



AGENDA

CAPITOLA PLANNING COMMISSION

Thursday, January 21, 2016 – 7:00 PM

Chairperson Linda Smith
Commissioners Ed Newman
 Gayle Ortiz
 TJ Welch
 Susan Westman

1. ROLL CALL AND PLEDGE OF ALLEGIANCE

2. NEW BUSINESS

A. Election of Chair and Vice Chair

B. Commission Appointments

1. Art & Culture Commission
2. Traffic & Parking Commission

3. ORAL COMMUNICATIONS

A. Additions and Deletions to Agenda

B. Public Comments

Short communications from the public concerning matters not on the Agenda. All speakers are requested to print their name on the sign-in sheet located at the podium so that their name may be accurately recorded in the Minutes.

C. Commission Comments

D. Staff Comments

4. APPROVAL OF MINUTES

A. Planning Commission - Regular Meeting - Dec 3, 2015 7:00 PM

5. CONSENT CALENDAR

All matters listed under "Consent Calendar" are considered by the Planning Commission to be routine and will be enacted by one motion in the form listed below. There will be no separate discussion on these items prior to the time the Planning Commission votes on the action unless members of the public or the Planning Commission request specific items to be discussed for separate review. Items pulled for separate discussion will be considered in the order listed on the Agenda.

A. 723 El Salto Drive #15-185 APN: 036-143-35

Request for a two-year extension of previously approved Coastal Development Permit, Minor Land Division to create two lots of record, and Minor Land Division to convert four apartment units to condominiums in the R-1/VS (Single Family/Visitor Serving) Zoning District.

This project requires a Coastal Development Permit which is appealable to the California Coastal Commission after all possible appeals are exhausted through the City.

Environmental Determination: Categorical Exemption

Owner: Doug Dodds

Representative: Thacher & Thompson, filed: 11/12/2015

6. PUBLIC HEARINGS

Public Hearings are intended to provide an opportunity for public discussion of each item listed as a Public Hearing. The following procedure is as follows: 1) Staff Presentation; 2) Public Discussion; 3) Planning Commission Comments; 4) Close public portion of the Hearing; 5) Planning Commission Discussion; and 6) Decision.

A. 1200 41st Ave #15-119 APN: 034-101-38

Design Permit and Conditional Use Permit for the installation of a new Verizon wireless antenna and ancillary equipment on the roof of the Begonia Plaza commercial building in the CC (Community Commercial) Zoning District.

This project is in the Coastal Zone and requires a Coastal Development Permit, which is not appealable to the California Coastal Commission.

Environmental Determination: Categorical Exemption

Property Owner: Begonia Plaza LLC

Representative: Verizon Wireless – Sequoia Deployment Services, filed 7/27/15

7. DIRECTOR'S REPORT**A. CEQA Presentation****8. COMMISSION COMMUNICATIONS****9. ADJOURNMENT**

APPEALS: The following decisions of the Planning Commission can be appealed to the City Council within the (10) calendar days following the date of the Commission action: Conditional Use Permit, Variance, and Coastal Permit. The decision of the Planning Commission pertaining to an Architectural and Site Review can be appealed to the City Council within the (10) working days following the date of the Commission action. If the tenth day falls on a weekend or holiday, the appeal period is extended to the next business day.

All appeals must be in writing, setting forth the nature of the action and the basis upon which the action is considered to be in error, and addressed to the City Council in care of the City Clerk. An appeal must be accompanied by a one hundred forty two dollar (\$142.00) filing fee, unless the item involves a Coastal Permit that is appealable to the Coastal Commission, in which case there is no fee. If you challenge a decision of the Planning Commission in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this agenda, or in written correspondence delivered to the City at, or prior to, the public hearing.

Notice regarding Planning Commission meetings: The Planning Commission meets regularly on the 1st Thursday of each month at 7:00 p.m. in the City Hall Council Chambers located at 420 Capitola Avenue, Capitola.

Agenda and Agenda Packet Materials: The Planning Commission Agenda and complete Agenda Packet are available on the Internet at the City's website: www.cityofcapitola.org. Agendas are also available at the Capitola Branch Library, 2005 Wharf Road, Capitola, on the Monday prior to the Thursday meeting. Need more information? Contact the Community Development Department at (831) 475-7300.

Agenda Materials Distributed after Distribution of the Agenda Packet: Materials that are a public record under Government Code § 54957.5(A) and that relate to an agenda item of a regular meeting of the Planning Commission that are distributed to a majority of all the members of the Planning Commission more than 72 hours prior to that meeting shall be available for public inspection at City Hall located at 420 Capitola Avenue, Capitola, during normal business hours.

Americans with Disabilities Act: Disability-related aids or services are available to enable persons with a disability to participate in this meeting consistent with the Federal Americans with Disabilities Act of 1990. Assisted listening devices are available for individuals with hearing impairments at the meeting in the City Council Chambers. Should you require special accommodations to participate in the meeting due to a disability, please contact the Community Development Department at least 24 hours in advance of the meeting at (831) 475-7300. In an effort to accommodate individuals with environmental sensitivities, attendees are requested to refrain from wearing perfumes and other scented products.

Televised Meetings: Planning Commission meetings are cablecast "Live" on Charter Communications Cable TV Channel 8 and are recorded to be replayed on the following Monday and Friday at 1:00 p.m. on Charter Channel 71 and Comcast Channel 25. Meetings can also be viewed from the City's website: www.cityofcapitola.org.



**DRAFT MINUTES
CAPITOLA PLANNING COMMISSION MEETING
THURSDAY, DECEMBER 3, 2015
7 P.M. – CAPITOLA CITY COUNCIL CHAMBERS**

**1. ROLL CALL
AND PLEDGE OF ALLEGIANCE**

Chairperson Linda Smith: Present, Commissioner Gayle Ortiz: Present, Commissioner Edward Newman: Present, Commissioner TJ Welch: Present, Commissioner Susan Westman: Present.

2. ORAL COMMUNICATIONS

A. ADDITIONS AND DELETIONS TO AGENDA

None

B. Public Comments

None

C. Commission Comments

None

D. Staff Comments

None

3. APPROVAL OF MINUTES

A. Planning Commission Regular Meeting of Nov. 5, 2015

RESULT:	ACCEPTED [UNANIMOUS]
MOVER:	Gayle Ortiz, Commissioner
SECONDER:	Edward Newman, Commissioner
AYES:	Smith, Ortiz, Newman, Welch, Westman

4. CONSENT CALENDAR

No items

5. PUBLIC HEARINGS

A. 702 Riverview Drive #15-184 APN: 035-061-14

Design Permit for 366-square-foot addition to a single-family home, tree removal permit, and variance request for 2-foot reduction in the required 20-foot depth of onsite parking space in the R-1 (Single-Family Residential) Zoning District.

This project is in the Coastal Zone and requires a Coastal Development Permit which is not appealable to the California Coastal Commission.

Environmental Determination: Categorical Exemption

Property Owner: Tony Vitale, filed 11/9/15

Representative: Jon Mingo

Planner Cattan presented the staff report. She noted that many homes along Riverview Drive have garages set close to the street. This often does not allow adequate space for a full on-

Minutes Acceptance: Minutes of Dec 3, 2015 7:00 PM (Approval of Minutes)

site parking space in front of the garage. A 20-foot depth at this location would require removal of an existing palm tree.

Commission Welch feels the variance is a good compromise and would like to preserve the palm. Commission Newman said parking at similar homes often blocks the sidewalk and this proposal improves the existing situation. Commissioner Westman said she will support the application as presented but said another option may be to shorten the garage and create two spaces in front.

Tony Vitale, applicant, was not certain that changing the garage would provide two spaces and would prefer the application as presented.

Chairperson Smith acknowledged the parking problems in the area and while she is generally hesitant to grant variances, she feels the space is close to meeting code and the variance would be appropriate.

Commissioner Ortiz said she wishes to encourage projects such as this with a remodel that suits the scale of the neighborhood and supports the variance.

MOTION: Approve a Design Permit, Tree Removal Permit, Coastal Development Permit, and Variance with the following conditions and findings:

CONDITIONS

1. Prior to construction, a building permit shall be secured for any new construction or modifications to structures authorized by this permit. Final building plans shall be consistent with the plans approved by the Planning Commission. All construction and site improvements shall be completed according to the approved plans
2. At time of submittal for building permit review, the Conditions of Approval must be printed in full on the cover sheet of the construction plans.
3. At the time of submittal for building permit review, Public Works Standard Detail Storm Water Best Management Practices (STRM-BMP) shall be printed in full and incorporated as a sheet into the construction plans. All construction shall be done in accordance with Public Works Standard Detail Storm Water Best Management Practices (STRM-BMP).
4. Prior to making any changes to approved plans, modifications must be specifically requested and submitted in writing to the Community Development Department. Any significant changes to the size or exterior appearance of the structure shall require Planning Commission approval.
5. Prior to issuance of building permit, a final landscape plan shall be submitted and approved by the Community Development Department. Landscape plans shall reflect the Planning Commission approval and shall identify type, size, and location of species and details of irrigation systems. Native and/or drought tolerant species are recommended.
6. Two fifteen-gallon trees are required to be planted on site as replacement trees for the removal of the palm tree in the front yard.
7. The remodel results in an increase greater than 25 percent of the existing square footage of the home. Therefore, all existing overhead utility lines are required to be placed underground to the nearest utility pole.

8. Prior to issuance of building permit, all Planning fees associated with permit #15-184 shall be paid in full.
9. Prior to issuance of a building permit, the applicant must provide documentation of plan approval by the following entities: Santa Cruz County Sanitation Department, Soquel Water District, and Central Fire Protection District.
10. Prior to issuance of building permits, a drainage plan, grading, sediment and erosion control plan, shall be submitted to the City and approved by Public Works. The plans shall be in compliance with the requirements specified in Capitola Municipal Code Chapter 13.16 Storm Water Pollution Prevention and Protection.
11. Prior to issuance of building permits, the applicant shall submit a stormwater management plan to the satisfaction of the Director of Public Works which implements all applicable Post Construction Requirements (PCRs) and Public Works Standard Details, including all standards relating to low impact development (LID).
12. Prior to any land disturbance, a pre-site inspection must be conducted by the grading official to verify compliance with the approved erosion and sediment control plan.
13. Prior to any work in the City road right of way, an encroachment permit shall be acquired by the contractor performing the work. No material or equipment storage may be placed in the road right-of-way.
14. During construction, any construction activity shall be subject to a construction noise curfew, except when otherwise specified in the building permit issued by the City. Construction noise shall be prohibited between the hours of nine p.m. and seven-thirty a.m. on weekdays. Construction noise shall be prohibited on weekends with the exception of Saturday work between nine a.m. and four p.m. or emergency work approved by the building official. §9.12.010B
15. Prior to a project final, all cracked or broken driveway approaches, curb, gutter, or sidewalk shall be replaced per the Public Works Standard Details and to the satisfaction of the Public Works Department. All replaced driveway approaches, curb, gutter or sidewalk shall meet current Accessibility Standards.
16. Prior to issuance of a Certificate of Occupancy, compliance with all conditions of approval shall be demonstrated to the satisfaction of the Community Development Director. Upon evidence of non-compliance with conditions of approval or applicable municipal code provisions, the applicant shall remedy the non-compliance to the satisfaction of the Community Development Director or shall file an application for a permit amendment for Planning Commission consideration. Failure to remedy a non-compliance in a timely manner may result in permit revocation.
17. This permit shall expire 24 months from the date of issuance. The applicant shall have an approved building permit and construction underway before this date to prevent permit expiration. Applications for extension may be submitted by the applicant prior to expiration pursuant to Municipal Code section 17.81.160.
18. The planning and infrastructure review and approval are transferable with the title to the underlying property so that an approved project may be conveyed or assigned by the applicant to others without losing the approval. The permit cannot be transferred off the site on which the approval was granted.

19. Upon receipt of certificate of occupancy, garbage and recycling containers shall be placed out of public view on non-collection days.
20. In any case where the conditions to the granting of a permit have not been or are not complied with, the community development director shall give notice thereof to the permittee, which notice shall specify a reasonable period of time within which to perform said conditions and correct said violation. If the permittee fails to comply with said conditions, or to correct said violation, within the time allowed, notice shall be given to the permittee of intention to revoke such permit at a hearing to be held not less than thirty calendar days after the date of such notice. Following such hearing and, if good cause exists, the Planning Commission may revoke the permit.

FINDINGS

- A. **The application, subject to the conditions imposed, secures the purposes of the Zoning Ordinance, General Plan, and Local Coastal Plan.**
Community Development Staff, the Architectural and Site Review Committee, and the Planning Commission have all reviewed the project. The project secures the purpose of the Zoning Ordinance, General Plan, and Local Coastal Plan.
- B. **The application will maintain the character and integrity of the neighborhood.**
Community Development Staff, the Architectural and Site Review Committee, and the Planning Commission have all reviewed the addition to the single-family home. The addition compliments the existing residence and the surrounding neighborhood in character and scale. The design does not compromise the integrity of the existing neighborhood.
- C. **This project is categorically exempt under Section 15301 of the California Environmental Quality Act and is subject to Section 753.5 of Title 14 of the California Code of Regulations.**
Section 15301(e) of the CEQA Guidelines exempts additions to existing structures. This project involves construction of a 366-square-foot addition to an existing home in the R-1 (Single-Family Residential) Zoning District. No adverse environmental impacts were discovered during review of the proposed project.
- D. **There are special circumstances applicable to subject property, including size, shape, topography, location or surroundings, the strict application of this title is found to deprive subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification;**
The special circumstance applicable to the property is protection of the existing palm tree located within a landscape area between the sidewalk and the parking area. By decreasing the parking requirement to 18 feet, there will be greater spacing between the tree and the parking space.
- E. **The grant of a variance permit would not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which subject property is situated.**
In areas with sidewalks, uncovered spaces are required to be 20 feet long. In sidewalk exempt areas, uncovered spaces must be 18 feet long. The increased length requirement in areas with sidewalks is to assure that a single parked car in a driveway does not extend into the sidewalk. Within the current application, the intent of the zoning code is met and a car could be parked in the uncovered space without extending onto the sidewalk. The site plan includes a landscape buffer between the parking space

and the sidewalk. A car parked in the space will not impede the pedestrian flow of the sidewalk.

COASTAL FINDINGS

D. Findings Required. A coastal permit shall be granted only upon adoption of specific written factual findings supporting the conclusion that the proposed development conforms to the certified Local Coastal Program, including, but not limited to:

- The proposed development conforms to the City's certified Local Coastal Plan (LCP). The specific, factual findings, as per CMC Section 17.46.090 (D) are as follows:

(D) (2) Require Project-Specific Findings. In determining any requirement for public access, including the type of access and character of use, the city shall evaluate and document in written findings the factors identified in subsections (D) (2) (a) through (e), to the extent applicable. The findings shall explain the basis for the conclusions and decisions of the city and shall be supported by substantial evidence in the record. If an access dedication is required as a condition of approval, the findings shall explain how the adverse effects which have been identified will be alleviated or mitigated by the dedication. As used in this section, "cumulative effect" means the effect of the individual project in combination with the effects of past projects, other current projects, and probable future projects, including development allowed under applicable planning and zoning.

(D) (2) (a) Project Effects on Demand for Access and Recreation. Identification of existing and open public access and coastal recreation areas and facilities in the regional and local vicinity of the development. Analysis of the project's effects upon existing public access and recreation opportunities. Analysis of the project's cumulative effects upon the use and capacity of the identified access and recreation opportunities, including public tidelands and beach resources, and upon the capacity of major coastal roads from subdivision, intensification or cumulative build-out. Projection for the anticipated demand and need for increased coastal access and recreation opportunities for the public. Analysis of the contribution of the project's cumulative effects to any such projected increase. Description of the physical characteristics of the site and its proximity to the sea, tideland viewing points, upland recreation areas, and trail linkages to tidelands or recreation areas. Analysis of the importance and potential of the site, because of its location or other characteristics, for creating, preserving or enhancing public access to tidelands or public recreation opportunities;

- The proposed project is located at 702 Riverview Drive. The home is not located in an area with coastal access. The addition will not have an effect on public trails or beach access.

(D) (2) (b) Shoreline Processes. Description of the existing shoreline conditions, including beach profile, accessibility and usability of the beach, history of erosion or accretion, character and sources of sand, wave and sand movement, presence of shoreline protective structures, location of the line of mean high tide during the season when the beach is at its narrowest (generally

during the late winter) and the proximity of that line to existing structures, and any other factors which substantially characterize or affect the shoreline processes at the site. Identification of anticipated changes to shoreline processes at the site. Identification of anticipated changes to shoreline processes and beach profile unrelated to the proposed development. Description and analysis of any reasonably likely changes, attributable to the primary and cumulative effects of the project, to: wave and sand movement affecting beaches in the vicinity of the project; the profile of the beach; the character, extent, accessibility and usability of the beach; and any other factors which characterize or affect beaches in the vicinity. Analysis of the effect of any identified changes of the project, alone or in combination with other anticipated changes, will have upon the ability of the public to use public tidelands and shoreline recreation areas;

- The proposed project is located along Riverview Drive. No portion of the project is located along the shoreline or beach.

(D) (2) (c) Historic Public Use. Evidence of use of the site by members of the general public for a continuous five-year period (such use may be seasonal). Evidence of the type and character of use made by the public (vertical, lateral, blufftop, etc., and for passive and/or active recreational use, etc.). Identification of any agency (or person) who has maintained and/or improved the area subject to historic public use and the nature of the maintenance performed and improvements made. Identification of the record owner of the area historically used by the public and any attempts by the owner to prohibit public use of the area, including the success or failure of those attempts. Description of the potential for adverse impact on public use of the area from the proposed development (including but not limited to, creation of physical or psychological impediments to public use);

- There is not history of public use on the subject lot.

(D) (2) (d) Physical Obstructions. Description of any physical aspects of the development which block or impede the ability of the public to get to or along the tidelands, public recreation areas, or other public coastal resources or to see the shoreline;

- The proposed project is located on private property on Riverview Drive. The project will not block or impede the ability of the public to get to or along the tidelands, public recreation areas, or views to the shoreline.

(D) (2) (e) Other Adverse Impacts on Access and Recreation. Description of the development's physical proximity and relationship to the shoreline and any public recreation area. Analysis of the extent of which buildings, walls, signs, streets or other aspects of the development, individually or cumulatively, are likely to diminish the public's use of tidelands or lands committed to public recreation. Description of any alteration of the aesthetic, visual or recreational value of public use areas, and of any diminution of the quality or amount of recreational use of public lands which may be attributable to the individual or cumulative effects of the development.

- The proposed project is located on private property that will not impact

access and recreation. The project does not diminish the public's use of tidelands or lands committed to public recreation nor alter the aesthetic, visual or recreational value of public use areas.

(D) (3) (a – c) Required Findings for Public Access Exceptions. Any determination that one of the exceptions of subsection (F) (2) applies to a development shall be supported by written findings of fact, analysis and conclusions which address all of the following:

a. The type of access potentially applicable to the site involved (vertical, lateral, bluff top, etc.) and its location in relation to the fragile coastal resource to be protected, the agricultural use, the public safety concern, or the military facility which is the basis for the exception, as applicable;

b. Unavailability of any mitigating measures to manage the type, character, intensity, hours, season or location of such use so that agricultural resources, fragile coastal resources, public safety, or military security, as applicable, are protected;

c. Ability of the public, through another reasonable means, to reach the same area of public tidelands as would be made accessible by an access way on the subject land.

- The project is not requesting a Public Access Exception, therefore these findings do not apply

(D) (4) (a – f) Findings for Management Plan Conditions. Written findings in support of a condition requiring a management plan for regulating the time and manner or character of public access use must address the following factors, as applicable:

a. Identification and protection of specific habitat values including the reasons supporting the conclusions that such values must be protected by limiting the hours, seasons, or character of public use;

- The project is located in a residential area without sensitive habitat areas.

b. Topographic constraints of the development site;

- The project is located on a flat lot.

c. Recreational needs of the public;

- The project does not impact recreational needs of the public.

d. Rights of privacy of the landowner which could not be mitigated by setting the project back from the access way or otherwise conditioning the development;

e. The requirements of the possible accepting agency, if an offer of dedication is the mechanism for securing public access;

f. Feasibility of adequate setbacks, fencing, landscaping, and other methods as part of a management plan to regulate public use.

(D) (5) Project complies with public access requirements, including submittal of appropriate legal documents to ensure the right of public access whenever, and as, required by the certified land use plan and Section 17.46.010 (coastal access requirements);

- No legal documents to ensure public access rights are required for the proposed project

(D) (6) Project complies with visitor-serving and recreational use policies;

SEC. 30222

The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

- The project involves a single family home on a residential lot of record.

SEC. 30223

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

- The project involves a single family home on a residential lot of record.

c) Visitor-serving facilities that cannot be feasibly located in existing developed areas shall be located in existing isolated developments or at selected points of attraction for visitors.

- The project involves a single family home on a residential lot of record.

(D) (7) Project complies with applicable standards and requirements for provision of public and private parking, pedestrian access, alternate means of transportation and/or traffic improvements;

- The project involves a single family home. The project complies with applicable standards and requirements for provision for parking, pedestrian access, alternate means of transportation and/or traffic improvements.

(D) (8) Review of project design, site plan, signing, lighting, landscaping, etc., by the city's architectural and site review committee, and compliance with adopted design guidelines and standards, and review committee recommendations;

- The project complies with the design guidelines and standards established by the Municipal Code.

(D) (9) Project complies with LCP policies regarding protection of public landmarks, protection or provision of public views; and shall not block or detract from public views to and along Capitola's shoreline;

- The project will not negatively impact public landmarks and/or public views. The project will not block or detract from public views to and along Capitola's shoreline.

(D) (10) Demonstrated availability and adequacy of water and sewer services;

- The project is located on a legal lot of record with available water and sewer services.

(D) (11) Provisions of minimum water flow rates and fire response times;

- The project is located within close proximity of the Capitola fire department. Water is available at the location.

(D) (12) Project complies with water and energy conservation standards;

- The project is for a single family home. The GHG emissions for the project are projected at less than significant impact. All water fixtures must comply with the low-flow standards of the soquel creek water district.

(D) (13) Provision of park dedication, school impact, and other fees as may be required;

- The project will be required to pay appropriate fees prior to building permit issuance.

(D) (14) Project complies with coastal housing policies, and applicable ordinances including condominium conversion and mobile home ordinances;

- The project does not involve a condo conversion or mobile homes.

(D) (15) Project complies with natural resource, habitat, and archaeological protection policies;

- Conditions of approval have been included to ensure compliance with established policies.

(D) (16) Project complies with Monarch butterfly habitat protection policies;

- The project is outside of any identified sensitive habitats, specifically areas where Monarch Butterflies have been encountered, identified and documented.

(D) (17) Project provides drainage and erosion and control measures to protect marine, stream, and wetland water quality from urban runoff and erosion;

- Conditions of approval have been included to ensure compliance with applicable erosion control measures.

(D) (18) Geologic/engineering reports have been prepared by qualified professional for projects in seismic areas, geologically unstable areas, or coastal bluffs, and project complies with hazard protection policies including

provision of appropriate setbacks and mitigation measures;

- Geologic/engineering reports are not required for this application. Conditions of approval have been included to ensure the project applicant shall comply with all applicable requirements of the most recent version of the California Building Standards Code.

(D) (19) All other geological, flood and fire hazards are accounted for and mitigated in the project design;

- Conditions of approval have been included to ensure the project complies with geological, flood, and fire hazards and are accounted for and will be mitigated in the project design.

(D) (20) Project complies with shoreline structure policies;

- The proposed project is not located along a shoreline.

(D) (21) The uses proposed are consistent with the permitted or conditional uses of the zoning district in which the project is located;

- This use is an allowed use consistent with the Single Family zoning district.

(D) (22) Conformance to requirements of all other city ordinances, zoning requirements, and project review procedures;

- The project conforms to the requirements of all city ordinances, zoning requirements and project development review and development procedures.

(D) (23) Project complies with the Capitola parking permit program as follows:

- The project site has onsite parking.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Edward Newman, Commissioner
SECONDER:	TJ Welch, Commissioner
AYES:	Smith, Ortiz, Newman, Welch, Westman

B. 510 El Salto Dr #15-174 APN: 036-125-16

Design Permit for a single-story addition and Variance request to the on-site parking requirement for an existing home in the R-1 (Single-Family Residential) Zoning District. This project is in the Coastal Zone and requires a Coastal Development Permit, which is appealable to the California Coastal Commission after all possible appeals are exhausted through the city.

Environmental Determination: Categorical Exemption

Property Owner: John McEnery III

Representative: Derek Van Alstine, filed 10/20/15

Commissioner Welch recused himself since he owns property within 500 feet of the project location, and he left the dais.

Assistant Planner Ryan Safty presented the staff report. He noted that the applicant requested the frontage of the lot be considered along El Salto Drive rather than the narrower Sacramento Avenue as code would require. He offered images comparing the setbacks based on both orientations. Staff supports using El Salto since the current orientation faces that street and there is little difference in the project placement. The project requires an additional onsite parking spot, and the current space in front of the garage is only 8 feet deep on the property, requiring a variance. He offered images comparing other neighborhood properties that also park within the right-of-way. However, staff could not make special circumstance findings to support the request.

Derek Van Alstine, architect, spoke on behalf of the project. It is designed to preserve much of the existing property's character. He suggested the commission could find that the hedge is important to the neighborhood and support to preserve it as it exists, rather than cut into it to create a third spot.

Commissioner Westman agreed the hedge is a defining characteristic of Depot Hill, and noted there are large rights-of-way in the neighborhood that will not be converted to sidewalks. She debated whether the variance should require an encroachment permit and/or conditions for the preservation of the hedge.

Commissioner Ortiz said this application is another good example of fitting a project into the neighborhood scale and noted a neighbor she spoke with did refer to the hedge as "historic." She would support a variance.

Commissioner Newman observed that the only reason the project requires a third spot is the separate two-car garage's square footage, and he felt it is unfair that existing parking trigger the need for more. He would support the project as proposed and allow a variance.

Community Development Director Rich Grunow said this project is an example for the need for an "exception" that does not require the level of findings required for a variance.

MOTION: Approve a Design Permit, Coastal Development Permit and Variance with the following conditions and findings:

CONDITIONS

1. The project approval consists of construction of a 700-square-foot addition to an existing single-family home and approval of a variance to the on-site parking requirements. The maximum Floor Area Ratio for the 7,528-square-foot property is 48% (3,613 square feet). The total FAR of the project is 32% with a total of 2,411 square feet, compliant with the maximum FAR within the zone. The proposed project is approved as indicated on the final plans reviewed and approved by the Planning Commission on December 3, 2015, except as modified through conditions imposed by the Planning Commission during the hearing.
2. Prior to construction, a building permit shall be secured for any new construction or modifications to structures authorized by this permit. Final building plans shall be consistent with the plans approved by the Planning Commission. All construction and site improvements shall be completed according to the approved plans
3. At time of submittal for building permit review, the building plans must show that the existing overhead utility lines will be underground to the nearest utility pole.
4. ~~The applicant is required to provide one additional 9' by 20' parking space on-site in addition to the existing two covered garage spaces (§17.15.130).~~

5. At time of submittal for building permit review, the Conditions of Approval must be printed in full on the cover sheet of the construction plans.
6. At the time of submittal for building permit review, Public Works Standard Detail Storm Water Best Management Practices (STRM-BMP) shall be printed in full and incorporated as a sheet into the construction plans. All construction shall be done in accordance with Public Works Standard Detail Storm Water Best Management Practices (STRM-BMP).
7. Prior to making any changes to approved plans, modifications must be specifically requested and submitted in writing to the Community Development Department. Any significant changes to the size or exterior appearance of the structure shall require Planning Commission approval.
8. Prior to issuance of building permit, a final landscape plan shall be submitted and approved by the Community Development Department. Landscape plans shall reflect the Planning Commission approval and shall identify type, size, and location of species and details of irrigation systems.
9. Prior to issuance of building permit, all Planning fees associated with permit # 15-174 shall be paid in full.
10. Prior to issuance of building permit, Affordable housing in-lieu fees shall be paid as required to assure compliance with the City of Capitola Affordable (Inclusionary) Housing Ordinance.
11. Prior to issuance of a building permit, the applicant must provide documentation of plan approval by the following entities: Santa Cruz County Sanitation Department, Soquel Creek Water District, and Central Fire Protection District.
12. Prior to issuance of building permits, a drainage plan, grading, sediment and erosion control plan, shall be submitted to the City and approved by Public Works. The plans shall be in compliance with the requirements specified in Capitola Municipal Code Chapter 13.16 Storm Water Pollution Prevention and Protection.
13. Prior to issuance of building permits, the applicant shall submit a stormwater management plan to the satisfaction of the Director of Public Works which implements all applicable Post Construction Requirements (PCRs) and Public Works Standard Details, including all standards relating to low impact development (LID).
14. Prior to any land disturbance, a pre-site inspection must be conducted by the grading official to verify compliance with the approved erosion and sediment control plan. Erosion and sediment control shall be installed prior to the commencement of construction and maintained throughout the duration of the construction project.
15. Prior to any work in the City road right of way, an encroachment permit shall be acquired by the contractor performing the work. No material or equipment storage may be placed in the road right-of-way.

16. During construction, any construction activity shall be subject to a construction noise curfew, except when otherwise specified in the building permit issued by the City. Construction noise shall be prohibited between the hours of nine p.m. and seven-thirty a.m. on weekdays. Construction noise shall be prohibited on weekends with the exception of Saturday work between nine a.m. and four p.m. or emergency work approved by the building official. §9.12.010B
17. Prior to a project final, all cracked or broken driveway approaches, curb, gutter, or sidewalk shall be replaced per the Public Works Standard Details and to the satisfaction of the Public Works Department. All replaced driveway approaches, curb, gutter or sidewalk shall meet current Accessibility Standards.
18. Prior to issuance of a Certificate of Occupancy, compliance with all conditions of approval shall be demonstrated to the satisfaction of the Community Development Director. Upon evidence of non-compliance with conditions of approval or applicable municipal code provisions, the applicant shall remedy the non-compliance to the satisfaction of the Community Development Director or shall file an application for a permit amendment for Planning Commission consideration. Failure to remedy a non-compliance in a timely manner may result in permit revocation.
19. This permit shall expire 24 months from the date of issuance. The applicant shall have an approved building permit and construction underway before this date to prevent permit expiration. Applications for extension may be submitted by the applicant prior to expiration pursuant to Municipal Code section 17.81.160.
20. The planning and infrastructure review and approval are transferable with the title to the underlying property so that an approved project may be conveyed or assigned by the applicant to others without losing the approval. The permit cannot be transferred off the site on which the approval was granted.
21. Upon receipt of certificate of occupancy, garbage and recycling containers shall be placed out of public view on non-collection days.

FINDINGS

A. The application, subject to the conditions imposed, secures the purposes of the Zoning Ordinance, General Plan, and Local Coastal Plan.

The proposed addition at 510 El Salto will conform to the development standards of the Zoning Ordinance with addition of one on-site parking as conditioned.

B. The application will maintain the character and integrity of the neighborhood.

The proposed addition will maintain the existing single-family character and integrity of the Depot Hill neighborhood, as conditioned. The proposed materials within the addition blend seamlessly into the existing home.

C. This project is categorically exempt under Section 15301-E of the California Environmental Quality Act and is subject to Section 753.5 of Title 14 of the California Code of Regulations.

This project involves the addition to an existing single-family residence in the R-1 (Single-Family Residential) Zoning District. Section 15301-E of the CEQA Guidelines exempts additions to existing homes in a residential zone.

- D. Special circumstances applicable to the subject property, including size, shape, topography, location or surroundings, do not exist on the site and the strict application of this title is found not to deprive subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification;**

~~There are no special circumstances applicable to the subject property that would deprive the owner of privileges enjoyed by other neighboring properties. The subject property is located on a flat lot. The owner can meet the parking requirement onsite.~~

The existing hedge located in the public right-of-way is considered to be a character-defining feature of the property and a significant asset to the neighborhood. The hedge is viewed as a special circumstance applicable to the topography and use of the subject property. The location of the existing hedge constitutes a special circumstance and makes it difficult to locate two off-street parking spaces; therefore, a variance is approved to preserve the hedge.

- E. The grant of a variance permit would not constitute a grant of a special privilege inconsistent with the limitation upon other properties in the vicinity and zone in which subject property is situated.**

~~The grant of a variance permit would constitute a grant of a special privilege. Recent remodels in the Depot Hill neighborhood have been required to meet parking standards. There are no special circumstances prohibiting the applicant from meeting the parking requirements.~~

The grant of a variance permit would not constitute the grant of a special privilege. Many of the adjacent properties in the Depot Hill neighborhood use this same right-of-way area for parking and other miscellaneous property improvements. In addition, the city has no plans to install sidewalks or any other improvements in this ten foot wide public right-of-way area. The existing character-defining hedge constitutes a special circumstance prohibiting the applicant from meeting parking requirements on site.

COASTAL FINDINGS

D. Findings Required. A coastal permit shall be granted only upon adoption of specific written factual findings supporting the conclusion that the proposed development conforms to the certified Local Coastal Program, including, but not limited to:

- The proposed development conforms to the City's certified Local Coastal Plan (LCP). The specific, factual findings, as per CMC Section 17.46.090 (D) are as follows:

(D) (2) Require Project-Specific Findings. In determining any requirement for public access, including the type of access and character of use, the city shall evaluate and document in written findings the factors identified in subsections (D) (2) (a) through (e), to the extent applicable. The findings shall explain the basis for the conclusions and decisions of the city and shall be supported by substantial evidence in the record. If an access dedication is required as a condition of approval, the findings shall explain how the adverse effects which have been identified will be alleviated or mitigated by the dedication. As used in this section, "cumulative effect" means the effect of the individual project in combination with the effects of past projects, other current projects, and probable future projects, including development allowed under applicable planning and zoning.

(D) (2) (a) Project Effects on Demand for Access and Recreation. Identification of existing and open public access and coastal recreation areas and facilities in the regional and local vicinity of the development. Analysis of the project's effects upon existing public access and recreation opportunities. Analysis of the project's cumulative effects upon the use and capacity of the identified access and recreation opportunities, including public tidelands and beach resources, and upon the capacity of major coastal roads from subdivision, intensification or cumulative build-out. Projection for the anticipated demand and need for increased coastal access and recreation opportunities for the public. Analysis of the contribution of the project's cumulative effects to any such projected increase. Description of the physical characteristics of the site and its proximity to the sea, tideland viewing points, upland recreation areas, and trail linkages to tidelands or recreation areas. Analysis of the importance and potential of the site, because of its location or other characteristics, for creating, preserving or enhancing public access to tidelands or public recreation opportunities;

- The proposed project is located at 510 El Salto Dr. The home is not located in an area with coastal access. The home will not have an effect on public trails or beach access.

(D) (2) (b) Shoreline Processes. Description of the existing shoreline conditions, including beach profile, accessibility and usability of the beach, history of erosion or accretion, character and sources of sand, wave and sand movement, presence of shoreline protective structures, location of the line of mean high tide during the season when the beach is at its narrowest (generally during the late winter) and the proximity of that line to existing structures, and any other factors which substantially characterize or affect the shoreline processes at the site. Identification of anticipated changes to shoreline processes at the site. Identification of anticipated changes to shoreline processes and beach profile unrelated to the proposed development. Description and analysis of any reasonably likely changes, attributable to the primary and cumulative effects of the project, to: wave and sand movement affecting beaches in the vicinity of the project; the profile of the beach; the character, extent, accessibility and usability of the beach; and any other factors which characterize or affect beaches in the vicinity. Analysis of the effect of any identified changes of the project, alone or in combination with other anticipated changes, will have upon the ability of the public to use public tidelands and shoreline recreation areas;

- The proposed project is located along El Salto Dr. No portion of the project is located along the shoreline or beach.

(D) (2) (c) Historic Public Use. Evidence of use of the site by members of the general public for a continuous five-year period (such use may be seasonal). Evidence of the type and character of use made by the public (vertical, lateral, blufftop, etc., and for passive and/or active recreational use, etc.). Identification of any agency (or person) who has maintained and/or improved the area subject to historic public use and the nature of the maintenance performed and improvements made. Identification of the record owner of the area historically used by the public and any attempts by the owner to prohibit public use of the area, including the success or failure of those attempts. Description of the potential for adverse impact on public use of the area from

the proposed development (including but not limited to, creation of physical or psychological impediments to public use);

- There is not history of public use on the subject lot.

(D) (2) (d) Physical Obstructions. Description of any physical aspects of the development which block or impede the ability of the public to get to or along the tidelands, public recreation areas, or other public coastal resources or to see the shoreline;

- The proposed project is located on private property on El Salto Dr. The project will not block or impede the ability of the public to get to or along the tidelands, public recreation areas, or views to the shoreline.

(D) (2) (e) Other Adverse Impacts on Access and Recreation. Description of the development's physical proximity and relationship to the shoreline and any public recreation area. Analysis of the extent of which buildings, walls, signs, streets or other aspects of the development, individually or cumulatively, are likely to diminish the public's use of tidelands or lands committed to public recreation. Description of any alteration of the aesthetic, visual or recreational value of public use areas, and of any diminution of the quality or amount of recreational use of public lands which may be attributable to the individual or cumulative effects of the development.

- The proposed project is located on private property that will not impact access and recreation. The project does not diminish the public's use of tidelands or lands committed to public recreation nor alter the aesthetic, visual or recreational value of public use areas.

(D) (3) (a – c) Required Findings for Public Access Exceptions. Any determination that one of the exceptions of subsection (F) (2) applies to a development shall be supported by written findings of fact, analysis and conclusions which address all of the following:

a. The type of access potentially applicable to the site involved (vertical, lateral, bluff top, etc.) and its location in relation to the fragile coastal resource to be protected, the agricultural use, the public safety concern, or the military facility which is the basis for the exception, as applicable;

b. Unavailability of any mitigating measures to manage the type, character, intensity, hours, season or location of such use so that agricultural resources, fragile coastal resources, public safety, or military security, as applicable, are protected;

c. Ability of the public, through another reasonable means, to reach the same area of public tidelands as would be made accessible by an access way on the subject land.

- The project is not requesting a Public Access Exception, therefore these findings do not apply

(D) (4) (a – f) Findings for Management Plan Conditions. Written findings in support of a condition requiring a management plan for regulating the time and manner or character of public access use must address the following factors, as applicable:

a. Identification and protection of specific habitat values including the reasons supporting the conclusions that such values must be protected by limiting the hours, seasons, or character of public use;

- The project is located in a residential lot.

b. Topographic constraints of the development site;

- The project is located on a relatively flat lot.

c. Recreational needs of the public;

- The project does not impact recreational needs of the public.

d. Rights of privacy of the landowner which could not be mitigated by setting the project back from the access way or otherwise conditioning the development;

e. The requirements of the possible accepting agency, if an offer of dedication is the mechanism for securing public access;

f. Feasibility of adequate setbacks, fencing, landscaping, and other methods as part of a management plan to regulate public use.

(D) (5) Project complies with public access requirements, including submittal of appropriate legal documents to ensure the right of public access whenever, and as, required by the certified land use plan and Section 17.46.010 (coastal access requirements);

- No legal documents to ensure public access rights are required for the proposed project

(D) (6) Project complies with visitor-serving and recreational use policies;

SEC. 30222

The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

- The project involves a single family home on a residential lot of record.

SEC. 30223

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

- The project involves a single family home on a residential lot of record.

c) Visitor-serving facilities that cannot be feasibly located in existing developed areas shall be located in existing isolated developments or at selected points of attraction for visitors.

- The project involves a single family home on a residential lot of record.

(D) (7) Project complies with applicable standards and requirements for provision of public and private parking, pedestrian access, alternate means of transportation and/or traffic improvements;

- The project involves the construction of a single family home. The project complies with applicable standards and requirements for provision for parking, pedestrian access, alternate means of transportation and/or traffic improvements.

(D) (8) Review of project design, site plan, signing, lighting, landscaping, etc., by the city's architectural and site review committee, and compliance with adopted design guidelines and standards, and review committee recommendations;

- The project complies with the design guidelines and standards established by the Municipal Code.

(D) (9) Project complies with LCP policies regarding protection of public landmarks, protection or provision of public views; and shall not block or detract from public views to and along Capitola's shoreline;

- The project will not negatively impact public landmarks and/or public views. The project will not block or detract from public views to and along Capitola's shoreline.

(D) (10) Demonstrated availability and adequacy of water and sewer services;

- The project is located on a legal lot of record with available water and sewer services.

(D) (11) Provisions of minimum water flow rates and fire response times;

- The project is located within close proximity of the Capitola fire department. Water is available at the location.

(D) (12) Project complies with water and energy conservation standards;

- The project is for a single family home. The GHG emissions for the project are projected at less than significant impact. All water fixtures must comply with the low-flow standards of the soquel creek water district.

(D) (13) Provision of park dedication, school impact, and other fees as may be required;

- The project will be required to pay appropriate fees prior to building permit issuance.

(D) (14) Project complies with coastal housing policies, and applicable ordinances including condominium conversion and mobile home ordinances;

- The project does not involve a condo conversion or mobile homes.

(D) (15) Project complies with natural resource, habitat, and archaeological protection policies;

- Conditions of approval have been included to ensure compliance with established policies.

(D) (16) Project complies with Monarch butterfly habitat protection policies;

- The project is outside of any identified sensitive habitats, specifically areas where Monarch Butterflies have been encountered, identified and documented.

(D) (17) Project provides drainage and erosion and control measures to protect marine, stream, and wetland water quality from urban runoff and erosion;

- Conditions of approval have been included to ensure compliance with applicable erosion control measures.

(D) (18) Geologic/engineering reports have been prepared by qualified professional for projects in seismic areas, geologically unstable areas, or coastal bluffs, and project complies with hazard protection policies including provision of appropriate setbacks and mitigation measures;

- Geologic/engineering reports have been prepared by qualified professionals for this project. Conditions of approval have been included to ensure the project applicant shall comply with all applicable requirements of the most recent version of the California Building Standards Code.

(D) (19) All other geological, flood and fire hazards are accounted for and mitigated in the project design;

- Conditions of approval have been included to ensure the project complies with geological, flood, and fire hazards and are accounted for and will be mitigated in the project design.

(D) (20) Project complies with shoreline structure policies;

- The proposed project complies with shoreline structure policies.

(D) (21) The uses proposed are consistent with the permitted or conditional uses of the zoning district in which the project is located;

- This use is a principally permitted use consistent with the Single Family zoning district.

(D) (22) Conformance to requirements of all other city ordinances, zoning requirements, and project review procedures;

- The project conforms to the requirements of all city ordinances, zoning requirements and project development review and development procedures.

(D) (23) Project complies with the Capitola parking permit program as follows:

- The project site is not located within the area of the Capitola parking permit program.

RESULT:	APPROVED AS AMENDED [4 TO 0]
MOVER:	Gayle Ortiz, Commissioner
SECONDER:	Susan Westman, Commissioner
AYES:	Smith, Ortiz, Newman, Westman
RECUSED:	Welch

C. Transient Rentals in Capitola #15-189

Overview of existing transient (vacation) rental regulations in Capitola and code enforcement proposal

Planner Cattan introduced planning intern Joanna Wilk, who presented the report on the issue of transient or vacation rentals in areas outside the existing transient rental use overlay district. She reviewed the existing district, established in 1991, and noted that Capitola does not face the challenge of other jurisdictions that are only now trying to address this use.

Based on complaints and online research, 25 rentals are operating but not registered within the TRO and 24 are operating outside the allowed district.

Enforcement has proved problematic and discussions with other jurisdictions found that they also rely on neighbor complaints to identify violators. Enforcement is time-consuming and it can be difficult to meet a court-level burden of proof. City staff is also in discussions with AirBnB to collect transient occupancy taxes.

Ms. Wilk outlined a proposed, proactive enforcement effort that includes non-compliance notices to identified properties. Proof of noncompliance will include screen shots from online listings. The process would begin in January. Staff will monitor zoning complaints.

Commissioner Ortiz asked why the city is only working with Airbnb, and Director Grunow explained that it is the only service that collects the rental fees. Other online sites only list the properties.

Commissioner Welch supported the efforts and said information online should serve as proof of wrongdoing.

Director Grunow noted the City's goal is to bring people into compliance, not to issue fines.

Peter Wilk, resident, suggested that the city should not begin enforcement until there has been more public input and would like to hear the City Council's discussion. Director Grunow said the Council will review the proposal in January.

Sharon Dugan, property owner, explained she has had TOT-collecting vacation rentals since 1986 and is a long-time consultant on the issue. Compliance violations are rampant. She has a legal unit and welcomes the discussion. There has been a problem in listing software for collecting and separating the taxes. She supports enforcement as fair to those who have followed the rules.

Commissioner Newman supports deterrence and would favor heavy penalties to support those who have followed the rules.

Commissioner Westman recalled when the district was created and there was neighborhood support to prevent short-term uses elsewhere. That sentiment remained strong during the General Plan update.

Commissioner Ortiz noted there is a difference between non-complying properties within and outside the district. Neighborhood integrity has been a major concern and she anticipates strong support for enforcement.

Commissioner Welch said he has heard numerous complaints particularly in his Depot Hill neighborhood. Given the number of second homes in Depot Hill, about 30 percent, an abandonment of restricting short-term rentals to within the current district would greatly change neighborhood character.

Chairperson Smith said the lack of nearby property management with online sources causes concern. She also asked how many uses outside the district were bed-and-breakfast with the owner present versus full home rentals.

Commissioners expressed support for amnesty for those who registered within the district or ceased illegal rentals. They also acknowledged the difference between renting rooms and a whole house outside the district and asked to review the bed-and-breakfast conditional use.

Commissioner Welch said he supports the recommended action with increased fines.

RESULT:	RECOMMENDED [UNANIMOUS]	Next: 1/14/2016 7:00 PM
MOVER:	TJ Welch, Commissioner	
SECONDER:	Gayle Ortiz, Commissioner	
AYES:	Smith, Ortiz, Newman, Welch, Westman	

6. DIRECTOR'S REPORT

Director Grunow noted the draft environmental impact report for the proposed Monterey Park skatepark is available for comment through Jan. 8 and staff is targeting a March Planning Commission public hearing. He will provide a CEQA refresher ahead of that hearing as requested.

Planner Cattan provided status on the zoning code update following City Council direction. Draft preparation has begun. Staff is regularly working with the Coastal Commission to avoid problems in its future review. Generally City Council input was predominantly complementary to the Planning Commission's, with the exception of visitor serving zoning on Depot Hill. Review of the draft will begin with release in February and include special meetings. Sections will move to the City Council once they are reviewed by the Planning Commission rather than waiting for the entire draft to be reviewed.

7. COMMISSION COMMUNICATIONS

None

8. ADJOURNMENT

Approved by the Planning Commission on January 21, 2016.

Linda Fridy, Minutes Clerk

Minutes Acceptance: Minutes of Dec 3, 2015 7:00 PM (Approval of Minutes)



STAFF REPORT

TO: PLANNING COMMISSION

FROM: COMMUNITY DEVELOPMENT

DATE: JANUARY 21, 2016

SUBJECT: **723 El Salto Drive #15-185 APN: 036-143-35**

Request for a two-year extension of previously approved Coastal Development Permit, Minor Land Division to create two lots of record, and Minor Land Division to convert four apartment units to condominiums in the R-1/VS (Single Family/Visitor Serving) Zoning District.

This project requires a Coastal Development Permit which is appealable to the California Coastal Commission after all possible appeals are exhausted through the City.

Environmental Determination: Categorical Exemption

Owner: Doug Dodds

Representative: Thatcher & Thompson, filed: 11/12/2015

APPLICANT PROPOSAL

The applicant is requesting a two-year extension of a previously approved coastal development permit, minor land division to create two lots of record, and a tentative parcel map to convert four apartment units into condominium units. The property is located at 723 El Salto Drive in the R-1/VS (Single Family/Visitor Serving) zoning district. The existing parcel contains a four-unit apartment building and a single-family house. There was a carport on the site that was demolished in preparation for recording the map. One condition of approval is that covered parking must be re-built for the four-plex. The design permit and coastal development permit for a four car garage were submitted with the application but is incomplete pending a geologic report. A design permit for the garage will be reviewed by the Planning Commission at the time of a complete submittal.

BACKGROUND

On February 4, 2010, the Planning Commission approved a coastal development permit and a two-lot minor land division at 723 El Salto Drive (Application 08-041). The permit was granted a one-year extension on March 1, 2012. The approved minor land division expired on March 1, 2013.

The Planning Commission had concurrently reviewed a second minor land division application (10-082) to convert the four-unit apartment within Parcel B to four individual condominium units. The Planning Commission approved the condominium conversion application on January 20, 2011, and a one-year extension of the application on January 17, 2013.

On December 5, 2013, the Planning Commission approved a modification of the original two lot minor land division and a second extension of the tentative map to convert the apartments to a condominium. The applicant is seeking a two year extension of the December 5, 2013 approval. There are no changes in the application other than the demolition of the carport. The December 5, 2013 staff report is included as Attachment A with full analysis of the application.

CEQA REVIEW

Section 15315 of the CEQA Guidelines exempts Minor Land Divisions in urbanized areas zoned for residential use into four or fewer parcels when the division is in conformance with the General Plan and zoning, no variances or exceptions are required, all services and access to the proposed parcels to local standards are available, the parcel was not involved in a division of a larger parcel within the previous 2 years, and the parcel does not have an average slope greater than 20 percent. This project involves a two lot Minor Land Division that is in compliance with zoning and the General Plan. No adverse environmental impacts were discovered during review of the proposed project

RECOMMENDATION

Staff recommends the Planning Commission **approve** project application #15-185 and allow a two-year extension of the previously approved coastal development permit, minor land division that created two lots of record, and a tentative map to convert four apartment units into condominium units based on the following Conditions and Findings for Approval.

CONDITIONS

1. The project consists of an 2 year extension of a minor subdivision of a 35,439 square-foot lot into two residential lots in the VS/R-1 (Visitor Serving/Single-Family Residence) Zoning at 723 El Salto Drive. The application proposes to create two lots. Parcel A is a 6,480 square-foot flag lot which will include the single-family house. Parcel B is a 28,959 square-foot lot containing the existing four-unit apartment building. The single-family house will remain in its current location. Covered parking for 4-cars will be constructed entirely within Parcel B.
2. The application also includes a 2 year extension of the approved tentative parcel map for the four-unit apartment into condominium units (application 10-082). No relevant substantial change of circumstances, regulations or planning policies has occurred since the original approval and such extension would not be detrimental to the purpose of the certified local coastal program and zoning ordinance. With the two-year extension, the final map for the four-unit condominium must be recorded prior to January 21, 2017.
3. No structures will be developed within the view easement of Parcel B.
4. No existing trees are permitted to be removed within this application.
5. Prior to issuance of a building permit, a Coastal Permit and Design Permit for new covered parking constructed entirely within the boundary of Parcel B must be approved by the Planning Commission.
6. Prior to recordation of final map, a new 4-car covered parking structure must be constructed entirely within the boundary of Parcel B. Onsite improvements must be completed to the satisfaction of the Community Development Director.

7. Prior to the recordation of final map, the applicant shall submit new legal descriptions for the two lots for review by the Community Development Department.
8. Prior to recordation of final map, all utility easements shall be provided on the parcel map in a configuration which meets the requirements of the utility companies and the City of Capitola Public Works Director.
9. Prior to recordation of final map, the owner shall contact the Capitola U.S. Postmaster to locate in the subdivision placement of "Neighborhood Delivery and Collection Boxes (NDCBU's). Any required easements shall be dedicated and shown on the parcel map within a public utility easement, as approved by City Staff and the Postmaster.
10. Prior to the recordation of final map, compliance with all conditions of approval shall be demonstrated to the satisfaction of the Community Development Director.
11. Prior to recordation of final map, all Planning fees associated with permit #15-185 shall be paid in full.
12. The tentative parcel map for the two-lot minor land division and extension of the minor land division for the four-unit apartment into condominiums shall expire 24 months from the date of approval. Applications for extension may be submitted by the applicant prior to expiration pursuant to Municipal Code section 17.81.160.

FINDINGS

- A. **The application, subject to the conditions imposed, will secure the purposes of the Zoning Ordinance, General Plan, and Local Coastal Plan.**

Community Development Department Staff and the Planning Commission have reviewed the project. The minor land division, together with the provisions for its design and improvement, is consistent with the objectives of the Zoning Ordinance, General Plan and Local Coastal Plan.

- B. **The application is consistent with the Subdivision Map Act and local Subdivision Ordinance.**

The minor land division was designed in accordance with the Subdivision Map Act and local ordinances enacted pursuant thereto. Per the Subdivision Map Act, the proposed map is consistent with the General Plan and Local Coastal Plan, is physically suited for the proposed type and density of development, will not likely cause substantial environmental damage, or substantially and avoidably injure fish, wildlife or their habitats, will not cause serious public health problems, and will not conflict with public easements for access through, or use of, property within the proposed subdivision.

- C. **This project is categorically exempt under Section 15315 of the California Environmental Quality Act and is not subject to Section 753.5 of Title 14 of the California Code of Regulations.**

Section 15315 of the CEQA Guidelines exempts minor land divisions in urbanized areas zoned for residential, commercial, or industrial use into four or fewer parcels when the division is in conformance with the General Plan and Zoning.

- D. A substantial change of circumstances has not occurred since the original Planning Commission approval of application 10-082 on January 20, 2011. A second extension of the permit to December 5, 2015, would not be detrimental to the purpose of the certified local coastal program and zoning ordinance.

The Planning Commission finds that neither the physical characteristics of the lot nor the zoning ordinance has changed since approval of the permit on January 20, 2011. Therefore, a third extension of said permit is appropriate.

COASTAL FINDINGS

D. Findings Required. A coastal permit shall be granted only upon adoption of specific written factual findings supporting the conclusion that the proposed development conforms to the certified Local Coastal Program, including, but not limited to:

- The proposed minor land division conforms to the City's certified Local Coastal Plan (LCP). The specific, factual findings, as per CMC Section 17.46.090 (D) are as follows:

(D) (2) Require Project-Specific Findings. In determining any requirement for public access, including the type of access and character of use, the city shall evaluate and document in written findings the factors identified in subsections (D) (2) (a) through (e), to the extent applicable. The findings shall explain the basis for the conclusions and decisions of the city and shall be supported by substantial evidence in the record. If an access dedication is required as a condition of approval, the findings shall explain how the adverse effects which have been identified will be alleviated or mitigated by the dedication. As used in this section, "cumulative effect" means the effect of the individual project in combination with the effects of past projects, other current projects, and probable future projects, including development allowed under applicable planning and zoning.

(D) (2) (a) Project Effects on Demand for Access and Recreation. Identification of existing and open public access and coastal recreation areas and facilities in the regional and local vicinity of the development. Analysis of the project's effects upon existing public access and recreation opportunities. Analysis of the project's cumulative effects upon the use and capacity of the identified access and recreation opportunities, including public tidelands and beach resources, and upon the capacity of major coastal roads from subdivision, intensification or cumulative build-out. Projection for the anticipated demand and need for increased coastal access and recreation opportunities for the public. Analysis of the contribution of the project's cumulative effects to any such projected increase. Description of the physical characteristics of the site and its proximity to the sea, tideland viewing points, upland recreation areas, and trail linkages to tidelands or recreation areas. Analysis of the importance and potential of the site, because of its location or other characteristics, for creating, preserving or enhancing public access to tidelands or public recreation opportunities;

- The project will not directly affect public access and coastal recreation areas as it involves the minor land division of a privately owned residential property with no

intensification or build out and no public trail or beach access.

(D) (2) (b) Shoreline Processes. Description of the existing shoreline conditions, including beach profile, accessibility and usability of the beach, history of erosion or accretion, character and sources of sand, wave and sand movement, presence of shoreline protective structures, location of the line of mean high tide during the season when the beach is at its narrowest (generally during the late winter) and the proximity of that line to existing structures, and any other factors which substantially characterize or affect the shoreline processes at the site. Identification of anticipated changes to shoreline processes at the site. Identification of anticipated changes to shoreline processes and beach profile unrelated to the proposed development. Description and analysis of any reasonably likely changes, attributable to the primary and cumulative effects of the project, to: wave and sand movement affecting beaches in the vicinity of the project; the profile of the beach; the character, extent, accessibility and usability of the beach; and any other factors which characterize or affect beaches in the vicinity. Analysis of the effect of any identified changes of the project, alone or in combination with other anticipated changes, will have upon the ability of the public to use public tidelands and shoreline recreation areas;

- The project is located atop a bluff along the shoreline, with no beach access. The approval of the minor land division will not affect any portions of the lot adjacent to the bluff, nor impact the character of the beach below.

(D) (2) (c) Historic Public Use. Evidence of use of the site by members of the general public for a continuous five-year period (such use may be seasonal). Evidence of the type and character of use made by the public (vertical, lateral, blufftop, etc., and for passive and/or active recreational use, etc.). Identification of any agency (or person) who has maintained and/or improved the area subject to historic public use and the nature of the maintenance performed and improvements made. Identification of the record owner of the area historically used by the public and any attempts by the owner to prohibit public use of the area, including the success or failure of those attempts. Description of the potential for adverse impact on public use of the area from the proposed development (including but not limited to, creation of physical or psychological impediments to public use);

- The privately owned site has historically been used as private residences. There is no evidence of use of the site by members of the public for coastal access.

(D) (2) (d) Physical Obstructions. Description of any physical aspects of the development which block or impede the ability of the public to get to or along the tidelands, public recreation areas, or other public coastal resources or to see the shoreline;

- The project is located atop a bluff along the shoreline. The tall bluff does not allow for beach access. Beach access to the public will not be affected by the project, nor will the development block or impede the ability of the public to get to or along the tidelands, public recreation areas, or views to the shoreline.

(D) (2) (e) Other Adverse Impacts on Access and Recreation. Description of the development's physical proximity and relationship to the shoreline and any public recreation area. Analysis of the extent of which buildings, walls, signs, streets or other aspects of the development, individually or cumulatively, are likely to diminish the public's use of tidelands or lands committed to public recreation. Description of any alteration of the aesthetic, visual or recreational value of public use areas, and of any diminution of the quality or amount of recreational use of public lands which may be attributable to the individual or cumulative effects of the development.

- The site is located atop a bluff along the shoreline, but not in the vicinity of a public recreation area. The minor land division does not diminish the public's use of tidelands or lands committed to public recreation nor alter the aesthetic, visual or recreational value of public use areas.

(D) (3) (a – c) Required Findings for Public Access Exceptions. Any determination that one of the exceptions of subsection (F) (2) applies to a development shall be supported by written findings of fact, analysis and conclusions which address all of the following:

a. The type of access potentially applicable to the site involved (vertical, lateral, bluff top, etc.) and its location in relation to the fragile coastal resource to be protected, the agricultural use, the public safety concern, or the military facility which is the basis for the exception, as applicable;

b. Unavailability of any mitigating measures to manage the type, character, intensity, hours, season or location of such use so that agricultural resources, fragile coastal resources, public safety, or military security, as applicable, are protected;

c. Ability of the public, through another reasonable means, to reach the same area of public tidelands as would be made accessible by an access way on the subject land.

- The project is not requesting a Public Access Exception, therefore these findings do not apply

(D) (4) (a – f) Findings for Management Plan Conditions. Written findings in support of a condition requiring a management plan for regulating the time and manner or character of public access use must address the following factors, as applicable:

a. Identification and protection of specific habitat values including the reasons supporting the conclusions that such values must be protected by limiting the hours, seasons, or character of public use;

b. Topographic constraints of the development site;

c. Recreational needs of the public;

d. *Rights of privacy of the landowner which could not be mitigated by setting the project back from the access way or otherwise conditioning the development;*

e. *The requirements of the possible accepting agency, if an offer of dedication is the mechanism for securing public access;*

f. *Feasibility of adequate setbacks, fencing, landscaping, and other methods as part of a management plan to regulate public use.*

- No Management Plan is required; therefore these findings do not apply

(D) (5) *Project complies with public access requirements, including submittal of appropriate legal documents to ensure the right of public access whenever, and as, required by the certified land use plan and Section 17.46.010 (coastal access requirements);*

- No legal documents to ensure public access rights are required for the proposed project

(D) (6) *Project complies with visitor-serving and recreational use policies;*

SEC. 30222

The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

- The project involves the minor land division of an existing residential use. No new use or change in use is proposed.

SEC. 30223

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

- The project involves the minor land division of an existing residential use. No new use or change in use is proposed.

SEC. 30250

c) Visitor-serving facilities that cannot be feasibly located in existing developed areas shall be located in existing isolated developments or at selected points of attraction for visitors.

- The project involves the minor land division of an existing residential use. No new use or change in use is proposed.

(D) (7) *Project complies with applicable standards and requirements for provision of public and private parking, pedestrian access, alternate means of transportation and/or traffic improvements;*

- The project meets zoning standards for required parking and pedestrian access. There are no requirements for alternate means of transportation or traffic improvements as part of the minor land division.

(D) (8) Review of project design, site plan, signing, lighting, landscaping, etc., by the city's architectural and site review committee, and compliance with adopted design guidelines and standards, and review committee recommendations;

- The project was reviewed by the Architectural and Site Review Committee and complies with the design guidelines and standards for the VS/R-1 zoning district, as well as the recommendations provided by the Committee.

(D) (9) Project complies with LCP policies regarding protection of public landmarks, protection or provision of public views; and shall not block or detract from public views to and along Capitola's shoreline;

- No public landmarks or public views to and along the shoreline are affected by the project.

(D) (10) Demonstrated availability and adequacy of water and sewer services;

- The minor land division does not include any additional units, and therefore does not require new water or sewer services.

(D) (11) Provisions of minimum water flow rates and fire response times;

- The minor land division does not include any additional units, and therefore does not require new flow rates or fire response times.

(D) (12) Project complies with water and energy conservation standards;

- The project will be required to comply with water and energy conservation standards for the proposed covered parking structure as part of the building plan check process.

(D) (13) Provision of park dedication, school impact, and other fees as may be required;

- The project will be required to pay appropriate fees prior to building permit issuance.

(D) (14) Project complies with coastal housing policies, and applicable ordinances including condominium conversion and mobile home ordinances;

- The project complies with the coastal housing policies and condominium conversion ordinance. The four unit apartments are converted to condos within the application as part of the minor land division.

(D) (15) Project complies with natural resource, habitat, and archaeological protection policies;

- The minor land division does not impact natural resources, habitat, or archaeological resources.

(D) (16) Project complies with Monarch butterfly habitat protection policies;

- The project is outside of any identified sensitive habitats, specifically areas where Monarch Butterflies have been encountered, identified and documented.

(D) (17) Project provides drainage and erosion and control measures to protect marine, stream, and wetland water quality from urban runoff and erosion;

- The project will comply with all applicable erosion control measures.

(D) (18) Geologic/engineering reports have been prepared by qualified professional for projects in seismic areas, geologically unstable areas, or coastal bluffs, and project complies with hazard protection policies including provision of appropriate setbacks and mitigation measures;

- No development is proposed within the project. A geologic/engineering report is required for new development within 200 feet of a coastal bluff.

(D) (19) All other geological, flood and fire hazards are accounted for and mitigated in the project design;

- The project is not located within a geologically unstable area nor flood plain, and fire hazard are accounted for and will be mitigated in the project design.

(D) (20) Project complies with shoreline structure policies;

- The proposed carport will comply with shoreline structure policies as part of the building plan check process.

(D) (21) The uses proposed are consistent with the permitted or conditional uses of the zoning district in which the project is located;

- The residential uses that exist are consistent with the permitted or conditional uses in the VS/R-1 zoning district.

(D) (22) Conformance to requirements of all other city ordinances, zoning requirements, and project review procedures;

- The project conforms to the requirements of all city ordinances, zoning requirements and project development review and development procedures.

(D) (23) Project complies with the Capitola parking permit program as follows:

- The project site is not located within the area of the Capitola parking permit program.

ATTACHMENTS:

1. December 5, 2015 Staff Report
2. 723 El Salto Tentative Map.pdf
3. 723 El Salto Condominium Conversion.pdf

Prepared By: Katie Cattan

Senior Planner



STAFF REPORT

TO: PLANNING COMMISSION

FROM: COMMUNITY DEVELOPMENT DEPARTMENT

DATE: DECEMBER 5, 2013

SUBJECT: **723 El Salto Drive #13-155 APN: 036-143-35**

Coastal Development Permit and Minor Land Division to create two lots of record, and request for a two-year extension to the previously approved Minor Land Division to convert four apartment units to condominiums in the R-1/VS (Single Family/Visitor Serving) Zoning District.

This project requires a Coastal Development Permit which is appealable to the California Coastal Commission after all possible appeals are exhausted through the City.

Environmental Determination: Categorical Exemption

Owner: Doug Dodds

Representative: Thatcher & Thompson, filed: 11/5/2013

APPLICANT PROPOSAL

The applicant is requesting approval of a Coastal Development Permit and Minor Land Division to create two lots of record at 723 El Salto Drive in the R-1/VS (Single Family/Visitor Serving) zoning district. The existing parcel contains a 4-unit apartment building, a single-family house, and a carport. The applicant is also requesting a two-year extension for the previously approved tentative map (application #10-082) to convert four apartment units into condominium units.

BACKGROUND

On February 4, 2010, the Planning Commission approved a Coastal Permit and a two-lot Minor Land Division at 723 El Salto Drive (Application 08-041). The approved Minor Land Division allowed the 35,809 square-foot property to be divided into two lots: a 5,850 square-foot lot for the existing single-family home and a 29,959 square-foot lot for the four-unit apartment building. Within the prior approval, the existing carport structure was required to be demolished and a new 4-car carport constructed within the established landscape area in front of the 4-unit apartment building. On March 1, 2012, the Planning Commission granted a one-year extension of the two-lot minor land division (08-041). That application expired on March 1, 2013. The current application is a variation of the expired two-lot minor land division application.

The Planning Commission had concurrently reviewed a second Minor Land Division application (10-082) to convert the four-unit apartment within Parcel B to individual condominium units. The Planning Commission approved the Minor Land Division application on January 20, 2011, and a one-year extension of the application on January 17, 2013. The applicant is seeking approval of a second extension for application 10-082.

Attachment: December 5, 2015 Staff Report (1353 : 723 El Salto Drive)

On November 13, 2013, the Architectural and Site Committee reviewed the application:

- City Design Representative Derek Van Alstine complimented the modification to preserve the established landscaping and did not ask for any modifications.
- Historic Preservation Representative Carolyn Swift was unable to attend the meeting. She asked staff that the applicant submit additional information regarding the history of the single-family home onsite. The applicant submitted a brief narrative on the history of the single-family home.
- City Landscape Architect representative Susan Suddjian complimented the modification to the layout to preserve the existing landscaping and did not request any modifications.
- City Building Inspector Brian Von Son did not request any modifications.
- City Public Works Director Steve Jesberg was unable to attend the meeting.

DISCUSSION

Two Lot Minor Land Division

The applicant modified the layout of the lot boundaries to preserve the established landscaping in front of the four-unit apartment and rebuild the required carport within the same general area as it exists today (shifted 8 feet to the east). To do so, the minor land division establishes a flag lot for Parcel A which will accommodate a 60 foot long driveway leading to the single-family home. Parcel A is 6,480 square feet. Parcel B is 28,959 square feet, including the 2,038 square-foot view easement and the 10,043 square-foot unbuildable bluff area. The existing four-unit apartment and the future carport will be located within Parcel B.

Within a minor land division application, new lots must comply with Section 16.24.170(A-G) of the Municipal Code as follows:

A. **The size and shape of lots shall be in conformance to any zoning regulations effective in the area of the proposed subdivision.**

The subdivision is located in the VS/R-1 dual zoning district. Dual zoning means that the uses and development standards of the V-S district apply, although uses allowed by the other district may also be permitted through approval of a conditional use permit, and the Planning Commission may apply development standards from the other zoning district in lieu of or as well as the V-S district, as determined through architectural and site review.

Per 17.30.090, the minimum lot area requirement for the VS district is 5,000 square feet. Both lots comply with the minimum required lot size of 5,000 square feet. The VS district specifies that a single-family home must be consistent with the development standards of the R-1 zoning district and a multi-family must be consistent with the RM-LM standards. The R-1 zoning district lot area is a minimum of 5,000 square feet and allows one unit per lot. The RM-LM zoning district requires 4,400 square feet per dwelling unit.

While the single-family house is currently legal nonconforming in regards to setbacks, the Subdivision Map Act permits the structure to remain nonconforming as part of the subdivision approval. Any future development on the site will be required to come into conformance with current design and development standards. There is not new non-conformity or increase of an existing non-conform caused by this application.

B. **The side lines of all lots, so far as possible, shall be at right angles to the street which the lot faces, or radial or approximately radial if the street is curved.**

The access to the lot is at a right angle to the street but does not include the entire side line of the lot. The applicant is proposing a flag lot to preserve the landscaping in front of the 4-plex and rebuild the carport in close proximity to the existing location.

- C. The planning commission may require that building set back lines shall be indicated by dotted lines on the subdivision map.

The applicant has not included building set back lines on the subdivision map; however, adequate setbacks can be provided through the proposed lot design.

- D. No lot shall be divided by a city boundary line.

The parcel is entirely within the City boundary.

- E. Lots without frontage on a dedicated public street of twenty feet or more will not be permitted.

All lots would provide frontage to a dedicated public street of twenty feet or more.

- F. Lots other than corner lots may front on more than one street where necessitated by topographic or other unusual conditions.

Not applicable.

- G. In riparian corridors no lots may be created which do not contain adequate building area outside the riparian or stream setback.

Not applicable.

Parking

The single-family residential use on Parcel 1 complies with the parking requirement of two off-street parking spaces. The four-unit apartment on Parcel 2 will comply with the parking requirement of one covered space for each unit, plus one and one-half additional spaces on the site for each dwelling once the new carport is constructed. Each unit will have one covered space within the carport and one tandem assigned uncovered space. In addition, two guest spaces will be provided to meet the requirement.

Street Improvements

The site is located in a curb, gutter, and sidewalk exempt area. Therefore, street improvements will not be required as part of the subdivision.

Future Development Potential

Per the current VS/R-1 zoning designation, the single-family house on Parcel 1 is a permitted use. A change in use could be proposed within the VS overlay district to a range of visitor serving uses. Any future change in use would require approval of a conditional use permit by the Planning Commission. However, with the proposed lot size (5,850 square feet) it is likely that only a single-family use would be appropriate. Also, any expansion of the existing single-family home or change of use would require additional historic research completed by a specialist to identify if the home is a historic resource.

Duration of Approval

Per the Subdivision Map Act Section 66452.6.a.1, a conditionally approved tentative map shall expire 24 months after approval or conditional approval. If approved, the tentative map shall expire on December 5, 2015.

Extension of Minor Land Division of 4-unit Apartment

The approved tentative map for the four-unit apartment into condominium units (application 10-082) will expire January 20, 2014. Per Section 66452.6e of the Subdivision Map Act, a conditionally approved tentative map may be extended up to a period or periods not exceeding six years. Both the Capitola Municipal Code Section 17.81.160 and Coastal Zone Ordinance Section 17.46.120 state that a request for an extension may be granted upon a finding that no relevant substantial change of circumstances, regulations or planning policies has occurred and that such extension would not be detrimental to the purpose of the certified local coastal program and zoning ordinance. Since neither

the physical characteristics of the lot nor the zoning ordinance has changed since approval of the permit, staff supports the request for an extension.

Staff suggests that the Planning Commission consider a two-year extension of Application 10-082 through December 5, 2015.

CEQA REVIEW

Section 15315 of the CEQA Guidelines exempts Minor Land Divisions in urbanized areas zoned for residential use into four or fewer parcels when the division is in conformance with the General Plan and zoning, no variances or exceptions are required, all services and access to the proposed parcels to local standards are available, the parcel was not involved in a division of a larger parcel within the previous 2 years, and the parcel does not have an average slope greater than 20 percent. This project involves a two lot Minor Land Division that is in compliance with zoning and the General Plan. No adverse environmental impacts were discovered during review of the proposed project.

RECOMMENDATION

Staff recommends the Planning Commission **approve** project application #13-155 and a two-year extension of application #10-082 based on the following Conditions and Findings for Approval.

CONDITIONS

1. The project consists of the subdivision of a 35,439 square-foot lot into two residential lots in the VS/R-1 (Visitor Serving/Single-Family Residence) Zoning at 723 El Salto Drive. The application proposes to create two lots. Parcel A is a 6,480 square-foot flag lot which will include the single-family house. Parcel B is a 28,959 square-foot lot containing the existing four-unit apartment building. The single-family house will remain in its current location. The existing carport structure will be demolished and a new 4-car carport constructed near the existing location yet entirely within Parcel B.
2. The applicant has also requested an extension of the approved tentative map for the four-unit apartment into condominium units (application 10-082) that will expire on January 20, 2014. No relevant substantial change of circumstances, regulations or planning policies has occurred since the original approval and such extension would not be detrimental to the purpose of the certified local coastal program and zoning ordinance. With the two-year extension, the final map for the four-unit condominium must be recorded prior to December 5, 2015.
3. No structures will be developed within the view easement of Parcel B.
4. No existing trees are permitted to be removed within this application.
5. Prior to issuance of a building permit, a Coastal Permit and Design Permit for a new carport constructed entirely within the boundary of Parcel B must be approved by the Planning Commission.
6. Prior to recordation of final map, a new 4-car carport must be constructed entirely within the boundary of Parcel B. Onsite improvements must be completed to the satisfaction of the Community Development Director.
7. Prior to the recordation of final map, the applicant shall submit new legal descriptions for the two lots for review by the Community Development Department.

8. Prior to recordation of final map, all utility easements shall be provided on the parcel map in a configuration which meets the requirements of the utility companies and the City of Capitola Public Works Director.
9. Prior to recordation of final map, the owner shall contact the Capitola U.S. Postmaster to locate in the subdivision placement of "Neighborhood Delivery and Collection Boxes (NDCBU's)". Any required easements shall be dedicated and shown on the parcel map within a public utility easement, as approved by City Staff and the Postmaster.
10. Prior to the recordation of final map, compliance with all conditions of approval shall be demonstrated to the satisfaction of the Community Development Director.
11. Prior to recordation of final map, all Planning fees associated with permit #13-155 shall be paid in full.
12. The tentative map for the two-lot minor land division and extension of the minor land division for the four-unit apartment into condominiums shall expire 24 months from the date of approval. Applications for extension may be submitted by the applicant prior to expiration pursuant to Municipal Code section 17.81.160.

FINDINGS

- A. **The application, subject to the conditions imposed, will secure the purposes of the Zoning Ordinance, General Plan, and Local Coastal Plan.**

Community Development Department Staff and the Planning Commission have reviewed the project. The minor land division, together with the provisions for its design and improvement, is consistent with the objectives of the Zoning Ordinance, General Plan and Local Coastal Plan.

- B. **The application is consistent with the Subdivision Map Act and local Subdivision Ordinance.**

The minor land division was designed in accordance with the Subdivision Map Act and local ordinances enacted pursuant thereto. Per the Subdivision Map Act, the proposed map is consistent with the General Plan and Local Coastal Plan, is physically suited for the proposed type and density of development, will not likely cause substantial environmental damage, or substantially and avoidably injure fish, wildlife or their habitats, will not cause serious public health problems, and will not conflict with public easements for access through, or use of, property within the proposed subdivision.

- C. **This project is categorically exempt under Section 15315 of the California Environmental Quality Act and is not subject to Section 753.5 of Title 14 of the California Code of Regulations.**

Section 15315 of the CEQA Guidelines exempts minor land divisions in urbanized areas zoned for residential, commercial, or industrial use into four or fewer parcels when the division is in conformance with the General Plan and Zoning.

- D. **A substantial change of circumstances has not occurred since the original Planning Commission approval of application 10-082 on January 20, 2011. A second extension of**

the permit to December 5, 2015, would not be detrimental to the purpose of the certified local coastal program and zoning ordinance.

The Planning Commission finds that neither the physical characteristics of the lot nor the zoning ordinance has changed since approval of the permit on January 20, 2011. Therefore, a second extension of said permit is appropriate.

ATTACHMENTS

- A. Minor Land Division Tentative Map
- B. Letter from Applicant
- C. 2011 Approved Tentative Map of 4-unit Apartment
- D. Coastal Findings

**Report Prepared By: Katie Cattan
Senior Planner**

Attachment: December 5, 2015 Staff Report (1353 : 723 El Salto Drive)

DODDS RESIDENCE



PROJECT DATA

PROPERTY OWNER: DOUGLAS DODDS
P.O. BOX 510
CAPITOLA, CA 95010

PROJECT ADDRESS: 723 EL SALTO DRIVE

APN: 036 - 143 - 35

ZONE DISTRICT: VS - R - I, COASTAL ZONE

ARCHITECT: THACHER & THOMPSON ARCHITECTS
877 CEDAR STREET
SANTA CRUZ, CA 95060
(831) 457-3939

SURVEYOR: BOWMAN & WILLIAMS
1011 CEDAR STREET
SANTA CRUZ, CA 95060
(831) 426-3560



EXISTING SITE - PROJECT DATA

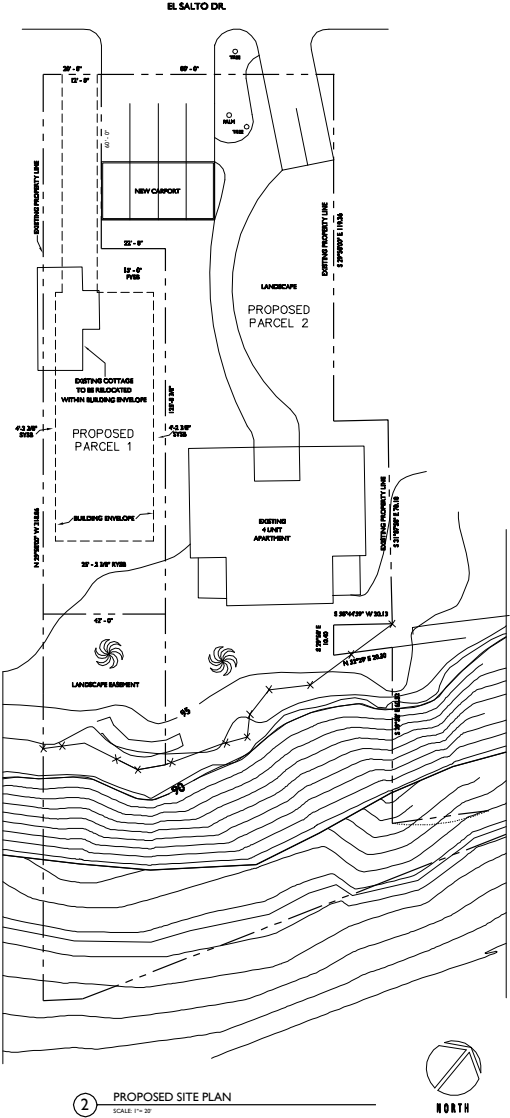
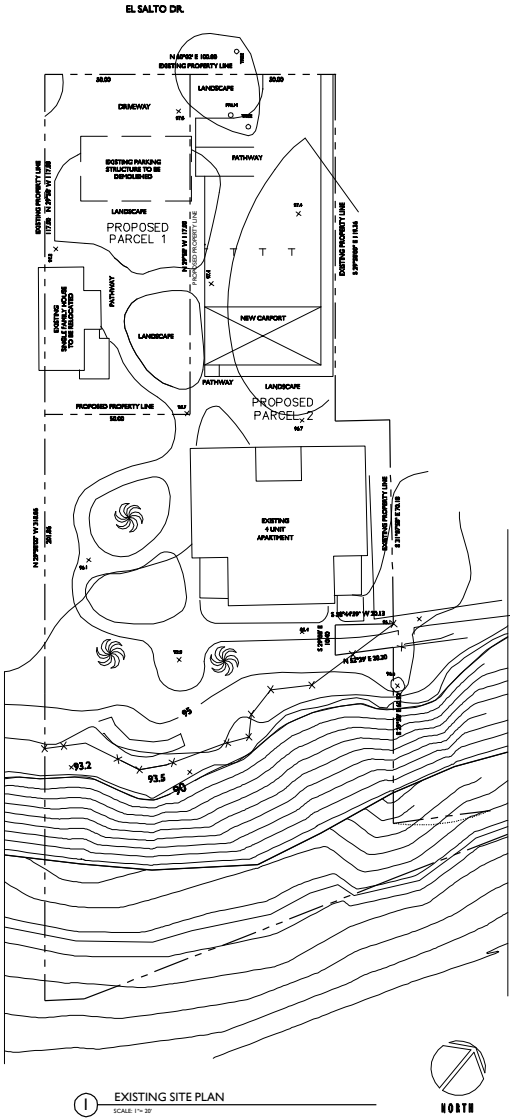
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APN: 036-143-35

DODDS RESIDENCE - 723 EL SALTO DRIVE, CAPITOLA, CA 95010 - CARPORT AND PARKING

THACHER & THOMPSON ARCHITECTS
NOVEMBER 20, 2013





SITE PLANS

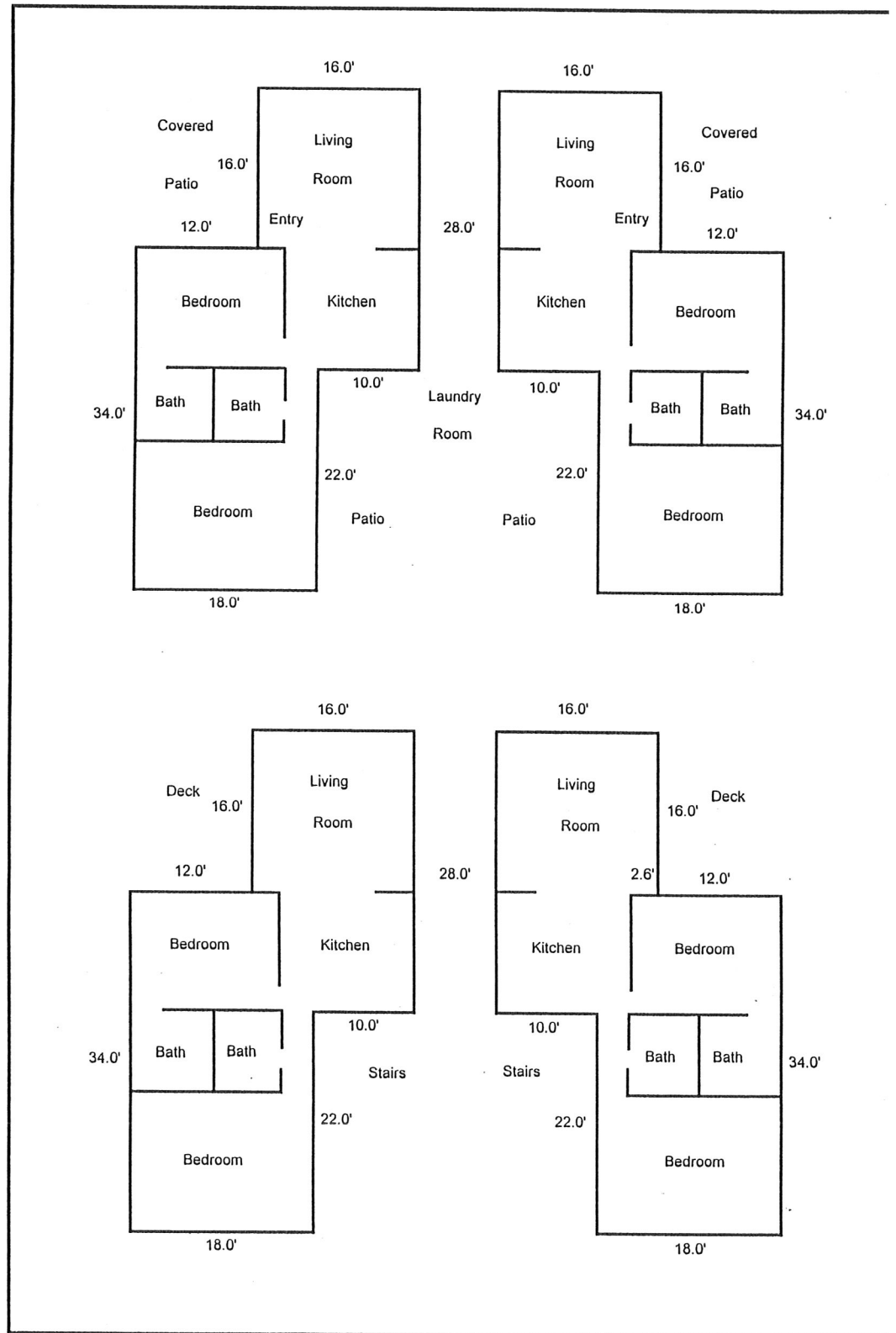




LOCATED AT:
723 EL SALTO DRIVE
LOT 9 CAMP CAPITOLA
CAPITOLA, CA 95010

Building Sketch (Page - 1)

Borrower/Client DOUGLAS DODDS				
Property Address 723 EL SALTO DRIVE				
City CAPITOLA	County SANTA CRUZ	State CA	Zip Code 95010	
Lender				



Attachment: 723 El Salto Condominium Conversion.pdf (1353 : 723 El Salto Drive)

Borrower/Client DOUGLAS DODDS			
Property Address 723 EL SALTO DRIVE			
City CAPITOLA	County SANTA CRUZ	State CA	Zip Code 95010
Lender			

SKETCH CALCULATIONS

Misc. Area

Unit 2

A1 : 16.0 x 16.0 =	256.0
A2 : 28.0 x 12.0 =	336.0
A3 : 18.0 x 22.0 =	396.0
	988.0

Unit 3

A4 : 16.0 x 16.0 =	256.0
A5 : 28.0 x 12.0 =	336.0
A6 : 18.0 x 22.0 =	396.0
	988.0

Unit 4

16.0 x 16 =	256
28.0 x 12 =	336

Living Area

Unit 1

A7 : 16.0 x 16.0 =	256.0
A8 : 28.0 x 12.0 =	336.0
A9 : 18.0 x 22.0 =	396.0
	988.0

Total Gross Living Area = 3952 Square Feet

Total Living Area 988.0



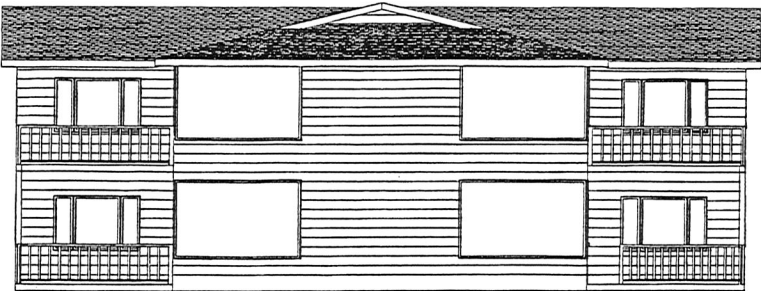
North Elevation



East Elevation



West Elevation

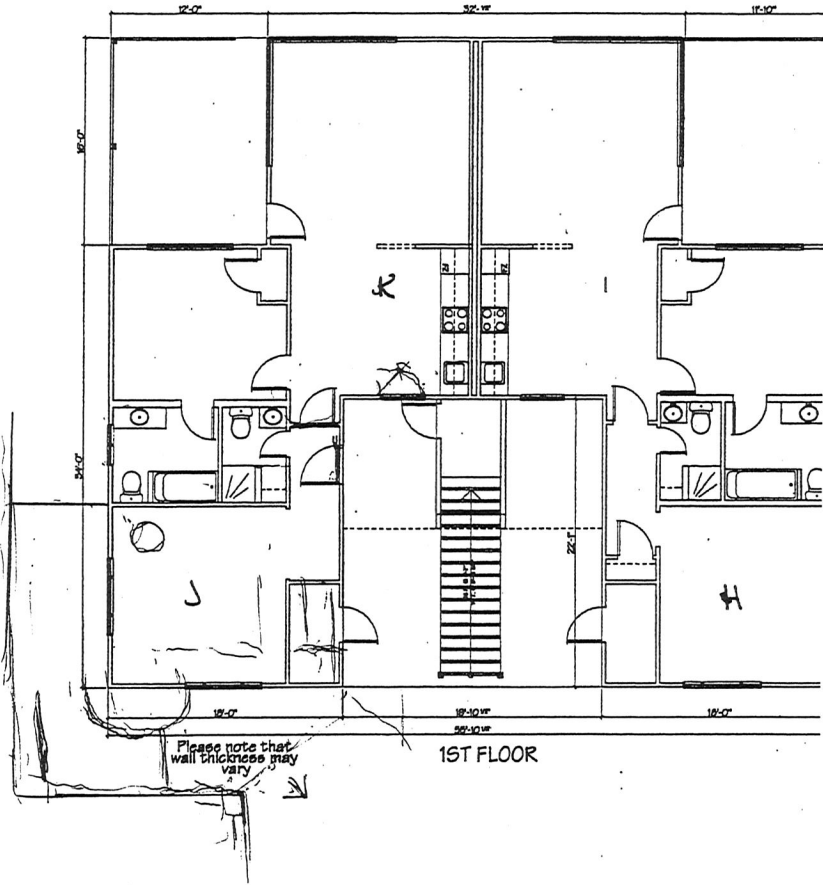
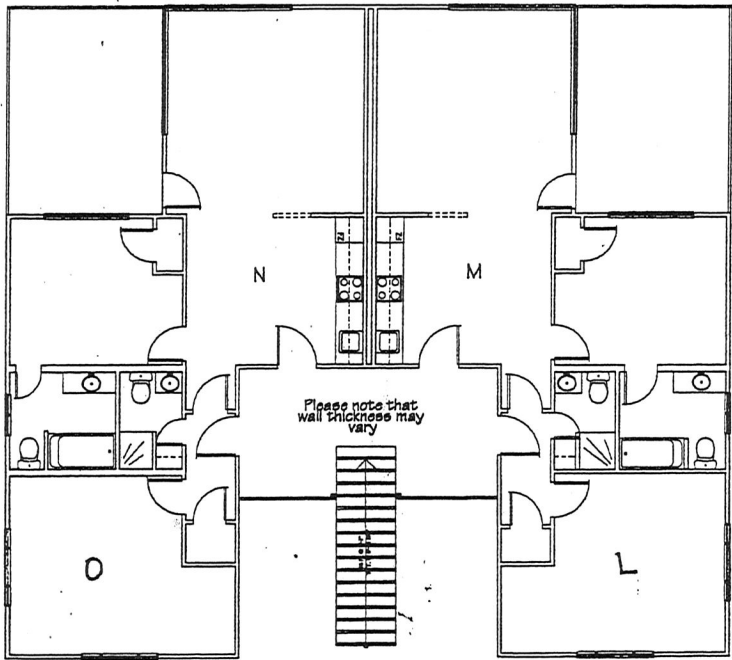


South Elevation

ELEVATIONS

EL SALTO

Date	
Scale	
Drawn	
Job	
By	
Of	





STAFF REPORT

TO: PLANNING COMMISSION
 FROM: COMMUNITY DEVELOPMENT
 DATE: JANUARY 21, 2016
 SUBJECT: **1200 41st Ave #15-119 APN: 034-101-38**

Design Permit and Conditional Use Permit for the installation of a new Verizon wireless antenna and ancillary equipment on the roof of the Begonia Plaza commercial building in the CC (Community Commercial) Zoning District.

This project is in the Coastal Zone and requires a Coastal Development Permit, which is not appealable to the California Coastal Commission.

Environmental Determination: Categorical Exemption

Property Owner: Begonia Plaza LLC

Representative: Verizon Wireless – Sequoia Deployment Services, filed 7/27/15

APPLICANT PROPOSAL

The applicant is proposing to construct a new cylindrical antenna structure on the roof of the existing commercial building at 1200 41st Avenue. The proposed antenna will sit roughly four feet above the existing roof line. The proposed antenna will be visible from public areas (41st Ave and adjacent sidewalks) and does not meet the location standards established by the Zoning Ordinance.

BACKGROUND

On July 27th, 2015, the applicant submitted a proposal for a new small-cell wireless facility to be located on the existing Begonia Plaza multi-tenant commercial building. The application was reviewed on August 12th by the Architectural and Site Review Committee. The only comments generated were from the Planning Department, who informed the applicant that the following additional submittals were required to make the application “complete”: visual analysis and screening techniques, co-location assessment, and a Significant Gap analysis for the proposed non-conforming location. Based on staff’s recommendation for improved screening, the applicant re-submitted photo-simulations and a material board showing a ‘cantenna’ screen proposed over the antenna with multiple color options, as well as a Co-location Assessment and a Significant Gap report for the proposed location (Attachment 1).

ANALYSIS

A wireless facility which is not co-locating, is located within the required zone setbacks, and does not incorporate stealth technology, requires a conditional use permit with a public hearing before the Planning Commission (§17.98.040).

The Capitola Municipal Code restricts wireless antenna facilities from being located within 500 feet of a residential, public facility, or parks and open space zoning district. In addition to the

required 500 feet setback to restricted zones, the code also states that “in no event” may a new wireless facility be located within 300 feet of a restricted zoning district (Attachment 2). Verizon’s proposal at 1200 41st Avenue is located approximately 240 feet from the Reposa Avenue residences due west, and thus does not comply with setback restrictions.

The proposed new small-cell wireless facility would be located along the 41st Avenue corridor, in the CC (Community Commercial) zoning district. The adjacent uses are primarily commercial, being that this area is a commercial/retail hub. The proposed antenna, although small and slightly covered, would be visible from 41st Avenue. The proposal does not meet the Municipal Code’s design and visual impact requirements within 17.98.120. Attachment 2 outlines the extensive zoning code requirements for new wireless antenna development relative to the application. To mitigate impacts of the use on surrounding commercial uses and neighbors, the Planning Commission may condition the application related to the location, design, maintenance and operation of the proposal. Planning Commission may require redesign or relocation of the facility, and may also direct the applicant to resubmit a revised proposal for further consideration (17.98.040).

The Planning Commission, however, may not deny an application based on environmental effects of Radio Frequency (RF) emissions. According to Section 332(c) of the Communications Act, “No State or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Commission’s regulations concerning such emissions.” Therefore, RF emissions were not reviewed as a part of this application.

DISCUSSION

The Telecom Act (Federal Telecommunications Act of 1996) states that local governments cannot prohibit personal wireless communication services. Although the Capitola Municipal Code states that in no event may a new facility be located within 300 feet of a restricted zoning district, the FCC’s regulations pertaining to wireless telecommunication facilities may preempt the City’s ability to deny a permit if the applicant can demonstrate that the City’s regulations are tantamount to prohibiting the provision of wireless services. This Federal Act gives wireless applicants the ability to challenge the validity of local regulations if it can prove that the regulations are preventing them from filling a “significant gap” in its coverage. In order to be exempt from the code’s setback restrictions, the applicant must be able to prove that the new facility would eliminate or substantially reduce a significant gap in the carrier’s network and that there are no alternatives to the location and design of the facility that could reduce said gaps in the “least intrusive means” possible.

City staff reviewed the proposed new antenna location to determine if an alternative location could be used which is outside of the restricted zoning districts. The graphic in Attachment 3 shows the “alternative sites” that Verizon contacted in regards to alternative locations within the allowed and restricted zoning districts. Each location option includes a 300’ buffer ring around the proposed parcel, showing how each location meets the required setback from residential/restricted zones. In the attached graphics, green parcels represent properties with wireless allowed within the zoning district, and red-colored parcels represent parcels in which wireless is restricted. According to Verizon’s proposed target search ring and coverage maps, there is no alternative location that would fill the said “gap” and also be located outside of the Municipal Code’s restricted zoning districts. The Capitola Mall site would be located outside of restricted zoning districts, however it is outside of Verizon’s “search ring” and therefore would not help fill their coverage gap. Based on staff’s analysis of Verizon’s “alternative sites” within

the search ring, there are no other properties which could provide an increased setback from restricted zoning districts while still meeting the applicant's coverage objectives.

Consultant Review

In Accordance with Municipal Code section 17.98.070.A.19, staff contracted Telecom Law Firm to provide an independent review of the proposal, paid for by the applicant. Telecom conducted a technical analysis of Verizon's capacity-finding report, evaluated whether or not a "Significant Coverage Gap" currently exists, reviewed how their proposal will affect the coverage gap, and offered an alternative design recommendation (Attachment 4).

Significant Gap Analysis

Within the significant gap analysis of the report, Telecom analyzed whether or not a "significant gap" in the applicant's coverage exists, how their proposal will affect the said gap, and alternative site and design recommendations. Figures 1, 2 and 4 of Verizon's Capacity Report and Necessity Case show Verizon's existing and proposed signal coverage (Attachment 4). According to Telecom, the information provided in Verizon's report is proprietary and cannot be validated without full access to Verizon's capacity data. However, Telecom was able to determine that the information provided by Verizon seems reasonable and appears to improve capacity coverage at this location. Telecom concluded that a new facility at this location would improve capacity coverage within Verizon's target search area and allow Verizon to provide its members with full speed service in this area. Therefore, an exception may be made to the setback requirements from restricted zoning districts.

Least Intrusive Means Analysis

In addition to the applicant proving that a "significant gap" exists, they must also successfully demonstrate that their proposal constitutes the least intrusive means to mitigate that significant gap. The applicant must prove that it has made a legitimate effort to identify and evaluate less intrusive alternatives that would most closely conform to the local values of the city's municipal code. Verizon must prove that they have considered: less sensitive site locations, alternative antenna and equipment designs, and co-location, among others, and that the proposal is the "least intrusive means" to filling the service gap.

According to Telecom's report, Verizon has not proposed the least intrusive means. Pursuant to the design standards laid out in section 17.98.120 – D/E of the Capitola Municipal Code:

D. All roof-mounted antennas shall be located in an area of the roof where the visual impact is minimized. Screening panels may be used to mitigate visual impacts but must be designed to blend with the architecture of the building in terms of scale, material and color. The cost to provide such screening of visual equipment shall not by itself provide justification to allow conspicuous equipment or antennas to remain visible.

E. All roof-mounted facilities shall be painted with a non-reflective matte finish using an appropriate color that blends with the backdrop. The final choice of colors shall be determined by the community development department on a case-by-case basis, in accordance with this subsection.

Verizon's cylindrical antenna screen would be visible from the 41st Avenue corridor and does not blend with the architecture of the building. The City has the ability to require a modified design with the authority to determine what constitutes the "least intrusive means" of design. As an example alternative, Telecom came up with a "faux chimney" design proposal that would screen the proposed antenna with a fake chimney screen, which will eliminate the visible cylindrical

antenna and better blend with the architecture and design of the existing commercial building. Therefore, staff recommends that the applicant re-design their proposal and that the Planning Commission approve of a modified project which incorporates Telecom's alternative proposal (Attachment 4) or an equivalent stealth design which camouflages the facility to the satisfaction of the Community Development Director.

To address Telecom's recommendation and the Municipal Code requirements, staff included Conditions of Approval #4 – 17.

CEQA

This project is categorically exempt under Section 15303 of the California Environmental Quality Act. The proposed project involves the construction of a new, small-cell Verizon wireless antenna facility. The project will result in a minor modification to the exterior of an existing structure. No adverse environmental impacts were discovered during project review by staff.

RECOMMENDATION

Staff recommends that the Planning Commission approve a modified project for application #15-119, with required re-design of the wireless facility to a fully stealth design, based on the following Conditions and Findings for Approval.

CONDITIONS OF APPROVAL

1. The project approval consists of a new, small-cell wireless antenna facility on to an existing commercial building at 1200 41st Avenue. The proposed project is approved as indicated on the final plans reviewed and approved by the Planning Commission on January 21st, 2016, except as modified through conditions imposed by the Planning Commission during the hearing.
2. All Planning fees associated with permit #15-119 shall be paid in full.
3. The applicant was granted a design permit, conditional use permit, and location exemption for the installation of a new, small-cell Verizon wireless antenna facility on the rooftop of the existing commercial building at 1200 41st Avenue. In any case where the conditions of the permit are not complied with, the community development director shall give notice thereof to the permittee, which notice shall specify a reasonable period of time within which to perform said conditions and correct said violation. If the permittee fails to comply with said conditions, or to correct said violation, within the time allowed, notice shall be given to the permittee of intention to revoke such permit at a hearing to be held not less than thirty calendar days after the date of such notice. Following such hearing and, if good cause exists therefore, the Planning Commission may revoke the permit.
4. Prior to Building Permit issuance, the applicant shall submit a modified, stealth design to screen the antenna facility from public view, to the satisfaction of the Community Development Director.
5. The wireless communication facilities shall comply with all Federal Communication Commission (FCC) rules, regulations, and standards. Every two years the wireless telecommunications service provider shall submit to the director of community development: (1) a certification by a licensed engineer that the emissions are within the current FCC standards; and (2) a report on the level of cumulative radio frequency

emissions within an eight hundred-foot radius from the subject antenna.

6. All roof-mounted facilities shall be painted with a non-reflective matte finish using an appropriate color that blends with the backdrop. The final choice of colors shall be approved by the community development department, in accordance with section 17.98.120 of the Capitola Municipal Code.
7. The wireless communications facilities shall be constructed and operated in such a manner as to minimize the amount of noise impacts to adjacent uses and activities. Backup generators shall only be operated during power outages and for testing and maintenance purposes. At any time, noise attenuation measures may be required by the director when deemed necessary.
8. Testing and maintenance activities of wireless communications facilities which generate audible noise shall occur between the hours of eight a.m. and five p.m., weekdays (Monday through Friday, non-holiday) excluding emergency repairs, unless allowed at other times by the director. Testing and maintenance activities, which do not generate audible noise, may occur at any time, unless otherwise prohibited by the director.
9. All wireless communications providers shall provide signage, as required by the director, which shall identify the name and phone number of the wireless communications provider for use in case of an emergency.
10. The new wireless communications facilities shall be maintained by the wireless service provider in good condition. This shall include keeping all wireless communications facilities graffiti free.
11. At time of Building Permit submittal, the wireless carrier applicant must submit equipment specifications for all proposed rooftop equipment in order for the Building Department to verify existing structure's load capacity. The Building Department may require a report prepared by a structural and electrical engineer.
12. The wireless communications facility which provides service to the general public shall be designed to survive a natural disaster without interruption in operation. To this end, the measures listed in section 17.98.200 of the Municipal Code shall be implemented.
13. Wireless communications providers shall provide the city with a notice of intent to vacate a site a minimum of thirty days prior to the vacation, and all other forms of cessation of operation on-site shall follow the rules and regulations set forth in Municipal Code section 17.98.210.
14. In the event that the original permittee (Verizon) sells its interest in a wireless communication facility, the succeeding carrier shall assume all responsibilities concerning the project and shall be held responsible to the city for maintaining consistency with all project conditions of approval, including proof of liability insurance. A new contact name for the project (#15-119) shall be provided by the succeeding carrier to the community development department within thirty days of transfer of interest of the facility.

15. This permit shall be valid for a period of five years. An approval may be extended administratively from the initial approval date for a subsequent five years and may be extended administratively every five years thereafter upon the verification of the wireless communications provider's continued compliance with Municipal Code chapter 17.98 and with the findings and conditions of approval under which the application was originally approved. This does not apply to preexisting legal nonconforming uses.
16. Should the director determine that the wireless communications facility may no longer be in compliance, the director may, at his or her discretion, schedule a public hearing before the planning commission at which the planning commission may modify or revoke an approval in accordance with chapter 17.98.240 of the Municipal Code.
17. All wireless communications facilities shall meet the current standards and regulations of the Federal Communications Commission, the California Public Utilities Commission, and any other agency of the federal or state government with the authority to regulate wireless communications providers. If such standards and regulations are changed, the wireless communications provider shall bring its facilities into compliance with such revised standards and regulations within ninety days of the effective date of such standards and regulations, unless a more stringent compliance schedule is mandated by the controlling federal or state agency. Failure to bring wireless communications facilities into compliance with such revised standards and regulations shall constitute grounds for the immediate removal of such facilities at the wireless communications provider's expense.

FINDINGS

- A. **The application, subject to the conditions imposed, will secure the purposes of the Zoning Ordinance and General Plan.**
The Planning Commission reviewed and approved the applications with conditions of approval with respect to the maintenance, design and operation of the use to ensure that the new wireless facility will not have a negative impact on the surrounding commercial and residential uses and secure the general purposes of the Zoning Ordinance and General Plan.
- B. **The application will maintain the character and integrity of the neighborhood.**
The Planning Commission reviewed and approved the application with conditions of approval to ensure that the antenna is screened from public view so as to preserve the character and identity of the neighborhood.
- C. **This project is categorically exempt under the Section 15303 of the California Environmental Quality Act and is not subject to Section 753.5 of Title 14 of the California Code of Regulations.**
The proposed project involves the construction of a new, small-cell Verizon wireless antenna facility. The project will result in a minor modification to the exterior of an existing structure. Section 15303 exempts new small structures and minor modifications to the exterior of an existing structure.

COASTAL FINDINGS

D. Findings Required. A coastal permit shall be granted only upon adoption of specific written factual findings supporting the conclusion that the proposed development conforms to the certified Local Coastal Program, including, but not limited to:

- The proposed development conforms to the City's certified Local Coastal Plan (LCP). The specific, factual findings, as per CMC Section 17.46.090 (D) are as follows:

(D) (2) Require Project-Specific Findings. In determining any requirement for public access, including the type of access and character of use, the city shall evaluate and document in written findings the factors identified in subsections (D) (2) (a) through (e), to the extent applicable. The findings shall explain the basis for the conclusions and decisions of the city and shall be supported by substantial evidence in the record. If an access dedication is required as a condition of approval, the findings shall explain how the adverse effects which have been identified will be alleviated or mitigated by the dedication. As used in this section, "cumulative effect" means the effect of the individual project in combination with the effects of past projects, other current projects, and probable future projects, including development allowed under applicable planning and zoning.

(D) (2) (a) Project Effects on Demand for Access and Recreation. Identification of existing and open public access and coastal recreation areas and facilities in the regional and local vicinity of the development. Analysis of the project's effects upon existing public access and recreation opportunities. Analysis of the project's cumulative effects upon the use and capacity of the identified access and recreation opportunities, including public tidelands and beach resources, and upon the capacity of major coastal roads from subdivision, intensification or cumulative build-out. Projection for the anticipated demand and need for increased coastal access and recreation opportunities for the public. Analysis of the contribution of the project's cumulative effects to any such projected increase. Description of the physical characteristics of the site and its proximity to the sea, tideland viewing points, upland recreation areas, and trail linkages to tidelands or recreation areas. Analysis of the importance and potential of the site, because of its location or other characteristics, for creating, preserving or enhancing public access to tidelands or public recreation opportunities;

- The proposed wireless antenna project is proposed to be located on an existing commercial building at 1200 41st Ave. The existing building is not located in an area with coastal access. The new antenna will not have an effect on public trails or beach access.

(D) (2) (b) Shoreline Processes. Description of the existing shoreline conditions, including beach profile, accessibility and usability of the beach, history of erosion or accretion, character and sources of sand, wave and sand movement, presence of shoreline protective structures, location of the line of mean high tide during the season when the beach is at its narrowest (generally during the late winter) and the proximity of that line to existing structures, and any other factors which substantially characterize or affect the shoreline processes at the site. Identification of anticipated changes to shoreline processes at the site. Identification of anticipated changes to shoreline processes and beach profile

unrelated to the proposed development. Description and analysis of any reasonably likely changes, attributable to the primary and cumulative effects of the project, to: wave and sand movement affecting beaches in the vicinity of the project; the profile of the beach; the character, extent, accessibility and usability of the beach; and any other factors which characterize or affect beaches in the vicinity. Analysis of the effect of any identified changes of the project, alone or in combination with other anticipated changes, will have upon the ability of the public to use public tidelands and shoreline recreation areas;

- The proposed project is located along 41st Avenue. No portion of the project is located along the shoreline or beach.

(D) (2) (c) Historic Public Use. Evidence of use of the site by members of the general public for a continuous five-year period (such use may be seasonal). Evidence of the type and character of use made by the public (vertical, lateral, blufftop, etc., and for passive and/or active recreational use, etc.). Identification of any agency (or person) who has maintained and/or improved the area subject to historic public use and the nature of the maintenance performed and improvements made. Identification of the record owner of the area historically used by the public and any attempts by the owner to prohibit public use of the area, including the success or failure of those attempts. Description of the potential for adverse impact on public use of the area from the proposed development (including but not limited to, creation of physical or psychological impediments to public use);

- There is not history of public use on the subject lot, however 41st Avenue is a heavily used pedestrian and automobile thoroughfare.

(D) (2) (d) Physical Obstructions. Description of any physical aspects of the development which block or impede the ability of the public to get to or along the tidelands, public recreation areas, or other public coastal resources or to see the shoreline;

- The proposed project is located on private property off of 41st Avenue. The project will not block or impede the ability of the public to get to or along the tidelands, public recreation areas, or views to the shoreline.

(D) (2) (e) Other Adverse Impacts on Access and Recreation. Description of the development's physical proximity and relationship to the shoreline and any public recreation area. Analysis of the extent of which buildings, walls, signs, streets or other aspects of the development, individually or cumulatively, are likely to diminish the public's use of tidelands or lands committed to public recreation. Description of any alteration of the aesthetic, visual or recreational value of public use areas, and of any diminution of the quality or amount of recreational use of public lands which may be attributable to the individual or cumulative effects of the development.

- The proposed project is located on private property that will not impact access and recreation. The project does not diminish the public's use of tidelands or lands committed to public recreation nor alter the aesthetic, visual or recreational value of public use areas.

(D) (3) (a – c) Required Findings for Public Access Exceptions. Any determination that one of the exceptions of subsection (F) (2) applies to a development shall be supported by written findings of fact, analysis and conclusions which address all of the following:

a. The type of access potentially applicable to the site involved (vertical, lateral, bluff top, etc.) and its location in relation to the fragile coastal resource to be protected, the agricultural use, the public safety concern, or the military facility which is the basis for the exception, as applicable;

b. Unavailability of any mitigating measures to manage the type, character, intensity, hours, season or location of such use so that agricultural resources, fragile coastal resources, public safety, or military security, as applicable, are protected;

c. Ability of the public, through another reasonable means, to reach the same area of public tidelands as would be made accessible by an access way on the subject land.

- The project is not requesting a Public Access Exception, therefore these findings do not apply

(D) (4) (a – f) Findings for Management Plan Conditions. Written findings in support of a condition requiring a management plan for regulating the time and manner or character of public access use must address the following factors, as applicable:

a. Identification and protection of specific habitat values including the reasons supporting the conclusions that such values must be protected by limiting the hours, seasons, or character of public use;

- The project is located in a commercial area without sensitive habitat areas.

b. Topographic constraints of the development site;

- The project is located on a flat lot.

c. Recreational needs of the public;

- The project does not impact recreational needs of the public, however it will be visible from public right-of-ways.

d. Rights of privacy of the landowner which could not be mitigated by setting the project back from the access way or otherwise conditioning the development;

e. The requirements of the possible accepting agency, if an offer of dedication is the mechanism for securing public access;

f. Feasibility of adequate setbacks, fencing, landscaping, and other methods as part of a management plan to regulate public use.

(D) (5) Project complies with public access requirements, including submittal of appropriate legal documents to ensure the right of public access whenever, and as, required by the certified land use plan and Section 17.46.010 (coastal access requirements);

- No legal documents to ensure public access rights are required for the proposed project

(D) (6) Project complies with visitor-serving and recreational use policies;

SEC. 30222

The use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

- The project is proposed to be located on an existing commercial lot of record.

SEC. 30223

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

- The project is proposed to be located on an existing commercial lot of record.

c) Visitor-serving facilities that cannot be feasibly located in existing developed areas shall be located in existing isolated developments or at selected points of attraction for visitors.

- The project is proposed to be located on an existing commercial lot of record.

(D) (7) Project complies with applicable standards and requirements for provision of public and private parking, pedestrian access, alternate means of transportation and/or traffic improvements;

- The project involves an antenna addition to an existing commercial building. The proposal does not affect, and thus complies with applicable standards and requirements for provision for parking, pedestrian access, and alternate means of transportation and/or traffic improvements.

(D) (8) Review of project design, site plan, signing, lighting, landscaping, etc., by the city's architectural and site review committee, and compliance with adopted design guidelines and standards, and review committee recommendations;

- The project does not comply with the design guidelines and standards established by the Municipal Code. Planning Staff's modified approval will condition the proposal to meet design guidelines.

(D) (9) Project complies with LCP policies regarding protection of public landmarks, protection or provision of public views; and shall not block or detract from public views to and along Capitola's shoreline;

- The project will not negatively impact public landmarks and/or public views. The project will not block or detract from public views to and along Capitola's shoreline.

(D) (10) Demonstrated availability and adequacy of water and sewer services;

- The project is located on a legal lot of record with available water and sewer services.

(D) (11) Provisions of minimum water flow rates and fire response times;

- The project is located within close proximity of the Capitola fire department. Water is available at the location.

(D) (12) Project complies with water and energy conservation standards;

- The project is for a new small-cell wireless antenna facility. The GHG emissions for the project are projected at less than significant impact. No water fixtures are proposed.

(D) (13) Provision of park dedication, school impact, and other fees as may be required;

- The project will be required to pay appropriate fees prior to building permit issuance.

(D) (14) Project complies with coastal housing policies, and applicable ordinances including condominium conversion and mobile home ordinances;

- The project does not involve a condo conversion or mobile homes.

(D) (15) Project complies with natural resource, habitat, and archaeological protection policies;

- Conditions of approval have been included to ensure compliance with established policies.

(D) (16) Project complies with Monarch butterfly habitat protection policies;

- The project is outside of any identified sensitive habitats, specifically areas where Monarch Butterflies have been encountered, identified and documented.

(D) (17) Project provides drainage and erosion and control measures to protect marine, stream, and wetland water quality from urban runoff and erosion;

- Conditions of approval have been included to ensure compliance with applicable erosion control measures.

(D) (18) Geologic/engineering reports have been prepared by qualified professional for projects in seismic areas, geologically unstable areas, or coastal bluffs, and project complies with hazard protection policies including provision of appropriate setbacks and mitigation measures;

- Geologic/engineering reports are not required for this application. Conditions of approval have been included to ensure the project applicant shall comply with all applicable requirements of the most recent version of the California Building Standards Code.

(D) (19) All other geological, flood and fire hazards are accounted for and mitigated in the project design;

- Conditions of approval have been included to ensure the project complies with geological, flood, and fire hazards and are accounted for and will be mitigated in the project design.

(D) (20) Project complies with shoreline structure policies;

- The proposed project is not located along a shoreline.

(D) (21) The uses proposed are consistent with the permitted or conditional uses of the zoning district in which the project is located;

- The use is not allowed where it is proposed, being that it is within 500 feet of a restricted residential zone.

(D) (22) Conformance to requirements of all other city ordinances, zoning requirements, and project review procedures;

- The project does not conform in that the design is not properly screened and it is proposed in a restricted area.

(D) (23) Project complies with the Capitola parking permit program as follows:

- The project will not affect the Capitola parking permit program.

ATTACHMENTS:

1. Verizon Submittal
2. Site Planning and Zoning Information
3. Alternative Location Analysis
4. Consultant Review

Prepared By: Ryan Safty
Assistant Planner



Wireless Telecommunication Facility

Project Narrative

Applicant: Verizon Wireless
 2785 Mitchell Drive
 Walnut Creek, CA 94598

Owner: Begonia Plaza, LLC
 PO Box 665
 Capitola, CA 95010

Rep.: Sequoia Deployment Services, Inc.
 22471 Aspan Street, Suite 290
 Lake Forest, CA 92630

 Melissa Samarin
 (562) 458-1944

Site No.: Melton & 41st Street

Location: 1200 41st Avenue Capitola, CA 95010

Project Description

Verizon Wireless is requesting the review and approval of a Conditional Use Permit to establish a new wireless telecommunications facility at 1200 41st Avenue in Capitola. The facility will consist of a cylindrical antenna, remote radio units ("RRU"), equipment cabinets, electric meter, and utility connections.

The antennas, RRU's and fiber equipment will be mounted on the rooftop of an existing commercial building. The single three-sector antenna will be mounted above the parapet and painted to match the existing building. Equipment cabinets will be located on the rooftop, screened behind existing parapet walls. The top of antennas and height of the overall facility will be 28'0". The facility will pose minimal visual impact to the surrounding area. This is a small cell project.

Attachment: Verizon Submittal (1319 : 1200 41st Ave)

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 Melton & 41st
 Verizon Wireless
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Location

Verizon Wireless's proposed project is located off of 41st Avenue in Capitola in a commercially zoned area in the south-western part of the city. The building and proposed facility is located on property zoned CC Community Commercial. All surrounding lots are also zoned CC Community Commercial. Wireless facilities are permitted uses in commercial zones. The property is currently used as a shopping plaza. The surrounding area is characterized by urban, developed commercial centers. The subject location is greater than 100' feet from any residential community. The proposed facility will remain consistent with the surrounding area.

Alternative Site Analysis

Verizon Wireless determines the need for a new wireless telecommunications facility through the collection of network test data, customer comments, projected growth in customer network usage, and the effects of the deployment of new technologies that both improve service and capability of the network. A new site is needed in the area around 41st Avenue in order to maximize the capacity of service to the nearby high density housing and commercial areas. The objective of the site is to provide capacity offload in the surrounding residential and commercial neighborhoods along 41st Avenue in East Santa Cruz and to offload nearby Portola & 40th site to better serve those target communities. The location of this Verizon Wireless proposed facility was selected based on a variety of technical, practical, and scientific criteria.

Verizon Wireless investigated several candidates in this site acquisition process. There are no collocation opportunities available in the vicinity for this project. Several other property owners in the area were contacted about the proposed facility. Other alternative candidates included: O'Neil Building, ADR Building, Brommer 41st Fairfield Hotel, Gladys 41st Building, Betty Burger, InShape Gym, and Capitola Beach Villas. Of these alternative sites, landlords of the O'Neil Building, ADR Building, Brommer 41st Fairfield Hotel, and Gladys 41st Building were not interested and landlords of Betty Burger, InShape Gym, and Capitola Beach Villas were unresponsive. Therefore, Begonia Plaza is Verizon Wireless's primary and selected candidate. The landlord of the subject site at Begonia Plaza expressed interest in leasing the space to Verizon Wireless and has approved the location and construction of a wireless facility on the building. Please see attached Alternative Site Map.

Verizon Wireless concentrated their efforts in finding a candidate within the commercial zone in the south-western part of Capitola. The search ring included other areas zoned MHE Mobile Home, R-1 Residential, RM-M Residential, and PD Planned Development, but in order to comply with City of Capitola Wireless Code, which encourages wireless facilities not be located within residential communities, Verizon Wireless selected a candidate on commercially zoned property. The selection of this location avoids having to construct a site within a residential neighborhood,

Attachment: Verizon Submittal (1319 : 1200 41st Ave)

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while still allowing Verizon Wireless to serve its target residential communities. The proposed subject site at 1200 41st Avenue is an eligible and compliant location for Verizon Wireless's facility.

Screening Techniques

The proposed facility includes a single canister antenna array and equipment cabinets mounted on the rooftop of an existing building. The antenna will be mounted on the rooftop ridge, in order to project the service signal above the surrounding ground clutter. All antennas will be screened from view within the canister radome and be painted to match the existing building. The equipment cabinets will be mounted on the roof deck and be fully screened from view below the roof ridge. Verizon Wireless has designed this facility to be as visually unobtrusive as possible. Please see enclosed photosimulations.

Maintenance and Monitoring Program

Verizon Wireless uses a combination of remote monitoring and on site activity to maintain their wireless facilities. The remote monitoring is operational twenty-four hours a day, seven days a week, three hundred sixty-five days a year, continuously and monitors for the proper function of the facility as well as various silent alarms. In addition to the off-site monitoring a technician visits the site approximately once per month for maintenance. When a problem is found or maintenance is required the technician schedules the work appropriately in compliance with conditions of approval and lease agreements regarding maintenance timing and scope.

Radio Emissions

The facility will compliant with all Federal Communications Commission ("FCC") regulations. Please refer the Radio Emission Report included in the zoning package for full information regarding radio frequencies and maximum power output. The facility will display appropriate FCC compliance signage; no further signage or lighting is proposed or required.

The RF propagation maps included with this application show the areas of deficient coverage that will be improved as a result of the operation of this facility. The maps show the gaps in service and need for a wireless facility in the vicinity and how this site will function in the network of facilities in the area. The proposed site will increase capacity in the area and provide increased service to the surrounding neighborhoods.

Attachment: Verizon Submittal (1319 : 1200 41st Ave)

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Collocation Agreement

Efforts to collocate were undertaken and collocation opportunities were investigated when identifying the location for this Verizon Wireless facility, but there were none. Therefore, the subject rooftop in Begonia Plaza at 1200 41st Avenue is the primary candidate and proposed location for Verizon Wireless's facility. Due to a lack of knowledge of other wireless telecommunications providers network needs and plans at this location and in the surrounding area, speculation as to the viability of collocation is not possible. Both the landlord and applicant have consented to the current project and do not object to the future collocation of other wireless telecommunications service providers, as long as such collocation is technically feasible. Verizon Wireless will cooperate with the City of Capitola in the event of proposed collocation projects in the future.

Attachment: Verizon Submittal (1319 : 1200 41st Ave)

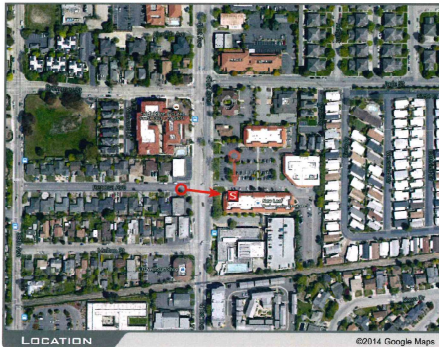


MELTON & 41ST SC 1

1200 41ST AVENUE CAPITOLA CA 95010



VIEW 1



ACCURACY OF PHOTO SIMULATION BASED UPON INFORMATION PROVIDED BY PROJECT APPLICANT.

Attachment: Verizon Submittal (1319 : 1200 41st Ave)

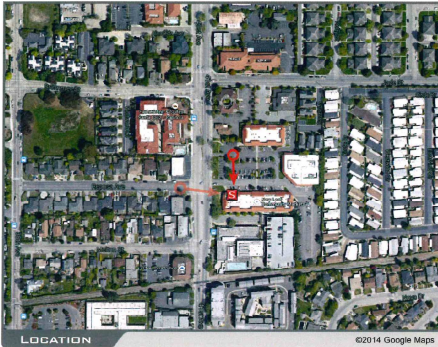


MELTON & 41ST SC 1

1200 41ST AVENUE CAPITOLA CA 95010

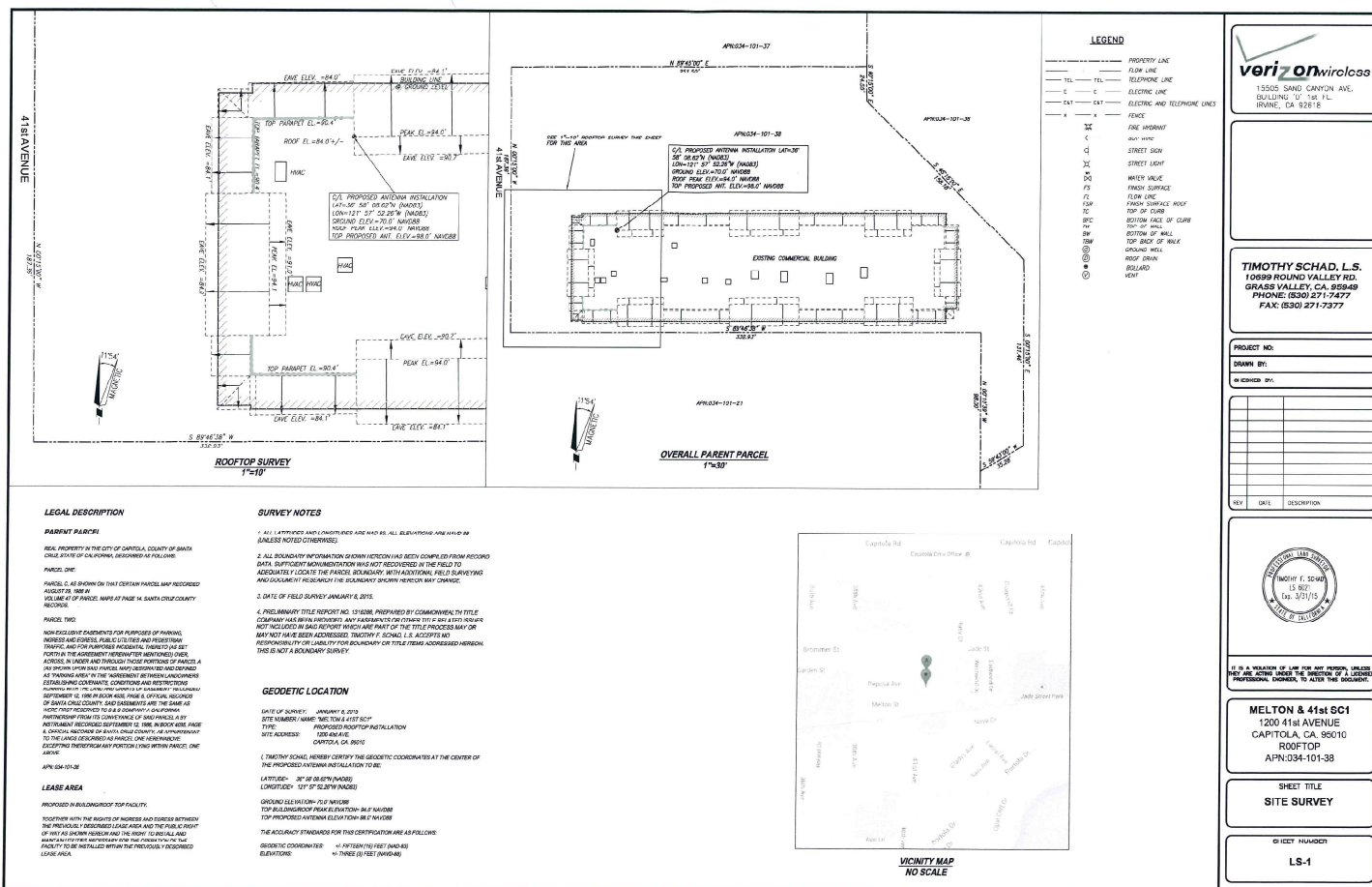


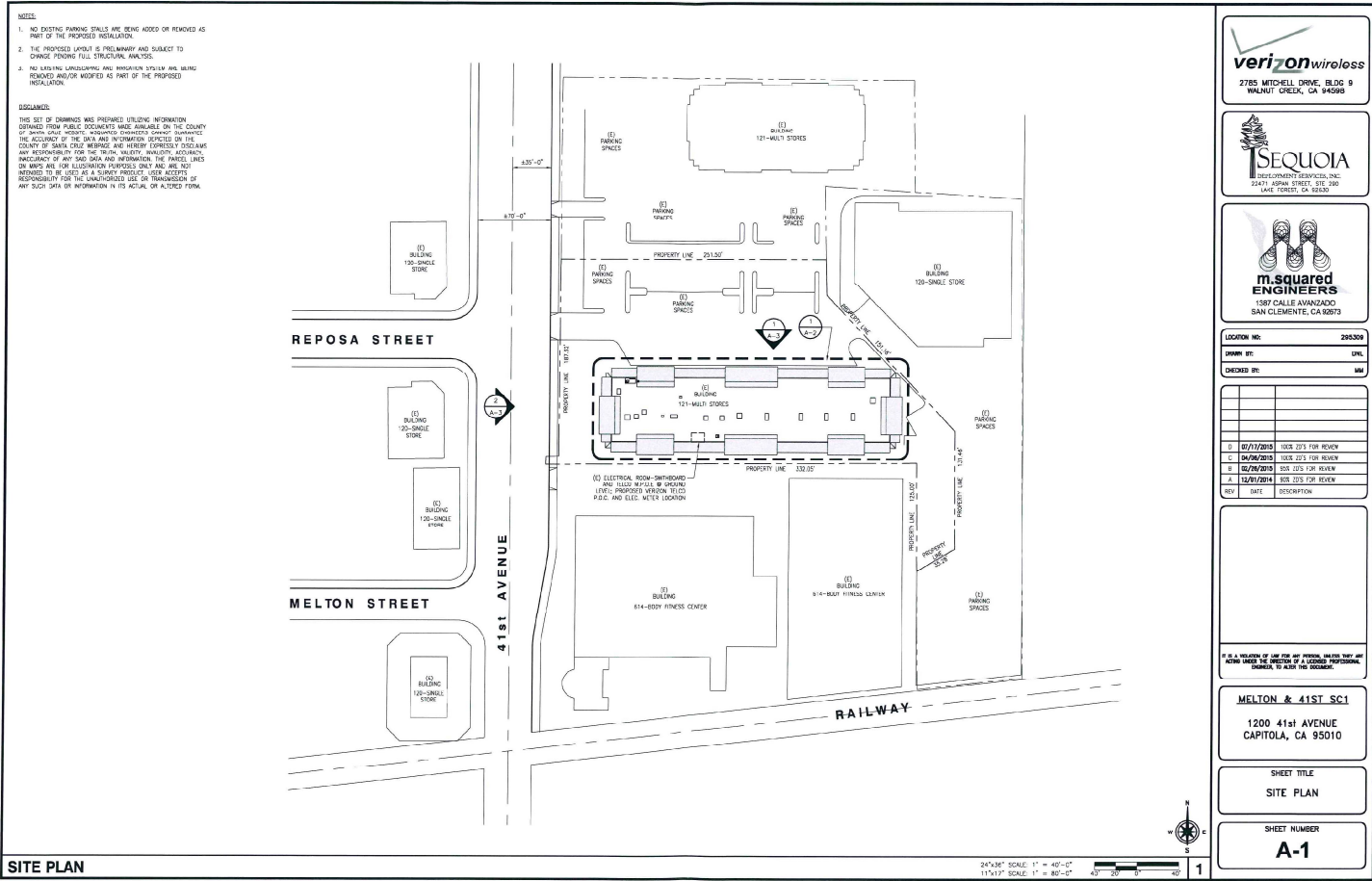
VIEW 2

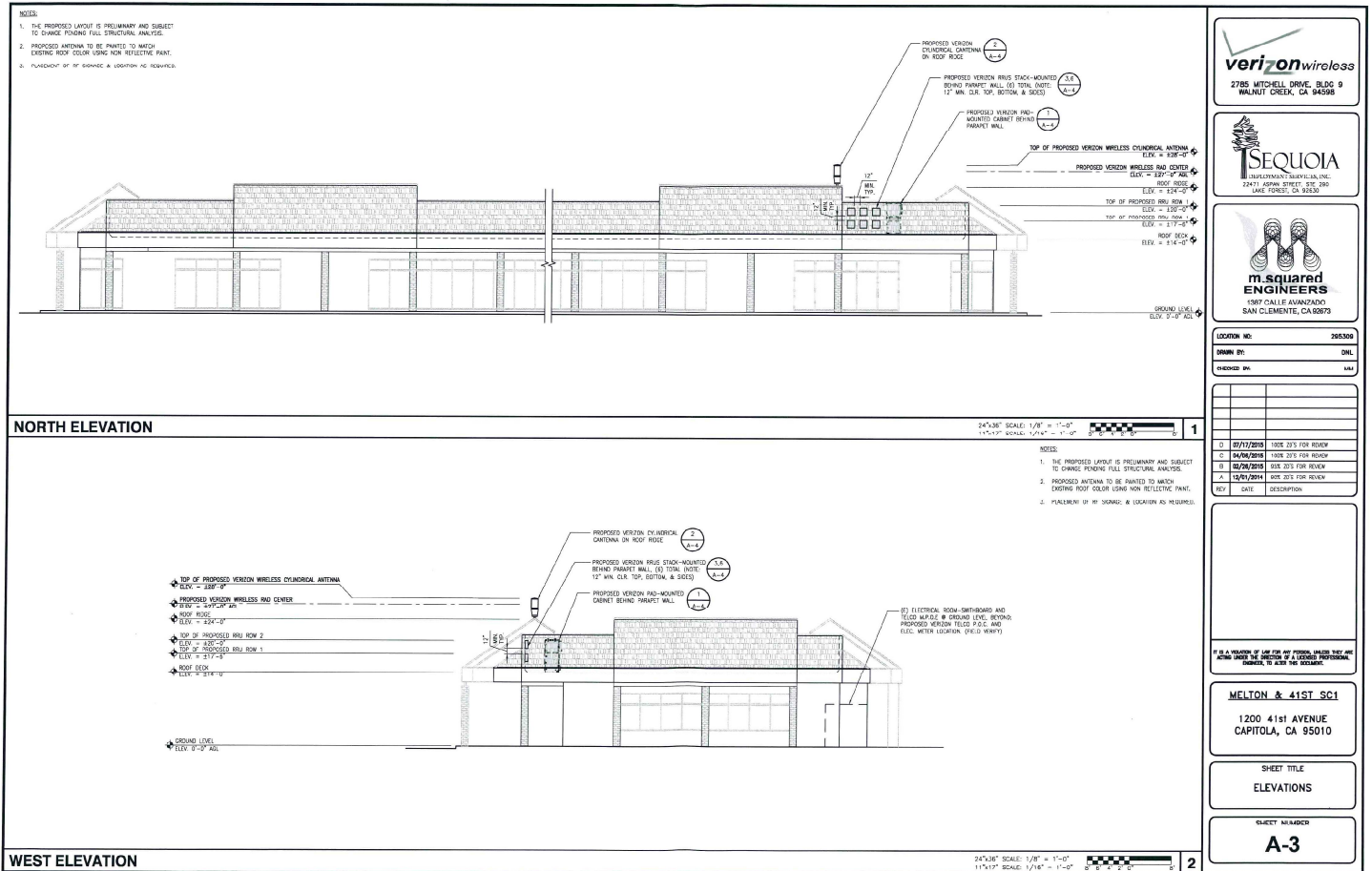


ACCURACY OF PHOTO SIMULATION BASED UPON INFORMATION PROVIDED BY PROJECT APPLICANT.

Attachment: Verizon Submittal (1319 : 1200 41st Ave)







Attachment: Verizon Submittal (1319 : 1200 41st Ave)

<p>NOT USED</p> <p>24"x36" SCALE: NTS 11"x17" SCALE: NTS</p>	<p>9</p> <p>ERICSSON RRUS 12</p> <p>24"x36" SCALE: NTS 11"x17" SCALE: NTS</p>	<p>6</p> <p>ERICSSON RRUS 11</p> <p>24"x36" SCALE: NTS 11"x17" SCALE: NTS</p>	<p>3</p> <p>verizonwireless 2785 MITCHELL DRIVE, BLDG 9 WALNUT CREEK, CA 94598</p> <p>SEQUOIA 1387 CALLE AVANZADO SAN CLEMENTE, CA 95070</p> <p>m.squared ENGINEERS 1387 CALLE AVANZADO SAN CLEMENTE, CA 95070</p> <p>LOCATION NO: 2965309 DRAWN BY: CHL CHECKED BY: MM</p> <table border="1"> <tr> <th>REV</th> <th>DATE</th> <th>DESCRIPTION</th> </tr> <tr> <td>E</td> <td>07/17/2015</td> <td>130K 235 FOR REVIEW</td> </tr> <tr> <td>C</td> <td>04/06/2015</td> <td>130K 235 FOR REVIEW</td> </tr> <tr> <td>E</td> <td>02/26/2015</td> <td>235 235 FOR REVIEW</td> </tr> <tr> <td>A</td> <td>12/01/2014</td> <td>235 235 FOR REVIEW</td> </tr> </table>	REV	DATE	DESCRIPTION	E	07/17/2015	130K 235 FOR REVIEW	C	04/06/2015	130K 235 FOR REVIEW	E	02/26/2015	235 235 FOR REVIEW	A	12/01/2014	235 235 FOR REVIEW
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<p>NOT USED</p> <p>24"x36" SCALE: NTS 11"x17" SCALE: NTS</p>	<p>7</p> <p>NOT USED</p> <p>24"x36" SCALE: NTS 11"x17" SCALE: NTS</p>	<p>4</p> <p>CHARLES (CUBE)</p> <p>24"x36" SCALE: 1/2" = 1'-0" 11"x17" SCALE: 1/4" = 1'-0"</p>	<p>1</p>															



Wireless Telecommunication Facility

Planning Response

Applicant: Verizon Wireless
2785 Mitchell Drive
Walnut Creek, CA 94598

Owner: Begonia Plaza, LLC
PO Box 665
Capitola, CA 95010

Rep.: Sequoia Deployment Services, Inc.
22471 Aspan Street, Suite 290
Lake Forest, CA 92630

Melissa Samarin
(562) 458-1944

Site No.: Melton & 41st Street

Location: 1200 41st Avenue Capitola, CA 95010

Visual Analysis

Verizon Wireless is proposing a small cell facility to include a single antenna and screened equipment cabinet mounted on the rooftop of an existing commercial building. Verizon Wireless designed this site to maintain the least visually obtrusive design possible. The equipment cabinet will be placed on the rooftop behind the parapet and will not be visible from the public right-of-way. The antenna will be mounted on the rooftop ridge, in order to project the service signal above the surrounding ground clutter and will be located close to the edge of the rooftop in order to keep the height of the antenna as low as possible. For every foot the antenna is set back, the height of the antenna will need to be raised an additional foot in order to project the signal over the rooftop and reach the intended network users. If the facility was moved closer to the center of the roof, the site would exceed the City of Capitola's 6 foot maximum of roof elevation and would be much more visually obtrusive.

In order to mitigate further visual impact to the site, Verizon Wireless will place a cylinder over the entire antenna to make its circumference uniform from top to bottom. Within this flush cylinder screening, the facility will appear as a rooftop vent

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Melton & 41st
Verizon Wireless
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structure on the existing building. As discussed at the Architectural and Site Review Committee meeting held on August 12, 2015, adding an additional screen box around the facility will bring greater attention to the site and cannot adequately blend it in with the existing tiled architecture of the building. A cylindrical screen container will reduce the visual impact of the site and ensure the facility remains consistent with building features. Please see attached revised photosimulations.

Verizon Wireless will also paint the cylinder and antenna a color the City of Capitola deems appropriate. Due to the nature of the site on a tiled rooftop and considering the goal is to keep the antenna as least visually impactful as possible, painting the cylinder and antenna to blend in with the surroundings is an effective way to minimize visual impact from the public right-of-way. Verizon Wireless is providing several color options for the antenna with corresponding photosimulations of each color, per the Architectural and Site Review Committee meeting held on August 12, 2015. Please refer to the enclosed material paint sample boards.

The proposed design of a cylindrical antenna facility painted an appropriate color is the least intrusive means to fill the gap in capacity at this location. This design will stealth the facility to look like a rooftop vent to remain consistent with the existing architecture of the building and will reduce the site's visibility from the surrounding area.



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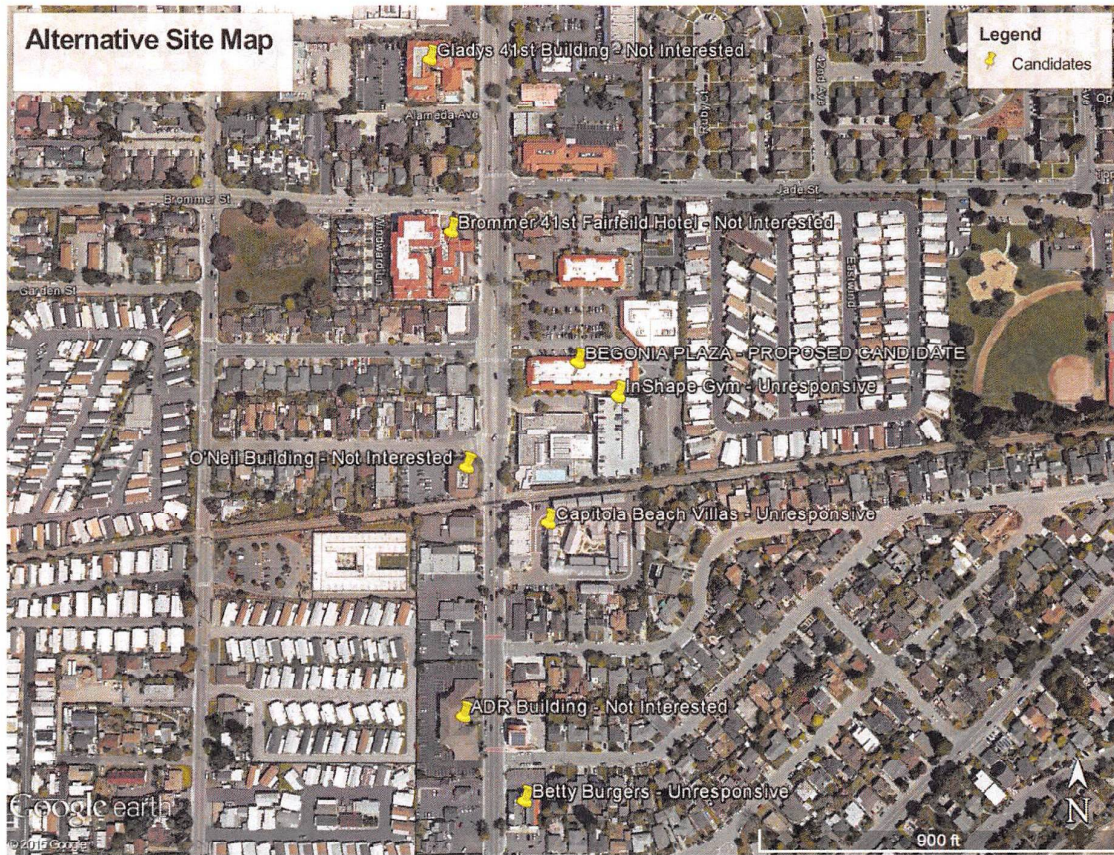
Site No.: Melton & 41st Street

Location: 1200 41st Avenue Capitola, CA 95010

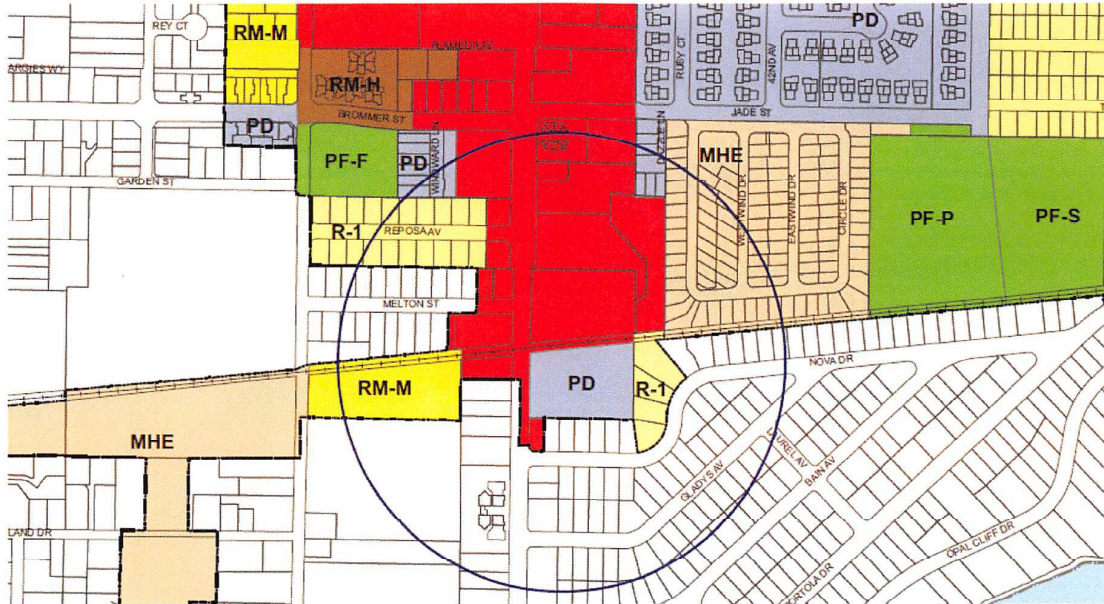
Alternative Site Analysis

Verizon Wireless determines the need for a new wireless telecommunications facility through the collection of network test data, customer comments, projected growth in customer network usage, and the effects of the deployment of new technologies that both improve service and capability of the network. A new site is needed in the area around 41st Avenue in order to maximize the capacity of service to the nearby high density housing and commercial areas. The objective of the site is to provide capacity offload in the surrounding residential and commercial neighborhoods along 41st Avenue in East Santa Cruz and to offload nearby Portola & 40th site to better serve those target communities. The location of this Verizon Wireless proposed facility was selected based on a variety of technical, practical, and scientific criteria.

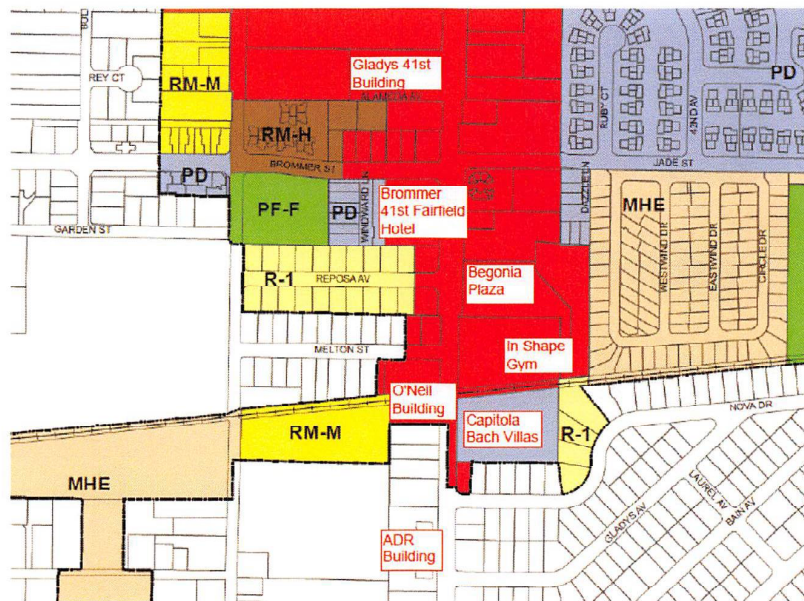
There are no viable, technically feasible, and environmentally equivalent or superior potential alternatives outside the restricted zoning districts or coastal areas that could substantially reduce said significant gap. Verizon Wireless investigated several candidates in this site acquisition process. There are no collocation opportunities available in the vicinity for this project. Several other property owners in the area were contacted about the proposed facility. Please see Alternative Site Map and Zoning Maps below.



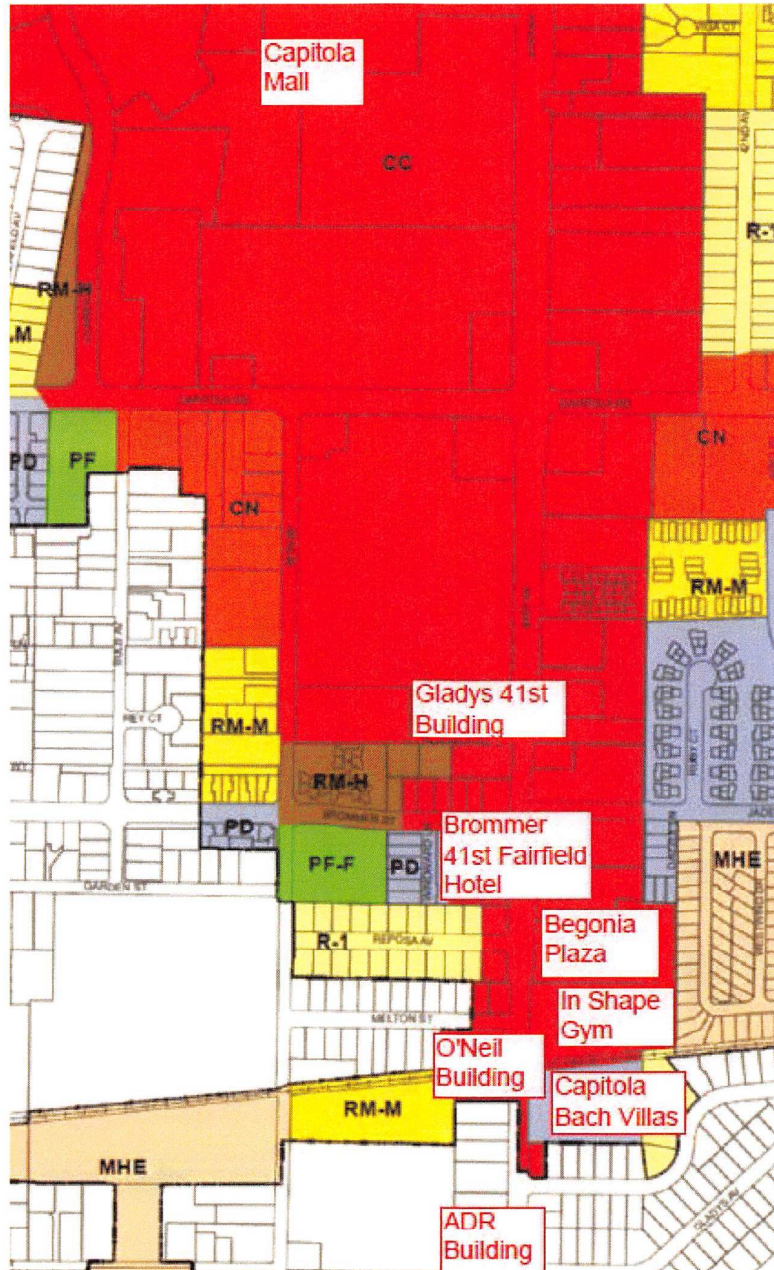
The zoning map below shows the search ring and for proposed facility Melton & 41st SC1.



The zoning map below shows the locations of the candidates considered for proposed facility Melton & 41st SC1.



The zoning map below shows the locations of the candidates, including Capitola Mall, for proposed facility Melton & 41st SC1.



A list of proposed and alternative candidates include:

- **Begonia Plaza - 1200 41st Avenue, Capitola, CA 95010; APN: 034-101-38;** selected candidate; located in a CC Community Commercial zone approximately 115 feet from nearest residential
- **O'Neil Building - 3869 Melton Street, Santa Cruz, CA 95062; APN: 034-163-02;** landlords were contacted and expressed they were not interested on 7/23/2015; located in a CC Community Commercial zone approximately 90 feet from nearest residential
- **ADR Building - 1041 41st Avenue Unit C, Santa Cruz, CA 95062; APN: 032-281-04;** landlords were contacted via phone call and expressed they were not interested on 7/23/2014; located in a C-2 Commercial zone approximately 60 feet from nearest residential
- **Brommer 41st Fairfield Hotel - 1225 41st Avenue, Capitola, CA 95010; APN: 034-611-01;** landlords expressed they were not interested via email on 8/13/2014, due to the many factors and variables involved to consider negotiating a deal; located in a CC Community Commercial zone approximately 90 feet from nearest residential
- **Gladys 41st Building - 1030 41st Avenue, Santa Cruz, CA 95062; APN: 033-112-27;** landlords were contacted multiple times on 7/23/2014, 7/24/2014, 7/25/2015 and 8/5/2015 before finally confirming over the phone that they are not interested on 8/5/2014; located in a CC Community Commercial zone approximately 90 feet from nearest residential
- **Betty Burger - 1000 41st Avenue Unit 1, Santa Cruz, CA 95062; APN: 033-113-38;** landlords were sent a letter of interest on 8/13/2014 but were unresponsive; located in a C-2 Commercial zone approximately 30 feet from nearest residential
- **InShape Gym - 1100 41st Avenue, Capitola, CA 95010; APN: 034-101-21;** landlords were contacted via phone and mailed a letter of interest on 8/14/2014 and 8/25/2014 but were not interested; located in a CC Community Commercial zone approximately 115 feet from nearest residential
- **Capitola Beach Villas - 1066 41st Avenue, Capitola, CA 95010; APN: 034-711-17;** attempted to reach landlords via phone and 'contact us' email on website on 8/14/2014, but phone number seemed disconnected and they were unresponsive; located in a PD Planned Development zone approximately 60 feet from nearest residential
- **Capitola Mall - 1855 41st Avenue, Capitola, CA 95010; APN: 034-261-07, -34, -35, -36, -37, -38, -40, -51, -52, & -53;** Capitola Mall is outside of the intended target search ring and there is an existing site Live Oak across from the Capitola Mall. The objective of site Melton & 41st is to offload existing

Portola Rd and 40th site. A site at Capitola Mall would be very close to existing site Live Oak and, because these are small cell facilities, would not be able to effectively offload the Portola Dr & 40th site to the south. A site at Capitola Mall would not serve radiofrequency needs and would not effectively close the gap in the network.

The alternative sites were not deemed viable from a leasing standpoint, due to landlord unresponsiveness or disinterest in negotiating a deal with Verizon Wireless. Begonia Plaza is Verizon Wireless's primary and selected candidate. The landlord of the subject site at Begonia Plaza expressed interest in leasing the space to Verizon Wireless and has approved the location and construction of a wireless facility on the building. From a location standpoint, Begonia Plaza lies in the center of the intended search ring and will meet capacity objectives in the target area.

Apart from the non-cooperation from landlords that rendered other candidates unavailable, Begonia Plaza is the best candidate in terms of maintaining the greatest setback from nearby residential and restricted zoning districts. Begonia Plaza is setback comparatively furthest from residential areas and restricted zones of all investigated candidates. The search ring and all candidates investigated in the site acquisition process are located within 300 feet of residences and/or mobile homes. The search ring was along 41st Avenue between Jade Street and Portola Drive and encompasses a commercial strip along 41st Avenue sandwiched between restricted zoning districts on all sides (MHE Mobile Home Exclusive, R-1 Single Family Residence, and PD Planned Development homes to the east and RM-H Multiple Family High Density, R-1 Single Family Residence, RM-M Multiple Family Medium Density, and PD Planned Development homes to the west). Refer to Zoning Map. Verizon Wireless focused on the commercial properties in this area for its site to avoid having to develop in a residential zone, while still reaching target residential users. Given the location of the search ring and gap in capacity and surrounding zones, it was inevitable that the facility fall within 300 feet of a residence. Given these conditions, Begonia Plaza is the best candidate to offer greatest setback from residences as the building itself maintains an approximately 115 foot setback from residential, and the location of the facility will be setback on the west side of the building to maintain an even greater setback, approximately 200 feet. There will not be any new ground disturbance and the facility will be painted and designed to blend into the existing building, per Planning Department approval.



Wireless Telecommunication Facility

Planning Response

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Site No.: Melton & 41st Street

Location: 1200 41st Avenue Capitola, CA 95010

Capacity versus Coverage

The proposed wireless communication facility substantially reduces a significant gap in Verizon Wireless's network. The proposed site is a capacity site intended to provide capacity offload in the residential and commercial neighborhoods along 41st Avenue in Capitola and East Santa Cruz and to offload nearby Portola & 40th site to better serve these nearby target residential communities. A capacity site increases the bandwidth of service in an area for 4G data traffic, downloading, streaming, and signal. This facility is not a coverage site; it will provide additional, increased service and data capacity usage in an area already served by the network. When a macro coverage site sees maximum usage, during peak times of day for instance, capacity sites strengthen network service to meet user demand and capacity needs. Because capacity sites are intended to support existing coverage, small cell antennas do not project as durable a signal as macro site antennas. Therefore, small cell capacity sites must be located near intended target users, which often means in and near residential neighborhoods. Please see enclosed Necessity Case for further site specific information.

The demand for increased capacity is generated by the increasing number of people that use wireless telecommunications services, not only for phone calls, but for other

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 Melton & 41st
 Verizon Wireless
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types of communication, such as texting, downloading, streaming, video conferencing, as well as to receive all sorts of information and entertainment. In many cases wireless phones and devices have replaced 'traditional' landline phones and have become the primary device and service used for communication, including contacting emergency services in the form of 911 calls. Verizon Wireless is committed to providing quality and reliable service to meet this user demand.

Alternative Site Analysis

Verizon Wireless determines the need for a new wireless telecommunications facility through the collection of network test data, customer comments, projected growth in customer network usage, and the effects of the deployment of new technologies that both improve service and capability of the network. A new site is needed in the area around 41st Avenue in order to maximize the capacity of service to the nearby high density housing and commercial areas. The objective of the site is to provide capacity offload in the surrounding residential and commercial neighborhoods along 41st Avenue in East Santa Cruz and to offload nearby Portola & 40th site to better serve those target communities. The location of this Verizon Wireless proposed facility was selected based on a variety of technical, practical, and scientific criteria.

There are no viable, technically feasible, and environmentally equivalent or superior potential alternatives outside the restricted zoning districts or coastal areas that could substantially reduce said significant gap. Verizon Wireless investigated several candidates in this site acquisition process. There are no collocation opportunities available in the vicinity for this project. Several other property owners in the area were contacted about the proposed facility. Please see attached Alternative Site Map and Zoning Maps.

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September 24, 2015
 Melton & 41st
 Verizon Wireless
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September 24, 2015
Melton & 41st
Verizon Wireless
Page 4 of 4

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Site Design

The proposed facility includes a single cantenna and screened equipment cabinet mounted on the rooftop of an existing commercial building. Verizon Wireless designed this site to comply with City of Capitola code as best as possible and maintain the least visually obtrusive design possible. The antenna will be mounted on the rooftop ridge, in order to project the service signal above the surrounding ground clutter. The reason the cantenna is located so close to the edge of the rooftop is that for every foot the antenna is set back, the height of the antenna would need to be raised an additional foot in order to project the signal over the rooftop and reach the intended audience. If the facility was moved to the center of the roof, the site would exceed the City of Capitola's 6 foot maximum of roof elevation and would become much more visually obtrusive.

In order to mitigate further visual impact to the site, Verizon Wireless will paint the antenna any color the City of Capitola deems appropriate. Please refer to material paint sample board.

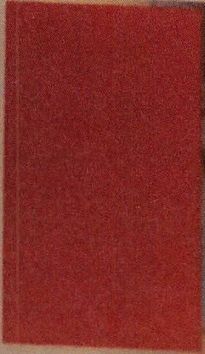
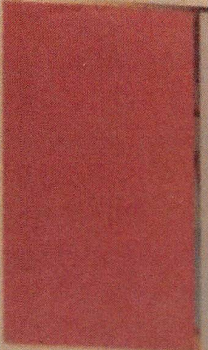
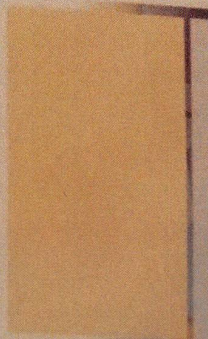









Site Removal Process

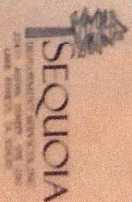
Please refer to page 6 of redacted lease with removal clause and information.

Attachment: Verizon Submittal (1319 : 1200 41st Ave)



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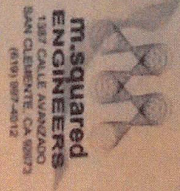
 <p>Carrol Stick 240B-7</p>	 <p>Medium Terracotta 210B-4</p>	 <p>Lightweight Beige 330C-2</p>
		
 <p>Black Suede S-H-790</p>	 <p>Sparrow 780F-4</p>	 <p>Sterling 780E-3</p>
		



SEQUOIA
LANDSCAPE ARCHITECTS
2000 RIVER STREET, SUITE 200
SAN FRANCISCO, CA 94109
(415) 774-1100

Carrier:
Site Name:
Site Address:

Verizon Wireless
Melton & 41st SC1
1200 41st Avenue
Capitola, CA 95010



m.squared
ENGINEERS
1387 CALLE AVANZADO
SAN CLEMENTE, CA 95072
(619) 997-4012

**Verizon Wireless • Proposed Base Station (Site No. 295309 “Melton and 41st SC1”)
1200 41st Avenue • Capitola, California**

Statement of Hammett & Edison, Inc., Consulting Engineers

The firm of Hammett & Edison, Inc., Consulting Engineers, has been retained on behalf of Verizon Wireless, a personal wireless telecommunications carrier, to evaluate the base station (Site No. 295309 “Melton and 41st SC1”) proposed to be located at 1200 41st Avenue in Capitola, California, for compliance with appropriate guidelines limiting human exposure to radio frequency (“RF”) electromagnetic fields.

Executive Summary

Verizon proposes to install a directional panel antenna above the roof of the retail building located at 1200 41st Avenue in Capitola. The proposed operation will comply with the FCC guidelines limiting public exposure to RF energy.

Prevailing Exposure Standards

The U.S. Congress requires that the Federal Communications Commission (“FCC”) evaluate its actions for possible significant impact on the environment. A summary of the FCC’s exposure limits is shown in Figure 1. These limits apply for continuous exposures and are intended to provide a prudent margin of safety for all persons, regardless of age, gender, size, or health. The most restrictive FCC limit for exposures of unlimited duration to radio frequency energy for several personal wireless services are as follows:

Wireless Service	Frequency Band	Occupational Limit	Public Limit
Microwave (Point-to-Point)	5–80 GHz	5.00 mW/cm ²	1.00 mW/cm ²
WiFi (and unlicensed uses)	2–6	5.00	1.00
BRS (Broadband Radio)	2,600 MHz	5.00	1.00
WCS (Wireless Communication)	2,300	5.00	1.00
AWS (Advanced Wireless)	2,100	5.00	1.00
PCS (Personal Communication)	1,950	5.00	1.00
Cellular	870	2.90	0.58
SMR (Specialized Mobile Radio)	855	2.85	0.57
700 MHz	700	2.40	0.48
[most restrictive frequency range]	30–300	1.00	0.20

General Facility Requirements

Base stations typically consist of two distinct parts: the electronic transceivers (also called “radios” or “channels”) that are connected to the traditional wired telephone lines, and the passive antennas that send the wireless signals created by the radios out to be received by individual subscriber units. The transceivers are often located at ground level and are connected to the antennas by coaxial cables. A small antenna for reception of GPS signals is also required, mounted with a clear view of the sky.



HAMMETT & EDISON, INC.
CONSULTING ENGINEERS
SAN FRANCISCO

FIG4
Page 1 of 4

Attachment: Verizon Submittal (1319 : 1200 41st Ave)

**Verizon Wireless • Proposed Base Station (Site No. 295309 “Melton and 41st SC1”)
1200 41st Avenue • Capitola, California**

Because of the short wavelength of the frequencies assigned by the FCC for wireless services, the antennas require line-of-sight paths for their signals to propagate well and so are installed at some height above ground. The antennas are designed to concentrate their energy toward the horizon, with very little energy wasted toward the sky or the ground. This means that it is generally not possible for exposure conditions to approach the maximum permissible exposure limits without being physically very near the antennas.

Computer Modeling Method

The FCC provides direction for determining compliance in its Office of Engineering and Technology Bulletin No. 65, “Evaluating Compliance with FCC-Specified Guidelines for Human Exposure to Radio Frequency Radiation,” dated August 1997. Figure 2 describes the calculation methodologies, reflecting the facts that a directional antenna’s radiation pattern is not fully formed at locations very close by (the “near-field” effect) and that at greater distances the power level from an energy source decreases with the square of the distance from it (the “inverse square law”). The conservative nature of this method for evaluating exposure conditions has been verified by numerous field tests.

Site and Facility Description

Based upon information provided by Verizon, including zoning drawings by M.Squared Engineers, dated February 26, 2015, it is proposed to install one omnidirectional JMA Wireless CYL-X7CAP-2 antenna above the roof of the single-story retail building located at 1200 41st Avenue in Capitola. The antenna would be mounted at an effective height of about 27 feet above ground, 14 feet above the main roof, 3 feet above the top of a sloped roof section, near the northwest corner of the building. For the limited purposes of this study, it is assumed that no downtilt would be employed and that the maximum effective radiated power in any direction would be 2,260 watts, representing simultaneous operation at 1,580 watts for AWS and 680 watts for 700 MHz service. There are reported no other wireless telecommunications base stations at the site or nearby.

Study Results

For a person anywhere at ground, the maximum RF exposure level due to the proposed Verizon operation is calculated to be 0.075 mW/cm², which is 9.9% of the applicable public exposure limit. The maximum calculated level at any nearby building* is 5.5% of the public exposure limit. The maximum calculated level at the second-floor elevation of any nearby residence† is 1.9% of the public exposure limit. It should be noted that these results include several “worst-case” assumptions and therefore are expected to overstate actual power density levels from the proposed operation. Levels

* Located at least 120 feet away, based on photographs from Google Maps.

† Located at least 230 feet away, based on photographs from Google Maps.



**Verizon Wireless • Proposed Base Station (Site No. 295309 “Melton and 41st SC1”)
1200 41st Avenue • Capitola, California**

may exceed the applicable FCC exposure limit on the adjacent sloped roof section, in front of the antenna.

Recommended Mitigation Measures

Due to its mounting location and height, the Verizon antenna would not be accessible to unauthorized persons, and so no mitigation measures are necessary to comply with the FCC public exposure guidelines. To prevent occupational exposures in excess of the FCC guidelines, it is recommended that appropriate RF safety training, to include review of personal monitor use and lockout/tagout procedures, be provided to all authorized personnel who have access to the roof, including employees and contractors of Verizon and of the property owner. No access within 15 feet directly in front of the antenna itself, such as might occur during certain maintenance activities on the sloped roof, should be allowed while the base station is in operation, unless other measures can be demonstrated to ensure that occupational protection requirements are met. It is recommended that explanatory signs[‡] be posted at the roof access hatch and on the antenna, readily visible from any angle of approach to persons who might need to work within that distance.

Conclusion

Based on the information and analysis above, it is the undersigned’s professional opinion that operation of the base station proposed by Verizon Wireless at 1200 41st Avenue in Capitola, California, will comply with the prevailing standards for limiting public exposure to radio frequency energy and, therefore, will not for this reason cause a significant impact on the environment. The highest calculated level in publicly accessible areas is much less than the prevailing standards allow for exposures of unlimited duration. This finding is consistent with measurements of actual exposure conditions taken at other operating base stations.

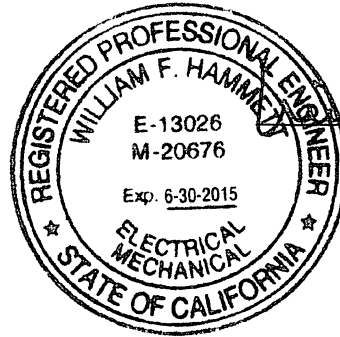
[‡] Signs should comply with OET-65 color, symbol, and content recommendations. Contact information should be provided (*e.g.*, a telephone number) to arrange for access to restricted areas. The selection of language(s) is not an engineering matter, and guidance from the landlord, local zoning or health authority, or appropriate professionals may be required.



**Verizon Wireless • Proposed Base Station (Site No. 295309 "Melton and 41st SC1")
1200 41st Avenue • Capitola, California**

Authorship

The undersigned author of this statement is a qualified Professional Engineer, holding California Registration Nos. E-13026 and M-20676, which expire on June 30, 2015. This work has been carried out under his direction, and all statements are true and correct of his own knowledge except, where noted, when data has been supplied by others, which data he believes to be correct.



William F. Hammett
William F. Hammett, P.E.
707/996-5200

April 8, 2015

Attachment: Verizon Submittal (1319 : 1200 41st Ave)



HAMMETT & EDISON, INC.
CONSULTING ENGINEERS
SAN FRANCISCO

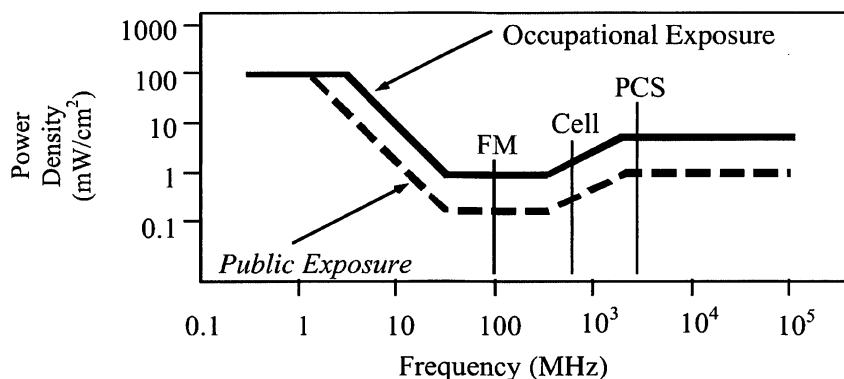
F1G4
Page 4 of 4

FCC Radio Frequency Protection Guide

The U.S. Congress required (1996 Telecom Act) the Federal Communications Commission ("FCC") to adopt a nationwide human exposure standard to ensure that its licensees do not, cumulatively, have a significant impact on the environment. The FCC adopted the limits from Report No. 86, "Biological Effects and Exposure Criteria for Radiofrequency Electromagnetic Fields," published in 1986 by the Congressionally chartered National Council on Radiation Protection and Measurements ("NCRP"). Separate limits apply for occupational and public exposure conditions, with the latter limits generally five times more restrictive. The more recent standard, developed by the Institute of Electrical and Electronics Engineers and approved as American National Standard ANSI/IEEE C95.1-2006, "Safety Levels with Respect to Human Exposure to Radio Frequency Electromagnetic Fields, 3 kHz to 300 GHz," includes similar limits. These limits apply for continuous exposures from all sources and are intended to provide a prudent margin of safety for all persons, regardless of age, gender, size, or health.

As shown in the table and chart below, separate limits apply for occupational and public exposure conditions, with the latter limits (in *italics* and/or dashed) up to five times more restrictive:

Frequency Applicable Range (MHz)	Electromagnetic Fields (<i>f</i> is frequency of emission in MHz)					
	Electric Field Strength (V/m)		Magnetic Field Strength (A/m)		Equivalent Far-Field Power Density (mW/cm ²)	
0.3 – 1.34	614	<i>614</i>	1.63	<i>1.63</i>	100	<i>100</i>
1.34 – 3.0	614	<i>823.8/f</i>	1.63	<i>2.19/f</i>	100	<i>180/f²</i>
3.0 – 30	1842/f	<i>823.8/f</i>	4.89/f	<i>2.19/f</i>	900/f ²	<i>180/f²</i>
30 – 300	61.4	<i>27.5</i>	0.163	<i>0.0729</i>	1.0	<i>0.2</i>
300 – 1,500	$3.54\sqrt{f}$	<i>$1.59\sqrt{f}$</i>	$\sqrt{f}/106$	<i>$\sqrt{f}/238$</i>	$f/300$	<i>$f/1500$</i>
1,500 – 100,000	137	<i>61.4</i>	0.364	<i>0.163</i>	5.0	<i>1.0</i>



Higher levels are allowed for short periods of time, such that total exposure levels averaged over six or thirty minutes, for occupational or public settings, respectively, do not exceed the limits, and higher levels also are allowed for exposures to small areas, such that the spatially averaged levels do not exceed the limits. However, neither of these allowances is incorporated in the conservative calculation formulas in the FCC Office of Engineering and Technology Bulletin No. 65 (August 1997) for projecting field levels. Hammett & Edison has built those formulas into a proprietary program that calculates, at each location on an arbitrary rectangular grid, the total expected power density from any number of individual radio sources. The program allows for the description of buildings and uneven terrain, if required to obtain more accurate projections.



HAMMETT & EDISON, INC.
CONSULTING ENGINEERS
SAN FRANCISCO

FCC Guidelines
Figure 1

RFR.CALC™ Calculation Methodology

Assessment by Calculation of Compliance with FCC Exposure Guidelines

The U.S. Congress required (1996 Telecom Act) the Federal Communications Commission (“FCC”) to adopt a nationwide human exposure standard to ensure that its licensees do not, cumulatively, have a significant impact on the environment. The maximum permissible exposure limits adopted by the FCC (see Figure 1) apply for continuous exposures from all sources and are intended to provide a prudent margin of safety for all persons, regardless of age, gender, size, or health. Higher levels are allowed for short periods of time, such that total exposure levels averaged over six or thirty minutes, for occupational or public settings, respectively, do not exceed the limits.

Near Field.

Prediction methods have been developed for the near field zone of panel (directional) and whip (omnidirectional) antennas, typical at wireless telecommunications base stations, as well as dish (aperture) antennas, typically used for microwave links. The antenna patterns are not fully formed in the near field at these antennas, and the FCC Office of Engineering and Technology Bulletin No. 65 (August 1997) gives suitable formulas for calculating power density within such zones.

For a panel or whip antenna, power density $S = \frac{180}{\theta_{BW}} \times \frac{0.1 \times P_{net}}{\pi \times D \times h}$, in mW/cm²,

and for an aperture antenna, maximum power density $S_{max} = \frac{0.1 \times 16 \times \eta \times P_{net}}{\pi \times h^2}$, in mW/cm²,

where θ_{BW} = half-power beamwidth of the antenna, in degrees, and

P_{net} = net power input to the antenna, in watts,

D = distance from antenna, in meters,

h = aperture height of the antenna, in meters, and

η = aperture efficiency (unitless, typically 0.5-0.8).

The factor of 0.1 in the numerators converts to the desired units of power density.

Far Field.

OET-65 gives this formula for calculating power density in the far field of an individual RF source:

$$\text{power density } S = \frac{2.56 \times 1.64 \times 100 \times \text{RFF}^2 \times \text{ERP}}{4 \times \pi \times D^2}, \text{ in mW/cm}^2,$$

where ERP = total ERP (all polarizations), in kilowatts,

RFF = relative field factor at the direction to the actual point of calculation, and

D = distance from the center of radiation to the point of calculation, in meters.

The factor of 2.56 accounts for the increase in power density due to ground reflection, assuming a reflection coefficient of 1.6 (1.6 x 1.6 = 2.56). The factor of 1.64 is the gain of a half-wave dipole relative to an isotropic radiator. The factor of 100 in the numerator converts to the desired units of power density. This formula has been built into a proprietary program that calculates, at each location on an arbitrary rectangular grid, the total expected power density from any number of individual radiation sources. The program also allows for the description of uneven terrain in the vicinity, to obtain more accurate projections.





Verizon Wireless Cell Site Necessity Case – Melton & 41st SC1

Prepared by Verizon Wireless
RF Engineering

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Attachment: Verizon Submittal (1319 : 1200 41st Ave)

**Introduction:**

There are two main drivers that prompt the creation of a cell site project, coverage and/or capacity. Most sites provide a mixture of both, but increasingly some sites are pure capacity.

Coverage is the need for expanded service often requested by our customers or emergency services personnel. While this initially meant providing coverage in vehicles, as usage patterns have shifted this now means improving coverage inside of buildings and in residential areas.

Capacity is the need for more bandwidth of service. In the simplest form this means a cell site can handle a limited number of voice calls, data mega bites, or total number of active users. When any one of these limits are met the user experience within the coverage area of that cell quickly starts to degrade during the busier hours of use.

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Coverage is best shown in coverage maps. We use tools that take into account terrain, vegetation, building types, and cell site specifics to show predictions of the existing coverage and what we expect to see with a given cell site. The prediction models make some assumptions such as that the antennas are above the nearby ground clutter (Buildings and vegetation). Once the antennas fall below the ground clutter the models become inaccurate and cannot tell that specific trees or buildings are blocking the RF signal. Due to this, modeling of tower height requirements is frequently not accurate and misleading.

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Capacity is best shown in graphs of usage growth and projected exhaustion. We utilize sophisticated programs to model current usage growth and project it into the future to determine when additional capacity will be required. The algorithms that predict capacity growth output numbers that are not easily explained. Since it takes 2-3 years on average to complete a cell site project, we have to be looking about 3 years into the future to meet future customer demand.

While data capacity may not seem urgent, beginning in 2014 voice traffic began to migrate from the older 3G voice technology to 4G VoLTE (Voice over IP). This will add additional load to the 4G data network. Since voice is delay sensitive, exhaustion of the data network can cause degradation of voice calls including 911 calls.

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“Why do you need a site here???”

A good capacity cell will be close to the user population and have the traffic evenly spread around the site. When we cannot get a location that accomplishes being close to the customers and central to the usage, we end up having to build additional cells to meet the demands for service. Capacity sites are generally lower in height than a coverage site with a full cell needing to be above the ground clutter (buildings, trees, & etc.) and a small cell being one that is at or below the ground clutter.

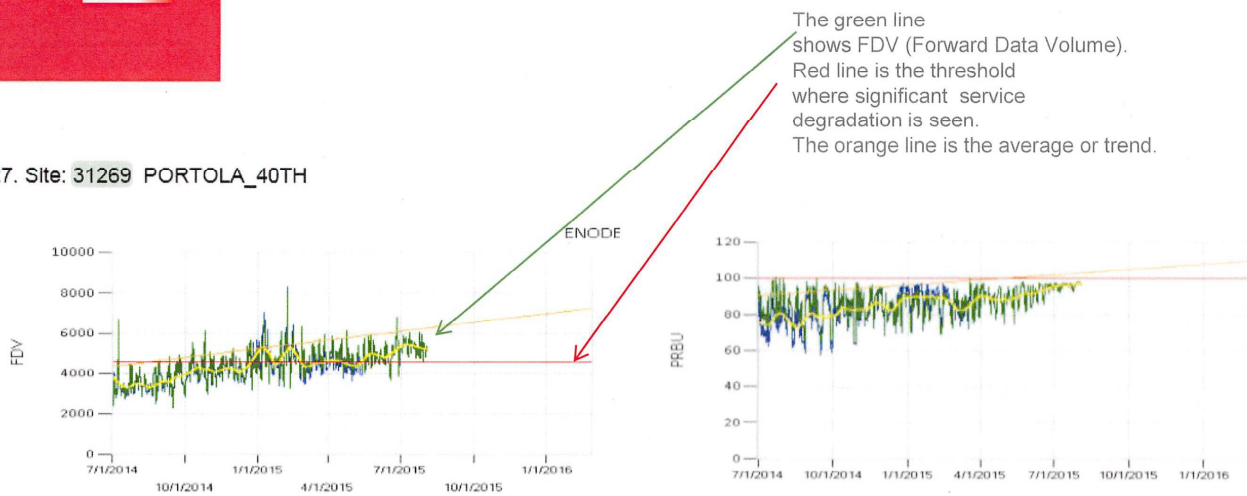
Where our customers use their wireless devices continues to evolve. While we once needed to cover highways and business districts, we are seeing increasing issues with high growth in residential areas. Current statistics show that about 1 of 3 American households no longer have a landline phone. To serve this need we have to increase the cells we have in or very near residential areas.

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Need Case for: Melton & 41st SC1

227. Site: 31269 PORTOLA_40TH



Summary: These graphs for the Portola & 40th cell site shows data volume is high and at exhaustion..

The graph above left shows FDV (**Forward Data Volume**). **FDV** is the total mega bytes of data flowing through the cell. It can rise just above the red line, then reaches a limit and data delivery is delayed. With voice traffic transitioning from the old 3G technology to the new 4G technology we will see further increases in 4G data traffic. Since the 4G network will be carrying 911 calls and is used extensively in support of police and fire emergency response it is critical that we do not allow service quality to degrade. Portola & 40th St reached the red line on or around August of 2014 according to the average. Data has been severely limited since.

The graph above right shows the **PRBU** (Physical Resource Block per User). At or around May of this year, the average of this measurement crossed the red line. This again shows in another way that the user experience is already impacted here.

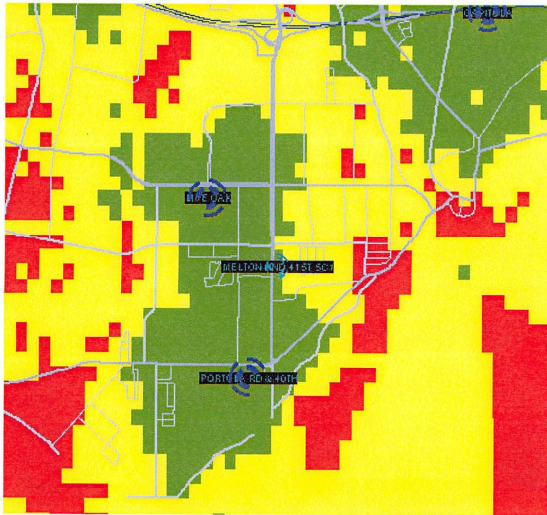
Confidential and proprietary materials for authorized Verizon personnel and outside agencies only. Use, disclosure or distribution of this material is not permitted to any unauthorized persons or third parties except by written agreement.

Attachment: Verizon Submittal (1319 : 1200 41st Ave)

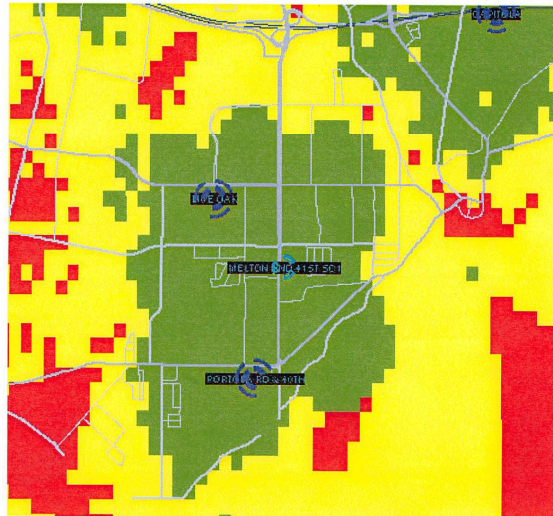


Need Case for: Melton & 41st SC1

Existing Coverage



Proposed Coverage



The proposed Melton & 41st SC1 site is a capacity site designed to provide data offload for Portola & 40th. The primary objective of this site is to support the rapid growth in 4G data use we are seeing in this area by providing a new small site to serve this residential area.

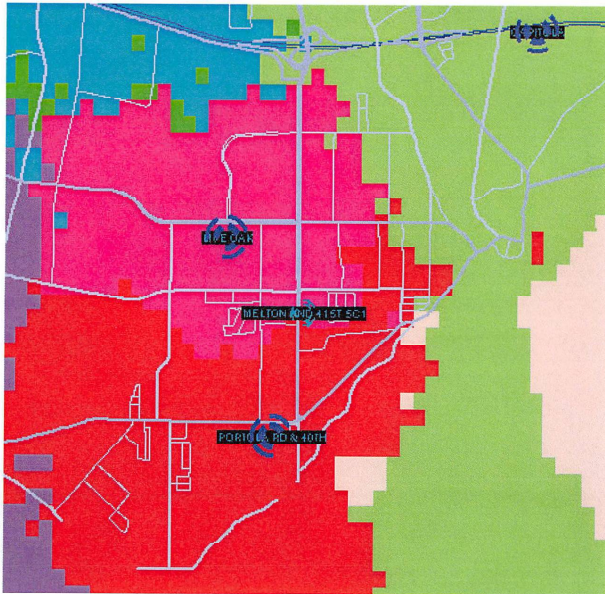
Green=Good In-Building, Yellow= Good In-Vehicle, Red=Good on-Street.

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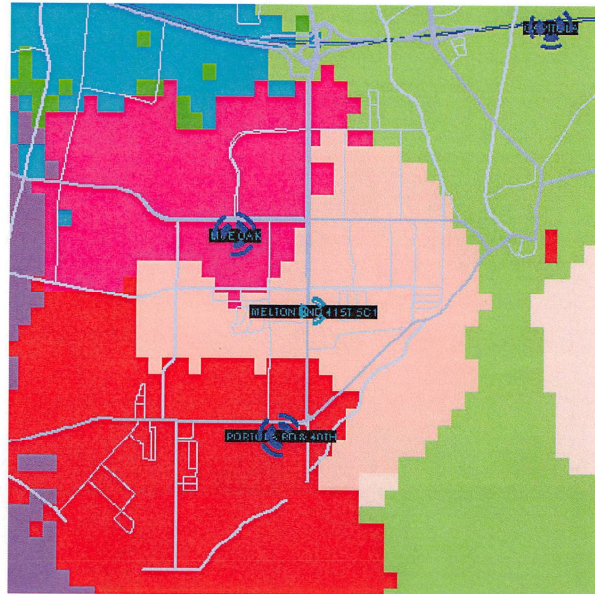


Need Case for: Melton & 41st SC1

Best Server without Melton & 41st SC1



Best Server with Melton & 41st SC1



The plots above show the best server or sectors that cover this area. The site will offload the area that Portola & 40th covers to the Northeast. This project will improve service by providing necessary capacity to support the growth we are seeing in residential 4G data traffic within this area with the new cell also shown on the right in red.

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Attachment: Verizon Submittal (1319 : 1200 41st Ave)

Site Planning and Zoning Summary

The following outlines the zoning code requirements for new wireless antenna development in the CC (Community Commercial) Zoning District relative to the application.

General Requirements (17.98.080)

- 17.98.080 - B: Restricted Zoning Districts: prohibited within 500 feet (and also 300 feet) of the following districts:
 - Single-Family Residential
 - Multi-Family Residential
 - Mobile Home
 - Commercial residential
 - Parks and open space
 - Transient rental use overlay

Does not comply = the proposed wireless facility is located within the required 500 foot setback area of restricted zoning districts. Specifically, the proposal is only 238 feet from Reposa Ave residences to the west, only 400 feet from the Nova Dr residences to the south, only 470 feet from the 38th Ave living facility to the south-west, only 360 feet from the mobile home park to the east, and only 330 feet from the Planned (residential) Developments to the north and south of the proposal.

- 17.98.080 – C: Restricted Coastal Areas – School Areas: “absolutely prohibited in areas that lie within one thousand feet of the coastline [...] and five hundred feet of a school property.”

Complies = the proposal is located roughly 1,800 feet from the coast line, and over 1,000 feet to the nearest school (Opal Cliff School).

- 17.98.080 – E: Compliance with FCC Regulations:

Complies = applicant submitted an engineering report verifying that they will comply.

- 17.98.080 – F: Co-location: when feasible, co-location onto existing sites is required

Complies = applicant submitted a statement to why co-location would not work with Verizon’s proposal to close a coverage gap.

- 17.98.080 – G: Visual Effect: facilities located so as to minimized their visual impact as much as possible

Does Not Comply = staff feels that the applicant can take additional measures to make the proposal stealth and to integrate the proposal to the existing architectural character of the building.

- 17.98.080 – H: Landscaping:

Not required. No landscaping proposed to be added or removed with the roof-top antenna.

Location Standards (17.98.090)

- 17.98.090 – A: Location preferences:
 1. Industrial or Commercial Sites
 2. Attached to existing structures
 3. Not highly visible from visually sensitive areas

Does not comply = although it complies with preferences 1 and 2, it does not comply with number 3. The site is visible from the adjacent 41st Avenue roadway.

- 17.98.090 – B: In no event may a wireless facility be located within three hundred feet of a restricted zoning district.

Does not comply = the proposal is located within 300 feet of the residences on Reposa Avenue.

Preferred antenna siting and mounting techniques (17.98.100)

- Techniques are listed in order of preference:
 - Façade-mounted
 - Roof-mounted
 - Ground-mounted
 - Freestanding monopole

Does not comply = the proposal is for a roof-mounted wireless antenna facility, making it less preferred than façade-mounted facilities.

Roof-mounted wireless telecommunication facilities (17.98.120)

- 17.98.120 – A: Roof-mounted antennas are discouraged on residential buildings

Complies = the application is proposing an antenna on a commercial building, not residential.

- 17.98.120 – B: Shall not significantly affect scenic views

Complies = the proposal does not significantly affect scenic views.

- 17.98.120 – C: Visual Analysis of height: views of facility must be screened from residences, sensitive land uses, schools, and major streets.

Does not comply = design modifications are required to protect views. The proposed facility will be visible from 41st Avenue (aka a “major street”).

- 17.98.120 – D: Location on roof: shall be located to minimize visual impacts and designed to blend with existing architecture.

Does not comply = the design could incorporate a faux chimney or other screen device so that the proposal meshes well with the existing commercial buildings.

- 17.98.120 – E: Painted with non-reflective finish:

Complies = applicant has presented material board of color options for proposal. Staff will require any painted finish to have a non-reflective matte finish in the conditions of approval.

- 17.98.120 – F: Rooftop equipment shall be setback so as not to be viewed from street.

Complies = the appurtenant equipment will be setback on the roof so that it is not visible from the road or public right-of-way.

- 17.98.120 – G: no roof-mounted structure shall exceed six feet in height above parapet of roof.

Complies = proposal is roughly four feet above the roof line.

Setbacks and projections into yards (17.98.120)

- 17.98.150 – A: Wireless facilities shall comply with applicable setback regulations of the zoning district in which they are situated.

Proposal is in CC (Community Commercial) Zone

- 17.27.110 Yards (CC): setbacks
 - Front yards: fifteen feet for landscaped area
 - Side and rear yards: if provided, must be at least ten feet wide

Complies = 63 feet from front yard property line (adjacent to 41st Avenue) and 70 feet to the side property line.

Projections into public rights-of-way (17.98.160) – (only requirements related to roof-top installations are listed)

- 17.98.160 – B: Roof-mounted equipment: may not extend over a street.

Complies = proposal is located entirely upon an existing roof. It will not project into the street.

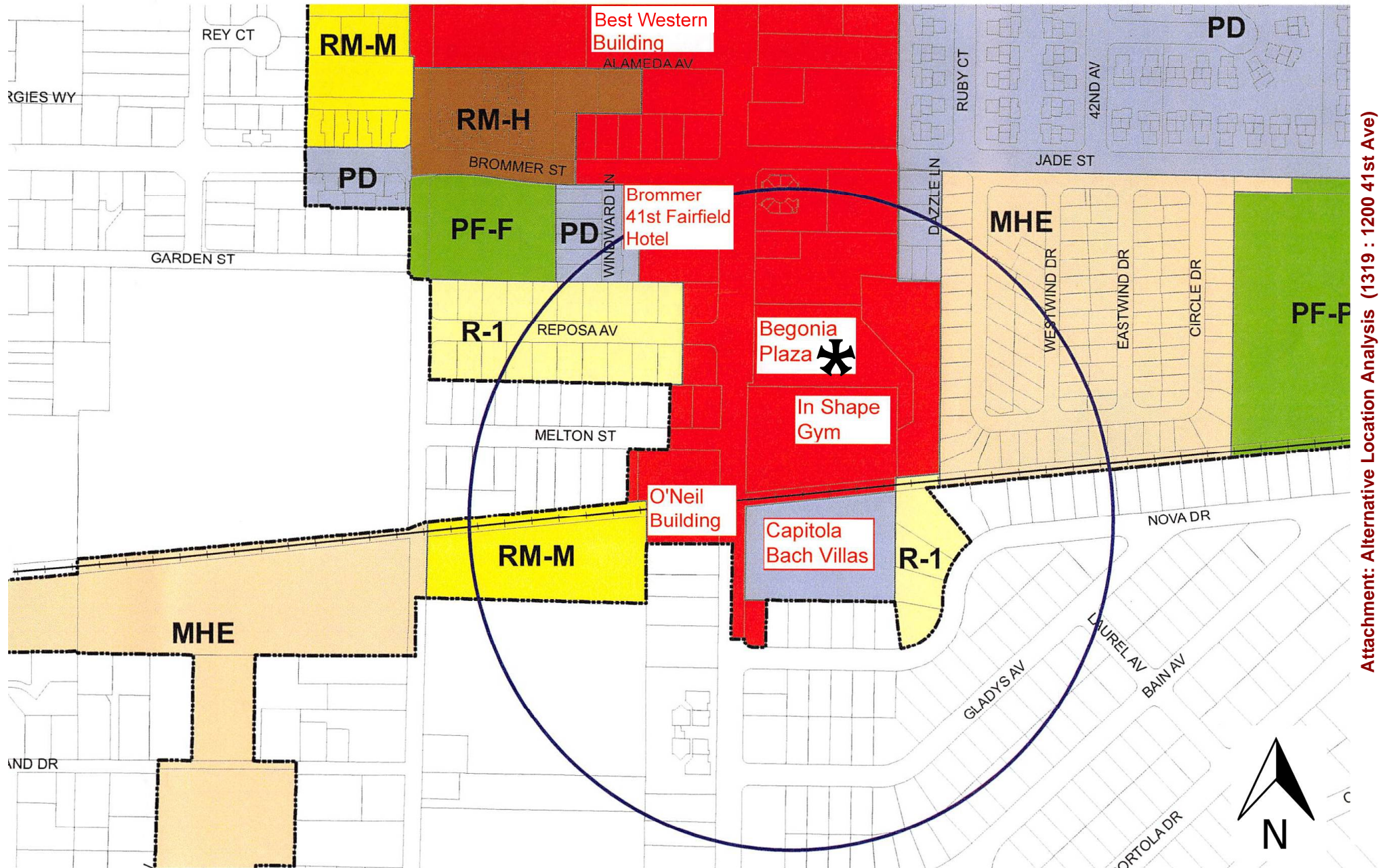
- 17.98.160 – C: Roof-mounted equipment: may extend over a sidewalk as long as there is a setback of two feet between the curb and any portion of the antenna or equipment.

Complies = proposal is located entirely upon an existing roof. It will not project into the sidewalk.

In summary, the proposed wireless antenna at 1200 41st Avenue does not comply with the Municipal Code. Specifically, the site is located within the 500 foot setback to restricted zoning districts, and does not meet the code's design and visual impact requirements. Additionally, staff reviewed the project for consistency with the General Plan and did not find any significant inconsistencies.

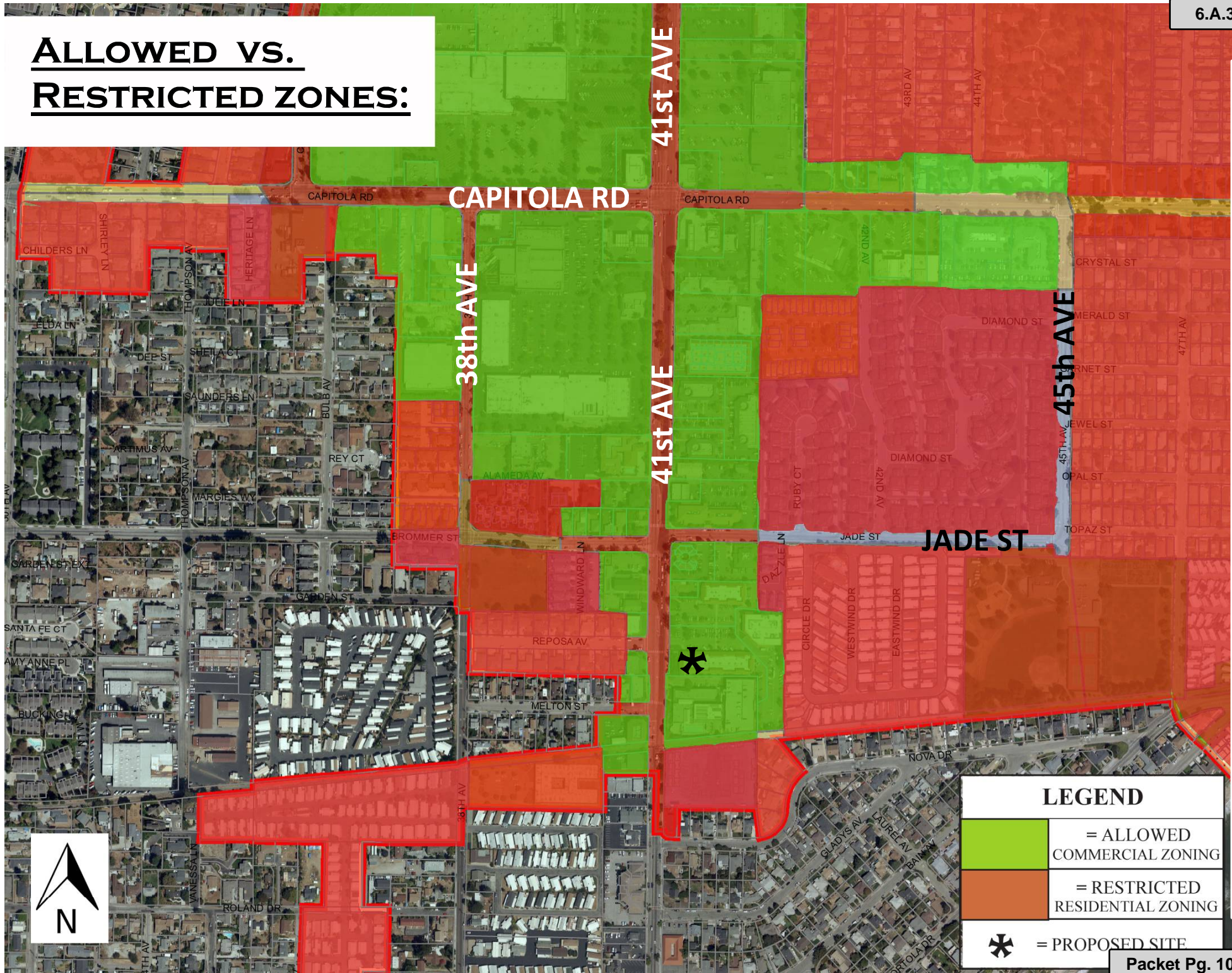
VERIZON'S PROPOSED SEARCH RING & LOCATION OPTIONS

✱ = PROPOSED SITE



Attachment: Alternative Location Analysis (1319 : 1200 41st Ave)

ALLOWED VS. RESTRICTED ZONES:



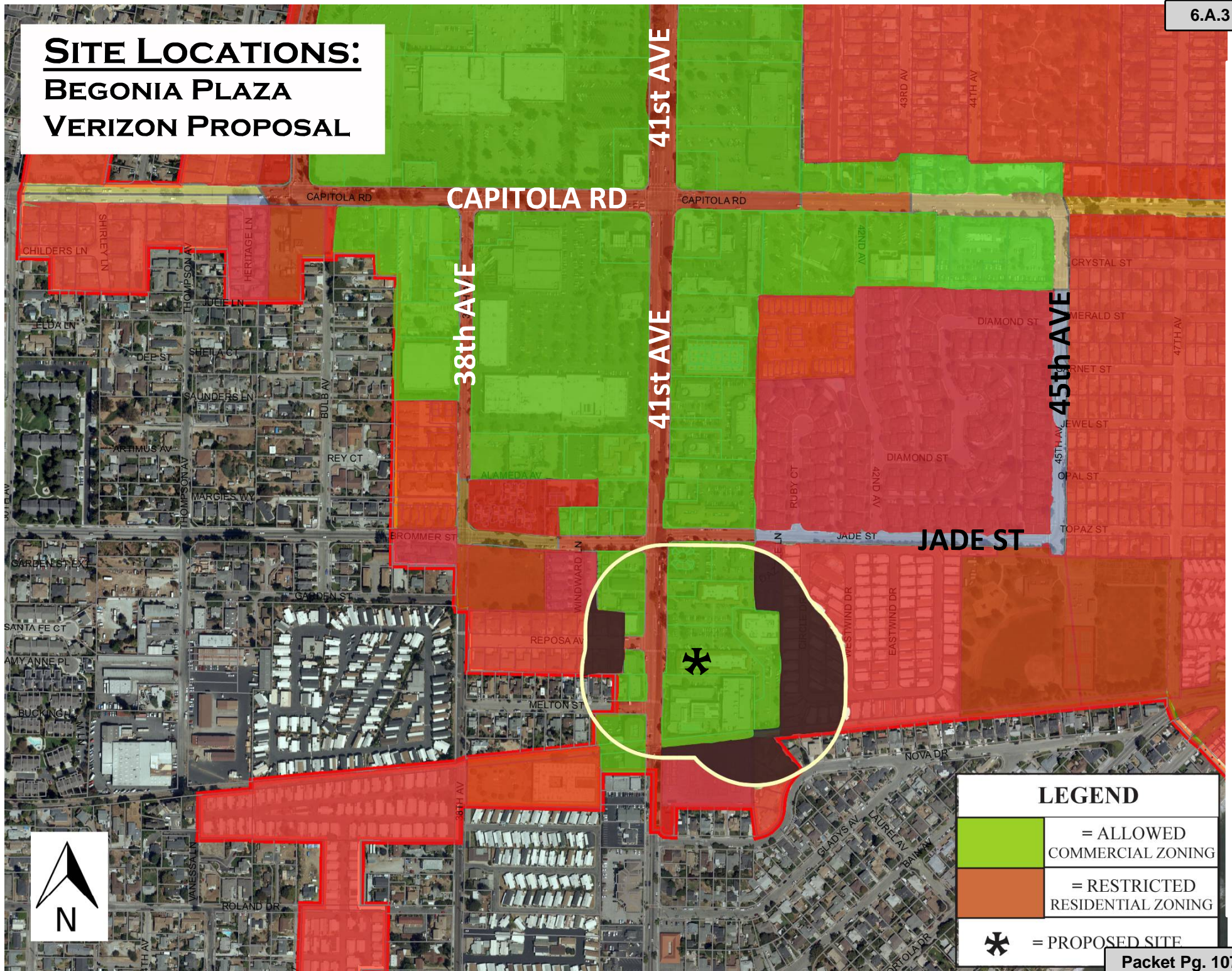
LEGEND

= ALLOWED
COMMERCIAL ZONING

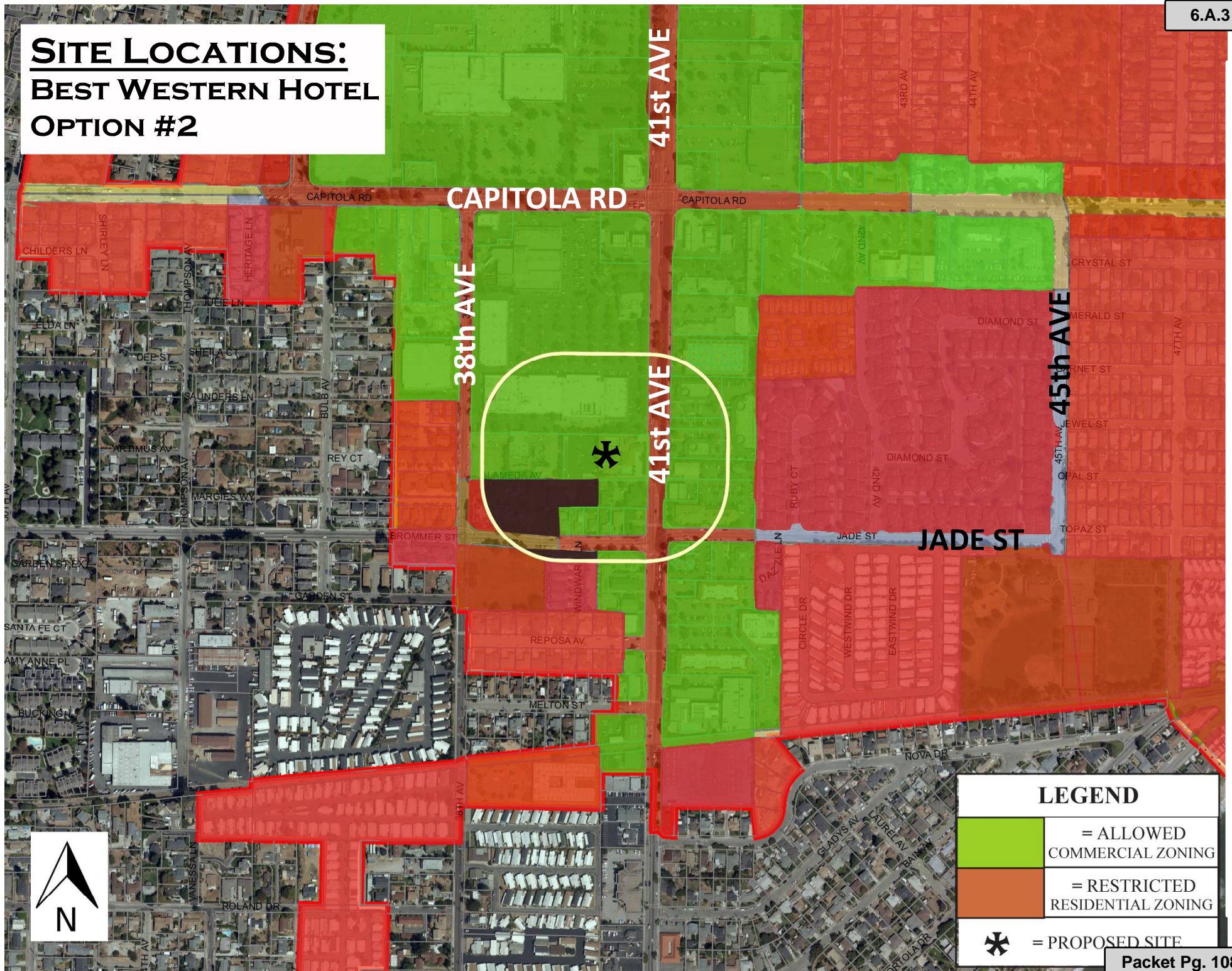
= RESTRICTED
RESIDENTIAL ZONING

= PROPOSED SITE

SITE LOCATIONS: BEGONIA PLAZA VERIZON PROPOSAL



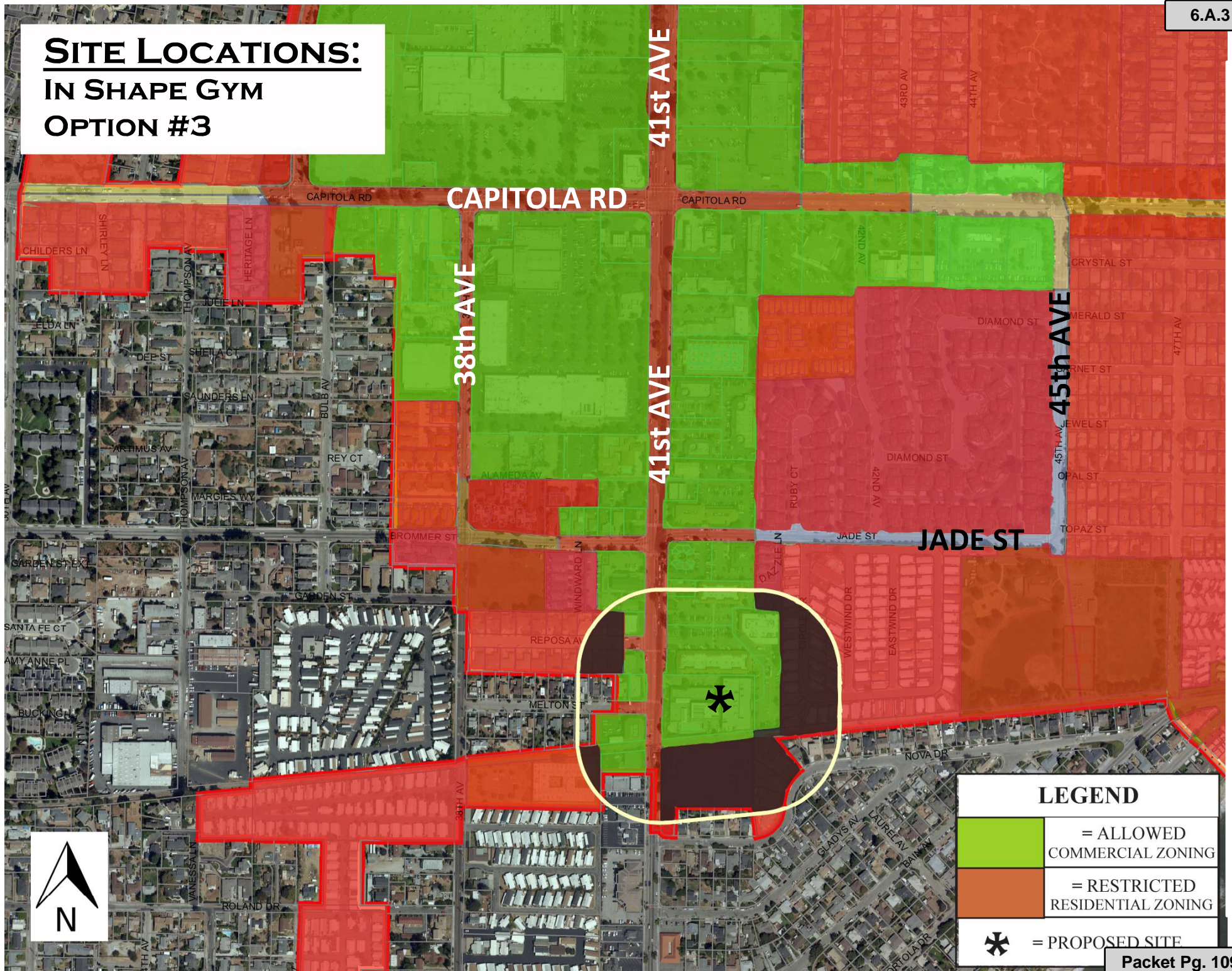
SITE LOCATIONS: BEST WESTERN HOTEL OPTION #2



LEGEND

	= ALLOWED COMMERCIAL ZONING
	= RESTRICTED RESIDENTIAL ZONING
	= PROPOSED SITE

SITE LOCATIONS: IN SHAPE GYM OPTION #3

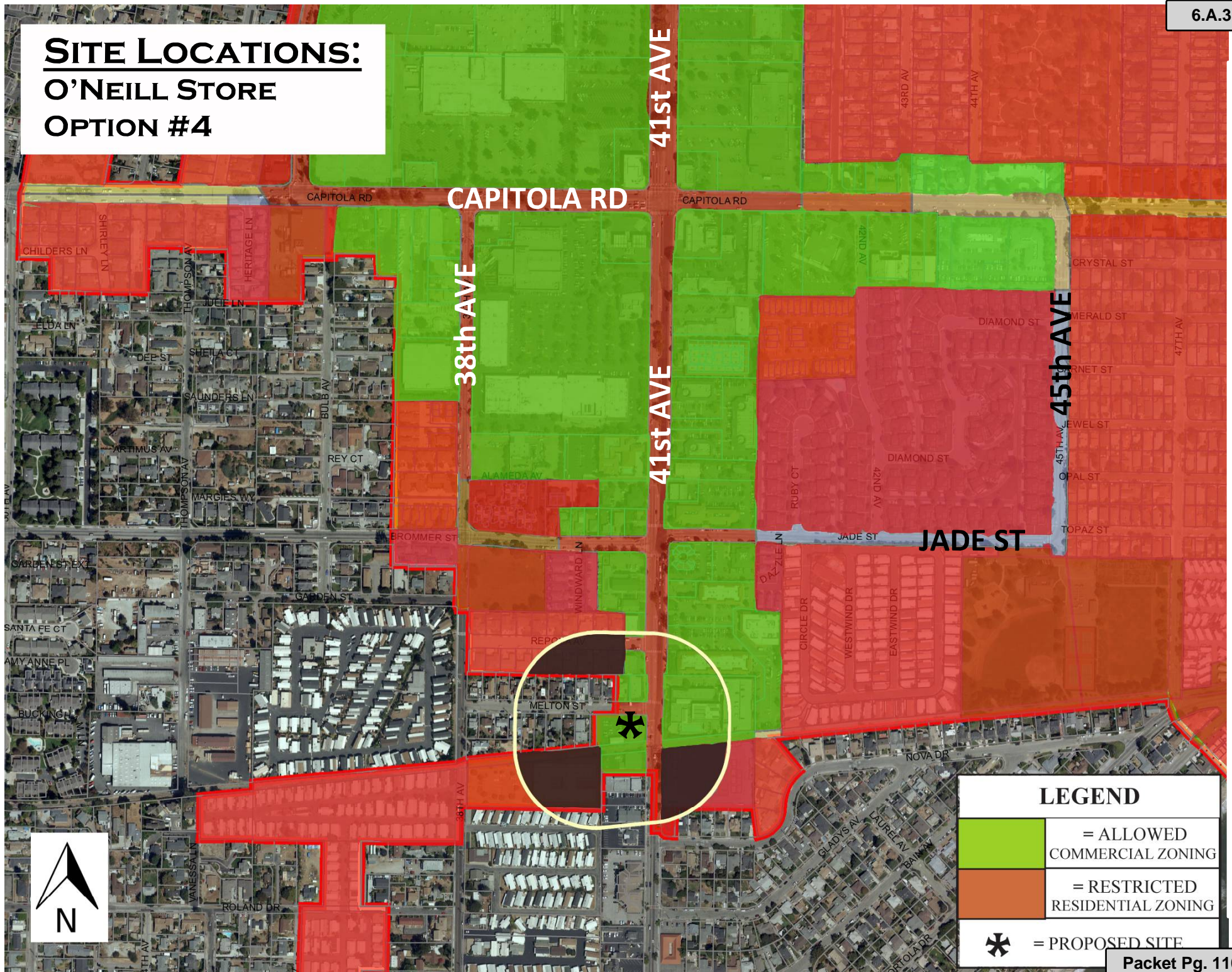


Attachment: Alternative Location Analysis (1319 : 1200 41st Ave)

LEGEND

	= ALLOWED COMMERCIAL ZONING
	= RESTRICTED RESIDENTIAL ZONING
	= PROPOSED SITE

SITE LOCATIONS: **O'NEILL STORE** **OPTION #4**

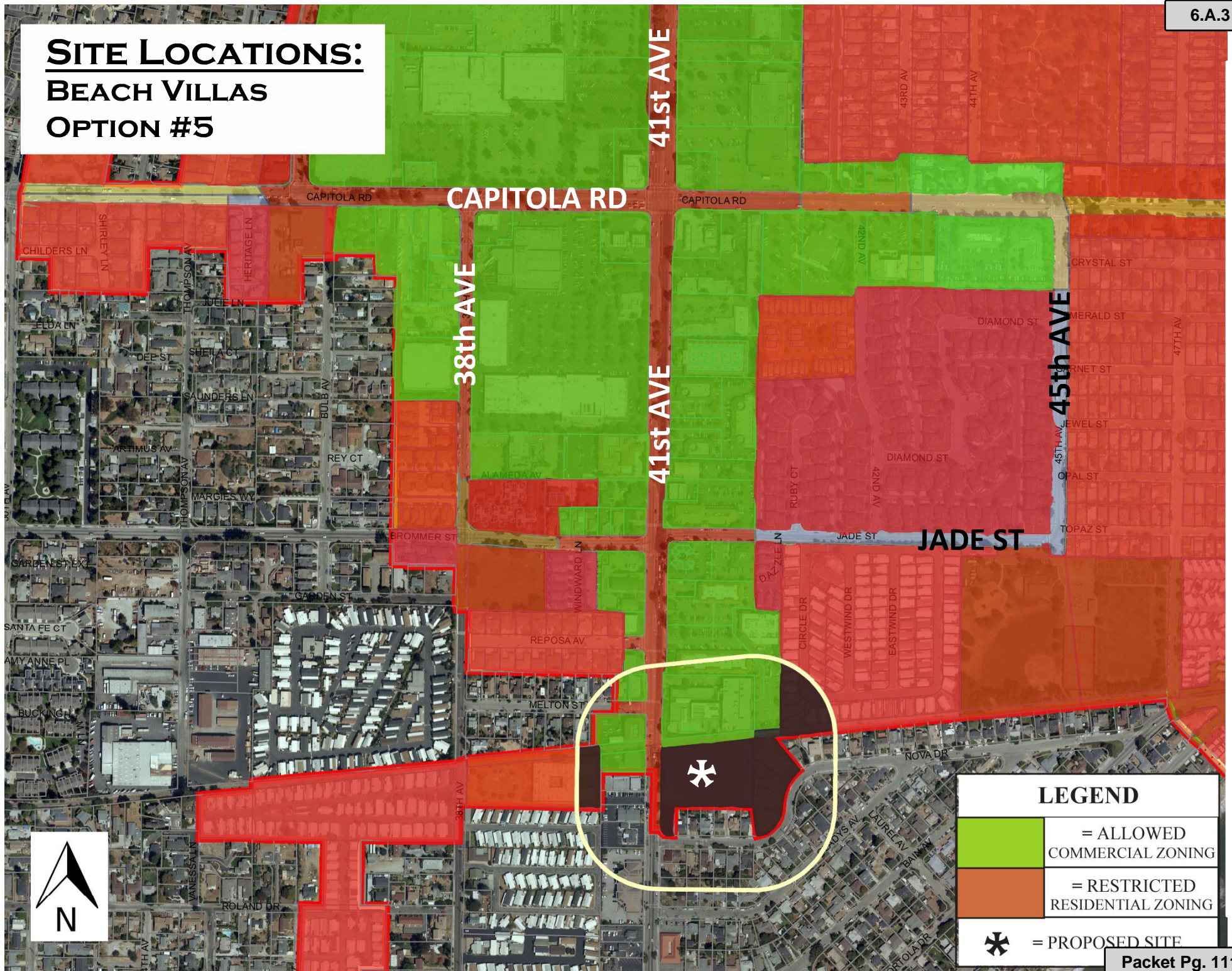


Attachment: Alternative Location Analysis (1319 : 1200 41st Ave)

LEGEND

	= ALLOWED COMMERCIAL ZONING
	= RESTRICTED RESIDENTIAL ZONING
	= PROPOSED SITE

SITE LOCATIONS: BEACH VILLAS OPTION #5

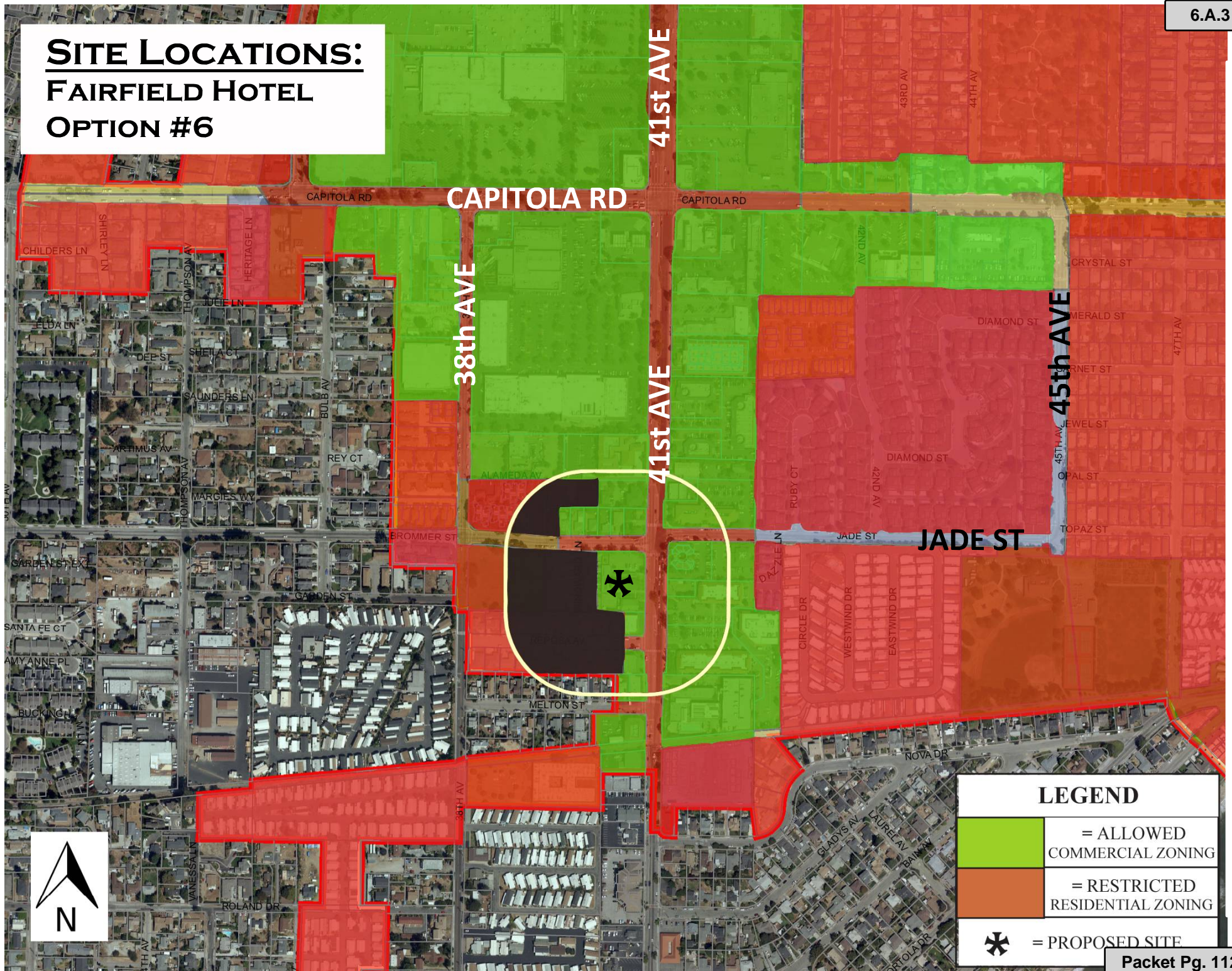


Attachment: Alternative Location Analysis (1319 : 1200 41st Ave)

LEGEND

	= ALLOWED COMMERCIAL ZONING
	= RESTRICTED RESIDENTIAL ZONING
	= PROPOSED SITE

SITE LOCATIONS: FAIRFIELD HOTEL OPTION #6



Attachment: Alternative Location Analysis (1319 : 1200 41st Ave)

LEGEND

	= ALLOWED COMMERCIAL ZONING
	= RESTRICTED RESIDENTIAL ZONING
	= PROPOSED SITE



JONATHAN L. KRAMER, ESQ.
KRAMER@TELECOMLAWFIRM.COM
LOS ANGELES OFFICE

WIRELESS PLANNING MEMORANDUM

TO: Mr. Ryan Safty
FROM: Jonathan L. Kramer
DATE: November 30, 2015
RE: New Wireless site: Melton & 41st SC1 (Verizon Wireless)

The City of Capitola (the “City”) requested we review of the Verizon Wireless (“Verizon”) proposal to construct and operate a new wireless site located at a shopping complex located at 1200 41st Avenue.

1. Project Description

This section briefly describes the proposed site as depicted in the project plans dated July 17, 2015 and submitted with the application.

Verizon proposes to construct and operate a new cylindrical antenna on the rooftop at 27 feet above ground level (“AGL”) and an equipment enclosure.

On the rooftop, Verizon proposes to install the cylindrical panel, six remote radio units (“RRUs”), one new integrated power cabinet, one fiber cabinet, one electronics cabinet, an electric meter, and cables in conduits on the rooftop¹.

2. Section 6409(a) Analysis

As a threshold matter, the City must determine whether federal law mandates approval for this permit application. Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012 requires that State and local governments “may not deny, and shall approve” an “eligible facilities request” so long as the proposal does not result in a “substant[ial] change.”² On October 17, 2014, the Federal Communications Commission (the “FCC”) adopted rules to interpret and implement Section 6409(a), which became effective on April 9, 2015.³ The applicant bears the burden to prove that its proposal qualifies.

Section 6409(a)(2) defines an “eligible facilities request” as a request to collocate, remove or replace transmission equipment on an existing wireless tower or base station.⁴ This definition

¹ We note that the title page T-1 of the Verizon plans dated July 17, 2015 describe many equipment locations to be determined (“TBD”).

² See Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, 126 Stat. 156. (Feb. 22, 2012) (codified as 47 U.S.C. § 1455(a)).

³ See *In the Matter of Acceleration of Broadband Deployment by Improving Wireless Facilities Siting Policies*, Report and Order, 29 FCC Rcd. 12864 (Oct. 17, 2014) (codified as 47 C.F.R. §§ 1.40001, et seq.).

⁴ See 47 U.S.C. § 1455(a)(2).

Mr. Ryan Safty
 Melton & 41st SC1 (Verizon)
 November 30, 2015
 Page 2 of 8

necessarily excludes permit requests for new facilities. Thus, no matter how large or small, the statute does not mandate approval for a permit to construct an entirely new wireless site.

Here, Section 6409(a) does not mandate permit approval because Verizon did not submit an eligible facilities request. Rather than collocate on an existing wireless tower or base station, Verizon seeks to construct an entirely new site at a location where none presently exists. Accordingly, the City can conclude that Section 6409(a) does not mandate permit approval on this basis alone and without any “substantial change” analysis.

This conclusion does not necessarily mean the City may deny the permit. Rather, the City simply possesses its normal land-use discretion subject to other State and federal regulations.

3. Significant Gap and Least Intrusive Means Analysis

Under the federal Telecommunications Act of 1996 (the “Telecom Act”), State and local governments cannot prohibit or effectively prohibit personal wireless communication services.⁵ The United States Court of Appeals for the Ninth Circuit holds that a single permit denial can violate the Telecom Act when the applicant demonstrates that (1) a “significant gap” in its own service coverage exists and (2) its proposed site constitutes the “least intrusive means” to mitigate that significant gap.⁶ This section discusses both issues as related to the present application.

3.1. Significant Gap

The Ninth Circuit does not precisely define what a “significant gap” in service coverage means because this “extremely fact-specific [question] def[ies] any bright-line legal rule.”⁷ Although sometimes courts find that weak service coverage constitutes a significant gap, the Ninth Circuit also holds that “the [Telecommunications Act] does not guarantee wireless service providers coverage free of small ‘dead spots’”⁸ Accordingly, whether a gap rises to a legally significant gap depends on the contextual factors in each individual application.⁹

To guide the analysis, the Ninth Circuit suggests that applicants and localities should focus on “context-specific factors” such as: (1) whether the gap affects a significant commuter thoroughfare; (2) how many users the alleged gap affects; (3) whether the proposed site will fill a complete void or merely improve weak signal; (4) whether the alleged gap affects a commercial area; (5) whether the alleged gap threatens public safety; and (6) whether the

⁵ See Section 704 of the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (codified as 47 U.S.C. § 332(c)(7)(B)(i)(II)).

⁶ See *MetroPCS, Inc. v. City and County of San Francisco*, 400 F.3d 715, 733 (9th Cir. 2005).

⁷ See *id.*

⁸ See *id.*

⁹ See *Sprint PCS Assets, LLC v. City of Palos Verdes Estates*, 583 F.3d 716, 727 (9th Cir. 2009) (citing *San Francisco*, 400 F.3d at 733).



Mr. Ryan Safty
 Melton & 41st SC1 (Verizon)
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applicant presented empirical or merely predictive evidence.¹⁰ The Ninth Circuit identifies these factors as relevant but does not explicitly limit the analysis to these factors or consider any particular factor more important than the others.

Here, Verizon alleges that this site is intended to close a significant gap in its coverage and to improve its overall capacity in the area. The application contains signal propagation maps that purport to show the existing signal coverage.

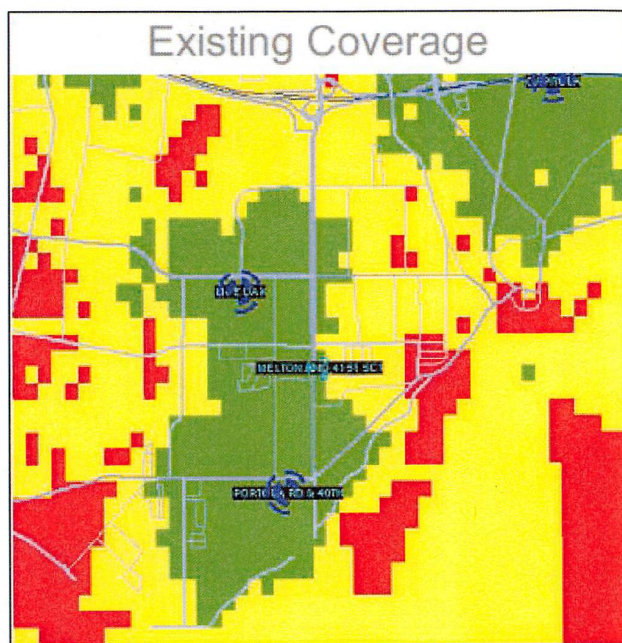


Figure 1: Existing Coverage (Source: Verizon Capacity Report/Necessity Case)

The propagation map in Figure 1 shows the predicted Verizon service coverage. As depicted, Verizon currently provides between “Good on-Street”, “Good In-Building”, and “Good In-vehicle” coverage levels to the residential, commercial and industrial areas between 41st Avenue to the west and 47th Avenue to the east, below Jade Street to the north and around Nova Drive to the south.

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¹⁰ See *id.* (collecting cases that examine each enumerated factor).



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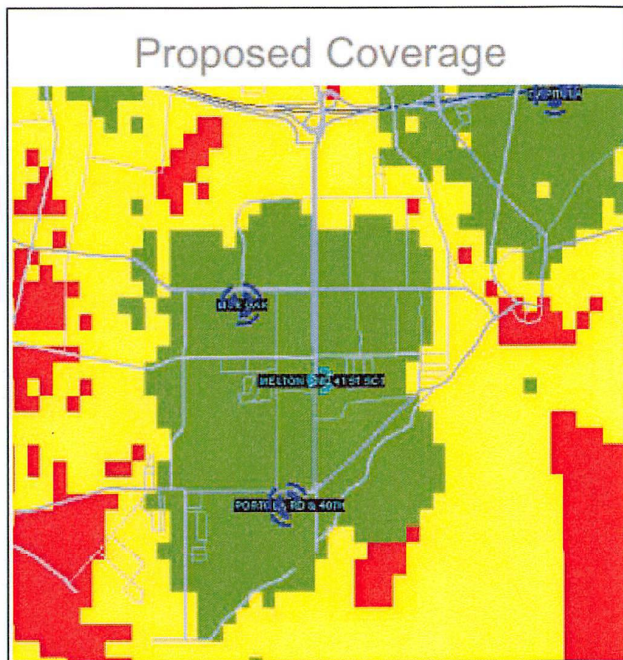


Figure 2: Proposed Coverage (Source: Verizon Capacity Report/Necessity Case)

The propagation map in Figure 2 shows the predicted Verizon signal coverage from the proposed site included. As depicted, the proposed site would improve the service capacity in the areas between Canyon Creek Road and Bloomfield Avenue, residential areas between 41st Avenue to the west and 47th Avenue to the east, below Jade Street to the north and around Nova Drive to the south.

Figure 3 below is the explanation used for Figure 1 and Figure 2 provided by the applicant in its Capacity Report/Necessity Case.

The proposed Melton & 41st SC1 site is a capacity site designed to provide data offload for Portola & 40th. The primary objective of this site is to support the rapid growth in 4G data use we are seeing in this area by providing a new small site to serve this residential area.

Green=Good In-Building, Yellow= Good In-Vehicle, Red=Good on-Street.

Figure 3: Explanation for Coverage Maps (Source: Verizon Capacity Report/Necessity Case)

The signal descriptions provided by Verizon are subjective only. They do not relate to any stated objective signals strength measurements that are provided in units of -dBm. As such, we accord the word descriptions little weight in this analysis.



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The fact that Verizon does not demonstrate a significant gap in its coverage, it does not necessarily mean that the City must (or even should) refuse to grant the permit. The City simply possesses its traditional land-use discretion as authorized under the Capitola Municipal Code (the "Code") and preserved in the Telecom Act. Accordingly, the City should evaluate the Verizon proposal against the established standards in the Code.

More useful as an objective justification for the proposed site are the graphs shown in Figure 4, below, which represent increasing data demand in the area (left graph), but a hard limitation on the current capacity to serve subscribers (right graph).

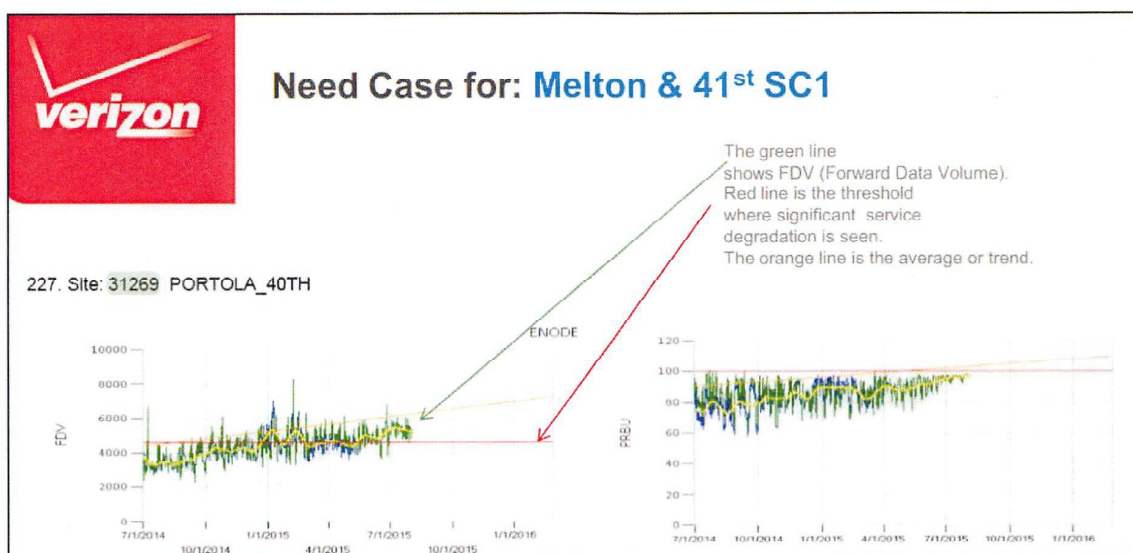


Figure 4: Capacity graphs before and after Melton & 41 SC1

Presuming the accuracy of the graphs in Figure 4, Verizon is on the verge of reaching its capacity to serve its subscribers at full speed in the identified service area. Not building the site in question would not create a substantial gap, or prohibit or have the effect of prohibiting Verizon's ability to serve its customers; merely that that speed of data packets would be reduced once the capacity line in the right side graph of Figure 4 is reached.

According, Verizon has not demonstrated a significant gap, but it has provided evidence that it has reach a tipping point where the lack of new sites may result in the capping of transmission data rates. In no case is there a real prohibition of service claim.

3.2. Least Intrusive Means

Whether an applicant demonstrates a significant gap or not, the Telecom Act does not allow the applicant to build whatever site in whatever location it chooses. The applicant must also



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demonstrate that its proposal constitutes the least intrusive means to mitigate that significant gap.¹¹

The “least intrusive means” refers to the site location and design that most closely conforms to the local values that would otherwise serve as grounds for denial.¹² For example, the lowest possible height constitutes the least intrusive means when the City would deny the project because it violates the zone height limit. Accordingly, the Capitola Municipal Code (“Code”) articulates the “local values” used to judge whether a proposal constitutes the least intrusive means.¹³

The Code sets out the preferred locations for wireless sites, in hierarchical order, as (1) facade-mounted facilities; (2) roof-mounted facilities; (3) ground-mounted facilities; (4) freestanding monopole facilities.¹⁴ The proposed location is considered a preferred location by the Code, however not any roof-mounted facility will be allowed in the City since “roof-mounted antennas shall not be allowed when they are placed in locations where they significantly affect scenic views. However, such facilities may be allowed with incorporation of appropriate stealth techniques”.¹⁵

As to required design elements, the Code generally requires “all roof-mounted antennas shall be located in an area of the roof where the visual impact is minimized. Screening panels may be used to mitigate visual impacts but must be designed to blend with the architecture of the building in terms of scale, material and color. The cost to provide such screening of visual equipment shall not by itself provide justification to allow conspicuous equipment or antennas to remain visible”.¹⁶ Also, “all roof-mounted facilities shall be painted with a non-reflective matte finish using an appropriate color that blends with the backdrop. The final choice of colors shall be determined by the community development department on a case-by-case basis, in accordance with this subsection”.¹⁷

Verizon has not proposed the least intrusive means because the proposed cylindrical antenna does not conform to the Code requirements for having the least intrusive design.

The City could require a different design because it retains the power to determine what constitutes the least intrusive means. For example, the City might decide that it would prefer a faux chimney with a matching double on the other side of the building that could conceal the

¹¹ See, e.g., *American Tower Corp. v. City of San Diego*, 763 F.3d 1035 (9th Cir. 2014).

¹² See *id.*

¹³ See generally CAPITOLA MUNICIPAL CODE §§ 17.98 *et seq.*

¹⁴ See *id.* at § 17.98.100.

¹⁵ See *id.* at § 17.98.100(B).

¹⁶ See *id.* at § 17.98.100(D).

¹⁷ See *id.* at § 17.98.100(E).



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antennas while blending as the natural façade of the building. Figure 5 shows the 'naked' antenna design proposed by Verizon. Figure 6 below depicts our recommendation of a balanced two faux chimney design that far less intrusive than the design proposed by Verizon. It is also visually balanced to match the symmetry of the underlying structure.

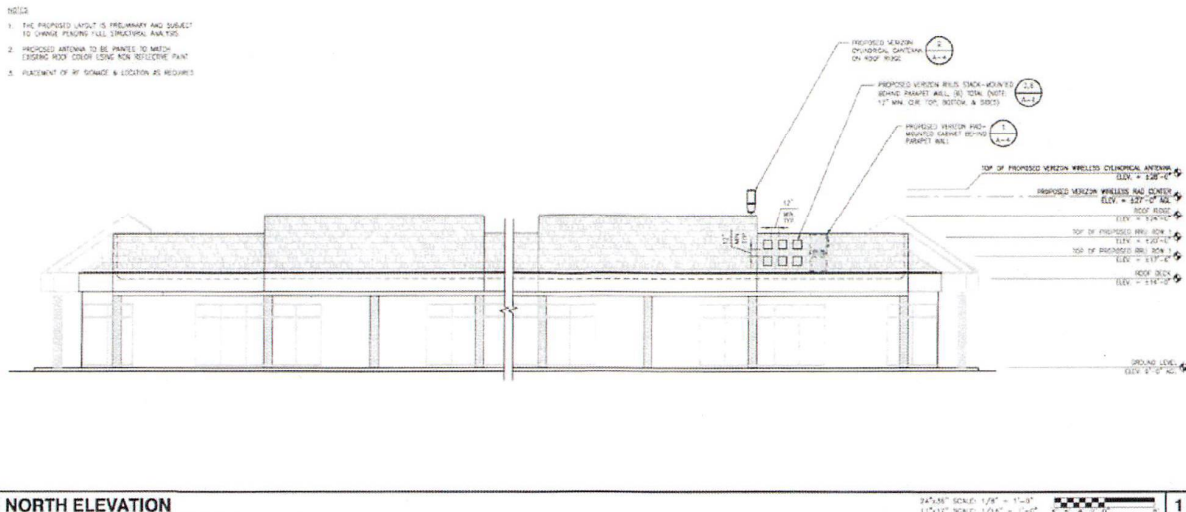


Figure 5: Design as proposed by Verizon. (Plans by Verizon.) Not the least intrusive means.

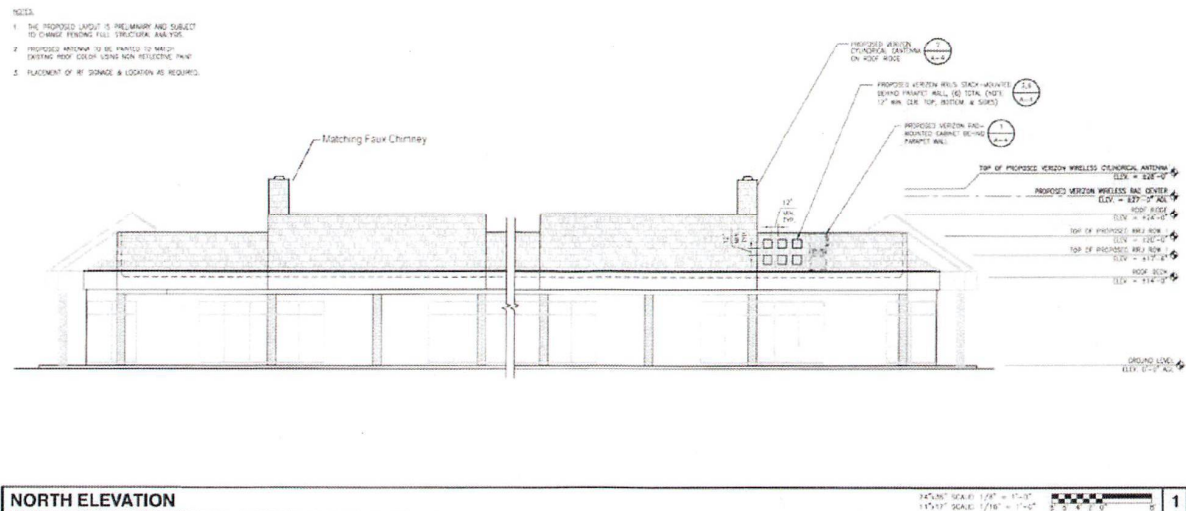


Figure 6: Faux chimney design that camouflages the antenna and is visually balanced on the building (Plans by Verizon; chimney design annotations by J. Kramer).

The faux chimney design is most consistent with CMC § 17.98.100 and § 17.98.120(D).



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4. Conclusion

Based on the materials in the current application, the City should conclude that the application alleges but fails to demonstrate an actual significant gap in Verizon's coverage. The application materials do show an approaching 'speed limit' on data transfer rates that will be overcome with the addition of the proposed site.

The City should conclude that the proposed cylindrical panel antenna fails to be the least intrusive design, and that the applicant can modify the design to better conform to the City's Code by adopting the proposed dual faux chimney design, or some other camouflage design acceptable to the City.

/jlk

Attachment: Consultant Review (1319 : 1200 41st Ave)



Telecom Law Firm PC