



SUBJECT

Proposed Installation of Three (3) Telecommunication Monopoles Along the Parapet of an existing Parking Garage located at 27303 Sleepy Hollow Avenue (APN: 455-0026-024-03), Requiring the Approval of Conditional Use Application No. UP-24-0004 for a Class 3 facility, and finding that the project is categorically exempt from the California Environmental Quality Act (CEQA). Applicant: Kristy Andres, Ericsson; Owner: Joseph Crist, Kaiser Permanente.

RECOMMENDATION

That the Planning Commission approve Conditional Use Permit Application No. UP-24-0004 and determine that the project is exempt from CEQA, pursuant to Section 15303, for the installation of three Class 3 telecommunication monopoles based on the analysis set forth in this staff report, the Findings contained in Attachment II, and subject to the Conditions of Approval contained in Attachment III.

SUMMARY

The proposed project was previously approved by City staff on April 21, 2020, (Application No. 202000442). A building permit was issued for the project on May 22, 2022 and administratively extended from July 23, 2023 to December 2, 2024. However, due to an elevation error on the plans, the height of the parapet and parking lot surface were miscalculated by eight feet when measured in the field, and the project was not constructed. As a result of this error, the actual height of the monopoles is eight feet higher than previously anticipated. In August 2023, the applicant sought to revise the building permit set of plans to conform to field conditions. Upon review of the revised plans, staff determined that the project with corrected height measurements requires a Conditional Use Permit, pursuant to Section 10-13.090(a)(2) of the Hayward Municipal Code (HMC), to allow the installation of three monopoles for a wireless communication facility to replace the existing monopole on the parking garage. If approved, the proposed project would be subject to all the applicable design and placement requirements of the Zoning Ordinance, Antenna and Telecommunications Ordinance, the Federal Communication Commission (FCC) regulations, and any conditions of approval of the Conditional Use Permit.

BACKGROUND

On April 21, 2020, City staff approved Telecommunications Site Plan Review (TSR) Application No. 20200042 to modify an existing roof-mounted telecommunication facility located the center of the roof of the Kaiser Permanente parking structure. The proposed modification included the removal of an existing monopole with six (6) antennas to be replaced with a new

wireless telecommunication facility with three (3), smaller monopoles with three (3) antennas each and related equipment.

On September 14, 2023, the applicant submitted a revised application to modify the previous approval. Due to an error on records relied upon by the applicant, the height of the parapet and height of the parking lot surface were miscalculated to be eight feet lower than the height measured in the field. After submitting building permits, the height of the parapet and garage were verified in the field. As a result, the height of the monopoles is eight feet higher than previously anticipated. The applicant revised the building permit set of plans accordingly but was directed to the Planning Division for further guidance. Given that the actual height of the wireless communication facility is eight feet higher than the original approval, the proposed project requires a Conditional Use Permit pursuant to 10-13.090(a)(2) of the Hayward Municipal Code (HMC). All other aspects of the application will remain unchanged.

Public Outreach: On September 25, 2023, the Planning Division mailed out 460 Notices of Receipt of Application (NOR) for the proposed modification to the owners and occupants of all property within 300 feet of the site. At that time, no comments on the project were received.

On March 1, 2024, a Notice of this Public Hearing for the Planning Commission meeting was sent to property owners, residents, and businesses within 300 feet of the project site; emailed to interested parties and those who requested such notice; and, published in *The Daily Review* newspaper. As of the date of this report, staff has not received any comments from members of the public regarding the proposed project.

PROJECT DESCRIPTION

Existing Conditions: The project site (APN# 455-0026-024-03) contains approximately 4.95 acres and is located on the northwest corner of the intersection of Sleepy Hollow Avenue and Tennyson Road. The project site is irregularly shaped and relatively flat. Currently, there are two existing buildings on site: a two-story medical office building located at the southern portion of the project site and a three-story parking garage sited near the western property line. Additional parking is provided by a surface parking lot occupying the northern end of the project site. The site is accessed from Sleepy Hollow Avenue via a two-way access drive. The site is bounded by a multi-tenant commercial development to the west, Sleepy Hollow Avenue to the east, Tennyson Road to the south, and a multi-family development to the north.

Proposed Project: The project includes the removal of an existing monopole with six antennas located at the center of the roof parking surface of the existing three-story parking garage and the replacement with three new monopoles with three antennas each. The height from grade of the existing monopole is 56'. The three monopoles are proposed along the western parapet of the roof of the existing parking garage. As measured from grade, the height of each of the three monopoles would be 73'4". Due to the setback of the proposed monopoles, the height of the parking garage, and location of the existing tree cover, the wireless communication facility is relatively shielded from public view. The project also includes the installation of 15 remote radio units (RRUs), the installation of ancillary equipment behind three proposed screen walls for each monopole, and the replacement of two equipment cabinets located inside the existing

equipment area with equipment racks. A copy of the project plans, including the site plan and architectural renderings, are included as Attachment IV and a copy of photo simulations, is included as Attachment V.

Radio Frequency Emissions: The Federal Telecommunications Act of 1996¹ prohibits the denial of applications based on the environmental effects of radio frequency emissions to the extent that the applicant demonstrates that such facilities comply with FCC regulations. The applicant has provided a radio frequency (RF) emissions report that analyzes the potential effects of the proposed facility against the standards established by the federal government. The report is included as Attachment VI.

The RF report, prepared by EBI Consulting on September 7, 2023, determined that the design and location of the antennas, together with mitigation measures, would ensure no possibility for exposure exceeding the Maximum Permissible Exposure (MPE) Limits established by the FCC. As mitigation measures, the report recommends the addition of signage, which is a requirement in the conditions of approval to maintain the site's compliance with federal regulations regarding RF emissions. Based upon the calculations and analysis, the proposed facility would comply with the exposure limits set by the FCC.

POLICY CONTEXT AND CODE COMPLIANCE

Hayward 2040 General Plan: The project site is designated Public and Quasi-Public (PQP) and Retail and Office Commercial (ROC) in the *Hayward 2040 General Plan*. The PQP land use designation allows a variety of public and quasi-public uses, including community centers, recreation centers, government offices, hospitals, primary and secondary schools, college and university campuses, transit stations, and other related government facilities and services. The ROC designation allows commercial buildings, shopping centers, and office buildings. The proposed wireless communication facility would support the allowed uses in the PQP and ROC land use designations by enhancing existing communication infrastructure for both the local and regional needs for surrounding neighborhoods and businesses as well as those traveling through the City. Therefore, the project is consistent with the City's General Plan land use designation. The project is also consistent with several General Plan goals and policies, including but not limited to the following:

- The City shall work with service providers to ensure access to and availability of a wide range of state-of-the-art telecommunication systems and services for households, businesses, institutions, public spaces, and public agencies throughout the city. (Public Facilities and Services Policy PFS-9.1).
- The City shall work with service providers to expand service to areas that are not served by telecommunication technologies. (Public Facilities and Services Policy PFS-9.2).
- The City shall encourage compatible co-location of telecommunication facilities and shall work with service providers to site telecommunications facilities on City-owned property and public rights-of-way. (Public Facilities and Services Policy PFS-9.3).

¹ <https://transition.fcc.gov/Reports/tcom1996.pdf>

Zoning Ordinance: The project site is zoned Commercial Office (CO)², which allows a variety of residential, administrative, professional, and business uses. Wireless communication facilities are allowed in the CO District, subject to the regulations contained in the Antenna and Telecommunications Facilities Ordinance in Chapter 10, Article 13 of the HMC³.

Wireless telecommunication facilities are subject to the permit procedures, general requirements, and design criteria in the Antenna and Telecommunication Facilities Ordinance. Per HMC Section 10-13.090, antennas mounted on either monopoles or support structures and related facilities greater than 40 feet in height located in any commercial or agricultural district utilized for public and/or quasi-public uses are classified as Class 3 facilities, which require approval of a Conditional Use Permit by the Planning Commission to operate. Given that the height of the mounted antennas would be 73'4" from grade, the proposed project would require approval of a Conditional Use Permit. As demonstrated in Attachment II, the proposed project meets the Conditional Use Permit findings in Section 10-1.3225 of the HMC⁴.

Further, the proposed project complies with the general requirements and applicable design criteria for wireless facilities outlined in Sections 10-13.C1 and 10-13.C2 of the HMC. Subsection 10-13.C1(b) of the HMC requires that the antenna or support structure not be located in the required yard setbacks. While the 14-foot rear yard setback of the existing garage does not meet the minimum required setback of 20 feet in the CO zoning district, the proposed project continues the existing setback and, therefore, does not exacerbate a nonconforming condition. Moreover, in accordance with Subsection 10-13.C2(b)(3) and (b)(5) of the HMC, the proposed project is not placed in direct line of sight of significant view corridors or where they affect scenic vistas and is located in an area of the roof where the visual impact is minimized from the street, as demonstrated in the photo simulations in Attachment V. Finally, the existing equipment area screening will be maintained, which will continue to minimize visibility from the right-of-way in accordance with Subsection 10-13.C2(b)(8) of the HMC.

Additional details and analysis for each of the required findings is provided in the Draft Findings for Approval (Attachment II).

STAFF ANALYSIS

Based on the staff's analysis in this staff report and per the draft findings in Attachment II, staff believes the Planning Commission can make the necessary findings to approve the proposed project, as conditioned. As noted in this report, the proposed project adheres to all applicable standards of the City's Zoning Ordinance, the Antenna and Telecommunications Ordinance, and does not require any variances or exceptions. In addition, the proposed project is consistent with several goals and policies of the *Hayward 2040 General Plan* and would enhance existing communication infrastructure for both the local and regional needs for surrounding neighborhoods and businesses as well as those traveling through the City. The project, as

² https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PLZOSU_ART1ZOOR_S10-1.1100COOFDICO

³ Antenna and Telecommunications Facilities Ordinance:

https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PLZOSU_ART13ANTEFAOR

⁴ https://library.municode.com/ca/hayward/codes/municipal_code?nodeId=HAYWARD_MUNICIPAL_CODE_CH10PLZOSU_ART1ZOOR_S10-1.3200COUSPE_S10-1.3225FI

conditioned, will also be subject to all applicable provisions of the Hayward Municipal Code related to construction and maintenance of the project site.

ENVIRONMENTAL REVIEW

The project is exempt from CEQA pursuant to State CEQA Guidelines Section 15303 (New Construction or Conversion of Small Structures). This exemption provides for the construction and location of limited numbers of new, small facilities or structures. This includes water main, sewage, electrical, gas, and other utility extensions. The proposed installation of three monopoles is considered a utility extension and, therefore, is exempt from CEQA pursuant to Section 15303 of the CEQA Guidelines.

NEXT STEPS

Following the Planning Commission hearing and decision, a ten-day appeal period for the Conditional Use Permit decision will occur. If no appeal is received, then the Commission's decision will become final. If an appeal is filed, then a hearing by the City Council on the Conditional Use Permit application will be scheduled for a date to be determined.

Prepared by: Rozalynne Thompson, AICP, Senior Planner

Recommended by: Jeremy Lochirco, Planning Manager

Approved by:

Jeremy Lochirco, Planning Manager

Sara Buizer, AICP, Development Services Director