

**COUNTY OF EL DORADO DEVELOPMENT SERVICES
ZONING ADMINISTRATOR
STAFF REPORT**

Agenda of:	June 1, 2011
Item No.:	4.c.
Staff:	Gina Paolini

FIVE-YEAR CELL TOWER REVIEW – SPECIAL USE PERMIT

FILE NUMBER: S04-0010/Telecommunications Facility-Durock Road

APPLICANT: MetroPCS

AGENT: Kenneth E. Crouse

REQUEST: Request for a five-year review of an existing cellular telecommunications facility.

LOCATION: North side Durock Road 0.25 miles west of the intersection with South Shingle Springs Road in the Shingle Springs area, Supervisorial District 2. (Exhibit A)

APN: 109-040-33

ACREAGE: 1.42 acres

GENERAL PLAN: Commercial (C)

ZONING: Commercial (C)

ENVIRONMENTAL DOCUMENT: Exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines.

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

1. Find the project is Exempt from CEQA pursuant to Section 15061 (b) (3) of the CEQA Guidelines (General Rule of CEQA-There is no possibility that the activity will have a significant effect on the environment),
2. Approve the changes to conditions for Special Use Permit S04-0010 as specified in Attachment 1; and,

3. Find that for this five-year review period, the telecommunications facility is found to be in substantial conformity with the Conditions of Approval for S04-0010, in accordance with the five-year review.

BACKGROUND

The Planning Commission approved Special Use Permit S04-0010 on September 1, 2004. The project as approved consisted of three wireless communication panel antennas on top of an existing PG&E power pole. The pole and ground equipment were to be within a 10-foot by 20-foot lease area.

Building Permit No. 158476 was issued for the MetroPCS on October 14, 2004. The permit was finalized on January 7, 2005.

Condition No. 7 of the approved Conditions of Approval required a five-year review of the facility. The Conditions of Approval for Special Use Permit S04-0010 have been attached (Attachment 1). The applicant has provided a support statement demonstrating how the Conditions of Approval have been complied with (Exhibit B).

STAFF ANALYSIS

Condition Modification: Condition No. 7 of the Special Use Permit required a five-year review by the Planning Commission as follows:

7. *Due to the ever-changing technology of wireless communication systems, this Special Use Permit shall be reviewed by the Zoning Administrator every five years. At each five-year review, the permit holder shall provide the Zoning Administrator with a status report on the then current use of the subject site and related equipment. The Zoning Administrator 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 Zoning Administrator to reserve the right to modify existing or add new conditions, consistent with the language specified above. The failure of the Zoning Administrator 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 Planning Director to cover the cost of processing a five-year review.*

To streamline future reviews, staff is recommending that the Zoning Administrator revise Condition No. 7 to permit future five-year reviews to be completed at staff-level. Condition No. 7 would be replaced by the following:

Due to the ever-changing technology of wireless communication systems, this Special Use Permit shall be reviewed by the County Development Services Department every five years. At each five-year review, the permit holder shall provide the Development Services Department with a status report on the then current use of the subject site and

related equipment. Development Services shall review the status and determine whether to:

- (A) Allow the facility to continue to operate under all applicable conditions; or*
- (B) Hold a public hearing to determine whether to modify the conditions of approval in order to reduce identified adverse impacts; or initiate proceedings to revoke the special use permit, requiring the facility's removal if it is no longer an integral part of the wireless communications system.*

By operation of this condition, it is the intent of County to reserve the right to modify or add new conditions, consistent with the language specified above. The failure of the County to conduct or complete a five-year review in a timely fashion shall not invalidate the Special Use Permit. The applicant shall pay a fee determined by the Development Services Director to cover the cost of processing a five-year review on a time and materials basis.

Staff has also identified other minor corrections and changes to the conditions. These are shown in strikeout and underline in Attachment 1:

Five Year Review: Review of building permits and project conditions, it is the opinion of staff that the project site is in compliance with the Conditions of Approval.

ENVIRONMENTAL REVIEW

Staff has determined that, pursuant to CEQA Guidelines Section 15061(b)(3), that this action is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. This is a five-year review as required by the conditions of approval for the existing telecommunications tower facility authorized under special use permit. The review of compliance with the conditions of approval for the special use permit, remedial measures to be taken, including modifications to the conditions, ensure compliance of the telecommunications facility with the special use permit and it can be seen with certainty that there is no possibility that these actions in question may have a significant effect on the environment and is therefore not subject to CEQA. A \$50.00 processing fee shall be required by the County Recorder to file the Notice of Exemption.

SUPPORT INFORMATION

Attachments to Staff Report:

Attachment 1Conditions of Approval

Attachment 2Findings

Exhibit ALocation Map

Exhibit BStatement of Use Permit Compliance

Exhibit CSite Photographs

ATTACHMENT 1

CONDITIONS OF APPROVAL

Special Use Permit S04-0010/Telecommunications Facility-Durock Road
Zoning Administrator /June 1, 2011

Development Services Department-Planning Services

1. This Special Use Permit approval is based upon and limited to compliance with the 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 shall constitute a violation of permit approval.

The project, as approved, consists of the following:

Three (3) wireless panel antennas mounted on top of an existing Pacific Gas & Electric power pole, increasing the pole height to 115 feet. A 200 square foot lease area enclosed by a 6-foot high CMU wall with brick veneer to match the existing shopping center trash enclosure. Equipment cabinets, one 300 watt flood light and GPS antenna to be located within the enclosure.

The grading, development, use, and maintenance of the property, the size, shape, arrangement, and location of structures 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.

PROJECT SPECIFIC CONDITIONS

2. All site improvements shall conform to the site plans attached as Exhibit D.
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, antenna 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. 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 Department~~ Planning Services of any written television interference complaint.

6. 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 Department~~ Planning Services at the time of abandonment and all disturbance related to the communication facility shall be restored to pre-project condition.

7. ~~Due to the ever-changing technology of wireless communication systems, this Special Use Permit shall be reviewed by the Zoning Administrator every five years. At each five year review, the permit holder shall provide the Zoning Administrator with a status report on the then current use of the subject site and related equipment. The Zoning Administrator 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 Zoning Administrator to reserve the right to modify existing or add new conditions, consistent with the language specified above. The failure of the Zoning Administrator 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 Planning Director to cover the cost of processing a five-year review.~~

Due to the ever-changing technology of wireless communication systems, this Special Use Permit shall be reviewed by the County Development Services Department every five years. At each five-year review, the permit holder shall provide the Development Services Department with a status report on the then current use of the subject site and related equipment. Development Services shall review the status and determine whether to:

- (A) Allow the facility to continue to operate under all applicable conditions; or
- (B) Hold a public hearing to determine whether to modify the conditions of approval in order to reduce identified adverse impacts; or initiate proceedings to revoke the special use permit, requiring the facility's removal if it is no longer an integral part of the wireless communications system.

By operation of this condition, it is the intent of County to reserve the right to modify or add new conditions, consistent with the language specified above. The failure of the County to conduct or complete a five-year review in a timely fashion shall not invalidate the Special Use Permit. The applicant shall pay a fee determined by the Development Services Director to cover the cost of processing a five-year review on a time and materials basis.

8. The 300 watt flood light shall be shielded and downward shining. The light shall not be operated during the evenings unless emergency repairs are necessary.

9. 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 Special Use Permit.

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

El Dorado County Building ~~Department~~ Services

109. Project facilities shall be subject to issuance of a building permit from the El Dorado County Building ~~Department~~ Services.

El Dorado County Fire Protection District

110. The project shall comply with the following requirements of the El Dorado County Fire Protection District:

- a. The applicant shall pay a site plan review fee of \$50.00.
- b. The access roads shall have a 13' 6" vertical clearance and capable of supporting a 40,000 pound load.
- c. The applicant shall remove vegetation on project site to meet Fire Safe standards.
- de. The applicant shall provide high priority "knox" access for the emergency access.
- ed. The gates to the facility shall comply with the Fire Prevention Officers standard.
- fe. The District may impose addition requirements depending on building construction and use.

ATTACHMENT 2

FINDINGS

Special Use Permit S04-0010/Telecommunications Facility-Durock Road Zoning Administrator /June 1, 2011

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 Staff has determined that, pursuant to CEQA Guidelines Section 15061(b)(3), that this action is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. This is a five-year review as required by the conditions of approval for the existing telecommunications tower facility authorized under special use permit. The review of compliance with the conditions of approval for the special use permit, remedial measures to be taken, including modifications to the conditions, ensure compliance of the telecommunications facility with the special use permit and it can be seen with certainty that there is no possibility that these actions in question may have a significant effect on the environment and is therefore not subject to 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 Development Services Department - Planning Services at 2850 Fairlane Court, Placerville, CA, 95667.