Community and Economic Development
Planning Division

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PLANNING COMMISSION DATE: **September 3, 2019**

AGENDA ITEM: **#2**

CUP	**#2019-019**	**Conditional Use Permit for AT&T Mobility**
		Applicant: AT&T Mobility c/o Complete Wireless
APN	**#054-341-028**	**Owner: Kenneth Ingram, et al**
CEQA	**MND #2019-17**	**Mitigated Negative Declaration**

REQUEST:

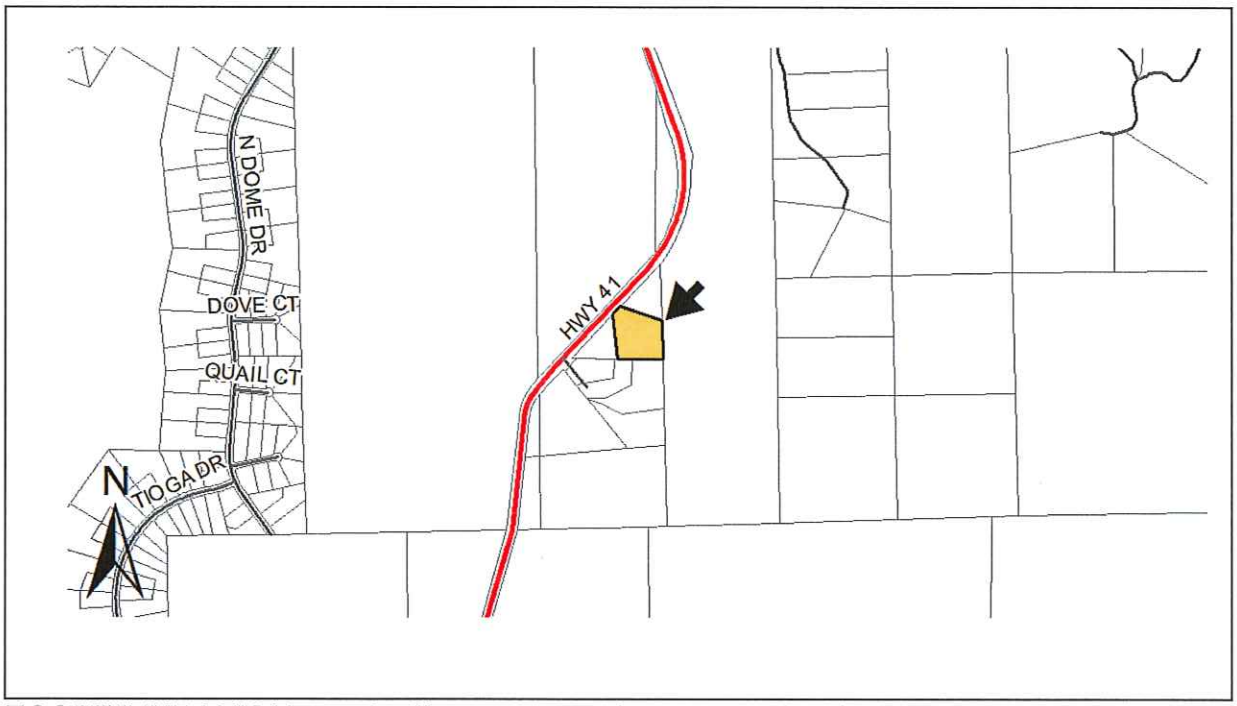
The applicant is requesting a Conditional Use Permit to allow for an unmanned telecommunications facility, which will include a 124' monopole.

LOCATION:

The subject property is located on the east side of Highway 41 approximately 700 feet North of Mecca Lane (30455 Highway 41), Coarsegold.

ENVIRONMENTAL ASSESSMENT:

A Mitigated Negative Declaration (MND #2019-17) (Exhibit T) has been prepared and is subject to approval by the Planning Commission.



RECOMMENDATION: Staff recommends approval of Conditional Use Permit CUP#2019-019, Mitigated Negative Declaration #2019-17 and associated Mitigation Monitoring Program.

GENERAL PLAN DESIGNATION (Exhibit A)**:**

SITE: RR (Rural Residential) Designation

SURROUNDING: RR (Rural Residential) Designation, AE (Agricultural Exclusive) Designation, RER (Rural Estate Residential) Designation

COARSEGOLD AREA PLAN DESIGNATION (Exhibit A-2)

SITE: RR (Rural Residential) Designation

SURROUNDING: RR (Rural Residential) Designation, AE (Agricultural Exclusive) Designation, RER (Rural Estate Residential) Designation

ZONING (Exhibit B)**:**

SITE: ARF (Agricultural, Rural, Foothills) District

SURROUNDING: ARF (Agricultural, Rural, Foothills) District, AR-5 (Agricultural, Rural, Five Acre) District

LAND USE:

SITE: Residential, Agricultural

SURROUNDING: Residential, Agricultural

SIZE OF PROPERTY: 5.5 Acres

ACCESS (Exhibit A-1)**:** Access to the site is via Highway 41

BACKGROUND AND PRIOR ACTIONS:

There are no prior actions on this parcel.

PROJECT DESCRIPTION:

This is a request for a Conditional Use Permit to allow a proposed unmanned telecommunications facility to include a 124' monopole, 12 panel antennas three (3) antenna sectors with four (4) antennas per sector, 18 remote radio head (RRH) units, walk-in equipment cabinet, standby generator located within a 30' x 40' lease area surrounded by a 6' tall chain link fence with barbed wire and a 12' wide access gate.

AT&T Mobility is seeking to improve communication services in Madera County. More specifically, AT&T would like to bring improved fixed wireless internet and cellular coverage to the area near Highway 41 and living units, businesses, and traveled areas within the general and immediate area. The service objective is to

provide broadband internet to Americans that do not currently have access to high speed broadband and to improve cellular coverage in the area. The increase in wireless services will benefit residents, local businesses, travelers, and public safety communications systems in the area, including police, fire and medical services.

ORDINANCES/POLICIES:

Chapter 18.53.020 of the Madera County Zoning Ordinance outlines the permitted uses within the ARF (Agricultural, Rural, Foothills) District.

Chapter 18.92 of the Madera County Zoning Ordinance outlines the procedures for the processing and approval of conditional use permits.

Part 1 of the Madera County General Plan outlines the RR (Rural Residential) Designation.

Coarsegold Area Plan outlines the RR (Rural Residential) Designation and designation for the community of Coarsegold and refines the goals of the County's General Plan and provides more detailed guidance for future growth and development in the Coarsegold community of Eastern Madera County.

Telecommunications Act of 1996 authorizes local jurisdictions the discretionary authority over new cellular tower approvals.

ANALYSIS:

Under the Telecommunications Act of 1996, local jurisdictions have discretionary authority over placement of new cellular towers in their jurisdictions. It is only when existing cellular towers are being modified (i.e. new antennas, new ground based equipment, etc.) that local jurisdictions cannot deny the request.

The applicant is requesting to construct an unmanned telecommunication facility with a 124' monopole, 12 panel antennas (three antenna sectors with four antennas per sector), 18 remote radio head (RRH) units, walk-in equipment cabinet, standby generator located in a 30 x 40 lease area surrounded by a 6' tall chain link fence with barbed wire and a 12' wide access gate. There will be an externally mounted HVAC unit to the pre-manufactured walk-in cabinet and an emergency diesel standby generator. There is an existing 10' +/- wide A/C paved road which is being proposed as the site access road to provide maintenance personnel access to the tower.

The location of towers in comparison to other cell towers is dependent on several factors. These factors include terrain, signal strength, the amount of calls and data a base station can handle at any one given point, population of the area, and obstructions such as buildings. The average distance between towers is two to four miles. Cell phone connectivity is also dependent on the terrain, power of the

transmitter in the tower, size of the cellphone network cell and the design capacity of the network all play a role.

Historically, the County has tried to limit the amount of new towers, and proximity to each tower, due to aesthetic concerns and public response to towers. There are no cell towers in the immediate vicinity of the proposed site.

Cellular providers utilize their own variables as well to locate facilities. These variables include local zoning regulations, topography, existing structures, colocation opportunities, available utilities, site access, and a willing landlord. Coverage is also taken into account, specifically areas where there is limited or no coverage available.

Access to the site will be via Highway 41, approximately 700 feet north of its intersection with Mecca Lane. An existing 10' +/- wide A/C paved road is being proposed as an access road on the property to access the lease area. The site itself is on the east side of Highway 41 on property that has an existing single family residence, existing septic tank, existing leach area, and existing garage. No water will be used as a result of operations. No trash, water or wastewater will be generated by this project.

There will be a minimal increase in traffic near the area for the duration of construction of the site. Operationally, a maintenance technician will visit the site once or twice a month for approximately half an hour at a time. The cell tower facility will be unmanned aside from the maintenance technician visits.

The general plan designation of RR (Rural Residential) allows for public and quasi-public uses. Quasi-public uses are typically defined as essentially public (as in services rendered) under private ownership or control. Public uses include public utilities. The zoning designation of ARF (Agricultural, Rural, Foothills) District allows for communication towers with a conditional use permit. Both the General Plan and Zoning designations allow for single family residences in addition to agricultural and similar uses.

Cellular radio services transmit using frequencies between 800 and 900 megahertz. Antennas used for cellular transmissions are typically located on towers, water tanks or other elevated structures. The combination of antennas and associated electronic equipment is referred to as a "base station." Typical heights for free standing base station towers are 50 – 200 feet. A cellular base station may utilize several "Omni-direction" antennas (which are less common) or "sector" antennas. Sector antennas are rectangular panels usually arranged in three groups of three each. One antenna in each group is used to transmit signals to mobile units (cell phones) and the other two in each group are used to receive signals from mobile units.

Wireless services are delivered using radio waves, which are a form of radiofrequency (RF) energy. RF energy is, in turn, a form of electromagnetic energy. Electromagnetic "radiation" can be best described as waves of electric and magnetic energy moving together ("radiating") through space. These waves are generated by the movement of electrical charge such as in a conductive metal or antenna. Studies have shown that environmental levels of RF energy routinely encountered by the general public are far below levels necessary to produce significant effects. A variety of studies have also been conducted on the effects of exposure to low levels of RF radiation. An FCC (Federal Communication Commission) report has stated that any evidence that such low-level exposure causes harmful effects is ambiguous and unproven.

In 1996 the FCC adopted updated guidelines for evaluating human exposure to radiofrequency (RF) fields from transmitting antennas such as those used for cellular radio. The new guidelines for cellular base stations are identical to those recommended by the National Council on Radiation Protection and Measurements (NCRP). These guidelines are also essentially the same as the 1992 guidelines recommended by the American National Standards Institute and the Institute of Electrical and Electronics Engineers (ANSI/IEEE C95.1-1992).

In the case of cellular and PCS (Personal Communication Service) cell site transmitters, the FCC's RF exposure guidelines recommend a maximum permissible exposure level to the general public of approximately 580 microwatts per square centimeter. This limit is many times greater than RF levels typically found near the base of cellular or PCS cell site towers or in the vicinity of other, lower-powered cell site transmitters. Calculations corresponding to a "worst-case" situation (all transmitters operating simultaneously and continuously at the maximum licensed power) show that, in order to be exposed to RF levels near the FCC's guidelines, an individual would essentially have to remain in the main transmitting beam and within a few feet of the antenna for several minutes or longer. Thus, the possibility that a member of the general public could be exposed to RF levels in excess of the FCC guidelines is extremely remote.

Measurements made near typical cellular and PCS installations, especially those with tower-mounted antennas, have shown that ground-level power densities are thousands of times less that the FCC's limits for safe exposure. Therefore, in order to be exposed to levels at or near the FCC limits for cellular frequencies, an individual would essentially have to remain in the main transmitting beam (at the height of the antenna) and within a few feet from the antenna. This makes it extremely unlikely that a member of the general public could be exposed to RF levels in excess of those guidelines due to cellular base station transmitters.

The FCC authorizes and licenses devices, transmitters and facilities that generate RF and microwave radiation. It has jurisdiction over all transmitting services in the US. Under the National Environmental Policy Act of 1969 (NEPA), the FCC has

certain responsibilities to consider whether its actions will significantly affect the quality of the human environment. Therefore, FCC approval and licensing must be evaluated for significant impact on the environment. Human exposure to RF radiation emitted by FCC-regulated transmitters is one of several factors that must be considered in such environmental evaluations.

Major RF transmitting facilities under the jurisdiction of the FCC, such as cellular and PCS facilities, are required to undergo routine evaluation for RF compliance whenever an application is submitted to the FCC for construction or modification of a transmitting facility or renewal of license. Failure to comply with the FCC's RF exposure guidelines could lead to the preparation of a formal Environmental Assessment, possible Environmental Impact Statement and eventual rejection of an application.

The signals from a cellular base station antenna are essentially directed toward the horizon in a relatively narrow pattern in the vertical plane. The radiation pattern for Omni-directional antenna might be compared to a thin doughnut or pancake centered around the antenna, while the pattern for a sector antenna is fan-shaped, like a wedge cut from a pie. As with all forms of electromagnetic energy, the power density from a cellular or PCS transmitter decreases rapidly as one moves away from the antenna. Consequently, normal ground-level exposure is much less than exposures that might be encountered if one were very close to the antenna and in its main transmitted beam.

The consultant on this project provided a study done on any potential effects of radio frequency radiation from the cell tower. The consultant contracted an independent firm to do the study. It is the conclusion of the firm conducting the study that facility will comply with prevailing standards for limiting public exposure to radio frequency energy and, therefore, will not cause a significant impact. The highest calculated level in publically accessible areas is much less than the prevailing standards allow for exposures of unlimited duration. The finding is consistent with measurements of actual exposure conditions taken at other operating facilities.

The project was circulated to County Departments and outside regulatory agencies for comments and conditions. This included the San Joaquin Valley Air Pollution Control District, Regional Water Quality Control, Department of Fish and Wildlife, State Regional Water Quality Control, the Chowchilla Yokuts Tribe, Picayune Rancheria of Chukchansi, Table Mountain Rancheria, the Duma Tribe, and Sheriff's Department.

The Picayune Rancheria of Chukchansi responded requesting an archaeological report as well as having an on-site monitor during grading. A condition of approval and mitigation will include the tribes request to have tribal members present during any ground disturbance activities (i.e. grading, etc.).

The Table Mountain Rancheria responded that this project is beyond their area of interest.

The Department of California Transportation commented that the proposed AT&T wireline barrel vault shall be placed outside the State right-of-way and that any work within the State right-of-way will require an encroachment permit.

The Madera County Sheriff's Office requested a visual presentation of the tower where none exists currently.

The Madera County Environmental Health Division provided standard comments.

If this project is approved, the applicant will need to submit a check, made out to the County of Madera, in the amount of $2,404.75 to cover the Notice of Determination (CEQA) filing at the Madera County Clerks' office. The amount covers the $2,354.75 Department of Fish and Wildlife fee that took effect January 1, 2019 and the County Clerk $50.00 filing fee. In lieu of the Fish and Wildlife fee, the applicant may choose to contact the Fresno office of the Department of Fish and Wildlife to apply for a fee waiver. The County Clerk Fee, Department of Fish and Wildlife Fee (or waiver if approved) is due within five days of approval of this permit at the Board of Supervisors.

FINDINGS OF FACT:

The following findings of fact must be made by the Planning Commission to make a finding of approval of the project. Should the Planning Commission vote to approve the project, Staff recommends that the Planning Commission concur with the following in light of the proposed conditions of approval.

1. *The proposed project does not violate the spirit or intent of the Zoning Ordinance*. The parcel is zoned ARF (Agricultural, Rural, Foothills) District. The zoning designation allows for cellular towers with an applied for and approved Conditional Use Permit. While the zoning does also allow a residential unit and agricultural uses, those are by-right activities that do not require the type of conditions of approval a cellular tower would require. The conditional use permit process requires submittal of supporting documentation that allows the jurisdiction to analyze the project for health, safety and welfare issues in order to make a recommendation. The approved Conditional Use Permit provides the local jurisdiction the authority to ensure that the proposed project is maintained in a safe manner in accordance to the conditions included in the approval. Any changes to the plans would have to come back to the jurisdiction for review. Under the Telecommunications Act of 1996, local jurisdictions have discretionary authority over placement of new cellular towers in their jurisdictions.

2. *The proposed project is not contrary to the public health, safety, or general welfare*. With the wider use of cell phones, and the decreasing use of land-line phones, the proposed use is intended to increase cell phone coverage in remote areas. This increase is beneficial to local residents, visitors and emergency responders in that the cell phone coverage is increased and provide for better response times in the event of emergencies. This is beneficial to the health, safety and welfare of all involved.

3. *The proposed project is not hazardous, harmful, noxious, offensive, or a nuisance because of noise, dust, smoke, odor, glare, or similar, factors,* in that the project must adhere to the conditions of approval as well as mitigation measures. By its' nature, the project will not generate hazardous, harmful, noxious or offensive odors. While electromagnetic radio frequencies have been a concern of the general public, due to the height of the antennas, and the power output of antennas, the health risk is minimal. A variety of studies have been conducted on the effects of exposure to low levels of radiation. An FCC (Federal Communications Commission) report has stated that any evidence that such low level exposures causes "harmful biological effects is ambiguous and unproven."

4. *The proposed project will not for any reason cause a substantial, adverse effect upon the property values and general desirability of the surrounding properties.* The project as designed will not have an adverse effect upon the property values and general desirability of the surrounding properties. Aesthetically, the cell tower is barely noticeable unless immediately adjacent to it, and there are power and telephone poles in the region already, so the proposed project will not be creating any new impacts. In this day and age, cellphones are more common place than land line phones, thus the infrastructure to support cellular phones needs to be in place and functioning.

WILLIAMSON ACT:

The property is not subject to a Williamson Act Contract.

GENERAL PLAN CONSISTENCY:

The General Plan designation and the Area Plan designation for the parcels is RR (Rural Residential) Designation which allows for agricultural and residential uses by right. The property is zoned ARF (Agricultural, Rural, Foothills) District which allows for agricultural and residential uses, as well as cell towers with a conditional use permit. The General Plan and Zoning designations are consistent and compatible with each other.

RECOMMENDATION:

The analysis provided in this report supports approval of Conditional Use Permit (CUP #2019-019), Mitigated Negative Declaration (MND #2019-17) and Mitigation Monitoring Program.

CONDITIONS

See attached.

ATTACHMENTS:

1. Exhibit A-1, General Plan Map
2. Exhibit A-2, Coarsegold Area Plan Map
3. Exhibit B, Zoning Map
4. Exhibit C, Assessor's Map
5. Exhibit D, Site Plan
6. Exhibit D-1, Site Plan Close-up
7. Exhibit D-2, Equipment Pad Plans
8. Exhibit D-3, Antenna Array
9. Exhibit D-4, South and West Elevations
10. Exhibit D-5, North and East Elevations
11. Exhibit E, Aerial Map
12. Exhibit F, Topographical Map
13. Exhibit G, Operational Statement
14. Exhibit H, Project Support Statement
15. Exhibit I, Submitted site photos
16. Exhibit J, Photo Simulations
17. Exhibit K, Zoning Propagation Map
18. Exhibit L, Noise Study
19. Exhibit M, Environmental Health Comments
20. Exhibit N, Fire Marshal Comments
21. Exhibit O, Picayune Rancheria of Chukchansi Indians Comments
22. Exhibit P, Sheriff's Comments
23. Exhibit Q, Department of California Transportation
24. Exhibit R, Table Mountain Rancheria
25. Exhibit S, Initial Study
26. Exhibit T, Mitigated Negative Declaration #2019-17
27. Exhibit U, RF Study
28. Exhibit V, FCC Safety FAQ