

PLANNING COMMISSION

Agenda Item No.: _____
Date: March 24, 2009

CASE NUMBER: PHG 08-0045

APPLICANT: Terri Grisenti for Verizon Wireless

LOCATION: On the Rincon Del Diablo Municipal Water District water reservoir site, south of Johnston Road, west of Willowbrook Street

TYPE OF PROJECT: Conditional Use Permit

PROJECT DESCRIPTION: A request for a Conditional Use Permit to construct a wireless communication facility for Verizon Wireless on the site of the Rincon del Diablo Municipal Water District water tank. The facility would consist of 15 panel antennas mounted on individual 15-foot-high poles. The associated equipment, including a standby emergency generator, would be located within a new, eight-foot-high, approximately 555 SF, block wall enclosure.

STAFF RECOMMENDATION: Approval

GENERAL PLAN DESIGNATION/TIER: Rural 1
Tier 3-West Ridge subarea

ZONING: RA-5 (Residential Agricultural, 5 acre minimum lot size)

BACKGROUND/SUMMARY OF ISSUES: The Rincon Del Diablo Municipal Water District owns a 3.62-acre site in the southwestern portion of the City that is developed with an existing water reservoir. The water tank is approximately 32 feet high and 165 feet in diameter, with fencing encircling it and an access road down to Johnston Road.

On December 12, 2006, the Planning Commission approved a wireless communication facility for T-Mobile Communications (2006-45-CUP) at the site. The facility consists of nine antennas mounted 35-feet high on a pole designed to resemble a broad-leaf tree, and equipment within a 390 SF, eight-foot-high, chain-link enclosure.

Verizon Wireless now is requesting the ability to install a wireless facility for their network at the site. The facility would include a new, approximately 555 SF, block wall equipment enclosure, an emergency standby generator and 15 antennas mounted on individual 15-foot-high poles. The facility would be located adjacent to the existing T-Mobile facility. The water reservoir site is located in the RA-5 zone. Zoning Code Article 34 (Communication Antennas) requires a Conditional Use Permit (CUP) for any wireless communication facility in a residential zone.

LEGAL REQUIREMENTS: In 1996, the U.S. Congress added a section to the Communications Act of 1934 to promote the expansion of personal wireless communications service, adding section 332(c)(7). This section preserves local zoning authority over the "placement, construction, and modification" of wireless facilities, while imposing certain federal requirements. Section 332(c)(7) specifically requires that state or local government decisions regarding wireless service facilities must not: 1) unreasonably discriminate between one cellular provider and another; or 2) prohibit or have the effect of prohibiting the provision of personal wireless services; or 3) be founded on "the environmental effects of radio frequency (RF) emissions *to the extent that such facilities comply* with the FCC's regulations" (emphasis added).

In summary, if the Commission is satisfied that the RF emissions from a proposed project would be within the federal thresholds, then only local zoning conditions may be used to approve or deny an application. A denial of a proposed facility must not run afoul of the federal restrictions set forth as 1) and 2), above.

Staff feels that the issue is as follows:

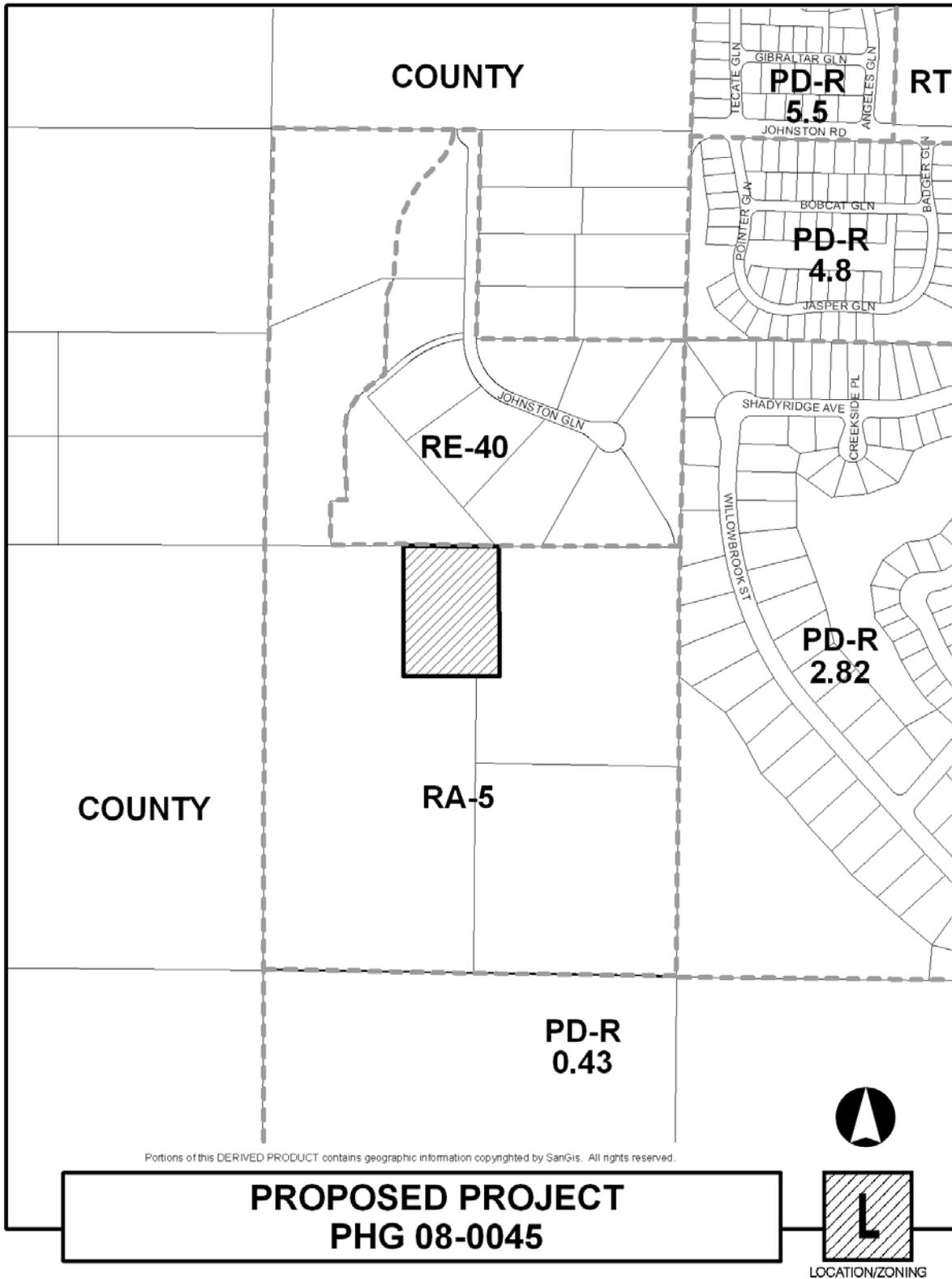
1. Whether the design and location of the proposed wireless communication facility is appropriate for the site and consistent with the Wireless Facility Guidelines.

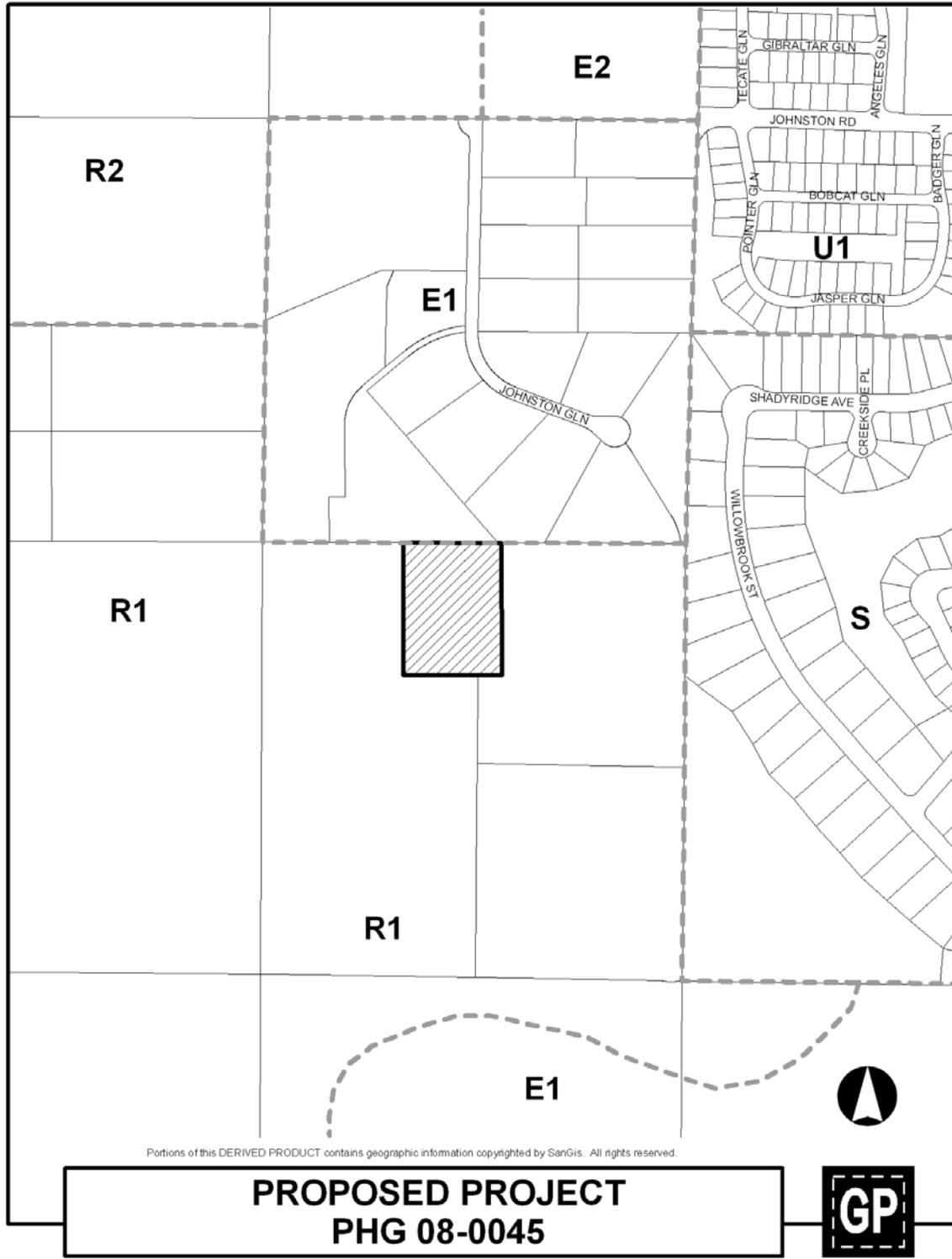
REASONS FOR STAFF RECOMMENDATION:

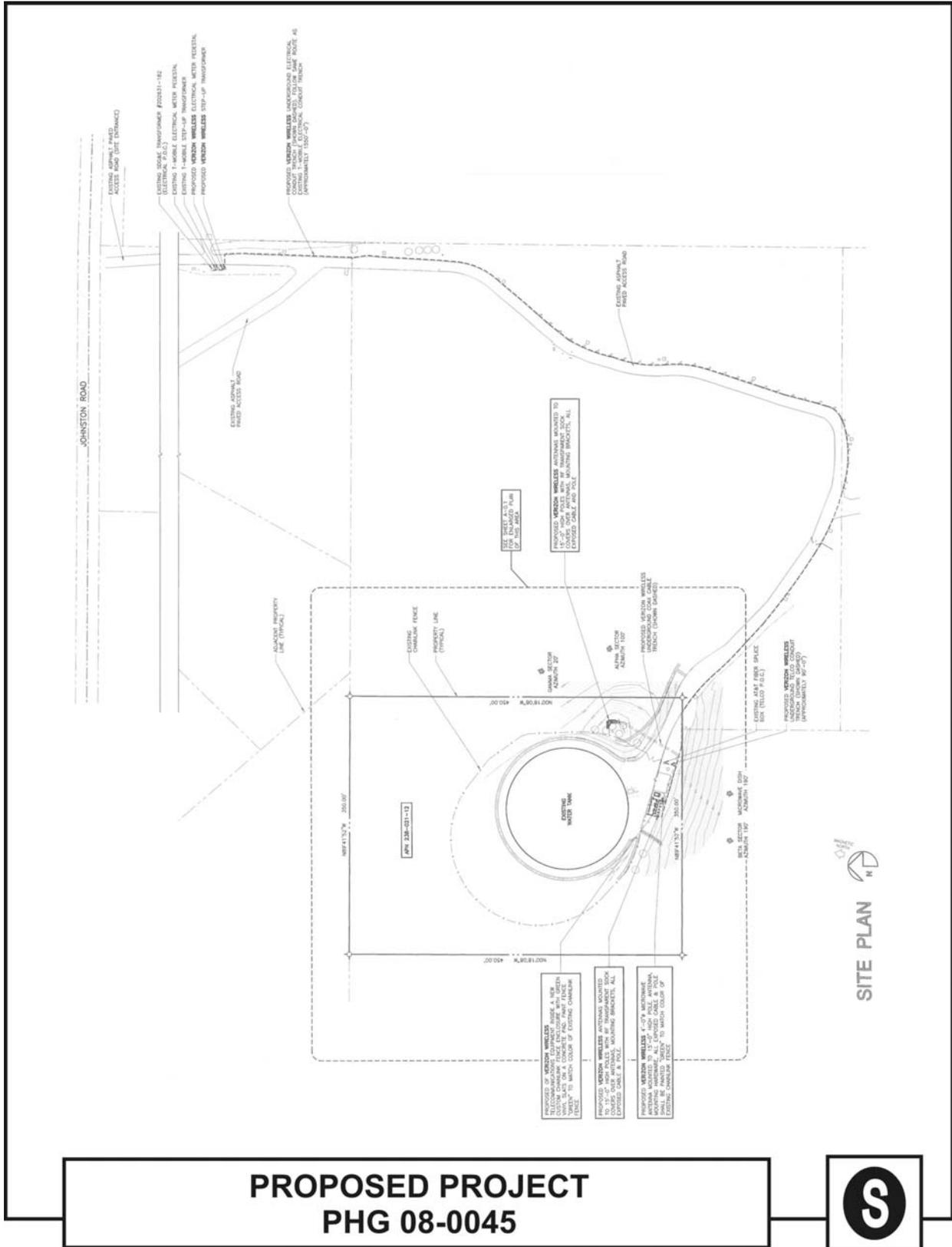
1. The proposed wireless facility is consistent with the Wireless Facility Guidelines since it would meet the height requirement of the zone and would be integrated into the site. The facility would not create adverse visual impacts to surrounding properties due to its low-profile nature and distance from residential properties.
2. Staff feels the proposed facility would not result in a potential health hazard on site and to nearby residents since the Radio Frequency (RF) study prepared for the proposed project indicates the facility would be within maximum permissible exposure (MPE) limits and Federal Communication Commission (FCC) standards.

Respectfully submitted,

Kristina Owens
Assistant Planner II



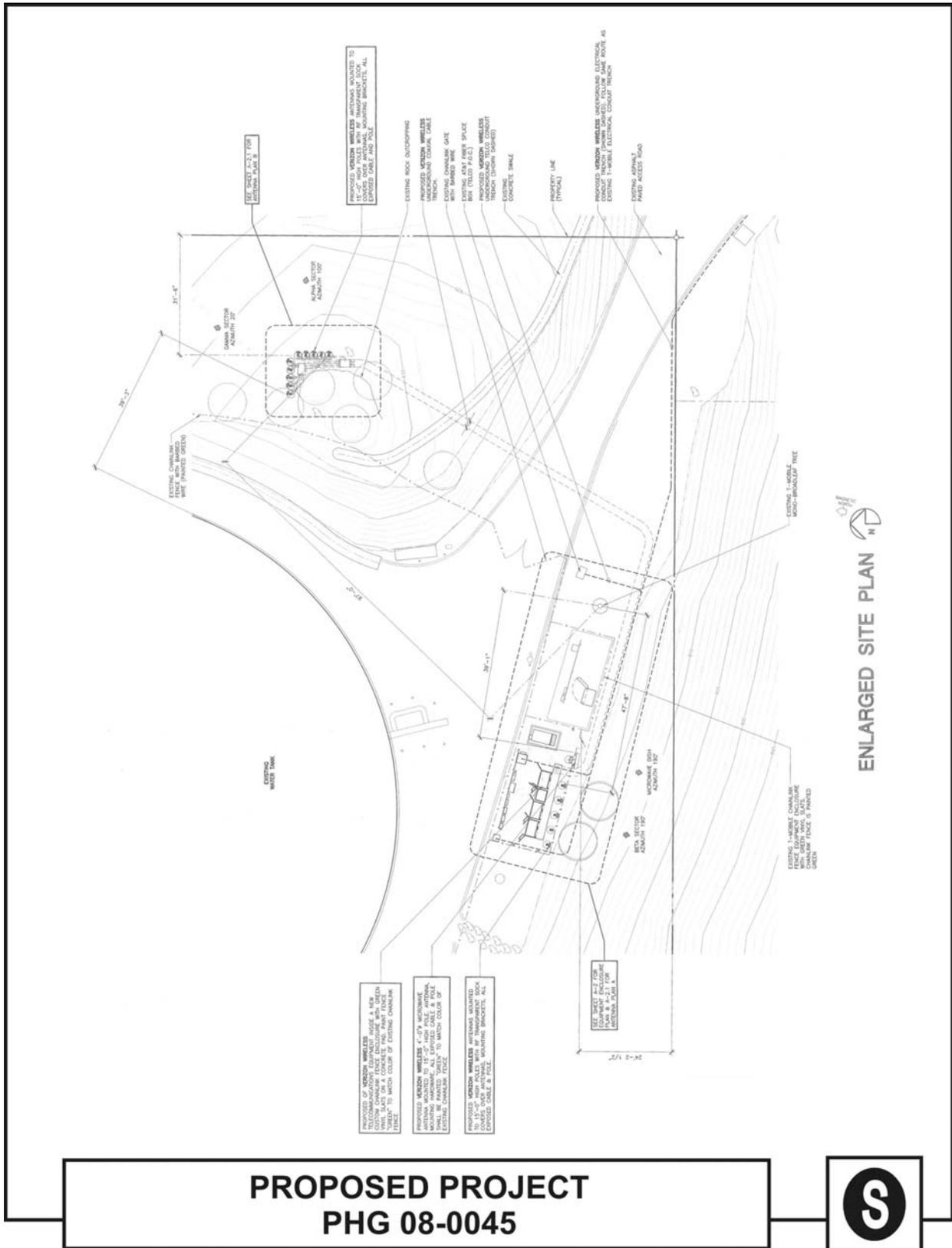




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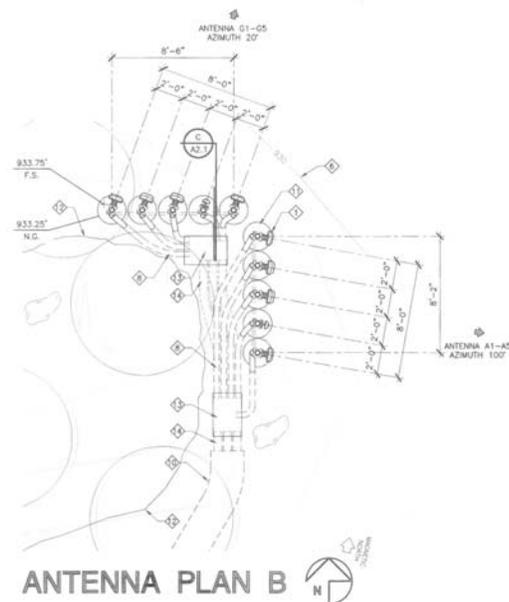
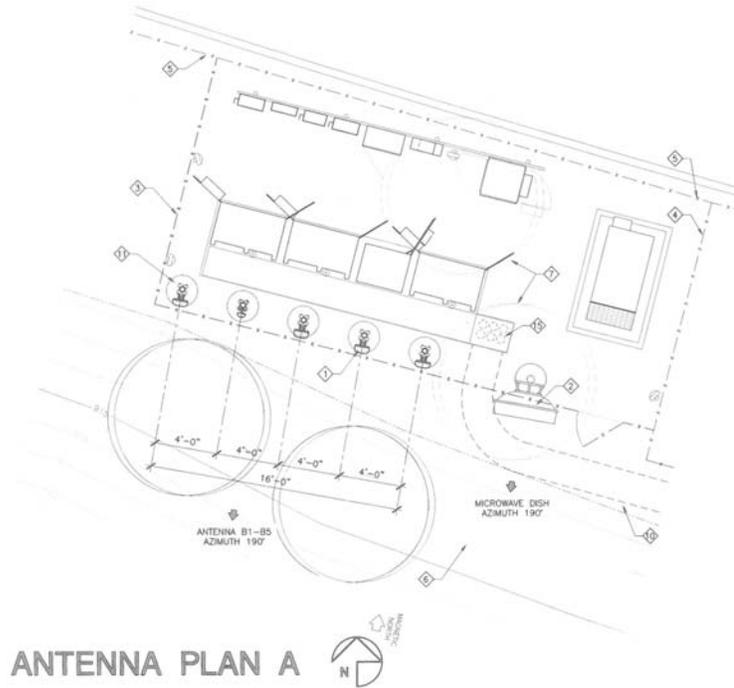
SITE PLAN



**PROPOSED PROJECT
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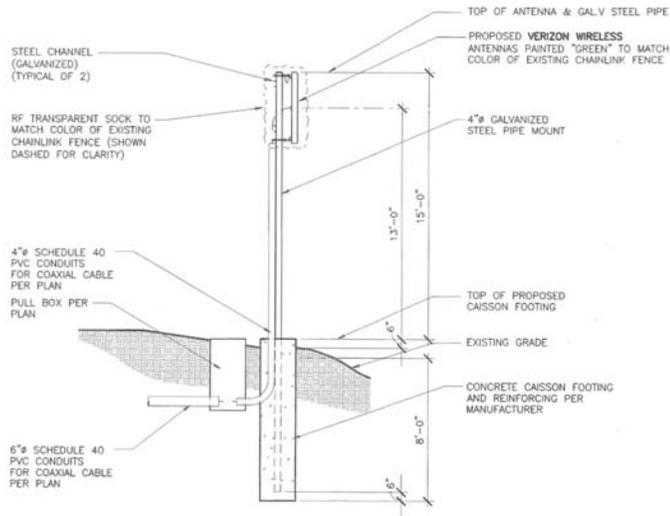


SITE PLAN



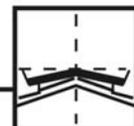
**PROPOSED PROJECT
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ANTENNA PLAN



SECTION C

PROPOSED PROJECT
PHG 08-0045



SECTION

ANALYSIS

A. LAND USE COMPATIBILITY/SURROUNDING ZONING

NORTH – RE-40 (Residential Estates, 40,000 SF minimum lot size) zone– A single-family residential subdivision consisting of residences on lots ranging in size from 1 acre to 5 acres is located to the north of the water tank and north of the site.

SOUTH – RA-5 (Residential Agricultural, 5 acre minimum lot size) zone – Vacant, steeply sloped, residentially zoned property is located to the south of the site.

EAST - RA-5 and PD-R 2.82 (Planned Development Residential, 2.82 du/acre) zones – Vacant residentially zoned property is located to the east. A single-family residential subdivision with lots of approximately 0.5 acre in size is located farther to the east.

WEST - RA-5 zone – Vacant property is located to the west.

B. AVAILABILITY OF PUBLIC SERVICES

1. Effect on Police Service – The Police Department has expressed no concern regarding their ability to continue to provide service to the site.
2. Effect on Fire Service – The site is served by Fire Station No. 5, located at 2319 Felicita Road, which is within the response time mandated by the General Plan. The proposed development of the site would contribute incremental increases in demand for fire services. The Escondido Fire Department has expressed no concern regarding its ability to continue to provide service to the site as conditioned. Conditions of approval would include installation of bollards and secondary containment for the proposed generator. The Fire Department has indicated that adequate services can continue to be provided to the site and the proposed project would not impact levels of service.
3. Traffic – Access to the site is via a private road easement from Johnston Road. Johnston Road is an unclassified residential street. No additional ADTs (Average Daily Trips) would be generated as a result of the proposed Conditional Use Permit. It is anticipated that the communications facility would be serviced on an as needed basis, which generally would be once a month. The Engineering Division has indicated that the project would not materially degrade the levels of service of the adjacent streets.
4. Utilities – Sewer and water mains with sufficient capacity to serve the project are available and existing within the adjoining street or easement. Sewer services are provided by the City of Escondido. Water service is provided to the site by the Rincon del Diablo Municipal Water District. The proposed CUP would not materially degrade the levels of service of the public sewer and water system, as neither system would be impacted.
5. Drainage – The project site is not located within a 100-year Flood Zone as indicated on current FEMA maps. There are no significant drainage courses within or adjoining the property. The project does not materially degrade the levels of service of the existing drainage facilities.

C. ENVIRONMENTAL STATUS

1. A Notice of Exemption was issued on February 9, 2009, in accordance with CEQA Section 15303, Class 3, “New Construction or Conversion of Small Structures.”
2. In staff’s opinion, no significant issues remain unresolved through compliance with code requirements and the recommended conditions of approval.

3. The project will have no impact on fish and wildlife resources as no sensitive or protected habitat or will be impacted by the proposed development. Although coastal sage scrub is present in the surrounding area, none will be impacted by the proposed project.

D. CONFORMANCE WITH CITY POLICY/ANALYSIS

General Plan

The General Plan land use designation on the site is Rural I, which allows for rural residential and agricultural uses with a minimum lot size of four acres and a maximum density of one dwelling unit per four acres, dependent on slope. The proposed Conditional Use Permit (CUP) would be consistent with the General Plan designation, since a wireless facility within a residential designation is permitted with a CUP when it is in conformance with the Communication Antennas Ordinance and underlying zoning.

Whether the Design and Location of the Proposed Wireless Communication Facility is Appropriate for the Site and Consistent with the Wireless Facility Guidelines

The Wireless Communication guidelines encourage the use of commercial and industrial properties whenever possible, and discourage communication facilities within residential zones. The City has approved several wireless communication facilities within residential zones, typically on properties used for non-residential purposes (i.e., churches, school, parks, water tanks, etc.). While the subject site is zoned RA-5 (residential agricultural), it is the location of a water reservoir for the Rincon del Diablo Municipal Water District, with no residential uses located on the site. A wireless facility for T-Mobile Communications was approved and constructed on the site in 2006, consisting of a chain-link equipment enclosure and nine antennas mounted on a 35-foot-high pole designed to resemble a broadleaf tree.

Verizon Wireless is proposing to install a wireless facility on the site consisting of 15 antenna panels, each mounted on an individual 15-foot-high pole. The fifteen antennas would accommodate voice, text and video data transmissions and improve service in the southwestern area of the city. The antennas would range in size from 48-49 inches long, 7-15 inches wide and 5-15 inches deep. Five of the antennas would be placed in the southern portion of the site, adjacent to T-Mobile's existing facility, at approximately 919 feet above mean sea level (msl). The other 10 antennas would be located approximately 110 feet to the northeast, also adjacent to the water tank, at approximately 930 feet above msl. All of the associated equipment, including an emergency standby generator, would be located within a new, approximately 555 SF, eight-foot-high, block wall enclosure. The block enclosure would provide sound attenuation for the equipment so that it would meet the requirements of the Noise Ordinance. The 20 kW generator would be for emergency use only and would be powered by a 50-gallon diesel tank. The height of all equipment would be below the height of the wall. The five poles/antennas in this location also would be located within the block enclosure. The enclosure would be adjacent to T-Mobile's existing enclosure and the water district's existing chain-link fence. The block wall would be painted to match the adjacent fence/slats and other surroundings as closely as possible. Two eucalyptus trees would be removed and relocated elsewhere on the site to accommodate the enclosure. According to the applicant, it would be difficult for Verizon Wireless to locate all 15 antennas in one location adjacent to T-Mobile's facility due to the topography of the site and the need for the antennas to achieve a wide range of coverage. Verizon also evaluated installing a mono-pole resembling a tree or other design at the higher site, rather than individual poles, but the granite nature of the location made this difficult due to the amount of drilling that would be required for footings.

Staff feels that the proposed wireless facility would be in conformance with the Wireless Communication guidelines. The maximum height allowed in the RA-5 zone is 35 feet, while the proposed poles are 15 feet in height and the block enclosure would be eight feet in height. The facility would create minimal visual impacts to surrounding properties and would be appropriately integrated into the site. The site slopes down towards the south, east and northeast, and up towards the north and northwest. The topography of the property and location of the water tank make the site and the proposed facility difficult to see from surrounding properties. Vacant residentially zoned property is located to the south of the site and single-family residences are located more than 2,000 feet to the southeast of the site at a lower elevation. The water tank and existing landscaping on the site provide a backdrop against which views of the antennas and equipment enclosure would be softened and screened. The nearest residences are located approximately 400 feet to the north of the site. There would be no views of the facility from those residences as the tank is approximately 32 feet high and blocks views of the site from the north and northwest. The poles, antennas and associated hardware would be

painted a non-reflective green to match the tank as closely as possible. "Socks" with attached leaves would be installed on each antenna to help blend into the surrounding landscaping. All proposed equipment associated with the facility, including a standby generator, would be screened from view within the new eight-foot-high block enclosure.

On January 22, 2009, the Design Review Board reviewed the proposed wireless facility and voted 6-0 to recommend approval of the design as submitted. The Board discussed and considered alternative designs, including a faux tree, but preferred the individual poles. The Boardmembers felt that the facility would be integrated into the site as much as possible and that the low-profile design combined with the topography of the site and distance to residences minimized any potential adverse visual impacts.

Conformance with FCC Emission Requirements

Operation of the facility would generate radio frequency electromagnetic emissions (RF radiation). A RF study was prepared for the project by Lawrence Behr Associates on December 6, 2008, to determine whether the proposed communication facility complies with the FCC Rules and Regulations for RF emissions for "Occupational" and "General Public" classifications. The study concluded the project site would be compliant with FCC rules and regulations. The study included the existing facility and considered the entire accessible ground level of the site to be a general population area, which is held to a higher exposure standard.

The base of the antennas would be located 11 feet off the ground with the top of the antennas at a height of 15 feet. The estimated maximum permissible exposure (MPE) would be located at ground level at each antenna. The Verizon Wireless facility would contribute less than the MPE at all accessible areas on the site based on theoretical modeling. The Verizon facility would contribute less than 5% of the MPE on the majority of the ground area surrounding the facility; greater than 5% but less than 50% at specific locations in front of the antennas; and a maximum of 56% of MPE in a very limited area directly in front of the antennas. However, general public access to the antennas is expected to be limited due to their remote location at the water district tank. Five of the antennas would be located within a block enclosure and the other 10 antennas would be located on a sloped area. The compliance determination is based on General Public MPE levels due to predicted and measured levels, RF signage placement, and the level of restricted access to the antennas at the site. Appropriate signage is required to be posted at access areas to the antennas and equipment providing warning/safety notice. No other mitigation is required or recommended. A copy of the study has been attached with this report.

SUPPLEMENT TO STAFF REPORT/DETAILS OF REQUEST

A. PHYSICAL CHARACTERISTICS

The project site is the 3.62-acre location of the Rincon del Diablo Municipal Water District water reservoir, located in the southwestern portion of the City. Access is via a private road easement accessible from Johnston Road, with a security gate at the entrance to the reservoir location. The water tank is approximately 32 feet high and 165 feet in diameter and is located in the center of the site. The reservoir is located at approximately 918 feet above mean sea level (msl). The site slopes steadily down to the south, east and west from the tank. The site slopes upwards to the north and northwest with the tank blocking views of the site towards the south. There is a paved access road and chain link fence that encircles the reservoir. The area immediately surrounding the reservoir has been cleared of vegetation, but there is scattered native vegetation throughout the remainder of the site and on surrounding properties.

B. SUPPLEMENTAL DETAILS OF REQUEST

1. Property Size: 3.62 acres
2. Poles 15 poles, each 15-foot-high
3. Antennas: 15 antennas, ranging in size from 48-49 inches long, 7-15 inches wide, 5-15 inches deep.
One 48-inch microwave antenna
4. Materials/Colors: All poles, antennas and associated brackets would be painted non-reflective olive green to match the water tank. The antennas would be covered in "socks" which have branches and leaves attached to better blend with the surroundings.
5. Equipment: All located entirely within an approximately 555 SF, eight-foot-high block wall enclosure, painted green to match the adjacent enclosure.
6. Hours of Operation: 24 hours, unmanned
7. Landscaping: None of the adjacent Coastal Sage Scrub habitat would be impacted. Some brush would be removed for installation of the eastern antennas. Two trees to be removed for installation of the equipment enclosure would be relocated elsewhere on the site. No additional landscaping is proposed.

C. CODE COMPLIANCE ANALYSIS

| | <u>Proposed</u> | <u>RA-5 Zoning Requirements</u> |
|--------------|-----------------|---------------------------------|
| 1. Setbacks: | | |
| Front: | 31 feet (east) | 25 feet |
| Side: | 24 feet (south) | 10 feet |
| Rear: | > 190 feet | 20 feet |
| 2. Height: | 15 feet | 35 feet maximum |

**FINDINGS OF FACT
PHG 08-0045
EXHIBIT "A"**

Conditional Use Permit

1. Granting the proposed Conditional Use Permit would be based upon sound principles of land use and in response to services required by the community since the facility would further enhance communication services in the southwestern portion of the city without posing a health threat or having a negative visual impact on the surrounding area. The proposed facility would be consistent with the Wireless Facilities Guidelines, since it would meet the height limitations of the RA-5 zone, it would be integrated into the site, and it would be designed so that the antennas and equipment are screened from view from adjacent properties and streets. Additionally, the facility would meet FCC requirements for emissions.
2. The proposed wireless facility would not cause a deterioration of bordering land uses or create special problems in the area in which it is located, since the antennas and equipment would not be visible from surrounding properties and streets. The existing mature trees on the site, backdrop of the water tank, and proposed equipment enclosure would provide visual softening and screening of the facility, creating negligible visual impacts. In addition, the RF emissions generated by the facility would be below the ANSI/IEEE and FCC standards, as demonstrated by the RF study completed for the applicant.
3. The proposed Conditional Use Permit has been considered in relationship to its effect on the neighborhood and it has been determined to be compatible with the surrounding properties, since the wireless facility would be in context with and integrated into the site and consistent with the Wireless Facility Guidelines. The facility would be located in the southern portion of the site where it would be screened from view by the topography, the existing water tank and the proposed block wall. Additionally, views of the antennas would be softened by the backdrop of the water tank and mature trees, they would be painted green to match the color of the tank, and "socks" with attached leaves would be attached to help blend into the surroundings. The height of the antennas on the pole would meet the maximum height limits of the RA-5 zone. In addition, traffic generated by the project would be limited to approximately one routine maintenance trip per month, surrounding sensitive habitat would not be impacted, and the antennas would meet FCC requirements for RF emissions.

**CONDITIONS OF APPROVAL
PHG 08-0045
EXHIBIT "B"**

Planning Division Conditions

1. The developer shall be required to pay all development fees of the City then in effect at the time and in such amounts as may prevail when building permits are issued, including any applicable City Wide Facilities fees.
2. All construction and grading shall comply with all applicable requirements of the Escondido Zoning Code, the Planning Division, Engineering Division, Building Division, and Fire Department.
3. The legal description attached to the application has been provided by the applicant and neither the City of Escondido nor any of its employees assume responsibility for the accuracy of said legal description.
4. All exterior lighting shall conform to the requirements of Article 55, Outdoor Lighting (Ordinance No. 86-75), including all lighting proposed with the equipment enclosure.
5. No signage is approved as part of this permit. All proposed signage shall comply with the Escondido Sign Ordinance (Article 66, Escondido Zoning Code). A separate sign permit shall be required prior to the installation of any signs.
6. All project-generated noise shall comply with the City's Noise Ordinance (Ord. 90-08) to the satisfaction of the Planning Division.
7. An inspection by the Planning Division will be required prior to operation of the project. Everything should be installed prior to calling for an inspection, although preliminary inspections may be requested. Contact the project planner at (760) 839-4671 to arrange a final inspection.
8. This CUP shall become null and void unless utilized within twelve months of the effective date of this approval.
9. All communication facilities on the site shall be removed upon non-use of the facilities, to the satisfaction of the Planning Division.
10. No additional antennas or expansion of this facility shall be permitted without a modification of the Conditional Use Permit and a public hearing before the Planning Commission. Minor changes within the approved size and design parameters may be permitted by the Director of Community Development after review by the Design Review Board.
11. Verizon Wireless, or any subsequent operator/leaseholder, hereby agrees to investigate complaints related to possible interference with electronic equipment in the surrounding area, to determine the cause of the interference. If the Verizon Wireless facility is determined to be the cause of the electronic interference, Verizon Wireless shall solve the problem in a timely manner to the satisfaction of the complainant and the Director of Community Development. Any interference with Fire Department or public safety communications shall be corrected immediately by Verizon Wireless to the satisfaction of the City of Escondido.
12. Verizon Wireless shall coordinate with the City of Escondido to select a qualified, independent, third party to conduct actual power density measurements of the facility within ninety (90) days of installation and full operation. The results of the study shall be submitted to the Director of Community Development so that the theoretical power density study can be compared to the actual output and ensure compliance with FCC requirements.
13. Verizon Wireless, or a future leaseholder, shall be responsible for all maintenance of the facility, including the antennas, poles, equipment cabinets, and block wall (including paint) to ensure that the condition of the facility does not appear weathered.
14. Verizon Wireless, or any subsequent operator/lease holder of the facilities shall not oppose co-location of the facility by other wireless carriers (subject to City of Escondido approval) if it can be proven that the additional carrier would not adversely affect the operation and function of Verizon Wireless antennas.

15. Pursuant to Zoning Code Section 33-1207, this item may be referred back to the Planning Commission upon recommendation of the Director of Community Development for review and possible revocation or modification of the Conditional Use Permit upon receipt of nuisance complaints regarding the facility or non-compliance with the Conditions of Approval. Abatement shall follow all necessary procedures set forth in Section 33-1207.
16. This Conditional Use Permit is only for the installation of a Verizon Wireless facility on the site. The number of antennas (15) allowed shall be used for Verizon and not sub-leased to any other carriers unless approved by the City. No other carriers shall be allowed to be placed on the facility, unless a new Conditional Use Permit is approved by the City. For the purposes of this condition of approval, Verizon Wireless or Verizon refer to Verizon Wireless or any principal, affiliate, subsidiary of its principal, or any entity which acquires all or substantially all of Verizon Wireless' assets in the market defined by the Federal Communications Commission in which the subject property is located, by reason of merger, acquisition or other business reorganization.
17. The uses, colors, materials and design of the project shall conform to the exhibits and references in the staff report, the Design Review Board recommendations, the Details of Request, and the Conditions of Approval, to the satisfaction of the Planning Division.
18. All details of the proposed facility shall be clearly shown on the building plans, to the satisfaction of the Planning Division. The antennas, poles, support brackets, cable runs and other support equipment attached to the poles shall be painted non-reflective olive green to match the existing water tank. Each antenna shall have a green "sock" cover with attached branches and leaves.
19. All equipment shall be entirely enclosed within the proposed block wall enclosure, and shall be no higher than the top of the wall. The wall shall be a minimum of six feet and no more than eight feet in height, and painted to match as closely as possible the color of the adjacent equipment enclosure and surroundings, to the satisfaction of the Planning Division.
20. Any permanent, temporary, or standby emergency generators shall be in conformance with the City's Zoning Code requirements for electric generating facilities (Section 33-1122). The generator is to be used for emergencies only. Any testing or maintenance of the generator is to be periodic only and may occur only between the hours of 7:00 a.m. and 5:00 p.m.
21. All new utilities and cable runs shall be located underground, to the satisfaction of the Planning and Engineering Divisions.
22. All proposed signage associated with the project shall comply with the City of Escondido Sign Ordinance (Ord 92-47) and the exhibits included in the staff report, to the satisfaction of the Planning Division. Appropriate signs providing notice, caution or warning, and other necessary markings shall be placed at the main access point(s) and other locations, as may be required, in order to alert the general public, maintenance or other workers approaching the antennas to the presence of RF transmissions and to take precautions to avoid exposures in excess of FCC limits. The requirement for the appropriate signage/notice shall be indicated on the building plans.
23. Prior to issuance of a building permit for the wireless facility, the applicant shall provide satisfactory evidence of an easement that allows the applicant the right of access and the ability to install electrical and telephone utilities in the easement for the water tank access road that crosses any adjoining property.
24. Barbed-wire fencing is not permitted in the RA zone.
25. The City of Escondido hereby notifies the applicant that the County Clerk's office requires a documentary handling fee of \$50.00 in order to file a Notice of Exemption for the project (environmental determination for the project). In order to file the Notice of Exemption with the County Clerk, in conformance with the California Environmental Quality Act (CEQA) Section 15062, the applicant should remit to the City of Escondido Planning Division, within two working days of the final approval of the project (the final approval being the hearing date of the Planning Commission or City Council, if applicable), a certified check payable to the "County Clerk" in the amount of \$50.00. The filing of a Notice of Exemption and the posting with the County Clerk starts a 35 day statute of limitations period on legal challenges to the agency's decision that the project is exempt from CEQA. Failure to submit the required fee within the specific time

noted above will result in the Notice of Exemption not being filed with the County Clerk, and a 180 day statute of limitations will apply.

Landscape Conditions

1. All existing vegetation shall be maintained in a flourishing manner and kept free of all foreign matter, weeds, and plant materials not approved as part of the landscape plan. All existing irrigation shall be maintained in fully operational condition.
2. The two eucalyptus trees to be removed for construction of the equipment enclosure shall be replaced elsewhere on the site, and the location and reference shall be specified on the building plans, to the satisfaction of the Planning Division.
3. As detailed in the Biologist Memorandum, prepared by Environmental Assessment Specialists on January 29, 2009, no removal of Coastal Sage Scrub is proposed or approved as part of this Conditional Use Permit.

Fire Department Conditions

Generator Installation

1. Secondary containment shall be provided for the generator fuel storage tank, to the satisfaction of the Fire Department.
2. Bollards shall be installed to prevent vehicle damage to the generator fuel tank, to the satisfaction of the Fire Department.

Building Division Conditions

1. All building plans shall be in conformance with the California Building Code, to the satisfaction of the Building Official.