



CITY OF PERRIS PLANNING COMMISSION

AGENDA

March 20, 2019

City Council Chambers
Meeting to convene at 6:00 P.M.
101 North "D" Street
Perris, CA 92570

1. CALL TO ORDER:

2. ROLL CALL:

Commissioners: Marin, McCarron, Scott, Shively,
Chair Hammond, Vice Chair Arras

3. INVOCATION:

4. PLEDGE OF ALLEGIANCE: Commissioner Marin

5. PRESENTATION:

6. CONSENT CALENDAR:

A. Planning Commission Minutes for February 20, 2019

7. PUBLIC HEARING:

A. Ordinance Amendment (OA) 19-05041 - Proposal to adopt an ordinance which amends Chapter 19.85 of the Municipal Code in its entirety to update and revise regulations for Wireless Telecommunication Facilities on public and private properties. **Applicant:** City of Perris

REQUESTED ACTION: Adopt Resolution 19-05 recommending that City Council find the Ordinance Amendment categorically exempt pursuant to Sections 15060(c)(2) and 15061(b)(3) of CEQA and that the City Council approve the Ordinance Amendment to amend Chapter 19.85 of the Municipal Code in its entirety, based on the findings.

B. Conditional Use Permit (CUP) 18-05339 - A proposal to lease, install and operate new small cell wireless facilities within the public right-of-way in three separate locations consisting of replacing existing street lights with new light poles and the installation of single wire small cell wireless facilities. **Applicant:** New Cingular Wireless PCS, D/B/A AT&T

REQUESTED ACTION: Adopt Resolution 19-06 finding the proposed project Categorical Exempt from CEQA under Section 15300, Class 1 Existing Facilities, and approving Conditional Use Permit 18-05339 to facilitate the lease, installation and operation of new small cell, stealth wireless facilities within the public right-of-way on replacement streetlights located in three locations in the City of Perris, based on the findings and subject to the Conditions of Approval.

- C. Temporary Use Permit (TUP) 19-05045** - Proposal to establish a temporary rock crushing operation in two separate locations within the Green Valley Specific Plan to recycle and reuse existing stockpiled rock and concrete construction debris for aggregate base, backfill, and other road improvement activities. **Applicant:** Mamco Inc. D/B/A Alabbasi Construction & Engineering

REQUESTED ACTION: Adopt Resolution 19-07 finding the proposed project Categorical Exempt from CEQA under Section 15304, Class 4(e), Minor Alteration to Lands, and approving Temporary Use Permit 19-05045 to facilitate the a temporary rock crushing operation in two separate locations within the Green Valley Specific Plan, based on the findings and subject to the Conditions of Approval.

8. BUSINESS/WORKSHOP:

9. PUBLIC COMMENTS:

Anyone who wishes to address the Planning Commission regarding items not on the agenda may do so at this time. Please walk up to the podium and wait for the Chairperson to recognize you. Please speak clearly, give your name, spell your last name, and address for accurate recording in the minutes. Each speaker will be given three (3) minutes to address the Planning Commission.

10. COMMISSION MEMBERS ANNOUNCEMENTS OR REPORTS:

11. DIRECTOR OF DEVELOPMENT SERVICES REPORTS AND/OR INFORMATION:

- A.** Update on Western Construction 3-year phasing plan to obtain permits and complete all improvements associated with DPR 14-03-0025 approval.

12. ADJOURNMENT

Planning Commission Agenda

CITY OF PERRIS

03.20.19

Item

6A

Planning Commission Minutes for February 20, 2019

CITY OF PERRIS

MINUTES:

Date of Meeting: February 20, 2019

05:58 PM

Place of Meeting: City Council Chambers

Commission Members Present: Commissioner Marin, Commissioner McCarron, Commissioner Shively, Chairman Hammond, and Vice Chair Arras.

1. CALL TO ORDER:

2. ROLL CALL: Commissioners: Shively, Marin, McCarron, Scott, Vice Chair Arras, Chair Hammond.

Commission Members Present: Commissioner Marin, Commissioner McCarron, Commissioner Shively, Chairman Hammond, and Vice Chair Arras.

3. INVOCATION:

4. PLEDGE OF ALLEGIANCE: Commissioner Arras

5. PRESENTATION:

Director of Planning & Economic Development Dr. Williams, introduced Stuart McKibbin as the new Principal Engineer for Tri-Lake, who will assume Habib's role after his retirement.

Stuart McKibbin, spoke on his background and how he is looking forward to working with the City.

6. CONSENT CALENDAR:

A. Planning Commission Minutes for December 19, 2018

Vice Chair Arras and Commissioner Marin, clarified that they did attend the Christmas parade.

The Chair called for a motion.

M/S/C: Moved by Commissioner McCarron, seconded by Commissioner Shively to Approve

AYES: Commissioner Marin, Commissioner McCarron, Commissioner Shively, Chairman Hammond, Vice Chair Arras.

NOES:

ABSENT: Commissioner Scott.

ABSTAIN:

7. PUBLIC HEARING:

- A. Development Plan Review (DPR) 18-00006 – A proposal to construct a 25,280 square-foot industrial building on 3.72 acres located at the northwest corner of Patterson Avenue and California Avenue within the Perris Valley Commerce Center (PVCC) Specific Plan area. Applicant: Carter Reddish, Carter Group Architects REQUESTED ACTION: ADOPT Resolution No. 19-02 adopting Mitigated Negative Declaration No. 2341 and approving Development Plan Review 18-00006 to facilitate construction of a 25,280 SF manufacturing/office building, based on the findings and subject to the Conditions of Approval.

Chair Hammond and Vice Chair Arras acknowledged that they have visited the site prior to the meeting.

Planning Manager Phung, presented the proposal to construct a 25,280 square foot industrial building on 3.72 acres located at the northwest corner of Patterson Avenue and California Avenue.

Commissioner Marin, requested information on the type of drainage for the project.

Commissioner McCarron, asked if the project was within the flight path, location of the office area, truck circulation, and overnight truck parking.

Chair Hammond, commented on the circulation for the project and asked if traffic control is available on Patterson Avenue and California Avenue.

Applicant Carter Reddish, responded to the Commission's comments.

Commissioner Shively, complimented the design and appreciated that there would be no significant impact on truck traffic in the area.

Commissioner Marin, applauded the design of building.

Commissioner McCarron, appreciated the use of union labor, the enhanced building design, and bringing a manufacturing use to the city.

Chair Hammond, appreciated the size of the building and that manufacturing will occur onsite.

Vice Chair Arras, praised the design and the opportunity for new local jobs.

The Chair called for a motion.

M/S/C: Moved by Commissioner Marin, seconded by Commissioner Shively to Approve

AYES: Commissioner Marin, Commissioner McCarron, Commissioner Shively, Chairman Hammond, Vice Chair Arras.

NOES:

ABSENT: Commissioner Scott.

ABSTAIN:

- B. Development Plan Review (DPR) 17-00005 and Zone Change (ZC) 17-05148 –

Proposal for a Zone Change from Community Commercial (CC) to R-6,000-SHO (Senior Housing Overlay) to facilitate the development of a 141-unit age restricted senior housing apartment complex with clubhouse and recreational amenities with a density of 33 dwelling units per acre on a 4.21-acre parcel located at the northwest corner of "A" Street & Ellis Avenue. Applicant: Greg Lansing, Lansing Properties. REQUESTED ACTION: Approve Resolution No. 19-01 recommending the City Council Adopt Mitigated Negative Declaration #2340 and Approve Zone Change 17-05148 and Development Plan Review 17-00005 to facilitate the development of a 141-unit age restricted senior housing apartment complex, based on the findings and subject to the Conditions of Approval.

Chair Hammond, Commissioner Shively, and Commissioner Marin acknowledged that they conducted a site visit prior to the meeting.

Planning Manager Phung, presented a proposal for a Zone Change from Community Commercial to R-6,000 to facilitate the development of a 141-unit age restricted senior housing apartment complex with clubhouse and recreational amenities on a 4.21-acre parcel located at the northwest corner of "A" Street & Ellis Avenue.

Commissioner McCarron, voiced his concerns on the number of elevators, fencing the entire community, parking, and impervious paving.

Commissioner Marin, discussed whether a height restriction is in place for the building and made a suggestion for podium parking.

Vice Chair Arras, suggested that the community be secured and gated.

Chair Hammond, spoke on there being no commercial in this area, landscaping requirements, solar opportunities, street improvements, and stressed elevator ADA requirements.

Chair Shively, requested clarification if a condition was in place for the project to improve Ellis Avenue.

Applicant Greg Lansing, addressed questions asked by the Commissioners.

Commissioner Marin, commented positively on the architecture of the project.

Commissioner McCarron, recommended that the proposed community be gated.

Commissioner Marin, stated that the project will rejuvenate the area.

Commissioner McCarron, expressed that he recognizes the need for senior housing within the City and spoke on the potential for a gated community with ADA compliant elevators.

Commissioner Shively, suggested solar panels on the carports, and critiqued the design style and colors used for the building.

Commissioner Arras, stated that he believes the project is good for seniors in the City, but requested more security for the site.

Chair Hammond, appreciated that a developer is working in this area, requested gates for the community, and recognized that commercial businesses are not feasible here.

The Chair called for a motion.

M/S/C: Moved by Vice Chair Arras, seconded by Commissioner Marin to Approve

AYES: Commissioner Marin, Commissioner McCarron, Commissioner Shively, Chairman Hammond, Vice Chair Arras.

NOES:

ABSENT: Commissioner Scott.

ABSTAIN:

- C. Addendum No. 1 to Environmental Impact Report No. 17-05100, Conditional Use Permit No. 18-05271 and Revised Tentative Parcel Map (TPM) 37304 (TPM No. 18-05270) – The proposal is a revision to DPR 17-00002 and TPM 37304 approved by the City Council on August 28, 2018, to allow Corona Stone to operate a stone manufacturing business through a Conditional Use Permit from the smaller of two industrials approved by the City (Bldg. 1 at approximately 1.1 million square-feet and Bldg. 2 at 61,200 square feet) located at the southeast corner of Perris Boulevard and Markham Street. The CUP request includes an adjustment in size of Building 1 from 1,106,030 sf to 1,009,869 and a slight increase in Building 2 from 61,200 sf to 62,100 sf, along with a Tentative Parcel Map for purpose of creating two parcels. Applicant: Duke Realty REQUESTED ACTION: ADOPT Resolution No. 19-03 to adopt Addendum No. 1 to the Duke Warehouse at Perris Boulevard and Markham Street EIR (17-05100), and to approve Conditional Use Permit (CUP 18-05271), and revised Parcel Map 37304 (TPM 18-05270), based upon the findings and subject to the Conditions of Approval.

Commissioner Marin, recused himself for the project.

Chair Hammond and Vice Chair Arras acknowledged that they have visited the site prior to the meeting.

Planning Manager Phung, presented a proposal to amend DPR17-00002 and TPM 37304 to allow Coronado Stone to operate a stone manufacturing business through a Conditional Use Permit from the smaller of two industrial buildings located at the southeast corner of Perris Boulevard and Markham Street.

Chair Hammond, inquired about the original EIR approval for the project and the specifics for the Conditional Use Permit.

Applicant Adam Schmid, introduced himself on behalf of Duke Realty.

Commissioner Shively, commented on his approval of the project, architectural design of building, and keeping local business within the city.

Commissioner McCarron, appreciated the effort to keep a local manufacturing business within the City.

The Chair called for a motion.

M/S/C: Moved by Vice Chair Arras, seconded by Commissioner Shively to Approve

AYES: Commissioner McCarron, Commissioner Shively, Chairman Hammond, Vice Chair Arras.

NOES:

ABSENT: Commissioner Scott.

ABSTAIN:

8. BUSINESS/WORKSHOP:

9. PUBLIC COMMENTS: Anyone who wishes to address the Planning Commission regarding items not on the agenda may do so at this time. Please walk up to the podium and wait for the Chairperson to recognize you. Please speak clearly, give your name, spell your last name, and address for accurate recording in the minutes. Each speaker will be given three (3) minutes to address the Planning Commission.

Chair Hammond, read a letter from a City resident requesting a new skatepark.

10. COMMISSION MEMBERS ANNOUNCEMENTS OR REPORTS:

Commissioner Shively, Commissioner Marin, and Vice Chair Arras all expressed their enthusiasm at having the first meeting of the year.

Chairman McCarron, spoke on the recent City Council resolution of altering the number of Planning Commission seats, the recent 3-3 Planning Commission vote for Patterson warehouse, and discussed the positives of having 7 Commissioners.

Chair Hammond, mentioned the graffiti on the northwest corner of the Ferguson building, and commented on the historical reasons for the 7 Commissioners.

11. DIRECTOR OF DEVELOPMENT SERVICES REPORTS AND/OR INFORMATION:

Planning Manager Phung, discussed the recent ethics training and that the next Planning Commission meeting will be March 20th.

Commissioner McCarron, requested updates on the expiration of Western Construction Auction road improvement conditions at 2021 Goetz at the next Commission meeting.

Planning & Economic Development Director Dr. Williams, discussed the topics of reducing the Planning Commission seats, meeting with Chair Hammond on housing, grant opportunities, Perris working scholars program, skills training center contract, community colleges extensions within the skills training center, and that the ICSC is coming up soon. She also discusses that the proposed skills center is approximately 20,000 square feet located at the northeast corner of 1st and D st.

Commissioner McCarron, commented on Ferguson advertising their location in Perris and utilizing union labor.

12. ADJOURNMENT

Planning Commission Agenda

CITY OF PERRIS

03.20.19

Item

7A

Ordinance Amendment (OA) 19-05041



CITY OF PERRIS

PLANNING COMMISSION

AGENDA SUBMITTAL

MEETING DATE: March 20, 2019

SUBJECT: **Ordinance Amendment (OA) 19-05041** - Proposal to adopt an ordinance which amends Chapter 19.85 of the Municipal Code in its entirety to update and revise regulations for Wireless Telecommunication Facilities on public and private properties.
Applicant: City of Perris

REQUESTED ACTION: **Adopt Resolution 19-05** recommending that City Council find the Ordinance Amendment categorically exempt pursuant to Sections 15060(c)(2) and 15061(b)(3) of CEQA and that the City Council approve the Ordinance Amendment to amend Chapter 19.85 of the Municipal Code in its entirety, based on the findings.

CONTACT: Dr. Grace Williams, Director of Planning and Economic Development

BACKGROUND:

The City of Perris is proposing an Ordinance Amendment to amend Chapter 19.85 (Wireless Telecommunication Facilities) of the Municipal Code in its entirety to update and revise regulations for Wireless Telecommunication Facilities on public and private properties to address significant changes in law implemented by the Federal Communications Commission ("FCC"). As on September 27, 2018, the FCC released a Declaratory Ruling and Third Report and Order (the "FCC Order") significantly limiting state and local management of Small Wireless Facilities (SWFs) in the public right-of-way (and, in a limited way, SWFs on private property). In short, the FCC Order does the following:

- Defines SWFs as up to 50 feet in height, including antennas, or mounted on structures no more than 10% taller than other adjacent structures; or that do not extend existing structures on which they are located to a height of more than 50 feet or by more than 10 percent, whichever is greater; each antenna is no more than 3 cubic feet in volume, and the total associated wireless equipment on one structure is no more than 28 cubic feet in volume;
- Caps all fees that local governments can charge to the actual and reasonable cost of providing service. This limitation applies to fees for SWFs located on private property as well;
- Imposes shot clocks of 60 days for SWFs added to existing structures (regardless of whether the structure already supports a wireless service) and 90 days for SWFs proposing a new

structure. The shortened shot clocks also apply to applications for SWFs on private property; and

- Effective April 14, 2019, preempts all aesthetic requirements for SWFs in the PROW unless they are (1) reasonable; (2) no more burdensome than those applied to other types of infrastructure deployments; (3) objective; and (4) published in advance.

The proposed ordinance has been initiated to amend Chapter 19.85 to provide the regulatory framework and standards for permitting the installation of SWFs within the City's public right-of-way (PROW) and revises and updates the City's standards and regulations in relation to non-SWF wireless telecommunication facilities in response to the FCC Order. The proposed ordinance also addresses "eligible facilities requests," which is a category of wireless facilities that the FCC established as "by-right" installations several years ago, but not yet acknowledged in the Chapter 19.85 of the Municipal Code.

CURRENT CODE:

The City's existing Municipal Code 19.85 contains outdated standards for dealing with small wireless facilities (SWFs) and does not currently recognize or establish procedures and standards for, "eligible facility requests" (EFR) pursuant to Federal law, which has dictated since 2012 that EFR's are ministerial and be approved "by-right."

Currently, Chapter 19.85 regulates the location and design of Wireless Telecommunication Facilities through standards for Small Stealth Wireless Facilities, which are permitted in all zones (e.g., BP, LI, GI, CN, CC & PO) by administrative approval, unless it exceeds the height limitation of the underlying zoning district by 50%, which triggers the requirement for a Conditional Use Permit (CUP). Additionally, Stealth Wireless Facilities proposed in Public zoning districts also require a CUP. The existing code prohibits Small Stealth Wireless Facilities from locating in Residential zoning districts unless they are proposed to be mounted on light or traffic control standards, where they may be permitted pursuant to a CUP. In addition, all non-stealth wireless telecommunication facilities are currently required to obtain a Conditional Use Permit.

DISCUSSION:

4G TO 5G Technology

In prior decades, wireless antennas and equipment were primarily installed on large towers or "macro-cells." These deployments are subject to Conditional Use Permit approval under the Zoning Code. In recent years, however, carriers have increasingly sought to place wireless facilities in the City's public right of way ("PROW") on utility poles, streetlights and new poles. The demand for such wireless installations, particularly small wireless facilities ("SWFs"), is expected to grow exponentially over the next several years given the expansion of home streaming video, social media, drones, self-driving cars and the "Internet of Things" (IoT) serving homes and businesses. To accommodate this expansion, the telecommunications industry is shifting towards Fifth Generation (5G) small cell technology, which is distinguished from the present Fourth Generation (4G) technology by the use of low power transmitters with a lesser coverage radius of approximately 400 feet. Because the coverage radius for 5G small cell technologies is less than the coverage radius for 4G, the spacing between small cell antennas has to be closer and, as a

result, more antennas are required. As such, street light poles, traffic lights, and other public facilities are ideally suited for 5G small cell wireless facility technology.

Federal Telecommunication Act

The Federal Telecommunications Act is intended to ensure that the public has sufficient access to telecommunication services. Based on this Federal law, a local government shall not prohibit or have the effect of prohibiting the provision of personal wireless services. Further, no State or local government may dictate, or even consider, wireless entitlements based on “the environmental (health) effects of radio frequency emissions to the extent that such facilities comply with the Commission’s regulations concerning such emissions.” A zoning authority’s mere consideration of health effects, including potential effects on property values due to potential radio frequency emissions, may not serve as “substantial evidence” for purposes of denying a wireless facility. The City’s role in the siting and design of WCFs is generally limited to aesthetics.

Wireless telecommunication providers are treated as telephone companies under their State franchise conferred in California Public Utilities Code Section 7901, and thus are entitled to use the PROW to deploy their equipment. However, even with their right to occupy the PROW, under Section 7901 providers may *not* “unreasonably subject the public use to inconvenience or discomfort; to unreasonably trouble, annoy, molest, embarrass, inconvenience; to unreasonably hinder, impede, or obstruct the public use.” These limitations on Section 7901 have been interpreted broadly enough to include concerns related to the appearance of a facility,” and thus Section 7901 allows cities to condition a wireless permit on: (i) aesthetic concerns; (ii) restricting the location of proposed facilities due to public safety reasons or other local concerns or even deny applications in appropriate circumstances; and (iii) to exercise reasonable control over the time, place and manner of “when, where, and how telecommunications service providers gain entry to the public rights-of-way,” including the need for encroachment permits. (See, Pub. Util. Code § 7901.)

New FCC Order

The new FCC Order significantly changes Federal law to shorten time frames and other requirements on local review of SWFs in the public right-of-way (PROW). Under the FCC Order, if a city does not render a decision on a SWF application within a specified time period (60 days for installations on existing structures, and 90 days for new structures), the failure to meet the deadline for action will be presumed to violate federal law.

On aesthetics, spacing restrictions and undergrounding requirements, the FCC declare that such requirements will not be preempted if they are reasonable, no more burdensome than those applied to other types of infrastructure deployments, and objective and published in advance. In essence, this new standard for aesthetic conditions means that cities can impose aesthetic requirements to the extent they are “technically feasible” for the provider. This is a significant departure from the “least intrusive means” analysis that developed in the Ninth Circuit over the last few decades. The FCC Order purports to overturn the “least intrusive means” standard entirely, with the new standards taking effect on April 15, 2019.¹

¹ While the legal validity of both of these FCC orders is being litigated, the effectiveness of the orders has not been stayed. Further, another FCC order that was released in August 2018 prohibits cities from imposing a moratorium on wireless installations, which means that there can be no pause in accepting or processing applications to allow a city to study and address potential issues.

Aesthetic standards implementing the FCC Order must be reasonable, objective, and *published ahead of time*. If a city does not have “published” design standards, then it does not appear that any standards can be enforced. It is therefore important that the City update its ordinance with new standards and procedures by April 14, 2019, or shortly thereafter. Staff therefore, recommends the Planning Commission recommend that the City Council adopt an ordinance setting out the permitting procedures for SWFs in the PROW. The proposed ordinance seeks to balance the community’s need for wireless services with the industry’s need to deploy quickly, and the City’s obligation to maintain safety and protect the aesthetic qualities of our neighborhoods. As drafted, the proposed ordinance would:

- Amend Chapter 19.85 of the Municipal Code in its entirety for all wireless facility installations on public and private property. The ordinance provides, among other regulations, for permit and review procedures as well as operation and maintenance standards. The ordinance treats wireless installations in the PROW similar to other installations in the ROW by requiring a permit. Once the permit is issued, the carrier may still need to obtain traffic control plans, construction permits and if necessary, a license to attach to City infrastructure;
- The substantially shorter “shot clocks” established by the FCC Order render discretionary review by the Planning Commission (or any other hearing body) much more difficult, if not logistically impossible. To this end, the proposed ordinance presents an entirely new administrative review process for SWF applications, with the Planning Division taking the lead for processing SWF applications administratively;
- The new ordinance recognizes and establishes procedures and standards for, "eligible facility requests" pursuant to Federal law. These are ministerial modifications and collocations that must be approved “by-right,” which provisions are not currently included in Section 19.85 of the Municipal Code, despite being required by law since 2012;
- The proposed ordinance amendment contains a comprehensive list of permit conditions that will apply to wireless permits, including insurance requirements, indemnity, performance bond for removal upon abandonment, and maintenance and inspection requirements. The permits are in effect for a term of 10 years, which stems from a State law that allows the City to limit the permits to 10 years; compared to utility poles, for example, which are erected in perpetuity; and
- Finally, the proposed ordinance amendment provides the flexibility needed for the rapidly changing wireless laws and technology by the adoption of a separate Council Policy that outlines SWF design standards to guide administrative approvals so it can be readily and quickly adapted given the frequency and magnitude of changes in law and technology surrounding wireless installations.

To accompany the new ordinance, staff has drafted a separate Draft City Council Policy that will provide the wireless telecommunication industry with direction on the City’s aesthetic, location and design requirements, such as prohibiting lighting unless required by the Federal Aviation Administration. This draft policy document is provided as an attachment to this report for the Planning Commission’s information and once approved by the Council, will be promptly published by staff on the City’s website as required by the FCC Order.

GENERAL PLAN CONSISTENCY:

The proposed Ordinance Amendment is consistent with the City’s General Plan (2030), which includes policies that seek to guarantee the adequate distribution of utility services to the entire community in a manner that is compatible with the character of the community. The proposed Ordinance Amendment and accompanying Small Wireless Facility City Council Policy are also consistent with the City’s General Plan Policy III.A in the Land Use Element, which seeks to accommodate diversity in the local economy. Finally, the proposed Ordinance Amendment and accompanying Small Wireless Facility Council Policy support the overarching General Plan goal of integrating communication infrastructure that assists and helps coordinate residents, visitors, and emergency personnel during emergency events.

ENVIRONMENTAL DETERMINATION:

The proposed Ordinance Amendment and City Council Policy are found to be categorically exempt pursuant to Sections 15060(c)(2) and 15061(b)(3) of CEQA, as the proposal is not a project within the meaning of Section 15378 of the State of California Environmental Quality Act (“CEQA”) Guidelines, because it has no potential for resulting in physical change in the environment, directly or indirectly.

PUBLIC COMMENT:

A public hearing notice was published in the local newspaper on March 8, 2019, to provide a minimum ten (10) day notice as required by City Code. As of the writing of this report, no comments in opposition have been received from residents or public agencies.

Staff recommends that the Planning Commission adopt Resolution No. 19-05, recommending that City Council find the Ordinance Amendment categorically exempt pursuant to Sections 15060(c)(2) and 15061(b)(3) of CEQA, and that the City Council approve the Ordinance Amendment.

BUDGET (or FISCAL) IMPACT: Cost for staff preparation of this item has been budgeted in the 2018-2019 budget.

Prepared by: Mary Blais, Contract Planner

REVIEWED BY: Kenneth Phung, Planning Manager

Attachments: Exhibit A – Resolution No. 19-05– Wireless Telecommunication Facilities
Exhibit B – Draft CC Ordinance (Next in Order) Wireless Telecommunication Facilities
Exhibit C – Draft Small Wireless Facility CC Policy (Next in Order)

Consent:
Public Hearing: X
Business Item:
Presentation:
Other:

RESOLUTION NUMBER 19-05

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF PERRIS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, RECOMMENDING THE CITY COUNCIL FIND THE PROPOSED ADOPTION OF ORDINANCE AMENDMENT 19-05041 CATEGORICAL EXEMPT FROM CEQA PURSUANT TO SECTIONS 15060(C)(2) AND 15061(B)(3), AND APPROVING ORDINANCE AMENDMENT 19-05041, TO ADOPT AN ORDINANCE WHICH AMENDS CHAPTER 19.85 OF THE MUNICIPAL CODE IN ITS ENTIRETY TO UPDATE AND REVISE REGULATIONS FOR WIRELESS TELECOMMUNICATION FACILITIES ON PUBLIC AND PRIVATE PROPERTIES, AND THE CORRESPONDING CITY COUNCIL POLICY FOR DESIGN STANDARDS APPLICABLE TO SWFS IN THE PUBLIC RIGHT OF WAY, AND MAKING FINDINGS IN SUPPORT THEREOF.

WHEREAS, the Significant changes in Federal and State law that affect local authority over wireless communications facilities ("WCFs") have occurred, including but not limited to the following:

- On November 18, 2009, the Federal Communications Commission ("FCC") adopted a declaratory ruling (the "2009 Shot Clock"), which established presumptively reasonable timeframes for State and local governments to act on applications for WCFs.
- On February 22, 2012, Congress adopted Section 6409(a) of the Middle Class Tax Relief and Job Creation Act ("Section 6409(a)"), which mandated that State and local governments approve certain modifications and collocations to existing WCFs, known as eligible facilities requests.
- On October 17, 2014, the FCC adopted a report and order that, among other things, implemented new limitations on how State and local governments review applications covered by Section 6409(a), established an automatic approval for such applications when the local reviewing authority fails to act within 60 days, and also further restricted generally applicable procedural rules under the 2009 Shot Clock.
- On October 9, 2015, California adopted Assembly Bill No. 57 (Quirk), which deemed approved any WCF applications when the local reviewing authority fails to act within the 2009 Shot Clock timeframes.
- On August 2, 2018, the FCC adopted a declaratory ruling that formally prohibited express and de facto moratoria for all telecommunications services and facilities under 47 U.S.C. § 253(a).
- On September 26, 2018, the FCC adopted a declaratory ruling and report and order that, among other things, creates a new regulatory classification for small wireless facilities ("SWFs"), requires State and local governments to process

applications for small wireless facilities within 60 days or 90 days, establishes a national standard for an effective prohibition and provides that a failure to act within the applicable timeframe presumptively constitutes an effective prohibition.

WHEREAS, in addition to the changes described above, new Federal laws and regulations that drastically alter local authority over WCFs are currently pending, including without limitation, the following:

- On March 30, 2017, the FCC issued a Notice of Proposed Rulemaking (WT Docket No. 17-79, WC Docket No. 17-84) and has acted on some of the noticed issues referenced above, but may adopt forthcoming rulings and/or orders that further limit local authority over wireless facilities deployment.
- On June 28, 2018, United States Senator John Thune introduced and referred to the Senate Committee on Commerce, Science and Transportation the "STREAMLINE Small Cell Deployment Act" (S. 3157) that, among other things, would apply specifically to small cell WCFs and require local governments to review applications based on objective standards, shorten the 2009 Shot Clock timeframes, require all proceedings to occur within the 2009 Shot Clock timeframes, and provide a "deemed granted" remedy for failure to act within the applicable 2009 Shot Clock; and

WHEREAS, Given the rapid and significant changes in Federal and State law, the actual and effective prohibition on moratoria to amend local policies in response to such changes and the significant adverse consequences for noncompliance with Federal and State law, the City desires to amend Chapter 19.85 of the Perris Municipal Code, entitled "Chapter 19.85 - WIRELESS TELECOMMUNICATIONS FACILITIES" (the "Ordinance") to allow greater flexibility and responsiveness to the new Federal and State laws while still preserving the City's traditional authority to the maximum extent practicable; and

WHEREAS, the proposed ordinance amendment is consistent with the City's General Plan; and

WHEREAS, on March 20, 2019, the Planning Commission conducted a legally noticed public hearing for Ordinance Amendment 19-05041, attached hereto and incorporated herein by this reference as Exhibit A, which amends Chapter 19.85 of the Municipal Code in its entirety to update and revise regulations for Wireless Telecommunication Facilities on public and private properties ("Ordinance Amendment"); and

WHEREAS, this Ordinance Amendment has been duly noticed and all legal prerequisites for the adoption of this resolution have occurred; and

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Perris as follows:

Section 1. The above recitals are all true and correct and incorporated herein by this reference.

Section 2. The Planning Commission has determined that the project is Categorical Exempt under the California Environmental Quality Act (CEQA) pursuant to Sections 15060(C)(2) and 15061(B)(3), and is in compliance with applicable general plan policies and zoning requirements.

Section 3. Based on the information contained in the agenda submittal and supporting exhibits and all oral and written presentations and testimony made by City staff and members of the public, this Commission finds, in regards to the proposed Ordinance Amendment, which amends Chapter 19.85 of the Municipal Code in its entirety to update and revise regulations for Wireless Telecommunication Facilities on public and private properties, as follows:

Ordinance Amendment 19-05041

- A. The proposed Ordinance Amendment will not result in a significant adverse effect on the environment. The California Environmental Quality Act (CEQA) Guidelines state that the project is Categorical Exempt pursuant to CEQA Guidelines, Sections 15060(c)(2) and 15061(b)(3) because adoption of the proposed Ordinance Amendment will not result in a direct or reasonably foreseeable indirect physical change upon the environment.
- B. The proposed Ordinance Amendment will not conflict with the goals, policies, and implementation measures set forth in the General Plan and Zoning Ordinance because the purpose of the Ordinance Amendment is accommodate diversity in the local economy, pursuant to Goal III of the Land Use Element of the General Plan.
- C. The proposed Ordinance Amendment will not have a negative effect on public health, safety, or the general welfare of the community as the proposed Ordinance revises and updates antiquated standards for the design, development and processing of Wireless Facilities, pursuant to recent significant changes in law implemented by the FCC, which are intended to ensure that the public has sufficient access to telecommunication services.

Section 4. Based on the forgoing, the information contained in the agenda submittal and supporting exhibits and all oral and written presentations and testimony made by City staff and members of the public, the Planning Commission hereby recommends that the City Council find the Ordinance Amendment, attached hereto and incorporated herein by this reference as Exhibit A, categorically exempt pursuant to CEQA Guidelines, Sections 15060(c)(2) and 15061(b)(3) and that the City Council approve the Ordinance Amendment, which amends Chapter 19.85 of the Municipal Code in its entirety to update and revise regulations for Wireless Telecommunication Facilities on public and private properties.

Section 5. The Planning Commission declares that should any provision, section, paragraph, sentence, or word of this Resolution be rendered or declared invalid by any court of competent jurisdiction, or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences, and words of this Resolution shall remain in full force and effect.

Section 6. The Chairperson shall sign and the Secretary shall certify to the passage and adoption of this Resolution.

ADOPTED, SIGNED, and APPROVED this 20th day of March 2019.

CHAIRPERSON, PLANNING COMMISSION

ATTEST:

Secretary, Planning Commission

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) §
CITY OF PERRIS)

I, Kenneth Phung, SECRETARY OF THE PLANNING COMMISSION OF THE CITY OF PERRIS, DO HEREBY CERTIFY that the foregoing Resolution Number 19-05 was duly adopted by the Planning Commission of the City of Perris at a regular meeting of said Planning Commission on the 20th day of March 2019, and that it was so adopted by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

Secretary, Planning Commission

Attachment: Exhibit A – Ordinance 19- (next in order) Wireless Telecommunication Facilities

Chapter 19.85 - WIRELESS TELECOMMUNICATIONS FACILITIES

19.85.010 - PURPOSE.

The purpose and intent of this chapter is to provide a uniform and comprehensive set of regulations and standards for the permitting, development, siting, installation, design, operation and maintenance of wireless telecommunications facilities in the city. These regulations are intended to prescribe clear and reasonable criteria to assess and process applications in a consistent and expeditious manner, while reducing the impacts associated with wireless telecommunications facilities. This chapter provides standards necessary (1) for the preservation of the public right-of-way (“PROW”) in the city for the maximum benefit and use of the public, (2) to promote and protect public health and safety, community welfare, visual resources and the aesthetic quality of the city consistent with the goals, objectives and policies of the general plan, and (3) to provide for the orderly, managed and efficient development of wireless telecommunications facilities in accordance with the state and federal laws, rules and regulations, including those regulations of the Federal Communications Commission (“FCC”) and California Public Utilities Commission (“CPUC”), and (4) to ensure that the use and enjoyment of the PROW is not inconvenienced by the use of the PROW for the placement of wireless facilities. The city recognizes the importance of wireless facilities to provide high-quality communications service to the residents and businesses within the city, and the city also recognizes its obligation to comply with applicable Federal and State laws. This chapter shall be constructed and applied in consistency with the provisions of state and federal laws, and the rules and regulations of FCC and CPUC. In the event of any inconsistency between any such laws, rules and regulations and this chapter, the laws, rules and regulations shall control.

19.85.020 - DEFINITIONS.

“Accessory equipment” means any and all on-site equipment, including, without limitation, back-up generators and power supply units, cabinets, coaxial and fiber optic cables, connections, equipment buildings, shelters, radio transceivers, transmitters, pedestals, splice boxes, fencing and shielding, surface location markers, meters, regular power supply units, fans, air conditioning units, cables and wiring, to which an antenna is attached in order to facilitate the provision of wireless telecommunication services.

“Antenna” means that specific device for transmitting and/or receiving radio frequency or other signals for purposes of wireless telecommunications services. “Antenna” is specific to the antenna portion of a wireless telecommunications facility.

“Antenna array” shall mean two or more antennas having active elements extending in one or more directions, and directional antennas mounted upon and rotated through a vertical mast or tower interconnecting the beam and antenna support, all of which elements are deemed to be part of the antenna.

“Base station” shall have the meaning as set forth in Title 47 Code of Federal Regulations (C.F.R.) Section 1.40001(b)(1), or any successor provision. This means a structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network (regardless of the technological configuration, and encompassing

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DAS and small cells). “Base station” does not encompass a tower or any equipment associated with a tower. Base station includes, without limitation:

1. Equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.
2. Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems and small cells).
3. Any structure other than a tower that, at the time the relevant application is filed with the city under this chapter, supports or houses equipment described in paragraphs 1 and 2 of this definition that has been reviewed and approved under the applicable zoning or siting process, or under another state or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing that support.
4. “Base station” does not include any structure that, at the time the relevant application is filed under this chapter, does not support or house equipment described in paragraphs 1 and 2 of this definition. Other structures that do not host wireless telecommunications facilities are not “base stations.”

As an illustration and not a limitation, the FCC’s definition of “base station” refers to any structure that actually supports wireless equipment even though it was not originally intended for that purpose. Examples include, but are not limited to, wireless facilities mounted on buildings, utility poles, light standards or traffic signals. A structure without wireless equipment replaced with a new structure designed to bear the additional weight from wireless equipment constitutes a base station.

“Cellular” means an analog or digital wireless telecommunications technology that is based on a system of interconnected neighboring cell sites.

“City” means the City of Perris.

“Code” means the Perris Municipal Code.

“Collocation” bears the following meanings:

1. For the purposes of any eligible facilities request, the same as defined by the FCC in 47 C.F.R. § 1.40001(b)(2), as may be amended, which defines that term 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.” As an illustration and not a limitation, the FCC’s definition means to add transmission equipment to an existing facility and does not necessarily refer to two or more different facility operators in the same location; and

2. For all other purposes, the same as defined in 47 CFR 1.6002(g)(1) and (2), as may be amended, which defines that term as (1) Mounting or installing an antenna facility on a pre-existing structure, and/or (2) Modifying a structure for the purpose of mounting or installing an antenna facility on that structure.

“Collocation facility” means the eligible support structure on, or immediately adjacent to, which a collocation is proposed, or a wireless telecommunications facility that includes collocation facilities. (See, Gov. Code, § 65850.6(d).)

“COW” means a “cell on wheels,” which is a portable, self-contained wireless telecommunications facility that can be moved to a location and set up to provide wireless telecommunication services, which facility is temporarily rolled in, or temporarily installed, at a location. Under this chapter, the maximum time a facility can be installed to be considered a COW is five (5) days. A COW is normally vehicle-mounted and contains a telescoping boom as the antenna support structure.

“Distributed antenna system” or “DAS” means a network of spatially separated antennas (nodes) connected to a common source (a hub) via a transport medium (often fiber optics) that provide wireless telecommunications service within a specific geographic area or building. DAS includes the transport medium, the hub, and any other equipment to which the DAS network or its antennas or nodes are connected to provide wireless telecommunication services.

“Eligible facilities request” means any request for modification to an existing eligible support structure that does not substantially change the physical dimensions of such structure, involving:

1. Collocation of new transmission equipment;
2. Removal of transmission equipment;
3. Replacement of transmission equipment (replacement does not include completely replacing the underlying support structure); or
4. Hardening through structural enhancement where such hardening is necessary to accomplish the eligible facilities request, but does not include replacement of the underlying support structure.

“Eligible facilities request” does not include modifications or replacements when an eligible support structure was constructed or deployed without proper local review, was not required to undergo local review, or involves equipment that was not properly approved. “Eligible facilities request” does include collocation facilities satisfying all the requirements for a non-discretionary collocation facility pursuant to Government Code Section 65850.6.

“Eligible support structure” means any support structure that is existing at the time the relevant application is filed with the city under this chapter.

“Existing” means a support structure, wireless telecommunications facility, or accessory equipment that has been reviewed and approved under the city’s applicable zoning or siting process, or under another applicable state or local regulatory review process, and lawfully constructed prior to the time the relevant application is filed under this chapter. However, a support structure, wireless

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telecommunications facility, or accessory equipment that has not been reviewed and approved because it was not in a zoned area when it was built, but was lawfully constructed, is “existing” for purposes of this chapter. “Existing” does not apply to any structure that (1) was illegally constructed without all proper local agency approvals, or (2) was constructed in noncompliance with such approvals. “Existing” does not apply where an existing support structure is proposed to be replaced in furtherance of the proposed wireless telecommunications facility.

“Facility(ies)” means wireless telecommunications facility(ies).

“FCC” means the Federal Communications Commission.

“Ground-mounted” means mounted to a pole, tower or other freestanding structure which is specifically constructed for the purpose of supporting an antenna or wireless telecommunications facility and placed directly on the ground at grade level.

“Lattice tower” means an open framework structure used to support one or more antennas, typically with three or four support legs.

“Located within (or in) the public right-of-way” includes any facility which in whole or in part, itself or as part of another structure, rests upon, in, over or under the PROW.

“Modification” means a change to an existing wireless telecommunications facility that involves any of the following: collocation, expansion, alteration, enlargement, intensification, reduction, or augmentation, including, but not limited to, changes in size, shape, color, visual design, or exterior material. “Modification” does not include repair, replacement or maintenance if those actions do not involve whatsoever any expansion, alteration, enlargement, intensification, reduction, or augmentation of an existing wireless telecommunications facility.

“Monopole” means a structure composed of a pole or tower used to support antennas or related equipment. A monopole also includes a monopine, monopalm and similar monopoles camouflaged to resemble faux trees or other faux objects attached on a monopole (e.g. water tower).

“Mounted” means attached or supported.

“OTARD antennas” means antennas covered by the “over-the-air reception devices” rule in 47 C.F.R. sections 1.4000 et seq. as may be amended or replaced from time to time.

“Permittee” means any person or entity granted a WTFP pursuant to this chapter.

“Personal wireless services” shall have the same meaning as set forth in 47 United States Code Section 332(c)(7)(C)(i).

“Planning director” means the director of planning, or his or her designee.

“Pole” means a single shaft of wood, steel, concrete or other material capable of supporting the equipment mounted thereon in a safe and adequate manner and as required by provisions of this code.

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“Public works director” means the director of public works, or his or her designee.

“Public right-of-way” or “PROW” means a strip of land acquired by reservation, dedication, prescription, condemnation, or easement that allows for the passage of people and goods. The PROW includes, but is not necessarily limited to, streets, curbs, gutters, sidewalks, roadway medians, and parking strips. The PROW does not include lands owned, controlled or operated by the city for uses unrelated to streets or the passage of people and goods, such as, without limitation, parks, city hall and community center lands, city yards, and lands supporting reservoirs, water towers, police or fire facilities and non-publicly accessible utilities.

“Replacement” refers only to replacement of transmission equipment, wireless telecommunications facilities or eligible support structures where the replacement structure will be of like-for-like kind to resemble the appearance and dimensions of the structure or equipment replaced, including size, height, color, landscaping, materials and style.

1. In the context of determining whether an application qualifies as an eligible facilities request, the term “replacement” relates only to the replacement of transmission equipment and does not include replacing the support structure on which the equipment is located.
2. In the context of determining whether a SWF application qualifies as being placed upon a new eligible support structure or qualifies as a collocation, an application proposing the “replacement” of the underlying support structure qualifies as a new pole proposal.

“RF” means radio frequency.

“Small cell” means a low-powered antenna (node) that has a range of 10 meters to two kilometers. The nodes of a “small cell” may or may not be connected by fiber. “Small,” for purposes of “small cell,” refers to the area covered, not the size of the facility. “Small cell” includes, but is not limited to, devices generally known as microcells, picocells and femtocells.

“Small cell network” means a network of small cells.

“Spectrum Act” means Section 6409(a) of the Middle Class Tax Relief Act and Job Creation Act of 2012, 47 U.S.C. §1455(a).

“Substantial change” has the same meaning as “substantial change” as defined by the FCC at 47 C.F.R. 1.40001(b)(7). Notwithstanding the definition above, if an existing pole-mounted cabinet is proposed to be replaced with an underground cabinet at a facility where there are no pre-existing ground cabinets associated with the structure, such modification may be deemed a non-substantial change, in the discretion of the planning director and based upon his/her reasonable consideration of the cabinet’s proximity to residential view sheds, interference to public views and/or degradation of concealment elements. If undergrounding the cabinet is technologically infeasible such that it is materially inhibitive to the project, the planning director may allow for a ground mounted cabinet. A modification or collocation results is a “substantial change” to the physical dimensions of an eligible support structure if it does any of the following:

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1. It increases the height of the structure by more than 10% or more than ten feet, whichever is greater;
2. It involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six feet;
3. It involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets. However, for towers and base stations located in the public rights-of-way, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than 10% larger in height or overall volume than any other ground cabinets associated with the structure;
4. It entails any excavation or deployment outside the current site. For purposes of this Subsection, excavation outside the current site occurs where excavation more than twelve feet from the eligible support structure is proposed;
5. It defeats the concealment or stealthing elements of the eligible support structure; or
6. It does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure, provided however that this limitation does not apply to any modification that is non-compliant only in a manner that would not exceed the thresholds identified in paragraphs 1 through 4 of this definition.
7. For all proposed collocations and modifications, a substantial change occurs when:
 - a. The proposed collocation or modification involves more than the standard number of new equipment cabinets for the technology involved, but not to exceed four equipment cabinets;
 - a. The proposed collocation or modification would defeat the concealment elements of the support structure; or
 - b. The proposed collocation or modification violates a prior condition of approval, provided however that the collocation need not comply with any prior condition of approval that is inconsistent with the thresholds for a substantial change described in this Section.

The thresholds and conditions for a “substantial change” described in this Section are disjunctive such that the violation of any individual threshold or condition results in a substantial change. The height and width thresholds for a substantial change described in this Section are cumulative for each individual support structure. The cumulative limit is measured from the physical dimensions of the original structure for base stations, and for all other facilities sites in the PROW from the smallest physical dimensions that existed on or after February 22, 2012, inclusive of originally approved-appurtenances and any modifications that were approved prior to that date.

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“Support structure” means a tower, pole, base station or other structure used to support a wireless telecommunications facility.

“SWF” means a “small wireless facility” as defined by the FCC in 47 C.F.R. 1.6002(l) as may be amended, which are personal wireless services facilities that meet all the following conditions that, solely for convenience, have been set forth below:

1. The facilities:
 - a. Is mounted on an existing or proposed structure 50 feet or less in height, including antennas, as defined in Title 47 C.F.R. Section 1.1320(d); or
 - c. Is mounted on an existing or proposed structure no more than 10 percent taller than other adjacent structures, or
 - d. Does not extend an existing structure on which it is located to a height of more than 50 feet or by more than 10 percent, whichever is greater;
2. Each antenna associated with the deployment, excluding associated antenna equipment (as defined in the definition of antenna in 47 C.F.R. Section 1.1320(d)), is no more than three cubic feet in volume;
3. All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than 28 cubic feet in volume;
4. The facility does not require antenna structure registration under 47 C.F.R. Part 17;
5. The facility is not located on Tribal lands, as defined under Title 36 C.F.R. Section 800.16(x); and
6. The facility does not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in Title 47 C.F.R. Section 1.1307(b).

“SWF Regulations” means those regulations adopted by resolution of the city council implementing the provisions of this chapter applicable to SWFs and further regulations and standards applicable to SWFs.

“Telecommunications tower” or “tower” bears the meaning ascribed to wireless towers by the FCC in 47 C.F.R. § 1.40001(b)(9), including without limitation a freestanding mast, pole, monopole, guyed tower, lattice tower, free standing tower or other structure designed and built for the sole or primary purpose of supporting any FCC-licensed or authorized antennas and their associated facilities, including structures that are constructed for 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, and the associated site. This definition does not include utility poles.

“Transmission equipment” means equipment that facilitates transmission for any FCC-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.

“Utility pole” means any pole or tower owned by any utility company that is primarily used to support wires or cables necessary to the provision of electrical or other utility services regulated by the California Public Utilities Commission. A telecommunications tower is not a utility pole.

“Wireless telecommunications facility” means equipment and network components such as antennas, accessory equipment, support structures, and emergency power systems that are integral to providing wireless telecommunications services. Exceptions: The term “wireless telecommunications facility” does not apply to the following:

1. Government-owned and operated telecommunications facilities.
2. Emergency medical care provider-owned and operated telecommunications facilities.
3. Mobile services providing public information coverage of news events of a temporary nature.
4. Any wireless telecommunications facilities exempted from this code by federal law or state law.

“Wireless telecommunications services” means the provision of services using a wireless telecommunications facility or a collocation facility, and shall include, but not limited to, the following services: personal wireless services as defined in the federal Telecommunications Act of 1996 at 47 U.S.C. § 332(c)(7)(C) or its successor statute, cellular service, personal communication service, and/or data radio telecommunications.

“WTFP” means a “wireless telecommunications facility permit” required by this chapter, which may be categorized as either a Major WTFP or an Administrative WTFP.

19.85.030 - APPLICABILITY.

- A. This chapter applies to the siting, construction or modification of any and all wireless telecommunications facilities proposed to be located in the City.
- B. Pre-existing Facilities. Nothing in this chapter shall validate any existing illegal or unpermitted wireless facilities. All existing wireless facilities shall comply with and receive a wireless encroachment permit, when applicable, to be considered legal and conforming.
- C. This chapter does not apply to the following:
 1. Amateur radio facilities;

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2. OTARD antennas;
 3. Facilities owned and operated by the city for its use or for public safety purposes;
 4. Any entity legally entitled to an exemption pursuant to state or federal law or governing franchise agreement, excepting that to the extent such the terms of state or federal law, or franchise agreement, are preemptive of the terms of this chapter, then the terms of this chapter shall be severable to the extent of such preemption and all remaining regulations shall remain in full force and effect.
 5. Installation of a COW or a similar structure for a temporary period in connection with an emergency or event at the discretion of the planning director, but no longer than required for the emergency or event, provided that installation does not involve excavation, movement, or removal of existing facilities.
- D. Public use. Except as otherwise provided by state or federal law, any use of the PROW authorized pursuant to this chapter will be subordinate to the city's use and use by the public.

19.85.040 - WIRELESS TELECOMMUNICATIONS FACILITY PERMIT REQUIREMENTS.

- A. Administration. The planning director is responsible for administering this chapter. As part of the administration of this chapter, the planning director may:
1. Interpret the provisions of this chapter;
 2. Develop and implement standards governing the placement and modification of wireless telecommunications facilities consistent with the requirements of this chapter, including regulations governing collocation and resolution of conflicting applications for placement of wireless facilities;
 3. Develop and implement acceptable design, location and development standards for wireless telecommunications facilities in and outside the PROW, as applicable, taking into account the zoning districts and those zoning districts bounding the PROW;
 4. Develop forms and procedures for submission of applications for placement or modification of wireless facilities, and proposed changes to any support structure consistent with this chapter;
 5. Collect, as a condition of the completeness of any application, any fee established by this chapter;
 6. Establish deadlines for submission of information related to an application, and extend or shorten deadlines where appropriate and consistent with federal laws and regulations;

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7. Issue any notices of incompleteness, requests for information, or conduct or commission such studies as may be required to determine whether a permit should be issued;
 8. Require, as part of, and as a condition of completeness of any application, that an applicant for a wireless encroachment permit send notice to members of the public that may be affected by the placement or modification of the wireless facility and proposed changes to any support structure;
 9. Subject to appeal as provided herein, determine whether to approve, approve subject to conditions, or deny an application; and
 10. Take such other steps as may be required to timely act upon applications for placement of wireless telecommunications facilities, including issuing written decisions and entering into agreements to mutually extend the time for action on an application.
- B. Administrative Wireless Telecommunications Facilities Permits (“Administrative WTFP”).
1. An Administrative WTFP, subject to the planning director’s approval, may be issued for wireless telecommunications facilities, collocations, modifications or replacements to an eligible support structure that meet the following criteria:
 - a. The proposal is determined to be for a SWF located in the PROW; or
 - b. The proposal is determined to be an eligible facilities request; or
 - c. Both.
 2. In the event that the planning director determines that any application submitted for an Administrative WTFP does not meet the administrative permit criteria of this chapter, the planning director shall convert the application to a Major WTFP and refer it to the planning commission hearing.
 3. Except in the case of an eligible facilities request, the planning director may refer, in his/her discretion, any application for an Administrative WTFP to the planning commission for hearing. This exercise of discretion shall not apply to an eligible facilities request.
- C. Major Wireless Telecommunications Facilities Permit (“Major WTFP”). All other new wireless telecommunications facilities or replacements, collocations, or modifications to a wireless telecommunications facility that are *not* qualified for an Administrative WTFP shall require a Major WTFP subject to planning commission hearing and approval unless otherwise provided for in this chapter.
- D. Special Provisions for SWFs; SWF Regulations. Notwithstanding any other provision of this chapter as provided herein, all SWFs are subject to a permit as specified in the SWF

Regulations, which is adopted and may be amended by city council resolution. All SWFs, shall comply with the SWF Regulations, as they may be amended from time to time.

1. The SWF Regulations are intended to be constructed in consistency with, and addition to, the terms and provisions of this chapter. To the extent general provisions of this chapter are lawfully applicable to SWFs, such terms shall apply unless in contradiction to more specific terms set forth in the SWF Regulations, in which case the more specific terms of the SWF Regulations shall control.
- E. Other Permits Required. In addition to any permit that may be required under this chapter, the applicant must obtain all other required prior permits or other approvals from other city departments, or state or federal agencies. Any permit granted under this chapter is subject to the conditions and/or requirements of other required prior permits or other approvals from other city departments, state or federal agencies. Building and encroachment permits, and all city standards and requirements therefor, are applicable.
- F. Eligible Applicants. Only applicants who have been granted the right to enter the PROW pursuant to state or federal law, or who have entered into a franchise agreement with the city permitting them to use the PROW, shall be eligible for a WTFP pursuant to this chapter.

19.85.050 - APPLICATION FOR WIRELESS TELECOMMUNICATIONS FACILITY PERMITS.

- A. Generally. Unless the SWF Regulations specifically provide otherwise, the applicant shall submit a paper copy and an electronic copy of any application, amendments, or supplements to a WTFP application, or responses to requests for information regarding an WTFP, in accordance with the provisions of this section. SWF applications shall be governed by any additional terms set forth in the SWF Regulations, and in the event of an inconsistency between the provisions of this Section and the terms of the SWF Regulations, the SWF Regulations shall control.
1. All applications for WTFPs shall be initially submitted to the planning director. In addition to the information required of an applicant for an encroachment permit or any other permit required by this code, each applicant shall fully and completely submit to the city a written application on a form prepared by the planning director and published on the city's website.
 2. Application Submittal Appointment. All WTFP applications must be submitted to the planning director at a pre-scheduled application submission appointment. City staff will endeavor to provide applicants with an appointment within five business days after receipt of a written request. A WTFP application will only be reviewed upon submission of a complete application therefor.
 3. If the wireless telecommunications facility will also require the installation of fiber, cable or coaxial cable, such cable installations shall be included within the application form and processed in conjunction with the proposal for vertical support structure(s). Applicants shall simultaneously request fiber installation or other cable installation when seeking to install antennas in the PROW. Standalone applications

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for the installation of fiber, cable or coaxial cable, or accessory equipment designed to serve an antenna must include all features of the wireless telecommunications facility proposed.

B. **Application Contents—Administrative WTFPs.** The content of the application form for facilities subject to an Administrative WTFP shall be determined by the planning director, but at a minimum shall include the following:

1. The name of the applicant, its telephone number and contact information, and if the applicant is a wireless infrastructure provider, the name and contact information for the wireless service provider that will be using the wireless facility.
2. The name of the owner of the structure, if different from the applicant, and a signed and notarized owner's authorization for use of the structure.
3. A complete description of the proposed wireless telecommunications facility and any and all work that will be required to install or modify it, including, but not limited to, detail regarding proposed excavations, if any; detailed site plans showing the location of the wireless telecommunications facility, and dimensioned drawings with specifications for each element of the wireless facility, clearly describing the site and all structures and facilities at the site before and after installation or modification; and a dimensioned map identifying and describing the distance to the nearest residential dwelling unit and any historical structure within 500 feet of the facility. Before and after 360 degree photo simulations must be provided.
4. Documentation sufficient to show that the proposed facility will comply with generally-applicable health and safety provisions of the Municipal Code and the FCC's radio frequency emissions standards.
5. A copy of the lease or other agreement, if any, between the applicant and the owner of the property to which the proposed facility will be attached.
6. If the application is for a SWF, the application shall state as such and shall explain why the proposed facility meets the definition of a SWF.
7. If the application is for an eligible facilities request, the application shall state as such and must contain information sufficient to show that the application qualifies as an eligible facilities request, which information must demonstrate that the eligible support structure was not constructed or deployed without proper local review, was not required to undergo local review, or involves equipment that was not properly approved. This shall include copies of all applicable local permits in-effect and as-built drawings of the current site. Before and after 360 degree photo simulations must be provided, as well as documentation sufficient to show that the proposed facility will comply with generally-applicable health and safety provisions of the Municipal Code and the FCC's radio frequency emissions standards.
8. For SWFs, the application must contain all additional application information, if any, required by the SWF Regulations.

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9. If the applicant contends that denial of the application would prohibit or effectively prohibit the provision of service in violation of federal law, or otherwise violate applicable law, the application must provide all information on which the applicant relies on in support of that claim. Applicants are not permitted to supplement this showing if doing so would prevent the City from complying with any deadline for action on an application.

C. Application Contents—Major WTFPs. The planning director shall develop an application form and make it available to applicants upon request and post the application form on the city’s website. The application form for a Major WTFP shall require the following information, in addition to all other information determined necessary by the planning director:

1. The name, address and telephone number of the applicant, owner and the operator of the proposed wireless telecommunication facility.
2. If the applicant does not, or will not, own the support structure, the applicant shall provide a duly-executed letter of authorization from the owner of the structure. If the owner of the support structure is the applicant, but such owner/applicant will not directly provide wireless telecommunications services, the owner/applicant shall provide a duly-executed letter of authorization from the person(s) or entity(ies) that will provide those services.
3. A full written description of the proposed wireless telecommunications facility and its purpose.
4. Detailed engineering plans of the proposed wireless telecommunications facility and related report prepared by a professional engineer registered in the state documenting the following:
 - a. Height/elevation, diameter, layout and design of the facility, including technical engineering specifications, economic and other pertinent factors governing selection of the proposed design, together with evidence that demonstrates that the proposed facility has been designed to be the least intrusive equipment within the particular technology available to the carrier for deployment.
 - b. A photograph and model name and number of each piece of the facility or proposed antenna array and accessory equipment included.
 - c. Power output and operating frequency for the proposed antenna array (including any antennas existing as of the date of the application serving the carrier identified in the application).
 - d. Total anticipated capacity of the wireless telecommunications facility for the subject carrier, indicating the number and types of antennas and power and frequency ranges, which can be accommodated.

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- e. Sufficient evidence of the structural integrity of the support structure as required by the city.
5. A written description identifying the geographic service area to be served by the proposed WTFP, plus geographic or propagation maps showing applicant's service area objectives.
6. A justification study which includes the rationale for selecting the proposed wireless telecommunication facility design, support structure and location. A detailed explanation of the applicant's coverage objectives that the proposal would serve, and how the proposed use is the least intrusive means for the applicant to cover such objectives. This shall include:
 - a. A meaningful comparative analysis that includes the factual reasons why the proposed location and design deviates is the least noncompliant or intrusive location and design necessary to reasonably achieve the applicant's reasonable objectives of covering an established significant gap (as established under state and federal law).
 - b. Said study shall include all eligible support structures and/or alternative sites evaluated for the proposed WTFP, and why said alternatives are not reasonably available, technically feasible options that most closely conform to the local values. The alternative site analysis must include the consideration of at least two eligible support structures; or, if no eligible support facilities are analyzed as alternatives, why no eligible support facilities are reasonably available or technically feasible.
 - c. If a portion of the proposed facility lies within a jurisdiction other than the city's jurisdiction, the applicant must demonstrate that alternative options for locating the project fully within one jurisdiction or the other is not a viable option. Applicant must demonstrate that it has obtained all approvals from the adjacent jurisdiction for the installation of the extra-jurisdictional portion of the project.
7. Site plan(s) to scale, specifying and depicting the exact proposed location of the proposed wireless telecommunications facility, location of accessory equipment in relation to the support structure, access or utility easements, existing utilities, adjacent land uses, and showing compliance with all design and safety requirements set forth in this chapter.
8. A completed environmental assessment application, or in the alternative any and all documentation identifying the proposed WTFP as exempt from environmental review (under the California Environmental Quality Act, Public Resources Code 21000–21189, the National Environmental Policy Act, 42 U.S.C. §4321 *et seq.*, or related environmental laws). Notwithstanding any determination of environmental exemption issued by another governmental entity, the city reserves its right to

exercise its rights as a responsible agency to review *de novo* the environmental impacts of any WTFP application.

9. An accurate visual impact analysis showing the maximum silhouette, view-shed analysis, color and finish palette and proposed screening for the wireless telecommunications facility, including scaled photo simulations from at least three different angles.
10. Completion of the radio frequency (RF) emissions exposure guidelines checklist contained in Appendix A to the FCC's "Local Government Official's Guide to Transmitting Antenna RF Emission Safety" to determine whether the facility will be "categorically excluded" as that term is used by the FCC.
11. For a facility that is not categorically excluded under the FCC regulations for RF emissions, the applicant shall submit an RF exposure compliance report prepared and certified by an RF engineer acceptable to the city that certifies that the proposed facility, as well as any facilities that contribute to the cumulative exposure in the subject area, will comply with applicable federal RF exposure standards and exposure limits. The RF report must include the actual frequency and power levels (in watts effective radio power "ERP") for all existing and proposed antennas at the site and exhibits that show the location and orientation of all transmitting antennas and the boundaries of areas with RF exposures in excess of the uncontrolled/general population limit (as that term is defined by the FCC) and also the boundaries of areas with RF exposures in excess of the controlled/occupational limit (as that term is defined by the FCC). Each such boundary shall be clearly marked and identified for every transmitting antenna at the project site.
12. Copies of any documents that the applicant is required to file pursuant to Federal Aviation Administration regulations for the proposed wireless telecommunications facility.
13. A noise study prepared by a qualified acoustic engineer documenting that the level of noise to be emitted by the proposed wireless telecommunications facility will comply with this code, including Chapter 7.34 of this code.
14. A traffic control plan when the proposed installation is on any street in a non-residential zone. The city shall have the discretion to require a traffic control plan when the applicant seeks to use large equipment (e.g. crane).
15. A scaled conceptual landscape plan showing existing trees and vegetation and all proposed landscaping, concealment, screening and proposed irrigation with a discussion of how the chosen material at maturity will screen the wireless telecommunication facility.
16. Certification that applicant is a telephone corporation or a statement providing the basis for its claimed right to enter the right-of-way. If the applicant has a certificate of public convenience and necessity (CPCN) issued by the California Public Utilities Commission, it shall provide a copy of its CPCN.

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17. Evidence that the proposed wireless facility qualifies as a “personal wireless services facility” as defined in United States Code, Title 47, Section 332(c)(7)(C)(ii).
 18. Address labels for use by the city in noticing all property owners within 500 feet of the proposed wireless telecommunication facility and, if applicable, all public hearing information required by the municipal code for public noticing requirements.
 19. Any other information and/or studies reasonably determined to be necessary by the public works or planning director(s) may be required.
- D. Fees and Deposits Submitted with Application(s). For all WTFPs, application fee(s) shall be required to be submitted with any application, as established by city council resolution and in accordance with California Government Code Section 50030. Notwithstanding the foregoing, no application fee shall be refundable, in whole or in part, to an applicant for a WTFP unless paid as a refundable deposit.
- E. Independent Expert. The public works and/or planning director, as applicable, is authorized to retain on behalf of the city one or more independent, qualified consultant(s) to review any WTFP application. The review is intended to be a review of technical aspects of the proposed wireless telecommunications facility and shall include, but not limited to, application completeness or accuracy, structural engineering analysis, or compliance with FCC radio frequency emissions standards.
- F. Costs. Reasonable costs of city staff, consultant and attorney time (including that of the city attorney) pertaining to the review, processing, noticing and hearing procedures directly attributable to a WTFP shall be reimbursable to the City.
- G. Effect of State or Federal Law on Application Process. In the event a state or federal law prohibits the collection of any information or application conditions required by this Section, the planning director is authorized to omit, modify or add to that request from the city’s application form in consultation with the city attorney. Requests for waivers from any application requirement of this Section shall be made in writing to the planning director or his or her designee. The planning director may grant a request for waiver if it is demonstrated that, notwithstanding the issuance of a waiver, the city will be provided all information necessary to understand the nature of the construction or other activity to be conducted pursuant to the WTFP sought. All waivers approved pursuant to this Subsection shall be (1) granted only on a case-by-case basis, and (2) narrowly-tailored to minimize deviation from the requirements of the municipal code.
- H. Applications Deemed Withdrawn. To promote efficient review and timely decisions, any application governed under this chapter will be automatically deemed withdrawn by the applicant when the applicant fails to tender a substantive response to the city on any application within thirty (30) calendar days after the application is deemed incomplete in a written notice to the applicant. The public works or planning director (as applicable) may, in his/her discretion, grant a written extension for up to an additional thirty (30) calendar days when the applicant submits a written request prior to the 90th day that shows good cause to grant the extension.

- I. Waiver of Applications Superseded by Submission of New Project. If an applicant submits a WTFP application, but substantially revises the proposed facility during the application process prior to any city hearing or decision on such application, the substantially revised application shall be deemed a new application for all processing purposes, including federal shot clocks, and the prior submittals deemed waived and superseded by the substantially revised application. For purposes of this subparagraph, “substantially revised,” includes, but is not limited to, where the project as initially-proposed has been alternately proposed for a location 300 feet or more from the original proposal or where the proposed revisions constitute a substantial change in the dimensions or equipment that was proposed in the original WTFP application.
- J. Rejection for Incompleteness. WTFPs will be processed, and notices of incompleteness provided, in conformity with state, local, and federal law. If such an application is incomplete, it may be rejected by the planning director by notifying the applicant in writing and specifying the material omitted from the application.

19.85.060 - REVIEW PROCEDURE.

- A. Generally. Wireless telecommunications facilities shall be installed and modified in a manner that minimizes risks to public safety and utilizes installation of new support structures or equipment cabinets in the PROW only after all existing and replacement structure options have been exhausted, and where feasible, places equipment underground, and otherwise maintains the integrity and character of the neighborhoods and corridors in which the facilities are located; ensures that installations are subject to periodic review to minimize the intrusion on the PROW; and ensures that the City bears no risk or liability as a result of the installations, and that such use does not inconvenience the public, interfere with the primary uses of the PROW, or hinder the ability of the City or other government agencies to improve, modify, relocate, abandon, or vacate the PROW or any portion thereof, or to cause the improvement, modification, relocation, vacation, or abandonment of facilities in the PROW.
- B. Collocation Encouraged. Where the facility site is capable of accommodating a collocated facility upon the same site in a manner consistent with the permit conditions for the existing facility, the owner and operator of the existing facility shall allow collocation of third-party facilities, provided the parties can mutually agree upon reasonable terms and conditions.
- C. Findings Required for Approval.
 - 1. Administrative WTFP Applications for SWFs. For WTFP applications proposing a SWF, the planning director shall approve such application if, on the basis of the application and other materials or evidence provided in review thereof, all of the following findings can be made:
 - a. The facility qualifies as a SWF; and
 - b. The facility meets all standards, requirements and further findings as may be specified in the SWF Regulations; and

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- c. The facility is not detrimental to the public health, safety, and welfare; and
 - d. The facility meets applicable requirements and standards of State and Federal law.
- 2. Administrative WTFP Applications for Eligible Facility Requests. For WTFP applications proposing an eligible facilities request, the planning director shall approve such application if, on the basis of the application and other materials or evidence provided in review thereof, all of the following findings can be made:
 - a. That the application qualifies as an eligible facilities request; and
 - b. That the proposed facility will comply with all generally-applicable laws.
- 3. Major WTFP Applications. No Major WTFP shall be granted unless all of the following findings are made by the applicable decision-maker:
 - a. If applicable, all notices required for the proposed WTFP have been given, including the inclusion, or placement on-site, of photo simulations for the proposed facility.
 - b. The proposed wireless telecommunications facility has been designed and located in compliance with all applicable provisions of this chapter.
 - c. If applicable, the applicant has demonstrated its inability to locate on an eligible support structure.
 - d. The applicant has provided sufficient evidence supporting the applicant's claim that it has the right to enter the public right-of-way pursuant to state or federal law, or the applicant has entered into a franchise agreement with the city permitting them to use the public right-of-way.
 - e. The applicant has demonstrated the proposed installation is designed such that the proposed installation represents the least intrusive means possible, supported by factual evidence and a meaningful comparative analysis to show that all alternative locations and designs identified in the application review process were technically infeasible or not reasonably available.
- D. Notice; Decisions. The provisions in this Section describe the procedures for the approval process, any required notice and public hearings for a WTFP application.
 - 1. Administrative WTFPs: No notice is required for Administrative WTFPs.
 - 2. Major WTFP Applications. Any Major WTFP application shall require notice and a public hearing. Notice of such hearing shall be provided in accordance with Government Code Section 65091. Public notices shall include color photo simulations from three different angles depicting the wireless telecommunication facility as proposed to be considered by the planning commission. If the application

proposes the use of an existing or replacement eligible support structure, such simulations shall be posted upon the proposed support structure for a period of at least thirty (30) days prior to the date of approval; such posted simulations shall remain in-place until final decision on the application is reached.

3. **Written Decision Required for All WTFP Determinations.** Unless otherwise specified for SWF's in the SWF Regulations, all final decisions made pursuant to this chapter, including those for administratively-processed permits and eligible facilities requests, shall be in writing and based on substantial evidence in the written administrative record. Within five days after any decision to grant, approve, deny or conditionally grant a WTFP application, the planning director, shall provide written notice including the following:
 - a. A general explanation of the decision, including the findings required for the decision, if any, and how those findings were supported or not supported by substantial evidence;
 - b. A general description of the property involved;
 - c. Information about applicable rights to appeal the decision and explanation of how that right may be exercised; and
 - d. To be given by first class mail to:
 - (i) The project applicant and property owner,
 - (ii) Any person who submitted written comments concerning the WTFP,
 - (iii) Any person who has filed a written request with the city to receive such notice, and
 - (iv) Any homeowner association on file with the city that has jurisdiction over the WTFP site.
 4. Once a WTFP is approved, no changes shall be made to the approved plans without review and approval in accordance with this chapter.
 5. The decision of the approving authority, as applicable, as to any Administrative WTFP shall be final.
 6. Appeals on Major WTFPs shall proceed as provided in accordance with the appeal provisions in Title.. 19 of the Municipal Code, Section 19.74.080 (Appeals). The appellate authority may hear the appeal de novo.
- E. **Notice of Shot Clock Expiration.** The city acknowledges there are federal and state shot clocks which may be applicable to a proposed wireless telecommunications facility. That is, federal and state law provide time periods in which the city must approve or deny a proposed wireless telecommunications facility. As such, the applicant is required to provide the city

written notice of the expiration of any shot clock, which the applicant shall ensure is received by the city (e.g. overnight mail) no later than 20 days prior to the expiration.

19.85.070 - DESIGN AND DEVELOPMENT STANDARDS.

- A. SWF Design and Development Standards. SWFs are subject to those design and development standards and conditions of approval set forth in the SWF Regulations. The city's grant of a WTFP for a SWF does not waive, and shall not be construed to waive, any standing by the city to challenge any FCC orders or rules related to small cell facilities, or any modification to those FCC orders or rules.

- B. Eligible Facilities Request Design and Development Standards. Approved eligible facilities requests for which the findings set forth in Section 19.85.060 have been made are subject to the following conditions, unless modified by the approving authority:
 - 1. WTFP subject to conditions of underlying permit. Any WTFP granted in response to an application qualifying as an eligible facilities request shall be subject to the terms and conditions of the underlying permit and all such conditions that were applicable to the facility prior to approval of the subject eligible facility request.

 - 2. No permit term extension. The city's grant or grant by operation of law of an eligible facilities request permit constitutes a federally-mandated modification to the underlying permit or approval for the subject tower or base station. Notwithstanding any permit duration established in another permit condition, the city's grant or grant by operation of law of a eligible facilities request permit will not extend the permit term for the underlying permit or any other underlying regulatory approval, and its term shall have the same term as the underlying permit or other regulatory approval for the subject tower or base station.

 - 3. No waiver of standing. The city's grant or grant by operation of law of an eligible facilities request does not waive, and shall not be construed to waive, any standing by the city to challenge Section 6409(a) of the Spectrum Act, any FCC rules that interpret Section 6409(a) of the Spectrum Act, or any modification to Section 6409(a) of the Spectrum Act.

- C. Major WTFP Design and Development Standards. All wireless telecommunications facilities subject to a Major WTFP that are located within the city shall be designed and maintained as to minimize visual, noise and other impacts on the surrounding community and shall be planned, designed, located, and erected in accordance with the following standards:
 - 1. General Guidelines.
 - a. The applicant shall employ screening, undergrounding and camouflage design techniques in the design and placement of wireless telecommunications facilities in order to ensure that the facility is as visually screened as possible, to prevent the facility from dominating the surrounding area and to minimize significant view impacts from surrounding properties

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and public views, all in a manner that achieves compatibility with the community and in compliance with this code.

- b. Screening shall be designed to be architecturally compatible with surrounding structures using appropriate techniques to camouflage, disguise, and/or blend into the environment, including landscaping, color, and other techniques to minimize the facility's visual impact as well as be compatible with the architectural character of the surrounding buildings or structures in terms of color, size, proportion, style, and quality.
- c. Exterior finishes for a facility and accessory equipment shall consist of non-reflective materials and painted, screened, or camouflaged to blend with the materials and colors of surrounding buildings, structures, and/or landscaping.
- d. Wall-mounted and/or roof-mounted wireless telecommunications facilities shall be compatible with the architecture, color, texture, and materials of the building or structure to which it is attached so as to appear a natural aesthetic extension of the building or structure design to minimize the facility's visual impact.
- e. Wireless telecommunications facilities shall not interfere with the ingress or egress to, or with the circulation, of the property on which it is located.
- f. Wireless telecommunications facilities and any accessory equipment shall comply with the setback and height requirements for the zone in which it is located.
- g. Wireless telecommunications facilities may be subject to PROW improvements at the discretion of the city engineer.
- h. Wireless telecommunications facilities shall not be located in a required parking area, vehicle maneuvering area, vehicle/pedestrian circulation area, or area of landscaping such that it interferes with, or in any way impairs, the utility or intended function of such area.
- i. No temporary wireless telecommunications facilities shall be permitted within the city except to allow for signal strength testing in conjunction with a submitted application.
- j. All applicable building, construction, and business permits shall be acquired by the applicant prior to construction of a wireless telecommunication facility.
- k. Wireless telecommunications facilities shall be located consistent with Section 19.85.080 (Location Restrictions) unless an exception is granted.
- l. The wireless telecommunications facility shall be designed for colocation, unless it is found that current technological requirements preclude colocation.

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2. **Traffic Safety.** All facilities shall be designed and located in such a manner as to avoid adverse impacts on traffic safety.
3. **Blending Methods.** All facilities shall have subdued colors and non-reflective materials that blend with the materials and colors of the surrounding area, infrastructure and structures. If a ground-mounted wireless telecommunications facility is proposed to resemble a tree, other similar tree species shall be planted adjacent to and/or around the facility to enhance the concealing effect.
4. **Equipment.** The applicant shall use the least visible equipment for the provision of wireless telecommunications services that is technically feasible. Antenna elements shall be flush mounted, to the extent feasible, with all cables and wires clipped-up or otherwise out of public view. All antenna mounts shall be designed so as not to preclude possible future collocation by the same or other operators or carriers. Unless otherwise provided in this Section, antennas shall be situated as close to the ground as technically feasible.
5. **Support Structures.**
 - a. **Pole-Mounted Only.** Only pole-mounted antennas (excepting wooden poles per subparagraph 5.b below) shall be permitted in the public right-of-way. Mountings to all other forms of support structure in the public right-of-way are prohibited unless an exception pursuant to Section 19.85.080 is granted.
 - b. **Utility Poles.** Wireless telecommunications facilities shall not be located on wooden poles. The maximum height of any antenna shall not exceed 48 inches above the height of an existing utility pole, nor shall any portion of the antenna or equipment mounted on a pole be less than 24 feet above any drivable road surface. All installations on utility poles shall fully comply with the California Public Utilities Commission general orders, including, but not limited to, General Order 95, as may be revised or superseded.
 - c. **Light Poles.** The maximum height of any antenna shall not exceed four feet above the existing height of a light pole. Any portion of the antenna or equipment mounted on a pole shall be no less than 16½ feet above any drivable road surface.
 - d. **Replacement Poles.** If an applicant proposes to replace a pole that is an eligible support structure to accommodate the proposed facility, the replacement pole shall be designed to resemble the appearance and dimensions of existing poles near the proposed location, including size, height, color, materials and style to the maximum extent feasible.
 - e. **Equipment mounted on a support structure shall not exceed three (3) cubic feet in dimension.**
 - f. **No new guy wires shall be allowed unless required by other laws or regulations.**

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- g. An exception pursuant to Section 19.85.080 shall be required to erect any new support structure (non-eligible support structure) that is not the replacement of an existing eligible support structure.
 - h. As applicable to all new support structures (non-eligible support structures), regardless of location, the following requirements shall apply:
 - (i) Such new support structure shall be designed to resemble existing support structures of the same type in the right-of-way near that location, including size, height, color, materials and style, with the exception of any existing structural designs that are scheduled to be removed and not replaced.
 - (ii) Such new support structures that are not replacement structures shall be located at least 90 feet from any eligible support structure to the extent feasible. For example, if an eligible support structure within 90 feet of the proposed new structure is available for collocation, then the proposed facility should be collocated on such eligible support structure to the extent feasible.
 - (iii) Such new support structures shall not adversely impact public view corridors, as defined in any applicable specific plan, or code, and shall be located to the extent feasible in an area where there is existing natural or other feature that obscures the view of the new support structure. The applicant shall further employ concealment techniques to blend the new support structure with said features including but not limited to the addition of vegetation if feasible.
 - (iv) A justification analysis shall be submitted for all new support structures that are not replacements to demonstrate why an eligible support facility cannot be utilized and demonstrating the new structure is the least intrusive means possible, including a demonstration that the new structure is designed to be the minimum functional height and width required to support the proposed wireless telecommunications facility.
 - i. All cables, including, but not limited to, electrical and utility cables, shall be run within the interior of the support structure and shall be camouflaged or hidden to the fullest extent feasible. For all support structures wherein interior installation is infeasible, conduit and cables attached to the exterior shall be mounted flush thereto and painted to match the structure.
6. Space. Each facility shall be designed to occupy the least amount of space in the right-of-way that is technically feasible.
7. Wind Loads. Each facility shall be properly engineered to withstand wind loads as required by this code or any duly adopted or incorporated code. An evaluation of

high wind load capacity shall include the impact of modification of an existing facility.

8. Obstructions. Each component part of a facility shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, incommode the public's use of a right-of-way, or cause safety hazards to pedestrians and motorists.
9. Public Facilities. A facility shall not be located in a manner that would interfere with access to a fire hydrant, fire station, fire escape, water valve, underground vault, valve housing structure, or any other public health or safety facility.
10. Screening. All ground-mounted facility, pole-mounted equipment, or walls, fences, landscaping or other screening methods shall be installed at least 18 inches from the curb and gutter flow line.
11. Accessory Equipment located in the PROW. Not including the electric meter, for wireless telecommunications facilities located in the PROW, all accessory equipment shall be located underground, except as provided below:
 - a. Unless city staff determines that there is no room in the public right-of-way for undergrounding, or that undergrounding is not feasible, an exception pursuant to Section 19.85.080 shall be required in order to place accessory equipment above-ground and concealed with natural or manmade features to the maximum extent possible.
 - b. When above-ground is the only feasible location for a particular type of accessory equipment and will be ground-mounted, such accessory equipment shall be enclosed within a structure, and shall not exceed a height of five feet and a total footprint of 15 square feet, and shall be fully screened and/or camouflaged, including the use of landscaping, architectural treatment, or acceptable alternate screening. Required electrical meter cabinets shall be screened and/or camouflaged. Also, while pole-mounted equipment is generally the least favored installation, should pole-mounted equipment be sought, it shall be installed as required in this chapter.
 - c. In locations where homes are only along one side of a street, above-ground accessory equipment shall not be installed directly in front of a residence. Such above-ground accessory equipment shall be installed along the side of the street with no homes.
12. Accessory Equipment not located in the PROW.
 - a. Any and all accessory equipment, or other equipment associated with the operation of the facility, including, but not limited to, transmission cables, shall be located within a building, a walled enclosure, or underground vault. The design shall be in a manner that complies with the development standards of the zoning district in which such equipment is located.

- b. If accessory equipment is located above ground in a walled enclosure, it shall be visually compatible with surrounding buildings and be made of solid masonry block wall, or another approved material, in a design theme appropriate for the area. The walled enclosure shall be constructed and maintained to screen the accessory equipment from view.
13. Landscaping.
- a. Where appropriate, each facility shall be installed so as to maintain and enhance existing landscaping on the site, including trees, foliage and shrubs. Additional landscaping shall be planted, irrigated and maintained by applicant where such landscaping is deemed necessary by the city to provide screening or to conceal the facility.
 - b. For ground-mounted wireless telecommunications facilities, where appropriate, a landscaped planter (minimum of three feet) shall be located and maintained adjacent on the outside area of the decorative wall or fence securing the ground-mounted facility. Landscape trees that frame and soften the visual impact of a ground-mounted facility shall be provided within the landscape planter.
14. Signage. No facility shall bear any signs or advertising devices other than certification, warning or other signage required by law or permitted by the city.
15. Lighting.
- a. No facility may be illuminated unless specifically required by the Federal Aviation Administration or other government agency. Beacon lights are not permitted unless required by the Federal Aviation Administration or other government agency.
 - b. Legally required lightning arresters and beacons shall be included when calculating the height of facilities such as towers, lattice towers and monopoles.
 - c. Any required lighting shall be shielded to eliminate, to the maximum extent possible, impacts on the surrounding neighborhoods.
 - d. Unless otherwise required under FAA or FCC regulations, applicants may install only timed or motion-sensitive light controllers and lights, and must install such lights so as to avoid illumination impacts to adjacent properties to the maximum extent feasible. The city may, in its discretion, exempt an applicant from the foregoing requirement when the applicant demonstrates a substantial public safety need.
 - e. The applicant shall submit a lighting study which shall be prepared by a qualified lighting professional to evaluate potential impacts to adjacent

properties. Should no lighting be proposed, no lighting study shall be required.

16. Noise.

- a. Backup generators shall only be operated during periods of power outages, and shall not be tested on weekends or holidays, or between the hours of 7:00 p.m. and 7:00 a.m.
- b. At no time shall equipment noise from any facility exceed the noise levels permitted by Chapter 7.34 of the Perris Municipal code.
- c. Accessory equipment shall mitigate all noise to existing ambient levels.

17. Security.

- a. Each facility shall be designed to be resistant to, and minimize opportunities for, unauthorized access, climbing, vandalism, graffiti and other conditions that would result in hazardous situations, visual blight or attractive nuisances. The planning director or the approving city body, as applicable, may require the provision of warning signs, fencing, anti-climbing devices, or other techniques to prevent unauthorized access and vandalism when, because of their location and/or accessibility, a facility has the potential to become an attractive nuisance. Additionally, no lethal devices or elements shall be installed as a security device.
- b. Ground-mounted wireless telecommunications facilities not located in the PROW shall be secured from access by the general public with a decorative fence or wall, as determined by the planning director. To the extent feasible, the decorative fence or wall shall incorporate vines to prevent graffiti. If vines are not provided, clear anti-graffiti material shall be applied to all areas at risk of graffiti, unless it is demonstrated to the planning director that adequate security and maintenance will ensure the prevention of graffiti.

18. Modification. Consistent with current state and federal laws and if permissible under the same, at the time of modification of a wireless telecommunications facility, existing equipment shall, to the extent feasible, be replaced with equipment that reduces visual, noise and other impacts, including, but not limited to, undergrounding the equipment and replacing larger, more visually intrusive facilities with smaller, less visually intrusive facilities.

19. The installation and construction approved by a wireless telecommunications facility permit shall begin within one year after its approval or it will expire without further action by the city.

20. Conditions of Approval. All Major WTFPs shall be subject to such conditions of approval as reasonably imposed by the planning director or the approving city body,

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as applicable, as well as any modification of the conditions of approval deemed necessary by the planning director or the approving city body.

19.85.080 - LOCATION RESTRICTIONS; EXCEPTIONS FOR NON-COMPLIANT MAJOR WIRELESS TELECOMMUNICATIONS FACILITIES.

A. Locations Requiring an Exception. Major WTFPs are strongly disfavored in certain areas and on certain support structures. Therefore the location of a Major WTFP shall conform to the following in order of preference (least preferred to most preferred):

1. Located 500 feet away from any property containing a residential structure or zoned for residential use;
2. Collocated with an existing facility to make the existing and proposed collocated facilities stealth;
3. Located in an industrial zoning district;
4. Located in a commercial zoning district;
5. Attached to an existing structure such as a building, church steeple, utility

B. Required Findings for an Exception on Major WTFPs. For any Major WTFP requiring an "exception" under this chapter, no such exception shall be granted unless the applicant demonstrates with clear and convincing evidence all the following:

1. The proposed wireless facility qualifies as a "personal wireless services facility" as defined in United States Code, Title 47, Section 332(c)(7)(C)(ii);
2. The applicant has provided the city with a clearly defined significant gap (as established under state and federal law) and a clearly defined potential site search area.
 - a. In the event the applicant seeks to install a wireless telecommunications facility to address service coverage concerns, full-color signal propagation maps with objective units of signal strength measurement that show the applicant's current service coverage levels from all adjacent wireless telecommunications facilities without the proposed facility, predicted service coverage levels from all adjacent facilities serving applicant with the proposed facility, and predicted service coverage levels from the proposed facility without all adjacent facilities.
 - b. In the event the applicant seeks to address service capacity concerns, a written explanation and propagation maps identifying the existing facilities with service capacity issues together with competent evidence to demonstrate the inability of those facilities to meet capacity demands.

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3. The applicant has provided the city with a meaningful comparative analysis that includes the factual reasons why any alternative location(s) or design(s) suggested by the city or otherwise identified in the administrative record, including but not limited to potential alternatives identified at any public meeting or hearing, are not technically feasible or reasonably available; and
 4. The applicant has provided the city with a meaningful comparative analysis that includes the factual reasons why the proposed location and design deviates is the least noncompliant location and design necessary to reasonably achieve the applicant's reasonable objectives of covering an established significant gap (as established under state and federal law).
 5. The applicant has demonstrated that strict compliance with any provision in this chapter for a Major WTFP would effectively prohibit the provision of personal wireless services.
- C. Scope. The planning commission or planning director, as applicable, shall limit an exemption for a Major WTFP to the extent to which the applicant demonstrates such exemption is necessary to reasonably achieve its objectives of covering an established significant gap (as established under state and federal law). The planning commission or planning director, as applicable, may adopt conditions of approval as reasonably necessary to promote the purposes in this chapter and protect the public health, safety and welfare.

19.85.090 - OPERATION AND MAINTENANCE STANDARDS.

All wireless telecommunications facilities must comply at all times with the following operation and maintenance standards:

- A. The permittee shall at all times maintain compliance with all applicable federal, state and local laws, regulations and other rules, including, without limitation, those applying to use of the PROW. The permittee shall ensure that all equipment and other improvements to be constructed and/or installed in connection with the approved WTFP are maintained in a manner that is not detrimental or injurious to the public health, safety, and general welfare and that the aesthetic appearance is continuously preserved, and substantially the same as shown in the approved plans at all times relevant to the WTFP.
- B. Unless otherwise provided herein, all necessary repairs and restoration shall be completed by the permittee, owner, operator or any designated maintenance agent at its sole cost within 48 hours:
 1. After discovery of the need by the permittee, owner, operator or any designated maintenance agent; or
 2. After permittee, owner, operator or any designated maintenance agent receives notification from the city.
- C. Insurance. The permittee shall obtain and maintain throughout the term of the permit a type and amount of insurance as specified by city's risk management. The relevant policy(ies)

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shall name the city, its elected/appointed officials, commission members, officers, representatives, agents, and employees as additional insured. The permittee shall use its best efforts to provide thirty (30) days prior notice to the planning director of to the cancellation or material modification of any applicable insurance policy.

- D. **Indemnities.** The permittee and, if applicable, the owner of the property upon which the wireless facility is installed shall defend, indemnify and hold harmless the city, its agents, officers, officials, and employees (i) from any and all damages, liabilities, injuries, losses, costs, and expenses, and from any and all claims, demands, law suits, writs of mandamus, and other actions or proceedings brought against the city or its agents, officers, officials, or employees to challenge, attack, seek to modify, set aside, void or annul the city's approval of the permit, and (ii) from any and all damages, liabilities, injuries, losses, costs, and expenses, and any and all claims, demands, law suits, or causes of action and other actions or proceedings of any kind or form, whether for personal injury, death or property damage, arising out of or in connection with the activities or performance of the permittee or, if applicable, the private property owner or any of each one's agents, employees, licensees, contractors, subcontractors, or independent contractors. In the event the city becomes aware of any such actions or claims the city shall promptly notify the permittee and, if applicable, the private property owner and shall reasonably cooperate in the defense. The city shall have the right to approve, which approval shall not be unreasonably withheld, the legal counsel providing the city's defense, and the property owner and/or Permittee (as applicable) shall reimburse the city for any costs and expenses directly and necessarily incurred by the city in the course.
- E. **Performance Bond.** Prior to issuance of a wireless encroachment permit, the permittee shall file with the city, and shall maintain in good standing throughout the term of the approval, a performance bond or other surety or another form of security for the removal of the facility in the event that the use is abandoned or the permit expires, or is revoked, or is otherwise terminated. The security shall be in the amount equal to 100% of the cost of removal of the facility as specified in the application for the WTFP or as that amount may be modified by the planning director in in the permit based on the characteristics of the installation. The permittee shall reimburse the city for staff time associated with the processing and tracking of the bond, based on the hourly rate adopted by the city council. Reimbursement shall be paid when the security is posted and during each administrative review.
- F. **Adverse Impacts on Adjacent Properties.** Permittee shall undertake all reasonable efforts to avoid undue adverse impacts to adjacent properties and/or uses that may arise from the construction, operation, maintenance, modification, and removal of the facility. All facilities, including each piece of equipment, shall be located and placed in a manner so as to not interfere with the use of the PROW, impede the flow of vehicular or pedestrian traffic, impair the primary use and purpose of poles/signs/traffic signals or other infrastructure, interfere with outdoor dining areas or emergency facilities, or otherwise obstruct the accessibility of the PROW.
- G. **Contact Information.** Each permittee of a wireless telecommunications facility shall provide the planning director with the name, address and 24-hour local or toll free contact phone number of the permittee, the owner, the operator and the agent responsible for the

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maintenance of the facility (“contact information”). Contact information shall be updated within seven days of any change.

- H. All facilities, including, but not limited to, telecommunication towers, poles, accessory equipment, lighting, fences, walls, shields, cabinets, artificial foliage or camouflage, and the facility site shall be maintained in good condition, including ensuring the facilities are reasonably free of:
1. Subsidence, cracking, erosion, collapse, weakening, or loss of lateral support to city streets, sidewalks, walks, curbs, gutters, trees, parkways, street lights, traffic signals, improvements of any kind or nature, or utility lines and systems, underground utility line and systems (water, sewer, storm drains, gas, oil, electrical, etc.) that result from any activities performed in connection with the installation and/or maintenance of a wireless facility in the PROW.
 2. General dirt and grease;
 3. Chipped, faded, peeling, and cracked paint;
 4. Rust and corrosion;
 5. Cracks, dents, and discoloration;
 6. Missing, discolored or damaged artificial foliage or other camouflage;
 7. Graffiti, bills, stickers, advertisements, litter and debris. All graffiti on facilities must be removed at the sole expense of the permittee within forty eight (48) hours after notification from the City.
 8. Broken and misshapen structural parts; and
 9. Any damage from any cause.
- I. All trees, foliage or other landscaping elements approved as part of the facility shall be maintained in neat, safe and good condition at all times, and the permittee, owner and operator of the facility shall be responsible for replacing any damaged, dead or decayed landscaping. No amendment to any approved landscaping plan may be made until it is submitted to and approved by the planning director.
- J. The permittee shall replace its facilities, after obtaining all required permits, if maintenance or repair is not sufficient to return the facility to the condition it was in at the time of installation.
- K. Each facility shall be operated and maintained to comply at all conditions of approval. The permittee, when directed by the city, must perform an inspection of the facility and submit a report to the planning director on the condition of the facility to include any identified concerns and corrective action taken. Additionally, as the city performs maintenance on city-owned infrastructure, additional maintenance concerns may be identified. These will be

reported to the permittee. The city shall give the permittee thirty (30) days to correct the identified maintenance concerns after which the city reserves the right to take any action it deems necessary, which could include revocation of the permit. The burden is on the Permittee to demonstrate that it complies with the requirements herein. Prior to issuance of a permit under this Chapter, the owner of the facility shall sign an affidavit attesting to understanding the City's requirement for performance of annual inspections and reporting.

- L. All facilities permitted pursuant to this chapter shall comply with the American with Disabilities Act.
- M. The permittee is responsible for obtaining power to the facility and for the cost of electrical usage.
- N. Failure to comply with the city's adopted noise standard after written notice and reasonable opportunity to cure have been given shall be grounds for the city to revoke the permit.
- O. Interference.
 - 1. The permittee shall not move, alter, temporarily relocate, change, or interfere with any existing structure, improvement, or property without the prior consent of the owner of that structure, improvement, or property. No structure, improvement, or property owned by the city shall be moved to accommodate a permitted activity or encroachment, unless the city determines that such movement will not adversely affect the city or any surrounding businesses or residents, and the permittee pays all costs and expenses related to the relocation of the city's structure, improvement, or property. Prior to commencement of any work pursuant to a wireless encroachment permit, the permittee shall provide the city with documentation establishing to the city's satisfaction that the permittee has the legal right to use or interfere with any other structure, improvement, or property within the PROW or city utility easement to be affected by permittee's facilities.
 - 2. The facility shall not damage or interfere in any way with city property, the city's operations or the operations of prior-existing, third party installations. The city will reasonably cooperate with the permittee and/or carrier to carry out such activities as are necessary to correct the interference.
 - a. Signal Interference. The permittee shall correct any such interference within 24 hours of written notification of the interference. Upon the expiration of the 24-hour cure period and until the cause of the interference is eliminated, the permittee shall cease operation of any facility causing such interference until such interference is cured.
 - b. Physical Interference. The city shall give the permittee thirty (30) days to correct the interference after which the city reserves the right to take any action it deems necessary, which could include revocation of the permit.
 - 3. The City at all times reserves the right to take any action it deems necessary, in its sole discretion, to repair, maintain, alter, or improve the sites. Such actions may

temporarily interfere with the operation of the facility. The City will in all cases, other than emergencies, give the applicant 30 days written notification of such planned, non-emergency actions.

- P. **RF Exposure Compliance.** All facilities must comply with all standards and regulations of the FCC and any other state or federal government agency with the authority to regulate RF exposure standards. After transmitter and antenna system optimization, but prior to unattended operations of the facility, the permittee or its representative must conduct on-site post-installation RF emissions testing to demonstrate actual compliance with the FCC Office of Engineering and Technology Bulletin 65 RF emissions safety rules for general population/uncontrolled RF exposure in all sectors. For this testing, the transmitter shall be operating at maximum operating power, and the testing shall occur outwards to a distance where the RF emissions no longer exceed the uncontrolled/general population limit.
1. Testing of any equipment shall take place on weekdays only, and only between the hours of 8:30 a.m. and 4:30 p.m., except that testing is prohibited on holidays that fall on a weekday. In addition, testing is prohibited on weekend days.
- Q. **Records.** The permittee must maintain complete and accurate copies of all permits and other regulatory approvals issued in connection with the facility, which includes without limitation this approval, the approved plans and photo simulations incorporated into this approval, all conditions associated with this approval and any ministerial permits or approvals issued in connection with this approval. In the event that the permittee does not maintain such records as required in this condition or fails to produce true and complete copies of such records within a reasonable time after a written request from the city, any ambiguities or uncertainties that would be resolved through an inspection of the missing records will be construed against the permittee.
- R. **Attorney's Fees.** In the event the city determines that it is necessary to take legal action to enforce any of these conditions, or to revoke a permit, and such legal action is taken, the permittee shall be required to pay any and all costs of such legal action, including reasonable attorney's fees, incurred by the city, even if the matter is not prosecuted to a final judgment or is amicably resolved, unless the city should otherwise agree with permittee to waive said fees or any part thereof. The foregoing shall not apply if the permittee prevails in the enforcement proceeding.

19.85.100 - NO DANGEROUS CONDITION OR OBSTRUCTIONS ALLOWED.

No person shall install, use or maintain any wireless telecommunications facility that in whole or in part rests upon, in or over any public right-of-way, when such installation, use or maintenance endangers or is reasonably likely to endanger the safety of persons or property, or when such site or location is used for public utility purposes, public transportation purposes or other governmental use, or when such facility unreasonably interferes with or unreasonably impedes the flow of pedestrian or vehicular traffic including any legally parked or stopped vehicle, the ingress into or egress from any residence or place of business, the use of poles, posts, traffic signs or signals, hydrants, mailboxes, permitted sidewalk dining, permitted street furniture or other objects permitted at or near said location.

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19.85.110 - NONEXCLUSIVE GRANT; NO POSSESSORY INTERESTS.

- A. No permit or approval granted under this chapter shall confer any exclusive right, privilege, license or franchise to occupy or use the public right-of-way of the city for any purpose whatsoever. Further, no approval shall be construed as a warranty of title.
- B. No possessory interest is created by a WTFP. However, to the extent that a possessory interest is deemed created by a governmental entity with taxation authority, the permittee acknowledge that the city has given to the applicant notice pursuant to California Revenue and Taxation Code Section 107.6 that the use or occupancy of any public property pursuant to a WTFP may create a possessory interest which may be subject to the payment of property taxes levied upon such interest. Wireless telecommunications facility operators shall be solely liable for, and shall pay and discharge prior to delinquency, any and all possessory interest taxes or other taxes, fees, and assessments levied against their right to possession, occupancy, or use of any public property pursuant to any right of possession, occupancy, or use created by the WTFP.
- C. The permission granted by a WTFP shall not in any event constitute an easement on or an encumbrance against the PROW. No right, title, or interest (including franchise interest) in the PROW, or any part thereof, shall vest or accrue in permittee by reason of a wireless encroachment permit or the issuance of any other permit or exercise of any privilege given thereby.

19.85.120 - PERMIT EXPIRATION; ABANDONMENT OF APPLICATIONS.

- A. **Permit Term.** Unless Government Code Section 65964, as may be amended, authorizes the city to issue a permit with a shorter term, a permit for any wireless telecommunications facility shall be valid for a period of ten (10) years, unless pursuant to another provision of this code it lapses sooner or is revoked. At the end of ten (10) years from the date of issuance, such permit shall automatically expire.
- B. A permittee may apply for a new permit within 180 days prior to expiration. Said application and proposal shall comply with the city's current code requirements for wireless telecommunications facilities.
- C. **Timing of Installation.** The installation and construction authorized by a WTFP shall begin within one (1) year after its approval, or it will expire without further action by the city. The installation and construction authorized by a WTFP shall conclude, including any necessary post-installation repairs and/or restoration to the PROW, within thirty (30) days following the day construction commenced.
- D. **Commencement of Operations.** The operation of the approved facility shall commence no later than ninety (90) days after the completion of installation, or the WTFP will expire without further action by the city. The permittee shall provide the planning director notice that operations have commenced by the same date.

19.85.130 - CESSATION OF USE OR ABANDONMENT.

- A. A wireless telecommunications facility is considered abandoned and shall be promptly removed as provided herein if it ceases to provide wireless telecommunications services for 90 or more consecutive days unless the permittee has obtained prior written approval from the director which shall not be unreasonably denied. If there are two or more users of a single facility, then this provision shall not become effective until all users cease using the facility.
- B. The operator of a facility shall notify the planning director in writing of its intent to abandon or cease use of a permitted site or a nonconforming site (including unpermitted sites) within ten days of ceasing or abandoning use. Notwithstanding any other provision herein, the operator of the facility shall provide written notice to the planning director of any discontinuation of operations of 30 days or more.
- C. Failure to inform the planning director of cessation or discontinuation of operations of any existing facility as required by this Section shall constitute a violation of any approvals and be grounds for:
 - 1. Litigation;
 - 2. Revocation or modification of the permit;
 - 3. Acting on any bond or other assurance required by this article or conditions of approval of the permit;
 - 4. Removal of the facilities by the city in accordance with the procedures established under this code for abatement of a public nuisance at the owner's expense; and/or
 - 5. Any other remedies permitted under this code or by law.

19.85.140 - REMOVAL AND RESTORATION IN THE PROW—PERMIT EXPIRATION, REVOCATION OR ABANDONMENT.

- A. Upon the expiration date of the permit, including any extensions, earlier termination or revocation of the WTFP or abandonment of the facility, the permittee, owner or operator shall remove its wireless telecommunications facility from the PROW and restore the site to the condition it was in prior to the granting of the WTFP, except for retaining the landscaping improvements and any other improvements at the discretion of the city. Removal shall be in accordance with proper health and safety requirements and all ordinances, rules, and regulations of the city. Expired, terminated or revoked wireless telecommunications facility equipment shall be removed from the site at no cost or expense to the City.
- B. Failure of the permittee, owner or operator to promptly remove its facility and restore the property within 90 days after expiration, earlier termination or revocation of the WTFP, or abandonment of the facility, shall be a violation of this code. Upon a showing of good cause, an extension may be granted by the planning director where circumstances are beyond the

control of the permittee after expiration. Further failure to abide by the timeline provided in this Section shall be grounds for:

1. Prosecution;
 2. Acting on any security instrument required by this chapter or conditions of approval of permit;
 3. Removal of the facilities by the city in accordance with the procedures established under this code for abatement of a public nuisance at the owner's expense; and/or
 4. Any other remedies permitted under this code or by law.
- C. **Summary Removal.** In the event any city director or city engineer determines that the condition or placement of a wireless telecommunications facility located in the public right-of-way constitutes a dangerous condition, obstruction of the public right-of-way, or an imminent threat to public safety, or determines other exigent circumstances require immediate corrective action (collectively, "exigent circumstances"), such director or city engineer may cause the facility to be removed summarily and immediately without advance notice or a hearing. Written notice of the removal shall include the basis for the removal and shall be served upon the permittee and person who owns the facility within five business days of removal and all property removed shall be preserved for the owner's pick-up as feasible. If the owner cannot be identified following reasonable effort or if the owner fails to pick-up the property within 60 days, the facility shall be treated as abandoned property.
- D. **Removal of Facilities by City.** In the event the city removes a wireless telecommunications facility in accordance with nuisance abatement procedures or summary removal, any such removal shall be without any liability to the city for any damage to such facility that may result from reasonable efforts of removal. In addition to the procedures for recovering costs of nuisance abatement, the city may collect such costs from the performance bond posted and to the extent such costs exceed the amount of the performance bond, collect those excess costs in accordance with this code. Unless otherwise provided herein, the city has no obligation to store such facility. Neither the permittee, owner nor operator shall have any claim if the city destroys any such facility not timely removed by the permittee, owner or operator after notice, or removal by the city due to exigent circumstances.

19.85.150 - EFFECT ON OTHER ORDINANCES.

Compliance with the provisions of this chapter shall not relieve a person from complying with any other applicable provision of this code. In the event of a conflict between any provision of this chapter and other sections of this code, this chapter shall control.

19.85.160 - STATE OR FEDERAL LAW.

The implementation of this chapter and decisions on applications for placement of wireless telecommunications facilities in the PROW shall, at a minimum, ensure that the requirements of this chapter are satisfied, unless it is determined that the applicant has established that denial of an application would, within the meaning of federal law, prohibit or effectively prohibit the provision of

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personal wireless services, or otherwise violate applicable laws or regulations. If that determination is made, the requirements of this Chapter may be waived, but only to the minimum extent required to avoid the prohibition or violation.

19.85.170 - LEGAL NONCONFORMING WIRELESS TELECOMMUNICATIONS FACILITIES IN THE RIGHT-OF-WAY.

- A. Legal nonconforming wireless telecommunications facilities are those facilities that existed but did not conform to this chapter on the date this chapter became effective.
- B. Legal nonconforming wireless telecommunications facilities shall, within ten years from the date this chapter became effective, be brought into conformity with all requirements of this article; provided, however, that should the owner desire to expand or modify the facility, intensify the use, or make some other change in a conditional use, the owner shall comply with all applicable provisions of this code at such time, to the extent the city can require such compliance under federal and state law.
- C. An aggrieved person may file an appeal to the city council of any decision of the planning director or other deciding body made pursuant to this Section. In the event of an appeal alleging that the ten-year amortization period is not reasonable as applied to a particular property, the city council may consider the amount of investment or original cost, present actual or depreciated value, dates of construction, amortization for tax purposes, salvage value, remaining useful life, the length and remaining term of the lease under which it is maintained (if any), and the harm to the public if the structure remains standing beyond the prescribed amortization period, and set an amortization period accordingly for the specific property.

COUNCIL POLICY
SMALL WIRELESS FACILITIES PER 47 CFR 1.6002(1)
“SWF REGULATIONS”

<u>SUBJECT:</u> Small Wireless Facilities (Administrative Approvals and Standards)	<u>POLICY NO.:</u> ____	<u>DATE ADOPTED:</u>
	<u>AUTHORITY:</u> Resolution No. __ - __	

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SECTION 1. GENERAL PROVISIONS

SECTION 1.1 PURPOSE AND INTENT

This Policy is not intended to, nor shall it be interpreted or applied to: (1) prohibit or effectively prohibit any personal wireless service provider's ability to provide personal wireless services; (2) prohibit or effectively prohibit any entity's ability to provide any interstate or intrastate telecommunications service, subject to any competitively neutral and nondiscriminatory rules, regulations or other legal requirements for rights-of-way management; (3) unreasonably discriminate among providers of functionally equivalent services; (4) deny any request for authorization to place, construct or modify personal wireless service facilities on the basis of environmental effects of radio frequency emissions to the extent that such wireless facilities comply with the FCC's regulations concerning such emissions; (5) prohibit any collocation or modification that the City may not deny under federal or California state law; (6) impose any unfair, unreasonable, discriminatory or anticompetitive fees that exceed the reasonable cost to provide the services for which the fee is charged; or (7) otherwise authorize the City to preempt any applicable federal or California law.

SECTION 1.2 GENERAL DEFINITIONS

- (a) **Undefined Terms.** Undefined phrases, terms or words in this Policy will have the meanings assigned to them in Chapter 19.85 of the Perris Municipal Code, as may be amended or superseded, and, if not defined therein, will have their ordinary meanings. If any definition assigned to any phrase, term or word in this Policy conflicts with any federal or state-mandated definition, the federal or state-mandated definition will control.
- (b) **Defined Terms.**
- (1) **“approval authority”** means the City official responsible for reviewing applications for small cell permits and vested with the authority to approve, conditionally approve or deny such applications as provided in this Policy. The approval authority for applications in connection with small wireless facilities within the public rights-of-way shall be the Planning Manager.
 - (2) **“arterial road”** means a road designed as per the City of Perris General Plan Circulation Element. The term “arterial road” as used in this Policy includes freeways, prime arterials, urban major and major roadways as defined in the City of Perris General Plan, Circulation Element.
 - (3) **“collector road”** means a road designed primarily as per the City of Perris General Plan Circulation Element. The term “collector road” as used in this Policy includes collectors as defined in the City of Perris_ General Plan, Circulation Element.
 - (4) **“concealed” or “concealment”** means camouflaging techniques that integrate the transmission equipment into the surrounding natural and/or built environment such that the average, untrained observer cannot directly view the equipment but

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would likely recognize the existence of the wireless facility or concealment technique. Camouflaging concealment techniques include, but are not limited to: (1) facade or rooftop mounted pop-out screen boxes; (2) antennas mounted within a radome above a streetlight; (3) equipment cabinets in the public rights-of-way painted or wrapped to match the background; and (4) an isolated or standalone faux-tree.

- (5) **“decorative pole”** means any pole that includes decorative or ornamental features, design elements and/or materials intended to enhance the appearance of the pole or the public rights-of-way in which the pole is located.
- (6) **“FCC Shot Clock”** means the presumptively reasonable time frame within which the City generally must act on a given wireless application, as defined by the FCC and as may be amended from time to time.
- (7) **“ministerial permit”** means any City-issued non-discretionary permit required to commence or complete any construction or other activity subject to the City's jurisdiction. Ministerial permits may include, without limitation, a building permit, construction permit, electrical permit, encroachment permit, excavation permit and/or traffic control permit.
- (8) **“personal wireless services”** means the same as defined in 47 U.S.C. § 332(c)(7)(C)(i), as may be amended or superseded, which defines the term as commercial mobile services, unlicensed wireless services and common carrier wireless exchange access services.
- (9) **“personal wireless service facilities”** means the same as defined in 47 U.S.C. § 332(c)(7)(C)(i), as may be amended or superseded, which defines the term as facilities that provide personal wireless services.
- (10) **“RF”** means radio frequency or electromagnetic waves generally between 30 kHz and 300 GHz in the electromagnetic spectrum range.
- (11) **“Section 6409”** means Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, 126 Stat. 156, codified as 47 U.S.C. § 1455(a), as may be amended.
- (12) **“Small cell”** bears the same meaning as “small wireless facility” or “SWF” as used in Chapter 19.85 of the Municipal Code.

SECTION 2. SMALL WIRELESS FACILITIES

SECTION 2.1 APPLICABILITY; REQUIRED PERMITS AND APPROVALS

- (a) **Applicable Wireless Facilities.** Except as expressly provided otherwise in this Policy, the provisions in this Policy shall be applicable to all existing small wireless facilities (SWFs) and all applications and requests for authorization to construct, install, attach, operate, collocate, modify, reconstruct, relocate or otherwise deploy small wireless

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facilities within the City's jurisdictional and territorial boundaries within the public rights-of-way (PROW).

SECTION 2.2 SMALL CELL PERMIT APPLICATION REQUIREMENTS; PRE-APPLICATION PUBLIC NOTICING REQUIREMENTS

- (a) **Small Cell Permit Application Contents.** All applications for a SWF WTFP must include all the information and materials required in this subsection (a), unless exempted by the approval authority.
- (1) **Application Form.** The applicant shall submit a complete, duly executed SWF WTFP application on the then-current form prepared pursuant to Chapter 19.85 of the Municipal Code.
 - (2) **Application Fee.** The applicant shall submit the applicable SWF WTFP application fee established by City Council resolution. Batched applications must include the applicable application fee for each SWF in the batch.
 - (3) **Construction Drawings.** The applicant shall submit true and correct construction drawings, prepared, signed and stamped by a California licensed or registered engineer, that depict all the existing and proposed improvements, equipment and conditions related to the proposed project, which includes without limitation any and all poles, posts, pedestals, traffic signals, towers, streets, sidewalks, pedestrian ramps, driveways, curbs, gutters, drains, handholes, manholes, fire hydrants, equipment cabinets, antennas, cables, trees and other landscape features. The construction drawings must: (i) contain cut sheets that contain the technical specifications for all existing and proposed antennas and accessory equipment, which includes without limitation the manufacturer, model number and physical dimensions; (ii) identify all structures within 15' feet from the proposed project site and call out such structures' overall height above ground level; (iii) depict the applicant's plan for electric and data backhaul utilities, which shall include the locations for all conduits, cables, wires, handholes, junctions, transformers, meters, disconnect switches, and points of connection; and (iv) demonstrate that proposed project will be in full compliance with all applicable health and safety laws, regulations or other rules, which includes without limitation all building codes, electric codes, local street standards and specifications, and public utility regulations and orders.
 - (4) **Site Survey.** For any SWF proposed to be located within the PROW, the applicant shall submit a survey prepared, signed and stamped by a California licensed or registered engineer. The survey must identify and depict all existing boundaries, encroachments and other structures within 100 feet from the proposed project site, which includes without limitation all: (i) traffic lanes; (ii) all private properties and property lines; (iii) above and below-grade utilities and related structures and encroachments; (iv) fire hydrants, roadside call boxes and other public safety infrastructure; (v) streetlights, decorative poles, traffic signals and permanent signage; (vi) sidewalks, driveways, parkways, curbs, gutters and storm

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drains; (vii) benches, trash cans, mailboxes, kiosks and other street furniture; and (viii) existing trees, planters and other landscaping features.

- (5) **Photo Simulations.** The applicant shall submit site photographs and photo simulations that show the existing location and proposed SWF in context from at least three vantage points within the public streets or other publicly accessible spaces, together with a vicinity map that shows the proposed site location and the photo location for each vantage point.
- (6) **Project Narrative and Justification.** The applicant shall submit a written statement that explains in plain factual detail whether and why the proposed wireless facility qualifies as a SWF as defined by the FCC in 47 C.F.R. 1.6002(l). A complete written narrative analysis will state the applicable standard and all the facts that allow the City to conclude the standard has been met—bare conclusions not factually supported do not constitute a complete written analysis. As part of the written statement the applicant must also include (i) whether and why the proposed support is a structure as defined by the FCC in 47 C.F.R. § 1.6002(m); and (ii) whether and why the proposed wireless facility meets each required finding for a SWF permit as provided in Section 2.4.
- (7) **RF Compliance Report.** The applicant shall submit an RF exposure compliance report that certifies that the proposed SWF, as well as any collocated wireless facilities, will comply with applicable federal RF exposure standards and exposure limits. The RF report must be prepared and certified by an RF engineer acceptable to the City. The RF report must include the actual frequency and power levels (in watts ERP) for all existing and proposed antennas at the site and exhibits that show the location and orientation of all transmitting antennas and the boundaries of areas with RF exposures in excess of the uncontrolled/general population limit (as that term is defined by the FCC) and also the boundaries of areas with RF exposures in excess of the controlled/occupational limit (as that term is defined by the FCC). Each such boundary shall be clearly marked and identified for every transmitting antenna at the project site.
- (8) **Regulatory Authorization.** The applicant shall submit evidence of the applicant's regulatory status under federal and California law to provide the services and construct the SWF proposed in the application.
- (9) **Site Agreement.** For any SWF proposed to be installed on any structure owned or controlled by the City and located within the public rights-of-way, the applicant must enter into a site agreement prepared on a form prepared by the City and approved by the City Attorney that states the terms and conditions for such non-exclusive use by the applicant. No changes shall be permitted to the City's form site agreement except as may be indicated on the form itself. Any unpermitted changes to the City's form site agreement shall be deemed a basis to deem the application incomplete.

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- (10) **Acoustic Analysis.** The applicant shall submit an acoustic analysis prepared and certified by an engineer for the proposed SWF and all associated equipment including all environmental control units, sump pumps, temporary backup power generators and permanent backup power generators demonstrating compliance with the City's noise regulations. The acoustic analysis must also include an analysis of the manufacturers' specifications for all noise-emitting equipment and a depiction of the proposed equipment relative to all adjacent property lines. In lieu of an acoustic analysis, the applicant may submit evidence from the equipment manufacturer that the ambient noise emitted from all the proposed equipment will not, both individually and cumulatively, exceed the applicable limits.
 - (11) **Wind Load Analysis.** The applicant shall submit a wind load analysis with an evaluation of high wind load capacity and shall include the impact of modification of an existing facility.
 - (12) **Environmental Data.** A completed environmental assessment application, or in the alternative any and all documentation identifying the proposed WTFP as exempt from environmental review (under the California Environmental Quality Act, Public Resources Code 21000–21189, the National Environmental Policy Act, 42 U.S.C. §4321 *et seq.*, or related environmental laws). Notwithstanding any determination of environmental exemption issued by another governmental entity, the city reserves its right to exercise its rights as a responsible agency to review *de novo* the environmental impacts of any WTFP application.
 - (13) **FAA Documentation.** Copies of any documents that the applicant is required to file pursuant to Federal Aviation Administration regulations for the proposed wireless telecommunications facility.
 - (14) **Traffic Control Plan (TCP).** A traffic control plan when the proposed installation is on any street in a non-residential zone. The city shall have the discretion to require a traffic control plan when the applicant seeks to use large equipment (e.g. crane).
 - (15) **Landscape Plan.** A scaled conceptual landscape plan showing existing trees and vegetation and all proposed landscaping, concealment, screening and proposed irrigation with a discussion of how the chosen material at maturity will screen the SWF and its accessory equipment.
 - (16) **CPCN.** Certification that applicant is a telephone corporation or a statement providing the basis for its claimed right to enter the PROW. If the applicant has a certificate of public convenience and necessity (CPCN) issued by the California Public Utilities Commission, it shall provide a copy of its CPCN.
- (b) **Additional Requirements.** The City Council authorizes the approval authority to develop, publish and from time to time update or amend permit application requirements, forms, checklists, guidelines, informational handouts and other related materials that the approval authority finds necessary, appropriate or useful for processing any application governed under this Policy. All such requirements and materials must

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be in written form and publicly stated to provide all interested parties with prior notice (or posted upon the City's website).

SECTION 2.3 SMALL CELL PERMIT APPLICATION SUBMITTAL AND COMPLETENESS REVIEW

- (a) **Preliminary Review Application.** For purposes of SWFs only, and notwithstanding any contrary provisions of Chapter 19.85, the City does not require Preliminary Review applications as a prerequisite for the submission of SWF WTFPs application. However, the City strongly encourages applicants to submit a Preliminary application for all proposed SWF projects, and particularly those that involve more than five SWFs. This voluntary pre-submittal application process does not cause the FCC Shot Clock to begin and is intended to streamline the review process through informal review that includes, without limitation, the appropriate project classification and review process; any latent issues in connection with the proposed project, including compliance with generally applicable rules for public health and safety; potential concealment issues or concerns (if applicable); coordination with other City departments responsible for application review; and application completeness issues. City staff shall use reasonable efforts to provide written feedback after reviewing the preliminary application.
- (b) **Batched Applications.** Applicants may submit up to five individual applications for a SWF permit in a batch; provided, however, that small wireless facilities in a batch must be proposed with substantially the same equipment in the same configuration on the same support structure type. Each application in a batch must meet all the requirements for a complete application, which includes without limitation the application fee for each site in the batch. If any application in a batch is incomplete, the entire batch shall be deemed incomplete. If any application is withdrawn or deemed withdrawn from a batch, the entire batch shall be deemed withdrawn. If any application in a batch fails to meet the required findings for approval, the entire batch shall be denied.
- (c) **Additional Procedures.** The City Council authorizes the approval authority to establish other reasonable rules and regulations for duly filed applications. All such rules and regulations must be in written form and publicly stated to provide all interested parties with prior notice (or posted upon the City's website).

SECTION 2.4 ADDITIONAL FINDINGS FOR SWFs

- (a) **Required Findings.** In addition to those finding requirements set forth in Chapter 19.85 for SWF WTFP, the following findings are required for the approval or conditional approval of a SWF application:
 - (1) The proposed SWF would not be located on a prohibited support structure identified in this Policy;
 - (2) The proposed SWF would utilize the most preferred support structure and location within 250 feet from the originally proposed site in any direction, or the applicant has demonstrated with clear and convincing evidence in the

City Council Policy

written record that any more-preferred support structure(s) or locations within 250 feet would be technically infeasible;

- (3) All public notices required for the application have been given.
- (b) Because Section 332(c)(7) of the Telecommunications Act preempts local decisions premised directly or indirectly on the environmental effects of radio frequency (RF) emissions, no decision upon a SWF application shall be premised upon the environmental or health effects of RF emissions, nor shall public comments be considered to the extent they are premised upon the environmental or health effects of RF emissions.

SECTION 2.5 STANDARD CONDITIONS OF APPROVAL

- (a) **General Conditions.** In addition to all other conditions adopted by the approval authority and Chapter 19.85 for a SWF permit, all SWF WTFPs issued under this Policy shall be automatically subject to the conditions in this subsection (a).
 - (1) **Post-Installation Certification.** Within 60 calendar days after the permittee commences full, unattended operations of a SWF approved or deemed-approved, the permittee shall provide the approval authority with documentation reasonably acceptable to the approval authority that the SWF has been installed and/or constructed in strict compliance with the approved construction drawings and photo simulations. Such documentation shall include without limitation as-built drawings, GIS data and site photographs.
 - (2) **Adverse Impacts on Other Properties.** In addition to those requirements in Chapter 19.85 the permittee shall not perform or cause others to perform any construction, installation, operation, modification, maintenance, repair, removal or other work that involves heavy equipment or machines except during normal construction work hours authorized by the Municipal Code. The restricted work hours in this condition will not prohibit any work required to prevent an actual, immediate harm to property or persons, or any work during an emergency declared by the City or other state or federal government agency or official with authority to declare a state of emergency within the City. The approval authority may issue a stop work order for any activities that violates this condition in whole or in part.
 - (3) **Inspections; Emergencies.** The permittee expressly acknowledges and agrees that the City's officers, officials, staff, agents, contractors or other designees may enter onto the site and inspect the improvements and equipment upon reasonable prior notice to the permittee. Notwithstanding the prior sentence, the City's officers, officials, staff, agents, contractors or other designees may, but will not be obligated to, enter onto the site area without prior notice to support, repair, disable or remove any improvements or equipment in emergencies or when such improvements or equipment threatens actual, imminent harm to property or persons. The permittee, if present, may observe

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the City's officers, officials, staff or other designees while any such inspection or emergency access occurs.

- (4) **Future Undergrounding Programs.** If other public utilities or communications providers in the PROW underground their facilities in the segment of the PROW where the permittee's SWF is located, the permittee must underground its equipment except the antennas and any other equipment that must be placed above ground to function. Accessory equipment such as radios and computers that require an environmentally controlled underground vault to function shall not be exempt from this condition. SWFs installed on wood utility poles that will be removed pursuant to the undergrounding program may be reinstalled on a streetlight that complies with the City's standards and specifications. Such undergrounding shall occur at the permittee's sole cost and expense except as may be reimbursed through tariffs approved by the state public utilities commission for undergrounding costs.
- (5) **Electric Meter Upgrades.** If the commercial electric utility provider adopts or changes its rules obviating the need for a separate or ground-mounted electric meter and enclosure, the permittee on its own initiative and at its sole cost and expense shall remove the separate or ground-mounted electric meter and enclosure. Prior to removing the electric meter, the permittee shall apply for any encroachment and/or other ministerial permit(s) required to perform the removal. Upon removal, the permittee shall restore the affected area to its original condition that existed prior to installation of the equipment.
- (6) **Rearrangement and Relocation.** The permittee acknowledges that the City, in its sole discretion and at any time, may: (i) change any street grade, width or location; (ii) add, remove or otherwise change any improvements in, on, under or along any street owned by the City or any other public agency, which includes without limitation any sewers, storm drains, conduits, pipes, vaults, boxes, cabinets, poles and utility systems for gas, water, electric or telecommunications; and/or (iii) perform any other work deemed necessary, useful or desirable by the City (collectively, "City work"). The City reserves the rights to do any and all City work without any admission on its part that the City would not have such rights without the express reservation in the SWF permit. If the Public Works Director determines that any City work will require the permittee's SWF located in the PROW to be rearranged and/or relocated, the permittee shall, at its sole cost and expense, do or cause to be done all things necessary to accomplish such rearrangement and/or relocation. If the permittee fails or refuses to either permanently or temporarily rearrange and/or relocate the permittee's SWF within a reasonable time after the Public Works Director's notice, the City may (but will not be obligated to) cause the rearrangement or relocation to be performed at the permittee's sole cost and expense. The City may exercise its rights to rearrange or relocate the permittee's SWF without prior notice to permittee when the Public Works Director determines that the City work is immediately necessary to protect public health or safety. The permittee shall reimburse the City for all costs and

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expenses in connection with such work within 10 days after a written demand for reimbursement and reasonable documentation to support such costs.

SECTION 2.6 SECTION 2.6. LOCATION REQUIREMENTS

- (a) **Preface to Location Requirements.** Applications that involve lesser-preferred locations or structures may be approved so long as the applicant demonstrates that either (1) no more preferred locations or structures exist within 250 feet from the proposed site; or (2) any more preferred locations or structures within 250 feet from the proposed site would be technically infeasible to achieve the operator's service objectives, as supported by clear and convincing evidence in the written record. The final subsection of this Section 2.6 identifies "prohibited" support structures on which the City shall not approve any small cell permit application for any competitor or potential competitor.
- (1) Allowable locations for SWFs are on existing or replacement infrastructure such as street lights and utility poles.
 - (2) When locating in an alley, the SWF shall be placed at a height above the roof line of adjacent buildings to avoid being placed adjacent to a window. When locating in a walk-street, the facility shall be placed below the roof line of the adjacent buildings.
 - (3) When choosing locations, choose locations in between occupiable buildings rather than immediately adjacent to occupiable buildings, and not adjacent to a window.
 - (4) If the SWF is not able to be placed on existing infrastructure, the applicant shall provide a map of existing infrastructure in the service area and describe why each such site was not feasible.
- (b) **Locations in the Public Rights-of-Way.** The City prefers small wireless facilities in the public rights-of-way to be installed in locations, ordered from most preferred to least preferred, as follows:
- (1) Locations within commercial districts;
 - (2) Locations within industrial districts;
 - (3) Collocated with an existing facility such that both the existing and proposed collocated facilities are stealthed;
 - (4) Any location in any district within 500 feet from any structure approved for a residential use.
- (c) **Support Structures in the Public Rights-of-Way.** The City prefers SWFs to be installed on support structures in the PROW, ordered from most preferred to least preferred, as follows:
- (1) Existing or replacement streetlight poles;

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- (2) Replacement of wood utility poles with non-wooden poles;
 - (3) New, non-replacement streetlight poles;
 - (4) New, non-replacement poles for small wireless facilities.
- (d) **Prohibited Support Structures.** The City prohibits SWFs to be installed on the following support structures:
- (1) Strand-mounted wireless facilities are prohibited;
 - (2) Decorative poles;
 - (3) Wood Poles;
 - (4) Traffic signals, signs, poles, cabinets and related devices;
 - (5) Any utility pole scheduled for removal or relocation within 12 months from the time the approval authority acts on the small cell permit application;
 - (6) New, non-replacement wood poles.

SECTION 2.7 DESIGN STANDARDS

- (a) **Visual & Other General Standards.** SWFs shall be designed in the least visible means possible and to be compatible with support structure/surroundings.
- (1) **Noise.** SWFs and all accessory equipment and transmission equipment must comply with all applicable noise control standards and regulations in Municipal Code Chapter 7.34, as may be amended or superseded, and shall not exceed, either on an individual or cumulative basis, the noise limit in the applicable district/zone.
 - (2) **Lights.** SWFs shall not include any lights that would be visible from publicly accessible areas, except as may be required under Federal Aviation Administration, FCC, other applicable regulations for health and safety. All equipment with lights (such as indicator or status lights) must be installed in locations and within enclosures that mitigate illumination impacts visible from publicly accessible areas. The provisions in this subsection (a)(2) shall not be interpreted or applied to prohibit installations on streetlights or luminaires installed on new or replacement poles as may be required under this Policy.
 - (3) **Landscape Features.** SWFs shall not displace any existing landscape features unless: (A) such displaced landscaping is replaced with native and/or drought-resistant plants, trees or other landscape features approved by the approval authority and (B) the applicant submits and adheres to a landscape maintenance plan. The landscape plan must include existing vegetation, and vegetation proposed to be removed or trimmed, and the landscape plan must identify proposed landscaping by species type, size and location. Landscape maintenance

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must be performed in accordance with Municipal Code Chapter 19.70 including any adopted City policies, as either may be amended or superseded.

- (A) If any trees are damaged or displaced, the permittee shall hire and pay for a licensed arborist to select, plant and maintain replacement landscaping in an appropriate location for the species. Only International Society of Arboriculture certified workers under the supervision of a licensed arborist shall be used to install the replacement tree(s). Any replacement tree must be substantially the same size as the damaged tree. The permittee shall, at all times, be responsible to maintain any replacement landscape features.
 - (B) To preserve existing landscaping in the public rights-of-way, all work performed in connection with SWFs shall not cause any street trees to be trimmed, damaged or displaced. If any street trees are damaged or displaced, the applicant shall be responsible, at its sole cost and expense, to plant and maintain replacement trees at the site for the duration of the permit term.
- (4) **Site Security Measures.** SWFs may incorporate reasonable and appropriate site security measures, such as locks and anti-climbing devices, to prevent unauthorized access, theft or vandalism. The approval authority shall not approve any barbed wire, razor ribbon, electrified fences or any similarly dangerous security measures. All exterior surfaces on SWFs shall be constructed from or coated with graffiti-resistant materials.
- (5) **Signage; Advertisements.** All SWFs shall contain a site identification sticker that accurately identifies the site owner/operator, the owner/operator's site name or identification number and a toll-free number to the owner/operator's network operations center. SWFs may not bear any other signage or advertisements unless expressly approved by the City, required by law or recommended under FCC, OSHA, Federal Aviation Administration or other United States governmental agencies for compliance with RF emissions regulations. Permittees shall:
- (A) Remove or paint over unnecessary equipment manufacturer decals and fill-in any visibly depressed manufacturer logos on equipment.
 - (B) Utilize the smallest and lowest visibility stickers required by government or electric utility regulations.
 - (C) Use sticker colors that are muted.
 - (D) Signage shall be maintained in legible condition and the carrier will be required to replace any faded signage within thirty (30) days of receiving written notification from the City that it is in need of replacing.
- (6) **Compliance with Health and Safety Regulations.** All SWFs shall be designed, constructed, operated and maintained in compliance with all generally applicable

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health and safety regulations, which includes without limitation all applicable regulations for human exposure to RF emissions.

(b) **Dimensions; Design.** Wireless facilities shall be as small, short and unobtrusive as possible.

(1) **Overall Height.** SWFs may not exceed either (A) the minimum separation from electrical lines required by applicable safety regulations, plus four feet or (B) four feet above the existing support structure

(2) **Concealment.** All antennas and associated mounting equipment, hardware, cables or other connectors must be completely concealed within an opaque antenna shroud or radome. The antenna shroud or radome must be painted a flat, non-reflective color to match the underlying support structure. The wireless facility and accessory equipment shall be camouflaged with use of one or more concealment elements to blend the facility with surrounding materials and colors of the adjacent street light or utility pole to which it is mounted. Concealment elements include:

(A) Radio frequency transparent screening;

(B) Approved, specific colors;

(C) Use of non-reflective material(s);

(D) Minimizing the size of the site;

(E) Integrating the installation into existing or replacement utility infrastructure;

(F) Installing new infrastructure that matches existing infrastructure in the area surrounding the proposed site.

(G) Antennas, brackets (mounting), PVC or steel risers and cabling shall match the color of the adjacent structure.

(H) Paint shall be of durable quality.

(I) Materials shall be non-flammable and non-reflective..

(J) Each individual antenna may not exceed three cubic feet in volume, unless it can be demonstrated to the satisfaction of the city that a larger antennae is necessary.

(3) **Accessory Equipment.**

(A) **Installation Preferences.** SWF accessory equipment shall be enclosed in replacement poles or placed underground where technically feasible, and

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if not feasible, shall be as small, short and unobtrusive as possible. Applications that involve lesser-preferred installation locations may be approved so long as the applicant demonstrates that no more preferred installation location would be technically infeasible as supported by clear and convincing evidence in the written record.

- (B) **Undergrounded Accessory Equipment.** All undergrounded accessory equipment must be installed in an environmentally controlled vault that is load-rated to meet the City's standards and specifications. Underground vaults located beneath a sidewalk must be constructed with a slip-resistant cover. Vents for airflow shall be flush-to-grade when placed within the sidewalk and may not exceed two feet above grade when placed off the sidewalk. Applicants shall not be permitted to install an underground vault in a location that would cause any existing tree to be materially damaged or displaced.
- (c) **Streetlights.** Applicants that propose to install SWFs on an existing streetlight must remove and replace the existing streetlight with one substantially similar to the City's standards and specifications but designed to accommodate wireless antennas and accessory equipment. To mitigate any material changes in the streetlighting patterns, the replacement pole must: (A) be located as close to the removed pole as possible; (B) be aligned with the other existing streetlights; and (C) include a luminaire at substantially the same height and distance from the pole as the luminaire on the removed pole. All antennas must be installed above the pole within a single, canister style shroud or radome that tapers to the pole.
- (d) **For Replacement Poles and Street Lights.** If an applicant proposes a replacement pole or street light to accommodate the SWF, the replacement shall be in the same location as the street light or pole being replaced; unless the replacement will not meet all applicable standards, then replacement may be located in an alternative location that complies with the requirements herein.
- (e) **New, Non-Replacement Poles.** Applicants that propose to install SWFs on a new, non-replacement pole must install a new streetlight substantially similar to the City's standards and specifications but designed to accommodate wireless antennas and accessory equipment located immediately adjacent to the proposed location. If there are no existing streetlights in the immediate vicinity, the applicant may install a metal or composite pole capable of concealing all the accessory equipment either within the pole or within an integrated enclosure located at the base of the pole. The pole diameter shall not exceed twelve (12) inches and any base enclosure diameter shall not exceed sixteen (16) inches. All antennas, whether on a new streetlight or other new pole, must be installed above the pole within a single, canister style shroud or radome.
 - (1) The new pole must actually function for a purpose other than placement of a wireless facility (e.g. street light, utility pole, etc.).

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- (2) The design must match the dimensions and design of existing and similar types of poles and antennas in the surrounding areas.
- (f) **Encroachments over Private Property.** SWFs located in the PROW may not encroach onto or over any private or other property outside the PROW without the property owner's express written consent.
- (g) **Backup Power Sources.** Fossil-fuel based backup power sources shall not be permitted within the PROW; provided, however, that connectors or receptacles may be installed for temporary backup power generators used in an emergency declared by federal, state or local officials.
- (h) **Obstructions; Public Safety.** Small wireless facilities and any associated equipment or improvements shall not physically interfere with or impede access to any: (A) worker access to any above-ground or underground infrastructure for traffic control, streetlight or public transportation, including without limitation any curb control sign, parking meter, vehicular traffic sign or signal, pedestrian traffic sign or signal, barricade reflectors; (B) access to any public transportation vehicles, shelters, street furniture or other improvements at any public transportation stop; (C) worker access to above-ground or underground infrastructure owned or operated by any public or private utility agency; (D) fire hydrant or water valve; (E) access to any doors, gates, sidewalk doors, passage doors, stoops or other ingress and egress points to any building appurtenant to the rights-of-way; or (F) access to any fire escape.
- (i) **Utility Connections.** All cables and connectors for telephone, data backhaul, primary electric and other similar utilities must be routed underground in conduits large enough to accommodate future collocated wireless facilities. Undergrounded cables and wires must transition directly into the pole base without any external doghouse. All cables, wires and connectors between the underground conduits and the antennas and other accessory equipment shall be routed through and concealed from view within: (A) internal risers or conduits if on a concrete, composite or similar pole; or (B) a cable shroud or conduit mounted as flush to the pole as possible if on a wood pole or other pole without internal cable space. The approval authority shall not approve new overhead utility lines or service drops merely because compliance with the undergrounding requirements would increase the project cost.
- (j) **Spools and Coils.** To reduce clutter and deter vandalism, excess fiber optic or coaxial cables shall not be spooled, coiled or otherwise stored on the pole outside equipment cabinets or shrouds.
- (k) **Electric Meters.**
- (1) SWFs shall use unmetered (flat rate) electric service, if allowed by the utility company, or use the narrowest, shrouded electric meter and disconnect available. Permittees shall ensure the meter and other enclosures are well maintained, including regular painting, and the use of a graffiti-resistant paint, and stack the

City Council Policy

disconnect switch above/below the meter, instead of attached to the side of the meter.

(2) Electrical meters, vaults and fans shall be located underground where feasible.

(l) **Building-Mounted Small Wireless Facilities.**

(A) **Preferred Concealment Techniques.** All applicants must propose new non-tower SWFs that are completely concealed and architecturally integrated into the existing facade or rooftop features with no visible impacts from any publicly accessible areas at ground level (examples include, but are not limited to, antennas behind existing parapet walls or facades replaced with RF-transparent material and finished to mimic the replaced materials). Alternatively, if the applicant demonstrates with clear and convincing evidence that integration with existing features is technically infeasible, the applicant may propose completely concealed new structures or appurtenances designed to mimic the support structure's original architecture and proportions (examples include, but are not limited to, steeples and chimneys).

(B) **Facade-Mounted Equipment.** When SWFs cannot be placed behind existing parapet walls or other existing screening elements, the approval authority may approve facade-mounted equipment in accordance with this Subsection. All facade-mounted equipment must be concealed behind screen walls and mounted flush to the facade. The approval authority may not approve "pop-out" screen boxes. Except in industrial zones, the approval authority may not approve any exposed facade-mounted antennas, including but not limited to exposed antennas painted to match the facade.

(m) **Future Modifications.** Any modifications to existing facilities or collocations shall not defeat the concealment elements of the existing structure/facility.

Planning Commission Agenda

CITY OF PERRIS

03.20.19

Item

7B

Conditional Use Permit (CUP) 18-05339



CITY OF PERRIS


PLANNING COMMISSION

AGENDA SUBMITTAL

MEETING DATE: March 20, 2019

SUBJECT: **Conditional Use Permit (CUP) 18-05339** - A proposal to lease, install and operate new small cell wireless facilities within the public right-of-way in three separate locations consisting of replacing existing street lights with new light poles and the installation of single wire small cell wireless facilities. **Applicant:** New Cingular Wireless PCS, D/B/A AT&T

REQUESTED ACTION: **Adopt Resolution 19-06** finding the proposed project Categorical Exempt from CEQA under Section 15300, Class 1 Existing Facilities, and approving Conditional Use Permit 18-05339 to facilitate the lease, installation and operation of new small cell, stealth wireless facilities within the public right-of-way on replacement streetlights located in three locations in the City of Perris, based on the findings and subject to the Conditions of Approval

CONTACT: Dr. Grace Williams, Director of Planning and Economic Development 

BACKGROUND/DISCUSSION:

The Applicant, New Cingular Wireless PCS, D/B/A AT&T (AT&T) is proposing to lease, install and operate new small cell wireless facilities within the public right-of-way in three separate locations near 532 Granite View Drive, 525 4th Street and 201 Redlands Avenue, consisting of the replacement of existing street lights with new light poles; and the installation of single wire small cell wireless facilities. The proposed project involves the removal of the existing street light poles, which vary in height and replacing them with new, concrete faux finish, hexagonal Ameron brand street light poles up to 4' taller, as measured to the top of the antennae, mounted on a 24' pedestal supported by a new concrete footing. Each pole will be equipped with a small antenna, a Radio Remote Unit (RRU's) and other associated small cell equipment, which are collectively known as small cell nodes. In addition, 17"x 30" underground vaults (pull boxes) will be installed adjacent to each new pole facility to house the wireless technology rate meters and provide power. Prior to issuance of a permit for the proposed project, the applicant will also be required to execute a Master Network License Lease Agreement with the City of Perris under a separate approval by the City Council outlining the terms for the installation.

minimal environmental and aesthetic footprint. As of December 2012, 12 million small cell facilities have been deployed worldwide, with forecasts as high as 70 million by the year 2025. With an increase in mobile data-consuming technologies, the deployment of small cells has been seen as a solution to support the 5th Generation (5G) of wireless system communications. For this reason, the applicant is proposing three (3) small cell facilities to close significant gaps in coverage and add bandwidth.

The applicant has submitted elevations of the existing streetlight poles to be removed, as compared to the proposed replacement poles to show design distinctions between the two, which include up to a 4' height difference. In addition, photo-simulations were submitted to show the proposed streetlight poles in the context of the existing environment. As required, propagation maps were generated to demonstrate AT&T's existing coverage gaps and alternative sites were analyzed in detail to identify the least intrusive site alternative to close the identified service gaps.

A public hearing notice was mailed to affected public agencies, property owners, residents, and commercial tenants within 300-feet of each of the three (3) proposed sites. As of the writing of this report, no comments in opposition have been received from the neighboring property owners, commercial tenants or public agencies.

The proposed project is found to be Categorically Exempt from the California Environmental Quality Act (CEQA) under Section 15300, as a Class 1 Existing Facility. Staff is recommending that the Planning Commission approve this project, subject to the attached conditions of approval.

BUDGET (or FISCAL) IMPACT: All costs associated with the project are borne by the applicant.

Prepared by: Mary Blais, Contract Planner
REVIEWED BY: Kenneth Phung, Planning Manager

Attachments: Staff Report
Exhibit A – Conditions of Approval (Planning, Engineering, Building, Public Works)
Exhibit B – Location Overview
Exhibit C – Photo Simulations, Sites 1-3
Exhibit D – AT&T Wireless Interference/Emissions Letter
Exhibit E – Resolution 19-06

Consent:
Public Hearing: X
Business Item:
Presentation:

CITY OF PERRIS
PLANNING & ECONOMIC DEVELOPMENT DEPARTMENT

STAFF REPORT

Date: March 20, 2019 – Planning Commission

Cases: Conditional Use Permit (CUP) 18-053399

Environmental Determination: Categorically Exempt from the California Environmental Quality Act (CEQA) under Section 15300, as a Class 1 Existing Facility

Project Planner: Mary Blais, Contract Planner

Applicant: New Cingular Wireless PCS, D/B/A AT&T
1452 Edinger Ave
Tustin, CA 92780

Owner: City of Perris

Locations:

No. Location

- 1 NE corner of Jean Marie Way & Granite View Drive
- 2 E. side of Wilkerson Ave, 200-ft south of 4th Street
- 3 E. side of Redlands Avenue, 200-ft north of San Jacinto

PROJECT DESCRIPTION:

A proposal to lease, install and operate new small cell wireless facilities within the public right-of-way in three separate locations consisting of replacing existing street lights with new light poles and the installation of single wire small cell wireless facilities.

ZONING AND LAND USE:

Existing Zoning: Public Right-of-Way

Surrounding Zoning:

Site	Immediate Adjacent Zoning
1	MF-14
2	DTSP - CC
3	CC

Existing Land Uses: Streetlights in the Public Right-of-Way

Surrounding Land Uses:

Site	Immediate Adjacent Zoning
1	Multifamily Residential
2	Commercial (7-11 Store)
3	Commercial (Riverside County Social Services Building)

ANALYSIS & REVIEW:

PROJECT DESCRIPTION:

The applicant, New Cingular Wireless PCS, D/B/A AT&T, is proposing to lease, install and operate new small cell wireless facilities within the public right-of-way in three separate locations, consisting of the replacement of existing street lights with new light poles; and the installation of single wire small cell wireless facilities. The proposed project involves the removal of the existing street light poles, which vary in height and replacing them with new, concrete faux finish, hexagonal Ameron street light poles that are mounted on a 24' Concealfab pedestal supported by a new concrete footing. More specifically, Site #1 contains an existing 26' tall street light, which will be replaced by a 28' 3" tall street light; Site #2 contains an existing 30' 6" tall streetlight, which will be replaced with a 34' 6" street light; and Site #3 contains an existing 32' tall street light, which will be replaced with a 34' 8" street light. Prior to issuance of a permit for the proposed project, the applicant will also be required to execute a Master Network License Lease Agreement with the City of Perris under a separate approval by the City Council outlining the terms for the installation.

Each pole will be equipped with a small antenna, a radio remote unit (RRU) and other associated small cell equipment, which are collectively known as small cell nodes. In addition, 17"x 30" underground vaults (pull boxes) will be installed adjacent to each new pole facility to house the wireless technology rate meters and provide power. The design of the pole facilities is structurally safe for the proposed height, which is required to meet AT&T's wireless coverage objectives. Any noise generated will be within established community noise levels and will not exceed existing ambient levels.

The proposed wireless facilities will serve the AT&T network in the City and include facilities in the following three (3) locations:

No.	Location	Latitude/Longitude
1	Northeast corner of Jean Marie Way & Granite View Drive	33.809721°/-117.213801°
2	On east side of Wilkerson Ave, approximately 200-ft south of 4 th Street	33.781978°/-117.218864°
3	On east side of Redlands Avenue, approximately 200-ft north of San Jacinto Avenue	33.787085°/-117.215191°

Although the proposed facilities have been designed so that future colocation could be a possibility, subject to technical feasibility and approval by AT&T, colocation is not currently

proposed.

Small cell wireless facilities are low-powered cellular radio access nodes that have a range of between 10 meters and a few kilometers that can be attached to the tops of streetlights or traffic signals for deployment. Small cell facilities can be grouped to provide coverage in areas where traditional macro wireless facilities are discouraged. Although signal propagation from each small cell antenna spans over a shorter range than macro facilities, they are nonetheless effective in closing coverage gaps with minimal environmental and aesthetic footprint. As of December 2012, 12 million small cell facilities have been deployed worldwide, with forecasts as high as 70 million by the year 2025. With an increase in mobile data-consuming technologies, the deployment of small cells has been seen as a solution to support the 5th Generation (5G) of wireless system communications.

The City of Perris telecommunications ordinance adopted in 2003 allows for small cell facilities, subject to a Conditional Use Permit and the following development standards: 1) The Wireless Facility shall be designed to be unobtrusive, in the opinion of the City, and shall locate equipment cables within the streetlight or traffic control standard; and 2) All related electronic equipment shall be integrated with other existing equipment, or enclosed within a wall, or where possible, placed underground. The proposed facilities are designed to provide additional data access to 4G for customers in their network.

PROJECT ANALYSIS

GENERAL PLAN, ZONING CONSISTENCY

The proposed small cell facilities are consistent with the City's General Plan (2030), which includes policies that seek to guarantee the adequate distribution of utility services to the entire community in a manner that is compatible with the character of the community. Further, the proposed small cell facilities support the overarching General Plan goal of integrating communication infrastructure that assists and helps coordinate residents, visitors, and emergency personnel during emergency events.

Each of the three (3) sites proposed are located within the public right-of-way, which generally takes on the zoning that is adjacent to the public space. As noted above site #1 is located at the northeast corner of Jean Marie Way and Granite View Drive along the side yard of a residence in an area zoned as MFR-14. Site #2 and #3 are located adjacent to existing commercial facilities in areas zoned as Community Commercial (CC). All wireless telecommunication facilities are subject to the development standards of Chapter 19.85 of the City of Perris Municipal Zoning Code, which states that wireless telecommunications facilities are not permitted in residential zones unless they are mounted on a streetlight, subject to the Planning Commission's approval of a Conditional Use Permit (CUP).

DEVELOPMENT STANDARDS

Development Standards

Small Cell Wireless Facilities are allowed within the public right-of-way with the approval of a

Conditional Use Permit. Additionally, light standard mounted wireless facilities, such as the three (3) propose, may be permitted subject to the following standards:

- The wireless facility shall be designed to be unobtrusive, in the opinion of the city;
- Equipment cables shall be located within the light standard or traffic control standard; and
- All related electronic equipment shall be integrated with other existing equipment, or enclosed within a wall, or where possible, placed underground.

Each of the three (3) proposed locations meet the above criteria. Additionally, the proposed project meets the applicable general development requirements outlined in Section 19.85.040(2) including:

- No advertising is proposed;
- Equipment associated with the operation of the facility is located in an underground vault;
- The exterior finish of the wireless facilities and accessory equipment is non-reflective and blends with the materials and colors of the support structure;
- The facilities are not illuminated;
- Colocation of the facilities is possible with further study;
- The project is conditioned to obtain approval of a license agreement and securing all applicable building, construction, and business permits prior to construction;
- The facilities do not interfere with ingress or egress to, or with circulation within the property on which it is located;
- The facilities are not located in a required parking areas, vehicle maneuvering area, vehicle/pedestrian circulation area, or area of landscaping such that it interferes with, or in any way impairs, the utility or intended function of such area;
- The facilities are not temporary; and
- The facilities and equipment will not exceed existing ambient noise levels.

The City is in the process of purchasing SCE light poles, which is being financed through a lease/purchase agreement with Banc of America Lease & Capital. Because the City will be owning all the street lights, the applicant is conditioned to enter into a Master Lease Agreement for use of the City's right-of-way to replace and install new light poles for the purpose of the proposed small cell wireless facilities.

LOCATION

Three separate locations are proposed to bridge existing service gaps in AT&T's network in the City as identified above. The applicant studied three alternative locations for each proposed location, taking into consideration the need for fully concealed, low-power, low-profile equipment that preserves existing sight lines and aesthetics, and determined that the proposed sites are the least intrusive locations that meet these objectives, while closing service gaps in the surrounding area.

The proposed small cell wireless facilities will be mounted on replacement streetlights that are designed to accommodate the weight of the equipment at the height necessary for deployment. As noted above, the replacement streetlights are up 4' taller than the existing streetlights. Site #1 contains an existing 26' tall street light, which will be replaced by a 28' 3" tall street light; Site #2

contains an existing 30' 6" tall streetlight, which will be replaced with a 34' 6" street light; and Site #3 contains an existing 32' tall street light, which will be replaced with a 34' 8" street light.

Each of the three proposed locations will allow densification of the network, either by filling a gap in coverage or adding additional bandwidth to a busy area that has reached its service capacity.

As noted, Section 19.85.051 of the City's Zoning Code establishes preferred locations, in order of preference, as follows:

1. Located 500 feet away from any property containing a residential structure, or zoned for residential use;
2. Colocated with an existing facility to make the existing and proposed colocated facilities stealth;
3. Located in an industrial zoning district;
4. Located in a commercial zoning district; and
5. Attached to an existing structure such as a building, church steeple, utility.

The three proposed locations meet the locational criteria, except for Site #1 (Granite View Drive), which is located approximately 35' from a residence. However, Section 19.85.040 allows small wireless facilities to be located in a residential district if it is a light standard mounted antenna, subject to a Conditional Use Permit. In addition, the light standard mounted wireless facility has to be designed to be unobtrusive, and locate equipment cables within the light standard and place all related electronic equipment underground, where possible. Site #1 meets these criteria.

STREETLIGHT ELEVATIONS

The applicant has submitted elevations of the existing streetlight poles, which are to be removed, as compared to the proposed replacement poles in order to show design distinctions between the two, which include a 4' height difference. In addition, photo-simulations were submitted to show the proposed streetlight poles in the context of the existing environment.

The existing concrete streetlight poles, which vary in height, will be removed and replaced with new, steel street light poles treated with a concrete faux finish that is designed to match surrounding concrete, street light poles. The streetlight poles will be supported by a new concrete footing, approximately 3' from the site of the existing street light. The 2016 Building Code requires the poles to be constructed in a new location 3'-5' from the existing location to accommodate the new footing and ensure appropriate soil compaction to meet seismic requirements. The pole will be mounted on a 24' pedestal, containing operating equipment. Each pole will be equipped with a small antenna mounted at the top of the pole, radio remote unit (RRU's) and other associated small cell equipment, which are collectively known as small cell nodes. In addition, 17"x 30" underground vaults (pull boxes) will be installed adjacent to each new pole facility to house the wireless technology rate meters and provide power, as preferred by the City's Code.

The new replacement poles will be installed in accordance with the City's requirements. All components will blend and match the concrete faux finish streetlight. No other equipment is visible or accessible. Each pole will have AT&T equipment only, and no additional collocation is requested.

NEW CINGULAR WIRELESS, PCS, D/B/A AT&T

New Cingular Wireless PCS provides mobile voice and data communications services and offers digital wireless data services, which includes General Packet Radio Service (GPRS), interactive messaging, corporate email access, short messaging, and wireless Internet. New Cingular Wireless PCS, LLC was formerly known as Cingular Wireless LLC. The company was incorporated in 1994 and is based in Atlanta, Georgia. New Cingular Wireless PCS, LLC operates as a subsidiary of AT&T Inc., which is a world leader in communications, media and entertainment, and technology with authority to operate from the California Public Utilities Commission. They deploy next-generation small cell sites and network infrastructure that provides local residents with enhanced mobile connectivity and wireless broadband access.

FAA, FCC AND OTHER FEDERAL AND STATE REGULATIONS

AT&T provided a letter for each that states the proposed facilities will comply with all FCC regulations regarding interference with the reception or transmission of other wireless service signals within the City and surrounding communities. The equipment used does not cause external interference nor does it transmit outside of the allowed and exclusive frequencies, or beyond the established thresholds. The emissions are also in alignment with FCC guidelines. Therefore, the proposed project will not interfere with the reception or transmission of other wireless service signals, such as those of the police department and other emergency response agencies within the City

It is also important to note that the Federal Telecommunications Act prohibits a local entity from considering the RF emissions from cell towers in zoning proceedings. The Telecommunications Act states 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 Commission's regulations concerning such emissions." Therefore, under the Telecommunications Act, the Planning Commission is preempted from considering potential health effects from RF emissions if the facility complies with the RF rules. However, other factors such as height, location, and aesthetic impacts may be considered under the Conditional Use Permit application.

Wireless antenna facilities have been in place for many years and studies on RF (Radio Frequency) emissions from communication towers found that there were no negative health effects in the surrounding area where these facilities are placed. The Federal Communications Commission (FCC) has set standards based on scientific studies and recommendation from a variety of oversight organizations. According to AT&T, small cell sites operate well below these standards, and the typical urban cell site operates hundreds of times below the FCC's limits.

ENVIRONMENTAL DETERMINATION

The proposed project is found to be Categorical Exempt from the California Environmental

Quality Act (CEQA) under Section 15300, as a Class 1 Existing Facility.

PUBLIC COMMENTS

A public hearing notice was sent to property owners within 300-feet of each of the project sites. As of the writing of this report, no comments have been received by staff.

MANDATORY FINDINGS FOR APPROVAL

Findings Required per PMC Section 19.54 for Conditional Use Permits:

Conditional Use Permit 18-05339

1. The proposed location of the conditional use is in accord with the objectives of the Perris Zoning Code Section 19.85, Wireless Telecommunication Facilities, and the purpose of the Zone where the site is located.

The proposed small cell wireless facilities will be an enhancement to the City as they will improve and further telecommunication capabilities. The proposed sites have been selected because they appropriately fill existing gaps in the network and add bandwidth due to capacity issues. The project meets the objectives of the ordinance by providing stealth facilities on upgrading the streetlights.

2. The proposed plan is consistent with the City’s General Plan and conforms to all Specific Plans, zoning standards, applicable subdivision requirements, and other ordinances and resolutions of the City.

The proposed small cell wireless facilities are consistent with the City's General Plan in that it furthers Policy III. A in the Land Use Element to accommodate diversity in the local economy and conforms to the requirements of Section 19.85 of the Zoning Code (Wireless Telecommunication Facilities) and as conditioned to other applicable codes of the City. Further, the proposed small cell facilities are consistent with the City's General Plan (2030), which includes policies that seek to guarantee the adequate distribution of utility services to the entire community in a manner that is compatible with the character of the community. Additionally, the proposed small cell facilities support the overarching General Plan goal of integrating communication infrastructure that assists and helps coordinate residents, visitors, and emergency personnel during emergency events.

3. The location of the conditional use and conditions under which it would be operated or maintained will not be detrimental to the public health, safety or welfare, or materially injurious to the properties or improvements in the vicinity.

The locations of the conditional use and the conditions under which they would be operated or maintained will not be detrimental to the public health, safety or welfare as the proposed small cell wireless facilities will be installed and operated consistent with City regulations, which ensure public health safety, welfare and material injury to properties and improvements are

safeguarded.

4. The proposed project is visually compatible with the existing streetscape and protects the character of the adjacent development.

As conditioned the proposed project is visually compatible with the existing streetscape and protects the character of adjacent development in that the proposal meets the requirements of Section 19.85, providing for stealth design, and underground utility to ensure that they are compatible with the existing streetscape.

Small Cell Wireless Telecommunication Facilities

1. That the proposed Facility will be an enhancement to the City due to its ability to provide additional communication capabilities.

This project is needed to close a significant service coverage gap in the Perris area, including bandwidth by providing wireless telecommunication services and faster data rates to improve wireless services in Perris. The streetlights selected for the installation of small cell facilities are locations that will help to resolve service gap deficiencies identified for the New Cingular PCS wireless network.

2. That the proposed Facility will be a Stealth Facility and be aesthetically integrated into the design and landscaping of its site and surrounding land uses.

The proposed small cell stealth facilities will be mounted on new (replacement) concrete faux finish streetlight poles that are similar in construction, color and specification to the existing streetlights. The equipment will be fully concealed from view to maintain existing sight lines and preserve aesthetics in the area. The proposed facilities are low profile, and as such, offer less intrusive solutions than macro facilities to address service coverage gaps. Streetlights are considered public service facilities and are not typically integrated into the design and landscaping of the site or surrounding land use.

3. The proposed Facility has been evaluated in the context of the ultimate anticipated network of Facilities of both the applicant and other Commercial Mobile Service providers so as to reduce the number of Facilities needed to provide service to the City of Perris.

The demand for landline phones has decreased dramatically over the last ten years with more than 70% of American households relying on wireless solutions as their means of communication. Additionally, AT&T has experienced a 360,000% increase in data traffic since the release of the iPhone, from 2007 through 2017 and as a result, the proposed small cell facilities are intended to bridge service coverage gaps, with the goal of reducing the number of facilities needed. The proposed small cell stealth facilities will be mounted on replacement streetlights, and densification has been determined to be necessary, as shown by the Propagation Maps prepared for each location. This new infrastructure includes activation of new frequency channels that will provide coverage and capacity to key areas of Perris that currently are lacking inadequate service.

4. The proposed facility has been located and designed for Colocation to the maximum extent possible.

The proposed facilities have been located and designed so that future colocation could be a possibility, subject to technical feasibility and approval by New Cingular Wireless PCS, D/B/A AT&T. However, colocation of the proposed is not currently expected, given the present equipment configuration.

5. That the proposed Facility will comply with FCC regulations regarding interference with the reception or transmission of other Wireless Service signals within the City and the surrounding community.

The proposed facilities will comply with FCC regulations regarding interference with the reception and transmission of other Wireless Service Signals within the City and surrounding community as evidenced by the FCC Compliance letter submitted, which indicates New Cingular Wireless PCS, D/B/A AT&T commitment to comply with RF exposure rules.

6. That the proposed Facility will operate in compliance with all other applicable Federal regulations for such Facilities, including safety regulations.

The proposed facilities will operate in compliance with all other applicable Federal regulations for such Facilities, including safety regulations in that AT&T's national RF safety program requires its sites to be in compliance with FCC'S RF exposure rules. Further AT&T uses more restrictive General Population/Uncontrolled MPR limits and specially trained employees and carefully selected RF safety consultants to assess exposure levels and recommend appropriate mitigation to limit exposure.

7. That the public need for the use of the Facility has been documented.

The public need for the use of the facilities has been documented through coverage area maps that were submitted as part of the application, which identify the public need for these facilities in order to bridge the coverage gaps.

RECOMMENDATION

Staff recommends that the Planning Commission:

Adopt Resolution 19-06 finding the proposed project Categoricaly Exempt from CEQA under Section 15300, Class 1 Existing Facilities, and approving Conditional Use Permit 18-05339 to facilitate the lease, installation and operation of new small cell, stealth wireless facilities within the public right-of-way on replacement streetlights located in three locations in the City of Perris, based on the findings and subject to the Conditions of Approval.

EXHIBITS:

Exhibit A – Conditions of Approval (Planning, Engineering, Building, Public Works)

Exhibit B – Location Overview

Exhibit C – Photo Simulations, Sites 1-3

Exhibit D – AT&T Wireless Interference/Emissions Letter

Exhibit E – Resolution 19-06

CITY OF PERRIS
PLANNING & ECONOMIC DEVELOPMENT DEPARTMENT
CONDITIONS OF APPROVAL

Conditional Use Permit 18-05339

Planning Commission March 20, 2019

PROJECT: Conditional Use Permit No. 18-05339 - A proposal to lease, install and operate new small cell wireless facilities within the public right-of-way in 3 separate locations consisting replacing existing street lights with new light poles and the installation of single wire small cell wireless facilities. **Applicant:** New Cingular Wireless PCS, D/B/A AT&T

General Requirements

1. **Development Standards.** The project shall conform to all requirements of the City of Perris Municipal Code Title 19 and Perris Valley Commerce Center Specific Plan.
2. **City Ordinances and Business License.** The subject business shall maintain compliance with all local and City Ordinances, including but not limited to an annual fire inspection and maintenance of a City business license.
3. **CEQA Notice of Exemption.** Within three (3) days of Planning Commission approval, the applicant shall submit a check to the City Planning Department, payable to "Riverside County Clerk-Recorder," for a \$50.00 check to file the Notice of Exemption.
4. **Wireless Facilities Ordinance.** The project shall conform to the Wireless Telecommunications Facilities Ordinance, Chapter 19.85 of the Zoning Code.
5. **City Business License.** The subject business shall maintain compliance with all local regulations, including City ordinances, including but not limited to an annual fire inspections and maintenance of a City business license.
6. **Term of Approval.** This approval shall be used within three (3) years of approval date; otherwise it shall become null and void and of no effect whatsoever. By use is meant the beginning of substantial construction contemplated by this approval within the three (3) year period which is thereafter diligently pursued to completion, or the beginning of substantial utilization contemplated by this approval.
7. **Approved Plans.** Development of the project, light pole elevations, colors and materials shall conform substantially to the approved set of plans, or as amended by these conditions. Any deviation shall require the appropriate review and approval by the Department of Development Services. Approved plans are labeled "Planning Commission June 20, 2018".
8. **Expansion of Use.** Any future wireless expansion or co-location shall require subsequent review and approval from the Planning Department.
9. **Graffiti** located on site shall be removed within 48 hours. The site shall be maintained in a graffiti-free state at all times.

EXHIBIT A

- 10. **Waste-Hauling.** The developer shall use only the City-approved waste hauler for all construction and other waste disposal.
- 11. **Conditions of Approval.** All Conditions of Approval shall be reproduced on the building plans, and cross-referenced for confirmation by Planning staff during building plan check.
- 12. **Indemnification.** The applicant shall indemnify, protect, defend, hold harmless, the City and any agency or instrumentality thereof, and/or any of its officers, employees and agents from any and all claims, actions, or proceedings against the City, or any agency or instrumentality thereof, or any of its officers, employees and agents, to attack, set aside, void, annul, or seek monetary damages resulting from an approval of the City, or any agency or instrumentality thereof, advisory agency, appeal board or legislative body including actions approved by the voters of the City, concerning CUP 17-05277. The City shall promptly notify the applicant of any claim, action, or proceeding for which indemnification is sought and shall further cooperate fully in the defense of the action.

Project-Specific Conditions

- 13. **Approved Locations.** The following locations shown in Table 1 are approved for the installation of three (3) Small Cell Facilities in compliance with these Conditions:

No.	Location	Latitude/Longitude
1	Northeast corner of Jean Marie Way & Granite View Drive	33.809721°/-117.213801°
2	On east side of Wilkerson Ave, approximately 200-ft south of 4 th Street	33.781978°/-117.218864°
3	On east side of Redlands Avenue, approximately 200-ft north of San Jacinto Avenue	33.787085°/-117.215191°

- 14. **Eligible Light Standards.** Only those light poles identified by the City as good candidates for mini-macro wireless facilities will be permitted.
- 15. **Wood Light Standards.** The installation of mini-macro wireless facilities on wooden light poles is prohibited.
- 16. **City of Perris Design Standard.** All proposed replacement light standards shall be concrete as presented at the Planning Commission meeting on March 20, 2019, and conform to the City of Perris standards.
- 17. **Stealth Mini-Macro Wireless Equipment.** All wireless equipment shall be hidden beneath the required sheathing to be mounted under the luminaire arm of the light standard, and the antennae shall mimic the light standard as it extends from the top of the pole. All devices attached to the concrete light standard shall be painted to match.
- 18. **Accessory Equipment.** Any and all equipment associated with the operation of the facility,

including but not limited to transmission cables, shall be located in an underground vault.

19. **Future Small Cell Facilities.** All new locations require city approval.
20. **Signage.** No signage is proposed or permitted.
21. **Master Network License Lease Agreement Between the City of Perris and New Singular Wireless PCS, D/B/A AT&T.** The applicant shall execute a Master Network License Lease Agreement with the City of Perris prior to issuance of a permit.
22. **Encroachment and Building Permits.** The applicant shall obtain required encroachment permits from the City Engineer's office and other required permits from the City's Building Department.
23. **Maintenance Agreement.** The operator of a lawfully approved Telecommunication Facility shall, prior to issuance of building permits, enter into a "Maintenance and Facility Removal Agreement." This Agreement shall be in the form and manner approved by the City Attorney and shall be duly recorded in the office of the County Recorder. The minimum provisions of this agreement shall include maintenance of site landscaping, paint and surface.
24. **Discontinued Use.** The operator of a lawfully erected Facility, and the owner of the premises upon which it is located, shall within five (5) business days notify the Director of Planning and Economic Development and the Director of Public Works in writing in the event that use of the Facility is discontinued for any reason. For purposes of this paragraph, a discontinued use shall be permanent unless the Facility is likely to be operative and used within the immediately following ninety (90) day period. In the event that discontinued use is permanent, then the owner(s) and/or operator(s) shall promptly remove the Facility, repair any damage to the premises caused by such removal, and restore the premises as appropriate so as to be in conformance with applicable zoning codes. All such removal, repair and restoration shall be completed within ninety (90) days after the use is discontinued, and shall be performed in accordance with all applicable health and safety requirements.
25. **Abandonment.** A Facility that is discontinued, inoperative or unused for a period of six (6) continuous months shall be deemed abandoned. An abandoned Facility shall be a nuisance, and subject to abatement for nuisances as specified in the Perris Municipal Code Chapter 19.85.

Construction Practices:

26. **Construction Practices.** To reduce potential and air quality nuisances, the following items shall be listed as "General Notes" on the construction drawings:
 - a. Construction activity and equipment maintenance is limited to the hours between 7:00 a.m. and 7:00 p.m. Per Zoning Ordinance, Noise Control, Section 7.34.060, it is unlawful for any persons between the hours of 7:00 p.m. of any day and 7:00 a.m. of the following day, or on a legal holiday, or on Sundays to erect, construct,

demolish, excavate, alter or repair any building or structure in a manner as to create disturbing excessive or offensive noise. Construction activity shall not exceed 80 dBA in residential zones in the City.

- b. Stationary construction equipment that generates noise in excess of 65 dBA at the project boundaries must be shielded and located at least 100 feet from occupied residences. The equipment area with appropriate acoustic shielding shall be designated on building and grading plans. Equipment and shielding shall remain in the designated location throughout construction activities.
- c. Construction routes are limited to City of Perris designated truck routes.
- d. If applicable, water trucks or sprinkler systems shall be used during clearing, grading, earth moving, excavation, transportation of cut or fill materials and construction phases to prevent dust from leaving the site and to create a crust after each day's activities cease. At a minimum, this would include wetting down such areas in the later morning and after work is completed for the day and whenever wind exceeds 15 miles per hour.
- e. As applicable, a person(s) shall be designated to monitor the dust control program and to order increased watering as necessary to prevent transport of dust off-site. The name and telephone number of such persons shall be provided to the City.
- f. Project applicant shall provide construction site electrical hook-ups for electric hand tools such as saws, drills, and compressors, to eliminate the need for diesel powered electric generators or provide evidence that electrical hook ups at construction sites are not practical or prohibitively expensive.

Prior to the Issuance of Building Permit

27. **Construction Plans.** All Planning Division, Public Works, Building and Engineering Department Conditions of Approval shall be reproduced in full on construction drawings and grading plans, immediately following the cover sheet of such plans. Applicant shall annotate each Planning, Engineering Condition on the construction plans to indicate the manner by which each condition has been met (i.e., sheet and detail numbers).

Prior to Building Permit Final

28. **Clearance.** The applicant shall obtain clearance from the Planning Division verifying that all pertinent conditions of approval have been met.

end conditions

SRC COMMENTS
***** BUILDING & SAFETY *****

Planning Case File No(s): CONDITIONAL USE PERMIT #18-05339

Case Planner: Mary Blais (951) 943-5003, 252

Applicant: Ms. Joanna Carlini

3 Locations (approximate) within the public ROW:

- 532 Granite View Dr (Pole ID #4064914E)
- 525 E. 4th Street (Pole ID #47722045E)
- Location: • 201 Redlands Ave (Pole ID#4710185E)

Project: Proposal to lease, install and operate new small cell wireless facilities within the public right-of-way in 3 separate locations near 532 Granite View Drive, 525 4th Street and 201 Redlands Ave., consisting of the replacement of existing street lights with new light poles; and the installation of single wire small cell wireless facilities.

Associated Cases: CUP #18-05340 (201 Redlands Ave), CUP #18-05341 (525 E. 4th St)

Reviewed By: Jesse Sanchez, CBO

Date: 12.27.18

SPECIFIC COMMENTS

1. Engineering Dept. approval and permit required for:
 - New pole and all associated radio equipment.
2. Building and Safety Dept. approval and permit required for:
 - New electrical service equipment.
3. All equipment shall be listed and approved by a recognized testing agency.

GENERAL CONDITIONS

1. Shall comply with the latest adopted edition of the following codes as applicable:
 - A. California Building Code
 - B. California Electrical Code
 - C. California Mechanical Code
 - D. California Energy Code
 - E. California Fire Code
 - F. California Green Building Standards Code
2. All signs shall be Underwriters Laboratories, or equal, approved.



CITY OF PERRIS

PUBLIC WORKS DEPARTMENT

Engineering Administration

NPDES

Special Districts (Lighting, Landscape, Flood Control)

MEMORANDUM

Date: March 7, 2019
To: Mary Blais, Associate Planner
From: Public Works

Subject: Condition of Approval for CUP# 18-05339; 18-05340; 18-05341; Proposal to lease, install and operate new small cell wireless facilities within the public right-of-way in 3 separate locations near 532 Granite View Drive, 525 4th Street and 201 Redlands Ave., consisting of the replacement of existing street lights with new light poles; and the installation of single wire small cell wireless facilities.

1. **Landscaping Plan Review** – The Developer shall provide the City with Landscape, Irrigation Plans, and a plan titled “LMD Off-Site Landscape Plan CUP# 18-05339; 18-05340; 18-05341,” and shall be mutually exclusive of any private property, on-site landscaping, during the plan review process for review and approval. **The full set of Landscape and Irrigation Plans shall be submitted for City review and approved prior to the start of construction.** The landscape and irrigation plan shall be prepared by a registered landscape architect and conform to the requirements of Chapter 19.70 of the Municipal Code, the Perris Valley Commerce Center Standards and Guidelines, and approved City of Perris plant list. The location, number, genus, species, and container size of the plants shall be shown. Elements of this Conceptual Landscape and Irrigation Plan shall include but not be limited to the following:
 - a. **Landscape Limits:** Limits of right-of-way areas and/or easement areas clearly defined on plans as well as limits defined by a concrete mow curb, fully dimensioned, that are to be annexed into the Landscape Maintenance District (LMD). A planting palette and hardscape plan intended to meet the design intent of the Landscape Guidelines in effect for the area; and/or the design intent of neighboring development, as determined by the Special Districts Division, including:
 1. **Granite View Drive** – Parkway plant palette to remain as is. Developer to match existing plant palette for all three sites proposed.
 2. **Redlands Avenue** – Parkway plant palette to remain as is. Developer to match existing plant palette for all three sites proposed.
 3. **E. 4th Street** – Parkway plant palette to remain as is. Developer to match existing plant palette for all three sites proposed.

Note: As the City deems necessary, the Developer may be required to match adjacent plant palette. Developer to coordinate with the City.

2. **Landscape Inspections** - The project applicant shall inform the on-site project manager and the landscape contractor of their responsibility to call for only "OFF-SITE" landscape and irrigation inspections at the appropriate stages of construction. Inspections shall be scheduled 48-Hours in advance prior to actual inspection (Monday-Friday). Contact Special Districts Supervisor at (951) 657-3280 Ext. 617 to schedule inspections.

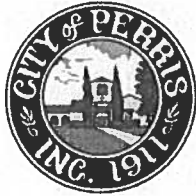
- **Inspection #1** – Trenches open, irrigation installed, and system pressurized to 150 PSI for four (4) hours.
- **Inspection #2** – Soil prepared, and plant materials positioned and ready to plant.
- **Inspection #3** – Landscaping installed, irrigation system fully operational, and request for "start of a 1 year maintenance period" submitted, with all required turn over submittal items provided to Public works Special Districts. Developer to repair and replace all existing plant material and irrigation damaged during construction activities, City to approve final site conditions.
- **Turn-Over Inspection** – On or about the one year anniversary of Inspection #3, Developer shall call for an inspection to allow the City to review and identify any of the following: potential irrigation defects; dead plant material and weeding; debris or graffiti needing removal; stressed, diseased, or dead trees; mulch condition; hardscape; and/or other concerns with the landscape installation; or to accept final turn over of the landscape installation. At the sole expense of the Owner/Developer, shall be responsible for rectifying irrigation system and installation deficiencies, and the one year maintenance period shall be extended by the City until all deficiencies are cured to the satisfaction of the City. If in the opinion of the City's Landscape Inspector the landscape installation is in substantial compliance with the approved landscaping plans, the irrigation and communication system is functioning as intended, and the landscape installation is found to be acceptable to the City, then the inspector shall recommend to the City's Special District Supervisor to accept turn-over of water and electrical accounts, Wi-Fi communication contracts and the entire landscape installation.

Note: The City reserves the right for the Contractor and/or Developer to pot hole or uncover all irrigation components at the sole expense of the Contractor and/or Developer, if inspection requirements are not met and/or missed inspection, as the City deems necessary.

3. **One Year Maintenance and Plant Establishment Period** – The applicant will be required to provide at a minimum a one (1) year maintenance and plant establishment period, paid at the sole expense of applicant. This one year maintenance period commences upon the successful completion of inspection #3, discussed above, and final approval by the City. During this one year period the applicant shall be required to maintain all landscape areas free of weeds, debris, trash, and/or graffiti removal; and keep all plants, trees and shrubs in a viable growth condition. Prior to start of the one year maintenance period, the developer shall submit a weekly Landscape Maintenance Schedule for the review and approval by the City's Special Districts Division. The City shall perform periodic site inspections during the one year maintenance period, to identify any and all items needing correction prior to acceptance by the City, at the conclusion of the one year maintenance period. Said items needing correction may include but are not limited to: replacement of dead or diseased plant

materials; weeding; replenishment of mulches; and/or repair of damaged or non-functioning components; test of irrigation controller communications; etc. During this period, the City shall begin the annual assessment of the benefit zone in preparation for the landscape installation turn over to the City maintenance staff. The applicant to provide a site point of contact for any site repairs that are needed, prior to final site sign off.

4. **Street Lights** – Owner to maintain all components for the Wireless Telecommunications Facilities. Reference Michael M. email dated 1/07/2019 for further actions/considerations that need to be addressed by the Developer. Refer to additional Public Works comments on plans dated 11/13/18.
5. The Reports and corresponding resolutions are placed, for approval, on the City Council Meeting Agenda. City Council action will include ordering the assessment ballots and setting a Public Hearing for no more than 45 days. Property owner attendance at this City Council Meeting is not required.
6. Confirmation by the City Council completes the annexation process and the condition of approval has been met.



CITY OF PERRIS

HABIB MOTLAGH, CITY ENGINEER

CONDITIONS OF APPROVAL

P8-625

January 14, 2019

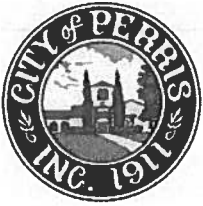
CUP 18-05339, 532 Granite View Drive
(Pole ID # 4064914E)

With respect to the Conditions of Approval for the above referenced project, the City of Perris requires that the developer comply with the following:

1. Prior to start of any work within the public right-of-way, the applicant shall process and obtain an encroachment permit from the City of Perris.
2. Traffic control shall be in compliance with MUTCD.
3. Any damage to existing improvements and appurtenances shall be removed and replaced by the Applicant to the satisfaction of the City Engineer.
4. Street light fixture shall be LS3, LED.
5. The applicant shall be responsible to pay the energy fee and maintain the fixture.

Habib Motlagh

Habib Motlagh
City Engineer



CITY OF PERRIS

HABIB MOTLAGH, CITY ENGINEER

CONDITIONS OF APPROVAL

P8-625

January 14, 2019

CUP 18-05341, 525 E. 4th Street

(Pole ID # 47722045E)

With respect to the Conditions of Approval for the above referenced project, the City of Perris requires that the developer comply with the following:

1. Prior to start of any work within the public right-of-way, the applicant shall process and obtain an encroachment permit from the City of Perris.
2. Traffic control shall be in compliance with MUTCD.
3. Any damage to existing improvements and appurtenances shall be removed and replaced by the Applicant to the satisfaction of the City Engineer.
4. Street light fixture shall be LS3, LED.
5. The applicant shall be responsible to pay the energy fee and maintain the fixture.

Habib Motlagh

Habib Motlagh
City Engineer



CITY OF PERRIS

HABIB MOTLAGH, CITY ENGINEER

CONDITIONS OF APPROVAL

P8-625

January 14, 2019

CUP 18-05340, 201 Redlands Avenue
(Pole ID # 54710185E)

With respect to the Conditions of Approval for the above referenced project, the City of Perris requires that the developer comply with the following:

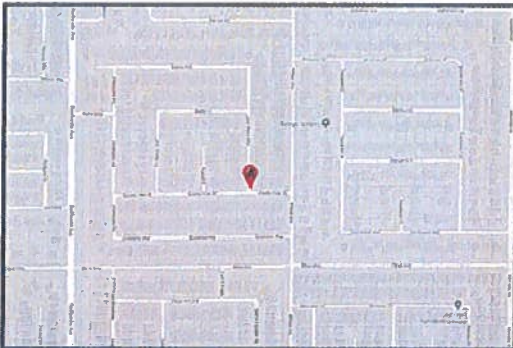
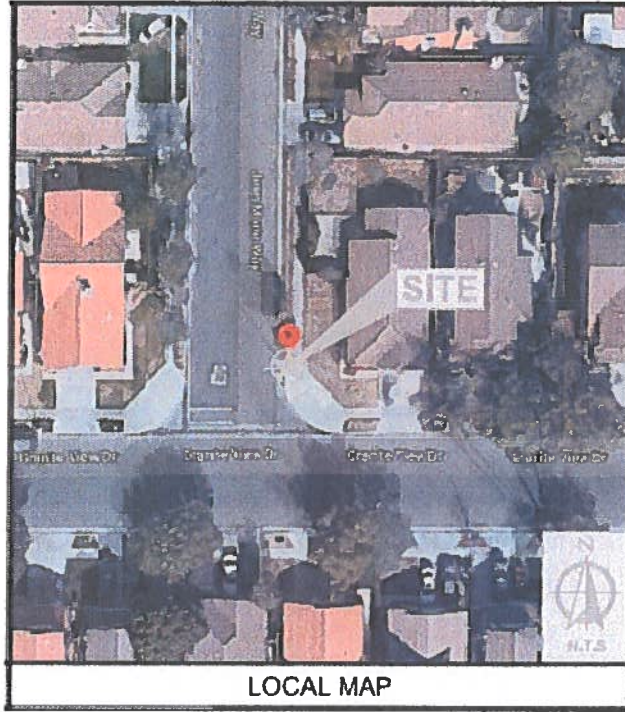
1. Prior to start of any work within the public right-of-way, the applicant shall process and obtain an encroachment permit from the City of Perris.
2. Traffic control shall be in compliance with MUTCD.
3. Any damage to existing improvements and appurtenances shall be removed and replaced by the Applicant to the satisfaction of the City Engineer.
4. Street light fixture shall be LS3, LED.
5. The applicant shall be responsible to pay the energy fee and maintain the fixture.

Habib Motlagh

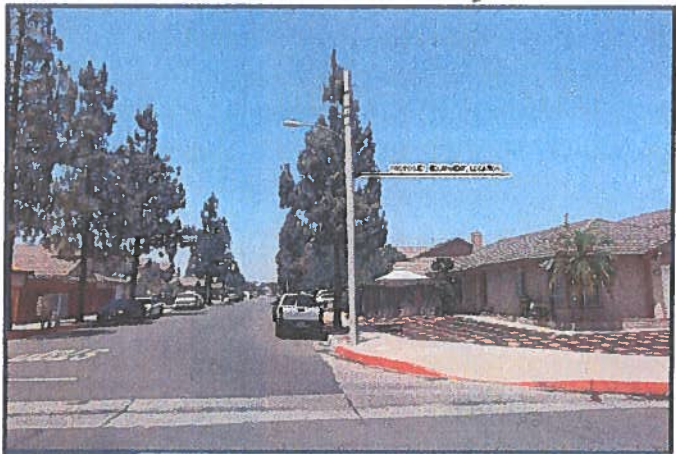
Habib Motlagh
City Engineer

**EXHIBIT C
PHOTOSIMULATIONS
SITES 1-3**

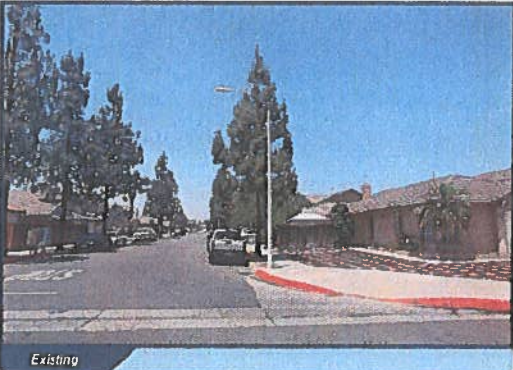
SITE 1 - NE corner of Jean Marie Way & Granite View Drive



Location Map LAT: 33.809721°, LONG: -117.213801°



Proposed Notes: looking North proposed project



Existing

Applicant



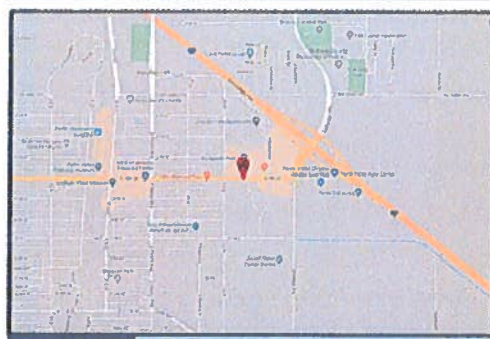
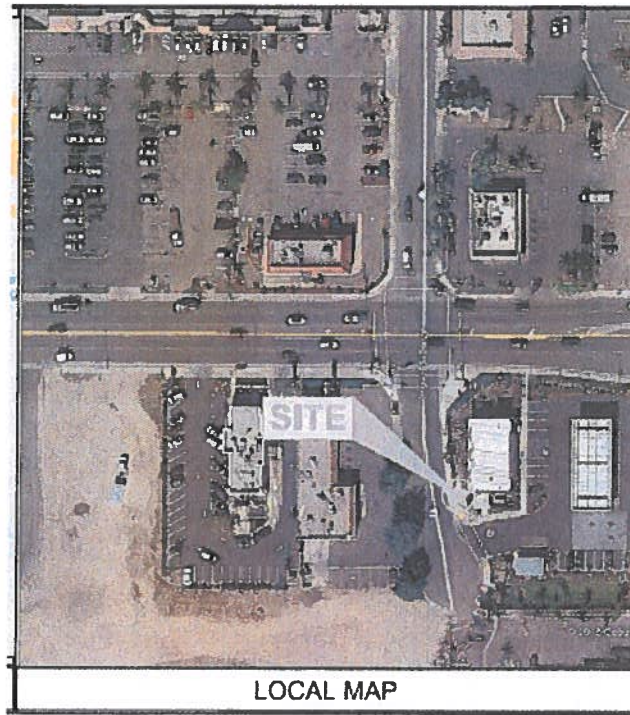
1452 EDINGER AVE. 2ND FLOOR,
TUSTIN, CA 92780

Contact

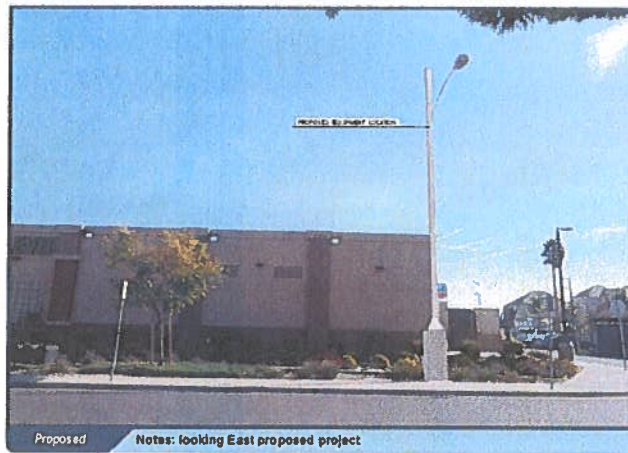


**EXHIBIT C
PHOTOSIMULATIONS
SITES 1-3**

SITE 2 – E. side of Wilkerson Ave, 200-ft south of 4th Street



Location Map LAT: 33.781978°, LONG: -117.218864°



Applicant

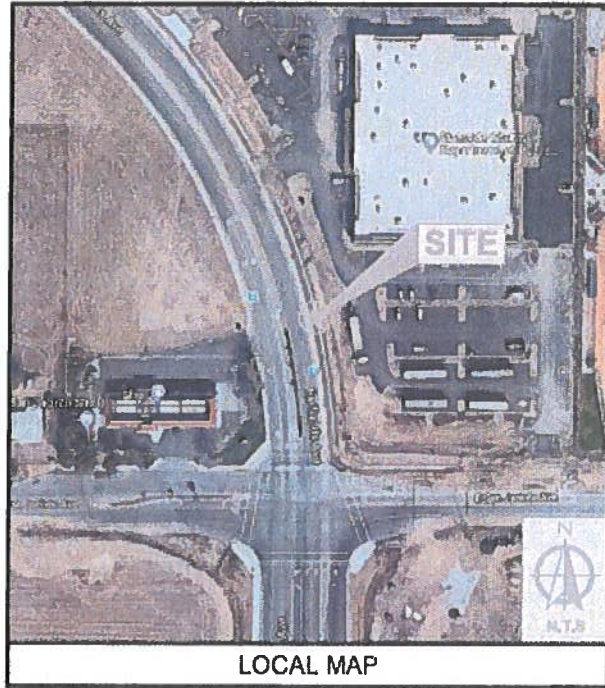
Contact



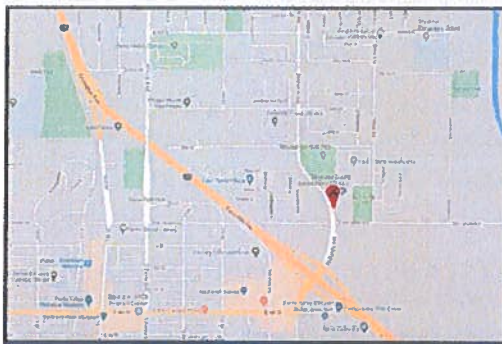
1432 EDINGER AVE, 2ND FLOOR,
TUSTIN, CA 92780

EXHIBIT C PHOTOSIMULATIONS SITES 1-3

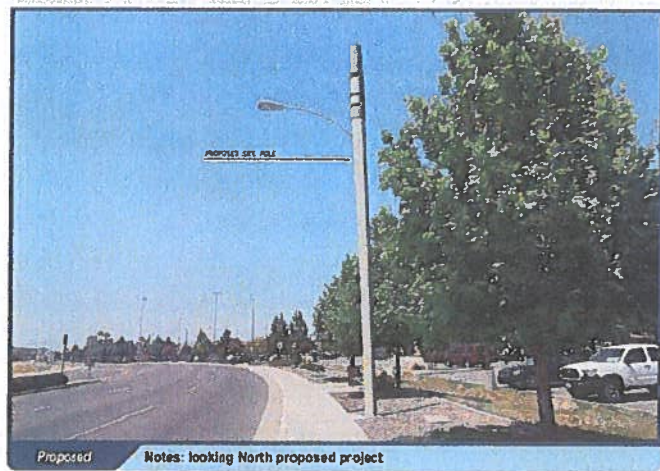
SITE 3 – E. side of Redlands Avenue, 200-ft north of San Jacinto



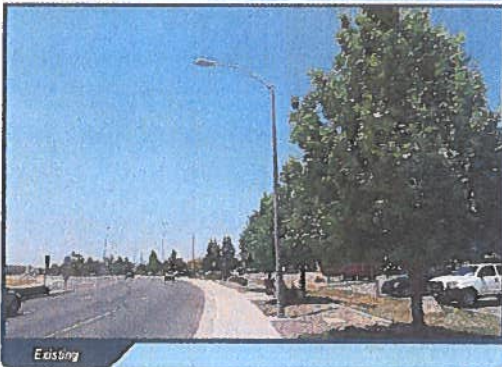
LOCAL MAP



Location Map LAT: 33.787085° LONG: -117.215191°



Proposed Notes: looking North proposed project



Existing

Applicant



1452 IDINGER AVE. 2ND FLOOR,
TUSTIN, CA 92780

Contact



EXHIBIT D

FCC INTERFERENCE LETTER



RE:	AT&T Mobility – PERRS02-B
Node Address:	526 GRANITE VIEW DR, 525 E. 4TH ST., 201 REDLANDS AVE Los Angeles, CA 90502
To:	City of Los Angeles – Public Works Department

Purpose

This letter provides an overview of the Federal Communications Commission's (FCC) rules governing permissible exposure levels to radiofrequency (RF) emissions at FCC-licensed facilities and attests to AT&T Mobility's commitment to comply with those RF exposure rules at all its sites.

FCC's Exposure Rules

The FCC's RF exposure rules, which stem from requirements set forth in the National Environmental Policy Act of 1969 (NEPA), are published in the Title 47 of Code of Federal Regulations (47 CFR) §1.1310, "Radiofrequency radiation exposure limits." Radiofrequency exposure at levels below those maximum permissible exposure (MPE) levels defined in FCC rules are deemed to pose no hazard to human health. These rules limit exposure to emissions. Thus, a cell site may have high emissions, but comply with FCC rules by effectively limiting exposure.

In its rules, the FCC defines two exposure environments and the MPE limits within those environments that are established with a large margin of safety.

- **General Public/Uncontrolled**—This environment applies to locations where the general public may be exposed, or where persons exposed as a consequence of their employment may not be fully aware of the potential for exposure or cannot exercise control over their exposure. The MPE limits for this environment are 5 times more restrictive than those for the Occupational/ Controlled) environment described next.
- **Occupational/Controlled**—This environment applies to locations where persons are exposed as a consequence of their employment provided they are fully aware of the potential for exposure and can exercise control over their exposure. The MPE limits for this environment also apply where an individual is transient, provided they are made aware of the potential for exposure.

EXHIBIT D

EXHIBIT D FCC INTERFERENCE LETTER



The chart below shows the most restrictive FCC MPE limits for each exposure environment in AT&T's frequency bands.

FCC MPE Limits (mW/cm ²) for 700 MHz, Cellular, AWS, and WCS			
Exposure Environment	Frequency Band		
	700 MHz	Cellular	PCS/AWS/WCS 1710 MHz- 2360 MHz
General Population Uncontrolled	0.47	2.98	1.0
Occupational/Controlled	2.33	2.90	5.0

AT&T's RF Safety Compliance

AT&T's cell sites transmit and receive radio signals to and from wireless phones and other wireless devices.

AT&T's national RF safety program policy requires all of its sites to be in compliance with the FCC's RF exposure rules. Ordinarily, AT&T approaches RF safety compliance conservatively, using the more restrictive General Population/ Uncontrolled MPE limits.

AT&T uses both specially-trained employees and carefully-selected RF safety consultants to assess exposure levels and recommend appropriate mitigation to limit exposure. Based on the assessments, RF safety signage and barriers may be deployed to protect persons from entering areas where exposure levels could exceed the applicable MPE limits. AT&T's use of RF safety signs, barriers, and other protective methods are guided by the FCC's publication OET Bulletin 65.

Sincerely,


Samuel Chu
AT&T Mobility - C&E Los Angeles

RESOLUTION NUMBER 19-06

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF PERRIS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, FINDING THE PROPOSED PROJECT CATEGORICAL EXEMPT FROM CEQA AS A CLASS 1 EXISTING FACILITY, AND APPROVING CONDITIONAL USE PERMIT 18-05339 FOR THE LEASE, INSTALLATION AND OPERATION OF NEW SMALL CELL, STEALTH WIRELESS FACILITIES WITHIN THE PUBLIC RIGHT-OF-WAY ON REPLACEMENT STREETLIGHT POLES LOCATED IN THREE LOCATIONS IN THE CITY OF PERRIS, AND MAKING FINDINGS IN SUPPORT THEREOF.

WHEREAS, the applicant filed Conditional Use Permit (CUP) 18-05339 proposing to lease, install and operate small cell, stealth wireless facilities on proposed replacement streetlights in three (3) locations within the City of Perris public right-of-way; and

WHEREAS, the three (3) locations to be approved under CUP 18-05339 are for the following locations:

No.	Location	Latitude/Longitude
1	Northeast corner of Jean Marie Way & Granite View Drive	33.809721°/-117.213801°
2	On east side of Wilkerson Ave, approximately 200-ft south of 4 th Street	33.781978°/-117.218864°
3	On east side of Redlands Avenue, approximately 200-ft north of San Jacinto Avenue	33.787085°/-117.215191°

WHEREAS, the proposed project is consistent with the City's General Plan and the Zoning Code, and conforms to all zoning standards and other Ordinances and Resolutions of the City; and

WHEREAS, this Conditional Use Permit (CUP) has been duly noticed; and

WHEREAS, a public hearing was held on March 20, 2019, the Planning Commission conducted a legally noticed public hearing for the Conditional Use Permit and considered public testimony and materials in the staff reports and accompanying documents and exhibits; and

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Perris as follows:

Section 1. The above recitals are all true and correct.

EXHIBIT E

Section 2. The Planning Commission has determined that the project is Categorically Exempt under the California Environmental Quality Act (CEQA) pursuant to Section 15300, Class 1 for existing facilities in compliance with applicable general plan policies and zoning requirements.

Section 3. Based upon the information contained in the agenda submittal and supporting exhibits and all oral and written presentations and testimony made by City Staff and members of the public, with respect to the Conditional Use Permit, the Planning Commission hereby finds the following:

1. The proposed location of the conditional use is in accord with the objectives of the Perris Zoning Code Section 19.85, Wireless Telecommunication Facilities, and the purpose of the Zone where the site is located.

The proposed small cell wireless facilities will be an enhancement to the City as they will improve and further telecommunication capabilities. The proposed sites have been selected because they appropriately fill existing gaps in the network and add bandwidth due capacity issues. The project meets the objectives of the ordinance by providing stealth facilities on upgrading the streetlights.

2. The proposed plan is consistent with the City's General Plan and conforms to all Specific Plans, zoning standards, applicable subdivision requirements, and other ordinances and resolutions of the City.

The proposed small cell wireless facilities are consistent with the City's General Plan in that it furthers Policy III.A in the Land Use Element to accommodate diversity in the local economy and conforms to the requirements of Section 19.85 of the Zoning Code (Wireless Telecommunication Facilities) and as conditioned to other applicable codes of the City. Further, the proposed small cell facilities are consistent with the City's General Plan (2030), which includes policies that seek to guarantee the adequate distribution of utility services to the entire community in a manner that is compatible with the character of the community. Additionally, the proposed small cell facilities support the overarching General Plan goal of integrating communication infrastructure that assists and helps coordinate residents, visitors and emergency personnel during emergency events.

3. The location of the conditional use and conditions under which it would be operated or maintained will not be detrimental to the public health, safety or welfare, or materially injurious to the properties or improvements in the vicinity.

The locations of the conditional use and the conditions under which they would be operated or maintained will not be detrimental to the public health, safety or welfare as the proposed small cell wireless facilities will be installed and operated consistent with City regulations, which ensure public health safety, welfare and material injury to properties and improvements are safeguarded.

4. The proposed project is visually compatible with the existing streetscape, and protects the character of the adjacent development.

As conditioned the proposed project is visually compatible with the existing streetscape and protects the character of adjacent development in that the proposal meets the requirements of Section 19.85, providing for stealth design, and underground utility to ensure that they are compatible with the existing streetscape.

Section 4. Based on the foregoing, the information contained in the agenda submittal and supporting exhibits and all oral and written presentations and testimony made by City Staff and member of the public, with respect to the proposed Small Cell Wireless Telecommunication Facilities, the Planning Commission hereby finds the following:

1. That the proposed Facility will be an enhancement to the City due to its ability to provide additional communication capabilities.

This project is needed to close a significant service coverage gap in the Perris area, including bandwidth by providing wireless telecommunication services and faster data rates to improve wireless services in Perris. The streetlights selected for the installation of small cell facilities are locations that will help to resolve service gap deficiencies identified for the New Cingular PCS wireless network.

2. That the proposed Facility will be a Stealth Facility and be aesthetically integrated into the design and landscaping of its site and surrounding land uses.

The proposed small cell stealth facilities will be mounted on new (replacement) concrete faux finish streetlight poles that are similar in construction, color and specification to the existing streetlights. The equipment will be fully concealed from view to maintain existing sight lines and preserve aesthetics in the area. The proposed facilities are low profile, and as such, offer less intrusive solutions than macro facilities to address service coverage gaps. Streetlights are considered public service facilities and are not typically integrated into the design and landscaping of the site or surrounding land use.

3. The proposed Facility has been evaluated in the context of the ultimate anticipated network of Facilities of both the applicant and other Commercial Mobile Service providers so as to reduce the number of Facilities needed to provide service to the City of Perris.

The demand for landline phones has decreased dramatically over the last ten years with more than 70% of American households relying on wireless solutions as their means of communication. Additionally AT&T has experienced a 360,000% increase in data traffic since the release of the iPhone, from 2007 through 2017 and as a result the proposed small cell facilities are intended to bridge service coverage gaps, with the goal of reducing the number of facilities needed. The proposed small cell stealth facilities will be mounted on replacement streetlights, and densification has been determined to be necessary, as shown by the Propagation Maps prepared for each location. This new infrastructure includes activation of new frequency channels that

will provide coverage and capacity to key areas of Perris that currently are lacking in adequate service.

4. The proposed facility has been located and designed for Colocation to the maximum extent possible.

The proposed facilities have been located and designed so that future colocation could be a possibility, subject to technical feasibility and approval by New Cingular Wireless PCS, D/B/A AT&T. However, colocation of the proposed is not currently expected, given the present equipment configuration.

5. That the proposed Facility will comply with FCC regulations regarding interference with the reception or transmission of other Wireless Service signals within the City and surrounding community.

The proposed facilities will comply with FCC regulations regarding interference with the reception and transmission of other Wireless Service Signals within the City and surrounding community as evidenced by the FCC Compliance letter submitted, which indicates New Cingular Wireless PCS, D/B/A AT&T commitment to comply with RF exposure rules.

6. That the proposed Facility will operate in compliance with all other applicable Federal regulations for such Facilities, including safety regulations.

The proposed facilities will operate in compliance with all other applicable Federal regulations for such Facilities, including safety regulations in that AT&T's national RF safety program requires its sites to be in compliance with FCC'S RF exposure rules. Further AT&T uses more restrictive General Population/Uncontrolled MPR limits and specially-trained employees and carefully selected RF safety consultants to assess exposure levels and recommend appropriate mitigation to limit exposure.

7. That the public need for the use of the Facility has been documented.

The public need for the use of the facilities has been documented through coverage area maps that were submitted as part of the application, which identify the public need for these facilities in order to bridge the coverage gaps.

Section 5. For the foregoing reasons the Planning Commission hereby finds the proposed project exempt from CEQA, and approves Conditional Use Permit 18-05339 for the lease, installation and operation of small cell, stealth wireless facilities on proposed replacement streetlights in three (3) locations within the City of Perris public right-of-way, based on the information and findings presented in the staff report and subject to the attached Conditions of Approval.

Section 6. The Planning Commission declares that should any provision, section, paragraph, sentence, or word of this Resolution be rendered or declared invalid by any court of competent jurisdiction, or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences, and words of this Resolution shall remain in full force and effect.

Section 7. The Chairperson shall sign and the Secretary shall certify to the passage and adoption of this Resolution.

ADOPTED, SIGNED, and APPROVED this 20th day of March 2019.

CHAIRPERSON, PLANNING COMMISSION

ATTEST:

Secretary, Planning Commission

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) §
CITY OF PERRIS)

I, Kenneth Phung, SECRETARY OF THE PLANNING COMMISSION OF THE CITY OF PERRIS, DO HEREBY CERTIFY that the foregoing Resolution Number 19-06 was duly adopted by the Planning Commission of the City of Perris at a regular meeting of said Planning Commission on the 20th day of March 2019, and that it was so adopted by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

Secretary, Planning Commission

Attachment: Exhibit A – Conditions of Approval

Planning Commission Agenda

CITY OF PERRIS

03.20.19

Item

7C

Temporary Use Permit (TUP) 19-05045



CITY OF PERRIS

PLANNING COMMISSION

AGENDA SUBMITTAL

MEETING DATE: March 20, 2019

SUBJECT: **Temporary Use Permit (TUP) 19-05045** - Proposal to establish a temporary rock crushing operation in two separate locations within the Green Valley Specific Plan to recycle and reuse existing stockpiled rock and concrete construction debris for aggregate base, backfill, and other road improvement activities. **Applicant:** Mamco Inc. D/B/A Alabbasi Construction & Engineering

REQUESTED ACTION: **Adopt Resolution 19-07** finding the proposed project Categorically Exempt from CEQA under Section 15304, Class 4(b), Minor Alteration to Lands, and approving Temporary Use Permit 19-05045 to facilitate the a temporary rock crushing operation in two separate locations within the Green Valley Specific Plan, based on the findings and subject to the Conditions of Approval

CONTACT: Dr. Grace Williams, Director of Planning and Economic Development

BACKGROUND/DISCUSSION:

The Applicant, Mamco Inc. D/B/A Alabbasi Construction & Engineering is requesting a Temporary Use Permit to grind piles of broken concrete roadways on-site from a former nursery within the Green Valley Specific Plan for aggregate base, backfill and other road improvement activities. The concrete was piled during the grading of the Tentative Tract Map 36988 to subdivide 37.65 acres into 169 single family lots, and Tentative Tract Map 36989 to subdivide 37.09 acres into 145 single family lots, which were approved by the City on August 29, 2017. The broken concrete pieces were placed at two separate undeveloped locations on-site in remote areas, approximately 0.2 miles north of the newly constructed West Elm Parkway and 0.3 miles east of Goetz Road. Perris Valley Airport is about .5 miles north of the crushing site and Murrieta Road is about .5 miles east of the site.

The project is temporary in nature and each of the two sites will be processed sequentially for up to a 3-month duration. Operations at the two locations will not overlap; the same processing equipment will be staged at Site A as shown on Exhibit B, and then removed and relocated to Site B as shown on Exhibit B, once the operations at Site A are complete. Processing equipment includes a conveyor system, a debris screen, cone crusher, and jaw crusher. Once the construction materials are processed at each site, operations will cease and the processed material will be recycled/reused as Class II Aggregate base for planned roadway within the GVSP boundaries. Although the GVSP Final Environmental Impact Report (SCH #899032707) Noise Mitigation Measures allows daytime project

construction operations between the hours of 7:00 a.m. to 7:00 p.m., the proposed project is further conditioned to limit daytime operational hours between 8:00 a.m. to 5:00 p.m., Monday through Friday and weekend operations are prohibited. The applicant has a valid permit to operate from the SCAQMD, subject to various conditions.

The applicant submitted a Technical Memorandum Noise Analysis on February 28, 2019, which was prepared by Albert A Webb Associates to evaluate whether the temporary rock crushing processing operations would exceed applicable standards established by the City of Perris construction noise daytime thresholds in Chapter 7 of the City of Perris Municipal Code, as further reinforced through the GVSP Final Environmental Impact Report Noise Mitigation Measures. The study concluded that noise levels associated with the proposed temporary rock crushing operations are in compliance with the City's construction noise standard at the nearest residential properties, due to the distance from the residences to the proposed operation. Thus, no impacts are anticipated during the temporary rock crushing operations and no mitigation measures are required. A detailed site plan was submitted as required, showing the location of the proposed operation for each site. Pursuant to Chapter 19.60 of the City of Perris Municipal Code, staff determined that the proposed temporary use should be elevated to the Planning Commission for consideration, rather than approving the use administratively as allowed, due to the nature of the proposal in proximity to residential uses.

A public hearing notice was mailed to affected public agencies, property owners, residents, and commercial tenants within 300 feet of each of the two (2) proposed sites. As of the writing of this report, no comments have been received from the neighboring property owners, commercial tenants or public agencies.

The proposed project is found to be Categorically Exempt from the California Environmental Quality Act (CEQA) Categorically Exempt from CEQA under Section 15304, Class 4(b), Minor Alteration to Lands.

BUDGET (or FISCAL) IMPACT: All costs associated with the project are borne by the applicant.

Prepared by: Mary Blais, Contract Planner

REVIEWED BY: Kenneth Phung, Planning Manager

Attachments: Staff Report
Exhibit A – Conditions of Approval (Planning)
Exhibit B – Aerial Location Map
Exhibit C – Zoning Map
Exhibit D – Site Plan
Exhibit E – Resolution 19-07
Exhibit F – SCAQMD Permit for Rock Crushing

Consent:
Public Hearing: X
Business Item:
Presentation:
Other:

CITY OF PERRIS
PLANNING & ECONOMIC DEVELOPMENT DEPARTMENT

STAFF REPORT

Date: March 20, 2019 – Planning Commission

Cases: Temporary Use Permit (TUP) 19-05045

Environmental Determination: Categorically Exempt from CEQA under Section 15304, Class 4(b), Minor Alteration to Lands

Project Planner: Mary Blais, Contract Planner

Applicant: Mamco Inc. D/B/A Alabbasi Construction & Engineering
764 W. Ramona Expressway, STE C
Perris, CA 92571

Owner: Green Valley Acquisition
1925 Palomar Oaks Way Ste 201
Carlsbad, CA 92008

SITE A	Assessor Parcel Number: 330-150-008	31.49 ac
SITE B	Assessor Parcel Number: 330-140-018	37.80 ac

Locations:

PROJECT DESCRIPTION: Proposal to establish a temporary rock crushing operation in two separate locations within the Green Valley Specific Plan to recycle and reuse existing stockpiled rock and concrete construction debris for aggregate base, backfill, and other road improvement activities

ZONING AND LAND USE:

Existing Zoning: Green Valley Specific Plan (GVSP)

Surrounding Zoning:

Site	Immediate Adjacent Zoning
A	GVSP
B	GVSP

Existing Land Uses: Vacant, Disturbed

Surrounding Land Uses:

Site	Immediate Adjacent Land Uses
A	Undeveloped, heavily disturbed
B	Undeveloped, heavily disturbed

ANALYSIS & REVIEW:

PROJECT DESCRIPTION:

The Applicant, Mamco Inc. D/B/A Alabbasi Construction & Engineering is requesting a Temporary Use Permit to grind piles of broken concrete roadways on-site from a former nursery within the Green Valley Specific Plan for aggregate base, backfill and other road improvement activities. The concrete was piled during the grading of the Tentative Tract Map 36988 to subdivide 37.65 acres into 169 single family lots, and Tentative Tract Map 36989 to subdivide 37.09 acres into 145 single family lots, which were approved by the City on August 29, 2017. The broken concrete pieces were placed at two separate undeveloped locations on-site in remote areas, approximately 0.2 miles north of the newly constructed West Elm Parkway and 0.3 miles east of Goetz Road. Perris Valley Airport is about .5 miles north of the crushing site and Murrieta Road is about .5 miles east of the site.

The two proposed sites are located within the boundary of the Green Valley Specific Plan (GVSP), which was adopted by City Council in March 1990. The two sites are as follows:

SITE A	Assessor Parcel Number: 330-150-008	31.49 acres
SITE B	Assessor Parcel Number: 330-140-018	37.80 acres

The project is temporary in nature and each of the two sites will be processed sequentially for up to a 3-month duration. Once the construction materials are processed at each site, operations will cease and the processed material will be recycled/reused as Class II Aggregate base for planned roadway within the GVSP boundaries. Operations at the two locations will not overlap; the same processing equipment will be staged at Site A, and then removed and relocated to Site B, once the operations at Site A are complete. The operational processing equipment includes a conveyor system, a debris screen, cone crusher, and jaw crusher.

Although the GVSP Final Environmental Impact Report (SCH #899032707) Noise Mitigation Measures and Chapter 7 of the City Municipal Code allows daytime project construction operations between the hours of 7:00 a.m. to 7:00 p.m., the proposed project has been further conditioned to limit operations during the day to the hours between 8:00 am and 5:00 pm, M-F. In addition, operations on weekends and legal holidays are prohibited.

Chapter 19.60 of the City of Perris Municipal Code allows for the establishment of temporary activities or uses with the goal of minimizing any adverse effects on surrounding properties and infrastructure or on the public health, safety, and welfare to ensure that temporary activities and uses will be compatible with surrounding land uses. The proposed temporary

use is conditioned to meet the intent of Chapter 19.60.

PROJECT ANALYSIS

PLANNING AREA

The proposed development is located in Planning Area 9, "Southeast Commercial," of the General Plan, which is located at the southern end of the City astride the Interstate 215 corridor and designated for a mixture of business, commercial and residential uses. The Riverglen and Green Valley Specific Plans provide land use and development standards for the majority of Planning Area 9.

GENERAL PLAN, ZONING CONSISTENCY

The proposed temporary use is consistent with the City's General Plan (2030), which includes policies that seek to create environmentally conscious and sustainable business operations as it proposes to process abandoned debris on two sites for eventual reuse, which eliminates the need to operate machinery to load and remove the debris by trucking the material to a landfill, thereby reducing space in the landfill. The temporary operation also reduces the transport of aggregate material needed for future improvement projects within the GVSP, thereby reducing associated emissions and wear and tear on local roadways, traffic congestion, and ambient noise generation. Finally, the proposed temporary operation is a sustainable solution to an existing issue, thereby implementing the overarching sustainable goals and policies in the City's General Plan. For such reason, the air quality impact will be non-significant especially in light of the fact that the applicant has valid permit for rock crushing from SCAQMD, subject to various conditions requirement. The proposed temporary operation will also implement the sustainability goals in the Conservation Element, including Goal 9, which seeks to "Create a vision for energy and resource conservation to protect the environment, improve quality of life, and promote sustainable practices," and Goal V of the Circulation Element, which pursues movement efficiency.

The proposed temporary use is also consistent with the GVSP, which implements the General Plan (2030) in that the project is conditioned so that it is consistent with the intent of the GVSP and the uses contemplated Planning Area 9 of the General Plan. Finally, as designed and conditioned, the project provides for a temporary use that implements the sustainable goals of the City's General Plan.

MARB AIRPORT LAND USE COMPATIBILITY PLAN

Proposed Project Site A is partially located within airport compatibility Zone E of the Perris Valley Airport (PVA) and proposed project Site B is fully located within airport compatibility Zone E of the Perris Valley Airport (PVA). The proposed use is not specifically prohibited in Compatibility Zone E of the Perris Valley Airport, which is the "Other Airport Environs" that contains the remainder of the Airport Influence Area (AIA). Noise impacts and risk of accidents is low in this Zone and since the proposed project lies within the GV Specific Plan its operation is subject to the standards, and policies of the Specific Plan and standard Conditions of Approval for this Airport Zone.

DEVELOPMENT STANDARDS

TEMPORARY USE PERMIT STANDARDS

Temporary uses are subject to the provisions of Chapter 19.60 of the City of Perris Municipal Zoning Code. More specifically, per Chapter 19.60.030, a temporary business operation land use is permitted for the duration and frequency as determined by the Director of Community Development, subject to the applicable standards of operation outlined in Chapter 19.60.150 and conditions of approval as deemed necessary. As conditioned, the project will meet the intent of Chapter 19.60. Typically, a Temporary Use Permit would be approved administratively, but due to the nature of the proposal in proximity to residential uses staff determined that the proposed use should be elevated to the Planning Commission for consideration.

SITE PLAN

The proposed site plan, which is attached as Exhibit C, shows the approximate location for each of the two proposed sites. According to the site plan, Site A is located in Planning Area 12 of the GVSP, which is slated for future residential development. Site B is located in Planning Area 23, which is planned for a future park. The overall operation, including the equipment and stockpiles and debris, involves an area of about 7-acres for each of the proposed sites. The proposed operation will not interfere with on-going development in the GVSP area.

NOISE

The applicant submitted a Technical Memorandum Noise Analysis on February 28, 2019, which was prepared by Albert A Webb Associates to evaluate whether the temporary rock crushing processing operations would exceed the 80 dBA construction noise standard established by Chapter 7, Section 7.34.060 of the City of Perris Municipal Code from the nearest occupied homes, which are located approximately 0.4 miles from the proposed use, just west of Goetz Road and single-family homes south of Ethanac Road. There is also the potential for on-site sensitive receptors to occupy portions of the GVSP that are currently under construction.

The property line of the closest residence is located 971 feet from the boundary of Project Site A and the closest residence to Project Site B is even further away. Since the existing topography is relatively flat and no sound attenuating barriers were assumed. Material crushing noise levels were calculated based on noise measurements taken during normal operations at a current material crushing facility in the City of Anaheim, which is the same equipment that will be transported to and used at each Project site.

The study concluded that noise levels associated with the proposed temporary rock crushing operations generate a maximum noise level of 60.6 dBA to the closest residence and is therefore in compliance with the City's construction noise standard of 80 dBA. Thus, no impacts are anticipated during the temporary rock crushing operations and as indicated above, business operations have been limited to 8:00 a.m. to 5:00 p.m. as an additional noise reduction measure.

ENVIRONMENTAL DETERMINATION

The proposed project is found to be Categorically Exempt from the California Environmental Quality Act (CEQA) Section 15304, Class 4(b), Minor Alteration to Lands.

PUBLIC COMMENTS

A public hearing notice was sent to property owners within 300-feet of each of the project sites. As of the writing of this report, no comments have been received by staff.

Temporary Use Permit Findings:

1. The temporary activity or use is compatible with the various provisions of this chapter.

The proposed temporary rock crushing and processing activity are compatible with Chapter 19.60 in that it is an activity that is permitted and has been evaluated and conditioned to operate in accordance with the City codes and regulations.

2. The temporary activity or use is a reasonable use of land compatible with the general plan land use designation and zoning classification.

The proposed temporary rock crushing and processing activity is a reasonable use of the land and is compatible with the City's General Plan (2030) and the GVSP zoning designation, which implements the General Plan, in that it reduces the transport of aggregate material needed for future improvement projects within the GVSP, thereby reducing associated emissions and wear and tear on local roadways, traffic congestion, and ambient noise generation, offering a sustainable solution to an existing issue, thereby implementing the overarching sustainable goals and policies in the City's General Plan. Further, the proposed temporary operation implements the sustainability goals in the Conservation Element, including Goal 9, which seeks to "Create a vision for energy and resource conservation to protect the environment, improve quality of life, and promote sustainable practices," and Goal V of the Circulation Element, which pursues movement efficiency.

3. The temporary activity or use will not impede the reasonable use of land or the orderly development of land in the immediate vicinity.

The proposed temporary rock crushing and processing activity will not impede reasonable use or orderly development of the land in that it is a temporary operation intended to clear and recycle discarded debris from antiquated and abandoned improvements and once complete, will allow for the orderly development of each site as contemplated by the GVSP.

4. The temporary activity or use will not adversely affect the adjacent uses, buildings or other structures.

As conditioned, the proposed temporary rock crushing and processing activity will not adversely affect adjacent uses, buildings or other structures.

5. The temporary activity or use will not endanger the public health, safety or general welfare.

As conditioned, the proposed temporary rock crushing and processing activity will not endanger the public health, safety or general welfare.

6. Provisions for adequate traffic access/circulation, off-street parking and pedestrian safety have been provided and will be maintained during the operation of the use or activity.

As conditioned, the proposed temporary rock crushing and processing activity provide for adequate traffic access/circulation and pedestrian safety for the duration of the operation.

RECOMMENDATION

Staff recommends that the Planning Commission:

Adopt Resolution 19-07 finding the proposed project Categorical Exempt from CEQA under Section 15304, Class 4(b), Minor Alteration to Lands, and approving Temporary Use Permit 19-05045 to facilitate the establishment of a temporary rock crushing operation in two separate locations within the Green Valley Specific Plan, based on the findings and subject to the Conditions of Approval.

EXHIBITS:

- Exhibit A – Conditions of Approval (Planning)
- Exhibit B – Aerial Location Map
- Exhibit C – Zoning Map
- Exhibit D – Site Plan
- Exhibit E – Resolution 19-07
- Exhibit F – SCAQMD Permit for Rock Crushing

CITY OF PERRIS
PLANNING & ECONOMIC DEVELOPMENT DEPARTMENT
CONDITIONS OF APPROVAL

Temporary Use Permit 19-05045

Planning Commission March 20, 2019

PROJECT: Temporary Use Permit No. 19-05045 - Proposal to establish a temporary rock crushing operation in two separate locations within the Green Valley Specific Plan to recycle and reuse existing stockpiled rock and concrete construction debris for aggregate base, backfill and other road improvement activities **Applicant:** Mamco Inc. D/B/A Al Abbasi Construction & Engineering

General Requirements

1. **Project Description.** The proposed operation is described as a temporary rock crushing operation in two separate locations to recycle and reuse existing stockpiled rock and concrete construction debris for aggregate base, backfill and other road improvement activities.
2. **Site Plan.** The proposed temporary operation site plan shall conform substantially to the site plan presented to Planning Commission, marked Exhibit "B."
3. **Development Standards.** The project shall conform to all requirements of the City of Perris Municipal Code Title 19 and Green Valley Specific Plan.
4. **Duration.** The proposed temporary operation is permitted for a six (6) month period from the effective date of approval.
5. **Locations.** The temporary operation is permitted in the following two locations:

SITE A	Assessor Parcel Number: 330-150-008	31.49 acres
SITE B	Assessor Parcel Number: 330-140-018	37.80 acres
6. **Hours of Operation.** The proposed temporary use shall operate between the hours of 8:00 a.m. to 5:00 p.m. Monday through Friday. Operations on Weekend and legal holidays is prohibited.
7. **Noise Standards.** The proposed temporary operation shall not exceed the City's established daytime construction noise decibel level of 80 dBA, during permitted hours of operation.
8. **City Ordinances and Business License.** The subject business shall maintain compliance with all local and City Ordinances, including but not limited to an annual fire inspection and maintenance of a City business license.
9. **CEQA Notice of Exemption.** Within three (3) days of Planning Commission approval, the applicant shall submit a check to the City Planning Department, payable to "Riverside County Clerk-Recorder," for a \$50.00 check to file the Notice of Exemption.

10. **Temporary Activities and Uses.** The project shall conform to the Temporary Activities and Uses Ordinance, Chapter 19.60 of the Zoning Code.
11. **Discontinued Use.** The operator of a lawfully erected Facility, and the owner of the premises upon which it is located, shall within five (5) business days notify the Director of Planning and Economic Development in writing in the event that use of the Facility is discontinued for any reason. In the event that discontinued use is permanent, then the owner(s) and/or operator(s) shall promptly remove the Facility, repair any damage to the premises caused by such removal, and restore the premises as appropriate so as to be in conformance with applicable zoning codes. All such removal, repair and restoration shall be completed within ninety (90) days after the use is discontinued, and shall be performed in accordance with all applicable health and safety requirements.
12. **Temporary Refuse Facilities.** Adequate refuse facilities and service shall be provided for the duration of the operation at each site.
13. **Temporary Restroom Facilities.** Adequate portable restroom facilities shall be provided for employees/site operators for the duration of the operation at each site.
14. **Temporary Power.** If required, temporary power/electrical extensions shall be secured from the City Building Department for operation.
15. **SCAQMD Rock Crushing Permit.** The applicant shall present a valid permit for rock crushing from SCAQMD.

Construction Practices:

16. **Construction Practices.** To reduce potential noise and air quality nuisances, the following conditions apply:
 - a. Construction activity shall not exceed 80 dBA in residential zones in the City during permitted day time operation hours.
 - b. Stationary construction equipment that generates noise in excess of 65 dBA at the project boundaries must be shielded and located at least 100 feet from occupied residences. The equipment area with appropriate acoustic shielding shall be designated on building and grading plans. Equipment and shielding shall remain in the designated location throughout construction activities.
 - c. Construction routes are limited to City of Perris designated truck routes.
 - d. If applicable, water trucks or sprinkler systems shall be used during clearing, grading, earth moving, excavation, transportation of cut or fill materials and construction phases to prevent dust from leaving the site and to create a crust after each day's activities cease. At a minimum, this would include wetting down such areas in the later morning and after work is completed for the day and whenever wind exceeds 15 miles per hour.
 - e. As applicable, a person(s) shall be designated to monitor the dust control program

and to order increased watering as necessary to prevent transport of dust off-site. The name and telephone number of such persons shall be provided to the City.

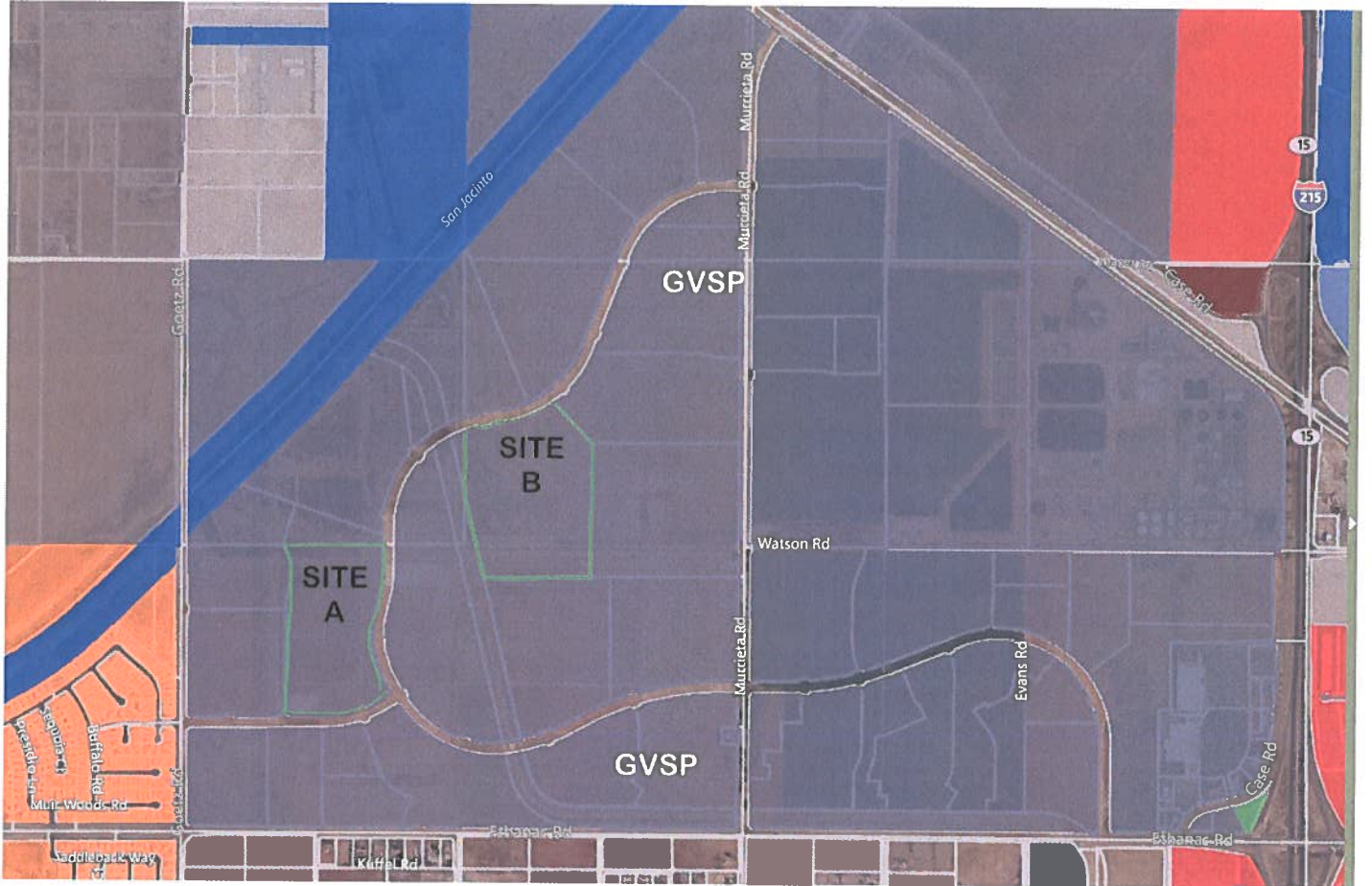
- f. Project applicant shall provide construction site electrical hook-ups for electric hand tools such as saws, drills, and compressors to eliminate the need for diesel powered electric generators or provide evidence that electrical hook ups at construction sites are not practical or prohibitively expensive.

end conditions

**EXHIBIT B
AERIAL LOCATION MAP
TUP 19-05045**



**EXHIBIT C
GVSP ZONING
TUP 19-05045**



RESOLUTION NUMBER 19-07

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF PERRIS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, FINDING THE PROPOSED PROJECT CATEGORICAL EXEMPT FROM CEQA AS A CLASS 4(B), MINOR ALTERATION TO LANDS, AND APPROVING TEMPORARY USE PERMIT 19-05045 FOR THE ESTABLISHMENT OF A TEMPORARY ROCK CRUSHING OPERATION TO RECYCLE AND REUSE EXISTING STOCKPILED ROCK AND CONCRETE CONSTRUCTION DEBRIS FOR AGGREGATE BASE, BACKFILL AND OTHER ROAD IMPROVEMENT ACTIVITIES IN TWO LOCATIONS WITHIN THE GREEN VALLEY SPECIFIC PLAN, AND MAKING FINDINGS IN SUPPORT THEREOF.

WHEREAS, the applicant filed Temporary Use Permit (TUP) 19-05045, proposing to establish a temporary rock crushing operation in two separate locations to recycle and reuse existing stockpiled rock and concrete construction debris for aggregate base, backfill and other road improvement activities; and

WHEREAS, the two (2) to be approved under TUP 19-05045 are for the following locations:

- Site A - Assessor Parcel Number: 330-150-008, containing 31.49 acres; and
- Site B - Assessor Parcel Number: 330-140-018, containing 37.80 acres

WHEREAS, the proposed project is consistent with the City's General Plan, the Green Valley Specific Plan (GVSP) and the Zoning Code, and conforms to all zoning standards and other Ordinances and Resolutions of the City; and

WHEREAS, this Temporary Use Permit (TUP) has been duly noticed; and

WHEREAS, on March 20, 2019, the Planning Commission conducted a legally noticed public hearing on the TUP, and considered public testimony and materials in the staff reports and accompanying document and exhibit; and, at which time all interested persons were given full opportunity to be heard and to present evidence; and

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Perris as follows:

Section 1. The above recitals are all true and correct.

Section 2. The Planning Commission has determined that the project is Categorically Exempt under the California Environmental Quality Act (CEQA) pursuant to Section 15304, Class 4(b), Minor Alteration to Lands in compliance with applicable general plan policies and zoning requirements.

EXHIBIT E

Section 3. Based upon the information contained in the agenda submittal and supporting exhibits and all oral and written presentations and testimony made by City Staff and members of the public, with respect to the Temporary Use Permit, the Planning Commission hereby finds the following:

1. The temporary activity or use is compatible with the various provisions of this chapter.

The proposed temporary rock crushing and processing activity are compatible with Chapter 19.60 in that it is an activity that is permitted and has been evaluated and conditioned to operate in accordance with the City codes and regulations.

2. The temporary activity or use is a reasonable use of land compatible with the general plan land use designation and zoning classification.

The proposed temporary rock crushing and processing activity is a reasonable use of the land and is compatible with the City's General Plan (2030) and the GVSP zoning designation, which implements the General Plan, in that it reduces the transport of aggregate material needed for future improvement projects within the GVSP, thereby reducing associated emissions and wear and tear on local roadways, traffic congestion, and ambient noise generation, offering a sustainable solution to an existing issue, thereby implementing the overarching sustainable goals and policies in the City's General Plan. Further, the proposed temporary operation implements the sustainability goals in the Conservation Element, including Goal 9, which seeks to "Create a vision for energy and resource conservation to protect the environment, improve quality of life, and promote sustainable practices," and Goal V of the Circulation Element, which pursues movement efficiency.

3. The temporary activity or use will not impede the reasonable use of land or the orderly development of land in the immediate vicinity.

The proposed temporary rock crushing and processing activity will not impede reasonable use or orderly development of the land in that it is a temporary operation intended to clear and recycle discarded debris from antiquated and abandoned improvements and once complete, will allow for the orderly development of each site as contemplated by the GVSP.

4. The temporary activity or use will not adversely affect the adjacent uses, buildings or other structures.

As conditioned, the proposed temporary rock crushing and processing activity will not adversely affect adjacent uses, buildings or other structures.

5. The temporary activity or use will not endanger the public health, safety or general welfare.

As conditioned, the proposed temporary rock crushing and processing activity will not endanger the public health, safety or general welfare.

6. Provisions for adequate traffic access/circulation, off-street parking and pedestrian safety have been provided and will be maintained during the operation of the use or activity.

As conditioned, the proposed temporary rock crushing and processing activity provide for adequate traffic access/circulation and pedestrian safety for the duration of the operation.

Section 4. Based on the foregoing, the information contained in the agenda submittal and supporting exhibits and all oral and written presentations and testimony made by City Staff and member of the public, the Planning Commission hereby finds the proposed project exempt from CEQA, and approves Temporary Use Permit 19-05045 to establish a temporary rock crushing operation in two separate locations to recycle and reuse existing stockpiled rock and concrete construction debris for aggregate base, backfill and other road improvement activities, based on the information and findings presented in the staff report and subject to the attached Conditions of Approval.

Section 5. The Planning Commission declares that should any provision, section, paragraph, sentence, or word of this Resolution be rendered or declared invalid by any court of competent jurisdiction, or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences, and words of this Resolution shall remain in full force and effect.

Section 6. The Chairperson shall sign and the Secretary shall certify to the passage and adoption of this Resolution.

ADOPTED, SIGNED, and APPROVED this 20th day of March 2019.

CHAIRPERSON, PLANNING COMMISSION

ATTEST:

Secretary, Planning Commission

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) §
CITY OF PERRIS)

I, Kenneth Phung, SECRETARY OF THE PLANNING COMMISSION OF THE CITY OF PERRIS, DO HEREBY CERTIFY that the foregoing Resolution Number 19-07 was duly adopted by the Planning Commission of the City of Perris at a regular meeting of said Planning Commission on the 20th day of March 2019, and that it was so adopted by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

Secretary, Planning Commission

Attachment: Exhibit A – Conditions of Approval



This initial permit must be renewed ANNUALLY unless the equipment is moved, or changes ownership.
If the billing for the annual renewal fee (Rule 301(d)) is not received by the expiration date, contact the District.

**Legal Owner
or Operator:**

NORTH AMERICAN RECYCLING AND CRUSHING, L
22765 SAVI RANCH PKY, SUITE E
YORBA LINDA, CA 92887

ID 189084

Equipment Location: VARIOUS LOCATIONS IN SCAQMD

Equipment Description :

Portable Aggregate Crushing Plant #5 consisting of:

1. Vibratory Grizzly Feeder, 40 HP.
2. Jaw Crusher, Pioneer 2854, 200 HP or Pioneer 3144, 150 HP.
3. Belt Conveyor, Underjaw, 4'-0" W. x 40'-6" L., 20 HP.
4. Belt Conveyor, 2'-0" W. x 14'-0" L., with an Overhead Magnet, 26.5 HP.
5. Triple Deck Screen, JCI, 6'-0" W. x 20'-0" L., 40 HP.
6. Roll Crusher, with Stand-By Telsmith 52S Cone Crusher, 250 HP. (optional).
7. Belt Conveyor, 3'-6" W. x 38'-0" L., 15 HP.
8. Belt Conveyor, 1'-6" W. x 15'-0" L., 5 HP. (optional).
9. Belt Conveyor, 3'-0" W. x 30'-0" L., 10 HP. (optional).
10. Cone Crusher, 4-1/4 Symons, 200 HP. (optional).
11. Belt Conveyor, 3'-0" W. x 30'-0" L., 10 HP. (optional).
12. Belt Conveyor, 3'-6 W. x 60'-0" L., 30 HP. (optional).
13. Triple Deck Screen, JCI, 6'-0" W. x 20'-0" L., 40 HP. (optional).
14. Belt Conveyor, 4'-0" W. x 28'-0" L., 20 HP. (optional).
15. Two Belt Conveyors, 3'-0" W. x 50'-0" L., 20 HP. Each (optional).
16. Belt Conveyor, 3'-0" W. x 100'-0" L., 40 HP. (optional).
17. Belt Conveyor, 4'-0" W. x 27'-0" L., 20 HP.

ORIGINAL

Exhibit - F



PERMIT TO OPERATE

18. Two Belt Conveyors, 3'-0" W. x 50'-0" L., 20 HP. Each (optional).

Conditions :

1. Operation of this equipment shall be conducted in accordance with all data and specifications submitted with the application under which this permit is issued unless otherwise noted below.
2. This equipment shall be properly maintained and kept in good operating condition at all times.
3. This equipment shall not be operated more than 12 consecutive months at any one location within the District.
4. No more than 150,000 tons of material shall be processed by this equipment in any calendar month.
5. Records shall be maintained to demonstrate compliance with Condition No. 4. The records shall be kept on file for a minimum of two years and shall be made available to the South Coast Air Quality Management District (SCAQMD) upon request.
6. The Symons cone crusher shall not be operated unless it is vented only to air pollution control equipment which is in full use and which has been issued an operating permit by the Executive Officer.
7. The jaw crusher, roll crusher (and its backup cone crusher), screens, and material transfer points shall be equipped with a wet suppression system. This system shall maintain moisture at a minimum content of 4 percent by weight throughout the process and at the stockpile.
8. This equipment shall operate in compliance with Part 60, Chapter I, Title 40, Code of Federal Regulations, Subpart OOO, Standards of Performance for Non-Metallic Mineral Processing Plants.
9. This equipment shall not be operated within 1,000 feet of a school.
10. This equipment shall comply with all applicable requirements of Rule 1157.
11. Upon the fifth day after placement of this equipment into operation at a site, SCAQMD shall be notified via telephone at 1-877-810-6995 of the exact nature of the project as follows:
 - A. The permit number of the portable equipment,
 - B. The name and phone number of a contact person,
 - C. The location where the portable equipment is operated,
 - D. The estimated time the portable equipment will be located at the site,
 - E. Description of the project, and
 - F. If located within less than 1/4 mile of the nearest sensitive receptor: defined as long term health care facilities, rehabilitation centers, convalescent centers, retirement homes, residences, schools, playgrounds, childcare centers, and athletic facilities.

This equipment and its replacement unit intended to perform same or similar function shall not reside at any one location for more than 12 consecutive months. The period during which the equipment and its replacement is maintained at a storage facility shall be excluded from residency time determination.

ORIGINAL



PERMIT TO OPERATE

NOTICE

In accordance with Rule 206, this Permit to Operate or copy shall be posted on or within 8 meters of the equipment.

This permit does not authorize the emission of air contaminants in excess of those allowed by Division 26 of the Health and Safety Code of the State of California or the applicable Rules and Regulations of the South Coast Air Quality Management District (SCAQMD). This permit cannot be considered as permission to violate existing laws, ordinances, regulations or statutes of other government agencies.

Executive Officer

A handwritten signature in black ink, appearing to read "L. Tisopoulos", is positioned above the typed name.

BY LAKI TISOPULOS, PhD/JA08
1/9/2019

ORIGINAL



This initial permit must be renewed ANNUALLY unless the equipment is moved, or changes ownership.
If the billing for the annual renewal fee (Rule 301(d)) is not received by the expiration date, contact the District.

**Legal Owner
or Operator:**

NORTH AMERICAN RECYCLING AND CRUSHING, L
22765 SAVI RANCH PKY, SUITE E
YORBA LINDA, CA 92887

ID 189084

Equipment Location: VARIOUS LOCATIONS IN SCAQMD

Equipment Description :

Air Pollution Control System Consisting of:

1. Baghouse, DCE, Model V30/15F, with 20 Bags, Each 1'-8" W. X 4'-11" L., Total Filter Area 323 Sq. Ft. and Pulse Jet Cleaning
2. Exhaust System with a 7.5 HP Blower Venting a Nordberg Cone Crusher

Conditions :

1. Operation of this equipment shall be conducted in accordance with all data and specifications submitted with the application under which this permit is issued unless otherwise noted below.
2. This equipment shall be properly maintained and kept in good operating condition at all times.
3. A mechanical gauge shall be installed so as to indicate, in inches of water column, the static pressure differential across the bags.
4. Dust collected in the baghouse shall be discharged only into closed containers.

ORIGINAL



PERMIT TO OPERATE

NOTICE

In accordance with Rule 206, this Permit to Operate or copy shall be posted on or within 8 meters of the equipment.

This permit does not authorize the emission of air contaminants in excess of those allowed by Division 26 of the Health and Safety Code of the State of California or the applicable Rules and Regulations of the South Coast Air Quality Management District (SCAQMD). This permit cannot be considered as permission to violate existing laws, ordinances, regulations or statutes of other government agencies.

Executive Officer

BY LAKI TISOPULOS, PhD/JA08

1/9/2019

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