

RESOLUTION NO. 2025-9427

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS DENYING APPEAL (AA25-0001) OF A PLANNING COMMISSION DECISION APPROVING A CONDITIONAL USE PERMIT (CUP23-0005) RENEWAL TO ALLOW THE CONTINUED OPERATION OF AN EXISTING AT&T MOBILITY WIRELESS TELECOMMUNICATION FACILITY AT 2080 GOLDEN EAGLE TRAIL FOR AN ADDITIONAL TEN (10) YEAR TERM

CUP 23-0005  
AT&T Mobility, LLC

WHEREAS, on August 30, 2023, the City received an application from AT&T Mobility, LLC requesting a Conditional Use Permit to allow the continued operation of a wireless telecommunication facility, composed of a 35 foot tall faux tree monopole and associated ground-mounted equipment inside an existing 240 square-foot equipment building designed to emulate and agricultural building at a 10.21 acre property located at 2080 Golden Eagle Trail in the Agricultural (A-1) Zone in the Questhaven/La Costa Meadows Neighborhood ("Project") more particularly described as:

Brief Legal Description: The West 417.42 Feet of the South 1/3 of the Southeast Quarter of the Northwest Quarter, and the West 417.42 Feet of the North 626.13 Feet of the Northeast Quarter of the Southeast Quarter, All in Section 27, Township 12 South, Range 3 West, San Bernardino Meridian, In the County of San Diego, State of California, According to The United States Government Survey Approved September 19, 1889.

Assessor's Parcel Number(s): 679-040-01-00; and

WHEREAS, the Development Services Department did study said request, and recommends approval of said request; and

WHEREAS, on February 18, 2025, the San Marcos Planning Commission held a duly noticed public hearing and approved Conditional Use Permit (CUP23-0005) and a CEQA Categorical Exemption (EX 24-027) by a 7-0 vote, in favor; and

WHEREAS, on February 19, 2025, an appeal (AA25-0001) was filed by John Signorino in opposition to the decision of the Planning Commission; and

WHEREAS, the City Council held an appeal hearing on April 22, 2025, which was duly noticed and held in the manner prescribed by law; and

WHEREAS, the Appellant was given the opportunity to participate in the public hearing through oral testimony and submittal of written comments; and

WHEREAS, on April 22, 2025, the City Council fully reviewed, considered, and evaluated the staff reports prepared for the Project including the attachments to the staff reports, oral and written public testimony, and all other documents and evidence in the public record on the Project and the appeal; and

WHEREAS, after consideration of the evidence of the entire administrative record, at the public hearing on April 22, 2025, the City Council adopted Resolution No. 2025-9427, approving the Conditional Use Permit (CUP23-0005) and CEQA Categorical Exemption (EX 24-027), effectively denying the appeal (AA25-0001).

NOW, THEREFORE, the City Council does hereby resolve as follows:

- A. The foregoing recitals are true and correct, and are hereby incorporated by reference into this Resolution.
- B. The City Council, having independently heard, considered, and weighed all the evidence in the record presented on behalf of all parties and being fully informed of the Project, the Planning Commission's decision, and the appeal, finds that the Appellant has not shown, based on evidence in the record, that the Planning Commission's decisions were made in error. This determination is based on the staff report and attachments prepared for the Planning Commission hearing on the Project and the staff report, and attachments prepared for the City Council on the Project and the appeal, which is incorporated herein by reference.
- C. The City Council hereby approves this Conditional Use Permit per the submitted plans date stamped January 2, 2024 (35'-0" tall faux mono-pine tree, and a 240 square foot equipment enclosure on a 10.21 acres lot) except as modified herein, and subject to compliance with the conditions of approval in Exhibit A attached hereto and incorporated by reference and made a part of this Resolution as though fully set forth herein.
- D. This Conditional Use Permit is within the scope of the previously adopted Final Mitigated Negative Declaration (ND 13-006) and the mitigation monitoring and reporting program pursuant CEQA. This Conditional Use Permit is also found to be Categorically Exempt (EX 24-027) from environmental review pursuant to CEQA Section 15301, Class 1 (Existing Facility with No Expansion).
- E. The City Council's decision is based on the following findings and determinations:
  1. Approval of the Conditional Use Permit would not result in detrimental impacts to adjacent properties or the character and function of the neighborhood, in that the wireless antenna facility is existing and operational standards for the facility have been conditioned to comply with FCC standards and the California PIC requirements. In addition, there will be no visual impacts created through the continuation of operations of the facility, existing antenna panels are concealed by faux branches and leaves, and the natural trees around the base of the antenna and the ground mounted equipment continue to screen the facility, along with the existing equipment enclosure.
  2. The design, development, and conditions associated with the Conditional Use Permit are consistent with the goals, policies, and intent of the General Plan, the purpose and intent of the applicable Zone and the character of any applicable Specific Plan, in that the restoration and continued use of an existing wireless

telecommunication facility provides a needed communication service within the City of San Marcos (Goal LU-17).

3. The land use allowed in conjunction with the Conditional Use Permit is compatible with the existing and future land uses of the applicable Zone, and the general area in which the proposed use is to be located, in that the continued operation of an existing wireless facility at this location, is compatible with existing and future land uses of the surrounding area.
  4. The conditions imposed are necessary to protect the best interests of the surrounding property and neighborhood or to lessen or prevent any detrimental effect, in that the Conditions of Approval contained in the Resolution PC 13-4359 will be maintained to ensure the existing wireless antenna facility continues to comply with FCC regulations for impacts on the quality of the human environment.
  5. All requirements of CEQA have been met, in that the project is Categorically Exempt from environmental review pursuant to CEQA Section 15301, Class 1 (Existing Facility with No Expansion) in that the project will be located within an existing facility and does not propose expansion.
- F. This Conditional Use Permit is within the scope of the previously adopted Final Mitigated Negative Declaration (ND 13-006) and the mitigation monitoring and reporting program pursuant CEQA. This Conditional Use Permit is also found to be Categorically Exempt (EX 24-027) from environmental review pursuant to CEQA Section 15301, Class 1 (Existing Facility with No Expansion).
- G. This Conditional Use Permit shall become null and void if not acted upon within twelve (12) months of the adoption of this resolution, or the approved use ceases to operate at the subject property for a period more than twelve (12) months.
- H. This Conditional Use Permit shall expire on February 19, 2035. Any request for permit extension shall be applied for by the permittee no later than 120 days prior to the expiration date.
- I. Any future expansion to the facility shall require a modification to this Conditional Use Permit. The Conditional Use Permit application must be submitted for review and approval by the Development Services Department prior to the issuance of any building permits.
- J. The Planning Division may, but is not obligated to, inspect the premises annually to ensure compliance with all conditions of the use permit approval. If the Planning Division determines that compliance is not being achieved after a cure period, then a public hearing must be scheduled for possible use permit modification and/or revocation, in accordance with Chapter 20.545 of the San Marcos Municipal Code (SMMC).
- K. The applicant/developer shall comply with all provisions and requirements set forth in the San Marcos Municipal Code, and all City ordinances, resolutions, policies and procedures, and with all applicable state and federal regulations, as may be amended from time to time, whether or not such provisions or requirements have been specifically set forth in

these conditions, all of which are now incorporated by reference and made a part of this Resolution with the same force and effect as though fully set forth herein.

- L. To the extent feasible and as permitted by law, developers and contractors are requested to first consider the use of San Marcos businesses for any supplies, materials, services, or equipment needed, and the hiring of local residents to stimulate the San Marcos economy to the greatest extent possible.
  
- M. To the extent permitted by law, the applicant/developer shall defend and hold the City of San Marcos, its agents and employees harmless from liability from: (i) any and all actions, claims, damages, injuries, challenges and/or costs of liabilities arising from the City's approval of any and all entitlements or permits arising from the project as defined in the conditions of approval, or issuance of grading or building permits; (ii) any damages, liability and/or claim of any kind for any injury to or death of any person, or damage or injury of any kind to property which may arise from or be related to the direct or indirect operations of the applicant/developer or its contractors, subcontractors, agents, employees or other persons acting on applicant/developer's behalf which relate to the project; and (iii) any and all damages, liability and/or claims of any kind arising from operation of the project. The applicant/developer further agrees that such indemnification and hold harmless shall include all defense related fees and costs associated with the defense of City by counsel selected by the City. This indemnification shall not terminate upon expiration of the conditions of approval or completion of the project, but shall survive in perpetuity.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of San Marcos, California, at a regular meeting thereof, held on this 22<sup>nd</sup> day of April, 2025, by the following roll call vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

APPROVED:

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Rebecca D. Jones, Mayor

ATTEST:

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Phillip Scollick, City Clerk

**ATTACHMENT(S):**

EXHIBIT A – Conditions of Approval

EXHIBIT A  
RESOLUTION NO. 2025-9427  
CUP23-0005  
Conditions of Approval

- A. Reliance on the Conditional Use Permit shall comply with the following operational standards:
1. Within 60 days of the approval of this permit, the applicant shall submit a Building Permit application to the City proposing the rebranching of the facility, to conform to the photo simulation dated November 19, 2012. All work related to the rebranching must be completed within 120 days from the date of issuance of the Building Permit, unless an extension is granted by the Building Division. Such an extension shall only be considered upon the submission of substantial evidence demonstrating that progress on the rebranching has occurred and specifying a reasonable and necessary timeframe to complete the work.
  2. The applicant shall fully implement all recommended maintenance outlined in the arborist report dated November 12, 2024, within 60 days of the approval of this permit. All maintenance activities shall be completed to the satisfaction of the City and in accordance with the timeline and specifications detailed in the report. Verification of the completed maintenance may be required by the City to ensure compliance.
  3. The applicant/operator shall at all times comply with all FCC rules and regulations, including without limitation the RF emissions safety requirements of FCC Office of Engineering Bulletin 65, and any successors thereto. It shall be responsibility of the applicant to contact the City acknowledging any changes in the regulations that would affect the Telecommunications Facility.
  4. If the Federal Communications Commission adopts new standards regarding this use, the applicant shall repeat the aforementioned monitoring and report cycle.
  5. The installation of communication equipment (deemed a public utility) shall comply with the rules and regulations enforced by the State of California Public Utilities Commission.
  6. The mono-tree and equipment enclosure shall be maintained in good condition which includes replacing damaged or lost faux branches, leaves, bark cladding, and antenna covers, and painting of equipment and faux tree parts when necessary. The applicant shall at all times maintain the wireless telecommunication facility to ensure continuing effectiveness of the camouflage elements.
  7. The mono-tree shall retain a naturally shaped canopy and all externally mounted equipment on the tree (i.e. antennas, cables, etc.) shall remain fully concealed

within the canopy created by the faux branches and leaves of the facility.

8. All trees and landscaping installed with this project shall be maintained in a health and thriving manner for screening purposes of the proposed mono-tree and equipment enclosure. If any of said trees and/or landscaping perish or are destroyed, then the applicant/operator and/or property owner shall replace it in kind, size, and quantity to provide the same screening value as determined by the Planning Division Director.
9. The applicant/operator shall, at its sole cost and expense, cause a licensed Arborist to monitor the project site bi-annually throughout the term of this Conditional Use Permit, with the first report due no later than February 18, 2027. Reports must be promptly submitted to the Planning Division after each monitoring inspection which details their findings and recommendation. If the City determines it necessary to have the Arborist's monitoring report reviewed by a third party, the applicant/operator shall also be solely responsible for all costs associated with this review.
10. The applicant/operator shall, at its sole cost and expense, submit an RF Report, shall also be conducted bi-annually, with the first report due no later than February 18, 2027, and throughout the term of this Conditional Use Permit, and each bi-annual RF Report detailing such findings shall thereafter be promptly submitted to the Planning Division. If the City determines it necessary to have the RF Report reviewed by a third party, the applicant/operator shall also be solely responsible for all costs associated with this review.
11. The applicant shall be responsible for compliance with all relevant portions of the City of San Marcos Municipal Code.
12. Use of the site must be conducted so as not to become obnoxious by reason of noise, odor, refuse, parking impacts, or maintenance of grounds and in such a manner as will not detrimentally affect adjoining properties and uses.
13. All trees and landscaping shall be maintained in a healthy, thriving manner. If any trees/landscaping shall die or become diseased, the trees/landscaping shall be replaced in numbers and quantity to provide the same landscaping and screening value. All recommendations identified in bi-annual arborist reports shall be implemented
14. The applicant shall keep the site, which includes without limitation any and all improvements, equipment, structures, access routes, fences and landscape features, in a neat, clean and safe condition in accordance with the approved plans dated January 2, 2024 and photo simulation dated November 19, 2012, and all conditions in this permit.

15. The applicant shall maintain compliance at all times with all federal, state, and local statutes, regulations, orders or other rules that carry the force of law (“Laws”) applicable to the applicant, the subject property, the wireless facility or any use or activities in connection with the use authorized in this permit, which includes without limitation any laws and regulations applicable to human exposure to RF emissions. The applicant will not be relieved from its obligation to comply in all respects with all applicable provisions in the San Marcos Municipal Code, this or any other applicable permit, and each and every other permit condition.
16. The applicant shall provide accurate and up-to-date contact information for the person responsible for the wireless facility, which includes without limitation such person’s full name, title, direct telephone number, facsimile number, mailing address and email address. The applicant shall keep such contact information up-to-date at all times and immediately provide the Director with updated contact information in the event that either the responsible person or such person’s contact information changes.
17. The applicant shall maintain complete and accurate copies of all permits and other regulatory approvals issued in connection with the wireless facility, which includes without limitation this approval, the approved plans and photo simulations incorporated into this approval, all conditions associated with this approval and any ministerial permits or approvals issued in connection with this approval. In the event that the applicant does not maintain such records as required in this condition, any ambiguities or uncertainties that would be resolved through an inspection of the missing records will be construed against the applicant. Records may be kept in electronic format.
18. The applicant shall ensure that the equipment enclosure, associated with this wireless site, is always properly locked except when there is active maintenance.
19. The applicant shall ensure that all federally required radio frequency signage be installed and maintained at all times in good condition in English Languages. 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 at required by the FCC.
20. In the event that the FCC changes any radio frequency signage requirements, or changes to ANSI Z535.1, ANSI Z535.2, and ANSI C95.2 standards are made that are applicable to the project site approved herein, the applicant, at its own cost and expense shall replace the signage at the project site to comply with the most current

standards within 30 days of such changes.

21. The facility must comply with all applicable provisions of San Marcos Municipal Code (SMMC) Chapter 14015 (Storm Water Management and Discharge Control) and other State and regional permits/standards for the protection of storm water quality.
  22. Non-storm water discharge into the City's storm drain conveyance system is considered an illicit discharge and is prohibited during construction, operation and maintenance of the business in accordance with SMMC Chapter 14.15
  23. A fuel management zone shall be maintained 30' from the perimeter of the existing equipment enclosure.
  24. Outdoor storage shall be prohibited on site.
  25. The applicant shall be responsible for repairing any damage to the private road caused by project-related construction or ongoing regular maintenance activities. All repairs must restore the road to a condition equal to or better than its pre-construction state, to the satisfaction of the owner of the subject property, 2080 Golden Eagle Trail (APN: 679-040-01-00).
- B. Any modifications, alterations, expansions or other changes shall require the issuance of Building Permits and compliance with the requirements of the latest adopted California Building and Fire Code.
1. A building permit is required for the rebranching and addition of branches as required as conditions of approval C.2.a and C.2.b. The Building Permit to modify the facility's branches shall be applied for within a year of the approval of this CUP.
- C. Prior to issuance of any building permits, the applicant/developer shall comply with the following conditions:
1. The applicant/developer must obtain written approval from the Planning Division that the modifications proposed under any Building Permit are in substantial conformance with this adopted Conditional Use Permit.
  2. Plans submitted for plan check to the Building Division for the issuance of Building Permits shall include the following:
    - a. At minimum, three (3) faux branches per foot are required to create a realistic and natural faux tree. All branches shall incorporate faux leaves, natural colors and three (3) dimensional textures.
    - b. Horizontally mounted faux branches and leaves shall extend a minimum of

eighteen (18) inches beyond the face of the panel antennas.

- c. All panel antennas shall always be covered with mock antenna socks, securely attached and consistent with the foliage on the Mono-tree branches.
  3. Building plans and instruments of service submitted with a Building Permit application must be signed and sealed by a California licensed design professional as required by the State of California Business and Professions Code.
  4. The City is located in Seismic Design Category “D.” Buildings and structures must be designed to adequately transmit the dynamic lateral forces in accordance with the requirements of the latest adopted California Building Code.
  5. The handling, storage, use and disposal of hazardous, toxic or flammable materials shall be clearly indicated on all floor plans submitted for a building permit and shall be in compliance with any and all Federal, State, County and City rules, regulations, and requirements for hazardous waste control, including but not limited to the Hazardous Waste Control Act of 1973 (HWCA) (Health & S C §25100 *et seq.*), as may be amended from time to time, whether or not such provisions or requirements have been specifically set forth in these conditions, all of which are now incorporated by reference and made a part hereof with the same force and effect as though fully set forth herein.
  6. The proposed development shall comply with the latest Federal Law, Americans with Disabilities Act, and State Law, California Code of Regulations, Title 24, for accessibility standards.
- D. During the construction phase, the applicant/developer shall comply with the following conditions:
1. If deemed necessary by the Planning Division Director, the applicant shall install additional leaves onto the leaf-covered socks of the mono-tree and antennas in order to screen the antennas, hardware, cables, etc. from view. The screening cost shall be paid for by the communication company.
  2. Dust and dust producing materials shall be controlled within the maximum acceptable concentrations for silica and silicates in accordance with the California Code of Regulations, Title 8, Section 5155. Water and dust palliative shall be used to prevent excessive dust during blasting, construction and grading operations. Projects are required to comply with the Air Pollution Control District’s standards for mitigating fugitive dust during all phases of construction.
  3. All construction operations authorized by building permits, including the delivery, setup and use of equipment must be conducted on premises during the hours of 7:00 AM and 6:00 PM on Monday through Friday, and on Saturday between 8:00 AM

and 5:00 PM. No work shall be conducted on Sundays or Holidays observed by the City of San Marcos. Failure to comply will result in the issuance of STOP WORK NOTICES, REVOCATION OF PERMITS and the issuance of citations and fines as appropriate. Citation for hours of work violations requires a mandatory court appearance in North County Superior Court.

4. During construction the owner/developer/contractor shall implement and maintain the storm water pollution prevention measures as required on the approved plans. Violations of the City's Storm Water Management Ordinance will result in Stop Work Orders, Notices of Violation and citations with fines. Work on the project may be delayed until the City determines that the project is in compliance with the storm water requirements.
- E. Prior to Final Inspection, the applicant/developer shall comply with the following conditions:
1. The proposed project shall satisfy all conditions of approval contained herein. The applicant/operator/contractor must obtain approval from all City departments and other agencies before requesting a Final Inspection from the Development Services Department.
  2. The applicant shall provide the Planning Division with the most recently conducted annual arborist report, a letter confirming all recommendations have been satisfied, along with the date of completion and photos of the corrected items.
  3. The applicant/ operator shall install and maintain permanent RF notice signs in English at the entrance of the equipment enclosure. The signage must be a minimum of 8' wide by 12' high, compliant with FCC OET Bulletin 65 or ANSI C92.2 for color, symbol, and content conventions. All such signage shall at all times provide a working local or toll-free telephone number to its network operations center, and such telephone number shall be able to reach a live person who can exert transmitter power-down control over this site as required by the FCC. The location of the sign must ensure that anyone approaching the antennas may clearly see the sign before limbing in front of the antennas.