



Planning Director Staff Report – Hearing on July 12, 2021

County of Ventura • Resource Management Agency • Planning Division

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COMMUNICATIONS RELAY LLC. SULPHUR MOUNTAIN CONDITIONAL USE PERMIT (CUP) CASE NO. PL20-0137

A. PROJECT INFORMATION

1. **Request:** The applicant requests approval of a Conditional Use Permit (CUP) for a 10-year period for the continued operation of an existing Wireless Communication Facility (WCF) known as Communications Relay LLC. at Sulphur Mountain (PL20-0137).
2. **Applicant:** Communications Relay LLC., P.O. Box 7890, Van Nuys, CA 91409
3. **Property Owner:** Charles L. Willett Life Estate, Attention LT-WR LLC., P.O. Box 7890, Van Nuys, CA 91409
4. **Applicant's Representative:** Marquette Consulting Inc., c/o Alan Nelsen, 9452 Telephone Road, Ventura, CA 93004
5. **Decision-Making Authority:** Pursuant to the Ventura County Non-Coastal Zoning Ordinance (NCZO) (Section 8105-4 and Section 8111-1.2 et seq.), the Planning Director is the decision-maker for the requested CUP.
6. **Project Site Size, Location, and Parcel Number:** The 43.75-acre project site is located at 8228 Sulphur Mountain Road in the unincorporated area of Ventura County. The Tax Assessor parcel number for the parcel that constitutes the project site is 035-0-080-475.
7. **Project Site Land Use and Zoning Designations:**
 - a. Countywide General Plan Land Use Map Designation: Open Space
 - b. Zoning Designation: AE-40 ac/SRP/HCWC (Agricultural Exclusive, 40-acre minimum lot size/Scenic Resource Protection/Habitat Connectivity Wildlife Corridor)
 - c. Ojai Valley Area Plan Designation: Open Space 40 ac. Min (Open Space, 40-acre minimum lot size)

8. Adjacent Zoning and Land Uses/Development:

Location in Relation to the Project Site	Zoning	Land Uses/Development
North	OS-40 ac/SRP/HCWC (Open Space, 40-acre minimum lot size, Scenic Resource Protection, Habitat Connectivity Wildlife Corridor)	Open Space
East	AE-40 ac/SRP/HCWC (Agricultural Exclusive, 40-acre minimum lot size, Scenic Resource Protection, Habitat Connectivity Wildlife Corridor)	Single Family Residence/Open Space
South	AE-40 ac/HCWC (Agricultural Exclusive, 40-acre minimum lot size, Habitat Connectivity Wildlife Corridor)	Open Space
West	AE-40 ac/SRP/HCWC	Open Space

9. History: The subject property is owned by Charles L. Willett Life Estate and is located off Sulphur Mountain Road on a private dirt road which is maintained by the property owner. The site is currently developed with wireless telecommunication facilities. The existing WCF that is the subject of this CUP has been in operation since 1971.

On October 20, 1971, CUP-3308 was approved for the installation and operation of a radio transmitted on an existing 45-foot tall pole and to construct a 192 square foot block structure.

On July 5, 1979, Minor Modification #1 was granted to replace the existing 45-foot tall wooden pole with a new 80-foot tall wooden pole.

On January 22, 1992, Minor Modification #2 was granted for the removal of the existing poles, to install the existing and new equipment on a single tower, and to construct a new 450 square foot equipment building.

On February 3, 1994, Minor Modification #3 was granted for the continued use of the existing communication facility and to legalize all previously unpermitted facilities on site. This permit had a 10-year expiration date which expired on February 3, 2004.

10. Project Description: The applicant requests that a CUP be granted to authorize the continued use, operation, and maintenance of a Wireless Communication Facility for a 10-year time period consisting of the following (Exhibit 2, Site Plans):

South Area Tower 1

- One 78'-8" 3 pole steel tower;
- Five (5) whip antennas mounted on top;
- Fourteen (14) microwave antennas mounted at various heights;
- One 468 square foot equipment shelter (Building A)

South Area Tower 2

- One 81'-6" Monopole with antenna mounted on top;
- One 80'-6" Monopole with antenna mounted on top;
- One 54' tall antenna support structure consisting of 4 poles and whip antennas mounted on top;
- One 477 square foot equipment shelter
- One 140 square foot equipment shelter

North Area Tower

- Two approximately 23' Monopoles with antennas mounted at various heights;
- One 9-foot tall solar array

The WCF will be unmanned, except for occasional periodic maintenance visits, and will operate 24 hours a day, 365 days per year. Access to the facility is available from Sulphur Mountain Road, a public, paved road and up a private dirt roadway. Water service is not required to operate or maintain the proposed project, and no exterior lighting or grading is proposed. No new fencing is proposed as part of this project.

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.

The State Legislature through the Secretary for Resources has found that certain classes of projects are exempt from CEQA environmental impact review because they do not have a significant effect on the environment. These projects are declared to be categorically exempt from the requirement for the preparation of environmental impact documents. The proposed project includes the continued use, operation, and maintenance of an existing WCF. The proposed project qualifies for Class 1 Categorical Exemption pursuant to Section 15301 (Existing Facilities) of the CEQA Guidelines.

Therefore, this project is categorically exempt pursuant to Section 15301 of the CEQA Guidelines.

C. CONSISTENCY WITH THE GENERAL PLAN

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 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.

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.*

The existing facility is designed to have the least amount of visual impact while ensuring the adequate provision of public facilities and services. The WCF provides wireless telecommunication services to the surrounding area and is compatible with the neighboring uses. No new construction is proposed for the implementation if the proposed project.

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

- 2. LU-16.2 Urban Design Standards for Commercial and Industrial Development:** *The County shall require that discretionary commercial and industrial developments maintain high standards of urban design and environmental quality by incorporating compact form, maximizing pedestrian access and safety, and minimizing land use conflicts and traffic congestion.*

The existing WCF is located behind existing mature trees and vegetation which helps maintain a high standard of design and environmental quality. The location of the facility minimizes land use conflicts and no traffic congestion is expected from the implementation of the proposed project.

Based on the above discussion, the proposed project is consistent with General Plan Policy LU-16.2.

- 3. LU-16.10 Visual Access for Rural Development:** *The County shall encourage discretionary development in rural areas to maintain views of hillsides, beaches, forests, creeks, and other distinctive natural areas through building orientation, height, and bulk.*

The existing WCF is located on top of Sulphur Mountain. The project is not visible from offsite viewpoints and the existing trees and vegetation help maintain the distinctive natural areas surrounding the project site. No new visual impacts would occur from the continued use of the WCF.

Based on the above discussion, the proposed project is consistent with General Plan Policy LU-16.10.

- 4. 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.*

The existing WCF ensures that cellular mobile communications infrastructure is provided for adequate services throughout the unincorporated area. The location of the facility is located appropriately to blend seamlessly into the surrounding environment.

Based on the above discussion, the proposed project is consistent with General Plan Policy PFS-7.1.

- 5. 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.*

The existing WCF provides service to the Ojai Valley area and provides high quality access to cellular mobile communications. The continued use of the facility and ability to add additional antennas ensures that the residents and businesses will maintain a high quality of service.

Based on the above discussion, the proposed project is consistent with General Plan Policy PFS-7.5.

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

The existing WCF is not prominently visible from any County designated scenic roadways. No new visual impacts will be generated from the implementation of the proposed project.

Based on the above discussion, the proposed project is consistent with General Plan Policy COS-3.1.

- 7. COS-3.5 Ridgeline and Hilltop Preservation:** *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 activity.*

The existing WCF is located on a hilltop but is required to provide service to the surrounding area from the communication facility. The location of the existing site is below significant ridgelines and no new conflicts would occur with the implementation of the proposed project.

Based on the above discussion, the proposed project is consistent with General Plan Policy COS-3.5.

- 8. COS-3.6 Open Space Character:** *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.*

The existing WCF does not conflict with the scenic open space character of the surrounding area. The antennas are mounted on the existing monopole and all ground mounted equipment is located within an existing equipment shelter. The existing facility is not prominently visible from public viewpoints.

Based on the above discussion, the proposed project is consistent with General Plan Policy COS-3.6.

- 9. COS-9.1 Open Space Preservation:** *The County shall preserve natural open space resources through:*

- *The concentration of development in Urban Areas and Existing Communities;*
- *Use of cluster or compact development techniques in discretionary development adjacent to natural open space resources;*
- *Maintaining large lot sizes in agricultural areas, rural, and open space areas;*
- *Discouraging conversion of lands currently used for agricultural production or grazing;*

- *Limiting development in areas constrained by natural hazards; and*
- *Encouraging agricultural and ranching interests to maintain natural habitat in open space areas where the terrain or soil is not conducive to agricultural production or grazing.*

The existing WCF does not conflict with the adjacent open space designated lands or uses of those lands. The antennas are mounted on an existing monopole and all ground mounted equipment is located within an existing equipment shelter. No natural habitat will be removed for the implementation of the proposed project.

Based on the above discussion, the proposed project is consistent with General Plan Policy COS-9.1.

10.HAZ-1.1 Fire Prevention Design and Practices: *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: *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.*

The existing WCF meets all Ventura County Fire Protection District standards. The Fire Protection District has conditioned the project to comply with all requirements.

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

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 CUP, the proposed project will comply with this requirement.

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 standards 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(f)(4)(e), Maximum Antenna Height:</p> <p><i>Flush-mounted wireless communication facilities shall not extend above the building height. If mounted on a structure other than a building, such as a light pole or utility pole, the antennas shall not extend more than 5 feet above the structure.</i></p>	<p>Yes, the design of the proposed project involves the continued use of a WCF and the antennas do not extend beyond the top of the structure.</p>
<p>Section 8107-45.4(n), Accessory Equipment:</p> <p><i>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.</i></p>	<p>Yes, none of the accessory equipment is visible from offsite.</p>
<p>Section 8107-45.4(o), Colors and Materials:</p> <p><i>All wireless communication facilities shall use materials and colors that blend in with the natural or man-made surroundings. Highly reflective materials are prohibited.</i></p>	<p>Yes, the facility uses colors that blend into the surroundings. No reflective materials will be used.</p>
<p>Section 8107-45.4(p), Noise:</p> <p><i>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.</i></p>	<p>Yes, the WCF will always be operated and maintained to comply with the Ventura County noise standards.</p>
<p>Section 8107-45.4(r), Security:</p> <ol style="list-style-type: none"> 1. <i>Each Facility shall be designed to prevent unauthorized access, climbing, vandalism, graffiti and other conditions 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.</i> 2. <i>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.</i> 	<p>Yes, the facility is enclosed within an existing equipment shelter which prevents access and vandalism to the project site. No new fencing is proposed as part of this project.</p>
<p>Section 8107-45.4(s), Lighting:</p> <ol style="list-style-type: none"> 1. <i>No facility may be illuminated unless specifically required by the FAA or other government agency.</i> 	<p>Yes, the existing WCF is not illuminated.</p>

Table 1 – Special Use Standards Consistency Analysis

Special Use Standard	Complies?
<p>2. <i>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.</i></p>	
<p>Section 8107-45.4(t), Signage:</p> <p><i>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.</i></p>	<p>Yes, the equipment shelter includes signage indicating all necessary information related to the operation of the facility.</p>
<p>Section 8107-45.4(u), Access Roads:</p> <p>1. <i>Where feasible, wireless communication facility sites shall be accessed by existing public or private access roads and easements.</i></p> <p>2. <i>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 Department District.</i></p>	<p>Yes, the proposed WCF is accessed by an existing public road to a private dirt access road, maintained by the property owner, to the WCF location. No new roads are proposed with this project.</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].

The existing WCF that is the subject of this CUP application has been in operation since 1971. The continued use of this WCF will not alter the appearance of the site or the character of the land uses in the area. No new impact on public views would result from the continued operation of the existing WCF.

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].

As discussed above, the proposed project involves the continued use of a WCF on the subject property. No adverse effect on neighboring properties or ongoing uses has been identified that would result from the proposed project. Implementation of the conditions of approval (Exhibit 3) would ensure the compatibility of the project with the ongoing uses in the vicinity.

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].

No adverse effect of the proposed project on the environment or the use of adjacent properties has been identified. Similarly, no effect of the project has been identified that would be detrimental to the public interest, health, safety, or welfare.

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 WCF is located on Sulphur Mountain and is compatible with existing and potential land uses in the general area. The location of the antennas and equipment are not prominently visible from offsite. In addition, no new development is proposed on any of the surrounding parcels.

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

6. 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 proposed project involves the continued use of a WCF on the subject property. The proposed 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.

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), NCZO (Section 8111-3.1). On June 30, 2021, the Planning Division mailed notice to owners of property within 300 feet of the property on which the project site is located. On July 5, 2021, the Planning Division placed a legal ad in the *Ventura County Star*. As of the date of this document, the Planning Division has not received any comments from this noticing.

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 and has considered all comments received during the public comment process;
2. **FIND** that this project is categorically exempt from CEQA pursuant to Section 15301 of the CEQA Guidelines;
3. **MAKE** the required findings to grant a Minor Modification of a CUP 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** CUP Case No. PL20-0137, subject to the conditions of approval (Exhibit 3).
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.

If you have any questions concerning the information presented above, please contact Thomas Chaffee at (805) 654-2406 or Thomas.Chaffee@ventura.org.

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EXHIBITS:

- Exhibit 2 Maps
- Exhibit 3 Draft Conditions of Approval
- Exhibit 4 Site Plans