

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



Agenda of:	June 9, 2011
Item No.:	8.c
Staff:	Tom Dougherty

SPECIAL USE PERMIT REVISION & FIVE-YEAR REVIEW

FILE NUMBER: S03-0039-R/Communications Tower-Missouri Flat Road

APPLICANT: Metro PCS California, LLC-Ken Crouse

OWNER: Seventh Day Adventist Church

REQUEST:

1. Revision to a Special Use Permit to allow the replacement of three antennas and the addition of one equipment cabinet for Metro PCS. This revision would merge all previous permits granted for the cellular tower under one permit.
2. Request for a five-year review of an existing cellular telecommunications facility.

LOCATION: On the northwest side of Mother Lode Drive, approximately 500 feet southwest of the intersection with Missouri Flat Road, in the Placerville unincorporated area, Supervisorial District 2. (Exhibit A)

APN: 327-140-53

ACREAGE: 12.58 acres

GENERAL PLAN: Medium Density Residential (MDR)

ZONING: One-Acre Residential (R1A)

ENVIRONMENTAL DOCUMENT: Categorically Exempt pursuant to Section 15303 of the CEQA Guidelines

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

1. Find the project is Exempt from CEQA pursuant to Sections 15303 of the CEQA Guidelines (New Construction or Conversion of Small Structures);

2. Approve Special Use Permit Revision S03-0039-R subject to the Conditions of Approval in Attachment 1 and based on the Findings in Attachment 2; and
3. Find that for this five-year review period, that the existing telecommunications facility is not in substantial conformity with the Conditions of Approval for Special Use Permit S03-0039 as listed in Attachment 1, and direct that the applicant bring the facility into compliance within 60 days in accordance with revised Condition #4.

BACKGROUND: Special Use Permit S00-0019 was approved by the Planning Commission on November 9, 2000 for *an approximately 85-foot high monopine with six (6) antennas and up to seven (7) equipment cabinets, consistent with the exhibit presented at the hearing on November 9, 2000.* Sprint PCS was this first carrier. The tower, antennas, radio cabinet and associated ground support contained within the 18 foot by 18 foot chain link fenced area were constructed under Building Permit 129524 on May 29, 2001.

Special Use Permit S03-0039 was approved by the Planning Commission on April 8, 2008 for *the co-location of six (6) panel antennas on an existing seventy nine foot (79.2) mono-pine cell tower with up to four (4) supporting equipment cabinets in an enclosed approximate eighteen foot by eighteen foot (18' x 18') lease area at the base of the tower. The co-location antennas will be located at approximately the sixty foot (60') level.* Metro PCS was this second carrier. The six approved antennas, two of the four approved equipment cabinets, and associated ground support equipment were constructed under Building Permit 155982 on September 2, 2004.

The proposed revision would supersede approvals granted under S00-0019 and S03-0039 and consolidate under this Special Use Permit to authorize the communications tower facility.

STAFF ANALYSIS:

Special Use Permit Revision: The revision request would replace three of the six existing 51" x 5" x 3" antennas with three new panel antennas. The three new panel antennas would be larger than those they replace and measure 81" x 7.7" x 4.8". The antennas would be mounted at the same centerline height of 59 feet as those that exist. A third equipment cabinet would be added to the site; however, this cabinet was previously entitled for the site as up to four were approved.

Five-Year Review-Site Inspection: A staff site visit on February 23, 2011 found that the antennas were not blending in with the branches. Site visit photographs are included as Exhibit H.

Condition 4 of the Special Use Permit required that the applicants maintain the project components as approved. That condition reads as follows:

4. *All improvements associated with the communication facility, including equipment shelters, towers, antenna, fencing, and landscaping shall be properly maintained at all times. Colors of the tower and other improvements shall be maintained to ensure the appearance remains consistent.*

Planning staff is recommending that the antennas be covered with "sock" coverings that mimic the faux branch needles and that would provide full antenna surface coverage. Staff further

recommends that Condition 4 be revised as written below, (shown in ~~strikeout~~ and underline in Attachment 1):

4. All improvements associated with the communication facility, including equipment shelters, towers, antenna, fencing, and landscaping shall be properly maintained at all times. Colors of the tower and other improvements shall be maintained to ensure the appearance remains consistent. All tower antennas shall have their surfaces entirely covered with “antenna socks” that mimic the branch needles in color and appearance. All tower antenna components that protrude from the pole shall be painted to mimic the branch needle color. Proof that new “antenna sock” coverings that mimic the branches have been installed on all antennas, and that the said antenna components have been painted with a non-reflective paint that mimics the needle color, shall be received by Planning Services within 60 days from the end of the 10-day appeal period for the April 28, 2011 Five-Year Review hearing approval.

Condition 6 of the Special Use Permit S03-0039 required a five-year review by the Planning Commission. Planning staff is recommending that the next five-year review be performed at staff level as described below and as shown in ~~strikeout~~ and underline in Attachment 1:

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 determine 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.

New Administrative Conditions: Staff recommends adding Conditions 11-14 which refer to the following administrative procedures. They are included in Attachment 1 with underlines:

11. 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.

12. A \$50.00 administrative processing fee is required by the County Recorder to file the Notice of Exemption. This fee must be delivered to the El Dorado County Planning Services prior to the issuance of any development permit being issued on the project parcel.
13. 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.
14. In the event of any legal action instituted by a third party challenging the validity of any provision of this approval, the applicant and landowner agrees 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 applicant 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/owner of any claim, action, or proceeding and County will cooperate fully in the defense.

CONCLUSION: It is the opinion of Staff that at the time of the five-year review period site inspection, the cell tower facility is currently not in substantial conformance with the Conditions of Approval. Upon satisfaction of revised Condition 4, staff anticipates that the project would be in compliance with the Conditions of the Special Use Permit.

ENVIRONMENTAL REVIEW: Staff has also determined that, pursuant to CEQA Guidelines Section 15303 of the CEQA Guidelines that Class 3 exemptions consist of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures include, but are not limited to: (e) Accessory (appurtenant) structures including garages, carports, patios, swimming pools, and fences. The project would replace existing antennas with new antennas having no significant impact on the environment. A \$50.00 processing fee shall be required by the County Recorder to file the Notice of Exemption.

SUPPORT INFORMATION

Attachments to Staff Report:

Attachment 1	Conditions of Approval
Attachment 2	Findings
Exhibit A	Location Map
Exhibit B	Title Sheet, Site Information and Vicinity Map (T)
Exhibit C	Site Plan (A-1)
Exhibit D	Elevations (A-2)
Exhibit E	Elec./Grounding Sheet (E-1)
Exhibits F-1 to F-4	Photo Simulations
Exhibit G	Applicant Supplied Conformance Documentation and Site Photos (four pages)
Exhibit H	Planning Services Site Visit Photographs (two pages)
Exhibit I	Aerial Photo Map

ATTACHMENT 1

CONDITIONS OF APPROVAL

Special Use Permit Revision S03-0039-R/Communications Tower-Missouri Flat Road
Planning Commission/June 9, 2011

El Dorado County Planning Services

1. This Special Use Permit is based upon and limited to compliance with the project description and the following hearing exhibits:

Exhibit BTitle Sheet, Site Information and Vicinity Map (T)
Exhibit CSite Plan (A-1)
Exhibit DElevations (A-2)
Exhibit EElec./Grounding Sheet (E-1)
Exhibits F-1 to F-4Photo Simulations

Any deviations from the project description, exhibits, or Conditions of Approval set forth below 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 a revision to a Special Use Permit S03-0028 for uses located at property identified as Assessor's Parcel Number 109-250-45. This revision shall supersede Special Use Permits S00-0019 and S03-0039. Ground equipment and shelter shall be housed within an existing 18 foot by 18 foot fenced lease area. The following includes the project details:

- a. The lease area is to be enclosed by a six foot tall chain link fence with slats and one gate.
- b. The monopole structure shall be galvanized steel and shall be up to 85 feet in height.
- c. Sprint PCS shall be permitted six panel antennas at the 70 foot height limit.
- d. Metro PCS shall be permitted six panel antennas at the 59 foot height limit.
- e. Other antennas shall include RF antennas, GPS and whip antennas.
- f. Up to seven equipment cabinets are authorized to be located within the said lease area. Metro PCS is approved for up to four of those seven cabinets. Additional equipment shall include electric, Telco cabinets, waveguard bridges and ice bridges.

Special Use Permit S00-0019 approved the following

1. ~~The approval of the special use permit is restricted to the approval of an approximately 85 foot monopine with six (6) antennas and up to seven (7) equipment cabinets,~~

~~consistent with the exhibit presented at the hearing on November 9, 2000. Any minor changes may be approved by the Planning Director. However, major changes shall require the filing of an amended special use permit for review and approval by the Planning Commission.~~

~~2. The project, as approved, shall conform to Exhibits D and E.~~

3.2. The applicant shall be subject to any and all requirements of the Diamond Springs-El Dorado Fire Protection District prior to and during the building permit process. The Fire Department District may review the building plans and forward recommendations and requirements to the builder/operator.

Special Use Permit S03-0039 approved the following:

~~1. The project shall consist of the co location of six (6) panel antennas on an existing seventy nine foot (79.2) mono pine cell tower with up to four (4) supporting equipment cabinets in an enclosed approximate eighteen foot by eighteen foot (18' x 18') lease area at the base of the tower. The co location antennas will be located at approximately the sixty foot (60') level.~~

2.3. All site improvements shall conform to the site plans attached as Exhibits B, C, D, E, F-1, F-2, F-3 and F-4.

~~3. All equipment shelters, cabinets or other auxiliary structures shall be painted in a matching color.~~

4. All improvements associated with the communication facility, including equipment shelters, towers, antenna, fencing, and landscaping shall be properly maintained at all times. Colors of the tower and other improvements shall be maintained to ensure the appearance remains consistent. All tower antennas shall have their surfaces entirely covered with "antenna socks" that mimic the branch needles in color and appearance. All tower antenna components that protrude from the pole shall be painted to mimic the branch needle color. Proof that new "antenna sock" coverings that mimic the branches have been installed on all antennas, and that the said antenna components have been painted with a non-reflective paint that mimics the needle color, shall be received by Planning Services within 60 days from the end of the 10-day appeal period for the April 28, 2011 Five-Year Review hearing approval.

5. All obsolete or unused communication facilities shall be removed within six (6) months after the use of that facility has ceased or the facility has been abandoned. The applicant shall notify the Planning Department at the time of abandonment and all disturbance related to the communication facility shall be restored to pre-project condition.

6. ~~Due to the ever changing technology of wireless communication systems, this special use permit shall be reviewed by the Planning Commission every five years. At each five-year review, the permit holder shall provide the Planning Commission with a status report on the then current use of the subject site and related equipment. The Planning Commission shall review the status report and, based on an assessment of the information~~

~~provided, current wireless communications technology, and possible local or cumulative impacts, determine whether to:~~

- ~~a. — Modify the conditions of approval in order to reduce identified adverse impacts; and~~
- ~~b. — Initiate proceedings to revoke the Special Use Permit, requiring the facility's removal, if it is no longer an integral part of the wireless communication system.~~

~~By operation of this condition, it is the intent of the Planning Commission to reserve the right to modify existing or add new conditions, consistent with the language specified above. The failure of the Planning Commission to conduct or complete a five year review in a timely fashion shall not invalidate this Special Use Permit. The applicant shall pay a fee as determined by the Planning Director to cover the cost of processing a five-year review.~~

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 determine 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.

7. ~~During all grading and construction activities in the project area, an archaeologist or historian approved by the Planning Director shall be on call. In the event a heritage resource or other item of historical or archaeological interest is discovered during grading and construction activities, the project proponent shall ensure that all such activities cease within fifty (50) feet of the discovery until the on-call archaeologist can examine the find in place and determine its significance. If the find is determined to be significant and authenticated, the archaeologist shall determine the proper method(s) for handling the resource or item. Grading and construction activities may resume after appropriate measures are taken or the site is determined not to be of significance. The project grading and building plans shall include this condition of approval on the plans. The Planning Department shall review the grading and building plans prior to issuance of a grading or building permit.~~

~~Further, In the event of the discovery of human remains, all work is to stop and the County Coroner shall be immediately notified pursuant to Section 7050.5 of the Health and Safety Code and Section 5097.98 of the Public Resources Code. If the remains are determined to be Native American, the Coroner must contact the Native American Heritage Commission within twenty four (24) hours. The treatment and disposition of human remains shall be completed consistent with guidelines of the Native American Heritage Commission. The project grading and building plans shall include this condition of approval on the plans. The Planning Department shall review the grading and building plans prior to the issuance of a grading or building permit~~

If human remains are discovered at any time during the 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 applicant 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.

8. The co-location and construction of the project facilities shall be subject to issuance of a building permit from the El Dorado County Building Department
9. The applicant shall maintain a minimum of 4 inches of aggregate base along a 12 feet wide access roadway from the edge of the existing paved driveway to the project/facilities site at all times.
10. The applicant shall repair all damage to the existing paved driveway to the project/facilities site.
11. 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.
12. A \$50.00 administrative processing fee is required by the County Recorder to file the Notice of Exemption. This fee must be delivered to the El Dorado County Planning Services prior to the issuance of any development permit being issued on the project parcel.

13. 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.
14. In the event of any legal action instituted by a third party challenging the validity of any provision of this approval, the applicant and landowner agrees 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 applicant 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/owner of any claim, action, or proceeding and County will cooperate fully in the defense.

ATTACHMENT 2

FINDINGS

Special Use Permit Revision S03-0039-R/Communications Tower-Missouri Flat Road Planning Commission/June 9, 2011

1.0 CEQA FINDINGS

- 1.1 Staff has determined that the proposed project will have no significant impact on the environment and is exempt from CEQA pursuant to Section 15303 and of the CEQA Guidelines. Section 15303 Class 3 exemptions consist of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures... include, but are not limited to: (e) Accessory (appurtenant) structures including garages, carports, patios, swimming pools, and fences. The project would replace existing antennas with new antennas having no significant impact on the environment.
- 1.2 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.

2.0 SPECIAL USE PERMIT FINDINGS

2.1 The issuance of the permit is consistent with the General Plan;

The proposed use is consistent with the policies in the 2004 General Plan. The proposed use is consistent with all applicable policies including Policies 2.2.5.21(land use compatibility) and 5.6.1.4 (special use permit required) because the aesthetics of the existing facility and related ground equipment have been addressed. The replacement antennas will be covered to match the existing tower “branch needles.” The proposed ground equipment will be screened from adjacent land uses by existing chain-link fencing with green-colored slats.

2.2 The proposed use would not be detrimental to the public health, safety and welfare, or 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 because the facility is existing and the project is not an expansion of the existing use, it replaces existing antennas with new antennas of the same number.

2.3 The proposed use is specifically permitted by Special Use Permit pursuant to this Title.

Section 17.14.200 (D) (4) of the County Code requires a Special Use Permit for the placement of antennas on an existing approved monopole or tower pursuant to the Special Use Permit provisions specified in Section 17.22.400. The proposed use has been conditioned in compliance with County Code Sections 17.14.200 (E) through (J). As such, the project has been designed in compliance with the required conditions.