

June 7, 2021

Dear City Clerk Minor,

On behalf of United Neighbors, we are appealing the Planning Director's decision to approve Verizon's application 20PLN-00118 to install cell towers at 1221 Middlefield Road (Node 061), 850 Webster Street (Node 204) and 853 Middlefield Road (Node 205).

The bases for our request that City Council overturn the approval of this set of applications are:

1. Verizon, the applicant, failed to meet the requirement of Palo Alto's Wireless Ordinance that it notify "all residents and property owners within 600 feet of the project site" of a community meeting regarding their proposed cell towers. In fact, hundreds of residents who should have been notified of this meeting were not. For example, none of the residents of Channing House were notified, even though the proposed installation at 850 Webster is right next to Channing House.
2. The notice of a community meeting that Verizon did send to other Palo Altans who live near the proposed installations was misleading with respect to the scale of the installations being proposed.
3. Verizon's application is incomplete because it does not include important information conventionally provided in cell tower applications and necessary to properly assess the three proposed locations and alternatives to these locations—information such as 1) whether the few alternatives Verizon considered represent all feasible alternatives; 2) the relative coverage offered by the permissible alternatives (for example, how much coverage would be lost by placing the cell tower in a location that requires fewer exceptions from the City's standards); 3) defined dimensions and characteristics of the target gap; and 4) a map of alternatives in preferred, non-residential zones, including adjusting the location of existing poles given that pole replacement is already proposed). As a result of the inadequacy of the information supplied by Verizon, there is: 1) no way to know why they selected these three particular sites for new cell towers; 2) no way to know why they considered some poles and not others as alternate locations; and 3) no way to assess whether any of their many requests for "exceptions" from the City's aesthetic and other standards with respect to the siting of cell towers are justified.
4. The Planning Director approved the application despite that fact that the three

proposed cell towers do not meet the City's Design Standards expressed in the City's December, 2019, Wireless Resolution (Resolution No. 9873). In particular, these Standards require that all "antenna(s) shall be placed in a shroud at the top of [the pole.]" and that "Antennas and/or equipment at the top of the pole shall be covered by a single integrated shroud." Instead, the three proposed installations have either two or three separately shrouded antennas at the top of their poles, not a single, integrated shroud.

5. The Planning Director approved the application without consulting the Architectural Review Board (ARB). He bypassed the ARB: 1) despite the fact that this was the first time the siting standards in the City's December, 2019, Wireless Resolution (Resolution No. 9873) were being applied; 2) despite the fact that Verizon considered very few alternate sites; and 3) despite the fact that the sites Verizon chose required multiple exceptions to the City's standards, including, for example, the standards related to the visibility of facilities.
6. There is no indication that the Planning Director consulted a siting expert in the process of evaluating Verizon's application, even though Verizon was obligated to pay for the service. If no consultation on siting, RF compliance and propagation was obtained, a justification is needed for why the Planning Director ultimately declined to obtain a consultation, given, in particular, that, again, 1) this was the first time the siting standards established in the City's December, 2019, Wireless Resolution were being applied; 2) Verizon considered very few alternate sites to the three it proposed; and 3) all three of the sites Verizon chose required that the City grant multiple material exceptions to Palo Alto's standards.
7. Node 205 at 853 Middlefield Road does not comply with the City's Standards "to the greatest extent feasible" because Verizon has failed to demonstrate why a tree planted further southeast than 35 feet from the pole is either 1) infeasible, or 2) would not be helpful in hiding the cell tower from view, as required by 18.42.110(k)(1)(A) of the Wireless Ordinance.
8. Verizon incorrectly asserts that deciduous trees—for example, the Chinese Pistaches cited with respect to the proposed facility at 853 Middlefield Road (Node 205)—will adequately conceal cell towers from view. In fact, deciduous trees such as these are leafless or close-to-leafless for significant portions of the year, during which times they will provide little to no concealment of the towers.
9. Verizon's three sites are located within range of a macro-tower (it's on the roof of Channing House) and an AT&T small cell node cell tower. The Palo Alto Fire Department's Hazardous Materials Inspector recommended that the proposed sites not be approved because he was concerned that, among other things,

“People may be exposed to excessive levels of RF at the following locations: People on the rooftop at 433 Addison and 442 Ramona; occupants at 519 Webster second story balcony; people working on street trees or utility poles at 1221 Middlefield, 850 Webster, and 853 Middlefield [i.e., at the locations of each of the three cell towers Verizon is proposing].” When City Staff raised these concerns with Verizon, Verizon’s response was evasive and misleading, and failed to address the core issue raised by the City’s Hazardous Materials Inspector: Is this safe?

10. The City’s current Standards allow cell towers to be located as close as twenty feet to a residence. The proposed cell tower at 1221 Middlefield Road (Node 061) appears to be even closer than that to a home. (We did not want to enter the property to measure the distance without the permission of the resident, who was not available.) To be clear, the twenty-foot setback is a “no exceptions” provision of the City’s Standards.
11. The approval letter grants to Verizon an exception which allows the company to aim one of the antennas on the proposed cell tower at 1221 Middlefield Road (Node 061) directly at a residence. This is the same residence that we believe is less than twenty feet from the proposed cell tower site. The application and the approval letter fail to adequately justify this decision.
12. The application and approval letter are deficient because, for all three proposed cell towers, they incorrectly limit analysis with respect to visibility to the view of the proposed cell tower from the sidewalk and the street, ignoring the view of the proposed facility by the individuals who live in the residences nearest to them.
13. The application is deficient in that it does not show all fiber backhaul as required by Notice of Incompleteness Item 66 and by the City’s Dig Once policy. Nothing in the Small Cell Order, or other law, disallows Palo Alto’s mandate that an applicant must demonstrate that it has arranged for all necessary services and equipment needed to actually operate the proposed equipment, regardless of whether the installation is conducted by the applicant or another entity, and regardless of whether that additional equipment is a "small cell." In short, the City of Palo Alto is entitled to require fiber backhaul documentation from Verizon.
14. Verizon has not justified the exceptions to the pole replacement/style standards it sought and obtained for Node 061 at 1221 Middlefield Road and for Node 204 at 850 Webster Street. Specifically, the applicant asserts that a 10” diameter pole is required to support two to three antennas at each of these locations, even though Node 205 is sited on an 8” diameter pole, and the 8” pole is supporting three antennas identical to those at the other two sites.

15. The proposed cell towers at 1221 Middlefield (Node 061) and 853 Middlefield (Node 205) do not appear to comply with the 2.6 cu. ft. maximum per streetlight pole mandated by the City because the three shrouded antennas alone total 2.55 cu. ft. (0.85 x 3), and this 2.55 cu.ft. does not include the mounting brackets or the pole extension supporting the antennas. Nor does 2.55 cu.ft. include the total volume of the “single integrated shroud and ‘antenna skirt’” that will be required to encompass all three antennas per the City Standards.
16. The Certificate of Insurance provided in the application is deficient in that it does not specify coverage for any liability sought for injuries due to non-FCC compliant RF, which is generally an exception to general liability policies.
17. Under City Code 18.42.110(l), Verizon is not eligible for a new WCF permit until any component of an existing Verizon WCF in the City that has not been used in 90 days has been removed. In fact, Verizon has not certified either 1) that it has removed any abandoned components of their equipment (e.g., now-disused cabling or wires) or 2) that there are no abandoned components.

We end our appeal with two global points regarding the deficiencies of Verizon’s application and of the approval decision:

18. The proposed nodes do not qualify as Tier 2 WCF under PAMC 18.42.110, but rather are Tier 3. Hence the application is deficient in that 1) it does not include the scaled drawing, required for Tier 3 applications, of potential increases in physical dimensions; and 2) it does not address the findings required for Tier 3, including those required by Section 18.76.010(c) of the Wireless Ordinance. Moreover, the approval letter does not, as the law mandates, make the required findings.
19. Verizon has not met, as the law requires, its “burden of proving” that denial of the application would “deprive the applicant of rights guaranteed by federal law.” For example, Verizon in fact 1) has not established the existence of a significant gap, particularly not a gap in personal wireless services, and 2) has not proved that the proposed nodes are the least intrusive means of addressing that gap, as compared to other feasible alternatives.

Please note the law requires that, if Verizon’s application and/or the approval of its application are deficient in any way, the application must be denied. Given the number

of ways in which both the application and the approval of the application are deficient, we respectfully ask you to deny Verizon's application.

Thank you for your consideration.

Sincerely,

Jeanne Fleming
With Tina Chow, Jerry Fan, Annette Fazzino and Jyotsna Nimkar,

For United Neighbors

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