

CONDITIONS OF APPROVAL

Conditional Use Permit CUP18-0007/AT&T Tower, Gold Hill/Coloma Planning Commission/May 23, 2019

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 50-foot by 50-foot, 2,500-square foot enclosed compound (lease area) on Assessor's Parcel Number (APN) 089-010-75. The compound will include a 115-foot stealth mono-broadleaf tower, one walk-in pre-manufactured equipment shelter and one 15-kw DC emergency backup diesel generator.

Exhibit G.....Submitted Plan Set (10 pages)
Exhibit H.....Coverage Map
Exhibit IVisual Simulations
Exhibit JRF Report
Exhibit LProposed 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. **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.
6. **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.
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. Any zoning violations concerning the installation, operation, and/or abandonment of the facility are the responsibility of the owner and the operator.
8. **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.
9. **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.

10. **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.

11. 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 and Building Department.

12. **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 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 from Proposed Mitigated Negative Declaration:

13. **Mitigation Measure #1 (Rare Plant Survey):**

Prior to issuance of grading or building permits, a qualified biologist shall conduct a botanical survey during the blooming period of identified rare plant species having the potential to occur on the project site (approximately May-June). If no special-status plants are observed, a letter report shall be prepared to document the survey.

If special-status plants are identified within areas of proposed soil disturbance, the biologist shall prescribe methods of avoidance during project construction to the greatest extent feasible. If the plants cannot be avoided, the biologist shall prescribe methods of relocating the plants and/or the seedbank to a suitable habitat near the project site.

Pre-construction worker awareness training shall be conducted alerting workers to the presence and protections for special-status plants.

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

Monitoring Responsibility: El Dorado County Planning and Building Department.

14. **Mitigation Measure #2 (Special-Status Bat Species):**

A qualified biologist shall conduct a pre-construction survey within 14 days prior to clearing or grading operations and removal of trees. If no bats are observed, a letter report shall be prepared to document the survey. If construction does not commence within 14 days of the pre-construction survey, or halts for more than 14 days, an additional survey is required prior to starting work.

If special-status bat species are present and roosting on or within 100 feet of the Study Area, then the biologist shall establish an appropriate buffer around the roost site. At minimum, no trees shall be removed until the biologist has determined that the bat is no longer roosting in the tree. Additional mitigation measures for bat species, such as installation of bat boxes or alternate roost structures, would be recommended only if special-status bat species are found to be roosting within the project area.

Pre-construction worker awareness training shall be conducted alerting workers to the presence of and protections for various bat species.

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

Monitoring Responsibility: El Dorado County Planning and Building Department.

15. **Mitigation Measure #3 (Western Pond Turtle):**

A qualified biologist shall conduct a pre-construction survey within 14 days prior to ground disturbing activities, including vegetation clearing. If no western pond turtles are observed, a letter report shall be prepared to document the survey. If construction does not commence within 14 days of the pre-construction survey, or halts for more than 14 days, an additional survey is required prior to starting work.

If western pond turtles are found, a qualified biologist shall conduct an environmental awareness training to all construction personnel including but not limited to identification of the western pond turtle, required practices before the start of construction, general measures to conserve the species as they relate to the project, penalties for non-compliance and boundaries of the project site and permitted disturbance zones. Supporting materials containing training information should be prepared and distributed. Upon completion of training, all construction personnel shall sign a form stating they have attended the training and understand required protection measures. Evidence of this instruction shall be kept on-site during project construction activities.

If western pond turtles are found, a qualified biologist shall also be present on site when increased traffic is occurring in the southern portion of the site, especially in the vicinity of the Granite Creek road crossing, for the purpose of relocating any western pond turtles

found within the construction footprint to a suitable adjacent habitat outside the construction zone.

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

Monitoring Responsibility: El Dorado County Planning and Building Department.

16. **Mitigation Measure #4 (Migratory and Special-Status Bird Survey):**

All vegetation clearing including removal of trees and shrubs shall be completed between September 1 and February 14, if feasible. If vegetation removal and grading activities begin during the nesting season (February 15 to August 31), a qualified biologist shall conduct a pre-construction survey of the project footprint for active nests. Additionally, the surrounding 500 feet shall be surveyed for active raptor nests where accessible. The pre-construction survey shall be conducted within 14 days prior to commencement of ground-disturbing activities. If the pre-construction survey shows that there is no evidence of active nests, a letter report shall be prepared to document the survey. If construction does not commence within 14 days of the pre-construction survey, or halts for more than 14 days, an additional survey is required prior to starting work.

If nests are found and considered to be active, the project biologist shall establish buffer zones to prohibit construction activities and minimize nest disturbance until the young have successfully fledged. Buffer width will depend on the species in question, surrounding existing disturbances, and specific site characteristics, but may range from 20 feet for some songbirds to up to 500 feet for raptors. If active nests are found within any trees slated for removal, then an appropriate buffer shall be established around the trees and the trees shall not be removed until a biologist determines that the nestlings have successfully fledged or until the nest is no longer active. In addition, a pre-construction worker awareness training shall be conducted alerting workers to the presence of and protections for the active avian nests. If construction activities are proposed to begin during the non-breeding season (September 1 through January 31), a survey is not required and no further studies are necessary.

Monitoring Requirement: This mitigation measure shall be noted on grading and construction plans. The Planning and Building 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. Prior to issuance of building permits, the applicant shall submit an executed Out of Agency Service Agreement ("Agreement"), approved by the El Dorado Local Agency Formation Commission (El Dorado LAFCO), for fire protection services to be provided to the project parcel by the El Dorado County Fire Protection District. The Agreement shall also require the property owner to obtain approval of an annexation of the project parcel into the El Dorado County Fire Protection District from El Dorado LAFCO within five years of project approval.