

Mariposa County
Planning Department
P.O. Box 2039
Mariposa, CA 95338-2039

STATE OF CALIFORNIA
COUNTY OF MARIPOSA
PLANNING COMMISSION

Resolution
No. 2006-31

**A resolution conditionally approving Conditional Use Permit
No. 2006-13/ Scenic Highway Review 2006-14, Nextel, applicant.
Assessor Parcel Number 013-124-004.**

WHEREAS an application for a Conditional Use Permit was received on December 29, 2005 from Nextel for a property located at 5441 Highway 140, also known as Assessor Parcel Number 013-124-004, and

WHEREAS the Conditional Use Permit No. 2006-13/ Scenic Highway Review 2006-14 proposes a wireless communication facility consisting of an 80 foot monopine tower and appurtenant equipment shelter. The subject parcel is zoned Mountain Transition and is within the Scenic Highway Overlay Zone. Access to the facility is proposed from an existing road that encroaches onto Highway 140, and

WHEREAS the Planning Department circulated the application among trustee and responsible agencies, interested public organizations, and others as appropriate; and

WHEREAS a duly noticed public hearing was scheduled for the 7th day of July, 2006; and

WHEREAS the Planning Department prepared environmental documents in accordance with the California Environmental Quality Act and local administrative procedures; and

WHEREAS a Staff Report and Negative Declaration were prepared pursuant to the California Government Code, Mariposa County Code, California Environmental Quality Act, and local administrative procedures; and

WHEREAS the Planning Commission did hold a public hearing on the noticed date and considered all of the information in the public record, testimony presented by the public concerning the application, and the comments of the applicant; and

WHEREAS Section 17.112.010 of the Mariposa County Zoning Ordinance identifies the Mariposa County Planning Commission as the final county review authority for this application;

NOW THEREFORE, BE IT RESOLVED THAT the Planning Commission of the County of Mariposa does hereby recommend adoption of a Negative Declaration ; and

BE IT THEREFORE FURTHER RESOLVED THAT the Planning Commission of the County of Mariposa does hereby approve CUP No. 2006-13/ Scenic Highway Review 2006-14; and

BE IT THEREFORE FURTHER RESOLVED THAT the project is approved based upon the findings set forth in Exhibit 1 with the terms and conditions set forth in Exhibit 2.

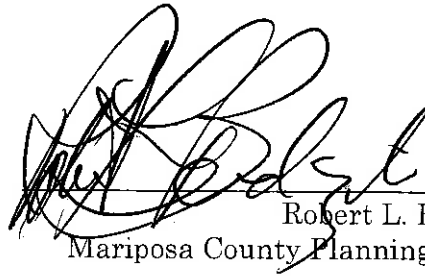
ON MOTION BY Commissioner Skyrud seconded by Commissioner Ross, this resolution is duly passed and adopted this 7th of July, 2006 by the following vote:

AYES: Commissioners Skyrud, Ross, Ludington, Rudzik

NOES:

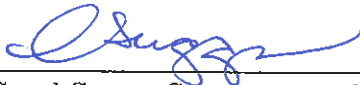
EXCUSED: DeSantis

ABSTAIN:



Robert L. Rudzik, Chair
Mariposa County Planning Commission

Attest:



Carol Suggs, Secretary to the
Mariposa County Planning Commission

EXHIBIT 1
PROJECT FINDINGS
FOR
CONDITIONAL USE PERMIT NO. 2006-13/ SCENIC HIGHWAY REVIEW
2006-14

1. **FINDING:** Adequate open space is provided by this proposal. (§17.112.040.A, Mariposa County Zoning Code)

EVIDENCE: The subject parcel is 91 acres. Nextel is leasing a 1600 square foot area to construct a 240 square foot equipment shelter and an 80 foot monopine communications tower. A significant amount of open space will remain after development of the facility.

2. **FINDING:** The site is physically suited for the proposed development. (§17.112.040.B, Mariposa County Zoning Code)

EVIDENCE: Based on the site inspection and the scale of the project as proposed, the applicant will be able to locate the proposed improvements and meet all County requirements. Due to the subject parcel being 91 acres the project will not have a negative impact on surrounding parcels.

3. **FINDING:** Adequate provisions have been made for sewage disposal and the handling of solid waste. (§17.112.040.C, Mariposa County Zoning Code).

EVIDENCE: Sewage disposal is not required as the facility is unmanned.

4. **FINDING:** The proposed development will have adequate potable water for public use and fire protection. (§17.112.040.D, Mariposa County Zoning Code)

EVIDENCE: No water is required as this is not a public facility.

5. **FINDING:** The project proposal complies with all standard and special setback requirements and adequate buffers have been provided for adjacent land uses. (§17.112.040.E, Mariposa County Zoning Code)

EVIDENCE: The project as proposed meets all the minimum County setback standards. There are no special setbacks required for this project.

6. **FINDING:** Appropriate access is available or is proposed to the development. (§17.112.040.F, Mariposa County Zoning Code)

EVIDENCE: The applicants are proposing a 12 foot ingress and egress easement and there is an existing offsite 60 foot private easement. The access road encroaches onto Highway 140. Public Works and CDF have not expressed concerns with the access.

7. **FINDING:** The proposed use is consistent with the policies and standards of the general plan and any applicable specific plan. (§17.112.040.G, Mariposa County Zoning Code)

EVIDENCE: The project is in conformance with Scenic Highway element of the current General Plan. The project does not jeopardize the intent of the overlay zone to preserve and protect the scenic views from the highway.

8. **FINDING:** The project as approved will not have a significant effect on the environment, or the significant impacts have been eliminated or substantially lessened, or it has been determined that the significant effects are unavoidable and acceptable due to overriding concerns. (§17.112.040.H, Mariposa County Zoning Code)

EVIDENCE: An initial study was conducted for the project. It was determined that the project will not have a significant effect on the environment. A negative declaration is recommended for this project.

9. **FINDING:** The establishment, maintenance, or operation of the use applied for will not, under the circumstances of the particular case, be detrimental to the health, safety, morals, comfort, or general welfare of the persons residing or working in the neighborhood of such proposed use, and will not be injurious or detrimental to property and improvements in the neighborhood or the general welfare of the county. (§17.112.040.I, Mariposa County Zoning Code)

EVIDENCE: According to the project as proposed, no detriment will be posed to the health, safety, morals, comfort, or general welfare of the neighboring people or to the value of the surrounding property. The project will provide benefit to emergency communication through the increased cell coverage.

10. **FINDING:** The development is harmonious with the scenic quality of the designated highway. (§17.65,010.A, Mariposa Zoning Code)

EVIDENCE: The tower is of stealth design intended to blend in with the surrounding environment. The project proposes the use of materials and colors that resemble natural material.

11. **FINDING:** The project complies with all applicable standards pursuant to this chapter.

(§17.65,010.A, Mariposa Zoning Code)

EVIDENCE: This project complies with all the requirements specified for the Scenic Highway Overlay Zone. This tower is of stealth design intended to look like a pine tree. It will use material that closely resembles natural material and will blend with the natural environment. This project does not contradict the intended purpose to preserve and protect the scenic views along the highway. The project will not alter existing resources onsite and will utilize existing vegetation as natural screening from the highway.

EXHIBIT 2
CONDITIONS OF APPROVAL AND MITIGATION MEASURES
FOR
Conditional Use Permit No. 2006-13/ Scenic Highway Review
2006-14

Project Name: Nextel Communication

File Number: Conditional Use Permit No. 2006-13/ Scenic Highway Review 2006-14

Project Approval Date: July 7th, 2006

The following conditions of approval were approved for this project in order to ensure compliance with county codes and policies. A completed and signed checklist indicates that the conditions have been complied with and implemented.

Sign-Off Checklist for List of Conditions of Approval and Mitigation Measures

Project Description:

Proposal for a wireless communication facility consisting of an 80 foot monopine tower with a 240 square feet equipment shelter. The monopine is of stealth design intended to look like a pine tree. The monopine will consist of up to 12 panel antennas (each antenna is 8 foot in length) and a microwave dish mounted on the monopine. High density braches will be used on the monopine. Nextel Communication will lease a 1600 square foot area within a 91 acres parcel. The subject parcel is zoned Mountain Transition and is within the Scenic Highway Overlay Zone. Subject property is located at 5441 Highway 140, APN 012-290-006.

Minor alterations to the project description may be approved by the Planning Director if findings can be made that the alterations will not result in impacts not addressed by the original project review and that they are not in conflict with the stated goals and principles of the Scenic Highway Zone.

	Monitoring Dept.	Verified Implemented
CONDITIONS OF APPROVAL		
<p>1. If the facility is not operated and/or maintained in good condition for a continuous period of 6 months then the applicant shall restore the site to its pre-existing condition within 90 days. If the applicant does not comply with this condition, the property owner shall be fully responsible for removal of the monopine tower and site restoration</p> <p>Mariposa Planning Requirement</p>	Mariposa Planning	
<p>2. The applicant shall provide a letter from a title company indicating that the offsite easement is available for use by the applicant for maintenance of the facility.</p> <p>Mariposa Planning Requirement</p>	Mariposa Planning	
<p>3. The applicant will contact the Resource Conservation District to determine if a grading permit is necessary for construction of the facility.</p> <p>Mariposa Planning Requirement</p>	Mariposa Planning	
<p>4. A building permit must be obtained prior to the erection of the facility; all permit requirements will be met.</p> <p>Mariposa Planning Requirement</p>	Mariposa Planning	
<p>5. The communication tower shall be available to other communication companies for co-location of cellular equipment.</p> <p>Mariposa Planning Requirement</p>	Mariposa Planning	

Agency Contact List				
AGENCY	CONTACT	PHONE NUMBER	SITE ADDRESS	MAILING ADDRESS
		EMAIL		
Mariposa Planning	Wes McCullough	209-742-1218 wmccullough@mariposacounty.org	5100 Bullion Street Mariposa CA 95338	P.O. Box 2039 Mariposa CA 95338
Public Works	Jerry Freeman	209-966-5356	4639 Ben Hur Road Mariposa CA 95338	Same as site
Health Department	Dave Conway	209-966-2220	5100 Bullion Street Mariposa CA 95338	P.O. Box 5 Mariposa CA 95338
Mariposa County Resource Conservation District	Jerry Progner	209-966-3431	5009 Fairgrounds Rd Mariposa CA 95338	P.O. Box 746 Mariposa CA 95338
County Assessor	Eddie Ellis	966-2332	4982 10th Street Mariposa CA 95338	P.O. Box 35 Mariposa CA 95338
County Fire	Blaine Shultz	209-966-4330	5082 Bullion Street Mariposa CA 95338	P.O. Box 162 Mariposa CA 95338
Cal. Dept of Forestry	Dennis Townsend	209-966-3622	5366 Highway 49 North Mariposa CA 95338	Same as site

Certificate of Completion:

By signing below, the environmental coordinator confirms that the required conditions of approval and mitigation measures have been implemented as evidenced by the "Schedule of Tasks and Sign-Off Checklist", and that all direct and indirect costs have been paid. This act constitutes the issuance of a *Certificate of Completion*.

Environmental Coordinator

Date

Explanation of Headings:

Resolution 2006-31

Conditional Use Permit No. 2006-13/ Scenic Highway Review 2006-14, Nextel
applicant.

APN: 012-290-006

Planning Commission hearing date: July 7, 2006

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Monitoring Dept:

Department or Agency responsible for monitoring a particular mitigation measure.

Verified Implemented:
dated.

When a mitigation measure has been implemented, this column will be initialed and