

S09-0015/SBA Cellular Telecommunications Facility-Garden Valley – As approved by the Board of Supervisors on June 29, 2010

Findings

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 El Dorado County has considered the Mitigated Negative Declaration together with the comments received during the public review process. The proposed project, as conditioned, will not have a significant effect on the environment. The Mitigated Negative Declaration reflects the independent judgment of the County and has been completed in compliance with CEQA and is adequate for this proposal.
- 1.2 The Planning Commission finds that through feasible conditions and mitigation placed upon the project, impacts on the environment have been eliminated or substantially mitigated.
- 1.3 Public Resources Code Section 21081.6 requires the County to adopt a reporting or monitoring program for the changes to the project which it has adopted or made a condition of approval in order to mitigate or avoid significant effects on the environment. The approved project description and conditions of approval, with the corresponding permit monitoring requirement, is hereby adopted as the monitoring program for this project. The monitoring program is designed to ensure compliance during project implementation.
- 1.4 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-Planning Services at 2850 Fairlane Court, Placerville, CA.

2.0 General Plan Findings

- 2.1 As conditioned, mitigated, and with strict adherence to county Codes, the proposal is consistent with the intent of 2.2.5.2 (review for General Plan consistency), 2.2.5.21 (compatibility with surroundings), 6.2.3.2 (adequate access), 6.5.1.2, 6.5.1.7 (noise), and 7.4.2.9 (biological corridor) because the project would have minimal impacts on visual resources, existing utilities, access, existing emergency response times, and on a biological corridor. There are adequate services to facilitate the site, such as water, power and solid waste. The project provides improved cellular service for phone, as well as internet and emergency communications to the Garden Valley and Coloma areas.

3.0 Zoning Findings

- 3.1 The project is zoned Residential 10-Acre, which allows wireless telecommunication facilities by Special Use Permit, provided they follow standards and permitting

requirements defined in Section 17.14.210 of the County Code. These standards include screening, compliance with setbacks, and proper maintenance.

- 3.2 As proposed and conditioned, the project meets all applicable development standards contained within the El Dorado County Zoning Ordinance because sufficient screening, setbacks and maintenance, have been provided.

4.0 Special Use Permit Findings

- 4.1 **The issuance of the permit is consistent with the General Plan.** The applicant's proposal has been determined to be in compliance with County regulations, addressing environmental issues and health and safety concerns. As discussed above, the proposal is consistent with the applicable General Plan Policies and all potential project-related environmental issues, and the benefits to the community have been evaluated. Therefore, staff finds that the project, as conditioned, conforms to the General Plan. The proposed use is consistent with the policies in the El Dorado County General Plan, as discussed in the General Plan section of this staff report. The proposed use is consistent with all applicable policies including Policy 5.6.1.4 (Special Use Permit required) because the aesthetics of the proposed collocation and related ground equipment have been designed to minimize the effects on adjacent properties. The proposed antennas will be painted to match the existing branches. The proposed ground equipment will be screened from adjacent land uses by existing chain-link fencing with colored slats and native trees and shrubs which will buffer the enclosure from local views.

- 4.2 **The proposed use would not be detrimental to the public health, safety and welfare, or injurious to the neighborhood,** based on the conclusions contained in the staff report. The use will not conflict with the adjacent uses as it will be buffered from view by landscaping and brown slatted chain link fencing. The minimal grading and foundation work will not cause significant environmental impacts. The project will result in insignificant environmental, visual, noise, and traffic impacts to surrounding residents and businesses, based on established thresholds. Further, the new wireless telecommunications facility will provide wireless cellular telecommunication services to the Coloma and Garden Valley communities. After review of the submitted site plan and upon consultations with concerned agencies, it has been determined that the impacts of allowing the construction wireless telecommunications facility, will not have a detrimental affect nor be injurious to the neighborhood. The proposed use would not create hazards that would be considered detrimental to the public health, safety, and welfare, or injurious to the neighborhood based on the data and conclusions contained in the Staff Report. At less than one percent of the public safety standard established by the FCC, the risk of emissions to the public is remote.

- 4.3 **The proposed use is specifically permitted by Special Use Permit.**

Section 17.14.200 (D) (3) of the County Code requires a Special Use Permit for collocation of new antennas on existing non-building structures or public facilities. Section 17.22 outlines the requirements for Special Use Permits and the project and associated materials have been reviewed in accordance with this section. The proposed use complies with the requirements of County Code Sections 17.14.210 (E) through (J)

and 17.36.210 thru 17.36.260. As proposed, the project is consistent with these requirements.

Conditions of Approval

Planning Services

1. This Special Use Permit is based upon and limited to compliance with the project description, the hearing exhibits marked Exhibits A through N, 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 allows the construction and operation of a new wireless telecommunications facility to support cellular transmission consisting of a 100-foot tall monopine tower with four antennas in three sectors (total of 12 antennas), mounted at the 98-foot level, with a 12-foot by 16-foot, 10 feet tall equipment shelter and associated ground support equipment to be located within a 60-foot by 90-foot lease area enclosed by a six-foot tall chain link fence to obscure the view of the ground support equipment. The monopine shall accommodate up to four additional future antenna arrays on the tower and up to four additional future equipment shelters within the lease area, for a maximum of five total carriers or arrays. The equipment shelter subject of this approval will include two wall-mounted HVAC units and one emergency generator. The fencing and tower base shall be buffered by native landscape shrubs and trees with brown slatting installed into the fence. The remainder of the fenced in area for the tower shall be graveled to allow for future development to accommodate additional network's radio equipment. The monopine shall accommodate up to five antenna arrays.

CONDITIONS FROM THE MITIGATED NEGATIVE DELECRATION

The following mitigation measure is required as a means to reduce potential significant environmental effects to a level of insignificance:

2. **NOISE-1:** To avoid having project noise levels exceed the General Plan noise standards, the project's equipment shelter shall be rotated 90 degrees counterclockwise putting the two air conditioners and emergency backup generator on the east side of the equipment shelter, as shown in Figure 4 as shown in the Noise Analysis Report for Verizon Coloma, dated February 25, 2010, and prepared by Kimley-Horn and Associates.

Monitoring Responsibility: Planning Services

Monitoring Requirement: Planning Services shall verify that the air conditioners and emergency generator are placed in the prescribed location prior to issuance of final occupancy for the building permit. A post-construction acoustical analysis shall be provided to Planning Services for review and approval that confirms that the project site meets the General Plan noise standards prior to issuance of final occupancy. In addition, monitoring shall also include measurements of the noise generated from the project at up to 10 homes upon the invitation of the property owner prior to finalizing the permit. A copy of all noise measurements taken shall be provided to Planning Services for noise compliance verification.

Planning Services Site Specific and Standard Conditions

3. Project improvements shall be completed in conformance with the plans submitted and in conformance with the conditions of approval herein and shall substantially comply with Exhibits E1 to F-12. Minor variations are allowed, however, any major changes in the design of buildings, location of buildings, access ways, and parking shall require review and approval by the Planning Services prior to project modifications.
4. Prior to commencement of any use authorized by this permit, the applicant shall provide a written description, together with appropriate documentation, showing conformance of the project with each condition imposed as part of the project approval. The applicant shall also schedule an inspection by Planning Services for verification of compliance with applicable conditions of approval. The operator shall pay Planning Services for the time spent reviewing the site on a time and materials basis. All future development plans shall include this condition on the submitted plans.
5. All equipment shelters, cabinets or other auxiliary structures shall be painted in a matching color. The chain link fence shall be covered entirely by dark green or brown colored plastic or wood slats. Said fence shall not have gaps at any portion where it touches ground level. No antenna shall project out past the “branch” tips. The “branches” shall be installed with random lengths that create an asymmetrical appearance. 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 so that nothing on the tower causes a reflection of light. All improvements associated with the facility, including equipment shelters, towers, antenna, fencing, and landscape 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, said fence conditions and antenna projections within the “branches,” prior to issuance of final occupancy for the building permit.
6. Native landscape shrubs and trees shall be planted around the entire fenced area as shown in Exhibit E-10. All landscaping associated with the wireless telecommunications facility shall be properly maintained and shall be irrigated when necessary to promote and maintain growth. Applicant shall install and maintain landscaping in accordance with the approved landscaping plan in perpetuity or unless otherwise modified through any future permit. Proof that the landscaping has been installed as described shall be received by Planning Services prior to issuance of final occupancy.

7. One exterior emergency light is approved and shall conform to the approved exterior light shown in Exhibit H. The light shall comply with County Code Section 17.14.170, and be fully shielded pursuant to the Illumination Engineering Society of North America's (IESNA) full cut-off designation. The final lighting plan shall be submitted for review and approval by Planning Services with the building permit application and shall be reviewed for conformance with Exhibit H prior to issuance of a building permit. The light shall be activated with motion-sensor or timer.

Should final, installed lighting be non-compliant with full shielding requirements, the applicant shall be responsible for the replacement and/or modification of said lighting to the satisfaction of Planning Services.

8. The applicant shall assume full responsibility for resolving television reception interference or other electrical interference caused by the operation of this facility. The applicant shall take corrective action within 30 days of the receipt of any written complaint.
9. Expansions to the lease area, increases in pole height, or additional antennas mounted on the monopine shall be subject to review and approval by the Development Services Director. Should the Director find that additional lease area, height or antennas may create a significant visual impact, the Director shall decide if the changes can be approved administratively or will be reviewed by the Zoning Administrator or the Planning Commission through an amendment to this Special Use Permit.
10. The applicant shall consent to the co-location of other wireless telecommunication users on their monopine when the increase in pole height would be undesirable. All new collocations, and/or addition of any new piece of equipment that creates noise, shall be subject to the submittal of an acoustical analysis for review and approval by the Development Services Director. Should the Director find that additional noise may create a significant impact; the Director shall decide if the changes can be approved administratively or will be reviewed by the Zoning Administrator or the Planning Commission through an amendment to this Special Use Permit.
11. 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 conditions.
12. 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 present that report to the approving authority with a recommendation 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.

13. The operator (lessee) and property owner (lessor) are responsible for complying with all conditions of approval contained in this Special Use Permit. Any zoning violations concerning the installation, operation, and/or abandonment of the facility are the responsibility of the owner and the operator.
14. The applicant shall make the actual and full payment of Planning Services processing fees for the Special Use Permit application prior to issuance of any County development permit.
15. 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. The procedures set forth in Supplementary Document J, Section VIII, of the California Environmental Quality Act (CEQA) Guidelines concerning treatment of the remains shall be followed. If archaeological sites or artifacts are discovered, the subdivider shall retain an archaeologist to evaluate the resource.

If the resource is determined to be important, as defined in Appendix K of the CEQA Guidelines, mitigation measures, as agreed to by the subdivider, archaeologist, and Planning Services shall be implemented. Treatment of Native American remains and/or archaeological artifacts shall be the responsibility of the subdivider and shall be subject to review and approval by Planning Services.

16. The applicant shall submit to Planning Services a \$50.00 recording fee and a \$2,010.25 Department of Fish and Game fee prior to filing of the Notice of Determination by the County. No permits shall be issued or Certificate of Compliance issued until said fees are paid.
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 Department of Transportation

18. The applicant shall construct the encroachment onto Sagebrush Road per El Dorado County DISM Standard Plan 103B-1. The improvements shall be completed to the satisfaction of DOT or the applicant shall obtain an approved improvement agreement with security, prior to issuance of a building permit.

El Dorado County Air Quality Management District (AQMD)

19. AQMD Rule 223.2, which addresses the regulations and mitigation measures for natural occurring asbestos dust emissions, shall be adhered to during the construction process. Mitigation measures for the control of naturally occurring asbestos dust shall comply with the requirements of Rule 223.2. In addition, an Asbestos Dust Mitigation Plan (ADMP) Application shall be submitted along with the appropriate fees to and approved by the AQMD prior to issuance of any development permit.
20. The project shall pave any road or exposed surface which allows vehicular travel or the application of a minimum of three (3) inches in depth, asbestos free gravel.

El Dorado County Environmental Management-Hazardous Waste Division

21. If the commercial facilities will store reportable quantities of hazardous materials (55 gallons) or generate hazardous waste, prior to commencing operations the owner/operator must:
 - (A) Prepare, submit and implement a hazardous materials business plan and pay appropriate fees.
 - (B) Obtain a hazardous waste generator identification number from the California Department of Toxic Substances Control.
 - (C) Train all employees to properly handle hazardous materials and wastes.
 - (D) Implement proper hazardous materials and hazardous waste storage methods in accordance with the Uniform Fire Code and Uniform Building Code.

Garden Valley Fire Protection District

22. The applicant shall provide a low priority "Knox" padlock on the access gate. Applications for both high and low security "Knox" systems are provided at the District office. Proof of compliance with said condition shall be received by the District prior to issuance of final occupancy of a building permit.
23. Applicant shall provide a high priority "Knox Box" to access the cabinets, (if not already provided), and keys for all cabinets shall be placed within the "Knox Box." Proof of compliance with said condition shall be received by the District prior to issuance of final occupancy of a building permit.

24. The applicant shall install one 2A10BC Fire Extinguisher shall be mounted inside a weather resistant fire extinguisher box within the lease area. Proof of compliance with said condition shall be received by the District prior to issuance of final occupancy of a building permit.
25. Vegetation control shall be required 100 feet in all directions of the fenced enclosure and tower or the property line whichever is closer. Proof of compliance with said condition shall be received by the District prior to issuance of final occupancy of a building permit.
26. The access driveway to the fenced enclosure and turnaround shall be capable of supporting a 75,000 pound load. The District shall review and approve the location and design of the access road and turnaround prior to issuance of a grading permit.

Board of Supervisors

27. The applicant shall pay to any one road maintenance association that is legally formed to maintain Sagebrush Road, the sum of \$10,000 to be used towards improvements or to maintain Sagebrush Road.