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Title: HEARING - To consider a request submitted by Bruce Person and Randy Hellsvig appealing the Planning Commission's July 26, 2018 approval of Site 2-Newtown of Conditional Use Permit S17-0016/AT&T CAF 4 to allow the construction and operation of a new 122-foot tall stealth monopine tower on property identified by Assessor's Parcel Number 077-091-06, consisting of 4.9 acres, in the Newtown area; and staff recommending the Board take the following actions:
1) Approve the project thereby denying the appeal by Bruce Person and Randy Hellesvig based on the Findings (Attachment C) and subject to the Conditions of Approval (Attachment D); and
2) Adopt the Mitigated Negative Declaration based on the Initial Study prepared by staff (Attachment E). (Supervisory District 3)

Sponsors:

Indexes:

Code sections:

Attachments: 1. A - Appeal Form-Site 2, 2. B - Site 2-Newtown Planning Commission Minute Order 07-26-18, 3. C - Findings (Sites 2-7)-Planning Commission 07-26-18, 4. D - Conditions of Approval (Sites 2-7)-Planning Commission 07-26-18, 5. E - Staff Report Exhibit K-Proposed Mitigated Negative Declaration and Initial Study, 6. F - Site 2-Staff Report Exhibit K-Attachments 1-6, 7. G - Site 2-Plan Set, 8. H - NAHC Tribal Consultation List (03-06-18), 9. I - Site 2-Alternative Site Analysis, 10. J - Site 2-Photo Sims, 11. K - PA16-0008 Staff Memo Exhibits A-F, 12. L - Communication Act Excerpt, 13. M - Site 2-Newtown Notification Map, 14. N - Site 2-Proof of Publication-Mountain Democrat, 15. O - Site 2-Proof of Publication-Georgetown Gazette, 16. Public Comment Rcvd 9-11-18 BOS 9-11-18, 17. Public Comment Rcvd 9-10-18 BOS 9-11-18, 18. Public Comment Rcvd 9-7-18 BOS 9-11-18, 19. Public Comment Rcvd 9-7-18 BOS 9-11-18, 20. Public Comment Rcvd 9-6-18 BOS 9-11-18, 21. Public Comment Rcvd 9-5-18 BOS 9-11-18, 22. Public Comment Rcvd 9-4-18 BOS 9-11-18, 23. Public Comment Rcvd 08-31-18, 24. Public Comment Rcvd 08-30-18, 25. Public Comment Rcvd 08-21-18 to 08-29-18, 26. FINAL Findings, 27. FINAL Conditions of Approval, 28. APPROVED STAMPED Exhibits-Site 2 Newtown, 29. ADOPTED Mitigated Negative Declaration-Sites 2-7, 30. RECEIPT Notice of Determination-Sites 2-7, 31. FILED Notice of Determination-Sites 2-7

Date	Ver.	Action By	Action	Result
9/11/2018	1	Board of Supervisors	Approved	Pass

HEARING - To consider a request submitted by Bruce Person and Randy Hellsvig appealing the Planning Commission's July 26, 2018 approval of Site 2-Newtown of Conditional Use Permit S17-0016/AT&T CAF 4 to allow the construction and operation of a new 122-foot tall stealth monopine tower on property identified by Assessor's Parcel Number 077-091-06, consisting of 4.9 acres, in the Newtown area; and staff recommending the Board take the following actions:

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DISCUSSION / BACKGROUND

This is a request submitted by Bruce Person and Randy Hellesvig appealing the Planning Commission's July 26, 2018 approval of Site 2-Newtown of Conditional Use Permit S17-0016/AT&T

CAF 4 ("Project") to allow the construction and operation of a new 122-foot tall stealth monopine tower. The property, identified by Assessor's Parcel Number 077-091-06, consisting of 4.9 acres, is located on the east side of Snows Road, approximately 365 feet east of the intersection with Clouds Rest Road, in the Newtown area, Supervisorial District 3. (County Planner: Evan Mattes) (Mitigated Negative Declaration prepared)

The Project is proposed as a new 122-foot tall stealth monopine tower, with one 15KW DC Diesel Generator with a 54 gallon Belly Tank, one 1-ton HVAC unit, and one equipment shelter, located upon a 1,575 square foot leased space of a 4.9 acre parcel in the Newtown area. The site is zoned Light Industrial (IL) with a General Plan Land Use Designation of Industrial (I). In order to construct and operate a new communication tower or monopole on an industrially zoned parcel adjacent to residential parcels a Condition Use Permit is required by the Zoning Ordinance. The Conditional Use Permit (S17-0016 Site 2-Newtown) is required to comply with the California Environmental Quality Act (CEQA) and all other adopted rules, regulations, and ordinances.

The Planning Commission held a public hearing on July 26, 2018, and approved the Project. Pursuant to the County Zoning Ordinance, there is an appeal period of 10 working days after approval. Bruce Person and Randy Hellesvig filed an appeal on August 9, 2018 (and \$239 appeal fee) within 10 working days. The Zoning Ordinance provides that the appeal of a Planning Commission decision be decided at a public hearing with the Board of Supervisors.

Appeal

The appeal (Attachment A) asserts that the Project failed to follow procedure of the February 8, 2018 denial, does not have adequate setbacks or access, did not have a thorough Environmental Impact Report (EIR), had insufficient notice to Tribal cultural agencies, inadequate colocation analysis and that bundling of tower sites should not be allowed. The appeal items are listed below verbatim in bold with County staff responses immediately following in italics.

1) "Failure to follow procedure, previously denied in action on February 8, 2018"

County Response: The Project was conceptually denied at the February 8, 2018, Planning Commission hearing with direction to Planning Staff to prepare Findings of Denial in writing. At the February 22, 2018, Planning Commission hearing when staff returned with Findings of Denial in writing, the Planning Commission motioned to continue the project off calendar for the Project applicant to provide additional public outreach.

2) "Access and setbacks not adequate".

County Response: The project would briefly take access off of Clouds Rest Road, a privately maintained road, and would then access Snows Road, a County maintained road. As part of the Project's initial distribution, the Project was sent to the El Dorado County Fire Protection District for comment of which none were received. Pursuant to Section 130.40.130.D.2 of the Zoning Ordinance, new towers must be compliant "with the applicable zone setbacks" and that "setback waivers shall be considered to allow flexibility in siting the facility in a location that best reduces the visual impact on the surrounding area". The Project parcel is zoned IL which has an applicable rear and side setback of 30 feet when adjacent to a residential zone. The Project would be sited 30 feet from the nearest property line (Attachment G).

3) “Environmental EIR process not thorough

County Response: No significant impacts that could not be mitigated to less than a significant level were identified within the Mitigated Negative Declaration Initial Study. No EIR is required for the Conditional Use Permit.

4) “Insufficient notice to appropriate Tribal Cultural Agencies”.

County Response: Under Assembly Bill 52 (AB52), tribes that had requested consultation notification were noticed to review the Project (Attachment H). Further consultation requests were received from the United Auburn Indian Community (UAIC), the Shingle Springs Band of Miwok Indians, and the Wilton Rancheria requesting the Cultural Resources Searches. No other requests were received.

5) “Insufficient research on co-location opportunity or alternative sites”.

County Response: An Alternative Site Analysis is not an item that is required by the El Dorado County Zoning Ordinance. Section 130.40.130 of the El Dorado County Zoning Ordinance provides specific rules and regulations regarding the requirements for communication facilities.

“Communication service providers are required to employ all reasonable measures to site their antennas on existing structures as facade mounts, roof mounts, or co-location on existing towers” and to “work with other service providers and the Department to co-locate where feasible”. The proposed Project would allow for two co-locations (12 antennas) at heights of 115 feet and 110 feet (Attachment G). The submitted Alternative Site Analysis (Attachment I) did include an analysis of potential co-locations within the project vicinity. The Alternative Site Analysis has been a practice requested by the Planning Commission, however there is no ordinance requiring it and no parameters showing number of sites needed to be analyzed.

6) Insignificant modifications to site do not address aesthetic concerns”.

County Response: As a result of the public outreach conducted by the applicant at the direction of the Planning Commission, the Project description was amended to include a smaller generator, a smaller HVAC unit and the removal of the previously proposed 500 gallon propane tank. Per Zoning Ordinance Section 130.40.130.D.1, “where screening is not feasible the tower is required to blend with the surrounding area through paint or construction with stealth technology”. As proposed the tower would utilize stealth technology in the form of a stealth monopine tower (Attachment J). The broadleaf tower would be similar in size, albeit taller, to the surrounding trees. This vegetation is expected to substantially reduce the facility’s visibility from public right of ways and surrounding properties. The proposed location is not anticipated to substantially degrade the existing visual character of the site and is not expected to result in a significant impact to scenic vistas and to the area’s visual aesthetics.

7) Bundling, sites should have been submitted and reviewed individually”.

County Response: The bundling of Communication Facility applications was discussed on February 23, 2017 at the Planning Commission hearing as part of pre-application PA16-0008 (Attachment K). At the hearing, the Planning Commission was made aware and agreed to see applications for Communication Facilities bundled. While the applications are bundled together, they are separate projects that are analyzed on an individual basis. At the July 26, 2018, Planning Commission hearing, each site was discussed and motioned separately.

Conclusion: It is the Planning Director's recommendation that the appeal should be denied and the decision of the Planning Commission on July 26, 2018 be upheld because the Project is consistent with the Zoning Ordinance, General Plan, and CEQA as determined by the Planning Commission. Should the Board choose to approve the appeal, thus denying Site 2-Newton of Conditional Use Permit S17-0016, Planning Staff would be required to make Findings in writing under Section 332(c) (7) of the Communications Act (Attachment L) based on substantial evidence.

ALTERNATIVES

The Board may elect to approve the appeal and reverse the action taken by the Planning Commission on July 26, 2018, resulting in the denial of Site 2-Newtown of Conditional Use Permit S17-0016/AT&T CAF 4. A Denial of the application should be continued to a date certain so that staff can prepare Findings of Denial.

CONTACT

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