

**PROJECT NARRATIVE**  
**WCF CONDITIONAL USE APPLICATION**  
**Gold Dust Trail US-CA-5427**

Submitted to the City of Sutter Creek, California  
Planning Division

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**Applicant:** VB BTS III, LLC  
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**Property-Owner:** Marvin Price  
PO Box 729  
Jackson, CA 95642-0729

**Project Address:** 130 Lincoln Ave  
Sutter Creek, CA 95685

**Description & Tax Lot:** Parcel No. 018-052-012-000

**Zoning Classification:** C-2: Commercial

**Land Use Designation:** Gym & Storage

Assurance Development, Inc., submits this application on behalf of VB BTS III, LLC ("Vertical Bridge") referred to as the "Applicant," and the underlying property owner."

Vertical Bridge is the largest private owner and operator of communications infrastructure in the United States, with more than 320,000 sites nationwide. Infrastructure providers, like Vertical Bridge, specialize in developing, constructing, leasing, and maintaining the physical components for wireless networks, including cellular towers. Infrastructure providers lay the physical groundwork that supports wireless communication networks. Wireless carriers, such as T-Mobile, lease space on this infrastructure to house their equipment and offer wireless services to end-users. Through strategic partnerships with wireless carriers, Vertical Bridge allows the opportunity for multiple carriers to collocate onto a single infrastructure and reduces the physical footprint of wireless facilities in the community.

## **1. PROJECT OVERVIEW**

Vertical Bridge is proposing to build a new wireless communications facility ("WCF" or "Facility"), Gold Dust Trail US-CA-5427, at the above noted project address for the colocation of T-Mobile's equipment. This Facility is intended to fill a significant gap in T-Mobile's 5G and 4G LTE coverage experienced by its customers in a targeted coverage area in the City of Sutter Creek.

The Applicant intends for its application for the proposed WCF to include the following documents (collectively, "Applicant's Application"):

- Attachment 1 — Project Narrative
- Attachment 2 — Alternative Site Analysis
- Attachment 3 — Photosimulations
- Attachment 4 — Zoning Drawings
- Attachment 5 — Coverage Maps
- Attachment 6 — RF Exposure Study
- Attachment 7 — Grant Deed
- Attachment 8 — Planning Application Form
- Attachment 9 — Letter of Authorization from Property Owner

As shown in Applicant's Application, this proposed project meets all applicable City of Sutter Creek's Development Code ("CSCDC") criteria for siting new wireless telecommunications facilities and complies with all other applicable state and federal laws and regulations. The proposal is also the least intrusive means of meeting T-Mobile's coverage objectives for this site. Accordingly, the Applicant respectfully requests the City of Sutter Creek to approve this project as proposed, subject only to the City of Sutter Creek's standard conditions of approval.

## 2. PROPOSED PROJECT DETAILS

### 2.1. Location

Detailed information regarding the subject property and proposed lease area is included in **Attachment 4 — Zoning Drawings**, to the Applicants' application.

**2.1.1. Subject property.** The subject property of this proposal is located at 130 Lincoln Ave in the City of Sutter Creek (the "Property"). The Property is owned by Marvin Price. The Property is zoned C-2 – Commercial and is currently used as a gym and storage.

#### 2.1.2. Lease area & WCF Setback Location.

- The proposed 40' x 40' lease area for the WCF is located on the Northeast side of the property; the WCF is setback 39'-4" from the Southeast parcel boundary, 5' from the Northeast parcel boundary, 54'-1 from the Northwest parcel boundary and 134'-9" from the Southwest parcel boundary.
- The lease area will be surrounded by a 6' high chain link fence secured by a double-swing locked access gate.

**2.1.3. Access and parking.** The proposed access road is an existing road that starts at and stems from Oak St, onto Lincoln Ave, and stops at the proposed lease area. The proposed access will be 20' wide.

### 2.2. Wireless Facilities and Equipment

Specifications of the facilities outlined below, including a site plan, can be found in **Attachment 4 — Zoning Drawings**, to Applicant's Application.

**2.2.1. Support structure design.** Applicant is proposing to build a new 70' tall monopine (the "Tower") on the Property. This will be an unmanned wireless communications facility.

#### 2.2.2. Antennas and accessory equipment.

- The Tower will contain T-Mobile equipment (up to 10 panel antennas, 6 RRUs, a 2' microwave antenna, 1 GPS antenna, required antenna cabling along with all associated mounting equipment).
- The antennas, RRUs, and accessory equipment on the Tower will be painted to match. All paint will have an anti-glare finish. Additionally, the proposed Tower is designed as a monopine to blend the facility and its equipment into the surrounding environment. See note on sheet A4 of **Attachment 4 — Zoning Drawings**
- Space for two additional future collocators has been made available on the Tower as encouraged under the Code.
- The proposed T-Mobile antenna centerline is 61' and the proposed T-Mobile antenna tip height is 65'. See elevations on sheet A4 of **Attachment 4 — Zoning Drawings**.

### **2.2.3. Ground equipment.**

- The Tower and all ground equipment will be constructed within the fenced Lease Area not including the proposed PG&E step-down transformer.
- Two (2) ground-mounted radio cabinets.
- An ice bridge is proposed from the radio cabinets to the tower in order to protect the cables that run between the equipment cabinets and the tower/antennas.

## **2.3. Additional Details**

**2.3.1. Lighting.** The Tower will not be artificially illuminated, and no artificial lighting is required pursuant to state or federal authorities. There will be one service light on site that will only be utilized during site visits or in case of an emergency. See **Attachment 4 —Zoning Drawings**, sheet A4.

**2.3.2. Screening.** The Tower has been designed as a monopine to match the landscape in order to screen the antennas, and associated equipment. This stealth design choice was selected with the intent of harmonizing the facility with the surrounding environment and thereby mitigating visual impacts to the greatest extent possible. See **Attachment 3 — Photosimulations** for a visual depiction of the proposed Facility.

**2.3.3. Utilities.** No water or sewer service is required. A proposed NV Energy step-down transformer will be added adjacent to the lease area.

## **3. T-MOBILE NETWORK COVERAGE AND SERVICES**

### **3.1. Overview—T-Mobile 4G & 5G Coverage**

T-Mobile is upgrading and expanding its wireless communications network to support the latest 4G LTE and 5G technology. 4G and 5G stand for “4th Generation” and “5th Generation” and LTE stands for “Long Term Evolution.” These acronyms refer to the ongoing process of improving wireless technology standards, now in its 5<sup>th</sup> generation. With each generation comes improvement in speed and functionality – 4G LTE offers speed up to ten times faster than 3G, and 5G can deliver speeds up to 20 Gbps in ideal conditions. That’s nearly 200 times faster than the 4G network.

Most American consumers currently experience wireless connectivity on 4G networks – and are aware of the profound impact on daily life that has occurred from this connectivity. The emerging standard in voice and data telecommunications – 5G – is poised to transform America’s reliance on densely populated wireless infrastructure.

5G is the latest iteration of cellular technology. While 5G technology operates on the same radio signals as current 4G/4G LTE networks, it is engineered to transmit data more efficiently.

That means superior speeds and support for more connected devices than ever before. The ultra-low latency of 5G means quick response times during data-demanding activities.

There are several components of 5G wireless technology and separate bands of wavelength spectrum used to build a 5G network – low-band (<1GHz), mid-band (1-6GHz), and high-band millimeter wave (“mmWave”) (24 GHz and higher):

- **Low-Band Extended Range 5G.** Low-band 5G frequencies are also known as the “coverage layer.” Low-band 5G refers to frequencies below 1 GHz used to roll out substantial 5G coverage as quickly as possible. One example is the 600 MHz spectrum deployed by T-Mobile nationwide. A low-band cell site can cover hundreds of square miles and deliver a downlink data rate from 30-75 Mbps download—ideal for uses like streaming HD video. Because low-band signals easily pass through buildings, they offer solid coverage indoors and outdoors and are an effective way to connect parts of rural America where even fixed broadband speeds don’t always meet national benchmarks.
- **Mid-Band 5G.** Mid-range frequencies (spanning 1 GHz and 6 GHz) strike a balance between coverage and capacity. Mid-band 5G base stations can transmit and receive high-capacity signals over fairly large areas, and they can represent an ideal mix of performance for the bulk of 5G traffic in metropolitan areas.
- **High-Band mmWave 5G.** High-band 5G uses millimeter-wave (mmWave) frequency bands. High-band is a very specialized part of the 5G offering. Functioning over a shorter radius, it’s particularly useful in urban areas and busy venues like stadiums and shopping malls. High-band can simultaneously provide many high-speed connections focused on an area of just a block or two, from a small cell site mounted close to street level.

Using these frequencies together can help T-Mobile’s 5G network deliver the increased connectivity, reliability, speeds, and security the public demands. T-Mobile is proposing to deploy low and mid band frequencies at this Facility for its 4G and 5G service in the area. Upon completion, the Facility will become part of T-Mobile’s statewide and nationwide communications network.

### **3.2 Coverage Objectives for Proposed Facility**

This proposed Facility meets T-Mobile’s coverage objectives providing in-vehicle and in-building wireless coverage within a geographic area not adequately served by T-Mobile’s network. Specifically, this proposed new wireless facility is intended to improve both voice & data services in Sutter Creek. T-Mobile has established a need for service in this geographic area, as determined by market demand, coverage requirements for a specific geographic area, and the need to provide continuous coverage from one site to another in a particular geographic region. The specific coverage objective was determined through a combined analysis of customer complaints, service requests, and radio frequency engineering design. This proposed Facility will allow for uninterrupted wireless service in the targeted coverage area with fewer dropped calls, improved call quality, and improved access to additional wireless services that the public now demands. This includes emergency 911 calls throughout the area.

#### 4. SEARCH RING

T-Mobile’s RF engineers performed an RF engineering study, considering multiple objectives, to determine the approximate site location and antenna height required to fulfill the noted network objectives for the targeted service area. From this study, T-Mobile’s RF engineers identified a “search ring” area where a WCF may be located to provide effective service in the target coverage area.

#### 5. SITING ANALYSIS

Pursuant to CSCDC Chapter 18.49 Telecommunications and Electrical Generating Towers, the Applicant evaluated alternative site locations within the targeted search ring and just outside of the search ring as possible locations for the proposed Facility. See **Attachment 2 — Alternative Sites Analysis** for a summary of the alternative site locations analyzed.

#### 6. APPLICABLE LAW

##### 6.1. Local Codes

Pursuant to CSCDC Chapter 18.49 Telecommunications and Electrical Generating Towers (Development Code), new WCF support towers are a permissible use in the C-2 – Commercial zone district and are subject to issuance of a Conditional Use Permit subject to approval by City of Sutter Creek Planning. Adjustments stipulated by City of Sutter Creek Planning must comply with the criteria in CSCDC Chapter 18.49.

##### 6.2. Federal Law

Federal law, primarily found in the Telecommunications Act of 1996 (“Telecom Act”), acknowledges a local jurisdiction’s zoning authority over proposed wireless facilities but limits the exercise of that authority in several important ways.

**6.2.1. Local jurisdictions may not materially limit or inhibit.** The Telecom Act prohibits a local jurisdiction from taking any action on a wireless siting permit that “prohibit[s] or [has] the effect of prohibiting the provision of personal wireless services.” 47 U.S.C. § 332(c)(7)(B)(i)(II). According to the Federal Communications Commission (“FCC”) Order adopted in September 2018,<sup>1</sup> a local jurisdiction’s action has the effect of prohibiting the provision of wireless services when it “materially limits or inhibits the ability of any competitor or potential competitor to compete in a fair and balanced legal and regulatory environment.”<sup>2</sup> Under the FCC Order, an applicant need not prove it has a significant gap in coverage; it may demonstrate the need for a new wireless facility in

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<sup>1</sup> *Accelerating Wireless and Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment*, Declaratory Ruling and Third Report and Order, WT Docket No. 17-79, WC Docket No. 17-84, FCC 18-133 (rel. Sept. 27, 2018); 83 Fed. Reg. 51867 (Oct. 15, 2018), *affirmed in part and vacated in part*, *City of Portland v. United States*, 969 F.3d 1020 (9th Cir. 2020), *cert. denied*, 594 U.S. \_\_\_, 141 S.Ct. 2855 (June 28, 2021)(No. 20-1354) (“FCC Order”).

<sup>2</sup> *Id.* at ¶ 35.

terms of adding capacity, updating new technologies, and/or maintaining high quality service.<sup>3</sup>

While an applicant is no longer required to show a significant gap in service coverage, in the Ninth Circuit, a local jurisdiction clearly violates section 332(c)(7)(B)(i)(II) when it prevents a wireless carrier from using the least intrusive means to fill a significant gap in service coverage. *T-Mobile U.S.A., Inc. v. City of Anacortes*, 572 F.3d 987, 988 (9th Cir. 2009).

- **Significant Gap.** Reliable in-building coverage is now a necessity and every community's expectation. Consistent with the abandonment of land line telephones and reliance on only wireless communications, federal courts now recognize that a "significant gap" can exist based on inadequate in-building coverage. See, e.g., *T-Mobile Central, LLC v. Unified Government of Wyandotte County/Kansas City*, 528 F. Supp. 2d 1128, 1168-69 (D.Kan. 2007), *affirmed in part*, 546 F.3d 1299 (10<sup>th</sup> Cir. 2008); *MetroPCS, Inc. v. City and County of San Francisco*, 2006 WL 1699580, \*10-11 (N.D. Cal. 2006).
- **Least Intrusive Means.** The least intrusive means standard "requires that the provider show that the manner in which it proposes to fill the significant gap in service is the least intrusive on the values that the denial sought to serve." 572 F.3d at 995, *quoting MetroPCS, Inc. v. City of San Francisco*, 400 F.3d 715, 734 (9<sup>th</sup> Cir. 2005). These values are reflected by the local code's preferences and siting requirements.

**6.2.2. Environmental and health effects prohibited from consideration.** Also under the Telecom Act, a jurisdiction is prohibited from considering the environmental effects of RF emissions (including health effects) of the proposed site if the site will operate in compliance with federal regulations. 47 U.S.C. § 332(c)(7)(B)(iv). The Applicant has included with this application a statement from Hammett & Edison, Inc., Consulting Engineers, demonstrating that the proposed facility will operate in accordance with the Federal Communications Commission's RF emissions regulations. See **Attachment 6 — RF Exposure Study**. Accordingly, this issue is preempted under federal law and any testimony or documents introduced relating to the environmental or health effects of the proposed facility should be disregarded in this proceeding.

Applicant understands that the City of Sutter Creek has a practice of conditioning wireless towers with future obligations related to RF emissions and RF interference. All such conditions of approval and any other local regulation of RF emissions are preempted and void. *Southwestern Bell Wireless, Inc. v. Johnson County*, 199 F.3d 1185, 1193 (1999).

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<sup>3</sup> Id. at ¶¶ 34-42.

**6.2.3. No discrimination amongst providers.** Local jurisdiction also may not discriminate amongst providers of functionally equivalent services. 47 U.S.C. § 332(c)(7)(B)(i)(I). A jurisdiction must be able to provide plausible reasons for disparate treatment of different providers' applications for similarly situated facilities.

**6.2.4. Shot Clock.** Finally, the Telecom Act requires local jurisdictions to act upon applications for wireless communications sites within a "reasonable" period of time. 47 U.S.C. § 332(c)(7)(B)(ii). The FCC has issued a "Shot Clock" rule to establish a deadline for the issuance of land use permits for wireless facilities. 47 C.F.R. § 1.6001, *et seq.* According to the Shot Clock rule for "macro" wireless facilities, a reasonable period of time for local government to act on all relevant applications is 90 days for a collocation, with "collocation"<sup>4</sup> defined to include an attachment to any existing structure regardless of whether it already supports wireless, and 150 days for a new structure.

***The Shot Clock applies to all authorizations required for siting a wireless facility, including the building permit, and all application notice and administrative appeal periods.***

***Pursuant to federal law, the reasonable time period for review of this application is 150 days.***

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<sup>4</sup> 47 C.F.R. § 1.6002(g).