



Administrative Decision
DENIAL

July 20, 2020

Bob Gundermann
Crown Castle
489 Mcleod Street
Livermore, CA 94550

RE:

Case Number: SCP20-003
Description: Small Wireless Facility
Address: Across the street from 425 Bahia Way
Zoning: Multi-family Residential (MR3)
APN: 009-261-57

Dear Mr. Gundermann:

Thank you for your planning application to the City of San Rafael Planning Division. This letter is to advise you that your project has been Denied.

The proposed project includes the following:

The proposed small wireless facility would be mounted to the top of an existing approximately 30-foot high street light pole. The proposed antenna would be placed on top of a 4.5-foot pole extension. The antenna would be concealed within an antenna shroud. The total height of the proposed mounted facility and proposed antenna (including the pole extension and antenna shroud) would be approximately 33 feet and is less than the 50 feet max height. Associated equipment would be mounted to the side of the utility pole. The facility will have one radio unit at a height of 9 feet above ground level and one power disconnect at a height of 6 feet above ground level.

This decision to deny the project is based on recommendations by Alicia Giudice, Principal Planner based on the findings in Exhibit 1 (attached) related to Preferred Location Standards & Design Standards established by Resolution 14621 for the following reasons:

Preferred Location Standards: Section 9(b) of City Council Resolution 14621 states that small cell installations should be installed in the most preferred locations. If a less or least preferred location is selected the applicant must provide clear and convincing evidence in the written record that a more preferred location would be technically infeasible. The proposed facility would be located within the public right-of-way in the Multifamily Residential (MR3) Zoning District located across from 425 Bahia Way. Bahia Way is not designated as an arterial or minor arterial road as shown in Exhibit 22 of the San Rafael General Plan 2020. Therefore, the project is located in a least preferred location per Section

9(b) and the applicant has not demonstrated in written record that any more-preferred location would be technically infeasible.

Design Standards: Per Section 10(b)(3), all pole-mounted accessory equipment must be installed at least 10 feet above grade and flush to the pole to minimize the overall visual profile. The new equipment will be mounted at a height of 6 feet above ground level and is less than the minimum required height of 10 feet. Therefore, the project is not compliant with this requirement.

Notices were sent to neighboring property owners, business owners, occupants/tenants within 500 feet of the facilities and others interested in the project. The City received 69 comment emails. The Director's decision included review of these comments in formulating this decision.

Please note that this action is subject to a 5-working day appeal period, which ends on July 27, 2020 at 4:30 pm. Appeals for small cell facilities go directly to the City Council. Any such appeal shall include a letter identifying the name, address and contact information for the appellant and provides the reasons for the appeal based on compliance/noncompliance with the required findings in Section 7(c). Appeals shall be subject to the appeal fees established in the City's Master Fee Schedule. Appeals from an approval will not be permitted to the extent that the appeal is based on environmental effects from RF emissions that comply with all applicable FCC regulations.

Please contact the City Clerk for more information on how to file an appeal by emailing: city.clerk2@cityofsanrafael.org

Due to time limits established by the FCC, any Appeals filed within the specified time period described above, will be scheduled for a City Council hearing date of August 17, 2020.

If you have any questions please do not hesitate to contact the Project Planner by email at Alicia.Giudice@cityofsanrafael.org.

Sincerely,



Paul A. Jensen, AICP
CITY OF SAN RAFAEL
Community Development Director

Exhibits:

1. Findings for Small Cell Permit



Project Name:	Administrative Action - Small Wireless Facility
Project Number:	SCP20-003
APN:	009-261-57
Street Address:	Across the street from 425 Bahia Way
Zoning:	Multi-family Residential (MR3)
Project Description:	Small Wireless Facility
Decision:	DENIAL

**EXHIBIT 1
REQUIRED FINDINGS FOR A SMALL CELL PERMIT LOCATED IN THE PUBLIC RIGHT-OF-WAY**

The Community Development Director finds that the project
IS NOT

Consistent with ALL OF THE REQUIRED Findings established by City Council Resolution 14621 as follows:

Applicable Findings	Consistent		
	Yes	No	N/A
The applicant has submitted plans and documents necessary for our review. <i>The application was deemed complete for processing on June 30, 2020.</i>	X		
The proposed project was reviewed for compliance with the findings required for a small cell permit as follows:			
1. The proposed project meets the definition for a “small wireless facility” because the facility meets the following requirements:	X		
A. Mounting Requirements: the facility is mounted on structures fifty feet (50') or less in height (including their antennas); or the facility is mounted on structures no more than ten percent (10%) taller than other adjacent structures; or the facility does not extend existing structures on which they are located to a height of more than fifty feet (50') or by more than ten percent (10%), whichever is greater;	X		
B. Size of Antennas. Each antenna is no more than three (3) cubic feet in volume;	X		
C. Size of Associated Equipment. All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than twenty-eight (28) cubic feet in volume.	X		

<p>2. Preferred Location: The proposed project would be in the most preferred location provided in Section 9(b).</p> <p>Most Preferred Locations include: A) City-owned parcels in any zoning district; B) any parcel or public right-of-way location in Industrial Zoning Districts; C) any parcel or public right-of-way location in Commercial & Downtown Commercial Zoning Districts; D) any parcel or public right-of-way location in Marine Zoning District; and E) any parcel or public right-of-way location in Public/Quasi Public District;</p> <p>Less Preferred Locations: A) any parcel or public right-of-way location in Parks/Open Space Districts; B) any public right-of-way location in Residential Zoning Districts (R, DR, MR, HR) on or along roads designated as arterial or minor arterial roads as shown on Exhibit 22 of General Plan 2020);</p> <p>Least Preferred Locations: A) any public right-of-way location in Residential Zoning Districts (R, DR, MR, HR) on or along roads not designated as arterial or minor arterial roads (see Exhibit A of this resolution); B) any parcel located in Residential Zoning Districts (R, DR, MR, HR). C) any parcel or public right-of-way location within 500 feet of a school site</p> <p>OR</p> <p>the applicant has demonstrated with clear and convincing evidence in the written record that any more-preferred location(s) within 500 feet would be technically infeasible.</p>		X	
<p>3. The proposed project would not be located on a prohibited support structure identified in this Policy;</p>	X		
<p>4. The proposed project would be on the most preferred support structure provided in Section 9(c) or 9(d) or the applicant has demonstrated with clear and convincing evidence in the written record that any more-preferred support structure(s) within 500 feet would be technically infeasible;</p>	X		
<p>5. Design Standards: the proposed project complies with all applicable design standards in this Policy because the project will not involve:</p>		X	
GENERAL STANDARDS			
<p>Noise. The applicant has submitted evidence that the project will comply with San Rafael Municipal Code Articles 8.13, and shall not exceed, either on an individual or cumulative basis, the noise limit in the applicable district.</p>	X		
<p>Lights. The Project does not include any lights that would be visible from publicly accessible areas, except as may be required under Federal Aviation Administration, FCC, other applicable regulations for health and safety. All equipment with lights (such as indicator or status lights) must be installed in locations and within enclosures that mitigate illumination impacts visible from publicly accessible areas. This finding shall not be interpreted or applied to prohibit installations on streetlights or luminaires installed on new or replacement poles as may be required.</p>	X		
<p>Landscape Features. The project does not propose removal or displacement of any existing landscape features.</p>	X		

	<p>Site Security Measures. Small wireless facilities may incorporate reasonable and appropriate site security measures, such as locks and anti-climbing devices, to prevent unauthorized access, theft or vandalism. The Director shall not approve any barbed wire, razor ribbon, electrified fences or any similarly dangerous security measures. All exterior surfaces on small wireless facilities shall be constructed from or coated with graffiti-resistant materials.</p>	X		
	<p>Signage; Advertisements. All small wireless facilities must include signage that accurately identifies the site owner/operator, the owner/operator's site name or identification number and a toll-free number to the owner/operator's network operations center. Small wireless facilities may not bear any other signage or advertisements unless expressly approved by the City, required by law or recommended under FCC, OSHA or other United States governmental agencies for compliance with RF emissions regulations.</p>	X		
	<p>Compliance with Health and Safety Regulations. All small wireless facilities shall be designed, constructed, operated and maintained in compliance with all generally applicable health and safety regulations, which includes without limitation all applicable regulations for human exposure to RF emissions, the Americans with Disabilities Act, California Building Standards Code and the San Rafael Municipal Code.</p>	X		
	<p>Overall Height. Small wireless facilities may not exceed either (A) the minimum separation from electrical lines required by applicable safety regulations (such as CPUC General Order 95), plus four feet or (B) four feet above the existing support structure. However, at no point shall an existing support structure be increased by more than 10 feet above existing height.</p>	X		
	<p>(A) Concealment. All antennas and associated mounting equipment, hardware, cables or other connectors must be completely concealed within an opaque antenna shroud or radome. The antenna shroud or radome must be graffiti-resistant and painted a flat, non-reflective color to match the underlying support structure.</p>	X		
	<p>(B) Antenna Volume. Each individual antenna may not exceed three cubic feet in volume and all antennas may not exceed six cubic feet in volume.</p>	X		
<i>Accessory Equipment Standards</i>				
	<p>Installation Preferences. All non-antenna accessory equipment shall be installed in accordance with the following preferences, ordered from most preferred to least preferred: (i) underground in any area in which the existing utilities are primarily located underground; (ii) on the pole or support structure; or (iii) integrated into the base of the pole or support structure. Applications that involve lesser-preferred installation locations may be approved so long as the applicant demonstrates that no more preferred installation location would be technically infeasible as supported by clear and convincing evidence in the written record.</p>	X		

	<p>Undergrounded Accessory Equipment. All undergrounded accessory equipment must be installed in an environmentally controlled vault that is load-rated to meet the City's standards and specifications. Underground vaults located beneath a sidewalk must be constructed with a slip-resistant cover. Vents for airflow shall be flush-to-grade when placed within the sidewalk and may not exceed two feet above grade when placed off the sidewalk. Applicants shall not be permitted to install an underground vault in a location that would cause any existing tree to be materially damaged or displaced.</p>			X
	<p>Pole-Mounted Accessory Equipment. All pole-mounted accessory equipment must be installed at least 10 feet above grade and flush to the pole to minimize the overall visual profile. If any applicable health and safety regulations prohibit flush-mounted equipment, the maximum separation permitted between the accessory equipment and the pole shall be the minimum separation required by such regulations. All pole-mounted equipment and required or permitted signage must be placed and oriented away from adjacent sidewalks and structures. Pole-mounted equipment may be installed behind street, traffic or other signs to the extent that the installation complies with applicable public health and safety regulations. All cables, wires and other connectors must be routed through conduits within the pole, and all conduit attachments, cables, wires and other connectors must be concealed from public view. To the extent that cables, wires and other connectors cannot be routed through the pole, applicants shall route them through a single external conduit or shroud that has been finished to match the underlying support structure.</p>		X	
	<p>Base-Mounted Accessory Equipment. All base-mounted accessory equipment must be installed within a shroud, enclosure or pedestal integrated into the base of the support structure. All cables, wires and other connectors routed between the antenna and base-mounted equipment must be concealed from public view.</p>			X
	<p>Ground-Mounted Accessory Equipment. The Director shall not approve any ground-mounted accessory equipment including, but not limited to, any utility or transmission equipment, pedestals, cabinets, panels or electric meters.</p>			X
	<p>Accessory Equipment Volume. All accessory equipment associated with a small wireless facility installed above ground level shall not cumulatively exceed: (i) nine (9) cubic feet in volume if installed in a residential district or within 500 feet from any structure approved for a residential use; or (ii) seventeen (17) cubic feet in volume if installed in a non-residential district. The volume calculation shall include any shroud, cabinet or other concealment device used in connection with the non-antenna accessory equipment. The volume calculation shall not include any equipment or other improvements placed underground.</p>	X		
<i>Pole Specific Standards</i>				
	<p>Streetlights. Applicants that propose to install small wireless facilities on an existing streetlight must remove and replace the existing streetlight with one substantially similar to the City's standards and specifications but designed to accommodate wireless antennas and accessory equipment, unless the existing streetlight has been designed and engineered to support a small wireless facility in accordance with applicable health and safety regulations. To mitigate any material changes in the streetlighting patterns, the replacement pole must: (A) be located as close to the removed pole as possible; (B) be aligned with the other existing streetlights; and (C) include a luminaire at substantially the same height and distance from the pole as the luminaire on the removed pole. All antennas must be installed above the pole within a single, canister style shroud or radome that tapers to the pole.</p>			X

	<p>Wood Utility Poles. Applicants that propose to install small wireless facilities on an existing wood utility pole must install all antennas above the pole unless the applicant demonstrates that mounting the antennas above the pole would be technically infeasible as supported by clear and convincing evidence in the written record. Side-mounted antennas on a stand-off bracket or extension arm must be concealed within a shroud. All cables, wires and other connectors must be concealed within the side-arm mount or extension arm. The maximum horizontal separation between the antenna and the pole shall be the minimum separation required by applicable health and safety regulations.</p>	X		
	<p>New, Non-Replacement Poles. Applicants that propose to install small wireless facilities on a new, non-replacement pole must demonstrate that any existing structures within 500 feet from the proposed site would be technically infeasible as supported by clear and convincing evidence in the written record. Any new, non-replacement pole must be a new streetlight substantially similar to the City's standards and specifications but designed to accommodate wireless antennas and accessory equipment located immediately adjacent to the proposed location. If there are no existing streetlights in the immediate vicinity, the applicant may install a metal or composite pole capable of concealing all the accessory equipment either within the pole or within an integrated enclosure located at the base of the pole. The pole diameter shall not exceed twelve (12) inches and any base enclosure diameter shall not exceed sixteen (16) inches. All antennas, whether on a new streetlight or other new pole, must be installed above the pole within a single, canister style shroud or radome.</p>			X
<i>Other</i>				
	<p>Encroachments over Private Property. Small wireless facilities may not encroach onto or over any private or other property outside the public rights-of-way without the property owner's express written consent.</p>			X
	<p>Backup Power Sources. Fossil-fuel based backup power sources shall not be permitted within the public rights-of-way; provided, however, that connectors or receptacles may be installed for temporary backup power generators used in an emergency declared by federal, state or local officials.</p>	X		
	<p>Obstructions; Public Safety. Small wireless facilities and any associated equipment or improvements shall not physically interfere with or impede access to any: (A) worker access to any above-ground or underground infrastructure for traffic control, streetlight or public transportation, including without limitation any curb control sign, parking meter, vehicular traffic sign or signal, pedestrian traffic sign or signal, barricade reflectors; (B) access to any public transportation vehicles, shelters, street furniture or other improvements at any public transportation stop; (C) worker access to above-ground or underground infrastructure owned or operated by any public or private utility agency; (D) fire hydrant or water valve; (E) access to any doors, gates, sidewalk doors, passage doors, stoops or other ingress and egress points to any building appurtenant to the rights-of-way; or (F) access to any fire escape.</p>	X		

	<p>Utility Connections. All cables and connectors for telephone, data backhaul, primary electric and other similar utilities must be routed underground in conduits large enough to accommodate future collocated wireless facilities. Undergrounded cables and wires must transition directly into the pole base without any external doghouse. All cables, wires and connectors between the underground conduits and the antennas and other accessory equipment shall be routed through and concealed from view within: (A) internal risers or conduits if on a concrete, composite or similar pole; or (B) a cable shroud or conduit mounted as flush to the pole as possible if on a wood pole or other pole without internal cable space. The Director shall not approve new overhead utility lines or service drops merely because compliance with the undergrounding requirements would increase the project cost.</p>	X		
	<p>Spools and Coils. To reduce clutter and deter vandalism, excess fiber optic or coaxial cables shall not be spooled, coiled or otherwise stored on the pole outside equipment cabinets or shrouds.</p>	X		
	<p>Electric Meters. Small wireless facilities shall use flat-rate electric service or other method that obviates the need for a separate above-grade electric meter. If flat-rate service is not available, applicants may install a shrouded smart meter. The Director shall not approve a separate ground-mounted electric meter pedestal.</p>	X		
	<p>Street Trees. To preserve existing landscaping in the public rights-of-way, all work performed in connection with small wireless facilities shall not cause any street trees to be trimmed, damaged or displaced. If any street trees are damaged or displaced, the applicant shall be responsible, at its sole cost and expense, to plant and maintain replacement trees, consistent with the City's list of pre-approved street trees, at the site for the duration of the permit term.</p>	X		
<p>6. The applicant has demonstrated that the proposed project will be in compliance with all applicable health and safety regulations, which include without limitation the Americans with Disabilities Act and all FCC regulations and guidelines for human exposure to RF emissions because the applicant has submitted RF report and a noise study;</p>		X		
<p>7. Public notice has been provided to all properties and record owners and occupants of properties within a 500-foot radius of the project site. The public notice included:</p>		X		
	<p>a. A general project description; b. The applicant's identification and contact information as provided on the application submitted to the City; c. Contact information for the Project Planner; d. A statement that the Director will act on the application without a public hearing, but will for a minimum of ten (10) days from the date of the notice accept written public comments that evaluate the application for compliance with the standards in this Policy; and e. A statement that the FCC requires the City to act on small wireless facility applications, which includes any administrative appeals, in 60 days for attachments to existing structures and 90 days for new structures, unless the applicant voluntarily agrees to toll the timeframe for review.</p>			

NOTES-THE FOLLOWING DESCRIBES REASONS FOR THE DIRECTORS INABILITY TO MAKE THE REQUIRED FINDINGS:

The proposed small wireless facility would be mounted to the top of an existing approximately 30 foot high street light pole. Associated equipment would be mounted to the side of the utility pole. The proposed facility would extend the pole by approximately 4.5 feet with a proposed antenna and mounting kit. The antenna would be concealed within an antenna shroud. The total height of the proposed mounted facility and proposed antenna (including the antenna shroud) would be approximately 33 feet and is less than the 50 feet height requirement. The facility will have one radio unit at approximately 9'-0" and one power disconnect at approximately 6'-0".

Notices were sent to neighboring property owners, business owners, occupants/tenants within 500 feet of the facilities and others interested in the project. The City received 69 comment emails.

Section 9(b) of City Council Resolution 14621 states that small cell installations should be installed in the most preferred locations. However, if a less or least preferred location is chosen, the applicant shall "demonstrate that either: 1) no more preferred locations or structures exist within 500 feet from the proposed site; or 2) any more preferred locations or structures within 500 feet from the proposed site would be technically infeasible as supported by clear and convincing evidence in the written record."

The proposed facility would be located within the public right-of-way in the Multifamily Residential (MR3) Zoning District located across from 425 Bahia Way. Bahia Way is not designated as an arterial or minor arterial road as shown in Exhibit 22 of the San Rafael General Plan 2020. Therefore, the project is located in a least preferred location per Section 9(b). The applicant has not demonstrated in written record that any more-preferred location(s) within 500 feet would be technically infeasible. The Applicant has described that these site locations have been designated based on need of coverage/capacity and would comply with FCC requirements per General Order 95. However, the applicant has not provided technical documentation that demonstrates in written record that any more-preferred location(s) within 500 feet would be technically infeasible. Therefore, the project is not compliant with this requirement.

Per Section 10(b)(3), all pole-mounted accessory equipment must be installed at least 10 feet above grade and flush to the pole to minimize the overall visual profile. The accessory equipment installed to the side of this structure is less than the required 10 feet. Therefore, the project is not compliant with this requirement.