



Legislation Text

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**AGENDA REPORT  
REQUEST FOR CITY COUNCIL ACTION**

DATE: 6/5/2019

TO: Honorable Mayor and City Council Members

FROM: Community Development Department

**SUBJECT:**

Public Hearing for City Council consideration of an appeal of the Planning and Housing Commission's denial of CUP2018-0003, a conditional use permit application to establish a 76-foot high wireless telecommunications facility designed as a mono-eucalyptus tree on a 0.69-acre property (located south of Chase Drive and west of Skyline Drive) in the R-1A (Single Family Residential) zone (Applicant: Peter Blied of Plancom, Inc. for Renegade Towers).

**RECOMMENDED ACTION:**

That the City Council:

1. Uphold the Planning and Housing Commission's denial of CUP2018-0003, a conditional use permit application to establish a 76-foot high wireless telecommunications facility designed as a mono-eucalyptus tree on a 0.69-acre property located south of Chase Drive and west of Skyline Drive in the R-1A (Single Family Residential) zone. (CUP2018-0003), and
2. Adopt Resolution No. 2019-031, denying CUP2018-0003.

**ANALYSIS:**

Conditional Use Permit 2018-0003 (CUP2018-0003) is an application by Renegade Towers to establish a wireless telecommunications facility designed as a 76-foot high mono-eucalyptus tree on a 0.69-acre parcel located on the west side of Skyline Drive, north of Foothill Parkway and south of Chase Drive. The subject property is vacant and zoned R-1A, which is a single-family residential zone. The property owners are Donald and Ann Long. The subject site is in a primarily low-density residential neighborhood and contains existing single-family residential dwellings to the north, east, west and south. Skyline Drive and a flood control channel that are parallel to the project site are on the east side.

Project Description

The project site is bordered by Skyline Drive to the east and residential properties to the north, south,

and west. The property is currently undeveloped and occupied by several dead walnut trees. The applicant is proposing to remove approximately 25 walnut trees located on the southerly portion of the property to accommodate a new 36-foot by 56-foot lease area for the applicant's telecommunications facility. The perimeters of the lease area are proposed to be enclosed by a 6'-8" high block wall that will be painted an earth tone color. Proposed within the enclosure is the 76-foot high mono-eucalyptus tree, equipment cabinets, generator, and other various equipment associated with the facility. The lease area is set back 25 feet from the property line adjacent to Skyline Drive which is considered the property's front property line. The lease area is also set back 15 feet from the south property line, 64 feet from the west property line, and 107 feet from the north property line. There are 13 residential properties located east of the project site that are separated from the project site by Skyline Drive and the flood control channel. The separation distance is approximately 130 feet from property line to property line. The residential properties in this location are oriented with the backs of the houses and outdoor rear yards facing the project site. The grade elevation of the properties is approximately 20 feet higher than the grade elevation of the project site and the perimeter fencing along the rear yards is tubular steel.

The mono-eucalyptus design will allow for the co-location of up to three telecommunications carriers. At this time, Verizon Wireless is the first carrier proposed on the mono-eucalyptus. Verizon's antennas are located at the top of the mono-eucalyptus with the top of the antennas at a height of 74 feet. Two additional antenna arrays can be accommodated below Verizon's antennas at heights of 59 feet and 49 feet from the centerline of the array.

Verizon's antennas will be mounted onto the tower in four sectors. Each sector will have four antennas mounted onto the exterior side of the sector. Behind the antennas are surge protectors and remote radio head units (RRH). In total, Verizon would have 16 antennas, two surge protectors, and 14 RRH units. As a standard city requirement, the applicant is required to paint the sectors, antennas, and RRH units green to match the color of the eucalyptus foliage and cover the antennas and RRH units with "leaf socks" as an effort to camouflage the antennas.

### Project History

The applicant initially reached out to city staff in April 2017 with a proposal to establish a multi-carrier wireless telecommunications facility on the project site. The applicant requested to meet with city staff to obtain feedback on the proposed mono-eucalyptus tree on the project site and to gain information on the city's filing process for a conditional use permit. The applicant was informed by staff that the subject site was not the ideal location for a 76-foot high mono-eucalyptus tree because of the aesthetic impact it would have on the nearby residents. The applicant heard the initial concern expressed by staff and indicated that they would likely still proceed forward with a conditional use permit. So that the applicant would have a sense of the concerns likely to be raised by the nearby residents, the applicant was encouraged to do community outreach on the project with the nearby residents.

The applicant conducted initial community meetings on September 28, 2017 and September 30, 2017. The meetings were held on the project site. The sign-in sheets are included as exhibits in the Planning and Housing Commission staff report. The residents who attended the meetings raised several concerns, but the main concern was related to perceived health effects from long-term exposure to the cell tower antennas and the proximity of the tower to the existing residential neighborhood. Shortly after the community meeting, the residents sent emails and a petition protesting the mono-eucalyptus tree to city staff.

The proposal was discussed at the Infrastructure Committee on November 1, 2017. The meeting was attended by a number of residents who live near the project site. The objections raised by the residents included impacts to the views from the residential properties, proximity of the tower to the residences, visibility of the tower from the living areas, perceived health effects, and impacts to property values. The Committee commented that the applicant should explore alternative sites including small cell installation as an alternative design to the mono-eucalyptus on the project site and that the project site for the mono-eucalyptus was not favored given the surrounding residential neighborhood.

On February 20, 2018, the applicant officially submitted a conditional use permit application to the city. The application was reviewed by staff at the Project and Environmental Review Committee meeting on March 15, 2018. Staff issued an incomplete application letter to the applicant on March 22, 2018, noting missing application items. Over the course of approximately a year, the applicant submitted the required items to staff. Due to the amount of time that had passed since the application was initially submitted, staff suggested that the applicant conduct a third community meeting to update the residents on the status of the project.

The applicant conducted the third community meeting at the Corona Library on November 29, 2018. The majority of attendees were the same from the previous meeting and continued to object to the proposed telecommunications facility and raised the same concerns. Following the meeting, staff received another petition against the project from the residents.

As an update, staff discussed the project at the Infrastructure Committee on January 9, 2019. The applicant discussed several alternative sites that were analyzed prior to selecting the Long's property for the tower. The applicant also discussed small cell technology versus macro-cell sites such as the tower being proposed by the applicant and a 2012 study that was conducted on telecommunications facilities' impacts to property values. Many of the same residents attended the meeting and continued to voice their objections to the project. The Committee urged the applicant to explore additional alternative sites including the Oak Debris Basin located north of the project site and the Quality Nursery located south of Foothill Parkway. A synopsis of the alternative sites explored by the applicant were provided in the Planning and Housing Commission staff report.

The applicant's conditional use permit application was finally deemed complete on February 20, 2019. The Planning and Housing Commission held a public hearing for CUP2018-0003 on April 22, 2019. At the close of the public hearing, the Commission unanimously voted in favor of staff's recommendation and adopted Resolution 2533 denying CUP2018-0003, based on the findings contained in the staff report.

#### Appeal to the City Council

As required by Section 17.93.020(D), upon receipt of an appeal, the Commission shall make a report to the City Council stating the factual and legal basis on which the Commission determined that the application failed to meet the criteria and requirements for granting a conditional use permit.

At its meeting on April 22, 2019, the Planning and Housing Commission determined that the findings necessary for granting a conditional use permit as set forth in Section 17.92.110 of the Corona Municipal Code cannot be made in reference to CUP2018-0003 for the following reasons.

- A. The proposal would be detrimental to public health, safety, convenience and general welfare because the use associated with CUP2018-0003 is not aesthetically compatible with the low-density, single-family residential land uses surrounding the project site. The mono-eucalyptus tree, block wall enclosure and utility cabinets are within the viewshed of the nearby existing single-family residential dwellings that are situated 20 feet above the project. The residences to the east of the project site would have a direct view of the project site and the single mono-eucalyptus tree proposed to be installed a mere 130 feet from the backyards of such dwellings. Contrary to the City's design guidelines for telecommunications facilities, the proposed telecommunications facility would be readily distinguishable from the surrounding residential environmental and there are no structures, trees, or landscaping that will provide even minimal screening of the telecommunications facility in a manner that is compatible with the surrounding residential environment.
- B. The proposed land use associated with CUP2018-0003 would be detrimental to the existing single-family residential properties in the immediate area because the project site is void of any building, structure, or vegetation that can adequately screen the mono-eucalyptus tree and associated equipment from the views of the nearby residential properties in order to minimize the aesthetic impact to the low-density residential neighborhood. Without any similar trees or landscaping in the vicinity of the mono-eucalyptus tree, the telecommunications facility will be easily perceived to be a fake tree, which further exacerbates the negative impact that the proposed project would have on the adjacent residential neighborhoods.
- C. CUP2018-0003 is not consistent with the City's General Plan for the following reasons:
1. The General Plan land use designation of the project site is Low Density Residential which is primarily intended for single family residential development that does not exceed six dwelling units to the acre. Although, telecommunications facilities are allowed in residential zones with an approved conditional use permit, the proposed use associated with a conditional use permit needs to demonstrate compatibility with surrounding land uses to protect public health, safety, convenience and general welfare in order not to diminish the quality of life for the residents. The lone mono-eucalyptus tree and associated equipment, without any other nearby tall trees or other dense landscaping to serve as a means of screening the telecommunications facility, is not aesthetically compatible with the surrounding single-family residential land uses and is therefore inconsistent with the intent of the Low Density Residential land use designation.
  2. General Plan Goal 1.8 is to assure the integrity, quality and livability of Corona's existing residential neighborhoods preserving those elements that give them character, cohesion and quality of life. The mono-eucalyptus tree and associated equipment proposed with CUP2018-0003 would be placed within an existing single-family residential neighborhood in which nearby residences would have a direct line of sight from their outdoor and interior living spaces to the proposed facility creating a negative aesthetic visual impact to the neighborhood. The single mono-eucalyptus tree, without any other nearby trees or dense landscaping to mask the fact that it is clearly a

telecommunications facility, would contradict the residential character and quality of the surrounding neighborhoods.

3. General Plan Policy 1.8.12 provides that nonresidential uses should be located and designed to maintain the quality and character of the neighborhood and prevent traffic, noise, odor, lighting, and other adverse impacts on adjoining housing units. The project site is located within an existing residential neighborhood and is surrounded by existing single-family dwellings. Because there are no other tall trees or structure or any form of dense landscaping to screen the telecommunications facility, the existing residences located 20 feet above the project site are burdened with a direct view of the telecommunications facility, which is a nonresidential use. Rather than being indistinguishable from the surrounding environment to ensure that the quality and character of the residential neighborhood is preserved, the proposed land use associated with CUP2018-0003 would result in a noticeably fake tree being situated in the middle of an existing neighborhood without any visual buffers to mask the nonresidential character of the use. As such, CUP2018-0003 would not be in character with the residential neighborhood and would create an aesthetic visual impact on existing residents that have a direct view of the project site.

#### Applicant's Reasons for Appeal to the City Council

The applicant filed an appeal of the Planning and Housing Commission decision on CUP2018-0003 to the City Clerk on May 6, 2019. The appeal was filed within 10 working days of the Commission's decision in accordance with CMC Section 17.93.020. The department's Application for Appeal form states the appeal shall state clearly the grounds for the appeal and the specific factual or legal errors by the Planning and Housing Commission on which the appeal is based and how the application is a public necessity, convenience, welfare or good planning practice.

Based on the applicant's letter dated May 6, 2019, city staff has extrapolated the following reasons that staff has perceived to be the basis for the appeal.

1. The Planning Commission and staff overlooked the critical need for the project and disregarded the city's own guiding documents in favor of feeding a thinly veiled bias against our project.

Staff's response. The applicant states in the appeal letter that in a meeting with Community Development Director Joanne Coletta and other staff members, Renegade Towers was advised to never file the application and staff maintained its opposition to the project for almost two years. Both of these allegations are utterly false. City staff is well educated on a project applicant's due process rights and that an applicant cannot be denied or prevented from submitting an application that meets the filing requirements established in the Corona Municipal Code. This fallacious statement diminishes the professional character of staff and warranted a response since it was included in the appeal.

Furthermore, the applicant was not required to have a meeting with city staff before submitting a conditional use permit application. The applicant, of its own accord, contacted staff and requested a meeting to obtain feedback on the proposed project. Staff agreed to the applicant's request and did

provide feedback on the project at the meeting. Staff did indicate at the time that support for the project would be difficult given the location of the project site and the surrounding residential neighborhood. Staff also indicated that other sites or other alternatives such as small cell sites should be evaluated or considered in the area. Again, staff provided the feedback on the proposed project because the applicant requested the meeting for that purpose.

With respect to the allegation that the “critical need for the project” was disregarded, city staff received and evaluated the maps submitted by the applicant concerning the coverage gap for Verizon’s services. Additionally, public testimony was presented during the Planning Commission concerning the cellular coverage in this area of the City. As such, the proffered need for the proposed project was adequately covered in the record and was not ignored or disregarded by city staff or the Planning Commission.

2. Renegade’s efforts have been maligned and misrepresented to the Planning Commission and they want the record to be straight and have the City Council make a decision with fresh eyes.
  - Met with staff multiple times, held public neighborhood meetings, and took feedback and suggestions each and every time.
  - Purposely slowed our timeline to allow for extra meeting requested by staff with the Infrastructure Committee, landowners of alternate locations, and nearby residents.
  - Provided information to staff and our neighbors regarding health impact, real estate values, technological challenges based on topography of the area, and a lengthy list of candidate locations that failed.
  - Evaluated and re-evaluated other options and alternatives as suggested by staff and the neighbors.
  - Provided information on alternative sites exhausted over the past several years showing a good faith effort to locate somewhere other than the proposed location on Skyline.

Staff’s response. The Planning and Housing Commission staff report documented the project’s timeline including the community meetings conducted by the applicant and the Infrastructure Committee meetings attended by the applicant. The Infrastructure Committee meeting minutes were also included as exhibits in the Planning and Housing Commission staff report summarizing the applicant’s response to the public comments on the project regarding perceived health effects, aesthetics, real estate values and alternative facilities, including small cell sites. The staff report also included information on the alternative sites evaluated by the applicant and why those sites were determined to be not feasible by the applicant and were, thus rejected. It was also made clear in the staff report that staff was prohibited by federal law under the federal Telecommunications Act from denying telecommunication facilities based on perceived health effects from the mono-eucalyptus tree. The staff report clearly represents the course of action taken by the applicant and the effort put forth by the applicant to address the comments raised by residents in the nearby neighborhood and staff.

3. Renegade feels strongly that the Corona Municipal Code provides the ability for a wireless communications facility to be located in a single family residential zone, subject to a CUP.

Staff response. Telecommunication facilities in the city are governed by Corona Municipal Code

Chapter 17.65. Per Section 17.65.060 of said chapter, telecommunication facilities that are not otherwise exempt from the city's regulations require approval of a conditional use permit in accordance with CMC Chapter 17.92. Additionally, Section 17.65.090 establishes design guidelines and standards for telecommunication facilities. According to the city's Location, Development and Design Guidelines and Standards for Telecommunications Facilities, the preferred order of location of telecommunications facilities is first industrial zones and second commercial zones. The guidelines go on to state that:

- *Telecommunication facilities, other than satellite antennas, amateur radio facilities, or receiver-only antennas, may be approved within a residential zone only if the property is not developed with a single family dwelling unit.*
- *Consideration of the potential impacts on any adjacent residential property shall be evaluated.*
- *The location of such a telecommunications facility shall be conditioned on the utilization of stealth design technology and/or building or roof mounted design.*
- *Support structures shall be screened from view by sitting them next to tall buildings or structures or placed near existing tall trees. Where applicable, the support structures are to be screened from public view with dense landscaping.*

Although the zoning indicates telecommunication facilities are allowed in a single family zone with a conditional use permit it does not mean the permit is automatically granted by right. CMC Chapter 17.92 governs Conditional Use Permits and Section 17.92.010 clearly states *the conditional use permit is intended for those types of land uses which require special consideration in a particular zone or in the city as a whole due to the following factors: the size of the area needed for full development of such use; the traffic, noise, vibration, smoke, aesthetics, glare or other problems or impacts created by the use; special locational requirements for the use not related to zoning; or the effect that such uses may have on property values, health, safety and welfare in the neighborhood or in the community as a whole.* Also, before a CUP is granted the findings listed in Section 17.92.110 shall be made for the project and the review is subject to the discretion of the Planning and Housing Commission. In this case the findings necessary for granting CUP2018-0003 could not be made because the Commission determined the proposal would be detrimental to public health, safety, convenience and general welfare because the project is not aesthetically compatible with the low-density, single-family residential land uses surrounding the project site.

4. The applicant implies the decision made by staff and the Commission is not consistent with General Plan Policy 7.13.1 which *requires that new development be approved contingent upon its ability to be served by adequate telecommunication and other supporting infrastructure* and Policy 7.13.2 to *provide for the continued development and expansion of telecommunications systems including cable and, as feasible, fiber optics, for access of data and information and communication purposes* in that the need for the proposed telecommunications facility is clearly shown by the propagation maps submitted with CUP2018-0003.

Staff's response. The Planning and Housing Commission staff report mentioned the service gap in the area and included the propagation maps as exhibits in the staff report, which demonstrated that the proposed project would increase service coverage in the area. The Commission did not challenge or argue against the actual need for the telecommunications facility in the area. The Commission denied CUP2018-0003 on the grounds the telecommunications facility was not

aesthetically compatible with the low density, single family residential neighborhood. As indicated above, the decision to grant a CUP is not based only on the use and the service it will provide to the city. Other factors associated with the use are also taken into consideration to determine if the use will have a potential impact to the area. As documented in the Planning and Housing Commission staff report, the findings in support of CUP2018-0003 cannot be made because the Commission determined the proposal would be detrimental to public health, safety, convenience and general welfare because the project is not aesthetically compatible with the low-density, single-family residential land uses surrounding the project site.

5. The applicant states that it is true that some of the neighbors in opposition [to the project] will see the new facility most directly, it is also true that this type of facility has been approved on many sites in Corona at similar distances from single family homes.

Staff response. CUP2018-0003 is specific to the project site and the project being proposed by the applicant. The Commission's decision on CUP2018-0003 does not require an examination of other similar projects in other locations throughout the city when making the findings set forth in CMC Section 17.92.110 to approve a CUP. The findings listed in CMC Section 17.92.110 are required to be made in reference to the project being reviewed and not on similar projects previously approved in other locations.

That being said, it is important to note, for the record, that the city has an exemplary record in working with telecommunications carriers and approving many sites throughout the city for the installation of telecommunications facilities. However, as indicated by a member of the public during the Planning Commission meeting, the photos of other telecommunications facilities in the city that are near residential uses (which the applicant presented during the Planning Commission hearing and include as Exhibit E of the applicant's appeal) do not show what the applicant thinks they show. Although the applicant asserts that these photos show the views of similar wireless facilities from homes in Corona, the photos only serve to support city staff's recommendation and the Planning Commission's decision to deny the applicant's proposed project. In stark contrast to the applicant's proposed telecommunications facility, all of the towers in the photos submitted by the applicant show telecommunications facilities that are surrounded by similarly sized trees and/or dense landscaping, thus ensuring that the telecommunications facility is indistinguishable from the surrounding environment and does not otherwise contradict the residential character of the adjacent neighborhoods.

6. City staff felt very certain that our site was not screened enough to warrant their support and it became the central theme of Findings 1.a., 1.b., 2.a., and 2.b. [in Resolution 2533]. A request for more trees or shrubs to enhance the screening or improve the site was never mentioned by staff.

Staff response. The city's Location, Development and Design Guidelines and Standards for Telecommunications Facilities, discussed above, are available on the city's website and were made available to the applicant. The applicant clearly knows this because the guidelines stipulate telecommunications facilities in a single family residential zone may be approved on property not developed with a single family dwelling unit, which is the basis of the applicant's argument for the project site. The guidelines clearly state: a) the telecommunications facility shall utilize designs intended to make the telecommunications facility indistinguishable from the surrounding environment, b) telecommunication facilities should be, where appropriate, in locations where existing topography,

vegetation, buildings or other structures provide the greatest amount of screening, and c) support structures shall be screened from view by sitting them next to tall buildings or structures, or placed near existing tall trees; where applicable the support structures are to be screened from public view with dense landscaping. Additionally, the negative visual impact that that telecommunications facility would have on the adjacent neighborhoods was a recurring theme in every public meeting concerning the applicant's project. The applicant is responsible for designing their project and demonstrating how the project meets the city's requirements.

#### Information submitted after appeal deadline

The applicant submitted an email to the Community Development Department on May 22, 2019, that included photosimulations of the project site that show three live eucalyptus trees being planted within the lease area in proximity to the mono-eucalyptus tree. This information was not previously presented to the Planning and Housing Commission and has not been thoroughly evaluated by staff. However, the information is being included in the staff report as Exhibit 4 because the applicant requested that it be included as part of the public record.

#### **COMMITTEE ACTION:**

The proposal discussed at the Infrastructure Committee on November 1, 2017. The Committee overall did not favor the location and urged the applicant to explore alternative sites including small cell installation as an alternative design to the tower.

The Infrastructure Committee at its meeting on January 9, 2019, was provided an update on the project. The applicant discussed several alternative sites that were analyzed prior to selecting the Long's property for the tower. The applicant also discussed small cell technology versus macro-cell sites such as the tower being proposed by the applicant and a 2012 study that was conducted on telecommunications facilities' impacts to property values. The Committee still had concern with the location and urged the applicant to explore additional alternative sites.

#### **STRATEGIC PLAN:**

Not applicable.

#### **FISCAL IMPACT:**

The applicant paid \$12,817.75 in application processing fees and \$875 in appeal fees.

#### **ENVIRONMENTAL ANALYSIS:**

In accordance with Section 21080(b)(5) of the California Public Resources Code projects that a public agency rejects or disapproves are exempt from the California Environmental Quality Act (CEQA) and thus, are not required to prepare an initial study or adopt a negative declaration or EIR. If the City Council decides not to uphold the Planning and Housing Commission's decision and would like to further consider approval of the project, an initial study would need to be prepared to determine potential environmental impacts and mitigation measures associated with the proposed project prior to it being considered for possible approval.

#### **PLANNING AND HOUSING COMMISSION ACTION:**

At its meeting of April 22, 2019, the Planning and Housing Commission considered the subject matter and took the following action:

Motion was made, seconded (Jones/Siqueland) and carried unanimously that the Planning and Housing Commission adopt Resolution No. 2533 **DENYING** CUP2018-0003, based on the findings contained in the staff report. The minutes of the Planning and Housing Commission meeting are included as Exhibit 7.

**PREPARED BY:** JOANNE COLETTA, COMMUNITY DEVELOPMENT DIRECTOR

**REVIEWED BY:** DEAN DERLETH, CITY ATTORNEY

**REVIEWED BY:** KERRY D. EDEN, ASSISTANT CITY MANAGER/ADMINISTRATIVE SERVICES DIRECTOR

**REVIEWED BY:** MICHELE NISSEN, ASSISTANT CITY MANAGER

**SUBMITTED BY:** MITCHELL LANSDELL, ACTING CITY MANAGER

Attachments:

1. Resolution No. 2019-031.
2. Locational and Zoning Map.
3. Applicant's Appeal letter dated May 6, 2019.
4. Email and photosimulations from the applicant dated May 22, 2019.
5. Site Plan's for CUP2018-0003.
6. Planning and Housing Commission Staff Report.
7. Minutes of the Planning and Housing Commission meeting of April 22, 2019.

**APPLICANT INFORMATION**

*Peter Blied of Plancom, Inc. for Renegade Towers, 250 El Camino Real #117, Tustin, CA 92780*