



CITY OF EUREKA
DEVELOPMENT SERVICES DEPARTMENT
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EUREKA CITY PLANNING COMMISSION

STAFF REPORT

April 10, 2017

Project Title: *Modify T-Mobile Cellular Conditional Use Permit C-09-0002 to Allow the Installation of a Back-Up Generator at 3016 J Street, Hebrew Christian Church*

Project Applicant: PWM, Inc. **Case No:** C-09-0002 (mod)

Project Location: 3014 J Street; APN: 011-063-007

Zoning and General Plan: One-Family Residential (RS-6000)/Low Density Residential (LDR)

Project Description: The applicant is requesting a modification of Conditional Use Permit C-09-0002 approved by the Planning Commission in June, 2009 that permitted construction of a 50' cellular monopole. The modification is to allow installation of a back-up generator and fuel supply for use during power outages, instead of relying solely on battery backup.

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Environmental: Modification of Use Permit C-09-0002 is a "project" as defined by the California Environmental Quality Act (CEQA), and is subject to the provisions of the Act. In 2009, Staff prepared an initial study and Negative Declaration of Environmental Impact (SCH #2009042092). Because a generator was not part of the project, noise was not analyzed in the study. An amendment to the Initial Study that addresses potential impacts from air quality and noise was prepared for this modification. Based on the analysis, staff recommends adoption of a negative declaration stating that no substantial adverse environmental impact would result from the proposed generator. The initial study and draft negative declaration are attached as Attachment X.

Staff Recommendation

1. Hold a public hearing to receive public testimony; and
2. Consider the Negative Declaration and addendum; and
3. Adopt a Planning Commission Resolution approving the addendum to the Negative Declaration and adopting findings of fact and conditions of approval and approving the modification to the use permit.

Background: In May 2009, the applicant proposed the construction of a 50 foot tall monopole to provide Personal Communication Service (PCS) for T-Mobile customers. On June 8, 2009, the Planning Commission approved with conditions a use permit (C-09-02) for the project.

The property at 3016 J Street is home to the Hebrew Christian Church and four (4) monopoles serving three cellular telephone carriers (AT&T, US Cellular and T-Mobile). Conditional Use Permit C-09-0002 authorized the construction of one fifty (50) foot high T-Mobile cellular monopole behind the Hebrew Christian Church. The cell tower was erected as proposed. It joined two existing 40' cell towers installed before a Use Permit was required. All three were installed before Wireless Telecommunication Facility permits were required.

According to the 2009 staff report and based on a review of project files, the previously approved project does not include a backup generator. Per paragraph three of the staff report, "The cellular cabinets include ... back-up power provided by batteries; no generator is planned for this site." None of the monopoles at this location use an on-site generator for back-up power.

On September 23, 2016, the applicant submitted plans for a building permit to install an on-site back-up generator for this T-Mobile cellular monopole. The permit application was reviewed by Planning Department staff for conformance with current zoning regulations and 2009 conditions of approval for the monopole. It was during this review of C-09-0002 that staff determined a generator had not been included or approved in the 2009 application.

There are now a total of four (4) monopoles on the property. None use back-up generators and, according to the applicant, the concept of a shared generator by multiple service providers is not feasible. Amending this use permit to include a generator does not preclude the other service providers from requesting amendments to their use permits nor does it allow more than one generator for one monopole.

The subject property is 7,980 square feet located on the south side of Wood Street between I and J Streets. The property has 66.5 feet of frontage on Wood Street and although it has a J Street address, it has no frontage on J Street; the lot is about 120 feet deep, see Figure 1 on the following page. The two lots to the west of the subject property in the northwest quarter of the block are residential. A parking lot to the east of the subject

property is owned by the medical cooperative that owns the building in the southeast quarter of the block. The two buildings in the southwest quarter of the block are also offices.

The subject property and the neighboring parking lot to the east are zoned One-Family Residential (RS-6000) with a general plan designation of Low Density Residential (LDR). The remainder of the block is zoned Office Residential (OR) with a general plan designation of Professional Office (PO), see Figure 2. The RS-6000 zone district extends north across Wood Street and then expands to the east and west. The OR district extends to the west and south. The Boys and Girls Club located across J Street is zoned and planned Public (P).

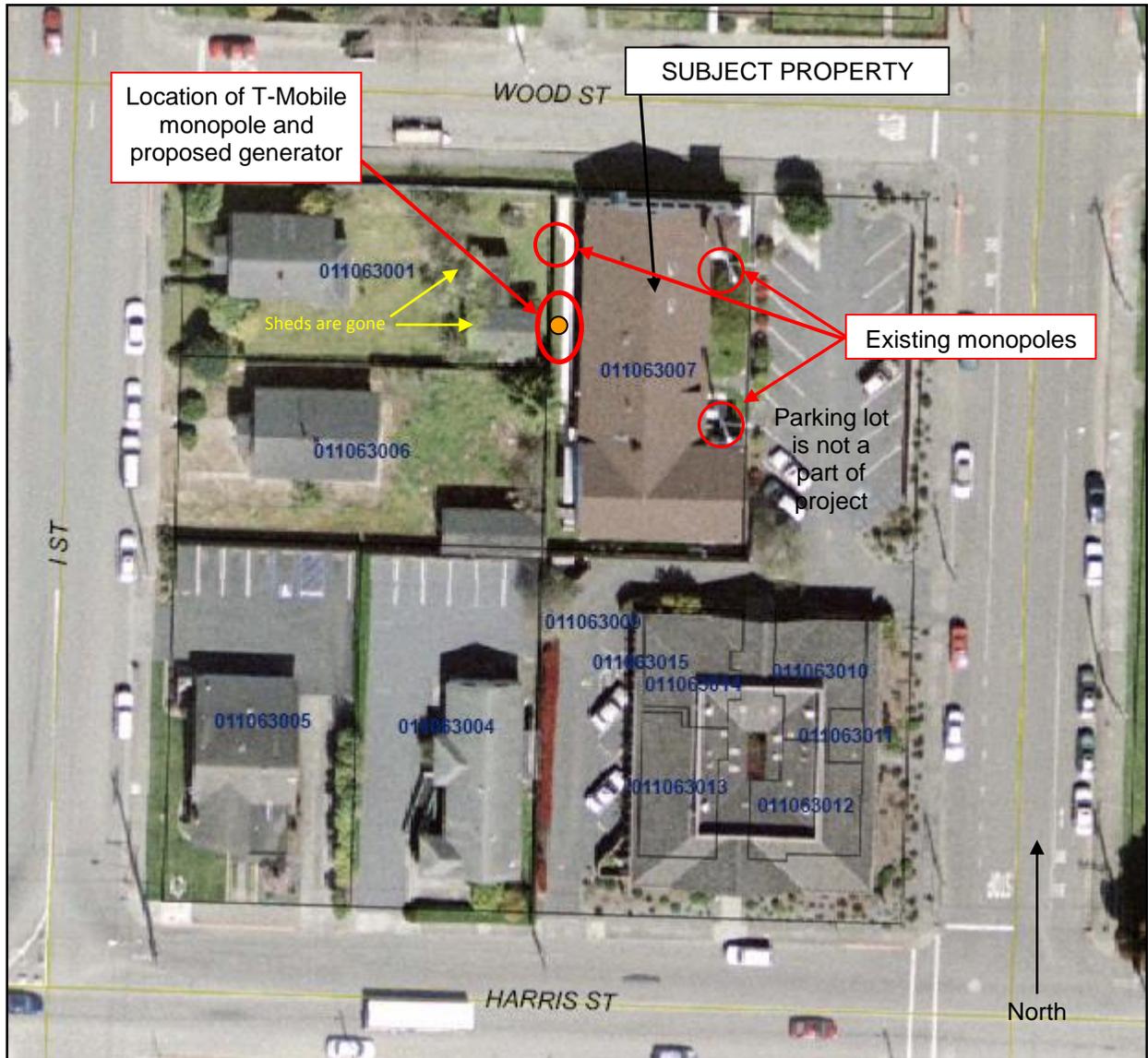


Figure 1
Location of Monopoles

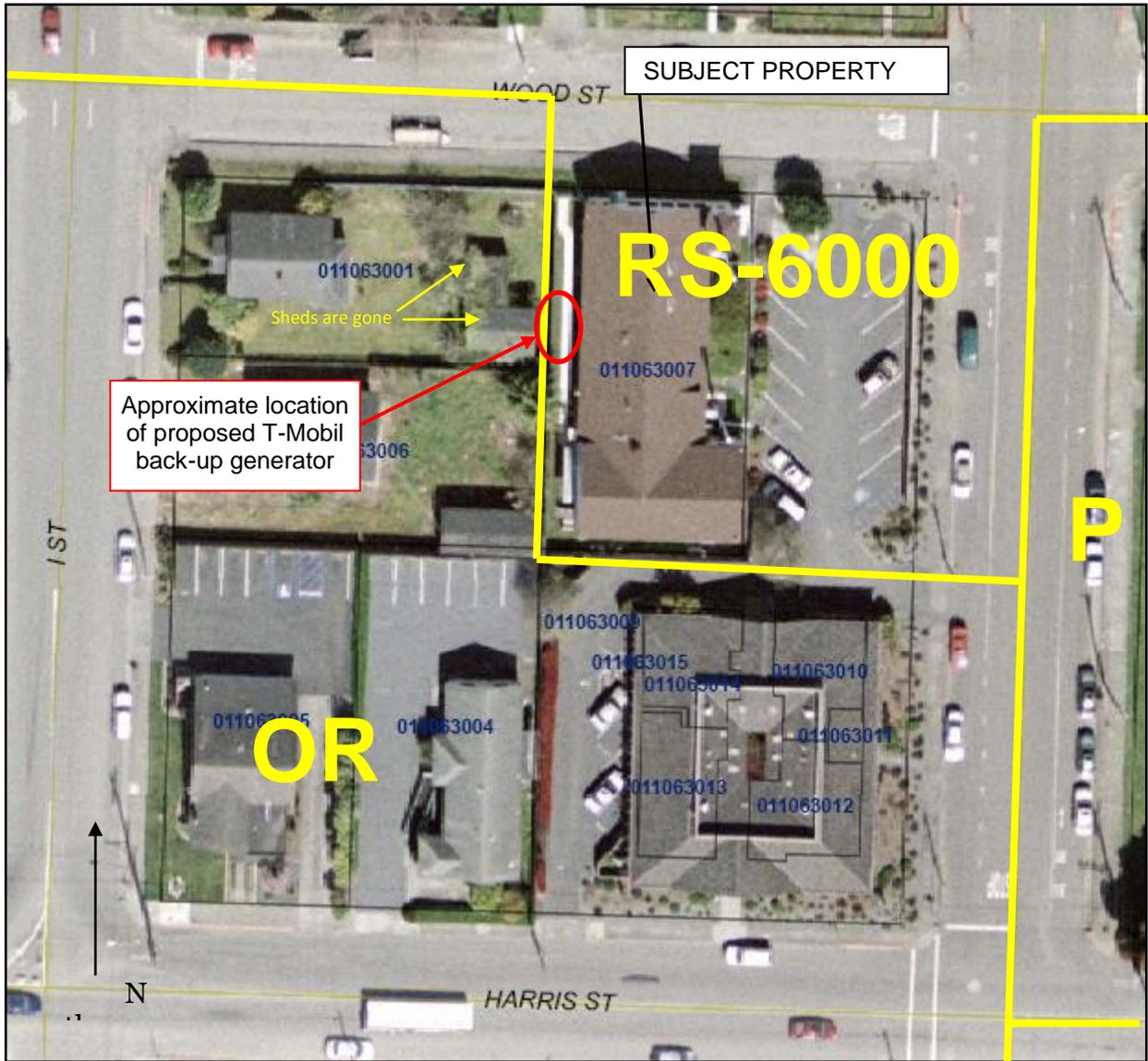


Figure 2
Zoning Information

Applicable Regulations: Title 15, Chapter 155, of the Eureka Municipal Code, Section 155.285, specifies the findings that the Planning Commission must make prior to approving a conditional use permit, they are:

- 1) That the proposed location of the conditional use is in accord with the objectives of Chapter 155 and the purposes of the district in which it is located; and
- 2) That the proposed location of the conditional use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the vicinity; and,
- 3) That the proposed conditional use will comply with each of the applicable provisions of Chapter 155; and
- 4) That the proposed conditional use, if located in the coastal zone, is consistent with the certified Local Coastal Program and is consistent with the intent of the zoning district.

Analysis: The following discussion analyzes the proposed project for each of the required findings listed above. The analysis and recommendations included herein are based upon adopted regulations, current law, sound planning principals, and including site investigations, agency comments, and information submitted with the permit application

1) **Objectives of Chapter 155 and Purposes of District:** Pursuant to Eureka Municipal Code (EMC) Section 155.002, the zoning regulations are adopted in accordance with the City Charter to protect the public health, safety, peace, comfort, convenience, prosperity, and general welfare. The specific objectives of the Chapter and the purposes of the RS-6000 zone District are listed in Attachment 1.

The use of back-up generators adds a dimension of noise to the use of cell towers not previously considered. Generator noise occurs during times of power outage when battery capacity is not sufficient to power the transmitters and during planned equipment testing.

2) **Public health, safety, or welfare:** This finding requires a determination of whether the proposed location of the back-up generator and the conditions under which it would be operated or maintained would be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the vicinity. No comments to the City's referral based on the addition of a back-up generator were received.

According to the Initial Study, the noise of one generator is similar to the noise level of existing traffic on J Street.

Periodic testing of a generator will occur during the day when traffic is present and increasing the background noise and diminishing the impact of the generator. During power outages many other sources of noise will be eliminated as motors, fans and other electrical devices power down. This will accentuate the generator noise during the day and

more so at night. Based on location, generator noise will be directed towards I Street and away from most residences. The loss of cell phone communication during an emergency power outage would pose a serious threat to public health, safety or welfare.

3) ***Use complies with applicable provisions:*** The applicable provisions include the development regulations of the Municipal Code for, among other things, land use, height, size, yards, location, off-street parking and loading. As stated above, the subject property is zoned RS-6000, a cellular communication facility is considered a public utility and public utilities are listed as conditionally permitted uses in the RS-6000 zone district.

The proposed generator and associated propane tank would be located along an interior side property line adjoining a rear yard nest door. The California Fire Code specifies a minimum five foot setback from the property line for both generator and LP-gas tank. Based on submitted plans, the generator would maintain a 6'-4" setback. Because of limited yard area, the propane tank will be located 15 inches from the property line. Because the purpose of the project is to maintain cellular phone and data service during emergencies, and will aid in allowing continued communication for the public, emergency responders, and with dispatch, for ***this*** project only, Humboldt Bay Fire Department is issuing an exemption to the required setback.

The Eureka Municipal Code requires a five foot (5') side yard setback. The cell tower complies with this and the additional equipment is an extension of the earlier installation.

T-Mobile is the only service provider requesting the use of a back-up generator at this time. However, AT&T and US Cellular could request a back-up generator for each of the remaining three poles.

For purposes of CEQA, Staff is evaluating this application using a baseline of "no onsite generators". In the event that another generator, subject to review by the Planning Commission, is proposed, the CEQA review will use a baseline based on the number of generators existing on site at that time.

The RS-6000 zone regulations specify conditions applicable to all uses in the RS-6000 zone district (§ 155.052(B)). Specifically, § 155.052(B)(2) states:

No use shall be permitted, and no process, equipment, or material shall be employed which is found by the Planning Commission to be objectionable to persons residing or working in the vicinity or injurious to property located in the vicinity by reason of odor, insect nuisance, fumes, dust, smoke, cinders, dirt, refuse, water-carried wastes, noise, vibration, illumination, glare, unsightliness, or traffic or to involve any hazard of fire or explosion.

If, after receiving public testimony, the Planning Commission finds that the proposed project is objectionable to persons residing or working in the vicinity, the Commission may deny the request to amend the conditional use permit by finding that the proposed project

does not comply with the required conditions of the RS-6000 zone district, specifically § 155.052(B)(2).

4) ***Use is consistent with Local Coastal Program:*** The project site is not located in the coastal zone.

Support Material:

Attachment 1: Zoning and AP Maps, Site Plan.....	page 9
Attachment 2: Resolution 2017-05	page 13
Attachment 3: 2009 Negative Declaration	page 15
Attachment 4: Initial Study, draft Negative Declaration Addendum.....	page 17

Stephen Avis, AICP
Consulting Senior Planner

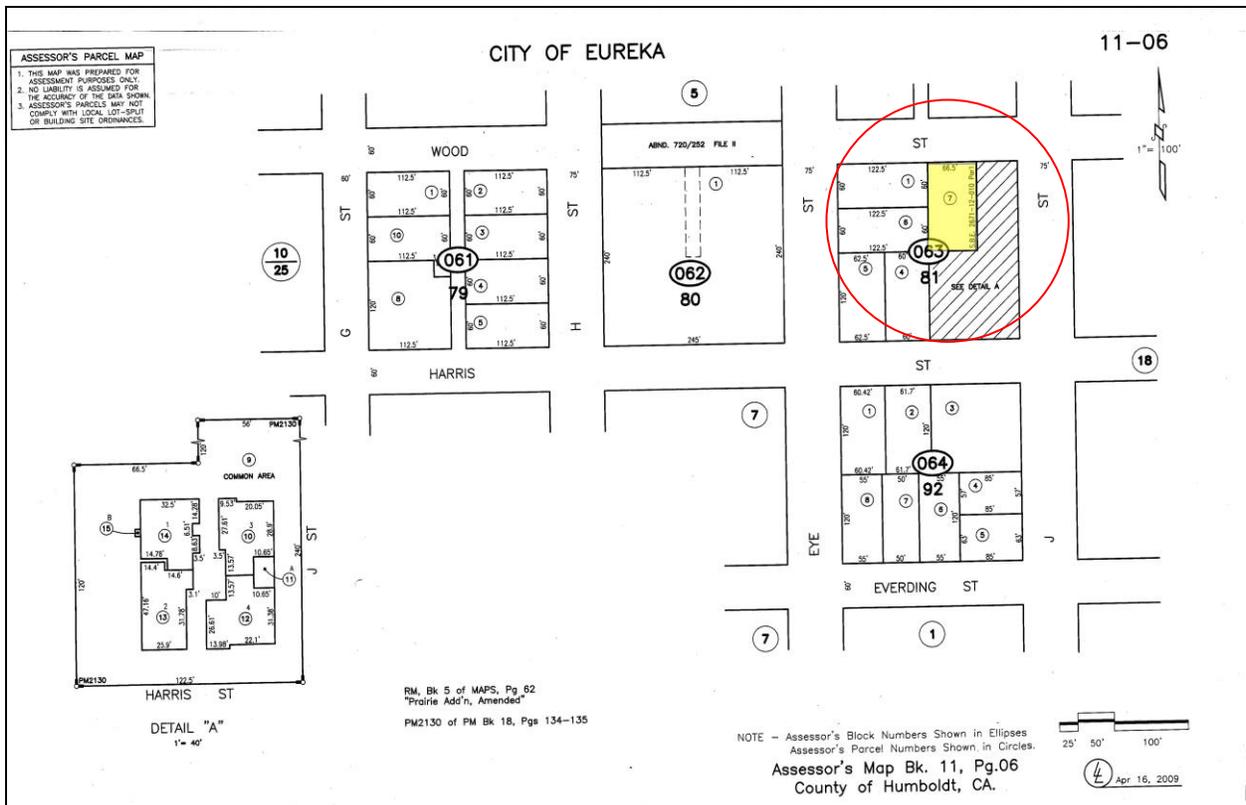
Robert Holmlund, AICP
Director of Community Development

March 21, 2017

Attachment 1 Zoning Map



Assessor Parcel Map



Attachment 2

PLANNING COMMISSION RESOLUTION NO. 2017-05

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF EUREKA MODIFYING CONDITIONAL USE PERMIT (C-09-0002) TO ALLOW A BACKUP GENERATOR AT 3014 J STREET (APN: 011-063-007).

WHEREAS, Use permit C-09-0002 was approved on June 8, 2009 permitting construction of a monopole cell phone tower with battery backup; and

WHEREAS, the operator wishes to install a backup generator and propane tank to increase the length of time, during an extended power outage, that the cell tower can remain active; and

WHEREAS, a modification of the existing use permit is required to allow installation of a backup generator; and

WHEREAS, Humboldt Bay Fire has issued an exemption to the requirement for a five foot setback from the property line as a life-safety measure; and

WHEREAS, the City conducted an initial study to address impacts from noise and emissions resulting from the testing and periodic use of a backup generator and determined that there are no significant impacts; and

WHEREAS, a Negative Declaration Addendum for this modification has been prepared,

NOW THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Eureka that the project and Negative Declaration, as conditioned below and described in the Staff Report, is approved, and the decision to approve with conditions the subject application was made after careful, reasoned and equitable consideration of the evidence in the record, including, but not be limited to: written and oral testimony submitted at the public hearing; the staff report; site investigation(s); agency comments; project file; and, the evidence submitted with the permit application. The findings of fact listed below “bridge the analytical gap” between the raw evidence in the record and the Planning Commission’s decision.

- 1.** Wireless Communication Facilities are conditionally permitted in the RS-6000 zoning district; therefore, the operation of a monopole with multiple cellular communication antennas requires approval of a Conditional Use Permit that is consistent with the Land Use Designation and Zoning standards.
- 2.** Use permit C-09-0002 approving the operation of this monopole using backup batteries was approved on June 8, 2009.

3. The use of a Liquefied Petroleum Gas (LPG) powered generator provides greater reliability over a longer period of time than back-up batteries or a generator operating with piped natural gas and is safer than storing gasoline on site.
4. A waiver provided by Humboldt Bay Fire authorizing a reduced setback from the property line of the adjoining property for propane storage, the project location and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the vicinity as documented in the staff report;
5. Modification of a Conditional Use Permit is a discretionary action subject to environmental review in accordance with the California Environmental Quality Act (CEQA).
6. An Initial Study for the addition of a back-up generator was prepared with the conclusion that no significant impacts would result from addition of a back-up generator; a Negative Declaration Addendum has been prepared.
7. The project meets the purposes of §155.180 Site Plan and Architectural Review.
8. The project will comply with applicable provisions of the Code.

FURTHER, approval of the Use Permit is conditioned on the following terms and requirements. The violation of any term or requirement of this conditional approval may result in the revocation of the permit.

1. A building permit shall be secured before construction begins.

PASSED, APPROVED AND ADOPTED by the Planning Commission of the City of Eureka in the County of Humboldt, State of California, on the 10th day of April, 2017 by the following vote:

AYES: COMMISSIONER
NOES: COMMISSIONER
ABSENT: COMMISSIONER
ABSTAIN: COMMISSIONER

Jeff Ragan, Chair, Planning Commission

Attest:

Pamela J. Powell, City Clerk

Attachment 3



CEQA NEGATIVE DECLARATION

CITY OF EUREKA

SCH #:2009042092

Project Title: *T-Mobile Cellular Monopole, Hebrew Christian Church*

Project Applicant: PWM, Inc.

Case No: C-09-0002

Project Location: 3014 J Street; 011-063-007

Zoning & General Plan: One-Family Residential (RS-6000)

Project Description: The project is composed of the construction of a fifty (50) foot high, sixteen (16) inch diameter painted steel T-Mobile cellular monopole with cellular cabinets in back of the existing Hebrew Christian Church, within a 200 sq. ft. area of property on a developed 66.5 ft. x 56 ft. parcel in the central area of the City of Eureka. The cellular pole would be a monopole design with three (3) concealed antennas within a plastic enclosure cover (radome) *without* top lighting. The foundation for the monopole would be approximately seven (7) feet square and seven (7) to eight (8) feet in depth located at the back of the building within the existing lawn and sidewalk area. The total number of cubic yards of soil to be removed from the site is twelve (12) yards. The remainder of the existing lawn and sidewalk would remain. The Applicant in submitting for a building permit would be required to furnish a soils report, structural drawings for the foundation and pole certified by a California Licensed Structural Engineer.

Electrical and telephone service to the site would be by cables from an existing P.G. & E. pole located adjacent to Wood Street. The 200 sq. ft. project area would be surrounded by a six (6) foot high chain link fence with wood or vinyl slats and would be accessed from a gate on Wood Street; no public access to the 200 sq. ft. project area would be allowed. Three Cellular Cabinets and one main electrical panel with one meter would be placed on the concrete pad adjacent to the T-Mobile monopole. The cellular cabinets include radio transmitting and receiving equipment with back-up power provided by batteries; no generator is planned for this site.

The existing parcel contains the Hebrew Christian Church and two forty (40) foot tall two light poles with U.S. Cellular and AT&T cellular antennas at the top of each pole concealed in plastic radomes. Within the Hebrew Christian Church building, cellular equipment for U.S. Cellular and AT&T Wireless are contained in two separate rooms. A cumulative Radio Frequency (RF) Study has been completed by a California Licensed Electrical Engineer that certifies that the proposed T-Mobile 50 foot tall monopole plus the U.S. Cellular and AT&T facilities would operate between 2.6% to 2.7% of the Federal Communications Commission regulations.

A Conditional Use Permit is required for communication facilities in the RS-6000 zone district.

LEAD AGENCY/CONTACT: City of Eureka, Community Development Department; Sidnie L. Olson, AICP, Senior Planner; 531 K Street, Eureka, CA 95501-1165; phone: (707) 441-4265; fax: (707) 441-4202; e-mail: solson@ci.eureka.ca.gov

DATE OF PROJECT APPLICATION: March 25, 2009

DATE OF PROJECT APPROVAL: June 8, 2009

FINDINGS: This is to advise that on June 8, 2009, the Planning Commission of the City of Eureka, as the Lead Agency, approved the project described above, and made the following determinations and findings regarding the project.

1. The Planning Commission found that the proposed project will not have a significant effect on the environment.
2. A Negative Declaration was prepared for this project pursuant to the provisions of CEQA.
3. The Planning Commission found that the Negative Declaration was prepared pursuant to the provisions of CEQA.
4. The decision of the Planning Commission to adopt the Negative Declaration was based on the whole record before it (including the initial study and any comments received).
5. The Planning Commission found that the Negative Declaration reflects the City of Eureka's independent judgment and analysis.
6. Mitigation measures were not made a condition of project approval.
7. A Statement of Overriding Considerations was not adopted for this project.
8. Findings were not made pursuant to the provisions of CEQA (CCR §15091)
9. The Planning Commission did not adopt a program for reporting on or monitoring the changes which it either required in the project or made a condition of approval to mitigate or avoid significant environmental effects.
10. The Planning Commission found that the project site is not within two nautical miles of a public airport or public use airport, and they determined that the project will not result in a safety hazard or noise problem for persons using the airport or for persons residing or working in the project area.

This is to certify the City of Eureka, Community Development Department, is the custodian of the documents or other material which constitute the record of proceedings upon which the Planning Commission's decision was based; and that the Negative Declaration and the record of project approval are available to the general public for review during regular office hours at the City of Eureka, Community Development Department, third floor, 531 K Street, Eureka, CA 95501.

Sidnie L. Olson, AICP

June 9, 2008

Date

Principal Planner
City of Eureka

