

**COUNTY OF EL DORADO
PLANNING AND BUILDING DEPARTMENT
PLANNING COMMISSION
STAFF REPORT**



Agenda of: March 23, 2023

Staff: Matthew Aselage

SPECIAL USE PERMIT REVISION

FILE NUMBER: CUP-R22-0028/Pony Express Trail Cell Tower Extension

APPLICANT/AGENT: TSJ Consulting, Inc. c/o Tom Johnson

OWNER: Kayna Westley CA LLC

REQUEST: Conditional Use Permit Revision to allow the addition and operation of a 20-foot-tall extension on an existing 119-foot-tall monopine including the addition of 12 antennas and supporting radios, backup diesel generator, and equipment shelter. All associated new ground equipment would reside within a proposed 345-square-foot expansion of the existing fenced lease area.

LOCATION: South side of Pony Express Trail, approximately 2,000-feet east of the intersection with Blair Road, in the Pollock Pines Rural Center, Supervisorial District 5 (Exhibit A).

APN: 101-201-080 (Exhibit B)

ACREAGE: 2.12 acres

GENERAL PLAN: Multi-Family Residential (MFR) (Exhibit C)

ZONING: Multi-Family Residential – Community Design (RM-DS) (Exhibit D)

ENVIRONMENTAL DOCUMENT: Categorically Exempt pursuant to Section 15303 of the California Environmental Quality Act (CEQA) Guidelines (New Construction or Conversion of Small Structures).

RECOMMENDATION: Staff recommends the Planning Commission take the following actions:

1. Find the project exempt under Section 15303 (New Construction or Conversion of Small Structures) of the CEQA Guidelines; and
2. Approve Conditional Use Permit Revision CUP-R22-0028 based on the Findings and subject to the Conditions of Approval as presented.

EXECUTIVE SUMMARY

The proposed project is a request for a Conditional Use Permit Revision revising the original use permit for the existing monopine to allow the addition and operation of a 20-foot-tall extension on an existing 119-foot-tall monopine along with 12 antennas and supporting radios along with a backup diesel generator and equipment shelter. Proposed ground equipment associated with this expansion would reside within a proposed 345-square-foot lease area expansion located adjacent to the existing 1,500-square-foot lease area.

PROJECT INFORMATION

Tolling Timeframe: CUP-R22-0028 was submitted on July 15, 2022. A determination of application incompleteness was made on July 22, 2022. The first round of incomplete materials was provided on August 19, 2022. Staff sent a follow-up notice informing the applicant that several items remain outstanding on August 20, 2022. The second round of incomplete submittal items was received on October 19, 2022. Staff reviewed these materials and on October 20, 2022, sent a follow-up with a few remaining outstanding items identified. Staff received the final remaining application materials on October 21, 2022. The file was stated as complete for further processing, with a Technical Advisory Committee (TAC) meeting having occurred on November 14, 2022. During project review in preparation for public hearing, planning management identified inconsistencies within project plans. These inconsistencies would need corrected before the project could move forward to public hearing. The project agent was informed of this need on January 30, 2023. Tolling time paused on January 30, 2023 until receipt of updated plans on February 7, 2023. As of February 10, 2023, 104 days have tolled so far, leaving a total of 46 days left to toll. There would be a total of two (2) days left to toll upon the March 23, 2023 Planning Commission hearing.

Background: The project site is currently developed with a Best Western Motel. This motel use remained the only use on site until the approval of the current cell tower use pursuant to Special Use Permit S05-0018. S05-0018 allowed for the construction and operation of a wireless telecommunications facility within a 1500-square-foot lease area including ground-mounted equipment and a 120-foot monopine tower with 12 antennas. Since approval of S05-0018, there has been one eligibility review permit approved. Conditional Use Permit CUP-R22-0001 allowed for the replacement of six (6) existing antennas with six (6) new antennas as well as three (3) new antennas alongside support equipment. CUP-R22-0001 did not include an increase in height or an increase in the lease area. There have been no other use permit modifications to the cell tower site since the approval of CUP-R22-0001.

Site Description and Location: As discussed above, the project site is currently developed with a Best Western Motel. The subject parcel is located on the south side of Pony Express Trail,

approximately 2,000-feet east of the intersection with Blair Road, in the Pollock Pines Rural Center. The existing cellular facility resides within a 1500-square-foot lease area. The proposed modification to the existing cellular facility would result in a 20-foot-tall extension on the existing 119-foot-tall monopine along with the addition of 12 antennas and supporting radios as well as a 345-square-foot lease area expansion (resulting in a total 1845-square-foot lease area). The expanded lease area would accommodate a new backup diesel generator and equipment shelter (Exhibit A). The project site includes an existing 10-foot-wide access drive which provides access to the telecommunications facility from the Best Western Motel. The project site is bound by zoned RM parcels to the east and west; US Highway 50 to the south and Residential Estate Five-acres (RE-5) zoned properties beyond US Highway 50; and Single Family Residential (R1) zoned properties to the north (Exhibit D).

	Current Zoning Designation	General Plan Designation	Existing Uses
Project Parcel	RM	MFR	Hotel/Motel, telecommunication site
North	R1, across Pony Express Trail	HDR, across Pony Express Trail	Residential
East	RM	MFR	Undeveloped
West	RM	MFR	Residential, Undeveloped
South	RE-5, across US Highway 50	LDR, across U.S. Highway 50	Residential

Project Description: A Conditional Use Permit Revision to allow the construction and operation of a 20-foot-tall extension on an existing 119-foot-tall monopine along with nine (9) antennas, three (3) surge protectors, and 15 Remote Radio Units (RRUs) along with a backup diesel generator and equipment shelter. The telecommunications facility would be housed within the existing 1,500-square-foot lease area as well as within a proposed additional 345-square-foot lease area located adjacent to the currently existing lease area.

The project would include a new Oldcastle CWIC cabinet. The proposed cabinet would include one (1) AT&T power panel and an automatic transfer switch, one (1) service light, and two (2) AT&T GPS antennas. The cabinet would be positioned within the proposed lease area. Cables running between the cabinet and the monopine would be concealed from the elements within a proposed AT&T ice bridge.

The applicant has confirmed that there would be room for other carriers to co-locate (Exhibit E). Future proposals for co-location may require additional lease area expansion; such proposals would be reviewed for such requirements at the time of submittal of future applications.

The project did not review other potential sites as the current proposal is a collocation proposal. The proposed facility is needed to provide coverage in a service gap that exists within the Pollock Pines Rural Center along the US Highway 50 corridor and surrounding vicinity. The

project is consistent with the requirements of Zoning Ordinance Section 130.40.130 (Communication Facilities).

STAFF ANALYSIS AND CONCLUSIONS

Environmental Review: Conditional Use Permit Revision CUP-R22-0028 has been found Categorically Exempt pursuant to Section 15303, New Construction or Conversion of Small Structures, of the CEQA Guidelines. The proposed use would result in the addition and operation of an expansion to the existing monopine structure. This new construction is consistent with the allowances pursuant to Section 15303 of the CEQA Guidelines.

Per CEQA Guidelines Section 15062, filing of a Notice of Exemption is required to initiate a 35-day statute of limitations on legal challenges to the County's decision that the project is exempt from CEQA. Pursuant to Resolution No. 240-93, a \$50.00 processing fee is required by the County Recorder to file the Notice of Exemption. The applicant shall submit the \$50.00 recording fee to Planning Services for the County Recorder to file the Notice of Exemption within 48 hours of any decision-making body approving the project. Checks shall be made payable to El Dorado County.

General Plan Consistency: Staff has determined that the proposed project is consistent with the applicable policies and requirements in the El Dorado County General Plan, as discussed below in Section 2.0, General Plan Findings.

Zoning Ordinance Consistency: Staff has determined that the proposed project is consistent with the applicable regulations and requirements in Title 130 of the El Dorado County Code, as discussed below in Sections 3.0 through 4.0, Zoning and Conditional Use Permit Findings.

AGENCY/PUBLIC COMMENTS

The project was distributed for review to affected/interested agencies and departments, including the El Dorado County Air Quality Management District (AQMD), Department of Transportation (DOT), El Dorado County Environmental Management Department (EMD), El Dorado County Fire Protection, El Dorado County Storm Water Division, Surveyor's Office, El Dorado Irrigation District (EID), Pacific Gas & Electric (PG&E), and the Pollock Pines Design Review Committee (PPDRC). Comments were received from the El Dorado County Storm Water Division, and the PPDRC. These comments have been included in the Conditions of Approval section below.

El Dorado County Storm Water Division

Comments were received from the El Dorado County Storm Water Division on October 22, 2022. The comments included information regarding standard requirements related to the State of California Phase II Municipal Stormwater 4 (MS4) Permit and the County's post construction water quality requirements. This comment has been provided as an advisory, as the MS4 permit is a legal requirement of state law.

Pollock Pines Design Review Committee (PPDRC)

The project was heard by the PPDRC on Thursday January 5, 2023. The PPDRC recommended approval of the telecommunications upgrade as proposed.

SUPPORT INFORMATION

Attachments to Staff Report:

- Findings
- Conditions of Approval

- Exhibit A.....Location/Vicinity Map
- Exhibit B.....Assessor’s Parcel Map
- Exhibit C.....Land Use Designation Map
- Exhibit D.....Zoning Designation Map
- Exhibit E.....Site Plan
- Exhibit F.....Generator Hazardous Materials Statement and
Noise Study
- Exhibit G.....Radio Frequency (RF) Report
- Exhibit H.....Photosimulations

FINDINGS

Conditional Use Permit Revision CUP-R22-0028/Pony Express Trail Cell Tower Extension Planning Commission/March 23, 2023

Based on the review and analysis of this project by staff and affected agencies, and supported by discussion in the Staff Report and evidence in the record, the following findings can be made:

1.0 CEQA FINDINGS

- 1.1 Staff reviewed the project and found it exempt from California Environmental Quality Act (CEQA) pursuant to Section 15303, New Construction or Conversion of Small Structures. Class Three exemptions consist of the construction and location of limited numbers of new, small facilities or structures including, as stated in Section 15303 (c), A store, motel, office, restaurant, or similar structure not involving the use of significant amounts of hazardous substances, and not exceeding 2,500 square feet in floor area. The project proposes the construction of an addition to a currently existing monopine facility. Therefore, the project is in conformance with CEQA Exemption Section 15303.
- 1.2 The documents and other materials which constitute the record of proceedings upon which this decision is based are in the custody of the Planning and Building Department, Planning Services, at 2850 Fairlane Court, Placerville, CA, 95667.

2.0 GENERAL PLAN FINDINGS

2.1 The proposed use is consistent with General Plan Policy 2.2.1.2.

The Multifamily Residential (MFR) designation identifies those areas suitable for high-density, single family and multifamily design concepts such as apartments, single-family attached dwelling units, and small-lot single-family detached dwellings subject to the standards set for in the Zoning Ordinance and which meet the minimum allowable density.

Rationale: The project proposes to allow the expansion and ongoing operation of a modification to an existing telecommunications facility. The existing telecommunications facility is located on a parcel which includes a prior developed Best Western Motel. The existing facility includes a 120-foot-tall monopine within a 1,500-square-foot lease area. The proposed expansion would include the addition of a 20-foot-tall extension to the top of the currently existing monopine structure. The extension would host 12 new antennas, three (3) surge protectors and 15 Remote Radio Units (RRUs). Proposed ground equipment includes a support cabinet and a back-up diesel generator to sit within a proposed 345-square-foot lease area located adjacent to the existing lease area. This expansion of use would occur on an existing approved telecommunication use. Therefore,

the proposal is consistent with the General Plan MFR land use designation.

2.2 The project is consistent with General Plan Policy 2.2.5.2.

General Plan Policy 2.2.5.2 requires that all applications for discretionary projects or permits shall be reviewed to determine consistency with the policies of the General Plan.

Rationale: Staff has prepared this section on General Plan findings to document the project's consistency with the policies of the General Plan.

2.3 The project is consistent with General Plan Policy 2.2.5.21.

General Plan Policy 2.2.5.21 requires that development projects be located and designed in a manner that avoids incompatibility with adjoining land uses.

Rationale: The project proposes to allow the expansion and ongoing operation of a modification to an existing telecommunications facility. The existing telecommunications facility is located on a parcel which includes a prior developed Best Western Motel. The existing facility includes a 120-foot-tall monopine within a 1,500-square-foot lease area. The proposed expansion would include the addition of a 20-foot-tall extension to the top of the currently existing monopine structure. The extension would host 12 new antennas, three (3) surge protectors and 15 RRUs. Proposed ground equipment includes a support cabinet and a back-up diesel generator to sit within a proposed 345-square-foot lease area located adjacent to the existing lease area. The project would result in a collocation on an existing facility. Therefore, the facility has been located and designed to avoid incompatibility with surrounding land uses.

2.4 The project is consistent with General Plan Policy TC-Xa.

(1) Traffic from residential development projects of five (5) or more units or parcels of land shall not result in, or worsen, Level of Service (LOS) F (gridlock, stop-and-go) traffic congestion during weekday, peak-hour periods on any highway, road, interchange or intersection in the unincorporated areas of the county.

Rationale: This policy does not apply, as the project does not propose residential development.

(2) The County shall not add any additional segments of U.S. Highway 50, or any other highways and roads, to the County's list of roads from the original Table TC-2 of the 2004 General Plan that are allowed to operate at LOS F without first getting the voter's approval.

Rationale: This is not applicable as the Project is not requesting any modifications to Table TC-2.

(3) and (4) Intentionally blank as noted in the General Plan.

(5) The County shall not create an Infrastructure Financing District unless allowed by a 2/3rds majority vote of the people within that district.

Rationale: This is not applicable as the Project is not requesting the County create an Infrastructure Financing District.

(6) Intentionally blank as noted in the General Plan.

(7) Before giving approval of any kind to a residential development project of five (5) or more units or parcels of land, the County shall make a finding that the project complies with the policies above. If this finding cannot be made, then the County shall not approve the project in order to protect the public's health and safety as provided by state law to assure that safe and adequate roads and highways are in place as such development occurs.

Rationale: The project does not create any residential parcel(s); therefore, this policy does not apply.

2.5 **The project is consistent with General Plan Policy TC-Xb.**

Policy TC-Xb ensures that potential development in the County does not exceed available roadway capacity.

Rationale: This policy is not applicable as this policy refers to the County preparing a Capital Improvement Program (CIP), preparing a Traffic Impact Mitigation (TIM) Fee Program, and monitoring traffic volumes.

2.6 **The project is consistent with General Plan Policy TC-Xc.**

Policy TC-Xc directs that developer paid traffic impact fees combined with any other available funds shall fully pay for building all necessary road capacity improvements to fully offset and mitigate all direct and cumulative traffic impacts from new development.

Rationale: This policy is not applicable as this policy directs how the County will pay for building the necessary road capacity.

2.7 **The project is consistent with General Plan Policy TC-Xd**

LOS for County-maintained roads and state highways within the unincorporated areas of the county shall not be worse than LOS E in the Community Regions or LOS D in the

Rural Centers and Rural Regions except as specified in Table TC-2. The volume to capacity ratio of the roadway segments listed in Table TC-2 shall not exceed the ratio specified in that table. LOS will be as defined in the latest edition of the Highway Capacity Manual (Transportation Research Board, National Research Council) and calculated using the methodologies contained in that manual. Analysis periods shall be based on the professional judgement of the Department of Transportation (DOT) which shall consider periods including, but not limited to, Weekday Average Daily Traffic (ADT), AM Peak Hour, and PM Peak hour traffic volumes.”

Rationale: This project will not worsen (as defined by General Plan Policy TC-Xe) LOS for any county-maintained road or state highway.

2.8 The project is consistent with General Plan Policy TC-Xe.

For the purposes of this Transportation and Circulation Element, “worsen” is defined as any of the following number of project trips using a road facility at the time of issuance of a use and occupancy permit for the development project:

- A. A 2 percent increase in traffic during the a.m. peak hour, p.m. peak hour, or daily; or
- B. The addition of 100 or more daily trips; or
- C. The addition of 10 or more trips during the a.m. peak hour or the p.m. peak hour.

Rationale: This project will generate fewer than 10 trips in the peak hour, and fewer than 100 daily trips. The thresholds in criteria A, B or C of this policy are not met.

2.9 The project is consistent with General Plan Policy TC-Xf

At the time of approval of a tentative map for a single family residential subdivision of five (5) or more parcels that worsens (defined as a project that triggers Policy TC-Xe [A] or [B] or [C]) traffic on the County road system, the County shall do one of the following: (1) condition the project to construct all road improvements necessary to maintain or attain LOS standards detailed in this Transportation and Circulation Element based on existing traffic plus traffic generated from the development plus forecasted traffic growth at 10-years from project submittal; or (2) ensure the commencement of construction of the necessary road improvements are included in the County’s 10-year CIP.

For all other discretionary projects that worsen (defined as a project that triggers Policy TC-Xe [A] or [B] or [C]) traffic on the County road system, the County shall do one of the following: (1) condition the project to construct all road improvements necessary to maintain or attain LOS standards detailed in this Transportation and Circulation Element;

or (2) ensure the construction of the necessary road improvements are included in the County's 20-year CIP.

Rationale: The project will not worsen traffic on the County road system. Therefore, this policy does not apply.

2.10 The project is consistent with General Plan Policy TC-Xg.

Each development project shall dedicate right-of-way, design and construct or fund any improvements necessary to mitigate the effects of traffic from the project. The County shall require an analysis of impacts of traffic from the development project, including impacts from truck traffic, and require dedication of needed right-of-way and construction of road facilities as a condition of the development. This policy shall remain in effect indefinitely unless amended by voters.

Rationale: This policy is not applicable as this project does not worsen traffic conditions.

2.11 The project is consistent with General Plan Policy TC-Xh

All subdivisions shall be conditioned to pay the traffic impact fees in effect at the time a building permit is issued for any parcel created by the subdivision

Rationale: This project will pay any applicable TIM fees at the time a building permit is issued.

2.12 The project is consistent with General Plan Policy TC-Xi

General Plan TC-Xi directs the County to coordinate and work with other agencies to plan for the widening of U.S. Highway 50.

Rationale: This policy is not applicable to the project as it is directed to the County to coordinate with other agencies.

2.13 The project is consistent with General Plan Policy 5.1.2.1.

General Plan Policy 5.1.2.1 requires a determination of the adequacy of the public services and utility to be impacted by that development.

Rationale: The project was reviewed by DOT and PG&E for adequate public services capacity. There was no response received from the Fire Authority. No issues or concerns were raised regarding the adequacy of public services and utilities which will serve this project. Given telecommunications sites typically include a fire extinguisher in lieu of water and sanitation connections, there would be no changes to emergency utility requirements

resulting from the extension as requested. Therefore, this project is consistent with this policy.

2.14 The project is consistent with General Plan Policy 5.2.1.2.

General Plan Policy 5.2.1.2 requires that adequate quantity and quality of water for all uses, including fire protection, be provided with proposed development.

Rationale: The proposed project is located within a currently existing telecommunications facility. The proposed addition would result in de minimis impacts to water needs for all uses, including fire protection. Therefore, the proposed addition is consistent with this policy.

2.15 The project is consistent with General Plan Policy 6.2.3.2.

General Plan Policy 6.2.3.2, Adequate Access for Emergencies, requires that the applicant demonstrate that adequate access exists, or can be provided to ensure that emergency vehicles can access the site and private vehicles can evacuate the area.

Rationale: As confirmed by DOT, the project was distributed for review to DOT and the El Dorado County Fire Department. No comments were received indicating that existing site access is not adequate. Therefore, the project is consistent with this policy.

2.16 The project is consistent with General Plan Policy 7.4.4.4.

General Plan Policy 7.4.4.4 requires all new non-exempt development projects that would result in impacts to oak resources must adhere to the standards of the Oak Resources Management Plan (ORMP).

Rationale: No oak trees are proposed to be removed as part of the proposed project. If oak trees were to be removed, an Oak Resource Technical Report and applicable oak mitigation in-lieu fees would be required prior to issuance of any grading or building permits.

3.0 ZONING FINDINGS

3.1 The proposed use is consistent with Title 130.23.

The proposed project site is located with the Multi-Family Residential (RM) zoning designation.

Rationale: Table 130.24.020 specifies that establishing and operating communication facilities in a RM zone shall either be allowed with approval of an Administrative or Conditional Use Permit. This project proposes a facility

which would be considered a new tower pursuant to Section 130.40.130 (B.5.e) and is therefore subject to the Zoning Ordinance standards pursuant to Section 130.40.130 (B.6.b). The project site is located within a residential zone and is therefore subject to Planning Commission review. This application fulfills the requirements of Title 130.23.

3.2 The project is consistent with Section 130.40.130(A).

Section 130.40.130A specifies that communication service providers shall employ all reasonable measures to site their antennas on existing structures prior to applying for new towers or poles.

Rationale: The project will result in the construction and operation of an extension onto an existing monopine stealth telecommunication facility. Therefore, the project as proposed is consistent with Section 130.40.130(A).

3.3 The project is consistent with Section 130.40.130(B)(6).

The construction or placement of communication facilities on new towers or monopoles, or an increase in height of existing towers or monopoles may be allowed as set forth below:

- A. In all commercial, industrial, and research and development zones, except where located adjacent to a state highway or designated scenic corridor or within 500 feet of any residential zone, a new tower or monopole may be allowed subject to Zoning Administrator approval of a Minor Use Permit in compliance with Section 130.52.020 (Minor Use Permits) in Article 5 (Planning Permit Processing) of this Title.
- B. In all other zones, or where located adjacent to a state highway or designated scenic corridor or within 500 feet of any residential zone, new towers or monopoles shall be subject to Commission approval of a Conditional Use Permit in compliance with Section 130.52.021 (Conditional Use Permits) in Article 5 (Planning Permit Processing) of this Title.

Rationale: The proposed colocation is located within an MFR zone and is surrounded by similarly zoned and developed residential parcels. The subject parcel is located within the foreground view of a portion of U.S. Highway 50, which is a state designated scenic corridor. Specifically, the site sits within the scenic corridor labeled "2b" within Exhibit L. Review of this application by the Planning Commission for a Conditional Use Permit Revision fulfills the requirement as outlined within 130.40.130(B)(6)(b) above.

3.4 **The project is consistent with Section 130.40.130(C-H).**

Section 130.40.130(C-H) of the Zoning Ordinance requires that all wireless communication facilities meet certain criteria.

- C. Visual simulations of the wireless communications facility, including all support facilities, shall be submitted. A visual simulation can consist of either a physical mock-up of the facility, balloon simulation, computer simulation or other means.

Rationale: Photo-simulations of the facility are provided in Attachment H. These simulations demonstrate the proposed extension and how the facility would use faux pine tree branches to blend with the existing tree canopy. Therefore, the project is consistent with this policy.

- D. Development Standards: All facilities shall be conditioned, where applicable, to meet the following criteria:

1. Screening. All facilities shall be screened with vegetation or landscaping. Where screening with vegetation is not feasible, the facilities shall be disguised to blend with the surrounding area (trees, barns, etc.) The facility shall be painted to blend with the prevalent architecture, natural features or vegetation of the site.

Rationale: The project site includes a currently existing monopine. The existing monopine facility includes required screening of ground equipment and makes use of faux pine tree branches to assist in concealing antennas. The proposed extension would not remove the screening of ground equipment. The extension would make use of the same faux pine tree branch concealment efforts to maintain consistency with the existing concealment efforts. The proposed project would be co-located on an existing approved monopine. Therefore, the project is consistent with this screening development standard.

2. Setbacks. As set forth in each applicable zoning district, except where locating the facility inside those setbacks is the most practical and unobtrusive location possible on the proposed site. Setback waivers shall be approved through the minor use permit process.

Rationale: The proposed project is located on a site with an existing monopine facility, which is consistent with setbacks. The extension would increase the height of the monopine and increase the lease area by 345-square-feet. There would be no encroachment into setbacks. Therefore, the project is consistent with this standard.

3. Maintenance. All improvements associated with the communication facility, including equipment shelters, towers, antenna, fencing, and landscaping shall be properly maintained at all times. Design, color, and textural requirements under the approved conditions shall be maintained to ensure a consistent appearance over time.

Rationale: The project has been conditioned to conduct routine wireless facility maintenance for the ongoing operation and safety of all equipment. Additional immediate visits will occur if the site equipment is not functioning. Conditions shall ensure that the colors and materials of the stealth enclosure and ground equipment enclosure will be maintained at all times and will be consistent with the features as depicted in the elevations (Exhibit I). Therefore, the project is consistent with this policy.

- E. Radio Frequency (RF) Requirements: The application for a discretionary permit shall contain a report or summary of the estimates of the non-ionizing radiation generated by the facility. The report shall include estimates of the maximum electric and magnetic field strengths in all directions from the facility to the property lines of the facility site.

Rationale: The submitted application includes an RF analysis report that confirms compliance with the applicable FCC Regulations under 47 C.F.R Section 1.1307(b) (3) and 1.1310 (Radio Frequency Radiation Exposure Limits) (Exhibit K). Therefore, the project is consistent with this policy.

- F. Availability: All existing communication facilities shall be available to other carriers as long as structural or technological obstacles do not exist.

Rationale: The project is a co-location proposal. The proponents have confirmed adequate space will be available for future colocations with other cellular service providers. Therefore, the project is consistent with this standard.

- G. Unused Facilities: All obsolete or unused communication facilities shall be removed within six (6) months after the use of that facility has ceased or the facility has been abandoned.

Rationale: The project has been conditioned to comply with this requirement.

- H. Permit Application Requirements: Notification requirements for projects located within 1,000 feet of a school or on residentially zoned lands with a Homeowners Association (HOA).

Rationale: The proposed project is not located within 1,000 feet of a school, but is located on residentially zoned lands. The subject property is not within an

HOA, and no adjacent properties are within an HOA. The project complies with the notification requirements.

4.0 CONDITIONAL USE PERMIT FINDINGS

4.1 The issuance of the permit is consistent with the General Plan.

The proposed use is consistent with the policies and requirements of the General Plan as discussed in the General Plan section of the Staff Report. The proposed use is consistent with all applicable policies as set forth in Finding 2.0 above.

4.2 The proposed use would not be detrimental to the public health, safety, and welfare, or injurious to the neighborhood.

The use will not conflict with the adjacent uses as the telecommunications equipment is sited on a parcel which includes a currently existing monopine facility. The proposed use is not anticipated to create hazards that would be considered detrimental to the public health, safety, and welfare, or injurious to the neighborhood based on the data and conclusions contained in the Staff Report. In the RF Emissions Compliance Report for AT&T Mobility dated November 28, 2018 submitted for this project, the maximum predicted power density level of exposure from all operations of this telecommunication facility is less than 1% of the FCC General Population limits. Therefore, the proposed operation will not expose members of the general public to hazardous levels of RF energy and the risk of exposure to RF emissions is remote.

4.3 The proposed use is specifically permitted by Conditional Use Permit.

The proposed use complies with the requirements of Zoning Ordinance Section 130.40.130.A through H; therefore, the proposed project is a specifically permitted use with a Conditional Use Permit.

CONDITIONS OF APPROVAL

**Conditional Use Permit Revision CUP-R22-0028/Pony Express Trail Cell Tower Extension
Planning Commission/March 23, 2023**

Planning Services

- 1. This Conditional Use Permit Revision is based upon and limited to compliance with the project description, the following project exhibits, and Conditions of Approval set forth below:

- Exhibit ESite Plan
- Exhibit F.....Generator Hazardous Materials Statement and Noise Study
- Exhibit G.....Radio Frequency (RF) Report
- Exhibit H.....Photosimulations

A Conditional Use Permit Revision to allow the construction and operation of a 20-foot-tall extension on an existing 119-foot-tall monopine along with nine (9) antennas, three (3) surge protectors, and 15 Remote Radio Units (RRUs) along with a backup diesel generator and equipment shelter. The telecommunications facility would be housed within the existing 1,500-square-foot lease area as well as within a proposed additional 345-square-foot lease area located adjacent to the currently existing lease area.

The project would include a new Oldcastle CWIC cabinet. The proposed cabinet would include one (1) AT&T power panel and an automatic transfer switch, one (1) service light, and two (2) AT&T GPS antennas. The cabinet would be positioned within the proposed lease area. Cables running between the cabinet and the monopine would be concealed from the elements within a proposed AT&T ice bridge.

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:** All improvements associated with the communication facility, including equipment shelters, antennae, fencing, and the access driveway 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.
5. **Conditions Compliance:** Prior to issuance of any grading or 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.
6. **Obsolete Equipment:** All obsolete or unused communication facilities shall be removed within six (6) 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.
7. **Compliance Responsibility:** The operator (lessee) and property owner (lessor) are responsible for complying with all Conditions of Approval contained in this Conditional Use Permit Revision. Any violations concerning the installation, operation, and/or abandonment of the facility are the responsibility of the owner and the operator.

Overall project site shall also continue to comply with Conditions of Approval associated with the original Special [Conditional] Use Permit S05-0018 and/or subsequent revisions.

8. **Payment of Processing Fees-Planning and Building Services:** The applicant shall make the actual and full payment of Planning and Building Services processing fees for the Conditional Use Permit Revision and building permit prior to issuance of any grading or building permit.
9. **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.

10. **Five Year Review:** Due to the ever-changing technology of wireless communication systems, this Conditional Use Permit Revision shall be reviewed by Planning Services every five (5) years. At each five-year review, the permit holder shall provide Planning Services 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 an RF Report demonstrating compliance with current FCC emission regulations. Planning Services shall review the status report and, based on an assessment of the information provided, current wireless communications 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 the 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 as determined by the Planning and Building Department to cover the cost of processing a five-year review.

11. **Generator Maintenance:** 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.
12. **Archaeological Resources:** In the event of future development, the following language will be incorporated on any grading or building permit plans: In the event that archaeological 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.

13. **Human Remains:** 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 (2) working days from the time the person responsible for the excavation, or in 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, he or she shall contact, by telephone within 24-hours, the Native American Heritage Commission. The Native American Heritage Commission will immediately notify the person it believes to be the most likely descendant of the deceased Native American.

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.