



Sonoma County Board of Zoning Adjustments STAFF REPORT

FILE: UPE18-0076
DATE: June 27, 2019
TIME: 2:00 pm
STAFF: Scott Orr, Project Planner

Appeal Period: 10 calendar days

SUMMARY

Applicant: GTE Mobilnet of CA LP, dba Verizon Wireless
c/o Aaron Salars

Owner: Dennis Hunter

Location: 3771 Lakeville Hwy, Petaluma

APN: 017-150-017 **Supervisorial District No.:** 2

Subject: Use Permit

PROPOSAL: Request for a Use Permit for a new freestanding 80 foot telecommunications faux water tower with associated equipment within a 1,600 square foot lease area on a portion of a 81.47 acre parcel.

Environmental Determination: Categorical Exemption (15303 - New Construction of a Small Structure)

General Plan: Diverse Agriculture 30 acres per dwelling unit density

Ord. Reference: Section 26-88-130. Telecommunication Facilities

Zoning: DA (Diverse Agriculture) B6 30 acre density, SR (Scenic Resource – Corridor) and VOH (Valley Oak Habitat).

Application Complete for Processing: December 19, 2018



RECOMMENDATION: Approve a Use Permit, with proposed conditions, for a freestanding 80 foot telecommunications faux water tower and associated equipment.

EXECUTIVE SUMMARY: The proposed project is an 80-foot high, freestanding telecommunications facility with a faux water tower design on a portion of a 81.47 acre parcel zoned Diverse Agriculture off of Lakeville Highway. Staff recommend approval based on: 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 in a Scenic Resource (SR) combining district.

The application was filed on October 18, 2018 and deemed complete for processing on December 19, 2018. A project alternatives analysis, photo simulations, and radio frequency report were prepared to assess potential impacts of development. A NEPA Review was also supplied by the applicant to provide a general environmental assessment of the project. Potential impacts associated with the telecommunications tower have been addressed in the project Conditions of Approval, which include ongoing maintenance of the faux water tower materials to ensure it remains consistent with its original state.

Due to federal regulations, telecommunication projects are subject to a deadline known as the “shot clock” that automatically deems the project approved if no decision is made before timing out. The “shot clock” deadline for this project is July 22, 2019.

ANALYSIS

Background: The proposed project was submitted on October 18, 2018 and deemed incomplete on November 16, 2018. The completeness review required that the applicant 1) provide additional photo simulations; and 2) provide a project color and material board. The application was deemed complete on December 19, 2018 with the submittal of the requested items.

An extension to the shot clock agreement from April 20, 2019 to May, 2019 was granted by the applicant to account for lost processing time due to staff’s emergency response the 2019 Winter Storms & Flooding event. An additional extension was granted to July 22, 2019 in response to the neighbor’s request for a public hearing.

Project Description: Request for a Use Permit for an Intermediate Freestanding Commercial Telecommunication Facility, consisting of an 80-foot high monopole in the form of a faux water tower with 9 panel antennas, 2 GPS antennas, three equipment cabinets, and a battery for emergency power. Associated project equipment is located within a 1,600 square foot fenced leased area on an 81.47 acre parcel. Emergency power is provided by a backup battery, with air condensers for cooling, to keep cell transmissions operating during outages.

Site Characteristics: The proposed project is approximately 2,300 feet east of the City of Petaluma and 1,600 feet to the north of Lakeville Highway. The subject parcel is comprised of a hay field with several accessory structures. On-site vegetation outside of agricultural areas are scattered grasses and a row of eucalyptus trees along the eastern boundary. The proposed lease area is adjacent to the eucalyptus row along Ely road. Ely Road would also serve as the primary access for facility maintenance. The City of Petaluma includes the site on its land use maps as a possible Urban Growth Boundary Expansion Area. Additionally, the site is within a Local Responsibility Area (LRA) for fire protection.

Surrounding Land Use and Zoning:

North: Parcels of greater than 90 acres in size that have land use and zoning designations of Diverse Agriculture and Land Extensive Agriculture and are actively farmed.

East: Agricultural parcels ranging in 20 to 30 acres in size with a land use and zoning designation of Diverse Agriculture along with rural home site parcels of 5 to 9 acres in size. Zoning in this area allows for minimum parcel size of 3 acres but requires 30 acres per dwelling unit in order to promote agricultural uses.

South: City of Petaluma land zoned Business Park. Uses within the business park area include FedEx and UPS shipping centers, a Kaiser Permanente Medical Office, and the City of Petaluma Ellis Creek Water Recycling Facility to the southeast.

West: City of Petaluma land zoned Planned Unit District and Open Space-Park. The Open Space-Park is a north-south linear feature that acts as a buffer between the residential planned community and the unincorporated agricultural land that begin on the project site.

DISCUSSION OF ISSUES

Issue #1: Federal Law, General Plan, and Zoning Consistency

Federal Law:

Federal and state law pre-empts and limits local government on telecommunication facility siting based on exposure to radio frequency emissions. The Telecommunications Act of 1996 allows local government limited authority to regulate telecom facilities' design and location, specifically 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."

If an applicant demonstrates compliance with the federal Radio Frequency (RF) Standards, the County cannot deny the project based on "environmental effects of radio frequency emissions."

The applicant has submitted an RF report by Hammett & Edison, Inc. which analyzes the project as to how much energy would be produced on site, and how that compares to the Federal limit at potential worst case exposure locations. This is then simplified into a percentage of the total allowed Federal energy level at those worst case locations. Specifically, the report found that anyone at ground level would receive a worst case maximum exposure of 2.7% of the Federal RF limit.

The Act also provides that any decision to deny a facility "*shall be in writing and supported by substantial evidence contained in a written record.*"

The Telecom Act further states that local governments shall not discriminate between wireless carriers (i.e. the County cannot approve a carrier at one site and then turn down another carrier at the same approximate location). Additionally, the Act provides that local government regulation "*shall not prohibit or have the effect of prohibiting the provision of personal wireless services.*"

General Plan and Zoning Consistency:

The site has a General Plan Land Use designation of Diverse Agriculture 30 acres per dwelling unit. The site is zoned Diverse Agriculture (DA) which allows an Intermediate Freestanding Telecommunication Facilities with a Use Permit approval. 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 project is consistent with the General Plan Policy AR-4a requirement that agriculture is the primary land use because the telecommunications facility is considered a secondary use "*incidental to and compatible with the primary use.*" The primary use of the project site will remain as agriculture, consisting of hay fields, as the small leasehold for the telecom facility would not interfere with the agricultural use on the 81.47 acre property. The telecom facility is compatible in that it does not generate significant traffic or noise, and the faux water tower design is compatible with the rural and agricultural character of the nearby properties.

In addition, the following General Plan policy is 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 has a zoning designation of DA (Diverse Agriculture) with a density of 30 acres per dwelling unit, with the SR (Scenic Resource – Corridor) and VOH (Valley Oak Habitat) combining designations. The DA zoning designation is intended to enhance and protect land areas where soil, climate, and water conditions support farming but where small acreage intensive farming and part-time farming activities are predominant and where farming may not be the principal occupation of the farmer. Unlike residential zoning designations, the DA zoning designation does not require an Alternatives Analysis to demonstrate why no other site was feasible unless a Major Facility is proposed. Intermediate Telecommunications Facilities are subject to obtaining a Use Permit approval and meeting all standard telecommunications ordinance (Sonoma County Zoning Regulations - Section 26-88-130) requirements for Intermediate Facilities. Section 26-88-130(b)(1)(iii)(C) requires that Intermediate Freestanding commercial facilities submit a visual analysis as a component of the Use Permit application. Visual Analysis

The applicant has submitted a visual analysis in the form of photo simulations (Exhibit D) to meet Section 26-88-130 (a)(3)(ii) 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.”

Utilizing the County’s Visual Assessment Guidelines and Matrix Table (EXHIBIT D) staff found 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 of rural and urban development, and the site is not within a Community Separator.

Staff finds the project is *Co-Dominant* in comparison to its surroundings because project elements such as the faux water tower are compatible with surrounding landscape features and structures. The faux water tower structure is prominent from certain views but blends in with structures typically found on agricultural parcels.

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.

The applicant has met the policies of the General Plan and requirements of the Zoning Code by submitting a complete application, including a coverage analysis, exceeding the setback requirement of 88 feet from the nearby dwellings, meeting Federal RF standards, locating and designing the project using a faux water tower in a location appropriate for the structure; and submitting a visual analysis with photo simulations.

Issue #2: Environmental Determination

Staff has determined that the proposed project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guideline Section 15303, as it is new construction of a small structure within a lease area of 1,600 square feet. There are no facts or circumstances specific to this project that would support an exception to the categorical exemption.. A NEPA Review was submitted for the project as preliminary environmental assessment, but is not required for local permitting or CEQA purposes.

Issue #3: Community Compatibility

Neighbors of the proposed telecommunication facility were noticed by the telecommunications company/applicant a year prior to the submittal of the application. Staff sent out early neighborhood notifications on October 24, 2018 and received one inquiry requesting more information on the project. A request to waive the hearing was publically noticed and three neighbors, noting concerns over radio frequency waves, health impacts, and visual impacts, requested a hearing. As stated earlier, federal law pre-empts and limits local government with respect to decisions about telecommunication facility locations based on radio frequency emissions. Project information was sent to the neighbors in response to the request for a hearing, one neighbor was satisfied with the photo simulations and was no longer concerned about the project. The proposed facility is located approximately 2,300 feet from the Southgate residential development within the City of Petaluma limits as indicated in photo simulation view #6 (Exhibit D). The project is not expected to generate any noise during normal operation. Emergency power is provided by a backup battery, with air condensers for cooling, to keep cell transmissions operating during outages.

STAFF RECOMMENDATION

Approve a Use Permit, with proposed conditions, for a freestanding 80 foot telecommunications water tower and associated equipment.

FINDINGS FOR RECOMMENDED ACTION

1. The project is consistent with the General Plan Land Use designation of Diverse Agriculture, and General Plan Policies including, Policy AR-4a: “The primary use of any parcel within the three agricultural land use categories shall be agricultural production” and 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 water tower will help to screen the tower and antennas and blend in with existing development 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 proposed project is consistent with the requirement for siting a telecommunications tower within the DA (Diverse Agriculture) and SR (Scenic Resource) zoning designations in that the proposed use is allowed with a Use Permit, meets the setback requirement that it

is over 88 feet from the nearest dwelling, and does not impact agricultural operations on the site, and is located outside of the Scenic Corridor.

3. The project is consistent with Section 26-88-130 (Telecommunication Facilities) in that the faux water tower 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 a structure that is similar in character to those found on agricultural properties.
4. The establishment, maintenance or operation of the use for which application is made, as modified by and subject to the Conditions of Approval set forth in Exhibit “A” hereto, will not, under the circumstances of this particular case, be detrimental to the health, safety, peace, comfort and general welfare of persons residing or working in the neighborhood of such use, nor be detrimental or injurious to property and improvements in the neighborhood or the general welfare of the area. The particular circumstances in this case are:
 - a. The faux water tower will not exceed 80 feet in height;
 - b. The tower will operate 24 hours a day, 365 days a year and be beneficial to public safety by providing improved telecommunications service including during times of power outages;
 - c. Exterior lighting shall be motion-sensored, low-mounted, downward casting and fully shielded to prevent glare. Lighting shall not wash out structures or any portions of the site. Light fixtures shall not be located at the periphery of the property and shall not spill over onto adjacent properties or into the night sky. Flood lights are not permitted. All parking lot and street lights shall be full cut-off fixtures. Additionally, lighting plans shall 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 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;
 - e. 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;
 - f. The applicant’s FCC license requirements require the applicant to mitigate any interference with local television or radio reception caused by the facility;
 - g. The facility must provide adequate warning of potential hazards as well as location and operator identification and a telephone number for public contact.
 - h. The backup battery will continue to provide wireless service during outages and times of emergency.

5. The project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guideline Section 15303, as it is new construction of a small structure within a lease area of 1,600 square feet. There are no facts or circumstances specific to this project that would support an exception to the categorical exemption.

LIST OF ATTACHMENTS

EXHIBIT A: Draft Conditions of Approval

EXHIBIT B: Land Use Maps

EXHIBIT C: Site Plan

EXHIBIT D: Visual Assessment with Guidelines

EXHIBIT E: Coverage Analysis

EXHIBIT F: Correspondence Received

EXHIBIT G: Draft Resolution

Separate Attachment for Commissioners: 11x17 plans