



**Contra
Costa
County**

To: Board of Supervisors

From: John Kopchik, Director, Conservation & Development Department

Date: April 9, 2019

Subject: Tolling Agreement with CCATT LLC ("Crown")

RECOMMENDATION(S):

APPROVE and AUTHORIZE the Conservation and Development Director, or designee, to execute, on behalf of the County, a tolling agreement with CCATT, LCC, to extend, to April 21, 2019, the time to act on a conditional land use permit application for a facility located at 4068 San Pablo Dam Road, in the El Sobrante area of the County.

AUTHORIZE the Director of Conservation and Development, or designee, to execute extensions of the tolling agreement.

FISCAL IMPACT:

The applicant is responsible for all related costs.

BACKGROUND:

CCATT LLC ("Crown") has filed an application for a land use permit located at 4068 San Pablo Dam Road, in the El Sobrante area (LP18-2018). This application was filed on June 15, 2018.

Under a ruling of the Federal Communication ("FCC"), a wireless service provider whose

☒ APPROVE

☐ OTHER

☒ RECOMMENDATION OF CNTY

☐ RECOMMENDATION OF BOARD

ADMINISTRATOR

COMMITTEE

Action of Board On: **04/09/2019** ☒ APPROVED AS RECOMMENDED ☐ OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: John Gioia, District I Supervisor

Candace Andersen, District II
Supervisor

Diane Burgis, District III Supervisor

Karen Mitchoff, District IV
Supervisor

Federal D. Glover, District V
Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: April 9, 2019

David Twa, County Administrator and Clerk of the Board of Supervisors

By: Stephanie Mello, Deputy

Contact: Grant Farrington
(925) 674-7797

cc:

land use application has been pending for a period of 150 days, is authorized to seek judicial review within 30 days on the basis that a state or local permitting authority did not act on the application within a "reasonable

BACKGROUND: (CONT'D)

time". (In Re: Petition for Declaratory Ruling to Clarify Provisions of Section 332(c)(7)(B) to ensure Timely Siting Review, Etc., FCC 09-99 (FCC November 18, 2009) (the "2009 Ruling", 45). A more recent FCC ruling prescribes shorter periods for small wireless facilities. (In the Matter of Acceleration Broadband Deployment by Removing Barriers to Infrastructure Investment, FCC 18-33 (FCC September 27, 2018) (The "2018 Ruling"). The two FCC Rulings also allows the period for a local jurisdiction's review of an application to be extended by mutual consent of the applicant and the jurisdiction. (2009 Ruling, 49; 2018 Ruling 75-76).

The proposed tolling agreement would extend, through April 21, 2019, the time for the County Planning Commission to act on this application. The proposed tolling agreement would also prohibit Crown from seeking a court order before April 21, 2019, that would direct the County to act on the application. The proposed tolling agreement also would toll the time for Crown to file a lawsuit alleging a violation of the Permit Streamlining Act.

This Board Order also authorizes the Director of Conservation and Development, or designee, to execute extensions of the above time period if necessary.

CONSEQUENCE OF NEGATIVE ACTION:

If the tolling agreement is not approved, the FCC "shot clock" requirements would require the County to act on the application within the time prescribed by the FCC.

ATTACHMENTS

Tolling Agreement