

# CONDITIONS OF APPROVAL

## Special Use Permit S14-0009/AT&T Cell Tower Skyline Drive Planning Commission/December 11, 2014

### Planning Services

1. This Special Use Permit is based upon and limited to compliance with the project description, the following hearing exhibits, and conditions of approval set forth below:

Exhibit E-1 .....	Overall Site Plan, Sheet A1; June 19, 2014
Exhibit E-2 .....	Detailed Overall Site Plan, Sheet A1.1; June 19, 2014
Exhibit E-3 .....	Enlarged Site Plan, Sheet A2; June 19, 2014
Exhibit E-4 .....	Equipment Shed Plan, Elevations and Antenna Plans, Sheet A3; June 19, 2014
Exhibit E-5 .....	West Elevation, Sheet A4; June 19, 2014
Exhibit E-6 .....	South Elevation, Sheet A5; June 19, 2014
Exhibit E-7 .....	East Elevation, Sheet A6; June 19, 2014
Exhibit E-8 .....	North Elevation, Sheet A7; June 19, 2014
Exhibit F.....	Visual Simulations

Any deviations from the project description, exhibits, or conditions must be reviewed and approved by the County for conformity with this approval. Deviations may require approved changes to the permit and/or further environmental review. Deviations without the above described approval will constitute a violation of permit approval.

Approval of the Special Use Permit allows the construction and operation of a new wireless communications facility to support cellular transmission within the existing 0.32 acre parcel identified by Assessor's Parcel Number 081-102-01, and consisting of the following:

- a. Up to nine panel antennas mounted centerline at the height of 106 feet on a 113 foot tall monopine tower, with the top branches not to exceed 110 feet;
- b. A tower light to FAA standards at the top of the pole not to exceed 113 feet;
- c. One 12 by 12 foot concrete equipment shelter within a 30 by 30 foot lease area to house equipment cabinets, two HVAC units, and associated equipment;
- d. One six foot tall dog eared wood fence constructed around the perimeter of the lease area, with one double wide access gate; and
- e. A corrugated metal roof over the HVAC units and two 10 foot block sound barrier walls on the east and west sides of the HVAC units.

The grading, development, use, and maintenance of the property, the size, shape, arrangement, and location of structures, parking areas and landscape areas, and the protection and preservation of resources shall conform to the project description above and the hearing exhibits and conditions of approval below. The property and any portions thereof shall be sold, leased or financed in compliance with this project description and

the approved hearing exhibits and conditions of approval hereto. All plans must be submitted for review and approval and shall be implemented as approved by the County.

### **Planning Division**

2. **Expiration:** Pursuant to Zoning Ordinance Section 17.22.250, implementation of the project shall occur within 24 months of approval of this permit, otherwise the permit becomes null and void. It is the responsibility of the applicant to monitor the time limit and make diligent progress toward implementation of the project and compliance with Conditions of Approval.
3. **Responsibility for Interference:** The applicant shall assume full responsibility for resolving television reception interference or other electrical interference caused by the operation of this facility. The applicant shall take corrective action within 30 days of the receipt of any written complaint.
4. **Co-locating:** For co-location purposes, no further review by the Planning Commission shall be required provided that all ground-mounted equipment is located within the proposed lease area, and that there shall not be an increase in overall height of the tower nor substantial increase in breadth of antennas.
5. **Facility Appearance and Screening:** All equipment shelters, cabinets or other auxiliary structures shall be painted in a matching color to comply with the screening requirements of Section 17.14.210.F of the Zoning Ordinance. The pole shall be covered in a manufactured tree bark and the antennas shall be painted with non-reflective paint and maintained to match the color of the branch needles. All antennas shall either be covered with antenna socks that shall match the color and texture of the branch needles or painted to match the color of the branch needles. The branches shall be installed with random lengths that create an asymmetrical appearance conforming to the shape of a natural pine tree. No antenna shall project out beyond the branch tips. Planning Services shall verify the appearance of all structures prior to final inspection and approval of the facility.
6. **Facility Maintenance:** All improvements associated with the communication facility, including equipment shelters, antennae, and fencing shall be properly maintained at all times. Colors of the panels, equipment enclosure, and other improvements visible to the public shall be maintained to ensure the appearance remains consistent.
7. **Conditions Compliance:** Prior to issuance of a building permit or commencement of any use authorized by this permit, the applicant shall provide a written description, together with appropriate documentation, showing conformance of the project with each condition imposed as part of the project approval. The applicant shall also schedule an inspection by Planning Services prior to Building Permit final for any Building Permit for verification of compliance with applicable Conditions of Approval.

8. **Obsolete Equipment:** All obsolete or unused communication facilities shall be removed within six months after the use of that facility has ceased or the facility has been abandoned. The applicant shall notify Planning Services at the time of abandonment and all disturbance related to the communication facility shall be restored to pre-project conditions.
9. **Five-Year Review:** Due to the ever-changing technology of wireless communication systems, this Special Use Permit shall be reviewed by the County Development Services Division every five years. At each five-year review, the permit holder shall provide the Development Services Division with a status report on the then current use of the subject site and related equipment. Development Services shall review the status and determine whether to:
  - a. Allow the facility to continue to operate under all applicable conditions; or
  - b. Hold a public hearing to determine whether to modify the conditions of approval in order to reduce identified adverse impacts; or initiate proceedings to revoke the special use permit, requiring the facility's removal if it is no longer an integral part of the wireless communications system.

By operation of this condition, it is the intent of County to reserve the right to modify or add new conditions, consistent with the language specified above. The failure of the County to conduct or complete a five-year review in a timely fashion shall not invalidate the Special Use Permit. The applicant shall pay a fee determined by the Development Services Director to cover the cost of processing a five-year review on a time and materials basis.

10. **Compliance Responsibility:** The operator (lessee) and property owner (lessor) are responsible for complying with all conditions of approval contained in this Special Use Permit. Any zoning violations concerning the installation, operation, and/or abandonment of the facility are the responsibility of the owner and the operator.
11. **Payment of Processing Fees-Development Services:** The applicant shall make the actual and full payment of Planning and Building Services processing fees for the special use permit and building permits prior to issuance of a building permit.
12. **Archeological Resources:** The following shall be incorporated as a note on the grading/improvement plans:

In the event archeological resources are discovered during grading and construction activities, the applicant shall ensure that all such activities cease within 50 feet of the discovery until an archaeologist can examine the find in place. If the find is determined to be a "unique archaeological resource", contingency funding, and a time allotment sufficient to allow recovering an archaeological sample or to employ one of the avoidance measures may be required under the provisions set forth in Section 21083.2 of

the Public Resources Code. Construction work could continue on other parts of the project site while archaeological mitigation takes place.

If the find is determined to be a “unique archeological resource”, the archaeologist shall determine the proper method(s) for handling the resource or item in accordance with Section 21083.2(b-k). Any additional costs as a result of complying with this section shall be borne by the project applicant. Grading and construction activities may resume after appropriate measures are taken or the site is determined a “nonunique archeological resource”.

Planning Services shall verify the inclusion of this notation on the grading plans prior to the issuance of a grading permit.

13. **Human Remains:** The following shall be incorporated as a note on the grading/improvement plans:

In the event of the discovery of human remains, all work shall cease and the County coroner shall be immediately notified pursuant to subdivision (c) of Section 7050.5 of the Health and Safety Code and Section 5097.98 of the Public Resources Code. The Coroner shall make his or her determination within two working days from the time the person responsible for the excavation, or his or her authorized representative, notifies the Coroner of the discovery or recognition of the human remains. If the Coroner determines that the remains are not subject to his or her authority and if the Coroner recognizes the human remains to be those of a Native American, or has reason to believe that they are those of a Native American, he or she shall contact, by telephone within 24 hours, the Native American Heritage Commission.

Upon the discovery of the Native American remains, the landowner shall ensure that the immediate vicinity, according to generally accepted cultural or archaeological standards or practices, where the Native American human remains are located, is not damaged or disturbed by further development activity until the landowner has discussed and conferred, as prescribed in Section 5097.98 of the Public Resources Code, with the most likely descendants regarding their recommendations. The descendants shall complete their inspection and make their recommendation within 48 hours of their notification by the Native American Heritage Commission. The recommendation may include the scientific removal and nondestructive analysis of human remains and items associated with Native American burials or other proper method(s) for handling the remains in accordance with Section 5097.98(b-h). Any additional costs as a result of complying with this section shall be borne by the project applicant. Grading and construction activities may resume after appropriate measures are taken.

Planning Services shall verify the inclusion of this notation on the grading plans prior to the issuance of a grading permit.

14. **Hold Harmless Agreement:** In the event of any legal action instituted by a third party challenging the validity of any provision of this approval, the developer and landowner agree to be responsible for the costs of defending such suit and shall hold County harmless from any legal fees or costs County may incur as a result of such action.

The developer and land owner shall defend, indemnify, and hold harmless El Dorado County and its agents, officers, and employees from any claim, action, or proceeding against El Dorado County or its agents, officers, or employees to attack, set aside, void, or annul an approval of El Dorado County concerning a special use permit.

The County shall notify the applicant of any claim, action, or proceeding, and the County shall cooperate fully in the defense.

### **Environmental Management-Solid Waste and Hazardous Materials Division**

15. **Hazardous Materials:** Under the CUPA programs, if the operation will involve the storage of reportable quantities of hazardous materials (55 gallons, 500 pounds, 200 cubic feet) for backup power generation, a hazardous materials business plan for the site must be submitted to the Community Development Agency/Environmental Management Division and applicable fees paid.

### **Air Quality Management District (AQMD)**

16. **Fugitive Dust:** The project construction will involve grading and excavation operations which will result in a temporary negative impact on air quality with regard to the release of particulate matter (PM10) in the form of dust. The project shall adhere to the regulations and mitigation measures for fugitive dust emissions during the construction process. In addition, if a grading permit is required, a Fugitive Dust Mitigation Plan (FDP) application with appropriate fees shall be submitted to and approved by the AQMD prior to the start of project construction. (Rules 223 and 223.1)
17. **Paving:** Project construction may involve road development and shall adhere to AQMD Rule 224 Cutback and Emulsified Asphalt Paving Materials. (Rule 224).
18. **Painting/Coating:** The project construction may involve the application of architectural coating, which shall adhere to AQMD Rule 215 Architectural Coatings.
19. **Construction Emissions:** During construction, all self-propelled diesel-fueled engines greater than 25 horsepower shall be in compliance with the California Air Resources Board (ARB) Regulation for In-Use Off-Road Diesel Fueled Fleets (§ 2449 et al, title 13, article 4.8, chapter 9, California Code of Regulations (CCR)). The full text of the regulation can be found at ARB's website here: <http://www.arb.ca.gov/msprog/ordiesel/ordiesel.htm>. An applicability flow chart can be found here: [http://www.arb.ca.gov/msprog/ordiesel/faq/applicability\\_flow\\_chart.pdf](http://www.arb.ca.gov/msprog/ordiesel/faq/applicability_flow_chart.pdf).

Questions on applicability should be directed to ARB at 1-866-634-3735. ARB is responsible for enforcement of this regulation.

20. **New Point Source:** Prior to construction/installation of any new point source emissions units (i.e., gasoline dispensing facility, emergency standby engine, etc.), Authority to Construct applications shall be submitted to the AQMD. Submittal of applications shall include facility diagram(s), equipment specifications and emission factors. (Rule 501 and 523).
21. **Portable Equipment:** All portable combustion engine equipment with a rating of 50 horsepower or greater shall be under permit from the California Air Resources Board (CARB). A copy of the current portable equipment permit shall be with said equipment. The applicant shall provide a complete list of heavy-duty diesel-fueled equipment to be used on this project, which includes the make, model, year of equipment and daily hours of operations of each piece of equipment.

#### **Federal Aviation Administration (FAA)**

22. The top of the pole structure shall be marked/lighted in accordance with FAA Advisory Circular 70/7460-1, K Change 2, Obstruction Marking and Lighting, red lights – Chapters 4,5(Red),&12.
23. FAA Form 7460-2, Notice of Actual Construction or Alteration, shall be e-filed with the FAA when the new cell tower system is installed and operational.

#### **Lake Valley Fire District**

24. The applicant shall adhere to pertinent codes and standards from the California Code of Regulations Title 24 Part 9 California Fire Code (CFC), to the satisfaction of the Lake Valley Fire District.