

**EL DORADO COUNTY DEVELOPMENT SERVICES
STAFF REPORT**



Agenda of: April 5, 2006
Item No.: 6.c.
Staff: Tom Dougherty

SPECIAL USE PERMIT

FILE NUMBER: S05-0044

APPLICANT: Nextel Communications

AGENT: Strategic Real Estate Services (Howard Yee)

REQUEST: Special use permit to allow the establishment of a wireless telecommunications facility to include ground-mounted equipment and nine panel antennas mounted on a 12-foot extension, atop an existing 125-foot PG&E transmission tower. Also proposed is a four (4)-foot wide microwave antenna mounted at the 70-foot level.

LOCATION: On the east and west sides of Hensley Circle, approximately 1,500-feet north of the intersection with Warren Lane, in the El Dorado Hills area. (Exhibit A)

APN: 112-581-19

ACREAGE: 900 square-foot lease area.

GENERAL PLAN: Open Space (OS) (Exhibit B)

ZONING: One-Family Residential (R1) (Exhibit C)

ENVIRONMENTAL DOCUMENT: Categorically Exempt per CEQA Section 15301(b) Existing Facilities

SUMMARY RECOMMENDATION: Conditional Approval

BACKGROUND: The Telecommunications Act of 1996 preserves the authority of a state or local government over decisions regarding the placement, construction, and modification of personal wireless services, with the following pertinent limitations:

SEC. 704.(7)B(iii)

Any decision by a state or local government or instrumentality thereof to deny a request to place, construct or modify personal wireless service facilities shall be in writing and supported by substantial evidence contained in a written record.

SEC.704.(7)B(iv)

No state or local government or instrumentality thereof may regulate the placement, construction and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Commissions regulations concerning such emissions.

The American National Standards Institute and the Institute of Electrical and Electronics Engineers (IEEE) have published a standard called ANSI/IRRR C95.1-1992, which until recently set recommended maximum power density levels for radio frequency (RF) energy originating from communications sites and other sources. The Federal Communications Commission (FCC) has also produced its own guidelines, which are more stringent and supersede the ANSI standard. The FCC rules categorically exclude certain transmitting facilities from routine evaluations for compliance with the RF emission guidelines if it can be determined that it is unlikely to cause workers or the general public to become exposed to emissions that exceed the guidelines. PCS facilities, such as the proposed project, are categorically excluded from the FCC evaluation process if they are located ten meters or more off the ground (other than on a rooftop), or if the total power of all channels is 2000 watts (Effective Radio Power [ERP]) or less. The proposed facility is expected to transmit no more than 20.64 uWcm² watts ERP; therefore, it is excluded from the FCC evaluation. Based on the information provided for the proposed wireless facility, it can be determined that the risk of release of hazardous emissions to the public is remote.

STAFF ANALYSIS

Staff has reviewed the project for compliance with the County's regulations and requirements. An analysis of the permit request and issues for Planning Commission consideration are provided in the following analysis:

Project Description:

Nextel Communications is requesting a Special Use Permit to co-locate nine (9) wireless communication panel antennas, each eight-feet tall on top of an existing 125-foot, four (4)-inch Pacific Gas and Electric (PG&E) transmission tower at the parcel surrounded by Hensley Circle that is identified by Assessor's Parcel number 112-581-19. Antennas would be attached to a twelve (12)-foot extension, increasing the tower height to 137-feet, four (4)-inches tall. A 27foot by 27foot lease area is proposed to contain the ground equipment cabinets which will be enclosed by an 8 foot-high solid wood fence with two 6-foot wide access gates. Within the lease area will be an 11.5 foot x 20-foot x 10 foot, 6 inch tall equipment shelter with two air conditioners. No generator is proposed. A

hammerhead style turnaround will be located approximately 20-feet to the east of the lease area. Telco and power will come from an existing pedestal and vault that will be brought underground from the west side of Hensley Circle through a bored hole under the road and then within the twelve (12)-foot wide graveled access and public utility easement traveling approximately 457-feet underground.

Project site plans are included as Exhibits D1, D2, and D3. Project elevation plans are included as Exhibits E1, E2, and E3.

Proposed Access: Nextel proposed a 12-foot wide access and public utility easement within an existing gravel road that encroaches onto Hensley Circle approximately 372-feet to the west. There currently is a metal, tube-type gate across that entrance located approximately 30-feet from the existing concrete curb on the western edge of Hensley Circle. A hammerhead style turnaround will be located approximately 20-feet to the east of the lease area.

Site Description: The transmission towers are located within a 300-foot wide utility easement running east to west. PG&E holds 100-feet of the easement and SMUD holds 200-feet of the southerly portion. This swath contains scattered blue oaks (*Quercus douglasii*) and annual grasses. No trees are proposed to be removed. The El Dorado Hills Community Services District owns fee title to the land on which the towers are located.

Adjacent Land Uses:

	Zoning	General Plan	Land Use/Improvements
Site	R1	OS	Transmission towers and wires
North	R1	HDR	Single-family residences
South	R1	HDR	Single-family residences
East	R1	OS	Transmission towers and wires
West	R1	OS	Transmission towers and wires

Discussion: The easement is separated from the single-family residences on the north and south by miscellaneous types of fences on most of the properties, but the presence of gates seems to mean that the easement may also be used by the surrounding residents as an open recreation area.

General Plan: The General Plan designation of the subject site is Open Space, (OS). This land use category can be used to designate Public Lands under governmental title (County, State Parks, BLM, U.S. Bureau of Reclamation, U.S. Forest Service, etc.), where no development other than that specifically needed for government-related open space uses is desired. The site is currently owned by the El Dorado Hills Community Services District.

Discussion: The proposed site is currently being utilized by PG&E and SMUD for utility purposes. Nextel proposes to install wireless antennas on the existing PG&E transmission tower to provide enhanced cellular service within the El Dorado Hills Community Region. Utility distribution is the primary dominant feature on the site, and the PG&E power pole, with the Nextel co-locating use is incidental to the main use. Therefore, it is believed that findings can be made by the Zoning Administrator through the discretionary Special Use Permit process that the project is consistent with the specific, fundamental, and mandatory land use development goals, objectives, and policies of the General Plan.

Zoning: The proposed use is permitted in the One-family Residential Zone District (R1), pursuant to Section 17.14.200(D)(3)(a-d), which states the following:

3. *Co-location on existing non-building structures or public facilities. In all zone districts, the co-location of antennas on signs, water tanks, utility poles and towers, light standards and similar structures may be permitted subject to approval of a minor use permit by the zoning administrator pursuant to Section 17.22.400 et seq. and subject to the following criteria. Those facilities not meeting the criteria below are subject to a special use permit.*
 - a. *The antennae shall not exceed fifteen (15) feet in height above the height of the existing structure. Those that exceed 15-feet are subject to a special use permit.*
 - b. *The antennae and mounting brackets shall be painted to blend with the design of the structure, natural features or vegetation of the site;*
 - c. *All equipment shelters, cabinets, or other ancillary structures shall be located within the structure being utilized for the communication facility, or designed to blend with surrounding architecture, or on the ground screened from public view;*
 - d. *If proposed to be attached to a structure, utility pole or tower located within a public utility easement, both the utility and the property owner must authorize submittal of an application for such use.*

Discussion: The antenna will project twelve feet above the current tower height. The towers are not painted but the antennas will be required to match in color and be non-reflective.

Special Use Permit Request:

The applicant is requesting a Special Use Permit in accordance with Section 17.14.200.D.3.a-d of the County Code. In all Zone Districts, the co-location of antennas on signs, water tanks, utility poles and towers, light standards and similar structures may be permitted subject to approval of a Special Use Permit by the Zoning Administrator. Nextel proposes to locate on an existing PG&E power pole, therefore, the application is subject to a Minor Use Permit by the Zoning Administrator. Until the minor use permit process is amended, Planning utilizes the Special Use Permit process for this purpose.

Development Standards: Section 17.14.200(E) and (F) of the County Code requires that all wireless communication facilities meet certain criteria. Below is an analysis of these standards:

The proposal is for an extension to an existing PG&E power pole to accommodate the co-location of a wireless provider. Nextel proposes to install nine (9) panel antennas, each eight-foot tall, attached to a twelve (12)-foot extension on top of the existing pole, increasing the height of the pole to 137-feet, 4 inches. A 27-foot by 27-foot lease area is proposed to contain the ground equipment cabinets which will be enclosed by an 8-foot-high solid wood fence with two 6-foot wide access gates. Within the lease area will be an 11.5-foot x 20-foot x 10-foot, 6-inch tall equipment shelter with two air conditioners.

- a. **Screening:** The applicant is proposing to place the equipment shelter and related equipment within the lease area that is to be surrounded by an eight-foot tall solid wooden fence enclosure. A GPS downlink antenna that extends slightly above the height of the fence would be within the enclosure. Visual simulations of the wireless facility have been submitted. (See Exhibits F1 and F2). The fencing will be conditioned to be finished with a color that blends with the surrounding area. The panel antennas will be conditioned to blend in with the tower color and be non-reflective.
- b. **Setbacks:** The ground support facilities would be in a fenced enclosure located approximately 30-feet from the closest property line which is to the north. No setbacks would be affected.
- c. **Maintenance:** Maintenance personnel would visit the site approximately once a month, at which time the facilities would be inspected to ensure proper operation. The project has been conditioned to require that the colors and materials of the fencing and panels be maintained at all times.
- d. **Radiofrequency Radiation (RF) Requirement:** Section 17.14.200(G) requires that the applicant submit a report or summary of the estimates of non-ionizing radiation generated by the facility and maximum electric and magnetic field strengths at the edge of the facility site. Nextel submitted a report indicating that using several worst-case assumptions, for a person standing on the ground at a distance of 100 feet from the base of the antennas tower in the given terrain of the surrounding environment, the maximum Nextel emission levels to be 10.22 milliwatts per square centimeter (uW/cm²), and the maximum power density level would be 20.64 uW/cm² at any point from the tower. This is well within the allowable limitations established in ANSI standard for RF levels. (“Power Density Study,” Jeff Lafazan, RF Engineer, November 11, 2005).
- e. **Availability:** Section 17.14.200 (H) requires that all existing communication facilities be available to other carriers as long as structural or technological obstacles do not exist. This is a co-location project.
- f. **Un-used Facilities:** Section 17.14.200 (I) requires that all obsolete or unused communication facilities be removed within six (6) months after the use of that facility has ceased or the

facility has been abandoned. The project has been conditioned to comply with this requirement (Condition 6).

- g. Other Permit Requirements: Section 17.14.200(J) states certain notification requirements for projects located within 1,000 feet of a school or in subdivisions governed by CC&Rs. The applicant met with the El Dorado Hills Community Services District Design Review Committee on December 13, 2005. The Committee gave the proposed project a recommendation for approval and voted to send the proposed project to the El Dorado Hills Community Services District Board of Directors for their approval. The meeting at the CSD Board for proposed project was noticed to the area of neighbors they felt were potentially concerned with the proposal. On January 12, 2006 the CSD Board considered the project and concerned citizen input and then approved Nextel's proposal and authorized lease negotiations with the applicant.

After review of the submitted site plan(s) and a visual simulations, it has been determined that the proposed project meets the standards contained in Section 17.14.200 E through J of the County Code. The aesthetic impacts associated with the project have been fully considered. A wooden enclosure has been designed to blend in with the surrounding area. There will be a discernable visual impact from the addition of the panel antennas to the existing PG&E transmission top, but it can be found the impact is not necessarily increasing that impact any more than the existing towers already do. Two other cellular facilities are existing on two towers connected to the same transmission line to the east. As designed and conditioned, there are no unresolved issues with the project.

After review of the submitted site plan(s), visual simulations and an on-site reconnaissance, it has been determined that the proposed project meets the standards contained in Section 17.14.200 E and F of the County Code.

Agency and Public Comments: The following agencies provided comments on this application. Copies of their written comments are available at the Planning Services office. From these comments, the following issues were raised:

El Dorado County Environmental Management Department-Hazardous Materials Division: The Division responded with a request that may require the applicant to submit a hazardous materials/hazardous waste generator management plan for review. The project is not proposing to use a backup generator but will have backup batteries. Their concerns are included as Condition 14.

El Dorado County Air Quality Management District: The District responded with potential concerns with hazardous materials that are included as Conditions 10-13.

El Dorado County Hills Fire Protection District: The Fire District has reviewed the project and has recommended a general compliance with District requirements. This requirement is incorporated as Condition 15.

These agencies had no specific concerns regarding the proposed special use permit:

El Dorado County Department of Transportation
El Dorado Hills Community Services District
El Dorado County Pioneer Cemeteries
El Dorado Hills Design Review Committee

At the time of the preparation of this report, staff had not received any comments from the public. New issues may arise as a result of the public notice of the hearing which will be discussed at that time.

ENVIRONMENTAL REVIEW

This project has been found to be Categorical Exempt from the requirements of CEQA pursuant to Section 15301(b) of the CEQA Guidelines stating that minor expansion of existing facilities of both investor and publicly-owned utilities used to provide electric power, natural gas, sewerage or other public utility services may occur. Pursuant to Resolution No. 240-93, a \$35.00 processing fee is required by the County Recorder to file the Notice of Exemption.

RECOMENDATION

Staff recommends that the Zoning Administrator take the following actions:

1. Certify that the project is Categorical Exempt from CEQA pursuant to Section 15301 (b) of the CEQA Guidelines.
2. Approve Special Use Permit S05-0044, subject to the Conditions of Approval in Attachment 1, based on the Findings in Attachment 2.

SUPPORT INFORMATION

Attachments to Staff Report:

Attachment 1	Conditions of Approval
Attachment 2	Findings
Exhibit A	Vicinity Map
Exhibit A1	Assessor's Parcel Map
Exhibit A2 and A3	Subdivision Maps
Exhibit B	General Plan Land Use Map
Exhibit C	Zoning Map
Exhibits D1, D2, D3	Site Plans Dated 11/29/05
Exhibits E1, E2, E3	Elevations Dated 11/29/05
Exhibits F1, F2	Visual Simulations
Exhibits G1, G2, G3, G4	Site Visit Photos-February 16, 2006

ATTACHMENT 1
CONDITIONS OF APPROVAL

FILE NUMBER S05-0044

CONDITIONS OF APPROVAL

El Dorado County Planning Services

1. The project, as approved, consists of the following:

Special Use Permit to co-locate nine (9) wireless communication panel antennas, each eight-foot tall, on top of an existing 125 foot, four (4) inch Pacific Gas and Electric (PG&E) transmission tower at the parcel surrounded by Hensley Circle that is identified by Assessor's Parcel Number 112-581-19. Antennas would be attached to a twelve (12)-foot extension to the top of the existing tower, increasing the tower height to 137 feet, four (4)-inches tall. A 27-foot by 27-foot lease area is proposed to be located within the footprint of the existing transmission tower, and will contain the ground equipment cabinets which will be enclosed by an 8-foot-high solid wood fence with two 6-foot wide access gates. Within the lease area will be an 11.5 foot x 20 foot x 10 foot, six (6) inch tall equipment shelter with two air conditioners, and backup batteries. No generator is proposed.

Included also is a hammerhead style turnaround will be located approximately 20 feet to the east of the lease area. Telco and power will come from an existing pedestal and vault that will be brought underground from the west side of Hensley Circle through a bored hole under the road and then within the twelve (12)-foot wide graveled access and public utility easement traveling approximately 457 feet underground.

2. All site improvements shall conform to the site plan attached as Exhibits D1, D2, and D3 and elevations attached as Exhibits E1, E2, and E3. All site plan and elevation exhibits are dated 11/29/05, (November 29, 2005).
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.
5. 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.

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: (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.

7. 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.
8. 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.
9. Pursuant to Resolution No. 240-93, a \$35.00 processing fee is required by the County Recorder to file the Notice of Exemption.

El Dorado County Department Air Quality Management District:

10. An Asbestos Dust Mitigation Plan (ADMP) Application shall be submitted to and approved by the District prior to issuance of a Building Permit or Grading Permit.
11. Burning of wastes on site requires that the applicant shall contact the District prior to the commencement of any burning. Only vegetative waste materials are permitted to be disposed of using an open outdoor fire.

12. The applicant shall submit a list of all proposed architectural coatings to the District for approval prior to the issuance of a Building Permit. All architectural coating shall adhere to District Rule 215 Architectural Coatings.
13. The applicant shall submit a list to the District stating which of the following mitigations measures will be used to reduce impacts on air quality from equipment exhaust emissions during all construction involved in this project for approval prior to the issuance of a Building Permit:

Heavy Equipment and Mobile Source Mitigation Measures:

- Use low-emission on-site mobile construction equipment.
- Maintain equipment in tune per manufacturer specifications.
- Retard diesel engine injection timing by two to four degrees.
- Use electricity from power poles rather than temporary gasoline or diesel generators.
- Use reformulated low-emission diesel fuel.
- Use catalytic converters on gasoline-powered equipment.
- Substitute electric and gasoline-powered equipment for diesel-powered equipment where feasible.
- Do not leave inactive construction equipment idling for prolonged periods (i.e., more than two minutes).
- Schedule construction activities and material hauls that affect traffic flow to off-peak hours.
- Configure construction parking to minimize traffic interference.
- Develop a construction traffic management plan that includes, but is not limited to: Providing temporary traffic control during all phases of construction activities to improve traffic flow; Rerouting construction trucks off congested streets; and provide dedicated turn lanes for movement of construction trucks and equipment on- and off-site.

El Dorado County Environmental Management Department, Solid Waste and Hazard Materials Division:

14. The applicant shall prepare and submit a hazardous materials /hazardous waste generator management plan for review by the Department all applicable fees paid for all hazardous wastes generated by and for the hazardous materials stored in excess of reportable quantities (55 gallons, 500 pounds or 200 cubic feet).

El Dorado Hills Fire Protection District:

15. The project shall comply with all requirements of the El Dorado Hills Fire Protection District

ATTACHMENT 2 FINDINGS

FILE NUMBER S05-0044

1. The project has been found to be Categorical Exempt from CEQA pursuant to Section 15301(b) of the CEQA Guidelines stating that minor expansion of existing facilities of both investor and publicly-owned utilities used to provide electric power, natural gas, sewerage or other public utility services may occur.
2. The proposed use is consistent with the policies in the El Dorado County General Plan because the applicant has designed the cellular facility in compliance with County regulations, addressing aesthetics, environmental issues and health and safety concerns, as required by the General Plan.

The proposed site currently supports public utility transmission facilities. Nextel Communications proposes these antennas to provide enhanced cellular service within the Latrobe area. The cellular facility would be incidental to the main use of the property when developed. The design of the equipment shelter and fencing and location on the site has been considered, and will blend with the surroundings as best as possible. Therefore, it is found that the project is consistent with the specific, fundamental, and mandatory land use development goals, objectives, and policies of the General Plan, and is consistent with the Development Standards contained within the El Dorado County Zoning Ordinance. It can be found that the project, as conditioned, conforms to the General Plan.

3. The use is found to comply with the requirements of County Code Section 17.14, Wireless Communication Facilities, and the proposed use is not considered detrimental to the public health, safety, and welfare, or injurious to the neighborhood, based on the conclusions contained in the staff report.

This is a new wireless proposal designed as a co-location, which is encouraged by the County. To address maintenance issues, the applicant proposes to have a technician service the wireless facility and equipment approximately once or twice a month to ensure proper performance of the facility. It is found that the use will not conflict with the adjacent uses, and will provide a benefit to the area by improving cellular service. After review of the submitted site plan and visual simulations it has been determined that the proposed project meets the standards contained in Section 17.14.200 F through J of the County Code. The aesthetic impacts associated with the project have been considered. There will be minor discernable visual impact from the addition of the antennas to the top of the existing power transmission tower within the El Dorado Hills Community Region.