

**FINDINGS AND CONDITIONS OF APPROVAL FOR COUNTY FILE CDLP24-02023,  
JANICY CANALES ON BEHALF OF AMERICAN TOWER (APPLICANT), CONTRA COSTA  
WATER DISTRICT (OWNER)**

**FINDINGS**

A. Land Use Permit Findings

1. *The proposed project shall not be detrimental to the health, safety and general welfare of the county.*

Project Finding: The Federal Communications Commission (FCC) has adopted radio frequency protection standards which establish safety levels with respect to human exposure to radio frequency (RF) emissions as well as occupational exposure to electro-magnetic fields. Compliance with these standards is considered to be evidence that the project does not present health and safety risks. The *Non-Ionizing Electromagnetic Radiation Study* by Tower Engineering Professionals RF Design & Services (Site Number 415310; Site Name: Camino Vasco, CA; Location: Brentwood, California; Tenants: Verizon Wireless; American Tower, Inc. Woburn, Massachusetts; December 27th, 2024), indicates that with the proposed signage mitigations implemented, the site will be in compliance with the current FCC MPW limits as described in FCC Occupational Exposure Limit-65. Thus, the existing facility does not generate unsafe levels of RF emissions, as determined by the FCC, and will be adequately secured to prevent public access to the equipment area. The Conditions of Approval include project compliance with current FCC standards. These Conditions will ensure that RF emissions and EMF strength at ground levels falls within the FCC limit for public exposure. In addition, the existing wireless telecommunication facility is located on an undeveloped private property belonging to the Contra Costa Water District near Vasco Road, Camino Diablo, and Walnut Boulevard - Longwell Avenue, in the Byron area of unincorporated Contra Costa County. All elements of the wireless telecommunication facility are secured within a lease area enclosed by a fence. As conditioned, the wireless telecommunications facility will not be detrimental to the health, safety, and general welfare of the County.

2. *The proposed project shall not adversely affect the orderly development of property within the County.*

Project Finding: Staff is unaware of any evidence which suggests that the existing

site adversely affects development within the County. The wireless telecommunications services provided at this site benefit a wide range of the County's population (e.g., daily commuters, local employees, residents, and 911 service providers), and therefore, the wireless telecommunication facility is a beneficial use at this location. As conditioned, the project is consistent with applicable policies and regulations of the County's Wireless Telecommunications Facilities Ordinance (County Code Chapter 88-24). Additionally, the project does not involve any modification of the facility. Thus, the granting of a land use permit to allow the continuing operation of the existing wireless telecommunications facility with non-substantial modifications to the facility will not adversely affect the orderly development of property within the County.

3. *The proposed project shall not adversely affect the preservation of property values and the protection of the tax base within the County.*

Project Finding: The wireless telecommunications facility was established in 2011 on a portion of the subject property that is inaccessible to the general public. Continuing operation of the wireless telecommunication facility with no proposed modifications will not change the physical characteristics of the site, and therefore, will not affect the range of potential uses on the site or on adjacent properties. The facility will continue to be unmanned and is not expected to impact development activity in the area or result in an adverse impact on the value of properties within the area. This determination is due to the site's previous establishment as a wireless telecommunication facility and the continued consistency of that established use. Given that the facility and surrounding land uses have remained consistent, there is no indication that the project will adversely affect the preservation of property values and the protection of the tax base within the County.

4. *The proposed project as conditioned shall not adversely affect the policy and goals as set by the General Plan.*

Project Finding: The project site is located within a PS Public and Semi-Public General Plan land use designation. The PS designation includes uses and facilities owned or operated by public entities or private entities serving the public. The subject property is currently in use by the Contra Costa Water District for its Transfer Station. Pursuant to the Wireless Telecommunications Facilities Ordinance (Ordinance No. 2016-11), a wireless telecommunications facility may also be located in the PS designation, since the facility provides telecommunications service that would be compatible and consistent with other land uses in the Byron area. The

General Plan also identifies specific policies for the Byron area in the Community Profiles Section of the Stronger Communities Element. Allowing the continuing operation of the existing wireless telecommunications facility will not detract from the purpose and intent of the PS General Plan designation nor from the Community Profiles policies for the Byron area.

The Conservation, Open Space, and Working Lands Element of the General Plan shows Vasco Road and Camino Diablo as designated scenic routes in the project vicinity. The American Tower wireless telecommunications facility is approximately 1,295 feet southwest of Vasco Road and 1,215 feet northeast of Camino Diablo. The American Tower wireless telecommunications facility is visible from Vasco Road but not from Camino Diablo. The Conservation, Open Space, and Working Lands Element includes Scenic Resources policies to ensure maintenance of the scenic qualities of the designated routes. The existing wireless telecommunications facility is a faux water tank and will maintain its stealth nature which matches the vicinity. Due to the nature of the screening, and the distance between the American Tower wireless telecommunications facility and Vasco Road, the visual impact from this scenic route is less than significant. Conditions of Approval are included that require maintenance of the external appearance of the wireless facility. Therefore, as conditioned, the wireless facility will be consistent with applicable Scenic Resources policies intended to protect scenic resources.

5. *The proposed project shall not create a nuisance and/or enforcement problem within the neighborhood or community.*

Project Finding: The project, as conditioned, will not create a nuisance and/or enforcement problem within the neighborhood or community. There has been no record of code compliance issues with the existing wireless telecommunications facility, and there is no evidence to suggest that the wireless facility creates a nuisance or enforcement problem within the area. The Conditions of Approval require that the site be maintained in an orderly manner, and that the facility be removed upon cessation of the use. Further, if approved, American Tower will be required to submit five-year condition of approval compliance reviews in order for County staff to evaluate the on-going compliance of the wireless facility.

6. *The proposed project as conditioned shall not encourage marginal development within the neighborhood.*

Project Finding: In general, wireless telecommunications facilities do not encourage

development, which is subject to the applicable sections of the General Plan and the Zoning Code, as well as physical constraints on the parcel and adjacent properties. Where there is a sizeable population, major road, or need for telecommunications services, the public demands wireless telecommunications services. The establishment and continuing operation of the unmanned American Tower wireless facility is in response to maintaining wireless telecommunications service to the area. As conditioned, allowing the continuation of this service will not encourage marginal development within the area.

7. *That special conditions or unique characteristics of the subject property and its location or surroundings are established.*

Project Finding: The wireless facility was established on the project site in 2011, on a portion of the Contra Costa Water District property not in use for its Transfer Station, and has been in operation since. The facility at this location provides a reliable, continuous wireless signal along Vasco Road and nearby agricultural areas in the Byron area. Continuing operation of the wireless facility does not include any new development or expansion beyond the existing lease area. Thus, as conditioned, the wireless facility will be consistent with the PS Public Semi-public General Plan land use designation, the A-4 Agricultural Preserve District, the Wireless Telecommunications Facilities Ordinance, and applicable FCC regulations.

B. Wireless Telecommunications Facility Land Use Permit Findings (County Code Section 88-24.614(b))

1. *The application is complete.*

Project Finding: County staff deemed the application complete and acceptable on February 20, 2025.

2. *The facility or substantial change will meet the requirements of this chapter.*

Project Finding: This CDLP24-02023 Land Use Permit will allow the continuing operation of the existing American Tower wireless telecommunications facility installed and established under Land Use Permit CDLP09-02037, with no modifications to the equipment or the lease area. Continuing operation of the wireless facility is consistent with all applicable requirements of Chapter 88-24 of the County Ordinance Code, including the location requirements of County Code Section 88-24.406, design requirements of Section 88-24.408, safety and security

requirements of Section 88-24.412 and building standards, maintenance, and operational requirements of Section 88-24.414. As conditioned, County staff will conduct at least one condition of approval compliance reviews throughout the term of this permit to ensure continued compliance with the permit.

3. *The facility or substantial change has been reviewed pursuant to all appropriate environmental laws and regulations, including the California Environmental Quality Act (CEQA).*

Project Finding: The wireless telecommunication facility was established on the project site in 2011 pursuant to the approved CDLP09-02037 Permit. Continuing operation of this wireless telecommunications facility with no modifications to the equipment is categorically exempt under CEQA Guidelines Section 15301(b), which allows for a Class 1 exemption for the operation of existing facilities used to provide public utility services.

4. *If an environmental impact report or mitigated negative declaration was prepared for the facility or substantial change, the facility or substantial change will incorporate all mitigation measures identified in either of those documents. Each mitigation measure will be included as a term of the permit.*

Project Finding: Continuing operation of the existing American Tower wireless telecommunications facility is categorically exempt under CEQA Guidelines Section 15301(b), and did not require preparation of either an environmental impact report or a mitigated negative declaration.

5. *If the Contra Costa County Airport Land Use Commission reviewed and commented on the application, the facility or substantial change will incorporate each mitigation measure recommended by the commission and deemed by the Zoning Administrator to be necessary to protect public safety, health, and welfare. Each mitigation measure will be included as a term of the permit.*

Project Finding: The subject property is not within or proximate to any zones identified by the Airport Land Use Commission as an area of planning interest, including any Byron Airport Compatibility Zones. Thus, the CDLP24-02023 application is not subject to review by the Airport Land Use Commission.

6. *The applicant has provided the financial assurance required by this chapter.*

Project Finding: A facility removal bond is currently on file for this facility in the event the facility is abandoned, revoked, or the use permit expires. The County remains in retention of this bond. Condition of Approval #10 requires the permittee (wireless carrier) to verify that the bond amount is sufficient in the event the facility is abandoned, revoked, or the use permit expires.

7. *The applicant has paid all required fees and costs, including but not limited to the application fee, any required environmental review fee, and any required peer review fee.*

Project Finding: The applicant has paid the initial deposit of \$5,500 for this Land Use Permit application, and time and material costs have exceeded the initial deposit. Pursuant to Condition of Approval #6, the applicant is responsible for any additional fees that exceed the initial deposit.

C. California Environmental Quality Act (CEQA) Findings

Continuing operation of the American Tower wireless telecommunications facility is categorically exempt from CEQA pursuant to CEQA Guidelines section 15301(b), Existing Structures, which provides a Class 1 exemption for the operation of existing facilities used to provide public utility services. There is no substantial evidence that the continuing operation and minor alteration of the telecommunications facility involves unusual circumstances, resulting in, or which might reasonably result in, a significant impact on the environment. None of the exceptions in CEQA Guidelines Section 15300.2 apply to this wireless telecommunications facility.

**CONDITIONS OF APPROVAL FOR LAND USE PERMIT CDLP24-02023**

Project Approval

1. This application for a Land Use Permit to allow continuing operation of the American Tower wireless telecommunications facility established pursuant to Land Use Permit CDLP09-02037 is APPROVED.

The wireless telecommunications facility includes:

- One 48-foot-tall faux tank tower with (9) antennas and ancillary equipment.
- Verizon equipment cabinets and associated ground-mounted equipment within the 35'-6" by 17'-6" lease area.

2. The Land Use Permit approval described above is based on:
  - Project application accepted by the Department of Conservation and Development, Community Development Division (CDD) on October 16, 2024.
  - As Built Plans received on February 4, 2025.
  - Color Photographs received on February 10, 2025.
  - Non-Ionizing Electromagnetic Radiation Study by Tower Engineering Professionals RF Design & Services (*Site Number 415310; Site Name: Camino Vasco, CA; Location: Brentwood, California; Tenants: Verizon Wireless; American Tower, Inc. Woburn, Massachusetts; December 27th, 2024*), received on February 4, 2025.
3. The following Conditions shall supersede all prior Conditions of Approval for prior County approvals for this wireless telecommunication facility.
4. Pursuant to County Ordinance Code Sections 26-2.2020 through 2030, this Land Use Permit is subject to revocation after notice if confirmed violations occur of any of the Conditions of Approval herein.
5. No construction is approved with this permit. Any construction at this wireless telecommunications facility shall require the filing of an application for a Wireless Minor Alteration Permit or a new Land Use Permit prior to application for a building permit.

#### Application Costs

6. The land use permit application was subject to an initial deposit of \$5,500.00. Applications are subject to time and material costs if the application review expenses exceed the initial deposit. **Any additional fee due must be paid within 60 days of the effective date of this permit.** The fees include costs through permit issuance and final file preparation. Pursuant to Contra Costa County Board of Supervisors Resolution Number 2019/553, where a fee payment is over 60 days past due, the Department of Conservation and Development may seek a court judgement against the applicant and will charge interest at a rate of ten percent (10%) from the date of judgement. The applicant may obtain current costs by contacting the project planner. A bill will be mailed to the applicant shortly after permit issuance in the event that additional fees are due.

Permit Duration and Permit Review

7. This land use permit is granted for a period of ten (10) years and shall be administratively reviewed at five-year intervals. The applicant shall initiate the first review by submitting a statement as to the current status of the project to the CDD **no later than five years following the effective date of the project approval**. This review by the CDD will be for the purpose of ensuring continued compliance with the conditions of permit approval.

For the review of existing commercial wireless communications facilities, submittal shall include photo documentation of existing conditions and equipment for comparison with the applicable approved conditions. The documentation shall include, but shall not be limited to, color photographs to verify compliance with Condition of Approval #21, Exterior Appearance.

The permittee is encouraged, at the time of each administrative review, to review the design of the telecommunications facility and make voluntary upgrades to the facility for the purpose of improving safety and lessening visual obtrusiveness.

A review fee in the amount set by the Land Development Fee Schedule will be filed through a Compliance Verification application to allow for review of the approved conditions.

Responsible Party

8. The permittee (wireless facilities operator) is responsible for keeping the CDD informed of who is responsible for maintenance of compliance with this permit and how they may be contacted (mailing and email addresses as well as telephone number) at all times.
  - A. **Within 30 days of the effective date of this permit or prior to CDD stamp approval of plans for a building permit, whichever is first**, the Permittee shall provide the name of the party (carrier) responsible for permit compliance and their contact information.
  - B. Should the responsible party subsequently change (e.g.: facility is acquired by a new carrier), within 30 days of the date of the change, the Permittee shall issue a letter to CDD with the name of the new party who has been assigned permit compliance responsibility and their contact information. Failure to satisfy this condition may result in the commencement of procedure to revoke the permit.



Removal of Facility/Site Restoration

9. All structures and equipment associated with a commercial wireless communications facility shall be removed within 60 days of the discontinuance of the use, and the site shall be restored by the permittee to its original predevelopment condition. In addition, the permittee shall provide the CDD with a notice of intent to vacate the site a minimum of 30 days prior to vacation.

Security to Provide for Removal of Equipment

10. **Prior to CDD stamp approval of plans for a building permit,** the applicant or permittee shall confirm that the security provided remains valid for the wireless telecommunications facility and has not lapsed or has otherwise been terminated. If the prior security is no longer valid, the applicant or permittee shall provide bond, cash, or other surety, to the satisfaction of the CDD, within 60 days of the effective date of this permit, for the removal of the facility in the event that the use is abandoned, or the use permit expires, or is revoked, or is otherwise terminated. If the permittee does not remove any obsolete or unused facilities as described above, the financial guarantee shall be used by the County to remove any obsolete or unused facilities and to return the site to its pre-development condition.

The financial assurance must be submitted before a permit will be issued. A financial assurance must be irrevocable and not cancelable, except by the County. Each form of financial assurance must remain valid for the duration of the permit and for six months following termination, cancellation, or revocation permit.

Any unused financial guarantee shall be returned to the applicant upon termination of the use and removal of the facility, or transfer of the lease accompanied by a financial guarantee by the new lessee or owner. The amount of the security shall be based on a cost estimate provided by a contractor or other qualified professional to the satisfaction of the Zoning Administrator.

General Provisions

11. A minor alteration to this land use permit (or collocation if CEQA environmental review of collocation for the land use permit has been completed) may be issued if the proposed modification(s) are not considered a substantial modification as stated under federal law (Title 47, Section 1.40001).

A minor alteration (or a collocation) has a term that is the shorter of the following:

- 10 years: or,
- The duration, including any renewal period, of the permit that authorizes the existing facility on which the new facility will be collocated or on which the minor alteration will occur.

12. The conditions contained herein shall be accepted by the applicant, their agents, lessees, survivors, or successors for continuing obligation.
13. The wireless telecommunications facility shall comply at all times with applicable rules, regulations and standards of the FCC and other agencies having jurisdiction, and any other applicable Federal, State, and County laws and regulations.
14. Facilities shall be operated in such a manner as not to contribute to ambient RF/EMF emissions in excess of then-current FCC adopted RF/EMF emission standards. **Within 15 days of new antennas being installed**, the applicant shall take RF power density measurements with the operating antennas to verify the level reported in the RF report and to ensure that the FCC public exposure level is not exceeded in any public accessible area. This measurement shall be taken again if any equipment is replaced or added. Verification of all RF power density measurements under this condition shall be submitted to CDD for review.
15. The faux water tank, antenna area, equipment enclosure, and all equipment therein, shall be maintained in good condition over the term of the permit. This shall include keeping the structures graffiti-free.
16. The faux water tank, antennas, equipment cabinets, and fence enclosure shall not be used for advertising.
17. The equipment cabinets and fence enclosure shall be kept locked and external accessory equipment secured, except when personnel are present, in order to restrict access to the equipment.
18. No lights or beacons may be installed on any antenna or antenna support structure, unless lights or beacons are required by a state or federal agency having jurisdiction over the antenna or antenna support structure, such as the California Public Utilities Commission, Federal Communications Commission, or Federal Aviation Administration, or if lights or beacons are recommended by the County Airport Land Use Commission.

#### Exterior Noise

19. In the event that a modification to this facility involving new noise-generating equipment is proposed, the permittee shall submit evidence for review and approval of the CDD that the wireless telecommunications facility meets acceptable exterior noise level standards as established in the Noise and Land Use Compatibility Guidelines contained in the Noise Element of the County General Plan. The evidence can either be theoretical calculations for identical equipment or noise monitoring data recorded on the site.

#### Frequency Interference

20. The wireless telecommunications facility shall not be operated at a frequency that will interfere with an emergency communication system or 911 system, including any regional emergency communication system.

#### External Appearance

21. The faux water tank and equipment enclosure shall be painted of a natural color to match the hillside and surrounding area (as typically seen year-round). The color shall also include a reflectivity less than 55 percent. Equipment must be repainted as often as necessary to prevent fading, chipping, or weathering of paint.

**Within 30 days of the effective date of this permit or prior to CDD stamp approval of plans for a building permit, whichever is first,** the faux water tank and equipment enclosure shall be painted per this condition and color photographs showing the as-built condition shall be submitted for review of CDD staff to verify compliance with this Condition of Approval.

In the event that a minor alteration to this facility is proposed, color photographs showing the as-built condition shall be submitted for review of CDD staff to verify compliance with this Condition of Approval prior to final inspection.

#### Indemnity

22. To the fullest extent permitted by law, the applicant and/or permittee shall defend, indemnify, and hold harmless the county, its officers, employees, contractors, consultants, and volunteers from and against: (1) All claims, losses, damages (including

injury or death), liabilities, suits, costs, and expenses, including reasonable attorney's fees, in any way connected to or arising from the design, construction, installation, use, maintenance, or operation of the facility; and (2) all claims, actions, or proceedings to attack, set aside, void, or annul any decision to approve the application and issue a land use permit or renewed permit to the applicant, or any other discretionary action of the County related to the issuance of that permit.

### **ADVISORY NOTES**

**PLEASE NOTE ADVISORY NOTES ARE ATTACHED TO THE CONDITIONS OF APPROVAL, BUT ARE NOT A PART OF THE CONDITIONS OF APPROVAL. ADVISORY NOTES ARE PROVIDED FOR THE PURPOSE OF INFORMING THE APPLICANT OF ADDITIONAL ORDINANCE AND OTHER LEGAL REQUIREMENTS THAT MUST BE MET IN ORDER TO PROCEED WITH DEVELOPMENT.**

**A. NOTICE OF NINETY (90) DAY OPPORTUNITY TO PROTEST FEES, DEDICATIONS, RESERVATIONS, OR OTHER EXACTIONS PERTAINING TO THE APPROVAL OF THIS PERMIT.**

This notice is intended to advise the applicant that pursuant to Government Code Section 66000, et. seq, the applicant has the opportunity to protest fees, dedications, reservations, and/or exactions required as part of this project approval. The opportunity to protest is limited to a ninety-day (90) period after the project is approved.

The 90-day period in which you may protest the amount of any fee or imposition of any dedication, reservation, or other exaction required by this approved permit, begins on the date this permit was approved. To be valid, a protest must be in writing pursuant to Government Code Section 66020 and delivered to the CDD within 90 days of the approval date of this permit.

**B. Prior to applying for a building permit, the applicant may wish to contact the following agencies to determine if additional requirements and/or additional permits are required as part of the proposed project:**

- Department of Conservation and Development, Building Inspection Division
- Public Works Department
- Health Services Department, Environmental Health Division
- Contra Costa County Fire Protection District
- Federal Communications Commission Division