

BUTTE COUNTY PLANNING COMMISSION MINUTES
MAY 12, 2005

- I. PLEDGE OF ALLEGIANCE:** The Meeting convened at 9:00 a.m.
- II. ROLL CALL: PRESENT:** Commissioners Lambert, Wilson, Nelson, and Chairman Marin
- ABSENT:** Commissioner Leland
- ALSO PRESENT:** Yvonne Christopher, Director Development Services
Mark Michelena, Associate Planner
Felix Wannemacher, Deputy County Counsel
Stu Edell, Land Development
Doug Fogel, Environmental Health
- III. ACCEPTANCE OF AGENDA:** Commission members and staff may request additions, deletions, or changes in the Agenda order.

It was moved by Commissioner Lambert, seconded by Commissioner Leland, and unanimously carried to accept the agenda as presented.

- IV. BUSINESS FROM THE FLOOR ON ITEMS NOT ALREADY ON THE AGENDA**
(Presentations will be limited to five minutes. The Planning Commission is prohibited by State Law from taking action on any item presented if it is not listed on the Agenda)

NONE

- V. PUBLIC HEARINGS** The Chair will call for staff comments. The hearing will be opened to the public for proponents, opponents, comments, and rebuttals. The hearing will be closed to the public and discussion confined to the Commission. The Commission will then make a motion and vote on the item.

It is requested that public initiated presentations be limited to a maximum of 5 minutes so that all interested parties will have an opportunity to address the Commission. Following your presentation, please print your name and address on the speakers sheet so that the record will be accurate.

The recommendation of County staff is indicated below. It is only a recommendation and has not yet been considered by the Planning Commission. Copies of the Staff Report are available at the Planning Division Office

Verizon Wireless (C/O Complete Wireless), (item determined to be categorically exempt from environmental review), **Minor Use Permit** to collocate 12 panel antennas at the top of an existing 154.6-foot tall communications monopole on property zoned P-Q (Public-Quasi Public). The property is located in the Oroville Memorial Cemetery, at 5646 Lincoln Boulevard, Oroville. APN 036-160-046 (SB) (MUP 05-04)

I. Find that this project is exempt from the provisions of the California Environmental Quality Act under Section 15311. Section 15311 consists of construction of minor structures accessory (appurtenant) to existing facilities. Antennas placed on an existing communications monopole are considered to be accessory structures. The payment of fees pursuant to Fish and Game Code Section 711.4 and 14 CCR 753.5 are not required.

II. Approve Minor Use Permit 05-04 for Verizon Wireless, subject to the following findings and the conditions in Exhibit "A":

A. The proposed location, size, design, and operating characteristics of the proposed use are in accordance with the purpose of this Ordinance, the purpose of the zone in which the site is located, the Butte County General Plan, and the development policies and standards of the County because:

Conditions of approval have been applied to this project pursuant to the applicable requirements of Section 24-262 (Wireless Communication Facilities). The project is in accordance with the purpose of the zone in which the land lies and the Butte County General Plan because the project site is designated Public and is zoned P-Q. The Public land use designation allows public utilities as Secondary Uses. The P-Q zone allows collocations with approval of a Minor Use Permit.

B. The location, size, design, and operating characteristics of the proposed use would be compatible with, and would not adversely affect, or be detrimental to adjacent uses, residents, buildings, structures, or natural resources, with consideration given to:

1. Harmony in scale, bulk, coverage, and density:

The proposed antennas would not increase the height of the existing communications monopole or extend horizontally beyond the existing antennas.

2. The availability of public facilities, services and utilities:

Electrical power service is already established to the property and no additional services or utilities are required. A water source and a sewage disposal system are not required.

3. The harmful effect, if any, upon desirable neighborhood character:

The project site is already developed with a 154.6-foot tall communications monopole and accessory ground mounted equipment cabinets and shelters. The radio-frequency emissions from the existing and proposed antennas would meet FCC standards for public exposure. The proposed antennas would not result in a significant visual impact to the neighborhood in that the new antennas and mounting hardware would be painted to match the color of the existing monopole. The proposed antennas would not generate any noise. The proposed antennas to be mounted on the existing monopole would not have a harmful effect upon the neighborhood character.

4. The generation of traffic and the capacity and physical character of surrounding streets:

The project would result in approximately one to two site visits per month by maintenance personnel. Lincoln Boulevard, which would provide access for the project site, would not be impacted by this increase in vehicular traffic.

5. The suitability of the site for the type and intensity of use or development which is proposed:

The site is ideally suited for the project because the proposed antennas would be mounted on an existing communications monopole.

6. Any other relevant impact of the proposed use:

The Planning Division has circulated the proposed communication facility application to County Agencies and the City of Oroville and has received no evidence that the use would cause any other relevant impact.

- C. Based on the above findings, the proposed location, size, design, and operating characteristics of the proposed use and the conditions under which it would be operated or maintained would not be detrimental to the public health, safety, or welfare, or injurious to properties or improvements in the vicinity.
- D. The proposed use will comply with each of the applicable provisions of Butte County Code Chapter 24, Section 262.
- E. This project would place antennas on an existing communications monopole, which eliminates the need for a new communications tower/monopole to be erected elsewhere in the project area.
- F. The radio-frequency emissions generated by the antennas on the communications monopole would be below the public exposure limits set by the Federal Communications Commission for wireless communication facilities.
- G. The proposed antennas would not create any impacts to aircraft operations because they

will not increase the height of the existing communications monopole nor extend horizontally beyond the existing antennas.

- H. Wireless telephone services are regulated by the California Public Utilities Commission and are considered to be a public use.

Conditions of Approval:

Planning Division

1. The project site shall be developed in accordance with the approved project site plan and the conditions contained herein. Said site plan is on file in the Planning Division, is identified as "Attachment E" and date-stamped April 22, 2005, and is incorporated herein by this reference.
2. The new antennas and mounting hardware shall be painted to match the color of the existing monopole.
3. The installation of the Facility shall comply with all applicable building and electrical codes. The Facility operator shall submit certification from a registered structural engineer to the Building Division that all associated monopoles and towers in excess of thirty (30) feet in height will withstand sustained winds as required by the Uniform Building Code.
4. No advertising or display shall be permitted on the Facility.
5. The placement of any antenna or structure shall not adversely affect any on-site sewage disposal system or its repair area without written approval from the Division of Environmental Health.
6. The installation of the Facility shall not violate any existing deed restrictions.
7. The Facility shall have a twelve (12) foot wide all-weather access to a publicly maintained road capable of supporting a forty thousand (40,000) pound fire apparatus with fifteen (15) feet of vertical clearance.
8. There shall be no outdoor vehicle or equipment storage except for emergency purposes.
9. The Facility shall fall within current standards and regulations of the FAA, the FCC, and any other State and/or Federal agency with the authority to regulate such Facility. If such standards and regulations are changed, the property owner or responsible party shall bring the Facility into compliance with such revised standards and regulations within ninety (90) days of the effective date of such standards and regulations, unless a more stringent compliance schedule is mandated by the controlling agency.
10. The Facility or combination of the Facilities on the site shall not generate, at any time, electromagnetic frequency radiation (EMF) or radio frequency radiation (RF) in excess of the FCC adopted standards for human exposure, as amended over time.
11. If it is found that the Facility is or will be detrimental to the health, safety, or welfare of persons working or residing near such facility, then the service provider(s) and property owner shall be

jointly and solely responsible for the removal, adjustment, or replacement of the Facility. In no case shall the Facility remain in operation if it is found to create a hazard to health, safety, and welfare. The Facility shall not be found to create a hazard to health, safety, or welfare as a result of EMF or RF emissions from the Facility so long as it meets all current standards established by the FCC, pursuant to FCC OET 65.

12. Prior to issuance of the Minor Use Permit, the applicant shall post a performance security in an amount and form determined by the Director of Development Services that is sufficient to cover the cost of a one-time test by a radio frequency consultant selected by the County, sufficient to determine whether the Facility's RF/EMF emissions comply with FCC standards. If the Facility's emissions are determined to exceed FCC standards, the applicant is required to pay for such other tests and other corrective measures as are necessary to establish compliance with FCC OET 65 and its successors and such noncompliance shall constitute sufficient grounds to commence a permit revocation hearing which may lead to permit revocation. The applicant shall cooperate in all respects with the County's consultant to assist the consultant to reach his/her conclusion.
13. All Facilities that are not in continual use for a period of six (6) months shall be considered abandoned. Abandoned Facilities are hereby designated as unlawful and as public nuisances, requiring no amortization period.
14. The Facility may not encroach into, under, over, above, or upon any public street in the unincorporated area of the County in the absence of a valid encroachment permit from the County.
15. The owner/operator of the Facility shall annually submit a written verification, attested to under penalty of perjury, signed by both the owner/operator and an FCC licensee in the employ of or retained by the owner/operator, that the radio frequency radiation/electromagnetic frequency (RF/EMF) emitted by the facility conforms to safety standards set forth in FCC OET 65. The reports prepared for the Facility shall conform to reporting requirements set by the FCC and the County. The reports shall be submitted to the Planning Division no later than January 31 of each year.
16. The Facility shall be secured at all times to prevent access by the public.
17. The collocation of the antennas allowed by this Minor Use Permit requires the issuance of a building permit from the Butte County Building Division. The Building Division, based upon engineered calculations submitted by the applicant, may determine that the monopole cannot physically support the requested number of antennas. If that is the case, the number of new antennas allowed on the monopole may be less than the number of antennas permitted by this Minor Use Permit.

Environmental Health Division

18. Prior to issuance of a building permit, provide a completed Hazardous Materials and Emissions Questionnaire.

County Counsel

19. If this entire matter or any finding, action or condition of this matter is appealed to the Board of Supervisors, the applicant or any other developer/operator other than the applicant agrees to indemnify the County of Butte from liability or loss related to the approval of this project and agrees to sign an indemnification agreement in a form approved by County Counsel before the Board's appeal hearing. If the application is not appealed, this condition is deemed satisfied.

There is a 10-day appeal period on all decisions with the Clerk of the Board.

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Michael McLaughlin, Use Permit to allow a firewood processing facility (which is already in operation) on property zoned A-40 (Agricultural – 40 acre parcels). The property is located on the east side of Oroville Chico Highway, approximately 0.8 miles south of Neal Road, south of Chico. APN 040-120-028 (SB) (UP 01-21)

- I. Find that the denial of this project is statutorily exempt from the requirements of the California Environmental Quality Act (CEQA) under Sections 15270(a) and (b) of Title 14, California Code of Regulations, Chapter 3 (Guidelines for Implementation of the California Environmental Quality Act). These sections state that CEQA does not apply to projects that a public agency rejects or disapproves.
- II. Deny the Use Permit application for Michael McLaughlin, File # UP 01-21, on APN 040-120-028, without prejudice, based upon the following findings:
 - a. The project application was deemed incomplete on June 28, 2001, because the Butte County Environmental Health Division requested additional information regarding soil tests and proof that a sewage disposal system could be placed on the site.
 - b. The applicant has had over three years to make his application complete, and has not done so.
 - c. The firewood processing facility use on the property is in violation of Butte County Code Section 24-90(c)(5) because a Use Permit is required and the existing wood processing facility is not a pre-existing use, and as such must be terminated in order to protect the health, safety, and welfare of the citizens of Butte County.

There is a 10-day appeal period on all decisions with the Clerk of the Board.

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Ramon LeFevre, Tentative Parcel Map to subdivide two 20-acre parcels into four parcels, two at 5 acres and two at 15 acres in the Critical Winter Deer Herd Area, and 200 acre parcel that is offered as permanent open space on property zoned A-5 (Agricultural – 5-acre parcels). The property is located on the south side of LeFevre Lane at Century Court, approximately 4,000 feet west of Upham Road, Bangor. APN 028-180-052, 056, 057 (CD) (TPM 04N-30)

- I. Find that the denial of this project is not subject to CEQA pursuant to Public Resources Code 21080 b. (5) and under Sections 15270(a) and (b) of Title 14, California Code of Regulations, Chapter 3 (Guidelines for Implementation of the California Environmental Quality Act), and that no Fish and Game fee is required.
- II. Deny the Tentative Parcel Map for Ramon and Leona LeFevre (File TPM 04N-30), based on the following findings:
 - A. The proposed Tentative Parcel Map is inconsistent with the Agricultural Residential Land Use Element of the General Plan because of the effect on Wildlife Habitat (page 51 of the Land Use Element (LUE-51)).
 - B. The proposed Tentative Parcel Map is inconsistent with the provision of the Butte County General Plan Conservation Element that is designed to protect migratory routes for Critical Winter Deer Herds.
 - C. The proposed Tentative Parcel Map is inconsistent with the Open Space Element of the General Plan for regulation of residential development in the foothills to facilitate the survival and migration of deer herds (page 4 and 8 of the Open Space Element (OS-4 & 8)).
 - D. The proposed Tentative Parcel Map is inconsistent with the Subdivision Map Act and the County Subdivision Ordinance which provide for denial of a tentative map where there will be adverse effects to wildlife habitat (Sec. 66474(e) of the Subdivision Map Act and Sec. 20-65(5) of the Butte County Code).

There is a 10-day appeal period on all decisions with the Clerk of the Board.

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VI. GENERAL BUSINESS - *This section of the agenda is to be utilized by the Planning Commission and Director of Development Services on items of interest, general discussion, or items for which staff has been directed to do research and bring back to the Commission. Items A, B, & C may not always be addressed at every hearing, but will always be listed as part of the agenda.*

A. Directors' Report

B. General Plan/Zoning Ordinance Update

C. Legislative Case Law update

D. Planning Commission Concerns

1. Resolution of Appreciation for Stephen Betts.

VII. MINUTES - March 24, 2005 and April 14, 2005.

VIII. COMMUNICATIONS - *Communications received and referred. (Copies of all communications are available in the Planning Division Office.)*

None

IX. ADJOURNMENT

There being no further business, the Planning Commission adjourned at 10:20 a.m.

Chairman Marin

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