

**FINDINGS AND CONDITIONS OF APPROVAL FOR COUNTY FILE CDLP24-02016;
SAMANTHA HERRMANN, ASSURANCE DEVELOPMENT (APPLICANT), G3
ENTERPRISES, INC (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 set safe levels for human exposure to radio frequency (RF) emissions. Compliance with these standards is considered to be evidence that the project does not present health and safety risks. . On January 7, 2025, staff received the *Radio Frequency Emission Survey Cascade ID BA61730S for T-Mobile* (Global Technology Associates, December 12, 2024) for the existing wireless telecommunications facility. The RF report states that the measured RF exposure is 2.4% of the FCC general population standard at ground level. The Conditions of Approval include project compliance with current FCC RF emissions standards. These conditions will ensure that radio frequency emissions at ground level falls within the FCC limit for public exposure. Thus, 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: The wireless telecommunications services provided at this site benefit a wide range of the County's population (e.g., daily commuters, agricultural workers and other local employees, residents, and 911 service providers), and therefore, the wireless facility is a beneficial use at this location. 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 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 2000 on a portion of the subject property that is inaccessible to the general public and the chain-link fence enclosure for the monopole and ground-mounted equipment is obscured from public view by maintained landscaping. Continuing operation of the wireless telecommunication facility will not change the physical characteristics of the site, and therefore, will not affect the range of potential uses on the subject property or on adjacent properties. Thus, the project as conditioned will not 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 Land Use Element of the 2045 General Plan shows the subject property within the AL Agricultural Lands designation. The purpose of the AL designation is to preserve and protect lands capable of and generally used for the production of food, fiber and plant materials; however other non-urban uses consistent with this designation can also be permitted. The subject property is currently in use as a sand mine, which is consistent with the AL land use designation. The wireless facility covers less than 1% of the total area of the property, and therefore will not cause a significant impact to the amount of property that is currently used or that has the capability of being used for agricultural or compatible non-urban purposes.

The Conservation, Open Space, and Working Lands Element of the 2045 General Plan shows Vasco Road and Camino Diablo as designated scenic routes in the project vicinity. The T-Mobile wireless telecommunications facility is approximately 1,030 feet southwest of Vasco Road. This General Plan Element includes Scenic Resources policies to ensure maintenance of the scenic qualities of the designated routes. The existing wireless telecommunications facility includes maintained landscaping. Due to the vegetative screening and the distance between Vasco Road and the T-Mobile wireless telecommunications facility, the visual impact of the wireless facility from Vasco Road is less than significant. Also, the wireless facility cannot be viewed from Camino Diablo. Conditions of Approval are included that require maintenance of the external appearance of the wireless facility and the landscaping. 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, T-Mobile 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 T-Mobile 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 telecommunications facility has been established since 2000 north of an active sand mine at a location on a ridge overlooking Vasco Road. The site was originally chosen because it would provide 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 AL Agricultural Lands General Plan land use designation, the A-3 Heavy Agricultural 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 4, 2025.

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

Project Finding: This CDLP24-02016 Land Use Permit will allow the continuing operation of the existing T-Mobile wireless telecommunications facility installed under Land Use Permit CDLP00-02046, 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 T-Mobile wireless telecommunications facility was established on the subject property in 2000 pursuant to the Land Use Permit CDLP00-02046 and was found to be categorically exempt under CEQA Guidelines Section 15303(d), which allows for a Class 3 exemption for construction of a minor utility extension. Continuing operation of this wireless facility with the current CDLP24-02016 Land Use Permit is categorically exempt under CEQA Guidelines Section 15301(b), which allows for a Class 1 exemption for operation of an existing facility 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 T-Mobile 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 parcel is in Compatibility Zone C1 of the Byron Airport. Pursuant to Byron Airport Policy 6.5.4 of *the Contra Costa County Airport Land Use Compatibility Plan* (December 2000), the antenna support structure of the T-Mobile wireless telecommunications facility is not an object of concern because its maximum height at 40 feet as shown on the as built plans is less than 100 feet tall. Thus, this application for a land use permit 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: A deposit in the amount of \$5,500 was submitted with this application for a Land Use Permit. Pursuant to Condition of Approval #6, the applicant is responsible for any time and material costs that exceed the initial deposit.

C. Environmental Findings

The continuing operation of the Land Use Permit for the operation of the T-Mobile wireless telecommunications facility is categorically exempt from CEQA pursuant to CEQA Guidelines section 15301(b), Existing Facilities, which provides a Class 1 exemption for operation of an existing facility used to provide public utility services. There is no substantial evidence that continuing operation of the wireless telecommunications facility involves unusual circumstances, including future activities, resulting in, or which might reasonably result in, a significant impact to the environment. None of the exceptions in CEQA Guidelines Section 15300.2 apply to this telecommunications facility.

CONDITIONS OF APPROVAL FOR COUNTY FILE CDLP24-02016

Project Approval

1. This application for a Land Use Permit to allow continuing operation of the T-Mobile wireless telecommunications facility established pursuant to Land Use Permit CDLP00-02046 is **APPROVED**.

The wireless facility includes:

- 26-foot by 23-foot lease area for the monopole and all equipment, enclosed by an eight-foot-tall chain-link fence and surrounded by landscaping.
 - One 40-foot tall monopole antenna support structure.
 - Four panel antennas on monopole.
 - Six RRUs on monopole.
 - One GPS antenna on separate pole.
 - Four ground-mounted equipment cabinets.
 - Ancillary telecommunications equipment.
 - One 48k standby diesel generator.
 - One water tank for landscape irrigation.
2. The Land Use Permit approval described above is based on the following documents:
 - Project application accepted by the Department of Conservation and Development, Community Development Division (CDD) on June 13, 2024.

- As Built Plans received by CDD on January 7, 2025.
 - CDLP05-02035 Boundary Survey and Site Plan.
 - CDWM17-00030 Antenna Plan and Elevations.
 - Color Photographs received on January 7, 2025.
 - *Radio Frequency Emission Survey Cascade ID BA61730S for T-Mobile* (Global Technology Associates, December 12, 2024) received on January 7, 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 permittee (wireless carrier) 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 #22, 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 is responsible for keeping the Department of Conservation and Development, Community Development Division (CDD) informed of who is responsible for maintenance of compliance with this permit and how they may be contacted (i.e., mailing and email addresses, and 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 and contact information (mailing address, phone number and email) of the party (wireless carrier) responsible for permit compliance and their contact information.
 - B. Should the party responsible subsequently change (e.g., facility is acquired by a new wireless carrier), within 30 days of the change, the permittee shall issue a letter to the CDD informing the CDD of the name and listed contact information 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 procedures 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 pre-development 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. **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 applicant or permittee shall confirm that the security provided for prior Land Use Permit CDLP14-02033 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 any future permit for the wireless telecommunications facility 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 or permittee 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 CDD.

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 1.6100).

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

- a. 10 years: or,
- b. 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**, RF power density measurements shall be taken 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 and to confirm that the requirements of the Ordinance Code and this permit have been met.
15. The monopole, 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 lease area clean and free of trash accumulation and graffiti-free.
16. The monopole, antennas, equipment cabinets, and fence enclosure shall not be used for advertising.
17. The equipment cabinets and chain link 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.

Access and Utility Easements

21. **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**, a site map shall be submitted to CDD showing the location(s) of all access and utility easements and lease area(s) for this facility.

External Appearance

22. All equipment for this facility shall be painted to have a non-reflective finish with a reflectivity less than 55 percent, and all equipment attached to the monopole shall be painted a paint color (e.g., brown) that matches the pole. Equipment must be repainted as often as necessary to prevent fading, chipping, or weathering of paint. The chain link fence shall be continuously maintained.

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, all monopole equipment 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.

Landscaping

23. The landscaping and irrigation plan approved under Land Use Permit CDLP11-02055 shall be present onsite and maintained for the life of the facility. **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**, color photographs showing the landscaping for this facility shall be submitted for review of CDD staff to verify compliance with this Condition of Approval.

If any of the trees/shrubs have not survived, replacement vegetation shall be planted in accordance with the approved landscape plan. The objective of the landscaping plan and/or replacement plantings shall be to integrate and screen the equipment within the lease area. All landscaping must also remain in compliance with the County Water Efficient Landscapes Ordinance.

In the event that a modification to the approved landscaping plan is proposed, or a modification to this facility involving ground disturbance, the modification shall be first reviewed and approved by CDD and color photographs showing the as-built condition shall be submitted for review of CDD staff prior to final building inspection to verify the landscaping remains in compliance with this Condition of Approval.

Indemnity

31. 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 permittee, 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 or permittee 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
- Health Services Department, Environmental Health Division
- Contra Costa County Fire Protection District
- Federal Communications Commission

C. The applicant and permittee are advised that the wireless telecommunications facility is sited close to the [SR 239 planning area](#) and could potentially be impacted by construction of a future expressway (i.e., widening of Vasco Rd).