

**FROM THE PLANNING COMMISSION MINUTES OF DECEMBER 11, 2014**

4. 14-1589 Hearing to consider a request to allow the construction of a wireless telecommunication facility [Special Use Permit S14-0008/Alibi Verizon Wireless Cell Site]\* on property identified by Assessor's Parcel Number 331-270-01, consisting of 8.51 acres, in the El Dorado area, submitted by Verizon Wireless; and staff recommending the Planning Commission take the following actions:

- 1) Adopt the Negative Declaration based on the Initial Study prepared by staff; and
  - 2) Approve Special Use Permit S14-0008 based on the Findings and subject to the Conditions of Approval as presented.
- (Supervisorial District 3)

Joe Prutch presented the item to the Commission with a recommendation for approval and referenced Staff Memo dated December 3, 2014.

Mark Lobaugh, applicant provided an overview of the project and was available for questions.

Commissioner Stewart and Commissioner Mathews both commented on the type of pine and the height of it.

Chair Mathews closed public comment.

There was no further discussion.

**Motion: Commissioner Heflin moved, seconded by Commissioner Stewart, and carried (3-0), to take the following actions: 1) Adopt the Negative Declaration based on the Initial Study prepared by staff; and 2) Approve Special Use Permit S14-0008 based on the revised Findings and subject to the revised Conditions of Approval as identified in the Staff Memo dated December 3, 2014.**

**AYES: Stewart, Heflin, Mathews**

**NOES: None**

**ABSENT: Ridgeway, Shinault**

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 Negative Declaration together with the comments received during the public review process. The 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 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.
- 1.4 The revision to the size of the lease area (631.6 additional square feet) for the cell tower facility is not considered a “substantial revision” pursuant to Section 15.073.5.c.4 of the CEQA Guidelines and, therefore, recirculation of the Negative Declaration is not required.

## **2.0 GENERAL PLAN FINDINGS**

- 2.1 The project is consistent with the Medium Density Residential (MDR) land use designation of the subject site as defined by General Plan Policy 2.2.1.2. The project consists of a telecommunications tower, which is consistent with the allowed uses for the Residential Estate Five-Acre (RE-5) Zone District with an approved Special Use Permit.
- 2.2 As conditioned, and with adherence to Zoning Ordinance, the project is consistent with all applicable Policies of the General Plan, including:
  - 2.2.1 Policy 2.2.5.21 (compatibility with surroundings) because as conditioned, it would be compatible with surrounding uses, have minimal impacts on visual resources, existing utilities, existing emergency response access and times, and will create noises at insignificant levels. There are adequate services to facilitate the site, such as water, power and telephone communication facilities. The project provides improved cellular service for phone, as well as internet and emergency communications to the El Dorado area;
  - 2.2.2 Policy 5.1.2.1 (adequate utilities and public services) because the project will connect to existing electrical and telecommunication facilities currently existing within the parcel;
  - 2.2.3 Policy 6.2.3.2 (adequate access) because the project will utilize an existing paved driveway surface for half the access with a new gravel driveway for the second half; and
  - 2.2.4 Policy 6.5.1.7 (noise exposure) because the project 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.

### **3.0 ZONING FINDINGS**

- 3.1 The project site is zoned Residential Estate Five-Acre (RE-5), which allows wireless communication facilities with an approved special use permit, provided the applicant follow standards and permitting requirements defined in Section 17.14.210 of the Zoning Ordinance. 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 Zoning Ordinance because sufficient screening, setbacks, and maintenance have been provided and/or conditioned.

### **4.0 SPECIAL USE PERMIT FINDINGS**

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

The proposed use is consistent with the policies and requirements in the El Dorado County General Plan, as discussed in the General Plan section of the Staff Report. The proposed use is consistent with all applicable policies as set forth in Finding 2.0.

#### **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 on-site natural vegetation, and the tower antennas will be buffered by the manufactured pine branches. The view of the tower will be buffered by the existing trees surrounding the tower. 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. At five percent or less of the public safety standard established by the FCC, the risk of RF emissions to the surrounding public is remote.

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

The proposed use complies with the requirements of Zoning Ordinance Section 17.14.210.E through J (facility requirements/analysis) and 17.28.210 (minimum yard setbacks for RE-5 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 E-1 Overall Site Plan, Sheet A-1; ~~June 26, 2014~~ November 12, 2014  
Exhibit E-2 .....Enlarged Site Plan, Sheet A-2; ~~June 26, 2014~~ November 12, 2014  
Exhibit E-3 .....Equipment and Antenna Layouts, Sheet A-3; ~~June 26, 2014~~ November 12, 2014  
Exhibit E-4 .....Southern Elevations, Sheet A-4.1; ~~June 26, 2014~~ November 12, 2014  
Exhibit E-5 .....Northern Elevations, Sheet A-4.2; ~~June 26, 2014~~ November 12, 2014  
Exhibit F.....Visual Simulations  
Exhibit G.....Oak Woodland Canopy Map

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 new wireless communications facility to support cellular transmission within the existing 8.51-acre parcel identified by Assessor's Parcel Number 331-270-01, and consisting of the following:

- a. Up to six panel antennas mounted centerline at the height of 99.5 feet on a 102.5-foot tall monopine tower, with the top branches not to exceed 107.5 feet;
- b. One 12 by 17 foot concrete equipment shelter within ~~a~~ an approximately 22 by 46 29 by 56 foot lease area to house equipment cabinets and associated equipment;
- c. One six foot tall chain link fence topped with one foot of barbed wire constructed around the perimeter of the ground equipment and tower, with one access gate;
- d. One 5 by 10 foot concrete pad for a 132 gallon 30 kW emergency standby generator; and
- e. An aggregate base access road measuring approximately 12 feet wide by 350 feet in length from the end of the paved driveway to the cell tower site.

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.

### Planning Division

2. **Expiration:** Pursuant to Zoning Ordinance Section 17.22.250, implementation of the project shall occur within 24 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.

3. **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.
4. **Co-locating:** For co-location purposes, no further review by the Planning Commission shall be required provided that all ground-mounted equipment is located within the proposed lease area, and that there shall not be an increase in overall height of the tower nor substantial increase in breadth of antennas.
5. **Facility Appearance and Screening:** All equipment shelters, cabinets or other auxiliary structures shall be painted in a matching color to comply with the screening requirements of Section 17.14.210.F of the Zoning Ordinance. The pole shall be painted dark brown and the antennas shall be painted with non-reflective paint and maintained to match the color of the branch needles. All antennas shall either be covered with antenna socks that shall match the color and texture of the branch needles or painted to match the color 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. No antenna shall project out past the branch tips. Planning Services shall verify the painting of all structures prior to final inspection and approval of the facility.
6. **Facility Maintenance:** All improvements associated with the communication facility, including equipment shelters, antennae, and fencing shall be properly maintained at all times. Colors of the panels, equipment enclosure, and other improvements visible to the public shall be maintained to ensure the appearance remains consistent.
7. **Generator Maintenance:** Any routine maintenance that requires running the generator or automatic recycling of the generator shall be performed between the hours of 9:00 a.m. to 3:00 p.m. Monday through Friday.
8. **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 by Planning Services prior to Building Permit final for any Building Permit for verification of compliance with applicable Conditions of Approval.
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. **Five-Year Review:** Due to the ever-changing technology of wireless communication systems, this Special Use Permit shall be reviewed by the County Development Services Department every five years. At each five-year review, the permit holder shall provide the Development Services Department with a status report on the then current use of the subject site and related equipment. Development Services shall review the status and determine whether to:
- a. Allow the facility to continue to operate under all applicable conditions; or
  - b. Hold a public hearing to determine whether to modify the conditions of approval in order to reduce identified adverse impacts; or initiate proceedings to revoke the special use permit, requiring the facility's removal if it is no longer an integral part of the wireless communications system.

By operation of this condition, it is the intent of County to reserve the right to modify or add new conditions, consistent with the language specified above. The failure of the County to conduct or complete a five-year review in a timely fashion shall not invalidate the Special Use Permit. The applicant shall pay a fee determined by the Development Services Director to cover the cost of processing a five-year review on a time and materials basis.

11. **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.
12. **Payment of Processing Fees-Development Services:** The applicant shall make the actual and full payment of Planning and Building Services processing fees for the special use permit and building permits prior to issuance of a building permit.
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 archaeological resource", contingency funding, and a time allotment sufficient to allow recovering an archaeological 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 archaeological 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. **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.

16. **Oak Tree Protection and Replacement:** Grading and construction activities will require compliance with oak tree protection measures as described in the *Tree Survey, Preservation, and Replacement Plan for the Alibi Verizon Site*, by Foothill Associates, dated October 16, 2014. The applicant shall plant oak trees or acorns in compliance with said Tree Survey and the Interim Interpretive Guidelines for El Dorado County General Plan Policy 7.4.4.4.

#### **Environmental Management-Solid Waste and Hazardous Materials Division**

17. **Hazardous Materials:** Under the CUPA programs, if the operation will involve the storage of reportable quantities of hazardous materials (55 gallons, 500 pounds, 200 cubic feet) for backup power generation, a hazardous materials business plan for the site must be submitted to the Community Development Agency/Environmental Management Division and applicable fees paid.

#### **Air Quality Management District (AQMD)**

18. **Asbestos Dust:** Current county records indicate this subject property is located within the Asbestos Review Area. An Asbestos Dust Mitigation Plan (ADMP) Application with appropriate fees shall be submitted to and approved by the AQMD prior to project construction. (Rules 223 and 223.2) if the project will move more than 20 cubic yards of earth or requires a Grading Permit. The project shall adhere to the regulations and mitigation measures for fugitive dust emissions asbestos hazard mitigation during the construction process. Mitigation measures for the control of fugitive dust shall comply with the requirements of Rule 223 and 223.2.
19. **Paving:** Project construction may involve road development and shall adhere to AQMD Rule 224 Cutback and Emulsified Asphalt Paving Materials. (Rule 224).
20. **Painting/Coating:** The project construction may involve the application of architectural coating, which shall adhere to AQMD Rule 215 Architectural Coatings.
21. **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](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.



22. **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).
23. **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 and daily hours of operations of each piece of equipment.

#### **Diamond Springs/El Dorado Fire District**

24. The applicant shall adhere to pertinent codes and standards from the California Code of Regulations Title 24 Part 9 California Fire Code (CFC), as amended by the Diamond Springs/El Dorado Fire Protection District (FPD), to the satisfaction of the FPD.