



CITY of CALABASAS

Community Development Department
Planning Division
100 Civic Center Way
Calabasas, CA 91302-3172
T: 818.224.1600
F: 818.225.7324

www.cityofcalabasas.com

April 7, 2022

Synergy
Attn: Cody Blandino
858 S. Oak Park Rd Ste. 200
Covina, CA 91724

Subject: Notice of Decision for Small Wireless Facility Permit WTF1-2021-005

Dear Applicant,

The Community Development Director 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.: WTF1-2021-005. A request for a Wireless Telecommunication Facility – Tier 1 Permit to install equipment within an existing enclosure, and remove and replace equipment within the existing shroud at the T-Mobile facility located at 23850 Park Sienna, 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
Associate Planner



CITY of CALABASAS

COMMUNITY DEVELOPMENT DIRECTOR DECISION LETTER AND REPORT

FILE NO.: WTF1-2021-005

PROPOSAL: A request for a Wireless Telecommunication Facility – Tier 1 Permit to install equipment within an existing enclosure, and remove and replace equipment within the existing shroud at the T-Mobile facility located at 23850 Park Sienna, within the Public Right-of-Way.

APPLICANT: Synergy

BACKGROUND:

On November 17, 2021, Synergy filed an application for Tier 1 Permit No. WTF1-2021-005 on behalf of T-Mobile to upgrade the equipment at the facility located at 23850 Park Sienna, within the Public Right-Of-Way. The existing T-Mobile facility is already designed as a 'stealth' facility, with all equipment concealed within a radome and within a screened equipment area, and the proposed modifications maintain the same stealth design.

The existing T-Mobile facility, comprising of a monopole with three antennas located within a radome and associated screened equipment area, was approved in 2008 via a Zoning Clearance Permit. The site was subsequently updated in 2012 (Zoning Clearance Permit No. 120000948) and in 2013 (Zoning Clearance Permit No. 130000356) with approvals for installation of new equipment within the radome and equipment enclosure.

The proposed project includes the removal and replacement of existing equipment within the radome, and the installation of equipment within the existing enclosure. The project was reviewed by staff and by Telecom Law Firm to ensure compliance with Section 17.31.040 of the Calabasas Municipal Code.

STAFF ANALYSIS:

1. Current Site Condition: The existing wireless facility is located on Park Sienna, entirely within the Public Right-of-Way approximately 200 feet northwest of Park Antonio, on the south side of the street. The facility consists of a freestanding monopole with a radome on top that conceals the antennas. The steel monopole is textured to match light poles in the neighborhood. The equipment for the facility is located in an above ground enclosure, with a decorative concrete block wall and access gate, designed to match the adjacent Ridge gated community.

2. **Proposed Project:** The applicant is requesting permission to upgrade an existing Wireless Telecommunication Facility that qualifies for processing as a "Tier 1" Wireless facility permit, as defined in Section 17.31.040 of the Calabasas Municipal Code (CMC). The proposal includes the installation of equipment within an existing enclosure, and removing and replacing equipment within an existing radome. The existing facility is considered a 'stealth' facility and meets the stealth design criteria established by the City's wireless telecommunication facility design guidelines, and the proposed project will maintain the same stealth design.
3. **Calabasas Municipal Code Requirements:** Section 17.31.040 of the CMC regulates the construction, maintenance, and modification of 'stealth' wireless telecommunication facilities within the City of Calabasas via a Tier 1 Wireless Telecommunication Facility Permit. In accordance with Section 17.31.040(B) of the CMC, the ordinance applies to existing facilities which have been previously approved but are now or hereafter modified to meet the 'stealth' standards of Section 17.31.040(C) of the CMC. As a result, the applicant has filed for a Tier 1 Wireless Telecommunication Facility Permit to perform the requested modifications.

FINDINGS:

Section 17.31.040(F) stipulates that the Director may approve an application for a Tier 1 wireless telecommunication facility permit, only if each of the following findings can be made:

1. *The proposed wireless telecommunication facility meets the standards set forth in Sections 17.31.030 and 17.31.040;*

The project site is comprised of a freestanding monopole and equipment enclosure located at 23850 Park Sienna, within the public right-of-way, and with all equipment screened from view. The proposed project meets all the standards for wireless telecommunication facilities located within the public right-of-way, as outlined in Section 17.31.030(A)(1) of the CMC. Additionally, the proposed project meets the standards of Section 17.31.040(C)(1) for Tier 1 facilities located within a public right-of-way, including that the facility meets the stealth design criteria established by the City's Wireless Telecommunication Facility Design Guidelines. As a result, the proposed project meets this finding.

2. *The proposed wireless telecommunication facility is designed as a stealth facility consistent with the city's design guidelines for Tier 1 wireless telecommunication facilities;*

The existing facility is designed as a 'stealth' facility, with all pole-mounted equipment located within the existing radome. Additionally, the remainder of equipment associated with the facility is located within a screened equipment enclosure. Because all equipment and wiring associated with the facility is located within the radome and

screened equipment area and is therefore not visible to the public, the existing facility is designed as a stealth facility.

The proposed project involves removal and replacement of existing equipment within the radome and within the existing equipment enclosure. The 'stealth' design of the site is not being altered with the proposed project, and all screening methods utilized by the existing facility will remain in place for the proposed project. As a result, 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 Sections 15301 Class 1 (a), 15301 Class 1 (b), 15302 Class 2 (c), and Section 15332 Class 32, 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

DECISION:

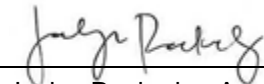
The Director or his/her designee has considered all of the evidence submitted into the administrative record including, but not limited to:

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



Jaclyn Rackerby, Associate Planner

April 7, 2022

Date

ATTACHMENTS:

- Exhibit A: Conditions of Approval
Exhibit B: Project Plans



CITY of CALABASAS

**COMMUNITY DEVELOPMENT DIRECTOR
DECISION LETTER AND REPORT**

EXHIBIT A: CONDITIONS OF APPROVAL

FILE NO.: WTF1-2021-005

PROPOSAL: A request for a Wireless Telecommunication Facility – Tier 1 Permit to install equipment within an existing enclosure, and remove and replace equipment within the existing shroud at the T-Mobile facility located at 23850 Park Sienna, within the Public Right-of-Way.

APPLICANT: Synergy

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. WTF1-2021-005 and the issuance of any permit or entitlement in connection therewith, or the activities conducted pursuant to this File No WTF1-2021-005 and the issuance of any permit or entitlement in connection therewith. Accordingly, to the fullest extent permitted by law, Synergy (applicant) and T-Mobile (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. WTF1-2021-005 and the issuance of any permit or entitlement in connection therewith, or the activities conducted pursuant to this File No. WTF1-2021-005 and the issuance of any permit or entitlement in connection therewith Synergy (applicant) and T-Mobile (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. 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.

3. 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.
4. 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.
5. Prior to commencement of construction, all necessary permits shall be obtained from the Building and Safety Division and Public Works Department.
6. The project is located within a designated "Very High Fire Hazard Severity Zone". All applicable requirements of Los Angeles County Building Code must be incorporated into all plans.
7. 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.
8. 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.
9. Construction Activities - Hours of construction activity shall be limited to:
 - i. 7:00 a.m. to 6:00 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.

10. No additional equipment not included or specified in the stamped approved plans may be installed on the subject site under this permit.
11. Compliance With Previous Approvals. The grant or approval of a Tier 1 wireless facility permit shall be subject to the conditions of approval of the underlying permit.
12. As-Built Plans. The applicant shall submit to the director an as-built set of plans and photographs depicting the entire small wireless facility as modified, including all transmission equipment and all utilities, within ninety (90) days after the completion of construction.
13. Indemnification. To the fullest extent permitted by law, the applicant and any successors and assigns, shall defend, indemnify and hold harmless [the] 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 small wireless facility permit and the issuance of any permit or entitlement in connection therewith. The applicant shall pay such obligations as they are incurred by [the] 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.
14. Compliance With Applicable Laws. 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.
15. Compliance With Approved Plans. The proposed project shall be built in compliance with the approved plans on file with the planning division.
16. Violations. The wireless facility shall be developed, maintained, and operated in full compliance with the conditions of the small wireless facility 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 small wireless facility 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.

17. Permittee shall ensure that all 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 ANSI Z535.1, ANSI Z535.2, and ANSI C95.2-2007 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.
18. 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.

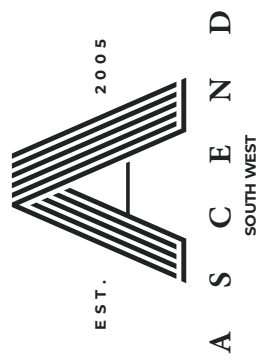


T-Mobile West LLC
4100 Guardian Street
Suite 101
Simi Valley, CA 93063



SV11189D
23850 PARK SIENNA
CALABASAS, CA 91302

PHOTOGRAPHIC VISUALIZATIONS CREATED BY



www.ascendsouthwest.com



A NETWORKCONNEX COMPANY



Proposed T-Mobile Project

Denotes Camera Position and Direction

GEODETIC COORDINATES
34 08 36.79N/118 38 22.61W

This photo simulation is being provided as a conceptual representation of the proposed wireless facility.
For exact dimensions and design, please refer to the submitted plans.
Ascend South West is not Responsible for Post Simulation Production Design Changes, Scaling Error, Omissions, Color Discrepancies, Material Variances or any Construction Related Concern.

Rev Date: 03/31/22

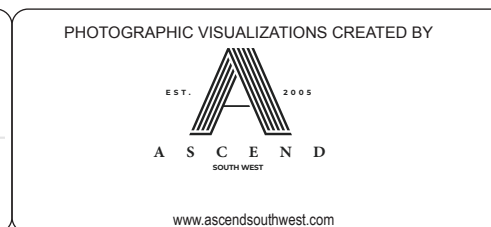


Existing Conditions



Proposed Site Build

View: 1
Revision Date: 03/31/22




Proposed T-Mobile Site Modifications
(no visible change)



Existing Conditions

Proposed Site Build

View: 4
Revision Date: 03/31/22

 <p>Synergy a division of advantage engineers A NETWORK-CONNEX COMPANY</p>	<p>PHOTOGRAPHIC VISUALIZATIONS CREATED BY</p>  <p>EST. 2005 ASCEND SOUTH WEST www.ascendsouthwest.com</p>	 <p>T-Mobile</p> <p>T-Mobile West LLC 4100 Guardian Street Suite 101 Simi Valley, CA 93063</p>
---	--	---




Existing Conditions



Proposed Site Build

WIRELESS PLANNING MEMORANDUM

TO: Ms. Jaclyn Rackerby
FROM: Dr. Jonathan Kramer 
DATE: April 4, 2022
RE: (WTF1-2021-0005) Technical Review for Proposed Modification to Existing Wireless Facility on Pole located near 23850 Park Sienna

Applicant: Synergy, a division of Advantage Engineers
Carrier: T-Mobile West, LLC
Site ID: SV11189D/Park Antonio & Park Sienna R.O.W.

1. Summary

The City of Calabasas (the “**City**”) requested that Telecom Law Firm, PC (“**TLF**”) review the Synergy, a division of Advantage Engineers (“the **Applicant**”) application submitted on behalf of T-Mobile West, LLC (“**T-Mobile**”) to modify its existing wireless site located near 23850 Park Sienna.

The project appears to fall within the scope of Section 6409(a). This is because T-Mobile 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.

T-Mobile’s proposed 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 Background and Description

Subject to the provisions of Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012¹ as interpreted by the FCC, the Applicant has requested the City’s approval of the instant project. Accordingly, this memorandum reviews: (1) whether Section 6409(a) applies to this proposal, and (2) whether the project demonstrates planned compliance with the federal 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)).

It is TLF's assessment that the application appears to be sufficiently complete for TLF to proceed with a substantive review of the Applicant's proposal for compliance with applicable local, state and federal law. We now proceed to that analysis.

The Applicant submitted updated project plans dated May 6, 2021 ("**Plans**") that show T currently operates a three-sector wireless facility designed as a 35' above ground level ("**AGL**") monopole ("**Pole**") consisting of antennas top mounted within a radome. T-Mobile's sectors each comprise of one panel antenna with a centerline mount of 31' AGL.

Through the Plans T-Mobile is proposing to modify its equipment within the Pole as well as within its equipment area. See Figure 1 for a written summary of the proposed modification.

SCOPE OF WORK:	
(1)	ADD (3) 4424 B25 RRUS NEAR CABINET FOR L19 1ST, L19 2ND, GSM & U19 - CONNECT TO TMBXX ANTENNAS & ADD DCS/FIBER JUMPERS AS NEEDED
(2)	ADD (3) 4415 B66 RRUS NEAR CABINET FOR L21 - CONNECT TO TMBXX ANTENNAS & ADD DCS/FIBER JUMPERS AS NEEDED
(3)	ADD (6) COMMSCOPE TWIN STYLE 3CX - TMAT1921B68-21-43 (E14R00P09) FOR 4424S, 4415S -(2) PER SECTOR -- REMOVE ALL (E) TMS
(4)	ADD (3) AWS/PCS (8:4) DIPLEXERS TO DIPLEX 4424S, 4415S NEAR CABINET
(5)	USE (E) (12) COAX MAINLINES FOR 4424S, 4415S -- (4) PER SECTOR
(6)	REUSE (E) BB6630 FOR MIDBAND LTE7) ALL RUS01 B2S, B4S WILL BE DARK

Figure 1: Project description (Source: Plans, page T-1).

The Applicant has proposed no changes to the antennas. All modifications will take place within the radome or inside of the equipment enclosure. Figure 2 shows a simulated photo of T-Mobile's project.

[Balance of Page Intentionally Left Blank]





Figure 2: Photo simulation of project (Source: Applicant submitted Photo Simulations).

T-Mobile's Pole and modifications within the equipment shelter are depicted in elevation view with details in Figure 3.



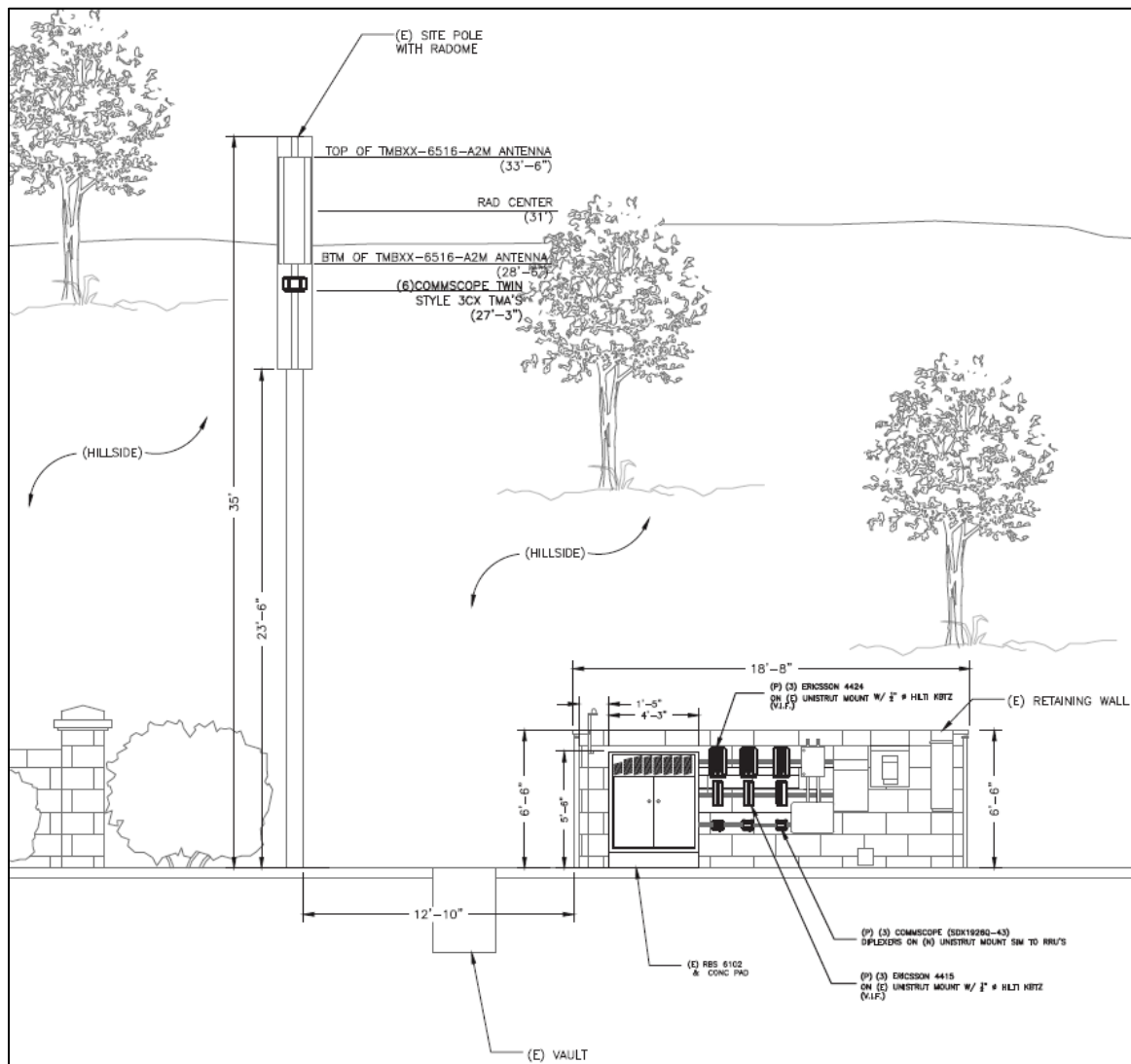


Figure 3: Existing antenna layout on the Pole (Source: Plans, page A-4, panel 1).

3. Additional Comments

The Applicant submitted Photo Simulations do not contain the necessary and required RF safety signage. TLF recommends that the City request the Applicant to submit updated photo simulations that depict all elements of the proposal.

4. 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.”² The applicant bears the burden to prove that its proposal qualifies.

4.1. 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.³ 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.”⁴ 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.⁵

A “tower” means any structure built solely or primarily to support transmission equipment.⁶ 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.

² 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)).

³ See 47 U.S.C. § 1455(a)(2).

⁴ 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).

⁵ See *id.* § 1.40001(b)(8).

⁶ 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.⁷ The term can include DAS and small cells.⁸ The structure must also currently support transmission equipment under a valid permit or other approval.⁹

The Pole qualifies as a “tower” because it was built primarily to support FCC-licensed or authorized equipment. T-Mobile proposes to collocate “transmission equipment” because the RRUs are normally associated with wireless facilities.

Based on the documents submitted, it appears to TLF, but we cannot confirm that the Pole has been constructed in compliance with permits. TLF presumes that T-Mobile 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.

4.2. 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.”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.

4.2.1. 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).¹¹ The FCC does not elaborate on how to measure the separation

⁷ See *id.* § 1.40001(b)(1).

⁸ See *id.* § 1.40001(b)(1)(ii).

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

¹⁰ See 47 U.S.C. § 1455(a).

¹¹ See 47 C.F.R. § 1.40001(b)(7)(i).



between the modification and the “nearest array.” The height limit is a *cumulative* limit.¹² For almost all towers, the cumulative limit is measured from the original discretionary approval because the equipment will be vertically separated.¹³ Any height increase above the cumulative limit allowed under 6409(a) as interpreted by the FCC amounts to a substantial change.

Here, T-Mobile’s proposal will not substantially increase the overall height of the Pole.

4.2.2. 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).¹⁴ Unlike height increases, no cumulative limit applies to width increases.

Here, the proposed modification will not increase the width, therefore no substantial change to this element will occur.

4.2.3. 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).¹⁵ 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 add enough equipment cabinets to trigger a substantial change to this element.

4.2.4. 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.¹⁶

Here, the proposed modification does not trigger the excavation threshold because T-Mobile does not propose any new ground disturbance.

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

¹³ See 47 C.F.R. § 1.40001(b)(7)(i)(A).

¹⁴ See 47 C.F.R. § 1.40001(b)(7)(ii).

¹⁵ See 47 C.F.R. § 1.40001(b)(7)(iii).

¹⁶ See 47 C.F.R. § 1.40001(b)(7)(iv); see also 47 C.F.R. § 1.40001(b)(6).



4.2.5. Changes to Concealment Elements

A collocation or modification causes a substantial change when it would “defeat the concealment elements of the support structure.”¹⁷ 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.¹⁸

Here, the modification does not defeat the existing concealment elements. Based on the Photo Simulations submitted by the Applicant, all modifications will take place within the radome or inside of the equipment vault and will cause no visual change to the public.

4.2.6. 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).¹⁹

It appears to TLF that the wireless facility is in operation. Based on the documents submitted TLF cannot confirm if any unpermitted changes have occurred on the Pole by T-Mobile. However, TLF recommends that the City review the previously approved conditions to determine whether a permit condition violation will form an independent basis that will cause a substantial change.

4.2.7. 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.

5. Planned RF Compliance Evaluation

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”).²⁰ State and local governments cannot regulate wireless

¹⁷ See 47 C.F.R. § 1.40001(b)(7)(v).

¹⁸ See *Infrastructure Order* at ¶ 99.

¹⁹ See 47 C.F.R. § 1.40001(b)(7)(vi).

²⁰ 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.²¹

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

5.1. FCC Guidelines

FCC Guidelines regulate exposure rather than emissions.²³ 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.²⁴ The narrower occupational class includes persons exposed through their employment and able to exert control over their exposure.²⁵ 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.²⁶

²¹ See 47 U.S.C. § 332(c)(7)(B)(iv).

²² 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).

²³ 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).

²⁴ See 47 C.F.R. § 1.1310, Note 2.

²⁵ See *id.*

²⁶ 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.

5.2. Planned Compliance Evaluation and Recommendations

The FCC does not categorically exclude T-Mobile's facility from routine compliance review because the underlying structure was constructed for illumination purposes for the stadium and not for the primary use for wireless services.

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, T-Mobile submitted, and signed compliance letter dated March 22, 2022. 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

