



## Town Council Agenda Report

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Date: July 14, 2020 Item No. 12

To: Honorable Mayor and Town Council

Subject: APPEAL (NO. 2020-001) OF THE PLANNING COMMISSION'S DENIAL OF CONDITIONAL USE PERMIT NO. 2019-005 AND DEVIATION PERMIT NO. 2019-005, A REQUEST TO CONSTRUCT A CONSTRUCT A SEVENTY-FIVE (75)-FOOT TALL WIRELESS TELECOMMUNICATIONS TOWER DESIGNED AS A MONO-EUCALYPTUS AND DEVIATION TO ALLOW THE WIRELESS COMMUNICATION TOWER TO BE LOCATED LESS THAN 500 FEET TO RESIDENTIALLY ZONED PROPERTY AND LOCATED LESS THAN 750 FEET TO AN EXISTING TOWER.

Appellant: Crown Castle Tower, LLC

Location: 19235 Yucca Loma Road, APN 3088-431-29

From: Douglas Robertson, Town Manager

Submitted by: Carol Miller, Assistant Director of Community Development  
Planning Department

Budgeted Item:  Yes  No  N/A

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### RECOMMENDED ACTION

- A. Find that pursuant to the state guidelines to implement the California Environmental Quality Act (CEQA), section 15270 (a), that a project which is denied is exempt from CEQA.
- B. Find the facts presented within the staff report for the Council hearing of July 14, 2020, including the comments of the public and the planning commissioners as reflected in the minutes of the Planning Commission meeting of May 6, 2020, and the record as a whole as discussed and considered by the Council, including the negative findings that, due to the small size of the parcel and existing on-site improvements, the proposed wireless facility negatively impacts the function of the site and visually impacts the surrounding neighborhood.
- C. Deny Conditional Use Permit no. 2019-005 and Deviation no. 2019-005

## **BACKGROUND**

Pursuant to Development Code Section 9.12.250 *Appeals*, the applicant or anyone who is dissatisfied with a decision of the Planning Commission may appeal that decision within ten (10) days from the date of the decision. On May 14, 2020, an appeal of the Planning Commission's denial of Conditional Use Permit No. 2019-005 and Deviation Permit No. 2019-005 was filed.

On May 6, 2020, the Planning Commission conducted a public hearing on Conditional Use Permit No. 2019-05 and Deviation Permit No. 2019-005. Following consideration of the information within the staff report (attached), the public hearing and discussion, the Planning Commission reached a consensus for denial of the proposed wireless telecommunication tower project. As indicated in the attached minute excerpt for the meetings of May 6, 2020, the consensus of the Commission was the project could not be approved based on the testimony of the public and the findings as contained in the staff report, moved to deny the project with a 5-0- vote at the May 6, 2020 meeting.

The Appeal application (attached), does not explain a reason why the applicant believes the appeal should be granted that would allow the construction of the wireless facility at the proposed location. However, in summary of the request to the Planning Commission, the applicant cites reduced coverage gaps and e911 service.

## **SUMMARY**

The Town encourages the construction of wireless telecommunication facilities with provisions in the Town's Wireless Telecommunication Towers and Antenna Ordinance by identifying Preferred Locations. Preferred locations are also afforded up to a fifty (50) percent reduction in setback and separation requirements. The Planning Commission determined that the requested encroachments to be significant into the already reduced standards, and therefore inconsistent with the provisions of the Town's Wireless Telecommunication Ordinance.

The Planning Commission also determined that the developed one (1) acre parcel was inadequate in area to accommodate two towers based upon the impacts this proposal would have on the fire station to maintain compliance with parking, and landscape buffer as required under the fire station Conditional Use Permit.

## **NOTICING**

This item was advertised as a public hearing in the Apple Valley News newspaper on June 25, 2020.

## **FINDINGS**

### 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 mono-eucalyptus tower is allowed under 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. The intent of the Development Code regulations is intended to provide reasonable criteria to assess projects while reducing visual and land use impacts associated with wireless telecommunication facilities. Wireless facilities are also identified in 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." The seventy-five 75-foot tall mono-eucalyptus tower would be in addition to an existing 65-foot tall tower located 175 feet away on the same one (1) acre parcel does create a visual impact. The impact of two (2) telecommunication towers on the same one (1) acre parcel is evident by the number of development standard deficiencies. Therefore, the proposal is not 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.

2. That the proposed location, size, design and operating characteristics of the proposed use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety or welfare, nor be materially injurious to properties or improvements in the vicinity, adjacent uses, residents, buildings, structures or natural resources.

Comment: The seventy-five (75)-foot tall mono-eucalyptus tower and an existing 65-foot tall tower located 175 feet away on the same one (1) acre parcel does create an impact. The impact of two (2) telecommunication towers on the same one (1) acre parcel is evident by the number of development standard deficiencies. Therefore, the proposal would be detrimental to the public health, safety or welfare, nor be materially injurious to properties or improvements in the vicinity, adjacent uses, residents,

3. 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.

4. That the generation of traffic will not adversely impact the capacity and physical character of surrounding streets and that the traffic improvements and/or mitigation measures are provided in a manner consistent with the Circulation Element of the General Plan.

Comment: Traffic generated from the unmanned wireless telecommunication facility will not adversely impact the surrounding area.

5. 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.

6. That Use Permits requiring new construction also meet the Required Findings set forth with Chapter 9.17 "Development Permits".

Comment: N/A

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 antenna height, setback, separation distance, security fencing or landscape screening established within Section 9.77, "Wireless Telecommunications Towers and Antennas". 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 basis the applicant provides for the two encroachment into the separation requirement is the need for e911 services and the need for better coverage for AT&T in the area. This does not demonstrate it cannot be met with other options. There is no willingness to provide a single tower to accommodate AT&T and the existing carriers. Therefore, supporting documentation of the identified need that cannot be met in any other manner has not been met.

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

Comment: The applicant identifies the fact that the site is a preferred location and co-habiting as a unique circumstance. A preferred location and co-habiting are not a unique circumstance. Lot size could be considered a unique circumstance for this preferred location if this were the first tower being considered. Requesting a second tower

on a site that is not large enough to accommodate multiple users is not justification nor a unique circumstance, but rather an over concentration.

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

Comment: The surrounding area is predominately single family residential which probably does create limitations on the availability of sites. However, this does not override the impacts that result of the over concentration issue.

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 Deviations requested, and the Development Code deficiencies not included in the Deviation request will have an adverse impact to the site, surrounding area or the community in general. As identified in the analysis of the Planning Commission staff report, the one (1) acre site with an existing cellular tower and a fire station does not contain enough area to accommodate a second tower, equipment area for AT&T and future carriers and the fire station. Also, the seventy-five (75)-foot tall tower would be in addition to a sixty-five (65)-foot tall tower which results in aesthetic issues. The existing tower serves as a hose drying rack for the fire station while the proposal is designed as a mono-eucalyptus tree where no trees exist.

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: The proposal to install a wireless telecommunication tower on a one (1) acre site currently developed with a fire station and an existing wireless telecommunication tower results in significant deficiencies for the project to meet the separation requirements, but also impacts the fire station to meet required parking, landscaping and the required landscape buffer adjacent to residential. These deficiencies, in addition to the aesthetics of a 75-foot tower in close proximity to an existing 65-foot tower on the same site will 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.

## **FISCAL IMPACT**

None

## **ATTACHMENTS**

Appeal Application

Letter of Opposition

Planning Commission Staff Report of May 6, 2020

Minute excerpts from the Planning Commission meeting of May 6, 2020



# Town of Apple Valley Appeal Application



This request must be filed with the Planning Division within ten (10) calendar days following the date of action. An Appeal request received after this time *will not be accepted*. Appeals requiring Town Council consideration will be forwarded to the Town Clerk by the Director.

### FOR TOWN USE ONLY

Date Submitted: 5/14/2020 Case No.: Appeal 2020-001 Received By: cm  
Planning Fee: \$266.- Other Fees: \_\_\_\_\_ Case Planner: cm

Type or print legibly in ink only

PROPERTY ADDRESS 19235 Yucca Loma Road, Apple Valley, CA 92307

### FEE

	<u>Initial Deposit</u>	<u>Actual Cost not to exceed</u>
<input type="checkbox"/> Appeal Fee – To Planning Commission	\$266	\$266
<input checked="" type="checkbox"/> Appeal Fee – To Town Council	\$266	\$266

The Appeal Fee does not apply to permits the Planning Commission acted to revoke or amend.

### APPELLANT INFORMATION

Name CCTM1 LLC Crown Castle (contact Rachael) Telephone 619-729-2294  
Fax \_\_\_\_\_ Email rachael.davidson@jacobs.com  
Address 2600 Michaelson Drive, Suite 500  
City Irvine State CA Zip 92612

### PROJECT INFORMATION

Project Number Being Appealed Conditional Use Permit No. 2019-005 & Deviation No. 2019-005  
Project Description 70' Wireless facility stealthed as a mono-eucalyptus with ground equipment

Assessor's Parcel No. (s) 3088-431-29-0000 Tract 5392 Lot 20

### APPEAL STATEMENT

- I am/We do hereby appeal the findings/conditions/interpretations of the Town of Apple Valley:  
(Check one)  
 Planning Commission \_\_\_\_\_ Planning Director  
 Public Works Director \_\_\_\_\_ Building Official  
 Town Engineer \_\_\_\_\_ Fire Chief

2. I/We appeal to the Town of Apple Valley:  
(check one)  
 Planning Commission       Town Council

3. I/We am/are appealing the project action taken to:  
(Check those which apply)  
 Deny the project       Adopt a Negative Declaration  
 Approve the project  
 \*Approve the project condition of (specify):

\_\_\_\_\_  
Other: \_\_\_\_\_

4. Detail what is being appealed and what action or change you seek. Specifically address the findings, mitigation measures and/or policies with which you disagree. Also state exactly what action/changes you would seek.  
The Applicant is appealing the Commission's decision to deny the proposed application on the basis that the facility is inconsistent with the provisions of the Town's Wireless Telecommunication Ordinance and impacts the fire station in a negative way.

I/We understand that as appellant I/We have the burden of proof in this matter:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

Date \_\_\_\_\_



**Maribel Hernandez**

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**From:** gustavo meza <gustavo@gushelp.com>  
**Sent:** Saturday, June 27, 2020 3:59 PM  
**To:** Carol Miller; PublicComment  
**Subject:** Re: 5G Cell Towers in Apple Valley next to the Fire Station  
**Attachments:** Letter.pdf

**Sensitivity:** Personal

I have received now several notices regarding the propose 75 foot wireless telecommunication on 19235 Yucca Loma Rd, APN 3088-431-29

As I have stated, I strongly oppose this tower due to being a hazard to health in humans and possibly birds and other animals alike.

Please put my name on the opposing names on your list.

The letter I receive is schedule for a hearing on July 14, 2020 at 06:30 PM

I am also providing a copy of this letter I received.

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**From:** gustavo meza <gustavo@gushelp.com>  
**Sent:** Wednesday, March 18, 2020 3:22 PM  
**To:** Carol Miller <CMiller@applevalley.org>  
**Subject:** Re: 5G Cell Towers in Apple Valley next to the Fire Station

My name is Gustavo Meza

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**From:** Carol Miller <CMiller@applevalley.org>  
**Sent:** Wednesday, March 18, 2020 2:56 PM  
**To:** gustavo meza <gustavo@gushelp.com>  
**Subject:** RE: 5G Cell Towers in Apple Valley next to the Fire Station

Yes, the meeting has been canceled and all items are being continued to the April 1, 2020 meeting date. For the record can you provide your name as this email will be printed for the file?

Thanks

Carol Miller  
Assistant Director of Community Development  
Town of Apple Valley  
760-240-7000 Ext 7222  
cmiller@applevalley.org

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**From:** gustavo meza <gustavo@gushelp.com>  
**Sent:** Wednesday, March 18, 2020 2:49 PM  
**To:** Carol Miller <CMiller@applevalley.org>  
**Subject:** Re: 5G Cell Towers in Apple Valley next to the Fire Station

I live several feet away from where the proposed 5G cell towers are being proposed in Apple Valley.

I oppose this new cell tower that is being considered next to the Fire station in Apple Valley near Apple Valley Road and Yuca Loma.

Due to the cancellations of public gatherings and public services, I assume this hearing for Wednesday March 18th 2020 at 6PM in the Town Council Chambers will be canceled.

I would have gone to this hearing but I will not attend due to the Corona Virus Pandemic.

Nonetheless, I am against this Cell Tower installation.

**Maribel Hernandez**

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**From:** Jacob Graham <jacobmgraham@gmail.com>  
**Sent:** Wednesday, July 01, 2020 9:54 AM  
**To:** PublicComment  
**Subject:** Crown Castle Tower

I would like to start by thanking you for allowing us to voice our opinions and concerns via email in light of the Covid-19 pandemic.

I live on Cochise Rd and firmly oppose this tower going in. There is currently one tower located at fire station 336 and an additional tower will be a further eye sore to the neighborhood. The tower currently in place is at least shorter than the one being proposed and is being used practically by the fire department as a hose drying tower.

My concern with an additional and taller tower is that it will make selling homes in the area harder and drive property values down. My home was for sale when the town passed the zoning update to multi unit housing and commercial use directly behind us along Apple Valley Rd and Yucca Loma. This had a major affect on our listing. People stopped viewing the home and cited to agents that it was due to not wanting apartments and unknown retail being so close to the home. We ultimately pulled our listing and are having to wait and see when / is anything is built in that area.

I believe that in a town like Apple Valley where we live for the specific reason of not wanting to feel closed in or in a city it would be a shame to begin allowing towers such as these to be placed so close to homes and schools. There are vast areas within the town and surrounding area that a tower like this could be built to give residents 5G cell service and not obstruct or hinder residents views and property values.

Again thank you for this opportunity to speak to you and I hope that you will continue to fight to keep Apple Valley a beautiful town to raise our families.



## Planning Commission Agenda Report

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### Item No. 3

- Date:** May 6, 2020 (*Continued from Feb. 19, 2020 & April 1, 2020*)
- To:** Planning Commission
- Case Number:** Conditional Use Permit No. 2019-005 and Deviation No. 2019-005
- Applicant:** Crown Castle Towers LLC
- Proposal:** A request for approval of a Conditional Use Permit to allow a seventy-five (75)-foot tall wireless telecommunication tower designed as a mono-eucalyptus tree.
- The Deviation is a request to allow the wireless telecommunication tower to be located less than 500 feet to residentially zoned property and located less than 750 feet to an existing tower.
- Location:** 19235 Yucca Loma Road, APN 3088-431-29
- 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 and 15304, the proposal is exempt from further environmental review. If the Planning Commission denies the request, CEQA Section 15270 states that CEQA does not apply to projects which a public agency denies. Therefore, a Notice of Categorical Exemption is not required.
- Prepared By:** Carol Miller, Assistant Director of Community Development
- Recommendation:** Denial
- 

#### PROJECT SITE AND DESCRIPTION

- A. Project Size:  
The site is 1.12 acres in size.
- B. General Plan Designations:  
Project Site - Public Facility (P-F)

3-1

- North - Residential Single-Family (R-SF) & General Commercial (C-G)
- South - Public Facility (P-F) & General Commercial (C-G)
- East - General Commercial (C-G)
- West - Residential Single-Family (R-SF)

C. Surrounding Zoning and Land Use:

- Project Site- Public Facility (P-F), Fire Station
- North - Residential Single-Family (R-SF), Residential Equestrian (R-EQ) & General Commercial (C-G), Single-family residences, Vacant land
- South - Public Facility (P-F) & General Commercial (C-G)
- East - General Commercial (C-G), Commercial center
- West - Residential Single-Family (R-SF), Single-family residences

D. Height:

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

E. Parking Analysis:

Total Parking Required: 1 Space  
 Parking Provided: 0 Space

F. Setback Analysis:

<b>Tower to Property Line:</b>	<b>Required</b>	<b>Proposed</b>
From West	28 ft.	190 ft.
From East	28 ft.	40 ft.
From South	28 ft.	65 ft.
From North	28 ft.	137 ft.

G. Separation Analysis:

<b>Tower to SFR:</b>	<b>Required</b>	<b>Proposed</b>
From West	500 ft.	**190 ft
From East	500 ft.	1200 ft
From South	500 ft.	700 ft
From North	500 ft.	**137 ft
<b>Tower to Existing Tower</b>	750 ft.	**175 ft.

\*\* highlights the deviations being requested

**ANALYSIS**

A. General:

On February 19, 2020 the Planning Commission opened the public hearing, and after receiving public testimony and evidence introduced in the record, the public hearing was continued to April 1, 2020, at the request of the Applicant.

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 at public facilities as an accessory use, with approval of a Conditional Use Permit. The Wireless Telecommunication ordinance also 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.

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.

In response to the notices that were sent to the surrounding property owners, the Town has received comments in opposition to the Project. The emails that staff has received are attached for your review.

B. Site Analysis:

The subject site is developed with a 9,100 square-foot fire station and related parking (CUP 2001-006) and an existing sixty-five (65)-foot tall wireless telecommunication tower designed as a fire hose drying rack (CUP 2004-001). The applicant is requesting Planning Commission review and approval of a Conditional Use Permit to install a seventy-five (75)-foot tall wireless telecommunications tower designed as a mono-eucalyptus. The elevations identifies the tower is designed to accommodate three (3) carriers. Only one carrier has been identified on the tower with the remaining shown as future carriers.

The Code requires a minimum 1,500-foot separation to an existing tower, and as a preferred location, the required separation can be reduced by fifty (50) percent. This calculates to 750 feet. The proposed tower would be in addition to the existing tower located 175 feet away on the subject site. The applicant is requesting a Deviation Permit to allow up to a 575-foot encroachment into the separation requirement. The applicant has indicated no desire to relocate the carrier(s) on the existing tower to the new tower.

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 137 feet to the west. Since the antenna is closer than 500 feet, the applicant is requesting a Deviation Permit to allow up to a 363-foot encroachment into the separation requirement.

The Code requires a four (4)-foot wide landscape buffer to effectively screen the view of the tower compound. The equipment plan identifies a four (4)-foot wide landscape buffer on the north and south side of the compound and a six (6)-inch wide landscape buffer on the west and east side of the compound. Since two of the four sides of the compound do not meet the landscape buffer requirement, a Deviation is required. However, no request to deviate from this requirement was included in the application.

To accommodate the proposed wireless facility, two (2) parking spaces and a landscape planter within the parking area are being removed. Excluding the landscaping required to screen the compound, it would appear that between the loss of the planter area associated with the proposal and existing improvements associated with the other tower, that the parking area landscaping does not meet the minimum five (5) percent requirement.

As previously mentioned, the proposal requires the removal of two (2) parking spaces. The fire station is required thirty (30) spaces. It is unclear why, but the fire station was constructed with twenty-eight (28) parking spaces. Nevertheless, the proposal reduces the parking by two. To make up the loss of the two spaces, the applicant is proposing to restripe seventeen (17) existing parking spaces by reducing the width from the required nine (9) feet in width to eight (8) feet in width. The Development Code does contain provisions for compact parking at a maximum rate of fifteen (15) percent. Based on this rate, the maximum number of compact spaces allowed is four (4) where the applicant proposes seventeen (17) compact spaces.

The elevations of the tower identify up to three (3) carriers. AT&T is identified as one carrier and two future carriers. The site plan identifies one approximately 200 square-foot future carrier lease area along the westerly property line to accommodate equipment. No other future lease area is identified for a third carrier. As shown, the future lease area is located along the westerly property line adjacent to a single-family residential lot. The area is also shown within a six (6)-foot public utility easement and a fire station required landscape setback.

The applicant supplied a propagation map prepared by AT&T which identifies the quality of the coverage within the area at the seventy-five (75)-foot height. The maps/study does not indicate the parameters that were used in the calculations/production, appropriateness of the signal strength and the Effective Radiated Power (ERP) of the antennas, i.e. their wattage. The height and wattage of existing facilities shall have also been included.

C. Architecture Analysis:

The Development Code discourages the use of monopines, but that the Planning Commission in review of the CUP application may consider a monopine. Although the proposal is not a monopine in this instance, the applicant has chosen a mono-eucalyptus design although there are no tall trees on the site to help soften the appearance. According to the original approved CUP for the fire station, the station is approximately forty (40) feet in height. The applicant is requesting Planning Commission review and approval of a Conditional Use Permit to construct a seventy-

five (75)-foot high mono-eucalyptus. The pole of the mono-eucalyptus will be seventy (70)-foot tall and two (2) feet in diameter. The antenna panels will be eight (8) feet long and will be installed at a maximum height of seventy (70) feet. The simulated foliage for the mono-eucalyptus extends five (5) feet above the pole to assist in providing a tapered visual effect. The drip line diameter of the tree is approximately eighteen (18) feet at its widest point. The foliage begins seventeen (17) feet above the base of the pole.

The applicant proposes to paint the pole brown with the panel antennas and microwave dish painted to match the foliage. The plans do not indicate the density of the branches per foot or that foliage socks will be used to camouflage the antennas and any dishes.

D. Deviation Permit:

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, which is attached for Commission consideration.

E. Summary:

The Town encourages the construction of wireless telecommunication facilities with provisions in the Town's Wireless Telecommunication Towers and Antenna Ordinance by identifying Preferred Locations. Preferred locations are also afforded up to a fifty (50) percent reduction in setback and separation requirements. Staff finds the requested encroachments to be significant into the already reduced standards.

Based upon review of the information presented, the circumstances of the site, the operation of the facility and Development Code deficiencies, the project is considered inconsistent with the provisions of the Town's Wireless Telecommunication Ordinance. The project not only impacts the surrounding area but also impacts to the fire station that result in substandard parking, parking lot landscaping, and proposes an encroachment of future lease area into a landscape buffer area and public utility easement.

A developed one (1) acre parcel is inadequate in area to accommodate two towers which is evident by the impact this proposal has on the fire station to maintain compliance with parking, landscaping, and landscape buffer as required under its Conditional Use Permit.

F. 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.

G. Environmental Assessment:

If the Planning Commission denies the request, CEQA Section 15270 states that CEQA does not apply to projects which a public agency denies. Therefore, a Notice of Categorical Exemption is not required.

H. Noticing:

This item was re-advertised as a public hearing in the Apple Valley News newspaper on April 24, 2020 and notices mailed to all property owners within a 1,500-foot radius. Comments in opposition were given by residents at the February 19, 2020 meeting spoke and verbalized their concerns with the height of the facility, location and aesthetic concerns. Written comments in opposition have been provided (attached).

I. Shot Clock

Pursuant to federal law, a decision on the project application must be made within 150 calendar days from application submittal. If a local government fails to approve or deny a facilities request within the applicable time period, the request will be "deemed granted" upon written notification from the Applicant to the local government stating that the request is considered approved.

The Project application proposes a new facility subject to the 150-day shot clock. The application was submitted on October 15, 2019. The application was deemed incomplete October 24, 2019 and then deemed complete on January 17, 2020 for a February 19, 2020. Prior to the meeting date, the applicant requested a continuance to a March 18, 2020 meeting date. However, due to the lack of a quorum, the item was continued to the April 1, 2020 meeting. Based on the completion date and accounting for the applicant's request for continuance, the shot clock extends to July 14, 2020.

J. 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 mono-eucalyptus tower is allowed under 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. The intent of the Development Code regulations is intended to provide reasonable criteria to assess projects while reducing visual and land use impacts associated with wireless telecommunication facilities. Wireless facilities are also identified in 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." The seventy-five 75-foot tall mono-eucalyptus tower would be in addition to an existing 65-foot tall tower located 175 feet away on the same one (1) acre parcel does create a visual impact. The impact of two telecommunication towers on the same one (1) acre parcel is evident by the number of development standard deficiencies. Therefore, the proposal is not 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.

2. That the proposed location, size, design and operating characteristics of the proposed use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety or welfare, nor be materially injurious to properties or improvements in the vicinity, adjacent uses, residents, buildings, structures or natural resources.

Comment: The seventy-five (75)-foot tall mono-eucalyptus tower and an existing 65-foot tall tower located 175 feet away on the same one (1) acre parcel does create an impact. The impact of two telecommunication towers on the same one (1) acre parcel is evident by the number of development standard deficiencies. Therefore, the proposal would be detrimental to the public health, safety or welfare, nor be materially injurious to properties or improvements in the vicinity, adjacent uses, residents,

3. 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.

4. That the generation of traffic will not adversely impact the capacity and physical character of surrounding streets and that the traffic improvements and/or mitigation measures are provided in a manner consistent with the Circulation Element of the General Plan.

Comment: Traffic generated from the unmanned wireless telecommunication facility will not adversely impact the surrounding area.

5. 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.

6. That Use Permits requiring new construction also meet the Required Findings set forth with Chapter 9.17 "Development Permits".

Comment: N/A

K. 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 antenna height, setback, separation distance, security fencing or landscape screening established within Section 9.77, "Wireless Telecommunications Towers and Antennas". 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 basis the applicant provides for the two encroachment into the separation requirement is the need for e911 services and the need for better coverage for AT&T in the area. This does not demonstrate it cannot be met with other options. There is no willingness to provide a single tower to accommodate AT&T and the existing carriers. Therefore, supporting documentation of the identified need that cannot be met in any other manner has not been met.

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

Comment: The applicant identifies the fact that the site is a preferred location and co-habiting as a unique circumstance. A preferred location and co-habiting are not unique circumstance. Lot size could be considered a unique circumstance for this preferred location is this were the first tower being considered. Requesting a second tower on a site that is not large enough is not justification nor a unique circumstance, but rather an over concentration.

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

Comment: The surrounding area is predominately single family residential which probably does create limitations on the availability of sites. However, this does not override the impacts that result of the over concentration issue.

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 Deviations requested, and the Development Code deficiencies not requested will have an adverse impact to the site, surrounding area or the community in general. As identified in the analysis of this report, the one (1) acre site with an existing cellular tower and a fire station does not contain enough area to accommodate a second tower, equipment area for AT&T and future carriers. Also, the seventy-five (75)-foot tall tower would be in addition to a sixty-five (65)-foot tall tower which results in aesthetic issues. The existing tower serves as a hose drying rack for the fire station while the proposal is designed as a mono-eucalyptus tree where no trees exist that are remotely that tall.

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: The proposal to install a wireless telecommunication tower on a one (1) acre site currently developed with a fire station and an existing wireless telecommunication tower results in significant deficiencies for the project to meet the separation requirements but also impacts the fire station to meet required parking, landscaping and the required landscape buffer adjacent to residential. These deficiencies, in addition to the aesthetics of a 75-foot tower in close proximity to an existing 65-foot tower on the same site will 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.

#### **RECOMMENDED ACTION**

Based upon the information contained within this report, 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 CEQA Section 15270, CEQA does not apply to projects which a public agency denies.
2. Find the Facts presented in the staff report not support the required Findings for approval and adopt the Findings for Conditional Use Permit No. 2019-005 and Deviation Permit No. 2019-005.
3. Deny Conditional Use Permit No. 2019-005 and Deviation Permit No. 2019-005, subject to the attached Conditions of Approval.

*Conditional Use Permit No. 2019-005 and Deviation No. 2019-005  
May 6, 2020 Planning Commission Meeting*

Prepared By:

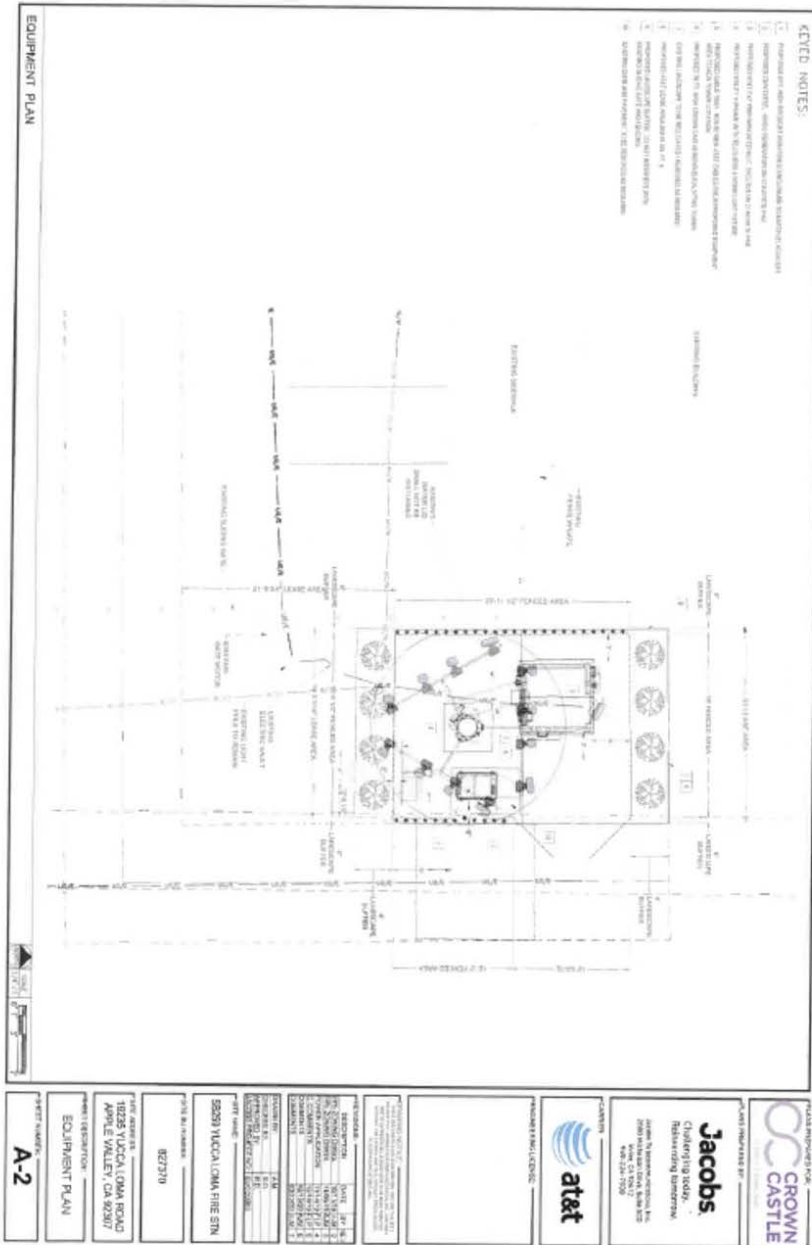
Carol Miller  
Assistant Director of Community Development

ATTACHMENTS:

1. Site Plans
2. Elevation
3. RF maps
4. Photo-simulation
5. Justification for Deviations
6. Comment Letter/Emails
7. Zoning Map

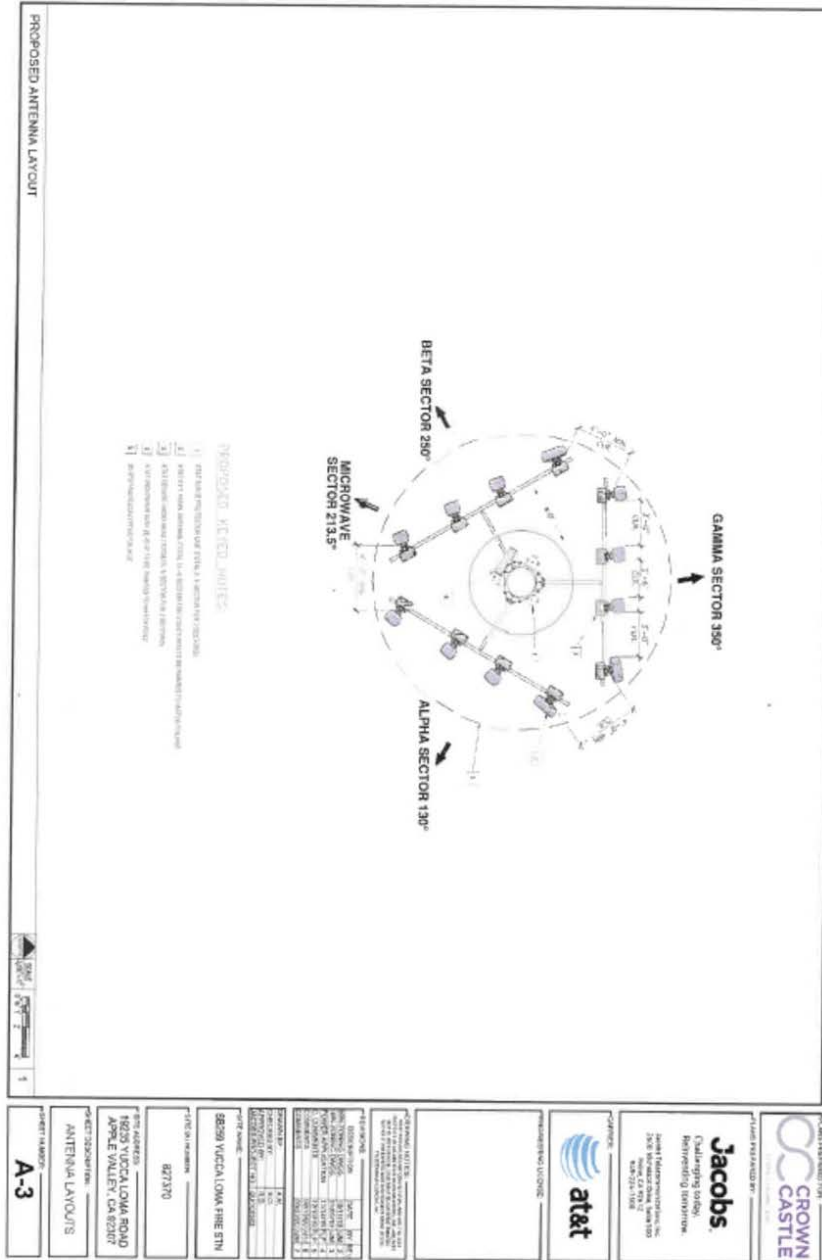
**3-10**



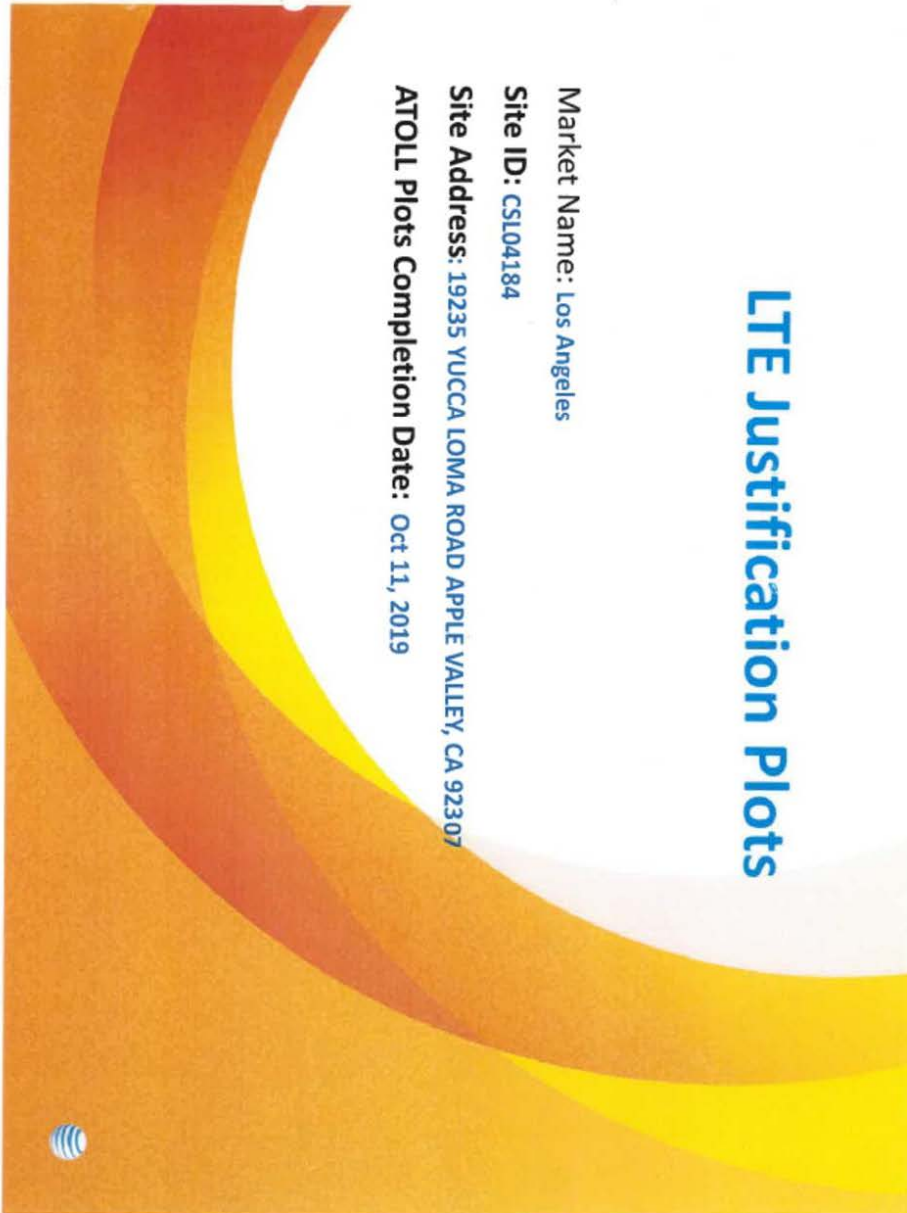













**LTE Justification Plots**

Market Name: Los Angeles

Site ID: CSL04184

Site Address: 19235 YUCCA LOMA ROAD APPLE VALLEY, CA 92307

ATOLL Plots Completion Date: Oct 11, 2019




3-16

**Assumptions**

- ❖ Propagation of the site plots are based on our current model design tool project tool that covers the proposed region of the AT&T 4G-LTE network coverage.
- ❖ The propagation referenced in this package is based on proposed LTE coverage of AT&T users in the surrounding buildings, in vehicles and at street level. For your reference, the scale shown ranges from good to poor coverage with gradual changes in coverage showing best coverage to marginal and finally poor signal levels.
- ❖ The plots shown are based on the following criteria:
  - **Existing:** Since LTE network modifications are not yet **On-Air**. The first slide is a snap shot of the area showing the existing site without LTE coverage in the AT&T network.
  - **The Planned LTE Coverage with the Referenced Site:** Assuming all the planned neighboring sites of the target site are approved by the jurisdiction and the referenced site is also approved and **On-Air**, the propagation is displayed with the planned legends provided.
  - **Without Target site:** Assuming all the planned neighboring sites are approved by the jurisdiction and **On-Air** and the referenced site is **Off-Air**, the propagation is displayed with the legends provided.

Page 2

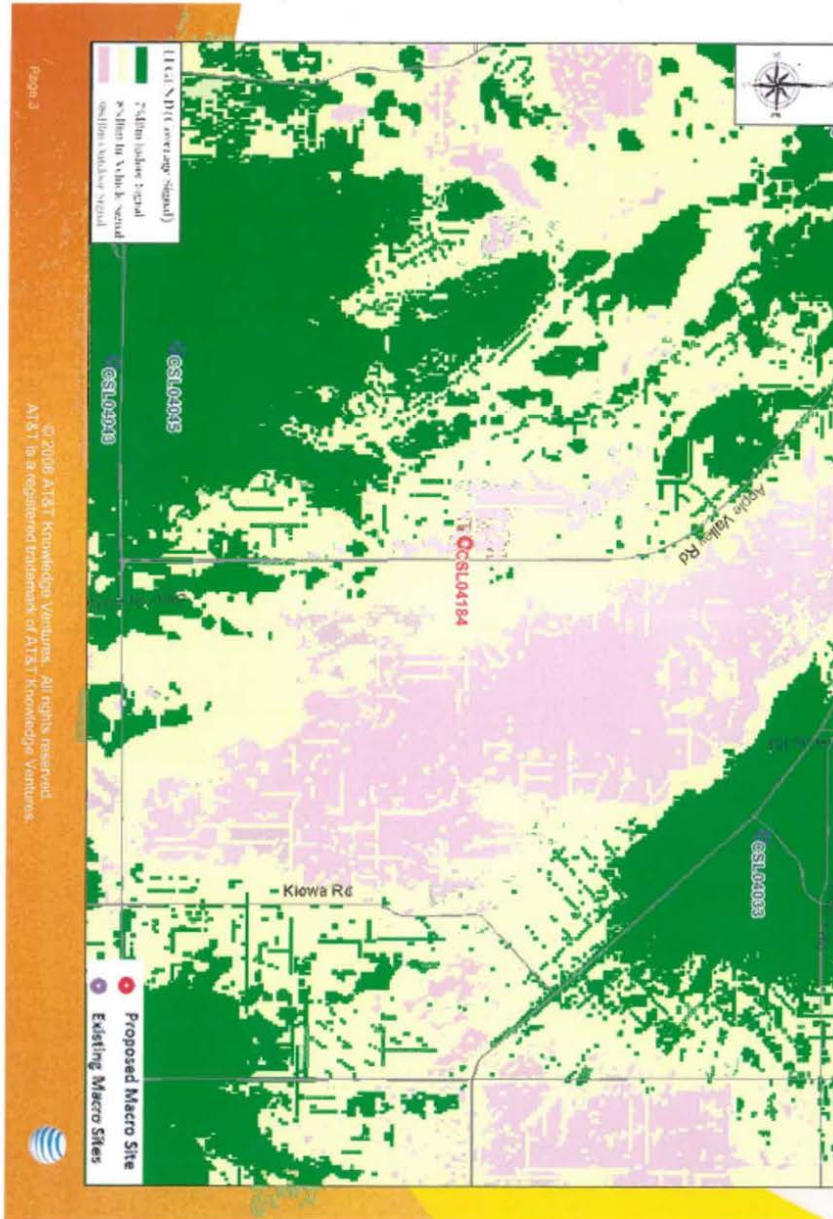
© 2008 AT&T Knowledge Ventures. All rights reserved.  
AT&T is a registered trademark of AT&T Knowledge Ventures.



3-17

12-28

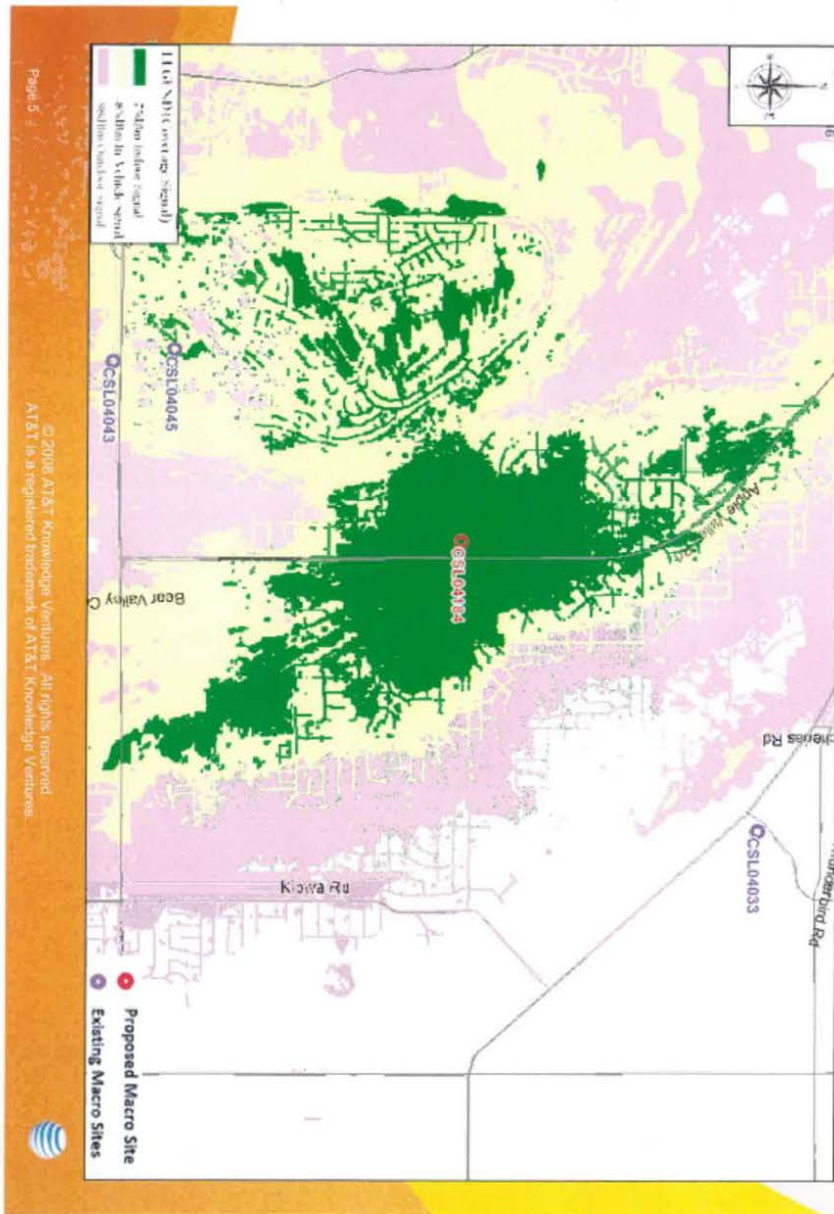
LTE Coverage Before site CSL04184



LTE Coverage After site CSL04184



LTE Coverage standalone site CSL04184



3-20

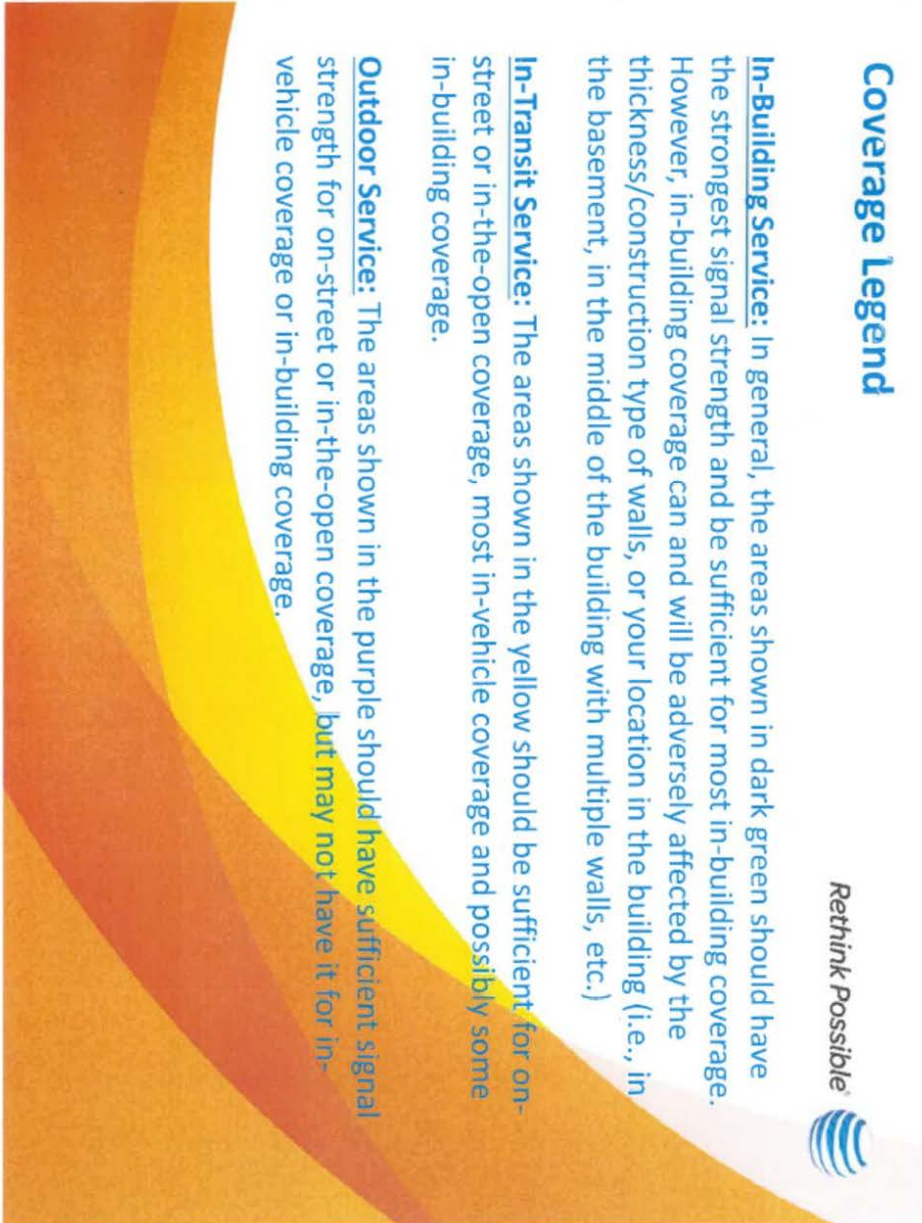
## Coverage Legend



**In-Building Service:** In general, the areas shown in dark green should have the strongest signal strength and be sufficient for most in-building coverage. However, in-building coverage can and will be adversely affected by the thickness/construction type of walls, or your location in the building (i.e., in the basement, in the middle of the building with multiple walls, etc.)

**In-Transit Service:** The areas shown in the yellow should be sufficient for on-street or in-the-open coverage, most in-vehicle coverage and possibly some in-building coverage.

**Outdoor Service:** The areas shown in the purple should have sufficient signal strength for on-street or in-the-open coverage, but may not have it for in-vehicle coverage or in-building coverage.





Conditional Use Permit No. 2019-005 and Deviation No. 2019-005  
May 6, 2020 Planning Commission Meeting

**Carol Miller**

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**From:** gustavo meza <gustavo@gushelp.com>  
**Sent:** Wednesday, March 18, 2020 3:23 PM  
**To:** Carol Miller  
**Subject:** Re: 5G Cell Towers in Apple Valley next to the Fire Station

My name is Gustavo Meza

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**From:** Carol Miller <CMiller@applevalley.org>  
**Sent:** Wednesday, March 18, 2020 2:56 PM  
**To:** gustavo meza <gustavo@gushelp.com>  
**Subject:** RE: 5G Cell Towers in Apple Valley next to the Fire Station

Yes, the meeting has been canceled and all items are being continued to the April 1, 2020 meeting date. For the record can you provide your name as this email will be printed for the file?

Thanks

Carol Miller  
Assistant Director of Community Development  
Town of Apple Valley  
760-240-7000 Ext 7222  
cmiller@applevalley.org

**From:** gustavo meza <gustavo@gushelp.com>  
**Sent:** Wednesday, March 18, 2020 2:49 PM  
**To:** Carol Miller <CMiller@applevalley.org>  
**Subject:** Re: 5G Cell Towers in Apple Valley next to the Fire Station

I live several feet away from where the proposed 5G cell towers are being proposed in Apple Valley.

I oppose this new cell tower that is being considered next to the Fire station in Apple Valley near Apple Valley Road and Yuca Loma.

Due to the cancellations of public gatherings and public services, I assume this hearing for Wednesday March 18th 2020 at 6PM in the Town Council Chambers will be canceled. I would have gone to this hearing but I will not attend due to the Corona Virus Pandemic.

Nonetheless, I am against this Cell Tower installation.

Conditional Use Permit No. 2019-005 and Deviation No. 2019-005  
May 6, 2020 Planning Commission Meeting

**Carol Miller**

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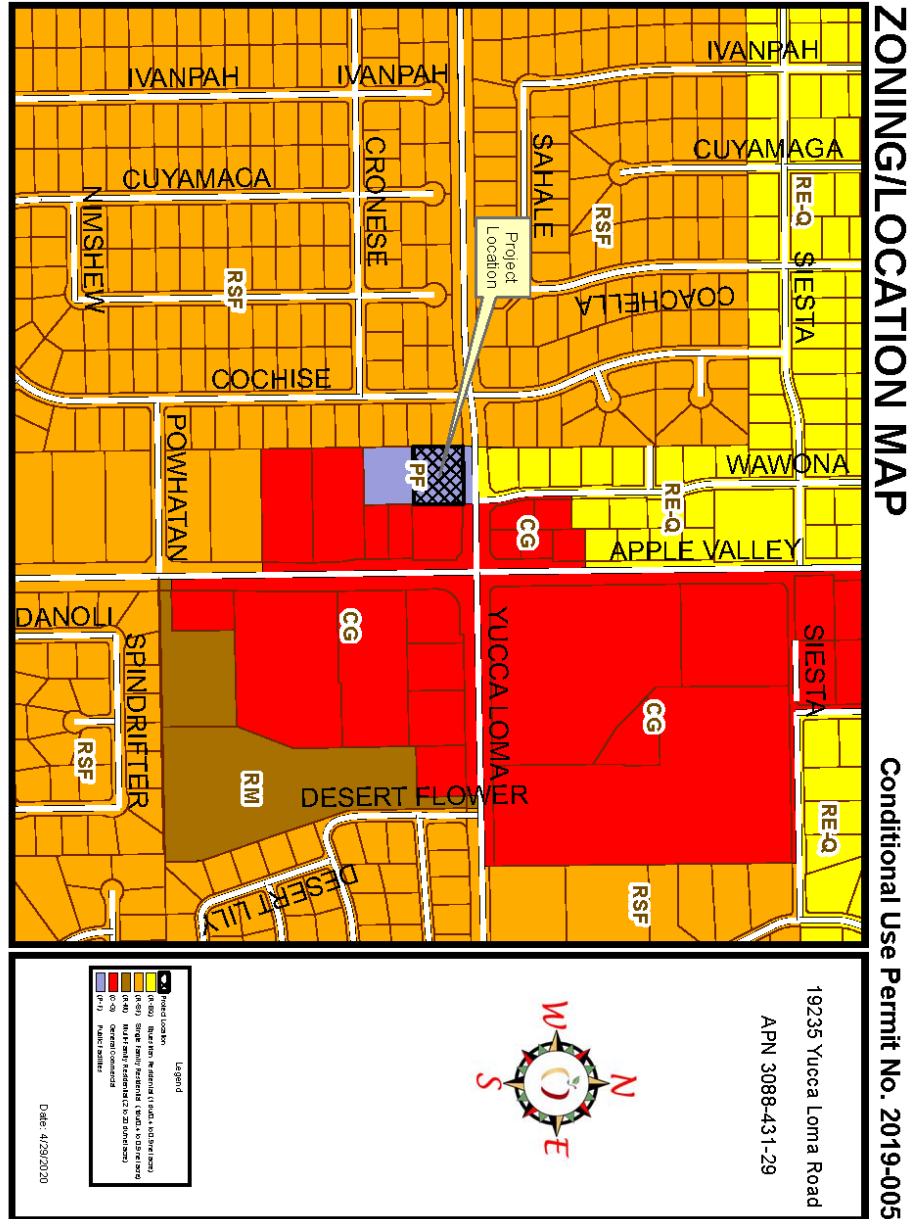
**From:** Verizon <avtalley4@verizon.net>  
**Sent:** Sunday, March 15, 2020 3:38 PM  
**To:** Carol Miller  
**Subject:** Cell tower

I'm send this email to oppose the construction of cell tower at 336 fire station on Yacca Lima Road . I do not believe a 75 foot tower is suitable for construction adjacent to our residential neighborhood. This is not a "Better way of Life" for our children and residents of this community. The planning committee should not approve this project!!!

Thank you;

James M Talley  
13471 Coachella Rd  
Apple Valley, Ca. 92308  
760-881-5269

Sent from my iPhone



Commissioner Tinsley  
Commissioner Lanyon  
Commissioner Arias

Abstain: None

Absent: None

The motion carried by a 5-0-0-0 vote

- 3. Conditional Use Permit No. 2019-005 and Deviation No. 2019-005** (*Cont. from February 19, 2020 & April 1, 2020*). A request for approval of a Conditional Use Permit to allow a seventy-five (75)-foot tall wireless telecommunication tower designed as a mono-eucalyptus tree.

The Deviation is a request to allow the wireless telecommunication tower to be located less than 500 feet to residentially zoned property and located less than 750 feet to an existing tower.

Carol Miller, Assistant Director of Community Development, presented the staff the report as filed with the Planning Division.

Rachel Davidson, applicant, Julio Figueroa with AT&T and Tim Brown with Crown Castle were available by phone.

Jeanne E Lyles, David Hernandez, James Tallo Apple Valley residents were on the phone to speak against the project.

Ms. Davidson responded to the comments of the residents. Ms. Davidson said the structure is designed to withstand the winds for the area and FCC guidelines are safe studies have shown home values have not been affected has shown 5g has not been proposed for the current tower.

Vice-Chairman asked about First Network. Mr. Figueroa said First Network is a 25-year contract and is exclusive service to first responders. Service is a 25-year contract

Chairman Kallen closed the public hearing at 6:40pm.

Commissioner Lanyon said he agrees with staff and thinks this project congests the area and the parking issue has not been corrected.

Commissioner Tinsley added the project is in a preferred location, but the applicant is asking for way too much in height.

Chairman Kallen said the height, location and esthetic is something he does not like.

Motion by, Chairman Kallen, second by Commissioner Tinsley to deny Conditional Use Permit No. 2019-005 and Deviation Permit No. 2019-005 without prejudice.

**ROLL CALL VOTE**

Yes: Chairman Kallen  
Vice-Chairman Harrison  
Commissioner Tinsley  
Commissioner Lanyon  
Commissioner Arias

Abstain: None

Absent: None

The motion carried by a 5-0-0-0 vote

- 4. Tentative Tract No. 20211** (*Cont. from April 1, 2020*). A request to subdivide approximately thirty-six (36) acres into sixty-six (66) single-family lots. The lots will range in size from 18,000 to 25,676 square feet with an average lot size of 19,695 square feet. There is no housing product proposed at this time.

Commissioner Arias recused himself from the dais as he has a financial conflict of interest with the applicant.

Carol Miller, Assistant Director of Community Development, presented the staff the report as filed with the Planning Division.

Chris Connors, Applicant and Mark Rowling, Engineer were available by phone.

Ms. Miller presented 2 responses, first from Dean Johnson and the second from Jim and Patty Todd, Apple Valley residents that were in opposition of the project.

Vice-Chairman Harrison said he drove to the project location and found that it was not a shortcut route and felt it would not increase traffic in the area.

Commissioner Tinsley asked if the existing Joshua trees would be distributed throughout the project instead of being placed in a corner.

Ms. Miller said the plan identifies three (3) levels, protect in place, those that will be relocated by dispersing them throughout the project, and removal for the ones that for many reasons cannot remain or relocate.

Commissioner Tinsley asked if this would be supervised by someone from the Town.

Ms. Miller said the conditions of approval outlined what the Joshua Tree plan will entail in accordance with the Mitigation Measure.

Vice-Chairman Harrison asked about the water retention basin at Norm Schmid Park.

Richard Pederson said the applicant has agreed to purchase rights to use the retention and pay a share for the maintenance basin at Norm Schmid Park that is adequately in