



Sonoma County Board of Zoning Adjustments STAFF REPORT

FILE: UPE18-0041
DATE: June 27, 2019
TIME: 1:20 pm
STAFF: Scott Orr, Project Planner

Appeal Period: 10 calendar days

SUMMARY

Applicant: GTE Mobilnet of CA LP, dba Verizon Wireless
c/o Complete Wireless Consulting

Owner: Alan Christiansen

Location: 9055 Old Redwood Highway, Cotati

APN: 046-223-044 **Supervisorial District No.:** 2

Subject: Use Permit

PROPOSAL: Request for a Use Permit for a new freestanding 60 foot faux pine tree telecommunications tower with associated equipment within a 900 square foot lease area on a portion of a 2.8 acre parcel.

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

General Plan: Rural Residential 2 acres per dwelling unit density

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

Zoning: AR (Agriculture and Residential) B6 2 acre density, RC50/25 (Riparian Corridor), and VOH (Valley Oak Habitat).

Application Complete for Processing: November 20, 2018



RECOMMENDATION: Approve with conditions a Use Permit for a freestanding 60 foot faux pine tree telecommunications tower and associated equipment.

EXECUTIVE SUMMARY: The proposed project is a freestanding 60-foot high telecommunications facility with a faux pine tree design on a 2.8 acre parcel zoned Agriculture and Residential at 9055 Old Redwood 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.

A project alternatives analysis, photo simulations, radio frequency report, and biological 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 a deadline known as the “shot clock” that automatically deems the project approved if no decision is made before timing out. The deadline for this project is July 8, 2019.

ANALYSIS

Background: The proposed project was submitted on May 17, 2018 and deemed incomplete on May 29, 2018. The completeness review required that the applicant 1) amend the Alternatives Analysis to further demonstrate that the subject parcel was the most appropriate site for the project; 2) amend the Visual Analysis to include private views in addition to public views; and 3) provide a biological assessment for potential impacts to species of special concern. The application was deemed complete on November 20, 2018 after receipt of revised application materials addressing these three deficiencies.

An extension to the shot clock agreement from April 7, 2019 to July 8, 2019 was granted by the applicant to account for lost processing time due to staff’s emergency response during the 2019 Winter Storms & Flooding event as well as a neighbor’s request for a public hearing.

Project Description: Request for a Use Permit for an Intermediate Freestanding Commercial Telecommunication Facility, including a 60-foot high monopole in the form of a faux pine tree with 9 panel antennas, three equipment cabinets, and a generator with a backup battery for emergency power. Associated project equipment is located within a 900 square foot fenced lease area, to be accessed by a gravel maintenance driveway constructed off of an existing driveway, on a 2.8 acre parcel.

Site Characteristics: The proposed project is approximately 900 feet south of the City of Cotati. The subject parcel has a single family dwelling and several residential accessory structures. On-site vegetation is similar to the surroundings: grassland with scattered trees. The proposed lease area has been utilized as grazing area in the past. Drainage culverts along Old Redwood Highway are considered seasonal blue line streams and are designated as riparian corridors. The parcel is accessed directly off of Old Redwood Highway via a private driveway, and is served by a private well and septic system.

Surrounding Land Use and Zoning:

Surrounding parcels are within the RR 2 (Rural Residential, 2 acres per dwelling) General Plan Land Use designation with a zoning of AR (Agriculture and Residential). Parcels range in size from 2 to 6 acres with residential uses, grassland vegetation with scattered trees, and limited agricultural uses.

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. The report found that anyone at ground level would receive a worst case maximum exposure of 1.0% of the Federal RF limit. This is consistent with allowable exposure under the Act.

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's Rural Residential 2 General Plan Land Use designation allows Intermediate Freestanding Telecommunication Towers (Intermediate Facility) where a service coverage study shows that there is no other suitable location for the facility. 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 to and compatible with the primary use"* because the small leasehold for the telecom facility would not interfere with residential use on the 2.8 acre property. It is compatible in that it does not generate significant traffic or loud noises and the faux pine design blends with the oaks and pine trees on the property

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 AR (Agriculture and Residential) with a density of 2 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 designation as: *"to provide lands for raising crops and farm animals in areas designated primarily for rural residential use."* The AR zoning designation prohibits Intermediate Facilities unless a service coverage study shows that there is no other suitable location for the facility. Intermediate Telecommunications Facilities are subject to obtaining a Use Permit and meeting all standard telecommunications ordinance (Sonoma County Zoning Regulations - Section 26-88-130) requirements for Intermediate Facilities. As a residential zoning district, the AR is subject to the following specific criteria for Intermediate Freestanding Commercial Telecommunication Facilities:

Section 26-88-130 b. (2) AR, RR, R1, R2, AND R3 Districts

- (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 a study showing a gap in service for cellular phone users that are traveling (in transit) and indoors (Exhibit E). The gap is along Old Redwood Highway covering an area from southern Cotati towards northern Penngrove. Along Old Redwood most properties are designated as the Rural Residential General Plan land use, like the subject property, thus many alternative locations are also rural residential in the vicinity.

The study identifies seven alternative sites that would meet coverage needs within the area, but none are listed as a viable alternative location for the project. Five sites are “Not Available” due to lack of landowner interest. Two sites are “Not Feasible” because of the City of Cotati residential zoning restrictions and to the technical and structural constraints to co-locating the facility on an existing water tower. Staff finds that the alternative analysis evaluated appropriate sites and was 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 a visual analysis utilizing the county’s Visual Assessment Guidelines as well as 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.”

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 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 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.

The applicant has met the policies of the General Plan and requirements of the Zoning Ordinance by submitting a complete application, including a coverage analysis, meets the setback requirement that it is over 66 feet from the nearest dwelling, meeting Federal RF standards, locating and designing the project using a faux pine tree in a location nearby existing trees, and submitting an alternatives analysis and visual analysis.

Issue #2: Environmental Determination

A biological assessment was required to demonstrate that the project will not have an adverse effect on any sensitive species that may be present in the area. According to the California Natural Diversity Database (CNDDDB), potential sensitive species at the proposed site include the burrowing owl, several migratory birds, the western bumble bee, and the California tiger salamander (CTS). 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 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 1.24 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.

Staff has determined that the proposed 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 900 square foot lease area. There are no facts or circumstances specific to this project that would support an exception to the categorical exemption.

Issue #3: Noise

As designed, the project will not produce significant noise during normal operation. However, emergency power is provided by a backup battery-powered generator to keep cell transmissions operating during outages. The generator would be located 90 feet from the nearest property line. A noise study was prepared by Bollard Acoustical Consultants, Inc. demonstrating that the generator noise levels are compliant with county standards. The backup generator would result in 43 dBA at the nearest property line, under the maximum allowed exterior noise exposures (50 dBA during daytime and 45 dBA during nighttime hours at 30 minute intervals in any hour). As conditioned the generator must meet the County's General Plan noise standards. The nearest neighboring residence is approximately 271 feet away and would have a noise exposure level of less than 34 dBA. Additionally, the generator and cooling fans will be enclosed in a sound attenuation cabinet to muffle noise and ensure compliance with noise standards. Staff has determined the project, as conditioned, will not generate noise impacts.

Issue #4: Community Compatibility

Neighbors to the proposed telecommunication facility were noticed by the applicant at the time of application submittal. A hearing was requested through email correspondence with a neighbor. The hearing was requested due to the neighbor's concern with RF exposure. As stated earlier, federal law pre-empts and limits local government with respect to decisions about telecommunication facility locations based on radio frequency emissions.

STAFF RECOMMENDATION

Approve a Use Permit, with proposed conditions, for a freestanding 60 foot tall faux pine tree telecommunications tower and associated equipment.

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 proposed project is consistent with the requirement for siting a telecommunications tower within the AR (Agriculture and Residential) zoning designation, because the proposal has demonstrated through an alternatives analysis which meets the requirements of subsection (a)(3)(xiv) and (xvi) of this section 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 which identifies the potential visual impacts, at design capacity, of the proposed facility.

3. The project is consistent with Section 26-88-130 (Telecommunication Facilities) 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 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 antennas on the faux pine tree cell tower will not exceed 55 feet in height (the actual height of the upper branches of the tree will not exceed 60 feet);
 - 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 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 FCC 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) pursuant to Section 15303, New Construction or Conversion of Small Structures as development will be limited to within a 900 square foot lease area. 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 Photo Simulations

EXHIBIT E: Alternative Sites and Coverage Analysis

EXHIBIT F: Noise Study, prepared by Bollard Acoustical Consultants, Inc., dated January 3, 2017

EXHIBIT G: Correspondence Received

EXHIBIT H: Draft Resolution

Separate Attachment for Commissioners: 11x17 plans