



Planning Commission Staff Report – Hearing on June 23, 2016

County of Ventura • Resource Management Agency • Planning Division

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Verizon Wireless Communications Facility Rincon Point Case No. PL14-0128

A. PROJECT INFORMATION

1. **Request:** The applicant requests that a Conditional Use Permit (CUP) be granted to authorize the construction, operation and maintenance of a wireless communications facility. (Case No. PL14-0128)
2. **Applicant:** Verizon Wireless, 2785 Mitchell Drive, Building 9, Walnut Creek, CA 94598
3. **Property Owner:** Gary and Beth Schuberg, 8320 Bates Road, Carpentaria, CA 93013
4. **Applicant's Representative:** Tricia Knight of TEK Consulting, Inc., 123 Seacliff Drive, Pismo Beach, CA 93449
5. **Decision-Making Authority:** Pursuant to the Ventura County Coastal Zoning Ordinance (CZO) (§ 8174-5 and § 8181-3 et seq.), the Planning Commission is the decision-maker for the requested CUP.
6. **Project Site Size, Location, and Parcel Number:** The 10.05-acre property is located at 8320 Bates Road, near the intersection of Bates Road and U.S. Highway 101, near the community of Rincon Point, in the unincorporated area of Ventura County. The wireless communications facility lease area is located about 1,003 feet southwest of the existing single family dwelling that is located on the subject parcel and about 20 feet from the southern property line of the subject parcel. The Assessor Parcel Number of the property that comprises the project site is 008-0-160-450 (Exhibit 2).
7. **Project Site Land Use and Zoning Designations:**
 - a. Countywide General Plan Land Use Map Designation: Open Space (Exhibit 2)
 - b. Coastal Area Plan Land Use Map Designation: Agriculture (Exhibit 2)

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Exhibit 1 – Planning Commission Staff
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- c. Zoning Designation: Coastal Agricultural 40 acres minimum lot size/ slope density formula (CA 40ac/sdf) [Exhibit 2]

8. Adjacent Zoning and Land Uses/Development (Exhibit 2):

Location in Relation to the Project Site	Zoning	Land Uses/Development
North	CA 40 ac/sdf	Open Space
East	COS 10 ac/sdf (Coastal Open Space 10 acres minimum lot size/ slope density formula)	Open Space
South	COS 10 ac/sdf	Pacific Ocean and single family dwellings
West	CA 40 ac/sdf & COS 10 ac/sdf	Open Space, County of Santa Barbara and single family dwelling

9. **History:** The subject property is currently developed with a single family residence, garage and barn. These residential uses were authorized by Coastal Planned Development Permit No. LU11-0033. A portion of the subject parcel is currently in agricultural production with lemon and cherimoya trees. Discretionary development on the parcel includes the following permits:

- On September 2, 2011, The Planning Director granted Coastal Planned Development Permit (CPD) No. LU11-0033 to authorize the construction of a 4,071 square foot single family dwelling with an attached 1,535 square foot garage, and a 3,744 square foot accessory barn to support the onsite agricultural operation.
- On December 15, 2011, the Planning Director granted Site Plan Adjustment No. LU11-0145 to Coastal Planned Development Permit No. LU11-0033 to authorize the installation of solar panels and an emergency generator.
- On December 14, 2012, the Planning Director granted Site Plan Adjustment No. PL12-0162 to Coastal Planned Development Permit No. LU11-0033 to authorize the reconfiguration in design of the barn that was approved under CPD LU11-0033.

10. **Project Description:** The applicant requests that a CUP be granted to authorize the construction, operation and maintenance of an unmanned wireless communication facility.

The proposed wireless communications facility would include the following components:

- A 45-foot tall faux palm tree (i.e. mono-palm) antenna structure with a RAD center (radiation center, or the center line of the antenna mounting height) placed at 38 feet above the ground.
- An equipment shelter that encompasses approximately 186 square feet.
- Six panel antennas installed on the mono-palm. Three antennas would be located at the 38-foot level of the mono-palm. Three antennas would be located at the 28-foot level of the mono-palm.
- Six remote radio units installed on the mono-palm. Three remote radio units would be located at the 20-foot, 3-inch level of the mono-palm. Three remote radio units would be located at the 14-foot, 9-inch level of the mono-palm.
- Two ray cap surge protectors installed on the mono-palm. One would be installed at the 14-foot, 9-inch level of the mono-palm and one would be located in the equipment shelter.
- Two GPS antennas installed on the roof of the proposed equipment shelter.
- A 30-kilowatt emergency backup generator.

All of the above components of the proposed wireless communications facility would be located within a 1,225 square foot lease area and installed on a concrete pad. A 6-foot tall chain link fence with green slats would be erected at the perimeter of the lease area.

About 0.29 acres of existing native brush and vegetation is required to be removed to accommodate the new facility. Minimal ground disturbance is required in the form of removal and recompaction of the soil to accommodate the installation of the wireless communications facility. Water is not required to operate the unmanned facility. Access to the site is provided by a private unpaved driveway (Bates Ranch Road) that connects to Bates Road (Exhibit 3).

B. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) COMPLIANCE

Pursuant to CEQA (Public Resources Code Section 21000 et seq.) and the CEQA Guidelines (Title 14, California Code of Regulations, Division 6, Chapter 3, Section 15000 et seq.), the proposed project is subject to environmental review.

County staff prepared an Initial Study in accordance with the County's Initial Study Assessment Guidelines. Based on the information contained in the Initial Study, the County prepared a Mitigated Negative Declaration (MND) and made the MND available for public review and comment from April 1, 2016 to May 2, 2016. One comment letter was received regarding the proposed project's potential to cause adverse impacts on

public health to the surrounding residences within proximity to the proposed project site. This comment letter and a response to the comment is included in the final MND (Exhibit 4).

An MND is a written statement briefly describing the reasons that a proposed project will not have a significant effect on the environment and therefore does not require the preparation of an Environmental Impact Report. However, the Initial Study identified four potentially significant effects on the environment, but mitigation agreed to by the applicant before the MND was released for public review would avoid the effects or mitigate the effects to a point where no significant effect on the environment would occur.

The MND identified potentially significant impacts on biological resources and cultural resources. These impacts include the following:

- a. Biological Resources-Nesting Birds: Proposed ground disturbance activities and construction of the proposed project could result in potentially significant indirect impacts on nesting birds due to noise, vibration and human presence.
- b. Biological Resources-Monarch Butterfly: Proposed ground disturbance activities and construction of the wireless communications facility could result in potentially significant indirect impacts on Monarch Butterfly winter roost sites.
- c. Biological Resources-Sensitive Plant Communities: Proposed vegetation removal in order to accommodate the construction of the wireless communications facility could result in potentially significant indirect impacts on sensitive plant communities.
- d. Cultural Resources: Proposed ground disturbance activities could result in potentially significant indirect impacts on previously identified culturally sensitive resources located near the proposed project site.

1. **Findings for Adoption of an MND**: The CEQA Guidelines [§ 15074(b)] states that a MND shall only be adopted by a decision-making body if there is no substantial evidence, in light of the whole record, that the proposed project may have a significant adverse effect on the environment and that the MND reflects the Lead Agency's independent judgment and analysis.

The MND concludes that proposed project, absent mitigation, may have a significant effect on the environment. The identified mitigation measures, discussed in detail below (Section B.2) and in the mitigation monitoring and reporting program (Exhibit 5, Condition Nos. 21 through 24), are feasible and would reduce impacts to a less than significant level. The proposed final MND, including written comments on the MND and staff's responses to the comments on the MND, is attached as Exhibit 4.

Based on the information provided above and in light of the whole record, staff recommends that the decision-makers find there is no substantial evidence that the proposed project may have a significant adverse effect on the environment and the MND (Exhibit 4) reflects the County's independent judgment and analysis.

- 2. Mitigation Monitoring and Reporting Program:** The CEQA Guidelines [§ 15091(d)] states that, when approving a project for which a MND has been prepared, the agency shall also adopt a program for reporting on, or monitoring, the changes which it has either required in the project or made a condition of approval to avoid or substantially lessen significant environmental effects. These measures must be fully enforceable through permit conditions, agreements, or other measures.

A mitigation monitoring and reporting program (MMRP) has been prepared in compliance with the CEQA Guidelines. These mitigation measures are included in the conditions of approval (Exhibit 5) which constitute the MMRP for the proposed project. The requirements of the four mitigation measures are discussed in detail below.

Required Mitigation Measures for PL14-0128

- a. Biological Resources- Monarch Butterfly Winter Roost Sites (Exhibit 5, Condition No. 21): The applicant shall avoid monarch butterfly roosts during all construction activities related to the proposed development. This can be accomplished by implementing either one of the following options:
 - i. Timing of construction: Prohibiting construction activities during the monarch wintering season (October 1 through March 1); or,
 - ii. Surveys and avoidance: Conduct site-specific surveys prior to construction activities during the monarch wintering season (October 1 through March 1) and avoid monarch roosts.
- b. Biological Resources- Pre-Construction Surveys for Nesting Birds (Exhibit 5, Condition No. 22): The applicant shall conduct all demolition, tree removal/trimming, vegetation clearing (including vegetation clearing for fuel modification), construction activities, and grading activities (collectively, "development activities") in such a way as to avoid nesting native birds. No development activities shall occur on the project site during the breeding and nesting season (February 1 – August 31), or if development activities must be conducted during the nesting season, by conducting a pre-development activities survey for active bird nests and avoiding nests until juvenile birds have vacated the nest.

- c. Biological Resources- Sensitive Plant Communities- Fuel Modification Plan (Exhibit 5, Condition No. 23): The applicant shall use a County-approved qualified biologist to prepare a Fuel Modification Plan for County Planning review and approval that minimizes impacts to the surrounding coastal sage scrub habitat and meets the Ventura County Fire Protection District's requirements to modify fuels surrounding structures. The Fuel Modification Plan shall specify the methods of modifying vegetation surrounding structures that will minimize indirect impacts to coastal sage scrub habitats (e.g., use of hand tools to prune vegetation, thinning shrubs rather than clear-cutting, avoiding rare plants, avoiding nesting birds). Because a portion of the fuel modification area is on or near a slope, the Fuel Modification Plan shall incorporate erosion control measures as necessary e.g. straw waddles, silt fencing, hydroseeding, erosion control blankets, etc. The Fuel Modification Plan shall include native, drought tolerant ground cover and shrubs that VCFPD deems not to pose a flammability risk. A County-approved qualified biologist shall monitor all fuel modification activities.
- d. Cultural Resources- Fencing for Protection of Archeological Resources (Exhibit 5, Condition No. 24): In order to prevent the illicit collection of archaeological resources, the applicant shall temporarily protect with fencing the area identified in the Phase I Archaeological study (MacFarlane Archaeological Consultants 2011) that has the potential for the presence of archaeological resources. Human encroachment in the fenced area (Exhibit 6) shall be prohibited. The fencing materials must consist of typical ranch wire or orange construction fence material.

The MND was revised to clarify that the proposed project would include minimal ground disturbance with the installation of the wireless communications facility. This minimal ground disturbance would include removal and recompaction of the soil to accommodate the installation of the wireless communications facility. The minimal ground disturbance would have negligible to no visual impact on the public view corridor just south of the project site (i.e. Highway 101) due to the stealth design of the facility and the fact that the facility would be screened by existing trees. The facility would also be setback about 47 feet north of an existing row of palm trees that range from 17 feet to 27 feet in height. These palm trees are adjacent to the steep terraced cliff that overlooks Highway 101. Thus, public views would not be significantly altered. This clarification did not affect the environmental determinations included in the MND, and recirculation of the MND is not required.

Based on the above discussion, the proposed project has been evaluated in compliance with CEQA and the CEQA Guidelines.

C. CONSISTENCY WITH THE GENERAL PLAN

The Ventura County General Plan *Goals, Policies and Programs* (2015, page 4) states:

...in the unincorporated area of Ventura County, zoning and any permits issued thereunder, any subdivision of land, any public works project, any public (County, Special District, or Local Government) land acquisition or disposition, and any specific plan, must be consistent with the Ventura County General Plan Goals, Policies and Programs, and where applicable, the adopted Area Plan.

Furthermore, the Ventura County CZO (§ 8181-3.5.a) states that in order to be approved, a Coastal CUP must be found consistent with all applicable policies of the Ventura County Coastal Area Plan.

Evaluated below is the consistency of the proposed project with the applicable policies of the General Plan *Goals, Policies and Programs* and *Coastal Area Plan*.

- 1. Ventura County General Plan Goals, Policies and Programs Resources Policy 1.1.2-1:** *All General Plan amendments, zone changes and discretionary development shall be evaluated for their individual and cumulative impacts on resources in compliance with the California Environmental Quality Act.*

As discussed in Section B (above) and in the MND prepared for the proposed project (Exhibit 4), the project's individual impacts and contribution to cumulative impacts on resources have been evaluated in compliance with CEQA.

Based on the above discussion, the proposed project is consistent with this Policy.

- 2. Ventura County General Plan Goals, Policies and Programs Resources Policy 1.1.2-2:** *Except as otherwise covered by a more restrictive policy within the Resources Chapter, significant adverse impacts on resources identified in environmental assessments and reports shall be mitigated to less than significant levels or, where no feasible mitigation measures are available, a statement of overriding considerations shall be adopted.*

As discussed in Section B (above) and in the MND prepared for the proposed project (Exhibit 4), the proposed project will have a potentially significant but mitigable impact on biological resources and cultural resources. The CUP would include four mitigation measures identified in the MND as conditions of approval (Exhibit 5, Condition Nos. 21 through 24). With the implementation of these conditions of approval, impacts to biological resources and cultural resources will be less than significant.

Based on the above discussion, the proposed project is consistent with this Policy.

3. **Ventura County General Plan Goals, Policies and Programs Air Quality Resources Policy 1.2.2.2:** *The air quality impacts of discretionary development shall be evaluated by use of the Guidelines for the Preparation of Air Quality Impact Analyses.*

The proposed project will include the use of a 30-kilowatt emergency backup generator. This generator is subject to permits issued by the Ventura County Air Pollution Control District (VCAPCD). As indicated in the Guidelines for the Preparation of Air Quality Impact Analyses (now titled the Air Quality Assessment Guidelines or AQAG), emissions from facilities permitted by the VCAPCD are not counted toward the Thresholds of Significance established in the AQAG for impacts on air quality. In any case, the Ventura County Air Pollution Control District (VCAPCD) has reviewed the proposed project and determined that the occasional use of the emergency generator will not produce emissions above the 25 pounds per day Threshold of Significance established in AQAG for impacts on air quality.

Based on the above discussion, the proposed project is consistent with this Policy.

4. **Ventura County General Plan Goals, Policies and Programs Water Resources Policy 1.3.2-2:** *Discretionary development shall comply with all applicable County and State water regulations.*

Ventura County General Plan Goals, Policies and Programs Water Resources Policy 1.3.2-4: *Discretionary development shall not significantly impact the quantity or quality of water resources within watersheds, groundwater recharge areas or groundwater basins.*

The proposed project will not involve a long-term use of water. The project would be constructed in an undeveloped area adjacent to existing agriculture. Although the proposed project involves 1,225 square feet of new impervious surfaces, this minimal level of development does not have the potential to substantially change surface water runoff or water quality.

The proposed project includes the installation of a 30 kilowatt emergency backup generator. To protect groundwater quality from potential spillage/leakage of stored fuel for the generator, the project will include a condition that will require the applicant to construct the diesel fuel tank area with a covered (roof or canopy) concrete pad and a berm designed to prevent runoff and to collect all spilled liquids into a sump for legal disposal (Exhibit 5, Condition No. 30). Implementation of the recommended condition of approval would prevent adverse effects on water resources.

Based on the above discussion, the proposed project is consistent with the above Policies.

5. **Ventura County General Plan Goals, Policies and Programs Biological Resources Policy 1.5.2-1:** *Discretionary development which could potentially impact biological resources shall be evaluated by a qualified biologist to assess impacts and, if necessary, develop mitigation measures.*

Ventura County General Plan Goals, Policies and Programs Biological Resources Policy 1.5.2-2: *Discretionary development shall be sited and designed to incorporate all feasible measures to mitigate any significant impacts to biological resources. If the impacts cannot be reduced to a less than significant level, findings of overriding considerations must be made by the decision-making body.*

Coastal Area Plan Coastal Act Policy § 30244 (a) Environmentally Sensitive Habitat Areas: *Environmentally sensitive habitat areas (ESHA) shall be protected against any significant disruption of habitat values, and only uses dependent on such resources shall be allowed within such areas.*

Coastal Area Plan Coastal Act Policy § 30244 (b) Environmentally Sensitive Habitat Areas: *Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of such habitat areas.*

Coastal Area Plan Environmentally Sensitive Habitats Policy A. Tidepools and Beaches: *An applicant for any coastal project, including shoreline protective devices, will show that their proposal will not cause long-term adverse impacts on beach or intertidal areas. Impacts include, but are not limited to, destruction of the rocky substrate, smothering of organisms, contamination from improperly treated waste water or oil, and runoff from streets and parking areas. Findings to be made will include, but not be limited to, proper waste water disposal.*

As identified in the MND (Exhibit 4), potentially significant but mitigable impacts on special status animal species and ecological sensitive plant communities would result from the proposed project. Three mitigation measures, as discussed in Section B of this staff report, have been included in the conditions of approval (Exhibit 5, Condition Nos. 21 through 24), and serve to reduce impacts to a less than significant level.

The MND concludes that although the project occurs outside the Santa Monica Mountains, Planning staff utilized the three site-specific test criteria, which is routinely used to determine ESHA impacts in the Santa Monica Mountains, to the

proposed project in order to determine whether or not the coastal sage scrub present could qualify as ESHA. The test includes the following criteria:

1. Has the native vegetation been properly identified to the alliance level as coastal sage scrub in the Initial Study Biological Assessment prepared for the proposed project?
2. Does the project area consist of pristine or undeveloped land?
3. Is the habitat part of a large contiguous block of relatively pristine native vegetation?

Planning staff concluded that although the proposed project included areas where coastal sage scrub is present, the proposed project would not significantly impact ESHA. The coastal sage scrub vegetation that exists within and around the proposed project area is sparse, likely due to the steep cliff south of the lease area and somewhat contiguous with other coastal sage scrub communities near the project area. However, this vegetation is not a part of a large contiguous block of relatively pristine native vegetation which is characteristic of the vegetation found on the slope to the east of the project site. To ensure that that coastal sage scrub communities continue to be preserved onsite, the applicant will be required to provide for the thinning of vegetation, selective retention of some shrubs, and the planting of non-flammable native species to minimize indirect impacts on coastal sage scrub resulting from the development of the wireless communications facility (Exhibit 5, Condition No. 23).

Based on the above discussion, the proposed project is consistent with the above Policies.

6. **Ventura County General Plan Goals, Policies and Programs Farmland Resources Policy 1.6.2-6:** *Discretionary development adjacent to Agricultural-designated lands shall not conflict with agricultural use of those lands.*

Ventura County General Plan Goals, Policies and Programs Land Use Policy 3.2.2-4: *Agricultural land shall be utilized for the production of food, fiber and ornamentals; animal husbandry and care; uses accessory to agriculture and limited temporary or public uses which are consistent with agricultural or agriculturally related uses.*

Coastal Area Plan Coastal Act Policy § 30241 Agriculture: *The maximum amount of prime agricultural land shall be maintained in agricultural production to assure the protection of the areas' agricultural economy, and conflicts shall be minimized between agricultural and urban land uses through all of the following:*

- (a) *By establishing stable boundaries separating urban and rural areas, including, where necessary, clearly defined buffer areas to minimize conflicts between agricultural and urban uses.*

- (b) By limiting conversions of agricultural lands around the periphery of urban areas to the lands where the viability of existing agricultural use is already severely limited by conflicts with urban uses or where the conversion of the lands would complete a logical and viable neighborhood and contribute to the establishment of a stable limit to urban development.*
- (d) By developing available lands not suited for agriculture prior to the conversion of agricultural lands.*
- (e) By assuring that public service and facility expansions and nonagricultural development do not impair agricultural viability, either through increased assessment costs or degraded air and water quality.*

Coastal Area Plan Coastal Act Policy § 30242 Agriculture: *All other lands suitable for agricultural use shall not be converted to nonagricultural uses unless (1) continued or renewed agricultural use is not feasible, or (2) such conversion would preserve prime agricultural land or concentrate development consistent with Section 30250. Any such permitted conversion shall be compatible with continued agricultural use on surrounding lands.*

Coastal Area Plan Coastal Act Policy § 30250 Agriculture: *New residential, commercial, or industrial development, except as otherwise provided in this division, shall be located within, contiguous with, or in close proximity to, existing developed areas able to accommodate it or, where such areas are not able to accommodate it, in other areas with adequate public services and where it will not have significant adverse effects, either individually or cumulatively, on coastal resources. In addition, land divisions, other than leases for agricultural uses, outside existing developed areas shall be permitted only where 50 percent of the usable parcels in the area have been developed and the created parcels would be no smaller than the acreage size of surrounding parcels.*

According to the State Important Farmland Inventory Maps, the project site has a soil designation of grazing land. The proposed project is not an agricultural use. However, the project site is located on land currently in agricultural production with open space and agricultural uses surrounding the project site. Although, the proposed project lease area is located about 70-feet from existing orchards, the proposed facility is not expected to adversely affect agricultural resources. The proposed facility would only encompass 1,225 square feet of the existing soil on the project site. The facility would be completely surrounded by a 6-foot high chain-link fence with green slats. There would not be any existing orchards removed or adversely affected by the installation of the proposed facility. Thus, the proposed project would not adversely impact agricultural resources.

Based on the above discussion, the proposed project is consistent with the above Policies.

7. **Ventura County General Plan Goals, Policies and Programs Scenic Resources Policy 1.7.2-1:** *Notwithstanding Policy 1.7.2-2, discretionary development which would significantly degrade visual resources or significantly alter or obscure public views of visual resources shall be prohibited unless no feasible mitigation measures are available and the decision-making body determines there are overriding considerations.*

The proposed wireless communication facility would be located within ½ mile of U.S. Highway 101, which is a state eligible scenic highway. The southern perimeter of the property is visible from U.S. Highway 101 at an elevation about 100 feet above the freeway. The proposed wireless communication facility will be designed to include a 45-foot tall faux palm tree antenna structure. The facility would be located on a flat portion of the property, about 20 feet from the property line. The proposed project lease area will be located about 47 feet north of an existing row of palm trees that range from 17 feet to 27 feet in height. These trees are located along the edge of the steep terraced cliff on the subject property. The proposed mono-palm antenna structure is designed to visually blend with these existing trees such that the proposed facility will not be prominently visible from public views along U.S. Highway 101 and the public beach at Rincon Point.

The proposed wireless communications facility shelter and equipment area would be located at the base of the faux palm tree structure. The shelter and equipment area would not be visible from a public viewing location due to the topography of the project site and the limited height (7 feet) of the equipment. The existing vegetation adjacent to the proposed facility would further screen the shelter from offsite views.

Based on the above discussion, the proposed project is consistent with this Policy.

8. **Ventura County General Plan Goals, Policies and Programs Paleontological and Cultural Resources Policy 1.8.2-1:** *Discretionary developments shall be assessed for potential paleontological and cultural resource impacts, except when exempt from such requirements by CEQA. Such assessments shall be incorporated into a Countywide paleontological and cultural resource data base.*

Ventura County General Plan Goals, Policies and Programs Paleontological and Cultural Resources Policy 1.8.2-2: *Discretionary development shall be designed or re-designed to avoid potential impacts to significant paleontological or cultural resources whenever possible. Unavoidable impacts, whenever possible, shall be reduced to a less than significant level and/or shall be mitigated by extracting maximum recoverable data. Determinations of impacts, significance and mitigation shall be made by qualified archaeological (in consultation with recognized local Native American groups), historical or paleontological consultants, depending on the type of resource in question.*

Ventura County General Plan Goals, Policies and Programs Paleontological and Cultural Resources Policy 1.8.2-3: *Mitigation of significant impacts on cultural or paleontological resources shall follow the Guidelines of the State Office of Historic Preservation, the State Native American Heritage Commission, and shall be performed in consultation with professionals in their respective areas of expertise.*

Coastal Area Plan Coastal Act Policy § 30244 Archaeological and Paleontological Resources: *Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required*

Coastal Area Plan Archaeological and Paleontological Resources Policy 7: *Where new development would adversely impact archaeological resources, reasonable mitigation measures will be required. Such measures may involve covering the site, moving the structure(s) to another site on the parcel, or not constructing on the site, depending on the severity of the impacts and the significance of the resources.*

Coastal Area Plan Archaeological and Paleontological Resources Policy 8: *If previously unknown resources are discovered after construction starts, all work shall cease and the Public Works Agency shall be notified. After review of the site by the Agency, or other qualified personnel, additional reasonable mitigation measures may be required.*

The proposed project would include minimal ground disturbance activities to accommodate the construction of the wireless communications facility.

The project site is located within the vicinity of a known archaeological site. A Phase I archaeological study (MacFarlane Archaeological Consultants, 2011) was prepared when the construction of the existing single family dwelling was proposed on the project site. A cultural resources survey (EBI Consulting, April 10, 2014) was also prepared by the applicant in order to assess the proposed wireless communication's facility impact on archeological resources.

The cultural resources survey (2014) did not reveal the presence of any archaeological resources within the areas that will be subject to ground-disturbance activities associated with the proposed wireless communications facility. Although it is unlikely that currently unknown subsurface archaeological resources will be encountered during facility installation, the proposed project will be subject to a standard condition to address any discoveries. In the event that resources are encountered during ground disturbance activities, the applicant will be required to 1) halt all ground disturbance activities, 2) secure the area of the

find, 3) retain an archaeological or paleontological consultant and, if required, Native American Consultant, and 4) develop a program to preserve and curate the resources. Work will be able to resume after the successful implementation of the preservation and curation program (Exhibit 5, Condition Nos. 25 and 26).

The Phase I archaeological study (2011) identified an area of the subject property that exhibits qualities that indicate the presence of archaeological resources. Although outside of the proposed area of construction, the identified site could be disturbed by construction workers. To ensure that the cultural resources area is preserved throughout the life of the permit, the applicant will be required, as a mitigation measure (Exhibit 5, Condition No. 24), to temporarily protect with fencing the area (Exhibit 6) identified in the Phase I Archaeological study (2011).

Based on the above discussion, the proposed project is consistent with these Policies.

9. **Ventura County General Plan Goals, Policies and Programs Energy Resources Policy 1.9.2-1:** *Discretionary development shall be evaluated for impact to energy resources and utilization of energy conservation techniques.*

The proposed wireless communications facility would not involve a substantial increase in energy demand. All new construction would be required to meet the Building Code standards for energy efficiency. In any case, the amount of energy consumed by the proposed facility would have no effect on regional energy resources or generating stations.

Based on the above discussion, the proposed project is consistent with this Policy.

10. **Ventura County General Plan Goals, Policies and Programs Fire Hazards Policy 2.13.2-1:** *All applicants for discretionary permits shall be required, as a condition of approval, to provide adequate water supply and access for fire protection and evacuation purposes.*

Ventura County General Plan Goals, Policies and Programs Fire Hazards Policy 2.13.2-2: *All discretionary permits in fire hazard areas shall be conditioned to include fire-resistant vegetation, cleared firebreaks, or a long-term comprehensive fuel management program as a condition of approval. Fire hazard reduction measures shall be incorporated into the design of any project in a fire hazard area.*

Ventura County General Plan Goals, Policies and Programs Fire Hazards Policy 2.13.2-4: *All applicants for subdivisions, multi-unit residential complexes, and commercial and industrial complexes shall be required to obtain, prior to*

permit approval, certification from the Fire Protection District that adequate fire protection is available, or will be available prior to occupancy.

Ventura County General Plan Goals, Policies and Programs Fire Protection Policy 4.8.2-1: *Discretionary development shall be permitted only if adequate water supply, access and response time for fire protection can be made available.*

Ventura County General Plan Goals, Policies and Programs Fire Protection Policy 4.8.2-2: *Fire stations shall be sited in locations central to the area served and on or near arterial highways so as to minimize call response time.*

The proposed project site is located within a high fire hazard area. The Ventura County Fire Protection District (VCFPD) has recommended conditions of approval that would ensure adequate fire prevention on the project site. The applicant would be required to remove brush and vegetation annually within 30 feet of the wireless communications facility (Exhibit 5, Condition No. 33). The applicant would also be required to obtain all required fire code permits (Exhibit 5, Condition No. 35) and fire clearances (Exhibit 5, Condition No. 34) to ensure compliance with VCFPD requirements for development of the wireless communications facility.

As discussed in the MND prepared for the proposed project, the wireless communications facility does not require water for fire suppression or equivalent system (i.e. fire protection system). The VCFPD has also determined that access and response time are adequate, as Fire Station No. 25 is located within five miles of the project site.

Based on the above discussion, the proposed project is consistent with these Policies.

11. **Ventura County General Plan Goals, Policies and Programs Hazardous Material Policy 2.15.2:** *Site plans for discretionary development that will generate hazardous wastes or utilize hazardous materials shall include details on hazardous waste reduction, recycling and storage.*

The Ventura County Environmental Health Division (EHD) comments that the project may include the use of hazardous materials typically associated with operation of the proposed wireless communications facility. The applicant will be required to store, handle and dispose of hazardous materials and waste in compliance with applicable state and local regulations (Exhibit 5, Condition No. 28). The applicant will also be required to submit a Hazardous Materials Business Plan (HMBP) that identifies the type and quantity of such materials maintained on the project site. The HMBP also includes material handling and emergency procedures (Exhibit 5, Condition No. 28). Installation of this facility would provide additional convenience with improved wireless communication for the public.

Based on the above discussion, the proposed project is consistent with this Policy.

12. Ventura County General Plan Goals, Policies and Programs Noise Policy

2.16.2-1: *All discretionary development shall be reviewed for noise compatibility with surrounding uses. Noise compatibility shall be determined from a consistent set of criteria based on the standards listed below. An acoustical analysis by a qualified acoustical engineer shall be required of discretionary developments involving noise exposure or noise generation in excess of the established standards. The analysis shall provide documentation of existing and projected noise levels at on-site and off-site receptors, and shall recommend noise control measures for mitigating adverse impacts.*

(1) Noise sensitive uses proposed to be located near highways, truck routes, heavy industrial activities and other relatively continuous noise sources shall incorporate noise control measures so that:

a. Indoor noise levels in habitable rooms do not exceed CNEL 45.

b. Outdoor noise levels do not exceed CNEL 60 or Leq1H of 65 dB(A) during any hour.

(4) Noise generators, proposed to be located near any noise sensitive use, shall incorporate noise control measures so that ongoing outdoor noise levels received by the noise sensitive receptor, measured at the exterior wall of the building, does not exceed any of the following standards:

a. Leq1H of 55dB(A) or ambient noise level plus 3dB(A), whichever is greater, during any hour from 6:00 a.m. to 7:00 p.m.

b. Leq1H of 50dB(A) or ambient noise level plus 3dB(A), whichever is greater, during any hour from 7:00 p.m. to 10:00 p.m.

c. Leq1H of 45dB(A) or ambient noise level plus 3dB(A), whichever is greater, during any hour from 10:00 p.m. to 6:00 a.m.

Section 2.16.2(4) is not applicable to increased traffic noise along any of the roads identified within the 2020 Regional Roadway Network (Figure 4.2.3) Public Facilities Appendix of the Ventura County General Plan (see 2.16.2-1(1)). In addition, State and Federal highways, all railroad line operations, aircraft in flight, and public utility facilities are noise generators having Federal and State regulations that preempt local regulations.

During the construction phase of the proposed project, noise is expected to be produced. However, the construction phase will be temporary in nature, lasting approximately 60 days. To ensure that noise-generating activities would not adversely impact nearby residential uses, the applicant will be required to limit noise-generating construction activities to the daytime (i.e., 7:00 AM to 7:00 PM, Monday through Friday, and 9:00 AM to 7:00 PM, Saturday, Sunday, and local holidays) [Exhibit 5, Condition No. 27]. Implementation of this noise control measure would ensure compliance with the Ventura County General Plan Noise Policy (Policy 2.16.2-1).

The nearest offsite single family residence is located 397 feet from the proposed facility. The facility is expected to produce minimal noise with the operation of the proposed electrical equipment and occasional noise due to operation of the emergency generator to be installed within the equipment area. At a distance of 397 feet to the nearest sensitive receptor, the amount of noise emitted from the operation of the facility will not exceed the ambient noise level thresholds established in the Ventura County General Plan Noise Policy (Policy 2.16.2-1). In addition, the ambient noise of the area resulting from traffic on U.S. 101 will effectively mask the minor noise generated by the proposed facility.

Based on the discussion above, the proposed project is consistent with this Policy.

- 13. Ventura County General Plan Goals, Policies and Programs Land Use Policy 3.1.2-7: Nonconforming Parcel Size:** *The use or development of a parcel which is a legal lot for the purposes of the County Subdivision Ordinance, but which fails to meet the minimum parcel size requirements of the applicable land use category, shall not be prohibited solely by reason of such failure. However, this policy shall not be construed to permit the subdivision of any parcel into two or more lots if any of the new lots fails to meet the minimum parcel size requirements.*

The 10.05-acre property does not conform to the 40-acre minimum lot size requirement for the subject property. However, the project site is located on a legal lot, which is identified as Parcel 2 of Parcel Map Waiver No. 1157.

Based on the above discussion, the proposed project is consistent with this Policy.

- 14. Ventura County General Plan Goals, Policies and Programs Public Services and Facilities Policy 4.1.2-2:** *Development shall only be permitted in those locations where adequate public services are available (functional), under physical construction or will be available in the near future.*

Adequate public services are available to the proposed project site. Access to the site is available from Bates Road and U.S. Highway 101. The proximity to a full-time, paid fire station allows for adequate emergency response time.

Based on the above discussion, the proposed project is consistent with this Policy.

- 15. Coastal Area Plan Coastal Act Policy § 30211 Shoreline Access:** *Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.*

Coastal Area Plan Coastal Act Policy § 30212 Shoreline Access: *Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) adequate access exists nearby, or (3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.*

The proposed project site is located at the top of a steep terraced cliff overlooking Rincon Beach Park and U.S. Highway 101. The proposed wireless communications facility would be located about 746 feet north of the Pacific Ocean. Existing public access to the beach is provided by a trail and parking area that connect to Rincon Point Road and Bates Road. The construction, operation and maintenance of the proposed wireless communications facility would not interfere with public access to the coast.

Based on the above discussion, the proposed project is consistent with these Policies.

- 16. Coastal Area Plan Coastal Act Policy § 30253 Hazards:** *New development shall:*
- (1) Minimize risks to life and property in areas of high geologic, flood, and fire hazards.*
 - (2) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs*

Coastal Area Plan Hazards Policy Hazards Policy 2: *New development shall be sited and designed to minimize risks to life and property in areas of high geologic, flood, and fire hazards.*

Coastal Area Plan Hazards Policy Hazards Policy 3: *All new development will be evaluated for its impacts to, and from, geologic hazards (including seismics*

safety, landslides, expansive soils, subsidence, etc.), flood hazards, and fire hazards. Feasible mitigation measures shall be required where necessary.

The Ventura County Public Works Agency Engineering Services Division reviewed the proposed project and determined that the proposed location of the wireless communications facility would not create or contribute to erosion or geologic instability of the terraced cliff located 20 feet south of the proposed facility lease area.

To ensure that the proposed minimal ground disturbance (i.e. removal and recompaction of the soil) required to accommodate the installation of the wireless communications facility, the applicant will be required (Exhibit 5, Condition No. 30) to submit grading and elevation plans that demonstrate compliance with the California Building Code, Appendix J. (reference only herein).

As discussed above, the applicant would be required to remove brush and vegetation annually within 30 feet of the wireless communications facility (Exhibit 5, Condition No. 33) for fire safety. The applicant would also be required to obtain all required fire code permits (Exhibit 5, Condition No. 35) and fire clearances (Exhibit 5, Condition No. 34) to ensure compliance with VCFPD requirements for development of the wireless communications facility.

Based on the above discussion, the proposed project is consistent with these Policies.

D. ZONING ORDINANCE COMPLIANCE

The proposed project is subject to the requirements of the Ventura County CZO.

Pursuant to the Ventura County Ventura County CZO (§ 8174-4), the proposed use is allowed in the CA 40 ac/sdf zone district with the granting of a CUP. Upon the granting of the CUP, the Permittee will be in compliance with this requirement.

The proposed project includes the construction and use of buildings and structures that are subject to the development standards of the Ventura County CZO (§ 8175-2). Table 1 lists the applicable development standards and a description of whether the proposed project is designed in compliance with applicable development standards.

Table 1 – Development Standards Consistency Analysis

Type of Requirement	Zoning Ordinance Requirement	Complies?
Minimum Lot Area (Gross)	40 acres	No. However, as discussed above, the project site is located on a legal lot, identified as Parcel 2 of

Table 1 – Development Standards Consistency Analysis

Type of Requirement	Zoning Ordinance Requirement	Complies?
		Parcel Map Waiver No. 1157, and, therefore, may be developed in compliance with the regulations set forth in the Ventura County Coastal Zoning Ordinance.
Maximum Percentage of Building Coverage	21,878 sq.ft. (using the formula for non-conforming parcel size)	Yes
Front Setback	20 feet	Yes
Side Setback	10 feet	Yes
Rear Setback	15 feet	Yes
Maximum Principal Building height	35 feet	Yes
Maximum Accessory Structure Height	35 feet	No. Section 8174-5 of the CZO limits the maximum height of an accessory structure in the CA-40 ac zone to be 35 feet. However, the applicant has demonstrated, with coverage maps and a Line of Site survey (see Exhibit 3), that the proposed 45-foot tall wireless facility structure (i.e. an additional 10 feet above the maximum height allowed per the CZO) is the least intrusive means available for the carrier to fill a significant coverage gap in its service area. The County is required under federal law to allow a wireless communication provider to fill a significant coverage gap in its service area with non-conforming facilities provided that the carrier establishes that the proposed non-conforming facility is the least intrusive means of filling the significant coverage gap.

E. CUP FINDINGS AND SUPPORTING EVIDENCE

The Planning Commission must make certain findings in order to determine that the proposed project is consistent with the permit approval standards of the Ventura County CZO (§ 8181-3.5 et seq.). The proposed findings and supporting evidence are as follows:

1. The proposed development is consistent with the intent and provisions of the County's Certified Local Coastal Program [§ 8181-3.5.a].

Based on the information and analysis presented in Sections C and D of this staff report, the finding that the proposed development is consistent with the intent and provisions of the County's Certified Local Coastal Program can be made.

2. The proposed development is compatible with the character of surrounding development [§ 8181-3.5.b].

The proposed wireless communications facility would be located near the top of a steep terraced cliff overlooking the Pacific Ocean. The facility would be located about 20 feet north of the property line. The antenna structure included in the proposed facility is designed as a faux palm tree that would blend in with existing mature palm trees located along the southern property line at the top edge of the cliff. Although taller than the natural palm trees, it will not appear substantially taller from public views along US 101 because of geometry of the project site. The antenna structure would be located about 47 feet north of the row of natural palm trees located along the edge of the cliff. In summary, the proposed facility will not result in substantial alteration of public views along U.S. Highway 101 or from the Rincon Point community.

The design of the facility will not be out of character with the sparse residential development in the area.

Based on the above discussion, this finding can be made.

3. The proposed development, if a conditionally permitted use, is compatible with planned land uses in the general area where the development is to be located [§ 8181-3.5.c].

The proposed wireless communications facility would be located near the top of a steep terraced cliff overlooking the Pacific Ocean. The facility would be located about 20 feet north of the property line. The antenna structure included in the proposed facility is designed as a faux palm tree that would blend in with existing mature palm trees located along the southern property line at the top edge of the cliff. Although taller than the natural palm trees, it will not appear substantially

taller from public views along US 101 because of geometry of the project site. The antenna structure would be located about 47 feet north of the row of natural palm trees located along the edge of the cliff. Given the Coastal Agricultural designation and zoning of the property and the location of the property adjacent to a cliff and US 101, changes in land use designation or zoning in the vicinity of the project are not foreseeable at this time.

In summary, the proposed facility will be compatible with the existing and planned land uses in the area because it will not result in substantial alteration of public views along U.S. Highway 101 or from the Rincon Point community.

Based on the above discussion, this finding can be made.

4. The proposed development would not be obnoxious or harmful, or impair the utility of neighboring property or uses [§ 8181-3.5.d].

The proposed wireless communications facility is designed to blend in with the surrounding landscape and will not be predominantly visible from public viewpoints. The amount of noise emitted from the operation and maintenance of the facility will be far less than the ambient noise emitted by Southern Pacific Railroad trains and vehicles travelling on U.S. Highway 101. To ensure the safe storage, handling, and disposal of any potentially hazardous material (i.e. diesel fuel for the backup generator), the applicant will be required to submit a Hazardous Materials Business Plan (HMBP) that identifies the type and quantity of such materials maintained on the project site. The HMBP also includes material handling and emergency procedures (Exhibit 5, Condition No. 28). Installation of this facility would provide additional convenience with improved wireless communication for the public. No aspect of this facility has been identified that would be detrimental to the public health, safety or welfare.

Pursuant to section 704(a) of the federal Telecommunications Act of 1996, the County is preempted from regulating or prohibiting the placement, construction, or modification of wireless communications facilities on the basis of potential health effects of radio frequency emissions to the extent such facilities comply with the Federal Communication Commission's regulations concerning such emissions. As part of the CUP application submittal, the applicant submitted documentation that concludes that the proposed facility, if constructed and in operation, would be in compliance with Federal Telecommunications Commission Radio Frequency emission regulations (Exhibit 7).

Based on the above discussion, this finding can be made.

5. The proposed development would not be detrimental to the public interest, health, safety, convenience, or welfare [§ 8181-3.5.e].

No aspect of the proposed facility has been identified that would be detrimental to the public interest, health, safety, convenience or welfare. The installation of the facility would not result in significant impacts on the environment and will be compatible with surrounding development because of siting and design. In particular, public views will not be substantially altered with installation of the proposed facility.

Based on the above discussion, this finding can be made.

F. INFORMATION ON SECTION 6409(A) MODIFICATIONS

The proposed project before your Commission is a wireless communication facility consisting primarily of a 45-foot tall mono-palm tree antenna structure. The applicant has not indicated a desire to seek future County approval of a 20-foot increase in the height of this structure, the maximum height increase to the structure that the applicant could theoretically request on a ministerial basis pursuant Section 6409(a) of the federal Spectrum Act of 2015. Moreover, Planning Division staff does not believe it is reasonable foreseeable that the applicant could obtain authorization to increase the structure's height by 20 feet pursuant to this ministerial process mandated by federal law. This is because the concealment element of the proposed wireless communications facility would be defeated by such a height increase, and such loss of the facility's concealment element renders the height increase modification ineligible for approval under the ministerial process mandated by federal law. An increase in the height of the proposed wireless facility structure would create a disparate height difference between the existing row of palm trees that are designed to visually blend the proposed facility with the surrounding landscape, and the proposed 45-foot tall antenna structure. The proposed project lease area will be located about 47 feet north of an existing row of palm trees that range from 17 feet to 27 feet in height. These trees are located along the edge of the steep terraced cliff on the subject property. The proposed mono-palm antenna structure is designed to visually blend with these existing trees such that the proposed facility will not be prominently visible from public views along U.S. Highway 101 and the public beach at Rincon Point.

Also, if the applicant subsequent requests a ministerial modification, pursuant to Section 6409(a) of the federal Spectrum Act, to install additional wireless equipment at various additional locations on the antenna structure, this equipment would likely not be concealed to the extent that the proposed panel antennas would be concealed as part of the current design of the antenna structure. Consequently, it is doubtful that an applicant request to modify the structure to add wireless equipment at various other locations on the antenna structure would qualify for a ministerial modification under federal law due to the likelihood that such a modification would defeat the structure's concealment elements.

G. PLANNING COMMISSION HEARING NOTICE, PUBLIC COMMENTS, AND JURISDICTIONAL COMMENTS

The Planning Division provided public notice regarding the Planning Commission hearing in accordance with the Government Code section 65091 and CZO section 8181-6.2 et seq. The Planning Division mailed notice to owners of property within 300 feet and residents within 100 feet of the property on which the project site is located and placed a legal ad in the *Ventura County Star*. Property owners and residents of the parcels located in the residential development on Rincon Point were also notified of the Planning Commission hearing. Interested members of the public who requested notification about the proposed project were also contacted. As of the date of this document, 16 comment letters were received by the Planning Division. These letters were received prior to the Planning Division's determination that the proposed CUP application was complete. These comments generally include concerns that the proposed wireless communications facility would cause adverse impacts on public health to the surrounding residences within proximity to the proposed project site. Comments were also received in opposition to the location of the proposed wireless communication facility and that questioned the need for such a facility above Rincon Point. The comment letters and staff responses to these letters are provided in Exhibit 8 of this staff report.

As explained above, the County is preempted by federal law from regulating or prohibiting the placement, construction, or modification of wireless communications facilities on the basis of potential health effects of radio frequency emissions to the extent such facilities comply with the Federal Communication Commission's regulations concerning such emissions.

H. RECOMMENDED ACTIONS

Based upon the analysis and information provided above, Planning Division Staff recommends that the Planning Commission take the following actions:

1. **CERTIFY** that the Commission has reviewed and considered this staff report and all exhibits thereto, including the proposed MND (Exhibit 4), Mitigation Measures and Mitigation Monitoring and Reporting Program (Exhibit 5), and has considered all comments received during the public comment process;
2. **FIND**, based on the whole of the record before the Planning Commission, including the Initial Study and any comments received, that upon implementation of the project revisions and/or mitigation measures there is no substantial evidence that the project will have a significant effect on the environment and that the MND reflects the Planning Commission's independent judgment and analysis;
3. **ADOPT** the MND (Exhibit 4) and Mitigation Monitoring Program (Exhibit 5);

4. **MAKE** the required findings to grant a CUP pursuant to § 8181-3.5 of the Ventura County CZO, based on the substantial evidence presented in Sections C and D of this staff report and the entire record;
5. **GRANT** CUP Case No. PL14-0128 subject to the conditions of approval (Exhibit 5).
6. **SPECIFY** that the Clerk of the Planning Commission is the custodian, and 800 S. Victoria Avenue, Ventura, CA 93009 is the location, of the documents and materials that constitute the record of proceedings upon which this decision is based.

The decision of the Planning Commission is final unless appealed to the Board of Supervisors within 10 calendar days after the permit has been approved, conditionally approved, or denied (or on the following workday if the 10th day falls on a weekend or holiday). Any aggrieved person may file an appeal of the decision with the Planning Division. The Planning Division shall then set a hearing date before the Board of Supervisors to review the matter at the earliest convenient date.

County Counsel has reviewed this Staff Report.

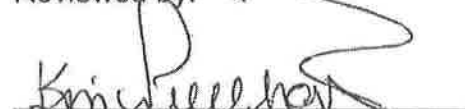
If you have any questions concerning the information presented above, please contact Kristina Boero at (805) 654-2467 or kristina.boero@ventura.org.

Prepared by:



for
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Commercial and Industrial Permits Section
Ventura County Planning Division

Reviewed by:



Kim L. Prillhart, Director
Ventura County Planning Division

EXHIBITS

- Exhibit 2 - Aerial Location, General Plan and Zoning Designations, and Land Use Maps
- Exhibit 3 - Site Plans, Coverage Maps, Photo Simulations and Line of Site Analysis
- Exhibit 4 - Environmental Document and Response to Public Comment
- Exhibit 5 - Conditions of Approval and Mitigation Monitoring and Reporting Program
- Exhibit 6 - Map of Archeological Resources Fencing Area
- Exhibit 7 - Radio Frequency Emissions Statement, prepared by Hammett and Edison, Inc., dated August 20, 2014
- Exhibit 8 - Response to Public Comments received prior to the release of the Environmental Document