

ADDENDUM

KERN COUNTY PLANNING AND NATURAL RESOURCES DEPARTMENT

Planning Commission

STAFF REPORT

Date: April 12, 2018

FILE: CUP #78, Map #164;
MOD #16, Map #164
S.D.: #2 - Scrivner

TITLE: (a) Conditional Use Permit Case No. 78, Map No. 164; (b) Zone Modification Case No. 16, Map No. 164

PROPOSAL: (a) A Conditional Use Permit to allow a 65-foot-tall monopine wireless communication facility with an accessory structure (Section 19.16.030.G), in an E (2 1/2) RS (Estate - 2 1/2 acres - Residential Suburban Combining); (b) A Zone Modification to allow a reduced side-yard setback from 78 feet to 58.5 feet (25 percent reduction) (Section 19.110.040.C), in an E (2 1/2) RS (Estate - 2 1/2 acres - Residential Suburban Combining) District

APPLICANT: AT&T Mobility by Eukon Group (PP18150)

PROJECT SIZE: 406 square feet of a 4.5-acre parcel

LOCATION: 29800 Wapiti Court, Tehachapi

GENERAL PLAN DESIGNATION: 5.7 (Residential - Minimum 5 Gross Acres/Unit) (Greater Tehachapi Area Specific and Community Plan)

SURROUNDING LAND USE/ZONING: North, East, and West - Single-family residences and undeveloped land/E (2 1/2) RS; South - Single-family residences and undeveloped land/E (1) RS (Estate - 1 acre - Residential Suburban Combining)/

PROJECT ANALYSIS: The project before your Commission is a request from AT&T Mobility to construct a 65-foot-tall monopine wireless communication facility and accessory structure in an E (2 1/2) RS (Estate - 2 1/2 acres - Residential Suburban Combining) District. The project proponent is also requesting a reduction of the required side-yard setback from 78 feet to 58.5 feet. The project site consists of a 406-square-foot proposed lease area of an approximate 4.5-acre parcel located at 28900 Wapiti Court in Tehachapi. The site is designated Map Code 5.7 (Residential - Minimum 5 Gross Acres/Unit) by the Greater Tehachapi Area Specific and Community Plan and is zoned E (2 1/2) RS. The project site is developed with a single-family residence. Property directly to the north, east, south, and west is residentially zoned with single-family residences and undeveloped residential lands. The project site is located in a Fire Hazard Security Zone. Access to the site is provided by Wapiti Court.

Proposed Project

Conditional Use Permit

The applicant is requesting approval of a conditional use permit to allow a 65-foot-tall wireless communication facility with an associated equipment shelter. As proposed, the facility will include a 65-foot-tall monopine tower on a 256-square-foot foundation. The tower would employ three

(3) antenna sectors with four (4) antennas per sector, and an equipment shelter with a backup generator located on an approximately 150-square-foot foundation to match an existing shed.

The applicant is proposing the stealth design of a monopine tower. Section 19.91.030(A)(2) of the Kern County Zoning Ordinance requires communication towers to utilize stealth design when located within one mile of another freestanding wireless communication facility or for tower facilities located in, or within three hundred (300) feet of any residentially zoned area, an area zoned RF (Recreation-Forestry), or an area designated for residential development by the applicable General or Specific Plan. In this instance, the project as proposed is situated within the E (Estate) District, a residential zoning, which requires the employment of stealth technology and the applicant is proposing to employ stealth technology in the form of a monopine tower in order for the tower to be more visually compatible with the surrounding area. Attached to this staff report is a rendering of the proposed monopine tower.

The applicant asserts a significant gap exists within this area as shown on the attached propagation maps that show the preferred design of the AT&T Wireless Communications site. The proposed facility is located where AT&T frequency engineers have determined a new antenna facility could be located and provide the needed coverage. Once constructed, the unmanned facility would be monitored remotely and would be visited by a technician as needed for repair, security, and/or maintenance purposes. No water or sewage services are proposed.

Staff notes pursuant to Section 19.16.080 (Estate District – Height Limits) of the Kern County Zoning Ordinance, radio and television antennae, communication towers, chimney, and other similar structures shall not exceed 80 feet in height. As proposed, the project does not exceed the permitted height allowed in the E District. Staff also reviewed Section 19.08.160 (Red/Yellow/Green Map) of the Kern County Zoning Ordinance, and has determined the proposed location of the communication tower is in a portion of the County that does not require military review for the height of the tower at the proposed location.

Chapter 19.91 of the Kern County Zoning Ordinance was adopted in early 2003, and included new requirements for use of stealth technology that were not required for wireless communication facilities prior to adoption. Chapter 19.91 was adopted by the Board of Supervisors to establish reasonable guidelines and regulations for the siting of wireless communication facilities including those facilities subject to the Federal Telecommunication Act of 1996, as amended. Its intent is to:

- Minimize the adverse aesthetic impacts of wireless communication facilities on residential areas and other sensitive view sheds by co-locating facilities wherever feasible; and
- Through the use of stealth design technologies, where deemed required, disguise wireless communication facilities so they are not easily recognizable as telecommunications equipment in order to harmonize tower siting with the natural or built environment.

Where stealth technology is called for, the tower is to be camouflaged so as to look like a pine tree (monopine), palm tree (monopalm), or other structure disguising the facility which is compatible to the area, as determined through the public hearing process.

Zone Modification

The applicant is also requesting approval of a zone modification to allow a 58.5-foot side-yard setback, where 78 feet is required. Pursuant to Section 19.91.030.A.5, wireless communication towers contiguous to residentially zoned areas require a minimum setback of 120 percent (120%) of the overall height of the tower to the affected property. As proposed, the tower would be set back 58.5 feet from the east property line; however, the required setback for a 65-foot-tall tower would be 78 feet. As a result, the applicant, pursuant to Chapter 19.110 Zone Modifications is

requesting approval of a zone modification in conjunction with the conditional use permit request in order to allow the 19.5-foot (25%) reduction in the tower setback requirements of Chapter 19.91.

Staff notes pursuant to Section 19.110.040.C, a zone modification can be processed for yard and setback requirements for up to a 25 percent (25%) reduction in the required setback(s). The present project proposes a 25% reduction in tower setback requirements, meeting the required limits for a zone modification.

As justification for the modification request, the applicant has stated the following:

A majority of the property has a significant slope, resulting in minimal remaining area for development. Strict application of the 120% setback would require the facility to be installed on a very steep slope with no viable vehicle access. Reducing the setback by 25% allows the facility to generally be installed at the outer edge of the "buildable area" with vehicular access. Allowing a 25% reduction in the setback requirement would alleviate an unreasonable hardship on the property owner and applicant.

Federal Communications Commission Recommendation:

Should the request be approved, with regards to future on-site expansion and/or alterations, Staff notes on January 8, 2015, the Federal Communication Commission (FCC) published guidance on interpretation of Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012 which provides that a State or local government "may not deny, and shall approve" any request for collocation, removal, or replacement of transmission equipment on an existing wireless tower or base station, provided this action does not substantially change the physical dimensions of the tower or base station.

Although Section 6409(a) does not define what constitutes a "substantial change," the FCC has applied the following four-prong test to determine whether a co-location will affect a "substantial increase in the size of a tower:"

- (1) The mounting of the proposed antenna on the tower would increase the existing height of the tower by more than 10 percent, or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater, except that the mounting of the proposed antenna may exceed the size limits set forth in this paragraph if necessary to avoid interference with existing antennas; or
- (2) The mounting of the proposed antenna would involve the installation of more than the standard number of new equipment cabinets for the technology involved, not to exceed four, or more than one new equipment shelter; or
- (3) The mounting of the proposed antenna would involve adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than 20 feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater, except that the mounting of the proposed antenna may exceed the size limits set forth in this paragraph if necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable; or
- (4) The mounting of the proposed antenna would involve excavation outside the current tower site, defined as the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site.

Furthermore, Staff notes on October 9, 2015, California Governor Jerry Brown signed Assembly Bill (AB) 57 into law, which mandated that beginning January 1, 2016, if a city or county does not timely approve or disapprove a wireless facility siting application, the application will be deemed approved by operation of law. Implementation of AB 57 further reinforces the U.S. Supreme Court's May 2013 decision, validating the Federal Telecommunications Act (FTA) requirement that State or local governments act on siting applications for wireless facilities "within a reasonable period of time after the request is duly filed." Specifically, the Bill states that for new builds, a city or county will have 150 days to approve or deny a wireless siting application. If the submitted application is incomplete, the time expended to revise the application and/or supporting materials shall not be included in the above-referenced 150-day timeframe. Staff notes the applicable provisions of AB 57 have been complied with to-date during the processing of this request.

Similar Requests

Conditional Use Permit and Zone Modification – Wireless Communication Facilities

Staff notes no similar requests for a wireless communication facility with setback reductions have been considered within the administrative boundaries of Zone Map No. 164. However, similar requests have been made throughout the County for similar projects in various zone districts:

- Conditional Use Permit 3, Map 231-27; Zone Modification 1, Map 231-27 (approved March 9, 2017), which allowed an 60-foot-tall monopine wireless communications facility, and a reduced tower setback distance of 60 feet, where 72 feet is required in an E (2 1/2) RS District, located at 1865 60th Street West in Rosamond, approximately 40 miles southeast of the project site.
- Conditional Use Permit 34, Map 144; Zone Modification 3, Map 144 (approved March 27, 2014), which allowed an 58-foot-tall monopalm wireless communication facility, and a reduced tower setback distance of 17 feet, where 20 feet is required in a C-2 PD FPS (General Commercial - Precise Development Combining - Floodplain Secondary Combining) District, located at the intersection of Bear Mountain Boulevard and Weedpatch Highway, approximately 25 miles northwest of the project site.

Notification and Request for Comments

During the course of processing this request, Staff notified surrounding property owners within 1,000 feet of the project site, affected agencies, and County departments. As of this writing, three (3) comment letters have been received. Copies of all correspondence received have been attached for your Commission's reference.

- The Department of Conservation/Division of Oil, Gas, and Geothermal Resources (DOGGR) submitted a comment letter noting the project is located outside of any of DOGGR's oilfield administrative boundaries, and there are no known oil, gas, or geothermal wells located within the project boundary, as identified in the notice, and thus no further review is required. However, if, during development activities, any wells are encountered, the developer shall immediately notify the Division, and remedial plugging and abandonment operations may be required.
- Thomas Kackert at 29940 Grouse Drive in Tehachapi submitted a comment letter stating he is strongly in favor of the proposed project. He states there is no wireless communication service in the area and that reliable coverage in the area is essential for business and safety reasons.
- Michael Greer and Terry Wolbert, property owners at 29700 Wapiti Court in Tehachapi submitted a comment letter stating they are in strong opposition of the proposed project. They state health concerns, aesthetics/impacted views, construction noise, privacy, and the

potential of the tower to impact property resale values in the area as reasons for concern. Staff notes, the Greer/Wolbert residence is directly to the southeast of the proposed project. Additionally, according to the site plan, AT&T's proposed lease area for the proposed project encroaches onto their property.

Should the project be approved, the above-listed recommendations have been incorporated as conditions of approval for the project.

In response to the comment letter provided by Mr. Greer and Mr. Wolbert Staff believes that without more information, statements that a wireless communication facility would cause devaluation to surrounding properties, have an adverse effect on the health of the surrounding population or community or potential road damage is speculative. In response to the comments and concerns received, Staff offers the following:

Health:

In addition, the applicant has provided data outlining the most restrictive Federal Communications Commission's (FCC) maximum permissible exposure (MPE) limits for each exposure environment in AT&T's frequency bands for the project site (copy attached), which outlines the anticipated power levels and demonstrates compliance with federal standards. Within the State of California, the California Public Utilities Commission has jurisdiction over electro-magnetic field radiation (EMF) produced by utilities that fall under its jurisdiction, including cellular telephone providers. EMF fields are generated through the transmission of electricity. Potential impacts from microwave signals for the microwave transmitter and RF impacts more generally fall under the exclusive authority of the FCC.

The Local Officials Guide publication entitled *Siting Cellular Towers, What You Need To Know, What You Need To Do* describes the powers of local zoning authority over wireless telecommunications facilities. To a great extent, the 1996 Telecommunications Act specifically protects local zoning authority over the placement of cellular towers. The Act addresses the issue of local zoning authority over wireless telecommunications facilities by establishing a general principle that local zoning authority is reserved subject to certain conditions, it lists the conditions that local zoning requirements must satisfy, and identifies which disputes will be handled by the courts and which will be handled by the FCC. To maintain their zoning authority over wireless telecommunications facilities, local governments must satisfy five conditions:

- Local zoning requirements may not unreasonably discriminate among wireless telecommunications providers that compete against one another. As previously indicated, there have been similar conditional use permits approved within same and adjacent administrative map boundaries. To deny the proposal, may invite a challenge based upon unreasonable discrimination.
- Local zoning requirements may not prohibit or have the effect of prohibiting the provision of wireless telecommunications service. The requirement is designed to prevent local governments from imposing outright bans on wireless telecommunications services. However, local ordinances may limit the number and placement of facilities so long as those limits do not prohibit or have the effect of prohibiting a wireless telecommunications provider's ability to offer service.
- A local government must act within a reasonable period of time on requests for permission to place or construct wireless facilities.
- Any decision by your Commission, or the Board of Supervisors if the case is appealed,

denying a request for permission to install or construct wireless telecommunications facilities must be in writing and must be based on evidence in a written record before the decision-making body. Staff notes that it is the policy of your Commission and the Board of Supervisors to adhere to such procedures.

- If a wireless telecommunications facility meets technical emissions standards set by the FCC, it is presumed safe. A local government may not deny a request to construct a facility on grounds that its radiofrequency emissions would be harmful to the environment or the health of residents if those emissions meet FCC standards. The operations statement submitted by the applicant indicates that the facility would comply with all FCC standards, and Staff has included a condition of approval for the conditional use permit to this effect.
- If a wireless provider asserts that a local government has violated any of the first four conditions as noted above, that provider must seek relief in a State or federal court, not from the FCC. A disappointed applicant may go to the FCC only if it claims that the locality improperly based its adverse siting decision on the harmful effects of radiofrequency emissions from the proposed facility.

Aesthetics:

As to the project devaluing surrounding property values, which was a topic of concern, Staff believes this is speculative assumption at this time without more information. Section 15384 of the California Environmental Quality Act (CEQA) Guidelines defines “substantial evidence” as enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached. Whether a fair argument can be made is to be determined by examining the entire record. Mere uncorroborated opinion or rumor does not constitute substantial evidence.

Staff notes the possibility for a decline in property values and obstruction of scenic vistas in the area of the proposed project is a land use compatibility issue that is within the purview of your Commission to take into consideration. However, Staff offers for your Commission’s consideration the Kern County Zoning Ordinance permits wireless communication facilities to be located on more densely-populated residentially-zoned areas, such as the E (Estate), R-1 (Low-density Residential), R-2 (Medium-density Residential), and R-3 (High-density Residential) Districts, subject to the approval of a conditional use permit.

Noise:

Title 8 Health and Safety of the Kern County Municipal Code contains provisions regarding the allowable hours of construction so as to limit the noise impacts associated with the construction.

Environmental Review

In reviewing the proposal, Staff has considered the applicable provisions of the California Environmental Quality Act (CEQA) and the State CEQA Guidelines. Section 21084 of the Public Resources Code requires the CEQA Guidelines to include a list of classes of projects which have been determined not to have a significant effect on the environment and which shall, therefore, be exempt from further review under the provisions of CEQA. This includes Class 3 projects which consist of construction and location of limited numbers of new, small facilities or structures. Based on the information contained in the record to date, it is Staff’s conclusion that the conditional use permit/zone modification qualifies as one that can be found to be categorically exempt from the requirement of preparation and review of an environmental document pursuant to Section 15303 of the State CEQA Guidelines.

Conclusion

Provisions within the Greater Tehachapi Area Community and Specific Plan specify the following goal for land use in the area:

- Section 2.3 Land Use Goals, Policies and Implementation Measures, Policy LU.8 states; Discretionary development of wireless telecommunication facilities shall be consistent with the Federal Telecommunication Act and Chapter 19.91 of the Kern County Zoning Ordinance.
 - The wireless communication facility as designed is consistent with the Federal Telecommunications Act and Chapter 19.91 of the Kern County Zoning Ordinance.
 - The installation of the wireless communication facility will facilitate the provision of reliable and cost-effective utility service to residents.

Staff believes the project is consistent with the above-referenced goals, policies, and provisions of the Greater Tehachapi Area Specific and Community Plan. The purpose of the 5.7 map code designation is to classify areas in the outlying, less densely settled areas, often characterized with physical constraints and not requiring connections to public water and sewer infrastructure. The purpose of the E District is to designate areas suitable for larger lot residential living environments. Uses are limited to those typical of and compatible with quiet residential neighborhoods. The site's map code designation is consistent with the site's zone classification, and the use proposed is one listed as a use allowed within the E District subject to securing approval of a conditional use permit. With the exception of the setback requirements, the proposed use meets the minimum requirements of the Zoning Ordinance.

Conditional Use Permit

Section 19.104.040 (Conditional Use Permit - Basis for Approval) of the Zoning Ordinance, states the decision-making authority approve or conditionally approve an application for a conditional use permit if it can make all of the following findings:

- (1) The proposed use is consistent with the goals and policies of the applicable General Plan or Specific Plan:
 - General Provisions, 1.10.4 Wireless Communication Facilities, Policy 26, Implementation Measure P of the Kern County General Plan states "Discretionary development of wireless communication facilities shall be in accordance with Chapter 19.91 of the Zoning Ordinance and the Federal Communications Act."
 - The wireless communication facility as designed is consistent with the Federal Telecommunications Act and Chapter 19.91 of the Kern County Zoning Ordinance.
 - The installation of the wireless communication facility will facilitate the provision of reliable and cost effective utility service to residents.
- (2) The proposed use is consistent with the purpose of the applicable district or districts:
 - The purpose of the Estate (E) District is to designate areas suitable for larger lot residential living environments. Uses are limited to those typical of and compatible with quiet residential neighborhoods. The proposed wireless communication facility

is an unmanned structure that will not result in an increase in noise to the surrounding area.

- Wireless communications facilities are permitted in the E District subject to securing a conditional use permit in accordance with the standards and procedures set out in Chapter 19.104 of the Kern County Zoning Ordinance.
- (3) The proposed use meets the minimum requirements of this title applicable to the use:
- The proposed wireless communications facility is 65 feet in height and wireless communication facilities of a height up to 80 feet are allowed in the E District, subject to obtaining a conditional use permit.
 - Communication towers facility in residentially zoned areas shall employ stealth technology, where the tower is camouflaged so as to look like a pine tree (monopine), palm tree (monopalm), or other structure disguising the facility which is compatible to the area, as determined through the conditional use permit process. The proposed facility will be a monopine.
- (4) The proposed use will not be detrimental to the health, safety, and welfare of the public or to property and residents in the vicinity:
- The wireless communications facility will be constructed using County and industry standards to ensure it is built and maintained in a manner that will not have an adverse effect on the community.
 - The proposed wireless communications facility will comply with all current Federal Communications Commission's (FCC) guidelines and Office of Engineering and Technology (OET) Bulletin 65, which outlines rules governing permissible exposure levels to radiofrequency (RF) emissions at FCC-licensed facilities.
 - The use of a monopine design will ensure the facility is similar to the site's existing vegetation and, therefore, eliminate any visual impact.
- (5) Approval of this request is consistent with past Commission action for similar requests in the area:
- Similar requests have been made and approved throughout the County for similar projects in various zone districts.

Zone Modification

Section 19.110.050 (Zone Modification - Basis for Approval) of the Kern County Zoning Ordinance states the decision-making authority may approve or conditionally approve an application for a modification if it can make all of the following findings:

- (1) The modification does not exceed the limits specified in Section 19.110.040 of this Chapter.
- A zone modification can be processed for yard and setback requirements for up to a twenty five percent (25%) reduction in the required setback(s). The present project proposes a 25% reduction in the tower setback requirements, meeting the required limits for a zone modification.

- (2) The granting of the modification will not be materially detrimental to the public health, safety or welfare or to property or residents in the vicinity.
 - The proposed wireless communication facility is allowed on the property subject to approval of a conditional use permit. The proposed modification is for a reduction in the required setback. This reduction in the required setback would place the tower 58.5 feet west of the nearest property.
- (3) The modification would alleviate an unreasonable hardship on the property owner or applicant imposed by the strict application of the requirements of this title.
 - Upon review of the applicant's justification and available information to date, Staff is unable to make all of the above findings. While special circumstances do exist applicable to the subject property, particularly with regard to the location and surroundings, Staff notes that the location of the home of the adjacent property to the southeast is in close proximity to the proposed location of the wireless communications facility to the west. Additionally, Staff believes that the proposed location with the setback reduction of approximately 20 feet would have an unreasonable impact on the neighboring property owner.
 - The applicant has indicated that the modification is required due to the project site's topography (steep slope) and accessibility to the site. Staff notes that the topography of the proposed location and the recommended location is relatively the same in that both sites are located on a side hill. Additionally the both the proposed location and the recommended location can be accessed off of Wapiti Court via driveways on the property.

Based on the information provided above, Staff is recommending your Commission deny the requested modification for the setback requirements as proposed.

Staff has reviewed the request in conjunction with the County Development Standards contained within the Wireless Communications Facilities (Chapter 19.91) of the Zoning Ordinance. As proposed, the facility complies with all County Development Standards for the location of a wireless communication tower in the E District. The project site property is located in an underserved communications area. Implementation of the proposed project would not negatively affect the surrounding area, provided all setback requirements are met. Furthermore, Staff believes compliance with the recommended conditions of approval, as adopted by your Commission, would:

- (1) Ensure the proposed use adheres to requirements of the Zoning Ordinance;
- (2) Provide the necessary assurances that implementation of the project will not be detrimental to the health, safety, and welfare of the public or to property and residents in the vicinity; and
- (3) Provide the necessary assurances that the development complies with all applicable laws, ordinances, and regulations of local, State, and federal agencies.

Based on the foregoing evaluation, Staff concludes the request sufficiently demonstrates compliance with the necessary findings and, therefore, recommends your Commission approve the conditional use permit subject to the recommended conditions, and deny the zone modification as requested.

PUBLIC INQUIRY OR CORRESPONDENCE: Department of Conservation/Division of Oil, Gas, and Geothermal Resources; Thomas Kackert; Michael Greer and Terry Wolbert

CEQA ACTION: Environmental Review: Categorically Exempt, Section 15303

DEPARTMENT RECOMMENDATION: Approve conditional use permit subject to recommended conditions; deny zone modification as recommended by Staff; and adopt the suggested findings as set forth in the attached Draft Resolutions

CMM:JB:sc

Attachments

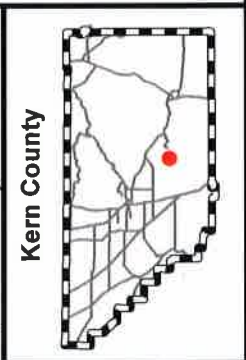
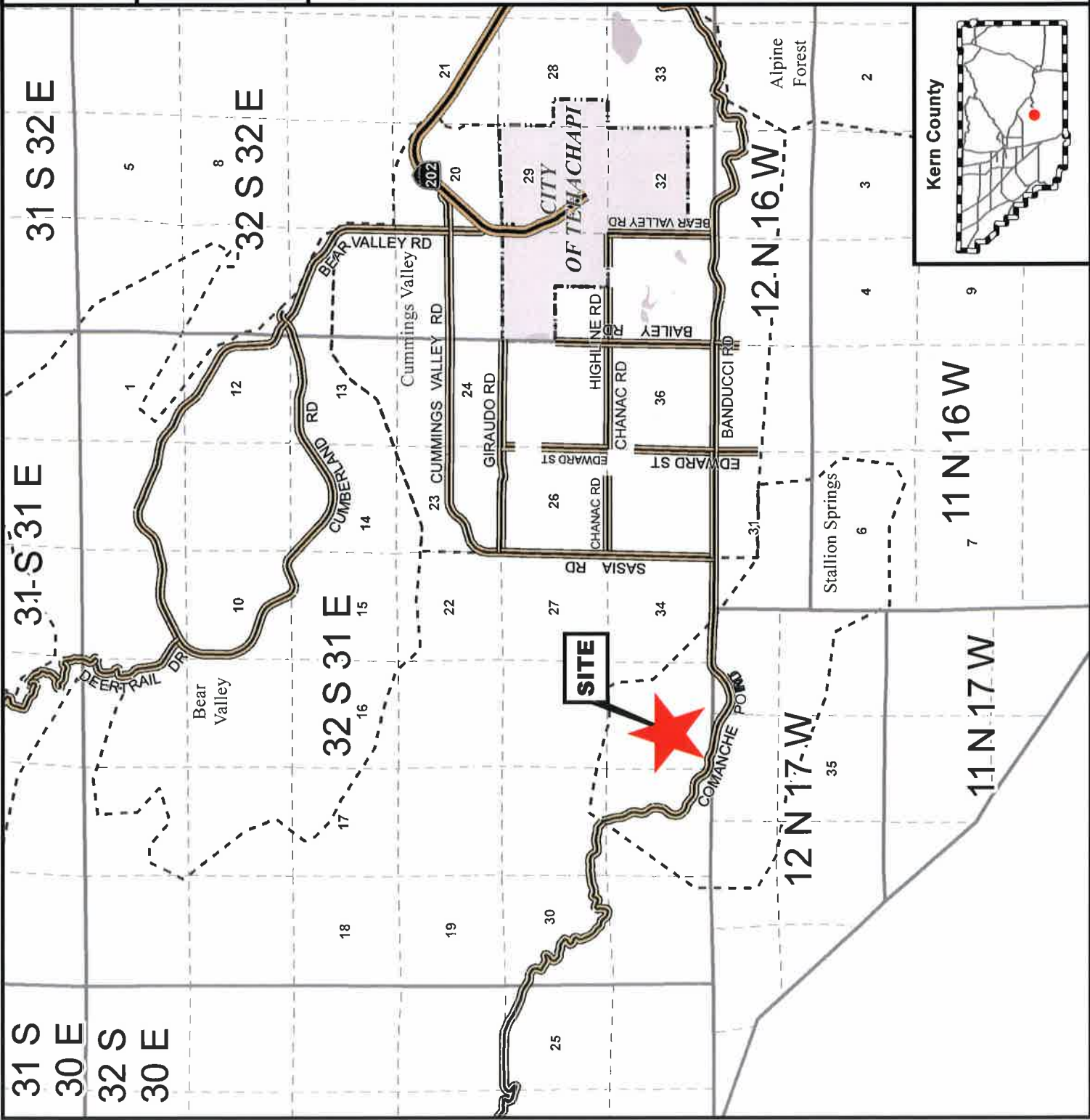
CUP 78/ZM 16 Map 164

Vicinity Map AT&T Mobility by Eukon Group

LEGEND

- SITE
- STATE ROUTE 202
- Arterials
- Township/Range
- Sections
- Water Bodies
- City Limits

APN: 317-210-02
Sec. 33 - T. 32 S./R. 31 E.



31 S
30 E
32 S
30 E

31 S 31 E
32 S 31 E

31 S 32 E
32 S 32 E

11 N 16 W
12 N 16 W
11 N 17 W
12 N 17 W

CUP 78/ZM 16 Map 164

Existing Zoning Map

AT&T Mobility by
Eukon Group



KERN COUNTY ZONING DESIGNATIONS

- E(1) - Estate (1 acre)
- E(1/2) - Estate (.5 acre)
- E(2 1/2) - Estate (2.5 acres)
- E(20) - Estate (20 acres)
- E(5) - Estate (5 acres)
- RS - Residential Suburban
- Combining

APN: 317-210-02

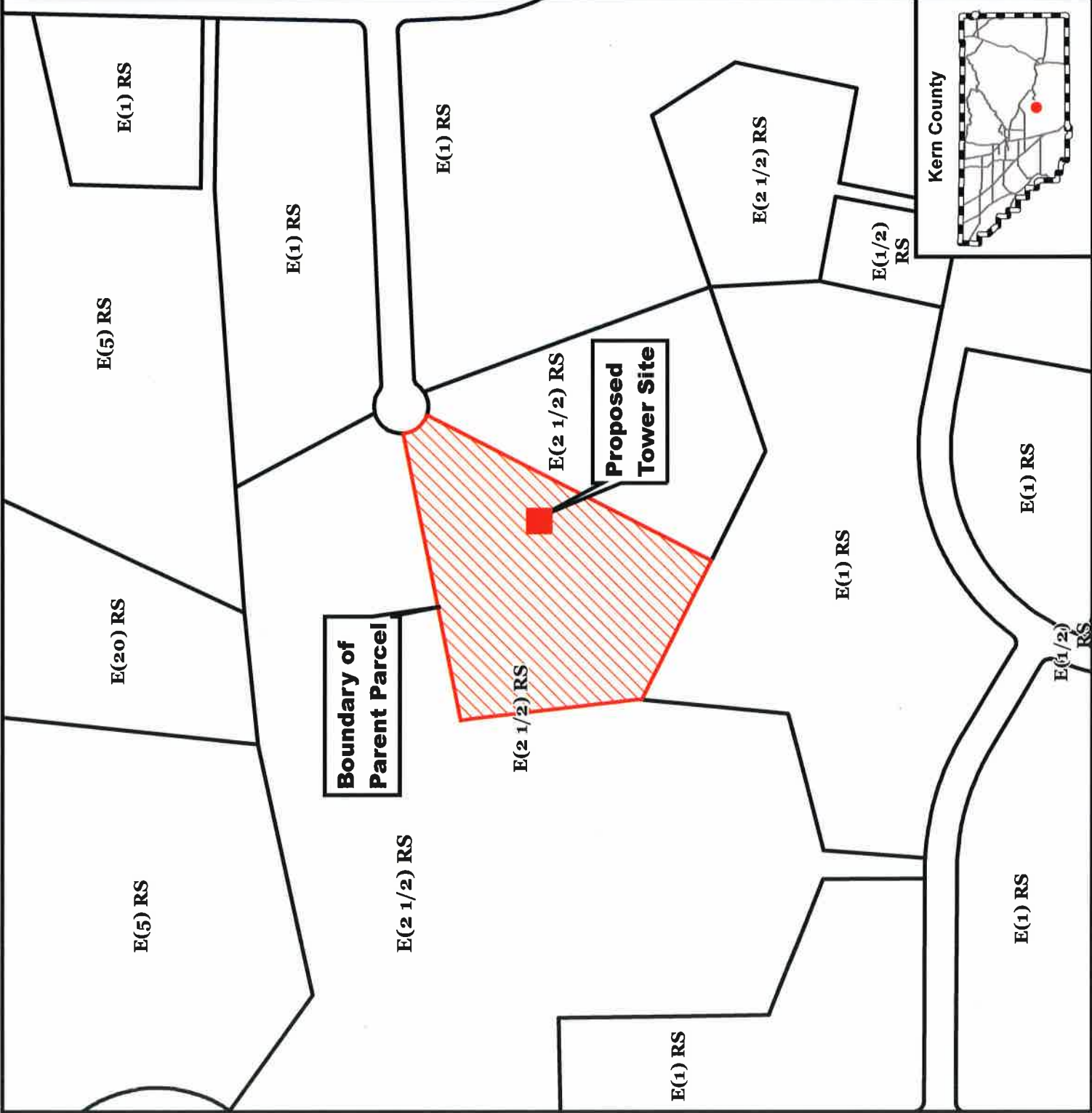
Sec. 33 - T. 32 S./R. 31 E.



0 90 180 270 360 Feet



Kern County
Planning & Natural
Resources Department



CUP 78/ZM 16 Map 164

Assessor's Parcelization Map

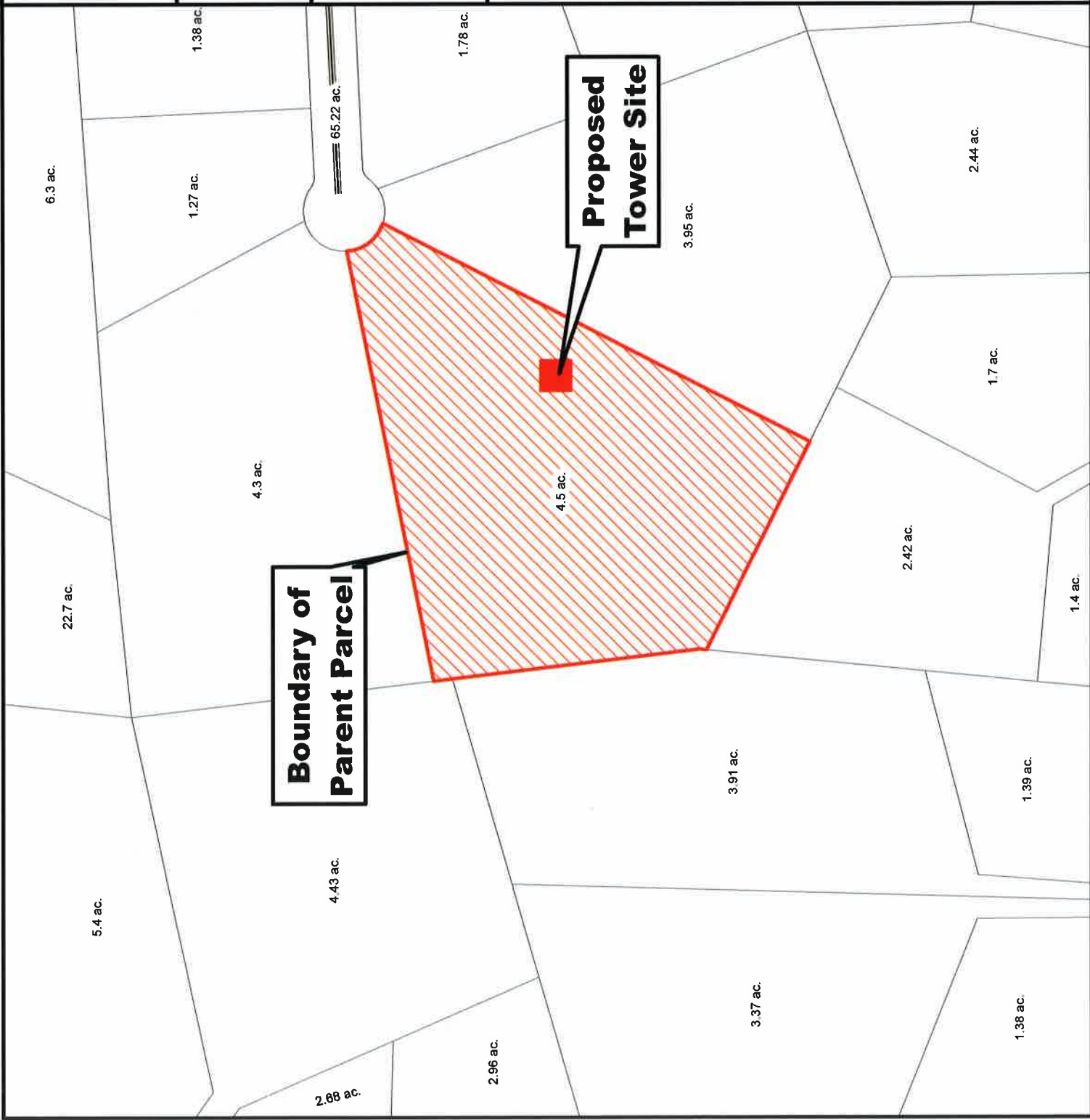
AT&T Mobility by Eukon Group



APN: 317-210-02
Sec. 33 - T. 32 S./R. 31 E.



Kern County
Planning & Natural
Resources Department



APPLICANT:



1452 DINGER AVENUE,
3RD FLOOR
TUSTIN, CA 92780

ENGINEER:



65 POST, SUITE 1000
IRVINE, CA 92618
TEL: (949) 653-6566

DRAWN BY: MS/EC
CHECKED BY: RA

REV.	DATE	DESCRIPTION
1	05/15/17	TRAC ZONING DRAWING
2	06/19/17	ISS. ZONING DRAWING

REVISIONS:

LOCUS:

PROJECT INFORMATION:

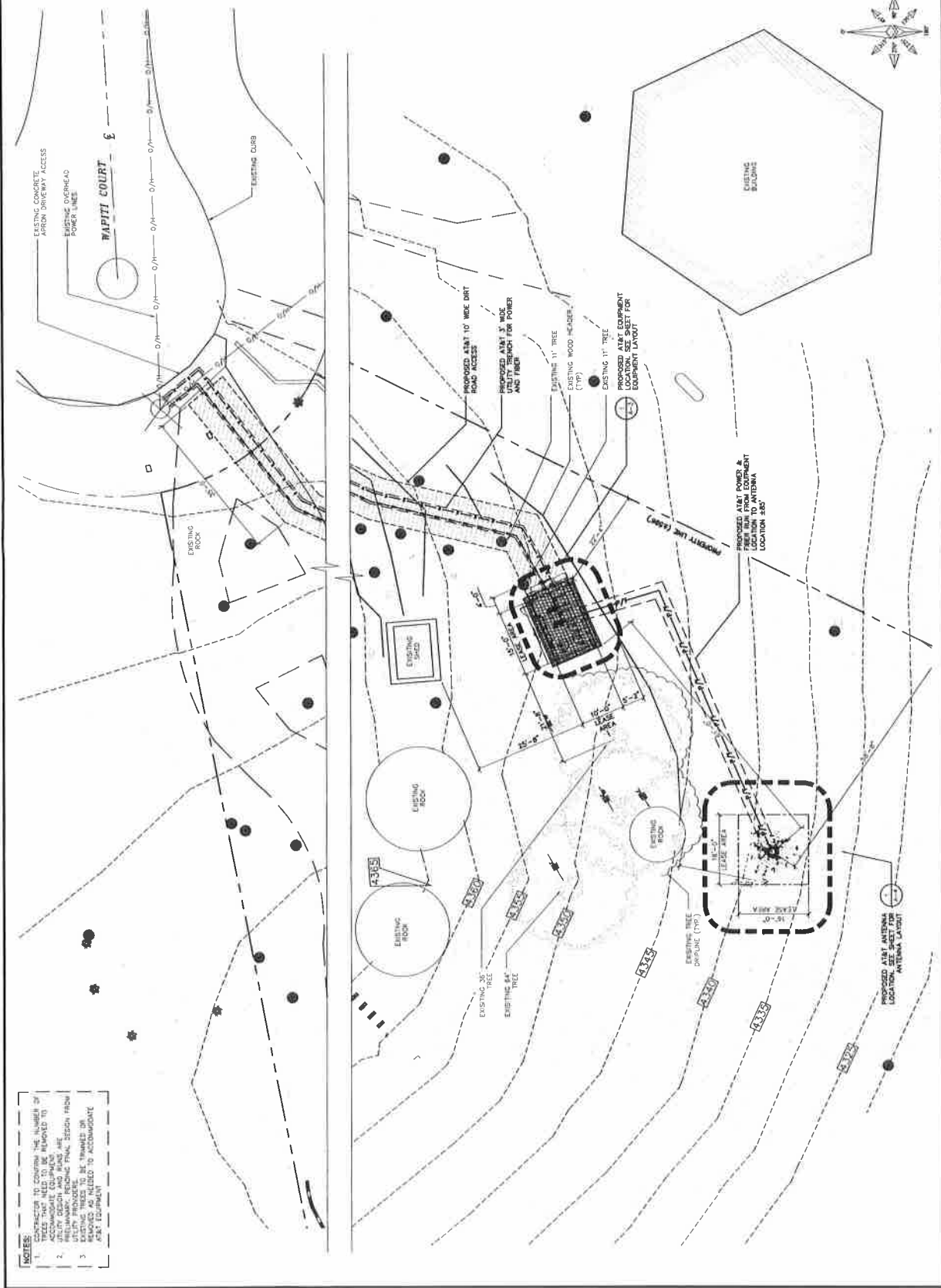
CSL01200
29800 WAPITI COURT,
TEHACHAPI, CA 93561

SHEET TITLE:

ENLARGED SITE
PLAN

SHEET NUMBER:

A-2



- NOTES:
1. EXISTING AND PROPOSED UTILITIES SHOWN IN ACCORDANCE WITH THE CITY OF TUSTIN'S UTILITY RECORDS.
 2. ACCOMPANYING UTILITIES SHALL BE VERIFIED BY THE CONTRACTOR PRIOR TO CONSTRUCTION.
 3. REMOVED AS NEEDED TO ACCOMMODATE ANTENNA EQUIPMENT.

APPLICANT:

1452 FENNER AVENUE,
3RD FLOOR
TUSTIN, CA 92780

ENGINEER:

65 POST SUITE 1000
IRVINE, CA 92618
TEL: (949) 553-8566

DESIGN BY: ME/JEC
CHECKED BY: R/A

REVISIONS

REV	DATE	DESCRIPTION
D	09/15/17	NOTE ZONING DRAWING
A	06/19/17	NOTE ZONING DRAWING

USER NUMBER

PROJECT INFORMATION:

CSL01200
29800 WAPITI COURT,
TEHACHAPI, CA 93561

SHEET TITLE:

ANTENNA AND RRU
SCHEDULE &
ANTENNA LAYOUT

SHEET NUMBER:

A-4

NOTE:
ALL BRACKETS ARE NOT
DISPLAY FOR CLARITY

- NOTES TO CONTRACTOR
- CONTRACTOR IS TO REFER TO THIS DRAWING FOR THE MOST CURRENT RADIO ANTENNA AND RRU SCHEDULE PRIOR TO CONSTRUCTION.
 - CABLE LENGTHS WERE DETERMINED BASED ON VISUAL INSPECTION OF THE SITE. CONTRACTOR TO VERIFY ACTUAL PRE-CONSTRUCTION WALK.
 - CONTRACTOR TO USE ROSENBERGER FIBER LINE. CONTRACTOR TO VERIFY ACTUAL ENGINEER APPROVED EQUAL.
 - CONTRACTOR TO USE CABLES SPECIFIED (OR ENGINEER APPROVED EQUAL).

OPTIMUM ANTENNA REQUIREMENTS (VERIFY WITH CURRENT RFDS)

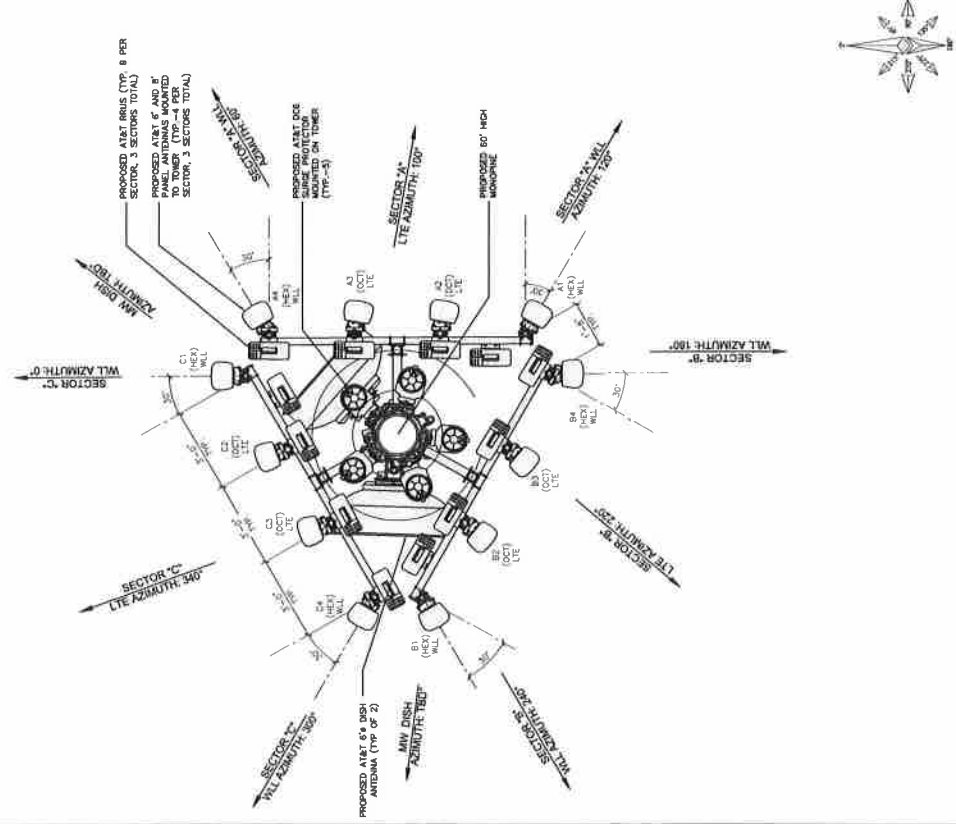
SECTOR	TECHNOLOGY	ANTENNA MODEL	ANTENNA AZIMUTH	IND CENTER	HEIGHT	PROP LENGTH	PROP NUMBER
A1	N/A	PANEL ANTENNA	N/A	120'	N/A	51'	±150' ± FIBER
A2	N/A	PANEL ANTENNA	N/A	100'	N/A	51'	±150' ± FIBER
A3	N/A	PANEL ANTENNA	N/A	100'	N/A	51'	±150' ± FIBER
A4	N/A	PANEL ANTENNA	N/A	80'	N/A	51'	±150' ± FIBER
B1	N/A	PANEL ANTENNA	N/A	240'	N/A	51'	±150' ± FIBER
B2	N/A	PANEL ANTENNA	N/A	220'	N/A	51'	±150' ± FIBER
B3	N/A	PANEL ANTENNA	N/A	180'	N/A	51'	±150' ± FIBER
B4	N/A	PANEL ANTENNA	N/A	0'	N/A	51'	±150' ± FIBER
C1	N/A	PANEL ANTENNA	N/A	340'	N/A	51'	±150' ± FIBER
C2	N/A	PANEL ANTENNA	N/A	340'	N/A	51'	±150' ± FIBER
C3	N/A	PANEL ANTENNA	N/A	300'	N/A	51'	±150' ± FIBER
C4	N/A	PANEL ANTENNA	N/A	300'	N/A	51'	±150' ± FIBER

REMOTE RADIO UNITS (RRUS-11) & (RRUS-12)

SECTOR	RRU TYPE	RRU LOCATION (DISTANCE FROM ANTENNA)	MINIMUM CLEARANCES ABOVE BELOW SIDS
A1	ERICSSON RRU (FNLL)	±15'	18" 8" 0"
A2	ERICSSON RRU (FNLL)	±15'	18" 8" 0"
A3	ERICSSON RRU (FNLL)	±15'	18" 8" 0"
A4	ERICSSON RRU (FNLL)	±15'	18" 8" 0"
B1	ERICSSON RRU (FNLL)	±15'	18" 8" 0"
B2	ERICSSON RRU (FNLL)	±15'	18" 8" 0"
B3	ERICSSON RRU (FNLL)	±15'	18" 8" 0"
B4	ERICSSON RRU (FNLL)	±15'	18" 8" 0"
C1	ERICSSON RRU (FNLL)	±15'	18" 8" 0"
C2	ERICSSON RRU (FNLL)	±15'	18" 8" 0"
C3	ERICSSON RRU (FNLL)	±15'	18" 8" 0"
C4	ERICSSON RRU (FNLL)	±15'	18" 8" 0"

SURGE SUPPRESSION SYSTEM

MANUFACTURER	PART NUMBER	QTY	LOCATION
RAYCAP	DC2-48-60-IM	2	MOUNTED ON NEW LTE EQUIPMENT RACK
RAYCAP	DC2-48-80-0-9E	2	N/A
RAYCAP	DC2-48-60-18-2F	5	MOUNTED ON NEW WIRE-RING



APPLICANT:



1452 EDWARDS AVENUE,
3RD FLOOR
TUSTIN, CA 92780

ENGINEER:



65 POST SUITE 1000
IRVINE, CA 92618
TEL: (949) 553-8566

DRAWN BY: MZ/EC
CHECKED BY: R.S.

REVISIONS:

REV.	DATE	DESCRIPTION
Q	09/15/17	100% ZONING DRAWING
A	06/19/17	BOX ZONING DRAWING

LICENSER:

PROJECT INFORMATION:

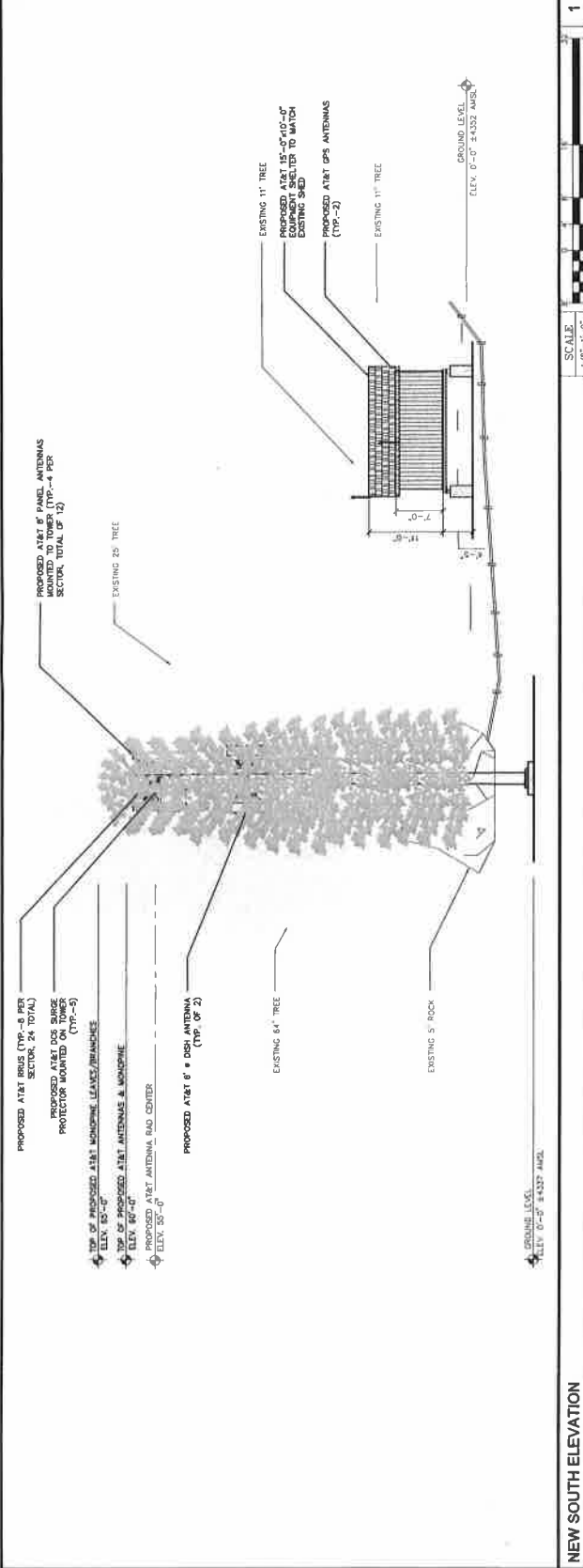
CSL01200
29800 WAPITI COURT,
TEHACHAPI, CA 93561

SHEET TITLE:

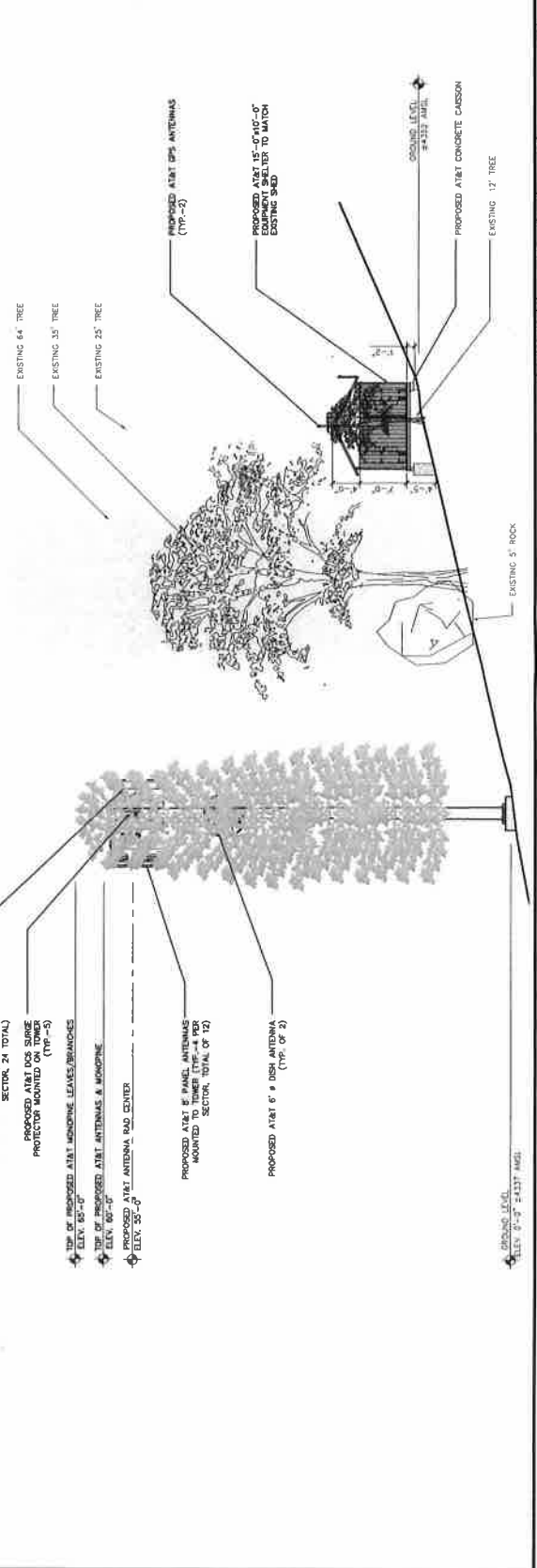
NEW EAST & SOUTH
ELEVATIONS

SHEET NUMBER:

A-5



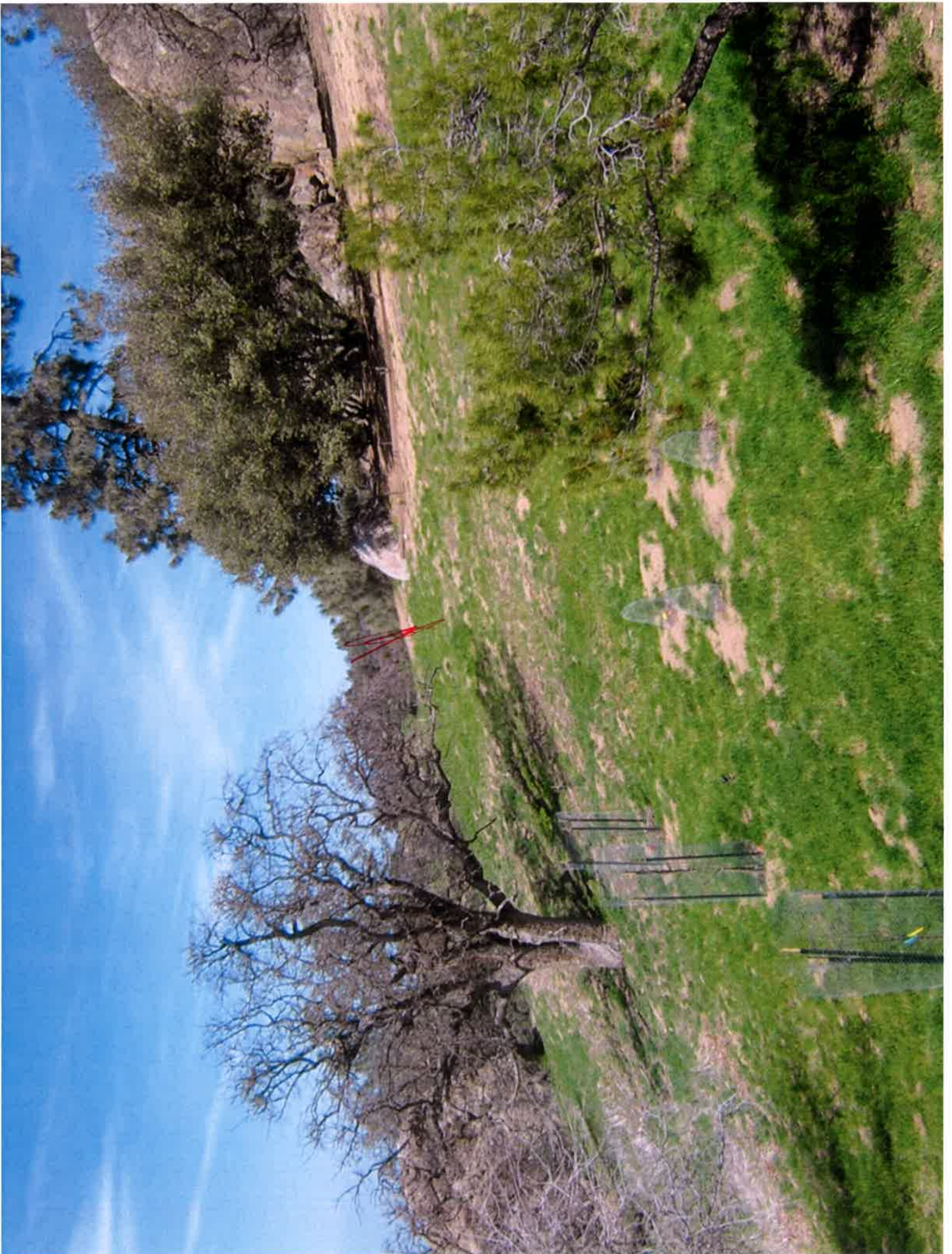
NEW SOUTH ELEVATION



NEW EAST ELEVATION









Department of Conservation
Division of Oil, Gas, and Geothermal Resources

Inland District

4800 Stockdale Highway • Suite 100

Bakersfield, CA 93309

(661) 322-4031 • FAX (661) 861-0279

February 7, 2018

Mr. James Bergantino, Planner 1
Kern County Planning and Natural Resources Department
2700 "M" Street, Suite 100
Bakersfield, CA 93301

Subject: CUP #78, Map #164; MOD #16, Map #164

Dear Mr. Bergantino:

The Department of Conservation, Division of Oil, Gas, and Geothermal Resources (Division) has received and reviewed the above referenced Notice of Public Hearing and submits the following evaluation.

The project is located in Kern County, outside of any of the Division's oil field administrative boundaries. Division records indicate there are no known oil, gas, or geothermal wells located within the project boundary as identified in the notice, and therefore, no further review by the Division is required.

If during development activities, any wells are encountered that were not part of this review, the property owner/developer shall immediately notify the Division's construction site well review engineer in the Bakersfield district office. The district office will send a follow-up well evaluation letter to the property owner and local permitting agency. Remedial plugging and abandonment operations may be required.

Thank you for the opportunity to comment on this project. Should any questions arise, please contact me in the Bakersfield district office at **(661) 334-3662**.

Sincerely,

Michael Toland
Senior Oil and Gas Engineer
Environmental Unit Supervisor

Feb. 12, 2018

Kern County Planning and Nat. Resources Dept.

RE: CUP #78, Map #164; MOD #16, Map #164

Wireless communications facility

29800 Wapiti Ct., Tehachapi

I am strongly in favor of the rezoning and tower. Cell service is non existent at my home. Reliable cell service is no longer a luxury but is essential for business and safety.

Thomas Kackert

29940 Grouse Dr.

Tehachapi, CA. (Stallion Springs) 93561

661 300 1164

P.S. Mailing address: 315 Buccaneer Ln

Lake Havasu, AZ. 86406

James Bergantino

From: Michael Greer <mginsd@gmail.com>
Sent: Wednesday, April 04, 2018 10:24 AM
To: James Bergantino
Subject: ATT Cell Tower Tehachapi
Attachments: StallionSprings CC&R's.pdf

Hi James,

This is Michael Greer. We spoke yesterday at the property located at 29800 Wapiti Court, Tehachapi, regarding the proposed ATT cell tower.

I appreciate all the info you provided.

I have the following concerns regarding the tower:

1. Health concerns
2. Cell tower is an eyesore, and will impact our westward views.
3. Lease rights as shown on diagram include our property (?)
4. Access to the site. Will our property be impacted?
5. Construction noise, and service crews will have access to the site 24/7 for service issues affecting our quality of life
6. Loss of view will impact property value/resale value

We have just moved into this property in December, and were not given the opportunity to voice our concerns until now.

I have forwarded your info to the Stallion Springs Community Services District, as a cell tower is not included in the CC&R's and they were never notified as well.

Thanks again for your help

Michael Greer/Terry Wolbert
property owners at 29700 Wapiti Court, Tehachapi 93561
661-821-9893

**BEFORE THE PLANNING COMMISSION
COUNTY OF KERN, STATE OF CALIFORNIA**

In the matter of:

RESOLUTION NO. ***

APPLICATION FOR CONDITIONAL USE PERMIT CASE NO. 78, MAP NO. 164

29800 Wapiti Court, Tehachapi
AT&T Mobility by Eukon Group (PP18150)

FINDINGS AND DETERMINATION

I, Lorelei H. Oviatt, Secretary of the Planning Commission of the County of Kern, State of California, do hereby certify that the following resolution, proposed by ***, seconded by ***, was duly passed and adopted by said Planning Commission at an official meeting hereof this **12th** day of **April, 2018**, by the following vote, to wit:

AYES: ***

NOES: ***

ABSTAINED: ***

ABSENT: ***

**SECRETARY OF THE PLANNING COMMISSION
COUNTY OF KERN, STATE OF CALIFORNIA**

R E S O L U T I O N

SECTION 1. WHEREAS:

(a) Pursuant to the California Government Code, Title 7, Section 65000, et seq. (known as the Planning and Zoning Law), the Kern County Board of Supervisors has adopted the Official Land Use and Zoning Ordinance for the County of Kern (Ordinance Code of Kern County, Chapter 19.02, et seq.), herein called the Zoning Ordinance; and

DRAFT

(b) The Zoning Ordinance establishes various classes of zones, prescribes land uses and regulations for the various zones, and adopts zoning maps for the purposes of dividing the County into zones and showing the zone boundaries; and

(c) The Zoning Ordinance regulates the use of buildings, structures, and land, as between agriculture, industry, business, residence, and other purposes, and other uses more specifically set forth in Section 65850 of said Government Code; and

(d) The Kern County Planning and Natural Resources Department has received an application pertaining to a parcel of real property which is located within that portion of the unincorporated area of the County for which an official Zoning Map has been adopted under Section 7297.504 of said Ordinance Code and for which precise land use and zoning regulations are in effect; and

(e) Said parcel of real property is described as follows:

APN: 317-210-02

Section 33, T32S, R31E, MDB&M, County of Kern, State of California (A complete legal description is on file with the Kern County Planning and Natural Resources Department); and

(f) Said application has been made pursuant to provisions of Chapter 19.104 of said Ordinance Code, and requests a conditional use permit as provided in Section 19.16.030.G, insofar as said requirements are applicable to the aforescribed parcel of real property, and more particularly to allow a 65-foot-tall monopine wireless communication facility with an accessory structure (Section 19.16.030.G), in an E (2 1/2) RS (Estate - 2 1/2 acres - Residential Suburban Combining); District; and

(g) Said application has been made in the form and in the manner prescribed by said Zoning Ordinance and is on file with the Secretary of this Commission, designated as above, and reference is hereby made thereto for further particulars; and

(h) The Secretary of this Commission has caused notice to be duly given of a public hearing in this matter in accordance with law, as evidenced by the affidavit of publication and the affidavit of mailing on file with the Secretary of this Commission; and

(i) Said notice of hearing stated that the Planning and Natural Resources Department has determined that the activity in question is included on the list of classes of projects which have been determined not to have a significant effect on the environment and this Commission concurs with this determination and that, therefore, under the provisions of Section 15303 of the State CEQA Guidelines, it is categorically exempt from the provisions of the California Environmental Quality Act; and

(j) Said public hearing has been duly and timely conducted, during which the proposal was explained by a representative of the Planning and Natural Resources Department and all persons so desiring were duly heard; and

(k) During said hearing and prior to consideration of the merits of said matter, this Commission called for any objections to the dispensing with an environmental impact report; and

(l) This Commission has considered the recommendation of the Planning and Natural Resources Department and all the testimony presented during said public hearing, after which said public hearing was concluded.

SECTION 2. NOW, THEREFORE, BE IT HEREBY RESOLVED by the Planning Commission of the County of Kern, as follows:

(a) This Commission finds that the facts recited above are true and that this Commission has jurisdiction to consider the subject of this resolution; and

(b) After careful consideration of all facts and evidence as presented at said hearing, it is the decision of the Planning Commission that the application herein described be, and it is hereby, **APPROVED**, with development to be in substantial conformity with the approved plan, and the approved plan shall be revised to include the following conditions of approval:

- (1) Development shall be in substantial conformity with the approved plan, and the approved plan shall be revised to include the following conditions of approval.
- (2) This approval authorizes a Conditional Use Permit to allow a 65-foot-tall monopine wireless communication facility with an accessory structure (Section 19.16.030.G), in an E (2 1/2) RS (Estate - 2 1/2 acres - Residential Suburban Combining). Any additions or expansions to the approved plan may be subject to a formal modification to this plan or a new precise development plan/conditional use permit, as determined by the Director of the Kern County Planning and Natural Resources Department
- (3) All necessary building permits must be obtained.
- (4) **Prior to the issuance of building or grading permits, the applicant shall submit documentation of the following:**
 - (a) Fire flows, fire protection facilities, and access ways shall be as required and approved by the Kern County Fire Department.
 - (b) The project site is located in an area subject to State Responsibility Area fire safe regulations. The development plan shall be reviewed for compliance with fire safe regulations.
 - (c) The applicant shall submit documentation that all necessary approvals and/or permits from the State Division of Occupational Safety and Health have been obtained.
 - (d) The applicant shall submit a landscaping plan to the Director of the Kern County Planning and Natural Resources Department in accordance with the requirement of

Chapter 19.91.030.A.9 of the Kern County Zoning Ordinance. No grading or building permits shall be issued until the landscape plan has been approved by the Director of Kern County Planning and Natural Resources.

- (5) **Prior to final occupancy approval, the following conditions shall be verified by the building inspector and shall be continuously maintained while this permit is active:**
- (a) All easements shall be kept open, clear, and free from buildings and structures of any kind pursuant to Section 19.08.225 and Section 19.80.030.C of the Kern County Zoning Ordinance and Chapters 18.50 and 18.55 of the Kern County Land Division Ordinance. All obstructions, including utility poles and lines, trees, pole signs, or similar obstructions, shall be removed from the ultimate road rights-of-way in accordance with Section 18.55.030 of the Land Division Ordinance. Compliance with this requirement is the responsibility of the applicant and may result in significant financial expenditures.
 - (b) All vehicle parking and maneuvering areas shall be surfaced with one of the following: three inches of decomposed granite, three inches of compacted rock dust, three inches of gravel, or three inches of a material of a higher quality. All required surfacing shall be continuously maintained in good condition, as determined by the Director of the Kern County Planning and Natural Resources Department.
 - (c) When adjacent to property zoned for single-family residential, or multifamily purposes, a six- (6-) foot-high fence shall be constructed and maintained in good condition. The design and materials proposed shall be approved by the Director of the Kern County Planning and Natural Resources Department prior to construction. Said fence or hedge shall be continuously maintained in good condition.
 - (d) All signs shall be approved by the Director of the Kern County Planning and Natural Resources Department prior to installation.
 - (e) The project proponent shall post a sign identifying a contact telephone number regarding on-site activities. Sign design and location to be approved by the Director of the Kern County Planning and Natural Resources Department.
 - (f) All equipment shelters, poles antennas, and supporting structures shall be treated with grey, nonreflective colors.
 - (g) The communications facility shall be constructed and operated in accordance with all requirements of the Federal Communications Commission.
 - (h) No tower lighting shall be permitted other than as required by the Federal Aviation Administration. If lighting is required by the Federal Aviation Administration, the applicant shall consult with the Federal Aviation Administration regarding a means of light glare
 - (i) From the drop point of any overhead power pole on the periphery of the site, all new on-site utility services shall be placed underground.
 - (j) The building inspector shall obtain written information from the Kern County Planning and Natural Resources Department that the monopine tower structure is in conformance with the elevations approved by that Department.

- (k) In keeping with employing stealth technology which camouflages the communication tower the monopine shall depict a conical-shape that has a significant diameter at the base and tapers off at the height of the monopine increases. The branch density of the monopine shall reflect a random and naturalistic placement of the branches with a visually longer branch length at the bottom than those branches at the top.
 - (l) The applicant shall consult with the Kern County Public Health Services Department/ Environmental Health Division/Hazardous Materials Program. If required, within thirty (30) days of the commencement of operations, the applicant shall submit a Hazardous Materials Business Plan to the Kern County Public Health Services Department/ Environmental Health Division.
- (6) **The property owner shall continuously comply with the following conditions of approval during implementation of this permit:**
- (a) The development shall comply with any requirements of the Eastern Kern Air Pollution Control District.
 - (b) If any previously unknown oil, gas or injection wells are discovered, work in the area of discovery shall be stopped and the Department of Conservation/Division of Oil, Gas, and Geothermal Resources/Bakersfield office contacted by the project proponent to obtain information on the requirements of, and approval to perform, remedial operations implemented prior to resumption of work in the area of discovery.
 - (c) If any previously unknown archaeological or cultural resources are discovered, work in the area of discovery shall be stopped and a qualified archaeologist contacted to evaluate the find. A copy of the archaeologist's evaluation shall be submitted to the Kern County Planning and Natural Resources Department upon its issuance and any measures recommended by the archaeologist shall be implemented prior to resumption of work in the area of discovery.
 - (d) All exterior/outdoor lighting fixtures shall comply with Chapter 19.81 (Outdoor Lighting "Dark Skies Ordinance") of the Kern County Zoning Ordinance. Lighting fixtures shall not exceed a height of twenty (20) feet above grade, if freestanding, or the height of the building upon which they are attached. Light fixtures shall be maintained in sound operating conditions at all times.
 - (e) All signs shall comply with the signage regulations of the applicable base zone district and with Chapter 19.84 and Chapter 19.81.040(h) of the Zoning Ordinance.
 - (f) During all on-site grading and construction activities, adequate measures shall be implemented to control fugitive dust.
 - (g) Prior to expansion of the approved use, including the placement of additional antenna and/or equipment buildings, within the lease area, the height and location of additional antennas and/or buildings shall be reviewed for compliance with Section 19.91 (Wireless Communication Facilities) of the Kern County Zoning Ordinance and may require modification of this permit or approval of a new conditional use permit, as determines by the Director of the Kern County Planning and Community Development Department
 - (h) If the wireless communications facility approved by this conditional use permit has not been in operation for a consecutive period of twelve (12) months shall be deemed abandoned and

shall be removed within sixty (60) days from the date written notice to the owner of the facility has been sent by the County. If the owner of the wireless communications facility does not remove the structure(s) identified in said notice within sixty (60) days, the property owner shall be served with written notice to remove the identified structure(s) within sixty (60) days. If the property owner does not remove the structure(s) within this sixty- (60-) day period, the County may remove the structure(s) at the property owner's expense and lien the property to recover all enforcement and removal costs.

- (7) This permit shall run concurrently with Zone Modification No. 16, Map No. 164. Should Zone Modification No. 16, Map No. 164 expire or be withdrawn, this permit shall become null and void.
- (8) If the development for which this conditional use permit has been approved pursuant to the provisions of the Zoning Ordinance has not commenced, or permits for such development have not been issued, within one (1) year of the granting of the use permit, or if the conditional use permit has been unused, abandoned, discontinued, or has ceased for a period of one (1) year, the use permit shall become null and void and of no effect, unless an extension has been granted by the decision-making authority upon written request for an extension before the expiration of the one- (1-) year period.
- (9) At the time building permits are applied for, a filing fee of \$130 may be imposed to ensure that final plans are consistent with adopted conditions of approval. This fee may serve as an initial deposit for particularly complex cases, in which case a cost recovery agreement will be required and charges will be billed at \$100 per hour; and

(c) Noncompliance with the adopted conditions of approval may cause permit revocation proceedings in accordance with Section 19.102.020 of said Ordinance Code; and

(d) The findings of this Commission upon which its decision is based are as follows:

- (1) The applicable provisions of the California Environmental Quality Act, the State CEQA Guidelines, and the Kern County Guidelines have been duly observed in conjunction with said hearing in the consideration of this matter and all of the previous proceedings relating thereto.
- (2) This project is categorically exempt under Section 15303 of the State CEQA Guidelines.
- (3) The effect upon the environment of such project and the activities and improvements which may be carried out thereunder will not be substantial and will not interfere with maintenance of a high-quality environment now or in the future.
- (4) The proposed use is consistent with the goals and policies of the Greater Tehachapi Area Specific and Community Plan.
- (5) The proposed use is consistent with the purpose of the applicable district or districts.
- (6) The proposed use is listed as a use subject to a conditional use permit in the applicable zoning district or districts or a use determined to be similar to a listed conditional use in accordance with the procedures set out in Section 19.08.060.
- (7) The proposed use meets the minimum requirements of this title applicable to the use and complies with all other applicable laws, ordinances, and regulations of the County of Kern and the State of California.

- (8) The proposed use will not be materially detrimental to the health, safety, and welfare of the public or to property and residents in the vicinity.
 - (9) The monopine stealth design of the wireless communication facility is compatible with surrounding existing land uses and vegetation.
 - (10) The wireless communication facility as designed is consistent with the Federal Telecommunications Act and Chapter 19.91 of the Kern County Zoning Ordinance.
 - (11) The installation of the wireless communication facility will facilitate the provision of reliable and cost-effective utility service to residents.
 - (12) The wireless communications facility will be constructed by implementing County and industry standards to ensure it is built and maintained in a manner that will not have an adverse effect on the community. Additionally the proposed wireless communications facility will comply with all current Federal Communications Commission's (FCC) guidelines and Office of Engineering and Technology (OET) Bulletin 65, which outlines rules governing permissible exposure levels to radiofrequency (RF) emissions at FCC-licensed facilities.
 - (13) Approval of this request is consistent with past action for similar requests in the area; and
- (e) The Secretary of this Commission shall cause a Notice of Exemption to be filed with the County Clerk; and
- (f) The Secretary of this Commission shall cause copies of this resolution to be transmitted to the following:

- AT&T Mobility by Eukon Group (PP18150) (agent) (1)
- AT&T Mobility (applicant) (1)
- George and Thelma Mojica Revocable Living Trust (owner) (1)
- Kern County Fire Department (1)
- Kern County Public Works Department (1)
- Eastern Kern Air Pollution Control District (1)
- Department of Conservation/Division of Oil, Gas, and Geothermal Resources (1)
- Federal Aviation Administration (1)
- Federal Communications Commission (1)
- LiUNA/Arthur Izzo (1)
- Kern County Assessor/Chief, Realty Division (1)
- File (3)

sc

**BEFORE THE PLANNING COMMISSION
COUNTY OF KERN, STATE OF CALIFORNIA**

In the matter of:

RESOLUTION NO. ***

APPLICATION FOR ZONE MODIFICATION CASE NO. 16, MAP NO. 164

29800 Wapiti Court, Tehachapi
AT&T Mobility by Eukon Group (PP18150)

FINDINGS AND DETERMINATION

I, Lorelei H. Oviatt, Secretary of the Planning Commission of the County of Kern, State of California, do hereby certify that the following resolution, proposed by ***, seconded by ***, was duly passed and adopted by said Planning Commission at an official meeting hereof this **12th** day of **April, 2018**, by the following vote, to wit:

AYES: ***

NOES: ***

ABSTAINED: ***

ABSENT: ***

**SECRETARY OF THE PLANNING COMMISSION
COUNTY OF KERN, STATE OF CALIFORNIA**

R E S O L U T I O N

SECTION 1. WHEREAS:

(a) Pursuant to the California Government Code, Title 7, Section 65000, et seq. (known as the Planning and Zoning Law), the Kern County Board of Supervisors has adopted the Official Land Use and Zoning Ordinance for the County of Kern (Ordinance Code of Kern County, Chapter 19.02, et seq.), herein called the Zoning Ordinance; and

DRAFT

(b) The Zoning Ordinance establishes various classes of zones, prescribes land uses and regulations for the various zones, and adopts zoning maps for the purposes of dividing the County into zones and showing the zone boundaries; and

(c) The Zoning Ordinance regulates the use of buildings, structures, and land, as between agriculture, industry, business, residence, and other purposes, and other uses more specifically set forth in Section 65850 of said Government Code; and

(d) The Kern County Planning and Community Development Department has received an application pertaining to a parcel of real property which is located within that portion of the unincorporated area of the County for which an official Zoning Map has been adopted under Section 7297.504 of said Ordinance Code and for which precise land use and zoning regulations are in effect; and

(e) Said parcel of real property is described as follows:

APN: 317-210-02

Section 33, T32S, R31E, MDB&M, County of Kern, State of California (A complete legal description is on file with the Kern County Planning and Community Development Department); and

(f) Said application has been made pursuant to provisions of Chapter 19.112 of said Ordinance Code, and requests a zone modification from the requirements of Section 19.110.040.C, insofar as said requirements are applicable to the aforescribed parcel of real property, and more particularly to allow a reduced side-yard setback from 78 feet to 58.5 feet (25 percent reduction) (Section 19.110.040.C), in an E (2 1/2) RS (Estate - 2 1/2 acres - Residential Suburban Combining) District; and

(g) Said application has been made in the form and in the manner prescribed by said Zoning Ordinance and is on file with the Secretary of this Commission, designated as above, and reference is hereby made thereto for further particulars; and

(h) The Secretary of this Commission has caused notice to be duly given of a public hearing in this matter in accordance with law, as evidenced by the affidavit of publication and the affidavit of mailing on file with the Secretary of this Commission; and

(i) Said notice of hearing stated that the Planning and Community Development Department has determined that the activity in question is included on the list of classes of projects which have been determined not to have a significant effect on

the environment and this Commission concurs with this determination and that, therefore, under the provisions of Section 15303 of the State CEQA Guidelines, it is categorically exempt from the provisions of the California Environmental Quality Act; and

(j) Said public hearing has been duly and timely conducted, during which the proposal was explained by a representative of the Planning and Community Development Department and all persons so desiring were duly heard; and

(k) During said hearing and prior to consideration of the merits of said matter, this Commission called for any objections to the dispensing with an environmental impact report; and

(l) This Commission has considered the recommendation of the Planning and Community Development Department and all the testimony presented during said public hearing, after which said public hearing was concluded.

SECTION 2. NOW, THEREFORE, BE IT HEREBY RESOLVED by the Planning Commission of the County of Kern, as follows:

(a) This Commission finds that the facts recited above are true and that this Commission has jurisdiction to consider the subject of this resolution; and

(b) After careful consideration of all facts and evidence as presented at said hearing, it is the decision of the Planning Commission that the application herein described be, and it is hereby, **DISAPPROVED**; and

(c) The findings of this Commission upon which its decision is based are as follows:

- (1) Approval of the requested modification is unwarranted due to the applicant's failure to produce special circumstances applicable to the property. Economic hardships cannot be recognized as "special circumstances."
- (2) Approval of the requested modification may set an undesirable precedent that may jeopardize the ability of the County to impose necessary improvement standards on future developments in this area, and approval of this request would constitute a grant of special privilege to the applicant as no other similar requests for similar projects have been processed in Zone Map 164
- (3) No evidence exists in the record that indicates that denial of the requested zone modification would prohibit the construction of the wireless communication facility on the project site consistent with the adopted development standards.

(e) The Secretary of this Commission shall cause a Notice of Exemption to be filed with the County Clerk; and

- (f) The Secretary of this Commission shall cause copies of this resolution to be transmitted to the following:
- AT&T Mobility by Eukon Group (PP18150) (agent) (1)
 - AT&T Mobility (applicant) (1)
 - George and Thelma Mojica Revocable Living Trust (owner) (1)
 - Kern County Fire Department (1)
 - Kern County Public Works Department (1)
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 - Department of Conservation/Division of Oil, Gas, and Geothermal Resources (1)
 - Federal Aviation Administration (1)
 - Federal Communications Commission (1)
 - LiUNA/Arthur Izzo (1)
 - Kern County Assessor/Chief, Realty Division (1)
 - File (3)

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