

RESOLUTION 18-031

FOR USE PERMIT (UP) No. 17-1111 FOR A SITE LOCATED ALONG THE PUBLIC RIGHT-OF-WAY OF THE 700 BLOCK OF FOREST LODGE ROAD, TO ALLOW A NEW POLE OF APPROXIMATELY 29'-6" HEIGHT WITH A SMALL-CELL ANTENNA AND ASSOCIATED WIRELESS TELECOMMUNICATIONS FACILITY EQUIPMENT, INCLUDING THE INSTALLATION OF A METER PEDESTAL AND A TRANSFORMER.

FACTS

1. The subject site is located along the public right-of-way on Forest Lodge Road, Pacific Grove, CA 93950.
2. The site does not have a zoning designation as it is located in the public right-of-way.
3. The site is surrounded by properties in the Commercial-Forest Hill (C-FH) and Unclassified (U) zoning district.
4. The subject site is a 40' wide public right-of-way, which is not developed.
5. A tolling agreement, prepared by Mackenzie & Albritton LLP, has been executed to extend the Federal Communications Commission (FCC) shot clock deadline to September 28, 2018.

FINDINGS

1. This project has been determined to be Exempt under California Environmental Quality Act (CEQA) Guidelines, Class 3, Section 15303(d); exceptions under Section 15300.2 do not apply.
2. Per PGMC. Section 23.70.080(a)(4):
 - a. The proposed use is allowed with a use permit within the applicable zoning district and complies with all applicable provisions of these regulations, and;
 - b. The proposed use is consistent with the general plan, and;
 - c. The establishment, maintenance, and operation of the use will not, under the circumstances of the particular case, and under the current standards, be detrimental to the health, safety, or general welfare of persons residing or working in the neighborhood of the proposed use, and;
 - d. The use, as described and conditionally approved, will not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare to the city, and;
 - e. The location, size, design, and operating characteristics of the proposed use are compatible with the existing and future land uses in the vicinity.

CONDITIONS OF APPROVAL

1. **Permit Expiration:** This permit is valid for 10 years from the date of issuance. This permit shall expire and be null and void if a building permit has not been applied for within one (1) year from and after the date of approval. Application for extension of this approval must be made prior to the expiration date.
2. **Construction and Use Compliance:** All activities must occur in strict compliance with the proposal as set forth in the application for this Use Permit, subject to any special conditions of approval herein. Any deviation from approvals must be reviewed and approved by staff, and may require Planning Commission approval.
3. **Public Works, Fire, and Building:** Review and approval by the Public Works, Fire and Building Departments are required prior to issuance of a Building Permit. Work taking place in the public right-of-way shall require an Encroachment Permit prior to issuance of the building permit. The equipment shall be installed, maintained and operated in compliance with all applicable public health and safety regulations,

which includes without limitation all building codes, electrical codes, pole installation regulations and regulations for exposure to RF emissions.

4. **Conformance to Plans.** Development of the site shall conform to approved plans for “Pacific Grove HS SC1 – Location Code 425598”, submitted to the Community and Economic Development Department on July 11, 2018, with the exception of any subsequently approved changes. Subsequent changes shall require city approval and may require further CEQA review.
5. **Tree Protection Standards During Construction:** Pursuant to Municipal Code Chapters 12.20 and 12.30, and the Urban Forestry Standards, all trees that are otherwise protected and will be impacted as a result of Development, both proposed for pruning or removal and where the development will impact the critical root zone of the tree are protected. Prior to issuance of the building permit, the Project Arborist shall review grading, drainage, utility, building and landscape plans to determine impacts to individual Trees, to determine required minimum Tree protection standards during construction.
6. **During-Construction Pollution Prevention (a):** During construction, the developer shall employ storm water best management practices (BMPs) for erosion and sediment control, prevention of non-stormwater discharges, and implement good housekeeping and construction waste management practices to protect the storm drainage system and water quality as required by City Code Section 9.30.130(c), the City Phase II NPDES Permit, State Water Resources Control Board (SWRCB) Construction General Permit (CGP), and the Monterey Regional Storm Water Management Program (MRSWMP). Plans for during-construction storm water management and BMPs, such as a Storm Water Pollution Prevention Plan (SWPPP), shall be submitted to the City and subject to review and approval of the Public Works/Community Development Director and Building Official prior to issuance of a grading and/or building permit.
7. **During-Construction Pollution Prevention (b):** Construction activities subject to BMP requirements shall continuously employ measures to control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality, contamination, or unauthorized discharge of pollutants.
8. **During-Construction Pollution Prevention (c):** Whenever construction activity is being done contrary to and in violation of Municipal Code Chapter 9.30, the Public Works/Community Development Director may order that construction activity to stop by posting a written notice on the premises. All persons shall immediately stop such work unless or until the public works director authorizes removing the stop work order and allows construction activity to proceed.
9. **Archaeology:** If human remains are encountered during excavations associated with this project, all work will halt, and the County Coroner will be notified. The County Coroner will determine the remains are of forensic interest. If the County Coroner, with the aid of the supervising archaeologist, determines the remains are prehistoric, he/she will contact the Native American Heritage Commission (NAHC). The NAHC will be responsible for designating the most likely descendant (MLD), who will be responsible for the ultimate disposition of the remains, as required by Section 7050.5 of the California Health and Safety Code. The MLD will make his/her recommendations within 24 hours of their notification by the NAHC. This recommendation may include scientific removal and nondestructive analysis of human remains and items associated with Native American burials (Section 7050.5 of the Health and Safety Code). In the event that any other cultural material is encountered during construction of this telecommunications facility, work shall be halted within 50 meters of the find and a qualified archaeologist should be notified. The archaeologist will assess the find and provide mitigation recommendations.
10. **Health, Safety and Noise.**
 - a. Approval from the Monterey County Health Department, Environmental Health Bureau is required prior to the issuance of building permits.

- b. **Safety.** The equipment shall be installed, maintained and operated in compliance with all applicable public health and safety regulations, which includes without limitation all building codes, electrical codes, pole installation regulations, and regulations for exposure to Electromagnetic Fields / Radio Frequency under the standards for permissible human exposure to EMF as established by the California Public Utility Commission (CPUC) General Order 159, the Federal Communications Act of 1996, and/or including any other standards adopted by the FCC that may come henceforth. The wireless facility will not be operated if it cannot operate in compliance with these safety conditions.
11. **Signature:** The resolution for the use permit is not valid and construction shall not commence until a copy of the resolution signed by the permittee or authorized agent, acknowledging receipt of the permits and acceptance of the terms and conditions, is returned to the Community Development Department.
12. **Terms and Conditions:** These terms and conditions shall run with the land, and it is the intention of the Planning Commission and the Permittee to bind all permittees of the subject property to the terms and conditions, unless amended. Amendments to this permit may be achieved only if an application is made, and the Planning Commission approves, any such amendments pursuant to the Zoning Code regulations.
13. **Conditions of Approval in Plans:** All conditions of approval for the Planning permit(s) shall be printed on a full size sheet and included with the construction plan set submitted to the Building Department.
14. **Compaction Report:** The permittee shall submit a compaction report prior to paving or repaving, at the expense of the permittee/contractor.
15. **Undergrounding Utilities:** Accessory utility equipment shall be undergrounded where feasible.
16. **Traffic Control Plan:** The permittee shall submit a traffic control plan to be approved by the City Engineer.
17. **Federal Communications Commission (FCC):** The facility shall be operated in full compliance at all times with all applicable Federal Communications Commission guidelines and regulations. Warning signs shall be posted in compliance with FCC guidelines and requirements and to notice about potential exposure to RF emissions.
18. **Signage:** No logos, signs or other forms of advertising are permitted to be installed on antennas or related equipment, with the exception of warning signs as noted above, and signage that accurately identifies the facility owner and provides the facility owner's unique site number, and also provides a local or toll-free telephone number to contact the facility owner's operations center.
19. **Reports:**
- a. The permittee shall submit to the Community & Economic Development Department a pre-installation, post-installation, and subsequently an annual monitoring report prepared by a licensed electrical/mechanical engineer, expert in the field of EMF/RF emissions, or a licensed Radio Frequency Engineer, and prepared pursuant to FCC OET 65, for the purpose of confirming that the facility is in full compliance with guidelines and regulations for permissible human exposure to EMF/RF, as established by the California Public Utility Commission (CPUC) General Order 159, the Federal Communications Act of 1996, and/or including any other standards adopted by the FCC. This report will be paid for by the permittee, will be written in plain language understandable to the non-expert layperson, and provided to the City and school district.
- b. The first report shall be due one year from final approval of the building permit required for installation of the equipment. The City of Pacific Grove may require the permittee to prepare additional reports, or increase the frequency of reports, based on the report's results, or if changes are made to site by the permittee.

20. **Equipment:** No additional antennas or related equipment may be installed without prior approval from the Community & Economic Development Department. The permittee shall remove antennas and equipment that have not been in service for a continuous period of six months.
21. **Road, Sidewalk, and Landscape Condition:** All affected roads, sidewalks, and landscape shall be restored to original or better condition.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PACIFIC GROVE:

- I. The Commission determines that each of the Findings set forth above is true and correct, and by this reference incorporates those Findings as an integral part of this Permit.
- II. The Commission authorizes approval of Use Permit No. 17-1111 for a site located along the public right-of-way of the 700 block of Forest Lodge Road, to allow a new pole of approximately 29'-6" height with a small-cell antenna and associated wireless telecommunications facility equipment, including the installation of a meter pedestal and a transformer.
- III. This permit shall become effective upon the expiration of the 10-day appeal period and extends for a period of 10 years.
- IV. This permit shall not take effect until the permittee acknowledges and agrees to all terms and conditions and agrees to conform to and comply with those terms and conditions.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF PACIFIC GROVE this 5th day of September, 2018, by the following vote:

AYES: Mayor Kampe, Councilmembers Garfield, Fischer, Huitt, and Smith.

NOES: Councilmember Cuneo and Peake.

ABSENT: None.

APPROVED:



BILL KAMPE, Mayor

ATTEST:



SANDRA KANDELL, City Clerk

APPROVED AS TO FORM:



DAVID C. LAREDO, City Attorney