

**COUNTY OF EL DORADO
PLANNING AND BUILDING DEPARTMENT
ZONING ADMINISTRATOR
STAFF REPORT**



Agenda of: June 17, 2020
Item No.: 5.a.
Staff: Gina Hamilton

CONDITIONAL USE PERMIT

FILE NUMBER: CUP19-0012/AT&T Tower (Slate) El Dorado

APPLICANT/AGENT: AT&T Mobility c/o Carl Jones, Epic Wireless Group, LLC

PROPERTY OWNER: Nancy Ehrlich

REQUEST: Conditional Use Permit to allow the construction and operation of a 147-foot high stealth monopine wireless communication facility, enclosed walk-in equipment shelter and emergency backup generator within a 40-foot by 40-foot leased area.

LOCATION: Approximately 300 feet southwest of the intersection of South Street and Church Street in the El Dorado area, Supervisorial District 3. (Exhibits A, B & C)

APN: 331-131-012 (Exhibit D)

ACREAGE: 5.0 acres

GENERAL PLAN: Commercial (C) (Exhibit E)

ZONING: Main Street Commercial - Design Control (CM-DC) (Exhibit F)

ENVIRONMENTAL DOCUMENT: Mitigated Negative Declaration

RECOMMENDATION: Staff recommends the Zoning Administrator take the following actions:

1. Adopt the Mitigated Negative Declaration based on the Initial Study prepared by staff;
2. Adopt the Mitigation Monitoring Reporting Program in accordance with California Environmental Quality Act (CEQA) Guidelines Section 15074(d), incorporated as Conditions of Approval; and
3. Approve Conditional Use Permit CUP19-0012 based on the Findings and subject to the Conditions of Approval as presented.

EXECUTIVE SUMMARY

Approval of this Conditional Use Permit would allow for the construction and operation of an unmanned wireless communication facility consisting of a 147-foot high stealth monopine tower, enclosed walk-in equipment shelter and emergency backup power generator within a 40-foot by 40-foot leased area to be constructed at 5621 South Street (APN 331-131-12) in the El Dorado area. The height of the proposed tower is needed to create a direct line of sight to provide broadband internet and wireless network coverage in the El Dorado area of the County. Section 130.40.130 of the Zoning Ordinance allows wireless facilities within the Main Street Commercial zone, subject to the approval of a Conditional Use Permit by the Zoning Administrator. Staff has determined that the proposed project is consistent with applicable El Dorado County General Plan policies and Zoning Ordinance requirements, as discussed in the Findings.

SETTING

The project site is located approximately 300 feet southwest of the intersection of South Street and Church Street in the El Dorado area. The project lease area is located in the western portion of a 5.0 acre parcel, approximately 30 feet from the east property line and accessed from South Street via a new gravel driveway. Topography within the project parcel is flat to slightly depressional along South Street. The remainder of the project parcel is located on a gentle hillside which slopes to the north. The project site consists of grazed pasture, grassland, willow thickets, and paved roadway. The tower location's elevation is approximately 1,605 feet above sea level, with slopes ranging from 0 percent to 10 percent. No oak trees are proposed to be impacted by the project.

The antenna and tower will be concealed by faux monopine branches with needle-style antenna socks. Supporting ground equipment within the lease area, including a walk-in equipment shelter and emergency backup generator, would be concealed from view by a combination of vegetation, land uses associated with the adjacent parcel, and commercial uses along Pleasant Valley Road. To further ensure screening of supporting ground equipment, the project will be conditioned to require earth-tone slats be placed within the chain link fencing surrounding the lease area.

The nearest off-site residential dwelling is approximately 100 feet east of the proposed lease area on the adjacent parcel, which is owned by the same landowner as the project parcel (Exhibit C). While not in the immediate vicinity of the project, other residences are located approximately 300 feet to the south and approximately 550 feet northwest of the project lease area (Exhibit C). All of these residences are located in the Main Street Commercial zone. The nearest residentially-zoned areas are located approximately 850 feet to the southeast, 750 feet to the east, and approximately 775 feet northeast of the project lease area (Exhibit F).

PROJECT DESCRIPTION

A request for a Conditional Use Permit to construct an unmanned wireless telecommunication facility on the project site (APN 331-131-12) The proposed facility would provide much needed coverage in the project area, where AT&T Mobility has identified a significant gap. The facility consists of a 147-foot stealth monopine wireless co-locatable communication facility with nine (9) antennae panels, 21 remote radio units, and associated equipment concealed on the tower, and would include a new 8-foot by 8-foot walk-in equipment shelter and emergency backup power generator located within a 40-foot by 40-foot (1,600 square foot) fenced lease area.

The antenna and tower will be concealed by faux monopine branches with needle-style antenna socks. Supporting ground equipment within the lease area, including a walk-in equipment shelter and emergency backup generator, would be concealed from view by a combination of vegetation, land uses associated with the adjacent parcel, and commercial uses along Pleasant Valley Road. To further ensure screening of supporting ground equipment, the project will be conditioned to require earth-tone slats be placed within the chain link fencing surrounding the lease area.

The project lease area is located in the western portion of a 5.0 acre parcel, approximately 30 feet from the east property line and accessed from South Street via a new gravel access road. A proposed 15-foot wide AT&T utility easement consisting of a 150-foot gravel access road with a 12-foot wide cattle fence gate would be installed at the site entrance along the south side of South Street. A culvert would be installed below the gate entrance to an existing gravel road on the project site along the southern side of South Street, which would be used to access the tower and equipment area. The culvert would be constructed approximately 30-40 feet from the riparian area associated with Slate Creek, within the 50-foot Slate Creek riparian setback designated by the County (General Plan Policy 7.3.3.4). In accordance with General Plan Policy 7.3.3.4 and El Dorado County Zoning Ordinance Section 130.30.050.G, the proposed project would be conditioned to comply with County standards and best management practices for avoidance and minimization of impacts to wetlands and sensitive riparian habitat.

Connecting the facility with existing power and fiber lines would include excavation of an approximately 510-foot long linear utility trench within the proposed gravel road, South Street, and Church Street to run cables, which will be connected to an existing utility pole on Church Street, east of the lease area.

Access to the lease area and operation of the facility will not interfere with existing uses on the property. Zoning Administrator approval of this Conditional Use Permit for this wireless facility is being requested pursuant to the requirements of Section 130.40.130 of the Zoning Ordinance (Communication Facilities).

The unmanned facility would provide wireless high speed internet and enhanced wireless network coverage 24 hours a day, 7 days a week. Maintenance workers will visit the site approximately twice per month. There will be minimal noise from the emergency backup power generator and temporary construction noise associated with development of the facility and will not exceed noise thresholds established in the Zoning Ordinance. The generator will be operated

once per month on weekdays between the hours of 8:00 a.m. and 7:00 p.m. for approximately 15 minutes for maintenance purposes and during emergency power outages.

Required fire protection services will be provided to the project site by the Diamond Springs-El Dorado Fire Protection District (District).

STAFF ANALYSIS

Environmental Review: Staff has prepared an Initial Study and has determined that there is no substantial evidence that the project would have a significant effect on the environment, therefore a Mitigated Negative Declaration has been prepared and a Notice of Determination (NOD) will be filed. A \$50.00 filing fee for the NOD is required and the NOD must be filed within five working days from the project approval.

In accordance with California Fish and Game Code Section 711.4, the project is subject to a fee of \$2,406.75 after approval, but prior to the County filing the Notice of Determination of the project. This fee plus the \$50.00 filing fee, is to be submitted to Planning Services and must be made payable to El Dorado County. The \$2,406.75 is forwarded to the State Department of Fish and Wildlife and is used to help defray the cost managing and protecting the State's fish and wildlife resources.

The Initial Study (Exhibit L) identified one potentially significant impact to biological resources including potential adverse effects on nesting and migratory birds and special-status birds. Additionally, while no archaeological resources were identified during the cultural resources site survey, the survey identifies that cultural sensitivity of the project site is at least moderate. However, any significant impacts to these resources would be avoided or reduced to a less-than-significant level by mitigation measures incorporated into the project. To ensure compliance with required mitigation measures, a Mitigation Measures Agreement (MMA) will be required, signed by both the County and applicant, to ensure the applicant will comply with the County Mitigation Monitoring and Reporting Program (MMRP). For this project, the MMRP incorporates three specific mitigation measures (Mitigation Measures #1-3), included as staff report Conditions of Approval No. 11 through 13. The project MMRP will be adopted in conjunction with the Mitigated Negative Declaration.

General Plan Consistency: Staff has reviewed the project for consistency with all applicable General Plan policies including Policy 2.2.1.2 (appropriate land use types and density), Policy 5.1.2.1 (adequacy of public services and utilities), Policy 5.1.2.2 (adequate public services for new discretionary development), Policy 5.7.2.1 (adequate fire protection services), Policy 6.2.3.2 (adequate emergency access), and Policy 7.4.4.4 (impacts to oak resources). Staff has determined that the project is consistent with these policies and related requirements in the El Dorado County General Plan, as discussed in more detail in Section 2.0 of the Findings.

Zoning Ordinance Consistency: Staff has determined that the project is consistent with the applicable regulations and requirements in Title 130 of the El Dorado County Code, including:

1. Minimized impacts of new communication facilities and utilization of co-locations where feasible (Section 130.40.130.A);
2. Conditional Use Permit requirement (Section 130.40.160.B6); and
3. Standards for construction and development including visual simulations, development standards, RF requirements, co-location availability, unused facility removal and permit application requirements (Sections 130.40.130 [C-H]).

For details, please refer to the discussion in Section 3.0 of the Findings.

Alternative Sites Analysis: The project applicant provided an alternative sites analysis (Exhibit J). A total of seven other sites were considered but rejected due to a combination of factors including but not limited to lack of space, inability to meet setback standards due to site constraints, and locational inability to close coverage gap (distance from coverage objective area). Alternative sites considered included three nearby buildings and one existing tower. The current site was identified as the most optimum in providing additional services and capacity to the area. It will also have the capacity to serve as a co-location site for two additional future carriers. Details regarding the alternate site analysis are discussed in Section 3.0 of the Findings.

Conditions of Approval: The project was distributed to 18 County, local, state and federal agencies and departments for review and comment. In response to this initial distribution, comments were received from El Dorado County Environmental Management Department (EMD) and Diamond Springs-El Dorado Fire District (Fire District) and El Dorado County Environmental Management Department (EMD).

EMD comments focused on hazardous materials reporting associated with the backup generator fuel and exemption from construction and demolition (C&D) debris recycling requirements. EMD comments have been incorporated as Conditions of Approval Nos. 18 and 19. Fire District comments focused on fire safety and emergency site access. Fire District comments have been incorporated as Conditions of Approval No. 20-30.

The application was also reviewed by the Diamond Springs and El Dorado Community Advisory Committee on February 20, 2020. The committee had no objections to the proposed project and supported the use of a stealth monopine design, indicating that the committee felt that such a design would be much less intrusive to the area viewshed.

In addition, the application was also distributed to applicable Native American tribal organizations pursuant to the requirements of AB 52. The Shingle Springs Band of Miwok Indians responded with a request for consultation on January 23, 2020. Mitigation Measures #2 and #3 (Cultural Resources) in the Initial Study addresses potential adverse effects to Tribal Cultural Resources.

Public Comments/Outreach: No formal public outreach was conducted by the County, and a public outreach plan was not required for this project pursuant to the County Zoning Ordinance. However, the project was duly noticed for a Zoning Administrator public hearing with a public

notification range of 1,000 feet and a legal advertisement was published in applicable local newspapers. In addition, project notification was also posted on the Planning Services Zoning Administrator webpage. No physical sign posting is required for Conditional Use Permits.

SUPPORT INFORMATION

Attachments to Staff Report:

Findings

Conditions of Approval

Exhibit A.....	Vicinity Map
Exhibit B.....	Location Map
Exhibit C.....	Site Area
Exhibit D.....	Assessor's Parcel Page
Exhibit E.....	General Plan Map
Exhibit F.....	Zoning Map
Exhibit G.....	Site Plans
Exhibit H.....	Coverage Map
Exhibit I.....	Photosimulations
Exhibit J.....	Alternative Sites Analysis
Exhibit K.....	Radio Frequency-Emissions Compliance Report
Exhibit L.....	Proposed Mitigated Negative Declaration and Initial Study

FINDINGS

Conditional Use Permit CUP19-0012/AT&T Tower (Slate) El Dorado Zoning Administrator/June 17, 2020

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 CEQA FINDINGS

- 1.1 El Dorado County has considered the Mitigated Negative Declaration together with the comments received during the public review process. The Mitigated Negative Declaration and associated Mitigation Monitoring and Reporting Program (MMRP) reflects the independent judgment of the County and has been completed in compliance with the California Environmental Quality Act (CEQA) and is adequate for this project.
- 1.2 No significant impacts to the environment as a result of this project were identified in the initial study.
- 1.3 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 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 Commercial (C) land use designation establishes areas suitable for agricultural and supporting residential uses in the County's Rural Regions.

Rationale: The project has a Commercial General Plan Land Use Designation. The project site is surrounded by agricultural and residential uses. Although the project will result in a commercial use, it has been designed to visually blend in with existing landscape, and will require vehicle trips only for the construction of the facility and for monthly facility maintenance. The project will be compatible with surrounding uses and will provide wireless high speed internet and enhanced wireless network coverage, which the area currently lacks.

2.1 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 be reviewed to determine consistency with the policies of the General Plan and that project approval shall not be granted without a finding of consistency.

Rationale: The project has been reviewed for consistency with relevant General Plan policies and, as discussed, herein, has been found to be consistent with these policies.

2.2 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 the El Dorado County Department of Transportation for adequate public services capacity. The project will connect to existing electrical facilities and public services currently within the parcel. The operation of the facilities will require no water, sewer, or solid waste service as they are unmanned facilities. No new or expanded wastewater treatment facilities would be required. Operation and continued maintenance of the stealth monopine tower and ground equipment shelters would not generate solid waste.

2.3 The project is consistent with General Plan Policy 5.1.2.2.

General Plan Policy 5.1.2.2 requires adequate levels of public services be provided to new discretionary development, including quantity and quality of water and adequate fire protection services.

Rationale: Fire protection services are provided to the project site by the Diamond Springs-El Dorado Fire Protection District (Fire District). Fire District comments have been incorporated as Conditions of Approval Nos. 16-26. The facilities will not require the use of potable water, as they are unmanned facilities and no plumbing is proposed for the facility.

2.4 The project is consistent with General Plan Policy 5.7.2.1.

General Plan Policy 5.7.2.1 requires the responsible fire protection district review all applications to determine the ability of the district to provide required services and to ensure services will not be reduced below acceptable levels.

Rationale: Fire protection services are provided to the project site by the Diamond Springs-El Dorado Fire Protection District (Fire District). Fire District comments have been incorporated as Conditions of Approval Nos. 16-26. The facilities will not require the use of potable water, as they are unmanned facilities and no plumbing is proposed for the facility.

2.5 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: In compliance with Policy 6.2.3.2, the project will install a new gravel driveway which will be accessed from a public road. Diamond Springs-El Dorado Fire Protection District (Fire District) provided comments regarding site access. Fire District comments have been incorporated as Conditions of Approval-26.

2.6 The project is consistent with General Plan Policy 7.3.3.4.

General Plan Policy 7.3.3.4 establishes a 50 foot setback from an intermittent streams or wetlands and that for projects where the County allows an exception to wetland and riparian buffers, development in or immediately adjacent to such features shall be planned so that impacts on the resources are minimized.

Rationale: A culvert would be installed beneath the entrance for the existing site access road at South Street. In accordance with General Plan Policy 7.3.3.4 and El Dorado County Zoning Ordinance Section 130.30.050.G, the proposed project would be conditioned to comply with County standards and best management practices for avoidance and minimization of impacts to wetlands and sensitive riparian habitat.

2.7 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 be mitigated in accordance to the standards of the Oak Resources Management Plan (ORMP).

Rationale: No oak trees will be removed or impacted as part of the project.

3.0 ZONING FINDINGS

3.1 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 are encouraged to employ all reasonable measures to site their antenna equipment on existing structures, to co-locate where feasible, and development new sites that are multi-carrier.

Rationale: The project applicant provided an alternative sites analysis (Exhibit J) with a search radius of greater than one mile. This document highlights the challenges and constraints of locating appropriate alternative sites in the vicinity. The selected site was identified as the most optimum in providing additional services and capacity to the area. It will also have the capacity to serve as a co-location site for two additional future carriers. A total of eight sites were considered, including the proposed site. One existing tower was evaluated but at a location of 1.82 miles northwest of the proposed project site, co-location on this existing tower would not close the existing coverage gap. None of the remaining six sites were selected due to significant constraints with each site including lack of height of existing structures, lack of space, inability to meet setback standards due to site constraints, and locational inability to close coverage gap (distance from coverage objective area).

Challenges Affecting Alternative Sites:

Alternative Site 1: El Dorado Fire Department. The El Dorado Fire Department [Diamond Springs-El Dorado Fire District] is located approximately 300 feet northeast of the proposed project site. The fire station

property is not viable due to lack of available space and a proposed site at this location would not meet applicable setback requirements for a wireless communication facility.

Alternative Site 2: 4820 Slate Creek Road. This property is located approximately 0.57 miles southwest of the proposed project site. Due to its location well to the west of AT&T's service objective, a wireless communication facility here would not close AT&T's significant service coverage gap in this area.

Alternative Site 3: 5783 Pleasant Valley Road. This property is located approximately 0.84 miles northwest of the proposed project site. Due to its location well to the west of AT&T's service objective, a wireless communication facility here would not close AT&T's significant service coverage gap in this area.

Alternative Site 4: El Dorado Northern Lumber Company Property. This property is located approximately 0.27 miles southeast of the proposed project site. AT&T investigated all current buildings on the property as a potential form of structure attachment for its antennas. However, due to the limited height of existing structures (approximately 35 to 40 feet), a wireless communication facility here would not close AT&T's significant service coverage gap in this area.

Alternative Site 5: The Clipper Building. This property is located approximately 0.20 miles east of the proposed project site. AT&T investigated the rooftop of the building as a potential form of structure attachment for its antennas. However, due to the limited height of existing structures (approximately 35 feet), a wireless communication facility here would not close AT&T's significant service coverage gap in this area.

Alternative Site 6: El Dorado Grocery & Deli. This property is located approximately 500 feet north northwest of the proposed project site. AT&T investigated the rooftop of the building as a potential form of structure attachment for its antennas. However, due to the limited height of existing structures (approximately 35 feet), a wireless communication facility here would not close AT&T's significant service coverage gap in this area.

Alternative Site 7: Existing ATC Tower Silver Lode Court. This property is located approximately 1.82 miles northwest of the proposed project site. Due to its location well to the northwest of AT&T's service objective, a wireless communication facility here would not close AT&T's significant service coverage gap in this area.

3.2 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; not located adjacent to a state

highway or designated scenic corridor; and not located within 500 feet of any residential zone be subject to Zoning Administrator approval of a Conditional Use Permit.

Rationale: The proposed tower site is located within an area zoned Main Street Commercial. The nearest residentially-zoned areas are located approximately 850 feet to the southeast, 750 feet to the east, and approximately 775 feet northeast of the project lease area. Therefore is subject to a Conditional Use Permit subject to review by the Zoning Administrator.

3.3 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 in Exhibit I of the Staff Report. These photos demonstrate how the facility will blend with the surrounding area thereby minimizing its visual impacts.

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 site is located in a largely commercial and rural residential area. The surrounding area consists of commercial businesses, rural residential, and undeveloped lands interspersed with grassland and oak canopy. The project has been designed such that the stealth monopine would blend in with adjacent trees. The stealth monopine “trunk” will be painted a flat brown or similar non-glare earth tone color and the branches and foliage will be painted a flat dark green color. Supporting equipment within the lease area shall be screened from view by existing commercial structures and vegetation, as well as slatted fencing around the project site.

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 Main Street Commercial, (CM) zone, which identifies a 0-foot front setback and a 5-foot rear

and side setbacks. The lease area is approximately 30 feet from the eastern (side) property line; approximately 200 feet from the southern (rear) property line; approximately 280 feet from the western (side) property line; approximately 100 feet from the eastern (side) property line.

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 are recommended 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 E and G).

- 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 submitted RF analysis report confirms compliance with the applicable FCC Regulations under 47 C.F.R Section 1.1307(b) (3) and 1.1310 (Radio Frequency Radiation Exposure Limits)(Exhibit H).

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

Rationale: The proposed stealth monopine tower is intended to be and designed to accommodate future co-location of other carriers. Any separate future collocation 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 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 (Condition of Approval #6).

- 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: Not applicable. The proposed wireless facility is not located within 1,000 feet of a school.

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: Not applicable. The facility is proposed to be located on commercially-zoned land.

4.0 CONDITIONAL USE PERMIT FINDINGS

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

The proposed 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 Finding 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 use will not significantly conflict with the adjacent uses as the ground-support equipment are buffered from view by existing commercial structures and vegetation, as well as slatted fencing around the project site. The proposed tower is a stealth monopine. As conditioned, the project will not result in significant environmental impacts to neighboring residents. The proposed use 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. In the Radio Frequency Emissions Compliance Report for AT&T Mobility dated June 13, 2018 submitted for this project, the maximum predicted power density level of exposure from all operations of this telecommunication facility, using worst-case predictive modeling, will not exceed FCC General Population limits. Therefore, the proposed operation will not expose members of the general public to hazardous levels of RF energy and the risk of exposure to RF emissions is remote.

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

Because the proposed use complies with the requirements of Zoning Ordinance Section 130.40.130.C through H (development standards/conditions), the communication facility is a specifically permitted use with an approved Conditional Use Permit.

CONDITIONS OF APPROVAL

Conditional Use Permit CUP19-0012/AT&T Tower (Slate) El Dorado Zoning Administrator/June 17, 2020

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 40-foot by 40-foot, 2,500-square foot enclosed compound (lease area) on Assessor's Parcel Number (APN) 331-131-12. The compound will include a 147-foot stealth monopine tower, one walk-in pre-manufactured equipment shelter and one 30-kw DC emergency backup diesel generator.

Exhibit G.....Submitted Plan Set
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. Five Year Review: Due to the ever-changing technology of wireless communication systems, this Conditional Use Permit shall be reviewed by the Zoning Administrator every five years. At each five-year review, the permit holder shall provide the Planning and Building 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. Zoning Administrator 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.

6. **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.
7. **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.
8. **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.
9. **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.

10. **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.
11. **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.
12. **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.
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 the Planning and Building Department.
14. **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

15. **Mitigation Measure #1 (Biological Resources):**

Migratory and Special-Status Bird Species:

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.

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

Archaeological 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”.

Monitoring Requirement: This mitigation measure shall be noted on grading and construction plans. Planning Services shall verify the inclusion of this notation on the grading plans prior to the issuance of a grading permit.

Monitoring Responsibility: El Dorado County Planning and Building Department.

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

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.

Monitoring Requirement: This mitigation measure shall be noted on grading and construction plans. Planning Services shall verify the inclusion of this notation on the grading plans prior to the issuance of a grading permit.

Monitoring Responsibility: El Dorado County Planning and Building Department.

El Dorado County Environmental Management Department

18. Under the Certified Unified Program Agencies (CUPA) program, if the operation will involve the storage of reportable quantities of hazardous materials (55 gallons, 500 pounds, 200 cubic feet) for backup power generation, a hazardous materials business plan for the site must be submitted online at the California Environmental Reporting System Website (<http://cers.calepa.ca.gov/>) and applicable fees paid to El Dorado Community Development Services / Environmental Management Department.

19. When filing our “Section 6: Construction and Demolition Debris Recycling Acknowledgement of the El Dorado County Building Permit Application, select Option 4 and write in “Towers” to the right of the sections. Towers are exempted from the construction and demolition (C&D) debris recycling requirements.

Diamond Springs-El Dorado Fire District

20. Turning Radius: All fire apparatus access roadways and driveways shall be designed to provide an approved turning radius with a minimum 40 foot inside radius and 56 foot outside radius, or hammerhead turn to El Dorado County specifications.
 - a. This will depend upon the site plan layout and the length of the driveway
21. Gates: All gates shall meet the Diamond Springs-El Dorado Fire Protection District Gate Standard B-002. All gates shall be paired with the appropriate Knox Lock or key entry system as approved by the fire code official.
22. Roadways and Driveways: Approved fire apparatus access roads and driveways shall be provided for every facility, building, or a portion of a building. The fire apparatus access roads and driveways shall comply with the requirements of Section 503 and Appendix D of DSP as well as State Fire Safe Regulations as stated below (but not limited to):
 - a. Roadways shall be designed to support the imposed load of fire apparatus weighing at least 75,000 pounds and provide all-weather driving conditions.
 - b. All-weather surfaces shall be asphalt, concrete or other approved driving surface.
 - c. The project proponent shall provide engineering specifications to support design if request by the local AHJ. All roadways shall meet El Dorado County DOT and CA Fire Code requirements.
 - d. Driveways and roadways shall have an unobstructed vertical clearance of 15' and a horizontal clearance providing a minimum 2' on each side of the required driveway or roadway width.
23. Fencing: Lots that back up to wildland open space shall be required to use non-combustible type fencing.
24. Knox Box and Keys: All Commercial or Public buildings shall install a Knox Box and building keys including, but not limited to, main entry doors, utility closets, roof accesses, alarm panels, fire sprinkler locks, and all other keys required by the fire code official for emergency access.
25. Setbacks: Any parcels greater than one acre shall conform to State Fire Safe Regulations requirements for setbacks (minimum 30' setback for buildings and accessory buildings from all property lines).
26. Vegetative Fire Clearances: Prior to June 1st each year, there shall be vegetation clearance around all EVA's (Emergency Vehicle Access) and the property in accordance with Public Resources Code Section 4291.
27. Knox Key Shunt: A Knox Key Shunt system or a similar power shut off shall be installed to terminate power to all back-up power generators or systems in the event of an

- emergency requiring fire suppression involving the generator or the cell tower components.
28. Battery power Storage systems: If utilized, all battery power storage systems shall meet applicable Title 24 codes, including the Part 3 California Electrical Code (CEC) requirements.
 - a. Define a hazardous materials plan if greater than 50 gallons of sulfuric acid or similar electrolyte on location in the back-up battery system.
 29. Landscaping: A wildland-urban interface plan shall be created and approved by a competent professional and the Fire Department to ensure that trees, plants, and other landscaping features proposed to be adjacent to the Fire Apparatus Access roads, Fire and Life Safety equipment, and near address locations on structures, buildings, and utilities will not impede fire apparatus or firefighting access or visual recognition of the address.
 30. Approved Diesel tank: The District requires an approved UL-2200 and/or UL-142 compliant diesel belly tank if an intrinsic belly tank is part of the design.
 - a. Additional requirements may need to be followed such as UL-142, UL2085, ULC-S601-07, and NFPA 30 compliance.