

# AGENDA REPORT

## Meeting of the San Marcos Planning Commission

**MEETING DATE:** January 7, 2013  
**SUBJECT:** Crown Castle, 1441-B North Twin Oaks Valley Blvd.  
**APN:** 182-160-12  
**CASE:** Conditional Use Permit (CUP) 12-898

### Recommendation

Conditionally approve a Conditional Use Permit (CUP) for an existing wireless telecommunication facility at the Twin Oaks Valley Golf Course (the previous Conditional Use Permit for the project expired).

### Introduction

The Twin Oaks Valley Ranch Specific Plan was modified to allow the operation of up to five (5) wireless telecommunication facilities within the Twin Oaks Valley golf course, provided a Conditional Use Permit is approved for each facility. Including this project, there are a total of four (4) wireless telecommunication facilities constructed at the site. The wireless telecommunication facility under this CUP is an existing disguised 38'-0" tall faux broadleaf tree with three (3) existing antenna panels and an equipment enclosure attached to an adjacent maintenance building with stucco walls and a concrete tile hipped roof to match the existing buildings at the site.

In June and July of 2003, the Planning Commission and City Council originally approved the project authorizing Sprint Assets, PCS to construct the subject wireless telecommunication facility. In January of 2007, ownership of the facility was transferred to Crown Castle and on June 2, 2008 the original CUP expired.

### Discussion

Since taking possession of the facility, Crown Castle has leased the "antenna space" to telecommunication providers. While Sprint is currently the only tenant at the site with three (3) antennas, there is the capacity to accommodate an additional six (6) antennas on the facility. Approval of this Conditional Use Permit would allow the continued operation of the site for a period of ten (10) years, allow upgrades to existing facilities and allow the installation of up to six (6) more antennas (i.e. collocation) with the issuance of Building Permits. Any upgrades or modifications to the facility would be required to comply with the conditions of approval of this CUP and all equipment would need to be completely concealed within the existing facilities.

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A compliance inspection of the facilities conducted by Staff on August 22, 2012 determined that an equipment cover near the base of the facility would need to be painted to match the trunk of the faux tree. Conditions addressing this matter have been included in the resolution of the project. Other than this issue, staff found the facility to be in compliance with the original Conditional Use Permit (CUP 02-552) and the site was well maintained.

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 wireless telecommunication 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. Pursuant to the FCC regulations, the City has conditioned the applicant to submit an Electromagnetic Energy "EME" Report within ninety (90) days of approval of this CUP. In addition, the applicant is required to submit an updated EME Report anytime modifications to the facility are made (i.e. replacement of antennas, addition of new antennas, etc.). The required EME Report will include RF field measurements to ensure that current environmental conditions are included in the analysis and shall confirm that the wireless telecommunication facility is operating within the FCC RF guidelines for MPE.

With the approval of the first CUP, a Negative Declaration (ND 03-662) was prepared, circulated and adopted on July 8, 2003. Because the requested renewal proposes no modification of the project site as originally examined in ND 03-662, staff has determined that the proposed project remains within the scope of the previously adopted Negative Declaration and no further environmental analysis is required. Lastly, no public comment was received by the City during the processing of this application.

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#### **Attachment(s)**

Adopting Resolution

- A- Vicinity Map
- B- Aerial Photo
- C- Requested Entitlement
- D- Site & Project Characteristics

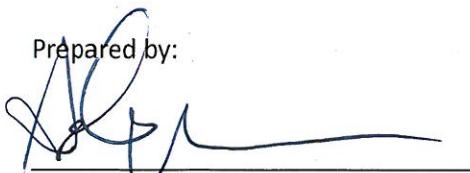
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E- Project Plans

Prepared by:



Sean del Solar, Assistant Planner

Reviewed and Approved by:



*J. Backoff for*

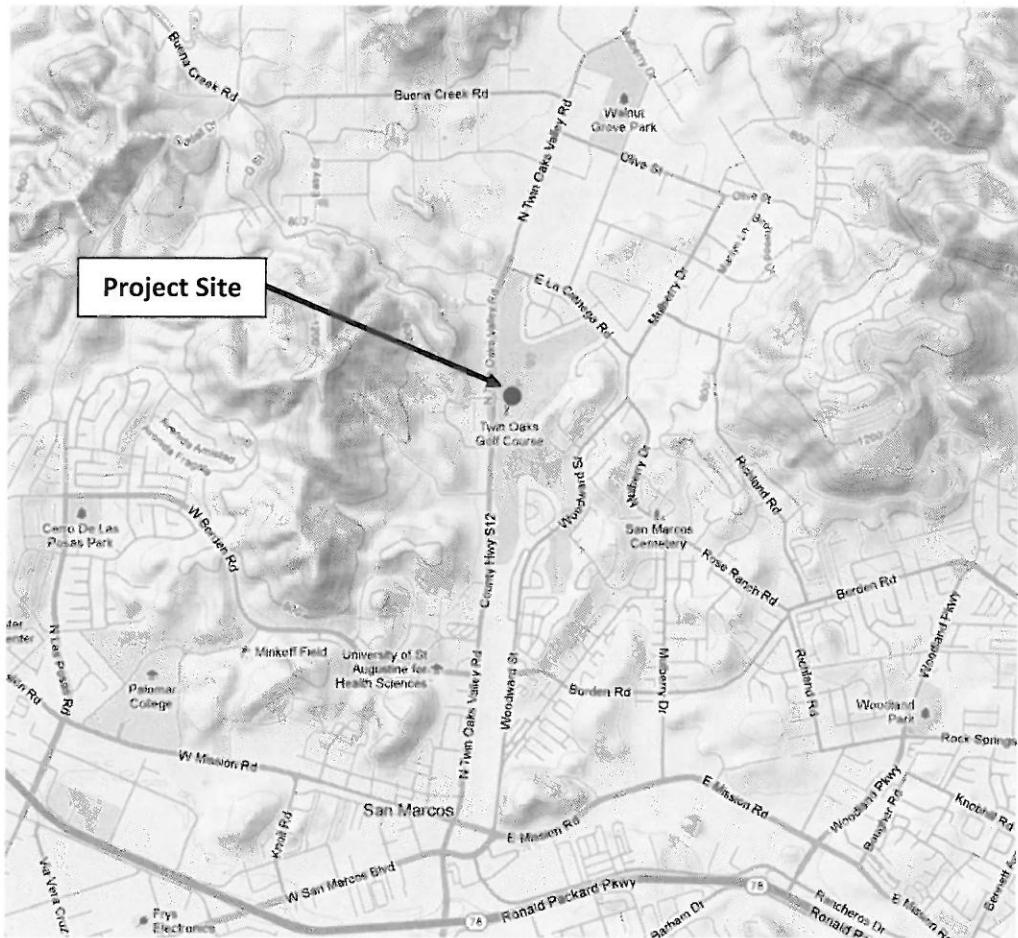
Jerry Backoff, Planning Division Director

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## ATTACHMENT A

## Vicinity Map



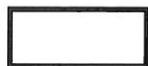
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## ATTACHMENT B

### Aerial Photo



Project Site



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**ATTACHMENT C**  
**Requested Entitlements**

- A Conditional Use Permit to allow for the continued operation of an existing wireless telecommunication facility disguised as a 38 foot broadleaf faux tree with up to nine (9) antennas on the Twin Oaks Valley Golf Course in the Twin Oaks Valley Ranch Specific Plan Area (SPA) zone in the Twin Oaks Valley Community Plan.

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## ATTACHMENT D

### Site & Project Characteristics

<u>Property</u>	<u>Existing</u>	<u>Zoning</u>	<u>General Plan</u>
<u>Land use</u>			<u>Designation</u>
Subject	Golf Course	SPA	SPA
North	Single Family Residence	SPA	SPA
South	Single Family Residence	SPA	SPA
East	Single Family Residence	SPA	SPA
West	Single Family Residence	E-1-20	Rural Residential (1-2 du/ac)

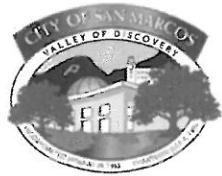
Flood Hazard Zone	<u>      </u> yes	<u>x</u> no
Resource Conserv. Area	<u>      </u> yes	<u>x</u> no
Sewers	<u>x</u> yes	<u>      </u> no
Septic	<u>      </u> yes	<u>x</u> no
Water	<u>x</u> yes	<u>      </u> no
Gen. Plan Conformance	<u>x*</u> yes	<u>      </u> no
Land Use Compatibility	<u>x*</u> yes	<u>      </u> no

\*with approval of Conditional Use Permit

Development Standards per the Twin Oaks Valley Ranch Specific Plan (SPA) Zone:

<u>Setbacks</u>	<u>Required</u>	<u>Existing</u>
Front	18 ft.	~ 700 ft.
Rear	5 ft.	~ 675 ft.
Side	10 ft.	~ 550 ft.
Height	35 ft. (maximum)	~ 38 ft.

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## ATTACHMENT E

### Project Plans

**AGENDA ITEM NO. \_\_\_\_\_**

RESOLUTION PC 12-4323

A RESOLUTION OF THE CITY OF SAN MARCOS PLANNING  
COMMISSION APPROVING A CONDITIONAL USE PERMIT TO  
ALLOW THE CONTINUED OPERATION OF AN EXISTING  
WIRELESS TELECOMMUNICATION FACILITY ON THE TWIN  
OAKS VALLEY GOLF COURSE IN THE SPA ZONE

CUP 12-898  
Crown Castle

WHEREAS, on July 27, 2012, an application was received from Sean Scully on behalf of Crown Castle requesting a Conditional Use Permit to allow the continued operation of a wireless telecommunication facility at 1441-B North Twin Oaks Valley Road in the Twin Oaks Valley Ranch Specific Plan Area (SPA) Zone of the Twin Oaks Valley Neighborhood with a General Plan Land Use Designation of Specific Plan Area (SPA), more particularly described as:

A portion of Parcel "A" of Parcel Map No. 16247, in the city of San Marcos, county of San Diego, state of California, filed in the Office of the County Recorder of San Diego County, October 4, 1990 as File/Page No. 90-544825 of Official Records.  
Assessor's Parcel Number: 182-160-12

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

WHEREAS, on June 2, 2003, the Planning Commission recommended to the City Council approval of Specific Plan Modification (SP) 88-01(02M), Conditional Use Permit (CUP) 02-552 and Negative Declaration (ND) 03-662; and

WHEREAS, on July 8, 2003, the City Council subsequently approved SP 88-01(02M), CUP 02-552 and ND 03-662; and

WHEREAS, on December 11, 2003, a 38'-0" tall broadleaf faux tree was constructed with three (3) antennas mounted at 29'-7"; and

WHEREAS, CUP 02-552 expired on June 2, 2008 and application CUP 12-898 was filed to renew CUP 02-552; and

WHEREAS, a payment in-lieu of annexation to Community Facility Districts 98-01, 98-02 and 2001-01 was received for the installation of three (3) antennas on October 8, 2003; and

WHEREAS, the required public hearing for the proposed renewal of the Conditional Use Permit was held on January 7, 2013, as duly advertised and held in the manner prescribed by law; and

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

1. The approval of this Conditional Use Permit will not result in detrimental impacts to adjacent properties or the character and function of the neighborhood because the project will comply with all applicable rules established by the Federal Communications Commission (FCC) and because all existing improvements have been designed and constructed in conformance with the California Building Code. In addition, the project has been designed as a faux broadleaf tree to

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emulate the natural environment of the golf course and minimize its appearance to surrounding residences.

2. The design, development and conditions associated with this Conditional Use Permit are consistent with the goals, policies and intent of the General Plan because approval of the project will allow the continued operation and potential upgrades of the wireless telecommunication facility that will ensure communication systems provide reliable, effective and efficient service for San Marcos (Goal LU-17). The project and associated conditions are also consistent with the purpose, intent and character of the Twin Oaks Valley Ranch specific plan because Section 3.2 of the Twin Oaks Valley Ranch Specific Plan allows for the operation of a wireless telecommunication facility at the Twin Oaks Valley Golf Course with the approval of a Conditional Use Permit.
3. The land use allowed in conjunction with the Conditional Use Permit is compatible with the existing and future land uses of the Specific Plan and the general area in which the project is to be located.

NOW THEREFORE, the City of San Marcos Planning Commission resolves as follows:

- A. The foregoing recitals are true and correct.
- B. The Conditional Use Permit is approved per the submitted site and floor plans for an existing 38 foot tall broadleaf faux tree with three (3) existing panel antennas (with a maximum capacity of nine (9) panel antennas total) and an existing 384 square-foot equipment shelter and shall not be expanded or revised unless a modification to this permit is approved.
- C. Within ninety (90) days of approval, the applicant shall comply with the following:
  1. A qualified radio frequency engineer shall conduct on-site testing of the radio frequency emissions for the project and all other collocated radio frequency emitters within 100 feet of the project site.
  2. All testing shall factually demonstrate the project's compliance with 47 C.F.R. § 1.1307 et seq. of the Federal Communications Commission (FCC) rules regarding radio frequency emissions of the Project site in conjunction with the collocated emitters.
  3. The testing shall in all respects comply with the FCC Office of Engineering and Technology Bulletin 65, Section 3 ("MEASURING RF FIELDS"). All test equipment used to collect and report data must be within current calibration as evidenced by current calibration certificate(s).
  4. Test measurements shall be reported to the City in writing (the "Test Report") and shall also employ a map to show the location and result of each measurement. The Test Report shall also provide the calibration data, the method of data collection, and radio frequency strength measured at each location as well as the percentage of the FCC's uncontrolled/general population standard.
  5. Any location exceeding the FCC's uncontrolled/general population standard shall be specifically called out in the report and the Permittee shall provide a plan to the City how it intends to comply with the FCC's uncontrolled/general population standard in any publically accessible area.

6. The existing underground cable conduit cover (i.e. "dog house") shall be painted brown to match the existing color of the adjacent faux "tree trunk."
- D. Reliance on this Conditional Use Permit and the ongoing operation of the facility shall comply with the following:
  1. All conditions of Section "C" shall be completed to the satisfaction of the Planning Division Director.
  2. 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/operator to contact the City acknowledging any changes in the regulations that would affect the Telecommunications Facility.
  3. Without further notice from the City to the Permittee, the testing and reporting required in this Condition shall be repeated by the Permittee within ninety (90) days after each time a new radio frequency emitter is added to this site and each time an existing radio frequency emitter adds new radio frequency emissions to its existing transmissions.
  4. The applicant/operator shall maintain in good condition permanent warning signs in both English and Spanish Languages that are compliant with ANSI C95.2 color, symbol, and content conventions. All such signs shall be placed within 12 inches below or on the lowest 10 percent of the radome, and one or more of the signs shall be visible from all approaches to the facility.
  5. The faux broadleaf tree shall retain a naturally shaped canopy as illustrated in the plans dated revised on July 20, 2012. All externally mounted equipment on the tree (i.e. antennas, cables, etc.) shall remain fully concealed within the canopy of the tree. At no time shall any piece of equipment penetrate the canopy created by the faux branches and leaves of the facility.
  6. All camouflaging materials (i.e. branches, leaves, bark, colored surfaces, etc.) shall be maintained in good condition. The City shall inspect the wireless telecommunication facility annually to ensure proper maintenance of the facility. Should the City determine that the wireless telecommunication facility is damaged, vandalized or improperly maintained, the applicant/operator shall take corrective action to address such issues once notified. If the after notification, the applicant/operator fails to take corrective action during a cure period, the City shall schedule a hearing before the Planning Commission to consider modification or revocation of CUP 12-898.
  7. Landscaping shall be maintained in a healthy and thriving manner for screening purposes of the proposed faux broadleaf tree and equipment enclosure. If any of the required trees and landscaping perish or are destroyed, then the applicant/operator shall replace it in kind with material that is identical in size, shape and quantity to provide the same screening value as determined acceptable by the Planning Division Director.
  8. The project shall comply with all applicable provisions of Chapter 14.15 of the San Marcos Municipal Code and other regional standards for the protection of stormwater quality.

9. The applicant shall be responsible for compliance with all relevant portions of the City of San Marcos Municipal Code.
10. Use of the site shall be conducted so as not to become obnoxious by reason of noise, odor, refuse, parking impacts, or maintenance of grounds and in such a manner as will not detrimentally affect adjoining properties and uses.

E. There are three (3) existing antenna panels on the Wireless Telecommunication Facility. Any new construction, alteration, improvement, addition (no more than nine (9) total antenna panels), replacement/upgrade of equipment, or modification to the existing wireless telecommunication facility shall require the issuance of a Building Permit and compliance with the minimum code requirements of the latest adopted California Building Code and the conditions of approval contained herein.

F. Prior to the issuance of any Building Permits, the following conditions shall be complied with:

1. Building plans and instruments of service shall be signed and sealed by a California licensed design professional as required by the State Business and Professions Code.
2. All externally mounted equipment on the tree (i.e. antennas, cables, etc.) shall be fully concealed within the canopy of the tree and utilize natural colors and textures to the extent possible to ensure maximum camouflaging properties (e.g. antenna socks with faux leaves, green painted antennas, brown painted cables, bark textures, etc.).
3. The applicant/developer for the proposed development, redevelopment or discretionary use is required to pay Public Facilities Fees, Special Taxes associated with Community Facility Districts (CFD) and/or any other fee as established by the latest adopted Public Facilities Fee Resolution. The installation of additional antennas by other tenants (i.e. telecommunication providers other than Sprint) will require the payment of additional CFD in-lieu fees. Any fee required shall be based on the proposed project and shall be paid in full prior to the issuance of the Building Permit for the project.
4. 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.

G. During construction, the following condition 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, the owner/developer/contractor shall implement and maintain stormwater pollution prevention measures. Violations of the City's Stormwater Management Ordinance (Chapter 14.15 S.M.M.C.) will result in Stop Work Orders,

Notices of Violation and citations with fines. Work on the project may be delayed until the City determines that the project is in compliance with the stormwater requirements.

H. Prior to the Final Inspection, the following conditions shall be complied with:

1. The proposed project shall satisfy all conditions of approval contained herein. The applicant/operator/contractor shall obtain approval from all City Departments and other agencies before requesting a Final Inspection from the Development Services Department.
2. The applicant/operator shall install and maintain permanent RF notice signs in English and Spanish at the entrance to the BTS enclosure. The signage must be a minimum of 8" wide by 12" high, compliant with FCC OET Bulletin 65 or ANSI C95.2 for color, symbol, and content conventions. All such 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 the sign must ensure that anyone approaching the antennas may clearly see the sign before climbing in front of the antennas.

I. The Planning Division shall inspect the premises annually to ensure compliance with all conditions of this Conditional Use Permit. If the Planning Division determines that compliance is not being achieved, then a public hearing shall be scheduled for possible Conditional Use Permit modification or revocation.

J. This Conditional Use Permit shall expire on January 7, 2023. Any request for permit extension shall be applied for by the permittee no later than thirty (30) days prior to the expiration date.

K. This Conditional Use Permit shall become null and void if the terms and conditions of Section "C" are not acted upon within ninety (90) days after the adoption of this resolution, or the approved use ceases to operate at the subject property for a period more than twelve (12) months.

L. 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.

M. To the extent permitted by law, the Developer 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 Developer or its contractors, subcontractors, agents, employees or other persons acting on Developer'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. Developer 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 7th day of January 2013, by the following roll call vote:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSENT: COMMISSIONERS:

APPROVED:

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Dean Nelson, Chairman  
SAN MARCOS CITY PLANNING COMMISSION

ATTEST:

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Lisa Kiss, Office Specialist III  
SAN MARCOS CITY PLANNING COMMISSION