

BOARD OF ZONING ADJUSTMENT
RESOLUTION NO. 2021-05

A RESOLUTION GRANTING A CONDITIONAL USE PERMIT TO T-MOBILE WEST FOR THE CONVERSION OF AN EXISTING CELLULAR UNIPOLE TO A NON-CAMOUFLAGED MONOPOLE LOCATED AT THE MODESTO IRRIGATION DISTRICT ELECTRICAL SUBSTATION FACILITY AT 529 ENSLEN AVENUE

WHEREAS, an application for a Conditional Use Permit to allow the conversion of a cellular unipole to a non-camouflaged monopole with open antenna array at an existing cellular facility within a Modesto Irrigation District electrical substation on property located at 529 Ensen Avenue, was filed by Chad Christie for T-Mobile West on April 20, 2021; and

WHEREAS, Section 10-9.102 of the Municipal Code authorize the Board of Zoning Adjustment to grant Conditional Use Permits; and

WHEREAS, a public hearing was held by the Board of Zoning Adjustment on June 24, 2021, in Chambers, 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered; and

WHEREAS, this matter is exempt under Section 15301(a) of the CEQA Guidelines, which exempts minor interior and exterior alterations to existing facilities.

NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Adjustment that it finds and determines as follows:

1. Other locations or type of telecom facilities not requiring such approval are either not available or not feasible: This is a request for a modification of the existing telecommunications facility, not a request for a new telecommunications facility. T-Mobile Radio Engineers have determined that to best serve its customers data needs and demands, this facility must be modified to include T-Mobile's 2.5Ghz technology which allows significantly more and quicker data throughput speeds to customers. The size of the new antenna array would not allow for a slimline radome cover to conceal the equipment.
2. The proposed telecom facility will not adversely impact the use of the property, other buildings and structures on the property, or the surrounding area or neighborhood: The site is an existing cellular facility at an electrical power substation, and will not adversely impact the use of the property. The facility is unmanned, only uses a very small footprint of the property (approx. 150 sq. Ft.) and does not require extensive maintenance (no more than once per month). The lease area is not proposed to be expanded, and the location of the tower, sited approximately 65 feet from the nearest residential property, would remain unchanged.
3. The proposed new telecom facility results in the least intrusive visual impact to the area: The proposed modifications to the existing facility are to upgrade the facility to T-Mobile's spectrum requirements. This requires the radome to be removed and additional antennas to be added. The design is the least visually intrusive design that is feasible.

4. The proposed site will close a significant gap in coverage: The proposed modifications will improve service on an existing older wireless telecommunications facility by providing 2.5 Ghz coverage where none currently exists. Therefore, this modification will provide significant gap coverage.
5. The proposed telecom facility conforms to the provisions of this article for such facilities: The proposed cell tower and the changes would conform to the Wireless Telecommunication Facilities provisions (Title 10, Chapter 3, Article 4) in the Modesto Municipal Code. The proposed modifications are to an existing facility that will not be increased in height, nor change any existing setbacks.

BE IT FURTHER RESOLVED by the Board of Zoning Adjustment that a conditional use permit for the conversion of the existing cellular unipole to a non-camouflaged monopole with open antenna array located at the Modesto Irrigation District electrical substation at 529 Enslin Avenue be granted subject to the following conditions:

1. All development shall conform to the plans titled "T-Mobile SC90259M-Elk Anchor Project, 529 Enslin Avenue, Modesto CA 95354" as stamped approved by the Board of Zoning Adjustment on June 24, 2021.
2. All fences, and walls shall be maintained and the premises shall be kept free of weeds, trash, and other debris.
3. Prior to issuance of a building permit, plans and technical data sheets shall be submitted to the Fire Marshall or designee for review. Plans and data sheets shall include but not be limited to the following:
 - a. Fire extinguisher systems;
 - b. On-site generators;
 - c. Compressed gasses and/or fuel storage systems.
4. Prior to placement of any stationary lead-acid battery systems or on-site generators, a permit shall be obtained from the Fire Department.
5. The property owner and developer shall, at their sole expense, defend, indemnify and hold harmless the City of Modesto, its agents, officers, directors and employees, from and against all claims, actions, damages, losses, or expenses of every type and description, including but not limited to payment of attorneys' fees and costs, by reason of, or arising out of, this development approval. The obligation to defend, indemnify and hold harmless shall include but is not limited to any action to arbitrate, attack, review, set aside, void or annul this development approval on any grounds whatsoever. The City of Modesto shall promptly notify the developer of any such claim, action, or proceeding and shall cooperate fully in the defense.

Failure to comply with any of the above conditions is unlawful and will constitute grounds for revocation of the conditional use permit.

The foregoing resolution was introduced at the regular meeting of the Board of Zoning Adjustment held on June 24, 2021, by Board Member Vohra, who moved its adoption, which motion was seconded by Board Member Blom and carried by the following vote:

Ayes:	Blom, Desai, Goriel, Rodriguez, Vohra
Noes:	None
Absent:	None
Recused:	None

BY ORDER OF THE BOARD OF ZONING ADJUSTMENT OF THE CITY OF MODESTO.

Original, signed copy on file in CEDD
Steve Mitchell, Secretary