION: Item continued to a date uncertain to allow for further analysis.

MOTION/SECOND: Hemard/ Holbert


AYES: Hemard, Guth, Holbert, Lazenby and Shepherd

NOES: None

ABSTAIN: None

ABSENT: None

SCHEDULED ITEMS

8.  **141207** **300 Granite Creek Road, Santa Cruz** **APN: 101-172-14**

Appeal of Zoning Administrator's Approval of Application # 141207 a proposal to construct a 90 foot faux eucalyptus tree wireless communication facility on a 2.77 acre A (Agriculture) zoned parcel, including a 25' by 40' leased ground mounted fenced equipment area located off of Granite Creek Road and Branciforte Drive. Requires a Commercial Development Permit.

Property located approximately ¼ mile east from Granite Creek Road, approximately ¼ mile north of the intersection of Granite Creek Road and Branciforte Drive.

SUPERVISORIAL DIST: 1

PROJECT PLANNER: Sheila McDaniel, (831) 454-2255
EMAIL: Sheila.McDaniel@santacruzcounty.us




Planning Commission Hearing of 4/27/2016 Staff Report [Click Here](#)

Zoning Administrator's Hearing of 2/5/2016 Staff Report [Click Here](#)

ACTION: Item continued to a date uncertain to allow for further analysis.

*MOTION/SECOND: Holbert/ Shepherd
AYES: Holbert, Guth, Lazenby and Shepherd
NOES: None
ABSTAIN: None
ABSENT: Hemard*

REGULAR AGENDA ITEMS

9.  **Planning Director's Report**
10.  **Report on Upcoming Meeting Dates and Agendas**
11.  **County Counsel's Report**

APPEAL INFORMATION

Denial or approval of any permit by the Planning Commission is appealable to the Board of Supervisors. The appeal must be filed with the required appeal fee within 14 calendar days of action by the Planning Commission. To file an appeal you must write a letter to the Board of Supervisors and include the appeal fee. For more information on appeals, please see the "Planning Appeals" brochure located in the Planning Department lobby, or contact the project planner.

APPEALS OF COASTAL PROJECTS

(*) This project requires a Coastal Zone Permit which is not appealable to the California Coastal Commission. It may be appealed to the Board of Supervisors; the appeal must be filed within 14 calendar days of action by the Planning Commission.

(**) This project requires a Coastal Zone Permit, the approval of which is appealable to the California Coastal Commission. (Grounds for appeal are listed in the County Code Section 13.20.110) The appeal must be filed with the Coastal Commission within 10 business days of receipt by the Coastal Commission of notice of local action. Denial or approval of the Coastal Zone Permit is appealable to the Board of Supervisors; the appeal must be filed within 14 calendar days of action by the Planning Commission.

Note regarding Public hearing items: If any person challenges an action taken on the foregoing matter(s) in court, they may be limited to raising only those issues raised at the public hearing described in this notice or in written correspondence delivered to the Planning Commission at or prior to the public hearing.

Agenda documents may be reviewed at the Planning Department, Room 420, County Government Center, 701 Ocean Street, Santa Cruz.



County of Santa Cruz Planning Commission Minutes

Planning Department, 701 Ocean Street, Suite 400, Santa Cruz, CA 95060

Meeting Date : Wednesday, February 24, 2016 9:00 AM

Location : Board of Supervisors Chambers, Room 525
County Government Center
701 Ocean Street
Santa Cruz, CA 95060

VOTING KEY

Commissioners: Chair: Guth, ViceChair: Lazenby, Dann, Hemard, Shepherd

Alternate Commissioners: Garcia, Holbert, Aramburu, Jones, Piercy

REGULAR AGENDA ITEMS

1. **Roll Call**

Commissioners present: Chair Casey Hemard, Vice-Chair Michael Guth, Commissioner Rachel Dann, Commissioner Judith Lazenby and Commissioner Renee Shepherd.

2. **Additions and Corrections to Agenda**

3. **Declaration of Ex Parte Communications**

4. **Oral Communications**

CONSENT ITEMS

5. **Approval of Minutes**

To approve the minutes of the January 13, 2016 Planning Commission meeting as submitted by the Planning Department.

ACTION: Approve the minutes of the January 13, 2015 Planning Commission meeting with an amendment to the action for Item #9 to include that the item was continued to a date uncertain, however, when rescheduled the project will be fully noticed and the project description will include a description of the site zoning.

MOTION/SECOND: Hemard/ Dann

AYES: Guth, Dann, Hemard, Lazenby and Shepherd

NOES: None

ABSTAIN: None

ABSENT: None

SCHEDULED ITEMS

6. **141196** 105 Alta Drive, La Selva Beach APN: 046-021-05**

Appeal of Zoning Administrator's Approval of Application 141196 of a proposal to construct a new 48-ft. tall Verizon WCF, camouflaged as an agricultural water tank tower, including 9 panel antennas located within the "tank" and an equipment shelter. Requires a Commercial Development Permit and a Coastal Development Permit. Project is proposed to be located

on a 157 acre Agricultural Preserve (A-P) zoned parcel off San Andreas Rd. in La Selva Beach. Appealed on the basis of scenic issues, neighborhood compatibility, CEQA and the application approval process.

Project is proposed to be located on a 157 acre Agricultural Preserve (A-P) zoned parcel off San Andreas Road in La Selva Beach.

SUPERVISORIAL DIST: 2

PROJECT PLANNER: Frank Barron, (831) 454-2530

EMAIL: Frank.Barron@santacruzcounty.us

Staff Report [Click Here](#)

ACTION: Item continued to the April 27, 2016 Planning Commission with full project notice. Additionally, the applicant was encouraged to hold a community meeting to receive input from the neighbors regarding the new project location.

MOTION/SECOND: Dann/ Hemard

AYES: Hemard, Guth, Dann, Lazenby and Shepherd

NOES: None

ABSTAIN: None

ABSENT: None

7  **141007** **3304 Winkle Avenue, Santa Cruz** **APN: 025-361-26**

Proposal to develop each of three lots created by approved minor land division 141007 with a single family dwelling, an attached garage and an attached one-story accessory dwelling unit and to grade approximately 56- cubic yards of material. Project requires the approval of design guidelines for the proposed structures and a preliminary grading review. The project is located in the R-1-6 zone district.

Property located on the east side of Winkle Avenue (3304 Winkle Avenue) opposite the intersection with Sequoia Drive.

SUPERVISORIAL DIST: 1

PROJECT PLANNER: Lezanne Jeffs, (831) 454-2480

EMAIL: Lezanne.Jeffs@santacruzcounty.us

Staff Report [Click Here](#)

ACTION: Adopt staff recommendation with the followings revisions and additions to the Conditions of Approval:


Added conditions at IV. A.

2. The building plans for each parcel must include a roof plan and a surveyed contour map of the ground surface, superimposed and extended to allow height measurement of all features. Spot elevations shall be provided at points on the structure that have the greatest difference between ground surface and the highest portion of the structure above. This requirement is in addition to the standard requirement of detailed elevations and cross-sections and the topography of the project site which clearly depict the total height of the proposed structure.

- a. The Maximum height for single-family dwellings shall not exceed 28 feet measured from original grade.*
- b. The maximum height for ADUs shall not exceed 17 feet measured from original grade.*
- 3. No development on any parcel shall have greater than 40% lot coverage by structures.*
- 4. Good neighbor fences along the northern property boundary shall not exceed 6 feet in height. No fence within 20 feet of the edge of the right-of-way for Winkle Avenue shall exceed 3 feet.*

MOTION/SECOND: Dann/ Hemard
 AYES: Hemard, Guth, Dann and Lazenby
 NOES: Shepherd
 ABSTAIN: None
 ABSENT: None

REGULAR AGENDA ITEMS

8.  **Planning Director's Report**
 9.  **Report on Upcoming Meeting Dates and Agendas**
 10.  **County Counsel's Report**
-

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APPEALS OF COASTAL PROJECTS

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(**) This project requires a Coastal Zone Permit, the approval of which is appealable to the California Coastal Commission. (Grounds for appeal are listed in the County Code Section 13.20.110) The appeal must be filed with the Coastal Commission within 10 business days of receipt by the Coastal Commission of notice of local action. Denial or approval of the Coastal Zone Permit is appealable to the Board of Supervisors; the appeal must be filed within 14 calendar days of action by the Planning Commission.

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Agenda documents may be reviewed at the Planning Department, Room 420, County Government Center, 701 Ocean Street, Santa Cruz.

The County of Santa Cruz does not discriminate on the basis of disability, and no person shall, by reason of a disability, be denied the benefits of its services, programs, or activities. The Board of Supervisors chambers is located in an accessible facility. If you wish to attend this meeting and you will require special assistance in order to participate, please contact the ADA Coordinator at 454-3137 (TDD/TTY number is 711) at least 72 hours in advance of the meeting to make arrangements. As a courtesy to those persons affected, please attend the meeting smoke and scent free.

Appeal to Board of Supervisors
County of Santa Cruz

Planning Commission Decision April 27, 2016
Approving Application 141196

Opposition to
Application 141196
105 Alta Drive, La Selva Beach, CA
APN: 046-021-05

Keith and Cheryl Otto
234 Altivo Avenue
La Selva Beach, CA 95076
and the
Coalition to Preserve Scenic La Selva

May 11, 2016

Board of Supervisors
County of Santa Cruz
701 Ocean Street, 5th Floor Santa Cruz, CA 95060

**Appeal of Planning Commission Decision on April 27, 2016 Development Permit, Coastal Development Permit, and Federal Telecommunications Act Exception
Application Number 141196**

APN 046-021-05

Owner: Michelle Ellis, Complete Wireless Consulting, Inc. (for Verizon)

APPEAL LETTER: FROM KEITH AND CHERYL OTTO & THE COALITION TO PRESERVE SCENIC LA SELVA

Dear Board of Supervisors,

Many residents have become deeply concerned with the development of a 48' Verizon WCF facility adjacent to our community. We, the Coalition to Preserve Scenic La Selva ("Coalition"), have gone through the appeals process at the Planning Commission Level, which is why we are now appealing to your Board. This letter is a formal appeal, by the Coalition regarding the above-referenced decision of the Planning Commission.

Among many other procedural and substantive errors as outlined herein, we believe that we, as the appellants, were not granted proper due process of law in the hearing (i.e. denied a fair and impartial hearing). After public comment and closing statements, Verizon (in conjunction with commentary from the Project Planner) were given an additional 30 to 40 minutes to address/contest our claims, and raise new facts and legal issues, while we, as the appellants (who funded the appeal) were not allowed any opportunity for rebuttal or the ability to address misstatements. Appellant's counsel was restricted to a very short presentation time period with no ability to respond to misstatements of law and fact. Deference was instead given to the opinions and statements of the Applicant, which the Planning Commission did not allow us as the appellants to properly address in our appeal hearing. Therefore, as with our appeal to the Planning Commission, in this appeal to your Board we have documented vital errors in Verizon's application, the project planning portion and approval of this project. The approval of this project by the Planning Commission resulted in a split decision; that is because, as was stated at that appeal, Verizon's application was fraught with issues (which still have not been properly addressed). In this appeal, we will outline and address these errors, and we ask that you reconsider and/or reverse the decision of the Planning Commission and deny this project at the currently proposed location.

The grounds under which the Board of Supervisors may take jurisdiction of such an appeal is found in County Code Section 18.10.340(C), as follows:

Grounds for the Board of Supervisors to Take Jurisdiction: The Board of Supervisors will not take jurisdiction of an appeal and grant further review of a matter unless the Board is convinced that there was an error or abuse of discretion on the part of the Commission, Zoning Administrator, or other officer; or that there was a lack of a fair and impartial hearing; or that the decision appealed from is not supported by the facts presented and considered at the time the decision appealed from was made; or that there is significant new evidence relevant to the decision which could not have been presented at the time the decision appealed from was made; or that there is either error, abuse of discretion, or some other factor which renders the act done or determination made unjustified or inappropriate to the extent that a further hearing before the Board is necessary.

As will be outlined within this letter, below, the Coalition has argued that nearly all of these grounds have been met, that is: error or abuse of discretion on the part of the Commission, Zoning Administrator, or other officer; that there was a lack of a fair and impartial hearing; that the decision appealed from herein is not supported by the facts presented (as outlined below); that there is error or abuse of discretion in the approval of Verizon's application rendering the Planning Commission's decision unjustified or inappropriate to the extent that a further hearing before the Board is necessary, and finally, that there may be significant new evidence which could not be presented at the time the decision appealed from was made, given the manner in which the Coalition (as the Appellant) was improperly limited in presentation time (while Applicant Verizon was given significantly more breadth and time in presentation). The Coalition respectfully asks that the Board find that sufficient grounds are met pursuant to 18.10.340(C) and take jurisdiction of this appeal.

1. Zoning and Land Use

The property in question is Zoned A-P, and section 13.10.473 states that P Combining Districts are to be classified as a CA District in development decisions.

13.10.473 Use and development standards in the Agricultural Preserve and Farmland Security P Combining District.

Lands designated as P Combining District shall also be classified in the CA District (except for those lands designated AP) and shall be subject to the regulations of that district, with the modification or expansion of uses existing on the date of the execution of the contractual agreement which are not otherwise permitted in the CA District (see SCCC 13.10.312) shall be considered as discretionary uses which may be permitted upon the property within the limits of the reservation of such uses in the contractual agreement, subject to the securing of a Level V approval. [Ord. 4563 § 1, 1999; Ord. 4562 § 1, 1999; Ord. 4528 § 1, 1998; Ord. 3432 § 1, 1983].

County code section 13.10.661 (B)(1)(d) states that CA is a prohibited zone for the development of wireless communications facilities:

13.10.661 General requirements for wireless communications facilities.

(B) Prohibited Areas.

(1) Prohibited Zoning Districts. Wireless communication facilities are prohibited in the following zoning districts, unless a Telecommunications Act exception is approved pursuant to SCCC 13.10.668:

(d) Commercial Agriculture (CA); and

Verizon had mistakenly selected a prohibited agricultural preserve as a permitted parcel. The site was only identified as a prohibited parcel at the April 27th Planning Commission hearing, and was not included in April 13th Alternatives Analysis or Staff Report. This prohibited zoning requires Verizon to enact a Telecommunications Act exception to proceed with development. In section 13.10.661 (4)(b) states that a Telecommunications act exception can only be exercised if it is demonstrated that:

13.10.661 General requirements for wireless communications facilities.

(B) Prohibited Areas.

(4) Exceptions to Prohibited Areas Prohibition.

(b) There are no viable, technically feasible, and environmentally (e.g., visually) equivalent or superior potential alternatives (i.e., sites and/or facility types and/or designs) outside the prohibited areas identified in subsection (B) of this section that could eliminate or substantially reduce said significant gap(s).

Verizon must demonstrate that there are no other "technically feasible, and environmentally, equivalent or superior" alternatives to this site in order to the language of 13.10.661. In order to conduct a meaningful search for alternatives analysis, the applicant must first identify the Zoning and restrictions of the property being promoted. Their method for eliminating potentially superior sites are described on Page 5 of the Alternatives analysis:

Elimination of Prohibited and Restricted Base Zones

Per the Code's direction, Verizon Wireless avoided placement of its proposed facility in base zoning districts that are prohibited and restricted (disfavored) areas, including the following zoning districts found in the vicinity of the Significant Gap:

Prohibited Base Zones

- R-1 – Single-Family Residential
- RM – Multifamily Residential
- CA – Commercial Agriculture

Restricted (Disfavored) Base Zones

- RA – Residential Agriculture
- RR – Rural Residential
- SU – Special Use (Parcels located in special use districts in the vicinity of the Significant Gap have residential land use designations under the General Plan and are therefore restricted)¹

Eliminating prohibited and restricted base zones removed large areas of the Significant Gap from further consideration, including all properties within one mile north and east of the Proposed Facility and much of the residential and agricultural areas to the west and south. Verizon Wireless determined that remaining base zones allow wireless facilities, subject to compliance with Code criteria.

Verizon mistakenly narrowed its search ring by "Eliminating prohibited and restricted base zones" from further consideration while pursuing a prohibited zone for development. In lieu of this error, it is impossible for Verizon to demonstrate that "no alternative sites exist" as outlined in section 13.10.668, of the Telecommunications Act exception.

13.10.668 Telecommunications Act exception procedure.

If the application of the requirements or limitations set forth in SCCC 13.10.660 through 13.10.668, inclusive, including but not limited to applicable limitations on allowed land uses, would have the effect of violating the Federal Telecommunications Act as amended, the approving body shall grant a Telecommunications Act exception to allow an exception to the offending requirement or application. The applicant shall have the burden of proving that application of the requirement or limitation would violate the Federal Telecommunications Act, and that no alternatives exist which would render the approval of a Telecommunications Act exception unnecessary. [Ord. 4769 § 2, 2004; Ord. 4743 § 2, 2003; Ord. 4714 § 2, 2003].

Pursuant to 13.10.662(C)(1) Verizon must identify "a minimum two viable, technically feasible, and potentially environmentally equivalent or superior alternative locations outside the prohibited and restricted areas." If there are fewer than two such alternative locations, then Verizon must "provide evidence establishing that fact." The word "evidence" should not be taken lightly in this context, and is discussed more below. Per this code, Verizon must also evaluate the use of Micro Cell sites in order to close the service gap.

13.10.662 Application requirements for wireless communication facilities.

All new wireless communication facilities must be authorized by a commercial development permit, and also by a coastal development permit if located in the Coastal Zone, and are subject to the following permit application requirements:

(C) Alternatives Analysis. For applications for wireless communication facilities proposed to be located in any of the prohibited areas specified in SCCC 13.10.661(B) and non-co-located wireless communication facilities proposed to be located in any of the restricted areas specified in 13.10.661(C), an alternatives analysis must be submitted by the applicant, subject to independent RF engineering review, which shall at a minimum:

(1) Identify and indicate on a map, at a minimum two viable, technically feasible, and potentially environmentally equivalent or superior alternative locations outside the prohibited and restricted areas which could eliminate or substantially reduce the significant gap(s) in the applicant carrier's network intended to be eliminated or substantially reduced by the proposed facility. If there are fewer than two such alternative locations, the applicant must provide evidence establishing that fact. The map shall also identify all locations where an unimpaired signal can be received to eliminate or substantially reduce the significant gap(s). For all non-co-located wireless communication facilities proposed in a restricted/prohibited area, the applicant must also evaluate the potential use of one or more microcell sites (i.e., smaller facilities often mounted upon existing or replacement utility poles), and the use of repeaters, to eliminate or substantially reduce said significant gaps in lieu of the proposed facility. For each alternative location so identified, the applicant shall describe the type of facility and design measures that could be used at that location so as to minimize negative resource impacts (e.g., the use of stealth camouflaging techniques).

The applicant must "evaluate the potential use of one or more microcell sites (i.e., smaller facilities often mounted upon existing or replacement utility poles), and the use of repeaters, to eliminate or substantially reduce said significant gaps in lieu of the proposed facility." This analysis was not performed in either report.

Of the 6 alternative sites proposed, only the La Selva Beach Recreation District (LSBRD) was contacted by Verizon with a letter of intent. The LSBRD was not interested in the development. Bruce Clark had contacted Verizon and offered his own RA parcel as an alternative to the Prohibited Delucchi Parcel; he testified at the Planning Commission appeal hearing and that testimony is therefore part of the record and may be referenced. This Parcel was ruled out only by mere opinion of Verizon (Michelle Ellis) and Frank Barron, but no environmental or engineering analysis was performed, and no other evidence was offered to show that this property was not a feasible alternative; that is, no actual "evidence" was provided in the

record to support their opinions that Mr. Clark's alternative location would not work. This is not consistent with what is required of Verizon pursuant to 13.10.662(C), above. Testimony of property owner Bruce Clark contradicted Verizon's statements and opinions about his property (all of which were opinions from Verizon without evidence); additionally, Mr. Clark provided an environmental report regarding his property to the Planning Commission, which should also appear in the record, and which contradicted some of Verizon's statements at the appeal hearing.

In addition to this alternative location, the Morris parcel identified in the original application is not mentioned in the new Alternatives Analysis. This demonstrates that Verizon did not seriously pursue or entertain alternatives to the prohibited parcel and cannot satisfy Code Criteria outlined in 13.10.661(C). This also means that Verizon did not fulfill its heavy burden as required by the Federal Court.

Voice Stream PCS I, LLC v. City of Hillsboro, 301 F. Supp. 2d 1251 (D. Or. 2004) is an important case on these issues. Please find said case attached at **EXHIBIT A**. In that case, Voice Stream PCS brought lawsuit under the Telecommunications Act of 1996 (TCA) seeking to overturn the City of Hillsboro's decision to deny plaintiff's conditional-use application to erect a wireless-telecommunications tower in a residential area. The application was initially denied by the City's Zoning Hearings Board and that denial was upheld in this lawsuit. The City's Zoning Hearings Board based that denial on the fact that the tower would not be in the public interest (even though it improved indoor cell coverage), and because the tower would negatively affect the aesthetic character of the neighborhood, relying primarily on residents' concerns about the tower's effect on the neighborhood's natural surroundings. Voice Stream, 301 F.Supp.2d at 1254. The Zoning Board in that case also gave consideration to the proposed tower's distance from/close proximity to surrounding homes. La Selva Beach community members testified on both of these subjects at the Appeal Hearing; that is, both the unappealing aesthetics of the proposed tower location given the character of our La Selva Beach neighborhood, as well as the incredibly close proximity to surrounding homes (when there are options available which would achieve the same purpose and be further from said homes).

First, this case established that localities may properly base decisions to deny cell tower applications on aesthetic impact (that is, the TCA does not render aesthetic concerns an invalid basis upon which to base a permit denial), as long as the judgment is "grounded in the specifics of the case," and does not evince merely an aesthetic opposition to cell phone towers in general. Voice Stream, at p. 1258, quoting Southwestern Bell Mobile Sys. v. Todd, 244 F.3d 51, 61 (1st Cir. 2001). In our case, community members repeatedly discussed the aesthetic concerns of our unique community in La Selva Beach, the fact that this proposed site can be seen from many points in the neighborhood and from Scenic San Andreas Road, the fact that this proposed tower will still be within 800 feet or less from many neighborhood homes, and based on the fact that other less intrusive (and less visible) alternatives exist to serve the same coverage area/purposes sought by Verizon. One is, among others, the Bruce Clark property, which La Selva community members appearing at the Planning Commission meeting did not object to. Therefore, community member objections were specifically related to this proposed site and its specific location, and were not based in a general objection to cell phone towers overall.

In the Voice Stream case, the Federal Court stated that the burden for the carrier (Verizon) is a heavy one; that is, the carrier bears a heavy burden of proof. Voice Stream, 301 F.Supp.2d at 1261, quoting Second Generation, 313 F.3d at 629 and Town of Amherst, 173 F.3d at 14). It is the Coalition's view herein that the Planning Commission improperly relied on the belief that they had little choice but to approve this

application, or Verizon would invoke Federal law to have their tower approved. That is very far from the case and not true. The Voice Stream case, coupled with the code sections cited above, gives *authority* to both the Planning Commission and the Board of Supervisors to deny Verizon's application, and/or require further analysis/evidence on alternatives, among other things. If the Planning Commission or the Board of Supervisors denies Verizon's application for the reasons cited above and in our initial appeal letters, the Commission or Board are heavily supported by Federal Law. That is, Verizon must show that its existing proposed cell tower is "the only feasible plan," and "there are no other potential solutions to the purported problem." Voice Stream, 301 F.Supp.2d at 1261, quoting St. Croix, 342 F.3d at 834 and Town of Pelham, 313 F.3d at 630, 635. It is therefore Verizon's "heavy burden of proof" to show that the currently proposed location, right next to La Selva Beach neighborhoods, is the "only feasible plan" to effect their coverage goals and that "there are no other potential solutions to the purported problem." It is the Coalition's opinion that based on the current record, Verizon cannot meet their burden of showing that there are no other possible locations but this one.

That is, the mere passing opinion of Verizon (the applicant who is biased as they seek to financially gain from this tower, not make sure that local aesthetics are preserved) and opinion from the County Project Planner that Mr. Clark's property (or other alternative location) is entirely infeasible, without any formal independent analysis or environmental reports (i.e. no evidence), certainly cannot fulfill the heavy burden Verizon is required to meet to show there are no other alternative sites or potential solutions. This should be given particular weight considering the currently proposed parcel is a "prohibited" parcel for which the Planning Commission had to find an exception to approve Verizon's application; certainly, Mr. Clark's "restricted" parcel is less restrictive than the prohibited parcel which was approved. In other words, if Verizon can achieve its coverage objectives by installing a tower in another, less intrusive area (given the concerns and testimony of residents), then they have not met their heavy burden until they provide evidence/proof that alternative areas are entirely not feasible - particularly alternative sites which were specifically testified about, such as Mr. Clark's. Mere opinion does not meet this burden required of Verizon. In balancing the harms to both the La Selva Community and to Verizon, there is no harm in requiring Verizon to meet their burden, in fact, it is legally required, but there is extensive harm to the neighborhood and local community in *not* requiring Verizon to do so. The County's role is to protect and preserve its communities by requiring that all burdens are appropriately met by Verizon, because Verizon is obviously not in a position to "self-regulate."

On another but related issue, regarding the currently approved site, Pursuant to 13.10.314 development on the A-P Parcel must enhance the agricultural uses of the property. Verizon Agricultural systems require 4G data connections to communicate. The current 4G wireless coverage on the Delucchi parcel is adequate for the transmission of these services. The installation of this WCF would not further enable the current lessor's ability to utilize these services and could not be considered an enhancement to the agricultural uses of the property.

13.10.314 Required special findings for CA and AP uses.

(A) All Uses. For parcels within the CA Commercial Agriculture and AP Agricultural Preserve Zone Districts, the following special findings must be made in addition to the findings required by Chapter 18.10

SCCC in order to approve any discretionary use listed under SCCC 13.10.312 which requires a Level V or higher approval except agricultural buffer determinations:

- (1) That the establishment or maintenance of this use will enhance or support the continued operation of commercial agriculture on the parcel and will not reduce, restrict or adversely affect agricultural resources, or the economic viability of commercial agricultural operations, of the area.

The alternatives analysis is incomplete and flawed. The analysis includes a section titled:

Elimination of Prohibited and Restricted Base Zones

while the proposed location is considered a 'prohibited' zone for wireless facilities.

An additional alternative that was not thoroughly evaluated was:

KOA Campground
1186 San Andreas Road
Watsonville, CA 95076

APN 046-111-18

This parcel is within 3 miles of the adjacent Verizon facilities (2.5 miles to Seascapes, and 1.25 miles to Trabing) and as such would be ample to address any reported 'substantial' coverage gap. The zoning of the parcel is 'PR', an allowed zone for wireless facilities. No Federal Telecommunications Act exception would be required. The KOA General Manager and the Operations Manager expressed interest in hosting a Verizon cell tower on their property and stated that such a tower could be placed adjacent to trees such that it would be largely out of view.

No Federal Telecommunications Act exception can be granted for the currently proposed Verizon parcel when less restrictive potential alternatives exist.

The Planning Commission should have denied Verizon's application for these, and other reasons as outlined herein and in our initial appeal letter(s), and we respectfully ask that the Board of Supervisors reverse the Planning Commission's decision on 4/27/16 and require Verizon to fulfill its burden as outlined herein.

Noticing - Proposed Development Sign, Public Hearing Sign, Mock-Up

Many noticing aspects of this project were not County code compliant. The 'Proposed Development' sign is the community's first opportunity to learn of a project, and as such, it is to be taken seriously. This sign was not 'placed on the subject property so as to be clearly seen and readily readable.'

18.10.224 Notice of proposed development for Level IV through Level VII.

For all development that requires review at Levels IV through VII, the applicant shall install a sign or signs on each site of the proposed development in accordance with this section.

(B) Location. Any sign required by this chapter shall be placed on the subject property so as to be clearly seen and readily readable from each right-of-way providing primary vehicular access to the subject property. For proposed projects in public rights-of-way, signs shall be posted at 1,000-foot intervals along subject right(s)-of-way. Additional signs may be required that are visible from other public vantage points, such as for when a proposed project is located within a public park some distance from the vehicular accessway. Signs shall be located so as to not interfere with vehicular line of sight distance.

There was no mock up and no pictures posted before the first public hearing. There was no written finding that such a mock-up was not needed.

These procedural errors cannot merely be corrected, or "cured" at the Planning Commission hearing as Verizon sought to do; they should have been in place as required from the start of the project. This put the Coalition and the La Selva community at significant prejudice and disadvantage from the outset of this project, when it was Verizon's duty to have met all requirements. Denial of Verizon's Application at the Appeal hearing should have been made on these bases as well.

13.10.662 Application requirements for wireless communication facilities.

(D) On-Site Visual Demonstration Structures (Mock-Ups). On-site visual demonstration structures (i.e., mock-ups) shall be required for all proposed wireless communication facilities, except for co-located and microcell facilities that do not represent a major modification to visual impact as defined in SCCC 13.10.660(D). For proposed rooftop or ground-mounted antennas, a temporary mast approximating the dimensions of the proposed facility shall be raised at the proposed antenna/mast location. For proposed new telecommunications towers the applicant will be required to raise a temporary mast at the maximum height and at the location of the proposed tower. At minimum, the on-site demonstration structure shall be in place prior to the first public hearing to consider project approval, on at least two weekend days and two weekdays between the hours of 8:00 a.m. to 6:00 p.m., for a minimum of 10 hours each day. A project description, including photo simulations of the proposed facility, shall be posted at the proposed project site for the duration of the mock-up display. The Planning Director or his/her designee may release an applicant from the requirement to conduct on-site visual mock-ups upon a written finding that in the specific case involved said mock-ups are not necessary to process or make a decision on the application and would not serve as effective public notice of the proposed facility.

The public hearing notice was not 'posted on the property in a conspicuous place.

**18.10.223 Level V (Zoning Administrator) through Level VII (Board of Supervisors)—
Notice of public hearing.**

(A) Procedures. A public notice of all public hearings conducted pursuant to the issuance of permits and approvals at Levels V (Zoning Administrator) through VII (Board of Supervisors) shall be given in the following ways:

(2) Posted on the property in a conspicuous place at least 10 calendar days prior to the hearing.

County Staff awkwardly admitted that the sign was not on the property.

The applicant made repeated false statements that the sign was on the property; see below:

County of Santa Cruz - Zoning Agenda
December 18, 2015

Agenda Item 1 141196** 105 Alta Drive, La Selva Beach APN: 046-021-05

Wanda Williams, Deputy Zoning Administrator

Frank Barron, Project Planner

Michelle Ellis, Complete Wireless Consulting, Inc. for Verizon Wireless

51:40

Wanda Williams: Is the notice on the property?

Frank Barron: Um, it's supposed to be on the property, yes.

Wanda Williams: Is it on the property?

Frank Barron: Um, I, ah, received a photo showing that it was not on the property.

Wanda Williams: Um, OK. And the code requires it's on the property ...

Frank Barron: Yes.

Wanda Williams: ... procedurally?

Wanda Williams: OK, um, but I think the APN number is correct ...

01:00:57

Wanda Williams: Is the signage on the property?

Michelle Ellis: Yes, it is still there, uh I just double checked the APN ...

Wanda Williams: I'm sorry, it's ON THE property?

Michelle Ellis: Yes, it's on the parcel.

Wanda Williams: It's not across the street?

Michelle Ellis: No, it's on the parcel, the thing is this is a huge parcel so it may seem that it is far away, but it is on the parcel, it's on the correct APN ...

1:05:04

Wanda Williams: OK, you know, I am satisfied from the additional testimony provided by the applicant, um, that the, um, signage, uh, location complies with what is required in the County code ...

The Zone Administrator accepted the false testimony of the applicant over the testimony of the public and County Planner.

Photographic evidence and witnesses confirm that the sign was not on the property, but was across the street, and a block south from the parcel entrance.

It is inappropriate to attempt to cure these noticing errors during the appeal process, especially when such appeals are pursued at significant cost to the appellants. It may be alleged that this qualifies as a violation of due process.

It is ironic that while County Supervisors are looking to take action to improve some aspects of noticing, the Zone Administrator and Planning Commissioners seem unable or unwilling to implement and enforce current County noticing code.

Reference:

County of Santa Cruz - Board of Supervisors
April 12, 2016

Consent Agenda Item 17 - Supervisor John Leopold

Proposed Amendments to the Neighborhood Commercial Development Noticing and Community Meetings

The sign installation affidavit, signed by the applicant clearly states (in bold and underlined)

Failure to post the site as required is grounds for denial of your application.

See the signed Installation Certificate/Affidavit attached at **EXHIBIT B.**

This project must be denied.

Included and incorporated into this appeal to the Board of Supervisors are the two appeal letters to the Planning Commission, filed by the Coalition to Preserve Scenic La Selva, "Coalition," (by Wittwer Parkin) on January 4, 2016 (attached at **EXHIBIT C**), and February 22, 2016 (attached at **EXHIBIT D**), respectively. It is asked that this information and additional bases for appeal be considered and incorporated herein with our appeal to the Board of Supervisors. The Coalition continues to appeal on these bases.

Included and incorporated into this appeal to the Board of Supervisors at Exhibit A is the Voice Stream PCS I, LLC v. City of Hillsboro, 301 F. Supp. 2d 1251 (D. Or. 2004) case as referenced within this appeal. It is asked that this information for appeal be considered and incorporated herein with our appeal to the Board of Supervisors.

All attached exhibits should be incorporated into this appeal.

The Coalition reserves the right to further supplement this appeal as necessary or as other information becomes available.

The Coalition to Preserve Scenic La Selva herein respectfully asks that the Board of Supervisors find that the requirements of County Code 18.10.340 have been met, based on the above information, and that the Board takes jurisdiction of this matter. Further, the Coalition respectfully asks that the egregious errors outlined above, both procedural and substantive, as well as those outlined within the supplemental documents as noted above, be considered by the Board of Supervisors. On these bases, the Coalition asks that the Planning Commission's decision be reversed and that Verizon's application be denied. The Coalition respectfully requests that Verizon be required to fulfill their legal burden in their application, and meet all substantive and procedural requirements before approval of any further applications. The Coalition further requests that the Board consider all available options to them in remedying the Planning Commission's approval of Verizon's application as outlined in County Code Section 18.10.340.

VOICE STREAM PCS I, LLC v. City of Hillsboro, 301 F. Supp. 2d 1251 (D. Or. 2004)

U.S. District Court for the District of Oregon - 301 F. Supp. 2d 1251 (D. Or. 2004)
February 2, 2004

301 F. Supp. 2d 1251 (2004)

VOICE STREAM PCS I, LLC, d/b/a T-Mobile, Plaintiff,
Golden Road Baptist Church, Involuntary Plaintiff,
v.
CITY OF HILLSBORO, Defendant.

Civil No. 03-365-MO.

United States District Court, D. Oregon.

February 2, 2004.

*1252 *1253 Christopher P. Koback, Davis Wright Tremaine, LLP, Portland, OR, for Plaintiff.

Pamela J. Beery, Paul C. Elsner, Beery & Elsner, LLP, Portland, OR, for Defendant.

OPINION AND ORDER

MOSMAN, District Judge.

Plaintiff Voice Stream PCS I, LLC ("plaintiff") brings this lawsuit under the Telecommunications Act of 1996 ("TCA"), seeking to overturn the City of Hillsboro's decision to deny plaintiff's conditional-use application to erect a wireless-telecommunications (or, as commonly called, a "cell-phone") tower in a residentially zoned area. The issues in this case pit the TCA's intention to deregulate the wireless telephone industry against the traditional control over local land use maintained by municipalities. For the reasons discussed below, municipal control prevails in this case.

I. Background

Personal wireless services are dependent upon low power, high frequency radio signals that are transmitted from antennae placed on preexisting structures, such as water towers, or on newly constructed towers. See generally *Southwestern Bell Mobile Sys. v. Todd*, 244 F.3d 51, 56-57 (1st

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Cir. 2001); *Sprint Spectrum, L.P. v. Willoth*, 176 F.3d 630, 634-35 (2d Cir.1999). As a subscriber travels within a cellular provider's service area, the cellular call in progress is transferred from one cell site to another without noticeable interruption. To increase quality of service and therefore attract subscribers, providers usually have an incentive to increase the number of cells and correspondingly decrease the geographic coverage of each cell. In furtherance of this plan to improve service, coverage within an area is maintained by arranging antennae in a honeycomb-shaped grid. When the grid is placed over a city map, desired tower locations of course often fall in residential areas. And because wireless technology is relatively low-powered and requires line-of-sight to a tower, the necessary antennae generally must be placed on towers which loom over the landscape, commonly giving rise to opposition especially in residential areas.

Plaintiff submitted an application for a conditional-use permit to construct and maintain a 120-foot tower on residentially zoned property owned by the Golden Road Baptist Church in the City of Hillsboro. The church site is surrounded on all sides by residentially zoned property. Many of the surrounding homes are between 100 and 200 feet from the proposed site. As revealed by the record, the proposed site is in an area commonly described as scenic, as it is surrounded by fir trees and is near wetlands and a greenway. Neighbors, therefore, banded together to oppose plaintiff's permit application.

The City's Zoning Hearings Board held public hearings and accepted neighbors' opposition letters. The board also accepted a petition of over 50 residents expressing opposition. In addition, the board had before it maps, simulated photographs, and a chart depicting the location of the city's wireless-telecommunications facilities. The board applied Hillsboro Zoning Ordinance ("HZO") No.1945, Section 83(9). This ordinance provides as follows:

The Commission or Hearings Board shall grant approval only if the proposal, *1254 as conditioned, is determined to conform to the following criteria:

- (a) The granting of the application would meet some public need or convenience.
- (b) The granting of the application is in the public interest.
- (c) The property in question is reasonably suited for the use required.
- (d) The use requested would not have a substantial adverse effect on the rights of the owners of surrounding properties.
- (e) The use requested would conform to the maps and the goals and policies of the Hillsboro Comprehensive Plan.

The board ultimately issued a written decision denying plaintiff's application. Plaintiff appealed the board's denial to the city council. The city council issued a written decision, adopting in part the board's written decision and affirming the board's denial. The council found granting the application would meet a public need or convenience, because the tower would improve indoor

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cellular telephone coverage (although the council found the plaintiff did not prove its assertion the tower would improve communications for public-safety personnel). The council further found the property was suited for the proposed use, since the church's lot is large enough to accommodate the tower and no other infrastructure would be necessary to service the site. As for requirement (c) the council found this was met.

The council denied the permit because it determined the proposal would not be in the public interest and would have a substantial adverse effect on surrounding property owners' rights. Both of these findings were based on generally the same evidence: There was no showing denying the application would harm the public interest since the tower would only improve what plaintiff calls "urban" coverage, meaning coverage indoors. In addition, both plaintiff and opponents testified plaintiff alternatively could have erected two towers at other sites, although plaintiff suggested this alternative would not have served its needs. The council further found the proposed tower would negatively affect the aesthetic character of the neighborhood, relying primarily on residents' concerns about the tower's effect on the neighborhood's natural surroundings, which include an undeveloped greenway. The council further relied on simulated pictures showing what the tower would look like. In addition, the council adopted the board's findings distinguishing two prior permits that had been granted to wireless providers for residential-area facilities: One of the facilities, the board found, was placed on an existing light pole at an athletic field. The board also observed that the other facility is located near a busy street and across from a commercial district.

While the council found there would be a negative aesthetic impact, it found the evidence inconclusive as to whether the tower would cause property values to decline. Plaintiff had submitted an expert report which studied the effects of towers in other neighborhoods and which concluded there would be no adverse effect. In response, residents submitted three letters from local realtors who concluded the tower would negatively affect property values. Based on this conflicting evidence, the council did not base its decision on property devaluation and determined property devaluation was not necessary for it to deny the application.

II. Discussion

The TCA permits parties to bring cases like this in federal court:

Any person adversely affected by any final action or failure to act [regarding siting a cell-phone tower] by a State or *1255 local government or any instrumentality thereof ... may, within 30 days after such action or failure to act, commence an action in any court of competent jurisdiction.

47 U.S.C. § 332(c) (7) (B) (v). Congress therefore expressly intended for local zoning decisions which affect cell-phone towers to be reviewed by federal courts. A driving force behind this decision was Congress's conclusion that "siting and zoning decisions by non-federal units of government[] have created an inconsistent and, at times, conflicting patchwork of requirements

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which will inhibit" the development and growth of wireless services. *Omnipoint Corp. v. Zoning Hearing Bd. of Pine Grove Township*, 181 F.3d 403, 407 (3d Cir.1999) (quoting H.R. Rep. 104-204, at 94 (1995), *reprinted in* 1996 U.S.C.C.A.N. 10, 61). Thus, generally speaking, the TCA reflects Congress's intent to expand wireless services and increase competition among providers. *Todd*, 244 F.3d at 57; see also H.R.Rep. No. 104-458, at 113 (1996), *reprinted in* 1996 U.S.C.C.A.N. 124, 124 (stating TCA intended "to provide for a pro-competitive, deregulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications ... and services to all Americans by opening all telecommunications markets to competition").

But despite Congress's intention to advance competition among wireless providers, Congress also acknowledged "there are legitimate state and local concerns involved in regulating the siting of such facilities ... such as aesthetic values and the costs associated with the use and maintenance of public rights-of-way." H.R. Rep. 104-204, at 94-95 (1995), *reprinted in* 1996 U.S.C.C.A.N. 10, 61. Consequently, the TCA expressly preserves local zoning authority regarding the placement of equipment such as cell-phone towers:

Except as provided in this paragraph, nothing in this chapter shall limit or affect the authority of a State or local government or instrumentality thereof over decisions regarding the placement, construction, and modification of personal wireless service facilities.

47 U.S.C. § 332(c) (7) (A).^[1] However, the TCA restricts zoning boards' authority to base their denials on perceived adverse environmental effects, since that issue is heavily regulated by the federal government. *Id.* § 332(c) (7) (B) (iv). Congress also delineated three situations at issue in this case in which federal courts can reverse a local zoning board's denial of a permit for a cell-phone tower: (1) when the board's denial is not "supported by substantial evidence contained in a written record," (2) when the board's decision "prohibit[s] or ha[s] the effect of prohibiting the provision of personal wireless services," and (3) when the board's decision "unreasonably discriminate[s] among providers of functionally equivalent services." *Id.* § 332(c) (7) (B). Plaintiff contends that the city's denial violates each of these three provisions.^[2]

A. Substantial Evidence

Plaintiff argues that the city's denial of plaintiff's conditional-use application was not supported by "substantial evidence." *1256 Plaintiff essentially argues that the city's decision was improperly based on nothing more than general, speculative aesthetics concerns.

While the Ninth Circuit has not yet decided a case under the TCA provisions at issue in this case, other federal courts agree "substantial evidence," as used in the TCA, was meant generally to track the standard of the same name set forth in the Administrative Procedures Act. See, e.g., *Preferred Sites, LLC v. Troup County*, 296 F.3d 1210, 1218 (11th Cir.2002); *Todd*, 244 F.3d at 58; *Omnipoint Corp.*, 181 F.3d at 407-08; *Cellular Tel. Co. v. Town of Oyster Bay*, 166 F.3d 490, 494 (2d Cir.1999); *MetroPCS, Inc. v. City & County of San Francisco*, 259 F. Supp. 2d

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1004, 1009 (N.D.Cal.2003). Although the TCA does not itself define "substantial evidence," legislative history supports the decision to follow the Administrative Procedures Act standard. See H.R. Conf. Rep. 104-458, at 208, *reprinted in* 1996 U.S.C.C.A.N. 124, at 223 (stating TCA standard is intended as "the traditional standard used for judicial review of agency actions"). Substantial evidence, therefore, means "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." *Pierce v. Underwood*, 487 U.S. 552, 565, 108 S. Ct. 2541, 101 L. Ed. 2d 490 (1988) (quoting *Consolidated Edison Co. v. NLRB*, 305 U.S. 197, 229, 59 S. Ct. 206, 83 L. Ed. 126 (1938)). Substantial evidence is not "a large or considerable amount of evidence," and the fact two different conclusions could have been reached does not mean there is not substantial evidence. *Id.*; see also *Todd*, 244 F.3d at 58-59. As measured by degree, substantial evidence is usually considered to be "more than a mere scintilla" and less than a preponderance. *Universal Camera Corp. v. NLRB*, 340 U.S. 474, 477, 71 S. Ct. 456, 95 L. Ed. 456 (1951). In short, the governing standard is "highly deferential" to the local government's decision but does not amount to a mere rubber stamp. *Second Generation Props., L.P. v. Town of Pelham*, 313 F.3d 620, 627 (1st Cir.2002). The court must examine the entire record, including evidence contradictory to the local government's decision, in determining whether substantial evidence supports the decision. See *Todd*, 244 F.3d at 58; *MetroPCS*, 259 F. Supp. 2d at 1010.

In searching for substantial evidence, the government's decision is analyzed under the applicable zoning ordinance; "[t]he TCA's substantial evidence test is a procedural safeguard which is centrally directed at whether the local zoning authority's decision is consistent with the applicable zoning requirements." *VoiceStream Minneapolis, Inc. v. St. Croix County*, 342 F.3d 818, 830 (7th Cir.2003) (quoting *ATC Realty, LLC v. Town of Kingston*, 303 F.3d 91, 94 (1st Cir.2002)). The party seeking to overturn the local government's decision carries the burden of showing the decision was not supported by substantial evidence. See *id.* at 830.

At the outset, the terms of the applicable zoning ordinance must be evaluated. The ordinance at issue here directs the city to reject a proposed conditional use when it concludes permitting the use would not be in the "public interest" or would have "a substantial adverse effect on the rights of the owners of surrounding properties." HZO § 83(9). In this case, the city made both of these findings, which plaintiff challenges.

The city council interpreted "public interest," as used in the ordinance, to contemplate a consideration of the public health, safety, and welfare of the community. R.38. The council further concluded the ordinance's "substantial adverse effect" language does not require any property-value devaluation but instead contemplates a consideration of whether an *1257 owner's property use and enjoyment will be affected by the proposed use. R.40.

As with most such zoning ordinances, the open-ended nature of the ordinance's conditional-use criteria evinces an intent to grant wide discretion to the zoning board when making conditional-use decisions. Cf. *Schad v. Borough of Mt. Ephraim*, 452 U.S. 61, 68, 101 S. Ct. 2176, 68 L. Ed. 2d 671 (1981) ("The power of local governments to zone and control land use is undoubtedly broad and its proper exercise is an essential aspect of achieving a satisfactory quality of life..."); *Berman v. Parker*, 348 U.S. 26, 33, 75 S. Ct. 98, 99 L. Ed. 27 (1954) ("The concept of the public welfare is broad and inclusive. The values it represents are spiritual as well as physical, aesthetic as well as monetary. It is within the power of the legislature to determine that the community

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should be beautiful as well as healthy" (citation omitted)). And under well-established Oregon law, a city can prohibit a proposed use of property "on the sole ground that the use is offensive to aesthetic sensibilities." *Oregon City v. Hartke*, 240 Or. 35, 46, 49, 400 P.2d 255 (1965). Accordingly, in light of the applicable ordinance's broad language, the city had the power to deny plaintiff's permit on grounds of "aesthetic considerations." *Oregon City*, 240 Or. at 49, 400 P.2d 255. The TCA, however, requires this court to evaluate the evidence to ensure the city's decision was not "irrational or substanceless." See *Todd*, 244 F.3d at 57.

As plaintiff recognizes, even under a substantial evidence review, zoning decisions based on aesthetic concerns can be valid. See *St. Croix County*, 342 F.3d at 831; *Troup County*, 296 F.3d at 1219; *Todd*, 244 F.3d at 61; *Pine Grove Township*, 181 F.3d at 408; *AT & T Wireless PCS, Inc. v. City Council of the City of Virginia Beach*, 155 F.3d 423, 430-31 & n. 6 (4th Cir.1998); see also H.R. Conf. Rep. 104-458, at 208, reprinted in 1996 U.S.C.A.N. 124, at 222 (contemplating that localities properly can base decision on aesthetic impact). Plaintiff does not cite, and the court could not find, any authority holding that the TCA renders aesthetic concerns an invalid basis upon which to base a permit denial. As summarized by the Seventh Circuit, "[n]othing in the Telecommunications Act forbids local authorities from applying general and nondiscriminatory standards derived from their zoning codes, and ... aesthetic harmony is a prominent goal underlying almost every such code." *Aegerter v. City of Delafield*, 174 F.3d 886, 891 (7th Cir.1999). Moreover, consistent with traditional zoning standards, local government is "entitled to make an aesthetic judgment" about the proposal "without justifying that judgment by reference to an economic or other quantifiable impact" such as property value. *Todd*, 244 F.3d at 61.

Plaintiff, however, correctly observes that cases have found general, unsubstantiated aesthetics concerns to have marginal evidentiary value. See, e.g., *PrimeCo Personal Communications, LP v. City of Mequon*, 352 F.3d 1147, 1150-51 (7th Cir.2003) ("The only 'evidence' bearing on aesthetic considerations was the testimony of three or four residents that they don't like poles in general; they didn't say they would object to a flagpole in the church's [the proposed site's] backyard.... [T]here is no evidence that Verizon's proposed flagpole would if erected in the churchyard be considered unsightly by the neighbors...."); *Troup County*, 296 F.3d at 1219 (finding insufficient petitions which gave "no articulated reasons for the opposition" and a single affidavit reciting "generalized concerns" about the tower's negative aesthetic impact when there was no other evidence in the record); *Oyster Bay*, 166 F.3d at 492, 495-96 (finding insufficient evidence of visual blight because *1258 "[v]ery few residents expressed aesthetic concerns at the hearings," comments suggested that the "residents who expressed aesthetic concerns did not understand what the proposed cell sites would actually look like," and health concerns, a basis generally improper under the TCA, "dominated the speakers' statements").

But even under the TCA, the board is entitled to make an aesthetic judgment as long as the judgment is "grounded in the specifics of the case," and does not evince merely an aesthetic opposition to cell-phone towers in general. *Todd*, 244 F.3d at 61; see also *Petersburg Cellular P'ship v. Bd. of Supervisors of Nottoway County*, 205 F.3d 688, 695 (4th Cir.2000) ("[If a zoning board] denies a permit based on the reasonably-founded concerns of the community then undoubtedly there is 'substantial evidence'" (emphasis in original)). Accordingly, when the

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evidence specifically focuses on the adverse visual impact of the tower at the *particular location at issue* more than a mere scintilla of evidence generally will exist.

Plaintiff nevertheless insists the evidence before the city in this case amounted to no more than unsupported and vague objections. See Plaintiff's Pre-Hearing Memorandum at 9. But a proper review of the record shows there was more than a scintilla of evidence "grounded in the specifics of the case." *Todd*, 244 F.3d at 61.

For example, neighboring residents submitted letters objecting to the tower's proposed location because the tower would infringe upon the neighborhood's prized natural setting, comprised of fir and evergreen trees as well as a greenway. See, e.g., R. 191, R.195, R.197, R.205, R.207, R.220, R.222, R.407, R.420. At the site, there is no significant commercial development; nor are there existing commercial towers or above-ground power lines. R.26, R.205, R.407, R.420. In addition, on each side of the tower is a single-family residential zone; the record shows the tower would be surrounded by existing residences. See, e.g., R.247-58, R.769, R.816. Residents stated they relied on the natural, residential character of the neighborhood in purchasing their homes, which they would not have purchased had plaintiff's proposed tower been standing. R.191, R.199, R.205. The city properly relied on the evidence showing the tower would be incompatible with the character of this particular neighborhood. See, e.g., *Todd*, 244 F.3d at 61 ("The five limitations upon local authority in the TCA do not state or imply that the TCA prevents municipalities from exercising their traditional prerogatives to restrict and control development based upon aesthetic considerations...."); *Aegerter*, 174 F.3d at 890-91 (upholding zoning board's denial of cell-phone tower because the tower would be "unsightly" and "inconsistent" with the neighborhood, in which residents bought their homes in reliance on the neighborhood's existing residential character). In sum, although opponents made general assertions about the nature of cell-phone towers, they also considered the specific scene in which the proposed tower would appear.

Moreover, the city also gave consideration to the proposed tower's distance from surrounding homes. The city council cited an appraiser's testimony that no other cell-phone facility in the city sits as close to residences as would plaintiff's proposed tower. R.39. In the board's words, "the cell tower in this case would be in the heart of an R-7 single family residential neighborhood and would be the functional equivalent of placing a cell tower in the center of a subdivision." R.27. In addition, the board specifically distinguished the two other previously approved cell-phone facilities which sit in single-family residential zones. R.27. The board observed that one of the existing facilities was placed on an existing light pole at an athletic field and *1259 that the other sits in a busy section of the city across from a commercial district. R.27. At the proposed site, the record indicates that many of the neighboring houses are between 100 and 200 feet from the proposed tower. As one witness observed, "[t]he proposed cell tower site regardless of where placed on the property would be within 100 feet of a single-family site." R.769.

In fact, in an attempt to compare the proposed site to other sites where homes are near cell-phone facilities, plaintiff's own expert witness picked four "subject" homes which are no less than 350 feet from the nearest cell-phone facility. R.265, R.269-70, R.279, R.289. Each of the expert's four subject homes is in Washington County (which includes the City of Hillsboro) and one of the homes is in the city. Notably, Washington County records indicate three of the expert's

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chosen homes actually are over 450 feet from the nearest cell-phone facility, with one of these three homes being 900 feet away. R.138-39. Thus the city had before it plaintiff's own evidence indicating the proposed site is significantly different from the area's most comparable sites.^[3]

Coupled with the city's aesthetic judgment is the fact the proposed tower would not fill a complete void in coverage but instead would only improve indoor or, in plaintiff's term, "urban" coverage. R.16; see Plaintiff's Reply Memorandum at 3. In determining whether the tower would be in the "public interest," the city was within its authority to weigh the benefit of merely improving the existing coverage against the negative aesthetic impact the tower would cause. See, e.g., *City of Mequon*, 352 F.3d at 1149 ("A reasonable decision whether to approve the construction of an antenna for cellphone communications requires balancing two considerations. The first is the contribution that the antenna will make to the availability of cellphone services. The second is the aesthetic or other harm that the antenna will cause."). Such a policy-based decision is precisely the type of decision Congress left to local zoning boards.

Keeping in mind the standard is merely "more than a scintilla," and less than a preponderance, the city based its denial on sufficient evidence. Certainly, as plaintiff contends, it is possible to conclude the proposed tower would not be a visual blight, judging by the simulated photographs in the record. This court's role, however, is not to interject its own judgment, but rather to apply the deferential standard of substantial evidence to the city's judgment. See *Todd*, 244 F.3d at 58 ("the possibility of drawing two inconsistent conclusions from the evidence does not prevent an administrative agency's finding from being supported by substantial evidence."); *Aegerter*, 174 F.3d at 888 ("While the conclusions the City reached may not be the only possible ones, they find support in the written record and therefore must be respected."). While the court is obligated to review the evidence, given the TCA's express reservation of local control, the court also must be sensitive to the difficulties involved in applying inherently policy-based standards such as "in the public interest" to tower-siting decisions. See, e.g., *Sprint Spectrum, L.P. v. Parish of Plaquemines*, No. 01-0520, 2003 WL 193456, at *19-20 (E.D.La. Jan. *1260 28, 2003) (finding substantial evidence to satisfy the ordinance's "public interest" standard where many residents expressed aesthetic concerns, keeping in mind that even under the TCA "[l]and use decisions are basically the business of state and local governments") (quoting *Am. Tower, L.P. v. City of Huntsville*, 295 F.3d 1203, 1206 (11th Cir.2002)).

In sum, plaintiff does not carry its burden to show the City of Hillsboro's decision was not supported by substantial evidence. The city grounded its decision to deny plaintiff's application in "the specifics of the case," *Todd*, 244 F.3d at 61, not on merely unsupported and vague objections about cell-phone towers in general, as plaintiff contends.^[4]

B. Effective Prohibition

Plaintiff further argues the city's denial effectively prohibits wireless services. Plaintiff specifically argues that because the city's denial was based on general aesthetic concerns, no tower could pass the city's review, since no one would praise the aesthetic virtue of a cell-phone tower. See Plaintiff's Pre-Hearing Memorandum at 17.

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The TCA permits a federal court to overturn a local government's zoning decision when the decision has the "effect of prohibiting the provision of personal wireless services." 47 U.S.C. § 332(c) (7) (B) (i). Unlike the substantial evidence inquiry, a district court reviews the record *de novo* to determine whether it supports an effective prohibition claim. *St. Croix*, 342 F.3d at 833; *Nat'l Tower, LLC v. Plainville Zoning Bd. of Appeals*, 297 F.3d 14, 22 (1st Cir.2002).

Most cases have held that a single zoning decision can give rise to an effective prohibition of wireless services. See, e.g., *Second Generation Props., LP v. Town of Pelham*, 313 F.3d 620, 629 (1st Cir.2002) (citing *Town of Amherst v. Omnipoint Communications Enters., Inc.*, 173 F.3d 9, 14 (1st Cir.1999)); *APT Pittsburgh LP v. Penn Township Butler County of Pa.*, 196 F.3d 469, 479-80 (3d Cir.1999); *MetroPCS, Inc.*, 259 F. Supp. 2d at 1013; *Airtouch Cellular v. City of El Cajon*, 83 F. Supp. 2d 1158, 1167 (S.D.Cal.2000). The Fourth Circuit, however, has held that only blanket bans of wireless services implicate the TCA's effective prohibition provision. See *City Council of Va. Beach*, 155 F.3d at 428. The weight of authority, and the more persuasive reasoning, concludes that an effective prohibition can be shown either with a blanket ban or a single decision. As courts have recognized, construing the effective prohibition clause "to apply only *1261 to general bans would lead to the conclusion that, in the absence of an explicit anti-tower policy, a court would have to wait for a series of denied applications before it could step in and force a local government to end its illegal boycott of personal wireless services." *St. Croix*, 342 F.3d at 833 (quoting *Sprint Spectrum, LP v. Willoth*, 176 F.3d 630, 640-41 (2d Cir.1999)). Thus the court should consider whether, as plaintiff contends, the city's denial in this case amounts to an effective prohibition.

In invoking the effective prohibition clause, "the burden for the carrier ... is a heavy one." *Second Generation*, 313 F.3d at 629 (quoting *Town of Amherst*, 173 F.3d at 14); see also *MetroPCS*, 259 F. Supp. 2d at 1013 (stating a provider challenging a permit denial on effective prohibition grounds "bears a 'heavy' burden of proof").

As an initial matter, in determining whether a denial is an effective prohibition, courts have looked to whether the proposed tower would close a "significant gap" in coverage. *St. Croix*, 342 F.3d at 835 n. 7; *Omnipoint Communications Enters., L.P. v. Zoning Hearing Bd. of Easttown Township*, 331 F.3d 386, 397-98 (3d Cir.2003); *Second Generation*, 313 F.3d at 631. In addition, the provider must show, not just that this permit application was denied, but that further "reasonable efforts are so likely to be fruitless that it is a waste of time even to try." *Second Generation*, 313 F.3d at 629 (quoting *Town of Amherst*, 173 F.3d at 14); accord *St. Croix*, 342 F.3d at 834. Under this standard, the provider must show its "existing application is the only feasible plan" and ... "there are no other potential solutions to the purported problem." *St. Croix*, 342 F.3d at 834 (quoting *Town of Pelham*, 313 F.3d at 630, 635). Plaintiff cannot meet the applicable standard.

First, plaintiff does not establish its proposed tower would close a "significant gap" in coverage. A significant gap does not exist simply because an area with coverage also has "dead spots" (i.e., "[s]mall areas within a service area where the field strength is lower than the minimum level for reliable service"). *Second Generation*, 313 F.3d at 631 (quoting 47 C.F.R. § 22.99). It is undisputed plaintiff's tower would simply improve existing indoor coverage, not fill a complete void in coverage. See, e.g., Plaintiff's Reply Memorandum at 3. This at most appears to be a dead

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spot. More important, plaintiff does not show "further reasonable efforts are so likely to be fruitless that it is a waste of time even to try." *Second Generation*, 313 F.3d at 629. For instance, the record indicates plaintiff could have achieved its objectives by installing two towers at other locations. R.117, R.513-15. Although the record suggests one of the two alternative towers would be three feet above FAA regulatory limits, R.425, R.517-19, plaintiff does not point to any evidence showing the effect reducing the one tower by three feet would have on service provided by the two-tower alternative. Instead, in response to the FAA regulatory limits, it appears plaintiff submitted a proposal taking into account only *one* proposed tower. R.425, R.575. Such an attempt does not suffice to carry plaintiff's burden to show any further reasonable efforts would be fruitless. Similarly plaintiff does not attempt to show that the proposed tower was the "only feasible plan" or that "there are no other potential solutions to the purported problem." *St. Croix*, 342 F.3d at 834.^[5]

*1262 And contrary to plaintiff's contention that the city rejected the tower simply because the tower would have been visible to the neighbors, the city based its decision on the specific circumstances presented in the case, not on unsubstantiated general observations equally applicable to any cell-phone tower. In short, plaintiff does not carry its burden to show the city's denial has the effect of prohibiting wireless services.

C. Discrimination

Plaintiff generally contends the city's denial results in unlawful discrimination, because the city previously has granted conditional-use permits for two other wireless-communication facilities in residential areas. Plaintiff speculates that the city denied the Golden Road permit simply because the neighborhood at issue is affluent. Plaintiff contends a municipality should not be permitted to deny a conditional-use application on the sole ground the proposed location is in a neighborhood more affluent than others. While plaintiff's position may be laudable, it points to no evidence showing the city based its decision on the alleged wealth of the residents. As discussed below, plaintiff does not otherwise offer sufficient evidence supporting its argument the city engaged in unreasonable discrimination.^[6]

The TCA prohibits zoning boards from unreasonably discriminating "among providers of functionally equivalent services." 47 U.S.C. § 332(c) (7) (B) (i) (I). As with claims under the effective prohibition clause, there is no deference to the local government's findings. *Airtouch*, 83 F. Supp. 2d at 1164 (citing *Cellular Tel. Co. v. Zoning Bd. of Adjustment of Ho-Ho-Kus*, 197 F.3d 64, 71 (3d Cir.1999)).

The TCA allows discrimination among providers as long as the discrimination is reasonable. See *Willoth*, 176 F.3d at 638. Plaintiff bears the burden of establishing the city engaged in unreasonable discrimination. See *MetroPCS*, 259 F. Supp. 2d at 1011-12. Plaintiff must show "other providers have been permitted to build similar structures on similar sites while it has been denied." *Id.* at 1012 (citing cases). That is, plaintiff must show the city treated a competitor more favorably "for a functionally identical request." *Id.* In determining whether unlawful discrimination occurred, a court must remain mindful that cities retain "flexibility to treat

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facilities that create different visual, aesthetic, or safety concerns differently to the extent permitted under generally applicable zoning requirements, even if those facilities provide functionally equivalent services." *Id.* at 1011 (quoting H.R. Conf. Rep. No. 104-458, at 208, reprinted in 1996 U.S.C.A.A.N. at 222). Thus a zoning board can treat one provider's application differently from another provider's application based on "traditional bases of zoning regulation." *City of Va. Beach*, 155 F.3d at 427.

Plaintiff does not carry its burden to establish unreasonable discrimination. Plaintiff cites a map showing the city has *1263 approved two other permits for wireless facilities in residential zones. R. 779-81. However, neither this map nor plaintiff establishes any relevant similarity (other than the common zoning designation) between those other two locations and the Golden Road location at issue here. The record shows the other facilities are "at different locations within the [city]." *MetroPCS*, 259 F. Supp. 2d at 1012 (holding that a mere showing facilities were permitted in different locations within a district was not "unreasonable discrimination under the Telecommunications Act, as a matter of law"). In fact, the board specifically distinguished the other two sites. See *infra* at 1259-60. Nor does plaintiff show that the two other residential area permits were approved, as in this case, to improve indoor coverage rather than to fill a complete void in coverage. In sum,

There is no evidence that the City Council had any intent to favor one company or form of service over another. [Instead] the evidence shows that opposition to the application rested on traditional bases of zoning regulation: preserving the character of the neighborhood and avoiding aesthetic blight. If such behavior is unreasonable then nearly every denial of an application such as this will violate the Act, an obviously absurd result.

City of Va. Beach, 155 F.3d at 427.

III. Conclusion

For the reasons discussed above the court affirms the city's denial of plaintiff's application for a conditional use. The city's decision was based on more than a scintilla of evidence, does not effectively prohibit wireless services, and does not discriminate among providers.

IT IS SO ORDERED.

NOTES

[1] Notably, the House version of the bill would have given the FCC (rather than local zoning entities) authority to regulate tower siting. See generally *Sprint Spectrum L.P. v. Parish of Plaquemines*, No. 01-0520, 2003 WL 193456, at *5 (E.D.La. Jan. 28, 2003) (discussing TCA's legislative history). But, as Section 332(c) (7) (A) shows, Congress made a conscious decision to reject any scheme revoking local control over zoning decisions, even at the cost of inhibiting the growth of wireless services.

[2] Although no formal motions have been filed with the court, the parties agreed at oral argument the case is ready to be decided.

[3] The court recognizes another appraiser mentioned three other homes which are within 100 feet of a cell-phone tower. R.137. However, these sites are not in Washington County. Moreover, as indicated above, the court finds it significant that plaintiff's own expert "[a]fter filtering the number of sites for research," R.269 chose four homes which are at least 350 feet from cell-phone towers as the sites most appropriate for purposes of drawing a comparison to plaintiff's proposed site.

[4] Plaintiff argues "[i]f the City had concerns other than aesthetics, those concerns could have been addressed by a conditional approval." See Plaintiff's Pre-Hearing Memorandum at 14-15. Specifically, plaintiff argues, "had the City had lingering concerns over either the lighting requirements or maintaining the large trees bordering the Golden Road location" the city should have conditioned approval on plaintiff's taking measures to alleviate those concerns. *Id.* But because the city's decision was not based on the issue of lighting or trees, the court need not consider this issue. Moreover, plaintiff does not point to evidence in the record showing what, if any, "reasonable conditions" were feasible and that would have effectively alleviated the city's concerns. See ORS § 197.522 (providing that local government can deny a permit application when it "cannot be made consistent through the imposition of reasonable conditions of approval"). In seeking to overturn the city's decision, the burden is on plaintiff. See *St. Croix*, 342 F.3d at 830; cf. *United States Cellular Tel. of Greater Tulsa, LLC v. City of Broken Arrow*, 340 F.3d 1122, 1137-38 (10th Cir.2003) ("We doubt that Congress intended local zoning boards to pay for experts to prove that there are alternative sites for a proposed tower.") (quoting *Petersburg Cellular P'ship*, 205 F.3d at 695). In any event, as discussed above, the city's decision is supported by sufficient evidence.

[5] That the possible alternative would have required two towers does not make the Golden Road proposal the only feasible option. Although plaintiff might believe its one-tower alternative is the more attractive option, the city could have reasonably believed two towers in other locations is better than one tower in the proposed location. See, e.g., *Parish of Plaquemines*, 2003 WL 193456 at *19-20 (noting, even though the alternative site would require "two towers at other locations," the city could reasonably prefer "two or more towers" at other locations instead of one tower at the location Sprint chose); see also *Town of Amherst*, 173 F.3d at 15 ("Ultimately, we are in the realm of trade-offs: on one side [is] the opportunity for the carrier to save costs, pay more to the town, and reduce the number of towers; on the other are more costs, more towers, but possible less offensive sites and somewhat shorter towers.").

[6] It is worth noting that plaintiff's argument regarding discrimination, i.e., that other, similar permits have been granted, is at least partially inconsistent with its argument regarding effective prohibition, i.e., that the city is effectively prohibiting wireless services.

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COUNTY OF SANTA CRUZ NOTICE OF PROPOSED DEVELOPMENT SIGN INSTALLATION CERTIFICATE

Application Number: 141196

Date of Sign Installation: 08/12/2015

Assessor's Parcel Number (APN): 046-021-05

Site Address: 105 Alta Drive, Watsonville, CA 95076

NOTICE OF PROPOSED DEVELOPMENT

Application number 141196

Proposal to construct a 55-ft. tall Verizon WCF, camouflaged as an agricultural water tank tower, including 9 panel antennas located within the "tank" and an equipment shelter. Requires a Commercial Development Permit and a Coastal Development Permit. Requires a Level 5 Commercial Development Permit.

Location: Project is proposed to be located on a 157 acre Agricultural Preserve (A-P) zoned parcel off San Andreas Rd. in La Selva Beach

APN: 046-021-05

Applicant:
Michelle Ellis
Complete Wireless Consulting, Inc.
2009 V Street
Sacramento, CA 95818
MEllis@completewireless.net
(916) 313-3730

Project Planner:
Frank Barron
Planning Department
701 Ocean Street, 4th Floor
Santa Cruz, CA 95060
frank.barron@co.santa-cruz.ca.us
(831) 454-2530



I hereby testify that the sign installed fully complies with the specifications and standards of County Code Section 18.10.224, that the sign will be maintained for the required time, and that it will be removed when required by Section 18.10.224.

Applicant's Name (please print): Michelle Ellis

Applicant's Signature: Michelle Ellis

Date: 8/13/15

When the sign has been placed, complete this certificate and mail to your project planner, Frank Barron, at County of Santa Cruz, Planning Department, 701 Ocean Street, 4th Floor, Santa Cruz CA 95060. **Failure to post the site as required is grounds for denial of your application.**

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January 4, 2016

HAND DELIVERED

Planning Commission
 County of Santa Cruz
 701 Ocean Street, 4th Floor
 Santa Cruz, CA 95060

**Re: Appeal of Zoning Administrator Decision on December 18, 2015
 Development Permit and Coastal Development Permit
 Application Number 141196
 APN 046-021-05
 Owner: Michelle Ellis, Complete Wireless Consulting, Inc. (for Verizon)**

Dear Members of the Planning Commission:

This letter is a formal appeal, by Coalition to Preserve Scenic La Selva ("Coalition"), to the Planning Commission regarding the above-referenced decision of the Zoning Administrator. The Coalition's interest in this matter is that it is committed to preserving the neighborhood character, visual resources, and special scenic qualities of this unique community. The Coalition and its members have grave concerns because this approved proposal to construct a new 48-ft. tall Verizon wireless communication facility ("Project") violates the Santa Cruz County General Plan and Local Coastal Program Land Use Plan (General Plan/LUP), the Santa Cruz County Code, and CEQA. Most importantly, the Project, if approved, will establish a trend that will forever change the visual character of the community to the detriment of the community and the general public. We have provided a check in the amount of \$1,800 to cover the appeal fee.

In accordance with Santa Cruz County Code section 13.10.310(C), the Coalition alleges that approval is unjustified or inappropriate and such that there should be an additional hearing on the application, there was error or abuse of discretion on the part of the Zoning Administrator, there was a lack of a fair and impartial hearing, and that the decision is not supported by the facts presented for consideration leading to the approval. The specific arguments for the appeal include, but are not limited to, the issues listed below, and this letter of appeal incorporates by reference in this appeal all comments made by the Coalition and all evidence submitted to the Zoning Administrator before and at the hearing on the application at issue. Thus, the

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Planning Commission
 Re: Appeal of Application 141196
 January 4, 2016
 Page 2

Commission should consider the previous arguments and evidence submitted by the Coalition as part of its processing of this appeal. Furthermore, the Coalition reserves the right to submit additional argument, authorities and evidence prior to and at the Planning Commission's hearing on the appeal.

SPECIFIC GROUNDS FOR THE APPEAL

A. The Project Is Located In a Sensitive Site Subject To Special Protections Under County Land Use Regulations, and the Project Violates Community and Neighborhood Character Standards.

The Project would be inconsistent with provisions of the General Plan, the County Code and the Local Coastal Program that protect scenic views. The project is located within a specially-mapped and designated scenic area under the General Plan/LUP. This scenic mapping designation is based on the Project Site's proximity to, and potential to adversely affect views from scenic roads, and other public areas. In light of this special mapping, the Project Site is subject to and inconsistent with the various provisions of the General Plan/LUP related to protection of visual resources, *including but not limited to, the following:*

1. **Objective 5.10(a), Protection of Visual Resources.** To identify, protect, and restore the aesthetic values of visual resources.
2. **Objective 5.10(B), New Development in Visual Resource Areas.** To ensure that new development is appropriately designed and constructed to have minimal to no adverse impact on identified visual resources.
3. **Policy 5.10.1, Designation of Visual Resources.** Designate on the General Plan and LCP Resources Maps and define visual resources as areas having regional public importance for their natural beauty.
4. **Policy 5.10.2, Development Within Visual Resource Areas.** Recognize that visual resources of Santa Cruz County possess diverse characteristics and that resources worthy of protection may include . . . agricultural fields, wooded forests, open meadows Require projects to be evaluated against the context of their unique environment and regulate structure height, setbacks and design to protect these resources consistent with the objectives and policies of this section .

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5. **Policy 5.10.3, Protection of Public Vistas.** Protect significant public vistas, as described in Policy 5.10.2, from all publicly used roads and vista points by minimizing disruption of landform and aesthetic character caused by grading operations, timber harvests, utility wires and poles, signs, inappropriate landscaping, and structure design. Provide necessary landscaping to screen development that is unavoidably sited within these vistas.
6. **Objective 8.1, Quality Design.** To achieve functional high quality development through design review policies which recognize the diverse characteristics of the area, maintains design creativity, and preserves and enhances the visual fabric of the community.
7. **Objective 8.2, Site and Circulation Design.** To enhance and preserve the integrity of existing land use patterns and to complement the scale and character of neighboring development by assuring that new development is sited, designed and landscaped to be functional and visually compatible and integrated with surrounding development, and to preserve and enhance the natural amenities and features unique to individual building sites, and to incorporate them into the site design.
8. **Objective 8.4, Residential Neighborhoods.** To preserve the residential use and character of existing urban neighborhoods
9. **Policy 8.4.1, Neighborhood Character.** Based on the Zoning ordinance, require new infill development on vacant land within established residential neighborhoods to be consistent with the existing residential character of the neighborhood
10. **Policy 8.4.5, Neighborhood Character Inventories.** Require new discretionary project applications to include a neighborhood character visual inventory or equivalent information commensurate with the scope of the project. The purpose of the inventory is to serve as a basis from which to develop appropriate guidelines and conditions for adoption with the project. The inventory shall at a minimum encompass the parcels surrounding the site, consider architectural and landscape style, density, lot sizes and setbacks.

11. **Objective 8.6, Building Design.** To encourage building design that addresses the neighborhood and community context; utilizes scale appropriate to adjacent development; and incorporates design elements that are appropriate to surrounding uses and the type of land use planned for the area.
12. **Policy 8.6.5, Designing with the Environment.** Development shall maintain a complementary relationship with the natural environment and shall be low-profile and stepped-down on hillsides.

The Project also violates County Code provisions for the protection of scenic resources and neighborhood and community character. County Code section 13.20.130(A)(2) states that projects "located in scenic areas mapped on the LCP maps or as determined during project review" must meet "all applicable standards and conditions" of Chapter 13.11. County Code section 13.11.030 defines "sensitive site" as "any property located adjacent to a scenic road or within the viewshed of a scenic road as recognized in the General Plan. The Project Site is located in a specially mapped scenic area. Thus, the project violates several County Code provisions, *including but not limited to, the following:*

1. **13.20.130(B)(1), Visual Compatibility.** All development shall be sited, designed and landscaped to be visually compatible and integrated with the character of surrounding neighborhoods or areas. Structure design should emphasize a compatible community aesthetic as opposed to maximum-sized and bulkier/boxy designs. . . .
2. **13.20.130(B)(7).** Development shall be sited and designed so that it does not block or significantly adversely impact significant public views and scenic character, including by situating lots, access roads, driveways, buildings, and other development (including fences, walls, hedges and other landscaping) to avoid view degradation and to maximize the effectiveness of topography and landscaping as a means to eliminate, if possible, and/or soften, if not possible, public view impacts.
3. **13.20.130(C)(2), Site Planning.** Development shall be sited and designed to fit the physical setting carefully so that its presence is subordinate to the natural character of the site, including through appropriately maintaining natural features

(e.g., streams, riparian corridors, major drainages, mature trees, dominant vegetative communities, rock outcroppings, prominent natural landforms, tree groupings, etc.) and requiring appropriate setbacks therefrom. Screening and landscaping suitable to the site shall be used to soften the visual impact of development unavoidably sited in the public viewshed.

4. **13.11.072 Site Design.** Requires all new development to “enhance or preserve the integrity of existing land use patterns or character where those exist . . . and . . . complement the scale of neighboring development.” Section 13.11.072 also requires that new development be “sited, designed and landscaped so as to be visually compatible and integrated with the character of surrounding areas.” Section 13.11.072(A)(1) requires that the certain elements of the design of the Project “be balanced and evaluated in relation to the proposed project site and surrounding development in order to create compatible development.” These elements include building location, orientation, bulk, massing and scale, relationship to natural site features, and relationship to existing structures. Section 13.11.072(B)(2)(a) requires that the Project “protect the public viewshed, where possible” and section 13.11.072(B)(2)(b) requires that the Project “minimize the impact on private views from adjacent parcels, wherever practicable.”
5. **13.11.073 regarding Building Design.** Section 13.11.073(B)(1)(b) requires the design elements of the Project be “reviewed to achieve a level of neighborhood compatibility appropriate to the architectural style, character and identity of both the proposed new building and the neighborhood.” These elements include the massing of building form, building silhouette, and building scale. The design should also address the scale of the Project in relation to adjacent buildings.
6. **13.11.010 regarding Purpose.** Section 13.11.010(C) states that one of the purposes of Chapter 13.11 is to “preserve and enhance the beauty and environmental amenities of the County by . . . protecting and ensuring . . . private developments as they relate to each other and the surrounding neighborhood”. Section 13.11.010(D) provides an additional purpose as “preserving and creating compatibility of land use and building design within neighborhoods” and “integrating the . . . appearance and locations of buildings and site improvements to best achieve a balance between private prerogatives and preferences and the public interest and welfare.”

B. The Project Does Not Conform with General Development and Performance Standards Required for Wireless Communication Facilities.

The County provides general development and performance standards for wireless communication facilities, such as the proposed Project. County Code sections 13.10.660 through 13.10.668 establish regulations, standards and circumstances for the siting, design, construction, and operation of wireless communication facilities. Section 13.10.660(A) specifically acknowledges: "It is also the purpose of SCCC 13.10.660 through 13.10.668, inclusive, to locate and design wireless communication towers/facilities so as to minimize negative impacts, such as, but not limited to, visual impacts, agricultural and open space land resource impacts, impacts to the community and aesthetic character of the built and natural environment, attractive nuisance, noise and falling object, and the general safety, welfare and quality of life of the community." Thus, the project violates several County Code provisions, *including but not limited to, the following:*

1. **13.10.663 regarding General development/performance standards for wireless communication facilities.** Section 13.10.663(A)(1) states that: "Site location and development of wireless communications facilities shall preserve the visual character, native vegetation and aesthetic values of the parcel on which such facilities are proposed, the surrounding parcels and road rights-of-way, and the surrounding land uses to the greatest extent that is technically feasible, and shall minimize visual impacts on surrounding land and land uses to the greatest extent feasible. Facilities shall be integrated to the maximum extent feasible to the existing characteristics of the site, and every effort shall be made to avoid, or minimize to the maximum extent feasible, visibility of a wireless communication facility within significant public viewsheds. Utilization of camouflaging and/or stealth techniques shall be encouraged where appropriate. Support facilities shall be integrated to the existing characteristics of the site, so as to minimize visual impact."
2. **13.10.663(A)(8) regarding Consistency with Other County Land Use Regulations.** Section 13.10.663(A)(8) states: "All proposed wireless communication facilities shall comply with the policies of the County General Plan/Local Coastal Plan and all applicable development standards for the zoning district in which the facility is to be located, particularly policies for protection of visual resources (i.e., General Plan/LCP Section 5.10). Public vistas from scenic

roads, as designated in General Plan Section 5.10.10, shall be afforded the highest level of protection.”

3. **13.10.663(B)(5) regarding Design Review Criteria for Visual Impact**

Mitigation. 13.10.663(B)(5) states: “Special design of wireless communication facilities may be required to mitigate potentially significant adverse visual impact, including appropriate camouflaging or utilization of stealth techniques. Use of less visually obtrusive design alternatives, such as “microcell” facility types that can be mounted upon existing utility poles, is encouraged Co-location of a new wireless communication facility onto an existing telecommunication tower shall generally be favored over construction of a new tower Public vistas from scenic roads, as designated in General plan/LCP Section 5.10.10, shall be afforded the highest level of protection.

These General Plan and Zoning Code provisions create a clear mandate that the County must consider and evaluate the Project in light of its impact on the context of the neighborhood as a whole, and must incorporate measures to ensure the protection of neighborhood character and context. The Project as designed is inconsistent with, and would in fact thwart, achievement of the foregoing goals, policies, objectives and purposes. Approval of the Project would create a trend toward allowing wireless communication facilities within designated scenic areas, impacting visual resources.

In promulgating local ordinance regarding the regulation of wireless communication facilities, the County made explicit findings acknowledging that: “The proliferation of antennas, towers, satellite dishes, and other wireless communication facility structures could create significant, adverse visual impacts. Therefore, there is a need to regulate the siting, design, and construction of wireless communication facilities to ensure that the appearance and integrity of the community is not marred by unsightly commercial facilities, particularly in residential, historically significant, scenic coastal areas, and other environmental sensitive areas.” County Code Section 13.10.660(B)(1). The Coalition is adamantly against this Project because it does not align with the County’s visual goals and objectives, and because it violates the County’s own rules. Approval of this Project would mar the scenic resources and neighborhood character of the Coalition’s community.

C. The Project is Not Exempt from the Requirements of CEQA.

The Staff Report asserts that the proposed Project is exempt from environmental review based on CEQA's Class 3 Categorical Exemption for small construction or development projects pursuant to CEQA Guidelines § 15303. However, several exceptions to this exemption apply:

- 1) CEQA Guidelines section 15300.2(a) where projects which "may impact on environmental resources of critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, and local agencies";
- 2) CEQA Guidelines section 15300.2(b) for projects where "the cumulative impact of successive projects of the same type in the same place, over time is significant"; and
- 3) CEQA Guidelines section 15300.2(c) for projects "where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances."

The Project site is within a highly sensitive scenic area as specifically mapped and adopted by the Coastal Commission and County of Santa Cruz. Given the County's disregard of the viewshed protection policies, the projects sets further precedent that will result in more wireless communications facilities being built with similar impacts within designated scenic areas, causing severe visual impacts. As such, a categorical exemption is inappropriate and an Initial Study and Mitigated Negative Declaration, or an Environmental Impact Report, are legally required under CEQA.

C. The Coalition Did Not Receive Adequate Notice or a Fair Hearing.

The Coalition did not receive adequate notice or a fair hearing because the planning staff did not abide by the procedural requirements necessary for a wireless communications facility public hearing. Section 13.10.661 states that all wireless communications facilities "are subject to Level V review." It specifically requires: "[D]ue to the potential adverse visual impacts of wireless communication facilities the neighboring parcel notification distance for wireless communication facility applications is increased from the normal 300 feet to 1,000 feet from the outer boundary of the subject parcel. To further increase public notification, on-site visual mock-ups as described in SCCC 13.10.662(D) are also required for all proposed wireless communication facilities." Section 13.10.661(H).

The original Zoning Administrator hearing was set for December 4, 2015. Many residents who lived within 1,000 feet of the subject parcel did not receive notification regarding the public hearing for the Project. Furthermore, the original notice erroneously stated that the Project was not appealable to the Coastal Commission. The Planning Department continued the

hearing to December 18, 2015, but again without proper notice. Neighboring parcel notification for the Project application was not mailed out to parcels within 1,000 feet of the Project. Instead, the Planning Department posted a small notice of the December 8, 2015 public hearing in the Sentinel on the same date of the original hearing, December 4, 2015. The County Code does not allow notification for wireless communication facilities in this manner. These procedural infirmities denied the Coalition a fair hearing regarding the Project.

D. Project Applicant Failed to Satisfy Application Requirements for Wireless Communication Facilities.

The Planning Department failed to conduct the required on-site visual mock-up of the Project pursuant to Sections 13.10.661(H) and 13.10.662(D). Visual mock-ups are explicitly required for proposed wireless communications facilities such as the proposed Project: "At minimum, the on-site demonstration structure shall be in place prior to the first public hearing to consider project approval, on at least two weekend days and two weekdays between the hours of 8:00 a.m. to 6:00 p.m., for a minimum of 10 hours each day. A project description, including photo simulations of the proposed facility, shall be posted at the proposed project site for the duration of the mock-up display." Section 13.10.662(D). The Planning Director may "release an applicant from the requirement to conduct on-site visual mock-ups upon a written finding that in the specific case involved said mock-ups are not necessary to process or make a decision on the application and would not serve as effective public notice of the proposed facility." *Id.*

Here, the Planning Director gave no written finding or express release for the visual mock-up requirement. As such, visual mock-ups were required pursuant to County Code. Several requirements were not met. First, the project description and photo simulations of the proposed facility was not posted at the proposed project-site. Further, visual mock-ups were not prepared according to the requirements and schedule set forth in County Code. Because the project applicant failed to abide by the visual mock-ups requirement necessary for wireless communication facilities, this denied the residents the ability to properly assess the visual impacts of the Project within the timeframe provided under County Code—this constitutes an abuse of discretion.

Section 13.10.662(C)(2) requires evaluating "the potential for co-location with existing wireless communication facilities" The report submitted by project applicant does not explain why existing towers are unsuitable for co-location, it simply supplies a map of the current existing towers in the area. The only explanation project applicant provides for why one of the possible co-location sites is infeasible is due to the fact that Soquel Water District is unwilling to host antennas outside their water tanks. However, County Code requires evaluation of *existing* wireless communication facilities. The conclusory statements presented by project

applicant with regard to existing wireless communication facilities does not actually amount to evaluating the co-location potential of these existing sites.

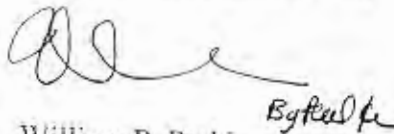
The project applicant identified two possible sites with regard to this current Project. The project applicant concluded that the alternative site, Morris APN 045-041-35-000 would have more significant visual impacts, and so the site was not selected. However, the project applicant did not "include photo-simulations of each of the alternatives (i.e., the proposed location/facility and each of the technically feasible location/design alternatives.)" Section 13.10.662(C)(4). Because photo-simulation of the Morris site is mandatory under County Code, the project applicant failed to abide by this requirement when it submitted its application. As such, approval of the project without satisfaction of this requirement is unjustified.

Finally, the engineering report submitted to analyze the Project's compliance with appropriate guidelines limiting human exposure to radio frequency ("RF") electromagnetic fields utilizes a discontinued model of antenna for their study. The Andrew Model SBNH-1D656B antenna, which is the subject antenna of the engineering study, was discontinued over a year ago. (See Exhibit "A"). At the very least, the study should base its evaluation on a *current* antenna model that may be used for the Project. Attaching a perfunctory analysis based on a discontinued antenna model fails to properly analyze the Project's possible significant impact on the environment.

For the foregoing reasons, the Zoning Administrator approved a Project that failed to abide by both the procedural and substantive requirements necessary for wireless communications facility applications. This resulted in an unfair hearing and an improper Project approval.

Thank you for your attention to this matter, and please feel free to contact me if there are any questions regarding this appeal.

Very truly yours,
WITTWER PARKIN, LLP


William P. Parkin

cc: Frank Barron (via email)

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EXHIBIT "A"

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POWERED BY

ANDREW

SBNH-1D6565B

Andrew® Dual Band Antenna, 698–896 MHz and 1710–2180 MHz, 65° horizontal beamwidth, internal RET

- Interleaved dipole technology providing for attractive, low wind load mechanical package
- Internal next generation actuator eliminates field installation and defines new standards for reliability

**OBSOLETE**

This product was discontinued on: December 31, 2014

Replaced By

SBNH-1D658

Andrew® Dualband Antenna, 698–896 MHz and 1710–2360 MHz, 65° horizontal beamwidth, internal RET.

SBNH-1D65B-SR

Andrew® Dualband Antenna, 698–896 MHz and 1710–2360 MHz, 65° horizontal beamwidth, internal RET.

Electrical Specifications

Frequency Band, MHz	698–806	806–896	1710–1880	1850–1990	1920–2180
Gain, dBi	15.3	15.5	18.5	18.4	18.2
Beamwidth, Horizontal, degrees	71	67	59	57	63
Beamwidth, Vertical, degrees	12.3	10.9	5.5	5.1	4.8
Beam Tilt, degrees	0–10	0–10	0–6	0–6	0–6
USLS (First Lobe), dB	15	15	15	15	15
Front-to-Back Ratio at 180°, dB	25	27	34	35	32
CPR at Boresight, dB	26	22	25	26	24
CPR at Sector, dB	11	7	10	10	8
Isolation, dB	30	30	30	30	30
Isolation, Intersystem, dB	30	30	30	30	30
VSWR Return Loss, dB	1.5 14.0	1.5 14.0	1.5 14.0	1.5 14.0	1.5 14.0
PIM, 3rd Order, 2 x 20 W, dBc	-153	-153	-153	-153	-153
Input Power per Port, maximum, watts	400	400	300	300	300
Polarization	±45°	±45°	±45°	±45°	±45°
Impedance	50 ohm	50 ohm	50 ohm	50 ohm	50 ohm

Electrical Specifications, BASTA*

Frequency Band, MHz	698–806	806–896	1710–1880	1850–1990	1920–2180
Gain by all Beam Tilts, average, dBi	14.9	15.2	18.3	18.2	17.9
Gain by all Beam Tilts Tolerance, dB	±0.5	±0.4	±0.4	±0.3	±0.7
Gain by Beam Tilt, average, dBi	0° 15.1	0° 15.2	0° 19.5	0° 18.3	0° 18.2
	5° 15.1	5° 15.3	3° 18.4	3° 18.3	3° 18.0
	10° 14.6	10° 15.1	6° 18.1	6° 18.0	6° 17.5
Beamwidth, Horizontal Tolerance, degrees	±2.2	±2.3	±2.6	±1.4	±10.2
Beamwidth, Vertical Tolerance, degrees	±0.9	±0.5	±0.3	±0.2	±0.4
USLS, beampeak to 20° above beampeak, dB	16	17	16	17	15
Front-to-Back Total Power at 180° ± 30°, dB	21	20	29	29	27
CPR at Boresight, dB	26	22	25	26	24

February 22, 2016

SENT VIA EMAIL

Planning Commission
County of Santa Cruz
701 Ocean Street, 4th Floor
Santa Cruz, CA 95060

Re: Planning Commission Agenda Item No. 6; February 24, 2016
Appeal of Zoning Administrator Decision on December 4, 2015
Development Permit Application 141196
APN 046-021-05
Applicant: Verizon Wireless

Dear Planning Commissioners:

This office has filed the above referenced appeal regarding Development Permit Application 141196 ("Proposed Project") on behalf of the Coalition to Preserve Scenic La Selva (the "Coalition"). The focus of this letter is: (1) the impact of the Project to visual resources and incompatibility of the Project to site design objectives contrary to the policy objectives under the General Plan/LCP; (2) the lack of environmental review for a project that is located in a mapped scenic area, specifically the applicability of the claimed exemption under the California Environmental Quality Act (CEQA); and, (3) as well as the procedural infirmities associated with approval of this Project.

The Proposed Project is located within a specially-mapped and designated scenic area under the General Plan/LCP as certified by the California Coastal Commission. This scenic mapping designation is based on the Project Site's proximity to, and potential to adversely affect views from scenic roads. In light of this special mapping, the Project Site is subject to and inconsistent with the various provisions of the General Plan/LCP related to protection of visual resources as set forth in our appeal letter dated January 4, 2016.

The Proposed Project Does Not Meet General Plan/LCP Visual Resource Policy Objectives

With respect to the issue of protection of visual resources under the General Plan/LCP Objective 5.10(a), the Staff Report responds that: "The proposed project is consistent with this objective in that the proposed design of a faux agricultural water tank tower is visually congruent and harmonious with the agricultural setting, and thus the project is protective of visual resources." Staff Report, pg. 2. However, the fatal flaw in the Staff Report's justification is that the maximum height for agricultural structures in the Agricultural Preserve zoning district is only

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EXHIBIT D
PAGE 1 OF 6



40 feet. County Code § 13.10.313(A)(1). Therefore, an agricultural water tank tower is prohibited from reaching 48 feet – the height of the Proposed Project. The argument reiterated throughout the Staff Report, that the Proposed Project is “visually congruent and harmonious with the agricultural setting of the subject parcel[.]” Staff Report pg. 2-5, is wholly unconvincing because an agricultural water tank tower of 48 feet in height would exceed the maximum height allowed for agricultural structures under the County Code. Constructing a 48-ft WCF tower disguised as a faux water tank cannot be said to be consistent with the objectives of the General Plan/LCP which requires the County to “identify, protect, and *restore the aesthetic values of visual resources*[.]” when the County’s own regulations prohibit agricultural structures to exceed 40 feet. Objective 5.10(a), Protection of Visual Resources (emphasis added).

The Staff Report relies almost exclusively on the proposed design of a faux agricultural water tank to support its conclusion that the Proposed Project is consistent with visual resources and public vistas objectives under the General Plan/LCP. As discussed above, the maximum height for agricultural structures within the Agricultural Preserve zoning district, is 40 feet, and so the height of the Proposed Project, at 48 feet, renders the faux agricultural water tank design incompatible with what the zoning district allows for agricultural structures. County Code requires the Project to “be balanced and evaluated in relation to the proposed project site and surrounding development in order to create compatible development.” County Code § 13.11.072(A)(1). The Proposed Project does not meet this requirement of compatibility because a water tank which exceeds 40 feet in height is by definition incompatible with the height restrictions for agricultural structures within the Agricultural Preserve zoning district at issue.

Exceptions to the CEQA Exemptions Apply to the Proposed Project and Environmental Review is Warranted

CEQA mandates that “the long-term protection of the environment... shall be the guiding criterion in public decisions.” Pub. Resources Code § 21001(d). The foremost principle under CEQA is that it is to be “interpreted in such a manner as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language.” *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 563-64 (quoting *Laurel Heights Improvement Association v. Regents of the University of California* (1988) 47 Cal.3d 376, 392). An agency’s action violates CEQA if it “thwarts the statutory goals” of “informed decisionmaking” and “informed public participation.” *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 692, 712.

The Staff continues to assert that the Proposed Project is exempt from environmental review based on CEQA’s Class 3 Categorical Exemption for small construction or development projects pursuant to CEQA Guidelines § 15303. First, the Class 3 exemption must be viewed in light of the purpose of CEQA and that exemptions themselves are to be interpreted narrowly. Courts have held that “the overriding purpose of CEQA is to ensure that agencies regulating activities that may affect the quality of the environment give primary consideration to preventing environmental damage.” *Save Our Peninsula Committee v. Monterey County Bd. of Supervisors*

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(2001) 87 Cal.App.4th 99, 117. Furthermore, the Supreme Court has stated that CEQA "protects not only the environment but also informed self-government." *Citizens of Goleta Valley v. Board of Supervisors*, *supra*, 52 Cal.3d at 564. Erroneous reliance by an agency on a categorical exemption constitutes a prejudicial abuse of discretion and a violation of CEQA. *Azusa Land Reclamation Co. v. Main San Gabriel Basin Watermaster* (1997) 52 Cal.App.4th 1165, 1192.

Categorical exemptions are based on the California Resources Agency's determination that such projects do not have a significant impact on the environment. Pub. Resources Code § 21084; 14 Cal. Code Regs. §§ 15300 - 15354. However, "[t]he [Resources Agency's] authority to identify classes of projects exempt from environmental review is not unfettered ... '[W]here there is any reasonable possibility that a project or activity may have a significant effect on the environment, an exemption would be improper.'" *Azusa*, *supra*, 52 Cal.App.4th at 1191 (quoting *Wildlife Alive v. Chickering* (1976) 18 Cal.3d 190, 205-206). Indeed, "a categorical exemption should be construed in light of the statutory authorization limiting such exemptions to projects with *no significant environmental effect*." Remy, et al., *Guide to CEQA* (11th ed. 2006) p. 136 (emphasis added).

In the case before you, it is clear that the Proposed Project is not exempt from CEQA review because more than one exception to the exemptions is applicable. First, CEQA Guidelines § 15300.2(a) provides an exception to the Class 3 exemption for projects which "may impact on environmental resources of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, and local agencies." (Emphasis added). The County Staff concedes that the site is a specially mapped and designated scenic area: "The area in which the project is proposed to be located is a designated visual resources area." Staff Report, pg. 2. However, the Staff Report claims the exception to the exemption does not apply: "... but the project would not negatively impact that [visual resource]." *Id.*

The current mock-up on display at the Proposed site does not reflect the actual structure being proposed, which is a 48-ft tall WCF tower disguised as an agricultural water tank tower:

The project is proposed to include 9 panel antennas enclosed within the approximately 10-foot tall by approximately 12-foot diameter cylindrical 'tank' at the top of the metal lattice tower, and 2 ground-level equipment cabinets. The tower and equipment cabinets, along with an 8-foot tall stand-by diesel generator (on a 6-ft by 13-ft concrete slab), are proposed to be located within a 40-foot by 40-foot lease area enclosed by a 6-foot high chain link fence.

Staff Report, pg. 1. The 48-ft tall WCF tower and all of its supporting structures imposes an undeniable impact on the scenic resource within this Agricultural Preserve (A-P) zoned parcel. Further, contrary to the Staff Report's response, the language of the CEQA Guidelines does not require significant visual impact from public vistas in order for the exception to the Class 3 exemption to apply. The full text of the exception to the exemption is as follows:

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- (a) Location. Classes 3, 4, 5, 6, and 11 are qualified by consideration of where the project is to be located--*a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant.* Therefore, these classes are considered to apply in all instances, except where the project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies.

14 Cal. Code Regs 15300.2(a). The applicability of the exception to the exemption does not hinge on whether there is a significant visual impact, rather, the exception focuses on the *location* of the Proposed Project. Here, the Proposed Project is squarely located within a mapped scenic area according to the General Plan/LCP, as such, the Class 3 Exemption cannot be relied upon because the location of the Proposed Project renders the exemption inapplicable. The Proposed Project is not exempt from CEQA and environmental review is required.

Second, CEQA Guidelines § 15300.2(b) provides an exception to projects where "the cumulative impact of successive projects of the same type in the same place, over time is significant." Pursuant to Public Resources Code Section 21083(b)(1) and CEQA Guidelines § 15355, an agency must consider the cumulative impacts of a project in determining whether the project may have a significant effect on the environment. "Cumulative impacts" is defined as

[T]wo or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts.

(a) The individual effects may be changes resulting from a single project or a number of separate projects.

(b) The cumulative impact from several projects is the change in the environment which results from the incremental impact of the project when added to other closely related past, present, and reasonably foreseeable probable future projects. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time.

14 Cal. Code Regs § 15355. In the very first line of its Project statement, Verizon Wireless states that it is "seeking to improve communications service to residences, business and travelers in Santa Cruz, CA." See Exhibit F of Exhibit C. The applicant's service objective of the Proposed Project "is both to fill in a gap in coverage in the Santa Cruz County area, as well as to provide support capacity to the existing overloaded facilities; Mar Monte, La Selva Beach, and Seascap." See Exhibit F of Exhibit C. However, the maps provided by applicant demonstrate that even if the coverage objective for the current Project was satisfied, there is still poor coverage directly adjacent to the coverage area at issue. See Exhibit F of Exhibit C. Therefore, it is reasonably foreseeable that Verizon Wireless would propose future projects to service its coverage gaps within Santa Cruz County, including poor coverage areas directly within the vicinity of the current Proposed Project. And so, the cumulative impacts exception applies in this

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instance and further environmental review is warranted for the Proposed Project, given that it is reasonably foreseeable that future WCFs are likely to be proposed in the area, which Verizon Wireless documents as having poor coverage.

As the Sixth District Court of Appeal in San Jose has held, the Court's initial determination as to the appropriate scope of a categorical exemption is a question of law subject to independent, or *de novo*, review. "[Q]uestions of interpretation or application of the requirements of CEQA are matters of law. [Citations.] Thus, interpreting the scope of a CEQA exemption presents 'a question of law, subject to *de novo* review by this court.' [Citations.]" *San Lorenzo Valley* (2006) 139 Cal.App.4th 1356, 1375; 1382. The Court of Appeal has also held that: "The interpretation of an exemption presents a question of law subject to our independent review." *Save Our Big Trees v. City of Santa Cruz* (2015) 241 Cal.App.4th 694, 706. Further, "[b]ecause the exemptions operate as exceptions to CEQA, they are narrowly construed. [Citation.]" *Id.* at 1382. According to the California Supreme Court, CEQA exemptions must be narrowly construed and "[e]xemption categories are not to be expanded beyond the reasonable scope of their statutory language." *Mountain Lion Foundation v. Fish & Game Comm.* (1997) 16 Cal.4th 105, 125; *San Lorenzo Valley*, *supra*, 139 Cal.App.4th at 1382; *see also*, *McQueen v. Board of Directors* (1988) 202 Cal.App.3d 1136, 1148. Erroneous reliance by an agency on a categorical exemption constitutes a prejudicial abuse of discretion and a violation of CEQA. *Azusa*, *supra*, 52 Cal.App.4th at 1192.

In light of the specific exceptions to the Class 3 exemption that apply, and the narrow scope of exemptions as set forth by the courts, the Proposed Project before the Commission is not exempt from environmental review for the reasons set forth above.

The Applicant Failed to Satisfy the Requirements for Applications for WCFs Under County Code

Finally, the Staff Report acknowledges that the applicant failed to satisfy the requirements for application for WCFs: "The appellants note that the applicant did not install a 'mock-up' demonstration pole at the project site . . ." Staff Report pg. 7. County Code requires:

For proposed new telecommunications towers the applicant will be required to raise a temporary mast at the maximum height and at the location of the proposed tower. At minimum, the on-site demonstration structure shall be in place prior to the first public hearing to consider project approval, on at least two weekend days and two weekdays between the hours of 8:00 a.m. to 6:00 p.m., for a minimum of 10 hours each day. A project description, including photo simulations of the proposed facility, shall be posted at the proposed project site for the duration of the mock-up display.

County Code § 13.10.662(D). While the Staff Report notes that after neglecting to raise a temporary mast prior to the first public hearing, "a pole was installed during the 10-day appeal period and was reinstalled 20-days prior to the February 24, 2016 Planning Commission

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hearing[.] Staff Report, pg. 8. This prevented full public disclosure before the Zoning Administrator considered the Project, and only because the Coalition paid the appeal fee was the mock-up provided. This is a serious breach of due process, and has shielded the Proposed Project from greater public scrutiny.

For the foregoing reasons, the Coalition respectfully requests the Planning Commission to deny the approval of Application No. 14116, find that the Application is not categorically exempt from environmental review, and find that the Application, as proposed, does not satisfy the visual resources, public vistas, and site compatibility objectives of the General Plan/LCP.

Thank you for your attention to these additional comments.

Very truly yours,
WITTWER PARKIN LLP



William P. Parkin

cc: Frank Barron (via email)

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CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060-4508
VOICE (831) 427-4863 FAX (831) 427-4877

**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT**

Please Review Attached Appeal Information Sheet Prior To Completing This Form.

SECTION I. Appellant(s)

Name: Keith Otto on behalf of the Coalition to Preserve Scenic La Selva

Mailing Address: 234 Altivo Avenue

City: La Selva Beach

Zip Code: 95076

Phone: 831 685 8000

SECTION II. Decision Being Appealed

1. Name of local/port government:
Santa Cruz County
2. Brief description of development being appealed:
Application for a Verizon Wireless Communications Facility -- 48-ft tall cell tower
3. Development's location (street address, assessor's parcel no., cross street, etc.):
105 Alta Dr, La Selva Bch, Ca 95076 Santa Cruz County Apr:06087-046-021-05
4. Description of decision being appealed (check one.):
 - ☒ Approval; no special conditions
 - ☐ Approval with special conditions:
 - ☐ Denial

RECEIVED

JUL 15 2016

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: A-3-SCO-16-0069
DATE FILED: July 15, 2016
DISTRICT: Central Coast

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- ☐ Planning Director/Zoning Administrator
☒ City Council/Board of Supervisors
☒ Planning Commission
☐ Other

April 27, 2016 Planning Commission approved project
June 27, 2016 Board of Supervisors denied jurisdiction

6. Date of local government's decision:

7. Local government's file number (if any): Application #141196

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

Michelle Ellis, Complete Wireless for Verizon
2785 Mitchell Drive, Walnut Creek, CA 94598

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) David Date

185 Alta Drive, La Selva Beach, CA 95076

(2) David Craig

22 Elena Drive, La Selva Beach, CA 95076

(3) Bruce Clark

550 Water Tank Road, La Selva Beach, CA 95076

(4)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal**. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

Please see attachment.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Kento Otto
Chry M. Otto

Signature of Appellant(s) or Authorized Agent

Date: July 15, 2016

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby
authorize _____

to act as my/our representative and to bind me/us in all matters concerning this appeal.

Signature of Appellant(s)

Date: _____

Appeal to the
California Coastal Commission

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JUL 15 2016

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

Opposition to
Application 141196
105 Alta Drive, La Selva Beach, CA
APN: 046-021-05

Keith and Cheryl Otto
234 Altivo Avenue
La Selva Beach, CA 95076
and the
Coalition to Preserve Scenic La Selva

July 15, 2016



View of marker from street - Elena Drive, La Selva Beach, CA.

Marker only indicates location and initial build height.

Faux water tank will be 10 feet tall and 14 feet wide at the top.



View of marker from residence on Water Tank Road, La Selva Beach, CA.

Marker only indicates location and initial build height.

Faux water tank will be 10 feet tall and 14 feet wide at the top.



View of marker from street - San Andreas Road, La Selva Beach, CA.

Marker only indicates location and initial build height.

Faux water tank will be 10 feet tall and 14 feet wide at the top.

Appeal From Coastal Permit Decision of Local Government – Application No. 141196
SECTION IV. Reasons Supporting This Appeal

On April 27, 2016 the Planning Commission of the County of Santa Cruz approved an application for a 48-ft. tall Verizon wireless communications facility (WCF) cell tower on an agricultural parcel in La Selva Beach. The Coalition to Preserve Scenic La Selva (“Coalition”) timely appealed the Planning Commission’s decision to the Board of Supervisors. On June 28, 2016 the Board of Supervisors voted against taking jurisdiction of the appeal, and a FLAN was subsequently filed with the Coastal Commission on June 30, 2016. The Coalition now appeals the Project to the Coastal Commission.

The application is for a 48-ft. tall WCF cell tower, disguised as an agricultural water tank, on a parcel zoned Agricultural Preserve (A-P). Pursuant to County Code, such parcels (A-P) under a Williamson Act contract “shall also be classified in the CA [Commercial Agriculture] District. . . and shall be subject to the regulations of that district.” (County Code Section 13.10.473). Thus, the regulations concerning the Commercial Agriculture, or CA District apply to the A-P parcel that is the subject of this appeal.

The Coalition has valid grounds for appealing the project and the Coastal Commission should take jurisdiction over this appeal because the Planning Commission’s approval of Application 141196 (“Proposed Project”) violates the Local Coastal Program (LCP) in the following manner:

- (1) the Project fails to conform with several requirements set forth under County Code Chapter 13.10 which is an implementing ordinance of the LCP, and;
 - (2) the Project is contrary to several policy objectives set forth under the General Plan/LCP.
- I. Application 141196 Fails to Abide by the Regulations Set Forth Under County Code and LCP Implementing Ordinance Sections 13.10.660 – 13.10.668 which Regulate Wireless Communication Facilities**
- a. County Code and LCP Implementing Ordinance Section 13.10.661(B) Lists the (CA) Zoning District as a Prohibited Area for WCFs**

As stated above, the Application is for a parcel zoned (A-P), and under County Code, shall be treated as a CA zone district. The Planning Commission granted an unwarranted Telecommunications Act Exception for the Application.

A Telecommunications Act exception is warranted only in exceptionally limited circumstances. County Code and LCP Implementing Ordinance Section 13.10.668 requires that “[t]he applicant shall have the burden of proving that application of the requirement or limitation would violate the Federal Telecommunications Act, and that no alternatives exist which would render the approval of a Telecommunications Act exception unnecessary.” Further, under County Code Section 13.10.661(B)(4):

“Non-co-located wireless communication facilities may be sited in the prohibited areas listed above only in situation where the applicant can prove that: (a) The proposed wireless communication facility would eliminate or substantially reduce one or more significant gaps in the applicant carrier’s network; and (b) There are no viable, technically feasible, and environmentally (e.g., visually) equivalent or superior potential alternatives (i.e., sites and/or facility types and/or designs) outside the prohibited area identified in subsection (B) of this section that could eliminate or substantially reduce said significant gap(s).”

The Applicant has not proved that there are no viable, technically feasible, and environmentally superior potential alternatives due to the fact that their Alternatives Analysis is insufficient and does not conform to the requirements set forth under County Code Section 13.10.662(C), discussed below.

**b. County Code and LCP Implementing Ordinance Section 13.10.662(C)
Requires Alternatives Analysis**

The Alternatives Analysis submitted by the Applicant is insufficient and fails to comply with the requirements set forth under County Code and LCP Implementing Ordinance Section 13.10.662(C). This Section requires “For applications for wireless communication facilities proposed to be located in any of the prohibited areas.... which shall at a minimum: (1) ***Identify and indicate on a map, at a minimum two viable, technically feasible, and potentially environmentally equivalent or superior alternative locations outside the prohibited and restricted areas*** which could eliminate or substantially reduce the significant gap(s) in the applicant carrier’s network. . .” (Emphasis Added). The Alternatives Analysis submitted by the Applicant fails to do so because the Applicant wrongly characterized the subject parcel as an allowed zone district for WCFs, which in turn negatively impacted the analysis in terms of what

was “technically feasible” or “superior” alternative locations. The Applicant should reassess all feasible alternatives in light of the fact that the subject parcel is a prohibited zone for WCFs.

Second, the Alternatives Analysis requires that “The map ***shall also identify all locations where an unimpaired signal can be received*** to eliminate or substantially reduce the significant gap(s).” County Code Section 13.10.662(C)(1) (Emphasis Added). The map that the Applicant provided failed to identify all locations where an unimpaired signal can be received. This is a fatal flaw in their analysis and without this information it is difficult to discern where other viable locations may exist on parcels that are not in a prohibited zone district.

Thirdly, the Alternatives Analysis requires that “For all non-co-located wireless communication facilities proposed in a restricted/prohibited area, ***the applicant must also evaluate the potential use of one or more microcell sites*** (i.e., smaller facilities often mounted upon existing or replacement utility poles), and the use of repeaters, to eliminate or substantially reduce said significant gaps in lieu of the proposed facility.” County Code Section 13.10.662(C)(1) (Emphasis Added). The Applicant has not provided evaluation regarding the potential use of one or more microcell sites and thus the Application does not satisfy the County Code requirements.

Additionally, the Alternatives Analysis requires that “For each alternative location so identified, ***the applicant shall describe the type of facility and design measures that could be used at that location*** so as to minimize negative resource impacts (e.g., the use of stealth camouflaging techniques).” County Code Section 13.10.662(C)(1) (Emphasis Added). The Applicant did not describe the type of facility and design measures that could be used at each alternative location the Applicant presented. The Alternatives Analysis also failed to “compare across the same set of evaluation criteria and to similar levels of description and detail, the relative merits of the proposed site with those of each of the identified technically feasible alternative locations and facility designs,” nor does the Alternatives Analysis “rank each of the alternatives . . . in terms of impact . . . and support such ranking with clear analysis and evidence.” as is required under County Code and LCP Implementing Ordinance Section 13.10.662(C)(3).

The Alternatives Analysis is a critical element of the Application where an Application, such as the Application here, sets forth to locate a WCF in a prohibited zone district, and yet the cursory Alternatives Analysis for this Application is inadequate to allow for meaningful assessment regarding whether there are other viable options to satisfy the said “significant gap” for this area. The Coalition requests that the Coastal Commission take jurisdiction over this Application and mandate that the Applicant submit a meaningful Alternatives Analysis as is

required under the County Code and LCP Implementing Ordinance Section 13.10.660 – 13.10.668. The Alternatives Analysis submitted for the Application is attached for your convenience.

c. County Code and LCP Implementing Ordinance Section 13.10.663 Requires All Towers Shall Be Designed to be the Shortest Height Possible

County Code and LCP Implementing Ordinance Section 13.10.663(B)(6) requires that “All towers shall be designed to be the shortest height possible as to minimize visual impact” and that “any applications for towers of a height more than the allowed height for structures in the zoning district must include a written justification proving the need for a tower of that height and the absence of viable alternatives that would have less visual impact, and shall, in addition to any other required findings and/or requirements, require a variance approval pursuant to SCCC 13.10.230.” The maximum height allowed for the A-P zone district is 40 feet and a variance approval is required since the Application is for a structure that is 48 feet.

Back in 2004, with regard to Santa Cruz County LCP Major Amendment Number 3-03 Part 2 concerning WCF Ordinance the Coastal Commission had expressed concern that “the lack of an absolute height maximum in the zoning districts is an LCP issue that should be addressed in the future In sum, the LCP should be read broadly to protect against coastal resource impacts—primarily expected to be visual resource impacts – in those areas that might arise due to height of structures” (*See* Coastal Commission Comments, June 9, 2004 hearing re: Santa Cruz County LCP Major Amendment Number 3-03 Part 2 (Wireless Facilities Ordinance) pg. 21). The LCP requires that “In any case in which the interpretation or application of an LCP policy is unclear, as that policy may relate to a particular development application or project, the application or interpretation of the policy which most clearly conforms to the relevant Coastal Act policy shall be utilized (LUP Chapter 1, page 1-30 “Interpretation”). The Coalition believes that a substantial issue as to height is presented in this instance and that the requirement of a variance more clearly conforms to Coastal Act Section 30251.

II. Application 141196 Does Not Satisfy County Code and LCP Implementing Ordinance Section 13.10.314 which mandates Required Special Findings for CA Zone District

County Code Section 13.10.314 requires special findings for any discretionary use within a CA zone district, which is applicable here:

13.10.314 Required special findings for CA and AP uses.

(A) All Uses. For parcels within the CA Commercial Agriculture and AP Agricultural Preserve Zone Districts, the following special findings must be made in addition to the findings required by Chapter 18.10 SCCC in order to approve any discretionary use listed under SCCC 13.10.312 which requires a Level V or higher approval except agricultural buffer determinations:

(1) That the establishment or maintenance of this use will enhance or support the continued operation of commercial agriculture on the parcel and will not reduce, restrict or adversely affect agricultural resources, or the economic viability of commercial agricultural operations, of the area.

(2)(a) That the use or structure is ancillary, incidental or accessory to the principal agricultural use of the parcel, or (b) that no other agricultural use is feasible for the parcel, or (c) that the use consists of an interim public use which does not impair long-term agricultural viability or consists of a permanent public use that will result in the production of recycled wastewater solely for agricultural irrigation and that limits and mitigates the impacts of facility construction on agriculture consistent with the requirements of SCCC 13.10.635; or

(3) That single-family residential uses will be sited to minimize conflicts, and that all other uses will not conflict with commercial agricultural activities on-site, where applicable, or in the area.

(4) That the use will be sited to remove no land from production (or potential production) if any nonfarmable potential building site is available, or if this is not possible, to remove as little land as possible from production.

These special findings cannot be made as to this Application because the use does not “enhance or support the continued operation of commercial agriculture on the parcel” and further, a finding cannot be made that siting this 48 foot WCF on this parcel “will not reduce, restrict or adversely affect agricultural resources.” The Coalition believes that a substantial issue as to required special findings is presented in this instance because the County could not properly make the required special findings.

III. Application 141196 Does Not Satisfy County Code and LCP Implementing Ordinance Section 13.10.313 Development Standards for A-P Zone district

As discussed *supra*, the height of the Proposed Project is for 48 feet. Under County Code Section 13.10.313, the maximum height for an agricultural structure in the A-P zone district is 40 feet. Thus, the Proposed Project goes beyond the allowable height in the A-P zone district. Not only is it not designed to be the shortest height possible, it violates the development standards set forth under County Code.

IV. Application 141196 Does Not Meet General Plan/LCP Visual Resource Policy Objectives

The Proposed Project is located within a specially-mapped and designated scenic area under the General Plan/LCP as certified by the California Coastal Commission. This scenic mapping designation is based on the Project Site's proximity to, and potential to adversely affect views from scenic roads. In light of this special mapping, the Project Site is subject to and inconsistent with the various provisions of the General Plan/LCP related to protection of visual resources as set forth below:

The Project would be inconsistent with provisions of the General Plan, the County Code and the Local Coastal Program that protect scenic views. The project is located within a specially-mapped and designated scenic area under the General Plan/LUP. This scenic mapping designation is based on the Project Site's proximity to, and potential to adversely affect views from scenic roads, and other public areas. In light of this special mapping, the Project Site is subject to and inconsistent with the various provisions of the General Plan/LUP related to protection of visual resources, *including but not limited to, the following:*

1. **Objective 5.10(a), Protection of Visual Resources.** To identify, protect, and restore the aesthetic values of visual resources.
2. **Objective 5.10(B), New Development in Visual Resource Areas.** To ensure that new development is appropriately designed and constructed to have minimal to no adverse impact on identified visual resources.
3. **Policy 5.10.2, Development Within Visual Resource Areas.** Recognize that visual resources of Santa Cruz County possess diverse characteristics and that resources worthy of protection may include . . . agricultural fields, wooded forests, open meadows Require projects to be evaluated against the context of their unique environment and regulate structure height, setbacks and design to protect these resources consistent with the objectives and policies of this section . . .
4. **Policy 5.10.3, Protection of Public Vistas.** Protect significant public vistas, as described in Policy 5.10.2, from all publicly used roads and vista points by minimizing disruption of landform and aesthetic character caused by grading operations, timber harvests, utility wires and poles, signs, inappropriate landscaping, and structure design. Provide necessary landscaping to screen development that is unavoidably sited within these vistas.

5. **Policy 5.10.5, Preserving Agricultural Vistas.** Continue to preserve the aesthetic values of agricultural vistas. Encourage development to be consistent with the agricultural character of the community.
6. **Policy 5.10.11 Development Visible From Rural Scenic Roads.** In the viewsheds of rural scenic roads, require new discretionary development, including development envelopes in proposed land division, to be sited out of public view, obscured by natural landforms and/or existing vegetation. Where proposed structures on existing lots are unavoidably visible from scenic roads, identify those visual qualities worthy of protection (See policy 5.10.2) and require the siting, architectural design and landscaping to mitigate the impacts on those visual qualities.
7. **Objective 8.1, Quality Design.** To achieve functional high quality development through design review policies which recognize the diverse characteristics of the area, maintains design creativity, and preserves and enhances the visual fabric of the community.
8. **Objective 8.2, Site and Circulation Design.** To enhance and preserve the integrity of existing land use patterns and to complement the scale and character of neighboring development by assuring that new development is sited, designed and landscaped to be functional and visually compatible and integrated with surrounding development, and to preserve and enhance the natural amenities and features unique to individual building sites, and to incorporate them into the site design.
9. **Policy 8.4.5, Neighborhood Character Inventories.** Require new discretionary project applications to include a neighborhood character visual inventory or equivalent information commensurate with the scope of the project. The purpose of the inventory is to serve as a basis from which to develop appropriate guidelines and conditions for adoption with the project. The inventory shall at a minimum encompass the parcels surrounding the site, consider architectural and landscape style, density, lot sizes and setbacks.
10. **Objective 8.6, Building Design.** To encourage building design that addresses the neighborhood and community context; utilizes scale appropriate to adjacent development; and incorporates design elements that are appropriate to surrounding uses and the type of land use planned for the area.

11. **Policy 8.6.5, Designing with the Environment.** Development shall maintain a complementary relationship with the natural environment and shall be low-profile and stepped-down on hillsides.

LUP Policies Pertaining to Agriculture:

1. **Objective 5.13 Commercial Agricultural Land.** To maintain for exclusive agricultural use those lands identified on the County Agricultural Resources Map as best suited to the commercial production of food, fiber, and ornamental crops and livestock and to prevent conversion of commercial agricultural land to non-agricultural uses. To recognize that agriculture is a priority land use and to resolve policy conflicts in favor of preserving and promoting agriculture on designated commercial agricultural lands.
2. **Objective 5.13.6 Conditional Uses on Commercial Agricultural (CA) Zoned Lands.** All conditional uses shall be subject to standards which specify siting and development criteria; including size, location and density. Allow conditional uses on CA zoned lands based upon the following conditions (a) The use constitutes the principal agricultural use of the parcel; or (b) The use is ancillary incidental, or accessory to the principal agricultural use of the parcel; or (c) The use consists of an interim public use which does not impair long term agricultural viability; and (d) The use is sited to avoid conflicts with principal agricultural activities in the area; and € The use is sited to avoid, where possible, or otherwise minimize the removal of land from agricultural production
3. **Objective 5.13.7 Agriculturally Oriented Structures.** Allow only agriculturally oriented structures or dwellings on Commercial Agricultural Land; prohibit non-agricultural residential land use when in conflict with the fundamental objective of preserving agriculture.

With respect to the issue of protection of visual resources under the General Plan/LCP Objective 5.10(a), the Staff Report responds that: "The proposed project is consistent with this objective in that the proposed design of a faux agricultural water tank tower is visually congruent and harmonious with the agricultural setting, and thus the project is protective of visual resources." Staff Report, pg. 2. However, the fatal flaw in the Staff Report's justification is that the maximum height for agricultural structures in the Agricultural Preserve zoning district is only **40 feet**. County Code § 13.10.313(A)(1). Therefore, an agricultural water tank tower is prohibited from reaching 48 feet – the height of the Proposed Project. The argument reiterated

throughout the Staff Report, that the Proposed Project is “visually congruent and harmonious with the agricultural setting of the subject parcel[.]” Staff Report pg. 2-5, is wholly unconvincing because an agricultural water tank tower of 48 feet in height would exceed the maximum height allowed for agricultural structures under the County Code. Constructing a 48-ft WCF tower disguised as a faux water tank cannot be said to be consistent with the objectives of the General Plan/LCP which requires the County to “identify, protect, and *restore the aesthetic values of visual resources*[.]” when the County’s own regulations prohibit agricultural structures to exceed 40 feet. Objective 5.10(a), Protection of Visual Resources (emphasis added).

V. Conclusion

For the foregoing reasons, because the Application does not comport with several sections of County Code and the LCP Implementing Ordinance as well as several General Plan/LCP objectives, a substantial issue concerning the Application has been raised and the Coastal Commission should take jurisdiction over the Application.



Alternatives Analysis

Aqua View
105 Alta Drive, La Selva Beach



April 13, 2016

Summary of Site Evaluations
Conducted by Complete Wireless Consulting
Compiled by Mackenzie & Albritton LLP

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Map of Specific Location Alternatives

I. Executive Summary

Verizon Wireless seeks to fill a significant gap in its service coverage in the La Selva Beach area of Santa Cruz County. Based on a review of alternatives as set forth in the following analysis, Verizon Wireless believes that placing antennas in a camouflaged 48-foot water tank in the center of a large agriculture-zoned property (the "Proposed Facility") constitutes the least intrusive alternative to provide service to the identified gap based on the values expressed in the Santa Cruz County Code (the "Code").

II. Significant Gap

There is a significant gap in Verizon Wireless service in the La Selva Beach area. There is currently an absence of in-building service as well as a larger area lacking in-vehicle service, affecting nearby residential neighborhoods, working agricultural establishments and important roadways. Further, nearby Verizon Wireless facilities serving the greater area are experiencing capacity exhaustion, and Verizon Wireless must place an additional facility in the vicinity of the Proposed Facility to relieve existing antenna sectors at or near exhaustion and ensure the reliability of the network. The identified "significant gap" in network coverage is more fully described in the *Statement of Verizon Wireless Radio Frequency Design Engineer Stefano Iachella* (the "Significant Gap").

III. Methodology

Once a significant gap has been determined, Verizon Wireless seeks to identify a location and design that will provide required coverage through the "least intrusive means" based upon the values expressed by local regulations. In addition to seeking the "least intrusive" alternative, sites proposed by Verizon Wireless must be feasible. In this regard, Verizon Wireless reviews the radio frequency propagation, elevation, slope, grading requirements, available electrical and telephone utilities, access, available ground space and other critical factors such as a willing landlord in completing its site analysis. Wherever feasible, Verizon Wireless seeks to deploy camouflaged or stealth wireless facilities to minimize visual impacts to surrounding properties.

Under the Code, all wireless facilities are allowed with a commercial development permit (and coastal development permit, if applicable) subject to Level V permit review by the Zoning Administrator. Code §13.10.661(A). Collocation of wireless facilities is encouraged subject to certain development standards and visual impact criteria. Code §13.10.661(G). Wireless facilities are generally prohibited in the R-1, RM and RB residential base zones, the CA commercial agriculture base zone, on K-12 school sites and along the coastline between the sea and first right-of-way. Code §13.10.661(B). New wireless facilities are discouraged in restricted (disfavored) areas including the RA and RR residential base zones, SU special use districts with a residential General Plan designation and L historic landmark and SP salamander protection area overlay districts. Collocation of wireless facilities with existing wireless facilities or utility towers is allowed in these restricted areas subject to certain development standards. Code §13.10.661(C).

With respect to visual impacts, wireless facilities must be sited in the least visually intrusive feasible location without creating resource impacts or environmental damage. Code §§13.10.661(F). Wireless facilities must be designed to minimize visual impacts using camouflage techniques (including stealth structures typically found in the built environment of the location) while minimizing visibility of the facility from significant public viewsheds. Code §§13.10.663(A)(1), 13.10.663(B)(5). Evaluation of visual impact includes review of scale, form and compatibility with community character of the neighborhood. Code §13.10.660(D)(“visual impact”). The Code requires a minimum setback of 300 feet from residentially zoned parcels, with a limited waiver of this requirement if a facility is camouflaged or made inconspicuous such that visual impacts are not created. Code §13.10.663(A)(9).

IV. Analysis

Collocation Review

Per the Code's direction, Verizon Wireless first sought to identify existing wireless facilities where a collocation facility could serve the Significant Gap, but found no existing wireless facilities in the area of the Significant Gap. In fact, the closest existing wireless facility locations already host Verizon Wireless facilities. The Verizon Wireless Mar Monte facility is located on a hilltop 1.1 miles east of the Proposed Facility east of Highway 101, and the Verizon Wireless Seascapes facility is located 1.6 miles northwest of the Proposed Facility near the intersection of Seascapes Boulevard and Sumner Avenue. Each of these existing Verizon Wireless facilities serves a distinct coverage objective outside of the Significant Gap. Lacking any collocation opportunities, Verizon Wireless seeks to place a new wireless facility in the Significant Gap area.

Elimination of Prohibited and Restricted Base Zones

Per the Code's direction, Verizon Wireless avoided placement of its proposed facility in base zoning districts that are prohibited and restricted (disfavored) areas, including the following zoning districts found in the vicinity of the Significant Gap:

Prohibited Base Zones

- R-1 – Single-Family Residential
- RM – Multifamily Residential
- CA – Commercial Agriculture

Restricted (Disfavored) Base Zones

- RA – Residential Agriculture
- RR – Rural Residential
- SU – Special Use (Parcels located in special use districts in the vicinity of the Significant Gap have residential land use designations under the General Plan and are therefore restricted)¹

Eliminating prohibited and restricted base zones removed large areas of the Significant Gap from further consideration, including all properties within one mile north and east of the Proposed Facility and much of the residential and agricultural areas to the west and south. Verizon Wireless determined that remaining base zones allow wireless facilities, subject to compliance with Code criteria.

¹ The western half of the parcel at 514 Playa Boulevard and the unaddressed parcel at the entrance to Manresa State Beach are zoned SU with a General Plan land use designation of O-R, but each is located between the sea and first public roadway and therefore in the prohibited coastal area.

The following aerial overlay map prepared using the County's Geographic Information Systems (GIS) shows an area of approximately 2.25 square miles that, while larger than Verizon Wireless's Significant Gap, demonstrates the limited base zones in the proposed service area that allow wireless facilities, shaded as follows:

- A-P – Agriculture Preserve (green)
- PR – Parks, Recreation and Open Space (dark green)
- PF – Public and Community Facilities (gray)
- C-1 – Neighborhood Commercial (red)
- VA – Visitor Accommodation (pink)

Base Zones Allowing Wireless Facilities



Verizon Wireless investigated one restricted (disfavored) property with a base zoning of RA due east of the Proposed Facility property as follows.

1. Clark Property

Address: 550 Water Tank Road

Elevation: 175-290 feet

Zoning: RA



Verizon Wireless reviewed this 14.6 acre property located 0.25 miles east of the Proposed Facility property at a varying higher elevation. The property owner specified three locations out of view of their residence that they were willing to lease to Verizon Wireless, all of which are located downslope in woodlands on the western half of the property. One location is near the driveway entrance, and two other locations are deeper in the woodland and accessible only by a dirt path. All three locations are on uneven terrain and would require construction of all-weather access roads as well as fire truck turnarounds. Additionally, substantial trenching would be necessary to route required utilities to the wireless facility. These improvements would require considerable grading, posing potential environmental impacts to the slopes of this property. Due to such environmental impacts, this is not a less intrusive alternative to the Proposed Facility.

Elimination of Restricted Overlay Zone and School Sites

Though located in zoning districts that allow wireless facilities, the following specific locations were discounted due to other prohibitive location criteria of the Code.

2. La Selva Beach Clubhouse

Address: 314 Estrella Avenue

Elevation: 120 feet

Zoning: PR-L



Verizon Wireless reviewed this one acre public facility located 0.5 miles west of the Proposed Facility and approximately 25 feet lower in elevation. This property is located in an L - Historic Landmark overlay district, a restricted (disfavored) area for placement of wireless facilities under the Code. Further, all portions of this property are situated within 175 feet of residentially-zoned parcels, well under the 300 foot residential setback required under the Code unless a waiver is obtained. Securing approval of a setback waiver is unlikely even for a camouflaged installation as an approximately 70 foot tall facility would be required at this location. Such a tall structure would be out of scale with structures on the property and in the surrounding neighborhood. Due to its location in a restricted (disfavored) area and the need for a setback waiver, this alternative would be disfavored in comparison to a location in an allowed zoning district where setbacks are met.

3. Renaissance High School

Address: 11 Spring Valley Road

Elevation: 125 feet

Zoning: PR



Verizon Wireless reviewed this 10 acre school facility located 0.8 miles southeast of the Proposed Facility and approximately 20 feet lower in elevation. As all K-12 school sites are prohibited locations under the Code, this is not a feasible alternative for Verizon Wireless's facility.

Elimination of Immediate Coastal Area

Though mostly located in the PR – Parks, Recreation and Open Space zone which allows wireless facilities, all areas between the sea and the first right-of-way are prohibited areas under the Code and Verizon Wireless did not consider such locations.

Elimination of Small Parcels with Setback Restrictions

Of zones in the Significant Gap allowing wireless facilities, several are composed of a few small developed parcels located adjacent to or across the street from residentially-zoned parcels. Verizon Wireless reviewed 14 such parcels as listed below. These zones are each isolated pockets within the La Selva Beach residential area.

As these small parcels are located adjacent to or across the street from residentially-zoned parcels, a wireless facility at these locations could not meet the 300 foot residential setback required under the Code unless a waiver is obtained. The standard for approval of a setback waiver would be impossible to meet even for a camouflaged facility as these locations are downslope of the Proposed Facility location

and would require a facility taller than the Proposed Facility. Such a tall facility would be out of scale with structures in the surrounding residential neighborhoods, posing substantial visual impacts. These locations are disfavored in comparison to locations in non-residential areas where setbacks are met. Obtaining a Telecommunications Act exception under Code §13.10.668 to avoid violating the federal law preemption for prohibition of service cannot apply where Verizon Wireless has identified a less intrusive alternative in the Proposed Facility that exceeds required residential setbacks and does not require a setback waiver.

VA – Visitor Accommodation

- 1535 and 1537 San Andreas Road (Two 0.27 acre parcels)

C-1 – Neighborhood Commercial

- 304 to 312 Playa Boulevard (Five 0.05 to 0.06 acre parcels)
- 308 to 310 Estrella Avenue (Three 0.05 acre parcels)
- 15 Florido Avenue (One 0.17 acre parcel)

PF – Public and Community Facilities

- 26 Florido Avenue – La Selva Beach Community Church (One 0.56 acre parcel)
- 75 Asta Street (One 0.27 acre parcel)

PR – Parks, Recreation and Open Space

- Triangle Park, Playa Boulevard (One 0.3 acre parcel)

Elimination of Large Parcels with Various Restrictions

Verizon Wireless reviewed the following three alternatives which are subject to various restrictions under the Code.

4. Oceanview Drive Open Space

Address: West of San Andreas Road

Elevation: 100 feet

Zoning: PR



Verizon Wireless reviewed this open space composed of two parcels totaling 2.56 acres, ringed by residences on San Andreas Road, Oceanview Drive, Hillview Way and Holiday Drive. Though located in an allowed PR zoning district, all portions of this open space are within 125 feet of residentially-zoned parcels, well under the 300 foot residential setback required under the Code unless a waiver is obtained. Securing approval of a setback waiver is unlikely even for a camouflaged installation as an approximately 80 foot tall facility would be required at this location, posing visual impacts to adjacent residential backyards in an area with few screening trees or structures to provide context. This location is clearly disfavored over any location that meets residential setback requirements such as the Proposed Facility location. This is not a less intrusive alternative to the Proposed Facility.

5. Ravine Areas

Address: Adjacent to Camino Al Mar, Margarita Road and Asta Drive

Elevation: 30 to 135 feet

Zoning: PR



Verizon Wireless reviewed these PR-zoned areas located along ravines adjacent to Camino Al Mar, Margarita Road and Asta Drive, consisting of 19 parcels totaling approximately 40 acres. Ravines located within the Los Barrancos de Aptos development are privately owned, as are the swimming pool and tennis courts located near the bottom of the ravine north of Camino Al Mar. Though located in an allowed zoning district, almost all of these ravine areas are within 300 feet of residentially-zoned parcels and would not meet the 300 foot setback from residentially-zoned parcels required under Code unless a waiver is obtained. Though certain south-facing slopes north of Camino Al Mar are beyond the 300 foot setback from residentially-zoned parcels, they are located between the sea and the first public road and thus are a prohibited area under the Code. Further, construction of a wireless facility foundation and access road on any of these steep ravine slopes would present potential environmental impacts to streams and other environmental resources. This is not a less intrusive alternative to the Proposed Facility.

6. Southern Pacific Railroad

Address: Unaddressed Parcels along Railroad Line

Elevation: 70 to 125 feet

Zoning: PF

Verizon Wireless reviewed PF-zoned railroad rights-of-way located near the coast, consisting of four very narrow parcels totaling approximately 15 acres. Railroad rights-of-way north of San Andreas Road are located between the sea and the first public road, a prohibited area under the Code. Railroad rights-of-way south of San Andreas Road are located adjacent to RA zoning districts, and with none of the railroad parcels exceeding a width of approximately 60 feet, a wireless facility would not meet the 300 foot setback from residentially-zoned parcels required under Code unless a waiver is obtained. Due to location in prohibited areas or residential setback restrictions, this is not a less intrusive alternative to the Proposed Facility.

Large Parcels in Allowed Base Zoning Districts

Having discounted prohibited and restricted areas, parcels that cannot meet residential setback criteria and locations where construction of a wireless facility would pose significant environmental impacts, Verizon Wireless narrowed its search to the one remaining property in the Significant Gap area with a base zoning designation favorable to wireless facilities, considering three alternate locations and designs.

7. Delucchi Property – Proposed Facility

Address: 105 Alta Drive

Elevation: 143 feet

Zoning: A-P



Verizon Wireless proposes to place a 48 foot camouflaged water tower facility in the center of this 160 acre parcel zoned A-P, Agricultural Preserve. The base zoning designation of A (agricultural) allows wireless facilities with a Level V permit. The -P (preservation) combining district overlay subjects this location to standards of the CA zone, including special findings. Verizon Wireless's panel antennas will be fully concealed within a tank structure mounted on top of an open lattice framework, and the water tower will be painted to match nearby structures on the property used for agricultural purposes. A 1,600 square foot lease area will contain radio equipment cabinets and a standby diesel generator for use in emergencies. The equipment area will be surrounded by a six foot chain link fence, and existing buildings will conceal the equipment area from view from most public vantage points. A row of established trees approximately 30 to 40 feet in height east of the Proposed Facility provides a backdrop to help the facility blend into its surroundings. When viewed from the nearest public vantage point, San Andreas Road to the west, the Proposed Facility is set against a backdrop of forested hills to the east and does not silhouette against the sky. The Proposed Facility is located over 700 feet from the nearest residential property line to the northwest, exceeding setback criteria with no requirement for a setback waiver. In fact,

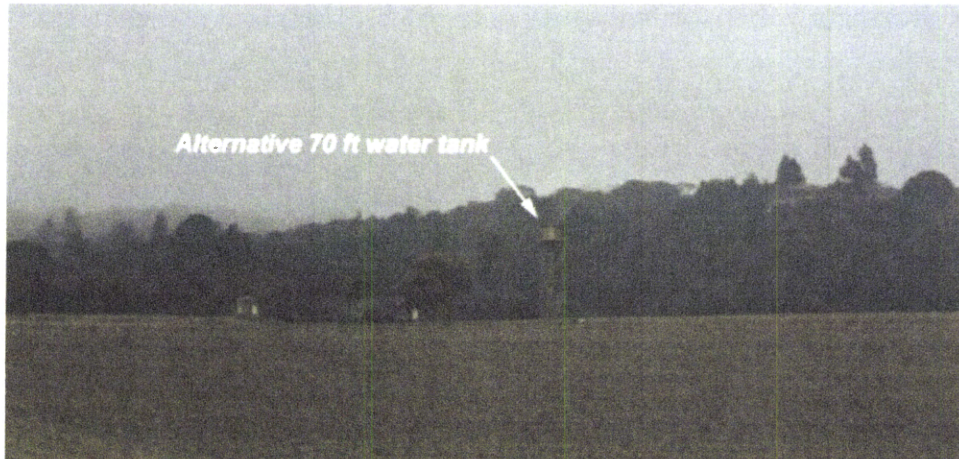
Verizon Wireless has relocated the Proposed Facility approximately 220 feet to the east of the originally-proposed location, increasing the distance from residences to the northwest and further minimizing any visual impacts. Properties to the east and north support primarily agricultural uses. This is Verizon Wireless's preferred location and design for the Proposed Facility.

8. Delucchi Property – Alternate Location to Southeast

Address: 105 Alta Drive

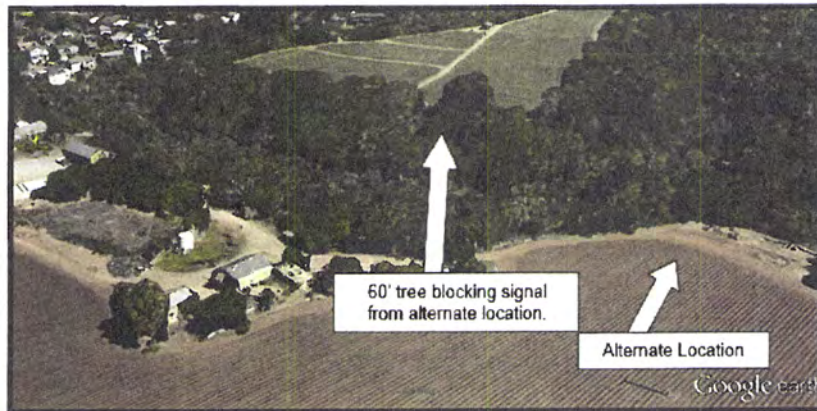
Elevation: 149 feet

Zoning: A-P



Verizon Wireless considered locating its facility in a farm equipment turnaround approximately 675 feet southeast of the Proposed Facility on the eastern edge of the same 160-acre property. As shown below, trees immediately north of this location with heights up to 60 feet would interfere with signal propagation to residential areas further north. In order for antennas to clear these trees, a much taller camouflaged water tower facility would be required at this location, with a total height of 70 feet versus 48 feet for the Proposed Facility. This alternate location is also less favorable because it is not situated near existing buildings that provide context in the agricultural setting of the Proposed Facility. Immediately north of this location, the property slopes down into a ravine at a steep angle, making construction of an access road and foundation infeasible. Due to Williamson Act restrictions on this property barring removal of cultivated areas, Verizon Wireless cannot place a facility in any of the agricultural fields to the south. The unimproved turnaround area is required for large farm equipment to traverse the property, and placement of the facility in the turnaround would require excavation of a separate turnaround area that would also remove cultivated land. Lastly, the driveway area is unavailable for placement of a facility as it is leased to a tenant farmer who is unwilling to sublease. Due to unfavorable visual impacts at this location, this is not a less intrusive alternative to the Proposed Facility.

*Depiction of Alternative 8
Delucchi Property Alternative Location to Southeast*



9. Delucchi Property – Alternate Location to Northeast

Address: 105 Alta Drive

Elevation: 160 feet

Zoning: A-P

Verizon Wireless considered an alternate location on a very small vacant area at the edge of an agricultural field approximately 600 feet northeast of the Proposed Facility location. The entire field is in otherwise in use for cultivation. The small vacant area is not served by an access road or utilities. Due to Williamson Act restrictions on this property barring removal of cultivated areas, Verizon Wireless cannot construct a necessary all-weather access road in the agricultural field. Immediately east of this location, the property slopes down into a ravine at a steep angle, making construction of an access road and foundation infeasible. Due to Williamson Act restrictions and steep slopes impeding construction, this is not a feasible alternate location for the Proposed Facility.

Conclusion

Verizon Wireless has reviewed nearby zoning districts as well as nine specific alternatives for the placement of its wireless facility to serve a Significant Gap in network coverage in the La Selva Beach area. Based upon the preferences identified in the Santa Cruz County Code, the Proposed Facility – a camouflaged water tower placed in the center of a large agriculturally-zoned parcel – clearly constitutes the least intrusive location for Verizon Wireless's facility under the values expressed by Santa Cruz County regulations.

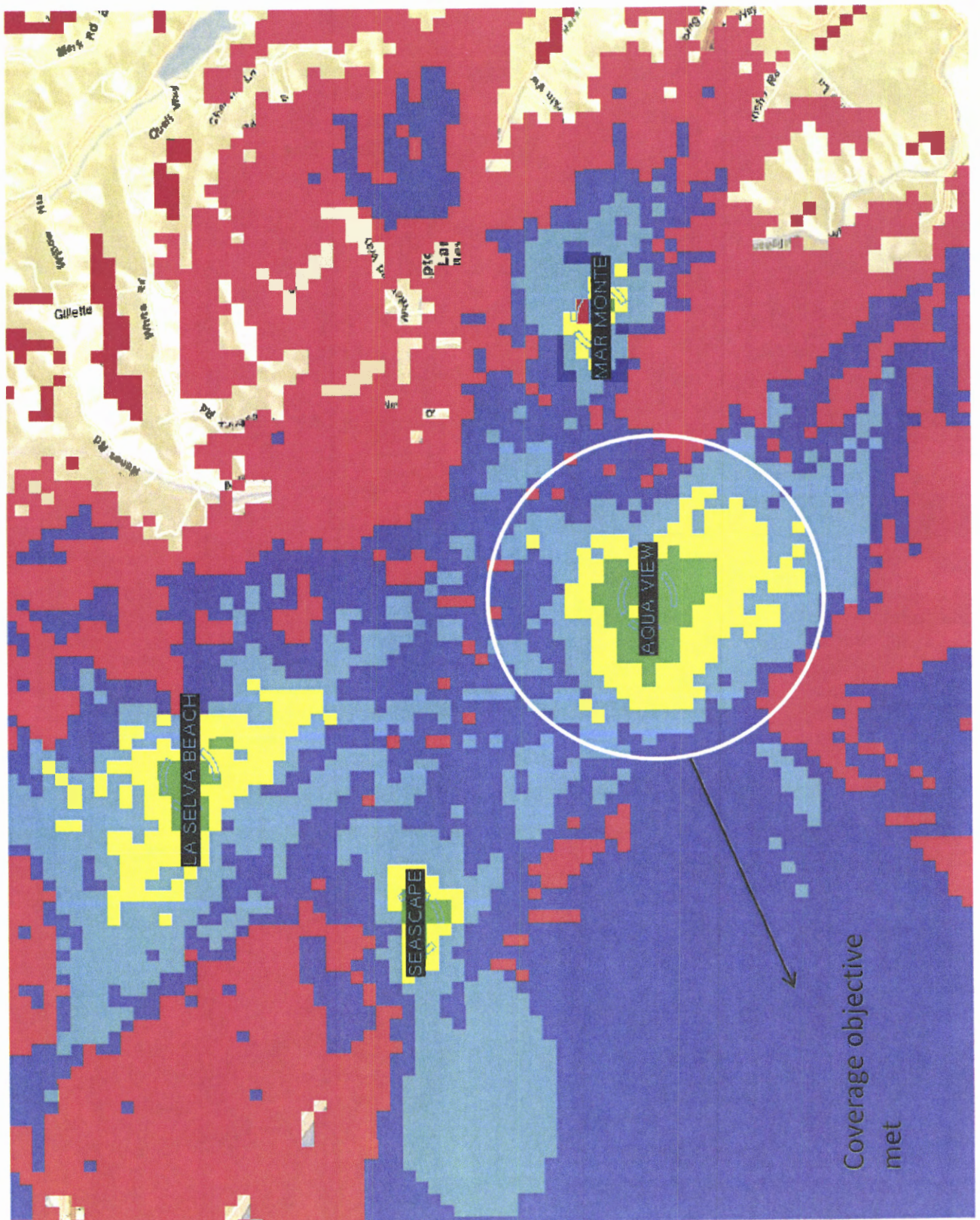
**Verizon Wireless
Aqua View
La Selva Beach
Locations of Sites
Proposed and Alternatives**



The map displays a coastal region with a grid overlay. A large red area, indicating poor coverage, is circled and labeled 'Poor coverage area' with an arrow. Other labels include 'LA SELVA BEACH', 'SEASCAPE', and 'MAR MONTE'. The grid consists of red and blue squares, likely representing different levels of signal strength or coverage quality.

EXHIBIT A

Coverage with site (AQUA VIEW)



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TELEPHONE 415/ 288-4000
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July 27, 2016

Via Email Only

California Coastal Commission
c/o Rainey Graeven
Central Coast District Office
725 Front Street #300
Santa Cruz, CA 95060

Re: *Verizon Wireless facility at 105 Alta Drive, La Selva Beach, Santa Cruz County, Commission Appeal No. A-3-SCO-16-0069*

Dear Commissioners:

On behalf of our client Verizon Wireless, we urge you to decline the appeal filed by Keith and Cheryl Otto (“Appellants”)¹ of the approval by Santa Cruz County of a 48-foot Verizon Wireless cell tower disguised as an agricultural water tower (the “Project”). In particular, we ask you to determine that the appeal does *not* raise a substantial issue of compliance with the approved Local Coastal Program (the “LCP”).

While the project is of vital importance to those who live and work in La Selva Beach – which currently suffers from poor wireless service – it is utterly insignificant from a land use or coastal protection perspective. Verizon Wireless has worked very hard, with extensive input from the County and the community, to find a design and location that meets the need for improved service while avoiding any significant impacts on coastal resources or the surrounding community. After thorough review, the County has found that the Project meets these goals, and that it complies with all applicable requirements of the LCP. As we explain below, those findings have ample support in the record, and the appeal does not raise any substantial issue.

I. Project Description

Before turning to the issues raised in the appeal, we will briefly summarize the Project and the County’s extensive review process. The Verizon Wireless antennas will be fully concealed inside a 48-foot faux water located near the center of a 160-acre working farm at 105 Alta Drive (the “Property”). The tower, equipment cabinets, and a standby diesel

¹ Appellants purport to have filed the appeal on behalf of the Coalition to Preserve Scenic La Selva, but did not complete the portion of the appeal form to indicate any representative capacity.

generator will all be contained inside a 40-foot by 40-foot lease area surrounded by a chain link fence, with wisteria vines planted to climb the fence and screen the equipment from view. The faux agricultural water tower has been designed to blend in among the existing farm buildings, and is roughly half a mile from any public road or vista point.

As a result, according to the final staff report to the Planning Commission, the tower “would be either invisible or barely visible from all public visual vantage points, significant or not.” (Staff report for the Planning Commission’s April 27, 2016, hearing [the “PC Staff Report”], p. 3.)² This conclusion was based on substantial evidence, including the photosimulations we have attached as Exhibit A, and a story pole or mockup that the County required Verizon Wireless to install on the Property.

II. The County’s Exhaustive Review of the Project

It is also important to consider how thoroughly the County reviewed the Project. This included initial review by Planning staff, a hearing before the Zoning Administrator (“ZA”), two hearings before the Planning Commission, and a final hearing before the Board of Supervisors. Planning staff, the ZA, the Planning Commission, and the Board all ultimately concluded that the Project would comply with the LCP and have no significant visual impacts.

But this was by no means a rubber-stamp process. During its extensive review, the County required substantial changes in both design and location to ensure strict compliance with the LCP and minimize any visual impacts. Verizon Wireless initially proposed a 55-foot faux tree, but Planning staff rejected that design in favor of a 48-foot agricultural water tower that staff felt would blend in better and have less visual impact. After the first Planning Commission hearing, at which residents of the residential development to the north of the Property objected, Verizon Wireless relocated the Project approximately 250 feet to the southeast (on the same parcel), so that the nearest house (on Elena Drive) is now at least 600 feet away.

The result of this extensive review is a project that will seamlessly blend into the existing agricultural setting and have no significant impact on coastal resources. As Planning staff aptly summarized:

The approval of the [Project] is supported by considerable evidence that it will have negligible visual or other impacts from public vistas, and even though the County does not protect private views, only from a few houses on one street (Elena Drive) would the occupants be able to readily see the WCF from approximately 600-feet away.

Staff report for the June 28, 2016, Board of Supervisors meeting [the “BOS Staff Report”], p. 4.

² We understand that the Commission’s packet includes the County’s staff reports and will not attach them to this letter. If any report that we cite is not included in your packet, it will be available at: <http://bit.ly/2arrOcM>

III. The Appeal Raises no Substantial Issue.

Despite the thorough review described above, Appellants ask this Commission to second-guess the County. They claim that the Project will have unacceptable visual impacts, excessive height, and impacts on agricultural resources, and that Verizon Wireless did not adequately justify its need for an exception from the County's prohibition on wireless facilities in the A-P zone. As we explain below, none of these claims have any merit, and none raise a substantial issue of LCP compliance.

A. The Project Will Have No Significant Visual Impacts.

In the face of the evidence described above, Appellants' claim that the Project is inconsistent with the County's requirements to protect visual resources is simply frivolous. This argument consists mainly of reciting a laundry list of policies and code sections – many of which are not even applicable, as County Planning staff repeatedly pointed out – and then simply asserting that the Project is inconsistent with each of them. The only *evidence* provided consists of three photographs, none of which actually supports Appellants' claims. Two of these are purely private views, and thus irrelevant to the LCP, which protects only significant public views. The third – from San Andreas Road – illustrates how the existing tree cover and ridge will provide an effective visual backdrop for the tower (which, unlike the stark white story pole, will be painted a dark color to make it blend into this setting).

B. The Project Complies With Applicable Height Requirements.

In sections I.c and III of their appeal, Appellants argue that the LCP required Verizon Wireless to submit written justification of the tower's height and to obtain a variance to exceed the 40-foot height limit for other structures in the A-P zone. They base this argument on Section 13.10.663(B)(6) of the Santa Cruz County Code (the "Code"), which requires an applicant to submit written justification of the tower's height and obtain a variance for a tower that exceeds "the allowed height for structures in the zoning district."

Appellants misread the LCP. Under Code Section 13.10.510(D)(2), "free-standing antennas" are allowed to exceed the zone height limit for other structures by up to 50 feet. Under a written policy in effect since 2004, the County has consistently applied this section to cell towers, and clarified that the phrase "the allowed height for structures in the zoning district" in Section 13.10.663(B)(6) includes the extra 50 feet allowed under the exception. We have attached a copy of this policy as Exhibit B. As confirmed by both Planning Staff and the County Counsel, this means that Verizon Wireless was not required to obtain a variance or to justify the Project's 48-foot height.

In any case, Planning staff explicitly found that "the currently proposed 48-foot tall tower is as short as possible to allow for the needed cellular coverage." (PC Staff Report, p. 5.) As discussed above, the original proposal was a 55-foot faux tree, but Planning staff rejected this in favor of a shorter, 48-foot faux water tower. Staff also suggested a different location on the property, but Verizon Wireless explained that due to hilly terrain and dense

tree cover, it could not provide coverage from that location without increasing the height to 70 feet. (*See* PC Staff Report, p. 10.) Finally, the sole, express purpose of reducing height is “to minimize visual impact.” (Code § 13.10.663(B)(6).) In the absence of any significant visual impact, Appellants’ height arguments raise no substantial issue.

C. The Project Will Have No Adverse Impact On Agriculture.

The argument that the Project threatens agricultural resources is equally frivolous. First, the County made the required special findings on this issue. We have attached a copy as Exhibit C. Second, those findings were supported by substantial evidence. As explained in the findings, the Project “will not be built on cultivated land and will not reduce, restrict or adversely affect current or future agricultural operations or cultivated areas.” (Exhibit C, p. 1.) To the contrary, the Project will actually help to preserve the viability of agriculture both by providing an additional revenue source (monthly rent) and “by facilitating the cellular communication that is relied upon by farm workers on the parcel and in the surrounding agricultural area.” (*Ibid.*)

D. The County Properly Determined That Verizon Wireless Qualified For A Telecommunications Act Exception.

The County’s wireless regulations designate a number of zoning districts, including the A-P district at issue here, as either “prohibited” or “restricted,” and allow wireless facilities in those zones only with a “Telecommunications Act exception.” Such an exception requires the applicant to show that it has a significant gap in service which cannot be addressed with any other feasible, environmentally superior location or design.

While it is difficult to see what – if anything – a near-absolute ban on wireless facilities has to do with coastal protection,³ Verizon Wireless clearly qualified for the necessary exception. The staff report to the Planning Commission included the necessary findings (*see* attached Exhibit C), which were based on substantial evidence, including the exhaustive Verizon Wireless alternatives analysis (*see* Exhibit A to the appeal).

Appellants claim that Verizon Wireless did not qualify for the exception, based solely on the alleged inadequacy of its alternatives analysis. This, too, is a frivolous argument. In the first place, it is telling that *Appellants do not identify a single alternative that they contend would be viable* (i.e., a willing landlord, providing satisfactory coverage, and not prohibited under the County’s very restrictive wireless regulations).

Nor do they identify a single substantive requirement that they contend Verizon Wireless failed to meet. Instead, they pick nits about various technical *submittal requirements*. The Commission should reject this argument because the submittal

³ In a recently concluded lawsuit against the City of Capitola, Verizon Wireless challenged very similar regulations as preempted by the federal Telecommunications Act. While the legality of the County’s wireless regulations is beyond the scope of this brief, Verizon Wireless reserves the right to challenge those regulations should this Commission take jurisdiction of the appeal.

requirements in question have nothing to do with the substantive requirements for approving the exemption. As the alternatives analysis explained, the County's numerous "prohibited" and "restricted zones," coupled with the 300-foot setback from such zones, schools, and certain other uses, puts the great majority of the surrounding area off limits. As a result, in the words of Planning staff, "there are no technically feasible alternative locations on allowed zoned district sites that would be environmentally equivalent or superior to the new proposed location on the subject parcel." (PC Staff Report, p. 9.)

E. Appellants' Real Concerns Have Nothing To Do With Coastal Resources.

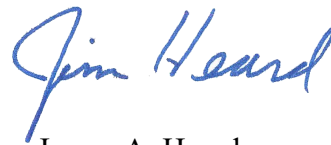
Appellants' arguments are not just frivolous, they are disingenuous. The purported environmental claims in the appeal are just window dressing for their primary concern: fear of radio-frequency ("RF") emissions. During the County's review of the Project, Appellants were more explicit about this concern. As Planning staff accurately noted, "[m]any of the issues raised at the hearings are directly or indirectly related to the radio-frequency (RF) radiation that will be emitted from the antennas." After being informed that such concerns are preempted under federal law (*see* 47 U.S.C. Section 332(c)(7)(B)(iv)), Appellants were more careful to couch their arguments in the language of the LCP and coastal resource protection.

But the record strongly suggests that these concerns – aside from their lack of any factual basis – are not sincere. How else to explain Appellants proposing an alternative location that would have required the destruction of San Andreas Coast Live Oak Woodland, a category of "Special Forest" protected under the LCP? (*See* BOS Staff Report, p. 4.)

IV. Conclusion

In short, this appeal is actually based on concerns that have nothing to do with coastal resources, and Appellant's claims that the Project does not comply with the LCP are baseless. We respectfully ask you to find that the appeal does not raise a substantial issue of LCP compliance.

Very Truly Yours,

A handwritten signature in blue ink that reads "Jim Heard". The signature is fluid and cursive, with the first name "Jim" and last name "Heard" clearly distinguishable.

James A. Heard

Schedule of Exhibits

Exhibit A: Photosimulations
Exhibit B: County Policy on Height of Wireless Facilities
Exhibit C: Special findings re: agricultural resources and Telecommunications Act
 exception

NEW SITE

Aqua View105 Alta Drive
Watsonville, CA 95076

verizonwireless

Aerial photograph showing the viewpoints for the photosimulations.

**Exhibit A**



Existing

Photosimulation of the view looking east from Elena Road, the nearest homes.

Aqua View

105 Alta Drive
Watsonville, CA 95076

verizonwireless



Proposed

of the proposed 48 ft water tank,
from view by the trees.

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EXHIBIT E



Existing

Photosimulation of the view looking northeast from the private access road. Not a public viewpoint.

Aqua View

105 Alta Drive
Watsonville, CA 95076



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Proposed

Existing

Photosimulation of a telephoto zoom view from the nearest possible viewpoint along Hwy 1.

Aqua View

105 Alta Drive
Watsonville, CA 95076



Proposed

Proposed water tank



Exhibit 5
A-3-SCO-16-0069

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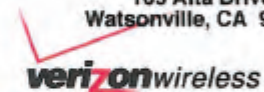


Existing

Photosimulation of the view looking north from San Andreas Road, the nearest public viewpoint.

Aqua View

105 Alta Drive
Watsonville, CA 95076



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Proposed

**SANTA CRUZ COUNTY PLANNING DEPARTMENT POLICY/ORDINANCE
INTERPRETATION**

Interpretation No.: WCF-01 (Wireless Communication Facilities Ordinance)
Effective Date: May 12, 2004
Originally Issued: May 12, 2004
Revised: N/A

Issues

The Wireless Communications Facilities (WCF) Ordinance (County Code Sections 13.10.660-668) does not contain a specific height limit for cellular telecommunications towers (cell towers) or other types of WCF antenna structures (e.g., roof-mounted antennas). However, the WCF Ordinance (Sec. 13.10.663[b][6]) states that a variance is required for approval of a WCF over the height limit for structures in the zone district (this requirement was added by the Coastal Commission as part of their certification process). Because the height limits for structures in each zone district are subject to several exceptions (Sec. 13.10.510[d][2]), there has been confusion as to what height WCFs may be constructed without the need for a variance. A second issue regards potential proposals to co-locate antennas on existing towers that already exceed the height limit.

Purpose

To clarify the height to which a new WCF may be built without a variance, and clarify regulations regarding proposed co-located antennas on existing towers that exceed the height limit.

Applicable Ordinance Sections

□13.10.510(d)2
□13.10.663(b)(6)

INTERPRETATION:

1. WCF Height Limits: Section 13.10.510(d)(2) of the County Code (height limit exceptions) allows certain types of non-habitable structures (e.g., chimneys, church steeples, flagpoles, non-commercial radio and television antennas, etc.) to exceed the zoning district height limits for habitable structures by 25-feet. Section 13.10.510(d)(2) also states that “free-standing antennas” may exceed the zoning district height limit for habitable structures by up to 50-feet.

Since the WCF Ordinance was not intended to limit the height of WCF towers/antennas to the height limits for habitable structures, the County Code's exceptions to height limits (Sec. 13.10.510[d][2]) as applied to the height regulations in the WCF Ordinance (Sec. 13.10.663[b][6]) shall be interpreted¹ to allow cell towers and other types of WCFs to exceed the height limits for habitable structures without the need for a variance. Under this interpretation, height limits for free-standing cell towers can be allowed up to a height of 50-feet higher than the zoning district's height limit for habitable structures (without the need for a variance), and roof- or building-mounted antennas can be allowed up to a height of 25-feet over the height limit for habitable structures in the zoning district (without the need for a variance). However, while these would be the maximum allowed WCF heights without a variance, the WCF Ordinance strongly encourages applicants to build new WCFs as short as possible so as to minimize visual impact.

Therefore, the WCF maximum tower/antenna heights allowed in each zoning district are as follows (i.e., variances would be required for tower/antenna heights exceeding these limits):

<u>Zone District</u>	<u>Roof/Building-Mounted WCFs</u>	<u>Free-standing WCF Towers</u>
TP, PR (Allowed areas) RA, RR, SU*, ("Restricted" Areas) R-1, RM ("Prohibited" Areas)	53-feet	78-feet
RB ("Prohibited" Area)	42-feet (ocean side) 50-feet (cliff side)	67-feet (ocean side) 75-feet (cliff side)
A, AP (Allowed areas) CA ("Prohibited" Area)	65-feet	90-feet
PA, VA, C-1, C-2, CC, C-4, M-1, PF (Allowed areas)	60-feet	85-feet
M-3 (Allowed area)	65-feet	90-feet

* with a residential General Plan land use designation

NOTE: For all WCF antenna structures greater than the allowed height for habitable structures in the zone district, the findings should address the exception allowing the height limit to be exceeded (i.e., citing Section 13.10.510[d]2) in addition to the visual impact criteria specified in the WCF Ordinance (Sec. 13.10.660 through 13.10.668, inclusive)..

2. Antennas Co-located onto Existing Towers that Exceed the Height Limit: Since adding an additional set of antennas onto an existing WCF tower ("co-location") will generally result in less visual impact than constructing a new separate WCF tower, co-locations on existing WCF or other towers/structures that exceed the WCF height limit shall be allowed, but only if the height of the existing WCF tower is not increased, and subject to the visual impact criteria specified in the WCF Ordinance (Sec. 13.10.660 through 13.10.668, inclusive).

Tom Burns, Planning Director

ⁱ Current Wording of Subsection 13.10.663(b)(6) – Height (of WCFs): "Any applications for towers of a height more than the allowed height for structures in the zoning district must include a written justification proving the need for a tower of that height and the absence of viable alternatives that would have less visual impact *and shall, in addition to any other required findings and/or requirements, require a variance approval pursuant to Code Section 13.10.230.*" (language added above by Coastal Commission shown in *italics*).

Interpretation: The wording "...the allowed height for structures in the zoning district..." shall be interpreted as meaning: *the allowed height for structures in the zoning district, including applicable height exceptions as referenced in subsection 13.10.510(d)(2) applicable to similar structures.*

Wording of Subsection 13.10.510(d)(2) – Zoning Ordinance Height Exceptions: "Chimneys, church spires and steeples, water tanks, cooling towers, elevators, flagpoles, monuments, non-commercial radio and television antennas, fire towers, and similar structures not used for human habitation and not covering more than ten percent of the ground area covered by the structure, may be erected to a height of not more than 25-feet above the height limit allowed in any district. Utility and commercial poles and structures may not be subject to the height limits prescribed in the district regulationsNon-commercial radio and television towers or free-standing antennas may exceed the height limits above by 25-feet with the approval of a Level IV Use Approval." (emphasis added).

Interpretation: WCF towers and antennas are similar to non-commercial radio and television antennas in their appearance and when properly disguised may appear similar to chimneys, church spires, flag poles, etc. thus, the phrase "...*similar structures not used for human habitation and not covering more than ten percent of the ground area covered by the structure*" shall be interpreted as applying to both roof/building mounted WCFs and freestanding WCF towers. Therefore, the allowed height (without a variance) of all types of WCFs is up to 25-feet above the allowed height for habitable structures in each zoning district.

The wording stating that "...*free-standing antennas may exceed the height limits above by 25-feet with the approval of a Level IV Use Approval*" shall be interpreted as meaning that, because

all WCFs already require a Level V Use Approval, free standing WCF antennas (i.e., cell towers), including monopoles and artificial tree-poles, are allowed to be up to 50-feet higher than the height limit for habitable structures in the zoning district without a variance.

The sentence stating that *"Utility and commercial poles and structures may not be subject to the height limits prescribed in the district regulations"* shall be interpreted as not relieving WCFs from the height limits (and the height limit exceptions) prescribed in the district regulations (to do so would render Section 13.10.663(b)(6) meaningless). As a result, the variance requirement in 13.10.663(b)(6) would apply to any application for a roof/building mounted antenna more than 25-feet higher than the zoning district height limit, or for a free-standing WCF tower more than 50-feet higher than the zoning district height limit.

Effect: Subject to a Level V approval, but without the need for variance approval, rooftop and other building-mounted antennas could extend up to 25-feet above the zoning district's allowed height for buildings, and free-standing, ground mounted WCF towers could extend up to 50-feet above the zoning district's allowed height for buildings. However, while these would be the maximum allowed WCF heights (without a variance), the WCF Ordinance strongly encourages applicants to build new WCFs as short as possible so as to minimize visual impact. Moreover, the WCF Ordinance also requires that findings be made that a proposed WCF will not significantly affect the County's visual resources, or if it must, that there is compelling evidence that there are no less visually obtrusive feasible alternatives.

Proposed Agricultural Development Findings for Application #141196

1. That the establishment or maintenance of this use will enhance or support the continued operation of commercial agriculture on the parcel and will not reduce, restrict or adversely affect agricultural resources, or the economic viability of commercial agricultural operations, of the area.

The proposed project will provide supplemental funding to the landowner (in the form of monthly rent) and will thus support the continued operation of commercial agriculture on the parcel by allowing the landowner farmer to keep farming, to maintain agriculture as a viable use of the property. Moreover, the proposed cell tower, which will not be built on cultivated land and will not reduce, restrict or adversely affect current or future agricultural operations or cultivated areas, will support agriculture on the parcel and in the area by facilitating the cellular communication that is relied upon by farm workers on the parcel and in the surrounding agricultural area. Finally, the proposed cell tower will not interfere with agricultural operations of the site or the area, nor will it induce non-agricultural development that could compromise the economic viability of the commercial agricultural operators of the area.

- 2 (a). That the use or structure is ancillary, incidental or accessory to the principal agricultural use of the parcel or that no other agricultural use is feasible for the parcel; or

The proposed project is incidental to the principal agricultural use of the parcel in that it will not be built on cultivated land and will not reduce, restrict or adversely affect current or future agricultural operations or cultivated areas.

- 2 (b). That no other agriculture use is feasible for the parcel; or

This finding does not apply to the project.

- 2 (c). That the use consists of an interim public use which does not impair long-term agricultural viability or consists of a permanent public use that will result in the production of recycled wastewater solely for agricultural irrigation and that limits and mitigates the impacts of facility construction on agriculture consistent with the requirements of SCCC 13.10.635; or

This finding does not apply to the project.

3. That single-family residential uses will be sited to minimize conflicts, and that all other uses will not conflict with commercial agricultural activities on site, where applicable, or in the area.

The project does not include single family residential uses. The proposed wireless facility will in no way conflict with the agricultural use of the subject property because it will not

be built on cultivated land and will not reduce, restrict or adversely affect current or future agricultural operations or cultivated areas. The proposed cell tower will not interfere with agricultural operations of the site or the area, nor will it induce non-agricultural development that could compromise the economic viability of the commercial agricultural operators of the area.

4. That the use will be sited to remove no land from production (or potential production) if any nonfarmable potential building site is available, or if this is not possible, to remove as little land as possible from production.

The proposed project will not be built on cultivated land and will not reduce, restrict or adversely affect current or future agricultural operations or cultivated areas.

Proposed Federal Telecommunications Act Exception Finding for Application #141196

A Federal Telecom Act Exception is required to allow the construction of a WCF if it is located on a parcel that is in a "prohibited" zone, such as the Commercial Agriculture (CA) district. Even though the proposed site is A-P (Agricultural Preserve) zoned, the findings for a Federal Telecom Act Exception can be made, as per the County's WCF Ordinance, which states that WCFs cannot be constructed in "prohibited areas" except as follows (as per Sec. 13.10.661(b)(4)):

"If a Telecommunications Act Exception is approved pursuant to Section 13.10.668(a) that allows for siting a wireless communications facility within any of the....prohibited areas, then such facility shall comply with the remainder of Sections 13.10.660 through 13.10.668 inclusive, and shall be co-located. Applicants proposing new wireless communication facilities in any of the above-listed prohibited areas must submit as part of their application an Alternatives Analysis, as described in Section 13.10.662(c) below. Non-collocated wireless communication facilities may be sited in the prohibited areas listed above only in situations where the applicant can prove that:

- (i) The proposed wireless communication facility would eliminate or substantially reduce one or more significant gaps in the applicant carrier's network; and
- (ii) There are no viable, technically feasible, and environmentally (e.g., visually) equivalent or superior potential alternatives (i.e., sites and/or facility types and/or designs) outside the prohibited areas identified in Section 13.10.661(b) that could eliminate or substantially reduce said significant gap(s).

The applicant has submitted information (Exhibit A – Alternatives Analysis) indicating that the proposed WCF location is necessary to close a "significant gap" in the carrier's (Verizon's) network, and evidence indicating that no other potential sites located in permitted districts are viable. The Alternatives Analysis shows that proposed location is the least intrusive alternative to fill a significant gap in the subject carrier's network.

**APPLICABLE AND CITED COUNTY OF SANTA CRUZ LOCAL COASTAL
PROGRAM POLICIES AND ZONING ORDINANCE SECTIONS**

Agricultural Preserve (A-P) Zoning Designation

13.10.311 Purposes of agricultural districts.

(C) AP Agricultural Preserve. The purposes of the CA Zone District shall apply to the AP Agricultural Preserve Zone District. The AP regulations are designated to apply only to agricultural lands and open space located within an agricultural preserve established in accordance with the provisions of the California Land Conservation Act of 1965 as now enacted or as hereafter amended, and which are within the AP Zone District as of July 27, 1982.

13.10.313 Development standards.

(A) Site and Structural Dimensions.

(1) General. The following site area per dwelling unit, site width, frontage, yard dimensions, and building height limits shall apply to all agricultural zone districts except that maximum height limits and exceptions therefrom for residential structures in all agricultural districts shall be determined in accordance with the provisions of SCCC 13.10.323 applicable to parcels in the residential zone districts. On legal lots of record less than two and one-half acres in size, all site and structural dimensions of the residential districts as indicated in SCCC 13.10.323 shall apply, based on the pre-existing parcel size.

AGRICULTURAL SITE AND STRUCTURAL DIMENSIONS CHART

Designation	Parcel Size	Width	Frontage	Front Yard
A	Less than 5 acres	100'	60'	20'
A	5 acres or more	300'	100'	20'
CA	(All)	300'	100'	20'
AP	(All)	300'	100'	20'
Designation	Setbacks:		Maximum Height for Agricultural Structures	Maximum Height for Residential Structures
	Side	Rear		
A	20'	20'	40'	28'
A	20'	20'	40'	28'
CA	20'	20'	40'	28'
AP	20'	20'	40'	28'

13.10.314 Required special findings for CA and AP uses.

(A) All Uses. For parcels within the CA Commercial Agriculture and AP Agricultural Preserve Zone Districts, the following special findings must be made in addition to the findings required

by Chapter 18.10 SCCC in order to approve any discretionary use listed under SCCC 13.10.312 which requires a Level V or higher approval except agricultural buffer determinations:

(1) That the establishment or maintenance of this use will enhance or support the continued operation of commercial agriculture on the parcel and will not reduce, restrict or adversely affect agricultural resources, or the economic viability of commercial agricultural operations, of the area.

(2)(a) That the use or structure is ancillary, incidental or accessory to the principal agricultural use of the parcel, or (b) that no other agricultural use is feasible for the parcel, or (c) that the use consists of an interim public use which does not impair long-term agricultural viability or consists of a permanent public use that will result in the production of recycled wastewater solely for agricultural irrigation and that limits and mitigates the impacts of facility construction on agriculture consistent with the requirements of SCCC 13.10.635; or (3) That single-family residential uses will be sited to minimize conflicts, and that all other uses will not conflict with commercial agricultural activities on-site, where applicable, or in the area.

(4) That the use will be sited to remove no land from production (or potential production) if any nonfarmable potential building site is available, or if this is not possible, to remove as little land as possible from production.

13.10.510 Application of site standards.

(2) Height Exceptions. Chimneys, church spires and steeples, water tanks, cooling towers, elevators, flagpoles, monuments, noncommercial radio and television antennas, fire towers, and similar structures not used for human habitation and not covering more than 10 percent of the ground area covered by the structure may be erected to a height of not more than 25 feet above the height limit allowed in any district. Parapets (a low screen or barrier wall) for nonresidential buildings located at least five feet from the edge of any exterior wall that are constructed for the purpose of screening mechanical equipment or other building features may exceed the height limit by up to 3.5 feet. Firewall parapets for non-residential buildings that are upward extensions of an exterior wall and are required by the building code for fire safety purposes may exceed the height limit by up to three feet. Utility and commercial poles and towers may not be subject to the height limits prescribed in the district regulations. Height limits on windpowered generators shall be as established in Chapter 12.24 SCCC. Noncommercial radio and television towers or freestanding antennas may exceed the height limits above by 25 feet with the approval of a Level IV use approval. Flat plate solar collectors on existing structures shall be permitted to exceed height restrictions by four feet.

13.10.660 Regulations for the siting, design, and construction of wireless communication facilities.

(A) Purpose. The purpose of SCCC 13.10.660 through 13.10.668, inclusive, is to establish regulations, standards and circumstances for the siting, design, construction, major modification,

and operation of wireless communication facilities in the unincorporated area of Santa Cruz County. It is also the purpose of SCCC 13.10.660 through 13.10.668, inclusive, to assure, by the regulation of siting of wireless communications facilities, that the integrity and nature of residential, rural, commercial, and industrial areas are protected from the indiscriminate proliferation of wireless communication facilities, while complying with the Federal Telecommunication Act of 1996, General Order 159A of the Public Utilities Commission of the State of California and the policies of Santa Cruz County. It is also the purpose of SCCC 13.10.660 through 13.10.668, inclusive, to locate and design wireless communication towers/facilities so as to minimize negative impacts, such as, but not limited to, visual impacts, agricultural and open space land resource impacts, impacts to the community and aesthetic character of the built and natural environment, attractive nuisance, noise and falling objects, and the general safety, welfare and quality of life of the community. It is also the purpose of SCCC 13.10.660 through 13.10.668, inclusive, to provide clear guidance to wireless communication service providers regarding the siting of and design of wireless communication facilities.

(B) Findings.

(1) The proliferation of antennas, towers, satellite dishes, and other wireless communication facility structures could create significant, adverse visual impacts. Therefore, there is a need to regulate the siting, design, and construction of wireless communication facilities to ensure that the appearance and integrity of the community is not marred by unsightly commercial facilities, particularly in residential, historically significant, scenic coastal areas, and other environmentally sensitive areas.

(2) General Order 159A of the Public Utilities Commission (PUC) of the State of California acknowledges that local citizens and local government are often in a better position than the PUC to measure local impact and to identify alternative sites. Accordingly, the PUC will generally defer to local governments to regulate the location and design of cell sites, wireless communication facilities and mobile telephone switching offices (MTSOs) including (a) the issuance of land use approvals; (b) acting as lead agency for purposes of satisfying the California Environmental Quality Act (CEQA); and (c) the satisfaction of noticing procedures for both land use and CEQA procedures.

(3) While the licensing of wireless communication facilities is under the control of the Federal Communications Commission (FCC) and Public Utilities Commission (PUC) of the State of California, local government must address public health, safety, welfare, zoning, and environmental concerns where not preempted by Federal statute or regulation.

(4) In order to protect the public health, safety, and the environment, it is in the public interest for local government to establish rules and regulations addressing certain land use aspects relating to the construction, design, siting, major modification, and operation of wireless communication facilities and their compatibility with surrounding land uses.

(5) Commercial wireless communication facilities are commercial uses and as such are generally incompatible with the character of residential zones in the County and, therefore, should not be located on residentially zoned parcels unless it can be proven that there are no

alternative nonresidential sites from which can be provided the coverage needed to eliminate or substantially reduce significant gaps in the applicant carrier's coverage network.

(C) Applicability. Activities and development regulated by this chapter include the siting, design, construction, major modification, and operation of all wireless communication facilities, including Federal Communications Commission (FCC) regulated dish antennas, antennas used for multi-channel, multi-point distribution services (MMDS) or "wireless cable" and personal wireless service facilities (e.g., cellular phone services, PCS—personal communication services, wireless paging services, wireless Internet services, etc.). The regulations in this chapter are intended to be consistent with State and Federal law, particularly the Federal Telecommunications Act of 1996, in that they are not intended to: (1) be used to unreasonably discriminate among providers of functionally equivalent services; (2) have the effect of prohibiting personal wireless services within Santa Cruz County; or (3) have the effect of prohibiting the siting of wireless communication facilities on the basis of the environmental/health effects of radio frequency emissions, to the extent that the regulated services and facilities comply with the regulations of the Federal Communications Commission concerning such emissions.

(D) Definitions.

"Antennas" means any system of wires, poles, rods, reflecting discs, dishes, flat panels, or similar devices, including "whip antennas," attached to a telecommunications tower, mast or other structure, which in combination with the radio-frequency radiation generating equipment associated with a base station are used for the transmission or reception of electromagnetic waves.

"Available space" means the space on a tower or structure to which antennas of a telecommunications provider are both structurally and electromagnetically able to be attached.

"Base station" means the primary sending and receiving site in a wireless telecommunications network, including all radio-frequency generating equipment connected to antennas. More than one base station and/or more than one variety of telecommunications providers can be located on a single tower or structure.

"Cellular service" means a wireless telecommunications service that permits customers to use mobile telephones and other communication devices to connect, via low-power radio transmitter sites, either to the public-switched telephone network or to other fixed or mobile communication devices.

"CEQA" means the California Environmental Quality Act.

"Channel" means the segment of the radiation spectrum from an antenna which carries one signal. An antenna may radiate on many channels simultaneously.

"Co-location" or "co-located facility" means when more than one wireless service providers share a single wireless communication facility. A co-located facility can be comprised of a single

tower, mast/pole or structure that supports two or more antennas, dishes, or similar wireless communication devices, that are separately owned or used by more than one public or private entity. Co-location can consist of additions or extensions made to existing towers so as to provide enough space for more than one user, or it can involve the construction of a new replacement tower with more antenna space that supplants an older tower with less capacity. Placing new wireless communication facilities/antennas upon existing or new P. G. & E. or other utility towers or poles (e.g., “microcell” sites) is also considered co-location.

“Communication equipment shelter” means a structure located at a base station designed principally to enclose equipment used in connection with telecommunication transmissions.

“dBm” means the unit of measure of the power level of an electromagnetic signal expressed in decibels referenced to one milliwatt.

“Dish antenna” means any device incorporating a reflective surface that is solid, open mesh, or bar configured that is shallow dish, cone, horn, or cornucopia-shaped and is used to transmit and/or receive electromagnetic signals.

“Equipment building, shelter or cabinet” means a cabinet or building used to house equipment used by wireless communication providers at a facility.

“FAA” means the Federal Aviation Administration.

“Facility site” means a property, or any part thereof, which is owned or leased by one or more wireless service providers and upon which one or more wireless communication facility(s) and required landscaping are located.

“FCC” means the Federal Communications Commission, the Federal government agency responsible for regulating telecommunications in the United States.

“GHz” means gigahertz, or 1,000,000,000 hertz.

“Ground-mounted wireless communication facility” means any antenna with its base placed directly on the ground, or that is attached to a mast or pipe, with an overall height of not exceeding 16 feet from the ground to the top of the antenna.

Hertz. One hertz is a unit of measurement of an electric or magnetic field which reverses its polarity at a frequency of once per second (i.e., one cycle or wavelength per second).

“Least visually obtrusive,” with regard to wireless communication facilities, shall refer to technically feasible facility site and/or design alternatives that render the facility the most visually inconspicuous relative to other technically feasible sites and/or designs. It does not mean that the facility must be completely hidden, but it may require screening or other camouflaging so that the facility is not immediately recognizable as a wireless communication facility from adjacent properties and roads used by the public.

“Macrocell site” means a radio transceiver (i.e., transmits and receives signals) facility that is comprised of an unmanned equipment shelter (above or below ground) approximately 300

square feet per licensed provider, omni-directional whip, panel or microwave dish antennas mounted on a support structure (e.g., monopole, lattice tower) or building. A macrocell site typically includes 60 radio transmitters

“Major modification to power output” means any of the following resulting in an increase in the wireless communication facility’s power output and/or increase in the intensity or change in the directionality of NIER propagation patterns: increase or intensification, or proposed increase or intensification, in power output or in size or number of antennas; change in antenna type or model; repositioning of antenna(s); change in number of channels per antenna above the maximum number previously approved by the County of Santa Cruz, including changes to any/all RF-generating equipment/componentry that are attached to antennas (e.g., conversion of wireless communication to wireless Internet that requires continuous transmitting at full power).

“Major modification to visual impact” means any increase or intensification, or proposed increase or intensification, in dimensions of an existing and/or permitted wireless communications facility (including, but not limited to, its telecommunications tower or other structure designed to support telecommunications transmission, receiving and/or relaying antennas and/or equipment) resulting in an increase of the visual impact of said wireless communications facility.

“MHz” means megahertz, or 1,000,000 hertz.

“Microcell site” means a small radio transceiver facility comprised of an unmanned equipment cabinet with a total volume of 100 cubic feet or less that is either under or aboveground, and one omni-directional whip antenna with a maximum length of five feet, or up to three small (approximately one foot by two feet or one foot by four feet) directional panel antennas, mounted on a single pole, an existing conventional utility pole, or some other similar support structure.

“Minor antenna” or “minor wireless communication facility” means any of the following:

- (1) A ground- or building-mounted receive-only radio or television antenna that is: (a) six inches or less in diameter or width; and (b) 10 feet or less in height as measured from existing grade (including mast or pipe) or, for building mounted antennas, not exceeding the height limit for noncommercial antennas in the zoning district;
- 2) A ground- or building-mounted citizens band radio antenna that is: (a) six inches or less in diameter or width; and (b) 10 feet or less in height as measured from existing grade (including mast or pipe) or, for building mounted antennas, not exceeding the height limit for noncommercial antennas in the zoning district;
- (3) A ground- or building-mounted satellite receiving dish that: (a) is not more than one meter in diameter for a residential zoned parcel, or is not more than two meters in diameter for a commercial or industrial zoned parcel; and (b) does not exceed the height limit for noncommercial antennas in the zoning district; or

(4) A ground-, building-, or tower-mounted antenna operated on a noncommercial basis by a Federally licensed amateur radio operator as part of the amateur radio service, the height of which (including tower or mast) does not exceed the height limit for noncommercial antennas in the zoning district.

“MMDS” means multi-channel, multi-point distribution services (also known as “wireless cable”).

“Monitoring” means the measurement, by the use of instruments in the field, of radio-frequency/non-ionizing radiation exposure at a site as a whole, or from individual wireless communication facilities/towers/antennas/repeaters.

“Monitoring protocol” means an industry accepted radio-frequency (RF) radiation measurement protocol used to determine compliance with FCC RF radiation exposure standards, in accordance with the National Council on Radiation Protection and Measurements Reports 86 and 119 and consistent with the RF radiation modeling specifications of OET Bulletin 65 (or any superseding reports/standards), which is to be used to measure the emissions and determine radio-frequency radiation exposure levels from existing and new telecommunications facilities. RF radiation exposure measurements are to be taken at various locations, including those from which public RF exposure levels are expected to be the highest.

“Monopole” means a single pole-structure erected on the ground to support one or more wireless communication antennas.

“MTSOs” means mobile telephone switching offices.

“Non-ionizing electromagnetic radiation (NIER)” means radiation from the portion of the electromagnetic spectrum with frequencies of approximately 1,000,000 GHz and below, including all frequencies below the ultraviolet range, such as visible light, infrared radiation, microwave radiation, and radio frequency radiation.

“Nonmajor modification or maintenance activity” means a modification that is not a major modification to power output and is not a major modification to visual impact, or a maintenance activity that does not result in a major modification to power output or a major modification to visual impact.

“PCS” or “personal communications services” means digital wireless communications technology such as portable phones, pagers, faxes and computers. Also known as personal communications network (PCN).

“Personal wireless services” means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services. These services include: cellular services, personal communication services, specialized mobile radio services, and paging services.

“PUC” or “CPUC” means the California Public Utilities Commission.

“Radio-frequency (RF) radiation” means radiation from the portion of the electromagnetic spectrum with frequencies below the infrared range (approximately 100 GHz and below),

including microwaves, television VHF and UHF signals, radio signals, and low to ultra low frequencies.

“Repeater” means a small receiver/relay transmitter of relatively low power output designed to provide service to areas which are not able to receive adequate coverage directly from a base or primary station.

“Significant gap” means a gap in the service provider’s (applicant carrier’s) own personal wireless services network within the County of Santa Cruz, as defined in Federal case law interpretations of the Federal Telecommunications Act of 1996, including *Sprint Spectrum v. Willoth* (1999) 176 F.3d 630 and *Cellular Telephone Company v. Zoning Board of Adjustment of the Borough of Ho-Ho-Kus* (1999) 197 F.3d 64.

“Stealth technology/techniques” means camouflaging methods applied to wireless communication towers, antennas and/or other facilities, which render them visually inconspicuous.

“Structurally able” means the determination that a tower or structure is capable of carrying the load imposed by the new antennas under all reasonably predictable conditions as determined by professional structure engineering analysis.

“Structure-mounted wireless communication facility” means any immobile antenna (including panels and directional antennas) attached to a structure, such as a building facade or a water tower, or mounted upon a roof.

“Technically feasible” means capable of being accomplished based on existing technology compatible with an applicant’s existing network.

“Telecommunication tower (tower)” means a mast, pole, monopole, guyed tower, lattice tower, freestanding tower, or other structure designed and primarily used to support antennas.

Viable. Primarily in reference to the alternatives analysis, an alternative site for which there is a property owner/manager interested in renting, leasing, selling, or otherwise making available, space for one or more wireless communication facilities upon said site on reasonable terms commensurate with the market in Santa Cruz County.

“Visual impact” means an adverse effect on the visual and/or aesthetic environment. This may derive from blocking of a view, or introduction of elements that are incompatible with the scale, texture, form or color of the existing natural or human-made landscape, including the existing community character of the neighborhood.

“Wireless communication (or “telecommunications”) facility” means a facility, including all associated equipment, that supports the transmission and/or receipt of electromagnetic/radio signals. Wireless communication facilities include cellular radio-telephone service facilities; personal communications service facilities (including wireless Internet); specialized mobile radio service facilities and commercial paging service facilities. These types of facilities can include, but are not limited to, the following: antennas, repeaters, microwave dishes, horns, and other types of equipment for the transmission or receipt of such signals, telecommunication towers or

similar structures supporting said equipment, equipment buildings, parking areas, and other accessory development.

“Wireless communication facilities GIS map” means a map maintained by the County in Geographic Information System (GIS) format that includes location and other identifying information about wireless communication facilities in the County.

(E) Exemptions. The types of wireless communications facilities, devices and activities listed below are exempt from the provisions of SCCC 13.10.660 through 13.10.668, inclusive, except that SCCC 13.10.663(A)(1) through (A)(8) shall continue to apply if the facility, device and/or activity requires a coastal development permit pursuant to Chapter 13.20 SCCC. This exemption is not intended to limit or expand the scope of other Federal, State and local policies and regulations, including but not limited to the General Plan/Local Coastal Program, which apply to these facilities, devices and/or activities.

- (1) A ground- or building-mounted citizens band or two-way radio antenna including any mast that is operated on a noncommercial basis.
- (2) A ground-, building- or tower-mounted antenna operated on a noncommercial basis by a Federally licensed amateur radio operator as part of the amateur or business radio service.
- (3) A ground- or building-mounted receive-only radio or television antenna which does not exceed the height requirements of the zoning district, and which, for a television dish antenna, does not exceed three feet in diameter if located on residential property within the exclusive use or control of the antenna user.
- (4) A television dish antenna that is no more than six feet in diameter and is located in any area where commercial or industrial uses are allowed by the land use designation.
- (5) Temporary mobile wireless services, including mobile wireless communication facilities and services providing public information coverage of news events, of less than two weeks' duration. Any mobile wireless service facility intended to operate in any given location for more than two weeks is subject to the provisions of SCCC 13.10.660 through 13.10.668, inclusive.
- (6) Handheld devices such as cell phones, business-band mobile radios, walkie-talkies, cordless telephones, garage door openers and similar devices.
- (7) Wireless communication facilities and/or components of such facilities to be used solely for public safety purposes, installed and operated by authorized public safety agencies (e.g., County 911 emergency services, police, sheriff, and/or fire departments, first responder medical services, hospitals, etc.). Unless otherwise prohibited by law or exempted by action of the Board of Supervisors, public safety agencies shall be required to provide a map of facility locations for inclusion in the County's wireless communication facilities GIS map. If a wireless communication facility approved for an authorized public safety agency is not or ceases to be operated by an authorized public safety agency, and if a nonpublic safety agency operator proposes to use the approved facility, then the change in

operator shall require that the new operator submit an application for the wireless communication facility to be evaluated as if it were a new facility subject to SCCC 13.10.660 through 13.10.668, inclusive, and the General Plan/Local Coastal Program. The facility shall not be operated by the new operator until a final decision has been rendered on the application.

(8) Any “minor” antenna or facility described under subsection (D) of this section.

(9) Any “nonmajor” modification or maintenance activities, as defined by subsection (D) of this section, carried out as part of the routine operation of existing permitted wireless communication facilities.

(10) Small scale, low powered, short-range and visually inconspicuous, wireless Internet transmitter/receivers (e.g., “wi-fi hotspots”). [Ord. 5182 § 9, 2014; Ord. 4769 § 2, 2004; Ord. 4743 § 2, 2003; Ord. 4714 § 2, 2003].

13.10.661 General requirements for wireless communications facilities.

All wireless communications facilities shall comply with all applicable goals, objectives and policies of the General Plan/Local Coastal Program, area plans, zoning regulations and development standards, are subject to Level V review (Zoning Administrator public hearing pursuant to Chapter 18.10 SCCC), are subject to the California Environmental Quality Act (CEQA), and shall comply with the following requirements:

(A) Required Permits. All new wireless communication facilities shall be subject to a commercial development permit, and also a coastal development permit if in the Coastal Zone. Additionally, a building permit will be required for construction of new wireless communication facilities.

(B) Prohibited Areas.

(1) Prohibited Zoning Districts. Wireless communication facilities are prohibited in the following zoning districts, unless a Telecommunications Act exception is approved pursuant to SCCC 13.10.668:

- (a) Single-Family Residential (R-1);
- (b) Multifamily Residential (RM);
- (c) Single-Family Ocean Beach Residential (RB);
- (d) Commercial Agriculture (CA); and
- (e) The combining zone overlays for:
 - (i) Mobile Home Parks (MH).

(2) Prohibited Coastal Areas. Wireless communication facilities are prohibited in areas that are located between the sea and the seaward side of the right-of-way of the first through public road parallel to the sea, unless a Telecommunications Act exception is approved pursuant to SCCC 13.10.668.

(3) Prohibited School Grounds. Wireless communication facilities are prohibited on all public and private K—12 school sites, unless a Telecommunications Act Exception is approved pursuant to SCCC 13.10.668.

(4) Exceptions to Prohibited Areas Prohibition. If a Telecommunications Act exception is approved pursuant to SCCC 13.10.668 that allows for siting a wireless communications

facility within any of the above-listed prohibited areas, then such facility shall comply with the remainder of SCCC 13.10.660 through 13.10.668, inclusive, and shall be co-located. Applicants proposing new wireless communication facilities in any of the above-listed prohibited areas must submit as part of their application an alternatives analysis, as described in SCCC 13.10.662(C). Non-co-located wireless communication facilities may be sited in the prohibited areas listed above only in situations where the applicant can prove that:

- (a) The proposed wireless communication facility would eliminate or substantially reduce one or more significant gaps in the applicant carrier's network; and
- (b) There are no viable, technically feasible, and environmentally (e.g., visually) equivalent or superior potential alternatives (i.e., sites and/or facility types and/or designs) outside the prohibited areas identified in subsection (B) of this section that could eliminate or substantially reduce said significant gap(s).

Any wireless communications facility and any associated development allowed in a prohibited area: (i) shall be sited and designed so that it is not visible from public vantage points to the maximum extent feasible; or (ii) where some portion or all of such a facility and/or any associated development is unavoidably sited and/or designed in a manner that makes it visible from public vantage points (and cannot be sited and/or designed to not be visible), that portion shall be screened and/or camouflaged so that it is inconspicuous and designed to blend seamlessly into the existing public view.

(C) Restricted Areas.

(1) Restricted Zoning Districts. Non-co-located wireless communication facilities are discouraged in the following zoning districts, subject to the exceptions described in subsection (C)(3) of this section and/or unless a Telecommunications Act exception is approved pursuant to SCCC 13.10.668:

- (a) Residential Agricultural (RA);
- (b) Rural Residential (RR);
- (c) Special use (SU) with a residential General Plan designation; and
- (d) The combining zone overlays for:
 - (i) Historic Landmarks (L); and
 - (ii) Salamander Protection Areas (SP).

(2) Restricted Coastal Right-of-Way Area. Wireless communications facilities are discouraged in the right-of-way of the first through public road parallel to the sea, subject to the exceptions described in subsection (C)(3) of this section. If a wireless communications facility is allowed within said right-of-way pursuant to subsection (C)(3) of this section, then the wireless communications facility shall, in addition to complying with the remainder of SCCC 13.10.660 through 13.10.668, inclusive, comply with all of the following:

- (a) The facility shall be of the microcell site type (as defined in SCCC 13.10.660(D)) and:
 - (i) Shall be mounted upon an existing or replacement utility pole (where "replacement" means that there exists a utility pole in that location and it is immediately replaced with a pole that has the same or a reduced visual impact, and has the same or lesser dimensions as the existing utility pole); and

- (ii) Shall have antennas no larger than one foot by two feet that are flush mounted and of a color that blends with that of the supporting utility pole; and
 - (iii) Shall have an equipment cabinet that is no more than 24 inches high, 18 inches wide, and 10 inches deep if mounted upon the utility pole or on the ground, or is located in an underground vault; and
 - (iv) Shall be fully camouflaged through stealth techniques to render the facility as visually inconspicuous as possible.
 - (b) The facility shall be located on the inland side of the right-of-way unless a location on the seaward side of the right-of-way would result in less visual impact; and
 - (c) The facility shall only be allowed in the coastal right-of-way provided the applicant's agreement(s) with the owner and operator of the right-of-way and the utility pole specifies that the facility shall be removed and the site restored by the applicant if informed by the owner and operator that the utility pole is to be removed because the utilities the pole supports are to be relocated underground.
- (3) Exceptions to Restricted Area Prohibition. Wireless communication facilities (WCFs) that are co-located upon existing wireless communication facilities/towers or other utility towers/poles (e.g., P.G.&E. poles), and which do not significantly increase the visual impact of the existing facility/tower/pole, are allowed in the restricted zoning districts listed in subsection (C)(1) of this section. Proposed new wireless communication facilities at co-location/multi-carrier sites that would result in more than nine total individual antennas, and/or more than three above-ground equipment enclosures/shelters, located on the same parcel are considered to result in significant visual impacts and are prohibited, unless the applicant can prove that the proposed additional antennas/equipment will be camouflaged or otherwise made inconspicuous such that additional visual impacts are not created. Existing legal co-location/multi-carrier WCF sites that exceed these limits are allowed to retain their current number of antennas and equipment shelters/enclosures. Applicants proposing new non-co-located wireless communication facilities in the restricted areas must submit as part of their application an alternatives analysis, as described in SCCC 13.10.662(C). In addition to complying with the remainder of SCCC 13.10.660 through 13.10.668, inclusive, non-co-located wireless communication facilities may be sited in the restricted zoning districts listed above only in situations where the applicant can prove that:
- (a) The proposed wireless communication facility would eliminate or substantially reduce one or more significant gaps in the applicant carrier's network; and
 - (b) There are no viable, technically feasible, and environmentally (e.g., visually) equivalent or superior potential alternatives (i.e., sites and/or facility types and/or designs) outside the prohibited and restricted areas identified in subsections (B) and (c) of this section that could eliminate or substantially reduce said significant gap(s).

(D) Compliance with FCC Regulations. Wireless communication facilities shall comply with all Federal Communications Commission (FCC) rules, regulations, and standards. Inhabitants of the County shall be protected from the possible adverse health effects associated with exposure to harmful levels of NIER (non-ionizing electromagnetic radiation) by ensuring that all wireless communication facilities comply with NIER standards set by the FCC.

(E) Compliance with FAA Regulations. Wireless communication facilities shall comply with all applicable criteria from the Federal Aviation Administration (FAA) and shall comply with adopted airport safety regulations for Watsonville Municipal Airport (Chapter 13.12 SCCC).

(F) Site Selection—Visual Impacts. Wireless communication facilities shall be sited in the least visually obtrusive location that is technically feasible, unless such site selection leads to other resource impacts that make such a site the more environmentally damaging location overall.

(G) Co-Location. Co-location of new wireless communication facilities into/onto existing wireless communication facilities and/or existing telecommunication towers is generally encouraged if it does not create significant visual impacts. Proposed new wireless communication facilities at co-location/multi-carrier sites that would result in more than nine total individual antennas, and/or more than three above-ground equipment enclosures/shelters, located on the same parcel are considered to result in significant visual impacts and are prohibited, unless the applicant can prove that the proposed additional antennas/equipment will be camouflaged or otherwise made inconspicuous such that additional visual impacts are not created. Existing legal co-location/multi-carrier WCF sites that exceed these limits are allowed to retain their current number of antennas and equipment shelters/enclosures. Co-location may require that height extensions be made to existing towers to accommodate additional users, or may involve constructing new multi-user capacity towers that replace existing single-user capacity towers. Where the visual impact of an existing tower/facility must be increased to allow for co-location, the potential increased visual impact shall be weighed against the potential visual impact of constructing a new separate tower/facility nearby. Where one or more wireless communication tower/facilities already exist on the proposed site location, co-location shall be required if it will not significantly increase the visual impact of the existing facilities, or result in more than nine total individual antenna panels and/or three above-ground equipment enclosures/shelters located on the same parcel, unless the applicant can prove that the proposed additional antennas/equipment will be camouflaged or otherwise made inconspicuous such that additional visual impacts are not created. This may require that the existing tower(s) on the site be dismantled and its antennas be mounted upon the new tower, particularly if the new tower would be less visually obtrusive than the existing tower(s). If a co-location agreement cannot be obtained, or if co-location is determined to be technically infeasible, documentation of the effort and the reasons why co-location was not possible shall be submitted.

(H) Public Notification. Public hearing notice shall be provided pursuant to SCCC 18.10.223. However, due to the potential adverse visual impacts of wireless communication facilities the neighboring parcel notification distance for wireless communication facility applications is increased from the normal 300 feet to 1,000 feet from the outer boundary of the subject parcel. To further increase public notification, on-site visual mock-ups as described in SCCC 13.10.662(D) are also required for all proposed wireless communication facilities, except for co-located and microcell facilities that do not represent a major modification to visual impact as defined in SCCC 13.10.660(D).

(I) Major Modification to Power Output. Any proposed major modification that would increase the power output of a wireless communication facility, as defined in SCCC 13.10.660(D), shall require the submission of an affidavit by a professional engineer registered in the State of

California that the proposed facility improvements will not result in RF exposure levels to the public in excess of the FCC's NIER exposure standard. In addition, within 90 days of commencement of operation of the modified facility, the applicant shall conduct RF exposure level monitoring at the site, utilizing the monitoring protocol, and shall submit a report to the Planning Department documenting the results of said monitoring.

(J) Major Modification to Visual Impact. Any proposed major modification that would increase the visual impact of a wireless communication facility, as defined in SCCC 13.10.660(D), shall be subject to all requirements of SCCC 13.10.660 through 13.10.668, inclusive.

(K) Transfer of Ownership. In the event that the original permittee sells its interest in a wireless communication facility, the succeeding carrier shall assume all responsibilities concerning the project and shall be held responsible to the County for maintaining consistency with all project conditions of approval, including proof of liability insurance. A new contact name for the project shall be provided by the succeeding carrier to the Planning Department within 30 days of transfer of interest of the facility. [Ord. 5020 §§ 1, 2, 2008; Ord. 4769 § 2, 2004; Ord. 4743 § 2, 2003; Ord. 4714 § 2, 2003].

13.10.662 Application requirements for wireless communication facilities.

All new wireless communication facilities must be authorized by a commercial development permit, and also by a coastal development permit if located in the Coastal Zone, and are subject to the following permit application requirements:

(A) Preapplication Meeting. All applicants for proposed wireless communication facilities are encouraged to apply for the development review group process, pursuant to Chapter 18.10 SCCC, in order to allow Planning Department staff to provide feedback to the applicant regarding facility siting and design prior to formal application submittal.

(B) Submittal Information—All Applications. For all wireless communication facilities, in addition to the submittal requirements for Level V projects as specified in SCCC 18.10.210(B), the information listed below must accompany each application (for the purpose of permit processing, the Planning Director or his/her designee may release an applicant from having to provide one or more of the pieces of information on this list upon a written finding that in the specific case involved said information is not necessary to process or make a decision on the application being submitted):

- (1) The identity and legal status of the applicant, including any affiliates.
- (2) The name, address, and telephone number of the officer, agent or employee responsible for the accuracy of the application information.
- (3) The name, address, and telephone number of the owner, and agent representing the owner, if applicable, of the property upon which the proposed wireless communication facility is to be built and title reports identifying legal access.
- (4) The address and assessor parcel number(s) of the proposed wireless communication facility site, including the precise latitude/longitude coordinates (NAD 83) in decimal degree format, of the proposed facility location on the site.
- (5) A description of the applicant service provider's existing wireless communication facilities network, and the provider's currently proposed facilities and anticipated future facilities for all proposed sites for which an application has been submitted, and for all

proposed sites for which site access rights or agreements have been secured by the provider. This must include a map, and a table (in hardcopy and digital formats) listing facility situs/addresses, site names/identification, facility types, and precise latitude/longitude coordinates (NAD 83) in decimal degree format, for all of the applicant carrier's existing and proposed facilities, within both the unincorporated and incorporated areas of Santa Cruz County, for inclusion on the County's wireless communication facility GIS map. In lieu of submitting this information with multiple applications, if this information has been previously submitted by the applicant, the applicant alternatively may certify in writing that none of the submitted information has changed. Information regarding proposed network expansions will be kept confidential by the County if identified in writing as trade secrets by the applicant.

(6) A description of the wireless communication services that the applicant intends to offer to provide, or is currently offering or providing, to persons, firms, businesses or institutions within both the unincorporated and incorporated areas of Santa Cruz County.

(7) Information sufficient to determine that the applicant has applied for and/or received any certificate of authority required by the California Public Utilities Commission (if applicable) to provide wireless communications services or facilities within the unincorporated areas of the County of Santa Cruz.

(8) Information sufficient to determine that the applicant has applied for and/or received any building permit, operating license or other approvals required by the Federal Communications Commission (FCC) to provide services or facilities within the unincorporated areas of the County of Santa Cruz.

(9) Compliance with the FCC's non-ionizing electromagnetic radiation (NIER) standards or other applicable standards shall be demonstrated for any new wireless communication facility through submission of a written opinion submitted, by a professional engineer registered in the State of California, at the time of application.

(10) A plan for safety/security considerations, consistent with SCCC 13.10.664. A detailed description of the proposed measures to ensure that the public would be kept at a safe distance from any NIER transmission source associated with the proposed wireless communication facility, consistent with the NIER standards of the FCC or any potential future superseding standards, must be submitted as part of the application. The submitted plans must also show that the outer perimeter of the facility site (or NIER hazard zone in the case of rooftop antennas) will be posted with bilingual NIER hazard warning signage that also indicates the facility operator and an emergency contact. The emergency contact shall be someone available on a 24-hour-a-day basis who is authorized by the applicant to act on behalf of the applicant regarding an emergency situation. For the protection of emergency response personnel, each wireless communication facility shall have an on-site emergency shut-off switch to de-energize all RF-related circuitry/componentry at the base station site (including a single shut-off switch for all facilities at a co-location site), or some other type of emergency shut-off by emergency personnel acceptable to the local Fire Chief, unless the applicant can prove that the FCC public exposure limits cannot be exceeded in the vicinity of the proposed facility, even if firefighters or other personnel work in close proximity to the antenna(s) or other RF radiation emitting devices/components.

(11) A detailed visual analysis, including computer photo simulations of the proposed wireless communication facility, shall be provided along with a written description from

the installer. Photo simulations shall be submitted of the proposed wireless communication facility from various locations and/or angles from which the public would typically view the site. All photo simulations shall include a site map indicating the location from which the photo was taken, and a description of the methodology and equipment used to generate the simulation. More in-depth visual analyses shall be required for facilities proposed in visual resource areas designated in Section 5.10 of the County General Plan/LCP. The visual analysis shall identify and include all potential mitigation measures for visual impacts, consistent with the technological requirements of the proposed telecommunication service.

(12) Detailed maps of proposed wireless communication facility site and vicinity, in full-size and eight-and-one-half-inch by 11-inch reduction formats. Reduced plans shall include a graphic scale to allow for direct measurement from them. The following maps are required at the time of application submittal:

(a) Topographic/Area Map. Copy a portion of the most recent U.S.G.S. Quadrangle topographical map (with 20-foot contour intervals), at a scale of 1:24,000, indicating the proposed wireless communication facility site, and showing the area within at least two miles from the proposed site.

(b) Proximity Map and Aerial Photo. Prepare a map and an aerial photo at a scale of approximately one inch equals 200 feet (1:2,400), with contour intervals (for map only) no greater than 20 feet, showing the entire vicinity within a 1,500-foot radius of the wireless communication facility site, and including topography (map only), public and private roads, driveways on the subject parcel, buildings and structures, bodies of water, wetlands, landscape features, and historic sites. Draw a 1,500-foot radius circle on the map and aerial photo with the proposed facility at its center and indicate all structures within 1,500 feet of the proposed tower/antennas. Indicate property lines of the proposed tower/facility site parcel and of all parcels and rights-of-way abutting the tower/facility site parcel.

(13) Detailed plans and cross sections of proposed wireless communication facility and site, in full-size and eight-and-one-half-inch by 11-inch reduction formats. Reduced plans shall include a graphic scale to allow for direct measurement from them. Full-size plans shall be on 24-inch by 36-inch sheets, on as many as necessary, and at scales which are no smaller than those listed below. Each plan/cross section sheet shall have a title block indicating the project title, sheet title, sheet number, date, revision dates, scale(s), and signature(s) of the professional(s) who prepared the plan. The following plans and cross sections are required at the time of application submittal:

(a) Proposed Site Plan. Proposed wireless communication facility site layout, grading and utilities at a scale no smaller than one inch equals 40 feet (1:480) with topography drawn at a minimum of 10-foot contour intervals, showing existing utilities, property lines, existing buildings or structures, walls or fence lines, existing trees, areas with natural vegetation, existing water wells, springs, and the boundaries of any wetlands, watercourses and/or floodplains.

(i) Proposed tower/facility location and any associated components, including supports and guy wires, if any, and any accessory building (communication equipment shelter or other). Indicate property boundaries and setback distances from those boundaries to the base(s) of the tower/mast and to each facility-

related structure and/or component. Include dimensions of all proposed improvements.

(ii) Indicate existing and proposed grade elevations where the existing and proposed grade intersects the proposed tower/mast, any guy wires, and all facility-related structures and/or components.

(iii) Proposed utilities, including distance from source of power, sizes of service available and required, locations of any proposed utility or communication lines, and whether underground or above ground.

(iv) Limits of area where vegetation is to be cleared or altered, and justification for any such clearing or alteration.

(v) Any direct or indirect alteration proposed to environmentally sensitive habitat areas, including wetlands and riparian corridors. Note that such alteration is only allowed under very specific circumstances and subject to specific requirements governed by the LCP's environmentally sensitive habitat area, wetland, riparian corridor, and other similar resource protection requirements; these requirements are not suspended in any way by this section.

(vi) Detailed drainage plans designed to control and direct all site runoff, including specific measures to control erosion and sedimentation, both during construction and as a permanent measure. The plan shall incorporate structural and nonstructural best management practices (BMPs) designed to control the volume, velocity and pollutant load of stormwater and other runoff leaving the site.

(vii) Plans indicating locations and descriptions of proposed screening, landscaping, ground cover, irrigation systems, fencing, and any exterior lighting or signs. For any vegetation proposed to be used for screening purposes, the plans shall identify the expected dimensions and other characteristics of each individual species over time (including, at a minimum, on a yearly basis until maturity and/or maximum size is reached), and the expected dimensions and other characteristics of any overall vegetation screen over time (including, at a minimum, on a yearly basis until maturity and/or maximum size is reached). All species to be planted shall be non-invasive species native to Santa Cruz County, and specifically native to the project location. See also SCCC 13.10.663(B)(9).

(viii) Plans of proposed access driveway or roadway and parking area at the facility site. Include grading, drainage, and traveled width. Include a cross section of the access drive indicating the width, depth of gravel, paving or surface materials.

(ix) Plans showing any changes to be made to an existing facility's landscaping, screening, fencing, lighting, drainage, wetlands, grading, driveways or roadways, parking, or other infrastructure as a result of a proposed modification of the facility. Note that changes to wetlands and other sensitive habitat areas are only allowed under very specific circumstances and subject to specific requirements governed by the General Plan/LCP environmentally sensitive habitat area, wetland, and other similar resource protection requirements; these requirements are not suspended in any way by this section.

(b) Proposed Tower/Facility and Related Structures and/or Components.

(i) Plans, elevations, sections and details at appropriate scales, but no smaller than one inch equals 10 feet.

- (ii) Two cross sections through proposed tower/facility drawn at right angles to each other, and showing the ground profile to at least 100 feet beyond the limit of any vegetation clearing or beyond the fall zone of the tower/mast, whichever is greater, and showing any guy wires or supports. Dimension the proposed height of the tower/mast above average grade at tower/mast base. Show all proposed antennas including their location on the tower/facility.
- (iii) Detail proposed exterior finish of the tower/facility. Provide precise depictions, photo examples, and/or detail drawings for all stealth features (such as “monopine” branches).
- (iv) Indicate relative height of the tower/facility as compared to the tops of surrounding trees as they presently exist, and to existing and proposed finished grades.
- (v) Illustration of the modular structure of the proposed tower/facility indicating the heights of sections which could be removed or added in the future to adapt to changing communications conditions or demands (including potential future co-location).
- (vi) A structural professional engineer’s written description of the proposed tower/facility structure and its capacity to support additional antennas or other communication facilities at different heights and the ability of the tower to be shortened if future communication facilities no longer require the original height.
- (vii) A description of the available space on the tower, providing illustrations and examples of the type and number of co-located wireless communication facilities which could be mounted on the structure.
- (viii) Photographs precisely depicting the tower/facility type to be installed.
- (c) Proposed Communications Equipment Shelter. Including (i) floor plans, elevations and cross sections at a scale of no smaller than one-quarter-inch equals one foot (1:48) of any proposed structural component, (ii) representative elevation views, indicating the roof, facades, doors and other exterior appearance and materials, and (iii) a description of all equipment to be contained therein, including number, make and model of each electromagnetic and radio-frequency apparatus to be installed.
- (d) Proposed Equipment Plan.
 - (i) Plans, elevations, sections and details at appropriate scales but no smaller than one inch equals 10 feet.
 - (ii) Number of antennas and repeaters, as well as the exact locations, of antenna(s) and all repeaters (if any) located on a map as well as by degrees, minutes and seconds of latitude and longitude (in decimal degree format).
 - (iii) Mounting locations on tower or structure, including height above existing and proposed finished grades.
 - (iv) A recent survey of the facility site at a scale no smaller than one inch equals 40 feet (1:480) showing horizontal and radial distances of antenna(s) to nearest point on property line, and to the nearest dwelling unit.
 - (v) For applications for new wireless communication facilities in any of the prohibited or restricted areas, as set forth in SCCC 13.10.661(B) and (C), the applicant must also disclose:
 - A. Number, type(s), manufacturer(s) and model number(s) for all antennas and other RF-generating equipment.

- B. For each antenna, the antenna gain and antenna radiation pattern.
 - C. Number of channels per antenna, projected and maximum.
 - D. Power input to each antenna.
 - E. Power output, in normal use and at maximum output for each antenna and all antennas as an aggregate.
 - F. Output frequency of the transmitter(s).
- (vi) For modification of an existing facility with multiple emitters, the results of an intermodulation study to predict the interaction of the additional equipment with existing equipment.
- (14) If co-location is not proposed, the applicant shall provide information pertaining to the feasibility of joint-use antenna facilities, and discuss the reasons why such joint use is not a viable option or alternative to a new facility site. Such information shall include:
- (a) Whether it is feasible to locate proposed sites where facilities currently exist;
 - (b) Information on the existing structure that is closest to the site of the applicant's proposed facility relative to the existing structure's structural capacity, radio frequency interface, or incompatibility of different technologies, which would include mechanical or electrical incompatibilities; and
 - (c) Written notification of refusal of the existing structure owner to lease space on the structure.
- (15) For any application that involves a major modification to, or replacement of, an applicant's wireless communication facility, the applicant shall submit a brief narrative description and any supporting graphics (such as plans, photos, relevant literature, etc.) detailing any changes in wireless communication facility technologies that would allow the existing facility to be modified to provide for the same or increased level of service with less environmental impact, including less visual resource impact, as technically feasible.

(C) Alternatives Analysis. For applications for wireless communication facilities proposed to be located in any of the prohibited areas specified in SCCC 13.10.661(B) and non-co-located wireless communication facilities proposed to be located in any of the restricted areas specified in 13.10.661(C), an alternatives analysis must be submitted by the applicant, subject to independent RF engineering review, which shall at a minimum:

- (1) Identify and indicate on a map, at a minimum two viable, technically feasible, and potentially environmentally equivalent or superior alternative locations outside the prohibited and restricted areas which could eliminate or substantially reduce the significant gap(s) in the applicant carrier's network intended to be eliminated or substantially reduced by the proposed facility. If there are fewer than two such alternative locations, the applicant must provide evidence establishing that fact. The map shall also identify all locations where an unimpaired signal can be received to eliminate or substantially reduce the significant gap(s). For all non-co-located wireless communication facilities proposed in a restricted/prohibited area, the applicant must also evaluate the potential use of one or more microcell sites (i.e., smaller facilities often mounted upon existing or replacement utility poles), and the use of repeaters, to eliminate or substantially reduce said significant gaps in lieu of the proposed facility. For each alternative location so identified, the applicant shall describe the type of facility and design measures that could be used at that location so as to minimize negative resource impacts (e.g., the use of stealth camouflaging techniques).

(2) Evaluate the potential for co-location with existing wireless communication facilities as a means to eliminate or substantially reduce the significant gap(s) in the applicant carrier's network intended to be eliminated or substantially reduced by the proposed facility.

(3) Compare, across the same set of evaluation criteria and to similar levels of description and detail, the relative merits of the proposed site with those of each of the identified technically feasible alternative locations and facility designs. Such comparison analysis shall rank each of the alternatives (i.e., the proposed location/facility and each of the technically feasible location/design alternatives) in terms of impacts (i.e., from least to most environmentally damaging), and shall support such ranking with clear analysis and evidence.

(4) Include photo-simulations of each of the alternatives (i.e., the proposed location/facility and each of the technically feasible location/design alternatives).

(5) Document good faith and diligent attempts to rent, lease, purchase or otherwise obtain the use of at least two of the viable, technically feasible alternative sites which may be environmentally equivalent or superior to the proposed project site. The decision-making body may determine that an alternative site is not viable if good faith attempts to rent, lease, purchase or otherwise obtain the site have been unsuccessful.

The Planning Director (or his/her designee) or the decision-making body may also require an alternatives analysis for proposed wireless communication facility projects that are located in environmentally sensitive areas other than those set forth in SCCC 13.10.661(B) and/or (C), such as visual resource areas as identified in General Plan/LCP Section 5.10.

(D) On-Site Visual Demonstration Structures (Mock-Ups). On-site visual demonstration structures (i.e., mock-ups) shall be required for all proposed wireless communication facilities, except for co-located and microcell facilities that do not represent a major modification to visual impact as defined in SCCC 13.10.660(D). For proposed rooftop or ground-mounted antennas, a temporary mast approximating the dimensions of the proposed facility shall be raised at the proposed antenna/mast location. For proposed new telecommunications towers the applicant will be required to raise a temporary mast at the maximum height and at the location of the proposed tower. At minimum, the on-site demonstration structure shall be in place prior to the first public hearing to consider project approval, on at least two weekend days and two weekdays between the hours of 8:00 a.m. to 6:00 p.m., for a minimum of 10 hours each day. A project description, including photo simulations of the proposed facility, shall be posted at the proposed project site for the duration of the mock-up display. The Planning Director or his/her designee may release an applicant from the requirement to conduct on-site visual mock-ups upon a written finding that in the specific case involved said mock-ups are not necessary to process or make a decision on the application and would not serve as effective public notice of the proposed facility.

(E) Amendment. Each applicant/registrant shall inform the County within 30 days of any change of the information required pursuant to SCCC 13.10.660 through 13.10.668, inclusive.

(F) Technical Review. The applicant will be notified if an independent technical review of any submitted technical materials is required. The Planning Director or his/her designee shall review and, in his or her discretion, procure additional information and data as may assist him/her in reviewing the following: (1) reports concerning conformance with the FCC RF radiation exposure levels; (2) reports concerning the need for a facility; and/or (3) reports concerning

availability or suitability of alternatives to a proposed facility. The Planning Director may employ, on behalf of the County, an independent technical expert or experts to review any technical materials submitted including but not limited to those required under this section, and in those cases where a technical demonstration of unavoidable need or unavailability of alternatives is required. The review and procurement of such additional information/data shall be undertaken for all applications that seek approval of a facility in a prohibited or restricted area, unless the Planning Director, his/her designee, or the approving body determines in writing that such review is unnecessary to inform the decision-making process. In addition, the review and procurement of information for applications in other areas may be required if the Planning Director determines that such review is necessary to inform the decision-making process. The applicant shall pay all the costs of said review and may be required to deposit funds in advance to cover the estimated costs of said review. If clearly marked as such by the applicant, any trade secrets or proprietary information disclosed to the County, the applicant, or the expert hired shall remain confidential and shall not be disclosed to any third party.

(G) Technical Feasibility. For any technical infeasibility claims made, the applicant shall be required to conclusively demonstrate, including submitting adequate evidence to that effect, the reasons for the technical infeasibility.

(H) Fees for review of all commercial development permits for wireless communication facilities shall be established by resolution of the Board of Supervisors. [Ord. 4769 § 2, 2004; Ord. 4743 § 2, 2003; Ord. 4714 § 2, 2003].

13.10.663 General development/performance standards for wireless communication facilities.

(A) Site Location. The following criteria shall govern appropriate locations and designs for wireless communication facilities, including dish antennas and multi-channel, multi-point distribution services (MMDS)/wireless cable antennas, and may require the applicant to select an alternative site other than the site shown on an initial permit application for a wireless facility:

(1) Visual Character of Site. Site location and development of wireless communications facilities shall preserve the visual character, native vegetation and aesthetic values of the parcel on which such facilities are proposed, the surrounding parcels and road rights-of-way, and the surrounding land uses to the greatest extent that is technically feasible, and shall minimize visual impacts on surrounding land and land uses to the greatest extent feasible. Facilities shall be integrated to the maximum extent feasible to the existing characteristics of the site, and every effort shall be made to avoid, or minimize to the maximum extent feasible, visibility of a wireless communication facility within significant public viewsheds. Utilization of camouflaging and/or stealth techniques shall be encouraged where appropriate. Support facilities shall be integrated to the existing characteristics of the site, so as to minimize visual impact.

(2) Co-Location. Co-location is generally encouraged in situations where it is the least visually obtrusive option, such as when increasing the height/bulk of an existing tower would result in less visual impact than constructing a new separate tower in a nearby location. However, proposed new wireless communication facilities at co-location/multi-carrier sites that would result in more than nine total individual antennas, and/or more than

three above-ground equipment enclosures/shelters, located on the same parcel are considered to result in significant visual impacts and are prohibited, unless the applicant can prove that the proposed additional antennas/equipment will be camouflaged or otherwise made inconspicuous such that additional visual impacts are not created. Existing legal co-location/multi-carrier WCF sites that exceed these limits are allowed to retain their current number of antennas and equipment shelters/enclosures.

(3) **Ridgeline Visual Impacts.** Wireless communication facilities proposed for visually prominent ridgeline, hillside or hilltop locations shall be sited and designed to be as visually unobtrusive as possible. Consistent with General Plan/LCP Policy 8.6.6, wireless communication facilities should be sited so the top of the proposed tower/facility is below any ridgeline when viewed from public roads in the vicinity. If the tower must extend above a ridgeline the applicant must camouflage the tower by utilizing stealth techniques and hiding it among surrounding vegetation.

(4) **Site Disturbance.** Disturbance of existing topography and on-site vegetation shall be minimized, unless such disturbance would substantially reduce the visual impacts of the facility.

(5) **Exterior Lighting.** Any exterior lighting, except as required for FAA regulations for airport safety, shall be manually operated and used only during night maintenance checks or in emergencies. The lighting shall be constructed or located so that only the intended area is illuminated and off-site glare is fully controlled.

(6) **Aviation Safety.** No wireless communication facility shall be installed within the safety zone or runway protection zone of any airport, airstrip or helipad within Santa Cruz County unless the airport owner/operator indicates that it will not adversely affect the operation of the airport, airstrip or helipad. In addition, no wireless communication facility shall be installed at a location where special painting or lighting will be required by the FAA regulations unless the applicant has demonstrated to the Planning Director that the proposed location is the only technically feasible location for the provision of personal wireless services as required by the FCC.

(7) **Coastal Zone Considerations.** New wireless communication facilities in any portion of the Coastal Zone shall be consistent with applicable policies of the County Local Coastal Program (LCP) and the California Coastal Act. No portion of a wireless communication facility shall extend onto or impede access to a publicly used beach. Power and telecommunication lines servicing wireless communication facilities in the Coastal Zone shall be required to be placed underground.

(8) **Consistency with Other County Land Use Regulations.** All proposed wireless communication facilities shall comply with the policies of the County General Plan/Local Coastal Plan and all applicable development standards for the zoning district in which the facility is to be located, particularly policies for protection of visual resources (i.e., General Plan/LCP Section 5.10). Public vistas from scenic roads, as designated in General Plan Section 5.10.10, shall be afforded the highest level of protection.

(9) Visual Impacts to Neighboring Parcels and Public Schools. To minimize visual impacts to surrounding residential uses and public primary or secondary schools, the base of any new freestanding telecommunications tower or building/roof-mounted wireless communication facility shall be set back from the property line of any residentially zoned parcel, or the property line for any public primary or secondary school, a distance equal to five times the height of the tower if mounted upon a telecommunications tower, or a minimum of 300 feet, whichever is greater. This requirement may be waived by the decision-making body if the applicant can prove that the wireless communication facility will be camouflaged or otherwise made inconspicuous such that visual impacts are not created, or if the applicant can prove that a significant area proposed to be served would otherwise not be provided personal wireless services by the subject carrier, including proving that there are no viable, technically feasible, environmentally equivalent or superior alternative sites outside the prohibited and restricted areas designated in SCCC 13.10.661(B) and (C).

(10) Setbacks. All components of new wireless communication facilities must comply with the setback standards for the applicable zoning district. Depending upon specific site constraints and circumstances, this requirement may not apply to antennas proposed to be co-located on existing towers or utility poles (e.g., microcell sites), nor to underground equipment shelters, if it would prohibit use of the proposed facility site.

(B) Design Review Criteria. The following criteria apply to all wireless communication facilities:

(1) Nonflammable Materials. All wireless communication facilities shall be constructed of nonflammable material, unless specifically approved and conditioned by the County to be otherwise (e.g., when a wooden structure may be necessary to minimize visual impact).

(2) Tower Type. All telecommunication towers shall be self-supporting monopoles except where satisfactory evidence is submitted to the appropriate decision-making body that a nonmonopole (such as a guyed or lattice tower) is required or environmentally superior. All guy wires must be sheathed for their entire length with a plastic or other suitable covering.

(3) Support Facilities. The County strongly encourages all support facilities, such as equipment shelters, to be placed in underground vaults, so as to minimize visual impacts. Any support facilities not placed underground shall be located and designed to minimize their visibility and, if appropriate, disguise their purpose to make them less prominent. These structures should be no taller than 12 feet in height, and shall be designed to blend with existing architecture and/or the natural surroundings in the area or shall be screened from sight by mature landscaping.

(4) Exterior Finish. All support facilities, poles, towers, antenna supports, antennas, and other components of communication facilities shall be of a color approved by the decision-making body. If a facility is conditioned to require paint, it shall initially be painted with a flat (i.e., nonreflective) paint color approved by the decision-making body, and thereafter repainted as necessary with a flat paint color, unless it is determined that flat paint color

would lead to more adverse impact than would another type of paint color. Components of a wireless communication facility which will be viewed against soils, trees, or grasslands shall be of a color or colors consistent with these landscapes. All proposed stealth tree poles (e.g., “monopines”) must use bark screening that approximates natural bark for the entire height and circumference of the monopole visible to the public, as technically feasible.

(5) Visual Impact Mitigation. Special design of wireless communication facilities may be required to mitigate potentially significant adverse visual impacts, including appropriate camouflaging or utilization of stealth techniques. Use of less visually obtrusive design alternatives, such as “microcell” facility types that can be mounted upon existing utility poles, is encouraged. Telecommunication towers designed to look like trees (e.g., “monopines”) may be favored on wooded sites with existing similar looking trees where they can be designed to adequately blend with and/or mimic the existing trees. In other cases, stealth-type structures that mimic structures typically found in the built environment where the facility is located may be appropriate (e.g., small-scale water towers, barns, and other typical farm-related structures on or near agricultural areas). Rooftop or other building mounted antennas designed to blend in with the building’s existing architecture shall be encouraged. Co-location of a new wireless communication facility onto an existing telecommunication tower shall generally be favored over construction of a new tower. Owners/operators of wireless communication towers/facilities are required to maintain the appearance of the tower/facility, as approved, throughout its operational life. Public vistas from scenic roads, as designated in General Plan/LCP Section 5.10.10, shall be afforded the highest level of protection.

(6) Height. The height of a wireless communication tower shall be measured from the existing undisturbed ground surface below the center of the base of said tower to the top of the tower itself or, if higher, to the tip of the highest antenna or piece of equipment attached thereto. In the case of building-mounted towers the height of the tower includes the height of the portion of the building on which it is mounted. In the case of “crank-up” or other similar towers whose height can be adjusted, the height of the tower shall be the maximum height to which it is capable of being raised. All towers shall be designed to be the shortest height possible so as to minimize visual impact. Any applications for towers of a height more than the allowed height for structures in the zoning district must include a written justification proving the need for a tower of that height and the absence of viable alternatives that would have less visual impact, and shall, in addition to any other required findings and/or requirements, require a variance approval pursuant to SCCC 13.10.230.

(7) Lighting. Except as provided for under subsection (A)(5) of this section, all wireless communication facilities shall be unlit except when authorized personnel are present at night.

(8) Roads and Parking. All wireless communication facilities shall be served by the minimum sized roads and parking areas feasible.

(9) Vegetation Protection and Facility Screening.

(a) In addition to stealth structural designs, vegetative screening may be necessary to minimize wireless communication facility visibility within public viewsheds. All new vegetation to be used for screening shall be compatible with existing surrounding vegetation. Vegetation used for screening purposes shall be capable of providing the required screening upon completion of the permitted facility (i.e., an applicant cannot rely on the expected future screening capabilities of the vegetation at maturity to provide the required immediate screening).

(b) Because Santa Cruz County contains many unique and threatened plant species and habitat areas, all telecommunications facilities to be located in areas of extensive natural vegetation shall be installed in such a manner so as to maintain the existing native vegetation. Where necessary, appropriate mature landscaping can be used to screen the facility. However, so as to not pose an invasive or genetic contamination threat to local gene pools, all vegetation proposed and/or required to be planted that is associated with a wireless communication facility shall be noninvasive species native to Santa Cruz County, and specifically native to the project location. Nonnative and/or invasive species shall be prohibited (such as any species listed on the California Exotic Pest Plant Council "Pest Plant List" in the categories entitled "A," "B," or "Red Alert"). Cultivars of native plants that may cause genetic pollution (such as all manzanita, oak, monkey flower, poppy, lupine, paintbrush and ceanothus species) shall be prohibited in these relatively pristine areas. All wireless communication facility approvals in such areas shall be conditioned for the removal of nonnative invasive plants (e.g., iceplant) in the area disturbed by the facility and replanting with appropriate non-invasive native species capable of providing similar or better vegetated screening and/or visual enhancement of the facility unless the decision-making body determines that such removal and replanting would be more environmentally damaging than leaving the existing nonnative and/or invasive species in place (e.g., a eucalyptus grove that provides over wintering habitat for Monarch butterflies may be better left alone). All applications shall provide detailed landscape/vegetation plans specifying the non-invasive native plant species to be used, including identification of sources to be used to supply seeds and/or plants for the project. Any such landscape/vegetation plan shall be prepared by a qualified botanist experienced with the types of plants associated with the facility area. For purposes of this section, "mature landscaping" shall mean trees, shrubs or other vegetation of a size that will provide the appropriate level of visual screening immediately upon installation. All nursery stock, construction materials and machinery, and personnel shall be free of soil, seeds, insects, or microorganisms that could pose a hazard to the native species or the natural biological processes of the areas surrounding the site (e.g., Argentine ants or microorganisms causing sudden oak death or pine pitch canker disease). Underground lines shall be routed outside of plant drip lines to avoid damage to tree and large shrub root systems to the maximum extent feasible.

(c) No actions shall be taken subsequent to project completion with respect to the vegetation present that would increase the visibility of the facility itself or the access road and power/telecommunication lines serving it. All owners of the property and all operators of the facility shall be jointly and severally responsible for maintenance

(including irrigation) and replacement of all required landscaping for as long as the permitted facility exists on the site.

(10) Fire Prevention/Emergency Response. All wireless communication facilities shall be designed and operated in such a manner so as to minimize the risk of igniting a fire or intensifying one that otherwise occurs. To this end, all of the following measures shall be implemented for all wireless communication facilities, when determined necessary by the Fire Chief:

- (a) At least one-hour fire resistant interior surfaces shall be used in the construction of all buildings;
- (b) Rapid entry (KNOX) systems shall be installed as required by the Fire Chief;
- (c) Type and location of vegetation, screening materials and other materials within 10 feet of the facility and all new structures, including telecommunication towers, shall have review for fire safety purposes by the Fire Chief. Requirements established by the Fire Chief shall be followed;
- (d) All tree trimmings and trash generated by construction of the facility shall be removed from the property and properly disposed of prior to building permit finalization or commencement of operation, whichever comes first; and
- (e) For the protection of emergency response personnel, at any wireless communication facility where there is the possibility that RF radiation levels in excess of the FCC public exposure limit could be experienced by emergency response personnel working in close proximity to antennas/RF-emitting devices, said facility shall have an on-site emergency power shut-off (e.g., "kill switch") to de-energize all RF-related circuitry/componentry at the base station site, or some other method (acceptable to the local Fire Chief) for de-energizing the facility. For multi-facility (co-location) sites where there is a possibility that RF radiation levels in excess of the FCC public exposure limit could be experienced by emergency response personnel working in close proximity to antennas/RF-emitting devices, a single power shut off switch (or other method acceptable to the local Fire Chief) shall be installed that will de-energize all facilities at the site in the event of an emergency.

(11) Noise and Traffic. All wireless communication facilities shall be constructed and operated in such a manner as to minimize the amount of disruption caused to nearby properties. To that end all the following measures shall be implemented for all wireless communication facilities:

- (a) Outdoor noise producing construction activities shall only take place on nonholiday weekdays between the hours of 8:00 a.m. and 6:00 p.m. unless allowed at other times by the approving body; and
- (b) Backup generators shall only be operated during power outages and for testing and maintenance purposes. If the facility is located within 100 feet of a residential dwelling unit, noise attenuation measures shall be included to reduce noise levels at

the facility to a maximum exterior noise level of 60 Ldn at the property line and a maximum interior noise level of 45 Ldn within nearby residences.

(12) Facility and Site Sharing (Co-Location). New wireless communication towers should be designed to accommodate multiple carriers, and/or to be readily modified to accommodate multiple carriers, so as to facilitate future co-locations and thus minimize the need to construct additional towers, if it will not create significant visual impacts. Proposed new wireless communication facilities at co-location/multi-carrier sites that would result in more than nine total individual antennas, and/or more than three above-ground equipment enclosures/shelters, located on the same parcel are considered to result in significant visual impacts and are prohibited, unless the applicant can prove that the proposed additional antennas/equipment will be camouflaged or otherwise made inconspicuous such that additional visual impacts are not created. Existing legal co-location/multi-carrier WCF sites that exceed these limits are allowed to retain their current number of antennas and equipment shelters/enclosures. New telecommunications towers should be designed and constructed to accommodate up to no more than nine total individual antennas, unless the applicant can prove that the additional antennas/equipment will be camouflaged or otherwise made inconspicuous such that additional visual impacts are not created. New wireless communication facility components, including but not limited to parking areas, access roads, and utilities, should also be designed so as not to preclude site sharing by multiple users, as technically feasible, in order to remove potential obstacles to future co-location opportunities. The decision-making body may require the facility and site sharing (co-location) measures specified in this section if necessary to comply with the purpose, goals, objectives, policies, standards, and/or requirements of the General Plan/Local Coastal Program, including SCCC 13.10.660 through 13.10.668, inclusive, and the applicable zoning district standards in any particular case. However, a wireless service provider will not be required to lease more land than is necessary for the proposed use. If room for potential future additional users cannot, for technical reasons, be accommodated on a new wireless communication tower/facility, written justification stating the reasons why shall be submitted by the applicant. Approvals of wireless communication facilities shall include a requirement that the owner/operator agrees to the following co-location parameters:

- (a) To respond in a timely, comprehensive manner to a request for information from a potential co-location applicant, in exchange for a reasonable fee not in excess of the actual cost of preparing a response;
- (b) To negotiate in good faith for shared use of the wireless communication facility by third parties; and
- (c) To allow shared use of the wireless communication facility if an applicant agrees in writing to pay reasonable charges for co-location.

(13) Coastal Zone Design Criteria. In addition to the requirements set forth herein, all wireless communication facilities requiring a coastal development permit shall conform with the Coastal Zone design criteria requirements of SCCC 13.20.130.

(14) Signage. A notice shall be posted at the main entrance of all buildings or structures where structure-mounted or free-standing wireless communication facilities are located on the same parcel. The notice shall be 12 inches by 12 inches and shall inform the public that a wireless communication facility is located on the building, structure or property and shall be consistent with the requirements of Federal law.

(15) Existing Facilities. Where applications involve existing wireless communication facilities, modifications to the existing facilities to reduce environmental impacts, including visual impacts, shall be pursued as technically feasible. If such modifications would reduce impacts, then such modifications shall be made as feasible, technically and otherwise, provided the reduction in impact is roughly commensurate with the cost to make the modifications.

(16) Approved Project. Approvals of wireless communication facilities shall require that the facility, including, but not limited to, all stealth design measures and vegetation screening, be maintained in its approved state for as long as it exists on the site. Approved facility plans, detailing the approved facility and all camouflaging elements, and including all maintenance parameters designed to ensure that camouflaging is maintained over the life of the project, shall be required for all approvals.

(17) Ongoing Evaluation. Wireless communication service providers are encouraged to evaluate their wireless communication facilities on a regular basis to ensure that they are consistent with the goals, objectives, policies, and requirements of the General Plan/Local Coastal Program, including specifically siting and design standards meant to minimize any negative impacts to visual resources and the character of the built and natural environment. Wireless service providers are encouraged to individually and collectively pursue modifications to their networks and/or individual facilities to reduce environmental impacts, including visual impacts; particularly over time as new technologies may be developed that allow for less visually intrusive wireless communication facilities, and/or a lesser number of them, while still allowing for the same or better level of wireless communication service associated with both any individual wireless service provider's facilities and the overall universe of wireless communication facilities in the County. [Ord. 5020 §§ 3—5, 2008; Ord. 4769 § 2, 2004; Ord. 4743 § 2, 2003; Ord. 4714 § 2, 2003].

13.10.664 Non-ionizing electromagnetic radiation (NIER) safety and monitoring requirements for wireless communication facilities.

Initial post-construction monitoring of wireless communication facility NIER/radio-frequency (RF) radiation exposures is required for all wireless communication facilities constructed under the auspices of SCCC 13.10.660 through 13.10.668, inclusive, to prove that all new wireless communication facilities operate in compliance with the FCC RF radiation exposure standards. NIER monitoring is to be conducted utilizing the Monitoring Protocol described in SCCC 13.10.660(D). The County may require that the required NIER/RF radiation monitoring reports described below may be independently reviewed by a qualified telecommunications/RF engineer, at the applicant's expense. The following applies to all wireless communication facilities:

(A) Public Health and Safety. No wireless communication facility shall be located or operated in such a manner that it poses, either by itself or in combination with other such facilities, a potential threat to public health. To that end, no telecommunication facility or combination of facilities shall produce at any time power densities in any area that exceed the FCC-adopted standard for human exposure, as amended, or any more restrictive standard subsequently adopted or promulgated by the Federal government. Areas in the immediate vicinity of all antennas or other transmitting devices in which the FCC RF radiation exposure standards could potentially be exceeded, especially near rooftop antennas, must be clearly demarcated and/or fenced off, with warning signs in English, Spanish and international symbols clearly visible.

(B) Non-Ionizing Electromagnetic Radiation (NIER) Measurements.

(1) Consistent with SCCC 13.10.662(B)(9), all applications for new wireless communication facilities must include written certification by a professional engineer registered in the State of California that the proposed facility will comply with the FCC's RF radiation exposure standard.

(2) Post-Construction NIER Measurement and Reporting. Monitoring of NIER/RF radiation to verify compliance with the FCC's NIER standards is required for all new wireless communication facilities and for all wireless communication facilities proposing to undergo a major modification of power output (as defined in SCCC 13.10.660(D)). This requirement shall be met through submission of a report documenting NIER measurements at the facility site within 90 days after the commencement of normal operations, or within 90 days after any major modification to power output of the facility. The NIER measurements shall be made, at the applicant's expense, by a qualified third-party telecommunications or radio-frequency engineer, during typical peak-use periods, utilizing the monitoring protocol described in SCCC 13.10.660(D). The report shall list and describe each transmitter/antenna present at the facility, indicating the effective radiated power of each (for co-located facilities this would include the antennas of all other carriers at the site). The report shall include field measurements of NIER emissions generated by the facility and also other emission sources, from various directions and particularly from adjacent areas with residential dwellings. The report shall compare the measured results to the FCC NIER standards for such facilities.

The report documenting the measurements and the findings with respect to compliance with the established FCC NIER exposure standard shall be submitted to the Planning Director within 90 days of commencement of facility operation. Failure to comply with this requirement may result in the initiation of permit revocation proceedings by the County.

(3) Failed Compliance. Failure to supply the required reports, or to remain in continued compliance with the NIER standard established by the FCC, or other regulatory agency if applicable shall be grounds for review of the use permit or other entitlement and other remedy provisions. [Ord. 4769 § 2, 2004; Ord. 4743 § 2, 2003; Ord. 4714 § 2, 2003].

13.10.665 Required findings for wireless communication facilities.

In order to grant any commercial development permit for a wireless communication facility and/or any coastal development permit if the facility is located in the Coastal Zone, the

approving body shall make the required development permit findings (SCCC 18.10.230) and the required coastal development permit findings if in the Coastal Zone (SCCC 13.20.110) as well as the following findings:

(A) That either: (1) the development of the proposed wireless communications facility as conditioned will not significantly affect any designated visual resources, environmentally sensitive habitat resources (as defined in the Santa Cruz County General Plan/LCP Sections 5.1, 5.10, and 8.6.6.), and/or other significant County resources, including agricultural, open space, and community character resources; or (2) there are no other environmentally equivalent and/or superior and technically feasible alternatives to the proposed wireless communications facility as conditioned (including alternative locations and/or designs) with less visual and/or other resource impacts and the proposed facility has been modified by condition and/or project design to minimize and mitigate its visual and other resource impacts.

(B) That the site is adequate for the development of the proposed wireless communications facility and, for sites located in one of the prohibited and/or restricted areas set forth in SCCC 13.10.661(B) and (C), that the applicant has demonstrated that there are not environmentally equivalent or superior and technically feasible: (1) alternative sites outside the prohibited and restricted areas; and/or (2) alternative designs for the proposed facility as conditioned.

(C) That the subject property upon which the wireless communications facility is to be built is in compliance with all rules and regulations pertaining to zoning uses, subdivisions and any other applicable provisions of this title and that all zoning violation abatement costs, if any, have been paid.

(D) That the proposed wireless communication facility as conditioned will not create a hazard for aircraft in flight.

(E) That the proposed wireless communication facility as conditioned is in compliance with all FCC and California PUC standards and requirements.

(F) For wireless communication facilities in the Coastal Zone, that the proposed wireless communication facility as conditioned is consistent with all the applicable requirements of the Local Coastal Program.

Any decision to deny a permit for a wireless communication facility shall be in writing and shall be supported by substantial evidence and shall specifically identify the reasons for the decision, the evidence that led to the decision and the written record of all evidence. [Ord. 4769 § 2, 2004; Ord. 4743 § 2, 2003; Ord. 4714 § 2, 2003].

13.10.666 Site restoration upon termination/abandonment of wireless communication facilities.

(A) The site shall be restored as nearly as possible to its natural or preconstruction state within six months of termination of use or abandonment of the site.

(B) Applicant shall enter into a site restoration agreement, consistent with subsection (A) of this section, subject to the approval of the Planning Director. [Ord. 4769 § 2, 2004; Ord. 4743 § 2, 2003; Ord. 4714 § 2, 2003].

13.10.667 Indemnification for wireless communication facilities.

Each permit issued pursuant to SCCC 13.10.660 through 13.10.668, inclusive, shall have as a condition of the permit a requirement that the applicant defend, indemnify and hold harmless the County and its officers, agents, and employees from and against any claim (including attorney's fees) against the County, its officers, employees or agents to attack, set aside, void or annul the approval of the permit or any subsequent amendment of the permit. [Ord. 4769 § 2, 2004; Ord. 4743 § 2, 2003; Ord. 4714 § 2, 2003].

13.10.668 Telecommunications Act exception procedure.

If the application of the requirements or limitations set forth in SCCC 13.10.660 through 13.10.668, inclusive, including but not limited to applicable limitations on allowed land uses, would have the effect of violating the Federal Telecommunications Act as amended, the approving body shall grant a Telecommunications Act exception to allow an exception to the offending requirement or application. The applicant shall have the burden of proving that application of the requirement or limitation would violate the Federal Telecommunications Act, and that no alternatives exist which would render the approval of a Telecommunications Act exception unnecessary. [Ord. 4769 § 2, 2004; Ord. 4743 § 2, 2003; Ord. 4714 § 2, 2003].

Objective 5.13 Commercial Agricultural Land

(LCP) To maintain for exclusive agricultural use those lands identified on the County Agricultural

Resources Maps as best suited to the commercial production of food, fiber and ornamental crops and livestock and to prevent conversion of commercial agricultural land to non-agricultural uses. To recognize that agriculture is a priority land use and to resolve policy conflicts in favor of preserving and promoting agriculture on designated commercial agricultural lands.

5.13.6 Conditional Uses on Commercial Agricultural (CA) Zoned Lands

(LCP) All conditional uses shall be subject to standards which specify siting and development criteria:

including size, location and density. Allow conditional uses on CA zoned lands based upon the following conditions:

- (a) The use constitutes the principal agricultural use of the parcel; or
- (b) The use is ancillary incidental, or accessory to the principal agricultural use of the parcel; or
- (c) The use consists of an interim public use which does not impair long term agricultural viability; and
- (d) The use is sited to avoid conflicts with principal agricultural activities in the area; and
- (e) The use is sited to avoid, where possible, or otherwise minimize the removal of land from agricultural production.

5.13.7 Agriculturally Oriented Structures

Allow only agriculturally oriented structures or dwellings on Commercial Agricultural Land; prohibit non-agricultural residential land use when in conflict with the fundamental objective of

preserving agriculture.

Visual Resource Protection/ Community Character Policies

Objective 5.10a Protection of Visual Resources

To identify, protect and restore the aesthetic values of visual resources.

Objective 5.10b. New Development in Visual Resource Areas.

To ensure that new development is appropriately designed and constructed to have minimal to no adverse impact upon identified visual resources.

5.10.2 Development Within Visual Resource Areas.

Recognize that visual resources of Santa Cruz County possess diverse characteristics and that the resources worthy of protection may include, but are not limited to, ocean views, agricultural fields, wooded forests, open meadows, and mountain hillside views. Require projects to be evaluated against the context of their unique environment and regulate structure height, setbacks, and design to protect these resources consistent with the objectives and politics of this section. Require discretionary review for all development within the visual resource area of Highway One, outside of the Urban/ Rural boundary, as designated on the GP/ LCP Visual Resources Map and apply the design criteria of Section 13.20.130 of the County's zoning ordinance to such development.

5.10.3 Protection of Public Vistas.

Protect significant vistas as described in policy 5.10.2 from all publicly used roads and vista points by minimizing disruption of landform and aesthetic character cause by grading operations, timber harvests, utility wires and poles, signs, inappropriate landscaping and structure design. Provide necessary landscaping to screen development which is unavoidably sites within these vistas.

5.10.5 Preserving Agricultural Vistas.

Continue to preserve the aesthetic value of agricultural vistas. Encourage development to be consistent with the agricultural character of the community. Structures appurtenant to agricultural uses on agriculturally designated parcels shall be considered to be compatible with the agricultural character of surrounding areas.

5.10.6 Preserving Ocean Vistas.

Where public ocean vistas exist, require that these vistas be retained to the maximum extent possible as a condition of approval for any new development.

5.10.11 Development Visible from Rural Scenic Roads.

In the viewsheds of rural scenic roads, require new development, including development envelopes in proposed land divisions, to be sited out of public view, obscured by natural landforms and/or existing vegetation. Where proposed structures on existing lots are unavoidably visible from scenic roads, identify those visual qualities worthy of protection (See policy 5.10.2)

and require the siting, architectural design, and landscaping to mitigate the impact on those visual qualities. (See policy 5.14.10).

Objective 8.1 Quality Design.

To achieve functional high quality development through design review policies which recognize the diverse characteristics of the area, maintains design creativity, and preserves and enhances the visual fabric of community.

Objective 8.2 Site and Circulation Design.

To enhance and preserve the integrity of existing land use patterns and to complement scale and character of neighboring development by assuring that new development is sited, designed, and landscaped to be functional and visually compatible and integrated with surrounding development, and to preserve and enhance the natural amenities and features unique to individual building sites, and to incorporate them into the site design.

Policy 8.4.5. Neighborhood Character Inventories.

Require new discretionary project applications to include a neighborhood character visual inventory or equivalent information commensurate with the scope of the project. The purpose of the inventory is to serve as a basis from which to develop appropriate guidelines and conditions for adoption with the project. This inventory shall at a minimum encompass the parcels surrounding the site, consider architectural and landscape style, density, lot sizes and setbacks.

Objective 8.6 Building Design

To encourage building design that addresses the neighborhood and community context; utilizes scale appropriate to adjacent development; and incorporates design elements that are appropriate to surrounding uses and the type of land use planned for the area.