

RESOLUTION NO. 2023-XXX

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SANTA ANA APPROVING CONDITIONAL USE PERMIT NO. 2022-18 AS CONDITIONED TO RENEW THE ENTITLEMENTS OF AN EXISTING 60-FOOT TALL MAJOR WIRELESS COMMUNICATIONS FACILITY LOCATED AT 2649 WEST FIRST STREET

BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF SANTA ANA AS FOLLOWS:

Section 1. The Planning Commission of the City of Santa Ana hereby finds, determines, and declares as follows:

- A. Monica Martin with Core Development Services, on behalf of T-Mobile (Applicant) and Saroj Sarin (Property Owner), is requesting approval of Conditional Use Permit (CUP) No. 2022-18 to renew the entitlements of an existing 60-foot tall major wireless communications facility disguised as a mono-pine located at 2649 West First Street.
- B. On November 27, 2006, the Planning Commission approved CUP No. 2006-21, allowing the construction of the subject major wireless communications facility.
- C. Pursuant to Santa Ana Municipal Code ("SAMC") Section 41-198.3(b), a Conditional Use Permit is required for major wireless communications facilities established in the City of Santa Ana.
- D. In addition, SAMC Section 41-198.13 states that major wireless communications facilities shall be approved for a period not to exceed ten (10) years.
- E. As the current facility has reached its ten-year term, the applicant is required to apply for a new CUP in order to maintain entitlements for the current facility.
- F. On March 13, 2023, the Planning Commission held a duly noticed public hearing on CUP No. 2022-18.
- G. The Planning Commission determines that the following findings, which must be established in order to grant a CUP pursuant to SAMC Section 41-638, have been established for CUP No. 2022-18 to renew the entitlements of an existing 60-foot tall major wireless communications facility:

1. That the proposed use will provide a service or facility which will contribute to the general wellbeing of the neighborhood or community.

The major wireless communications facility will continue to provide a service to Santa Ana residents, businesses and motorists who subscribe to cellular services by providing cellular service and data coverage for its users within the vicinity. The issuance of a new CUP will allow the provider to continue to provide a service to the surrounding community.

2. That the proposed use will not, under the circumstances of the particular case, be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity.

The issuance of a new CUP to maintain a wireless facility at this location will not be detrimental to persons residing or working in the area as the facility will remain in compliance with Federal law that governs health related issues for wireless facilities, including safety regulations from the Federal Communications Commission (FCC) and Federal Aviation Administration (FAA). Additionally, the applicant will be replacing antennas and equipment that is similar to existing equipment on the mono-pine and within the leased area.

3. That the proposed use will not adversely affect the present economic stability or future economic development of properties surrounding the area.

The facility is compatible with the surrounding area and will not adversely affect the economic viability in the area. The stealthing provided by the facility's location at the rear of the site will maintain and increase the economic stability of the area by providing an additional service for business owners, workers, and residents in the area.

4. That the proposed use will comply with the regulations and conditions specified in Chapter 41 for such use.

The use will continue to comply with all provisions pertaining to the continuation of existing wireless facilities identified in Chapter 41 (Zoning Code) of the SAMC. The facility will continue to be stealthed by its design and surrounding landscape and will comply with other standards outlined in the SAMC. In addition, as conditioned, the installation of a wrought iron fence and adjacent matured landscaping will assist with the overall screening of the facility.

5. That the proposed use will not adversely affect the General Plan of the city or any specific plan applicable to the area of the proposed use.

As conditioned, the facility continues to meet all height, location/zoning, and stealthing standards. Moreover, the request to renew entitlements for the existing facility will be consistent with several goals and policies of the General Plan, as follows:

- Goal LU-3: Compatibility of Uses – Preserve and improve the character and integrity of existing neighborhoods and districts.
 - Policy 3.4 Compatible Development – Ensure that the scale and massing of new development is compatible and harmonious with the surrounding built environment.
 - Policy 3.7 Attractive Environment – Promote a clean, safe, and creative environment for Santa Ana’s residents, workers, and visitors

The proposed request will continue to provide services to the community located within the immediate vicinity while maintaining a disguised attractive look. The surrounding landscape will help buffer any potential visual impacts to maintain a compatible and attractive look.

- Goal LU-4: Complete Communities – Support a sustainable Santa Ana through improvement to the built environment and a culture of collaboration.
 - Policy 4.1 Complementary Uses – Promote complete neighborhoods by encouraging a mix of complementary uses, community services, and people places within a walkable area.
 - Policy 4.2 Public Realm – Maintain and improve the public realm through quality architecture, street trees, landscaping, and other pedestrian-friendly amenities.

In addition to providing services, the proposed project will maintain a stealth look that will help maintain the public realm through quality design and landscaping. The wireless facility will remain stealth and through conditions, additional measures will help the facility to remain disguised and compatible with surrounding trees.

Section 2. In accordance with the California Environmental Quality Act (CEQA) and the CEQA Guidelines, the project is categorically exempt from further review per Section 15301 (Class 1 – Existing Facilities). Class 1 exemption applies to the operation,

repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use. The project proposes to renew the entitlements of an existing major wireless communications facility and includes minor alterations to the existing facility. As such, a Notice of Exemption, Environmental Review No. 2022-39, will be filed for this project.

Section 3. The Applicant shall indemnify, protect, defend and hold the City and/or any of its officials, officers, employees, agents, departments, agencies, authorized volunteers, and instrumentalities thereof, harmless from any and all claims, demands, lawsuits, writs of mandamus, referendum, and other proceedings (whether legal, equitable, declaratory, administrative or adjudicatory in nature), and alternative dispute resolution procedures (including, but not limited to arbitrations, mediations, and such other procedures), judgments, orders, and decisions (collectively “Actions”), brought against the City and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof, that challenge, attack, or seek to modify, set aside, void, or annul, any action of, or any permit or approval issued by the City and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof (including actions approved by the voters of the City) for or concerning the project, whether such Actions are brought under the Ralph M. Brown Act, California Environmental Quality Act, the Planning and Zoning Law, the Subdivision Map Act, Code of Civil Procedure sections 1085 or 1094.5, or any other federal, state or local constitution, statute, law, ordinance, charter, rule, regulation, or any decision of a court of competent jurisdiction. It is expressly agreed that the City shall have the right to approve the legal counsel providing the City’s defense, and that Applicant shall reimburse the City for any costs and expenses directly and necessarily incurred by the City in the course of the defense. City shall promptly notify the Applicant of any Action brought and City shall cooperate with Applicant in the defense of the Action.

Section 4. The Planning Commission of the City of Santa Ana, after conducting the public hearing, hereby approves Conditional Use Permit No. 2022-18, as conditioned in Exhibit A, attached hereto and incorporated herein, for the project located at 2649 West First Street. This decision is based upon the evidence submitted at the above-referenced hearing, including but not limited to: The Request for Planning Commission Action dated March 13, 2023, and exhibits attached thereto; and the public testimony, written and oral, all of which are incorporated herein by this reference.

ADOPTED this 13th day of March, 2023 by the following vote.

AYES: Commissioners:
NOES: Commissioners:
ABSENT: Commissioners:
ABSTENTIONS: Commissioners:

Bao Pham
Chairperson

APPROVED AS TO FORM:
Sonia R. Carvalho, City Attorney

By: John M. Funk
John M. Funk
Chief Assistant City Attorney

CERTIFICATE OF ATTESTATION AND ORIGINALITY

I, Nuvia Ocampo, Recording Secretary, do hereby attest to and certify the attached Resolution No. 2023-XXX to be the original resolution adopted by the Planning Commission of the City of Santa Ana on March 13, 2023.

Date: _____

Recording Secretary
City of Santa Ana

EXHIBIT A

Conditions of Approval for Conditional Use Permit No. 2022-18

Conditional Use Permit No. 2022-18 is approved subject to compliance, to the reasonable satisfaction of the Planning Manager, with all applicable sections of the Santa Ana Municipal Code, the California Building Standards Code, and all other applicable regulations.

The Applicant must comply with each and every condition listed below prior to exercising the rights conferred by this conditional use permit.

The Applicant must remain in compliance with all conditions listed below throughout the life of the conditional use permit. Failure to comply with each and every condition may result in the revocation of the conditional use permit.

1. All site improvements must conform to Development Project Review (DP Nos. 2006-3 and 2022-10) and in accordance with the plans attached to the staff report documenting the approved scope of the project.
2. Prior to the release of the resolution, the applicant is responsible for addressing the Code Enforcement Notice of Violation dated February 28, 2023 by the date specified on said notice. The items listed on the Notice of Violation include, but are not limited to:
 - a) Obtain Planning approval and the proper Building permits for the following:
 - Exterior and interior electrical work done without permits.
 - Window change out for the office building located along the south property line.
 - Installation of signs.
 - Re-striping, repaving, and/or resurfacing the parking lot.
 - Constructing a trash enclosure to service the site.
 - Addressing the partial fire damage.
 - b) Remove outdoor storage, products, equipment, trash, or vehicles.
3. Per the approved DP Nos. 2006-03 and 2022-10, the applicant agrees to the following improvements to be constructed or installed within 90 days of adoption of this Resolution:
 - a) The existing chain link fence shall be replaced with a new wrought iron fence enclosing the equipment area and facility.
4. The Applicant shall post onsite a 24-hour phone number to which interference problems may be reported.
5. The Applicant will provide a “single point of contact” in its Engineering and Maintenance Departments to insure continuity on all interference issues. The

name, telephone number, fax number and e-mail address of that person shall be provided to the City's designated representative after approval of the new CUP.

6. The Applicant shall ensure that lessee or other user(s) shall comply with the terms and conditions of this permit, and shall be responsible for the failure of any lessee or other users under the control of permit Applicant to comply.
7. The Applicant shall be responsible for maintaining the subject site free from debris, overgrown vegetation, and graffiti. Any graffiti must be removed within 24 hours.
8. The Applicant shall submit and maintain current contact information at all times. The Applicant shall notify the City of any changes to the information submitted within 30 days of any change, including change of the name or legal status of the owner or operator. This information shall include the following:
 - a) Identity, including name, address, and telephone number, and legal status of the owner of the facility including official identification numbers and FCC certification, and if different from the owner, the identity and legal status of the person or entity responsible for operating the facility.
 - b) Name, address, and telephone number of a local contact person for emergencies
 - c) Identification signs, including emergency phone numbers of the utility provider, shall be posted at the communications facility site.
9. All wireless telecommunications facilities shall comply at all times with all FCC regulations rules and standards
10. CUP No. 2022-18 expires 10 years from the date of Planning Commission approval.
11. The Owner of the wireless facility shall remove the facility and all associated equipment and restore the property to its original condition within ninety (90) days after the abandonment, expiration or termination of the conditional use permit.
12. Violations of the Conditional Use Permit as contained in Section 41-647.5 of the Santa Ana Municipal Code will be grounds for permit suspension and/or revocation as described in Section 41-651 of the Santa Ana Municipal Code.
13. Within 90 days of adoption of this resolution, a Property Maintenance Agreement shall be recorded against the property. The agreement will be subject to review and applicability by the Planning and Building Agency, the Community Development Agency, the Public Works Agency, and the City Attorney to ensure that the property and all improvements located thereupon are properly maintained. Applicant (and the owner of the property upon which the authorized use and/or authorized improvements are located if different from the Applicant) shall execute a maintenance agreement with the City of Santa Ana which shall be recorded against the property and which shall be in a form reasonably satisfactory to the

City Attorney. The maintenance agreement shall contain covenants, conditions, and restrictions relating to the following:

- a) Compliance with operational conditions applicable during any period(s) of construction or major repair (e.g., proper screening and securing of the construction site; implementation of proper erosion control, dust control and noise mitigation measure; adherence to approved project phasing etc.);
- b) Compliance with ongoing operational conditions, requirements and restrictions, as applicable (including but not limited to hours of operation, security requirements, the proper storage and disposal of trash and debris, enforcement of the parking management plan, and/or restrictions on certain uses);
- c) Ongoing compliance with approved design and construction parameters, signage parameters and restrictions as well as landscape designs, as applicable;
- d) Ongoing maintenance, repair and upkeep of the property and all improvements located thereupon (including but not limited to controls on the proliferation of trash and debris about and immediately adjacent to the property; the proper and timely removal of graffiti; the timely maintenance, repair and upkeep of damaged, vandalized and/or weathered buildings, structures and/or improvements; the timely maintenance, repair and upkeep of exterior paint, parking striping, lighting and irrigation fixtures, walls and fencing, publicly accessible bathrooms and bathroom fixtures, landscaping and related landscape improvements and the like, as applicable);
- e) If Applicant and the owner of the property are different (e.g., if the Applicant is a tenant or licensee of the property or any portion thereof), both the Applicant and the owner of the property shall be signatories to the maintenance agreement and both shall be jointly and severally liable for compliance with its terms;
- f) The maintenance agreement shall further provide that any party responsible for complying with its terms shall not assign its ownership interest in the property or any interest in any lease, sublease, license or sublicense, unless the prospective assignee agrees in writing to assume all of the duties, obligations and responsibilities set forth under the maintenance agreement;
- g) The maintenance agreement shall contain provisions relating to the enforcement of its conditions by the City and shall also contain provisions authorizing the City to recover costs and expenses which the City may incur arising out of any enforcement and/or remediation efforts which the City may undertake in order to cure any deficiency in maintenance, repair or upkeep or to enforce any restrictions or conditions upon the use of the property. The maintenance agreement shall further provide that any unreimbursed costs and/or expenses incurred by the City to cure a deficiency in maintenance or

to enforce use restrictions shall become a lien upon the property in an amount equivalent to the actual costs and/or expense incurred by the City; and

- h) The execution and recordation of the maintenance agreement shall be a condition precedent to the issuance of this resolution.