Sonoma County Board of Zoning Adjustments

STAFF REPORT

FILE: UPE19-0014
DATE: September 24, 2020
TIME: 1:20 pm
STAFF: Marina Herrera, Project Planner

SUMMARY

Property Owner: Robert & Rose Marie Cook
Applicant: Kevin Gallagher of Complete Wireless Consulting, dba Verizon Wireless
Address: 1040 Stony Glen Lane, Cotati
Supervisoral District(s): Second District
APN: 046-061-008
Description: Request for a Use Permit for an Intermediate Freestanding Commercial Telecommunications Facility, including a 82-foot high faux tree monopole (mono-pine), associated ground equipment cabinet and a 30KW generator and 132 gallon diesel tank for the purpose of emergency power, to be located within a 1,225 square foot lease area, enclosed by a six foot high fence on a ±3 acre parcel.

CEQA Review: Categorical Exemption, Section 15303, New Construction of a Small Structure
General Plan Land Use: Rural Residential (RR - 4 acre density)
Specific/Area Plan Land Use: Not applicable
Ordinance Reference: Section 26-88-130. Telecommunication Facilities
Zoning: Agriculture Residential (AR B6 3, 3 acre density) and combining zone for Valley Oak Habitat (VOH)
RECOMMENDATION

The Permit Resource and Management Department (Permit Sonoma) recommends that the Board of Zoning Adjustments approve the requested Use Permit to allow for an Intermediate Freestanding Telecommunications Facility.

EXECUTIVE SUMMARY

The proposed project is for a new intermediate freestanding telecommunications facility, including an 82-foot high faux tree monopine design on an approximately 3 acre parcel zoned Agriculture Residential at 1040 Stony Glen Lane in Cotati.

Staff recommends approval of the permit for the following reasons: 1) the tower is consistent with the General Plan and Zoning Code, 2) the tower design is compatible with surrounding landscape features, and 3) the project site is not located in a Scenic Resource (SR) combining district.

A project alternatives analysis, photo simulations, radio frequency report, biological assessment, and noise assessment were prepared to assess potential impacts of the development. Potential impacts associated with the telecommunications tower have been addressed in the project Conditions of Approval, which include ongoing maintenance of the faux pine materials to ensure it remains consistent with its original state.

Due to federal regulations, telecommunication projects are subject to processing deadlines known as the “shot clock.” Failure to make a final decision within the shot clock time frames can result in deemed approval of a project. The current deadline for this project is October 30, 2020.

PROJECT SITE AND CONTEXT

Federal Law

Federal law preserves local authority over land use decisions for wireless facilities, but sets forth specific limitations on that authority. Notably, federal law prohibits local governments from regulating telecommunication facility siting based on exposure to radio frequency emissions. Specifically, the Telecommunications Act of 1996 (the “Act”) states:

"No State or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Commission's regulations concerning such emissions." 47 U.S.C. Section 332(c)(7)(B)(iv).

Thus, if an applicant demonstrates compliance with the federal radio frequency (RF) standards, the County cannot deny or modify the project based on "environmental effects of radio frequency emissions."

The applicant has submitted an RF emissions report prepared by Hammett & Edison, Inc., dated January 17, 2019, which analyzes the project’s radiofrequency emissions. For this facility, the worst-case maximum exposure would be 0.065% of the federal RF limit at ground level, which is well within federal exposure limits. Therefore, this Board has no authority to deny or modify the proposed project based on concerns related to radiofrequency emissions.
In addition to barring local government from regulating the placement, construction, or modification of wireless facilities on the basis of the environmental effects of radio frequency emissions, the Act provides that local government regulation “shall not prohibit or have the effect of prohibiting the provision of personal wireless services” (i.e., prevent a carrier from closing a significant gap in service coverage), or “unreasonably discriminate” between wireless carriers (i.e., approve a carrier at one site and then turn down another carrier at the same approximate location). See 47 U.S.C. Section 332(c)(7)(B)(i).

Finally, the Act provides that any decision to deny a facility “shall be in writing and supported by substantial evidence contained in a written record.” 47 U.S.C. Section 332(c)(7)(B)(iii).

### Area Context and Surrounding Land Uses

<table>
<thead>
<tr>
<th>Direction</th>
<th>Land Uses</th>
</tr>
</thead>
<tbody>
<tr>
<td>North</td>
<td>Agriculture and Residential (AR B6 3)</td>
</tr>
<tr>
<td>South</td>
<td>Agriculture and Residential (AR B6 4)</td>
</tr>
<tr>
<td>East</td>
<td>Agriculture and Residential (AR B6 4), Limited Commercial (LC, B7)</td>
</tr>
<tr>
<td>West</td>
<td>Diverse Agriculture (DA, B6 40)</td>
</tr>
</tbody>
</table>

### Significant Applications Nearby

There are no nearby applications which would have a significant effect on the project’s analysis or approval.

### Access

The project parcel is accessed from Stony Glen Lane, which is a County-maintained road. Verizon has proposed a 15’ non-exclusive access and utility easement, utilizing an existing roadway, to provide for access from Stony Glen Lane to the proposed facility lease area.

### Wildfire Risk

The project parcel is located within a State Responsibility Area for fire protection and is currently served by the Occidental Community Service District. The development includes a 30KW generator powered by a 132-gallon diesel tank. The Generac diesel generator unit is compliant with National Fire Protection Association (NFPA) code sections, specifically the following sections 37, Standards for Stationary Combustion Engines, 70 Electrical, 99 Use in Critical Health Care facilities, and 110 Fire Standards for Emergency and Standby Power Systems. The purpose of the diesel-powered generator is to supply power to the telecommunications facility in the event of a loss of power, including a PG&E Public Safety Power Shutoff, and the generator contains the capacity to run the facility for a maximum of 48 hours.

### Water/Wastewater/Utilities

The proposed project will not facilitate an increase in water demand and wastewater facilities as it is an unmanned commercial telecommunications facility.

### Agricultural Conditions/Land Encumbrances/Contracts

The project site is not subject to a Williamson Act Contract (WAC).
Other Environmental Conditions
Environmental conditions of the project site are further addressed below within the Zoning analysis.

PROJECT DESCRIPTION

Project History
The table below summarizes key project milestones and events.

<table>
<thead>
<tr>
<th>Date</th>
<th>Project Event/Milestone</th>
</tr>
</thead>
<tbody>
<tr>
<td>2/13/2019</td>
<td>Application</td>
</tr>
<tr>
<td>3/1/2019</td>
<td>Early Neighborhood Notification</td>
</tr>
<tr>
<td>3/1/2019</td>
<td>Notice of Incompleteness</td>
</tr>
<tr>
<td>5/1/2020</td>
<td>Completeness</td>
</tr>
<tr>
<td>9/11/2020</td>
<td>Shot clock deadline (extended to 10/30/2020 by agreement of the parties)</td>
</tr>
<tr>
<td>5/4/2020</td>
<td>Referral to prominent agencies</td>
</tr>
<tr>
<td>8/17/2020</td>
<td>Legal Notice posted onsite for BZA Hearing</td>
</tr>
</tbody>
</table>

General Plan and Area Plans
The following General Plan and Area Plan policies are applicable to the project:

Policy PF-2u: Review proposals for public and private telecommunication facilities for consistency with General Plan policies and adopted siting and design criteria. In order for a public telecommunication facility to be found consistent with this plan, it must meet the standards and siting and design criteria of the applicable zoning district.

The site’s Rural Residential General Plan Land Use designation allows for an Intermediate Freestanding Telecommunication Tower where a service coverage study shows that there is no other suitable location for the facility. The facility is considered a secondary use “incidental to and compatible with the primary use” because the small leasehold for the telecom facility would not interfere with residential use on the 3 acre property. It is compatible in that it does not generate significant traffic or loud noises and the faux pine design blends with the surrounding environment.

Zoning
The table below summarizes the development standards that apply to the site as outlined in the Sonoma County Zoning Ordinance, the existing and proposed development, and whether the project is consistent with the Zoning Ordinance.

<table>
<thead>
<tr>
<th>Standard</th>
<th>Ordinance</th>
<th>Existing Condition</th>
<th>Proposed Project</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lot Area</td>
<td>1.5 acres</td>
<td>±3 acres</td>
<td>No change proposed.</td>
</tr>
<tr>
<td>Base Zone</td>
<td>AR B6 3</td>
<td>Residential</td>
<td>Intermediate Commercial Telecommunication Facility</td>
</tr>
<tr>
<td>----------------------------</td>
<td>-------------</td>
<td>-------------</td>
<td>---------------------------------------------------</td>
</tr>
<tr>
<td>Residential Density</td>
<td>3 acres per unit</td>
<td>Not applicable.</td>
<td>Not applicable.</td>
</tr>
<tr>
<td>Front Setback</td>
<td>30’</td>
<td>Not applicable.</td>
<td>+300’</td>
</tr>
<tr>
<td>Side Setback</td>
<td>10’</td>
<td>Not applicable.</td>
<td>+60’ (northern side) 22’ (southern side)</td>
</tr>
<tr>
<td>Rear Setback</td>
<td>20’</td>
<td>Not applicable.</td>
<td>368’</td>
</tr>
<tr>
<td>Height</td>
<td>35 ft</td>
<td>Not applicable.</td>
<td>82 ft</td>
</tr>
<tr>
<td>Lot Coverage %</td>
<td>15% or 18,000 sq. ft. whichever is greater</td>
<td>Not applicable.</td>
<td>1,225 sq. ft. lease area</td>
</tr>
<tr>
<td>Parking Spaces</td>
<td>Not applicable.</td>
<td>Not applicable.</td>
<td>Not applicable.</td>
</tr>
</tbody>
</table>

The proposed tower is considered an Intermediate Freestanding Commercial Telecommunication Facility pursuant to Zoning Code Section 26-02-140:

**Intermediate Facility.** Such facility, which involves a combination of towers and antennas greater than forty feet (40’) and less than or equal to one hundred thirty feet (130’) in height.

The facility is considered a secondary use ‘incidental and compatible with the primary use’ because the leasehold area for the proposed telecommunication facility would not interfere with the present residential use on the 3 acre property. It is compatible in that it does not generate significant traffic or loud noises.

**Combining Districts**

**Valley Oak Habitat, Section 26-67-005-050**

The project does not propose the removal of any trees and/or valley oaks to facilitate development.

**Other Development Regulations or Guidelines**

**Telecommunication Facilities, Section 26-88-130**

The site has a zoning designation of AR (Agriculture and Residential) with a density of 3 acres per dwelling unit, RC50/25 (Riparian Corridor 50 foot setback for structures, 25 for agriculture), and VOH (Valley Oak Habitat) combining designations. The Zoning Code lists the purpose of the AR (Agricultural and Residential) designation as: “to provide lands for raising crops and farm animals in areas designated primarily for rural residential use.” The AR (Agricultural and Residential) zoning designation prohibits Intermediate Facilities unless a service coverage study shows that there is no other suitable location for the facility. Intermediate Telecommunications Facilities require a Use Permit and must meet all standard telecommunications ordinance (Sonoma County Zoning Regulations - Section 26-88-130) requirements for Intermediate Facilities. As a residential zoning district, the AR (Agriculture and Residential) zone is subject to the following specific criteria for Intermediate Freestanding Commercial Telecommunication Facilities:

**Telecommunication Facilities, Section 26-88-130(b)(2) AR, RR, R1, R2, and R3 Districts**

Sonoma County Permit and Resource Management Department
2550 Ventura Avenue Santa Rosa CA 95403-2859 (707) 565-1900
www.PermitSonoma.org
(i) Intermediate and major freestanding commercial facilities are not allowed in these districts unless the applicant demonstrates to the satisfaction of the decision-making body that there is no technically feasible site or method of providing the needed service on lands which are not zoned AR, RR, R1, R2, R3, or PC with a UR or RR land use designation. Such demonstration shall be accompanied by the following:

(A) An alternatives analysis which meets the requirements of subsection (a)(3)(xiv) of this section.

(B) A visual analysis, which may include photo montage, field, mock-up, or other techniques, shall be prepared by or on behalf of the applicant which identifies the potential visual impacts, at design capacity, of the proposed facility. Consideration shall be given to views from public areas as well as from private residences. The analysis shall assess the cumulative impacts of the proposed facility and other existing and foreseeable telecommunication facilities in the area, and shall identify and include all feasible mitigation measures consistent with the technological requirements of the proposed telecommunication service.

Alternatives Analysis

The applicant has provided an alternatives analysis showing a gap in service for cellular phone users that are traveling (in transit) and indoors (Exhibit E). The service gap is along Graventstein Highway, west of Cotati. The alternatives analysis meets the requirements of Section 26-88-130(a)(3)(xiv) of the Telecommunication section of the Sonoma County Zoning Code. Before identifying potential locations within the designated search ring, Verizon Wireless first begins with a search ring to identify potential co-location sites. Within a .78 radius, there is only one facility for potential colocation. However, due to the type of telecommunication infrastructure at this site, specifically ground-mounted antennas located along a ridgeline, there is insufficient space on the ridgeline for a new facility to accommodate the coverage objectives of the project. The study identified 21 potential sites, which were not chosen due to lack of owner interest and/or feasibility of coverage. The applicant also provided two alternative feasible service plans on sites, which were favorable to Verizon. These sites were eliminated due to unwilling property owners and or site constraints.

Staff finds that the alternative analysis evaluated appropriate sites and adequately demonstrates that an alternative site is not available within the applicable service gap ring. Furthermore, because the service gap area overlaps with a broad Rural Residential area and no nonresidential areas are available in the vicinity, the site is appropriate for the proposed facility and will address of personal wireless services gap for area residents and the public.

Visual Analysis

The applicant has submitted photo simulations (Exhibit D) to allow for a Visual Analysis to meet Section 26-88-130(a)(3)(iii) which requires that “Facility towers, antennas and other structures and equipment shall be located, designed, and screened to blend with the existing natural or built surroundings so as to minimize visual impacts and to achieve compatibility with neighboring residences and the character of the community to the extent feasible considering the technological requirements of the proposed telecommunication service.”

Staff finds that the overall visual sensitivity of the site is Moderate because the project is not located within a Scenic Corridor or Scenic Landscape Unit, the vicinity includes a mix or rural and urban development, and the
site is not located within a Community Separator. Staff finds the project is Co-Dominant in comparison to its surroundings because project elements such as the faux needles and trunk are compatible with surrounding landscape features. The faux pine tree structure may be prominent from certain views but blends in with other surrounding landscape features, including a Monterey Pine tree. Based on the County’s Visual Assessment Guidelines, a project with Moderate sensitivity and Co-Dominant visual appearance has a less than significant visual impact and therefore no additional mitigations would be required.

Noise

As designed, the project will not produce significant noise during normal operation. However, emergency power is provided by a backup diesel-powered generator to keep cell transmissions operating during outages. The backup generator would be located 35 feet from the nearest property line to the south. Bollard Acoustical Consultants, Inc., prepared a noise study on February 11, 2019, which demonstrates that the backup generator noise levels are compliant with County Standards. The backup generator would result in 37 dB at the nearest property line to the south, which is below the maximum allowed exterior noise exposures (50 Db during daytime and 45 dB during nighttime hours at 30-minute intervals in any hour).

Environmental Analysis

A biological assessment was required to demonstrate that the project would not have an adverse effect on any sensitive species that may be present in the area. The proposed project is within the Santa Rosa Plain Conservation Strategy Study Area, which is used as a local tool to determine when it is appropriate to request a biological assessment for potential impacts to California tiger salamander (CTS). The project is near the border of the “No Effect” area typically assigned to urban development and classified as “May affect CTS, no effect to listed plants.” There are 4 occurrences of CTS documented in the project vicinity that are within the 1.34 mile distance that the species is known to migrate away from breeding areas but zero occurrences have been documented on the project-side of Highway 101 or Old Redwood Highway, which are considered barriers to CTS dispersal. The assessment found no suitable CTS habitat on the property. Several recommendations for construction site management from the biological assessment have been incorporated as conditions of approval to further minimize ecological disturbance during construction activities.

The project is categorically exempt from the California Environmental Quality Act (CEQA) under CEQA Guideline Section 15303, New Construction or Conversion of Small Structures as development will be limited to within a 1,225 square foot lease area. There are no facts or circumstances specific to this project that would support an exception to the categorical exemption.

NEIGHBORHOOD/PUBLIC COMMENTS

Early Neighborhood Notification was sent out on March 1, 2019 to property owners within a 300 foot radius of the project parcel. At that time staff received one letter in objection which has been attached. However, to date staff has not received any additional or written public comment regarding the proposed telecommunications facility.
RECOMMENDATIONS

Staff Recommendation

Staff recommends approval of the Use Permit subject to attached Conditions of Approval.

Findings for Recommended Action

1. The project is consistent with the General Plan land use designation of Rural Residential, and General Plan Policies including, Policy PF-2u: “Review proposals for public and private telecommunication facilities for consistency with General Plan policies and adopted siting and design criteria.” The faux pine tree will help to screen the tower and antennas and blend in with existing trees on site and in the project vicinity. Provision of a telecommunications tower in this site will help to close gaps in the service area for both people in transit or indoors.

2. The project is consistent with the requirements for siting a telecommunications tower within the AR (Agriculture and Residential) zoning designation, because the proposal has demonstrated through an alternatives site analysis, which meets the requirements of Section 26.88.130(a)(3)(xiv) of the Zoning Code, that there is no technically feasible site available and no technically feasible other method of providing the needed service on lands which are not zoned AR, RR, R1, R2, R3 or PC with a UR or RR land use designation. The applicant has prepared a visual analysis utilizing photo simulations as required by Section 26-88-130(b)(2)(iii) of the Zoning Code, which identifies the potential visual impacts at design capacity, of the proposed facility.

3. The project is consistent with Section 26-88-130(a)(3)(ii) of the Zoning Code in that the faux pine tree design meets the requirement that “facility towers, antennas and other structures and equipment shall be located, designed, and screened to blend with the existing natural or built surroundings so as to minimize visual impacts and to achieve compatibility with neighboring residences and the character of the community to the extent feasible considering the technological requirements of the proposed telecommunication service” as it resembles trees commonly present in the vicinity.

4. The project as conditioned will not be detrimental to the health, safety, peace, comfort and general welfare of persons residing or working in the neighborhood, nor be detrimental or injurious to property and improvements in the neighborhood or the general welfare of the area:
   a) The antennas on the monopine cell tower will not exceed 82 feet in height;
   b) The facility will operate without disruption and enhance public safety by providing improved telecommunications service, including during times of power outages;
   c) Exterior lighting will be motion-sensored, low-mounted, downward casting and fully shielded to prevent glare. Lighting will not wash out structures or any portions of the site. Light fixtures will not be located at the periphery of the property and will not spill over onto adjacent properties or into the night sky. Flood lights are not permitted. Additionally, lighting plans will be designed to meet the Lighting Zone (LZ1 for dark areas, LZ2 for rural, LZ3 for urban) standards from Title 24, effective October 2005;
   d) The facility will operate below the maximum allowed exterior noise exposures of 50 dBA during daytime hours and 45 dBA during nighttime hours;
e) The facility will be operated in compliance with the most current standard governing the limitation of human exposure to nonionizing electromagnetic radiation (NIER) used by the Federal Communications Commission applicable to the facility;

f) The entire facility, including all equipment, towers, antennas, etc., must be removed and the site restored to its pre-construction condition or other authorized use on abandonment or termination of the use;

g) The applicant’s Federal Communications Commission license requirements require the applicant to mitigate any interference with local television or radio reception caused by the facility;

h) The facility must provide adequate warning of potential hazards as well as location and operator identification and a telephone number for public contact.

5. The project is categorically exempt from the California Environmental Quality Act (CEQA) under CEQA Guideline Section 15303, New Construction or Conversion of Small Structures as development will be limited to within a 1,225 square foot lease area. There are no facts or circumstances specific to this project that would support an exception to the categorical exemption.

ATTACHMENTS

Exhibit A: Draft Conditions of Approval

Exhibit B: Vicinity Maps

Exhibit C: Site Plan

Exhibit D: Photo Simulations

Exhibit E: Alternatives Site Analysis & Coverage Analysis

Exhibit F: Noise Study prepared by Bollard Acoustical Consultants, Inc. dated February 11, 2019

Exhibit G: Biological Assessment prepared by Dudek, dated June 6, 2019

Exhibit H: Sonoma County Visual Assessment Guidelines

Exhibit I: Public Comment

Exhibit J: Draft Resolution