



AGENDA REPORT

Meeting of the San Marcos Planning Commission

MEETING DATE: November 16, 2015
SUBJECT: Crown Castle, 2080 Golden Eagle Trail
APN: 679-040-01-00
CASE: CUP 13-006 (P13-0059) & EX 15-030

Recommendation

Approve a Conditional Use Permit that will rehabilitate and allow the continued operation of an existing wireless telecommunication facility at a residential property in the Agricultural (A-1) zone. In accordance with the California Environmental Quality Act (CEQA), the City of San Marcos does find the project Categorically Exempt (EX 15-030) pursuant to Section 15301 of the California Code of Regulations (CCR), in that that the project will rehabilitate/repair an existing facility.

Introduction

In 2007, the Planning Commission approved Conditional Use Permit (CUP) 06-708 which allowed the construction and operation of a wireless telecommunication facility comprised of a thirty (30) foot tall faux-tree monopole, three (3) screening trees and a 240 square foot equipment enclosure, designed to emulate an agricultural building. The initial term of CUP 06-708 was five (5) years and expired on March 3, 2013. The proposed project would rehabilitate the existing wireless telecommunication facility and allow it to continue to operate for a period of ten (10) years.

During the processing of the application for CUP 13-006, the City adopted a new Wireless Telecommunications Facilities Ordinance on August 12, 2014. Since the application for CUP 13-006 was submitted prior to the adoption of the new ordinance, the former Telecommunications Facilities Ordinance (Attachment E) is applicable to the project, pursuant to the provisions of San Marcos Municipal Code (SMMC) § 20.465.020. Based on the provisions of the former Ordinance, the proposed project is considered a “stealth facility,” and because the facility is located in the Agricultural (A-1) zone of the City, a Conditional Use Permit is required. The proposed project is in compliance with the Agricultural (A-1) Zone in that the faux-tree monopole and equipment enclosure comply with the development standards (i.e. building setback, height limits, etc.) of the A-1 Zone.

AGENDA ITEM NO. _____



Discussion

The site consists of a 4,350 square-foot single-family residence, four (4) detached agricultural buildings and is zoned Agricultural (A-1), with a density of “0.125 to 1 dwelling units/acre” per the Agricultural/Residential (AG) General Plan Land Use Designation. The adjacent land uses to the east and south are single-family residences on large (≥ 3.5 acre) lots in the A-1 zone, and County of San Diego, respectfully. To the north and west of the project site are single family residences and open space areas in the San Elijo Hills Specific Plan area. Access to the site is provided through Golden Eagle Trail, Attebury Drive, and an undedicated segment of Questhaven Road, which are all private roads.

The project was originally approved by the Planning Commission on March 3, 2007. The initial approval of the project specified the installation of three (3) Torrey Pine trees for screening purposes and an initial term of five (5) years, which ended on March 3, 2013. The original applicant and operator for the project was T-Mobile, however on November 30, 2012 Crown Castle acquired a number of T-Mobile wireless telecommunication facilities throughout the country, including this one. Prior to the transfer of ownership, on October 17, 2012 the City sent T-Mobile a letter regarding the upcoming expiration of the original Conditional Use Permit.

Prior to the expiration of the Conditional Use Permit, the City approved a Building Permit (B12-01191) on December 21, 2012 for the replacement of antennas at the site. Pursuant to Section 6409 of the Middle Class Relief and Job Creation Act of 2012, the City was (and continues to be) required to approve the replacement of antennas under only a Building Permit. Based on statements from adjacent property owners, it is likely that the work authorized under Building Permit B12-01191 took place during the summer of 2013; however since the applicant did not request a final inspection (as is required), the City cannot confirm this estimated timeframe. Beginning in October, 2013 (during the processing of a separate Conditional Use Permit by AT&T that proposed a second wireless telecommunication facility on the property), the City began receiving complaints about the condition of the existing Crown Castle wireless telecommunication facility. The City's subsequent investigation into the complaints determined that in addition to the expiration of CUP 06-708, the condition of the camouflaging materials of the faux-tree monopole had degraded to a condition that no longer provided adequate screening of the pole mounted equipment (i.e. antennas, cables, remote radio units, etc.) and the screening trees had not grown in a manner consistent with the approved photo simulations, as evaluated and considered with ND 08-766. As a result, the City initiated Code Enforcement action against Crown Castle and issued a Notice of Violation (“NOV”) and “Stop Work Order” on the open Building Permit on November 21, 2013 (Attachment F).

Crown Castle submitted a Conditional Use Permit application for this project on October 29, 2013; however they did not propose the rehabilitation of the site. As a result of the code enforcement investigation, the City issued an incomplete letter on November 4, 2013 and a follow-up letter on



November 26, 2013 which indicated a number of deficiencies with the submitted application. Most significantly, the City indicated that the applicant would be required to further enhance the landscape screening of the facility and completely remove and reinstallation a new faux-tree monopole (i.e. a “swap and drop”) to address the degraded condition of the facility, as reported in the November 21, 2013 Notice of Violation.

On January 15, 2014, Crown Castle submitted an alternative proposal to remove all the existing faux tree branches from the monopole and replace them with new camouflaging materials (i.e. a “rebranch”), instead of the requested “swap and drop.” The revised application materials did not however address the issues related to the deficient landscape screening of the facility. On January 28, 2014, the City agreed to consider the alternative proposal to rebranch the monopole, but required and requested additional information on the rebranch proposal. Additionally, since the applicant did not propose changing the existing three (3) Torrey Pine trees screening the facility, the City requested that Crown Castle evaluate the tree health and onsite soil conditions to improve the overall quality, and growth of the trees.

After an insufficient response to the City’s requests, an administrative citation was issued on June 30, 2014. On July 16, 2014, Crown Castle submitted revised project plans that contained a comprehensive proposal by Sabre Tower and Poles to rebranch the monopole, however the applicant continued to propose the use of Torrey Pine trees for screening purposes. As a result, on July 24, 2014 the City again requested the condition of the existing Torrey Pine trees and onsite soils be evaluated before it would consider the continued and/or expanded use of the Torrey Pine trees at the site.

On August 4, 2014 the City received an Arborist’s Report dated August 1, 2014 that was prepared by Leo Simone of LSA (Attachment G). The report identified the trees as “appearing chlorotic and in less than optimal health” and indentified several issues that made the continued and/or expanded use of Torrey Pine trees at the site not recommended. In addition, the report identified several alternative species of trees but withheld a final recommendation for a replacement tree type until a soil analysis of the site could be conducted. As a result of the conclusions of the Arborist’s Report, on August 5, 2014 the City rejected the proposal to continue and expand the use of the Torrey Pine trees at the site and requested that the applicant continue to evaluate the site conditions and modify the project plans to reflect the use of an appropriate species of screening tree for the site and gave a deadline of August 18, 2014 to conduct a soil analysis and modify the project plans.

After failing to meet the deadline to submit an acceptable project design to address the violations identified in the Notice of Violation, the City of San Marcos filed a Civil Action against Crown Castle in San Diego Superior Court on October 2, 2014 (Attachment H). On November 6, 2014 Crown Castle submitted an updated Arborist’s Report containing a soils analysis and revised project plans proposing



alternative tree types (Attachment I). On January 7, 2015, the City issued a complete letter to the applicant based on the submittal of all the technically required application materials. Subsequently on January 23, 2015, the City completed its review of the modified landscape materials and determined that the proposed species of trees provided an insufficient level of screening of the facility and requested that it be modified. On February 13, 2015, the City and Crown Castle reached an agreement in the Civil Action wherein Crown Castle agreed to pay \$6,500 (Attachment J). On March 17, 2015, City staff met with the applicant to discuss the proposed landscape materials and alternatives which could provide adequate screening of the facility. As a result of the meeting, staff agreed to review the alternative proposal.

On May 28, 2015, Crown Castle submitted revised project plans which proposed a combination of *Lophostemon Confertus* ("Queensland Box") and *Pinus Eldarica* ("Afghan Pine") trees which the City determined had sufficiently sized and dense canopies to provide adequate screening of the facility. Upon the completion of the City's review of the revised plans, a public workshop was scheduled on July 23, 2015 and a notice was sent to all residents within a 1,000 foot radius of the project site. At the public workshop, the owner of the subject parcel and an adjacent property owner from Golden Eagle Trail, east of the project site met with the Applicant and City staff to hear a presentation by the Applicant and discuss the project (Attachment K). After hearing the presentation by the Applicant, the Golden Eagle Trail property owner noted that the proposed trees were primarily oriented to provide screening from the west and no trees were proposed on the east side of the facility. To further screen the facility from residences east of the facility, the property owner requested that trees be added to the east side of the facility. The same property owner also requested that Crown Castle contribute funds to the maintenance of the private road segments used to access the facility. At the Workshop, staff explained that the applicant had provided sufficient evidence (i.e. a title report for the subject property) that the property owner had access and utility rights to the property and that any additional contributions to private road maintenance would need to be worked out directly between the private parties of the easement holders and the applicant.

As a result of the community's feedback during the public workshop, the City requested the applicant also locate trees on the east side of the faux tree monopole. In response to the request, the applicant added an additional tree to the project and repositioned some of the already proposed trees to further enhance the screening of the facility from the east. The total number of trees proposed by the applicant is seven (7). The attached photo simulations (Attachment L) illustrate what the site will look like at both planting, and after 5 years of growth.

The proposed rebranching of the facility will conceal the antennas and other pole mounted equipment within the canopy of the faux-tree monopole. As part of the rebranching process, all branches from the existing faux-tree monopole will be removed and replaced with new equipment from a different



vendor, Sabre Tower and Poles. Sabre has provided exhibits from other facilities they have rebranched in the area using similar specifications (Attachment M). The rebranching plan for the project, included as sheet T-2 of the project plans (Attachment Q) identifies that a minimum of three (3) branches per linear foot of the monopole will be used. This density of branches has been utilized on other facilities and provides sufficient concealment of pole mounted equipment while maintaining a natural appearance. In addition to the new and supplemental branches, the applicant is proposing the use of "branch tips" which will extend the horizontal length of branches and add density to the canopy.

In conformance with the original approval of CUP 06-708, the applicant installed three (3) Torrey Pines at the site. As previously discussed, the tree growth has been limited due to poor onsite conditions. The Applicant retained a Certified Arborist who analyzed the soil and site conditions. Working in conjunction with the City's Arborist, the Applicant's Arborist has developed a proposal to plant a mixture of thirty-six (36) inch box Queensland Box and Afghan Pine Trees at the site to screen the facility. The proposed trees are better adapted for the soil and climatic conditions of the site and also have a fuller canopy of between 18 to 36 feet in width (i.e. spread) as well as variable heights of between 20 to 50 feet. Trees of this height and spread are important because the form of the monopole is a "faux pine tree" and in the vicinity of the monopole there is no vegetation similar to the height of the existing monopole (30 feet). At maturity, the proposed trees will have similar sizes, proportions and colors to the rebranched faux-tree monopole. As seen in the photo simulations, planting a sufficient number of trees in strategic locations around the faux-tree monopole will obscure the direct view of the site by providing a cluster of trees in proximity to the monopole. Without the addition of the seven (7) trees, the faux-tree design of the monopole is incompatible with the landscape of the site and can no longer be classified as a "stealth facility," as required by the former Telecommunications Facilities Ordinance. The applicant will be required to obtain a Landscape Permit consistent with the conceptual plan and the planting is required to be conducted by International Society of Arboriculture (ISA) certified tree workers, who will be supervised by a Certified Arborist. Lastly, to ensure the ongoing optimal growth of the trees as illustrated in the photo simulations (5 years after approval), the applicant has been required to retain a Certified Arborist to conduct an annual inspection of the trees, make modifications to their maintenance as necessary, and to submit annual reports to the City on the status of the trees. If after five (5) years the trees are not providing the screening illustrated in the photo simulation, then the project will be considered in violation of the Conditional Use Permit and the City may engage in whatever action it determines necessary to attain compliance with the project illustrated in the photo simulation, up to and including permit modification and/or revocation proceedings.

In 2013, the Planning Commission (and City Council, by virtue of the denial of an appeal) approved an application by AT&T to install a second faux-tree wireless telecommunication facility at the site, approximately 25 feet south of the existing Crown Castle facility. At the current time, AT&T is processing Building and Landscape Permits for the project and the facility has not been installed. The



landscaping proposed by Crown Castle will not conflict with the installation of the future AT&T facility and additional landscaping, similar to that installed by Crown Castle, will be required of AT&T to cohesively conceal both faux-tree monopoles at the site.

Environmentally sensitive habitat has been previously identified at the site by a Biological Resources Letter/Report dated November 19, 2007 that was prepared by Karl Osmundson of Michael Brandman Associates for the original project (provided in "Appendix B" of ND 08-766, included as Attachment "N" of this report). Those original impacts to habitat were mitigated through the purchase of mitigation bank credits. As a result, the project has been conditioned to provide a letter from a City approved Biologist to ensure that the project scope identified in the plans submitted for a Landscape Permit do not cause additional impacts to the site. If additional project level impacts are identified, then they must continue to be mitigated consistent with the methods established in ND 08-766.

Section 704 of the Telecommunication Act of 1996 states that "No State or local government or instrumentality thereof may regulate the placement, construction, or modification of personal wireless service facilities on the basis of the environmental effects of radio frequency (RF) emissions to the extent that such facilities comply with the Commission's regulations concerning such emissions." The City therefore, cannot deny the proposed project based upon perceived health impacts of these facilities. The Federal Communications Commission (FCC) has developed exposure guidelines which are the implementing regulations for Section 704. The FCC guidelines require evaluation to determine whether transmitters of facilities comply with the FCC radio frequency (RF) guidelines and incorporate Maximum Permissible Exposure (MPE) limits. MPE limits are defined in terms of power density, electric field strength, and magnetic field strength to which a person may be exposed without harmful effect. The standards established in the FCC RF guidelines constitute exposure limits and are relevant only to facilities that are accessible to workers or members of the public. As allowed by FCC regulations, the City required documentation (i.e. Radio Frequency "RF" Report) from the applicant to confirm the wireless telecommunications facility is operating within the FCC guidelines for MPE limits for RF emissions. The report, provided as Attachment "O," concluded the site is operating in compliance with FCC regulations. In addition, the City's wireless telecommunication consultant reviewed the report and similarly concluded that the facility would continue to operate in conformance with FCC regulations as they relate to RF emissions. The consultant's review memorandum has been provided as Attachment "P" of this report.

A Mitigated Negative Declaration (ND 08-766) was prepared for the original project and has been included with this report for reference, as Attachment "N." Since the proposed project will not significantly change the facility, the City has determined that rehabilitation of the proposed project is exempt from CEQA pursuant to Section 15302 of the California Code of Regulations (CCR), and the continued operation of the facility was previously examined in ND 08-766.

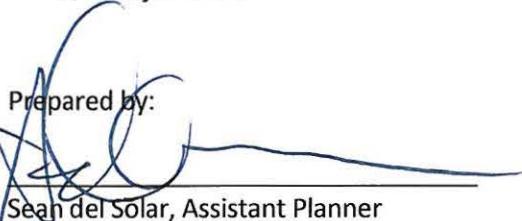


Attachment(s)

Adopting Resolution

- A- Vicinity Map
- B- Aerial Photo
- C- Requested Entitlements
- D- Site & Project Characteristics
- E- Telecommunications Facilities Ordinance (formerly SMMC Chp. 20.126)
- F- Notice of Violation (November 21, 2013)
- G- Arborist Report (Leo Simone, August 1, 2014)
- H- Civil Action against Crown Castle in San Diego Superior Court, Vista (October 2, 2014)
- I- Updated Arborist Report (Leo Simone, October 29, 2014)
- J- Settlement Agreement between the City of San Marcos and Crown Castle (February 13, 2015)
- K- Public Workshop Sign-in Sheet
- L- Photo Simulations (October 22, 2015)
- M- Sabre Tower and Poles Rebranch Exhibits
- N- Mitigated Negative Declaration ND 08-766
- O- Site Safe RF Compliance Report (October 22, 2013)
- P- Telecom Law Firm Review Memo (October 19, 2015)
- Q- Project Plans

Prepared by:


Sean del Solar, Assistant Planner

Approved by:


Karen Brindley, Planning Manager

Submitted by:


Matt Little, Development Service Director/City Engineer

RESOLUTION PC 15-4492

A RESOLUTION OF THE CITY OF SAN MARCOS
PLANNING COMMISSION APPROVING A CONDITIONAL
USE PERMIT TO ALLOW THE RESTORATION AND
CONTINUED OPERATION OF A FAUX TREE WIRELESS
TELECOMMUNICATION FACILITY AT A RESIDENTIAL
PROPERTY IN THE AGRICULTURAL (A-1) ZONE

CUP 13-006
(Project No. P13-0059)
Crown Castle

WHEREAS, on October 29, 2013 an application was received from Crown Castle requesting a Conditional Use Permit to allow the continued operation of a wireless telecommunication facility, comprised of a 30 foot tall faux tree monopole and associated ground-mounted equipment inside an existing 240 square-foot equipment building designed to emulate an agricultural building at a 10.21 acre property located in the Agricultural (A-1) zone with a General Plan Land Use Designation of Agricultural, more particularly described as:

The West 417.42 Feet of the South 1/3 of the Southeast Quarter of the Northwest Quarter, and the West 417.42 Feet of the North 626.13 Feet 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, State of California, According to The United States Government Survey Approved September 19, 1889.

Assessor's Parcel Number: 679-040-01-00

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

WHEREAS, the wireless telecommunication facility (CUP 06-708 and ND 08-766) was initially approved on March 3, 2008 with the approval of Resolution PC 08-4003; and

WHEREAS, the original approval for CUP 06-708 expired on March 3, 2013 as applicant did not timely apply for a renewal; and

WHEREAS, the City of San Marcos issued a Notice of Violation on November 21, 2013 (CE2013-1245), noting that CUP 06-708 had expired and various other violations of CUP 06-708 and the San Marcos Municipal Code related, but not limited to degraded physical condition of the wireless telecommunication facility and the associated plant materials providing screening of the facility; and

WHEREAS, the proposed restoration of the wireless telecommunication facility's camouflaging materials and installation of additional landscaping materials required as conditions for the Conditional Use Permit 13-006 will remedy the violations observed and reported in case number CE2013-1245; and

WHEREAS, the City of San Marcos adopted Ordinance 2014-1398 on August 12, 2014, which replaced the previous Telecommunications Facilities Ordinance and established new regulations for wireless telecommunication facilities and ended a Moratorium for the approval of such facilities citywide; and

WHEREAS, under Section 20.465.020 of Ordinance 2014-1398 the application filed by Crown Castle for a Conditional Use Permit (CUP 13-006) is not subject to the provisions of Ordinance 2014-1398 because the application was submitted prior to the Ordinance's effective date, so the project must conform to the standards of Ordinance 2006 -1261, adopted by the City January 26, 2006 and in effect at the time application (CUP 13-006) was submitted; and

WHEREAS, the required public hearing held on November 16, 2015 was duly advertised and held in the manner prescribed by law; and

WHEREAS, in accordance with the California Environmental Quality Act (CEQA), the Planning Commission did consider the previously adopted Mitigated Negative Declaration (ND 08-766) and did find the project Categorically Exempt (EX 15-030) pursuant to Section 15301 of the California Code of Regulations (CCR), in that the project will repair/rehabilitate an existing facility involving negligible change and because the project is within the scope previously analyzed by ND 08-766; 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 General Plan, in that the restoration and continued use of an existing wireless telecommunication facility provides a needed communication service within the City of San Marcos (GP Goal LU-17).
2. The granting of the Conditional Use Permit, as conditioned, will not be detrimental to the public health, safety, or welfare, or the surrounding land uses in the area in that the wireless antenna facility is 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, visual impacts of the proposed facility have been minimized because the antenna panels will be concealed by new and additional faux branches and leaves, the addition of natural trees will be added around the base of the antenna and the ground mounted equipment will continue to be screened from view by an equipment enclosure designed to emulate an agricultural building.

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, landscape plan, elevations, and visual simulation for a 30'-0" tall faux tree monopole with six (6) panel antennas servicing one telecommunication provider (T-Mobile) and a 240 square foot (10'-1" x 23'-9") equipment enclosure except as modified herein, and shall not be expanded unless a modification to this permit is approved.
- C. Within thirty (30) days of approval, a site plan shall be submitted as a digital file on a CD including this resolution on 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 15-4492." 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 digital copy shall be approved by the City prior to any building permit submittal.
- D. Prior to the commencement of any onsite construction activities related to this conditional use permit (i.e. clearing, grubbing, rebranching, etc.), the applicant shall:
 1. Provide a letter from a City-approved biologist that verifies the proposed landscaping materials and planting locations will continue to be consistent with conclusions of the Biological Resources Letter prepared by Karl Osmundson of Michael Brandman and Associates, and dated November 19, 2007. Any new impacts identified as the result of the project shall be mitigated in accordance with the methods established by the 2007 Osmundson Biological Resources Letter.
 2. 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 15 through 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.
 3. Document the current condition of private roadways (i.e. Golden Eagle Trail and the segment of Attebury Drive between Golden Eagle Trail and Questhaven

Road) being used for construction traffic. Documentation shall include either a video or photographic record of the roadway condition. A copy of the documentation shall be provided to the Engineering and Planning Divisions. The extent of the inspection shall be determined by the City's Planning Division Manager. Applicant shall be responsible for reimbursement for City staff time spent reviewing materials submitted.

- E. The “rebranching” of the existing wireless telecommunication facility shall require the issuance of a Building Permit. Prior to the issuance of a Wireless Telecommunication Facility Building Permit, the following shall be complied with:
 1. Plans submitted for plan check to the Building Division for the issuance of a Wireless Telecommunication Facility Building Permit shall include the following:
 - a. All provisions of Conditions “C” and “D” shall be addressed to the satisfaction of the Planning Division Manager.
 - b. A sheet containing a copy of each page of this Conditional Use Permit shall be attached.
 - c. A sheet containing specifications for the faux tree rebranching shall be included in the building plans. At a minimum, the branch diagram shall contain an accurate branch count and sufficient information on branch spacing to demonstrate compliance with the following requirements:
 - i. At a minimum, three (3) faux branches per foot shall be required to create a realistic and natural faux tree. All branches shall incorporate faux leaves, natural colors and three (3) dimensional textures.
 - ii. Horizontally mounted faux branches and leaves shall extend a minimum of eighteen (18) inches beyond the face of the panel antennas.
 - iii. All panel antennas shall be covered with leaf-covered socks.
 2. Any grading work shall be compliant with San Marcos Municipal Code (SMMC) Chapter 17.32 and is subject to the issuance of a grading permit, pursuant to SMMC § 17.32.045.
 3. A separate permit for landscaping (“Landscape Permit”) shall be required. At a minimum, the proposed landscaping shall comply with the following requirements:

- a. The landscape plan shall be consistent with the approved conceptual landscape plan and identify the proposed locations of all seven (7) trees and other landscape screening materials including, but not limited to, species, number of specimens, box size, trunk height and spread.
- b. The landscape plan shall, to the extent reasonably feasible, screen the equipment from view of adjacent residences located generally to both the east and west of the project site, and San Elijo Road to the north.
- c. The landscape plan shall designate the tallest specimens available in the thirty-six (36) inch box size for each proposed tree.
- d. The applicant shall have the landscape plan reviewed and signed by a licensed arborist and licensed landscape architect at its sole cost and expense.
- e. Landscape plans shall also comply with the fuel modification zone requirements, and the 2007 Osmundson Biological Resources Letter and/or any relevant conclusions of the additionally submitted review letter, required by Condition of Approval D(1).
- f. 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.
- g. Landscape plans shall comply with all provisions of City Standards; contain all required landscaping and an irrigation system. The irrigation system shall include an automatic rain sensor switch, master valve, stainless steel enclosure for the backflow device, and stainless steel controller cabinet. The landscape plan shall list the quantities of each plant type, including a legend indicating what each symbol represents; height and spread of trees (in accordance with City Minimum Tree Standards, City Council Resolution 2001-5747); and method of installation and irrigation.
- h. If applicable, plant material and irrigation design shall comply with the City's Water Efficiency Landscape Ordinance, Chapter 20.330 of the San Marcos Municipal Code and the State Mandated WELO (adopted July, 2015).
- i. The landscape plans shall contain a note to the contractor requiring the use of ISA Certified tree workers under the supervision of a certified arborist for all work required to install the landscape materials.

- j. Pursuant to the Arborist Report prepared by Leo Simone and dated October 29, 2014, the landscape plans shall also contain notes and/or details for all of the following recommendations:
 - i. 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.
 - ii. 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.
 - iii. 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.
 - iv. 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.
 - v. 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.
 - vi. 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.

- vii. 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.
- viii. 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.

k. Prior to installation, the proposed live plant materials shall be inspected and approved by the Planning Division and/or Public Works for quality and compliance with minimum City Standards, which are as follows:

- i. Trees shall have a straight trunk with symmetrical crown.
- ii. Trees shall have a substantial, single, central leader.
- iii. Tree bark shall not be discolored, sunken, or swollen and shall be free of cuts and scrapes or other damage.
- iv. Trees showing galleries, sun scald, or frost damage will not be accepted.
- v. The caliper of the tree shall be in proportion to the root ball.

- vi. Trees with girdling roots wrapping around the trunk or otherwise root bound will not be accepted.
- vii. Tree trunks more than 10% off center will not be accepted.
- viii. Freshly pruned trees will not be accepted.
- ix. 36 inch box *Pinus Eldarica* (“Afghan Pine”) specimens shall have a height of no less than 12 feet and a spread of no less than 6 feet.
- x. 36 inch box *Lophostemon Confertus* (“Queensland/Brisbane Box”) specimens shall have a height of no less than 12 feet and a spread of no less than 5 feet.
- l. Prior to the installation of the approved plant materials, the applicant shall temporarily install seven (7) non-metal rods of a height no less than (10) feet in all of the proposed locations of the required trees. Planning Division/Public Works staff shall evaluate the screening value provided from the proposed tree locations, and may request the relocation of some of the proposed tree sites based on field observations. Any deviations from the approved landscape plans shall be approved by the City and noted on the job set of the approved landscape plans. Prior to final inspection for the Landscape Permit, a set of “as built” drawings shall be submitted to the City for record of the final approved location of all project trees.
- m. The final installed placement of all plant materials shall be in accordance with the approved landscape plans, inclusive of changes resulting from Condition of Approval E(3)(m) of this permit. Upon completion of installation, all landscaping/irrigation shall be inspected and approved by the Planning Division/Public Works. The applicant/developer shall be responsible to contact the Planning Division for landscaping inspections.

- 4. New buildings and remodeled structures shall be designed to conform to the latest design standards adopted by the State of California in the California Building Code, Part 2, Title 24, California Code of Regulations.
- 5. Building plans and instruments of service submitted with a building permit application shall be signed and sealed by a California licensed design professional as required by the State Business and Professions Code.
- 6. The City of San Marcos is located in Seismic Design Category “D.” Buildings and structures shall be designed to adequately transmit the dynamic lateral forces in accordance with the requirements of the latest adopted California Building Code.

7. The storage, use or handling of hazardous, toxic or flammable materials shall be clearly indicated on all floor plans submitted for a building permit. Materials shall be identified in accordance with Health and Safety Code Section 25101.
8. 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.
9. All construction and grading related BMPs shall be shown in detail on the construction plans submitted to the City for review and approval.

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

1. 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 AM to 6:00 PM on Monday through Friday, and on Saturday between 8:00 AM and 5:00 PM. 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 and fines as appropriate. Citations for hours of work violations require a mandatory court appearance in North County Superior Court.
2. During construction activities, the applicant shall maintain public and private driveway and/or road access to neighboring properties at all times unless previous arrangements have been made with the private parties affected. Copies of said agreements shall be provided to the City Engineer.
3. 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 until removed from the site; and periodic cleaning of streets to remove accumulated materials.
4. The applicant shall implement and maintain stormwater pollution prevention measures as required on the approved plans. Violations of the City's Stormwater Management Ordinance (Chp. 14.15 S.M.M.C.) will result in Stop Work Orders, Notices of Violations and/or citations with fines. Work on the project may be delayed until the City determines that compliance with stormwater requirements has been achieved.
5. All landscaping shall be installed in accordance with all provisions of condition of approval E(3) of this permit.

G. Prior to the final inspection of the Wireless Telecommunication Facility Building Permit, the following conditions shall be complied with:

1. All landscaping shall be completed, and inspected and approved by the Planning Division. The applicant/developer shall be responsible to contact the Planning Division for inspection.
2. The applicant shall submit a letter to the Planning Division Manager from the supervising certified arborist that certifies that all plant materials and the irrigation system have been installed in accordance with the approved landscape plans, as potentially amended pursuant to condition of approval E(3) and consistent with the recommendations provided in the Arborist Report prepared by Leo Simone, and dated August 1, 2014.
3. The applicant shall evaluate the private roadways used for construction access to the project site (Golden Eagle Trail and a segment of Attebury Drive between Golden Eagle Trail and Questhaven Road and an additional segment of Questhaven Road from the San Marcos city limit, to the intersection of Attebury Drive) along the same limits as the pre-construction inspection and perform a comparative review of the conditions of the roadway. Any damage incurred as part of the construction activities shall be the responsibility of the applicant/developer to repair. Any defects or damage that occur to the facilities providing access to the site that are not directly related to the construction activities of the applicant/developer shall not be subject to this condition.
4. If determined necessary by the Planning Division Manager, the applicant may need to install additional synthetic camouflaging materials to screen pole mounted components of the wireless telecommunication facility (i.e. antennas, hardware, cables, etc.) from public view. Any cost associated with the additionally required screening materials shall be the sole responsibility of the applicant.
5. All warning signage shall be compliant with ANSI C95.2 color, symbol, and content conventions. Signage shall be written in English and Spanish. Prior to beginning unattended operation of this project, the applicant/operator shall first install the permanent warning signs and at all times thereafter maintain said signage in good condition. Signage shall at all times provide a working local or toll-free telephone number to its network operations center, and such telephone number shall be able to reach a live person who can exert transmitter power-down control over this site as required by the FCC. The location of signage must ensure that anyone approaching may clearly see the signage before entering the controlled zone.

6. The proposed development shall satisfy the conditions of approval. The contractor shall obtain approval from all City Departments and other agencies before requesting a Final Inspection from the Development Services Department.
- H. The ongoing operation of the facility and reliance on this Conditional Use Permit is subject to the following:
 1. The applicant/operator shall at all times comply with all FCC rules and regulations, including without limitation, the RF emissions safety requirements of FCC Office of Engineering Bulletin 65, and any successors thereto. It shall be responsibility of the applicant to contact the City acknowledging any changes in the regulations that would affect the Telecommunications Facility.
 2. 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.
 3. The faux tree monopole and equipment enclosure shall be maintained in good condition which includes replacing damaged or lost faux branches, leaves, bark cladding, antenna covers, and/or painting of equipment and faux tree parts when necessary.
 4. The faux tree canopy of the monopole shall retain a natural shape at all times and conceal all pole mounted equipment without compromising the natural shape.
 5. The applicant/operator shall, at its sole cost and expense, retain a licensed Arborist to monitor the project site annually throughout the term of this Conditional Use Permit, and to promptly submit a report to the Planning Division (no later than November 16th of each year) that details the findings and recommendations to ensure the optimal growth of all live plant materials installed in accordance with this CUP. If the City determines the Arborist's monitoring report must be reviewed by a third party, the applicant/operator shall be solely responsible for all costs associated with this review.
 6. All reasonable recommendations (as determined by the City) of the Certified Arborist provided in the annual report or a specific request to take action from the City, shall be implemented by the applicant/operator within thirty (30) days of notice. Failure of the applicant/operator to implement any reasonable recommendation by the Certified Arborist shall be considered a violation of this permit and may result in enforcement action, including permit modification and/or revocation pursuant to SMMC Chapter 20.545.
 7. On November 16, 2020, all screening trees installed pursuant to the requirements of this permit and as approved in the Landscape Permit shall provide the level screening identified in the photo simulations dated October 22, 2015. If it is

determined by the City that the trees are not providing the level of screening identified in the photo simulations after five (5) years of growth (or by November 16, 2020), it shall be considered a violation of this permit and may result in enforcement action, including permit modification and/or revocation pursuant to SMMC Chapter 20.545.

8. At all times, trees and other live plant materials installed for the purposes of screening the project facility shall be maintained in a healthy and thriving manner, providing adequate screening of the faux-tree monopole and equipment enclosure. If any of said trees and/or landscape materials perish or are otherwise destroyed, then the applicant/operator shall replace it in kind, size, and quantity to provide the same screening value as determined appropriate by the Planning Division Manager.
9. Any future modifications, alterations, expansions and/or other changes to the facility shall be evaluated by the Development Services Department to determine the applicable permits required to allow the proposed modifications (i.e. CUP modification, Wireless Telecommunication Facility Building Permit, etc.) pursuant to all Federal, State and local laws, including all relevant provisions of this Conditional Use Permit. Prior to the issuance of a Wireless Telecommunication Facility Building Permit, the following conditions shall be complied with:
 - a. A sheet containing a copy of each page of this Conditional Use Permit must be provided in the project plan set submitted for review.
 - b. Building plans must also identify the location of all landscaping in the vicinity of the site and indicate that they will be protected in place during construction and replaced if damaged.
 - c. For any project proposing the collocation of additional antenna facilities for the purposes of allowing another carrier other than T-Mobile, USA to provide services from the facility, a separate in-lieu fee of no less than \$3,000 (\$1,000 for CFD 98-01IA1, \$1,000 for CFD 2001-01, and \$1,000 for CFD 98-02) shall be submitted to the City to mitigate impacts to City facilities and services.
 - d. The applicant shall also comply with all relevant provisions of Conditions of Approval D, E, F, and G of this permit.
 - e. Within six (6) months of the final inspection of a Wireless Telecommunication Facility Building Permit issued for any equipment associated with the transmission of radio frequency energy, 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 ("RF 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, the RF 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. The RF Report shall also evaluate the cumulative emissions of the proposed project and the existing wireless telecommunication facilities to ensure compliance with the FCC regulations. 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.

- I. If a modification or renewal of this Conditional Use Permit is processed and the existing 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.
- J. Any new construction, alteration, improvement, or modification to an existing structure requires the issuance of a building permit and compliance with the minimum code requirements of the latest adopted California Building Code.
- K. To the extent that a co-location is technically possible, the applicant/operator shall not oppose the potential future installation of other wireless communication antennas that consolidate at this site.
- L. The Planning Division may, but is not obligated to inspect the premises annually to ensure compliance with all conditions of this permit. If the Planning Division determines that compliance is not being achieved, then a public hearing shall be scheduled for possible Permit modification or revocation.
- M. This Conditional Use Permit shall expire on November 16, 2025. Any request for permit extension shall be applied for by the permittee no later than thirty (30) days prior to the expiration date.
- N. This Conditional Use Permit shall become null and void if not acted upon within twelve (12) months of the adoption of this resolution, or the approved use ceases to operate at the subject property for a period more than twelve (12) months.

- O. Applicant shall comply with all provisions and requirements set forth in the San Marcos Municipal Code, City ordinances, City policies and City resolutions, and with all applicable state and federal regulations, whether or not such provisions or requirements have been specifically set forth in these conditions, all of which are now incorporated herein by reference and fully set forth at this point.
- P. 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.
- Q. 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 16th day of November 2015, by the following electronic vote:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSENT: COMMISSIONERS:

APPROVED:

Eric Flodine, Chairman
SAN MARCOS CITY PLANNING COMMISSION

ATTEST:

Lisa Kiss, Office Specialist III
SAN MARCOS CITY PLANNING COMMISSION