

**CONDITIONS OF APPROVAL**

**Conditional Use Permit CUP19-0007/AT&T CAF II, Frenchtown 2  
Planning Commission/August 13, 2020**

**Planning Department**

- 1. This Conditional Use Permit is based upon and limited to compliance with the project description, the following hearing Exhibits and conditions of approval set forth below:  
Approval of the Conditional Use Permit allows the construction of an unmanned wireless telecommunication facility consisting of a 40-foot by 40-foot, 2,500-square foot enclosed compound (lease area) on Assessor’s Parcel Number (APN) 091-070-022. The compound will include a 160-foot stealth monopine tower, one walk-in pre-manufactured equipment shelter, and one 30-kw DC emergency backup diesel generator.

- Exhibit G.....Submitted Plan Set
- Exhibit H.....Coverage Maps
- Exhibit I .....Photosimulations
- Exhibit K.....EMF/RF Report
- Exhibit L .....Proposed Mitigated Negative Declaration and Initial Study

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.

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.

- 2. **Expiration:** Pursuant to Zoning Ordinance Section 130.54.060.A, 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. **Facility Maintenance and Visual Screening:** All improvements associated with the communication facility, including equipment shelters, antennae, antenna branches/leaf socks and fencing shall be properly maintained at all times. Supporting equipment within the lease area shall be screened from view by earth-tone slats placed within the chain link fencing surrounding the lease area. Colors of the panels, equipment enclosure, and other improvements visible to the public shall be maintained to ensure the appearance remains consistent.
  
5. **Five Year Review:** Due to the ever-changing technology of wireless communication systems, this Conditional Use Permit shall be reviewed by the Planning Commission every five years. At each five-year review, the permit holder shall provide the Planning Department with a status report on the then-current use of the subject site and related equipment to include dated photos of the tower and equipment, and a Radio Frequency Report demonstrating compliance with current FFC emission regulations. The Planning Commission shall review the status and, based on an assessment of the information provided, current wireless communication technology, and possible local or cumulative impacts, 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 conditional 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 existing 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 Conditional 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.

6. **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 Department prior to Building Permit final for any Building Permit for verification of compliance with applicable Conditions of Approval.
  
7. **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 Department at the time of abandonment and all disturbance related to the communication facility shall be restored to pre-project conditions.

8. **Compliance Responsibility:** The operator (lessee) and property owner (lessor) are responsible for complying with all conditions of approval contained in this Conditional Use Permit. Any zoning violations concerning the installation, operation, and/or abandonment of the facility are the responsibility of the owner and the operator.
9. **Payment of Processing Fees-Development Services:** The applicant shall make the actual and full payment of Planning and Building Services processing fees for the conditional use permit and building permit prior to issuance of a building permit.
10. **Fire Safety:** The project shall be designed to meet the current 2019 CA Fire Code, El Dorado County Fire Ordinance 2019-02, National Fire Protection Association (NFPA) standards, and other appropriate standards.
11. **Fire Protection:** The following language shall be incorporated as a note on grading and building permit plans: "During all phases of construction and operation, the facility shall comply with applicable provisions of Public Resources Code (PRC) Section 4291 (defensible space)."
12. **Geotechnical Considerations:** Prior to issuance of any grading or building permits, the applicant shall submit a site improvement/grading plan prepared by a professional civil engineer for review and approval. The plan shall be in conformance with the County of El Dorado *Design and Improvement Standards Manual*, and the *Grading, Erosion and Sediment Control Ordinance*. The site improvement/grading plan should include, as appropriate, site preparation and construction recommendations identified in the Geotechnical Investigation Report prepared for the site by Mid Pacific Engineering (February 2020) including, and not limited to, those identified as site design Option 1.
13. **Generator:** Any routine maintenance that requires running the generators or automatic recycling of the generator shall be performed between the hours of 9:00 a.m. to 5:00 p.m. Monday through Friday.
14. **Lighting:** All outdoor lighting shall conform to Section 130.34 of the Zoning Ordinance, and be fully shielded pursuant to the Illumination Engineering Society of North America's (IESNA) full cut-off designation. Any light fixture that does not have a specification sheet submitted with the building permit that specifically states that fixture meets the full cutoff standards, shall require a fixture substitution that meets that requirement.

Should final, installed lighting be non-compliant with full shielding requirements, the applicant shall be responsible for the replacement and/or modification of said lighting to the satisfaction of the Planning Department.

15. **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 landowner 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 conditional use permit.

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

### **Mitigation Measures**

16. **Mitigation Measure BIO-1. Migratory and Special-Status Bird Species:**

The project site provides suitable nesting habitat for nesting birds and birds-of-prey regulated by the federal Migratory Bird Treaty Act (MBTA), and/or California Fish and Game Code that could occur in the BSA. Under the MBTA and CA Fish and Game Code §3503, nests that contain eggs or unfledged young are not to be disturbed during the breeding season. Nesting or attempted nesting by migratory birds and birds-of-prey is anticipated from 15 February through 31 August.

Nesting bird avoidance and mitigation measures:

- Tree and vegetation removal shall occur outside of the nesting season (15 February through 31 August annually). All tree removal shall occur between 1 September and 14 February, which is outside of nesting season for MBTA and Fish and Game Code protected birds. If work occurs outside the nesting season, there will be no need to conduct a preconstruction survey for active nests.
- If project work occurs during the nesting season, a qualified biologist shall conduct a preconstruction survey for nesting birds of prey and other birds protected by the MBTA and Fish and Game Code within 15 days prior to the start of construction. The survey area shall cover the Project, a 500-foot radius for nesting birds of prey, and a 100 foot radius for all other MBTA and Fish and Game Code protected birds. If no active nest of a bird of prey, MBTA bird, or other Fish and Game Code-protected bird is found, then no further mitigation measures are necessary.
- Should an active nest of a protected bird be identified, an exclusion zone of 500 feet shall be established around the nest if it is a bird of prey, and 100 feet if it is a protected bird other than a bird of prey. Buffer sizes may be adjusted at the discretion of the biologist depending on the species of bird, the location of the nest relative to the project, the existing level of disturbance, and other site-specific conditions. No work will be allowed

in the exclusion zone until the biologist determines that the nest is no longer active, or monitoring determines that a smaller ESA will protect the active nest.

- From 15 January through 31 August, if additional trees or shrubs need to be trimmed and/or removed after construction has started, a survey will be conducted for active nests in the area to be affected. If an active nest is found, the above measures will be implemented.
- If an active nest is identified in or adjacent to the construction zone after construction has started, the above measures will be implemented to ensure construction is not causing disturbance to the nest.

Monitoring Requirement: This mitigation measure shall be noted on grading and construction plans. The Planning Department shall verify the completion of survey prior to issuance of grading and building permits.

Monitoring Responsibility: El Dorado County Planning and Building Department.

#### 17. **Mitigation Measure BIO-2. Oak Woodland Preservation:**

##### *Pre-construction*

- A tree protection zone (TPZ) shall be established around retained trees. The TPZ shall extend 20 feet beyond the dripline where possible given grading limits. The TPZ around retained trees near the limit of grading will be much smaller.
- The TPZ shall be marked with minimum 4-foot high orange construction fence hung on posts (such as T-posts) before clearing occurs. The fence shall not be supported by trees or other vegetation. The fence shall remain in place until construction is complete.
- There shall be no driving, parking, or storage of supplies or equipment within the TPZ. Entry of construction personnel into the TPZ is not allowed except for maintenance of the fence or other activities undertaken for the protection of trees.
- The tree canopy along the TPZ boundary shall be inspected prior to vegetation clearing in the area of grading. The canopy of trees to be removed shall be pruned where it is intertwined with the canopy of retained trees, or wherever felling of trees to be removed may damage the canopy of retained trees. The canopy of retained trees that overhangs the area to be graded shall be pruned to the minimum height required for construction.
- Pruning of retained trees shall be conducted in accordance with American National Standard Institute (ANSI) A300 Pruning Standard and adhere to the most recent edition of ANSI Z133.1.

*During Vegetation Clearing*

- Brush clearing along the TPZ boundary may be necessary in some areas for installation of a fence. Brush along the TPZ boundary, outside areas to be graded, shall be cut near ground level; not removed by the roots. Brush shall be cut and removed so that trees in the TPZ are not harmed. Brush shall not be disposed of in the TPZ.
- Trees in the area of grading shall be felled in a direction away from the TPZ

*Project Operation*

Most of the trees in the areas of avoided oak woodland are mature. All of them have been growing under the natural moisture regime without irrigation and are adapted to dry summer/fall conditions. Extra irrigation water should not be applied to the trees, especially within a few feet of the trunk.

Monitoring Requirement: This mitigation measure shall be noted on grading and construction plans. The Planning Department shall verify the installation of construction fencing to delineate the tree protection zone (TPZ) prior to issuance of grading and building permits.

Monitoring Responsibility: El Dorado County Planning and Building Department.

**18. Mitigation Measure CR-1. Archaeological 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 archaeological 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”.

Monitoring Requirement: This mitigation measure shall be noted on grading and construction plans. The Planning Department shall verify the inclusion of this notation on the grading plans prior to the issuance of a grading permit.

Monitoring Responsibility: El Dorado County Planning and Building Department.

**19. Mitigation Measure CR-2. 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.

Monitoring Requirement: This mitigation measure shall be noted on grading and construction plans. The Planning Department shall verify the inclusion of this notation on the grading plans prior to the issuance of a grading permit.

Monitoring Responsibility: El Dorado County Planning and Building Department.

**20. Mitigation Measure TCR-1. Tribal Cultural Resources**

If any Tribal Cultural Resources (TCRs) are discovered during ground disturbing construction activities, all work shall cease within 100 feet of the find. The appropriate tribal representatives from culturally affiliated tribes shall be immediately notified. Work at the discovery location shall not resume, until the potential TCR is determined, in consultation with culturally affiliated tribes, that the find is not a TCR, or that the find is a TCR and all necessary investigation and evaluation of the discovery under the requirements of the CEQA, including AB 52, has been satisfied. Preservation in place is the preferred alternative, and every effort must be made to preserve the identified resource in place, including but not limited to project redesign. Should be

project redesign be required, the project shall be required to obtain a revision to the Design Review Permit. The contractor shall implement any measures deemed by the County to be necessary and feasible to preserve in place, avoid, or minimize impacts to the resource, including, but not limited to, facilitating the appropriate tribal treatment of the find, as necessary and feasible to preserve in place, avoid, or minimize impacts to the resource, including, but not limited to, facilitating the appropriate tribal treatment of the find as necessary.

Monitoring Requirement: This mitigation measure shall be noted on grading and construction plans. The Planning Department shall verify the inclusion of this notation on the grading plans prior to the issuance of a grading permit.

Monitoring Responsibility: El Dorado County Planning and Building Department.

### **El Dorado County Environmental Management Department**

21. Under the Certified Unified Program Agencies (CUPA) program, 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 online at the California Environmental Reporting System Website (<http://cers.calepa.ca.gov/>) and applicable fees paid to El Dorado Community Development Services / Environmental Management Department.
22. When filing our “Section 6: Construction and Demolition Debris Recycling Acknowledgement of the El Dorado County Building Permit Application, select Option 4 and write in “Towers” to the right of the sections. Towers are exempted from the construction and demolition (C&D) debris recycling requirements.

### **El Dorado County Air Quality Management Department**

23. 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, a Fugitive Dust Mitigation Plan (FDP) Application with appropriate fees shall be submitted to and approved by the AQMD prior to start of project construction if a Grading Permit is required from the Building Dept. (AQMD Fugitive Dust Rules 223 and 223.1)
24. Paving: The project construction may involve road development and shall adhere to AQMD Rule 224, Cutback and Emulsified Asphalt Paving Materials.
25. Painting/Coating: The project construction may involve the application of architectural coatings which shall adhere to AQMD Rule 215, Architectural Coatings.



26. Open Burning: Burning of wastes that result from "Land Development Clearing" must be permitted through the AQMD. Only dry vegetation originating from the property may be disposed of using an open outdoor fire and burning shall adhere to AQMD Rule 300, Open Burning.
27. Construction Emissions: During construction, all self-propelled diesel-fueled engines greater than 25 horsepower shall be in compliance with the California Air Resources Board (CARB) 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/diesel/ordiesel.htm>. An applicability flow chart can be found here: [http://www.arb.ca.gov/msprog/ordiesel/fag/applicability\\_flow\\_chart.pdf](http://www.arb.ca.gov/msprog/ordiesel/fag/applicability_flow_chart.pdf). Questions on applicability should be directed to CARB at 1-866-634-3735. CARB is responsible for enforcement of this regulation.
28. New Point or Stationary Source: Prior to construction/installation of any new point/stationary source emissions units (e.g., emergency standby engine greater than 50 HP, etc.), Authority to Construct applications shall be submitted to the AQMD. Submittal of applications shall include facility diagram(s), equipment specifications and emissions estimates, and shall adhere to AQMD Rules 501, General Permit Requirements and 523, New Source Review.
29. Portable Equipment: All portable combustion engine equipment with a rating of 50 horsepower or greater shall be registered with the California Air Resources Board (CARB). A copy of the current portable equipment registration 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, daily hours of operations of each piece of equipment.