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**PLANNING COMMISSION  
STAFF REPORT- MAJOR USE PERMIT**

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**MAY 21, 2020  
U\_2019-0011**

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**SUMMARY**

**OWNER:** BETTE NIXON  
8100 BRIAR LANE  
TILLAMOOK, OR 97141

**APPLICANT:** AT&T MOBILITY  
5001 EXECUTIVE PARKWAY  
SAN RAMON, CA 94583

**AGENT:** EPIC WIRELESS GROUP, LLC  
605 COOLIDGE DRIVE  
FOLSOM, CA 95630

**REQUEST:** Major Use Permit to authorize construction and operation of a wireless communication facility consisting of a 143 ft. tall lattice tower with 12 antennas, various appurtenant equipment, ground equipment, generator, and equipment cabinet. Associated improvements include a gravel and paved access route to the site. The proposed lattice tower will be located within a 1,800 sq. ft. fenced compound.

**LOCATION:** 5.1± miles southeast of City of Willits center, lying on the east side of Manzanita Drive (CR 304C), 0.5± miles east of its intersection with Ridgewood Road (CR 304A) located at 20201 Manzanita Dr., Willits (APN: 105-090-01).

**TOTAL ACREAGE:** 30± Acres

**GENERAL PLAN:** Remote Residential (RMR20)

**ZONING:** Upland Residential (UR:20)

**SUPERVISORIAL DISTRICT:** 3 (Haschak)

**ENVIRONMENTAL DETERMINATION:** Negative Declaration

**RECOMMENDATION:** APPROVE WITH CONDITIONS

**STAFF PLANNER:** MARK CLISER

**BACKGROUND**

The Telecommunications Act of 1996 was signed into law on February 8, 1996. This act preserves the authority of a State or local governments over decisions regarding the placement, construction, and modifications of personal wireless services, subject to limitations. Section 704(7)(B)(iii) requires that any denial *shall be in writing and supported by substantial evidence contained in a written record*. Section 704(7)(B)(iv) prohibits denial on the basis of radio frequency emissions if those emissions are below the standards as determined by the Federal Communications Commission (FCC).

On August 4, 2015, the Mendocino County Board of Supervisors adopted *Guidelines for the Development of Wireless Communication Facilities* to regulate wireless communication facilities subject to a use permit. By adopting this resolution (Resolution No. 15-121), the Board of Supervisors acted to maintain the County's authority over decisions regarding development, operation, and maintenance of wireless facilities.

AT&T is participating in a Federal Government funded program called Connect America Fund (CAF). CAF is intended to provide underserved areas throughout the United States with hi-speed broadband internet. The CAF project is required to provide broadband internet services capable of 10 Mbps download and 1 Mbps upload speeds. Mendocino County has many areas not served by hi-speed broadband internet and this project would establish hi-speed broadband internet to an underserved community.

**PROJECT DESCRIPTION:** Major Use Permit to authorize construction and operation of a wireless communication facility consisting of a 143 ft. tall lattice tower with 12 antennas, various appurtenant equipment, ground equipment, generator, and equipment cabinet. Associated improvements include a gravel and paved access route to site. The proposed lattice tower will be located within a 1,800 sq. ft. fenced compound.

AT&T's objective for the project is to provide wireless hi-speed broadband internet to nearby residences consistent with the CAF program and secondarily to provide enhanced cellular services to this area to fill a mobility coverage gap in the area (Valley Oaks Park). Additionally, the project will provide FirstNet services for First Responders. FirstNet's mission is to deploy, operate, maintain, and improve the first high-speed, nationwide wireless broadband network dedicated to public safety.

The site location is the least intrusive option in the area, given the search ring was comprised of residentially zoned areas, while still filling AT&T's significant coverage gap. The nearest adjacent wireless communication facility, approximately 3.6 miles west, does not provide coverage to the Valley Oaks Park search ring. The site location is the only parcel that is directly off a public right-of-way and does not utilize any shared private roads.

**APPLICANT'S STATEMENT:**

- Install – New AT&T power / TELCO / fiber to site location
- Install – New 40'x45' fenced lease area
- Install – (1) new 143'-0" tall lattice tower
- Install – New 6'-0" high chain link fence
- Install – (1) new AT&T pre-manufactured walk in cabinet (WIC)
- Install – (12) new AT&T 6'-0" panel antennas
- Install – (20) new AT&T RRUS @ antenna level
- Install – (3) new AT&T CD-surge suppressors "squids" @ antenna level
- Install – (1) new AT&T GPS unit mounted to façade of new pre-manufactured walk-in cabinet (WIC)
- Install – (1) new AT&T 30kw diesel emergency backup generator with 190 gal belly tank
- Install – (1) new AT&T power route (approx.. 150'0")

**RELATED APPLICATIONS:**

**On-Site**

- BV\_2019-0116 – Permit existing grading
- BV\_2018-0179 – Remove electric, permit electric, and remove water pipes

**SITE CHARACTERISTICS:** The subject parcel is located 5.1± miles southeast of City of Willits center, lying on the east side of Manzanita Drive (CR 304C), 0.5± miles east of its intersection with Ridgewood Road (CR 304A). The wireless communication facility will occur in an area currently used as a horse pasture. The site contains an existing mobile home and barn. The site is elevated above the surrounding area at an elevation of approximately 2,145 feet above mean sea level (amsl) and has great potential for line of site to the neighboring community. The surrounding area is forested, thereby camouflaging the facility from public view. Per the California Natural Diversity Database (CNDDB), sensitive resources have not been noted to exist on the project site.

**SURROUNDING LAND USE AND ZONING:**

	GENERAL PLAN	ZONING	LOT SIZES	USES
NORTH	Remote Residential (RMR)	Upland Residential (UR20)	35.2± acres	Residential
EAST	Rangeland (RL)	Rangeland (RL160)	20± acres	Agricultural
SOUTH	Remote Residential (RMR)	Upland Residential (UR20)	18± acres	Residential
WEST	Remote Residential (RMR); Rural Residential (RR)	Rural Residential (RR5); Upland Residential (UR20)	4.3±; 17± acres	Residential

**PUBLIC SERVICES:**

Access: MANZANITA DRIVE (CR 304C)  
Fire District: LITTLE LAKE FIRE PROTECTION DISTRICT  
Water District: NONE  
Sewer District: NONE

**AGENCY COMMENTS:** On August 21, 2019 project referrals were sent to the following responsible or trustee agencies with jurisdiction over the Project. Their submitted recommended conditions of approval are contained and incorporated within the attached resolution. A summary of the submitted agency comments are listed below.

REFERRAL AGENCIES	COMMENT
Department of Transportation	No Comment
Environmental Health- Ukiah	Comments
Building Services-Ukiah PBS	No Comment
Assessor	No Comment
Air Quality Management District	Comments
Sonoma State University	Comments
Calfire (Land Use)	No Response
Calfire (Resource Mgmt.)	No Response
CA Department of Fish and Wildlife	No Response
Regional Water Quality Control Board	No Response
Archaeological Commission	Comments
Little Lake Fire District	No Response
Sherwood Valley Band of Pomo Indians	No Response
Cloverdale Rancheria	No Response
Redwood Valley Rancheria	No Response
Emergency Services	No Response

**KEY ISSUES**

**1. General Plan and Zoning Consistency:**

The parcel is classified as Remote Residential with a 20 acre minimum parcel size (RMR20) by the Mendocino County General Plan. The proposed development is an allowed conditional use within the district with the granting of a major use permit. The subject parcel is mainly used for the raising of horses. The proposed development will not interfere with the continued use of the parcel.

The project site is located within a Upland Residential zoning district (UR:20), which is intended to create and enhance farming and low-density agricultural/residential uses. The subject parcel is mainly used for the raising of horses. The proposed development will not interfere with the continued use of the parcel. Development is proposed within the UR:20 district and is an allowed conditional use with the granting of a

major use permit. The proposed development is in conformance with development standards, yard setbacks, etc. for the zoning district.

Mendocino County Code (MCC) Section 20.236.005 states that “*Radio, telephone, and other communication and transmission structures, towers, and antennas ("towers and antennas") are conditional uses subject to approval of a conditional use permit in all zoning districts, except as otherwise provided in the Mendocino County Code.*” MCC Section 20.236.020(C) provides that towers not meeting certain development criteria (established for streamlined permitting of small scale towers) are subject to a major use permit. Thus this major use permit is being processed for the proposed tower.

## **2. Wireless Communication Facilities Development Guidelines:**

Staff evaluated the proposed project for consistency with the Wireless Communication Facilities Development Guidelines. Staff has incorporated several conditions of approval to ensure that the facility is operated and maintained in conformance with these standards.

The County Guidelines for the Development of Wireless Communication Facilities contain the following items relevant to the subject project:

Application Submittal Requirements: Item B(3) requires “[a] statement of the communication objectives sought for the proposed location, whether the proposed facility is necessary to prevent or fill a significant gap or capacity shortfall in the applicant’s service area, whether it is the least intrusive means of doing so, and whether there are any alternative sites that would have fewer aesthetic impacts while providing comparable service.”

The applicant provided within the application materials the following statement to address the item:

*“AT&T’s objective for the Valley Oaks Park site is to provide wireless hi-speed broadband internet to nearby residences and to fill a significant mobility coverage gap in the service area. In addition to internet and mobility services, the tower will provide FirstNet services for First Responders.”*

Item Number B(15) requires an analysis of the factors leading to the selection of the proposed site and antenna height, including alternative sites considered. The applicant provided the following statement:

*“The site location is the least intrusive option in the area given the search ring comprises of residentially zoned areas. AT&T researched more than a half dozen of properties and the Nixon property provided the least intrusive site location while still filling AT&T significant coverage gap. The Nixon property is the only property that is directly off a Public Right-of-Way and does not utilize any shared private roads. Furthermore, the vast majority of the properties within the Search Ring comprise of restrictive CC&R’s that do not allow for commercial development.”*

Eight (8) alternative sites were considered:

Adjacent Nixon Property – Nixon: APN: 105-260-03-00; Owner: Bette Nixon – Property was chosen as secondary, however, the property has restrictive CC&R’s that do not allow commercial development. As a result, Nixon’s other property was chosen as primary as that parcel does not have CC&R’s.

**Candidate “A”** – Rohsik: APN: 105-040-02-00; Owner: Nacca and Arthur Rohsik – Letter of Interest sent but no response from property owner. Additionally, property is under restrictive CC&R’s.

**Candidate “B”** – Shrum – APN: 105-260-02-00; Owner: Shrum Living Trust – Letter of Interest sent but no response from property owner. Additionally, property is under restrictive CC&R’s.

**Candidate “C”** – Cardana – APN: 105-200-05-00; Owner: Linda Cardana – Letter of Interest sent but no response from property owner. Additionally, property is under restrictive CC&R’s.

**Candidate “E”** – Cronk – APN: 105-230-22-00; Owner: Shirley and William Cronk – Letter of Interest sent but no response from property owner. Additionally, property is under restrictive CC&R’s.

**Candidate “F”** – Jackson – APN: 105-240-07-00; Owner: Jackson Family Trust - Letter of Interest sent but no response from property owner. Additionally, property is under restrictive CC&R’s.

**Candidate “G”** – Ortiz – APN: 105-250-03-00; Owner: Cathy and Dave Ortiz Trust - Letter of Interest sent but no response from property owner. Additionally, property is under restrictive CC&R’s.

**Candidate “H”** – Goldenghost – located on the east side of AT&T Search Ring. The proposed tower would be located on a 41.7 acre, RL160 zoned property owned by Syracuse Goldenghost. The property is located on the south side of Ridgewood Rd. Candidate “G” Goldenghost was chosen as AT&T’s preferred candidate as it yielded more LU’s (living units) than Nixon’s property. However, provided the site is off of a long shared private road, AT&T chose the property directly off of the Public ROW. Dozens of access and utility agreements would be required for AT&T’s access rights to the property.

Item Number B(17) requires a statement that co-location would be available for other carriers as well as for emergency services. The Applicant’s Operation Statement states:

“The tower will be built to provide co-location opportunities for future carriers or public safety entities.

Condition Number 20 is recommended to ensure the availability of the tower for emergency services upon request, “provided no interference to function will result at a minimum or no fee,” as stated in the Guidelines language.

The application as well as conditions recommended for the project will ensure that all standards under Section C of the Guidelines have been met.

### **3. Use Permit Findings:**

*MCC Section 20.196.020 (A) That the establishment, maintenance or operation of a use or building applied for is in conformity to the General Plan;*

The proposed development is located entirely within the portion of the parcel classified as RMR20. Policy DE-15 in the Development Element of Mendocino County’s General Plan sites utility installations as a general use. The subject parcel is a vacant parcel mainly used for the boarding of horses. The proposed development will not interfere with the continued use of the parcel. If developed in conformance with the recommended Conditions of Approval, the project is found to be consistent with the Mendocino County General Plan.

*MCC Section 20.196.020 (B) That adequate utilities, access roads, drainage and other necessary facilities have been or are being provided;*

Minimal grading and ground disturbance is required to accommodate the proposed project as the site is relatively level. Grading activities include site development and trenching to underground utilities. Two (2) fire turnouts will be cut in on existing access road per Calfire standards. The Applicant estimates approximately 33.33 cubic yards to be removed and replaced for trenching, 50 cubic yards for leveling of the tower site, and 81 cubic yards for the footing of the tower. The 81 cubic yards will be spread evenly around the site. Conditions of Approval are included to ensure that the proposed project is developed in conformance with Mendocino County Code requirements and to prevent soil erosion.

The parcel is currently accessed from Manzanita Drive (CR 304C). The application was referred to the Mendocino County Department of Transportation (MCDOT) for comments. MCDOT responded on August 21, 2019 with no comments. Appropriate turnouts are shown on the site plan to ensure there is adequate emergency access to the site for fire and medical personnel. Conditions of Approval have been included to ensure emergency access.

*MCC Section 20.196.020 (C) That such use will not, under the circumstances of that particular case, constitute a nuisance or be detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in or passing through the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the county; provided, that if any proposed building or use is necessary for the public health, safety or general welfare, the finding shall be to that effect;*

The proposed wireless communication facility will not constitute a public nuisance or be detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the area of the proposed use if constructed in conformance with the recommended Conditions of Approval.

*MCC Section 20.196.020 (D) That such use preserves the integrity of the zoning district.*

The project site is located within a Upland Residential zoning district (UR:20), which is intended to create and enhance farming and low-density agricultural/residential uses. The subject parcel is mainly used for horses. The proposed development will not interfere with the continued use of the parcel and is an allowed conditional use within the zoning district. Given the small size of the proposed development on the parcel, 1,800 square feet, the proposed development will not affect the future development of uses on the parcel. Therefore, the proposed use will preserve the integrity of the zoning district.

#### **4. Environmental Protection:**

Staff has completed an Initial Study for the proposed project in accordance with the California Environmental Quality Act (CEQA) and determined that the project would not have potential significant impacts on the environment. As discussed in the Initial Study, the proposed project could result in some impacts, however these were considered to be less than significant. Staff recommends that the Planning Commission adopt a Negative Declaration for the project.

#### **RECOMMENDATION**

By resolution, adopt a Negative Declaration and grant Use Permit U\_2019-0011 for the Project based on the facts and findings and subject to the conditions of approval.

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DATE

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MARK CLISER  
PLANNER I

Appeal Period: 10 Days  
Appeal Fee: \$1616.00

**ATTACHMENTS:**

- A. Location Map
- B. Aerial Map
- C. Topo Map
- D. Site Plan
- E. Zoning Map
- F. General Plan Map
- G. Adjacent Map
- H. Fire Hazards Map
- I. Wetlands Map
- J. Soils Map
- K. Farmland Map
- L. Existing Coverage
- M. Proposed Coverage
- N. Elevation NE
- O. Elevation NW
- P. Elevation SE
- Q. Elevation SW
- R. Radio Frequency Emissions Compliance Report

**RESOLUTION AND CONDITIONS OF APPROVAL (Exhibit A):**

**Initial Study available online at:** <https://www.mendocinocounty.org/government/planning-building-services/meeting-agendas/planning-commission>