

CITY COUNCIL RESOLUTION 2016-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PINOLE UPHOLDING THE APPEAL OF VERIZON AND APPROVING A MITIGATED NEGATIVE DECLARATION AND MITIGATION MONITORING AND REPORTING PROGRAM, A CONDITIONAL USE PERMIT (CUP 14-13) AND DESIGN REVIEW (DR 14-26) FOR A WIRELESS COMMUNICATIONS FACILITY INCLUDING SIX ANTENNAS WITHIN A CHIMNEY STRUCTURE ATTACHED TO AN EXISTING GARAGE AND GROUND-BASED SUPPORT EQUIPMENT, AT 2518 PFEIFFER LANE (APN: 360-131-036)

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

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

WHEREAS, an Initial Study was prepared based on the original project description (antennae enclosed within a 34-foot tall water tower structure and related ground mounted equipment, including a diesel generator and fuel tank for emergency back-up power) and identified potentially significant adverse environmental effects in the areas biological resources, cultural resources, noise, hydrology and water quality, and geology and soils; and

WHEREAS, the Initial Study identified mitigation measures that avoid the effects or mitigate the effects to a point where no significant environmental effects would occur, and the applicant has agreed to implement the proposed mitigation measures; therefore, the City prepared a Mitigated Negative Declaration dated October 2015, attached as Exhibit A and incorporated herein by reference; and

WHEREAS, the City distributed a Notice of Intent (NOI) to adopt the Mitigated Negative Declaration on October 1, 2015 and the NOI was posted at the Contra Costa County Clerk's Office and made available at the City offices and the Pinole Library, pursuant to the California Environmental Quality Act (CEQA) Guidelines section 15072; and

WHEREAS, a 30-day review and comment period on the Mitigated Negative Declaration was opened on October 1, 2015 and closed on October 30, 2015, during which City received written comments from interested members of the public and outside agencies. Although not required by CEQA, the City prepared written response to each comment. The responses provided good faith, reasoned analysis of the comments, supported by substantial evidence. The responses are attached as Exhibit B and incorporated herein by reference; and

WHEREAS, as required by CEQA section 21081.6, the City prepared a Mitigation Monitoring and Reporting Program (MMRP) to ensure compliance with the identified mitigation measures during project implementation. The MMRP is attached as Exhibit C and incorporated herein by reference; and

WHEREAS, a notice of public hearing was mailed to all property owners of record within 500 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 held a duly noticed public hearing to consider the Mitigated Negative Declaration, CUP 14-13 and DR 14-26 on November 16, 2015, at which time all interested parties had the opportunity to be heard; and

WHEREAS, after the close of the public hearing, the Planning Commission considered the Mitigated Negative Declaration, the comments and written responses, the presentation by City staff, the staff report, and all other pertinent documents and testimony regarding the proposed project, 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 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.) The proposed diesel generator was not compatible with the single-family area;
- 4.) Concerns with respect to perching the tower at the edge of the bluff on the property;
- 5.) The vegetation for screening the ground-based equipment area was inadequate; and
- 6.) 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 asserting that "(1) the Planning Commission action was not based on substantial evidence in violation of both California law and 47 U.S.C. § 332 (c)(7)(B)(iii); and (2) the denial would constitute a prohibition of personal wireless services in violation of 47 U.S.C. § 332 (c)(7)(B)(i)(II)". The appeal is attached as Exhibit D and incorporated herein by reference; and

WHEREAS, after filing the appeal, the applicant/appellant submitted plans for an alternate design of the wireless facility based on the Planning Commission concerns. The alternate plans propose to locate six antennae within a 25' tall structure designed to look like a chimney attached to the existing garage. The equipment area would be reduced to 18' by 14', located adjacent to the garage and screened by a 6' redwood fence with landscaping. There would be no diesel generator or fuel tank; emergency power would be provided by an on-site backup battery. The alternate plans are dated January 27, 2016, are on file at City Hall for review during normal business hours, and are incorporated herein by reference. Staff and the CEQA consultant reviewed the alternate plans to determine if any changes to the analysis or mitigation measures would be required, and concluded that the overall scope of project construction and operation was less than the original project but that all the proposed mitigation measures would also apply to the alternate plans. The alternate plans were also determined not to be a substantial revision to the Mitigated Negative Declaration, therefore no recirculation is required. The City prepared an Appendix to the Mitigated Negative Declaration to be added to the Mitigated Negative Declaration describing the review and findings related to the alternate project. Said Appendix is attached as Exhibit E and incorporated herein by reference; and

WHEREAS, a notice of public hearing 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 alternate plans, and the Mitigated Negative Declaration for the City Council; 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 the Mitigated Negative Declaration; the comments and written responses and added Appendix to the Mitigated Negative Declaration; the record of the November 16, 2015 public hearing before the Planning Commission; the basis of the appeal by the applicant; the original and alternate project plans; the presentation by City staff; the staff report and all other pertinent documents and testimony regarding the proposed project, prior to taking any action on the appeal.

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 adopts the Mitigated Negative Declaration attached as Exhibit A and including the Appendix to the Mitigated Negative Declaration attached as Exhibit E; and the MMRP attached as Exhibit C based on the following findings:

- A. The City Council has considered the whole record before it, which includes but is not limited to the revised project description and project plans (for the November 16, 2015 Planning Commission hearing and the February 9, 2016 appeal hearing), the staff reports, testimony by staff and the public, the Mitigated Negative Declaration (Exhibit A), the written comments and responses (Exhibit B), the appendix analyzing the alternate plans (Exhibit E), and other materials and evidence submitted or provided to it relating to the project.
- B. The location and custodian of the documents or other material that constitute the record of proceedings upon which the Council decision is based is the City of Pinole, City Hall, 2131 Pear Street, Pinole CA 94564, Attn: City Clerk.
- C. The Mitigated Negative Declaration, including the Appendix addressing the alternate plans, reflects the City's independent judgment and analysis on the potential for environmental effects from the proposed project.
- D. Through public comments on the Mitigated Negative Declaration and preparation of written responses, as well as submittal of alternate plans, additional information was introduced into the record. The City provided a good faith, reasoned analysis of the public comments received during the public comment period, accepting suggestions and providing clarification to the Mitigated Negative Declaration, where appropriate. The City carefully reviewed the comments and information generated in preparing the responses, as well as public comments related to the public hearings, and determined that they did not identify a new significant effect, and did not show that new mitigation measures or project revisions were needed. The information added to the record through public comment and the alternate plans does not change any of the conclusions in the Mitigated Negative Declaration. Through the public review and comment process, the information available to the public and decisionmakers was enhanced, resulting in a more comprehensive record supporting the Mitigated

enhanced, resulting in a more comprehensive record supporting the Mitigated Negative Declaration and more information to decisionmakers as they consider the project on its merits. The additional information clarifies and amplifies the Mitigated Negative Declaration, but does not constitute substantial revision of the document and does not require recirculation.

- E. Mitigation measures described in the Mitigated Negative Declaration have been incorporated into the project and agreed to by the applicant and would avoid significant effects or mitigate the effects to a point where clearly no significant effects would occur. On the basis of the whole record before it, (including the Mitigated Negative Declaration and comments and written responses, and alternate plans appendix), the City Council finds that there is no substantial evidence that the project, as mitigated, will have a significant effect on the environment.

Section 3. That the City Council hereby reverses the Planning Commission action upholds the appeal of the Applicant/Appellant and hereby approves a Conditional Use Permit (CUP 14-13) and Design Review (DR 14-26) with Conditions of Approval (Exhibit F) for the alternate chimney design project as presented and reviewed and commented upon by the public and the City Council at the public hearing of February 9, 2016, based on the following findings and supporting evidence in the record (*in italics*):

A. The proposed wireless communications facility consists of the following components :

- The installation of six panel antennas (the original application called for nine panel antennae) within a 25-foot structure (the original application called for 34-foot structure) designed to appear as a chimney attached to the existing garage. The chimney structure would be constructed of the same materials and painted the same color as the existing garage and is no more than 7 feet above the highest roof ridge.
- All required support equipment at the base of the chimney structure will be within an 18-foot by 14-foot area (the original plan called for a 27 foot, 5 inch by 19 foot, 5 inch area) adjacent to the existing garage and approximately 30 feet away from the top of the slope above Pinole Creek. There will be no diesel generator or fuel tank, eliminating concerns about diesel fumes, potential fuel spills and the noise of monthly maintenance testing. Emergency power will be provided by an on-site back-up battery.
- A 6-foot solid redwood fence with a lattice top will surround the equipment cabinets and additional visual screening by low shrubs to be planted on the north, south and west sides of the site (the sides facing adjacent residential properties).

B. The proposed wireless communications facility as conditioned is consistent with the City's General Plan as follows:

1. The project site is designated as Suburban Residential (SR) in the City's General Plan Land Use Map. As defined on page 5.0-19 of the Land Use and Economic Development Element of the General Plan, this designation is intended "for single-family development that is typical of most residential areas of the city."

The subject property is located within this residential category, which allows one dwelling unit per parcel, with the potential for a secondary dwelling unit. The proposed wireless communication facility is accessory to the principal use of a single-family residential dwelling and the design of the water tower structure is

compatible with features and materials of the surrounding residential development.

2. The General Plan Community Services and Facilities Element includes policy language which supports improvements to wireless communication infrastructure within the City to help respond and recover in the event of an emergency; to provide easily accessible information about City actions, activities, and services; and to help conduct City business in an open, transparent, and efficient fashion, including the following:

Policy CS.2.5 The City, its citizens, businesses and services will be prepared for effective response and recovery in the event of emergencies or disasters.

Coverage maps and related testimony in the public record indicate that the proposed Verizon facility will result in improved coverage for Verizon customers within and passing through the southern Pinole Valley Road area allowing for improved response in the event of an emergency.

Action CS.2.5.4 Locate and design emergency buildings and vital utilities, communication systems and other public facilities so that they can remain operational during and after an emergency or disaster.

The proposed facility will have a back-up generator and fuel tank that will allow it to continue to operate for an extended period of time in the event of a loss of primary electrical power.

Goal CS.11 Provide reliable communication and information management services to provide timely, easily accessible information about City actions, activities, programs and services.

Coverage maps and related testimony in the public record indicate that the subject wireless communication facility will result in improved coverage and communication for Verizon customers within and passing through the southern Pinole Valley Road area.

Policy CS.11.2 The City will optimize Internet communication and other available media communication methods as a sustainable way to provide and receive information from Pinole citizens and as a means of conducting City business in an open, transparent and efficient fashion.

Coverage maps and related testimony in the public record indicate that the proposed Verizon facility will result in improved coverage in the southern Pinole Valley Road area allowing for Verizon customers within and passing through this area.

Policy CS.11.4 The City will strive to ensure reliable communications systems during natural and man-made emergencies.

Coverage maps and related testimony in the public record indicate that the proposed Verizon facility will result in improved coverage for Verizon customers within and passing through the southern Pinole Valley Road area allowing for improved response in the event of an emergency. In addition, the proposed facility

will have a back-up generator and fuel tank that will allow it to continue to operate for an extended period of time in the event of a loss of primary electrical power

C. The proposed wireless communications facility as conditioned is consistent with the City's Zoning Ordinance as follows:

1. The City of Pinole Zoning Map identifies the project site at 2518 Pfeiffer Lane as zoned Suburban Residential (R-1). A wireless communications facility is a conditionally permitted use in the R-1 Zone.
2. Chapter 17.12.140 of the Zoning Ordinance establishes the purpose, applicability and approval findings for a Conditional Use Permit. Chapter 17.12.140F(1) of the City's Zoning Code includes findings that are required to be met as part of the consideration of a Conditional Use Permit. Findings a, b, c and d are pertinent to this project and are discussed below.
 - a. The proposed use is consistent with the General Plan, any applicable specific plans and all applicable provisions of this title.

Evidence in the public record, including but not limited to the Mitigated Negative Declaration, public comments on the Mitigated Negative Declaration and written responses, the Staff Reports and related testimony demonstrates that the project site and the wireless communication facility, as modified by applicable Conditions of Approval and Mitigation Measures, is consistent with the Pinole General Plan as found in Section 3-B of this Resolution and is compatible with all applicable design review (Chapter 17.12.150) and wireless communication facility standards (Chapter 17.76) of the Pinole Zoning Ordinance, as found in Sections 3-C-3 through 3-C-5 of this Resolution.

- b. The establishment, maintenance, and operation of the proposed wireless communications facility as conditioned will not 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 or general welfare of the City of Pinole.

Evidence in the public record, including but not limited to the Mitigated Negative Declaration, public comments on the Mitigated Negative Declaration and written responses, the Staff Reports and related testimony demonstrates that the project site and the wireless communication facility, as modified by applicable Conditions of Approval and Mitigation Measures, conforms to the City of Pinole General Plan, Zoning Ordinance and Design Review standards and will not 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 or general welfare of the City of Pinole. In particular, the RF emissions^[CA1] coming from the project, as shown in the public record, have been found to be well below the required health and safety thresholds for human exposure.

- c. The site of the proposed wireless communications facility as conditioned is physically suitable for the type, density and intensity of use and related structures being proposed.

Evidence in the public record, including but not limited to the Mitigated Negative

Declaration, comments on the Mitigated Negative Declaration and written responses, the Staff Reports and related testimony demonstrates that the project site and the wireless communication facility, as modified by applicable Conditions of Approval and Mitigation Measures, conforms to the City of Pinole General Plan, Zoning Ordinance and Design Review standards, and as such is physically suitable for the type, density and intensity of use and related structures being proposed. In particular, the area where the facility will be located is a flat area near the existing house and garage, with existing utility service and access easily extended to the site.

- d. The proposed wireless communications facility, as conditioned, will not be contrary to the specific intent clauses, development regulations, or performance standards established for the zoning district in which it is located. The proposed use and related structures are compatible with other land uses, transportation and service facilities in the vicinity.

- I. *Evidence in the public record, including but not limited to the Mitigated Negative Declaration, public comments on the Mitigated Negative Declaration and written responses, the Staff Reports and related testimony demonstrates that the project site and the wireless communication facility, as modified by applicable Conditions of Approval and Mitigation Measures, is consistent with the Pinole General Plan as found in Section 3-B of this Resolution and is compatible with all applicable design review (Chapter 17.12.150) and wireless communication facility standards (Chapter 17.76) of the Pinole Zoning Ordinance, as found in Sections 3-C-3 through 3-C-5 of this Resolution. The wireless communication facility is served by a public residential street and an extension of an existing residential driveway and by the extension of existing residential electrical and storm drainage facilities.*

II.

3. Chapter 17.76 of the Zoning Code regulates development of wireless communications facilities within the City. Chapter 17.76.060A identifies development standards that are applicable to all wireless communications facilities, except where they specifically apply to free-standing facilities. The proposed project antennas are building mounted and not free standing. The standards that are pertinent to this project are discussed below.

1. All wireless telecommunication facilities shall comply with all applicable requirements of the current uniform codes as adopted by the city and shall be consistent with the general plan and this code, as well as other standards and guidelines adopted by the city, and all applicable state and federal law.

I.

A condition of approval has been included to assure that this standard is satisfied. Further, the project is consistent with the General Plan as discussed in Finding B above, and consistent with all applicable standards, guidelines, and federal and state law as discussed in the Planning Commission and City Council staff reports and these findings.

2. All wireless telecommunication facilities shall comply at all times with the FCC rules, regulations, and standards, and any other applicable federal, state, or local laws or regulations.

A condition of approval has been included to assure that this standard is satisfied. The Federal Communications Commission FCC regulates human exposure to radio frequency radiation. An evaluation of radio frequency radiation has been prepared by

Hammett & Edison, Inc. for the proposed project. The evaluation concludes that operation of the base station proposed by Verizon Wireless at 2518 Pfeiffer Lane will comply with prevailing standards limiting public exposure to radio frequency energy. The evaluation also concludes that the highest calculated level in publicly accessible areas is much less than the prevailing standards allow. The project complies with the City's wireless telecommunications as discussed in these findings.

3. Sufficient anti-climbing deterrents, including warning signs (ANSI Standards C95.2-1982 Warning Symbol), shall be incorporated into the facility, as needed, to reduce the potential for trespass and injury.

The proposed project includes a 6-foot solid redwood fence with lattice on top to discourage trespassing. The facility is also located on private property. A condition of approval is included requiring the preparation of a security plan prior to the issuance of a building permit to prevent crime including trespassing both during construction and during the operation of the proposed communications facility. This condition of approval was reviewed and approved by the City of Pinole Police Department.

4. To minimize overall visual impact, all new wireless telecommunication facilities shall be co-located with existing facilities and with other planned facilities, whenever feasible.

The applicant/appellant and City have determined that co-location is not feasible in this location. This site is limited to serve only Verizon. Co-location of facilities for other wireless carriers is prohibited. A condition of approval has been included to prohibit co-location of any other wireless carrier's equipment.

5. All wireless telecommunication facilities shall be located so as to minimize their visibility and utilize the latest technology available to minimize visual impacts.

The proposed facility location and design was selected to help screen ground-based equipment, reduce the overall height of the antennas. The proposed antenna structure is designed to appear as a chimney attached to the existing garage and ground-based equipment will be screened by solid redwood fencing and rows of grape vines.

6. Wireless telecommunication facilities shall be located, designed, and screened to blend with existing natural or built surroundings so as to reduce visual impacts of the technological requirements of the proposed wireless telecommunication facility and, in so far as possible, appear compatible with neighboring residences and the character of the community.

The site location and project features are intended to have the site blend in with the existing residential surroundings in so far as possible. The proposed chimney will appear to be slightly taller than the existing garage it is attached to and the proposed colors and materials are intended to blend with the existing garage and residence.

7. All related equipment shall have a non-reflective finish and shall be painted or otherwise treated to minimize visual impacts and placed in underground vaults whenever possible. All utilities (i.e., gas, electric, cable, phone, and water) shall be placed underground.

A condition of approval has been included to utilize non-reflective paint finish on proposed equipment.

8. All proposed equipment cabinets/structures, accessory structures, and other related equipment shall be continuously maintained in good condition. This shall include

keeping equipment cabinets and structures graffiti-free and maintaining all security fences and warning signs in good condition.

A condition of approval has been added to satisfy this development standard.

9. The display of signs or advertising on wireless telecommunication facilities is prohibited.

Display signs or advertising is not proposed.

10. Exterior lighting shall not be allowed on commercial wireless telecommunication facilities except for that required for use of authorized persons on-site during hours of darkness or where the antenna structure owner or registrant is required to light the antenna structure by the terms of the FAA antenna structure registration applicable to the facility.

No exterior lighting is currently proposed.

11. In appropriate cases, the proposed wireless telecommunication facilities may be located on a city-owned or controlled property or within city rights-of-way, provided the appropriate applications are submitted, easements procured, and any other relevant procedures complied with.

The proposed project is located on private property.

4. Chapter 17.76.060B of the City's Zoning Code includes development standards that apply specifically to building mounted antennas. These pertinent development standards and how they relate to the proposed project are discussed below.

1. Building-mounted antennas and any related equipment shall be in scale and architecturally integrated with building design in such a manner as to minimize the visual impact of the wireless telecommunication facilities. Screening designs may include locating the facility within attics, steeples, or towers, behind and below parapets, or concealed with an architecturally compatible addition to a building.

The antennas are mounted on the existing garage and are screened by an enclosure designed to look like a chimney. The chimney is designed using the materials and colors of the existing garage.

2. Colors and materials of the antennas should match the existing building when attached directly to the façade of a building.

The chimney is designed using the materials and colors of the existing garage.

3. Wireless telecommunication facilities and all related equipment shall be located to minimize visibility from public places. Any visible portion of equipment shall be painted or treated to be architecturally compatible with the surrounding buildings and/or shall be screened, using appropriate techniques to camouflage, disguise, and/or blend into the surrounding environment, as determined by the designated approving authority.

All of the equipment will be contained within an enclosure surrounded by a 6-foot solid redwood fence with lattice panels on top. Additional screening will be provided by low shrubs and existing trees on the site. Redwood fencing is consistent with fencing material in single-family residential zones.

4. Antennas shall be flush-mounted and located below the roof line of the building. Antennas and related equipment shall not project beyond a maximum of eighteen

(18) inches from the face of the building.

Due to the location of the site, the antennas will be six feet, six inches above the ridgeline of the existing garage roof in order to provide the required coverage for the area. However, the chimney enclosure for the antennas does not appear out of character as chimneys are typically higher than a residential roofline in order to function properly and project away from the building. Chapter 17.36.040C of the Pinole Zoning Ordinance provides an exclusion for chimneys in residential zones when calculating allowable height and projections into required setbacks.

5. Chapter 17.12.150G of the City's Zoning Code includes findings that are required to be met as part of the consideration of a comprehensive design review. Findings 1, 2, and 3 are pertinent to this project and are discussed below.

1. The proposed project is consistent with the objectives of the general plan and complies with applicable zoning regulations, planned development, master plan or specific plan provisions, improvement standards, and other applicable standards and regulations adopted by the city;

The project is consistent with the General Plan as discussed in Findings B-1 and B-2 above, and consistent with all applicable City zoning and improvement standards and guidelines as discussed in Findings C-1 through C-4, above.

2. The proposed project will not create conflicts with vehicular, bicycle, or pedestrian transportation modes of circulation;

The project site is accessed from an extension of an existing private driveway off of Pfeiffer Lane, a public street serving single-family residential properties. Traffic generated by the project consists of periodic maintenance inspections by vehicles of a size typically found in residential neighborhoods.

3. The site layout (orientation and placement of buildings and parking areas), as well as the landscaping, lighting, and other development features, are compatible with and complement the existing surrounding environment and ultimate character of the area under the general plan and applicable specific plans;

The site location and project features are intended to have the site blend in with the existing residential surroundings in so far as possible. The proposed chimney will appear to slightly taller than the existing ridgeline of the garage on the site and the proposed colors and materials are intended to blend with the existing garage and residence. In addition to the proposed chimney enclosure, the project will utilize a solid redwood fence and low shrubs to help minimize visual impacts. The antenna location within the is approximately 6 feet taller than the existing garage roof ridgeline, and within the maximum height limit of the R-1 zone. No exterior lighting is proposed. The proposed facility is not located within required residential development setbacks.

D. The approval of Conditional Use Permit shall terminate on February 8, 2017, unless exercised and actual construction or alteration under valid permits has begun within said period or a written request has been submitted to the City, prior to the expiration date, for an extension of time as allowed under the Zoning Ordinance.

ATTACHED EXHIBITS:

- A. INITIAL STUDY/MITIGATED NEGATIVE DECLARATION
- B. WRITTEN RESPONSES TO COMMENTS ON THE INITIAL STUDY
- C. MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)
- D. APPLICANT'S APPEAL LETTER
- E. APPENDIX TO THE MITIGATED NEGATIVE DECLARATION
- F. CONDITIONS OF APPROVAL

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

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

ABSTAIN: COUNCILMEMBERS:

**CITY COUNCIL RESOLUTION 2016-XX VERIZON WIRELESS COMMUNICATION FACILITY
EXHIBIT F CONDITIONS OF APPROVAL**



	<u>Timing/ Implementation</u>	<u>Monitoring Department /Division</u>	<u>Verification (date and Signature)</u>
1.	If any of these conditions are found to be disregarded, the use permit for the wireless communication facility will be subject to revocation pursuant to Section 17.10.120 of the Pinole Municipal Code. If necessary, the Planning Commission may modify the use permit or may revoke the use permit after holding a noticed public hearing and making applicable findings.	Development Services	
2.	The project shall be constructed and operated in substantial compliance with the approved wireless facility development plans date stamped received January 27, 2016 and the accompanying project description and material submitted for the Conditional Use Permit and Design Review request unless modified by the conditions of approval below.	Planning	

**CITY COUNCIL RESOLUTION 2016-XX VERIZON WIRELESS COMMUNICATION FACILITY
EXHIBIT F CONDITIONS OF APPROVAL**



	<u>Timing/ Implementation</u>	<u>Monitoring Department /Division</u>	<u>Verification (date and Signature)</u>
3.	On-Going	Planning	
4.	On-Going	Planning	

The project shall be constructed and operated in a manner which is consistent with FCC rules, regulations and standards, and with all applicable federal, State, and local laws. The Applicant shall provide the Development Services Department with annual monitoring reports confirming that facility operations, including radio frequency (RF) emissions, are consistent with FCC requirements.

The Applicant shall hold harmless the City, its Council Members, its Planning Commission, officers, agents, employees, and representatives from liability for any award, damages, costs and fees incurred by the City and/or awarded to any plaintiff in an action challenging the validity of this permit or any environmental or other documentation related to approval of this permit. Applicant further agrees to provide a defense for the City in any such action.

**CITY COUNCIL RESOLUTION 2016-XX VERIZON WIRELESS COMMUNICATION FACILITY
EXHIBIT F CONDITIONS OF APPROVAL**



	<u>Timing/ Implementation</u>	<u>Monitoring Department /Division</u>	<u>Verification (date and Signature)</u>
5.	On-Going	Planning	
	All building permit drawings and subsequent construction shall substantially conform to the approved planning application drawings. The Planning Manager shall determine whether the modification requires additional approval of the Planning Commission or City Council.		
6.	On-Going	Planning	
	Failure to obtain prior approval to modify the approved plans may result in having to pay double the original planning application permit fee and/or withholding of the final inspection until such time as the modification(s) to the plans has been reviewed and approved by the Planning Manager or the Planning Commission.		
7.	On-Going	Planning	
	If the operation of the use results in conflicts pertaining to parking, noise, nuisance, traffic or other impacts, at the discretion of staff, the use permit may be referred to the Planning Commission for subsequent review at a public hearing and possible revocation in accordance with Title 17 of the Pinole Municipal Code.		

**CITY COUNCIL RESOLUTION 2016-XX VERIZON WIRELESS COMMUNICATION FACILITY
EXHIBIT F CONDITIONS OF APPROVAL**



	<u>Timing/ Implementation</u>	<u>Monitoring Department /Division</u>	<u>Verification (date and Signature)</u>
8.	Subsequent facility modifications may be reviewed and approved administratively. The Planning Manager shall review plans and determine if an amendment to the Use Permit is required.	Planning	
9.	The applicant and property owner shall work cooperatively with the Police Department on an ongoing basis to establish an effective crime prevention strategy and implement security measures as needed.	Police	
10.	The project site shall include clearly displayed address signage information to facilitate timely emergency response.	Development Services, Fire and Police	
11.	The applicant shall keep the site clear of graffiti and repair any vandalism damage on a regular and continuous basis.	Development Services and Police	
12.	The applicant and property owner shall ensure that landscape material located in the vicinity of the tower is well-maintained. Any landscaping planting material that dies shall be promptly replaced.	Development Services	

**CITY COUNCIL RESOLUTION 2016-XX VERIZON WIRELESS COMMUNICATION FACILITY
EXHIBIT F CONDITIONS OF APPROVAL**



		<u>Timing/ Implementation</u>	<u>Monitoring Department /Division</u>	<u>Verification (date and Signature)</u>
13.	All proposed lease area fencing, equipment cabinets/structures and other related equipment shall be continuously maintained in good condition. This shall include keeping the tower structure and equipment cabinets graffiti-free and maintaining all warning signs in good condition.	On-Going	Development Services	
	Prior to Issuance of Building Permit			
14.	The building construction plans shall reflect the architectural details described in the project design plans and shall be subject to review and approval of staff with concurrence of the Planning Commission Development Review Subcommittee; should discrepancies exist between the construction plans and the approved project design plans the matter shall be referred to the Planning Commission for approval.	On-Going	Development Services	
15.	The applicant shall submit a final drainage plan to the satisfaction of the City Engineer as part of the building construction plans.	Prior to Issuance of Building Permit	Development Services	

**CITY COUNCIL RESOLUTION 2016-XX VERIZON WIRELESS COMMUNICATION FACILITY
EXHIBIT F CONDITIONS OF APPROVAL**



	<u>Timing/ Implementation</u>	<u>Monitoring Department /Division</u>	<u>Verification (date and Signature)</u>
16.	<p>The applicant shall submit a detailed landscaping plan for review and approval. The landscaping plan shall identify the precise plant types and sizes, irrigation details, as well as fencing details. Oak Tree protection measures, including precautionary pruning by a CA-licensed arborist, shall be included within the landscape plans.</p>	<p>Development Services and Fire</p>	
17.	<p>All project conditions of approval as well as the timing of the conditions of approval shall be listed in the project construction plans to help ensure that conditions imposed by the City are completed at the appropriate time in the development process. The project conditions of approval include all project mitigation measures which are hereby incorporated by reference as specified in the project Mitigation Monitoring and Reporting Program.</p>	<p>Development Services</p>	
18.	<p>The applicant shall submit precise color and material samples for review and approval. The color and material specifications shall be included on the building permit drawings.</p>	<p>Planning</p>	

**CITY COUNCIL RESOLUTION 2016-XX VERIZON WIRELESS COMMUNICATION FACILITY
EXHIBIT F CONDITIONS OF APPROVAL**



		<u>Timing/ Implementation</u>	<u>Monitoring Department /Division</u>	<u>Verification (date and Signature)</u>
19.	The applicant and property owner shall provide the City with written confirmation, to the satisfaction of the Planning Manager, that the private lease allows for the exclusive use of the site by Verizon thus prohibiting the possibility of future antenna co-location by a second carrier without required City review.	Prior to Issuance of Building Permit	Planning	
21.	The holder of the use permit shall prepare a security plan for review and approval by the Police Department to help prevent crime on-site during construction and during operations. The security plan shall include emergency contact information, construction staging area information, construction site addressing, and crime prevention measures.	Prior to Issuance of Building Permit	Development Services and Police	
22.	The applicant shall complete and place on file a Police Department Business Emergency Information Form.	Prior to Issuance of Building Permit and Ongoing	Police	

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		<u>Timing/ Implementation</u>	<u>Monitoring Department /Division</u>	<u>Verification (date and Signature)</u>
23.	The applicant and property owner shall prepare a site development construction safety plan that shall be provided for review and approval describing the steps to be taken by building contractor(s) to maintain public and worker safety during all phases of construction.	Prior to Issuance of Building Permit	Development Services	
	During Construction			
24.	A copy of the site development construction safety plan, once approved, shall be kept at the project site and made available upon request.	During Construction	Development Services	
25.	The construction site shall be cleaned of garbage and debris on a daily basis and maintained in an orderly fashion. All construction equipment shall be secured at the end of each day of construction.	During Construction	Development Services	
	Prior to Final Inspection			

**CITY COUNCIL RESOLUTION 2016-XX VERIZON WIRELESS COMMUNICATION FACILITY
EXHIBIT F CONDITIONS OF APPROVAL**



		<u>Timing/ Implementation</u>	<u>Monitoring Department /Division</u>	<u>Verification (date and Signature)</u>
26.	The applicant shall provide a RF report providing actual RF emission levels at maximum power levels to confirm compliance with FCC safety thresholds.	Prior to Final Inspection & Facility Power Up	Planning	
27.	The facility shall be reviewed for consistency with the approved building plans by the Planning Manager and affected City staff.	Prior to Final Inspection & Facility Power Up	Planning	