

ZONING ADMINISTRATOR DECISION TIME EXTENSION



DECISION NO. 2015-22

DECISION DATE: September 25, 2015

FILE NO'S.: PDEV12-006, PCUP12-011 and PVAR12-001

SUBJECT: A request for approval of a one-year Time Extension for a previously approved Development Plan (**File No. PDEV12-006**) to construct a 65-foot tall, stealth (monopine) wireless telecommunications facility, a Conditional Use Permit (**File No. PCUP12-011**) to operate a wireless telecommunications facility within 500-feet of a residential district, and a Variance (**File No. PVAR12-001**) to exceed the maximum allowable height of 40-foot, located at the northeast corner of Riverside Drive and Turner Avenue, at Creekside Park, within the OS (Open Space) zoning district. **Submitted by Verizon Wireless.** (APN: 1083-151-02).

PART A: BACKGROUND & ANALYSIS

VERIZON WIRELESS, herein after referred to as "the applicant," has filed an application requesting a Time Extension, described as follows:

(a) **Description:** A request for approval of a one-year Time Extension on a previously approved Development Plan (**File No. PDEV12-006**) to construct a 65-foot tall, stealth (monopine) wireless telecommunications facility, a Conditional Use Permit (**File No. PCUP12-011**) to operate a wireless telecommunications facility within 500-feet of a residential district, and a Variance (**File No. PVAR12-001**) to exceed the maximum allowable height of 40-foot, located at the northeast corner of Riverside Drive and Turner Avenue, at Creekside Park, within the OS (Open Space) zoning district. Staff is recommending the adoption of a Mitigated Negative Declaration of environmental effects for the project.

(b) **Analysis:** The project was approved by the Planning Commission on June 26, 2012. The project was approved with a two year time limit from the date of the Planning Commission Approval and set to expire on June 26, 2014. On January 26, 2014, the City Council passed Ordinance 2980, which automatically granted a one-year time extension to any approved Development Plan, Conditional Use Permit, or Variance application that had not expired as of March 1, 2014, and that would not expire on or before March 1, 2015. The adoption of the Ordinance automatically extended the project expiration date to June 26, 2015. The applicant is requesting a one-year from June 26, 2015 to June 26, 2016.

Approved By:

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_____ Senior Planner

(c) Environmental Review: On June 26, 2012, the Planning Commission adopted a Mitigated Negative Declaration (MND) for the project. According to California Environmental Quality Act Guidelines Section 15162, a new MND is not required for further discretionary approval of a project unless the proposed project would require substantial changes to the previous MND or new information of substantial importance shows that the project will have a more significant effect on the environment than was shown in the previous MND.

With regard to the proposed Time Extension request, the findings cannot be made that would require preparation of a new MND, as no substantial changes have been proposed that would require revision of the previously prepared MND and no new information has shown that the project will have a more significant effect on the environment than was shown in the previous adopted MND.

PART B: RECITALS

WHEREAS, on June 26, 2012, the Planning Commission of the City of Ontario conducted a duly noticed hearing and approved File No's. PDEV12-006, PCUP12-011 and PVAR12-001, as described in Part A of this Decision ("Project"), concluded said hearing on that date and approved the Project, based upon the required findings of fact and subject to appropriate conditions of approval; and

WHEREAS, pursuant to Ontario Municipal Code Section 9-1.0835, such approval shall become null and void two (2) years following the effective date of application approval, unless a building permit is issued and construction is commenced, and diligently pursued toward completion, or a time extension has been approved by the Zoning Administrator; and

WHEREAS, the application would have become null and void on June 26, 2014, however, the Ontario City Council granted an automatic one-year time extension Ordinance No. 2980 on January 21, 2014 extending the project expiration date to June 26, 2015, unless a building permit is issued and construction is commenced, and diligently pursued toward completion, or a time extension has been approved by the Zoning Administrator; and

WHEREAS, the City of Ontario has received a request for a one-year Time Extension pursuant to Ontario Municipal Code Section 9-1.0835; and

WHEREAS, Ontario Municipal Code Section 9-1.0425 establishes the Zoning Administrator's authority to review and act upon the herein described Time Extension request; and

WHEREAS, all members of the Development Advisory Board of the City of Ontario were provided the opportunity to review and comment on the requested Time Extension, and no comments were received opposing such request; and

WHEREAS, the Application is a project pursuant to the California Environmental Quality Act (Public Resources Code Section 21000 et Seq.) ("CEQA"); and

WHEREAS, on June 26, 2012, the Planning Commission adopted a Mitigated Negative Declaration (MND) for the project. According to California Environmental Quality Act Guidelines Section 15162, a new MND is not required for further discretionary approval of a project unless the proposed project would require substantial changes to the previous MND or new information of substantial importance shows that the project will have a more significant effect on the environment than was shown in the previous MND: and

WHEREAS, the project is consistent with the development standards set forth in the Development Code or applicable Specific Plan with the exception of height. The Variance application (File No. PVAR12-001) and associated Mitigated Negative Declaration analyzed the additional height and reduce all potential impacts to less than significant through mitigation measures. The wireless telecommunication facility meets all other Development Code requirements as specified in Article 19: Open Space (OS) District and Article 32: General Development Requirements and Exceptions; and

WHEREAS, the project is consistent with the design guidelines set forth in the Development Code or applicable Specific Plan. The wireless telecommunication facility meets the City's design guidelines as specified in Article 19: Open Space (OS) District and Article 32: General Development Requirements and Exceptions; and

WHEREAS, all legal prerequisites to the granting of this Time Extension have occurred.

PART C: THE DECISION

NOW, THEREFORE, it is hereby found, determined and resolved by the Zoning Administrator of the City of Ontario as follows:

- (1) All facts set forth in this Time Extension are true and correct.
- (2) As the Approving Authority for this Time Extension request, the Zoning Administrator has reviewed and considered the categorical exemption determination for the project. Based upon the facts and information contained in File No's PDEV012-006, PCUP12-011 and PVAR12-001 and supporting documentation, the Zoning Administrator finds as follows:

ZONING ADMINISTRATOR DECISION
FILE NO'S.: PDEV12-006, PCUP12-011 and PVAR12-001-TIME EXTENSION

- a) The previous determination found that the project was categorically exempt from the requirements of the California Environmental Quality Act pursuant to section §15162 of the State CEQA Guidelines; and
- b) The previous determination was completed in compliance with CEQA and the Guidelines promulgated thereunder; and.
- c) The previous determination reflected the independent judgment of the Approving Authority; and
- d) This Time Extension request introduces no new significant environmental impacts and no new evidence or changes in circumstance introduced that would bring into question that the Mitigated Negative Declaration of the previous determination was improper.

(3) Based upon the evidence presented, the Zoning Administrator hereby concludes the Time Extension would not result in a change in Project findings of fact or conditions of approval.

(4) Based upon the findings and conclusions set forth in Sections 1 through 3 above, the Zoning Administrator hereby approves a one-year Time Extension, from June 26, 2015 to June 26, 2016, for the approval of File No's. PDEV012-006, PCUP12-011 and PVAR12-001.

(5) The Applicant shall agree to defend, indemnify and hold harmless, the City of Ontario or its agents, officers, and employees from any claim, action or proceeding against the City of Ontario or its agents, officers or employees to attack, set aside, void or annul this approval. The City of Ontario shall promptly notify the applicant of any such claim, action or proceeding, and the City of Ontario shall cooperate fully in the defense.

(6) The documents and materials that constitute the record of proceedings on which these findings have been based are located at the City of Ontario City Hall, 303 E. B Street, Ontario, California 91764. The custodian for these records is the City Clerk of the City of Ontario.



APPROVED by the Zoning Administrator of the City of Ontario on this 25th day of September, 2015.



Scott Murphy
Zoning Administrator