

BOARD OF ZONING ADJUSTMENT
RESOLUTION NO. 2022-03

A RESOLUTION GRANTING A VARIANCE TO SAC WIRELESS ON BEHALF OF VERIZON WIRELESS TO PERMIT A 80-FOOT HIGH CAMOUFLAGED MONOPINE CELLULAR TOWER AT PROPERTY LOCATED AT 2716 COFFEE ROAD

WHEREAS, Section 10-3.406, Table 3.4-3 of the Modesto Municipal Code provides that the maximum height allowed for cellular tower facilities within the Neighborhood Commercial (C-1) Zone is a maximum of 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 camouflaged monopine cellular tower of 80-feet in height, located within the Neighborhood Commercial (C-1) Zone at 2716 Coffee Road was filed by SAC Wireless on behalf of Verizon Wireless on December 9, 2021; and

WHEREAS, Title 10, Chapter 9, Article 6 of the Modesto Municipal Code authorizes the Board of Zoning Adjustment to grant variances, and Section 10-3.407(d) of the Modesto Municipal Code provides that the Board of Zoning Adjustment may grant a variance for the maximum allowed height of a cellular facility subject to findings specified in Section 10-3.407(c); and

WHEREAS, a public hearing was held by the Board of Zoning Adjustment on May 27, 2021 in Chambers, 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered.

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 facility site.

The applicant seeks a new 80-foot camouflaged monopine facility to replace an existing 80-foot monopole with a non-camouflaged antenna array that is located on the adjacent property to the north. The lease of the existing facility is expiring without renewal and the facility is to be removed. The applicant has stated that six co-location options within the vicinity of the existing tower would not allow for a facility of 80-feet in

height, needed to replace the coverage provided by the facility being removed.

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.

The applicant has stated that they are seeking to replace the existing coverage supplied by the older 80-foot tower with a new 80-foot facility. The applicant has supplied a coverage map that demonstrates a broader closure in gap of coverage at 80-feet in height than at 50-feet (Attachment 5). The applicant is also utilizing a camouflaged mono-pine cell tower to allow for the least visually intrusive facility.

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 variance is to allow for a new cellular facility to replace an existing facility that is being discontinued. The siting of the new cellular facility will be outside of the fall zone requirement to the residential property to the east, and the camouflaged monopine design will be the least visually intrusive. The increase in height would also provide for co-location opportunities for other carriers, potentially minimizing the number of new cellular structures in the area. Therefore, the proposed variance would be consistent with the intent and purpose of the City's Telecommunications Ordinance and the FCC's 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(s) 10-3.406 Table 3.4-3 of the Modesto Municipal Code to permit a camouflaged monopine cellular tower of 80-feet in height, at property located at 2716 Coffee Road, subject to the following conditions:

1. All development shall conform to the plans titled "Coffee Road Modesto PSL# 696115", as amended in red and stamped approved by the Board of Zoning Adjustment on February 24, 2022.
2. Prior to issuance of a building permits, plans shall demonstrate that the facility is outside of the reciprocal access easement located along the northerly 20-feet and easterly 25-feet of the subject parcel, recorded on July 13, 1973 as Document No. 1861, in Book 2566 at Page 787, Stanislaus County Records.
3. 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. Fire extinguisher systems;
 - b. On-site generators;
 - c. Compressed gasses and/or fuel storage systems.
4. Prior to placement of any stationary lead-acid battery systems or on-site generators, a permit shall be obtained from the Fire Department.
 5. All fences, and walls shall be maintained and the premises shall be kept free of weeds, trash, and other debris.
 6. 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.

The foregoing resolution was introduced at the regular meeting of the Board of Zoning Adjustment held on February 24, 2022, by Board Member Desai, who moved its adoption, which motion was seconded by Board Member Blom and carried by the following vote:

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

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

Original, signed copy on file in CEDD
Steve Mitchell, Secretary