

Attachment E

Planning and Economic Development Committee Resolution

Recording Requested by and)
When Recorded Mail To:)
)
Town of Mammoth Lakes)
Community & Economic Development Department))
P.O. Box 1609)
Mammoth Lakes, CA 93546)

Recordation fee exempt per Government Code §27383
Space Above for Recorder's Use

RESOLUTION NO. PEDC 2024-03
A RESOLUTION OF THE MAMMOTH LAKES PLANNING AND
ECONOMIC DEVELOPMENT COMMISSION APPROVING USE PERMIT 23-002
FOR THE CONSTRUCTION OF A NEW 80-FOOT TALL MONOPINE CELL TOWER
LOCATED AT 1574 OLD MAMMOTH ROAD
(APN: 040-040-021-000)

WHEREAS, a request for consideration of a Use Permit was filed by the applicant, Eukon Group on behalf of AT&T, to allow an 80-foot tall “stealth monopine” cell tower in accordance with Chapter 17.32 (Special Purpose Zoning Districts), Chapter 17.68 (Use Permits), and Section 17.52.280 (Telecommunications Facilities) of the Town of Mammoth Lakes Municipal Code for property located within the Resort (R) zoning district at 1574 Old Mammoth Road; and

WHEREAS, the Planning and Economic Development Commission conducted a noticed public hearing on the application request on November 8, 2023 and February 14, 2024, at which time all those desiring to be heard were heard; and

WHEREAS, the Planning and Economic Development Commission considered, without limitation:

1. The staff report to the Planning and Economic Development Commission with exhibits;
2. The General Plan, Municipal Code, and associated Land Use Maps;
3. Oral evidence submitted at the hearing;
4. Written evidence submitted at the hearing; and
5. Project plans consisting of:
 - a. Project Plan Sheets T-1, LS-1, LS-2, and A-1 – A-6 dated January 12, 2024, and received by the Town on January 12, 2024;
 - b. Photo simulations received by the Town on January 31, 2024;
 - c. Project Narrative dated September 22, 2023;
 - d. Propagation Package dated November 11, 2022; and
 - e. Interference Analysis Report dated September 19, 2023.
 - f. Radio Frequency Safety Survey Report Prediction dated January 6, 2023
 - g. Site Justification Coverage Maps dated January 12, 2024
 - h. Technical Siting Analysis dated February 8, 2024

NOW THEREFORE, THE PLANNING AND ECONOMIC DEVELOPMENT COMMISSION OF THE TOWN OF MAMMOTH LAKES DOES RESOLVE, DETERMINE, FIND AND ORDER AS FOLLOWS:

SECTION 1. FINDINGS.

I. CEQA.

The project has been determined to be categorically exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15303 (New Construction or Conversion of Small Structures) of Title 14 of the California Code of Regulations. CEQA Guidelines Section 15303 applies to projects that consist of (1) a limited number of new, small facilities or structures; and (2) the installation of small new equipment and facilities in small structures, both of which the State has determined to be a class of projects that will not have a significant effect on the environment. For non-residential uses, this exemption is generally limited to structures that do not exceed 2500 square feet in floor area. The project involves the construction of a new 80-foot tall “stealth monopine” cell tower located in the rear northeast corner of the Old Mammoth Road Fire Station site at 1574 Old Mammoth Road. The proposed tower and associated equipment enclosures are structures that do not involve significant amounts of hazardous substances and do not exceed a combined 2,500 square feet in floor area, as the project only includes approximately 640 square feet of floor area (cell tower and lease area combined). Additionally, none of the exceptions set forth in CEQA Guidelines Section 15300.2, which would preclude a project from using a categorical exemption, are applicable, as described below:

- a. The project is not located in a sensitive environment. The project parcel is located on a fully developed and previously disturbed site that contains existing buildings and paving. Furthermore, the site is not located in an area that would be considered environmentally sensitive, as the site and surrounding parcels are fully developed.

There are no designated scenic highways adjacent to or near the project site. There are no designated farmland areas within the Town boundaries, thus the site is not identified as farmland by the California Resources Agency as part of the Farmland Mapping and Monitoring Program, is not located on or near Prime Farmland, Unique Farmland, or Farmland of Statewide Importance, and is not subject to any Williamson Act Contracts. Furthermore, no portion of the site is zoned for or developed as forest land or timberland as defined in Public Resources Code §12220(g) and Government Code §4526. There are no known sensitive biological resources in the project vicinity, and the project site is not located within the boundaries of a Habitat Conservation Plan or Natural Community Conservation Plan. The project site is currently developed as a public safety use. No classified or designated mineral deposits of statewide or regional significance are known to occur on the project site. The site is not located within a very high fire hazard severity zone, is not located within a state-designated Alquist-Priolo Fault Hazard Zone, does not have any known active faults crossing the site, and the nearest fault to the project site is approximately 1.5 miles to the northwest. There are no hazardous material sites listed within or near the project site per any of the State and Federal databases. There are no known historical or cultural resources on the site.

- b. The cumulative impact from successive projects of the same type in the same place over time will not be significant because at this time there are no applications or proposals submitted to the Town for additional cell towers to be constructed on the site, and the nearest existing tower is located approximately one mile away.

- c. Given the location, scope, and purpose of the proposed project, there would be no significant impacts or effects on environmental resources during construction or operation, as the site has been previously developed. It is not anticipated that any unusual circumstances exist on the site that would result in significant impacts or increase the severity of any existing less than significant impacts.
- d. As stated above in response (a), the project site is not located adjacent to or near a scenic highway. The project location is not identified as a Major View Corridor in the Town's General Plan and views of the project site are not considered scenic. Therefore, the proposed project would not have a substantial adverse effect on a scenic vista or damage scenic resources within a state scenic highway.
- e. As stated above in response (a), there are no hazardous materials listed within or near the project site. The project site is not listed on the Hazardous Waste and Substances list maintained by the Town; or the State Water Resources Control Board GeoTracker system which includes leaking underground fuel tank sites and spills, leaks, investigations, and cleanup sites; or the Department of Toxic Substances Control EnviroStar Data Management System which includes CORTESTE sites; or the Environmental Protection Agency's database of regulated facilities.
- f. As stated above in response (a), there are no known historical or cultural resources areas on the site, and therefore, there will not be a substantial adverse change in the significance of an established historical resource as a result of the project.

Therefore, the project is exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(2) since the project meets the criteria for use of the 'New Construction or Conversion of Small Structures' categorical exemption and the application of that categorical exemption is not barred by one of the exceptions set forth in Section 15300.2.

II. MUNICIPAL CODE FINDINGS.

A. FINDINGS FOR USE PERMIT (Municipal Code Section 17.68.050 and 17.52.280)

1. **The proposed use is consistent with all applicable sections of the General Plan and Title 17 and is consistent with any applicable specific plan or master plan;**

The proposed use is a telecommunications facility that requires a Use Permit pursuant to the Town Zoning Code (Title 17). The proposed project is located in the Resort (R) Zoning District and is part of the Snowcreek Master Plan Area. The R zone classification allows for various types of land uses such as: residential, professional and administrative office uses, hotels, recreational facilities, public or quasi-public uses, or combinations of such uses. The Master Plan includes an Infrastructure Plan addressing roads, public transportation, water, sewer, and other utilities within the Master Plan Area. Section 7.2.6 (Utilities) requires that all utility facilities and equipment be installed pursuant to the requirements of the relevant utility companies and be placed underground. However, the Master Plan also recognizes that some utility facilities and equipment are required to be above ground, and in such circumstances those above ground utility facilities must be screened with landscaping elements when necessary. The proposed telecommunications facility is a utility facility that is required to be aboveground to operate and is designed as a monopine for screening purposes, consistent with Section 7.2.6 of the Master Plan. The Master Plan does not contain other detailed development standards for telecommunications facilities, and instead relies on the standards specified in the municipal code.

The R Zoning District lists utilities as a permitted use within the zoning district (Section 17.32.110(B)(4)). The proposed project is consistent with the standards of the R zone. Section 17.52.280 (Telecommunications Facilities) of the Town's Zoning Code requires a use permit for the proposed facility as a qualifying cellular wireless communications facilities in a nonresidential zone. The R zone and the Town's Telecommunication Facility standards do not establish a maximum height for cellular facilities, and instead are determined through the use permit process. For this project, the maximum tower height was established through site analysis and testing completed by AT&T and the Fire District which determined that an antenna height of at least 70 feet was necessary to fill the cellular coverage gap in the area. Additionally, the R zone does not establish setbacks for cellular facilities and the imposed setback standards were instead based off the Public and Quasi-Public (P-QP) zone since that is the zone that most closely matches the use on the site. Per Section 2.1.1 of the Master Plan, "where the Master Plan is silent on development standards or other regulations, other provisions of the Town's Municipal Code apply."

The project is consistent with the General Plan, including, but not limited to, General Plan Economy Policy E.3.H which states, "Encourage expansion of a progressive telecommunication and internet communication infrastructure in the community" and General Plan Public Health and Safety Policy S.10.C which states, "Coordinate with California Public Utilities Commission (CPUC), telecommunication, and internet service providers to improve resilience and redundancy of telecommunication and broadband infrastructure."

2. The proposed use and the conditions under which it would be operated or maintained will not be detrimental to the public health and safety nor materially injurious to properties or improvements in the vicinity; and

The site layout and project design ensure that the project will not be detrimental to the health and safety of the surrounding community nor injurious to properties or improvements in the vicinity since the project adheres to the Town's requirements for telecommunications facilities. The project is likely to substantially improve cell service in an area of Town that does not currently provide adequate levels of service, thus increasing safety in the area. Pursuant to Section 332(c)(7)(B)(iv) of the Telecommunications Act of 1996, the Town is prohibited from denying a telecommunications facility application based on concerns about radio frequency emissions so long as the applicant has demonstrated that its proposed facilities will comply with FCC Standards for maximum permitted exposure (MPE) for radio frequency emissions. For this site, the applicant has provided a report certifying that that the proposed facility will be in compliance with all FCC Standards. Specifically the report found that the MPE for any area surrounding the site at an above ground level (AGL) height of 35 feet (*maximum height of adjacent multi-family structures*) would be 15.94% of the FCC's allowable limit for General Population exposure. In addition, the report found that the MPE for the ground area immediately beneath the proposed monopine (0' AGL) would be 4.01% of the FCC's allowable limit for General Population exposure.

SECTION 2. PLANNING AND ECONOMIC DEVELOPMENT COMMISSION ACTIONS.

The Planning and Economic Development Commission hereby takes the following actions:

1. Finds that this project is categorically exempt pursuant to Section 15303, New Construction or Conversion of Small Structures), of the California Environmental Quality Act (CEQA) Guidelines; and
2. Approves Use Permit 23-002 subject to the following conditions:
(SEE EXHIBIT “A”); and
3. Directs staff to file a Notice of Exemption.

PASSED AND ADOPTED this 14th day of February 2024, by the following vote, to wit:

AYES:

NAYS:

ABSENT:

ABSTAIN:

RECUSED:

ATTEST:

Nolan Bobroff,
Community and Economic Development
Director

Michael Vanderhurst
Chair of the Mammoth Lakes Planning
and Economic Development
Commission

NOTE: This action is subject to Chapter 17.104 of the Municipal Code, which specifies time limits for legal challenges.

APPLICANT:

I, Tayiika Logan Burks, an authorized representative for AT&T, the applicant, do hereby attest that I have read, and agree to, the conditions of approval stipulated within this Resolution.

Tayiika Logan Burks
(Notary Required)

Date: _____

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Mono }

On _____, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary

PROPERTY OWNER:

I, Ales Tomaier, an authorize representative for the Mammoth Lakes Fire Protection District, the property owner, do hereby attest that I have read, and agree to, the conditions of approval stipulated within this Resolution.

Ales Tomaier
(Notary Required)

Date: _____

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Mono }

On _____, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary

EXHIBIT “A”
Resolution No. PEDC 2024-03
Case No. UPA 23-002

PLANNING DIVISION CONDITIONS

STANDARD PLANNING CONDITIONS

1. This approval authorizes the following: construction of an 80 foot tall “stealth monopine” cell tower on the 0.91-acre parcel identified as Assessor Parcel No. 040-040-021-000 as shown on Project Plan Sheets T-1, LS-1, LS-2, and A-1 – A-6 dated January 12, 2024.
2. The approved site and building plans including Sheets T-1, LS-1, LS-2, and A-1 – A-6 dated January 12, 2024; shall be adhered to and maintained for the duration of the permit.
3. This permit and all rights hereunder shall automatically terminate unless the site preparation or construction has been commenced within two years after the issuance of this permit and such work is diligently carried on until completion, or an extension of time has been granted in accordance with Municipal Code §17.60.060.B.
4. All new improvements constructed on the site shall be in compliance with all Town of Mammoth Lakes, County of Mono, Mammoth Community Water District, the Mammoth Lakes Fire Protection District, the CRWQCB Lahontan District, Great Basin Air Pollution Control District, OSHA, State of California and United States of America laws, statutes, ordinances, regulations, directives, orders, and the like applicable thereto and in force at the time thereof. Any violation of the above may constitute grounds for revocation under Chapter 17.128 of the Mammoth Lakes Municipal Code.
5. This resolution of approval, as conditioned herein, shall be recorded for the subject property by the Mono County Recorder’s Office to commence the approved use on the property or the issuance of any building permits for new or remodeled structures.
6. The site shall be maintained in a neat, clean and orderly manner. All improvements shall be maintained in a condition of good repair and appearance. Outdoor storage of equipment and other materials, except for firewood, is prohibited. Non-operating vehicles, equipment and materials inappropriate to the site and its use shall not be stored within outdoor areas on the site.
7. Storage of construction materials and equipment off-site shall not be permitted without a permit issued by the Community and Economic Development Department of the Town. Any public or private property altered, damaged or destroyed by site preparation, grading, construction or use shall be restored to its pre-existing condition by the permittee.
8. All conditions of this permit shall be met or secured prior to final occupancy approval of any tenant improvements or new structures.
9. All uses are subject to review by the Building Official of the Town of Mammoth Lakes and must conform to occupancy ratings of the structures to obtain occupancy.
10. Town staff shall have the right to enter the subject property to verify compliance with these conditions. The holder of any permit associated with this project shall make the premises available to Town staff during regular business hours and shall, upon request make records and documents available to Town staff as necessary to evidence compliance with the terms and conditions of this permit.

11. Prior to the issuance of a building permit, the applicant shall pay all applicable fees as prescribed by ordinance and/or resolution and pay any fees due on this project processing account.
12. Where compliance with the conditions of approval or applicant initiated changes to the plans require additional staff review, that review time shall be billed at the Town's established billing rates. Prior to the issuance of a building or grading permit, the applicant shall pay all outstanding costs for the processing of this application.
13. The approved site and building plans shall be adhered to and maintained for the duration of the permit.
14. This action may be appealed to the Town Council within fifteen (15) calendar days from the date of Planning and Economic Development Commission approval in accordance with Municipal Code Chapter 17.104.
15. Prior to issuance of a grading or building permit, the applicant shall obtain a secondary source permit or letter of exemption from the Great Basin Unified Air Pollution Control District.
16. The applicant shall defend, indemnify, and hold harmless the Town and its agents, officers, and employees from any claim, action, or proceeding against the Town and its agents, officers, or employees to attack, set aside, void, or annul, an approval of the Town, advisory agency, appeal board, or legislative body concerning this approval. The Town shall promptly notify the applicant of any claim, action, or proceeding and shall cooperate fully in the defense.
17. All exterior lighting shall comply with Chapter 17.36.030 of the Town of Mammoth Lakes Municipal Code, Exterior Lighting. Exterior light fixtures having a total of over 400 lumens of output shall be equipped with shields that extend below the horizontal plane of the light source to direct the light downward onto the structure or surrounding grounds. Accent lighting is permitted as described in Municipal Code Section 17.36.030.F.6. This shall be verified prior to issuance of a certificate of occupancy.
18. If the aggregate landscaped area exceeds 500 sq. ft., a landscape documentation package shall be required prior to issuance of a certificate of occupancy. Said landscape documentation package shall conform with the requirements identified in Municipal Code Chapter 17.40 (Water Efficient Landscape Regulations). The aggregate landscape area is defined as the total horizontal surface area dedicated to plant installation and irrigation plus the wet surface of any decorative water features. The landscape area for shrubs and trees shall be determined using the shrub/tree mature growth diameter or drip line. The landscape area does not include footprints of buildings or structures, sidewalks, driveways, parking lots, decks, patios, gravel or stone walks, or other pervious or non-pervious hardscapes outside of planted areas. Landscape area does not include undisturbed areas with established non-irrigated vegetation, or landscaping that is exempt pursuant to Municipal Code Section 17.40.020.D.

If the project qualifies for an exemption from the landscape documentation requirements pursuant to Municipal Code Section 17.40.020.D, the Water Efficient Landscape Ordinance Exemption form shall be completed by the property owner and the completed form shall be submitted to the Town prior to issuance of a certificate of occupancy.
19. A valid building permit and a permit from the Mammoth Lakes Fire Protection District are required before any building can begin on-site.
20. Zoning entitlement conditions of approval shall be printed verbatim on all of the working drawing sets used for issuance of building permits (architectural, structural, electrical, mechanical, and plumbing) and shall be referenced in the index.

21. The Building Division will require that a string line be run between the property monuments on the north (rear property line) and east (east side property line) at the time of foundation inspection to verify the actual field distance from the structure to the property line. The outside edge of the tower shall not be located closer than 20 feet to any property line.
22. All ground mounted equipment shall be covered with a clear anti-graffiti type material approved by the Director or shall be adequately secured to prevent graffiti.
23. Facilities shall be secured from access to the general public by fencing, or other deterring device or means as the Town may approve or require, so the facility is not an attractive nuisance.
24. The owner or operator of any facility shall submit and maintain current at all times basic contact and site information. The Department shall be notified by the owner or operator within 30 days of any change, including change of the name or legal status of the owner or operator.
25. All communications facilities and related equipment, including lighting, fences, shields, cabinets, and poles shall be maintained in good repair, free from trash, debris, litter, graffiti, and other forms of vandalism. Any damage from any cause shall be repaired as soon as reasonably possible.
26. The Mammoth Lakes Fire Protection District shall ensure that the approved facility is property maintained and guarantee that the facilities are dismantled and removed from the premises and the site reclaimed if it has been inoperative for a one-year period.
27. Each collocation of an additional service provider's telecommunications facility upon the approved monopine is required to obtain a use permit from the Town of Mammoth Lakes.
28. The permittee shall be strictly liable for interference caused by its facilities with Town or other governmental emergency communications systems. The permittee shall be responsible for costs for determining the source of the interference, all costs associated with eliminating the interference (including but not limited to filtering, installing cavities, installing directional antennas, powering down systems, and engineering analysis), and all costs arising from third party claims against the Town attributable to the interference.
29. Testing of any equipment shall take place on weekdays only, and only between the hours of 8:30 a.m. and 4:30 p.m., except that testing is prohibited on holidays that fall on a weekday. In addition, testing is prohibited on weekend days.
30. The facility must at all times comply with all applicable health requirements and standards pertaining to radio frequency emissions.
31. All antennas shall meet the minimum siting distances to habitable structures required for compliance with FCC regulations and standards governing the environmental effects of radio frequency emissions.
32. All antennas shall meet the minimum siting distances to public/uncontrolled areas required for compliance with the FCC regulations and standards governing the environmental effects of radio frequency emissions. Permittee shall keep up-to-date on current information from the FCC in regards to maximum permissible radio frequency exposure levels. In the event that the FCC changes its guidelines for human exposure to radio frequency, permittee shall, within 30 days after any such change, submit to the Planning and Economic Development Director a report prepared by a qualified engineer that demonstrates actual compliance with such changed guidelines. The Director may, at permittee's sole cost, retain an independent consultant to evaluate the compliance report and any potential modifications to the permit necessary to conform to the FCC's guidelines. Failure to submit the compliance report required under this condition, or failure to maintain compliance with the FCC's guidelines

for human exposure to radio frequency at all times shall constitute grounds for permit revocation.

33. The proposed chain link fencing around the equipment shall have a maximum height of six feet and shall be painted or coated in a dark green, brown, or black color.