



COUNTY OF EL DORADO PLANNING COMMISSION

Building C Hearing Room
2850 Fairlane Court, Placerville, CA 95667
<http://www.edc.gov.us/planning>
Phone: (530) 621-5355 Fax: (530) 642-0508

Rich Stewart, First Vice-Chair, District 1
Gary Miller, District 2
Tom Heflin, District 3
Vacant, District 4
Vacant, District 5

Char Tim Clerk of the Planning Commission

DRAFT MINUTES

Regular Meeting January 22, 2015 – 8:30 A.M.

[Clerk's Note: The recorder was not working in the beginning of the meeting. It started recording during the Public Forum/Public Comment section which occurred at approximately 9:08 a.m.]

CALL TO ORDER

Meeting was called to order at 8:30 a.m. Present: Commissioners Stewart, Miller, and Heflin; David Livingston-County Counsel; and Char Tim-Clerk of the Planning Commission.

ADOPTION OF AGENDA

Chair Stewart announced that the Commission would be recessing into Closed Session immediately following the adoption of the agenda.

Lori London stated that she had submitted a written request to the Commission to have Item #7 be heard early in the meeting as she had court hearings to attend in South Lake Tahoe that afternoon. Ms. London also said that at the December 11, 2014 meeting, the Commission had directed staff to return today with Findings for Denial for Item #7 but instead there was a request for a continuance.

Lou Parrino said that there were many South Lake Tahoe residents in the audience and requested that the item be moved up the agenda. He also requested that South Lake Tahoe items be heard in South Lake Tahoe.

Chair Stewart closed public comment.

Motion: Commissioner Heflin moved, seconded by Commissioner Miller, and carried (3-0), to approve the agenda as amended: (a) Recess into Closed Session immediately following the adoption of the agenda; and (b) Move Item #7 to the first agenda item.

AYES: Miller, Heflin, Stewart
NOES: None

PLEDGE OF ALLEGIANCE

CONSENT CALENDAR (All items on the Consent Calendar are to be approved by one motion unless a Commission member requests separate action on a specific item.)

Motion: Commissioner Stewart moved, seconded by Commissioner Heflin, and carried (3-0), to continue Item #1 to the next Planning Commission meeting and approve the remaining items on the Consent Calendar.

AYES: Miller, Heflin, Stewart
NOES: None

1. 15-0039 Clerk of the Planning Commission recommending the Commission approve the MINUTES of the regular meeting of December 11, 2014.

Item was Continued to the February 26, 2015 meeting.

2. 15-0040 Chief Administrative Office, Parks Division, submitting request to consider the transfer of 16 weekend and 16 weekday user days from River Use Permit #13 to River Use Permit #19; and staff recommending the Planning Commission take the following actions:

1) Approve the transfer of 16 weekend and 16 weekday user days from River Use Permit #13 held by Don Koolmees, president of Koolriver Adventure Tours, Inc. dba Whitewater Connection to River Use Permit #19 held by Deric Rothe, president of Sierra Whitewater, Inc.

This was Approved on Consent Calendar.

3. 15-0042 Hearing to consider a request for a five-year review of an existing cellular telecommunication facility [Special Use Permit S07-0024-R/Union Mine Tower]** on property identified by Assessor's Parcel Number 092-152-04, consisting of 0.23 acre, in the El Dorado area, submitted by Verizon Wireless; and staff recommending the Planning Commission take the following actions:

1) Find the project exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines;
2) Find that the five-year review of the telecommunication facility demonstrates the cell tower facility is in conformance with the Conditions of Approval for S07-0024; and
3) Approve the modifications to the Conditions of Approval for S07-0024-R, based on the Findings and subject to the Conditions of Approval as presented.
(Supervisory District 2)

This was Approved on Consent Calendar.

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 Staff has determined that, pursuant to CEQA Guidelines Section 15061(b)(3), that this action is covered by the general rule that CEQA applies only to projects which have the potential for causing 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 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 and is therefore not subject to CEQA.
- 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.

2.0 ADMINISTRATIVE FINDINGS

- 2.1 All conditions of approval have been met and the use of the telecommunications facility is in compliance.

Conditions of Approval

Development Services Division-Planning Services-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. 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:

Construction and operation of a new Verizon wireless communications facility to include a 110-foot self-supporting lattice tower with 12 panel antennas at the 100-foot level. Also, related ground equipment including a 360 square-foot equipment shelter, a back-up emergency diesel generator, and two Global Positioning System (GPS) antenna are to be located within a 1,750 square-foot lease area. A 30-foot long six-foot wide utility

easement is provided from the western property line to the lease area. The facility is enclosed by a six-foot tall chain link fence with barbed wire atop. The self-supporting lattice tower replaces a 90-foot guyed lattice tower which currently supports emergency agency antennas and is located in the lease area. The existing tower and all guyed wires shall be removed within 60 days of new tower operation. All existing emergency agency antennas will be replaced on the new tower at the same heights.

The 1,750 square-foot lease area will be accessed from an existing paved access off of Quartz Drive and a 15-foot access easement. A 12-foot entrance is secured with a 12-foot access gate. Fencing will enclose approximately 64 percent (1,120 square-feet) of the lease area. The project will require no significant grading. The area directly under the tower, the equipment shelter, and the back-up generator will be developed with 12 Verizon Wireless cell block foundation sections (7' x 7' each) resulting in 588 square-feet of paved area. The remainder of the fenced area for the tower and support equipment will utilize existing lawn.

The facility will be maintained by a technician who will visit the site approximately twice a month to perform any necessary maintenance which may be required. The back-up emergency generator will be utilized in response to power outages or disaster. The generator will be operated for approximately 30 minutes per week for testing and during any outage or disaster.

2. All site improvements shall conform to the site plan and elevations attached as Exhibits G, H, and I.
3. The self-supporting lattice tower shall be painted a flat grey color. All equipment shelters, cabinets or other auxiliary structures shall be painted a flat tan color. The chain link fence shall be covered entirely by tan colored slats to further screen the facility. Said fence shall not have gaps at any portion where it touches ground level and shall have barbed wire attached to the entire top portion. Planning Services shall verify the painting of the structures and the installation of fencing and slats prior to final inspection and approval of the facility.
4. Development Services Division-Planning Services ~~Planning Services~~ shall require landscaping to be installed along the wireless communications facility perimeter fencing. Landscaping shall be sufficient to further screen the facility and the perimeter fencing from adjacent land uses. The required landscaping plan shall be developed and reviewed by Planning Services staff prior to issuance of the building permit. The operator or property owner shall contact Planning Services to verify the installation and/or maintenance of required landscaping 3 years after installation or after landscaping has sufficiently screened the fenced area.
5. Lighting shall only be used for night-time maintenance. A security light may be permitted; however, it shall operate by a motion sensor only and be fully-shielded.

6. For collocation 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 carriers installs no more than 12 panel antennas per carrier on the tower and the overall height of the tower shall not be increased by more than 15 feet.
7. All improvements associated with the communication facility, including equipment shelters, antennae, fencings, and landscaping be properly maintained at all times. Planning Services requires that that all colors of the equipment enclosure and other improvements visible to the public shall be maintained to ensure the appearance remains consistent.
8. Weekly testing of the proposed diesel generator shall be conducted during normal business hours, Monday through Friday between the hours of 8:00 a.m. and 5:00 p.m.
9. 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.
10. All obsolete or unused communication facilities shall be removed by the applicant 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.
11. Due to the ever-changing technology of wireless communication systems, this Special Use Permit shall be reviewed by the County Development Services Division every five years. At each five-year review, the permit holder shall provide the County Development Services Division with a status report on the then current use of the subject site and related equipment. The County Development Services Division shall review the status and determine whether to:

Allow the facility to continue to operate under all applicable conditions; or

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 the 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.

~~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 report and present that report to the Planning Commission with a recommendation whether to:~~

~~(1) Allow the facility to continue to operate under all applicable conditions; or~~

~~(2) 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 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 Development Services Director or his designee to cover the cost of processing a five year review.~~

12. 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.
13. Prior to final inspection, 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.
14. 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.

El Dorado County Environmental Management Division

15. Under the Certified Unified Program Agency (CUPA) programs, if the operation, at any time, will involve the storage of reportable quantities of hazardous materials for backup power generation, a hazardous materials business plan for the site must be submitted to the Department and applicable fees paid.
16. The District Mitigation measures for the control of fugitive dust shall comply with the requirements of Rule 223, 223.1, and 223.2, whichever rule is appropriate. In addition, a Fugitive Dust Plan (FDP) Application shall be submitted to and approved by the District prior to the start of project construction. These conditions are addressed during the building permit process.

Diamond Springs-El Dorado Fire Protection District

17. Knox Box shall be installed per District Requirements. Additional requirements may be necessary once a full set of plans are submitted to the district for review. These conditions are addressed during the building permit process.

END OF CONSENT CALENDAR

DEPARTMENTAL REPORTS AND COMMUNICATIONS – None
(Development Services, Transportation, County Counsel)

COMMISSIONERS' REPORTS – None

PUBLIC FORUM/PUBLIC COMMENT – None

AGENDA ITEMS

4. **13-0821** One-year review of the Rescue Community Center Remote Control Car Race Track project [Special Use Permit S11-0007] as specified in Condition 19 of the approved Conditions of Approval on property identified by Assessor's Parcel Number 069-160-16, consisting of 4.012 acres, in the Rescue; and staff recommending the Planning Commission take the following action:
 - 1) Find that the Rescue Community Center race track is substantially consistent with Conditions of Approval for S11-0007.
(Supervisory District 4)

Aaron Mount presented the item to the Commission with a recommendation for approval. He stated that no complaints had been received and that he contacted the main opponent of the project, who indicated that not a lot of activity had occurred at the site during the review period.

Seth Griffin, applicant, made the following comments:

- Has had several successful events this past year;
- Spoke on fencing and discussed options in order to decrease costs on this requirement; and
- Spoke on attendance at the three events held and the noise level testing with two speaker systems.

Commissioner Heflin was sympathetic of the cost for the fence but stated that this was a security issue that had been discussed at length at multiple meetings when this project was being considered. He indicated that the proposed new option for the fence did not address the height issue and the Commission had wanted a 6 foot fence in order to deter people from accessing the track after hours.

Chair Stewart spoke on the Noise Ordinance and encouraged the applicant stay in compliance.

Dave Palm made the following comments:

- Lives directly behind the Community Center;
- The review was to occur after one full year of racing, which did not happen and requested that another one year review period be added;
- There had been a couple of incidents where nitro racers were at the track and he followed the procedures as instructed by the Community Center staff;
- Voiced concern that as the track is used more, the number of people accessing it will increase;
- The events that occurred were never at full capacity; and
- Applicants have been very open and cooperative.

Chair Stewart closed public comment.

County Counsel David Livingston stated that compliance with the Conditions of Approval is required at all times. However, it is within the Commission's authority to direct the applicants to return for another review. It was their choice on how much monitoring they chose to do.

Commissioner Miller suggested another review period.

Commissioner Heflin was not opposed to another review period as there was a lot more potential for events but stated that the Commission could have a hearing if there was a violation of the Special Use Permit.

Chair Stewart stated he was leaning towards finding the project consistent with the Conditions of Approval unless a specific condition needed to be changed.

There was no further discussion.

Motion: Commissioner Miller moved, seconded by Commissioner Stewart, and carried (3-0), to find that the Rescue Community Center race track is substantially consistent with Conditions of Approval for S11-0007.

AYES: Heflin, Miller, Stewart
NOES: None

5. 15-0044 Hearing to consider a request to allow nine events with up to 150 attendees and wine tasting at an existing winery [Special Use Permit Revision S08-0012-R/Rancho Olivo Vineyards]** on property identified by Assessor's Parcel Number 109-090-07, consisting of 21 acres, in the Cameron Park area, submitted by Nello and Danica Olivo; and staff recommending the Planning Commission take the following actions:

- 1) Find that the project is Categorical Exempt pursuant to CEQA Sections 15301 and 15303; and
- 2) Approve Special Use Permit Revision S08-0012-R based on the Findings and subject to the Conditions of Approval as presented.
(Supervisorial District 2)

Commissioner Miller recused himself due to the location of his personal property to the project.

Chair Stewart announced that they had no quorum for this project and would be continuing it to the February 26, 2015 meeting.

6. 15-0045 Hearing to consider a request to allow the construction and operation of a wireless telecommunication facility [Special Use Permit S14-0007/Verizon Wireless Telecommunications Facility-Missouri Flat]* on property identified by Assessor's Parcel Number 327-213-34, consisting of 12.42 acres, in the Diamond Springs area, submitted by Verizon Wireless; and staff recommending the Planning Commission take the following actions:

- 1) Adopt the Mitigated Negative Declaration based on the Initial Study prepared by staff; and
- 2) Approve Special Use Permit S14-0007 based on the Findings and subject to the Conditions of Approval as presented.
(Supervisorial District 3)

Mel Pabalinas presented the item to the Commission with a recommendation for approval. He identified a typo in the first paragraph on page 5 of the Staff Report that should indicate the location at the northeast corner instead of northwest. Mr. Pabalinas also clarified the required distance from the facility to the school.

Mark Lobaugh, applicant's agent, made the following comments:

- Staff had requested that an oak tree be used for the tower, which, although is a first for them in this County, they will do their best to work with staff to ensure it blends in;
- A lot of time and effort had been done in the siting of this facility and it is located in a thick vegetation area;
- The fence materials used will blend in with the environment;
- They will be improving the existing road;
- They responded to the school district's inquiries;
- Hired an independent outside consultant to conduct a radio frequencies analysis;
- The enclosure is a pre-cast concrete structure and would be painted a mottled-looking brown, with only down-tilted security lighting;
- Spoke on coverage vs capacity and that this project would primarily address capacity; and
- This was also an off-loading issue for the network in that area and this site is in need of additional capacity.

Carol Nordquist made the following comments:

- Spoke on submitted written public comment which identified numerous concerns related to home value, school, senior facility, and not identifying a less intrusive alternative location;
- Long-term health issues from cell towers are not available yet;
- Lived there 42 years and is concerned about the home value;
- Inquired on the need for another cell tower;
- Questioned who monitors the cell tower;
- Spoke on the 1996 Telecom Act and questioned why are we following an Act that is 18 years old without doing any further studies; and
- Requested denial of the project.

John Nordquist requested to see the applicant's responses to the submitted questions and other studies and would like them to be converted so a "lay person" could understand.

Chair Stewart closed public comment.

Mr. Pabalinas informed the Commission that the response to comments were forwarded via email to Mr. Nordquist last week.

Mr. Lobaugh notified the Commission that they had their consultant, Waterford Consultants, in the audience to educate everyone on radio frequencies if so desired by the Commission.

County Counsel David Livingston made the following comments:

- Telecom Act makes it very clear that the Commission can't regulate the location of a cell tower based on the RF emissions;
- The Commission has the authority to regulate based on noise and land use compatibility; and
- Spoke on the County ordinance code regarding co-location of cell towers.

The Commission invited the applicant's consultant to provide a presentation on radio frequencies.

Ian Maxwell from Waterford Consultants, applicant's consultant, conducted a PowerPoint presentation on the radio frequency emissions on the proposed cell tower site.

Chair Stewart re-opened public comment on the presentation.

Carol Nordquist made the following comments:

- There is a German study that is the exact opposite of what was just presented;
- Presentation was helpful and should have been presented to the public;
- Need to find studies showing results after 10-20 years; and
- Location of this tower is a concern for her.

John Nordquist stated that the presentation's information would be helpful to the school. He also said that he would like the opportunity to have more information so they could be more knowledgeable on this project.

Commissioners Heflin and Stewart expressed interest in learning more about the co-location issue as it was not addressed. Mr. Lobaugh responded that analysis of co-locating on existing towers is a normal process conducted by Verizon but since it was not required by the County to submit anything in writing on this, he would need time to present a written document if so desired. He also spoke on the issue of dropped calls on Missouri Flat Road, which is what this cell tower would help resolve since it is primarily a capacity issue.

Lillian MacLeod also explained that the process would be different if the applicants were proposing to expand an existing cell tower.

There was no further discussion.

Motion: Commissioner Miller moved, seconded by Commissioner Heflin, and carried (3-0), to take the following actions: 1) Adopt the Mitigated Negative Declaration based on the Initial Study prepared by staff; and 2) Approve Special Use Permit S14-0007 based on the Findings and subject to the Conditions of Approval as presented.

AYES: Heflin, Miller, Stewart

NOES: None

This action can be appealed to the Board of Supervisors within 10 working days.

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 Mitigated Negative Declaration reflects the independent judgment of the County and has been completed in compliance with CEQA and is adequate for this project.
- 1.2 No significant impacts (with implementation of mitigation measure) to the environment as a result of this project were identified in the initial study.
- 1.3 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.

2.0 GENERAL PLAN FINDINGS

- 2.1 The wireless telecommunication facility shall blend with the existing vegetation in the area and would have minimal impacts on visual resources, existing utilities, existing emergency response access, and will not create noise at significant levels.
- 2.2 There are adequate power and telecommunication infrastructures available to serve the facility. The wireless telecommunication facility shall provide improved cellular service for cellular phones in an otherwise deficient area.
- 2.3 The facility will be adequately accessed of an existing graveled driveway surface off Missouri Flat Road.
- 2.4 Operation of the facility will have noise levels anticipated to comply with the County's standards listed in Table 6-2 in the General Plan that limit acoustical noise emission levels.
- 2.5 Site development would require the preservation and removal of oak trees, in accordance with General Plan Policy 7.4.4.4 and the Interim Interpretive Guideline of the policy. According to the submitted *Revised Tree Survey, Preservation, and Replacement Plan for the Missouri Flat Verizon Site* dated November 5, 2014, the project would preserve a total of 6.71 acre of canopy and remove 0.02 acre of canopy, which would be adequately mitigated through on-site replanting.

3.0 ZONING FINDINGS

- 3.1 The project site is zoned Commercial/One-Acre Residential-Design Control which allows wireless communication facilities under Section 130.14.210(D)(5a), subject to the standards and permitting requirements under Section 130.14.210 of the Zoning Ordinance. These standards, which include screening, compliance with setbacks, and proper maintenance, have been met adequately.

3.2 As proposed and conditioned, the project meets all applicable development standards contained within the El Dorado County Zoning Ordinance including screening, setbacks, and maintenance.

4.0 SPECIAL USE PERMIT FINDINGS

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

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.

The use will not significantly conflict with the adjacent uses as the ground-support equipment will be buffered from view by a six-foot tall chain link fence and the mono-oak antennas will blend with the surrounding vegetation. As conditioned, the project is anticipated to result in insignificant environmental, visual, and noise impacts to surrounding residents. The proposed use is not anticipated to 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.

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

The proposed use complies with the applicable requirements of the Zoning Ordinance including Sections 130.14.210(D)(5a), 130.14.210.E through J (Facility requirements/analysis), and 130.32.040 (minimum yard setbacks for C-Zone District).

Conditions of Approval

Planning Services

1. This Special Use Permit is based upon and limited to compliance with the project description, the following hearing exhibits, and conditions of approval set forth below:

- Exhibit F.....Site Plan
- Exhibit G.....Elevation Plan
- Exhibit H.....Equipment Shelter and Generator
- Exhibit IPreliminary Grading Plan
- Exhibit JRevised Tree Survey, Preservation and Replacement Plan for the Missouri Flat Verizon Site; November 5, 2014
- Exhibit K.....Photosimulations

Exhibit LRadio Frequency Report; June 30, 2014
Exhibit MProject Narrative

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.

Approval of the Special Use Permit allows the construction and operation of a wireless communications facility to support cellular transmission, within the existing 12.42-acre parcel identified by Assessor's Parcel Number 327-213-34, and consisting of the following:

Special Use Permit to allow the construction and operation of a wireless telecommunication facility consisting of a 75-foot tall mono-oak with six panel antennas, equipment shelter, and related ground equipment within a 30 foot x 40 foot lease area.

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 must be submitted for review and approval and shall be implemented as approved by the County.

Development Services Division-Planning Services

The following are mitigation measures from the Initial Study/Mitigated Negative Declaration.

2. **MM BIO-1: Pre-Construction Survey.** Prior to the initiation of ground-disturbing construction activities a qualified biologist shall conduct a survey for Brandegees's clarkia during the bloom period (May-July). If construction will begin during the nesting season (February 1-September 1), a qualified biologist shall conduct a survey for nesting birds on and immediately surrounding the construction area, as access allows, no more than 30 days prior to the start of construction. The results of the pre-construction surveys, and any recommended avoidance and impact minimization measures, shall be reported to the County. If any non-listed special-status species or active nest is found on or adjacent to the project site, avoidance and impact minimization measures should be implemented as recommended by the project biologist. If a listed species is found on or adjacent to the project site, the County and appropriate regulatory agencies should be consulted for avoidance and mitigation measures.

This measure shall be added as note on all construction plans.

Monitoring Responsibility: Planning Services

Monitoring Requirement: A survey shall be submitted for review and verification by Planning Services prior to initiation of construction activities.

3. **Oak Tree Canopy Replacement:** The project will remove a total of 875 square feet (0.02 acre) of oak canopy. The applicant shall plant, maintain and monitor the required replacement of oak canopy as described in the *Revised Tree Survey, Preservation and Replacement Plan for the Missouri Flat Verizon Site* in Exhibit J and in accordance with General Plan Policy 7.4.4.4 Option A and Interim Interpretive Guideline to General Plan Policy 7.4.4.4 (Option A). The applicant shall supply Planning Services with proof that the planting has occurred prior to building permit final. Prior to issuance of final occupancy permit, an oak tree maintenance and monitoring agreement shall be secured for the long-term maintenance and preservation of these replanted trees, in accordance with the Interim Interpretive Guideline.
4. **Oak Tree Canopy Preservation:** The applicant shall incorporate into the grading permit plan and implement all tree preservation and protection measures detailed in the *Revised Tree Survey, Preservation, and Replacement Plan for the Missouri Flat Verizon Site* (dated November 5, 2014).
5. **Expiration:** Pursuant to Zoning Ordinance Section 130.22.250, implementation of the project must occur within twenty-four months of approval of this 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 conditions of approval.
6. **Conditions Compliance:** Prior to issuance of a building permit or 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 and verification of compliance with applicable Conditions of Approval by Planning Services prior to final occupancy.
7. **Co-location:** The applicant shall consent to the co-location of other wireless telecommunication communication users on this mono-oak when feasible and without an increase in the height of the mono-oak, and/or antennas. All new collocations, and/or addition of any new piece of equipment that creates noise, shall be subject to the submittal of equipment noise specification report, and/or a full site acoustical analysis, as determined by Planning Services, for review and approval by Development Services Division Directors if generators, air conditioners or any other noise making equipment are included in the project proposal. Should the Director find that additional noise may create a significant impact; the Director shall decide if the changes can be approved administratively through the building permit process or will be reviewed by the Zoning Administrator or the Planning Commission through an amendment to this Special Use Permit.

8. **Facility Appearance and Maintenance:** All equipment shelters, cabinets or other auxiliary structures for all carriers shall be painted with substantially consistent colors to meet the screening requirements of Section 130.14.210.F. All facility RF antennas shall be painted with non-reflective paint and maintained to match the color of the branch needles. All antennas shall be covered with antenna socks that shall match the color and texture of the branch needles. The “branches” shall be installed with random lengths that create an asymmetrical appearance conforming to the shape of a natural pine tree. The branches shall resemble the surrounding trees.

The fenced enclosure shall contain brown slats and shall not have gaps at any portion where it touches ground level. No antenna shall project out past the “branch” tips. Colors of the mono-oak, facade, antennas, and other appurtenances shall be maintained to ensure the appearance remains consistent and so that nothing on the mono-oak causes a reflection of light. All improvements associated with the facility, including equipment shelters, mono-oak, antenna, fencing, and landscape shall be properly maintained in good visual repair at all times. The applicants shall provide proof to Planning Services that the painting of the structures and antennas, are painted as conditioned prior to final approval for the Building Permit.

9. **Obsolete Equipment:** 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.
10. **Responsibility for Interference:** 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.
11. **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 Division every five years. At each five-year review, the permit holder shall provide the Development Services Division 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.

12. **Compliance Responsibility:** 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.
13. **Archeological Resources:** The following shall be incorporated as a note on the grading/improvement plans:

In the event archeological resources are discovered during grading and construction activities, the applicant shall ensure that all such activities cease within 50 feet of the discovery until an archaeologist can examine the find in place. If the find is determined to be a “unique archeological resource”, contingency funding and a time allotment sufficient to allow recovering an archeological sample or to employ one of the avoidance measures may be required under the provisions set forth in Section 21083.2 of the Public Resources Code. Construction work could continue on other parts of the project site while archeological mitigation takes place.

If the find is determined to be a “unique archeological resource”, the archaeologist shall determine the proper method(s) for handling the resource or item in accordance with Section 21083.2(b-k). Any additional costs as a result of complying with this section shall be borne by the project applicant. Grading and construction activities may resume after appropriate measures are taken or the site is determined a “nonunique archeological resource”.

Planning Services shall verify the inclusion of this notation on the grading plans prior to the issuance of a grading permit.

14. **Human Remains:** The following shall be incorporated as a note on the grading/improvement plans:

In the event of the discovery of human remains, all work shall cease and the County Coroner shall be immediately notified pursuant to subdivision (c) of Section 7050.5 of the Health and Safety Code and Section 5097.98 of the Public Resources Code. The coroner shall make his or her determination within two working days from the time the person responsible for the excavation, or his or her authorized representative, notifies the coroner of the discovery or recognition of the human remains. If the Coroner determines that the remains are not subject to his or her authority and if the Coroner recognizes the human remains to be those of a Native American, or has reason to believe that they are those of a Native American, he or she shall contact, by telephone within 24 hours, the Native American Heritage Commission.

Upon the discovery of the Native American remains, the landowner shall ensure that the immediate vicinity, according to generally accepted cultural or archaeological standards or practices, where the Native American human remains are located, is not damaged or disturbed by further development activity until the landowner has discussed and conferred, as prescribed in Section 5097.98 of the Public Resources Code, with the most likely descendants regarding their recommendations. The descendants shall complete their inspection and make their recommendation within 48 hours of their notification by the Native American Heritage Commission. The recommendation may include the scientific removal and nondestructive analysis of human remains and items associated with Native American burials or other proper method(s) for handling the remains in accordance with Section 5097.98(b-h). Any additional costs as a result of complying with this section shall be borne by the project applicant. Grading and construction activities may resume after appropriate measures are taken.

Planning Services shall verify the inclusion of this notation on the grading plans prior to the issuance of a grading permit.

15. **Generator Maintenance:** Any routine maintenance that requires running the generator or automatic cycling of the generator shall be performed between the hours of 9 a.m. and 3 p.m. Monday through Friday.
16. **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.

Diamond Springs-El Dorado Fire Department

17. **Community Facilities District Fees:** Prior to issuance of a building permit, the applicant shall remit payment of service fee in accordance with the established Community Facilities District for the Diamond Springs/El Dorado Fire Protection District.
18. **Roadway/Access Requirements:** Prior to issuance of a building permit, the applicant shall submit project plans that conforms to standard road requirements under the California Code of Regulations Title 24 Part 9 (California Fire Code) including Sections 503.2.3 (Surface), 503.2.4 (Turning Radius), 503.2.5 (Dead Ends), 503.2.7 (Grade), and 503.4 (Obstruction of Fire Apparatus Access Roads).

19. **Premises Identification:** Prior to issuance of a building permit, the applicant shall submit plans that conforms to the following California Fire Code regulating Site Addressing: Section 505.1 (Address Identification) and 505.2 (Street and Road Signs).
20. **Fire Protection Water Supply:** Prior to issuance of a building permit, the applicant shall submit plans that conforms to the following California Fire Code regulating Fire Protection Water Supply: Sections 507.1 (Required Water Supply), 507.2 (Type of Water Supply), 507.5 (Fire Hydrant Systems or alternative approved suppression method).
21. **Knox Box:** Prior to issuance of building a permit, the applicant shall submit plans that conform to Section 506.1 (Locks and Key Box Maintenance) of California Fire Code.
22. **Fire Protection System:** Prior to issuance of a building permit, the applicant shall submit plans that conform to the California Fire Code 901.4 regulating Fire Protection System.

Environmental Management-Solid Waste and Hazardous Materials Division

23. **Hazardous Materials:** Under the CUPA programs, because the operation will involve the storage of reportable quantities of hazardous materials (55 gallons, 500 lbs, 200 cubic feet) for backup power generation, a hazardous materials business plan for the site shall be submitted to the Environmental Management Department and applicable fees paid.

Air Quality Management District

24. **Painting/Coating:** The project construction may involve the application of architectural coating, which shall adhere to AQMD Rule 215 Architectural Coatings.
25. **Construction Emissions:** During construction, all self-propelled diesel-fueled engines greater than 25 horsepower shall be in compliance with the California Air Resources Board (ARB) Regulation for In-Use Off-Road Diesel Fueled Fleets (§ 2449 et al, title 13, article 4.8, chapter 9, California Code of Regulations (CCR)). The full text of the regulation can be found at ARB's website here: <http://www.arb.ca.gov/msprog/ordiesel/ordiesel.htm>. An applicability flow chart can be found here: http://www.arb.ca.gov/msprog/ordiesel/faq/applicability_flow_chart.pdf. Questions on applicability should be directed to ARB at 1-866-634-3735. ARB is responsible for enforcement of this regulation.
26. **New Point Source:** Prior to construction/installation of any new point source emissions units (i.e., gasoline dispensing facility, emergency standby engine, etc.), Authority to Construct applications shall be submitted to the AQMD. Submittal of applications shall include facility diagram(s), equipment specifications and emission factors. (Rule 501 and 523).
27. **Portable Equipment:** All portable combustion engine equipment with a rating of 50 horsepower or greater shall be under permit from the California Air Resources Board (CARB). A copy of the current portable equipment permit shall be with said equipment.

The applicant shall provide a complete list of heavy-duty diesel-fueled equipment to be used on this project, which includes the make, model, year of equipment, daily hours of operations of each piece of equipment.

7. 14-1588 Development Services Division, Planning Services recommending the AT&T Cell Tower Skyline Drive project [S14-0009] be continued to the February 26, 2015 hearing to allow staff time to review revised site plans showing the re-design of the equipment shelter, relocation of the tower to avoid trees, removal of the HVAC units, and submittal of a detailed alternative site analysis based on the concerns expressed by the Planning Commission on December 11, 2014. The Planning Commission directed staff to return with Findings for Denial, but the new information and revised plans submitted by the applicant requires additional Planning Commission consideration.
(Supervisory District 5) (Cont. 12-11-14, Item 3)

Joe Prutch stated that the Commission had conceptually denied the project on December 11, 2014 and directed staff to return on January 22, 2015 with Findings for Denial. On January 7, 2015, the applicant requested a continuance to allow time to provide submittal and analysis for an alternative site. On January 14, 2015, the applicant submitted a multi-site alternative. Staff is now requesting a continuance to allow time for staff analysis and public review.

Chris Hatch, applicant's agent, explained that it was determined that they could meet all of the requests made by the Commission at the last hearing. This alternative is the least intrusive and requested the Commission review the alternative site.

Lori London made the following comments:

- Stated that a Fait Accompli had happened;
- What the Commission directed staff to place on today's agenda did not occur;
- Even if decided not to continue this item, since no Findings of Denial were presented, there is no choice but to continue it;
- The procedural rules were not followed;
- Voiced concern on the continuance request as the applicants have a "shot clock" and questioned if this could be continually continued;
- Since this was denied without prejudice, questioned why it wasn't being moved forward;
- Site alternative analysis was done by someone connected with AT&T and would request that an independent consultant review the alternative site;
- Option to use existing tower was discussed by the Commission but was not explored;
- Request that future meetings on this item be held in South Lake Tahoe as many residents would like to attend;
- Invited the Commission to conduct a site visit;
- The Commission needs to do what is right for the residents of El Dorado County; and
- This is a manipulation of the process.

Lou Parrino made the following comments:

- Questioned why the Findings of Denial were not on the agenda;
- Spoke on the City of South Lake Tahoe letter regarding no contact from AT&T on the proposed tower as there are two towers in that area already;
- Researched the signatory on the site analysis and couldn't find his qualifications;
- Neighborhood is completely opposed to this project;
- Request that the Commission deny the continuance request and allow the applicant to appeal to the Board of Supervisors; and
- Wanted to ensure that his email correspondence with Joe Prutch be included in the file.

Richard Ganske made the following comments:

- Lives directly across the street from the proposed site;
- If tower is relocated outside of the trees, then it puts it closer to homes;
- Tower will be close to school children;
- This is a residential neighborhood and they should have some say in projects;
- Neighbors are upset with this project;
- Wants to know who AT&T approached because he can't find anyone that spoke to them;
- Current cell site is a problem as there is a rental home on it which is not as well kept as the surrounding homes;
- Owner of the proposed cell tower site has already stated that he would be renting out the house;
- There is already a significant amount of commercial in the neighborhood due to the water tower and airport;
- Disagreed with applicant's statement that visits would occur 1-2 times per month; and
- No one in the area approves of this project and their concerns don't matter to the applicant.

Marc Royer made the following comments:

- Agreed with the previous comments made;
- The homeowner of the proposed cell tower site has conveyed to them that they would not be living there once the tower goes up;
- Questioned if the Commission would want this in their back yard;
- This is a very upscale neighborhood and this project would affect the home values and morale of the neighborhood;
- This is not a good thing; and
- Neighbors will show up in force against this not only to the County but also to TRPA.

Chair Stewart closed public comment.

Mr. Hatch responded that with respect to the County's processes, they were requesting a continuance.

Roger Trout made the following comments:

- Appreciated the public comments;

- Disagreed with the comment that this could be a never-ending process because he is the Executive Secretary to the Commission and since he is in control of the process, he would be directing the item to have action taken at the next meeting if this item is continued today;
- Will review the emails received and requested the public continue to send emails to Mr. Prutch voicing their concerns; and
- It is not the practice or tradition to hold Planning Commission meetings in South Lake Tahoe and it is not recommended as a viable option.

County Counsel David Livingston made the following comments:

- Spoke on the ability to extend the “shot clock” and stated that the parties have entered into an agreement to extend the time of reasonableness until a specified date in April; and
- The request before the Commission is in line with past practices.

Commissioner Heflin was not excited about the continuance, but felt given the process, it is something the Commission needs to do and suggested that they approve the continuance request.

Chair Stewart suggested that in order to move it forward, to continue the item to the February 26, 2015 meeting, particularly since he valued the input of the District 5 Planning Commissioner, who was not in attendance today, and would like to have a full Commission when this item is heard.

There was no further discussion.

Motion: Commissioner Miller moved, seconded by Commissioner Heflin, and carried (3-0), to continue the item to the February 26, 2015 meeting.

AYES: Heflin, Miller, Stewart

NOES: None

8. 15-0046 Clerk of the Planning Commission recommending the Commission elect a Chair, First Vice-Chair, and Second Vice-Chair for 2015, with those selections becoming effective at the next regular meeting.

Commissioner Heflin suggested that since there were only three Commissioners present today, that they wait until the Board of Supervisors appoint the remaining two.

Chair Stewart closed public comment.

Motion: Commissioner Miller moved, seconded by Commissioner Stewart, and carried (3-0), to continue the item to the February 26, 2015 meeting.

AYES: Heflin, Stewart, Miller

NOES: None

CLOSED SESSION

9. 15-0047 Pursuant to Government Code Section 54956.9(d)(2), Significant Exposure to Litigation: Title: Special Use Permit S14-0009/AT&T Cell Tower Skyline Drive: One (1) potential case. (Est. Time: 15 Min.)

No action reported.

ADJOURNMENT

Meeting adjourned at 11:31 a.m.

APPROVED BY THE COMMISSION
Authenticated and Certified:

Rich Stewart, Chair

DRAFT