

FINDINGS

Wireless Communication Facility Use Permit Findings

(A) That either:

- (1) The development of the proposed wireless communications facility as conditioned will not significantly affect any designated visual resources, environmentally sensitive habitat resources (as defined in the Santa Cruz County General Plan/LCP Sections 5.1, 5.10, and 8.6.6.), and/or other significant County resources, including agricultural, open space, and community character resources; or

This finding can be made, in that the proposed project as conditioned will not affect any designated visual resources, environmentally sensitive habitat resources, and/or other significant County resources, including agricultural resource, open space resource, or community character resource as identified in the County General Plan. In particular:

The proposed wireless community facility (WCF) is proximal to Empire Grade and distal to Highway One, Highway 236, Highway 17, Pine Flat Road, and Highway 9 at Felton Empire Road, all designated Scenic roads. General Plan Policy 5.10.11 requires discretionary development to be sited out of public view of scenic roads. As shown in project photo simulations, the proposed WCF would be fully screened from public view from Empire Grade Road by location within an existing forest. Otherwise, the proposed project is not visible to other mapped roadways because the facility is designed to be camouflaged as a pine tree within the forest, which either entirely blocks public views from these roads or blends the facility into the forest. Thus, scenic roadways would not be affected.

The site is mapped for archaeological resources. An archaeology report, prepared by Steve Jankiewicz of EBI Consulting, dated January 4, 2022, under Application REV221043 was reviewed and approved. Please see the report acceptance letter dated March 7, 2022, finding the absence of archaeological resources, and conditioned to meet archaeological ordinance required conditions.

The parcel is mapped as Biotic Resources on the GIS web. However, this layer does not include species specific data, meaning the biotic resources data is not specific (i.e., no biotic species are called out in this layer), and the default species specific data used for determination that biotic resources are present, requiring a biotic report, is CNDDB (California Natural Diversity Database or Santa Cruz Biotic data. Neither the CNDDB or Santa Cruz Biotic data have mapped biotic resources or mapped sensitive habitat of Federal, State, or Local Species on site. Furthermore, a site visit confirmed that the site is currently developed, and review of the proposed parcel disturbance area did not identify any biotic resources or sensitive habitat. Thus, staff has determined that the site is not located within mapped biotic resources or sensitive habitat and a biotic report is not required for the proposed development.

Notwithstanding, although federally protected birds were not identified on site at any time during project review, a mitigation measure is provided as a precaution to ensure no impacts occur in the

unlikely event that migratory birds happen to temporarily nest in the project area. The mitigation addresses a required preconstruction survey by a biologist to confirm the absence of protected birds prior to construction or cessation of work until birds have fledged from nests in the project construction area.

Further, the property is not identified in a special community and is otherwise designed as a pine tree to blend with the surrounding forest.

- (2) There are no other environmentally equivalent and/or superior and technically feasible alternatives to the proposed wireless communications facility as conditioned (including alternative locations and/or designs) with less visual and/or other resource impacts and the proposed facility has been modified by condition and/or project design to minimize and mitigate its visual and other resource impacts.

This finding is not required as the above findings can be made. However, the applicant provided a support statement/alternative analysis and photo simulations that supports this location as the only location capable of filling the identified significant gap in coverage, as noted in the project propagation maps, that minimizes visual impacts. It was also determined by the RF engineer that Patrick Road would not fill the gap in coverage and photo simulations show that Patrick Road would result in visual impacts to Empire Grade Road, a protected public road, where the proposed project does not impact this public road. In addition, the co-location faux monopine facility replaces an existing co-location facility in a forest. The facility is camouflaged as a pine tree within the forest and is conditioned to reduce the height as much as feasible while still substantially filling the gap in coverage and by additional landscape screening to minimize private views as much as feasible.

- (B) For sites located in one of the prohibited and/or restricted areas set forth in SCCC [13.10.660](#)(C), that the applicant has provided documentation to enable the decision-making body to make the findings in SCCC [13.10.660](#)(C)(4)(a) and (b).

This finding can be made, in that the site is not proposed within a prohibited area or restricted area. The parcel is zoned RR (Rural Residential) and only the CA, R-1, RM, RB, and MH zone districts are prohibited zone districts.

The wireless regulations require new facilities to be co-located onto existing facilities, base stations, or utility poles, unless there is no existing facility that would provide substantially similar coverage and the proposed facility is visually screened, camouflaged, or otherwise integrated into the surrounding character of the forested setting.

The applicant proposes to replace the existing co-location telecommunications facility, i.e., facilities constructed for the purpose of supporting two or more antennas by separate carriers on the same tower, with another co-location telecommunications facility on site, providing AT&T

wireless communication service and FirstNet emergency communications as well as additional locations on the facility for other carriers.

Notwithstanding, the applicant provided an alternative analysis noting that there are no other locations that will substantially fill the gap in coverage.

The applicant has provided an RF report, prepared by Hammett and Edison, dated July 6, 2021, confirming compliance with the FCC wireless standards. As required, the project is conditioned to provide post-installation RF emissions testing prior to unattended operations of the facility to demonstrate actual compliance with the FCC OET Bulletin 65 RF emissions safety rules for general population/uncontrolled RF exposure in all sectors.

The project is conditioned to comply with the Communications Act of 1934, as amended by the Telecommunications Act of 1996, applicable regulations, orders, and decisions of the FCC and CPUC and applicable State law.

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

This finding can be made, in that the proposed WCF is an allowed use within the RR (Rural Residential) Zone District and complies with the district setbacks.

A maximum of 75-foot maximum height is allowed in the residential zone district unless a Height Exception is sought, including written justification providing the need for a facility of that height. The applicant's written justification identifies that:

The center line for AT&T was selected to allow for the best possible option to fill the significant gap in coverage.

The selected site height will allow additional wireless carriers to also place equipment on the tower for colocation. The antennas are needed to be above the "tree line" to provide the most coverage (especially E911 and FirstNet) to the Bonny Doon area.

Required Height Exception findings are provided below:

- (a) The proposed facility eliminates or substantially reduces one or more significant gaps in the applicant carrier's network; and

The applicant (AT&T) has identified a significant gap in their coverage in this area as noted in their project propagation statement.

Pursuant to the definition of "Significant gap" in the wireless regulations, a significant gap

is “a gap in a wireless provider’s own wireless services that is significant as certified by the wireless carrier”.

- (b) The proposed facility is located on the least visually obtrusive site and least visually obtrusive portion of the site, where the applicant provides substantial evidence that it chose the best solution for the community after a meaningful comparison of alternative sites and designs, including but not limited to considering less sensitive sites, alternative system designs, alternative tower designs, placement of antennas on existing structures, and other viable, technically feasible, and environmentally (i.e., visually) equivalent or superior potential alternatives.

The applicant provided an alternative analysis noting that no other alternative site is available to substantially fill the identified gap, including microcell sites, which are incapable of filling the gap due to a line-of-sight requirement to fill the gap in coverage. The existing WCF co-location sites, including Patrick Road and Robles Drive, identified in the area are not capable of filling the gap due to the significant distance from the service area or lack of interest in leasing by PG&E. The subject property contains an existing communication facility on site since 1969 that is located in the dense forest and provides the least obtrusive means of providing the applicant’s coverage by largely screening the proposed replacement colocation facility within the forest canopy, camouflaging the monopine as a pine tree, and otherwise providing landscape screening for understory views from adjacent residences and additional a trees to screen the top of the tree canopy from ground level to the maximum extent feasible. A maximum height of 140 feet (with 130-foot antenna centerline) is the lowest height capable of substantially filling the wireless coverage gap as determined by the alternative analysis; and therefore, the least obtrusive height.

There are no zoning violations on the subject property.

- (D) That the proposed wireless communication facility, as conditioned, will not create a hazard for aircraft in flight.

This finding can be made, in that the proposed WCF is located over 24 miles (over 126,000 feet) away from the nearest airport which is beyond the airport influence zone and associated mapped six safety zones and is otherwise too low to interfere with air traffic. Furthermore, pursuant to FAR (Federal Aviation Regulations) Part 77, Subpart B, notification to the FAA is only required for projects within 20,000 feet of a runway.

Development Permit Findings

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

This finding can be made, in that the wireless communication facility (WCF) project is in an area designated for wireless facilities and is not encumbered by physical constraints to development. Construction will comply with prevailing building technology, the California Building Code, and the County Building ordinance to insure the optimum in safety and the conservation of energy and resources. The applicant submitted a soils report for foundation design to ensure public safety. The soils report was accepted by the County's Registered Civil Engineer. The proposed improvements will not deprive adjacent properties or the neighborhood of light, air, or open space, in that the structure will meet all current setbacks that ensure access to these amenities. Furthermore, the proposed project meets the radio frequency exposure limit established by the Federal Communications Commission (FCC) and noise thresholds of the general plan, intended to protect health and safety.

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

This finding can be made, in that the proposed location of the improvements and the conditions under which it would be operated or maintained will be consistent with all pertinent County ordinances and the purpose of the RR (Residential Residential) zone district in that the proposed use is allowed in the district and site improvements meet zone district required setbacks. Replacement fencing is conditioned to meet the setback requirements and to provide wood materials.

The project exceeds the 75-foot height limit established by the wireless regulations. Height Exception findings are required when a WCF project exceeds the maximum 75-foot height allowed in the wireless regulations. Height Exception findings are included in the wireless findings, attached. Furthermore, the project complies with Section 13.10.661 et al for wireless telecommunications facilities within Rural Residential zone districts, including setbacks to adjoining residentially zoned property.

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

This finding can be made, in that the proposed wireless facility is consistent with the use and density requirements specified for the Rural Residential (R-R) land use designation in the County General Plan.

The proposed wireless project will not adversely impact the light, solar opportunities, air, and/or open space available to other structures or properties and meets current site and development standards for the zone district.

The proposed wireless project will be compatible with adjacent property uses and the character of the neighborhood as specified in General Plan Policy 8.5.2 (commercial compatibility with other uses) in that as a proposed faux mono-pine tree, and antennas and equipment, are designed to be camouflaged as a pine tree within an existing forest to minimize visual views of the project on the surrounding rural residential area. In addition, the project includes landscaping to screen views from adjacent residential properties with views through the forest understory and from ground level views across the top of the forest canopy. Furthermore, all existing unsightly dish, antennas, and antenna scaffold equipment are proposed to be removed. The project is conditioned to require the replacement of the proposed six-foot chain link fence (with barbed wire) with an eight-foot solid board fence.

Although the site is in proximity of a designated Scenic Road, Empire Grade, the proposed project is not visible from this road or any other scenic road as identified in visual simulations and is otherwise not located within any designated visual resources, environmentally sensitive habitat resources (as defined in the Santa Cruz County General Plan/LCP Sections 5.1, 5.10, and 8.6.6.), and/or other significant County resources, including agricultural, open space, and community character resources. The project is not located within a special community or town plan.

The proposed project complies with the noise standards of the General Plan.

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

This finding can be made, in that the proposed co-location WCF is proposed on an existing co-location telecommunication facility on the parcel. The expected level of traffic generated by the proposed project is not anticipated to affect the traffic volumes because the only traffic generated by the proposal will be periodic trips for routine maintenance monthly and thus will not adversely impact the existing roads or intersections in the surrounding area. Utilities are proposed underground. Thus, the project would not overload the capacity of existing power lines necessary to serve the proposed project.

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

This finding can be made, in that the proposed project is in a forested area and as designed and conditioned, the proposed project would meet the WCF ordinance objective to be least visually obtrusive to the maximum extent feasible while also substantially filling the gap in coverage.

In particular, the project includes removal of existing unsightly improvements on site, is designed as a monopine to blend the WCF into the forest, proposes materials and colors to blend the proposed faux monopine, including proposed landscape to minimize views from adjacent properties. The project is also conditioned to replace the proposed six-foot-tall chain link fence with an 8-foot solid board fence (without barbed wire) so that the proposed fencing is more compatible with the natural condition of the forested site.

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

This finding can be made, in that the proposed improvements will be of an appropriate scale and type of design that will be least visually obtrusive to surrounding properties and open space in the surrounding area by provision of a mono-pine tree, which will camouflage the facility from surrounding properties within the forest. Fencing is conditioned to be 8-foot solid board fencing instead of the proposed chain link fencing, which will be more appropriate to the rural area.