

**DRAFT** CONDITIONS OF APPROVAL

**DRAFT** AS APPROVED BY PLANNING COMMISSION

Applicant Name: **AT&T & T-Mobile – David Snypes**

Location: **Harbor View Reservoir/Harbor View Drive (APN 376-010-005)**

I. Description of Permit

These conditions apply to and constitute the approval for Use Permit and Design Review application, to allow construction of a monopole wireless telecommunications facility to replace existing T-Mobile antennas and a temporary AT&T antennas. The 80 foot monopole antenna and an equipment storage area at its base will be used by both AT&T and T-Mobile. The project is located in a residential zoning district, which requires a Use Permit and Design Review.

II. Exhibits

The following exhibits are hereby approved and incorporated as conditions of approval, except where specifically modified by these conditions:

<b>EXHIBIT</b>	<b>DATE RECEIVED</b>	<b>PREPARED BY</b>	<b>PAGES</b>
Site Map, Tower Detail, Site Plan, Equipment Area Layout and Plan, Antenna Layout, Elevations, and Details	October 4, 2013	Jeffrey Rome and Associates	9
Photo Simulations	October 4, 2013	Applied Imagination	7
Coverage Maps	October 4, 2013	AT&T Wireless	3

All construction plans and all improvements constructed pursuant to Permit and shall conform to these exhibits. Building permit plans shall include a checklist of these conditions for staff review and verification that the conditions have been met. Where a plan or further information is required by these conditions, it is subject to review and approval by the Planning Division, Engineering Division, or Building Division as noted.

III. Special Conditions that Apply to Use Permit/Design Review

A. Antennas, brackets, and associated equipment on the monopole shall be painted to match the existing vegetation and/or monopole. Chain link fence shall be painted to match the monopole and/or water tank.

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- B. Permit applications for wireless telecommunication facilities shall be valid for a period of up to ten (10) years from date of final discretionary approval and may be renewed prior to expiration by administrative action.

### IV. Site Plan

- A. Provide site plan that shows all existing features and proposed structures.
- B. Fences, walls and retaining walls:
  - 1. All fencing, retaining walls, etc., shall be shown on the site plan.
  - 2. The equipment enclosure fence shall be painted to match the monopole or water tank or with an approved color. Approval can be received by Planning Department staff. Alternate materials will be subject to staff review and approval.

### V. Noise Control and Dust

- A. All construction activities shall be restricted to Monday - Friday and to the hours of 7:00 a.m. to 7:00 p.m. Work on weekends and holidays shall be permitted between 9:00 a.m. to 5:00 p.m. The permittee shall post a sign on the site notifying all workers of this restriction.
- B. Telecommunication facilities shall operate in compliance with the noise exposure standards contained in the City's Noise Control Ordinance, Chapter 8.34 of the Martinez Municipal Code.
- C. Normal testing and maintenance activities shall occur between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, excluding emergency repairs. Normal testing and maintenance activities, which do not involve the use or operation of telecommunications and maintenance equipment that is not audible from residences and other nearby sensitive receptors, may occur at all other times. The level of noise of any equipment used in routine maintenance and repairs shall not exceed the City's noise standards at any adjacent property line.
- D. Backup generators shall comply with the same noise standards referenced above and shall only be operated during power outages, emergency occurrences, or for testing and maintenance in accordance with item C above.
- E. All construction equipment shall be muffled in accordance with State Law.

### VI. Radio Frequency Radiation

- A. Wireless telecommunication facilities operating alone and in conjunction with

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other telecommunication facilities shall not emit Radio Frequency Radiation (RFR) in excess of the standards for permissible human exposure to RFR as adopted by the Federal Communications Commission (FCC).

- B. The City may require one or more (periodic) post-construction RFR reports as a condition of project approval to verify that actual levels of RFR emitted by the approved facilities, operating alone and in combination with other approved facilities, substantially conform to the pre-approval RFR report and do not exceed current standards for permissible human exposure to RFR as adopted by the FCC.

### **VII. Lighting**

- A. Manually operated, low wattage, hooded and downward directed exterior lighting shall be permitted for safety purposes only and shall not operate except when maintenance or safety personnel are present at night.
- B. Night-time lighting of warning signs required near publicly accessible facilities must consist of low-wattage fixtures, and must be directed downward and hooded.
- C. Plans submitted for Building Permits shall include a detailed lighting plan including the location and type of all exterior lighting fixtures, if proposed.
- D. Coordinate with FAA regarding the aircraft avoidance light/beacon, if needed.

### **VIII. Grading**

- A. All grading shall require a grading and drainage plan prepared by a registered Civil Engineer. A grading permit or a site development permit, as approved by the City Engineer will be required prior to construction.
- B. The on-site finish grading shall require drainage to be directed away from all building foundations at a slope of 5 percent minimum toward approved drainage facilities or swales. Non-paved drainage swales shall have a minimum slope of 1 percent.
- C. Contour grading techniques with spot elevations shall be employed throughout the project to achieve a more natural appearance, even where this will increase the amount of grading.
- D. Erosion control measures shall be implemented per plans approved by the City Engineer for all grading work not completed before October 1. At the time of approval of the improvement and/or grading plans, an approved Erosion Control Plan prepared by a registered Civil Engineer shall be filed with the City Engineer.

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- E. The finished grading shall be inspected and certified by the developer's engineer that it is in conformance with the approved Grading Plan and Soils Report pursuant to the provisions of Title 15 of the Martinez Municipal Code.
- F. Any grading on adjacent properties will require written approval of those property owners affected.
- G. If cultural resources are discovered during subsurface excavations, the Contractor shall cease construction and a qualified archeologist shall be contacted to make recommendations for mitigation.
- H. The plans shall include the boundary treatment shown on cross sections, drawn to scale, for retaining walls, fencing and drainage.

### **IX. Drainage**

- A. All concentrated runoff shall be collected and conveyed to an approved storm drainage system. Existing slopes that have no additional discharge directed onto them or are not substantially re-graded can remain as natural runoff.
- B. Applicant shall not increase storm water runoff to adjacent downhill properties unless either, (1) a Drainage Release is signed by the property owner(s) of affected downhill lots and recorded in the office of the County Recorder; or (2) site drainage is collected and conveyed in approved drainage facilities within a private drainage easement through a downhill property. This condition may require collection of on-site runoff and construction of an off-site storm drainage system. All required releases and/or easements should be obtained prior to issuance of the site development or Building Permit whichever comes first.
- C. The developer shall comply with City and Contra Costa County Flood Control District Design requirements.

### **X. Agreements, Fees and Bonds**

- A. All required improvement agreement(s) and all required fees and security deposits in connection with the proposed project shall be submitted to and approved by City and ant other agencies having jurisdiction prior to City issuance of the building or site development permit, whichever comes first.

### **XI. Other Requirements**

- A. Construction shall comply with all applicable City and State building codes and requirements including handicapped and energy conservation requirements, grading and erosion control ordinances.

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- B. Electrical conduits shall be installed underground in an easement from source to proposed facilities as approved by the City Engineer. Applicant shall be responsible for repairing/replacing any damage to existing facilities and structures including but not limited to landscape, irrigation system, asphalt, curb, gutter, pavement, paths, structures, drainage facilities, utilities, etc.
- C. Complete improvement plans shall be submitted to the City for review and approval prior to construction.
- D. Where required, an encroachment permit is required prior to any work with the public right of way.
- E. All debris and sediments shall be cleaned daily prior to leaving the job site. Loose materials shall be picked up. Paved surfaces shall be cleaned or washed. Safety hazards shall be removed immediately.

### **XII. Validity of Permit and Approval**

- A. Planning Commission approval is subject to appeal to the City Council within ten calendar days of the approval.
- B. The use permit and design review application approval shall expire one year from the date on which they became effective (unless extended under C below) unless a building permit is obtained and construction begun within the one year time period. The effective date of the use permit and design review application approvals is December 10, 2013.
- C. The applicant may apply to extend the expiration date, December 10, 2014, if an application with the required fee is filed at least 45 days before the said expiration date. (Otherwise the use permit and design review application, an approval expires and is of no further force or effect and a new application for such permits is required.) A public hearing will be required for all extension applications, except those involving only Design Review. Extensions are not automatically approved: Changes in conditions, City policies, surrounding neighborhood, and other factors permitted to be considered under the law, may require or permit denial.
- D. Nothing contained herein shall be construed to permit any violation of relevant ordinances and regulations of the City of Martinez, or other public agency having jurisdiction.
- E. The applicant (and successor in interest) shall properly maintain and ultimately remove, if required, the approved wireless telecommunication facilities in compliance with the provisions of the Standards and Criteria for Telecommunication Facilities and any conditions of permit approval. The applicant shall cover the costs of removal from the premises if it has been

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inoperative or abandoned for a two-year period, or upon expiration of the permit applications.

- F. The applicant AT&T and T-Mobile, shall defend, indemnify and hold harmless the City and its agents, officers, attorneys and employees from any claim, action, or proceeding brought against the City or its agents, officers, attorneys or employees to attack, set aside, void, or annul the Planning Commission's decision to approve Use Permit and Design Review application and any environmental document approved in connection therewith. The indemnification shall include damages or fees awarded against the City, if any, cost of suit, attorney's fees, and other costs and expenses incurred in connection with such action whether incurred by AT&T and T-Mobile, the City, and/or the parties initiating or bringing such action. The City shall promptly notify the applicant of any such claim, action or proceeding. The City shall retain the right to participate in any claim, action, or proceeding.
- G. AT&T and T-Mobile shall defend, indemnify and hold harmless the City, its agents, officers, employees and attorneys for all costs incurred in additional investigation of, or study of, or for supplementing, preparing, redrafting, revising, or amending any document (such as the Negative Declaration), if made necessary by said legal action and if AT&T and T-Mobile desires to pursue securing such approvals, after initiation of such litigation, which are conditioned on the approval of such documents.
- H. In the event that a claim, action or proceeding described in item F, above, is brought, the City shall promptly notify AT&T and T-Mobile of the existence of the claim, action or proceeding, and the City will cooperate fully in the defense of such claim, action or proceeding. Nothing herein shall prohibit the City from participating in the defense of any claim, action or proceeding. In the event that AT&T and T-Mobile is required to defend the City in connection with any said claim, action, or proceeding, the City shall retain the right to (i) approve the counsel to so defend the City, (ii) approve all significant decisions concerning the manner in which the defense is conducted, and (iii) approve any and all settlements, which approval shall not be unreasonably be withheld. The City shall also have the right not to participate in said defense, except that the City agrees to cooperate with AT&T and T-Mobile in the defense of said claim, action or proceeding. If the City chooses to have counsel of its own to defend any claim, action or proceeding where AT&T and T-Mobile have already retained counsel to defend the City in such matters, the fees and expenses of the counsel selected by the City shall be paid by the City, except that the fees and expenses of the City Attorney shall be paid by the applicant.
- I. AT&T and T-Mobile shall indemnify the City for all the City's costs, fees, and damages which the City incurs in enforcing the above indemnification provisions.

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- J. The Conditions of Project Approval set forth herein include certain fees, dedication requirements, reservation requirement, and other exactions. Pursuant to Government Code Section 66020(d)(1), these Conditions constitute written notice of a statement of the amount of such fees, and a description of the dedications, reservations, and other exactions. You are hereby further notified that the 90-day approval period in which you may protest these fees, dedications, reservations, and other exactions, pursuant to Government Code Section 66020(a), has begun. If you fail to file a protest within this 90-day period complying with all of the requirements of Section 66020, you will be legally barred from later challenging such exactions.