



**COUNTY OF SAN LUIS OBISPO
DEPARTMENT OF PLANNING AND BUILDING
STAFF REPORT**

Promoting the wise use of land
Helping build great communities

PLANNING COMMISSION

MEETING DATE March 10, 2016	CONTACT/PHONE Brandi Cummings (805) 781-1006 bcummings@co.slo.ca.us	APPLICANT David Aquino & Verizon Wireless	FILE NO. DRC2014-00126
SUBJECT Hearing to consider a request by DAVID AQUINO and VERIZON WIRELESS for a Conditional Use Permit to allow the construction and operation of a new wireless communications facility consisting of twelve (12) 6' tall panel antennas, nine (9) RRHs, and four (4) Raycaps, installed on one (1) new 53' tall artificial pine tree ("monopine"), ground-mounted equipment cabinets within a new equipment shelter (11' -6" x 16'-10.5"), and a new 30 kW emergency back-up diesel generator, all located within a 31' x 37' gravel base lease area and surrounded by an 8' tall fence. The proposed project will result in the disturbance of approximately 1,147 square feet on a 9.5 acre parcel. The proposed project is within the Residential Suburban land use category and is located at 594 Eucalyptus Road, on the northwest corner of Eucalyptus Road and Osage Street, in the community of Nipomo. The site is in the South County Inland sub area of the South County planning area.			
RECOMMENDED ACTION 1. Adopt the Mitigated Negative Declaration in accordance with the applicable provisions of the California Environmental Quality Act, Public Resources Code Section 21000 et seq.; and 2. Approve Conditional Use Permit DRC2014-00126 based on the findings listed in Exhibit A and the conditions listed in Exhibit B.			
ENVIRONMENTAL DETERMINATION The Environmental Coordinator, after completion of the initial study, finds that there is no substantial evidence that the project may have a significant effect on the environment, and the preparation of an Environmental Impact Report is not necessary. Therefore, a Mitigated Negative Declaration (pursuant to Public Resources Code Section 21000 et seq., and CA Code of Regulations Section 15000 et seq.) has been issued on January 26, 2016 for this project. Mitigation measures are proposed to address Aesthetics and Biological Resources and are included as conditions of approval.			
LAND USE CATEGORY Residential Suburban	COMBINING DESIGNATION None applicable	ASSESSOR PARCEL NUMBER 091-311-033	SUPERVISOR DISTRICT(S) 4
PLANNING AREA STANDARDS: None Applicable			
EXISTING USES: Single family residences, barns, horse corrals			
SURROUNDING LAND USE CATEGORIES AND USES: <i>North:</i> Residential Suburban/ vineyards, row crops <i>East:</i> Residential Suburban/ residences <i>South:</i> Residential Suburban/ residences <i>West:</i> Agriculture/greenhouses & residence			
ADDITIONAL INFORMATION MAY BE OBTAINED BY CONTACTING THE DEPARTMENT OF PLANNING & BUILDING AT: COUNTY GOVERNMENT CENTER γ SAN LUIS OBISPO γ CALIFORNIA 93408 γ (805) 781-5600 γ FAX: (805) 781-1242			

OTHER AGENCY / ADVISORY GROUP INVOLVEMENT: The project was referred to: Public Works, Environmental Health, Building, Cal Fire, South County Advisory Council	
TOPOGRAPHY: Nearly level	VEGETATION: Ornamental landscaping, grasses, scattered oak trees
PROPOSED SERVICES: Water supply: N/A Sewage Disposal: N/A Fire Protection: Cal Fire	ACCEPTANCE DATE: November 30, 2015

BACKGROUND

Telecommunications Act

The County's local authority to regulate wireless communications facilities, such as the proposed project, is limited by the federal Telecommunication Act (TCA). While affirming local government authority to regulate the placement and construction of wireless facilities, the TCA also places some important limitations on this authority. One well-known example of these limitations is the preemption of local regulation on the basis of concerns over RF emissions. In addition to this limitation, the TCA also:

- Requires local governments to act on applications for new wireless facilities within a "reasonable amount of time;"
- Requires that any permit denial be in writing and based on substantial evidence in the record;
- Prohibits unreasonable discrimination against competing wireless carriers; and
- Bars local regulations that would prohibit or have the effect of prohibiting the provision of personal wireless service¹.

PROJECT DESCRIPTION

Project Site

The subject parcel is located just inside the westerly Nipomo Urban Reserve Line. The project site is relative flat and will not silhouette against any ridgelines. The 9.53 acre parcel is developed with two single family homes, accessory structures, barns, and horse corrals. The parcel immediately to the west contains small orchards, greenhouses, and the property line is lined with Deodar cedars.

Proposed Project

The proposed project would allow the construction of an unmanned wireless telecommunications facility consisting of panel antennas and related equipment mounted to a 53-foot tall artificial pine tree (monopine) and ground mounted equipment inside a proposed equipment shelter. The proposed facility and lease area would be located on the southwest corner of the property, setback approximately 6 feet from the property line.

¹ The federal courts use a two pronged test to determine when a local jurisdiction's denial of a single project constitutes an "effective prohibition" of service. Under this test, the carrier must show that: A) the proposed project would close a significant gap in service; and B) the manner in which it proposes to fill the significant gap in service is the least intrusive on the values that the denial sought to serve.

The proposed facility would consist of the following improvements:

- Twelve (12) 6 foot tall panel antennas, nine (9) RRHs, and four (4) ray caps to be installed on one (1) new 53' tall monopine;
- Installation of ground-mounted equipment cabinets within a new equipment shelter and a 30kW emergency back-up diesel generator;
- 8 foot tall perimeter fence around a 31 foot by 37 foot lease area; and
- Associated utility trenching for underground power and fiber lines from an existing power pole located approximately 150 feet south west of the proposed lease area.

Setback Adjustment

Section 22.30.180 (Communications Facilities) requires setbacks as set forth in Section 22.10.140 (Setbacks), except where locating the facility outside those setbacks is the most practical and unobtrusive location possible on the proposed site. The required front setback is 25 feet, the required side setbacks are 30 feet, and the required rear setback is 30 feet. Rear and side setbacks may be used for accessory structures no greater than 12 feet in height provided they are no closer than 3 feet to the property line.

Staff Response: As proposed, the project will not meet the 25 foot front setback, or the 30 foot left side setback requirements. The equipment shelter is under 12 feet in height and will be located approximately 10 ½ feet from the front property line (Eucalyptus Road), and approximately 5 ½ feet from the left side property line. The center of the proposed monopine will be located approximately 21 ½ feet from the left side property line, and approximately 26 feet from the front property line. The edge of the monopine will be approximately 9 ½ feet from the left side property line, and approximately 14 feet from the front property line. Additionally an 8 foot tall fence is proposed around the lease area, approximately 7 ½ feet from the front property line, and 2 ½ feet from the left side property line. The nearest off-site residence is approximately 120 feet to the south and greenhouses are located to the north, approximately 430 feet.

Locating the proposed facility in this location would be the least obtrusive location on site. The proposed monopine is a stealth design that would blend with the Deodar cedars to the west. The Deodar cedars, as shown in Attachment 04 – Graphics, are more mature and expansive along the front property line. Locating the facility outside the front and left side setbacks would cause a more intense visual impact as the monopine would not harmonize as well with the existing natural environment.

LAND USE ORDINANCE STANDARDS

Section 22.30.180 – Communications Facilities

This section of the ordinance describes specific permit and application content requirements as well as siting and design standards for proposed wireless communications facilities. The requirements of this section apply to communications transmission and receiving facilities in addition to all applicable permit requirements and standards of the FCC. As described below, the proposed project meets these requirements:

Radio Frequency Analysis

Section 22.30.180(B) requires applications for communications facilities to include estimates of non-ionizing radiation generated and/or received by the facility. These shall include estimates of the maximum electric and magnetic field strengths at the edge of the facility site and the extent that measurable fields extend in all directions from the facility.

Staff Response: The applicant supplied a report to evaluate the proposed communications facility for compliance with appropriate guidelines limiting human exposure to radio frequency (RF) electromagnetic fields. According to the RF report for this project (Hammett & Edison, Inc.; March 5,

2015), the maximum level of RF emissions at ground-level from the proposed facility would be equivalent to 4.7 percent of the applicable public exposure limit. The maximum calculated level at the second-floor elevation of any nearby residence (approximately 120 feet south) is 8.1 percent of the public exposure limit.

Permit Requirements

Section 22.30.180(C)(1) requires Minor Use Permit approval for proposed wireless communications facilities that share locations with their own or other carriers' antennas either on existing monopoles, existing structures (buildings, water tanks, signs, etc.) or any other existing structure.

Staff Response: This standard allows new communications facilities to be reviewed through a minor use permit (rather than a conditional use permit) when the proposed facility is located on an existing structure (rather than a new antenna support structure). Based on this standard, the proposed project would require conditional use permit approval since it would require the construction of a new antenna support structure: a 53 foot tall faux pine tree.

Co-Location

According to Section 22.30.180(C)(2)(b), when co-location is not proposed, applications for communications facilities must provide information pertaining to the feasibility of joint-use antenna facilities, and discuss the reasons why such joint-use is not a viable option or alternative to a new site.

Staff Response: The purpose of this requirement is to minimize visual impacts by concentrating telecommunications equipment in the fewest possible number of locations, rather than scattering facilities across the county. It is usually in a carrier's interest to comply with this requirement since "collocation" sites are strategically located to provide superior coverage, already have the necessary infrastructure in place (access, power, and fiber), and are approved through the more expedient and less expensive minor use permit (rather than conditional use permit) process.

There is one existing communications facility in the vicinity. Verizon evaluated the feasibility of collocating at the existing facility, approximately 2,000 feet southwest of the proposed site. However, as described below, this site did not meet Verizon's feasibility criteria:

- **1571 Scenic View Way:** Verizon considered locating on an existing monopine and pole mounted antennas on this hillside near Eucalyptus Road and Scenic View Way. The area to be covered as shown in the attached coverage maps required additional height (10 feet) that would require replacement of the monopine with one that is both taller and broader, but not well screened (see attached alternatives photo simulation). The proposed facility allows for more height but is still well screened and allows for more coverage.

Development Standards

According to Section 22.30.180(C)(3), the preferred placement for new wireless communication facilities is on existing structures, completely hidden from public view or painted and blended to match existing structures. In addition, all facilities shall be screened with vegetation or landscaping. Where screening with vegetation is not feasible, the facilities shall be disguised to resemble rural, pastoral architecture (e.g. windmills, barns, trees) or other features determined to blend with the surrounding area and be finished in a texture and color deemed unobtrusive to the neighborhood in which it is located.

Staff Response: As described, the applicant evaluated the feasibility of locating the proposed facility at one other location, but could not provide the necessary coverage required by the RF Engineer from Verizon to achieve maximum coverage for the identified area, without potentially significant visual impacts.

Generally a communications facility is not a use that is inherently compatible with the character of the surrounding residential and agricultural uses; however, the proposed project is a stealth design that would blend with the Deodar cedars along the property line to the west. The project is proposing and will be required to use colors and materials that blend with the existing cedar stand. As determined through the photo-simulations, views of the facility from Eucalyptus Road would not be highly visible. Where it would be visible, the tank would appear characteristic of the surrounding landscape and would not be easily recognizable as a telecommunications facility.

Unused Facilities

Section 22.30.180(4) requires all obsolete or unused facilities to be removed within 12 months of cessation of communication operations at the site.

Staff Response: The project is consistent with this standard because the applicant is required to enter into a performance agreement and financial instrument for site restoration.

Visual Impacts

Generally a communications facility is not a use that is inherently compatible with the character of the surrounding residential and agricultural uses; however, the proposed project is a stealth design that would blend with the Deodar cedars along the property line to the west. The project is proposing and will be required to use colors and materials that blend with the existing cedar stand. As determined through the photo-simulations, views of the facility from Eucalyptus Road would not be highly visible. Where it would be visible, the tank would appear characteristic of the surrounding landscape and would not be highly recognizable as a telecommunications facility.

COMMUNITY ADVISORY GROUP COMMENTS

This project was referred to the South County Advisory Council (SCAC). The Land Use Committee reviewed the project at their July 13, 2015 meeting and recommend the project be placed on the full Council's consent agenda. The SCAC reviewed the project at their July 27, 2015 meeting and was passed on their consent agenda.

AGENCY REVIEW

Public Works – per attached referral response (Tomlinson, April 17, 2015), recommended that the project be conditioned for drainage, erosion, and sedimentation control plans.

Building – per attached referral response (Stoker, April 16, 2015), the proposed project shall comply with all building and safety codes.

Environmental Health – per attached referral response (LaBarre, April 16, 2015), applicant shall submit a hazardous material plan for approval prior to final sign-off.

Cal Fire – per attached referral response (Craig, April 28, 2015), fire safety plan attached.

LEGAL LOT STATUS

The one existing parcel is Lot 10 of Block 15 of Los Berros Tract and was legally created by a map at a time when that was a legal method of creating parcels.

Staff report prepared by Brandi Cummings and reviewed by Airlin Singewald.

ATTACHMENTS

- 01 – Exhibit A – Findings
- 02 – Exhibit B – Conditions
- 03 – Mitigated Negative Declaration
- 04 – Graphics
- 05 – Necessity Report
- 06 – Referral Responses