



COUNTY OF NEVADA
COMMUNITY DEVELOPMENT AGENCY
PLANNING DEPARTMENT
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NEVADA COUNTY BOARD OF SUPERVISORS
Board Agenda Memorandum

MEETING DATE: July 9th, 2024

TO: Board of Supervisors

FROM: **Brian Foss, Director of Planning**

SUBJECT: Adopt the Resolution to deny the appeal and uphold the decision of the Zoning Administrator to approve the Conditional Use Permit (CUP23-0015) for the construction and operation of a new unmanned wireless communication facility located at 20896 Dog Bar Road, Grass Valley, APN: 027-010-018.

RECOMMENDATION:

- I. **Project Action:** Adopt the Resolution to deny the appeal and uphold the decision of the Zoning Administrator to approve Conditional Use Permit application (CUP23-0015) proposing the construction and operation of a new 129-foot tall monopine wireless communication tower within a 900 square foot fenced lease area located at 20896 Dog Bar Road, Grass Valley, in southeast Nevada County.

FUNDING:

No budget amendments are required.

ATTACHMENTS:

1. Resolution to Deny the Appeal
2. Appeal to the Board of Supervisors
3. Zoning Administrator Staff Report with attachments

This staff report provides a discussion and a brief background of the project, and the relevant issues identified in the appeal, and staff's responses to the relevant issues raised in the appeal to support the decision on the project.

PROJECT DESCRIPTION:

The project is a Conditional Use Permit (CUP23-0015) proposing the construction and operation of a new unmanned wireless communication facility located at 20896 Dog Bar Road, Grass Valley, in southeast Nevada County. The proposed facility will be designed as a one-hundred twenty-nine foot (129) tall faux pine tree (monopine) with antennas at a tip height of one-hundred twenty-four (124) feet. All brackets, antennas, and remote radio units will be painted green to match the faux pine tree. The proposal includes the following components:

- (1) 400A meter bank with 200A Verizon Wireless Meter
- (3) Equipment Cabinets
- (1) Telecommunications Cabinet
- (1) Intelligent Lighting Control Panel
- (1) GPS antenna
- (6) service lights
- (1) 30 KW Diesel Generator with a 210 gallon tank
- (3) C-Band Panel Antennas
- (6) LTE Panel Antennas
- (6) LTE Remote Radio Units
- (2) 6-foot microwave antennas
- (4) surge suppressors

The facility will be contained within a 30' x 30' (900 square feet) Verizon lease area that will be surrounded with eight-foot tall chain-link fencing with a gate and a Knox Box entry system. The lease area will contain three equipment cabinets, a diesel generator, and a PG&E transformer. The site will be accessed by an existing 12 foot wide dirt access road with a hammerhead turn-around at the end. Vegetation thinning to reduce fire hazard will occur along the access road and around the tower lease area. Approximately 550 feet of underground power and fiber cables are proposed to be trenched from the lease area to a PG&E pole and Verizon Wireless fiber point of connection. Figure 1, below, shows the site plan showing the location of the proposed lease area on the subject parcel, the existing dirt access driveway, and the existing single-family residence on the parcel. (see attached staff report for more details)

Project Site and Surrounding Land Uses:

The proposed communication facility would be located in a 30-foot-by-30-foot lease area slightly east of the middle of an approximately 14.72-acre parcel. The parcel is located approximately 4.3 miles east of California State Highway 49 and approximately 7 miles south of California State Highway 174 in the unincorporated Western area of Nevada County at 20896

Dog Bar Road. The subject parcel (APN: 027-010-018) is zoned General Agricultural (AG-20) with a General Plan designation of Rural-20. The subject parcel is developed with a residence, garage, barn, solar array, and various other accessory structures. The parcel is surrounded by low-density development consisting of single-family residences and ranch/agricultural uses. The nearest residence would be located on the adjacent parcel to the north and would be located approximately 500 feet northwest from the proposed communication facility. The proposed communication facility will be situated in foothill oak and pine woodlands on a hillside.

The adjacent parcels are zoned General Agriculture with a minimum parcel size of 20-acres (AG-20) and have General Plan designations of Rural with minimum parcel sizes of 20-acres (RUR-20). Adjacent parcels and several parcels in the area range in size from approximately 1.27 acres to approximately 9.9 acres.

THE APPEAL:

- 1. Granting the Conditional Use Permit would not only violate Sec L-II 3.8 of the Land Use and Development Code of the County of Nevada, it would inflict upon the appellant the precise types of adverse impacts which that section of the Code was specifically enacted to prevent.**

The proposed cell tower is consistent with the County's Land Use and Development Code and the requirements of Section L-II 3.8 that governs communication towers. See the attached staff report for a discussion of consistency with the Zoning Ordinance requirements.

- 2. Sequoia and Verizon have wholly failed to submit any probative evidence, whatsoever, to establish any actual need for the facility, in the absence of which Sec. L-II 3.8(D)(I) prohibits the granting of such application.**

Verizon Wireless identified a significant gap in its Long Term Evolution (LTE) wireless service in the south eastern area of Nevada County, California. Verizon Wireless evaluated four site alternatives within the identified significant coverage/capacity gap. Based on the analysis and evaluation, Verizon Wireless concludes that the proposed monopine at 20896 Dog Bar Road is the most feasible site to address the gap in coverage when topography, radio frequency propagation, elevation, height, available electrical and telephone utilities, access, and a willing landlord are considered. 20896 Dog Bar Road is the only location that meets RF's objectives, is owned by a property owner willing to lease the space, and is a location that allows the monopine to blend in with the natural surroundings.

Nevada County Land Use and Development Code Section L-II 3.8.E prohibits new towers from being installed in a location that is not already developed with public or quasi-public uses or other communication facilities, unless it blends with the surrounding, existing natural and man-made environment so as to be effectively unnoticeable. This section of the Code also prohibits new towers from being installed closer than 2-miles from another readily visible, un-camouflaged or unscreened facility unless it is a co-located facility, on

a multiple-user site, or is designed to blend in with the surrounding, existing natural and man-made environment so as to be effectively unnoticeable. While the subject tower is not proposed on a location with public or quasi-public uses or on a location with existing communication facilities, it is proposed to be constructed to look like a pine tree, meeting the visual screening and setback criteria while providing service in the desired service area and is therefore in compliance with LUDC Section L-II 3.8.E.

3. The installation of the proposed thirteen-story cell tower will inflict substantial albeit wholly unnecessary adverse impacts upon the appellant's real property, in direct violation of the requirements of the Code.

The proposed cell tower is consistent with the County's Land Use and Development Code and the requirements of Section L-II 3.8 that governs communication towers. All impacts have been mitigated to a less than significant level. See the attached staff report for a discussion of consistency with the Zoning Ordinance and the attached Mitigated Negative Declaration for a discussion of the potential environmental impacts and the mitigation measures to reduce impacts to a less than significant level.

4. Sequoia and Verizon have wholly failed to establish that the granting of the application would comply with the requirements of Sec. L-11 3. 8(E)(1), in the absence of which the application cannot be granted.

The proposed cell tower is consistent with the County's Land Use and Development Code and the requirements of Section L-II 3.8 that governs communication towers. All impacts have been mitigated to a less than significant level. See the attached staff report for a discussion of consistency with the Zoning Ordinance and the attached Mitigated Negative Declaration for a discussion of the potential environmental impacts and the mitigation measures to reduce impacts to a less than significant level.

5. The applicant has failed to establish that its proposed siting of the proposed tower would minimize the number of towers needed to provide coverage within the County, or would minimize the adverse visual impact of the tower, both of which are required under SEC L-II 3.8(E)(1).

The proposed lease area would be located within southeastern Nevada County in an area which contains a foothill oak-pine woodland with areas of annual grasslands. The subject parcel adjacent parcels are zoned General Agriculture with a minimum parcel size of 20-acres (AG-20) and have General Plan designations of Rural with minimum parcel sizes of 20-acres (RUR-20). Other than lighting, which is typical to that of a single-family residence, there are no other sources of lights or glare, which exist on the subject parcel.

The cellular tower as proposed would be a monopine with faux branches/foilage and faux bark materials which are designed to blend in with the surrounding pines to the greatest extent possible. The branches of the monopine would help to camouflage the antennas and

Remote Radio Units (RRU's) and as proposed would be located within the branches and covered with faux pine needle socks; painted to match the tree.

The proposed monopine would be 129-feet tall with the panel antennas and RRU's being placed at a height of 124 feet. Pursuant to the submitted site plan and the site visit, the surrounding trees on the subject parcel adjacent to the lease area are approximately 90 feet tall. The foothill oak-pine woodlands provide a varying skyline and screening, which limits public views. The top of the monopine may rise above the surrounding canopy, but the monopine will look like a pine tree and will be hard to distinguish from the other trees. The proposed lease area would be fenced with an eight (8) foot tall chain link fence. The project equipment cabinets are proposed to be painted a neutral grey color to make them as unobtrusive as possible. Condition A.13 is proposed to require earth-tone privacy slates in the chain link fence or solid fencing around the lease area to screen the equipment.

The applicant proposes to install six LED service lights that will be downcast and used during maintenance activities only. The lights will normally be off and will be controlled by a 4-hour twist-timer switch. The site is surrounded by trees which will provide screening of the tower and lighting. Proposed Condition of Approval A.7 would require the lighting be installed in compliance with Nevada County Land Use & Development Code (LUDC) Section L-II 4.2.8 which requires lights to be fully shielded and down-facing so as not to result in glare that could adversely affect day or nighttime views.

6. The submissions submitted by the applicant are inherently defective, as a matter of law, and cannot serve as a basis for the County to grant the Conditional Use Permit.

The proposed cell tower is consistent with the County's Land Use and Development Code and the requirements of Section L-II 3.8 that governs communication towers. All impacts have been mitigated to a less than significant level. See the attached staff report for a discussion of consistency with the Zoning Ordinance and the attached Mitigated Negative Declaration for a discussion of the potential environmental impacts and the mitigation measures.

7. The irresponsible placement of the proposed tower less than 500 feet from the appellant's property would not only inflict a severe adverse aesthetic impact upon the appellants home, but will inflict a substantial loss to the financial value of the appellants home, both of which are entirely unnecessary.

Please see the attached staff report and the above description of the visual analysis for complying with the County's requirements.

SUMMARY:

Staff finds that all of the issues raised in the appeal have been considered and were adequately addressed by project conditions of approval and mitigation measures. The proposed project as conditioned meets all the requirements to obtain a Conditional Use Permit and is consistent with the County's Zoning Ordinance governing communication towers. The project has been mitigated to ensure less than significant impacts to all environmental issues (see attached Mitigated Negative Declaration).

RECOMMENDATION:

Staff recommends the Board of Supervisors take the following action:

- I. Project Action: Adopt the attached Resolution to deny the appeal and to uphold the decision of the Zoning Administrator to approve Conditional Use Permit application (CUP23-0015) proposing the construction and operation of a new 129-foot tall monopine wireless communication tower within a 900 square foot fenced lease area located at 20896 Dog Bar Road, Grass Valley, in southeast Nevada County.

Item Initiated and Approved by: Brian Foss, Planning Director