



CITY of CALABASAS

Exhibit C

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

www.cityofcalabasas.com

November 2, 2022

Jacobs Telecommunications Inc
Attn: Rachael Davidson
2600 Michelson Dr, Suite 500
Irvine, CA 92612

Subject: Notice of Decision for File No(s). WTFM-2022-011

Dear Ms. Davidson,

The Community Development Department has completed its review of documents and materials in the project file, and, based upon the information submitted, **APPROVED** your application for the following:

FILE NO(S). WTFM-2022-011. A request for a Wireless Telecommunication Facility Minor Modification Permit to modify an existing wireless telecommunication facility in accordance with Section 6409(a) of the 2012 Middle Class Tax Relief Act. The applicant is proposing the installation of new antennas at an existing pole, and installation of new ground-mounted equipment within an existing equipment enclosure at the T-Mobile facility located at the water tank at 24000 Park Belmonte (APN: 2069-013-900 & APN: 2069-013-901), 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.

Sincerely,

Jaclyn Rackerby
Associate Planner

Attachment: Community Development Director Decision Letter and Report



CITY of CALABASAS

COMMUNITY DEVELOPMENT DIRECTOR DECISION LETTER AND REPORT

FILE NO.: WTFM-2022-011

PROPOSAL: A request for a Wireless Telecommunication Facility Minor Modification Permit to modify an existing wireless telecommunication facility in accordance with Section 6409(a) of the 2012 Middle Class Tax Relief Act. The applicant is proposing the installation of new antennas at an existing pole, and installation of new ground-mounted equipment within an existing equipment enclosure at the T-Mobile facility located at the water tank at 24000 Park Belmonte (APN: 2069-013-900 & APN: 2069-013-901), within the Public Facilities (PF) zoning district.

APPLICANT: Jacobs Telecommunications Inc

BACKGROUND:

On May 23, 2022, Jacobs Telecommunications Inc filed an application, on behalf of T-Mobile, to upgrade an existing wireless telecommunication facility located at 24000 Park Belmonte (water tank), within the Public Facility (PF) zoning district.

The application was reviewed by staff and deemed incomplete on June 16, 2022. The applicant resubmitted the additional required material, and the application was subsequently deemed complete on October 13, 2022.

The existing T-Mobile (formerly Sprint) facility was constructed in 2002, (approved Conditional Use Permit No. 00-19), updated in 2013 (Administrative Plan Review and Wireless Telecommunication Facility Permit, File No. 130000189), with approvals replace existing base station equipment and antennas, and updated in 2018 (Minor Modification Permit No. 180001197) with approvals to replace pole mounted antennas and equipment.

The proposed project includes the replacement of cabinets within an existing equipment area, and increasing the number of antennas, with the incorporation of an additional antenna sector and associated equipment mounted to the existing wooden pole. 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. Following their review of the application on June 14, 2022, Telecom Law Firm confirmed that the proposed project meets all of the criteria necessary to be eligible for Section 6409(a).

STAFF ANALYSIS:

1. Current Site Condition: The existing facility is adjacent to an existing water tank located at 24000 Park Belmonte. The facility consists of two (2) 6-foot tall panel antennas with RRH's mounted at 11 feet above grade level (AGL) on a 17-foot tall wood pole. The antennas, TMA'S, and associated pole mounted equipment are painted brown to match the pole. The supporting equipment is ground mounted approximately 30 feet northwest of the antennas. The site is not accessible by the public due to steep topography and security fencing around the water tank. 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).
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 ground-mounted equipment and the installation of new antennas and associated equipment at an existing wood utility pole located adjacent to the water tank at 24000 Park Belmonte. No additional changes are proposed.
3. Calabasas Municipal Code Requirements: Chapter 17.31 of the CMC regulates the construction, maintenance, and modification of wireless telecommunication facilities within the City of Calabasas. In accordance with Section 17.31.020(A)(4) of the CMC, the ordinance applies to existing facilities which have been previously approved but are now or hereafter modified. Section 17.31.060 of the CMC regulates collocations at 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 modification.
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 installation of small transmission equipment within an existing equipment cabinet, and the installation of new antennas in the same location as the existing antennas, 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 17.31.060(E)(1) 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 located 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 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 modification of an existing wireless tower (i.e. monopole) located on private property. Based on photos provided by the applicant, the site was 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 – Minor Modification (WTFM) Permit No. 180001010, 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 height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty (20) feet, whichever is greater;*

The modifications to the facility involve the installation of new ground-mounted equipment and pole-mounted equipment mounted to an existing 17'3" wood pole. The maximum height of the pole and pole-mounted equipment will not be altered with the proposed project. As a result, there will be no increase to the height of the existing facility and 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 applicant is proposing to replace equipment within an existing equipment area, and install new antennas mounted to an existing wood pole. The proposed modifications will not result in an increase in width to the facility. As a result; the proposed project meets this finding.

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 proposed modifications to the existing equipment area include the removal and replacement of two equipment cabinets. The project does not add enough equipment cabinets to exceed the FCC threshold limit; therefore, the proposed project meets this finding.

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 includes replacement of equipment within an existing equipment area, and the installation of new pole-mounted equipment at an existing wood pole. The modification does not include any excavation outside of T-Mobile's lease area. Therefore, the proposed project meets this finding.

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

The proposed project includes replacement of equipment within an existing equipment area, and the installation of new pole-mounted equipment at an existing wood pole. The proposed equipment will be painted to match the existing pole, therefore maintaining the existing concealment measures of the site. Additionally, the facility is located adjacent to an existing water tank, and the facility is not easily visible by the general public due to its location and proximity from the nearest public right-of-way. For this reason, the proposed project satisfies 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 shown through photos submitted by the applicant to be in good condition (i.e. no graffiti, no damage to existing equipment) and is in compliance with all conditions of approval contained within the original permits and subsequent modifications (Wireless Telecommunications Facility – Minor Modification Permit No. 180001010 being the most recent). 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

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

November 2, 2022

Date

ATTACHMENTS:

- Exhibit A: Conditions of Approval
- Exhibit B: Public Hearing Record
- Exhibit C: Project Plans



CITY of CALABASAS

**COMMUNITY DEVELOPMENT DIRECTOR
DECISION LETTER AND REPORT**

EXHIBIT A: CONDITIONS OF APPROVAL

FILE NO.: WTFM-2022-011

PROPOSAL: A request for a Wireless Telecommunication Facility Minor Modification Permit to modify an existing wireless telecommunication facility in accordance with Section 6409(a) of the 2012 Middle Class Tax Relief Act. The applicant is proposing the installation of new antennas at an existing pole, and installation of new ground-mounted equipment within an existing equipment enclosure at the T-Mobile facility located at the water tank at 24000 Park Belmonte (APN: 2069-013-900 & APN: 2069-013-901), within the Public Facilities (PF) zoning district.

APPLICANT: Jacobs Telecommunications Inc

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-2022-011 and the issuance of any permit or entitlement in connection therewith, or the activities conducted pursuant to this File No WTFM-2022-011 and the issuance of any permit or entitlement in connection therewith. Accordingly, to the fullest extent permitted by law, Jacobs Telecommunications (applicant), T-Mobile (carrier), and Las Virgenes Municipal Water District (property owner) 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-2022-011 and the issuance of any permit or entitlement in connection therewith, or the activities conducted pursuant to this File No. WTFM-2022-011 and the issuance of any permit or entitlement in connection therewith Jacobs Telecommunications (applicant), T-Mobile (carrier), and Las Virgenes Municipal Water District (property owner) 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. 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.

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.

22. The existing pole will be replaced by the applicant with a new pole if deemed necessary by Building & Safety plan checker and the applicant's licensed engineer, and all antennas, equipment, structural supports, and any other component of this modification are permitted to be reinstalled on the new replacement pole.



CITY of CALABASAS

**COMMUNITY DEVELOPMENT DEPARTMENT
DECISION LETTER AND REPORT**

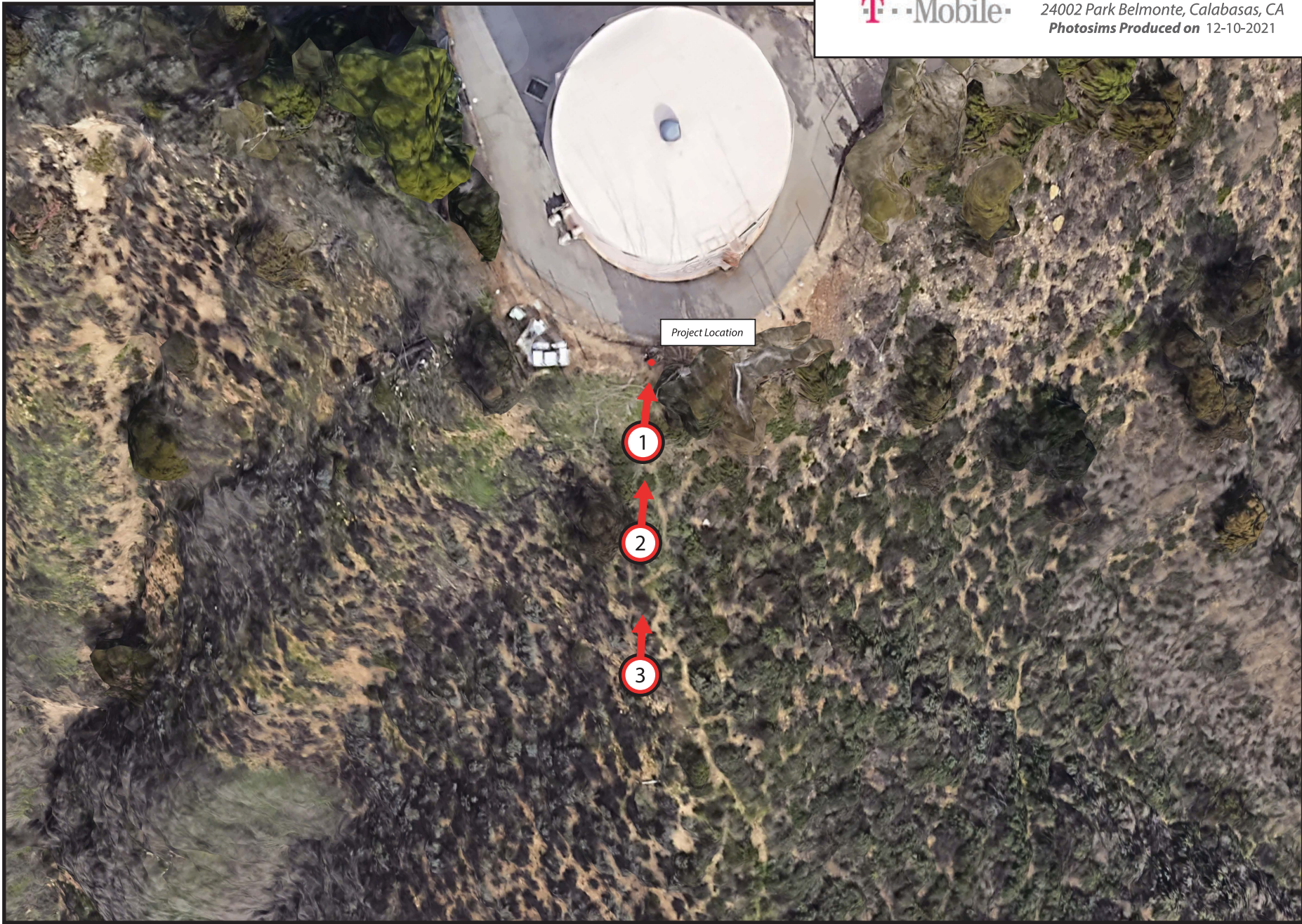
EXHIBIT B: PUBLIC HEARING RECORD

FILE NO.: WTFM-2022-011

PROPOSAL: A request for a Wireless Telecommunication Facility Minor Modification Permit to modify an existing wireless telecommunication facility in accordance with Section 6409(a) of the 2012 Middle Class Tax Relief Act. The applicant is proposing the installation of new antennas at an existing pole, and installation of new ground-mounted equipment within an existing equipment enclosure at the T-Mobile facility located at the water tank at 24000 Park Belmonte (APN: 2069-013-900 & APN: 2069-013-901), within the Public Facilities (PF) zoning district.

APPLICANT: Jacobs Telecommunications

1. On Wednesday, November 2, 2022, 2:00 P.M, City Planner Tom Bartlett held the duly noticed public meeting via Zoom;
2. Jaclyn Rackerby, Associate Planner, presented the staff report for the project, which included the staff recommendation to Approve the project. Following the staff report the City Planner opened the public hearing;
3. The applicant, Rachael Davidson, 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.



Existing



Existing
Installation

Proposed



Proposed T-Mobile
Installation

view from property looking north at site

Existing



Proposed



view from property looking north at site

T-Mobile

SV81189A LA36X WT
24002 Park Belmonte, Calabasas, CA
Photosims Produced on 12-10-2021

Existing



Existing Installation


Proposed



Proposed T-Mobile Installation

view from property looking north at site

WIRELESS PLANNING MEMORANDUM

TO: Ms. Jaclyn Rackerby
FROM: Dr. Jonathan Kramer 
DATE: June 14, 2022
RE: (WTFM-2022-011) Technical Review for Proposed Modification to Existing Wireless Facility on Monopole located near 24000 Park Belmonte

Applicant: Jacobs Telecommunications, Inc.
Carrier: T-Mobile USA (Previously a Sprint Site)
Site ID: Warner WT (Site No. SV81189A)

1. Summary

The City of Calabasas (the “**City**”) requested that Telecom Law Firm, PC (“**TLF**”) review the Jacobs Telecommunications (“the **Applicant**”) application submitted on behalf of T-Mobile USA (“**T-Mobile**”) to modify its existing wireless site located near 24000 Park Belmonte.

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.

TLF notes that the City required FCC compliance affirmation under the penalty of perjury is not submitted by the Applicant. No permit should be issued until the City required compliance affirmation is submitted to the City.

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)).

On May 24, 2022, the Applicant submitted a set of plans dated March 16, 2022 (“Plans”). The Plans show that T-Mobile currently operates wireless antennas mounted to a 17' 3" above ground level (“AGL”) wooden monopole (“Monopole”) on a property located near 24000 Park Belmonte. TLF notes that this Monopole is adjacent to a water tank.

Through the Plans T-Mobile is proposing to modify its existing wireless facility by increasing the antenna count as well as adding an additional sector. See the existing antenna layout in Figure 1 and the proposed antenna configuration in Figure 2.

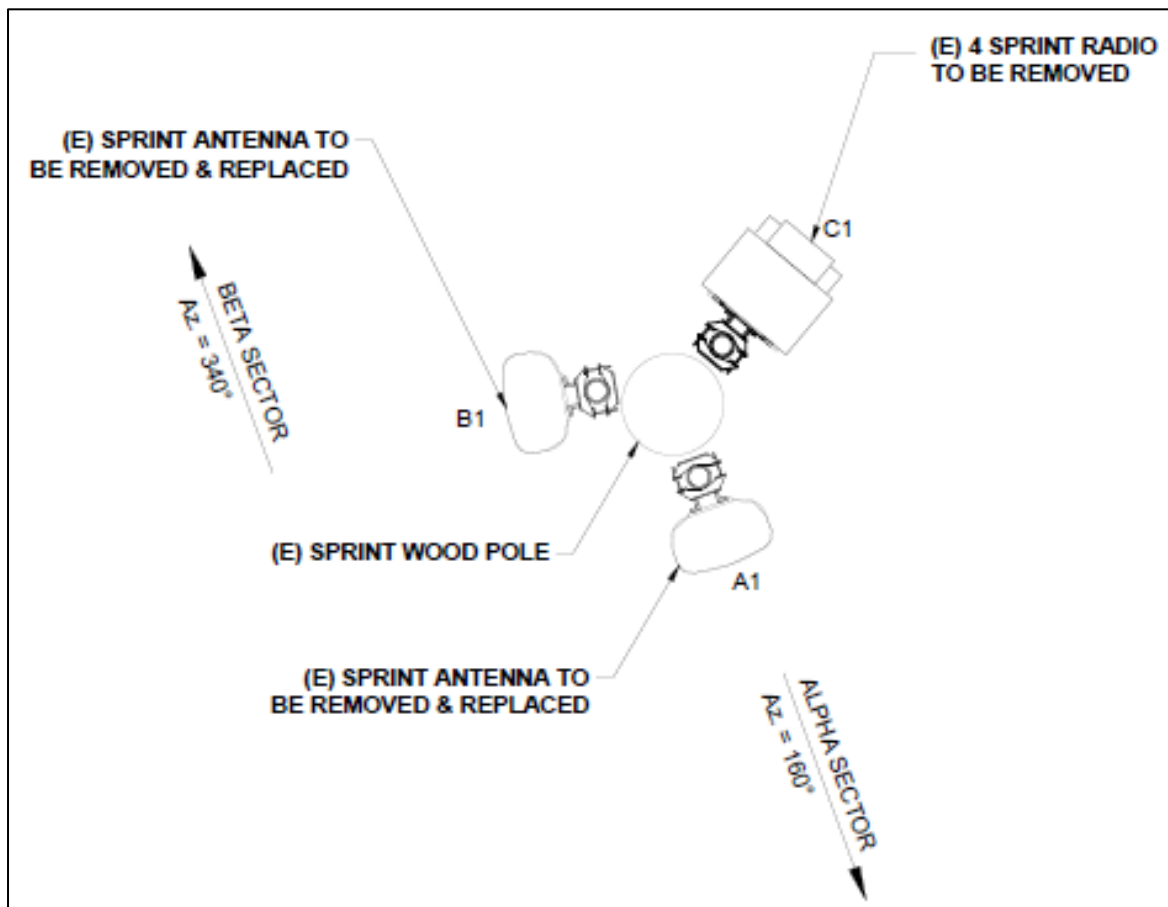


Figure 1: Existing antenna layout on the Monopole (Source: Plans, page A-3, panel 2).

TLF notes the existing antenna configuration does not match the City permit approval issued on December 19, 2018 to construct four new antennas. TLF presumes that the permit approval was never built by Sprint (the previous owner of the wireless site).



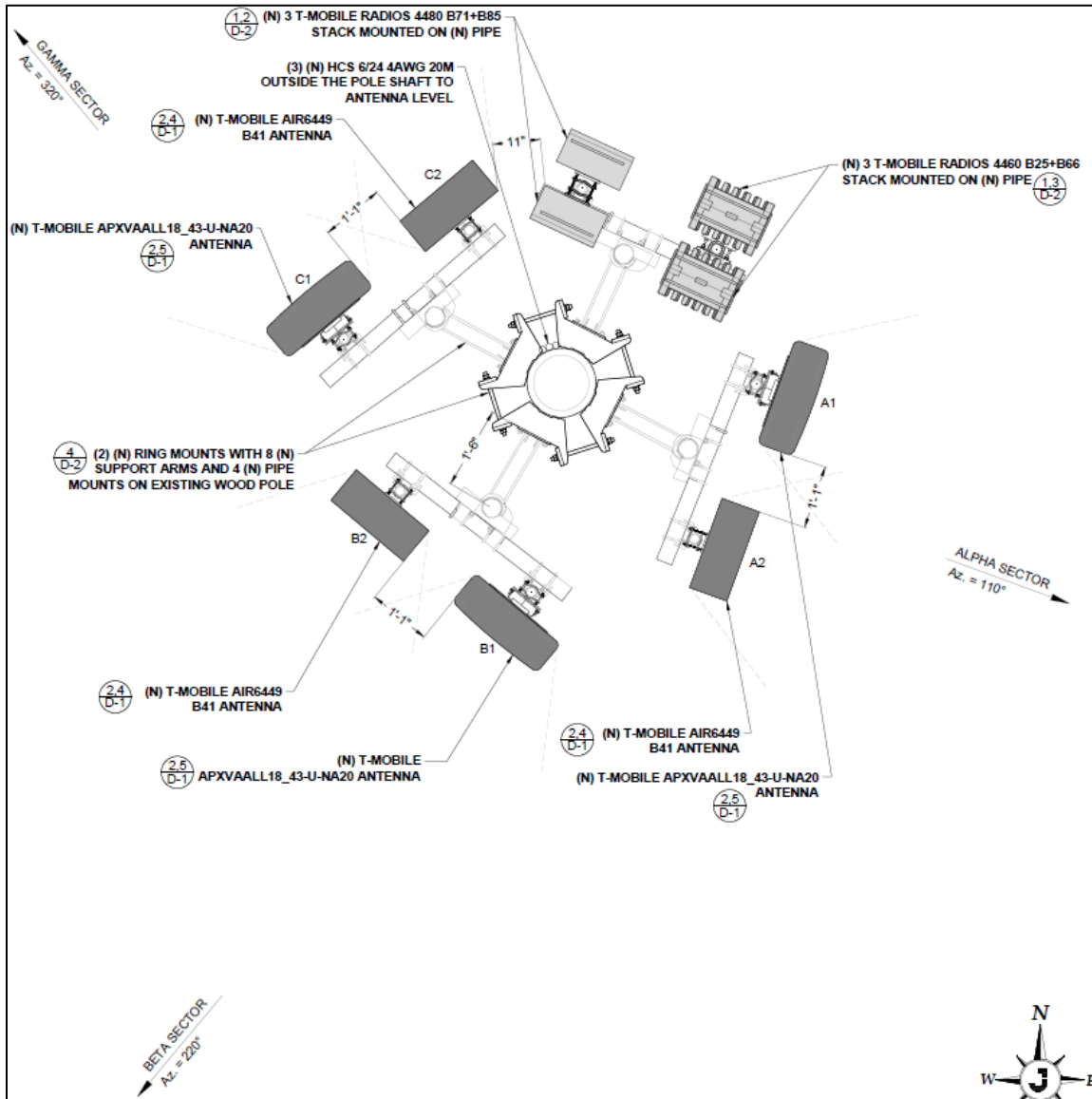


Figure 2: Proposed antenna layout plan on the monopole (Source: Plans, page A-3, panel 1).

The antenna sector azimuths will change after the modification. Furthermore, a new sector azimuth will be added to the Monopole. Sector Alpha will have two antennas oriented toward 110° True North (“TN”), Sector Beta will have two antennas oriented toward 220° TN and Sector Gamma will have two antennas oriented toward 320° TN.

For a summary of the modification see the written description in Figure 3.



| PROJECT DESCRIPTION | |
|--|---|
| SPRINT (NOW T-MOBILE) PROPOSES TO MODIFY ITS EXISTING WIRELESS COMMUNICATIONS FACILITIES LOCATED AT LVMWD'S WARNER TANK SITE AS FOLLOWS: | |
| <u>ANTENNA LEVEL/WOOD POLE:</u> | |
| 1. | REMOVE (2) EXISTING 72" TALL APXV5PP-18-C-A20 ANTENNAS (1 PER SECTOR, 2 SECTORS) |
| 2. | REMOVE (2) EXISTING RRHS TD-1900 |
| 3. | REMOVE (2) EXISTING RRHS CDMA/LTE |
| 4. | INSTALL (3) NEW 72" TALL APXVAALL18_43-U-NA20 (OCTO) ANTENNAS (1 PER SECTOR, 3 SECTORS) |
| 5. | INSTALL (3) NEW 33.1" TALL AIR6449 ANTENNAS (1 PER SECTOR, 3 SECTORS) |
| 6. | INSTALL (3) NEW RRHS4460 (FOR OCTO ANTENNAS) (1 PER SECTOR, 3 SECTORS) |
| 7. | INSTALL (3) NEW RRHS4480 (FOR OCTO ANTENNAS) (1 PER SECTOR, 3 SECTORS) |
| 8. | INSTALL (2) NEW RING MOUNTS WITH (8) NEW SUPPORT ARMS AND (4) NEW PIPE MOUNTS ON EXISTING WOOD POLE |
| 9. | INSTALL (3) NEW 6X24 HCS CABLES (20M 4 AWG) FOR AIR6449 ANTENNA, RRHS4460 & RRHS4480 WITHIN EXISTING CABLE ROUTES |
| <u>EQUIPMENT AREA/GROUND LEVEL:</u> | |
| 1. | REMOVE (1) EXISTING BATTERY CABINET |
| 2. | REMOVE (1) EXISTING 9927 MMBTS CABINET |
| 3. | INSTALL (1) NEW B160 BATTERY CABINET |
| 4. | INSTALL (1) NEW 6160 CABINET |
| 5. | INSTALL (1) NEW DUG20 (GSM)/RBS 0601 UNITS INSIDE NEW 6160 CABINET |
| 6. | INSTALL (2) NEW BB6648 UNITS IN NEW 6160 CABINET - (1) FOR L21/ L19/L700L600/NR800 & (1) FOR L2500/NR2500 |
| 7. | INSTALL (2) NEW PSU 4813 VOLTAGE BOOSTER FOR AIR6449 ANTENNA & RRHS4480 |
| 8. | INSTALL (1) NEW IXRE ROUTER AND (1) SAR-M IN NEW CABINET |
| 9. | REMOVE ALL UNUSED EQUIPMENT |
| 10. | REMOVE EXISTING UNUSED WOOD POLE |

Figure 3: Project description (Source: Plans, page T-1).

The T-Mobile modification is depicted in elevation view with details in Figure 4.

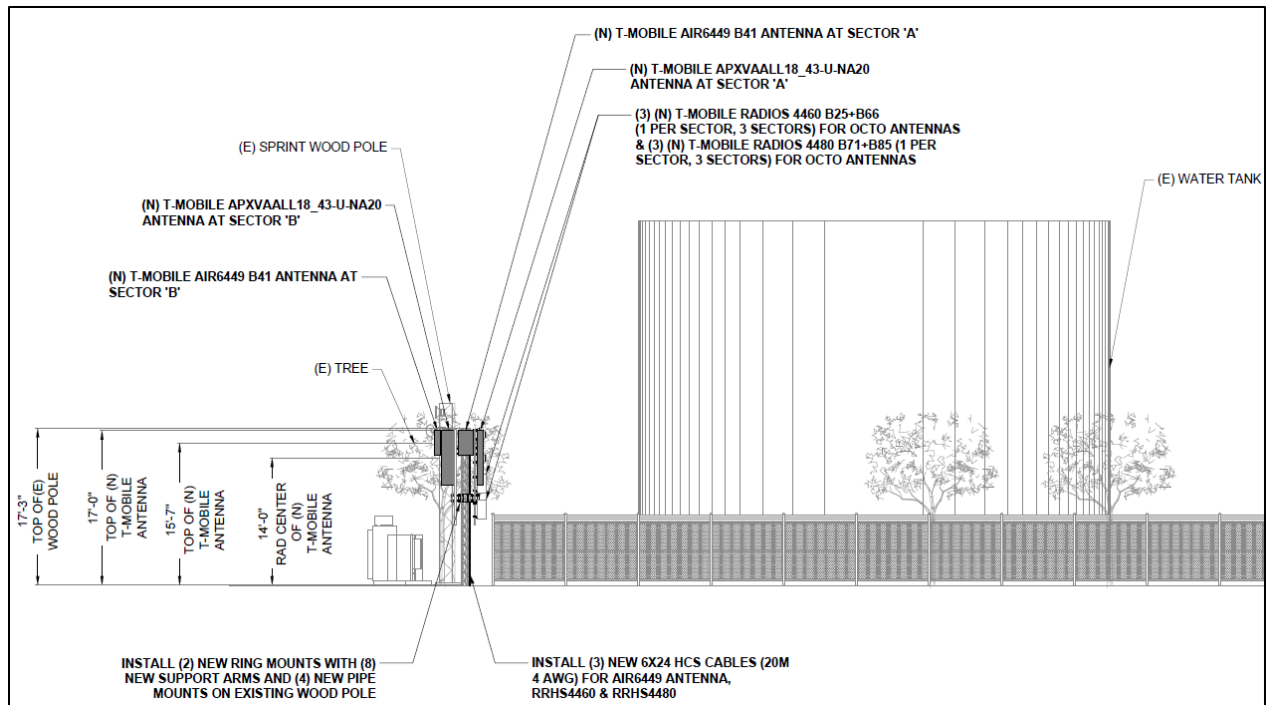


Figure 4: Proposed antenna layout plan on the Monopole (Source: Plans, page A-4, panel 1).



TLF notes that T-Mobile proposes to add two cabinets within the existing equipment enclosure area as shown in Figure 5.

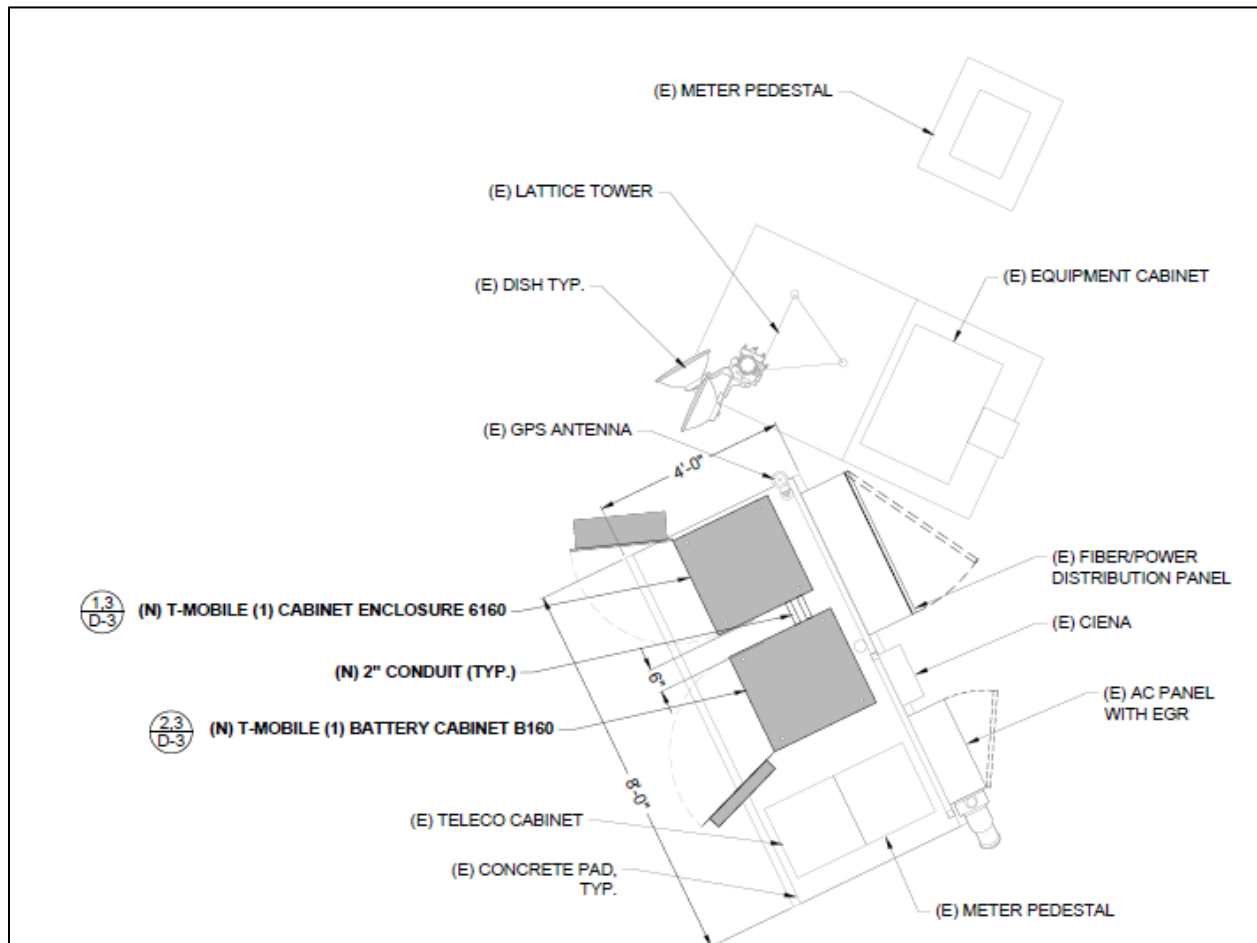


Figure 5: Proposed equipment layout (Source: Plans, page A-2, panel 1).

3. Additional comments

- Per the Calabasas Municipal Code, no FCC Compliance affirmation under the penalty of perjury was found within the materials furnished to TLF. TLF recommends that the City request this information from the Applicant.
- No Public Noticing was found within the materials furnished to TLF, as required in the Application Checklist.
- No Noise Study was found within the materials furnished to TLF. A noise study, prepared, signed, and sealed by a California-licensed engineer, for the proposed



personal wireless telecommunication facility, but not limited to equipment, such as air conditioning units and back-up generators; or a written statement signed and sealed by a California-licensed engineer indicating that the proposed modification(s) will not alter the existing noise levels or operational equipment which creates noise.

Given the remote location of this wireless site, TLF recommends that the City waive the required noise study for the instant project if the Applicant submits in writing that the facility will be in compliance with the Calabasas Municipal Code relating to acoustics.

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

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).



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.

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 Monopole 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 antennas and the RRUs are normally associated with wireless facilities.

Based on the documents submitted, it does not appear, but TLF cannot confirm, that there have been any unpermitted changes to the Monopole. For the purposes of moving to the next steps of our memorandum, we presume but do not conclude 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.

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

⁵ See *id.* § 1.40001(b)(8).

⁶ See *id.* § 1.40001(b)(9).

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).



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 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 Monopole.

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.

¹¹ See 47 C.F.R. § 1.40001(b)(7)(i).

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).



Here, the proposed modification does not add enough equipment cabinets to exceed the FCC threshold limit, therefor not triggering 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. The proposed changes will occur on the monopole at the antenna level or in the equipment shelter.

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. The proposed equipment will be painting to match the existing Monopole.

TLF recommends that the City consider painting the Monopole, the antennas and the associated equipment the same color as the water tank. It appears to TLF that the Monopole will be more camouflaged if it were colored the same color as the water tank.

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

Based on the documents submitted TLF cannot confirm if any unpermitted changes have occurred on the Monopole by T-Mobile. However, TLF recommends that the City review the

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

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).



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 Telecom 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 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.

a. FCC Guidelines, Categorical Exclusions and Exposure Mitigation Measures

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.

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 qualifies for a

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).

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).



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.²⁴ Categorical exclusions establish a presumption that the emissions from the antennas will not significantly impact humans or the environment.

b. Planned Compliance Evaluation and Recommendations

The FCC Guidelines do not categorically exclude the Applicant's facility from routine compliance review. This is because the lowest point of the antenna is less than 10 meters AGL. Therefore, an additional analysis for whether the facility will comply with the FCC Guidelines is appropriate.

To demonstrate planned compliance with the FCC Guidelines, the Applicant submitted a Radio Frequency Compliance Report prepared by Global Technology Associates dated November 25, 2021 ("**GTA RF Report**"). The GTA RF Report does not contain the necessary RF emissions information to base an independent assessment for the T-Mobile antennas.

The GTA RF Report indicates the need for barriers and signage as depicted. See Figure 6.

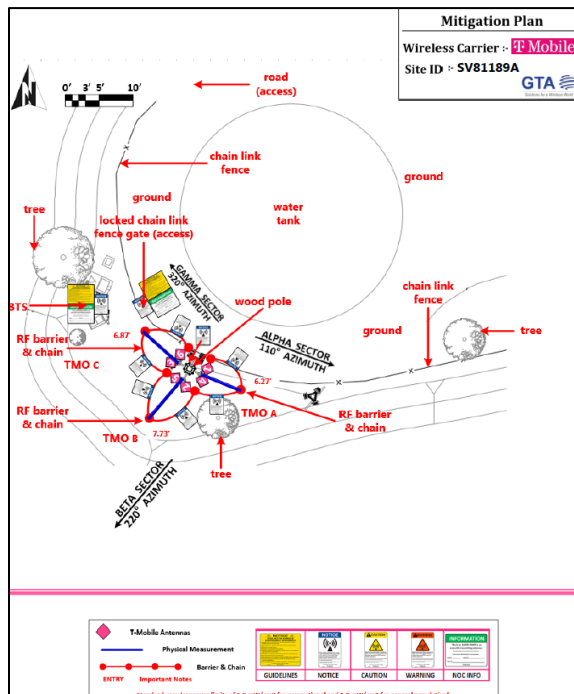


Figure 6: RF signage and barrier locations (Source: GTA RF Report).

²⁴ See *id.* § 1.1307(b)(1).



We note that the main beams of the proposed RF emissions are not directly aimed at the water tank, thus the RF emissions at the face of the water tank will comply with both FCC's Occupational guidelines, as well as the FCC's more stringent General Population guidelines with the recommended mitigation measures. However, TLF notes that the Applicant did not submit the City required RF affirmation, under the penalty of perjury. TLF recommends that no approvals should be issued until receipt of the City required FCC Compliance affirmation.

/JLK

