

## **FINDINGS**

### **Conditional Use Permit S17-0002/Varney Amateur Radio Station Planning Commission/July 27, 2017**

#### **1.0 CEQA FINDINGS**

- 1.1 The proposed project is Categorical Exempt from the requirements of CEQA pursuant to Section 15303 (New Construction or Conversion of Small Structures). Filing of a Notice of Exemption is required in accordance with CEQA Guidelines Section 15062 to initiate a 35-day statute of limitation on legal challenges to the County's decision on exemption. No significant impacts to the environment as a result of this project were identified in the initial study. A \$50.00 processing fee is required by the County Recorder to file the Notice of Exemption.
- 1.2 The documents and other materials that constitute the record of proceedings upon which this decision is based are in the custody of the Planning and Building Department at 2850 Fairlane Court, Placerville, CA, 95667.

#### **2.0 GENERAL PLAN FINDINGS**

##### **2.1 The project is consistent with General Plan Policy 2.2.1.2.**

According to Policy 2.2.1.2, the Low-Density Residential (LDR) designation establishes areas for single-family residential development in a rural setting. In Rural Regions, this designation shall provide a transition from Community Regions and Rural Centers into the agricultural, timber, and more rural areas of the County and is applied to areas where infrastructure such as arterial roadways, public water, and public sewer are generally not available. The allowable density for this designation is one dwelling unit per 5 acres with parcels ranging from 5 to 10 acres in size. Within Community Regions and Rural Centers, the LDR designation shall remain in effect until a specific project is proposed that applies the appropriate level of analysis and planning and yields the necessary expansion of infrastructure.

Rationale: The project parcel has a LDR General Plan Land Use Designation and is located within the Pilot Hills Rural Center. The site is currently undeveloped. The proposed towers are situated in the northeast corner of the site, allowing for future residential development of the site consistent with the LDR designation. The proposed amateur radio station with antennas would be ancillary to future residential development of the 5.0-acre parcel.

##### **2.2 The project is consistent with General Plan Policy 2.2.5.21.**

General Plan Policy 2.2.5.21 requires that development projects be located and designed in a manner that avoids incompatibility with adjoining land uses.

Rationale: The project parcel is surrounded on the north, east, south and west by low-density residential development and vacant residential lands. Although the project will result in a communication facility, it has been designed to visually blend with the surroundings (Site Plan Exhibits F and H Visual Simulation), will require vehicle trips only for construction and occasional maintenance. The project involves an approximate 12- by 60-foot access driveway, with a 40x80 foot lightly graded area for on-site parking. In addition, the project will provide improved amateur radio telecommunications along the Sarah Burner Court, to rural residential properties in the area. Also, the project will provide communications of last resort in emergencies if cell phones, wireless, internet, and landlines fail. In the event of a severe disaster, the station could be operated onsite with a portable generator.

**2.3 The project is consistent with General Plan Policy 5.2.1.2.**

General Plan Policy 5.2.1.2 requires that adequate quantity and quality of water for all uses, including fire protection, shall be provided for with discretionary development.

Rationale: The proposed project is within an area of very high, high, and moderate fire hazard. The proposed amateur radio station with two 65-foot towers would be located within a very high fire hazard area. The El Dorado County Fire Protection District and Cal Fire were given the opportunity to comment and provide no conditions of approval requiring the need for additional supply for fire protection. The facility will not require the use of potable water or wastewater, as it is an unmanned facility with no proposed landscaping. The project is in compliance with this policy.

**2.4 The project is consistent with General Plan Policy 6.2.3.2.**

Policy 6.2.3.2, Adequate Access for Emergencies, requires that the applicant demonstrate that adequate access exists, or can be provided to ensure that emergency vehicles can access the site and private vehicles can evacuate the area.

Rationale: In compliance with Policy 6.2.3.2, emergency access to the project would utilize a proposed on-site unimproved driveway taking access off of Sarah Burner Court, a gravel surface road. The proposed on-site access would consist of a 12-foot wide, approximately 60-foot long driveway. The site plan was reviewed by the El Dorado County Fire Protection District for compliance with county and fire codes. Therefore, the project is in compliance with the General Plan Policy.

**2.5 The project is consistent with the Important Biological Corridor (-IBC) Overlay.**

Policy 2.2.2, Overlay Land Use Designation, provides additional direction for the development of land where circumstances apply generally to the lands regardless of the underlying land use designations.

Rationale: The project is located within the Important Biological Corridor Overlay (-IBC), which is accepted and incorporated by reference on the land use maps of the adopted General Plan. The project is consistent with the Important Biological Corridor Overlay and is therefore consistent with this General Plan Policy. The project is designed to avoid all impacts to biological features, such as oak woodland. The project's small footprint and lack of fencing will not impede wildlife movement.

**3.0 ZONING FINDINGS**

3.1 The parcel is zoned Residential Estate (RE-5). Communication facilities are allowed in this zone by Administrative Permit or Conditional Use Permit, as indicated in Zoning Ordinance Section 130.24.020 (Matrix of Allowed Uses). A Conditional Use Permit is required due to excess height as outlined in 130.40.130(4)(a), antennas shall not exceed the maximum height for the zone.

**3.2 The project is consistent with Section 130.24.030.**

The project has been analyzed in accordance with Zoning Ordinance Section 130.30 (Development Standards) for building coverage, height limits, and exemption, and building setbacks.

Rationale: The project, as proposed and conditioned, is consistent with the Zoning Ordinance because the project will comply with building setbacks and other applicable design standards for the zone district with the exception of the 45 foot height limit, which is discussed under 3.3 below.

**3.3 The project is consistent with Section 130.30.040.**

All structures and building shall conform to the maximum height requirements established for the zone in which the lot is located, unless a Development Plan or Conditional Use Permit is approved allowing additional height.

Rational: The applicant provided a project narrative that provides an alternative height analysis, identifying the reasoning for selecting two 65-foot towers versus 45-foot towers. The amateur radio bands use long waves that are absorbed by the ground if the antennas are too low. The lowest ideal height is in the 70- to 80-foot range. At 45 feet, the applicant would lose 35 percent of the signal and incremental losses at even shorter heights. The state government code section 65850.3 preempts the county from applying

restrictive height limits that would prevent reasonable accommodation of such amateur radio communication facilities.

**3.4 The project is consistent with Section 130.40.130(B)(6)(b).**

In all other zones, or where located adjacent to the state highway or designated scenic corridor or within 500 feet of any residential zone, new towers or monopoles shall be subject to Commission approval of a Conditional Use Permit.

Rationale: The applicant has submitted an application for a special use permit to be reviewed by and subject to the approval of the Planning Commission.

**3.5 The project is consistent with Section 130.40.130(C-H).**

Section 130.40.130 C-H of the Zoning Ordinance requires that all wireless facilities meet certain criteria. Below is an analysis of these standards:

*C. Visual simulations of the wireless communications facility (including all support facilities ) shall be submitted. A visual simulation can consist of either a physical mock-up of the facility, balloon simulation, computer simulation or other means.*

Rationale: Photo-simulations of the facility are provided in Exhibit H of the Staff Report. These photos demonstrate how the facility will blend with the surrounding area thereby minimizing its visual impacts.

*D. Development Standards: The following provisions shall apply in all zone districts. All facilities shall be conditioned, where applicable, to meet the criteria below:*

*1. Screening. All facilities shall be screened with vegetation or landscaping. Where screening with vegetation is not feasible, the facilities shall be disguised to blend with the surrounding area. The facility shall be painted or constructed with stealth technology to blend with the prevalent architecture, natural features, or vegetation of the site.*

Rationale: The project has been designed to blend in with the natural features and vegetation as directed by Section 130.40.130 of the Zoning Ordinance. The facility outdoor equipment will be painted non-reflective natural colors. The two towers will be of low visual impact. The 65-foot height of the towers is about the same height as nearby trees, which will help obscure the towers from view.

*2. Setbacks. Compliance with the applicable zone setbacks is required. Setback waivers shall be considered to allow flexibility in siting the facility in a location that best reduces the visual impact on the surrounding area and roads, subject to Zoning Administrator approval of a Minor Use permit.*

Rationale: The RE-5 Zone requires a 30-foot front, side, and rear setback from property lines for a structure. The two radio towers are over 93 feet from all property lines. The existing equipment shed is over 70 feet from all property lines. The locations of all structures are therefore consistent with setback standards for the RE-5 Zone (Exhibit F).

3. *Maintenance. All improvements associated with the communication facility, such as equipment shelters, towers, antennas, fencing, and landscaping shall be properly maintained at all times. Design, color, and textural requirements under the approved conditions shall be maintained to ensure a consistent appearance over time.*

Rationale: The owner of the property would visit the site for occasional maintenance, at which time the facility would be inspected to ensure proper operation.

- E. *Radio Frequency (RF) Requirements. Section 130.40.130.E of the County Code requires that the applicant submit a report or summary of the estimates of the non-ionizing radiation generated by the facility and maximum electric and magnetic field strengths in all directions from the facility to the property lines of the facility site, as regulated by the Federal Communication Commission (FCC).*

Rationale: The shortest tower setback from the property line is 93 feet. The estimated RF power density at this distance is 0.101 mW/cm<sup>2</sup>, well below the FCC recommended human exposure limit of 0.235 mW/cm<sup>2</sup> (at 28mHz).

- F. *Availability. All existing communication facilities shall be available to other carriers as long as structural or technological obstacles do not exist.*

Rationale: The radio towers are not designed for co-location purposes, it will not serve as a suitable co-location site for most wireless telecommunication facilities. Planning staff is not conditioning the steel lattice towers to allow for co-location due to the design of the towers. If in the future a wireless telecommunication facility would like to locate on the property, a Conditional Use Permit will be required and approved by the Planning Commission.

- G. *Unused Facilities. 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 the Department at the time of abandonment. All site disturbance related to the facility shall be restored to its pre-project condition.*

Rationale: The project has been conditioned to comply with this requirement (Condition 6).

*H. Permit Application Requirements. In order to protect the visual character of established neighborhoods and to protect school children from safety hazards that may result from a potentially attractive nuisance, in addition to the noticing requirements of Article 5, the following notification shall occur:*

- 1. School District Notification. If the proposed wireless facility is located within 1,000 feet of a school, the appropriate school district shall be notified during the initial consultation.*
- 2. Homeowners Association Notification. For facilities proposed to be located on residentially-zoned land, the applicant shall identify any homeowners association which might govern the property and homeowners associations that are adjacent to the property. Any that are identified shall be notified during the initial consultation.*

Rationale: There are no schools within 1,000 feet of the site or subdivisions governed by CC&Rs. The project site is not governed by a Homeowner's Association.

#### **4.0 CONDITIONAL USE PERMIT FINDINGS**

##### **4.1 The issuance of the permit is consistent with the General Plan.**

Rationale: As discussed above in Section 2.0 General Plan Findings, the special use permit is consistent with the applicable policies and requirements in the El Dorado County General Plan.

##### **4.2 The proposed use would not be detrimental to the public health, safety and welfare, or injurious to the neighborhood.**

Rationale: At 0.101 mW/cm<sup>2</sup>, the radio stations RF exposure is well below the FCC recommended human exposure limit of 0.235 mW/cm<sup>2</sup> (at 28 MHz). The risk of RF emissions to the surrounding public is remote. The use will not significantly conflict with surrounding uses. The facility will be only slightly visible, and the lattice antennas will be concealed behind oak tree canopy. As discussed in Sections 2.0 and 3.0 above, the project is consistent with applicable General Plan Policies and conforms to the requirements of the County Zoning Ordinance. As designed and conditioned, the project is not anticipated to result in significant environmental, visual, or noise impacts to the surrounding residents.

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

Rationale: As discussed in Section 3.4 above, the proposed use is specifically permitted in accordance with Zoning Ordinance Section 130.40.130(B)(6)(b) subject to approval of a conditional use permit by the Planning Commission. The applicant has submitted an application for a conditional use permit to be reviewed by and subject to the approval of the Planning Commission.