

**CITY OF TULARE PLANNING COMMISSION
STAFF REPORT**

Agenda Item No.

June 11, 2018

**CONDITIONAL USE PERMIT No. 2018-02
VARIANCE APPLICATION No. 459**

PROJECT PLANNER:	Steven Sopp, Associate Planner
APPLICANT:	Verizon Wireless
LOCATION:	East side of Cherry Street between Merritt Avenue and Prosperity Avenue
APN:	170-102-040
ZONING CLASSIFICATION:	C-3 (Retail Commercial)
GENERAL PLAN DESIGNATION:	Community Commercial
SURROUNDING LAND USES AND ZONING:	North: Union Bank C-3 South: Hampton Inn C-3 West: Shopping Center C-3 East: Red Roof Inn C-3

REQUEST:

This is a request by Verizon to obtain a conditional use permit and variance for the installation and operation of a cellular antenna and ground equipment to be located on the east side of Cherry Street between Prosperity Avenue and Merritt Avenue (APN 170-102-040).

STAFF RECOMMENDATION:

Staff recommends that the Planning Commission approve Conditional Use Permit No. 2018-02 and Variance Application No. 459 subject to the findings and conditions in Resolution No. 5285. Staff's recommendation is based on the findings and the project's consistency with the policies and intent of the City's General Plan and Municipal Code and staff's determination that the strict or literal interpretation and enforcement of the specific regulation would result in practical difficulty or unnecessary physical hardship inconsistent with the objective of the Zoning Title.

RELATED PROJECTS:

Design Review 1077 – request to develop three structures totaling approximately 14,000 sq. ft. for proposed retail, office and restaurant use. Planning Commission approved May 23, 2016.

DETAILS OF THE PROPOSAL:

The project will consist of the construction of a Verizon cellular communications tower with antennas and related equipment to be located on the east side of Cherry Street between Merritt Avenue and Prosperity Avenue (APN 170-102-040). The property is currently vacant. The cellular tower is proposed to be a 92-foot tall camouflaged monopole with antennas being placed at approximately 84-feet high. The monopole is proposed to be camouflaged to look like a pine tree. In addition to the monopole, the site plan depicts a 25-foot by 25-foot fenced enclosure in which equipment related to the use will be housed.

STAFF COMMENTS:

The proposed site is designated as Community Commercial and zoned C-3 (Retail Commercial). According to the City of Tulare Municipal Code Chapter 10.204.070: Antennas; all antennas shall be subject to application and approval of a conditional use permit.

Camouflaged antennas are permitted in all zoning districts up to 70 ft. in height. An administrative adjustment may allow an increase in the height of any permitted antenna, not to exceed 20% of the height limitations described in the Chapter 10.204.070(C). An administrative adjustment would allow for a maximum height of the proposed monopole of 84 ft. The applicant proposes to vary from the maximum height allowed by establishing a 92 ft. tall camouflaged monopole with antennas being placed at approximately 84 ft.

The monopole is proposed to be camouflaged to look like a pine tree. The additional 8 ft. above the placement of the antennas is needed to provide for the crown of the monopole to ensure that the tree has a natural look. The applicant is stating that it is necessary to place the proposed antennas at 84 ft. rather than the 70 ft. allowed due to a shadowing effect from the existing 4-story structure (Hampton Inn) adjacent to the project site. To demonstrate this shadowing effect the applicant has provided network coverage maps demonstrating network coverage provided with antennas placed at 70 ft. (attachment V) and network coverage provided with antennas placed at 84 ft. (attachment VI).

The applicant has indicated that a site analysis was conducted in which Verizon first looked for co-location opportunities on existing towers. The applicant states that no feasible co-location opportunities on existing towers within the necessary geographic area currently exist.

Chapter 10.204.070(E)(10) requires a 1,000 foot separation between the proposed antennae and any other co-locatable antenna. A radome tower is sited approximately 400 ft. southeast of the proposed site, near Motel 6. A second monopole is located approximately 800 ft. northeast of the proposed site, in front of the Quality Inn adjacent to Hwy 99 on Prosperity Avenue. According to the applicant, the existing towers are congested with antennas which belong to other carriers and/or would not provide Verizon with the appropriate height, or antenna centerline to meet Verizon's radio frequency requirements. The existing towers are at full capacity and do not have room available on the towers to allow for an additional carrier to co-locate antennas. Co-location is not feasible and will not close the significant gap in coverage.

In accordance with Chapter 10.204.070 (E) – Development Standards of the City of Tulare Municipal Code, antennas shall be guarded by a fence or some other means to prevent public access, as a deterrent from climbing or vandalism. The site plan depicts a 25 foot by 25 foot fenced area which encloses all equipment associated with the proposed use.

The Site Plan Review Committee reviewed the project with the applicant on February 7, 2018 and prepared comments and conditions for the applicant. The site plan and elevations were reviewed by the Committee for compliance with the City’s adopted Zoning Ordinance and Municipal Code.

No comments have been received by staff during the public comment period.

A variance may be granted where practical difficulties, unnecessary hardship and conditions inconsistent with the purpose and objectives of the zoning title may result from the strict application of certain provisions of the title. The Planning Commission has the power to grant variances to regulations prescribed in the Zoning Ordinance subject to the required findings. The applicant has proposed variance findings to justify their goal of having increased signage as summarized below:

- 1) That there are special circumstances applicable to the property, including size, shape, topography, location or surroundings, and that the strict application of this title deprives the property of privileges enjoyed by other property in the vicinity and under identical district classifications.

Applicant Response: There are exceptional or extraordinary circumstances or conditions or characteristics applicable to the property involved, or to the intended use of the property, that do not apply generally to other properties in the vicinity and in the same zoning district. The parcel is presently vacant and the proposed telecommunications facility is located on the southeast corner of the property, surrounded by tall commercial properties to the North, East, South and West. The existing structures provide high obstructions, over which the proposed wireless facility must broadcast its radio signals. Therefore, due to the topography of the area, a height increase is necessary in order for the applicant to provide adequate service to its wireless network.

Staff Analysis: The height of the Hampton Inn Hotel immediately adjacent to the subject site is an extraordinary circumstance applicable to the property’s location or surroundings. The height of this structure creates a shadowing effect that has been demonstrated by the applicant and deprives the property of the ability to operate at an optimal level that is enjoyed by similar structures in under the same district in the vicinity.

- 2) That the granting of the variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same vicinity and district and denied to the property for which the variance is sought.

Applicant Response: The strict or literal interpretation and enforcement of the specific regulation would deprive the Applicant of privileges enjoyed by similar properties in the same zoning district. The proposed at the currently allowed antenna height will not be able to transmit and receive signals, due to the signal obstruction created by the nearby hotels, restaurants, and other commercial buildings. Without the height increase, additional telecommunication sites would be required thus significantly delaying the deployment of wireless services to the public and safety service personnel within the City. In addition, other wireless telecommunication towers, within the City of Tulare, have been granted to ensure improved public service. The requested height will allow for the substantial improvement of telecommunication services, including improved data, internet, and emergency call service.

Staff Analysis: Without a variance for the maximum height allowed, the proposed antennae would not be able to operate at an optimal level due to a shadowing effect of the adjacent hotel. There are two antennae in the vicinity that are within the same zoning district which are able to operate. The extra height which is necessitating the need for a variance will enable the antenna to be camouflaged to look like a pine tree. This is believed to be less intrusive on surrounding properties. The antennae in the vicinity are not camouflaged and therefore did not require the additional height.

- 3) That the granting of the variance will not be materially detrimental to the public health, safety or welfare, or injurious to property or improvements in such vicinity and district in which the property is located.

Applicant Response: The granting of the Variance will not be detrimental to the public health, safety or welfare, or be materially injurious to properties or improvements in the vicinity. Wireless telecommunication facilities are required to comply with Federal Communication Commission regulations related to Electromagnetic Field (EMF) emissions. These FCC regulations preclude local jurisdictions from considering potential health impacts of EMP emissions when reviewing telecommunications projects as part of the land use approval process for cell towers.

Staff Analysis: The granting of a variance to vary from the maximum height of an antennae is not considered to be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity. As the applicant has indicated, wireless telecommunication facilities are required to comply with Federal Communication Commission regulations related to EMF emissions.

- 4) That the granting of the variance will not constitute a grant of special privilege inconsistent with the limitations on other properties in the vicinity and district in which such property is located.

Applicant Response: The granting of the Variance will not constitute a grant of special privilege inconsistent with the limitations on other properties classified in the same zoning district. The granting of the Variance will provide adequate wireless coverage to Verizon Customers near and within the surrounding area.

Staff Analysis: The granting of a variance would not constitute a grant of special privilege as the purpose of the variance is to enable the proposed antenna to be established at a height which would overcome a shadowing effect caused by the height of an adjacent hotel. The proposed variance will enable the proposed antenna to operate at the same optimal level that similar antennae's in the vicinity are able to operate.

- 5) That granting the variance does not allow a use or activity which is not otherwise expressly authorized by the regulations governing the subject parcel.

Applicant Response: The granting of the variance is limited to the proposed antennae which is a permitted use with the approval of a Conditional Use Permit which is part of this application and does not alter any other regulation pertaining to the site.

Staff Analysis: The proposed site is located within the C-3 (Retail Commercial) Zone District. The proposed antenna is a Conditional Use within the C-3 zone. The applicant has applied for a Conditional Use Permit in conjunction with the requested Variance. The variance will not allow a use or activity which is not otherwise expressly authorized by the regulations governing the subject parcel.

- 6) That granting the variance will not be inconsistent with the General Plan.

Applicant Response: The proposed use and manner of development are consistent with the goals, policies, and standards of the City's General Plan. Specifically, the proposed project would meet consumer demand, enhance regional retail use, facilitate commercial development, and increase entertainment and tourism activities as outline in the General Plan. The improvement in telecommunications infrastructure and access to communications technology reflects the goals enumerated in Goal LU-4 "To promote commercial development that meets present and future needs of Tulare residents, the regional community, and visitors and to enhance economic vitality and sustainability." The proposed facility would provide reliable and effective wireless services that are commensurate with the aesthetics and human health and safety concerns.

Staff Analysis: The granting of the variance is not inconsistent with the goals and objectives of the General Plan.

ENVIRONMENTAL FINDINGS:

This project is exempt pursuant to Section 15303 (d) of the California Environmental Quality Act of 1970, as amended.

FINDINGS:

Staff recommends that the Planning Commission make the following findings with regards to Conditional Use Permit No. 2018-02:

- 1) That the proposed location of the project is in accordance with the objectives of the Zoning Title and the purposes of the District in which the site is located.
- 2) That the proposed location of the use and the conditions under which it would operate or be maintained will not be detrimental to the public health, safety, welfare or be materially injurious to properties or improvements in the vicinity.
- 3) That the proposed conditional use will comply with each of the provisions of the Zoning Title;
- 4) That the proposed use is consistent with the Tulare General Plan;
- 5) That the site for the proposed use is adequate in size, shape and location to accommodate the use the district for which it is proposed; and
- 6) The project is exempt pursuant to Section 15303 (d) of the California Environmental Quality Act of 1970, as amended.

Staff recommends that the Planning Commission make the following findings with regards to Variance Application No. 459:

- 1) That there are special circumstances applicable to the property, including size, shape, topography, location or surroundings, and that the strict application of this title deprives the property of privileges enjoyed by other property in the vicinity and under identical district classifications.

There are exceptional or extraordinary circumstances or conditions or characteristics applicable to the property involved, or to the intended use of the property, that do not apply generally to other properties in the vicinity and in the same zoning district. The parcel is presently vacant and the proposed telecommunications facility is located on the southeast corner of the property, surrounded by tall commercial properties to the North, East, South and West. The existing structures provide high obstructions, over which the proposed wireless facility must broadcast its radio signals. Therefore, due to the topography of the area, a height increase is necessary in order for the applicant to provide adequate service to its wireless network.

- 2) That the granting of the variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same vicinity and district and denied to the property for which the variance is sought.

The strict or literal interpretation and enforcement of the specific regulation would deprive the Applicant of privileges enjoyed by similar properties in the same zoning district. The proposed at the currently allowed antenna height will not be able to transmit and receive signals, due to the signal obstruction created by the nearby hotels, restaurants, and other commercial buildings. Without the height increase, additional telecommunication sites would be required thus significantly delaying the deployment of wireless services to the public and safety service personnel within the City. In addition,

other wireless telecommunication towers, within the City of Tulare, have been granted to ensure improved public service. The requested height will allow for the substantial improvement of telecommunication services, including improved data, internet, and emergency call service.

- 3) That the granting of the variance will not be materially detrimental to the public health, safety or welfare, or injurious to property or improvements in such vicinity and district in which the property is located.

The granting of the Variance will not be detrimental to the public health, safety or welfare, or be materially injurious to properties or improvements in the vicinity. Wireless telecommunication facilities are required to comply with Federal Communication Commission regulations related to Electromagnetic Field (EMF) emissions. These FCC regulations preclude local jurisdictions from considering potential health impacts of EMP emissions when reviewing telecommunications projects as part of the land use approval process for cell towers.

- 4) That the granting of the variance will not constitute a grant of special privilege inconsistent with the limitations on other properties in the vicinity and district in which such property is located.

The granting of the Variance will not constitute a grant of special privilege inconsistent with the limitations on other properties classified in the same zoning district. The granting of the Variance will provide adequate wireless coverage to Verizon Customers near and within the surrounding area.

- 5) That granting the variance does not allow a use or activity which is not otherwise expressly authorized by the regulations governing the subject parcel.

The granting of the variance is limited to the proposed antennae which is a permitted use with the approval of a Conditional Use Permit which is part of this application and does not alter any other regulation pertaining to the site.

- 6) That granting the variance will not be inconsistent with the General Plan.

The proposed use and manner of development are consistent with the goals, policies, and standards of the City's General Plan. Specifically, the proposed project would meet consumer demand, enhance regional retail use, facilitate commercial development, and increase entertainment and tourism activities as outline in the General Plan. The improvement in telecommunications infrastructure and access to communications technology reflects the goals enumerated in Goal LU-4 "To promote commercial development that meets present and future needs of Tulare residents, the regional community, and visitors and to enhance economic vitality and sustainability." The proposed facility would provide reliable and effective wireless services that are commensurate with the aesthetics and human health and safety concerns.

CONDITIONS:

Based on the approved findings, staff recommends that Conditional Use Permit No. 2018-02 and Variance Application No. 459 be approved subject to the following conditions:

- 1) All requirements of Title 10 shall be met.
- 2) Approval does not authorize any deviation from Fire and Building Codes.
- 3) The conceptual site plan and elevations are approved as shown in the attachments hereto.
- 4) In accordance with Zoning Ordinance Section 10.116.080, this Conditional Use Permit approval shall lapse and become void (3) years from the effective date of approval, unless a building permit is issued by the City and construction is being diligently pursued.
- 5) All weather access shall be provided on-site to the antenna location.
- 6) Antennas shall be guarded by a fence or some other means to prevent public access, as a deterrent from climbing or vandalism.
- 7) All proposed fencing shall be decorative and compatible with the adjacent buildings and properties within the surrounding area and shall be designed to limit graffiti.
- 8) A permanent, weather-proof identification sign, approximately 16 inches by 32 inches in size, must be placed on the gate of the fence surrounding the facility. The sign must identify the facility operator(s), provide the operator's address, and specify a 24 hour telephone number at which the operator can be reached so as to facilitate emergency services.
- 9) Traffic shall be limited to no more than one round-trip per day on an average annual basis once construction is complete, except for emergency maintenance purposes.
- 10) Tower shall not be artificially lighted unless required by the FAA or other applicable authority.
- 11) Support structures and site area for wireless telecommunications antenna shall be designed and of adequate size to allow at least one additional wireless service provider to co-locate on the structure.
- 12) Applicant shall comply with San Joaquin Valley Air Pollution Control District regarding dust control during construction as required by SJVAPCD.
- 13) Applicant shall comply with Engineering comments/conditions (Attachment VII).

APPEAL INFORMATION:

According to the City of Tulare Zoning Ordinance Section 10.20.020, decisions of the Planning Commission may be appealed by filing a letter with the City Clerk, located at 411 East Kern Avenue, Tulare, CA 93274, no later than ten (10) days after the day on which the decision was made. The appeal shall state the name of the person making the appeal, the decision that is being appealed, and the reasons for the appeal, including an error, abuse of discretion or a decision that is not supported by the evidence in the record.

Attachments:

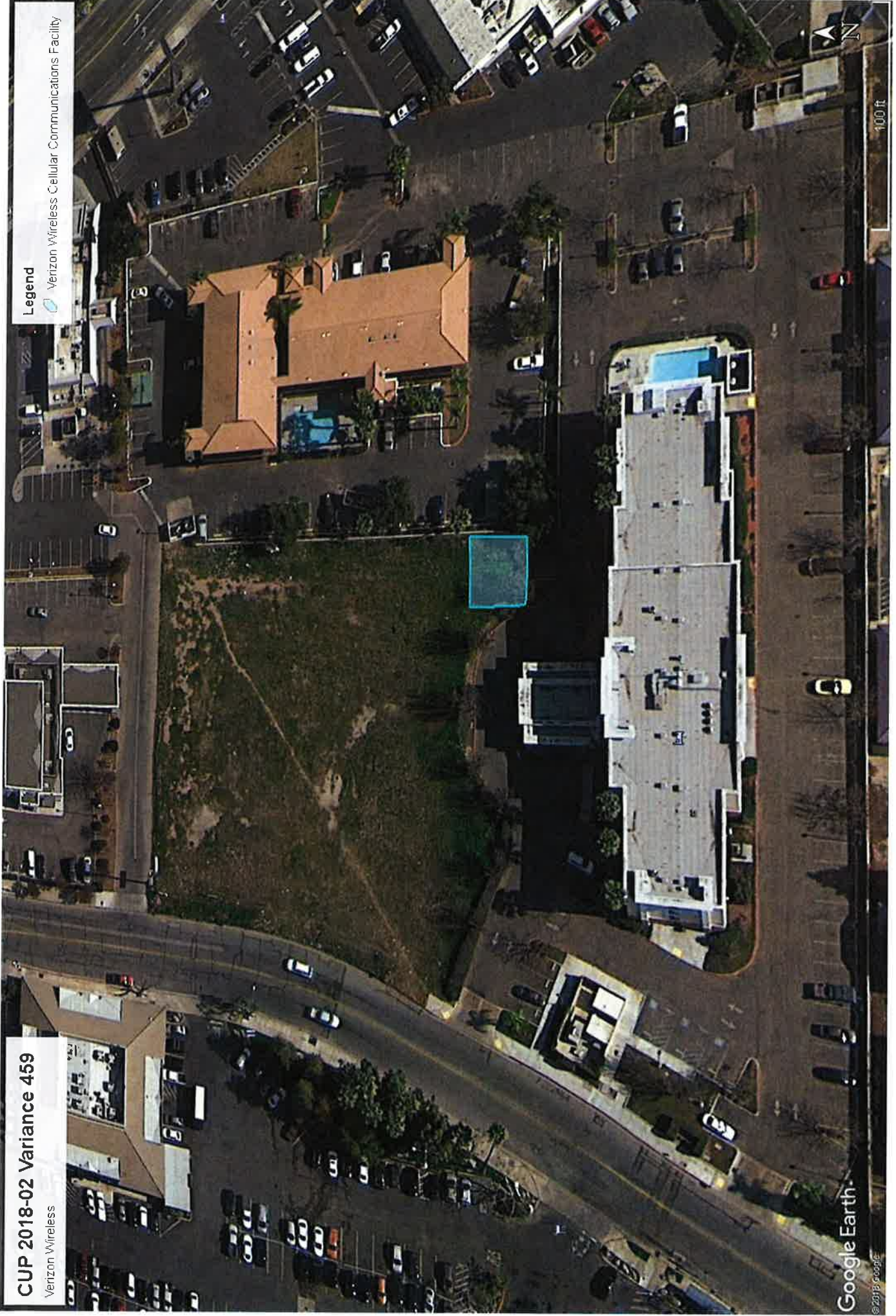
- I. Project Vicinity Map
- II. Site Plan
- III. Equipment Plan
- IV. Elevations
- V. Map Coverage at 70 ft.
- VI. Map Coverage at 84 ft.
- VII. Engineering Comments
- VIII. Resolution

CUP 2018-02 Variance 459

Verizon Wireless

Legend

Verizon Wireless Cellular Communications Facility



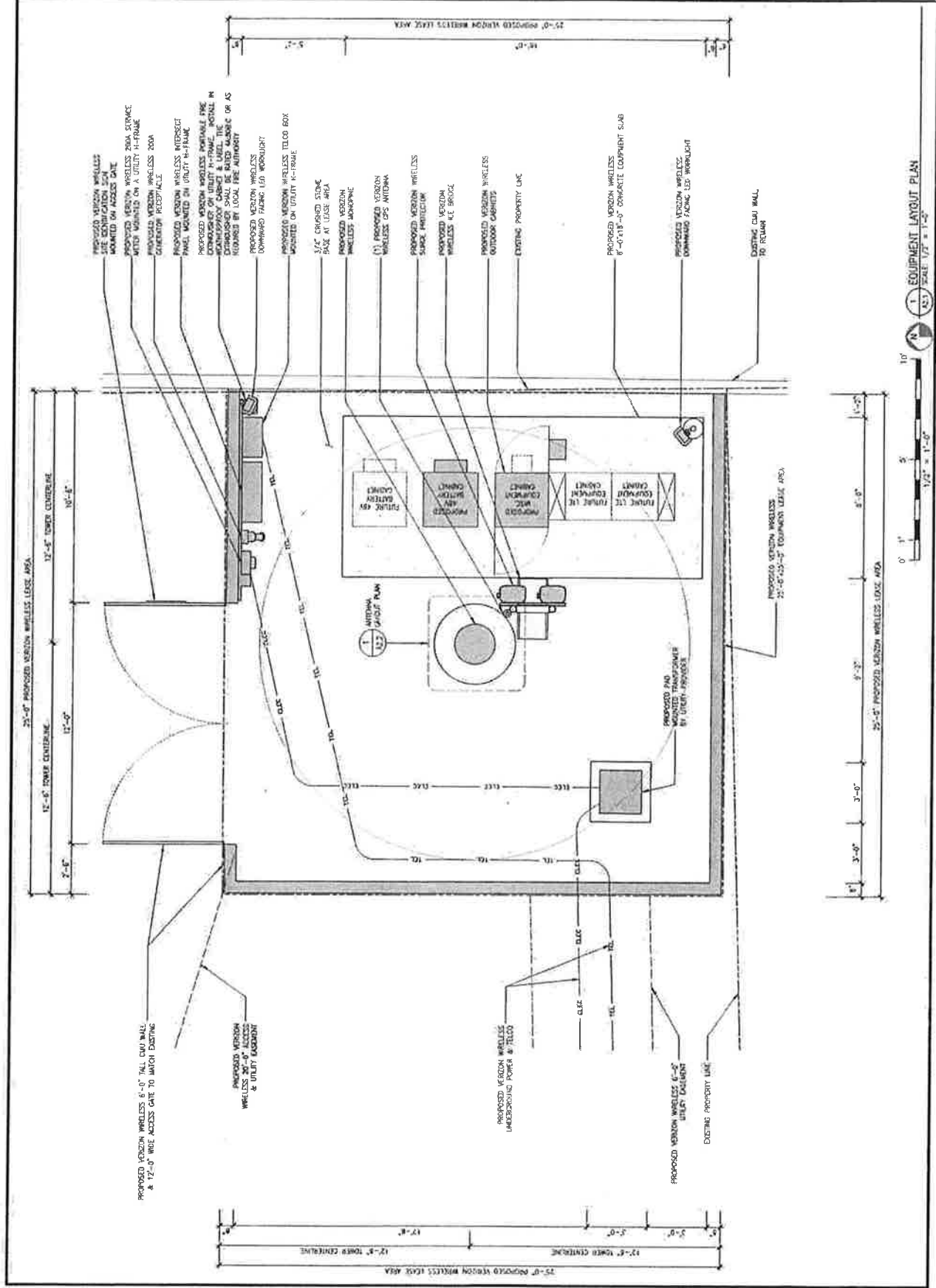


Verizon
TULARE OUTLERS
N. CHERRY ST
TULARE, CA 93274

SHEET TITLE:
EQUIPMENT LAYOUT PLAN

NO.	REVISION
1	ISSUED FOR PERMIT
2	FOR CONSTRUCTION
3	AS NOTED
4	FOR REVIEW

A2.1



EQUIPMENT LAYOUT PLAN
SCALE: 1/2" = 1'-0"



MST ARCHITECTS
 515 S. G STREET, SUITE 100
 TULARE, CA 93274
 TEL: 559.586.1111
 FAX: 559.586.1112

COMPLETE

Verizon
 TULARE OUTLETS
 N. CHERRY ST
 TULARE, CA 93274

PROJECT ELEVATIONS

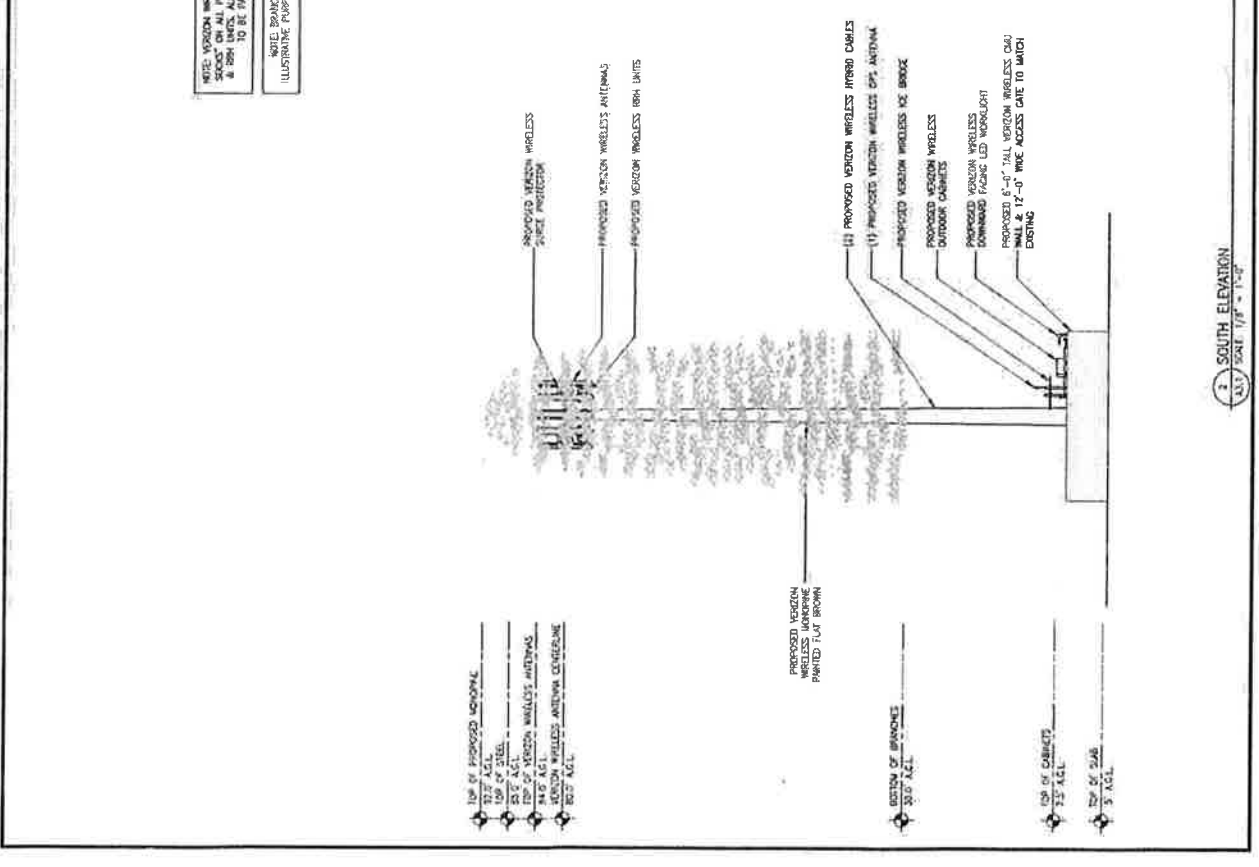
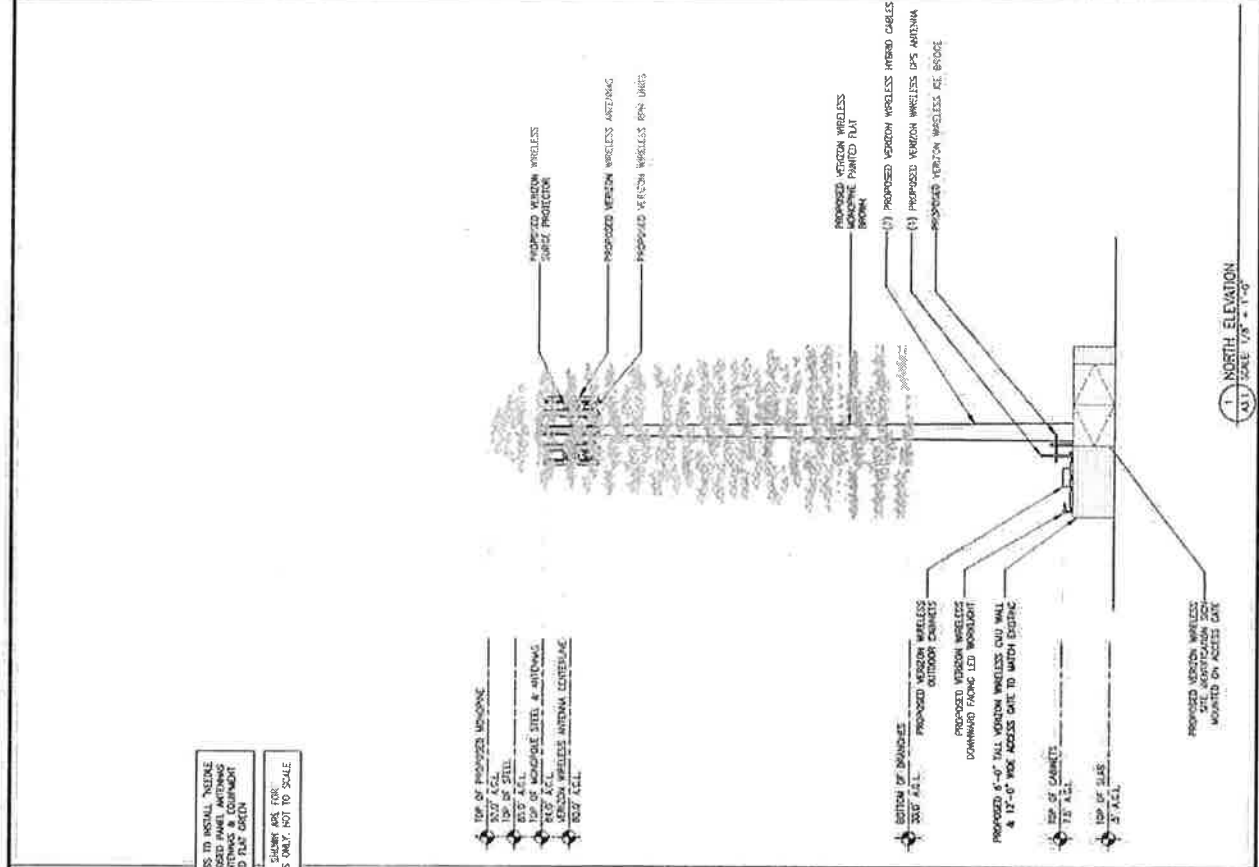
SHEET INFO:

NO.	DATE
1	
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5	

REVISIONS:

NO.	DATE	DESCRIPTION

A3.1

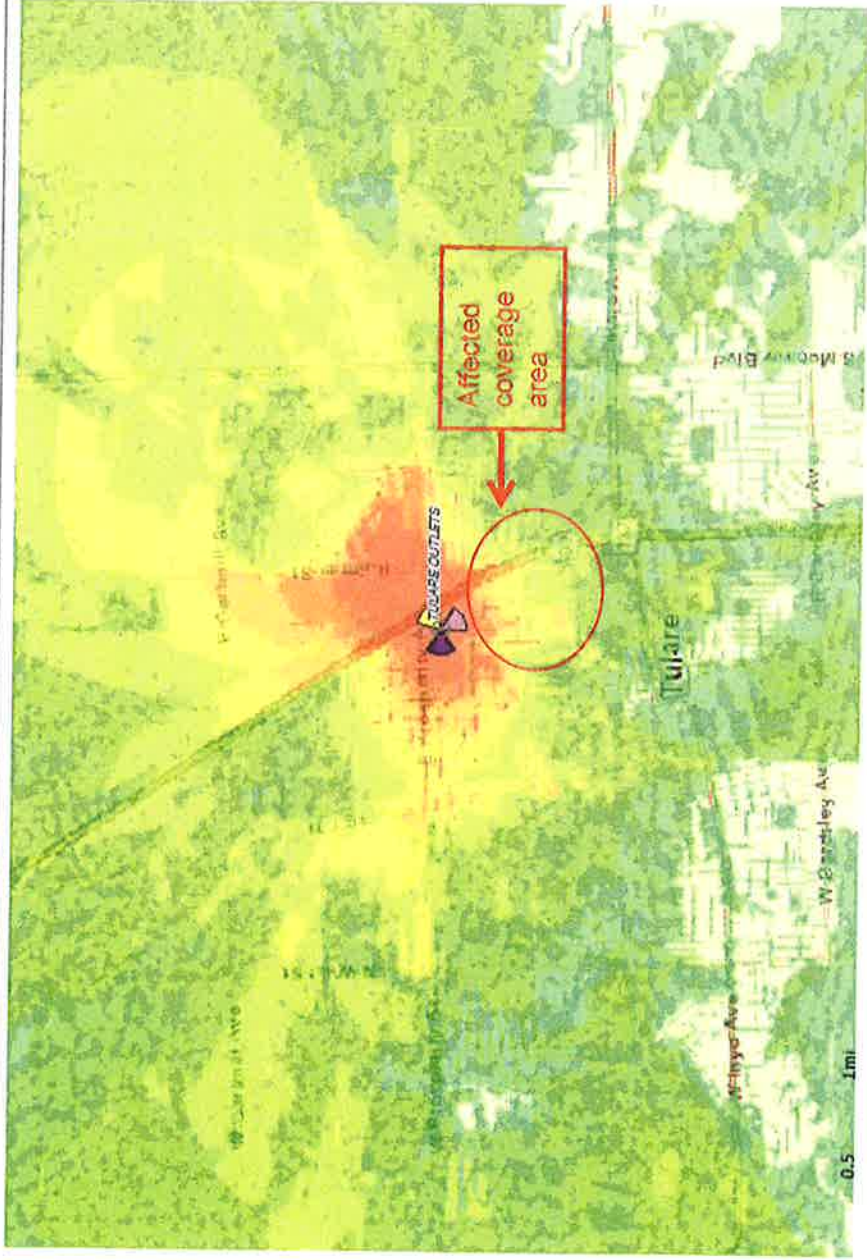


NOTE: VERIZON WIRELESS TO INSTALL "NEEDLE SOCKS" ON ALL PROPOSED PANEL ANTENNAS & 12'-0" WIDE ACCESS GATE TO MATCH EXISTING.

NOTE: BRACKETS SHOWN ARE FOR ILLUSTRATIVE PURPOSES ONLY. NOT TO SCALE.



Map of coverage loss at the 70ft height due to RF shadowing from hotel next to site



Legend

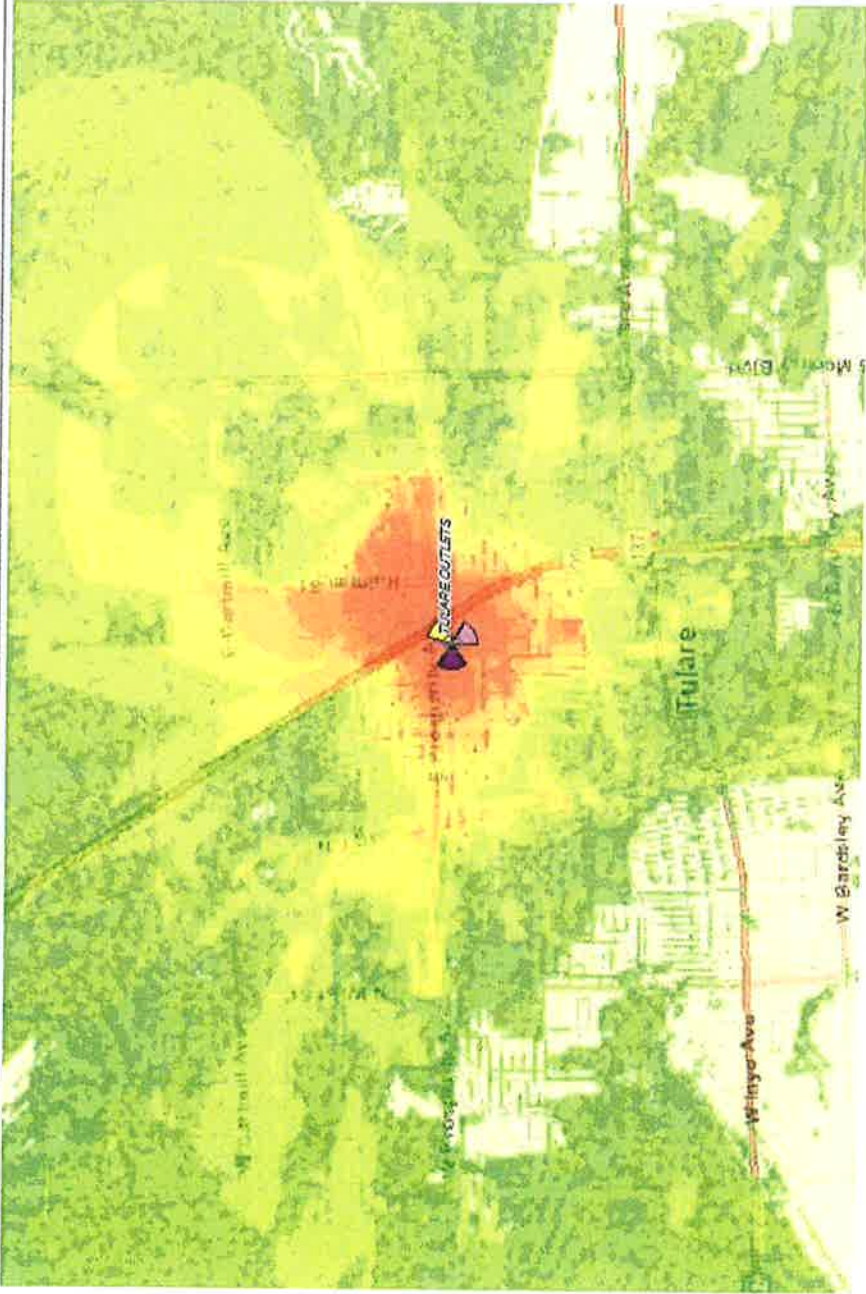
LTE: RSRP - Coverage (0)

Red	RSRP Level (DL) (dBm) > = -65
Orange	RSRP Level (DL) (dBm) > = -70
Yellow	RSRP Level (DL) (dBm) > = -75
Light Green	RSRP Level (DL) (dBm) > = -80
Green	RSRP Level (DL) (dBm) > = -85
Dark Green	RSRP Level (DL) (dBm) > = -90
Teal	RSRP Level (DL) (dBm) > = -95
Blue-Teal	RSRP Level (DL) (dBm) > = -100
Blue	RSRP Level (DL) (dBm) > = -105
Dark Blue	RSRP Level (DL) (dBm) > = -110
Very Dark Blue	RSRP Level (DL) (dBm) > = -115

WINNING OUR CUSTOMERS. EVERY DAY.



Map of coverage at 84 ft for Tulare Outlets



Legend

LTE: RSRP - Coverage (0)	
Red	RSRP Level (DL) (dBm) > = -65
Orange	RSRP Level (DL) (dBm) > = -70
Yellow	RSRP Level (DL) (dBm) > = -75
Light Green	RSRP Level (DL) (dBm) > = -80
Green	RSRP Level (DL) (dBm) > = -85
Dark Green	RSRP Level (DL) (dBm) > = -90
Teal	RSRP Level (DL) (dBm) > = -95
Light Blue	RSRP Level (DL) (dBm) > = -100
Blue	RSRP Level (DL) (dBm) > = -105
Dark Blue	RSRP Level (DL) (dBm) > = -110
Very Dark Blue	RSRP Level (DL) (dBm) > = -115

WINNING
OUR CUSTOMERS
EVERY DAY.



INTEROFFICE MEMORANDUM

Engineering Department

Jan Bowen, Senior Engineer

TO: Planning and Building

FROM: Engineering

SUBJECT: Site Plan Review: Proposed Wireless Antennae

LOCATION: N. Cherry St. between Prosperity Ave. and E. Merritt Ave., APN 170-102-040

OWNER/DEVELOPER: Verizon Wireless

DATE: 2/18/2018

1. All required engineering plans and calculations shall be prepared by a registered civil engineer. Any elevations shown on plans required for the subject development shall be based on the official City of Tulare datum. The Engineer shall provide three (3) copies of each improvement plan set submitted to the City of Tulare for checking. All public improvements shall be on 24" x 36" sheets, in a plan/profile format at a scale of 1"=50' or larger. Private on-site improvements may be plan-view only format, and may be on sheet sizes consistent with the rest of the on-site construction plans. Following approval of the improvement plans, the Engineer shall provide the City of Tulare with two reproducible plan sets. This shall be done prior to scheduling any pre-construction conferences or commencing any improvements.
2. Any work to be done within the City street rights-of-way requires an encroachment permit issued by the Engineering Department, and shall be done under the inspection of the City Public Works Inspector. All contractors working within City street rights-of-way shall possess a valid City of Tulare business license. Separate encroachment permits are also required from the following agencies for work within their rights-of-way or on their facilities: County of Tulare: _____, State: _____, Tulare Irrigation District.
3. All design and construction of public improvements shall be in accordance with applicable City Standards, Specifications, Ordinances, and Standard Operating Procedures, unless specifically modified elsewhere in these conditions. These engineering conditions are intended to deal with major issues apparent to the Engineering Department while reviewing this development proposal. Nothing in these conditions precludes the City Engineer from applying other conditions/modifications necessary for good design, operation, and maintenance of existing and future City facilities, as might become apparent during design review and/or construction.
4. Access off of N. Cherry Street other than the existing access to the south of the property will require the developer to install a new City standard drive approach. If a drive approach is proposed, an all-weather access road shall be constructed from the approach to the antennae.
5. The Owner/Developer shall be responsible for all costs associated with the removal, relocation and undergrounding of utilities as necessary to accommodate installation of the required public improvements. All utility lines, including but not limited to electric, communications, street lighting and

cable television, shall be required to be placed underground in accordance with Section 8.24.160 (B) 3 of the City of Tulare Municipal Code. The cost of such relocations and undergrounding shall be included in the bonding provided for the project.

6. Existing water wells shall be abandoned, filled and sealed in accordance with applicable City, County of Tulare, and State of California standards.
7. A Public Works Inspection Fee is required prior to the construction of improvements.
8. If applicable, existing irrigation ditches and/or canals shall be piped, developed into a trail, or relocated outside the project boundaries per the direction of the City Engineer and affected irrigation district. Related irrigation facilities shall be subject to the same requirements for piping or relocation.
9. The conditions of project approval set forth herein include certain fees, dedication requirements, reservation requirements, and other exactions. Pursuant to Government Code Section 66020(d)(a), these conditions constitute a written notice of the amount of such fees, and a description of the dedications, reservations, and other exactions. The Owner/Developer is hereby notified that the 90-day protest period, commencing from the date of approval of the project, begins as of the date of Planning Commission's conditional approval of the project. If the Owner/Developer fails to file a protest regarding any of the fees, dedication requirements, reservation requirements, or other exactions contained in this notice, complying with all the requirements of Government Code Section 66020, the Owner/Developer will be legally barred from later challenging such exactions.
10. All applicable City fees shall apply unless specifically waived or modified elsewhere in these conditions. All fees shall be based on the current fee schedule in effect at the time of recordation of the final map. These fees include, but are not limited to:

- Sewer front foot charges of \$ 25.00 per front foot for frontages on _____.
- Sewer lift station fee of \$ _____ per acre.
- Water front foot charges of \$ 17.50 per front foot for frontages on _____.
- Street front foot charges of \$ _____ per front foot for frontages on _____.
- Benefit district creation fee (if applicable): \$ 1,008.19 per district.
- Traffic signal in-lieu fee of \$ _____.
- TID ditch piping In-lieu fee of \$ _____.
- Sewer main construction in-lieu fee of \$ _____.
- Water main construction in-lieu fee of \$ _____.
- Street construction in-lieu fee of \$ _____.
- Engineering inspection fee based on a percentage of the estimated cost of construction.
- Development impact fees to be paid with building permit.
- Engineering plan check fee to be paid at time of plan submittal.
- Final map plan check fee to be paid at time of map submittal.
- Other: _____

Prepared By: Jan Bowen, Senior Engineer

RESOLUTION NO. 5285

**A RESOLUTION OF THE CITY OF TULARE PLANNING
COMMISSION APPROVING CONDITIONAL USE PERMIT NO. 2018-02 AND
VARIANCE APPLICATION NO. 459**

WHEREAS, Conditional Use Permit 2018-02 and Variance Application No. 459 are a request by Verizon to construct a 92 ft. tall camouflaged monopole cellular communications tower with antennas and related equipment to be located on the east side of Cherry Street between Prosperity Avenue and Merritt Avenue (APN 170-102-040). The variance is a request to vary from the 70 ft. maximum height allowed by establishing the monopole at 92 ft. in height; and,

WHEREAS, the Planning Commission of the City of Tulare after duly published notice, did hold a public hearing before said Commission on June 11, 2018; and,

WHEREAS, the Planning Commission of the City of Tulare determined that Conditional Use Permit No. 2018-02 is consistent with the goals and objectives of the Zoning Title and the purposes of the District in which the site is located; and,

WHEREAS, the City of Tulare Planning Commission determined that the strict or literal interpretation and enforcement of the specific regulation would result in practical difficulty or unnecessary physical hardship inconsistent with the objective of the Zoning Title; and,

WHEREAS, the Planning Commission of the City of Tulare finds the project to be Categorically Exempt consistent with the California Environmental Quality Act (CEQA):

NOW, THEREFORE, BE IT RESOLVED that the project is exempt from further environmental review pursuant to CEQA Section 15303(d); and,

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Planning Commission of the City of Tulare makes the following specific findings based on the evidence presented:

- 1) That the proposed location of the project is in accordance with the objectives of the Zoning Title and the purposes of the District in which the site is located.
- 2) That the proposed location of the use and the conditions under which it would operate or be maintained will not be detrimental to the public health, safety, welfare or be materially injurious to properties or improvements in the vicinity.
- 3) That the proposed conditional use will comply with each of the provisions of the Zoning Title;

- 4) That the proposed use is consistent with the Tulare General Plan;
- 5) That the site for the proposed use is adequate in size, shape and location to accommodate the use the district for which it is proposed; and
- 6) The project is exempt pursuant to Section 15303 (d) of the California Environmental Quality Act of 1970, as amended.

BE IT FURTHER RESOLVED that the Planning Commission of the City of Tulare makes the following specific findings based on the evidence presented:

- 1) That there are special circumstances applicable to the property, including size, shape, topography, location or surroundings, and that the strict application of this title deprives the property of privileges enjoyed by other property in the vicinity and under identical district classifications.

There are exceptional or extraordinary circumstances or conditions or characteristics applicable to the property involved, or to the intended use of the property, that do not apply generally to other properties in the vicinity and in the same zoning district. The parcel is presently vacant and the proposed telecommunications facility is located on the southeast corner of the property, surrounded by tall commercial properties to the North, East, South and West. The existing structures provide high obstructions, over which the proposed wireless facility must broadcast its radio signals. Therefore, due to the topography of the area, a height increase is necessary in order for the applicant to provide adequate service to its wireless network.

- 2) That the granting of the variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same vicinity and district and denied to the property for which the variance is sought.

The strict or literal interpretation and enforcement of the specific regulation would deprive the Applicant of privileges enjoyed by similar properties in the same zoning district. The proposed at the currently allowed antenna height will not be able to transmit and receive signals, due to the signal obstruction created by the nearby hotels, restaurants, and other commercial buildings. Without the height increase, additional telecommunication sites would be required thus significantly delaying the deployment of wireless services to the public and safety service personnel within the City. In addition, other wireless telecommunication towers, within the City of Tulare, have been granted to ensure improved public service. The requested height will allow for the substantial improvement of telecommunication services, including improved data, internet, and emergency call service.

- 3) That the granting of the variance will not be materially detrimental to the public health, safety or welfare, or injurious to property or improvements in such vicinity and district in which the property is located.

The granting of the Variance will not be detrimental to the public health, safety or welfare, or be materially injurious to properties or improvements in the vicinity. Wireless telecommunication facilities are required to comply with Federal Communication Commission regulations related

to Electromagnetic Field (EMF) emissions. These FCC regulations preclude local jurisdictions from considering potential health impacts of EMP emissions when reviewing telecommunications projects as part of the land use approval process for cell towers.

- 4) That the granting of the variance will not constitute a grant of special privilege inconsistent with the limitations on other properties in the vicinity and district in which such property is located.

The granting of the Variance will not constitute a grant of special privilege inconsistent with the limitations on other properties classified in the same zoning district. The granting of the Variance will provide adequate wireless coverage to Verizon Customers near and within the surrounding area

- 5) That granting the variance does not allow a use or activity which is not otherwise expressly authorized by the regulations governing the subject parcel.

The granting of the variance is limited to the proposed antennae which is a permitted use with the approval of a Conditional Use Permit which is part of this application and does not alter any other regulation pertaining to the site.

- 6) That granting the variance will not be inconsistent with the General Plan.

The proposed use and manner of development are consistent with the goals, policies, and standards of the City's General Plan. Specifically, the proposed project would meet consumer demand, enhance regional retail use, facilitate commercial development, and increase entertainment and tourism activities as outline in the General Plan. The improvement in telecommunications infrastructure and access to communications technology reflects the goals enumerated in Goal LU-4 "To promote commercial development that meets present and future needs of Tulare residents, the regional community, and visitors and to enhance economic vitality and sustainability." The proposed facility would provide reliable and effective wireless services that are commensurate with the aesthetics and human health and safety concerns.

BE IT FURTHER RESOLVED, by the Planning Commission of the City of Tulare that Conditional Use Permit Application No. 2018-02 and Variance Application No. 459 are hereby approved subject to the following conditions:

Conditions:

- 1) All requirements of Title 10 shall be met.
- 2) Approval does not authorize any deviation from Fire and Building Codes.
- 3) The conceptual site plan and elevations are approved as shown in the attachments hereto.
- 4) In accordance with Zoning Ordinance Section 10.116.080, this Conditional Use Permit approval shall lapse and become void (3) years from the effective date of approval, unless a building permit is issued by the City and construction is being diligently pursued.

- 5) All weather access shall be provided on-site to the antenna location.
- 6) Antennas shall be guarded by a fence or some other means to prevent public access, as a deterrent from climbing or vandalism.
- 7) All proposed fencing shall be decorative and compatible with the adjacent buildings and properties within the surrounding area and shall be designed to limit graffiti.
- 8) A permanent, weather-proof identification sign, approximately 16 inches by 32 inches in size, must be placed on the gate of the fence surrounding the facility. The sign must identify the facility operator(s), provide the operator's address, and specify a 24 hour telephone number at which the operator can be reached so as to facilitate emergency services.
- 9) Traffic shall be limited to no more than one round-trip per day on an average annual basis once construction is complete, except for emergency maintenance purposes.
- 10) Tower shall not be artificially lighted unless required by the FAA or other applicable authority.
- 11) Support structures and site area for wireless telecommunications antenna shall be designed and of adequate size to allow at least one additional wireless service provider to co-locate on the structure.
- 12) Applicant shall comply with San Joaquin Valley Air Pollution Control District regarding dust control during construction as required by SJVAPCD.
- 13) Applicant shall comply with Engineering comments/conditions (Attachment VII).

PASSED, APPROVED AND ADOPTED this eleventh day of June, 2018 by the following recorded vote:

AYES: _____

NOES: _____

ABSENT: _____

ABSTAIN: _____

 CHUCK MIGUEL, CHAIRMAN
 City of Tulare Planning Commission

ATTEST:

JOSH MCDONNELL, SECRETARY
City of Tulare Planning Commission