



Staff Report

Agenda Item No. D-1

To: City of Imperial Planning Commission

From: Lisa Tylenda, Planner

Date: October 6, 2017

**Subject: Conditional Use Permit and Variance Permit Request #17C05 & 17VAR03
Andrea Urbas/Eco-Site & T-Mobile
2310 Myrtle Avenue; Imperial, CA 92251**

Summary:

Applicant:	Andrea Urbas
Project Location:	423 South Imperial Avenue; Imperial, CA 92251
Zoning:	C-2 Commercial General
General Plan:	Commercial General
Environmental:	Categorically Exempt
Recommendation:	Approve Conditional Use Permit & Variance Permit

Discussion/Analysis

An application for a Conditional Use Permit (CUP) and Variance Permit has been submitted in order to allow for the construction of a new stealth cell-phone tower with ground equipment at 2310 Myrtle Road. The antenna tower will be camouflaged as 90' brown windmill which is to be located at the rear side yard of the parcel. The parcel has an existing building- more specifically known as the Moose Lodge. Additional equipment such as generator, switches, etc. will be housed in a cabinet within 7' chain-link fenced area. The Conditional Use Permit is required for any telecommunication facility wanting to operate in the City of Imperial, regardless of the zoning. The Variance Permit is needed to deviate from the tower height standards and fence height standers for the proposed fenced area.

Airport and Federal Aviation Regulations (FAR)

The proposed tower site does not fall into any of the ALUCP zones, rendering the proposed site to fall within negligible risk with no limit.

Evaluation

The Zoning Ordinance provides flexibility in the regulation of uses to ensure that unusual characteristics of certain uses are properly addressed in furtherance of the Zoning Ordinance. Because of the aesthetic impact and the height of the proposed cell-phone tower, a Conditional Use Permit (CUP) is appropriate for the proposed use.

Section 24.19.340 of the City of Imperial Zoning Ordinance requires that the Commission make specific findings be made when reviewing a CUP. The required findings are listed below in ***bold italics***, followed by an evaluation.

- 1. That the proposed location, size, design, and operating characteristics of the proposed use is in accord with the Title and Purpose of this Ordinance, the Purpose of the zone in which the site is located, the Imperial General Plan, and the development policies and standard of the City.***

The subject site is located within a C-2 Commercial General. The purpose of the C-2 zone is intended as an area for the location of highway oriented retail service and wholesale commercial activities. The proposed cell-phone tower does not necessarily provide retail/commercial for the surrounding residential uses, but it does not interfere or conflict the purposes of the zone.

- 2. That the location, size, design, and operating characteristics of the proposed use will be compatible with and will not adversely affect or be materially detrimental to adjacent uses, residents, buildings, structures, or natural resources with consideration given to those items listed in Section 24.19.340.B of the Imperial Zoning Ordinance.***

Commercial uses are located to the west and east of the subject parcel and the Imperial Business Park is located to the north. A portion of the Imperial Garden Apartments is located to the east and vacant residentially-zoned areas are located to the south. The tower will be camouflaged as a windmill to minimize the visual impact along Myrtle Road or HWY 86, and with the implementation of the Conditions of Approval (i.e., minimum 100' separation between the tower location and the boundaries of any residential zones), the project will be compatible with and will not adversely affect adjacent uses and residents.

- 3. That the proposed location, size, design, and operating characteristics of the proposed use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.***

The project is very limited in nature, and as such, will not be detrimental to the public health, safety, or welfare.

- 4. That the proposed Conditional Use will comply with each of the applicable provisions of the Zoning Ordinance, except for an approved Variance.***

The City has no specific requirements related to cell-phone and antenna towers, but the proposed tower will comply with all provision of the Zoning Ordinance.

Environmental Compliance

Notice of Exemption is attached.

Attachments:

- Location Map
- Site Plan
- Resolution No. PC2017-14 with Conditions of Approval

RESOLUTION PC17-14

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF IMPERIAL APPROVING A CONDITIONAL USE PERMIT (17C05) and VARIANCE PERMIT (17VAR03)

WHEREAS, Andrea Urbas, Eco-Site and T-Mobile submitted a Conditional Use Permit and Variance Permit application in order to allow for the construction of a new stealth cell-phone tower with ground equipment at 2310 Myrtle Road.

WHEREAS, a duly notified public hearing was held by the Planning Commission on October 11, 2017; and

WHEREAS, upon hearing and considering all testimony and arguments, analyzing the information submitted by staff and considering any written comment received, the Planning Commission considered all facts relating to the request for a Conditional Use and Variance Permit.

NOW THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Imperial as follows:

- A) That the foregoing recitations are true and correct; and
- B) The project has been reviewed in accordance with the requirements set forth by the City of Imperial for implementation of the California Environmental Quality Act; and
- C) There are no sensitive resources located within the area of the project or adjacent to the area of the project so as to be significantly impacted by the project; and
- D) That based on the evidence presented at the public hearing, the Planning Commission hereby determines that the project is Categorical Exempt under Section 15303 and Section 15304 of the California Environmental Quality Act; and
- E) The proposed cellular tower blends in to the surrounding area.
- F) That based on the evidence presented at the public hearing, the Planning Commission hereby **APPROVES** Conditional Use Permit #17C05 and Variance Permit #17VAR03 to allow for the construction of a new stealth cell-phone tower with ground equipment at 2310 Myrtle Road.

1. That the proposed location, size, design, and operating characteristics of the proposed use is in accord with the Title and Purpose of this Ordinance, the Purpose of the zone in which the site is located, the Imperial General Plan, and the development policies and standard of the City.

2. That the location, size, design, and operating characteristics of the proposed use will be compatible with and will not adversely affect or be materially detrimental to adjacent uses, residents, buildings, structures, or natural resources with consideration given to those items listed in Section 24.19.340.B of the Imperial Zoning Ordinance.

3. That the proposed location, size, design, and operating characteristics of the proposed use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.

4. That the proposed Conditional Use will comply with each of the applicable provisions of the Zoning Ordinance, except for an approved Variance.

PASSED, ADOPTED AND APPROVED by the Planning Commission of the City of Imperial, this 11th day of October 2017.

Planning Commission Chairman

ATTEST:

Planning Secretary

EXHIBIT A
CONDITIONS OF APPROVAL
FOR
CONDITIONAL USE PERMIT 17C05 and 17VAR03

Andrea Urbas/Eco-Site & T-Mobile
2310 Myrtle Road
IMPERIAL, CA 92251

1. The provisions of this Conditional Use Permit are to run with the land/project and shall bind the current and future owner(s) successor(s) in interest, assignee(s) and/or transferor(s) of said project. This Conditional Use and Variance Permits are only valid for 2310 Myrtle Road; Imperial, CA.
2. The project is approved as shown on the "Conceptual Site Plan" dated August 17, 2017. Minor Changes to the plans may be allowed subject to the approval of the Community Development Director if found to be in substance and conformance to this development plan.
3. Conditional Use Permit # 17C05 and Variance Permit #17VAR03 are valid for the installation of a Telecommunication facility consisting of a cellular tower not to exceed 90-feet in height.
4. The Projects Radio Frequency report must be provided before any construction may begin. The RF report must be found to be within acceptable ranges according to the FCC guidelines.
5. The Noise Level report must be provided before any construction may begin. The noise levels must be found to be within acceptable limits according to the City of Imperials adopted standards specified in ordinance no. 646.
6. All drive aisles, vehicular access ways, and interior roadways for the existing and proposed use shall be improved and maintained with Class II road base as a minimum. These interior roadways and unimproved areas shall be watered from time to time to suppress and dust generated from the site.
7. The cellular tower shall be adequately camouflaged. The tower may consist of panel antennas, no more than one (1) 4' microwave dish mounted on a 90' high maximum lattice tower camouflaged as a faux-windmill. The supporting tower structure shall be brown colored. Other acceptable camouflage designs include faux-wood water tower or similar structures. Decorative architectural features may exceed the height limit by no more than twelve feet (12').
8. The Community Development Director may approve minor alterations to the design, including height, color and camouflage technique.
9. The improvements associated with the communication facility, including equipment shelters, antennae, and fencing shall be properly maintained at all times and all outdoor storage areas and appurtenant structures shall be screened from public view by a CMU wall.
10. The tower shall be designed to support/collocate antennae for additional carriers and shall be made available for lease to other carriers.
11. The tower shall install any markings and lighting required by FAR Part 77 or imposed by the Imperial County Airport Land Use Commission in accordance with the adopted Airport Land Use Compatibility Plan.
12. The tower shall address any needs or install any equipment requested by the Imperial Irrigation District that relates directly to the cellular tower project.

13. Issues regarding on- and off-site liquefaction are unknown for this location and shall be addressed through the preparation of a site-specific geotechnical report that would include recommendations regarding design criteria for reducing liquefaction effects on the proposed structure.
14. A frequency evaluation shall be submitted to the Community Development Department prior to the establishment of service to demonstrate the frequencies will not interfere with the City's emergency broadcast services. The Developer/Applicant shall provide radio coverage and documentation to the Fire Department indicating that this facility will not interfere with public safety amplification signals.
15. All Building, Engineering, Planning, and city permitting fees regarding this project at 2310 Myrtle Rd. will be paid by the applicant.

16. The applicant shall assume full responsibility for resolving television interference, if any is caused by the operation of the proposed facility. The applicant shall take corrective action within 30 days of receipt by the Planning Department of any written television interference complaint.
17. The Developer/ Applicant shall comply with all local, State and Federal laws, regulations, rules, ordinances, and standards as they pertain to this project, whether specified herein or not. Where conflicts occur, the most stringent shall apply.
18. The Developer/Applicant shall pay all applicable impact and capacity fees.
19. The Conditional Use Permit and Variance Permit shall not constitute the waiver of any requirement of the City's Ordinances or regulations, except where a condition set forth herein specifically provides for a waiver.
20. The Applicant shall agree to defend, indemnify and hold harmless the City of Imperial and its agents, including consultants, officers and employees from any claim, action or proceeding against the City or its agents, including consultants, officers and employees to attack, set aside, void, or annul the approval of the Conditional Use Permit. This indemnification obligation shall include, but not be limited to, damages, costs, expenses, attorney's fees, or expert witness costs that may be asserted by any person or entity, including the Property Owner/ Applicant arising out of or in connection with the approval of the Conditional Use Permit and Variance Permit, including any claim for private attorney general fees claimed by, or awarded to any party from the City.
21. All conditions of approval for this Conditional Use Permit and Variance Permit shall be reprinted and included as a plan sheet(s) with the building permit plan check sets submitted for review and approval. These conditions of approval shall be on, at all times, all grading, landscaping, and construction plans kept on the project site. It is the responsibility of the applicant to ensure that the project contractor is aware of, and abides by, all conditions of approval. Prior approval from the Community Development Department must be received before any changes are constituted in site design, grading, building design, building colors or materials, landscape material, etc.
22. The provisions of the permit are to run with the land/ project and shall bind the current and future owner(s) successor(s) in interest, assignee(s) and/or transferor(s) of said project.
23. All obsolete or unused communication facilities shall be removed by the applicant within six months after the use of that facility has ceased or the facility has been abandoned. The applicant shall notify the Community Development department at the time of the abandonment, and all disturbance related to the communication facility shall be restored to pre-project condition.
24. If the Community Development Department finds and determines that the Permittee or successor- in-interest has not complied or cannot comply with the terms and conditions of the Conditional Use Permit or Variance Permit, or the Community Development Department determines that the permitted activities constitute a nuisance, the City shall provide Permittee with notice and opportunity to comply with the enforcement or abatement order. If a receipt of the order (1) Permittee fails to comply, and/ or (2) Permittee cannot comply with the conditions set forth in the CUP and Variance, then the matter shall be referred to the Planning Commission for permit modification, suspension, or termination, or to the appropriate enforcement authority.

25. As between the City and the Permittee, any violation of this permit may be a "nuisance per se". The City may enforce the terms and conditions of this permit in accordance with its Codified Ordinances and/or State law. The provisions of this paragraph shall not apply to any claim of nuisance per se brought by a third party.
26. In the event the facility is operated or maintained to constitute a public nuisance consistent with Municipal Code Chapter 14 Abatement of Nuisances, then abatement shall follow all necessary procedures set forth in Chapter 14.
27. In the event a heritage resource or other item of historical or archaeological interest is discovered during grading and construction activities, the project proponent shall ensure that all such activities cease within 50 feet of the discovery until an archaeologist can examine the find in place and determine its significance. If the find is determined to be significant and authenticated, the archaeologist shall determine the proper method(s) for handling the resource or item. Grading and construction activities may resume after the appropriate measures are taken or the site is determined not be of significance.
28. In the event of the discovery of human remains, all work is to stop, and the County coroner shall be immediately notified pursuant to Section 7050.5 of the Health and Safety Code and Section 5097.98 of the Public Resources Code. If the remains are determined to be Native American, the Coroner must contact the Native American Heritage Commission within 24 hours. The treatment and disposition of human remains shall be completed consistent with guidelines of the Native American Heritage Commission.

Notice of Exemption

Appendix E

To: Office of Planning and Research
P.O. Box 3044, Room 113
Sacramento, CA 95812-3044

From: (Public Agency): City of Imperial
Community Development Department

County Clerk
County of: Imperial

(Address)

Project Title: CUP(17-05) & VAR (17-03) ECO-SITE & T-MOBILE CELLULAR TOWER

Project Applicant: Andrea Urbas

Project Location - Specific:
2310 Myrtle Road
APN: 064-433-017

Project Location - City: Imperial Project Location - County: Imperial

Description of Nature, Purpose and Beneficiaries of Project:
Conditional Use Permit request for approval to establish a proposed intasllation of a new unmanned wireless cell tower facility on a 90-foot tall faux windmill. The proposed cell tower will initially include one antenna and future antenna sites for potential co-locators. All equipment will be enclosed by a 7' tall slated chain-link fence.

Name of Public Agency Approving Project: City of Imperial-Community Development Department

Name of Person or Agency Carrying Out Project: City of Imperial

Exempt Status: (check one):

- Ministerial (Sec. 21080(b)(1); 15268);
- Declared Emergency (Sec. 21080(b)(3); 15269(a));
- Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
- Categorical Exemption. State type and section number: Section No. 15303 and Section No.15304
- Statutory Exemptions. State code number: _____

Reasons why project is exempt:

Lead Agency
Contact Person: Lisa Tylanda, Planner Area Code/Telephone/Extension: 760-355-3326

If filed by applicant:

1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project? Yes No

Signature: *Lisa Tylanda* Date: 10/4/2017 Title: Planner

Signed by Lead Agency Signed by Applicant

Authority cited: Sections 21083 and 21110, Public Resources Code. Date Received for filing at OPR: _____
Reference: Sections 21108, 21152, and 21152.1, Public Resources Code.

NOTICE OF EXEMPTION

TO: City of Imperial-City Clerk

FROM: Lisa Tylenda, Community Development Department

The project or activity identified below is determined to be exempt from further environmental review requirements of the California Environmental Quality Act (CEQA) of 1970, as defined in the State and County Guidelines for the implementation of CEQA.

APN: 064-430-017

Case No.: CUP 17-06 & VAR 17-03

Location: 2310 Myrtle Rd, Imperial, CA 92251.

Project Title: Eco-Site/T-Mobile cellular tower

Project Applicant: Andrea Urbas representing Eco-Site and T-Mobile.

Project Description: New Eco-Site and T-Mobile Telecommunications Facility.

Project Description:

The project is for a conditional use permit to allow the construction and use of an unmanned telecommunications facility on property zoned C-2(Commercial General). The facility would be located on APN: 064-433-017 on a 1488-square foot lease area on a 1.6-acre parcel in the City of Imperial.

The applicant is proposing to construct an unmanned wireless facility that would initially include one antenna and three future co-locator sites. The antennas would be mounted on a proposed 90' high mono-windmill tower. The antennas would be operating in cellular bandwidths. The proposed facility would provide additional capacity for area residents and travelers with 4G data services.

The equipment cabinet for the antennas would be located at grade at the base of the structure. All equipment will be enclosed by a 7' tall slated chain-link fence. The proposed facility would only require minimal trenching and grading, as it is a flat and graded site already.

Access to the facility would be from Myrtle Road. The tower can accommodate future carriers, given available land space by the owner. The entire facility (minus trenching) would be contained in the 1488-square foot lease area at an elevation below sea level near HWY 86.

Name of Public Agency Approving Project: City of Imperial

Name of Person or Agency Carrying Out Project: Andrea Urbas, Eco-Site and T-Mobile

Exempt Status:

- Ministerial
 Statutory Exemption
 Categorical Exemption
 Emergency Project
 No Possibility of Significant Effect [§15061(b)(3)]

Cite specific CEQA and/or CEQA Guideline Section: 15303 [New Construction or Conversion of Small Structures], and 15304 [Minor Alterations to Land]

Reasons to Support Exemption Findings:

The proposed telecommunication project is exempt from environmental review pursuant to Section 15303 [New Construction or Conversion of Small Structures] and Section 15304 [Minor Alterations to Land] of the Guidelines for Implementation of the California Environmental Quality Act (CEQA). Section 15303 exempts the construction and location of a limited number of new small facilities or structures. Section 15304 exempts minor alterations in the condition of land, water, and/or vegetation that do not involve the removal of healthy, mature, scenic trees except for forestry or agricultural purposes including grading on slopes of less than 10%, landscaping, and minor trenching and backfilling where the surface is restored. The project consists of the construction and use of a new un-manned telecommunications facility that will be constructed to appear as a faux windmill within a 1488 square foot fenced lease area, with grading of minimal trenching/ground disturbance where the surface is restored. The equipment cabinet for the antennas would be located at grade at the base of the structure on a proposed concrete pad. The project does not require the removal of any healthy, mature trees that are protected or scenic. As a result, the project is exempt from CEQA.

There is no substantial evidence that proposed project involves unusual circumstances, including future activities, resulting in or which might reasonably result in significant impacts which threaten the environment. The exceptions to the categorical exemptions pursuant to Section 15300.2 of the CEQA Guidelines are:

- (a) **Location.** Classes 3, 4, 5, 6, and 11 are qualified by consideration of where the project is to be located -- a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. Therefore, these classes are considered to apply all instances, except where the project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies.

The proposed project would be located outside of sensitive habitat areas. No significant vegetation would be removed to accommodate the project. No known archaeological or historical resources would be affected by the project. There are no known landslides, expansive soils, or other hazardous resources on the project site. Therefore, this exception to the categorical exemption does not apply.

- (b) **Cumulative Impact.** All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant.

The project is for an unmanned telecommunications facility within an approximately 1488 square foot lease area on a 1.60-acre parcel. A radio frequency (RF) emissions report was prepared as part of the proposed project. The report concluded that the proposed project will operate within the applicable Federal Communications Commission (FCC) limit. Any future telecommunications facility on the site would be analyzed for potential environmental impacts, and all future facilities would also be required to meet Federal Communications Commission (FCC) radio frequency emission limits. Similar development in the same place over time, developed in conformance with the applicable ordinance, policy and FCC regulations would not result in a cumulatively significant impact. County requests for collocation of telecom projects, where feasible, reduces cumulative effects (visual, land disturbance, etc.). Therefore, this exception to the categorical exemption does not apply.

- (c) **Significant Effect.** A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.

The project is located outside of sensitive habitat areas, and there are no unusual circumstances that would cause the project to have a significant effect on the environment. In addition, as stated above, the RF emissions generated from the proposed project would be within the FCC emissions limits, and therefore would not have a significant effect. Therefore, this exception to the categorical exemption does not apply.

- (d) **Scenic Highways.** A categorical exemption shall not be used for a project which may result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially

designated as a state scenic highway. This does not apply to improvements which are required as mitigation by an adopted negative declaration or certified EIR.

The project is not located within or within viewing distance of a Scenic Highway. Therefore, the proposed project would not result in damage to a scenic resource and this exception to the categorical exemption does not apply.

- (e) Hazardous Waste Sites. A categorical exemption shall not be used for a project located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code.**

The project site is not included on any list compiled pursuant to Section 65962.5 of the Government Code (hazardous and toxic waste sites). In addition, there is no evidence of historic or current use or disposal of hazardous or toxic materials on the project site. Therefore, this exception to the categorical exemption does not apply.

- (f) Historical Resources. A categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource.**

The proposed development would have no impact on any historical resource. Therefore, this exception to the categorical exemption does not apply.

Lead Agency Contact Person: Lisa Tylenda

Phone #: 760-355-1152

Department/Division Representative: Othon Mora

Date: 10/2/2017

Acceptance Date: 10/2/2017

Distribution: Support Staff

Date Filed by County Clerk: _____

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064433005000

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MYRTLE AVE

TRESHILL RD

STATE HWY 86

50 m

100 ft

