



Legislation Details (With Text)

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File created: 3/25/2021 **In control:** Planning Commission
On agenda: 4/7/2021 **Final action:**
Title: Consideration of Conditional Use Permit Application No. P20-01589 and related Environmental Assessment No. P20-01589, for property located at 5747 North Palm; located on the south side of an existing retail/commercial center located at the southwest corner of North Palm and West Bullard Avenues. (Council District 2)

1. ADOPT Environmental Assessment No. P20-01589 dated March 17, 2021, a determination that the proposed project is exempt from the California Environmental Quality Act (CEQA) through a Section 15303/Class 3 and Section 15332/Class 32 Categorical Exemptions.
2. DENY the appeal and UPHOLD the action of the Planning and Development Department Director to recommend approval of Conditional Use Permit Application No. P20-01589 requesting to construct an 80ft new mono-eucalyptus telecommunications tower and facility with associated ground equipment.

Sponsors: Planning and Development Department

Indexes:

Code sections:

Attachments: 1. Exhibit A - Aerial Photograph, Zoning Map, 2. Exhibit B - Project Information Tables, 3. Exhibit C - Exhibits (Operational statement, Site, Floor, Elevations, Photo Simulations, RF Study), 4. Exhibit D - Notice of Intent to Take Action, 5. Exhibit E - Emails in Opposition to the Project, 6. Exhibit F - Appeal Letter from Councilmember Karbassi, 7. Exhibit G - Public Hearing Notice, 8. Exhibit H - Fresno Municipal Code Findings, 9. Exhibit I - Categorical Exemption (CEQA), 10. Exhibit J - Conditions of Approval, 11. Exhibit K - Letter from Applicant to Planning Commission

Date	Ver.	Action By	Action	Result
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REPORT TO THE PLANNING COMMISSION

April 7, 2021

FROM: MIKE SANCHEZ, Assistant Director
Development Services Division

THROUGH: RALPH KACHADOURIAN, Supervising Planner
Development Services Division

BY: THOMAS VEATCH, Planner
Development Services Division

SUBJECT

Consideration of Conditional Use Permit Application No. P20-01589 and related Environmental Assessment No. P20-01589, for property located at 5747 North Palm; located on the south side of an

existing retail/commercial center located at the southwest corner of North Palm and West Bullard Avenues. (Council District 2)

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EXECUTIVE SUMMARY

Conditional Use Permit Application No. P20-01589 was filed by Kevin Gallagher of Complete Wireless Co. and pertains to a portion of the 2.89-acre retail/commercial center located at 5747 N. Palm Avenue. The applicant proposes to construct an 80ft new mono-eucalyptus telecommunications tower and facility with associated ground equipment.

On January 29, 2021, Conditional Use Permit Application No. P20-01589 was conditionally approved and a Notice of Action was emailed to property owners who requested to be notified once the project was conditionally approved. On February 8, 2021, Councilmember Karbassi submitted an appeal on behalf of the surrounding residents to bring the project before the Planning Commission (**see Exhibit F - Appeal from Councilmember Karbassi**).

BACKGROUND

The project consists of the construction of an 80-foot-tall mono-eucalyptus wireless telecommunication tower along with its related ground equipment telco box, and transformer within the footprint of an existing ±600sq ft. covered enclosure building to be modified. The roof will be removed and the walls will remain to screen the equipment. The facility is located on a small portion of the 2.89 acres retail/commercial center property. Based on the size of the project area, it is considered Categorically Exempt pursuant to Section 15303/Class 3 and Section 15332/Class 32 of the State CEQA Guidelines.

Pursuant to Section 15-1002 of the Fresno Municipal Code (FMC), Telecommunication Facilities are allowed in the CC (Community Commercial) zone district subject to the approval of a conditional use permit.

Pursuant to Section 15-2759 of the Fresno Municipal Code (FMC), telecommunications and wireless facilities shall comply with the City's policy pertaining to said uses. The regulations are intended to provide for the appropriate development of wireless telecommunication facilities within the city to meet the needs of residents, business-owners, and visitors while protecting public health and safety and preventing visual blight and degradation of the community's aesthetic character.

The Policies and Procedures Issue No. 33 - Wireless Telecommunication Facilities, where applicable, have been applied to the proposed project to ensure that all applicable requirements and standards of the telecommunication policy are being met, excepting the requirements of the policy which are not compatible with the current higher 5G cellular infrastructure technology that requires a greater

separation of the antennas due to heat generation.

OTHER AGENCIES

All comments received from the applicable agencies have been incorporated into the conditions of approval for Conditional Use Permit Application No. P20-01589. The project will comply with all Development Code requirements including setbacks, landscaping, and parking requirements, as incorporated into the conditions of approval.

PUBLIC NOTICING

The subject application is a Conditional Use Permit. A Notice of Intent to Take Action (neighborhood notice **Exhibit D**) was mailed to property owners within 1,000 feet of the property where the project is located. Several calls and emails were received in opposition to the proposed project. Multiple concerns were raised by residents of the surrounding residential neighborhood to the west and south, such as:

- Concerned about potential health impacts of RF (radio frequency) signals and radiation that would project from the tower and the impact it would have on nearby residential uses;
- Objections to the proximity of the commercial project to the surrounding residential uses;
- Objections to a new commercial project being added to the neighborhood;
- Concerns that the property values of the neighborhood would decline; and
- The negative impact a new tower would have on the aesthetics of the neighborhood.

At least two residents requested an extension of time for public comment. One letter of protest was received on behalf of 39 other residents. Several had requested receiving a notice of the action taken by the Director on the proposed project application.

RESPONSE TO THE CONCERNS RAISED

- 1) A Radio Frequency (RF) study prepared by Dtech Communications on 1/22/2020 and submitted with the application demonstrates that the site complies with the FCC requirements, and the Electromagnetic Field (EMF) exposure level would be 0.5% of the maximum allowed by the FCC. Under Federal law (USC 47 332-7-B-IV) the City is prohibited from regulating RF environmental effects beyond what is required by the FCC.
- 2) The project is proposed on commercially developed and zoned property and wireless telecommunications facilities are not restricted to only commercial or industrial areas and are allowed throughout the City's zoning districts so long as they comply with the applicable Policies and Procedures Issue No. 33 - Wireless Telecommunication Facilities requirements. Therefore, the proposed project meeting City Policy 33 where appropriate, and the conditions of approval under the special permit, is not considered to be detrimental to the adjacent or surrounding residential or commercial properties.

The project is proposed to be disguised as a eucalyptus tree with equipment at the base being

completely screened by re-purposing of an existing structure. The project has been further conditioned to ensure that the eucalyptus tree design components are to be maintained annually. Therefore, all feasible accommodations including the complete screening of the cellular ground equipment have been made to ensure the project minimizes its aesthetic effects on the surrounding neighborhoods and properties.

NOTICE OF PLANNING COMMISSION HEARING

The Planning and Development Department mailed notices of this Planning Commission hearing to surrounding property owners within 1,000 feet of the subject property on March 5, 2021 (**see Exhibit G - Public Hearing Notice**).

LAND USE PLANS AND POLICIES

FRESNO GENERAL PLAN

The Fresno General Plan designates the subject site for Commercial-Community planned land uses and provides objectives to guide in the development of these projects. Conditional Use Permit Application No. P20-01589 meets all policies and objectives of the Fresno General Plan. The following are excerpts of such objectives.

Goal 12. Resolve existing public infrastructure and service deficiencies, make full use of existing infrastructure, and invest in improvements to increase competitiveness and promote economic growth.

Goal 15. Improve Fresno's visual image and enhance its form and function through urban design strategies and effective maintenance.

The wireless telecommunication tower is designed to be aesthetically appealing and intended to improve wireless services for users and customers of Verizon within its service areas.

As identified in the Operation Statement (**Exhibit C**), the applicant has indicated their existing communications infrastructure is overloaded and this new location will provide support capacity to their existing overloaded facilities, and also allow them to provide increased coverage and capacity for future growth.

The design of a mono-eucalyptus tree cell tower will blend in with existing trees in the surrounding area and will be appealing to the eyes for the public, and the cell tower will enhance wireless coverage for users in the surrounding area.

BULLARD COMMUNITY PLAN

Upon reviewing the policies contained in the Bullard Community Plan, staff has determined that there are no policies that are applicable or are more restrictive than those contained in the FMC or the Fresno General Plan.

FRESNO MUNICIPAL CODE FINDINGS

The required findings under Section 15-5306, for Conditional Use Permits, of the FMC are as follows:

- a. The proposed use is allowed within the applicable zoning district and complies with all other applicable provisions of this Code and all other chapters of the Municipal Code; and,
- b. The proposed use is consistent with the General Plan and any other applicable plan and design guideline the City has adopted; and,
- c. The proposed use will not be substantially adverse to the public health, safety, or general welfare of the community, nor be detrimental to surrounding properties or improvements; and
- d. The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and reasonably foreseeable future land uses in the vicinity; and,
- e. The site is physically suitable for the type, density, and intensity of use being proposed, including access, emergency access, utilities, and services required.
- f. The proposed use is consistent with the Fresno County Airport Land Use Compatibility Plan (as may be amended) adopted by the Fresno County Airport Land Use Commission pursuant to California Public Utilities Code Sections 21670-21679.5.

Based upon analysis of the application, staff concludes that the required findings of FMC Section 15-5306 can be made for the proposed project. These findings are attached as **Exhibit H - Fresno Municipal Code Findings**.

ENVIRONMENTAL FINDING

The California Environmental Quality Act (CEQA) permits a public agency to determine whether a particular project is exempt from CEQA. A determination of a Categorical Exemption Section 15303/Class 3 and Section 15332/Class 32 of the CEQA Guidelines was made and Environmental Assessment No. P20-01589 was completed for this project. **(See Exhibit I - Categorical Exemption)**.

CONCLUSION

The appropriateness of the proposed project has been examined with respect to its consistency with goals and policies of the Bullard Community Plan and Fresno General Plan; its compatibility with surrounding existing or proposed uses; and, its avoidance or mitigation of potentially significant adverse environmental impacts. These factors have been evaluated as described above and by the accompanying environmental assessment. Upon consideration of this evaluation, it can be concluded that the proposed Conditional Use Permit Application No. P20-01589 is appropriate for the project site.

Attachments:

- Exhibit A: Aerial Photograph, Zoning Map
Exhibit B: Project Information Table

- Exhibit C: Exhibits (Operational Statement, Site, Floor, Elevations, Photo Simulations, RF Study)
- Exhibit D: Notice of Intent to Take Action
- Exhibit E: Emails in Opposition to the Project
- Exhibit F: Appeal Letter from Councilmember Karbassi
- Exhibit G: Public Hearing Notice
- Exhibit H: Fresno Municipal Code Findings
- Exhibit I: Categorical Exemptions (CEQA)
- Exhibit J: Conditions of Approval
- Exhibit K: Letter from Applicant to Planning Commission
- Exhibit L: Additional Letters received prior to hearing