

**FINDINGS AND CONDITIONS OF APPROVAL FOR COUNTY FILE #CDLP24-02033, ATT
c/o MELISSA GONZALEZ, J5 INFRASTRUCTURE PARTNERS (APPLICANT) - JANET D
MCELLEY TRUST (OWNER)**

I. FINDINGS

A. Land Use Permit Findings

1. ***Required Finding:*** *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. These standards are jointly published by the American National Standards Institute and the Institute of Electrical and Electronics Engineers. The standards prescribe limits for continuous exposure to RF emissions. Consequently, the applicant has provided a Radio Frequency – Electromagnetic Energy (RF-EME) report for this project showing compliance with these standards. The report certified by Michael Fischer, Licensed Electrical Engineer, dated December 9, 2024, and received February 12, 2025, evaluated the cumulative impacts of the existing facility. The report concluded that the resulting cumulative maximum RF-EME emissions of the site would not exceed the FCC standards' allowable public exposure limit at ground level. Therefore, the facility does not exceed the FCC's occupational and/or general public exposure limits and is compliant overall with FCC regulations.

2. ***Required Finding:*** *The proposed project shall not adversely affect the orderly development within the County or the community.*

Project Finding: The granting of this Land Use Permit to modify a previously approved wireless facility to relocate the previously approved wireless facility and increase the tower height will not adversely affect the orderly development of property within the County. The tower height increase will maximize the telecommunication service in the area, and the continuation of telecommunications service has not been known to adversely affect orderly development. Thus, the project will not adversely affect the orderly development within the County or the community.

3. ***Required Finding:*** *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 project includes the modification of a previously approved

establishment of an AT&T wireless telecommunication facility. The facility is 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 project's design which is consistent with the rural nature of the surrounding area. As conditioned, the project is not expected to adversely affect the preservation of property values and the protection of the tax base within the County.

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

Project Finding: The subject property is located within the Agricultural Lands (AL) General Plan land use designation. Approval of the operation of the wireless facility does not result in an adverse impact on the surrounding uses. The project as designed and conditioned is consistent with these General Plan policies. The antenna area is consistent with the requirements of the County's Wireless Facilities Ordinance and state and federal requirements. Though the equipment would be located on a minor roadway, the design of the facility would ensure it does not negatively impact views in the area. With conditions requiring the stealth design of the facility, it will continue to be camouflaged on the hillside. Therefore, the project is consistent with the County's General Plan policies and goals.

The project is located on property with a Williamson Act contract, which limits what uses are permitted on the site. However, Section 51238(a)(l) of the Williamson Act states:

"Notwithstanding any determination of compatible uses by the county or city pursuant to this article, unless the board or council after notice and hearing makes a finding to the contrary, the erection, construction, alteration, or maintenance of gas, electric, water, communication, or agricultural laborer housing facilities are hereby determined to be compatible uses within any agricultural preserve." Thus, the Williamson Act allows communication facilities on parcels with existing Williamson Act contracts, and the wireless facility is consistent with what is permitted on parcels enrolled in the Williamson Act Program.

5. **Required Finding:** *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 is no record of code compliance issues with these types of facilities. The conditions of approval require that the site be maintained in an orderly manner and that all facilities be removed on cessation of the use. Furthermore, if approved, the applicant will be required to submit 5-year condition of approval compliance reviews in order for County staff to evaluate the on-going compliance efforts.

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

Project Finding: The project as conditioned will not encourage marginal development within the neighborhood because development is controlled by the County's Zoning Code and General Plan. Where there is a sizeable population or major road, the public demands wireless telecommunications facilities. This project allows for the continued provision of wireless service to the area. Thus, given the physical conditions of the area, and the nature of the project as an unmanned telecommunications facility, the project will not encourage marginal development within the area.

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

Project Finding: The wireless facility is consistent with the provisions of the County's Wireless Telecommunication Facility Ordinance, and the project is conditioned to ensure the facility's continued compliance. The facility uses the relatively high elevation of the property to transmit wireless service to the surrounding area. As an unmanned facility with a relatively small footprint on the property, the facility would not change the current use or design of the property. Therefore, the wireless telecommunication facility will not detract from the existing characteristics of the subject property or the surrounding areas.

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

1. ***Required Finding:*** *The facility has been reviewed pursuant to all appropriate environmental laws and regulations, including the California Environmental Quality Act.*

Project Finding: An Addendum to the previously adopted Mitigated Negative Declaration (MND) has been prepared pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15071. The initial study for the project identified potentially significant impacts in the environmental areas of air quality, biological resources, cultural resources, and tribal cultural resources. Environmental analysis determined that measures were available to mitigate potential adverse impacts to insignificant levels. Mitigations have been included in the project and are required to be implemented as conditions of approval.

2. **Required Finding: The applicant has provided the financial assurance required by the Wireless Ordinance.**

Project Finding: Pursuant to COA #7, the applicant shall submit a removal bond to the County to guarantee the removal of the subject facility in the event it is abandoned, revoked, or the use permit expires.

3. **Required Finding: The permittee has paid the application processing fees.**

Project Finding: A deposit in the amount of \$7,500 was submitted with this application for a Land Use Permit. An initial COA compliance review, required within 60 days of this approval, will ensure that any time and materials charges exceeding the deposit will be collected by CDD staff in a timely manner.

C. **California Environmental Quality Act (CEQA) Findings**

An Initial Study resulting in a Mitigated Negative Declaration (MND) has been prepared pursuant to Public Resources Code Section 21080(c), 21063.5, and Article 6 of the California Environmental Quality Act (CEQA) Guidelines. The initial study for the project identified potentially significant impacts in the environmental areas of air quality, biological resources, cultural resources, and tribal cultural resources. Environmental analysis determined that measures were available to mitigate potential adverse impacts to insignificant levels. Mitigations have been included in the project and are required to be implemented as conditions of approval.

Pursuant to the requirements of CEQA (CEQA Guidelines Section 15071) the MND described the project; identified, analyzed, and evaluated the potential significant environmental impacts, which may result from the project; and identified measures to mitigate adverse environmental impacts. The mitigations identified in the document and designed for the proposed project will ensure that the project will not have a significant impact on the environment.

Furthermore, pursuant to the requirements of CEQA (CEQA Guidelines Section 15164) an addendum to the previously adopted Mitigated Negative Declaration (MND) has been prepared to assess the minor technical changes or additions to the project.

II. **CONDITIONS OF APPROVAL**

1. This Land Use Permit approval is granted for the purpose of modifying a previously approved Land Use Permit (County File #CDLP22-02051) to establish a wireless telecommunication facility at the subject property, including a 170- foot-tall by 28-foot-

wide faux water tank tower and one separate lease area, 15 by 25 feet for ancillary equipment, and improvements of an existing dirt road for a 10-wide access easement to meet fire code standards on adjacent parcel.

2. The Land Use Permit described above is generally based on the following documents and materials received by the Department of Conservation and Development, Community Development Division (CDD):
 - Application, and materials received on December 26, 2024;
 - Revised plans received February 12, 2025
 - Noise Assessment Report certified by Robert J Lara, dated November 10, 2022 and received February 12, 2025.
 - Radio Frequency – Electromagnetic Energy (RF-EME) report certified by Michael Fischer, Licensed Electrical Engineer, dated December 9, 2024, and received February 12, 2025.
 - Biological Assessment Addendum, prepared by Tony Maguire, Principal Biologist, dated April 8, 2025 and received April 16, 2025.

Application Fees

3. This application is subject to an initial application deposit of \$7,500.00, which was paid with the application submittal, plus time and materials costs if the application review expenses exceed the initial deposit. Any additional fee due must be paid prior to issuance of a building permit, or 60 days of the effective date of this permit, whichever occurs first. The fees include costs through permit issuance and final file preparation. Pursuant to Contra Costa County Board of Supervisors Resolution Number 2013/340, where a fee payment is over 60 days past due, the application shall be charged interest at a rate of ten percent (10%) from the date of approval. The applicant may obtain current costs by contacting the project planner. A bill will be mailed to the applicant shortly after permit issuance.

Initial Compliance report

4. Prior to submittal of a building permit, the applicant shall submit a report addressing compliance with the conditions of approval, for review and approval of the CDD. The report shall list each condition followed by a description of what the applicant has provided as evidence of compliance with that condition. Unless otherwise indicated, the applicant will be required to demonstrate compliance with the conditions of this report prior to issuance of construction permits. The Zoning Administrator may reject the report if it is not comprehensive with respect to applicable requirements for the requested permit. The deposit for review of the Compliance Report is \$1,500.00; the actual fee shall

be time and materials.

Permit Duration and Permit Review

5. This Land Use Permit is granted for a period of ten 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 Zoning Administrator no later than five years following the effective date of the project approval. This review by the Zoning Administrator will be for the purpose of ensuring continued compliance with the conditions of permit approval. Non-compliance with the approved conditions and/or the ordinance code provisions after written notice thereof shall be cause for revocations proceedings.

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 applicant 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 of \$1,500.00 (subject to time and materials) will be filed through a Compliance Verification application to allow for review of the approved conditions.

Removal of Facility/Site Restoration

6. 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 Department of Conservation and Development with a notice of intent to vacate the site a minimum of 30 days prior to vacation.

Security to Provide for Removal of Equipment

7. Prior to submittal of a building permit, the applicant or permittee shall provide bond, cash, or other surety, to the satisfaction of the Zoning Administrator, for the removal of the facility in the event that the use is abandoned or the use permit expires, or is revoked, or 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 satisfactory of the Zoning Administrator.

General Provisions

8. Any deviation from or substantial change beyond the limits of this permit approved under this application may require the filing and approval of a request for modification of the Land Use Permit.
9. 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 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:

- 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.
10. The conditions contained herein shall be accepted by the applicant, their agents, lessees, survivors or successors for continuing obligation.
 11. At all times the facility shall comply 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.
 12. 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 antennas being installed, the applicant shall take RF power density measurements with the antenna operating to verify the level of the Radio Frequency – Electromagnetic Energy (RF-EME) and the FCC public exposure threshold level is not exceeded in any publicly accessible area. This measurement shall be taken again if any equipment is replaced or added. Verification of these measurements shall be submitted to CDD for review and to confirm that the requirements of the Ordinance Code have been met.

13. The equipment shall be maintained in good condition over the term of the permit. This shall include keeping the structures graffiti-free.
14. Antennas, towers, cabinets, and mountings shall not be used for advertising.
15. 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

16. The applicant 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. Generator testing shall only occur between the hours of 9:00 am and 5:00pm, Monday through Friday.

Frequency Interference

17. The facility may be operated at a frequency that will interfere with an emergency communication system or 911 system, including any regional emergency communication system.

Aesthetics

18. The facility, all fences surrounding a facility, and all other fixtures and improvements on the facility site shall be camouflaged to blend into the scenic hillside. The proposed faux water tower shall conceal all antennas and ancillary equipment so they

are not visible from the surrounding properties. Fences shall be made of wood or otherwise blend into the rural agricultural landscape. All equipment and fences must be maintained as often as necessary to prevent fading, chipping, or weathering of paint that would defeat the camouflaging of the facility.

19. The use of highly reflective materials, including but not limited to glass and unfinished metals, shall be prohibited from use.
20. Any lighting needed for maintenance purposes shall be within the fenced area and shall be hooded and deflected downward so as to focus illumination towards the equipment. Lighting shall have on/off switches so it can be turned off when not in use, rather than being able to be turned on with motion detection.
21. Color photographs showing the as-built condition of the wireless facility shall be submitted for review of CDD staff to verify compliance with the Aesthetics Conditions of Approval **prior to final building inspection.**

Work Restrictions

22. The applicant shall make a good faith effort to minimize project-related disruptions to adjacent properties, and to other uses on the site. This shall be communicated to project-related contractors.
23. The project sponsor shall require their contractors and subcontractors to fit all internal combustion engines with mufflers which are in good condition and shall locate stationary noise-generating equipment such as air compressors and concrete pumps as far away from existing residences as possible.
24. Transportation of heavy equipment and trucks shall be limited to weekdays between the hours of 9:00 A.M. and 4:00 P.M. and prohibited on Federal and State holidays.
25. The site shall be maintained in an orderly fashion. Following the cessation of construction activity; all construction debris shall be removed from the site.
26. During construction, a publicly visible sign shall be posted on the property with the telephone number and person to contact regarding construction-related complaints. This person shall respond and take corrective action within 24 hours. The CDD phone number shall also be visible to ensure compliance with applicable regulations.
27. Non-emergency maintenance, construction and other activities on the site related to this use are restricted to the hours of 8:00 A.M. to 5:00 P.M., Monday through Friday, and shall be prohibited on State and Federal holidays on the calendar dates that these holidays are observed by the State or Federal government as listed below:

New Year's Day (State and Federal)
Birthday of Martin Luther King, Jr. (State and Federal)
Washington's Birthday (Federal)
Presidents' Day (State)
Cesar Chavez Day (State)
Memorial Day (State and Federal)
Juneteenth National Independence Day (Federal)
Independence Day (State and Federal)
Labor Day (State and Federal)
Columbus Day (Federal)
Veterans Day (State and Federal)
Thanksgiving Day (State and Federal)
Day after Thanksgiving (State)
Christmas Day (State and Federal)

For specific details on the actual days and dates that these holidays occur, please visit the following websites:

Federal Holidays: www.federalreserve.gov/aboutthefed/k8.htm

California Holidays: www.sos.ca.gov/state-holidays

Indemnity Requirement

28. To the fullest extent permitted by law, the applicant 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.

Contra Costa County Public Works Department Encroachment Permit

29. Prior to CDD-stamp of approval of plans for the issuance of a building permit, the applicant shall obtain an encroachment permit from Public Works for all construction activities within the public right-of-way of Highland Road, including, but not limited to installation of fiber optic cable and pull boxes.

Air Quality

30. Air Quality 1: The following Bay Area Air Quality Management District, Basic Construction Mitigation Measures shall be implemented during project construction and shall be included on all construction plans.
- All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
 - All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
 - All visible mud or dirt tracked-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
 - All vehicle speeds on unpaved roads shall be limited to 15 mph.
 - All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
 - Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
 - All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified visible emissions evaluator.
 - Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.

(MM Air Quality 1)

Biological Resources

31. To the extent possible, construction should be avoided during the wet season from approximately October 15th (or the first measurable rainfall of 1 inch or greater) and March 15th to avoid dispersing California Tiger Salamanders and California Red-legged Frogs. Mitigation measures to be implemented outside of the wet season include:
- Employees and contractors performing construction related activities will receive environmental sensitivity training. Training will include a review of environmental laws

and Avoidance and Minimization Measures (AMMs) that must be followed by all personnel to reduce or avoid effects on covered species during construction activities.

- Contracts with contractors, construction management firms, and subcontractors will obligate all contractors to comply with these AMMs.
- A biologist should be present for all ground-disturbing activities.
- The following will not be allowed at or near work sites for covered activities: trash dumping, firearms, open fires (such as barbecues), and hunting.
- Vehicles and equipment will be parked on pavement, existing roads, and previously disturbed areas to the extent possible.
- Pipes, culverts and similar materials greater than four inches in diameter, will be stored so as to prevent covered wildlife species from using these as temporary refuges, and these materials will be inspected each morning for the presence of animals prior to being moved.
- All foods and food-related trash items will be enclosed in sealed trash containers at the end of each day and removed completely from the site once every three days.
- No pets will be allowed anywhere in the project site during construction.
- All equipment will be maintained such that there will be no leaks of automotive fluids such as gasoline, oils, or solvents.

Should construction need to occur during the wet season, the following minimization measures should be implemented to prevent impacts caused by dispersing California Tiger Salamanders and California Red-legged Frogs entering the work area during construction:

- A biological monitor will be present throughout the project duration.
- Barrier fencing will be constructed around the worksite to prevent California Tiger Salamanders and California Red-legged Frogs from entering the work area. Barrier fencing will be removed within 72 hours of the completion of work.
- Before the start of work each morning, all equipment such as vehicles and stored pipes will be inspected for CTS or CRLF. The biological monitor will check all excavated steep-walled holes or trenches greater than 6-inches deep.

(MM Biology 1)

Cultural Resources

32. The following Mitigation Measures shall be implemented during project related ground disturbance, and shall be included on all construction plans:

- i. All construction personnel, including operators of equipment involved in grading, or trenching activities will be advised of the need to immediately stop work if they

observe any indications of the presence of an unanticipated cultural resource discovery (e.g. wood, stone, foundations, and other structural remains; debris-filled wells or privies; deposits of wood, glass, ceramics). If deposits of prehistoric or historical archaeological materials are encountered during ground disturbance activities, all work within 50 feet of the discovery shall be redirected and a qualified archaeologist, certified by the Society for California Archaeology (SCA) and/or the Society of Professional Archaeology (SOPA), shall be contacted to evaluate the finds and, if necessary, develop appropriate treatment measures in consultation with the County and other appropriate agencies.

If the deposits are not eligible, avoidance is not necessary. If eligible, deposits will need to be avoided by impacts or such impacts must be mitigated. Upon completion of the archaeological assessment, a report should be prepared documenting the methods, results, and recommendations. The report should be submitted to the Northwest Information Center and appropriate Contra Costa County agencies.

- ii. Should human remains be uncovered during grading, trenching, or other on-site excavation(s), earthwork within 30 yards of these materials shall be stopped until the County coroner has had an opportunity to evaluate the significance of the human remains and determine the proper treatment and disposition of the remains. Pursuant to California Health and Safety Code Section 7050.5, if the coroner determines the remains may be those of a Native American, the coroner is responsible for contacting the Native American Heritage Commission (NAHC) by telephone within 24 hours. Pursuant to California Public Resources Code Section 5097.98, the NAHC will then determine a Most Likely Descendant (MLD) tribe and contact them. The MLD tribe has 48 hours from the time they are given access to the site to make recommendations to the land owner for treatment and disposition of the ancestor's remains. The land owner shall follow the requirements of Public Resources Code Section 5097.98 for the remains.
(MM Cultural Resources 1)

ADVISORY NOTES

- This project may be subject to the requirements of the Department of Fish and Wildlife. It is the applicant's responsibility to notify the Department of Fish and Wildlife, P.O. Box 47, Yountville, California 94599, of any proposed construction within this development that may affect any fish and wildlife resources, per the Fish and Wildlife Code.
- Applicant shall be required to comply with all rules, regulations, and procedures of the National Pollutant Discharge Elimination Systems (NPDES) for municipal,

construction and industrial activities as promulgated by the California State Water Resources Control Board, or any of its Regional Water Quality Control Boards (San Francisco Bay Region II).

- This project may be subject to the requirements of the Army Corps of Engineers. It is the applicant's responsibility to notify the appropriate district of the Corps of Engineers to determine if a permit is required, and if it can be obtained.
- The applicant shall comply with the requirements of the following agencies:
 - Department of Conservation and Development, Building Inspection
 - San Ramon Valley Fire Protection District
 - Contra Costa County, Health Department
 - Bay Area Air Quality Management District
 - Federal Communications Commission