

Agenda of: September 8, 2005

Item No.: 7.c.

Staff: Cara Halleus

STAFF REPORT - SPECIAL USE PERMIT

FILE NUMBER: S05-0015

APPLICANT: Verizon Wireless (Jennifer Walker)

PROPERTY OWNER: James Kidder

REQUEST: Special use permit to allow the establishment of a wireless telecommunications facility on the rooftop of an existing commercial building. The facility will have an overall height of 34.5 feet. No equipment shelter is proposed at this site.

LOCATION: On the north side of Mother Lode Drive, approximately 129 feet east of the intersection with South Shingle Road and 10 feet south of U.S. Highway 50, in the Shingle Springs area. (Exhibit A)

APN: 090-430-12 (Exhibit B)

ACREAGE: 1.11 acres

GENERAL PLAN: Commercial (C) (Exhibit C)

ZONING: Commercial (C) (Exhibit D)

ENVIRONMENTAL DOCUMENT: Categorically Exempt pursuant to Section 15301 of the CEQA Guidelines.

SUMMARY RECOMMENDATION: Conditional approval

BACKGROUND: The Telecommunications Act of 1996 preserves the authority of a state or local government over decisions regarding the placement, construction, and modification of personal wireless services, with the following pertinent limitations:

SEC. 704.(7)B(iii)

Any decision by a state or local government or instrumentality thereof to deny a request to place, construct or modify personal wireless service facilities shall be in writing and supported by substantial evidence contained in a written record.

SEC.704.(7)B(iv)

No state or local government or instrumentality thereof may regulate the placement, construction and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Commissions regulations concerning such emissions.

The American National Standards Institute and the Institute of Electrical and Electronics Engineers (IEEE) have published a standard called ANSI/IEEE C95.1-1992, which until recently set recommended maximum power density levels for radio frequency (RF) energy originating from communications sites and other sources. The Federal Communications Commission (FCC) has also produced its own guidelines, which are more stringent and supersede the ANSI standard. The FCC rules categorically exclude certain transmitting facilities from routine evaluations for compliance with the RF emission guidelines if it can be determined that it is unlikely to cause workers or the general public to become exposed to emission that exceed the guidelines. The following table represents the FCC limits for both occupational and general population exposures to different radio frequencies:

Frequency Range (F) (MHz)	Occupational Exposure (mW/cm²)	General Public Exposure (mW/cm²)
0.3-1.34	100	100
1.34-3.0	100	180/F ²
3.0—30	900/F ²	180/F ²
30-300	1.0	0.2
300-1,500	F/300	F/1500
1,500-100,000	5.0	1.0

Based on the proposed Verizon facility analysis and computation, the maximum power density at this location is 0.8449 mW/cm² (at 1,000 feet from the base of the antennae). Therefore, the maximum permissible exposure for the general population at this site is equivalent to 0.14% of the recommended limit. The power density at 1,000 feet away from the antennae is greater than the power density at the base of the antennae because power is directed outward rather than downward. Therefore, the risk of release of hazardous materials or emissions to the public is remote.

STAFF ANALYSIS

Staff has reviewed the project for compliance with the County’s regulations and requirements. An analysis of the permit request and issues for Planning Commission consideration are provided in the following analysis:

Project Description: Verizon Wireless Communications is requesting a special use permit to allow a collocation of a roof mounted cellular facility consisting of six panel antennas on a new roof mounted tripod of an existing commercial building. There are currently five existing cellular antennas mounted on the roof of the facility (Building Permit #117070). Three existing rooftop antennas will be removed. No equipment shelter is proposed at this site.

Project plans are included as Exhibit E.

Proposed Access: The site is served by Mother Lode Drive. Access to the cellular facility will continue along an easement from the existing driveway along Mother Lode Drive through the parking lot next to the leased area.

Site Description: The parcel is located on the north side of Mother Lode Drive, approximately 129 feet east of the intersection with South Shingle Road and 10 feet south of U.S. Highway 50 in the Shingle Springs area. The project site is approximately 1,520 feet above mean sea level. The lease area is approximately seventy square feet. The project site, as well as adjacent commercial parcels, can be seen when traveling west on U.S. Highway 50; however the project site is blocked from view by the Shingle Springs on/off ramps when traveling east on U.S. Highway 50. A Pacific Gas & Electric/RCS Wireless cellular co-location facility is located approximately 800 feet southeast of the project site in a residential zone. The PG&E/RCS co-location was approved under Special Use Permit S01-0005 and consists of an 89-foot tower.

Adjacent Land Uses:

	Zoning	General Plan	Land Use/Improvements
Site	C	C	Commercial
North	C	C	Commercial
South	C	C	Commercial
East	C	C	Commercial
West	C	C	Commercial

Discussion: The subject parcel is 1.11 acres in an existing commercial area. The project, as proposed and conditioned, will continue to be visually compatible with existing antennas and the surrounding commercial environment.

General Plan: The General Plan designation of the subject site is Commercial (C). This designation permits a full range of commercial retail, office, and service uses. As a rooftop collocation no ground disturbance is likely, therefore conflicts with General Plan policies related to environmental protections such as erosion, cultural resources, tree canopy, and water resources, etc. are not likely to exist. The attached conditions of approval and review of required building permits will allow for further compliance and consistency with these policies.

The cellular facility would be incidental to the main commercial use of the property when developed and would stand at approximately 34.5 feet tall. Verizon chose the location because existing antennae are already in place and the additional apparatus will allow for the expansion of cellular coverage along U.S. Highway 50 as well as for the surrounding residential and commercial areas. In addition, the closest alternate cellular facility, located on Becken Lane, is approximately 800 feet southeast of the project site in a residential zone district (One-acre Residential/R1A) utilizing an 89-foot tower.

The applicant has designed the wireless facility in compliance with County regulations, addressing aesthetics, environmental issues, and health and safety concerns. Therefore, staff finds that the project, as conditioned, conforms to the General Plan.

Conclusion: As discussed above, staff finds the proposed project, as conditioned, conforms to both the 1996 and 2004 General Plans.

Zoning: The proposed use is subject to a special use permit, pursuant to Section 17.14.200(D) (2) (b), in the Commercial zone district, because it is located adjacent to a state highway. 17.14.200(D) (2) (b) states the following:

2. **Roof mounted antennae:** The construction or placement of communication facilities as roof mounted antennae may be permitted as set forth below:
 - b. In all other zone districts, and where located adjacent to a state highway or designated scenic highway, roof mounted antennas shall be subject to approval of a special use permit by the planning commission pursuant to Section 17.22.500 et seq.

Discussion: The proposed project is subject to approval of a special use permit by the Planning Commission, pursuant to Section 17.22.500, because the project is adjacent to U.S. Highway 50.

Development Standards: Section 17.14.200(E) and (F) of the County Code require that all wireless communication facilities meet certain criteria. Below is an analysis of these standards.

1. **Screening.** The applicant proposed to place their 12 foot antennae within the center of the rooftop, approximately 12.5 feet from the rear building line. Visual simulations of the wireless facility have been submitted (see Exhibit E)
2. **Setbacks.** No setbacks are encroached upon by the project.
3. **Maintenance.** The project has been conditioned to require all improvements to be properly maintained at all times, including the colors of antennas and support facilities.

After review of the submitted site plan(s), visual simulations, and an on-site reconnaissance, it has been determined that the proposed project meets the standards contained in Section 17.14.200 E and F of the County Code.

Radiofrequency Radiation (RF) Requirement: Section 17.14.200(G) requires that the applicant submit a report detailing the evaluation of potential RF exposure at the edge of the facility site. In areas normally accessible to the general public, the effect of the proposed Verizon Wireless antennae at ground level is calculated to be a maximum of 0.14 percent of the existing standard for general population uncontrolled exposure.

General Plan Lawsuit: On February 5, 1999, Judge Cecily Bond of the Sacramento Superior Court acted to invalidate the Environmental Impact Report adopted for the 1996 General Plan. This invalidation restricted the County from acting on any discretionary project pending issuance of a Writ from the Court. On July 19, 1999, Judge Bond issued the Final Writ of Mandate. Paragraph 5, subparagraph 1 of the Final Writ permits the County to issue permits for non-residential development, subject to the findings in subparagraph (8).

Subparagraph (8) establishes that the County cannot approve or undertake any such project unless it finds, based on substantial evidence, that:

- (a) The approval or project will not significantly impair the County's ability to adopt and implement a new General Plan after complying with CEQA.

Discussion: The project was reviewed and it has been determined that none of the environmental issues identified in the February 5, 1999 Court ruling will be affected by this project. Zoning regulations and the General Plan allow for cellular facilities with the issuance of special use permit.

- (b) The approval or project complies with all other requirements of law.

Discussion: The project will comply in all instances with the provisions of the County Code and State regulations regarding cell tower facilities, including Section 17.14.200 (Wireless Communications Facilities Ordinance).

- (c) The approval of the project is consistent with the text and maps of the 1996 General Plan as amended through February 4, 1999.

Discussion: A review of the text and maps of the 1996 General Plan, as amended through February 4, 1999, determined the consistency of the proposed project. The project is permitted with a special use permit. The project, as conditioned, conforms to the terms of the Writ.

Agency and Public Comments: The following agencies provided comments on this application:

El Dorado County Environmental Management Department
El Dorado County Department of Transportation
El Dorado County Air Quality Management District
El Dorado County Fire Protection District

Copies of their written comments are available at the Planning Services office. From these comments, only the Fire District had specific concerns regarding the proposed special use permit.

The Fire District requested a series of conditions which were based upon Verizon Wireless' original proposed project that included a back-up generator facility as well as the cellular antennae. Condition 9 incorporates the Fire District's conditions that pertain only to the proposed antennae.

At the time of the preparation of this report, staff had not received any comments from the public. New issues may arise as a result of the public notice of the hearing which will be discussed at that time.

ENVIRONMENTAL REVIEW

This project has been found to be Categorical Exempt from the requirements of CEQA pursuant to section 15301. This section states, in part, "that projects that consist of the ... minor alteration of existing public or private structures... involving negligible or no expansion beyond that existing are exempt from further environmental review."

The co-location is a negligible expansion of an existing facility. Based on staff's review of the project, staff has determined that there is no substantial evidence that the proposed project will have a significant effect on the environment. Accordingly, the project can be found categorically exempt from CEQA pursuant to Section 15301.

Pursuant to Resolution No. 240-93, a \$35.00 processing fee is required by the County Recorder to file the Notice of Exemption.

RECOMMENDATION

Staff requests that the Planning Commission take the following action:

1. Find that the project is Categorical Exempt from CEQA pursuant to Section 15301 of the CEQA Guidelines; and
2. Approve Special Use Permit S05-0015 subject to the Conditions of Approval in Attachment 1, based on the findings in Attachment 2.

SUPPORT INFORMATION

Attachments to Staff Report:

Attachment 1Conditions of Approval
Attachment 2Findings
Exhibit AVicinity Map
Exhibit BAssessor’s Parcel Map
Exhibit CGeneral Plan Land Use Map
Exhibit DZoning Map
Exhibit ESite Plan
Exhibit FVisual Simulations

ATTACHMENT 1
CONDITIONS OF APPROVAL

FILE NUMBER S05-0015

CONDITIONS OF APPROVAL

El Dorado County Planning Services

1. The project, as approved, consists of the following: A co-location of a roof mounted cellular facility consisting of six antennas.
2. All site improvements shall conform to the site plan(s) attached as Exhibit E.
3. All equipment shelters, cabinets or other auxiliary structures shall be painted in a matching color.
4. All improvements associated with the communication facility, including equipment shelters, towers, antenna, fencing, and landscaping shall be properly maintained at all times. Colors of the tower and other improvements shall be maintained to ensure the appearance remains consistent.
5. All obsolete or unused communication facilities shall be removed within six (6) 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 condition.
6. Due to the ever-changing technology of wireless communication systems, this special use permit shall be reviewed by the Planning Commission every five years. At each five-year review, the permit holder shall provide the Planning Commission with a status report on the then current use of the subject site and related equipment. The Planning Commission shall review the status report and, based on an assessment of the information provided, current wireless communications technology, and possible local or cumulative impacts, determine whether to: (1) Modify the conditions of approval in order to reduce identified adverse impacts; and (2) Initiate proceedings to revoke the Special Use Permit, requiring the facility's removal, if it is no longer an integral part of the wireless communication system. By operation of this condition, it is the intent of the Planning Commission to reserve the right to modify existing or add new conditions, consistent with the language specified above. The failure of the Planning Commission to conduct or complete a five-year review in a timely fashion shall not invalidate this special use permit. The applicant shall pay a fee as determined by the Deputy Director of Planning to cover the cost of processing a five-year review.

El Dorado County Building Services

8. Project facilities shall be subject to issuance of a building permit from El Dorado County Building Services. Building Services will verify that existing roof structure meets new load requirements.

Fire Department

9. The project shall comply with all requirements of the El Dorado County Fire Protection District. These include:
 - a. Applicant will provide high-priority “Knox” access with keys for emergency access to the existing building.
 - b. Gates to comply with Fire Prevention Officers’ standard.

ATTACHMENT 2 **FINDINGS**

FILE NUMBER S05-0015

1. The proposed project is considered exempt from the CEQA requirements under Section 15301, Existing Facilities, which allows exemptions for 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. The key consideration is whether the project involves negligible or no expansion of an existing use. Based on the conclusions and conditions of approval contained in the staff report, there is no substantial evidence that the proposed project will have a significant effect on the environment.
2. The proposed use is consistent with the policies in the El Dorado County General Plan, as amended through February 4, 1999, because the applicant has designed the cellular facility in compliance with County regulations, addressing aesthetics, environmental issues and health and safety concerns, as required by the General Plan.
3. The use is found to comply with the requirements of County Code Section 17.14, Wireless Communication Facilities, and the proposed use is not considered detrimental to the public health, safety, and welfare, or injurious to the neighborhood, based on the conclusions contained in the staff report.
4. This project may be approved subject to the following findings established in Paragraph 5, Subparagraph 1, which permits the County to approve non-residential projects, and Subparagraph 8 in the Final Writ issued by the Court on July 19, 1999, as follows:
 - a. The approval or project will not significantly impair the County's ability to adopt and implement a new General Plan after complying with CEQA.

The project was reviewed and it has been determined that none of the environmental issues identified in the February 5, 1999 Court ruling will be affected by this project. Zoning regulations and the General Plan allow for cellular facilities with the issuance of special use permit.
 - b. The approval or project complies with all other requirements of law.

The project is found compliant with the provisions of the County Code and State regulations regarding cell tower facilities.

- c. The approval or project is consistent with the text and maps of the 1996 General Plan as amended through February 4, 1999.

A review of the text and maps of the 1996 General Plan, as amended through February 4, 1999, determined the consistency of the proposed project. The project area is permitted with a special use permit. The project as conditioned, will not impact the agricultural and residential uses of the surrounding areas, nor jeopardize the requirements of public health, safety and welfare.