



## Planning Commission Staff Report

February 11, 2009  
Item 6.a.

**SUBJECT:** PAP-130 (PDRW-13)

**APPELLANT:** Anne Fox, Planning Commissioner

**APPLICANT:** Katie Belmonte/Complete Wireless Consulting Inc.

**PROPERTY OWNER:** Johnson Hotel Company, Inc.

**PURPOSE:** Appeal of the Zoning Administrator's design review approval for a personal wireless service facility for Verizon to be located at the Hilton Hotel site

**GENERAL PLAN:** Retail/Highway/Service Commercial/Business & Profession Office

**ZONING:** PUD-I/C-O (Planned Unit Development – Industrial/Commercial-Office) District

**LOCATION:** 7050 Johnson Drive (the Hilton Hotel Site)

**ATTACHMENTS:** Exhibit A – Conceptual Plans  
Exhibit B – Zoning Administrator's Approval Letter with Conditions of Approval  
Exhibit C – Appeal Letter from Commissioner Anne Fox  
Exhibit D – Childcare Licensing Exemption Letters for ClubSport  
Exhibit E – Letter of James Heard for Verizon (2/4/09)  
Exhibit F – Project Location and Notification Map  
Exhibit G – 300-Foot Radius Map

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### BACKGROUND

On November 12, 2008, the Zoning Administrator approved a design review application (PDRW-13) for a wireless telecommunication facility at the Hilton Hotel located at 7050 Johnson Drive subject to conditions of approval. The Zoning Administrator found that the proposal, to co-locate a third carrier at the subject site, met the requirements of Section 18.110 (Personal Wireless Service Facilities, adopted 1998) of the Pleasanton Municipal Code.

The Hilton Hotel currently hosts two wireless carriers – T-Mobile (formerly Pacific Bell) and Sprint PCS. The Sprint PCS application was originally approved in 1999 (Case No. Z-99-166), and that approval (Case No. PDR-461) will expire later this year. The PacBell/T-Mobile facility (Case No. PDR-468) was approved as a co-location in June 2005 and will expire mid 2010. These prior approvals envisioned future additional antennas / co-location.

On December 1, 2008, Planning Commissioner Blank filed an appeal of the Zoning Administrator's approval of the current application. Commissioner Fox subsequently filed a separate appeal. Commissioner Blank subsequently reviewed and discussed the proposal with staff and has withdrawn his appeal.

The appeal originally was scheduled for December 10, 2008. Due to the length of testimony for another matter on that agenda, this matter was continued.<sup>1</sup> Therefore, this matter was continued to the next available hearing date. While staff was preparing to place this item on the agenda for January 14, 2009, concerns pertaining to the proximity of children's programs were brought to staff's attention and additional information was requested. Therefore, staff continued this item until this February 11, 2009 meeting to allow for additional research and analysis.

Regarding the children's programs, staff found documents for the adjacent 7090 Johnson Drive (ClubSport) site as having received a building permit certificate of occupancy for a "childcare center" in 1990. ClubSport's on-site children's program, which allows parents to have children at the Kids Club while parents remain on-site, and also provides for full day exercise camps of one week in duration, are not considered a child care center by the State. State exemption letters are attached as Exhibit D.

The ClubSport children's programs were not considered a childcare center when the wireless ordinance was adopted in 1998. Therefore, the approvals of the other wireless carriers at the Hilton Hotel in 1999 and 2005 did not implicate the locational standards of the City's wireless ordinance, which requires wireless facilities to be 300 feet from specific uses, including childcare centers.

## **SITE DESCRIPTION**

The subject Hilton Hotel site is a 7.77-acre site located southeast of I-680/I-580 interchange at the Johnson Drive curve. The hotel building is a five-story structure. It is surrounded by the Johnson Drive right-of-way and Interstate 580 to the north, the San Ramon Dublin Services District treatment plant to the east, ClubSport and various commercial/industrial businesses on Commerce Circle to the south<sup>2</sup>, and Interstate 680 to the west.

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<sup>1</sup> Based on the provisions of the *Commissioners' Handbook*, which allows the Planning Commission to continue an item if the public hearing would have take place after 11:00 p.m.

<sup>2</sup> ClubSport is connected physically to the Hilton Hotel on the westerly south edge.



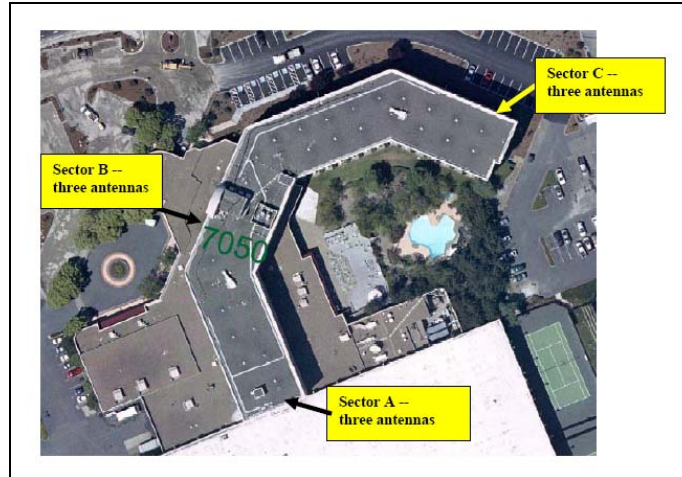
## Project Location

### PROJECT DESCRIPTION

On behalf of Verizon Wireless, the applicant, Katie Belmonte/Complete Wireless, proposes to utilize the existing hotel building to establish a third wireless telecommunication facility for Verizon Wireless. The proposal includes:

- the installation of three antenna sectors; each sector contains three antennas mounted on the building:
  - Sector A would be mounted on the southern end facing the ClubSport building;
  - Sector B would be mounted near the Hilton sign facing I-580/I-680 intersection; and
  - Sector C would be mounted on the eastern-most end of the building facing I-580.
- the installation of roof mounted equipment screened by an eight-foot high enclosure, painted to match the exiting rooftop screen.

Three of the proposed panels located at Sector B will replace mock panels that were installed with a prior approval to provide a more balanced appearance.



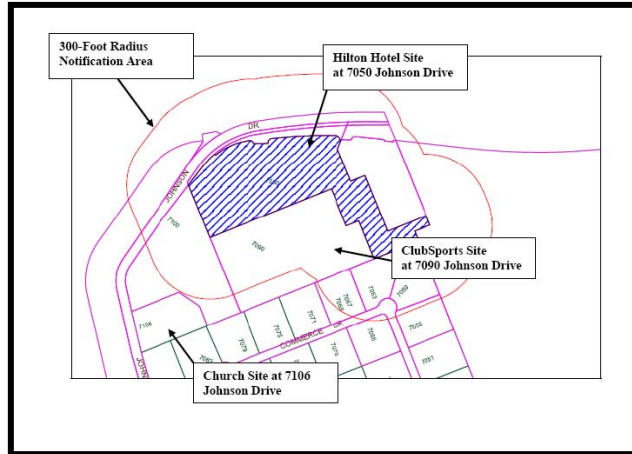
**Proposed Antenna Locations**

## **DISCUSSION**

### **The Appeal:**

Commissioner Fox appealed the Zoning Administrator's approval, citing that the proposed facility (and existing facilities previously approved for both T-Mobile and Sprint) may not conform to the locational requirement of the wireless ordinance (§18.110.050 of the Pleasanton Municipal Code, Personal Wireless Service Facilities). The PMC restricts the location of a personal wireless service facility from being within 300 feet of residences, schools, childcare centers, parks and senior care/assisted living/nursing home facilities.

1. Love and Care Preschool at 7106 Johnson Drive: This preschool is located at 7106 Johnson Drive and operated by the Tri-Valley Bible Church. Commissioner Fox expressed concern that the Love and Care Preschool was incorrectly approved by the City and is located within the 300 foot distance from the Hilton Hotel where the existing and proposed wireless facilities are located. The church building is actually located about 680 feet from the proposed wireless facility; thus satisfying the wireless ordinance's locational requirement. Refer to the figure below identifying the preschool site.



300-Foot Radius From the Project Site

2. ClubSport of Pleasanton: This facility is located on the adjoining parcel to the south and is physically connected to the Hilton Hotel. ClubSport is a fitness and recreation facility that replaced Amador Valley Athletic Club, which took over the original Tennis Town Racquet Club (Case No. UP-75-23). Included in the facility’s program is a Kids Club where staff provides supervision to members’ children while the parent is occupied at the facility. An exercise camp program of one week in duration, from 9:00 a.m. – 4:00 p.m., is also offered to children during spring, summer and winter breaks.

The “children’s area” or “play area” existed when the facility was established as the tennis and racquet ball club and then later the athletic club. When the athletic club became ClubSport in the late 1980s, ClubSport underwent a phased remodel of the facility. The tenant improvement plan broadly referred the play area as the “child care center” where children were under temporary supervision by the facility staff when the parents/guardians were on-site using the facility. The City’s Building and Safety Division issued a certificate of occupancy for a “Childcare Center”. This terminology was unrelated to the licensure or requirements of the State.

In 1998, the City had evaluated the impacts, if any, of the locations of all existing childcare facilities at the time the wireless ordinance was adopted. ClubSport was not identified, nor met the criteria used as a childcare facility, thus, approvals for T-Mobile and Sprint were not considered inconsistent with the locational standards of the wireless ordinance.

In 1997, ClubSport received a letter from Department of Social Services Community Care Licensing (Exhibit D), stating that if the programs associated with children satisfy the following criteria, the facility could be exempted from obtaining a childcare license to operate:

- Camp – camp will be held for no more than 12 weeks in a calendar year, and will serve children who are not younger than 4 years 9 months.
- Time Limits – children who are in care when their parents are not on site are limited to four hours or less per week. Overnights, in this context, are not appropriate.

To clarify the camp program’s qualification for an exemption status, staff recently had a discussion with Ms. Barbara Bobincheck at the State Child Care licensing agency. Ms. Bobincheck indicated that: 1) while there are no time limits for the camp program, the camp program should not include overnight; 2) the camp program is not limited to the members of the club and could be offered to the public; 3) the duration of the camp program is limited to 12 weeks per calendar year.<sup>3</sup>

### **Federal Telecommunications Act**

The Federal Telecommunications Act sets forth the framework for federal, state and local regulation of the siting of personal wireless service facilities. This law limits many areas where state and local agencies can regulate facilities, including specifically radio frequency (RF) emissions. So long as a facility meets the Federal Communications Commission’s (FCC) radio frequency emission guidelines, a city cannot deny a proposal based on radio frequency emissions.

When Pleasanton adopted its personal wireless service facilities ordinance in 1998, City officials and representatives of wireless service carriers agreed to locational standards that include a provision requiring that such facilities be located at least 300 feet away from a list of uses: residences, schools, parks, daycare centers and nursing homes. When this ordinance was being developed, while residents and property owners discussed RF concerns, they understood that federal law pre-empted the City’s ability to enact health standards different from the FCC, or deny projects based on RF emissions. Thus, the 300-foot distance requirement was more closely related to decreases in property values.

### **Design Review:**

The proposed antennas would be mounted on the building exterior at the roof line. The panels would be designed to match the existing panels that are currently on the building by the other wireless carriers. The panels would be mounted perpendicular to the windows so as to achieve an appealing, symmetrical appearance. The west elevation of the building where Sector B would to be located currently has three mock-up panels. These three mock-up panels would be replaced with functional panels in the same design.

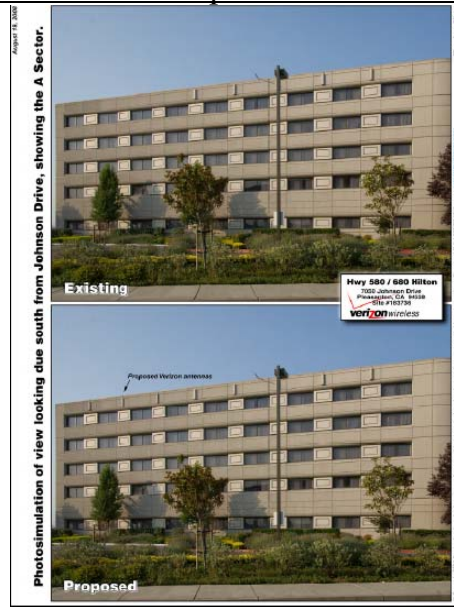
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<sup>3</sup> ClubSport’s camp program appears to qualify as exempt from childcare licensing requirements. At the discretion of the Commission, staff could ask ClubSport to seek confirmation of their exemption status from the State and provide the City a copy of the exemption letter.





### Proposed Panels to Replace the Mock-Up Panels



### Proposed Panels to Match the Existing Panels

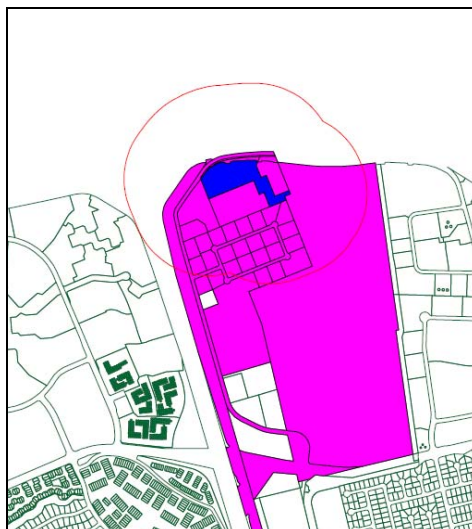
The supporting equipment for the proposed wireless facility would be located on the roof top. An enclosure would be constructed to completely screen the equipment when viewed from off site. This screen would be constructed to match the existing roof-top enclosure to achieve consistency.



The Proposed Roof-Top Equipment Enclosure

**PUBLIC NOTICE**

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



Thomas Howarth, the owner of 7067 Commerce Circle, contacted staff to discuss the potential for limitation the proposed facility could place on future tenants within his building. Staff informed him that there are currently two wireless facilities located at the Hilton Hotel site and



that any limitation that would exist after the implementation of the current project already existed due to the other facilities at the location.

James Heard, representing Verizon Wireless, submitted a letter (Exhibit E) regarding the appeal. Staff will be available to respond to questions from the Planning Commission regarding Mr. Heard's letter at the Feb. 11th public hearing.

## **CONCLUSION**

Staff believes that the proposed personal wireless service facility as approved by the Zoning Administrator has minimal visual impacts, that it is compatible with the building design, and it is consistent with the intent and requirements of the Section 18.110 of the Pleasanton Municipal Code.

## **ENVIRONMENTAL ASSESSMENT**

This project is categorically exempt based on Section 15301(a) [Existing Facilities] of the guidelines of the California Environmental Quality Act (CEQA). Thus, no environmental report accompanies this staff report.

## **STAFF RECOMMENDATION**

Staff recommends that the Planning Commission deny the appeal Case No. PAP-130, thereby upholding the Zoning Administrator's approval of Case No. PDRW-13.

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