

## FROM THE PLANNING COMMISSION MINUTES OF APRIL 28, 2016

### AGENDA ITEMS

- 2. 15-0881** Hearing to consider the Swansboro Verizon Wireless Cellular Tower (Mono-Pine) project [Special Use Permit S15-0001]\* to allow the construction of a wireless telecommunication facility on property identified by Assessor's Parcel Number 085-010-06, consisting of 39.75 acres, in the Mosquito/Swansboro 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 S15-0001 based on the Findings and subject to the Conditions of Approval as presented.
- (Supervisory District 4)

Lillian MacLeod spoke on some of the refinements and recommended changes proposed by the applicant's agent. A Staff Memo dated April 28, 2016 was distributed to the Commission identifying two recommended changes to the Staff Report and Initial Study.

Mark Lobaugh, applicant's agent, spoke on his email dated April 26, 2016 which provided additional information, including a new proposed site.

Loretta Webb made the following comments:

- Thanked Commissioner Williams for conducting a site visit;
- Spoke on comments made at last hearing;
- Described in detail the significant stress and anxiety that the project has caused her; and
- Requested denial of the project.

Marty Desmond made the following comments:

- Concerned that if there was a fire in an area that only had one road for entrance/exit and if the cell tower caught on fire and collapsed onto the road, it would become an obstacle which would trap the residents;
- Fires typically spread uphill, which would be going towards the homes;
- Fire Department is made up of part-time volunteers, with an ETA of 12 minutes to their area;
- 500 foot setback from any building for cell towers is recommended by the Los Alamos Scientific Laboratory; and
- Had three requests for their safety and peace of mind:
  - Move the tower north;
  - Include a water storage facility; and
  - Build an alternate evacuation route.

Rich Wanner made the following comments:

- Thanked Commissioner Williams for conducting a site visit;

- Spoke on Mr. Lobaugh's email that contained additional information;
- Flawed biological study;
- Non-disclosure of cultural resources;
- Project has had a negative impact on his sister, Loretta Webb; and
- Applicant is an emotionless, compassionless, and soulless entity.

Kaiva Dahrian made the following comments:

- Distributed photo of a bald eagle taken in the proposed location in 2013;
- Cell tower company is compassionless;
- Spoke on eagles, trees, and the game trail in the area;
- Plastic pine needles will fall out and cause pollution;
- Spoke on easement;
- Spoke on new Zoning Ordinance regarding cell tower setbacks;
- Referenced her written public comment letter; and
- Spoke on real estate values.

Don Wagner made the following comments:

- Zoning Ordinance states a 500 foot setback of residential zoning, so inquired why the project was being allowed; and
- Inquired if he would need to disclose the location of the cell tower if he put his house on the market and if the house was decreased in value due to the cell tower, who would cover that financial gap.

Anthony Webb made the following comments:

- Has been a resident of that area since 1995;
- Homeowner's insurance was cancelled due to being in a high fire danger area and when finally able to find a company that would insure their house, they now pay triple the amount they used to;
- Spoke on 100 foot clearance required to keep his homeowner's insurance;
- There is no evacuation route available;
- Distributed three photos to the Commission;
- Spoke on aesthetics;
- Cell tower is not allowed within 500 feet of a residential zone;
- Spoke on alternative sites;
- Cell tower would be located in the airport flight plan;
- Property values would decrease;
- Commission needs to also consider the comments made at the previous hearing by Mr. Lobaugh;
- New biological study is needed; and
- An asbestos study is needed.

Chair Stewart closed public comment.

Aaron Mount spoke on the section of the Zoning Ordinance regarding communication towers and stated that the cell tower is in compliance with the setbacks.

Commissioner Williams requested clarification on Findings 3.1 and 4.3.

Chair Stewart requested the Fire Marshal in the audience to respond to some inquiries he had on fire safety during construction. Marshall Cox, El Dorado Hills Fire Department, stated that although this project was out of his jurisdiction, they typically require the structure to be concrete, have a non-combustible fencing with clearance around the structure, and access would be required prior to the construction phase.

Mr. Mount stated that the Mosquito Fire Department had reviewed the plans and had no concerns. Chair Stewart stated his biggest concern was fire danger during the construction phase.

In response to Chair Stewart's inquiry on deeded access, County Counsel David Livingston stated that the County does not get involved in that and it isn't in the Commission's purview.

Commissioner Williams inquired that if a cell tower was within 500 feet of residences, what guidelines could they use to request the tower be relocated to another parcel. County Counsel Livingston stated that the Zoning Ordinance does not require a 500 foot setback for cell towers from residences and there are no higher standards placed on it except for the higher level of review by the Planning Commission.

Commissioner Williams spoke on his interpretation of the Telecommunications Act. Significant discussion ensued between the Commission and County Counsel on the Telecommunications Act.

Mr. Lobaugh made the following rebuttal comments:

- Fire Marshal did site visit with them;
- Access is not an issue;
- Communication in emergency situations has been a big concern for this area;
- Project consists of a pole, metal cabinets located on a base and since the generators have now been removed from the project, this will be non-combustible and low wattage;
- Located far back enough that if the tower fell over, it would not reach the road;
- Unlikely the tower would fall over since it would have 30 foot casings and the County's Building Services would be required to inspect it;
- Spoke on Federal law regarding nesting birds;
- Spoke on cultural resources;
- Has a vast array of colors to use for the needles and leaves and they are available for viewing by anyone;
- Area is completely underserved and tower would service a large geographical area;
- No specific construction mitigation is currently in place but they could require the contractors to have fire extinguishers and notify the Fire Department when they would be starting the construction; and

- Suggested that they work with the Mosquito Fire Department on getting recommendations for the construction phase.

Commissioner Shinault suggested adding a new condition to address the fire danger during construction. Chair Stewart recommended requiring a Fire Safe Plan.

Charlie Schwartz, Radio Engineer, explained that this was a terrain-challenged area and they were not just addressing the residences but also the mobile locations.

In response to Chair Stewart's inquiry on bald eagles in the area, Mrs. MacLeod referenced Condition #12, which would be a new Mitigation Measure, as recommended in the Staff Memo dated April 28, 2016.

Mrs. MacLeod explained that the request to move the location of the cell tower was not in the Staff Memo dated April 28, 2016, but in Mr. Lobaugh's email dated April 26, 2016. She also spoke on the removal of the generator and stated that if approved with the recommended changes, staff would review the amended Conditions of Approval to ensure consistency throughout the document.

Mr. Mount read into the record proposed language for the new Condition requiring a Fire Safe Plan.

In response to Commissioner Williams' concern on the cell tower being within 500 feet of residences, County Counsel Livingston stated that the interpretation of the Zoning Ordinance is not safety-related, but is just a requirement for a higher level of review by a decision-making body.

There was no further discussion.

**Motion: Commissioner Stewart moved, seconded by Commissioner Hansen, and carried (4-0), to take the following actions: 1) Adopt the Mitigated Negative Declaration based on the Initial Study prepared by staff; 2) Adopt the Mitigation Monitoring Program in accordance with CEQA Guidelines, Section 15074(d), incorporating the Mitigation Measures as presented; and 2) Approve Special Use Permit S15-0001 based on the Findings and subject to the Conditions of Approval as amended: (a) Include changes as identified in the Staff Memo dated April 28, 2016; (b) New condition requiring a Fire Safe Plan; and (c) Approve applicant's request to move the location of the cell tower as shown in email dated April 26, 2016.**

**AYES: Hansen, Williams, Shinault, Stewart**  
**NOES: None**  
**ABSENT: Miller**

This action can be appealed within 10 working days.