

# **PLANNING AND BUILDING DEPARTMENT**

# PLANNING DIVISION

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Date:	June 15, 2020	Agenda of:	June 17, 2020
То:	Zoning Administrator	Item No.:	5.a.
From:	Gina Hamilton, Senior Planner		
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# Subject:Public Comments Received and Minor Correction to Project Information<br/>Project File:CUP19-0012/AT&T Slate (El Dorado)

## **DISCUSSION:**

#### **Comments Received**

As of Monday, June 15, 2020, Planning Staff has received one public comment letter (K. Robson) and one petition (The People of Eldorado, CA against AT&T Cell Tower) with 17 signatures regarding the CUP19-0012/ AT&T Slate-Ehrlich project, which includes issuance of a Conditional Use Permit for a new communication facility proposed to be located in the El Dorado area of El Dorado County. The public comment letter and petition indicate opposition to the proposed project and to future installation of 5G and/or small-cell facilities. The letter indicates opposition based on Radio Frequency (RF) emissions and related health concerns. The petition does not identify a basis for the signators' opposition.

#### **Radio Frequency (RF) Emissions**

Section 704 of the Telecommunication Act of 1996 states that "No state or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Commission's regulations concerning such emissions." Because the proposed facility would operate under federally mandated limits on RF radiation for cellular towers and is regulated by the FCC in this respect, the County may not regulate the placement or construction of this facility based on the RF emissions.

As part of the project application, the applicant has provided a Radio Frequency Emissions Compliance Report demonstrating that the proposed project site would be below the minimum requirements established by the Federal Communications Commission (FCC). The RF Emission can be found in Exhibit K, Radio Frequency Emissions Compliance Report, of the Staff Report, and Attachment 7, Site Plans, of the Initial Study/Mitigated Negative Declaration (IS/MND).

# **5G Facilities**

The proposed project is not a 5G facility. Regardless, at this time, the County may not regulate the placement or construction of this facility based on the RF emissions 5G and/or small-cell facilities under the same Section 704 of the Telecommunication Act of 1996 discussed above.

## **Correction to Project Description**

The project description in the IS/MND and the Staff Report for this project indicate that there is an existing gravel access road. Other occurrences of the access road being identified as an existing road occur in both documents. This memo corrects that component of the proposed project such that the project would utilize an existing access point and encroachment along South Road. However, as depicted on the Site Plans (Staff Report Exhibit C, Site Plans, and IS/MND Attachment 7, Site Plans) the project would also include the installation of a new gravel access road from the existing access point at South Road to the facility enclosure.

As indicated in the IS/MND and Staff Report, the culvert would be constructed approximately 30-40 feet from the riparian area associated with Slate Creek, within the 50-foot Slate Creek riparian setback designated by the County (General Plan Policy 7.3.3.4). As identified in the IS/MND and the Staff Report, and accordance with General Plan Policy 7.3.3.4 and El Dorado County Zoning Ordinance Section 130.30.050.G, the proposed project would be conditioned to comply with County standards and best management practices (BMPs) for avoidance and minimization of impacts to wetlands and sensitive riparian habitat. In addition to installation of the culvert, the proposed project would involve grading and placement of fill for the access road approximately 30-40 feet from the riparian area.

The condition to comply with County standards and BMPs for avoidance and minimization of impacts to wetlands and sensitive riparian habitat would also apply to the new gravel access road. Additionally, per 130.30.050.G.4(c), roads used primarily for property access are considered to be an exception to the 50-foot Slate Creek riparian setback designated by the General Plan Policy 7.3.3.4.