



ATTACHMENT G
Arborist Report
(Leo Simone, August 1, 2014)

AGENDA ITEM NO. _____

August 1, 2014

Marianne Holleman
EBI Consulting
11445 East Via Linda, Suite 2, No. 472
Scottsdale, AZ 85259

Subject: Arborist Report for Golden Eagle Residence Wireless Telecommunication Facility
Site No. 8242872, San Marcos, California (LSA Project No. EBI1402)

Dear Ms. Holleman:

On July 31, 2014, LSA Associates, Inc. (LSA) Associate biologist Leo Simone (International Society of Arboriculture [ISA] Certified Arborist/Certified Tree Risk Assessor WE-8491A) visited Golden Eagle Residence Wireless Telecommunication Facility Site No. 8242872 to examine a Torrey pine (*Pinus torreyana*) and proposed future tree planting sites as shown on Crown Castle Landscape Plan Sheets L-1 and L-2.

OBSERVATIONS

Site Inspection

A site inspection was conducted on the afternoon of July 31, 2014. The wireless telecommunication site is located on a hilltop of a residential lot at 2080 Golden Eagle Trail, San Marcos, California. Native vegetation in the project area consists of native scrub and chaparral with ornamental landscaping near the residence. The native vegetation in the vicinity of the site appears in satisfactory condition despite the extended drought. Ornamental landscaping in the area generally appeared healthy most likely benefiting from regular irrigation.

The approximately 15-foot (ft) Torrey pine with a diameter at breast height (DBH) (4.5 ft above grade) of 5 inches, planted as part of the original project showed signs of chlorosis. Two support stakes that should have been removed after the first growing season are restricting the tree's growth. The tree appears to be in subpar condition as a result of not being properly planted or provided adequate drainage.

Soils

According to the Natural Resources Conservation Service (NRCS) Soil Survey for the San Diego County Area, the soils found on site are San Miguel-Exchequer rocky silt loams (9–70 percent slopes). These soils primarily support Diegan coastal sage scrub. San Miguel series soils are well-drained, shallow to moderately deep silt loams with clay subsoil that are derived from metavolcanic rock. San Miguel soils also form a complex with Exchequer series soil. Exchequer series soils are well-drained, shallow silt loams derived from weathered hard metabasic (metamorphosed basalt), or

mafic, rock. Both soils have medium-to-rapid runoff, and a moderate-to-high erosion potential. The San Miguel silt loam has slow permeability, and the Exchequer has moderate permeability. Fertility is very low for both soil types. The soil profile pH ranges from strongly acidic to slightly acidic (5.0–6.5).

CONCLUSIONS AND RECOMMENDATIONS

Tree Selection

Several of the Torrey pines observed in the general vicinity of the project also appeared chlorotic and in less than optimal health. Based on these observations, it is recommended that the Torrey pine not be considered as a replacement tree. The following pine trees are generally tolerant of poor soils and drought conditions: Knobcone pine (*Pinus attenuata*), Canary Island pine (*P. canariensis*), Coulter pine (*P. coulteri*), Aleppo pine (*P. halepensis*), Digger pine (*P. sabiniana*), and Japanese black pine (*P. thunbergiana*). Final selection of pine tree(s) should not be made until the soil analysis has been completed.

Planting and Maintenance

Because of the shallow rocky soil conditions on the site, the planting hole should be overexcavated. In most cases, drainage will need to be improved before planting. It is recommended that a soil analysis be conducted prior to tree selection. Proper site preparation before and during planting coupled with good follow-up care reduces the amount of time the plant experiences transplant shock and allows the tree to quickly establish in its new location. The ideal time to plant trees is during the fall or early spring. Cool weather conditions allow the trees to establish roots in the new location before spring and summer heat stimulates new growth. Proper handling during planting is essential for new trees. ISA recommends that the following procedures are used for all trees:

- The planting hole should be at least three times the diameter of the root ball but only as deep as the root ball. It is important to make the hole wide because the roots on the newly establishing tree must push through surrounding soil in order to become established. The existing soils on site have been compacted and may be unsuitable for healthy root growth. Breaking up the soil in a large area around the tree(s) provides the newly emerging roots room to expand into loose soil to accelerate establishment.
- The trunk flare at the base of the tree should be partially visible after the tree has been planted. If the trunk flare is not partially visible, soil should be removed from the top of the root ball. The trunk flare determines how deep the hole needs to be for proper planting.
- Prior to placing the tree in the hole, confirm that the hole has been dug to the proper depth—and no more. The majority of the roots on the newly planted tree will develop in the top 12 inches of soil. If the tree is planted too deeply, new roots will have difficulty developing because of a lack of oxygen. It is better to plant the tree a little high, 2 to 3 inches above the base of the trunk flare, than to plant it at or below the original growing level. This planting level will allow for some settling. To avoid damage when setting the tree in the hole, lift the tree by the root ball and not by the trunk.
- Before backfilling, view the tree from several directions to confirm that the tree is straight. Once backfilling has begun, it may be difficult to reposition the tree.

- The hole should be filled about one-third full while gently but firmly packing the soil around the base of the root ball, being careful not to damage the trunk or roots in the process. Fill the remainder of the hole, firmly packing the soil to eliminate air pockets that may cause roots to dry out. Soil should be added a few inches at a time and settled with water. Continue this process until the hole is filled and the tree is firmly planted. It is not recommended to apply fertilizer at the time of planting.
- If the tree is grown and dug properly at the nursery, staking for support will not be necessary in most landscape situations. Studies have shown that trees establish more quickly and develop stronger trunk and root systems if they are not staked at the time of planting. However, protective staking may be required on sites where vandalism or windy conditions are concerns. If staking is necessary for support, two stakes used in conjunction with a wide, flexible tie material will hold the tree upright, provide flexibility, and minimize injury to the trunk. Remove support staking and ties after the first year of growth.
- Mulch is organic matter applied to the area at the base of the tree. It acts to hold moisture, moderates soil temperature extremes (both hot and cold), and reduces competition from grass and weeds. A 2- to 4-inch layer is ideal. More than 4 inches may cause a problem with oxygen and moisture levels. When placing mulch, ensure that the tree trunk is not covered. Doing so may cause decay of the living bark at the base of the tree. A mulch-free area, 1 to 2 inches wide at the base of the tree, is sufficient to avoid moist bark conditions and prevent decay.
- Keep the soil moist but not soaked; over watering causes needles to turn yellow or fall off. Water trees when the soil is dry below the surface of the mulch. Continue until mid-fall, tapering off for lower temperatures that require less-frequent watering. Xeriscape irrigation should be employed ensuring deep watering that is matched to the tree's evapotranspiration rates. Other follow-up care may include minor pruning of branches damaged during the planting process. Prune sparingly immediately after planting and wait to begin necessary corrective pruning until after a full season of growth in the new location.

To ensure that best practice standards are being met, planting should be performed by ISA Certified tree workers under the supervision of a certified arborist.

If you have any questions or would like to discuss this report in further detail, please call me at (949) 553-0666, or email me at leo.simone@lsa-assoc.com.

Sincerely,

LSA ASSOCIATES, INC.



Leo Simone
Associate Biologist
ISA Certified Arborist/Certified Tree Risk Assessor WE-8491A



ATTACHMENT H

Civil Action against Crown Castle filed in San Diego Superior Court, Vista
(October 2, 2014)

AGENDA ITEM NO. _____

SUMMONS
(CITACION JUDICIAL)

JUDICIAL

NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):

CROWN CASTLE INTERNATIONAL, a Pennsylvania corporation, T-MOBILE, a Delaware corporation, JEFFREY BRANDON, an individual, ELAINE BRANDON, an individual, and DOES 1 through 50, inclusive

YOU ARE BEING SUED BY PLAINTIFF:

(LO ESTÁ DEMANDANDO EL DEMANDANTE):

CITY OF SAN MARCOS, a chartered municipal corporation

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

ELECTRONICALLY FILED

Superior Court of California,
County of San Diego

10/02/2014 at 10:07:17 AM

Clerk of the Superior Court
By Amy Wagoner, Deputy Clerk

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case.

AVISO! *Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.*

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. AVISO: Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:

(El nombre y dirección de la corte es):

Superior Court of California
325 So. Melrose
Vista, CA 92081

CASE NUMBER: (Número del Caso)
37-2014-00033394-CU-OR-NC

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Matthew C. Starr
960 Canterbury Place, Suite 300
Escondido, CA 92025
Lounsbury Ferguson Altona & Peak LLP
760-743-1201

DATE: 10/02/2014
(Fecha)

Clerk, by
(Secretario) _____

Amy Wagoner
A. Wagoner

Deputy
(Adjunto) _____

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

NOTICE TO THE PERSON SERVED: You are served

1. as an individual defendant.

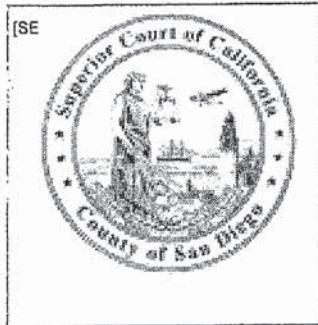
2. as the person sued under the fictitious name of (specify):

3. on behalf of (specify):

under: CCP 416.10 (corporation)
 CCP 416.20 (defunct corporation)
 CCP 416.40 (association or partnership)
 other (specify):

CCP 416.60 (minor)
 CCP 416.70 (conservatee)
 CCP 416.90 (authorized person)

4. by personal delivery on (date):



SUMMONS

1 LOUNSBERRY FERGUSON ALTONA & PEAK LLP
HELEN HOLMES PEAK/SBN 109812
2 ALENA SHAMOS/SBN 216548
MATTHEW C. STARR/SBN 297614
3 960 Canterbury Place, Suite 300
Escondido, California 92025
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ELECTRONICALLY FILED

Superior Court of California,
County of San Diego

10/02/2014 at 10:07:17 AM

Clerk of the Superior Court
By Amy Wagoner, Deputy Clerk

5 Attorneys for Plaintiff CITY OF SAN MARCOS

EXEMPT FROM FILING FEES
[Government Code § 6103]

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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

9 **COUNTY OF SAN DIEGO, NORTH COUNTY DIVISION**

10 CITY OF SAN MARCOS, a chartered
municipal corporation,

11 Plaintiff,

12 v.

13 CROWN CASTLE INTERNATIONAL, a
Pennsylvania corporation, T-MOBILE, a
14 Delaware corporation, JEFFREY BRANDON,
an individual, ELAINE BRANDON, an
15 individual, and DOES 1 through 50, inclusive,

16 Defendants.

CASE NO. 37-2014-00033394-CU-OR-NC

[UNLIMITED CIVIL]

**COMPLAINT OF THE CITY OF SAN
MARCOS FOR:**

1. **INJUNCTIVE RELIEF;**
2. **NUISANCE – VIOLATION OF TITLE
20 OF THE SAN MARCOS MUNICIPAL
CODE;**
3. **NUISANCE – VIOLATION OF SMMC §
10.04.010;**
4. **NUISANCE - VIOLATION OF SAN
MARCOS MUNICIPAL CODE §§
1.12.020, 1.12.090, and 20.550.020;**
5. **NUISANCE - VIOLATION OF SAN
MARCOS MUNICIPAL CODE §
20.465.020**

23

24 Plaintiff CITY OF SAN MARCOS (“City”) alleges against Defendant CROWN CASTLE
25 INTERNATIONAL (“Crown Castle”) a Pennsylvania corporation; and DOES 1 through 50, and each
26 of them as follows:

27 //

28 //

PARTIES

2 1. City is, and at all relevant times mentioned herein was, a chartered municipal
3 corporation organized and existing under the laws of the State of California.

4 2. City is informed, believes, and thereon alleges that Crown Castle is a corporation,
5 incorporated under the laws of the State of Pennsylvania and doing business in the County of San
6 Diego, State of California.

7 3. City is informed, believes, and there on alleges that T-Mobile is a corporation,
8 incorporated under the laws of the State of Delaware and doing business in the County of San Diego,
9 State of California.

10 4. City is informed, believes, and thereon alleges that T-Mobile is the owner/lessor and
11 Crown Castle is the operator/lessee of the wireless telecommunication facility and associated facilities
12 located at 2080 Golden Eagle Trail, San Marcos, CA 92078 (collectively, “Facilities”) identified as
13 Assessor’s Parcel Number 679-040-01 (“Property”).

14 5. City is informed, believes, and thereon alleges that Jeffrey Brandon is, and at all times
15 mentioned herein was, an individual and resident of San Diego County, California.

16 6. City is informed, believes, and thereon alleges that Elaine Brandon is, and at all times
17 mentioned herein was, an individual and resident of San Diego County, California.

18 7. City is informed, believes, and thereon alleges that Jeffery Brandon and Elaine Brandon
19 collectively referred to herein as the ("Brandons") are the fee owners of the Property.

VENUE AND DOE DEFENDANTS

21 8. This Court is the proper court in which to bring this action because the Facilities in
22 question are located on the Property, which is in turn located within this Court's jurisdictional
23 boundaries.

24 9. City is informed, believes, and thereon alleges that Defendants DOES 1 through 50,
25 inclusive, and each of them, are agents, employees, contractors, successors, and/or assigns acting
26 within the course and scope of such agency and with consent from T-Mobile and/or Crown Castle.

27 10. The true names and capacities of Defendants DOES 1 through 50, inclusive, whether
28 individual, corporate, associate, and/or otherwise are unknown to City, and therefore it sue under such

1 fictitious names. City is informed, believes, and thereon alleges that at all relevant times mentioned
2 herein, each DOE Defendant is and was a resident of, or does or did business in, the State of California;
3 is or was in some manner responsible for the events herein referenced; and has proximately caused
4 injury and damages to City. City will seek leave to amend this Complaint to allege the true names and
5 capacities of each DOE Defendant, once ascertained.

6 **GENERAL ALLEGATIONS**

7 11. City is informed, believes, and thereon alleges that on March 3, 2008, City's Planning
8 Commission approved Conditional Use Permit ("CUP") No. 06-708 ("CUP 06-708"), which CUP 06-
9 708 authorized the construction and operation of the Facilities on the Property. City is informed,
10 believes, and thereon alleges that Defendant Crown Castle acquired rights to this facility and CUP 06-
11 708, in or around November 2012, when Defendant Crown Castle acquired a number of cell tower
12 facilities from T-Mobile. The express term of CUP 06-708 was five (5) years, which term expired on
13 March 3, 2013. Accordingly, Crown Castle's operation and use of the Facilities from and after that
14 date is without a valid conditional use permit, in violation of Title 20 of the San Marcos Municipal
15 Code ("SMMC"). A true and correct copy of CUP 06-708 is attached as Exhibit "A" and herein
16 incorporated by reference.

17 12. Defendant T-Mobile and its successor and assign, Crown Castle, accepted the grant of
18 CUP 06-708 on March 3, 2008 and have operated under its terms and conditions at all relevant times
19 alleged herein.

20 13. Defendant Crown Castle's continued operation of the Facilities without a valid CUP
21 also violates SMMC §§ 1.12.090, 10.04.010, 20.465.020, and 20.550.20. Each day the Facilities are
22 in operation, Defendant is in violation of the above-referenced sections of the SMMC, and such
23 violation constitutes a separate and continuing violation of the SMMC under Chapter 20.550.

24 14. On or about June 26, 2013, City initiated correspondence with Crown Castle regarding
25 expired CUP 06-708.

26 15. On or about October 29, 2013, Defendant Crown Castle submitted an application for a
27 new CUP ("application P13-0059") for the Property. City reviewed application P13-0059 and
28 determined that it was incomplete.

1 16. On or about October 30, 2014, City conducted an inspection of the Property, which
2 resulted in a determination that the Facilities were out of compliance with not only the term, but also
3 with other conditions of approval of CUP 06-708, and that the Facilities were also in violation of other
4 provisions of CUP 06-708 including, but not limited to, the landscape, screening and maintenance
5 requirements.

6 17. On or about November 4, 2013, City issued its notification to Crown Castle that
7 application P13-0059 was deemed incomplete and did not meet submittal requirements ("First
8 Incomplete Letter"). The First Incomplete Letter detailed the remaining items necessary for such
9 application to be deemed complete. A true and correct copy of the First Incomplete Letter is attached
10 as Exhibit "B" and incorporated herein by reference.

11 18. On or about November 5, 2013, in response to the First Incomplete Letter, Defendant
12 Crown Castle submitted additional documents to City. City reviewed the additional documents and
13 determined that application P13-0059 remained incomplete.

14 19. On November 21, 2013, City issued a Notice of Violation ("NOV") to Defendant
15 Crown Castle regarding operation of the Facilities in light of expired CUP 06-708. The NOV specified
16 that continued operation of the Facilities without a valid CUP is a violation of the SMMC and further
17 ordered compliance. A true and correct copy of the NOV is attached as Exhibit "C" and incorporated
18 herein by reference.

19 20. On November 26, 2013, City issued Defendant Crown Castle another notice advising
20 Crown Castle that application P13-0059 remained incomplete, despite its submission of additional
21 documents ("Second Incomplete Letter"). The Second Incomplete Letter detailed the remaining items
22 needed for application P13-0059 to be deemed complete. A true and correct copy of the Second
23 Incomplete Letter is attached as Exhibit "D" and incorporated herein by reference.

24 21. City is informed, believes, and thereon alleges that Crown Castle violated the NOV and
25 continued to illegally operate the Facilities without a valid CUP in violation of the SMMC.

26 22. On or about January 15, 2014, in response to the Second Incomplete Letter, Defendant
27 Crown Castle submitted additional documents to City. City reviewed the additional documents and,
28 once again, determined that application P13-0059 remained incomplete.

1 23. On or about January 28, 2014, City issued yet another letter, notifying Crown Castle
2 that application P13-0059 remained incomplete, despite the submission of additional documents
3 ("Third Incomplete Letter"). The Third Incomplete Letter again detailed the remaining items needed
4 to meet City's standards and for the application to be deemed complete. A true and correct copy of
5 the Third Incomplete Letter is attached as Exhibit "E" and incorporated herein by reference.

6 24. On or about June 30, 2014, City issued an Administrative Civil Citation for continuing
7 to operate the Facilities without a valid CUP in violation of SMMC § 20.465.020. The Administrative
8 Civil Citation ordered compliance with the SMMC by or before July 8, 2014. A true and correct copy
9 of the Administrative Civil Citation is attached as Exhibit "F" and incorporated herein by reference.

10 25. City is informed, believes, and thereon alleges that Crown Castle violated the
11 Administrative Civil Citation and has continued to illegally operate the Facilities without a valid CUP
12 in violation of the SMMC.

13 26. On or about July 11, 2014, City issued a letter to Crown Castle ordering immediate
14 compliance with the SMMC. In addition, the letter informed Crown Castle that failure to comply with
15 the SMMC by or before July 16, 2014, would result in the filing of this action. A true and correct copy
16 of the letter is attached as Exhibit "G" and incorporated herein by reference.

17 27. On July 15, 2014, City received a telephone call from John Dohm, an agent of Crown
18 Castle, notifying City that all of the required CUP application materials would be submitted on July
19 16, 2014.

20 28. On July 16, 2014, Defendant Crown Castle, in response to City's July 11, 2014 letter,
21 submitted additional documents for application P13-0059. On July 22, 2014, after its initial review
22 the submittal, City determined that application P13-0059 remained incomplete.

23 29. On or about July 24, 2014, City sent yet another letter by internet email and by First
24 Class U.S. Mail notifying Defendant Crown Castle that application P13-0059 remained incomplete
25 ("Fourth Incomplete Letter"). The Fourth Incomplete Letter detailed the remaining items needed for
26 application P13-0059 to be deemed complete. A true and correct copy of the Fourth Incomplete Letter
27 is attached as Exhibit "H" and incorporated herein by reference.

28

1 30. On or about August 5, 2014, City sent another letter by internet email and by First Class
2 U.S. Mail notifying Defendant Crown Castle that application P13-0059 remained incomplete ("Fifth
3 Incomplete Letter"). The Fifth Incomplete Letter detailed the remaining items needed for application
4 P13-0059 to be deemed complete. A true and correct copy of the ("Fifth Incomplete Letter") is attached
5 as Exhibit "I" and incorporated herein by reference.

6 31. As of the date of this Complaint, Defendant Crown Castle has failed to submit a
7 completed application for CUP 06-708 and comply with the SMMC. City brings this Complaint
8 against Crown Castle and DOES 1 through 50 for abatement of a public nuisance and injunctive relief.

FIRST CAUSE OF ACTION
INJUNCTIVE RELIEF, C.C.P. §§ 526 and 527
(Against All Defendants)

11 32. City incorporates by reference the allegations in Paragraphs 1 through 31, inclusive, as
12 though set forth herein in their entirety.

13 33. City is informed, believes, and thereon alleges that in or around November of 2012,
14 Defendant Crown Castle acquired the CUP and rights to the Facilities located at the Property. On
15 March 3, 2013, the CUP 06-708 expired, obligating Defendant Crown Castle to file an application for
16 a new CUP. Beginning on March 4, 2013, and continuing through the present, Defendant Crown
17 Castle continued to operate the Facilities without a valid CUP, which constitutes a violation of the San
18 Marcos Zoning Code (Title 20 of the SMMC). Defendant Crown Castle has violated, and continues
19 to violate, the San Marcos Zoning Code by illegally operating the Facilities without a valid CUP. The
20 operation of a wireless telecommunication facility without a valid CUP violates SMMC §§ 1.12.090,
21 10.04.010, 20.465.020(A), and 20.550.020.

22 34. Defendant Crown Castle will, unless restrained by this Court, continue to maintain the
23 nuisance and operate the Facilities in violation of the SMMC sections noted above. Such continued
24 operation will violate the SMMC and has caused, and will continue to cause, irreparable damage to
25 City and the public.

26 35. A preliminary and permanent injunction to enjoin Defendant Crown Castle from
27 operating the Facilities without a valid CUP is necessary to abate and prevent the continuance of this
28 nuisance.

1 36. City has no plain, speedy, or adequate remedy at law or equity, other than the
2 maintenance of this action, to ensure that Defendant Crown Castle ceases its illegal operations and
3 complies with the SMMC. City is entitled to injunctive relief pursuant to Code of Civil Procedure §§
4 526, 527, and 731 and SMMC §§ 1.12.090, 10.04.010, and 20.550.020 to prohibit all Defendants from
5 continuing to operate the Facilities in violation of the SMMC and/or in a manner that constitutes a
6 nuisance.

7 37. Unless the injunctive relief sought herein is granted, City and its residents will be
8 irreparably harmed and damaged in that City will be prevented from enforcing the SMMC, and City
9 will be unable to protect its residents and the public from the negative secondary effects of Defendant
10 Crown Castle's illegal operations. City has an interest in its ability to regulate land use and zoning
11 regulations within City's limits and the immediate preservation of the welfare of its residents

SECOND CAUSE OF ACTION

(NUSIANCE – VIOLATION OF TITLE 20 OF THE SAN MARCOS MUNICIPAL CODE)
(Against All Defendants)

14 38. City incorporates by reference the allegations in Paragraphs 1 through 37, inclusive, as
15 though set forth herein in their entirety.

16 39. Beginning on or about March 4, 2013, and continuing to the present, Defendant Crown
17 Castle has operated the Facilities without a valid CUP in violation of SMMC § 20.465.020, which
18 constitutes a violation of the San Marcos Zoning Ordinance (Title 20 of the SMMC).

19 40. SMMC § 20.550.020 provides that a violation of the Zoning Code includes “[a]ny
20 violation of any Permit or Entitlement as defined in section 1.14.020 of this Municipal Code or
21 condition thereto, or failure to obtain a required permit or entitlement.” SMMC § 1.14.020(h) includes
22 CUPs within the definition of “Permit or Entitlement.”

23 41. Defendant Crown Castle has violated, and continues to violate, the San Marcos Zoning
24 Code by illegally operating the Facilities without a valid CUP in violation of SMMC §20.465.020.
25 Despite the Notices of Violation, the various Incomplete Letters, the Administrative Civil Citation,
26 and the other communications from City, as well as numerous extensions of time, Defendant Crown
27 Castle has failed to comply with the SMMC.

1 42. Under SMMC § 20.550.020, the use of any property within City's jurisdiction that is
2 not in conformance with the SMMC and/or the Zoning Ordinance contained therein is unlawful. The
3 operation of a wireless telecommunication facility without a valid CUP is a violation of the San Marcos
4 Zoning Ordinance and constitutes a public nuisance. Each day that such a nuisance is maintained shall
5 constitute a separate public nuisance for which penalties and damages may be recovered. (See, SMMC
6 §§ 1.12.080 and 20.550.020.)

7 43. City has no plain, speedy, or adequate remedy at law or equity, other than the
8 maintenance of this action, to ensure that Defendant Crown Castle ceases its illegal operations and is
9 brought into compliance with the SMMC.

10 44. Defendant Crown Castle will, unless restrained by this Court, continue to maintain the
11 nuisance and operate the telecommunication facility in violation of the SMMC sections defined above.
12 Such continued operation will violate the SMMC and has caused, and will continue to cause,
13 irreparable damage to City and the public.

14 45. The wrongful conduct by Defendant, the harm to City and its residents, and the
15 irreparable harm that will be caused if an injunction is not issued, entitle City to mandatory preliminary
16 and permanent injunctions under SMMC §§ 1.12.020(a), 20.550.020, and Code of Civil Procedure §§
17 526, 527, and 731 to abate the nuisance.

18 46. There is a high probability that City will be successful at trial. Defendant Crown Castle
19 was given detailed instructions and over seven (7) months and multiple opportunities to comply. To
20 date, Crown Castle has failed to submit all the required materials to process its application for a new
21 CUP causing the continued operation of the Facilities to be in violation of the SMMC.

22 47. SMMC § 1.12.020 also authorizes City to seek all appropriate relief, including
23 administrative costs; investigative costs; reasonable attorneys' fees and costs; and/or other damages in
24 excess of this Court's jurisdictional limits according to proof at trial. Each day a violation is committed
25 constitutes a separate offense. All remedies available to City, including damages and penalties, are
26 cumulative, not exclusive of, in addition to, and do not supersede or limit any and all other available
27 remedies. (See, SMMC §§ 1.12.080 and 20.550.020.)

28

1 48. Defendant Crown Castle has been given ample time and opportunities to comply with
2 the SMMC and has failed to submit all of the required materials to complete its application for a new
3 CUP. Each day that Crown Castle does not remedy the expired CUP is a separate SMMC violation
4 for which City may recover. (*Id.*)

THIRD CAUSE OF ACTION
NUISANCE – VIOLATION OF SMMC § 10.04.010
(Against All Defendants)

8 49. City incorporates by reference the allegations in Paragraphs 1 through 48, inclusive, as
9 though set forth herein in their entirety.

10 50. Beginning on March 4, 2013, and continuing through the present, Defendant Crown
11 Castle has operated the Facilities without a valid CUP in violation of SMMC § 10.04.010.

51. Government Code § 38771 authorizes cities to define, by ordinance, conditions deemed to constitute a public nuisance. SMMC § 12.090 provides that “any condition caused or permitted to exist in violation of any provision of this code shall be deemed a public nuisance and may be abated as such by the City in accordance with the provisions of [SMMC] Chapter 10.04,” which governs nuisance abatement procedures.

17 52. SMMC § 10.04.010(C) provides that a nuisance is declared whenever there exists real
18 property within the City, “[w]hich is used or upon which a structure or use exists contrary to any
19 zoning, land use or other provision of the San Marcos Municipal Code.”

53. Defendant Crown Castle has violated, and continues to violate, the SMMC by illegally
operating the Facilities without a valid CUP. This violation of the SMMC constitutes a nuisance and
violation of SMMC § 10.04.010(C).

23 54. SMMC § 20.55.020 declares that each day such a nuisance is maintained shall
24 constitute a separate public nuisance for which penalties and damages may be recovered.

25 55. City has no plain, speedy, or adequate remedy at law or equity, other than the
26 maintenance of this action, to ensure that Defendant Crown Castle ceases its illegal operations and
27 comply with the SMMC.

1 56. Defendant Crown Castle will, unless restrained by this Court, continue to maintain the
2 nuisance and operate the Facilities in violation of the SMMC sections set forth above. Such continued
3 operation will violate the SMMC and has caused, and will continue to cause, irreparable damage to
4 City and the public.

5 57. The wrongful conduct by Defendant, and the irreparable harm that will be caused if an
6 injunction is not issued, entitle City to a mandatory preliminary injunction and a permanent injunction
7 under SMMC §§ 1.12.020(a), 20.550.020, and Code of Civil Procedure §§ 526, 527, and 731 to abate
8 the nuisance.

9 58. There is a high probability that City will be successful at trial. Defendant Crown Castle
10 was given detailed instructions and over seven (7) months and multiple opportunities to comply. To
11 date, Crown Castle has failed to submit all the required materials to complete its application for a new
12 CUP, causing the continued operation of the Facilities to be in violation of the SMMC.

13 59. SMMC § 1.12.020 also authorizes City to seek all appropriate relief, including
14 administrative costs; investigative costs; reasonable attorneys' fees and costs; and/or other damages in
15 excess of this Court's jurisdictional limits according to proof at trial. Each day a violation is committed
16 constitutes a separate offense. All available remedies to City, including damages and penalties, are
17 cumulative, not exclusive of, in addition to, and do not supersede or limit any and all other available
18 remedies. (See, SMMC §§ 1.12.080 and 20.550.020.)

19 60. Defendant Crown Castle has been given ample time and opportunities to comply with
20 the SMMC and has failed to submit all of the required materials to complete its application for a new
21 CUP. Each day that Crown Castle does not remedy the expired CUP is a separate SMMC violation
22 for which City may recover. (*Id.*)

FOURTH CAUSE OF ACTION
NUISANCE – VIOLATION SMMC §§ 1.12.020, 1.12.090, and 20.550.020
(Against All Defendants)

25 61. City incorporates by reference the allegations in Paragraphs 1 through 60, inclusive, as
26 though set forth herein in their entirety.

1 62. Beginning on or about March 4, 2013, and continuing to the present, Defendant Crown
2 Castle has operated the Facilities without a valid CUP in violation of SMMC § 20.465.020, which
3 constitutes a violation of the SMMC.

4 63. Despite the Notices of Violation, the various Incomplete Letters, the Administrative
5 Civil Citation and other communications from City, Defendant Crown Castle has failed to comply with
6 the SMMC.

7 64. Government Code § 38771 permits a city to define, by ordinance, conditions deemed
8 to constitute a public nuisance. SMMC § 1.12.090 provides that “any condition caused or permitted
9 to exist in violation of any provision of this code shall be deemed a public nuisance and may be abated
10 as such by the City in accordance with the provisions of [SMMC] Chapter 10.04,” which governs the
11 nuisance abatement procedures.

12 65. In addition, SMMC § 20.550.020 provides that use of any property not in conformance
13 with any applicable zoning ordinance within the City is unlawful and constitutes a public nuisance.

14 66. SMMC § 20.550.020 declares that each day that such a nuisance is maintained shall
15 constitute a separate public nuisance for which penalties and damages may be recovered. (See, SMMC
16 §§ 20.550.020.)

17 67. City has no plain, speedy, or adequate remedy at law or equity, other than the
18 maintenance of this action, to ensure that Defendant Crown Castle ceases its illegal operations and
19 comply with the SMMC.

20 68. The wrongful conduct by Defendant, and the irreparable harm that will be cause if an
21 injunction is not issued, entitle City to mandatory preliminary and permanent injunctions under SMMC
22 §§ 1.12.020(a), 10.04.010, 20.550.040 and Code of Civil Procedure §§ 526, 527 and 731 to abate the
23 nuisance.

24 69. Defendant Crown Castle will, unless restrained by this Court, continue to maintain the
25 nuisance and operate the telecommunication facility in violation of the SMMC sections set forth above.
26 Such continued operation will violate the SMMC and has caused, and will continue to cause,
27 irreparable damage to City and the public.

28

1 70. There is a high probability that City will be successful at trial. Defendant Crown Castle was
2 given detailed instructions and over seven (7) months and multiple opportunities to comply. To date,
3 Crown Castle has failed to submit all the required materials to complete its application for a new CUP,
4 causing the continued operation of the Facilities to be in violation of the SMMC.

5 71. SMMC § 1.12.020 also authorizes City to seek all appropriate relief, including
6 administrative costs; investigative costs; reasonable attorneys' fees and costs; and/or other damages in
7 excess of this Court's jurisdictional limits according to proof at trial. Each day a violation is committed
8 constitutes a separate offense. All available remedies to City, including damages and penalties, are
9 cumulative, not exclusive of, in addition to, and do not supersede or limit any and all other available
10 remedies. (See, SMMC §§ 1.12.080 and 20.550.020.)

11 72. Crown Castle has been given ample time and opportunities to comply with the SMMC
12 and has failed to submit all of the required materials to complete its application for a new CUP. Each
13 day that Defendant Crown Castle does not remedy the expired CUP is a separate SMMC violation for
14 which City may recover. (*Id.*)

15 **FIFTH CAUSE OF ACTION**
16 **NUISANCE – VIOLATION OF SMMC § 20.465.020(A)**

17 73. City incorporates by reference the allegations in Paragraphs 1 through 72, inclusive, as
18 though set forth herein in their entirety.

19 74. Beginning on or about March 4, 2013, and continuing to the present, Defendant Crown
20 Castle has operated Facilities without a valid CUP in violation of SMMC § 20.465.020(A).

21 75. Despite the Notices of Violation, the Administrative Civil Citation, and the
22 communications from City, Defendant Crown Castle has failed to comply with the SMMC.

23 76. SMMC § 20.465.020(A)(1), provides that a CUP is be required for any wireless
24 telecommunication facility that is placed in a location other than those specifically enumerated in
25 SMMC § 20.465.020.

26 77. City is informed, believes, and thereon alleges that Defendant Crown Castle's
27 telecommunication facility is not located in one of the specifically enumerated locations listed in
28 SMMC § 20.465.020.

1 78. SMMC § 20.465.020(A)(3) provides that “[i]f a telecommunication facility is placed
2 outside the City [right of way], the City may impose conditions to mitigate the environmental impacts
3 of the facilities in a manner consistent with CEQA.”

4 79. Defendant Crown Castle’s Facilities were installed on a hillside in a residential area.
5 City is informed, believes, and thereon alleges that the telecommunication facility has caused negative
6 environmental impacts on the surrounding environment, including, but not limited to, visual and
7 aesthetic impacts. Pursuant to this subsection, City has imposed conditions to mitigate the negative
8 environmental impacts of the facility, which Defendant has failed to meet. At present, the existing
9 unpermitted physical facilities are in need of maintenance and repair, and the landscape and visual
10 screening has failed.

11 80. City has no plain, speedy, or adequate remedy at law or equity, other than the
12 maintenance of this action, to ensure that Defendant ceases its illegal operations and comply with the
13 SMMC.

14 81. Defendant Crown Castle will, unless restrained by this Court, continue to maintain the
15 nuisance and operate the Facilities in violation of SMMC § 20.465.020. Such continued operation will
16 violate the SMMC and has caused, and will continue to cause, irreparable damage to City and the
17 public.

18 82. The wrongful conduct by Defendant, and the irreparable harm that will be caused if an
19 injunction is not issued, entitle City to a mandatory preliminary injunction and a permanent injunction
20 under SMMC §§ 1.12.020(a), 20.550.020 and Code of Civil Procedure §§ 526, 527 and 731 to abate
21 the nuisance.

22 83. There is a high probability that City will be successful at trial. Defendant Crown Castle
23 was given detailed instructions and over seven (7) months and multiple opportunities to comply. To
24 date, Crown Castle has failed to submit all the required materials to complete its application for a new
25 CUP causing the continued operation of the Facilities to be in violation of the SMMC.

26 84. SMMC § 1.12.020 also authorizes City to seek all appropriate relief, including
27 administrative costs; investigative costs; reasonable attorneys’ fees and costs; and/or other damages in
28 excess of this Court’s jurisdictional limits according to proof at trial. Each day a violation is committed

1 constitutes a separate offense. All available remedies to City, including damages and penalties, are
2 cumulative, not exclusive of, in addition to, and do not supersede or limit any and all other available
3 remedies. (See, SMMC §§ 1.12.080 and 20.550.020.)

4 85. Defendant Crown Castle has been given more than ample time and numerous
5 opportunities to comply with the SMMC and has failed to submit all of the required materials to
6 complete application P13-0059. Each day that Crown Castle does not remedy the expired CUP is a
7 separate SMMC violation for which City may recover. (*Id.*)

PRAYER FOR RELIEF

10 WHEREFORE, City prays for judgment against all Defendants and DOES 1 through 50, as
11 follows:

ON THE FIRST CAUSE OF ACTION:

13 1. For a preliminary and a permanent injunction pursuant to SMMC §§ 1.12.020(a),
14 10.04.010, and 20.550.020 and Code of Civil Procedure §§ 526, 527, and 731 enjoining Defendant
15 Crown Castle, its agents, employees, servants, successors, independent contractors, or assigns or
16 anyone acting on its behalf or in concert therewith, from operating the Facilities without a valid CUP;

ON THE SECOND CAUSE OF ACTION:

18 2. For abatement of the public nuisance under SMMC §§ 1.12.090, 20.550.020 and Civil
19 Code § 3480;

20 3. For civil penalties accrued daily, as set forth in SMMC §§ 1.12.020(b) and 1.12.080 for
21 violation of Title 20 of the SMMC;

22 4. For a preliminary and permanent injunction pursuant to SMMC §§ 1.12.020(a),
23 10.04.010, and 20.550.020 and Code of Civil Procedure §§ 526, 527, and 731 enjoining Defendant
24 Crown Castle, its agents, employees, servants, successors, independent contractors, or assigns or
25 anyone acting on its behalf or in concert therewith, from operating Facilities without a valid CUP;

ON THE THIRD CAUSE OF ACTION:

27 5. For abatement of the public nuisance under SMMC §§ 1.12.090, 20.550.020 and Civil
28 Code § 3480;

1 6. For civil penalties accrued daily as set forth in SMMC §§ 1.12.020(b) and 1.12.080 for
2 violation of SMMC § 10.04.010;

3 7. For a preliminary and a permanent injunction pursuant to SMMC §§ 1.12.020(a),
4 10.04.010, and 20.550.020 and Code of Civil Procedure §§ 526-527 enjoining Defendant Crown
5 Castle, its agents, employees, servants, successors, independent contractors, or assigns or anyone
6 acting on its behalf or in concert therewith, from operating the Facilities without a valid CUP;

7 ON THE FOURTH CAUSE OF ACTION:

8 8. For abatement of the public nuisance under SMMC §§ 1.12.090, 20.550.020 and Civil
9 Code § 3480;

10 9. For civil penalties accrued daily as set forth in SMMC §§ 1.12.020(b) and 1.12.080 for
11 violation of SMMC §§ 1.12.020, 1.12.090, and 20.550.020;

12 10. For a preliminary and a permanent injunction pursuant to SMMC §§ 1.12.020(a),
13 10.04.010, and 20.550.020 and Code of Civil Procedure §§ 526, 527, and 731 enjoining Defendant
14 Crown Castle, its agents, employees, servants, successors, independent contractors, or assigns or
15 anyone acting on its behalf or in concert therewith, from operating the Facilities without a valid CUP;

16 ON THE FIFTH CAUSE OF ACTION:

17 11. For abatement of the public nuisance under SMMC §§ 1.12.090, 20.550.020 and Civil
18 Code § 3480;

19 12. For civil penalties accrued daily as set forth in SMMC §§ 1.12.020(b) and 1.12.080 for
20 violation of SMMC § 20.465.020(A);

21 13. For a preliminary and permanent injunction pursuant to SMMC §§ 1.12.020(a),
22 10.04.010, and 20.550.020 and Code of Civil Procedure §§ 526, 527, and 731 enjoining Defendant
23 Crown Castle, its agents, employees, servants, successors, independent contractors, or assigns or
24 anyone acting on its behalf or in concert therewith, from operating the Facilities without a valid CUP;

25 ON ALL CAUSES OF ACTION:

26 4. For civil penalties accrued daily as set forth in SMMC §§ 1.12.020(b) and 1.12.080;

27 5. For costs of suit incurred;

28 6. For attorneys' fees and costs under SMMC §§ 1.12.020, 10.04.050, and 10.04.110;

7. For available interest;

2 8. For other damages in excess of this Court's minimum jurisdictional limits, according
3 to proof at trial; and

9. For such other and further relief as this Court may deem just and proper.

6 Dated: 10/2/2014 LOUNSBERRY FERGUSON ALTONA & PEAK LLP

By: Matthew Starr
HELEN HOLMES PEAK
ALENA SHAMOS
MATTHEW C. STARR
Attorneys for Plaintiff CITY OF SAN MARCOS

EXHIBIT “A”

RESOLUTION PC 08-4003

A RESOLUTION OF THE CITY OF SAN MARCOS PLANNING COMMISSION APPROVING A CONDITIONAL USE PERMIT TO ALLOW THE INSTALLATION AND OPERATION OF AN UNMANNED DIGITAL COMMUNICATIONS ANTENNA FACILITY ON A MONO-PINE TREE AT AN EXISTING SINGLE-FAMILY RESIDENCE IN THE AGRICULTURAL (A-1) ZONE IN THE QUESTHAVEN/LA COSTA COMMUNITY PLAN

Case No. CUP 06-708
T-Mobile USA, Inc

WHEREAS, on December 4, 2006 an application was received from T-Mobile USA, Inc. requesting a Major Conditional Use Permit to allow the installation and operation of an unmanned digital communications antenna facility, including ground-mounted equipment inside a new 250 square-foot enclosure and a thirty (30) foot high mono-tree with twelve (12) panel antennas (designed to resemble a pine tree) at an existing single-family residence located at 2080 Golden Eagle Trail in the Agricultural (A-1) Zone in the Questhaven/La Costa Community Plan, more particularly described as

A portion of the northeast quarter of the southeast quarter, all in Section 27, Township 12 South, Range 3 West, San Bernardino Meridian, in the County of San Diego, the State of California, According to United States Government Survey approved September 19, 1889

Assessor's Parcel Number 679-040-01

WHEREAS, the Development Services Department did study said request and does recommend approval of requested use; and

WHEREAS, the required public hearing held on March 3, 2008 was duly advertised and held in the manner prescribed by law; and

WHEREAS, the Planning Commission did consider a Mitigated Negative Declaration (ND 08-766) for said request pursuant to the California Environmental Quality Act (CEQA); and

WHEREAS, the Planning Commission's decision is based on the following findings and determinations:

1. The granting of the Conditional Use Permit, with staff conditions, is consistent with the policies and intent of the adopted Questhaven/La Costa Community Plan, in that the installation of digital communications facilities provides a needed communication service.

Exhibit A

2. The granting of the Conditional Use Permit, with staff conditions, will not be detrimental to the public health, safety, or welfare, or the surrounding land uses in the area in that the proposed wireless antenna facility will be located at a developed site and that operational standards for the facility have been conditioned to comply with FCC standards and California PUC requirements. In addition, the proposed mono-tree is designed to resemble adjacent trees that will be planted and the panel antennas will be concealed by the faux branches and leaves of the mono-tree, and the ground mounted equipment will be screened from view by an equipment enclosure.

NOW, THEREFORE, the Planning Commission resolves as follows:

- A The foregoing recitals are true and correct
- B The Conditional Use Permit is approved per the submitted site plan, floor plan, elevations, and visual simulation, except as modified herein, and shall not be expanded unless a modification to this permit is approved
- C The Conditional Use Permit is approved subject to compliance with the following conditions:
 1. The site plans and elevations shall be modified as follows:
 - a. On the Title Sheet, T-1, the zoning classification shall indicate "Agricultural" A-1
 - b. On Sheet A-4, the proposed cable connections to the monotree shall be concealed by undergrounding.
 - c. On Sheet A-5, the proposed 4'0" chain link access gate shall be replaced with a solid metal door painted to match the color of the building.
 - d. Provide a detail for the proposed T-Mobile split vault (identified on Sheet A-11).
 2. The landscape plans shall be modified as follows:
 - a. Incorporate hand planting, re-vegetation, and irrigation, in the areas impacted by the proposed utility trench.
 - b. Incorporate replacement planting as required to mitigate for biological impacts
 3. The grading plan (GR-1) shall be modified as follows

- a The note indicating "New 'Sprint' drainage swell to run full length along backside of retaining wall" shall read "New 'T-Mobile' drainage swell to run full length along backside of retaining wall."
 - b The note indicating "New 'Sprint' drywell (Typ Of 2)" shall be replaced with "New 'T-Mobile' drywell (Typ. Of 2)"
 - c. Note 9 shall reflect "Cut slopes shall not exceed a grade of 2:1 instead of 1 1/2 horizontal to 1 vertical "
4. The proposed equipment enclosure shall match in color, detail, texture, and building material, the existing barn. All ground-mounted equipment (i.e.: equipment cabinets, telco panel, electrical panel/meter, etc.) shall be located within the equipment enclosure and completely screened from view
5. Three mature pine trees, comparable in size (height, and spread) as approved by the Planning Division, shall be planted adjacent to the proposed monotree. Said tree locations shall be shown on the landscape plan with the final approval by the Planning Division in the field, prior to planting of said trees. The trees shall be provided with irrigation.
6. The trunk of the mono-tree shall be rounded. The twelve (12) panel antennas, mounted on top of the mono-tree, shall be painted dark green and completely screened from view by the faux branches and leaves of the mono-tree
7. The mono-tree shall have a maximum height of thirty (30) feet (top of highest branch/leaf). If any of the existing plant material adjacent to the proposed mono-tree shall perish or be destroyed, then the applicant/operator shall replace them with a tree of the same type and size.
8. All conduit, cables, etc for connecting the ground-mounted equipment to the mono-tree and a utility source (i.e.: power, telephone, etc.) shall be concealed from view by undergrounding. The area of any trench work (i.e. driveway, landscaping, etc) shall be restored to original condition by the applicant, including the use of hand planting with irrigation to reestablish vegetation on the slopes
9. In the event that a Telecommunications Facility is not concealed from public view and/or is not placed underground because it was not technically feasible to do so when the permit was issued for such Telecommunications Facility, the applicant shall take such actions as are necessary to place such Telecommunications Facility underground when it becomes technically feasible to do so or to conceal such Telecommunications Facility from the public view by methods including, but not limited to, landscaping and other screening measures.
10. Within 30 days of the approval of the Conditional Use Permit (CUP 06-708), the site plan shall be submitted as an original mylar along with a mylar of this resolution as the title page. This title page shall include the statement "I(we), _____, the

owner(s) or the owner's representative, have read, understand and agree to the conditions of Resolution PC 08-4003." Immediately following this statement shall appear a signature block for the owner or the owner's representative which shall be signed. Signature blocks for the Project Planner and the Project Engineer shall also appear on this title page. The mylars shall be approved by the City prior to any building permit submittal.

11. Prior to full time operation (i.e.: installation of the equipment cabinets within a 250 square-foot enclosure, and 12 panel antennas mounted on top of a 30-foot high mono-tree), the applicant shall insure (in writing) to the Planning Division Director that the facility is in compliance with all applicable FCC regulations. It will be the responsibility of the operator to contact the City acknowledging any changes in the regulations that would affect this project prior to any modification
12. Within six months of final inspection approval for the installation, the applicant/operator of the facility shall submit to the Planning Division a project implementation report which provides field measurements of radio frequency densities of all antennas installed on the subject site, and all existing ambient levels of radio frequency emissions. This report shall include a written summary comparing results of the field measurements with FCC standards (i.e.: stating emissions as a percentage of FCC limits). Additionally, this report shall be conducted at a time that the facility is operating at its designed maximum power output level. If panel antennas are installed in phases, said report shall be updated when additional antennas are installed (not to exceed maximum of 12 panel antennas). The applicant shall submit to the Planning Division a copy of applicable FCC documentation (i.e.: license, permit, etc) authorizing the operation of the facility
13. The report shall be subject to review and approval by the Planning Division Director. Upon receipt of sufficient public expression of concern that a Telecommunications Facility does not comply with existing FCC radio frequency guidelines, the City may utilize the services of an independent radio frequency engineer to verify, at the Telecommunications Carrier's expense, the Facility's compliance with federal guidelines. If the City finds that the facility is not in compliance with FCC standards, the City shall require the facility to be modified to comply with FCC standards, or the facility shall be entirely removed from the site.
14. The Telecommunications Facility shall comply with all applicable current and future FCC regulations. It shall be responsibility of the applicant to contact the City acknowledging any changes in the regulations that would affect the Telecommunications Facility.
15. If the Federal Communications Commission adopts new standards regarding this use, the applicant shall repeat the monitoring and report cycle specified in conditions C12, C13, and C14.

16. A building permit is required for the installation of the ground mounted equipment, equipment enclosure and mono-tree. The installation shall comply with the provisions of the latest adopted Uniform Building Code and other model construction codes.
17. Prior to issuance of any building permits, the following conditions shall be complied with:
 - a. The applicant shall sign a statement on the approved building plans attesting to the fact that he/she has read Section 17.32.045 of the City's Grading Ordinance pertaining to permit exemptions, and that he/she believes to the best of his/her knowledge that he/she is exempt from the City's permit requirements based on one or more criteria set forth in said ordinance. Otherwise, a detailed grading plan shall be submitted to the City's Engineering Division for review and approval, and all related requirements must be met prior to issuance of a grading permit.
 - b. The Engineering Division shall approve the proposed design of the drywells located on both sides of the equipment enclosure.
 - c. The proposed GPS antenna(s) shall be appropriately located to minimize a signal view of any nearby residences.
 - d. Prior to project implementation and upon further project review by the City Planning Division, the applicant shall provide habitat-based mitigation at a set ratio for impacts to Southern Mixed Chaparral habitat that contains wart-stemmed ceanothus. Habitat based mitigation shall be mitigated for at a ratio of 1:1 (i.e. 1.0 acre of mitigation credits for every 1.0 acre of habitat impacted). Habitat-based mitigation shall be executed according to policy set forth by the City of San Marcos. Onsite mitigation is preferred however offsite purchase of mitigation credits from an approved mitigation bank may also be approved. Proof of execution of mitigation will be required by the City of San Marcos during project review.
 - e. As an avoidance and minimization measure, prior to construction, a qualified biologist should conduct a survey to identify and physically mark all wart-stemmed ceanothus individuals on and in the immediate vicinity of the proposed impact area. The biologist should confirm the locations of all wart-stemmed ceanothus individuals on and in the immediate vicinity of the proposed impact area with construction personnel for the proposed project. Construction activities should be executed in a method to avoid all wart-stemmed ceanothus specimens to the maximum extent feasible. A monitoring biologist should be present during construction to ensure that direct removal and mortality of wart-stemmed ceanothus individuals is reduced, if feasible, and that no additional individuals outside the proposed impact area are impacted. Construction methods should be low-impact and

non-intrusive, and should be conducted by hand-trench or low-impact drilling equipment where feasible.

- f. To avoid any direct or indirect impacts to nesting birds, removal of any suitable nesting habitat, including any brushing, clearing, and/or grading activities of habitat that may support active nests shall be restricted to periods outside of the breeding season, which is defined as occurring between February 14 and August 31. If the removal of habitat that may support active nests must occur during the breeding season, the applicant shall retain a City-approved biologist to conduct a pre-construction survey for the presence of nesting birds on and within an approximately 500-foot buffer surrounding the construction area. The pre-construction survey must be conducted within 10 calendar days prior to initiating any construction activities, or a set number of days prior according to the City. If nesting birds are detected by the City-approved biologist, a bio-monitor should be present on-site during construction to minimize construction impacts and ensure that no nest is removed or disturbed until all young have fledged
- g. The applicant/developer shall be responsible for mitigating impacts created by changes in drainage runoff course, concentration, or quantity to the satisfaction of the City Engineer for both on-site and off-site drainage. This may require the applicant/developer to provide all necessary easements and improvements to accommodate drainage and flood control structures extending beyond the boundaries of the project.
- h. Under separate permit, the applicant/developer shall submit landscape plans to the Planning Division for review and approval in compliance with the following:
 1. The applicant shall provide landscape and irrigation plans for the site of the proposed Telecommunications Facility, including a permanent source of irrigation for the site, if irrigation of the site is necessary and there is a feasible water source for the site that can be metered. All proposed landscaping shall be consistent with the surrounding area or community character and shall mitigate the visual impact of the Telecommunications Facility. Said landscaping plans shall contain a mixture of shrubs, vines, and ground cover. The applicant shall monitor and maintain any such landscaping for a period of one (1) year following its installation, and the applicant shall promptly replace any plantings that do not survive. The Planning Division Director shall have the ability, in his sole discretion, to extend the landscaping monitoring and maintenance period to two (2) years in the event that the landscaping is not healthy and vigorous at the end of the initial one (1) year period. In no event shall the City be responsible for the maintenance of landscaping.

2. Final landscape and irrigation plans shall be prepared by a licensed landscape architect.
3. This project is subject to the payment of a landscape permit and inspection fee. The landscape permit and inspection fee shall be four and one-half percent (4.5%) of the Landscape Architect's estimate for the completion of all landscaping shown on approved mylars. All submitted estimates shall be stamped and signed by the Landscape Architect, and estimate the cost of plant and irrigation materials only
4. The landscape plans shall include three natural pine trees, comparable in size and spread of the proposed monotree, as approved by the Planning Division Director. All planting required for mitigating the biological impacts shall be incorporated into the landscape plan.
5. The irrigation system shall include an automatic rain sensor switch, master valve, stainless steel enclosure for the backflow device, and stainless steel controller cabinet if within public view. The landscape plan shall list the quantities of each plant type, including a legend indicating what each symbol represents; and method of installation and irrigation.
6. The placement of plants shall be installed in accordance with the approved landscape plans. Prior to planting the three natural pine trees, the applicant shall contact the Planning Division to approve the trees and the placement of said trees. Upon completion of installation, all landscaping/irrigation shall be inspected and approved by the Planning Division and/or Landscape District Supervisor. The applicant/developer shall be responsible to contact the Planning Division for landscaping inspections.

i. Erosion control and/or sediment control details shall be submitted with/on the grading plans to the City's Engineering Division for review and approval. The details shall conform to City standards, codes and ordinances. The details shall include landscaping and temporary irrigation systems on exposed slopes to be approved by the City's Engineering and Planning Divisions.

j. All structures shall be designed to comply with the latest adopted Uniform Building Code, published by the International Conference of Building Officials (ICBO) and with the State of California Building Code, Part 2, Title 24, California Code of Regulations.

k. Plans and construction documents submitted for a building permit shall be signed and sealed by a California licensed design professional as required by the State Business and Professions Code

1. The City of San Marcos is located in Seismic Zone 4. All structures shall be designed to adequately transmit to the foundation the dynamic lateral forces developed in the building in accordance with the engineering requirements of the latest adopted California Building Code and the Uniform Building Code, Volume II, as adopted by the City of San Marcos.
- m. In lieu of annexing the site into the Community Facilities Districts, the applicant shall pay the special taxes as required: For CFD 98-01/CFD 2001-01 (Police/Fire & Paramedic), the in-lieu fee is \$1000.00, and for CFD 98-02 (Lighting & Landscaping), the in-lieu fee is \$1000.00. Said in-lieu fees shall be paid prior to issuance of a building permit.
- n. The project is subject to Public Facilities Fees as established by the City of San Marcos Public Facilities Financing Plan Ordinance. The amount of the public facilities fees shall be in accordance with the latest adopted ordinance and resolution. The fees shall be based on the approved land use and shall be paid prior to the issuance of any permit or land use entitlement as determined by the City
- o. The applicant shall pay school impact mitigation fees as required by law

18. During the construction phase, the following conditions shall be complied with

- a. The project shall implement a fugitive dust emissions control plan during construction. This plan shall include the watering of the site for dust control, isolating excavated soil onsite until it is hauled away.
- b. All construction operations authorized by building permits, including the delivery, setup and use of equipment shall be conducted on premises during the hours of 7:00 a.m. to 6:00 p.m. on Monday through Friday, and on Saturday between 8:00 a.m. and 5:00 p.m. No work shall be conducted on Sundays or Holidays observed by the City of San Marcos. Failure to comply will result in the issuance of STOP WORK NOTICES, REVOCATION OF PERMITS, and the issuance of citations as appropriate. Citations for hours of work violations require a mandatory court appearance in North County Superior Court
- c. Grading, excavation or other related earth moving operations, including warm-up and maintenance activities, shall be limited to the hours of 7:00 a.m. to 4:30 p.m., Monday through Friday. No work shall be allowed on Saturdays, Sundays and holidays.

19. This application shall be limited to the installation of

- a. Twelve (12) antenna panels mounted on top of a thirty (30) foot high mono-tree designed to resemble a natural pine tree.

- b. Ground mounted equipment (4 equipment cabinets, telco panel, electrical panel/meter, GPS antenna, meter & disconnect switch.), within a 250 square-foot equipment enclosure designed to match the existing stable, and located on the side yard; utility trenching, and redwood steps providing access from the monotree to the equipment enclosure.
- 20. No additional equipment or antennas are permitted other than what is identified in Condition "C19" A modification to this Conditional Use Permit (CUP 06-708) is required to add or modify the number or type of antennas or equipment as identified in Condition "C19".
- 21. Prior to reliance on this use, it may be deemed necessary by the Planning Division Director that additional screening is installed and the screening cost would be paid for by the communication companies
- 22. Prior to reliance on this use, the applicant shall submit a letter(s) by the landscape architect and biologist to the Planning Division certifying that the plant materials and irrigation system have been installed in accordance with the approved landscape plans.
- 23. The user shall submit noise readings of the wireless facility in operation to the City Planning Division to verify the facility compliance with City Noise standards.
- 24. The applicant shall remove the Telecommunications Facility including, without limitation, foundations and appurtenant ground wires, from the site and the site shall be restored to its original pre-installation condition, within 180 days of cessation of operation or abandonment of the Telecommunications Facility. The facility shall not be deemed abandoned upon the expiration of this 180 day period if the applicant notifies the City in writing prior to the expiration of the 180 days of its intent to utilize the facility or to remove the same within one additional six month period. In no event shall abandonment of a facility be stayed or tolled under this Section for a period in excess of one year. On the removal of abandoned facilities, the operator/applicant shall notify the City within 180 days prior to terminating the operation of the facility, or as soon thereafter as is practicable. Notification shall be in writing and shall include a reference to the Use Permit number and address location of the facility.
- 25. The three natural pine trees and landscaping approved for this project shall be maintained in a healthy, thriving manner. All trees and landscaping shall be maintained in a healthy, thriving manner. If any trees/landscaping shall die or become diseased, the trees/landscaping shall be replaced in numbers and quantity to provide the same landscaping and screening value, as determined by the Planning Division
- 26. The installation of communication equipment deemed a public utility shall comply with the rules and regulations enforced by the state of California Public Utilities Commission.

- 27 To the extent feasible and as permitted by law, developers and contractors are requested to first consider the use of San Marcos businesses for any supplies, materials, services, and equipment needed, and the hiring of local residents in order to stimulate the San Marcos economy to the greatest extent possible.
- 28 Any changes in the approved location will require submittal of a revised drawing with all necessary information to be reviewed and approved by the Planning Division Director
29. This Conditional Use Permit shall be reviewed by staff to determine whether it is having a detrimental effect on surrounding uses. Should it be determined that such is the case, a public hearing shall be scheduled before the Administrative Authority for possible modification or revocation. Failure to comply with any condition contained herein shall likewise constitute grounds for such a hearing
- 30 Any new construction, alteration, improvement, or modification to an existing building requires the issuance of a building permit and compliance with the minimum code requirements of the latest adopted uniform building code
- 31 This Conditional Use Permit shall become null and void if not acted upon within twelve (12) months of the adoption of this resolution.
32. This Conditional Use Permit shall expire on March 3, 2013. Any request for permit extension shall be applied for by the permittee no later than thirty (30) days prior to the expiration date.
- 33 To the extent permitted by law, the Applicant shall defend and hold the City of San Marcos ("City"), its agents and employees harmless from liability from: (i) any and all actions, claims, damages, injuries, challenges and/or costs of liabilities arising from the City's approval of any and all entitlements or permits arising from the project as defined in the conditions of approval, or issuance of grading or building permits; (ii) any damages, liability and/or claim of any kind for any injury to or death of any person, or damage or injury of any kind to property which may arise from or be related to the direct or indirect operations of the Applicant or its contractors, subcontractors, agents, employees or other persons acting on Applicant's behalf which relate to the project; and (iii) any and all damages, liability and/or claims of any kind arising from operation of the project. Applicant further agrees that such indemnification and hold harmless shall include all defense related fees and costs associated with the defense of City by counsel selected by the City. This indemnification shall not terminate upon expiration of the conditions of approval or completion of the project, but shall survive in perpetuity.

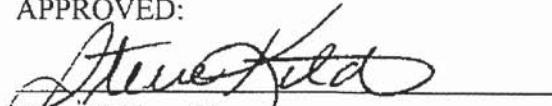
PASSED AND ADOPTED by the Planning Commission of the City of San Marcos, State of California, at a regular meeting thereof, this 3rd day of March, 2008, by the following roll call vote

AYES: COMMISSIONERS: COHEN, KILDOO, LUNDIN, NELSON,
SCHAIBLE, VOJTECKY, WEDGE

NOES: COMMISSIONERS: NONE

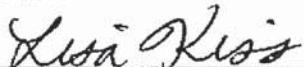
ABSENT: COMMISSIONERS: NONE

APPROVED:



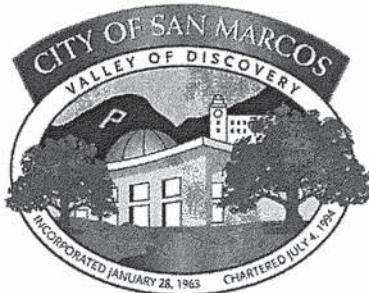
Steve Kildoo, Chairman
SAN MARCOS CITY PLANNING COMMISSION

ATTEST:



Lisa Kiss, Planning Secretary
SAN MARCOS CITY PLANNING COMMISSION

EXHIBIT “B”



November 4, 2013

Sean Scully
27 Orchard
Lake Forrest, CA 92630

Re: Incomplete Application
P13-0059 (Conditional Use Permit CUP 13-006) – Crown Castle Renewal of an Existing T-Mobile
Wireless Telecommunication Facility
2080 Golden Eagle Trail, San Marcos, CA 92078
APN: 679-040-01

Dear Mr. Scully,

Pursuant to the provisions of Section 65943(a) of the California Government Code and the *Shot Clock Ruling*, 24 FCC Rcd. 13994, 13995 (Nov. 18, 2009); *City of Arlington v. FCC*, 688 F.3d 229 (5th Cir. 2012), the above referenced application has been deemed incomplete per the standard submittal requirements. In order to continue processing the application, the following items must be addressed by the applicant:

(1) Application Form

The project description provided on page one of the application form appears to reference a different project than the T-Mobile facility at 2080 Golden Eagle Trail. Please resubmit the enclosed application form with the correct project description.

(2) Public Notice Package

In conformance with Section 20.505.030(B)(2)(a) of the San Marcos Municipal Code (SMMC), the Planning Director has determined that a public notice package for a 1,000 foot radius around the perimeter of the subject property is required for this project. Please submit a revised public notice package as described in the application guidelines that includes all property owners and tenants within a 1,000 foot radius of the project site.

(3) Photo of Notice of Application (NOA) Sign

A Notice of Application (NOA) sign is required to be posted and maintained at the site during the processing of this application. Due to unique site conditions (i.e. the subject property is located at the end of a private road), the City is requiring that the applicant post two (2) additional signs. Please complete the attached NOA Sign template, enlarge to 16 square feet (4' x 4') and post at all of the following locations:

a. On Site

Post one sign onsite in a conspicuous location. Previously, signs for projects at the subject property have been posted at the intersection of Attebury Road and Golden Eagle Trail, which are both private roads.

Exhibit B



b. San Elijo Road

Obtain a temporary Encroachment Permit from the Public Works Department to locate a sign in the landscaped strip between the curb and urban trail on the eastbound side of San Elijo Road, west of Double Peak Drive.

c. Questhaven Road

Obtain a temporary Encroachment Permit from the Public Works Department to locate a sign in the landscaped strip between the curb and urban trail on the southbound side of Questhaven Road, north of Brightwood Drive.

Once posted at all locations, a photo of each of the three signs shall be submitted to my attention (hi resolution jpeg files via email are acceptable). Posted signs shall also remain in place during the entire time the application is being processed, and removed by the applicant, only after directed to do so by the City.

(4) Notice of Permit Application Certification of Posting

Once the NOA signs are posted, also complete the enclosed "Notice of Permit Application Certification of Posting" form and return it to my attention (email is acceptable).

(5) Revise Site Plan and Facility Elevations

An inspection of the facility conducted by the City on October 30, 2013 determined that the current state of the facility no longer complies with sections C(6) and C(21) of the previously approved Conditional Use Permit (Resolution No. PC 08-4003). More specifically, staff observed the unpainted antenna panels protruding outside the canopy of the faux tree, which is inconsistent with section C(6) of the CUP. In addition, the condition of the synthetic pine needles has degraded and several faux branches have fallen from the monopine or are missing altogether. In addition, the condition of the pine needle "antenna socks" has degraded to the point where they are no longer effectively screening the panel antennas. Also, the natural screening materials that were planted by the applicant do not provide a sufficient level of screening to the existing facility and will need to be enhanced and/or increased (both in size and quantity) as agreed to in condition of approval C(21). Another applicant (AT&T), has been required to develop a landscape plan for the subject property under a separate Conditional Use Permit (P12-0023), and T-Mobile/Crown Castle may wish to consider coordinating with this applicant in the creation and execution of the landscape plan for additional screening materials at the site. Nonetheless, the project plans must be revised to correct these issues and additional presentation materials (e.g. photo simulations, landscape plans, branch diagrams, etc.) shall be prepared and submitted.

(6) CEQA Review Level Undetermined

Based on the project plans submitted with the application, the City is not presently able to make a determination on the level of review required under the California Environmental Quality Act (CEQA). Upon review of the revised application materials requested, the City will make a determination on the level of review required under CEQA and any difference in fees (\$200 accepted at application submittal) shall be required in conjunction with any supplemental documents as determined necessary by the City for CEQA review.



In addition to the items listed above, the following items have been provided for informational purposes:

(7) Public Workshop Required

Due to public interest in the project site, the City will schedule a Public Workshop for the applicant to present the revised project plans and receive public comment on the project.

To the extent possible, staff will continue to process the application. Submissions of the requested items can be made to my attention at the location provided on this letterhead or electronically. If you have any other questions, comments or concerns, please feel free to contact me at (760) 744-1050, extension 3223, or sdelsolar@san-marcos.net.

Sincerely,

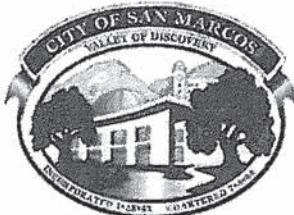
A handwritten signature in black ink, appearing to read "Sean del Solar".

Sean del Solar
Assistant Planner

Enclosures: Conditional Use Permit (CUP) Application Form
 Notice of Application (NOA) Sign Template
 Notice of Permit Application Certification of Posting
 Conditional Use Permit 06-708 (Resolution No. PC 08-4003)

EXHIBIT “C”

City of San Marcos
1 Civic Center Drive
San Marcos, CA 92069
(760) 744-1050



CASE NO. CE2013-1245

Issuing Department:

Code Compliance
 Building
 Fire
 Animal Control
 Other Planning

NOTICE OF VIOLATION

The City of San Marcos is committed to maintaining a high quality of life and productive business environment for its residents and business establishments. In keeping with this goal, City staff recently conducted an inspection of the property identified below and confirmed the existence of certain violation(s) of the San Marcos Municipal Code (SMMC) which must be corrected as instructed later in this Notice. Should you have any questions concerning this matter, please contact the undersigned.

Si le gustaría obtener esta información en Español por favor llame al siguiente numero (760) 744-1050, extensión 3111.

IMPORTANT

This is a **Warning** Notice. Failure to correct the violation(s) noted by the date given below may result in the issuance of a citation carrying the following penalties:

1st Offense - \$100
3rd Offense - \$500

2nd Offense - \$200
4th & Subsequent Offense(s) - \$1,000
Violation of Multiple Code Sections – Penalty Varies

These civil fines are assessed per violation, per occurrence, and are cumulative. Payment does not excuse correction of the violations noted, nor does it bar further corrective action by the City, should circumstances warrant.

Date Notice Issued: <u>11/21/2013</u>	Date Violation Observed: <u>10/30/2013</u>	Time of Violation: A.M. <input checked="" type="radio"/> P.M. <input type="radio"/> <u>3:00</u>	Day of Week: <u>Wednesday</u>	Origination Code:
--	---	--	----------------------------------	-------------------

Location of Violation (Address):
2080 Golden Eagle Trail Assessor's Parcel Number:
479-040-01

Issued to:
 Property Owner Occupant Other: Wireless Facility Owner/Manager

Name: Last Dohm First Jon Middle Phone No.:

Mailing Address: Street/PO Box 510 Castillo Street, #302 City/State Santa Barbara, CA 93101 Zip Code Property Mgmt. Co./Business Name: Crown Castle

SMMC Code Section(s) Violated	Description of Violation (s) (Attach Additional Pages, As Necessary)
<input checked="" type="checkbox"/> See attached letter for a description of violation	
<input type="checkbox"/>	
<input type="checkbox"/>	

<input type="checkbox"/> SMMC 3.08.040. Business License Required	<input type="checkbox"/> SMMC 12.20.040. Parking to Advertise, Perform Maintenance
<input type="checkbox"/> SMMC 6.24.140. Animal Noise - Disturbing the Peace	<input type="checkbox"/> SMMC 12.20.150. Parking or Standing of Commercial Vehicles
<input type="checkbox"/> SMMC 8.64.010. Weeds and Dry/Dead Vegetation a Public Nuisance	<input type="checkbox"/> SMMC 12.20.160. Parking of RVs in Residential Districts
<input type="checkbox"/> SMMC 8.64.020. Waste Matter a Public Nuisance	<input type="checkbox"/> SMMC 12.32.160. Inoperative Vehicles on Private Property
<input type="checkbox"/> SMMC 8.68.220. Dumping/Spilling Refuse on Public or Private Property	<input type="checkbox"/> SMMC 20.36.080. Illegal Garage Conversion
<input type="checkbox"/> SMMC 8.72.020. Accumulation of Junk	<input type="checkbox"/> SMMC 20.120. Illegal Signs (See Reverse)
	<input type="checkbox"/> UBC 106.1. Construction or Addition Without a Building Permit

(FULL TEXT OF THESE CODE SECTIONS IS ON REVERSE)

CORRECTIONS REQUIRED (Attach Additional Pages, As Necessary)	BY (Date/Time)
<u>Please find further direction on required corrective actions in the attached letter</u>	

ISSUING ENFORCEMENT OFFICER:

Print Name: B. REYNOLDS Telephone: (760) 744-1050 Ext. 3203
Signature: B. Reynolds Date: 11-21-13

RECIPIENT'S SIGNATURE:

Date:

(Note: Signing this notice acknowledges receipt only, and is not an admission of guilt.)

Notice Served: In Person

Posted on Property

By Certified Mail

Other email

SEE REVERSE FOR ADDITIONAL INFORMATION

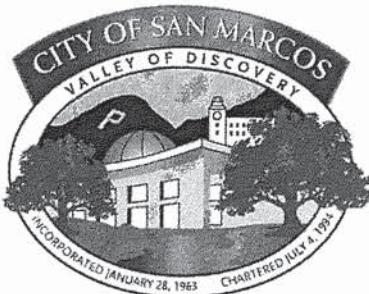
WHITE: CE FILE COPY

PINK: RECIPIENT

YELLOW: MISC

Page 1 of 21

Exhibit C



November 21, 2013

Jon Dohm
Crown Castle
510 Castillo Street, Suite 302
Santa Barbara, CA 93101

Re: Notice of Violation (NOV) CE2013-1245 and Stop Work Order
Conditional Use Permit (CUP) 06-708 – T-Mobile Wireless Telecommunication Facility; and
Building Permit No. B12-01191
2080 Golden Eagle Trail, San Marcos, CA 92078
APN: 679-040-01

Dear Mr. Dohm,

This letter is to confirm previous notification that Conditional Use Permit (CUP) 06-708 has expired. Pursuant to the provisions of San Marcos Municipal Code (SMMC) §§ 20.100.040, 20.215.040 and 20.520.040, the owner/operator of the T-Mobile (Crown Castle) wireless telecommunication facility is required to obtain a new Conditional Use Permit (CUP).

Because Conditional Use Permit (CUP) 06-708 has expired, the Building Permit issued for the replacement of the antennas (B12-01191) has been suspended in conformance with SMMC § 17.02.010 and California Building Code (CBC) § 105. All work at the site (other than maintenance activities required to ensure the safety of the facility) shall cease immediately until the facility has obtained a valid Conditional Use Permit and the Building Division has issued a new Building Permit.

In addition to the expired Conditional Use Permit, an inspection of the facility conducted by City staff on October 30, 2013, found that the facility is also out of compliance with the terms and conditions of Conditional Use Permit 06-708 (Resolution No. PC 08-4003) and certain provisions of the SMMC. More specifically, the antennas were not painted with natural colors, located outside of the canopy of the faux tree and the antenna socks were significantly damaged to the point they no longer concealed the antennas. In addition, the landscaping planted by the applicant around the facility is not providing a sufficient level of screening as was approved per the photo simulation and some plants (i.e. shrubs on the north side of the equipment enclosure) are no longer present at the site. Lastly, the overall quality of the monopine has significantly degraded and no longer meets the City's standards for maintenance (i.e. the colors of the faux needles have faded, a significant amount of needles were observed on the ground and several branches were damaged and/or are altogether missing from the monopine).

Although the City would normally require development and submittal of a remediation plan to address these violations and a schedule of work for the City to review and consider, the City will not require it in this instance because Conditional Use Permit 06-708 has expired and remediation of the site will not occur unless and until a new Conditional Use Permit is approved. Rather, all elements relating to remediation of existing conditions and deficiencies should be addressed through the Conditional Use Permit application materials.



If a new Conditional Use Permit is not approved, then pursuant to SMMC §§ 1.12.090, 1.14.030, 20.550.020 and §§ 526-527 of the California Code of Civil Procedure, the initiation of the appropriate proceedings pursuant to SMMC § 20.545.060 shall commence for the complete removal of the facilities located on the site. Please feel free to contact me with any questions you may have regarding this letter at (760) 744-1050 extension 3223, or sdelsolar@san-marcos.net.

Sincerely,

A handwritten signature in black ink, appearing to read "Sean del Solar".

Sean del Solar
Assistant Planner

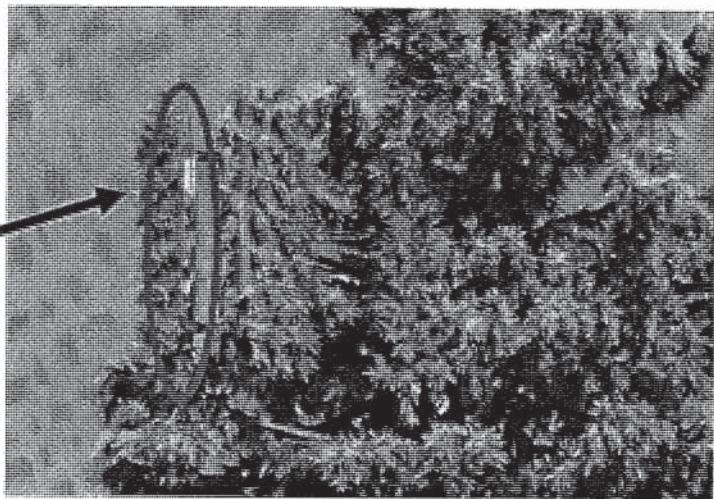
Enclosures: Site Photos
Photo Simulations Approved for CUP 06-708
Conditional Use Permit (CUP) 06-708 (Resolution No. PC 08-4003)
Notice of Violation CE2013-1245 (Dated 11/21/2013)

CC: Barry Reynolds, Building Official
Paul Williams, Code Enforcement Officer
Sean Scully, 27 Orchard, Lake Forrest, CA 92630
Kirt Babcock, T-Mobile, 10180 Telesis Court, #333, San Diego, CA 92021
Jeff and Elaine Brandon, 2080 Golden Eagle Trail, San Marcos, CA 92078
Tim Hinion, 1264 Basswood Ave., Carlsbad, CA 92008 (B12-01191 Applicant)
Walter Estaver, 553 W. Allen Ave., San Dimas, CA 91773 (B12-01191 Contractor)
File MF 0153



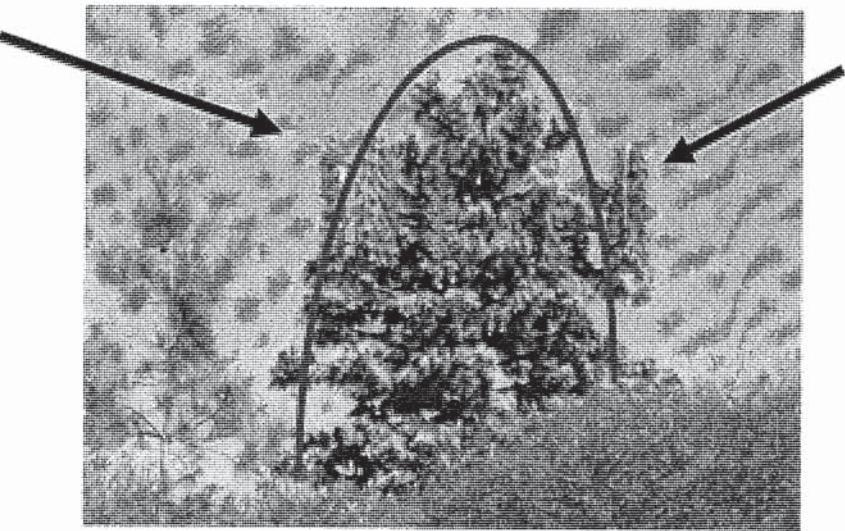
October 30, 2013

Photo 1



In this photo, the unpainted surfaces of the antennas can be seen, as well as the degraded quality of the antenna socks and discoloration of the faux pine needles.

Photo 2

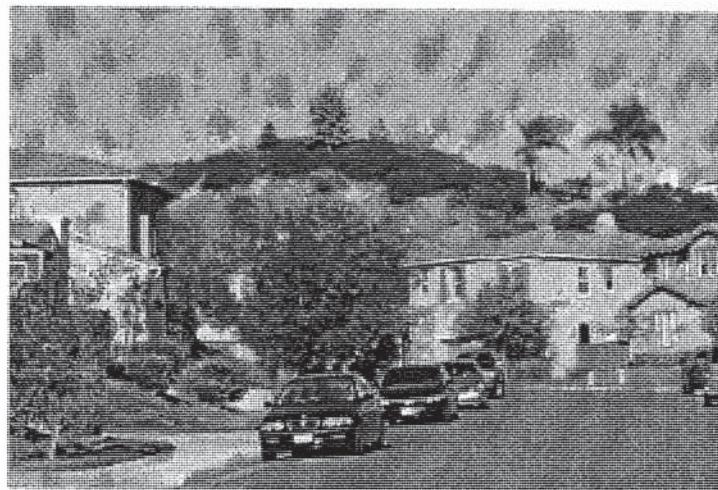


In this photo, the antennas can be seen protruding from the faux tree canopy of the facility.



Site Photos (Con't)
October 30, 2013

Photo 3



In this photo, the lack of landscape screening can be seen from Orion Way, west of the project site.

Photo 4

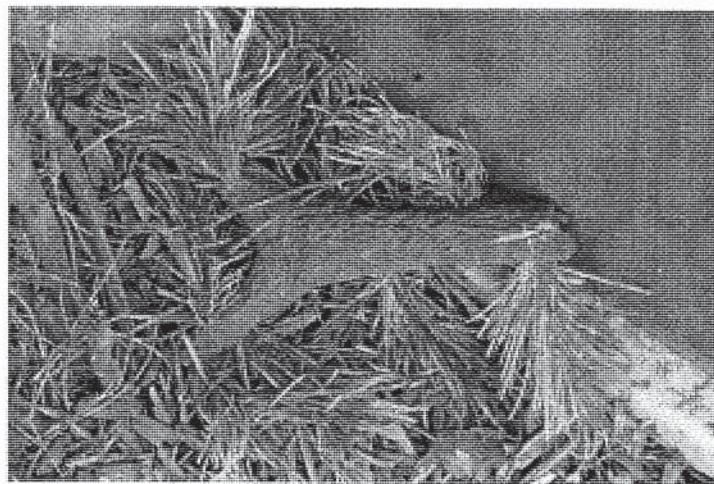


In this photo, pine needles can be seen beneath the monopine. Significant quantities of faux pine needles were observed beneath the monopine.



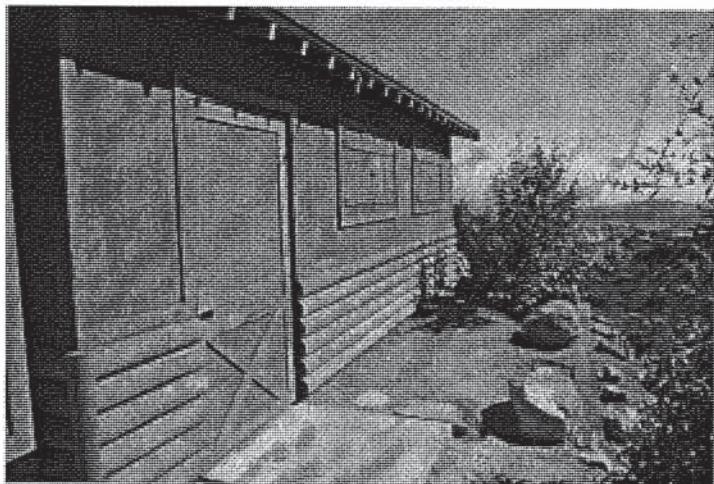
Site Photos (Con't)
October 30, 2013

Photo 5



In this photo, a damaged and/or broken branch can be seen on the ground beneath the monopine with discolored faux pine needles.

Photo 6

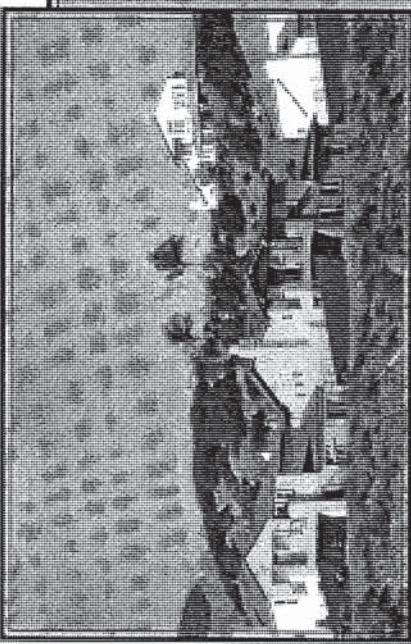


In this photo, one of the required three plants (two missing) can be seen on the north side of the equipment enclosure.

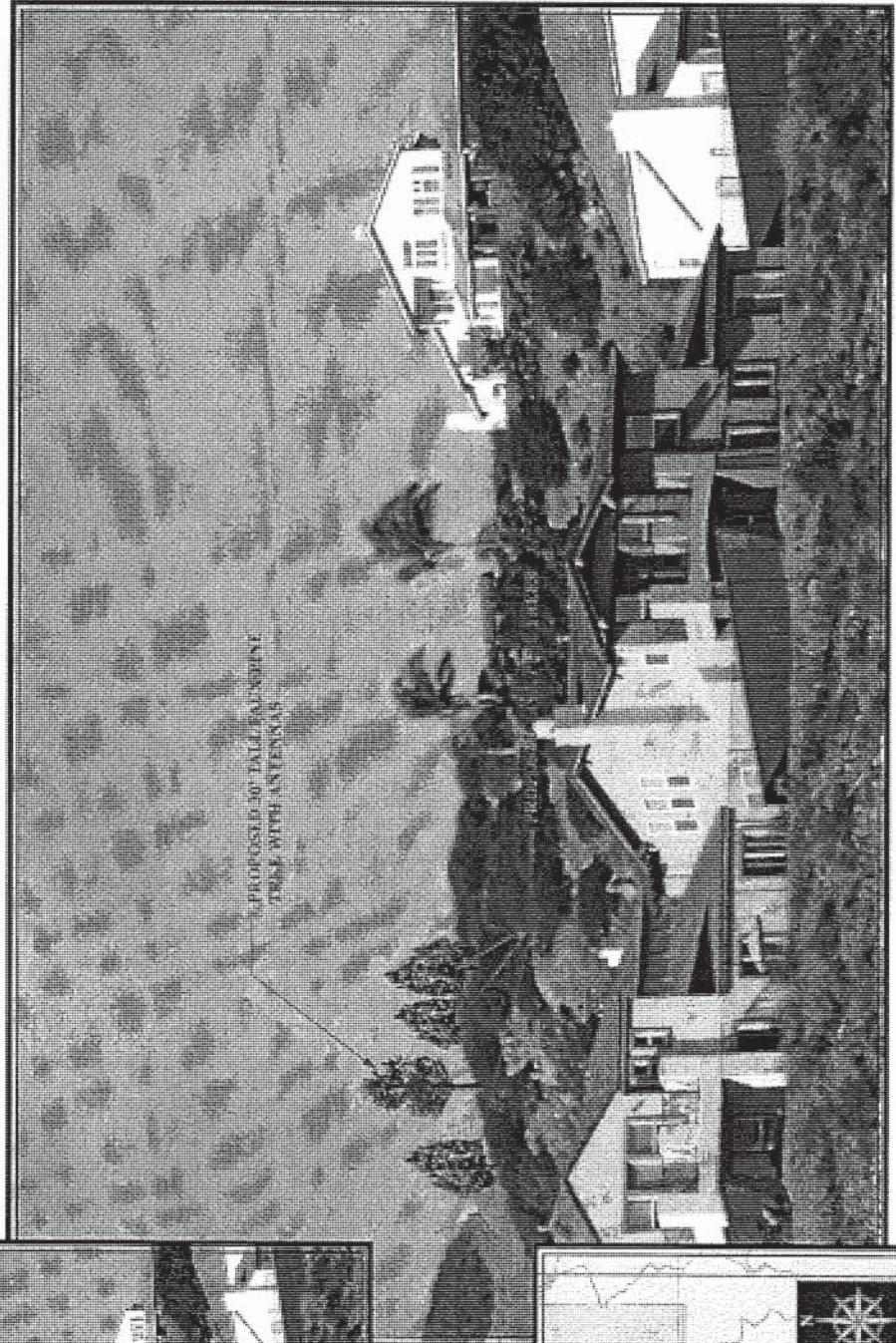
T Mobile
SD 06391 C

JEFFREY BRANDON
2080 GOLDEN EAGLE TRAIL
SAN MARCOS, CA 92078

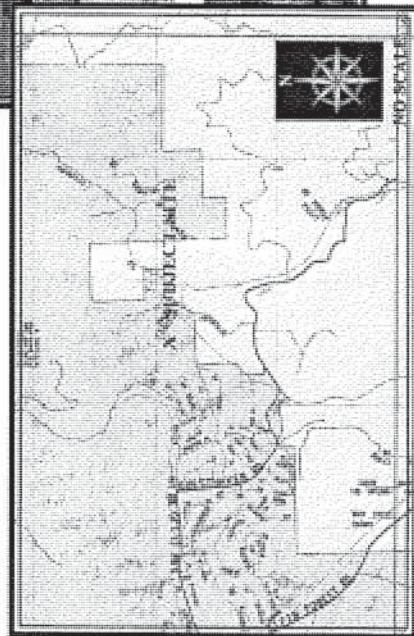
LOOKING NORTH TOWARD SUBJECT PROPERTY



SITE PRIOR TO INSTALLATION



SITE AFTER INSTALLATION



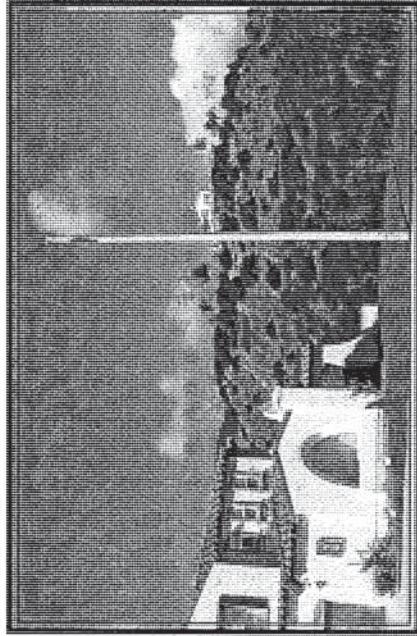
VICINITY MAP

LAND USE CONSULTANTS
760-390-7727

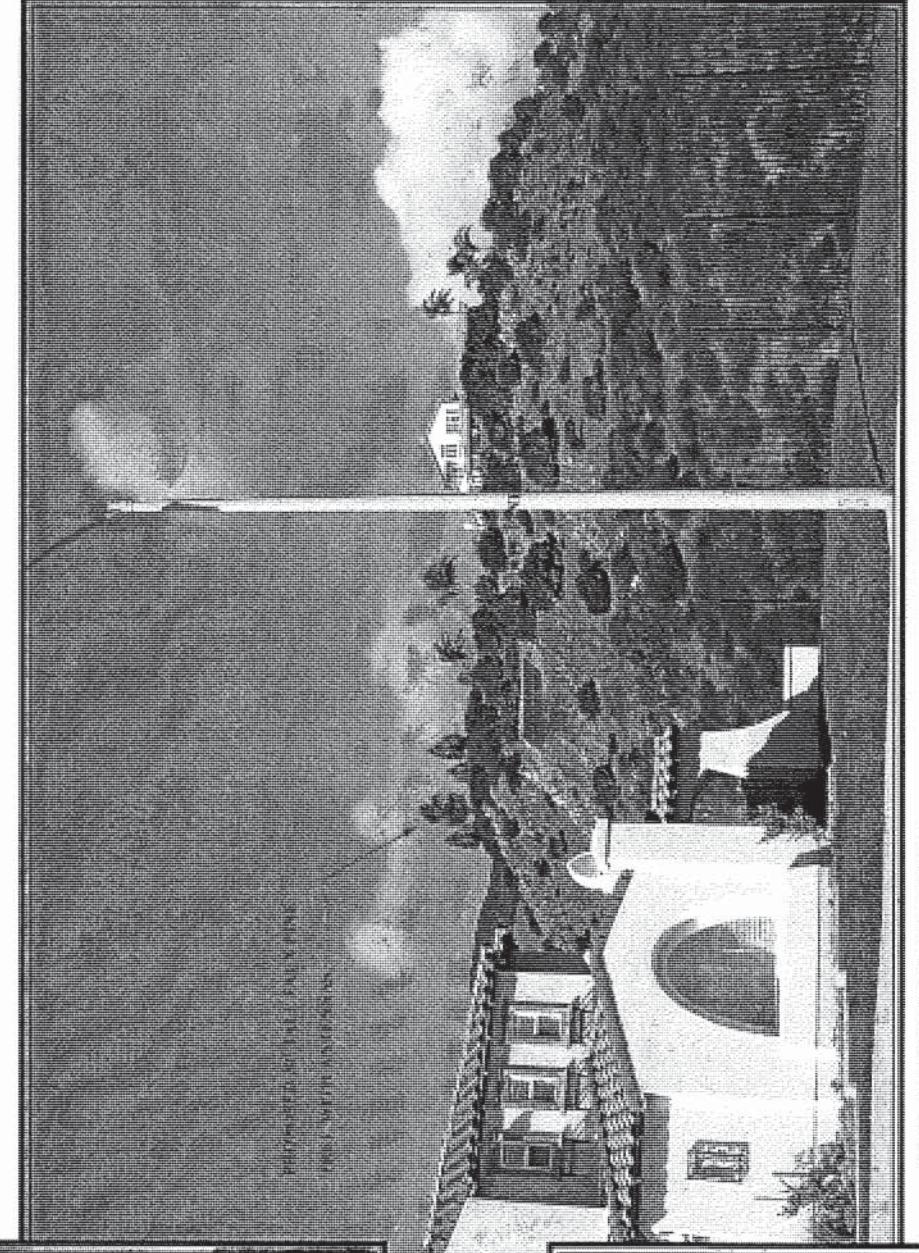
T Mobile
SD 06391 C

JEFFREY BRANDON
2080 GOLDEN EAGLE TRAIL
SAN MARCOS, CA 92078

LOOKING NORTHEAST TOWARD SUBJECT PROPERTY



SITE PRIOR TO INSTALLATION



SITE AFTER INSTALLATION



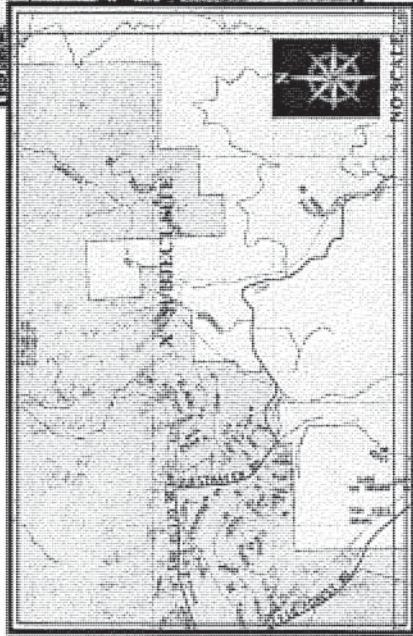
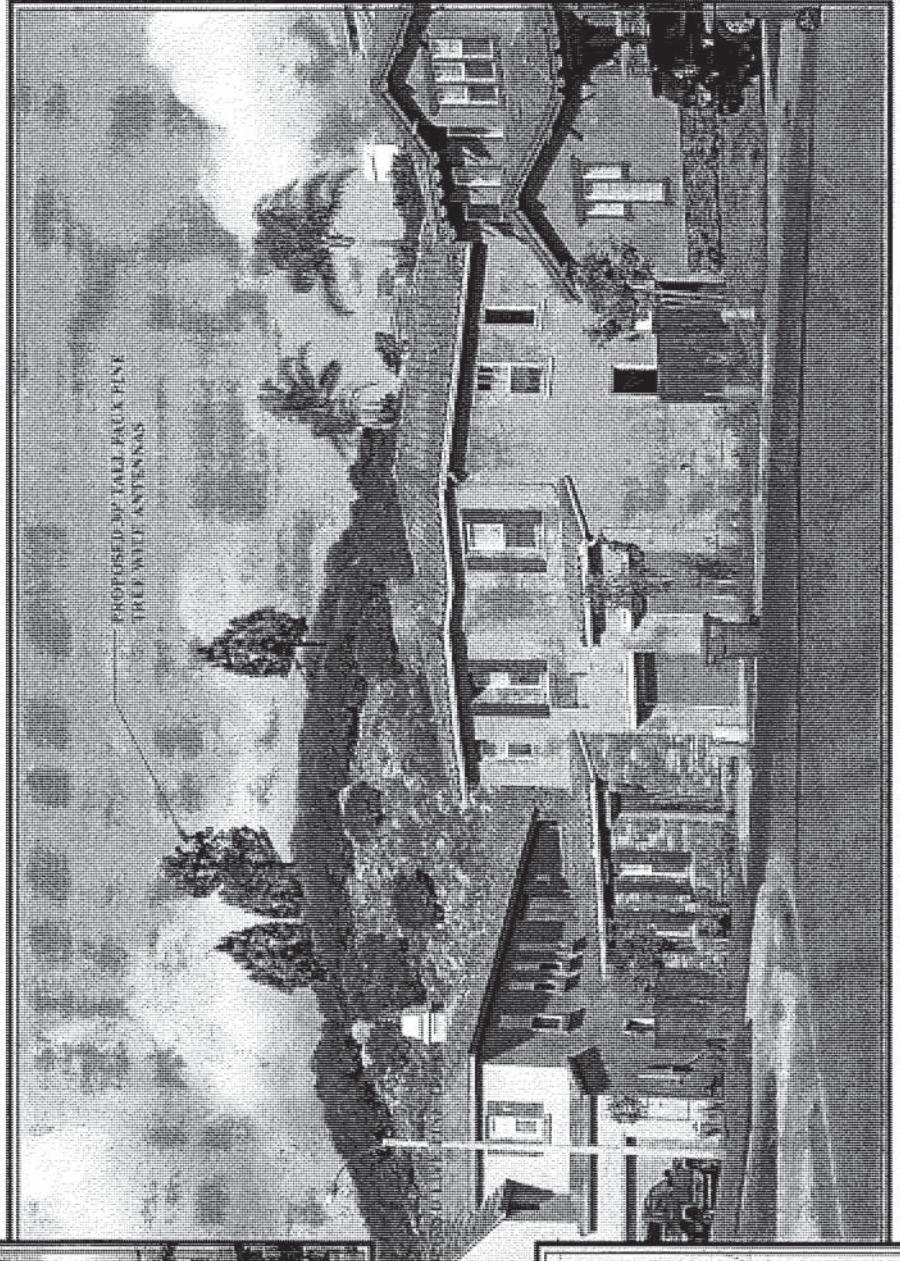
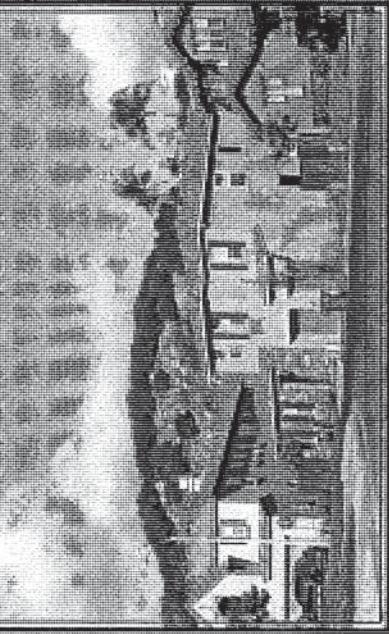
VICINITY MAP

LAND USE CONSULTANTS
760-390-7727

T Mobile
SD 06391 C

JEFFREY BRANDON
2080 GOLDEN EAGLE TRAIL
SAN MARCOS, CA 92078

LOOKING NORTHEAST TOWARD SUBJECT PROPERTY

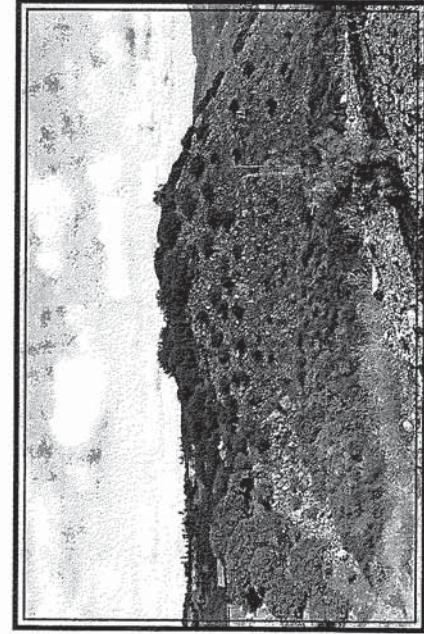
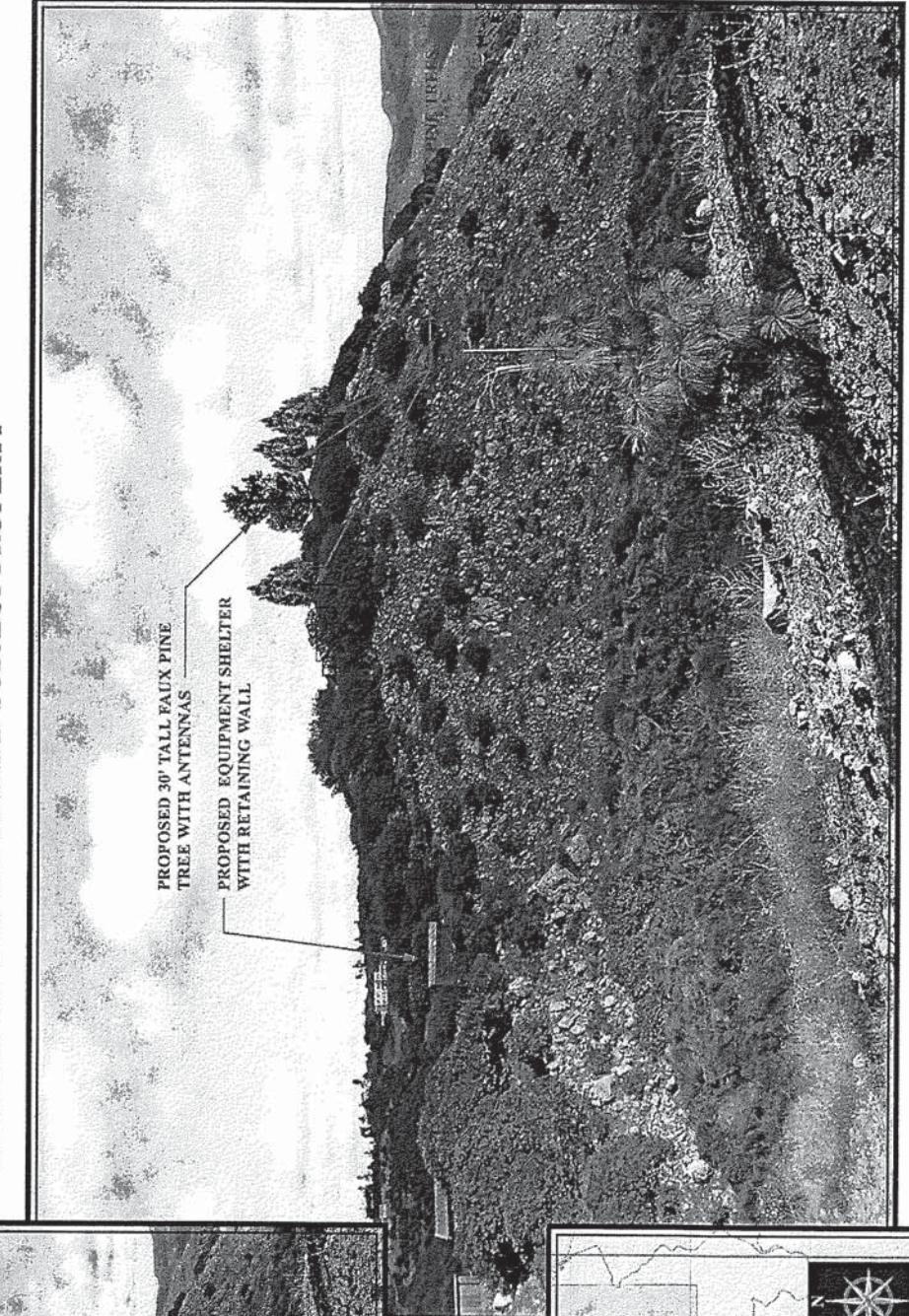


LAND USE CONSULTANTS
760-390-7727

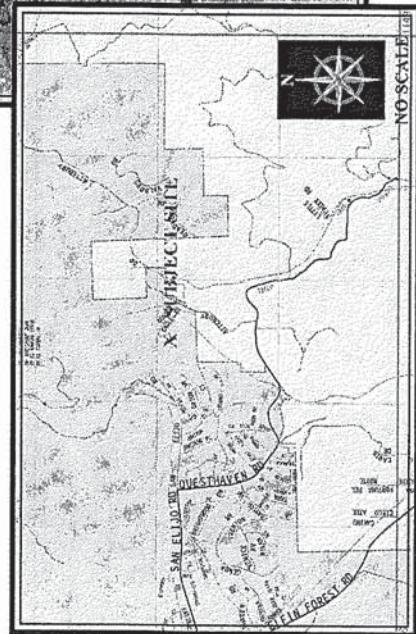
T Mobile
SD 06391 C

JEFFREY BRANDON
2080 GOLDEN EAGLE TRAIL
SAN MARCOS, CA 92078

LOOKING SOUTHEAST TOWARD SUBJECT PROPERTY



SITE PRIOR TO INSTALLATION



VICINITY MAP

SITE AFTER INSTALLATION

LAND USE CONSULTANTS
760-390-7727

EXHIBIT “D”



November 26, 2013

Sean Scully
27 Orchard
Lake Forrest, CA 92630

Re: 2nd Notice of Incomplete Application
P13-0059 (Conditional Use Permit CUP 13-006) – Crown Castle Renewal of an Existing T-Mobile
Wireless Telecommunication Facility
2080 Golden Eagle Trail, San Marcos, CA 92078
APN: 679-040-01

Dear Mr. Scully,

Thank you for your recent submittal of the revised application form on November 5, 2013, however pursuant to the provisions of Section 65943(a) of the California Government Code and the *Shot Clock Ruling*, 24 FCC Rcd. 13994, 13995 (Nov. 18, 2009); *City of Arlington v. FCC*, 688 F.3d 229 (5th Cir. 2012), the above referenced application continues to be deemed incomplete since the issuance of the last letter from the City dated November 4, 2013. As a courtesy, City staff has updated the list of outstanding items provided in the November 4, 2013 incomplete letter and further clarified some items initially discussed in that letter below:

(1) Public Notice Package

In conformance with Section 20.505.030(B)(2)(a) of the San Marcos Municipal Code (SMMC), the Planning Director has determined that a public notice package for a 1,000 foot radius around the perimeter of the subject property is required for this project. Please submit a revised public notice package as described in the application guidelines that includes all property owners and tenants within a 1,000 foot radius of the project site.

(2) Photo of Notice of Application-(NOA)-Sign

A Notice of Application (NOA) sign is required to be posted and maintained at the site during the processing of this application. Due to unique site conditions (i.e. the subject property is located at the end of a private road), the City is requiring that the applicant post two (2) additional signs. Please complete the attached NOA Sign template, enlarge to 16 square feet (4' x 4') and post at all of the following locations:

a. On Site

Post one sign onsite in a conspicuous location. Previously, signs for projects at the subject property have been posted at the intersection of Attebury Road and Golden Eagle Trail, which are both private roads.

b. San Elijo Road

Obtain a temporary Encroachment Permit from the Public Works Department to locate a sign in the landscaped strip between the curb and urban trail on the eastbound side of San Elijo Road, west of Double Peak Drive.



c. Questhaven Road

Obtain a temporary Encroachment Permit from the Public Works Department to locate a sign in the landscaped strip between the curb and urban trail on the southbound side of Questhaven Road, north of Brightwood Drive.

Once posted at all locations, a photo of each of the three signs shall be submitted to my attention (hi resolution jpeg files via email are acceptable). Posted signs shall also remain in place during the entire time the application is being processed, and removed by the applicant, only after directed to do so by the City.

(3) Notice of Permit Application Certification of Posting

Once the NOA signs are posted, also complete the enclosed "Notice of Permit Application Certification of Posting" form and return it to my attention (email is acceptable).

(4) Revise Site Plan and Facility Elevations

An inspection of the facility and review of the originally approved Conditional Use Permit (CUP) 06-708 (Resolution No. PC 08-4003) found that the current state of the facility is out of compliance with the previously approved Conditional Use Permit (CUP 06-708). More specifically, the project plans shall be revised as follows:

a. Replacement of Monopine

The antennas are no longer located within the canopy of the faux tree and the condition of the monopine has degraded significantly (e.g. faux pine needles are discolored, branches are missing, etc.). As a result, the applicant shall propose the replacement of the degraded monopine with a new facility (i.e. "swap and drop") that provides the required concealment of the antennas.

b. Additional Landscape Screening

The natural landscape screening materials that were planted by the applicant do not provide a sufficient level of screening to the existing facility and will need to be enhanced and/or increased (both in size and quantity). Another applicant (AT&T), has been required to develop a landscape plan for the subject property under a separate Conditional Use Permit (P12-0023), and T-Mobile/Crown Castle may wish to consider coordinating with this applicant in the creation and execution of a landscape plan for additional screening materials at the site.

At a minimum, the project plans shall be revised to correct these issues and additional presentation materials (e.g. photo simulations, landscape plans, branch diagrams, etc.) shall be prepared and submitted.

(5) CEQA Review Level Undetermined

Based on the project plans submitted with the application, the City is not presently able to make a determination on the level of review required under the California Environmental Quality Act (CEQA). Upon review of the revised application materials requested, the City will make a determination on the level of review required under CEQA and any difference in fees (\$200



accepted at application submittal) shall be required in conjunction with any supplemental documents as determined necessary by the City for CEQA review.

In addition to the items listed above, the following items have been provided for informational purposes:

(6) Public Workshop Required

Due to public interest in the project site, the City will schedule a Public Workshop for the applicant to present the revised project plans and receive public comment on the project.

To the extent possible, staff will continue to process the application. Submissions of the requested items can be made to my attention at the location provided on this letterhead or electronically. If you have any other questions, comments or concerns, please feel free to contact me at (760) 744-1050, extension 3223, or sdelsolar@san-marcos.net.

Sincerely,

Sean del Solar
Assistant Planner

Enclosures: Notice of Application (NOA) Sign Template
Notice of Permit Application Certification of Posting
Conditional Use Permit 06-708 (Resolution No. PC 08-4003)

EXHIBIT “E”



January 28, 2014

Via USPS and E-mail

Sean Scully
27 Orchard
Lake Forest, CA 92630

Re: 3rd Notice of Incomplete Application
P13-0059 (Conditional Use Permit CUP 13-006) – Crown Castle (T-Mobile) Wireless
Telecommunication Facility (previous CUP 06-708, expired on March 13, 2013).
2080 Golden Eagle Trail, San Marcos, CA 92078
APN: 679-040-01

Dear Mr. Scully,

Thank you for your recent submittal of application materials on January 15, 2014, however pursuant to the provisions of Section 65943(a) of the California Government Code and the *Shot Clock Ruling*, 24 FCC Rcd. 13994, 13995 (Nov. 18, 2009); *City of Arlington v. FCC*, 688 F.3d 229 (5th Cir. 2012), the above referenced application has been deemed incomplete. Based on the latest submittal of materials, the following required application items still have not been submitted:

(1) Revise Site Plan and Facility Elevations

An inspection of the facility and review of the originally approved Conditional Use Permit (CUP) 06-708 (Resolution No. PC 08-4003) found that the current state of the facility is out of compliance with the previously approved Conditional Use Permit (CUP 06-708). As a result of these violations, the City specified the replacement of the monopole (i.e. "swap and drop") in the previous incomplete letter dated November 26, 2013. At the request of the applicant, the City will evaluate an alternative proposal to rehabilitate the existing facility rather than replace it; however to conduct this evaluation, additional information is required. More specifically, the project plans shall be revised to address to following; or amended to include the following items:

a. Written Scope of Work

A narrative shall be prepared by the applicant that identifies the portions of the facility that are out of compliance (reference the Notice of Violation dated November 21, 2013) and provide a detailed explanation of how each compliance issue is proposed to be addressed and corrected by the proposed modifications.

b. Additional Branch Information

The Branch Receptor Report (Sheet T-2) only contains information on the location of each branch receptor bracket. Based on this information, it is unclear which brackets are existing, which are proposed as new, and/or the length of each branch placed in the receptor. At a minimum, revise this chart to contain this information or provide additional documentation to support the proposed "re-branching."



c. Locations of Completed Crown Castle Re-Branched Faux Tree Monopoles

Provide a list (with photos) of Crown Castle facilities in San Diego County that have been re-branched using identical methods and/or vendors as proposed for the 2080 Golden Eagle ("T-Mobile") Site. City of San Marcos staff will inspect the facilities provided on this list; therefore, ensure that the locations of the facilities identified are within 30 minutes of San Marcos and accessible to the general public.

(2) Photo of Notice of Application (NOA) Sign

A Notice of Application (NOA) sign is required to be posted and maintained at the site during the processing of this application. Complete the attached NOA Sign template, enlarge to 16 square feet (4' x 4') and post at a conspicuous location at the project site. Previous onsite notice of application signs have been posted at the intersection of Attebury Drive and Golden Eagle Trail, which are both private roads. The City requires that the NOA also be placed in the public right of way adjacent to a public roadway. After the sign is posted, submit a photo of the sign to my attention (a high resolution jpeg file via email is an acceptable format of submittal). Posted signs shall also remain in place during the entire time the application is being processed, and removed by the applicant, only after directed to do so by the City.

(3) Notice of Permit Application Certification of Posting

After the NOA sign is posted as specified above, please complete the enclosed "Notice of Permit Application Certification of Posting" form and return it to my attention (email is acceptable).

In addition to the items listed above, the following items need to be addressed in revised application materials or subsequent actions by the applicant:

(4) Photo Simulations

Although the angles and four (4) locations of the photos used in the photo simulation analysis are acceptable, the photos do not represent critical stages of the development of the project. As a result, please prepare additional photo simulations of the following stages of the project's development:

- a. Existing landscape conditions with the modified faux tree monopole.
- b. Existing landscape conditions with the modified faux tree monopole and proposed landscaping as it will appear at the time of installation.
- c. Modified faux tree monopole with existing and proposed landscaping as it will appear after 5 years of growth.
- d. Modified faux tree monopole with existing and proposed landscaping as it will appear at maturity (this may be the exhibits that were submitted).

(5) Public Workshop Required

Due to public interest in the project site, the City will schedule a Public Workshop for the applicant to present the revised project plans and receive public comment on the project.



Based on the outcome of that workshop, additional revisions to the project and scope may be required.

(6) CEQA Review Level Undetermined

Based on the project plans submitted on January 15, 2014, the City is presently unable to make a determination on the level of review required under the California Environmental Quality Act (CEQA). Upon review of the revised application materials as requested, the City will make a determination on the level of review required under CEQA and any difference in fees (\$200 accepted at application submittal) shall be required in conjunction with any supplemental documents as determined necessary by the City for CEQA review.

(7) Photo(s) of Additionally Required Notice of Application (NOA) Signs

Due to the unique site conditions associated with the project site (i.e. the subject property is located at the end of a private road), the City is requiring that the applicant post two (2) additional offsite Notice of Application signs. Upon issuance of the temporary Encroachment Permit, the applicant shall post two (2) additional 16 square feet (4' x 4') signs at the following locations:

a. San Elijo Road

Obtain a temporary Encroachment Permit from the Public Works Department to locate a sign in the landscaped strip between the curb and urban trail on the eastbound side of San Elijo Road, west of Double Peak Drive.

b. Questhaven Road

Obtain a temporary Encroachment Permit from the Public Works Department to locate a sign in the landscaped strip between the curb and urban trail on the southbound side of Questhaven Road, north of Brightwood Drive.

Once posted at the above referenced locations, a photo of each sign shall be submitted to my attention (high resolution jpeg files via email are an acceptable form of submittal). Posted signs shall also remain in place during the entire time the application is being processed, and removed by the applicant, only after directed to do so by the City.

(8) Conceptual Landscape Plan

As previously discussed, a Soil Management Report as specified in Section 20.330.070(D) of the San Marcos Municipal Code (SMMC) and an a report by a Certified Arborist are required. The Arborist's report will need to evaluate the health of the existing three (3) trees originally planted by the applicant and review the proposed conceptual landscape plan and Soil Management Report to ensure optimal health and growth of the proposed landscaping materials and make recommendations for sources of specified landscape materials. Additionally, the source of the 30' tall Torrey Pine trees (proposed in the landscape plan) shall be identified and photos of the actual specimens that are proposed for transplant at the site shall be submitted.

(9) Moratorium Under Consideration

Please be advised that at the January 28, 2014 meeting of the San Marcos City Council (6:00 P.M. in the Council Chambers at 1 Civic Center Drive, San Marcos, CA), an urgency interim

EXHIBIT “F”

City of San Marcos
1 Civic Center Drive
San Marcos, CA 92069-
760-744-1050



CITATION NO. AC-001460

CASE NO. CE2013-1245

Issuing Department:

Code Compliance
 Building
 Fire
 Animal Control
 Other Planning

ADMINISTRATIVE (CIVIL) CITATION

You are being cited for failure to comply with the San Marcos Municipal Code (SMMC) section(s) indicated below. Administrative citations carry monetary penalties specified by the Municipal Code. These fines are assessed per offense, per occurrence, and are cumulative. Payment does not excuse correction of the violation(s) noted, nor does it bar further enforcement action by the City, should circumstances warrant. Should you have any questions concerning this matter, please call (760) 744-1050.

Si le gustaria obtener esta informacion en Espanol por favor llame al siguiente numero (760) 744-1050, extension 3143.

CODE SECTIONS VIOLATED

SMMC Code Section(s) Violated:	Description of Violation(s):
<input type="checkbox"/> CUP violation	SMMC §§ 20.100.040, 20.210.040 & 20.520.040 Conditional Use Permit (CUP) required

YOUR FINE

1st Offense - \$100 2nd Offense - \$200 3rd Offense - \$500 4th & Subsequent Offense(s) - \$1,000

Multiple Offenses -

Payment of \$200.00 is due no later than . Please see reverse for payment instructions.

PLEASE BE ADVISED:

Failure to correct the violation(s) noted by the dates indicated, or subsequent violation(s) of the same Municipal Code section(s) within the next eighteen (18) months may result in the issuance of additional citation(s) at the next applicable fine level.

The Building Official is authorized to suspend or refuse issuance of building permits for this property until all violations are corrected to the satisfaction of the City.

Date Citation issued: 06/30/2014	Date Violation Observed: 06/30/2014	Time of Violation AM/PM:	Day of Week: Monday	Origination Code:
Location of Violation (Address): 2080 GOLDEN EAGLE TRL, SAN MARCOS, CA 92078			Assessor's Parcel Number: 6790400100	
Issued to: OWNER				
Name: JON DOHM	Phone No.:			
Mailing Address: 510 CASTILLO STREET, #302, SANTA BARBARA, CA 93101	Property Mgmt. Co/Business Name:			

CORRECTIONS REQUIRED

Expired Conditional Use Permit (CUP 06-708). Application for a new CUP remains incomplete (P13-0059). Submit items requested in letter dated Jan. 28, 2014 (enclosed).

BY (Date/Time)

07/08/2014

Existing moratorium does not affect City's ability to proceed w/ Code Enforcement actions.

ISSUING ENFORCEMENT OFFICER:

Art Fiebing

Telephone: (760) 744-1050 Ext. 3143

Date: 06/30/2014

RECIPIENT'S SIGNATURE:

DATE:

(Note: Signing this notice acknowledges receipt only, and is not an admission of guilt.)

Citation Served: In Person Posted on Property By Certified Mail By Regular Mail

SEE REVERSE FOR ADDITIONAL INFORMATION

Exhibit F

IMPORTANT: PLEASE READ

ADMINISTRATIVE CITATIONS

San Marcos Municipal Code Chapters 1.12 and 1.14 provide for the issuance of Administrative Citations for Municipal Code violations. There are four levels of citations that can be issued (progressively) for repeated violations of the same code section. The civil fines attached to these citations are \$100 for the first, \$200 for the second, \$500 for the third, and \$1000 for the fourth citation and subsequent offense. These fines are calculated per violation, per occurrence, and are cumulative. A warning, if issued, does not carry a fine and, therefore, is not appealable.

ORDER

You are ordered to:

1. Immediately cease committing the code violation(s) listed on the front of this citation, and
2. Refrain from repeating the violation(s) noted.

RIGHTS OF APPEAL

You have a right to appeal this administrative citation within thirty (30) days from the date the citation is issued. An appeal must be made in writing on an appeal form provided by the City, accompanied by the full amount of the fine, and returned to the address listed on the front of this citation. You may also file a request for a Hardship Waiver of the fine, but it must be filed within fifteen (15) days of the date the citation is issued. Appropriate forms may be obtained at the address listed on the front of this citation. Appeal and Hardship Waiver requests will be adjudicated by the City Manager's office in an Administrative Hearing.

Failure of any person to properly file a written appeal within thirty (30) days from the issue date of the administrative citation shall constitute a waiver of his or her right to an administrative hearing and adjudication of the administrative citation, or any portion thereof, and the total amount of the fine.

HOW TO PAY FINE

The amount of your fine is indicated on the front of this Administrative Citation and is due within thirty (30) days of the date the citation was issued. You may pay by mail or in person. Payment should be made by personal check, cashier's check or money order payable to the City of San Marcos, at the address below. Please write the citation number (from the front side, upper right hand corner of this form) on your check or money order.

City of San Marcos
1 Civic Center Drive
San Marcos, CA 92069
Attn: Administrative Citation

If the fine is not paid within thirty (30) days of the date the citation was issued, you will receive a Delinquent Notice from the City of San Marcos and there will be a twenty-five (25) percent penalty fee assessed in addition to the original fine. In addition, delinquent fines will accrue interest at the rate of ten (10) percent per month, excluding penalties, from the due date. If you need further clarification about payment of this citation, please call (760) 744-1050.

Payment of any fine shall not excuse the failure to correct the violation nor shall it bar further enforcement action by the City.

The failure of any person to pay the fines imposed by an administrative citation within thirty (30) days of the date the citation was issued or the due date of a Delinquent Notice may result in referral of the account to a collection agency, in lieu of, or in addition to: (1) the filing of a claim with the Small Claims Court or the Superior Court for recovery of the civil fine plus interest and late charges; (2) filing of a Code Enforcement lien against the real property upon which the violation occurred; or (3) any other available legal remedy to collect such money. In a court action, the City may also recover its collection costs, including the cost of the Hearing Officer, and any court fees, according to proof. Any lien imposed pursuant to this chapter shall attach to the property in question upon the recordation of a Notice of Code Enforcement Lien in the Office of the County Recorder.

CONSEQUENCES OF FAILURE TO CORRECT VIOLATIONS

There are numerous other enforcement options that may be used to encourage the correction of violations and to secure code compliance. These include, but are not limited to: criminal prosecution, civil litigation, forced abatement, scheduling the item for a public hearing to assess additional civil penalties and administrative costs, and/or recording the violation with the County Recorder. These options can empower the City to collect fines, remove structures and/or make necessary repairs at the owner's expense, and to incarcerate violators. Any of these options or others may be used if the administrative citations process does not achieve compliance.

If you need further information about the violation and/or how to comply, please call the issuing officer named on the front of this citation.

Si le gustaría obtener esta información en Español por favor llame al siguiente numero (760) 744-1050, extensión 3143.

RECEIPT FOR MAILING: Administrative (Civil) Citation-2nd

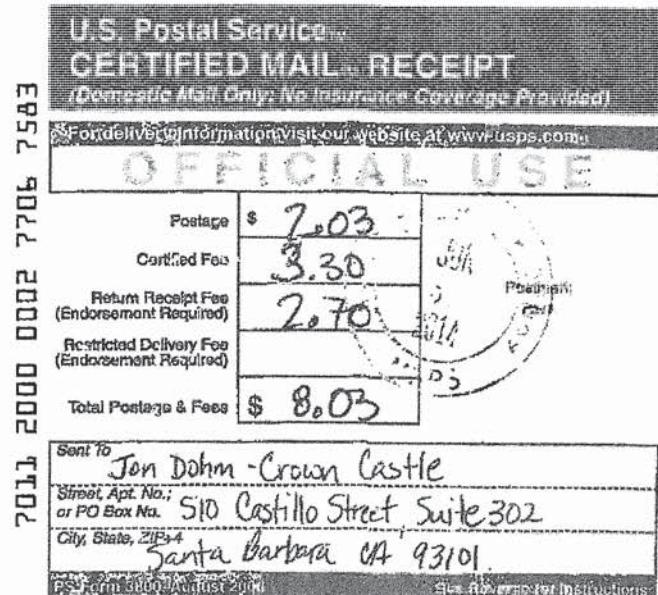
SEAN SCULLY ~ BLACK & VEATCH
T-MOBILE WIRELESS TELECOMMUNICATION FACILITY (CUP 06-708-P13-0059)
2080 GOLDEN EAGLE TRAIL, SAN MARCOS CA 92078



RECEIPT FOR DELIVERY: Administrative (Civil) Citation

RECEIPT FOR MAILING: Administrative (Civil) Citation-2nd

JON DOHM – CROWN CASTLE
T-MOBILE WIRELESS TELECOMMUNICATION FACILITY (CUP 06-708-P13-0059)
2080 GOLDEN EAGLE TRAIL, SAN MARCOS CA 92078



RECEIPT FOR DELIVERY: Administrative (Civil) Citation

EXHIBIT “G”

**LOUNSBERRY FERGUSON
ALTONA & PEAK LLP**

ESCONDIDO AND SAN DIEGO

960 Canterbury Place, Suite 300
Escondido, California 92025-3870
Telephone (760) 743-1201
Facsimile (760) 743-9926
www.LFAP.com

SPECIAL COUNSEL
JOHN W. WITT

Direct: (760) 743-1226 ext 137
Email: MCS@LFAP.com

July 11, 2014

Via Certified Mail, Return Receipt

Jon Dohm
Crown Castle International
510 Castillo Street, Suite 302
Santa Barbara, CA 93101

RE: FINAL NOTICE OF OUTSTANDING VIOLATIONS
2080 Golden Eagle Trail, San Marcos, CA 92078
APN: 679-040-01, Conditional Use Permit CUP 06-708

Dear Mr. Dohm:

By way of introduction, this firm serves as the City Attorney for the City of San Marcos (“City”), and I write to you in my capacity as a Deputy City Attorney. I understand that you are the Zoning Manager for Crown Castle International, at least with respect to this location. The purpose of this letter is to provide you with notice of the outstanding violations located at 2080 Golden Eagle Trail, San Marcos, CA 92078, A.P.N. 679-040-01, (the “Property”).

On March 3, 2008 T-Mobile was issued Conditional Use Permit No. 06-708 (the “CUP”) by the City Planning Commission, to construct and operate a wireless telecommunication facility. Crown Castle has acquired the rights to this facility and the CUP. As you are aware, the CUP expired on March 13, 2013 and the telecommunications facility is currently in violation of the San Marcos Municipal Code (“SMMC”). In addition to the expired CUP, an inspection of the Property conducted by City staff on October 30, 2013, concluded with the finding that the facility is also out of compliance with the terms and conditions of the CUP, as well as other provisions of the SMMC.

On November 21, 2013, the City issued a Notice of Violation (“NOV”) to Crown Castle International, citing violations of SMMC § 20.100.040(A) and Chapter 20.465, which requires the facility to maintain a valid CUP while in operation. After failing to respond to the City’s NOV, the City issued an Administrative (Civil) Citation, requiring compliance on or before July 8, 2014. The deadline to comply has now expired with no response from Crown Castle International.

Exhibit G

Jon Dohm
July 11, 2014
Page 2 of 2

LOUNSBERRY FERGUSON ALTONA & PEAK LLP

The City has given Crown Castle International ample time to comply and has attempted to provide assistance in bringing the Property into compliance and avoid the issuance of additional citations. However, your continued failure to comply with SMMC § 20.100.040 and Chapter 20.456, will require the City to take further administrative action to attain compliance with applicable laws, which can result in the requirement to remove the improvements in question from the Property.

Be advised that Crown Castle International has until close of the City's business day on Wednesday, July 16, 2014, to submit the required CUP application fees and renewal forms to the City. If Crown Castle International does not comply within the stated time, the City will proceed with any and all remedies available to it with regard to this matter including, but not limited to, a code enforcement and nuisance abatement action. The fines incurred to date, the CUP renewal application and all attendant documents must be submitted to the City's Planning Division by the date set forth above to avoid further enforcement action. You may contact Assistant Planner Sean del Solar at (760) 744-1050, extension 3223, with any questions as to what must be submitted to avoid enforcement activity.

Sincerely,

LOUNSBERRY FERGUSON ALTONA & PEAK, LLP

By: Matthew Starr
Matthew C. Starr

Enclosure: Administrative Civil Citation

cc:

Jerry Backoff, Planning Director
Sean del Solar, Assistant Planner
Sean Scully, Director of Planning National Engineering & Consulting, Inc.

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

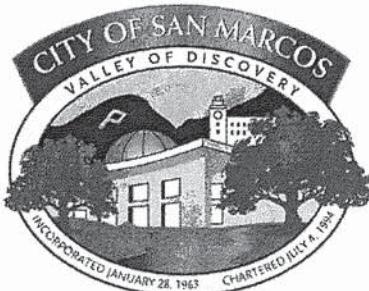
For delivery information visit our website at www.usps.com

CERTIFIED MAIL USE	
Postage	\$ 14.00
Certified Fee	\$ 3.00
Return Receipt Fee (Endorsement Required)	\$ 2.70
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 6.48



Sent To Jon Darn / Cesar CASTEJNT.
Street, Apt. No. 210 Costilla St / STE. 202
or PO Box 24
City, State, BAZBAAZ, CA 93111
PS Form 3800, August 2006
See Reverse for Instructions.

EXHIBIT “H”



July 24, 2014

Sent via USPS and E-mail

Jon Dohm
Crown Castle International
222 East Carrillo Street, Suite 107
Santa Barbara, CA 93101

Re: 4th Notice of Incomplete Application
P13-0059 (Conditional Use Permit CUP 13-006) – Crown Castle (T-Mobile) Wireless Telecommunication Facility (previous CUP 06-708, expired on March 3, 2013).
2080 Golden Eagle Trail, San Marcos, CA 92078
APN: 679-040-01

Dear Mr. Dohm,

The City is in receipt of the supplemental application materials submitted on July 16, 2014. However, the above referenced application continues to be deemed incomplete. The following required application items have still not been provided:

(1) Conceptual Landscape Plans

Conceptual landscape plans and use of a Certified Arborist were required because the trees planted by the applicant at the site have failed to screen the facility and the evaluation of the existing trees and site conditions (i.e. soil composition) are a material component of the City's review of Crown Castle's proposal to rehabilitate the site. As a result, the site evaluation and recommendations by a Certified Arborist, as specified in Section 8 of the January 28, 2014 letter are required and must be submitted.

(2) Rebranching Diagram

The branch receptor location chart on Sheet T-2 of the project plans does not contain sufficient information to determine which branches are existing, which are proposed and which will have "branch tips" added, as discussed on page 3 of Sean Scully's letter dated July 16, 2014. As a result, the City is unable to evaluate the rebranching proposal by Crown Castle. As this information is necessary for an adequate analysis of the impacts of the proposal, the missing information or adequate supplemental documentation with this information must be provided.

This submittal process has taken several months. The City has provided notice of the required submittal items on multiple occasions. Please be advised that the missing items must be provided no later than 5:30 PM on Thursday, July 31, 2014. Failure to provide the materials by or before that date and time will result in the filing of a code enforcement action, which will seek additional fines and penalties from the attendant. In the interim, and only to the extent possible without these required submittals, staff will work on the application. Submissions of the items required to complete this application must be made to my attention at the location provided on this letterhead, or electronically. If you have any other questions, comments or concerns, please contact me at (760) 744-1050, extension 3223, or sdelSolar@san-marcos.net.

Sincerely,

A handwritten signature in black ink, appearing to read "Sean del Solar".

Sean del Solar
Assistant Planner

CC: Sean Scully, 27 Orchard, Lake Forest, CA 92630

RECEIPT FOR MAILING: 4TH Notice of Incomplete Application Letter

JON DOHM – CROWN CASTLE INTERNATIONAL
T-MOBILE WIRELESS TELECOMMUNICATION FACILITY (P13-0059 (CUP 13-006))
2080 GOLDEN EAGLE TRAIL SAN MARCOS

7706 3257
7002 0000
7011 2000
7011 2000
7011 2000

U.S. Postal Service TM	
CERTIFIED MAILTM RECEIPT	
(Domestic Mail Only: No Insurance Coverage Provided)	
For delivery information visit our website at www.usps.com	
OFFICIAL USE	
Postage	\$ 0.48
Certified Fee	3.30
Return Receipt Fee (Endorsement Required)	2.70
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 6.48



Sent To CROWN CASTLE INTERNATIONAL ATTN JON DOHM	
Street, Apt. No.: or PO Box No. 222 E CARRILLO ST STE 107	
City, State, ZIP+4 SANTA BARBARA CA 93101-7147	

PS Form 3800, August 2006 See Reverse for Instructions

RECEIPT FOR DELIVERY: 4TH Notice of Incomplete Application Letter

EXHIBIT “I”



August 5, 2014

Sent via USPS and E-mail

Jon Dohm
Crown Castle International
222 East Carrillo Street, Suite 107
Santa Barbara, CA 93101

Re: 5th Notice of Incomplete Application
P13-0059 (Conditional Use Permit CUP 13-006) – Crown Castle (T-Mobile) Wireless Telecommunication Facility (previous CUP 06-708, expired on March 3, 2013).
2080 Golden Eagle Trail, San Marcos, CA 92078
APN: 679-040-01

Dear Mr. Dohm,

The City is in receipt of the application materials dated August 1, 2014 (7:55 PM), which were received on August 4, 2014. Notwithstanding the aforementioned submittal of materials, the above referenced application continues to be deemed incomplete. The following required application items have still not been provided:

(1) Conceptual Landscape Plans

As discussed in the letter dated January 28, 2014, a conceptual landscape plan inclusive of a report by a certified arborist and a Soil Management Report (as described in Section 20.330.070(D) of the San Marcos Municipal Code (SMMC)) is required. The conclusions from the applicant provided arborist report (LSA Project No. EBI1402) invalidated the previously submitted landscape plan (i.e. the existing applicant planted Torrey Pines were identified as being in "subpar condition" and "show[ing] signs of Chlorosis") and were not included on the list of recommended replacement tree species. Furthermore, the report could not make final recommendation on a replacement tree species until a soil analysis (i.e. Soil Management Report) is completed. As a result, the City continues to require the submittal of the Soil Management Report, further analysis of the entire landscape plan by the certified arborist (i.e. Leo Simone) and an updated conceptual landscape and irrigation plan (i.e. replacement of the proposed Torrey Pines with an appropriate species, updated planting details to incorporate the "planting and maintenance" recommendations provided by the certified arborist, etc.).

(2) Rebranching Diagram

From the information contained in the "Branch Receptor Chart and Rebranching Plan," provided as Sheet T-2 in the project plans, it is unclear if the proposed rebranching will: (i) enclose and completely conceal the existing antennas, (ii) have a natural shaped canopy and (iii) have a similar branch shape, color and leaf type as the proposed natural trees. Please either add information addressing these issues to the "Branch Receptor Chart and Rebranching Plan" on Sheet T-2 or provide an additional report as indicated in bullet 3 on page 2 of the Scully letter dated August 1, 2014.

Please file the remaining materials and information specifically addressing the issues identified above by the close of business on August 18, 2014. The City reserves all rights and remedies with respect to (i) the



incomplete application and (ii) the operation of a facility with expired permits. If you have any other questions, comments or concerns, please contact me at (760) 744-1050, extension 3223, or sdelsolar@san-marcos.net.

Sincerely,

A handwritten signature in black ink, appearing to read "Sean del Solar".

Sean del Solar
Assistant Planner

CC: Sean Scully, 27 Orchard, Lake Forest, CA 92630
Matthew Starr, 960 Canterbury Place, Suite 300, Escondido, CA 92025
Joseph M. Parker Esq., 401 West A Street, Suite 2330, San Diego, CA 92101

Matthew C. Starr 297614
 Lounsbury Ferguson Altona & Peak LLP
 960 Canterbury Place, Suite 300
 Escondido, CA 92025
 TELEPHONE NO.: 760-743-1201 FAX NO.: 760-743-9926
 ATTORNEY FOR (Name): City of San Marcos

ELECTRONICALLY FILED
 Superior Court of California,
 County of San Diego

10/02/2014 at 10:07:17 AM

Clerk of the Superior Court
 By Amy Wagoner, Deputy Clerk

SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Diego
 STREET ADDRESS: 325 So. Melrose
 MAILING ADDRESS:
 CITY AND ZIP CODE: Vista, CA 92081
 BRANCH NAME: North County Branch

CASE NAME: City of San Marcos v. Crown Castle

CIVIL CASE COVER SHEET		Complex Case Designation	CASE NUMBER:
<input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000)	<input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)	<input type="checkbox"/> Counter <input type="checkbox"/> Joinder	37-2014-0003394-CU-OR-NC
Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)			
		JUDGE:	Judge Earl H. Maas III
		DEPT.:	

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort

Auto (22)
 Uninsured motorist (46)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)
 Product liability (24)
 Medical malpractice (45)
 Other PI/PD/WD (23)

Non-PI/PD/WD (Other) Tort

Business tort/unfair business practice (07)
 Civil rights (08)
 Defamation (13)
 Fraud (16)
 Intellectual property (19)
 Professional negligence (25)
 Other non-PI/PD/WD tort (35)

Employment

Wrongful termination (36)
 Other employment (15)

Contract

Breach of contract/warranty (06)
 Rule 3.740 collections (09)
 Other collections (09)
 Insurance coverage (18)
 Other contract (37)

Real Property

Eminent domain/Inverse condemnation (14)
 Wrongful eviction (33)
 Other real property (26)

Unlawful Detainer

Commercial (31)
 Residential (32)
 Drugs (38)

Judicial Review

Asset forfeiture (05)
 Petition re: arbitration award (11)
 Writ of mandate (02)
 Other judicial review (39)

Provisionally Complex Civil Litigation

(Cal. Rules of Court, rules 3.400-3.403)

Antitrust/Trade regulation (03)
 Construction defect (10)
 Mass tort (40)
 Securities litigation (28)
 Environmental/Toxic tort (30)
 Insurance coverage claims arising from the above listed provisionally complex case types (41)

Enforcement of Judgment

Enforcement of judgment (20)

Miscellaneous Civil Complaint

RICO (27)
 Other complaint (not specified above) (42)

Miscellaneous Civil Petition

Partnership and corporate governance (21)
 Other petition (not specified above) (43)

2. This case is is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

a. Large number of separately represented parties d. Large number of witnesses
 b. Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve e. Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
 c. Substantial amount of documentary evidence f. Substantial postjudgment judicial supervision

3. Remedies sought (check all that apply): a. monetary b. nonmonetary; declaratory or injunctive relief c. punitive

4. Number of causes of action (specify): five

5. This case is is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: October 2, 2014

Matthew C. Starr

(TYPE OR PRINT NAME)

Matthew Starr

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2



ATTACHMENT I
Updated Arborist Report
(Leo Simone, October 29, 2014)

AGENDA ITEM NO. _____

M E M O R A N D U M**DATE:**

October 29, 2014

TO:

Sean Scully, Senior Zoning Manager, Black & Vetch

FROM:

Leo Simone

SUBJECT:Arborist Memorandum for the Golden Eagle Residence Wireless
Telecommunication Facility Site No. 8242872, San Marcos, California**INTRODUCTION**

LSA Associates, Inc. (LSA) was retained by Black & Vetch to review and comment on the soil fertility analysis report prepared for the project by Soil & Plant Laboratory, Inc., and to provide recommendations as to the most suitable trees to screen the telecommunication tower, based on the results of the soil fertility analysis report and observations from a site visit conducted on July 31, 2014.

The use of pine trees was initially considered since the selected trees would be for the replacement of the Torrey pines (*Pinus torreyana*) planted as part of the original project landscape plan. On October 16, 2014, I received email correspondence from Mr. Sean del Solar, Assistant Planner, City of San Marcos stating that “to the extent possible, evaluate the use of trees included on the County of San Diego Defensible Space Suggested Plant List for appropriateness at the site, and ensure that none of the recommended plants are included on the undesirable plant list.” Tecate cypress was initially being considered as replacement plant material because of its adaptability to the unfavorable soil conditions found on site. All pine trees (*Pinus* sp.) and Tecate cypress (*Cupressus forbesii*) are on the County of San Diego undesirable plant list. Trees recommended as screening plant material are directly from the suggested plant list referenced above.

METHODS**Site Inspection**

On July 31, 2014, LSA Associates, Inc. (LSA) Associate Biologist, Leo Simone (International Society of Arboriculture [ISA] Certified Arborist/Certified Tree Risk Assessor WE-8491A) conducted a site visit of the Golden Eagle Residence Wireless Telecommunication Facility Site No. 8242872 to examine site conditions of the proposed future tree planting sites as shown on Landscape Plan Sheets L-1 and L-2 (Crown Castle).

Review of Soil Fertility Analysis Report

The soil analysis conducted by Soil & Plant Laboratory, Inc., was reviewed to assist with the tree selection process (see Attachment: Soil Fertility Analysis Report).

Selection of Suitable Plant Material

The *County of San Diego Defensible Space Suggested Plant List* was consulted, as well as the *Sunset Western Garden Book*. A literature search for trees that would be expected to perform satisfactorily in the growing environment found on site, and would have a mature height of approximately 30 feet (ft) (a height requirement that would not interfere with the telecommunication tower signal) was conducted. Final plant selection was made after consulting with the project landscape architect David Miertschin.

DISCUSSION

Existing Site Conditions

The wireless telecommunication site is located on a hilltop of a residential lot at 2080 Golden Eagle Trail, San Marcos, California. Native vegetation in the project area consists of Diegan coastal sage scrub and chaparral with ornamental landscaping near the residence. The native vegetation in the vicinity of the site appeared in satisfactory condition despite the extended drought. Ornamental landscaping in the area generally appeared healthy most likely benefiting from regular irrigation.

I examined the one surviving Torrey pine tree that was planted as part of the original landscape plan for the project. The tree appeared stunted, chlorotic, and generally in poor health. The lack of adequate drainage and poor soil conditions appears to be the likely cause. It should also be noted that several of the Torrey pines observed in the general vicinity of the project also appeared chlorotic and in less than optimal health.

Review of Soil Fertility Analysis Report

Soil & Plant Laboratory, Inc. soil fertility analysis concluded that the soil found on site to be "moderately acidic at 5.8 on the pH scale, which is at the lower end of the range considered to be suitable for most plants." The report also noted; "the soil is extremely rocky. The presence of this much rock is likely to severely limit water and nutrient holding capacities in the soil and also significantly decrease rooting volume. Due to the very rocky nature of the soil, pine trees would not be expected to do well in this area." The results of the soil analysis is consistent with the Natural Resource Conservation Service (NRCS) description of the soil sampled on site - San Miguel-Exchequer rocky silt loams soil series. These soils also consist of rock outcrops.

Soils

According to the NRCS Soil Survey for the San Diego County Area, the soils found on site are San Miguel-Exchequer rocky silt loams (9–70 percent slopes). These soils primarily support Diegan coastal sage scrub. San Miguel series soils are well-drained, shallow to moderately deep silt loams with clay subsoil that are derived from metavolcanic rock. San Miguel soils also form a complex with Exchequer series soil. Exchequer series soils are well-drained, shallow silt loams derived from weathered hard metabasic (metamorphosed basalt), or mafic, rock. Both soils have medium-to-rapid runoff, and moderate-to-high erosion potential. The San Miguel silt loam has

slow permeability, and the Exchequer has moderate permeability. Fertility is very low for both soil types. The soil profile pH ranges from strongly acidic to slightly acidic (5.0–6.5).

Tree Selection

Tree selection was derived from the results of the soil fertility report prepared by Soil & Plant Laboratory, Inc., and suitable trees from the County of San Diego Suggested Plant List. Suitability was determined by the growing requirements of the selected trees, including the following:

- Climate zone (Sunset Zone 21)
- Soil
- Drainage
- Size at maturity (30 feet [ft])
- Water requirements
- Pest susceptibility

Sean del Solar, Assistant Planner, City of San Marcos provided me with email correspondence that stated:

It is the City's expectation that as the Arborist, you are able to provide Crown Castle a comprehensive report that will identify a number of plant materials that are appropriate for the site and have an identical height and spread as the proposed rebranched Wireless Telecommunication Facility (WTF).

It should be noted that based on the constraints associated with the poor soil quality found on site and limitation of acceptable plant material identified on County of San Diego Defensible Space Suggested Plant List selecting trees that will have an identical height and spread of the proposed rebranched WTF may not be possible.

In consultation with the project landscape architect, upon reviewing the above referenced soil analysis and the County of San Diego Defensible Space Suggested Plant List, trees were selected that would be expected to perform satisfactorily in the poor growing environment found on site. Where possible, trees were selected with mature height of approximately 30 ft (a height requirement that would not interfere with the telecommunication tower signal). It should be noted that very few tree species found on the County of San Diego Defensible Space Suggested Plant List have a mature height of only 30 ft.

The following trees are generally tolerant of poor soils and drought conditions and are included on the County of San Diego Defensible Space Suggested Plant List:

- Cork oak (*Quercus suber*)
- Engelmann oak (*Quercus engelmannii*)**

- Hollyleaf cherry (*Prunus ilicifolia*)**
- Catalina cherry (*Prunus lyonii*)**

Trees listed marked ** are San Diego County native or naturalizing tree species. These trees are native to or brought into the San Diego County area. These trees are able to grow and reproduce in the local climate, and once established, the natural rainfall is usually enough moisture to sustain them.

CONCLUSIONS AND RECOMMENDATIONS

The conclusions of this Arborist's report will be used in developing a conceptual landscape plan based on the results of the soil fertility analysis report prepared for the project by Soil & Plant Laboratory, Inc., and on the County of San Diego Defensible Space Suggested Plant List. The minimum standards for screening listed in the original Conditional Use Permit for the project (CUP 06-708) states the project is required to use trees that are similar in height and spread to the WTF "faux tree." As previously noted, at maturity, the selected trees will be of similar height and spread. However, it should be understood that trees are living organisms, and their eventual height and spread are dictated by the particular onsite growing conditions.

Selected Plant Material

Please note: planting 24-inch box trees in poor soil conditions such as those found on site is more likely to result in a poorer outcome than planting from 5-gallon or 15-gallon container sizes. It should also be noted that the selected trees may not be available as 24-inch box trees; therefore, LSA recommends that the City allow for the planting of 5-gallon and/or 15-gallon container trees.

Planting and Maintenance

Because of the shallow, rocky soil conditions found onsite, the planting hole should be overexcavated. In most cases, drainage will need to be improved before planting. The soil fertility analysis performed by Soil and Plant Laboratory, Inc. concluded that the presence of the amount of rock on the site is likely to severely limit water and nutrient holding capacities in the soil and also significantly decrease rooting volume. Therefore, rock greater than 1 inch should be removed to a depth of at least 24 inches and at least twice the diameter of the root ball. The wider the area from which rock is removed, the more rooting volume will be provided for the tree as it grows outward. LSA recommends that this work be performed using a backhoe.

Note also that when removing that much rock, the soil volume will decrease drastically. The planting area can be refilled with suitable import topsoil. Soil and Plant Laboratory, Inc., suggested landscape import soil specifications are provided below:

Chemistry

- Reaction (pH) saturated paste 6.0-7.6
- Salinity (ECe dS/m) saturation extract <3.0

- Sodium adsorption ratio (SAR) <6.0
- Boron in saturation extract, ppm <1.0

Texture

- Particle Size USDA Sieve Size (mm) Objective – Percent Passing
- Gravel 2.0 >85%
- Coarse sands 0.5 >75%
- Silt plus clay 0.05* <35%

Amendment recommendations should be based on an analysis of the chosen import material.

If the subsoil below the level of rock removal does not drain well, anaerobic soil conditions may develop, an environment that favors the pathogens responsible for root rot diseases. If that is the case, then consider installing supplemental drainage at the bottom of planting pits. Those drains could daylight further down the slope.

Proper site preparation before and during planting, coupled with good follow-up care, reduces the amount of time the plant material experiences transplant shock and allows the tree to quickly establish in its new location. The ideal time to plant trees is during the fall or early spring. Cool weather conditions allow the trees to establish roots in the new location before spring and summer heat stimulates new growth. Proper handling during planting is essential for new trees. The ISA recommends that the following procedures are used for all trees:

- The planting hole should be at least three times the diameter of the root ball but only as deep as the root ball. It is important to make the hole wide because the roots on the newly establishing tree must push through surrounding soil in order to become established. The existing soils on site have been compacted and may be unsuitable for healthy root growth. Breaking up the soil in a large area around the tree(s) provides the newly emerging roots room to expand into loose soil to accelerate establishment.
- The trunk flare at the base of the tree should be partially visible after the tree has been planted. If the trunk flare is not partially visible, soil should be removed from the top of the root ball. The trunk flare determines how deep the hole needs to be for proper planting.
- Prior to placing the tree in the hole, confirm that the hole has been dug to the proper depth—and no more. The majority of the roots on the newly planted tree will develop in the top 12 inches of soil. If the tree is planted too deeply, new roots will have difficulty developing because of a lack of oxygen. It is better to plant the tree a little high, 2 to 3 inches above the base of the trunk flare, than to plant it at or below the original growing level. This planting level will allow for some settling. To avoid damage when setting the tree in the hole, lift the tree by the root ball, not by the trunk.
- Before backfilling, view the tree from several directions to confirm that it is straight. Once backfilling has begun, it may be difficult to reposition the tree.
- The hole should be filled about one-third full while gently but firmly packing the soil around the base of the root ball, being careful not to damage the trunk or roots in the process. Fill the

remainder of the hole, firmly packing the soil to eliminate air pockets that may cause roots to dry out. Soil should be added a few inches at a time and settled with water. Continue this process until the hole is filled and the tree is firmly planted. It is not recommended to apply fertilizer at the time of planting.

- If the tree is grown and dug properly at the nursery, staking for support will not be necessary in most landscape situations. Studies have shown that trees establish more quickly and develop stronger trunk and root systems if they are not staked at the time of planting. However, protective staking may be required on sites where vandalism or windy conditions are concerns. If staking is necessary for support, two stakes used in conjunction with a wide, flexible tie material will hold the tree upright, provide flexibility, and minimize injury to the trunk. Remove support staking and ties after the first year of growth.
- Mulch is organic matter applied to the area at the base of the tree. It holds moisture, moderates soil temperature extremes (both hot and cold), and reduces competition from grass and weeds. A 2- to 4-inch layer is ideal. More than 4 inches may cause a problem with oxygen and moisture levels. When placing mulch, ensure that the tree trunk is not covered. Doing so may cause decay of the living bark at the base of the tree. A mulch-free area 1 to 2 inches wide at the base of the tree is sufficient to avoid moist bark conditions and prevent decay.
- Keep the soil moist but not soaked; overwatering causes needles to turn yellow and fall off. Water trees when the soil is dry below the surface of the mulch. Continue until mid-fall, tapering off for lower temperatures that require less frequent watering. Xeriscape irrigation should be employed ensuring deep watering that is matched to the tree's evapotranspiration rates. Other follow-up care may include minor pruning of branches damaged during the planting process. Prune sparingly immediately after planting and wait to begin necessary corrective pruning until after a full season of growth in the new location.

To ensure that best practice standards are being met, planting should be performed by ISA-certified tree workers under the supervision of a certified arborist.

Disclosure Statement

I have personally inspected the property referred to in this memorandum and have stated my findings accurately. I have no current or prospective interest in the vegetation or the property, and I have no personal interest or bias with respect to the parties involved. The analysis, opinions, and conclusions stated here are my own and are based on current scientific procedures and facts. My compensation is not contingent upon the reporting of a predetermined conclusion that favors the cause of the client or any other party or upon the results of the assessment, the attainment of stipulated results or the occurrence of any subsequent events. My analysis, opinions, and conclusion were developed according to commonly accepted arboricultural practices.

Attachment: *Soil Fertility Analysis Report*



Anaheim office
Lab No: 14-254-0056
September 19, 2014

Locations:
Black & Veatch
12750 Center Court Dr. #600
Cerritos, CA 90703
Attn: Celeste Faber

2080 GOLDEN EAGLE TRAIL

Attached are the results of the analysis performed on a soil sample that was collected from the above mentioned project site by Soil and Plant Laboratory on September 19, 2014. The sample was analyzed for general chemistry, nutrients, organic content and textural classification.

The sample is a composite of soil collected from the two areas where currently installed pine trees are not performing well as well as planned planting areas for four new pines. Those areas are indicated on the attached map that was provided by the client.

Analytical Results:

The reaction of the soil is moderately acidic at 5.8 on the pH scale, which is at the lower end of the range considered to be suitable for most plants, including most pine trees.

Salinity (ECe) is safely low. The favorably low sodium adsorption ratio (SAR) indicates that sodium is properly balanced by calcium and magnesium in regards to its effect on soil structure and water infiltration. The potentially problematic plant nutrient boron is safely low, yet sufficient for plant nutrition.

The texture of the sample is 'very gravelly sandy loam' with 36.4% of the sample by total dry weight being comprised of gravel between ½ inch and 2.0 mm.

Nitrogen and phosphorous are below optimum while the other major and minor nutrients are sufficient for plant nutrition. The organic content of the soil is good at 6.2% by sample dry weight.

Comments

From a chemistry stand point, there is nothing that was discovered in this analysis that would be expected to have a negative impact on newly installed pine trees.

However, when collecting the sample it was noted that the soil is extremely rocky. The presence of this much rock is likely to severely limit water and nutrient holding capacities in the soil and also significantly decrease rooting volume.

Due to the very rocky nature of the soil, pine trees would not be expected to do well in this area. If pine trees must be installed, consider removing rock greater than 1 inch to at least 24 inches and at least twice the diameter of the root ball. The wider the area from which rock is removed that more rooting volume will be provided for the tree as it grows outwards.

Of course, when removing that much rock, the soil volume will decrease drastically. The planting area can be re-filled with suitable import topsoil. Suggested import soil specifications are provided below. Amendment recommendations should be based on an analysis of the chosen import material.



Page 2
Black & Veatch
September 19, 2014

Comments Continued

If the sub soil below the level of rock removal does not drain well, that could lead to the formation of anaerobic soil conditions and an environment that favors the pathogens responsible for root rot diseases. If that is the case, then consider installing supplemental drainage at the bottom of planting pits. Those drains could daylight further down the slope.

Suggested Landscape Import Soil Specifications

CHEMISTRY

Reaction (pH) saturated paste	6.0-7.6
Salinity (EC _e dS/m) saturation extract	<3.0
Sodium adsorption ratio (SAR)	<6.0
Boron in saturation extract, ppm	<1.0

TEXTURE

Particle Size	USDA Sieve Size (mm)	Objective – Percent Passing
Gravel	2.0	>85%
Coarse sands	0.5	>75%
Silt plus clay	0.05*	<35%

*Use Hydrometer method

If we can be of any further assistance, please feel free to contact us.

Jason Gihring

Emailed: FaberC@bv.com

Black & Veatch
12750 Center Court Dr. #600

Cerritos CA 90703

Project : 2080 Golden Eagle Trail



Soil & Plant Laboratory, Inc.

Leaders in Soil & Plant Testing Since 1946

4741 E. Hunter Ave, Suite A Anaheim, CA 92807 714-282-8777 (phone) 714-282-8575 (fax)
www.soilandplantlaboratory.com

COMPREHENSIVE SOIL ANALYSIS

Report No : 14-254-0056

Purchase Order :

Date Recd : 09/11/2014

Date Printed : 09/16/2014

Page : 1 of 1

Sample Description - Sample ID		TEC	pH ECe dS/m	NO ₃ -N ppm	NH ₄ -N ppm	PO ₄ -P ppm	K ppm	Ca ppm	Mg ppm	Cu ppm	Zn ppm	Mn ppm	Fe ppm	Organic % dry wt.	Lab No.
Site Soil	33	5.8	0.9	13	8	21	172	1531	332	2.8	7.1	45	217	6.2	19434
	105	None		0.3		0.5	1.0	0.9	1.4	2.1	1.4	3.9	4.2		
Saturation Extract Values															
Ca meq/L	Mg meq/L	Na meq/L	K meq/L	B ppm	SO ₄ meq/L	SAR	Coarse 5 - 12	Fine 2 - 5	Very Coarse 1 - 2	Coarse 0.5 - 1	Med. to Very Fine 0.05 - 0.5	Silt .002-.05	Clay 0-.002	USDA Soil Classification	
5.5	1.7	1.9	0.3	0.24	1.8	1.0	22.8	13.6	9.6	15.0	43.4	24.1	7.7	Very Gravelly Sandy Loam	

Sufficiency factor (1.0=sufficient for average crop) below each nutrient value. N factor based on 200 ppm constant feed. SAR = Sodium adsorption ratio. Half Saturation %=approx field moisture capacity. Nitrogen(N), Potassium(K), Calcium(Ca) and Magnesium(Mg) by sodium chloride extraction. Phosphorus(P) by sodium bicarbonate extraction. Copper(Cu), Zinc(Zn), Manganese(Mn) & Iron(Fe) by DTPA extraction. Sat. ext. method for salinity (ECe as dS/m). Boron (B), Sulfate(SO₄). Sodium(Na). Gravel fraction expressed as percent by weight of oven-dried sample passing a 12mm(1/2 inch) sieve. Particle sizes in millimeters. Organic percentage determined by Walkley-Black or Loss on ignition.

* LOW , SUFFICIENT , HIGH



ATTACHMENT J

Settlement Agreement between the City of San Marcos and Crown Castle
(February 13, 2015)

AGENDA ITEM NO. _____

SETTLEMENT AGREEMENT AND MUTUAL RELEASE

This Settlement Agreement and Mutual Release (the "Agreement") is made and entered into as of February 13, 2015 (the "Effective Date") by and between CITY OF SAN MARCOS ("City" or "Plaintiff"), a chartered municipal corporation, and T-MOBILE TOWER WEST LLC, a Delaware limited liability company, by CCTMO LLC, a Delaware limited liability company, its attorney-in-fact ("Crown Castle"), a Delaware limited liability company. City and Crown Castle are sometimes referred to collectively herein as the "Parties". This Agreement is based upon the following facts:

RECITALS

WHEREAS, City filed a civil action entitled *City of San Marcos v. Crown Castle International, et al.*, in the San Diego Superior Court, North County Division, case number 37-2014-00033394-CU-OR-NC, against Defendants Crown Castle International, T-Mobile, Jeffrey Brandon and Elaine Brandon (collectively, "Defendants") on October 2, 2014 alleging violations of Title 20 of the San Marcos Municipal Code ("SMMC") (the "Action"), violation of SMMC § 10.04.010, violation of SMMC § 1.12.020, violation of SMMC § 1.12.090, violation of SMMC § 20.550.020, and violation of SMMC § 20.456.020 at the real property known as Assessor's Parcel Number 679-040-01, located at 2080 Golden Eagle Trail, San Marcos, County of San Diego, California 92078 ("Property").

WHEREAS, the Plaintiff deemed the Application P13-0059 for Conditional Use Permit CUP 13-006 complete on January 7, 2015 pursuant to the provisions of California Government Code section 65943(a). Attached hereto as Exhibit A is a true and correct copy of a letter from the Plaintiff regarding the Application.

WHEREAS, the Parties now desire to fully and finally settle any and all causes of action, claims, allegations, issues and matters described in the Action, to arrange a dismissal of the Action, and to fully and finally resolve any and all differences and disputes between the Plaintiff, on the one hand, and Defendants, on the other hand, including but not limited to those asserted, or which could have been asserted, in the Action, on the terms and conditions set forth below; and

WHEREAS, by entering into this Agreement, each Party does not admit the allegations or contentions of the other Party and this Agreement is for the sole purpose of resolving the disputes and differences between the parties arising out of the Action.

NOW, THEREFORE, in consideration of the terms, conditions, warranties and covenants herein, the Parties agree as follows:

AGREEMENT

1. Recitals: The recitals set forth above are incorporated by this reference as part of the agreement between the parties.

2. Advice of Counsel: The Parties warrant and represent that each has been advised by independent counsel and is authorized to enter into this Agreement. After said consultation, the Parties knowingly and voluntarily agree to the terms and conditions herein.

3. Consideration: As consideration for this Agreement:

- a. Within five (5) business days following the mutual execution of this Agreement, Crown Castle shall pay Plaintiff the total amount of Six Thousand Five Hundred and 00/100 Dollars (\$6,500.00) as full satisfaction and settlement of Plaintiff's costs and fees incurred to date for the underlying Action ("Settlement Payment"). The Settlement Payment will be made payable and directed to the City of San Marcos, and shall be delivered to the attention of Matthew C. Starr at the offices of Lounsbury Ferguson Altona & Peak, LLP, located at 960 Canterbury Place, Suite 300, Escondido, California 92025.
- b. Dismissal of Action Without Prejudice: Within seven (7) business days after receipt of the Settlement Payment, Plaintiff shall file a dismissal with the Court dismissing the entire Action against all Defendants without prejudice.

4. No Waiver. Notwithstanding any provision to the contrary herein, the Settlement Payment shall not constitute a waiver of future costs or fines that would arise in the event that Defendant's Conditional Use Permit ("CUP") application is ultimately unsuccessful.

5. Mutual General Release. Except as to such rights or claims as may be created by this Agreement, the Parties, on behalf of themselves, their heirs, executors, successors, and assigns, hereby release, remise, and forever discharge the other, including the other's past, present, future and former officers, directors, employees, owners, shareholders, partners, principals, predecessors, parents, subsidiaries, attorneys, and insurers from any and all liabilities, claims, demands, causes of action, obligations, costs, expenses, damages, debts, losses, attorneys' fees, and contracts of every type, character, kind, nature or description, whether known or unknown, choate or inchoate, accrued or hereafter accruing, suspected or unsuspected, claimed or unclaimed, asserted or not asserted and whether as principal, agent or otherwise, by reason of any matter, cause or thing up to and including the date of execution of this Agreement, including, without restricting the generality of the foregoing, any and all liabilities, claims, demands, causes of action, obligations, costs, expenses, damages, debts, losses and attorneys' fees relating to, pertaining to or concerning in any way whatsoever the Action. Nothing in this Agreement is intended to or shall operate as a release or waiver of the City's right to pursue Crown Castle with respect to future code enforcement issues at the Property.

6. Release of Unknown Claims. California Civil Code section 1542 provides that:

A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

The Parties and each of them hereby waive any and all rights and benefits they may have under California Civil Code section 1542. In connection with this waiver, the Parties and each of

them acknowledge that they have been advised by counsel, that they are aware of California Civil Code section 1542, and that they are aware that they may hereafter discover claims presently unknown or unsuspected or facts in addition to or different from those they now know or believe to be true with respect to the claims released pursuant to this Agreement.

7. Successors and Assigns: Except as explicitly provided herein to the contrary, this Agreement and all rights and obligations set forth herein shall run with the Property and shall be binding upon and inure to the benefit of the Parties, their respective successors and/or heirs, and permitted assigns including subsequent owners of the Property and/or the business and/or improvements located thereon.

8. Compliance with Applicable Laws: Notwithstanding any provision to the contrary herein, Plaintiff does not, by dismissing this Action without prejudice or by agreeing to other term(s) in this Agreement, waive the right to enforce the terms of the Conditional Use Permit ("CUP 13-006"), and city, county or state laws, the General Plan and/or the Heart of the City Specific Plan that collectively govern the use and condition of the Property. Nor does Plaintiff waive the right to recover costs and fees related to such enforcement.

9. Entire Agreement: Each of the Parties acknowledges that no promise, inducement or agreement not herein expressed has been made to it by the other in connection with this Agreement, and that this Agreement is intended as a final and complete expression of the Parties' agreement and understanding with respect to the subject matter hereof.

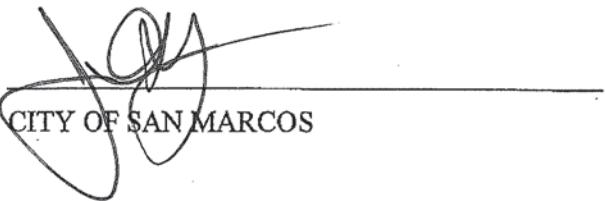
10. Governing Law: This Agreement shall be construed, interpreted and enforced in accordance with the laws of the State of California.

11. Jointly Drafted: This Agreement was jointly drafted by the Parties and their Counsel and is not to be construed or interpreted against either Party.

12. Counterparts: This Agreement may be executed and delivered in one or more counterparts, each of which shall be an original, but all of which, together, shall be deemed to constitute a single document. This Agreement may be executed and signature pages exchanged by facsimile or PDF, and a facsimile or PDF signature shall have the same force and effect as an original signature.

THE SIGNATORIES HAVE CAREFULLY READ THIS ENTIRE AGREEMENT. ITS CONTENTS HAVE BEEN FULLY EXPLAINED TO THEM BY THEIR ATTORNEYS. THE SIGNATORIES FULLY UNDERSTAND THE FINAL AND BINDING EFFECT OF THIS AGREEMENT. THE SIGNATORIES ARE SIGNING THIS AGREEMENT VOLUNTARILY.

IN WITNESS HEREOF, this Agreement has been executed in the State of California on the dates set forth opposite the signatures below, and subject to full execution and delivery by all signatories, shall be deemed effective as of the Effective Date written above:


CITY OF SAN MARCOS

DATE: April 14, 2015

T-MOBILE TOWER WEST LLC,
a Delaware limited liability company

DATE: April 13, 2015

By: CCTMO LLC,
a Delaware limited liability company
Its: Attorney In Fact

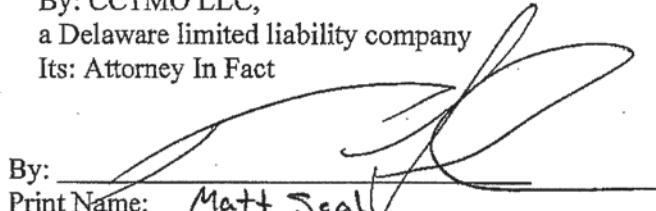
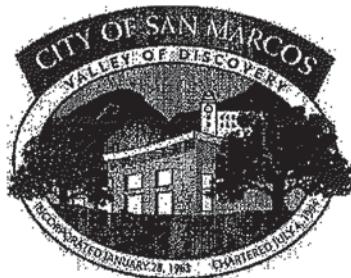

By: _____
Print Name: Matt Seal
Title: Director of Real Estate

EXHIBIT A



January 7, 2015

Sent via USPS and E-mail

Jon Dohm
Crown Castle International
222 East Carrillo Street, Suite 107
Santa Barbara, CA 93101
jon.dohm@crowncastle.com

Re: Application Complete
P13-0059 (Conditional Use Permit CUP 13-006) – Crown Castle (T-Mobile) Wireless
Telecommunication Facility (previous CUP 06-708, expired on March 3, 2013)
2080 Golden Eagle Trail, San Marcos, CA 92078
APN: 679-040-01

Dear Mr. Dohm,

Pursuant to the provisions of Section 65943(a) of the California Government Code, the above referenced application has been deemed complete per the standard submittal requirements. In the days that follow, staff will be in contact with you regarding additional information on the status of this application.

Please note that although the application is complete, as staff continues to process the application, it may be necessary to get additional information or modify project plans. To facilitate the efficient processing of your application, your continued cooperation in providing any requested information is appreciated. If you have any questions, comments or concerns please feel free to contact me at (760) 744-1050, extension 3223, or sdelsolar@san-marcos.net.

Cordially,

A handwritten signature in black ink, appearing to read "Sean del Solar".

Sean del Solar
Assistant Planner