



## Planning Director Staff Report Hearing on March 23, 2023

County of Ventura • Resource Management Agency

800 S. Victoria Avenue, Ventura, CA 93009 • (805) 654-2478 • [www.vcrma.org/divisions/planning](http://www.vcrma.org/divisions/planning)

### CROWN CASTLE: “SULPHUR MOUNTAIN” CONDITIONAL USE PERMIT (CUP) 5242, CASE NO. PL22-0132

#### A. PROJECT INFORMATION

1. **Request:** The applicant requests approval of a Minor Modification of Conditional Use Permit (CUP) 5242 to authorize the continued use, operation, and maintenance of an existing Wireless Communication Facility (WCF) for a 10-year period (Case No. PL22-0132).
2. **Applicant:** Crown Castle, 200 Spectrum Center Drive Suite 1700, Irvine, CA 92618.
3. **Property Owner:** Ventura Reality CO Lessor, 67 S. California Street, Ventura, 93001.
4. **Applicant’s Representative:** D4 Communications C/O Scott Dunaway, 1114 State Street #234, Santa Barbara, CA 93101.
5. **Decision-Making Authority:** Pursuant to the Ventura County Non-Coastal Zoning Ordinance (NCZO) (Section 8105-4), the Planning Director is the decision-maker for the requested CUP modification.
6. **Project Site Size, Location, and Parcel Number:** The 138.94-acre project site is located at 3030 Guiberson Road, near the intersection of E. Guiberson Road and Wiley Canyon Road, near the community of Piru, in the unincorporated area of Ventura County. The Tax Assessor’s parcel numbers for the parcels that constitutes the project site are 055-0-270-415 and 055-0-270-425 (Exhibit 2).
7. **Project Site Land Use and Zoning Designations (Exhibit 2):**
  - a. Countywide General Plan Land Use Map Designation: Open Space
  - b. Piru Area Plan Land Use Map Designation: Open Space 80-acre minimum
  - c. Zoning Designation: AE-40ac/MRP/HCWC (Agricultural Exclusive, 40-acre minimum lot size/ Habitat Connectivity Corridors Overlay/ Mineral Resource Overlay).

**8. Adjacent Zoning and Land Uses/Development (Exhibit 2):**

Location in Relation to the Project Site	Zoning	Land Uses/Development
North	AE-40ac/MRP/HCWC	Agriculture/ Orchard
East	AE-40ac	Undeveloped Open Space
South	AE-40ac	Undeveloped Open Space
West	AE-40ac	Undeveloped Open Space

**9. History:** In 1991, the Planning Director approved CUP 4687, for the installation of 40-foot-tall telephone pole with the three (3) whip antennas mounted on a 14-foot cross arm, 336-square-foot equipment shelter, and a backup generator.

Subsequently, CUP 4687 expired on October 25, 2001.

In 2002, the Planning Director approved CUP 5242 for the renewal of expired CUP 4687 for a 10-year period. The renewal also included the replacement of three (3) 10-foot omni-directional whip antennas and the 14-foot mounting bracket with two (2) 8-inch wide by 100-inches tall panel antennas.

In 2010, the Planning Director approved a minor modification (LU09-0131) in order to co-locate a new WCF onto the existing 40-foot-tall monopole and for the renewal of CUP 5242 for a 10-year period. The new facility included six (6) antennas with RAD centers located 25-feet up the monopole and one (1) microwave dish located 19-feet up the pole.

In 2010, the Planning Director approved Permit Adjustment (LU10-0102) to change language of CUP LU09-0131 Conditions No. 7 (Legalization of Lot) to allow for a Certificate of Compliance.

In 2012, the Planning Director approved a Permit Adjustment (LU12-0025) for the following changes:

- Removal of four (4) 4-foot-tall panel antennas to be placed with four (4) new 4-foot-tall panel antennas at the same height;
- Installation of a GPS antenna on the exterior of the existing equipment shelter at 100 feet above grade level; and
- Installation of equipment within the equipment shelter.

**10. Project Description:** The applicant requests a minor modification to CUP 5242 for the continued use, operation, and maintenance of an existing Crown Castle tower for an additional 10-year period. The existing WCF is designed as a 40-foot-tall monopole and is comprised of the following components:

- Two (2) 2-inch panel antennas located 40 feet above grade level;
- Two (2) 4-inch panel antennas located at 37 feet above grade level;

- Two (2) 4-inch panel antennas located 25 feet above grade level;
- Four (4) 2-inch panel antennas located 20 feet above grade level (wireless internet); and
- Four (4) 2-inch microwave dishes located 17 feet above grade level (wireless internet).

An existing equipment shelter structure (approx. 322 sq. ft.), two existing generators, and support equipment and structures are included as part of the WCF and would be authorized by the modified CUP. Existing chain link fencing (with barbed wire) encloses the 1,470 sq. ft. WCF compound area which is also the CUP area. The WCF is unmanned, except for occasional periodic maintenance visits, and would continue to operate 24 hours per day. The WCF does not require water to operate. Access to the site is via a dirt driveway from Guiberson Road. No exterior lighting, grading, or fencing is proposed with the project. There are no operational or physical changes proposed to the existing WCF (Exhibit 3).

## **B. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) COMPLIANCE**

Pursuant to CEQA (Public Resources Code Section 21000 et seq.) and the CEQA Guidelines (Title 14, California Code of Regulations, Division 6, Chapter 3, Section 15000 et seq.), the proposed project is subject to environmental review.

The State Legislature through the Secretary for Resources has found that certain classes of projects are exempt from CEQA environmental impact review because they do not have a significant effect on the environment. These projects are declared to be categorically exempt from the requirement for the preparation of environmental impact documents. The proposed project would include the continued use, operation, and maintenance of an existing WCF. Therefore, the proposed project qualifies for a Class I Categorical Exemption pursuant to Section 15301 (Existing Facilities) of the CEQA Guidelines. Further, the project will not trigger any of the exceptions to the exemptions listed under CEQA Guidelines Section 15300.2. Therefore, no further environmental review is required.

Therefore, this project is categorically exempt pursuant to Section 15301 of the CEQA Guidelines.

## **C. CONSISTENCY WITH THE GENERAL PLAN AND PIRU AREA PLAN**

The proposed project has been analyzed to and determined to be consistent with all applicable General Plan and Piru Area Plan policies. A consistency analysis which evaluates the project's consistency with the policies of the General Plan and Piru Area Plan is included as Exhibit 4 of this Staff Report.

## **D. ZONING ORDINANCE COMPLIANCE**

The proposed project is subject to the requirements of the Ventura County NCZO.

Pursuant to the requirements of the Ventura County NCZO (Section 8105-4), the proposed use is allowed in the AE-40ac zone district with the granting of the modified CUP. Upon the granting of the modified CUP, the proposed project would comply with the requirements of the Ventura County NCZO.

The proposed WCF is subject to the special use standards of the Ventura County NCZO (Section 8107-45.4). Table 1 lists the applicable special use standard and a description of whether the proposed project complies with the special use standards.

**Table 1 – Special Use Standards Consistency Analysis**

Special Use Standard	Complies?
<p><b>Section 8107-45.4 (a), Partial and Full-Concealment Requirements:</b></p> <p>To minimize visual impacts, a wireless communication facility shall be designed as a stealth facility or building-concealed facility. A wireless communication facility may be designed as a non-stealth facility only if it meets standards provided in Sec. 8107-45.4(b) below.</p>	<p>Yes, the existing WCF is designed as a 40-foot-tall monopole. The facility is not prominently visible from E. Guiberson Road. The view of the monopole is obscured due to the existing topography and utility poles. There are no physical or operational changes proposed as part of the project (see Exhibit 3).</p>
<p><b>Section 8107-45.4 (c), Making Wireless Communication Facilities Compatible with the Existing Setting:</b></p> <p>To the extent feasible, all wireless communication facilities shall be located and designed to be compatible with the existing setting as follows:</p> <ol style="list-style-type: none"> <li>1. Location: Facilities shall be located in areas where existing topography, vegetation, buildings, or structures effectively screen and/or camouflage the proposed facility; and</li> <li>2. Facility Design: The facility shall be designed (i.e. size, shape, color, and materials) to blend in with the existing topography, vegetation, buildings, and structures on the project site as well as its existing setting.</li> </ol>	<p>Yes, the WCF is located in an area where existing topography, vegetation, and structures effectively camouflage the facility. The WCF is designed as a 40-foot-tall monopole. The associated WCF equipment is colored to blend in with the existing topography, vegetation, buildings, and structures in the existing setting.</p>
<p><b>Section 8107-45.4 (d), Preferred Wireless Communication Facility Locations:</b></p> <p>To the extent feasible, and in the following order of priority, new wireless communication facilities shall be sited in the following locations:</p> <ol style="list-style-type: none"> <li>1. On an existing wireless communication facility with adequate height and structure to accommodate additional wireless communication facilities (see Sec. 8107-45.6).</li> </ol>	<p>Yes, the existing WCF is designed as a 40-foot-tall monopole. The view of the monopole is obscured due to the existing topography and utility poles. There are no physical or operational changes proposed as part of the project.</p>

**Table 1 – Special Use Standards Consistency Analysis**

Special Use Standard	Complies?
<ol style="list-style-type: none"> <li>2. Flush-mounted on an existing structure, pole, or building in the AE and OS zones.</li> <li>3. Where the wireless communication facility is not prominently visible from a public viewpoint.</li> <li>4. Within an area zoned Industrial.</li> <li>5. Near existing public or private access roads.</li> </ol> <p>On or near the same site as an existing wireless communication facility when visual or other environmental impacts can be mitigated to a level of less than significant under CEQA and when such “clustering” of facilities is consistent with the applicable Area Plan.</p>	
<p><b>Section 8107-45.4 (f)(4)(a), Stealth Facilities:</b></p> <p>Stealth facilities shall meet the definition in Sec. 8102-0 and the applicable height limits prescribed in Section 8107-45.4.</p> <ol style="list-style-type: none"> <li>a) The maximum allowable height of a faux structure shall be the height limits in Table 1 in the NCZO, or the average height of representative structures commonly found in the local setting, whichever is less.</li> </ol>	<p>Yes, the design of the existing WCF is a 40-foot-tall monopole. There are ten (10) panel antennas mounted at various heights on the monopole. The antennas do not extend beyond the top of the existing WCF.</p>
<p><b>Section 8107-45.4 (g) Setbacks:</b></p> <ol style="list-style-type: none"> <li>1. All wireless communication facilities shall comply with the required minimum front, side, and rear yard setbacks for the zone in which the site is located. No portion of an antenna array shall extend beyond the property lines.</li> <li>2. Ground-mounted wireless communication facilities shall be set back a distance equal to the total facility height or 50 feet, whichever is greater, from any offsite dwelling unit.</li> <li>3. Whenever feasible, a new ground-mounted wireless communication facility shall be set back from the property line to avoid creating.</li> </ol>	<p>Yes, the WCF is existing, and no portion of the antenna array extends beyond the property lines. The project meets all setbacks from the property lines.</p>
<p><b>Section 8107-45.4 (j). Historical Landmarks/Sites of Merit:</b></p> <p>A wireless communication facility shall not be constructed, placed, or installed on a structure, site or district designated by a federal, state, or County agency as an historical landmark or site of merit unless that facility is designed to meet the Secretary of the Interior (SOI) Standards. If the facility does not meet the SOI standards, then the Cultural Heritage Board must determine that the proposed facility will have no significant, adverse effect on the historical resource.</p>	<p>Yes, the existing WCF is not constructed or installed on a structure, site or district designated by a federal, state, or County agency as an historical landmark or site of merit. There are no operational or physical changes proposed as part of this project.</p>
<p><b>Section 8107-45.4 (k), Environmentally Sensitive Areas:</b></p>	<p>Yes, the existing WCF would not be located within an</p>

**Table 1 – Special Use Standards Consistency Analysis**

Special Use Standard	Complies?
<p>All wireless communication facilities and their accessory equipment shall be sited and designed to avoid or minimize impacts to habitat for special status species, sensitive plant communities, migratory birds, waters and wetlands, riparian habitat, and other environmentally sensitive areas as determined by the County's Initial Study Assessment Guidelines.</p>	<p>environmentally sensitive area. The WCF is located on an existing legally disturbed area.</p>
<p><b>Section 8107-45.4 (l) Ridgelines:</b></p> <p>A wireless communication facility shall not be sited on a ridgeline or hilltop that is prominently visible from a public viewpoint when alternative sites are available. Applicants shall demonstrate that no feasible, alternative locations are available when proposing a wireless communication facility on a ridgeline or shall demonstrate that alternative locations result in significant environmental impacts when compared to the proposed ridgeline location.</p>	<p>Yes, the existing WCF is not located on a ridgeline or hilltop.</p>
<p><b>Section 8107-45.4 (n), Accessory Equipment:</b></p> <p>All accessory equipment associated with the operation of a wireless communication facility shall be located and screened to prevent the facility from being prominently visible from a public viewpoint to the maximum extent feasible.</p>	<p>Yes, all accessory equipment associated with the existing WCF are placed at ground-level and are screened to prevent the facility from being prominently visible from the public viewing area to the maximum extent feasible.</p>
<p><b>Section 8107-45.4 (o), Colors and Materials:</b></p> <p>All wireless communication facilities shall use materials and colors that blend in with the natural or man-made surroundings. Highly reflective materials are prohibited.</p>	<p>Yes, the colors and materials used for the WCF would continue to blend in with the natural surroundings. The WCF is painted light grey-blue to reduce the visibility and to blend with the sky. There would be no reflective materials. There are no operational or physical proposed as part of the project.</p>
<p><b>Section 8107-45.4 (p), Noise:</b></p> <p>All wireless communication facilities shall be operated and maintained to comply at all times with the noise standards outlined in Section 2.16 of the Ventura County General Plan Goals, Policies, and Programs.</p>	<p>Yes, the operation of the WCF does not generate noise. The WCF is always operated and maintained to comply with the Ventura County noise standards.</p>
<p><b>Section 8107-45.4 (q), Landscaping and Screening:</b></p> <p>The permittee shall plant, irrigate and maintain additional landscaping during the life of the permit when landscaping is deemed necessary to screen the wireless communication facility from being prominently visible from a public viewpoint. New landscaping shall not incorporate any invasive species or watch species, as defined by the California Invasive Plant Council</p>	<p>Yes, the existing WCF is designed as a 40-foot-tall monopole. There is an existing 6-foot chain-link fence with barbwire around the lease area. The site is screened by the existing vegetation and topography of the project site.</p>

**Table 1 – Special Use Standards Consistency Analysis**

<b>Special Use Standard</b>	<b>Complies?</b>
(Cal-IPC) and shall be in conformance with Section 8106-8.2.5. (AM. ORD. 4577 – 3/9/21)	New landscaping is not necessary to screen the WCF at the time of the subject renewal.
<p><b>Section 8107-45.4 (r), Security:</b></p> <ol style="list-style-type: none"> <li>Each facility shall be designed to prevent unauthorized access, climbing, vandalism, graffiti and other conditions that would result in hazardous situations or visual blight. The approving authority may require the provision of warning signs, fencing, anti-climbing devices, or other techniques to prevent unauthorized access and vandalism.</li> <li>All fences shall be constructed of materials and colors that blend in with the existing setting. The use of a chain link fence is prohibited within areas designated as Urban and Existing Community in the General Plan, and areas that are prominently visible from a public viewpoint, unless the chain link fence is fully screened.</li> </ol>	Yes, there is an existing 6-foot chain-link fence with barbwire around the lease area. All materials and colors blend in with the existing setting. The proposed project is not within an area designated as Urban and Existing Community in the General Plan.
<p><b>Section 8107-45.4 (s), Lighting:</b></p> <ol style="list-style-type: none"> <li>No facility may be illuminated unless specifically required by the FAA or other government agency.</li> <li>Any necessary security lighting shall be down-shielded and controlled to minimize glare or light levels directed at adjacent properties and to minimize impacts to wildlife.</li> </ol>	Yes, the existing WCF is not illuminated.
<p><b>Section 8107-45.4 (t), Signage:</b></p> <p>A permanent, weather-proof identification sign, subject to Planning Director approval, shall be displayed in a prominent location such as on the gate or fence surrounding the wireless communication facility or directly on the facility. The sign must identify the facility operator(s) and type of use, provide the operator’s address, FCC-adopted standards, and specify a 24-hour telephone number at which the operator can be reached during an emergency.</p>	Yes, the site includes signage indicating all necessary information related to the equipment for the operation of the facility.
<p><b>Section 8107-45.4 (u), Access Roads:</b></p> <ol style="list-style-type: none"> <li>Where feasible, wireless communication facility sites shall be accessed by existing public or private access roads and easements.</li> <li>Wireless communication facility sites shall minimize the construction of new access roads, particularly when such roads are located in areas with steep slopes, agricultural resources, or biological resources as determined by the County’s Initial Study Assessment Guidelines. When required, new access roads shall be designed to meet</li> </ol>	Yes, access to the site is via unpaved private road from E. Guiberson Road. No new roads are proposed.

**Table 1 – Special Use Standards Consistency Analysis**

Special Use Standard	Complies?
standards established by the Ventura County Public Works Agency and Ventura County Fire Protection District.	

The proposed project is located within a Habitat Connectivity and Wildlife Corridors Overlay Zone and Mineral Resource Overlay Zone and, therefore, is subject to the standards of the Ventura County NCZO. Table 2 lists the applicable Habitat Connectivity and Wildlife Corridors Overlay Zone and Mineral Resource Overlay Zone standards and a description of whether the proposed project complies with those standards.

**Table 2 – Habitat Connectivity and Wildlife Corridors Overlay Zone and Mineral Resource Overlay Zone Standards Consistency Analysis**

Overlay Zone Standard	Complies?
<p><b>Sec. 8104-7.2 – Mineral Resource Protection Overlay Zone:</b></p> <p>The purposes of this zone are:</p> <ul style="list-style-type: none"> <li>a. To safeguard future access to an important resource.</li> <li>b. To facilitate a long-term supply of mineral resources within the County.</li> <li>c. To minimize land use conflicts.</li> <li>d. To provide notice to landowners and the general public of the presence of the resource.</li> <li>e. The purpose is not to obligate the County to approve use permits for the development of the resources subject to the MRP Overlay Zone.</li> </ul>	<p>Yes, the proposed project would not alter any current or future access points to an important resource. The WCF is existing and there are no physical or operational changes proposed as part of the project.</p>
<p><b>Sec. 8104-7.7 – Habitat Connectivity and Wildlife Corridors Overlay Zone</b></p> <p>The general purposes of the Habitat Connectivity and Wildlife Corridors overlay zone are to preserve functional connectivity for wildlife and vegetation throughout the overlay zone by minimizing direct and indirect barriers, minimizing loss of vegetation and habitat fragmentation and minimizing impacts to those areas that are narrow, impacted or otherwise tenuous with respect to wildlife movement. More specifically, the purposes of the Habitat Connectivity and Wildlife Corridors overlay zone include the following:</p> <ul style="list-style-type: none"> <li>a. Minimize the indirect impacts to wildlife created by outdoor lighting, such as disorientation of nocturnal species and the disruption of mating, feeding, migrating, and the predator-prey balance.</li> </ul>	<p>The WCF is unmanned and does not need to be illuminated. There are no operational or physical changes proposed as part of this project. Therefore, the proposed project would continue to avoid impacts to wildlife.</p>

**Table 2 – Habitat Connectivity and Wildlife Corridors Overlay Zone and Mineral Resource Overlay Zone Standards Consistency Analysis**

Overlay Zone Standard	Complies?
b. Preserve the functional connectivity and habitat quality of surface water features, due to the vital role they play in providing refuge and resources for wildlife.	
c. Protect and enhance wildlife crossing structures to help facilitate safe wildlife passage.	
d. Minimize the introduction of invasive plants, which can increase fire risk, reduce water availability, accelerate erosion and flooding, and diminish biodiversity within an ecosystem.	
e. Minimize the introduction of invasive plants, which can increase fire risk, reduce water availability, accelerate erosion and flooding, and diminish biodiversity within an ecosystem.	

**E. CUP FINDINGS AND SUPPORTING EVIDENCE**

The Planning Director must make certain findings in order to grant a CUP Modification pursuant to Section 8111-1.2.1.1 of the Ventura County NCZO. The ability to make the required findings is evaluated below.

**1. The proposed development is consistent with the intent and provisions of the County's General Plan and of Division 8, Chapters 1 and 2, of the Ventura County Ordinance Code [Section 8111-1.2.1.1a.a].**

Based on the information and analysis presented in Section D and Exhibit 4 of this staff report, the finding that the proposed development is consistent with the intent and provisions of the County's General Plan and of Division 8, Chapters 1 and 2, of the Ventura County Ordinance Code can be made.

**2. The proposed development is compatible with the character of surrounding, legally established development [Section 8111-1.2.1.1a.b].**

As discussed above, the proposed project involves the continued operation of an existing WCF. The WCF is designed as a 40-foot-tall monopole and is effectively camouflaged from public views due to the existing topography and vegetation. The facility is not prominently visible from any public viewing areas or scenic highways. The view of the WCF is blocked by the existing topography. The WCF is painted light grey-blue to reduce the visibility and to blend with the sky. There are no operational or physical changes proposed to the facility.

Based on the discussion above, this finding can be made.

**3. The proposed development would not be obnoxious or harmful, or impair the utility of neighboring property or uses [Section 8111-1.2.1.1a.c].**

The existing WCF is surrounded by land predominantly used for Open Space and Agriculture. The facility is unmanned and is accessed for maintenance purposes via private unpaved road from E. Guiberson Road. The continued use of this road would not adversely impact the neighboring properties and uses. Additionally, the project would be conditioned to include a contact person for the timely resolution of complaints and the reporting of all major incidents to prevent a recurrence of incidents (Exhibit 5, Condition Nos. 15-17).

Based on the discussion above, this finding can be made.

**4. The proposed development would not be detrimental to the public interest, health, safety, convenience, or welfare [Section 8111-1.2.1.1a.d].**

The proposed project involves the continued use of an existing WCF and does not include any expansion of the previously developed lease area. In addition, the WCF will be unmanned, will not generate significant noise, will not create any unusual risks or hazards, and will not adversely impact the neighboring land uses. Furthermore, the project will continue to be subject to conditions to minimize the risks associated with hazardous materials and potential fire hazards (Exhibit 5, Condition Nos. 21-24).

Based on the discussion above, this finding can be made.

**5. The proposed development, if allowed by a Conditional Use Permit, is compatible with existing and potential land uses in the general area where the development is to be located [Section 8111-1.2.1.1a.e].**

The proposed project involves the continued use of an existing WCF located in the same area as other similar facilities. The WCF is not prominently visible from a public road and will continue to be compatible with the surrounding land uses. The proposed project does not affect any of the surrounding land uses, and the project is not sensitive to impacts from these uses. No new effects on the surrounding uses would occur with this modification for an additional 10-years of use.

Based on the discussion above, this finding can be made.

**6. The proposed development will occur on a legal lot [Section 8111-1.2.1.1a.f].**

A portion of APN 055-0-270-415 and all of APN 055-0-270-425 comprise of one legal parcel per Certificate of Compliance No. 11-01-769. The subject property is described as the portion of the Southwest One-Quarter of Section 36, Township 4 North, Range 19 West, San Bernardino Meridian, in the County of Ventura, State

of California, according to the Official Plat thereof, lying southerly of the south line of that certain road, 50 feet wide, locally known as Guiberson Road, formerly known as McGregor Road, as described in the Deed to Ventura County, recorded September 18, 1912 in Book 134, Page 436 of Deeds.

Based on the discussion above, this finding can be made.

**7. The proposed development is approved in accordance with the California Environmental Quality Act and all other applicable laws [Section 8111-1.2.1.1a.g].**

As discussed in Section B above, the proposed CUP Modification involves the continued use of an existing WCF for a 10-year period on the subject property. The project qualifies for a Class 1 Categorical Exemption pursuant to Section 15301 (Existing Facilities) of the CEQA Guidelines.

Based on the discussion above, this finding can be made.

**8. The establishment or maintenance of this use will not significantly reduce, restrict or adversely affect agricultural resources or the viability of agricultural operations in the area [Section 8111-1.2.1.2.a].**

The proposed project is a request for the continued use of an existing WCF located on agriculturally zoned land that was previously developed. The project site is not currently developed with agricultural operations. In addition, grading is not proposed as at the project site. Thus, agricultural soil would not be disturbed.

Based on the discussion above, this finding can be made.

**9. The structures will be sited to minimize conflicts with agriculture, and other uses will not significantly reduce, restrict or adversely affect agricultural activities on-site or in the area, where applicable [Section 8111-1.2.1.2.b].**

The proposed project is a renewal of CUP 5242 for an additional 10-year period. There are no agricultural activities onsite or in the area. No new effects on the surrounding land would result from this renewal. Therefore, agricultural activities would not be impacted.

Based on the discussion above, this finding can be made.

**10. The use will be sited to remove as little land from agricultural production (or potential agricultural production) as possible [Section 8111-1.2.1.2.c].**

The proposed project involves a modification to CUP 5242 for the continued operation of an existing WCF for a 10-year period. The project would utilize agriculturally zoned land that was previously developed. The proposed project

would not impact any of the surrounding land uses, and the project is not sensitive to impacts from the surrounding uses.

Based on the discussion above, this finding can be made.

**11. Development within any overlay zone having specific development standards must comply with such standards [Section 8111-1.2.1.4 and Article 9].**

The proposed project is a renewal of CUP 5242 for an additional 10-year period. There are no proposed operational or physical changes to the existing WCF.

Based on the discussion above, this finding can be made.

**13. Discretionary permits shall not be granted within areas with an "MRP" overlay zone designation if the use will significantly hamper or preclude access to, or the extraction of, a mineral resource, except where one or more of the following findings can be made:**

- a. Such use is primarily intended to protect life or property.
- b. Such use provides a significant public benefit.
- c. The resource is not present at the site.
- d. Extraction of the resource is not technically or economically feasible.
- e. Extraction of the resource is not feasible due to limitations imposed by the County.

As discussed above, the existing WCF is camouflaged by other utility poles located on the property. In addition, the WCF is confined to a 1,470-square-foot lease area on a 138.94-acre property. The lease area is sited on the northeastern property line, away from the main access road. There are no operational or physical changes proposed as part of the project. Therefore, the proposed project would not significantly hamper or preclude access to, or the extraction of, a mineral resource.

Based on the discussion above, this finding can be made.

**F. PLANNING DIRECTOR HEARING NOTICE, PUBLIC COMMENTS, AND JURISDICTIONAL COMMENTS**

The Planning Division provided public notice regarding the Planning Director hearing in accordance with the Government Code (Section 65091), Ventura County NCZO (Section 8111-3.1). On March 10, 2023, the Planning Division mailed notice to owners of property

within 300 feet of the property on which the project site is located. On March 10, 2023, the Planning Division placed a legal ad in the *Ventura County Star*.

On February 15, 2023, the Piru Neighborhood Council considered the proposed project and did not provide any comments.

## **G. RECOMMENDED ACTIONS**

Based upon the analysis and information provided above, Planning Division Staff recommends that the Planning Director take the following actions:

1. **CERTIFY** that the Planning Director has reviewed and considered this staff report and all exhibits thereto, and has considered all comments received during the public comment process;
2. **FIND** that this project is categorically exempt from CEQA pursuant to Section 15301 of the CEQA Guidelines;
3. **MAKE** the required findings to grant a Minor Modification of a CUP 5242 pursuant to Section 8111-1.2.1.1 of the Ventura County NCZO, based on the substantial evidence presented in Section E of this staff report and the entire record;
4. **GRANT** Minor Modification of CUP 5242 (Case No. PL22-0132), subject to the conditions of approval; and
5. **SPECIFY** that the Clerk of the Planning Division is the custodian, and 800 S. Victoria Avenue, Ventura, CA 93009 is the location, of the documents and materials that constitute the record of proceedings upon which this decision is based.

The decision of the Planning Director is final unless appealed to the Planning Commission Supervisors within 10 calendar days after the permit has been approved, conditionally approved, or denied (or on the following workday if the 10<sup>th</sup> day falls on a weekend or holiday). Any aggrieved person may file an appeal of the decision with the Planning Division. The Planning Division shall then set a hearing date before the Planning Commission to review the matter at the earliest convenient date.

If you have any questions concerning the information presented above, please contact Charles Anthony at (805) 654-3683 or Charles.Anthony@ventura.org.

Prepared by:



Charles Anthony, Case Planner  
Commercial/Industrial Permits Section  
Ventura County Planning Division

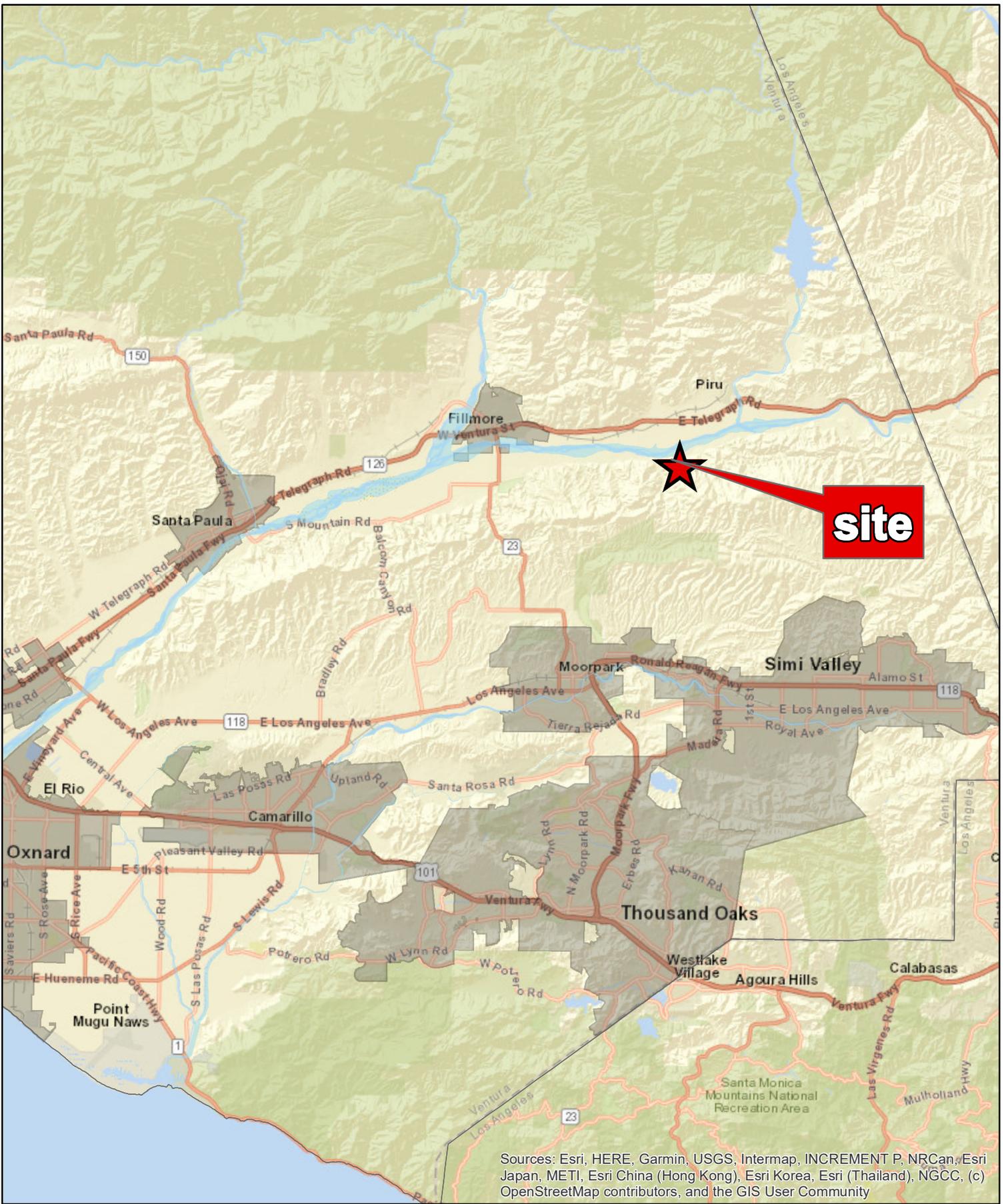
Reviewed by:



Mindy Fogg, Manager  
Commercial/Industrial Permits Section  
Ventura County Planning Division

**EXHIBITS**

- Exhibit 2 Maps
- Exhibit 3 Plans
- Exhibit 4 General Plan and Piru Area Plan Consistency Analysis
- Exhibit 5 Conditions of Approval



Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), NGCC, (c) OpenStreetMap contributors, and the GIS User Community



Ventura County, California  
Resource Management Agency  
GIS Development & Mapping Services  
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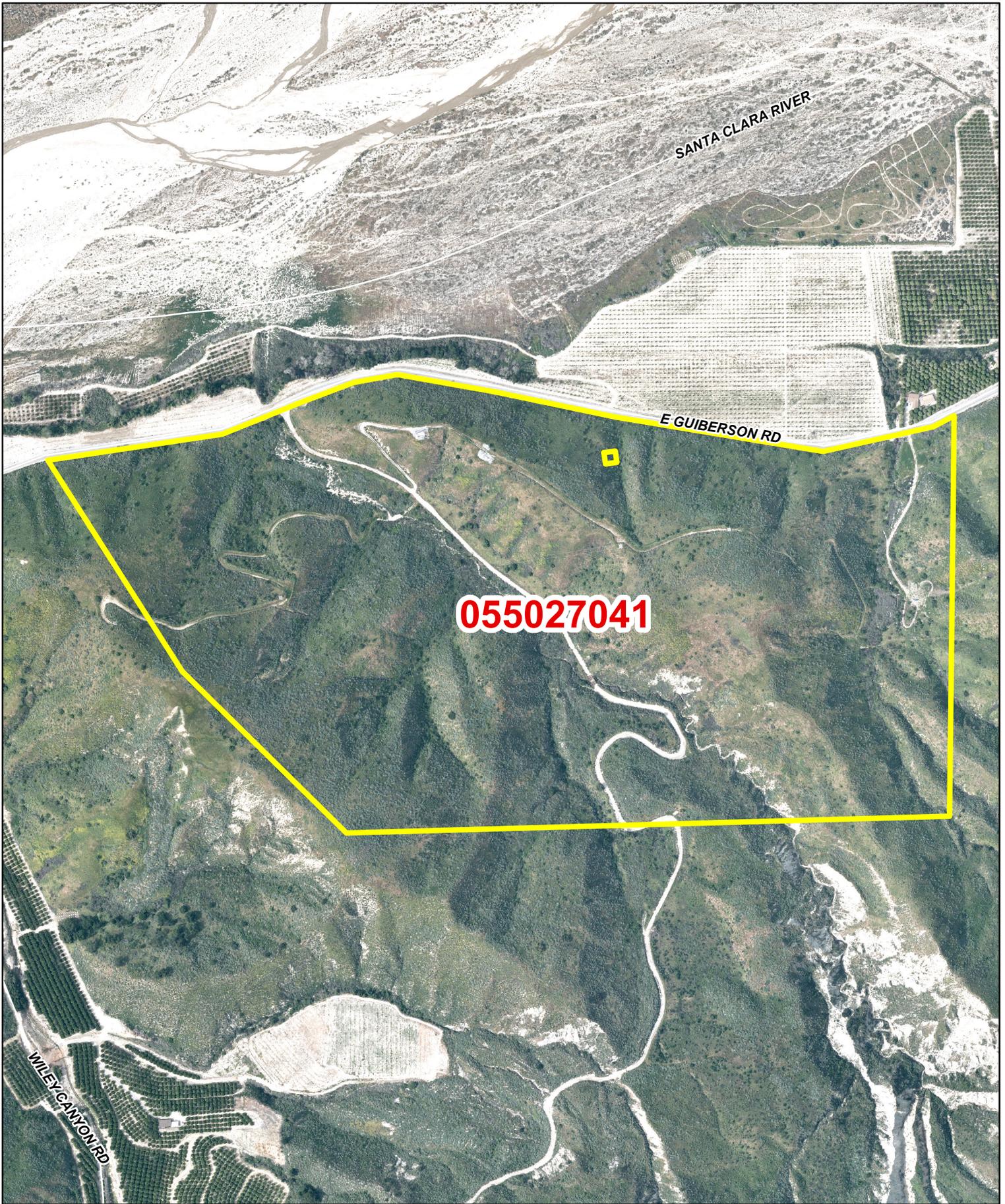


County of Ventura  
Planning Director Hearing  
Case No. PL22-0132  
Exhibit 2 - Maps  
Vicinity



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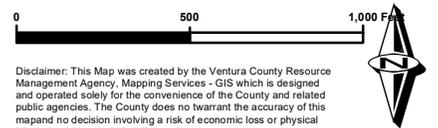




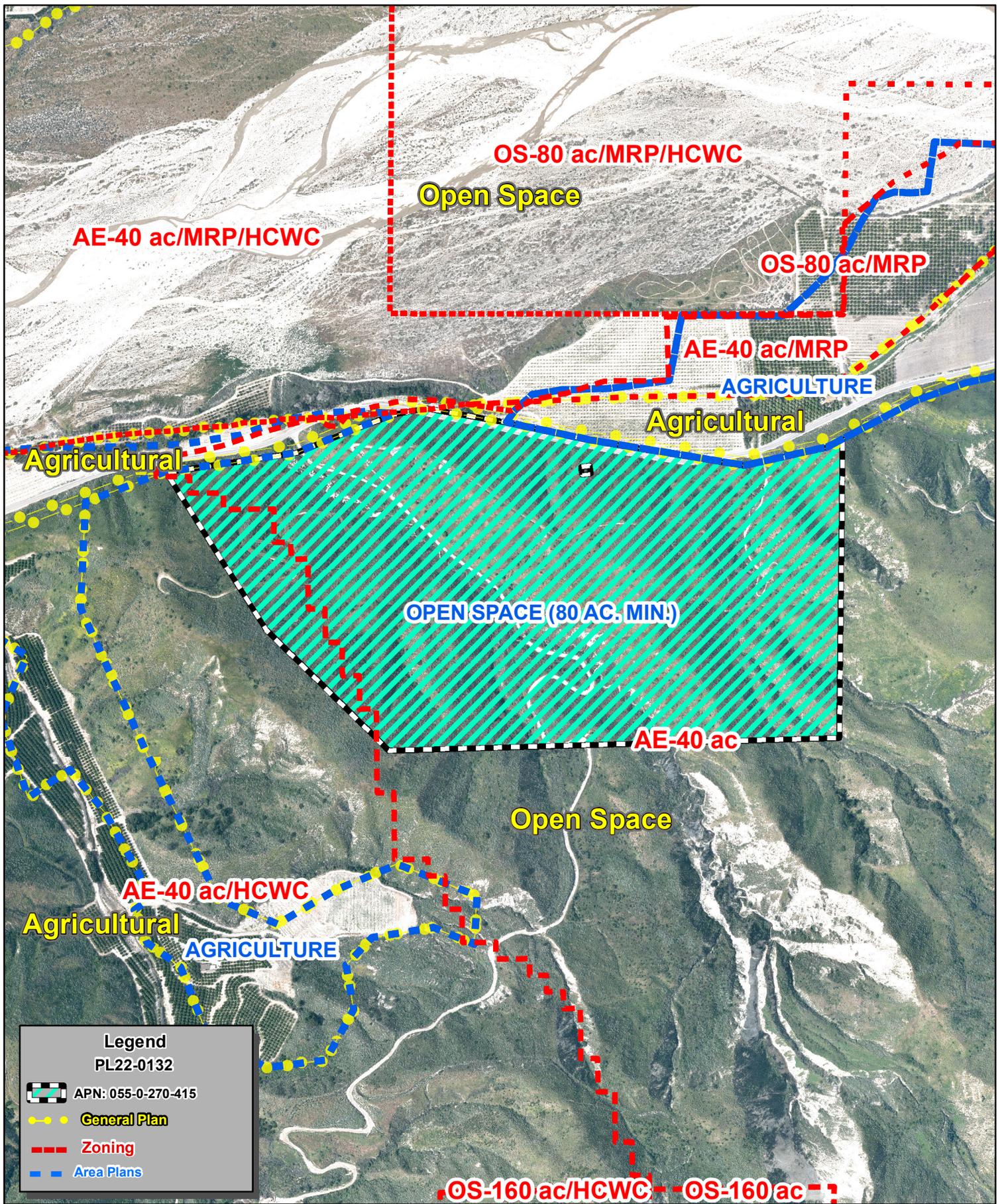
Ventura County, California  
Resource Management Agency  
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County of Ventura  
Planning Director Hearing  
Case No. PL22-0132  
Exhibit 2 - Maps  
Aerial Photo



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County of Ventura  
 Planning Director Hearing  
 Case No. PL22-0132  
 Exhibit 2 - Maps  
 General Plan and Zoning



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RH



200 Spectrum Center Drive, Suite 1700  
Irvine, California 92618

PLANS PREPARED BY:



D4 Communications, LLC

1114 State Street, Suite 234  
Santa Barbara, CA 93101

REVISIONS			
REV.	DATE	DESCRIPTION	INIT.
0	1/28/22	CUP RENEWAL	DL

SITE INFORMATION:

**SULPHUR MTN**

845325

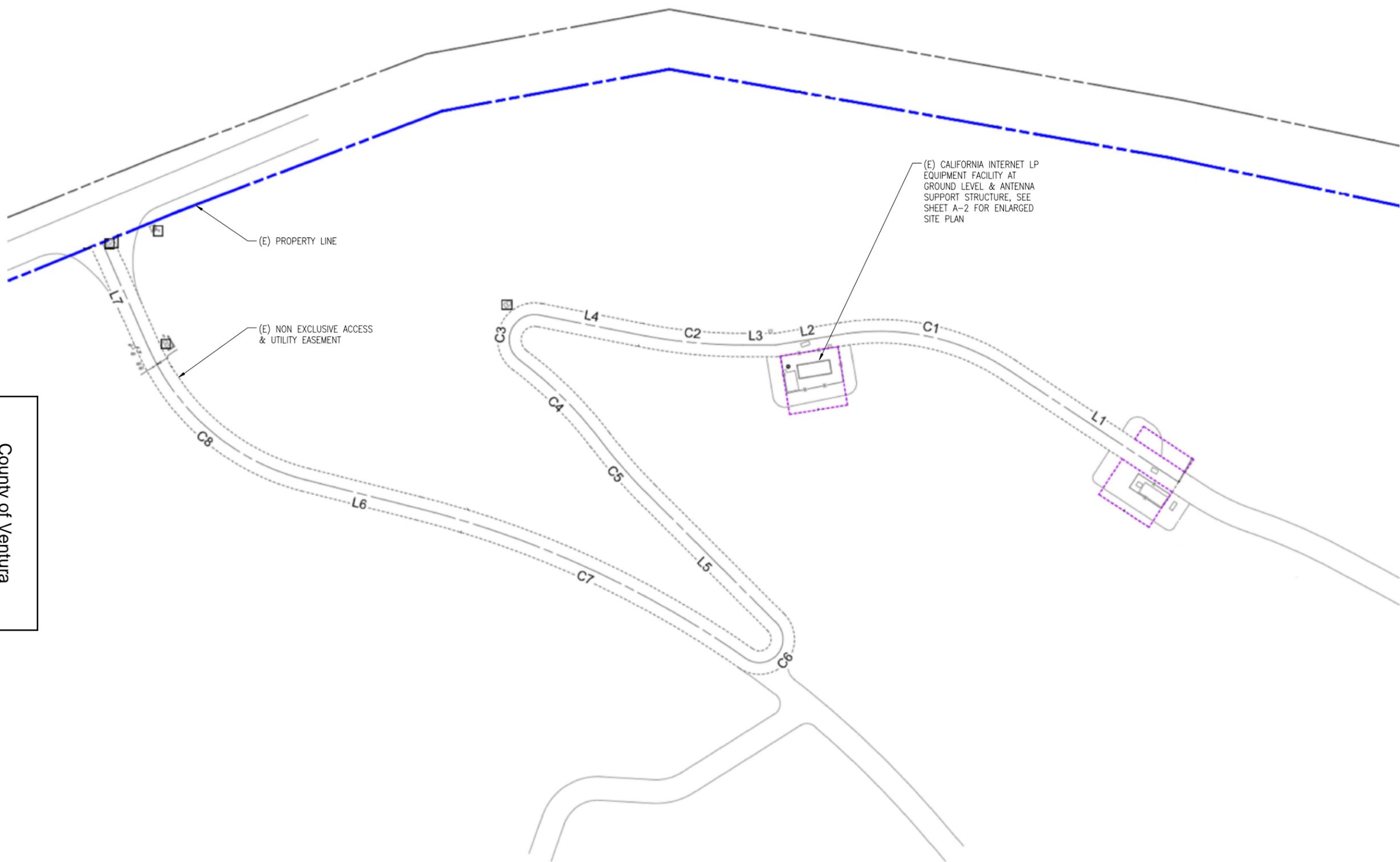
3030 GUIBERSON ROAD,  
FILLMORE, CA 93015

SHEET TITLE:

**OVERALL  
SITE PLAN**

SHEET NUMBER:

**A-1**



(E) CALIFORNIA INTERNET LP  
EQUIPMENT FACILITY AT  
GROUND LEVEL & ANTENNA  
SUPPORT STRUCTURE, SEE  
SHEET A-2 FOR ENLARGED  
SITE PLAN

(E) PROPERTY LINE

(E) NON EXCLUSIVE ACCESS  
& UTILITY EASEMENT



**1 OVERALL SITE PLAN**  
SCALE: N.T.S.

County of Ventura  
Planning Director Hearing  
Case No. PL22-0132  
Exhibit 3 - Plans









## Exhibit 4 – General Plan and Piru Area Plan Consistency Analysis

County of Ventura • Resource Management Agency • Planning Division

800 S. Victoria Avenue, Ventura, CA 93009-1740 • (805) 654-2478 • [vcrma.org/divisions/planning](http://vcrma.org/divisions/planning)

### CONSISTENCY WITH THE GENERAL PLAN AND PIRU AREA PLAN FOR “SULPHUR MOUNTAIN” WIRELESS COMMUNICATION FACILITY (WCF)

The 2040 Ventura County General Plan *Goals, Policies and Programs* (2020, page 1-1) states:

*All area plans, specific plans subdivision, public works projects, and zoning decisions must be consistent with the direction provided in the County’s General Plan.*

Furthermore, the Ventura County Non-Coastal Zoning Ordinance (NCZO) (Section 8111-1.2.1.1.a) states that in order to be approved, a project must be found consistent with all applicable policies of the Ventura County General Plan and Piru Area Plan.

The proposed project would authorize a minor modification of Conditional Use Permit (CUP) 5242 for the continued use, operation, and maintenance of an existing WCF for a 10-year period (Case No. PL22-0132).

Evaluated below is the consistency of the proposed project with the applicable policies of the General Plan and Piru Area Plan *Goals, Policies and Programs*.

#### 1. COS-1.5 Development Within Habitat Connectivity and Wildlife Corridors

**Policy:** *Development within the Habitat Connectivity and Wildlife Corridors overlay zone and Critical Wildlife Passage Areas overlay zone shall be subject to the applicable provisions and standards of these overlay zones as set forth in the Non-Coastal Zoning Ordinance.*

The proposed project is for the renewal of an existing WCF. The WCF is unmanned and does not need to be illuminated. There are no operational or physical changes proposed as part of the project. Therefore, the continuation of the WCF would not affect the critical wildlife passage area.

Based on the discussion above, the proposed project is consistent with General Plan Policy COS-1.5.

#### 2. COS-3.1 Scenic Roadways: *The County shall protect the visual character of scenic resources visible from state or County designated scenic roadways.*

**COS-3.6 Open Space Character Policy:** *The County shall require discretionary development outside of Existing Communities be planned and designed to maintain the scenic open space character of the surrounding area, including view corridors from highways. Discretionary development should integrate design,*

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Exhibit 4 - Consistency Analysis

*construction, and maintenance techniques that minimize the visibility of structures from public viewing locations within scenic vistas.*

**COS-9.1 Open Space Preservation:** *The County shall preserve natural open space resources through:*

- *the concentration of development in Urban Areas and Existing Communities;*
- *use of cluster or compact development techniques in discretionary development adjacent to natural open space resources;*
- *maintaining large lot sizes in agricultural areas, rural and open space areas;*
- *discouraging conversion of lands currently used for agricultural production or grazing;*
- *limiting development in areas constrained by natural hazards; and*
- *encouraging agricultural and ranching interests to maintain natural habitat in open space areas where the terrain or soil is not conducive to agricultural production or grazing.*

**LU-16.1 Community Character and Quality of Life:** *The County shall encourage discretionary development to be designed to maintain the distinctive character of unincorporated communities, to ensure adequate provision of public facilities and services, and to be compatible with neighboring uses.*

**P-43.2 Local Scenic Roads:** *The County shall designate State Highway 126, Main Street, Center Street, Piru Canyon Road, Guiberson Road, and Torrey Road as Local Scenic Roads (Figure P-23). The County shall require discretionary permits located within view of a Local Scenic Road to be reviewed for compliance with the following criteria:*

- a) *The County shall require a sign program to be submitted concurrently with a discretionary permit for all commercial and industrial development. Freestanding off-site advertising signs shall be prohibited. All on-site freestanding signs shall be limited to five feet in height.*
- b) *The County shall require outside storage to be landscaped and/or screened from public view.*
- c) *The County shall require existing healthy, mature trees to be retained, where feasible.*
- d) *The County shall require discretionary development to be designed consistent with the Piru Community Design Guidelines (see Appendix).*

The authorization of the proposed project would allow for the continuance of an existing WCF for a 10-year period. The existing WCF is designed as a 40-foot-tall

monopole. The design and color of the WCF would continue to blend in with the surrounding area. The WCF would also continue to provide wireless telecommunication service to the surrounding area and remain compatible with neighboring uses. There are no operational or physical changes proposed as part of the project. No new land use conflicts would occur with the continued use of the WCF. Lastly, the WCF is not visible from any scenic roads or highways.

Based on the discussion above, the proposed project is consistent with General Plan and Piru Area Plan Policies COS-3.1, COS-3.6, COS-9.1, LU-16.1, and P-43.2.

- 3. HAZ 1.1 Fire Prevention Design and Practices Policy:** *The County shall continue to require development to incorporate design measures that enhance fire protection in areas of high fire risk. This shall include but is not limited to incorporation of fire-resistant structural design, use of fire-resistant landscaping, and fuel modification around the perimeter of structures.*

**HAZ-1.2 Defensible Space Clear Zones:** *The County shall require adherence to defensible space standards, or vegetation "clear zones," for all existing and new structures in areas that are designated as Hazardous Fire Areas by the Ventura County Fire Protection District and High Fire Hazard Severity Zones by the California Department of Forestry and Fire Protection.*

**HAZ 1.4 Development in High Fire Hazard Severity Zones and Hazardous Fire Areas Policy:** *The County shall require the recordation of a Notice of Fire Hazard with the County Recorder for all new discretionary entitlements (including subdivisions and land use permits) within areas designated as Hazardous Fire Areas by the Ventura County Fire Department or High Fire Hazard Severity Zones by the California Department of Forestry and Fire Protection (CAL FIRE).*

**P-55.1 High Fire Hazard Area Building Requirements:** *The County shall condition all discretionary permits in High Fire Hazard Areas to utilize fire retardant or fire proof building materials.*

**P-55.2 High Fire Hazards Area Landscaping Requirements:** *The County shall require discretionary development in High Fire Hazard Areas to develop landscape plans utilizing fire-retardant plant materials, cleared areas or other acceptable means of reducing fire hazards.*

The proposed project is a request for the continued operation of an existing 40-foot-tall WCF for a 10-year period. The project is located within a Very High Fire Severity Zone. The proposed project does not include the construction of new structures. The project is conditioned to ensure all existing structures meet hazardous fire area building code requirements (Exhibit 5, Condition Nos. 23-25). Furthermore, the project is also conditioned to have all grass or brush removed at

a distance of 100 feet from structures (Exhibit 5, Condition No. 24). There are no operational or physical changes proposed as part of the project.

Based on the discussion above, the proposed project is consistent with General Plan and Piru Area Plan Policies HAZ-1.1, HAZ-1.2, HAZ-1.4, P-55.1, and P-55.2.

- 4. P-39.1 Discretionary Permits in Open Space Designations:** *The County shall require all discretionary permits in Open Space designated areas to be consistent with the preservation and development of an environment suitable to wildlife and flora indigenous to the area.*

**P-40.1 Riparian Habitats:** *The County shall require all discretionary development located within 100 feet of Piru Creek or the Santa Clara River to be sited and designed to prevent impacts which would significantly degrade riparian habitats. The County shall condition discretionary projects located within or adjacent to these watercourses to dedicate wildlife corridor easements if deemed necessary by the County to protect biological resources.*

The proposed project is for the continued use and maintenance of an existing 40-foot-tall WCF for a 10-year period. The project site is located on a property adjacent to the Santa Clara River. There are no operational or physical changes proposed as a part of this renewal.

Based on the discussion above, the proposed project is consistent with Piru Area Plan Policies P-39.1 and P-40.1.

- 5. P-48.2 Minerals Resource Protection Overlay Zone Restriction:** *The County shall prohibit development within a Minerals Resource Protection (MRP) Overlay Zone (see General Plan - Goals, Policies, and Programs and Zoning Ordinance) if the use will significantly hamper or preclude access to or the extraction of aggregate resources.*

The proposed project would not alter any current or future access points to an important resource. The WCF is existing and there are no physical or operational changes proposed as part of the project.

Based on the discussion above, the proposed project is consistent with Piru Area Plan Policy P-48.2.

- 6. P-65.3 Buffer for Agricultural Designations:** *The County shall condition discretionary development adjacent to Agricultural designated land to provide an agricultural buffer (which may include a setback, vegetative screen, roadway, and/or agricultural easement). The County shall require such buffer be subject to review and approval by the Agricultural Commissioner.*

Based on the discussion above, the proposed project is consistent with Piru Area Plan Policy P-65.3.

- 7. PFS-1.1 Equitable Provision of Public Facilities and Services:** *The County shall require that facilities and services that are essential for public health and safety shall be equitably provided for all residents and businesses.*

**PFS-7.1 Accessible Public Utilities:** *The County shall work with utility companies and service providers to ensure that gas, electric, broadband, cellular mobile communications, cable television, and telephone utility transmission lines are located appropriately to provide for adequate services throughout the unincorporated area.*

**PFS-7.5 Broadband Service Access:** *The County shall encourage broadband service providers to expand service areas and provide high quality access to broadband (high-speed internet) and cellular mobile communications services to residents and businesses, including unserved and underserved areas.*

The WCF will continue to provide service throughout the unincorporated Ventura area, including access to high quality cellular mobile communications. The continued use of the facility ensures that the residents and businesses will maintain a high quality of service.

Based on the discussion above, the proposed project is consistent with General Plan Policy PFS-1.1, PFS-7.1, and PFS-7.5.

**CONDITIONS OF APPROVAL FOR CONDITIONAL USE PERMIT (CUP) 5242 CASE NO. PL22-0132 (Formerly CUP 4687) FOR “SULPHUR MOUNTAIN” WIRELESS COMMUNICATION FACILITY (WCF)**

**RESOURCE MANAGEMENT AGENCY (RMA)**

**Planning Division Conditions**

1. Project Description

This Conditional Use Permit is based on and limited to compliance with the project description stated in this condition below, all exhibits of the Planning Director hearing on March 2, 2023, and conditions of approval set forth below. Together, these conditions and documents describe the “Project.” Any deviations from the Project must first be reviewed and approved by the County in order to determine if the Project deviations conform to the Project as approved. Project deviations may require Planning Director approval for changes to the permit or further California Environmental Quality Act (CEQA) environmental review, or both. Any Project deviation that is implemented without requisite County review and approval(s) may constitute a violation of the conditions of this permit and applicable law.

The Project description is as follows:

The Project is a minor modification to CUP 5242 (Case No. PL22-0132) has been granted to authorize the continued use, operation, and maintenance of an existing WCF for an additional 10-year period. The existing WCF is designed as a 40-foot-tall stealth monopole and is comprised of the following components:

- Two (2) 2-inch panel antennas located 40 feet above grade level;
- Two (2) 4-inch panel antennas located at 37 feet above grade level;
- Two (2) 4-inch panel antennas located 25 feet above grade level;
- Four (4) 2-inch panel antennas located 20 feet above grade level (wireless internet); and
- Four (4) 2-inch microwave dishes located 17 feet above grade level (wireless internet).

An existing equipment shelter structure (approx. 322 sq. ft.), two existing generators, and support equipment and structures are included as part of the WCF and are authorized by the modified CUP. Existing chain link fencing (with barbed wire) encloses the 1,470 sq. ft. WCF compound area which is also the CUP area. The WCF is unmanned, except for occasional periodic maintenance visits, and operates 24 hours per day. The WCF does not require water to operate. Access to the site is via dirt driveway from Guiberson Road. No exterior lighting, grading, or fencing was proposed with the project. There were no operational or physical changes proposed to the existing WCF.

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Exhibit 5 - Conditions of Approval

The use and maintenance of the property, the size, shape, arrangement, and location of structures, landscape areas, and the protection and preservation of resources shall conform to the project description above and all approved County land use hearing exhibits in support of the Project and conditions of approval below.

## 2. Site Maintenance

**Purpose:** To ensure that the Project site is maintained in a neat and orderly manner so as not to create any hazardous conditions or unsightly conditions which are visible from outside of the Project site.

**Requirement:** The Permittee shall maintain the Project site in a neat and orderly manner, and in compliance with the Project description set forth in Condition No. 1. Only equipment and/or materials which the Planning Director determines to substantially comply with the Project description shall be stored within the Project site during the life of the Project.

**Documentation:** The Permittee shall maintain the Project site in compliance with Condition No. 1 and the approved plans for the Project.

**Timing:** The Permittee shall maintain the Project site in a neat and orderly manner and in compliance with Condition No. 1 throughout the life of the Project.

**Monitoring and Reporting:** The County Building Inspector, Public Works Agency Grading Inspector, Fire Marshall, and/or Planning Division staff has the authority to conduct periodic site inspections to ensure the Permittee's ongoing compliance with this condition consistent with the requirements of § 8114-3 of the Ventura County Non-Coastal Zoning Ordinance.

## 3. CUP Modification

Prior to undertaking any operational or construction-related activity which is not expressly described in these conditions, the Permittee shall first contact the Planning Director to determine if the proposed activity requires a modification of this CUP. The Planning Director may, at the Planning Director's sole discretion, require the Permittee to file a written and/or mapped description of the proposed activity in order to determine if a CUP modification is required. If a CUP modification is required, the modification shall be subject to:

- a. The modification approval standards of the Ventura County Ordinance Code in effect at the time the modification application is acted on by the Planning Director; and
- b. Environmental review, as required pursuant to the California Environmental Quality Act (CEQA; California Public Resources Code, §§ 21000-21178) and the

State CEQA Guidelines (California Code of Regulations, Title 14, Chapter 3, §§ 15000-15387), as amended from time to time.

4. Construction Activities

Prior to any construction, the Permittee shall obtain a Zoning Clearance for construction from the Planning Division, and a Building Permit from the Building and Safety Division. Prior to any grading, the Permittee shall obtain a Grading Permit from the Public Works Agency.

5. Acceptance of Conditions and Schedule of Enforcement Responses

The Permittee's acceptance of this CUP and/or commencement of construction and/or operations under this CUP shall constitute the Permittee's formal agreement to comply with all conditions of this CUP. Failure to abide by and comply with any condition of this CUP shall constitute grounds for enforcement action provided in the Ventura County Non-Coastal Zoning Ordinance (Article 14), which shall include, but is not limited to, the following:

- a. Public reporting of violations to the Planning Commission and/or Board of Supervisors;
- b. Suspension of the permitted land uses (Condition No. 1);
- c. Modification of the CUP conditions listed herein;
- d. Recordation of a "Notice of Noncompliance" on the deed to the subject property;
- e. The imposition of civil administrative penalties; and/or
- f. Revocation of this CUP.

The Permittee is responsible for being aware of and complying with the CUP conditions and all applicable federal, state, and local laws and regulations.

6. Time Limits

a. Use inauguration:

- (2) The approval decision for this CUP becomes effective upon the expiration of the 10-day appeal period following the approval decision/date on which the Planning Director rendered the decision on the Project, or when any appeals of the decision are finally resolved. Once the approval decision becomes effective, the Permittee must obtain a Zoning Clearance for use inauguration in order to initiate the land uses set forth in Condition No. 1.
- (3) This CUP shall expire and become null and void if the Permittee fails to obtain a Zoning Clearance for use inauguration within one year (see the Ventura County Non-Coastal Zoning Ordinance (§ 8111-4.7)) from the date the approval decision of this CUP. The Planning Director may grant a

one-year extension of time to the Permittee in order to obtain the Zoning Clearance for use inauguration if the Permittee can demonstrate to the satisfaction of the Planning Director that the Permittee has made a diligent effort to implement the Project, and the Permittee has requested the time extension in writing at least 30 days prior to the one-year expiration date.

- (4) Prior to the issuance of the Zoning Clearance for use inauguration, all fees and charges billed to that date by any County agency, as well as any fines, penalties, and sureties, must be paid in full. After issuance of the Zoning Clearance for use inauguration, any final billed processing fees must be paid within 30 days of the billing date, or the County may revoke this CUP.
- b. Permit Life or Operations Period: This CUP will expire on [insert date]. The lack of additional notification of the expiration date provided by the County to the Permittee shall not constitute grounds to continue the uses that are authorized by this CUP after the CUP expiration date. The uses authorized by this CUP may continue after the CUP expiration date if:
  - (1) The Permittee has filed a permit modification application pursuant to § 8111-6 of the Ventura County Non-Coastal Zoning Ordinance prior to [insert date]; and
  - (2) The County decision-maker grants the requested modification.

The uses authorized by this CUP may continue during processing of a timely-filed modification application in accordance with § 8111-2.10 of the Ventura County Non-Coastal Zoning Ordinance.

7. Documentation Verifying Compliance with Other Agencies' Requirements Related to this CUP

**Purpose:** To ensure compliance with, and notification of, federal, state, and/or local government regulatory agencies that have requirements that pertain to the Project (Condition No. 1, above) that is the subject of this CUP.

**Requirement:** Upon the request of the Planning Director, the Permittee shall provide the Planning Division with documentation (e.g., copies of permits or agreements from other agencies, which are required pursuant to a condition of this CUP) to verify that the Permittee has obtained or satisfied all applicable federal, state, and local entitlements and conditions that pertain to the Project.

**Documentation:** The Permittee shall provide this documentation to Planning Division staff in the form that is acceptable to the agency issuing the entitlement or clearance, to be included in the Planning Division Project file.

**Timing:** The documentation shall be submitted to the Planning Division prior to the issuance of the Zoning Clearance for use inauguration or as dictated by the respective agency.

**Monitoring and Reporting:** The Planning Division maintains the documentation provided by the Permittee in the respective Project file. In the event that the federal, state, or local government regulatory agency prepares new documentation due to changes in the Project or the other agency's requirements, the Permittee shall submit the new documentation within 30 days of receipt of the documentation from the other agency.

#### 8. Notice of CUP Requirements and Retention of CUP Conditions On Site

**Purpose:** To ensure full and proper notice of these CUP conditions affecting the use of the subject property.

**Requirement:** Unless otherwise required by the Planning Director, the Permittee shall notify, in writing, the Property Owner(s) of record, contractors, and all other parties and vendors who regularly conduct activities associated with the Project, of the pertinent conditions of this CUP.

**Documentation:** The Permittee shall present to the Planning Division staff copies of the conditions, upon Planning Division staff's request.

**Timing:** Prior to issuance of a Zoning Clearance for use inauguration and throughout the life of the Project.

**Monitoring and Reporting:** The Planning Division has the authority to conduct periodic site inspections to ensure ongoing compliance with this condition consistent with the requirements of § 8114-3 of the Ventura County Non-Coastal Zoning Ordinance.

#### 9. Recorded Notice of Land Use Entitlement

**Purpose:** The Permittee shall record a "Notice of Land Use Entitlement" form and the conditions of this CUP with the deed for the subject property that notifies the current and future Property Owner(s) of the conditions of this CUP.

**Requirement:** The Permittee shall sign, have notarized, and record with the Office of the County Recorder, a "Notice of Land Use Entitlement" form furnished by the Planning Division and the conditions of this CUP, with the deed of the property that is subject to this CUP.

**Documentation:** Recorded "Notice of Land Use Entitlement" form and conditions of this CUP.

**Timing:** The Permittee shall record the “Notice of Land use Entitlement” form and conditions of this CUP, prior to issuance of a Zoning Clearance for use inauguration.

**Monitoring and Reporting:** The Permittee shall return a copy of the recorded “Notice of Land Use Entitlement” form and conditions of this CUP to Planning Division staff to be included in the Project file.

10. Financial Responsibility for Compliance Monitoring and Enforcement

a. **Cost Responsibilities:** The Permittee shall bear the full costs of all County staff time, materials, and County-retained consultants associated with condition compliance review and monitoring, CEQA mitigation monitoring, other permit monitoring programs, and enforcement activities, actions, and processes conducted pursuant to the Ventura County Non-Coastal Zoning Ordinance (§ 8114-3) related to this CUP. Such condition compliance review, monitoring and enforcement activities may include (but are not limited to): periodic site inspections; preparation, review, and approval of studies and reports; review of permit conditions and related records; enforcement hearings and processes; drafting and implementing compliance agreements; and attending to the modification, suspension, or revocation of permits. Costs will be billed at the rates set forth in the Planning Division or other applicable County Fee Schedule, and at the contract rates of County-retained consultants, in effect at the time the costs are incurred.

b. **Establishment of Revolving Compliance Account**

Pursuant to the requirements of CUP 5242 Case No. PL22-0132, the Resource Management Agency created Condition Compliance Case No. CC10-0056 to cover the costs associated with condition compliance review, monitoring, and enforcement activities, and any duly-imposed civil administrative penalties, regarding CUP 5242. The Planning Division will continue to use Condition Compliance Case No. CC10-0056 to cover the costs associated with condition compliance review, monitoring, and enforcement activities described in subsection 10.a (above), and any duly-imposed civil administrative penalties regarding this CUP.

Within 10 calendar days of the effective date of the final decision approving this CUP, the Permittee shall submit a new, updated, and completed reimbursement agreement for Condition Compliance Case No. CC10-0056, in a form provided by the Planning Division, obligating the Permittee to pay all condition compliance review, monitoring, and enforcement costs, and any civil administrative penalties, subject to the Permittee’s right to challenge all such charges and penalties prior to payment.

- c. Billing Process: The Permittee shall pay all Planning Division invoices within 30 days of receipt thereof. Failure to timely pay an invoice shall subject the Permittee to late fees and charges set forth in the Planning Division Fee Schedule, and shall be grounds for suspension, modification, or revocation of this CUP. The Permittee shall have the right to challenge any charge or penalty prior to payment.

11. Defense and Indemnification

- a. The Permittee shall defend, at the Permittee's sole expense with legal counsel acceptable to the County, against any and all claims, actions, or proceedings against the County, any other public agency with a governing body consisting of the members of the County Board of Supervisors, or any of their respective board members, officials, employees and agents (collectively, "Indemnified Parties") arising out of or in any way related to the County's issuance, administration, or enforcement of this CUP. The County shall promptly notify the Permittee of any such claim, action or proceeding and shall cooperate fully in the defense.
- i. The Permittee shall also indemnify and hold harmless the Indemnified Parties from and against any and all losses, damages, awards, fines, expenses, penalties, judgments, settlements, or liabilities of whatever nature, including but not limited to court costs and attorney fees (collectively, "Liabilities"), arising out of or in any way related to any claim, action or proceeding subject to subpart (a) above, regardless of how a court apportions any such Liabilities as between the Permittee, the County, and/or third parties.
- ii. Except with respect to claims, actions, proceedings, and Liabilities resulting from an Indemnified Party's sole active negligence or intentional misconduct, the Permittee shall also indemnify, defend (at Permittee's sole expense with legal counsel acceptable to County), and hold harmless the Indemnified Parties from and against any and all claims, actions, proceedings, and Liabilities arising out of, or in any way related to, the construction, maintenance, land use, or operations conducted pursuant to this CUP, regardless of how a court apportions any such Liabilities as between the Permittee, the County, and/or third parties. The County shall promptly notify the Permittee of any such claim, action, or proceeding and shall cooperate fully in the defense.
- b. Neither the issuance of this CUP, nor compliance with the conditions hereof, shall relieve the Permittee from any responsibility otherwise imposed by law for damage to persons or property; nor shall the issuance of this CUP serve to impose any liability upon the Indemnified Parties for injury or damage to persons or property.

12. Invalidation of Condition(s)

If any of the conditions or limitations of this CUP are held to be invalid in whole or in part by a court of competent jurisdiction, that holding shall not invalidate any of the remaining CUP conditions or limitations. In the event that any condition imposing a fee, exaction, dedication, or other mitigation measure is challenged by the Permittee in an action filed in a court of competent jurisdiction, or threatened to be filed therein, the Permittee shall be required to fully comply with this CUP, including without limitation, by remitting the fee, exaction, dedication, and/or by otherwise performing all mitigation measures being challenged. This CUP shall continue in full force unless, until, and only to the extent invalidated by a final, binding judgment issued in such action.

If a court of competent jurisdiction invalidates any condition in whole or in part, and the invalidation would change the findings and/or the mitigation measures associated with the approval of this CUP, at the discretion of the Planning Director, the Planning Director may review the project and impose substitute feasible conditions/mitigation measures to adequately address the subject matter of the invalidated condition. The Planning Director shall make the determination of adequacy. If the Planning Director cannot identify substitute feasible conditions/mitigation measures to replace the invalidated condition and cannot identify overriding considerations for the significant impacts that are not mitigated to a level of insignificance as a result of the invalidation of the condition, then this CUP may be revoked.

### 13. Consultant Review of Information and Consultant Work

The County and all other County permitting agencies for the Project have the option of referring any and all special studies that these conditions require to an independent and qualified consultant for review and evaluation of issues beyond the expertise or resources of County staff.

Prior to the County engaging any independent consultants or contractors pursuant to the conditions of this CUP, the County shall confer in writing with the Permittee regarding the necessary work to be contracted, as well as the estimated costs of such work. Whenever feasible, the County will use the lowest responsible bidder or proposer. Any decisions made by County staff in reliance on consultant or contractor work may be appealed pursuant to the appeal procedures contained in the Ventura County Zoning Ordinance Code then in effect.

The Permittee may hire private consultants to conduct work required by the County, but only if the consultant and the consultant's proposed scope-of-work are first reviewed and approved by the County. The County retains the right to hire its own consultants to evaluate any work that the Permittee or a contractor of the Permittee undertakes. In accordance with Condition No. 13 above, if the County hires a consultant to review any work undertaken by the Permittee or hires a consultant to review the work undertaken by a contractor of the Permittee, the hiring of the consultant will be at the Permittee's expense.

#### 14. Relationship of CUP Conditions, Laws, and Other Entitlements

The Permittee shall implement the Project in compliance with all applicable requirements and enactments of federal, state, and local authorities. In the event of conflict between various requirements, the more restrictive requirements shall apply. In the event the Planning Director determines that any CUP condition contained herein is in conflict with any other CUP condition contained herein, when principles of law do not provide to the contrary, the CUP condition most protective of public health and safety and environmental resources shall prevail to the extent feasible.

No condition of this CUP for uses allowed by the Ventura County Ordinance Code shall be interpreted as permitting or requiring any violation of law, lawful rules, or regulations, or orders of an authorized governmental agency. Neither the approval of this CUP, nor compliance with the conditions of this CUP, shall relieve the Permittee from any responsibility otherwise imposed by law for damage to persons or property.

The Permittee shall obtain a business tax certificate [and regulatory licenses] for the operation of the WCF.

#### 15. Contact Person

**Purpose:** To designate a person responsible for responding to complaints.

**Requirement:** The Permittee shall designate a contact person(s) to respond to complaints from citizens and the County which are related to the permitted uses of this CUP.

**Documentation:** The Permittee shall provide the Planning Director with the contact information (e.g., name and/or position title, address, business and cell phone numbers, and email addresses) of the Permittee's field agent who receives all orders, notices, and communications regarding matters of condition and code compliance at the Project site.

**Timing:** Prior to the issuance of a Zoning Clearance for use inauguration, the Permittee shall provide the Planning Division the contact information of the Permittee's field agent(s) for the Project file. If the address or phone number of the Permittee's field agent(s) should change, or the responsibility is assigned to another person, the Permittee shall provide Planning Division staff with the new information in writing within three calendar days of the change in the Permittee's field agent.

**Monitoring and Reporting:** The Planning Division maintains the contact information provided by the Permittee in the Project file. The Planning Division has the authority to periodically confirm the contact information consistent with the requirements of § 8114-3 of the Ventura County Non-Coastal Zoning Ordinance.

#### 16. Change of Permittee

**Purpose:** To ensure that the Planning Division is properly and promptly notified of any change of Permittee.

**Requirement:** The Permittee shall file, as an initial notice with the Planning Director, the new name(s), address(es), telephone/FAX number(s), and email addresses of the new owner(s), lessee(s), operator(s) of the permitted uses, and the company officer(s). The Permittee shall provide the Planning Director with a final notice once the transfer of ownership and/or operational control has occurred.

**Documentation:** The initial notice must be submitted with the new Permittee's contact information. The final notice of transfer must include the effective date and time of the transfer and a letter signed by the new Property Owner(s), lessee(s), and/or operator(s) of the permitted uses acknowledging and agreeing to comply with all conditions of this CUP.

**Timing:** The Permittee shall provide written notice to the Planning Director 10 calendar days prior to the change of ownership or change of Permittee. The Permittee shall provide the final notice to the Planning Director within 15 calendar days of the effective date of the transfer.

**Monitoring and Reporting:** The Planning Division maintains notices submitted by the Permittee in the Project file and has the authority to periodically confirm the information consistent with the requirements of § 8114-3 of the Ventura County Non-Coastal Zoning Ordinance.

#### 17. Reporting of Major Incidents

**Purpose:** To ensure that the Planning Director is notified of major incidents associated with, or resulting from, the Project.

**Requirement:** The Permittee shall immediately notify the Planning Director by telephone, email, FAX, and/or voicemail of any incidents (e.g., fires, explosions, spills, landslides, or slope failures) that could pose a hazard to life or property inside or outside the Project site.

**Documentation:** Upon request of any County agency, the Permittee shall provide a written report of any incident that shall include, but is not limited to: a description of the facts of the incident; the corrective measures used, if any; and the steps taken to prevent a recurrence of the incident.

**Timing:** The Permittee shall provide the written report to the requesting County agency and Planning Division within seven days of receiving the request.

18. Removal of Facility upon Abandonment of Use or Expiration of Permit

**Purpose:** In compliance with § 8111-2.8 and § 8111-8.1 of the Ventura County Non-Coastal Zoning Ordinance and in order to ensure that the use of the subject property remains compatible with existing and potential uses of other property within the general area, the communication facility shall be removed if this CUP expires or if the facility is abandoned.

**Requirement:** Upon the expiration of this CUP, or abandonment of the use of the communication facility, the Permittee shall:

- a. notify the County that the Permittee has discontinued the use of the facility;
- b. remove the facility and all appurtenant structures; and
- c. restore the premises to the conditions existing prior to the issuance of the CUP, to the extent feasible as determined by the Planning Director.

In the event that the Permittee fails to perform the required actions, the Property Owner shall be responsible for compliance with the requirements set forth in this condition. The facility shall be considered to be abandoned if it has not been in use for 12 continuous months.

**Documentation:** The Permittee shall provide photos of the site after restoration is completed, to the County Planning Division.

**Timing:** The Permittee shall complete the notification, removal, and restoration activities within 60 days of the expiration of this CUP, or abandonment of the use, unless the Planning Director grants (in writing) additional time.

**Monitoring and Reporting:** The Planning Division has the authority to conduct periodic site inspections to ensure compliance with this condition consistent with the requirements of § 8114-3 of the Ventura County Non-Coastal Zoning Ordinance.

19. Future Collocation of Wireless Telecommunication Facilities and Equipment (Note: Collocation is not proposed)

**Purpose:** To reduce the number of communication facilities and minimize the potential environmental impacts associated with such facilities.

**Requirement:** The Permittee shall avail its facility and site to other telecommunication carriers and, in good faith, accommodate all reasonable requests for collocation in the future subject to the following parameters:

- a. the party seeking the collocation shall be responsible for all facility modifications, environmental review, mitigation measures, associated costs, and permit processing;
- b. the Permittee shall not be required to compromise the operational effectiveness of its facility or place its prior approval at risk;
- c. the Permittee shall make its facilities and site available for collocation on a non-discriminatory and equitable cost basis; and
- d. the County retains the right to verify that the use of the Permittee's facilities and site conforms to County policies.

**Documentation:** Permittee shall demonstrate to the satisfaction of the Planning Director that the wireless telecommunications tower associated with the communication facility is engineered in a manner that can accommodate supplementary antennas to collocate at least one additional telecommunication carrier.

**Timing:** Prior to the issuance of a Zoning Clearance for construction, the Permittee shall submit evidence to the Planning Division that the facility is engineered to accommodate the collocation of at least one additional carrier.

**Monitoring and Reporting:** Prior to the issuance of a Certificate of Occupancy, Building and Safety inspectors and Planning Division staff have the authority to inspect the facility to confirm that is constructed as approved.

## 20. Color/Material/Manufacture Specifications

**Purpose:** To comply with the Ventura County General Plan *Goals, Policies and Programs* Scenic Resources Policies COS-3.1 through COS-3.6 and to ensure that the communication facility is constructed as illustrated on the approved plans and photo simulations.

**Requirement:** The Permittee shall:

- a. construct and maintain the exterior surfaces of all buildings and structures of the communication facility using building materials and colors that are compatible with surrounding terrain (e.g., earth tones and non-reflective paints);
- b. provide the manufacturer's specifications and model numbers of all tower, antenna, and ancillary equipment (e.g., batteries, equipment in cabinets, GPS, and antennae) on all development plans;
- c. construct and maintain the site in compliance with the approved plans and photo-simulations; and

- d. provide photos to the Planning Division to verify that the facility is constructed as approved.

**Documentation:** The Permittee shall provide plans, photo simulations, and a materials sample/color board to the Planning Division for review and approval. Prior to final inspection of the communication facility, the Permittee shall provide photographs demonstrating that the Permittee constructed the facility in compliance with the approved plans, photo simulations, and materials sample/color board.

**Timing:** Prior to the issuance of a Zoning Clearance for construction, the Permittee shall provide the colors and materials of all buildings and structures on building plans for the Planning Division's review and approval. Prior to the issuance of a Zoning Clearance for construction, the Permittee shall provide the materials sample/color board that illustrates the proposed colors for the Planning Division's review and approval. Prior to final inspection, the Permittee shall construct and paint the structures according to the approved plans.

**Monitoring and Reporting:** The Planning Division maintains copies of the approved plans, photo simulations, and materials sample/color board in the Project file. The Permittee shall provide photos of the constructed facility to the Planning Division, or schedule a site inspection with the Planning Division, to verify that the Permittee constructed and painted the facility according to the approved plans, photo simulations, and materials sample/color board. The Planning Division maintains the Permittee's approved plans, photo simulations, materials sample/color board, and (if submitted in lieu of a site inspection) photo documentation in the Project file. The Planning Division has the authority to ensure ongoing compliance with this condition pursuant to the requirements of § 8114-3 of the Ventura County Non-Coastal Zoning Ordinance.

#### 21. Archaeological Resources Inadvertently Discovered During Grading

**Purpose:** In order to mitigate potential impacts to archaeological resources discovered during ground disturbance.

**Requirement:** The Permittee shall implement the following procedures:

- a. If any archaeological or historical artifacts are uncovered during ground disturbance or construction activities, the Permittee shall:
  - (1) Cease operations and assure the preservation of the area in which the discovery was made;
  - (2) Notify the Planning Director in writing, within three days of the discovery;

- (3) Obtain the services of a County-approved archaeologist who shall assess the find and provide recommendations on the proper disposition of the site in a written report format;
  - (4) Obtain the Planning Director's written concurrence of the recommended disposition of the site before resuming development; and
  - (5) Implement the agreed upon recommendations.
- b. If any human burial remains are encountered during ground disturbance or construction activities, the Permittee shall:
- (1) Cease operations and assure the preservation of the area in which the discovery was made;
  - (2) Immediately notify the County Coroner and the Planning Director;
  - (3) Obtain the services of a County-approved archaeologist and, if necessary, Native American Monitor(s), who shall assess the find and provide recommendations on the proper disposition of the site in a written report format;
  - (4) Obtain the Planning Director's written concurrence of the recommended disposition of the site before resuming development on-site; and
  - (5) Implement the agreed upon recommendations.

**Documentation:** If archaeological remains are encountered, the Permittee shall submit a report prepared by a County-approved archaeologist including recommendations for the proper disposition of the site. Additional documentation may be required to demonstrate that the Permittee has implemented any recommendations made by the archaeologist's report.

**Timing:** If any archaeological remains are uncovered during ground disturbance or construction activities, the Permittee shall provide the written notification to the Planning Director within three days of the discovery. The Permittee shall submit the archaeological report to the Planning Division immediately upon completion of the report.

**Monitoring and Reporting:** The Permittee shall provide the archaeological report to the Planning Division to be made part of the Project file. The Permittee shall implement any recommendations made in the archaeological report to the satisfaction of the Planning Director. The archaeologist shall monitor all ground disturbance activities within the area in which the discovery was made, in order to ensure the successful implementation of the recommendations made in the archaeological report. The Planning Division has the authority to conduct site inspections to ensure that the Permittee implements the

recommendations set forth in the archaeological report, consistent with the requirements of § 8114-3 of the Ventura County Non-Coastal Zoning Ordinance.

### **Environmental Health Division (EHD) Conditions**

#### 22. Hazardous Materials/Waste Management (General Notice)

**Purpose:** To ensure the storage, handling, and disposal of any potentially hazardous material complies with applicable State and local regulations.

**Requirement:** If hazardous materials above reporting thresholds (200 cubic feet gas, 55 gallons liquid, 500 pounds solid) are stored onsite, or any hazardous wastes are generated, additional permitting, monitoring, and reporting requirements would apply. Used batteries must be properly disposed of or recycled in accordance with state and local regulations. Additional information on the storage and handling requirements for hazardous materials and wastes may be found on the Ventura County Environmental Health Division/Certified Unified Program Agency website: <https://vcrma.org/cupa>

**Documentation:** A completed HMBP must be submitted to the Ventura CUPA electronically through the California Environmental Reporting System (CERS). Maintain all records of hazardous waste determination testing and disposal and make available for review by this Ventura CUPA staff upon request.

**Timing:** HMBP must be submitted through CERS annually, and whenever there is a change to the type, quantity, or location of the hazardous materials. EPA ID number must be renewed annually.

**Monitoring and Reporting:** Verification of hazardous materials inventory as well as ongoing compliance with requirements shall be accomplished through field inspection by Ventura CUPA staff. Additional information on the storage and handling requirements for hazardous materials and wastes may be found on the Ventura County Environmental Health Division/Certified Unified Program Agency website: <https://vcrma.org/cupa>.

### **OTHER VENTURA COUNTY AGENCIES**

#### **Ventura County Fire Protection District (VCFPD) Conditions**

#### 23. Fire Code Permits (Note: condition satisfied)

**Purpose:** To comply with the requirements of the Ventura County Fire Code.

**Requirement:** The Permittee shall obtain all applicable Fire Code permits.

**Documentation:** A signed copy of the Fire Code permit(s).

**Timing:** The Permittee shall submit a Fire Code permit application along with required documentation/plans to the VCFPD for approval before final occupancy, installation and/or use of any item/system requiring a Fire Code permit.

**Monitoring and Reporting:** A copy of the approved Fire Code permits shall be kept on file with the VCFPD. The VCFPD shall conduct a final inspection to ensure that the requirements of the Fire Code permit are installed according to the approved plans. Unless a modification is approved by the VCFPD, the Permittee, and their successors in interest, shall maintain the conditions of the Fire Code permit for the life of the development.

#### 24. Hazard Abatement

**Purpose:** To ensure compliance with Ventura County Fire Protection District Ordinance.

**Requirement:** The Permittee shall have all grass or brush exposing any structure(s) to fire hazards shall be cleared for a distance of 100 feet prior to construction of any structure and shall be maintained in accordance with VCFPD Ordinance. All grass and brush shall be cleared to a distance of ten (10) feet on each side of all access roads / driveways. Note: A Notice to Abate Fire Hazard may be recorded against the parcel.

**Documentation:** A signed copy of the Ventura County Fire Protection District's Form #126 "Requirement for Construction" or the "Notice to Abate" issued under the Fire District's Fire Hazard Reduction Program.

**Timing:** The Permittee shall remove all grass and brush as outlined by the Ventura County Fire Protection District's Fire Hazard Reduction Program guidelines before the start of construction on any structure.

**Monitoring and Reporting:** The VCFPD shall conduct on-site inspections to ensure compliance with this condition.

#### 25. Fire Extinguisher (Note: condition satisfied)

**Purpose:** To comply with current California Codes and Ventura County Fire Protection District Ordinance.

**Requirement:** The Permittee shall install fire extinguisher(s) in accordance with the International Fire Code. The placement of extinguishers shall be subject to review by the VCFPD.

**Documentation:** A stamped copy of the approved fire extinguisher plans.

**Timing:** The Permittee shall submit fire extinguisher plans to the VCFPD for approval before the installation of the fire extinguisher(s).

**Monitoring and Reporting:** A copy of the approved fire extinguisher plans shall be kept on file with the VCFPD. The VCFPD shall conduct on-site inspections to ensure that the fire extinguisher(s) are installed according to the approved plans. Unless a modification is approved by the VCFPD, the Permittee, and their successors in interest, shall maintain the fire extinguisher(s) for the life of the development.