

**CALIFORNIA COASTAL COMMISSION**

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November 17, 2020 Mendocino County

Julia Acker Krog, Chief Planner  
Planning and Building Services  
County of Mendocino  
860 N Bush Street  
Ukiah, CA 95482

JUL 25 2023

Planning &amp; Building Services

SUBJECT: Determination Regarding Need for Coastal Development Permit Authorization  
for AT&T Pole Installation Along Navarro Ridge Road, Mendocino County

Dear Ms. Acker Krog:

We have reviewed your request of August 31, 2020, for a determination from the Executive Director as to whether the installation of approximately 40 new poles with aerial fiber optic cable within the County Road right-of-way along Navarro Ridge Road (the development) is either (a) exempt from coastal development permit (CDP) requirements or (b) has already been authorized by the County as part of County Coastal Development Use Permit No. U-2017-0034, granted for the construction and operation of a wireless communication facility at 30660 Navarro Ridge Road. We understand that all or most of the aerial fiber optic cable line (both the 40 poles and cable) has recently been installed. Based on our review of the Coastal Act, the Commission's regulations, and the Commission's adopted guidelines entitled, "Repair, Maintenance and Utility Hook-Up Exclusions from Permit Requirements" (Guidelines), the Executive Director has determined that the development of the aerial fiber optic cable line on 40 new poles installed within the County Road right-of-way along Navarro Ridge Road is not exempt from coastal development permit requirements. In addition, based on our review of the coastal development permit application and County staff report, the Executive Director has determined that the aerial fiber optic cable line wasn't authorized as part of Coastal Development Use Permit No. U-2017-0034 granted by the County for the related wireless communication facility at 30660 Navarro Ridge Road.

Installation of 40 Poles with New Fiber Optic Cable Not Exempt.

The Applicant opines, in an email to the County of August 27, 2020, that the development is exempt from CDP requirements pursuant to section 30610(f) of the Coastal Act. This section exempts "the installation, testing, and placement in service or the replacement of any necessary utility connection between an existing service facility and any development approved pursuant to this division; provided, however, that the commission may, where necessary, require reasonable conditions to mitigate any adverse impacts on coastal resources, including scenic resources."

Commission staff disagrees with the Applicant's opinion that the development constitutes a necessary utility connection between an existing service facility and a development approved under the Coastal Act that is exempt pursuant to section 30610(f).

In 1978, the Commission adopted the previously referenced Guidelines, which were "intended to detail the types of development activities the Commission considers to be exempt repair, maintenance or utility hook-ups to the on-going work of various types of public and private agencies" that are exempt pursuant to both sections 30610(d) and 30610(f) of the Coastal Act. The Guidelines are referenced in various places in the Commission's regulations.

Section II(B)(2) of the Guidelines addresses "Electric Utilities," and subsection b of that section addresses "Transmission and Distribution and Communication Facilities." Section II(B)(2)(b) states the following in relevant part:

b. **Transmission and Distribution and Communication Facilities.** A coastal development permit is not required to maintain, replace, or modify existing overhead facilities, including the addition of equipment and wires to existing poles or other structures, right-of-way maintenance, and minor pole and equipment relocations... A coastal permit is not required to install, test, and place in service, maintain, replace, modify or relocate underground facilities or to convert existing overhead facilities to underground facilities provided that work is limited to public road or railroad rights-of-way or public utility easements. [emphasis added]

It is not clear whether or not this exemption for "Communication Facilities" could be applied to the installation of a new fiber optic cable to serve a cell tower facility. To the extent the exemption does apply to such facilities, the exemption by its terms only covers underground facilities within road, railroad, and public utilities rights-of-way or easements. AT&T's installation of the aerial fiber optic cable line on 40 new poles installed within the County Road right-of-way along Navarro Ridge Road clearly does not involve the installation of an underground facility. Therefore, the development is not exempt under Section II(B)(2)(b) of the Guidelines.

The utility hook-ups listed in the Guidelines that are exempted by section 30610(f) do not specifically include fiber optic cables or wireless communication facilities, as such technology did not exist when the Guidelines were adopted by the Commission. However, the Guidelines acknowledge that the list of development activities exempted under the Guidelines "obviously cannot be exhaustive and the exclusions also apply to activities comparable to those listed. Where a proposed activity is not included in this guideline the ... Executive Director...will determine whether a permit is required." (Guidelines, page 1)

Similar exempt development activities listed in the Guidelines to the development of 40 poles with new fiber optic cable along Navarro Ridge Road are certain development activities associated with land line telephone facilities listed under Section II(B)(3), "Telephone," and particularly the exempt telephone development activities described under subparts c and e of that section.

Subsection II(B)(3)(c) of the Guidelines exempts the “[p]lacement of additional aerial facilities on existing poles.” The AT&T development is not similar to the exempt activity described in this subsection as the AT&T development involves placing new fiber optic line on 40 brand new poles, not existing permitted or exempted poles.

Section II(B)(3)(e) of the Guidelines states the following:

- e. Performance of work in connection with or placement of facilities to expand service to existing customers or to serve new customers, including placement of underground service connections or aerial service connections from existing poles with any necessary clearance poles.

A typical example of such a utility hook-up would be to extend a lateral telephone line to a new home from a telephone company’s buried or overhead main telephone line within an adjoining street right-of way that provides service to multiple customers within the neighborhood where the new house has been built. The AT&T development does not constitute a “utility hook-up” between an existing service facility to an AT&T customer, but instead is part of the infrastructure development associated with the development of an entirely new service facility, the wireless communication facility authorized by County CDP U-2017-0034. The section of the Guidelines on telephone facilities does not exempt such infrastructure development associated with the development of such new service facilities.

Development of the kind AT&T has undertaken to install 40 new poles with new fiber optic cable along Navarro Ridge Road is neither included within nor comparable to the development activities listed as exempt in the Guidelines. Therefore, the Executive Director has determined that the development does not constitute a necessary utility connection between an existing service facility and a development approved under the Coastal Act that is exempt pursuant to section 30610(f).

Installation of 40 Poles with New Fiber Optic Cable Not Covered by County CDP U-2017-0034

The Applicant suggests, in their email to the County of August 27, 2020, that their application for the wireless communication facility at 30660 Navarro Ridge Road included the aerial fiber optic line along Navarro Ridge Road.

The construction and operation of a wireless communication facility consisting of a 135-foot-tall monopine and certain appurtenant equipment and improvements at 30660 Navarro Ridge Road were authorized by Mendocino County Coastal Development Use Permit No. U-2017-0034. The Planning Commission’s May 16, 2019 approval was subsequently appealed to the Coastal Commission.

As requested by Commission staff after the appeal was filed, the County staff provided a copy of the local record, including the application form for the project submitted to the County by AT&T Mobility for the project which is marked as filed by the County on December 22, 2017. The first question on page 2 of the application asks the applicant to describe the project and include secondary improvements. The project description

provided by AT&T Mobility in response to this question provided the following list of development:

- (P) New Site Build Unmanned Telecommunications Facility.
- 40' x 45' Fenced Compound with a 6'0" high chain link fence w/.vinyl slats.
- Gravel access route to site.
- Install pre-manufactured walk in equipment cabinet and associated interior equipment.
- Install (1) GPS Unit.
- Install 135"-0" Monopine Tower.
- Install (12) Antennas, (4) per sector.
- Install (19) RRUs.
- Install (4) Surge Suppressors.
- (2) Future 4' Microwave Dishes.
- Install 15KW DC Diesel Generator.
- Trench Power/Telco (Fiber) to site location.

The only reference to a fiber optic cable in the above project description is the last item, "Trench Power/Telco (Fiber) to site location." As the project location provided by the Applicant in response to other questions in the application form is limited to 30660 Navarro Ridge Road, it is not clear whether "Trench Power/Telco (Fiber) to site location" refers to trenching on the parcel at that address between the road right-of-way and the site on the large parcel where the proposed Monopine Tower was proposed, or if it also was meant to include trenching from some unspecified location off-site to the parcel. Regardless, the item refers to trenching and makes no mention of the construction of an aerial fiber optic cable line that includes the installation of 40 poles along Navarro Ridge Road. In addition, none of the responses to any of the other questions in the application refer to the construction of an aerial fiber optic cable line on 40 new poles along Navarro Ridge Road.

We note that the County staff report prepared for the Planning Commission's review also does not mention construction of an above-ground fiber optic cable line. The staff report includes a project description on page 2. This project description narrative includes the 135-foot-tall monopine "with various appurtenant equipment and ground equipment including a generator and equipment cabinet," and states "[a]ssociated improvements include establishment of access to the site via a gravel road and trenching of power and fiber to the site location and removal of an existing shed within the project footprint." Nowhere in this project description or elsewhere in the staff report is there mention of construction of an aerial fiber optic cable line that includes the installation of 40 poles along Navarro Ridge Road.

At its August 7, 2019 meeting, the Commission determined that the appeal of the County's approval (Appeal No. A-1-MEN-19-0046) raised no substantial issue, and the County approval stands as approved by the Planning Commission.

Julia Acker Krog – County of Mendocino  
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The Applicant notes in their August 27, 2020 email to the County that the County Department of Transportation issued an encroachment permit for a new aerial fiber optic cable on 40 new poles along Navarro Ridge Road. The encroachment permit is a separate approval that must also be obtained by the Applicant under other provisions of law and does not grant coastal development authorization for development under the LCP and Coastal Act.

Conclusion

For the reasons stated above, the Executive Director has determined that (a) the development of the aerial fiber optic cable line on 40 new poles installed within the County Road right-of-way along Navarro Ridge Road is not exempt from coastal development permit requirements, and (b) the aerial fiber optic cable line wasn't authorized as part of Coastal Development Use Permit No. U-2017-0034 granted by the County for the related wireless communication facility at 30660 Navarro Ridge Road.

If you have any questions, please don't hesitate to contact me.

Sincerely,

DocuSigned by:

*Bob Merrill*

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ROBERT S. MERRILL

North Coast District Manager

