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**DATA SUMMARY**

**Application Number:** 23PLN-43  
**Subject:** Minor Development Review and Use Permit request for installation of new AT&T wireless antennas inside a new cupola on the roof of Gold Miner’s Inn. The Use Permit request is for an exception to the 45-foot height limit in the Town Core (TC) zone district.  
**Location/APNs:** 109 Bank Street / 008-373-018  
**Applicant:** 51 Wireless on behalf of AT&T  
**Representative:** Nick Tagas  
**Zoning/General Plan:** Town Core (TC) / Commercial (C)  
**Entitlement:** Minor Development Review, Use Permit  
**Environmental Status:** Categorical Exemption

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**RECOMMENDATION:**

1. That the Planning Commission approve the Minor Development Review and Use Permit applications for the addition of the cupola at 109 Bank Street to shield wireless antennas as presented, or as modified by the review authority, which includes the following:
  - a. Determine the project Categorical Exempt pursuant to Section 15305, Class 1, Class 3, and Class 32 of the California Environmental Quality Act (CEQA) and Guidelines, as detailed in the staff report;
  - b. Adopt Findings of Fact for approval of the Minor Development Review Permit as presented in the Staff Report;
  - c. Approve the Minor Development Review Permit for the addition of wireless antennas inside a cupola on the roof of the Gold Miner’s Inn in accordance with the Conditions of Approval, attached to the Staff Report; and
  - d. Approve the Use Permit request for an exception to the 45-foot height limit.

**BACKGROUND:**

The existing structure is 56,318 square feet and was built in 2007, according to the Nevada County Assessor’s Office records, and is a Priority 4 structure in the city’s historical inventory. Priority 4 structures are modern infill, typically less than 50 years old, do not support the prevailing historic character of the historic district, and are considered “non-contributing resources.” The existing structure is approximately 43.6 feet in height at its highest eave.

Pursuant to section 17.30.050(C) of the Municipal Code height is measured as the vertical distance from the eave to finished grade.

In February 2023, the applicant applied for a Use Permit (23PLN-03) to locate a wireless communications facility on the roof of the Masonic Lodge at 126 South Auburn Street. At that time, they investigated alternative potential sites including the Gold Miner's Inn, Phoenix Cigar Lounge, and the Masonic Lodge for feasibility. The Masonic Lodge was determined by the applicant to be the most viable location due to leasing terms, location, and equipment capacity. The Historic Commission reviewed the project at its February 14, 2023, meeting and recommended the applicant make changes to the faux facades. The applicant presented revised faux facades as directed by the Historical Commission at the March 14, 2023 meeting. However, the Historic Commission advised that although the new approach was preferable to the first iteration, the Historic Commission still concluded that the presence of the structures on the roof of the building would alter the historical character of this Priority 1 structure in the city's historical inventory and recommended the applicant seek another location. Following this recommendation, the applicant withdrew the application for permit 23PLN-03 to revisit the potential for alternative sites.

At their meeting on March 26, 2024, the Development Review Committee voted (4 yes / 1 no) to recommend approval of the project, as conditioned.

### **PROJECT PROPOSAL:**

**Project Description:** This Minor Development Review Permit is for the addition of a 22 foot by 22 foot (484 square foot) square foot cupola on the roof of the Gold Miner's Inn entrance. All roof-mounted AT&T wireless antennas will be fully concealed within the 10-foot-tall cupola, which will be painted and textured to match the façade of the existing structure and will feature functioning clocks on the eastern and western faces.

**Use Permit:** Following the outcome of the Historical Commission's review of the proposed Masonic Lodge location, the applicant analyzed five existing co-location facilities and six additional facilities for a new facility (Attachment 6). Of the five co-location facilities, two were eliminated as AT&T is already located on the towers serving more rural areas. The remaining three co-location alternatives were determined to be too far from downtown to provide service to the downtown area, as was the target. The six locations considered for new facilities included Condon Park, Bret Harte Hotel, Everheart Hotel, Phoenix Lounge, Masonic Lodge, and Gold Miner's Inn. Condon Park was eliminated due to constraints posed by the Development Code (i.e., setbacks). Bret Hart Hotel and Everheart Hotel did not respond to AT&T's attempts to discuss feasibility of rooftop antennas and were therefore eliminated from further consideration. Phoenix Lounge was eliminated after engineering had been completed, which confirmed the age and materials of the building could not support a rooftop facility. Finally, Masonic Lodge was not pursued further following the feedback from the Historic Commission discussed previously. Gold Miners Inn remained the only viable location for an AT&T facility to serve the downtown area.

Section 17.46.040 of the Grass Valley Municipal Code (GVMC) states that wireless antennas installed and maintained on an existing structure that are architecturally blended into the structure are permitted with a minor use permit. While the proposed antenna inside the cupola meets this criterion, the cupola exceeds the height limits of the Town Core zone. Section 17.21.040 of the GVMC establishes a maximum building height of 45 feet or 3 stories allowed

by-right in the TC zone, and up to five stories permitted with a use permit. A story is defined as “the portion of a building included between the surface of any floor and the surface of the next floor above it, or if there is no floor above, the space between the floor and the ceiling above.” Further, Section 17.46.060 of the GVMC states any development standard may be modified or waived by the review authority for a proposed communication facility whereby the effective signal reception and transmission will not occur if the facility complies with these standards. The applicant must provide clear and convincing evidence that no other acceptable location or combination of locations in compliance with these standards can provide comparable communications.

The applicant therefore requested a Use Permit to waive the height standard to accommodate the addition of the antenna and cupola at this location to improve telecommunication access in the downtown area. The proposed cupola would be 61 feet at the eaves, and 63.5 feet at its highest point (Attachment 7). This location allows for future co-locations with sufficient capacity in the cupola structure to a certain amount of conceal future carriers’ equipment.

A coverage map was prepared for the site which is attached as Attachment 8. The results indicate that the site will improve coverage from School Street to east of State Highway 49 from less reliable coverage to reliable service both indoors and outdoors. Coverage is anticipated to be improved along Mill Street, South Auburn Street, East Main Street, and the area north of Colfax Avenue. The applicant also provided a map and analysis of future need, identifying locations of existing and proposed AT&T antennas in the City (Attachment 9).

In addition to the above project information, the City’s Development Code requires the additional information to be submitted concurrently with the Use Permit application regarding the telecommunications facility itself. The required documentation is attached and meets the requirements of Section 17.46.040.B of the GVMC.

### **GENERAL PLAN AND ZONING:**

**General Plan:** The Commercial (C) General Plan designation is a broad category intended to encompass all types of retail commercial and commercial service establishments in any variety of locations.

**Zoning:** The Town Core (TC) zone is intended to strengthen the mixed-use, pedestrian-oriented nature of the existing historic downtown. The TC zone is consistent with and implements the Commercial (C) designation of the General Plan. Telecommunication facilities are listed as a use that require a Use Permit in the TC zone. Specifically, Chapter 17.46 outlines the application requirements and processing for Telecommunications Facilities. Additionally, Section 17.72.060 of the Development Code requires the Planning Commission to make specific findings before it acts on a use permit. The Findings are contained in the Findings Section below.

### **SITE DESCRIPTION AND ENVIRONMENTAL SETTING:**

The subject site is located adjacent to the boundary of the historic downtown district at the intersection of Bank Street and Tinloy Street. The site was developed in 2007 with the Gold Miner’s Inn structure, which houses the hotel, a conference center, and secondary commercial uses include the UPS Store. There are no waterbodies or streams located on the property.

## **ENVIRONMENTAL DETERMINATION:**

The proposed project qualifies for Categorical Exemption pursuant to Section 15301, Class 1, Class 3, and Class 32 of the California Environmental Quality Act (CEQA) and Guidelines.

A Class 1 Categorical Exemption of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. Under subsection (e), Class 1 exemptions include additions to existing structures provided that the addition will not result in an increase more than:

- 1) 50 percent of the floor area of the structures before the addition, or 2500 square feet, whichever is less, or
- 2) 10,000 square feet the project is in an area where all public services and facilities are available to allow for maximum development permissible in the General Plan and the area in which the project is located is not environmentally sensitive.

The proposed cupola is 484 square feet and will be a negligible increase in the overall square footage of the structure. Further, the requested Use Permit is for an exception to the height requirement and Development Review is of the design of the cupola. Therefore, the proposed cupola and antennas will not result in an expansion of use of the commercial property on which it will be located.

A Class 3 Categorical Exemption consists of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. The proposed cupola is small accessory addition to the existing structure and will result in minor modifications to the exterior of the structure.

A Class 32 Categorical Exemption consists of projects characterized by in-fill development meeting the conditions described in this section (city consistency response in italics):

- (a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.

*Telecommunication facilities are permitted with a Use Permit in the TC zoning district, and exceptions to development standards (i.e., height limits) may be granted by the review authority if deemed appropriate. The proposed project is consistent with General Plan Policy 32-LUP, which encourages development of state-of-the-art telecommunication infrastructure.*

- (b) The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses.

*The wireless antennas and cupola addition are proposed on a project site of 2.49 acres. Surrounding land uses include commercial businesses to the west (i.e., restaurant, fitness center, gas station, dry-cleaning, and offices), commercial uses (i.e., thrift store*

and dentist office) and a hotel (Creektown Cottages) to the north, and State Route 49 to the east and south.

(c) The project site has no value as habitat for endangered, rare or threatened species.

*The project site was fully developed in 2007, including a 56,318 square foot structure with the remainder of the parcel being occupied by hotel amenities (i.e., patio and pool), landscaping, and parking. Further, the proposed cupola and wireless antennas will be installed on the roof of the existing structure. Therefore, there will be no impact to biological resources.*

(d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.

*Traffic:*

*Level of Service (LOS): The addition of wireless antennas and a cupola on the roof of the structure would not result in any increase in trip generation to the project site.*

*Vehicle Miles Traveled (VMT): Similarly, the addition of wireless antennas and a cupola would not result in any shift in VMT and would therefore have no impact on traffic and transportation.*

*Noise: The proposed project will not emit noise during operation, and construction and installation will be short term. Construction noise is regulated under section 8.28.100 and prohibits construction adjacent to a residential zone to operate standard construction equipment between 7 pm and 7am, and on Sundays or legal holidays. There is expected to be no noise impact.*

*Air Quality: The proposed project will not emit dust, ash, smoke, fumes, or odors and therefore will have no impact on air quality.*

*Water Quality: There are no waterbodies on or traversing the 2.49-acre development area and no development will occur within 30-feet of Wolf Creek. The proposed project will not alter approved drainage areas on the project site.*

(e) The site can be adequately served by all required utilities and public services.

*The proposed project will not require connections to water or sewer lines. PG&E power lines are located in close proximity to the project, as they serve the adjacent commercial and residential areas of the historic downtown district. The proposed project will not require extension of these services. No utility agency has expressed concern in their capacity for serving the project as proposed.*

## **FINDINGS:**

The approval of a Use Permit to waive the height limit in the TC zone for the addition wireless antennas and a cupola to the rooftop of the Gold Miner's Inn shall require that DRC first make the following findings:

1. The City received a complete application for Development Review Application 23PLN-43.

2. The Grass Valley Development Review Committee reviewed Development Review Application 23PLN-43 at their regular meeting on March 26, 2024.
3. The Planning Commission reviewed the project in compliance with the California Environmental Quality Act and concluded that the project qualifies for Class 1, Class 3, and Class 32, Categorical Exemptions in accordance with the California Environmental Quality Act and CEQA Guidelines.
4. The applicant has shown by clear and convincing evidence that no other location or combination of locations or other proposed facility in compliance with these standards can provide comparable communications while preserving the integrity of historic structures.
5. The height of the cupola is the minimum necessary to meet the technical requirements of the proposed wireless communication system.
6. The project as proposed is necessary for the provision of an efficient wireless communication system.
7. The communication facility complies with all applicable requirements of Chapter 17.46.
8. The proposed project is consistent with the general plan and any applicable specific plan.
9. The proposed project is allowed within the applicable zone and complies with all other applicable provisions of this development code and the Municipal Code; and
10. The design, location, size, and characteristics of the proposed project are compatible with existing and future land uses.
11. The site is physically suitable for the site and will not be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood.

**RECOMMENDED CONDITIONS:**

1. The approval date for planning commission review is \_\_\_\_\_ <TBD> \_\_\_\_\_ with an effective date of Thursday, \_\_\_\_\_ <TBD> \_\_\_\_\_ pursuant to Section 17.74.020 GVMC.
2. The final design shall be consistent with the Development Review application and plans provided by the applicant and approved by the planning commission (23PLN-43). The project is approved subject to plans on file with the Community Development Department. The Community Development Director may approve minor changes as determined appropriate.
3. Prior to any work occurring, building permits shall be obtained from the Community Development Department, Building Division.
4. Building permit plans shall be prepared by a California licensed professional and include structural plans which show all framing, attachments, and calculations. Existing building

and new imposed loads shall be included. The project shall comply with the 2022 CBC, CMC, CPC, CEC, and CFC, as applicable.

5. All equipment associated with the approved telecommunication facility shall be removed within thirty days of the discontinuance of the use and the site shall be restored to its original pre-construction condition, subject to the approval of the director. The service provider shall provide the city with a notice of intent to vacate a site a minimum of thirty days before site vacation.
6. The applicant agrees to defend, indemnify, and hold harmless the City of Grass Valley in any action or proceeding brought against the City of Grass Valley to void or annul this discretionary land use approval.

**ATTACHMENTS:**

1. Aerial Map
2. Vicinity Map
3. Universal Application
4. Use Permit Application
5. Environmental Application
6. Alternatives Analysis
7. Architectural Plans
8. Coverage Map
9. Map and Analysis of Future Service Needs
10. Radio Frequency – Electromagnetic Energy Compliance Report
11. Photosimulations
12. Report on Potential Interference with Emergency Service Provider Communications