

RESOLUTION NO. 72-2020

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PACIFICA DENYING THE APPEAL AND MODIFYING THE PLANNING COMMISSION APPROVAL AND APPROVING USE PERMIT UP-102-18 (FILE NO. 2018-016) AS REVISED BY THE ALTERNATIVE DESIGN SUBMITTED BY THE APPLICANT FOR A WIRELESS COMMUNICATIONS FACILITY ON A REPLACEMENT UTILITY POLE AND ASSOCIATED GROUND MOUNTED EQUIPMENT IN THE PUBLIC RIGHT-OF-WAY OF LERIDA WAY, APPROXIMATELY 760 FEET NORTHWEST OF THE INTERSECTION OF TERRA NOVA BOULEVARD AND LERIDA WAY, IN THE VICINITY OF 1334 LERIDA WAY (APN 023-543-230) IN PACIFICA , AND FINDING THE PROJECT EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA).

Initiated by: Modus LLC (“Applicant”) for Verizon Wireless

WHEREAS, an application has been submitted for the installation of a new Verizon wireless communication facility, including a canister antenna mounted on an extension on top of an existing utility pole, and associated pole-mounted equipment, in the Redwood Way public right-of-way, approximately 120 feet northeast of the intersection of Redwood Way and Lerida Way, in the vicinity of 1307 Redwood Way (APN 023-551-510) (“Redwood Way Location”); and

WHEREAS, installation of a WCF within the public right-of-way requires approval of a use permit prior to the issuance of a building permit, pursuant to section 9-4.2606(c)(5) of the Pacifica Municipal Code (“PMC”); and

WHEREAS, the City and Verizon entered into a tolling agreement to extend the applicable time within which the City may take action on the application in compliance with 47 USC § 332(c)(7)(B)(ii), Federal Communications Commission (“FCC”) Declaratory Rulings 09-99 (November, 2009) and 18-133 (September, 2018); and

WHEREAS, the Planning Commission of the City of Pacifica did hold a timely and duly noticed public hearing on June 15, 2020, at which time it considered all oral and documentary evidence presented and incorporated all testimony and documents into the record by reference; and

WHEREAS, the Planning Commission of the City of Pacifica adopted Resolution No. 2020-011 approving Use Permit UP-102-18 for the Redwood Way Location by a vote of 4-2 (with one absence); and

WHEREAS, Sunil Bhat of Cal Coast for Responsible Tech (“Appellant”) submitted a City of Pacifica Appeal Form and the applicable fee to the City Clerk’s office on June 25, 2020, to appeal the action of the Planning Commission (“Appeal”); and

WHEREAS, the Applicant and Appellant agreed to reschedule the public hearing from August 10, 2020 to September 14, 2020 to provide time for Verizon to hold a community informational session prior to the hearing and the Council voted to continue the hearing to September 14, 2020 on August 10, 2020; and

WHEREAS, the Applicant and Appellant agreed to reschedule the public hearing from September 14, 2020 to October 12, 2020 to provide time for Verizon to explore alternative project designs and the Council voted to continue the hearing to October 12, 2020 on September 14, 2020; and

WHEREAS, prior to publication of the October 12, 2020 hearing, the Applicant and Appellant agreed to reschedule the appeal hearing to a Special Council Meeting on November 30, 2020 so that Applicant could explore potential alternative sites; and

WHEREAS, although PMC Section 9-4.3603 provides that the Council shall render its decision within 60 days after the filing of the appeal, the Applicant and the Appellant both expressly agreed to an extension of the public hearing date beyond 60 days; and

WHEREAS, on November 6, 2020 the Applicant, submitted materials for an alternative WCF design, including a canister antenna mounted on top of a replacement utility pole and associated ground-mounted equipment, including but not limited to a radio cabinet and battery backup system in the Lerida Way public right-of-way, approximately, and associated pole-mounted equipment, in the Redwood Way public right-of-way, approximately 760 feet northwest of the intersection of Terra Nova Boulevard and Lerida Way, in the vicinity of 1334 Lerida Way (APN 023-543-230) (“Lerida Way Location”); and

WHEREAS, pursuant to Pacifica Municipal Code (PMC) sections 9-4.3602 and 9-4.3208, the Council may approve, deny or modify the Use Permit, after considering the Appeal and as such, Council may consider the Lerida Way Location; and

WHEREAS, the City Council of the City of Pacifica did hold a timely and duly noticed public hearing during a Special Meeting on November 30, 2020, at which time it considered all oral and documentary evidence presented and incorporated all testimony and documents into the record by reference.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Pacifica as follows:

1. The above recitals are true and correct and material to this Resolution.
2. In making its findings, the City Council relied upon and hereby incorporates by reference all correspondence, staff reports, and other related materials from both the Planning Commission public hearing on June 15, 2020 and the City Council public hearing on November 30, 2020.

BE IT FURTHER RESOLVED that the City Council of the City of Pacifica does hereby deny the Appeal and modifies the Planning Commission’s Approval on June 15, 2020, based on the following findings:

Basis 1. “It is Beyond Dispute That the Facilities which Verizon seeks to Install at sites 020 and 004 are Not Necessary For Verizon To Provide Personal Wireless Services Within the City

A. Verizon's Own Data Conclusively Establishes That it Does Not Suffer From Service Gaps, or Capacity Deficiencies, at The Precise Locations Where Verizon Seeks to Install Sites 020 and 004 [...]

B. Verizon has Wholly Failed to Provide Any Credible Evidence, Whatsoever, To Establish That There is a Need for the Proposed Facilities or That There Would be Any Public Benefit to Be Derived from the Construction of Same

C. Verizon's Application Fails to Meet the Necessary Requirements For a Use Permit to be Granted [...]

Finding: Because of the Applicant's right to locate a WCF within the public R.O.W. pursuant to Public Utilities Code 7901, the Applicant has no further burden under Federal Regulations or state law to demonstrate the necessity of the WCF. However, Applicant has submitted evidence of its need and desire for additional coverage and capacity in the location of the WCF site.

To best meet this need, the Applicant has proposed a small wireless facility which, according to Applicant, must be located within 500 to 1,000 feet of the area requiring additional capacity. The Applicant has determined that locating the proposed WCF within the public R.O.W. would best meet its objectives for the facility. Although Appellant argues that the City should deny the Redwood Way Location because the Applicant has not conclusively established coverage gaps or capacity deficiencies, those arguments are not appropriate bases upon which the City can deny the WCF.

1. City Cannot Impose a Legal Requirement that Constitutes an Effective Prohibition of Service

As indicated above the Telecommunications Act provides another layer of applicable law relating to wireless facilities. The Telecommunications Act provides that the City cannot regulate in a manner that has the effect of prohibiting service.

As a result of the language in the Order regarding the interpretation of "effective prohibition," the Appellant's arguments regarding whether or not the Applicant has proven a coverage gap do not reflect the appropriate legal standard for determining if there is an effective prohibition of service. Requiring a carrier to prove a gap in coverage or a coverage deficiency for installation of a facility in the R.O.W. or requiring a carrier to construct small wireless facilities only on private property could materially inhibit a wireless carrier's ability to compete in a particular geographic area as well as inhibit the introduction of new services or prevent improvement of existing services.

2. Applicant has Satisfied Requirements of PMC for Use Permit

The findings necessary to support approval of a use permit for a WCF, including the supplemental findings detailed in PMC section 9-4.2614(b) were made by the Planning Commission for the Redwood Way Location as recorded in Resolution No. 2020-011. These findings include determining the consistency of the Redwood Way Location with the applicable sections of the General Plan and Design Guidelines. Additionally, the Redwood Way Location has met the development standards applicable to the WCF type in PMC section 9-4.2608(a), (b), and (e).

The Redwood Way Location would not incommode the public R.O.W. Under state law, the Applicant has a right to locate its facility within the public R.O.W. to the extent that it does not incommode the public's use of the R.O.W. Thus, with respect to alternative site analysis performed by the Applicant pursuant to PMC section 9-4.2614(b)(2), the principal question is whether there are alternative R.O.W. sites that would have fewer visual impacts. The supplemental findings for approval of the Use Permit do not require that the Applicant consider every option for the various types of wireless facilities. Rather, the supplemental findings for approval of wireless facilities found in PMC section 9-4.2614(b)(2) only require a finding that the information submitted proves that a feasible alternate site that would result in fewer visual impacts does not provide reasonable signal coverage. PMC section 9-4.2614(b)(2) addresses aesthetics of a proposed facility by identifying the visual impacts of each alternative site but does not require an Applicant to identify all possible options for the carrier to improve cellular coverage.

Pursuant to PMC section 9-4.2614(b)(2), an alternative site analysis was prepared and the Planning Commission discussed the alternative site options at the Planning Commission meeting. The analysis reviewed nine alternative sites that would feasibly address the capacity objective of the WCF and the visual

impacts of each alternative site. Five of the sites were either disqualified due to existing equipment on the existing utility poles or determined not viable because of tree obstructions to the signal or lack of power at the site. The four remaining sites were located in between two residential frontages, compared to the Redwood Way Location which would be adjacent to only one residential frontage and one residential side rear corner.

Council reviewed the alternative site analysis with the understanding that visual impacts on the front of a residence are of greater sensitivity than visual impacts on the side or rear of a residence. With that understanding, it is reasonable to conclude that a pole location that would impact the property frontage of two residences would be greater than a pole location that would impact one property frontage. Therefore, additional evidence, such as photo simulations for each alternative location, to support the conclusions of the alternative site analysis are unnecessary.

The Appellant also argues that the proposed installation is not consistent with the City's Design Guidelines. The Appellant contends that the height and shape of the WCF violate PMC section 9-4.2602, which provides design and screening criteria to minimize the potential health, safety and aesthetic impacts of wireless communications facilities. However, this section does not set forth any criteria regarding height or shape of the WCF. Furthermore, the language of this section provides that the criteria within Article 26 are intended to regulate and thus PMC section 9-4.2602 should not be read in isolation and must be read with the other sections within Article 26 that regulate WCFs. The height and shape of the WCF do comply with the criteria for a WCF in the public R.O.W. Although section 9-4.2608(e)(1) sets a 2'-0" limit for both the vertical extension above the top of the support structure and the horizontal projection from the point of attachment to the support structure for all antennas attached to existing utility poles within rights-of-way, a greater extension or projection is allowed if necessary to comply with regulatory requirements or for health and safety reasons. The Redwood Way Location would yield a total of a 7'-7" vertical extension above the existing utility pole, which would exceed the 2'-0" limitation set forth by the PMC. However, this extension is necessary to meet regulatory requirements of the CPUC. Pursuant to CPUC GO 95 the minimum standard for vertical separation above a high-voltage power line from 750-35,000 volts is a minimum of 6'-0"; therefore, due to the regulatory requirements of the CPUC, the Redwood Way Location may exceed the 2'-0" vertical limitation. The maximum horizontal projection from the outside edge of the utility pole would be less than 1'-7" for mounting the RRUs, therefore the Redwood Way Location complies with the 2'-0" maximum horizontal projection established in subsection (e).

The Appellant argues that PMC section 9-4.2608(b)(1), which requires that "all wireless facilities shall be screened to the fullest extent possible and located to minimize visibility from surrounding areas and private or public rights-of-way," and PMC section 9-4.2608(b)(2), which "prevent the facility from dominating the surrounding area" were not met because the Applicant has not provided any type of natural screening or concealment. Electricity and telecommunications connections would be made from existing wires on the utility pole. The proposed canister antenna is inherently a stealth design, which includes a radar transparent housing or a canister that encloses and conceals the antenna assembly. The Applicant has stated that the antenna, equipment boxes and all cabling of the Redwood Way Location would be painted to match the brown wood color of the existing pole to camouflage the newly installed items. However, the proposed increase in the height of the existing 39'-2" tall utility pole at the Redwood Way Location would be visible and cannot be practicably concealed from view. These measures have resulted in a facility design which meets the Applicant's coverage and capacity objectives while minimizing visual impacts. The Redwood Way Location meets all applicable requirements of the PMC for approval of a WCF in the public R.O.W. as outlined in Resolution No. 2020-011.

Finally, Appellant argues that the Redwood Way Location is not consistent with the general purpose of Chapter 4 (the Zoning Code) within the PMC, as found in PMC section 9-4.103. The Appellant claims that the Redwood Way Location does not benefit the general welfare of the City of Pacifica and therefore is in

conflict with PMC section 9-4.103. However, PMC section 9-4.103 should not be read in isolation and must be read with other provisions within the Chapter. The Redwood Way Location is found to comply with the specific regulations of Article 26 relating to wireless communication facilities within the broader provisions of Chapter 4 and therefore is consistent with this purpose. Moreover, the Applicant has indicated that the Redwood Way Location will benefit the public by improving coverage in the Redwood Way/Lerida Way community. The WCF is anticipated to improve signal quality in the area, which would increase data rates for customers to consistently be able to access wireless data services. Improving service quality would improve communication and access to information for residents and those in the neighborhood.

For the foregoing reasons, the claims that the Redwood Way Location is unnecessary, that the alternative site analysis was inadequate, or that the Redwood Way Location conflicts with applicable local policies and regulations is unsupported by the applicable law and facts and City Council rejects this basis for appeal.

Basis 2. “Verizon's Application Must be Denied, Because the Proposed Facilities Would Inflict Adverse Impacts Which the Relevant Provisions of the City of Pacific's Municipal Code Were Specifically Enacted to Prevent

A. The Proposed Installation Will Inflict Dramatic and Wholly Unnecessary Adverse Impacts Upon the Aesthetics and Character of The Area [...]

B. The Proposed Installations Will Inflict Substantial and Wholly Unnecessary Losses in the Values of Adjacent and Nearby Residential Properties”

Finding: The Appellant claims that the Redwood Way Location would inflict adverse impacts in the form of aesthetic impacts and losses in value to adjacent and nearby residential properties. However, there is no substantial evidence of any such adverse impacts.

1. The Redwood Way Location will have Minimal Visual Impacts

As discussed above, pursuant to PMC section 9-4.2614(b)(2), an alternative site analysis was attached to the June 15, 2020, Planning Commission staff report and the Planning Commission discussed the alternative site options at the Planning Commission meeting. The Planning Commission determined that there were no alternative sites that would result in fewer visual impacts. The Planning Commission also concluded that other visual minimization standards had been met.

The Appellant argues that PMC section 9-4.2608(b)(1), which requires that “all wireless facilities shall be screened to the fullest extent possible and located to minimize visibility from surrounding areas and private or public rights-of-way,” and PMC section 9-4.2608(b)(2), which “prevent the facility from dominating the surrounding area” were not met because the Applicant has not provided any type of natural screening or concealment. The Redwood Way Location would not require ground-mounted equipment or tree removal. Electricity and telecommunications connections would be made from existing wires on the utility pole. The proposed canister antenna is inherently a stealth design, which includes a radar transparent housing or a canister that encloses and conceals the antenna assembly. The Applicant has stated that the antenna, equipment boxes and all cabling at the Redwood Way Location would be painted to match the brown wood color of the existing pole to camouflage the newly installed items. However, the proposed increase in the height of the existing 39’-2” tall utility pole at the Redwood Way Location would be visible and cannot be practicably concealed from view. These measures have resulted in a facility design which meets the Applicant’s coverage and capacity objectives while causing minimal visual impacts. The Redwood Way Location meets all applicable requirements of the PMC for approval of a WCF in the public R.O.W. as outlined in Resolution No. 2020-011.

Appellant also claims that the photo simulations of the Redwood Way Location provided by the Applicant and attached to the June 15, 2020 staff report are defective because they do not include a perspective from a nearby residence, which the Appellant believes will sustain the most severe aesthetic impact. Appellant cites *Omnipoint Communications v. City of White Plains*, 430 F 3d 529 (2d Cir. 2005) (“*Omnipoint*”) in the Memo as support for this position, however, that case is inapposite. The court in *Omnipoint* did not find that photo simulations must include perspectives from within nearby residences. Rather, the court was considering whether the governing body of the City of White Plains (“Board”) appropriately discounted the carrier’s visual impact study of the 150-foot tower, which found that there were no significant visual impacts. The *Omnipoint* court found that the Board had appropriately discounted the study for a number of reasons, including but not limited to the study’s lack of visual depictions from backyards and other locations.¹ Contrary to Appellant’s assertions, the *Omnipoint* court did not mandate any requirements relating to photo simulations.

In this case, the photo simulations prepared by the Applicant include two perspectives (i.e., looking west and looking northeast) taken from the south side of Redwood Way public right-of-way towards the Redwood Way Location. PMC 9-4.2614(a)(3) requires as part of the application, a “photographic projection or mock-ups, displaying the proposed facility as seen from adjacent private or public rights-of-way and, if applicable, residential properties.” In this case, the photo simulation perspectives appropriate and adequate as they are a reasonable view that the general public would have when in the area, they are far enough away to contain the vertical extent of the Redwood Way Location, but close enough that the proposed WCF for that location is in the foreground of the photo.

The Appellant’s position that photo simulations should be provided from the perspective of someone within their private residence or property, especially if located in close proximity of the Project, may not capture the vertical extent of the entire Project and would only detail a specific viewshed experienced by that occupant and not the viewshed of the general community. Furthermore, it isn’t reasonably feasible for the Applicant to obtain access to private property to develop the photo simulations.

Attached to the Appellant’s memo are 12 letters from homeowners in opposition of the Redwood Way Location. A number of the commenters state their concern of the visual impact the Redwood Way Location would have on the neighborhood. However, the applicable findings for a WCF use permit is whether a feasible alternate site would result in fewer visual impacts and if the applicable requirements of Section 9-4.2608, which includes concealment and other visual minimization standards, are met. Therefore, the threshold question is not whether the Redwood Way Location would create a visual impact - it is if there is an alternative site that would create less of a visual impact and if all visual minimization standards have been implemented. The Redwood Way Location would meet the Applicant’s coverage and capacity objectives while causing minimal visual impacts. The Redwood Way Location meets all applicable requirements of the PMC for approval of a WCF in the public R.O.W. and the visual impacts would be minimal given its location and design.

2. Alleged Impact on Property Values is Not a Basis to Deny Project.

The Appellant provided as part of the Memo, letters from three realtors alleging up to a 20 percent reduction in home values for surrounding residences of the Redwood Way Location site. While the veracity of these letters is not confirmed, impacts on property values is not a criterion that can be used to deny the application of a WCF under the PMC, including the supplemental findings in PMC 9-4.2614(b), or any other applicable laws. Moreover, the City cannot regulate in a manner that constitutes an effective prohibition, which is a regulation that “materially limits or inhibits the ability of any competitor or potential competitor to compete

in a fair and balanced legal and regulatory environment.” A regulation that generally prohibited the installation of small wireless facilities in certain areas of the City because of an alleged decrease in property values could be an effective prohibition of service. Therefore, there would be no legal basis to regulate a wireless facility based on impacts on property values under applicable laws.

For all the reasons discussed above, this basis is unsupported and the City Council rejects this basis for appeal.

Basis 3. “§ 6409(a) of the Middle-Class Tax Relief and Job Creation Act of 2012 Would Allow Verizon to Increase the Height of the Proposed Facilities Without Further or Prior Zoning Approval.”

Finding: As detailed in PMC section 9-4.2606(a), and as in compliance with the Middle Class Tax Relief and Job Creation Act of 2012 (Spectrum Act), there are three permitting exemptions that are applicable for WCFs reviewed under Article 26 of the PMC. These exemptions include:

- (1) Wireless communications facilities related to public safety and/or emergency services;
- (2) Modifications to wireless communications facilities previously approved by the City through a discretionary review process (including facilities in the public right-of-way), and involving collocation, removal, or replacement of transmission equipment that does not substantially change the physical dimensions of such facilities, as provided in Federal Communications Commission (FCC) Report and Order No. 14-153, published in the Federal Register on January 8, 2015, or a successor order. Applications subject to the exemption provided in this subsection shall remain subject to Sections 9-4.2608 and 9-4.2610; and
- (3) Wireless communications facilities for which any federal or state statute or regulation exempts the facility from the imposition of the permit requirements of this section.

The potential for modifications to be made to a WCF and the speculated impacts are not criteria that can be used to deny the application of a WCF under applicable PMC regulations, including the supplemental findings in PMC 9-4.2614(b). Therefore, there would be no legal basis to regulate a wireless facility based on speculative future impacts under applicable laws.

For all these reasons, the City Council rejects this basis for appeal.

Basis 4. “Contrary to Any Baseless Suggestion Otherwise, There is No Federal Law, Rule or Regulation Which Compels the City Council to Grant Verizon's Application, Nor Prohibits The City Council From Denying it.”

Finding: To the City’s knowledge, all of the provided information from the Applicant is understood to be true and correct. The Redwood Way Location was found to meet all of the general standards applicable to all WCF and therefore, the Use Permit application should be granted.

Basis 5. “The Homeowners Were Unable to Obtain the Requested Documents From the City”

Finding: The Appellant and other members of the public have made a request for records pursuant to the California Public Records Act (“Act”). Although the response to the public records request was justifiably delayed due to office closures and the reduction of staff resources due to COVID-19 as well as the volume of records requested, the City has fully complied with all requirements of the Act and is actively providing responsive non-exempt, non-privileged records to all requestors.

Basis 6. "To Comply With the TCA, Verizon's Application Should Be Denied in a Written Decision Which Cites the Evidence Provided Herewith."

Finding: The Redwood Way Location is in compliance with all applicable federal, state, and local regulations. The City Council reject this basis for appeal.

RESPONSE TO APPELLANT'S ADDITIONAL CLAIMS

1. *At the [Terra Nova WCF] appeal [the City Council] expressed concern that these antennas would be placed all over the city. Verizon presented two maps that they claimed demonstrated a significant gap in coverage (screenshots attached). These two maps contradict each other, because the first is calculated (which is obvious because there is data on the steep forested hillsides, but none on the road). The second shows actual signal strength measured by consumer devices in areas that the first map shows as a gap, and this data is not professional measurements. More importantly this map shows both [Terra Nova High School] and the Redwood site are yellow/red on this map. If the city allows Verizon to use these maps as evidence of necessity, you can see how much of that map is yellow/red, and this will require these antennas every 1000 ft all over the map, and the city."*

Finding: Because of the Applicant's right to locate a WCF within the public R.O.W. pursuant to Public Utilities Code section 7901, the Applicant has no further burden under Federal Regulations or state law to demonstrate the necessity of the WCF. However, Applicant has submitted evidence of its need and desire for additional coverage and capacity in the location of the Redwood Way Location and the City cannot deny the WCF based on speculative expansion of the Applicant's network.

2. *"Verizon lawyer Paul Albritton stated that Verizon has "the right to use their telephone poles". However that right has to be for the purpose of improving a demonstrated necessity by the LEAST INTRUSIVE means necessary (federal law) and also without INCOMMODOING the public's use of the street (state law). These applications should be looked at together to find the least intrusive means to fill any overall gap in coverage in our city, which will require fewer overall facilities. Again, we are setting ourselves up for [Close Proximity Microwave Radiation Antennas] all over the city."*

Finding: State law provides the Applicant has the right to locate its facility within the public R.O.W. to the extent that it does not incommode the public's use of the R.O.W. It is local regulation that requires analysis to be conducted to confirm that a feasible alternate site that would result in fewer visual impacts does not provide reasonable signal coverage (PMC section 9-4.2614(b)(2)). With respect to alternative site analysis performed by the Applicant pursuant to PMC section 9-4.2614(b)(2), the principal question is whether there are alternative R.O.W. sites that would have fewer visual impacts. The supplemental findings for approval of the Use Permit do not require that the Applicant consider every option for the various types of wireless facilities. PMC section 9-4.2614(b)(2) addresses aesthetics of a proposed facility by identifying the visual impacts of each alternative site but does not require an Applicant to identify all possible options for the carrier to improve cellular coverage.

3. *"When the utility poles behind the school were presented, Councilmember Vaterlaus asked if they would need to rent rights from the landowner. These poles, just like the poles in our [public R.O.W.], are owned by PG&E, and have public utility easements allowing for utility companies to use them as needed. Again, we are concerned that Ms. Kenyon nor City Planning Staff did not clarify this during the meeting. Verizon said during the hearing that they would need to access them twice a year, which would be very reasonable access to poles on private property."*

Finding: There is no evidence in the record to substantiate the ownership or legal status as public R.O.W. of the area where the poles north of Terra Nova High School described by the Appellant are located. Moreover, even if these poles were located within a public R.O.W. and the Applicant had a right to locate its WCF on one or more of these poles, their suitability to host a WCF in accordance with CPUC and other applicable standards have not been evaluated or established in the record. Furthermore, even if these poles were suitable for location of a WCF and the Applicant had rights to install a WCF on one or more of these poles, they are located well beyond 1,000 feet from the area targeted for coverage and capacity improvements by the Applicant. Therefore, based on the Applicant's stated needs, the poles would not be suitable for installation of the type of WCF proposed by the Applicant, and therefore, would not constitute a feasible alternate site that would result in fewer visual impacts while providing reasonable signal coverage.

4. *“Councilmember O’Neill demonstrated interest in updating the wireless ordinances, we ask that they make this a priority and of course will help the city in making this process streamlined and minimizing unnecessary use of resources.”*

Finding: The Appellant's statements do not address the findings required for approval of a Use Permit for a WCF under the current and applicable provisions of the PMC and thus have no bearing on the Appeal of the Planning Commission's decision. Furthermore, with respect to the subject WCF considered in this Appeal, an amended wireless ordinance would likely not be applicable to this Project given the “shot clock” deadline relating to the processing the subject Project.

5. *“Multiple municipalities nationwide including Oakbrook IL, Farragut TN, Easton CT, Hawaii HI, Bend OR, Jersey City NJ, and Hallandale FL have all passed non binding resolutions to show their constituents that they do not support the forced large-scale small cell/CPMRA rollouts in their municipalities. [...] We feel that it is very important for our resolution to model Oakbrook IL, and support HR530 and S2012 both of which aim to restore local control in regulation of WCFs and broadband deployment. [...]”*

Finding: The Appellant's statements do not address the findings required for approval of a Use Permit for a WCF and thus have no bearing on the Appeal.

6. *“The entire proposed densified network of 22 small cells presented in the verizon map is required to undergo an Environmental Assessment through NEPA, and each antenna is therefore NOT CEQA exempt.”*

Finding: The City has no evidence that Verizon intends to expand its network to 22 small cell sites in the City of Pacifica. In processing the Project, the City of Pacifica is required to comply with the California Environmental Quality Act (CEQA) not NEPA, the National Environmental Policy Act. The Planning Commission found that the Redwood Way Location was exempt from CEQA per CEQA Guidelines Section 15303. Each of the proposed sites has an independent utility from each other and therefore are independently considered under CEQA.

BE IT FURTHER RESOLVED, that the City Council of the City of Pacifica does hereby make the finding that the Project qualifies for a Class 3 exemption provided in Section 15303 ‘New Construction or Conversion of Small Structures’ of the California Environmental Quality Act (CEQA) Guidelines, as described below:

Lerida Way Location

The Lerida Way Location includes replacement of the existing wood utility pole with a 46'-6" tall wood utility pole and installation of a WCF antenna and equipment facility within a utility cabinet. For purposes of the Class 3 exemption, the utility pole, antenna, and utility equipment are all small new equipment.

Exceptions to the exemption, as set forth in Section 15300.2 of the CEQA Guidelines, would not apply:

- Sec. 15300.2(a): There is no evidence in the record that the Lerida Way Location would impact an environmental resource of hazardous or critical concern in an area designated, precisely mapped, and officially adopted pursuant to law by federal, State, or local agencies. The proposed replacement pole would occur in the location of the existing utility pole in the public right-of-way immediately adjacent to a city street.
- Sec. 15300.2(b): There is no evidence in the record that successive projects of the same type in the area would have a significant cumulative impact. The Lerida Way Location is an independent Project under CEQA and its impacts are not cumulative. According to information provided by the Applicant, the WCF can operate independently of the other WCFs proposed in the City and provides coverage to a small area surrounding the facility. Furthermore, it is connected to existing electrical and telecommunications lines on a replacement utility pole and does not propose direct site-to-site communication between this facility and other WCFs in the area.
- Sec. 15300.2(c): There is no evidence in the record of any unusual circumstances nor is there evidence of the possibility that the Lerida Way Location would have a significant effect on the environment due to unusual circumstances. The Lerida Way Location would generate noise from the heat exchanger and four cooling fans proposed in the utility cabinets. While the City of Pacifica does not have a specific noise standard applicable to this WCF, the Applicant's noise analysis considered such a standard being considered in the City's Draft General Plan. The maximum calculated sound level anticipated from the proposed equipment at the nearest corner of a residential backyard (located at 1334 Lerida Way) would be 53.4 dBA DNL, below the Draft General Plan limit of 65 dBA. The Lerida Way Location is of a small scale such that no identifiable significant impacts to the environment would occur.
- Sec. 15300.2(d) through (f): The Lerida Way Location is not proposed near a scenic highway, does not involve a current or former hazardous waste site, and, does not affect any historical resources. Therefore, the provisions of subsections (d) through (f) are not applicable to the Lerida Way Location.

Because the Lerida Way Location is consistent with the requirements for a Class 3 exemption and none of the exceptions in Section 15300.2 apply; there is substantial evidence in the record to support a finding that the Lerida Way Location is categorically exempt from CEQA

BE IT FURTHER RESOLVED that the City Council of the City of Pacifica does hereby make the following findings pertaining to Use Permit UP-102-18:

USE PERMIT FINDINGS PURSUANT TO PMC SECTION 9-4.3303

A. That the establishment, maintenance, or operation of the use or building applied for will not, under the circumstances of the particular case, be detrimental to the health, safety, and welfare of the persons residing or working in the neighborhood or to the general welfare of the City.

Potential impacts to public health, safety, and welfare from this Project could arise from an unsafe electrical or mechanical installation; from radio frequency (RF) emissions from the antennas; from noise from facility equipment; or, from adverse aesthetic design of the site. However, as explained below, the Project as conditioned, will be not detrimental to the health, safety and welfare of persons residing or working in the neighborhood.

The Lerida Way Location would require a building permit prior to construction. The building permit process includes a detailed plan review for building and electrical code compliance, as well as field inspections of the work prescribed in the approved project plans to verify proper performance of the work. This would ensure safe installation of the proposed WCF. A condition of approval which requires the Applicant to obtain a building permit prior to installation of the WCF.

The City cannot regulate RF emissions beyond requesting reasonable information to substantiate a project's compliance with FCC standards for RF emissions. The FCC has established two categories of RF emissions standards: public exposure limits and occupational exposure limits. The Applicant has demonstrated its facility would comply with FCC RF emissions standards for public exposure limits. Since the Applicant has provided relevant information prepared by a qualified professional engineer to demonstrate compliance with FCC RF emissions standards, the project must be considered safe from the standpoint of RF emissions.

The RF emissions report for the Lerida Way Location did, however, include three recommended measures to protect workers who access the utility pole from exceeding occupational exposure limits:

- 1) Provide RF safety training to all workers who have access within 30 feet outward from the antenna.
- 2) No access within 10 feet directly in front of the antenna while the antenna is in operation; and
- 3) Install explanatory signs at the antenna and/or on the pole below the antenna, visible from any angle of approach that identifies the RF emissions hazard.

The first two recommended measures are out of the control of the Applicant because the subject pole is a joint pole utilized by various different utility providers. However, the third measure is within the control of the Applicant and can be accomplished during construction of the site. A condition of approval requires the installation of signage to protect workers who access the utility pole from exceeding occupational exposure limits to address the recommendations in the RF emissions report relating to occupational safety. A condition of approval would require an updated FCC radio frequency emissions report to be prepared for the revised antenna model to show compliance with applicable FCC standards.

The antenna is passive and would generate no noise. Similarly, the radios and battery would generate no noise. Noise would be generated from the heat exchanger and four cooling fans proposed in the utility cabinets. The equipment specifications state that the noise from the heat exchanger is 65 dBA, at a reference distance of 1.5 meters (approximately 5 feet), and noise from one cooling fan is 66 dBA, at a reference distance of 1 meter (approximately 3'-3"). While the City of Pacifica does not have a specific noise standard applicable to this WCF, the Applicant's noise analysis considered such a standard being considered in the City's Draft General Plan. The Draft General Plan identifies an outdoor noise limit of 65 dBA day-night average sound level (DNL) for outdoor activity areas, including but not limited to private residential yards. The maximum calculated sound level anticipated from the proposed equipment at the nearest corner of a residential backyard (located at 1334 Lerida Way) would be 53.4 dBA DNL, below the Draft General Plan limit of 65 dBA. Moreover, this calculated sound level would occur only during maximum operation of all cooling equipment, a condition not expected to occur frequently due to Pacifica's generally moderate climate.

The proposed WCF would incorporate several measures into its design to minimize visual impacts to the surrounding neighborhood. These include the aforementioned canister to conceal the antenna, the replacement of the existing pole to result in a single sleek support structure, the location of the equipment facility in a ground mounted utility cabinet, which further supports the sleek pole look of the alternative site, and the painting of the antenna concealment and other pole mounted elements brown to mimic the color tone of the pole, and painting the utility cabinets a color to blend with the surrounding vegetation until a later date when the City can coordinate with an appropriate group or City committee to later paint the utility cabinet with public art. As conditioned, the proposed facility would not result in adverse visual impacts based on its slim design, brown color, and compatible materials.

Based on the information in the record, the Lerida Way Location would not be detrimental to the health, safety, and welfare of the persons residing or working in the neighborhood or to the general welfare of the City.

B. That the use or building applied for is consistent with the applicable provisions of the General Plan and other applicable laws of the City and, where applicable, the local Coastal Plan.

The Lerida Way Location, as conditioned is consistent with the following provisions of the General Plan and other laws of the City. Since the Lerida Way Location is not within the Coastal Zone, the provisions of the Local Coastal Plan do not apply.

i. Community Design Element, Policy No. 1: Preserve the unique qualities of the City's neighborhoods.

The Lerida Way Location would be located on a replacement pole at an existing utility pole location to create a sleek and design for the antenna attachment. The equipment facility would be housed in a utility cabinet, which would reduce visual bulk on the pole. A condition of approval would ensure the antenna canister and mounting skirt would be painted to match the replacement pole color. The utility cabinet color is proposed to be off-white, but Verizon has noted in the plans that final color is to be determined by the City. A condition of approval that would require the utility cabinet to be painted a natural shade of green or brown that would help blend the structure to the surrounding vegetation and prevent the facility from dominating the surrounding area and maintain the paint in a suitable condition. The condition would also provide the City the ability in the future to coordinate with an appropriate group or City committee to later paint the utility cabinet with public art. The Lerida Way Location would not require removal of trees. The Lerida Way Location WCF would be compatible with the existing quality of the Park Pacifica neighborhood because the area has other utility poles and utility cabinets in the area carrying essential utilities for the neighborhood.

ii. Community Design Element, Policy No. 2: Encourage the upgrading and maintenance of existing neighborhoods.

The Lerida Way Location includes installation of a WCF to improve signal quality in the area, which would increase data rates for customers to consistently be able to access wireless data services including but not limited to streaming videos. The Lerida Way Location would provide a battery backup, which would provide service during power outages and upgrade the neighborhood's ability to make emergency calls. The Lerida Way Location would include use of an antenna that operates at a lower frequency, which has longer wavelengths and provides a greater range of service and improved in-building service. Improving service quality would allow residents to improve their quality of life in access to information that is an important part of modern home life and commerce for home-based and mobile businesses. The Lerida Way Location would also replace an existing utility pole, which would upgrade the condition of the utility pole

by replacement of the existing utility pole which would comply with all current applicable structural safety standards. For these reasons, the Lerida Way Location would be an upgrade to the existing neighborhood.

iii. Community Facilities Element, Policy No. 4: Meet basic social needs of City residents, such as transportation, housing, health, information and referral services, and safety, consistent with financial constraints.

The Applicant proposes to install the WCF to improve signal quality in the area, which would increase data rates for customers to consistently be able to access wireless data services. The Lerida Way Location would provide service during power outages. The Lerida Way Location would include use of an antenna that operates at a lower frequency, which has longer wavelengths and provides a greater range of service. Improving service quality would allow residents to obtain information on City services and emergency services more expeditiously, which modernizes the process and is increasingly essential to meeting residents' basic social needs, including safety.

iv. Land Use Element, Policy No. 4: Continue to cooperate with other public agencies and utilities in applying compatible uses for their lands, rights-of-way and easements.

The Lerida Way Location would occur within the public right-of-way. The City has cooperated with Verizon Wireless, a communications service provider, through its agent Modus, LLC, in processing its application for the subject WCF including by working together to extend the time for the City to take action on the application to allow more time for Verizon to explore alternative site designs. The City and Verizon entered into a tolling agreement to extend the "shot clocks" for final action by the City in compliance with 47 USC § 332(c)(7)(B)(ii), FCC Declaratory Rulings 09-99 (November, 2009) and 18-133 (September, 2018). The coordination between the City and Verizon Wireless has resulted in submitted materials supporting the Lerida Way Location, which, as conditioned, would be a compatible use for the public right-of-way in the Park Pacifica neighborhood. This is evidenced by its installation of a replacement pole within an existing utility pole site thus reducing the need for additional poles in the right-of-way, the placement of the equipment facility within a utility cabinet, thus reducing the bulk on the pole, and providing battery backup to the antenna. Cooperation between the City and Verizon Wireless has also yielded a sleeker equipment design, with appropriate antenna dimensions, and a more functional antenna from that earlier proposed and approved.

C. Where applicable, that the use or building applied for is consistent with the City's adopted Design Guidelines.

The City has adopted Design Guidelines which are intended to accomplish the following purposes:

- Ensure at least a minimum standard of design through the application of consistent policies.
- Encourage new construction which exceeds minimum standards and discourage construction which falls short of those standards.
- Provide a framework for review and evaluation of design proposals.
- Implement applicable General Plan and Local Coastal Plan goals and policies.
- Expedite and facilitate the planning permit process.
- Provide direction for design and redesign of projects.

The Design Guidelines are advisory in nature and, unlike zoning, do not contain explicit standards for determining strict compliance. Rather, they address significant elements of project design that, when balanced overall, result in the best possible site layout and building architecture for a project. An applicant may propose a project which complies with some but not all guidelines and the project could still be found to be consistent with the Design Guidelines. The appropriate balance and relative priority of the guidelines

for a particular project when considering whether a project has achieved Design Guidelines consistency is up to the reviewing body.

BUILDING DESIGN

i. Design. The style and design of new buildings should be in character with that of the surrounding neighborhood. This does not mean that new buildings should be identical to existing buildings on neighboring lots, but that new buildings should complement, enhance, and reinforce the positive characteristics of surrounding development [...]

Electrical and telecommunications utilities in the area of the Lerida Way Location are provided via above-ground utility poles and associated wires. The Applicant proposes to install the WCF on a replacement pole in an existing utility pole location to create a sleek and design for the antenna attachment. The equipment facility would be housed in a utility cabinet, which would reduce visual bulk on the pole. A condition of approval would ensure the antenna canister and mounting skirt would be painted to match the replacement pole color. The utility cabinet color is proposed to be off-white, but Verizon has noted in the plans that final color is to be determined by the City. A condition of approval that would require the utility cabinet to be painted a natural shade of green or brown that would help blend the structure to the surrounding vegetation and prevent the facility from dominating the surrounding area and maintain the paint in a suitable condition. The condition would also provide the City the ability in the future to coordinate with an appropriate group or City committee to later paint the utility cabinet with public art. The Lerida Way Location design would not require removal of trees. Installation of the WCF on an existing utility pole would be compatible with the existing quality of the Park Pacifica neighborhood because the area has other utility poles and utility cabinets in the area carrying essential utilities for the neighborhood.

The proposed antenna installation would yield a total of a 11'-10" vertical increase from the existing 38'-6" high pole or approximately 31 percent. A condition of approval would ensure that the revised antenna model, as conditioned, does not increase the overall proposed height of the facility above 50'-4". The revised antenna model may reduce the overall height. The Applicant's chosen small cell facility design – locating a canister antenna on an existing utility pole support structure – is a slender and least visually obtrusive design alternative. A condition of approval would ensure the antenna canister and mounting skirt would be painted to match the replacement pole color.

These measures have resulted in a facility design which meets the Applicant's coverage objectives while causing minimal visual impact for observers, except for the height of the installation above the existing utility pole. The style and design of the Lerida Way Location would be in character with other WCFs in the neighborhood.

ii. Scale. An important aspect of design compatibility is scale. Scale is the measure of the relationship of the relative overall size of one structure with one or more other structures. Scale is also used to refer to a group of buildings, a neighborhood, or an entire city. A development can be "out of scale" with its surroundings due to its relative height, bulk, mass, or density.[...]

The Lerida Way Location, as shown on the plans on file would increase the height of a 38'-6" tall existing utility pole to 50'-4" above ground. This addition would further emphasize the verticality of the subject utility pole; however, similar to all utility poles, the full extent of the vertical scale of the development would not be captured in typical foreground (close by) views. A condition of approval would ensure that the revised antenna model, as conditioned, does not increase the overall proposed height of the facility above 50'-4". The revised antenna model may reduce the overall height. The vertical scale of the pole, as seen in middle to background views, compared to other poles in the neighborhood in would benefit from the topography in the area as there is an inconsistent reference point for the viewer. Additionally, the

reduction of on-pole equipment through the use of ground-mounted equipment would result in less visual clutter on the pole to draw the visual attention of observers and passersby. For these reasons the sensitivity to the scale pole height of the Lerida Way Location is low. Therefore, the Lerida Way Location would have a scale comparable to other structures in the vicinity.

iii. Color. Building color should be compatible with the neighborhood and should reinforce and complement the visual character of the building's environment. Multiple colors applied to a single building should relate to changes of material or form.

A condition of approval would ensure the antenna canister and mounting skirt would be painted to match the replacement pole color. The utility cabinet color is proposed to be off-white, but Verizon has noted in the plans that final color is to be determined by the City. A condition of approval would require the utility cabinet to be painted a natural shade of green or brown that would help blend the structure to the surrounding vegetation and prevent the facility from dominating the surrounding area and maintain the paint in a suitable condition. The condition would also provide the City the ability in the future to coordinate with an appropriate group or City committee to later paint the utility cabinet with public art.

D. That the project will not cause localized interference with reception of area television or radio broadcasts or other signal transmission or reception.

The Lerida Way Location would not cause localized interference with the reception of television and radio broadcasts or other signal transmission or reception as Verizon Wireless has a license from the FCC to operate the WCF on specific frequencies that are not utilized by television or radio broadcasts, based upon a statement provided by the Applicant, prepared by a qualified engineer. A condition of approval would require an updated localized interference report to be prepared for the revised antenna model.

E. That the information submitted proves that a feasible alternate site that would result in fewer visual impacts does not provide reasonable signal coverage.

The Applicant's Alternative Site Analysis report assessed 15 alternative sites within the search ring. The Redwood Way Location was initially identified a feasible site with the fewest visual impacts. The design for the Redwood Way Location did not include any ground-mounted equipment. Public comments on the Redwood Way Location identified the community concerns with the site. The Applicant designed and offered the Lerida Way Location to address some of the community's concerns, including offering a battery backup system. While the Lerida Way Location would result in a greater height increase in pole height compared to the Redwood Way Location, the Lerida Way Location would include a new replacement pole and location of the equipment facility off of the pole and within a ground mounted utility cabinet. The Lerida Way Location design would result in a sleeker and streamlined design when looking at the pole itself, compared to the Redwood Way Location, since much of the equipment would be located on the ground. While, there may be off-setting visual impacts from the ground-mounted equipment cabinets in the Lerida Way Location, these visual impacts would not be significant. Therefore, the Lerida Way Location would be equally as visually prominent and impactful, compared to the other feasible sites, including the Redwood Way Location.

F. That the application meets all applicable requirements of Section 9-4.2608 of the Pacifica Municipal Code.

Article 26 of the Zoning Regulations sets the standards for WCFs. Subsections (a), (b), and (e) of section 9-4.2808 include the development standards applicable to the subject facility. The project, as conditioned, would meet all applicable requirement of Section 9-4.2608 of the Pacifica Municipal Code pertaining to a WCF installation in the public right-of-way.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the City Council of the City of Pacifica does hereby approve Use Permit UP-102-18 as revised by the Applicant's alternative WCF design which includes a canister antenna mounted on top of a replacement utility poles and associated ground-mounted equipment, including but not limited to a radio cabinet and battery backup system in the Lerida Way public right-of-way, approximately, and associated pole-mounted equipment, in the Redwood Way public right-of-way, approximately 760 feet northwest of the intersection of Terra Nova Boulevard and Lerida Way, in the vicinity of 1334 Lerida Way (APN 023-543-230), subject to conditions of approval included as Exhibit A to this resolution.

* * * * *

Passed and adopted at a special meeting of the City Council of the City of Pacifica, California, held on the 30th day of November 2020.

AYES, Councilmember: MARTIN, BECKMEYER, VATERLAUS, BIER, O'NEILL
NOES, Councilmember: N/A
ABSENT, Councilmember: N/A
ABSTAIN, Councilmember: N/A

Deirdre H Martin

Deirdre H Martin (Dec 4, 2020 12:28 PST)

Deirdre Martin, Mayor

ATTEST:

Sarah Coffey

Sarah Coffey, City Clerk

APPROVED AS TO FORM:

Michelle Marchetta Kenyon

Michelle Marchetta Kenyon, City Attorney

Exhibit A

Conditions of Approval: File No. 2018-019 for Use Permit UP-102-18, for the installation of a new wireless communications facility consisting of a canister antenna mounted on top of a replacement utility pole and associated ground-mounted equipment , including but not limited to a radio cabinet and battery backup system in the Lerida Way public right-of-way, approximately, and associated pole-mounted equipment, in the Redwood Way public right-of-way, approximately 760 feet northwest of the intersection of Terra Nova Boulevard and Lerida Way, in the vicinity of 1334 Lerida Way (APN 023-543-230)

City Council Meeting November 30, 2020

Planning Division of the Planning Department

1. Development shall be substantially in accord with the plans entitled “SF Pacifica 020 (near) 1334 Lerida Way Pacifica, CA 94044” dated November 5, 2020, except as modified by the following conditions.
2. Prior to issuance of a building permit, the Applicant shall submit revised plans to include an antenna model that meets the dimension standards of PMC section 9-4.2608(e)(1). The revised antenna shall not result in the overall height of the WCF to exceed 50’-4”. The revised plans shall be accompanied with an updated radio frequency report to show that the revised antenna will continue to comply with all applicable Federal Communications Commission (FCC) standards related to radio frequency electromagnetic fields and an updated interference report to confirm that the revised antenna will not cause localized interference with reception of area television or radio broadcasts or other signal transmission or reception. These reports shall be prepared to the satisfaction of the Planning Director.
3. The approval letter issued by the City and all conditions of approval attached thereto shall be included as plan sheets within all plan sets submitted to the City as part of any building permit application.
4. That the approval or approvals is/are valid for a period of two years from the date of final determination. If the use or uses approved is/are not established within such period of time, the approval(s) shall expire unless Applicant submits a written request for an extension and applicable fee prior to the expiration date, and the Planning Director or Planning Commission approves the extension request as provided below. The Planning Director may administratively grant a single, one year extension provided, in the Planning Director’s sole discretion, the circumstances considered during the initial project approval have not materially changed. Otherwise, the Planning Commission shall consider a request for a single, one year extension.

In the event of litigation filed to overturn the City’s determination on the approval or approvals, the Planning Director may toll the expiration of the approval or approvals during the pendency of such litigation.

5. Prior to issuance of a building permit, Applicant shall submit samples of exterior finishes, including color, subject to approval by the Planning Director. The antenna canister, mounting skirt, and conduit would be painted to match the replacement pole color. The utility cabinet shall be painted a natural shade of green or brown that would be help blend the structure to the surrounding vegetation and prevent the facility from dominating the surrounding area.

6. Prior to final inspection, all equipment, conduit, antenna, and other appurtenances of the facility shall be painted to match and blend in with the utility pole or surrounding setting and minimize visual obtrusiveness using a color and/or texture reviewed and approved by the Planning Director. Painted surfaces shall be maintained in a uniform condition substantially free of peeling, chipping or other paint defects, to the satisfaction of the Planning Director.
7. At any time during operation of the approved wireless communications facility, the ground mounted utility equipment cabinet located in the public right of way shall be subject to the City of Pacifica's "Keep Pacifica Beautiful Through Public Art Program" Policy and may be utilized for the installation of public art pursuant to the Policy, at the discretion of the City of Pacifica. Prior to the application of public art, the City shall coordinate with the Applicant to provide notice, identify preferred paint materials and to identify if any areas must be kept free of paint to maintain operation of the facility.
8. Applicant shall maintain its site in a fashion that does not constitute a public nuisance and that does not violate any provision of the Pacifica Municipal Code.
9. All outstanding and applicable fees associated with the processing of this Project shall be paid prior to the issuance of a building permit.
10. Prior to issuance of a building permit, Applicant shall clearly indicate compliance with all conditions of approval on the plans and/or provide written explanations to the Planning Director's satisfaction.
11. The Applicant shall indemnify, defend and hold harmless the City, its Council, Planning Commission, advisory boards, officers, employees, consultants and agents (hereinafter "City") from any claim, action or proceeding (hereinafter "Proceeding") brought against the City to attack, set aside, void or annul the City's actions regarding any development or land use permit, application, license, denial, approval or authorization, including, but not limited to, variances, use permits, developments plans, specific plans, general plan amendments, zoning amendments, approvals and certifications pursuant to the California Environmental Quality Act, and/or any mitigation monitoring program, or brought against the City due to actions or omissions in any way connected to the Applicant's project ("Challenge"). City may, but is not obligated to, defend such Challenge as City, in its sole discretion, determines appropriate, all at Applicant's sole cost and expense. This indemnification shall include, but not be limited to, damages, fees and/or costs awarded against the City, if any, and costs of suit, attorney's fees and other costs, liabilities and expenses incurred in connection with such proceeding whether incurred by the Applicant, City, and/or parties initiating or bringing such Proceeding. If the Applicant is required to defend the City as set forth above, the City shall retain the right to select the counsel who shall defend the City. Per Government Code Section 66474.9, the City shall promptly notify Applicant of any Proceeding and shall cooperate fully in the defense.
12. The Applicant shall be required to remove all unused or abandoned equipment, antennas, poles, towers, and equipment enclosures if the facility has not been operational for the purposes for which it was approved by the City for a consecutive period of six (6) months. A facility is considered abandoned if it no longer provides communication or data services. It is the responsibility of the wireless communications facility owner to remove the antennas, equipment, enclosures, and related ancillary items such as but not limited to conduit and wiring, in order to restore the site to its original condition.
13. To prevent occupational exposures in excess of Federal Communications Commission (FCC) guidelines, the Applicant shall post signage on the subject utility pole below the antenna, readily

visible to workers from any angle of approach, that notifies the workers of the risk of exposure to radio frequency (RF) emissions. The signage shall comply with OET-65 color, symbol, and content recommendations, and any applicable requirements of California Public Utilities Commission General Order 95. The size and placement of the signage shall be subject to review and approval of the Planning Director prior to issuance of a building permit.

Building Division of the Planning Department

14. The Project requires review and approval of a building permit by the Building Official. Applicant shall apply for and receive approval of a building permit prior to commencing any construction activity.
15. Prior to issuance of building permit, Applicant shall provide evidence that PG&E has approved the work for the antenna installation at the subject pole.
16. All mounting hardware shall be made of corrosion resistance materials, to the satisfaction of the Building Official and City Engineer.

Engineering Division of Public Works Department

17. Construction shall be in conformance with the City of Pacifica Storm Water Management and Discharge Control Ordinance and San Mateo Countywide Storm Water Pollution Prevention Program. Best Management Practices shall be implemented and the construction BMPs plan sheet from the Countywide program shall be included in the project plans.
18. Roadways shall be maintained clear of construction materials, equipment, storage, and debris, especially mud and dirt tracked onto Lerida Way. Dust control and daily road cleanup will be strictly enforced. A properly signed no-parking zone may be established during normal working hours only.
19. Add a note on the Site Plan that says, "Existing curb, sidewalk or other street improvements adjacent to the project site that are damaged or displaced shall be repaired or replaced as determined by the City Engineer even if damage or displacement occurred prior to any work performed for this project."
20. Applicant shall locate all equipment to the greatest extent possible so that the wireless equipment's are not directly over sidewalks in order to reduce the future possibility of deteriorated equipment falling on a person.
21. Applicant shall locate the Ground Rod behind the existing sidewalk.
22. Applicant agree that, in the event that the poles are deemed as no longer needed for carrying electrical power or communications wires, applicant shall apply to the City for alternate options for providing cellular service to their customers.
23. All recorded survey points, monuments, railroad spikes, pins, cross cuts on top of sidewalks and tags on top of culvert headwalls or end walls whether within private property or public right-of-way shall be protected and preserved. If survey point/s are altered, removed or destroyed, the applicant shall be responsible for obtaining the services of a licensed surveyor or qualified Civil Engineer to restore or replace the survey points and record the required map prior to occupancy of the first unit.

24. A City of Pacifica Encroachment Permit shall be obtained for all work undertaken in the public right-of-way. All work shall be done in accordance with City Standards, Standard Specifications for Public Works Construction (Green Book) or Caltrans Standard Specifications, Pacifica Municipal Code, Administrative Policies and to the satisfaction of the City Engineer or his designee. A traffic control plan may be required as a condition for the encroachment permit. Permit fees shall be determined per the current adopted fee schedule.
25. Prior to issuance of a building permit, Applicant shall relocate the WCF toward Alternative Site No. 11 to the maximum extent practicable, to the satisfaction of the Planning Director and City Engineer. In the event relocation is not feasible, the WCF may be constructed where indicated at Alternative Site No. 10 as proposed by the Applicant.

*** END OF CONDITIONS ***





For Signature: ResolutionNo72-2020_VerizonWCF1307Redwood-1334 Lerida-20201130-Approved

Final Audit Report

2020-12-04

Created:	2020-12-04
By:	Sarah Coffey (coffeys@ci.pacifica.ca.us)
Status:	Signed
Transaction ID:	CBJCHBCAABAAVeAoXhAYvnU3CnzfvtlAHciJV5OvoVTd

"For Signature: ResolutionNo72-2020_VerizonWCF1307Redwood-1334 Lerida-20201130-Approved" History

-  Document created by Sarah Coffey (coffeys@ci.pacifica.ca.us)
2020-12-04 - 8:15:23 PM GMT- IP address: 68.65.68.29
-  Document emailed to Deirdre H Martin (martind@ci.pacifica.ca.us) for signature
2020-12-04 - 8:16:07 PM GMT
-  Email viewed by Deirdre H Martin (martind@ci.pacifica.ca.us)
2020-12-04 - 8:28:44 PM GMT- IP address: 192.41.62.5
-  Document e-signed by Deirdre H Martin (martind@ci.pacifica.ca.us)
Signature Date: 2020-12-04 - 8:28:53 PM GMT - Time Source: server- IP address: 192.41.62.5
-  Document emailed to Sarah Coffey (coffeys@ci.pacifica.ca.us) for signature
2020-12-04 - 8:28:55 PM GMT
-  Email viewed by Sarah Coffey (coffeys@ci.pacifica.ca.us)
2020-12-04 - 8:31:19 PM GMT- IP address: 50.209.129.249
-  Document e-signed by Sarah Coffey (coffeys@ci.pacifica.ca.us)
Signature Date: 2020-12-04 - 8:31:25 PM GMT - Time Source: server- IP address: 50.209.129.249
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2020-12-04 - 8:31:25 PM GMT