

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



Agenda of: October 16, 2013
Item No.: 4.a.
Staff: Tom Dougherty

FIVE-YEAR CELL TOWER REVIEW–SPECIAL USE PERMIT

FILE NUMBER: S04-0036-R-3/Arroyo Vista Way

APPLICANT: American Tower

AGENT: Gordon Bell

PROPERTY OWNER: William and Sondra Sponable

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

LOCATION: West side of Arroyo Vista Way approximately one mile north of the intersection with Malcolm Dixon Road in the El Dorado Hills area, Supervisorial District 4. (Exhibit A)

APN: 126-051-27

ACREAGE: 5 acres

GENERAL PLAN: Low-Density Residential (LDR)

ZONING: Estate Residential Five-Acre (RE-5)

ENVIRONMENTAL DOCUMENT: Previously adopted Negative Declaration

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

1. Find that pursuant to Section 15162 of the CEQA Guidelines no subsequent Negative Declaration needs to be prepared for the project;

2. Find that for this five-year review period, the telecommunication facility is in substantial conformity with the Conditions of Approval for S04-0036-R-1; and
3. Approve the modifications to the Conditions of Approval for Special Use Permit S04-0036-R-1 recommended by staff as listed in Attachment 1, based on the Findings listed in Attachment 2.

BACKGROUND

Special Use Permit S04-0036 was approved May 12, 2005 to allow AT&T to replace the existing single user forty-five foot monopole with a multi-tenant eighty foot monopine tower with three sets of antenna arrays. Ground mounted wireless communication equipment is located on concrete slabs within a 600 square foot leased area screened by a six foot tall concrete wall on three sides and a six foot tall chain link fence and gate on the remaining side. Building Permit #16899 was issued on May 26, 2006 for the installation of the eighty foot (80') monopine.

Special Use Permit S04-0036-R-1 was approved by the Zoning Administrator on September 5, 2007 and allowed T-Mobile to co-locate wireless telecommunication equipment consisting of the installation of six antennas at a height of fifty five feet on the existing eighty foot monopine owned by American Tower. Additionally, T-Mobile could install up to four radio cabinets on a 13 foot x 18 foot concrete equipment pad enclosed within a six foot tall wood fence.

On March 29, 2011, an application (Special Use Permit S04-0036-R-2) was submitted for a five year review, replacement of three antennas, and the installation of an additional cabinet. Planning reviewed that application proposal and found it to be substantially compliant with the Conditions of Approval for S04-0036-R-1 and determined it could be executed with a building permit. It was also determined that it was premature to submit for a five year review and the application was withdrawn.

STAFF ANALYSIS

Condition Modification: Condition No. 13 of the Special Use Permit required a five-year review by the Zoning Administrator. To streamline future reviews, staff is recommending that the Zoning Administrator revise Condition No. 13 (to be changed to Condition 14) to permit future five-year reviews to be completed at staff-level. Staff has found that most of the cellular telecommunications facilities are compliant with the Conditions of Approval and can be administered at staff level with minimal administrative time. Even the complex five year reviews can be remedied at the staff level. The new condition would continue to allow for those towers that remain out of compliance to be forwarded to the Zoning Administrator for review, if not brought into compliance.

Staff has also identified other minor corrections and changes to the conditions. The project description has been clarified. The changes to the Conditions of Approval are shown in ~~strikeout~~ and underline in Attachment 1.

Five Year Review: Based on review of building permits and project conditions, staff has verified that the project is in compliance with the Conditions of Approval.

ENVIRONMENTAL REVIEW

Pursuant to CEQA Guidelines Section 15162, no subsequent Mitigated Negative Declaration need be prepared for the project as there has been no substantial change in the project that would cause 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 the 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. There are no changes in circumstances and no new information that identifies new or changes environmental affects or mitigations.

SUPPORT INFORMATION

Attachments to Staff Report:

Attachment 1	Conditions of Approval
Attachment 2	Findings
Exhibit A	Location Map
Exhibit B	Site Survey, Sheet C-1
Exhibit C	Site Plan, Sheet A-1
Exhibit D	Elevations, Sheet A-2
Exhibit E	Applicant's Statement of Use Permit Compliance (four pages)
Exhibits F-1 to F-4	Site photographs
Exhibit G	Environmental Checklist Form and Discussion of Impacts

ATTACHMENT 1

CONDITIONS OF APPROVAL

Special Use Permit Five-Year Cell Tower Review S04-0036-R-3/American Tower
Zoning Administrator/October 16, 2013

El Dorado County Planning Services

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

Exhibit BSite Survey, Sheet C-1

Exhibit CSite Plan, Sheet A-1

Exhibit DElevations, Sheet A-2

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:

An 80-foot tall monopine with three wireless carriers' antenna arrays mounted at the 75, 65, 55, and 45-foot centerline elevations. Equipment cabinets are to be located on concrete slabs within a 600 square foot leased area screened by a 6-foot tall concrete wall on three sides and a 6-foot tall redwood fence with access gate on the east side. The base of the monopine is to be surrounded by a 6-foot tall chain link fence. Additionally, ~~Mobile would install~~ up to four (4) 4.25'x2.5'x5.4' radio cabinets were permitted to be placed on a ~~proposed~~ thirteen foot by eighteen foot (13' x 18'), 234 square foot concrete equipment pad enclosed within a six foot (6') wood fence.

Access to the project site is to be provided by a twelve foot (12') wide access easement located on the leased property adjacent to an existing paved driveway linking the property to Arroyo Vista Way.

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

**MITIGATION MEASURES FROM ~~PROPOSED~~ THE MITIGATED NEGATIVE
DECLARATION**

2. 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.

Monitoring: The Department of Transportation (DOT) shall monitor the above referenced activities as part of the issuance of a commercial grading permit. If deemed necessary, DOT shall issue a stop work order upon the discovery of any item of historical or archaeological interest and only allow grading activities to continue once the issue has been resolved.

3. 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.

Monitoring: The Department of Transportation (DOT) shall monitor the above referenced activities as part of the issuance of a commercial grading permit. If deemed necessary, DOT shall issue a stop work order upon the discovery of any human remains on the project site and only allow grading activities to continue once the issue has been resolved.

4. The project shall be modified, as necessary, to incorporate the requirements of the El Dorado Hills Fire Department and shall be reviewed and approved by the El Dorado Hills Fire Department prior to the issuance of a building permit.

Monitoring: The El Dorado Hills Fire Department shall review and approve the project prior to building permit issuance to ensure compliance with all District regulations.

5. Grading and construction activities on the site shall be limited to daylight hours from 7:00 a.m. to 7:00 p.m., Monday through Friday, and 9:00 a.m. to 5:00 p.m. Saturday. No construction or grading activities shall take place on Sundays or holidays.

Monitoring: The Department of Transportation shall investigate any noise complaints received regarding the occurrence of grading and construction activities in violation of the mitigation measure discussed above.

6. Only equipment with properly maintained mufflers shall be used during construction.

Monitoring: The Air Quality Management District shall monitor and investigate any

complaints received regarding proper equipment maintenance during project construction.

7. Construction equipment shall not idle on the property (construction site) when not in active use.

Monitoring: The Air Quality Management District shall monitor and investigate any complaints received regarding proper equipment use and potential air quality impacts during project construction.

PROJECT SPECIFIC CONDITIONS

8. All improvements associated with the wireless communication facility, including equipment shelters, cabinets and antennas shall be properly maintained at all times. Planning Services requires that all colors of the equipment enclosure and other improvements shall be maintained to ensure the appearance remains consistent.

- ~~8.9.~~ All obsolete or unused wireless communication facilities shall be removed by the applicant within six (6) months after the use of that facility has ceased or the facility has been abandoned. The applicant shall notify Planning Services when the site has been restored to pre-project condition. Pre-project condition consists of removal of all improvements associated with this request including, but not limited to, installed equipment, concrete and fencing. The ground shall be restored to the existing grade prior to construction of applicant's wireless communication equipment. Replacement of ground vegetation may be required by Planning Services.

- ~~9.10.~~ For collocation purposes, no further review by the Planning Commission shall be required provided that all ground mounted equipment is located within the existing leased area and provided that no more than four (4) antennas are placed on the pole at any one time with no increase in height.

- ~~10.11.~~ All equipment shelters, cabinets or other auxiliary structures shall be painted in a matching color. The proposed antennas and ground equipment would coincide with the existing color scheme of the wireless communication equipment presently located at the site. The shades of green coloring on the proposed antennas shall blend with the surrounding natural vegetation coloring. All equipment shelters, cabinets or other auxiliary structures shall be painted in a matching color. Planning Services shall verify the painting of the structures prior to final inspect and approval of the facility. Removal of trees is prohibited and disturbance of ground vegetation shall be limited for placement of the ground mounted equipment

- ~~11.12.~~ All improvements associated with the communication facility, including equipment shelters, towers, antenna and fencing shall be properly maintained at all times. Colors of the tower and other improvements shall be maintained to ensure the appearance remains consistent. Prior to final occupancy, the color of the tree pole foliage shall be painted to

match the foliage of the surrounding trees within the project area. The tree pole structure shall also be painted in a manner which matches the tree trunks of the existing trees in the project vicinity.

~~12.13.~~ 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.

~~13.14.~~ ~~Due to the ever changing technology of wireless communication systems, the Special Use Permit shall be reviewed by the Zoning Administrator every five (5) years. At each five (5) year review, the permit holder shall provide the Zoning Administrator with a status report on the 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 (5) 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 or designee to cover the cost of processing a five (5) year review. Due to the ever-changing technology of wireless communication systems, this Special Use Permit shall be reviewed by the County Development Services Division 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.~~

~~14.15.~~ Prior to 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 for verification of compliance with applicable conditions of approval to Building Permit final.

- ~~15.16. 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, as provided in Section 66474.9(b) of the California Government Code.~~

~~The landowner 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 subdivision, which action is brought within the time period provided for in Section 66499.37.~~

~~County shall notify the landowner of any claim, action, or proceeding and County would cooperate fully in the defense. 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 Special Use Permit. The County shall notify the applicant of any claim, action, or proceeding, and the County shall cooperate fully in the defense.~~

- ~~16.17. Prior to issuance of the Special Use Permit all Development Services fees shall be paid.~~

El Dorado County Building Services

- ~~17.18. Installation of wireless communication equipment is subject to issuance of a building permit from El Dorado County Building Services.~~

Air Quality Management District

- ~~18.19. The project shall comply with all requirements of the El Dorado County Air Pollution Control District.~~

- ~~19.20. The applicant shall be subject to a grading permit fee commensurate with the scope of the proposed project prior to commencement of any work performed.~~

El Dorado Hills Fire Department

~~20.21.~~ The project shall comply with all requirements of the El Dorado Hills Fire Department, including site review and access road issues concerning accessibility and turnaround requirements, prior to the issuance of a building permit.

El Dorado County Environmental Management Department/Hazardous Materials Division:

~~21.22.~~ Under the Certified Unified Program Agency (CUPA) programs, if the project involves the storage of reportable quantities of hazardous material 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

Special Use Permit Five-Year Cell Tower Review S04-0036-R-3/American Tower Zoning Administrator/October 16, 2013

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 Pursuant to CEQA Guidelines Section 15162, no subsequent Mitigated Negative Declaration need be prepared for the project as there has been no substantial change in the project that would cause 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 the 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. There are no changes in circumstances and no new information that identifies new or changes environmental affects or mitigations.
- 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.

2.0 ADMINISTRATIVE FINDINGS

- 2.1 All conditions of approval have been met and the use of the telecommunications facility is in compliance.