



COUNTY OF NEVADA  
**COMMUNITY DEVELOPMENT AGENCY**  
**PLANNING DEPARTMENT**

950 MAIDU AVENUE, SUITE 170, NEVADA CITY, CA 95959-8617  
(530) 265-1222 FAX (530) 265-9851 <http://mynevadacounty.com>

Sean Powers  
Community Development Agency Director

Brian Foss  
Planning Director

November 30, 2017

**NOTICE OF CONDITIONAL APPROVAL**  
**CONDITIONAL USE PERMIT**

Sara King  
Shore 2 Shore Wireless  
Post Office Box 6043  
Folsom, CA 95763

File No: PLN17-0073; CUP17-0015; EIS17-  
0022  
APN: 34-090-03

At the special meeting of November 29, 2017, the Nevada County Zoning Administrator approved the above referenced Conditional Use Permit (PLN17-0073; CUP17-0015; EIS17-0022) for the AT&T Burning Bush Road project to allow the construction and operation of a new cell tower communication facility located at 19406 Burning Bush Road in Nevada City, subject to the following conditions of approval:

**A. PLANNING DEPARTMENT**

1. This Use Permit (U17-0015) authorizes the applicant to construct a 130-foot mono-pine communication tower along with nine (9) panel antennas and 18 remote radio head/units installed on the mono-pine, an 80" by 80" walk-in utility cabinet, 15kW emergency backup generator with 54-gallon diesel tank located within an acoustical cabinet, two manually operated outdoor light fixtures with cut-off shields and a six (6) foot high redwood fence to enclose the lease-site. Access to the project site for construction and equipment maintenance is provided from an existing private paved driveway that comes off of Burning Bush Road. Construction/Installation equipment and AT&T maintenance vehicles will use an existing graveled parking area adjacent to the project lease-site for parking. The project lease-site is 900-square feet and located within the northeastern corner of a 10.76-acre parcel, APN 34-090-03.

To support safe ingress and egress to the project site four (4) gravel turnouts will be installed. Two along Royal Plum Way and two along Burning Bush Road. Vegetation management to reduce fire fuels within five (5) feet on both sides of the right-of-way paved surface will also be conducted and maintained.

The PG&E will convey electrical power through a new underground conduit and line. The conduit will be installed via underground directional boring. All borings and surfacing areas will be placed away from existing oak trees in coordination with PG&E power run requirements. Electrical power will be brought to the lease-site from an

existing line at a joint pole location located approximately 1,500 feet south west of the lease-site.

The generator approved for this project is a Diesel 15 kW 48 VDC. A test cycle of the generator occurs once every week or two, between the hours of 8AM and noon, and may last up to 10-minutes. The Lmax (maximum noise level, time weighted, root mean square sound level) dBA level in the FR zoning district is 75dBA when the noise source occurs between the hours of 7AM and 7PM. The noise assessment states that based on equipment specification and distance (modeling), the backup generator at full capacity will produce 62.67 dBA at the nearest property line (30-feet to the north and 30-feet to the east) and 39.15 dB at the nearest neighbor residence, 450 feet away measured as a single noise event level (SNEL). A significant reduction in noise beyond the modeled level can be expected due to the surrounding absorbent materials (shrub and tree vegetation layers, undulating topography and the acoustical cabinet the generator operates within). Therefore, the test cycle, with a maximum dBA rating of 62.67, is an absolute worse-case noise level when evaluated against Nevada County's Lmax and Leq which both rely on time weighted means and averages. The periodic testing of the generator will occur within acceptable noise limits outlined in the Land Use Code. The Land Use and Development Code, Sec. L-II 4.1.7C.8., exempts construction activities and emergency services or functions from the provisions of the Noise Ordinance, therefore, the construction of the facility and the operation of the generator during electrical power outages is exempt.

The project is in compliance with Nevada County Land Use and Development Code co-location requirements, Sec. L-II 3.8.G; "Owners of all approved towers shall be required to agree to allow future co-location by other carriers, and to provide an efficient process for handling co-location requests." The proposed project design has reserved space within the 900-square foot project lease-site to allow up to two (2) additional carriers to co-locate and install similar size equipment and emergency generator within an acoustical cabinet.

2. Pursuant to the requirements of the Land Use and Development Code, the applicant is hereby notified that this project is not valid until the expiration of the ten (10) day appeal period from the date of the Zoning Administrator's final action on the project, December 11, 2017.
3. Construction pursuant to this permit approval must be completed and the use commenced thereon within three (3) years from the effective date of the approval of the Use Permit (December 11, 2020) (i.e. Final Project Action), unless an extension of time for reasonable cause is requested prior to the expiration date, and granted by the Zoning Administrator pursuant to Section 5.10 of the Nevada County Land Use and Development Code. If no extension is granted, the permit shall become null and void, as to the portion of the approved use not completed.
4. Within 15 days after project approval the applicant shall sign and file with the Nevada County Planning Department the attached Defense and Indemnity Agreement. No further

permits or approvals shall be issued for the project, unless and until the applicant has fully complied with this condition.

5. Prior to permit finalization, the applicant shall contact the Planning Department for a field inspection to verify all Conditions of Approval and ordinance requirements have been satisfied. Fees for such inspection shall be applicable on the project building permit.
6. Prior to issuance of building permits, improvement plans shall include a note that the communication tower and supporting equipment shall be finished and maintained in non-glare colors and finished consistent with the material samples provided and kept on file with the Planning Department that minimize their visibility to the greatest extent possible, including bark treatment, antenna socks and branches, and sand/pebble treatment of the equipment shelter. Equipment attached to the tower shall match the color of the tower. Equipment attached to the tower shall match the color of the tower.
7. To ensure noise standards are met now and in the future, as changes may be made due to additional carrier development or equipment replacement, this condition of approval also requires applicants to submit specification sheets and a letter from a Noise Specialist certifying that any proposed equipment, in conjunction with existing equipment, would fall within the County noise standards found within Nevada County LUDC Section L-II 4.1.7 under the Rural zoning district standards at the building permit review stage. Specifically,  
7 a.m. to 7 p.m. – 55 dB Leq and maximum 75 dB Lmax  
7 p.m. to 10 p.m. – 50 dB Leq and 65 dB Lmax  
10 p.m. to 7 a.m. – 40 dB Leq and 55 dB Lmax

Equipment testing of generators will only occur during weekdays and between the hours of 8:00 a.m. and noon.

8. This approval is for two fully shielded, downward facing light fixtures as shown in preliminary plans and in compliance with Nevada County Land Use & Development Code Section L-II 4.2.8. All outdoor light fixtures shall be located within the lease area. Fixtures shall be fully shielded and directed downward to prevent light trespass and to prevent the light source or lens from being visible from adjacent residential uses and roadways. Improvement plans shall depict the location, height and positioning of all light fixtures and shall provide a description of the type and style of lighting proposed. Fixtures shall have high efficiency lamps. High pressure sodium, and mercury vapor light fixtures are prohibited. Lighting shall be on manual controls with no motion sensors so as to be fully controlled by the maintenance technician.
9. A permanent, weatherproof, facility identification sign, no more than 12 inches by 24 inches in size, identifying the facility operator and a 24-hour phone number, shall be placed on the fence or tower base. If larger signage is required by the FCC, the applicant shall provide proof of the requirement, and signage shall not exceed the required size. Signage shall be limited to required address and facility identification signs and emergency and safety hazard signage as contained herein.

10. The mono-pine communication tower shall be engineered to accommodate a minimum of two (2) additional carriers in addition to AT&T. The communication tower shall be designed to accommodate the co-location of all proposed devices associated with the antennas, transmitters, cables, array structures, and radios on this tower. The tower owner shall allow future co-location by other carriers and shall provide an efficient process for handling co-location requests if an agreement is reached by the carriers and technologically feasible, avoiding signal interference issues between the carriers.
11. Pursuant to Land Use and Development Code Sec. L-II 3.8.G, prior to issuance of improvement and building permits, the applicant shall provide a Facility Maintenance/Removal Agreement to the Planning Director, binding the developer and successors in interest, to an agreement to maintain the facility as approved and notify the County of intent to vacate the site, agreeing that the applicant will remove all facilities within 12 months unless the site is occupied by a successor; or the applicant shall provide a cash bond equal in cost to removing the tower and associated facilities.
12. Pursuant to Land Use and Development Code Sec. L-II 3.8.F.5, the applicant shall include a note on all improvement plans as follows: "Existing trees and other screening vegetation in the vicinity of the facility and along the access or utility easements, shall be protected from damage during construction. All areas disturbed during project construction shall be replanted with vegetation compatible with vegetation in the surrounding area unless the County Fire Marshal requires fuel modification. Native trees are the preferred vegetation."
13. The facility shall comply with all Federal Communications Commission regulations concerning radio frequency emissions.
14. Include a roadway condition inventory of Burning Bush Road photo-documenting the pavement conditions prior to construction of the tower facility as part of the building permit submittal for Planning Department review. At the request for permit final, a follow-up photo-documentation of pavement conditions from the same pre-project locations is required to be submitted showing that any impacts to Burning Bush Road that may have occurred as a result of the construction of the communication tower facility, were returned to pre-construction conditions by the applicant.
15. In compliance with both State and local air quality requirements, the applicant shall use reasonable precautions to minimize dust generation. Such methods shall be noted on the improvement plans prior to approval.
16. All equipment must be in compliance with Nevada County LUDC Section L-II 4.1.7, Rural zoning district noise standards. Include HVAC and generator specification sheets as part of the building permit submittal for Planning Department review, showing equipment compliance with these standards.
17. All equipment operators and employees involved in any form of ground disturbance at any phase of project improvements shall be advised of the remote possibility of encountering subsurface cultural resources. If such resources are encountered or

suspected, work shall be halted immediately and the Nevada County Planning Department shall be contacted. A professional archaeologist shall be retained by the developer and consulted to access any discoveries and develop appropriate management recommendations for archaeological resource treatment. If bones are encountered and appear to be human, California Law requires that the Nevada County Coroner and the Native American Heritage Commission be contacted and, if Native American resources are involved, Native American organizations and individuals recognized by the County shall be notified and consulted about any plans for treatment. A note to this effect shall be included on the grading and construction plans for each phase of this project, and shall be included on the Supplemental Data Sheet prior to recordation of each phase of the project.

18. **Native American Monitoring (Mitigation Measure 17A).** Prior to project construction, the contractor must contact the United Auburn Indian Community of the Auburn Rancheria for project monitoring. Paid Native American monitors from culturally affiliated Native American Tribes must be invited to monitor the vegetation grubbing, stripping, grading or other ground-disturbing activities in the project area to determine the presence or absence of any cultural resources. Native American representatives from cultural affiliated Native American Tribes act as a representative of their Tribal government and shall be consulted before any cultural studies or ground-disturbing activities begin. Native American representatives and Native American monitors have the authority to identify sites or objects of significance to Native Americans and to request that work be stopped, diverted or slowed if such sites or objects are identified within the direct impact area. Only a Native American representative can recommend appropriate treatment of such sites or objects.

*Timing: Prior to issuance of permits for construction*

*Reporting: Approval of construction permits*

*Responsible Agency: Planning Department*

19. Prior to issuance of a building permit the applicant shall provide Nevada County Planning Department documentation of the utility easement in which electrical power will be transmitted to the project lease-site.

## **B. BUILDING DEPARTMENT**

1. The applicant shall provide complete site, grading and erosion control plans for review at time of building/grading permit submittal in conformance with Nevada County Land-Use Code Chapter V, Article 19.
2. The applicant shall provide two sets of wet stamped/signed complete geotechnical evaluation reports at the time of building/grading permit submittal.
3. The applicant shall provide two sets of wet stamped/signed complete structural calculations for the tower and equipment shelter at the time of building permit submittal.
4. The applicant shall provide complete electrical plans shall be included as part of the building permit submittal.

5. Complete and submit the special inspection and testing agreement for all project special inspections including grading, foundation excavation, concrete, steel reinforcement, welding and high-strength bolting.
6. An available fault current letter from the electrical service provider shall be submitted at time of building permit application submittal.
7. The applicant shall provide verification that building permits have been obtained and finalized all structures onsite including storage containers.

**C. ENVIRONMENTAL HEALTH**

1. This project results in a facility with hazardous material quantities (diesel fuel) above the thresholds stated in. Prior to final building permit, and in compliance with California Health and Safety Code, Sections 25500-25519, the applicant must apply for an obtain a permit for the storage of hazardous materials from the Nevada County Department of Environmental Health, Certified Unified Program Agency. The operator shall secure and annually review the permit for this facility within 30 days of becoming subject to applicable regulations. The applicant must adhere to all applicable codes and regulations regarding the storage of hazardous materials and the generation of hazardous waste set forth in California Health and Safety Code Section 25500-25519 and 25100-25258.2 including the electronic reporting requiring to the California Environmental Reporting System.
2. Minor plan check by the Environmental Health Department will be required prior to building permit issuance. The applicant shall provide applicable fees and a minimum of one set of plans/drawings (reduced to 11x17) for the above ground storage tank specifications.

**D. NEVADA COUNTY FIRE MARSHAL**

1. Turnouts shall be improved along Royal Plum Way and Burning Bush Road at specified locations and shall be designed in compliance with Title 14, Section 1273.06. Contact the Fire Marshal's Office to specific locations.
2. Access from Burning Bush Road leading to the Project Lease-Site shall meet all Driveway standards including the following elements of Title 14, Section 1273.01, 1273.02, 1273.05, 1273.10, & the Fire Safety Regulations of Nevada County.
3. Driveway
  - a. The new section of driveway leading to the Project Lease-Site shall support the imposed load of at least 75,000lbs. Surface width shall be ten (10) feet minimum with one (1) foot shoulders for driveway grades up to sixteen percent (16%).  
A turnaround shall be provided within 50' of the proposed lease parcel.

- b. Vegetation Management along Royal Plum Way, Burning Bush Road, and the driveway accessing the Project Lease-Site shall be maintained within a "Fuel Modification Area". Trees may be limbed and remain within this zone as long as they do not impede into the traffic lane. All brush and understory shall be removed. Nevada County Public Works, Standard Drawings C-1.
4. Provide a 2-A:10-B:C portable Fire Extinguisher in an "All Weather" shelter. The extinguisher shall be mounted in an approved location within fenced area of the leased parcel. CFC-Section 906.

**E. NORTHERN SIERRA AIR QUALITY MANAGEMENT DISTRICT**

1. **Authority to Construct Permit (Mitigation Measure 3A).** Building, altering, replacing, or operating any source of air contaminants, whether portable or stationary (but not mobile), may require an Authority to Construct permit from the Air Pollution Control Officer, unless the Northern Sierra Air Quality Management District (NSAQMD) determines that such equipment is exempt from permitting or unless such equipment is currently registered with CARB under the Portable Equipment Registration Program. The applicant shall contact Joe Fish of NSAQMD at (530) 274-9360 x103 (or email at joe@myairdistrict.com) in order to determine whether or not the generator's engine requires permitting from the NSAQMD. The results of that contact shall be documented and provided to the Planning Department prior to issuance of any improvement permits, and an Authority to Construct permit obtained if applicable.

*Timing: Prior to building permit issuance*

*Reporting: Agency approval of permits or plans*

*Responsible Agency: Planning Department and Northern Sierra Air Quality Management District*

**F. CALIFORNIA DEPARTMENT OF FISH & WILDLIFE**

1. Pursuant to Section 21089 of the California Public Resource Code and Section 711.4 et. seq. of the California Fish & Wildlife Code, a fee in the amount of \$2,216.25 must be paid as a condition of filing the Notice of Determination for this project. This fee must be submitted to the Planning Department within 5 days of the permit approval with the check made payable to the County Clerk, County of Nevada. Without payment of this fee, the 30-day Statute of Limitations on court challenges to this project's approved environmental document will remain open, which could affect the permit validity. This fee is required to be collected on behalf of the State Department of Fish & Wildlife.

The Zoning Administrator considered the Initial Study and found that the project, with the approved mitigation measure and conditions imposed, will not have a significant effect on the environment.

You are hereby notified that the action of the Zoning Administrator is final; however, if you are dissatisfied with any action of the Zoning Administrator, you may appeal to the Board of

AT&T Burning Bush Road Approval  
PLN17-0073; CUP17-0015; EIS17-0022


Supervisors within a ten-day period from the date of the Zoning Administrator decision (deadline 5 p.m. on December 11, 2017).

Please find enclosed a Defense and Indemnification Agreement. Please sign this form and return within 15 days of project approval.

**NEVADA COUNTY ZONING ADMINISTRATOR**

Brian Foss

By:

  
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Tine Mathiasen  
Clerk to the Zoning Administrator

enc: Defense and Indemnification Agreement

cc: Pamela Swartz  
AT&T Wireless  
Building Department  
Environmental Health  
Nevada County Fire Marshal  
Northern Sierra Air Quality Management District