

**COUNTY OF EL DORADO DEVELOPMENT SERVICES  
PLANNING COMMISSION  
STAFF REPORT**



**Agenda of:** April 28, 2016

**Staff:** Aaron Mount

**SPECIAL USE PERMIT**

**FILE NUMBER:** S15-0001/Swansboro Verizon Cellular Tower (Mono-Pine)

**APPLICANT:** Verizon Wireless

**AGENT:** Mark Lobaugh, Epic Wireless

**ENGINEER:** Borges Architectural Group, Inc.

**REQUEST:** Special Use Permit to allow the construction of a wireless telecommunication facility consisting of a 109-foot monopine tower with six antennas mounted at 100 feet, equipment cabinets, generator with split face CMU block sound wall, and related ground equipment within a 836-square-foot lease area.

**LOCATION:** The north side of One Eye Creek Road, approximately 0.72 mile northwest of the intersection with Rock Creek Road in the Mosquito/Swansboro area, Supervisorial District 4 (Exhibit A).

**APN:** 085-010-06 (Exhibit B)

**ACREAGE:** 39.75 acres

**GENERAL PLAN:** Natural Resource (NR) (Exhibit C)

**ZONING:** Rural Lands 40-Acre (RL-40) (Exhibit D)

**ENVIRONMENTAL DOCUMENT:** Negative Declaration

**RECOMMENDATION:** Staff recommends 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 S15-0001 based on the Findings and subject to the Conditions of Approval as presented.

## **REVISED PROJECT INFORMATION**

**Background:** The project was continued off-calendar at the August 13, 2015 Planning Commission hearing. In comment letters received from the public and at the hearing during public comments, concerns were expressed about the potential aesthetic and noise impacts the proposed telecommunications tower may have on adjacent residential parcels. The Commissioners requested the applicant to come back with alternative site analysis and a potential relocation of the tower. The applicant has submitted a new location for the tower on the same parcel but at a greater distance from the residential parcels to the south.

The following new items were submitted since the last hearing:

Revised site/development plans (Exhibits E-1 to E-9)  
Revised Coverage Maps (Exhibits G-1 and G-2)  
Revised Project Support Statement (Exhibit I)  
Revised Visual Simulations (Exhibits F-1 to F-6)  
Revised Biological Statement  
Revised Archaeological Study  
Revised Noise Study

Changes to the project include:

The tower and lease area have been relocated approximately 200 feet to the east and 57 feet to the north of the previously proposed site. The site is now proposed to be located at least 150 feet from the closest residence.

Due to a drop in the elevation of the relocated site, the tower has increased in height from 85 feet to 109 feet. One Eye Creek Road is located on the top of a ridge, so relocating the site to the north requires a drop in elevation compared to the last proposed site. One oak tree would be required to be removed resulting in a loss of less than 0.01 percent of oak canopy.

**Parcel History:** A conditional Certificate of Compliance COC04-0048 (Exhibit J) was recorded for the property on April 14, 2005. Certificate of compliance means a document issued pursuant to Government Code Section 66499.35 and recorded in the County Recorder's office that states either the subject parcel of land was lawfully created (unconditional), or if unlawfully created, contains conditions which, if satisfied by the owner, shall legitimize the parcel (conditional). Section 120.76.090 establishes that the Planning Services Division is authorized to process, issue, and record conditional Certificates of Compliance for parcels created after March 4, 1972.

The subject parcel is one of five parcels created by grant deed after March 4, 1972. As such, the County Surveyor referred the application to Planning Services and a Zoning Administrator hearing was held approving the conditional Certificate of Compliance. A conditional Certificate of Compliance imposes conditions which must be satisfied before the property can be considered legally established. Development permits, including building permits, may not be issued until such time as the conditions have been met and a clear Certificate of Compliance has been recorded. At this time the conditions have not been met and no development permits have been submitted for the undeveloped parcel (Exhibit J).

Conditions of approval for COC04-0048, as approved by the Zoning Administrator on March 16, 2005, will be applied to this project, as follows:

- A. “An irrevocable offer of dedication, 25 feet from the centerline of One Eye Creek Road, for road and public utility purposes, including all slope easements, shall be offered to the County across the frontage of the subject parcel. The offer of dedication shall be made on a form approved by the Department of Transportation.
- B. A STOP sign per Standard Plan 105A shall be placed at the intersection of One Eye Creek Road and Mosquito Road.
- C. A “Not a County Maintained Road” sign, 24 inches x30 inches, black on white, shall be placed on One Eye Creek Road at the intersection with Mosquito Road.
- D. A street sign in conformance with Standard Plan 105 (B-1) shall be installed at the intersection of One Eye Creek Road and Mosquito Road.
- E. The property owner shall have the parcel evaluated by a septic system design consultant and the findings submitted to the El Dorado County Environmental Management Department to determine if the parcel can support an on-site septic disposal system prior to application for a building permit.
- F. The applicant shall improve that portion of One Eye Creek Road fronting the subject property to Standard Plan 101-C providing for a minimum unrestricted roadway width of 18-feet with two-foot shoulders. The roadway improvements and surfacing shall be subject to the review and approval of the Department of Transportation and the Mosquito Fire Protection District. Letters evidencing satisfaction with this condition shall be provided to the Planning Department.”

**Site Description:** The approximately 836 square foot lease area is located in the southeast corner of a 39.75 acre parcel. The parcel is located on a north-facing slope and the lease area is located at an elevation of approximately 2,660 feet above mean sea level. The site would be accessed by a new access driveway that encroaches onto privately maintained One Eye Creek Road. The lease area is at an elevation below One Eye Creek Road, as the road is at the top of a ridge. The area around the cellular facility site is montane hardwood-conifer woodland with an understory of blue oak, black oak, and gray pine over dense brush comprised primarily of manzanita.

**Adjacent Land Uses:**

	<b>Zoning</b>	<b>General Plan</b>	<b>Land Use/Improvements</b>
<b>Site</b>	RL-40	NR	Residential/Undeveloped
<b>North</b>	RL-40/FR-40	NR	Residential & Agricultural/US Forest Service & Undeveloped
<b>South</b>	R3A	MDR	Residential/Residential
<b>East</b>	RL-40/FR-40	NR	Residential/Residential & US Forest Service
<b>West</b>	RL-40	NR	Residential/Residential

**Project Description:** In accordance with Section 130.40.130 of the Zoning Ordinance, this special use permit request would allow the construction of a wireless telecommunications facility consisting of a 109-foot monopine with six Verizon Wireless antennas that each measure six feet tall by 12 inches wide by seven inches deep, mounted at the 100-foot pole height, two four-foot diameter microwave dishes, and a 15-foot by 16-foot 5-inch raised steel platform within a 22- by 38-foot lease area enclosed with a six-foot fence. A 15 kVA diesel generator partially surrounded by a split face CMU sound wall and containing a 132 gallon fuel tank would be placed within the lease area. The wireless facility has been designed as a monopine with foliage that matches the existing surrounding vegetation and would be painted to simulate a natural brown bark. The antennas, which would be covered with pine needle socks, are proposed be mounted at 100-feet and extending to the 104-foot height. The foliage would extend another five feet to an overall structure height of 109 feet. The facility has been designed to accommodate one additional carrier to be collocated at an approximate height of 59 feet (Exhibit E-6 through E-9). The lease area will be surrounded by a six-foot high chain link fence.

Access to the site would be provided by a 20-foot wide, 120-foot long non-exclusive Verizon Wireless access easement off One Eye Creek Road. A non-exclusive six-foot Verizon Wireless utility easement extends from a utility pole located southwest of One Eye Creek Road to the lease area (Exhibit E-1 through E-5). A number of oak trees and other vegetation surround the site and one oak tree would be removed as part of the wireless facility construction or operation.

**ANALYSIS**

**Telecommunications Act of 1996**

This act preserves the authority of the State or local government over decisions regarding the placement, construction, and modifications of personal wireless services, subject to two limitations. Section 704.(7)B(iii) requires any denials to be in writing and supported by “substantial evidence.” Section 704(7)B(iv) prohibits denial on the basis of radio frequency emissions if those emissions are compliant with federal regulations.

Radio frequency emissions are within an approved range of compliancy with federal regulations and staff is not recommending denial of the project. The El Dorado County Board of Supervisors adopted Sections 130.52.021 and 130.40.130 of the Zoning Ordinance to regulate special use permits and wireless communication facilities, respectively. By adopting these ordinances, the Board of Supervisors acted to maintain the County's authority over decisions regarding wireless communication facilities.

### **General Plan Analysis**

Aesthetics: The proposed mono-pine tower would be visible from various points in the surrounding area and views. The wireless communication tower would be designed to resemble a pine tree with antennas located in faux branches. The tower pole would be painted to match the bark color of a pine tree. The monopine design would camouflage the facility to blend in with the surrounding vegetation. The project is not visible from any of the important public scenic viewpoints identified in Table 5.3-1 and Exhibit 5.3-1 of the El Dorado County General Plan Draft Environmental Impact Report. Nor is it visible from any State Designated Scenic Highways. The project site is not located at a U.S. Highway 50 interchange nor is it located on a ridgeline. Photo simulations are provided in Exhibits F-1 to F-4.

Land Use Compatibility: The site is surrounded by residentially and agriculturally zoned parcels. Policy 2.2.5.21 requires development projects to be located and designed in a manner that avoids incompatibility with adjoining land uses. A cellular telecommunications facility is considered similar to a public utility facility, though privately-owned. The project would be compatible and consistent with the Natural Resource (NR) and Medium Density Residential (MDR) land use designations because it has been designed to blend in with the prevalent architecture, natural features or vegetation as directed by Section 130.40.130 of the Zoning Ordinance. With recommended conditions, the wireless communications facility would be consistent with these policies.

Adequate Access for Emergencies: The site is located at One Eye Creek Road, a privately maintained road. Policy 6.2.3.2 of the Public Health, Safety, and Noise element of the General Plan directs the applicant to demonstrate that adequate access exists or can be provided for emergency vehicles and private vehicles to access and evacuate the area. Emergency access to the facility would be available by a 20-foot wide, 120-foot long driveway. The site plan was reviewed for emergency ingress and egress capabilities by the County Transportation Division and the Mosquito Fire Protection District, and is in compliance with the General Plan Policy.

Utilities: Verizon Wireless proposes to utilize the current electrical feeds located approximately 180-feet away from the tower site, south of One Eye Creek Road. The connections would be made underground.

Oak Tree Canopy: The revised project proposes site development that would require the removal of one oak tree. According to the submitted *Biological Assessment for the Verizon Swansboro Site* (Foothill Associates, dated January 18, 2016), the project would remove less than 0.01 percent of oak tree canopy from a site that contains 26.8 acres of oak canopy. Impacts would be adequately mitigated through on-site replanting and implementation of all tree preservation and protection measures. The project is in compliance with General Plan Policy 7.4.4.4.

Conclusion: The project has been reviewed in accordance with the General Plan policies for aesthetics, land use compatibility, access requirements, utilities, and oak tree preservation policies and is found to be consistent with the General Plan.

**Zoning Ordinance Consistency:** Staff has determined that the proposed project is consistent with the applicable regulations and requirements in Section 130.40.130 of the El Dorado County Zoning Ordinance, as discussed below in Sections 3.0 through 4.0, Zoning and Special Use Permit findings.

## **ENVIRONMENTAL REVIEW**

Staff has prepared an Initial Study to determine if the project has a significant effect on the environment (Exhibit M). Based on the Initial Study, staff has determined that there is no substantial evidence that the proposed project would have a significant effect on the environment, therefore a Negative Declaration has been prepared and a Notice of Determination (NOD) will be filed. A \$50.00 filing fee for the NOD is required and the NOD must be filed within five working days from the project approval.

The filing of the NOD begins the statute of limitations time period for when litigation may be filed against the County's action on the project. If the NOD is filed the statute of limitations ends 30 days from its filing. If no NOD is filed, it ends 180 days from the date of final action by the County.

In accordance with California Fish and Game Code Section 711.4, the project is subject to the correct fee after approval, but prior to the County filing the Notice of Determination on the project. This fee plus the \$50.00 filing fee, is to be submitted to Planning Services and must be made payable to El Dorado County. The payment is forwarded to the State Department of Fish and Wildlife and is used to help defray the cost of managing and protecting the State's fish and wildlife resources.

## SUPPORT INFORMATION

### Attachments to Staff Report:

Findings

Conditions of Approval

Exhibit A.....	Location Map
Exhibit B.....	Assessor's Parcel Number Map
Exhibit C.....	General Plan Map
Exhibit D.....	Zone District Map
Exhibit E-1.....	Title Sheet, Sheet A-0; December 23, 2015
Exhibit E-2.....	Plot Plan/Site Topography, Sheet C-1; December 23, 2015
Exhibit E-3.....	Plot Plan/Site Topography, Sheet C-2; December 23, 2015
Exhibit E-4.....	Overall Site Plan, Sheet A-1; December 23, 2015
Exhibit E-5.....	Enlarged Site Plan, Sheet A-2; December 23, 2015
Exhibit E-6.....	Equipment/Antenna Layouts, Sheet A-3; December 23, 2015
Exhibit E-7.....	Elevation, Sheet A-4.1; December 23, 2015
Exhibit E-8.....	Elevation, Sheet A-4.2; December 23, 2015
Exhibit E-9.....	Generator Specs, Sheet A-5; December 23, 2015
Exhibit F-1.....	Photo Simulations
Exhibit F-2.....	Photo Simulations
Exhibit F-3.....	Photo Simulations
Exhibit F-4.....	Photo Simulations
Exhibit F-5.....	Photo Simulations
Exhibit F-6.....	Photo Simulations Shot Point Map
Exhibit G-1.....	Service Coverage, Current; November 12, 2015
Exhibit G-2.....	Service Coverage, After; November 12, 2015
Exhibit H.....	Radio Frequency Emissions Compliance Report; January 6, 2015
Exhibit I.....	Applicant submitted Project Support Statement; Revised February 2, 2016
Exhibit J.....	Conditional Certificate of Compliance COC04-0048
Exhibit K1-11.....	Previously Proposed Cell Tower Plans
Exhibit L.....	Mosquito Fire Protection District Letter of Support; February 5, 2016
Exhibit M.....	Proposed Negative Declaration and Initial Study