

# TOWN OF APPLE VALLEY PLANNING COMMISSION AGENDA REGULAR MEETING Wednesday, August 15, 2018 – 6:00 P.M.

PUBLIC PARTICIPATION IS INVITED. Planning Commission meetings are held in the Town Council Chambers located at 14955 Dale Evans Parkway, Apple Valley, California. If you wish to be heard on any item on the agenda during the Commission's consideration of that item, or earlier if determined by the Commission, please so indicate by filling out a "REQUEST TO SPEAK" form at the Commission meeting. Place the request in the Speaker Request Box on the table near the Secretary, or hand it to the Secretary at the Commission meeting. (G.C. 54954.3 {a}).

Materials related to an item on this agenda, submitted to the Commission after distribution of the agenda packet, are available for public inspection in the Town Clerk's Office at 14955 Dale Evans Parkway, Apple Valley, CA during normal business hours. Such documents are also available on the Town of Apple Valley website at <a href="https://www.applevalley.org">www.applevalley.org</a> subject to staff's ability to post the documents before the meeting.

The Town of Apple Valley recognizes its obligation to provide equal access to those individuals with disabilities. Please contact the Town Clerk's Office, at (760) 240-7000, two working days prior to the scheduled meeting for any requests for reasonable accommodations.

### **REGULAR MEETING**

The Regular meeting is open to the public and will begin at 6:00 p.m.

#### **CALL TO ORDER**

#### **ROLL CALL**

Commissioners:	Shoup	; Kallen	;Qualls	
	Chairman Tinsl	ey and Vi	ce-Chairman Lamoreaux _	
PLEDGE OF ALLEGIANO	E	<del>,</del>		

### PUBLIC COMMENTS

Anyone wishing to address an item <u>not</u> on the agenda, or an item that is <u>not</u> scheduled for a public hearing at this meeting, may do so at this time. California State Law does not allow the Commission to act on items not on the agenda, except in very limited circumstances. Your concerns may be referred to staff or placed on a future agenda.

### **APPROVAL OF MINUTES**

- **1A.** Minutes for the Regular Meeting of July 18, 2018.
- **1B.** Minutes for the Regular Meeting of August 1, 2018.

### **PUBLIC HEARING ITEMS**

2. Conditional Use Permit No. 2018-007 and Deviation Permit No. 2018-006 - A request for approval of a Conditional Use Permit to install a seventy-five (75)-foot tall wireless telecommunications tower designed as a faux water tank. The tower has been designed to accommodate a second carrier. The tower will be situated within the southeasterly corner of the park within a 784 square-foot lease area that accommodates the tower and equipment enclosure. The Deviation is a request for a reduced separation distance from residential zoned property to the south and west.

**Applicant:** Spectrum Services for Verizon Wireless

**Location:** 21024 Otoe Road (Lenny Brewster Sports Center)

**Environmental** 

**Determination:** The project is characterized as the new construction of a small structure with a minor alteration to the land. Therefore, pursuant to the State Guidelines to Implement the California Environmental Quality Act (CEQA) Section 15303, the proposal is exempt from further environmental review.

Case Planner: Lori Lamson, Assistant Town Manager

**Proposal:** Approval

### PLANNING COMMISSION COMMENTS

**STAFF COMMENTS** 

**OTHER BUSINESS** 

#### **ADJOURNMENT**

The Planning Commission will adjourn to its next regularly scheduled Planning Commission meeting on September 19, 2018.

### MINUTES

# TOWN OF APPLE VALLEY PLANNING COMMISSION REGULAR MEETING

July 18, 2018

### **CALL TO ORDER**

Vice-Chairman Lamoreaux called to order the regular meeting of the Town of Apple Valley Planning Commission at 6:00 p.m.

### Roll Call

Present: Commissioners Bruce Kallen; Mark Shoup; Vice-Chairman Jason

Lamoreaux

Absent: Commissioner Doug Qualls; Chairman B.R. "Bob" Tinsley

### Staff Present

Carol Miller, Assistant Director of Community Development, Pam Cupp, Associate Planner, Thomas Rice, Town Attorney, Yvonne Rivera, Planning Commission Secretary.

### PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Commissioner Kallen.

### **APPROVAL OF MINUTES**

### 1. Approval of Minutes

**1.** Minutes for the Regular Meeting of May 16, 2018.

Commissioner Shoup requested that the following comments be added to Page 1-4 of the Minutes for the Regular Meeting of May 16, 2018:

Commissioner Shoup asked Mr. Schulenberg whether or not the school had a position on the cell tower.

Mr. Schulenberg responded, "The School District is taking no position on this agenda item."

### **MOTION**

Motion by Commissioner Shoup, seconded by Commissioner Kallen, to approve the minutes for the Regular Meeting of May 16, 2018, as amended.

Vote: Motion carried 3-0-2-0

Yes: Commissioners Kallen; Shoup; Vice-Chairman Lamoreaux

Absent: Commissioner Qualls; Chairman Tinsley.

Abstain: None.

### **PUBLIC COMMENTS**

None.

### **PUBLIC HEARINGS**

2. Conditional Use Permit No. 2018-005. A request for approval of a Conditional Use Permit to allow the construction and operation of a thirty-five (35)-foot tall, 480 square-foot, double sided billboard. The project site is 2.75 acres in size and is located within the Regional Commercial (C-R) zoning designation.

**Applicant:** Lamar Outdoor Advertising

Vice-Chairman Lamoreaux opened the public hearing at 6:06 p.m.

Pam Cupp, Associate Planner, presented the staff report as filed with the Planning Division. She noted that the billboard is approximately 500-feet from an existing private airstrip; therefore, staff is requiring the applicant to complete the FAA Form (Notice of Proposed Construction or Alteration), to comply with any conditions set forth in the permit. She also noted that the applicant initially called for solar panels to be above the sign face, however, staff conditioned that solar panels be below the sign face. With that, the applicant is now proposing to place the solar panels adjacent to the sign walkway.

Ms. Cupp provided the Commissioners with a photograph example of the billboard. She also answered questions by the Commissioners regarding the design of the billboard as well as the proposed location. She noted there is no digital aspect to the sign.

Commissioner Shoup expressed concern regarding sign blight along the 15 Freeway and questioned why billboards are permitted in the code. He stated that in this case, he supports the project because of the size of the proposed billboard.

Commissioner Kallen stated that although he is in agreement with the concerns expressed by Commissioner Shoup, he supports the location of the proposed billboard and therefore, supports the project.

Vice-Chairman Lamoreaux asked the Applicant if she agreed with all Conditions of Approval.

Ms. Laughlin stated she was in agreement with all Conditions of Approval.

There being no one wishing to speak, Vice-Chairman Lamoreaux closed the public hearing at 6:26 p.m.

### **MOTION**

Motion by Commissioner Shoup, and seconded by Commissioner Kallen that the Planning Commission move to:

- 1. Find that, pursuant to the California Environmental Quality Act (CEQA), Section No. 15303, Class 3, 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.
- Approval Conditional Use Permit No. 2018-005, subject to the attached Conditions of Approval.
- 4. Direct staff to file the Notice of Exemption.

Vote: Motion carried 3-0-2-0

Yes: Commissioners Kallen; Shoup; Vice-Chairman Lamoreaux.

Absent: Commissioner Qualls; Chairman Tinsley.

Abstain: None.

Vice-Chairman Lamoreaux announced that he had a potential conflict of interest on Agenda Items 3 and 4. Therefore, he recused himself from voting on these items.

### VICE-CHAIRMAN LAMOREAUX EXCUSED HIMSELF FROM THE DAIS AT 6:27 P.M.

Thomas Rice, Town Attorney, explained the procedure for the two remaining Planning Commissioners in the absence of a quorum. He recommended that Agenda Items 3 and 4 be continued to the next regular Planning Commission meeting on August 1, 2018.

Mr. Rice also answered questions by the Commission regarding whether or not there is a need to re-notice the meeting. He explained that the individuals that were noticed about the meeting today would need to be present or listen to the meeting online in order to be informed that the items are being continued. He also noted that continuation of the items would also be in the minutes, as well as the next agenda; therefore, the noticing requirements are being met according to the Brown Act.

It was the consensus of the Planning Commission to continue Agenda Items 3 and 4 to the next regular Planning Commission meeting on August 1, 2018.

3. Conditional Use Permit No. 2018-004 and Deviation Permit No. 2018-007. A request for approval of a Conditional Use Permit to construct a seventy-five (75)-foot tall wireless telecommunication tower designed as a pine tree. The tower and separate 270 square foot equipment enclosure will be located within the golf course maintenance yard. The project includes a request for approval of a Deviation Permit to allow an encroachment of approximately fifty (50) feet into the required 500-foot separation requirement between the tower and residential uses and relief from the landscape buffer requirement.

**Applicant:** Apple Valley Municipal Golf Course, 15200 Rancherias Road; APN 3112-101-36.

### **MOTION**

Motion by Commissioner Shoup, and seconded by Commissioner Kallen, to continue this item to the next Planning Commission Meeting on August 1, 2018.

Vote: Motion carried 2-0-2-1

Yes: Commissioners Kallen; Shoup

Absent: Commissioner Qualls; Chairman Tinsley.

Abstain: Vice-Chairman Lamoreaux

4. Conditional Use Permit No. 2018-007 and Deviation Permit No. 2018-006. A request for approval of a Conditional Use Permit to install a seventy-five (75)-foot tall wireless telecommunications tower designed as a faux water tank. The tower has been designed to accommodate a second carrier. The tower will be situated within the southeasterly corner of the park within a 784 square-foot lease area that accommodates the tower and equipment enclosure. The Deviation is a request for a reduced separation distance from residential zoned property to the south and west.

Applicant: Spectrum Services for Verizon Wireless

### **MOTION**

Motion by Commissioner Shoup, and seconded by Commissioner Kallen, to continue this item to the next Planning Commission Meeting on August 1, 2018.

Vote: Motion carried 2-0-2-1

Yes: Commissioners Kallen; Shoup

Absent: Commissioner Qualls; Chairman Tinsley.

Abstain: Vice-Chairman Lamoreaux

VICE-CHAIRMAN LAMOREAUX RETURNED TO THE DAIS AT 6:46 P.M.

OTHER BUSINESS		
None.		
PLANNING COMMISSION COMMENTS		
Commissioner Kallen informed the Planning Commission that he may be absent at the August 15, 2018 Planning Commission meeting.		
STAFF COMMENTS		
Carol Miller, Assistant Director of Community Development, informed the Commission that the Town Council upheld the Planning Commission's approval of the cell tower at Mendell Park.		
ADJOURNMENT		
Motion by Commissioner Kallen, seconded by Commissioner Shoup, and unanimously carried, to adjourn the meeting of the Planning Commission at 6:47 p.m. to its next regularly scheduled meeting on August 1, 2018.		
Respectfully Submitted by:		
Yvonne Rivera		
Planning Secretary		
Approved by:		

Vice-Chairman Jason Lamoreaux

#### MINUTES

# TOWN OF APPLE VALLEY PLANNING COMMISSION REGULAR MEETING

### August 1, 2018

### **CALL TO ORDER**

Chairman Tinsley called to order the regular meeting of the Town of Apple Valley Planning Commission at 6:00 p.m.

### Roll Call

Present: Commissioners Bruce Kallen; Doug Qualls; Mark Shoup; Vice-Chairman

Jason Lamoreaux; Chairman B.R. "Bob" Tinsley

Absent: None.

### Staff Present

Carol Miller, Assistant Director of Community Development, Pam Cupp, Associate Planner, Albert Maldonado, Town Attorney, Yvonne Rivera, Planning Commission Secretary.

### PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Vice-Chairman Lamoreaux.

### **PUBLIC COMMENTS**

Dennis Clothier, Apple Valley, expressed concern regarding the point system used as part of the plan review process. He believed that the program is too vague, making it difficult for builders to have their plans approved. He respectfully requested that the Commission consider modifying the policy.

Robby Smith, Apple Valley, agreed with the comments by Mr. Clothier. He believed that the designs that are submitted by builders are rejected by staff due to their own interpretations. He believed that the definitions in the point system program are not clear and that has created a need to modify the point system program.

Carol Miller, Assistant Director of Community Development, informed the Commission that there is an appeal process available to any builder that is not satisfied with the outcome of their plan check. She noted that the timeframe for an appeal to be considered is within 30 days.

The Commission regarding the points program, and possible solutions that would help make the program more appealing to builders.

Chairman Tinsley expressed concern regarding the program discouraging builders from wanting to build in Apple Valley.

Mr. Smith expressed concern regarding how the planter wall item is defined in the criteria check list. He also commented on other builders that have the same issues with the point system.

Mr. Clothier commented on issues related to how the court yard item is defined in the point system. He also believed there is misinterpretation within the point system when adding a two (2)-car garage.

### **PUBLIC HEARINGS**

### **CONTINUED FROM JULY 18, 2018**

2. Conditional Use Permit No. 2018-007 and Deviation Permit No. 2018-006. A request for approval of a Conditional Use Permit to install a seventy-five (75)-foot tall wireless telecommunications tower designed as a faux water tank. The tower has been designed to accommodate a second carrier. The tower has been designed to accommodate a second carrier. The tower will be situated within the southeasterly corner of the park within a 784 square-foot lease area that accommodates the tower and equipment enclosure. The Deviation is a request for a reduced separation distance from residential zoned property to the south and west.

**Applicant:** Spectrum Services for Verizon Wireless

Vice-Chairman Lamoreaux announced that he had a potential conflict of interest on Agenda Item No. 2 because Verizon is a Tenant at one of his commercial centers. Therefore, he recused himself from voting on this item.

### VICE-CHAIRMAN LAMOREAUX EXCUSED HIMSELF FROM THE DAIS AT 6:13 P.M.

Chairman Tinsley announced that at the request of the Applicant, this item will be continued to the next regular meeting on August 15, 2018.

### **MOTION**

Motion by Commissioner Shoup, and seconded by Commissioner Qualls, to continue this item to the next Planning Commission Meeting on August 15, 2018.

Vote: Motion carried 4-0-0-1

Yes: Commissioners Kallen; Qualls; Shoup; Chairman Tinsley

Abstain: Vice-Chairman Lamoreaux

### VICE-CHAIRMAN LAMOREAUX RETURNED TO THE DAIS AT 6:14 P.M.

3. Conditional Use Permit No. 2018-004 and Deviation Permit No. 2018-007. A request for approval of a Conditional Use Permit to construct a seventy-five (75)-foot tall wireless telecommunications tower designed as a pine tree. The tower and separate 270 square foot equipment enclosure will be located within the golf course maintenance yard. The project includes a request for approval of a Deviation Permit to allow an encroachment of approximately fifty (50) feet into the required 500-foot separation requirement between the tower and residential uses and relief from the landscape buffer requirement.

**Applicant:** J5 Infrastructure Partners for Verizon Wireless

Vice-Chairman Lamoreaux announced that he had a potential conflict of interest on Agenda Item No. 3 because Verizon is one of his Tenants at one of his commercial centers. Therefore, he recused himself from voting on this item.

### VICE-CHAIRMAN LAMOREAUX EXCUSED HIMSELF FROM THE DAIS AT 6:14 P.M.

Pam Cupp, Associate Planner, presented the staff report as filed with the Planning Division.

Commissioner Kallen asked a series of questions regarding the location of the proposed telecommunication tower. He asked why it was not possible to have it located an additional fifty (50)-feet away from the condos. He also questioned whether or not there were surrounding live trees that would blend with the telecommunication tower that is designed as a pine tree.

Ms. Cupp explained that by moving the tower an additional fifty (50)-feet, it would fall outside of the maintenance yard and onto the golf course greens. She also confirmed that there are other trees located in the location that was selected for the telecommunications tower as shown in the photo simulation provided to the Commission.

Commissioner Shoup also questioned the preferred location for the tower. He asked if the property owners have been notified about this public hearing.

Chairman Tinsley explained from a golfer's perspective how the proposed location for the tower is an ideal location.

Ms. Cupp stated that all property owners within 1500 feet of the site were notified about the public hearing.

Chairman Tinsley asked the Applicant if he agreed with all Conditions of Approval.

Mr. Novak stated he was in agreement with all Conditions of Approval.

There being no one wishing to speak on this item, Chairman Tinsley closed the public hearing at 6:27 p.m.

### **MOTION**

Motion by Commissioner Qualls, and seconded by Commissioner Shoup, that the Planning Commission move to:

- Determine that pursuant to the State Guidelines to Implement the California Environmental Quality Act (CEQA) Section 15303, Conditional Use Permit No. 2018-004 and Deviation Permit No. 2018-007 are 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 2018-004 and Deviation Permit No. 2018-007.
- 3. Approve Conditional Use Permit No. 2018-004 and Deviation Permit No. 2018-007, subject to the attached Conditions of Approval.
- 4. Direct Staff to file the Notice of Exemption.

Vote: Motion carried 4-0-0-1

Yes: Commissioners Kallen; Qualls; Shoup; Chairman Tinsley

Abstain: Vice-Chairman Lamoreaux

### VICE-CHAIRMAN LAMOREAUX RETURNED TO THE DAIS AT 6:27 P.M.

### PLANNING COMMISSION COMMENTS

Chairman Tinsley commented on the concerns expressed by the speakers regarding the difficulties to have their plans approved based on the point system program.

Albert Maldonado, Town Attorney, cautioned the Commission regarding having any discussions on matters that are not on the agenda. He recommended that the Commission direct staff to come back with a future item for discussion.

Chairman Tinsley asked the frequency in which staff receives complaints by builders regarding the point system.

Ms. Miller stated she would be happy to meet with the builders to resolve the issues.

### STAFF COMMENTS

None.

### **OTHER BUSINESS**

### 4. Development Code discussion regarding beer and wine establishments for on-site consumption.

Ms. Miller commented on issues surrounding establishments that sell alcohol for on-site consumption. She provided the Commission with the definition of alcohol sales for the use of on-site consumption according to the Development Code. She clarified that establishments that serve food are not required a Conditional Use Permit (CUP) but other on-site consumption does require a Conditional Use Permit. Ms. Miller also commented on the involvement of Alcohol Beverage Control (ABC) with these establishments.

Ms. Miller explained that ABC has broadened their licensing types. As a result, staff would like to ask the Commission for direction as to whether or not the Town's Development Code should be broken down further in order to better determine what would require a CUP verses possibly a Special Use Permit (SUP).

Discussion ensued regarding the types of establishments that typically require a CUP, and whether or not there is a need for the Town to regulate them.

Commissioner Kallen asked from the Town's stand point, the pros and cons of a CUP. He also questioned why a CUP would not be required for all establishments.

Ms. Miller commented on the issues that have occurred due to businesses that originally started as wine tasting and issued a beer and wine license by the state for onsite consumption but have now evolved into, by definition a bar that do not have a CUP. She stated that this issue has also created a problem with the Town's code versus the license that the state licenses provides.

Commissioner Shoup believed that the Town's code is not in sync with the State License Regulations.

Vice-Chairman Lamoreaux asked about the establishments in Apple Valley that have live bands. He questioned whether or not they also require a CUP.

Ms. Miller indicated that the Development Code is silent when it comes to live entertainment.

A lengthy discussion ensued regarding the establishments within the Town that require a CUP.

Ms. Miller provided the Commission with the definitions of on-site consumption vs. off-site consumption.

Albert Maldonado, Town Attorney, read into the record the description of License Type 40 according to ABC, which reads as follows:

"Authorizes the sale of beer at a bar or tavern, for consumption on or off the premises where sold. No wine or distilled spirits may be sold on the premises. Full meals are not required; however, sandwiches or snacks must be available. Also, minors are allowed on the premises."

Mr. Maldonado also commented on the types of food that he believed would be considered a snack according to ABC.

Commissioner Qualls asked the process of a Special Use Permit (SUP). He also asked if an applicant would be able to appeal a condition based upon a SUP.

Ms. Miller responded that an applicant would have the ability to appeal an SUP. She also commented on code amendments for the Commission's consideration.

Commissioner Kallen commented on the terms of an SUP. He also asked if the Town can regulate a SUP in the event that a business owner is not in compliance.

Ms. Miller responded that the Town can impose regulations if the business is not in compliance with their Conditions of Approval or have development into a nuisance. She also noted that a CUP is discretionary, and the Town has the ability to reevaluate them and revoke them.

Michelle Wheatley, Manager, Havana Beer and Wine, agreed that there should be monitoring of a business by the Town. However, she also believed that there is a need for adult night life in Apple Valley that is not a bar. She commented on how Havana Beer and Wine has evolved since it was first licensed under the former business named Davino's. She stated that she did not believe that the owners of Havana Beer and Wine understood that the Town defined them as a bar. She also believed that the parking for Havana Beer and Wine is not adequate for the site.

Zacc Wheatley, Manager, Havana Beer and Wine, read into the record the definitions of on-site and off-site sales of alcohol according to ABC's website. He stated that after meeting with staff, he felt the need to contact ABC for clarification regarding their license. He also believed that there is room to improve the definition of businesses.

Commissioner Qualls believed that it is a good idea to require an SUP to establishments where alcohol is manufactured or sold. He recommended staff review this process on a

case by case basis in an effort to establish some parameters in the interim until the issues are resolved.

Ms. Miller responded stating that the Town must adhere to the Code. She also noted that if ABC were to consider a business as a restaurant, then the Town would not require a CUP.

Ms. Miller asked the Commission if it would be their direction to have staff approach the Town Council for permission to proceed with a possible code amendment.

It was the consensus of the Commission that staff approach the Town Council to ask for permission to develop an amendment to the code.

### **ADJOURNMENT**

Motion by Vice-Chairman Lamoreaux, seconded by Commissioner Kallen, and unanimously carried, to adjourn the meeting of the Planning Commission at 7:30 p.m. to its next regularly scheduled meeting on August 15, 2018.

Respectfully Submitted by:
Yvonne Rivera
Planning Secretary
Approved by:
Chairman Bob "B R " Tinsley



### TOWN OF APPLE VALLEY PLANNING COMMISSION

### **Staff Report**

**AGENDA DATE:** August 15, 2018 (Continued from August 1, 2018)

**CASE NUMBER:** Conditional Use Permit No. 2018-007 and Deviation Permit No.

2018-006

**APPLICANT**: Chris Colten representing Spectrum Services for Verizon Wireless

PROPOSAL: A request for approval of a Conditional Use Permit to install a

seventy-five (75)-foot tall wireless telecommunications tower designed as a faux water tank. The tower has been designed to accommodate a second carrier. The tower will be situated within the southeasterly corner of the park within a 784 square-foot lease area that accommodates the tower and equipment enclosure. The Deviation is a request for a reduced separation distance from

residential zoned property to the south and west.

**LOCATION:** 21024 Otoe Road (Lenny Brewster Sports Center)

ENVIRONMENTAL

**DETERMINATION:** The project is characterized as the new construction of a small

structure with a minor alteration to the land. Therefore, pursuant to the State Guidelines to Implement the California Environmental Quality Act (CEQA) Section 15303, the proposal is exempt from

further environmental review.

CASE PLANNER: Carol Miller, Assistant Director of Community Development

**RECOMMENDATION**: Approval

### **BACKGROUND**

Conditional Use Permit No. 2018-007 and Deviation Permit No. 2018-006 was presented to the Planning Commission during its meeting of July 18, 2018. However due to the lack of a quorum, the item was continued to the next regularly scheduled meeting. Due to the applicant's inability to attend the August 1, 2018 meeting, the item was then continued to the August 15, 2018 meeting.

### PROJECT AND SITE DESCRIPTION:

A. <u>Project Size</u>: The telecommunication facility will occupy a 784 square-foot lease area within the Lenny Brewster Sports Center, a thirty-nine (39) acre park.

### B. General Plan Designations:

Project Site - Open Space (O-S)

North - Very Low Density Residential (R-LVD)
South - Very Low Density Residential (R-LVD)
East - Very Low Density Residential (R-LVD)
West - Very Low Density Residential (R-LVD)

### C. Surrounding Zoning and Land Use:

Project Site - Open Space Recreation (OS-R), Public Park

North - Very Low Density Residential (R-LVD), Vacant and Single-Family South - Very Low Density Residential (R-LVD), Vacant and Single-Family

East - Very Low Density Residential (R-LVD), Vacant

West - Very Low Density Residential (R-LVD), Vacant and Single-Family

### D. <u>Height:</u>

Permitted Maximum: 75 ft. (Preferred Location)

Proposed Maximum: 75 ft.

### E. Parking Analysis:

Total Parking Required:	1 Space
Parking Provided:	1 Space

### F. <u>Setback Analysis:</u>

Tower	Required	Proposed
Park Boundary:	-	-
From West	28 ft.	970 ft.
From East	28 ft.	60 ft.
From South	28 ft.	97 ft.
From North	28 ft.	1480 ft.

### G. <u>Separation Analysis</u>:

Tower	Required	Proposed
To SFR	•	•
From West	500 ft.	970 ft
From East	500 ft.	**60 ft
From South	500 ft.	**97 ft
From North	500 ft.	1480 ft
To Existing Tower	750 ft.	Approx. 7500 ft.

<sup>\*\*</sup> highlights the deviations being requested

### **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 a public park, with the approval of a Conditional Use Permit. 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 of similar in height.

### B. Site Analysis:

The proposed wireless telecommunication facility will be located within Lenny Brewster Sports Complex, a thirty-nine (39) acre park. The proposed lease area within the park is a grassy area amongst existing trees. The base of the tower will be enclosed by an eight (8)-foot tall block wall that will house the equipment. The applicant met with Town staff regarding the location to ensure that the function of the park would not be impacted. As a public park, 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.

The enclosure will include:

- 75-foot cellular tower (water tank)
- 784 square feet
- 8-foot high perimeter block wall enclosure
- 15 kw generator
- One equipment cabinet

The subject site, as well as the surrounding area is located within the Apple Valley Dry Lake, Flood Hazard. As such, any new construction is required to comply with Section 9.62.100 of the Development Code. The dry lake and surrounding area are zoned residential. Due to the flood hazard the area is primarily undeveloped, and with residential zoning the area lacks wireless coverage which is supported by the Propagation Map. The Town's Wireless Telecommunication ordinance prohibits wireless telecommunication facilities in residential zones, except for such facilities associated with permitted nonresidential uses such as parks, schools, fire stations, and light standards.

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 twenty-eight (28)-feet (75% of 75 feet = 56.25 feet. 50% of 56.25 feet = 28 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 nearest residential unit or residentially zoned properties. As a preferred location, the required separation can be reduced by fifty (50) percent. This calculates to 500 feet. Since the Tower is closer than 500 feet to residentially zoned properties to the south and east, the applicant is requesting a Deviation Permit to allow up to a 410-foot encroachment into the separation requirement. Although, the request represents a significant encroachment into the requirement, the location is the furthest distance from any existing residential units. The greatest concentration of residential units is to the north (1,480 feet) and west (970 feet). The location also does not impact the function of the sports complex. Although the area surrounding the park is zoned Very Low Density residential (R-VLD), the closest single-family residence is approximately 900 feet to the southwest.

The Code requires a minimum 1,500-foot separation to an existing antenna exceeding fifty (50) feet in height, and as a preferred location, the required setback can be reduced by fifty

(50) percent. This calculates to 750 feet. The nearest existing antennas are located on Thunderbird and on Dale Evans Parkway, both of which are over 7,500 feet away.

### C. Deviation Permit:

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 and 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.

The property is in the middle of a residential, most undeveloped area, causing a lack of coverage to the surrounding neighborhoods. Although the structure encroaches into the separation requirements to residentially zoned property, the proposed cell tower would be located approximately 900 feet from the nearest residential unit.

### D. Architecture Analysis:

The cellular antenna will be designed to look like a water tank. All antenna arrays, wiring equipment will be encased inside of the faux water tank. Furthermore, the faux water tank will include the Town's logo and name of the facility. The faux tank is made of laminated fiberglass, which will be molded/painted, to give a simulated wood tank appearance. The support columns will be painted a non-reflective, matte, brown per the General Standards for Wireless Telecommunication Facilities, to simulate wood support members.

The wireless site has been designed as a co-locatable facility for another carrier and has the room to accommodate additional antennas. The design for co-location will limit the potential for proliferation of cell towers in the immediate vicinity. Any new antennas will be integrated into the water tank design.

The faux water tank tower will be located within an eight (8)-foot tall, 784 square foot CMU block enclosure. Staff is recommending Condition No. P10 requiring the enclosure to include split face block, decorative pilasters at each corner and decorative cap.

### 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. <u>Environmental Assessment:</u>

The project is characterized as the new construction of a small structure with a minor alteration to the land. Therefore, pursuant to the State Guidelines to Implement the

California Environmental Quality Act (CEQA) Section 15303, the proposal is exempt from further environmental review.

### G. Noticing:

The project was legally noticed in the Apple Valley News on July 6, 2018. 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 has not received any communication in opposition.

### 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 seventy-five (75)-foot high telecommunication tower designed as a faux water tank complies with the Town's Telecommunications Ordinance of the Development Code, upon the review and approval of a Conditional Use Permit and Deviation Permit by the Planning Commission. and complies with the adopted 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 park landscape. By using a faux water tank design, the visual impact will be minimized while expanding the telecommunication coverage within an area that is deficient in cellular coverage.

Additionally, that the design of the project maximizes the beneficial effects of a facility that will serve as an integral part of a whole communications system and improve the telecommunications coverage for an area with limited coverage.

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 will incorporate a faux water tank design as camouflage for the tower and will be compatible with the site. The proposed faux water tank, with adherence to the recommended Conditions of Approval, is permitted subject to approval of a Conditional Use Permit and Deviation Permit. All development issues have been evaluated by the appropriate Town departments and appropriate conditions have been required to address their areas of responsibility. When implemented, the conditions will ensure compliance with all local, state and federal regulations pertaining to the proposed facility.

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

Comment:

The faux water tank design compatible with the existing park landscaping and compatible in scale and bulk with the existing park and surrounding commercial structures. The faux water tank design will reduce the visual impact while expanding the telecommunication coverage within an area deficient in cellular coverage. Also, the thirty-nine (39) acre park is in the middle of a residential, mostly undeveloped area, causing a lack of coverage to the surrounding neighborhoods. Although the structure encroaches into the separation requirements to residentially zoned property, the proposed cell tower would be located approximately 900 feet from the nearest residential unit.

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.

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

Comment:

That there will not be a harmful effect upon neighborhood characteristics because the faux water tank design, will minimize the visual impact while expanding the telecommunication coverage within an area that is deficient in cellular coverage. Further, the thirtynine (39) acre park is in the middle of a residential, mostly undeveloped area, causing a lack of coverage to the surrounding neighborhoods. Although the structure encroaches into the separation requirements to residentially zoned property, the proposed cell tower would be located approximately 900 feet from the nearest residential unit.

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 a public park. 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: The project is characterized as the new construction of a small structure with a minor alteration to the land. Therefore, pursuant to the State Guidelines to Implement the California Environmental

Quality Act (CEQA) Section 15303, the proposal is exempt from further environmental review.

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

Comment:

The project is characterized as the new construction of a small structure with a minor alteration to the land. Therefore, pursuant to the State Guidelines to Implement the California Environmental Quality Act (CEQA) Section 15303, the proposal is exempt from further environmental review.

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 faux water tank, will be compatible with the adjacent and neighboring structures because within the park there are eighty (80)-foot tall light poles and trees. With compliance with the Conditions of Approval, the materials, textures and details of the proposed antenna and associated equipment compound will blend with the existing park landscape and adjacent structures.

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 proposed faux water tank, will not unnecessarily block public views from other adjacent and neighboring structures because within the park there are existing eighty (80)-foot tall light poles and trees which are already highly visible within this largely undeveloped area within the Apple Valley dry lake.

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 faux water tank adjacent to or within proximity of

some trees and ball field lighting which will help reduce the appearance of the tower while providing identification for the park.

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 public park.

### 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 due to

existing park improvements.

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

Comment:

Given the location of existing park improvement, the purpose of the park as a sports complex the location appears most logical despite the encroachments into the required separation requirement to residential zoning. With adherence to the 500-foot separation requirements, it would preclude the use of this preferred location for telecommunication. Essentially, any viable on-site location would result in an encroachment or interfere with the ballfields

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. Given the location of existing park improvements, the location appears most logical despite the encroachments into the required residential separation requirement. With adherence to the 500-foot separation requirements it would preclude the use of this preferred location for telecommunication. Furthermore, the engineering analysis identified a need for a cellular tower in this vicinity in order to provide adequate service to the community. The surrounding area is zoned residential due to the dry lake hazard status with limited preferred locations in the area. Therefore, this is a rather unique situation in that there is not a more suitable locations for this telecommunications facility,

which is necessary to provide cellular communications coverage for the community.

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. Given the site design of the existing improvements, the location appears most logical despite the encroachments into the required 500-foot residential separation requirement, it would preclude the use of this preferred location for telecommunication. The closest residential unit is located approximately 900 feet to the southwest. Essentially, any viable on-site location would result in an encroachment. The proposed location offers the greatest setbacks without interfering with the function of the park.

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.

Comment:

Given the site design of park and its purpose, the location appears most logical despite the encroachments into the required separation to residential zoning and uses. The granting of the Deviation to allow the telecommunications facility to be constructed within a location that result in a separation less than the 500-foot to residential zoning will not interfere with the park functionality nor will it be materially detrimental to the public health, safety or general welfare because the proposed lease area is located approximately 900 feet to the closest residential unit and within a corner section of the park.

### 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. Determine that pursuant to the State Guidelines to Implement the California Environmental Quality Act (CEQA) Section 15303, Conditional Use Permit No. 2018-007 and Deviation Permit No. 2018-006 are 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. 2018-007 and Deviation Permit No. 2018-006.
- 3. Approve Conditional Use Permit No. 2018-007 and Deviation Permit No. 2018-006, subject to the attached Conditions of Approval.
- 4. Direct Staff to file the Notice of Exemption.

### **Prepared By:**

### Carol Miller

Assistant Director of Community Development

### ATTACHMENTS:

- 1. Recommended Conditions of Approval
- 2. Justification for Deviations
- 3. Zoning Map
- 4. Site Plans
- 5. Elevation
- 6. Photo-simulation
- 7. RF maps

### TOWN OF APPLE VALLEY

### RECOMMENDED CONDITIONS OF APPROVAL

Conditional Use Permit No. 2018-007 & Deviation Permit No. 2018-006

**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 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. 2018-007 and Deviation Permit No. 2018-006 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, facade 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 filing of a Notice of Exemption requires the County Clerk to collect a \$50.00 documentary handling and filing fees. The fee must be paid in a timely manner in accordance with Town procedures. No permits may be issued until such fee is paid. The check shall be made payable to the Clerk of the Board of Supervisors.
- P10. The equipment enclosure shall be of split face block with decorative pilasters at all corners and decorative wall cap. No barbed, razor or other wire material shall be used in or on the facility.
- P11. Prior to the commencement of work in the park, the contractor shall coordinate a preconstruction meeting with the Park and Recreation Division.
- P12. Prior to the issuance of a building permit, a lease agreement between the Town and the applicant shall be approved.
- P13. The project shall comply with Section 9.62.100 (Dry Lake Hazard) of the Development Code.
- P14. The logo and park identification shall be on two (2) sides of the tank. The graphics shall remain in good condition.
- P15. Ascent lighting shall be used to highlight the graphics on the faux water tank.
- P16. The non-exclusive parking stall shall be located such that it does not encroach into the drive aisle.

### **Building and Safety Division Conditions of Approval**

- BC1. Submit plans, engineering and obtain permits for all structures and retaining walls, signs.
- BC2. All utilities shall be placed underground in compliance with Town Ordinance No. 89.
- BC3. Comply with the State of California Disability Access requirements.
- BC4. A dust palliative or hydro seed will be required on those portions of the site graded but not constructed (phased construction)
- BC5. Page two (2) of the submitted building plans will be conditions of approval.
- BC6. Construction must comply with current California Building Codes and green Building Code.
- BC7. Best Management Practices (BMP's) are required for the site during construction.

BC8. Provide Water Quality Management Plan (WQMP) or Alternative Compliance Plan.

### **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.

Public Resources Code, Sec. 4291

- FD4. Provide a N.F.P.A. 704 Placard identifying the Hazardous Materials for the batteries.
- FD5. Provide (1) 2A10BC minimum rating fire extinguisher and serviced by a certified company.

**End of Conditions** 

### DEVIATION PERMIT FINDINGS FOR A WIRELESS TELECOMMUNICATION FACILITY

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

We have submitted propagation maps that show the need to locate our proposed site in this area to neet the coverage and capacity needs of our network.

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

The unique circumstances associated with our proposed location is that our park location is surrounded by residential pareels.

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

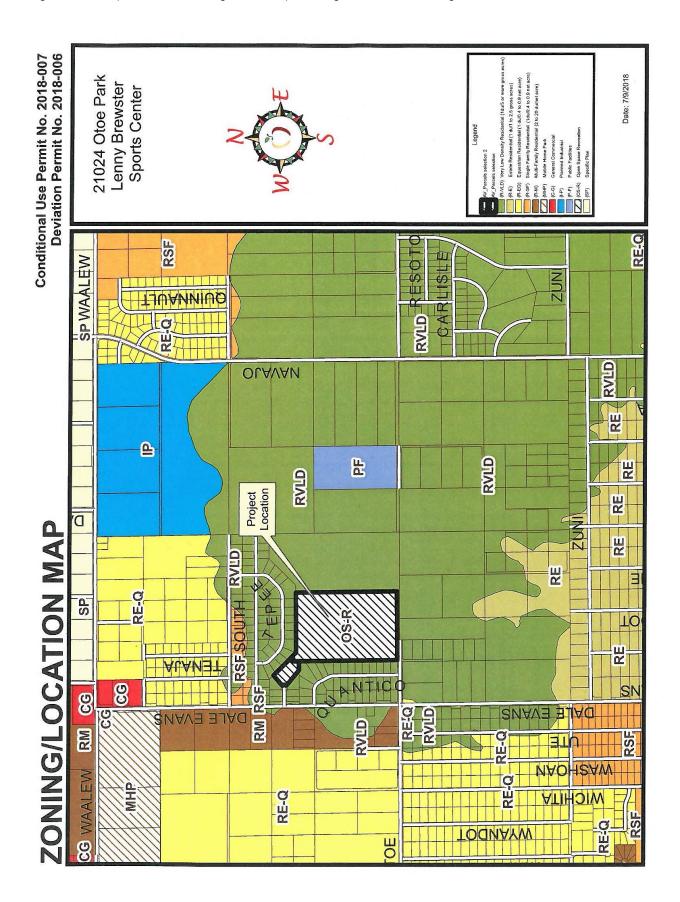
This parcel is the only parcel in this area that is a nonresidential use so there are no alternative sites in this area to locate our facility.

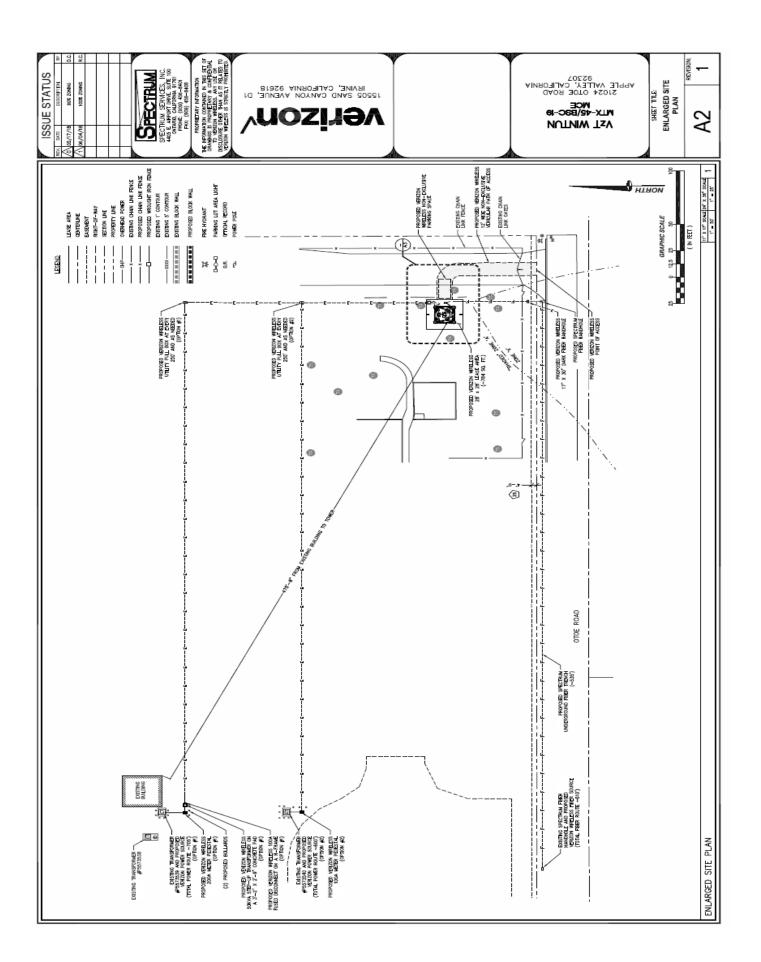
4. That the submitted information and testimony from the applicant, staff and public illustrates a reasonable probability that allowance of the Deviation will have minimal or no adverse impacts to the site, surrounding area or the community in general; and

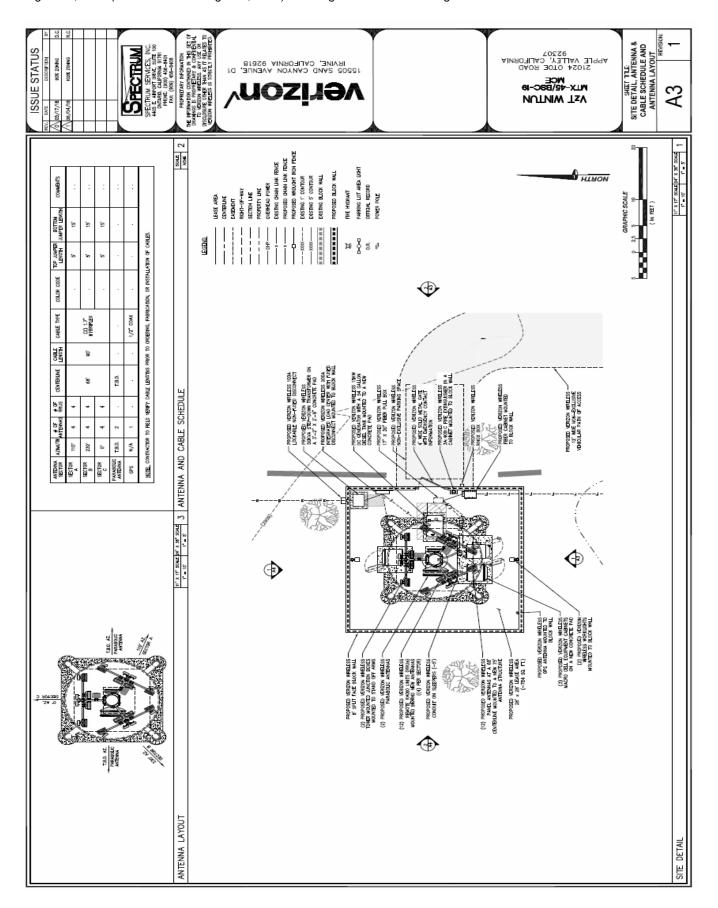
System and the decorative steathing of our facility, there is a reasonable probability that our site will have minimal adverse in pacts to the park, surrounding area, or community,

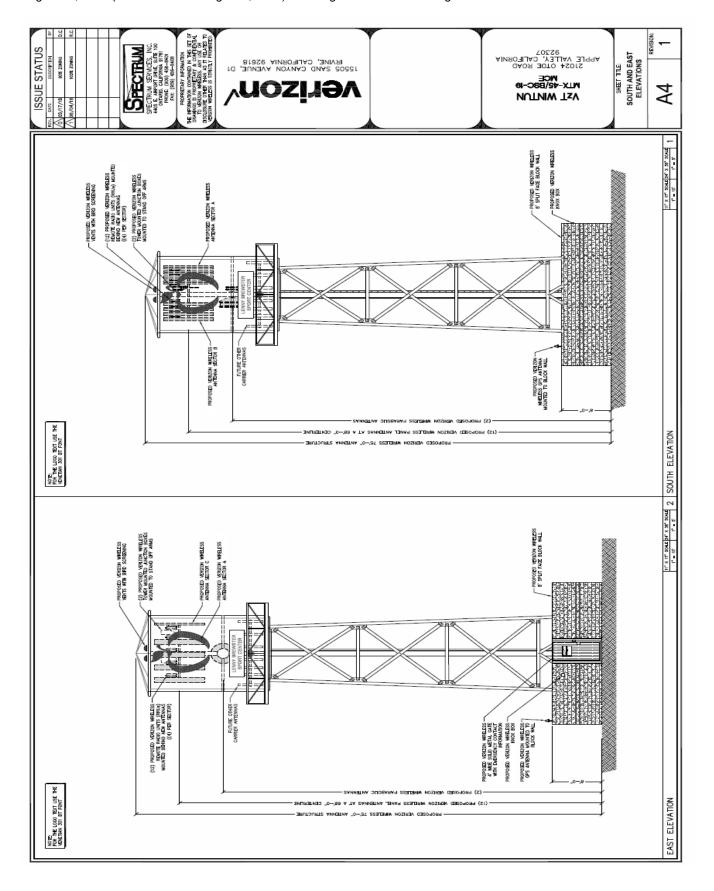
5. That the Commission finds that the proposed deviation will not be materially detrimental to the public health, safety or general welfare, or injurious to the property or improvements in the vicinity and land use districts in which the property is located.

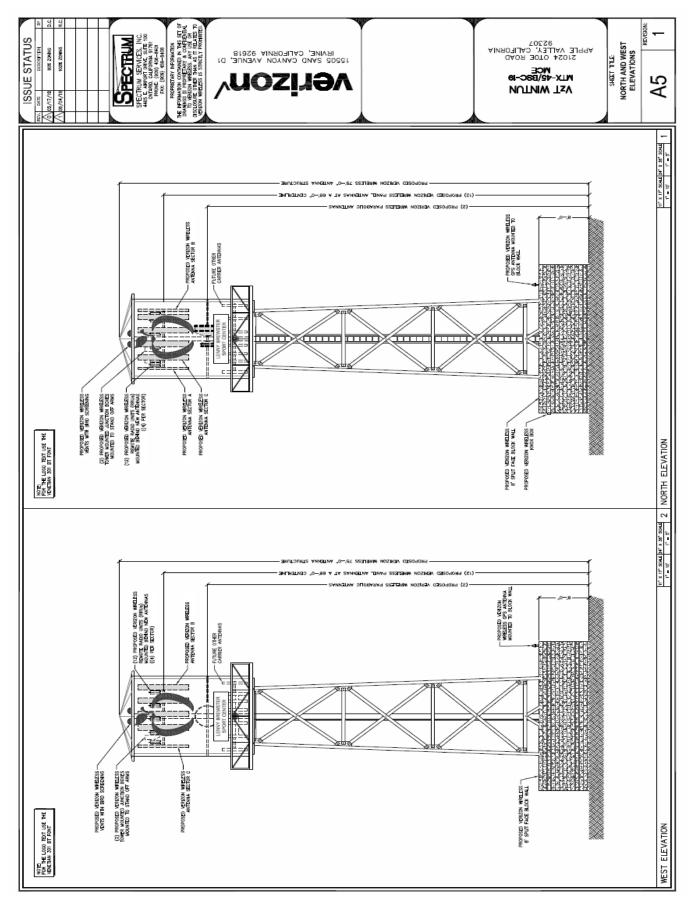
The granting of the deviation will actually servce to be beneficed to the public as it will increase the aspect by of the E911 system, protect adjacent residented parcels, encourage the location of towers in non-residential areas (the park)

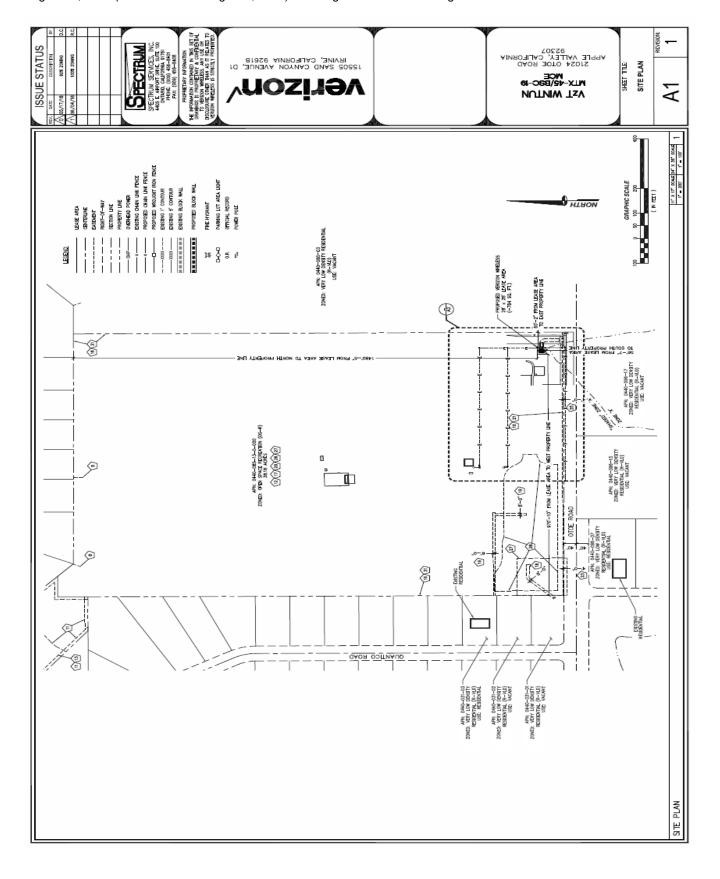








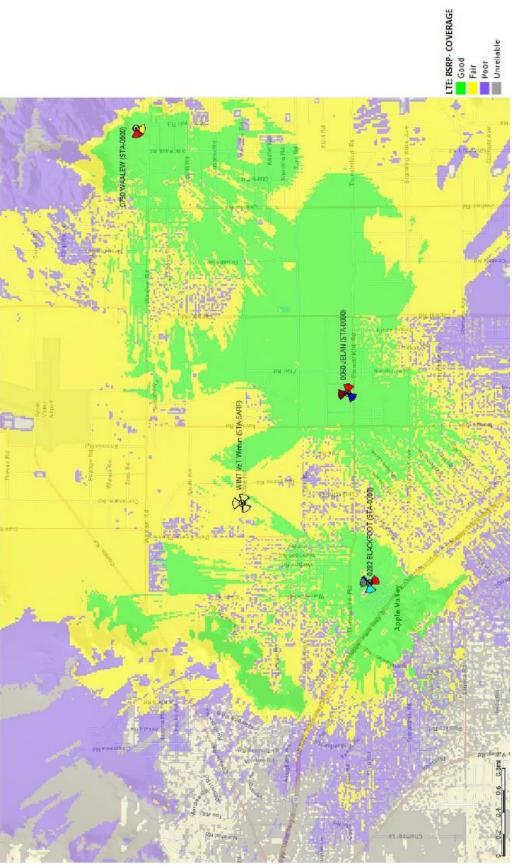




VzT Wintun - General Map

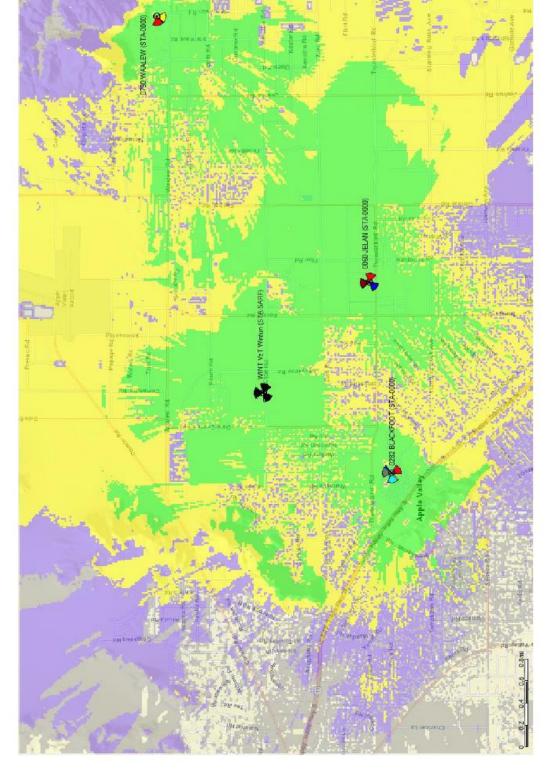
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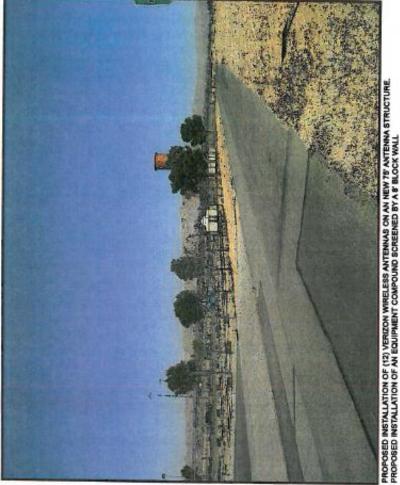


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LTE: RSRP- COVERAGE

Good
Fair
Poor
Unreliable

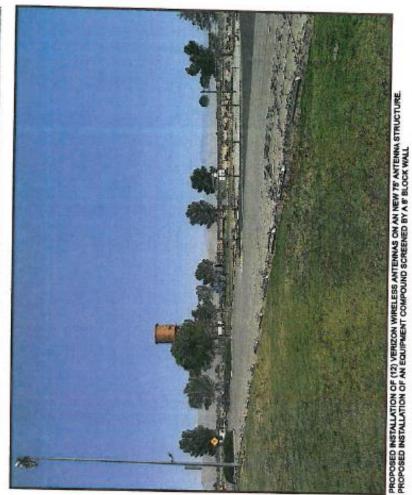






15505 SAND CANYON AVENI BUILDING D, 1ST FLOOR IRVI CALIFORNIA 92618







15505 SAND CANYON AVENU BUILDING D, 1ST FLOOR IRVIN CALIFORNIA 92518













15505 SAND CANYON AVENU BUILDING D. 1ST FLOOR IRVIN CALIFORNIA 92618





