



THE CITY OF SAN DIEGO

REPORT TO THE PLANNING COMMISSION

DATE ISSUED: May 29, 2008 **REPORT NO. PC-08-067**

ATTENTION: Planning Commission, Agenda of June 5, 2008

SUBJECT: VERIZON – MURPHY CANYON: PROJECT NO. 112854. PROCESS 4.

**OWNER/
APPLICANT:** RREEF America REIT II Corp. JJ/
Verizon Wireless

SUMMARY

Issue(s): SHOULD THE PLANNING COMMISSION APPROVE A 65-FOOT HIGH MONOPOLE ANTENNA STRUCTURE WITHIN THE KEARNY MESA COMMUNITY PLANNING AREA?

Staff Recommendation:

1. **DENY** Conditional Use Permit No. 379109; and
2. **DENY** Planned Development Permit No. 542264.

Community Planning Group Recommendation: On March 21, 2007 the Kearny Mesa Planning Group voted 12-0-0 to recommend approval of this project as presented (Attachment 13).

Environmental Review: This project was deemed to be Exempt from the California Environmental Quality Act (CEQA) and State CEQA Guidelines on October 17, 2006 (Attachment 14), pursuant to Article 19 of Guidelines, Categorical Exemptions, Section 15301, "Existing Facilities."

Fiscal Impact Statement: Verizon Wireless is the financially responsible party for this project and is paying for costs associated with processing this application. If the project is denied, the City's Neighborhood Code Compliance Division of the Development Services Department would take code enforcement action. The code enforcement action would be funded by the general fund.

Code Enforcement Impact: If the Conditional Use Permit and Planned Development Permit are not approved, this facility will be referred to Neighborhood Code Compliance for code enforcement action. Neighborhood Code is funded by the City's General Fund.

Housing Impact Statement: Not applicable.

BACKGROUND

This existing Major Telecommunication Facility was previously permitted with Conditional Use Permit (CUP) No. 96-0172 (Attachment 18) which was approved by the Planning Commission on May 30, 1996. The previous CUP allowed for the removal of roof-mounted antennas and the construction and operation of a 55-foot monopole with antennas reaching 65-feet. Condition 7 of the permit stated that the CUP would expire ten years after the date of City approval, which was May 30, 2006. An application for a new CUP was submitted by Verizon Wireless and deemed complete by the City on September 12, 2006.

This facility is located at 9323 Chesapeake Drive (Attachment 3), near Ruffin Road, in the Kearny Mesa Community Plan Area. The zone is Light Industrial, IL-2-1. The Community Plan specifies the land use designation as "Industrial and Business Parks" (Attachment 2). The facility is surrounded by office park developments, also located within the IL-2-1 zone (Attachments 1 and 4).

Verizon Wireless is requesting reinstatement of their land use entitlements by maintaining the facility "as-is" with no changes (Attachment 12). Since the original monopole was constructed, the City adopted new Communication Antenna regulations (LDC 141.0405, Attachment 16). The existing facility does not meet the City's new regulations in the Land Development Code, nor the City's General Plan. The facility as it exists is defined as a "Major Telecommunication Facility" since it does not meet the criteria for a "Minor" facility. Per 141.0405(e)(1), a Minor Telecommunication Facility is one where the "facility, including equipment and structures, is concealed from public view or integrated into the architecture or surrounding environment through architectural enhancement (enhancements that compliment the scale, texture, color, and style), unique design solutions, or accessory use structures."

Major Telecommunication Facilities are permitted with CUP's in accordance with Process 3, subject to criteria discussed below. Since the existing antennas encroach approximately 3 feet into the required 10-foot side yard setback, a Planned Development Permit (PDP), Process 4 is required for a deviation from the IL-2-1 base zone development regulations. In order to approve this project, the Planning Commission needs to make the findings for both a CUP and a PDP (Attachment 7).

DISCUSSION

This project does not comply with the Communication Antenna regulations for Major Telecommunication Facilities. Land Development Code (LDC) 141.0405(f)(2) requires that these facilities "be designed to be minimally visible through the use of architecture, landscape architecture, and siting solutions."

When the monopole was originally designed, design criteria requiring the use of architecture, landscape architecture, and siting solutions did not exist. With Verizon Wireless' application for a new CUP and PDP, their intent is to keep the facility "as-is" with no changes. The Code and General Plan both require these facilities to be designed to be minimally visible. Verizon Wireless has not made any effort to design this facility to be minimally visible in order to comply with the current regulations.

In some respects, this facility meets the requirement of "siting" as it is located toward the interior of the property away from the public right-of-way. However, the facility is located adjacent to the interior property line, which makes the facility highly visible to the adjacent properties. The existing monopole does not comply with the regulations through architectural means. No architectural elements have been provided to integrate the antennas with the existing architectural design of the business park and no architectural elements have been provided to improve the aesthetic qualities of the facility, thus making the antennas and the support structure minimally visible. Existing landscape material minimizes views of the facility from some angles, however landscape architecture has not been comprehensively employed to make the facility minimally visible. If architectural and landscape design elements were utilized to integrate the facility with the subject property, the project would have the potential to meet the Communication Antenna regulations.

In addition to the design requirements, Major Telecommunications Facilities are not permitted within ½ mile of another Major Telecommunication Facility, unless the facility is concealed from public view or integrated into the architecture or surrounding environment through architectural enhancement, unique design solutions, and accessory use structures. There are other facilities, both public and private, that could be considered "major" telecommunication facilities within ½ mile of this facility. Since this facility does not meet the design requirements listed above, the facility does not comply with 141.0405(f)(1)(C).

One of the findings for a CUP is that the project complies to the maximum extent feasible with the regulations of the LDC. Clearly, this project does not comply to the maximum extent feasible as no effort has been made to modify the project to comply with the new regulations.

In addition to this project's non-compliance with the Municipal Code, it also does not comply with the City's General Plan, Section UD-A.15, a. and b., which states:

Minimize the visual impact of wireless facilities.

- a. *Conceal wireless facilities in existing structures when possible, otherwise use camouflage and screening techniques to hide or blend them into the surrounding area.*

This project does not comply as camouflage and screening techniques have not been employed. In addition, the facility has not been concealed within an existing structure.

- b. *Design facilities to be aesthetically pleasing and respectful of the neighborhood context.*

This facility does not comply with the regulations because it is not aesthetically pleasing and is not respectful to the business park context.

- c. *Conceal mechanical equipment and devices associated with wireless facilities in underground vaults or unobtrusive structures.*

This facility does comply with section "c" as the associated equipment is located within the existing building.

The findings required to support a PDP or a CUP cannot be made in the affirmative (Attachment 7) because Staff has determined that the existing monopole antenna structure no longer complies with either the City's Land Development Code or General Plan. Therefore, Staff cannot make the findings for the PDP and CUP as required.

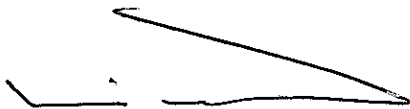
Conclusion:

Verizon Wireless should submit a proposal for a Wireless Communication Facility that complies with the current Wireless Communication Facility regulations, LDC 141.0420, and the Wireless Communication Facility Design Guidelines. A facility that complies with the development regulations in an industrial zone may be processed as a Limited Use, Process 1. If the facility is completely concealed and architecturally integrated, staff may permit a facility with no expiration date.

ALTERNATIVE

1. **Approve Conditional Use Permit No. 379109 and Planned Development Permit No. 542264, with or without modifications.**

Respectfully submitted,



Mike Westlake
Program Manager
Development Services Department



Alex Hempton, AICP
Associate Planner
Development Services Department

BROUGHTON/AFH

Attachments:

1. Aerial Photo
2. Community Plan Land Use Map
3. Project Location Map

4. Project Data Sheet
5. Project Plans
6. Draft Permit
7. Draft Resolution
8. Ownership Disclosure Statement
9. Project Chronology
10. Site Photos
11. Justification Map
12. Justification Letter
13. Community Planning Group Recommendation
14. Environmental Exemption
15. Notice of Public Hearing
16. Communication Antenna Regulations, LDC 141.0405
17. FAA Determination of No Hazard
18. CUP 96-0172