

**COUNTY OF EL DORADO DEVELOPMENT SERVICES
PLANNING COMMISSION
STAFF REPORT**



Agenda of:	December 9, 2010
Item No.:	8.c
Staff:	Aaron Mount

SPECIAL USE PERMIT

FILE NUMBER: S10-0006/SBA 49'er Gold Cell Tower

AGENT: Gary Mapa, Site Acquisition Resultants, Inc.

APPLICANT: SBA Towers, Inc.

ENGINEER: Kimley-Horn and Associates, Inc.

OWNER: Robert and Barbara Akin

REQUEST: Special Use Permit to allow the construction of a wireless communications facility to include a 104-foot tall monopine tower with 12 antennas at the 96-foot level and ground support equipment to be located within a 2,700 square foot fenced lease area.

LOCATION: North side of Gold Hill Road approximately 0.45 mile west of the intersection with State Highway 49 in the Gold Hill area, Supervisorial District IV. (Exhibit A)

APN: 089-010-41 (Exhibit B)

ACREAGE: 2.379 acres

GENERAL PLAN: Agricultural Lands-Agricultural District (AL-A) (Exhibit C)

ZONING: Exclusive Agricultural (AE) (Exhibit D)

ENVIRONMENTAL DOCUMENT: Negative Declaration

RECOMMENDATION: Staff recommends the Planning Commission take the following actions:

1. Adopt the Negative Declaration based on the Initial Study prepared by staff; and
2. Approve Special Use Permit S10-0006 subject to the Conditions of Approval in Attachment 1, based on the Findings in Attachment 2.

BACKGROUND: The project parcel is a portion of Williamson Act Contract preserve number 39, created in 1968 and amended in 1981 to its current size of 246 acres.

STAFF ANALYSIS

Project Description: The project is construction and operation of a new wireless communications facility consisting of a 104-foot tall monopine tower. The branches would begin at the 21-foot level. Up to 12 antennas would be installed at the 96-foot centerline and is designed for three future collocations of 12 antennas each. The tower is proposed to be located within a 2,700 square foot lease area, enclosed by a six-foot tall, chain link fence with brown vinyl slats. One equipment shelter is proposed to be constructed within the fenced enclosure and a pad for a future cabinet for co-locations. The equipment shelter would include two exterior air conditioners and an emergency generator. Telecommunications and electric would be undergrounded within a three-foot wide easement approximately 290 feet from an existing power pole located at the southeast portion of the parcel to the lease area. One service light is proposed to allow for potential emergency night services.

Site Description: The site is located on a parcel totaling 2.379-acres at an elevation of 1,720-foot above sea level. The parcel contains a single family residence, a pool, and a work shop structure. The parcel is bordered by Gold Hill Road on the south. The vegetation surrounding the proposed tower site includes residential landscaping and agricultural vegetation including a vineyard and walnut trees.

Adjacent Land Uses:

	Zoning	General Plan	Land Use/Improvements
Site	AE	AL-A	Agricultural/Single family residence
North	AE	AL-A	Agricultural/Single family residence
South	AE/RE-5	AL-A/RR-A	Residential/Single-family residence.
East	AE	AL-A	Agricultural/Single family residence
West	AE	AL-A	Agricultural/Single family residence

Discussion: The surrounding parcels are a mix of agricultural and residential uses. All the adjacent parcels are within the Gold Hill Agricultural District. The closest residences on an adjacent parcel are approximately 800 feet to the south east and south west.

Project Issues: Discussion items for this project include access and circulation, fire safety and grading and drainage:

Access and Circulation: Access to the project would be provided from an existing encroachment onto Gold Hill Road which is a County maintained roadway. DOT determined that because there would be a low volume of traffic generated by the project (approximately one trip per month), a traffic study would not be required. The access driveway and encroachment onto Gold Hill Road were all found by DOT to be adequate as they exist. The only proposed improvements by the applicants for access would be the extension of the exiting driveway and a turnaround at the proposed lease enclosure.

Fencing: The project proposes a six-foot high chain link fence with vinyl slats to surround the 2,700 square foot lease area. The fence would be set back 30-feet from the western boundary line, the closest property line. Visually the fence would not be seen from Gold Hill Road at the southern and eastern project boundaries due to its location behind the residential structures and existing vegetation on the project parcel. The fence would be visible from Gold Hill Road on the project parcels western boundary and a condition is recommended to install landscaping to reduce this visual impact.

Fire Safety: The El Dorado County Fire Protection District would require the applicants to install fire extinguishers and Knox locks to allow for potential fire protection capabilities. They found the existing access driveway and proposed turnaround to be used by the project to be adequate for the proposal.

Grading/Drainage: Grading and drainage improvements associated with the project would be those associated with site development, trenching, and a concrete pad within the enclosure. Should the project require grading activities exceeding 250 cubic yards of graded material or grading completed for the purpose of supporting a structure, it must meet the provisions contained in the County of El Dorado - Grading, Erosion, and Sediment Control Ordinance. The project would require submittal of a grading and drainage plan for a grading permit.

General Plan: The General Plan currently designates the subject site as Agricultural Lands-Agricultural District (AL-A). This designation permits wireless communication facilities in an agricultural area with a Special Use Permit. The policies and issues that affect this project are discussed below:

Land Use Compatibility: **Policy 2.2.5.21** directs that development projects shall be located and designed in a manner that avoids incompatibility with adjoining land uses that are permitted by the policies in effect at the time the project is proposed.

Consistent: The proposed communications tower facility would add to regional coverage to meet increasing demand for wireless facilities, and improve the ability for emergency service providers to improve their communication capabilities. This could be considered a benefit of the proposed project. With an approved Special Use Permit, the project would be compatible and consistent with the AL-A land use designation. The project has been designed to minimize the effects on adjacent properties. The antenna mounting hardware and the tower pole would be

painted a non-reflective brown color to match the pole. The fenced enclosure with brown slats would shield the ground support equipment from outside view, as would the installation of landscape shrubs along the western end of the enclosure. As proposed and conditioned the monopine would consistent with General Plan Policy 2.2.5.21.

Special Use Permit Required: **Policy 5.6.1.4** states that *Special Use Permits shall be required for the installation of community telecommunications facilities (e.g. microwave towers) in residential areas to ensure that siting, aesthetics, environmental issues, surrounding land uses, and health and safety concerns are considered.*

Consistent: The applicant has designed the wireless facility in compliance with County regulations, addressing aesthetics, environmental issues, and health and safety concerns. All project-related environmental issues have been evaluated. Therefore, staff finds that the project, as conditioned, would conform to the General Plan.

Adequate Access for Emergencies: **Policy 6.2.3.2** directs the applicant to demonstrate that adequate access exists, or can be provided for emergency vehicles and private vehicles to access and evacuate the area.

Consistent: The El Dorado County Fire Protection District reviewed the project and found the existing and proposed access driveway and turnaround to be adequate. The project would be in compliance with the General Plan Policy.

Noise Impacts: Policy 6.5.1.2 states that *where proposed non-residential land uses are likely to produce noise levels exceeding the performance standards of Table 6-2 at existing or planned noise-sensitive uses, an acoustical analysis shall be required as part of the environmental review process so that noise mitigation may be included in the project design.* Policy 6.5.1.7 states that *noise created by new proposed non-transportation noise sources shall be mitigated so as not to exceed the noise level standards of Table 6-2 for noise-sensitive uses.*

Consistent: Routine maintenance visits would occur once a month. Changes in traffic-generated noise levels along Cold Springs Road with the addition of the maintenance vehicle(s) would not be measurable. The project would include exterior air conditioners and an on-site generator. A noise analysis report was supplied by the applicant that shows the exterior air conditioners and on-site generator would not generate noise exceeding the maximum levels set by the General Plan. The project would be compliant with these Policies.

Protection of Agricultural Lands: Policy 8.1.4.1 states *the County Agricultural Commission shall review all discretionary development applications and the location of proposed public facilities involving land zoned for or designated agriculture, or lands adjacent to such lands, and shall make recommendations to the reviewing authority.*

Consistent: The project was reviewed by the Agricultural Commission at its August 11, 2010 hearing. The Agricultural Commission recommended approval of the project and stated that the telecomm facility is compatible use on Williamson Act contracted lands based on Government Code Section 51238. (a)(1) which allows for the erection, construction, alteration, or

maintenance of gas, electric, water, communication, or agricultural laborer housing facilities and determines these uses as compatible uses within an agricultural preserve.

Conclusion: The project has been reviewed in accordance with the General Plan policies, and it has been determined that the project is consistent with the General Plan. Findings of consistency with the General Plan are provided in Attachment 2.

Zoning: The parcel is zoned Exclusive Agricultural (AE). County Code permits wireless communication facilities in all districts, provided they follow standards and permitting requirements defined in Section 17.14.210(D) of the County Code. These standards include screening, compliance with setbacks and proper maintenance. The applicant has provided a project narrative explaining the project site selection process. (Exhibit G).

Special Use Permit Request: To comply with County requirements, the project has been designed as a multi-carrier facility, to allow for future collocation. As discussed in detail above in the project description section, four carriers are proposed to eventually occupy monopine. To address maintenance issues, the applicant proposes to have a technician service the wireless facility and equipment at least once or twice a month to ensure proper performance of the facility.

Pursuant to County Code Section 17.14.210(D)(5)(b), wireless facilities are permitted in the Exclusive Agricultural (AE) Zone District upon approval of a Special Use Permit.

Section 17.22.540 (A) requires the Planning Commission to make the following findings prior to approval of a Special Use Permit:

1. The issuance of the permit is consistent with the General Plan;
2. The proposed use would not be detrimental to the public health, safety, and welfare, or injurious to the neighborhood; and
3. The proposed use is specifically permitted by Special Use Permit pursuant to this Title.

Discussion: The project as proposed and conditioned is designed to minimize its effects on the surrounding uses. After review of the submitted site plan and visual simulations, (Exhibits I-1 to I-3), it has been determined that the proposed project meets the standards contained in Section 17.14.210 F and G of the County Code. The use would provide a benefit to the area by improving cellular service for phone, internet and emergency communications.

Design and Development Standards:

Section 17.14.210(B) of the County Code requires that all wireless providers collocate their equipment on existing sites where possible. Below is an analysis of these standards.

1. Communication service providers are, therefore, encouraged to:

- a. Employ all reasonable measures to site their antenna equipment on existing structures as façade mounts, roof mounts, or co-location on existing towers prior to applying for new towers or poles;
- b. Work with other service providers and planning staff to collocate where feasible. Where co-location on an existing site is not feasible, develop new sites which are multi-carrier to facilitate future co-location thereby reducing the number of sites countywide;
- c. Develop communication facilities (i.e. tower companies) with commitments from licensed carriers.

Discussion: The applicants have supplied a narrative that addresses why the subject site was chosen and why a new tower was proposed at the subject site. (See Exhibit G). The proposed site location is purported to provide coverage in the Gold Hill area and Highway 49 north and south.

Development Standards: Section 17.14.210(E) through (J) of the County Code requires that all wireless communication facilities meet certain criteria. Below is an analysis of these standards.

- E. **Visual:** The project provides photo-simulation to attempt to reflect how the tower requested under this action would look within the existing environment. The photo simulations have been revised to show nonsymmetrical branches on the tower to better replicate a natural tree. As shown on the photo-simulations the fenced enclosure would be visible from the western side and has therefore a condition is recommended to install landscaping to reduce this visual impact. The photo simulation would be used during the plan check permit process to ensure that the project adequately reflects approval of the Planning Commission and as part of the exhibits approved with the application. Photo-simulations of the wireless facility are included as Exhibits I-1 to I-3.

F. **Development Standards:**

1. **Screening:** The applicant is proposing to place the steel monopine and up to two equipment shelters/cabinets within a six-foot-tall chain link fence with brown vinyl slats enclosure. Visual simulations of the wireless facility have been submitted (Exhibits I-1 to I-3). As illustrated in the simulations, the monopine and ground equipment are designed as best as possible to blend into the surrounding area. The ground equipment would be screened by planting native toyon (*Heteromeles arbutifolia*) shrubs on the western end of the enclosure, as conditioned. The tower would be visible from almost all directions however it has been designed to mimic existing foothill pines on the project parcel. Within the project site, the tower would protrude above the existing foothill pines, but would have “branches” down to 21-feet above ground level so as to avoid a lollipop look.

Staff believes that a high quality monopine with the trunk and branches resembling a pine tree in color and shape as best as possible, would be the best

option available for blending into the long and short distance viewsapes within the project vicinity.

2. **Setbacks:** The monopine and equipment shelter would be located within a chain link fence enclosure. The AE zone district requires a setback of 30-feet for the tower and equipment shelters from all property lines. The submitted site plan shows the project meets that setback requirement. (Refer to Site Plan in Exhibits E-3 and E-4).
 3. **Maintenance:** Maintenance personnel would visit the site approximately once or twice a month, at which time the facilities would be inspected to ensure proper operation. The project has been conditioned to require that the colors and materials of the monopine and cabinets be maintained at all times and consistent with the features depicted in the visual simulations. A Condition of Approval has been included requiring the maintenance of the facility. (Condition 5).
- G. **Radio Frequency (RF) Requirements:** Section 17.14.210.G of the County Code requires that the applicant submit a report or summary of the estimates of non-ionizing radiation generated by the facility and maximum electric and magnetic field strengths at the edge of the facility site, as regulated by the Federal Communication Commission (FCC). A Radio Frequency Emissions Analysis was submitted for the project. The maximum power for a typical configuration was calculated for a person at ground elevation 100 feet from the tower and found to be 9.52 percent of the existing standard for an uncontrolled environment. The report validates the figures based on the FCC Regulations for measurements identifying quantitative standards for human exposure limits based on radio frequency emissions.
- H. **Availability:** Section 17.14.210.H of the County Code requires that all existing communication facilities be available to other carriers as long as structural or technological obstacles do not exist. The project has been conditioned to allow co-location at this facility, with approval of a building permit by Development Services, depending on future requests and project conformance with the applicable regulations. State law requires that if all future co-locations are evaluated in the CEQA initial study that only a building permit can be required if the future co-location is consistent as analyzed.
- I. **Unused Facilities:** Section 17.14.210.I of the County Code requires that all obsolete or unused communication facilities be removed within six months after the use of that facility has ceased or the facility has been abandoned. The project has been conditioned to comply with this requirement (Condition 13).
- J. **Other Permit Requirements:** Section 17.14.210.J of the County Code states certain notification requirements for projects located within 1,000 feet of a school or in subdivisions governed by CC&Rs. No schools or subdivisions governed by CC&Rs are adjacent to the project site.

Discussion: After review of the submitted site plan and a visual simulations, it has been determined that the proposed project meets the standards contained in Section 17.14.200.F through J of the County Code. The aesthetic impacts associated with the project have been fully considered. As designed and conditioned, there are no unresolved issues with the project.

Conclusion: As discussed above, staff finds the project, as proposed and conditioned, is consistent with all applicable provisions of County Zoning Ordinance Title 17.

Federal Communication Commission (FCC): The Federal Communication Commission (FCC) prohibits local governments from denying a wireless facility project based on concerns about the dangers of exposure to radio frequency/EMF.

The Telecommunications Act of 1996 became effective on February 8, 1996. This act preserves the authority of the State or local government over decisions regarding the placement, construction, and modifications of personal wireless services, subject to two limitations. Section 704(7)B(iii) requires any denials to be in writing and supported by “substantial evidence.” Section 704(7)B(iv) prohibits denial on the basis of radio frequency emissions if those emissions are compliant with Federal regulations.

The American National Standards Institute and the Institute of Electrical and Electronics Engineers (IEEE) have published a standard called ANSI/IRRR C95.1-1992, which until recently set recommended maximum power density levels for radio frequency (RF) energy originating from communications sites and other sources. The Federal Communications Commission (FCC) has also produced its own guidelines, which are more stringent and supersede the ANSI standard. The FCC rules categorically exclude certain transmitting facilities from routine evaluations for compliance with the RF emission guidelines if it can be determined that it is unlikely to cause workers or the general public to become exposed to emission that exceed the guidelines. The following table represents the FCC limits for both occupational and general population exposures to different radio frequencies:

Frequency Range (F) (MHz)	Occupational Exposure (mW/cm ²)	General Public Exposure (mW/cm ²)
0.3-1.34	100	100
1.34-3.0	100	180/F ²
3.0—30	900/F ²	180/F ²
30-300	1.0	0.2
300-1,500	F/300	F/1500
1,500-100,000	5.0	1.0

A Radio Frequency Emissions Analysis was submitted for the project. The maximum power for a typical configuration was calculated for a person at ground elevation 100 feet from the tower and found to be 9.52 percent of the existing standard for an uncontrolled environment. The report validates the figures based on the FCC Regulations for measurements identifying quantitative standards for human exposure limits based on radio frequency emissions. Therefore, the risk of release of hazardous materials or emissions to the public is remote.

ENVIRONMENTAL REVIEW

Staff has prepared an Initial Study (Environmental Checklist with Discussion attached as Exhibit L) to determine if the Special Use project may have a significant effect on the environment. Based on the Initial Study, staff has determined that there is no substantial evidence that the proposed project would have a significant effect on the environment, and a Negative Declaration has been prepared.

This project is located within or adjacent to an area which has wildlife resources (riparian lands, wetlands, watercourse, native plant life, rare plants, threatened and endangered plants or animals, etc.). In accordance with State Legislation (California Fish and Game Code Section 711.4), the project is subject to a fee of \$2,010.25 after approval, but prior to the County filing the Notice of Determination on the project. This fee plus a \$50.00 administration fee, is to be submitted to Planning Services and must be made payable to El Dorado County. The \$2,010.25 is forwarded to the State Department of Fish and Game and is used to help defray the cost of managing and protecting the State's fish and wildlife resources.

SUPPORT INFORMATION

Attachments to Staff Report:

Attachment 1	Conditions of Approval
Attachment 2	Findings
Exhibit A	Location Map
Exhibit B	Assessor's Parcel Number Map
Exhibit C	General Plan Land Use Designations Map
Exhibit D	Zoning Map
Exhibit E	Aerial Photo of Site
Exhibit F-1	Title Sheet, Site Information and Vicinity Map, T-1
Exhibit F-2	Site Survey, LS-1
Exhibit F-3	Site Plan, Z-1
Exhibit F-4	Enlarged Site Plan, Z-2
Exhibit F-5	Site Elevations and Antenna Layout, Z-3
Exhibit F-6	Grading Plan, Z-4
Exhibit F-7	Fence Details, Z-6
Exhibit F-8	Electrical Site Plan, E-1
Exhibit F-9	Shelter Details, T-5
Exhibit F-10	Lighting Specifications, T-4
Exhibit G	Alternative Analysis Statement
Exhibits H-1 to H-3	Visual Simulations
Exhibits I	Agricultural Commission Memo – August 26, 2010
Exhibit J	Initial Study/Environmental Checklist Form

ATTACHMENT 1

CONDITIONS OF APPROVAL

Special Use Permit S10-0006/SBA 49'er Gold Cell Tower Planning Commission/December 9, 2010

Planning Services

1. This Special Use Permit is based upon and limited to compliance with the project description, the hearing exhibits marked Exhibits F1-10 and H1-3, and conditions of approval set forth below. Any deviations from the project description, exhibits, or conditions must be reviewed and approved by the County for conformity with this approval. Deviations may require approved changes to the permit and/or further environmental review. Deviations without the above described approval will constitute a violation of permit approval.

The project description is as follows:

Approval of the Special Use Permit allows construction and operation of a new multi-user wireless communications facility consisting of a 104-foot tall monopine tower. The branches shall begin at the 21-foot level and within 15-feet of the top of the fence. The tower shall be located within a 2,700 square foot area enclosed by a six-foot tall chain link fence with brown vinyl slats. Up to 12 antennas shall be installed at the 94-foot level and includes 3 future collocations of 12 antennas each. One radio equipment shelters to be installed within the fenced enclosure. The remainder of the fenced in area for the tower shall be a concrete pad to allow for future development to accommodate additional network's radio equipment. The monopine shall accommodate up to four antenna arrays.

Planning Services Site Specific and Standard Conditions

2. Project improvements shall be completed in conformance with the plans submitted and in conformance with the conditions of approval herein and shall substantially comply with Exhibits F1-10 and H1-3. Minor variations are allowed, however, any major changes in the design of the tower and shelters, location of tower or shelters, and access ways shall require review and approval by the Planning Services prior to project modifications.
3. Prior to commencement of any use authorized by this permit, the applicant shall provide a written description, together with appropriate documentation, showing conformance of the project with each condition imposed as part of the project approval. The applicant shall also schedule an inspection by Planning Services for verification of compliance with applicable conditions of approval. The operator shall pay Planning Services for the time spent reviewing the site on a time and materials basis. All future development plans shall include this condition on the submitted plans.

4. All equipment shelters, cabinets or other auxiliary structures shall be painted in a matching color. No antenna shall project out past the "branch" tips. All facility RF antennas shall be painted with non-reflective paint and maintained to match the color of the branches. Colors of the monopine, antennas, and other appurtenances shall be maintained to ensure the appearance remains consistent and so that nothing on the tower causes a reflection of light. All improvements associated with the facility, including equipment shelters, towers, antenna, fencing, and landscape shall be properly maintained in good visual repair, at all times. The monopine shall be maintained in order to provide a quality and aesthetically pleasing exterior finish, including maintenance and upkeep. Planning Services shall verify the painting of the structures and antennas, said fence conditions and antenna projections within the "branches," prior to issuance of final occupancy for the building permit.
5. Native landscaping, six toyon (*Heteromeles arbutifolia*) shrubs, shall be planted along the western end of the fenced enclosure. All landscaping associated with the wireless telecommunications facility shall be properly maintained and shall be irrigated when necessary to promote and maintain growth. Applicant shall install and maintain landscaping in accordance with the approved landscaping plan in perpetuity or unless otherwise modified through any future permit. Proof that the landscaping has been installed as described shall be confirmed by a site visit by Planning Services prior to issuance of final occupancy.
6. One exterior emergency light is approved and shall conform to the approved exterior light shown in Exhibit Hand located as shown in Exhibit F-10. The light shall comply with County Code Section 17.14.170, and be fully shielded pursuant to the Illumination Engineering Society of North America's (IESNA) full cut-off designation. The final lighting plan shall be submitted for review and approval by Planning Services with the building permit application and shall be reviewed for conformance with said Exhibits prior to issuance of a building permit. The light shall be activated with motion-sensor or timer.

Should final, installed lighting be non-compliant with full shielding requirements, the applicant shall be responsible for the replacement and/or modification of said lighting to the satisfaction of Planning Services.
7. The applicant shall assume full responsibility for resolving television reception interference or other electrical interference caused by the operation of this facility. The applicant shall take corrective action within 30 days of the receipt of any written complaint.
8. Expansions to the lease area, increases in pole height, or additional antennas mounted on the monopine shall be subject to review and approval by the Development Services Director. Should the Director find that additional lease area, height or antennas may create a significant visual impact, the Director shall decide if the changes can be

approved administratively or will be reviewed by the Zoning Administrator or the Planning Commission through an amendment to this Special Use Permit.

9. The applicant shall consent to the co-location of other wireless telecommunication users on their monopine when the increase in pole height would be undesirable. All new collocations, and/or addition of any new piece of equipment that creates noise, shall be subject to the submittal of an acoustical analysis for review and approval by the Development Services Director. Should the Director find that additional noise may create a significant impact; the Director shall decide if the changes can be approved administratively or will be reviewed by the Zoning Administrator or the Planning Commission through an amendment to this Special Use Permit.
10. All obsolete or unused communication facilities shall be removed within six months after the use of that facility has ceased or the facility has been abandoned. The applicant shall notify Planning Services at the time of abandonment and all disturbance related to the communication facility shall be restored to pre-project conditions.
11. Due to the ever-changing technology of wireless communication systems, this Special Use Permit shall be reviewed by the County Development Services Department every five years. At each five-year review, the permit holder shall provide the Development Services Department with a status report on the then current use of the subject site and related equipment. Development Services shall review the status and present that report to the approving authority or the Development Services Director with a recommendation whether to:
 - a. Allow the facility to continue to operate under all applicable conditions; or
 - b. Hold a public hearing to determine whether to modify the conditions of approval in order to reduce identified adverse impacts; or initiate proceedings to revoke the special use permit, requiring the facility's removal if it is no longer an integral part of the wireless communications system.

By operation of this condition, it is the intent of County to reserve the right to modify or add new conditions, consistent with the language specified above. The failure of the County to conduct or complete a five-year review in a timely fashion shall not invalidate the Special Use Permit. The applicant shall pay a fee determined by the Development Services Director to cover the cost of processing a five-year review on a time and materials basis.

12. The operator (lessee) and property owner (lessor) are responsible for complying with all conditions of approval contained in this Special Use Permit. Any zoning violations concerning the installation, operation, and/or abandonment of the facility are the responsibility of the owner and the operator.

13. The applicant shall make the actual and full payment of Planning Services processing fees for the Special Use Permit application prior to issuance of any County development permit.
14. If human remains are discovered at any time during the subdivision improvement phase, the County Coroner and Native American Heritage Commission shall be contacted per Section 7050.5 of the Health and Safety Code and Section 5097.89 of the Public Resources Code. The procedures set forth in Supplementary Document J, Section VIII, of the California Environmental Quality Act (CEQA) Guidelines concerning treatment of the remains shall be followed. If archaeological sites or artifacts are discovered, the subdivider shall retain an archaeologist to evaluate the resource.

If the resource is determined to be important, as defined in Appendix K of the CEQA Guidelines, mitigation measures, as agreed to by the subdivider, archaeologist, and Planning Services shall be implemented. Treatment of Native American remains and/or archaeological artifacts shall be the responsibility of the subdivider and shall be subject to review and approval by Planning Services.

15. The applicant shall submit to Planning Services a \$50.00 recording fee and a \$2,010.25 Department of Fish and Game fee prior to filing of the Notice of Determination by the County. No permits shall be issued or Certificate of Compliance issued until said fees are paid.
16. In the event of any legal action instituted by a third party challenging the validity of any provision of this approval, the developer and landowner agree to be responsible for the costs of defending such suit and shall hold County harmless from any legal fees or costs County may incur as a result of such action.

The developer and land owner shall defend, indemnify, and hold harmless El Dorado County and its agents, officers, and employees from any claim, action, or proceeding against El Dorado County or its agents, officers, or employees to attack, set aside, void, or annul an approval of El Dorado County concerning a Special Use Permit.

The County shall notify the applicant of any claim, action, or proceeding, and the County shall cooperate fully in the defense.

El Dorado County Air Quality Management District (AQMD)

17. A Fugitive Dust Plan (FDP) Application with appropriate fees shall be submitted to and approved by the AQMD prior to issuance of any County development permit.

El Dorado County Environmental Management-Hazardous Waste Division

18. If the commercial facilities will store reportable quantities of hazardous materials (55 gallons) or generate hazardous waste, prior to commencing operations the owner/operator must:
 - a. Prepare, submit and implement a hazardous materials business plan and pay appropriate fees.
 - b. Obtain a hazardous waste generator identification number from the California Department of Toxic Substances Control.
 - c. Train all employees to properly handle hazardous materials and wastes.
 - d. Implement proper hazardous materials and hazardous waste storage methods in accordance with the Uniform Fire Code and Uniform Building Code.

El Dorado County Fire Protection District

19. Post 12" minimum street address prior to finaling of the building permits.
20. Provide a minimum 12' wide all weather access road to within 50' of the equipment shelter. The driveway will have 13'6" vertical clearance and capable of supporting a 75,000 pound load prior to finaling of the building permits.
21. Provide a district approved turnaround prior to finaling of the building permits.
22. Gates to have Knox padlocks prior to finaling of the building permits.
23. Provide a Knox Box for the shelter prior to finaling of the building permits. Application can be obtained at the district office for \$30.00
24. Provide keys for the shelter, generator and any locked cabinet prior to finaling of the building permits.
25. Vegetation control is required inside the fence perimeter.
26. A fire extinguisher with a minimum 20BC rating is required. The extinguisher must be within 75' of the generator and mounted in weatherproof cabinet prior to finaling of the building permits.
27. Provide a full set of Plans, prior to construct, to be permitted and approved by the El Dorado County Fire District and is subject to additional requirements that may be necessary depending on building construction and use.

ATTACHMENT 2

FINDINGS

Special Use Permit S10-0006/SBA 49'er Gold Cell Tower Planning Commission/December 9, 2010

Based on the review and analysis of this project by staff and affected agencies, and supported by discussion in the staff report and evidence in the record, the following findings can be made:

1.0 CEQA FINDINGS

- 1.1 El Dorado County has considered the Negative Declaration together with the comments received and considered during the public review process. The Negative Declaration reflects the independent judgment of the County and has been completed in compliance with CEQA and is adequate for this project.
- 1.2 No significant impacts to the environment as a result of this project were identified in the initial study.
- 1.3 The documents and other materials which constitute the record of proceedings upon which this decision is based are in the custody of the Development Services Department - Planning Services at 2850 Fairlane Court, Placerville, CA, 95667.

2.0 GENERAL PLAN FINDINGS

- 2.1 As conditioned, the proposal is consistent with the intent of 2.2.5.2 (review for General Plan consistency), 2.2.5.21 (compatibility with surroundings), 6.2.3.2 (adequate access), 6.5.1.2 (noise), and 8.1.4.1 (agricultural compatibility) because the project would have minimal impacts on visual resources, existing utilities, on existing emergency response times, and is compatible with Williamson Act contracted lands. There are adequate services to facilitate the site, such as water, power and Telco services and the noise from the ground equipment has been found to be less than the General Plan thresholds. The project provides a cellular alternative to the Placerville area.

3.0 ZONING FINDINGS

- 3.1 The project is zoned Exclusive Agricultural (AE) which allows wireless communication facilities, provided they follow standards and permitting requirements defined in Section 17.14.210 of the County Code. These standards include screening, compliance with setbacks, and proper maintenance.
- 3.2 As proposed and conditioned, the project meets all applicable development standards contained within the El Dorado County Zoning Ordinance because sufficient screening, setbacks and maintenance, have been provided.

4.0 SPECIAL USE PERMIT FINDINGS

4.1 **The issuance of the permit is consistent with the General Plan.** The applicant's proposal has been determined to be in compliance with County regulations, addressing environmental issues and health and safety concerns. As discussed above, the proposal is consistent with the applicable General Plan Policies and all potential project-related environmental issues, and the benefits to the community have been evaluated. Therefore, staff finds that the project, as conditioned, conforms to the General Plan. The proposed use is consistent with the policies in the El Dorado County General Plan, as discussed in the General Plan section of this staff report. The proposed use is consistent with all applicable policies including Policy 5.6.1.4 (Special Use Permit required) because the aesthetics of the proposed monopine tower and related ground equipment have been designed to minimize the effects on adjacent properties. The proposed ground equipment will be screened from adjacent land uses by a chain link fence with slats and landscaping on the western end of the enclosure.

4.2 **The proposed use would not be detrimental to the public health, safety and welfare, or injurious to the neighborhood,** based on the conclusions contained in the staff report. The use will not conflict with the adjacent uses as it will be buffered from view by landscaping and brown slatted chain link fencing and the minimal grading and foundation work will not cause significant environmental impacts. The project will result in insignificant environmental, visual, noise, and traffic impacts to surrounding residents and businesses. Further, the new wireless communications facility would provide cellular communication services to the Gold Hill, Coloma and Lotus communities. After review of the submitted site plan and upon consultations with concerned agencies, it has been determined that the impacts of allowing the construction of the, will not have a detrimental affect nor be injurious to the neighborhood. The proposed use would not create hazards that would be considered detrimental to the public health, safety, and welfare, or injurious to the neighborhood based on the data and conclusions contained in the staff report. At less than ten percent of the public safety standard established by the FCC, the risk of emissions to the public is remote.

4.3 **The proposed use is specifically permitted by Special Use Permit.**

Section 17.14.210 (D) (5) of the County Code requires a Special Use Permit for construction or placement of communication facilities on new towers or monopoles. Section 17.22 outlines the requirements for Special Use Permits and the project and associated materials have been reviewed in accordance with this section. The proposed use complies with the requirements of County Code Sections 17.14.210 (E) through (J) and 17.36.210 thru 17.36.260. As proposed, the project is consistent with these requirements.