

CONDITIONS OF APPROVAL

Conditional Use Permit S18-0007/AT&T Short Place Planning Commission/August 23, 2018

Conditions of Approval

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 A.....	Radio Frequency Report
Exhibit B.....	Project Support Statement
Exhibit C.....	Location Map
Exhibit D.....	Assessor's Parcel Map
Exhibit E.....	General Plan Map
Exhibit F.....	Zoning Map
Exhibit G.....	Aerial Map
Exhibit H.....	Coverage Map
Exhibit I.....	Photo Simulations
Exhibit J.....	Site Plan and Antennas
Exhibit K.....	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.

Approval of the Conditional Use Permit allows the construction of an unmanned wireless telecommunication facility consisting of a 40-foot by 45-foot, 1800-square foot enclosed compound (lease area) on Assessor's Parcel Number (APN) 009-610-22. The compound will include a 160-foot monopine tower, one pre-manufactured equipment, and one 15-kw DC standby diesel generator.

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, 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.
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. **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.

12. **Requirement for 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 and Building 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. The Planning Commission 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 Planning and Building Department Director to cover the cost of processing a five-year review on a time and materials basis.

13. 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. **Vegetative Fire Clearances:** Prior to June 1st each year, there shall be vegetation clearance around all EVA's (Emergency Vehicle Access), buildings, up to the property line as stated in Public Resources Code Section 4291, Title 19 as referenced in the California Fire Code.

The following three Conditions of Approval are Mitigation Measures from the Initial Study:

15. **Mitigation Measure #1 (Air Quality):**

The project shall meet all requirements of EDCAQMD Rule 223 and Rule 223-1 as to control fugitive dust emission for all road and other construction activities during project development.

General Requirements:

A. Applicable Best Management Practices included in Table 1 through 4 of this Rule 223 or similar effective measures shall be utilized to comply with fugitive dust standards of this rule from each fugitive dust source type within the active operation.

B. Vehicle Speed Limitations and Posting of Speed Limit Signs 1. An owner/operator shall limit the speed of vehicles traveling within construction sites if necessary to prevent visible dust emissions in excess of the standards in EDCAQMD Rule 223, Section 223-1.4 A.

C. When sustained wind speeds result in visible dust emissions in excess of the standards in EDCAQMD Rule 223, Section 223- 1.4 A, despite the application of dust mitigation measures, grading and earthmoving operations except water trucks shall be suspended.

Follow the dust control measures listed below:

A. Fugitive Dust Control Plan

1. An owner/operator shall submit a Fugitive Dust Control Plan to the Air Pollution Control Officer prior to the start of any construction activity for which a grading permit was issued by El Dorado County or an incorporated city within El Dorado County. An updated Fugitive Dust Control Plan must be submitted if the project is significantly modified, a new grading permit is issued, the owner/operator changes, or at the request of the Air Pollution Control Officer.

Construction activities shall not commence until the Air Pollution Control Officer has approved or conditionally approved the Fugitive Dust Control Plan. An owner/operator shall provide written notification to the Air Pollution Control Officer at least 10 days prior to the initial commencement of earthmoving activities via fax or mail. The requirement to submit a Fugitive Dust Control Plan shall apply to all such activities conducted for residential and non-residential (e.g., commercial, industrial, or institutional) purposes or conducted by any governmental entity.

2. An owner/operator may submit one Fugitive Dust Plan covering multiple construction stages within same project, provided the plan includes description of

activities and control measures for all stages of the project. The Fugitive Dust Control Plan shall specify the expected start and final completion date of each project.

3. The Fugitive Dust Control Plan shall describe all fugitive dust control measures to be implemented before, during and after any dust generating activity.

4. A Fugitive Dust Control Plan shall contain all the information described in Section 223-1.5.B. The Air Pollution Control Officer shall approve, disapprove or conditionally approve the Fugitive Dust Control Plan within 30 days of plan submittal.

5. An owner/operator shall retain a copy of an approved Fugitive Dust Control Plan at the project site. The approved Fugitive Dust Control Plan shall remain valid until the termination of all dust generating activities. Failure to comply with the provisions of an approved Fugitive Dust Control Plan is deemed to be a violation of this rule. Regardless of whether an approved Fugitive Dust Control Plan is in place or not, or even when the owner/operator responsible for the plan is complying with an approved Fugitive Dust Control Plan, the owner/operator shall comply with all requirements of Rules 223 and 223-1 at all times.

A Fugitive Dust Control Plan shall contain all of the following information:

1. Name(s), address(es), and phone number(s) of person(s) and owner(s)/operator(s) responsible for the preparation, submittal, and implementation of the Fugitive Dust Control Plan and responsible for the dust generating operation and the application of dust control measures.

2. A plot plan which shows the type and location of each project.

3. The total area of land surface to be disturbed, and total area in acres of the entire project site.

4. The expected start and completion dates of dust generating and soil disturbance activities to be performed on the site.

5. The actual and potential sources of fugitive dust emissions on the site and the location of bulk material handling and storage areas, paved and unpaved roads; entrances and exits where carryout/trackout may occur; and traffic areas.

6. Best Management Practice (Rule 223-1, Table 1 through 4) or other effective measures for: a. Construction b. Bulk Material Handling c. Carryout and Trackout Management d. Blasting Activities

7. Large Operations must include Dust Control Measures (Rule 223-1, Table 5 and 6).

8. If chemical dust suppressants are to be applied, the following information must be included: product specifications; manufacturer's usage instructions (method, frequency, and intensity of application); type, number, and capacity of application equipment; and information on environmental impacts and approvals or certifications related to appropriate and safe use for ground application.

9. Specific surface treatment(s) and/or control measures utilized to control material carryout, trackout, and sedimentation where unpaved and/or access points join paved roads.

B. Trackout Management

1. An owner/operator shall prevent or cleanup carryout and trackout as specified in Section 223-1.6.A. The use of blower devices, or dry rotary brushes or brooms, for removal of carryout and trackout on public roads is expressly prohibited. The removal of carryout and trackout from paved public roads does not exempt an owner/operator from obtaining state or local agency permits which may be required for the cleanup of mud and dirt on paved public roads.

Owners/operators shall prevent carryout and trackout, or immediately remove carryout and trackout when it extends 50 feet or more from the nearest unpaved surface exit point of a site and at the minimum remove all other visible carryout and trackout at the end of each workday.

Cleanup of carryout and trackout shall be accomplished by:

- a. Manually sweeping and picking-up; or
- b. Operating a rotary brush or broom accompanied or preceded by sufficient wetting; or
- c. Operating a PM10-efficient street sweeper.
- d. Flushing with water, if curbs or gutters are not present, and where the use of water will not result in a source of trackout material or result in adverse impacts on storm water drainage systems or violate any National Pollutant Discharge Elimination System permit program.

2. An owner/operator of any site with 150 or more vehicle trips per day, or 20 or more vehicle trips per day by vehicles with three or more axles shall in addition to the requirements in Section 223-1.6.A, take the following preventative actions for carryout and trackout:

- a. Installing and maintaining a trackout control device (grizzlies, gravel pads or paved surfaces) designed and maintained to control trackout at all access points to paved public roads; or

b. Utilizing a carryout and trackout prevention procedure which has been demonstrated to the satisfaction of the Air Pollution Control Officer as achieving an equivalent or greater level of control.

3. Control for disturbed surface area and storage piles shall comply with all applicable requirements of this Rule.

C. Air Monitoring and Other Sampling and Monitoring:

Ambient air monitoring shall be conducted at the request of the Air Pollution Control Officer. Sampling to determine compliance with the particulate matter concentration limit of EBCAQMD Rule 223, Section 223.4B is required when deemed necessary by the Air Pollution Control Officer, and shall be completed according to the requirements in Rule 223, Section 223.5.

D. Recordkeeping:

Records shall be kept according to the requirements in EDCAQMD Rules 223 and 223-1.

Plan Requirements: This note shall be placed on all building and site development plans.

Timing: This measure shall be implemented during all site development activities.

Monitoring: Monitoring shall occur by the El Dorado County Air Quality Management District.

16. **Mitigation Measure #2: (Biological Resources)**

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.

Plan Requirements: This note shall be placed on all building and site development plans.

Timing: This measure shall be implemented during all site development activities.

Monitoring: Monitoring shall occur by Planning Services upon issuance of any building or grading permits.

17. **Mitigation Measure #3 (Cultural Resources)**

Pursuant to California Public Resources Code section 21083.2 and California Code of Regulations section 15064.5(e), should development activities reveal the presence of cultural resources (i.e., artifact concentrations, including arrowheads and other stone tools or chipping debris, cans, glass, etc.; structural remains; human skeletal remains), work within 25 feet of the find shall cease immediately until a qualified professional archaeologist can be consulted to evaluate the resource and implement appropriate mitigation procedures. Should human skeletal remains be encountered, State law requires immediate notification of the County Coroner ((530) 538-6759). Should the County Coroner determine that such remains are in an archaeological context, the Native American Heritage Commission in Sacramento shall be notified immediately, pursuant to State law, to arrange for Native American participation in determining the disposition of such remains.

Plan Requirements: This note shall be placed on all building and site development plans.

Timing: This measure shall be implemented during all site development activities.

Monitoring: The applicant/developer shall notify Planning Services if any cultural resources are uncovered. Should cultural resources be discovered, Planning Services shall coordinate with the developer and appropriate authorities to avoid damage to cultural resources and determine appropriate action.

Air Quality Management District

18. **Asbestos Dust:** Current county records indicate this subject property is located within the Asbestos Review Area. An Asbestos Dust Mitigation Plan (ADMP) Application with appropriate fees shall be submitted to and approved by the AQMD prior to project construction if the project moves more than 20 cubic yards of soil. (Rules 223 and 223.2).

The project shall adhere to the regulations and mitigation measures for fugitive dust emissions asbestos hazard mitigation during the construction process. Mitigation measures for the control of fugitive dust shall comply with the requirements of Rule 223 and 223.2.

19. **Paving:** Project construction will involve road development and shall adhere to AQMD Cutback and Emulsified Asphalt Paving Materials (Rule 224).
20. **Painting/Coating:** The project construction may involve the application of architectural coating, which shall adhere to AQMD Rule 215 Architectural Coatings.
21. **Open Burning:** Burning of wastes that result from "Land Development Clearing" must be permitted through the AQMD. Only dry vegetative waste materials originating from the property may be disposed of using an open outdoor fire (Rule 300 Open Burning).
22. **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: 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](tel:1-866-634-3735). ARB is responsible for enforcement of this regulation.
23. **New Point Source:** Prior to construction/installation of any new point source emissions units (e.g., emergency standby engine, etc.), Authority to Construct applications shall be submitted to the AQMD. Submittal of applications shall include facility diagram(s), equipment specifications and emission factors (Rule 501 and 523).
24. **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.