



COUNTY OF MENDOCINO

DEPARTMENT OF PLANNING AND BUILDING SERVICES

501 LOW GAP ROAD · ROOM 1440 · UKIAH · CALIFORNIA · 95482

IGNACIO GONZALEZ, DIRECTOR

Telephone 707-463-4281

FAX 707-463-5709

pbs@co.mendocino.ca.us

www.co.mendocino.ca.us/planning

May 31, 2011

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN THAT the Mendocino County Planning Commission at its regular meeting on Thursday, June 16, 2011, at 9:00 a.m., to be held in the Board of Supervisors Chambers, 501 Low Gap Road, Ukiah, California, will conduct a public hearing on the following project at the time listed or as soon thereafter as the item(s) may be heard.

CASE#: UM 24-2000/2010

DATE FILED: 10/12/2010

OWNER: FRANK & JUDY DUTRA TTEES

APPLICANT: AT&T MOBILITY

AGENT: TIFFANY SCALIA C/O SCALIA GOODIN

REQUEST: Use Permit Modification to allow for the addition of four (4) new panel antennas to replace two (2) antennas on an existing 70-foot tall wooden pole.

LOCATION: Approximately 5.25± miles south of the City of Willits town center, located on the south side of Black Bart Drive (CR# 370), 0.15± miles west of its intersection with State Highway 101, located at 16430 North Highway 101; AP# 147-180-13.

PROJECT COORDINATOR: DUSTY DULEY

ENVIRONMENTAL DETERMINATION: The request has been processed through the County Environmental Review Process and it has been determined that the project is Categorically Exempt from environmental review. The staff report and notice are available for public review at 501 Low Gap Road, Room 1440, Ukiah, California and on the Department of Planning and Building Services website at www.co.mendocino.ca.us/planning.

Your comments regarding the above project(s) are invited. Written comments should be submitted to the Department of Planning and Building Services, at 501 Low Gap Road, Room 1440, Ukiah, California, 95482, no later than June 15, 2011. Oral comments may be presented to the Planning Commission during the public hearing.

The Planning Commission's action regarding this item shall be final unless appealed to the Board of Supervisors. The last day to file an appeal of the Planning Commission's decision is the 10th day after the hearing. To file an appeal, a written statement must be filed with the Clerk of the Board with a filing fee prior to the expiration of the above noted appeal period. If you challenge the project in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Department of Planning and Building Services at, or prior to, the public hearing. All persons are invited to appear and present testimony in this matter.

Additional information regarding the above noted item(s) may be obtained by calling the Department of Planning and Building Services at 463-4281, Monday through Friday, 8:00 a.m. through 5:00 p.m. Should you desire notification of the Planning Commission's decision you may do so by requesting notification in writing and providing a self-addressed stamped envelope to the Department of Planning and Building Services.

IGNACIO GONZALEZ, Director of Planning and Building Services

STAFF REPORT FOR MAJOR USE PERMIT MODIFICATION

**#UM 24-2000/2010
JUNE 16. 2011
PAGE PC-1**

OWNER: FRANK AND JUDY DUTRA
C/O CHRISTOPHER NEARY
110 S. MAIN STREET #C
WILLITS, CA 95490

APPLICANT: AT&T MOBILITY
4430 ROSEWOOD DRIVE
PLEASANTON, CA 94588

AGENT: TIFFANY SCALIA
C/O SCALIA GOODIN LLP
1107 SECOND STREET, STE. #300

REQUEST: Use Permit Modification to allow for the addition of 4 new panel antennas and replace 2 antennas on an existing 70-foot tall wooden pole.

LOCATION: 5.25± miles south of the City of Willits town center, located on the south side of Black Bart Drive (CR# 370), 0.15± mile west of its intersection with State Highway 101, located at 16430 North Highway 101; AP# 147-180-13

TOTAL ACREAGE: 1,600± square foot leased area within a 20± acres host parcel.

GENERAL PLAN: Commercial (C)

ZONING: General Commercial: 40,000 square foot minimum (C2 40k) + Seismic Study Combining District (SS)

ADJACENT ZONING: North: General Commercial: 40,000 square foot minimum (C2 40k) + Seismic Study Combining District (SS)
East: Rangeland: 160 acre minimum (RL 160) + Seismic Study Combining District (SS)
South: Rangeland: 160 acre minimum (RL 160) + Seismic Study Combining District (SS)
West: Rangeland: 160 acre minimum (RL 160)

EXISTING USES: Telecommunications Facility + Quarry

SURROUNDING LAND USES: North: Commercial
East: Rangeland/Ag Preserve
South: Rangeland
West: Rangeland

SURROUNDING LOT SIZES: North: 8.29± acres
East: 33+/- acres
South: 68+/- acres
West: 231.5± acres

SUPERVISORIAL DISTRICT: 3

OTHER RELATED APPLICATIONS ON SITE OR SURROUNDING AREA:

Use Permit #U 24-2000 was approved by the Planning Commission at the December 7, 2000 meeting permitting Newcom Wireless, now AT&T Wireless, to establish a telecommunication facility consisting of a 90 foot tall wooden pole, a generator, a 116 square foot equipment shelter, and an 8 foot tall chain link perimeter fence. Although approved for a 90 foot tall pole, staff understands that a 70 foot tall wooden pole was established instead.

PROJECT DESCRIPTION: AT&T Wireless, a wireless communication carrier, is requesting a Use Permit Modification to allow for the addition of six (6) panel antennas to replace two (2) existing antennas on the 70 foot tall wooden pole. One (1) new equipment cabinet will be added within the existing equipment shelter. Regarding the applicant's objective, the following is excerpted from the applicant's submitted application:

The AT&T 3G network uses HSDPA/UMTS technology (High Speed Downlink Packet Access/Universal Mobile Telephone System), which makes it possible to enjoy a variety of feature-rich wireless services. It also gives AT&T the advantage of offering simultaneous voice and data services. Therefore, the proposed modifications are focused on improved technology and existing service.

The facility is located within a previously developed leased area secured by an 8 foot high chain link fence around the perimeter within a 20± acres host parcel. The property is bordered to the north by the commercial area on Ridgewood Summit, Highway 101 to the east and rangeland to the south and west. A hillside quarry operates on the property below the facility site. The facility will remain unmanned and will operate 24 hours a day, 7 days a week.

ENVIRONMENTAL REVIEW: The project is Categorically Exempt from the California Environmental Quality Act (CEQA), Class 1b, Section 15301(b). However, in assessing impacts following areas of concern are noted.

Earth (Item 1): The lease area has been previously developed and the application states that no grading is proposed. However should any trenching of utility lines, grading to construct concrete pads or otherwise be required, Condition Numbers 1 and 2 are recommended to require that measures be taken to prevent erosion and resurface any trenching

Air (Item 2): As the facility will be unmanned and only serviced bi-monthly, the project is not expected to produce significant amounts of air emissions or odors. No grading is proposed. The Mendocino County Air Quality Management District (AQMD) provided a "no comment" response to staff's referral. The applicant is not proposing to add a generator at this site. No mitigation required.

Light and Glare (Item 7): The application states that no exterior lighting is proposed. In the event that exterior lighting should be installed, Condition Number 3 is recommended to require that any future lights be shielded to prevent the light source from being visible from off the property, and to prohibit the use of aircraft warning lighting.

Land Use (Item 8): The land use classification for the parcel is Commercial (C). As the facility already exists, this Use Permit assesses the expansion of the established use per Chapter 20.236 of the County Inland Zoning Ordinance. The adjacent large parcel to the east is in an agricultural preserve under the Williamson Act. The addition to the wireless facility does not conflict with the planned use of the area or the Williamson Act contracts themselves. This site is a small portion of a much larger ownership and is in a fairly remote area.

Transportation/Circulation (Item 12): Access to the site is via a private road, part of the old Highway 101 route, extending west from Highway 101. After traveling for a short distance, 0.1± mile, along the old Highway route, the applicant will turn onto another private driveway that goes through the rock quarry before reaching the facility. The project will generate a minor amount of additional traffic in conjunction with the installation of AT&T's equipment on the existing pole. After installation is complete, traffic to the site will revert to the once or twice a month schedule as necessary to maintain the existing facility. The County Department of Transportation has not responded to staff's referral. Staff does not foresee any significant changes in traffic as a result of project approval.

Public Services (Item 13): The project will have no direct impact on public facilities. The project is within a State responsibility area; however, as this is a modification of an existing facility, the project is exempt from the California Department of Forestry (CalFire) preliminary clearance requirements. CalFire did not provide a response to the project referral. However, as communication capability is extremely important to emergency service providers, especially in remote locations, staff recommends Condition Number 4, which would require the facility to provide, if requested, space for any emergency service provider to locate communication equipment on the tower, provided no interference to function will result at a minimum or no fee.

Human Health (Item 16): The Federal Communications Commission (FCC) has set maximum exposure limits for radio frequency transmitters, and the Telecommunications Act of 1996 prohibits local governments from regulating wireless service facilities based on environmental effects of radio frequency emissions as long as the facilities comply with FCC regulations for emissions. An AT&T engineer evaluated the proposed antenna editions to the site for compliance with appropriate guidelines limiting human exposure to radio frequency electromagnetic fields. The report summary states:

The ground level effect of the AT&T Mobility and other carriers' emissions was calculated using a maximum ERP of 430 watts. Results were calculated for a height of 6 feet above ground level. Using these factors, the maximum calculated AT&T Mobility fields at ground level are 0.06% of the existing standard for general population uncontrolled exposure.

The wireless communications facility is within a compound that is surrounded by a locked chain-linked fence. Appropriate signage will be posted disclosing that the facility is not to be accessed by anyone other than maintenance personnel.

Aesthetics (Item 17A): The site is in a fairly isolated location with views to the site only at a distance. If staff were to receive an application to erect a 70-foot high pole at this location today, with the Wireless Guidelines in place, staff would seriously question the project based on inconsistencies with the guidelines including siting it on a ridgetop and visibility from public locations. However, as the facility was already approved and in place prior to the County's adoption of the Wireless Guidelines, staff does not believe that the proposed addition of four panel antennas will significantly increase the visual impact of the facility and, in this case, is preferred to the alternative of constructing a new tower elsewhere.

Condition Numbers 5 and 6 are recommended to mitigate visual impacts by painting the antennas and all hardware with non-reflective colors and to protect/preserve existing vegetation.

In the event that use of the applicant's equipment should cease, it is recommended that Condition Numbers 7 and 8 be imposed, requiring that all portions of the applicant's equipment above ground level be removed from the site.

Cultural Resources (Item 19): No significant earthmoving is proposed and the site has been previously developed. No mitigation required, however, staff offers Condition Number 9 to advise the applicant of the requirements of the County's archaeological ordinance and provide protection of any archaeological resources that may be discovered during construction.

COMPLIANCE WITH WIRELESS COMMUNICATION GUIDELINES: The applicant has submitted a Statement of Compliance addressing each of the items in the Wireless Communications Guidelines adopted by the Planning Commission. A review of applicable policy standards follows:

According to the Wireless Communication Guidelines:

Communications facilities that can co-locate with an existing facility will generally have highest preference, followed by facilities located on existing structures or buildings, then followed by facilities that can be designed or located so as to be visually unobtrusive ("stealthed").

The applicant is proposing to co-locate on an existing wireless communication facility.

According to the Wireless Communications Guidelines:

New communications facilities shall be discouraged on ridge top sites where they will be silhouetted against the sky from the surrounding community, or from highly used public locations.

The subject 70-foot tall wooden pole was approved prior to the County's adoption of the Wireless Guidelines. Staff does not believe that the proposed project will significantly increase the visibility impact of the existing facility (See "Aesthetics" section), and that, in this case, the addition of antennas at the site is preferable to the construction of a new facility elsewhere.

Condition Numbers 10 through 13 are recommended to achieve compliance with the Wireless Communications Guidelines.

CUMULATIVE IMPACTS: Staff is unaware of any existing or proposed wireless telecommunication facilities located in the near vicinity. There are no impacts associated with the current project that become significant when considered in conjunction with other existing or planned facilities in the vicinity.

ENVIRONMENTAL RECOMMENDATION: The project is Categorically Exempt from CEQA, Class 1b.

GENERAL PLAN CONSISTENCY RECOMMENDATION: The proposed project is consistent with applicable goals and policies of the General Plan.

RECOMMENDED MOTION: The Planning Commission approves Use Permit #UM 24-2000/2010 making the following findings and subject to the following conditions of approval:

General Plan Consistency Finding: As discussed under pertinent sections of the staff report, the proposed project is consistent with applicable goals and policies of the General Plan as subject to the conditions of approval.

Environmental Findings: The Planning Commission finds that the project is Categorically Exempt from CEQA, Class 1b.

Project Findings: The Planning Commission approves Use Permit #UM 24-2000/2010 subject to the following conditions of approval, further finding:

1. That adequate utilities, access roads, drainage, and other necessary facilities have been or are being provided.
2. That the proposed use will not constitute a nuisance or be detrimental to the health, safety, peace, morals, comfort, or general welfare of persons residing or working in or passing through the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the county.
3. That such use preserves the integrity of the zoning district.

CONDITIONS OF APPROVAL:

Conditions which must be met prior to use and/or occupancy and for the duration of this permit:

1. As soon as practical following completion of any earth disturbance, vegetative ground cover equal to or better than existing shall be reestablished on all disturbed portions of the site.
2. Temporary erosion control measures shall be in place at the end of each workday and shall be maintained until permanent protection is established.
3. Exterior light fixtures shall be designed or located so that only reflected, non-glaring light is visible from beyond the immediate vicinity of the site, and shall be turned off except when in use by facility personnel.

4. The facility shall provide, if requested, space for any public emergency service provider to locate communication equipment on the tower, provided no interference to function will result at a minimum or no fee.
5. Existing trees and other vegetation, which provide screening for the facility and associated access roads, shall be protected from damage. No trees that provide visual screening of the communications facility shall be removed after project completion except to comply with fire safety regulations or to eliminate safety hazards. Tree trimming shall be limited to the minimum necessary for operation of the facility.
6. All exterior surfaces of structures and equipment associated with the communication facility shall have subdued colors and non-reflective materials selected to blend with their surroundings.
7. If use of any portion of the proposed facility subject to this permit is discontinued for more than one year, all those parts of the facility not in use, above grade, shall be completely removed from the site.
8. Prior to issuance of a building permit, the applicant shall provide an irrevocable letter of credit, bond, certificate of deposit, or other reasonable form of security satisfactory to County Counsel, sufficient to fund the removal of the applicant's equipment in the event that the applicant abandons operations or fails to comply with requirements to remove all their equipment.
9. In the event that archaeological resources are encountered on the site, further disturbance in the immediate vicinity of the find shall be halted until all requirements of Chapter 22.12 of the Mendocino County Code relating to archaeological discoveries have been satisfied.
10. By commencing work allowed by this permit, the applicant agrees to negotiate in good faith with third parties requesting shared use of the site.
11. Prior to the final inspection by the Building Division of the Department of Planning and Building Services, an identification sign for each company responsible for operation and maintenance of facilities at the site, no larger than one square foot, shall be mounted on an exterior wall in a location visible when approached from the street, and shall provide the name, address, and emergency telephone number of the responsible companies. The address assigned to the site by the Planning and Building Services Department shall be posted.
12. One or more warning signs consistent with FCC and ANSI regulations shall be displayed in close proximity to the antenna tower.
13. The antennas and supporting structure shall be inspected every ten years, and following significant storm or seismic events, by a structural engineer licensed in the State of California to assess their structural integrity, and a report of the engineer's findings shall be submitted to the Planning and Building Services Department.
14. Prior to commencement of operations, all surplus construction materials and debris, including cleared vegetation, shall be removed from the site to a proper disposal facility. Thereafter, the site shall be kept free of refuse.
15. The applicant shall contact the County Division of Environmental Health as to the need to complete a Hazardous Materials Management Plan.
16. The use and occupancy of the premises shall be established and maintained in conformance with the provisions of Title 20 of the Mendocino County Code unless modified by conditions of the use permit.
17. The application along with supplemental exhibits and related material shall be considered elements of this entitlement and compliance therewith shall be mandatory, unless the Planning Commission has approved a modification.

- 18. This permit is subject to the securing of all necessary permits for the proposed development and eventual use from County, State and Federal agencies having jurisdiction. Any requirements imposed by an agency having jurisdiction shall be considered a condition of this permit.
- 19. This permit shall be subject to revocation or modification by the Planning Commission upon a finding of any one or more of the following grounds:
 - a. That the permit was obtained or extended by fraud.
 - b. That one or more of the conditions upon which the permit was granted have been violated.
 - c. That the use for which the permit was granted is conducted in a manner detrimental to the public health, welfare or safety, or is a nuisance.

Any revocation shall proceed as specified in Title 20 of the Mendocino County Code.

- 20. This permit is issued without a legal determination having been made upon the number, size, or shape of parcels encompassed within the permit boundaries. Should, at any time, a legal determination be made that the number, size, or shape of parcels within the permit boundaries are different than that which is legally required by this permit, then this permit shall become null and void.
- 21. This permit is issued for a period of ten years, and shall expire on June 16, 2021. The applicant has the sole responsibility for renewing this permit before the expiration date. The county will not provide a notice prior to the expiration date. Previous Use Permit entitlements, governing this site, expiration dates shall be modified to June 16, 2021, as well.
- 22. This permit shall become effective after all applicable appeal periods have expired or appeal processes have been exhausted. Failure of the applicant to make use of this permit within two years shall result in the automatic expiration of this permit.

DATE

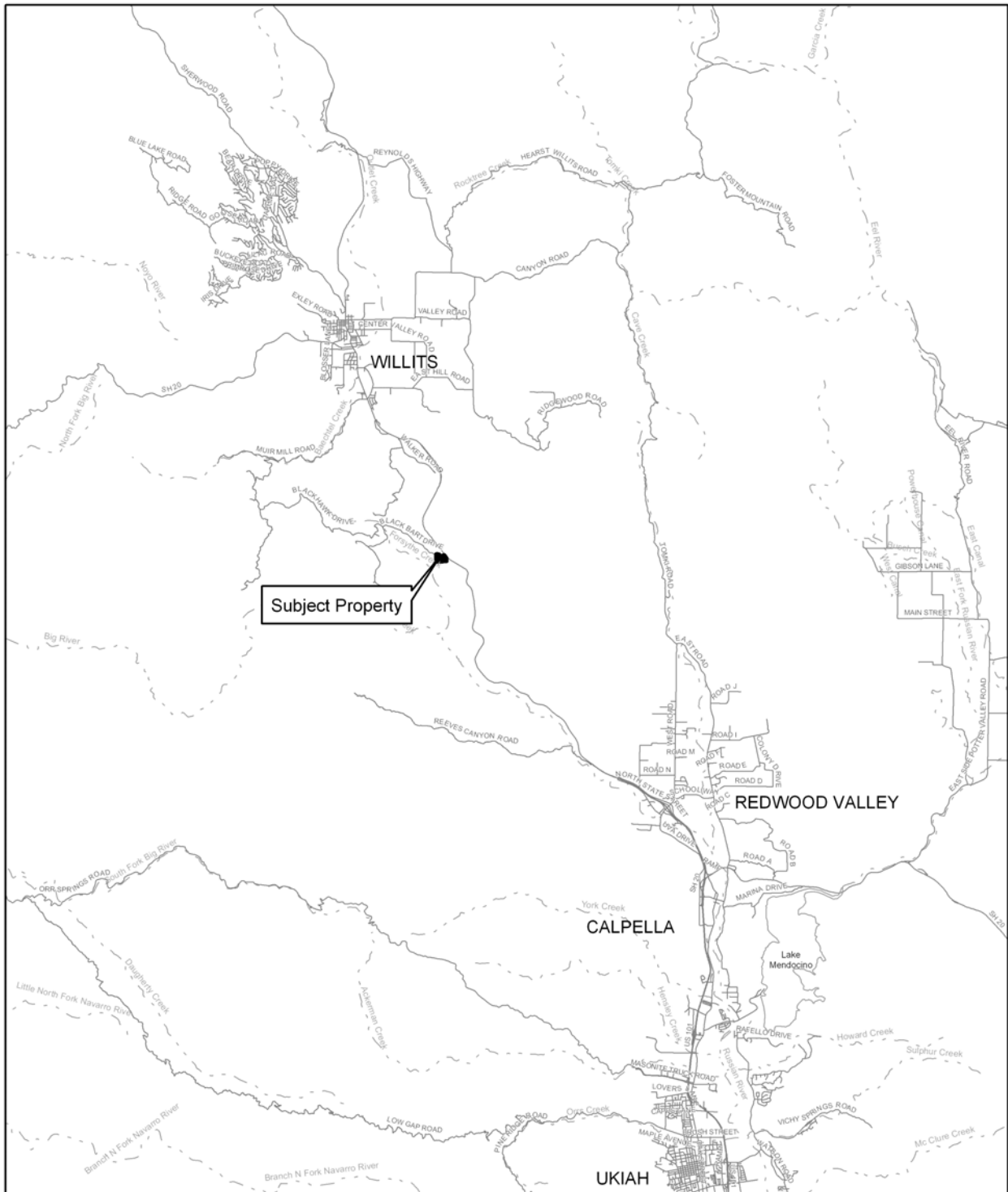
DUSTY DULEY
PLANNER II

DD/at
June 1, 2011

Categorically Exempt
Appeal Fee - \$910
Appeal Period - 10 days

SUMMARY OF AGENCY COMMENTS:

REFERRAL AGENCIES	REFERRAL NOT RETURNED	REFERRAL RECEIVED "NO COMMENT"	COMMENTS RECEIVED
Department of Transportation	X		
Building Inspection (Ukiah)	X	X	
Assessor	X		
Federal Communications Commission	X		
CalFire	X		
County Addresser			X
Caltrans Division of Aeronautics	X		
Little Lake Fire District	X		
Dept. of Fish and Game	X		
Federal Aviation Administration	X		
Air Quality Management District		X	
RWQCB	X		
Environmental Health (Ukiah)		X	
Public Utilities Commission	X		

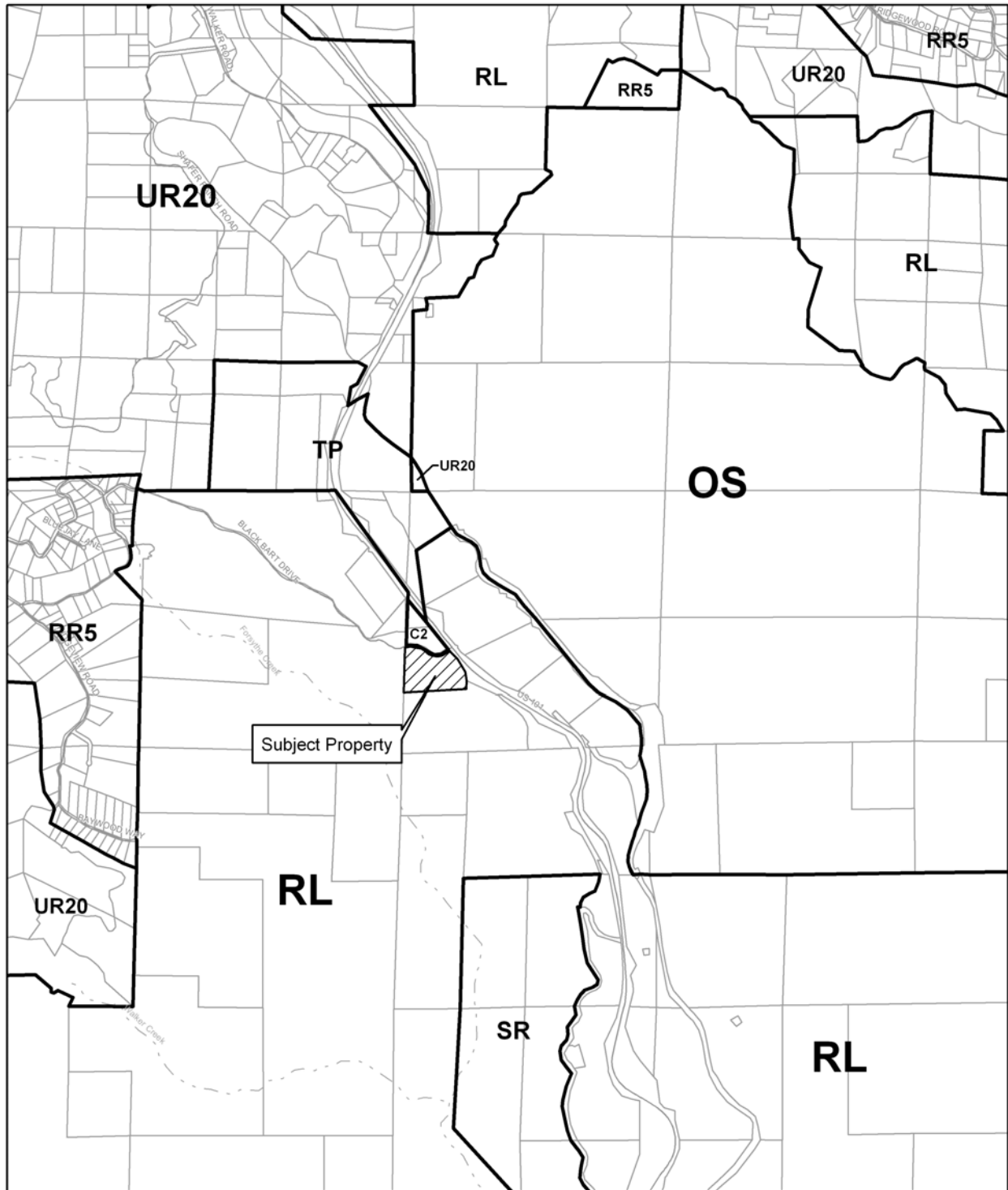


OWNER: DUTRA, Frank & Judy
 APPLICANT: AT&T MOBILITY
 AGENT: SCALIA, Tiffany
 CASE: UM 24-2000 / 2010
 APNs: 147-180-13

LOCATION MAP

Parcel lines are approximate. Parcel lines on this map are NOT SURVEY LINES, they are for viewing purposes only and should not be used to determine legal boundary lines. Parcel line can be over 200 feet off.



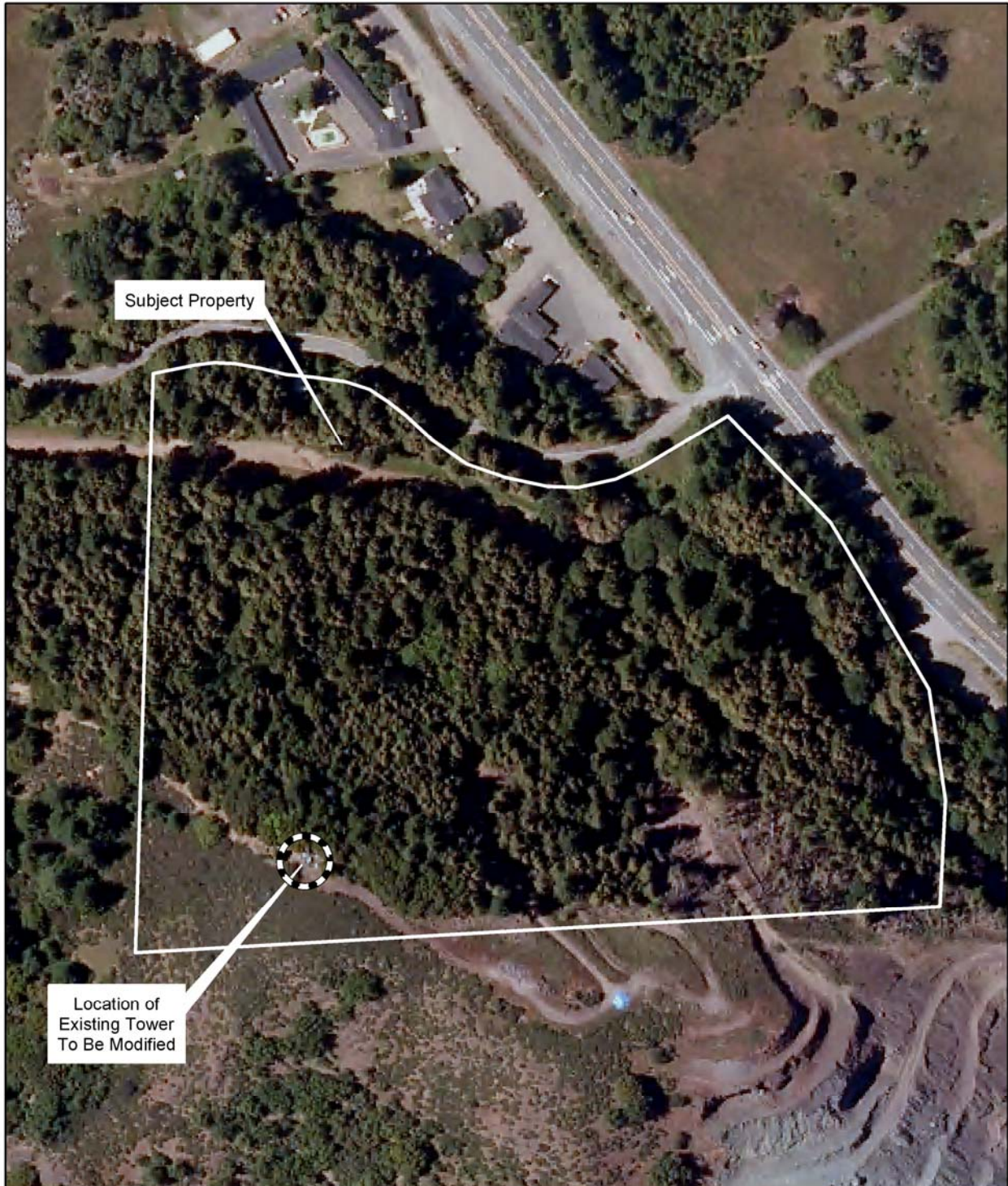


OWNER: DUTRA, Frank & Judy
APPLICANT: AT&T MOBILITY
AGENT: SCALIA, Tiffany
CASE: UM 24-2000 / 2010
APNs: 147-180-13

ZONING DISPLAY MAP

Parcel lines are approximate. Parcel lines on this map are NOT SURVEY LINES, they are for viewing purposes only and should not be used to determine legal boundary lines. Parcel line can be over 200 feet off.



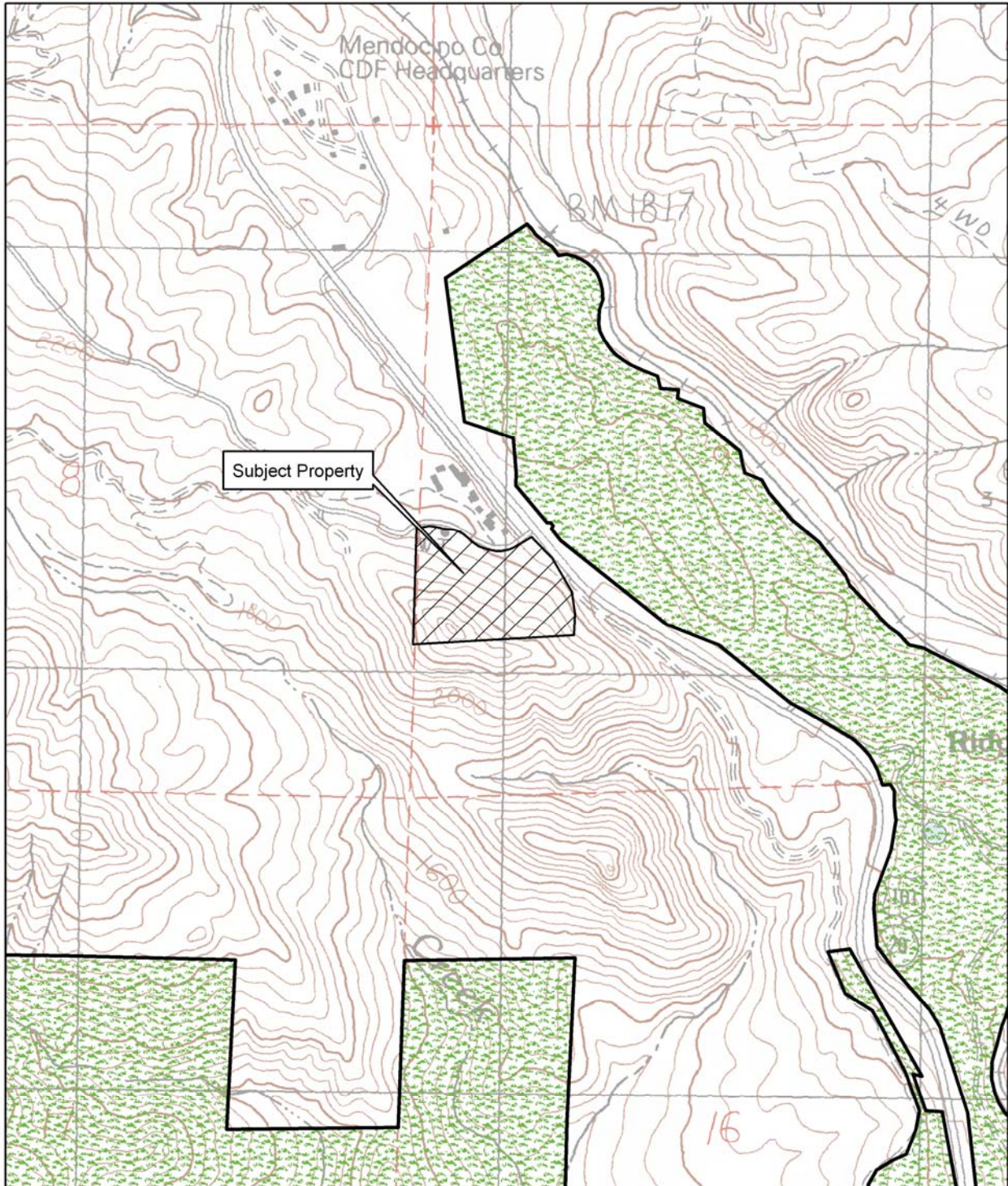


OWNER: DUTRA, Frank & Judy
APPLICANT: AT&T MOBILITY
AGENT: SCALIA, Tiffany
CASE: UM 24-2000 / 2010
APNs: 147-180-13

ORTHOPHOTO - June 2010

Parcel lines are approximate. Parcel lines on this map are NOT SURVEY LINES, they are for viewing purposes only and should not be used to determine legal boundary lines. Parcel line can be over 200 feet off.





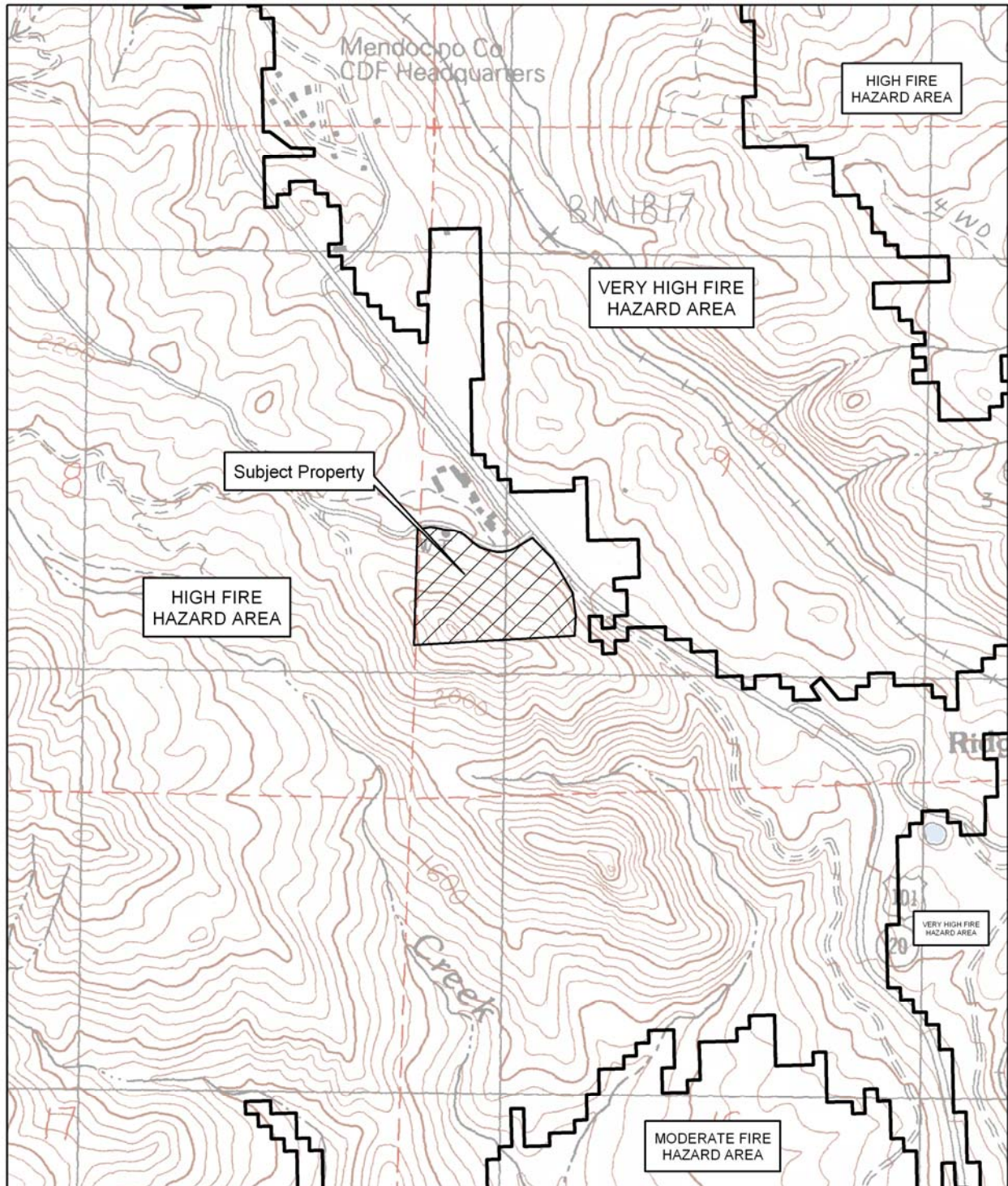
OWNER: DUTRA, Frank & Judy
APPLICANT: AT&T MOBILITY
AGENT: SCALIA, Tiffany
CASE: UM 24-2000 / 2010
APNs: 147-180-13

LANDS WITHIN WILLIAMSON ACT

 Williamson Act - Prime and Non Prime Land

Parcel lines are approximate. Parcel lines on this map are NOT SURVEY LINES, they are for viewing purposes only and should not be used to determine legal boundary lines. Parcel line can be over 200 feet off.

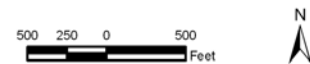


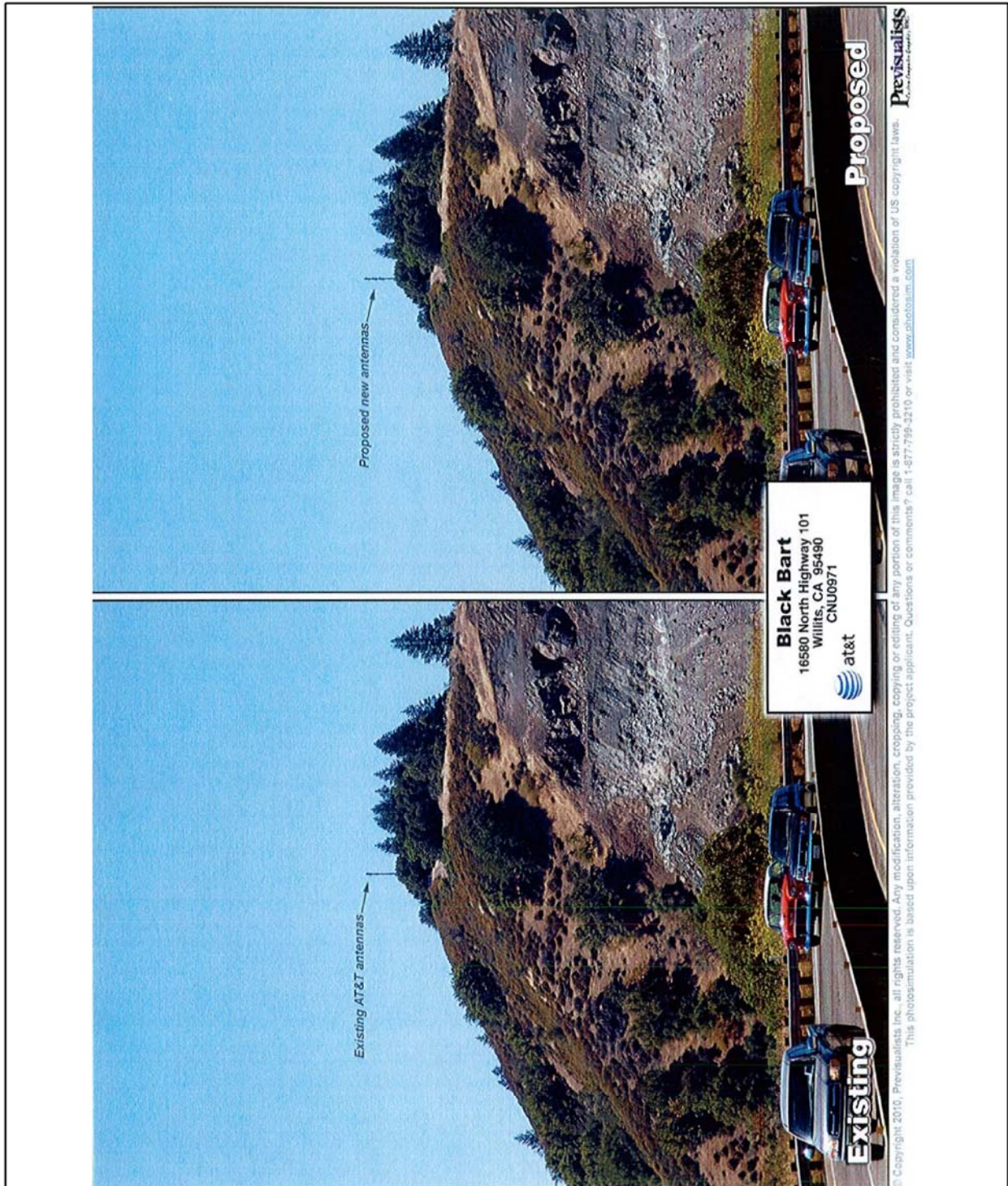


OWNER: DUTRA, Frank & Judy
 APPLICANT: AT&T MOBILITY
 AGENT: SCALIA, Tiffany
 CASE: UM 24-2000 / 2010
 APNs: 147-180-13

FIRE HAZARD SEVERITY ZONES
 LITTLE LAKE FIRE PROTECTION DISTRICT

Parcel lines are approximate. Parcel lines on this map are NOT SURVEY LINES, they are for viewing purposes only and should not be used to determine legal boundary lines. Parcel line can be over 200 feet off.

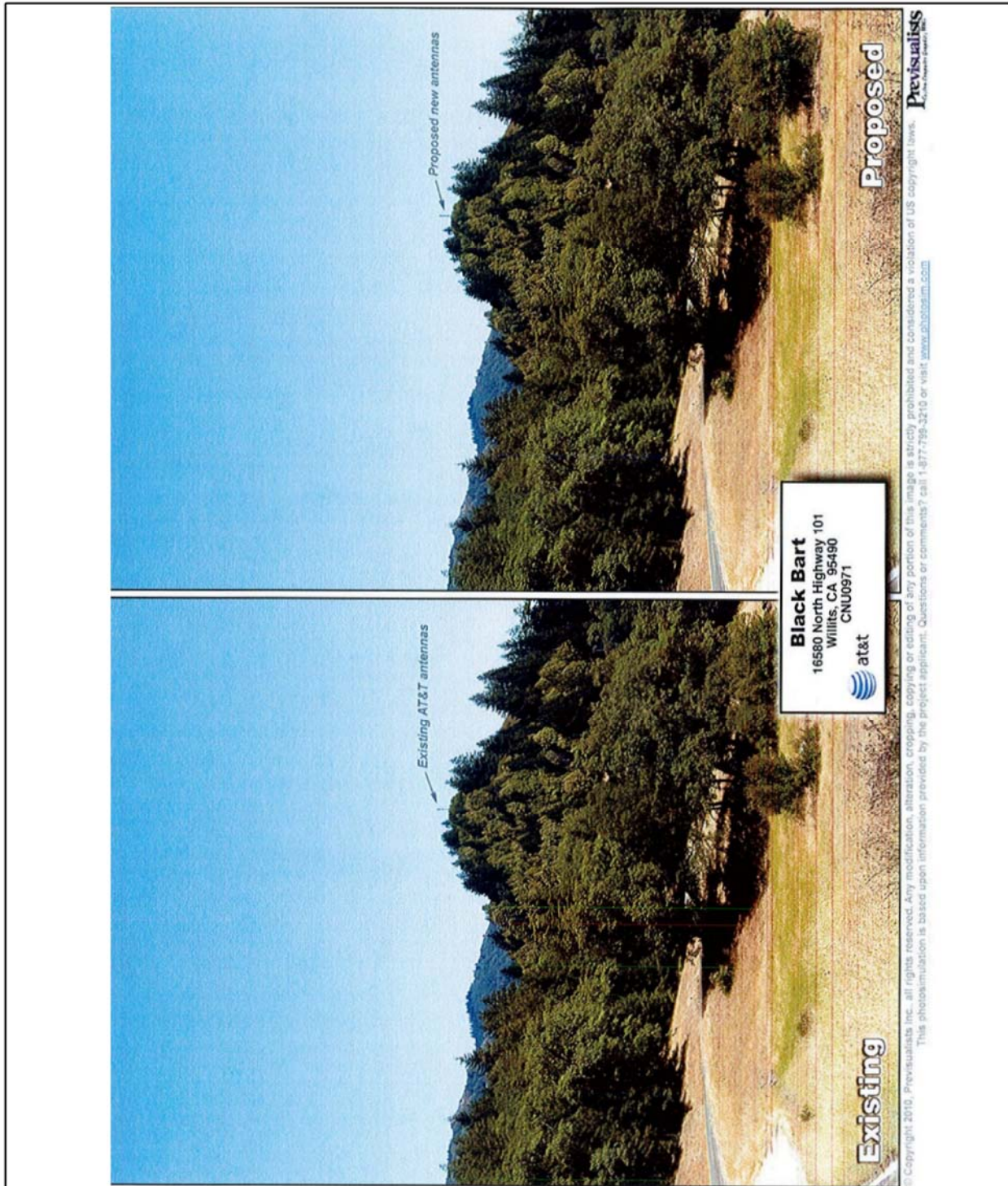




OWNER: DUTRA, Frank & Judy
APPLICANT: AT&T MOBILITY
AGENT: SCALIA, Tiffany
CASE: UM 24-2000 / 2010
APNs: 147-180-13

**PHOTO SIMULATION OF TELEPHOTO ZOOM
VIEW LOOKING NORTHWEST FROM
NORTHBOUND HIGHWAY 101**

Not To Scale



OWNER: DUTRA, Frank & Judy
APPLICANT: AT&T MOBILITY
AGENT: SCALIA, Tiffany
CASE: UM 24-2000 / 2010
APNs: 147-180-13

**PHOTO SIMULATION OF VIEW LOOKING
SOUTHEAST FROM BLACK BART ROAD**

Not To Scale