COUNTY ZONING ADMINISTRATOR MONDAY, FEBRUARY 3, 2014

I. <u>INTRODUCTION</u>

EXTENET SYSTEMS, INC. (APPLICANT); CONTRA COSTA COUNTY AND NORTHERN CALIFORNIA JOINT POLE ASSOCIATION (OWNERS) – County File #LP13-2115 – The applicant is requesting approval of a Land Use Permit to replace an existing 25-foot, 4-inch utility pole with a 45-foot, 11-inch utility pole, and install a new wireless telecommunications facility for use by ExteNet Systems. The project includes the addition of two panel antennas, two remote radio units, one battery backup unit, and associated equipment at various heights along the pole. The subject pole is located within the public right-of-way (ROW), on the southwest side of Marsh Creek Road, approximately 400 feet southeast of Morgan Territory Road, in front of 2401 Marsh Creek Road, in Clayton. (Zoning: General Agricultural District, A-2) (Assessor's Parcel Number: ROW 078-070-046)

II. RECOMMENDATION

Staff recommends that the Zoning Administrator APPROVE County File #LP13-2115 based on the attached findings and subject to the attached conditions of approval.

III. BACKGROUND

On November 14, 2013 the Applicant submitted a Land Use Permit Application requesting approval to build one node of a Distributed Antenna System (DAS) onto an existing utility pole on Marsh Creek Road in Clayton. This proposed node is part of a larger distributed antenna system (DAS) providing improved coverage to the Clayton and Brentwood areas.

Six Land Use Permit Applications in total were submitted by the Applicant, ExteNet Systems, Inc. - five on November 14, 2013, and one on November 19, 2013 - for new telecommunications sites on existing utility poles in public right-of-way areas. Two of the sites are located in Orinda, and the other four are located in Clayton.

This application is categorically exempt from the California Environmental Quality Act (CEQA), as discussed in the following section.

IV. GENERAL INFORMATION

- A. General Plan: SV, Single Family Residential Very Low Density
- B. Zoning: A-2, General Agricultural District

- C. <u>California Environmental Quality Act (CEQA) Status</u>: The project proposes the replacement of an existing 25-foot, 4-inch utility pole with a 45-foot, 11-inch utility pole, along with the addition of new telecommunications equipment. The proposed project is exempt under CEQA Guidelines, Section 15303(d), regarding "New Construction or Conversion of Small Structures", which exempts the construction of limited numbers of new, small facilities and other utility extensions, including street improvements of a reasonable length to serve such construction.
- D. <u>Prior County Files Related to the Subject Property</u>: No other land use applications have been filed previously for the subject utility pole or in the immediate vicinity on Marsh Creek Road. County Files #LP13-2116, #LP13-2117, #LP13-2118, were filed concurrently with this application, and propose similar facilities at existing utility pole sites along Marsh Creek Road.

V. <u>SITE/AREA DESCRIPTION</u>

The subject pole is located within the public right-of-way (ROW), on the southwest side of Marsh Creek Road, approximately 400 feet southeast of Morgan Territory Road, in front of 2401 Marsh Creek Road, in Clayton. The surrounding area is designated an A-2, General Agricultural District, and consists mainly of rural grasslands with agricultural buildings. Single family residences exist on nearby properties, but beyond plain view of the site. The property bordering on the northeast side of the site is government-owned, and largely undeveloped. Structures nearby on the property to the southwest of the site, on 2401 Marsh Creek Road, are agricultural in nature.

The subject utility pole is located approximately 8 feet from the road, on a segment of Marsh Creek Road where there is mostly low vegetation, offering little screening for the existing utility pole and the proposed addition of equipment. However, in this area, utility poles occur as frequently as every 200 feet, and are a common and expected element in the landscape. (Please see the attached site photos for visual reference.)

VI. PROPOSED PROJECT

The applicant is requesting approval of a Land Use Permit to replace an existing 25-foot, 4-inch utility pole with a 45-foot, 11-inch utility pole, and install a new wireless telecommunications facility for use by ExteNet Systems. All equipment will be installed on the pole, with none proposed on the ground.

The project includes the installation of the following items at the listed heights on the utility pole:

A. Top of pole: two panel antennas, each 2' X 10" X 6"

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- B. <u>13 feet high</u>: two remote radio units, each 1'-8" X 1'-5" X 6.5"
- C. 9 feet high: one battery backup unit, 2'-2" X 1' X 1'
- D. 7 feet high: one electrical meter socket, negligible size
- E. <u>6 feet high</u>: one safety shut-off switch, negligible size

VII. <u>AGENCY COMMENTS</u>

- A. <u>Contra Costa Environmental Health</u>: On November 21, 2013, the Department returned an Agency Comment Request form indicating no comments.
- B. <u>Building Inspection Division</u>: On November 25, 2013, the Division returned an Agency Comment Request form indicating no comments.
- C. <u>Public Works Department</u>: In a memo dated December 5, 2013, the Department stated that the applicant shall provide a paved turnout for the site, and made conditions of approval recommendations. Please refer to the attached memo for details.

Typically, Public Works requires turnouts for sites which lack road shoulders. The subject site has an existing graveled shoulder which could be used for ongoing maintenance of the proposed facility. Staff has discussed this site condition with Public Works, and Public Works has agreed to rewrite the condition of approval to state the following:

Condition #24:

Applicant shall call out a turnout area on the site plan and the traffic control plan that is subject to review and approval of Public Works Department. The applicant shall improve the turnout area as necessary to support the weight of anticipated maintenance vehicles, subject to review and approval by the Public Works Department.

- D. <u>Pacific Gas and Electric Real Property</u>: On December 6, 2013, PG&E returned an Agency Comment Request form verifying the ownership and licensing status of the subject utility pole. Please refer to the attached form for details.
- E. <u>East Contra Costa County Habitat Conservancy (HCP/NCCP)</u>: On January 23, 2014, HCP returned an Agency Comment Request form verifying that the proposed project is exempt from compliance with HCP. Please refer to the attached form for details.

In this project proposal, all equipment will be installed on the pole, and none on the ground. Though no trenching or grading will occur with the project itself, there may be ground disturbance due to the Public Works requirement that the applicant to provide a paved turnout at the site. HCP has determined that the site, with special consideration to this Public Works condition, is exempt.

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F. No comments were received from East Contra Costa Fire District prior to the preparation of this report.

VIII. AGENCY POLICIES AND STANDARDS

A. <u>Federal Communications Commission (FCC)</u>: This agency has adopted radio frequency protection standards, which establish "safety levels with respect to human exposure to radio frequency electromagnetic fields". These standards are jointly published by the American National Standards Institute and the Institute of Electrical and Electronics Engineers. The standards prescribe limits for continuous exposure to radio frequency ("RF") energy.

The applicant has provided a radio frequency compliance report by Hammett & Edison Inc. to document compliance with these standards. The report, received November 14, 2013, evaluated the proposed facility and concluded that the project is in compliance with the applicable FCC standards.

- B. Federal Aviation Administration (FAA): The FAA regulates the height of structures near airports and towers 200-feet high (or more) that could pose a navigation hazard to pilots. The pole-mounted panel antennas and proposed equipment does not exceed 45-feet, 11-inches above-ground-level; therefore, the project does not fall under the authority of the FAA. Additionally, the project is not within any Airport Influence Area as defined in Figure 5-5 of the County's General Plan. Thus, the project does not fall within the FAA's regulation based on proximity to an airport.
- C. <u>Contra Costa County 1998 Telecommunications Policy</u>: The County has adopted policies that establish guidelines to regulate placement and design of commercial wireless communication facilities. This policy provides administrative direction to staff by indicating factors to be considered in reviewing a land use permit application for a commercial wireless communication facility. The proposed project falls under the authority of these policies and is further discussed in the following section.

IX. STAFF ANALYSIS AND DISCUSSION

A. <u>Appropriateness of Use</u>: The purpose of the project is to provide third and fourth generation wireless voice and data coverage to the area where there is a desired improvement in coverage. The wireless services that will be provided with the implementation of the project include mobile telephone, wireless broadband, emergency 911, data transfers, electronic mail, internet, web browsing, wireless applications, wireless mapping and video streaming. The proposed node is part of a larger distributed antenna system (DAS) providing coverage to the Marsh Creek Road area in Clayton and Brentwood areas.

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The existing pole is already used for utility equipment to serve the local community. Replacing the existing pole with a taller pole and mounting new equipment on it, in order to provide improved service to the community, is an appropriate use for the proposed site.

- B. <u>General Plan</u>: The subject utility pole location is located within a Single Family Residential Very Low Density (SV) General Plan Land Use designation. Additionally, the proposed project will be located on an existing utility pole location in the public right of way. Therefore, the proposed project is compatible with the current land use on the site, will not conflict with any existing or future land use in the area, and is consistent with the SV designation.
 - 1. <u>Scenic Route</u> The subject utility pole location exists on a portion of Marsh Creek Road which is a designated scenic route. The following General Plan Scenic Route Policies, contained in the Transportation and Circulation Element, apply to the proposed project:
 - a) <u>Policy 5-47</u> "Scenic corridors shall be maintained with the intent of protecting attractive natural qualities adjacent to various roads throughout the County."
 - b) <u>Policy 5-49</u> "Scenic views observable from scenic routes shall be conserved, enhanced, and protected to the extent possible."

The project, as designed and conditioned, is consistent with General Plan policies 5-47 and 5-49. Though the project proposes a new utility pole that is 20 ft. taller than the existing pole, and though the pole is highly visible due to the lack of screening by vegetation, the design of the facility is consistent with utility poles in the area, and maintains existing views from the scenic route along Marsh Creek Road. Moreover, the project is conditioned so that new equipment and supports will be painted to blend with the existing environment and other utility poles in the area, as shown in the photosimulations submitted for the project.

- 2. <u>Urban Limit Line</u> The property is just outside the Urban Limit Line (ULL). The purpose of the ULL is to: 1) enhance preservation of identified non-urban agriculture and open space; and 2) facilitate enforcement of the 65/35 Land Preservation Standard. The project does not require the extension of any utilities that could be considered growth inducing (e.g., sewer and water). Therefore, the project does not conflict with the County's adopted ULL and enforcement of the 65/35 Land Preservation Standard.
- C. <u>Zoning</u>: The subject utility pole is located within a General Agricultural Zoning District (A-2). Uses permitted with the approval of a Land Use Permit under County Code

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Section 84-84.402 include "commercial radio and television receiving and transmitting facilities other than broadcasting studios and business offices". The County has determined that the proposed project, as proposed and conditioned, is consistent with this zoning district.

- D. <u>Contra Costa County 1998 Telecommunications Policy</u>: In accordance with this County policy, the project proposal:
 - 1. minimizes visual impact on the site by co-locating the new facility with an existing utility pole in a County right-of-way;
 - 2. has provided a compliance report demonstrating the facility's compliance with FCC standards for radio frequency exposure; and
 - 3. has provided photo simulations demonstrating sufficient blending with existing utilities structures and the immediate area.

X. <u>CONCLUSION</u>

Staff recommends approval of the proposed development subject to the attached findings and conditions of approval.

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