

REQUEST FOR Planning Commission Action



PLANNING COMMISSION MEETING DATE:

AUGUST 10, 2020

TITLE:

PUBLIC HEARING – CONDITIONAL USE PERMIT NO. 2020-20 TO RENEW THE ENTITLEMENTS OF AN EXISTING 65-FOOT HIGH MAJOR WIRELESS COMMUNICATIONS FACILITY LOCATED AT 2100 SOUTH FAIRVIEW STREET – NICOLE COMACH, APPLICANT

Prepared by Ivan Orozco

Executive Director

PLANNING COMMISSION SECRETARY

APPROVED

- As Recommended
- As Amended
- Set Public Hearing For _____

DENIED

- Applicant's Request
- Staff Recommendation

CONTINUED TO _____

Planning Manager

RECOMMENDED ACTION

Adopt a resolution approving Conditional Use Permit No. 2020-20 as conditioned.

Executive Summary

Nicole Comach with Virtual Site Walk, representing SBA Monarch Towers, LLC., is requesting approval of Conditional Use Permit (CUP) No. 2020-20 to renew the entitlements of an existing 65-foot high major wireless communications facility at 2100 South Fairview Street. Pursuant to Section 41-198.3(b) of the Santa Ana Municipal Code (SAMC), major wireless communications facilities require approval of a CUP and must be renewed every 10 years. Staff is recommending approval of the applicant's request due to the facility's location, which minimizes aesthetic intrusion to the surrounding area, and its ability to continue to provide a community benefit.

Table 1: Project and Location Information

Item	Information	
Project Address	2100 South Fairview Street	
Nearest Intersection	Fairview Street and Harvard Street	
General Plan Designation	Industrial (IND)	
Zoning Designation	Light Industrial (M-1)	
Surrounding Land Uses	North	Industrial
	East	Single- and Multiple-Family Residential
	South	Industrial
	West	Industrial
Existing Site Development	20,000 square foot industrial building	
Use Permissions	Allowed with a conditional use permit (CUP)	
Zoning Code Sections Affected	Use	SAMC Section 41-198.3(b)
	Operational Standards	SAMC Section 41-198 (Wireless Communication Facilities)

Project Description

The applicant is proposing to renew the entitlements of an existing major wireless facility stealthed as a monopine. No new or additional antennas and/or equipment are being proposed by the applicant. The wireless communication facility equipment and antennas are located within a 323-square foot area that is enclosed by an eight-foot high CMU wall that is located on the southwest corner of the property. Several trees are located along the western property line that helps screen the monopine. Additionally, to meet the stealthing requirements, two 36-inch box canary pines will be replanted northwest of the wireless pole. These trees were originally planted in 2009 but have since been removed. As a condition of approval, the applicant will be required to replace all deteriorating and/or faded stealth branches and to paint antennas to match the color of the branches. Further, all code violations, such as unpermitted outdoor storage, is being addressed through code enforcement.

Table 2: Development Standards

Standards	Required by SAMC	Provided
Screening Criteria	A stealth facility	Complies; mono-pine
Site Selection	Areas that will minimize aesthetic intrusion	Complies; the facility is located within an industrial area of the City and the tower and equipment are located towards the rear of the property and away from sensitive land uses
Height Criteria	Not to exceed 60 feet in height from ground level as measured from the nearest street curb	Complies; 60 feet high
Landscaping	Groundcover at the base of the facility and one twenty-four (24) inch box tree	Complies; multiple mature trees are onsite
Equipment Screening	Decorative fencing such as wrought iron or block around the wireless facility	Complies; 8-foot high wrought iron fence

Project Background

In December 1999, the Planning Commission approved CUP No. 1999-25 to allow construction of the subject wireless facility. Pursuant to SAMC Section 41-198.3(b), a CUP is required for all major wireless communications facilities in the City. Furthermore, Section 41-198.13 states that major wireless communications facilities shall be approved for a period not to exceed 10 years. As the current entitlements have exceeded the 10-year entitlement period, the applicant is required to apply for a new CUP in order to maintain the entitlements current for the facility.

Project Analysis

CUP requests are governed by Section 41-638 of the SAMC. CUPs may be granted when it can be shown that the proposed project will not adversely impact the community. If these findings can be made, then it is appropriate to grant the CUP. Conversely, the inability to make these findings would result in a denial. In analyzing the conditional use permit request, staff believes that the following analysis warrants staff's recommendation of approval for the CUP.

As part of the development review of the project, staff worked closely with the applicant to identify improvements to enhance the overall appearance of the site. These improvements include the replacement of all deteriorating and/or faded branches and refreshing the paint of the antennas to match the color of the branches. In processing wireless communications facilities, the City of Santa Ana must consider provisions contained within Section 6409(a) of the Middle Class Tax Relief Act [47 U.S.C. § 1455(a)], which limits the ability of local agencies to impose additional conditions of approval when cell phone tower permits are renewed. These limits include additional stealthing if such screening or stealthing was not required at the time of original construction and/or seismic retrofits, which, according to a study by the City of Los Angeles, cost as much as constructing a new tower.

This location is optimal to provide the coverage necessary for existing and expanding service. The existing facility provides a benefit to Santa Ana residents, businesses and motorists who subscribe to mobile phone services by providing cellular and data capacity in the area. The facility will continue to be in compliance with Federal law that governs health related issues for wireless facilities, including safety regulations from the Federal Communications Commission (FCC) and Federal Aviation Administration (FAA).

Finally, the use will continue to comply with all provisions pertaining to the construction and installation of wireless facilities identified in Chapter 41 (Zoning Code) of the SAMC. The facility continues to meet all height, location/zoning, and stealthing standards. The facility will not adversely affect the General Plan, as cellular facilities that are designed to be compatible with the surrounding environment are consistent with the goals and objectives of the Land Use Element.

Table 3: California Environmental Quality Act (CEQA) and Public Notification & Community Outreach

CEQA and Public Notification & Community Outreach	
CEQA	
CEQA Type	Categorically Exempt per Section 15301 (Class 1 – Existing Facilities)
Document Type	Notice of Exemption, Environmental Review No. 2019-109
Reason(s) Exempt or Analysis	Class 1 exemption applies to the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. The project consists of the renewal of a permit and minor alterations to the existing wireless communications facility. Environmental Review No. 2019-109 will be filed for this project.
Public Notification & Community Outreach	
Required Measures	A public notice was posted on the project site on July 31, 2020.
	Notification by mail was mailed to all property owners and occupants within 500 feet of the project site on July 31, 2020.
	Newspaper posting was published in the Orange County Reporter on July 31, 2020.

Conclusion

Based on the analysis provided within this report, staff recommends that the Planning Commission approve Conditional Use Permit No. 2020-20 as conditioned.



Ivan Orozco
Assistant Planner II

- Exhibits:
- 1 – Resolution
 - 2 – Vicinity Zoning & Aerial View
 - 3 – Site Photo
 - 4 – Site Plan
 - 5 – Enlarged Site Plan
 - 6 – Elevations

EXHIBIT 1

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RESOLUTION NO. 2020-xx

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SANTA ANA APPROVING CONDITIONAL USE PERMIT NO. 2020-20 AS CONDITIONED TO RENEW THE ENTITLEMENTS OF AN EXISTING 65-FOOT TALL MAJOR WIRELESS COMMUNICATION FACILITY LOCATED AT 2100 SOUTH FAIRVIEW STREET

BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF SANTA ANA AS FOLLOWS:

Section 1. The Planning Commission of the City of Santa Ana hereby finds, determines and declares as follows:

- A. Nicole Comach with Virtual Site Walk, representing SBA Monarch Towers, LLC (“Applicant”), is requesting approval of Conditional Use Permit (“CUP”) No. 2020-20 to renew the entitlements of an existing 65-foot tall major wireless communications facility disguised as a mono-pine located at 2100 South Fairview Street.
- B. On December 21, 2009, the Planning Commission approved CUP No. 2009-25 allowing the construction of the subject major wireless communications facility.
- C. Pursuant to Santa Ana Municipal Code (“SAMC”) Section 41-198.3(b), a Conditional Use Permit is required for major wireless communications facilities established in the City of Santa Ana.
- D. In addition, SAMC Section 41-198.13 states that major wireless communications facilities shall be approved for a period not to exceed ten (10) years.
- E. As the current facility has reached its 10-year term, the Applicant is required to apply for a new CUP in order to maintain the entitlements for the current facility.
- F. On August 10, 2020, the Planning Commission held a duly noticed public hearing on CUP No. 2020-20.
- G. The Planning Commission determines that the following findings, which must be established in order to grant this CUP pursuant to SAMC Section 41-638, have been established for CUP No. 2020-20 to renew the entitlements of an existing 65-foot tall major wireless communication facility:

1. That the proposed use will provide a service or facility which will contribute to the general well-being of the neighborhood or the community.

The major wireless communication facility will continue to provide a service to Santa Ana residents, businesses and motorists who subscribe to cellular services by providing cellular service and data coverage for its users within the vicinity. The issuance of a new conditional use permit will allow the provider to continue to provide a service to the surrounding community.

2. That the proposed use under the circumstances of the particular case will not be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity.

The issuance of a new conditional use permit to maintain a wireless facility at this location will not be detrimental to persons residing or working in the area as the facility will remain in compliance with Federal law that governs health related issues for wireless facilities, including safety regulations from the Federal Communications Commission (FCC) and Federal Aviation Administration (FAA).

3. That the proposed use will not adversely affect the present economic stability or future economic development of properties surrounding the area.

The facility is compatible with the surrounding area and will not adversely affect the economic viability in the area. The stealthing provided by the facility's location at the rear of the site will maintain and increase the economic stability for this industrial area by providing an additional service for business owners, workers, and residents in the area.

4. That the proposed use shall comply with the regulations and conditions specified in Chapter 41 for such use.

The use will continue to comply with all provisions pertaining to the continuation of existing wireless facilities identified in Chapter 41 (Zoning Code) of the Santa Ana Municipal Code. The facility will continue to be stealthed by its design and surrounding landscape and will comply with other standards outlined in the SAMC.

5. That the proposed use will not adversely affect the General Plan or any specific plan of the City.

The major wireless communication facility will not adversely affect the General Plan as cellular facilities that are designed to be compatible with the surrounding environment are consistent with the goals and objectives of the Land Use

Element. Goal 1 promotes a balance of land uses to address community needs, which includes means of communication that will be served by the facility. In addition, Goals 3 and 5 require preservation of neighborhood character and integrity as well as mitigation of developments' impacts. The monopine location minimizes visual impact on the area and assists with the stealthing of the equipment. Further, Policy 2.2 encourages land uses that accommodate the City's needs for services. Maintaining a cell phone provider's coverage in the area adds to the services that are readily available for business owners, workers, visitors and residents in the immediate vicinity.

Section 2. In accordance with the California Environmental Quality Act (CEQA) and the CEQA Guidelines, the project is categorically exempt from further review per Section 15301 (Class 1 – Existing Facilities). The Class 1 exemption applies to the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. This is a renewal of an existing facility with no expansion of use. Based on this analysis, a Notice of Exemption for Environmental Review No. 2019-109 will be filed for this project.

Section 3. The Applicant shall indemnify, protect, defend and hold the City and/or any of its officials, officers, employees, agents, departments, agencies, authorized volunteers, and instrumentalities thereof, harmless from any and all claims, demands, lawsuits, writs of mandamus, referendum, and other proceedings (whether legal, equitable, declaratory, administrative or adjudicatory in nature), and alternative dispute resolution procedures (including, but not limited to arbitrations, mediations, and such other procedures), judgments, orders, and decisions (collectively "Actions"), brought against the City and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof, that challenge, attack, or seek to modify, set aside, void, or annul, any action of, or any permit or approval issued by the City and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof (including actions approved by the voters of the City) for or concerning the project, whether such Actions are brought under the Ralph M. Brown Act, California Environmental Quality Act, the Planning and Zoning Law, the Subdivision Map Act, Code of Civil Procedure sections 1085 or 1094.5, or any other federal, state or local constitution, statute, law, ordinance, charter, rule, regulation, or any decision of a court of competent jurisdiction. It is expressly agreed that the City shall have the right to approve, which approval will not be unreasonably withheld, the legal counsel providing the City's defense, and that Applicant shall reimburse the City for any costs and expenses directly and necessarily incurred by the City in the course of the defense. City shall promptly notify the Applicant of any Action brought and City shall cooperate with Applicant in the defense of the Action.

Section 4. The Planning Commission of the City of Santa Ana after conducting the public hearing hereby approves CUP No. 2020-20, as conditioned in Exhibit A, attached hereto and incorporated herein. CUP No. 2020-20 expires 10 years from the date of Planning Commission approval. This decision is based upon the evidence submitted at the above said hearing, which includes, but is not limited to: the Request for Planning Commission Action dated August 10, 2020, and exhibits attached thereto; and the public testimony, all of which are incorporated herein by this reference.

ADOPTED this 10th day of August, 2020 by the following vote:

AYES: Commissioners:
NOES: Commissioners:
ABSENT: Commissioners:
ABSTENTIONS: Commissioners:

Mark McLoughlin
Chairperson

APPROVED AS TO FORM:
Sonia R. Carvalho, City Attorney

By: _____
Lisa Storck
Assistant City Attorney

CERTIFICATE OF ATTESTATION AND ORIGINALITY

I, SARAH BERNAL, Recording Secretary, do hereby attest to and certify the attached Resolution No. 2020-xx to be the original resolution adopted by the Planning Commission of the City of Santa Ana on August 10, 2020.

Date: _____

Recording Secretary

EXHIBIT A

Conditions of Approval for Conditional Use Permit No. 2020-20

Conditional Use Permit No. 2020-20 is approved subject to compliance, to the reasonable satisfaction of the Planning Manager, with all applicable sections of the Santa Ana Municipal Code, the California Administrative Code, the California Building Standards Code and all other applicable regulations.

The Applicant must comply in full with each and every condition listed below prior to exercising the rights conferred by this conditional use permit.

The Applicant must remain in compliance with all conditions listed below throughout the life of the conditional use permit. Failure to comply with each and every condition may result in the revocation of the conditional use permit.

1. All site improvements must conform to Development Project Review (DP Nos. 2019-44 and 2009-56) and the staff report exhibits.
2. All deteriorating and/or faded stealth branches [PA1] shall be replaced and all antennas shall be painted a darker green to match the frond color of the surrounding pine trees.
3. The Applicant shall provide a 24-hour phone number to which interference problems may be reported.
4. The Applicant will provide a "single point of contact" in its Engineering and Maintenance Departments to insure continuity on all interference issues. The name, telephone number, fax number and e-mail address of that person shall be provided to the City's designated representative after approval of the new CUP.
5. The Applicant shall ensure that the lessee or other user(s) shall comply with the terms and conditions of this permit, and shall be responsible for the failure of any lessee or other users under the control of permit Applicant to comply.
6. The major wireless facility shall be subject to any applicable California Building Code or federal requirements for seismic safety, retrofit, and/or upgrades as deemed necessary by the Building Division.
7. Conditional Use Permit No. 2020-20 expires 10 years from the date of Planning Commission approval.

EXHIBIT 2

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**CUP NO. 2020-20, SBA WIRELESS FACILITY
2100 SOUTH FAIRVIEW STREET**

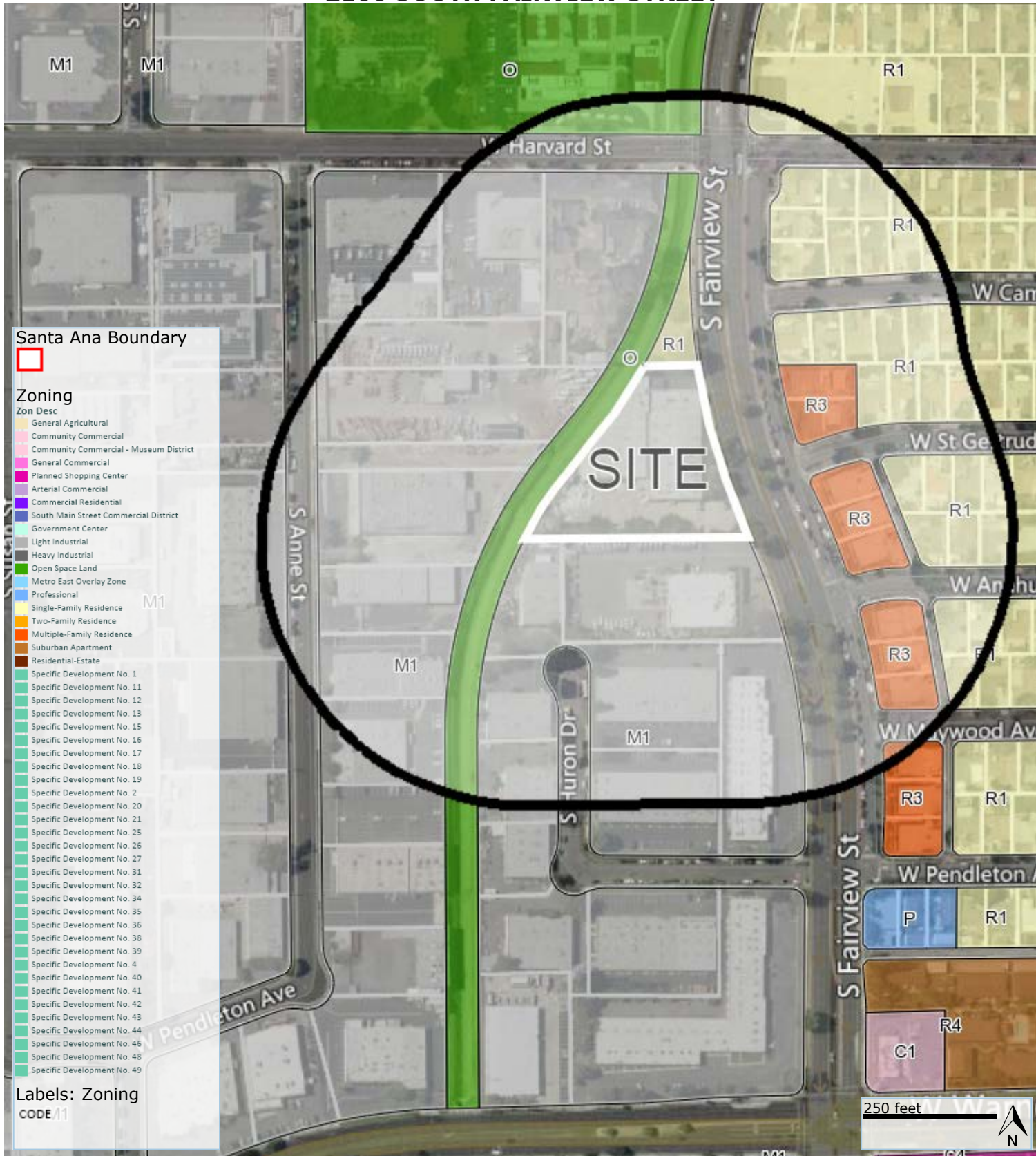


EXHIBIT 2 - VICINITY ZONING AND AERIAL VIEW



EXHIBIT 3

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EXHIBIT 4

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EXHIBIT 5

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EXHIBIT 6

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