

CITY OF SANTA ROSA
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
STAFF REPORT FOR PLANNING COMMISSION
April 11, 2024

PROJECT TITLE

New Telecommunications Facility

ADDRESS/LOCATION

2715 Giffen Avenue

ASSESSOR'S PARCEL NUMBER

010-450-008

APPLICATION DATES

January 11, 2023

REQUESTED ENTITLEMENTS

Conditional Use Permit

PROJECT SITE ZONING

Light Industrial (IL)

PROJECT PLANNER

Suzanne Hartman

APPLICANT

Carol Kincheloe

PROPERTY OWNER

Giffen Avenue Property LLC

FILE NUMBERS

CUP23-004, DR23-038

APPLICATION COMPLETION DATES

October 31, 2023

FURTHER ACTIONS REQUIRED

Design Review

GENERAL PLAN DESIGNATION

General Industry

RECOMMENDATION

Approval

CITY OF SANTA ROSA
PLANNING COMMISSION

TO: CHAIR AND MEMBERS OF THE PLANNING COMMISSION BOARD

FROM: SUZANNE HARTMAN, CITY PLANNER
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT

SUBJECT: NEW TELECOMMUNICATIONS FACILITY

AGENDA ACTION: RESOLUTION

RECOMMENDATION

It is recommended by the Planning and Economic Development Department that the Planning Commission, by resolution, approve a Conditional Use Permit for a new wireless telecommunications facility located at 2715 Giffen Avenue.

BACKGROUND

1. Project Description

The applicant proposes to construct an 80-foot monopine wireless telecommunications facility pole, with a 5-foot lighting rod atop of the pole. The proposed foliage of the monopine treepole will be colored green to match with the existing trees that are located at the project site. All of the ground equipment will be enclosed by 6-foot-tall CMU wall and access gate. The proposed telecommunications facility use requires Conditional Use Permit approval by the Planning Commission, while the design of the facility will be considered through the Design Review process by the Design Review Board.

2. Existing Land Use – Project Site

The subject parcel is 11.71 acres and there are various light industrial uses operating at the site. The tower, ground equipment and fence lease area will be constructed in the southwest corner of the property. The proposed development

will not displace or disrupt any existing parking or circulation for the existing buildings.

3. Project History

| | |
|------------------|---|
| January 11, 2023 | Application Submitted |
| March 17, 2023 | Notice of Application Distributed |
| February 7, 2024 | A Tolling Agreement was executed, extending the review timeframe and shot clock of this project from January 11, 2024, to April 16, 2024, to allow this project to be scheduled for the two required Public Hearings. |
| March 15, 2024 | Notice of Public Hearing Distributed |
| March 28, 2024 | Planning Commission Meeting – The item was continued to a date certain of April 11, 2024 to allow time for the applicant to submit additional information. |
| April 2, 2024 | A new Tolling Agreement was executed, extending the review timeframe and shot clock from April 16, 2024, to July 16, 2024. |
| April 5, 2024 | Notices of Public Hearing with Spanish Translation Distributed |

ANALYSIS

1. General Plan

The General Plan land use designation for the site is Light Industry, which is intended for light industrial, warehousing and heavy commercial uses. Uses appropriate to this land use category include auto repair, bulk or warehoused goods, general warehousing, manufacturing/assembly with minor nuisances, home improvement retail, landscape materials retail, freight or bus terminals, research oriented industrial, accessory offices, and employee-serving commercial uses, and services with large space needs, such as health clubs.

While there are no goals or policies that speak directly to telecommunications facilities, cellular phone service has become an integral part of personal and business communication. As such, installation of the proposed telecommunications facility implements a variety of overarching General Plan goals by creating a functional place for those who live and work within the City. The proposal has been determined to be consistent with the General Plan.

2. Zoning

The [Zoning Code](#) implements the goals and policies of the General Plan by classifying and regulating the use of land and structure development within the City.

Surrounding Zoning Districts:

North: Business Park (BP) and Low-Density Residential (R-1-6)

South: General Industrial (IG)

East: General Industrial (IG)

West: Business Park (BP)

Zoning Code Section [20-44](#), defines telecommunication facility standards. The project is considered a major telecommunications facility and as such, is required to obtain a major Conditional Use Permit (CUP) and a major Design Review Permit (DR). Pursuant to Zoning Code Section [20-44.020](#), the review authorities are the Planning Commission (Conditional Use Permit) and the Design Review Board (Design Review).

Pursuant to Zoning Code Section [20-30.070](#), the height of telecommunication facilities are specifically addressed in Zoning Code Chapter 20-44 and more specifically, Zoning Code Section [20-44.030\(G\)](#) states, "The facility shall be as small as possible and the minimum height necessary without compromising reasonable reception or transmission." Staff has interpreted this language to allow the review authority (Planning Commission) discretion regarding the height limits of telecommunication facilities. Based on the information included in the application materials, staff finds that the proposed height of the tower is necessary to maintain adequate height for function while allowing future collocation of the site.

The project complies with development standards, design guidelines, and application requirements set forth in Chapters 20-23 and 20-44 of the City Code. The tower and all related equipment will be shielded from public view to the extent possible, by being placed behind a 6-foot-tall CMU wall. The proposed monopine pole blends in with the surrounding trees. The project will not interfere with other industrial and commercial operations in the vicinity.

Section 20-44.060 of the Zoning Code regulates the location of telecommunication towers by requiring an alternative site analysis, a separation between facilities, a good faith effort in achieving collocation, minimum roads and parking areas as necessary to serve the facility, and operation in compliance with the Federal Communication Commission's (FCC) human exposure standards for non-ionizing electromagnetic radiation (NIER). The applicant has provided analysis of seven alternative sites for the necessary coverage, all of which were ruled out due to an inability of the sites to address service coverage gaps, and the site has been found to have the necessary access through existing roads. Further, an "Electromagnetic Energy Exposure (EME) Report," prepared by Waterford Consultants, LLC, dated April 12, 2023, concluded that the proposed placement of the tower at the subject site will not result in exposure of the public to excessive levels of radio-frequency energy as defined in the FCC Rules and Regulations.

Major telecommunication facilities are allowed within the IL zoning district upon approval of a CUP and DR. Staff finds that the project complies with all requisite requirements of the Zoning Code, and that all required findings can be met as shown on the draft resolution included as an attachment to this Staff Report.

It should also be noted that subsection 'G' of Zoning Code Section 20-44.060 states that no telecommunications tower shall be installed closer than two miles from another readily visible, uncamouflaged or unscreened tower unless it is co-located, situated on a multiple user site, not readily visible, or technical evidence is submitted showing a clear need for the facility and the infeasibility of co-locating an existing tower. While there is another tower within 2 miles of the proposed tower, because the subject tower is proposed to be constructed as a faux tree the distance requirement is not required. Further, the applicant has submitted coverage maps demonstrating the clear need for the facility at this location, as well as documentation of the inability of co-locating on an existing tower.

The following findings are required for approval of the Conditional Use Permit:

- a. The proposed use is allowed within the applicable zoning district and complies with all other applicable provisions of this Zoning Code and the City Code;
- b. The proposed use is consistent with the General Plan and any applicable specific plan;
- c. The design, location, size, and operating characteristics of the proposed activity would be compatible with the existing and future land uses in the vicinity;
- d. The site is physically suitable for the type, density, and intensity of use being proposed, including access, utilities, and the absence of physical constraints;
- e. Granting the permit would not constitute a nuisance or be injurious or detrimental to the public interest, health, safety, convenience, or welfare, or materially injurious to persons, property, or improvements in the vicinity and zoning district in which the property is located; and
- f. The proposed project has been reviewed in compliance with the California Environmental Quality Act (CEQA).

Major telecommunication facilities are allowed within the IL zoning district upon approval of a CUP and DR. Staff finds that the project complies with all requisite

requirements of the Zoning Code, and that all required findings can be met, as shown in the draft resolution included as an attachment to this Staff Report.

Section 20-44.060(F)(19) requires a 75-foot setback from a major facility to any habitable structures. As noted above, the proposed facility would be located in the IL Zoning District, and would be over 200 feet from the nearest habitable structure. Section 20-44.060(G) provides that the following findings must be made for commercial telecommunications facilities:

- a. The proposed site results in the least potentially adverse impacts than any feasible alternative site.
- b. The applicant has provided a written explanation why the subject facility is not a candidate for co-location.
- c. All commercial telecommunications facilities shall be served by the minimum roads and parking areas necessary.
- d. Commercial telecommunications facilities shall be operated in compliance with the Federal Communication Commission's (FCC) human exposure standards for non-ionizing electromagnetic radiation (NIER), and the applicant for commercial telecommunication facilities shall be responsible for demonstrating that the proposed facility will comply with this standard.

Staff finds that the project complies with all requisite requirements of the Zoning Code, and that all required findings can be met, as shown in the draft resolution included as an attachment to this Staff Report.

3. Design Guidelines

The project will be considered by the Design Review Board on April 18, 2024.

4. Summary of Public Comments

Planning staff has received both written and oral comments for this application. Staff has attached all correspondence to this staff report. The following list includes comments and staff responses:

Comment: The tower will cause indecent exposure to radiation.

Staff Response: As demonstrated in the Radio Frequency Emissions Compliance Report for AT&T Mobility, prepared by David H. Kiser, P.E. of Waterford, dated April 12, 2023, the project complies with the Federal Communications Commission (FCC) requirements (see Attachment 6 to this report).

The proposed telecommunications facility complies with the Federal Communication Commission's (FCC) human exposure standards for non-ionizing electromagnetic radiation (NIER), and the applicant for commercial telecommunication facilities shall be responsible for demonstrating that the proposed facility will comply with this standard. The applicant has submitted reports from a licensed electrical engineer confirming compliance with the FCC's radio frequency exposure limits.

Furthermore, the federal government has largely preempted local government regulation in the area of Radio Frequency (RF) emissions, making the FCC the federal agency responsible for setting nationwide guidelines for safe RF levels, and severely limiting local authority to regulate RF emissions or to deny an application to install wireless service facilities based on concerns about RF emissions. Federal law specifically provides that "no state or local government or instrumentality thereof may regulate the placement, construction and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the FCC regulations concerning such emissions" (47 U.S.C. §332(c)(7)(B)(iv)). Federal courts have also held that the FCC has exclusive jurisdiction over RF interference issues and thus local zoning ordinances and permit conditions cannot regulate RF interference (*Southwestern Bell Wireless v. Johnson County Board of County Commissioners*, 199F. 3d 1185 (10th Cir. 1999)).

Comment: The City's ordinance states that a telecommunications tower cannot be placed within two miles of an existing tower.

Staff Response: As noted in the Zoning analysis section of this report (above), pursuant to Zoning Code Section 20-44.060(G)(2): No telecommunications tower, providing services for a fee directly to the public, shall be installed closer than two miles from another readily visible, uncamouflaged or unscreened telecommunication tower unless it is a co-located facility, situated on a multiple user site, not readily visible, or technical evidence acceptable to the Director or Commission, as appropriate, is submitted showing a clear need for the facility and the infeasibility of co-locating it on an existing tower. Facilities that are not proposed to be co-located with another telecommunication facility shall provide a written explanation why the subject facility is not a candidate for co-location.

The proposed tower will be camouflaged as a monopine with thick foliage, therefore it is compliant with the Zoning Code and permitted to be installed within two miles from another telecommunications tower. The applicant has also provided written explanation of why the subject facility is not a candidate for co-location (see Attachment 9 to this report).

Comment: The proposed project fails to address seismic safety.

Staff Response: There are no requirements for addressing seismic safety within

the City's Zoning Code, however, Section 17-08.060 of the Building Code states that no project within the Alquist-Priolo Earthquake Fault Zones shall be approved by the City until a geologic report defining and delineating any hazard of surface fault rupture through the project site has been submitted to and certified by the City. This project is not located within the Alquist-Priolo Earthquake Fault Zones and therefore no additional information regarding seismic safety is required. It should also be noted that, if approved, the applicant will be required to obtain a building permit for the proposed tower prior to construction, which will be subject to all applicable Building Code requirements.

Comment: There was no Spanish translation for the notice, and the font for the notice was too small.

Staff Response: As discussed in the Public Notification section of this report, the public hearing noticing, including the mailed notice, was done pursuant to Zoning Code [Chapter 20-66](#), including mailed notices to property owners and occupants within 600 feet of the project site and an onsite sign. Additionally, there was no request for a Spanish translation of the notice prior to the March 28, 2024 Planning Commission meeting. However, following a comment received by a member of the public during the March 28th meeting regarding the lack of Spanish translation for the notice, City staff sent out a new notice in Spanish. The commentor at the March 28th meeting also made a comment that the font size of the notice was not large enough. It should be noted that, following a similar comment made prior to a previous Planning Commission meeting, City staff has adjusted the font for all public hearing notices to be no smaller than 12 point.

5. Public Improvements

For a comprehensive list of on- and off-site improvements, refer to the attached Exhibit A, provided by Engineering Development Services, dated October 31, 2023.

FISCAL IMPACT

Approval of the Project will not have an effect on the General Fund.

ENVIRONMENTAL IMPACT

The project has been found in compliance with the California Environmental Quality Act (CEQA). Pursuant to CEQA Guidelines Section 15303, the project qualifies for Class 3, which exempts the construction of new small structures in that telecommunication towers are considered small structures that are similar to this Project. No exceptions to the exemptions apply and there is no reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances (CEQA Guidelines Section 15300.2)

Pursuant to CEQA Guidelines Section 15183, the proposed use is eligible for a statutory exemption as it is consistent with General Plan 2035, for which an Environmental Impact Report was certified by Council in 2009.

PUBLIC NOTIFICATION

The project was noticed as a public hearing for the March 28, 2024 Planning Commission meeting per the requirements of Chapter 20-66 of the City Code. Notification of the public hearing was provided by posting an on-site sign, publishing notice in a newspaper of general circulation, mailed notice to surrounding property owners and occupants, electronic notice to parties that had expressed interest in projects taking place in this geographic area of Santa Rosa, and bulletin board postings at City Hall and on the City website.

On March 28, 2024, in order to allow time to obtain additional supplemental project information, City staff requested that the Planning Commission continue the public hearing to a date certain of April 11, 2024. Because the item was continued to a date certain, no additional noticing was required for the April 11, 2024 Planning Commission meeting.

It should be noted that, during the March 28th meeting, a comment was provided from a member of the public that the mailed notice was not translated into Spanish. While Zoning Code Section 20-66.020 does not require notices to be translated, nor is there a City policy at this time that requires Spanish translation of notices, because a request was received, an additional notice with Spanish translation was mailed to property owners and occupants within 600 feet of the site.

ISSUES

There are no unresolved issues remaining with the project.

ATTACHMENTS

Attachment 1 - Disclosure Form
Attachment 2 - Location Map
Attachment 3 - Project Narrative
Attachment 4 - Plan Set
Attachment 5 - Biological Assessment
Attachment 6 - EME Report
Attachment 7 - Coverage Maps
Attachment 8 - Photo Simulations
Attachment 9 - Alternative Site Analysis
Attachment 10 - Applicant Presentation
Attachment 11 - Written Public Correspondence received as of April 4, 2024

Resolution
Exhibit A

CONTACT

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