

BEFORE THE PLANNING COMMISSION OF THE COUNTY OF SAN BENITO

Resolution No. 2020-

A RESOLUTION OF THE SAN BENITO COUNTY PLANNING COMMISSION APPROVING COUNTY FILE PLN190052: A USE PERMIT FOR INSTALLING A NEW UNSTAFFED TELECOMMUNICATION FACILITY CONSISTING OF A 30' X 40' LEASE AREA WITH A 100' TALL MONOPOLE TOWER THAT INCLUDES 12 PANEL ANTENNAS (THREE SETS OF FOUR ANTENNAS) AND 24 REMOTE RADIO HEADS OR UNITS. PROPOSED WITHIN THE LEASE AREA, THE PROJECT WILL ALSO INCLUDE AN EIGHT FOOT BY EIGHT FOOT BY TEN FOOT HIGH MODULAR BUILDING WITH A COMMUNICATION EQUIPMENT CLOSET AND BACKUP GENERATOR. THE PROJECT IS TO BE LOCATED AT THE AIRLINE HIGHWAY (HWY 25) AND HIGHWAY 146 INTERCHANGE, HOLLISTER, CA; ASSESSOR'S PARCEL NUMBER 028-130-026 AND 028-150-024.

WHEREAS, Sara King (Site Acquisition Specialist / Epic Wireless Group) filed an application on September 23, 2019 to install a new unmanned telecommunication facility consisting of a 30' x 40' AT&T lease area with twelve panel antennas (three sets of four antennas) and 24 remote radio heads or units installed on a proposed 100' tall monopole tower. In addition, the proposed project will be installing an eight foot by eight foot by 10 foot high modular building walk-in communication equipment closet and backup generator within the proposed AT&T lease area; and

WHEREAS, the proposed telecommunication facility is to be sited on a 203.76-acre property south of Hollister one mile north and east of the interchange between Airline Highway (HWY 25) and Pinnacles Highway (HWY 146) (APN 028-130-026) and (APN 028-150-024); and

WHEREAS, the subject parcel has a General Plan designation of (AR) Rangeland and a zoning designation of AR Agricultural Rangeland; and

WHEREAS, the proposed project is consistent with the area's Rangeland (RG) land use designation in the General Plan in that it meets or fulfills, LU-3.6 Agricultural Support Services, and LU-3.7 Visitor Serving Uses in Agricultural Areas as the cell tower facility will maintain open space and grazing and allow support service for agricultural operation and those traveling to and within the area by providing wireless telecommunications service connection to emergency services providers in this rural area near Pinnacles National Park, and

WHEREAS, PFS-9.1 Telecommunication Service, PFS-9.2 Telecommunications Access, PFS-9.4 Siting of Telecommunication Facilities, and; in that the new addition of a telecommunication service in a remote area where the next closest telecommunication facility is 24.72 miles away and the addition of the telecommunication facility will improve wireless coverage to the area and will also increase the network capacity, and

WHEREAS, PFS-9.6 Facility Co-location; the site is designed to accommodate two other wireless service provider antenna arrays on the same monopole structure, with room for ground equipment in or near the lease area, and

WHEREAS, the proposed project is consistent with the parcel's Agricultural Rangeland (AR) designation under the County's zoning ordinance, Section 25.07.005 conditional uses (H) Microwave, radio and television transmission and/or relay structures, and

WHEREAS, the proposed project is consistent with the County's zoning ordinance, Section 7.11 Wireless Communications Facilities Standards all intents and purposes, and

WHEREAS, the County assessed the potential for any substantial effect on the environment for the project consistent with the California Environmental Quality Act (CEQA), and found the project exempt from the requirements of that statute; and

WHEREAS, County staff received the proposal as Use Permit PLN190052 and distributed this plan to responsible County and peer agencies for review and comment; and

WHEREAS, on July 15, 2020, the Planning Commission in considering Use Permit PLN190052 heard and received all oral and written testimony and evidence that was made, presented, or filed, and all persons present were given an opportunity to hear and be heard with respect to any matter related to the petition; and

WHEREAS, at the conclusion of the public testimony, the Planning Commission closed the public hearing, deliberated, and considered the merits of the proposal.

NOW THEREFORE BE IT RESOLVED that based on the evidence in the record, the Planning Commission of the County of San Benito hereby finds as follows:

California Environmental Quality Act (CEQA) Finding

Finding: In accordance with the California Environmental Quality Act (CEQA) Guidelines Section 15074, the Planning Commission considered the comments received during the public review process prior to approving the project, and finds, on the basis of the whole record before it, that the proposed project is Categorical Exempt under CEQA Guidelines Sections 14 C.C.R. §15303(d).

Evidence: Section §15303(d) New Construction or Conversion of Small Structures exemptions consists of "water main, sewage, electrical, gas, and other utility extensions, including street improvements, of reasonable length to serve such construction". The site has minimal construction of only 1,200 square feet lease area and an access road that consists mostly of use of an existing ranch road with approximately 850 feet or so diversion to be downslope of a stock-pond to lease site that is minimally used for maintenance. In both Aptos Residents Association v. County of Santa Cruz and Don't Cell Our Parks v. City of San Diego the use of categorical exemption Section §15303(d) was sustained by the court for cell towers as the projects did not pose cumulative impacts, and unusual circumstances did not apply.

BE IT FURTHER RESOLVED by the Planning Commission of the County of San Benito that it hereby finds as follows:

Use Permit Findings

Finding 1: That the proposed use is properly located in relation to the General Plan, and the community as a whole and to other land uses, transportation, and service facilities in the vicinity.

***Evidence:** This project conforms to the General Plan's Agriculture (A) land use designation for this area and contributes to its implementation. The primary purpose of this land use category is to "maintain the productivity of agricultural land," and "allows agricultural support uses" necessary to maintain existing farm operations through their continued development and diversification. The proposed project qualifies as an agricultural support use in that a telecommunication facility provides public services to the region.*

***Evidence:** The project is properly located in relation to the General Plan, to the community as a whole, and to other land uses. The subject property is 24.72 miles from the next telecommunications tower.*

***Evidence:** The project is sited off of Airline Highway (HWY 25), and properly located in relation to transportation infrastructure and service facilities. This new telecommunications cell tower will provide public services to the area, that are not currently there including services that can be accessed by fire and law enforcement services. The project is located more than .7 mile from the nearest point along Highway 25 and is not readily visible from ground level due to distance and topography.*

Finding 2: That the proposed use, if it complies with the conditions upon which approval is made contingent, will not adversely affect other properties in the vicinity or cause any damage, hazard or nuisance to persons or property.

***Evidence:** The proposed use is located within a primarily agricultural rangeland use context with no residential neighbors nearby.*

***Evidence:** The proposed use will not generate significant noise or disturbances at this site, nor safety issues to neighbors or property owners in the vicinity, as the cell tower facility is not within 500 feet from any residences in the area.*

***Evidence:** The proposed site will not cause any damage, hazard, or nuisance to persons or property.*

***Evidence:** County departments and responsible agencies have reviewed the application and recommended conditions of project approval to address possible effects on the vicinity and the overall County general public and to prevent hazard or nuisance to persons and property.*

WIRELESS COMMUNICATIONS FACILITIES FINDINGS.

Finding 1: Placement of wireless telecommunications facilities, such as antennas, satellite dishes, support structures, base transceiver stations and other devices used for the transmission or reception of electromagnetic waves can have an adverse visual impact on the community. Placement of the facilities can interfere with views of the streetscape, natural vegetation and scenery. The facilities can conflict with adjacent architecture and with the design and the scale of structures in the neighborhood. The cumulative effect of numerous facilities and support structures can create a visual blight by concentrating too many facilities upon one site, area or neighborhood.

***Evidence:** The placement of the telecommunication tower is not near any facilities or neighborhoods, and therefore will not have an adverse impact.*

Finding 2: In order to protect the public health, safety and welfare, it is necessary to insure that the siting of telecommunications facilities is compatible in design and scale with its locale and is sited so as to minimize adverse visual impacts on natural resources, neighborhoods, vistas, view corridors, architecture and structures.

***Evidence:** The telecommunications tower was strategically placed one mile north and east of the interchange of Highway 25 and Highway 146 entrance to Pinnacles National Park, a significant distance which minimizes adverse visual impacts on natural resources and view corridors.*

Finding 3: Facilities (geographic location or physical location) on structures, which already have similar installations (co-location sites), appear less noticeable, up to the point where too many structures create a visual blight. Installations on commercial or industrial structures are generally more compatible with and less noticeable than installations on residential structures due to the design, scale and locations of the structures.

***Evidence:** The new facility located in an area that does not currently have a facility and will improve wireless coverage to the area and will increase network capacity. It will provide a service to those that live, travel, and do business in the local area and the ability to call for emergency services, and will provide the necessary coverage and capacity with the ability to hand off the wireless signal to the next telecommunications site. It will enable travelers and community members to have reliable and continuous wireless coverage.*

Conditions of Approval

- 1. Indemnification:** APPLICANT shall defend, indemnify, and hold San Benito County, its agents, officers, and/or employees (hereinafter "COUNTY") free and harmless from any and all suits, fees, claims, demands, causes of action, proceedings (hereinafter collectively referred to as "Legal Action"), costs, losses, damages, liabilities and expenses (including, but not limited to, an award of attorneys' fees, expert witness fees, and court costs) incurred by COUNTY arising (directly or indirectly) or resulting from the review, processing, consideration, or approval of APPLICANT'S Project or action taken by COUNTY thereon, including Legal Actions based on the negligence of COUNTY. APPLICANT will reimburse COUNTY for any damages, costs, or fees awarded pursuant to any settlement, default judgment, or other judgment taken against the County, whether the result of Applicant's decision not to defend Legal Action or otherwise. COUNTY retains its discretion to direct counsel regarding whether to defend, settle, appeal, or take other action regarding any Legal Action. APPLICANT shall defend COUNTY'S actions with competent legal counsel of APPLICANT's choice without charge to COUNTY, subject to COUNTY approval, which shall not be unreasonably withheld. Nothing contained in the foregoing, however, shall be construed to limit the discretion of COUNTY, in the interest of the public welfare, to settle, defend, or appeal, or to decline settlement or to terminate or forego defense or appeal of a Legal Action. Furthermore, in no event shall COUNTY have any obligation or liability to APPLICANT in connection with COUNTY'S defense or prosecution of litigation related to the Project (including, but not limited to, the outcome thereof) or in the event COUNTY elects not to prosecute a case or defend litigation brought against it. If either COUNTY or APPLICANT determines in good faith that common counsel presents a bona fide conflict of interest, then COUNTY may employ separate counsel to represent or defend the COUNTY, and APPLICANT shall pay the reasonable attorneys' fees and costs of such

counsel within thirty (30) days of receiving an itemized billing statement or statements. [Planning]

2. **Successors in Interest:** The conditions of approval are binding on all successors in interest of Applicant, whether succession is by agreement, operation of law, or other means, including but not limited to all future owners utilizing this use permit. [Planning]
3. **Agreement with All Conditions of Approval:** Prior to or upon approval by the Planning Commission, Applicant shall sign the statement below certifying that Applicant is in agreement with all conditions of approval. [Planning]
 - a. I certify that I understand and agree to comply with all Conditions of Approval imposed by the Planning Commission, or Board of Supervisors as applicable, on this Permit.
 - b. Applicant Signature: _____
 - c. Date: _____
4. **Conformity with Plan:** The development and use of the site shall conform substantially to the proposed project description, site plan, and conditions of approval as approved by the Planning Commission. Any increase in the nature or intensity of land use on the site beyond that already analyzed shall be subject to further Planning review and approval. Approved plans and specifications shall not be substantially changed, modified or altered without written authorization from the Planning Department. All work shall be in accordance with the approved plans and with San Benito County Code (See attachments below). [Planning]

Signage: Any signage proposed will be subject to County, state, or federal codes. Applicant shall follow recommendations made in Waterford Consultants, LLC Radio Frequency Emissions Compliance Report for posting RF alerting signage with contact information (Caution 2B) at the base of the Monopole to inform authorized climbers of potential conditions near the antennas.

Exterior Color Any color applied to the exterior of the equipment shelter shall be non-reflective. The exterior appearance of the equipment cabinets shall be maintained at all times.

Lighting: Any exterior equipment lighting shall be installed with a manual on/off switch and shall only be lighted while maintenance personnel are working at the site. Exterior lights shall be shielded to direct light downward and comply with the County Dark Skies Code. The applicant is to provide letter of FAA requirements for tower lighting or special visibility paint.

Equipment Removal: Applicant shall remove the equipment and equipment shelter no later than six (6) months after operation of the communication facility ceases.

5. **Compliance Documentation:** Prior to issuance of building permits, the applicant shall submit a summary response in writing to these conditions of approval documenting compliance with each condition, including dates of compliance and referencing documents or other evidence of compliance. [Planning]
6. **Notice of Exemption** The applicant/owner shall be required to file a CEQA exemption for the project. The notice shall be provided by the County Planning Department and filed with the

County Clerk within five (5) days of approval of the project. An administrative fee of \$50.00 shall be submitted to the Planning Department for the filing of the notice. [Planning/CDFW]

- 7. Cultural Resources:** If, at any time in the preparation for or process of excavation or otherwise disturbing the ground, discovery occurs of any human remains of any age, or any significant artifact or other evidence of an archeological site, the applicant or builder shall:

For Inadvertent Discoveries:

- a. In the event that cultural resources are exposed during ground-disturbing activities, construction activities should be halted in the immediate vicinity of the discovery. If the site cannot be avoided during the remainder of construction, an archaeologist who meets the Secretary of the Interior's Professional Qualifications Standards should then be retained to evaluate the find's significance under CEQA. If the discovery proves to be significant, additional work, such as data recovery excavation, may be warranted and should be discussed in consultation with the County.

For Discovery of Human Remains: If such an event occurs the specific procedures outlined by County Code and the NAHC, in accordance with Section 7050.5 of the California Health and Safety Code and Section 5097.98 of the Public Resources code to be followed:

- b. Cease and desist from further excavation and disturbances within two hundred feet of the discovery or in any nearby area reasonably suspected to overlie adjacent remains.
- c. Arrange for staking completely around the area of discovery by visible stakes no more than ten feet apart, forming a circle having a radius of not less than one hundred feet from the point of discovery; provided, however, that such staking need not take place on adjoining property unless the owner of the adjoining property authorizes such staking. Said staking shall not include flags or other devices which may attract vandals.
- d. Notify the Sheriff-Coroner of the discovery if human and/or questionable remains have been discovered. The Resource Management Agency Director shall also be notified.
- e. Subject to the legal process, grant all duly authorized representatives of the Coroner and the Resource Management Agency Director permission to enter onto the property and to take all actions consistent with Chapter 19.05 of the San Benito County Code and consistent with §7050.5 of the Health and Human Safety Code and Chapter 10 (commencing with §27460) of Part 3 of Division 2 of Title 3 of the Government Code.
- f. The coroner will have two working days to examine the remains after being notified in accordance with HSC 7050.5. If the coroner determines that the remains are Native American and are not subject to the coroner's authority, the coroner will notify NAHC of the discovery within 24 hours.
- g. NAHC will immediately notify the Most Likely Descendant (MLD), who will have 48 hours after being granted access to the location of the remains to inspect them and make recommendations for their treatment. Work will be suspended in the area of the find until the County approves the proposed treatment of human remains.

Planning:

8. **Improvement Plans:** Prior to issuance of a building permit, the applicant shall submit building and improvement plans to the County Building Department for approval.
9. **Geotechnical Soils Report:** The applicant shall prepare a geotechnical soils report with test borings at the location of the telecommunications facility site to determine project specification needs for building within an Alquist-Priolo Earthquake Fault Zone.
10. **Access Agreements: Prior to issuance of building permits and construction,** the applicant shall demonstrate and provide to the County that access agreements for all affected drives and facilities have been negotiated and agreed upon.

Division of Environmental Health:

11. **Hazardous Materials:** The applicant has indicated there will be storage of hazardous materials and a Hazardous Materials Business Plan (HMBP) shall be completed and submitted to Environmental Health Department. [Environmental Health]
12. **Sewage Disposal:** The proposed project does not appear to have plumbing and does not appear to impact the existing septic system for this property. This department has no comment at this time, but reserves the right to make comment if there are any changes to the proposed project. [Environmental Health]
13. **Water:** The proposed project does not appear to have plumbing and does not appear to impact the existing water system for this property. This department has no comment at this time, but reserves the right to make comment if there are any changes to the proposed project. [Environmental Health]

Public Works:

14. **Right of Way:** The applicant shall be required to obtain a Caltrans Encroachment Permit if construction of the driveway approach at Airline Highway involves the Airline Highway Right-of-Way. [Public Works]
15. **Drainage & Erosion Control:** The applicant shall comply with County Drainage and Erosion Control Standards, and hence shall prepare and provide a more detailed exhibit showing but not limited to the following: [Public Works, San Benito County Water District]
 - a. Show how the runoff from the site is being controlled and directed to either an existing or proposed storm drainage system with supporting documentation as to adequacy to handle project runoff resulting from impervious surfaces that had been created by the existing improvements as well as by the proposed improvements as part of this project prior to building permit issuance.
 - b. Erosion control plans indicating proposed methods for the control of runoff, erosion and sediment control prior to building permit issuance.

Fire Department:

16. **Access & Driveway Road:** The project, shall demonstrate that the project follows PRC 4290 by allowing roadway access of the Fire engine to be accessible 50-100 feet from telecommunication facility by a graveled driveway if less than 8% slope or by paved driveway if 8% or above slope.). The grade of fire apparatus access roads shall be no greater than 15% unless specifically approved by the fire code official. Driveways shall be defined as access

pathways for one or two parcels. Driveways shall not be less than 12 feet wide unobstructed, with an unobstructed vertical clearance of not less than 15 feet. The grade for all driveways shall not exceed 15 percent with a maximum side slope of 5%. Where the grade exceeds 8 percent, a minimum structural roadway surface of 0.17 feet of asphaltic concrete on 0.34 feet of aggregate base shall be required. If permitted by the fire code official, grades over 15% shall be paved with perpendicularly grooved concrete. The driveway surface shall be capable of supporting the imposed load of fire apparatus (22 tons), and be accessible by conventional-drive vehicles, including sedans. For driveways with turns 90 degrees and less, the minimum horizontal inside radius of curvature shall be 25 feet. For driveways with turns greater than 90 degrees, the minimum horizontal inside radius curvature shall be 28 feet. For all driveway turns, an additional surface of 4 feet shall be added. All driveways exceeding 150 feet in length, but less than 800 feet in length, shall provide a turnout near the midpoint of the driveway. Where the driveway exceeds 800 feet, turnouts shall be provided at no greater than 400-foot intervals. Turnouts shall be a minimum of 12 feet wide and 30 feet long with a minimum of 25-foot taper at both ends. Turnarounds shall be required on driveways in excess of 150 feet of surface length and shall be 30 feet long with a minimum 25-foot taper at both ends. Turnarounds shall be required on driveways in excess of 150 feet of surface length and shall be located within 50 feet of the primary building. The minimum turning radius for a turnaround shall be 40 feet from the center line of the driveway. If a hammerhead/T is used, the top of the "T" shall be a minimum of 60 feet in length. [Fire, Public Works]

17. **Disposition of Vegetation & Debris Fuels:** Disposal, including chipping, burying, or removal to a landfill site approved by the local jurisdiction, of vegetation and debris caused by site development and construction, road and driveway construction, and fuel modification shall be completed prior to final clearance of the related permit. [Fire]
18. **Standard Defensible Space Requirements:** Combustible vegetation shall be removed from within a minimum of 100 feet or to the property line from structures, whichever is closer. Vegetation shall be no taller than four inches (4") high. Tree limbs shall be removed to 6 feet up from the ground and from within 10 feet from chimneys. Additional or alternate fire protection approved by the fire code official may be required to provide reasonable fire safety. Environmentally sensitive areas may require alternative fire protection, to be determined by the fire code official and other jurisdictional authorities. [Fire]
19. **Knox Key and Box:** All gates providing access from a road to a driveway shall be located at least 30 feet from the roadway and shall open to allow a vehicle to stop without obstructing traffic on the road. Gate entrances shall be at least the width of the traffic lane but in no case less than 12 feet wide. Where a one-way road with a single traffic lane provides access to a gated entrance, a 40-foot turning radius shall be used. Where gates are to be locked, the installation of a key box or other acceptable means for immediate access by emergency equipment may be required. [Fire]
20. **Fire Protection & Water Supply & Fire Hydrant & Valve:** The project, requires single parcel fire protection water supply. For development of structures totaling less than 3,000 square feet on a single parcel, the minimum fire protection water supply shall be 4,900 gallons. A fire hydrant or fire valve is required. The hydrant or fire valve shall be 18 inches above grade, 8 feet from flammable vegetation, no closer than 4 feet nor further than 12 feet from a roadway, and in a location where fire apparatus using it will not block the roadway. The hydrant serving any building shall be not less than 50 feet and not more than 1000 feet by road from the building it is to serve. Minimum hydrant standards shall include a brass head and

valve with at least one 2 1/2 inch National Hose outlet supplied by a minimum 4 inch main and riser. More restrictive hydrant requirements may be applied by the Reviewing Authority. Each hydrant/valve shall be identified with a reflectorized blue marker, with minimum dimensions of 3 inches, located on the driveway address sign, non-combustible post or fire hydrant riser. If used, the post shall be within 3 feet of the hydrant/valve, with the blue marker not less than 3 feet or greater than 5 feet above the ground, visible from the driveway. On paved roads or driveways, reflectorized blue markers shall be permitted to be installed in accordance with the State Fire Marshal's Guidelines for Fire Hydrant Markings Along State Highways and Freeways, May 1988. The quantity of water required by this condition shall be in addition to the domestic demand and shall be permanently and immediately available. The water supply can be located on the bottom of the hill but must have accessible roadway for the fire department to be able to access the water. There must be 3 feet of clearance around the fire hydrant. [Fire]

- 21. Inspection:** The project, requires inspection after built, please contact Fire Department after built to schedule. [Fire]

PASSED AND ADOPTED BY THE PLANNING COMMISSION OF THE COUNTY OF SAN BENITO THIS 15TH DAY OF JULY 2020 BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSENT:

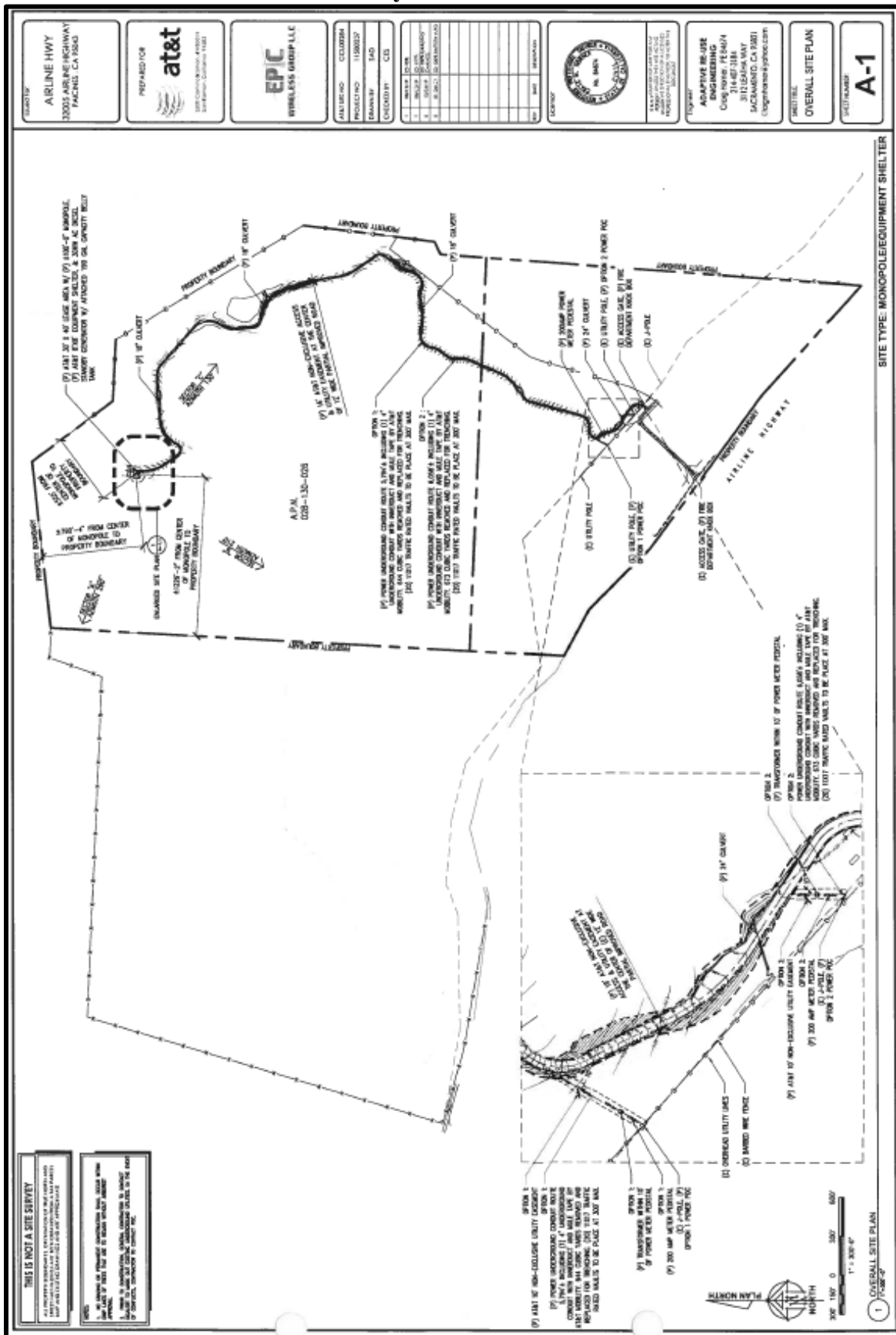
ABSTAIN:

Valerie Egland, Chair
San Benito County Planning Commission

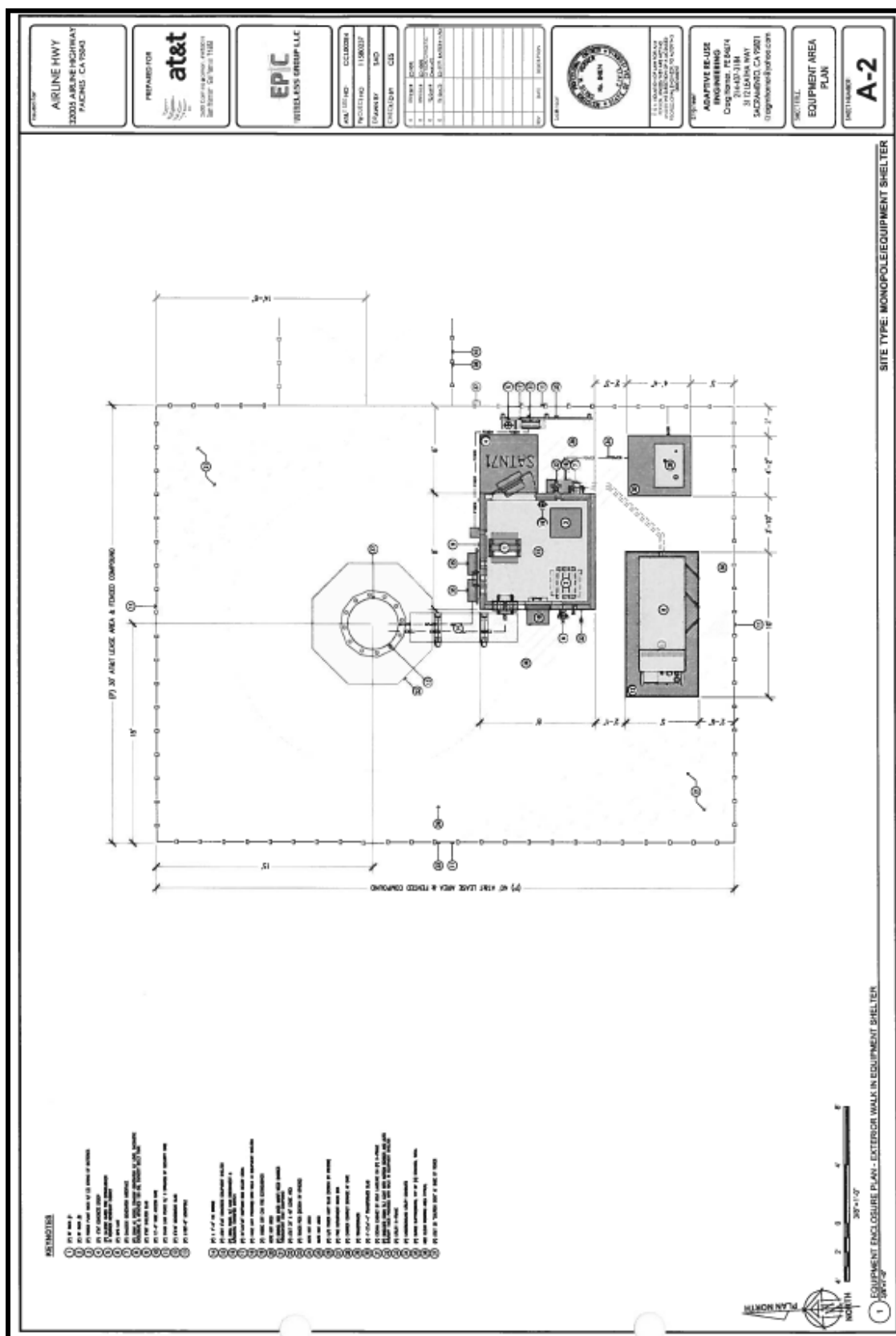
ATTEST:

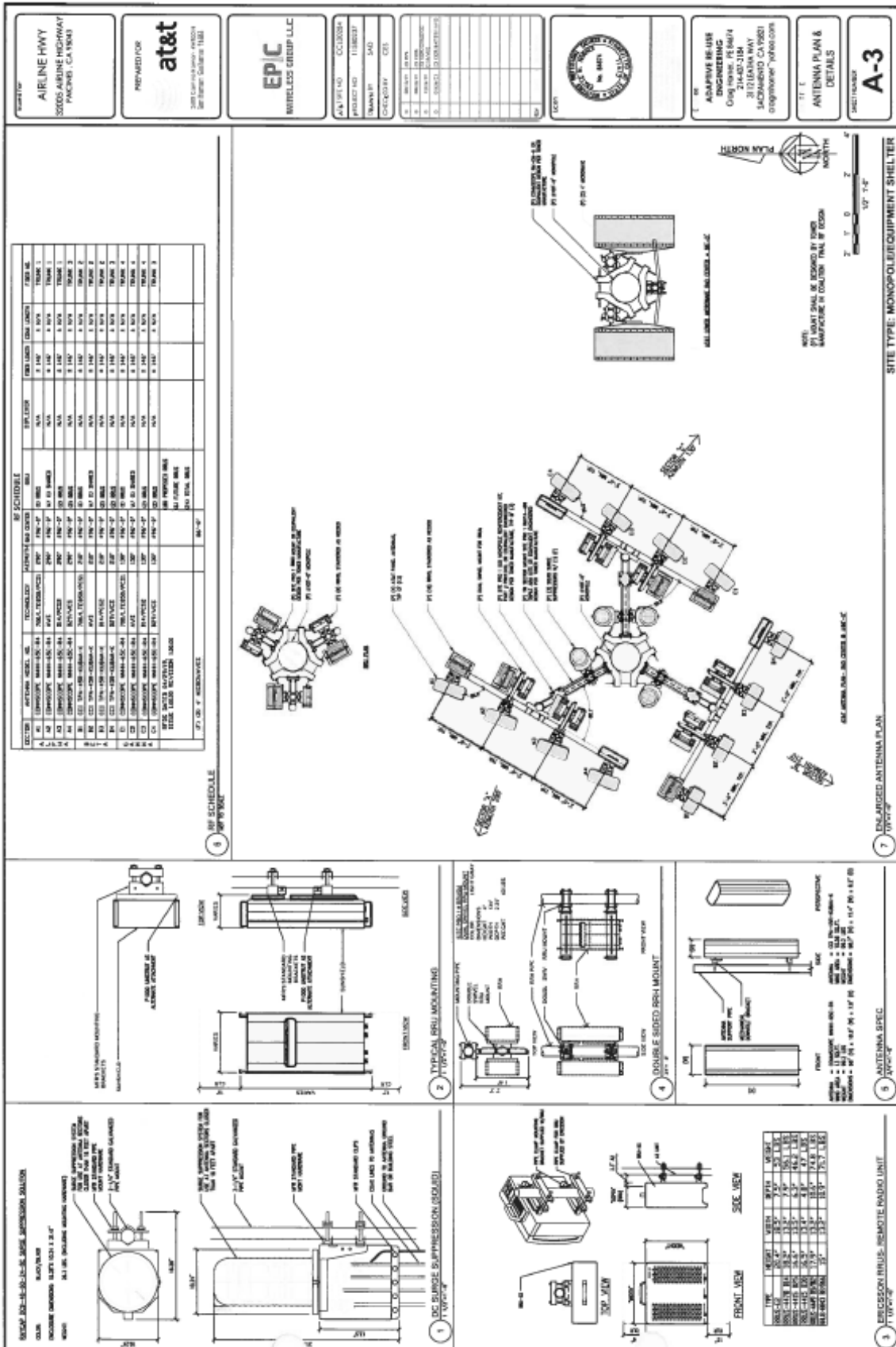
Taven M. Kinison Brown, Principal Planner
Resource Management Agency San Benito County

Attachment 1. New Cingular Wireless PCS dba AT&T Proposed Site Plan County File PLN190052

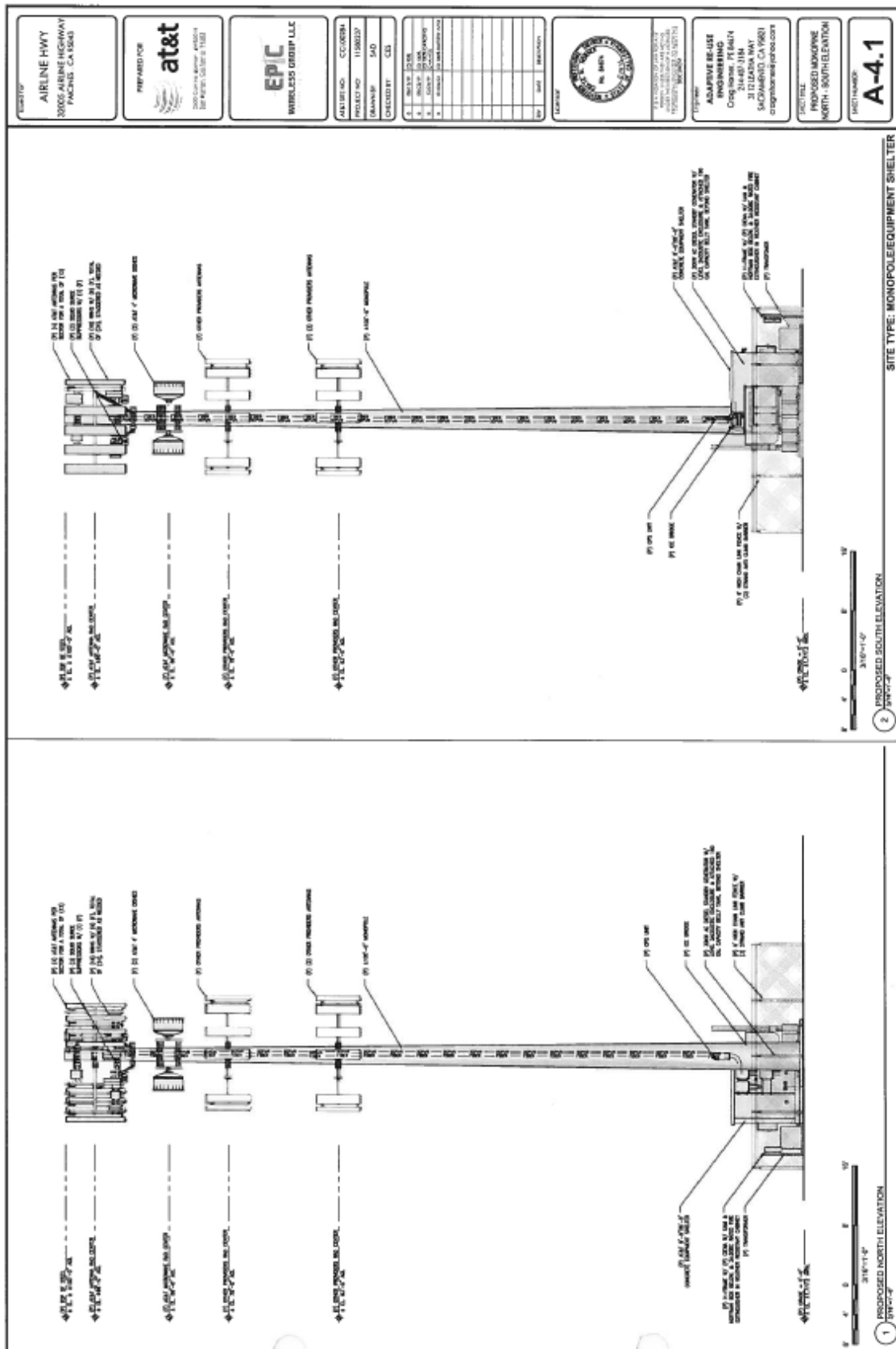


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Attachment 5. New Cingular Wireless PCS dba AT&T Proposed Site Plan County File PLN190052



**Attachment 7. New Cingular Wireless PCS dba AT&T Proposed Site Plan
County File PLN190052**

