



Sonoma County Board of Zoning Adjustments STAFF REPORT

FILE: UPE19-0089

DATE: December 10, 2020

TIME: 1:30 pm

STAFF: Gary Helfrich, Project Planner

SUMMARY

Property Owner:	Bo Dean Company Inc.
Applicant:	GTE Mobilnet of California LP dba Verizon Wireless
Address:	4500 Porter Creek Road, Santa Rosa
Supervisory District(s):	First District
APN:	120-210-009
Description:	Request for a Use Permit for an Intermediate Freestanding Commercial Telecommunications Facility, including a 126-foot high faux tree monopole (mono-pine), associated ground equipment cabinet, and a 30KW generator with diesel fuel tank for the purpose of backup emergency power, located within a 2,500 square foot lease area, enclosed by a six foot high fence on a 29.9 acre parcel.
CEQA Review:	Categorical Exemption, Section 15303, New Construction of Small Structures
General Plan Land Use:	Resources and Rural Development (RRD – 100 acre density)
Specific/Area Plan Land Use:	Not applicable
Ordinance Reference:	Section 26-88-130. Telecommunication Facilities
Zoning:	Resources Rural Development (RRD -100 acres per dwelling unit density), and combining zones for Riparian Corridor (RC 200 foot development setback, 50 foot agricultural setback), and Scenic Resource (SR – 200-foot Scenic Corridor).



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 a 126-foot high faux tree monopine design on a 29.9 acre parcel zoned Resources and Rural Development at 4500 Porter Creek Road in Santa Rosa. All structures on the parcel were destroyed in the 2017 Tubbs Fire.

Staff's recommendation for approval is based on: 1) the tower is consistent with the General Plan and Zoning Code, 2) the tower design is compatible with and substantially screened by surrounding landscape features, and 3) the project site is located over 600 feet from the Porter Creek Road Scenic Corridor with inevident visibility along the entire corridor.

A project alternatives analysis, photo simulations, radio frequency report, 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 shot clock for this project has been extended through a tolling agreement, and the current deadline for this project is December 31, 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."

Here, the applicant has submitted an RF emissions report prepared by Dtech Communications dated December 4, 2019 that provides an analysis of the project's radiofrequency emissions. For this facility, the worst-case maximum exposure at the tower base would be less than 5% of the Federal Communications Commission



General Population Maximum Permissible Exposure Limits. Under Section 1455(a) of the Communications Act, 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

All structures on this parcel was destroyed in the 2017 Tubbs Fire (EVT17-05188). All fire debris has been removed, and the 29.9 acre parcel is presently vacant. The parcel consists of a steep hill rising from Porter Creek, with dense vegetation along Porter Creek Road. The project site is situated 5 miles northeast of Santa Rosa.

Direction	Land Uses
North	Resources and Rural Development (RRD, B6 100), MR (Mineral Resources)
South	Resources and Rural Development (RRD, B6 100)
East	Resources and Rural Development (RRD, B6 100)
West	Resources and Rural Development (RRD, B6 100)

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 Porter Creek Road, which is a County-maintained highway. An existing driveway that provided access to the former home site will be used to access 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 Sonoma County Fire Protection District. The development includes a 30KW generator with a 210-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.

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.

Date	Project Event/Milestone
12/17/2019	Application
12/15/2019	Early Neighborhood Notification
1/16/2019	Application deemed complete
5/14/2020	First Shot Clock Extension to 7/15/2020
6/14/2020	Objection to waiver received
7/13/2020	Second Shot Clock Extension to 11/16/2020
11/7/2020	Third Shot Clock Extension to 12/31/2020
11/25/2020	Legal Notice posted onsite for BZA Hearing

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 Resources and Rural Development General Plan Land Use designation allows for an Intermediate Freestanding Commercial Telecommunication Facility, subject to the standards and siting and design criteria of the Resource and Rural Development zoning district, which is discussed below.

Consistency with th where a service coverage study shows that there is no other suitable location for the facility.

Zoning

A large service gap presently exists in, the purpose of the proposed facility will close the gap in service for those residents. In order to properly service this area, AT&T began with eight potential sites. However, because the proposed site had the only willing property owner, there is no other suitable alternative. The project site is appropriate as topography and vegetation of the area will screen the development and the project meets standards and siting criteria for the Resources and Rural zoning district.



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.

Development of the proposed telecommunications facility is located within the Resources and Rural Development portion of the split-zoned project site.

Standard	Ordinance	Existing Condition	Proposed Project
Lot Area	120 acres	311.91 acre	No change proposed.
Land Use	RRD 120	Agriculture	Major Commercial Telecommunication Facility
Residential Density	120 acres per unit	Not applicable.	Not applicable.
Front Setback	30'	Not applicable.	443'-6"
Side Setback	10'	Not applicable.	148'-6" 2,471'-0"
Rear Setback	20'	Not applicable.	4,184'-0"
Height	35 ft	Not applicable.	135 ft
Lot Coverage %	5% or 85,500 SF whichever is greater	Not applicable.	900 sf lease area
Parking Spaces	Not applicable.	Not applicable.	Not applicable.

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

Major Facility: Such facility which involves a combination of towers and antennas greater than one hundred thirty feet (130') in height

The facility is considered to be a secondary use 'incidental and compatible with the primary use' because the leasehold area for the proposed telecommunication facility would not interfere with any future residential use on the vacant 311 acre property utilized for grazing. It is compatible in that it does not generate significant traffic or loud noises and the faux tree design blends with the vegetation and the topography on the property.

Combining Districts

Scenic Resource, Section 26-64-005-050

The project parcel has the combining zone of Scenic Resource due to its frontage along Porter Creek Road, which is designated by the Sonoma County General Plan as a Scenic Corridor. The proposed facility is located 800+ feet from Porter Creek Road and 600+ feet from the 200-foot Scenic Corridor setback boundary. Visibility of the proposed monopine from Porter Creek Road is inevident. Dense forested areas of mature second growth Douglas Fir and steep topography completely block views of the project. Due to the distance from the Scenic Corridor and lack of visibility from public viewpoints, Design Review Committee staff determined that the provisions of Zoning Code Section 26-64-040 is not applicable to this project as the project site is not within or visible from a community separator, scenic landscape unit, or scenic corridor.



Riparian Corridor, Section 26-65-005-040

Porter Creek is designated as a Riparian Corridor and runs along the northern boundary of the subject parcel. The Porter Creek Riparian Corridor Combining District setback for development is 200 feet from top of bank (Note: the Riparian Corridor is mapped at twice the setback distance to account for meandering of waterways and change in bank location over time. Any development within the mapped area must identify top of bank on the site plan and delineate the setback line relative to the top of bank). The proposed telecommunication lease area is located over 750 feet from Porter Creek and is not subject to the provisions of the Riparian Corridor Combining District.

Other Development Regulations or Guidelines

Section 26-88-130, Telecommunication Facilities

The Resources and Rural Development zoning designation allows for Intermediate Telecommunications Facilities subject to obtaining a Use Permit and meeting all standard telecommunications ordinance (Sonoma County Zoning Regulations - Section 26-88-130) requirements for Intermediate Facilities. Due to its location in a resource and residential zoning district, the project is also subject to the following specific criteria for Intermediate and Major Freestanding Commercial Telecommunication Facilities under Section 26-88-130(b)(1)(iii) of the Sonoma County Zoning Regulations:

- (A) Towers shall meet the setback standards of subsection (b)(1)(ii)(A) of this section.*
- (B) For any proposed major facility, an alternatives analysis shall be prepared by or on behalf of the applicant, subject to the approval of the decision making body, which meets the requirements of subsection (a)(3)(xiv) of this section.*
- (C) A visual analysis*

ANALYSIS

Alternatives Analysis

The applicant has provided coverage maps showing a large gap in service for cellular phone users that are traveling (in transit) and indoors (Exhibit E). The need for this facility is very site specific due to the topography of the surrounding area. As such, the location options were limited, and only the BoDean Company was able to provide Verizon with a location that provided a willing landlord, was accessible for construction, and met the technical specifications for providing adequate coverage. The only alternative site identified with the potential to provide adequate coverage is the Mark West Quarry site (also owned by BoDean Company - APN 120-210-48) located immediately northeast of the project site. This location was determined to be infeasible due to vibration from blasting activities related to mining activities on that site.

The nearest telecommunication facility is located north of Calistoga in Napa County. Coverage from this facility would be inadequate due to steep terrain that prevents signals from propagating into the proposed coverage area. There are no feasible collocation opportunities that would meet the coverage needs of the proposed project.

The alternatives analysis meets the requirements of Section 26-88-130(a)(3)(xiv) of the Telecommunication section of the Sonoma County Zoning Code.



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 195 feet from the nearest property line to the east. Because the project emergency generator is not part of normal operations, and will be located in a Level 2 Acoustic Enclosure, noise exposure from project emergency generator operations would be exempt from applicable Sonoma County noise level criteria. Analysis of project emergency generator noise exposure was not included in this assessment, but full power operation noise level will not exceed 50dB at the property line based on manufactures specification. Conditions of approval require that exercise run cycles be limited to daytime hours, and will be significantly below the daytime standard of 50dB, as the generator operates unloaded during exercise and diagnostic cycles.

A noise study was prepared by Bollard Acoustical Consultants Inc. on November 6, 2019, which finds that normal project operation will result in noise levels of 35dB at the nearest property line, satisfying the General Plan 45 dB L50 nighttime noise level standard by a wide margin.

Visual Analysis

Using the County's Visual Assessment Guidelines (included as Exhibit G), the project site's sensitivity is characterized as high, as it will be minimally visible from portions of a designated Scenic Corridor. The facility is to be located 600+ feet outside of the Scenic Corridor which exists along the Porter Creek Road frontage. The project's visual dominance can be characterized as inevident as project is similar in scale and shielded by dense forested areas and topography. The combination of high sensitivity and inevident dominance, determines that the project's visual impact on scenic public views is considered to be less than significant. Photo simulations of the mono-pine have been included as Exhibit D.

Environmental Analysis

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 900 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 December 15, 2019 to property owners within a 300 foot radius of the project parcel. On May 21, 2020, a notice of waiver of public hearing was sent out to property owners, the site was posted, and the owner a vacant 11.5 acre parcel (APN 120-210-049) located along the eastern boundary of the site objected to the tower location and requested a public hearing. The specific objection was that the proposed tower will be located 560 feet from his proposed building site and that construction of the tower will cause his vacant parcel to lose value. Both Permit Sonoma staff and representatives from Verizon met with the property owner, but could not reach a compromise that satisfied the owner.

Response to Objection by Neighboring Property Owner:

Section 26-88-130 (A)(3)(xv) requires towers to be set back a minimum of 110% of the tower height, which is 138.6 feet. The distance between the facility lease area and the property line is 195.5 feet, and construction of



the proposed project would not affect the neighboring property owner's ability to develop any portion of his parcel.

While the neighboring property owner feels strongly that his 11.5 acre contains only one specific building site, no evidence has been provided to support this assertion, and the parcel does not appear to contain significant constraints limiting development to one specific area within the parcel. Permit history shows no applications for development or site evaluation, and any impacts the proposed project will have on the value of this property is speculative.

Staff feels that the applicant made a significant effort to listen to and consider concerns expressed by the neighboring property owner but should not be expected to modify a project that appears consistent with Sonoma County regulations in response to speculation of future development on an adjoining parcel.

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 Resources and Rural Development, 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 tower design of a mono-pine will help screen the proposed facility and antennas and blend in with existing vegetation and topography within the project vicinity. Visibility from public viewpoints is inevent due to mountainous topography, natural vegetation, as well as the lack of vantage points along Porter Creek Road due to the road being located at the bottom of a steep canyon. Because of these factors, the project will not result in impacts to visual resources along the scenic corridor. Grading will be limited and entirely within the 2,500 square foot lease area. Provision of a telecommunications tower in this site will help to close gaps in wireless service in the area and provide critical communication services for residents and first responders
2. The proposed project is consistent with the requirements for siting a telecommunications tower within the RRD (Resources and Rural Development) zoning designation, because the proposal has demonstrated through an alternatives site analysis which meets the requirements of Section 26.88.130(a)(3)(xiv) that there is no other technically feasible method of providing the needed service. The applicant has prepared a visual analysis utilizing photo simulations as required by Section 26-88-130 subsection (b)(1)(iii), which identifies the potential visual impacts at design capacity of the proposed facility and demonstrates that screening, siting and design as described above will result in acceptable visual impacts for the project.
3. The proposed project is consistent with the requirements for siting a telecommunications tower with an SR (Scenic Resources) zoning designation because the proposal has presented a visual analysis that meets the requirements of Section 26-64-040(c), based on the facts stated in findings 1 and 2 above, and an alternatives analysis that meets the requirements of Section 26-88-130(a)(3)(xiv).



4. The project is consistent with Section 26-88-130 (Telecommunication Facilities) of the Zoning Code in that the faux pine (monopine) tree design minimizes visual impacts and is compatible with the neighborhood and character of the area because it utilizes the vegetation and topography of the site to blend the facility with the surrounding environment.
5. 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 135 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. All parking lot and street lights will be full cut-off fixtures. 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.

ATTACHMENTS

Exhibit A: Draft Conditions of Approval

Exhibit B: Land Use Map

Exhibit C: Location Map and Site Plan

Exhibit D: Photo Simulations

Exhibit E: Coverage Predictions & Alternatives Site Analysis

Exhibit F: Noise Study prepared by Ballard Acoustical Consultants dated November 6, 2019

Exhibit G: Sonoma County Visual Assessment Guidelines

Exhibit H: Public Comment

Exhibit I: Draft Resolution



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