



CITY of CALABASAS

Exhibit D

Community Development Department
Planning Division
100 Civic Center Way
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T: 818.224.1600
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www.cityofcalabasas.com

November 8, 2022

Arvin Norouzi
22431 Antonio Pkwy, Suite B160-234
Rancho Santa Margarita, CA 92688

Subject: Notice of Decision for Small Wireless Facility Permit WTF1-2022-002

Dear Applicant,

The Community Development Director reviewed the staff report and other documents and materials in the project file, and, based upon the findings presented in the staff report, **APPROVED** your application for the following:

FILE NO.: WTF1-2022-002. A request for a Wireless Telecommunication Facility – Tier 1 Permit to modify an existing Verizon wireless facility located on a faux pine tree at 4515 Park Entrada (APN: 2069-012-068), within the Recreation (REC) zoning district. The applicant is proposing to the removal of existing equipment and installation of new pole-mounted equipment, as well as restoration of the concealment elements of the tower to comply with the site's original conditions of approval.

Your application, described above, is subject to all conditions of approval listed in the attached Exhibit A. Any decision of the Community Development Department may be appealed to the Planning Commission. Appeals must be submitted in writing to the City Clerk (per Chapter 17.74 of the Calabasas Municipal Code) within ten (10) days of the Community Development Director action.

Should you have any questions concerning this application, please contact me at (818) 224-1705 or jrackerby@cityofcalabasas.com.

Sincerely,

Jaclyn Rackerby
Associate Planner



CITY of CALABASAS

COMMUNITY DEVELOPMENT DIRECTOR DECISION LETTER AND REPORT

FILE NO.: WTF1-2022-002

PROPOSAL: A request for a Wireless Telecommunication Facility – Tier 1 Permit to modify an existing Verizon wireless facility located on a faux pine tree at 4515 Park Entrada (APN: 2069-012-068), within the Recreation (REC) zoning district. The applicant is proposing to the removal of existing equipment and installation of new pole-mounted equipment, as well as restoration of the concealment elements of the tower to comply with the site’s original conditions of approval.

APPLICANT: Arvin Norouzi

BACKGROUND:

On June 28, 2022, Arvin Norouzi filed an application for a Wireless Telecommunication Facilities – Tier 1 Permit No. WTF1-2022-001 on behalf of Verizon to upgrade an existing wireless telecommunication facility located on an existing faux pine tree at 4515 Park Entrada, within the Recreation (REC) zoning district. The application was reviewed by staff and deemed incomplete on July 21, 2022, and again on November 1, 2022. Following the November 1 Notice of Incompleteness, the applicant resubmitted on November 2, 2022, and with all comments addressed, the application was deemed complete on November 7, 2022.

The existing Verizon facility was constructed in 2013, (approved Wireless Telecommunications Facility Permit via City Council Resolution 2013-1377) approving a Monopine antenna structure and ground-based wireless telecommunications equipment, with subsequent approvals in 2016 (File No. 160002154) and in 2018 (File No. 180000657) to modify the site in accordance with Section 6409(a) of the 2012 Middle Class Tax Relief Act.

The proposed project includes the installation of new pole-mounted equipment, and the restoration of concealment measures to return the monopine facility to a stealth design. The project was reviewed by staff to ensure compliance with Section 17.31.040 of the Calabasas Municipal Code.

STAFF ANALYSIS:

1. Current Site Condition: The existing facility is located to the south of the existing Country Club clubhouse on a monopine structure and within a concrete ground-

mounted enclosure at 4515 Park Entrada within the Recreation (REC) zoning district. The facility consists of a fifty-five (55) foot tall monopine structure. The existing Verizon facility was constructed in 2013, (approved Wireless Telecommunications Facility Permit via City Council Resolution 2013-1377) approving a Monopine antenna structure and ground-based wireless telecommunications equipment, with subsequent approvals in 2016 (File No. 160002154) and in 2018 (File No. 180000657) to modify the site in accordance with Section 6409(a) of the 2012 Middle Class Tax Relief Act.

2. Proposed Project: The applicant is requesting permission to upgrade an existing Wireless Telecommunications Facility which includes stealth measures that qualify the project for processing as a "Tier 1" Wireless facility permit, as defined in Section 17.31.040 of the Calabasas Municipal Code (CMC). The proposal includes the installation of new pole-mounted equipment, as well as restoring concealment elements that were a part of the site's original conditions of approval. The existing facility was approved as a 'stealth' facility and this original approval met the stealth design criteria established by the City's wireless telecommunication facility design guidelines; however, the site has fallen out of compliance in regards to the stealth measures in recent years, and therefore the scope of work of the present project includes restoration of the site's original stealth design.
3. Calabasas Municipal Code Requirements: Section 17.31.040 of the CMC regulates the construction, maintenance, and modification of 'stealth' wireless telecommunication facilities within the City of Calabasas via a Tier 1 Wireless Telecommunication Facility Permit.. In accordance with Section 17.31.040(B) of the CMC, the ordinance applies to existing facilities which have been previously approved but are now or hereafter modified to meet the 'stealth' standards of Section 17.31.040(C) of the CMC. The proposed project includes restoring 'stealth' elements of the site for compliance with the original site conditions of approval, and as a result, the applicant has filed for a Tier 1 Wireless Telecommunication Facility Permit to perform the requested modifications.

FINDINGS:

Section 17.31.040(F) stipulates that the Director may approve an application for a Tier 1 wireless telecommunication facility permit, only if each of the following findings can be made:

1. *The proposed wireless telecommunication facility meets the standards set forth in Sections 17.31.030 and 17.31.040;*

The project site is an existing wireless facility consisting of a monopine antenna support structure and ground-mounted screened equipment area. The proposed project involves replacement and installation of new equipment mounted to the existing pole, and the installation of mock pine needle antenna socks and pine

branches in accordance with the Conditions of Approval in Resolution No. 2013-1377. The proposed project meets all the standards for wireless telecommunication facilities not located within the public right-of-way, as outlined in Section 17.31.030(A)(2) of the CMC. Additionally, the proposed project meets the standards of Section 17.31.040(C)(2) for Tier 1 facilities not located within a public right-of-way, including that the project includes stealth upgrades to the facility in order to meet the stealth design criteria established by the City's Wireless Telecommunication Facility Design Guidelines. As a result, the proposed project meets this finding.

2. *The proposed wireless telecommunication facility is designed as a stealth facility consistent with the city's design guidelines for Tier 1 wireless telecommunication facilities;*

The existing facility was originally permitted as a 'stealth' facility under Resolution No. 2013-1377, and in recent years the site's stealth measures have fallen out of compliance with the original conditions of approval. The proposed project involves restoring all stealth measures to return the site to its originally permitted stealth configuration, for compliance with the Wireless Telecommunication Facility Design Guidelines. Additionally, all ground-mounted equipment is screened from view behind existing walls.

The proposed project involves restoration of monopine branches extending a minimum of 24" beyond antennas, and the installation of mock pine needle antenna socks to screen all equipment and to better mimic the natural canopy of a pine tree., The equipment will be screened from view to the maximum extent feasible, with all ground-mounted equipment screened behind an existing wall and pole-mounted equipment blending into the monopine canopy. As a result, the proposed project meets this finding.

ENVIRONMENTAL REVIEW:

The City's staff has determined that the project is exempt from environmental review in accordance with Section 21084 of the California Environmental Quality Act (CEQA) and Sections 15301 Class 1 (a), 15301 Class 1 (b), 15302 Class 2 (c), and Section 15332 Class 32, of the CEQA Guidelines.

CONDITIONS OF APPROVAL:

See the attached conditions in Exhibit A.

I have read and agree to the indemnification agreement and attached conditions of approval listed in Exhibit A.

Applicant/Carrier Representative

Date

DECISION:

The Director or his/her designee has considered all of the evidence submitted into the administrative record including, but not limited to:

1. All applicable codes and regulations including the City of Calabasas Land Use and Development Code and the City's General Plan;
2. Plans provided by the applicant, as well as any written information; and
3. All related documents, including any necessary environmental documents in order to comply with the California Environmental Quality Act (CEQA), received and/or submitted to the Department.

After considering all of the evidence submitted into the administrative record listed above, I hereby make the following decision:

X Approved

Denied



11/8/22

Jaclyn Rackerby, Associate Planner

Date

ATTACHMENTS:

- Exhibit A: Conditions of Approval
Exhibit B: Project Plans
Exhibit C: Photosimulations



CITY of CALABASAS

**COMMUNITY DEVELOPMENT DIRECTOR
DECISION LETTER AND REPORT**

EXHIBIT A: CONDITIONS OF APPROVAL

FILE NO.: WTF1-2022-002

PROPOSAL: A request for a Wireless Telecommunication Facility – Tier 1 Permit to modify an existing Verizon wireless facility located on a faux pine tree at 4515 Park Entrada (APN: 2069-012-068), within the Recreation (REC) zoning district. The applicant is proposing to the removal of existing equipment and installation of new pole-mounted equipment, as well as restoration of the concealment elements of the tower to comply with the site’s original conditions of approval.

APPLICANT: Arvin Norouzi

1. The City has determined that City, its employees, agents, and officials should, to the fullest extent permitted by law, be fully protected from any loss, injury, damage, claim, lawsuit, expense, attorney fees, litigation expenses, court costs or any other costs arising out of or in any way related to this File No. WTF1-2022-002 and the issuance of any permit or entitlement in connection therewith, or the activities conducted pursuant to this File No WTF1-2022-002 and the issuance of any permit or entitlement in connection therewith. Accordingly, to the fullest extent permitted by law, Arvin Norouzi (applicant) and Verizon (carrier), and their successors shall defend, indemnify and hold harmless City, its employees, agents and officials, from and against any liability, claims, suits, actions, arbitration proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including, but not limited to, actual attorney fees, litigation expenses and court costs of any kind without restriction or limitation, incurred in relation to, as a consequence of, arising out of or in any way attributable to, actually, allegedly or impliedly, in whole or in part, related to this File No. WTF1-2022-002 and the issuance of any permit or entitlement in connection therewith, or the activities conducted pursuant to this File No. WTF1-2022-001 and the issuance of any permit or entitlement in connection therewith Arvin Norouzi (applicant) and Verizon (carrier), and their successors shall pay such obligations as they are incurred by City, its employees, agents and officials, and in the event of any claim or lawsuit, shall submit a deposit in such amount as the City reasonably determines necessary to protect the City from exposure to fees, costs or liability with respect to such claim or lawsuit.

2. The project approved herein is depicted on those sets of drawings, elevations, etc., stamped approved by staff on the approval date. Any modifications to these plans must be approved by the Community Development Director prior to the changes on the working drawings or in the field.
3. The subject property shall be developed, maintained, and operated in full compliance with the conditions of this grant and any law, statute, ordinance or other regulation applicable to any development or activity on the subject property. Failure of the applicant or its successors to cease any development or activity not in full compliance shall be a violation of these conditions. Any violation of the conditions of approval may result in the revocation of this approval.
4. This approval shall be valid for one year and eleven days from the date of this decision letter. The permit may be extended in accordance with Section 17.64.050 of the Land Use and Development Code.
5. Prior to commencement of construction, all necessary permits shall be obtained from the Building and Safety Division and Public Works Department.
6. The project is located within a designated "Very High Fire Hazard Severity Zone". All applicable requirements of Los Angeles County Building Code must be incorporated into all plans.
7. The applicant and contractors shall implement all reasonable efforts to reuse and recycle construction and demolition debris, to use environmentally friendly materials, and to provide energy efficient buildings, equipment, and systems. The applicant shall provide proof of recycling quantities to get final clearance of occupancy.
8. Per the Calabasas Municipal Code Chapter 8.16, "no person shall collect and/or dispose of municipal solid waste or recyclable materials in the city without having first been issued a solid waste collection permit. Such permit shall be in addition to any business license or permit otherwise required by the City of Calabasas." Please contact the Public Works Department for a list of permitted haulers. An Encroachment Permit is required prior to placing a refuse bin/container on the street.
9. Construction Activities - Hours of construction activity shall be limited to:
 - i. 7:00 a.m. to 6:00 p.m., Monday through Friday
 - ii. 8:00 a.m. to 5:00 p.m., Saturday

Stacking of construction worker vehicles, prior to 7:00 a.m. in the morning will be restricted to areas that do not adversely affect adjacent residences or schools.

The applicant or its successors shall notify the Public Works Director of the construction employee parking locations, prior to commencement of construction.

10. No additional equipment not included or specified in the stamped approved plans may be installed on the subject site under this permit.
11. Compliance With Previous Approvals. The grant or approval of a Tier 1 wireless facility permit shall be subject to the conditions of approval of the underlying permit.
12. As-Built Plans. The applicant shall submit to the director an as-built set of plans and photographs depicting the entire small wireless facility as modified, including all transmission equipment and all utilities, within ninety (90) days after the completion of construction.
13. Indemnification. To the fullest extent permitted by law, the applicant and any successors and assigns, shall defend, indemnify and hold harmless [the] city, its employees, agents and officials, from and against any liability, claims, suits, actions, arbitration proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including, but not limited to, actual attorney fees, litigation expenses and court costs of any kind without restriction or limitation, incurred in relation to, as a consequence of, arising out of or in any way attributable to, actually, allegedly or impliedly, in whole or in part, related to the small wireless facility permit and the issuance of any permit or entitlement in connection therewith. The applicant shall pay such obligations as they are incurred by [the] city, its employees, agents and officials, and in the event of any claim or lawsuit, shall submit a deposit in such amount as the city reasonably determines necessary to protect the city from exposure to fees, costs or liability with respect to such claim or lawsuit.
14. Compliance With Applicable Laws. The applicant shall comply with all applicable provisions of this Code, any permit issued under this Code, and all other applicable federal, state, and local laws. Any failure by the city to enforce compliance with any applicable laws shall not relieve any applicant of its obligations under this Code, any permit issued under this Code, or all other applicable laws and regulations.
15. Compliance With Approved Plans. The proposed project shall be built in compliance with the approved plans on file with the planning division.
16. Violations. The wireless facility shall be developed, maintained, and operated in full compliance with the conditions of the small wireless facility permit, any other applicable permit, and any law, statute, ordinance or other regulation applicable to any development or activity on the site. Failure of the applicant to cease any development or activity not in full compliance shall be a violation of these conditions. Any violation of this Code, the conditions of approval for the small wireless facility permit, or any other law, statute, ordinance or other regulation applicable to any development or activity on the site may result in the revocation

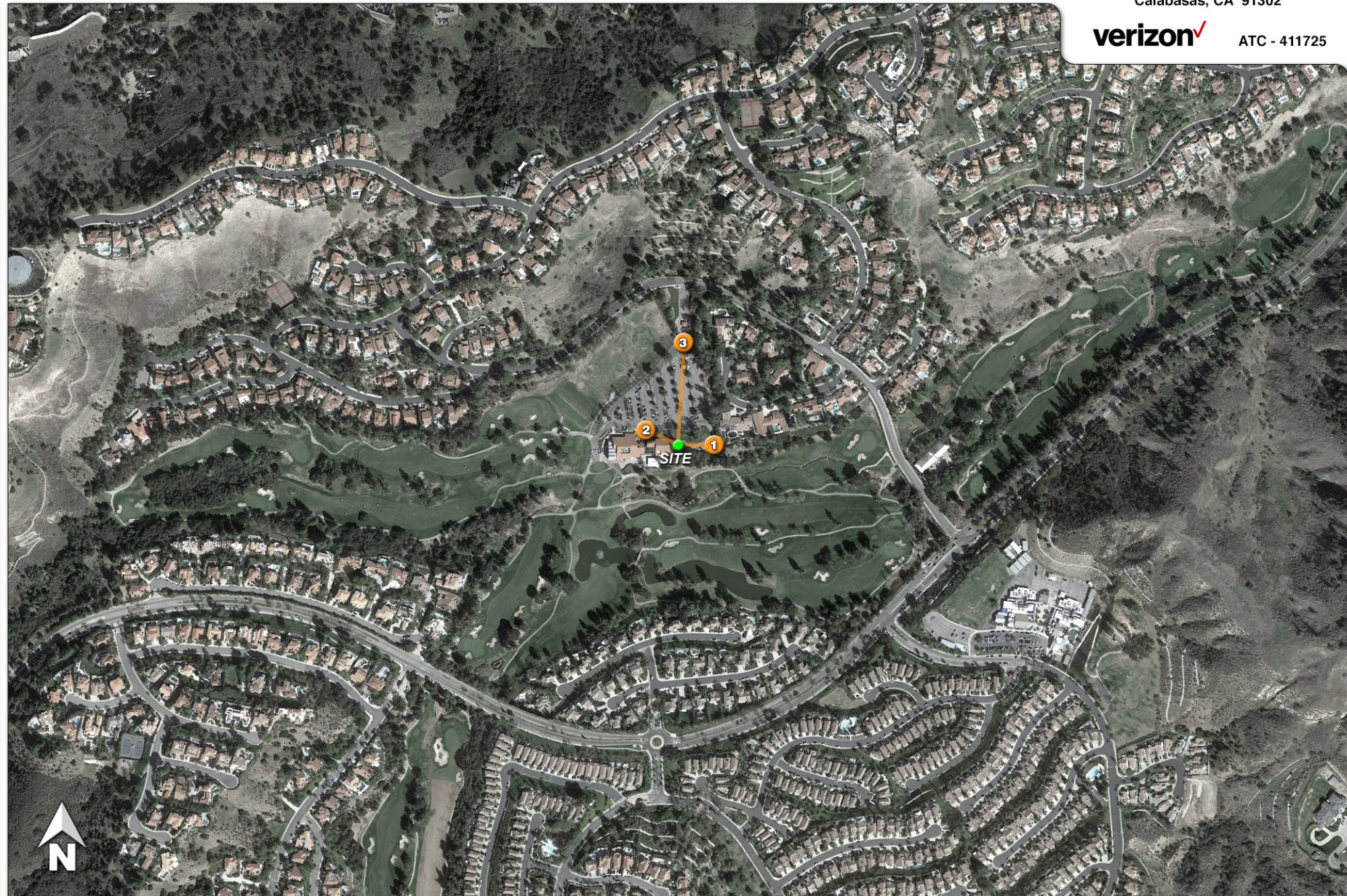
of this permit. The remedies specified in this section shall be cumulative and the city may resort to any other remedy available at law or in equity and resort to any one remedy shall not cause an election precluding the use of any other remedy with respect to a violation.

17. Monopine branches should extend at least two feet beyond all the antennas and tree-mounted transmission equipment, and three feet above the top of the pole (the Monopine's trunk).
18. Permittee shall design, update, and always maintain all branches in a way which results in the natural projection of a pine tree with natural canopy.
19. All panel antennas, cables, transmission equipment including without limitation to RRUs and DC/fiber cabinets and antenna supports affixed to the Monopine shall be painted a camouflage pattern of brown and green as approved by the City.
20. All panel antennas shall always be covered with mock pine needle antenna socks consistent with the needles on the Monopine branches.
21. All branches shall be maintained at all times. Any broken or discolored branches shall be repaired or replaced.
22. All antennas, RRUs and associated equipment shall be within the canopy of branches on the Monopine.
23. All cables shall be inside the trunk of the Monopine tree except at the cable exits at the top and bottom of the Monopine trunk.

Aerial photograph showing the viewpoints for the photosimulations.

Cordillera
4515 Park Entrada
Calabasas, CA 91302

verizon[✓] ATC - 411725



1

Antennas to remain

Existing

Photosimulation of the view looking west from the service access road.

Cordillera

4515 Park Entrada
Calabasas, CA 91302

verizon[✓]

ATC - 411725

Proposed antennas

Proposed

Photosimulation of the view looking east from the main entrance off the clubhouse parking lot.

2

Antennas to remain

Proposed antennas

Existing

Proposed

Cordillera
4515 Park Entrada
Calabasas, CA 91302

verizon ✓ ATC - 411725

3

Antennas to remain



Existing

Photosimulation of the view looking south from the entrance to the parking lot.

Cordillera
4515 Park Entrada
Calabasas, CA 91302


verizon ✓ ATC - 411725

Proposed antennas



Proposed

WIRELESS PLANNING MEMORANDUM

TO: Ms. Jaclyn Rackerby
FROM: Dr. Jonathan Kramer 
DATE: July 14, 2022
RE: (WTF1-2022-002) Technical Review for Proposed Modification to Existing Wireless Facility on Monopine located near 4515 Park Entrada

Applicant: The Derna Group
Carrier: Verizon Wireless
Site ID: Cordillera (Site No.411725)

1. Summary

The City of Calabasas (the “**City**”) requested that Telecom Law Firm, PC (“**TLF**”) review The Derna Group (“the **Applicant**”) application submitted on behalf of Verizon Wireless (“**Verizon**”) to modify its existing wireless site located near 4515 Park Entrada.

This project does not appear to fall under Section 6409(a) due to the camouflage elements being defeated on the existing faux tree wireless facility (“**Monopine**”). Accordingly, the City may wish to convert this project to be one that will be subject to the normal processing for a conditional modification to an existing wireless facility subject to the Calabasas Municipal Code (“**CMC**”). This type of conditional modification is subject to a 90-day shot clock, not a 60-day shot clock.

Alternatively, the City may wish to deny this application and enter into a code enforcement process to cause the site as it exists today to be restored to the permit terms currently in effect, then to allow the applicant to apply for a modification permit once the site is so restored.

Verizon has not submitted a compliance statement for the proposed modification to its existing wireless facility stating that it will be in planned compliance with the FCC RF emissions guidelines. TLF recommends that the City request the necessary compliance affirmation based on CMC §17.31.060(C)(8).

This memorandum reviews the application and related materials for technical and regulatory issues specific to wireless infrastructure. Although many technical issues implicate legal issues, the analysis and recommendations contained in this memorandum do not constitute legal advice.

2. Project Background and Description

Subject to the provisions of Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012¹ as interpreted by the FCC, the Applicant has requested the City's approval of the instant project. Accordingly, this memorandum reviews: (1) whether Section 6409(a) applies to this proposal, and (2) whether the project demonstrates planned compliance with the federal radio frequency exposure guidelines.

On June 26, 2013, a City council approval was granted to Verizon for File No. 11000901 to construct a 55' above ground level ("AGL") wireless facility camouflaged as Monopine at 4515 Park Entrada.

On June 28, 2022, the Applicant submitted a set of plans dated May 12, 2022 ("Plans"). The Plans show that Verizon currently operates 9 panel antennas divided into three sectors. Sector A has three antennas oriented toward 0° True North ("TN"), Sector Beta has three antennas oriented toward 140° TN and Sector Gamma has three antennas oriented toward 260° TN. See Figure 1 for a view of the existing antenna layout.

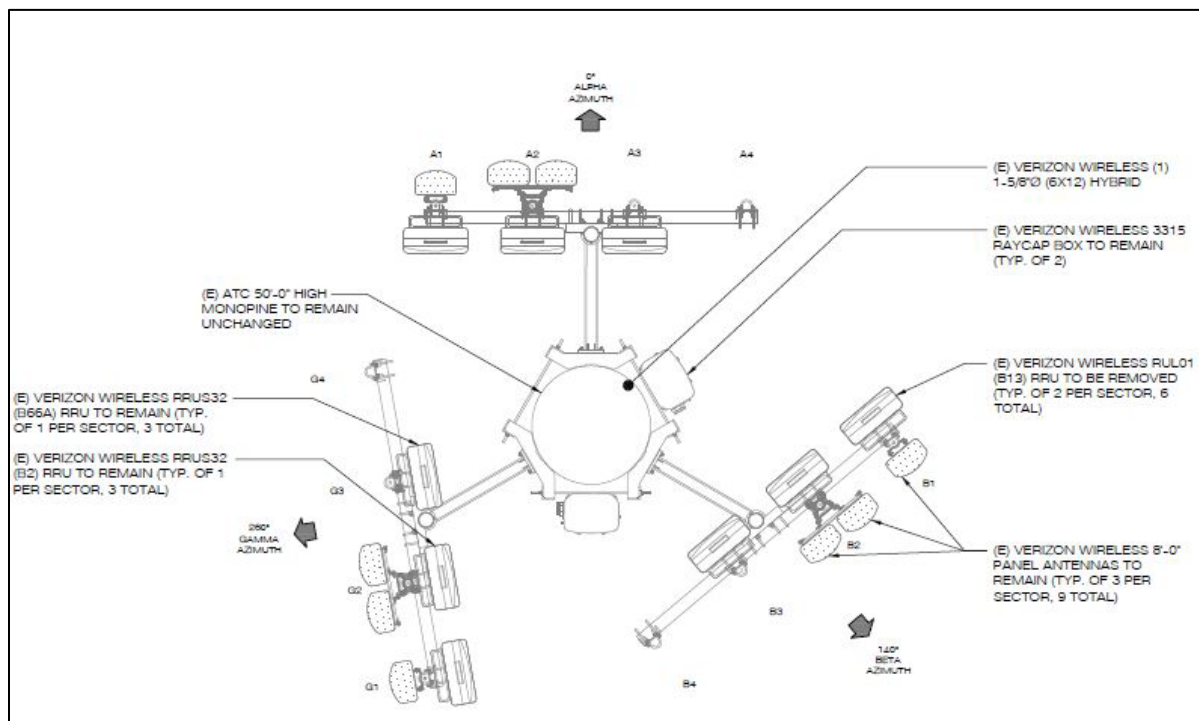


Figure 1: Existing antenna layout on the Monopine (Source: Plans, page A-3).

¹ See Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, 126 Stat. 156. (Feb. 22, 2012) (codified as 47 U.S.C. § 1455(a)).



Now, Verizon proposes to modify its antenna configuration on the Monopine as depicted in Figure 2.

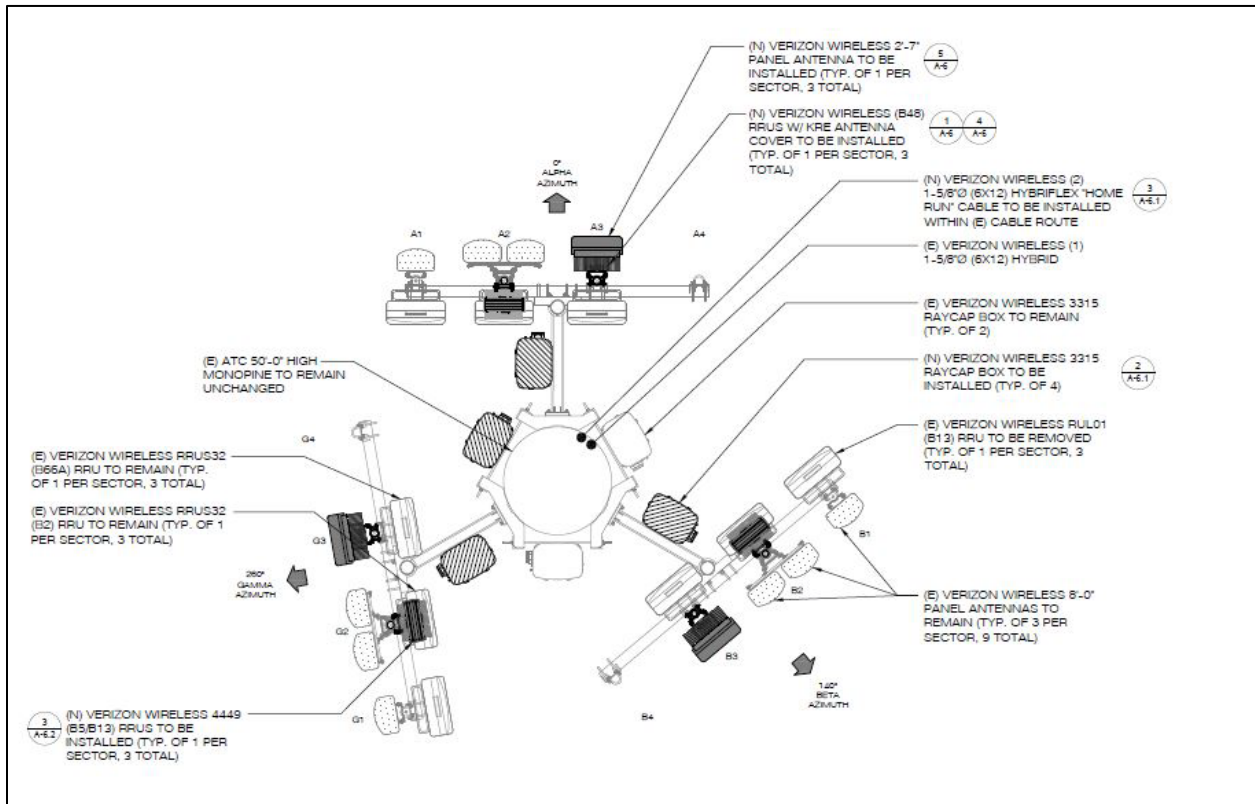


Figure 2: Proposed antenna layout plan on the monopole (Source: Plans, page A-3).

Verizon’s modification will result in the replacement of all antennas and the addition of new remote radio units (“RRUs”) and DC power surge protectors (“Raycaps”) at the antenna level. The antenna sector azimuths will remain unchanged after the modification. For a written summary of the modification see Figure 3.

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PROJECT DESCRIPTION

MODIFICATION TO AN EXISTING VERIZON WIRELESS COMMUNICATIONS UNMANNED SUBSTATION TO CONSIST OF THE FOLLOWING:

1. REMOVE SIX (6) EXISTING RUL01 (B13) RRUS. (2 PER SECTOR)
2. INSTALL THREE (3) NEW 2'-7" PANEL ANTENNAS. (1 PER SECTOR)
3. INSTALL THREE (3) NEW (4408) RRUS W/ KRE ANTENNA COVER. (1 PER SECTOR)
4. INSTALL THREE (3) NEW 4449 (B5/B13) RRUS. (1 PER SECTOR)
5. INSTALL FOUR (4) NEW 3315 RAYCAP BOX @ ANTENNA LOCATION.
6. INSTALL TWO (2) 1-5/8"Ø (6X12) HYBRIFLEX "HOME RUN" CABLE WITHIN EXISTING CABLE ROUTE
7. RETAIN NINE (9) EXISTING 8'-0" PANEL ANTENNAS. (3 PER SECTOR)
8. RETAIN THREE (3) EXISTING RRUS32 (B2) RRUS. (1 PER SECTOR)
9. RETAIN THREE (3) EXISTING RRUS32 (B66A) RRUS. (1 PER SECTOR)
10. RETAIN TWO (2) EXISTING 3315 RAYCAP BOX @ ANTENNA LOCATION.
11. RETAIN ONE (1) EXISTING 1-5/8"Ø (6x12) HYBRIFLEX "HOME RUN" CABLE WITHIN EXISTING CABLE ROUTE.
12. THE SIZE OF THE EXISTING EQUIPMENT LEASE AREA AND FACILITY HEIGHT WILL REMAIN UNCHANGED.

Figure 3: Project description (Source: Plans, page T-1).

The modification is depicted in elevation view with details in Figure 4.

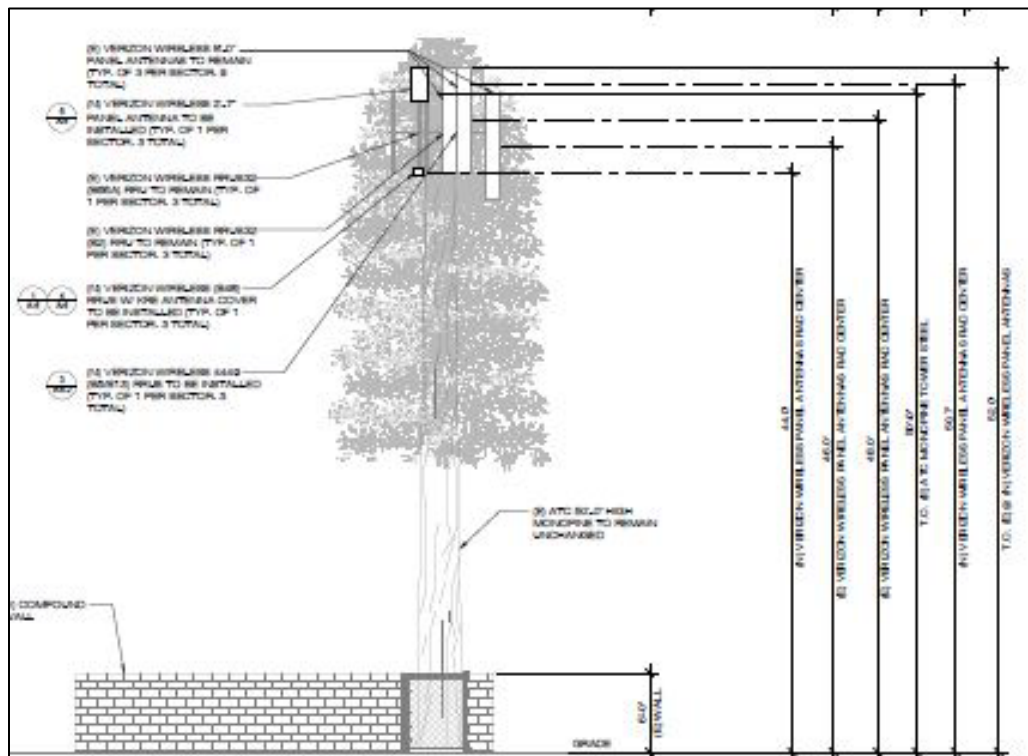


Figure 4: Elevation view of proposed modifications to Pole and view of equipment enclosure (Source: Plans, page A-4).



A photo simulation of Verizon's proposal can be viewed in Figure 5.



Figure 5: Simulated view of proposal (Source: Photo Simulations).



3. Section 6409(a) Analysis

As a threshold matter, the City must determine whether federal law mandates approval for this permit application. Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012 requires that State and local governments “may not deny, and shall approve” an “eligible facilities request” so long as the proposal does not result in a “substant[ial] change.”² The applicant bears the burden to prove that its proposal qualifies.

3.1. Eligible Facilities Request

Section 6409(a)(2) defines an “eligible facilities request” as a request to collocate, remove or replace transmission equipment on an existing wireless tower or base station.³ The FCC defines “collocation” as “[t]he mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.”⁴ Unlike the traditional definition, a collocation for Section 6409(a) purposes does not necessarily mean two wireless sites at a shared location—it more accurately means simply “to add” transmission equipment.

The term “transmission equipment” encompasses virtually all equipment found at facilities that transmit communication signals over the air. The FCC defines transmission equipment as:

[e]quipment that facilitates transmission for any Commission-licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.⁵

A “tower” means any structure built solely or primarily to support transmission equipment.⁶ Towers typically include monopoles (or mono-variants), lattice towers and other free-standing structures such as commercial signs when designed and constructed primarily to support wireless

² See Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, 126 Stat. 156. (Feb. 22, 2012) (codified as 47 U.S.C. § 1455(a)).

³ See 47 U.S.C. § 1455(a)(2).

⁴ See 47 C.F.R. § 1.40001(b)(2). The rules further define an “eligible support structure” as a short-hand reference to an existing wireless tower or base station at the time an applicant files a permit application. See *id.* § 1.40001(b)(4).

⁵ See *id.* § 1.40001(b)(8).

⁶ See *id.* § 1.40001(b)(9).



equipment. A tower need not actually support wireless equipment but must have been legally constructed under the applicable regulations at the time it was built or modified.

In contrast, a “base station” means a non-tower structure at a fixed location and the validly permitted or approved associated transmission equipment that enables FCC-licensed or authorized wireless communications between user equipment and a communications network.⁷ The term can include DAS and small cells.⁸ The structure must also currently support transmission equipment under a valid permit or other approval.⁹

The Monopine qualifies as a “tower” because it was built primarily to support FCC-licensed or authorized equipment. Verizon proposes to collocate “transmission equipment” because the antennas and the RRUs are normally associated with wireless facilities.

Based on the documents submitted, the Monopine appears to defeat the conditioned camouflage elements as the City has previously approved under Reso No. 2013-1377 File No. 11000901. Therefore, it appears to TLF that the existing site is not an eligible facility since it does not have a legal existence per the City permits.

The next step is to evaluate whether the proposed modification will cause a substantial change.

3.2. Substantial Change Thresholds for Towers

Section 6409(a) does not mandate approval merely because it qualifies as an eligible facilities request. The applicant must show that the proposed project will not “substantially change the physical dimensions of such existing wireless tower or base station.”¹⁰

The FCC created a six-part test to determine whether a “substantial change” occurs or not. The test involves thresholds for height increases, width increases, new equipment cabinets, new excavation, changes to concealment elements and permit compliance. A project that exceeds any one threshold causes a substantial change. Additionally, the FCC considers a substantial change to occur when the project replaces the entire support structure or violates a generally applicable law or regulation reasonably related to public health and safety. State and local jurisdictions cannot consider any other criteria or threshold for a substantial change.

⁷ See *id.* § 1.40001(b)(1).

⁸ See *id.* § 1.40001(b)(1)(ii).

⁹ See 47 C.F.R. § 1.40001(b)(1)(iii), (iv).

¹⁰ See 47 U.S.C. § 1455(a).



3.2.1. Height Increases

An increase in height causes a substantial change when it increases the tower height 10% or the height of an additional antenna array with separation from the nearest array not to exceed 20 feet (whichever is greater).¹¹ The FCC does not elaborate on how to measure the separation between the modification and the “nearest array.” The height limit is a *cumulative* limit.¹² For almost all towers, the cumulative limit is measured from the original discretionary approval because the equipment will be vertically separated.¹³ Any height increase above the cumulative limit allowed under 6409(a) as interpreted by the FCC amounts to a substantial change.

Here, Verizon’s proposal will not substantially increase the overall height of the Monopine.

3.2.2. Width Increases

An increase in width causes a substantial change when it adds an appurtenance that protrudes from the support structure more than 20 feet or the tower width at the appurtenance (whichever is greater).¹⁴ Unlike height increases, no cumulative limit applies to width increases.

Here, the proposed modification will not increase the width, therefore no substantial change to this element will occur.

3.2.3. Additional Equipment Cabinets

A collocation or modification causes a substantial change when it adds more than the standard number of equipment cabinets for the technology involved (not to exceed four).¹⁵ The FCC does not define an “equipment cabinet” or indicate how to determine the “standard number” for a given technology.

Here, the proposed modification does not add enough equipment cabinets to exceed the FCC’s cabinet threshold, therefor not triggering a substantial change to this element.

¹¹ See 47 C.F.R. § 1.40001(b)(7)(i).

¹² See 47 C.F.R. § 1.40001(b)(7)(i)(A); see also *Infrastructure Order* at ¶ 95.

¹³ See 47 C.F.R. § 1.40001(b)(7)(i)(A).

¹⁴ See 47 C.F.R. § 1.40001(b)(7)(ii).

¹⁵ See 47 C.F.R. § 1.40001(b)(7)(iii).



3.2.4. New Excavation

A collocation or modification causes a substantial change when it involves excavation outside the leased or owned area, which includes access and utilities easements.¹⁶

Here, the proposed modification does not trigger the excavation threshold because Verizon does not propose any new ground disturbance. The proposed changes will occur on the Monopine at the antenna level or in the equipment enclosure.

3.2.5. Changes to Concealment Elements

A collocation or modification causes a substantial change when it would “defeat the concealment elements of the support structure.”¹⁷ Although the FCC does not provide much guidance on what change might “defeat” a concealment element, the regulations suggest that the applicant must do at least as much to conceal the new equipment as it did to conceal the originally-approved equipment.¹⁸

TLF recommends that the City request that the Applicant propose to refurbish the existing Monopine branches and add antenna socks with faux pine needles to restore the overall appearance of the Monopine. TLF recommends that the City condition Verizon to follow the Design Comments and Recommendations discussed in Section 4 within this memo and request that the Applicant maintain the Monopine accordingly.

3.2.6. Permit Compliance

Lastly, a collocation or modification causes a substantial change when it would violate a prior condition attached to the original site approval, so long as the condition does not conflict with the thresholds for a substantial change in height, width, excavation or equipment cabinets (but not concealment).¹⁹

Based on the Plans and photo simulations submitted to TLF, it appears that Verizon has not complied with the City permit conditions pertaining to the camouflage elements of the Monopine. See Figure 6 for the Conditions of Approval under Reso No. 2013-1377 File No. 11000901 [Sections II Conditions of approval subsections 18-21].

¹⁶ See 47 C.F.R. § 1.40001(b)(7)(iv); *see also* 47 C.F.R. § 1.40001(b)(6).

¹⁷ See 47 C.F.R. § 1.40001(b)(7)(v).

¹⁸ See *Infrastructure Order* at ¶ 99.

¹⁹ See 47 C.F.R. § 1.40001(b)(7)(vi).



The number and placement of monopine branches shall mimic the natural canopy of a pine tree to avoid bulking of the monopine branches at the antennas, but no fewer than 3 branches per vertical foot.

Verizon shall install and shall and maintain at all times all monopine branches such that the branching extends a minimum of 24" beyond the proposed antennas.

Verizon shall install all tower mounted equipment at the height of the antennas completely within the canopy of the monopine such that no portion of the antennas, associated equipment or mounting structures protrudes beyond the monopine branches.

The applicant shall plant at least one minimum 36" box tree as replacement and mitigation for the removed tree. This tree shall be the same species as the removed tree and exact placement shall be determined in consultation with the property owner and the Director. This tree shall be maintained in good health and shall be replaced, if necessary, due to loss for any reason.

Figure 6: Conditions of Approval for Monopine (Source: Reso No. 2013-1377 File No. 11000901 [Sections II Conditions of approval subsections 18-21]).

Therefore, the Monopine lacks permit compliance, and this permit condition violation forms an independent basis that will cause a substantial change.

3.2.7. Section 6409(a) Conclusion

This project does not appear to qualify for Section 6409(a) treatment because the concealment elements of the wireless site have been grossly defeated. TLF recommends that the City decides whether to (a) notify the applicant that the City will convert this project to be subject to the normal processing for a conditional modification to an existing wireless facility subject to the CMC subject to a 90-day shot clock running from the date of the project submission, or (b) deny the instant project and have the applicant voluntarily or involuntarily restore the site to its currently-permitted condition before allowing it to refile the application to modify the site. Such a new permit would be subject to a more complete assessment, a new 90-day shot clock, and new fees.

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4. Design Comments and Recommendations

TLF recommends the following design conditions as conditions of approval for the project:

1. Monopine branches should extend at least two feet beyond all the antennas and tree-mounted transmission equipment, and three feet above the top of the pole (the Monopine's trunk).
2. Permittee shall design, update, and always maintain all branches in a way which results in the natural projection of a pine tree with natural canopy.
3. All panel antennas, cables, transmission equipment including without limitation to RRUs and DC/fiber cabinets and antenna supports affixed to the Monopine shall be painted a camouflage pattern of brown and green as approved by the City.
4. All panel antennas shall always be covered with mock pine needle antenna socks consistent with the needles on the Monopine branches.
5. All branches shall be maintained at all times. All broken or discolored branches need to be repaired or replaced.
6. All antennas, RRUs and associated equipment shall be within the canopy of branches on the Monopine.
7. All cables shall be inside the trunk of the Monopine tree except at the cable exits at the top and bottom of the Monopine trunk.

5. Additional Comments

TLF was unable to find a letter of Authorization from the property owner for the proposed modification. TLF recommends that the City request that the Applicant submit a LOA from the property owner for the proposed modification.

6. Planned RF Compliance Evaluation

Even when an eligible facilities request does not exceed the FCC's thresholds for a substantial change, all wireless sites remain subject to generally applicable regulations for public health and safety. Specifically, collocations and modifications must conform to the federal guidelines for radiofrequency ("RF") exposure.



Under the Telecommunications Act of 1996, State and local governments cannot regulate wireless sites based on the environmental effects from RF emissions to the extent that such emissions comply with applicable FCC regulations.²⁰ The FCC occupies the field with respect to RF emissions regulation with comprehensive rules for maximum permissible exposure (collectively, the “**FCC Rules**”).²¹ State and local governments cannot establish their own RF standards—whether more strict, more lenient or even the same. However, State and local governments may require an applicant to demonstrate “planned compliance” with the FCC Rules.²²

Wireless antennas generally operate at relatively low power, and do not require an in-depth environmental analysis when virtually inaccessible to the general public.²³ The FCC Rules “categorically exclude” wireless antennas for “cellular radiotelephone services” when mounted (1) on a structure constructed solely to support wireless antennas and (2) more than ten meters above ground.²⁴

The CMC §17.31.060(C)(8) requires applicants to submit “[a]n affirmation, under penalty of perjury, that the proposed installation will be FCC compliant, in that it will not cause members of the general public to be exposed to RF levels that exceed the [maximum permissible exposure] levels deemed safe by the FCC.” Any application without such an affirmation is incomplete. Here, Verizon has not submitted a signed compliance letter.

TLF recommends that the City request that the Applicant submit the required compliance letter that certifies compliance under penalty of perjury as required under the CMC.

/JLK

²⁰ See 47 U.S.C. § 332(c)(7)(B)(iv).

²¹ See 47 C.F.R. § 1.1307 *et seq.*; see also FCC Office of Engineering and Technology Bulletin 65.

²² See *In re Procedures for Reviewing Requests for Relief from State and Local Regulations Pursuant to Section 332(c)(7)(B)(iv) of the Communications Act of 1934, Report and Order*, 15 FCC Rcd. 22821, 22828–22829 (Nov. 13, 2000) (declining to adopt rules that limit demonstrations of compliance).

²³ See *generally* Human Exposure to Radio Frequency Fields: Guidelines for Cellular and PCS Sites, *Consumer Guide*, FCC (Oct. 22, 2014), available at <https://www.fcc.gov/guides/human-exposure-rf-fields-guidelines-cellular-and-pcs-sites> (discussing in general terms how wireless sites transmit and how the FCC regulates the emissions).

²⁴ See 47 C.F.R. § 1.1307(b)(1).

