

CITY OF ALAMEDA PLANNING BOARD
DRAFT RESOLUTION

A RESOLUTION OF THE PLANNING BOARD OF THE CITY OF ALAMEDA APPROVING A DESIGN REVIEW APPLICATION NO. PLN22-0271 TO ALLOW CONSTRUCTION OF A 13-FOOT-TALL PENTHOUSE THAT IS APPROXIMATELY 64-SQUARE-FEET IN SIZE TO CONCEAL SIX WIRELESS ANTENNAS AND RELATED WIRELESS TELECOMMUNICATIONS EQUIPMENT ON THE ROOF OF AN EXISTING FOUR-STORY APARTMENT BUILDING AT 916 UNION STREET.

WHEREAS, an application was made on May 26, 2022, by Derek Turner of Qualtek on behalf of DISH Wireless (“Applicant”) requesting Design Review approval for the construction of three, 8-foot-tall, 18-square-foot structures to conceal wireless telecommunications equipment on the roof of an existing 4-story apartment building at 916 Union Street; and

WHEREAS, the application was accepted as complete on September 14, 2022; and

WHEREAS, the project site is located within a R-4, Neighborhood Residential District; and

WHEREAS, the project site is designated as Medium Density Residential in the General Plan Diagram; and

WHEREAS, pursuant to AMC Section 30-4.4 above ground utility installations, such as the proposed antennas, are permitted by right in the R-4, Neighborhood Residential District; and

WHEREAS, pursuant to AMC Section 30-37.2 improvements that require a building permit and do not qualify for one of the Design Review exemptions requires Design Review approval; and

WHEREAS, on June 23, 2022, the City sent a public notice to property owners and residents within 100 feet of the project site to solicit public comment, and in response to the public comments received, the Applicant revised the project design to consolidate the three separate rooftop structures into a single, 13-foot tall, 64-square-foot structure; and

WHEREAS, on September 19, 2022, the Applicant held a neighborhood meeting to gather neighborhood comments and to answer questions about the revised project design; and

WHEREAS, on October 10, 2022, the Planning Board held a duly-noticed public

hearing on the Design Review application and examined all pertinent material and public testimony.

NOW, THEREFORE, BE IT RESOLVED that the Planning Board of the City of Alameda finds this project exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301(e) -- minor alterations to existing public or private structures involving negligible or no expansion of use beyond that which exists, and 15303, new construction or conversion of small structures, and none of the exceptions to the categorical exemptions apply. The proposed installation is a negligible 64-square-foot penthouse on the roof of an existing four-story apartment building to house wireless telecommunications equipment. Approval of the project would not result in any significant environmental impacts; and

BE IT FURTHER RESOLVED, that pursuant to AMC Section 30-37.2 and 30-37.5, the Planning Board makes the following findings relative to the Design Review application (PLN22-0271):

- 1. The proposed design is consistent with the General Plan, Zoning Ordinance, and the City of Alameda Design Review Manual.** The proposed screening structure will extend 13 feet from the top of the roof to a height of 51 feet from finished grade, which matches the height of the existing elevator penthouse. Pursuant to AMC Section 30-5.8, utility structures and necessary mechanical appurtenances may be built up to 25 feet above the 35-foot height limit in the subject zoning district. The design of the screen structure incorporates painted stucco walls and a tile roof that is similar to the existing elevator penthouse and matches the architectural features of the building. By locating the proposed structure towards the rear of the building, approximately 80 feet from the front façade, the project minimizes any visual impact at the front of the building as viewed from Union Street. The structure is located 26 feet 6 inches from the south parapet and approximately 28 feet from the South property line, which will also minimize the visual impact as viewed from Clinton Avenue. The design of the installation is also consistent with the City's Wireless Communications Facilities Design Guidelines for building mounted equipment. The proposed wireless equipment is concealed within a new architectural addition on the roof of the building. The enclosure is designed with exterior finishes, scale and height that is consistent with the architectural style of the building, is compatible with the surrounding area and therefore meets the requirements consistent with the General Plan, Zoning Ordinance, and the Design Review Manual.
- 2. The proposed design is appropriate for the site, is compatible with adjacent or neighboring buildings or surroundings, and promotes harmonious transitions in scale and character in areas between different designated land uses.** The Applicant selected the subject site after conducting an alternative site analysis. The Applicant claims that there are no colocation sites, City owned property, commercial or other non-residentially zoned sites that would be technically feasible within 300 feet from the proposed site as they wish to deploy wireless coverage in the vicinity of the

project site. The proposed design of the 8 foot by 8 foot rooftop structure incorporates stucco finish walls and a tile roof which matches the character defining features of the existing building. The proposed 13-foot tall structure is the same height as an existing elevator penthouse also located on the same roof. The structure will completely screen the proposed wireless antennas equipment from public view. The location of the structure is set back from the front elevation and no changes to the front façade will be visible from Union Street. The structure is also set back from the sides and rear of the building, which minimizes its visual impact to the surrounding environment. Equipment cabinets and ancillary equipment will be installed on the ground level at the rear of the building and will be painted to match the building. Cables from equipment cabinets to the antenna will be on the exterior of the north (rear) elevation and will be boxed in and painted to match the building. The proposed design of the installation is visually consistent with the building on which it will be located and is compatible with the surrounding area.

Although federal regulations prohibit the City from regulating the project based on the environmental effects from a wireless facility's radiofrequency emissions to the extent such emissions meet Federal Communications Commission (FCC) guidelines, the applicant prepared a radiofrequency emissions compliance report (RF-EME) to verify said compliance. In addition, the safety plan and recommendations from the RF-EME report are included as conditions of approval for the project. By designing the rooftop structure to visually match architectural features of the existing building, and by incorporating safety measures from the RF-EME report, the proposed project will be compatible with the surrounding neighborhood.

- 3. The proposed design of the structure(s) and exterior materials and landscaping are visually compatible with the surrounding development, and design elements have been incorporated to ensure the compatibility of the structure with the character and uses of adjacent development.** The proposed rooftop structure is designed specifically to conceal the wireless equipment structure by matching the design of the existing building. The penthouse enclosure utilizes compatible building materials such as stucco and Spanish roof tiles to integrate the proposed facility with the character of the existing apartment building and older buildings in the surrounding neighborhood. The proposed 13-foot height of the structure matches the existing elevator penthouse, and the structure is located at the rear of the building to minimize the visual impact from public view. The rooftop structure, cabinet box and any exposed equipment will be painted to match the building.

BE IT FURTHER RESOLVED, that the Planning Board hereby approves the Design Review application no. PLN22-0271 based on the findings above and subject to compliance with the following conditions of approval:

1. Building Permit Plans: The plans submitted for the building permit shall be in

substantial compliance with the plans prepared by Qualtek Wireless, received on September 28, 2022 and on file in the office of the City of Alameda Planning, Building and Transportation Department, except as modified by the conditions in this resolution.

- a. This Planning Board resolution and conditions of approval shall be printed on the first sheet of the building permit plan set.
 - b. The final plans submitted for building permit approval shall conform to all applicable codes, regulations, and guidelines.
 - c. The final plans, submitted for building permit approval, shall note that exterior surfaces of the proposed structure, exterior cable boxing and equipment cabinets are to be painted in the matching color(s) of the building.
2. Discontinuation of Wireless Use. Upon discontinuation of the use of the subject antennas, the property owner and/or permittee shall remove all antenna improvements and related equipment/enclosures associated with this Design Review approval within 30 days of the discontinuation.
3. Compliance with FCC Standards. The proposed wireless communication facility shall comply with all applicable Federal Communications Commission (FCC) radio frequency emissions safety standards and implement all safety plan requirements and recommendations contained within the Radio-Frequency Electromagnetic Energy (RF-EME) Report No. 6222003325, dated September 28, 2022.
4. Radio Frequency (RF) Emissions Safety Plan. The following conditions of approval shall be implemented as part of the project and reflected in the plans submitted for building permit:
- a. The roof access door shall be locked and fitted with an alarmed panic bar so that the antennas on the roof are not accessible to unauthorized persons.
 - b. RF safety training shall be provided to all authorized personnel who have access to the roof, including employees and contractors of the wireless carriers, and the property owner.
 - c. No access shall be allowed within 10 feet directly in front of the antennas while the base stations are in operation, unless other measures can be demonstrated to ensure that occupational protection requirements are met.
 - d. Barriers shall be installed on the roof to block access to the areas in front of the antennas that exceed FCC general public and/or occupational limits. Barriers may consist of rope, chain or fencing as noted in the RF-EME report.
 - e. Explanatory signs shall be posted at the roof access door that comply with OET-65 color, symbol, and content recommendations. Contact information shall be included to arrange for access to restricted areas.
5. Changes to Approved Plans. This approval is limited to the scope of the project defined in the project description and does not represent a recognition and/or approval of any work completed without required City permits. Any additional exterior changes shall

be submitted to the Planning, Building, and Transportation Department for review and approval prior to construction.

6. Tenant Notification by Property Owner Required. All residents within the building, and property management and maintenance personnel, shall be notified in writing of the location of rooftop antennas and their associated safety issues. The written notification shall state that access to the roof is for authorized personnel only. It shall be the responsibility of the property owner/management to notify future tenants of the building. A copy of the written tenant notification shall be provided to the City of Alameda prior to issuance of building permits.

7. Construction and Maintenance Hours. Except in the case of emergency, construction and maintenance on the roof shall be limited to the hours of 8:00 AM to 5:00 PM, Mondays through Fridays.

8. Noise. Maximum noise levels emanating from any of the facilities operating on the subject site shall comply with the City's Noise Ordinance requirements.

9. Vesting: The Design Review approval for the project shall expire within two years, on October 10, 2024, and become void unless substantial construction under valid permits has occurred pursuant to AMC Section 30-37.6. A one-time extension to October 10 2026, for an additional two years, may be granted by the Planning, Building and Transportation Director upon written request and payment of applicable fees.

10. Hold Harmless. To the maximum extent permitted by law, the applicant (or its successor in interest) shall defend (with counsel acceptable to the City), indemnify, and hold harmless the City of Alameda, its City Council, City Planning Board, officials, employees, agents and volunteers (collectively, "Indemnitees") from and against any and all claims, actions, or proceedings against Indemnitees to attack, set aside, void or annul an approval by Indemnitees relating to this project. This indemnification shall include, but is not limited to, all damages, losses, and expenses (including, without limitation, legal costs and attorney's fees) that may be awarded to the prevailing party arising out of or in connection with an approval by the Indemnitees relating to this project. The City shall promptly notify the applicant of any claim, action or proceeding and the City shall cooperate in the defense. The City may elect, in its sole discretion, to participate in the defense of said claim, action, or proceeding and the applicant (or its successor in interest) shall reimburse the City for its reasonable legal costs and attorneys' fees.

NOTICE. No judicial proceedings subject to review pursuant to California Code of Civil Procedure Section 1094.5 may be prosecuted more than ninety (90) days following the date of this decision plus extensions authorized by California Code of Civil Procedure Section 1094.6

NOTICE. The conditions of project approval set forth herein include certain fees and other exactions. 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

Exhibit 4

Item 7-A, October 10, 2022

Planning Board Meeting

the dedications, reservations and exactions. The applicant is hereby further notified that the 90- day appeal period, in which the applicant may protest these fees and other exactions, pursuant to Government Code Section 66020 (a) has begun. If the applicant fails to file a protest within this 90-day period complying with all requirements of Section 66020, the applicant will be legally barred from later challenging such fees or exactions.

The decision of the Planning Board shall be final unless appealed to the City Council, in writing and within ten (10) days of the decision, by filing with the Planning, Building, and Transportation Department a written notice of appeal stating the basis of appeal and paying the required fees.

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