

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



Agenda of: January 12, 2012
Item No.: 4.e
Staff: Gina Paolini

FIVE-YEAR CELL TOWER REVIEW – SPECIAL USE PERMIT

FILE NUMBER: S96-0007-R/Verizon Wireless – Mt. Ararat

APPLICANT: Verizon Wireless

AGENT: Complete Wireless Consulting, Inc., Andrew Lesa

PROPERTY OWNER: Brush Creek Company

REQUEST: Request for a five-year review of an existing cellular telecommunications facility.

LOCATION: North side of Highway 49, approximately 2000 feet east of the intersection with Lilyama Road, in the Lotus area, Supervisorial District 4. (Exhibit A)

APN: 074-050-28

ACREAGE: 320 acres

GENERAL PLAN: Agricultural Lands (AL)

ZONING: Exclusive Agriculture (AE)

ENVIRONMENTAL DOCUMENT: Exempt pursuant to Section 15061(b)(3) of the CEQA Guidelines

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

1. Find that the project is Exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines (General Rule of CEQA-There is no possibility that the activity will have a significant effect on the environment);
2. Approve the Conditions of Approval for Special Use Permit S96-0007-R as revised by staff and listed in Attachment 1; and

3. Find that for this five-year review period, the telecommunication facility is found to be in substantial conformity with the Conditions of Approval for S96-0007-R.

BACKGROUND

The Planning Commission approved Special Use Permit S96-0007 on July 25, 1996. The project was appealed to the Board of Supervisors on August 27, 1996. The appeal was denied. The project as approved consists of a 97-foot steel communication tower with 11 antennas, a 600 square foot equipment building and a propane standby backup generator. The pole and ground equipment are located within a 66 by 75-foot lease area enclosed by a 6-foot tall chain link fence.

Building Permit No. 102471 was issued for Verizon Wireless on October 24, 1996, to construct the equipment building. The permit was finalized on February 14, 1997.

Building Permit No. 103295 was issued for Verizon Wireless on January 13, 1997, to construct the tower. The permit was finalized on February 14, 1997.

The Planning Commission approved a revision to Special Use Permit S96-0007-R on September 17, 2006. The revision included the collocation of three additional panel antennas on the tower at a centerline of 37 feet, with the inclusion of one microwave dish mounted on the roof of the equipment shelter. A lightning rod was added to the top of the tower increasing the height to 101.2 feet and backup batteries were added and stored within the existing building.

Building Permit No. 177895 was issued for Verizon Wireless on December 29, 2006, to add three antennas to the pole. This permit expired on December 28, 2009 and was reactivated and finalized on November 15, 2011.

Condition No. 21 of the Conditions of Approval required a five-year review of the facility. The Conditions of Approval for Special Use Permit S96-0007-R have been attached (Attachment 1). The applicant has provided a support statement demonstrating how the Conditions of Approval have been complied with (Exhibit B).

STAFF ANALYSIS

Condition Modification: Condition No. 21 of the Special Use Permit required a five-year review by the Planning Commission as follows:

21. *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: (1) Modify the conditions of approval in order to reduce identified adverse impacts; and (2) 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 Deputy Director of Planning to cover the cost of processing a five-year review.

To streamline future reviews, staff is recommending that the Planning Commission revise Condition No. 21 (now Condition No. 15) to permit future five-year reviews to be completed at staff-level. Condition No. 15 would read as follows 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.

Staff has also identified other minor corrections and changes to the conditions. These are shown in ~~strikeout~~ and underline in Attachment 1.

Five Year Review: Staff conducted a site inspection on September 30, 2011 to verify site conditions. Based on review of building permits and project conditions, it is the opinion of staff that the project site is in compliance with the Conditions of Approval as verified in the Applicant's Statement of Use Permit Compliance (Exhibit B).

ENVIRONMENTAL REVIEW

Staff has determined that, pursuant to CEQA Guidelines Section 15061(b)(3), that this action is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. This is a five-year review as required by the conditions of approval for the existing telecommunications tower facility authorized under special use permit. The review of compliance with the conditions of approval for the special use permit, remedial measures to be taken, including modifications to the conditions, ensure compliance of the telecommunications facility with the special use permit and it can be seen with

certainty that there is no possibility that these actions in question may have a significant effect on the environment and is therefore not subject to CEQA.

SUPPORT INFORMATION

Attachments to Staff Report:

Attachment 1Conditions of Approval

Attachment 2Findings

Exhibit ALocation Map

Exhibit BApplicant’s Statement of Use Permit Compliance

Exhibit CSite Photographs

ATTACHMENT 1

CONDITIONS OF APPROVAL

Special Use Permit Revision S96-0007-R/Verizon Wireless-Mt. Ararat
Planning Commission/January 12, 2012

El Dorado County Planning Services

This special use permit approval is based upon and limited to compliance with the approved project description 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:

1. The transmission pole shall not exceed 97 feet in height, measured from natural ground level. Up to 11 antennas shall be permitted. The type of antennas permitted shall substantially conform to Exhibits D1, D2, E1, and E2.

~~The project, as approved, consists of the following:~~ Revision to Special Use Permit S 96-0007 to collocate three wireless communication panel antennas, (three antenna sectors of one, eight-foot tall, flush-mounted antennas), to be placed at the centerline of 37 feet above ground level, and one, three-foot diameter microwave dish mounted on the roof of the existing equipment shelter. The antennas would be attached to an existing 97-foot tall steel monopole that, with the existing lightning rod on the top of the tower, makes the overall height 101.2 feet above ground level. The existing tower along with an existing 20 foot by 30 foot concrete equipment building are located within an existing approximately 66-foot by 75-foot chain link fence enclosed lease area located at 6241 State Route 49 and identified by Assessor's Parcel number 074-050-28. Within the existing building is a propane supported backup generator. There is a propane tank 10 feet long located approximately 14 feet from the tower. Coaxial cable will be brought approximately 30 feet underground from the equipment building to the tower within a 6-foot wide utility easement. Backup batteries have been added by Verizon and are stored within the existing building.

The grading, development, use, and maintenance of the property, the size, shape, arrangement, and location of structures and the protection and preservation of resources shall conform to the project description above and the hearing exhibits and conditions of approval below. The property and any portions thereof shall be sold, leased or financed in compliance with this project description and the approved hearing exhibits and conditions of approval hereto. All plans must be submitted for review and approval and shall be implemented as approved by the County.

PROJECT CONDITIONS

2. All site improvements for S 96-0007R shall conform to the site plan attached as Exhibits D1 and D2 and elevations attached as Exhibits E1 and E2. All site plan and elevation

exhibits are dated 9/6/2006, (September 6, 2006). The pole, all antennas, and their ground support equipment shall be located within the chain link fence lease area.

- ~~35. 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, respectively. If archaeological artifacts are discovered, the subdivider shall retain an archaeologist to make recommendations for treatment of the artifacts. Treatment of Native American remains or archaeological artifacts shall be the responsibility of the subdivider and shall be subject to review and approval by the Development Services Director or designee.~~
4. 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 50 feet of the discovery until an 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 the appropriate measures are taken or the site is determined not to be of significance.
5. 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 24 hours. The treatment and disposition of human remains shall be completed consistent with guidelines of the Native American Heritage Commission.
67. The applicant shall assume full responsibility for resolving electronic device reception interference caused by the operation of this facility. The applicant shall take corrective action within 30 days of receipt by Planning Services of any written television interference complaint.
79. The tower and antennas shall be painted ionosphere gray, and the chain link fencing and equipment building shall be painted a non-reflective dark color consistent with the vegetation in the area. Colors of the tower and other improvements shall be maintained to ensure the appearance remains consistent. All improvements associated with the communication facility, including equipment shelters, towers, antenna, fencing, and landscaping shall be properly maintained at all times. The existing fencing surrounding the enclosure shall be improved so that it touches the dirt on all four sides to prevent any potential for entrance.
810. The emergency power generator shall be located inside the equipment building. Testing of the generator shall only occur between the hours of 8:00 a.m. and 6:00 p.m. Monday thru Friday. The generator shall be equipped with an exhaust muffler system. Exhaust and generator sounds shall not exceed the General Plan hourly noise level standard for rural areas at the nearest property line of 50 Leq dB. Hospital type generator/muffler (lower sound) shall be installed in the equipment building.

- ~~11. The applicant shall engage Hatfield and Dawson, Seattle, Washington, in consultation with Dr. Asher Sheppard to review the March 29, 1996, study by Hammett and Edison regarding radio frequency emissions and potential electronic interference within 15 days of final approval of this special use permit. Any significant variation or deviation of their findings with the Hammett and Edison study shall be immediately reported to the Development Services Director or designee.~~
- ~~12. For a two year period following the installation of the pole and antenna, the applicant shall engage Hatfield and Dawson, Seattle, Washington, in consultation with Dr. Asher Sheppard to conduct semi-annual field monitoring at a reasonable number of locations on the adjacent Rothenberg property, not to exceed eight such locations.~~
913. The equipment building shall be partially recessed into the hillside to reduce visibility as indicated on Tab 2 in the report dated July 25, 1996.
14. The pole shall be relocated not less than 100 yards but not more than 200 yards to the southeast subject to obtaining FCC approvals and to confirmation (sic) that range of coverage is not affected.
1016. Space on the pole shall be reserved for the Sheriff's Department (and fire and other services) at the discretion of the Sheriff's Department at no cost for the use to the Sheriff's Department.
1147. The applicant shall be required to install low impact, low visibility antennae where possible. Planning Services shall review the plans to verify compliance prior to issuance of any building permit.
1218. No microwave dishes shall be installed on the monopole without prior approval of the Development Services Director or designee.
1319. For a period of 30 years, the applicant agrees not to seek a special use permit to place any additional pole or tower on the real property it owns and which is visible from the adjacent Rothenberg property known as Assessor's Parcel Number 074-270-10.
1420. 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 condition.
1521. ~~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: (1) Modify the conditions of approval in order to reduce identified adverse impacts; and (2) 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 Development Services Director or designee 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.

~~22. Pursuant to Resolution No. 240-93, a \$35.00 processing fee is required by the County Recorder to file the Notice of Exemption.~~

1623. Should the new microwave dish be visible from adjacent properties, landscaping shall be installed to screen the dish, subject to approval of Planning Services.

17. 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 Building Services

188. ~~The applicant shall obtain a building permit for the proposed tower and related equipment building, as well as for all new antennas and the microwave dish that is mounted on a separate pole by itself.~~ The applicant shall obtain a building permit from the El Dorado County Building Services for the project facilities prior to the commencement of construction.

El Dorado County Department of Transportation

- ~~15.~~ ~~The applicant is to work with the Department of Transportation to relocate the road to the west and north sides of Mt. Ararat in order to minimize the visual impact from the adjacent property.~~
193. The applicant shall submit a site improvement/grading plan to the Department of Transportation for review and approval. The plan shall only be for the portion of new road to be constructed accessing the tower location. The plan shall be in conformance with the County of El Dorado Design and Improvement Standards Manual, and the Grading, Erosion and Sediment Control Ordinance, modified as acceptable to the Department of Transportation, given the limited use and scope of the project.
204. The applicant shall be subject to the general grading permit fee commensurate with the scope of the proposed project.

El Dorado County Environmental Management Department/Hazardous Materials Division

2124. Under the Certified Unified Program Agency (CUPA) programs, if the operation, at any time, will involve the storage of reportable quantities of hazardous materials for backup power generation, a hazardous materials business plan for the site ~~must~~ shall be submitted to the Department and applicable fees paid.

El Dorado County Air Quality Management District

- ~~226.~~ ~~The project is subject to the applicable regulations of the El Dorado County Air Pollution Control District especially as it relates to dust emission control, burning of "land development clearing," and generation equipment. Approval of the building permit by the Environmental Management Department/Air Pollution Control District shall satisfy this condition.~~ The applicant is required to comply with District Rules during project construction. The applicant shall submit a fugitive dust plan application with appropriate fees paid to the District. The District shall review and approve the plan prior to commencement of construction.

ATTACHMENT 2

FINDINGS

Special Use Permit Revision S96-0007-R/Verizon Wireless-Mt. Ararat Planning Commission/January 12, 2012

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 Staff has determined that, pursuant to CEQA Guidelines Section 15061(b)(3), that this action is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. This is a five-year review as required by the conditions of approval for the existing telecommunications tower facility authorized under special use permit. The review of compliance with the conditions of approval for the Special Use Permit, remedial measures to be taken, including modifications to the conditions, ensure compliance of the telecommunications facility with the special use permit and it can be seen with certainty that there is no possibility that these actions in question may have a significant effect on the environment and is therefore not subject to CEQA.
- 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, 95667.