

Planning Commission Staff Report

January 26, 2011
Item 6.a.

SUBJECT: PAP-150

APPELLANT: Mark Lobaugh/Complete Wireless Consulting Inc.

PROPERTY OWNER: City of Pleasanton

PURPOSE: Appeal of the Zoning Administrator's (in this case the Community Development Director's) determination that the proposed wireless facility located at 6890 Koll Center Parkway does not meet the locational requirements as specified in Section 18.110.050 of the Pleasanton Municipal Code.

EXHIBITS:

- A – Letter of Appeal dated December 22, 2010
- B – Community Development Director's Determination Letter dated December 2, 2010
- C – Letter from James A. Heard, Mackenzie & Albritton, LLP on behalf of Verizon Wireless
- D – Letter from Gerry Gire and Residents on Corte Monterey
- E -- Vicinity Map
- F -- Notification Map

BACKGROUND

Mark Lobaugh submitted a design review application for the construction of a wireless facility at 6890 Koll Center Parkway (PDRW-38) on September 21, 2009. The application was for the installation of a wireless facility for Verizon Wireless which would include a 65-foot tall faux pine tree with nine panel antennas, two future microwave dishes, ground-mounted equipment cabinets, and a 30KW standby generator providing power to the wireless facility in the event of power failure/outage. During the review process, it was discovered that the proposed facility did not meet the locational requirements specified in the wireless ordinance. On December 2, 2010, the Community Development Director sent a letter to the applicant advising him of the issue, citing the relevant code sections, and explaining why the facility could not be allowed at its proposed location (Exhibit B).

The applicant did not agree with staff's interpretation of the wireless ordinance and filed an appeal on December 22, 2010. Per Section 18.144.020 of the Pleasanton Municipal Code, the appeal of the Zoning Administrator's determination, in this case, the decision of the Community Development Director, goes to the Planning Commission for review and action.

SITE DESCRIPTION OF THE WIRELESS FACILITY

The applicant proposes to install the wireless facility on a parcel that is located in the northwestern corner of the Bernal Corporate Business Park. The site is 0.718 acres in size, is owned by the City and it houses one of the City's sewer pump stations. The site is adjacent to Interstate 680 on the west, the Arroyo Del Valle on the north, and commercial/offices uses within the business park on the south and east. Access to the site is via Koll Center Parkway and through a parking lot.



Location Map

DISCUSSION

The City's wireless ordinance is contained in section 18.110 of the Pleasanton Municipal Code (PMC). PMC section 18.110.050(C) states: "A personal wireless service facility shall not be located within 300 feet from the property lines of the uses listed in subsections (B)(3)(a) through (B)(3)(e) of this Section." Section 18.110.050(B)(3)(a) through B(3)(e) states:

"The personal wireless service facility is located a minimum of 300 feet away from the property lines of all of the following:

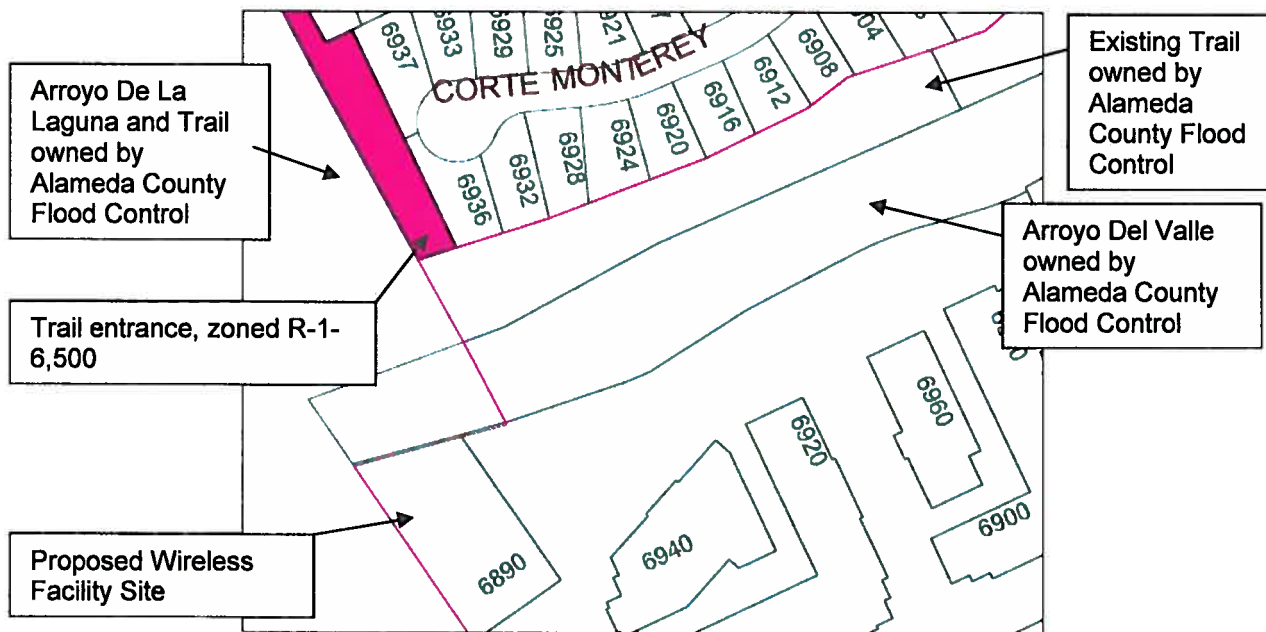
- a. Existing or approved residences in residential or agricultural zoning districts or in planned unit developments with a residential or agricultural zoning designation;
- b. Undeveloped residential or agricultural zoning districts or undeveloped planned unit developments with a residential or agricultural zoning designation and

without an approved development plan, unless designated as a public and institutional land use in the general plan;

- c. Existing or approved public schools, private schools, and childcare centers, not including schools which only provide tutorial services;
- d. Neighborhood parks, community parks, or regional parks, as designated in the general plan;
- e. Existing or approved senior care/assisted living facilities, including nursing homes."

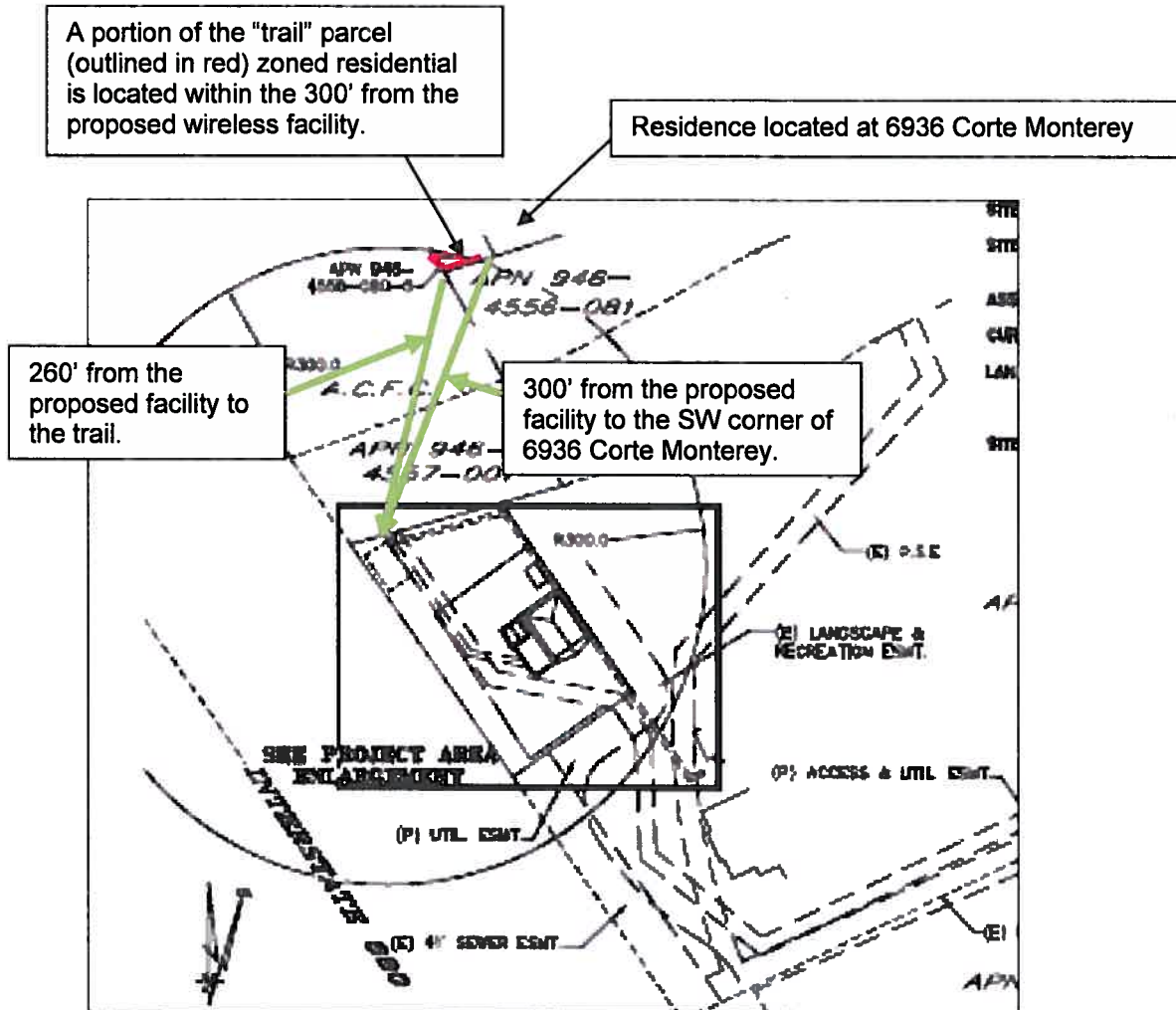
Zoning Designation

As shown in the diagram below, there is a parcel (highlighted in pink) that contains trail which runs adjacent to the Arroyo De La Laguna and Interest 680 to the west. There is an entrance to this trail at the end of Corte Monterey. The parcel contained the trail is located immediately west of the homes on Corte Monterey, and is zoned R-1-6,500 (one family residential).



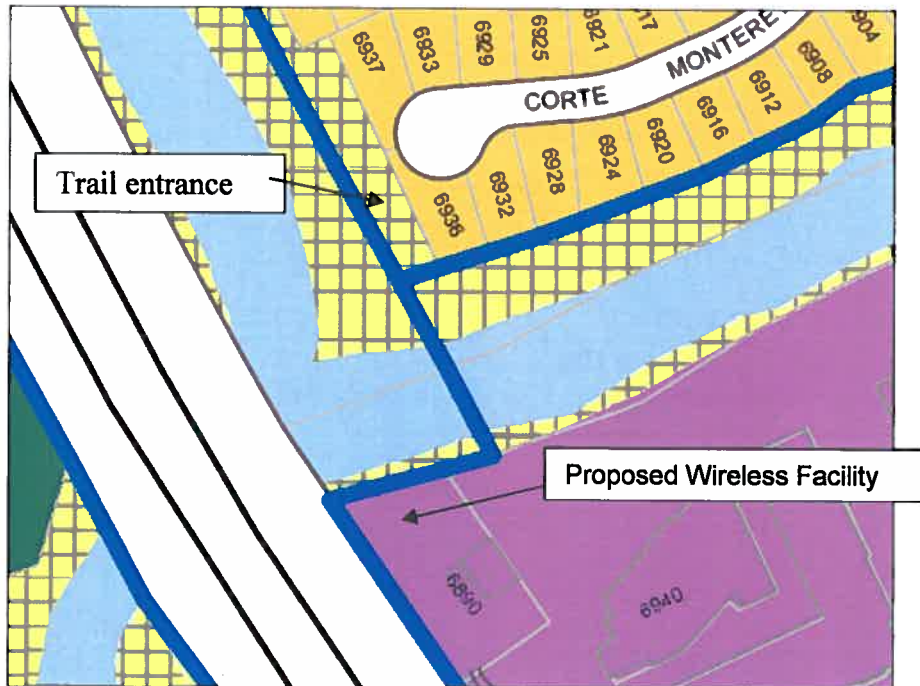
The closest homes to the proposed wireless facility are located on Corte Monterey to the north. Those homes are not within 300 feet of the wireless facility site and do not pose a problem with the locational requirements of the City's zoning ordinance. The proposed site, however, is located within 300 feet of a parcel containing a trail and Zone 7 access road that runs adjacent to the Arroyo De La Laguna and Interstate 680. A sound wall and existing shrubs are also on the parcel. As described in further detail below, this poses a problem with the locational requirements of the City's zoning ordinance.

As shown in the diagram below, the proposed wireless facility is located approximately 260 feet from the residentially zoned trail entrance. Hence, the proposed facility violates subsection (B)(3)(b) above because it is located within 300 feet of a parcel containing a trail that runs adjacent to Interstate 680 (hereafter "trail parcel").



General Plan Land Use Designation

According to Section 18.110.050(B)(3)(b) of the Pleasanton Municipal Code (cited above), undeveloped residentially zoned land would not be subject to the 300 feet locational requirement only if it is designated as Public and Institutional land use in the general plan. The 2005-2025 General Plan Land Use Map (on the following page) shows that the trail parcel is designated as Public Health and Safety with a Wildland Overlay, and not Public and Institutional. Therefore, the 300 foot locational restriction applies. Staff notes that the 1996 General Plan had the same land use designation for the trail parcel.



2005-2025 General Plan Land Use Map

Open Space

 PUBLIC HEALTH AND SAFETY

 WILDLAND OVERLAY

In the response letter to the Community Development Director's determination letter of December 2, 2010, attached as part of the appeal, the applicant stated that "... the trail parcel referenced as being within the required 300' setback, has a General Plan designation of 'Wildland Overlay' and is therefore a public land use and as such, must not be include in the 300' setback calculation."

For the reasons stated above, staff disagrees.

PUBLIC NOTICE

Notice of this application and appeal was sent to all property owners and tenants within 1,000 feet of the subject property.

James A. Heard, legal counsel for Verizon Wireless, sent staff and Commission a letter (Exhibit C). The letter focuses on the project rather on this appeal of the Zoning Administrator's determination.

Gerry Gire and the residents on Corte Monterey submitted a letter in opposition of the proposed wireless facility (Exhibit D).

CONCLUSION

Staff believes that it has correctly interpreted the zoning ordinance and the General Plan Land Use Map. While staff regrets that the zoning inconsistency was discovered late in the review process, this application cannot be further processed.

OPTIONS

The Planning Commission has the following options:

1. Deny the Appeal:

If this appeal is denied, the applicant would have the options to: a) revise the proposal to meet the locational requirement, b) apply for a variance, or c) withdraw the application. Staff notes that in previous discussions regarding possible relocation on the subject site, it was clearly conveyed by the utility division that due to existing underground utilities and the daily operation/maintenance of the sewer station facility, relocation within the subject site cannot be accommodated. As such, the applicant would need to either apply for a variance or withdraw the application.

2. Approve the Appeal:

If this appeal is approved, staff will bring the original application (PDRW-38) back to the Commission for a decision on the next available Planning Commission agenda.

RECOMMENDATION

Staff recommends that the Planning Commission deny Case PAP-150, therefore uphold the Zoning Administrator's determination of the relocation requirements as specified in Section 18.110.050 of the Pleasanton Municipal Code.

Staff Planner: Jenny Soo, Associate Planner, 925.931.5615, email: jsoo@ci.pleasanton.ca.us