

# Exhibit H



CITY of CALABASAS

Community Development Department  
Planning Division  
100 Civic Center Way  
Calabasas, CA 91302  
T: 818.224.1600

[www.cityofcalabasas.com](http://www.cityofcalabasas.com)

October 7, 2020

Smartlink LLC  
Attn: Andrea Liu  
3300 Irvine Ave Suite #300  
Newport Beach, CA 92660  
**Subject: Notice of Decision for Project No. WTFM-2020-003**

Dear Ms. Liu,

At a public hearing on October 7, 2020, the Community Development Director considered testimony given, reviewed the staff report and other documents and materials in the project file, and, based upon the findings presented in the staff report, **APPROVED** your application for the following:

**FILE NO.: WTFM-2020-003.** A request for a Wireless Telecommunication Facility Minor Modification Permit to modify an existing AT&T wireless telecommunication facility in accordance with Section 6409(a) of the 2012 tax relief act. The applicant is proposing to remove and replace existing pole mounted and ground mounted equipment. The project is located at 24800 Cordillera Dr (APN: 2069-078-900), within the Public Facilities (PF) zoning district.

Your application, described above, is subject to all conditions of approval listed in the attached Exhibit A. Any decision of the Community Development Department may be appealed to the Planning Commission. Appeals must be submitted in writing to the City Clerk (per Chapter 17.74 of the Calabasas Municipal Code) within ten (10) days of the Community Development Director action.

Should you have any questions concerning this application, please contact me at (818) 224-1705 or [jrackerby@cityofcalabasas.com](mailto:jrackerby@cityofcalabasas.com).

Sincerely,



Jaclyn Rackerby  
Assistant Planner

Attachment: Community Development Director Decision Letter and Report



CITY of CALABASAS

## COMMUNITY DEVELOPMENT DIRECTOR DECISION LETTER AND REPORT

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**FILE NO.:** WTFM-2020-003  
**PROPOSAL:** A request for a Wireless Telecommunication Facility Minor Modification Permit to modify an existing AT&T wireless telecommunication facility in accordance with Section 6409(a) of the 2012 tax relief act. The applicant is proposing to remove and replace existing pole mounted and ground mounted equipment. The project is located at 24800 Cordillera Dr (APN: 2069-078-900), within the Public Facilities (PF) zoning district.  
**APPLICANT:** Andrea Liu, on behalf of AT&T

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### **BACKGROUND:**

On June 25, 2020, Smartlink LLC filed an application, on behalf of AT&T, to upgrade an existing wireless telecommunication facility located at 24800 Cordillera Dr (APN:2069-078-900) within the Public Facilities (PF) zoning district. The application was reviewed by staff and deemed complete on September 14, 2020.

The existing AT&T facility was constructed in 2005, (approved Conditional Use Permit No. 05-07), updated in 2013 (Scenic Corridor Permit, Administrative Plan Review, and Wireless Telecommunication Facility Permit, File No. 130001223), with approvals to replace existing equipment and antennas to provide LTE coverage, and updated in 2018 (Wireless Telecommunication Facility Minor Modification Permit, File No. 180000245) to replace existing antennas and RRU's and install new equipment.

The proposed project includes the replacement of pole mounted equipment, the replacement of ground mounted equipment, and rotating the existing antenna mount. This project was reviewed by the Telecom Law Firm for concurrence that the project is an eligible facility request under Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012 (the Act) applies. In a Wireless Telecommunication Memorandum dated August 28, 2020 (Exhibit D), Jonathan Kramer of the Telecom Law Firm stated that the proposed project meets all of the criteria necessary to be eligible for Section 6409(a).

### **STAFF ANALYSIS:**

1. Current Site Condition: The subject site is located at 24800 Cordillera Dr within the Public Facilities zoning district, adjacent to a water tower located at the northeast end of Cordillera Drive, on a parcel owned by the Las Virgenes Municipal Water District (LVMWD). The existing facility was approved on August 25, 2005, and subsequently modified and approved on December 17, 2013 and May 16,

2018. The current facility is made up of three antenna sectors mounted to an existing monopole and associated ground mounted mechanical equipment. The site was recently inspected by staff, and found to be in good condition (ie. no graffiti, no damage to utility poles or equipment).

2. Proposed Project: The applicant is requesting permission to upgrade an existing Wireless Telecommunications Facility in accordance with Section 6409(a) of the 2012 Tax Relief Act. The proposal includes the replacement of existing pole mounted and ground mounted equipment.
3. Calabasas Municipal Code Requirements: Section 17.12.050 of the CMC regulates the construction, maintenance, and modification of wireless telecommunication facilities within the City of Calabasas. In accordance with Section 17.12.050(B) (4) of the CMC, the ordinance applies to existing facilities which have been previously approved but are now or hereafter modified. Section 17.12.050(F) of the CMC regulates minor modifications of existing facilities that are an eligible facilities request, consistent with Section 6409(A) of the Middle Class Tax Relief and Job Creation Act of 2012. As a result, the applicant has filed for a Minor Modification Permit to perform the requested equipment additions.
4. Section 6409(A) Analysis: On February 17, 2012, Congress passed the "Middle Class Tax Relief and Job Creation Act of 2012" (the "Act"). Section 6409(a) of the Act states that "a State or local government may not deny, and shall approve, any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station." Eligible facilities include requests that involve: (a) collocation of new transmission equipment, (b) removal of transmission equipment; or (c) replacement of transmission equipment. Because the proposed project involves the replacement of existing pole mounted and ground mounted equipment, it qualifies as an eligible facility under the Act. Finally, the proposed project will not substantially change the physical dimensions of the existing tower or base station. As a result, section 6409(a) of the Act applies to the proposed project, and the City shall approve and may not deny this application. Consequently, the project meets all requirements for approval of a Minor Modification Permit and Section 6409(a).

### **FINDINGS:**

Section 17.12.050(F)(5)(a) stipulates that the Director must approve an application for a wireless facility minor modification permit for a collocation or modification to an existing wireless tower on private property only if each of the following findings can be made:

1. *The applicant proposes a collocation or modification to a structure constructed and maintained with all necessary permits in good standing, whether built for the sole or primary purpose of supporting any Federal Communications Commission licensed or authorized antennas and their associated facilities;*

The proposed project involves the replacement pole-mounted equipment and the modification of an existing wireless base station located adjacent to an existing water tower in the Public Facilities (PF) zoning district. The site was recently inspected by staff, and found to be in good condition (i.e. no graffiti, and no damage to the utility pole or equipment) and in compliance with all conditions of approval contained within Wireless Telecommunications Facility (WTF) Permit, File No. 180000245, which is the most recently approved project for this facility. As a result, the proposed project meets this finding.

- 2. The proposed collocation or modification does not increase the height of the existing personal wireless telecommunication facility above its lowest height on February 22, 2012, or as approved if constructed after February 22, 2012, by more than ten (10) percent or by the addition of one (1) additional antenna array with separation from the nearest existing antenna not to exceed twenty (20) feet, whichever is greater;*

The modifications to the tower involve the replacement of existing RRU's, and adjustments to an existing antenna mount to remove skew. The existing facility will not increase in height. Therefore, this finding is met.

- 3. The proposed collocation or modification does not increase the width of the facility by more than twenty (20) feet or the width of the tower at the level of the appurtenance, whichever is greater;*

The modifications to the tower involve the removal and replacement of existing pole mounted equipment (RRU's) and adjusting the existing antenna mount to remove skew. As a result, there will be no increase in the width of the existing facility, and this finding is met.

- 4. The proposed collocation or modification does not involve the installation of more than the standard number of new equipment cabinets for the technology involved, not to exceed four (4);*

The modifications to the tower involve the removal and replacement of existing pole mounted equipment (RRU's) and adjusting the existing antenna mount to remove skew. As a result, there will be no increase in the number of equipment cabinets, and this finding is met.

- 5. The proposed collocation or modification does not involve any excavation outside the lease or license area of the facility, including any access or utility easements;*

The proposed project does not include any new ground disturbance; all proposed changes will occur behind the antennas on the monopoles or within the existing equipment cabinets. Therefore, this finding is met.

6. *The proposed collocation or modification does not defeat any existing concealment elements of the support structure; and*

The existing AT&T site is not camouflaged, except for paint; the proposed modifications will match the paint of the underlying monopoles, the existing antennas, and the associated equipment. Therefore, the proposed project does not defeat existing concealment elements of the monopoles and meets this finding.

7. *The proposed collocation or modification does not violate any prior conditions of approval, except as may be preempted by Section 6409, Title 47, United States Code, section 1455, subdivision (a).*

The existing wireless facility was recently inspected by staff and found to be in good condition (i.e. no graffiti, no damage to existing pole or equipment) and is in compliance with all conditions of approval contained within the original Conditional Use Permit No. CUP 05-07 and subsequent modifications (Wireless Telecommunication Facility Minor Modification Permit File No. 180000245 being the most recent). For this reason, the proposed project satisfies this finding.

Section 17.12.050(F)(5)(b) stipulates that the Director must approve an application for a wireless facility minor modification permit for a collocation or modification to an existing base station on private property only if each of the following findings can be made:

1. *The applicant proposes a collocation or modification to a structure constructed and maintained with all necessary permits in good standing, whether built for the sole or primary purpose of supporting any Federal Communications Commission licensed or authorized antennas and their associated facilities or not, that currently supports existing wireless transmission equipment*

The proposed project involves the replacement pole-mounted equipment and the modification of an existing wireless base station located adjacent to an existing water tower in the Public Facilities (PF) zoning district. The site was recently inspected by staff, and found to be in good condition (i.e. no graffiti, and no damage to the utility pole or equipment) and in compliance with all conditions of approval contained within Wireless Telecommunications Facility (WTF) Permit, File No. 180000245, which is the most recently approved project for this facility. As a result, the proposed project meets this finding.

2. *The proposed collocation or modification does not increase the height of the existing personal wireless telecommunication facility above its lowest height on February 22, 2012, or as approved if constructed after February 22, 2012, by more than ten (10) percent or ten (10) feet, whichever is greater;*

The modifications to the existing base station involve the removal and replacement of existing power plant and battery cabinet. The existing facility will not increase in height. Therefore, this finding is met.

- 3. The proposed collocation or modification does not increase the width of the facility by more than six (6) feet;*

The modifications to the base station involve the removal and replacement of existing ground mounted equipment. As a result, there will be no increase in the width of the existing facility, and this finding is met.

- 4. The proposed collocation or modification does not involve the installation of more than the standard number of new equipment cabinets for the technology involved, not to exceed four (4);*

The only proposed modifications to the existing base station are the removal and replacement of existing equipment. AT&T plans to install fewer than four new cabinets, not exceeding the FCC's four equipment cabinet threshold for 6409(a) treatment. Therefore, this finding is met.

- 5. The proposed collocation or modification does not involve any excavation outside the lease or license area of the facility, including any access and utility easements;*

The proposed modifications to the existing base station do not involve any new ground disturbance; all proposed changes will occur within existing equipment cabinets.

- 6. The proposed collocation or modification does not defeat any existing concealment elements of the support structure; and*

The existing AT&T site is not camouflaged, with the exception of paint to match the underlying monopole. The proposed modifications to the base station are the removal of the existing battery cabinet and power plant, which will be replaced in the same location. Therefore, no existing concealment elements are defeated, and this finding is met.

- 7. The proposed collocation or modification does not violate any prior conditions of approval, except as may be preempted by Section 6409, Title 47, United States Code, section 1455, subdivision (a).*

The existing wireless facility was recently inspected by staff and found to be in good condition (i.e. no graffiti, no damage to existing pole or equipment) and is in compliance with all conditions of approval contained within the original Conditional Use Permit No. CUP 05-07 and subsequent modifications (Wireless

Use Permit No. CUP 05-07 and subsequent modifications (Wireless Telecommunication Facility Minor Modification Permit File No. 180000245 being the most recent). For this reason, the proposed project satisfies this finding.

**ENVIRONMENTAL REVIEW:**

The City's staff has determined that the project is exempt from environmental review in accordance with Section 21084 of the California Environmental Quality Act (CEQA) and Section 15301 (Existing Facilities) of the CEQA Guidelines.

**CONDITIONS OF APPROVAL:**

See the attached conditions in Exhibit A.

I have read and agree to the indemnification agreement and attached conditions of approval listed in Exhibit A.



10-13-2020

Applicant/Carrier Representative

Date

**DECISION:**

The Director or his/her designee has considered all of the evidence submitted into the administrative record including, but not limited to:

1. All applicable codes and regulations including the City of Calabasas Land Use and Development Code and the City's General Plan;
2. Plans provided by the applicant, as well as any written information; and
3. All related documents, including any necessary environmental documents in order to comply with the California Environmental Quality Act (CEQA), received and/or submitted to the Department.

After considering all of the evidence submitted into the administrative record listed above, I hereby make the following decision:

Approved                       Denied



Tom Bartlett, AICP, City Planner

10-7-2020

Date

**ATTACHMENTS:**

- Exhibit A: Conditions of Approval
- Exhibit B: Public Hearing Record
- Exhibit C: Project Plans
- Exhibit D: Memo from Telecom Law Firm





CITY of CALABASAS

**COMMUNITY DEVELOPMENT DIRECTOR  
DECISION LETTER AND REPORT**

**EXHIBIT A: CONDITIONS OF APPROVAL**

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**FILE NO.:** WTFM-2020-003  
**PROPOSAL:** A request for a Wireless Telecommunication Facility Minor Modification Permit to modify an existing AT&T wireless telecommunication facility in accordance with Section 6409(a) of the 2012 tax relief act. The applicant is proposing to remove and replace existing pole mounted and ground mounted equipment. The project is located at 24800 Cordillera Dr (APN: 2069-078-900), within the Public Facilities (PF) zoning district.  
**APPLICANT:** Andrea Liu, on behalf of AT&T

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1. The City has determined that City, its employees, agents, and officials should, to the fullest extent permitted by law, be fully protected from any loss, injury, damage, claim, lawsuit, expense, attorney fees, litigation expenses, court costs or any other costs arising out of or in any way related to this File No. WTFM-2020-003 and the issuance of any permit or entitlement in connection therewith, or the activities conducted pursuant to this File No WTFM-2020-003 and the issuance of any permit or entitlement in connection therewith. Accordingly, to the fullest extent permitted by law, Smartlink LLC (applicant) and AT&T (carrier), and their successors shall defend, indemnify and hold harmless City, its employees, agents and officials, from and against any liability, claims, suits, actions, arbitration proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including, but not limited to, actual attorney fees, litigation expenses and court costs of any kind without restriction or limitation, incurred in relation to, as a consequence of, arising out of or in any way attributable to, actually, allegedly or impliedly, in whole or in part, related to this File No. WTFM-2020-003 and the issuance of any permit or entitlement in connection therewith, or the activities conducted pursuant to this File No. WTFM-2020-003 and the issuance of any permit or entitlement in connection therewith Smartlink LLC (applicant) and AT&T (carrier), and their successors shall pay such obligations as they are incurred by City, its employees, agents and officials, and in the event of any claim or lawsuit, shall submit a deposit in such amount as the City reasonably determines necessary to protect the City from exposure to fees, costs or liability with respect to such claim or lawsuit.
2. Compliance with approved plans. The proposed project shall be built in compliance with the approved plans on file with the Planning Division.

3. The project approved herein is depicted on those sets of drawings, elevations, etc., stamped approved by staff on the approval date. Any modifications to these plans must be approved by the Community Development Director prior to the changes on the working drawings or in the field.
4. The subject property shall be developed, maintained, and operated in full compliance with the conditions of this grant and any law, statute, ordinance or other regulation applicable to any development or activity on the subject property. Failure of the applicant or its successors to cease any development or activity not in full compliance shall be a violation of these conditions. Any violation of the conditions of approval may result in the revocation of this approval.
5. This approval shall be valid for one year and eleven days from the date of this decision letter. The permit may be extended in accordance with Section 17.64.050 of the Land Use and Development Code.
6. Prior to commencement of construction, all necessary permits shall be obtained from the Building and Safety Division and Public Works Department.
7. The project is located within a designated A Very High Fire Hazard Severity Zone. The requirements of Chapter 15.04.500 of the Calabasas Municipal Code that references the 2019 California Fire Code as well as the 2019 Consolidated Fire Protection District Code of Los Angeles County, must be incorporated into all plans.
8. The applicant and contractors shall implement all reasonable efforts to reuse and recycle construction and demolition debris, to use environmentally friendly materials, and to provide energy efficient buildings, equipment, and systems. The applicant shall provide proof of recycling quantities to get final clearance of occupancy.
9. Per the Calabasas Municipal Code Chapter 8.16, "no person shall collect and/or dispose of municipal solid waste or recyclable materials in the city without having first been issued a solid waste collection permit. Such permit shall be in addition to any business license or permit otherwise required by the City of Calabasas." Please contact the Public Works Department for a list of permitted haulers. An Encroachment Permit is required prior to placing a refuse bin/container on the street.
10. Construction Activities - Hours of construction activity shall be limited to:
  - i. 9:00 a.m. to 2:00 p.m., Monday through Friday
  - ii. 8:00 a.m. to 5:00 p.m., Saturday

Stacking of construction worker vehicles, prior to 7:00 a.m. in the morning will be restricted to areas that do not adversely affect adjacent residences or schools. The applicant or its successors shall notify the Public Works Director of the construction employee parking locations, prior to commencement of construction.

11. No new antenna, or additional equipment not included or specified in the stamped approved plans may be installed on the subject site under this permit.
12. No automatic renewal. The grant or approval of a wireless facility minor modification permit shall not renew or extend the underlying permit term.
13. Compliance with previous approvals. The grant or approval of a wireless facility minor modification permit shall be subject to the conditions of approval of the underlying permit, except as may be preempted by Section 6409, subdivision (a).
14. The applicant shall submit to the director an as-built set of plans and photographs depicting the entire personal wireless telecommunications facility as modified, including all transmission equipment and all utilities, within ninety (90) days after the completion of construction.
15. Indemnification. To the fullest extent permitted by law, the applicant and any successors and assigns, shall defend, indemnify and hold harmless City, its employees, agents and officials, from and against any liability, claims, suits, actions, arbitration proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including, but not limited to, actual attorney fees, litigation expenses and court costs of any kind without restriction or limitation, incurred in relation to, as a consequence of, arising out of or in any way attributable to, actually, allegedly or impliedly, in whole or in part, related to the wireless facility minor modification permit and the issuance of any permit or entitlement in connection therewith. The applicant shall pay such obligations as they are incurred by City, its employees, agents and officials, and in the event of any claim or lawsuit, shall submit a deposit in such amount as the City reasonably determines necessary to protect the City from exposure to fees, costs or liability with respect to such claim or lawsuit.
16. The applicant shall comply with all applicable provisions of this Code, any permit issued under this Code, and all other applicable federal, state, and local laws. Any failure by the City to enforce compliance with any applicable laws shall not relieve any applicant of its obligations under this code, any permit issued under this code, or all other applicable laws and regulations.
17. The facility shall be developed, maintained, and operated in full compliance with the conditions of the wireless facility minor modification permit, any other applicable permit, and any law, statute, ordinance or other regulation applicable to any development or activity on the site. Failure of the applicant to cease any

development or activity not in full compliance shall be a violation of these conditions. Any violation of this Code, the conditions of approval for the wireless facility minor modification permit, or any other law, statute, ordinance or other regulation applicable to any development or activity on the site may result in the revocation of this permit. The remedies specified in this section shall be cumulative and the city may resort to any other remedy available at law or in equity and resort to any one remedy shall not cause an election precluding the use of any other remedy with respect to a violation.

18. In the event that a court of competent jurisdiction invalidates or limits, in part or in whole, Title 47, United States Code, section 1455, such that such statute would not mandate approval for the collocation or modification granted or deemed granted under a wireless facility minor modification permit, such permit shall automatically expire twelve (12) months from the date of that opinion.
19. The grant, deemed-grant or acceptance of wireless facility minor modification permit shall not waive and shall not be construed or deemed to waive the City's standing in a court of competent jurisdiction to challenge Title 47, United States Code, section 1455 or any wireless facility minor modification permit issued pursuant to Title 47, United States Code, section 1455 or this code.



CITY of CALABASAS

**COMMUNITY DEVELOPMENT DEPARTMENT  
DECISION LETTER AND REPORT**

**EXHIBIT B: PUBLIC HEARING RECORD**


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**FILE NO.:** WTFM-2020-003  
**PROPOSAL:** A request for a Wireless Telecommunication Facility Minor Modification Permit to modify an existing AT&T wireless telecommunication facility in accordance with Section 6409(a) of the 2012 tax relief act. The applicant is proposing to remove and replace existing pole mounted and ground mounted equipment. The project is located at 24800 Cordillera Dr (APN: 2069-078-900), within the Public Facilities (PF) zoning district.  
**APPLICANT:** Andrea Liu, on behalf of AT&T

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1. On Wednesday, October 7, 2020, 2:00 P.M. in City Planner Tom Bartlett held the duly noticed public meeting via Zoom;
2. Jaclyn Rackerby, Assistant Planner presented the staff report for the project, which included the staff recommendation to approve the project. Following the staff report the designee of the Director, City Planner Tom Bartlett, opened the public hearing;
3. The applicant spoke in favor of the project.
4. With there being no other persons to present testimony regarding the application, the public hearing was closed.
5. The City Planner announced the decision as Approved.

## WIRELESS PLANNING MEMORANDUM

**TO:** Ms. Jaclyn Rackerby  
**FROM:** Dr. Jonathan Kramer   
**DATE:** August 28, 2020  
**RE:** (WTFM-2020-003) Technical Review for Proposed Modification to Monopole Wireless Site located near 24800 Cordillera Drive Submitted for Approval Under 47 U.S.C. § 1455(a)

**Applicant:** Smartlink Group. for AT&T Mobility  
**Site ID:** CLU2022/CLL02022

### 1. Summary

The City of Calabasas (the “**City**”) requested that Telecom Law Firm, PC (“**TLF**”) review the Smartlink Group (“the **Applicant**”) application submitted on behalf of AT&T Mobility (“**AT&T**”) to modify its existing wireless site located near 24800 Cordillera Drive.

The project appears to fall within the scope of Section 6409(a). This is because AT&T has proposed a modification that appears to be an eligible facility which does not cause a substantial change, therefore the overall shot clock for this project is 60 calendar days.

AT&T, under penalty of perjury, has affirmed that its wireless facility will be in planned compliance with the FCC RF emissions guidelines. The City should condition any permit issuance for this project to be subject to the conditions proposed in this memorandum regarding RF emissions safety.

This memorandum reviews the application and related materials for technical and regulatory issues specific to wireless infrastructure. Although many technical issues implicate legal issues, the analysis and recommendations contained in this memorandum do not constitute legal advice.

### 2. Project Description

AT&T requests approval to modify its existing wireless site pursuant to Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012.<sup>1</sup> Accordingly, this memorandum focuses its review to the initial questions: (1) whether Section 6409(a) applies to this proposal, and (2) whether the project demonstrates planned compliance with the FCC’s radio frequency exposure guidelines.

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<sup>1</sup> See Section 6409(a) of the Middle-Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, 126 Stat. 156. (Feb. 22, 2012) (codified as 47 U.S.C. § 1455(a)).

The Applicant submitted project plans dated April 30, 2020, (“Plans”) that show that AT&T currently operates a wireless site comprising of three monopoles. Each sector has four antennas: Sector A is oriented toward 100° True North (“TN”); Sector B is oriented toward 220° TN; and Sector C is oriented toward 310° TN. See Figure 1 for the existing monopoles at the water tank facility.



Figure 1: Photo of project (Source: Applicant submitted Photo).

TLF notes there are collocated carriers located on this parcel.

AT&T is proposing to modify its wireless facility by relocating antennas and replacing some of its associated equipment. For a summary of the project proposal, see Figure 2.

PROJECT DESCRIPTION
AT&T MOBILITY PROPOSES TO MODIFY AN EXISTING APPROVED WIRELESS FACILITY. THE SCOPE WILL CONSIST OF THE FOLLOWING:
<ul style="list-style-type: none"><li>• REMOVE 3 (E) LTE 1C RRUS-11 B12 (1 PER SECTOR).</li><li>• REMOVE 6 (E) LTE 3C RRUS-12 B2 (2 PER SECTOR).</li><li>• REMOVE (E) DC POWER PLANT.</li><li>• REMOVE (E) BATTERY CABINET.</li><li>• INSTALL 3 (N) RRUS-4449 B5/B12 (1 PER SECTOR).</li><li>• INSTALL 3 (N) RRUS-4415 B25 (1 PER SECTOR).</li><li>• INSTALL (N) NEQ.19918 DC POWER PLANT.</li><li>• INSTALL (N) NEQ.15919 BATTERY CABINET.</li><li>• INSTALL 9 (N) NEQ.15930 RECTIFIER MODULES INTO (N) DC POWER PLANT.</li><li>• INSTALL 2 (N) NEQ.15929 CONVERTERS INTO (N) DC POWER PLANT.</li><li>• REMOVE SKEW IN SECTOR 'B'.</li><li>• RE-USE (E) 150 AHR BATTERIES, 6 STRINGS TOTAL.</li></ul>
EDGE TO EDGE SEPARATION: P1-P2 = 36" P2-P3 = 6" P3-P4 = 24"

Figure 2: Summary of proposed modification (Source: Plans, Page T-1).



Figure 3 shows AT&T's existing antenna layout plan and Figure 4 shows the proposed antenna layout plan. We note the microwave dish antenna is proposed to no longer be askew.

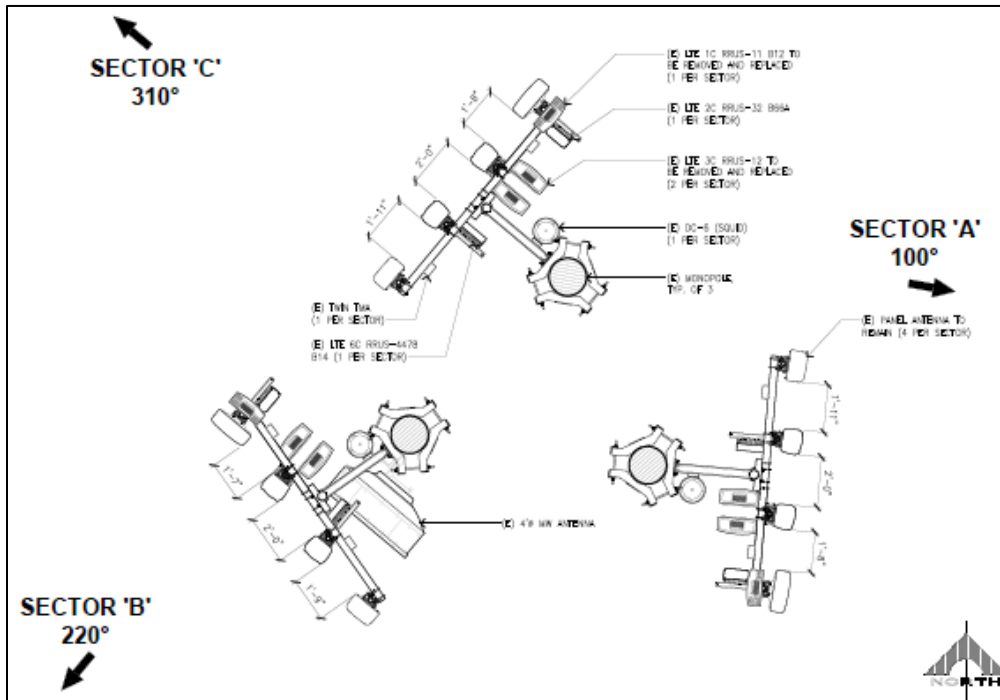


Figure 3: Existing antenna layout plan (Source: Plans, page A-3, panel 1).

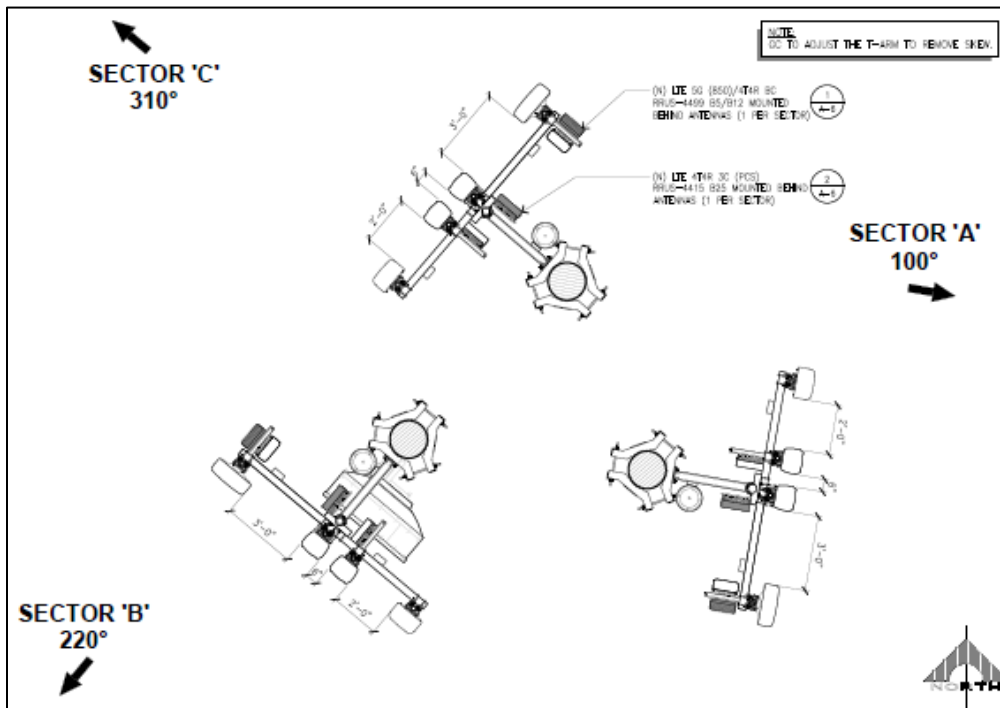


Figure 4: Proposed antenna layout plan (Source: Plans, page A-3, panel 2).





The relocated panel antennas will remain with a centerline height of 33' AGL, see Figure 5 and Figure 6, shown in elevation view with details.

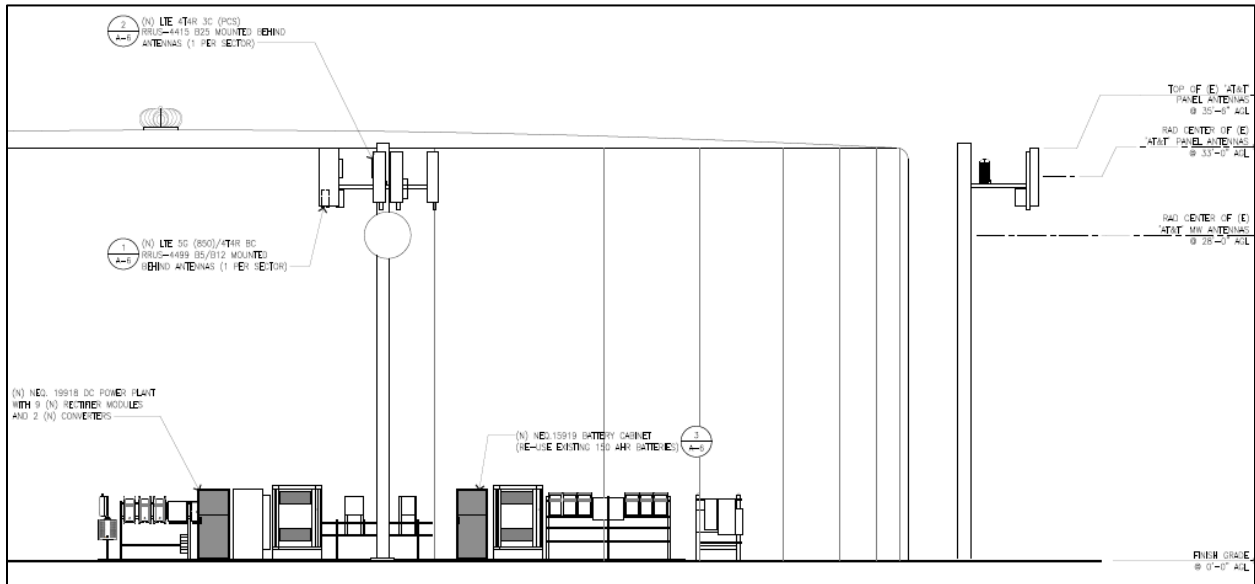


Figure 5: Elevation view of proposed modifications in Sector A and Sector B (Source: Plans, page A-4, panel 2).

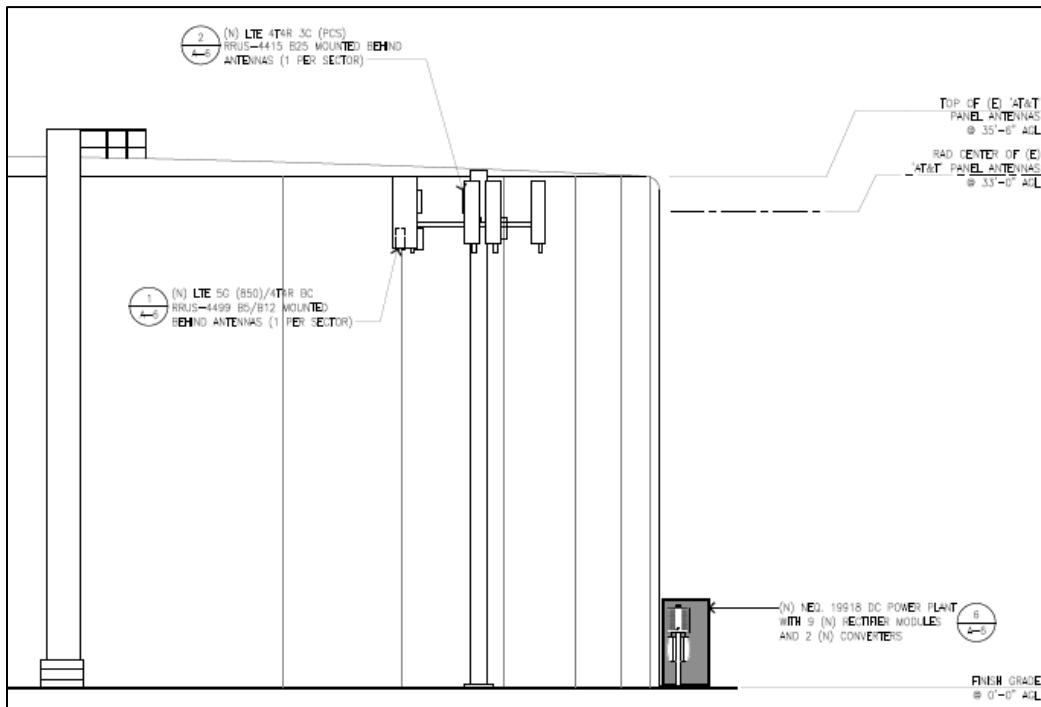


Figure 6: Elevation view of proposed modifications in Sector C (Source: Plans, page A-5, panel 2).



### 3. Section 6409(a) Analysis

As a threshold matter, the City must determine whether federal law mandates approval for this permit application. Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012 requires that State and local governments “may not deny, and shall approve” an “eligible facilities request” so long as the proposal does not result in a “substant[ial] change.”<sup>2</sup> The applicant bears the burden to prove that its proposal qualifies.

#### 3.1 Eligible Facilities Request

Section 6409(a)(2) defines an “eligible facilities request” as a request to collocate, remove or replace transmission equipment on an existing wireless tower or base station.<sup>3</sup> The FCC defines “collocation” as “[t]he mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.”<sup>4</sup> Unlike the traditional definition, a collocation for Section 6409(a) purposes does not necessarily mean two wireless sites at a shared location—it more accurately means simply “to add” transmission equipment.

The term “transmission equipment” encompasses virtually all equipment found at facilities that transmit communication signals over the air. The FCC defines transmission equipment as:

[e]quipment that facilitates transmission for any Commission-licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.<sup>5</sup>

A “tower” means any structure built solely or primarily to support transmission equipment.<sup>6</sup> Towers typically include monopoles (or mono-variants), lattice towers and other free-standing structures such as commercial signs when designed and constructed primarily to support wireless equipment. A tower need not actually support wireless equipment but must have been legally constructed under the applicable regulations at the time it was built or modified.

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<sup>2</sup> See Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, 126 Stat. 156. (Feb. 22, 2012) (codified as 47 U.S.C. § 1455(a)).

<sup>3</sup> See 47 U.S.C. § 1455(a)(2).

<sup>4</sup> See 47 C.F.R. § 1.40001(b)(2). The rules further define an “eligible support structure” as a short-hand reference to an existing wireless tower or base station at the time an applicant files a permit application. See *id.* § 1.40001(b)(4).

<sup>5</sup> See *id.* § 1.40001(b)(8).

<sup>6</sup> See *id.* § 1.40001(b)(9).



In contrast, a “base station” means a non-tower structure at a fixed location and the validly permitted or approved associated transmission equipment that enables FCC-licensed or authorized wireless communications between user equipment and a communications network.<sup>7</sup> The term can include DAS and small cells.<sup>8</sup> The structure must also currently support transmission equipment under a valid permit or other approval.<sup>9</sup>

The monopoles qualify as “towers” because they were built primarily to support FCC-licensed or authorized equipment. AT&T proposes to collocate “transmission equipment” because the RRUs are normally associated with wireless facilities.

It does not appear to TLF that there are any unpermitted changes to the monopoles. For the purposes of moving to the next steps of our memorandum, we presume that the existing site is constructed in accordance with of all City permits. The next step is to evaluate whether the proposed modification will cause a substantial change.

### 3.2 Substantial Change Thresholds for Towers

Section 6409(a) does not mandate approval merely because it qualifies as an eligible facilities request. The applicant must show that the proposed project will not “substantially change the physical dimensions of such existing wireless tower or base station.”<sup>10</sup>

The FCC created a six-part test to determine whether a “substantial change” occurs or not. The test involves thresholds for height increases, width increases, new equipment cabinets, new excavation, changes to concealment elements and permit compliance. A project that exceeds any one threshold causes a substantial change. Additionally, the FCC considers a substantial change to occur when the project replaces the entire support structure or violates a generally applicable law or regulation reasonably related to public health and safety. State and local jurisdictions cannot consider any other criteria or threshold for a substantial change.

#### 3.2.1 Height Increases

An increase in height causes a substantial change when it increases the tower height 10% or the height of an additional antenna array with separation from the nearest array not to exceed 20 feet (whichever is greater).<sup>11</sup> The FCC does not elaborate on how to measure the separation between the modification and the “nearest array.” The height limit is a cumulative limit.<sup>12</sup> For almost all towers, the cumulative limit is measured from the original discretionary approval

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<sup>7</sup> See *id.* § 1.40001(b)(1).

<sup>8</sup> See *id.* § 1.40001(b)(1)(ii).

<sup>9</sup> See 47 C.F.R. § 1.40001(b)(1)(iii), (iv).

<sup>10</sup> See 47 U.S.C. § 1455(a).

<sup>11</sup> See 47 C.F.R. § 1.40001(b)(7)(i).

<sup>12</sup> See 47 C.F.R. § 1.40001(b)(7)(i)(A); see also *Infrastructure Order* at ¶ 95.



because the equipment will be vertically separated.<sup>13</sup> Any height increase above the cumulative limit allowed under 6409(a) as interpreted by the FCC amounts to a substantial change.

Here, the proposed modification will not substantially increase the overall height of the monopoles.

### **3.2.2 Width Increases**

An increase in width causes a substantial change when it adds an appurtenance that protrudes from the support structure more than 20 feet or the tower width at the appurtenance (whichever is greater).<sup>14</sup> Unlike height increases, no cumulative limit applies to width increases.

Here, the proposed modification will not cause an increase the width.

### **3.2.3 Additional Equipment Cabinets**

A collocation or modification causes a substantial change when it adds more than the standard number of equipment cabinets for the technology involved (not to exceed four).<sup>15</sup> The FCC does not define an “equipment cabinet” or indicate how to determine the “standard number” for a given technology.

Here, the proposed modification does not exceed the FCC’s four equipment cabinet threshold. AT&T plans to install fewer than four new cabinets, not exceeding the FCC’s cabinet limit for 6409(a) treatment.

### **3.2.4 New Excavation**

A collocation or modification causes a substantial change when it involves excavation outside the leased or owned area, which includes access and utilities easements.<sup>16</sup>

Here, the modification does not propose any new ground disturbance. All proposed changes will either occur behind the antennas on the monopoles or within the existing equipment cabinets.

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<sup>13</sup> See 47 C.F.R. § 1.40001(b)(7)(i)(A).

<sup>14</sup> See 47 C.F.R. § 1.40001(b)(7)(ii).

<sup>15</sup> See 47 C.F.R. § 1.40001(b)(7)(iii).

<sup>16</sup> See 47 C.F.R. § 1.40001(b)(7)(iv); *see also* 47 C.F.R. § 1.40001(b)(6).



### 3.2.5 Changes to Concealment Elements

A collocation or modification causes a substantial change when it would “defeat the concealment elements of the support structure.”<sup>17</sup> Although the FCC does not provide much guidance on what change might “defeat” a concealment element, the regulations suggest that the applicant must do at least as much to conceal the new equipment as it did to conceal the originally-approved equipment.<sup>18</sup>

The existing site is not camouflaged (except for paint). The proposed modifications appear to match the paint of the underlying monopoles, the existing antennas and associated equipment. Therefore, the modification does not appear to defeat the concealment elements of the monopoles.

### 3.2.6 Permit Compliance

Lastly, a collocation or modification causes a substantial change when it would violate a prior condition attached to the original site approval, so long as the condition does not conflict with the thresholds for a substantial change in height, width, excavation or equipment cabinets (but not concealment).<sup>19</sup>

It does not appear to TLF that there have been any unpermitted changes to the monopoles. However, the City should determine whether any unpermitted changes have taken place by AT&T.

### 3.2.7 Section 6409(a) Conclusion

This project appears to fall within the scope of Section 6409(a). As such, the City ‘may not deny and shall approve’ the request.

## 4. Planned Compliance with RF Exposure Regulations

Under the federal Telecommunications Act, the FCC completely occupies the field with respect to RF emissions regulation. The FCC established comprehensive rules for human exposure to RF emissions (the “**FCC Guidelines**”).<sup>20</sup> State and local governments cannot regulate wireless

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<sup>17</sup> See 47 C.F.R. § 1.40001(b)(7)(v).

<sup>18</sup> See *Infrastructure Order* at ¶ 99.

<sup>19</sup> See 47 C.F.R. § 1.40001(b)(7)(vi).

<sup>20</sup> See 47 U.S.C. § 332(c)(7)(B)(iv); see also 47 C.F.R. § 1.1307 *et seq.*; FCC Office of Engineering and Technology, *Evaluating Compliance with FCC Guidelines for Human Exposure to Radiofrequency Electromagnetic Fields*, OET Bulletin 65, ed. 97-01 (1997).



facilities based on environmental effects from RF emissions to the extent that the emissions comply with the FCC Guidelines.<sup>21</sup>

Although localities cannot establish their own standards for RF exposure, local officials may require wireless applicants to demonstrate compliance with the FCC Guidelines.<sup>22</sup> Such demonstrations usually involve a predictive calculation because the site has not yet been built.

#### 4.1 FCC Guidelines

FCC Guidelines regulate *exposure* rather than *emissions*.<sup>23</sup> Although the FCC establishes a maximum permissible exposure (“MPE”) limit, it does not mandate any specific limitations on power levels applicable to all antennas and requires the antenna operator to adopt exposure-mitigation measures only to the extent that certain persons might become exposed to the emissions. Thus, a relatively low-powered site in proximity to the general population might require more comprehensive mitigation measures than a relatively high-powered site in a remote location accessible only to trained personnel.

The MPE limit also differentiates between “general population” and “occupational” classes. Most people fall into the general population class, which includes anyone who either does not know about potential exposure or knows about the exposure but cannot exert control over the transmitters.<sup>24</sup> The narrower occupational class includes persons exposed through their employment and able to exert control over their exposure.<sup>25</sup> The MPE limit for the general population is five times lower than the MPE limit for the occupational class.

Lastly, the FCC “categorically excludes” certain antennas from routine environmental review when either (1) the antennas create exposures in areas virtually inaccessible to humans or (2) the antennas operate at extreme low power. As a general rule, a wireless site qualified for a categorical exclusion when mounted on a structure built solely or primarily to support FCC-licensed or authorized equipment (*i.e.*, a tower) and such that the lowest point on the lowest transmitter is more than 10 meters (32.8 feet) above ground.<sup>26</sup>

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<sup>21</sup> See 47 U.S.C. § 332(c)(7)(B)(iv).

<sup>22</sup> See *In re Procedures for Reviewing Requests for Relief from State and Local Regulations Pursuant to Section 332(c)(7)(B)(iv) of the Communications Act of 1934, Report and Order*, 15 FCC Rcd. 22821, 22828–22829 (Nov. 13, 2000) (declining to adopt rules that limit local authority to require compliance demonstrations).

<sup>23</sup> See generally Human Exposure to Radio Frequency Fields: Guidelines for Cellular and PCS Sites, *Consumer Guide*, FCC (Oct. 22, 2014), available at <https://www.fcc.gov/guides/human-exposure-rf-fields-guidelines-cellular-and-pcs-sites> (discussing in general terms how wireless sites transmit and how the FCC regulates the emissions).

<sup>24</sup> See 47 C.F.R. § 1.1310, Note 2.

<sup>25</sup> See *id.*

<sup>26</sup> See *id.* § 1.1307(b)(1).



Categorical exclusions establish a presumption that the emissions from the antennas will not significantly impact humans or the human environment. Such antennas are exempt from routine compliance evaluations but not exempt from actual compliance. Under some circumstances, such as a heavily collocated tower or when in close proximity to general population members, even a categorically excluded site will require additional analysis.

#### 4.2 Evaluation and Recommendations

The FCC does not categorically exclude AT&T's facility from routine compliance review because even though the monopoles were constructed for the primary use for wireless services, the lowest point of the microwave antenna is approximately 26' AGL.

The Calabasas Municipal Code ("**CMC**") §17.12.050(C)(2)(f) requires applicants to submit "[a]n affirmation, under penalty of perjury, that the proposed installation will be FCC compliant, in that it will not cause members of the general public to be exposed to RF levels that exceed the [maximum permissible exposure] levels deemed safe by the FCC." Any application without such an affirmation is incomplete. Here, AT&T submitted a signed compliance letter. The compliance letter certifies compliance under penalty of perjury as required under the Code. Accordingly, this application meets the City's standard.

To promote planned compliance with the FCC Guidelines, the City should now plan on requiring the following conditions of approval for this project:

1. Permittee shall ensure that all federally-required radio frequency signage be installed and maintained at all times in good condition. All such radio frequency signage be constructed of hard materials and be UV stabilized. All radio frequency signage must comply with the sign colors, sign sizes, sign symbols, and sign panel layouts in conformance with the most current versions of ANSI Z535.1, ANSI Z535.2, and ANSI C95.2 standards. All such radio frequency signage, or additional signage immediately adjacent to the radio frequency signage, shall provide a working local or toll-free telephone number to its network operations center that reaches a live person who can exert transmitter power-down control over this site as required by the FCC.
2. In the event that the FCC changes any of radio frequency signage requirements that are applicable to the project site approved herein or ANSI Z535.1, ANSI Z535.2, and ANSI C95.2 standards that are applicable to the project site approved herein are changed, Permittee, within 30 days of each such change, at its own cost and expense, shall replace the signage at the project site to comply with the then current standards.

/JLK







at&t

CLU2022/CLLO2022  
CORDILLERA WT

24800 CORDILLERA DRIVE CALABASAS CA 91302



VIEW 1



EXISTING



PROPOSED

LOOKING SOUTHEAST FROM 101 FREEWAY





at&t

CLU2022/CLLO2022  
CORDILLERA WT

24800 CORDILLERA DRIVE CALABASAS CA 91302



VIEW 2



EXISTING



PROPOSED

LOOKING SOUTH FROM SITE





at&t

# CLU2022/CLLO2022 CORDILLERA WT

24800 CORDILLERA DRIVE CALABASAS CA 91302



VIEW 3



EXISTING



PROPOSED

LOOKING SOUTHWEST FROM SITE





at&t

# CLU2022/CLLO2022 CORDILLERA WT

24800 CORDILLERA DRIVE CALABASAS CA 91302



VIEW 4



EXISTING



PROPOSED

LOOKING NORTHEAST FROM ACCESS ROAD