MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

RESOLUTION NO. 22-117

A RESOLUTION APPROVING THE SAN DOMENICO SCHOOL USE PERMIT AND DESIGN REVIEW
1500 Butterfield Road, San Anselmo
ASSessor'S PARCEL: 176-300-30

SECTION I: FINDINGS

1. WHEREAS, Verizon Wireless, on behalf of the owners, San Domenico School for the Girls, has submitted a Use Permit and Design Review application for a new 30-foot-tall wireless communications facility on a property developed located in San Anselmo (on the grounds of San Domenico School). The wireless communications facility entails building a new 30-foot-tall structure disguised as a water tower, which would have dimensions of 17-feet by 17-feet wide at the base and 13-feet wide at the top. Additional facilities associated with the wireless communications facility would be located approximately 330 feet from the water tower structure in an 423 square foot fenced 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; (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 setback at least 650 feet from all property lines.

The property is located at 1500 Butterfield Road, San Anselmo and is further identified as Assessor’s Parcel 176-300-30.

2. WHEREAS, on August 4, 2022, the Marin County Deputy Zoning Administrator held a duly noticed public hearing to take public testimony and consider the project.

3. WHEREAS, the project is Categorically Exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15303, Class 3 of the CEQA Guidelines because the telecommunications facility would not result in environmental impacts. The applicant has submitted a report prepared by Verizon Wireless, which evaluates human exposure to radio frequency electromagnetic fields from the proposed telecommunications facility. The report concludes that the facility will comply with the prevailing standards for limiting public exposure to radio frequency energy and, therefore, will not cause a significant impact to the public.

4. WHEREAS, the project is consistent with the goals and policies of the Marin Countywide Plan for the following reasons:
A. The Countywide Plan land use designation for the subject property is for residential uses. The proposed project would be consistent with the existing land use designation because telecommunication facilities are allowed uses under the corresponding zoning subject to the approval of a Conditional Use Permit.

B. The proposed project is compatible with the residential land use designation for the project site and would not interfere with the existing use of the site (school). The project would involve the construction of a wireless facility that would be accessory to the current use. The location, size, and operating characteristics of the proposed facilities are compatible with the allowed uses in the vicinity. The design, as modified by conditions of approval herein, would also be compatible with the uses on-site as well as the adjacent uses on the surrounding properties. The on-site circulation would remain unchanged, and the proposed project will not alter parking areas.

C. The project is consistent with the CWP woodland preservation policy (BIO-1.3) because the project would not entail the irreplaceable removal of a substantial number of mature, native trees.

D. The project is consistent with the CWP special-status species protection policy (BIO-2.2) because the subject property does not provide habitat for special-status species of plants or animals.

E. The project is consistent with the CWP natural transition and connection policies (BIO 2.3 and BIO 2.4) because the project would not substantially alter the margins along riparian corridors, wetlands, baylands, or woodlands.

F. The project is consistent with the CWP stream and wetland conservation policies (BIO-3.1 and CWP BIO-4.1) because the proposed development would not encroach into any Stream Conservation Areas or Wetland Conservation Areas.

G. The project is consistent with CWP water quality policies and would not result in substantial soil erosion or discharge of sediments or pollutants into surface runoff (WR-1.3, WR-2.2, WR-2.3) because the grading and drainage improvements would comply with the Marin County standards and best management practices required by the Department of Public Works.

H. As discussed in Section 5 below, the proposed project is consistent with the goals and policies of the Marin County Telecommunications Facilities Policy Plan (TFPP) because the project, as modified by conditions of approval, would ensure that the siting and design of the proposed facility are compatible with other land uses, would minimize visual impacts, and would minimize potential health risks to people.

I. Mandatory Use Permit findings can be made under Section 22.48.020 of the Marin Code to allow public utility and service uses necessary for public safety, convenience, and welfare, as discussed in Section 6 below.

J. The project would provide critical emergency communications needs of the community.

K. The project would not cause significant adverse impacts on water supply, fire protection, waste disposal, schools, traffic and circulation, or their services.
5. WHEREAS, the project is consistent with the Marin County Telecommunications Facilities Policy Plan (TFPP) and with the criteria for wireless communication facilities contain therein, as follows:

A. The TFPP states that wireless telecommunications facilities should be sited to avoid or minimize land use conflicts. The TFPP policies establish a general preference for non-residential sites for wireless facilities. TFPP policy LU 1.4 ranks location preferences in seven categories:

1. Industrial sites
2. Commercial sites
3. Public facilities sites
4. Agricultural sites
5. Mixed use sites
6. Open space and recreational sites
7. Residential sites

There are no industrial or commercial sites in the coverage area. Given that Sleepy Hollow is primarily a residential community, which is the lowest priority for locating telecommunication facilities, the proposed property is preferred to the alternative sites within the needed coverage area.

The private property is developed with institutional buildings, dormitories, recreational fields, pathways and parking lots operated by the San Domenico School. The educational use of the property, would be ranked three in priority. The majority of the property is undeveloped and also includes a network of private trails, which as open space and recreation use would be ranked sixth. Adjacent properties are open space or residential. The nearest off-site residence is approximately 750 feet away.

As discussed in more detail below, a stealth water tower is compatible with the open space character and use of the subject property and surrounding areas. The project site is served by an existing access roadway. The facility is sited to minimize the amount of grading and avoid the removal of any trees or result in other adverse environmental impacts. The project would not result in adverse visual impacts because of the stealth design, topography, and distance from the most public vantage points. The proposed equipment area would be fenced, hiding the equipment.

B. Visual and aesthetic compatibility policies VIS 1 and 2 specify that telecommunications facilities should be sited and designed to avoid or minimize adverse visual effects. The TFPP also encourages stealth design to minimize visual effects. The proposed telecommunications tower is disguised as a 30-foot-tall wooden water tower located elevation contour line 355 feet. The location is approximately 1,250 feet southwest of the visually prominent ridgeline upslope that connects topographic highpoints, and well over 125 feet lower in elevation. As seen in Exhibit A, the top portion of the structure is square, approximately 13 feet wide by 13 feet long and 11 feet tall. This area would house the antennas. From the base of this area, the structure fans outward and at the base is 17 feet wide by 17 feet long.

The stealth design of the proposed structure is inconsistent with the other water tanks design that exist in Marin County and the Bay Area because it does not disguise the tower.
well enough. To improve the stealth design to ensure the structure is disguised more effectively as a water tower, a condition of approval has been added that requires the stealth structure to be the 30-foot-tall cylindrical design similar to the one presented in the alternatives analyses. However, the exterior shall have a wooden finish similar to that of the proposed water tower rather than the metal surface shown in the alternative. The cylindrical design shall be no more than 17 feet in diameter and no taller than 30 feet. Wood siding would ensure the structure would blend in with the natural environment and not stand out or cause a distraction. As modified, this stealth design option would allow for future co-location of antennas that would not require substantial modification to the structure that could result in the structure looking less like a water tower. Additionally, the TFPP encourages co-location; therefore, this condition of approval would allow for this project and future projects to be consistent with Policy 2.1.

C. Policy LU 1.1 states that new telecommunication facilities in Ridge and Upland Greenbelt areas should be avoided unless no other technically feasible and available site exists. The Ridge and Upland Greenbelt designation is a broad swath that includes flatlands, canyons, valleys, and ridgeland, some of which are developed with single-family residences. The proposed project is located within the Ridge and Upland Greenbelt. As called for in the TFPP, the applicant has provided an alternative sites analysis indicating there are no existing sites within the area that would service their coverage gap to co-locate upon. Alternative sites on the San Domenico School campus were examined but all were located within the Ridge and Upland Greenbelt as well. While the applicant has shown that there are other technically feasible alternatives, they would not meet other requirements of the TFPP. Antennas located elsewhere would be significantly taller, would not blend into the natural landscape. Those alternatives would be less consistent with telecommunication policies to protect views and meet coverage objectives. They would also be located closer to residential areas, which are discouraged as the least preferred option. The proposed structure is located well below the ridge and disguised as a water tower. The visual appearance of the structures would be softened by the use of natural colors to blend in with the hillside. Additionally, the water tower would be located near existing trees which would soften its appearance.

D. Policy LU 1.1.5 states that new telecommunication facilities shall only be permitted on properties with public easements or other restrictions in accordance with the terms of such an agreement. The undeveloped portions outside of the campus area of the San Domenico school and areas 50 feet outwards from the top of bank from Sleepy Hollow Creek on the subject property are part of a private open space and conservation agreement that was recorded against the property in 2003 and amended in 2008. The agreement limits development and states, “No trees, bushes, or other botanical features shall be removed in a manner inconsistent with the Private Non-Development Agreement, except where necessary for the fire protection, to remove noxious species, to accommodate any permitted structure, or where required, to conform to local ordinances or the laws of the State of California relating to health, safety or the general welfare.”

The Telecommunications Act of 1996 enabled the Federal Communications Commission to issue rules preempting state or local legal requirements that act as a barrier to entry in the telecommunications service. Section 332(c)(7)(B) preempts state and local requirements that prohibit or have the effect of prohibiting the provision of personal wireless services.
The applicant has submitted maps showing the wireless coverage provided by the proposed project. This coverage maps indicate that the higher elevation of the proposed facility gives it a greater line of sight, and therefore broader wireless coverage to this area than lower locations that would be outside the area restricted by the open space agreement. Denying a carrier this coverage is inconsistent with Federal Communications Commission regulations and the Telecommunications Act. Further, as noted above, the open space agreement includes a clause allowing development that protects public health and safety. The proposed location would protect public health and safety because wireless service has become a critical method of emergency communications for both first responders and the public at large. Therefore, the proposed project is consistent with the terms of the open space agreement.

E. The TFPP policy LU 2.1 states that new commercial wireless facilities should be co-located or clustered at existing or planned telecommunication sites unless requiring the proposed facility to be located at another stand-alone location would have the effect of prohibiting wireless service, or result in adverse land use effects that would otherwise be avoided or minimized to an acceptable level. As noted above, the applicant has provided maps of gaps in service that cannot be covered by co-locating on existing facilities. The coverage area for the proposed project is residential or open space within a Ridge and Upland Greenbelt. Residential is the lowest priority for sites a new facility. Therefore, to prevent the carrier from building within a Ridge and Upland Greenbelt would in effect prohibit the carrier from providing service, which is against Federal Communications Commission (FCC) regulations. Therefore, as presented in the alternative sites analysis, the applicant has demonstrated the most suitable location with the lowest tower height and least visibly distracting.

F. TFPP policy LU 1.7 encourages sites in proximity to existing or proposed trails or open space lands to be sited to ensure that these public uses are not adversely affected. The proposed project is consistent with this policy because it does not interfere with public access or use, would have limited visual effects for nearby recreational trails and open space areas, meets FCC limits for public exposure, and utilizes existing roads.

G. TFPP policy OI 1 requires that telecommunications facilities be constructed, maintained and operated in a manner that does not adversely affect public safety or result in noise or traffic impacts. Noise levels associated with the operation of the facility would not exceed the ambient noise levels. With exception to routine maintenance visits by a cellular site technician, the facility would not generate other traffic trips to the property. Therefore, the proposed facility would neither generate significant levels of noise nor traffic.

H. The facility would allow Verizon Wireless to provide communications services for the Sleepy Hollow area and would allow the carrier to continue to provide a reliable source of wireless communications to residents, businesses, and emergency service providers in the County.

I. The applicant submitted a report prepared by Verizon Wireless which concludes that the existing facility would not result in any significant risks with respect to human exposure to radio frequency fields because the proposed facility would generate maximum ambient radio frequency levels that are below the applicable public exposure limit established by the FCC.
6. WHEREAS, the project is consistent with the mandatory findings for Conditional Use Permit approval (Marin County Code Section 22.48.040).

A. The proposed use is allowed, as a conditional use, within the subject zoning district and complies with all of the applicable provisions of this Chapter.

Pursuant to Marin County Code Section 22.10.030, the construction and maintenance of Telecommunication facilities, are conditionally permitted in RSP zoning districts. Telecommunication may be approved in the governing RSP zoning district by Use Permit pursuant to Section 22.48.040 of the Marin County Code when it is found to be necessary for public health, safety, convenience, or welfare. The telecommunications facility is part of the Verizon Wireless network, which provides wireless cellular and personal communication services to residents and businesses in Marin County and contributes to public safety, convenience, and welfare. Therefore, the project is consistent with this finding.

B. The design, location, size, and operating characteristics of the proposed use are compatible with the existing and future land uses in the vicinity.

The applicant has submitted coverage maps, which show that there is low to no coverage for the surrounding area and no options for co-location to achieve the required coverage results. The proposed facility would significantly increase the wireless coverage for the surrounding area and benefit the local community and public services. As modified herein, the facility would be the least visibly intrusive means to accomplish the required coverage improvements for the area as the stealth design would conceal the antennas as a water tower, not on a ridgetop, and setback from the San Domenico School and nearby residence. See section 5, above.

C. That granting the Conditional Use Permit will not be detrimental to the public interest, health, safety, convenience, or welfare of the County, or injurious to the property or improvements in the vicinity and zoning district in which the real property is located.

The project would not result in any significant, public health risks with respect to human exposure to radio frequency radiation because the facility would operate well below the exposure limits set by the FCC. The grant of the proposed Use Permit on the subject property would not be detrimental to the health, safety, comfort, or welfare of persons working or residing in the surrounding neighborhood.

7. WHEREAS, the project is consistent with the mandatory findings for Design Review approval (Marin County Code Section 22.42.060).

A. The proposed development complies with either the Single-family or Multi-family Residential Design Guidelines, as applicable, the characteristics listed in Chapter 22.16 (Discretionary Development Standards) and any applicable standards of the special purpose combining districts provided in Chapter 22.14 of this Development Code.

The Single-family or Multi-Family Residential Design Guidelines do not apply since they apply to residential development and the proposed project is a telecommunication facility.
Additionally, the project is not located in a combining district; therefore, Chapter 22.14 of the development code would not apply. The development would not be located near streams or areas that are constrained by unusual geotechnical hazards. Any excavation or grading would be minimal, and no vegetation would be removed as part of the project.

As previously discussed, the project site is located well below a ridgeline but within a Ridge and Upland Greenbelt area. While the proposed water tank would be visible from some public locations, using a stealth design would ensure the tower would not distract from the natural landscape and would not create a visual impact. Although design standards discourage development in Ridge and Upland Greenbelt areas or ridgelines, Ridge and Upland Greenbelt area development may be allowed if no other suitable location is available on the site or in the needed service area. As previously discussed, most of Sleepy Hollow is within the Ridge and Upland Greenbelt or is residentially developed. Therefore, the alternative sites analysis prepared by Verizon Wireless indicated the proposed site is the most suitable location for the project. The location of the water tower is approximately 1,250 feet southwest of the visually prominent ridgeline upslope that connects topographic highpoints, and well over 125 feet lower in elevation. Additionally, the coverage gap area is a residential area or designated Ridge and Upland Greenbelt.

B. The proposed development provides architectural design, massing, materials, and scale that are compatible with the site surroundings and the community.

As previously discussed, the project site is located within Sleepy Hollow, which is primarily a residential area surrounded by hills. The use of a stealth design and fencing would help disguise the facility at the project site. The project, as conditioned, would be compatible in terms of architectural design, massing, materials with the site surroundings and the community. Please see Sections 5.A, B, C, D, and E above for more information.

C. The proposed development results in site layout and design that will not eliminate significant sun and light exposure or result in light pollution and glare; will not eliminate primary views and vistas; and will not eliminate privacy enjoyed on adjacent properties.

The project would be located with adequate setbacks to adjoining properties and would not interfere with development on other properties. The project would be a stealth design that would be far enough away from residential areas that it would not result in loss of light, air, privacy, or views in the surrounding neighborhood. Please see Sections 5.A, B, C, D, and E above for more information.

D. The proposed development will not adversely affect and will enhance where appropriate those rights-of-way, streetscapes, and pathways for circulation passing through, fronting on, or leading to the property.

At the closest point the equipment area is approximately 120 feet from Butterfield Road on the San Domenico School Campus and approximately 5 feet from a dirt access road. The proposed structures would not adversely affect these roads because they would be enclosed behind fences and would not encroach into these areas. Additionally, the project includes underground utilities and associated equipment that would not interfere with access once construction is completed. The project would not permanently interfere with circulation on the existing sidewalk or right-of-way. Furthermore, the project would not
result in substantial grading, retaining walls, tree removal, or other adverse physical effects on the environment.

E. The proposed development will provide appropriate separation between buildings, retain healthy native vegetation and other natural features, and be adequately landscaped consistent with fire safety requirements.

The facility would maintain large setbacks to all surrounding properties and would not interfere with the existing uses on the property. The proposed facility would be located within a fenced lease area that would not accessible to the school and other users of the private property. The water tower would be over 750 feet from the closest residence southwest and approximately 400 feet to the nearest structure on the San Domenico School Campus, which is an equestrian related structure. The facility would blend in with the existing landscape due existing vegetation and the stealth design. Furthermore, the project would be reviewed during the Building Permit stage to ensure the structure meets all current fire and building code requirements.

SECTION II: ACTION

NOW THEREFORE, BE IT RESOLVED that the project described in condition of approval 1 is authorized by the Marin County Deputy Zoning Administrator and is subject to the conditions of project approval.

This planning permit is an entitlement to apply for construction permits, not a guarantee that they can be obtained, and it does not establish any vested rights. This decision certifies the proposed project’s conformance with the requirements of the Marin County Development Code and in no way affects the requirements of any other County, State, Federal, or local agency that regulates development. In addition to a Building Permit, additional permits and/or approvals may be required from the Department of Public Works, the appropriate Fire Protection Agency, the Environmental Health Services Division, water and sewer providers, Federal and State agencies.

SECTION III: CONDITIONS OF PROJECT APPROVAL

NOW, THEREFORE, BE IT RESOLVED that the Marin County Deputy Zoning Administrator hereby approves the San Domenico School Use Permit and Design Review subject to the conditions as specified below:

CDA-Planning Division

1. This Use Permit and Design Review approval authorizes a new 30-foot-tall wireless communications facility on the grounds of San Domenico School. The wireless communications facility shall be a 30-foot-tall structure disguised as a water tower. Additional facilities associated with the wireless communications facility shall be located in an 423 square foot fenced in area. The two locations shall be connected via underground cables. The wireless communications facility shall include the following: (1) an approximately 400 square foot concrete slab; (2) a 30-foot-tall structure disguised as a water tower structure; (3) nine 8-foot-tall antennas enclosed within the water-tower portion of the structure; (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; (7) rack mounted equipment including telecom cabinets and equipment enclosures. Various site improvements
shall include widening the gravel roadway 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.

2. Plans submitted for a Building Permit shall substantially conform to plans identified as Exhibit A, entitled "San Domenico," consisting of 14 sheets prepared by Verizon Wireless, received in final form on June 30, 2022, and on file with the Marin County Community Development Agency, except as modified by the conditions listed herein.

BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall modify the project to conform to the following requirements:

a. The water tower stealth design shall be cylindrical in shape, no more than 17 feet in diameter and no taller than 30 feet above surrounding grade. The exterior siding shall be a natural wood finish.

3. The project shall conform to the Planning Division’s “Uniformly Applied Conditions 2022” with respect to all of the standard conditions of approval and the following special conditions: 6 and 7.

4. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall submit a copy of a safety standards plan for review and approval by the Community Development Agency, Building and Safety Division. The plan shall contain safety standards to be implemented in order to protect people working in areas that are not accessible to the general public who might be exposed to EMF levels in excess of the Maximum Permitted Exposure Level. Such standards may include restricted access to telecommunications facilities, temporarily ceasing operation of the facility for work required within specified distances of antennas, and posting safety signage in compliance with FCC requirements.

5. BEFORE ISSUANCE OF A BUILDING PERMIT, the applicant shall enter into a standard performance agreement with the County and post a suitable security in order to guarantee removal of an abandoned facility. The facility must be dismantled and removed from the premises if it has been inoperative or abandoned for more than a two-year period unless the service provider or property owner obtains an extension from the Community Development Agency.

6. The electromagnetic field (EMF) strengths or equivalent plane-wave power densities generated by the approved facility, in combination with other existing ambient sources of EMF, shall not expose the general public to EMF levels that exceed the Maximum Permitted Exposure levels for electric and magnetic field strength and equivalent plane-wave power density in the EMF emission guidelines adopted by the FCC. In the event the FCC adopts a more restrictive Maximum Permitted Exposure Level, or the County adopts a more restrictive EMF exposure standard if allowed by future changes in Federal law, the applicant shall demonstrate compliance with the more restrictive standard unless such a requirement is preempted by State or Federal law. The applicant shall demonstrate compliance by submitting a radio frequency report to the County within 90 days of the effective date of the standard or longer period as approved by the Community Development Agency Director. The radio frequency report shall determine conformance with the updated standard by calculating the EMF power levels of the approved facility in combination with other existing ambient sources.
7. The approved facility shall operate in compliance with the noise exposure standards contained in the Marin County Code. Normal testing and maintenance activities shall occur between the hours of 7:00 a.m. and 5:00 p.m., Monday through Sunday, excluding emergency repairs. Normal testing and maintenance activities which do not involve the use or operation of telecommunications and maintenance equipment that is audible from nearby sensitive receptors may occur at all times. Back-up generators shall comply with the above-referenced noise standards, and shall only be operated during power outages, emergency occurrences, or for testing and maintenance as described above.

8. The project shall comply with the California Public Utility Commissions latest requirements related to back up energy sources and duration.

SECTION IV: VESTING

NOW THEREFORE, BE IT RESOLVED that unless conditions of approval establish a different time limit or an extension to vest has been granted, any permit or entitlement not vested within three years of the date of the approval shall expire and become void. The permit shall not be deemed vested until the permit holder has actually obtained any required Building Permit or other construction permit and has substantially completed improvements in accordance with the approved permits, or has actually commenced the allowed use on the subject property, in compliance with the conditions of approval.

SECTION V: APPEAL RIGHTS

NOW, THEREFORE, BE IT RESOLVED that this decision is final unless appealed to the Marin County Planning Commission. A Petition for Appeal and the required fee must be submitted in the Community Development Agency, Planning Division, Room 308, Civic Center, San Rafael, no later than eight business days from the date of this decision (August 16, 2022).

SECTION VI: ADOPTION

ADOPTED at a regular meeting of the Deputy Zoning Administrator of the County of Marin, State of California, on the 4th day of August 2022.

Michelle Levenson
Michele Levenson
MARIN COUNTY DEPUTY ZONING ADMINISTRATOR

Attest:

Michelle Reed
DZA Recording Secretary