



staff report

Agenda Item No.

D-1

To: City of Imperial Planning Commission

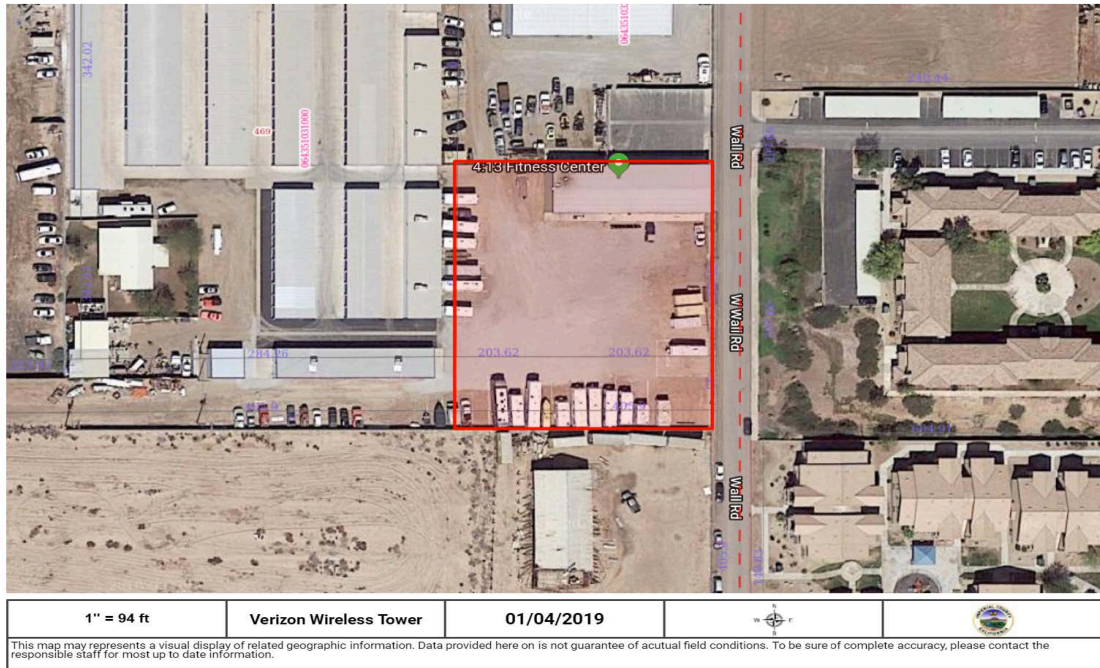
From: Lisa Tylanda, Planner

Date: January 3, 2019

**Subject: Conditional Use Permit Request CUP (19-01)
Verizon Cellular Tower
463 West Aten Road**

Background

Verizon Wireless submitted an application for a Conditional Use Permit (CUP) to allow for the modification and time extension of an existing cell-phone tower with ground equipment at 463 West Aten Road. The existing 82-foot antenna tower is currently camouflaged as a windmill. The communication facility is located at the rear of the existing self-storage yard on the southeast corner of the property at Tucker Storage. Additional equipment such as generator, prefabricated 194 square foot equipment building, is currently existing and surrounded by a 40 foot x 30 foot overall concrete block enclosure area.



Discussion/Analysis

Airport and Federal Aviation Regulations (FAR)

The existing tower is approximately 2,200' from the eastern edge of Runway 8-26, and has previously undergone review and approval in 2014 by the County Airport Land Use Compatibility Plan (ALUCP). The height of the proposed tower does not infiltrate any imaginary surfaces (primary surface, horizontal surface, conical surface, transitional surface, or approach surface) for obstruction evaluation. The subject site is located in Zone D of the ALUCP. Zone D is an area of negligible risk with no limit on residential densities or population intensities. In 2014 a "Determination of No Hazard to Air Navigation" study was conducted by the Federal Aviation Administration (FAA). The aeronautical study revealed that the structure does not exceed obstruction standards and would not be a hazard to air navigation provided certain condition that must be followed. No further review will be needed during this CUP process for the proposed modifications to the existing tower and time extension for the life of the project

Evaluation

The applicant is proposing modifications to the tower (which consists of changing-out and updating equipment) and a time extension increase on the life of permit from the currently ordained 3 years. The applicants proposed project and time extension will have no impact to the surrounding uses as it is already an existing use. The purpose of the conditional use permit, is to allow for the modifications to the tower, ensure that the existing tower is within the FCC guidelines in regards to radio frequency emissions, and

increase the life of the permit because the current Conditional Use Permit for this site has expired. After reviewing all items submitted to staff, it has been determined that the facility is within FCC guidelines in regards to Radio Frequency emission and meets the City operating standards for Telecommunication Facilities and an increase from a 3 year to a 15 year “permit life” provided that the company operating the tower provide documentation that reflects the Telecommunication Facility being in compliance with FCC guidelines every 7.5 years, should not have a negative effect to the other facilities operating or residing nearby.

Section 24.19.340 of the City of Imperial Zoning Ordinance requires that the Commission make specific findings be made when reviewing a CUP. The required findings are listed below in ***bold italics***, followed by an evaluation.

- 1. That the proposed location, size, design, and operating characteristics of the proposed use is in accord with the Title and Purpose of this Ordinance, the Purpose of the zone in which the site is located, the Imperial General Plan, and the development policies and standard of the City.***

The subject site is located within a C-1 Neighborhood Commercial zone. The purpose of the C-1 zone is to provide an area for offices, shopping center, and limited retail service for the convenience of the residents of the neighborhood. The existing camouflaged cell tower does not interfere with operations/businesses in this zone. The tower was previously approved and the proposed modifications and time extension to the life of the permit will not impact the zone.

- 2. That the location, size, design, and operating characteristics of the proposed use will be compatible with and will not adversely affect or be materially detrimental to adjacent uses, residents, buildings, structures, or natural resources with consideration given to those items listed in Section 24.19.340.B of the Imperial Zoning Ordinance.***

Commercial uses are located to the west and east of the subject parcel and the Imperial Business Park is located to the north. A portion of the Imperial Garden Apartments is located to the east and vacant residentially-zoned areas are located to the south. The tower is camouflaged as a windmill to minimize the visual impact along Aten Road, and with the implementation of the Conditions of Approval (i.e., minimum 100’ separation between the tower location and the boundaries of any residential zones), the project will be compatible with and will not adversely affect adjacent uses and residents. An electromagnetic field (RF/EMF) and Noise Level study was provided by the Applicant and shows that the proposed tower will not adversely affect the surrounding neighborhood with regards to RF/EMF emissions.

- 3. That the proposed location, size, design, and operating characteristics of the proposed use and the conditions under which it would be operated or***

maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.

The project is currently an existing cell tower and the proposed modifications and time extension are very limited in nature, and as such, will not be detrimental to the public health, safety, or welfare.

- 4. That the proposed Conditional Use will comply with each of the applicable provisions of the Zoning Ordinance, except for any approved Variance.*

The existing tower and proposed modifications to the tower and “life of approval” time extension complies with the provisions of the City’s Wireless Telecommunication Ordinance and will comply with all provision of the Zoning Ordinance.

Environmental Compliance

The proposed modifications/construction project has been determined to be Categorical Exemption under CEQA. Existing facilities are in the location and the minor land alteration will have no significant impact to the surrounding areas. No scenic trees or vegetation will be removed from the property.

Recommendation

A public hearing is required for the project and if there are no testimonies to the contrary, Staff recommends that the Commission **approve the project subject to the attached conditions.**

Attachments:

Conditions of Approval
Resolution 2019-01
Site Plan and Elevations
Radio Frequency Report

EXHIBIT A

CONDITIONS OF APPROVAL

Conditional Use Permit # CUP (19-01)

Verizon Wireless – Tucker Storage

463 W. Aten Road; Imperial; CA 92251

APN: 064-351-032

1. The project is approved as shown on the “Conceptual Site Plan” dated March 17, 2014, collectively described as Exhibit “A” except as modified by the following conditions. Minor changes to the plans may be allowed subject to the approval of the Planning Director if found to be in substantial conformance to this development plan.
2. Conditional Use Permit #19-01 approves the installation/modification of a telecommunication facility, subject to a Building Permit application submission, review and approval from the Community Development Department.
3. Conditional Use Permit # 19-01 approves the “Permit Life” increase from the ordained three (3) years to fifteen (15) years, subject to a Radio Frequency Report Review at seven point five (7.5) and dependent on Community Development Department finding that the telecommunication facility is still compliant with FCC guidelines at that time.
4. The cellular tower shall be adequately camouflaged. The tower may consist of panel antennas, no more than one (1) 4’ microwave dish mounted on a 82’ high maximum lattice tower camouflaged as a faux-wood water tank (currently existing 1.4.2019). The supporting tower structure shall be brown colored. Other acceptable camouflage designs include faux-wood water tower or similar structure. Decorative architectural features, may exceed the height limit by no more than twelve feet (12’). The Planning Director may approve minor alterations to the design, including height, color and camouflage technique.
5. The improvements associated with the communication facility, including equipment shelters, antennae, and fencing shall be properly maintained at all times and all outdoor storage areas and appurtenant structures shall be screened from public view.
6. The tower shall be designed to support/collocate antennae for additional carriers and shall be made available for lease to other carriers.
7. The tower shall install any markings and lighting required by FAR Part 77 or imposed by the Airport Land Use Commission in accordance with the adopted Airport Land Use Compatibility Plan.

8. Issues regarding on- and off-site liquefaction are unknown for this location and shall be addressed through the preparation of a site-specific geotechnical report that would include recommendations regarding design criteria for reducing liquefaction effects on the proposed structure.
9. A frequency evaluation shall be submitted to the Planning and Building Departments prior to the establishment of service to demonstrate the frequencies will not interfere with the City's emergency broadcast services. The Developer/Applicant shall provide radio coverage documentation to the Fire Department indicating that this facility will not interfere with public safety amplification signals.
10. The applicant shall assume full responsibility for resolving television interference, if any is caused by the operation of the proposed facility. The applicant shall take corrective action within 30 days of receipt by the Planning Department of any written television interference complaint.
11. The Developer/Applicant shall comply with all local, State and Federal laws, regulations, rules, ordinances, and standards as they pertain to this project, whether specified herein or not. Where conflicts occur, the most stringent shall apply.
12. The Developer/Applicant shall pay all applicable impact and capacity fees.
13. The Conditional Use Permit shall not constitute the waiver of any requirement of the City's Ordinances or regulations, except where a condition set forth herein specifically provides for a waiver.
14. The Applicant shall agree to defend, indemnify and hold harmless the City of Imperial and its agents, including consultants, officers and employees from any claim, action or proceeding against the City or its agents, including consultants, officers and employees to attack, set aside, void, or annul the approval of the Conditional Use Permit. This indemnification obligation shall include, but not be limited to, damages, costs, expenses, attorney's fees, or expert witness costs that may be asserted by any person or entity, including the Property Owner/Applicant arising out of or in connection with the approval of the Conditional Use Permit, including any claim for private attorney general fees claimed by, or awarded to any party from the City.
15. All conditions of approval for this Conditional Use Permit shall be reprinted and included as a plan sheet(s) with the building permit plan check sets submitted for review and approval. These conditions of approval shall be on, at all times, all grading, landscaping, and construction plans kept on the project site. It is the responsibility of the applicant to ensure that the project contractor is aware of, and abides by, all conditions of approval. Prior approval from the Planning Department must be received before any changes are constituted in site design, grading, building design, building colors or materials, landscape material, etc.

16. The provisions of the permit are to run with the project and shall bind the current and future owner(s) successor(s) in interest, assignee(s) and/or transferor(s) of said project for fifteen (15) years.
17. All obsolete or unused communication facilities shall be removed by the applicant within six months after the use of that facility has ceased or the facility has been abandoned. The applicant shall notify the Planning department at the time of the abandonment, and all disturbance related to the communication facility shall be restored to pre-project condition.
18. If the Community Development Department finds and determines that the Permittee or successor-in-interest has not complied or cannot comply with the terms and conditions of the CUP, or the Planning/Building Department determines that the permitted activities constitute a nuisance, the City shall provide Permittee with notice and opportunity to comply with the enforcement or abatement order. If after receipt of the order (1) Permittee fails to comply, and/or (2) Permittee cannot comply with the conditions set forth in the CUP, then the matter shall be referred to the Planning Commission for permit modification, suspension, or termination, or to the appropriate enforcement authority.
19. As between the City and the Permittee, any violation of this permit may be a "nuisance per se". The City may enforce the terms and conditions of this permit in accordance with its Codified Ordinances and/or State law. The provisions of this paragraph shall not apply to any claim of nuisance per se brought by a third party.
20. In the event the facility is operated or maintained to constitute a public nuisance consistent with Municipal Code Chapter 14 Abatement of Nuisances, then abatement shall follow all necessary procedures set forth in Chapter 14.
21. In the event a heritage resource or other item of historical or archaeological interest is discovered during grading and construction activities, the project proponent shall ensure that all such activities cease within 50 feet of the discovery until an archaeologist can examine the find in place and determine its significance. If the find is determined to be significant and authenticated, the archaeologist shall determine the proper method(s) for handling the resource or item. Grading and construction activities may resume after the appropriate measures are taken or the site is determined not be of significance.
22. In the event of the discovery of human remains, all work is to stop, and the County coroner shall be immediately notified pursuant to Section 7050.5 of the Health and Safety Code and Section 5097.98 of the Public Resources Code. If the remains are determined to be Native American, the Coroner must contact the Native American Heritage Commission within 24 hours. The treatment and disposition of human remains shall be completed consistent with guidelines of the Native American Heritage Commission.