



# County of Fresno

DEPARTMENT OF PUBLIC WORKS AND PLANNING  
STEVEN E. WHITE, DIRECTOR

September 16, 2019

AT&T Mobility  
2009 V Street  
Sacramento CA 95818

Dear Applicant:

Subject: Resolution No. 12793 - Initial Study Application No. 7577 and Unclassified  
Conditional Use Permit Application No. 3635

On August 29, 2019, the Fresno County Planning Commission approved your above-referenced project with Conditions. A copy of the Planning Commission Resolution is enclosed.

Since no appeal was filed with the Clerk to the Board of Supervisors within 15 days, the Planning Commission's decision is final.

The approval of this project will expire two years from the date of approval unless a determination is made that substantial development has occurred. When circumstances beyond the control of the Applicant do not permit compliance with this time limit, the Commission may grant an extension not to exceed one additional year. Application for such extension must be filed with the Department of Public Works and Planning before the expiration of the Unclassified Conditional Use Permit.

If you have any questions regarding the information in this letter please contact me at [jshaw@fresnocountyca.gov](mailto:jshaw@fresnocountyca.gov) or 559-600-4207.

Sincerely,

Jeremy Shaw, Planner  
Development Services and Capital Projects Division

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Enclosure



## Inter Office Memo

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DATE: August 29, 2019  
TO: Board of Supervisors  
FROM: Planning Commission  
SUBJECT: RESOLUTION NO. 12793 - INITIAL STUDY APPLICATION NO. 7577 and UNCLASSIFIED CONDITIONAL USE PERMIT APPLICATION NO. 3635

APPLICANT: AT&T Mobility

OWNER: Smith Foothill Ranch LLC

REQUEST: Allow an unmanned telecommunications tower consisting of a 61-foot monopole, with an artificial broadleaf tree design, within a 25-foot by 25-foot lease area on a 431.60-acre parcel; and allow the related ground equipment, cabinet, and diesel generator on a separate 20-foot by 23-foot lease area, located on an adjacent 2.00-acre parcel. The proposed tower and ground equipment lease areas will be located approximately 450 feet apart and connected by a proposed 20-foot-wide access and utility easement in the AE-40 (Exclusive Agricultural, 40-acre minimum parcel size) Zone District.

LOCATION: The project site is located on the south side of Millerton Road, between Rusty Spur Lane and State Route 168 (Morgan Canyon Road), approximately 4.5 miles southwest of the unincorporated community of Prather (SUP. DIST. 5) (APNs 138-070-66 and 138-070-69).

### PLANNING COMMISSION ACTION:

At its hearing of August 29, 2019, the Commission considered the Staff Report and testimony (summarized in Exhibit A).


A motion was made by Commissioner Burgess and seconded by Commissioner Chatha to adopt the Mitigated Negative Declaration prepared for the project, adopt the recommended Findings of Fact for approval of a Conditional Use Permit, and approve Unclassified Conditional Use Permit No. 3635, subject to the Conditions listed in Exhibit B.

RESOLUTION # 12793

This motion passed on the following vote:

VOTING:	Yes:	Commissioners Burgess, Chatha, Abrahamian, Delahay, Ede, Eubanks, Hill, Lawson and Vallis
	No:	None
	Absent:	None
	Abstain:	None

STEVEN E. WHITE, DIRECTOR  
Department of Public Works and Planning  
Secretary-Fresno County Planning Commission

By:   
William M. Kettler, Manager  
Development Services and Capital Projects Division

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NOTE: The approval of this project will expire two years from the date of approval unless a determination is made that substantial development has occurred. When circumstances beyond the control of the Applicant do not permit compliance with this time limit, the Commission may grant an extension not to exceed one additional year. Application for such extension must be filed with the Department of Public Works and Planning before the expiration of the Classified Conditional Use Permit.

Attachments

EXHIBIT A

Initial Study Application No. 7577  
Unclassified Conditional Use Permit Application No. 3635

- Staff: The Fresno County Planning Commission considered the Staff Report dated August 29, 2019, and heard a summary presentation by staff.
- Applicant: The Applicant's representative concurred with the Staff Report and the recommended Conditions of Approval. She described the project and offered the following information to clarify the intended use:
- This facility will provide high-speed broadband internet service to rural, underserved areas and wireless service to local agencies during emergencies; the tower is partially funded by the Connect America program.
  - The site was selected to minimize impacts on surrounding properties and is the least intrusive design and location that would close our identified gap in coverage for this area.
  - In areas of flat terrain, a taller tower can achieve a greater coverage distance; however, the proposed tower is designed at the minimum height necessary to achieve the coverage goals.
- Others: Two other individuals spoke in favor of the application stating that the proposed tower would provide increased reliability for public safety communications along with improved cellular and internet service. No one spoke in opposition to the application.
- Correspondence: No letters were presented to the Planning Commission in support of or in opposition to the application.

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**Mitigation Monitoring and Reporting Program**  
**Initial Study Application No. 7577/Unclassified Conditional Use Permit Application No. 3635**  
**(Including Conditions of Approval and Project Notes)**

EXHIBIT B

Mitigation Measures						
Mitigation Measure No. *	Impact	Mitigation Measure Language	Implementation Responsibility	Monitoring Responsibility	Time Span	
1.	Aesthetics	Both of the proposed lease areas shall be screened behind slatted, chain-link fencing provided in an earth-tone (brown) color. The slatted fencing color shall be maintained for the duration of operation of the facility.	Applicant	Applicant/Fresno County Department of Public Works and Planning (PW&P)	Ongoing/ Duration of the project	
2.	Biological	Oak trees which measure a minimum of 5 inches in diameter at breast height (dbh), defined as four and one-half feet on the uphill side of the tree, on the project site that are removed as a result of the project shall be replaced at a ratio of 1:1 (one tree planted to every one tree removed) with a five-gallon tree of the same species. All replacement trees shall be maintained until established.	Applicant	Applicant/PW&P	Ongoing/ Duration of the project	
3.	Biological	Due to the potential for Special-Status Species, including California Tiger Salamander (CTS) and/or Spadefoot toad, to occur or move through or into the project site, an on-site biological monitor (qualified biologist) shall be present during any ground disturbance, to include excavation, backfill and/or grading activities. If CTS or Spadefoot toad are found to be present, all work shall stop and the Applicant's qualified biologist shall consult with the United States Fish and Wildlife Service and the California Department of Fish and Wildlife to determine if a take permit or other course of action to protect CTS and/or Spadefoot toad is necessary. Additional Surveys may be necessary.	Applicant	Applicant/PW&P	Ongoing/ Duration of the project	
4.	Biological	If construction activities start during the breeding or nesting season for Migratory Bird Treaty Act (MBTA) protected breeds, a preconstruction survey for nesting birds shall be implemented. Surveys shall be conducted in accordance with U.S. Fish and Wildlife Service guidance for minimizing impacts to migratory birds (breeding season is generally defined as between February 1 and mid-September, and nesting season between March 1 and mid-September).	Applicant	Applicant/PW&P	Ongoing/ Duration of the project	
5.	Biological	Prior to any construction or ground disturbance (to include	Applicant	Applicant/PW&P	Ongoing/ Duration of the project	

		excavation, backfill and/or grading), and prior to any delay in work lasting more than seven (7) days, a qualified biologist shall survey the site to determine if the Great Horned Owl's nest identified by the submitted Habitat Assessment dated May 20, 2019 contains any adult Great Horned Owls, chicks or any other nesting birds, or if other nests are present. If adult Owls or chicks are present, all project-related construction, ground disturbance, excavation or backfill activities shall be postponed until all chicks have fledged and adults have ceased using the nest, and it is determined by the qualified biologist that no Great Horned Owls or chicks are present in the nest.			Duration of the project
6.	Cultural Resources	In the event that cultural resources are unearthed during ground-disturbing activity, all work shall be halted in the area of the find, and an Archeologist shall be called to evaluate the findings and make any necessary mitigation recommendations. If human remains are unearthed during ground-disturbing activity, no further disturbance is to occur until the Fresno County Sheriff-Coroner has made the necessary findings as to origin and disposition. All normal evidence procedures should be followed by photos, reports, video, etc. If such remains are determined to be Native American, the Sheriff-Coroner must notify the Native American Commission within 24 hours.	Applicant	Applicant/PW&P	During ground-disturbing activities
7.	Tribal Cultural Resources	Two (2) weeks prior to any ground-disturbing activities within the Area of Potential Effect (APE), such as digging, trenching, or grading, the Applicant shall notify all tribes that participated in consultation of the opportunity to have a certified Native American Monitor inspect the site prior to and be present during all ground-disturbing activities both during construction and decommissioning. The notification shall be by email to the following person: Robert Pennell at rpennell@tmr.org. The tribal monitors shall be independently insured in order to enter the construction zone.	Applicant	Applicant/PW&P	Ongoing
<b>Conditions of Approval</b>					
1.	Development and operation shall be in substantial conformance with the approved Site Plans, Floor Plans, Elevation Drawings and Operational Statement, except as modified by the Conditions of Approval.				
2.	Prior to the issuance of permits, the Applicant/lease holder identified as AT&T shall enter an agreement with the County of Fresno, requiring that should use of the tower cease for a period in excess of two years, CUP No. 3635 shall expire, the lease holder shall remove the tower and related facilities, and the lease areas and easements shall be restored as nearly as practical to their original pre-project condition. Said removal and restoration must be completed within 120 days after written notice of expiration of the use permit from the County.				

3.	All outdoor lighting shall be hooded and directed downward so as not to shine toward adjacent properties and public streets or roadways.
4.	The maximum number of antennas allowed on the tower shall be determined according to wind load calculations as approved by the Fresno County Department of Public Works and Planning.
5.	Prior to the issuance of permits, the Applicant shall submit a Vegetation Management Plan to the Fresno County Fire Protection District for approval, and verification of approval shall be provided to the Fresno County Department of Public Works and Planning.
6.	Prior to the issuance of permits, evidence shall be submitted showing provisions have been made to accommodate co-location, such as provision for co-location in a signed lease agreement, and additional area within the lease area for co-location of equipment, or other information that demonstrates the facility shall make itself available for co-location.

\*MITIGATION MEASURE – Measure specifically applied to the project to mitigate potential adverse environmental effects identified in the environmental document. Conditions of Approval reference required Conditions for the project.

**Notes**

<b>The following Notes reference mandatory requirements of Fresno County or other Agencies and are provided as information to the project Applicant.</b>	
1.	Unclassified Conditional Use Permit (CUP) No. 3635 shall become void unless there has been substantial development within two years of the effective date of approval (see Condition No. 2).
2.	The project shall comply with the California Code of Regulations Title 24 – Fire Code, and three sets of County-approved construction plans for the project shall be approved by the Fire District prior to issuance of Building Permits by the County.
3.	The subject parcel shall annex into Community Facilities District (CFD) No. 2010-01 of the Fresno County Fire Protection District.
4.	All hazardous waste shall be handled in accordance with requirements set forth in the California Health and Safety Code, Chapter 6.5.
5.	Facilities proposing to use and/or store hazardous materials and/or hazardous wastes shall meet the requirements set forth in the California Health and Safety Code (HSC), Division 20, Chapter 6.95, and the California Code of Regulations (CCR), Title 22, Division 4.5. Any business that handles a hazardous material or hazardous waste may be required to submit a Hazardous Materials Business Plan pursuant to the HSC, Division 20, Chapter 6.95 ( <a href="http://cers.calepa.ca.gov/">http://cers.calepa.ca.gov/</a> or <a href="https://www.fresnocupa.com/">https://www.fresnocupa.com/</a> ). For more information, please contact the local Certified Unified Program Agency (CUPA) at (559) 600-3271. The default State reporting thresholds that apply are >55 gallons (liquids), >500 pounds (solids), >200 cubic feet (gases), or at the threshold planning quantity for extremely hazardous substances.
6.	Plans, permits and inspections are required, including, but not limited to, accessible elements and site development based upon the codes in effect at the time of plan check submittal.
7.	Any additional runoff generated by the proposed development of this site cannot be drained across property lines and must be retained or disposed of per County Standards.
8.	A grading permit or voucher is required for any grading proposed with this application.

Notes	
9.	Any work done within the County road right-of-way will require that an encroachment permit be obtained from the Road Maintenance and Operations Division.

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