

**COUNTY OF EL DORADO
PLANNING AND BUILDING DEPARTMENT
ZONING ADMINISTRATOR
STAFF REPORT**



Agenda of:	November 21, 2018
Item No:	5.a.
Staff:	Melanie Shasha

MINOR USE PERMIT

FILE NUMBER: MUP18-0003/Verizon Tahoe Polygon

APPLICANT: Verizon Wireless

AGENT: Epic Wireless LLC

OWNER: PROPERTY: El Dorado County, TOWER: Liberty Energy

REQUEST: Minor Use Permit to allow the co-location and operation of two wireless telecommunication facilities on existing utility poles.

LOCATION: Two separate locations in the Lake Tahoe Basin area, Supervisorial District 5. (Exhibits A-G2)

Site 1 (075) Site one is located approximately 430 feet southwest of the intersection of Pioneer Trail and High Meadow Trail.

Site 2 (060) Site two is located approximately 400 feet south of the intersection of Cold Creek Trail and Copper Way.

APNs: All sites within public right of way. No APNs associated with project.

GENERAL PLAN:

Site 1 (075): Adopted Plan (AP)
Site 2 (060): Adopted Plan (AP)

ZONING:

Site 1 (075): Transportation Corridor (TC)
Site 2 (060): Transportation Corridor (TC)

ENVIRONMENTAL DOCUMENT: Categorically Exempt pursuant to CEQA
Guidelines Section 15301(b)

RECOMMENDATION: Staff recommends the Zoning Administrator take the following actions:

1. Find the project is exempt from CEQA pursuant to Section 15301(b) of the CEQA Guidelines (Existing Facilities); and
2. Approve Minor Use Permit MUP18-0003 based on the Findings and subject to the Conditions of Approval as presented.

EXECUTIVE SUMMARY

Minor Use Permit to allow for the co-location and operation of two wireless communication facilities each consisting of one cantenna and associated equipment on seven foot wood poletop extensions, and one ground-mounted small cell cabinet with a power meter on the side. The equipment will be mounted on existing structures (utility poles) ranging in height from 38.5 feet to 41 feet high.

PROJECT INFORMATION

Site Description:

Site 1 (075) is located approximately 430 feet southwest of the intersection of Pioneer Trail and High Meadow Trail. The existing height of the power pole is 38'5" and with the equipment will be a total of 50'10" above ground level. Surrounding land uses consist of single family residential in the Montgomery Estates subdivision (Exhibits B, C).

Site 2 (060) is located approximately 400 feet south of the intersection of Cold Creek Trail and Copper Way. The existing height of the power pole is 41'0" and with the new equipment will be a total of 53'5" above ground level. Surrounding land uses consist of single family residential in the Lake Christopher subdivision (Exhibits B, C).

Project Description: This minor use permit would allow for the co-location and operation of new communication equipment on existing utility poles ranging in height from 38.5 feet to 41 feet at two sites throughout the Lake Tahoe Basin (Exhibit A). The wireless communication equipment at each site would include one cantenna and associated equipment on seven foot wood poletop extensions, and one ground-mounted small cell cabinet with a power meter on the side (Exhibits D1, D2). All sites are unmanned and no generators or other noise source equipment are proposed to be installed. No new lighting is proposed. All equipment is to be field painted in non-reflective "Federal Standard Brown FS30059" color to match surrounding vegetation cover (Exhibits F1, F2).

STAFF ANALYSIS

Environmental Review: This project has been found to be Categorically Exempt from the requirements of CEQA pursuant to Section 15301(b) of the CEQA Guidelines stating that Class 1 exemptions consist “of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency’s determination.” As all equipment is being co-located on existing utility poles and small equipment cabinets are to be constructed directly adjacent to poles, the installation of the communication facility is consistent with this exemption classification under CEQA.

Pursuant to Resolution No. 240-93, a \$50.⁰⁰ processing fee is required by the County Recorder to file the Notice of Exemption. The filing of the Notice of Exemption is optional; however, not filing the Notice extends the statute of limitations for legal challenges to the project from 35 days to 180 days.

General Plan Consistency: Staff has determined that the proposed project is consistent with the applicable policies and requirements in the El Dorado County General Plan, as discussed below in Section 2.0, General Plan Findings.

Zoning Ordinance Consistency: Staff has determined that the proposed project is consistent with the applicable regulations and requirements in Title 130 of the El Dorado County Code, as discussed below in Sections 4.0 through 5.0, Zoning and Minor Use Permit Findings.

SUPPORT INFORMATION

Attachments to Staff Report:

Findings
Conditions of Approval

Exhibit A.....Location Map
Exhibit B.....Surrounding Land Use
Exhibit C.....Surrounding Zoning
Exhibit D1-2.....Elevation Plans
Exhibit E1-2.....Antenna Specifications
Exhibit F1-2.....Visual Simulations
Exhibit G1-2.....Radio Frequency Reports

FINDINGS

Minor Use Permit MUP18-0003/Verizon Tahoe Polygon Zoning Administrator/November 21, 2018

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 The proposed communication facilities are Categorical Exempt from CEQA pursuant to Section 15301 of the CEQA Guidelines. Class 1 exemptions consist “of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency’s determination.” As all equipment is being attached to existing utility poles and small equipment cabinets are to be constructed directly adjacent to poles, the installation of the communication facility is consistent with this exemption classification under CEQA.
- 1.2 The documents and other materials which constitute the record of proceedings upon which this decision is based are in the custody of the County of El Dorado Planning and Building Department at 2850 Fairlane Court, Placerville, CA, 95667.

2.0 GENERAL PLAN FINDINGS

2.1 The project is consistent with General Policy 5.1.2.1.

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

Rational: The project will connect to existing electrical facilities and public services currently existing at both sites. The operation of the project 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 pole mounted equipment and ground equipment shelters would not generate solid waste.

2.2 The project is consistent with General Plan Policy 6.2.3.2,

Policy 6.2.3.2 requires new development, to 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.

Rational: Both sites currently have access through existing public county maintained roads.

3.0 ZONING FINDINGS

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

Rationale: No alternative sites were considered for this project. The applicant has identified the proposed sites as the most optimum in providing additional services and capacity to the area. All equipment is to be located on existing utility poles and each has a ground-mounted small cell cabinet with a power meter on the side.

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

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

B. Co-location on Existing Non-building Structures or Public Facilities. *In all zones, the co-location of antennas on signs, water tanks, utility poles and towers, light standards, and similar structures may be allowed subject to Zoning Administrator approval of a Minor Use Permit in compliance with Section 130.52.020 (Conditional and Minor Use Permits). Those facilities not meeting the requirements below are subject to a Minor Use Permit:*

- a. *Antennas shall not exceed the maximum height for the zone or 15 feet above the height of the existing structure, whichever is less.*
- b. *Antennas and mounting brackets shall be constructed and mounted to blend with the design and color of the existing structure;*
- c. *All equipment shelters, cabinets, or other ancillary structures shall be located within the structure being utilized for the communication facility, or on the ground screened from public view; and*
- d. *If proposed to be attached to a structure, utility pole, or tower located within a public utility easement, both the utility and the property owner must authorize submittal of an application for such use.*

Rational: Site 1 (075) complies with height and screening regulations, however, is located within a public utility easement. Montgomery Estates Subdivision map lists an easement for “poles, anchors and guy wires and overhead and underground wires and conduits for electric and telephone service together with any and all appurtenances thereto on, over, and under strips of land, 10 feet in width, contiguous to any right of way line which is contiguous to any

street or other public way and within such lots.” Site 1 (075) is within and compliant to this easement.

All proposed equipment at Site 2 (060) complies with height and screening regulations however is located within a public utility easement. Lake Christopher Subdivision map lists an easement for “light and air and for public utility poles, wires, anchors, and crossarms over those strips of land lying between the front lot line and those lines shown hereon and designated “SET BACK LINE”, said strips of land to be kept open and free from buildings.” Site 2 (060) is within and compliant to this easement.

- 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: Photo-simulations of the facility are provided in Exhibit H of the Staff Report. 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 sites are located in previously disturbed areas. The surrounding areas are dominated by pine canopy. The project has been designed such that trees and topography will screen the towers. All equipment is to be field painted in non-reflective “Federal Standard Brown FS30059” colors.

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: Both sites are located within public or county right of way adjacent to transportation corridors. No setbacks are associated with these sites.

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 proposes bi-annual inspections for routine maintenance and to replace any cables or batteries if necessary. Additional urgent visits will occur if the site equipment is not functioning. Conditions are recommended 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 D1, D2 and F1, F2).

E. Radio Frequency (RF) Requirements: Section 130.40.130.E of the County Code requires that the applicant submit a report or summary of the estimates of non-ionizing radiation generated by the facility and maximum electric and magnetic field strengths at the edge of the facility site, as regulated by the Federal Communication Commission (FCC).

Rationale: Submitted RF analysis reports for each proposed site confirm compliance with the applicable FCC Regulations under 47 C.F.R Section 1.1307(b) (3) and 1.1310 (Radio Frequency Radiation Exposure Limits) (Exhibits G1, G2).

F. Availability. Section 130.40.130.F requires that all communication facilities be available to other carriers as long as structural or technological obstacles do not exist.

Rationale: Both sites are existing utility poles. Due to structural considerations both project sites would have limited collocation capabilities. Any separate future collocation would require a revision to this minor use permit and/or building permit, subject to review by the County.

G. Section 130.40.130.G of the Zoning Ordinance requires that all obsolete or unused communication facilities be removed within six months after the use of that facility has ceased or the facility has been abandoned.

Rationale: The project has been conditioned to comply with this requirement.

H. Section 130.40.130.H of the Zoning Ordinance states certain notification requirements for projects located within 1,000 feet of a school or on residentially zoned lands governed by CC&Rs.

Rationale: Neither of the proposed project sites are located on residentially zoned lands governed by CC&Rs. Site 1 (075) is within 1,000 feet of a school and the Lake Tahoe Unified School District was notified during the initial consultation. The project complies with the notification requirements.

4.0 MINOR 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 utility poles are painted to match surroundings and/or 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 surrounding neighborhoods based on the data and conclusions contained in the staff report. At less than ten percent of the public safety standard established by the FCC at the project site, the risk of RF emissions to the surrounding public is remote.

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

Because the proposed use complies with the requirements of Zoning Ordinance Section 130.40.130.B through H (Communication Facilities), the project is a specifically permitted use with an approved Minor Use Permit.

CONDITIONS OF APPROVAL

Minor Use Permit MUP18-0008/Verizon Tahoe Polygon Zoning Administrator/November 21, 2018

Planning Services

1. This Minor Use Permit is based upon and limited to compliance with the project description, the following hearing exhibits, and conditions of approval set forth below:

Exhibit D1-2.....Elevation Plans
Exhibit F1-2Visual Simulations

Any deviations from the project description, exhibits, or conditions must be reviewed and approved by the County for conformity with this approval. Deviations may require approved changes to the permit and/or further environmental review. Deviations without the above described approval will constitute a violation of permit approval.

Approval of the Minor Use Permit allows the installation and operation of two wireless communication facilities to support broadband internet transmission at two sites located in public right of ways adjacent to transportation corridors throughout the South Lake Tahoe area. Each facility would consist of one cantenna and associated equipment on seven inch wood pole top extension, and one ground-mounted small cell cabinet with a power meter on the side of the small cell cabinet.

The grading, development, use, and maintenance of the property, the size, shape, arrangement, and location of structures, parking areas and landscape areas, and the protection and preservation of resources shall conform to the project description above and the hearing exhibits and conditions of approval below. The property and any portions thereof shall be sold, leased or financed in compliance with this project description and the approved hearing exhibits and conditions of approval hereto. All plans must be submitted for review and approval and shall be implemented as approved by the County.

Planning Department

2. **Expiration:** Pursuant to Zoning Ordinance Section 130.54.060.A, implementation of the project shall occur within 24 months of approval of this permit, otherwise the permit becomes null and void. It is the responsibility of the applicant to monitor the time limit and make diligent progress toward implementation of the project and compliance with Conditions of Approval.
3. **Responsibility for Interference:** The applicant shall assume full responsibility for resolving television reception interference or other electrical interference caused by the operation of this facility. The applicant shall take corrective action within 30 days of the receipt of any written complaint.

4. **Facility Maintenance:** All improvements associated with the communication facility, including equipment shelters, antennae, and fencing shall be properly maintained at all times. Colors of the panels, equipment enclosure, and other improvements visible to the public shall be maintained to ensure the appearance remains consistent.
5. **Conditions Compliance:** Prior to issuance of a building permit or commencement of any use authorized by this permit, the applicant shall provide a written description, together with appropriate documentation, showing conformance of the project with each condition imposed as part of the project approval. The applicant shall also schedule an inspection by Planning Services prior to Building Permit final for any Building Permit for verification of compliance with applicable Conditions of Approval.
6. **Obsolete Equipment:** 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 Planning Services at the time of abandonment and all disturbance related to the communication facility shall be restored to pre-project conditions.
7. **Compliance Responsibility:** The operator (lessee) and property owner (lessor) are responsible for complying with all conditions of approval contained in this Minor Use Permit. Any zoning violations concerning the installation, operation, and/or abandonment of the facility are the responsibility of the owner and the operator.
8. **Payment of Processing Fees-Development Services:** The applicant shall make the actual and full payment of Planning and Building Services processing fees for the minor use permit and building permit prior to issuance of a building permit.
9. **Hold Harmless Agreement:** In the event of any legal action instituted by a third party challenging the validity of any provision of this approval, the developer and landowner agree to be responsible for the costs of defending such suit and shall hold County harmless from any legal fees or costs County may incur as a result of such action.

The developer and land owner shall defend, indemnify, and hold harmless El Dorado County and its agents, officers, and employees from any claim, action, or proceeding against El Dorado County or its agents, officers, or employees to attack, set aside, void, or annul an approval of El Dorado County concerning a minor use permit.

The County shall notify the applicant of any claim, action, or proceeding, and the County shall cooperate fully in the defense.

Transportation Department

10. **Encroachment Permit:** Prior to start of work the applicant will need to apply for and obtain a Utility Encroachment Permit for each location within the County Right of Way. Cabinets cannot obstruct county roadside ditches.

11. Install and maintain snow stakes (minimum height of 8 feet above natural grade) at each location to demark above-grade equipment enclosures.
12. Construct all above-grade equipment enclosures downstream (in the direction of traffic) from the utility pole, so that the equipment enclosure is protected from traffic and snow removal equipment by the adjacent utility pole.