



NOTICE OF PREPARATION

DATE: October 24, 2014

To: Responsible Agencies and Interested Parties

SUBJECT: Notice of Preparation of a Draft Environmental Impact Report

PROJECT TITLE: LAZER RADIO BROADCASTING FACILITY

Lazer Broadcasting Corporation (“Applicant”) is proposing the construction and operation of a new radio broadcast facility to include a 43-foot tall monopole with attached antenna and a 10-foot by 10-foot single-story (nine-foot tall) equipment shelter on a 38.12-acre site located near Wildwood Canyon and Oak Glen Roads, east of Pisgah Peak Road in the unincorporated Yucaipa area of San Bernardino County (see Figure 1 – Regional Map and Figure 2 – Vicinity Map). The Applicant originally submitted an application for a Conditional Use Permit (CUP) to construct a 140-foot tall steel lattice tower with a radio broadcast antenna in June 2007. The project was subsequently re-designed several times and each design was reviewed by the County within focused studies and Initial Studies prepared to comply with the California Environmental Quality Act (CEQA). The original project was denied by the County of San Bernardino in March 2009. In June 2010 the applicant submitted a second application (current project) for a radio broadcast facility. The current project was also redesigned and reviewed by the County and included focused studies and an Initial Study. Following public circulation of an Initial Study in late 2012, the County adopted a Mitigated Negative Declaration (MND) on November 27, 2012.

On December 21, 2012, Citizens for the Preservation of Rural Living (CPRL) filed a petition for writ of mandate, which alleged the following causes of action: 1) violation of CEQA related to the MND and Initial Study; 2) the findings with respect to issuance of the CUP are not supported by substantial evidence; and 3) the County violated the County Development Code with respect to fire issues. Through briefing, CPRL argued that substantial evidence in the record supported a fair argument that the Project may have significant impacts on visual and recreation impacts, land use, and fire safety. It also contended that the MND was inadequate in its analysis of visual, land use and fire safety impacts.

On October 1, 2013, the Superior Court of the State of California, County of San Bernardino, in its review of the Petition of Writ of Mandate (Case No. CIVDS 1213173) granted the writ petition to vacate approval of the MND, CUP, and major variance. The court also ruled that the County undertake the preparation of an EIR on the Proposed Project. As the lead agency under CEQA, and due to the involvement of potentially significant impacts to the environment the County is therefore issuing this Notice of Preparation (“Notice”) of an Environmental Impact Report (“EIR”) for the Proposed Project.

The EIR will assess the effects of the Proposed Project on the environment, identify potentially significant impacts, identify feasible mitigation measures to reduce or eliminate potentially

significant environmental impacts, and discuss potentially feasible alternatives to the Project that may accomplish basic project objectives while lessening or eliminating any potentially significant project impacts.

This Notice provides a description of the Project and solicits comments from responsible agencies, trustee agencies, federal, state and local agencies, and the general public on the scope and content of the environmental document to be prepared to analyze the environmental impacts of the Proposed Project. Comments received in response to this Notice will be reviewed and considered by the lead agency in determining the scope of the EIR. Due to time limits, as defined by CEQA, your response should be sent at the earliest possible date, but no later than thirty (30) days after the publication of this notice. If you are representing an agency, we need to know the views of your agency as to the scope and content of the environmental information that is germane to your agency's statutory responsibilities in connection with the Project.

Comments and questions should be directed to:

San Bernardino County
Land Use Services Department
Attention: Kevin White, Planner III
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Please include the name, phone number, and address of the contact person in your response.

PROJECT DESCRIPTION

Lazer Broadcasting Corporation is proposing the construction and operation of a radio broadcast facility to include a 43-foot tall monopole with attached antenna and a 10-foot by 10-foot single-story (nine-foot tall) equipment shelter on a 38.12-acre site located near Wildwood Canyon and Oak Gen Roads, west of Pisgah Peak Road in the unincorporated Yucaipa area of San Bernardino County.

The proposed monopole would be self-supporting, fire preventative treated wood that would either remain in a natural wooden "as-is" condition, painted a neutral color (light beige, sage) to blend with the surround environment or would be a painted metal pole in a non-metallic, weathered gray color. The monopole would support a 25-foot long antenna that would be mounted per industry standards on the monopole's south-westerly facing side. The antenna would extend from the surface of the monopole out to 21-inches and would be constructed of metal, and include four (4) "arms" that would extend from the main monopole support at 45 degree angles (see Figure 3 - Site Plan). The antenna would be approximately 4 inches in diameter and constructed of a non-glare, metallic material. Based on FAA and FCC guidelines, the proposed monopole and attached antenna would not require lighting or the application of red/white striped paint.

Fuel Modification

In order to reduce visual impacts and soil erosion at the site, the applicant is requesting a reduction in the required fuel modification area from 100 feet (SBCDC 82.13.060-6-A) to 30 feet. The fuel modification includes 10 feet of clearing and 20 feet of selected thinning. Modification

efforts would be coordinated with the Fire Department and monitored by a third-party biologist.

Security

The Project also includes the construction of a six (6)-foot tall, wrought-iron security fence (or 3-strand wire fence with posts) with apache points around the monopole and equipment shelter. The wrought-iron fence would also be painted a neutral color to blend with the surrounding environment.

Utility Service

The Project would require power and telephone services. Private underground lines would be placed along Pisgah Peak Road and extended for a linear length of approximately 6,700 feet to the Project Site.

Access

Existing access to the Project Site is via foot from Pisgah Peak Road; a private un-graded, dirt access road. Upon completion of the Project, access to the site would be by technical personnel that would travel by foot from a single (one) parking space adjacent to Pisgah Peak Road to the equipment shelter, one to two trips per month. The monopole would be self-supporting and would require occasional maintenance (1 to 4 times per year) by personnel for monitoring and maintenance of the facility.

Grading

The Proposed Project including the construction of the parking space and equipment shelter would require the movement of approximately 25 cubic yards of soil to be balanced on-site. The construction of the 100 square-foot equipment shelter would be partially recessed approximately 10 feet into the hillside. The area for the parking space would provide for vehicular turn-a-round and also serve as a short-term construction staging area.

Construction

Construction of the monopole, 6-foot high fence, 100 square-foot equipment shelter, parking space and landscaping would be completed as one phase and would be coordinated with a ground crew and a helicopter (or a light duty, 4-wheel drive vehicle with trailer). Use of a helicopter would be short-term and required for the delivery of material from the construction staging area to the Project Site. The helicopter would transport and assist in the placement of the mono-pole and antenna. The helicopter (if used) would also deliver materials for the construction of the equipment shelter including the delivery of lumber, steel reinforcements and other hardware, concrete and paint. Earthwork required for the placement of the equipment shelter within the hillside would be via manual labor. No heavy equipment (i.e., bulldozer, loaders) would be used during construction at the Project Site.

Utility Service

Underground utility conduits would be required for electrical and telephone service at the Project Site. The utilities would need to be extended 6,700 linear feet from Pisgah Peak Road then an additional 750 linear feet connecting the equipment building with the monopole antenna. During construction, water would be delivered to the site on an as-needed basis by the same light duty,

4-wheel drive vehicle, for dust suppression and to establish landscaping and revegetation.

PROJECT SITE

The Project Site is situated in the foothills of the San Bernardino Mountains between the City of Yucaipa and the community of Oak Glen. The Project Site is located west of Pisgah Peak Road approximately 1.5 miles northwest of its intersection with Wildwood Canyon within an unincorporated portion of San Bernardino County and in the Oak Glen Planning Area.

The Project Site is located approximately 1.5 miles south of the San Bernardino National Forest, and occurs on a west facing slope below the ridgeline, and is currently vacant with the exception of a telephone pole that has been installed to identify the location of the monopole and represent the pole height. The Project Site elevation varies from 3,850 feet above mean sea level (amsl) to 4,500 feet amsl. The entire Project site consists of densely mixed chaparral and occurs primarily on steep slopes greater than 30 percent.

PROJECT BACKGROUND

In June 2007, Lazer Broadcasting originally submitted a proposal for a Conditional Use Permit (CUP) to construct a 140-foot tall steel lattice tower with a radio broadcast antenna and a 250 square-foot equipment building to include a 500-gallon propane tank on the 38.12-acre Project Site. The application also included a Major Variance to reduce the fuel modification area from 100 feet to 30 feet on a 425 square-foot portion of the 38.12-acre site. In October 2008 upon the review of the concerns and comments received from the County's noticing, the applicant revised the proposed project to construct an 80-foot tall steel lattice tower with a radio broadcast antenna and a 250 square-foot equipment building to include a 500-gallon propane tank on the project site. The Major Variance to reduce the fuel modification from 100 feet to 30 feet was a part of the October 2008 project. In November 2008 the project was reviewed at a Planning Commission public hearing, at which time staff recommended approval of the project and Planning Commission subsequently approved the project.

On January 27, 2009 and continued to March 3, 2009, the Board of Supervisors held a public hearing on the appeal to the prior Planning Commission action at which time the BOS granted the appeal, and denied the application with prejudice, and adopted findings supporting the denial.

On May 6, 2010, Lazer Broadcasting submitted a revised project including the request to approve a CUP to construct a new FM Radio Broadcast Facility consisting of one free-standing 43-foot tall triangular-shaped lattice tower and one, 10-foot by 10-foot single-story (nine (9) feet tall) equipment shelter on the project site. A Major Variance was also a part of the submittal and included a reduced Fuel Modification Area from 100 feet to 30 feet which included 10 feet of clearing and 20 feet of selected thinning to be coordinated with the County Fire Department and monitored by a third-party biologist. In August of 2010, Lazer Broadcasting also installed a "mockup" tower (telephone pole) to demonstrate the location and height of the proposed tower.

On March 17, 2011 the Planning Commission held a public hearing for the project and planning staff recommended denial of the project. The Project hearing was continued by the Planning Commission to May 5, 2011 at the request of the applicant, so that revisions to the proposed project (replacement of the 43-foot lattice tower with a 43-foot wooden monopole) could be provided. At the May 5, 2011 hearing, the Planning Commission adopted an intent to approve the Project, with directions to staff to complete the required environmental analysis and to

prepare findings for approval.

As part of the environmental analysis, Staff determined that a third party expert should be commissioned to prepare a visual assessment. In response to a Request for Proposal, the Lilburn Corporation was deemed the optimal visual impact consultant and a Purchase Order was completed for their services. The completed Visual Assessment was received from Lilburn on October 26, 2011 and staff began working to finalize the Initial Study/Mitigated Negative Declaration (IS/MND). The IS/MND was completed and sent to the State Clearinghouse as required by the California Environmental Quality Act.

During the comment period, it was discovered that a portion of the equipment shelter and proposed parking space were within the Pisgah Peak road easement. On February 13, 2012, the county received a revised site plan which relocated the equipment shelter and the proposed parking space. Those plans were reviewed by staff and further revisions were required to clarify the maximum height of the proposed retaining wall and clear up some discrepancies found on the exhibit.

The Visual Impact Assessment completed by Lilburn Corporation, (Lilburn) evaluated the project design submitted before aforementioned revisions were made. The revised plans submitted in February, 2012 required new photo simulations within the visual analysis that could possibly alter the conclusions reached in the report. Therefore the County found it necessary to request Lilburn to supplement the report by adding new photo simulations, and to reevaluate the project.

In October 2011, a proposed mitigated negative declaration was issued. Issues in which impacts were found to be “less than significant with mitigation incorporated” included aesthetics, biological resources, geology and soils. All other potential impacts reviewed were found to have no impact or to be less than significant. Comments were received and further assessments were made. A Planning Commission Staff Report for a hearing on September 20, 2012 recommended adoption of a MND and approval of a CUP and major variance. An attachment to the report included a “September 2012 Attachment to the Initial Study/MND. The attachment noted that after the circulation of the MND, the proposed project was revised in response to comments. The revisions included a change in the location of the equipment shelter and proposed parking space, additional fencing around the monopole and clarification on the amount of grading proposed. The fencing around the monopole was described as a five-foot high wrought iron fence or a five-foot high, three-strand wire fence around the monopole. Revisions were considered minor to the project and did not constitute a substantial revision as set forth in CEQA Guidelines, Section 15073.5. The Staff Report Attachment also noted that following the modifications, new site plans were provide to Lilburn Corporation for further visual analysis to determine if the changes would result in additional impacts. On September 12, 2012, Lilburn Corporation issued a Scenic Report using the visual impact assessment methodology developed by the U.S. Forest Service. The final conclusion was that the Project would not have a significant impact on scenic resources. The Planning Commission conditionally approved the Project, and CPRL appealed.

At a hearing on November 27, 2012, the appeal of the CUP was denied and the MND was adopted. On December 21, 2012, CPRL filed its petition for writ of mandate, which alleged the following causes of action: 1) violation of CEQA related to the MND and Initial Study; 2) the findings with respect to issuance of the CUP are not supported by substantial evidence; and, 3) the County violated the County Development Code with respect to fire issues. Through briefing, CPRL argued that substantial evidence in the record supported a fair argument that the Project may have significant impacts on visual and recreation impacts, land use, and fire safety. It also

contended that the MND was inadequate in its analysis of visual, land use and fire safety impacts.

On October 1, 2013, in a Superior Court of the State of California, in and for the County of San Bernardino, San Bernardino District, the court on its review of the Petition of Writ of Mandate (Case No. CIVDS 1213173) granted the writ petition to vacate approval of the MND, CUP, and major variance. The court also ruled for the County to undertake the preparation of an EIR on the Proposed Project.

POTENTIAL ENVIRONMENTAL IMPACTS

Based on the Court ruling, the lead agency has determined that the Project must be further analyzed for potentially significant environmental impacts. As such, preparation of a Focused EIR is appropriate. Because the Project was previously analyzed in an MND, and since only specific issues were addressed in the writ of mandate and ultimately ruled on by the Court, the lead agency has determined the following environmental considerations as potentially significant effects of the project to be further evaluated in a Focused EIR:

- Aesthetics
- Land Use
- Hazards (Fire Safety)
- Recreation

Typically, the baseline for which to evaluate a proposed project's potential environmental impacts is established as the date of the Notice of Preparation. However, based on circumstances, a different baseline can be established. Due to the undisturbed nature of the Project Site prior to installation of the demonstration pole, and other project related disturbance (January 2007) has been determined the appropriate baseline.

ALTERNATIVES TO BE CONSIDERED IN THE EIR

The CEQA Guidelines Section 15126.6 outlines the discussion of alternatives to a Proposed Project as follows: "An EIR shall describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives. An EIR need not consider every conceivable alternative to a project. Rather it must consider a reasonable range of potentially feasible alternatives that will foster informed decision making and public participation. An EIR is not required to consider alternatives which are infeasible." It further states that the lead agency is responsible for selecting a range of alternatives examined and must publically disclose its reasoning for selecting those alternatives.

The following alternatives are being considered for review in the EIR:

- **No Project/Development Under RL Land Use District:** Construction of a single-family residence at the ridgeline of the 38.13-acre site.
- **Alternative Site Location:** There was a coverage analysis prepared by the applicant for siting the broadcasting tower during the design phase between 2007 and 2009. The analysis determined that under the rules of the Federal Communications Commission (FCC), tower placement could only take place within a specific area (located within the

white areas inside the red funnel as shown on Figure 4 attached). The area where the radio station can be located is restricted to the areas in white within the red funnel by FCC line-of-sight and minimal signal strength requirements. Areas highlighted in red within the red funnel are short spaced to other FM stations and therefore not available under the FCC's rules. The study evaluates a property located, within the red funnel area, in a nearby canyon area northeasterly, approximately 0.75 miles from the Project Site. The Alternative Site is approximately 40 acres in size and is vacant with the exception of an existing broadcasting tower, Edison transmission lines and an equipment building. The alternative site is located within the Oak Glen Planning Area, and has a General Plan land use designation of OG/RL-20 (Rural Living – 20-acre minimum lot size). Surrounding land uses include: vacant land, single-family residential, recreational and equestrian uses. The Proposed Project would be consistent with the existing land use designation at the Alternative Site Location. In the event it is determined that the proposed Alternative Site is not suitable for evaluation in the EIR, the County may select another Alternative Site located within the “red funnel” area as depicted on Figure 4.

- **Alternative Design:** This alternative would include a typical lattice style tower and increased height.

The Environmentally Superior Alternative will be selected from among these alternatives and the Proposed Project. An alternative that is environmentally superior would result in the fewest or least significant environmental impacts and still be able to achieve the objectives of the planning effort.

Sincerely,

Kevin White
Planner III
Land Use Service Department
San Bernardino County

Figure 1 - Regional Setting

Figure 2 - Project Vicinity and Study Area

Figure 3 – Site Plan

Figure 4 – FCC Spacing Requirements