



**CONTRA COSTA COUNTY
DEPARTMENT OF CONSERVATION AND DEVELOPMENT
COMMUNITY DEVELOPMENT DIVISION**


APPROVED PERMIT

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|------------|---|------------------------|--|
| APPLICANT: | Ian Lilley on behalf of Dish Wireless 1511-D Orangethorpe Ave. Fullerton, CA 92831 | APPLICATION NO.: | CDLP22-02008 |
| | | ASSESSOR'S PARCEL NO.: | 203-760-026 |
| | | PROJECT LOCATION: | Intersection of Eagle Nest Lane and Eagle Nest Place Danville, CA 94526 |
| OWNER: | Blackhawk Homeowners Association 4125 Blackhawk Plaza Circle Danville, CA 94526 | ZONING DISTRICT: | P-1 |
| | | APPROVED DATE: | November 21, 2022 |
| | | EFFECTIVE DATE: | December 2, 2022 |

This matter having not been appealed within the period of time prescribed by law, a LAND USE PERMIT/DEVELOPMENT PLAN PERMIT combination to modify County File #CDDP84-03003, for a new Dish Wireless telecommunications facility on an existing PG&E transmission tower that currently includes T-Mobile and AT&T wireless telecommunication facilities and includes a tree permit in the DANVILLE area is hereby APPROVED, subject to the attached conditions of approval.

Aruna M. Bhat
County Zoning Administrator

By: _____


Lashun Cross
Deputy Zoning Administrator

Unless otherwise provided, THIS PERMIT WILL EXPIRE ONE (1) YEAR from the effective date if the action allowed by this permit is not undertaken within that time.

PLEASE NOTE THE EFFECTIVE DATE, as no further notification will be sent by this office.

FINDINGS AND CONDITIONS OF APPROVAL – COUNTY FILE CDLP22-02008, IAN LILLEY ON BEHALF OF DISH WIRELESS (APPLICANT) – COMMON AREA TRACT 6432 (OWNER) AS APPROVED BY THE ZONING ADMINISTRATOR ON NOVEMBER 21, 2022

FINDINGS

A. Growth Management Performance Standards

1. Traffic. The wireless telecommunications facility is unmanned and does not require regular staff for daily operation. Therefore, the project will not create 100 or more peak-hour trips, and the preparation of a traffic pursuant to Measure C 1998 requirements is not required.
2. Water. The wireless telecommunications facility is unmanned and has no potential for increasing the water demand at the project site. Additionally, no landscaping is required as this is a stealth facility. Therefore, the project will not increase the demand for water at the parcel in a manner that requires the construction of new or expanded water infrastructure.
3. Sanitary Sewer. The wireless telecommunications facility is an unmanned improvement that does not produce waste or other by-products as a result of its daily operation or use. Therefore, the project will not create an increased demand for sanitary sewer services at the project site.
4. Fire Protection. No increase in demand for fire protection services is expected, as the wireless facility will not increase occupancy capacity at the project site. The San Ramon Valley Fire Protection District reviewed the project and had no comments.
5. Public Protection. The wireless facility will not change the intensity of development on the property and will not result in a significant population increase in the County. Therefore, the proposed project will not affect the County's ability to meet the standard of 155 square feet of Sheriff facility per 1,000 members of the population.
6. Parks and Recreation. There is no element of the project that will create any population increase within the County. Therefore, the project will not impact the County's ability to maintain the standard of having three acres of neighborhood parks per 1,000 members of the population.

7. Flood Control and Drainage: The project site is not located in a flood-prone area as determined by the FEMA, the Federal Emergency Management Agency. The project is located on an existing PG&E tower and will not create any substantial new impervious surface as the conduit line will be underground and only the equipment cabinet, associated equipment, will be placed on the ground. Therefore, the project will not measurably increase run-off into nearby drainage facilities and will not create a hazard associated with any flood hazard condition. In addition, the project does not involve the removal, construction, or alteration of any dams or levees within the County.

B. Planned Unit District Development Plan Modification Findings

1. *That the proposed project, as conditioned, is consistent with the intent and purpose of the zoning district and is compatible with other uses in the vicinity, both inside and outside the district.*

Project Finding: This Blackhawk P-1 District allows for a variety of uses as established through the approval of Final Development Plan CDDP84-03003 on March 21, 1984. This Development Plan has resulted in the creation of a cohesive and harmonious collection of uses consistent with the Blackhawk area General Plan land use designations. New uses that are not among those uses initially established by CDDP84-03003 can be added through an approved modification to the Development Plan.

The proposed Dish Wireless telecommunications facility is located on a parcel that was designated as open space by CDDP84-03003, in part because it was part of the existing PG&E transmission power line corridor. CDDP84-03003 incorporated the existing utility use of the parcel, and allowed uses on the parcel have been modified to allow for wireless telecommunication facilities by subsequent Development Plans CDDP05-03033 and CDDP05-03059. The current modification to CDDP84-03003 to allow the addition of a Dish Wireless telecommunications facility is consistent with the intent and purpose of CDDP84-03003. However, the development rights of the parcel have been dedicated to Contra Costa County, as a condition of approval of Major Subdivision CDS84-06432. Thus, the Board of Supervisors must authorize development within the project site. Accordingly, pursuant to Condition of Approval (COA) #7, approval of this CDLP22-02008 application is contingent on Board of Supervisors authorization of the proposed project.

Despite the continuing presence of the PG&E transmission towers, the project site, along with Eagle Nest Park and the Blackhawk Sports Complex located to the north and the Blackhawk County Club Falls golf course located approximately 1,200 feet to the east, are open space amenities for the surrounding Blackhawk residential area. The proposed Dish Wireless facility will not alter the character of the project site, and therefore, will be compatible with other land uses in the Blackhawk P-1 District. Furthermore, the proposed facility does not change the character of Blackhawk, which remains compatible with the adjacent communities of Diablo, Danville, and San Ramon to the west and south, as well as the adjoining agricultural and open space lands to the east and north.

C Land Use Permit Findings

1. *The proposed project shall not be detrimental to the health, safety, and general welfare of the County.*

Project Finding: The wireless telecommunications facility will not be detrimental to health, safety, and general welfare of the County. The Federal Communications Commission (FCC) has adopted standards for public exposure, as well as occupational exposure to electro-magnetic fields (EMF). Compliance with these standards is considered to be evidence that the project does not present health and safety risks. The Conditions of Approval include project compliance with current FCC/EMF standards. Further, the Conditions include implementation of the compliance requirements of the *Radio Frequency – Electromagnetic Energy (RF-EME) Jurisdictional Report* prepared by EBI Consulting, received on April 15, 2022. These conditions will ensure that electro-magnetic field strength at ground level falls within the FCC limit for public exposure.

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

Project Finding: The granting of a land use permit to allow a new wireless telecommunications facility on an existing PG&E tower will not adversely affect the orderly development of property within the County. The wireless services provided at this site benefit a wide range of the County's population (e.g., daily commuters, local employees and residents, and 911 service providers), and therefore, the wireless facility is a beneficial use at this location. Additionally, two other wireless telecommunications facilities have been approved and located on the PG&E tower.

As conditioned, the project is consistent with applicable policies and regulations of the County's Wireless Telecommunications Facilities Ordinance.

3. *The proposed project shall not adversely affect the preservation of property values and the protection of the tax base within the County.*

Project Finding: The project as conditioned will not adversely affect the preservation of property values and the protection of the tax base within the County. The project will be located on an existing PG&E transmission tower and within a 116 square-foot lease area at the base of the tower, which reduces the amount of land used. The project will not restrict use of the property or surrounding properties from uses consistent with this Blackhawk P-1 District. By utilizing the existing PG&E tower, construction impacts will be minimized. According to County records, no complaints have been received regarding any nuisances on this parcel related to existing wireless telecommunication facilities.

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

Project Finding: The project as conditioned will not adversely affect the policies and goals set by the General Plan. The project will use a small percentage of the overall acreage of the subject parcel and will not affect ongoing open space use of the parcel as allowed by the PR General Plan land use designation. Additionally, the project site includes two existing wireless telecommunications facilities that have been approved by the County. Thus, due to the historical and ongoing use of the parcel for wireless telecommunications, the proposed project will be consistent with the goals set by the PR land use designation.

The project site is not located on a scenic ridgeway as indicated in Figure 9-1 of the Open Space Element of the General Plan and is not located near a scenic route as indicated in Figure 5-4 of the Transportation and Circulation Element of the General Plan. The project will not increase the height of the PG&E tower, nor will it add an extensive amount of equipment on the base. The photo simulations provided by the applicant for the project confirm that the addition of the Dish Wireless facility will not substantially change the overall appearance of the parcel and will be almost undisguisable due to the presence of existing equipment of other wireless carriers. Therefore, the proposed project will not conflict with goals or policies listed in the Open Space Element or in the Transportation and Circulation Element.

The noise element Policy 11-1 requires new projects to meet acceptable exterior noise level standards as established in the Noise and Land Use Compatibility guidelines contained in Figure 11-6. As stated in a noise review letter submitted on July 28, 2022 that was prepared by MD Acoustics, LLC / EBI Consulting, Inc., pursuant to Figure 11-6, the maximum noise level for residential areas standard of 60 dBA CNEL. The proposed project does not have any generators or equipment that will produce un-ordinary amounts of noise. Additionally, the noise review letter stated that "all equipment for the proposed project will increase make no more noise than what is already on site." Based on this letter, it is very unlikely that the proposed project will increase the noise levels greater than the 60 dBA CNEL threshold for residences adjacent to the project site. However, the applicant has not provided the noise study that was the basis for the MD Acoustics / EBI Consulting letter, and therefore, the letter is conclusory and does not, by itself, substantiate the findings. Thus, exterior noise requirements are included in COA #24 that require the applicant to submit evidence for review and approval of the Department of Conservation and Development, Community Development Division, confirming that the wireless telecommunications facility meets the 60 dBA CNEL exterior noise standard at residences adjacent to the facility.

5. *The proposed project shall not create a nuisance and/or enforcement problem within the neighborhood or community.*

Project Finding: The project as conditioned will not create a nuisance and/or enforcement problem within the neighborhood or community. The facility will remain unmanned and there has been no evidence to suggest that the existing wireless telecommunications facilities has been a nuisance or enforcement problem within the area. The applicant has provided a noise review letter and a radio frequency report that state that the project will not create loud noise or subject the community to extensive levels of radio frequency. The conditions of approval include requirements to preclude loud noise and radio frequency emissions levels that exceed applicable FCC standards. The conditions of approval also require that the project site be maintained in an orderly manner and that all facilities be removed on cessation of the use. Furthermore, the applicant will be required to submit a condition of approval compliance review application every 5 years for the review and approval of County staff, to ensure on-going compliance.

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

Project Finding: The project as conditioned, is consistent with the provisions of the County's Wireless Telecommunications Facilities Ordinance and applicable regulations of the County Code and General Plan. In addition the intent of the project is to meet public demand for wireless telecommunication service and the improved network will provide a valuable service to those who live, travel, and do business from home in the local area, and will give people the ability to call for emergency services in the event of an accident. Moreover, the subject parcel is located within a Blackhawk P-1 District that was established to allow residential uses along with open space amenities, while maintaining the PG&E transmission power line corridor. Past modifications of the Final Development Plan CDDP84-03003 for this Blackhawk neighborhood have allowed wireless telecommunications facilities to be located on a PG&E transmission tower without encouraging marginal development within this Blackhawk neighborhood. The current proposed modification of CDDP84-03003 will allow another wireless telecommunication facility to be located on the PG&E tower, again without adversely affecting the neighborhood.

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

Project Finding: The project site includes a Metro PCS wireless telecommunications facility under CDDP05-03022 and an AT&T (formerly Cingular Wireless) wireless telecommunications facility under CDDP05-03059. Both facilities are located on an existing PG&E transmission tower. The proposed Dish Wireless facility will augment available telecommunications services. Also, placement of equipment on the PG&E transmission tower and at the base of the tower allows Dish Wireless to minimize construction impacts. Lastly, the project parcel's development rights have been dedicated to Contra Costa County. In the Grant Deed, telecommunication uses are an allowed use within the development rights. Therefore, the proposed project will not conflict with the existing Grant Deed for the parcel. The wireless facility is consistent with the provisions of the County's Wireless Telecommunications Facilities Ordinance and applicable regulations of the P-1 District.

D. Tree Permit Findings:

1. Required Factors for Granting Permit. The Zoning Administrator is satisfied that the following factors as provided by County Code Section 816-6.8010 for granting a tree permit have been satisfied as follows:

Factor (2)(G): Reasonable Development of the property will require the alteration or removal of the tree and this development could not be reasonably accommodated on another area of the lot.

Project Finding: The parcel is vacant except for two PG&E transmission towers. The proposed project will locate the Dish Wireless telecommunications facility on the existing western PG&E transmission tower and will run a new underground conduit line from the tower to the east, where it will connect with an existing PG&E vault on the east side of Eagle Nest Place for power and to an existing TELCO pull box in the same location. Installing the conduit line will involve construction within the drip lines of three (3) code-protected trees. The affected trees are shown on the Arborist Report & Tree Protection Plan (Davey Resource Group, received October 7, 2022), and include Tree #5 (15" diameter London Plane) and Tree #6 (15" diameter London Plane) on the project site, and Tree #12 (16" diameter London Plane) on the east side of Eagle Nest Place within a Blackhawk private access and utilities parcel.

Planning the conduit route to be in the proposed location allows Dish Wireless to connect to these existing facilities, rather than having to do more construction to create new utility hookups or follow a circuitous route with substantially more excavation in order to reach the TELCO pull box and PG&E power vault. The proposed conduit route minimizes impacts on existing trees as no trees need to be removed. The Arborist Report concludes that the proposed conduit route will not necessitate the removal of any trees. Therefore, the proposed tree permit is consistent with Chapter 816-6 – Tree Protection and Preservation of the Contra Costa County Code.

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

1. *The application is complete.*

Project Finding: The application for a land use permit must comply with the submittal requirements in Section 88024.604 of the Wireless Telecommunications Facilities Ordinance. County staff deemed this application complete upon receipt of the revised Arborist Report received on October 7, 2022.

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

Project Finding: The proposed design of the wireless telecommunications facility must comply with the applicable design requirements in Section 88-24.408 of the Wireless Telecommunications Facilities Ordinance. Some requirements include aesthetic designs to allow the facility to minimize its visual and aesthetic impacts on the surrounding area. Based on the project scope and the photo simulations provided by the applicant, the proposed design will have a minimal visual intrusiveness as the antennas will be placed on an existing PG&E transmission tower that already has wireless telecommunications antennas mounted on it. Additionally, the wireless telecommunications facility has conditions of approval that require a non-reflective finish on equipment and that the equipment must be painted and textured to match or blend with the predominate background.

The applicant submitted a noise review letter prepared by MD Acoustics, LLC / EBI Consulting, Inc., which stated that the project complies with the Noise Element of the Country Costa General Plan. The noise review letter stated that the equipment for the proposed project will not be a significant noise producer and that the new equipment will either make no noise or will make no more noise than what is already on project site. However, the applicant has not provided the noise study that was the basis for the MD Acoustics / EBI Consulting noise review letter, and therefore, the letter is conclusory and does not, by itself, substantiate the findings. Thus, exterior noise requirements are included in COA #24 that require the applicant to submit evidence for review and approval of the Department of Conservation and Development, Community Development Division, confirming that the wireless telecommunications facility meets the 60 dBA CNEL exterior noise standard at residences adjacent to the facility.

The applicant also submitted a *Radio Frequency – Electromagnetic Energy (RF-EME) Jurisdictional Report*. This report concludes that "there are no modeled areas on any accessible ground-level walking/working surface related to the proposed antennas that exceed the FCC's occupational or general public exposure limits at this site." To ensure compliance within accessible areas near the antennas, the report is requiring the installation of a NOC Information sign and a Warning sign installed 10 feet above the base of the tower, and barriers to block access to areas in front of the antennas. The compliance requirements are included in COA #29. Further, as stated in the Condition, signage will be required to be installed before a final building inspection can be scheduled. Implementation of the Condition will be expected to prevent undue exposure of persons to hazardous levels of RF energy and will maintain compliance with FCC RF exposure limits.

Based upon the revised plans, *Radio Frequency – Electromagnetic Energy (RF-EME) Jurisdictional Report*, noise review letter, photo simulations, and additional documentation submitted with the application, staff has determined that the proposed project meets the requirements of this chapter.

3. *The facility or substantial change has been reviewed pursuant to all appropriate environmental laws and regulations, including the California Environmental Quality Act (CEQA).*

Project Finding: Categorical Exemption - CEQA Guidelines Section 15303(d), Existing Structures, Class 3 exemption which applies to "limited numbers of new, small facilities or structures" such as "utility extensions."

The proposed project will locate a new Dish Wireless facility on an existing PG&E tower and will locate the ground-based equipment at the base of the tower. The project involves limited construction of a new facility that will require minimum infrastructure improvements as the PG&E tower and nearby TELCO pull box and PG&E power vault are already existing. The proposed project will not disturb ecological areas of protected wildlife and plant species as the parcel is not located in an area of significant ecological resource areas as listed in the Conservation Element Figure 8-1 in the Contra Costa County General Plan. Additionally, although the project will involve construction within the drip lines of three code-protected trees, no trees will be removed. Section 15303(d) applies to this project because the project is a utility extension of reasonable length.

4. *If an environmental impact report or mitigated negative declaration was prepared for the facility or substantial change, the facility or substantial change will incorporate all mitigation measures identified in either of those documents. Each mitigation measure will be included as a term of the permit.*

Project Finding: The project does not require preparation of either an environmental impact report or a mitigated negative declaration. The project is categorically exempt under CEQA Guidelines Section 15303(d) – which applies to "limited numbers of new, small facilities or structures" such as "utility extensions." The proposed project will locate a new Dish Wireless telecommunications facility on an existing PG&E transmission tower and will locate the ground-based equipment at the base of the tower. The project minimum infrastructure improvements as the PG&E tower, TELCO pull box and PG&E power vault are

existing. The proposed project will not disturb ecological areas of protected wildlife and plant species as the parcel is not located in an area of significant ecological resource areas as listed in the Conservation Element Figure 8-1 in the Contra Costa County General Plan.

5. *If the Contra Costa County Airport Land Use Commission reviewed and commented on the application, the facility or substantial change will incorporate each mitigation measure recommended by the commission and deemed by the Zoning Administrator to be necessary to protect public safety, health, and welfare. Each mitigation measure will be included as a term of the permit.*

Project Finding: The project site is not within or proximate to any zones identified by the Airport Land Use Commission as an area of planning interest nor is the project located within two miles of an airport or private airstrip. Consequently, the CDLP22-02008 application is not subject to review by the Airport Land Use Commission.

6. *The applicant has provided the financial assurance required by this chapter.*

Project Finding: The applicant provided the estimated cost for the removal of the facility in the event that the use is abandoned, or the land use permit expires, or is revoked, or otherwise terminated. Submittal of a surety bond (based on the provided estimate) is required by COA # 13.

7. *The applicant has paid all required fees and costs, including but not limited to the application fee, any required environmental review fee, and any required peer review fee.*

Project Finding: The applicant has paid the initial deposit of \$5,500.00 for this Land Use Permit / Development Plan combination application, and time and material costs have not exceeded the initial deposit. Department of Conservation and Development, Community Development Division staff will ensure that fees have been paid as part of the initial COA compliance review required by COA #9. Pursuant to COA #8, the applicant is responsible for any additional fees that exceed the initial deposit.

F. Environmental Findings

The installation of the new Dish Wireless telecommunications facility on the existing

PG&E transmission tower and ground-based equipment at the base of the tower is categorically exempt from CEQA pursuant to CEQA Guidelines Section 15303(d), Existing Structures, Class 3 exemption, which applies to "limited numbers of new, small facilities or structures" such as "utility extensions." The project involves installation of a facility that will require minimum infrastructure improvements as the PG&E tower is already existing. The proposed project will not disturb ecological areas of protected wildlife and plant species as the parcel is not located in an area of significant ecological resource areas as listed in the Conservation Element Figure 8-1 in the Contra Costa County General Plan.

CONDITIONS OF APPROVAL FOR COUNTY FILE CDLP22-02008

Project Approval

1. A Land Use Permit to allow the construction and operation of a new Dish Wireless telecommunications facility is **APPROVED**, subject to the conditions below.

The project includes the following equipment and scope of work on the tower:

- Install three (3) panel antennas (one per sector)
- Install six (6) RRUs (two per sector)
- Install one surge suppression device
- Install one hybrid cable
- Install twenty-four (24) jumpers
- Install three (3) RET Cables

The project includes the following equipment and scope of work at the base of the tower within a proposed Dish Wireless 116 square foot lease area that will be within an existing 6' – 8" CMU enclosure:

- Install one cable tray / ice bridge
- Install one utility H-frame
- Install one BBU in cabinet
- Install one equipment cabinet
- Install one power conduit
- Install one TELCO conduit

- Install one NEMA 3 TELCO-fiber box
 - Install one GPS Antenna
 - Install Camlock GEN LUG Intersect
2. A Development Plan to modify Final Development Plan CDDP84-3003 to allow the construction and operation of a new Dish Wireless telecommunications facility on the subject parcel is **APPROVED**, subject to the conditions below.
3. A Tree Permit for construction work within the drip lines of three (3) code-protected trees is **APPROVED**, subject to the conditions below. The affected trees, as shown on the Arborist Report & Tree Protection Plan (revised) (Davey Resource Group, received October 7, 2022), include Tree #5 (15" diameter London Plane) and Tree #6 (15" diameter London Plane) on the project site, and Tree #12 (16" diameter London Plane) on the east side of Eagle Nest Place within a Blackhawk private access and utilities parcel.
4. The Land Use Permit, Development Plan, and Tree Permit Approvals described above are based on generally based on:
- Project application accepted by the Department of Conservation and Development, Community Development Division (CDD), on April 15, 2022.
 - Noise review letter prepared by MD Acoustics, LLC / EBI Consulting, Inc., received on July 28, 2022.
 - *Radio Frequency – Electromagnetic Energy (RF-EME) Jurisdictional Report*, prepared by EBI Consulting, received on April 15, 2022.
 - Revised plans, received on July 27, 2022.
 - Arborist Report & Tree Protection Plan (revised), prepared by Davey Resource Group, Inc., received on October 7, 2022.
5. Tree removal shall only occur with an approved grading or building permit.

Building Permit

6. The applicant is advised that this approval does not constitute a building permit. Please contact the Contra Costa County Building Department at 925-655-2700 for more information on how to apply.

Board of Supervisors Approval

7. **Prior to submitting for a building or grading permit**, whichever is first, the applicant shall obtain authorization from the Contra Costa County Board of Supervisors to allow installation of the proposed Dish Wireless telecommunications equipment on parcel APN 203-760-026, where development rights have been grant deeded to the County pursuant to Subdivision 6432. Approvals granted by the Zoning Administrator are contingent upon this approval of the Board of Supervisors, which must be obtained prior to the execution of this CDLP22-02008 Land Use Permit / Development Plan.

Application Costs

8. The Land Use Permit / Development Plan application is subject to an initial application deposit of \$5,500.00, which was paid with the application submittal, plus time, and material costs if the application review expenses exceed 100% of the initial deposit. Any additional fee due must be paid prior to an application for a grading or building permit, or 60 days of the effective date of this permit, whichever occurs first. The fees include costs through permit issuance and final file preparation. Pursuant to Contra Costa County Board of Supervisors Resolution Number 2019/553, where a fee payment is over 60 days past due, the Department of Conservation and Development may seek a court judgement against the applicant and will charge interest at a rate of ten percent (10%) from the date of judgement. The applicant may obtain current costs by contacting the project planner. If you owe additional fees, a bill will be sent to you shortly after permit issuance in the event that additional fees are due.

Initial Compliance Report

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

Permit Duration and Permit Review

10. This Land Use Permit is granted for a period of ten years and shall be administratively reviewed at five-year intervals. **The applicant shall initiate the first review by submitting a letter documenting the current status of the project to the Zoning Administrator no later than five years following the effective date of the project approval.** This review will be for the purpose of ensuring continued compliance with each condition of approval. Non-compliance with the approved conditions and/or the ordinance code provisions after written notice thereof shall be cause for revocations proceedings.

For the review of the existing commercial wireless communications facilities, the submittal shall include photo documentation of existing conditions and equipment for comparison with applicable conditions of approval.

The applicant is encouraged, at the time of each administrative review, to review the design of the telecommunications facility and make voluntary upgrades to the facility for the purpose of improving safety and lessening visual obtrusiveness.

The deposit for review of the 5-Year Compliance Report is \$1,500.00; the actual fee shall be time and materials.

Responsible Party

11. The permittee (Wireless Facilities Operator) is responsible for keeping the CDD informed of who is responsible for maintenance of compliance with this permit and how they may be contracted (mailing and email addresses as well as telephone number) at all times.

Prior to submitting for a building permit, the Permittee shall provide the name of the party (carrier) responsible for permit compliance and their contact information.

Should the responsible party subsequently change (e.g., facility is acquired by a new carrier), within 30 days of the change, the Permittee shall submit a letter to the CDD with the name of the new party who has been assigned permit compliance responsibility and their contact information. Failure to satisfy this condition may result in the commencement of procedures to revoke the permit.

Removal of Facility/Site Restoration

12. All structures and equipment associated with the wireless telecommunications facility shall be removed within 60 days of the discontinuance of the use, and the site shall be restored by the permittee to its original pre-development condition. In addition, the permittee shall provide the CDD with a notice of intent to vacate the site a minimum of 30 days prior to vacation.

Security to Provide for Removal of Equipment

13. **Within 30 days of the effective date of this permit or prior to CDD stamp approval of plans for a building permit, whichever is first,** the applicant or permittee shall provide bond, cash, or other surety, to the satisfaction of the Zoning Administrator, for the removal of the facility in the event that the use is abandoned, or the land use permit expires, or is revoked, or otherwise terminated. If the permittee does not remove any obsolete or unused facilities as described above, the financial guarantee shall be used by the County to remove any obsolete or unused facilities and to return the site to its pre-development condition.

The financial assurance must be submitted before a building permit will be issued. A financial assurance must be irrevocable and not cancelable, except by the County.

Each form of financial assurance must remain valid for the duration of the permit and for six months following termination, cancellation, or revocation of the permit.

Any unused financial guarantee shall be returned to the applicant upon termination of the use and removal of the facility or transfer of the lease accompanied by a financial guarantee by the new lessee or owner. The amount of the security shall be based on a cost estimate provided by a contractor or other qualified professional to the satisfaction of the Zoning Administrator.

General Provisions

14. Any change from the approved project plans and any proposed modification of the existing wireless telecommunications facility shall require review and approval by the CDD and may require the filing of an application for a Wireless Minor Alteration Permit or a new Land Use Permit.

15. A minor alteration to this land use permit (or collocation if CEQA environmental review of collocation for the land use permit has been completed) may be issued if the proposed modification(s) are not considered a substantial modification as stated under federal law (Title 47, Section 1.40001).

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

- 10 years: or,
- The duration, including any renewal period, of the permit that authorizes the existing facility on which the new facility will be collocated or on which the minor alteration will occur.

16. The conditions contained herein shall be accepted by the applicant, their agents, lessees, survivors, or successors for continuing obligation.
17. At all times the wireless telecommunications facility shall comply with applicable rules, regulations and standards of the FCC and other agencies having jurisdiction, and any other applicable Federal, State, and County laws and regulations.
18. Facilities shall be operated in such a manner so as not to contribute to ambient RF/EMF emissions in excess of then current FCC adopted RF/EMF emission standards.

Within 15 days of the new equipment being installed, Dish Wireless or applicable wireless carrier shall take RF power density measurements with the antennas operating to verify to ensure that the FCC public exposure level is not exceeded in any public accessible area. This measurement shall be taken again if any equipment is added. Verification of these measurements shall be submitted to CDD for review to confirm that the requirements of the Ordinance Code and this permit have been met. The recommendations within the approved RF Report shall be noted on the plans for a building permit and **are required to be implemented on site prior to final building inspection.**

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

21. The equipment shelter and chain link fence enclosure shall be kept locked and external accessory equipment secured, except when personnel are present, in order to restrict access to the equipment.
22. No lights or beacons may be installed on any antenna or antenna support structure, unless lights or beacons are required by a state or federal agency having jurisdiction over the antenna or antenna support structure, such as the California Public Utilities Commission, Federal Communications Commission, or Federal Aviation Administration, or if lights or beacons are recommended by the County Airport Land Use Commission.
23. A facility, all fences and walls surrounding a facility, and all other fixtures and improvements on a facility site must be repainted as often as necessary to prevent fading, chipping, or weathering of paint.

Exterior Noise

24. **Within 30 days of issuance of the final building permit, and at each subsequent mandatory administrative review of the facility,** the applicant shall submit evidence for review and approval of CDD staff confirming that the wireless telecommunications facility meets the acceptable exterior noise level standard of 60 dBA CNEL at residences adjacent to the project site, as established in the Noise and Land Use Compatibility Guidelines contained in the Noise Element of the County General Plan. The evidence shall be noise monitoring data recorded on the parcel and at the nearest adjacent residences. In the event the acceptable exterior noise level standard is exceeded, the applicant shall cease operation of the facility until correction measures to reduce noise levels have been implemented. The applicant shall then submit noise monitoring data recorded on the parcel and at the nearest adjacent residences to validate the corrected noise levels. Any submitted noise report shall be peer reviewed by a County noise expert.

Color Palette

25. All equipment shall be required to have a non-reflective finish and paints with a reflectivity less than 55 percent as required, except as otherwise required by the terms of the FCC Antenna Structure Registration applicable to the facility.

Frequency Interference

26. The wireless telecommunications facility shall not be operated at a frequency that will interfere with an emergency communication system or 911 system, including any regional emergency communication system.

External Appearance

27. The external appearance of the wireless telecommunications facility shall be maintained for the life of the facility. The monopole and external accessory equipment must be repainted as often as necessary to prevent fading, chipping, or weathering of paint. The external non-reflective earth-tone appearance of the equipment shelter shall be continuously maintained. The chain link fence shall be continuously maintained. Paint materials shall have a non-reflective finish (less than 55 percent), except as otherwise required by the terms of the FCC Antenna Structure Registration applicable to the facility.

In the event that a minor alteration to this facility is proposed, color photographs showing the as-built condition shall be submitted for review of CDD staff to verify compliance with this Condition of Approval prior to final inspection.

28. All equipment will be required have a non-reflective finish and paints with a reflectivity less than 55 percent are required, except as otherwise required by the terms of the FCC Antenna Structure Registration applicable to the facility.

RF Report – Recommendations for Compliance

29. The compliance recommendations (sign installation, restricted antenna access) of *Radio Frequency – Electromagnetic Energy (RF-EME) Jurisdictional Report* prepared by EBI Consulting, received on April 15, 2022, are required to be implemented. **Prior to final building inspection**, color photographs showing the installed signs shall be submitted to the CDD for review and approval.

Trees Intended for Preservation

30. Security for Possible Damage to Trees Intended for Preservation: Pursuant to the requirements of Section 816-6.1204 of the Tree Protection and Preservation Ordinance, to address the possibility that construction activity damages trees that are to be preserved, as identified in COA #3, the applicant shall provide the County with a security to allow for replacement of trees that are significantly damaged or destroyed by construction activity. **Prior to work within the dripline or CDD**

stamp-approval of plans for issuance of building permits (e.g., demolition, grading, or building), whichever occurs first, the applicant shall provide a cash or surety bond that is acceptable to CDD.

- a. Amount of Security: The security shall be an amount sufficient to cover:
 - i. Preparation of a landscaping and irrigation plan by a licensed landscape architect, arborist, or landscape contractor for the review and approval of the CDD. The plan shall provide for planting and irrigation of a minimum of one tree of a drought-tolerant species, minimum 24-inch box size, for each tree that is significantly damaged or destroyed up to a total of three (3) trees. The plan shall comply with the Contra Costa County's Model Water Efficient Landscape Ordinance, and verification of such shall accompany the plan.
 - ii. The estimated materials and labor costs to complete the improvements shown on the approved planting and irrigation plan (accounting for supply, delivery, and installation of trees and irrigation).
 - iii. The bond shall include the amount of the approved cost estimate, plus a 20% inflation surcharge.
- b. Initial Deposit for Processing of Security: The County ordinance requires that the applicant pay fees to cover all staff time and material costs for processing the required security. At the time of submittal of the security, the applicant shall pay an initial deposit of \$200.00.
- c. Duration of Security: The security shall be retained by the County for a minimum of 12 months and up to 24 months beyond the completion of the tree alteration improvements (i.e., date of final inspection). After the final inspection has been completed, the applicant shall submit a letter to the CDD, composed by a consulting arborist, describing any construction impacts to trees intended for preservation. As a prerequisite of releasing the bond between 12- and 24-months, the applicant shall arrange for the consulting arborist to inspect the trees and to prepare a report on the tree's health. The report shall be submitted to the CDD for review, and it shall include any additional measures necessary for preserving the health of the trees.

Tree Protection Measures

The applicant shall implement the following tree protection measures, including measures from the Arborist Report, for the protection of trees during grading and construction. **The tree protection measures shall be included on construction drawings for grading and building permits.**

31. The applicant shall retain a Certified Arborist who shall determine the location of a temporary Tree Protection Zone (TPZ) in consideration of the critical root zones and structural root zones (CRZ and SRZ) of the Arborist Report. Prior to construction or grading, the contractor shall install 6-foot chain-link fencing to demark the TPZ around each tree to be preserved. If the fencing location is too restrictive for construction access, the contractor shall discuss adjustment of the fencing with the Certified Arborist.
32. The Certified Arborist shall supervise any construction within 6 ft of the tree canopies.
33. Any excavation or trenching within the CRZ must be performed with hand tools and supervised by the Certified Arborist to monitor and document any tree impacts.
34. Any significant roots (roots 2 inches in diameter or larger) encountered shall be cut cleanly and photo documented. The Certified Arborist's recommendations shall be implemented for treatment to increase nutrient accessibility and compensate for root loss if significant roots are encountered and must be cut.
35. No material shall be stored, nor concrete basins washed, or any chemical materials or paint stored within the TPZ, and no construction chemicals or paint should be released into adjacent landscaped areas.
36. If any irrigation system is damaged by the excavation, it shall be inspected and repaired by a qualified irrigation technician.

Arborist Expenses

37. The expenses associated with all required Certified Arborist services shall be borne by the applicant.

Additional Tree Removal

38. If any impacts to trees occur in addition to those described herein, a new Tree Permit may be required. The fee for this application is a deposit of \$750.00 that is subject to time and material costs. Should staff costs exceed the deposit, additional fees will be required.

Cultural Resources

The following conditions of approval shall be implemented during project construction; **these conditions shall be included on all construction plans.**

39. A program of on-site education to instruct all construction personnel in the identification of prehistoric and historic deposits shall be conducted by a certified archaeologist prior to the start of any grading or construction activities.
40. If archaeological materials are uncovered during grading, trenching, or other onsite excavation, all work within 30 yards of these materials shall be stopped until a professional archaeologist who is certified by the Society for California Archaeology (SCA) and/or the Society of Professional Archaeology (SOPA), and the Native American tribe that has requested consultation and/or demonstrated interest in the project site, have had an opportunity to evaluate the significance of the find and suggest appropriate mitigation(s) if deemed necessary.
41. Should human remains be uncovered during grading, trenching, or other on-site excavation(s), earthwork within 30 yards of these materials shall be stopped until the County coroner has had an opportunity to evaluate the significance of the human remains and determine the proper treatment and disposition of the remains. Pursuant to California Health and Safety Code Section 7050.5, if the coroner determines the remains may be those of a Native American, the coroner is responsible for contacting the Native American Heritage Commission (NAHC) by telephone within 24 hours. Pursuant to California Public Resources Code Section 5097.98, the NAHC will then determine a Most Likely Descendant (MLD) tribe and contact them. The MLD tribe has 48 hours from the time they are given access to the site to make recommendations to the property owner for treatment and disposition of the ancestor's remains. The property owner shall follow the requirements of Public Resources Code Section 5097.98 for the remains.

Construction Restrictions

All construction activity shall comply with the following restrictions, which shall be included on the construction drawings. **These measures shall be included on construction drawings for grading and building permits.**

42. The applicant shall make a good faith effort to minimize project-related disruptions to adjacent properties, and to uses on the site. This shall be communicated to all project-related contractors.
43. The applicant shall require their contractors and subcontractors to fit all internal combustion engines with mufflers which are in good condition and shall locate stationary noise-generating equipment such as air compressors as far away from existing residences as possible.
44. The site shall be maintained in an orderly fashion. Following the cessation of construction activity, all construction debris shall be removed from the site.
45. A publicly visible sign shall be posted on the property with the telephone number and person to contact regarding construction-related complaints. This person shall respond and take corrective action within 24 hours. The CDD phone number shall also be visible to ensure compliance with applicable regulations.
46. Unless specifically approved otherwise via prior authorization from the Zoning Administrator, all construction activities shall be limited to the hours of 8:00 A.M. to 5:00 P.M., Monday through Friday, and are prohibited on State and Federal holidays on the calendar dates that these holidays are observed by the State or Federal government as listed below:
 - New Year's Day (State and Federal)
 - Birthday of Martin Luther King, Jr. (State and Federal)
 - Washington's Birthday (Federal)
 - Lincoln's Birthday (State)
 - President's Day (State)
 - Cesar Chavez Day (State)
 - Memorial Day (State and Federal)
 - Juneteenth National Independence Holiday (Federal)
 - Independence Day (State and Federal)

Labor Day (State and Federal)
Columbus Day (Federal)
Veterans Day (State and Federal)
Thanksgiving Day (State and Federal)
Day after Thanksgiving (State)
Christmas Day (State and Federal)

For specific details on the actual date the State and Federal holidays occur, please visit the following websites:

Federal Holidays: [Federal Holidays \(opm.gov\)](https://www.opm.gov)

California Holidays: <https://www.calhr.ca.gov/employees/pages/state-holidays.aspx>

47. Large trucks and heavy equipment shall be subject to the same restrictions that are imposed on construction activities, except that the hours are limited to 9:00 AM to 4:00 PM.

Indemnity

48. To the fullest extent permitted by law, the applicant and/or permittee shall defend, indemnify, and hold harmless the county, its officers, employees, contractors, consultants, and volunteers from and against: (1) All claims, losses, damages (including injury or death), liabilities, suits, costs, and expenses, including reasonable attorney's fees, in any way connected to or arising from the design, construction, installation, use, maintenance, or operation of the facility; and (2) all claims, actions, or proceedings to attack, set aside, void, or annul any decision to approve the application and issue a land use permit or renewed permit to the applicant, or any other discretionary action of the County related to the issuance of that permit.

ADVISORY NOTES

PLEASE NOTE ADVISORY NOTES ARE ATTACHED TO THE CONDITIONS OF APPROVAL, BUT ARE NOT A PART OF THE CONDITIONS OF APPROVAL. ADVISORY NOTES ARE PROVIDED FOR THE PURPOSE OF INFORMING THE APPLICANT OF ADDITIONAL ORDINANCE AND OTHER LEGAL REQUIREMENTS THAT MUST BE MET IN ORDER TO PROCEED WITH DEVELOPMENT.

A. NOTICE OF 90-DAY OPPORTUNITY TO PROTEST FEES, DEDICATIONS, RESERVATIONS, OR OTHER EXACTIONS PERTAINING TO THE APPROVAL OF THIS PERMIT.

This notice is intended to advise the applicant that pursuant to Government Code Section 66000, et. seq, the applicant has the opportunity to protest fees, dedications, reservations, and/or exactions required as part of this project approval. The opportunity to protest is limited to a ninety-day (90) period after the project is approved.

The 90-day period in which you may protest the amount of any fee or imposition of any dedication, reservation, or other exaction required by this approved permit, begins on the date this permit was approved. To be valid, a protest must be in writing pursuant to Government Code Section 66020 and delivered to the CDD within 90-days of the approval date of this permit.

B. Prior to applying for a building permit, the applicant may wish to contact the following agencies to determine if additional requirements and/or additional permits are required as part of the proposed project:

- County Building Inspection Division
- County Health Services Department, Environmental Health Division
- East Bay Municipal District
- Central Contra Costa Sanitary District
- San Ramon Valley Fire Protection District
- Federal Communications Commission Division