

CITY COUNCIL RESOLUTION 2016-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PINOLE UPHOLDING THE NOVEMBER 16, 2015 DECISION OF THE PLANNING COMMISSION TO DENY A CONDITIONAL USE PERMIT (CUP 14-13) AND A DESIGN REVIEW (DR 14-26) REQUEST FOR A WIRELESS COMMUNICATIONS FACILITY INCLUDING NINE ANTENNAS WITHIN A WATER TOWER STRUCTURE AND GROUND-BASED SUPPORT EQUIPMENT INCLUDING CABINETS, A DIESEL GENERATOR, AND FUEL TANK AT 2518 PFEIFFER LANE (APN: 360-131-036)

WHEREAS, Verizon Wireless ("applicant or appellant"), filed an application with the City of Pinole ("City") for a conditional use permit (CUP 14-13) and Design Review (DR 14-26) in order to construct and operate a new wireless communications facility located on private property at 2518 Pfeiffer Lane (APN: 360-131-036) in accordance with Title 17 of the Pinole Municipal Code ("project"); and

WHEREAS, the applicant has proposed the wireless communication facility to improve wireless communication coverage and capacity along Pinole Valley Road and the southern portion of the City; and

WHEREAS, in accordance with the California Environmental Quality Act (CEQA), the City prepared and circulated a Mitigated Negative Declaration describing the potential significant impacts of the project and proposed mitigations for the impacts; and

WHEREAS, a notice of a Planning Commission public hearing on the project was mailed to all property owners of record within 1000 feet of the project site and a notice was published in the November 5, 2015 edition of the West County Times as required by local and State law; and

WHEREAS, a staff report, dated November 16, 2015, and incorporated herein by reference, described and analyzed the project and the Mitigated Negative Declaration for the Planning Commission; and

WHEREAS, the Planning Commission conducted a duly noticed public hearing to consider the Mitigated Negative Declaration, and the project CUP 14-13 and DR 14-26 on November 16, 2015; and

WHEREAS, after the close of the public hearing, the Planning Commission considered the Mitigated Negative Declaration and all public comments received both before and during the public hearing, the presentation by City staff, the staff report, and all other pertinent documents and testimony regarding the proposed development, and after due deliberation, the Planning Commission, by a vote of 3 – 1 (with 3 members absent), denied the Conditional Use Permit and Design Review requests on the following basis:

- 1.) Concern with the hydrology and drainage off of the site and towards the creek;
- 2.) Aesthetics of the water tower were not compatible with the residential neighborhood;
- 3.) Aesthetics of the location were not compatible with the single-family area;
- 4.) The proposed diesel generator was not compatible with the single-family area;
- 5.) Concerns with respect to perching the tower at the edge of the bluff on the property;
- 6.) The vegetation for screening the ground-based equipment area was inadequate; and
- 7.) Concern about the proposed facility equipment load on the top of the hill and its effect on the stability of the hillside; and

WHEREAS, on November 23, 2015, the applicant filed a timely appeal with the City of Pinole; and

WHEREAS, notice of a City Council public hearing on the appeal was mailed to all property owners of record within 1000 feet of the project site and a notice was published in the January 29, 2016 edition of the West County Times as required by local and State law; and

WHEREAS, a staff report, dated February 9, 2016, and incorporated herein by reference, described and analyzed the appeal, the project, and the Mitigated Negative Declaration for the Planning Commission; and

WHEREAS, the City Council held a duly noticed public hearing on the Verizon appeal on February 9, 2016, at which time all interested parties had the opportunity to be heard; and

WHEREAS, after the close of the public hearing, the City Council considered all public comments received both before and during the public hearing, the record of the November 16, 2015 public hearing before the Planning Commission, the basis of the appeal and testimony by the applicant/appellant, the presentation by City staff, the staff report and all other pertinent documents regarding the proposed project, including but not limited to the Initial Study/Mitigated Negative Declaration, prior to taking any action.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

Section 1. That the above recitals are true and correct and made part of this resolution.

Section 2. That the City Council hereby denies the appeal of the applicant/appellant and confirms the decision of the Planning Commission based on the following findings regarding the original water tower design and the alternate chimney design:

- A. The proposed wireless communications facility does not meet the finding for CUP approval in PMC section 17.12.140.F.1.a because it is not consistent with the City's General Plan and zoning ordinance. The basis for this finding is that because the facility, as designed to appear as a water tower and with a diesel generator powered back-up system, and located on the property immediately above a sensitive creek habitat and near slopes with a previous history of instability and erosion is not compatible with the character of the surrounding single-family residential neighborhood.
- B. The proposed wireless communications facility does not meet the finding for CUP approval in PMC section 17.12.140.F.1.b because the establishment, maintenance, and operation of the proposed wireless communications facility, will be detrimental to the health safety, peace, morals, comfort or general welfare of the persons residing or working in the vicinity of the project site. The basis for this finding for the tower design is the reasons expressed by the Planning Commission on November 16, 2015 and incorporated herein,
- C. The proposed wireless communications facility does not meet the finding for CUP approval in PMC section 17.12.140.F.1.c because the project site is not physically suitable for the proposed structure. The basis for this finding is that the project site is visually prominent and the mass of the proposed faux water and the proximity of the ground-based equipment to steep slopes and Pinole Creek make the site location unsuitable for location of the facility.

- D. The proposed wireless communications facility does not meet the finding for CUP approval in PMC section 17.12.140.F.1.d because its design and location is contrary to the specific intent clauses, development regulations, or performance standards established for the zoning district in which it is located. The basis for this finding is that the site is visually prominent, the water tower design is not typical of single family residential development with the City, and ground-based equipment is insufficiently screened so as to be visually compatible with the adjacent residential areas in the vicinity of the project site.

- E. The proposed wireless communications facility does not meet the finding for Comprehensive Design Review approval in PMC section 17.12.150.G.3. because its design, location, and layout are remote and difficult to access in the event of an emergency; the ground-based equipment is placed too close steep slopes which constitutes an unreasonable safety hazard, and the facility is sited too close to surrounding residential development to make it visually unobtrusive and visually compatible.

Section 3. For the reasons set forth in Section 2 above, the proposed wireless communications facility does not meet the required findings for approval of Conditional Use Permit and Comprehensive Design Review in PMC section 17.12.150 G3

PASSED AND ADOPTED this 9th day of February 2016, by the following vote:

AYES:	COUNCILMEMBERS:
NOES:	COUNCILMEMBERS:
ABSENT:	COUNCILMEMBERS:
ABSTAIN:	COUNCILMEMBERS:
