October 25, 2022

Honorable Board of Supervisors
Marin County Civic Center
San Rafael, CA 94903

SUBJECT: Steven Halpern’s appeal of the San Domenico School (Verizon) Use Permit and Design Review

Dear Supervisors:

RECOMMENDATION: Staff recommends that the Board deny Steven Halpern’s appeal and sustain the Deputy Zoning Administrator’s approval of the project by adopting the attached resolution approving the San Domenico School (Verizon) Use Permit and Design Review.

SUMMARY:
The Deputy Zoning Administrator approved the San Domenico School (Verizon) Use Permit and Design Review application allowing for a new 30-foot-tall wireless communications facility on the grounds of the San Domenico School in San Anselmo. The 30-foot-tall rectangular structure initially proposed by the applicant was disguised as a water tower and was 17-feet long by 17-feet wide at the base and 13-feet long by 13-feet wide at the top. The Deputy Zoning Administrator approved a 30-foot-tall cylindrical structure, disguised as a water tower, with a diameter of no more than 17 feet. The applicant did not object to this modification. Additional facilities associated with the wireless communications facility would be located approximately 330 feet from the water tower structure in a 423 square foot fenced-in area. The two locations would be connected via underground cables. The wireless communications facility would include the following: (1) an approximately 400 square foot concrete slab; (2) a 30-foot-tall structure disguised as a water tower; (3) nine 8-foot-tall antennas enclosed within the water-tower; (4) an approximately 423 square foot area enclosed by an eight-foot-tall wooden fence; (5) a 30 kw backup diesel generator; (6) three backup power/battery cabinets; and, (7) rack mounted equipment including telecom cabinets and equipment enclosures.

Various site improvements would also be entailed in the proposed development, including widening the gravel roadway from approximately 8 feet to 12 feet to access the proposed wireless communications facility, underground utilities within the existing roadway on the San Domenico School campus and general site improvements to implement the proposed project. The wireless communications facility would be set back at least 650 feet from all property lines.
DISCUSSION:
On August 4, 2022, the Deputy Zoning Administrator conditionally approved the project, finding that it would be best disguised as a water tower and that it provides benefits to the convenience, health and safety of the surrounding area. On August 16, 2022, Steven Halpern submitted a timely appeal of the San Domenico School (Verizon) Use Permit and Design Review approval. The 2018 Federal Communications Commission's (FCC) Order imposed specific “shot clock” limits on the County, based on the type of wireless facility and when the application is “deemed approved.” As codified in Section 47 U.S.C. § 332(c)(7), Division (E) of the Federal Communications Act of 1934, the County has 60 days to review and take action on applications for placement on an existing structure (co-location), 90 days for installation of a new structure and 150 days for all other applications (e.g. new tower). These time frames include any public hearing process, including any appeals. Failure to meet these deadlines results in application “deemed approved” under the State and Federal statutes. These truncated time limits curtail the County’s ability to require pre-application conferences, and to conduct public hearings, appeals, and other procedures that may add processing time beyond shot clock limits. In order to comply with the Federal timelines, staff has decided to bypass the Planning Commission and bring this appeal to the Board, as permitted by Marin County Code Section 22.114.020(A).

The appellant’s points of appeal include concerns regarding electric and magnetic fields (EMF) and radiofrequency (RF) emission, inconsistency with the Marin County Telecommunications Facilities Policy Plan and the availability of the project materials to the public. Staff contends that appellant’s points of appeal are insufficient to overturn the San Domenico School (Verizon) Use Permit and Design Review decision because the project is consistent with the Marin County Telecommunications Facilities Policy Plan and the FCC regulations regarding EMF and RF emissions. The full responses to the appeal are laid out in the attached Resolution (see Attachment 1).

REVIEWED BY:  ☐ County Administrator  ☒ N/A
               ☐ Department of Finance  ☒ N/A
               ☒ County Counsel  ☐ N/A
               ☐ Human Resources  ☒ N/A

SIGNATURE:
Megan Alton
Planner
Attachments:
1. Recommended Resolution
2. Project Plans
3. Steven Halpern’s Petition for Appeal
4. CEQA exemption
5. Deputy Zoning Administrator’s Approval of the San Domenico School Use Permit and Design Review
6. Deputy Zoning Administrator’s Supplemental Memorandum
7. Letter from Mackenzie & Albritton LLP on behalf of the applicant Verizon
8. Public Comments