Exhibit I

CITY of CALABASAS

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

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-2020-005

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-2020-005.** 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 equipment and replace equipment located in existing underground vault. The project is located at 4280 Valmar Rd within the Public Right-of-Way.

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.

Sincerely,

Jaclyn Rackerby
Assistant Planner

Attachment: Community Development Director Decision Letter and Report

CITY of CALABASAS

COMMUNITY DEVELOPMENT DIRECTOR
DECISION LETTER AND REPORT

FILE NO.: WTFM-2020-005

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 equipment and replace equipment located in existing underground vault. The project is located at 4280 Valmar Rd within the Public Right-of-Way.

APPLICANT: Andrea Liu, on behalf of AT&T

BACKGROUND:

On June 30, 2020, Smartlink LLC filed an application, on behalf of AT&T, to upgrade an existing wireless telecommunication facility located at 4280 Valmar Rd within the Public Right-of-Way. The application was reviewed by staff and deemed complete on September 14, 2020.

The existing AT&T facility was constructed in 2006, (approved Zoning Clearance No. 05-288) updated in 2013 (Scenic Corridor Permit and Wireless Telecommunication Facility Permit, File No. 130000429), with approvals to replace existing underground equipment and antennas to provide LTE coverage, and updated in 2018 (Wireless Telecommunication Facility Permit File No. 180001010) to replace antennas and install new equipment within the underground vault.

The proposed project includes the replacement of two antennas, as well as replacement of equipment within an existing underground vault. 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 September 3, 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 4280 Valmar Rd within the public right-of-way, approximately 650 feet south of the intersection of Valmar Rd and Park Ora, on the east side of the street. The existing facility was approved on June 7, 2006, and subsequently modified and approved on September 17, 2013 and November 7, 2018. The current facility is made up of four panel antennas

mounted to a wood utility pole, and associated mechanical equipment located within an underground vault with five remote radio units (RRUs).

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 replacement of pole mounted equipment and replacement of equipment within the existing underground vault.

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 equipment within the existing underground equipment enclosure and replacement of equipment mounted to the existing pole, 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)(c) stipulates that the Director must approve an application for a wireless facility minor modification permit for a collocation or modification to an existing tower or base station within the public right-of-way, 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 of two antennas mounted to an existing wood utility pole and the modification of an existing wireless base station (i.e., equipment in underground vault) located in the public right-of-way. 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. 180001010, 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 involve the replacement of equipment within the existing underground vault, and the replacement of existing pole mounted equipment. 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 involve the replacement of equipment within the existing underground enclosure and replacement of existing equipment mounted to the pole. 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 modification to the base station involves the removal and replacement of existing RRUs and baseband unit within the underground equipment vault. 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 either (i) the installation of any new equipment cabinets on the ground, if none already exist, or (ii) the installation of ground equipment cabinets that are more than ten (10) percent larger in height or overall volume than any existing ground cabinets;*

   The proposed project does not involve the installation of any new ground mounted equipment. Therefore, this finding is met.

6. *The proposed collocation or modification does not involve any excavation outside the area in proximity to the existing ground-mounted equipment in the public right-of-way;*

The proposed modification to the base station include replacing equipment within the existing underground vault, and does not involve any ground disturbance. Therefore, the proposed project meets this finding.

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

   The existing wireless facility mechanical equipment is in an underground vault and not visible. The proposed project will maintain this configuration, and the replacement pole mounted equipment will be painted brown to match the pole and existing equipment. For this reason, the proposed project satisfies this finding.

8. *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).*

   Upon a site visit by City staff, it was determined that the existing wireless facility was constructed and remained in compliance with the approved plans and conditions of approval contained within the latest approved project, (File No. 180001010). Therefore, the proposed project meets 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.

Applicant/Carrier Representative — Date: 10-13-2020

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:

__X__ Approved ____ Denied

Tom Bartlett, AICP, City Planner — Date: 10-7-2020

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

FILE NO.:	WTFM-2020-005
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 equipment and replace equipment located in existing underground vault. The project is located at 4280 Valmar Rd within the Public Right-of-Way.
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-2020-005 and the issuance of any permit or entitlement in connection therewith, or the activities conducted pursuant to this File No WTFM-2020-005 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-2020-005 and the issuance of any permit or entitlement in connection therewith, or the activities conducted pursuant to this File No. WTFM-2020-005 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.

20. 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.

21. 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.

CITY of CALABASAS

COMMUNITY DEVELOPMENT DEPARTMENT
DECISION LETTER AND REPORT

EXHIBIT B: PUBLIC HEARING RECORD

FILE NO.:	WTFM-2020-005
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 equipment and replace equipment located in existing underground vault. The project is located at 4280 Valmar Rd within the Public Right-of-Way.
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. Joel Fishman, a neighboring property owner, asked questions regarding the project timing, technology, and improvement to service in the area. The applicant answered his questions, and he expressed no concerns related to project approval.

5. With there being no other persons to present testimony regarding the application, the public hearing was closed.

6. The City Planner announced the decision as Approved.

TELECOM LAW FIRM PC

WIRELESS PLANNING MEMORANDUM

TO:	Ms. Jaclyn Rackerby
FROM:	Dr. Jonathan Kramer
DATE:	September 3, 2020
RE:	(WTFM-2020-005) Technical Review for Proposed Modification to Existing Wireless Site located near 4280 S. Valmar Road Submitted for Approval Under 47 U.S.C. § 1455(a)
Applicant:	Smartlink Group. for AT&T Mobility
Site Name:	R.O.W. Peacock

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 4280 S. Valmar Road.

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.[1] Accordingly, this memorandum focuses its review to the initial questions: (1) whether Section 6409(a) applies to this proposal, and (2) whether the project provides the required and necessary information relating to planned compliance with the FCC's radio frequency exposure guidelines.

[1] *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 July 23, 2020, ("**Plans**") that show that AT&T currently operates an existing wireless site comprising of four panel antennas and two GPS antennas, arm mounted, on a queens post wood utility pole ("**Pole**"). AT&T is proposing to modify its wireless site by removing and replacing its antennas and replacing some of its ancillary equipment. For a summary of the project proposal, see Figure 1.

PROJECT DESCRIPTION

AT&T MOBILITY PROPOSES TO MODIFY AN EXISTING APPROVED WIRELESS FACILITY.
THE SCOPE WILL CONSIST OF THE FOLLOWING:

- REMOVE 2 (E) PANEL ANTENNAS (1 PER SECTOR).
- REMOVE 2 (E) LTE 1C RRUS-11 B12 (1 PER SECTOR).
- REMOVE 4 (E) LTE 2C RRUS-12 B2 (2 PER SECTOR).
- REMOVE 4 (E) TMAs (2 PER SECTOR).
- INSTALL 2 (N) 4' 12-PORT PANEL ANTENNAS (1 PER SECTOR).
- INSTALL 2 (N) RRUS-4449 B5/B12 (1 PER SECTOR).
- INSTALL 2 (N) RRUS-8843 B2/B66A (1 PER SECTOR).
- INSTALL 4 (N) TMAs (2 PER SECTOR).
- INSTALL 1 (N) 6630 BASEBAND UNIT WITHIN (E) FIF RACK.
- EDGE TO EDGE: P1-P2 = 8'-0"

NOTE: EXISTING 48VDC POWER PLANT HAS SUFFICIENT CAPACITY TO SUPPORT NEW LOADS.

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

Figure 2 shows a simulated overview of AT&T's proposal.

Figure 2: Photo simulation of modification (Source: Applicant submitted Photo Simulations; annotations in original).

The Pole stands at 39' above ground level ("**AGL**"). The centerline of the antenna to remain will be situated at 24' AGL and the proposed antennas will have a centerline height of 23'9". See Figure 3 for an elevation view of the Pole with details.

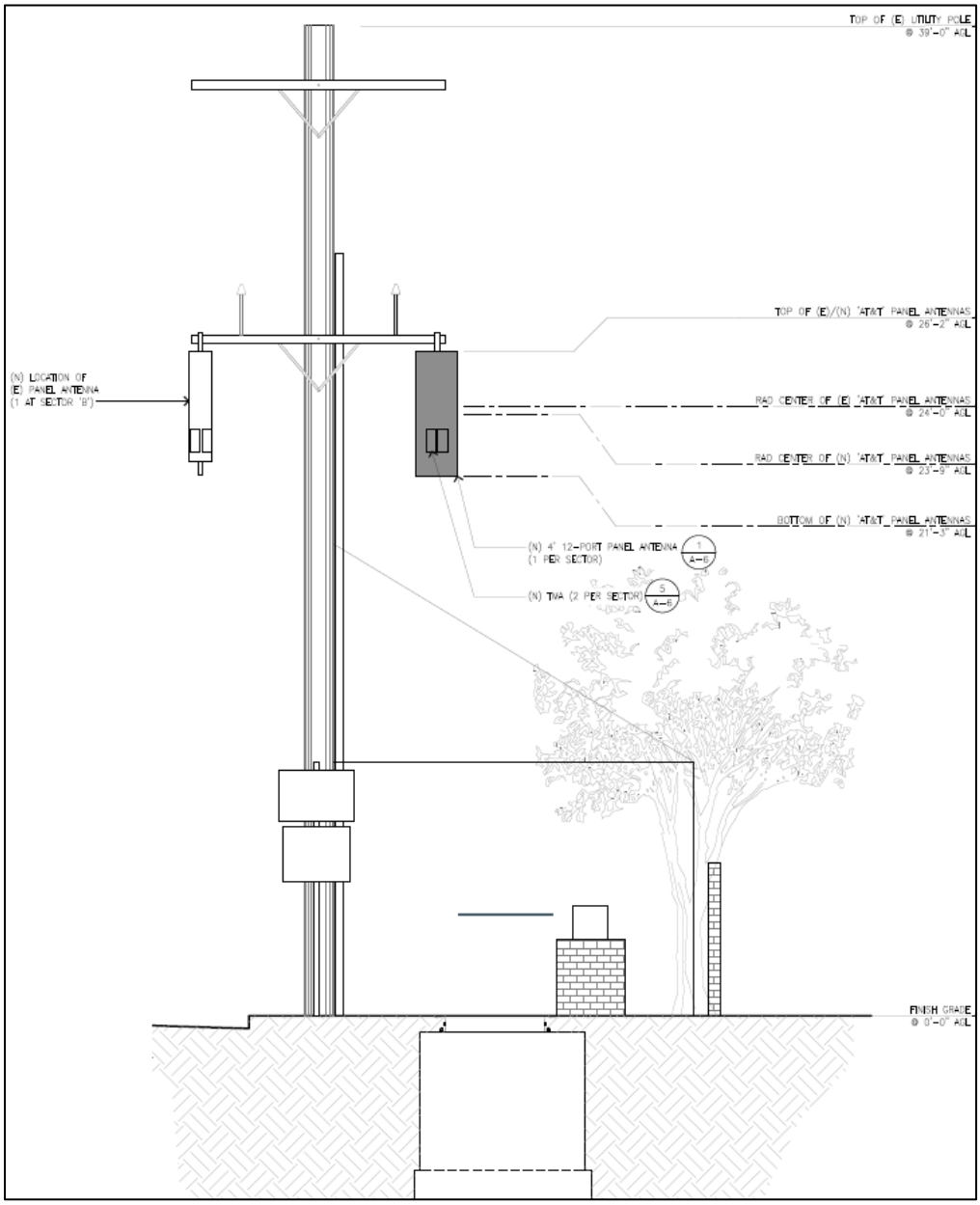

Figure 3: Elevation view of proposed modifications (Source: Plans, page A-4, panel 1).

Sector B antennas are oriented toward 200° True North ("**TN**") and Sector C antennas are oriented toward 340° TN. The sector antenna orientations will remain unchanged after the modification. See Figure 4 for the proposed antenna layout plan and the antenna orientations.

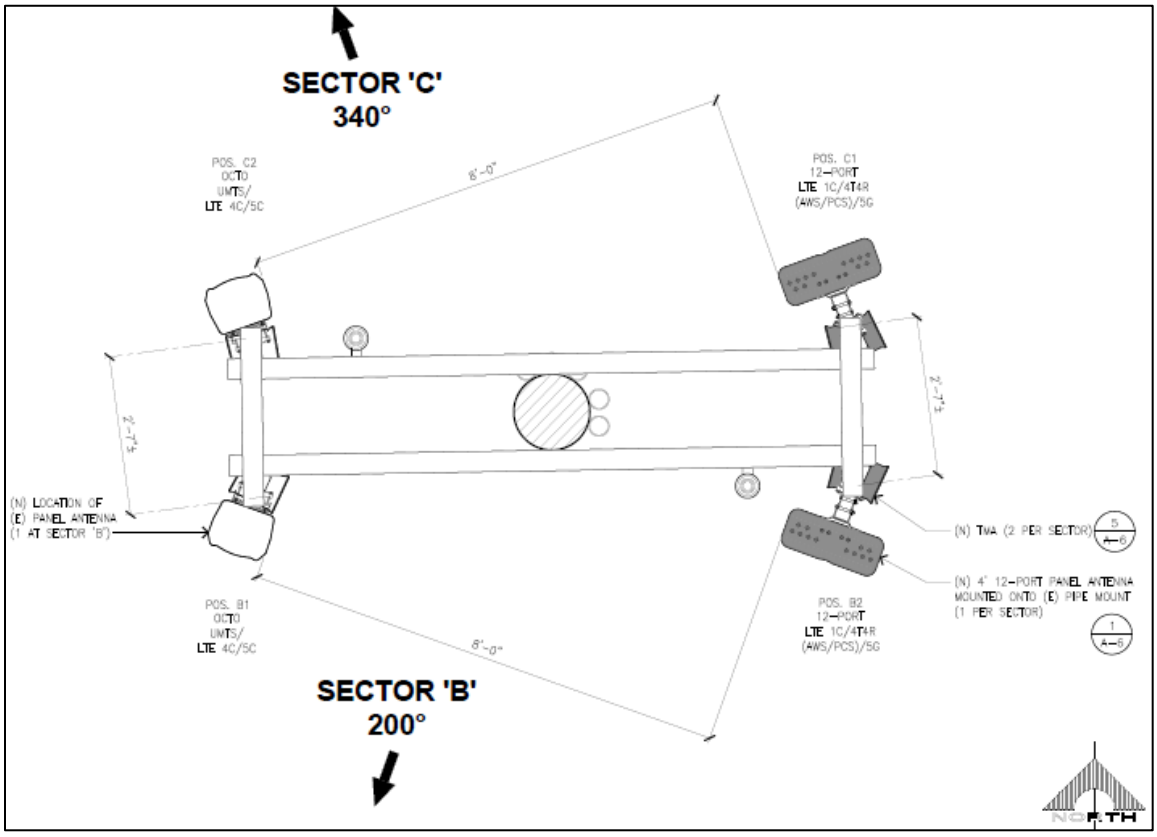

Figure 4: Proposed antenna layout plan (Source: Plans, page A-3, panel 2).

3. Section 6409(a) Analysis

Section 6409(a) requires that a State or local government "may not deny, and shall approve" any "eligible facilities request" for a wireless site collocation or modification so long as it does not cause a "substant[ial] change in [that site's] physical dimensions."[2] FCC regulations interpret key terms in this statute and impose certain substantive and procedural limitations on local review.[3] Localities must review applications submitted for approval pursuant to Section 6409(a), but the applicant bears the burden to show it qualifies for mandatory approval.

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. FCC regulations define the term "collocation" as "[t]he mounting or installation of transmission equipment on

[2] *See* 47 U.S.C. § 1455(a).
[3] *See* In the Matter of Acceleration of Broadband Deployment by Improving Wireless Facilities Siting Policies, *Report and Order*, 29 FCC Rcd. 12865 (Oct. 17, 2014) (codified as 47 C.F.R. §§ 1.40001, *et seq.*) [hereinafter "*Infrastructure Order*"].

an [existing wireless tower or base station]" and the term "transmission equipment" broadly includes "equipment that facilitates transmission for any [FCC]-licensed or authorized wireless communication service."[4] A "tower" means any structure built solely or primarily to support transmission equipment, whether it actually supports any equipment or not.[5] In contrast, a "base station" means a non-tower structure in a fixed location approved for use as a wireless support by the local jurisdiction that actually supports transmission equipment at the time a collocation or modification request is submitted.[6]

The FCC also provides that whether a tower or base station "exists" depends on both its *physical* and *legal* status.[7] Section 6409(a) does not mandate approval for collocations and modifications when the support structure was constructed or deployed without proper local review, was not required to undergo local review, or involves equipment that was not properly approved.[8] This rule attempts to preserve the local government's authority to review wireless facilities in the first instance and withhold statutory benefits under Section 6409(a) in cases where the site operator deployed equipment without all required prior approvals.

In situations where an applicant submits an application for approval pursuant to Section 6409(a) but the local jurisdiction finds that the application does not qualify for mandatory approval, the FCC recommends that the local jurisdiction convert the project into one governed under the traditional standards in the Telecommunications Act.[9]

Here, AT&T's application materials appear to establish that the proposed modification is an eligible facilities request because AT&T plans to install and modify its equipment at a physically existing wireless base station.

The installation is a "collocation" on a "base station" because AT&T would add its equipment on a wood utility pole that currently supports wireless equipment but was not originally and solely constructed for wireless use. The antennas and the remote radio units constitute transmission equipment under the FCC's definitions because AT&T deploys each item in order to transmit and receive wireless communications signals to provide its services.

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[4] *See* 47 C.F.R. §§ 1.40001(b)(2), (8); *see also Infrastructure Order* at ¶¶ 158–60 (describing examples for transmission equipment) and ¶¶ 178–81 (discussion what constitutes a collocation under Section 6409).
[5] 47 C.F.R. § 1.40001(b)(9); *see also Infrastructure Order* at ¶ 166.
[6] *See* 47 C.F.R. § 1.40001(b)(1); *see also Infrastructure Order* at ¶ 166. The term "base station" can include DAS and small cells. *See* 47 C.F.R. § 1.40001(b)(1)(ii).
[7] *See* 47 C.F.R. § 1.40001(b)(5); *see also Infrastructure Order* at ¶ 174.
[8] *See Infrastructure Order* at ¶ 174 ("[I]f a tower or base station was constructed or deployed without proper review, was not required to undergo siting review, or does not support transmission equipment that received another form of affirmative State or local regulatory approval, the governing authority is not obligated to grant a collocation application under Section 6409(a).").
[9] *See Infrastructure Order* at ¶ 220.

We cannot confirm the base station's legal status, but it appears to TLF from the documents furnished, that the wireless facility has been built in accordance with its permits. The City indicated that the previously issued permits did not have specific conditions of approval that the PVC conduits need to be flush to the Pole. For the purposes of moving to the next steps of our memorandum, we presume that AT&T has deployed its current site in accordance with all City permits. The next step is to evaluate whether the proposed modifications will cause a substantial change.

3.2 Substantial Change Thresholds for Base Stations

Section 6409(a) does not mandate approval for all eligible facilities requests. The Applicant must still show that its eligible facilities request will not cause a substantial change.[10]

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 to a base station when it increases the support structure height 10% or 10 feet (whichever is greater).[11] The height limit is a *cumulative* limit.[12] For almost all base stations, the cumulative limit is measured from the original structure height because the equipment will be horizontally separated.[13]

Here, the proposed modification will <u>not</u> increase the height, thus not causing a substantial change.

3.2.2 Width Increases

An increase in width causes a substantial change to a base station when it adds an appurtenance that protrudes more than six feet from the support structure.[14] This threshold

[10] *See* 47 U.S.C. § 1455(a).
[11] *See* 47 C.F.R. § 1.40001(b)(7)(i).
[12] *See id.* § 1.40001(b)(7)(i)(A); *see also Infrastructure Order* at ¶ 196.
[13] *See* 47 C.F.R. § 1.40001(b)(7)(i)(A); *see also Infrastructure Order* at ¶ 197.
[14] *See* 47 C.F.R. § 1.40001(b)(7)(ii); *see also Infrastructure Order* at ¶ 194.

concerns additions *appurtenant to* the support structure, such as new building-mounted equipment that protrudes from the facade.[15]
Unlike height increases, no cumulative limit applies to width increases. Each increase in width must be assessed on its own and without regard to any prior increases in width or new appurtenances from the support structure.

Here, there is no proposed width increase, thus there is no substantial change of this element.

3.2.3 Additional Equipment Cabinets

A collocation or modification causes a substantial change when it adds (1) more than the standard number of equipment cabinets for the technology involved (not to exceed four), (2) any new equipment cabinets when no ground-mounted equipment cabinets exist at the current structure or (3) additional ground cabinets more than 10% taller or more voluminous than any current ground cabinets.[16]

Here, AT&T proposal does not exceed more than four equipment cabinets, therefore there is no substantial change.

3.2.4 New Excavation

A collocation or modification causes a substantial change to a base station when it involves excavation or deployments outside the "site" or "area in proximity to the structure and to other transmission equipment already deployed on the ground."[17] The FCC defines "site" as the leased or owned areas and associated easements for access and utilities, but does not define "proximity" for this purpose.[18]

Here, the proposed modification would not cause any ground disturbance, thus this specification for substantial change is inapplicable to the instant project.

3.2.5 Changes to Concealment Elements

[15] *See Infrastructure Order* at ¶ 194. Although the FCC's regulations are not explicitly clear on what constitutes an "appurtenance" for this purpose, the *Infrastructure Order* limits its discussion to articles such as cross arms on a utility pole, screen boxes on a building facade or mounts on a tower. *See id.* Accordingly, these criteria most likely do not involve new deployments adjacent to the support structure, such as a new ground-mounted cabinet, even though such deployments may be technically "appurtenant" to the support structure due to interconnection with power and fiber lines. The FCC dealt with these new changes elsewhere in its regulations. *See* 47 C.F.R. § 1.40001(b)(7)(iv), (b)(6); *see also Infrastructure Order* at ¶ 198–99.
[16] *See* 47 C.F.R. § 1.40001(b)(7)(iii).
[17] *See* 47 C.F.R. § 1.40001(b)(7)(iv), (b)(6); *see also Infrastructure Order* at ¶ 198–99.
[18] *See* 47 C.F.R. § 1.40001(b)(6).

A collocation or modification causes a substantial change when it would "defeat the concealment elements of the support structure."[19] Although the FCC does not provide clear 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.[20] Moreover, "the [*Infrastructure*] *Order* permits States and localities to condition a facility modification request on compliance with concealment measures and generally applicable building and safety codes."[21]

Here, AT&T will not defeat the existing concealment elements because the Applicant submitted Photo Simulations that show the proposed modification equipment will be painted brown to match to the Pole and the existing AT&T antenna. Accordingly, the City should conclude that this element is will not cause a substantial change.

3.2.6 Permit Compliance

Lastly, of the six elements that could cause a request to fall out of Section 6409(a), a collocation or modification causes a substantial change when it would violate a prior condition attached to the original site approval or any modification 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).[22]

It does not appear to TLF, but we cannot confirm, that any unpermitted changes have been made by AT&T on the Pole. Accordingly, we cannot determine whether a permit condition violation will form an independent basis to find that a substantial change would occur. The City should determine whether any unpermitted changes have taken place by AT&T.

3.3 Section 6409(a) Conclusion

This project appears to fall within the scope of Section 6409(a) given that AT&T's modification does not cause a substantial change.

4. Planned Compliance with RF Exposure Regulations

[19] *See* 47 C.F.R. § 1.40001(b)(7)(v).
[20] *See Infrastructure Order* at ¶ 99.
[21] *See* Brief for Respondent at 20, *Montgomery Cnty. v. FCC*, 811 F.3d 121 (4th Cir. 2015) (No. 15-1240); *see also id.* at 41 (stating that "the *Order* preserves the authority of States and localities to enforce concealment conditions"). The FCC provided the following example to further elaborate this point: "…[W]here an existing tower is concealed by a tree line and its location below the tree line was a consideration in its approval, an extension that would raise the height of the tower above the tree line would constitute a substantial change, and a zoning authority could impose conditions designed to conceal the modified facility." *Id.* at 41.
[22] *See* 47 C.F.R. § 1.40001(b)(7)(vi).

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**").[23] State and local governments cannot regulate wireless facilities based on environmental effects from RF emissions to the extent that the emissions comply with the FCC Guidelines.[24]

Although localities cannot establish their own standards for RF exposure, local officials may require wireless applicants to demonstrate compliance with the FCC Guidelines.[25] 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*.[26] 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.[27] The narrower occupational class includes persons exposed through their employment and able to exert control over their exposure.[28] 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-

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[23] *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).

[24] *See* 47 U.S.C. § 332(c)(7)(B)(iv).

[25] *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).

[26] *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).

[27] *See* 47 C.F.R. § 1.1310, Note 2.

[28] *See id.*

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.[29]

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 the underlying Pole was originally constructed for the transmission of electricity and not primarily built for wireless services and the lowest antenna point is approximately 21'3" 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 dated August 21, 2020. 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,

[29] *See id.* § 1.1307(b)(1).

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

CLU2011/CLLO2011

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VIEW 1

EXISTING

PROPOSED LOOKING SOUTHEAST FROM VALMAR ROAD

ACCURACY OF PHOTO SIMULATION BASED UPON INFORMATION PROVIDED BY PROJECT APPLICANT.

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VIEW 2

EXISTING

PROPOSED LOOKING EAST FROM VALMAR ROAD

ACCURACY OF PHOTO SIMULATION BASED UPON INFORMATION PROVIDED BY PROJECT APPLICANT.

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VIEW 3

EXISTING

PROPOSED LOOKING NORTH FROM VALMAR ROAD

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VIEW 4

EXISTING

PROPOSED LOOKING NORTHWEST FROM PEACOCK COURT

ACCURACY OF PHOTO SIMULATION BASED UPON INFORMATION PROVIDED BY PROJECT APPLICANT.