



## Legislation Details (With Text)

<b>File #:</b>	2021-0345		
<b>Type:</b>	Regular Calendar Item	<b>Status:</b>	Agenda Ready
<b>File created:</b>	3/30/2021	<b>In control:</b>	Permit and Resource Management
<b>On agenda:</b>	4/13/2021	<b>Final action:</b>	
<b>Title:</b>	11:00 A.M. - Use Permit Appeal: Telecommunication Facility 4500 Porter Creek Road UPE19-0089.		
<b>Sponsors:</b>	Permit and Resource Management		
<b>Indexes:</b>			
<b>Attachments:</b>	1. Use Permit Appeal Porter Creek Telecom Summary, 2. Att 1 Draft Resolution.pdf, 3. Att 2 Board of Zoning Adjustments Cond of Approval.pdf, 4. Att 3 BZA Staff Report.pdf, 5. Att 4 Appeal and Correspondence with Appellant.pdf, 6. Att 5 Vicinity Map - Site Plan - Elevations.PDF, 7. Att 6 Noise Study.pdf, 8. Att 7 Photosimulations.pdf, 9. UPE19-0089 Power Point Presentation.pdf		

Date	Ver.	Action By	Action	Result
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**To:** Board of Supervisors

**Department or Agency Name(s):** Permit Sonoma

**Staff Name and Phone Number:** Gary Helfrich, 565-2404

**Vote Requirement:** Majority

**Supervisory District(s):** First

**Title:**

**11:00 A.M. - Use Permit Appeal: Telecommunication Facility 4500 Porter Creek Road UPE19-0089.**

**Recommended Action:**

Conduct a public hearing and adopt a resolution denying the appeal, exempting the project from the California Environmental Quality Act (CEQA), and upholding the Board of Zoning Adjustment's approval of a Use Permit for a new 126-foot tall tower, associated ground equipment, and 30kW emergency power generator. (First District)

**Executive Summary:**

The proposed project is a new intermediate freestanding telecommunications facility, consisting of a 126-foot high faux tree monopine, located within a 2,500 square foot lease area on a 29.9 acre parcel zoned Resources and Rural Development. All structures on the parcel were destroyed by the 2017 Tubbs Fire, and the project is adjacent to the former home site with access provided via an existing road that served the former home.

The proposed project is consistent with the County's requirements for siting a telecommunications tower within the Resources and Rural Development zoning district, there is no other technically feasible method of providing the needed service in this area, and project will not create significant visual impacts.

The proposed project is categorically exempt from the California Environmental Quality Act (CEQA) under Section 15303, New Construction or Conversion of Small Structures, as development will be limited to the 2,500 sq. ft. lease area and not require construction of new roads to access the site, and none of the

exceptions to the exemption are applicable here.

On December 10, 2020, the Board of Zoning Adjustments conducted a public hearing, found the project exempt from the requirements of CEQA and unanimously approved the Use Permit.

On December 18, 2010, Jim Hammerich (Appellant) filed a timely appeal to the Board of Supervisors, shown in Attachment 3. Mr. Hammerich owns an adjacent vacant parcel east of the project site. Appellant contends that the project will generate noise and result in visual impacts that may affect the value of his parcel and the enjoyment of a home he may build in the future.

Staff recommends denying the appeal because the project is consistent with standards for siting a telecommunications tower within the Resources and Rural Development zoning district, and provides critical telecommunication connectivity for wireless customers and emergency services in an area that currently has very limited coverage.

### **Discussion:**

#### **Project Description:**

The proposed telecommunication facility consists of a 126-foot tall faux tree or “monopine” tower with two equipment enclosures, and a 30kW emergency power generator. All equipment is located inside a 50’ by 50’ area. The Appellant’s property line is 195 feet from the nearest point in the project lease area. This distance complies with applicable set-back requirements. (Attachment 5)

The proposed facility is located 800+ feet from Porter Creek Road and 600+ feet from the 200-foot Scenic Corridor setback boundary. Mature second growth Douglas Fir that survived the Tubbs Fire and steep topography completely block views of the project from public viewpoints as well as private views from nearby developed parcels along Porter Creek Road.

#### Site Characteristics

The project site is a 29.9 acre parcel located at 4500 Porter Creek Road near the intersection of Calistoga and Petrified Forest Roads. All structures on this parcel was destroyed in the 2017 Tubbs Fire and fire debris has been removed. The parcel consists of a steep hill rising from Porter Creek, with dense scrub vegetation along Porter Creek Road, and a large stand of mature Douglas Fir near the project site that survived the Tubbs Fire. The project site is situated 5 miles northeast of Santa Rosa. (Attachment 4).

#### Surrounding Land Use and Zoning

North: Aggregate quarry zoned RRD (Resources and Rural Development), MR (Mineral Resource Combining)

South: Single family residence zoned RRD (Low Density Residential), CC (Coastal Combining)

East: Vacant - owned by Appellant zoned RRD (Resources and Rural Development)

West: Single Family Residence zoned RRD (Resource and Rural Development)

### **Issues Raised in the Appeal Letter:**

#### **1. Visual and Noise Impacts to Undeveloped Abutting Parcel**

The Appellant contends that noise and visual impacts generated by the proposed project will impact a

future home that may be constructed on his vacant parcel (APN 120-210-049). The Appellant contends that the only viable building site on his vacant 11.5 acre parcel is within the western portion of the parcel, near the boundary line with the project parcel. The Appellant has not provided documentation to support of this contention, and permit history for the parcel shows no applications for site evaluation or development have ever been submitted.

We understand that the Applicant has made significant efforts to listen to and consider concerns expressed by the Appellant but a resolution acceptable to both parties could not be reached.

The Appellant was the only member of the public attending the Board of Zoning Adjustments hearing, and no other comments have been received to date on this project.

#### Staff Discussion: Visual Impacts

The proposed project is located 600+ feet outside of the Porter Creek Road Scenic Corridor. The Board of Zoning Adjustments found that the project will not have an impact on visual resources due to topography, natural vegetation, and distance from the Scenic Corridor.

Sonoma County Zoning Code Section 26-64-040 (c)(4) states that “Consideration shall be given to views from public areas as well as from private residences, but shall focus on preservation of scenic resources.” Evaluation of the proposed project determined that the project will not be visible from any nearby residences. This requirement applies to existing private residences and cannot be applied to the Applicant’s vacant parcel where future development is speculative and the exact location and design of residential development has not been determined.

#### Staff Discussion: Noise Impacts

A noise study was prepared for this project (Attachment 6), which determined that the project will result in an operational noise level of 35 dB at the Appellant’s property line. This level is less than the General Plan Table NE-2 nighttime standard of 45 dB by a wide margin. Despite the Appellant’s concern about the noise, the Applicant can only be required to meet County standards.

The Appellant has also expressed concern over noise from the backup power generator associated with the project.

Effective July 16, 2020, the California Public Utilities Commission issued a decision through Rulemaking 18-03-011 adopting a 72-hour backup power requirement for wireless facilities like the project, to ensure minimum service coverage is maintained during disasters or commercial grid outages. Wireless providers are required to implement this requirement within twelve months of the decision. Currently, only feasible power source that meets the California Public Utilities Commission runtime standard of 72 hours are standard internal combustion engine driven generators.

Continuous operation of backup power generators is not considered to part of normal operations. While generators are required to be installed inside the best available noise suppression enclosures, noise generated during emergency operations is not evaluated as part of noise assessment for the project.

Generators will run for a 15-minute self-test or “exercise cycle” once a week or 30-minute intervals twice per month. Because this noise is significantly louder than standard operations, the Conditions of Approval require that the exercise cycle be programmed to occur between 10:00 a.m. and 2:00 p.m. on weekdays. While not evaluated by the Applicant’s noise study, the noise level generated by the exercise cycle can be calculated by assuming standard spherical spreading loss for noise (-6 dB per doubling of distance), and adjusting the manufacturers noise specification for the distance to the property line. In this case, the noise specification for the generator (Generac SD-030 in a Level 2 enclosure) is 68 dB at 23 feet. Corrected for distance, the exercise cycle will generate 49 dB at the property line, which complies the General Plan daytime standard of 55 dB for 15 minute exposure.

The 49 dB noise level also represents the maximum noise level at full load during emergency operations as well, although the noise will be continuous rather than occur during weekly 15-minute intervals. In his June 14, 2020 message (Attachment 4), the Appellant states that his proposed building site is 560 feet from the edge of the lease area, which is 595 feet from the generator location. Corrected for distance, the continuous noise level at the proposed building site will be 40dB, which meets the County standard of 45 dB for nighttime noise exposure. It should be noted that this noise level is quieter than most propane-powered residential backup generators that will be operating during emergencies that involve loss of electrical power.

While the Appellant finds noise from the project objectionable, the project meets County standards for noise emissions.

#### **Staff Recommendations:**

Deny the appeal and uphold the Board of Zoning Adjustments approval of the proposed telecommunication facility subject to the attached conditions of approval.

#### **Prior Board Actions:**

None

#### **FISCAL SUMMARY**

##### **Narrative Explanation of Fiscal Impacts:**

N/A

##### **Narrative Explanation of Staffing Impacts (If Required):**

N/A

#### **Attachments:**

- Attachment 1: Draft Board of Supervisor’s Resolution
- Attachment 2: Board of Zoning Adjustments Conditions of Approval
- Attachment 3: Board of Zoning Adjustment Staff Report
- Attachment 4: Appeal Letter, Correspondence, and Payment of Appeal Fee
- Attachment 5: Vicinity Map, Site Plan, and Elevations
- Attachment 6: Noise Study
- Attachment 7: Photo simulations

**Related Items “On File” with the Clerk of the Board:**

N/A