

BOARD OF ZONING ADJUSTMENT  
RESOLUTION NO. 2022-07

A RESOLUTION GRANTING A CONDITIONAL USE PERMIT TO T-MOBILE FOR THE CONVERSION OF AN EXISTING UNIPOLE CELLULAR TOWER INTO A NON-CAMOUFLAGED MONOPOLE WITH AN OPEN ANTENNA ARRAY LOCATED AT THE SALVATION ARMY RED SHIELD COMMUNITY CENTER AT 1649 LAS VEGAS STREET

WHEREAS, an application for a Conditional Use Permit to allow the conversion of an existing unipole cellular tower into a non-camouflaged monopole with an open antenna array at an existing cellular facility within a community center on property located at 1649 Las Vegas Street, was filed by Brian Schorsch for T-Mobile on March 8, 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. T-Mobile Radio Engineers have determined that to best serve its customers data needs and demands, this facility must be modified to include 5G technologies 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 due to poor ventilation inside the cannister that would otherwise cause over-heating.
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 community center, and will not adversely impact the use of the property. The facility is unmanned, only uses a very small footprint of the property (approx. 1,000 sq. Ft.) and does not require extensive maintenance. The lease area is not proposed to be expanded, and the location of the tower, approximately 115 feet from residentially zoned 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 to achieve better quality service to existing customers.

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 5G technology coverage at a greater capacity and coverage depth than the current LTE technologies. Therefore, this modification will provide significant service improvement.
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 unipole cellular tower into a non-camouflaged monopole with an open antenna array located at The Salvation Army Red Shield Community Center at 1649 Las Vegas Street be granted subject to the following conditions:

1. All development shall conform to the plans titled "T-Mobile Site ID: SC13323 Salvation Army, 1649 Las Vegas Street, Modesto CA 95358" 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 Niskanen, who moved its adoption, which motion was seconded by Board Member Bloom 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

5103852.1