

BOARD OF ZONING ADJUSTMENT
RESOLUTION NO. 2022-06

A RESOLUTION GRANTING A CONDITIONAL USE PERMIT TO AT&T FOR THE CONVERSION OF AN EXISTING CELLULAR MINIMAL EXPOSED ARRAY MONOPOLE INTO A NON-CAMOUFLAGED MONOPOLE WITH A FULLY OPEN ANTENNA ARRAY LOCATED AT THE TRINITY BAPTIST CHURCH OF MODESTO AT 1346 RONALD AVENUE

WHEREAS, an application for a Conditional Use Permit to allow the conversion of an existing cellular minimal exposed array monopole into a non-camouflaged monopole with a fully open antenna array at an existing cellular facility within a church on property located at 1346 Ronald Avenue, was filed by Carl Jones for AT&T on March 22, 2022; 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 May 26, 2022, 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. AT&T's engineers have indicated that the proposed location will provide the necessary coverage and capacity with the ability to hand off the wireless signal to the next telecommunication site. The size of the new antennas would not allow for a unipole design due to poor ventilation inside the cannister that will cause over-heating with the new technology.
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 a church, and will not adversely impact the use of the property. The facility is unmanned, only uses a very small footprint of the property (approx. 496 sq. ft.) and does not require extensive maintenance ("as needed" basis only). The lease area is not proposed to be expanded, and the location of the tower, sited approximately 75 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: By using the existing location, design and facility for colocation of AT&T's most current technology equipment, the proposal would provide the least visually intrusive and feasible design by which AT&T can close its significant service coverage gap in this portion of the City of Modesto. This requires that a fully open antenna configuration of new panel antennas and radio units on the 5-

foot cell tower height extension for co-location servicing multiple carriers rather than building a new cell tower.

4. The proposed site will close a significant gap in coverage: The proposed modifications will improve the existing wireless network in the City of Modesto and Stanislaus County. The colocation on the existing Monopole tower and installation of AT&T's telecommunication equipment will improve wireless and broadband internet coverage for the local area and provide First Net capability.
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 and will only increase the height by 5'-foot which is allowed by FCC Rules implementing section 6409(a) of the Spectrum Act, but will not 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 monopole to a non-camouflaged monopole with open antenna array located at the Trinity Baptist Church of Modesto at 1346 Ronald Avenue be granted subject to the following conditions:

1. All development shall conform to the plans titled "AT&T CVL01182-Tully & Briggsmore Project, 1346 Ronald Avenue, Modesto CA 95350" as stamped approved by the Board of Zoning Adjustment on May 26, 2022.
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 May 26, 2022, by Board Member Blom, who moved its adoption, which motion was seconded by Board Member Riddle and carried by the following vote:

Ayes:	Blom, Niskanen, Riddle, Vohra, Goriel
Noes:	None
Absent:	Desai
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

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