

FINDINGS

Conditional Use Permit CUP18-0012/Horizon Tower Bavarian Hills Planning Commission/January 9, 2020

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 the California Environmental Quality Act (CEQA) and is adequate for this project.
- 1.2 With application of recommended mitigation measures, no significant impacts to the environment as a result of this project were identified in the initial study.
- 1.3 Public Resources Code Section 21081.6 requires the County to adopt a reporting or monitoring program for the changes to the project which it has adopted or made a condition of approval in order to mitigate or avoid significant effects on the environment. The approved project description and conditions of approval, with their corresponding permit monitoring requirements, are hereby adopted as the monitoring program for this project. The monitoring program is designed to ensure compliance during project implementation.
- 1.4 In accordance with California Fish and Wildlife Code Section 711.4, the project is subject to the current fee after approval, but prior to the County filing the Notice of Determination of 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.
- 1.5 The documents and other materials which constitute the record of proceedings upon which this decision is based are in the custody of the Planning and Building Department - at 2850 Fairlane Court, Placerville, CA, 95667.

2.0 GENERAL PLAN FINDINGS

2.1 The project is consistent with General Plan Policy 2.2.1.2.

General Plan Policy 2.2.1.2 establishes an appropriate range of land use types and densities within the County. The Agricultural Lands-Agricultural District (AL-A) land use designation and overlay establishes areas suitable for residential and agricultural development.

Rationale: The project has an AL General Plan Land Use Designation. The project has agricultural development to the east, west and south, and recreational use to the north. Although the project will result in a commercial use, it has been designed to visually blend in with existing landscape, and will require vehicle trips only for the construction of the facility and for monthly facility maintenance. The project will be compatible with the on-site timber operation and surrounding uses and will provide wireless high speed internet and enhanced wireless network coverage.

2.2 The project is consistent with General Plan Policy 5.1.2.1.

General Plan Policy 5.1.2.1 requires a determination of the adequacy of the public services and utility to be impacted by that development.

Rationale: The project was reviewed by the El Dorado County Department of Transportation for adequate public services capacity. The project will connect to existing electrical facilities and public services currently within the parcel. The operation of the facilities will require no water, sewer, or solid waste service as they are unmanned facilities. No new or expanded wastewater treatment facilities would be required. Operation and continued maintenance of the monopine tower and ground equipment shelters would not generate solid waste.

2.3 The project is consistent with General Plan Policy 5.1.2.2.

General Plan Policy 5.1.2.2 requires that adequate quantity and quality of water for all uses, including fire protection, be provided with proposed development.

Rationale: The proposed project is located within very high fire hazard area. The El Dorado County Fire Protection District and CalFire were given the opportunity to comment. Comments were incorporated as conditions of approval. The facilities will not require the use of potable water, as they are unmanned facilities and no plumbing is proposed for the facility.

2.4 The project is consistent with General Plan Policy 6.2.3.2.

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

Rationale: In compliance with Policy 6.2.3.2, the project will utilize existing gravel driveways and roads accessed off public roads. The El Dorado County Transportation Department and the El Dorado County Fire Protection District reviewed the application materials and do not require additional site access or improvement to the existing roads. The site plans were reviewed for

emergency ingress and egress capabilities and building plans will be additionally reviewed by El Dorado County Fire Protection District for compliance with County and fire codes during the plan check process.

2.5 The project is consistent with General Plan Policy 7.5.1.3.

General Plan Policy 7.5.1.3 requires that cultural resource studies shall be conducted prior to approval of discretionary projects. The avoidance and protection of sites shall be encouraged.

Rationale: The project provided an archaeological report for which a field study was conducted by Archeological Resources Technology (ART) on November 21, 2018. No cultural, pre-historic or historic resources were observed.

2.6 The project is consistent with General Plan Policy 8.1.3.5.

General Plan Policy 8.1.3.5 states that on any parcel 10 acres or larger identified as having an existing or potential agricultural use, the Agricultural Commission must consider and provide a recommendation on the agricultural use (except for parcels assigned urban or other non-agricultural uses by the land use map for the 1996 General Plan) or potential of that parcel and whether the request will diminish or impair the existing or potential use prior to any discretionary permit being approved.

Rationale: The proposed project consisting of the construction and operation of a new 125' monopine communication tower located within a Timber Production (TPZ) zoned parcel and was considered by the Agricultural Commission on May 08, 2019. The Agricultural Commission recommended approval of the project and found that the project would not be detrimental to agricultural production, would not conflict with agricultural production and would not reduce or destroy agricultural buffering (Exhibit J).

2.7 The project is consistent with General Plan Policy 8.1.4.1.

General Plan Policy 8.1.4.1 requires that the County Agricultural Commission shall evaluate all discretionary development applications located on lands adjacent to properties zoned for or designated agriculture and shall make recommendation to the approving authority. Prior to granting an approval, the approving authority shall make the following findings:

- A. The proposed use will not intensify existing conflicts or add new conflicts between adjacent residential areas and agricultural activities; and
- B. Will not create an island effect wherein agricultural lands located between the project site and other non-agricultural lands will be negatively affected; and

- C. Will not significantly reduce or destroy the buffering effect of existing large parcel sizes adjacent to agricultural lands.

Rationale: The proposed project consisting of the construction and operation of a new 125' monopine communication tower located within a Timber Production (TPZ) zoned parcel and was considered by the Agricultural Commission on May 08, 2019. The Agricultural Commission recommended approval of the project and found that the project would not be detrimental to agricultural production, would not conflict with agricultural production and would not reduce or destroy agricultural buffering.

2.8 **The project is consistent with General Plan Policy 8.4.2.1.**

General Plan Policy 8.4.2.1 The County Agricultural Commission shall evaluate all discretionary development applications involving identified timber production lands which are designated Natural Resource or lands zoned Timberland Production Zone (TPZ) or lands adjacent to the same and shall make recommendations to the approving authority. Prior to granting an approval, the approving authority shall make the following findings:

- A. The proposed use will not be detrimental to that parcel or to adjacent parcels for long-term forest resource production value or conflict with forest resource production in that general area;
- B. The proposed use will not intensify existing conflicts or add new conflicts between adjacent proposed uses and timber production and harvesting activities;
- C. The proposed use will not create an island effect wherein timber production lands located between the project site and other non-timber production lands are negatively affected;
- D. The proposed use will not hinder timber production and harvesting access to water and public roads or otherwise conflict with the continuation or development of timber production harvesting; and
- E. The proposed use will not significantly reduce or destroy the buffering effect of existing large parcel sizes adjacent to timber production lands.

Rationale: The proposed project consisting of the construction and operation of a new 125' monopine communication tower located within a Timber Production (TPZ) zoned parcel and was considered by the Agricultural Commission on May 8, 2019. The Agricultural Commission recommended approval of the project and found that the project would not be detrimental to agricultural production, would not conflict with agricultural production and would not reduce or destroy agricultural buffering. Further, they determined that relocation of the site to the current proposed site would reduce impacts to the timber operation.

2.9 The project is consistent with General Plan Policy 10.1.6.1.

General Plan Policy 10.1.6.1 states the County shall encourage expansion of the types of local industries that promote tourism including but not limited to Christmas tree farms, wineries, outdoor sports facilities, Apple Hill and other agricultural-related activities, the County Fairground, bed and breakfast inns, and ranch marketing activities.

Rationale: The proposed project consists of the construction and operation of a new 125' monopine communication tower located within the Apple Hill area. The proposed communication facility would provide data services for point of sale transactions, direction applications, and social media applications which are integral to expansion of the types of local industries that promote tourism.

3.0 ZONING FINDINGS

3.1 The project is consistent with Section 130.40.130(A).

Section 130.40.130(A) minimizes the number of communication facilities by encouraging the joint use of towers and service providers are encouraged to employ all reasonable measures to site their antenna equipment on existing structures, to co-locate where feasible, and development of new sites that are multi-carrier.

Rationale: The project applicant provided an alternative site analysis (Exhibit J) with a search radius of approximately one-quarter mile. This current site was identified as the most optimum in providing additional services and capacity to the area. It will also have the capacity to serve as a co-location site for additional future carriers. A total of five sites were considered, including the proposed site. Two of the sites would have required removal of exiting orchard or vineyard. Out of the sites the received positive responses the proposed site would provide service to the Apple Hill area. No potential co-locations exist within the project vicinity (Exhibit J).

3.2 The project is consistent with Section 130.40.130(B)6.

Section 130.40.160.(B)6 requires that proposed towers or monopoles in zones other than commercial, industrial, and research and development zones, be subject to Planning Commission approval of a Conditional Use Permit.

Rationale: This project is proposed within a Timber Production zone (TPZ); therefore is subject to review by the Planning Commission, the decision-making body.

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

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

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

Rationale: The project applicant submitted photo-simulations of the proposed facility (Exhibit H). These photos demonstrate how the facility will blend with the surrounding area thereby minimizing its visual impacts.

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

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

Rationale: The project site is located in a previously disturbed area within a managed forest area. The surrounding area consists of agricultural development and recreational uses. The project has been designed such that the monopine would blend in with adjacent trees. The monopine “trunk” will have simulated bark and the branches will have a pine green color. The tower has a manufacturer-applied non-reflective coating to prevent glare and the antennas will be covered in “socks”.

2. *Setbacks. As set forth in each applicable zoning district, except where locating the facility inside those setbacks is the most practical and unobtrusive location possible on the proposed site. Setback waivers shall be approved through the minor use permit process.*

Rationale: The site is located within the Timber Production (TPZ) zone, which identifies 30-foot front, rear, and side setbacks. The closest property line to the project lease site is located approximately 59 feet to the west; thus complying with the setback standards of the TPZ zone.

3. *Maintenance. All improvements associated with the communication facility, including equipment shelters, towers, antenna, fencing, and landscaping shall be properly maintained at all times. Colors of towers and other improvements shall be maintained to ensure the appearance remains consistent with approved conditions relating to color.*

Rationale: The project has been conditioned (Condition of Approval 1) to ensure that the colors and materials of the equipment building, tower, and ground support equipment will be maintained at all times and will be consistent with the features depicted in the visual simulations and elevations (Exhibits F and H).

- E. Radio Frequency (RF) Requirements. The application for a discretionary permit shall contain a report or summary of the estimates of the non-ionizing radiation generated by the facility. The report shall include estimates of the maximum electric and magnetic field strengths in all directions from the facility to the property lines of the facility site.*

Rationale: A submitted RF analysis report confirms compliance with the applicable FCC Regulations under 47 C.F.R Section 1.1307(b) (3) and 1.1310 (Radio Frequency Radiation Exposure Limits) (Exhibit J).

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

Rationale: The proposed monopine tower is intended to be designed to accommodate future co-location of other carriers. Any separate future collocation would require a revision to this conditional use permit and/or building permit, subject to review by the County.

- G. Unused Facilities. All obsolete or unused communication facilities shall be removed within six months after the use of that facility has ceased or the facility has been abandoned. The applicant shall notify the Department at the time of abandonment. All site disturbance related to the facility shall be restored to its pre-project condition.*

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

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

- 1. School district Notification. If the proposed wireless facility is located within 1,000 feet of a school, the appropriate school district shall be notified during the initial consultation.*

Rationale: Not applicable. The proposed wireless facility is not located within 1,000 feet of a school.

2. *Homeowners Association Notification. For facilities proposed to be located on residentially-zoned land, the applicant shall identify any homeowners association which might govern the property and homeowners associations that are adjacent to the property. Any that are identified shall be notified during the initial consultation.*

Rationale: Not applicable. The proposed wireless facility and adjacent properties are not within a Homeowners Association.

3.4 **The project is consistent with Section 130.40.350.G.**

Section 130.40.350.G requires findings to support residential, recreational, and other non-timber uses within the TPZ zoned district.

Certain uses within the TPZ may be compatible with growing and harvesting timber in certain circumstances, and may be allowed by Conditional Use Permit. When approving a Conditional Use Permit, as allowed in Table 130.21.020 (Agriculture, Rural Lands and Resource Zone Districts Use Matrix) in Article 2 (Zones, Allowed Uses, and Zoning Standards) of this Title, for compatible, nontimber related uses, the review authority shall consider the recommendations of the Ag Commission and shall make the following findings:

1. *The proposed use is compatible with and will not detract from the land's ability to produce timber;*

Rationale: Findings were made by the Agricultural Commission at the May 8, 2019 Agricultural Commission hearing that the project would not have an impact on the on-site timber operation.

2. *Fire protection and public safety concerns have been adequately met, including the ability to provide adequate public access, emergency ingress and egress, and sufficient water supply and sewage disposal facilities;*

Rationale: The project will utilize existing gravel driveways and roads accessed off public roads. The El Dorado County Transportation Department and the El Dorado County Fire Protection District reviewed the application materials and do not require additional site access or improvement to the existing roads. The site plans were reviewed for emergency ingress and egress capabilities and building plans will be additionally reviewed by El Dorado County Fire Protection District for compliance with County and fire codes during the plan check process.

3. *The proposed use will not adversely impact the area's watershed, wildlife, and other natural resources.*

Rationale: No significant impacts to the environment as a result of this project were identified in the CEQA initial study.

4.0 CONDITIONAL 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 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 above.

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 and towers are buffered from view by existing trees. As conditioned, the project is anticipated to result in insignificant environmental impacts to neighboring 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. In the Radio Frequency Emissions Compliance Report for Verizon dated February 12, 2019 submitted for this project, the maximum predicted power density level of exposure from all operations of this telecommunication facility is less than the FCC General Population limits. Therefore, the proposed operation will not expose members of the general public to hazardous levels of RF energy and the risk of exposure to RF emissions is remote.

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

The proposed use complies with the requirements of Zoning Ordinance Section 130.40.130.C through H (development standards/conditions), the communication facility is a specifically permitted use with an approved Conditional Use Permit.