



Planning Director Staff Report Hearing on August 25, 2022

County of Ventura • Resource Management Agency

800 S. Victoria Avenue, Ventura, CA 93009 • (805) 654-2478 • www.vcrma.org/divisions/planning

“BLACK MOUNTAIN” MODIFICATION OF CONDITIONAL USE PERMIT (CUP) LU12-0040, CASE NO. PL22-0053

A. PROJECT INFORMATION

1. **Request:** The applicant requests approval of a Minor Modification of Conditional Use Permit (CUP) LU12-0040 to authorize the continued use, operation and maintenance of an existing Wireless Communication Facility (WCF) for a 10-year period for a site known as Black Mountain (Case No. PL22-0053).
2. **Applicant:** Crown Castle, 200 Spectrum Center Drive Suite 1700, Irvine, CA 90067
3. **Property Owner:** RMR Land LLC, 2000 Avenue of the Stars, Los Angeles, CA 90067
4. **Applicant’s Representative:** Scott Dunaway, 1114 State Street #234, Santa Barbara, CA 93101
5. **Decision-Making Authority:** Pursuant to the Ventura County Non-Coastal Zoning Ordinance (NCZO) (Section 8105-4), the Planning Director is the decision-maker for the requested Minor Modification.
6. **Project Site Size, Location, and Parcel Number:** The 404.15-acre property is located at 12540 Creek Road, near the intersection of Black Canyon Fire Road and Utility Road, near the community of Ojai Valley, in the unincorporated area of Ventura County. The Tax Assessor’s parcel number for the parcel that constitute the project site is 035-0-010-165 (Exhibit 2).
7. **Project Site Land Use and Zoning Designations (Exhibit 2):**
 - a. Countywide General Plan Land Use Map Designation: Open Space
 - b. Ojai Valley Area Plan Land Use Map Designation: Open Space (Exhibit 2)
 - c. Zoning Designation: OS-40 ac/TRU/DKS/SRP/HCWC (Open Space, 40-acre minimum lot size/Temporary Rental Unit Regulation Overlay/ Dark Sky Overlay/ Scenic Resource Overlay/ Habitat Connectivity Corridors Overlay.

8. Adjacent Zoning and Land Uses/Development (Exhibit 2):

Location in Relation to the Project Site	Zoning	Land Uses/Development
North	City of Ojai	Soule Park Golf Course
East	OS-40 ac/SRP/TRU/DKS	Oil Production and Grazing Land
South	OS-40 ac/HCWC	Undeveloped Grazing Land
West	OS-40 ac/TRU/DKS/SRP/HCWC	Oil Production and Hiking Trails

9. History: On January 28, 2002, the Planning Director approved CUP 5186 for the construction and maintenance of an unmanned Sprint WCF consisting of seven (7) ground mounted equipment cabinets, three (3) 4-foot-tall panel antennas, mounted in three sectors (A, B, and C). One antenna panel per pole (lollypop) in each sector for a total of three (3) antenna and pole combinations. The maximum height of the “lollypop” Sectors “A” and “C” is eleven (11) feet tall and in Sector “B” will be seventeen (17) feet tall.

Subsequently, CUP 5186 expired on January 28, 2012.

On September 4, 2012, the Planning Director approved LU12-0040 to reinstate CUP 5186 for a 10-year period.

On April 13, 2022, the subject CUP application (PL22-0053) was submitted to the County. After receiving additional information, it was deemed complete for processing on June 14, 2022.

10. Project Description: A Minor Modification to CUP LU12-0040 for the continued use, operation and maintenance of an existing Crown Castle WCF for a 10-year period. The existing facility is comprised of the following components:

- A 750-square-foot lease area enclosed with a chain-link fence;
- Three (3) 4-foot-tall panel antennas (panel antennas are mounted in three (3) sectors with one antenna pane per pole (“lollypop”)); and
- Seven (7) ground mounted equipment cabinets.

The heights of the antenna poles range from eleven (11) feet (Sectors A and B) to seventeen (17) feet (Sector C) and are painted to match existing vegetation. All cabling has been installed underground from the equipment shelter to the antenna poles. The WCF is unmanned, except for occasional periodic maintenance visits, and would continue to operate 24 hours per day. The unmanned facility does not require water to operate. No exterior lighting or grading is proposed. There are no proposed operational or physical changes to the existing WCF (Exhibit 3).

B. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) COMPLIANCE

Pursuant to CEQA (Public Resources Code Section 21000 et seq.) and the CEQA Guidelines (Title 14, California Code of Regulations, Division 6, Chapter 3, Section 15000 et seq.), the proposed project is subject to environmental review.

On November 1, 2011, the Planning Director adopted a Mitigated Negative Declaration (MND) that evaluated the environmental impacts of the WCF. The CEQA Guidelines Section 15164 state that the lead agency shall prepare an addendum to an adopted MND if: (1) minor changes or additions are necessary; but (2) none of the conditions described in the CEQA Guidelines (Section 15162) calling for the preparation of a subsequent MND have occurred. Exhibit 6 includes a description of the changes or additions that are necessary to amend the MND and a discussion of why none of the conditions described in the CEQA Guidelines exist which require the preparation of an EIR or subsequent MND.

Therefore, based on the information provided above and in light of the whole record, there is no substantial evidence to warrant the preparation of MND, and the addendum to the MND (Exhibit 6) reflects the County’s independent judgment and analysis.

C. CONSISTENCY WITH THE GENERAL PLAN

The proposed project has been analyzed and determined to be consistent with all applicable General Plan and Ojai Valley Area Plan policies. A consistency analysis which evaluates the project’s consistency with the policies of the General Plan and Ojai Valley Area Plan is included as Exhibit 4 of this staff report.

D. ZONING ORDINANCE COMPLIANCE

The proposed project is subject to the requirements of the Ventura County NCZO.

Pursuant to the requirements of the Ventura County NCZO (Section 8105-4), the proposed use is allowed in the OS zone district with the granting of a CUP. Upon the granting of the modified CUP, the proposed project would comply with the requirements of the Ventura County NCZO.

The proposed WCF is subject to the special use standards of the Ventura County NCZO (Section 8107-45.4). Table 1 lists the applicable special use standard and a description of whether the proposed project complies with the special use standards.

Table 1 – Special Use Standards Consistency Analysis

Special Use Standard	Complies?
<p>Section 8107-45.4 (a), Partial and Full-Concealment Requirements:</p> <p>To minimize visual impacts, a wireless communication facility shall be designed as a stealth facility or building-concealed facility. A wireless communication facility may be designed as a non-stealth</p>	<p>Yes, the design of the WCF is designed as three (3) “lollypop” poles. The tallest pole is 17 feet in height and the project is not proposing any modifications.</p>

Table 1 – Special Use Standards Consistency Analysis

Special Use Standard	Complies?
facility only if it meets standards provided in Sec. 8107-45.4(b) below.	
<p>Section 8107-45.4 (c), Making Wireless Communication Facilities Compatible with the Existing Setting:</p> <p>To the extent feasible, all wireless communication facilities shall be located and designed to be compatible with the existing setting as follows:</p> <ul style="list-style-type: none"> (1) Location: Facilities shall be located in areas where existing topography, vegetation, buildings, or structures effectively screen and/or camouflage the proposed facility; and (2) Facility Design: The facility shall be designed (i.e. size, shape, color, and materials) to blend in with the existing topography, vegetation, buildings, and structures on the project site as well as its existing setting. 	<p>Yes, the WCF is located in an area where existing topography, vegetation, and structures effectively camouflage the proposed facility. The WCF is designed as three (3) “lollypop” poles. The associated WCF equipment is colored to blend in with the existing topography, vegetation, buildings, and structures in the existing setting.</p>
<p>Section 8107-45.4 (e), Non-Preferred Wireless Communication Facility Locations:</p> <p>To the extent feasible, wireless communication facilities should not be sited in the following locations:</p> <ul style="list-style-type: none"> 1. Within an area zoned Urban Residential. 2. Silhouetted on the top of ridgelines on land designated as Open Space under the General Plan when prominently visible from public viewpoints. 3. On a structure, site or in a district designated as a local, state, or federal historical landmark (see Sec. 8107-45.4(j)). 4. Within an area zoned Scenic Resource Protection Overlay (see Sec. 8107-45.4(m)). 5. Within environmentally sensitive areas (see Sec. 8107-45.4(k)). 	<p>Yes, the existing WCF is located on a ridgeline that overlooks the City of Ojai and State Route 150. There are no proposed physical or operational changes. The existing WCF is not prominently visible from a public viewpoint.</p>
<p>Section 8107-45.4 (f)(6)(a)(b), Height:</p> <ul style="list-style-type: none"> a. Faux structure types, including but not limited to water tanks, flag poles, windmills, and light poles, may be used as a stealth facility when that type of structure is commonly found within the local setting of the wireless communication facility. 	<p>Yes, the design of the existing WCF consist of three (3) “lollypop” poles. The height of the antenna poles ranges from eleven (11) feet (Sectors A and B) to seventeen (17) feet (Sector C).</p>

Table 1 – Special Use Standards Consistency Analysis

Special Use Standard	Complies?
<p>b. Faux structures shall not exceed the maximum height limits established in Sec. 8107-45.4(f)(4)(a).</p>	
<p>Section 8107-45.4 (g) Setbacks:</p> <ol style="list-style-type: none"> 1. All wireless communication facilities shall comply with the required minimum front, side, and rear yard setbacks for the zone in which the site is located. No portion of an antenna array shall extend beyond the property lines. 2. Ground-mounted wireless communication facilities shall be set back a distance equal to the total facility height or 50 feet, whichever is greater, from any offsite dwelling unit. 3. Whenever feasible, a new ground-mounted wireless communication facility shall be set back from the property line to avoid creating the need for fuel clearance on adjacent properties. 	<p>Yes, the WCF is existing, and no portion of the antenna array extends beyond the property lines. The proposed WCF meets all setbacks from the property lines.</p>
<p>Section 8107-45.4 (h) Retention of Concealment Elements:</p> <p>No modification to an existing wireless communication facility shall defeat concealment elements of the permitted facility. Concealment elements are defeated if any of the following occur:</p> <ol style="list-style-type: none"> 1. A stealth facility is modified to such a degree that it results in a non-stealth facility; or 2. The stealth facility no longer meets the applicable development standards for stealth facilities in Sec. 8107-45.4; or 3. Equipment and antennas are no longer concealed by the permitted stealth design features; or 4. Proposed modifications to a stealth facility, designed to represent a commonly found element in the environment or community (such as a tree, rock, or building), result in a facility that no longer resembles the commonly found element due to its modified height, size, or design. 	<p>Yes, the proposed project is for a 10-year renewal to an existing stealth WCF. There are no proposed operational or physical changes to the existing WCF.</p>
<p>Section 8107-45.4 (6a)(b)(c), Standards for Other Faux Stealth Facilities</p> <ol style="list-style-type: none"> a. Faux structure types, including but not limited to water tanks, flag poles, windmills, and light poles, may be used as a stealth facility when that type of structure is commonly found within the local setting of the wireless communication facility. b. Faux structures shall not exceed the maximum height limits established in Sec. 8107-45.4(f)(4)(a). 	<p>Yes, the existing stealth WCF consist of three (3) "lollypop" poles. The tallest pole is 17 feet in height. The WCF is located on a ridgeline but is not prominently visible from any public viewpoint.</p>

Table 1 – Special Use Standards Consistency Analysis

Special Use Standard	Complies?
<p>c. Faux light poles shall be designed to function as a light pole and match the design and height of existing light poles on the proposed site, provided that they do not exceed the height listed in Table 1 (Sec. 8107-45.4(f)(4)(a)). This standard is not applicable to light poles within the public right-of-way.</p>	
<p>Section 8107-45.4 (j). Historical Landmarks/Sites of Merit:</p> <p>A wireless communication facility shall not be constructed, placed, or installed on a structure, site or district designated by a federal, state, or County agency as an historical landmark or site of merit unless that facility is designed to meet the Secretary of the Interior (SOI) Standards. If the facility does not meet the SOI standards, then the Cultural Heritage Board must determine that the proposed facility will have no significant, adverse effect on the historical resource.</p>	<p>Yes, the existing WCF is not constructed or installed on a structure, site or district designated by a federal, state, or County agency as an historical landmark or site of merit.</p>
<p>Section 8107-45.4 (k), Environmentally Sensitive Areas:</p> <p>All wireless communication facilities and their accessory equipment shall be sited and designed to avoid or minimize impacts to habitat for special status species, sensitive plant communities, migratory birds, waters and wetlands, riparian habitat, and other environmentally sensitive areas as determined by the County's Initial Study Assessment Guidelines.</p>	<p>Yes, the WCF is existing and is not located within an environmentally sensitive area. The WCF is located on an existing legally disturbed area. There are no proposed modifications to the facility.</p>
<p>Section 8107-45.4 (l) Ridgelines:</p> <p>A wireless communication facility shall not be sited on a ridgeline or hilltop that is prominently visible from a public viewpoint when alternative sites are available. Applicants shall demonstrate that no feasible, alternative locations are available when proposing a wireless communication facility on a ridgeline or shall demonstrate that alternative locations result in significant environmental impacts when compared to the proposed ridgeline location.</p>	<p>Yes, the existing WCF is located on a ridgeline above the City of Ojai and State Route 150. The WCF is not prominently visible from a public viewpoint. The WCF is designed as three (3) "lollypop" poles. The tallest pole is seventeen (17) feet in height.</p>
<p>Section 8107-45.4 (m) Scenic Resource Protection Overlay Zone:</p> <p>With the exception of public safety described in Sec. 8107-45.2.4, a wireless communication facility shall not be prominently visible from a public viewpoint, and shall be designed as a stealth facility, when located within a Scenic Resource Protection Overlay Zone.</p>	<p>Yes, the existing stealth WCF is south of Soule Park Road and Creek Road, which are identified as scenic viewing locations with the SRP overlay. The existing WCF is designed as three (3) "lollypop" poles. The height of the antenna poles ranges from eleven (11) feet (Sectors A and B) to seventeen (17) feet (Sector C). The existing WCF is not visible from any scenic viewing locations due to the size of the</p>

Table 1 – Special Use Standards Consistency Analysis

Special Use Standard	Complies?
	WCF and existing natural features.
<p>Section 8107-45.4 (n), Accessory Equipment:</p> <p>All accessory equipment associated with the operation of a wireless communication facility shall be located and screened to prevent the facility from being prominently visible from a public viewpoint to the maximum extent feasible.</p>	<p>Yes, all accessory equipment associated with the existing WCF are placed at ground-level and are screened to prevent the facility from being prominently visible from the public viewing area to the maximum extent feasible. All cabling has been installed underground from the equipment shelter to the antenna poles.</p>
<p>Section 8107-45.4 (o), Colors and Materials:</p> <p>All wireless communication facilities shall use materials and colors that blend in with the natural or man-made surroundings. Highly reflective materials are prohibited.</p>	<p>Yes, all colors and materials used for the WCF blend in with the natural surroundings. The antenna arrays are painted green to blend in with the surrounding trees and chaparral. The equipment cabinets are painted tan to blend with the surrounding landscape. There are no reflective materials.</p>
<p>Section 8107-45.4 (p), Noise:</p> <p>All wireless communication facilities shall be operated and maintained to comply at all times with the noise standards outlined in Section 2.16 of the Ventura County General Plan Goals, Policies, and Programs.</p>	<p>Yes, the operation of the WCF does not generate noise. The WCF is always operated and maintained to comply with the Ventura County noise standards.</p>
<p>Section 8107-45.4 (q), Landscaping and Screening:</p> <p>The permittee shall plant, irrigate and maintain additional landscaping during the life of the permit when landscaping is deemed necessary to screen the wireless communication facility from being prominently visible from a public viewpoint. New landscaping shall not incorporate any invasive species or watch species, as defined by the California Invasive Plant Council (Cal-IPC) and shall be in conformance with Section 8106-8.2.5. (AM. ORD. 4577 – 3/9/21)</p>	<p>Yes, the existing WCF is designed as three (3) “lollypop” poles. The height of the antenna poles ranges from eleven (11) feet (Sectors A and B) to seventeen (17) feet (Sector C). The WCF is situated on top of a ridgeline, however, it is not prominently visible from a public viewpoint. New landscaping is not necessary to screen the WCF at the time of the subject renewal.</p>
<p>Section 8107-45.4 (r), Security:</p> <ol style="list-style-type: none"> Each facility shall be designed to prevent unauthorized access, climbing, vandalism, graffiti and other conditions 	<p>Yes, the chain-link fence around the WCF is not visible from public viewing areas. The site also includes “No Trespassing”</p>

Table 1 – Special Use Standards Consistency Analysis

Special Use Standard	Complies?
<p>that would result in hazardous situations or visual blight. The approving authority may require the provision of warning signs, fencing, anti-climbing devices, or other techniques to prevent unauthorized access and vandalism.</p> <p>2. All fences shall be constructed of materials and colors that blend in with the existing setting. The use of a chain link fence is prohibited within areas designated as Urban and Existing Community in the General Plan, and areas that are prominently visible from a public viewpoint, unless the chain link fence is fully screened.</p>	<p>signs around the fence. All fences have been constructed of materials and colors that blend in with the existing setting. The WCF is not located within areas designated as Urban and Existing Community in the General Plan.</p>
<p>Section 8107-45.4 (s), Lighting:</p> <p>1. No facility may be illuminated unless specifically required by the FAA or other government agency.</p> <p>2. Any necessary security lighting shall be down-shielded and controlled to minimize glare or light levels directed at adjacent properties and to minimize impacts to wildlife.</p>	<p>Yes, the existing WCF is not illuminated.</p>
<p>Section 8107-45.4 (t), Signage:</p> <p>A permanent, weather-proof identification sign, subject to Planning Director approval, shall be displayed in a prominent location such as on the gate or fence surrounding the wireless communication facility or directly on the facility. The sign must identify the facility operator(s) and type of use, provide the operator’s address, FCC-adopted standards, and specify a 24-hour telephone number at which the operator can be reached during an emergency.</p>	<p>Yes, the site includes signage indicating all necessary information related to the equipment for the operation of the facility.</p>
<p>Section 8107-45.4 (u), Access Roads:</p> <p>1. Where feasible, wireless communication facility sites shall be accessed by existing public or private access roads and easements.</p> <p>2. Wireless communication facility sites shall minimize the construction of new access roads, particularly when such roads are located in areas with steep slopes, agricultural resources, or biological resources as determined by the County’s Initial Study Assessment Guidelines. When required, new access roads shall be designed to meet standards established by the Ventura County Public Works Agency and Ventura County Fire Protection District.</p>	<p>Yes, access to the site is via Black Canyon Fire Road from Utility Road, which are both privately maintained.</p>

The proposed project is located within a Temporary Rental Unit Regulation, Dark Sky, Scenic Resource Protection, and Habitat Connectivity Corridors Overlay Zone and, therefore, is subject to the standards of the Ventura County NCZO (Section 8104-7.1,

8104-7.5, 8104-7.6, and 8104-7.7). Table 2 lists the applicable Temporary Rental Unit Regulation, Dark Sky, Scenic Resource, and Habitat Connectivity Corridors Overlay Zone standards and a description of whether the proposed project complies with those standards.

Table 2 – Temporary Rental Unit Regulation, Dark Sky, Scenic Resource, and Habitat Connectivity Corridors Overlay Zone Standards Consistency Analysis

Overlay Zone Standard	Complies?
<p>Sec. 8104-7.1 - Scenic Resource Protection (SRP) Overlay Zone</p> <p>The purposes of this zone are:</p> <ul style="list-style-type: none"> a. To preserve and protect the visual quality within the viewshed of selected County lakes, along the County's adopted scenic highways, and at other locations as determined by an Area Plan. b. To minimize development that conflicts with the value of scenic resources. c. To provide notice to landowners and the general public of the location and value of scenic resources which are of significance in the County. 	<p>Yes, the proposed project is existing and does not include any operational or physical changes. The proposed project has been conditioned to comply with the applicable Ojai Valley Scenic Resource Overlay Zone Standards (Exhibit 5, Condition No. 16).</p>
<p>Sec. 8104-7.5 – Temporary Rental Unit Regulation (TRU) Overlay Zone</p> <p>The purposes of this zone are to establish standards and requirements for the temporary rental of dwellings as accessory uses thereof within the overlay zone boundaries in order to:</p> <ul style="list-style-type: none"> a. Ensure that the use of dwellings as temporary rental units does not adversely impact long-term housing opportunities in the Ojai Valley. b. Safeguard affordable housing opportunities for individuals working in service and other relatively low-wage sectors in the Ojai Valley so that such individuals can live in close proximity to their places of work. c. Preserve the residential, small-town community character of the Ojai Valley, and ensure that temporary rental units are compatible with surrounding land uses. d. Protect the health, safety and welfare of the temporary rental units' renters, occupants, neighboring residents, as well as the general public and environment. 	<p>Yes, the proposed project does not include the rental of dwellings as an accessory use, therefore, the project would not adversely impact long-term housing opportunities in the Ojai Valley and the special use standards of the NCZO (Section 8109-4.6) would not apply.</p>
<p>Sec. 8104-7.6 – Dark Sky (DKS) Overlay Zone</p>	<p>Yes, the proposed project is an existing unmanned WCF. The WCF is not illuminated. There</p>

Table 2 – Temporary Rental Unit Regulation, Dark Sky, Scenic Resource, and Habitat Connectivity Corridors Overlay Zone Standards Consistency Analysis

Overlay Zone Standard	Complies?
<p>The purpose of this overlay zone is to protect and promote the public health, safety, welfare, the quality of life and the ability to view the night sky and reduce sky glow, by establishing regulations and a process for review of outdoor lighting. This overlay zone is intended to accomplish the following:</p> <ul style="list-style-type: none"> a. Protect and reclaim the ability to view the night sky and stars, and thereby help preserve the generally rural quality of life; b. Protect against direct glare and excessive lighting, thereby minimizing light pollution caused by inappropriate or misaligned luminaires; c. Minimize light pollution while ensuring that sufficient lighting can be provided where needed to promote safety and security; d. Provide standards for efficient and moderate use of outdoor lighting; and e. Promote energy efficient and cost-effective lighting, while allowing for flexibility in the style of luminaires. 	<p>are no proposed modifications to the existing WCF.</p>
<p>Sec. 8104-7.7 – Habitat Connectivity and Wildlife Corridors Overlay Zone</p> <p>The general purposes of the Habitat Connectivity and Wildlife Corridors overlay zone are to preserve functional connectivity for wildlife and vegetation throughout the overlay zone by minimizing direct and indirect barriers, minimizing loss of vegetation and habitat fragmentation and minimizing impacts to those areas that are narrow, impacted or otherwise tenuous with respect to wildlife movement. More specifically, the purposes of the Habitat Connectivity and Wildlife Corridors overlay zone include the following:</p> <ul style="list-style-type: none"> a. Minimize the indirect impacts to wildlife created by outdoor lighting, such as disorientation of nocturnal species and the disruption of mating, feeding, migrating, and the predator-prey balance. b. Preserve the functional connectivity and habitat quality of surface water features, due to the vital role they play in providing refuge and resources for wildlife. c. Protect and enhance wildlife crossing structures to help facilitate safe wildlife passage. 	<p>Yes, the proposed project is for the renewal of an existing WCF. The WCF is unmanned and does not require to be illuminated. There are no proposed operational or physical changes. Therefore, the proposed project would continue to avoid impacts to wildlife.</p>

Table 2 – Temporary Rental Unit Regulation, Dark Sky, Scenic Resource, and Habitat Connectivity Corridors Overlay Zone Standards Consistency Analysis

Overlay Zone Standard	Complies?
<p>d. Minimize the introduction of invasive plants, which can increase fire risk, reduce water availability, accelerate erosion and flooding, and diminish biodiversity within an ecosystem.</p> <p>e. Minimize wildlife impermeable fencing, which can create barriers to food and water, shelter, and breeding access to unrelated members of the same species needed to maintain genetic diversity.</p>	

E. CUP FINDINGS AND SUPPORTING EVIDENCE

The Planning Director must make certain findings in order to grant a CUP pursuant to Section 8111-1.2.1.1 of the Ventura County NCZO. The ability to make the required findings is evaluated below.

1. The proposed development is consistent with the intent and provisions of the County's General Plan and of Division 8, Chapters 1 and 2, of the Ventura County Ordinance Code [Section 8111-1.2.1.1.a].

Based on the information and analysis presented in Sections C and D of this staff report, the finding that the proposed development is consistent with the intent and provisions of the County's General Plan and of Division 8, Chapters 1 and 2, of the Ventura County Ordinance Code can be made.

2. The proposed development is compatible with the character of surrounding, legally established development [Section 8111-1.2.1.1.b].

As discussed above, the existing stealth WCF is located on a ridgeline that overlooks the City of Ojai and State Route 150. The WCF is designed as three (3) “lollypop” poles and the tallest pole is seventeen (17) feet in height. The WCF and accessory equipment is not prominently visible from a public viewing area. There are no proposed operational or physical changes to the existing WCF. Based on the design and location of the project, it will be in character with surrounding legally established development.

Based on the discussion above, this finding can be made.

3. The proposed development would not be obnoxious or harmful, or impair the utility of neighboring property or uses [Section 8111-1.2.1.1.c].

The proposed project involves the continued operation and maintenance of an existing stealth WCF consisting of three (3) “lollypop” poles. The WCF does not generate substantial noise or pose a health threat. The facility is entirely contained within a fenced area at the rear of the subject parcel. No adverse effect on neighboring property or uses has been identified. Additionally, the project is conditioned (Exhibit 5, Condition No. 13) to identify a contact person for the timely resolution of complaints.

Based on the discussion above, this finding can be made.

4. The proposed development would not be detrimental to the public interest, health, safety, convenience, or welfare [Section 8111-1.2.1.1.d].

The WCF does not cause any nuisances or safety hazards. The facility is existing, and all equipment associated with the WCF is contained within a fenced area. All cabling has been installed underground from the equipment shelter to the antenna poles. The WCF is unmanned and does not generate substantial noise. There are no proposed operational or physical changes to the existing WCF.

Based on the discussion above, this finding can be made.

5. The proposed development, if allowed by a Conditional Use Permit, is compatible with existing and potential land uses in the general area where the development is to be located [Section 8111-1.2.1.1.e].

The existing stealth facility blends in with the surrounding environment. No changes are proposed and, therefore, the character of the site would not change. The proposed project does not affect any surrounding land uses, and the project is not sensitive to impacts from these uses. No new effects on the surrounding agricultural uses would occur with this modification for additional 10 years of use.

Based on the discussion above, this finding can be made.

6. The proposed development will occur on a legal lot [Section 8111-1.2.1.1f].

The subject lot (APN 035-0-010-165) was legally created by conveyance (deed recorded May 5, 1958, in Book 1623, Page 43 of Official Records), less various portions to Ventura County for public park purposes. Furthermore, the lot was created prior to regulation by the State Subdivision Map Act and Ventura County Subdivision Ordinance, and therefore, is a legal lot.

Based on the discussion above, this finding can be made.

7. The proposed development is approved in accordance with the California Environmental Quality Act and all other applicable laws.

As discussed in Section B above, the CUP modification involves the continued use of an existing WCF on the subject property. The project qualifies for a Class 1 Categorical Exemption pursuant to Section 15301 (Existing Facilities) of the CEQA Guidelines.

Based on the discussion above, this finding can be made.

8. Development within any overlay zone having specific development standards must comply with such standards [Section 8111-1.2.1.4 and Article 9].

The proposed project is a renewal of CUP LU12-0040 for an additional 10-year period. There are no proposed operational or physical changes to the existing WCF.

Based on the discussion above, this finding can be made.

F. PLANNING DIRECTOR HEARING NOTICE, PUBLIC COMMENTS, AND JURISDICTIONAL COMMENTS

The Planning Division provided public notice regarding the Planning Director hearing in accordance with the Government Code (Section 65091), Ventura County NCZO (Section 8111-3.1). On August 12, 2022, the Planning Division mailed notice to owners of property within 300 feet of the property on which the project site is located. On August 12, 2022, the Planning Division placed a legal ad in the *Ventura County Star* and *Ojai Valley News*. As of the date of this document, no comments have been received.

On June 30, 2022, the Ojai Municipal Advisory Committee (MAC) considered the proposed project and did not provide any comments.

The project site is located in the City of Ojai's Sphere of Influence. Therefore, on July 21, 2022, the Planning Division notified the City of Ojai of the proposed project and requested the City to submit any comments on the proposed project. No comments were received.

G. RECOMMENDED ACTIONS

Based upon the analysis and information provided above, Planning Division Staff recommends that the Planning Director take the following actions:

1. **CERTIFY** that the Planning Director has reviewed and considered this staff report and all exhibits thereto including the adopted MND and Addendum to the MND (Exhibit 6), and has considered all comments received during the public comment process;
3. **FIND** that none of the conditions have occurred or exist as set forth in CEQA Guidelines Section 15162 to require the preparation of a subsequent MND for the

subject CUP modification, and that the addendum to the adopted 2011 MND (Exhibit 6) satisfies the environmental requirements of CEQA;

3. **MAKE** the required findings to grant a [Minor Modification of CUP LU12-0040 pursuant to Section 8111-1.2.1.1 of the Ventura County NCZO, based on the substantial evidence presented in Section E of this staff report and the entire record;
4. **GRANT** the requested CUP Modification (Case No. PL22-0053), subject to the conditions of approval (Exhibit 5).
5. **SPECIFY** that the Clerk of the Planning Division is the custodian, and 800 S. Victoria Avenue, Ventura, CA 93009 is the location, of the documents and materials that constitute the record of proceedings upon which this decision is based.

The decision of the Planning Director is final unless appealed to the Planning Commission within 10 calendar days after the permit has been approved, conditionally approved, or denied (or on the following workday if the 10th day falls on a weekend or holiday). Any aggrieved person may file an appeal of the decision with the Planning Division. The Planning Division shall then set a hearing date before the Planning Commission to review the matter at the earliest convenient date.

County Counsel has reviewed this Staff Report.

If you have any questions concerning the information presented above, please contact Christopher Alberts at (805) 654-3136 or Christopher.Alberts@ventura.org.

Prepared by:



Christopher Alberts, Case Planner
Commercial/Industrial Permits Section
Ventura County Planning Division

Reviewed by:



Mindy Fogg, Manager
Commercial/Industrial Permits Section
Ventura County Planning Division

EXHIBITS

- Exhibit 2 Maps
- Exhibit 3 Site Plans
- Exhibit 4 General Plan and Ojai Valley Area Plan Consistency Analysis
- Exhibit 5 Conditions of Approval
- Exhibit 6 Addendum to the Adopted 2011 Mitigated Negative Declaration



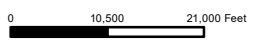
Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), NGCC, (c) OpenStreetMap contributors, and the GIS User Community



Ventura County, California
Resource Management Agency
GIS Development & Mapping Services
Map created on 07-21-2022

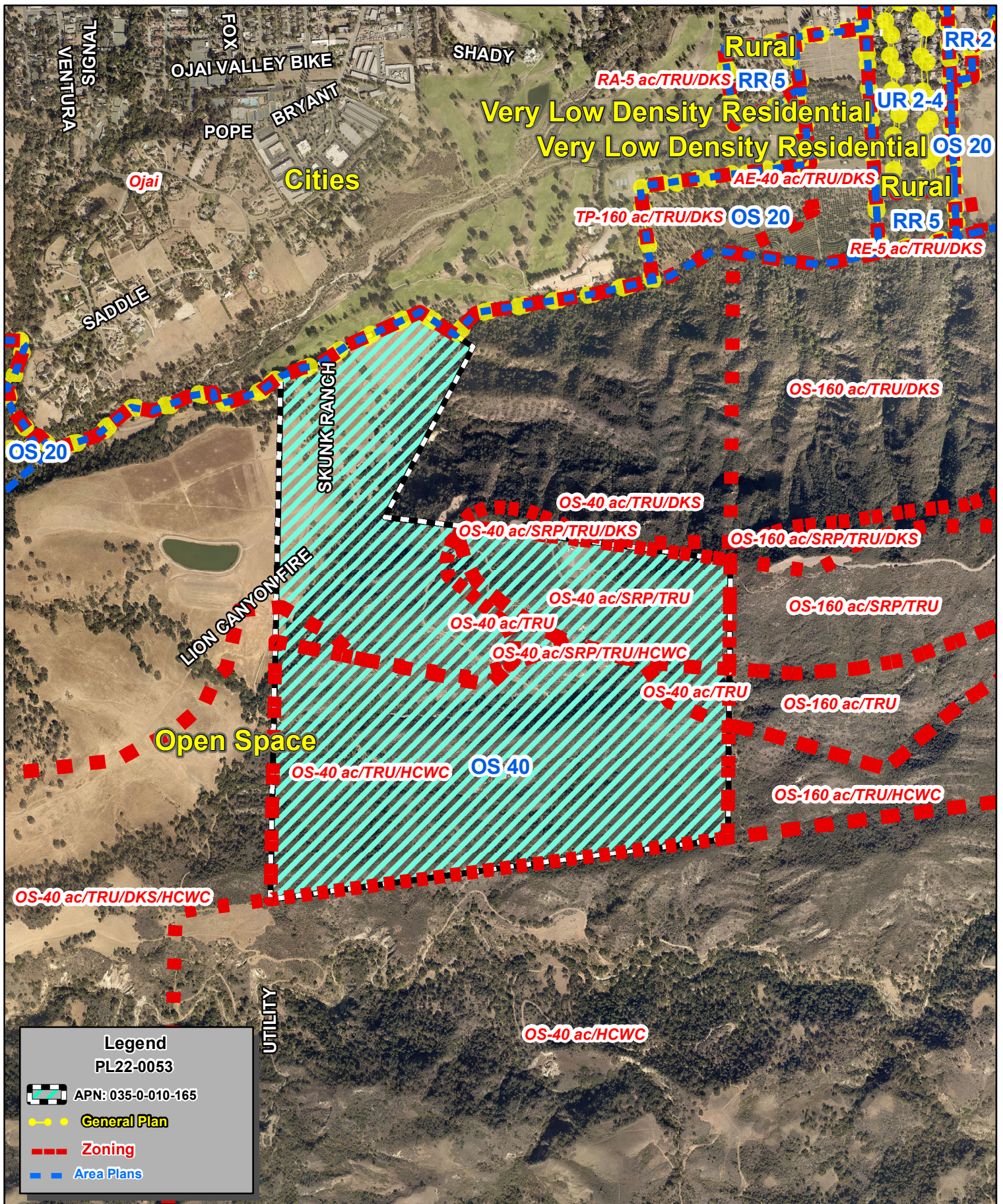


County of Ventura
Planning Director Hearing
Case No. PL22-0053
Exhibit 2 - Maps



Disclaimer: This Map was created by the Ventura County Resource Management Agency, Mapping Services - GIS which is designed and operated solely for the convenience of the County and related public agencies. The County does not warrant the accuracy of this map nor decision involving a risk of economic loss or physical injury should be made in reliance thereon.

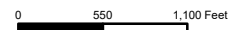




Ventura County, California
 Resource Management Agency
 GIS Development & Mapping Services
 Map Created on 07-21-2022
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 Source: Pictometry, 2019

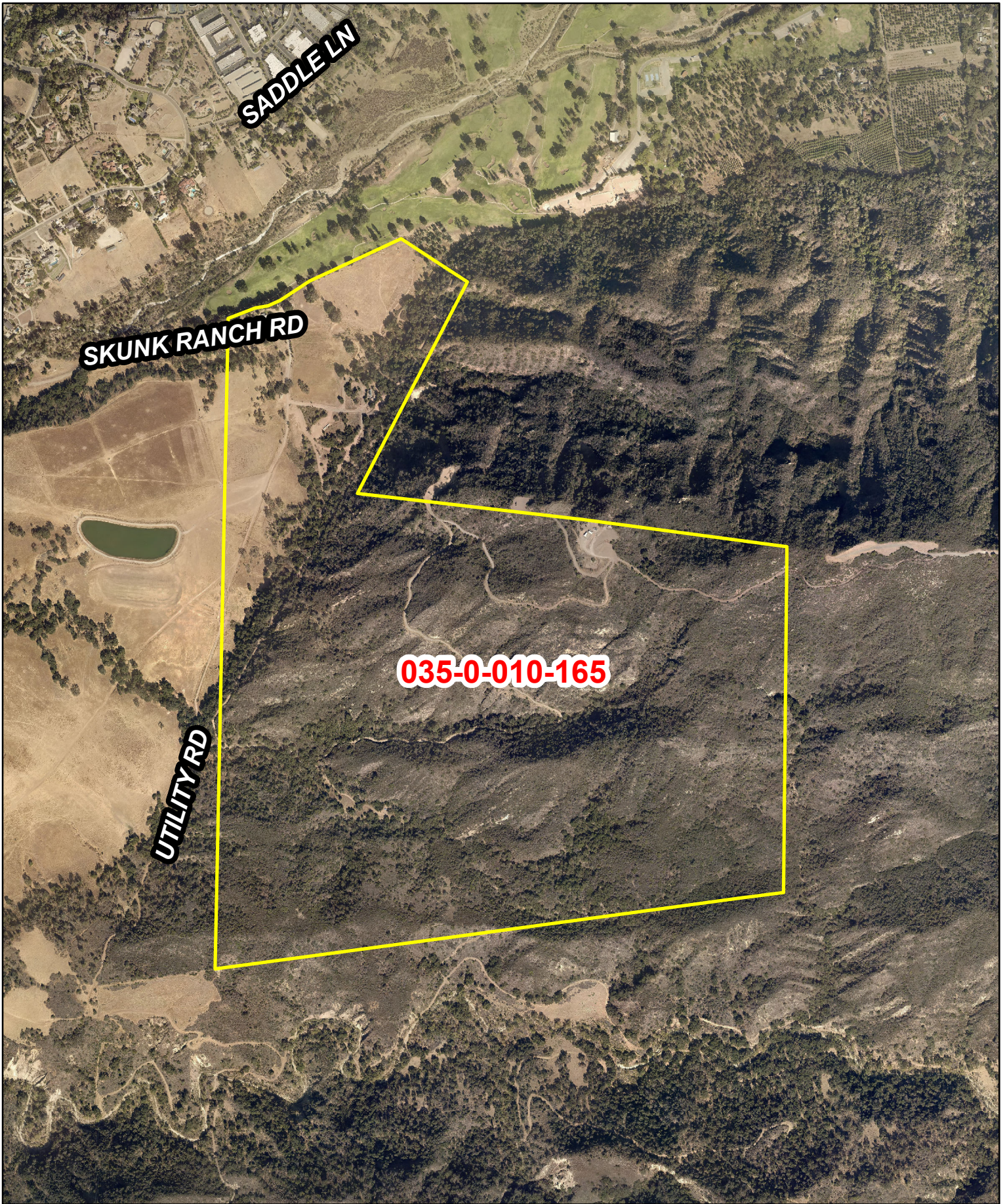


County of Ventura
 Planning Director Hearing
 PL22-0053
 General Plan & Zoning Map



Disclaimer: This Map was created by the Ventura County Resource Management Agency, Mapping Services - GIS which is designed and operated solely for the convenience of the County and related public agencies. The County does no warrant the accuracy of this map and no decision involving a risk of economic loss or physical injury should be made in reliance thereon.

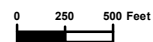




Ventura County, California
Resource Management Agency
GIS Development & Mapping Services
Map Created on 07-212022
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County of Ventura
Planning Director Hearing
PL22-0053
Aerial Photography



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County of Ventura
 Planning Director Hearing
 PL22-0053
 Exhibit 3 - Site Plans



**BLACK MOUNTAIN
 881036
 12540 CREEK ROAD
 OJAI, CALIFORNIA 93023**

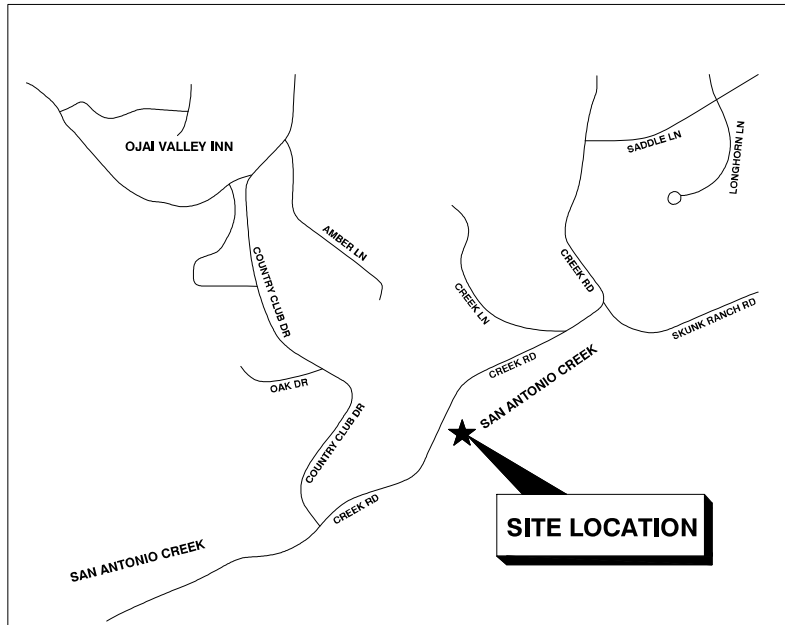


200 Spectrum Center Drive, Suite 1700
 Irvine, California 92618



D4 Communications, LLC

1114 State Street, Suite 234
 Santa Barbara, CA 93101



VICINITY MAP

DRIVING DIRECTIONS FROM LAX INTERNATIONAL AIRPORT:
 HEAD WEST ON W CENTURY BLVD TOWARDS VICKSBURG AVE. (0.2 MI) TAKE I-405 N, I-5 N, CA-126 W AND CA-150 W TO BLACK MOUNTAIN FIRE RD IN VENTURA COUNTY (81.3 MI) TURN LEFT ONTO BLACK MOUNTAIN FIRE RD. (2.2 MI) DESTINATION WILL BE ON THE RIGHT.

SITE DIRECTIONS

PROJECT DESCRIPTION
 MINOR MODIFICATION TO CONDITIONAL USE PERMIT IN ORDER TO "RENEW/CONTINUE", WITH NO CHANGES, THE OPERATION OF AN EXISTING WIRELESS TELECOMMUNICATIONS FACILITY ORIGINALLY PERMITTED VIA "CONDITIONAL USE PERMIT (CUP)" THAT CONSISTS OF THE FOLLOWING EXISTING FACILITIES/PROJECT DESCRIPTION: AN UNMANNED TELECOMMUNICATIONS FACILITY WITH A 13'-6" TALL ANTENNA STRUCTURE WITH ANTENNAS AND EQUIPMENT CABINETS CONTAINING BATTERIES, RADIOS AND POWERHOUSE EQUIPMENT MOUNTED ON A FENCED PLATFORM WITHIN AN APPROXIMATE 145 SQUARE FOOT LEASE AREA/PROJECT SITE.

PROJECT DESCRIPTION

TOWER OWNER:
 CROWN CASTLE
 38 TECHNOLOGY DRIVE, Suite 250
 IRVINE, CA 92618

PROPERTY INFORMATION:
 THE BENTLEY FAMILY LIMITED PARTNERSHIP
 16505 A SOUTHEAST FIRST STREET, Suite 116
 VANCOUVER, WA 98684

SITE ADDRESS:
 12540 CREEK RD
 OJAI, CA 93023
 VENTURA COUNTY

GEOGRAPHIC COORDINATES:
 LATITUDE: 34.43241666
 LONGITUDE: -119.22947222

ZONING JURISDICTION:
 COUNTY OF VENTURA

APN:
 035-0-010-165

PROJECT SUMMARY

ARCHITECT:
 D4 COMMUNICATIONS
 1114 STATE STREET, Suite 222
 SANTA BARBARA, CA 93101
 CONTACT: SCOTT DUNAWAY
 PHONE: 805.637.0339

APPLICANT REPRESENTATIVE:
 D4 COMMUNICATIONS
 1114 STATE STREET, Suite 222
 SANTA BARBARA, CA 93101
 CONTACT: SCOTT DUNAWAY
 PHONE: 805.637.0339

PROJECT TEAM

ALL WORK AND MATERIALS SHALL BE PERFORMED AND INSTALLED IN ACCORDANCE WITH THE CURRENT EDITIONS OF THE FOLLOWING CODES AS ADOPTED BY THE LOCAL GOVERNING AUTHORITIES. NOTHING IN THESE PLANS IS TO BE CONSTRUCTED TO PERMIT WORK NOT CONFORMING TO THESE CODES.

1. 2019 CALIFORNIA BUILDING CODE
2. 2019 CALIFORNIA PLUMBING CODE
3. 2019 CALIFORNIA MECHANICAL CODE
3. 2019 CALIFORNIA ELECTRICAL CODE
4. 2019 CALIFORNIA GREEN BUILDING STANDARD CODE
5. 2019 CALIFORNIA ENERGY CODE

FACILITY IS UNMANNED AND NOT FOR HUMAN HABITATION. HANDICAPPED ACCESS NOT REQUIRED IN ACCORDANCE WITH CALIFORNIA ADMINISTRATIVE STATE CODE PART 2, TITLE 24, CHAPTER 11B, SECTION 1103B.

APPLICABLE CODES

POWER COMPANY:
 SOUTHERN CALIFORNIA EDISON
 PHONE: 800.655.4555

AAV PROVIDER:
 AT&T

UTILITY PROVIDERS

SHEET	DESCRIPTION
T-1	TITLE SHEET
A-1	OVERALL SITE PLAN
A-2	ENLARGED SITE PLAN
A-3	ELEVATIONS
A-4	ELEVATIONS
5	SHEETS TOTAL
SHEET INDEX	
ISSUED FOR ZONING RENEWAL	

DO NOT SCALE DRAWINGS

GENERAL CONTRACTOR NOTES

REVISIONS			
REV.	DATE	DESCRIPTION	INIT.
0	1/27/22	CUP RENEWAL	KWB

BLACK MOUNTAIN
 881036
 4450 1/2 GROVES PLACE
 BLACK MOUNTAIN, CA 93066

SHEET TITLE:
TITLE SHEET

SHEET NUMBER:
T-1



200 Spectrum Center Drive, Suite 1700
Irvine, California 92618

PLANS PREPARED BY:



D4 Communications, LLC

1114 State Street, Suite 234
Santa Barbara, CA 93101

REVISIONS			
REV.	DATE	DESCRIPTION	INIT.
0	1/27/22	CUP RENEWAL	KWB

SITE INFORMATION:

BLACK MOUNTAIN

881036

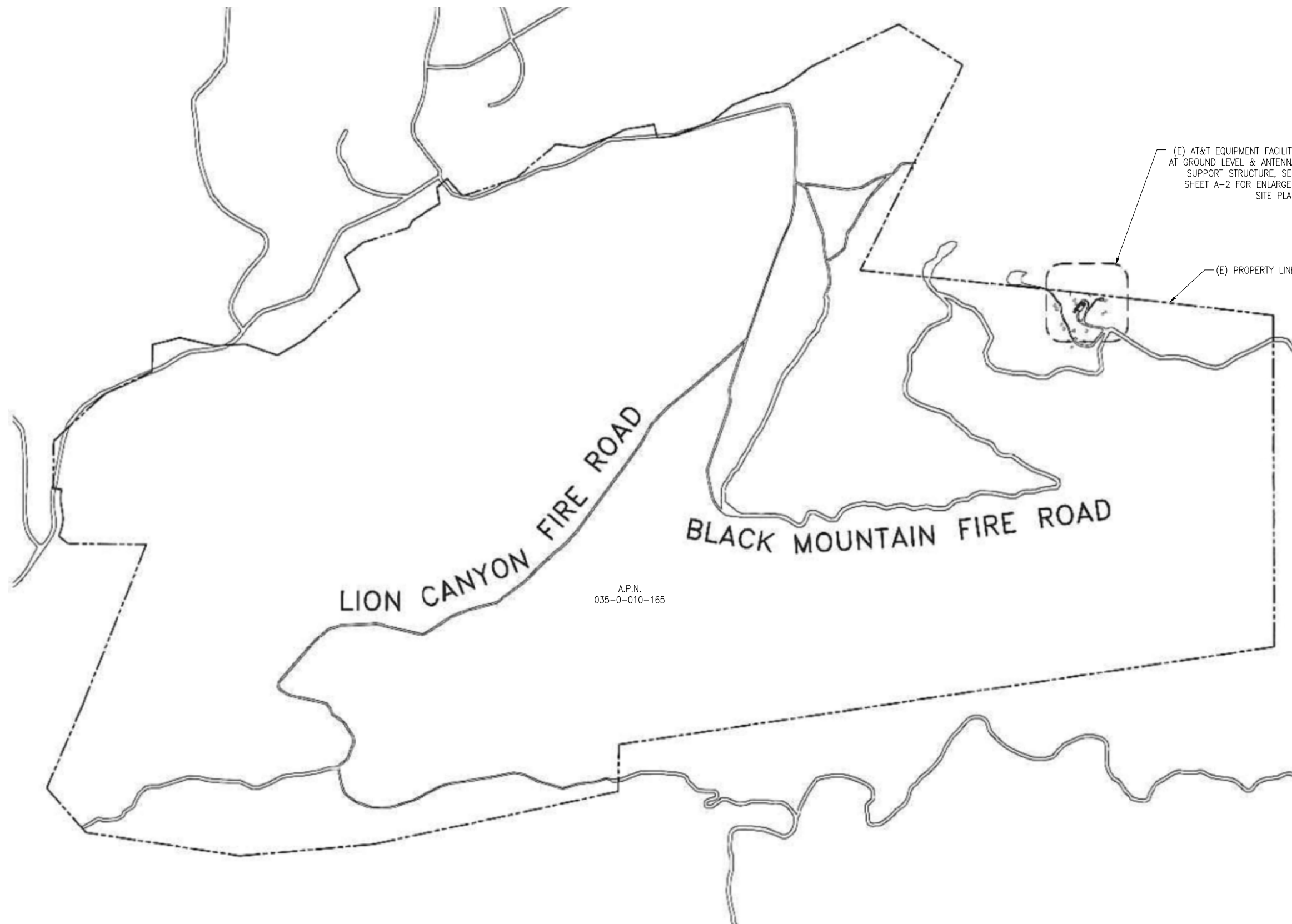
4450 1/2 GROVES PLACE
BLACK MOUNTAIN, CA 93066

SHEET TITLE:

**OVERALL
SITE PLAN**

SHEET NUMBER:

A-1



1 OVERALL SITE PLAN

SCALE: N.T.S.



REVISIONS			
REV.	DATE	DESCRIPTION	INIT.
0	1/27/22	CUP RENEWAL	KWB

SITE INFORMATION:

BLACK MOUNTAIN

881036

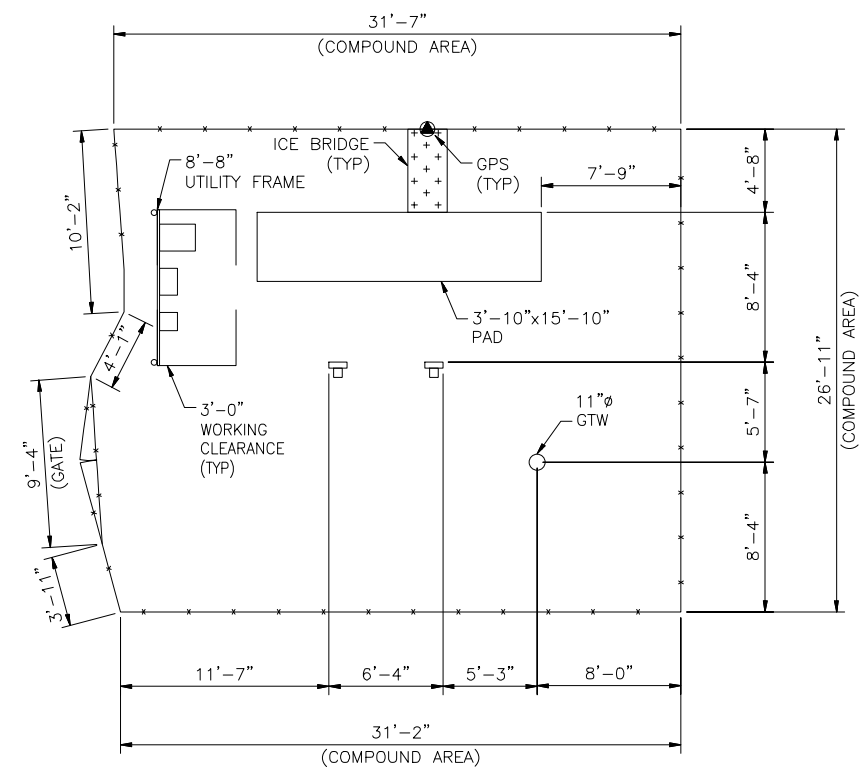
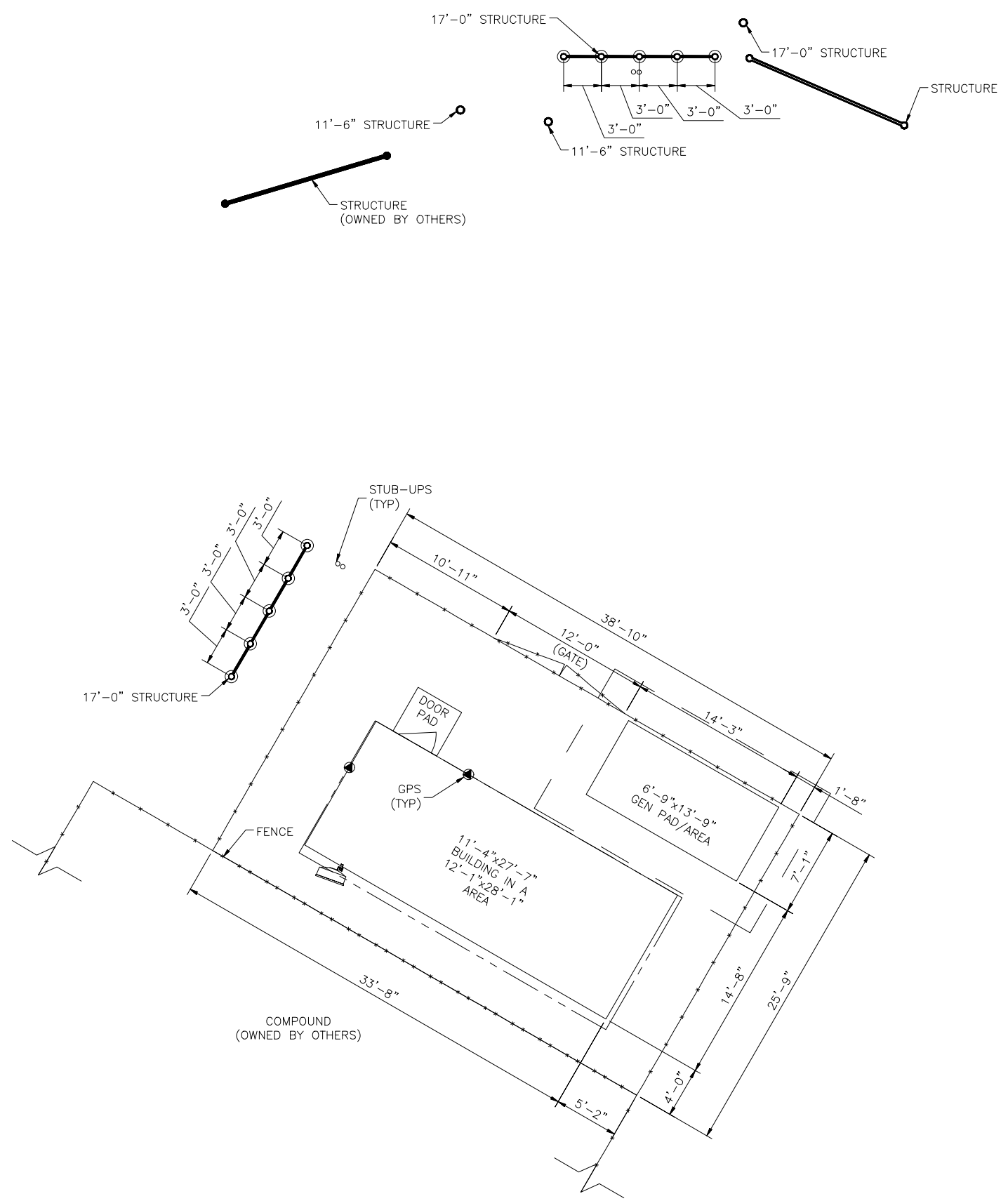
4450 1/2 GROVES PLACE
BLACK MOUNTAIN, CA 93066

SHEET TITLE:

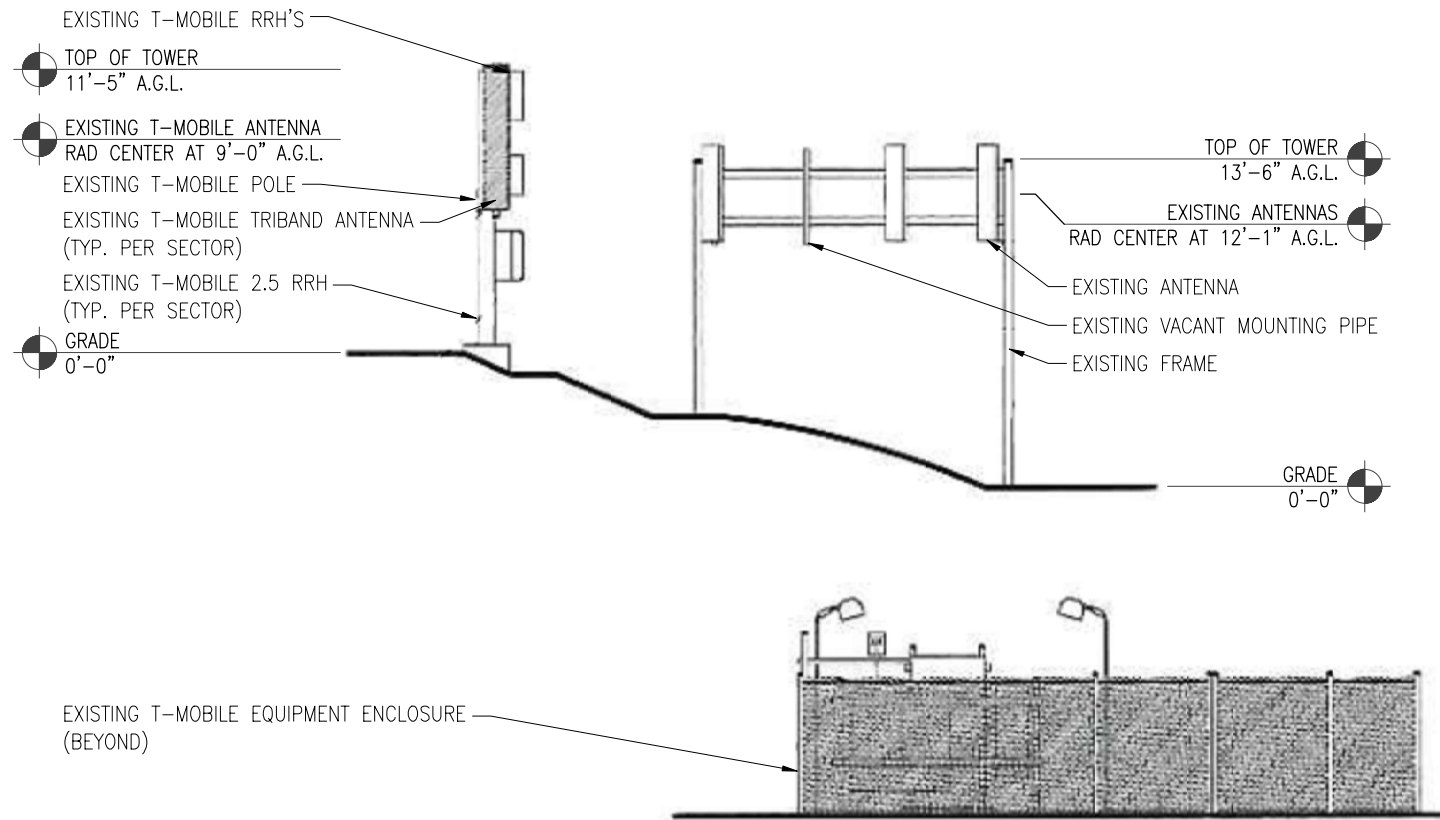
**EQUIPMENT &
ANTENNA LAYOUT
PLANS**

SHEET NUMBER:

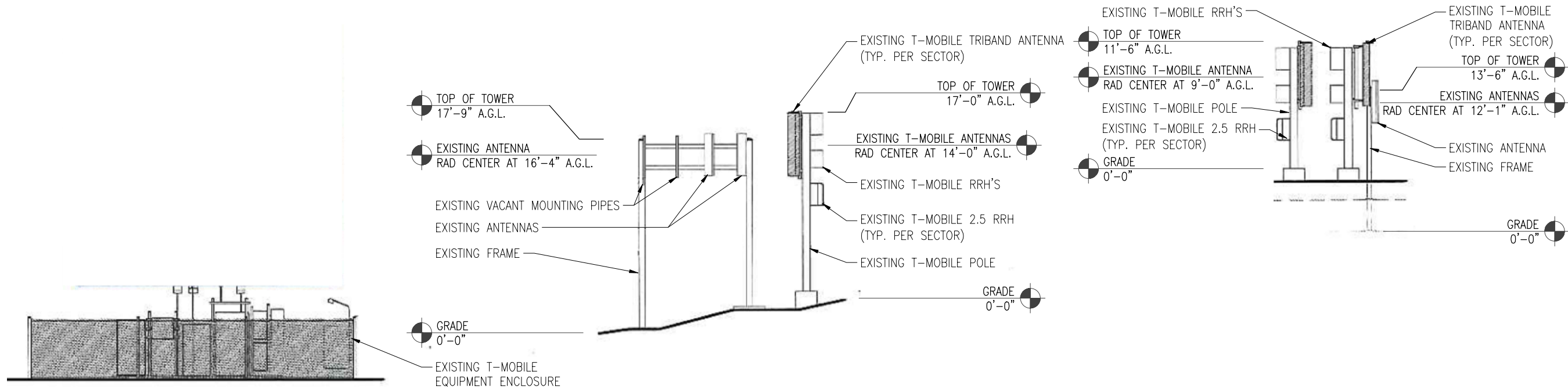
A-2



1 ENLARGED SITE PLAN
SCALE: 3/16" = 1'-0"
TRUE NORTH



1 EXISTING WEST ELEVATION
SCALE: 1/4" = 1'-0"



2 EXISTING NORTH ELEVATION
SCALE: 1/4" = 1'-0"



REVISIONS			
REV.	DATE	DESCRIPTION	INIT.
0	1/27/22	CUP RENEWAL	KWB

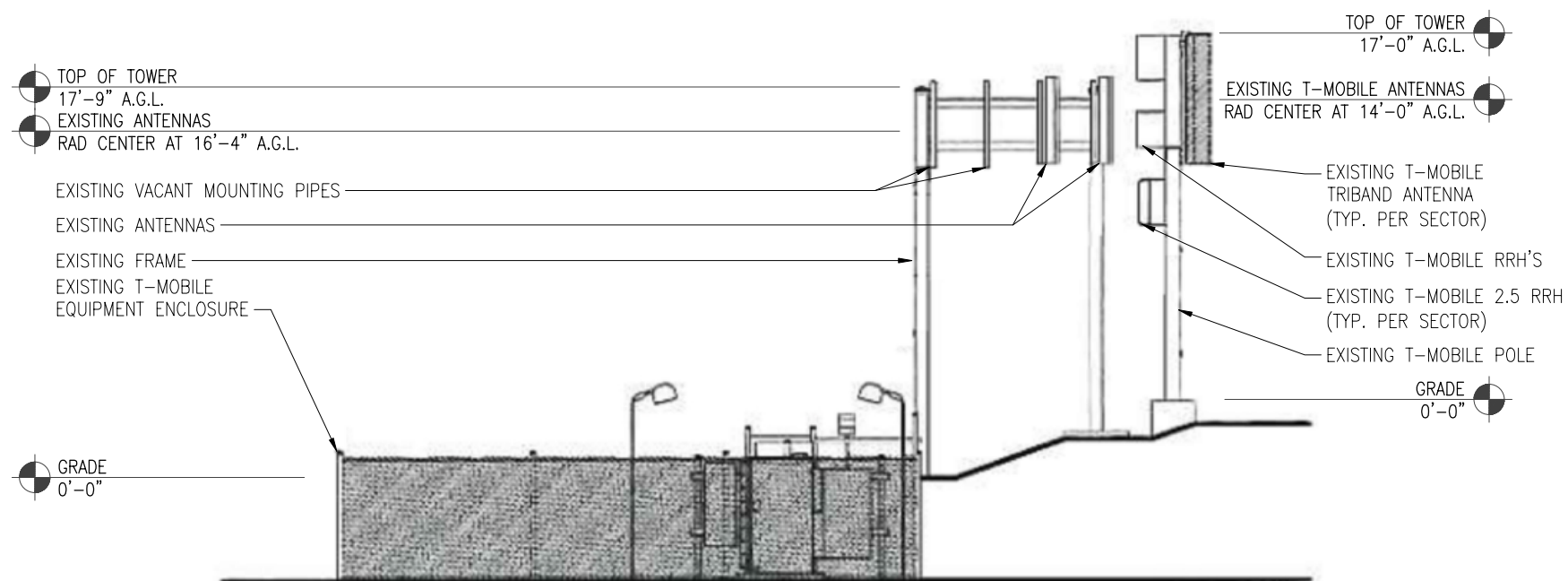
SITE INFORMATION:
BLACK MOUNTAIN
881036
4450 1/2 GROVES PLACE
BLACK MOUNTAIN, CA 93066

SHEET TITLE:
ELEVATIONS

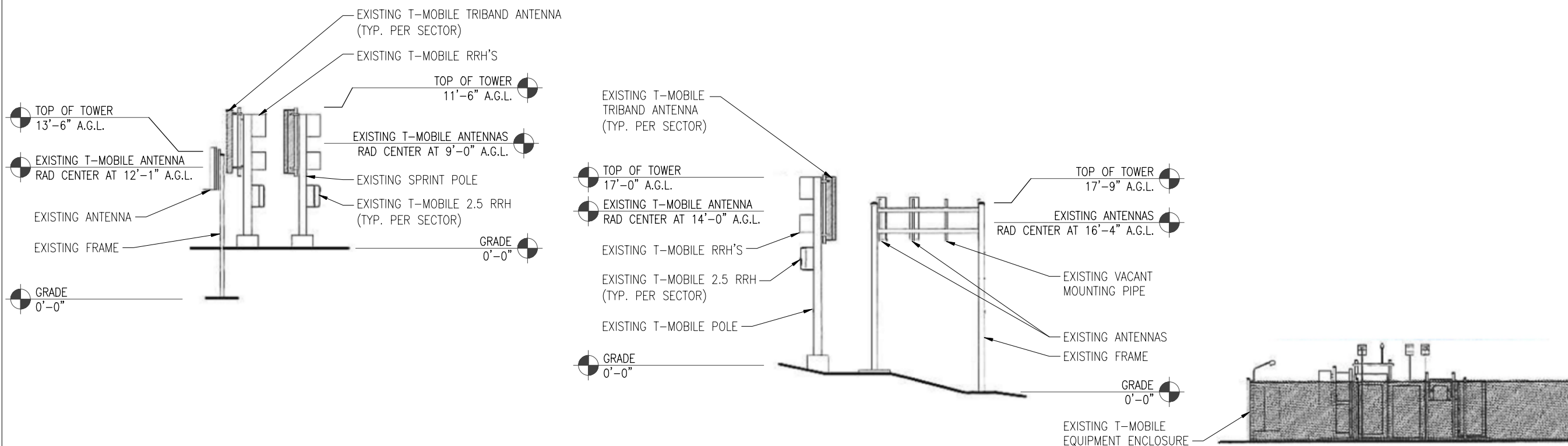
SHEET NUMBER:
A-3



REVISIONS			
REV.	DATE	DESCRIPTION	INIT.
0	1/27/22	CUP RENEWAL	KWB



1 EXISTING EAST ELEVATION
SCALE: 1/4" = 1'-0"



2 EXISTING SOUTH ELEVATION
SCALE: 1/4" = 1'-0"

SITE INFORMATION:

BLACK MOUNTAIN

881036

4450 1/2 GROVES PLACE
BLACK MOUNTAIN, CA 93066

SHEET TITLE:

ELEVATIONS

SHEET NUMBER:

A-4



Exhibit 4 – General Plan and Ojai Valley Area Plan Consistency Analysis

County of Ventura • Resource Management Agency • Planning Division

800 S. Victoria Avenue, Ventura, CA 93009-1740 • (805) 654-2478 • vcrma.org/divisions/planning

CONSISTENCY WITH THE GENERAL PLAN AND OJAI VALLEY AREA PLAN FOR “BLACK MOUNTAIN” WIRELESS COMMUNICATION FACILITY

The 2040 Ventura County General Plan *Goals, Policies and Programs* (2020, page 1-1) states:

All area plans, specific plans subdivision, public works projects, and zoning decisions must be consistent with the direction provided in the County’s General Plan.

Furthermore, the Ventura County Non-Coastal Zoning Ordinance (NCZO) (Section 8111-1.2.1.1.a) states that in order to be approved, a project must be found consistent with all applicable policies of the Ventura County General Plan.

The proposed project would authorize a Minor Modification of Planned Conditional Use Permit (CUP) LU12-0040 for the continued use, operation, and maintenance of an existing Wireless Communication Facility (WCF) for a 10-year period (Case No. PL22-0053).

Evaluated below is the consistency of the proposed project with the applicable policies of the General Plan *Goals, Policies and Programs*.

- 1. LU-16.1 Community Character and Quality of Life:** *The County shall encourage discretionary development to be designed to maintain the distinctive character of unincorporated communities, to ensure adequate provision of public facilities and services, and to be compatible with neighboring uses.*

OV-17.1 Community Compatibility: *The County shall require all discretionary development projects to be reviewed and conditioned to ensure that they are compatible with their surroundings, are of high quality and good design, are consistent with the character of the Ojai Valley, and are beneficial to the community as a whole.*

The existing WCF is located on a ridgeline that is not prominently visible by a public viewpoint. The WCF is designed as three “lollypop” poles consisting of one (1) 4-foot-tall panel per pole. The height of the tallest pole is seventeen (17) feet. The existing WCF is located on a ridgeline that is not prominently visible by a public viewpoint. The design and color of the WCF would continue to blend in with the surrounding land uses. The site is accessed via Black Mountain Fire Road. The WCF would continue to provide wireless telecommunication services to the surrounding area remain compatible with the neighboring land uses. No new land

County of Ventura
Planning Director Hearing
PL22-0053
Exhibit 4 - General Plan and Ojai Valley Area
Plan Consistency Analysis

use conflicts or visual impacts would occur with the continued use of the WCF. There are no proposed operational or physical changes to the existing WCF. Lastly, no water is required for this project.

Based on the discussion above, the proposed project is consistent with General Plan Policy LU-16.1 and OV-17.1.

- 2. COS-1.5 Development Within Habitat Connectivity and Wildlife Corridors Policy:** *Development within the Habitat Connectivity and Wildlife Corridors overlay zone and Critical Wildlife Passage Areas overlay zone shall be subject to the applicable provisions and standards of these overlay zones as set forth in the Non-Coastal Zoning Ordinance.*

The proposed project would authorize the continued use of an existing WCF. There are no proposed physical or operational changes to the existing WCF. Any future development will comply with the standards of the Critical Wildlife Passage Area overlay outlined in the NCZO.

Based on the discussion above, the proposed project is consistent with General Plan Policy COS-1.5.

- 3. COS 3.1 Scenic Roadways Policy:** *The County shall protect the visual character of scenic resources visible from state or County designated scenic roadways.*

COS 3.5 Ridgeline and Hilltop Preservation Policy: *The County shall ensure that ridgelines and major hilltops remain undeveloped and that discretionary development is sited and designed to remain below significant ridgelines, except as required for communication or similar facilities.*

COS 3.6 Open Space Character Policy: *The County shall require discretionary development outside of Existing Communities be planned and designed to maintain the scenic open space character of the surrounding area, including view corridors from highways. Discretionary development should integrate design, construction, and maintenance techniques that minimize the visibility of structures from public viewing locations within scenic vistas.*

OV-41.3 Prominent Ridgelines Protection: *The County shall require the area within 400 feet (horizontal) of prominent ridgelines as shown in Figure OV-3 to be zoned "Scenic Resource Protection Overlay" in order to ensure that visual impacts of grading and attendant structures are minimized to the maximum extent feasible. The County shall require discretionary development to be located and designed to minimize visibility and silhouetting against the skyline as viewed from nearby public roads, and to incorporate as many of the following planning techniques as feasible:*

- a. Limit construction to single-story structures on or near ridgelines;*

- b. *Utilize large building pad setbacks (50 feet or more) from the edge of a ridgeline;*
- c. *Utilize berms and landscaping to soften the visual impact of homes and graded areas;*
- d. *Utilize raised foundations, split-level designs, roof materials consisting of clay or concrete plate tile with a natural color, and other techniques to fit the home to the hillside terrain, and to minimize the amount of grading required.*

The existing WCF is located on a ridgeline that is not prominently visible by a public viewpoint. The WCF is designed as three "lollypop" poles consisting of one (1) 4-foot-tall panel per pole. The height of the tallest pole is seventeen (17) feet. The WCF is painted to match the existing vegetation. There are no reflective accessories or painted colors that would take away from the scenic vistas or roadways. All cabling is installed underground from the equipment shelter to the antenna poles. The WCF is not visible from any public viewing locations with scenic vistas or scenic roadways. There are proposed physical or operational changes to the existing WCF.

Based on the discussion above, the proposed project is consistent with General Plan Policy COS-3.1, COS-3.5, COS-3.6, and OV-41.3.

- 4. HAZ 1.1 Fire Prevention Design and Practices Policy:** *The County shall continue to require development to incorporate design measures that enhance fire protection in areas of high fire risk. This shall include but is not limited to incorporation of fire-resistant structural design, use of fire-resistant landscaping, and fuel modification around the perimeter of structures.*

HAZ 1.2 Defensible Space Clear Zones Policy: *The County shall require adherence to defensible space standards, or vegetation "clear zones," for all existing and new structures in areas that are designated as Hazardous Fire Areas by the Ventura County Fire Protection District and High Fire Hazard Severity Zones by the California Department of Forestry and Fire Protection.*

HAZ 1.4 Development in High Fire Hazard Severity Zones and Hazardous Fire Areas Policy: *The County shall require the recordation of a Notice of Fire Hazard with the County Recorder for all new discretionary entitlements (including subdivisions and land use permits) within areas designated as Hazardous Fire Areas by the Ventura County Fire Department or High Fire Hazard Severity Zones by the California Department of Forestry and Fire Protection (CAL FIRE).*

OV-49.1 High Fire Hazard Area Requirements: *The County shall require discretionary development within high fire hazard areas to be reviewed with*

attention to the environmental impact of required brush clearance to biological resources, particularly on moderate to steep slopes. The County shall encourage brush clearance that reduces fuel volumes while allowing the selective retention of native shrubs a minimum of 20 feet apart, as permitted by the Ventura County Fire Protection District.

OV-49.2 Landscape Plan Requirements for High and Very High Fire Hazard Areas: *The County shall require discretionary development in "high" and "very high" fire hazard areas, as determined by the Ventura County Fire Protection District to develop landscape plans utilizing fire-retardant plant material, cleared areas, or other acceptable means of reducing fire hazards consistent with Fire Protection District standards.*

The existing WCF is located in an area designated as a "very high fire hazard area". The project is conditioned to ensure all structures meet hazardous fire area building code requirements. The project is also conditioned to have all grass or brush removed at a distance of 30 feet from antenna structures, emergency power systems and 10 feet from each side of all access roads within the project (see Exhibit 5, Conditions of Approval Nos. 23-26). The 30-foot clearance would make the existing facility visible. However, the locations along the designated scenic highway from which this site can be viewed are more than on-half mile away. Given the distance and the visual blending of the green and tank facility components with the surrounding vegetation, the facility would not be prominent or substantially affect public views. There are no proposed physical or operational changes to the existing WCF.

Based on the discussion above, the proposed project is consistent with General Plan Policy HAZ-1.1, HAZ-1.2, HAZ-1.4, OV-49.1, and 49.2.

- 5. HAZ-5.2 Hazardous Materials and Waste Management Facilities:** *The County shall require discretionary development involving facilities and operations which may potentially utilize, store, and/or generate hazardous materials and/or wastes be located in areas that would not expose the public to a significant risk of injury, loss of life, or property damage and would not disproportionately impact Designated Disadvantaged Communities.*

The proposed project was reviewed by the Department of Environmental Health (DEH). In response to DEH's review, the existing WCF would be conditioned to require that the storage, handling, and disposal of any potentially hazardous material shall be in compliance with applicable state regulations (Exhibit 5, Condition No. 22).

Based on the discussion above, the proposed project is consistent with General Plan Policy HAZ-5.2.

- 6. PFS- 1.1 Equitable Provision of Public Facilities and Services:** *The County shall require that facilities and services that are essential for public health and safety shall be equitably provided for all residents and businesses.*

PFS-7.1 Accessible Public Utilities: *The County shall work with utility companies and service providers to ensure that gas, electric, broadband, cellular mobile communications, cable television, and telephone utility transmission lines are located appropriately to provide for adequate services throughout the unincorporated area.*

PFS-7.5 Broadband Service Access: *The County shall encourage broadband service providers to expand service areas and provide high quality access to broadband (high-speed internet) and cellular mobile communications services to residents and businesses, including unserved and underserved areas.*

OV-42.1 Wireless Communication Facilities: *The County shall grant discretionary development permits for wireless communication facilities only when necessary for public safety or to provide a substantial public benefit. The County shall condition such facilities to minimize visual impacts to the maximum extent feasible.*

The existing WCF is located on a ridgeline that is not prominently visible from a public viewpoint. The WCF is designed as three (3) "lollypop" poles. The tallest pole is seventeen (17) feet in height. The antenna arrays are painted green to blend in with the surrounding trees and chaparral. The equipment cabinets are painted tan to blend with the surrounding landscape. The Crown Castle WCF will continue to provide service throughout the unincorporated Ventura area, including access to high quality cellular mobile communications. The continued use of the facility ensures that the residents and businesses will maintain a high quality of service.

Based on the discussion above, the proposed project is consistent with General Plan Policy PFS-1.1, PFS-7.1, PFS-7.5, and OV-42.1.

- 7. OV-15.3 Assurance of Agricultural Operations in Open Space:** *The County shall prohibit all discretionary development that would have a significant unavoidable impact on agricultural operations in Open Space designated lands unless a statement of overriding considerations is adopted by the decision-making body.*

The proposed project is for the continued use of an existing WCF for a 10-year period. The WCF is located on land designated as grazing land of local importance pursuant to the Important Farmland Inventory. There are no proposed physical or operational changes. The proposed project does not have the potential to affect

future agricultural uses of the subject property and adjacent lands, as no operational or physical changes are proposed as part of the project.

Based on the discussion above, the proposed project is consistent with General Plan Policy OV-15.3.

- 8. OV-42.2 Wireless Communication Height Restriction:** *The County shall limit discretionary development permits for wireless communication facilities the height of such facilities, with the exception of monopole whip-type antennas, to 40 feet. The County prefers several shorter facilities to one large facility.*

The existing stealth WCF is designed as three (3) "lollypop" poles. The height of the antenna poles ranged from eleven (11) feet (Sectors A and B) to seventeen (17) feet (Sector C) and are painted to match existing vegetation.

Based on the discussion above, the proposed project is consistent with General Plan Policy OV-42.2.

**CONDITIONS OF APPROVAL FOR CONDITIONAL USE PERMIT (CUP) CASE NO.
PL22-0053 (Formerly LU12-0040) FOR “BLACK MOUNTAIN” WIRELESS
COMMUNICATION FACILITY**

RESOURCE MANAGEMENT AGENCY (RMA)

Planning Division Conditions

1. Project Description

This Conditional Use Permit is based on and limited to compliance with the project description stated in this condition below, all exhibits of the Planning Director hearing on August 25, 2022, and conditions of approval set forth below. Together, these conditions and documents describe the “Project.” Any deviations from the Project must first be reviewed and approved by the County in order to determine if the Project deviations conform to the Project as approved. Project deviations may require Planning Director approval for changes to the permit or further California Environmental Quality Act (CEQA) environmental review, or both. Any Project deviation that is implemented without requisite County review and approval(s) may constitute a violation of the conditions of this permit and applicable law.

The Project description is as follows:

A modified CUP has been granted to authorize the continued use, operation, and maintenance of an existing WCF for a 10-year period. The facility is comprised of the following components:

- A 750-square-foot lease area enclosed with a chain-link fence;
- Three (3) 4-foot-tall panel antennas (panel antennas are mounted in three sectors with one antenna pane per pole (“lollypop”); and
- Seven (7) ground mounted equipment cabinets.

The height of the antenna poles ranges from eleven (11) feet (Sectors A and B) to seventeen (17) feet (Sector C) and are painted to match existing vegetation. All cabling is installed underground from the equipment shelter to the antenna poles. The WCF is unmanned, except for occasional periodic maintenance visits, and continues to operate 24 hours per day. The unmanned facility does not require water to operate. No exterior lighting or grading is proposed. There were no proposed operational or physical changes to the existing WCF.

The use and maintenance of the property, the size, shape, arrangement, and location of structures, landscape areas, and the protection and preservation of resources shall

conform to the project description above and all approved County land use hearing exhibits in support of the Project and conditions of approval below.

2. CUP Modification

Prior to undertaking any operational or construction-related activity which is not expressly described in these conditions, the Permittee shall first contact the Planning Director to determine if the proposed activity requires a modification of this CUP. The Planning Director may, at the Planning Director's sole discretion, require the Permittee to file a written and/or mapped description of the proposed activity in order to determine if a CUP modification is required. If a CUP modification is required, the modification shall be subject to:

The modification approval standards of the Ventura County Ordinance Code in effect at the time the modification application is acted on by the Planning Director; and

Environmental review, as required pursuant to the California Environmental Quality Act (CEQA; California Public Resources Code, §§ 21000-21178) and the State CEQA Guidelines (California Code of Regulations, Title 14, Chapter 3, §§ 15000-15387), as amended from time to time.

3. Acceptance of Conditions and Schedule of Enforcement Responses

The Permittee's acceptance of this CUP and/or commencement of construction and/or operations under this CUP shall constitute the Permittee's formal agreement to comply with all conditions of this CUP. Failure to abide by and comply with any condition of this CUP shall constitute grounds for enforcement action provided in the Ventura County Non-Coastal Zoning Ordinance (Article 14), which shall include, but is not limited to, the following:

- a. Public reporting of violations to the Planning Commission and/or Board of Supervisors;
- b. Suspension of the permitted land uses (Condition No. 1);
- c. Modification of the CUP conditions listed herein;
- d. Recordation of a "Notice of Noncompliance" on the deed to the subject property;
- e. The imposition of civil administrative penalties; and/or
- f. Revocation of this CUP.

The Permittee is responsible for being aware of and complying with the CUP conditions and all applicable federal, state, and local laws and regulations.

4. Time Limits

Use inauguration:

- (1) The approval decision for this CUP becomes effective upon the expiration of the 10-day appeal period following the approval decision/date on which the Board of Supervisors rendered the decision on the Project, or when any appeals of the decision are finally resolved. Once the approval decision becomes effective, the Permittee must obtain a Zoning Clearance for use inauguration in order to initiate the land uses set forth in Condition No. 1.
 - (2) This CUP shall expire and become null and void if the Permittee fails to obtain a Zoning Clearance for use inauguration within one year – see the Ventura County Non-Coastal Zoning Ordinance (§ 8111-4.7) from the date the approval decision of this CUP becomes effective. The Planning Director may grant a one year extension of time to the Permittee in order to obtain the Zoning Clearance for use inauguration if the Permittee can demonstrate to the satisfaction of the Planning Director that the Permittee has made a diligent effort to implement the Project, and the Permittee has requested the time extension in writing at least 30 days prior to the one year expiration date.
 - (3) Prior to the issuance of the Zoning Clearance for use inauguration, all fees and charges billed to that date by any County agency, as well as any fines, penalties, and sureties, must be paid in full. After issuance of the Zoning Clearance for use inauguration, any final billed processing fees must be paid within 30 days of the billing date or the County may revoke this CUP.
- b. Permit Life or Operations Period: This CUP will expire on **[insert actual date—do not use 5, 10, etc. years after approval]**. The lack of additional notification of the expiration date provided by the County to the Permittee shall not constitute grounds to continue the uses that are authorized by this CUP after the CUP expiration date. The uses authorized by this CUP may continue after the CUP expiration date if:
- (1) The Permittee has filed a permit modification application pursuant to § 8111-6 of the Ventura County Non-Coastal Zoning Ordinance prior to **[expiration date]**; and
 - (2) The County decision-maker grants the requested modification.

The uses authorized by this CUP may continue during processing of a timely-filed modification application in accordance with § 8111-2.10 of the Ventura County Non-Coastal Zoning Ordinance.

5. Documentation Verifying Compliance with Other Agencies' Requirements Related to this CUP

Purpose: To ensure compliance with, and notification of, federal, state, and/or local government regulatory agencies that have requirements that pertain to the Project (Condition No. 1, above) that is the subject of this CUP.

Requirement: Upon the request of the Planning Director, the Permittee shall provide the Planning Division with documentation (e.g., copies of permits or agreements from other agencies, which are required pursuant to a condition of this CUP) to verify that the Permittee has obtained or satisfied all applicable federal, state, and local entitlements and conditions that pertain to the Project.

Documentation: The Permittee shall provide this documentation to Planning Division staff in the form that is acceptable to the agency issuing the entitlement or clearance, to be included in the Planning Division Project file.

Timing: The documentation shall be submitted to the Planning Division prior to the issuance of the Zoning Clearance for use inauguration or as dictated by the respective agency.

Monitoring and Reporting: The Planning Division maintains the documentation provided by the Permittee in the respective Project file. In the event that the federal, state, or local government regulatory agency prepares new documentation due to changes in the Project or the other agency's requirements, the Permittee shall submit the new documentation within 30 days of receipt of the documentation from the other agency.

6. Notice of CUP Requirements and Retention of CUP Conditions On-Site

Purpose: To ensure full and proper notice of these CUP conditions affecting the use of the subject property.

Requirement: Unless otherwise required by the Planning Director, the Permittee shall notify, in writing, the Property Owner(s) of record, contractors, and all other parties and vendors who regularly conduct activities associated with the Project, of the pertinent conditions of this CUP.

Documentation: The Permittee shall maintain a current set of CUP conditions and exhibits at the project site or, in the case of projects where this is impractical (e.g., telecommunication sites), use "present to the Planning Division staff copies of the conditions, upon Planning Division staff's request.

Timing: Prior to issuance of a Zoning Clearance for use inauguration and throughout the life of the Project.

Monitoring and Reporting: The Planning Division has the authority to conduct periodic site inspections to ensure ongoing compliance with this condition consistent with the requirements of § 8114-3 of the Ventura County Non-Coastal Zoning Ordinance.

7. Recorded Notice of Land Use Entitlement

Purpose: The Permittee shall record a “Notice of Land Use Entitlement” form and the conditions of this CUP with the deed for the subject property that notifies the current and future Property Owner(s) of the conditions of this CUP.

Requirement: The Permittee shall sign, have notarized, and record with the Office of the County Recorder, a “Notice of Land Use Entitlement” form furnished by the Planning Division and the conditions of this CUP, with the deed of the property that is subject to this CUP.

Documentation: Recorded “Notice of Land Use Entitlement” form and conditions of this CUP.

Timing: The Permittee shall record the “Notice of Land use Entitlement” form and conditions of this CUP prior to issuance of a Zoning Clearance for use inauguration.

Monitoring and Reporting: The Permittee shall return a copy of the recorded “Notice of Land Use Entitlement” form and conditions of this CUP to Planning Division staff to be included in the Project file.

8. Financial Responsibility for Compliance Monitoring and Enforcement

- a. **Cost Responsibilities:** The Permittee shall bear the full costs of all County staff time, materials, and County-retained consultants associated with condition compliance review and monitoring, CEQA mitigation monitoring, other permit monitoring programs, and enforcement activities, actions, and processes conducted pursuant to the Ventura County Non-Coastal Zoning Ordinance (§ 8114-3) related to this CUP. Such condition compliance review, monitoring and enforcement activities may include (but are not limited to): periodic site inspections; preparation, review, and approval of studies and reports; review of permit conditions and related records; enforcement hearings and processes; drafting and implementing compliance agreements; and attending to the modification, suspension, or revocation of permits. Costs will be billed at the rates set forth in the Planning Division or other applicable County Fee Schedule, and at the contract rates of County-retained consultants, in effect at the time the costs are incurred.

- b. **Establishment of Revolving Compliance Account:**

Pursuant to the requirements of CUP Case No. 5186, the Resource Management Agency created Condition Compliance Case No. CC06-0113 to cover the costs associated with condition compliance review, monitoring, and enforcement

activities, and any duly-imposed civil administrative penalties, regarding CUP 5186. The Planning Division will continue to use Condition Compliance Case No. CC06-0133 to cover the costs associated with condition compliance review, monitoring, and enforcement activities described in subsection 8.a (above), and any duly-imposed civil administrative penalties regarding this CUP.

Within 10 calendar days of the effective date of the final decision approving this CUP, the Permittee shall submit a new, updated, and completed reimbursement agreement for Condition Compliance Case No. CC06-0113, in a form provided by the Planning Division, obligating the Permittee to pay all condition compliance review, monitoring, and enforcement costs, and any civil administrative penalties, subject to the Permittee's right to challenge all such charges and penalties prior to payment.

- c. Billing Process: The Permittee shall pay all Planning Division invoices within 30 days of receipt thereof. Failure to timely pay an invoice shall subject the Permittee to late fees and charges set forth in the Planning Division Fee Schedule, and shall be grounds for suspension, modification, or revocation of this CUP. The Permittee shall have the right to challenge any charge or penalty prior to payment.

9. Defense and Indemnification

- a. The Permittee shall defend, at the Permittee's sole expense with legal counsel acceptable to the County, against any and all claims, actions, or proceedings against the County, any other public agency with a governing body consisting of the members of the County Board of Supervisors, or any of their respective board members, officials, employees and agents (collectively, "Indemnified Parties") arising out of or in any way related to the County's issuance, administration, or enforcement of this CUP. The County shall promptly notify the Permittee of any such claim, action or proceeding and shall cooperate fully in the defense.
- b. The Permittee shall also indemnify and hold harmless the Indemnified Parties from and against any and all losses, damages, awards, fines, expenses, penalties, judgments, settlements, or liabilities of whatever nature, including but not limited to court costs and attorney fees (collectively, "Liabilities"), arising out of or in any way related to any claim, action or proceeding subject to subpart (a) above, regardless of how a court apportions any such Liabilities as between the Permittee, the County, and/or third parties.
- c. Except with respect to claims, actions, proceedings, and Liabilities resulting from an Indemnified Party's sole active negligence or intentional misconduct, the Permittee shall also indemnify, defend (at Permittee's sole expense with legal counsel acceptable to County), and hold harmless the Indemnified Parties from and against any and all claims, actions, proceedings, and Liabilities arising out of, or in any way related to, the construction, maintenance, land use, or operations

conducted pursuant to this CUP, regardless of how a court apportions any such Liabilities as between the Permittee, the County, and/or third parties. The County shall promptly notify the Permittee of any such claim, action, or proceeding and shall cooperate fully in the defense.

- d. Neither the issuance of this CUP, nor compliance with the conditions hereof, shall relieve the Permittee from any responsibility otherwise imposed by law for damage to persons or property; nor shall the issuance of this CUP serve to impose any liability upon the Indemnified Parties for injury or damage to persons or property.

10. Invalidation of Condition(s)

If any of the conditions or limitations of this CUP are held to be invalid in whole or in part by a court of competent jurisdiction, that holding shall not invalidate any of the remaining CUP conditions or limitations. In the event that any condition imposing a fee, exaction, dedication, or other mitigation measure is challenged by the Permittee in an action filed in a court of competent jurisdiction, or threatened to be filed therein, the Permittee shall be required to fully comply with this CUP, including without limitation, by remitting the fee, exaction, dedication, and/or by otherwise performing all mitigation measures being challenged. This CUP shall continue in full force unless, until, and only to the extent invalidated by a final, binding judgment issued in such action.

If a court of competent jurisdiction invalidates any condition in whole or in part, and the invalidation would change the findings and/or the mitigation measures associated with the approval of this CUP, at the discretion of the Planning Director, the Planning Director may review the project and impose substitute feasible conditions/mitigation measures to adequately address the subject matter of the invalidated condition. The Planning Director shall make the determination of adequacy. If the Planning Director cannot identify substitute feasible conditions/mitigation measures to replace the invalidated condition and cannot identify overriding considerations for the significant impacts that are not mitigated to a level of insignificance as a result of the invalidation of the condition, then this CUP may be revoked.

11. Consultant Review of Information and Consultant Work

The County and all other County permitting agencies for the Project have the option of referring any and all special studies that these conditions require to an independent and qualified consultant for review and evaluation of issues beyond the expertise or resources of County staff.

Prior to the County engaging any independent consultants or contractors pursuant to the conditions of this CUP, the County shall confer in writing with the Permittee regarding the necessary work to be contracted, as well as the estimated costs of such work. Whenever feasible, the County will use the lowest responsible bidder or proposer. Any decisions made by County staff in reliance on consultant or contractor work may be appealed

pursuant to the appeal procedures contained in the Ventura County Zoning Ordinance Code then in effect.

The Permittee may hire private consultants to conduct work required by the County, but only if the consultant and the consultant's proposed scope-of-work are first reviewed and approved by the County. The County retains the right to hire its own consultants to evaluate any work that the Permittee or a contractor of the Permittee undertakes. In accordance with Condition No. 11 above, if the County hires a consultant to review any work undertaken by the Permittee, or hires a consultant to review the work undertaken by a contractor of the Permittee, the hiring of the consultant will be at the Permittee's expense.

12. Relationship of CUP Conditions, Laws, and Other Entitlements

The Permittee shall implement the Project in compliance with all applicable requirements and enactments of federal, state, and local authorities. In the event of conflict between various requirements, the more restrictive requirements shall apply. In the event the Planning Director determines that any CUP condition contained herein is in conflict with any other CUP condition contained herein, when principles of law do not provide to the contrary, the CUP condition most protective of public health and safety and environmental resources shall prevail to the extent feasible.

No condition of this CUP for uses allowed by the Ventura County Ordinance Code shall be interpreted as permitting or requiring any violation of law, lawful rules, or regulations, or orders of an authorized governmental agency. Neither the approval of this CUP, nor compliance with the conditions of this CUP, shall relieve the Permittee from any responsibility otherwise imposed by law for damage to persons or property.

The Permittee shall obtain a business tax certificate and regulatory licenses for the operation of the WCF.

13. Contact Person

Purpose: To designate a person responsible for responding to complaints.

Requirement: The Permittee shall designate a contact person(s) to respond to complaints from citizens and the County which are related to the permitted uses of this CUP.

Documentation: The Permittee shall provide the Planning Director with the contact information (e.g., name and/or position title, address, business and cell phone numbers, and email addresses) of the Permittee's field agent who receives all orders, notices, and communications regarding matters of condition and code compliance at the Project site.

Timing: Prior to the issuance of a Zoning Clearance for use inauguration, the Permittee shall provide the Planning Division the contact information of the Permittee's field agent(s) for the Project file. If the address or phone number of the Permittee's field agent(s) should

change, or the responsibility is assigned to another person, the Permittee shall provide Planning Division staff with the new information in writing within three calendar days of the change in the Permittee's field agent.

Monitoring and Reporting: The Planning Division maintains the contact information provided by the Permittee in the Project file. The Planning Division has the authority to periodically confirm the contact information consistent with the requirements of § 8114-3 of the Ventura County Non-Coastal Zoning Ordinance.

14. Resolution of Complaints

The following process shall be used to resolve complaints related to the Project:

- a. The Permittee shall post the telephone number for the designated Contact Person as identified pursuant to Condition No. 13 in a visible location on the site. The Contact Person shall be available via telephone on a 24-hour basis. Persons with concerns about an use as it is occurring may directly contact the Contact Person;
- b. If County staff receives a written complaint about the Project, Planning Division staff may contact the Permittee's Contact Person or the Permittee to request information regarding the alleged violation; and
- c. If, following a complaint investigation by County staff, a violation of the Ventura County Code or a condition of this CUP is confirmed, County staff may initiate enforcement actions pursuant to § 8114-3 of the Non-Coastal Zoning Ordinance.

15. Change of Permittee

Purpose: To ensure that the Planning Division is properly and promptly notified of any change of Permittee.

Requirement: The Permittee shall file, as an initial notice with the Planning Director, the new name(s), address(es), telephone/FAX number(s), and email addresses of the new owner(s), lessee(s), operator(s) of the permitted uses, and the company officer(s). The Permittee shall provide the Planning Director with a final notice once the transfer of ownership and/or operational control has occurred.

Documentation: The initial notice must be submitted with the new Permittee's contact information. The final notice of transfer must include the effective date and time of the transfer and a letter signed by the new Property Owner(s), lessee(s), and/or operator(s) of the permitted uses acknowledging and agreeing to comply with all conditions of this CUP.

Timing: The Permittee shall provide written notice to the Planning Director 10 calendar days prior to the change of ownership or change of Permittee. The Permittee shall provide

the final notice to the Planning Director within 15 calendar days of the effective date of the transfer.

Monitoring and Reporting: The Planning Division maintains notices submitted by the Permittee in the Project file and has the authority to periodically confirm the information consistent with the requirements of § 8114-3 of the Ventura County Non-Coastal Zoning Ordinance.

16. Materials and Colors in the SRP Overlay Zone

Purpose: In order to ensure that buildings and structures comply with the development standards of the Scenic Resource Protection Overlay Zone § 8109-4.1.5 of the Ventura County Non-Coastal Zoning Ordinance and Ventura County General Plan Policy's COS-3.1, COS-3.3, COS-3.5 and COS-3.6 and blend in with the Project site's surroundings.

Requirement: The Permittee shall utilize building materials and colors compatible with surrounding terrain (earth tones and non-reflective paints) on exterior surfaces of all structures, including but not limited to the dwelling, water tanks, walls, and fences.

Documentation: A copy of the approved plans denoting the building materials and colors.

Timing: Prior to the issuance of a Zoning Clearance for construction, the Permittee shall submit the building plans with the colors and materials noted on all structures for review and approval by the Planning Division. Prior to occupancy, the Permittee shall paint the structures according to the approved plans.

Monitoring and Reporting: The Planning Division maintains the approved plans in the Project file. Prior to occupancy, the Planning Division has the authority to inspect the site to ensure that the exterior of the structures were treated as approved. The Permittee shall maintain these materials and colors throughout the life of the Project. The Planning Division has the authority to inspect the site to confirm on-going compliance with the approved plans consistent with the requirements of § 8114-3 of the Ventura County Non-Coastal Zoning Ordinance.

17. Removal of Facility upon Abandonment of Use or Expiration of Permit

Purpose: In compliance with § 8111-2.8 and § 8111-8.1 of the Ventura County Non-Coastal Zoning Ordinance and in order to ensure that the use of the subject property remains compatible with existing and potential uses of other property within the general area, the communication facility shall be removed if this CUP expires or if the facility is abandoned.

Requirement: Upon the expiration of this CUP, or abandonment of the use of the communication facility, the Permittee shall:

- a. notify the County that the Permittee has discontinued the use of the facility;
- b. remove the facility and all appurtenant structures; and
- c. restore the premises to the conditions existing prior to the issuance of the CUP, to the extent feasible as determined by the Planning Director.

In the event that the Permittee fails to perform the required actions, the Property Owner shall be responsible for compliance with the requirements set forth in this condition. The facility shall be considered to be abandoned if it has not been in use for 12 continuous months.

Documentation: The Permittee shall provide photos of the site after restoration is completed, to the County Planning Division.

Timing: The Permittee shall complete the notification, removal, and restoration activities within 60 days of the expiration of this CUP, or abandonment of the use, unless the Planning Director grants (in writing) additional time.

Monitoring and Reporting: The Planning Division has the authority to conduct periodic site inspections to ensure compliance with this condition consistent with the requirements of § 8114-3 of the Ventura County Non-Coastal Zoning Ordinance.

18. Future Collocation of Wireless Telecommunication Facilities and Equipment

Purpose: To reduce the number of communication facilities and minimize the potential environmental impacts associated with such facilities.

Requirement: The Permittee shall avail its facility and site to other telecommunication carriers and, in good faith, accommodate all reasonable requests for collocation in the future subject to the following parameters:

- a. the party seeking the collocation shall be responsible for all facility modifications, environmental review, mitigation measures, associated costs, and permit processing;
- b. the Permittee shall not be required to compromise the operational effectiveness of its facility or place its prior approval at risk;
- c. the Permittee shall make its facilities and site available for collocation on a non-discriminatory and equitable cost basis; and
- d. the County retains the right to verify that the use of the Permittee's facilities and site conforms to County policies.

Documentation: Permittee shall demonstrate to the satisfaction of the Planning Director that the wireless telecommunications tower associated with the communication facility is engineered in a manner that can accommodate supplementary antennas to collocate at least one additional telecommunication carrier.

Timing: Prior to the issuance of a Zoning Clearance for construction, the Permittee shall submit evidence to the Planning Division that the facility is engineered to accommodate the collocation of at least one additional carrier.

Monitoring and Reporting: Prior to the issuance of a Certificate of Occupancy, Building and Safety inspectors and Planning Division staff have the authority to inspect the facility to confirm that is constructed as approved.

Mitigation Monitoring Conditions

19. MM1: Bryant's Woodrat Nest Avoidance and Relocation

Purpose: In order to minimize impacts to woodrats, land clearing and construction activities shall be regulated.

Requirement: The Permittee shall conduct all demolition, tree removal/trimming, vegetation clearing, and grading activities (collectively, "land clearing activities"), and construction in such a way as to minimize impacts to woodrats. This can be accomplished by implementing one of the following options:

1. The relocation or disturbance of wood rat midden areas are prohibited during the peak nesting season (November 1 through March 15).
2. Surveys: Conduct site-specific surveys prior to land clearing or construction activities. A County-approved qualified biologist with a California Department of Fish and Wildlife (CDFW) Scientific Collecting Permit, hereafter referred to as "qualified biologist" shall survey suitable habitat for woodrats within areas that will be subject to land clearing activities, and within 50 feet of areas that will be subject to land clearing activities 14 days prior to the initiation of land clearing or construction activities.

If the qualified biologist does not find any nests, then no further action is required.

3. Avoidance Measures:
 - a. If the qualified biologist finds active woodrat nests, the Permittee shall implement a 50-foot radius buffer area around the nests in which land clearing activities will be avoided.

- b. Wildlife exclusion fencing shall be installed around land clearing activities where middens are detected within 50 feet of the project footprint. Orange snow fencing is not considered a wildlife exclusion fence and is prohibited in areas where middens are found.
4. Relocation of Middens: If the minimum fencing distance cannot be achieved and the middens cannot be protected and/or avoided, the qualified biologist in consultation with CDFW, will select the location of artificial midden sites according to the following instructions:
 - a. Artificial Midden Ratio: Artificial middens shall be installed at a 2:1 ratio for less than 5 middens impacted. If more than 5 middens are impacted in the population, the qualified biologist shall consult with the Planning Division to determine the appropriate ratio.
 - b. Artificial Midden Location: Midden locations shall include but not be limited to downed woody debris, cactuses, dense understory and overstory cover (ideally 90 percent cover), or other "core element" (e.g., a stump, large log, rock, rock outcrop), and outside of drainage channels. Artificial middens shall be placed in a clustered pattern relative to adjacent natural middens (when present) and no further than 550 feet of the project footprint.
 - c. Dismantling of Natural Middens: The entire midden site, including the aboveground midden and the below ground basement area, will be carefully examined to ensure that no adults or young are present before the midden is dismantled and the basement filled in.
 - d. Trapping: If woodrats are present a trapping effort will be initiated. The trapping will consist of two to three live traps per active midden site being set each evening for 3 days. The traps will be baited with oatmeal, peanut butter, and apple and will contain synthetic batting for use as nesting material. Traps will be checked the following morning within 1 hour following sunrise. Traps containing woodrats will be placed facing the entrance of relocated middens and opened, allowing the woodrats to leave the traps on their own accord. Each release site will be monitored for approximately 1 hour after each woodrat is released to determine the short-term success rate of the artificial middens.
 - e. Dismantling Middens: To provide refuge for woodrats that may be become displaced, piles of sticks/vegetation/slash shall be placed between the midden site to be dismantled and the new artificial midden site, 3 days prior to dismantling. The midden will be dismantled by hand, removing the materials layer by layer. All salvageable midden materials will be relocated and incorporated (as needed) or placed adjacent to the artificial midden.

- d. Post-Midden Relocation: The qualified biologist will perform a survey to determine if the woodrat has reoccupied the project footprint following the implementation of the midden relocation measures.

5. Woodrat Presence and Activity After Midden Relocation:

- a. If newly constructed middens are found inside the project footprint following the commencement of land clearing activities, the trapping effort noted in section 4(d) above) shall be implemented.

Documentation: The Permittee shall provide to the Planning Division and CDFW a Survey Report from the qualified biologist that includes a map, physical description of middens (size, width, materials, etc.), a photo of each of the midden, and a plan for avoidance or relocation of the nests in accordance with the requirements set forth in this condition (above). Along with the Survey Report, the Permittee shall provide a copy of a signed contract (financial information redacted) with the qualified biologist(s) who will monitor avoidance and relocation efforts. Following the completion of land clearing activities, the Permittee shall submit to the Planning Division and CDFW a Mitigation Monitoring Report from the qualified biologist(s) that documents the actions implemented to avoid or relocate woodrat nests, a map of the natural and artificial midden locations, trapping and relocation procedures, and the results of the relocation effort.

Timing: The qualified biologist shall conduct the survey within 30 days prior to the initiation of land clearing activities and follow all relocation timing protocols set forth in this condition (above). The Permittee shall submit the Survey Report and signed contract to the Planning Division, prior to issuance of a Zoning Clearance for construction. The Mitigation Monitoring Report shall be submitted within 14 days of completion of the land clearing activities.

Monitoring and Reporting: The Planning Division reviews for adequacy, and maintains in the Project file, the signed contract, Survey Report, and Mitigation Monitoring Report. If the Planning Division confirms that the required surveys and relocation measures were not implemented in compliance with the requirements of this condition, then enforcement actions may be enacted in accordance with § 8114-3 of the Ventura County Non-Coastal Zoning Ordinance.

20. MM2: Special Status Wildlife Surveys and Relocation

Purpose: In order to prevent impacts to special status wildlife during construction, land clearing activities shall be regulated.

Requirement: A County-approved biologist with a California Department of Fish and Wildlife Scientific Collecting Permit shall conduct surveys for special-status wildlife, including coast horned lizard. The first survey shall be conducted 30 days prior to initiation of demolition, tree removal/trimming, vegetation clearing, and grading activities

(collectively, “land clearing activities”), and surveys must continue on a weekly basis with the last survey being conducted no more than 3 days prior to the initiation of land clearing activities. The County-approved biologist shall relocate special-status wildlife species that are found on-site to suitable undisturbed habitat, at least 100 feet away from land clearing activities. If the County-approved biologist determines that silt fencing is necessary to prevent special-status wildlife from returning to the construction area or from falling into trenches, etc., the Permittee shall install silt fencing at the edge of the grading footprint. The County-approved biologist shall oversee the installation of the silt fencing.

Documentation: The Permittee shall provide to the Planning Division a Survey Report from a County-approved biologist documenting the results of the initial special-status wildlife survey and a plan for continued surveys and relocation of special-status wildlife in accordance with the requirements set forth in this condition (above). Along with the Survey Report, the Permittee shall provide a copy of a signed contract (financial information redacted) with a County-approved biologist responsible for the surveys and relocation of wildlife. The Permittee shall submit to the Planning Division a Mitigation Monitoring Report from a County-approved biologist following land clearing activities documenting actions taken to prevent loss of special-status wildlife and results.

Timing: The County-approved biologist shall conduct the special-status wildlife surveys 30 days prior to initiation of land clearing activities, and weekly thereafter. The County-approved biologist shall conduct the last survey for special-status wildlife no more than 3 days prior to initiation of land clearing activities. The Permittee shall provide the Survey Report documenting the results of the first special-status wildlife survey and the signed contract to the Planning Division, prior to issuance of a Zoning Clearance for construction. The Permittee shall submit the Mitigation Monitoring Report within 14 days of completion of the land clearing activities.

Monitoring and Reporting: The Planning Division reviews for adequacy the Survey Report and signed contract prior to issuance of a Zoning Clearance for construction. The Planning Division maintains copies of the signed contract, Survey Report, and Mitigation Monitoring Report in the project file. If the Planning Division confirms that the required surveys and relocation measures were not implemented in compliance with the requirements of this condition, then enforcement actions may be enacted in accordance with § 8114-3 of the Ventura County Non-Coastal Zoning Ordinance.

21. MM3: Avoidance of Nesting Birds

Purpose: In order to prevent impacts to birds protected under the Migratory Bird Treaty Act, land clearing and construction activities shall be regulated.

Requirement: The Permittee shall conduct all demolition, tree removal/trimming, vegetation clearing, and grading activities (collectively, “land clearing activities”), and construction in such a way as to avoid nesting native birds. This can be accomplished by implementing one of the following options:

- a. Timing of land clearing or construction: Prohibit land clearing or construction activities during the breeding and nesting season (February 1 – September 1 for Ventura County), in which case the following surveys are not required; or
- b. Surveys and avoidance of occupied nests: Conduct site-specific surveys prior to land clearing or construction activities during the breeding and nesting season (February 1 – September 1 for Ventura County) and avoid occupied bird nests. A County-approved biologist shall conduct surveys to identify any occupied (active) bird nests in the area proposed for disturbance. Occupied nests shall be avoided until juvenile birds have vacated the nest.

The County-approved biologist shall conduct an initial breeding and nesting bird survey 30 days prior to the initiation of land clearing or construction activities. The County-approved biologist shall continue to survey the Project site on a weekly basis, with the last survey completed no more than 3 days prior to the initiation of land clearing activities. The nesting bird survey must cover the development footprint and 300 feet from the development footprint. If occupied (active) nests are found, land clearing activities within a setback area surrounding the nest shall be postponed or halted. Land clearing activities may commence in the setback area when the nest is vacated (juveniles have fledged) provided that there is no evidence of a second attempt at nesting, as determined by the County-approved biologist. Land clearing activities can also occur outside of the setback areas. Pursuant to the recommendations of the California Department of Fish and Wildlife, the required setback is 300 feet for most birds and 500 feet for raptors. This setback can be increased or decreased based on the recommendation of the County-approved biologist and approval from the Planning Division.

Documentation: The Permittee shall provide to the Planning Division a Survey Report from a County-approved biologist documenting the results of the initial nesting bird survey and a plan for continued surveys and avoidance of nests in accordance with the requirements set forth in this condition (above). Along with the Survey Report, the Permittee shall provide a copy of a signed contract (financial information redacted) with a County-approved biologist responsible for the surveys, monitoring of any occupied nests discovered, and establishment of mandatory setback areas. The Permittee shall submit to the Planning Division a Mitigation Monitoring Report from a County-approved biologist following land clearing activities documenting actions taken to avoid nesting birds and results.

Timing: If land clearing or construction activities will occur between February 1 – September 1 for Ventura County NCZO, the County-approved biologist shall conduct the nesting bird surveys 30 days prior to initiation of land clearing or construction activities, and weekly thereafter. The last survey for nesting birds shall be conducted no more than 3 days prior to initiation of land clearing or construction activities. The Permittee shall submit the Survey Report documenting the results of the first nesting bird survey and the signed contract to the Planning Division prior to issuance of a zoning clearance for

construction. The Permittee shall submit the Mitigation Monitoring Report within 14 days of completion of the land clearing or construction activities.

Monitoring and Reporting: The Planning Division reviews the Survey Report and signed contract for adequacy prior to issuance of a Zoning Clearance for construction. The Planning Division maintains copies of the signed contract, Survey Report, and Mitigation Monitoring Report in the Project file.

Environmental Health Division (EHD) Conditions

22. Hazardous Materials/Waste Management (CUPA Permit Required)

Purpose: To comply with the California Code of Regulations Title 22, Division 4.5, California Health and Safety Code chapter 6.95; and Ventura County Ordinance Code, and to ensure the safe storage, handling, and disposal of any potentially hazardous material and/or waste.

Requirement: The Permittee shall submit a Hazardous Materials Business Plan (HMBP) to the Environmental Health Division/Certified Unified Program Agency (Ventura CUPA) for storage of hazardous materials above reporting thresholds (200 cubic feet gas, 55 gallons liquid, 500 pounds solid). If hazardous wastes are generated, an EPA ID number issued by the California Department of Toxic Substances Control must be obtained and maintained in active status. Wastes identified as "non-hazardous" may require waste determination analysis to confirm if wastes are listed hazardous wastes, exhibits a hazardous characteristic through testing, or application of general knowledge.

Documentation: A completed HMBP must be submitted to the Ventura CUPA electronically through the California Environmental Reporting System (CERS). Maintain all records of hazardous waste determination testing and disposal and make available for review by this Ventura CUPA staff upon request.

Timing: HMBP must be submitted through CERS annually, and whenever there is a change to the type, quantity, or location of the hazardous materials. EPA ID number must be renewed annually.

Monitoring and Reporting: Verification of hazardous materials inventory as well as ongoing compliance with requirements shall be accomplished through field inspection by Ventura CUPA staff. Additional information on the storage and handling requirements for hazardous materials and wastes may be found on the Ventura County Environmental Health Division/Certified Unified Program Agency website: <https://vcrma.org/cupa>

OTHER VENTURA COUNTY AGENCIES

Ventura County Fire Protection District (VCFPD) Conditions

23. Fire Department Clearance (Note: no new construction)

Purpose: To provide the Permittee a list of all applicable fire department requirements for their project.

Requirement: The Permittee shall obtain VCFD Form #126 "Requirements for Construction" for any new structures or additions to existing structures before issuance of building permits.

Documentation: A signed copy of the Ventura County Fire Protection District's Form #126 "Requirements for Construction."

Timing: The Permittee shall submit VCFPD Form #126 Application to the VCFPD for approval before issuance of building permits.

Monitoring and Reporting: A copy of the completed VCFPD Form #126 shall be kept on file with the VCFPD. The VCFPD will conduct a final on-site inspection of the project to ensure compliance with all conditions and applicable codes / ordinances.

24. Hazardous Fire Area (Note: no new construction)

Purpose: To advise the Permittee that the project is located within a Hazardous Fire Area and ensure compliance with California Building and Fire Codes.

Requirement: The Permittee shall construct all structures to meet hazardous fire area building code requirements.

Documentation: A stamped copy of the approved building plans to be retained by the Building Department.

Timing: The Permittee shall submit building plans to the Building Department for approval before the issuance of building permits.

Monitoring and Reporting: The VCFPD shall conduct a final inspection to ensure that the structure is constructed according to the approved hazardous fire area building code requirements. Unless a modification is approved by the VCFPD, the Permittee, and their successors in interest, shall maintain the approved construction for the life of the structure.

25. Hazard Abatement (Note: no new construction)

Purpose: To ensure compliance with Ventura County Fire Protection District Ordinance.

Requirement: The Permittee shall have all grass or brush adjacent to structure's footprint cleared for a distance of 100 feet or to the property line if less than 100 feet. All grass and brush shall be removed at a distance of 30 feet from antenna structures, emergency

power systems and 10 feet on each side of all access roads within the project. The Fire District may require the entire parcel to be cleared. Modifications or deviations from previous conditions shall require Fire Department approval. Note: A Notice to Abate Fire Hazard may be recorded against the parcel.

Documentation: A signed copy of the Ventura County Fire Protection District's Form #126 "Requirement for Construction" or the "Notice to Abate" issued under the Fire District's Fire Hazard Reduction Program.

Timing: The Permittee shall remove all grass and brush as outlined by the Ventura County Fire Protection District's Fire Hazard Reduction Program guidelines before the start of construction on any structure.

Monitoring and Reporting: The VCFPD shall conduct on-site inspections to ensure compliance with this condition.

26. Fire Code Permits

Purpose: To comply with the requirements of the Ventura County Fire Code.

Requirement: The Permittee shall obtain all applicable Fire Code permits.

Documentation: A signed copy of the Fire Code permit(s).

Timing: The Permittee shall submit a Fire Code permit application along with required documentation/plans to the VCFPD for approval before final occupancy, installation and/or use of any item/system requiring a Fire Code permit.

Monitoring and Reporting: A copy of the approved Fire Code permits shall be kept on file with the VCFPD. The VCFPD shall conduct a final inspection to ensure that the requirements of the Fire Code permit are installed according to the approved plans. Unless a modification is approved by the VCFPD, the Permittee, and their successors in interest, shall maintain the conditions of the Fire Code permit for the life of the development.



MITIGATED NEGATIVE DECLARATION (MND) ADDENDUM

A. BACKGROUND INFORMATION AND PROJECT DESCRIPTION:

1. **Entitlement:** Minor Modification of Conditional Use Permit (CUP) LU12-0040 for the continued use, operation and maintenance of an existing Wireless Communication Facility (WCF) for a 10-year period for a site known as Black Mountain (Case No. PL22-0053).
2. **Applicant:** Crown Castle
3. **Property Owners:** RMR Land LLC, 2000 Avenue of the Stars, Los Angeles, CA 90067
4. **Location:** 12540 Creek Road, Ojai
5. **Tax Assessor's Parcel Number:** 035-0-010-165
6. **Lot Size:** 404.15 acres
7. **General Plan Land Use Designation:** Open Space
8. **Area Plan Land Use Designation:** Open Space
9. **Zoning Designation:** OS-/SRP (40 acres minimum lot size/Scenic Resource Protection Overlay Zone)
10. **Responsible and/or Trustee Agencies:** None
11. **Project Description:** A Minor Modification to CUP LU12-0040 for the continued use, operation and maintenance of an existing Crown Castle WCF for a 10-year period. The existing facility is comprised of the following components:
 - A 750-square-foot lease area enclosed with a chain-link fence;
 - Three (3) 4-foot-tall panel antennas (panel antennas are mounted in three (3) sectors with one antenna pane per pole ("lollypop"); and
 - Seven (7) ground mounted equipment cabinets.

The heights of the antenna poles range from eleven (11) feet (Sectors A and B) to seventeen (17) feet (Sector C) and are painted to match existing vegetation. All cabling has been installed underground from the equipment shelter to the antenna poles. The WCF is unmanned, except for occasional periodic maintenance visits, and would continue to operate 24 hours per day. The unmanned facility does not require water to operate. No exterior lighting or grading is proposed. There are no proposed operational or physical changes to the existing WCF.

B. STATEMENT OF ENVIRONMENTAL FINDINGS:

On November 1, 2011 the Planning Director adopted a Mitigated Negative Declaration (MND) that evaluated the environmental impacts of a new WCF operated by T-Mobile (Case No. LU09-0071). The subject Crown Castle tower is located adjacent to the T-Mobile site. The MND determined that the LU09-0071 project would have a potentially significant but mitigable environmental impact on biological resources (endangered, rare or threatened species and locally important species and communities). However, mitigation measures were identified and adopted by the Planning Director that would reduce the impacts to a less-than-significant level. The potential impacts were the same for the Crown Castle site (LU12-0040). The mitigation measures for both CUPs are as follows:

- a. Avoidance of Brvant's woodrat (San Diego Desert Woodrat): A County approved Biological Consultant shall conduct a survey of the area for suitable habitat for the wood rat prior to land clearing activities within the proposed limits of disturbance and a 50-foot radius buffer area. If no nests are found, no further action is required. If active woodrat nests are found during the peak nesting season (February 1 through May 31), a 50-foot radius buffer area shall be established around the nests in which land clearing activities will be postponed until the end of peak nesting season to protect the nest.
- b. Special Status Wildlife Surveys and Relocation: A County-approved biologist with a CDFG Scientific Collecting Permit shall conduct surveys for special status wildlife, specifically coast horned lizard. The first survey shall be conducted 30 days prior to initiation of tree removal/trimming, vegetation clearing, and grading activities (collectively, "land clearing activities"), and surveys must continue on a weekly basis with the last survey being conducted immediately prior to the initiation of land clearing activities. Individuals of special-status wildlife species that are found shall be relocated to suitable undisturbed habitat, at least 100 feet away from ground disturbance activities. CDFG shall be consulted if any species listed under the California Endangered Species Act are found, and USFWS shall be consulted if any species listed under the federal Endangered Species Act are found.
- c. Nesting Bird Survey and Buffers: The Permittee shall conduct all tree removal/trimming, vegetation clearing, and grading activities (collectively, "land clearing activities") in such a way as to avoid nesting native birds. This can be accomplished by implementing one of the following options: o Prohibit land clearing activities during the breeding and nesting season (February1-August31). Conduct site-specific surveys prior to land clearing activities and avoid occupied bird nests.

Section 15164(b) of the CEQA Guidelines (Title 14, California Code of Regulations, Chapter 3) states that the decision-making body may consider an addendum to an

adopted MND if: (1) only minor technical changes or additions are necessary; and (2) none of the conditions described in Section 15162 of the CEQA Guidelines calling for the preparation of a subsequent Environmental Impact Report (EIR) or negative declaration have occurred.

The conditions described in Section 15162 of the CEQA Guidelines which require the preparation of an EIR or subsequent negative declaration, are provided below, along with a discussion as to why an EIR or subsequent negative declaration is not required:

1. Substantial changes are proposed in the project which will require major revisions of the previous MND due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects [§ 15162(a)(1)].

The proposed continued use, operation, and maintenance of the existing WCF would not create new environmental impacts that were not previously analyzed in the MND. No ground disturbance is proposed that would alter the approved location of the WCF; and no changes to the requirements that were analyzed in the adopted MND are proposed.

There are no proposed operational changes as part of the CUP. The proposed project would not create any new significant impacts to biological resources, scenic resources, public roads and highways, or fire flow that were not identified in the adopted MND, and the proposed changes would not increase the severity of or change the significance of the impacts that were identified in the MND.

With the implementation of the modified CUP and the preparation of this addendum to the MND, the proposed project is in compliance with the Ventura County Non-Coastal Zoning Ordinance standards for WCF's. Therefore, the proposed modifications would not increase the severity of, or create any new significant impacts.

2. Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous MND due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects [§ 15162(a)(2)].

The existing baseline conditions that were used to analyze impacts to the environment have not changed to the extent that the proposed revisions to the project description would require major revisions to the MND. No new impacts to biological resources, scenic resources, public roads and highways, or fire flow would result from the proposed project. Furthermore, the project site and surrounding area do not exhibit any previously unknown resources that need to be analyzed as part of this project.

Based on the above discussion, the proposed project would not result in any new potentially significant impacts that were not previously analyzed in the MND.

3. New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the Planning Director MND, shows any of the following:

a. The project will have one or more significant effects not discussed in the previous MND [§ 15162(a)(3)(A)].

No new information that was not known and could not have been known when the MND was adopted have become available. There are no environmental resources, hazards, or public facilities located on, or in the vicinity of the Project site that was previously unknown and could be substantially affected by the proposed project. No new significant effects have been identified. As stated in this Addendum (above), the proposed Project would not change the analysis set forth in the previous MND adopted for CUP LU09-0071. The environmental conditions that currently exist on site are substantially the same as those that existed at the time at which the MND was prepared and adopted. Therefore, no new information of substantial importance has been discovered, and the minor modification will not result in any new environmental effects compared with those analyzed in the adopted MND.

Therefore, based on the information provided above, there is no substantial evidence to warrant the preparation of a subsequent MND. The decision-making body shall consider this addendum to the adopted MND prior to making a decision on the project.

C. PUBLIC REVIEW:

Pursuant to the CEQA Guidelines [§ 15164(c)], this addendum to the MND does not need to be circulated for public review, and shall be included in, or attached to, the adopted MND.

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