

**PLANNING & DEVELOPMENT SERVICES DEPARTMENT REPORT**

**HEARING DATE:** February 7, 2007

**TO:** Orange County Planning Commission

**FROM:** Planning and Development Services

**SUBJECT:** PA 06-0068, a Site Development Permit and Use Permit per Foothill-Trabuco Specific Plan Section III.D.11.3.7 to establish a cellular communications site in the Public/Quasi-Public Facilities (PQF) District and modify an existing legal non-conforming antennae tower (non-conforming as to overall height – 107 feet, as compared to District height limit of 35 feet).

**LOCATION:** 20437 Live Oak Canyon Road, Foothill-Trabuco (District 3)

**APPLICANT:** Royal Street Communications, tenant, and Verizon Wireless, landowner

**STAFF CONTACT:** Jim Swanek (Jim.Swanek@pdsd.ocgov.com)  
Phone (714) 796-0140 FAX (714) 834-4772

**PROPOSAL:** The applicant is proposing:

- a) an additional cellular communications site user in the Public/Quasi-Public (PQF) Facilities District to a site with two users at present, first established in 1984;
- b) modifications to an existing tower at a height exceeding the PQF District height limit of 35 feet; and
- c) permanent use of chain-link fencing prohibited by FTSP Section III.D.11.7.a.

**SYNOPSIS:** Planning & Development Services recommends Planning Commission approval of PA06-0068 for Site Development Permit and Use Permit, subject to the Recommended Conditions of Approval and Findings herein

**PROJECT ANALYSIS:**

The project site is located in the Public/ Quasi-Public Facilities (PQF) District of the Foothill-Trabuco Specific Plan. The 5.59-acre lot, created by the Santa Ana Mountains County Water District without compliance with the Subdivision Map Act, was then sold to private parties in 1984. The County has issued discretionary and building permits since that time on the basis of its original creation as a public utility site.

The proposed use is consistent with the purpose and intent of the PQF District, which states in part: “The Public/Quasi-Public Facilities (PQF) District is established to provide for the continued development and maintenance of the existing public and quasi-public facilities within the Specific Plan Area.” Cellular communications facilities are consistent with the broader meaning of a “quasi-public facility”.

**PDS Report – PA06-0068 for Royal Street and Verizon**

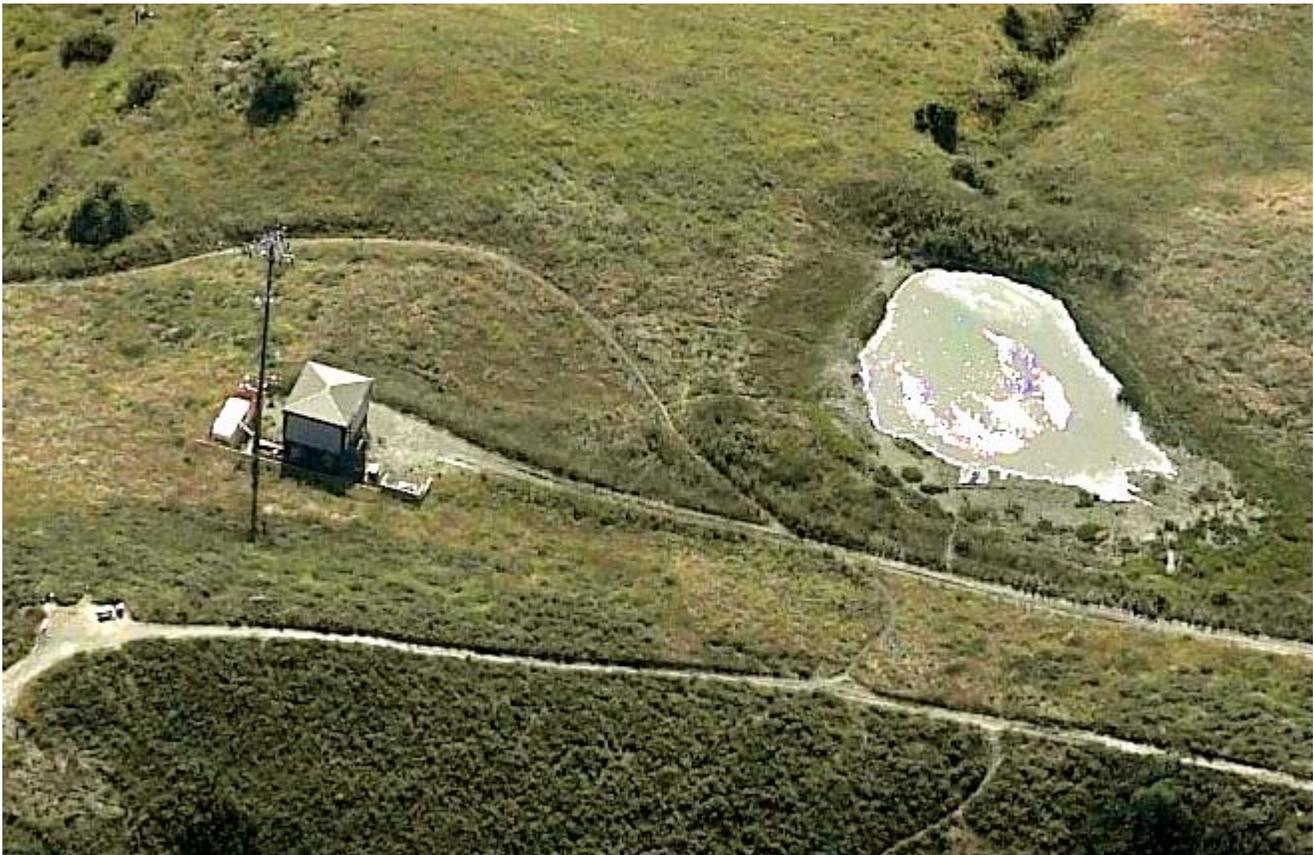
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The other cellular communications users on this site are: Verizon (formerly also PacTel, Airtouch and Vodafone), established via UP84-54/SP84-68/VA84-16; and Cingular (formerly also AT&T Wireless, PacBell Wireless, and L.A. Cellular), established via SP93026 and PA010130.

The site is not visible from Live Oak Canyon Road, or other roads designated by the Specific Plan Resources Component as scenic corridors. The modifications to the existing tower, nonconforming as to height, to install additional antennae would occur at a height of 60 feet off the ground, or well above the 35 foot height limit of the base PQF District. However, Zoning Code 7-9-129.2 indicates that any height for antennae installation may be provided by the approval of a use permit. Staff suggests the changes to the existing towers to add antennae features are innocuous enough in nature to allow the required finding to be made that:

“The location, size, design and operating characteristics of the proposed use will not create unusual conditions or situations that may be incompatible with other permitted uses in the vicinity.”



A landscaping plan as specified by Specific Plan Section III.E.1.0.b.1) was not prepared, as allowed by Specific Plan Section III.G.2.0.f. The Foothill-Trabuco Specific Plan Review Board reviewed the same plans that were transmitted to the Planning Commission, and recommended no additional landscaping with its recommendation of project approval. It would be notably difficult to screen even the 27 foot tall equipment building from public view with landscape materials consistent with the Specific Plan plant palette, let alone to screen any portion of the existing 107 foot tall tower.

The distance of the site from wildlife corridors, oak woodlands, streambeds, and major rock outcroppings indicates no impacts to these and no requirements for additional specialized studies.

Finally, the applicant asks the Commission to allow existing legal non-conforming perimeter chain-link fencing to remain, and that such type of fencing be added to for security around new ground level equipment. The Specific Plan (Section III.D.11.7.a) prohibits the use of chain-link fencing in the PQF District. Staff recognizes the need to provide additional security in the expanded facility; however, other methods to achieve the objective can be realized without the use of prohibited chain link fencing.

The site plan will need to be revised to reflect the Planning Commission action. Condition of Approval #9 requires the submittal of a revised plan within 30 days to the Director of Planning.

**REFERRAL FOR COMMENT AND PUBLIC NOTICE:**

Notices of Hearing were mailed and posted as required by State law. Additionally, notice has been mailed to those parties that have specifically requested notification on projects in the Foothill-Trabuco Specific Plan area. As of the writing of this staff report, no objections to the project have been received from said noticing.

A copy of the planning application and proposed plans were distributed to the City of Rancho Santa Margarita and several County Divisions for technical review and comment. The City provided extensive comments largely of a technical nature, which are attached for the Commission's review as Exhibit 2. Among the City's comments was that: a) a period of 1 year of non-use should trigger demolition of the improvements; and b) the permit be reviewed every 3 years for new technologies that would reduce visual impacts. Staff recommends these comments not be incorporated as project conditions; however, other City comments dealing with assuring non-interference with emergency communications and equipment coloring are recommended and have been incorporated into recommended conditions of approval.

On November 10, 2006, the Foothill-Trabuco Specific Plan Review Board reviewed this project. Their Minutes recommending approval are attached as Exhibit 3.

**CEQA COMPLIANCE:**

Pursuant to the California Environmental Quality Act (CEQA), the proposed project is deemed Categorical Exempt from CEQA's documentation requirements, Class 1, as a "minor modification to an existing structure". Prior to project approval, the decision-maker must concur in this determination. A finding to that effect is included.

**SUMMARY:**

Attached as Exhibit 5 is the Foothill-Trabuco Specific Plan Project Consistency Checklist completed for this project. Staff concludes the project proposal is consistent with Specific Plan Regulations, Guidelines, Goals and Objectives, as described in the Checklist.

**RECOMMENDED ACTION:**

1. Receive staff presentation and public testimony; and
2. Approve PA06-0068, subject to recommended findings and conditions (Appendices A-B).

Respectfully submitted,

Tim Neely, Director  
Planning and Development Services

**APPENDICES:**

- A. Recommended Findings for Project Approval
- B. Recommended Conditions for Project Approval

**EXHIBITS:**

1. Applicant's Letter of Justification
2. City of Rancho Santa Margarita comments
3. Foothill-Trabuco Specific Plan Review Board meeting minutes
4. Project Plans (Planning Commission copies only)
5. Foothill-Trabuco Specific Plan Project Consistency Checklist (Planning Commission only)

**APPEAL PROCEDURE:**

Any interested person may appeal the decision of the Planning Commission on this permit to the Orange County Board of Supervisors within 15 calendar days of the decision upon submittal of required documents and a filing fee of \$ 760.00 filed at the Development Processing Center, 300 N. Flower St., Santa Ana.



## Appendix A Findings PA060068

1	<b>GENERAL PLAN</b>	<b>PA060068</b>
That the use or project proposed is consistent with the objectives, policies, and general land uses and programs specified in the General Plan adopted pursuant to the State Planning and Zoning Law.		
2	<b>ZONING</b>	<b>PA060068</b>
That the use, activity or improvement(s) proposed, subject to the specified conditions, is consistent with the provisions of the Zoning Code, or specific plan regulations applicable to the property.		
3	<b>COMPATIBILITY</b>	<b>PA060068</b>
That the location, size, design and operating characteristics of the proposed use will not create unusual conditions or situations that may be incompatible with other permitted uses in the vicinity.		
4	<b>GENERAL WELFARE</b>	<b>PA060068</b>
That the application will not result in conditions or circumstances contrary to the public health and safety and the general welfare.		
5	<b>PUBLIC FACILITIES</b>	<b>PA060068</b>
That the approval of the permit application is in compliance with Codified Ordinance Section 7-9-711 regarding public facilities (fire station, library, sheriff, etc.).		
6	<b>CATEGORICALLY EXEMPT</b>	<b>PA060068 (Custom)</b>
That the proposed project is Categorically Exempt (Class 1) from the provisions of CEQA.		
7	<b>FISH &amp; GAME - SUBJECT</b>	<b>PA060068</b>
That pursuant to Section 711.4 of the California Fish and Game Code, this project is subject to the required fees as it has been determined that potential adverse impacts to wildlife resources may result from the project.		



## Appendix B Conditions of Approval PA060068

1	CP CP NA	<b>BASIC/ZONING REG</b>	<b>PA060068</b>
<p>This approval constitutes approval of the proposed project only to the extent that the project complies with the Orange County Zoning Code and any other applicable zoning regulations. Approval does not include any action or finding as to compliance of approval of the project regarding any other applicable ordinance, regulation or requirement.</p>			
2	CP CP NA	<b>BASIC/TIME LIMIT</b>	<b>PA060068</b>
<p>This approval is valid for a period of 36 months from the date of final determination. If the use approved by this action is not established within such period of time, this approval shall be terminated and shall thereafter be null and void.</p>			
3	CP CP NA	<b>BASIC/PRECISE PLAN</b>	<b>PA060068</b>
<p>Except as otherwise provided herein, this permit is approved as a precise plan. If the applicant proposes changes regarding the location or alteration of any use or structure, the applicant shall submit a changed plan to the Director, PDS, for approval. If the Director, PDS, determines that the proposed change complies with the provisions and the spirit and intent of the approval action, and that the action would have been the same for the changed plan as for the approved plot plan, he may approve the changed plan without requiring a new public hearing.</p>			
4	CP CP NA	<b>BASIC/COMPLIANCE</b>	<b>PA060068</b>
<p>Failure to abide by and faithfully comply with any and all conditions attached to this approving action shall constitute grounds for the revocation of said action by the Orange County Planning Commission.</p>			
5	CP CP NA	<b>BASIC/OBLIGATIONS</b>	<b>PA060068</b>
<p>Applicant shall defend at his/her sole expense any action brought against the County because of issuance of this permit. Applicant shall reimburse the County for any court costs and attorneys fees that the County may be required to pay as a result of such action. The County may, at its sole discretion, participate in the defense of any action, but such participation shall not relieve applicant of his/her obligations under this condition.</p>			
6	CP CP NA	<b>BASIC/APEAL EXACTIONS</b>	<b>PA060068</b>
<p>Pursuant to Government Code Section 66020, the applicant is hereby informed that the 90-day approval period in which the applicant may protest the fees, dedications, reservations or other exactions imposed on this project through the conditions of approval has begun.</p>			
7	S S U	<b>SHERIFF CLEARANCE OF OPERATIONS</b>	<b>PA060068 (Custom)</b>
<p>Prior to activation of the facility, the applicant shall submit a letter to the building official indicating that the Orange County Sheriff Department has reviewed the operational proposal and concurs that these proposed communications facilities will not cause interference in their operations with the Sheriff Department's communication systems, and that applicant has complied or will comply with all Sheriff requirements.</p>			
<p>In connection with said approval, applicant will provide Sheriff and City of Rancho Santa Margarita Engineering and Maintenance the name, title, phone number, cell number, fax number, pager number, e-mail address, and physical address of a contact person available 24 hours a day, every day, including holidays, for emergency contact in the event of apparent signal interference, as well as a copy of the FCC operating license.</p>			
8	CP CP UO	<b>FEATURE COLORING</b>	<b>PA060068 (Custom)</b>
<p>Prior to issuance of certificates of use and occupancy, evidence shall be provided to the Manager, Building Inspection, that the added antennae on the tower have been painted a color to match said tower, and that the ground level screen wall/fencing approved under Condition 9 shall have been painted a color to match the existing adjoining blockhouse.</p>			
9	LUS LUS BP	<b>REVISED PLANS</b>	<b>PA060068 (Custom)</b>
<p>Within thirty (30) days of the effective date of this action, the applicant shall submit a revised plan to the Director of Planning to reflect the action of the Planning Commission in the determination of appropriate site security.</p>			
10	F F SGB	<b>HAZARDOUS MATERIALS [Com] Service Code: 1.39</b>	<b>PA060068</b>

A. Prior to the issuance of a grading or building permit, the applicant shall submit to the Fire Chief a list of all hazardous, flammable and combustible liquids, solids or gases to be stored, used or handled on site. These materials shall be classified according to the Uniform Fire Code and a document submitted to the Fire Chief with a summary sheet listing the totals for

storage and use for each hazard class. Please contact the Orange County Fire Authority at (714) 744-0499 or visit the Orange County Fire Authority website to obtain a copy of the "Guideline for Completing Chemical Classification Packets."

B. Prior to the issuance of a building permit, the applicant shall complete and submit to the Fire Chief a copy of a "Hazardous Materials Disclosure Chemical Inventory and Business Emergency Plan" packet. Please contact the Orange County Fire Authority Hazardous Materials Services Section at (714) 744-0463 to obtain a copy of the packet.

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**11 F F G ACCESS GATES PA060068 (Custom)**  
**[Res] Service Code: 1.13**

Prior to the issuance of any construction permits, the applicant shall obtain the approval from the Fire Chief for the construction of any gate across required fire department access roads. Please contact the Orange County Fire Authority at (714) 744-0499 or visit the Orange County Fire Authority website to obtain a copy of the "Guidelines for Design and Installation of Emergency Access Gates and Barriers."

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**12 HP HP RG RESOURCE AGENCY CONSULTATION PA060068 (Custom)**

Prior to the issuance of building permits, applicant shall provide to the Director of Planning evidence of consultation with the U.S. Fish & Wildlife Service concerning the presence of protected species on the site, the outcome of said consultation, and those conditions upon which the Service will allow the project to proceed.

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**13 BP BP G CONSTRUCTION NOISE PA060068 (Custom)**

A. Prior to the issuance of any construction permits, the project proponent shall produce evidence acceptable to the Manager, Building Permit s Services, that:

- (1) All construction vehicles or equipment, fixed or mobile, operated within 1,000' of a dwelling shall be equipped with properly operating and maintained mufflers.
- (2) All operations shall comply with Orange County Codified Ordinance Division 6 (Noise Control).
- (3) Stockpiling and/or vehicle staging areas shall be located as far as practicable from dwellings.

B. Notations in the above format, appropriately numbered and included with other notations on the front sheet of the project's permitted construction plans, will be considered as adequate evidence of compliance with this condition.

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**14 BI BI RGB WATER QUALITY MANAGEMENT PLAN PA060068**

Prior to the issuance of any grading or building permits, the applicant shall submit for review and approval by the Manager, Inspection Services Division, a Water Quality Management Plan (WQMP) specifically identifying Best Management Practices (BMPs) that will be used onsite to control predictable pollutant runoff. This WQMP shall identify, at a minimum, the routine structural and non-structural measures specified in the current Drainage Area Management Plan (DAMP). The WQMP must also:

- Address Site Design BMPs (as applicable) such as minimizing impervious areas, maximizing permeability, minimizing directly connected impervious areas, creating reduced or "zero discharge" areas, and conserving natural areas;
- Incorporate applicable Routine Source Control BMPs as defined in the DAMP;
- Include an Operation and Maintenance (O&M) Plan that identifies the mechanism(s) by which long-term O&M of all structural BMPs will be provided.

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**15 BI BI U COMPLIANCE WITH THE WQMP PA060068**

Prior to the issuance of a certificate of use and occupancy, the applicant shall demonstrate compliance with the WQMP in a manner meeting the satisfaction of the Manager, Inspection Services Division, including:

- Demonstrate that all structural Best Management Practices (BMPs) described in the project's WQMP have been implemented, constructed and installed in conformance with approved plans and specifications;
- Demonstrate that the applicant has complied with all non-structural BMPs described in the project's WQMP;
- Submit for review and approval an Operations and Maintenance (O&M) Plan for all structural BMPs for attachment to the WQMP;
- Demonstrate that copies of the project's approved WQMP (with attached O&M Plan) are available for each of the incoming occupants;

- Agree to pay for a Special Investigation from the County of Orange for a date (12) twelve months after the issuance of a Certificate of Use and Occupancy for the project to verify compliance with the approved WQMP and O&M Plan; and
  - Demonstrate that the applicant has agreed to and recorded one of the following: 1) the CC&R's (that must include the approved WQMP and O&M Plan) for the project Home Owner's Association; 2) a water quality implementation agreement that has the approved WQMP and O&M Plan attached; or 3) the final approved Water Quality Management Plan (WQMP) and Operations and Maintenance (O&M) Plan.
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**16 BI BI GB EROSION AND SEDIMENT CONTROL PLAN PA060068**

Prior to the issuance of any grading or building permit, the applicant shall submit a Erosion and Sediment Control Plan (ESCP) in a manner meeting approval of the Manager, Building Permit Services, to demonstrate compliance with local and state water quality regulations for grading and construction activities. The ESCP shall identify how all construction materials, wastes, grading or demolition debris, and stockpiles of soil, aggregates, soil amendments, etc. shall be properly covered, stored, and secured to prevent transport into local drainages or coastal waters by wind, rain, tracking, tidal erosion or dispersion. The ESCP shall also describe how the applicant will ensure that all BMP's will be maintained during construction of any future public right-of-ways. A copy of the current ESCP shall be kept at the project site and be available for County review on request.