

**BOARD OF ZONING ADJUSTMENT  
RESOLUTION NO. 2024-01**

**A RESOLUTION GRANTING A VARIANCE TO VERTICAL BRIDGE TO  
PERMIT A 65-FOOT HIGH CAMOUFLAGED MONOPINE CELLULAR  
TOWER AT PROPERTY LOCATED AT 3000 PRESCOTT ROAD**

WHEREAS, Section 10-3.406, Table 3.4-3 of the Modesto Municipal Code provides that the maximum height allowed for camouflaged cellular tower facilities within non-residential uses of residential zones be no higher than 50-feet in height; and

WHEREAS, an application for a variance from the provisions of Section 10-3.406, Table 3.4-3 of the Modesto Municipal Code to permit a 65-foot high camouflaged Monopine cellular tower, located within the Low Density Residential (R-1) Zone at 3000 Prescott Road was filed by Vertical Bridge on March 13, 2024;

WHEREAS, Section 10-9.102 of the Modesto Municipal Code authorizes the Board of Zoning Adjustment to grant variances subject to findings specified in Section 10-9.602; and

WHEREAS, a variance may be granted for a wireless telecommunications facility if the applicant has demonstrated certain criteria specified in Modesto Municipal Code Section 10-3.407(c); and

WHEREAS, a public hearing was held by the Board of Zoning Adjustment on May 23, 2024, in Chambers, 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered; and

WHEREAS, this matter is exempt under Section 15303 of the CEQA Guidelines, Construction or Conversion of Small Structures, under which subsection (d) exempts water main, sewage, electrical, gas, and other utility extensions, including street improvements, of reasonable length to serve such construction.

NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Adjustment that based upon such evidence it finds and determines that:

1. There are special radio frequency technology circumstances or conditions applicable to the property or building in question which do not exist for other properties or buildings within a radius of two thousand (2,000) feet from the proposed facilities site;

The application document titled Coverage and Height Justification shows the increase in coverage areas with the antennas at levels from 47' with no variance to 57' with the variance if allowed. The coverage is significantly better with a taller tower. The taller tower will also allow for an additional co-locating carrier to enjoy a wider coverage area. Wider coverage areas and co-location help to minimize the number of freestanding facilities.

Almost all parcels within 2,000' of the proposed site are single family residences except for Prescott Junior High School (a priority coverage objective). The subject parcel provides the coverage needed for the network and is the most appropriate parcel available in the area.

2. The special radio frequency technology circumstances or conditions are such that strict application of the provisions of this chapter would deprive the applicant of his ability to close a demonstrated significant gap in coverage or service in its own network coverage using the least intrusive means; and,

The additional height provided by the variance approval is necessary to enlarge the site's coverage area and make it merge with the coverage areas of Verizon's surrounding sites. The additional height also allows for coverage to extend to out to Grace M. Davis High School, which is considered a critical coverage objective. Please see the Coverage Maps and Height Justification included with this application.

3. Granting the variance will be consistent with the intent and purpose of this chapter and the Federal Communications Act of 1996 (Public Law 104-104).

The proposed facility is designed with camouflaging technologies (faux pine tree), as well as architectural elements designed and colored to match the adjacent architecture. The addition of a contiguous storage area for the benefit of the Church allows for the removal of an existing shed. This will help mitigate the visual impact of the facility. The site was designed in accordance with the purpose and intent of Article 4 of the Modesto Code of Ordinances and is not in conflict with the Federal Communications Act of 1996.

BE IT FURTHER RESOLVED by the Board of Zoning Adjustment that it grants to Vertical Bridge a variance from the provisions of Section 10-3.406 Table 3.4-3 of the Modesto Municipal Code to permit a 65-foot high camouflaged monopine cellular tower, at property located at 3000 Prescott Road, subject to the following conditions:

1. All development shall conform to the plans titled "Prescott Road Modesto, CA 95350", as amended in red and stamped approved by the Board of Zoning Adjustment on May 23, 2024.

2. Prior to issuance of a building permit, plans and technical data sheets shall be submitted to the Fire Marshall or designee for review. Plans and data sheets shall include but not be limited to the following:
  - a. Generator shall be UL 2085 rated;
  - b. Total electrolyte shall not exceed 50 gallons;
  - c. State on Plans: PLN2024-00105
3. Prior to placement of any stationary lead-acid battery systems or on-site generators, a permit shall be obtained from the Fire Department.
4. All fences and walls shall be maintained in good condition and the premises shall be kept free of weeds, trash, and other debris.
5. The property owner and developer shall, at their sole expense, defend, indemnify and hold harmless the City of Modesto, its agents, officers, directors and employees, from and against all claims, actions, damages, losses, or expenses of every type and description, including but not limited to payment of attorneys' fees and costs, by reason of, or arising out of, this development approval. The obligation to defend, indemnify and hold harmless shall include but is not limited to any action to arbitrate, attack, review, set aside, void or annul this development approval on any grounds whatsoever. The City of Modesto shall promptly notify the developer of any such claim, action, or proceeding and shall cooperate fully in the defense.

BE IT FURTHER RESOLVED that the conditions of project approval set forth herein include certain fees, dedication requirements, reservations requirements, and other exactions, and that pursuant to Government Code Section 66020(d)(1), these conditions constitute written notice of a statement of the amount of such fees, and a description of the dedications, reservations, and other exactions.

BE IT FURTHER RESOLVED that the applicant is hereby further notified that the ninety (90) days approval period in which a protest of these fees, dedications, reservations, and other exactions, pursuant to Government Code Section 66020(a) can be filed, begins on May 23, 2024, and that if a protest is not filed within this ninety (90)-day period complying with all of the requirements of Section 66020, the applicant will be legally barred from later challenging such exactions.

The foregoing resolution was introduced at the regular meeting of the Board of Zoning Adjustment held on May 23, 2024, by Board Member Vohra, who moved its adoption, which motion was seconded by Board Member Shanks and carried by the following vote:

- Ayes: Blom, Goriel, Niskanen, Shanks, Vohra
- Noes: None
- Absent: Desai, Riddle
- Recused: None

BY ORDER OF THE BOARD OF ZONING ADJUSTMENT OF THE CITY OF MODESTO.

Original, signed copy on file in CED

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Jessica Hill, Secretary