

# CONDITIONS OF APPROVAL

## **Special Use Permit S15-0014/T-Mobile Keetak Street Planning Commission/February 9, 2017**

### **Planning Services**

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:

Exhibit F.....Keetak Street Plan Set

Exhibit H.....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.

The project description is as follows:

Conditional Use Permit allows the construction and operation of a new multi-user wireless communication facility to support cellular transmission within the existing 1.99 acre parcel identified by Assessor's Parcel Number 035-262-12, and consisting of the following:

- a. One 100-foot tall monopine tower (105-foot with extended foliage), three sectors with two antennas per sector for a total of six antennas, with six tower mounted amplifiers mounted centerline at the height of 96 feet;
- b. One 20 by 10 foot equipment shelter to house equipment cabinets, two air conditioning units, associated equipment, and one motion sensor light above door;
- c. Chain link fencing with green privacy slats surrounding the west side of the equipment shelter to screen air conditioning units;
- d. One 25- by 50-foot (1,250 square foot) equipment compound; and
- e. Pine tree planting for visual screening.

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. In compliance with County Code Section 130.54.060, implementation of the project must 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. 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. For co-location purposes, no further review by the Planning Commission shall be required provided that the project is not determined to constitute a substantial change of the physical dimensions of the tower or base station as identified by the criteria set forth in section 6409 of the Spectrum Act (codified at 47 U.S.C. 1455).
5. All equipment shelters, cabinets or other auxiliary structures shall be painted in a matching color to comply with the screening requirements of Section 130.40.130.D.1 of the County Code. The pole shall have simulated bark, and the radio frequency antennas shall be painted with non-reflective paint and maintained to match the color of the branch leaves. All antennas shall be covered with antenna socks that shall match the color and texture of the branch leaves. 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 past the branch tips. Planning Services shall verify the painting of all structures prior to final inspection and approval of the facility.
6. 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. 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. 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 condition.

9. Due to the ever-changing technology of wireless communication systems, this Conditional 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 on-going compliance of the approved use of the subject site and related equipment to include dated photos of the tower and 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 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 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.

10. 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.
11. 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 archeological resource", contingency funding, and a time allotment sufficient to allow recovering an archeological 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 archeological 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.

12. 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.

13. 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 Development Services.

14. A final landscape plan shall be submitted at time of building permit substantially consistent with Exhibit F and comply with Zoning Ordinance Section 130.33, General

Plan Policy 7.3.5.1, and the County Water Efficiency Landscape Ordinance, if applicable. The applicant shall install and maintain the landscaping in accordance with the approved final landscaping plan in perpetuity.

15. In accordance with California Fish and Game Code Section 711.4, the project is subject to a fee after approval, but prior to the County filing the Notice of Determination (NOD) on the project. The current fee plus a \$50.00 filing fee, is to be submitted to Planning Services and must be made payable to El Dorado County. The payment is forwarded to the State Department of Fish and Wildlife and is used to help defray the cost of managing and protecting the State's fish and wildlife resources. The NOD must be filed within five working days from the project approval. The filing of the NOD begins the statute of limitations time period for when litigation may be filed against the County's action on the project. If the NOD is filed the statute of limitations ends 30 days from its filing. If no NOD is filed, it ends 180 days from the date of final action by the County.
16. 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.

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

17. **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 AQMD prior to the start of project construction if a grading permit is required from Building Services (Rules 223 and 223.1)
18. **Paving:** Project construction may involve road development and shall adhere to AQMD Rule 224 Cutback and Emulsified Asphalt Paving Materials (Rule 224). This statement shall be incorporated as a note on the building and/or grading/improvement plans, if applicable.
19. **Painting/Coating:** The project construction may involve the application of architectural coating, which shall adhere to AQMD Rule 215 Architectural Coatings. This statement shall be incorporated as a note on the building and/or grading/improvement plans, if applicable.

20. **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. This statement shall be incorporated as a note on the building and/or grading/improvement plans, if applicable.
21. **New Point Source:** Prior to construction/installation of any new point source emissions units (i.e., emergency standby engine greater than 50hp, 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). This statement shall be incorporated as a note on the building and/or grading/improvement plans, if applicable.
22. **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, daily hours of operations of each piece of equipment. This statement shall be incorporated as a note on the building and/or grading/improvement plans, if applicable.

### **Environmental Management**

23. Under the CUPA program, if the operation will involve the storage of reportable quantities of hazardous materials (55 gallons, 500 lbs, 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.

### **Tahoe Regional Planning Agency**

24. Prior to issuance of a building permit or commencement of any use authorized by this permit, the applicant shall provide a written confirmation from the Tahoe Regional Planning Agency (TRPA) confirming that all TRPA requirements have been satisfied.