

**RESOLUTION NO. 2020-006**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF PACIFICA APPROVING USE PERMIT UP-96-18 (FILE NO. 2018-008), SUBJECT TO CONDITIONS, FOR A WIRELESS COMMUNICATIONS FACILITY ON AN EXISTING UTILITY POLE IN THE PUBLIC RIGHT-OF-WAY OF TERRA NOVA BOULEVARD, APPROXIMATELY 870 FEET NORTH OF EVERGLADES DRIVE, IN THE VICINITY OF 1450 TERRA NOVA BOULEVARD (APN 022-310-300), AND FINDING THE PROJECT EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA).**

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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 Terra Nova Boulevard public right-of-way, approximately 870 feet north of Everglades Drive, in the vicinity of 1450 Terra Nova Boulevard (APN 022-310-300) (“the Project”); and

**WHEREAS**, installation of the proposed wireless communications facility 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 April 20, 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 Planning Commission 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 Planning Commission relied upon and hereby incorporates by reference all correspondence, staff reports, and other related materials.

**BE IT FURTHER RESOLVED**, that the Planning Commission of the City of Pacifica does hereby make the finding that the Project qualifies for Class 3 exemption provided in Section 15303 ‘New Construction or Conversion of Small Structures’ of the CEQA Guidelines, respectively, as described below:

An analysis of the proposed Project supports a Planning Commission finding that it qualifies for a categorical exemption from the California Environmental Quality Act (CEQA). The Project qualifies as a Class 3 exemption provided in Section 15303 of the CEQA Guidelines (New Construction or Conversion of Small Structures). Section 15303 states in part:

Class 3 consists of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure.

The subject proposal to construct a WCF on an existing utility pole fits within the scope of a Class 3 categorical exemption. Specifically, the Project includes installation of a 2' tall by 12" diameter cylindrical canister antenna above a 5' tall pole extension attached to the top of the 38'-2" existing utility pole and associated pole mounted equipment projecting less than 1'-4" from the face of the pole. For purposes of the Class 3 exemption, the antenna, vertical extension, and equipment are all small new equipment attached to a small structure (the existing pole), and constitute only minor modifications to the exterior of the structure.

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 Project 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 WCF installation is on an 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 Project 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 an existing 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 possibility that the Project would have a significant effect on the environment due to unusual circumstances. The Project is of a small scale such that no identifiable significant impacts to the environment would occur.
- Sec. 15300.2(d) through (f): The Project 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 this Project.

Because the Project 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 Project is categorically exempt from CEQA.

**BE IT FURTHER RESOLVED** that the Planning Commission of the City of Pacifica does hereby make the following findings pertaining to Use Permit UP-96-18:

*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.

The proposed Project 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. Staff has included a condition of approval which requires the applicant to obtain a building permit prior to installation of the WCF.

The City cannot regulate the topic of 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 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 14 feet outward from the antenna;
- 2) Prohibit access to areas within three feet directly in front of the antenna; 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 and staff proposes as a condition of approval, 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.

The components of the WCF do not include noise producing elements, in particular because the proposed equipment does not contain a fan, and the WCF would not produce noise. Therefore, the WCF would be safe for the public.

Based on the information provided by the applicant, staff's analysis and the conditions of approval proposed for this Project, the Project 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 proposed Project is consistent with the following provisions of the General Plan and other laws of the City. Since the Project is not within the Coastal Zone, the provisions of the Local Coastal Plan do not apply.

i. Noise Element, Policy No. 2: *Establish and enforce noise emission standards for Pacifica which are consistent with the residential character of the City and environmental, health, and safety needs of the residents.*

The Project has been designed to eliminate noise. It does not include large equipment cabinets with air conditioners or backup generators, which can often generate noise in the immediate vicinity. The equipment associated with the facility does not contain fans and would not produce noise.

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

The proposed WCF would be located on an existing utility pole, which does not require ground-mounted equipment, installation of a new vertical support structure, or removal of trees. Installation of the WCF on an existing utility pole would be compatible with the existing quality of the Park Pacifica neighborhood along Terra Nova Boulevard because the area has other utility poles in the area carrying essential utilities for the neighborhood.

The WCF would be unobtrusive in the sightlines of persons on the ground in close vicinity of the facility but would be noticeable from afar as a result of an increase in existing pole height. Compliance with the design related standards for WCF installations above existing support structures as outlined in PMC Section 9-4.2608 (e)(1) would minimize the visual impact of the proposed installation on the neighborhood. Thus, with the maximum separation between the uppermost high voltage power line and the bottom of the antenna no more than 6'-0" and the maximum height of the antenna canister being 2'-0", the Project is consistent with the Community Design Element, Policy No. 1.

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

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 including but not limited to streaming videos. 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. For these reasons, the Project would be an upgrade to the existing neighborhood.

iv. 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. 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.

v. 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 proposed Project 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 this 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 locations for the WCF. The coordination between the City and Verizon Wireless has resulted in a proposed Project which, as conditioned, staff believes would be a compatible use for the public right-of-way in the Park Pacifica neighborhood. This is evidenced by its installation on an existing utility pole, thus reducing the need for additional structures within the public right-of-way. Cooperation between the City and Verizon Wireless has also yielded a sleeker equipment design and shorter antenna height from that earlier proposed, including the bayonet extension and the antenna to meet with all applicable requirements of the PMC and CPUC.

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

The Project is consistent with the following provisions of the City's adopted Design Guidelines:

#### 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.*

[...]

*Additions to an existing structure should also retain and/or be consistent with the positive architectural features of the original structure.*

Electrical and telecommunications utilities in the area of the Project site are provided via above-ground utility poles and associated wires. The applicant proposes to install the WCF on an existing utility pole, which 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 antenna would be mounted above an extension attached to the existing utility pole that would increase the height of the pole by 7'-3" or approximately 19 percent. 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. The applicant would also paint the antenna and equipment to closely match the existing utility pole and has proposed a sleek equipment design. 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 top of the existing utility pole.

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 proposed Project, as shown on the plans on file, would increase the height of a 38'-2" tall existing utility pole to 45'-5". This addition would further emphasize the verticality of the subject utility pole; however, there are multiple large scale buildings on the Terra Nova High School campus in the background, as well as, many large scale mature redwoods and other tall vegetation that have an overall scale and height similar to that of the proposed Project.

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.*

The existing utility pole on which the applicant proposes to locate the subject WCF is made of wood. The applicant has proposed to paint the antennas and equipment brown to achieve a similar color to the utility pole which would result in an installation that blends into the utility pole. Painting the WCF brown would be compatible with other utility poles in the neighborhood.

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

The WCF 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.

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

As described in Section 2.C of the staff report and as further detailed in the applicant's Alternative Site Analysis report in Attachment F of the staff report, the applicant assessed seven alternative sites to the subject site within the search ring. The applicant presumed that construction of a new support structure (i.e., pole) would result in greater visual impacts than locating on an existing support structure. Based on this presumption that new support structure construction would be undesirable, the applicant considered seven other existing utility poles in the vicinity of the proposed site. The other utility poles examined appear to be equally visually prominent and impactful, but were also unavailable for installation as a result of non-compliance with CPUC GO 95, PG&E regulations, and/or, did not meet the applicant's coverage objectives.

*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.

Section 9-4.2608(e)(1) of the PMC limits the vertical height increase of a WCF attached to an existing utility, streetlight, or traffic signal pole to 2'-0" above the top of the respective support structure. Two exceptions are provided: when necessary to comply with regulatory requirements; or, when necessary for health and safety reasons. The applicant has cited a regulatory requirement of CPUC GO 95 as justifying the proposed height increase and has not separately cited any specific health and safety reasons. Therefore, staff's analysis has considered only the reasonableness of the regulatory exception requested by the applicant.

The minimum vertical separations for "antennas and associated elements on the same support structure" are indicated in Case No. 21 of Table 2 of GO 95 (Attachment G of the staff report). The 72-inch (e.g., 6'-0") minimum height increase requested by the applicant corresponds to an antenna installation above power supply conductors ranging in voltage from 750 volts to 35,000 volts (Columns E through G of Table 2 of GO 95). Staff does not dispute that the applicant has proposed to locate its facility above power lines carrying voltages from 750 volts to 35,000 volts.

As demonstrated on Sheet A-4 of Attachment D of the staff report, the applicant is proposing the minimum separation of 6' required by GO 95 from the top of the "supply conductor" to the bottom of the "antenna and associated elements on the same support structure" therefore, the height increase is "necessary to comply with regulatory requirements" as limited by PMC Section 9-4.2608(e)(1).

The proposed 2'-0" tall canister antennas meets the requirements of Section 9-4.2608(e)(1) of the PMC which requires the proposed antenna height to be a maximum of 2'-0". This section states, in pertinent part, that "[a]ll antennas attached to existing utility, streetlight, or traffic signal poles ... within private or public rights-of-way, shall not extend more than two (2') feet above the top of the support structure ... unless necessary to comply with regulatory requirements or for health and safety reasons" (PMC sec. 9-4.2608(e)(1)). As analyzed in the preceding paragraphs of this staff report, the applicant has successfully demonstrated an allowable height increase of 6'-0" to comply with GO 95 regulatory requirements. However, any further facility height above that mandated by GO 95 shall be limited to the base height increase allowable under PMC section 9-4.2608(e)(1), which is an allowable height increase of 2'-0".

The proposed project would comply with all applicable PMC requirements pertaining to a WCF installation in the public right-of-way.


**NOW, THEREFORE, BE IT FURTHER RESOLVED** that the Planning Commission of the City of Pacifica does hereby approve Use Permit UP-96-18 for installation of a new wireless communications facility above an existing utility pole and associated pole-mounted equipment within the public right-of-way of Terra Nova Boulevard, approximately 870 feet north of Everglades Drive, adjacent to 1450 Terra Nova Blvd, subject to conditions of approval included as Exhibit A to this resolution.

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Passed and adopted at a regular meeting of the Planning Commission of the City of Pacifica, California, held on the 20th day of April 2020.


AYES, Commissioner:	BERMAN, CAMPBELL, KRASKE, NIBBELIN
NOES, Commissioner:	BIGSTYCK
ABSENT, Commissioner:	RUBINSTEIN
ABSTAIN, Commissioner:	N/A

  
\_\_\_\_\_  
John Nibbelin, Acting Chair

ATTEST:

  
\_\_\_\_\_  
Tina Wehrmeister, Planning Director

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Michelle Kenyon, City Attorney



## Exhibit A

**Conditions of Approval: File No. 2018-008 for Use Permit UP-96-18, for installation of a new wireless communications facility consisting of a canister antenna mounted on an extension on top of an existing utility pole, and associated pole-mounted equipment, in the Terra Nova Boulevard public right-of-way, approximately 870 feet north of Everglades Drive, in the vicinity of 1450 Terra Nova Boulevard (APN 022-310-300)**

**Planning Commission Meeting of April 20, 2020**

### **Planning Division of the Planning Department**

1. Development shall be substantially in accord with the plans entitled "SF Pacifica 004" dated February 3, 2020, except as modified by the following conditions.
2. 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.
3. 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.

4. Prior to issuance of a building permit, Applicant shall submit samples of exterior finishes, including color, subject to approval by the Planning Director.
5. 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 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.
6. The Project shall not include any ground mounted equipment or trenching.
7. 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.
8. All outstanding and applicable fees associated with the processing of this Project shall be paid prior to the issuance of a building permit.

9. 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.
10. 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.
11. 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.
12. 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**

13. 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.
14. 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.

15. 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**

16. 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.
17. Roadways shall be maintained clear of construction materials, equipment, storage, and debris. Dust control and daily road cleanup will be strictly enforced. A properly signed no-parking zone may be established during normal working hours only.
18. Add a note on the Site Plan that says, "Existing curb, sidewalk or other street improvements adjacent to the property frontage 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."
19. Applicant shall locate all equipment to the greatest extent possible so that the meter cabinets are not directly over sidewalks in order to reduce the future possibility of deteriorated equipment falling on a person, to the satisfaction of the City Engineer.
20. Applicant shall locate the ground rod in the landscape area.
21. Applicant agrees that, if the subject utility pole is ever no longer needed for carrying electrical power or communications wires, the owner shall apply to the City for alternate options for providing wireless communications service to its customers.
22. 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.
23. 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.

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**Added by Planning Commission on April 20, 2020**

24. Prior to issuance of a building permit, the Applicant shall submit information demonstrating adequate structural integrity of the pole with the subject facility installed, to the satisfaction of the Building Official.

\*\*\* END OF CONDITIONS \*\*\*