

**TOWN OF MORAGA  
PLANNING COMMISSION**

**RESOLUTION NO. 12-2023**

**Approving Conditional Use Permit (UP 06-22), Design Review (DR-03-22), Grading Permit (GR 02-22) and Hillside Development Permit (HDP 02-22) to Construct and Operate a New Wireless Communication Facility on an Existing PG&E Transmission Tower Located on an Open Space Parcel within the Sanders Ranch Subdivision that would be Accessed by a New 15 Foot Wide 1,330-Foot Long Access Road Connecting to Sanders Ranch Road. (APN 258-300-019)**

WHEREAS, in 2019, the Merrill Fire began in the early morning during a PG&E public safety power shutoff, burning approximately 40 to 60 acres adjacent to and within the Sanders Ranch Subdivision. Communication for first responders and residents in the community presented a challenge in that there is not adequate cell service within the subdivision. After the Merrill Fire, the Moraga Police Chief approached the Sanders Ranch Homeowners Association (SRHOA) and Verizon about getting wireless coverage out to the Sanders Ranch Subdivision, which is the purpose of this project; and

WHEREAS, on May 31, 2022, SAC Wireless on behalf of Verizon Wireless submitted Conditional Use Permit, Design Review, Grading and Hillside Development Permit applications for the proposed wireless communication facility; and

WHEREAS, after several submittals and rounds of review the application was deemed complete for processing on May 15, 2023; and

WHEREAS, the Town determined that this project would require that an Initial Study – Mitigated Negative Declaration be prepared due to the proposed grading of an access road from the proposed wireless facility to Sanders Ranch Road on MOSO zoned land with slopes exceeding 20% and the road crossing and running adjacent to a minor MOSO ridgeline; and,

WHEREAS, FCC rules place a 90 day shot clock on wireless projects collocated on existing structures, in this case a PG&E transmission tower, therefore, in order to draft and complete the CEQA process, Verizon and the Town of Moraga agreed to a shot clock extension to October 3, 2023, for the project to be heard before the Planning Commission; and

WHEREAS, a Draft Initial Study-Mitigated Negative Declaration (IS-MND) was filed with the State Clearinghouse on August 31, 2023; and circulated for public comment for a period of 32 days; and;

WHEREAS, public hearing notices were mailed to 165 property owners within a 300 foot radius of the project site on September 22, 2023 and posted on the project site, the Town offices, the Commons Park and the Hacienda de las Flores at least ten (10) days prior to the hearing date; and

WHEREAS, the Planning Commission held a public hearing on October 3, 2023 and at that public

hearing, at which time it considered all oral and documentary evidence presented, and incorporated all testimony and documents into the record by reference.

**NOW, THEREFORE, BE IT RESOLVED** that the Planning Commission of the Town of Moraga hereby makes the following findings and determinations pertaining to the project:

**SECTION 1: RECITALS.** The foregoing recitals are true and correct and incorporated into the findings and determinations set forth in this Resolution.

**SECTION 2: CALIFORNIA ENVIRONMENTAL QUALITY ACT**

Pursuant to the California Environmental Quality Act (CEQA) the Town prepared and adopted an Initial Study and Mitigated Negative Declaration (IS/MND) for the project in accordance with the requirements of California Environmental Quality Act (CEQA) after it was made available for public review and comment for 30 days from August 31, 2023, through October 2, 2023.

**SECTION 3: FINDINGS TO ALLOW A ROAD TO CROSS A MINOR MOSO RIDGELINE.**  
The Planning Commission hereby makes the following findings to allow a road to cross a minor MOSO ridgeline.

1. **The crossing is necessary for the orderly development of the Town** because the proposed site has been determined to be the optimal location for a wireless facility to serve a significant gap in wireless coverage in order to enhance public safety through the provision of reliable wireless service for Sanders Ranch and the southern neighborhoods of Moraga.
2. **The road complies with all applicable requirements of Section 8.128.060** because, while the road would run along, adjacent to and cross the minor MOSO ridgeline for approximately 300 feet, it is necessary as it is the most direct route from Sanders Ranch Road to the wireless facility that minimizes grading, and a direct route to the facility is preferred by the Moraga Orinda Fire District. The access road would be visible from some roads and properties within the Sanders Ranch Subdivisions and the Old Moraga Ranch Trail. The views from within the Sanders Ranch subdivision are anticipated to be substantially obscured by topography and vegetation, as the grasses and other vegetation grow high enough to obscure views of the road, and the road will be at a much higher elevation than where the homes and roads are located, The road is not a structure that would substantially alter the visual environment, and views of it from the Old Moraga Ranch Trail would be limited to the time that it would take a pedestrian to walk through the portion of trail and briefly view where it crosses the minor ridgeline. Surrounding hillsides and ridgelines would continue to obstruct views of the proposed access road from the rest of the trail. Further, the road would be surfaced with class II aggregate, which would be compatible with the semi-rural character of the site. Parking along the access road would be prohibited. Parking at the project site would be temporary and would occur as part of maintenance activities. No streetlights would be installed. Access to the road would be restricted to maintenance and emergency vehicles. All new utilities would be placed underground.

3. **The road does not otherwise conflict with the Municipal Code** because the overall average slope of the area of grading will be less than 20%. Portions of the access road will be within MOSO cells that have average slope of 20% or greater, however, as the access road is considered a fire trail by the Moraga Orinda Fire District, it is exempt from MOSO cell development prohibitions under Section III.B of the Guidelines for Interpreting and Implementing the Moraga Open Space Ordinance.

**SECTION 4: CONDITIONAL USE PERMIT FINDINGS.** Pursuant to Section 8.12.120 of the Moraga Municipal Code, the Planning Commission hereby makes the following findings:

1. **The proposed use is appropriate to the specific location** because MMC Section 8.144.030-D states that all new wireless communication facilities shall be collocated with existing facilities whenever feasible and aesthetically desirable. The proposed facility would have antennas and ancillary equipment located on a PG&E transmission tower and painted to match the tower. The ground mounted equipment enclosure and water tank would be earth tone colors to match the existing environment. An access road would be graded to the site closely following the natural contours of the property. The applicant prepared an alternative sites analysis which explored several locations for the facility, and which determined that this would be the optimal location to serve a significant gap in wireless service in Sanders Ranch and southern Moraga.
2. **The proposed use is not detrimental to the health, safety, and general welfare of the Town.** because a theoretical Radio Frequency Emissions Compliance (RF-EME) report prepared by WATERFORD Consultants, LLC., dated July 26, 2022, assessed and addressed compliance of the proposed facility design with appropriate guidelines limiting human exposure to radio frequency (RF) electromagnetic energy. The report states that *“For accessible areas at ground level, the maximum predicted power density level resulting from all Verizon Wireless operations is 38.594% of the FCC General Population limits... The maximum predicted power density level resulting from all Verizon Wireless operations is 1.386% of the FCC General Population limits. The proposed operation will not expose members of the General Public to hazardous levels of RF energy at ground level or in adjacent buildings. As predicted RF power densities will not exceed the FCC General Population limits, no mitigation action other than restricting access to the tower is required to achieve or maintain compliance.”* Additionally, the standard conditions of approval for the project require the applicant to conduct testing at least once every five years to verify compliance with FCC radio frequency emissions standards to assure there will be no adverse impact to public health and safety or the general welfare of the Town.
3. **The proposed use will not adversely affect the orderly development of property within the Town** because the site already includes an existing utility structure, locating the facility with an existing PG&E transmission tower is consistent with MMC Section 8.144.030(d) which states *“all new wireless communication facilities “shall be collocated with existing and/or with other planned*

*new facilities whenever feasible and aesthetically desirable. Collocation is discouraged when it will increase visual impacts. Service providers are encouraged to collocate with other facilities such as light standards, utility poles and other structures where the collocation is found to minimize the overall visual impact.”* The proposed facility has been designed to minimize visual impacts by being located within the footprint and adjacent to an existing PG&E transmission tower and would not substantially alter the appearance of the existing transmission tower. The antennas will be painted to match the tower and the ground mounted equipment enclosure and water tank will be painted earth tone colors to match the surrounding environment. The facility will be located approximately 378 feet from the nearest residence and 193 feet from the nearest residential property line which is in compliance with MMC Section 8.144.030.I.

4. **The proposed use will not adversely affect the preservation of property values and the protection of the tax base and other substantial revenue sources within the Town** because the equipment will be collocated with an existing utility structure whose impact and effect on property values, to the extent they exist, is known and which the wireless collocation would not substantially worsen. The facility has been designed to minimize visual impacts. Further, the improved wireless telecommunications service in the community could contribute to an improvement in property values.
5. **The proposed use is consistent with the objectives, policies, general land uses and programs specified in the general plan and applicable specific plans** because Town of Moraga General Plan Guiding Principal 7 encourages *“land uses, development patterns, utilization of new communication and transportation technologies that may help reduce automobile trips and air pollution, ensuring that new wireless communication facilities are sited and designed to preserve the Town’s unique character.”* The Verizon wireless communications facility is substantially consistent with the requirements of the Town’s Wireless Communications Ordinance and qualifies for an exception to the prohibition of development within the Town’s open space and ridgeline areas, and slopes on slopes of 20% or greater in accordance with the development standards listed in MMC Section 8.144.060. The proposed access road will be consistent with the requirements of MMC Section 8.128.060 for roads crossing ridgelines and as it serves as a fire trail to the facility, is exempt from MOSO development prohibitions as identified in Section III.B of the Guideline for Interpreting and Implementing the Moraga Open Space Ordinance. The project has been designed to minimize visual impacts and will enhance public safety within the Sanders Ranch Subdivision and southern Moraga by providing reliable wireless service.
6. **The proposed use will not create a nuisance or enforcement problem within the neighborhood** because the new antennas are on a utility tower at a height that is not readily accessible to the general public. A noise study prepared for the facility determined that the facility is not expected to produce noise in excess of the 60 dB standard at the property lines, as required in MMC Section 8.144.070.D of the Town’s Municipal Code and a theoretical Radio Frequency Emissions Compliance report prepared for the wireless facility predicts that RF power

densities will not exceed the FCC General Population limits at ground level or in adjacent buildings. The equipment cabinets would be fenced with locking doors accessible for maintenance purposes only and the access road to the facility will have a locked gate at the entrance. The standard conditions of approval will address any potential nuisance or enforcement problems.

7. **The proposed use will not encourage marginal development within the neighborhood** because the wireless facility would be collocated with an existing PG&E tower on open space land within the Sanders Ranch Subdivision. An alternative sites analysis was prepared which determined this location to be the optimal location to serve a significant gap in wireless coverage. Further, the facility complies with all development standards for wireless facilities set forth in MMC Section 8.144.030 and 8.144.060. The facility has been designed using colors to blend into the site and grading that substantially follows the natural contours of the property. Additional development on this open space parcel would be highly restricted, the wireless facility is not expected to have an adverse effect on the quality of future improvements on the property or surrounding area.
8. **The proposed use will not create a demand for public services within the Town beyond that of the ability of the Town to meet in light of taxation and spending restraints imposed by law** because the wireless service provided by the facility would not generate new population or be of a type that requires Town services.
9. **The proposed use is consistent with the Town's approved funding priorities** because no expenditure of Town funds is required, the Verizon wireless communications transmission facility will have no impact on the Town's funding priorities

**SECTION 5: DESIGN REVIEW APPROVAL FINDINGS.** Pursuant to MMC Section 8.72.080(B), the Planning Commission hereby finds as follows:

1. **The proposed improvements conform with good design as set forth in the Town of Moraga Design Guidelines, and in general contributes to the character and image of the town as a place of beauty, spaciousness, balance, taste, fitness, broad vistas, and high quality** because the facility will be located on and within the footprint of an existing PG&E transmission tower. The proposed antennas and ancillary equipment installed on the tower will be painted to match the tower and the fencing of the equipment enclosure and water tank will be earth tone colors to blend with the surrounding environment. Grading for the access road would closely follow the natural contour of the site. At and around the ridgeline, the ground mounted equipment and access road will be substantially screened from off-site views by existing vegetation and topography. The road at lower elevations will be more visible to nearby homes but is designed with a minimal width and class II aggregate base surface, which is compatible with the semi-rural character of the site. Overall, the proposed facility would present a minor visual change to the PG&E tower and consistent with MMC Section 8.144.030.D

which encourages collocation of wireless facilities with other utility structures where visual impacts can be minimized.

2. **The proposed improvements will not have a substantial adverse effect on neighboring properties or the community due to poor planning; neglect of proper design standards; or the existence of building and structures unsuitable to and incompatible with the character of the neighborhood and the character of the community** because the wireless facility would be collocated on an existing utility structure in an open space on an existing utility structure with an access road that closely follows the topography of the site, minimizing cut and fill. The facility has been designed to blend in with the site and existing and would be a minimal visual change to the utility structure and surrounding area.
3. **The proposed improvements will not lower property values; discourage the maintenance and improvement of surrounding properties; or preclude the most appropriate development of other properties in the vicinity** because the equipment will be collocated with an existing utility structure whose impact and effect on property values, to the extent they exist, is known and which the wireless collocation would not substantially worsen. The proposed facility would not result in the discouragement of improvements to surrounding properties or preclude development of other properties, as it has been designed to minimize visual impacts by being located with an existing PG&E transmission tower, would not substantially alter the appearance of the existing transmission tower, and would provide a new wireless service option for this area, which may enhance property values. Further, the facility is located on a large MOSO zoned open space parcel, collocated with an existing utility structure and is more than 190 feet away from the nearest residential property.
4. **The proposed improvements will not impair public health, safety or welfare** because a theoretical Radio Frequency Emissions Compliance (RF-EME) report prepared by WATERFORD Consultants, LLC., dated July 26, 2022, assessed and addressed compliance of the proposed facility design with appropriate guidelines limiting human exposure to radio frequency (RF) electromagnetic energy. The report states that *“For accessible areas at ground level, the maximum predicted power density level resulting from all Verizon Wireless operations is 38.594% of the FCC General Population limits... The maximum predicted power density level resulting from all Verizon Wireless operations is 1.386% of the FCC General Population limits. The proposed operation will not expose members of the General Public to hazardous levels of RF energy at ground level or in adjacent buildings. As predicted RF power densities will not exceed the FCC General Population limits, no mitigation action other than restricting access to the tower is required to achieve or maintain compliance.”* The standard conditions of approval for the project require the applicant to conduct testing at least once every five years to verify compliance with FCC radio frequency emissions standards to assure there will be no adverse impact to public health and safety or the general welfare of the Town. Further, the project will be built in accordance with the California Building Code and the Town of Moraga’s Grading Ordinance.

**SECTION 6: GRADING APPROVAL FINDINGS.** Pursuant to MMC Section 14.12.030(B), the Planning Commission, acting as the Design Review Board, hereby makes the following findings for grading on slopes greater than 20 percent:

1. **The grading is consistent with the Town Design Guidelines.** The project proposes 1,020 cubic yards of grading, primarily for an access road to the wireless facility to Sanders Ranch Road. The road will be 15 feet in width and approximately 1,330 feet in length. The grading for the road will generally follow the topography of the land consistent with Design Guideline ID10.6, with maximum cuts of 3.6 feet and a maximum fill of approximately four feet. There will be one retaining wall along the western property line that will be approximately 70 feet in length with a maximum exposed height of 3 feet. The retaining wall is necessary to keep all of the grading work on the property, as the road will run adjacent to the western property line. The development of the road will require grading in slopes of 20% or greater, although the footprint of work will have an overall average slope of 19.75%. Consistent with Design Guideline ID10.3 a site-specific geotechnical analysis was prepared for the project by Krazen & Associates, Inc. dated February 21, 2023, which provided recommendations for the grading, retaining walls and foundation.
2. **The grading is consistent with the regulations of Chapter 14.12 – Design Review Board Authority, of the Moraga Municipal Code.** The proposed grading is being reviewed by the Planning Commission acting as the Design Review Board because the project includes 200 cubic yards of grading or more and portions of the work will be on slopes of 20% or greater, although the average slope of the total area of work will be 19.75%.
3. **The grading is not detrimental to Public Safety.** The grading work is on a large open space property that will be located more than 100 feet away from offsite residential buildings and structures. A site-specific geotechnical analysis was prepared for the project by Krazen & Associates, Inc. dated February 21, 2023, which provided recommendations for the grading, retaining walls and foundation. Additionally, the Initial Study-Mitigated Negative Declaration for the project identified the geotechnical Mitigation Measures, GEO-1 and GEO-2, within the Mitigation Monitoring and Reporting Plan that will be adhered to during project development.
4. **The grading is not detrimental to stormwater runoff.** The project is located on a large open space parcel and it is anticipated that any stormwater runoff created by new impervious surfaces will be treated within the grasslands on the property. The conditions of approval require that a final stormwater control plan be submitted to ensure that stormwater is treated onsite.
5. **The grading is consistent with the requirements of Chapter 8.136 of the Moraga Municipal Code.** The grading meets the requirements for a Hillside Development Permit as set forth in section 7 below.

**SECTION 7: HILLSIDE DEVELOPMENT PERMIT FINDINGS.** Pursuant to MMC Section 8.136.050, the Planning Commission hereby makes the following findings:

- 1. The proposed development is consistent with the General Plan, Municipal Code, Design Guidelines, and any applicable specific plan or area plan adopted by the Town Council.** The proposed wireless facility meets the Conditional Use Permit findings described in Section 4 and the Design Review findings described in Section 5 of this resolution. Furthermore, the grading for the road will generally follow the topography of the land consistent with Design Guideline ID10.6. The development of the road will require grading in slopes of 20% or greater, although the footprint of work will have an overall average slope of 19.75%. Consistent with Design Guideline ID10.3 a site-specific geotechnical analysis was prepared for the project by Krazen & Associates, Inc. dated February 21, 2023, which provided recommendations for the grading, retaining walls and foundation. Additionally, the Initial Study-Mitigated Negative Declaration for the project identified the following Mitigation Measures for the project related to the grading, GEO-1 and GEO-2, shown on pages 7 and 8 of the Mitigation Monitoring and Reporting Plan.
- 2. The proposed development is designed to minimize visual impacts, protect scenic resources, and maintain Moraga's semi-rural feel to the greatest extent possible.** The proposed wireless facility meets the Conditional Use Permit findings described in Section 4 and the Design Review findings described in Section 5 of this resolution. Additionally, the grading for the road will generally follow the topography of the land consistent with Design Guideline ID10.6, with maximum cuts of 3.6 feet and a maximum fill of approximately four feet. There will be one retaining wall along the western property line that will be approximately 70 feet in length with a maximum exposed height of 3 feet. At and near the ridgeline the road will be well screened from offsite views by vegetation and topography. At the lower elevations of the site, the road will be more visible to adjacent residences, the road will be surfaced with class II aggregate, which will be compatible with the semi-rural feel of the property.
- 3. The proposed development protects biological, hydrological, and other environmental resources to the greatest extent possible.** The site does not contain any special status plant or wildlife species. A mitigation measure during construction for protected bird species has been included for the project to protect nesting birds that may be present in the grasses and shrubs. There are streams or other waters of the U.S. on the property, condition of approval requires that all stormwater be treated on-site. A site-specific geotechnical analysis was prepared for the project by Krazen & Associates, Inc. dated February 21, 2023, which provided recommendations for the grading, retaining walls and foundation. Additionally, the Initial Study-Mitigated Negative Declaration for the project identified the geotechnical Mitigation Measures, GEO-1 and GEO-2, within the Mitigation Monitoring and Reporting Plan that will be adhered to during project development.



4. **The proposed development is designed and located to minimize exposure to landslides and other geologic hazards.** A site-specific geotechnical analysis was prepared for the project by Krazen & Associates, Inc. dated February 21, 2023, which provided recommendations for the grading, retaining walls and foundation. Additionally, the Initial Study-Mitigated Negative Declaration for the project identified the geotechnical Mitigation Measures, GEO-1 and GEO-2, within the Mitigation Monitoring and Reporting Plan that will be adhered to during project development.
5. **The proposed development minimizes soil displacement and utilizes grading techniques that blend with natural slopes and achieve a natural appearance.** The grading for the road will generally follow the topography of the land consistent with Design Guideline ID10.6, with maximum cuts of 3.6 feet and a maximum fill of approximately four feet. The total proposed grading for the project is approximately 350 cubic yards of cut and 530 cubic yards of fill, totaling approximately 1,020 cubic yards of grading activities. The road will be 15 feet in width and 1,330 feet in length and has been designed in a relatively straight line as opposed to a switch back design which would have resulted in additional grading. The road would be surfaced with class II aggregate, which will be compatible with the semi-rural character of the site.
6. **The proposed development will not be detrimental to the public health, safety, and welfare.** A theoretical Radio Frequency Emissions Compliance (RF-EME) report was prepared by WATERFORD Consultants, LLC., dated July 26, 2022, assessed and addressed compliance of the proposed facility design with appropriate guidelines limiting human exposure to radio frequency (RF) electromagnetic energy. The construction of the wireless facility equipment will be done in compliance with the 2022 California Building Standards Code. Additionally, the grading work for the project is on a large open space property that will be located more than 100 feet away from offsite residential buildings and structures. A site-specific geotechnical analysis was prepared for the project by Krazen & Associates, Inc. dated February 21, 2023, which provided recommendations for the grading, retaining walls and foundation. Additionally, the Initial Study-Mitigated Negative Declaration for the project identified the geotechnical Mitigation Measures, GEO-1 and GEO-2, within the Mitigation Monitoring and Reporting Plan that will be adhered to during project development.

**SECTION 8: APPROVAL.** The Planning Commission hereby approves Conditional Use Permit (UP 06-22), Design Review (DR-03-22), Grading Permit (GR 02-22) and Hillside Development Permit (HDP 02-22), subject to the Conditions of Approval attached hereto as Attachment No. A.

**PASSED AND ADOPTED BY THE PLANNING COMMISSION OF THE TOWN OF MORAGA this 3rd day of October 2023, by the following vote:**

Resolution 12-2023


AYES: Helber, Thiel, Bode, Mapel, Polsky

NOES:

ABSENT: Luster, Lentell

ABSTAIN:

APPROVED:

DocuSigned by:  
  
DA4E94C7817248A  
Ben Helber  
Chair

ATTEST:

DocuSigned by:  
  
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Afshan Hamid, AICP  
Planning Director

**Attachment A**  
**CONDITIONS OF APPROVAL**  
**Conditional Use Permit (UP 06-22)**  
**Design Review (DR 03-22)**  
**Grading Permit (GR 03-22)**  
**Hillside Development Permit (HDP 02-22)**  
**End of Sanders Ranch Road**  
**APN: 258-300-019**

**Project Description:**

The project involves the installation of six panel antennas on a 12-foot high “top hat” extension that would be located on top of an existing PG&E transmission tower. The tower with the “top hat” extension would extend the existing 107.3-foot tower to reach a total height of approximately 116 feet. Also installed on the tower would be three 6449 antenna integrated radio (air) antennas with a centerline height of 45 feet along with six Verizon Wireless radios, two Verizon Wireless Raycap, a microwave antenna with a centerline height of 35 feet, and two hybrid wireless cables. An equipment enclosure consisting of a 19-foot by 19-foot concrete pad with 8-foot-tall composite fencing would enclose the facilities’ ground equipment, including an emergency generator, within the base of the PG&E transmission tower. A new transformer would be located on a 4-foot 2-inch by 4-foot 4-inch pad approximately 9 feet west of the equipment enclosure pad along with a 3,000-gallon water tank. The project would be supplied electricity by PG&E. The proposed diesel generator for the project would be rated below 50 brake-horsepower and would operate under two hours per day for occasional maintenance activities. Additionally, the proposed project would include the installation of new Verizon Wireless fiber vaults every 150 feet along Sanders Ranch Road and installation of a new fiber route for approximately 8,600 feet through existing in-road conduits. This work would replace existing Verizon Wireless fiber vaults and fiber routes beneath Sanders Ranch Road.

To provide access to the facility for construction and maintenance, a new 15-foot-wide access driveway constructed of Class II aggregate base would be graded and built approximately 155 feet northwest from near the end of Sanders Ranch Road to the existing PG&E transmission tower to be modified. The new road would be built on some portions of slopes exceeding 20 percent, would be approximately 1,330 feet in length and for approximately 630 feet in length would run adjacent to the Old Moraga Ranch Trail and would also cross a Moraga Open Space Ordinance minor ridgeline.

The total proposed grading for the project is approximately 350 cubic yards of cut and 530 cubic yards of fill, totaling approximately 1,020 cubic yards of grading activities. The maximum cut depth would be approximately 3.6 feet and the maximum fill height would be approximately 4 feet. The total disturbed area of the site would be approximately 0.75 acres.

## **CONDITIONS OF APPROVAL:**

### **Prior to Building/Grading Permit Issuance**

1. The plans submitted for building and grading permits to construct the wireless communication facility and access road shall be substantially in accordance with the plans approved by the Planning Commission on October 3, 2023, and the conditions of this use permit. Minor revisions to the plans may be approved administratively by the Planning Director. Any significant changes to the plans will require re-submittal to the Planning Commission for approval.
2. These conditions of approval and the mitigation measures of the mitigation monitoring and reporting plan shall be printed on the first or second sheet of each plan set submitted for a building or grading permit pursuant to this approval, under the title 'Conditions of Approval.' Subsequent sheets may also be used if the first sheet is not of sufficient size to list all the conditions. The sheet(s) containing the conditions shall be the same size as those sheets containing the construction drawings; 8- 1/2" by 11" sheets are not acceptable. The applicant shall provide a written response to each condition and how it is addressed by the applicant.
3. The Moraga-Orinda Fire District shall review and approve the construction plans. Verification of MOFD approval shall be submitted to the Town of Moraga Planning Department.
4. The East Bay Regional Park District shall review the construction plans to determine whether any permits are required by the district per Condition 20 of this permit. Verification of East Bay Regional Park District review and their determination shall be submitted to the Town of Moraga Planning Department.
5. A Construction & Demolition Debris Recycling Waste Management Plan Acknowledgement Form shall be submitted to the Planning Department prior to issuance of the grading or building permit for the project.
6. All applications involving the hauling of more than 500 cubic yards shall require a permit issuable by the Town Council following notice to interested parties in accordance with Town Council Resolution 02-83. Prior to issuance of a grading permit, the applicant shall obtain a hauling permit.
7. The project shall fully comply with the Town's Stormwater Management and Discharge Control Ordinance, the Contra Costa Clean Water Program's Stormwater C.3 Guidebook and any amendments thereof, and the requirements of the Regional Water Quality Control Board. As part of these requirements, the applicant shall incorporate Low Impact Development (LID), Integrated Management Practices (IMPs) or Best Management Practices (BMPs) to the maximum extent practicable into the design of this project, implement them, and provide for perpetual operation and maintenance for all treatment IMPs/BMPs.

8. All construction plans (including, but not limited to, site, improvement, structural, mechanical, architectural, building, grading and landscaping plans) shall comply with the approved Stormwater Control Plan (SWCP), the Town's Stormwater Management and Discharge Control Ordinance, the "C.3 Guidebook" and the requirements of the Regional Water Quality Control Board. All construction plans shall include details and specifications necessary to implement all measures of the SWCP, subject to the review and approval of the Public Works Department. To ensure conformance with the SWCP, the applicant shall submit a completed "Construction Plan C.3 Checklist" indicating the location on the construction plans of all elements of the SWCP as described in the "C.3 Guidebook."
9. Prior to the start of any grading, an erosion control plan shall be submitted for approval to the Town and such other interested agencies as the Town may direct. The plan shall be designed to limit erosion of all disturbed portions of the property and to eliminate the transport of soil onto adjacent properties or into streets, storm drains, or drainage ways. The plan shall have:
  - a. Name, address, and a 24-hour phone number of the owner or responsible party, and the person or contractor responsible for construction activities, installing and maintaining the site's BMPs, and performing emergency BMP deployment work.
  - b. The name, address and signature of the civil engineer or person who prepared the plan.
  - c. BMPs shall be site specific, phase and season appropriate. Show the location of all proposed erosion and sediment control BMPs, non-stormwater control BMPs, and waste management control BMPs. Show the location and placement of BMPs such as gravel bags, diverters, check dams, slope planting, drains, and other BMPs.
10. Prior to the start of any grading, the Applicant shall install all erosion control measures shown on the approved erosion control plans.
11. Prior to the start of any grading, the Applicant shall submit to the Town a copy of the grading permit obtained from Contra Costa County.
12. Prior to the start of any grading, a pre-work meeting shall be held with a representative of the Applicant, the grading and/or hauling contractor(s), the project geotechnical engineer, the project engineer, the Town's consulting geotechnical engineer, the Contra Costa County Grading Inspector, and staff representing the Public Works Department and Planning Department of the Town of Moraga. The purpose of the meeting will be to review the conditions of approval for the project and ensure that the individuals doing the work and those inspecting it are aware of all the requirements.

## During Construction

13. All grading operations should be completed before the wet season (October 15 through April 15). Should any slopes remain exposed or sparsely vegetated, or should any grading operation be considered during the wet season, the Town may approve wet season grading if all of the following conditions are met:
  - a. An erosion control plan shall be submitted for approval to the Town and such other interested agencies as the Town may direct. The plan shall have site specific, phase and wet season appropriate best management practices.
  - b. A letter from the project geotechnical engineer or certified engineering geologist stating that such grading is acceptable and will not create a hazard to life, limb, property and public welfare.
  - c. Wet weather best management practices (BMPs) for grading operations in conformance with approved plans and SWPPP have been placed and approved by the town and installed and are kept continuously in place.
  - d. A bond for \$10,000 shall be provided to the Town, guaranteeing maintenance of the erosion control measures and to provide assurance to the Town for payment of any fines imposed by the Regional Water Quality Control Board due to the Applicant's failure to control erosion on the site.
  - e. The Town of Moraga shall be authorized to draw against the bond for erosion control and to take appropriate action as may be required to protect off-site properties or water quality under the following circumstances:
    - i. The Applicant has, in the Town's opinion, failed to install or maintain the erosion control measures in accordance with the approved plan.
    - ii. The installation, correction, or correction of erosion control measures is not proceeding per the approved schedule.
    - iii. The Town Engineer finds that an emergency situation exists or is threatened whereby damage to off-site properties or water quality may result due to the discharge of soils, earthen material, or debris.
14. Noise-generating construction and grading activities shall take place on weekdays only between the hours of 8:00 AM and 5:00 PM. No construction or grading activities are permitted on Saturdays, Sundays or Town observed holidays, unless it is an emergency and prior Town approval has been obtained.
15. Dust control and equipment wash-down shall be done with Title 22 recycled water and contained on-site. Runoff from these procedures shall not be allowed to flow onto adjoining properties or into the Town's storm drain system.
16. The applicant and its contractors shall be responsible for preventing spills of any demolition debris or construction materials on Town streets. If any spills of debris occur, then the applicant will be held responsible for the immediate cleanup of the spill and repair of any damage that may have been done to the street. All corrections shall be made to the satisfaction of the Town Engineer.

17. If underground utilities leading to any adjacent properties are uncovered and/or damaged or broken at any time during construction, the applicant and the contractor involved shall immediately notify the Public Works Department and the appropriate agency/ies and carry out any corrective action to its/their satisfaction.

### **Prior to Building Permit Final**

18. Graded areas outside of the road and structure footprints shall be hydroseeded with a native seed mix, subject to approval of the Planning Department.
19. The Planning Department shall conduct a final inspection of the site to verify compliance with the project plans and conditions of approval.

### **At All Times**

20. Should work be proposed or conducted within the alignment of the existing Old Moraga Ranch trail which is maintained by the East Bay Regional Park District, or any formal or informal access points to the trail from Sanders Ranch Road, the following conditions shall apply:
  - a. Should construction unexpectedly propose to close the existing Old Moraga Ranch Trail the applicant shall notify the East Bay Regional Park District prior to the closure and coordinate with the Park District to notify the public.
  - b. The proposed improvements to the access road should not prohibit existing neighborhood access to the Old Moraga Ranch Trail when the project is complete.
  - c. Vehicles should not travel faster than 5 mph, should yield to all trail users, and should use extreme caution when using the access road. Speed limit signs should be posted by Verizon.
  - d. A minimum of two (2) wayfinding signs should be installed by Verizon at the junctions of the proposed access road and the Trail to guide trail users and prevent them from accidentally following the access road and not the Trail. Any existing drainage issues within 100-feet of the junction should be repaired and the improvements should conform seamlessly.
  - e. The following conditions will apply ONLY in the unlikely event that the Old Moraga Ranch Trail is relocated to the easement held by the Park District that is congruent to the wireless facility access road.
    - i. Any improvements to the Trail that are made as part of the project to accommodate Verizon vehicles and equipment, and any structures or new surfacing that are proposed by the applicant and approved by the Town of Moraga will not be the responsibility of the Park District staff to maintain even in the event that the Trail is relocated in the future to utilize the shared easement.
    - ii. Maintenance agreement. The Park District and Verizon will enter into a legal maintenance agreement that names Verizon as the responsible party to maintain this stretch of Trail so long as the communications facility is in operation.

- iii. Future trail modifications. Any proposed changes or improvements to the Trail or Trail infrastructure made by Verizon or future facility operators shall be coordinated with the Park District.
21. Every ten years, the permit holder shall provide the following to the Town:
- a. Verification of continued compliance with the conditions of approval.
  - b. Demonstration that the Verizon facility has been upgraded to the greatest extent permitted by the technology that exists at the time.
  - c. Consistency of the facility with the provisions of federal law.
22. The applicant shall conduct an on-site RF-EME test (not computer modelling) of the operating facility to verify compliance with FCC standards and submit the test report to the Town within 30 days after the new equipment has been installed and operational. The test shall be done including all collated facilities during normal business hours and on a non-holiday weekday with the Verizon facility operating at maximum power which shall measure total emissions from the site. Current photos of the facility shall be taken during onsite testing and included in the report.
23. The permit holder shall conduct tests every five years to verify compliance with FCC radio frequency emissions standards and provide such test results to the town. Such testing shall be conducted during normal business hours and on a non-holiday weekday with the facility operating at maximum power and shall measure total emissions from the cell site. The test results are to be conducted as follows:
- a. Test results shall be from actual onsite testing rather than computer modelling.
  - b. Current photographs of the facilities shall be taken during onsite testing and submitted with the test results to the Town to confirm continued compliance with the conditions of approval.
24. If the radio frequency emission test results exceed the FCC standards, the Town shall reserve the right to revoke the conditional use permit if corrective changes to the facility cannot be made within a timeframe determined by the Planning Director.
25. The wireless facility shall be maintained and operated in such a manner as to minimize noise impacts on nearby residents and the public. Noise reduction shall be accomplished through the following measures:
- a) The maximum allowable (peak level) exterior noise level shall be 60 dB measured at the property line of the facility.
  - b) Maintenance or testing of the facility that creates audible noise that could be heard from residences in the vicinity shall occur only between the hours of 8:00 a.m. to 5:00 p.m. Monday through Friday, excluding emergency repairs.



- c) Backup generators shall comply with the same noise standards referenced above and shall only be operated during power outages, emergency occurrences, or for testing and maintenance in accordance with condition 17.b. above.
  - d) Mechanical equipment, such as air conditioning units, pumps, etc., shall be designed so that average sound levels do not exceed 40 dB(a) outside the nearest existing residences between 10:00 p.m. and 7:00 a.m., or 45 dB(a) between 7:00 a.m. and 10:00 p.m.
26. All antennas and equipment of the Verizon facility mounted on the PG&E transmission tower shall have a non-reflective finish and be painted the same color as the PG&E transmission tower.
27. The equipment shelter shall be painted brown with non-reflective finish, and the water tank green as shown on the submitted photo simulations (Version Date: August 14, 2023).
28. The applicant shall ensure compliance with all of the conditions of approval. Failure to comply with any condition may result in construction being stopped, issuance of a citation, and/or modification or revocation of the approval.
29. The approved construction is subject to, and shall comply with, all applicable Town Ordinances and laws and regulations of other governmental agencies.
30. The applicant shall apply for and pay all appropriate fees for building permits, plan checks and inspections.
31. Any exterior lighting used by technicians shall be manually operated and used only during night maintenance or emergencies. The lighting shall be constructed or located so that only the intended area is illuminated, and off-site glare is fully controlled.
32. This permit and each condition contained herein shall be binding upon the applicant and any transferor, or successor in interest.
33. All equipment associated with this wireless communication facility shall be removed within thirty days of the discontinuation of use and the site shall be restored to its original preconstruction condition in a manner consistent with continued use by any collocated facility. The Town shall be given thirty (30) days' notice of intent to discontinue use of the facility prior to discontinuation of use.
34. Initial Study – Mitigated Negative Declaration (IS-MND) Mitigation Compliance. All required mitigation measures identified in the IS-MND (SCH# 2023080783) shall be

implemented and monitored in accordance with the adopted Mitigation Monitoring and Reporting Program (MMRP).

35. The applicant and/or property owner agree to defend, indemnify, and hold harmless the Town of Moraga, its agents, officers, council members, employees, boards, commissions, and Council from any and all claims, actions or proceedings brought against any of the foregoing individuals or entities, seeking to attack, set aside, void or annul any approval of the application or related decision, or the processing or adoption of any environmental documents or negative declarations which relate to the approval. This indemnification shall include, but is not limited to, all damages, costs, expenses, attorney fees or expert witness fees that may be awarded to the prevailing party arising out of or in connection with the approval of the application or related decision, whether or not there is concurrent, passive or active negligence on the part of the Town, its agents, officers, council members, employees, boards, commissions, and Council. If for any reason any portion of this indemnification agreement is held to be void or unenforceable by a court of competent jurisdiction, the remainder of the agreement shall remain in full force and effect. The Town of Moraga shall have the right to appear and defend its interest in any litigation arising from the approval of the application or any related decision through its Town Attorney or outside counsel selected by the Town Attorney. The applicant shall be required to reimburse the Town for attorney's fees incurred by the Town in connection with the litigation.
36. The use permit will automatically expire on October 3, 2024. If a building permit is not issued by October 3, 2024, the use permit becomes null and void. However, this discretionary action may be renewed by the Planning Director for a maximum period of one (1) year provided the applicant places such a request in writing to the Planning Director with a showing good cause.