TO: ELBERT COUNTY PLANNING COMMISSION

FROM: CORY MILLER, AICP PRINCIPAL PLANNER (BASELINE CORPORATION)
APPROVED: KYLE FENNER, DIRECTOR OF CDS

RE: SU-16-0023 COMMNET FOUR CORNERS TOWER USE BY SPECIAL REVIEW FOR ONE CELLULAR COMMUNICATION FACILITY SUPPORT TOWER ON A PORTION OF SECTION 12, TOWNSHIP 10 SOUTH, RANGE 64 WEST OF THE 6TH P.M. IN ELBERT COUNTY.

APPLICANT: Commnet Four Corners, LLC

REPRESENTATIVE: Kristen Hubbard, Commnet Four Corners, LLC

SUMMARY OF REQUEST
The applicant, Commnet Wireless, LLC, requests a Use by Special Review permit to construct and operate a cellular communication support structure (tower) to maintain communication services within Commnet’s existing service area. The location of the proposed tower will also allow Commnet to extend their service range to the south. The facility is proposed to be located in a 50’ x 50’ lease area on a 476 acre parcel owned by Harmony Land & Cattle, LLC.

The facility itself will consist of one (1) support tower and 12 panel antennas to be located near the top of the tower approximately 199’ above the base support slab. One (1) additional microwave dish antenna located approximately 100’ above grade will be installed in the absence of fiber optic lines and T-1 copper lines that typically communicate data transmissions to the tower for service. The total height of the tower will be 199’ and it will be self-supported – no guy wires will be required. Additional equipment cabinets, meters, and an electrical transformer pertinent to the facility’s operation will be constructed at ground level at the base of the antenna.

The applicant currently leases transmission frequencies (spectrum) from a third party owner that operates in the region around the subject site. They also lease physical space for their antennas from a privately owned support tower located approximately
1.64 miles to the north of the proposed SUR tower. Due to increased lease rates for the physical space on the existing tower, it has become difficult for Commnet to offer services within its leased spectrum area. By constructing their own tower on the proposed parcel, Commnet will be able to lower its operating costs and continue to provide service in their current operating area and extend service further to the south.

**Site Map**

**Area Zoning Map**
PERTINENT DATA

Site Description: The site is located on a portion of land in Section 12, Township 10 South, and Range 64 West of the 6th P.M. approximately 2.2 miles southeast of the Elbert community.

More specifically, the site is located directly south and west of the intersection of Elbert County Road 94 and Elbert County Road 37 (Parcel 0412100041). The applicant will lease a portion of the subject property, owned by Harmony Land & Cattle, LLC, to provide a 50’ x 50’ operating area for the support tower as well as a 25’ access road (approximately 400’ in length).

Topography: The site is mostly flat.

Floodplain: There are no designated flood hazard areas on the parcel. The closest floodplain is located to the east approximately 1.25 miles (Comanche Creek).

Existing Zoning: A (Agriculture)

Proposed Zoning: No change, but will add a Special Use on the property if approved.

Surrounding Zoning / Land Use:

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BACKGROUND:
The application for this proposal was received on November 11, 2016. Once the application was deemed complete, referral packets were submitted to appropriate agencies. Public hearing dates were set.

Planning Commission date is: March 7, 2017
Board of County Commissioners date is: March 22, 2017

REFERRAL
Part II, Section 17, C, 3 of Elbert County Zoning Regulations requires that Community & Development Services receive comments from the appropriate referral agencies to evaluate requests for a Special Use. Failure of a referral agency to submit comments in writing shall constitute approval by that agency. Following is a summary of comments received. Copies of each comment are attached.

Elbert County Communication Authority: ECCA requests that space be provided on the proposed tower for ECCA antennas at no cost to ECCA. ECCA specifically requests the following:
• A ten foot portion of the tower at an elevation of 160’ from the ground level to place two four foot diameter microwave dishes.
• Below those dishes within that ten foot space, three 700/800 MHz omnidirectional antennas with a total wind load of two square feet.
• Space within the enclosing fence for a two foot by four foot data cabinet for equipment.

Elbert County Engineering (Baseline Corporation): No objections.

Mountain View Electric Association: MVEA reminds the applicant that MVEA has existing facilities near the property but has no objections.

COMMUNITY COMMENTS
Comments from neighboring property owners within a quarter mile: A letter informing neighbors within a quarter mile of the property was sent on behalf of the applicant which contained the application’s narrative describing the proposed SUR application.

Several comments were received by the case manager as well as the applicant regarding the proposed facility. Below is a brief summary of each piece of email correspondence from each property owner. Please see the full email correspondence provided in your packet. Comments were specifically received from the following community members:

• Michael Petersen (22750 CR 37) – This neighbor expresses his interest in the proposed carrier. He also expresses interest in the expansion of the service range that will be provided from the proposed development.

• David Hoffer (21878 CR 37) – This neighbor is not opposed to the development as long as the applicant provides monetary compensation to surrounding property owners.

• Diana Wright & Bernadette DeCoke (23241 CR 37 and 8655 CR 94) – These neighbors are very concerned about the effect of the proposed tower on health. Additional concerns are provided regarding the effects of the proposed application on property values.

• Dave Whitner (Director of Support Services Boy Scouts of America – Denver Area Council) – Mr. Whitner is interested in the proposed service area and is generally supportive of the development.

The case manager contacted the applicant and confirmed Commnet has had communications with all of the neighbors identified above. She is prepared to respond to questions regarding these comments at the hearing scheduled on March 7, 2017.
EVALUATION

Approval of this proposal requires compliance with the Elbert County Master Plan, Zoning Regulations, and Subdivision Regulations. Code sections are in italics to differentiate from Staff comments which are underlined.

**Elbert County Community & Development Services:**

*Elbert County Zoning Regulations, Part II, Section 17, A, 5, f.- Antenna Support Structures Higher than 120.1 feet:*

a) Applications for antenna support structures whose height exceeds 120 feet shall be subject to the regular applicable “Special Use Review” procedures.

1. This application is being processed according to those “Special Use Review” procedures.

b) If applicable, evidence must be presented indicating that the proposed structure meets the requirements of the Federal Communications Commission and the Federal Aviation Administration.

1. Staff did not receive comments from either the FAA or FCC regarding the subject application. However, the applicant has supplied both applications from each agency including:
   - Determination of no hazard to air navigation (Federal Aviation Administration)
   - TOWAIR registration determination (Federal Communications Commission)

2. Both applications were determined to be in compliance with both the FAA and FCC requirements. Please see the attached determinations in your packet.

*Zoning Regulations, Part II, Section 17, B., 7: The following criteria shall be considered by the Planning Commission and the Board of County Commissioners in reviewing all Special Use Review applications:*

a. **Whether the proposed Special Use complies with the requirements of the Elbert County:**

   1. **Master Plan**

   The Master Plan does not include discussion about Special Uses. According to Master Plan policies, any new development will be required to meet all County development standards and regulations. Section VII. Community Resources has the following goals:
Goal (Community Services): Ensure an adequate level of community services is maintained to support all existing and future residents of the county.

This includes the following policies:

4. The County shall encourage cooperation and communication between special service districts.

22. (Law Enforcement) As development occurs, the County and developer(s) shall cooperate to provide additional Sheriff’s Department facilities in order to adequately cover the vast acreage and distances in the County.

23. (Law Enforcement) As development occurs, the County and developer(s) shall cooperate to modernize ... and construct additional facilities to meet current standards.

24. (Fire Protection) As development occurs, the County and developer(s) shall cooperate in updating existing facilities and constructing additional fire protection facilities.

The proposed facility will provide additional space for the co-location of equipment needed for emergency responders to operate efficiently in Elbert County. As indicated in the letter provided by Jim White of the Elbert County Communication Authority dated November 9, 2016: “This tower is well located to provide improved coverage for voice radios systems for our first responders who work in the area of the town of Elbert and surrounding it where we currently have a gap in coverage”.

Goal (Transportation and Utilities): To create safe, functional, and environmentally sensitive transportation and utility systems throughout the county.

The proposed facility will maintain a much needed utility within Elbert County and will help extend frequency coverage to areas that are currently not well covered. The proposed development will have a minimal impact on the environment. The applicant has submitted an environmental study which concluded that no impact to the local eco-systems will occur. A quote from the executive summary of the study indicates, “The result of TEP’s investigation and environmental records review has revealed no evidence of recognized environmental conditions in connection with the subject property. In addition, none of the adjoining properties appear to pose a threat to the soil and/or groundwater of the subject property. The EDR Radius Map Report identified no sites of potential environmental concern within the standard ASTM radius of the subject property.”

2. Zoning Regulations

This proposal is located on property zoned Agriculture, which allows Uses by Special Review as listed in Part II, Section 17, A of the ZR including Antenna support structures and Cellular Communication Facilities.
3. **Subdivision Regulations**
   
   This proposal is not subject to subdivision regulations.

b. **Whether the proposed Special Use is in harmony and compatible with the surrounding area and neighborhood.**

   This proposed Special Use is located in an Agriculture zoned area. The Special Use is deemed to be in harmony and compatible with the surrounding area as long it meets all the zoning criteria of Uses Permitted by Special Review. The applicant has proposed to construct a wooden fence to surround ground-level equipment to be screened from neighboring properties.

c. **Whether the proposed Special Use will adversely impact the provision of public services.**

   The proposed project is not anticipated to adversely impact the provision of public services. The site will utilize utilities that are currently provided below County Road 94. As a whole, the project will serve to enhance public services and allow for first responders to better communicate with their dispatchers.

d. **Whether the proposed Special Use will adversely impact the environment.**

   The environmental impact is anticipated to be minimal. A separate environmental impact study was submitted and reviewed. The proposed application was determined to have no significant impact on the environment.

e. **Whether the proposed Special Use will increase traffic congestion or burden the existing road system.**

   Traffic impacts are anticipated to be minimal.

f. **Whether the proposed Special Use will be adequately landscaped, buffered and screened.**

   The applicant has agreed to construct a wooden fence around the base cabinet equipment to minimize the facility’s visual impact to the greatest extent possible.

g. **Whether the proposed Special Use will not otherwise be detrimental to the health, safety or welfare of the present or future inhabitants of Elbert County.**

   No significant concerns about health, safety, or welfare of present or future inhabitants of Elbert County were expressed by referral agencies.
In addition to the general SUR criteria, commercial antenna support structures for CMRS facilities must comply with additional criteria. There are specific Approval Standards for Cellular Communications Facilities:

**Part II, Section 17, A.10.c. General Approval Standards – the Special Use Review will be approved upon the finding that:**

1) *The facility is architecturally and visually (color, bulk, size, etc.) compatible with the surrounding land uses, buildings, structures and vegetation in the area or those likely to exist under the terms of the underlying zone district.*

   The facility is relatively not bulky given its height and narrow frame. A tower is visually compatible with uses and buildings typically found in the A zone district. It should be noted that the tower is setback more than 400 feet from each property line.

2) *The highway corridor viewshed, defined as the area 1/2 mile on either side of SH 86, SH 24 or I-70 or surrounding residential view corridors or special landforms have been preserved.*

   The tower is not located within 1/2 mile of either a state or federal highway.

3) *The facility is designed to be compatible with the surrounding uses and does not dominate the landscape.*

   The facility will not dominate the landscape. The tower is compatible with the agricultural field within which it is located.

4) *The facility is not a dominant silhouette on a ridgeline.*

   The facility is not located on a ridgeline.

5) *The existing vegetation has been preserved or improved and disturbance of the site has been minimized unless such disturbance to vegetation and topography results in less visual impact to the surrounding area.*

   The tower will be located in the agricultural field of the lessees’ property. The area surrounding the tower will remain agricultural. There will be little to no grading associated with the construction of the tower and the use of impervious materials is greatly limited.

6) *The applicant has demonstrated the proposed site fits into the overall network of service that is provided by the applicant.*

   Commnet Wireless has identified this site as an ideal location for servicing the community’s wireless needs and the company existing service area.
7) The facility meets the definition of utility service facility-cell site and other applicable standards of the zone district of which it is located.

The facility meets the definition of a utility service facility and meets the standards of the Agriculture zone district.

8) A landscaping plan and/or solid wood fence may be required to screen or buffer a structural tower.

The tower will be surrounded by a 6’ stockade style solid wood fence.

Part II, Section 17, A.10. f. Approval Standards in the A, A-1, A-2 and AR Zone Districts – The following standards shall apply to facilities located in the Agriculture (A), Agricultural-One (A-1), Agricultural-Two (A-2) and the Agricultural Residential zone districts.

1) Support Structures (A, A-1, A-2 &AR) – Support structures will be allowed when:
   a) Located outside the Highway Corridor Viewshed, defined as 1/2-mile on either side of SH 86, SH 24 or I-70.

   The tower is not located within 1/2 mile of either a state or federal highway.

   b) The facility is designed to be compatible with the surrounding uses and does not dominate the landscape. Landscaping and/or a solid wood fence may be required.

   The facility will not dominate the landscape. The tower is compatible with the agricultural field within which it is located. A solid wood fencing will be installed to screen the site.

   c) The structure is not a dominant silhouette on a ridgeline.

   The structure is not located on a ridgeline.

   d) Surrounding residential view corridors or special landforms have been preserved.

   There are no special landforms nearby. There are single-family residential uses that surround the site but the tower is not positioned in a manner that will directly obstruct residential view corridors to the west.

   e) The existing topography and vegetation provide the greatest amount of screening/backdrop possible to the site.

   There are no trees in the area of the proposed tower to provide any natural screening. The topography is flat.
f) **The existing vegetation has been preserved or improved and disturbance of the site has been minimized unless such disturbance to vegetation and topography results in less visual impact to the surrounding area.**

The lessee desires to continue using the site for agricultural purposes. As such, the applicant will minimize disturbance on the property.

g) **The structure is located at least fifty feet (50') from the property line, or the base of the structure is no closer to the property boundary that the height of the structure, whichever is greater.**

The 199' tall tower is located 400' from the eastern property line and 621' from the northern property line.

2) **Antennas – Panels, Arrays, Dishes (A, A-1, A-2, AR)**

   a) **In the highway corridor view shed provided they are:**

   The antennas are not within any highway corridor view corridor.

   b) **Outside the Corridor Viewshed provided they are:**

   1) **Placed on or within a structure, e.g., barn, silo, etc.**

   The antennas will be placed within the support tower.

   2) **Mounted on an existing telecommunications tower or cell site.**

   The antennas will be mounted to the proposed support tower.

   3) **Mounted on an existing public utility structure. (However, on single-pole structures less than twenty-four (24”) inches in diameter, the antenna must be mounted directly to the pole without sectorized platforms).**

   The antennas will be mounted to the proposed support tower.

   4) **Mounted below the tree line as viewed from the roads/residences or mounted on a support structure in accordance with item F: Support Structures.**

   There are no trees located within the proposed lease area or surrounding parcel.


   This section does not apply as the applicant is not proposing any antenna - whips at this time.
4) **Accessory Equipment** – All accessory equipment shall be concealed within a structure or screened by vegetation, fencing, or another manner approve by Community and Development Services. Setbacks and height limitations of the zone district shall apply.

The applicant is proposing an equipment cabinet as well as a meter and transformer at the base of the tower. The equipment cabinet will be located on a concrete slab within the fenced area at the base of the tower. The transformer and meter will be located within a separate fenced area that will not be locked to allow free access from utility companies. The locations of all improvements associated with the SUR meet the A zone district side and rear setbacks.

**FINDINGS & RECOMMENDATION**

Staff recommends that the Planning Commission find that:

1. The proposal in general conformance with the Elbert County Master Plan; and
2. The proposal meets the criteria for approval in the Elbert County Zoning Regulations; and
3. The Elbert County Subdivision Regulations are not applicable to this project; and
4. The proposed land use is compatible with existing and allowable land uses in the surrounding area; and
5. The proposed land uses will not result in significant impact to the health, safety, and welfare of the residents and landowners of the surrounding area.

AND

Because this application has met the criteria set forth in the Elbert County Zoning Regulations and as we understand it that there are no objections from other governing bodies, the recommendation of Community & Development Services is to approve **SU-16-0023 COMMNET FOUR CORNERS TOWER SPECIAL USE REVIEW FOR ONE CELLULAR COMMUNICATION FACILITY SUPPORT TOWER ON A PORTION OF SECTION 12, TOWNSHIP 10 SOUTH, RANGE 64 WEST OF THE 6TH P.M. IN ELBERT COUNTY.** subject to the following conditions:

1. The Special Use shall not become effective until all fees are paid, conditions of approval are met, and documents recorded; and
2. The applicant shall to remove the Public Hearing notice sign within seven (7) days of a decision by the Board of County Commissioners; and
3. Recordation of all appropriate documentation to occur within 180 days of Board of County Commissioners’ approval; and
4. The applicant shall allow the Elbert County Communications Authority to attach communications equipment to the tower pursuant to their referral comments dated
November 9, 2016, specifically:

- A ten foot portion of the tower at an elevation of 160’ from the ground level to place two four foot diameter microwave dishes
- Below those dishes within that ten foot space, three 700/800 MHz omnidirectional antennas with a total wind load of two square feet.
- Space within the enclosing fence for a two foot by four foot data cabinet for equipment.

5. The applicant shall comply with any and all applicable regulations put forth by the Federal Aviation Administration and Federal Communications Commission; and

6. The applicant shall provide an updated Special Use by Review Site Plan Exhibit that will reformat the survey portion of the Site Plan to match the sheet size of the remaining document and addressing any CDS comments in accordance with applicable Elbert County standards.

Respectfully submitted to and on behalf of Elbert County,

Cory Miller, AICP
Principal Planner
Baseline Corporation
Contract Planner for Elbert County

CC. Kyle Fenner, Director of Community and Development Services