

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



Agenda of:	September 13, 2012
Item No.:	8.a
Staff:	Gina Paolini

SPECIAL USE PERMIT REVISION - FIVE-YEAR REVIEW

FILE NUMBER: S02-0030-R/AT&T-Tahoma

APPLICANT: AT&T Wireless

AGENT: John Yu, Lyle Company

PROPERTY OWNER: El Dorado County

REQUEST: Request for a five-year review of an existing 95-foot monopine cellular telecommunications facility and revision to the Special Use Permit to allow for the addition of:

- a. Two equipment cabinets;
- b. Two antennas mounted at a height of 75 feet;
- c. Six radio units (RRU's) mounted along the new antennas; and
- d. One GPS antenna.

LOCATION: On the east side of Wilson Avenue, approximately 0.2 miles south of the intersection with Highway 89 in the Tahoma area, Supervisorial District 5. (Exhibit A)

APN: 015-331-29

ACREAGE: 0.75 acres

GENERAL PLAN: Adopted Plan (AP): Tahoe Regional Planning Agency (TRPA) Regional Plan, Tahoma Commercial Plan Area Statement 155, Tourist land use classification (Exhibit C)

ZONING: Tahoe Commercial (CT)

ENVIRONMENTAL DOCUMENT: Previously prepared Negative Declaration

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

1. Find that the previous Negative Declaration shall be prepared for the project sufficiently analyzed the project and the modifications made to the Conditions of Approval do not raise new environmental impacts;
2. Find that for this five-year review period, the telecommunication facility is in substantial conformity with the Conditions of Approval for S02-0030-R; and,
3. Approve revisions to Special Use Permit S02-0030-R subject to the Conditions of Approval in Attachment 1, based on the Findings in Attachment 2.

BACKGROUND

The Planning Commission approved Special Use Permit S02-0030 on January 9, 2003. The project as approved consisted of a 125-foot monopine with up to 6 panel antennas mounted at a centerline of 120-feet. The pole and ground equipment are located within a 540 square foot lease area enclosed by a wood sided equipment enclosure.

Building Permit No. 148534 was issued for AT&T Wireless on October 1, 2003 for a wireless tower and equipment shelter. The permit was finalized on January 14, 2004.

The Planning Commission approved a revision to Special Use Permit S02-0030 on May 24, 2007 allowing collocation for T-Mobile of eight new antennas at the 95-foot centerline and an equipment enclosure at the base of the pole. Building permits were not issued for these antennas, and they were never installed.

Condition No. 7 of the approved Conditions of Approval required a five-year review of the facility by the Planning Commission. The Conditions of Approval for Special Use Permit S02-0030-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). A revision to the monopine is also included with this review.

STAFF ANALYSIS

Condition Modification: Condition No. 7 of the Special Use Permit required a five-year review by the Planning Commission as follows:

7. *Due to the ever-changing technology of wireless communication systems, this special use permit shall be reviewed by the Planning Commission every five years. The original facility, approved by the Planning Commission on January 9, 2003, is still operational. Based upon the review conducted for this collocation application, the facility is considered to be approved for use through a date five years after Planning Commission approval of the revised special use permit. 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*

communication 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 Director to cover the cost of processing a five-year review.

To streamline future reviews, staff is recommending that the Planning Commission revise Condition No. 7 to permit future five-year reviews to be completed at staff-level. Staff believes many of the five-year reviews are found to be complaint with the Conditions of Approval and can be administered at staff level with minimal processing time. Staff has found that even the complex five-year reviews can be remedied at the staff level. The new condition would continue to allow for those towers that remain out of compliance to be forwarded to the Commission for review, if not brought into compliance.

With this five-year review, the applicant is requesting a revision to the monopine to include two new equipment cabinets to be located within the existing shelter, two new antennas mounted at a height of 75 feet, six radio units (RRU's) mounted along the new antennas and one GPS antenna mounted at on a post adjacent to the shelter. Staff has included these minor changes in the project conditions although they are technically permitted under the co-location provisions of the original Condition 1. The project description has also been clarified and a reference to T-Mobile has been eliminated, as T-Mobile will no longer be co-locating on the pole. The changes to the Conditions of Approval are shown in ~~strikeout~~ and underline in Attachment 1.

Five Year Review: 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.

ENVIRONMENTAL REVIEW

An initial study and Negative Declaration was prepared for the original approval of this cell tower and adopted by the Planning Commission on January 9, 2003. That analysis found that there were no significant environmental impacts as a result of construction of this tower. The purpose of this review is to ensure that all conditions have been satisfied and to update the conditions as necessary. No new or changed environmental issues have been identified, therefore, the previously prepared Negative Declaration is adequate to support this review and the minor modifications of the conditions of approval.

SUPPORT INFORMATION

Attachments to Staff Report:

Attachment 1	Conditions of Approval
Attachment 2	Findings
Exhibit A	Location Map
Exhibit B	Applicant's Statement of Use Permit Compliance
Exhibit C	Site Photographs
Exhibit D	Site Plan
Exhibit E	Enlarged Site Plan
Exhibit F	Elevations
Exhibit G	Details
Exhibit H	Antenna Details
Exhibit I	Equipment Details
Exhibit J	Electrical Plan
Exhibit K	Antenna Plumbing Diagram
Exhibit L	TRPA Plan Area Statements
Exhibit M	Adopted Negative Declaration and Initial Study

ATTACHMENT 1

CONDITIONS OF APPROVAL

Special Use Permit Revision S02-0030-R/AT&T-Wireless-Tahoma Planning Commission/September 13, 2012

El Dorado County Planning Services

1. This special use permit approval is based upon and limited to compliance with the approved project description and Conditions of Approval set forth below:

Exhibit D.....Site Plan
Exhibit E.....Enlarged Site Plan
Exhibit F.....Elevations
Exhibit G.....Details
Exhibit H.....Antenna Details
Exhibit I.....Equipment Details
Exhibit J.....Electric Plan
Exhibit K.....Antenna Plumbing Diagram

- ~~1. This special use permit revision is based upon and limited to compliance with the project description, the Planning Commission hearing exhibits marked Exhibits A through G dated May 24, 2007 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 allowing the construction and operation of a multi-user wireless telecommunication facility within an existing 0.75 –acre parcel identified as APN 015-331-29, and consisting of the following:

- a. One 123-foot steel monopine.
- b. A 18 foot by 30 foot fenced lease area, with fence being six feet tall and constructed of chain link with three strands of barbed wire on top.
- c. One equipment shelter, with equipment cabinets enclosed within the shelter.
- d. Power, telco cabinet and utility rack located outside the equipment enclosure.
- e. Two antennas mounted at a 110 foot center line above ground level.
- f. Two antennas mounted at a 105 foot center line above ground level.

- g. Two antennas mounted at a 75 foot center line above ground level, with four remote radio units and one surge suppressor.
- h. One GPS antenna mounted to existing post within enclosure.

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.

~~The grading, development, use, and maintenance of the property, the size, shape, arrangement, and location of structures, parking areas and landscape areas, 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 (such as Landscape and Tree Protection Plans) must be submitted for review and approval and shall be implemented as approved by the County.~~

~~The project, as approved, consists of the following:~~

~~Collocation of eight (8) new wireless antennas at the 95-foot centerline elevation, to be located on an existing 110-foot monopole wireless communication tower disguised as a pine tree. The new antennas would be screened within the existing branches of the monopole. The project includes a 20-foot by 30-foot (600 square feet) lease area for a new 10 by 16 foot (160 square feet) equipment shelter adjacent to the base of the tower and east of an existing AT&T equipment shelter. The existing lease area, enclosed by an existing six (6) foot tall chain link fence with wood slats, would be enlarged to accommodate the proposed additional equipment shelter. Access to the facilities would involve an extension of the existing A.C. pavement from the County parking lot. A 10-foot wide gate would be constructed for entrance on the northwest side of the lease area. Plans, included as Exhibits D-1 through D-4, show 300 square feet of pavement would be removed and replaced with the proposed equipment shelter and its concrete stoop, while also resulting in 95 square feet of area to be planted with native grasses. The facility would be unmanned and visited approximately once per month for maintenance purposes.~~

2. **Project Implementation:** Pursuant to County Code (Section 17.22.250) implementation of the project (i.e., obtaining building permit) must occur within twenty-four months (24) of approval of this special use permit, otherwise the permit becomes null and void. It is the responsibility of the applicant to monitor the time limit and make diligent progress toward implementation of the project and compliance with the conditions of approval.
3. **Maintenance:** All improvements associated with the communication facility, including equipment shelters, towers, antenna, fencing, and landscaping shall be properly maintained at all times. Colors of towers and other improvements shall be maintained to

ensure the appearance remains consistent with the approved conditions, site plans, and photo simulations. The proposed T-Mobile equipment shelter shall be wood-sided and painted to match the existing AT&T wood-sided equipment shelter.

- ~~46.~~ **Obsolete Equipment:** 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.
- ~~8.~~ No building permits shall be issued until final lease agreements are signed, as needed, between AT&T (owner of the existing monopine) and the applicant T Mobile, Inc. for operation of the new antennas, as well as between T Mobile and the County for placement of the new ground equipment.
- ~~59.~~ **Conformance Documentation:** 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.
- ~~67.~~ Due to the ever-changing technology of wireless communication systems, this special use permit shall be reviewed by the Planning Commission every five years. The original facility, approved by the Planning Commission on January 9, 2003, is still operational. Based upon the review conducted for this collocation application, the facility is considered to be approved for use through a date five years after Planning Commission approval of the revised special use permit. 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 communication 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 Director to cover the cost of processing a five year review.

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.

- ~~740.~~ **Development Fees:** All Development Services fees for processing this application shall be paid in full prior to issuance of a Building Permit.
8. **Co-location:** For co-location purposes, no further review by the Planning Commission shall be required provided that all ground-mounted equipment is located within the proposed leased area and provided that any one of the proposed carrier installs no more than two antenna sectors and two antennas per sector (4 total antennas) per carrier at any one time, and that there shall not be an increase in overall height of the tower.
9. **Television Interference:** The applicant shall assume full responsibility for resolving television reception interference, if any, caused by operation of this facility. The applicant shall take corrective action within 30 days of receipt by Planning Services of any written television interference complaint.
- ~~1011.~~ 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, as provided in Section 66474.9(b) of the California Government Code.

~~The subdivider 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 subdivision, which action is brought within the time period provided for in Section 66499.37. County shall notify the subdivider of any claim, action, or proceeding and County will cooperate fully in the defense.~~

Hold Harmless Agreement: 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

11. **Building Permit:** The applicant shall obtain a building permit from El Dorado County Building Services for project facilities prior to the commencement of construction.

Meeks Bay Fire Protection District Department

124. **Building Permit Review:** Plans shall be reviewed and approved by the Meeks Bay Fire Protection District prior to issuance of a building permit.

Tahoe Regional Planning Agency (TRPA)

135. **TRPA Approval:** The applicant will be required to obtain all necessary permits from TRPA prior to issuance of a County building permit. Any TRPA conditions of approval that require modification of the project as approved by the County must be re-reviewed and approved by the County for conformity with this approval.

El Dorado County Environmental Management Department

14. **Hazardous Materials Plan:** The applicant shall submit a hazardous materials business plan for the site to the El Dorado County Environmental Management Department-Hazardous Materials Division for review and approval if the operation will involve the storage of reportable quantities of hazardous materials for backup power generation.

ATTACHMENT 2

FINDINGS

Special Use Permit Revision S02-0030-R/AT&T-Wireless-Tahoma Planning Commission/September 13, 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 15162, no subsequent Negative Declaration shall be prepared for the project as there has been no substantial change in the project based on the whole record that would cause 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 the 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.
- 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.