

Resolution No.

## STOCKTON CITY COUNCIL

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### **RESOLUTION DENYING AN APPEAL BY MARY ELIZABETH AND UPHOLDING THE PLANNING COMMISSION'S DECISION APPROVING A USE PERMIT AND DESIGN REVIEW FOR 75-FOOT TALL WIRELESS TELECOMMUNICATION FACILITY WITH ABOVE GROUND SUPPORT EQUIPMENT IN THE CHANNEL AREA LOCATED AT 2050 WEST FREMONT STREET (P18-0334)**

The applicant, Diamond Communications, submitted a Use Permit and Design Review application to construct a 75-foot tall wireless telecommunication facility with above ground support equipment in the Channel Area located at 2050 W. Fremont Street, zoned Industrial, General (IG); and,

On May 16, 2018, the Architectural Review Committee (ARC) reviewed the proposed facility for conformance with Stockton Municipal Code section 16.44.020(D) (Screening Criteria) and the Citywide Design Guidelines, including provisions for the Channel Area and Freeway Corridors, and recommended approval to the Planning Commission; and

On July 27, 2018, the Planning Commission considered an approval recommendation from the ARC, staff report and public comment, and adopted Resolution No. 2018-07-26-0501 approving the facility by unanimous vote; now, therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF STOCKTON, AS FOLLOWS:

- A. The foregoing is true and correct and incorporated by reference.
- B. Based on its review of the entire record, the City Council makes the following findings:

#### Use Permit Findings

1. The subject wireless telecommunication facility is allowed within the Stockton Channel Area Overlay District, subject to the approval of a Use Permit by the Planning Commission. The subject wireless telecommunication facility complies with all applicable provisions of the Stockton Municipal Code, particularly the Communication Facilities for Criteria for minor and major communication facilities in section 16.44.020.
2. The subject wireless telecommunication facility would maintain the integrity and character of the surrounding neighborhood, because the subject wireless

telecommunication facility complements the surrounding uses and industrial character of the port area.

3. The subject wireless telecommunication facility is consistent with applicable general land uses, objectives, policies, and programs of the General Plan and any applicable specific plan or master development plan related to the subject wireless telecommunication facility, because it expands the use of information and allows for better-informed citizenry and is consistent with the following General Plan policy:

PFS-10.4, Broadband Services – The City shall work with telecommunication companies to make available broadband services to all residents and businesses.

The subject wireless telecommunication facility complies with the above General Plan policy because it will support telecommunication companies to provide broadband services to the surrounding area in the Stockton Channel Area District. The subject wireless telecommunication facility will complement the surrounding neighborhood, by serving businesses, residents, and the commuters from Interstate-5.

4. The subject site would be physically suitable for the type and density/intensity of use being proposed including the provision of services (e.g., sanitation and water), public access, and the absence of physical constraints (e.g., earth movement, flooding, etc.), because the existing use already has services and there are no known physical constraints.

5. The establishment, maintenance, or operation of the subject wireless telecommunication facility at the location proposed and for the time period(s) identified, if applicable, is not expected to endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, peace, or general welfare of persons residing or working in the neighborhood of the proposed use, because the Conditions of Approval adequately address potential public health and safety issues that may be associated with the subject wireless telecommunication facility by requiring the wireless telecommunication facility to meet all applicable Federal, State, County, and City codes, regulations, and adopted standards.

6. The design, location, size, and operating characteristics of the subject wireless telecommunication facility are expected to be compatible with existing and future land uses on the site and in the vicinity of the subject property, because the subject wireless telecommunication facility will support industrial uses permitted in the IG zone, in accordance with Table 2-2 (Allowable Land Uses and Permit Requirements) of the Stockton Municipal Code, and is expected to be compatible with existing and future uses in the surrounding industrial zones.

7. The proposed wireless telecommunication facility is consistent with all applicable provisions of this Development Code and other applicable City ordinances, because the proposed wireless telecommunication facility is consistent with the design criteria for communication facilities outlined in the SMC section 16.44.020.C.

#### Design Review Findings

8. The general design considerations, including the character, quality and scale of design are consistent with the purpose/intent of this chapter and the Guidelines and other design guidelines that may be adopted by the City, because the Architectural Review Committee (ARC) has reviewed the elevations, photo simulations, and architectural design in a comprehensive manner. The wireless telecommunication facility will incorporate high quality, durable materials, and design features compatible with the industrial character of the port area.

9. The architectural design of structures and their material and colors are visually compatible with surrounding development. Design Elements to the wireless telecommunication facility have been incorporated into the project to further ensure its compatibility with the character and uses of adjacent development, because the wireless telecommunication facility will be painted a muted or soft white color and would blend in with the skyline.

10. The location and configuration of the structure is compatible with the sites and surrounding sites and structures and do not block views from other structures or dominate their surroundings, as it is a tower and not a solid wall.

11. The general landscape design, including color, coverage, location, size, texture, and type of plant materials, provisions for irrigation, planned maintenance, and protection of landscape elements have been considered to ensure visual relief to complement structures, and to provide an attractive environment, because there are no landscaping standards for telecommunication facilities, the proposed project is not required to provide landscaping.

12. The design and layout of the proposed project will not interfere with the use and enjoyment of neighboring existing and future development and will not result in vehicular or pedestrian hazards, because the leasing area on the subject site is located on the southwest portion of the site and is concealed with an 8' chain linked fence with slats to prevent any disturbance from the operating business on site and to prevent any aesthetic intrusion on the surrounding community.

13. The building design and related site plans, including on-site parking and loading, has been designed and integrated to ensure the intended use will best serve the potential uses and patrons of the site, because the City staff has reviewed the site plan to ensure that the plans comply with the City Codes and provide the best way to serve the patrons of the site.

## California Environmental Quality Act

14. The proposed action is a Categorically Exempt use, in accordance with the provisions of section 15303, Class 3, of the California Environmental Quality Act (CEQA), because it constitutes new construction of a small structure.

## City Council Action

C. Based on its review of the entire record, including the July 27, 2018 Planning Commission adopted Resolution, November 6, 2018 City Council staff report, all supporting, referenced, and incorporated documents, and all comments received, the City Council hereby denies the appeal by Mary Elizabeth and upholds the Planning Commission's decision, subject to the following conditions of approval.

## Conditions of Approval

1. The proposed facility shall be constructed and operated in accordance with the approved site plan received June 19, 2018, and the use described in the application materials and staff reports dated July 27, 2018. Changes to the approved site plan and the use described shall comply with Development Code Chapter 16.104 (Changes to an Approved Project).
2. The business operator shall comply with all applicable Federal, State, County, and City codes, regulations, and adopted Standards and pay all applicable fees.
3. Compliance with these conditions of Approval is mandatory. Failure to comply with these Conditions of Approval is unlawful and constitutes a public nuisance, and is subject to the remedies and penalties identified in the Stockton Municipal Code, including, but not limited to, monetary fines and revocation or modification of said Use Permit.
4. The Use Permit shall be posted in a conspicuous place and be made available immediately to City personnel upon inspection of the premises.
5. In the event the operation of this wireless telecommunication facility should prove detrimental to the health, safety, peace, or general welfare of the surrounding neighborhood, this Use Permit shall be subject to revocation or modification, as provided in the Development Code.
6. The owners, developers and/or successors-in-interest (ODS) shall be responsible for the City's legal and administrative costs associated with defending any legal challenge of the approvals for this project or its related environmental document.

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7. The Use Permit shall become valid ten days after approval, unless the action is appealed.

PASSED, APPROVED, and ADOPTED November 6, 2018.

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MICHAEL D. TUBBS  
Mayor of the City of Stockton

ATTEST:

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CHRISTIAN CLEGG, Deputy City Manager/  
Interim City Clerk of the City of Stockton