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Legislation Details (With Text)

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Title: HEARING - To consider a request submitted by Richard D. Mason appealing the Planning Commission's June 13, 2019 approval of Conditional Use Permit CUP18-0013/AT&T CAF II (South Placerville) to allow the construction and operation of a 160-foot high monopine wireless communication facility within a 40-foot x 45-foot enclosed area on property identified by Assessor's Parcel Number 096-120-72, consisting of 10.16 acres, in the Placerville area; and staff recommending the Board take the following actions:
1) Adopt the Mitigated Negative Declaration based on the Initial Study prepared by staff (Attachment D);
2) Adopt the Mitigation Monitoring Reporting Program in accordance with California Environmental Quality Act Guidelines Section 15074(d), incorporated as Conditions of Approval (Attachment C); and
3) Deny the appeal, thereby upholding the Planning Commission's June 13, 2019, approval of Conditional Use Permit CUP18-0013 based on the Findings (Attachment B) and subject to the Conditions of Approval (Attachment C). (Supervisory District 3) (Est. Time: 45 Min.)

Sponsors:

Indexes:

Code sections:

Attachments: 1. A - Appeal Form, 2. B - Findings, 3. C - Conditions of Approval, 4. D - Proposed Mitigated Negative Declaration and Initial Study, 5. E - Planning Commission Minute Order 06-13-19, 6. F - Notification Map, 7. G - Proof of Publication-Mountain Democrat, 8. Public Comment Rcvd 7-23-19 BOS 7-23-19, 9. Public Comment 7-22-2019, 10. FINAL Findings, 11. FINAL Conditions of Approval, 12. APPROVED STAMPED Exhibits, 13. ADOPTED Mitigated Negative Declaration, 14. Final Findings of Fact/Conditions of Approval Rcvd 8-6-19

Date	Ver.	Action By	Action	Result
7/23/2019	1	Board of Supervisors	Approved	Pass

HEARING - To consider a request submitted by Richard D. Mason appealing the Planning Commission's June 13, 2019 approval of Conditional Use Permit CUP18-0013/AT&T CAF II (South Placerville) to allow the construction and operation of a 160-foot high monopine wireless communication facility within a 40-foot x 45-foot enclosed area on property identified by Assessor's Parcel Number 096-120-72, consisting of 10.16 acres, in the Placerville area; and staff recommending the Board take the following actions:

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DISCUSSION / BACKGROUND

This is to consider a request submitted by the appellant, Richard D. Mason, appealing the Planning Commission's June 13, 2019, approval of Conditional Use Permit CUP18-0013/AT&T CAF II South

Placerville ("Project") for the construction and operation of a new 160-foot tall stealth monopine tower with one 20KW DC Diesel Generator, one 1-ton HVAC unit, and one equipment shelter, located upon a 1,800 square foot leased space on property identified by Assessor's Parcel Number 096-120-72, consisting of 10.16 acres, located on the north side of Jim Hill Road, approximately 2,400 feet west of the intersection with Fort Jim Road, in the Placerville area, Supervisorial District 3. The site is zoned Rural Lands 10-Acres (RL-10) with a General Plan Land Use Designation of Rural Residential (RR). In order to construct and operate a new communication tower or monopole within a residential zone, a Conditional Use Permit in accordance with adopted rules, regulations, ordinances and California Environmental Quality Act (CEQA) guidelines and statutes is required.

The Planning Commission held a public hearing on June 13, 2019 (Legistar 19-0881, Agenda Item 3), and unanimously approved the Project. The appellant formally filed the appeal on June 27, 2019, within 10 working days after the approval of the project. The Zoning Ordinance provides that the appeal of a Planning Commission decision be decided at a public hearing before the Board of Supervisors.

Appeal

The appeal (Attachment A) asserts that mining tunnels in the project vicinity may not be able to accommodate the weight of the proposed communication facility. Should the project be approved, the appellant requests that a new condition of approval be placed upon the project requiring the applicant to conduct Ground Penetrating Radar (GPR) on the project parcel and upon the neighboring parcel, which is the appellant's property. The appeal item is listed verbatim below in bold with County staff responses immediately following in italics.

1) "This appeal is for the location of cell tower on APN 096-120-072 as referenced on Planning Commission item #3 19-0881 dated 6-13-2019. My property is APN 096-120-73 which the property is east of the subject property. Map A-1 attached. On 19-0881, page 3 of 8 section 2.6 (Attachment B-1), there is a statement of fact that a mine shaft etc was annotated. The portal has been closed as it could created a possibility of harm to any person entering the mine. The location of any tunnels has not been determined. The Appeals question is that no one knows what type of tunnel system is present. With the weight of the structure to be built, it could someday create a sink hole or a complete collapse of the underground workings (tunnel/rooms) with the loss of life and/or a major fire. As any added problem, my well in located about 30-50 feet down slope at 750' depth. Any slippage of the pad might collapse the well and then what. I would be remise if I did not remind the board as to the problems at Spanish Hill (Eskaton) and numerous other problems concerning mines. I am requesting that a complete Geotech GPR (Ground Penetrating Radar) survey of the effect area's on both APN's to be performed as a to ascertain where any tunnels/rooms are that might create problems and have the proper experts approve any results. This should be order as a condition of the permit. If this condition is not included in the permit process than I believe that the county, contractor and AT&T will assume responsibility for any future damages."

County Response: In accordance with the Project plans based on the approved Conditional Use Permit, the proposed communication facility will require the approval of grading and building permits, subject to review by the County and affected agencies, prior to any commencement of construction. As part of the grading and building permit process the Project applicant will be required to submit a geotechnical report for the site prepared by a qualified engineer. The geotechnical report will analyze the stability of the site for the proposed Project. This analysis includes but is not limited to the boring

of test holes. During the boring process, the engineer would be able to assess if there are mines directly underneath the Project site. Should the geotechnical report identify a mine within the Project footprint, the potential impacts would need to be analyzed with potential for remediation, if possible, or relocation. Should the geotechnical report identify relocation, the Conditional Use Permit would need to be revised to show the new location. As identified within the Cultural and Historical Resources Investigation, the proposed communication facility is located approximately 250 feet southeast of the onsite vertical mine shaft. With the standard requirements of the grading and building process for the Project, County staff does not believe that Ground Penetrating Radar for the subject site and the identified neighboring parcel is necessary as a Condition of Approval. Typically, projects that have been required to conduct ground penetrating radar have been projects with potential impacts to cemeteries and burial sites.

ALTERNATIVES

The Board may elect to consider one the following alternatives:

- 1) Deny the appeal and modify the approval by the Planning Commission on June 13, 2019, by adding a Condition of Approval requiring the Project to perform Ground Penetrating Radar (GPR) on the properties identified in the Appeal request; or
- 2) Deny the appeal and modify the approval by the Planning Commission on June 13, 2019, by adding a Condition of Approval requiring the Project to perform Ground Penetrating Radar (GPR) on the Project site only; or
- 3) Remand the Project to the Planning Commission for further consideration of the basis of the Appeal request; or
- 4) Uphold the appeal thereby reversing the action taken by the Planning Commission on June 13, 2019, resulting in the denial of Conditional Use Permit CUP18-0013 AT&T CAF II South Placerville. 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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