

Attachment C

AT&T's Response

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March 22, 2024

Via Electronic Mail [jgray@townofmammothlakes.ca.gov]

Jamie Gray, Town Clerk
Town of Mammoth Lakes
437 Old Mammoth Rd., Suite 230
Mammoth Lakes, CA 93546

**RE: AT&T Response to Appeal of Permit No. 211097
1574 Old Mammoth Rd., Mammoth Lakes, CA 93546
APN 040-040-021-000
AT&T Site ID CSL04615**

Dear Town Council members:

I write on behalf of New Cingular Wireless PCS, LLC d/b/a AT&T Mobility (AT&T), to respectfully request the Council reject the appeal of the Planning and Economic Development Commission's approval of AT&T's Use Permit Application 23-002 to place a stealth mono-pine wireless telecommunications facility ("Proposed Facility") at the Mammoth Lakes Fire Protection District Station #2. AT&T has a significant gap in wireless service coverage near the Proposed Facility. In addition to providing more robust and competitive wireless services, including significant improvements to 4G LTE service, the Proposed Facility will provide FirstNet services to support critical first responder communications.

AT&T is proposing to place the Proposed Facility in such a way to minimize visual impacts and to address community concerns. Specifically, since its initial submittal, AT&T relocated the Proposed Facility to the back northeast corner of the parcel to address concerns raised by some community members and the Town. Federal law requires approval of AT&T's application because denial will effectively prohibit AT&T's ability to provide and improve wireless services in this portion of the Town. Thus, AT&T requests the Council deny the appeal and grant AT&T's application for the Proposed Facility.

AT&T's Proposed Facility

Consistent with the Town's General Plan and Title 17 of the Town Code, AT&T seeks to place an 80 foot tall stealth mono-pine to provide and improve vital wireless services for the Town's residents, businesses, and visitors. This proposal meets all applicable Town Code requirements in Section 17.68.050 (Use Permit Findings) and Section 17.52.280 (Telecommunication Facilities). Specifically, the Proposed Facility is a "Cellular Wireless Communications Facility" under the Town Code, thus, it is a "utility" and a permitted use in the Resort Zoning District where the parcel is located. It satisfies all setback standards and, as covered in detail in Resolution No. PEDC 2024-03, meets all

the site selection, location, screening, height, and radio frequency requirements set for in Town Code Section 17.52.280.

AT&T Needs the Proposed Facility to Provide and Improve Wireless Services

AT&T's radio frequency engineers have identified a significant gap in wireless service coverage in the Town, including a large area that is roughly bordered by Minaret Road (south of Evening Star Drive, but north of Ridge Way) to the north with Resort townhomes, the rural residential/residential multi-family zone homes along Woodman Street to the west, the resort, rural residential, and residential single family zoned homes between Woodcrest Trail and the undeveloped area to the south, and the residential/resort zone townhomes and Snowcreek golf course area along (west of) Fairway Drive, to the east. AT&T's service coverage gap in this area is significant as it includes hundreds of tourist rental/vacation homes and primary residences that are surrounded by mountainous topography. Placing the Proposed Facility as proposed will close AT&T's significant service coverage gap.

The Proposed Facility will improve critical wireless services to the area, which are desperately needed especially as customers increasingly use their mobile phones as their primary communication devices. In fact, the Center for Disease Control and Prevention studies the extent of mobile phone use, and recently found that more than 81% of California adults, and more than 98% of Californians under age 18, rely exclusively or primarily on wireless communications in their homes.¹ Additionally, customers rely on their mobile phones to do much more than just voice communication, including E911 service, video streaming, GPS, Internet access, and texting. In fact, the Federal Communications Commission conservatively estimates that 74% of 911 calls are placed by people using wireless phones.²

In addition, the Proposed Facility is a part of AT&T's commitment to supporting public safety through its partnership with FirstNet, the federal First Responder Network Authority. Conceived by the *9/11 Commission Report* as necessary for first responder communications, Congress created the federal First Responder Network Authority, which selected AT&T to build and manage FirstNet, the first-ever nationwide first-responder wireless network. The Proposed Facility will provide new service on Band 14, which is the nationwide high-quality spectrum set aside by the U.S. government for public safety. Deployment of FirstNet in the subject area will improve public safety by putting advanced wireless technologies into the hands of public safety agencies and first responders.

AT&T's service coverage maps in the record depict coverage simulated by a sophisticated, industry-standard wireless network modeling tool. These coverage maps show the Proposed Facility is necessary to provide and improve AT&T's 4G LTE service coverage in the gap area. The maps identify the gap and AT&T's specific service objectives and show how the Proposed Facility will meet those objectives.

¹ See *Wireless Substitution: State-level Estimates from the National Health Interview Survey, 2019*, available at https://www.cdc.gov/nchs/data/nhis/earlyrelease/Wireless_state_202108-508.pdf.

² See *Thirteenth Annual Report to Congress on State Collection and Distribution of 911 and Enhanced 911 Fees and Charges* (Dec. 31, 2021), at 12, available at <https://www.fcc.gov/sites/default/files/13th-annual-911-fee-report-2021.pdf>.

AT&T's Analysis of Alternative Sites

AT&T has worked hard to carefully select a location to reduce impacts to the community while maintaining a clear line-of-sight for signals to provide adequate service coverage to the gap area. In the Old Mammoth area, there are no existing structures or other collocations opportunities (Town Code Section 17.52.280(F)(2)(a) and (b)). AT&T thoroughly investigated alternative sites and designs, evaluating numerous properties in the gap area, to make sure that its Proposed Facility is the least intrusive means to close AT&T's significant service coverage gap. These alternative locations are listed and analyzed in AT&T's Technical Siting Analysis, dated February 8, 2024, provided as Attachment A. In sum, based on the Town's zoning code, AT&T examined the limited alternative properties and determined that each alternative was either unavailable, unviable, or no less intrusive than the Proposed Facility for AT&T to feasibly close its significant service coverage gap.

Approval of AT&T's Proposal is Required Under Federal Law – Effective Prohibition

The federal Telecommunications Act of 1996, 47 U.S.C. § 332 (“Act”) provides rights to wireless service providers and establishes limitations upon state and local zoning authorities with respect to applications for permits to construct personal wireless service facilities. The United States Supreme Court has explained that the Act was enacted in part to prioritize and streamline deployment of wireless technologies on a national basis.³

Under the Act, state and local governments are precluded from taking action that would prohibit or have the effect of prohibiting AT&T from providing personal wireless services. Specifically, the Act prohibits a local government from denying an application for a wireless telecommunications facility where doing so would “prohibit or have the effect of prohibiting the provision of personal wireless services.”⁴ Courts have found an “effective prohibition” exists where a wireless provider demonstrates (1) a significant gap in its wireless service coverage, and (2) that the proposed facility would provide the “least intrusive means” in relation to the land use values embodied in local regulations, to provide the service coverage necessary to fill that gap.⁵ The burden then shifts to the local government to prove that another alternative is available, technically feasible, and is less intrusive than the proposed facility.⁶

In addition, the FCC ruled that an effective prohibition occurs whenever the decision of a local government materially inhibits wireless services.⁷ The FCC explained that the “effective prohibition

³ *City of Rancho Palos Verdes v. Abrams*, 544 U.S. 113, 115-16 (2005) (“Congress enacted the Telecommunications Act of 1996 (TCA), 110 Stat. 56, to promote competition and higher quality in American telecommunications services and to ‘encourage the rapid deployment of new telecommunications technologies.’ Ibid. One of the means by which it sought to accomplish these goals was reduction of the impediments imposed by local governments upon the installation of facilities for wireless communications, such as antenna towers.”).

⁴ 47 U.S.C. §332(c)(7)(B)(i)(II).

⁵ See e.g., *Metro PCS, Inc. v. City and County of San Francisco*, 400 F.3d 715, 734-35 (9th Cir. 2005), abrogated on other grounds, *T-Mobile South, LLC v. City of Roswell*, 135 S.Ct. 808 (2015); *T-Mobile USA, Inc. v. City of Anacortes*, 572 F.3d 987, 995 (9th Cir. 2009); *Sprint PCS Assets, LLC v. City of Palos Verdes Estates*, 583 F.3d 716, 726 (9th Cir. 2009).

⁶ *City of Anacortes*, 572 F.3d at 998-999.

⁷ See *Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment, Declaratory Ruling and Third Report and Order*, FCC 18-133 (September 27, 2018) (“*Infrastructure Order*”) at ¶¶ 34-42; see also,

analysis focuses on the service the provider wishes to provide, incorporating the capabilities and performance characteristics it wishes to employ, including facilities deployment to provide existing services more robustly, or at a better level of quality, all to offer a more robust and competitive wireless service for the benefit of the public.”⁸ Thus, a local government “could materially inhibit service in numerous ways – not only by rendering a service provider unable to provide existing service in a new geographic area or by restricting the entry of a new provider in providing service in a particular area, but also by materially inhibiting the introduction of new services or the improvement of existing services.”⁹ The Ninth Circuit upheld the FCC’s material inhibition test for an effective prohibition.¹⁰

Here, AT&T has demonstrated its significant service coverage gap and that the Proposed Facility is the least intrusive means to close that gap. AT&T needs to be able to provide reliable in-building service coverage in the gap area.¹¹ AT&T has also demonstrated that no less intrusive locations are available and feasible to close the gap (Attachment A). Appellants have not demonstrated there are any available, feasible, and *less intrusive* alternatives for which the Town could request AT&T to evaluate. Thus, pursuant to federal law, the appeal must be denied.

There Is No Substantial Evidence Under Federal Law To Support the Appeal

The Act also provides that the Town may only deny AT&T’s application based on “substantial evidence.”¹² The “substantial evidence” requirement means that a local government’s decision must be “authorized by applicable local regulations and supported by a reasonable amount of evidence.”¹³ In other words, a local government must have specific reasons that are both consistent with the applicable regulations and supported by substantial evidence in the record to deny a permit. In addition, the Act specifically precludes state and local governments from considering any alleged effects of radio frequency emissions in making decisions as to the siting of wireless telecommunications facilities “to the extent such facilities comply with the FCC’s regulations concerning such emissions.”¹⁴

In the Matter of California Payphone Association Petition for Preemption, Etc., Opinion and Order, FCC 97-251, 12 FCC Red 14191 (July 17, 1997).

⁸ *Infrastructure Order* at n. 95.

⁹ *Id.* at ¶ 37.

¹⁰ See *City of Portland v. United States*, 969 F.3d 1020, 1034 (9th Cir. 2020), *cert. denied*, *City of Portland v. United States*, 141 S.Ct. 2855 (2021).

¹¹ See AT&T’s standard is to provide reliable in-building service coverage. Courts in the Ninth Circuit and across the country have held the in-building standard is an appropriate benchmark for finding a significant service coverage gap exists. See, e.g., *MetroPCS Inc. v. City & Cnty. of San Francisco*, No. 4:02-cv-03442-PJH, 2006 U.S. Dist. LEXIS 43985, at *10 (N.D. Cal. June 16, 2006) (held that when large “coverage holes” “extend to the interior of buildings,” are actionable under the Act); *T-Mobile W. Corp. v. City of Huntington Beach*, No. 2:10-cv-02835-CAS (Ex), 2012 U.S. Dist. LEXIS 148170, *11-12 (C.D. Cal. Oct. 10, 2012) (held that “providing reliable in-building wireless service . . . is essential, and its absence constitutes a significant gap in coverage”).

¹² 47 U.S.C. § 332(c)(7)(B)(iii).

¹³ See, e.g., *Anacortes*, 572 F.3d at 993 (decision denying wireless siting application “is invalid” if it not supported by its own regulations); *Metro PCS, Inc.*, 400 F.3d at 725.

¹⁴ See 47 U.S.C. § 332(c)(7)(B)(iv).

There is no need to rehash the General Plan, Town Code, and CEQA allegations raised in the appeal, as the Planning & Economic Development Commission Staff Report and Resolution No. PEDC 2024-03 – as well as the Town Attorney and outside counsel reports at the hearing – addressed each in turn. As noted above, the proposal is consistent with Town’s General Plan and meets all applicable Town Code requirements in Section 17.68.050 (Use Permit Findings) and Section 17.52.280 (Telecommunication Facilities).

Further, it is beyond dispute that the Proposed Facility will operate well below applicable FCC limits. AT&T’s application included a Radio Frequency Electromagnetic Energy Compliance Report prepared by Fox Hill Telecom, Inc., which was certified by a California Registered Professional Engineer. The report confirms that the Proposed Facility will operate well within (and actually far below) all applicable FCC exposure limits. Given the compliance with the FCC standards, the appeal cannot be granted and AT&T’s application cannot be rejected based on concerns about radio frequency emissions.

As explained above, even if appellants could identify a code-based reason to disfavor AT&T’s Proposed Facility, which they have not, the Town is preempted by the Act from effectively prohibiting wireless services. Moreover, there is no code-based reason that can support denial based on substantial evidence. The information presented in the appeal falls well short of substantial evidence. In fact, it appears as if the lengthy “Memorandum in Support of Appeal” document was borrowed from a template off the web used in other jurisdictions (see footnote 4’s reference to another provider - Vertical Bridge) but with some local flavor added, which may explain why it confusingly raises issues already thoroughly addressed in the record and approval. Nonetheless, AT&T responds as follows to some of the items presented in the appeal:

Public Safety. Remarkably, Appellants assert that the Mammoth Lakes Fire District will not benefit from the Proposed Facility because the District allegedly uses other frequencies than FirstNet. This is incorrect. The Mammoth Lakes Fire District is a customer of FirstNet and runs all its apparatus on the FirstNet system. Chief Tomaier could not have been clearer in his testimony in support of the Proposed Facility at the hearing.

Aesthetic Impact. Appellant’s overstate and inappropriately rely on a Second Circuit’s 2005 *Omnipoint* decision to assert that their private views are substantial evidence to support a denial. At issue is whether the Planning Commission has substantial evidence to make its limited findings under Town’s General Plan and the Town Code requirements in Section 17.68.050 (Use Permit Findings) and Section 17.52.280 (Telecommunication Facilities), not whether the Proposed Facility may impact private views under New York law as in *Omnipoint*. The relevant town provisions do not require a finding regarding the impact on private view corridors. In fact, Section 17.52.280(F)(3)(a) concerning location for wireless communications facilities states, “Facilities shall be located either within a structure, underground, in the rear portion of the property (not visible from the public right-of-way) . . . ,” (emphasis added) which is exactly what the Proposed Facility is. And unlike the tower in *Omnipoint* that was 3 times the height of the nearest trees, the Proposed Facility is “located near existing . . . trees. . . and consists of colors and materials that best blend with the background.” Section 17.52.280(F)(3)(b).

Significant Service Coverage Gap. Appellants criticize the way in which AT&T proves its service coverage gap and points to AT&T’s website as proof that a gap does not exist. It is important to understand that service problems can and do occur for customers even in locations where the coverage maps on AT&T’s “Coverage Viewer” website appear to indicate that coverage is available. As the legend to the Coverage Viewer maps indicates, these maps display approximate outdoor coverage. Actual coverage in an area may differ from the website map graphics, and it may be affected by such things as terrain, weather,

network changes, foliage, buildings, construction, signal strength, high-usage periods, customer equipment, and other factors.¹⁵

It is also important to note that the signal losses, slow data rates, and other service problems can and do occur for customers even at times when certain other customers in the same vicinity may not experience any problems on AT&T's network. These problems can and do occur even when certain customers' wireless phones indicate coverage bars of signal strength on the handset. The bars of signal strength that individual customers can see on their wireless phones are an imprecise and slow-to-update estimate of service quality. In other words, a customer's wireless phone can show coverage bars of signal strength, but that customer will still, at times, be unable to initiate voice calls, complete calls, or download data reliably and without service interruptions due to service quality issues.

To determine where equipment needs to be located for the provisioning of reliable service in any area, AT&T's radio frequency engineers rely on far more complex tools and data sources than just signal strength from individual phones. As noted above, AT&T uses industry standard propagation tools to identify the areas in its network where signal strength is too weak to provide reliable in-building service quality. This information is developed from many sources including terrain and clutter databases, which simulate the environment, and propagation models that simulate signal propagation in the presence of terrain and clutter variation. AT&T designs and builds its wireless network to ensure customers receive reliable in-building service quality using the information from these industry standard tools.

Here, AT&T's service coverage maps in the record show the Proposed Facility is necessary to provide and improve AT&T's 4G LTE service coverage in the gap area. The maps identify the gap and AT&T's specific service objectives and show how the Proposed Facility will meet those objectives. It is worth noting that the Town's regulations do not require an applicant to demonstrate the elements of a federal claim for effective prohibition as a precondition to approval of a wireless siting application. Thus, even if AT&T had not proven a significant service coverage gap, which is not the case, it would be improper for the Town to grant the appeal on that basis.¹⁶

Even though not required by the Town's regulations, AT&T has overwhelmingly demonstrated it needs the Proposed Facility to close its significant service coverage gap. The new facility will vastly improve wireless voice and data connections, including providing in-building level of service to the gap area, and it will improve wireless services to the broader area. And AT&T's gap is clearly significant. As the "after" coverage map shows, a very large portion of this coverage area will gain new in-building level of wireless service. That area (the new green-shaded area on the coverage maps) includes hundreds of

¹⁵ The notice states as follows: "These maps provide a predicted high-level approximation of wireless coverage. There are gaps in coverage that are not shown by this high-level approximation. Actual coverage may differ from map graphics and may be affected by terrain, weather, network changes, foliage, buildings, construction, signal strength, high-usage periods, customer equipment, and other factors. AT&T does not guarantee coverage. Our coverage maps are not intended to show actual customer performance on the network or future network needs or build requirements inside or outside of existing AT&T coverage areas. . . ." (Emphasis added).

¹⁶ See, e.g., *Anacortes*, 572 F.3d at 993; *T-Mobile Cent., LLC v. Unified Gov't of Wyandotte County*, 546 F.3d 1299, 1308-10 (10th Cir. 2008) (holding local government lacks substantial evidence in denying wireless siting application for lack of proof of a coverage gap or that the proposal is the 'least intrusive means'; "the Board erred in requiring T-Mobile to demonstrate that denying the application would have the effect of prohibiting the provision of personal wireless services [because n]o such criterion appeared in the Code").

tourist rental/vacation homes and primary residences and well-traveled roads traversing the area. This is no “mere dead spot.”¹⁷ It is indeed a significant service coverage gap.

Least Intrusive Means. The suggestion that AT&T did not search hard enough to find the best available and least intrusive location for the Proposed Facility is not based on the evidence. AT&T worked hard for a long time (approximately 10 years) to find this site and worked with the community and Fire District to identify the best location on the property for the stealth facility. AT&T’s application materials provide a meaningful comparison of the limited alternatives based on the zoning code and explain why these other sites are unavailable or unfeasible and, importantly, no less intrusive than the primary site. There is no substantial evidence to support granting the appeal based on AT&T’s site selection.

Aesthetic & Property Values Concerns. Appellants argue that general aesthetic concerns and speculation about diminishing property values as a result of cell towers should provide as basis to grant the appeal. Yet general concerns about aesthetics are insufficient as a matter of law to support denying AT&T’s application. Courts within the Ninth Circuit and elsewhere have long agreed that general concerns about aesthetics and property values do not constitute substantial evidence to support denial of a permit to install a wireless telecommunications facility.¹⁸

The information about property values provided by appellants (anecdotal stories by local agents/no impact study of property values from homes near similar cell sites in Mono County) do not support denial. In fact, those reports make clear these concerns are likely premised on fears about RF emissions. AT&T has demonstrated that the Proposed Facility will comply with the FCC’s RF exposure standards, and so its application, cannot be rejected whether health concerns are raised explicitly or indirectly through some proxy such as property values.¹⁹ The lack of evidence on this point is noteworthy not only because real estate market value predictions are so location specific, but also because California realtor groups have conducted studies that show that residential property values are not negatively impacted by proximity to wireless communications towers.²⁰ Because there is no evidence – let alone substantial evidence – to support these general claims, the Town cannot grant the appeal on this basis.

Section 6409. Appellants allege that Section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012 provides AT&T with a unilateral right to expand the Proposed Facility. Appellants fail to acknowledge, however, that any enhancement on the Fire District’s land would need to be consistent with the ground lease between AT&T and the Fire District, and the Fire Chief stated at the Planning Commission hearing that he anticipates Verizon collocating on the Proposed Facility at a lower centerline height. Thus,

¹⁷ AT&T’s gap is extensive and must be addressed. It is far larger than “a small residential cul-de-sac” that might not be significant. *City of Huntington Beach*, at *19, 23.

¹⁸ See, e.g., *California RSA No. 4 v. Madera County*, 332 F.Supp.2d 1291, 1308-09 (E.D. Cal. 2003) (generalized expressions of concern regarding aesthetics or the effect on property values fail to meet the substantial evidence threshold under the Act) (citing *Omnipoint Corp. v. Zoning Hearing Bd.*, 181 F.3d 403, 409 (3d Cir.1999); *Cellular Telephone Co. v. Town of Oyster Bay*, 166 F.3d 490 (2nd Cir. 1999)).

¹⁹ See *AT&T Wireless Services of California LLC v. City of Carlsbad*, 308 F.Supp.2d 1148, 1159 (S.D. Cal. 2003) (quoting H.R. Conference Report No. 104-458, 201 (1996)) (held “direct or indirect concerns over the health effects of RF emissions may not serve as substantial evidence to support the denial of an application”).

²⁰ See Joint Venture Silicon Valley Network, *Wireless Communications Initiative Study: Wireless Facilities Impact on Property Values* (Nov. 2012)(analyzed property values for over 1,600 single-family homes; concluded “It is quite clear from the data that the distance from a wireless facility has no apparent impact on the value or sale price”).

Appellant's concerns regarding non-discretionary approvals of eligible facility requests that do not cause a significant change when modifying an existing site are overstated and misplaced.

Conclusion

AT&T is working diligently to close its existing service coverage gap and improve wireless services in the Town of Mammoth Lakes. AT&T has shown that federal law strongly supports (indeed, requires) approval, and there has been no substantial evidence proffered by appellants on which the Town could deny AT&T's application. AT&T urges the Council to deny the appeal.

Very truly yours,



Andrew C. Emerson

ACE:mkd

Attachment A: AT&T's Technical Siting Analysis

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TECHNICAL SITING ANALYSIS

Proposed Wireless Telecommunications Facility

**Project Description
Site Selection
Site Justification
Alternative Site Analysis**

Date: 2-8-2024

Jurisdiction: Township of Mammoth Lakes

Site Name: AT&T "CSL04615"

Address: 1574 Old Mammoth Road
Township of Mammoth Lakes, CA 92780

Applicant: AT&T
1452 Edinger Ave
Tustin, CA 92606

Representative: Sonal Thakur
EukonGroup
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Introduction

AT&T requests approval of Wireless Telecommunications Facility ("WTF") permit for a new wireless telecommunication facility. The proposed facility is located at 1574 Old Mammoth Road. Currently the area is developed with a Township of Mammoth Lakes Fire Department fire station.

AT&T is a telecommunications service provider operating wireless telecommunications sites throughout California and nationwide. AT&T and its affiliates have acquired licenses from the Federal Communications Commission ("FCC") to provide wireless telecommunication services.

Description of Use

Pursuant to Township of Mammoth Lakes Municipal Code Sec 17.52.280, AT&T has submitted an application for a Wireless Telecommunications Facility Use Permit approval to establish and operate a Wireless Telecommunications Facility (WTF).

AT&T WIRELESS PROPOSES TO CONSTRUCT A WIRELESS INSTALLATION. THE SCOPE WILL CONSIST OF THE FOLLOWING:

- INSTALL (1) 80'-0" HIGH MONOPINE
- INSTALL (15) AT&T PANEL ANTENNAS
- INSTALL (15) AT&T REMOTE RADIO UNITS (RRUS)
- INSTALL (3) DC9 SURGE SUPPRESSORS
- INSTALL (4) DC12 SURGE SUPPRESSORS
- INSTALL (1) AT&T 4'-0"Ø MICROWAVE ANTENNA
- INSTALL 10' x 20' LEASE AREA COMPOUND
- INSTALL (1) POWER PLANT
- INSTALL (1) PURCELL CABINET
- INSTALL (1) 20KW DC POLAR GENERATOR w 125 GAL. FUEL TANK
- INSTALL (1) CIENA
- INSTALL (1) TELCO BOX
- INSTALL (1) METER
- INSTALL (1) UTILITY H-FRAME
- REMOVE (1) EXISTING TOWER CONCRETE PAD

Site Selection

Pursuant to the municipal code, AT&T searched the area within the search ring for sites that presented three primary factors. First, the area is analyzed to determine zoning compatibility in a district to allow for the placement of a WTF.

The selection of the proposed site rested on the determination of compatibility with adjacent development and preservation of existing view corridors. Further consideration supporting the proposed location included the availability of adequate space to place the WTF equipment.

The proposed location is in an area that limits the visual impact on adjacent properties and the public traveling along Old Mammoth Road, Club Drive, and Ski Road, yet provides the required performance to close the significant gap in coverage.



The subject site allows for the proposed project to operate in a manner that precludes adverse impacts to access, path of travel and maintains the current aesthetic condition for the area.

Site Justification

Wireless telecommunication networks operate on a grid system of facilities that establish the functionality and performance of the system. The network is established on a line-of-sight premise that demands each site be situated in a manner that allows adjacent and abutting sites to generate signals that slightly overlap. By establishing this model of network deployment, the objective to provide seamless service is increased.

At this time, AT&T RF engineers have identified a significant gap in the acceptable level of service in the area the proposed project will serve. The network is evaluated continuously in an effort to maintain the standard of service demanded by the public and mandated by governmental regulations. Currently, a significant gap in service exists primarily to the east, south and north of the proposed location. There is also insufficient capacity to provide dependable connectivity for stationary and in-building coverage. This area is comprised of a major highway and medium density residential developments, a church, school and open space. There is existing poor service levels and poor to nonexistent service levels that preclude the required signal strength necessary to establish and maintain in-building service. The proposed facility will upgrade the deficiency within the target area and will fill the significant gap in coverage.

In the absence of the proposed facility, AT&T will be precluded from completing the network deployment and their customers will continue to experience unacceptable levels of service. The detrimental impact may be most pronounced in daily usage and heightened during emergencies and catastrophic events. The system will provide access to "E911" and to first responders during periods that landlines may not be operable.

The project is consistent with the City's General Plan concerning policies that seek to guarantee the adequate distribution of utility services to the entire community in a manner that is compatible with the character of the City and community. Further, the provision of service of this type supports the City's goal of integrating in a region wide communications network that assists residents and the traveling public in the ability to coordinate with first responders during emergency events or periods of catastrophe.

Project Objectives

To provide coverage in this area of the city, any combination or one of the following reasons may apply. AT&T's RF Engineering has also submitted coverage maps as part of this application.

- Coverage: No Service in the area (Indoor, Outdoor or Vehicular) and can apply specifically to the type of service provided (Voice or Data – GSM, 3G, 4G). Specifically, this proposed location addresses the following needs:



- Urban – Subscriber anticipated to have accessibility to Township of Mammoth Lakes service while even indoors at lower performance levels.
- Suburban – Subscriber anticipated to have accessibility to Township of Mammoth Lakes service while in-vehicle.
- Outdoor – Subscriber anticipated to have accessibility to Township of Mammoth Lakes service while outdoors.
- Capacity: Proposed service in surrounding areas is insufficient to meet anticipated demand by customers in and traversing through the area. Furthermore, proposed facilities servicing the surrounding area would be overloaded preventing service, dropped calls or complete denial of service during peak usage hours.
- Quality: Township of Mammoth Lakes seeks to improve its wireless services by ensuring sites are located in areas that are expected to produce strong signals for high traffic locations.

Co-Location Statement

AT&T agrees to allow the collocation of other Wireless Carriers on the site, as long as a proposed Carrier's antennas and equipment do not cause interference with AT&T antenna signal.

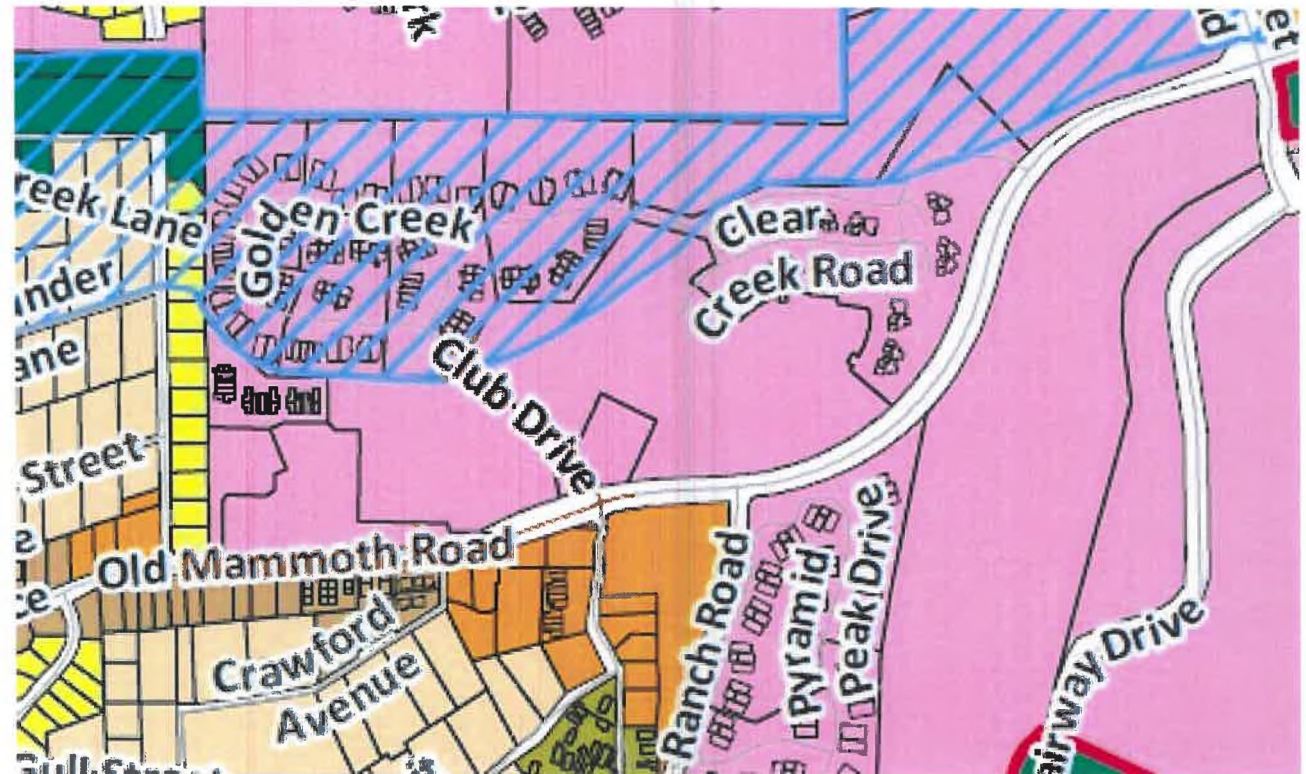
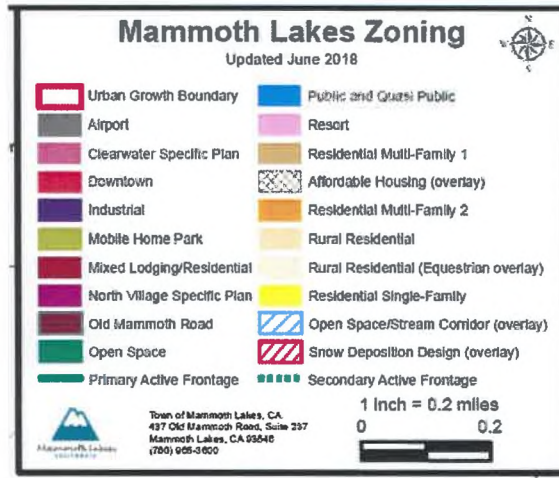
Site Maintenance

The site will be periodically visited (typically once a month) for maintenance by AT&T staff. An emergency number is also provided on site for the reporting of graffiti and vandalism.

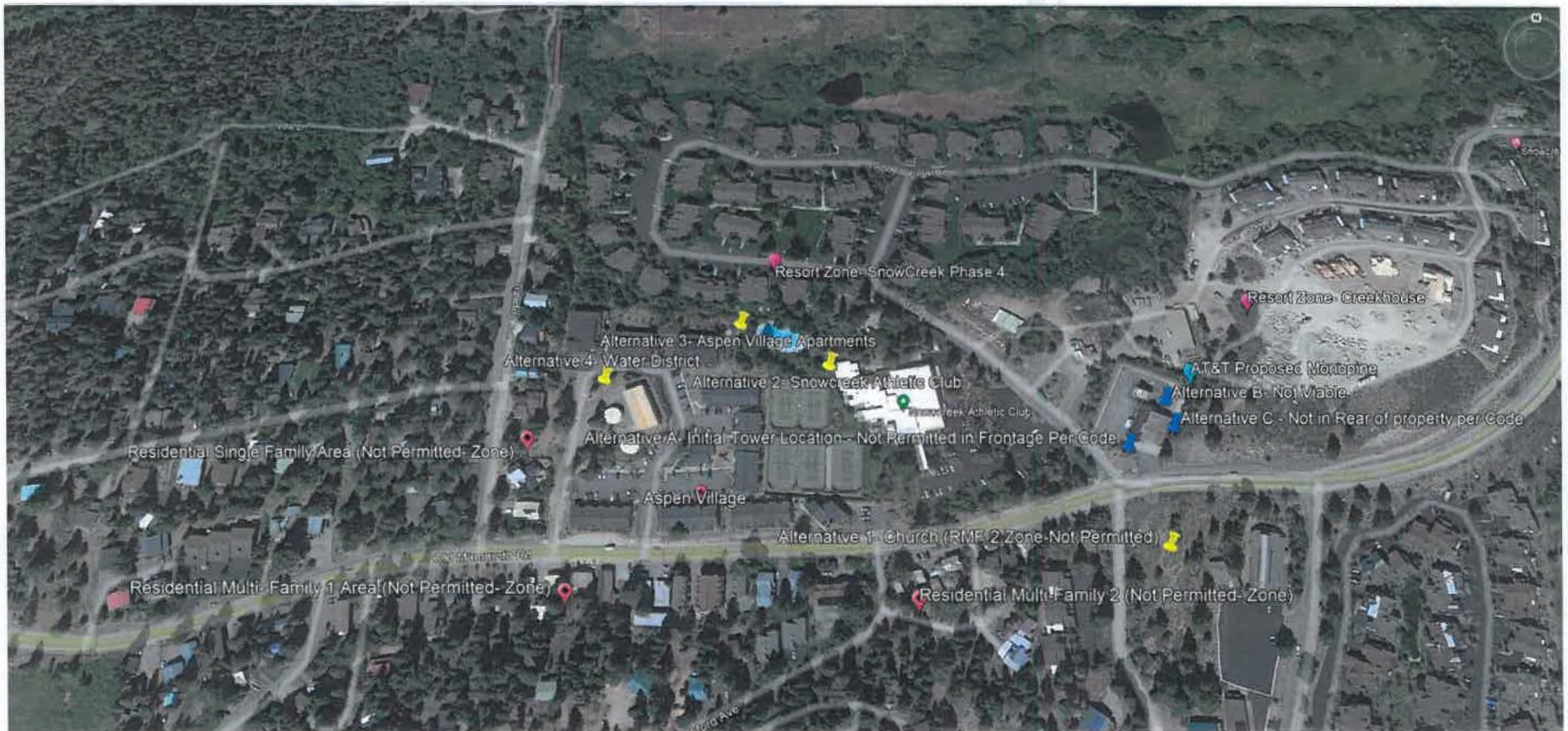
FCC Compliance:

Fox Hill Telecom, has analyzed the project and prepared a report that concludes the proposed AT&T site is in compliance with FCC requirements. Additionally, at the direction of the City, Fox Hill also prepared a report to analyze and confirm that AT&T's wireless facility operation would not interfere with any of the existing communications systems that the First Responders use. Fox Hill determined that AT&T's project does not cause any interference.

AT&T 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.



AT&T Site ID: CSL04615 - Mammoth Lakes Monopine - Alternative Sites Analysis



The aerial image above shows the location of the current proposed AT&T candidate location, depicted by the teal balloon icon. The blue thumb tacks show the three alternative candidate locations, on the same parcel (Mammoth Lakes Fire Protection District/Fire Station 2) as AT&T's proposed monopine, that were also considered and reviewed. The yellow thumb tacks show alternative candidates, on other parcels, that were also reviewed and considered. The pink balloons show some of the Snowcreek and Creekhouse townhome resort developments, on the parcels adjacent to the alternative candidate parcels. The balloons in red show residential single and multi-family zoned parcels/neighborhoods, where the Town's code prohibits the installation of cellular facilities. These residential zoned parcels and neighborhoods are also where more of the structures are inhabited by occupants who reside in the structures year-round, and use them as their primary homes, as opposed to the townhomes and structures in the Resort zone, which are primarily secondary homes or used for vacation rentals, in comparison.

- **PRIMARY CANDIDATE (1): Fire Station 2 (Teal Marker – AT&T Proposed Monopine)**



This property is zoned Resort, which is permitted to support cellular wireless towers, with the approval of a CUP. An 80-foot tall, stealth monopine cell tower is proposed at the northeast/rear corner of the Fire Station 2 property, as required by the town's development standards. The wireless tower is located near existing live pine trees, for context, compatibility, camouflaging, and blending with the surrounding environment, as required by the Code's development design standards. The proposed tower is 80 feet in height, to accommodate AT&T's wireless antennas and equipment, to provide the critically needed coverage to this area of Mammoth Lakes, and to also accommodate space for a future wireless carrier to collocate, (below AT&T's equipment) on the same pole, as required by the Code. The wireless tower must "see" and have an unobscured line of sight, over the local topography to provide the effective and much needed coverage to the area. The proposed 80-foot height is the lowest functional height to fill AT&T's service gap in this area of Mammoth Lakes. It is AT&T's understanding that Verizon has already expressed strong interest to the Fire Protection District in collocating on this tower, to also provide much needed coverage to this area of Mammoth Lakes. With the deployment of the AT&T wireless facility at this location, the RF engineers will be able to meet the coverage objectives for this area of the town and strengthen and expand the network. This missing coverage has been severely needed for close to a decade, if not more, especially for the first responders of this remote and mountainous terrain. As communicated by Mammoth Lakes Fire Chief Ales Tomaier, the need for this coverage has been a high priority and continued concern for first responders in Mammoth Lakes and the larger Mono County area, such that the Mono County Grand Jury recommended that Mono County and the Town of Mammoth Lakes continue to support

AT&T Site ID: CSL04615 - Mammoth Lakes Monopine - Alternative Sites Analysis

improvements to needed coverage for cell sites, as part of a unified plan for the entire county. For this reason, first responders in the county as well as Mammoth Lakes Fire have worked hard to develop and deploy the infrastructure needed to protect the public's health, safety, and general welfare. Chief Tomaier has also stated that Mammoth Lakes Fire could also utilize the new AT&T tower to locate some of their equipment in the future.

The top of the telecommunications pole and AT&T's pole mounted antennas and equipment would be at 75 feet. The additional five feet at the top of the pole is to accommodate faux pine branches, which are needed to make the overall monopine as concealed and realistic in form, as possible, to blend with the surrounding environment and live pine trees. The AT&T antennas, radios, and equipment on the monopine will be painted green and screened with faux pine needle socks for additional camouflaging. Without the additional five feet at the top of the pole for the faux branches, the tower would have a flat top, and not have a more realistic pine tree form. The Creekhouse Developer/current HOA President, Chuck Lande, and the HOA's designated Representative, David L. Jordan, asked AT&T to also provide photosims of a 75-foot-tall monopole, with the AT&T equipment, but void of the faux pine branches and pine socks that assist in camouflaging, screening, and blending the tower with the surrounding live pine trees and environment. The photosims of the 80-foot tall monopine and 75-foot-tall monopole were provided.

The proposed 80- foot tall monopine design and location complies with the town's development standards for cellular facilities. The location of the facility on the northeast, rear corner of the Fire Station 2 property allows AT&T to provide First Net coverage to the First Responders, and the critical coverage and signal for the residents, businesses, and tourists in this area of Mammoth Lakes. The associated equipment enclosure for the site is located on the west side of the Fire Station 2 building. Both the location of the equipment enclosure area, and the monopine on the fire station property are very easily accessible, with a clear path of travel, if needed for any AT&T network operations technicians during a routine maintenance visit or an emergency. The path for power and fiber is also very direct and clear. The equipment and tower are situated such that they are out of the way of any vehicular or pedestrian circulation, as required by the town's code, and in optimal locations for providing coverage to the area, while still blending with the surrounding area, land uses and live pine trees. Locating AT&T's cellular facility on the Fire Station property makes the most sense as the property is at a high elevation, has the clear and direct access to the tower and equipment as required by AT&T, and is a use that is consistent and appropriate with the current operations on this Fire Station Facility- responding to emergency calls and ensuring the safety of the residents and visitors of the Mammoth Lakes area. The Mammoth Lakes Fire Department will also have the ability to locate their equipment onto the AT&T monopine in the future. AT&T will be able to provide the town and first responders with the coverage that has been missing in this terrain for many years, for life safety efforts and connectivity in general.

The much-required coverage that AT&T (and a future wireless carrier) will be able to provide once the proposed tower is deployed, will provide first responders like the Mammoth Lakes' Fire and Police Departments with the ability to communicate effectively with one another (First Net- nationwide wireless network for first responders and the extended public safety community), as well as the residents, tourists and businesses in the area, especially during times of extreme weather conditions and emergencies. The reliable and critically needed coverage more this area, provided by a telecommunications tower, is necessary facility for the public, and most compatible and appropriate to the functions and operations of a Fire Station. The tower is more appropriate to be located at the current proposed Fire District location.

The Mammoth Lakes Fire District and the AT&T have already negotiated a lease. With CUP approval and the required city permits, this site could be constructed and go on air in 2024, so that Mammoth Lakes Fire and other first responders in the town can have the critically needed coverage to do their

AT&T Site ID: CSL04615 - Mammoth Lakes Monopine - Alternative Sites Analysis

jobs, and to address public safety issues in a timely manner. It is in the best interests of the Town of Mammoth Lakes' general welfare and public safety to have this proposed wireless design and location approved in a timely manner, to avoid further delay of critical coverage being made available.

Zoomed in Aerial View of Alternatives on the Fire Station 2 Property



➤ **Alternative A: Fire Protection District Landscape Frontage**

This is the location AT&T originally proposed to locate their monopine tower. However, the Town of Mammoth Lakes development standards for cellular wireless require that wireless facility towers are located in the rear portion of the property. As this location was in the front of the Fire Protection District property, the proposed location needed to be moved elsewhere on the Fire Protection District property. This is not a feasible location.

Alternatives B & C

Chuck Lande, President/CEO of Chadmar, the developer of Creekhous, and David L. Jordan, homeowner in Creekhous, appointed HOA representative, and President/CEO of SSV Properties, requested to meet, on-site, with Mammoth Lakes' Community Development Director, Nolan Bobroff and Fire Chief, Ales Tomaier. On December 21, 2023, the individuals walked the Fire Protection District property, to discuss alternative locations on the fire district property that the Creekhous HOA would like explored. The request was to also provide simulations of an 80-foot tall monopine, as well as a 75-foot tall (top of pole steel and antenna equipment)

AT&T Site ID: CSL04615 - Mammoth Lakes Monopine - Alternative Sites Analysis

non-stealth monopole, for the locations. Artistic Engineering, a third-party vendor that specializes in Photosimulations prepared the Photosimulations of the Primary candidate location and design, as well as the HOA requested, alternative design and locations on the fire station. These Photosimulations were submitted to the planning department, along with a statement of accuracy, from Artistic Engineering.

➤ **Alternative B: At rear of Fire Station building, by the fire engine garage doors and adjacent to the fire training tower.**

This was not a feasible alternative for AT&T to locate a non-stealth monopole tower, as there are several manhole covers in this area, which are likely associated with existing underground utilities. Additionally, this alternative location is located right next to the dual garage doors for the fire truck engines. Enough clearance from the fire station building's foundation and AT&T's tower caisson would need to be provided. The wireless tower would not only be in the way of the fire engine trucks, but more importantly, would be right next to the fire training tower that would routinely be set on fire for training exercises. The proximity of an AT&T tower to this fire training facility puts AT&T's equipment at risk, and is not a viable location for AT&T.

➤ **Alternative C: East side Fire building**

This was another alternative location the HOA representatives requested AT&T look into. Photosimulations were provided for an 80-foot tall monopine, and 75-foot-tall non-stealth monopole, as requested. The HOA provided no input or comments to the Towne or AT&T, regarding this alternative location, after the photosims were requested. However, like AT&T's original Alternative Location A, Alternative Location C is not located near the rear of the property, as required in the town's development standards. The current proposed candidate location, therefore, remains the optimal candidate.

AT&T Site ID: CSL04615 - Mammoth Lakes Monopine - Alternative Sites Analysis

Alternative 1: St. Peter's Catholic Church (58 Ranch Road, Mammoth Lakes, CA 93546)

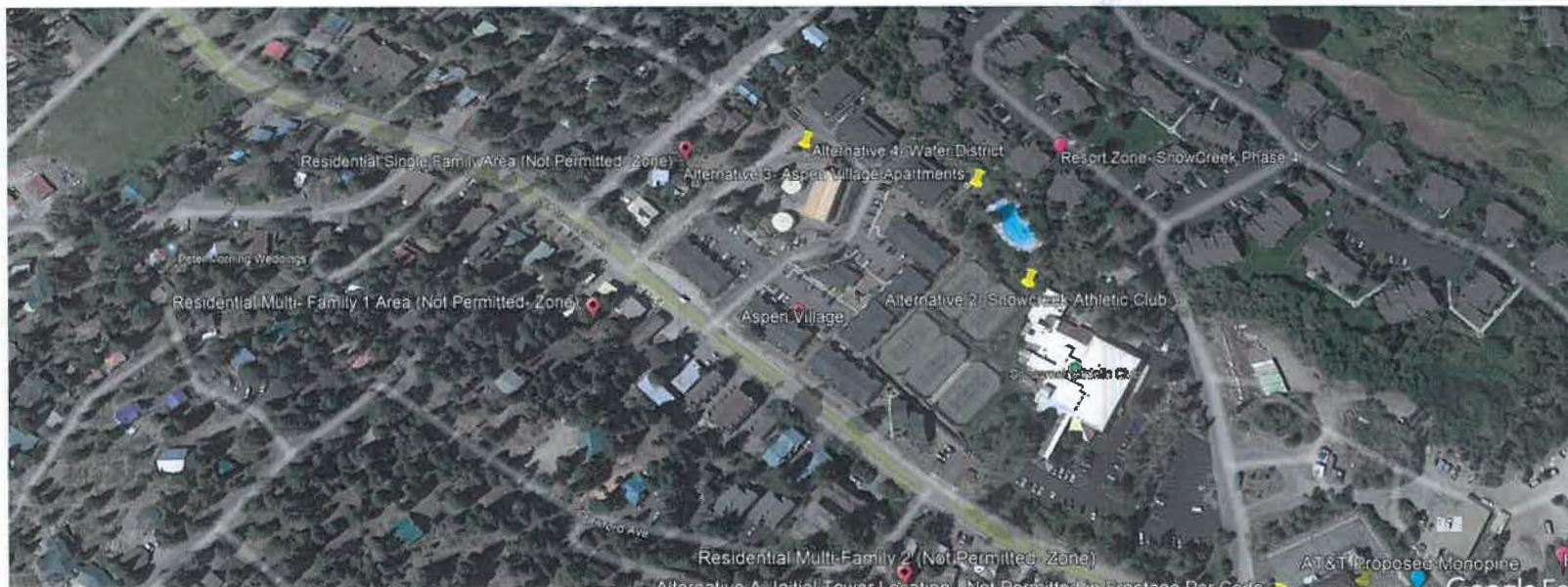


This property is zoned RMF-2 (Residential Multiple Family 2). The Towne of Mammoth Lakes zoning code prohibits cellular wireless facilities to be located in the residential zones. Therefore, a monopine cell tower is not permitted to be proposed on this property. This is not a viable candidate.

- **Alternative 2: Snowcreek Athletic Club (51 Club Drive, Mammoth Lakes CA)**



Centered Aerial View of Snowcreek Athletic Club



The Snowcreek Athletic Club is located on a parcel zoned “Resort”, west of Club Drive, and north of Old Mammoth Road. It is directly west of the Fire Protection District but sits at lower elevation. If a wireless tower was proposed on the athletic club parcel, per the town’s development standards, it would

AT&T Site ID: CSL04615 - Mammoth Lakes Monopine - Alternative Sites Analysis

need to be located away from the parcel frontage, and near the rear portion of the property. The code prohibits cellular facilities from locating in required parking, maneuvering, or vehicular/pedestrian circulation areas. Given the use of this property for athletic activities like tennis, swimming, and other activities, locating the tower at this property would be very limited. The cellular tower could not go anywhere in the parking lot. Additionally, to the west of the athletic club building, there are pedestrian walkway paths, leading to the pool and tennis courts. Placing the tower and associated ground equipment in this highly used public pedestrian area is not optimal or desirable.

Locating an 80-foot tall monopine (likely taller due to lower elevation) and associated 200 square foot ground lease area for the required equipment enclosure with an 8-foot-tall chain link fence or CMU wall, would perhaps need to be somewhere near the tennis courts or swimming pool. This location could impact the landlord's pedestrian paths and landscaped areas for his patrons. As there is also more open, public foot traffic for this athletic club use, there are increased concerns of safety with AT&T's equipment. This location also does not provide the most direct, shortest, and clear path of travel to access AT&T's tower and equipment enclosure, like the current Fire Station 2 property does. AT&T's network operations or technicians can more easily access the tower and equipment on the proposed Fire Station 2 property. Additionally, the current proposed location on the Fire Station 2 property has 24/7 fire personnel and security on-site, which also adds another layer of safety that is optimal and best suited for AT&T's.

This Athletic Club location is not optimal or superior to the current proposed candidate at the Fire Protection District property. Locating a monopine tower at this club location locates it where there is a larger volume of public foot traffic, lesser level of equipment security and access for AT&T technicians (in comparison to the Fire Station 2), and less direct access for AT&T's technicians. But locating the AT&T tower on the Snowcreek Athletic Club property also locates the tower closer to the Snowcreek (Phase 4) townhomes to the north, as well as the Aspen Village Apartments immediately west and south of the tennis courts. Proposing the tower on this property simply moves the facility away from the Creekhouses townhomes by the Fire Protection District, and instead moves a tower closer to the Aspen Village Apartments, and the Phase 4 Snowcreek townhomes. This location is not optimal; the Fire Protection District property is still a superior, appropriate, and more preferable candidate. The 80-foot monopine will accommodate AT&T's wireless equipment, as well as allow for the colocation of a future wireless carrier. The Fire District will also have the ability to use the AT&T tower in the future to locate its needed equipment. The much-required coverage that AT&T (and a future wireless carrier) will be able to provide once the proposed tower is deployed, will provide first responders like the Mammoth Lakes' Fire and Police Departments with the ability to communicate effectively with one another, as well as the residents, tourists and businesses in the area, especially during times of extreme weather conditions and emergencies. The reliable and critically needed coverage more this area, provided by a telecommunications tower, is necessary facility for the public, and most compatible and appropriate to the functions and operations of a Fire Station. The tower is more appropriate to be located at the current proposed Fire District location.

AT&T Site ID: CSL04615 - Mammoth Lakes Monopine - Alternative Sites Analysis

- **Alternative 3: Aspen Village Apartments (1700 Old Mammoth Road Trail, Mammoth Lakes)**



The Aspen Village Apartments is in the Resort zone, and the westerly adjacent parcel to the Snowcreek Athletic Club. The buildings on this parcel are more densely situated, given the apartment uses. The majority of these apartments are more likely to function as the primary residence of renters living in the town year-round, as opposed to rental units for tourists and short-term vacation stays. Additionally, there appears to be no suitable location to situate a monopine tower and associated equipment enclosure area, would be difficult on this parcel, without encroaching into the required parking, or vehicular and pedestrian circulation areas.

AT&T Site ID: CSL04615 - Mammoth Lakes Monopine - Alternative Sites Analysis

- **Alternative 4: Water District**



- The Water District property is also in the Resort zone, and adjacent to the Aspen Village Apartment buildings, situated to the north, east and the south of the water district parcel. Residential single family area zoned homes are located on the parcels directly west and northwest of the water district property. Residential Multi- Family 1 zoned parcels are also situated along the south side of Old Mammoth Road. The town's code prohibits cellular facilities to be placed on properties with a residential zone designation. Locating a monopine tower here would move the use closer to the residential zone, where a majority of the homes are for primary use, as opposed to units in the resort zones, which are used more as secondary homes and vacation/tourist rentals. This property is not superior to the current Fire Station 2 location and proposed candidate.

Conclusion:

Based on the preceding facts and statements and consistent with the municipal code's standards for development and operation of WTF's, AT&T respectfully requests approval of Wireless Use Permit application to construct, operate and maintain a WTF as proposed.



March 25, 2024

Nolan Bobroff
Community & Economic Development Director
Town of Mammoth Lakes, CA 93546
Ph: (760) 965-3631
Via Email: nbobroff@townofmammothlakes.ca.gov

RE: AT&T MOBILITY - NATIONWIDE PUBLIC SAFETY BROADBAND
NETWORK NEW SITE APPLICATION - CSL04615 - VICINITY OF OLD
MAMMOTH ROAD AND CLUB DRIVE, MAMMOTH LAKES, CA 93546

Dear Mr. Bobroff,

Under the Middle Class Tax Relief and Job Creation Act of 2012, Congress established the First Responder Network Authority (FirstNet Authority) and directed it to ensure the building, deployment, and ongoing operation of the Nationwide Public Safety Broadband Network ("FirstNet"), the first nationwide high-speed broadband network dedicated to public safety.¹ The FirstNet Authority's mission is to provide and maintain a single, interoperable platform that consistently satisfies the demanding communications needs of the public safety community in California and across the country. New radio access network ("RAN") sites are essential to the success of the program and delivering the mission critical coverage public safety needs to communicate and save lives.

This network has been a top priority for first responders and public safety agencies in California and throughout the country, and has been designed based on their specific, expressed needs, with coverage and capacity being paramount. Simply put, coverage enables a first responder to send and receive data, and capacity ensures speed and quality of those communications. New RAN infrastructure connected to FirstNet will improve communication for first responders where that infrastructure has been currently lacking. The FirstNet Authority and our private-sector partner, AT&T, have worked with the California public safety community to identify coverage needs throughout the state to improve emergency communications in everyday use as well as for large-scale emergencies, such as

¹ See Title VI of the Middle Class Tax Relief and Job Creation Act of 2012 (P.L. 112-96), <https://www.congress.gov/112/bills/hr3630/BILLS-112hr3630enr.pdf>

the past and present wildfires that continue to ravage the state.

In December 2017, Governor Brown opted into the FirstNet Authority plan for RAN deployment in California and thus authorizing construction of the FirstNet network in areas of the state where public safety needs coverage and capacity. By opting-in, the Governor enabled public safety to rapidly access broadband services in California, while also allowing the prompt buildout and deployment of the network which began in March of 2018. His decision also directed the FirstNet Authority to take on all the risks, costs, and responsibilities associated with deploying the network in California for 25 years and take immediate steps to make prioritized services and features available to public safety in the state.

This network not only needs to serve your local community but will also serve the thousands of first responders that have already adopted FirstNet in California that may respond to your next major emergency. The FirstNet Authority requests your consideration in our efforts to build new sites to achieve required coverage and capacity for our vital mission in the service of public safety.

I am your assigned Senior Public Safety Advisor in California and am a retired Chief Fire Officer with extensive fire service, law enforcement, and technical experience. I am available to assist you at any time. I may be reached at kevin.nida@firstnet.gov, or (202) 868-7670. For your reference, attached is additional information about the FirstNet Authority and the network we were entrusted by Congress to establish.

Sincerely,



Kevin R. Nida, Senior Public Safety Advisor
First Responder Network Authority

Attachments:

1. Primer on the FirstNet Authority's Congressional Mandate to Deploy a Nationwide Public Safety Broadband Network.
2. FirstNet Contractor Officer Letter.

PRIMER ON THE FIRSTNET AUTHORITY'S CONGRESSIONAL MANDATE TO DEPLOY A NATIONWIDE PUBLIC SAFETY BROADBAND NETWORK

- *Top 10 Frequently Asked Questions*
(https://firstnet.gov/sites/default/files/TopTenFAQs_190906.pdf)
- *FirstNet: The Future of Public Safety Communications*
(https://firstnet.gov/sites/default/files/Branding_the_Future_of_Public_Safety_Communications_0.pdf)
- The First Responder Network Authority (FirstNet Authority) was charged by the U.S. Congress to ensure the development, building, and maintenance of a nationwide mobile broadband network dedicated to meeting the needs of the public safety community. Over the past several years, the FirstNet Authority has made great strides toward fulfilling this purpose, including the establishment of a public-private partnership with AT&T, Inc. (AT&T) to deploy the nationwide public safety broadband network across the country and adoption of FirstNet service by hundreds of thousands of public safety professionals. As FirstNet matures and public safety reaps the benefits of a network dedicated to providing them with needed capabilities and features, the FirstNet Authority is focusing on the next stages of fulfilling its mission. The FirstNet Authority is committed to a vision where a dedicated and differentiated broadband communications experience transforms public safety operations to save lives and protect communities. This vision encapsulates the entirety of the “FirstNet Experience” from AT&T’s deployment of the FirstNet network to the FirstNet Authority’s value-adding activities and investments, which make FirstNet different from any other public safety communications experience. Over time, the FirstNet Authority’s work will help enable public safety to communicate in new and ever more useful ways to help transform public safety operations. (*First Responder Network Authority Roadmap*, at 3, https://firstnet.gov/system/tdf/FirstNet_Roadmap.pdf?file=1&type=node&id=1055&force=0).
- *As with many bold public policy initiatives, the creation of FirstNet ensued from disaster and tragedy. Although the idea that all first responders across the United States should share one nationwide network existed prior to September 11, 2001, the events of that terrible day inspired collaborative action from public safety and Congress. As Congress directed, FirstNet is working toward the deployment of a single, interoperable platform for public safety communications that will bring dedicated priority wireless broadband services to millions of public safety personnel at the local, state, tribal, and Federal levels. . . . Authorized by Congress in 2012, FirstNet will fulfill a fundamental need of the public safety community and is the last remaining recommendation to be addressed of the 9/11 Commission. FirstNet’s mission is to ensure the deployment, and operation of a nationwide public safety broadband network (network) for public safety entities. Leveraging Long Term Evolution (LTE)5 technology standards, up to \$7 billion in funding from spectrum auctions, and a nationwide license of 20 MHz of radio frequency spectrum, the FirstNet network is intended to dramatically increase the safety and capabilities of all of those who serve in a public safety capacity, and thereby further protect the American people. Public safety, and thus the American people, will benefit from the availability of a dedicated wireless broadband network prioritized for first responders, the economies of scale afforded by a*



PRIMER ON THE FIRSTNET AUTHORITY'S CONGRESSIONAL MANDATE TO DEPLOY A NATIONWIDE PUBLIC SAFETY BROADBAND NETWORK

national, commercial standards-based network, and the force of innovation in applications which to date has only been enjoyed by consumers. (2014 Annual Report to Congress, at 1, [https://firstnet.gov/system/tdf/FirstNet Annual Report to Congress-FY 2014.pdf?file=1&type=node&id=644&force=0](https://firstnet.gov/system/tdf/FirstNet%20Annual%20Report%20to%20Congress-FY%202014.pdf?file=1&type=node&id=644&force=0))

- During the events of September 11, 2001 (9/11), first responders could not communicate with each other. Some radios did not work in the high-rise World Trade Center; radio channels were overloaded by the large number of responders trying to communicate; and public safety radio systems operated on various frequencies and were not interoperable. There were also non-technical issues. Officials struggled to coordinate the multi-agency response, and to maintain command and control of the numerous agencies and responders.

The 9/11 Commission called for the “expedited and increased assignment of radio spectrum for public safety purposes.” Increased spectrum would allow public safety agencies to accommodate an increasing number of users; support interoperability solutions (e.g., shared channels); and leverage new technologies (e.g., live video streams) to enhance response.

In 2012, Congress acted on the recommendation of the 9/11 Commission. In Title VI of the Middle Class Tax Relief and Job Creation Act of 2012 (P.L. 112-96), Congress authorized the Federal Communications Commission (FCC) to allocate additional spectrum for public safety use; established the First Responder Network Authority (FirstNet) and authorized it to enter into a public-private partnership to build a nationwide public safety broadband network; and, provided \$7 billion out of revenues from spectrum auctions to build the network....

FirstNet has made progress in implementing the provisions in the act. In March 2017, FirstNet awarded a 25-year, \$6.5 billion contract to AT&T to build and maintain the nationwide network for public safety. FirstNet provided AT&T with 20 megahertz (MHz) of broadband spectrum, which AT&T can monetize for public safety and non-public safety use. AT&T is providing FirstNet access to its infrastructure, valued at \$180 billion, and \$40 billion to maintain and improve the network.

In September 2017, FirstNet/AT&T presented states with plans detailing how the network would be deployed in each state. Governors could opt to have AT&T deploy the network (i.e., opt in), or have the state assume responsibility for the deployment (i.e., opt out). By January 2018, all 50 states and 6 territories opted in. This was viewed as a victory for FirstNet, AT&T, and public safety stakeholders who had long advocated for a nationwide network for public safety. (Congressional Research Service, *The First Responder Network (FirstNet) and Next-Generation Communications for Public Safety: Issues for Congress*, April 27, 2018, <https://crsreports.congress.gov/product/pdf/R/R45179>)





May 6, 2020

To Whom It May Concern,

On March 28, 2017, AT&T was awarded the federal government contract to deploy and operate the Nationwide Public Safety Broadband Network (NPSBN), following an open, transparent, and competitive procurement process—as well as consultation with state, local, tribal, and federal stakeholders—consistent with the First Responder Network Authority’s (FirstNet Authority) enabling statute. The NPSBN contract between the FirstNet Authority and AT&T has a period of performance of 25 years from the date awarded.

Per the terms and conditions of the NPSBN contract, and given that all U.S. states and territories and the District of Columbia (states) opted into the FirstNet Authority plan for network deployment, AT&T is responsible for providing a comprehensive network solution to each of the states. This comprehensive network solution includes: the deployment and provisioning of a nationwide Core Network and Radio Access Network equipment and services (e.g., cell sites, backhaul, aggregation, national transport networks and operation centers); a device ecosystem; deployable capabilities; operational and business support systems; an application ecosystem; network services; integration, maintenance, and operational services; and ongoing evolution of these systems required to function fully as an operational wireless 3rd Generation Partnership Project (3GPP) standards-based Long Term Evolution (LTE) NPSBN.

The FirstNet solution provided by AT&T brings Public Safety Entities across the country a dedicated interoperable broadband network with quality of service, priority usage, and preemption. In addition, the NPSBN is physically hardened, as needed, and is resilient, secure, and highly reliable. Furthermore, the NPSBN provides to public safety agencies local control over prioritization, preemption, provisioning, and reporting.

The NPSBN and associated devices are branded as FirstNet, consistent with applicable laws and regulations. AT&T is responsible for marketing; product management; sales; distribution; customer care; communications; strategic partnership; and network deployment, operation, maintenance, and evolution. However, in accordance with its statutory duties and responsibilities, the FirstNet Authority maintains rigorous oversight of the NPSBN and AT&T’s obligations under the contract.

If you have any questions with regard to this letter, please contact Kimberly Luke at Kimberly.Luke@firstnet.gov, 202-868-3683.

Sincerely,

Kimberly Luke, Contracting Officer