

IN THE BOARD OF SUPERVISORS
COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA

_____ day _____, 20__

PRESENT: Supervisors

ABSENT:

RESOLUTION NO. _____

RESOLUTION AFFIRMING THE DECISION OF THE
PLANNING COMMISSION AND DISAPPROVING
THE APPLICATION OF VERIZON WIRELESS AND SHIRLEY OSIBIN FOR
CONDITIONAL USE PERMIT DRC2009-00057.

The following resolution is now offered and read:

WHEREAS, on April 14, 2011, the Planning Commission of the County of San Luis Obispo (hereinafter referred to as the "Planning Commission") duly considered and disapproved the application of Verizon Wireless and Shirley Osibin for Conditional Use Permit DRC2009-00057; and

WHEREAS, Verizon Wireless has appealed the Planning Commission's decision to the Board of Supervisors of the County of San Luis Obispo (hereinafter referred to as the "Board of Supervisors") pursuant to the applicable provisions of Title 22 of the San Luis Obispo County Code; and

WHEREAS, a public hearing was duly noticed and conducted by the Board of Supervisors on July 19, 2011, and the matter was continued to August 16, 2011, and then to September 27, 2011, and finally continued to March 27, 2012 and a determination and decision made on March 27, 2012; and

WHEREAS, at said hearing, the Board of Supervisors heard and received all oral and written protests, objections, and evidence, which were made, presented, or filed, and all persons

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present were given the opportunity to hear and be heard in respect to any matter relating to said appeal; and

WHEREAS, the Board of Supervisors has duly considered the appeal and finds that the appeal should be denied and the decision of Planning Commission should be affirmed and that the application should be disapproved based upon the findings set forth below.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED by the Board of Supervisors of the County of San Luis Obispo, State of California, as follows:

1. That the recitals set forth hereinabove are true, correct and valid.
2. That the Board of Supervisors makes all of the findings of fact and determinations set forth in Exhibit A attached hereto and incorporated by reference herein as though set forth in full.
3. That this project is found to be statutorily exempt from the California Environmental Quality Act under the provisions of Public Resources Code section 21080(b)(5), which provides that CEQA does not apply to projects which a public agency rejects or disapproves.
4. That the appeal filed by Verizon Wireless is hereby denied and the decision of the Planning Commission is affirmed, and that the application of Verizon Wireless and Shirley Osibin for Conditional Use Permit DRC2009-00057 is hereby disapproved based upon the findings of fact and determinations set forth in Exhibit A attached hereto and incorporated by reference herein as though set forth in full.

Upon motion of Supervisor _____, seconded by Supervisor _____, and on the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAINING:

the foregoing resolution is hereby adopted.

Chairperson of the Board of Supervisors

ATTEST:

Clerk of the Board of Supervisors

[SEAL]

APPROVED AS TO FORM AND LEGAL EFFECT:

WARREN R. JENSEN
County Counsel



By: Deputy County Counsel
Whitney McDonald

Dated: March 14, 2012

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STATE OF CALIFORNIA,)
)
County of San Luis Obispo) ss.

I, _____, County Clerk and ex-officio Clerk of the Board of Supervisors, in and for the County of San Luis Obispo, State of California, do hereby certify the foregoing to be a full, true and correct copy of an order made by the Board of Supervisors, as the same appears spread upon their minute book.

WITNESS my hand and the seal of said Board of Supervisors, affixed this _____ day of _____, 2012.

County Clerk and Ex-Officio Clerk of the Board of Supervisors

(SEAL)

By: _____
Deputy Clerk

EXHIBIT A - FINDINGS

Environmental Determination

- A. The project is found to be statutorily exempt from the California Environmental Quality Act under the provisions of Public Resources Code Section 21080(b)(5), which provides that CEQA does not apply to projects which a public agency rejects or disapproves.

Conditional Use Permit

- B. The commercial/industrial nature of the proposed facility would conflict with the character of the surrounding natural landscape and residential neighborhood. The proposed towers would loom over the backyards of existing residences along Ironwood Place as well as future residences which could potentially be developed on the vacant residential lots adjacent to the proposed facility. Even with the proposed screening, telecommunications equipment, including nine panel antennas totaling 33 square feet of surface area, would be visible from the surrounding residential neighborhood. The facility would also generate perceptible noise impacts as well as activities, such as 24-hour emergency maintenance of the facility, which are not compatible with the surrounding residential land use.
- C. The proposed project is inconsistent with provisions of the County General Plan.
- I. The proposed project is inconsistent with the Policies VR 9.3 and VR 9.4 of the Conservation and Open Space Element of the County General Plan. Policy VR9.3 requires communications facilities, including towers, antennas, and associated equipment, to be screened so that they blend with surrounding natural and built environments, but this project, even with proposed screening, would be inconsistent with the surrounding natural landscape and residential neighborhood, would be visible from the surrounding residential neighborhood, and would generate activities such as 24-hour emergency maintenance of the facility, which would not blend in with the surrounding neighborhood.
 - II. The proposed project is inconsistent with Policy 3.3.4 (*Stationary Noise Sources*) of the Noise Element of the General Plan. This policy establishes a nighttime noise limit of 45 dB, as measured from the nearest residential property line, for stationary noise sources. According to the noise study (*Illingworth & Rodkin, Inc.; August 10, 2011*), the proposed equipment would generate noise levels of 69 dBA at a distance of 5 feet and 43 dBA at the nearest existing residence (a distance of 400 feet). Although the study neglected to measure noise levels at the nearest residential parcel, as required by the Noise Element, based on the anticipated noise levels described in the study, the project would likely exceed the 45 dB limit at the nearest residential property line (a distance of 15 feet).
- D. The applicant has not demonstrated that a significant gap in cell phone service coverage exists in the area, and the proposed project is not the least intrusive means of providing service in the west Templeton area. The radio frequency (RF) propagation maps submitted by Verizon show generally good Verizon coverage throughout the Templeton area and indicate that the proposed project would simply increase coverage from fair to good levels in some portions of west Templeton, particularly the area between Las

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Tablas Road and Vineyard Drive; however, the propagation maps do not show a distinct gap in coverage. Verizon has indicated the existence of a feasible alternative site (1920 Vineyard Drive) that could achieve the project's coverage objective and would be less intrusive on the surrounding natural landscape and residential neighborhood with which this project conflicts. This alternative site would be located nearly 700 feet from the nearest residential parcel, resulting in fewer noise and visual impacts on residences than the proposed project, which is located within 5 feet of a residential parcel.

- E. The proposed project does not comply with Land Use Ordinance Section 22.30.180.C.2.b because the applicant has submitted insufficient information to conclude that co-location is in fact infeasible. For instance, the applicant's site analysis indicates that it ruled out the feasibility of collocating on the TCSD water tank site at 905 Lincoln Road for the following reasons: 1) the project's coverage objective could not be achieved from this site; and 2) the site is already "built out" in terms of its physical capacity to accommodate new carriers. However, Verizon has not submitted RF propagation maps, site plans, or any other evidence to support these reasons.