



Legislation Details (With Text)

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Title: Consideration of an appeal filed regarding Conditional Use Permit Application No. P21-06304 and related Environmental Assessment, for property located at 640 R Street; located on the easterly corner of the intersection Mono Street and R Street abutting State Route 41. (Council District 3)

Based upon the evaluation contained in this report and appeal received from the appellant, staff recommends that the Planning Commission take the following actions:

1. CONSIDER Environmental Assessment No. P21-06304 dated February 24, 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 in the approval of Conditional Use Permit Application No. P21-06304 authorizing the construction of an 80-foot mono-pine telecommunications tower and facility with associated ground equipment to operate a wireless telecommunications facility.

Sponsors: Planning and Development Department

Indexes:

Code sections:

Attachments: 1. Exhibit A - Aerial Photograph, Zoning Map, 2. Exhibit B - Project Information Table, 3. Exhibit C - Project Plan Exhibits, 4. Exhibit D - Notice of Intent to Take Action, 5. Exhibit E - Emails in Opposition to P21-06304, 6. Exhibit F - Notice of Action, 7. Exhibit G - Appeal Letter, 8. Exhibit H - Notice of Public Hearing, 9. Exhibit I - Fresno Municipal Code Findings, 10. Exhibit J - Environmental Assessment – Categorical Exemption, 11. Exhibit K - Conditions of Approval, 12. Exhibit L - Verizon Wireless Appeal Response

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

April 20, 2022

FROM: WILL TACKETT, Planning Manager
Development Services Division

THROUGH: RALPH KACHADOURIAN, Supervising Planner
Development Services Division

BY: STEVEN MARTINEZ, Planner

Development Services Division

SUBJECT

Consideration of an appeal filed regarding Conditional Use Permit Application No. P21-06304 and related Environmental Assessment, for property located at 640 R Street; located on the easterly corner of the intersection Mono Street and R Street abutting State Route 41. (Council District 3)

Based upon the evaluation contained in this report and appeal received from the appellant, staff recommends that the Planning Commission take the following actions:

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2. **DENY** the appeal and **UPHOLD** the action of the Planning and Development Department Director in the approval of Conditional Use Permit Application No. P21-06304 authorizing the construction of an 80-foot mono-pine telecommunications tower and facility with associated ground equipment to operate a wireless telecommunications facility.

EXECUTIVE SUMMARY

Conditional Use Permit Application No. P21-06304 was filed by Tricia Knight of TEK Consulting and pertains to a portion of the 0.55-acre downtown parcel located at 640 R Street. The applicant proposes to construct an 80-foot mono-pine telecommunications tower and facility with associated ground equipment to enhance wireless cellular services.

On February 24, 2022, the Planning and Development Director approved the Conditional Use Permit application based upon the project's compliance with the required findings for conditional use permits pursuant to FMC Section 15-5306 (**Exhibit I - Fresno Municipal Code Findings**).

A Notice of Action was mailed to property owners who requested to be notified once the project was approved. On March 8, 2022, Mr. Sean Boyd on behalf of the Huntington Park Condominium Village Homeowner's Association (HOA) appealed the Director's decision. Therefore, the subject application is being considered by the Planning Commission. (**see Exhibit G - Appeal Letter**).

Staff recommends upholding the Director's approval based on substantial evidence in this staff report that demonstrates the Wireless Telecommunication Facilities are a conditionally permitted use, compliant with all provisions of the Citywide Development Code, and consistent with applicable policies of the Fresno General Plan, and the Downtown Neighborhoods Community Plan which do not contain any specific policies that would restrict the proposed use.

BACKGROUND

The project proposes the construction of a new 80-foot mono-pine wireless telecommunications facility with (9) panel antennas and (12) wireless radio units; and an associated \pm 668 square foot ground lease area on a portion of the 0.55-acre downtown parcel. The facility will be located directly across from an aging building in the corner of an outdoor storage area.

Pursuant to Section 15-1502 of the Fresno Municipal Code (FMC), Telecommunication Facilities are permitted in the DTG (Downtown General) 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 adopted policy (Policies and Procedures Issue No. 33 - Wireless Telecommunication Facilities) 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 City's adopted policies and procedures, where applicable, have been applied to the proposed project to ensure that all applicable requirements and standards of the telecommunication policy are being met. The project will comply with all Development Code requirements including setbacks, landscaping, and parking requirements, as incorporated into the conditions of approval.

OTHER AGENCIES

All comments received from responsible departments and agencies have been incorporated into the conditions of approval for Conditional Use Permit Application No. P21-06304.

PUBLIC NOTICING AND INPUT

Council District 3 Project Review Committee

The Council District 3 Project Review Committee reviewed the project on January 25, 2022 and voted to recommend approval with no additional comments and/or recommendations. The Committee's motion to recommend approval passed by a vote of 3 yes and 1 no.

Notice of Intent to Take Action

Pursuant to FMC Section 15-5305, the Planning and Development Department mailed a Notice of Intent to Take Action (**Exhibit D - Notice of Intent to Take Action**) to surrounding property owners within 1,000 feet of the subject sit on January 18, 2022, in accordance with FMC Section 15-5007. Three emails, two letters, and one call were received in opposition to the project. Multiple concerns were raised by residents of the Huntington Park Condominium Village, such as:

- 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
- Potential fire hazard from homeless occupation
- The tower's appearance
- Selection of this location

Response to The Concerns Raised

1. Under Federal law (USC 47 332-7-B-IV) the City of Fresno may not 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 Federal Communications Commission's regulations concerning such emissions. On March 3, 2021, an RF study determined there are no modeled exposures at ground level or in any adjacent buildings which will expose the public to hazardous levels of RF energy. The

proposed technology is within the FCC General Population limits (**see Exhibit C - Project Plan Exhibits**).

2. Comments noted of previous fires in that area due to homeless encampments. The proposed facility will be secured and will have a chain link roof to prevent unauthorized access. The tower has been reviewed by the Fresno Fire Department under Planning review and will be reviewed again by the Fire Department under Building review for compliance with all applicable codes.
3. The tower will be conditioned to be comprised of high-quality materials which closely resemble pine tree foliage. The faux foliage must be approved by the Planning Department to ensure the tower will closely resemble a tree. Dependent on the location on the tower, the tower mounted equipment will be painted or covered in needle socks and hidden within the branches of the tree to ensure the tower closely resembles a tree. The utilization of “mono-tree” elements with telecommunication towers is compliant with most recent industry standards and is considered to be a more appropriate treatment in conjunction with telecommunication facilities for purposes of blending into natural environments when compared to simple monopoles with radomes. The ground lease area will have a CMU masonry wall with anti-graffiti paint and landscaping will be planted around the compound.
4. The applicant provided an alternative site analysis which examined 10 sites beside the one chosen. The location picked was the result of the only landlord willing to make an agreement (**see Exhibit C - Project Plan Exhibits**).

The project is therefore proposed to be disguised as a pine tree with equipment at the base being completely screened. The project has also been conditioned to ensure that the pine tree design components are to be kept in good condition and not weather beaten or damaged. Therefore, reasonable 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.

Two residents requested to be notified of the Director’s decision.

Notice of Action

Pursuant to FMC Section 15-5305, the Planning and Development Department sent a Notice of Action (**Exhibit F - Notice of Action**) to the protestors on February 28, 2022, in accordance with FMC Section 15-5009.

On March 8, 2022, a timely appeal was received by the Planning and Development Department opposing the Director’s decision to grant the approval of Conditional Use Permit Application No. P21-06304 (**see Exhibit G - Appeal Letter**)

Notice of Planning Commission Hearing

In accordance with FMC Section 15-5007, the Planning and Development Department mailed notices of this Planning Commission hearing to surrounding property owners within 1,000 feet of the subject property and appellant on April 07, 2022 (**see Exhibit H - Notice of Public Hearing**).

Analysis of the Appeal Letter

Issue No.1:

The appellant stated the Planning and Development Department did not provide drawings or perspectives of the proposed mono-pine prompting them to view images online. They believe the tower will not improve Fresno's visual image.

Response to Issue No.1:

As stated in the Notice of Intent to Take Action (**Exhibit D - Notice of Intent to Take Action**), all documents related to this project were available for public review. The appellant did not request to review any documents or renderings of the proposed project. As stated in the Notice of Action (**Exhibit F - Notice of Action**), additional information was available, including the documents and renderings of the proposed project, by contacting the assigned planner. The appellant did not request additional information from the assigned planner.

It is not known what the appellant reviewed in their online research. As the appellant stated, they relied solely on those images and made a judgement on the aesthetics without reviewing exhibits of the proposed tower. The Planning Commission should consider aesthetics of the proposed tower based on the exhibits and renderings submitted. The wireless telecommunications tower is designed to be aesthetically appealing, compared directly to an undisguised tower with the same antenna array.

Issue No.2:

The appellant questioned the aesthetics of the proposed landscaping. They stated they wanted to review the landscape plans.

Response to Issue No.2:

As stated in the Notice of Intent to Take Action (**Exhibit D - Notice of Intent to Take Action**), all documents related to this project were available for public review. The appellant did not request to review any documents, plans, or renderings of the proposed project. As stated in the Notice of Action (**Exhibit F - Notice of Action**), additional information was available, including the documents, plans and renderings of the proposed project, by contacting the assigned planner. The appellant did not request additional information from the assigned planner before filing the appeal on March 8, 2022.

After the appeal was filed, one concerned resident requested a meeting with Planning staff to review the plan exhibits. Staff scheduled a meeting with the resident and requested the appellant also attend. The meeting was held on March 16th, 2022, and staff provided opportunity to review all plan exhibits requested.

The Planning Commission should consider aesthetics of the landscaping based on the exhibits and renderings submitted.

Issue No.3:

The appellant is questioning the aesthetics of the proposed tower.

Response to Issue No.3:

It is not known what the appellant reviewed in their online research of mono-pine cell towers. As the appellant stated, they relied solely on those images and made a judgement on the aesthetics without reviewing exhibits of the proposed tower. The Planning Commission should consider aesthetics of the proposed tower based on the exhibits and renderings submitted.

Issue No.4:

The appellant listed six alternative locations to consider for the proposed tower.

Response to Issue No.4:

The applicant provided an alternative site analysis which examined 10 sites beside the one chosen. The location picked was the result of the only landlord willing to make an agreement (see **Exhibit C - Project Plan Exhibits**).

Issue No.5:

The appellant stated the Planning and Development Department should have considered alternative designs for the tower in addition to a height decrease.

Response to Issue No.5:

Planning Staff contacted the appellant for alternative design ideas. The appellant indicated they will attend the Planning Commission meeting and express their alternative design ideas.

LAND USE PLANS AND POLICIES

FRESNO GENERAL PLAN

The Fresno General Plan designates the subject site for Downtown Neighborhood planned land uses and provides objectives to guide in the development of these projects. Conditional Use Permit Application No. P21-06304 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.

As stated in the Operational Statement (**Exhibit C - Project Plan Exhibits**), the applicant indicated this new wireless telecommunications facility will enhance service to the immediate and surrounding areas, including the core of Downtown. The wireless telecommunications tower is designed to be aesthetically appealing, compared directly to an undisguised tower with the same antenna array, and intends to improve wireless services for users and customers of Verizon within its service areas.

DOWNTOWN NEIGHBORHOODS COMMUNITY PLAN

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

FRESNO MUNICIPAL CODE FINDINGS

The required findings for Conditional Use Permits under FMC Section 15-5306 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 (see **Exhibit I - 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. P21-06304 was completed for this project. (**See Exhibit J - Environmental Assessment - Categorical Exemption**).

None of the exceptions to Categorical Exemptions set forth in the CEQA Guidelines, Section 15300.2 apply to the project. No potential cumulative or significant effects will result from the project. The proposed project will not result in damage to scenic resources. The project is not located on land identified as a hazardous waste site on any list compiled pursuant to Section 65962.5 of the Government Code. There are no historic resources on the subject property for which the project may cause a substantial adverse change in significance.

Therefore, the proposed project is not determined to have a significant effect on the environment. A categorical exemption, as noted above, has been prepared for the project and the area is not environmentally sensitive.

CONCLUSION

The appropriateness of the proposed project has been examined with respect to its consistency with goals and policies of the Downtown Neighborhoods Community Plan and the 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. P21-06304 is appropriate for the project site.

Attachments:

- Exhibit A - Aerial Photograph, Zoning Map
- Exhibit B - Project Information Table
- Exhibit C - Project Plan Exhibits (Photo Simulations, RF Study, Noise Study, Alternative Site Analysis, Operational Statement, Site Plan, Elevations, Landscape Plan)
- Exhibit D - Notice of Intent to Take Action
- Exhibit E - Emails in Opposition to P21-06304
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