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TOWN OF APPLE VALLEY PLANNING COMMISSION

Staff Report

- AGENDA DATE:** October 2, 2013
- CASE NUMBER:** Conditional Use Permit No. 2013-006
Deviation Permit No. 2013-001
- APPLICANT:** Wireless Development Resources, LLC on behalf of AT&T
- PROPOSAL:** A request for approval of a Conditional Use Permit to construct a sixty-five (65)-foot tall wireless telecommunication facility designed as a clock tower within the Town's complex of government buildings. The project includes a request for approval of a Deviation Permit to allow an encroachment of approximately 620 feet into the required 750-foot separation requirement between the wireless telecommunication facilities.
- LOCATION:** The project site is located at 14955 Dale Evans Parkway; APN 3112-251-22.
- ENVIRONMENTAL DETERMINATION:** Pursuant to the State Guidelines to Implement the California Environmental Quality Act (CEQA), Section 15332, Class 32, the proposed request is Exempt from further environmental review since the 300 square-foot project site is characterized as an in-fill site that is consistent with the General Plan and zoning district and the site has no value as habitat for any endangered species
- CASE PLANNER:** Ms. Carol Miller, Senior Planner
- RECOMMENDATION:** Approval
- PROJECT AND SITE DESCRIPTION:**
- A. Project Size: The telecommunication facility will occupy 300 square feet of lease area within the Town's complex of government buildings. The underlying parcel is approximately six (6) acres.
- B. General Plan Designations:
Project Site - Public Facility (P-F)

- North - Public Facility (P-F)
- South - Public Facility (P-F)
- East - Residential Estate (R-E)
- West - Public Facility (P-F)

C. Surrounding Zoning and Land Use:

- Project Site - Public Facility (P-F), Town Hall
- North - Public Facility (P-F), Town Hall
- South - Public Facility (P-F)
- East - Residential Estate (R-E), Church
- West - Public Facility (P-F), Library

D. Height:

Permitted Maximum:	75 ft. (Preferred Location)
Proposed Maximum:	65 ft.

E. Parking Analysis:

Total Parking Required:	1 Space
Parking Provided:	0 Spaces

F. Site Characteristics

The subject site is developed with the Town of Apple Valley government offices and the County of San Bernardino Newton T. Bass Branch Library.

ANALYSIS:

A. General:

Pursuant to the Development Code, a Conditional Use Permit is required for all new telecommunication towers to afford the Commission the opportunity to review the architecture and aesthetics of any proposed structure. The Code allows telecommunications facilities within public facilities such as Town Hall, as an accessory use, with approval of a Conditional Use Permit. The applicant is requesting Planning Commission review and approval of a Conditional Use Permit to construct a sixty-five (65)-foot high tower designed as a clock tower.

As a municipal facility, the subject site is a preferred location as described in Section 9.77.180 of the Development Code. There are three (3) existing flagpole designed wireless telecommunication at this location. The proposal becomes the fourth such facility on the subject site. AT&T is currently utilizes one of the three flagpoles, and this will not change. The proposed facility will utilize the existing equipment shelter area.

As a municipal facility, the subject site is a preferred location as described in Section 9.77.180 of the Development Code. As such, the Code does give allowances for up to a fifty (50%) reduction in separation and setback requirements.

B. Site Analysis:

The project requires one (1) parking space for a maintenance vehicle for periodic maintenance or repairs. The Town Hall parking area, which serves the library and Town offices, has sufficient parking to accommodate the one (1) additional space required.

The Code requires that the tower be setback a distance equal to at least seventy-five percent (75%) of the height of the tower from any adjoining lot line and as a preferred location, the required setbacks can be reduced by fifty (50) percent. This calculates to a twenty-six and one half (26.5)-foot (75% of 65 feet = 48.75 feet. 50% of 48.75 feet = 24.3 feet) from the adjoining property lines. As proposed, the project exceeds the minimum setback requirements.

The Code requires a minimum 1,000-foot separation to adjacent single-family residential, and as a preferred location, the required separation can be reduced by fifty (50) percent. This calculates to 500 feet. The nearest residence is located approximately 635 feet to the east.

The Code requires a minimum 1,500-foot separation to an existing tower antenna, and as a preferred location, the required setback can be reduced by fifty (50) percent. This calculates to 750 feet. The nearest existing antenna are the flagpoles located approximately 130 feet away. Since the antenna is closer than 750 feet to an existing tower, the applicant is requesting a Deviation Permit to allow the encroachment into the separation requirement.

The proposed clock tower is to be constructed where the existing courtyard gazebo is located. The gazebo is required to be relocated to a new location as determined by the Town.

C. Deviation Permit:

The project includes a request for approval of a Deviation Permit to allow an encroachment into the required 750-foot separation requirement between the wireless telecommunication facilities. The proposed facility is separated approximately 130 feet from the wireless telecommunication facilities located within the flagpoles.

With the submittal of a Deviation Permit application, the Planning Commission may increase or modify standards relating to antenna height, setback, separation distance, security fencing or landscape screening if the goals of the Development Code would be better served by granting the requested deviation. Development Code Section 9.77.200 states that the applicant must provide supporting documentation of the identified need that cannot be met in any other manner. There must also be unique circumstances associated with the proposed location necessitating the requested deviation. The applicant should also demonstrate that there are no reasonable alternative sites available to provide the services offered to grant the waiver. The applicant has provided written justification for the deviations to the separation requirements, which is attached for Commission consideration (Attachment No. 2).

Given the site design of Town Hall, the location appears most logical despite the encroachments into the required setback. With adherence to the 750-foot separation requirement, it would preclude the use of this preferred location for telecommunication. Essential any viable on-site location would result in an encroachment.

D. Architecture Analysis:

The ordinance encourages telecommunication facilities to be stealth in design, sited in the least visually obtrusive manner, either screened or disguised, mounted on a facade and located on the same property as, or adjacent to, structures with tall features or trees

similar in height. The applicant is proposing to construct a wireless telecommunication facility designed as a clock tower. The clock tower is designed with an illuminated functioning clock, accent lighting, and color scheme to match Town Hall. At the height of the antenna is "The Town of Apple Valley" and Town logo. At a minimum, the logo shall reflect the Town's new logo. Condition No. P11 requires that prior to plan check, the graphic design be finalized

E. Licensing & Future Reviews:

Wireless telecommunication proposals are governed by regulations of the Federal Communications Commission (FCC) and are required to transmit signals on frequencies that will not interfere with other electronic equipment (e.g., fire, police, emergency radio frequencies, etc.). The Telecommunications Act of 1996 determined that electromagnetic fields associated with wireless telecommunication facilities do not pose a health risk and are required to conform with the standards established by the American National Standard Institute (ANSI) for safe human exposure to electromagnetic fields and radio frequencies. The applicant is conditioned to submit verification from ANSI by providing a copy of its FCC license agreement.

F. Environmental Assessment:

Pursuant to the State Guidelines to Implement the California Environmental Quality Act (CEQA), Section 15332, Class 32, the proposed request is Exempt from further environmental review since the 300 square-foot project site is characterized as an in-fill site that is consistent with the General Plan and zoning district and the site has no value as habitat for any endangered species.

G. Noticing:

The project was legally noticed in the Apple Valley News on September 20, 2013. Staff notified all property owners within 1,500 feet of the site for this public hearing. At the time of the writing of the staff report, staff had not received any communications from neighbors regarding the proposed telecommunication facility.

H. Conditional Use Permit Findings:

As required under Section 9.16.090 of the Development Code, prior to approval of a Conditional Use Permit, the Planning Commission must make the following Findings:

1. That the proposed location, size, design and operating characteristics of the proposed use is consistent with the General Plan, the purpose of this Code, the purpose of the zoning district in which the site is located, and the development policies and standards of the Town;

Comment: The proposed construction of a sixty-five (65)-foot high telecommunication facility complies with the Telecommunications Ordinance of the Development Code of the Town of Apple Valley, and the adopted General Plan, upon the review and approval of a Conditional Use Permit and Deviation Permit by the Planning Commission.

The Utilities Element of the General Plan Policy 1.H states "...cellular communication towers and other major utility facilities shall be designed and sited so that they result in minimal impacts

to viewsheds and minimally pose environmental hazards.” This project is compatible with the golf course. By using a monopine design the visual impact will be minimized and expanding the telecommunication coverage within an area that is deficient in cellular coverage is compatible with the surrounding residential uses surrounding the golf course.

2. That the location, size, design and operating characteristics of the proposed use will be compatible with and will not adversely affect nor be materially detrimental to adjacent uses, residents, buildings, structures or natural resources;

Comment: The antenna is completely concealed within the clock tower and will be compatible with the site and adjacent uses, so as not to be easily recognized as an antenna. There are existing improvements to serve the proposed site, and the proposed installation of the telecommunications facility, with recommended Conditions of Approval, is permitted, subject to approval of a Conditional Use Permit.

3. That the proposed use is compatible in scale, bulk, lot coverage, and density with adjacent uses;

Comment: By using a clock tower design to compliment the Town’s government facility buildings, the visual impact will be minimal and expanding the telecommunication coverage within an area is deficient in cellular coverage is compatible with the surrounding government complex.

4. That there are public facilities, services and utilities available at the appropriate levels, or that these will be installed at the appropriate time, to serve the project as they are needed;

Comment: There are existing improvements to serve the proposed site. The facility will utilize the existing equipment shelter area. No expansion necessary.

5. That there will not be a harmful effect upon desirable neighborhood characteristics;

Comment: The location, size, design (with aesthetics approved by the Planning Commission) and operating characteristics of the proposed telecommunications facility, and the conditions under which it will be operated and maintained, will not be detrimental to the public health, safety or welfare, nor be materially injurious to properties or improvements in the vicinity.

6. That the generation of traffic will not adversely impact the capacity and physical character of surrounding streets;

Comment: The proposed wireless telecommunication facility is unmanned and, therefore, not anticipated to generate additional traffic.

7. That traffic improvements and/or mitigation measures are provided in a manner adequate to maintain the existing service level or a Level of Service (LOS) C or better on arterial roads and are consistent with the Circulation Element of the General Plan;

Comment: The proposed wireless telecommunication facility is unmanned and will be located within the courtyard of Townhall. Minimal traffic will be generated from the project to adversely affect the surrounding area.

8. That there will not be significant harmful effects upon environmental quality and natural resources;

Comment: Under the State guidelines to implement the California Environmental Quality Act (CEQA), the project is not anticipated to have any direct or indirect impact upon the environment since the proposed wireless telecommunication facility is unmanned and will be located within the Townhall complex of buildings.

9. That there are no other relevant negative impacts of the proposed use that cannot be reasonably mitigated;

Comment: Under the State guidelines to implement the California Environmental Quality Act (CEQA), the project is not anticipated to have any direct or indirect impact upon the environment since the proposed wireless telecommunication facility is unmanned and will be located within the Townhall complex of buildings.

10. That the impacts, as described in paragraphs 1 through 9 above, and the proposed location, size, design and operating characteristics of the proposed use and the conditions under which it would be maintained will not be detrimental to the public health, safety or welfare, nor be materially injurious to properties or improvements in the vicinity, nor be contrary to the adopted General Plan;

Comment: The project, if approved, would be required to provide FCC (Federal Communications Commission) licensing which regulates electromagnetic fields and radio frequencies.

11. That the proposed conditional use will comply with all of the applicable provisions of this title;

Comment: The proposed telecommunications facility can be built in conformance to the Development Code, subject to approval of a Conditional Use Permit, Deviation Permit and adherence to the recommended Conditions of Approval.

12. That the materials, textures and details of the proposed construction, to the extent feasible, are compatible with the adjacent and neighboring structures;

Comment: The materials, textures and details of the proposed clock tower will match the existing improvements to ensure compatibility with surrounding buildings.

13. That the development proposal does not unnecessarily block public views from other buildings or from public ways, or visually dominate its surroundings with respect to mass and scale to an extent unnecessary and inappropriate to the use;

Comment: The design of a clock tower within proximity of Town Hall structures will help minimize the appearance of the tower and will improve the architectural unity of the government center by matching the existing structures.

14. That quality in architectural design is maintained in order to enhance the visual environment of the Town and to protect the economic value of existing structures.

Comment: The design of a clock tower adjacent to and within proximity of other Town Hall buildings will help minimize the appearance of the tower by appearing as just another structure within the complex.

15. That access to the site and circulation on and off-site is safe and convenient for pedestrians, bicyclists, equestrians and motorists.

Comment: The wireless telecommunications facility will be unmanned. The proposed improvements will not alter the function of the Town Hall complex or courtyard area.

I. Findings for Deviation:

As required under Section 9.77.200 of the Development Code, the Planning Commission may increase or modify any standard relating to setbacks and separation distance. Prior to approval of a Deviation Permit, the Planning Commission must make specific Findings. Below are the Findings with a comment to address each.

1. That the applicant has provided supporting documentation of the identified need that cannot be met in any other manner.

Comment: The applicant has submitted the required supporting documentation indicating that this need cannot be met in any other manner. The applicants existing antenna within the flagpole can not be expanded to accommodate the necessary antennas to handle increases in wireless telecommunication.

2. That there are unique circumstances associated with the proposed location necessitating the requested Deviations.

Comment: Given the site design of Town Hall, the location appears most logical despite the encroachments into the required setback. With adherence to the 750-foot separation requirement, it would preclude the use of this preferred location for telecommunication. Essential any viable on-site location would result in an encroachment.

3. That there are no reasonable alternative sites available to provide the services offered.

Comment: The applicant has submitted the required supporting documentation indicating that this need cannot be met in any other manner. With adherence to the 750-foot separation requirement, it would preclude the use of this preferred location for telecommunication.

4. That the submitted information and testimony from the applicant, staff and public illustrates a reasonable probability that allowance of the Deviation will have minimal or no adverse impacts to the site, surrounding area or the community in general.

Comment: The applicant has submitted the required supporting documentation indicating that this need cannot be met in any other manner. With adherence to the 750-foot separation requirement, it would preclude the use of this preferred location for telecommunication. Essential any viable on-site location would result in an encroachment. This location only results in an encroachment to tower separation, whereas, if relocated would most likely encroach into a separation requirement to residential.

5. That the Commission finds that the proposed deviation will not be materially detrimental to the public health, safety or general welfare, or injurious to the property or improvements in the vicinity and land use district in which the property is located.

RECOMMENDATION:

Based upon the information contained within this report, the attached Initial Study, and any input received from the public at the hearing, it is recommended that the Planning Commission move to:

1. Find that pursuant to the California environmental Quality Act (CEQA), Section 15332, Class 32, the proposed request is Exempt from further environmental review.
2. Find the Facts presented in the staff report support the required Findings for approval and adopt the Findings for Conditional Use Permit No. 2013-006 and Deviation Permit No. 2013-01.

3. Approve Conditional Use Permit No. 2013-006 and Deviation Permit No. 2013-01, subject to the attached Conditions of Approval.
4. Direct Staff to file the Notice of Exemption.

Prepared By:

Reviewed By:

Carol Miller
Senior Planner

Lori Lamson
Community Development Director

ATTACHMENTS:

1. Recommended Conditions of Approval
2. Justification for Deviations
3. Site Plans
4. Elevation
5. Zoning Map
6. Photo-simulation and RF maps (see separate attachment)

TOWN OF APPLE VALLEY

RECOMMENDED CONDITIONS OF APPROVAL

Case Nos. Conditional Use Permit No. 2013-006 & Deviation Permit No. 2013-01

Please note: *Many of the suggested Conditions of Approval presented herewith are provided for informational purposes and are otherwise required by the Municipal Code. Failure to provide a Condition of Approval herein that reflects a requirement of the Municipal Code does not relieve the applicant and/or property owner from full conformance and adherence to all requirements of the Municipal Code.*

Planning Division Conditions of Approval

- P1. This project shall comply with the provisions of State law and the Town of Apple Valley Development Code and the General Plan. This conditional approval to approve a specific use of land, if not established in conformance to any conditions applied, shall become void three (3) years from the date of action of the reviewing authority, unless otherwise extended pursuant to the provisions of application of State law and local ordinance. The extension application must be filed, and the appropriate fees paid, at least 60 days prior to the void date. The Conditional Use Permit becomes effective 10 days from the date of the decision unless an appeal is filed as stated in the Town's Development Code, Section 9.03.0180.
- P2. The applicant shall agree to defend at its sole expense (with attorneys approved by the Town), hold harmless and indemnify the Town, its agents, officers and employees, against any action brought against the Town, its agents, officers or employees concerning the approval of this project or the implementation or performance thereof, and from any judgment, court costs and attorney's fees which the Town, its agents, officers or employees may be required to pay as a result of such action. The Town may, at its sole discretion, participate in the defense of any such action, but such participation shall not relieve the applicant of this obligation under this condition.
- P3. The applicant recognizes the approval of Conditional Use Permit No. 2013-006 and Deviation Permit No. 2013-01 by the Planning Commission as acknowledgment of Conditions of Approval, unless an appeal is filed in accordance with Section 9.12.250, *Appeals*, of the Town of Apple Valley Development Code.
- P4. The rendering(s) presented to, and approved by, the Planning Commission at the public hearing shall be the anticipated and expected appearance of the structure upon completion.
- P5. It is the sole responsibility of the applicant on any Permit, or other appropriate discretionary review application for any structure, to submit plans, specifications and/or illustrations with the application that will fully and accurately represent and portray the structures, facilities and appurtenances thereto that are to be installed or erected if approved by the Commission. Any such plans, specifications and/or illustrations that are reviewed and approved by the Planning Commission at an advertised public hearing shall accurately reflect the structures, facilities and appurtenances expected and

- required to be installed at the approved location without substantive deviations, modifications, alterations, adjustments or revisions of any nature.
- P6. The Community Development Director or his/her designee, shall have the authority for minor architectural changes focusing around items such as window treatments, color combinations, façade treatments, and architectural relief.
 - P7. The applicant shall supply verification with the American National Standards Institute (ANSI) by providing a copy of its FCC license agreement prior to issuance of Certificate of Occupancy.
 - P8. In the event the antenna(s) becomes obsolete and/or abandoned, the provider shall remove the antenna(s) and all related mechanical equipment and return the site to its original state, or an improved state, within 30 days of abandonment.
 - P9. The Town's gazebo shall be relocated to a new location as determined by the Town.
 - P10. The illuminated clock shall be on four (4) sides of the tower. The clock shall remain in working order at all times.
 - P11. Prior to plan check, final graphic design located at the top of the tower shall be finalized.
 - P12. The color scheme for the tower shall incorporate both primary colors of Town Hall complex.

Building and Safety Division Conditions of Approval

- B1. Prior to issuance of Building Permit, the applicant shall submit plans and engineering calculations for review and approval.
- B2. A pre-construction permit and inspection are required prior to any land disturbing activity to verify requirements for erosion control, flood hazards, and native plant protection.
- B3. All utilities are required to be placed underground in compliance with Town Ordinance No. 89.
- B4. Page two (2) of the submitted building plans will be conditions of approval.
- B5. Construction must comply with 2010 California Building Codes and California Green Building Code.
- B6. Best Management Practices (BMPs) are required for the site during construction.

Apple Valley Fire Protection District

- FD1. The above referenced project is protected by the Apple Valley Fire Protection District. Prior to construction occurring on any parcel, the owner shall contact the Fire District for verification of current fire protection development requirements.

- FD2. All new construction shall comply with applicable sections of the California Fire Code, California Building Code, and other statutes, ordinances, rules, and regulations regarding fires and fire prevention adopted by the State, County, or Apple Valley Fire Protection District.

- FD3. All combustible vegetation, such as dead shrubbery and dry grasses, shall be removed from each building site a minimum distance of thirty (30) feet from any combustible building material, including the finished structure. This does not apply to single specimens of trees, ornamental shrubbery, or similar plants, which are used as ground cover if they do not form a means of transmitting fire.

California Public Resources Code,
Sec. 4291

- FD4. Provide an N.F.P.A. 704 Placard indentifying the Hazardous Materials for the batteries.

- FD5. Provide (1) 2A10BC minimum rating fire extinguisher and serviced by a certified company.

End of Conditions

ES0030

DEVIATION PERMIT FINDINGS FOR A WIRELESS TELECOMMUNICATION FACILITY

1. That the applicant has provided supporting documentation of the identified need that cannot be met in any other manner;

AT&T Mobility is proposing to install new LTE antennas, which will provide better coverage.

AT&T has proposed a new 'Clock Tower' in the courtyard, for the new antennas, since there is not

2. That there are unique circumstances associated with the proposed location necessitating the requested Deviations;

AT&T is proposing a new Clock Tower for the new LTE antennas. We met with town staff to determine a location that is acceptable & does not interfere with underground utilities.

enough space in the flag pole

3. That there are no reasonable alternative sites available to provide the services offered;

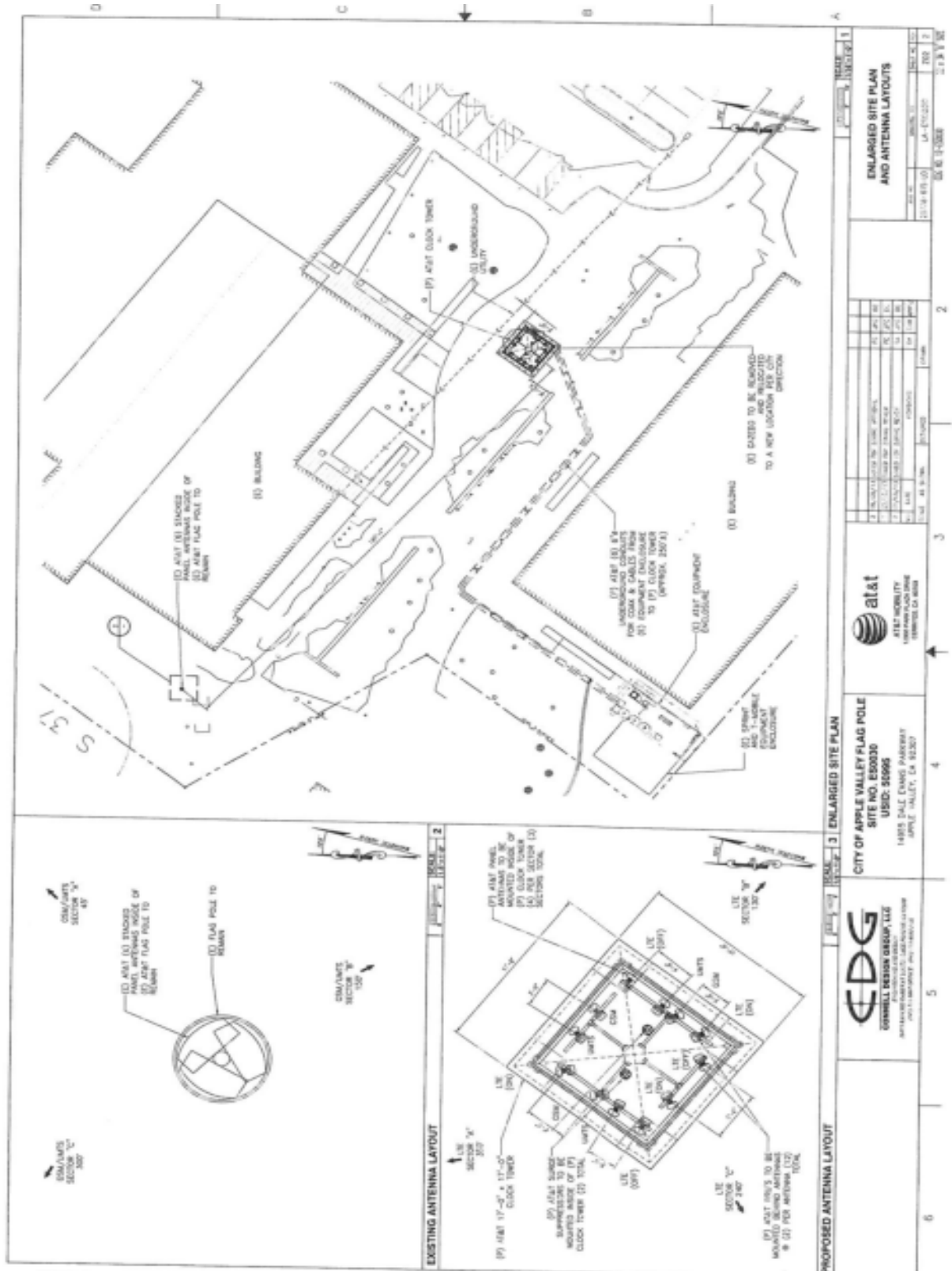
AT&T met with the town staff for an acceptable location that does not interfere with underground utilities & is close in proximity to their existing equipment shelter.

4. That the submitted information and testimony from the applicant, staff and public illustrates a reasonable probability that allowance of the Deviation will have minimal or no adverse impacts to the site, surrounding area or the community in general; and

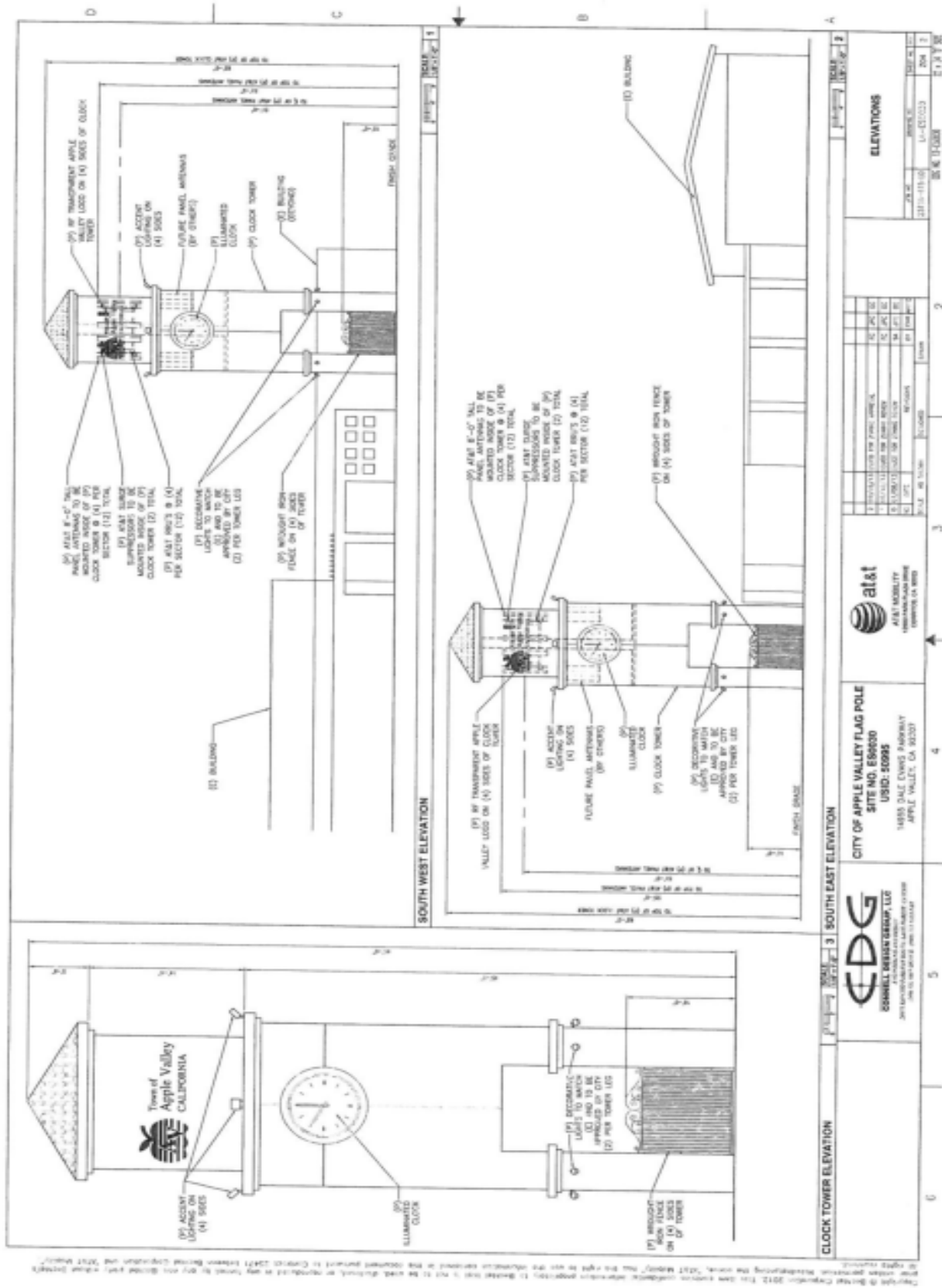
The proposed Clock Tower will be located in the courtyard; have the Town of Apple Valley logo; & will blend in with the surrounding buildings.

5. That the Commission finds that the proposed deviation will not be materially detrimental to the public health, safety or general welfare, or injurious to the property or improvements in the vicinity and land use districts in which the property is located.

The proposed Clock Tower will consist of material that is similar to the surrounding buildings of RF transparent material that will be made to match the Clock Tower material.



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**Conditional Use Permit No.2013-006 and
 Deviation No. 2013-001**

ZONING/LOCATION MAP

