

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



Agenda of:	March 14, 2013
Item No.:	4.e
Staff:	Gina Paolini

FIVE-YEAR CELL TOWER REVIEW – SPECIAL USE PERMIT

FILE NUMBER: S01-0032-R-3/ATC Strawberry

APPLICANT: American Tower Corporation

PROPERTY OWNER: Donald Cook

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

LOCATION: The property is located at the end of Cooks Spur Road, approximately 0.23 mile north of the intersection with Short Hill Road, in the Strawberry area, Supervisorial District 2. (Exhibit A)

APN: 038-400-19

ACREAGE: 14.71 acres

GENERAL PLAN: Natural Resources (NR)

ZONING: Estate Residential (RE-10)

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

1. Find that for this five-year review period, the telecommunication facility is in substantial conformity with the Conditions of Approval for S01-0032-R-3; and
2. Approve the modifications to the Conditions of Approval for Special Use Permit S01-0032-R-3 recommended by staff as listed in Attachment 1, based on the Findings listed in Attachment 2.

BACKGROUND

Special Use Permit S01-0032 for the monopine at the subject site was initially approved by the Planning Commission on March 14, 2002. The monopine was approved with a maximum height of 125-feet and was located in a 10,000 square foot lease area enclosed by a 6-foot tall wood fence.

Building Permit No. 139539 was issued on August 8, 2002, allowing the construction of a new communications facility tower and ground equipment. The permit was finalized on September 27, 2005.

Special Use Permit S01-0032 has been revised by the Zoning Administrator on several occasions. On May 18, 2005, the Zoning Administrator approved a revision (S01-0032-R) for Nextel to collocate with up to 12 panel antennas at the 104-foot height. On August 17, 2005, the Zoning Administrator approved a revision (S01-0032-R-2) for Cingular Wireless to collocate with up to 12 panel antennas at the 85-foot height. On November 7, 2007, the Zoning Administrator approved a revision (S01-0032-R-3) for Metro PCS to collocate with up to 6 antennas at the 75-foot height. These revisions provide for a cumulative total of 30 antennas. There are currently 32 antennas on the monopole due to administrative approval of two antennas during the building permit process.

Building Permit No. 139539 was issued on August 8, 2002, allowing the construction of a new communications facility tower and ground equipment. The permit was finalized on September 27, 2005.

Building Permit No. 160431 was issued on September 27, 2005, allowing for Nextel to add additional antennas to the tower. The permit was finalized on October 18, 2005.

Building Permit No. 168147 was issued on October 26, 2005, allowing Cingular Wireless to add new antennas to the pole and ground equipment within the existing enclosure. The permit was finalized on January 20, 2006.

Building Permit No. 183660 was issued on December 4, 2007 allowing Metro PCS to add new antennas to the monopine. This permit was not closed for many years. Staff worked with the tower owner, American Tower, to resolve this open permit, which was finalized on January 6, 2012.

Building Permit No. 197524 was issued on July 19, 2010 allowing AT&T to upgrade existing equipment. The permit was finalized on August 6, 2012.

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 S01-0032-R-3 have been attached (Attachment 1).

STAFF ANALYSIS

Condition Modification: Condition No. 7 of the Special Use Permit required a five-year review by the Zoning Administrator or 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 March 14, 2002, and last reviewed for collocation by the Zoning Administrator on August 17, 2005, is still operational. Based upon the review conducted for this collocation application, the facility is considered approved for use through a date five years after Zoning Administrator 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 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 or;*
 - c. Allow the facility to operate under all applicable conditions.*

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 on a time and materials basis.

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, even complex ones, can be administered at staff level with minimal administrative time. 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.

Staff has also identified other minor corrections and changes to the conditions. The project description has been clarified with ATC to reflect the current site conditions. Condition No. 10 has been added which would allow future co-location without further review by the Planning Commission provided no more than 12 antennas are added to the facility at one time. The changes to the Conditions of Approval are shown in ~~strikeout~~ and underline in Attachment 1.

Five Year Review: A revision to the monopine (S01-0032-R-5) was submitted on October 10, 2011. Due to access issues being raised between Verizon and ATC, the revision to the monopine has been placed on hold. Because the five-year review was due November 2012, it is being brought forward for Planning Commission review. Following the five-year review, Verizon may be able to move forward with a building permit based on the new provision provided in Condition No. 10. Verizon would need to resolve their access issue with ATC prior to obtaining a building permit.

Staff has been working with the tower owner to resolve the monopine deficiencies since the application was submitted. The tower owner was required to replace the branches on the pole and bring the facility into compliance with the Conditions of Approval. Photographs of the site have been provided in the pre re-branching condition and post re-branching condition (Exhibit B). These photographs are to illustrate the pre and post site conditions only and are not for authorizing permits for Verizon. All the permits have been finalized on the pole and the branches are near compliance stage. However, there continues to be a deficiency that should be addressed during this five-year review. Staff requested that the tower owner replace the socks of the antennas with a color that would blend with the branches. The tower owner has agreed to replace the socks with similar material used at other like facilities (Condition No. 6). Based on review of building permits and project conditions, it is the opinion of staff that the project site would be in compliance with the Conditions of Approval provided that the antenna socks are replaced.

SUPPORT INFORMATION

Attachments to Staff Report:

Attachment 1	Conditions of Approval
Attachment 2.....	Findings
Exhibit A.....	Location Map
Exhibit B	Site Photographs
Exhibit C	Site Plan
Exhibit D.....	Elevations

ATTACHMENT 1

CONDITIONS OF APPROVAL

Special Use Permit Revision S01-0032-R-3/ATC Strawberry Planning Commission/March 14, 2013

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 C.....Site Plan

Exhibit D.....Elevation

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 14.71 –acre parcel identified as APN 038-400-19 and consisting of the following:

- a. One, 125-foot steel monopine;
 - b. A 10,000 square foot lease area enclosed by a 6-foot tall wood fence;
 - c. Two antenna sectors with one antenna per sector (2 total antennas) and two tower mounted amplifiers (TMA's) per sector mounted at a height of 118 feet above ground level;
 - d. Three antenna sectors with four antennas per sector (12 total antennas) mounted at a height of 101 feet above ground level;
 - e. Three antenna sectors with four antennas per sector (12 total antennas) mounted at a height of 90 feet above ground level;
 - f. Two antenna sectors with three antennas per sector (6 total antennas) and two TMA's per sector mounted at a height at 73 feet above ground level; and,
 - g. Support equipment housed within the enclosed leased area or within the 810 square foot equipment shelter.
- ~~1. This special use permit revision is based upon and limited to compliance with the project descriptions, the Zoning Administrator hearing exhibits marked Exhibits A through I dated November 7, 2007, and conditions of approval set forth below. Further, any~~

~~deviations from the project descriptions, 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 described approval will constitute a violation of the permit approval and may subject the authorized activities to revocation hearings.~~

- ~~— The project (S01-0032), as approved, consists of the construction and operation of a wireless telecommunications facility at 1000 Cooks Spur Rd., Kyburz, CA 95720. The facility will consist of a 125-foot mono-pole and will be designed to accommodate up to four wireless service providers, including the anchor tenant, Cingular Wireless. The facility will be unmanned (visited on an average of once every month for routine maintenance purposes), will not be lit, nor emit noise or glare, and will not interfere with television or radio reception.~~
- ~~— Revision No. 1 (S01-0032-R1) shall consist of the collocation of a cell antenna facility consisting of three arrays holding up to 12 antennas at the 104-foot level on an existing 125-foot mono-pine tower. The equipment used to support the facility will be housed within a leased portion of the adjacent and existing 810-square foot equipment shelter.~~
- ~~— Revision No. 2 (S01-0032R2) shall consist of the collocation of a cell antenna facility consisting of three arrays holding up to 12 antennas at the 85-foot level on an existing 125-foot mono-pine tower. The equipment used to support the facility will be housed within a leased portion of the adjacent and existing 810-square foot equipment shelter.~~
- ~~— Revision No. 3 (S01-0032-R3) shall allow collocation of six (6) antennas at a height of 75 feet on an existing 125-foot monopine; and the installation of up to three (3) radio cabinets within the existing fenced compound, and a new Global Positioning System (GPS) unit.~~

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.

2. **Development Fees:** All Development Services fees for processing this application shall be paid in full prior to issuance of a Building Permit.
3. ~~In the event of any legal action instituted by a third party challenging the validity of any provision of this approval, the applicant 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, as provided in Section 66474.9(b) of the California Government Code.~~

~~The applicant 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.~~

3. **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.

4. ~~All site improvements related to the original tower and cell site (S01-0032) shall conform to the submitted site plan(s) attached on Exhibits D as found in the staff report for S01-0032. All site improvements related to Revision No. 1 shall be substantially compliant to Exhibits E-1, E-2, E-3, F, G-1, and G-2 as found in the staff report for S01-0032R1.~~

~~All site improvements in relation to the original tower and cell site (S01-0032) shall conform to the submitted site plan(s) attached as Exhibit D as found in the staff report for S01-0032R(2).~~

45. **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 ~~Services Department~~ at the time of abandonment, and all disturbance related to the communication facility shall be restored to pre-project conditions.

56. **Maintenance:** 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 that nothing on the tower causes a reflection of light. All improvements associated with the facility, including equipment shelters, towers, antenna and fencing 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 and verify antenna projections within the “branches” prior to issuance of final occupancy for the building permit. 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, including any

~~improvements resulting from revisions, shall be maintained to ensure the appearance remains consistent with approved conditions relating to color.~~

69. **Panel Antenna Screening:** All panel antennas shall be fitted with antenna socks, with simulated needles that shall be in a color that closely matches the antenna branches. The socks shall be approved by Planning Services prior to issuance of a building permit and photographs of sock installation shall be provided to Planning Services within three months of project approval or no later than June 14, 2013.
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 March 14, 2002, and last reviewed for collocation by the Zoning Administrator on August 17, 2005, is still operational. Based upon the review conducted for this collocation application, the facility is considered approved for use through a date five years after Zoning Administrator 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 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~~
~~— or;~~
 - ~~c. Allow the facility to operate under all applicable conditions.~~

~~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 on a time and materials basis.~~

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.

8. **Building Permits:** The building permits required by Condition No. 12 ~~10~~ for the construction of any collocations shall not be issued until the building permits for any prior collocations have been finalized.
9. **Condition Compliance:** 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.
10. **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 three antenna sectors and four antennas per sector (12 total antennas-per carrier at any one time, and that there shall not be an increase in overall height of the tower.
11. **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.

El Dorado County Building Services

- ~~1210.~~ Project facilities shall be subject to a building permit from El Dorado County Building Services.

El Dorado County Department of Environmental Management

- ~~1314.~~ 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.

~~Should the cell tower incorporate auxiliary power, it may be subject to the filing of a Hazardous Materials Business Plan, with the Solid Waste and Hazardous Materials division of the Environmental Management Department.~~

- ~~12.~~ ~~The proposed project is required to meet state federal ambient air quality standards for criteria air pollutants. The air quality analysis conducted in the Initial Study has~~

determined that the proposed project is not expected to violate state federal ambient air quality standards.

13. ~~Any damage to said access road and/or driveway shall be repaired prior to the finaling of the building permits required for prior collocations.~~
14. ~~Provide adequate area at the leased area for a vehicle to exit the site in a forward direction.~~

El Dorado County Fire Protection District

1415. The project shall comply with all requirements of the El Dorado County Fire Protection District.

- ~~— Prior to final inspection, the applicant shall provide or verify the existence of a minimum 12-foot wide all weather access road to within 150 feet of all exterior portions of the structure(s). This access road shall have a minimum vertical clearance of 13 feet 6-inches feet and be capable of supporting a load of at least 40,000 pounds. The grade of this road shall not exceed 16 percent. The access road must contain an approved emergency vehicle turn around.~~
16. ~~Prior to final inspection, the applicant shall provide the site with high priority “Knox” access with keys for emergency access.~~
17. ~~Prior to final inspection, any and all gates located on site shall comply with Fire Prevention Officers’ standard. This gate standard is at least two feet wider than the road. Additionally, a “Knox” padlock shall be installed on the gate.~~
18. ~~Prior to final inspection, the applicant shall provide or verify the existence of a fire extinguisher, rated 2A:10BC, mounted inside the equipment shelter.~~
19. ~~As part of routine site maintenance, the applicant shall provide vegetation control 100 feet in all directions from the building and tower.~~
20. ~~Prior to final inspection, the applicant shall post, or verify the existence of, the address for the property at the bottom of Cooks Spur Road. These numbers are to be a minimum of 12-inches high.~~

ATTACHMENT 2

FINDINGS

Special Use Permit Revision S01-0032-R-3/ATC Strawberry Planning Commission/March 14, 2013

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 FINDINGS

- 1.1 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.