

**TOWN OF
APPLE VALLEY, CALIFORNIA**

AGENDA MATTER

Subject Item:

APPEAL (NO. 2010-003) OF THE PLANNING COMMISSION'S DENIAL OF CONDITIONAL USE PERMIT NO. 2009-007 AND DEVIATION PERMIT NO. 2010-002, A REQUEST TO CONSTRUCT A 62-FOOT TALL WIRELESS TELECOMMUNICATION MONOPOLE DESIGNED AS A PINE TREE. A FENCED AREA IS PROPOSED TO ENCLOSE THE PROPOSED THE TOWER AND SIX (6) EQUIPMENT CABINETS WITHIN A 752 SQUARE FOOT LEASE AREA. THE PROJECT INCLUDES A REQUEST FOR APPROVAL OF A DEVIATION PERMIT TO ALLOW AN ENCROACHMENT OF APPROXIMATELY 500 FEET INTO THE REQUIRED 500-FOOT SEPARATION REQUIREMENT BETWEEN THE MONOPOLE AND A SINGLE FAMILY RESIDENCE AND TO ALLOW A ZERO SETBACK WHERE A MINIMUM SETBACK OF 23.25 FEET IS REQUIRED.

Appeal Applicant:

T-Mobile West Corporation

Location:

The project site is located at 14053 Tuweep Trail (Norm Schmidt Park); APN 3112-233-26.

Summary Statement:

The applicant for CUP No. 2009-007 and DVN No. 2010-002 is appealing the Planning Commission's May 5, 2010 denial of the proposed sixty two (62)-foot tall mono-pine wireless facility.

(continued on next page)

Recommended Action:

Open the public hearing and take public testimony.

Close the public hearing. Then:

1. 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.
2. Find the Facts presented within the staff report for the Council hearing of June 22, 2010, including the comments of the public and the Planning Commissioners as reflected in the Minutes of the Planning Commission Meetings of April 21, 2010 and May 5, 2010, and the record as a whole as discussed and considered by the Council, including the negative findings that, due to the small size and park configuration, the proposed wireless facility would negatively impact the function and quality of the neighborhood park/retention basin and visually impact the surrounding neighborhood.
3. Deny Conditional Use Permit No. 2009-007 and Deviation No. 2010-002

Proposed by: Planning Division

Item Number _____

Town Manager Approval: _____ **Budget Item** Yes No N/A

Summary Statement (continued from page 1):

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 17, 2010, an appeal of the Planning Commission's denial of Conditional Use Permit No. 2009-07 and Deviation Permit No. 2010-02 was filed.

On April 21, 2010, the Planning Commission conducted a public hearing on Conditional Use Permit No. 2009-07 and Deviation Permit No. 2010-02. 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. The Commission directed that the item be brought back on May 5, 2010, in order for staff to complete the negative "Findings", as discussed at the public hearing by Planning Commission. At the May 5, 2010 public hearing, the Commission considered the information within the staff report (attached) and comments from the applicant and the public.

As indicated in the attached minute excerpt for the meetings of April 21, 2010 and May 5, 2010, the consensus of the Commission was the project should not be approved based upon the determination that the proposed facility would not be compatible with the surrounding residential development and that the proposed facility would impact the function and quality of the neighborhood park. The Planning Commission could not make positive findings to approve the project and denied the project with a 5-0- vote at the May 5, 2010 meeting.

The Appeal application (attached), explains the reasons why the applicant believes the appeal should be granted, allowing the construction of the wireless facility at the proposed location. In summary, the applicant cites community need and the facility being proposed at a location that is considered a "Preferred Location" as defined in the Wireless Telecommunication Ordinance, which is Norm Schmidt Park. The applicant also cites discrepancies between the first staff report presented at the April 21, 2010 meeting and the second staff report presented at the May 5, 2010 meeting.

For clarification, the differences in the recommendations between the April 21, 2010 staff report which recommended approval and the May 5, 2010 staff report which recommended denial are not discrepancies as portrayed by the applicant in their justification for approval of the appeal. As stated above, although staff initially recommended approval, the Commission did not agree with staff's analysis and came to a consensus for denial of the proposed wireless telecommunication project. The Commission directed that the item be brought back on May 5, 2010, in order for staff to complete the negative "Findings", as discussed at the public hearing by Planning Commission. Therefore, the May 5, 2010 meeting staff report was prepared for denial with negative findings as directed and based on Commission discussion.

The applicant is correct in that the site is considered a "Preferred Location" as defined by the Wireless Telecommunication Ordinance. The Commission determined that, in this instance, even though the park is a preferred location, the size of the park was a limiting factor that results in impacts to aesthetics based on tower height and function and quality of the park. The tower height was proposed at sixty two (62)-feet and would occupy approximately 752 square feet of the park/retention basin. The park site is approximately three (3) acres in the size.

In the April 21, 2010 meeting staff report analysis, staff classifies Norm Schmidt Park as a retention basin/neighborhood public park. The site is a retention basin; however, based on park classifications contained in the General Plan Parks and Recreation Element, Norm Schmidt is

not considered a “neighborhood” park, but rather a “mini” park. The General Plan generally defines a mini park as modest open space areas that provide public space for rest, relaxation and family socialization. Mini parks range between 0.5 and three (3) acres in size and usually include shade trees, tables and barbeques, exercise and play equipment. During Commission discussion, the Commissioners were concerned that, given other improvements within the park, the area in question was the only area available for sitting, picnicking or other socializing and that removing 752 square feet of area available for passive recreation was too great of an impact. Public comment further indicated that such a facility would be an attractive nuisance for individuals to loiter in an area otherwise visible to neighborhood residents.

After public testimony and discussion amongst the Commission members, a motion was made to adopt findings for denial of the Conditional Use Permit and Deviation Permit with the following Findings:

Conditional Use Permit Findings (Denial):

As required under Section 9.16.090 of the Development Code, prior to approval of a Conditional Use Permit, the Planning Commission at its May 5, 2010 meeting made 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 the mono-pine designed telecommunications antenna is not in compliance with the Telecommunications Ordinance of the Development Code. Although the site is considered a “Preferred Location”, due to the small size and park configuration, the 752 square foot facility would negatively impact the function and quality of the neighborhood park/retention basin. This is further substantiated by the significance of the encroachments requested into setback and separation requirements.

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 sixty-two (62)-foot high, mono-pine design, telecommunications antenna will impact aesthetics in and around the site, as the height of the tower is substantially taller than anything within the surrounding residential neighborhood and the 752 square foot facility would be detrimental to the function and quality of the neighborhood park/retention basin.

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

Comment: Based on the “L” shape configuration of the park/ retention basin in relationship to size of the facility and associated equipment cabinets, the facility will appear out of scale with the park. Further, based on the configuration of the park, the facility is not able to comply with the recommended separation distance between a facility and existing residential zones and uses.

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: The neighborhood park is an integral part of the surrounding residential neighborhood and, as such, the potential impacts to the function and quality of the park ultimately affect the neighborhood characteristics.

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

Comment: The proposed unmanned wireless telecommunication facility is 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: Traffic generated from the project will not adversely impact the surrounding area. The proposed unmanned wireless telecommunication facility will be located within a developed site with adequate internal circulation and parking which can accommodate minimal traffic generated from the use proposed at this project site.

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

Comment: Under the State guidelines to implement the California Environmental Quality Act (CEQA), the project is not anticipated to have any direct or indirect impact upon the environment.

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

Comment: Under the State guidelines to implement the California Environmental Quality Act (CEQA), the project is not anticipated to have any direct or indirect impact upon the environment.

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: Although the site is considered a "Preferred Location", the proposed telecommunications facility is not in conformance with the Telecommunications Ordinance of the Development Code due to the impact the facility would have on the function and quality of the park, and the facility requires significant encroachments into the setback and separation requirements.

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

Comment: Although a mono-pine design is proposed within an area of the park with existing pine trees, due to the height differential of the tower to surrounding trees and the close proximity of residential development, the facility is not considered compatible with adjacent and neighboring 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: Although a mono-pine design is proposed within an area of the park with existing pine trees, due to the height differential of the tower to surrounding trees and single-story homes, the tower will visually dominate its surroundings.

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: Although a mono-pine design is proposed within an area of the park with existing pine trees, due to the height differential of the tower to surrounding trees and single-story homes, the tower will not enhance the visual environment of the Town.

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. However, during construction and maintenance the adjacent equestrian trail easement may be negatively impacted.

Findings for Deviation (Denial):

As required under Section 9.77.200 of the Development Code, the Planning Commission at its May 5, 2010 meeting adopted the following 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: Documentation has been provided indicating the necessity for wireless coverage in the proposed vicinity; however, the documents do not demonstrate that this need can only be met by placing a facility at this location.

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

Comment: The significance of the encroachments supports the determination the site is too small for such a facility. The uniqueness of the site (i.e. preferred location and parcel shape) do not outweigh the impacts that the facility would have on the function and quality of the park, as well as the surrounding residential development.

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

Comment: The applicant indicated at the April 21, 2010 Planning Commission meeting that other locations were investigated, but that the park site provided the best coverage for their service needs.

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: Based on public testimony and Planning Commission discussion at the April 21, 2010 meeting, it was determined that the deviations would result in adverse impacts to the park and surrounding neighborhood.

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.

Comments: Based on public testimony and Planning Commission discussion at the April 21, 2010 meeting, it was determined that the deviations would be materially detrimental to the public health, safety or general welfare, or injurious to the property or improvements in the vicinity.

Attachments:

1. Appeal application
2. Applicant Findings
3. Minute excerpts from the Planning Commission meetings of April 21, 2010 and May 5, 2010
4. Planning Commission report from May 5, 2010
5. RF maps (under separate cover)
6. Viewshed maps (under separate cover)



APPEAL

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: 5/17/10 Case No.: Ap 2010-03 Received By: cm
Planning Fee: 281. Other Fees: _____ Case Planner: cm

Type or print legibly in ink only

PROPERTY ADDRESS 14053 TUWEEP TRAIL, APPLE VALLEY, CA

FEE

	<u>Initial Deposit</u>	<u>Actual Cost not to exceed</u>
<input type="checkbox"/> Appeal Fee – To Planning Commission	\$224.00	\$224.00
<input checked="" type="checkbox"/> Appeal Fee – To Town Council	\$224.00	\$224.00

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

APPELLANT INFORMATION

Name T-Mobile West Corporation Telephone (909)915-3498
Fax _____ Email _____
Address 3257 QUARTI ROAD #200
City ONTARIO State CALIFORNIA Zip 91761

PROJECT INFORMATION

Project Number Being Appealed CUP 2009-007 9 DEVIATION NO. 2010-02
Project Description UNMANNED WIRELESS FACILITY
Assessor's Parcel No. (s) 3112-233-216 Tract _____ Lot _____

APPEAL STATEMENT

1. I am/We do hereby appeal the findings/conditions/interpretations of the Town of Apple Valley:

(Check one)

- | | |
|---|--|
| <input checked="" type="checkbox"/> Planning Commission | <input type="checkbox"/> Planning Director |
| <input type="checkbox"/> Public Works Director | <input type="checkbox"/> Building Official |
| <input type="checkbox"/> Town Engineer | <input type="checkbox"/> Fire Chief |

2. I/We appeal to the Town of Apple Valley:

(check one)

- | | |
|--|--|
| <input type="checkbox"/> Planning Commission | <input checked="" type="checkbox"/> Town Council |
|--|--|

3. I/We am/are appealing the project action taken to:

(Check those which apply)

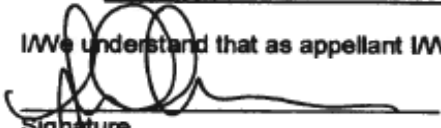
- | | |
|---|---|
| <input checked="" type="checkbox"/> Deny the project | <input type="checkbox"/> Adopt a Negative Declaration |
| <input type="checkbox"/> Approve the project | |
| <input type="checkbox"/> *Approve the project condition of (specify): | |

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.

Please see attached report.

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


Signature _____
Date 5-17-2010

Signature _____



Authorized Agent for **T-Mobile,**

T-Mobile Project Number: **IE24887A**
T-Mobile Project Name: **Norm Schmidt Park**

Town of Apple Valley
Application for a Conditional Use Permit
Project Information and Justification

T-Mobile West Corporation (T-Mobile), would like to **appeal** the denial of CUP No. 2009-07 and Deviation Permit No. 2010-02 for the construction and operation of an unmanned wireless telecommunications facility (cell site), and presents the following project information for your consideration.

Project Location

Address: 14053 Tuweep Trail,
Apple Valley, CA 92307
APN: 3112-233-26
Zoning: O-S / Open Space

Project Representative

Name: Susan Chong with Reliant Land Services, Inc.
Address: 1594 N. Batavia Street.,
Orange, CA 92867
Contact Phone: (949) 892-7678 Fax (714) 685-0125
E-Mail: Susan.Chong@rlsusa.com

T-Mobile Contact

Name: Linda Paul, Real Estate and Zoning Manager
Address: 3257 E. Guasti Rd. #200
Ontario, CA 91761
Contact Phone: 909-975-3698

T-Mobile's proposed project to build a 62-ft. high monopine was continued on at the April 21st hearing with Planning Commission. Staff was moving towards a denial due to the aesthetics and location. Even with the trees existing in the park, they felt the proposed monopine was too tall and would not blend in well. The planning commission felt the location of the cell site would be better suited in the Apple Valley Country Club which is located about .79 miles away. This project was moved to be continued so that the planning commission and staff could gather the findings to deny the project.

The following planning commission meeting held on May 5th, 2010 denied the project after T-Mobile agreed to lower to the height of the tower to 55-ft so it would blend among the existing trees. T-Mobile also provided propagation maps to show how much indoor coverage, in-car coverage and outdoor coverage would be enhanced if a site was built on the southern tip of the Apple Valley Country Club. The

propagation maps proved that placing a monopine at Norm Schmidt Park would provide the most enhanced coverage for the area in need.

T-Mobile is trying to serve the residents within and travelling through the area of Norm Schmidt Park and T-Mobile believes a wireless facility at Norm Schmidt Park is in line with the Town's Ordinance.

The second planning commission, we became aware of some discrepancies from the first staff report on the issues that supported the approval of the project but now were in support of denial. Below are some noted discrepancies from the staff reports.

- Conditional Use Permit Findings (Denial):
 - 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.
 - The ordinance does not state the size of a preferred park is of a particular size.
 - The proposed location is away from the baseball field and playground on the top of the berm.
 - In the original staff report for the agenda on April 21st, the planning commission felt that the monopine at 62-ft complied with the ordinance AND the development code of the Town of Apple Valley.
 - 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.
 - T-Mobile has agreed to lower the height of the antennas from 62-ft to 55-ft top of tree. The proposed monopine will blend better with the existing 35'-45' trees existing in this park.
 - In the previous staff report it was noted that it would be compatible with the site and adjacent uses and now is stating that it would be detrimental to the function and quality of the neighborhood.
 - The proposed use is compatible in scale, bulk, lot coverage, and density with adjacent uses:
 - There are little to no places in the Town of Apple Valley that would not meet the 1000-ft setback from residential or even the 75% setback from the adjoining lot line.
 - Again, reverting back to the original staff report, the mono-pine design was felt to have the least amount of impact to the aesthetics and felt it was the most compatible. T-Mobile has agreed to lower the height from 62-ft top of tree to 55-ft top of tree. This will be most compatible with the aesthetics of the park.
 - Harmful affects to the neighborhood:
 - Parks are considered preferred locations for a reason just like schools and public facilities, not because it will be completely concealed but because it will blend the best amongst these areas. The monopine that we are proposing will be blended within the existing trees and again as shown in the additional drawings brought forth today and will have minimal impact in the view.
 - Again if we are to revert back to the previous staff report, it was felt that the proposed project WOULD NOT be detrimental to the public health, safety or welfare, not be MATERIALLY INJURIOUS TO THE PROPERTIES OR IMPROVEMENTS IN THE VICINITY.
 - That the proposed conditional use will comply with all of the applicable provisions of this title:

- T-Mobile is able to meet the 75% setback from the adjoining lot line in all directions except for the north lot line which is currently 15-ft from the lot line.
 - 65-ft tall tree would need 46.5-ft setback from lot line.
 - 55-ft tall tree would need 41.25-ft setback from lot line.
 - As mentioned in the previous staff report, this facility can be built in conformance to the development code.
- That the materials, textures and details of the proposed construction, to the extent feasible, are compatible with the adjacent and neighboring structures:
 - The height differential of the tower and surrounding trees were brought up. T-Mobile has agreed to lower height to 55-ft top of structure. If we are looking at the park from the street, there is a tree to the right that is 44-ft but sitting higher on the berm. In front is a tree that is approximately 43-ft tall sitting lower in the berm.
 - Trees will offset the appearance of the differences in height of the surrounding trees.
 - The previous staff report felt the proposed materials, textures and details of the proposed antennas would complement the existing improvements.

T-Mobile works to propose a project that will benefit the many disciplines involved; the residents, the city staff and T-Mobile. This park was chosen based on an area in need of indoor coverage, thorough understanding of the Town's ordinance and many discussions with Town staff. Norm Schmidt Park by definition is considered a preferred location by the Town's ordinance. T-Mobile would like to appeal the denial of CUP No. 2009-07 and Deviation Permit No. 2010-02 for the construction and operation of an unmanned wireless telecommunications facility (cell site).

MINUTES EXCERPT

TOWN OF APPLE VALLEY PLANNING COMMISSION Regular Meeting Wednesday, April 21, 2010

CALL TO ORDER

At 6:04 p.m., the Regular Meeting of the Planning Commission of the Town of Apple Valley for April 21, 2010, was called to order by Chairman Kallen.

ROLL CALL

Planning Commission

Roll call was taken with the following members present: Commissioner Larry Cusack, Commissioner John Putko, Vice-Chairman B.R. "Bob" Tinsley, and Chairman Bruce Kallen. Absent: Commissioner David Hernandez

STAFF PRESENT

Lori Lamson, Assistant Director of Community Development; Carol Miller, Senior Planner; Pam Cupp, Associate Planner; and Patty Hevle, Planning Commission Secretary.

2. Conditional Use Permit No. 2009-007 and Deviation Permit No. 2010-002.

Applicant: Reliant Land Services for T-Mobile

Location: The project site is located at 14053 Tuweep Road (Norm Schmidt Park); APN 3112-233-26.

Chairman Kallen opened the public hearing at 6:09 p.m.

Ms. Carol Miller, Senior Planner, presented the staff report as filed by the Planning Division. She stated that parks are considered Preferred Locations for wireless facilities; however, this park is very small and would require a Deviation Permit wherever the tower is located.

Chairman Kallen had questions regarding the placement of the cell tower and if this particular location was the best location in the park for the monopine.

Ms. Miller responded that the applicant is proposing access to its site from the back of the park; however, they would need to demonstrate legal access through the area. Ms. Miller further stated that the proposed location is the best place for the monopine because it is on the embankment and out of the retention area and does not impact use of the site.

Commissioner Putko questioned the actual location of the tower and the letter from a Mr. Morgan regarding disturbance of his property line.

Ms. Miller responded the tower would be placed on the back side of the park. She stated there could be a dispute regarding the property line; however, there is a Condition

of Approval that states plans must clearly identify property lines and easements before any construction is to occur.

Ms. Susan Chong and Mr. Alonzo Lugo, the applicants representing T-Mobile, were asked by Vice-Chairman Tinsley if they had considered any other preferred sites.

Ms. Chong stated that they looked at the Apple Valley Country Club and Golf Course, because it is a Preferred Location; however, the site would not meet their coverage needs.

The applicants agreed with all of the Conditions of Approval.

Ms. Allison Betts, Apple Valley, read a letter of opposition from one of her neighbors who could not attend the meeting.

Ms. Betts also spoke against the cell tower, stating the park was too small for the tower.

Mr. Ron Kidd, Apple Valley, expressed his concern about the setback from the park fence, as well as the retention basin that could possibly fill with water. He was against the tower being built at this location.

Ms. Patricia Smith, Apple Valley, was opposed to the project and cited safety concerns, due to electromagnetic fields, associated with wireless towers.

Mr. Bill Betts, Apple Valley, spoke against the project.

Ms. Roberta Bidwell, Apple Valley, also was opposed to the project.

Ms. Marie Russell, Apple Valley, stated she was against the project and was concerned about the noise level that may be generated from the project.

Mr. Lugo commented that alternative sites were evaluated; however, this park was chosen because of its Preferred Location designation.

Vice-Chairman Tinsley asked the applicants to speak to the safety concerns cited by some of the speakers.

Mr. Lugo stated, in respect to radiation concerns, they are regulated by the Federal Communication Commission (FCC) and any kilowatts generated by the tower would be smaller than those a baby monitor would produce. He further stated there was no evidence to indicate cell towers would devalue properties.

Chairman Kallen requested to know if there was a possibility that a cell tower could fall onto someone's home.

Mr. Lugo stated he was confident that would not happen.

Since there was no one else in the audience requesting to speak to this item, Chairman Kallen closed the public hearing at 6:51 p.m.

Chairman Kallen stated he felt the park was too small for a cell tower, and there was also the aesthetic issue of having the tower so close to the surrounding neighborhood.

Commissioner Cusack also felt the park was too small and that, if the park were not needed as a retention basin, it would have been used as residential lots.

Commissioner Putko agreed that the park was too small for a cell tower.

Vice-Chairman Tinsley stated that safety was not an issue, nor was declining property values. However, he did feel the park was too small, and this might not have been considered when the Commission was designating parks as Preferred Locations. He felt a flagpole would be a better choice for this area; however, the necessary equipment would eliminate some park amenities if it were placed in this park.

Ms. Lamson, Assistant Director of Community Development, responded that, if the Commission were considering a denial, she requested they continue the item to the next meeting to allow staff to bring back the Findings for denial.

Chairman Kallen commented on the Commission being firm on their Deviation guidelines for residential areas.

Ms. Lamson responded that ninety percent (90%) of the Town is currently designated as residential, which is why Deviation Permits are in place.

MOTION:

Motion by Chairman Kallen, seconded by Commissioner Putko, to continue this item to the May 5, 2010, Planning Commission Meeting directing staff to bring back Findings for denial.

ROLL CALL VOTE:

Ayes: Commissioner Cusack
Commissioner Putko
Vice-Chairman Tinsley
Chairman Kallen
Noes: None
Abstain: None
Absent: Commissioner Hernandez
The motion carried by a 4-0-0-1 vote

MINUTES EXCERPT

TOWN OF APPLE VALLEY PLANNING COMMISSION Regular Meeting Wednesday, May 5, 2010

CALL TO ORDER

At 6:00 p.m., the Regular Meeting of the Planning Commission of the Town of Apple Valley for May 5, 2010, was called to order by Chairman Kallen.

ROLL CALL

Planning Commission

Roll call was taken with the following members present: Commissioner Larry Cusack, Commissioner David Hernandez, Commissioner John Putko, Vice-Chairman B.R. "Bob" Tinsley, and Chairman Bruce Kallen.

STAFF PRESENT

Lori Lamson, Assistant Director of Community Development; Carol Miller, Senior Planner; Pam Cupp, Associate Planner; Douglas Fenn, Senior Planner; Richard Pedersen, Deputy Town Engineer; and Patty Hevle, Planning Commission Secretary.

3. Conditional Use Permit No. 2009-007 and Deviation Permit No. 2010-002

Applicant: Reliant Land Services for T-Mobile

Location: The project site is located at 14053 Tuweep Road (Norm Schmidt Park); APN 3112-233-26.

Chairman Kallen opened the open, continued public hearing at 6:05 p.m.

Ms. Carol Miller, Senior Planner presented the staff report as filed by the Planning Division.

Ms. Susan Chong, representing T-Mobile, stated they had revised the map and lowered the tree height to address the visual concerns.

Chairman Kallen requested to know if they had considered other areas for the project.

Ms. Chong stated that they had considered two (2) churches; however, they were in a residential area. She further commented that they had looked at the Apple Valley Country Club's site and the only area available to them would be on the south side and that would not give them the coverage needed.

Chairman Kallen requested to know if the antenna on the corner of Rincon and Seneca could be used for a cell tower.

Ms. Lamson, Assistant Director of Community Development, stated that, several years ago, there was an application for that site by another carrier which was denied by the

Planning Commission. It is in a residential area and could not meet the separation requirements.

Mr. Paul Morgan expressed his opposition to the project.

Since there was no one else in the audience requesting to speak to this item, Chairman Kallen closed the public hearing at 6:12 p.m.

Chairman Kallen commented on workshops that were done on the cell tower issues and guidelines that were put in place. However, he felt this park was very small in comparison to other parks in the Town.

Vice-Chairman Tinsley commented on the Apple Valley Country Club having a lot of space for a cell tower.

Commissioner Hernandez stated he felt that, due to the character of the park, he felt the tower was inappropriate at this location.

MOTION:

Motion by Commissioner Hernandez, seconded by Commissioner Putko, that the Planning Commission move to:

1. Find that the facts presented in the staff report do not support the required Findings for Approval and adopt the negative comments for the Findings for Denial in the May 5, 2010, staff report.
2. Adopt the negative comments as provided in the staff report for the Findings for Approval of Conditional Use Permit No. 2009-07 and Deviation No. 2010-002 and deny the Conditional Use Permit and Deviation Permit.

ROLL CALL VOTE:

Ayes: Commissioner Cusack
 Commissioner Hernandez
 Commissioner Putko
 Vice-Chairman Tinsley
 Chairman Kallen

Noes: None

Abstain: None

Absent: None

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



TOWN OF APPLE VALLEY PLANNING COMMISSION

Staff Report

- AGENDA DATE:** May 5, 2010 (*Continued from the April 21, 2010 Planning Commission meeting*)
- CASE NUMBER:** Conditional Use Permit No. 2009-07
Deviation Permit No. 2010-02
- APPLICANT:** Reliant Land Services for T-Mobile
- PROPOSAL:** A request for approval of a Conditional Use Permit to construct a sixty-two (62)-foot tall wireless telecommunication monopole designed as a pine tree. A fenced area is proposed to enclose the proposed the tower and six (6) equipment cabinets within a 752 square foot lease area. The project includes a request for approval of a Deviation Permit to allow an encroachment of approximately 490 feet into the required 500-foot separation requirement between the tower and a single-family residence and to allow a ten (10)-foot setback where a minimum setback of 23.25 feet is required.
- LOCATION:** The project site is located at 14053 Tuweep Road (Norm Schmidt Park), APN; 3112-233-26.
- ENVIRONMENTAL DETERMINATION** Based upon an Initial Study, pursuant to the State Guidelines to Implement the California Environmental Quality Act (CEQA), a Negative Declaration has been prepared for this project. However, due to the Planning Commission's direction to staff to prepare findings for denial, this is considered exempt due to Section 15061 (a) (4) – projects in which the local authority denies.
- CASE PLANNER:** Ms. Carol Miller, Senior Planner
- RECOMMENDATION:** Pursuant to Planning Commission direction, Negative Findings to support the Commission's stated intent to deny this project have been prepared.

Background

On April 21, 2010, the Planning Commission conducted a public hearing on Conditional Use Permit No. 2009-07 and Deviation Permit No. 2010-02. Following the public hearing and discussion, the Planning Commission reached a consensus for denial of the proposed wireless telecommunication tower project. The consensus was the project should not be approved based upon the Commission's determination that the proposed facility would not be compatible with the surrounding residential development and that the facility impacted the function and quality of the neighborhood park. The Commission directed that the item be brought back on May 5, 2010, in order for staff to complete the negative "Findings" as discussed at the public hearing by Planning Commission.

Based upon direction to staff at the April 21, 2010, hearing, Planning Commission findings for denial are provided below.

Conditional Use Permit Findings (Denial):

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 the mono-pine designed telecommunications antenna is not in compliance with the Telecommunications Ordinance of the Development Code. Although the site is considered a "Preferred Location", due to the small size and park configuration, the 752 square foot facility would negatively impact the function and quality of the neighborhood park/retention basin. This is further substantiated by the significance of the encroachments requested into setback and separation requirements.

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 sixty-two (62)-foot high, mono-pine design, telecommunications antenna will impact aesthetics in and around the site, as the height of the tower is substantially taller than anything within the surrounding residential neighborhood and the 752 square foot facility would be detrimental to the function and quality of the neighborhood park/retention basin.

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

Comment: Based on the "L" shape configuration of the park/ retention basin in relationship to size of the facility and associated equipment cabinets, the facility will appear out of scale with the park. Further, based on the configuration of the park, the facility is not able to comply with the recommended separation distance between a facility and existing residential zones and uses.

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: The neighborhood park is an integral part of the surrounding residential neighborhood, and as such, the potential impacts to the function and quality of the park ultimately affect the neighborhood characteristics.

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

Comment: The proposed unmanned wireless telecommunication facility is 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: Traffic generated from the project will not adversely impact the surrounding area. The proposed unmanned wireless telecommunication facility will be located within a developed site with adequate internal circulation and parking which can accommodate minimal traffic generated from the use proposed at this project site.

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

Comment: Under the State guidelines to implement the California Environmental Quality Act (CEQA), the project is not anticipated to have any direct or indirect impact upon the environment.

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

Comment: Under the State guidelines to implement the California Environmental Quality Act (CEQA), the project is not anticipated to have any direct or indirect impact upon the environment.

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: Although the site is considered a “Preferred Location”, the proposed telecommunications facility is not in conformance with the Telecommunications Ordinance of the Development Code, due to the impact the facility would have on the function and quality of the park and the facility requires significant encroachments into the setback and separation requirements.

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

Comment: Although a mono-pine design is proposed within an area of the park with existing pine trees, due to the height differential of the tower to surrounding trees and the close proximity of residential development, the facility is not considered compatible with adjacent and neighboring 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: Although a mono-pine design is proposed within an area of the park with existing pine trees, due to the height differential of the tower to surrounding trees and single-story homes, the tower will visually dominate its surroundings.

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: Although a mono-pine design is proposed within an area of the park with existing pine trees, due to the height differential of the tower to surrounding trees and single-story homes, the tower will not enhance the visual environment of the Town.

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. However, during construction and maintenance the adjacent equestrian trail easement may be negatively impacted.

Findings for Deviation (Denial):

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: Documentation has been provided indicating the necessity for wireless coverage in the proposed vicinity; however, the documents do not demonstrate that this need can only be met by placing a facility at this location.

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

Comment: The significance of the encroachments supports the determination the site is too small for such of a facility. The uniqueness of the site (i.e. preferred location and parcel shape) do not outweigh the impacts that the facility would have on the function and quality of the park, as well as the surrounding residential development.

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

Comment: The applicant indicated at the April 21, 2010 Planning Commission meeting that other locations were investigated, but that the park site provided the best coverage for their service needs.

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: Based on public testimony and Planning Commission discussion at the April 21, 2010 meeting, it was determined that the deviations would result in adverse impacts to the park and surrounding neighborhood.

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.

Comments: Based on public testimony and Planning Commission discussion at the April 21, 2010 meeting, it was determined that the deviations would be materially detrimental to the public health, safety or general welfare, or injurious to the property or improvements in the vicinity.

RECOMMENDATION

Based upon the information contained within this report, the Planning Commission actions of April 21, 2010, stating its intent to deny the subject applications and any input received from the continued public hearing, it is recommended that the Planning Commission move to recommend to the Town Council:

1. Find that the facts presented in the staff report do not support the required Findings for approval and adopt the negative comments for the findings for denial in the May 5, 2010 staff report.
2. Adopt the negative comments as provided in the staff report for the findings to approve Conditional Use Permit No. 2009-07 and Deviation No. 2010-002 and deny the Conditional Use Permit and Deviation.

Prepared By:

Carol Miller
Senior Planner

Reviewed By:

Lori Lamson
Assistant Director of Community Development

ATTACHMENTS:

1. Planning Commission from the Staff Report April 21, 2010 Meeting



TOWN OF APPLE VALLEY PLANNING COMMISSION

Staff Report

AGENDA DATE: April 21, 2010

CASE NUMBER: Conditional Use Permit No. 2009-07
Deviation Permit No. 2010-02

APPLICANT: Reliant Land Services for T-Mobile

PROPOSAL: A request for approval of a Conditional Use Permit to construct a sixty-two (62)-foot tall wireless telecommunication monopole designed as a pine tree. A fenced area is proposed to enclose the proposed the tower and six (6) equipment cabinets within a 752 square foot lease area. The project includes a request for approval of a Deviation Permit to allow an encroachment of approximately 490 feet into the required 500-foot separation requirement between the tower and a single-family residence and to allow a ten (10)-foot setback where a minimum setback of 23.25 feet is required.

LOCATION: The project site is located at 14053 Tuweep Road (Norm Schmidt Park), APN; 3112-233-26.

ENVIRONMENTAL DETERMINATION: Based upon an Initial Study, Pursuant to the California Environmental Quality Act (CEQA), a Negative Declaration has been determined for this proposal.

CASE PLANNER: Ms. Carol Miller, Senior Planner

RECOMMENDATION: Approval

PROJECT AND SITE DESCRIPTION:

- A. Project Size: The telecommunication tower and equipment will occupy 752 square feet of lease area within the 0.21-acre site.
- B. General Plan Designations:
 - Project Site - Open Space (O-S)
 - North - Estate Residential (R-E)

South - Single-Family Residential (RSF)
 East - Estate Residential (R-E)
 West - Single-Family Residential (RSF)

C. Surrounding Zoning and Land Use:

Project Site - Open Space (O-S), Retention Basin and Neighborhood Park
 North - Estate Residential (R-E), Single-family residence
 South - Single-Family Residential (RSF), Single-family residence
 East - Estate Residential (R-E), Single-family residence
 West - Single-Family Residential (RSF), Single-family residence

D. Height:

Permitted Maximum: 75 ft. (Preferred Location)
 Proposed Maximum: 62 ft.

E. Parking Analysis:

Total Parking Required: 1 Space
 Parking Provided: 0 Spaces

F. Setback Analysis:

Antenna	Required	Proposed
Adjoining Property Line:		
From West	23.25 ft.	90.5 ft.
From East	23.25 ft.	312.5 ft.
From South	23.25 ft.	140 ft.
From North	23.25 ft.	10 ft.

G. Separation Analysis:

Tower	Required	Proposed
To SFR		
From West	500 ft.	90.5 ft.
From East	500 ft.	312.5 ft.
From South	500 ft.	140 ft.
From North	500 ft.	10 ft.
To Existing Tower	750 ft.	Approx. 1.5 mi.

H. Site Characteristics

The subject site is currently developed as a retention basin/ neighborhood park. The site contains several mature trees throughout the park and playground equipment located in the southeasterly portion of the park. Since the site serves as a retention basin and for safety purposes, the park is enclosed with fencing.

ANALYSIS:

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 retention/neighborhood park, as an accessory use, with 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 similar in height.

As a retention basin/neighborhood 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 or setback requirements.

At the February 4, 2010 meeting, the Park and Recreation Commission unanimously recommended approval of T-Mobiles proposed wireless telecommunication facility within Norm Schmidt Park.

Site Analysis:

The applicant is requesting Planning Commission review and approval of a Conditional Use Permit to construct a sixty-two (62)-foot high camouflage, unmanned, wireless antenna ("Antenna") within a fence enclosure. This area will be enclosed with an eight (8)-foot high combination wrought iron and masonry wall. Since the property lines are not clearly indicated on the site plan, and based on a lot depth of 150 feet, the equipment cabinets appear to be located on or near the rear property line. Any plans submitted for plan check would be required to identify all property lines.

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 setback can be reduced by fifty (50) percent. This calculates to a twenty-three and one quarter (23.25)-foot (75% of 62 feet = 46.5 feet. 50% of 46.5 feet = 23.25 feet) from the adjoining property lines. Since the antenna is located near the northerly property line, the applicant is requesting a Deviation Permit to allow up to a 490 foot encroachment to both setback and separation requirement.

The Code requires a minimum of 750 feet separation to an existing antenna. The nearest existing antennas are located approximately one and a half (1.5) miles. Therefore, there is no conflict regarding the separation requirements per the Code.

The enclosure is proposed to be located at the top and side slope of the retention basin. To ensure that the function of the retention basin is not impacted, a Condition of Approval requires the applicant to provide hydrology information that demonstrates the basin's capacity is not negatively impacted and that the tower will not be impacted during any storm event (Condition of Approval No. P14).

The applicant is proposing ingress/ egress access from Seminole Road via an existing Public Utility Easement and equestrian trail easement. The easement is located along the rear property lines of the parcels to the north; therefore, prior to the issuance of a building permit, the applicant will be required to demonstrate legal access from Seminole Road (Condition of Approval No. P15).

In accordance with the Development Code, a minimum four (4)-foot wide landscape planter is required around the entire perimeter of the facility. As designed, no planter area is proposed along the rear of the facility adjacent to the block wall. The applicant is required to comply with this Code requirement.

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. The applicant should also demonstrate that there are no reasonable alternative sites available to provide the services offered to grant the waiver. The applicant has provided written justification for the deviations to the setback and separation requirements, which is attached for Commission consideration (Attachment No. 3).

The retention basin/neighborhood park parcel is approximately 150 feet deep, and with adherence to the 500-foot separation requirement, it would preclude the use of this preferred location for telecommunication. In addition, with the adherence to the twenty-three (23)-foot setback, the facility would negatively affect the use of the site as a retention basin and the function of the park for recreation opportunities.

Architecture Analysis:

The Development Code does discourage the use of a mono-pine, but that the Planning Commission in review of the CUP application may consider a mono-pine. The applicant has chosen a mono-pine design because of the existing pine trees at this location.

The sixty-two (62)-foot high, mono-pine is designed with full cladding that appears bark-like as the trunk of the tree, with foliage beginning at fifteen (15) feet and extending to the top at sixty-two (62) feet, and with the parabolic panel antenna at forty-five (45) feet and antenna array at a height of fifty-five (55) feet. The mono-pine tree will have three (3) sectors and four (4) antennas per sector within the foliage. The design of a pine tree adjacent to or within proximity of other pine trees that are approximately thirty (30)-feet tall will help minimize the appearance of the tower. Despite the tall trees, the trees will not achieve a height greater than fifty (50%) percent of the overall height of the tower, and when combined with the single story structures surrounding the park, the tower will still be visible. While not ideal, the sixty-two (62)-foot high, mono-pine design will provide the least amount of impact to the aesthetics in and around the project.

E. Licensing & Future Reviews:

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

F. Environmental Assessment:

Based upon an Initial Study, Pursuant to the California Environmental Quality Act (CEQA), a Negative Declaration has been determined for this proposal.

G. Noticing:

The project was legally noticed in the Apple Valley News on March 19, 2010. Staff notified all property owners within 1,500 feet of the site for this public hearing. Staff has received one letter in opposition to the project, which is attached (Attachment No. 6). The property owner cites concerns with the reduction in setback and separation to residential development.

H. Conditional Use Permit Findings:

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

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

Comment: The proposed construction of a sixty-two (62)-foot high telecommunication mono-pine tower complies with the Telecommunications Ordinance of the Development Code of the Town of Apple Valley, and the adopted General Plan, upon the review and approval of a Conditional Use Permit and Deviation Permit by the Planning Commission.

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 pine tree design as camouflage for the tower and will be compatible with the site and adjacent uses, based on the existing mature trees. The proposed installation of the monopole, with adherence to the recommended Conditions of Approval, is permitted subject to approval of a Conditional Use Permit and Deviation Permit.

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

Comment: The antenna will incorporate a pine tree design as camouflage for the tower. Since the surrounding trees will probably not achieve a height greater than fifty (50%) percent of the overall height of the tower and when combined with the single story structures surrounding the park, the tower will be visible. While not ideal, the sixty-two (62)-foot high, mono-pine design will provide the least amount of impact to the aesthetics and therefore, most compatible.

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

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

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

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

Comment: The proposed wireless telecommunication facility is unmanned and will be located within a developed park site. Minimal traffic will be generated from the project to adversely affect the surrounding area.

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

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

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

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

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 antenna and associated equipment compound will compliment the existing improvements.

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

Comment: The design of a pine tree adjacent to or within proximity of other pine trees that are approximately thirty (30) feet tall will help minimize the appearance of the tower. Based on the need for antenna height, due to the low profile buildings and lack of tall trees of comparable height within the area, anything will be visible. Nevertheless, the proposal does not unnecessarily block public views from other buildings or from public ways, or visually dominate its surroundings.

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 pine tree adjacent to or within proximity of other pine trees that are approximately thirty (30) feet tall will help minimize the appearance of the tower.

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 any existing access.

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.

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

Comment: Given the site design of the existing facility, the location appears most logical despite the encroachments into the required setbacks. The retention basin/neighborhood park parcel is approximately 150 feet deep and with adherence to the 500-foot separation requirement, it would preclude the use of this preferred location for telecommunication. In addition, with the adherence to the twenty-three (23)-foot setback, the facility would affect the use of the site as a retention basin and the function of the park for recreation opportunities. Essential any viable on-site location would result in an encroachment.

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

Comment: The applicant has submitted the required supporting documentation indicating that this need cannot be met in any other manner. The retention basin/neighborhood park parcel is approximately 150 feet deep and with adherence to the 500-foot separation requirement, it would preclude the use of this preferred location for telecommunication. In addition, with the adherence to the twenty-three (23)-foot setback, the facility would affect the use of the site as a retention basin and the function of the park for recreation opportunities. Essential any viable on-site location would result in an encroachment.

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. The retention basin/neighborhood park parcel is approximately 150 feet deep and with adherence to the 500-foot separation requirement, it would preclude the use of this preferred location for telecommunication. In addition, with the adherence to the twenty-three (23)-foot setback, the facility would affect the use of the site as a retention basin and the function of the park for recreation opportunities. Essential any viable on-site location would result in an encroachment.

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

RECOMMENDATION:

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

1. Determine that the proposed project does not have a negative impact upon the environment and adopt a Negative Declaration pursuant to the guidelines to implement the California Environmental Quality Act (CEQA) for Conditional Use Permit No. 2009-07 and Deviation Permit No. 2010-02.
2. Find the Facts presented in the staff report support the required Findings for approval and adopt the Findings for Conditional Use Permit No. 2009-07 and Deviation Permit No. 2010-02.
3. Approve Conditional Use Permit No. 2009-07 and Deviation Permit No. 2010-02, subject to the attached Conditions of Approval.
4. Direct Staff to file the Notice of Determination.

Prepared By:

Reviewed By:

Carol Miller
Senior Planner

Lori Lamson
Assistant Director of Community Development

ATTACHMENTS:

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

TOWN OF APPLE VALLEY

RECOMMENDED CONDITIONS OF APPROVAL

Case No. Conditional Use Permit No. 2009-07 & Deviation Permit No. 2010-02

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

Planning Division Conditions of Approval

- P1. This project shall comply with the provisions of State law and the Town of Apple Valley Development Code and the General Plan. This conditional approval to approve a specific use of land, if not established in conformance to any conditions applied, shall become void three (3) years from the date of action of the reviewing authority, unless otherwise extended pursuant to the provisions of application of State law and local ordinance. The extension application must be filed, and the appropriate fees paid, at least 60 days prior to the void date. The Conditional Use Permit becomes effective 10 days from the date of the decision unless an appeal is filed as stated in the Town's Development Code, Section 9.03.0180.
- P2. The applicant shall agree to defend at its sole expense (with attorneys approved by the Town), hold harmless and indemnify the Town, its agents, officers and employees, against any action brought against the Town, its agents, officers or employees concerning the approval of this project or the implementation or performance thereof, and from any judgment, court costs and attorney's fees which the Town, its agents, officers or employees may be required to pay as a result of such action. The Town may, at its sole discretion, participate in the defense of any such action, but such participation shall not relieve the applicant of this obligation under this condition.
- P3. The applicant recognizes the approval of Conditional Use Permit No. 2009-07 and Deviation Permit No. 2010-02 by the Planning Commission as acknowledgment of Conditions of Approval, unless an appeal is filed in accordance with Section 9.12.250, *Appeals*, of the Town of Apple Valley Development Code.
- P4. The rendering(s) presented to, and approved by, the Planning Commission at the public hearing shall be the anticipated and expected appearance of the structure upon completion.
- P5. It is the sole responsibility of the applicant on any Permit, or other appropriate discretionary review application for any structure, to submit plans, specifications and/or illustrations with the application that will fully and accurately represent and portray the structures, facilities and appurtenances thereto that are to be installed or erected if approved by the Commission. Any such plans, specifications and/or illustrations that are reviewed and approved by the Planning Commission at an advertised public hearing shall accurately reflect the structures, facilities and appurtenances expected and required to be installed at the approved location without substantive deviations, modifications, alterations, adjustments or revisions of any nature.

- P6. The Community Development Director or his/her designee, shall have the authority for minor architectural changes focusing around items such as window treatments, color combinations, façade treatments, and architectural relief. Questions on the interpretation of this provision or changes not clearly within the scope of this provision shall be submitted to the Planning Commission for consideration under a Revision to the Development Permit.
- 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. Final landscape and irrigation plans shall be submitted prior to the issuance of Building permits and installed prior to issuance of occupancy permits subject to approval by the Planning Division. The landscape plans, in addition to overall site landscaping, shall show any retention basin with dense landscaping consisting of trees, shrubs and/or berms to provide vertical height.
- P10. Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound. The standard buffer shall consist of a landscaped strip at least four (4) feet wide outside the perimeter of the compound.
- P11. Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible.
- P12. All required and installed landscaping shall incorporate and maintain a functioning automatic sprinkler system, and said landscaping shall be maintained in a neat, orderly, disease and weed free manner at all times.
- P13. The filing of a Notice of Determination and Negative Declaration requires the County Clerk to collect a 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.
- P14. Prior to the issuance of a permit, the applicant shall provide a hydrology study which demonstrates the basin's capacity is not negatively impacted and that the tower will not be impacted during any storm event.
- P15. Prior to the issuance of a building permit, the applicant shall provide documentation that demonstrates legal access from Seminole Road.

Building and Safety Division Conditions of Approval

- B1. Prior to issuance of Building Permit, the applicant shall submit plans and engineering calculations for review and approval.
- B2. All utilities are required to be placed underground in compliance with Town Ordinance No. 89.

- B3. Page two (2) of the submitted building plans will be conditions of approval.
- B4. Construction must comply with 2007 California Building Codes.
- B5. Best Management Practices (BMPs) are required for the site during construction.

Apple Valley Fire Protection District

- FD1. Prior to construction occurring on any parcel, the owner shall contact the Fire District for verification of current fire protection development requirements.

End of Conditions



Authorized Agent for **T-Mobile**,

T-Mobile Project Number: **IE24887A**

T-Mobile Project Name: **Norm Schmidt Park**

Town of Apple Valley
Application for a Conditional Use Permit
Project Information and Justification

T-Mobile West Corporation (T-Mobile), is requesting approval of a **Conditional Use Permit** for the construction and operation of an unmanned wireless telecommunications facility (cell site), and presents the following project information for your consideration.

Project Location

Address: 14053 Tuweep Trail,
Apple Valley, CA 92307
APN: 3112-233-26
Zoning: O-S / Open Space

Project Representative

Name: Susan Chong with Reliant Land Services, Inc.
Address: 1594 N. Batavia Street.,
Orange, CA 92867
Contact Phone: (949) 892-7678 Fax (714) 685-0125
E-Mail: Susan.Chong@rlsusa.com

T-Mobile Contact

Linda Paul, Real Estate and Zoning Manager
3257 E. Guasti Rd. #200
Ontario, CA 91761
909-975-3698

Project Description

T-Mobile is proposing to install six (6) equipment cabinets mounted on concrete pad; the power point of connection (PPC), electric meter and telco box mounted on a utility rack; (1) GPS antenna. Also (12) panel antennas and (1) 2' parabolic antenna mounted on a proposed 62' high monopine within a proposed 6' high wrought iron enclosure on a 3-sided concrete masonry unit (CMU) retaining wall with 4' wide access gate.

Project Objectives

There are several reasons why a wireless carrier requires the installation of a cell site within a specified area:

Coverage – No service, or insufficient service, currently existing in the vicinity

Rev. 08/01/2009

Capacity – Service exists, but is currently overloaded or approaching overload, preventing successful call completion during times of high usage.

Quality – Service exists, but signal strength is inadequate or inconsistent.

E911 – Effective site geometry within the overall network is needed to achieve accurate location information for mobile users through triangulation with active cell sites. (Half of all 911 calls are made using mobile phones.)

Enhanced Voice and Data services – Current service does not provide adequate radio-support for advanced services.

All constitute a significant gap in the coverage or quality of service provided. In this specific case, this location was selected because T-Mobile's radio-frequency engineers (RF) have identified a significant gap in radio-signal in the vicinity of the intersection of Kiowa Road and Tussing Ranch Road and the surrounding residential communities. This proposed site is well within a residential community. Currently there are two existing T-Mobile facilities south east and south west of the proposed site. The use of this site location will infill the current coverage gap, eliminate dropped calls, assist in E911 calls and provide better services to all T-Mobile customers in and traveling through this area.

Project Benefits

More than 80-percent of all Americans subscribe to cell phone service. People of all ages rely increasingly on their cell phones to talk, text, send media, search the Internet, and conduct business. It takes a robust physical network of antennas and supporting radio equipment to successfully provide those wireless connections, virtually anywhere and at anytime, as expected by each one of our customers.

The installation and operation of the proposed facility will also offer improved:

- Communications for local, state, and federal emergency services providers, such as police, fire, paramedics, and other first-responders.
- Personal safety and security for community members who are experiencing emergencies, or have an urgent need to reach family members or friends. Safety is the primary reason parents provide cell phones to their children. Currently 25% of all preteens, ages 9 to 12, and 75% of all teens, aged 13 to 19, have cell phones.
- Capability of local businesses to better serve their customers.
- Opportunity for a city or county to attract businesses to their community for greater economic development.

Alternative Site Analysis

The following locations were evaluated and the reasons why they were not selected for this project are addressed:

- Black Horse Motel – 22001 Araphoe Avenue: This motel is zoned residential and per the Town's ordinance, wireless facilities are prohibited in residentially zoned properties.
- Empty Lot – .25 mile south of T-Mobile proposed park. This lot has an existing AM receiving station. This is not only zoned residential but also the Town is working to have this AM receiving station removed from this location. This is not a feasible location.

Deviation Findings:

Setback from Residential

1000' feet set back from residential property cannot be accomplished within this open space zoned park. T-Mobile kindly requests Planning Commission grant a deviation. T-Mobile facility will not be detrimental to public health, safety or general welfare. The 6' feet high wrought iron fencing around our lease area will provide more than sufficient security.

Setback from lot line

Towers must be set back a distance equal to at least seventy-five percent (75%) of the height of the tower from any adjoining lot line. T-Mobile, in efforts to preserve and comply by land owner's request, is requesting a deviation from this setback. T-Mobile proposed 62' high monopine would require a setback of 46.5 feet from the nearest lot line. The proposed tower is located on the northwest corner of the property. The monopine that T-Mobile is proposing to build will be approximately 15 feet from the property line to the north lot line.

Environmental Impacts - Settings:

The proposed site at Norm Schmidt Park an existing park with existing pine trees located in this park. The topography of the park is there is a lower flat surface in the center of the park. The outer edge of the park has a higher elevation.

This is an L shaped park and we are going in the deepest corner furthest from the entrance, closer to other existing trees. Surrounding this park is all residentially zoned properties.

T-Mobile Company Information

T-Mobile is one of the fastest growing nationwide service providers offering all digital voice, messaging and high-speed data services to nearly 30 million customers in the United States.

T-Mobile is a "telephone corporation", licensed by the Federal Communications Commission (FCC) to operate in the 1950.2-1964.8, 1965.2-1969.8 MHz and 1870.2-1884.8-1889.8 MHz frequencies, and a state-regulated Public Utility subject to the California Public Utilities Commission (CPUC). The CPUC has established that the term "telephone corporation" can be extended to wireless carriers, even though they transmit signals without the use of telephone lines.

T-Mobile will operate this facility in full compliance with the regulations and licensing requirements of the FCC, Federal Aviation Administration (FAA) and the CPUC, as governed by the Telecommunications Act of 1996, and other applicable laws.

The enclosed application is presented for your consideration. T-Mobile requests a favorable determination and approval of adding antennas to the existing light pole and to build the proposed facility. Please contact me at (949) 892-7678 for any questions or requests for additional information.

Respectfully submitted,

Susan Chong

Rev. 08/01/2009

Authorized Agent for T-Mobile

Rev. 08/01/2009

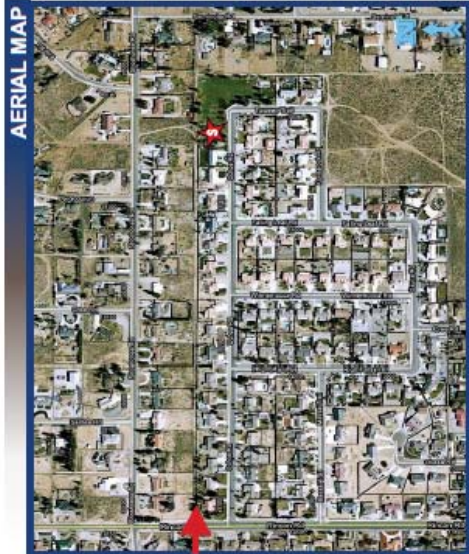
16-38



IE24887-A NORM SCHMIDT PARK

14053 Tuweep Trail, Apple Valley, California 92307

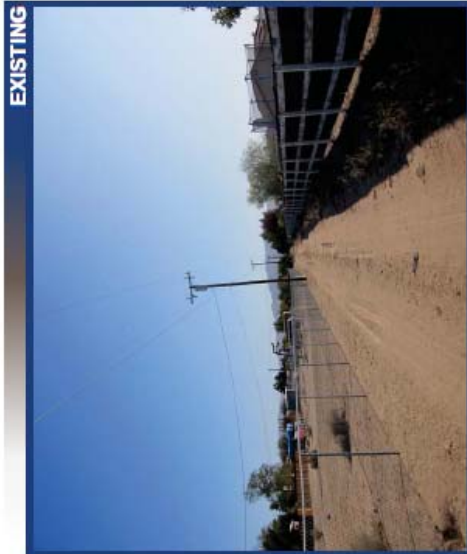
Prepared For:
Reliant Land Services
1594 N. Balboa Street
Orange, CA 92666
714-686-0123



AERIAL MAP



PROPOSED



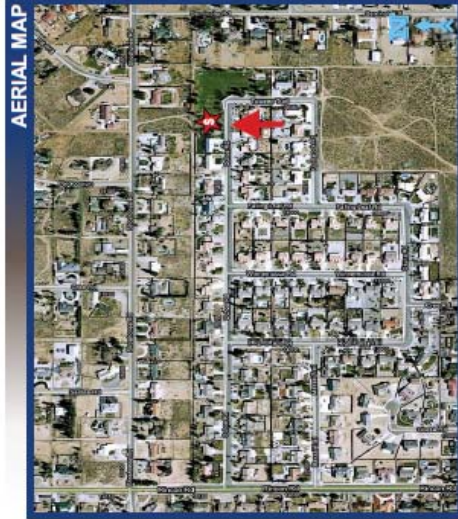
EXISTING

Accuracy of photo simulation based upon information provided by project applicant. The proposed installation is an artistic representation of a tree, and not intended to be an exact reproduction of an actual living tree. The final installation will have cables, cable ports, and various attachments, such as antennas, nuts, and bolts. Every effort will be made to disguise these components and they will not be readily apparent to the casual observer or passerby. However, upon close scrutiny the true nature of the installation will be apparent.



IE24887-A NORM SCHMIDT PARK 14053 Tuweep Trail, Apple Valley, California 92307

Prepared For:
Reliant Land Services
1594 N. Bolivar Street
Orange, CA 92626
714-685-0123



AERIAL MAP



VIEW 2

PROPOSED



EXISTING

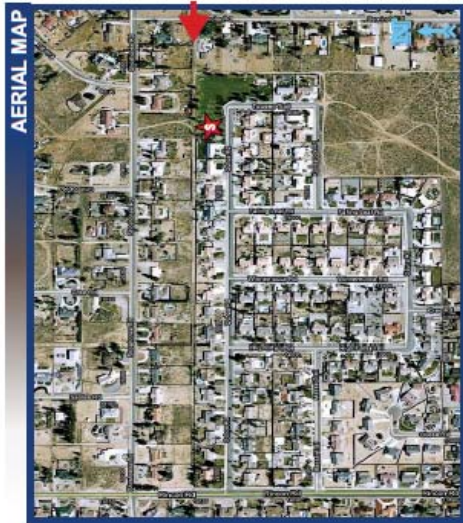
Accuracy of photo simulation based upon information provided by project applicant. The proposed installation is an artistic representation of a site, and not intended to be an exact reproduction of an actual living tree. The final installation will have cables, cable ports, and various attachments, such as antennas, nuts, and bolts. Every effort will be made to disguise these components and they will not be readily apparent to the casual observer or passerby. However, upon close scrutiny, the true nature of the installation will be apparent.



IE24887-A NORM SCHMIDT PARK

14053 Tuweep Trail, Apple Valley, California 92307

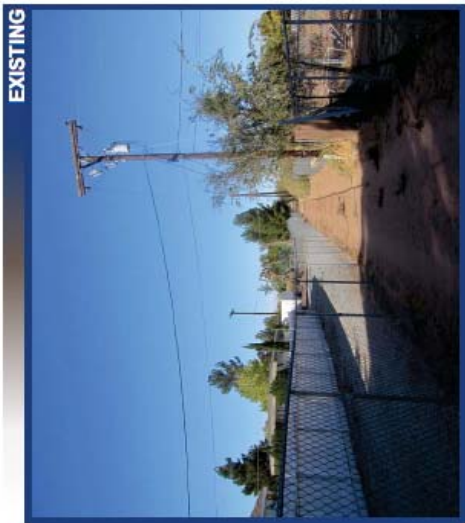
Prepared For:
Reliant Land Services
1594 N. Boravia Street
Orange, CA 92666
714-685-0123



AERIAL MAP



PROPOSED



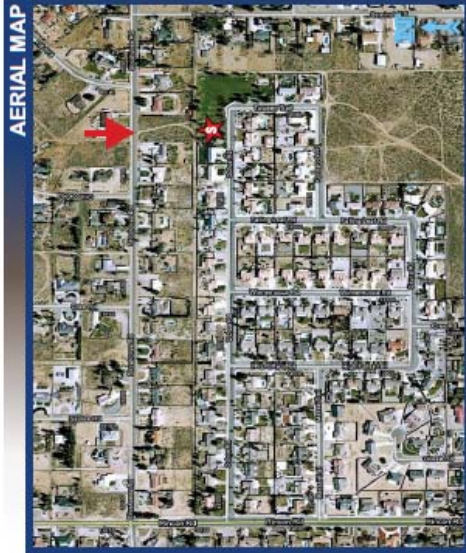
EXISTING

Accuracy of photo simulation based upon information provided by project applicant. The proposed installation is an artistic representation of a site, and not intended to be an exact reproduction of an actual living tree. The final installation will have cables, cable ports, and various attachments, such as antennas, nuts, and bolts. Every effort will be made to disguise these components and they will not be readily apparent to the casual observer or passerby. However, upon close scrutiny, the true nature of the installation will be apparent.



IE24887-A NORM SCHMIDT PARK 14053 Tuweep Trail, Apple Valley, California 92307

Prepared For:
Reclaim Land Services
15914 N. Bolinga Street
Orange, CA 92666
714-665-0123



AERIAL MAP



PROPOSED



EXISTING

Accuracy of photo simulation based upon information provided by project applicant. The proposed installation is an artistic representation of a tree, and not intended to be an exact reproduction of an actual living tree. The final installation will have cables, cable ports, and various attachments, such as antennas, nuts, and bolts. Every effort will be made to disguise these components and they will not be readily apparent to the casual observer or passerby. However, upon close scrutiny, the true nature of the installation will be apparent.

Looking North to T-Mobile proposed facility.



Taken from the north east corner of the park



Alley – T-Mobile proposed entrance



View of the park



Carol Miller

From: PAUL MORGAN [morg5344@msn.com]
Sent: Sunday, March 28, 2010 1:37 PM
To: Carol Miller
Cc: Patty Hevle
Subject: Installation of T-mobile comm/pole in Norm Schmidt park

I request the Planning Commission to deny the Reliant Land Services approval for a T-Mobile USA to install a monopole/(pine tree) telecommunication and related cabinets in NORM SCHMIDT PARK at the meeting on 21 April 2010.

DEVIATION RQUESTS.

1. I do not agree on the zero clearance set back request. The equipment will be installed parallel and next to the fencing on the north side of the park. The construction may disturb my property line marker, that is encased in cement which is inside of the park fencing. I mentioned this to Rusty/Dusty during the parks construction. His response was "My town can do what ever we wish". Sounds familiar. Also during the wet season there two to three of water runoff that accumulates inside the park.

2. California CWQA clearance fo 500 feet between the monopole and a single family units should be upheld. I firmly disagree of the approval to install this 60 feet monopole and related metal storage units 160 feet from my back door and patio. This beautiful plastiic coated pine tree does not enhance my health, life style or market value of my property. A simular beautiful pine tree can be viewed b y driving westbound on Bear Valley Road. On the left side of the road across from the junior college, sits this pine tree, it appears a lightning bolt had struck the poor thing and re-arrange its pine needles.

SUGGESTED ALTERNATE LOATIONS.

1. Immediately outside the door to our towns office complex is a single pine tree that appears to need companionship to relieve its distressed appearance.

2. Annother great location is on top of the rocky ridge where the towns water storge sits and the ole Bass home. Water and electricity is available, great communication signals re available and most of all, the beautiful pine tree would be in great view by our towns citizens and visitors.

3. The golf course could use a few nice pine trees. There is adequate barren landscape visable for beautifcation.

CREATIVE FINANICING

Which accounts receive the \$2000:00 for these monopoles? Is the funds per pole, per month or per year? No one was available to answer these questions.

POINT/LEAD PERSON

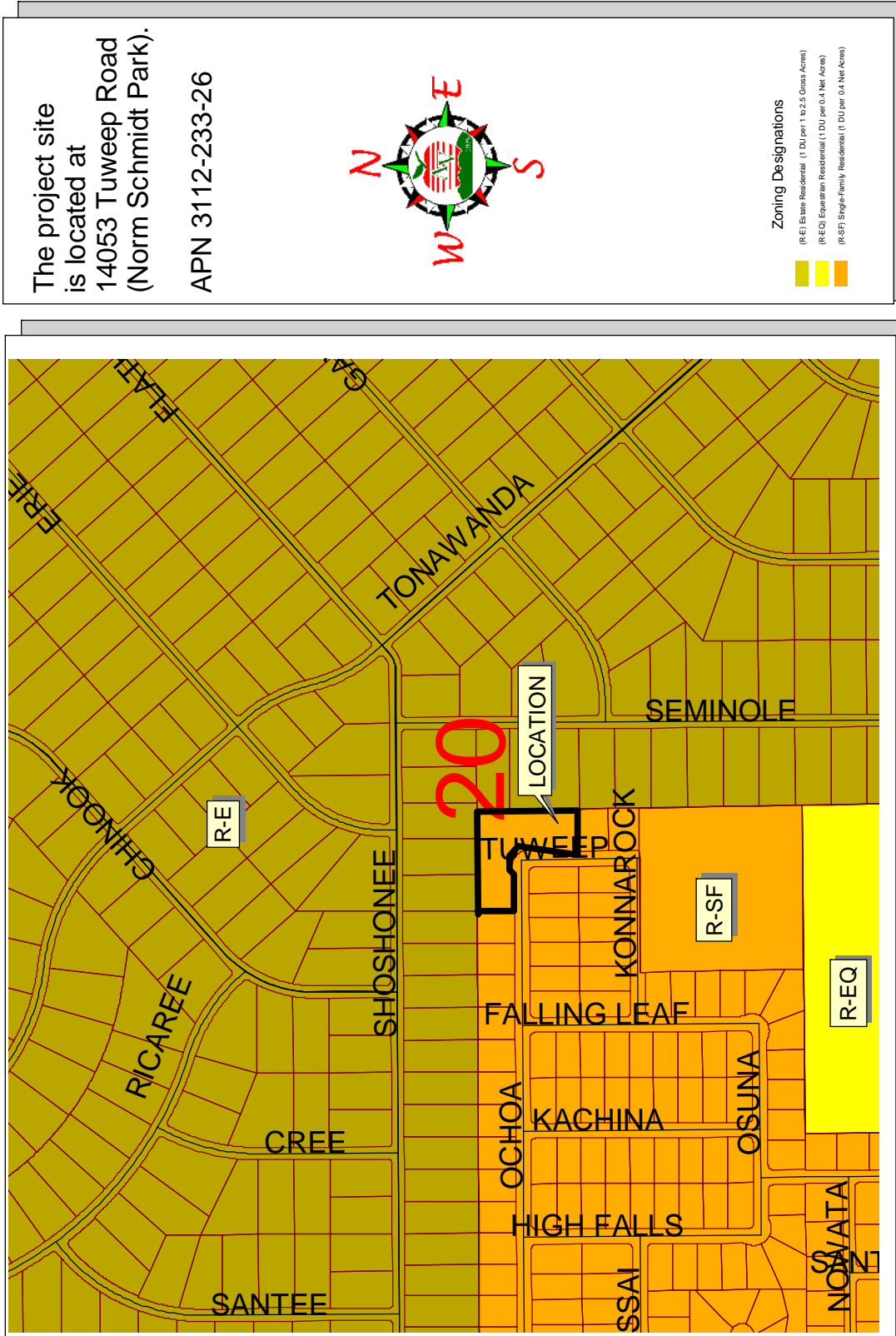
MS Carol Miller, Senior Planner. On 03/25/10, I received your letter postmarker 03/24/10, published on 03/26/10. I request the subject matter in this letter be denied by the Planning Board and the board be informed of my decision and provided a copy of this E-Mail

Paul E Morgan

4/12/2010

ZONING MAP

Conditional Use Permit No. 2009-007
Deviation Permit No. 2010-002



**TOWN OF APPLE VALLEY
INITIAL STUDY ENVIRONMENTAL CHECKLIST FORM**

This form and the descriptive information in the application package constitute the contents of Initial Study pursuant to Town of Apple Valley Development Code and Section 15063 of the State CEQA Guidelines.

PROJECT INFORMATION

1. Project title:
Conditional Use Permit No. 2009-07 & Deviation Permit No. 2010-02

2. Lead agency name and address:
**Town of Apple Valley
Planning Division
14955 Dale Evans Parkway
Apple Valley, CA 92307**

3. Contact person and phone number:
Carol Miller, Senior Planner 760-240-7000

4. Applicant's name and address:
**Reliant Land Service for T-Mobile
Susan Chong
1594 N. Batavia St. Ste 1D
Orange, Ca. 92867**

5. Project location and APN:
140053 Tuweep Road (Norm Schmit Park), APN 3112-233-26.

6. Description of project (Describe the whole action involved, including but not limited to later phases of the project, and any secondary, support, or off-site features necessary for its implementation):
A request for approval of a Conditional Use Permit to construct a 62-foot tall wireless telecommunication monopole designed as a pine tree. A fenced area is proposed to enclose the proposed the tower and six (6) equipment cabinets within a 752 square foot lease area. The project includes a request for approval of a Deviation Permit to allow an encroachment of approximately 500 feet into the required 500-foot separation requirement between the monopole and a single family residence and to allow a zero setback where a minimum setback of 23.25 feet is required.

ENVIRONMENTAL/EXISTING SITE CONDITIONS

The subject site is currently developed as a retention basin that also serves as a neighborhood park. The site does contain several twenty-five (25) to thirty (30) foot tall trees within the park.

	EXISTING LAND USE	TOWN OF APPLE VALLEY ZONING AND GENERAL PLAN DESIGNATION
North	Single-Family Residence	Residential Estate (R-E)
South	Single-Family Residence	Single-Family Residential (SFR)
East	Single-Family Residence	Residential Estate (R-E)
West	Single-Family Residence	Single-Family Residential (SFR)

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

- | | | |
|---|---|---|
| <input type="checkbox"/> Aesthetics | <input type="checkbox"/> Agriculture and Forestry Resources | <input type="checkbox"/> Air Quality |
| <input type="checkbox"/> Biological Resources | <input type="checkbox"/> Cultural/Paleontological | <input type="checkbox"/> Geology/Soils |
| <input type="checkbox"/> Greenhouse Gas Emissions | <input type="checkbox"/> Hazards & Hazardous Materials | <input type="checkbox"/> Hydrology/Water Quality |
| <input type="checkbox"/> Land Use/Planning | <input type="checkbox"/> Mineral Resources | <input type="checkbox"/> Noise |
| <input type="checkbox"/> Population/Housing | <input type="checkbox"/> Public Services | <input type="checkbox"/> Recreation |
| <input type="checkbox"/> Transportation/Traffic | <input type="checkbox"/> Utilities/Service Systems | <input type="checkbox"/> Mandatory Findings of Significance |

DETERMINATION: (To be completed by the Lead Agency)

On the basis of this initial evaluation, the following finding is made:

- The proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
- Although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
- The proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
- The proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an

earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.

- Although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

	March 18, 2010
Signature (prepared by)	Date

Lori Lamson Assistant Director of Community Development	Date

I. AESTHETICS

Would the project:

	Potentially Significant Impact	Less than Significant with Mitigation Incorp.	Less than Significant Impact	No Impact
a) Have a substantial adverse effect on a scenic vista?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Substantially degrade the existing visual character or quality of the site and its surroundings?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

SUBSTANTIATION (check ___ if project is located within the viewshed of any Scenic Route listed in the General Plan):

- a. **Less Than Significant Impact.** The Town of Apple Valley’s General Plan recognizes the protection of local scenic resources as necessary for maintaining the overall livability and aesthetic qualities of the Town, and identifies the surrounding knolls, hills, and natural desert environment as important natural resources that should be preserved as Open Space. The proposed project is not located within a Scenic Corridor and will not have a substantial adverse effect on a scenic vista as there are none identified within the vicinity of the project site that would be effected by development of the site.
- b. **No Impact.** The Town’s General Plan does not identify officially designated state scenic highways within the project vicinity. As a result, no impacts would occur to scenic resources located within a state scenic highway from the project.
- c. **Less Than Significant Impact.** The proposed project is located within a developed area of the Town and therefore, the overall scenic character has already been altered.
- d. **No Impact.** No exterior lighting is proposed.

II. AGRICULTURE AND FORESTRY RESOURCES

In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest California Department of Forestry and Fire Protection regarding the state’s inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment Project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board.

Would the project:

	Potentially Significant Impact	Less than Significant with Mitigation Incorp.	Less than Significant Impact	No Impact
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland as defined in Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Gov't Code section 51104(g))?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Result in the loss of forest land or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of farmland, to non-agricultural use or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

SUBSTANTIATION (check if project is located in the Important Farmlands Overlay):

- a: **No Impact.** The subject property is not identified or designated as Prime Farmland, Unique Farmland, or Farmland of Statewide importance as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency. There are no agricultural uses on the site.
- b. **No Impact.** The property is designated Open Space (O-S) and not subject to a Williams Act land conservation contract or located within an agricultural preserve.
- c. **No Impact.** Forest land is defined as “land that can support 10% native tree cover of any species, including hardwoods, under natural conditions, and that allows for management of one or more forest resources, including timber, aesthetics, fish and wildlife, biodiversity, water quality, recreation, and other public benefits” (Public Resources Code section 12220(g)). Timberland is define as “land, other than land owned by the federal government and land designated by the Board of Experimental forestland, which is available for, and capable of, growing a crop of trees of any commercial species used to produce lumber and other forest products, including Christmas trees” (Public Resources Code section 4526). A Timberland Production Zone is defined as “an area which has been zoned pursuant to Section 51112 or 51113 and is devoted to and used for growing and harvesting timber and compatible uses, as defined in subdivision” (Gov’t Code section 51104(g)).

The property is designated Open Space (O-S) and the proposed project does not involve other changes in the existing environment that, due to their location or nature, could result in conversion of Prime Farmland, to a non-agricultural use.

- d. **No Impact.** The site is developed and therefore, does not contain forest land as defined in Public Resources Code section 12220(g) or timberland as defined in Gov't Code section 51104(g).
- e. **No Impact.** The subject property is not identified or designated as Prime Farmland, Unique Farmland, or Farmland of Statewide importance as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency. There are no agricultural uses on the site.

III. AIR QUALITY

Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations.

Would the project:

	Potentially Significant Impact	Less than Significant with Mitigation Incorp.	Less than Significant Impact	No Impact
a) Conflict with or obstruct implementation of the applicable air quality plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

SUBSTANTIATION:

a-c: **Less Than Significant Impact.** The project area is located within the Mojave Desert Air Quality Management District (MDAQMD) which lies in the San Bernardino County portion of the Mojave Desert Air Basin (MDAB). This portion of the basin has been designated as a 'non-attainment' area with respect to violating National Air Quality Standards for particulate matter classified as equal to, or smaller than, 10 microns in diameter (PM₁₀). However, because the proposed site disturbance will be less than ½ acre, the 960 square feet is not subject to the regulatory provisions of Rule 403.2 (Fugitive Dust Control for the Mojave Desert Planning Area) which requires a number of operating conditions to reduce fugitive dust generation to the lowest extent possible. No stationary sources are associated with the project that would be subject to MDAQMD rules. As a result, the proposed wireless facility would be in conformance, and impacts would be less than significant.

- d: **Less Than Significant Impact.** This is a request to install a wireless telecommunication facility at an existing retention basin/park surrounded on all sides by single family residences. The only potential sensitive receptor is located 150 feet to the north. No other sensitive receptors are in the area. The project will not expose sensitive receptors to substantial pollutant concentrations because there are no identified concentrations of substantial pollutants associated with this proposal.
- e. **Less Than Significant Impact.** The wireless telecommunication facility does not include any sources of odor producers, which would cause impacts to the surrounding area. Odors would be generated from vehicles and/or equipment exhaust emission during construction. However such odors are temporary and would not occur at such levels that would effect substantial number of people. Less than significant impact is anticipated.

IV. BIOLOGICAL RESOURCES

Would the project:

	Potentially Significant Impact	Less than Significant with Mitigation Incorp.	Less than Significant Impact	No Impact
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

SUBSTANTIATION (check if project is located in the Biological Resources Overlay ___ or contains habitat for any species listed in the California Natural Diversity Database ___):

a –d. **No Impact.** The project involves the installation of a wireless telecommunication tower designed as a pine tree located at the perimeter of a retention basin/neighborhood park. The subject site is surrounded on all sides by residential development; therefore, the proposed will not impact biological resources or conflict with any conservation plans.

V. CULTURAL RESOURCES

Would the project:

	Potentially Significant Impact	Less than Significant with Mitigation Incorp.	Less than Significant Impact	No Impact
a) Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Disturb any human remains, including those interred outside of formal cemeteries?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

SUBSTANTIATION (check if the project is located in the Cultural ___ or Paleontologic ___ Resources overlays or cite results of cultural resource review):

a –d. **No Impact.** The project involves the installation of a wireless telecommunication tower designed as a pine tree located at the perimeter of a retention basin/neighborhood park. The subject site is surrounded on all sides by development; therefore, the proposed will not impact cultural resources.

VI. GEOLOGY AND SOILS

Would the project:

a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death				
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
ii) Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
iii) Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

iv) Landslides?

	Potentially Significant Impact	Less than Significant with Mitigation Incorp.	Less than Significant Impact	No Impact
b) Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Be located on expansive soil, as defined in Table 18 1-B of the Uniform Building Code (1994), creating substantial risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

SUBSTANTIATION (check __ if project is located in the Geologic Hazards Overlay District):

- a (i-iv). **Less Than Significant Impact.** The General Plan indicates that the project site is not located within a special studies (Alquist-Priolo) zone and, therefore, does not require a geologic study. The Mojave Desert is a seismically active region; however, safety provisions identified in the Uniform Building Code shall be required when development occurs which would reduce potential ground shaking hazards to a less than significant level. The project site is not within a known area which may be susceptible to the effects of liquefaction. The subject site is currently developed and no hills or mountains surround the site that would subject the projects to landslides or rock falls.
- b. **No Impact.** Although the desert is susceptible to strong winds and wind erosion hazards, the proposed facility will be located in a parking lot of an existing business; therefore, the project will result in minimal grading that would result in the loss of topsoil or cause soil erosion.
- c-d: **No Impact.** The project site is a retention basin and the tower is proposed on the slope of the basin. The potential of unstable soil condition, landslide, lateral spreading, subsidence, liquefaction or collapse is present because of the geographical make up of the area and the frequency of earthquake occurrences in Southern California. The General Plan indicates that the project site is not located within a special studies zone or an earthquake fault zone. Any project within the area of Southern California shall meet the latest UBC standards to minimize the potential impact caused by an earthquake. However, any future project will meet and/or exceed the development standards set by the Town of Apple Valley. No impact is anticipated.
- e. **No Impact.** The project is an unmanned wireless telecommunication facility that does not include the use of sewer, septic tanks or the need to dispose of wastewater.

VII. GREENHOUSE GAS EMISSIONS

Would the project:

	Potentially Significant Impact	Less than Significant with Mitigation Incorp.	Less than Significant Impact	No Impact
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Conflict with any applicable plan, policy or regulation of an agency adopted for the purpose of reducing the emissions of greenhouse gases?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

SUBSTANTIATION:

- a: **Less Than Significant Impact.** This is a request to construct an unmanned wireless telecommunication facility in the Open Space zoning designation. According to the Town’s General Plan, air quality is a concern due to human health issues, and because air pollutants are thought to be contributing to global warming and climate change. Air pollution is defined as a chemical, physical or biological process that modifies the characteristics of the atmosphere. The Town will follow applicable greenhouse gas regulations and quantification protocols. A detailed description of each of the greenhouse gases and their global warming potential are provided in *Air Quality* of the General Plan EIR. Less than significant impact is anticipated.
- b): **No Impact.** The proposed project would not conflict with the provisions of any adopted, applicable plan, policy or regulation. Prior to August 11, 2010, the Town shall develop and adopt a Climate Action Plan (“CAP”) that enhances the General Plan’s goals, policies and programs relating to meeting the greenhouse gas emission targets established in the California Global Warming Solutions Act, including reducing emissions to 1990 levels by including an emissions inventory; emission targets that apply at reasonable intervals through the life of the plan; enforceable GHG control measures; monitoring and reporting; and mechanisms to allow for the revision of the plan, if necessary, to stay on target. The goal of the CAP shall be to reduce greenhouse gas emissions within the Town’s control the achieve the emission reduction goals required by AB 32, as further developed and quantified by the California Air Resources Board. The CAP shall quantify the approximate greenhouse gas emissions reductions of each measure developed with the CAP, and shall consider the mechanisms, strategies and techniques included above.

VIII. HAZARDS AND HAZARDOUS MATERIALS

Would the project:

a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

	Potentially Significant Impact	Less than Significant with Mitigation Incorp.	Less than Significant Impact	No Impact
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

SUBSTANTIATION:

a-c: **No Impact.** The project will not create a significant hazard to the public or the environment through the routine transport, use or disposal of hazardous materials because no use approved on the site is anticipated to be involved in such activities. If such uses are proposed on-site in the future, they will be subject to land use approval, permit and inspection.

d: **No Impact.** This project is not on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5. Therefore, this project would not create a significant hazard to the public or the environment. No impact is anticipated.

e-f: **No Impact.** The project site is not located within two miles of a public airport or public use airport. The nearest airport is the Apple Valley Airport located approximately **five (5) miles** to the north of the project site. The Osborne Airstrip is the nearest private airstrip and is located **approximately ten (10) miles** northwest of the project site. No impacts related to air traffic are anticipated to occur.

- g: **No Impact.** The proposed development of of a wireless telecommunication facility would not impair or interfere with the Town's adopted emergency evacuation plan. No impact is anticipated.
- h: **No Impact.** The facility is an unmanned wireless telecommunication facility consisting of a tower and six (6) equipment cabinets.

IX. HYDROLOGY AND WATER QUALITY

Would the project:

	Potentially Significant Impact	Less than Significant with Mitigation Incorp.	Less than Significant Impact	No Impact
a) Violate any water quality standards or waste discharge requirements?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Otherwise substantially degrade water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h) Place within a 100-year flood hazard area structures				

which would impede or redirect flood flows?

Potentially Significant Impact Less than Significant with Mitigation Incorp. Less than Significant Impact No Impact

- i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?
- j) Inundation by seiche, tsunami, or mudflow?

SUBSTANTIATION:

- a: **No Impact.** Future development at the project site would disturb approximately 752 square feet of park area, therefore not subject to the National Pollution Discharge Elimination System (NPDES) permit requirements.
- b: **No Impact.** The project will not substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level. Further, the only water necessary for the project is for irrigation purposes which will be supplied by the local water purveyor.
- c-e: **No Impact.** The project will cause changes in absorption rates, drainage patterns, and the rate and amount of surface water runoff because the amount of new hardscape proposed on the site; however, the project will not alter the course of any stream or river. All runoff generated from the project would be retained on the project site. The project design includes landscaping of all non-hardscape areas to prevent erosion. A grading and drainage plan must be approved by the Town Engineer prior to the issuance of a grading permit.
- f: **No Impact.** Grading activities associated with the construction of the wireless communication facility could result in temporary increase in the amount of suspended solids in surface flows during a concurrent storm event, thus resulting in surface water quality impacts. Since the lease area is only 752 square feet, any surface run off will be minimal.
- g: **No Impact.** The project does not propose the development of housing. Although the site serves as a retention basin the site is not located within a flood hazard zone. The 100-year flood zones in the Town are concentrated around the Mojave River and its tributaries, as well as the Apple Valley Dry Lake. Nevertheless the grading plan shall demonstrate that the function of the site is not impacted by the development.
- h: **No Impact.** The project site is not located within the 100-year Flood Zone as indicated in the Town of Apple Valley General Plan. At the time of development, the applicant must conform to FEMA requirements and the Town’s regulations to mitigate any potential flood hazards.
- i-j: **No Impact.** No levees, dams or large bodies of water are located near the development site which would subject people to flooding. The site is also not located in a coastal area and, therefore, would not be subject to seiche, tsunami or mudflow.

X. LAND USE AND PLANNING

Would the project:

	Potentially Significant Impact	Less than Significant with Mitigation Incorp.	Less than Significant Impact	No Impact
a) Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Conflict with any applicable habitat conservation plan or natural community conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

SUBSTANTIATION:

- a: **No Impact.** The project site is designated Open Space and proposed on an existing developed site. The development of a wireless telecommunication facility will not create any physical obstruction which would divide the community.
- b. **No Impact.** The project site is designated Open Space and proposed on an existing developed site. The development of a wireless telecommunication facility is consistent with the General Plan designation and zoning classification.
- c. **No Impact.** No habitat conservation plan or natural community conservation plan exists over this site which is currently developed. Therefore, no impact is anticipated.

XI. MINERAL RESOURCES

Would the project:

a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

SUBSTANTIATION (check ___ if project is located within the Mineral Resource Zone Overlay):

- a: **No Impact.** The site is not designated as a State Aggregate Resource Area according to the General Plan FEIR; therefore, there is no impact.
- b. **No Impact.** The site is not designated by the General Plan as a Mineral Resource Zone; therefore, there is no impact.

XII. NOISE

Would the project result in:

	Potentially Significant Impact	Less than Significant with Mitigation Incorp.	Less than Significant Impact	No Impact
a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

SUBSTANTIATION (check if the project is located in the Noise Hazard Overlay District ___ or is subject to severe noise levels according to the General Plan Noise Element __):

a-d: **Less Than Significant Impact.** The proposal is an unmanned wireless telecommunication facility which would only periodically generate noise in the event of a power outage and an emergency generator is used. Also, the development would result in short term noise during construction activities and would be required to comply with the Town's adopted Noise Ordinance.compliance with the Town's construction hours of 7:00 a.m. to 7:00 p.m. which will mitigate temporary noise impacts during night time hours. Noise levels generated by the development would be consistent with levels anticipated for the site.

e-f: **No Impact.** The project site is not located within two miles of a public airport or public use airport. Therefore, no impact is anticipated.

XIII. POPULATION AND HOUSING

Would the project:

	Potentially Significant Impact	Less than Significant with Mitigation Incorp.	Less than Significant Impact	No Impact
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

SUBSTANTIATION:

a-c. **No Impact.** The General Plan identifies the site as Open Space zone. The proposed unmanned wireless telecommunication facility will not induce population growth or displace housing or number of people.

XIV. PUBLIC SERVICES

a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:

Fire protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Police protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Other public facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

SUBSTANTIATION:

a. **No Impact.** The proposed unmanned wireless telecommunication facility will not result in the need for additional public service due to the limited size and scope.

XV. RECREATION

a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of

	Potentially Significant Impact	Less than Significant with Mitigation Incorp.	Less than Significant Impact	No Impact
the facility would occur or be accelerated?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

SUBSTANTIATION:

a-b: **No Impact.** The proposed unmanned wireless telecommunication facility will not impact existing recreational opportunities or create the need for additional recreational facilities. The facility is located on the slope of the park/basin and does not impact recreational activities.

XVI. TRANSPORTATION/TRAFFIC

Would the project:

a) Conflict with an applicable plan, ordinance or policy establishing measure of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system including but not limited to intersection, streets, highways and freeways, pedestrian and bicycle paths and mass transit?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

- g) Conflict with adopted policies, plans, or programs regarding public transit, bicycle or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?

SUBSTANTIATION:

- a-b: **No Impact.** The proposed unmanned wireless telecommunication facility will not exceed, either individually or cumulatively the Town's level of service (LOS) standard or change existing traffic patterns.
- c. **No Impact.** The proposed unmanned wireless telecommunication facility does not utilize air transportation and will not result in a change to air traffic patterns.
- d. **No Impact.** The proposed unmanned wireless telecommunication facility will not require new roads or design features.
- e. **No Impact.** The unmanned wireless telecommunication facility is proposed to be located within an existing retention basin and neighborhood park. The area within the park to be disturbed is currently a grassy slope area; therefore, the overall circulation and emergency access within the site will not be altered.
- f. **No Impact.** The unmanned wireless telecommunication facility is proposed to be located within an existing park/retention basin. The area within the park to be disturbed is currently a grassy slope area; therefore, the on-site parking will not be altered.
- g. **No Impact.** The unmanned wireless telecommunication facility is proposed to be located within an existing park/retention basin. The area within the park to be disturbed is currently a grassy slope; therefore, the proposal will not conflict with adopted policies, plans and programs.

XVII. UTILITIES AND SERVICE SYSTEMS

Would the project:

	Potentially Significant Impact	Less than Significant with Mitigation Incorp.	Less than Significant Impact	No Impact
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are				

new or expanded entitlements needed?

Potentially Significant Impact Less than Significant with Mitigation Incorp. Less than Significant Impact No Impact

e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?

f) Be served by a landfill(s) with sufficient permitted capacity to accommodate the project's solid waste disposal needs?

g) Comply with federal, state, and local statutes and regulations related to solid waste?

SUBSTANTIATION:

a-g **No Impact.** The proposed unmanned wireless telecommunication facility will not impact existing utility service systems or create the need for additional facilities.

XVIII. MANDATORY FINDINGS OF SIGNIFICANCE

a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?

b) The project has the potential to achieve short-term environmental goals to the disadvantage of long-term environmental goals.

c) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?

d) Does the project have environmental effects which will cause Substantial adverse effects on human beings, either directly or indirectly?

SUBSTANTIATION:

- a. **No Impact.** The project will not result in any negative impacts to wildlife habitat. As previously described, the site is developed as a retention basin/ neighborhood park, and therefore, does not have the potential to degrade the quality of the environment.
- b. **No Impact.** The project would not have impacts that are individually limited but cumulatively considerable. There are no projects within the area, that when combined with the proposed project that would result in cumulatively considerable impacts.
- c. **Less Than Significant Impact.** Based on the analysis above, it has been determined there would be no significant direct or indirect effects on human beings.

REFERENCES

(List author or agency, date, title)

California Department of Water Resources, Bulletin #118 (Critical Regional Aquifers), 1975

County of San Bernardino, Countywide Integrated Waste Management Plan, March 1995

Town of Apple Valley General Plan, adopted 2009-09-02

Environmental Impact Report, Town of Apple Valley General Plan, 2009

County of San Bernardino Identified Hazardous Materials Waste Sites List, April 1998

Federal Emergency Management Agency Flood Insurance Rate Map and Flood Boundary Map

Mojave Desert Air Quality Management District, Mojave Desert Planning Area – Federal Particulate Matter (PM10) Attainment Plan, July 1995

Mojave Desert Air Quality Management District, Rule 403.2: Fugitive Dust Control Planning Area, July 1996

South Coast Air Quality Management District, CEQA Air Quality Handbook, 1993

Authority cited: Sections 21083 and 21083.05, Public Resources Code. Reference: Section 65088.4 Gov Code; Sections 21080 (c), 21080.1, 21080.3, 21082.1, 21083, 21083.05, 21083.3, 21093, 21094, 21095, and 21151, Public Resources Code; *Sundstrom v. County of Mendocino* (1988) 202 Cal. App. 3d 296; *Leonoff v. Monterey Board of Supervisors* (1990) 222 Cal. App. 3d 1337; *Eureka Citizens for Responsible Govt. v. City of Eureka* (2007) 147 Cal App. 4th 357; *Protect the Historic Amador Waterways v. Amador Water Agency* (2004) 116 Cal. App. 4th at 1109; *San Franciscans Upholding the Downtown Plan v. County of San Francisco* (2002) 102 Cal. App. 4th 656.