

**ELDORADO COUNTY DEVELOPMENT SERVICES
STAFF REPORT**



Agenda of: February 9, 2006
Item No.: 7.b.
Staff: Tom Dougherty

SPECIAL USE PERMIT

FILE NUMBER: S 05-0021

APPLICANT: Nextel Communications (Cal Com Systems)

PROPERTY OWNER: Wayne Cottle (Property)
Nextel Communications (Tower)

REQUEST: Special use permit to allow the establishment of a wireless telecommunications facility to include ground-mounted equipment and a 55-foot monopine tower with 12 antennas at the 51-foot level.

LOCATION: On the east side of Latrobe Road, approximately eight miles south of the intersection with U.S. Highway 50, in the Latrobe area. (Exhibit A)

APN: 087-101-08

ACREAGE: 44.51 acres

GENERAL PLAN: Rural Residential (RR) (Exhibit B)

ZONING: Residential Agricultural Forty-acre (RA-40) (Exhibit C)

ENVIRONMENTAL DOCUMENT: Negative Declaration

SUMMARY RECOMMENDATION: Conditional Approval

BACKGROUND:

The Telecommunications Act of 1996 became effective on February 8, 1996. This act preserves the authority of the State or local government over decisions regarding the placement, construction, and modifications of personal wireless services, subject to two limitations. Section 704.(7)B(iii) requires any denials to be in writing and supported by “substantial evidence”. Section 704.(7)B(iv) prohibits denial on the basis of radio frequency emissions if those emissions are compliant with Federal regulations.

On August 28, 2001, the El Dorado County Board of Supervisors adopted Sections 17.22.500 and 17.14.200 of the Zoning Ordinance to regulate special use permits and wireless communication facilities. By adopting these ordinances, the Board of Supervisors acted to maintain the County’s authority over decisions regarding wireless facilities.

The American National Standards Institute and the Institute of Electrical and Electronics Engineers (IEEE) have published a standard called ANSI/IRRR 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 Nextel facility analysis and computation, (Jeff Lafazan, RF Engineer-Nextel Communications, August 24, 2004), the maximum power density at this location is 55.7 uW/cm² at any publicly accessible location. Therefore, this maximum permissible exposure for the general population at this site is .10 percent of the maximum FCC public exposure standards for these frequencies. Therefore, the risk of release of hazardous materials or emissions to the public is remote.

STAFF ANALYSIS

Project Description: Special use permit to allow the construction and operation of a new wireless communications facility. Proposed are 12 panel antennas to be placed at the centerline of 51 feet on a 55 foot tower designed to resemble a pine tree, often called a monopine, with associated ground support equipment, within a 40 by 40 foot lease area at the 855-foot elevation above mean sea level

at 7465 Latrobe Road in Latrobe area. Also proposed to be located in the lease area are an associated 12 by 20 foot prefabricated equipment shelter, a backup generator, propane tank, and two air conditioners. The 1,600 square foot lease area is proposed to be surrounded by a six-foot-high, brown slatted chain-link fence with barbed wire atop for security, along with a 12-foot entrance closed by two six-foot gates. The tower is designed to accommodate two total carriers with the potential that each one can place 12 antennas. Project plans are included as Exhibit D.

Proposed Access: The owner of the property, Wayne Cottle, has granted access to the tower to Nextel Communications and/or its authorized agents. Direct access to the project location is within the subject parcel. A Fire District recommended turn-around at the site is included in the project.

Site Description: The proposed location of the cell tower and equipment shelter lease area within the project site is located atop an undeveloped moderately sloped hillside surrounded by scattered blue oak (*Quercus douglasii*), foothill (gray) pine (*Pinus sabiniana*), buckbrush (*Ceanothus cuneatus*), white-leaf manzanita (*Arctostaphylos viscida*), chamise (*Adenostoma fasciculatum*), coffeeberry (*Rhamnus californica*), toyon (*Heteromeles arbutifolia*), yerba santa (*Eriodictyon californicum*), and annual, seasonal grasses within the direct vicinity of the proposed lease area. Intermittent, “kicked-up” serpentine rocks are present on the surface. Access to the site will be provided by a new, graveled driveway encroaching directly onto the existing driveway leading to Latrobe Road. The drive is to be constructed as required by the El Dorado County Fire Protection District.

Adjacent Land Uses:

| | Zoning | General Plan | Land Use/Improvements |
|--------------|---------------|---------------------|---|
| Site | RE-10 | RR | Single-family residence |
| North | RA-40/AE | RR/AL | Single-family residence/undeveloped |
| South | RE-10 | HDR | Undeveloped/Latrobe Triangle Rd. |
| East | AE | AL | Undeveloped |
| West | RE-10 | HDR/MFR | Single-family residence/undeveloped/Latrobe Rd. |

Discussion: The free-standing monopine tower is designed to resemble a generic pine tree in height and structure. It somewhat resembles a ponderosa pine (*Pinus ponderosa*) in shape and silhouette. There are few ponderosa pines in the Latrobe area and none on this site. Currently, Planning staff has seen ten different variations of conifer-like and one broadleaf like tower designs. The only options presently available to disguise the tower that might make it blend into the Latrobe area are a pine tree, broadleaf tree, or possibly a water tower. Planning staff believes that either the proposed monopine design, a broadleaf tree design, or a water tower could provide the best camouflage for this site given the existing technology. The Planning Commission could choose either, and each could be argued to have potentially equal camouflage value.

General Plan: The General Plan designation of the subject site is Rural Residential (RR). This designation permits residential uses.

Policy 5.6.1.3 states, “Special Use Permits shall be required for the installation of community telecommunications facilities (e.g. microwave towers) in residential areas to ensure that siting, aesthetics, environmental issues, surrounding land uses, and health and safety concerns are considered.”

Policy 2.6.1.5 states that development on ridgelines shall be reviewed by the County for potential impacts on visual resources and those impacts will be assessed and may require methods such as setbacks, screening, low-glare or directed lighting, automatic light shutoffs, and external color schemes that blend with the surroundings in order to avoid visual breaks to the skyline.

Discussion: The applicant has designed the wireless facility in compliance with County regulations, addressing aesthetics, environmental issues, and health and safety concerns. All project-related environmental issues have been evaluated during the research leading up to this staff report. Therefore, staff finds that the project, as conditioned and mitigated, conforms to the General Plan.

Zoning: The County permits wireless communication facilities in all districts, provided that they follow standards and permitting requirements defined in Section 17.14.200 of the County Code. These standards include screening, compliance with setbacks, and proper maintenance. The applicant has provided a justification statement explaining the project site selection process (Exhibit G).

Special Use Permit Request: To comply with County requirements, the project has been designed as a multi-carrier facility, to allow for future collocation. The agent for the applicant has stated that two total carriers can be accommodated with a maximum of 12 antennas per carrier. To address maintenance issues, the applicant proposes to have a technician service the wireless facility and equipment approximately once or twice a month to ensure proper performance of the facility.

The proposed use is permitted in the Residential Agricultural Forty-acre (RA-40) Zone District pursuant to Section 17.14.200 (D) (5) (b), which requires approval of a special use permit.

After review of the submitted site plan and visual simulations, it has been determined that the proposed project meets the standards contained in Section 17.14.200 (E) and (F) of the County Code. It can be found that the use will not conflict with the adjacent uses and will provide a benefit to the area by improving cellular service.

Design and Development Standards

Section 17.14.200(E) through (J) of the County Code requires that all wireless communication facilities meet certain criteria. Below is an analysis of these standards.

- a. Screening: The applicant is proposing to place the equipment shelter and steel mono-pine within a six-foot-tall chain link fence enclosure. Visual simulations of the wireless facility have been submitted (Exhibit E). As illustrated in the simulations, the mono-pine and ground equipment are designed as best as possible to blend into the surrounding area. The project is approximately 340 feet from Latrobe Road. The ground equipment will be partially screened from that road by the brown slats proposed to be installed onto the chain link fence. The Planning Commission has the option to require landscaping around the enclosure; however water is not available at the site. The project could then potentially be required to install a temporary water tank to be used to support native/drought resistant plants for one year and then be removed. It has not been the practice of Planning staff to require landscaping in the past though, so as proposed, the brown slatted fence, non-reflective brown painted pole and green branches and antennas could be approved as is. The Commission does have the option to have the pole be covered by fake bark and the antennas to be covered by “antenna socks.” It will be recommended that the antennas avoid horizontal expansion beyond the proposed foliage.
- b. Setbacks: The monopine and equipment shelter would be located within a fenced enclosure towards the center of the parcel. The side setbacks are 375 feet to the south and 340 feet to the north, the rear 1,500 feet to the south, and the front 340 feet to Latrobe Road. There would be no setback infringements from the proposed project.
- c. Maintenance: Maintenance personnel would visit the site approximately once or twice a month at which time the facilities would be inspected to ensure proper operation. The project has been conditioned to require that the colors and materials of the monopine and equipment shelter be maintained at all times and be consistent with the features depicted in the visual simulations.
- d. Radiofrequency Radiation (RF) Requirement: Section 17.14.200 (G) 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. Nextel has submitted a report indicating that the maximum power density at this location will be 55.7 milliwatts per square centimeter (mW/cm²). Therefore, this maximum permissible exposure for the general population at this site is 0.10 percent of the maximum FCC public exposure standards for these frequencies. Therefore, the risk of release of hazardous materials or emissions to the public is remote. This is also within the allowable limitations established in ANSI standard C95.1-1992, the prevailing standard for RF exposure levels.

- e. Availability: Section 17.14.200 (H) requires that all existing communication facilities be available to other carriers as long as structural or technological obstacles do not exist. The project has been conditioned to allow for collocation, with no further review by the Planning Commission required provided that all ground-mounted equipment is located within the proposed leased area and provided that no more than 12 panel antennas are placed on the tree pole at any one time by any one carrier (Condition 4).
- f. Unused Facilities: Section 17.14.200 (I) requires that all obsolete or unused communication facilities be removed within six months after the use of the facility has ceased or the facility has been abandoned. The project has been conditioned to comply with this requirement (Condition 7).
- g. Other Permit Requirements: Section 17.14.200(J) states certain notification requirements for projects located with 1,000 feet of a school or in subdivisions governed by CC&Rs. There are no schools within 1,000 feet of the site or subdivisions governed by CC&Rs.

After review of the submitted site plan and a visual simulations, it has been determined that the proposed project meets the standards contained in Section 17.14.200 (F) through (J) of the County Code. The aesthetic impacts associated with the project have been fully considered. As designed and conditioned, there are no unresolved issues with the project.

Agency and Public Comments: The following agencies provided comments on this application. Copies of their written comments are available at the Planning Services office. From these comments, the following issues were raised:

Air Quality Management District: The District responded with issues that need to be addressed during the course of carrying out this project. These issues are listed in the Conditions 16 through 19.

Latrobe Fire Protection District: The Fire District reviewed the project and recommended changes be incorporated to comply with the Districts requirements. These requirements have been incorporated in Attachment 1, Conditions 12 through 15.

El Dorado County Environmental Management Department-Solid Waste/Hazardous Materials: The Department responded with issues that need to be addressed during the course of carrying out this project. These issues are listed in Condition 20.

The following agencies were solicited for comments and either did not respond with concerns or responded they had no recommended conditions of approval:

El Dorado County Department of Transportation.
Latrobe Advisory Committee
El Dorado County Pioneer Cemeteries

At the time of the preparation of this report, staff had not received any comments from the public.

ENVIRONMENTAL REVIEW

Staff has prepared an Initial Study (Exhibit I) to determine if the project has a significant effect on the environment. Based on the Initial Study staff has determined that there is no substantial evidence that the proposed project will have a significant effect on the environment, and a Negative Declaration has been prepared.

This project is found to be de minimis (having no effect on fish and game resources). Per Resolution No. 240-93, a \$35.00 processing fee is required by the County Recorder to file the Notice of Determination and Certificate of Fee Exemption with the State in accordance with State Legislation (California Fish and Game Code Section 711.4).

RECOMMENDATION

Staff recommends that the Planning Commission take the following actions:

1. Adopt the Negative Declaration, based on the Initial Study prepared by staff; and
2. Approve Special Use Permit S04-0021 subject to the Conditions of Approval in Attachment 1 and based on the Findings in Attachment 2.

SUPPORT INFORMATION

Attachments to Staff Report:

| | |
|--------------------|--------------------------------------|
| Attachment 1 | Conditions of Approval |
| Attachment 2 | Findings |
| Exhibit A | Vicinity and A.P.N. Maps |
| Exhibit B | General Plan Land Use Map |
| Exhibit C | Zoning Map |
| Exhibit D | Site Plan/Elevations |
| Exhibit E | Visual Simulations |
| Exhibit F | Site Visit Photos September 21, 2005 |
| Exhibit G | Justification Statement |
| Exhibit H | Initial Study |

ATTACHMENT 1
CONDITIONS OF APPROVAL

FILE NUMBER S 05-0021

El Dorado County Planning Services

1. This special use permit approval is based upon and limited to compliance with the approved project description and Conditions of Approval set forth below. 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.

The project description is as follows: Special use permit to allow the construction and operation of a new wireless communications facility. Proposed are 12 panel antennas to be placed at the centerline of 51 feet on a 55 foot tower designed to resemble a pine tree, often called a monopine, with associated ground support equipment, within a 40 by 40 foot lease area on the Cottle property at the 855-foot elevation above mean sea level at 7465 Latrobe Road in Latrobe area. Also proposed to be located in the lease area are an associated 12 by 20 foot prefabricated equipment shelter, a backup generator, propane tank, and two air conditioners. The 1,600 square foot lease area is proposed to be surrounded by a six-foot-high, brown slatted chain-link fence with barbed wire atop for security, along with a 12-foot entrance closed by two six-foot gates. All antennas will be painted with a non-reflective, flat paint that exactly matches the color of the foliage, or be covered with “antenna socks.” The antennas will be mounted on an antenna array mount to avoid horizontal expansion of the overall structure beyond the foliage at the point those antennas are mounted on the pole. All associated ground structures and equipment will be painted a brown, non-reflective color that exactly matches the color of the pole (trunk). The tower is designed to accommodate two total carriers with the potential that each one can place 12 antennas

The owner of the property, Wayne Cottle, has granted access to the tower to Nextel Communications and/or its authorized agents. Direct access to the project location is within the subject parcel.

This special use permit authorizes maintenance personnel to visit the site approximately once or twice a month at which time the facilities would be inspected to ensure proper operation.

2. All site improvements shall conform to the site plan and elevations attached as Exhibit D.
3. All equipment shelters, cabinets or other auxiliary structures shall be painted in a non-reflective, flat brown color that matches the pole (trunk). The chain like fence shall be covered with brown-slats. All antennas shall be painted with a non-reflective, flat paint that

exactly matches the color of the foliage, or be covered with “antenna socks,” and those antennas shall not extend beyond the outermost portion of the limbs at the point where the antennas are mounted. Planning Services shall verify the painting of the structures and length of the antennas prior to final inspection of the facility.

4. For collocation purposes, no further review by the Planning Commission shall be required, provided that all ground-mounted equipment is located within the proposed leased area and provided that any one of the two proposed carriers installs no more than 12 panel antennas per carrier are placed on the mono-pine, and that there shall not be any increase overall height of the tower and branches.
5. All improvements associated with the communication facility, including equipment shelters, antennae, and fencing shall be properly maintained at all times. Planning Services requires that that all colors of the equipment enclosure and other improvements visible to the public shall be maintained to ensure the appearance remains consistent.
6. The applicant shall assume full responsibility for resolving television reception interference, if any, caused by operation of this facility. The applicant shall take corrective action within 30 days of receipt by Planning Services of any written television interference complaint.
7. All obsolete or unused communication facilities shall be removed by the applicant 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 condition.
8. 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 o 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.
9. In the event a heritage resource or other item of historical or archaeological interest is discovered during grading and construction activities, the project proponent shall ensure that all such activities cease within 50 feet of the discovery until an archaeologist can examine the find in place and determine its significance. If the find is determined to be significant

and authenticated, the archaeologist shall determine the proper method(s) for handling the resource or item. Grading and construction activities may resume after the appropriate measures are taken or the site is determined not to be of significance.

10. In the event of the discovery of human remains, all work is to stop and the County Coroner shall be immediately notified pursuant to Section 7050.5 of the Health and Safety Code and Section 5097.98 of the Public Resources Code. If the remains are determined to be Native American, the Coroner must contact the Native American Heritage Commission within 24 hours. The treatment and disposition of human remains shall be completed consistent with guidelines of the Native American Heritage Commission.
11. Pursuant to Resolution No. 240-93, a \$35.00 processing fee is required by the County Recorder to file the Notice of Exemption.

Latrobe Fire Protection District

12. The applicant shall install a minimum 12-foot wide all weather access road to within 150 feet of the equipment shelter with a vertical clearance of 13 feet 6 inches, and any turn in the road shall have a minimum inside turning radius of 40 feet. The road shall be capable of supporting a 40,000 pound load and shall not exceed a road grade of 16 percent. The El Dorado County Fire Protection District shall review and approve the location and design of the access road prior to issuance of a grading permit.
13. The applicant shall provide a Fire District approved turn-a-round at the project site.
14. The applicant shall provide high priority “Knox” access padlock for emergency access through the 12-foot gate and into the fenced enclosure site and on the shelter. The gates shall comply with the Fire Prevention Officer’s standard. The Latrobe Fire Protection District shall verify the installation of the security system prior to final inspection of the facility.
15. Vegetation control is required at site and shall be approved by the fire district.

El Dorado County Air Quality Management District

16. If the project construction will involve grading and excavation operations which will result in a temporary negative impact on air quality with regard to the release of particulate matter (PM₁₀) in the form of dust, then District Rules 223, 223.1 and 223.2, which address the regulations and mitigation measures for fugitive dust emissions and asbestos emission, shall be adhered to during the construction process. Mitigation measures for the control of fugitive dust and asbestos shall comply with the requirements of Rule 223, 223.1 and 223.2, whichever rule is appropriate. In addition, the appropriate Fugitive dust Plan (FDP) Application or Asbestos Dust Mitigation Plan (ADMP) Application shall be submitted to and approved by the District prior to the start of project construction.

17. Burning of wastes that result from ‘Land Development Clearing’ must be permitted through the District. Only vegetative waste material may be disposed of using an open outdoor fire (Rule 300).
18. Project construction may involve road development and shall adhere to District Rule 224 Cutback and Emulsified Asphalt Paving Materials and the County ordinance concerning asbestos dust.
19. Prior to construction/installation of any new point source emission units or non-permitted emission units (i.e. gasoline dispensing facility, boilers, internal combustion engines, emergency generators, etc.) authority to construct applications shall be submitted to the District. Submittal of applications shall include facility diagram(s) equipment specifications and emission factors.

El Dorado County Environmental Management Department, Solid Waste and Hazard Materials

20. Under the Certified Unified Program Agency (CUPA) programs, if the operation will involve the storage of reportable quantities of hazardous materials for backup power generation, a hazardous materials business plan for the site must be submitted to the Department and applicable fees paid.

ATTACHMENT 2 **FINDINGS**

FILE NUMBER S 05-21

Special Use Permit S 05-21 has been requested by Nextel Communications for the purpose of installing a 55-foot steel mono-pole with twelve (12) panel antennas mounted at a centerline of 51 feet at 7465 Latrobe Road in the Latrobe area of El Dorado County. This Special Use Permit authorizes Nextel Communications to place the mono-pole and ground equipment within a 40-foot by 40-foot lease area to be enclosed by a 6-foot-high chain link fence with barbed wire atop and a 12-foot wide gate on the north side of the enclosure. The Special Use Permit shall only be approved or conditionally approved if all of the following findings are made:

1. The proposed project will not have a significant effect on the environment, based on the analysis contained in the Staff Report, Environmental Questionnaire and site visit. Further, the project will not affect wetlands, water courses, riparian lands, unique plant or animal life and habitats, or other terrestrial matters under the jurisdiction of the State Department of Fish and Game. Therefore, the project has a de minimis impact on the environment and a Certificate of Fee Exemption (DFG 753.5-5/91) is applicable.
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.

The proposed site currently supports a single-family residence. Nextel Communications proposes a mono-pole to provide enhanced cellular service within the Latrobe area. The main use of the site is for residential purposes. The cellular facility would be incidental to the main residential use of the property when developed. The design of the mono-pole and location on the site has been carefully considered, and will blend with the surroundings as best as possible. Therefore, it is found that the project is consistent with the specific, fundamental, and mandatory land use development goals, objectives, and policies of the General Plan, and is consistent with the development standards contained within the El Dorado County Zoning Ordinance. It can be found that the project, as conditioned, conforms to 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.

This is a new wireless proposal designed as a two-carrier facility, to allow for future co-location, which is encouraged by the County. To address maintenance issues, the applicant proposes to have a technician service the wireless facility and equipment approximately once

or twice a month to ensure proper performance of the facility. It is found that the use will not conflict with the adjacent uses, and will provide a benefit to the area by improving cellular service. After review of the submitted site plan and visual simulations it has been determined that the proposed project meets the standards contained in Section 17.14.200 F through J of the County Code. The aesthetic impacts associated with the project have been fully considered. There will be no discernable visual impact from the addition of the monopine in the Latrobe area.