



## Legislation Details (With Text)

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**Title:** HEARING - To consider a request submitted by Steve and Brandi Peerman appealing the Planning Commission's January 11, 2018 approval of Conditional Use Permit S17-0007/AT&T CAF2 for the Site 3-Tiger Lilly Tower on property identified by Assessor's Parcel Number 046-490-22, consisting of 10.83 acres, in the Diamond Springs area; and staff recommending the Board take the following actions:  
 1) Adopt the Mitigated Negative Declaration based on the Initial Study prepared by staff; and  
 2) Deny the appeal, thereby upholding the Planning Commission's January 11, 2018, approval of Site 3-Tiger Lilly of the Conditional Use Permit S17-0007 based on the Findings and subject to the Conditions of Approval. (Supervisorial District 3) (Est. Time: 30 Min.)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. A - Appeal Form, 2. B - Coverage Analysis (Site 3-Exhibit H), 3. C - Alternative Site Analysis, 4. D - Proposed Mitigated Negative Declaration and Initial Study (Site 3-Exhibit J), 5. E - Findings, 6. F - Conditions of Approval, 7. G - Minute Order-Planning Commission 01-11-18, 8. H - Proof of Publication-Mountain Democrat, 9. Public Comment Rcvd 2-13-18 BOS 2-13-18, 10. Public Comment Rcvd 2-12-18 BOS 2-13-18, 11. Public Comment Rcvd 2-9-18 BOS 2-13-18, 12. Public Comment Rcvd 2-7-18 BOS 2-13-18, 13. Public Comment Rcvd 2-6-18 BOS 2-13-18, 14. Public Comment Rcvd 02-06-18, 15. Public Comment Rcvd 01-31-18, 16. Public Comment Rcvd 01-29-18

Date	Ver.	Action By	Action	Result
2/13/2018	1	Board of Supervisors	Approved	Pass

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### DISCUSSION / BACKGROUND

Hearing to consider a request submitted by Steve and Brandi Peerman appealing the Planning Commission's January 11, 2018 approval of Conditional Use Permit S17-0007/AT&T CAF2 for the Site 3-Tiger Lilly Tower. The property, identified by Assessor's Parcel Number 046-490-22, consisting of 10.83 acres, is located on the south side of Victory Mine Road, approximately 1.5 miles south of the intersection with Pleasant Valley Road, in the Diamond Springs area, Supervisorial District 3. (County Planner: Evan Mattes) (Mitigated Negative Declaration prepared)

The project, Conditional Use Permit S17-0007/AT&T CAF2, consists of a group of five separate

monopine towers under one Conditional Use Permit number and was managed in a manner that allowed for individual towers to be removed from the bundle and be processed separately as needed. The Planning Commission held a public hearing on January 11, 2018 (Legistar File 17-1377), and conditionally approved Site 3-Tiger Lilly in a separate motion from the other four telecommunication towers (Sites 1, 2, 4, and 5).

Site 3-Tiger Lilly proposes the construction and operation of a new 160-foot monopine tower, with one 35kw standby propane generator, one equipment shelter and one 500-gallon propane tank located upon a 1,050 square foot fenced leased area in the Diamond Springs area. The project parcel is zoned Rural Lands Ten-Acre (RL-10) with a General Plan land use designation of Rural Residential (RR). Communication facilities, including telecommunication towers, are allowed within rural and residential zoning designations, subject to a Conditional Use Permit. The Planning Commission approved the project subject to Findings, Conditions of Approval, and mitigation measures from the adopted Mitigated Negative Declaration.

## APPEAL

Pursuant to County Zoning Ordinance Section 130.40.130, the appellants, Steve and Brandi Peerman, filed an appeal (and \$239 appeal fee) within 10 working days from the decision by the Planning Commission. The Zoning Ordinance provides that the appeal of a Planning Commission decision be decided at a public hearing with the Board of Supervisors. The appeal has been scheduled to be heard by the Board of Supervisors within 30 calendar days of the Planning Commission's decision.

The appeal (Attachment A) claims that the project would be commercial in nature and incompatible with residential uses. The following is a summary of the concerns of the appeal with County staff responses in italics.

1) The project did not adequately attempt to collocate on existing towers, based upon existing cellular coverage in the immediate vicinity.

*County Staff Response: The project applicant submitted a coverage analysis (Attachment B) and an alternative site analysis (Attachment C) that demonstrates deficits in cellular coverage as well as any potential collocation opportunities. The current site was chosen for its ability to provide adequate broadband and cellular coverage to meet the required goals under the Connect America Fund (CAF) program. The closest co-locatable communication facility is located approximately 3.5 miles to the north.*

2) Noncompliance with the setback and notification requirements of Sections 130.40.130.B.6 and 130.40.130.H.1 of the Zoning Ordinance.

*County Staff Response: The construction and operation of the communication towers may be permitted with the approval of a minor use permit by the Zoning Administrator when located in a commercial, industrial and research and development zone, except where located within 500 feet of any residential zone.*

*Site 3-Tiger Lilly is located within the RL-10 zoning designation, which allows for the construction of new communication towers with the approval of a Conditional Use Permit by the Planning Commission. The project was submitted as a Conditional Use Permit and was approved at a public*

hearing by the Planning Commission. Communication towers are required to adhere to the setbacks as delineated by their applicable zone (Section 130.40.130.D.2). Site 3-Tiger Lilly meets the minimum setback of 30 feet as required in the RL-10 zone.

Proposed communication facilities that are located with 1,000 feet of a school are required to notify the proper school district at the time of initial consultation. Gold Oak Elementary is the nearest school to Site 3-Tiger Lilly and is located approximately three miles to the northeast.

### 3) Unreliable Quality of Submitted Collocation Analysis.

*County Staff Response: El Dorado County Planning Services relies upon the analysis of qualified professionals to make project recommendations. An alternative site analysis and coverage map showing the proposed site and the location of existing towers was provided to Planning staff prepared by Epic Wireless Inc. on the behalf of AT&T. The alternative search analysis provided a quarter mile search radius, showing no potential collocations within the search radius.*

Conclusion: It is the Planning Director's recommendation that the appeal should be denied and the decision of the Planning Commission upheld because the project is consistent with the Zoning Ordinance, General Plan, and the California Environmental Quality Act as determined by the Planning Commission.

### **ALTERNATIVES**

The Board may elect to approve the appeal and reverse the action by the Planning Commission for Site 3-Tiger Lilly resulting in the removal of Site 3-Tiger Lilly from Conditional Use Permit S17-0007. This would be a Denial action of Site 3-Tiger Lilly and should be continued to a date certain so that staff can prepare Findings for Denial.

### **CONTACT**

Roger Trout, Director  
Community Development Services, Planning and Building Department

Evan Mattes, Assistant Planner