

FINDINGS

Conditional Use Permit Revision CUP-R21-0049/AT&T Verizon Colocation Cell Tower Planning Commission/May 26, 2022

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 CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) FINDINGS

- 1.1 The proposed Conditional Use Permit Revision, CUP-R21-0049, has been found to be Categorically Exempt pursuant to Section 15303 (New Construction or Conversion of Small Structures) and Section 15304 (Minor Alterations to Land) of the CEQA Guidelines, applying to projects which consist of construction and location of limited numbers of new, small facilities or structures, including accessory structures appurtenant to a primary structure. The project proposes minor modifications to an existing wireless cell tower facility alongside accessory structures appurtenant to the small cell tower facility. The proposed project is consistent with Sections 15303 and 15304 of the CEQA Guidelines and is therefore eligible for the categorical exemption, requiring no further CEQA review.
- 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 project is consistent with General Plan Policy 2.2.1.2.

General Plan Policy 2.2.1.2 establishes an appropriate range of land use types and densities within the County. The Low Density Residential (LDR) land use designation establishes areas for single-family residential development in a rural setting. In Rural Regions, this designation shall provide a transition from Community Regions and Rural Centers into the agricultural, timber, and more rural areas of the County and shall be applied to those areas where infrastructure such as arterial roadways, public water, and public sewer are generally not available. This land use designation is also appropriate within Community Regions and Rural Centers where higher density serving infrastructure is not yet available.

Rationale: The proposed project to modify an existing cell tower is a permitted use within the Low Density Residential land use designation (Exhibit D). The new AT&T antennas would be located above the existing Verizon antennas which would increase the tower from 75-ft to 85-ft. The project includes a new access driveway and new fenced lease area with associated equipment. The addition of another carrier would provide the community with increased cellular access. The project is consistent with this policy.

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 General Plan Findings section which documents 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 would allow colocation on an existing tower with the addition of six (6) new AT&T antennas located above the existing six (6) Verizon antennas which would increase the tower height from 75-ft to 85-ft. The project includes a new access driveway and new fenced lease area with associated ground equipment. The addition of another wireless carrier on an existing cell tower would not be an incompatible use. Furthermore, the County encourages colocation wherever feasible. The project is consistent with this policy.

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 congestions during weekday, peak-hour periods on any highway, road, interchange or intersection in the unincorporated areas of the county.

Rationale: This policy is not applicable as the Project is not a residential development project and will not create any new units or parcels of land.

- (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 policy 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 policy 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: This is not applicable as the Project is not a residential development project and will not create new units or parcels of land.

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 County's 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 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, and 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 forecasting 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 create any new parcels nor worsen traffic on the County road system.

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 the 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 is not applicable as the Project is not proposing the subdivision of land.

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. No issues or concerns were raised regarding the adequacy of public services and utilities which will serve this project. 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 project was distributed to the Diamond Springs/El Dorado Fire District. Although the Fire District did not provide formal comments,

standard Conditions of Approval would be included to ensure adequate quantity and quality of water for all uses, including fire protection, which would be reviewed at time of building permit submittal. The project 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: Access to the existing tower is currently provided from an existing 12-ft gravel and paved access road located from the main driveway from Green Valley Road. The project includes a new 15-ft gravel and paved access road that would lead to the new AT&T lease area. DOT and the Diamond Springs/El Dorado Fire District reviewed the application and did not require additional improvements to any of the existing off-site roads. The improvement plans would be reviewed by the County Building Services, DOT, and the Diamond Springs/El Dorado Fire District again prior to issuance of a building permit to ensure compliance with County and Fire Codes. Therefore as conditioned, the project is consistent with this policy. (Exhibit K).

2.16 The project is consistent with General Plan Policy 6.5.1.2.

General Plan Policy 6.5.1.2 requires that when noise-sensitive land uses are proposed in areas exposed to existing or projected exterior noise levels exceeding the levels specified in Table 6-1 or the performance standards of Table 6-2, an acoustical analysis shall be required.

Rationale: The proposed project includes a 30kW diesel emergency backup generator to be used only in instances of rolling power shut-offs, and during short intermittently scheduled operational tests. The backup generator could also be used during natural weather events such as power outage due to wildfire as well as fallen trees on power lines. The generator would be located within a level 2 acoustic enclosure therefore noise is expected to be below the performance standards in Table 6-1 & Table 6-2. The project is consistent with this policy.

2.17 The project is consistent with General Plan Policy 6.5.1.7.

General Plan Policy 6.5.1.7 requires that noise created by new proposed non-transportation noise sources shall be mitigated so as not to exceed the noise level standards of Table 6-2 for noise-sensitive uses.

Rationale: The proposed project includes a 30kW diesel emergency backup generator to be used in instances of rolling power shut-offs, and during short intermittently scheduled operational tests. The generator would be located within a level 2 acoustic enclosure and therefore noise is expected to be below the performance standards shown in Table 6-1 and Table 6-2. The project is consistent with this policy.

2.18 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. The project is consistent with this policy.

2.19 The project is consistent with General Plan Policy 8.1.4.1.

General Plan Policy 8.1.4.1 requires consideration of agricultural use of land prior to approval for development entitlements.

Rationale: The subject site is adjacent to agriculturally zoned land at the north/east boundary. The proposed modification would not impact any agricultural use. As required in Policy 8.1.4.1, the project was reviewed by the County Agricultural Commission on December 8, 2021. Their memo with recommendation of approval is included in this Staff Report. (Exhibit P).

3.0 ZONING FINDINGS

3.1 The project is consistent with Title 130 of the County Zoning Ordinance.

The parcel is zoned Residential Estate, Five-acre (RE-5). The project has been analyzed in accordance with Zoning Ordinance Section 130.24.020 (Residential Zone Use Matrix) for allowable uses and 130.24.030 (Residential Zone Development Standards) for minimum lot size, widths and building setbacks.

Rationale: The proposed project is consistent with the RE-5 (Exhibit E) zoning designation as communication facilities are allowed within the RE zone with the approval of a Conditional Use Permit. The project has been analyzed in accordance with Zoning Ordinance Section 130.24.030 (Residential Zone Development Standards) for height and building setbacks. Setbacks within the RE zoning designation are 30-ft for the front setback, 30-ft for the sides, and 30-ft of the rear. The maximum height is

45-ft. The existing tower is more than 100-ft from all property lines. The height would increase from 75-ft to 85-ft and the tower height is allowed with a Conditional Use Permit. The project is consistent with this section.

3.2 The project is consistent with Chapter 130.34: Outdoor Lighting.

Chapter 130.34 of the Zoning Ordinance establishes outdoor lighting requirements for developments with additional standards found in the Community Design Standards.

Rationale: No new outdoor lighting is proposed. The project is consistent with this section.

3.3 The project is consistent with Section 130.40.130: Communication Facilities.

Section 130.40.130 requires that new Communication Facilities within residential zones shall be subject to Planning Commission approval of a Conditional Use Permit.

Rationale: The proposed project is not for a new communication facility but a Conditional Use Permit Revision to allow a 10-ft increase in tower height for the purposes of colocation. The original Special Use Permit, S15-0007, was approved by the Planning Commission on November 12, 2015 (Exhibit I). Therefore, staff determined the current revision would also require review and approval by the Planning Commission. The project is consistent with this section.

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

Section 130.40.130.A minimizes the number of communication facilities by encouraging the joint use of towers and service providers to employ all reasonable measures to site their antenna equipment on existing structures, to co-locate where feasible, and development of new sites that are multi-carrier.

Rationale: The proposed project is not a new cell tower but a Conditional Use Permit Revision to allow a 10-ft increase in tower height for AT&T colocation on the existing Verizon tower. The County encourages colocation wherever feasible. The project is consistent with this section.

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

Section 130.40.130(B)6 requires that proposed towers or monopoles not located within commercial, industrial, or research and development 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 Planning Commission approval of a Conditional Use Permit.

Rationale: The proposed project is not a new cell tower but a Conditional Use Permit Revision to an existing tower approved by the Planning Commission in

November 2015. The proposed modifications to allow a 10-ft increase in tower height for colocation would be permitted through review and approval by the Planning Commission. The project is consistent with this section.

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

Section 130.40.130(C-H) of the Zoning Ordinance requires that in all wireless communication facilities meet certain criteria. Below is an analysis of these standards:

- 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 with this Staff Report. These photos demonstrate how the added height from 75-ft to 85-ft to the tower would continue to blend with the existing surroundings as there is mature oak trees and vegetation, fencing, and the wireless facility is setback more than 100-ft from all property lines, all of which would help buffer the visual increase in height. (Exhibit G).

- D. Development Standards: The following provisions shall apply in all zone districts. 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 has been designed to be consistent with the existing design and style of the existing tower. Associated ground equipment within the new lease area would be buffered from view by new 6-ft fencing designed to match the existing fencing, and presence of mature vegetation and oak trees around the lease areas.

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 site is located within the RE-5 zone, which identifies 30-ft setbacks for front yards, 30-ft setbacks for side yards, and 30-ft for rear yards. The

project lease area is located in the upper north/east portion of the 16.26-acre parcel and meets (exceeds) all required setbacks for the RE zone.

3. Maintenance. All improvements associated with the communication facility, including equipment shelters, towers, antenna, fencing, and landscaping shall be properly maintained at all times. Colors of towers and other improvements shall be maintained to ensure the appearance remains consistent with approved conditions relating to color.

Rationale: Conditions of Approval are included to ensure that the colors and materials of the equipment building, tower, and ground support equipment will be maintained at all times and will be consistent with the features depicted in the visual simulations and elevations (Exhibits F, G, H).

- 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: A Radio Frequency (RF) Report was conducted by Waterford Consultants, LLC on August 7, 2019 (Exhibit H) and confirms compliance with the applicable Federal Communications Commission's (FCC) Regulations under 47 C.F.R Section 1.1307(b) (3) and 1.1310 (Radio Frequency Radiation Exposure Limits).

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

Rationale: The existing wireless cell tower site currently hosts one other cell service provider, Verizon. Any separate future colocation would require a revision to this Conditional Use Permit and/or building permit, subject to review by the County.

- G. Unused Facilities. 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 the Planning and Building Department at the time of abandonment. All site disturbance related to the facility shall be restored to its pre-project condition.

Rationale: The project has been conditioned to comply with this requirement in Condition of Approval #5.

- H. Permit Application Requirements. In order to protect the visual character of established neighborhoods and to protect school children from safety hazards that

may result from a potentially attractive nuisance, in addition to the noticing requirements of Article 5, the following notification shall occur:

1. **School District Notification.** If the proposed wireless facility is located within 1,000 feet of a school, the appropriate school district shall be notified during the initial consultation.

Rationale: The tower is approximately 2,000 feet west of Indian Creek Elementary School. This distance exceeds the notification requirement of 1,000. Therefore, this requirement is not applicable.

2. **Homeowners Association Notification.** For facilities proposed to be located on residentially-zoned land, the applicant shall identify any homeowners association which might govern the property and homeowners associations that are adjacent to the property. Any that are identified shall be notified during the initial consultation.

Rationale: The proposed wireless facility is not located on or adjacent to a property within an HOA. Therefore, this requirement is not applicable.

4.0 CONDITIONAL USE PERMIT FINDINGS

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

The proposed telecommunications facility use is consistent with the policies and requirements in 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 Findings 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 project is designed to support critical cellular communications and 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. The back-up generator would create noise on a temporary basis during rolling power outages or intermittent maintenance. The back-up generator will be housed within a level 2 acoustic enclosure. A Radio Frequency (RF) Report was conducted by Waterford Consultants, LLC on August 7, 2019 which stated that radio frequency exposure levels are below the FCC's most stringent General Population Maximum Permissible Exposure Limits (MPE). The project is consistent with this Finding.

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

As discussed in Section 3.1 above, the proposed use is specifically permitted in accordance with Zoning Ordinance Table 130.24.020 subject to approval of a Conditional Use Permit.