

## **RESOLUTION NO.**

### **RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BURLINGAME APPROVING AN APPLICATION FOR A CONDITIONAL USE PERMIT TO INSTALL A NEW WIRELESS FACILITY (ANTENNA AND EQUIPMENT) ON AN EXISTING WOOD UTILITY POLE LOCATED WITHIN THE RIGHT-OF-WAY ADJACENT TO 701 WINCHESTER DRIVE (EXISTING UTILITY POLE IS LOCATED ALONG OAK GROVE AVENUE)**

WHEREAS, on October 30, 2017, Abigail Reed, an agent for AT&T, filed an application with the City of Burlingame Community Development Department – Planning Division requesting approval of the following request:

- Conditional Use Permit to install a new wireless facility (antenna and equipment) on an existing wood utility pole located within the right-of-way adjacent to 701 Winchester Drive (existing utility pole is located along Oak Grove Avenue); and

WHEREAS, on March 12, 2018 the Planning Commission conducted a noticed public hearing (study session) to review and comment upon the proposed project. At that time the Commission requested additional information and provided direction regarding the design of the wireless facility; and

WHEREAS, on June 11, 2018 the Planning Commission conducted a noticed public hearing (action meeting). Following consideration of all information contained in the June 11, 2018 staff report to the Planning Commission regarding the project, all written correspondence, and all public comments received at the public hearing, the Commission denied without prejudice the application for a Conditional Use Permit; and

WHEREAS, subsequent to the Planning Commission's June 11, 2018 action, Talin Aghazarian, an agent for AT&T, filed a timely appeal of the Commission's actions denying the project without prejudice; and

WHEREAS, on September 4, 2018 the City Council conducted a noticed public hearing to consider the appeal, and continued action on the project until additional information was provided by the applicant and staff; and

WHEREAS, on January 22, 2019 the City Council conducted a noticed public hearing to consider the appeal and the refinements to the project made during the appeal process to address issues related to the aesthetics of the wireless facility, and following conclusion of the public hearing and in consideration of all oral and written testimony provided at the hearing, the City Council granted the appeal, overruled the Planning Commission's June 11, 2018 denial without prejudice, and approved the application as modified by the applicant.

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NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Burlingame, that:

- A. On the basis of the documents submitted and reviewed, and comments received and evaluated, the Council finds that there is no substantial evidence that the project set forth above will have a significant effect on the environment. The Council further finds that categorical exemption, per CEQA Section 15303, which states that construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure, is applicable to this project and is approved.
- B. A Conditional Use Permit is approved for the project subject to the following conditions of approval. Findings for the Conditional Use Permit are set forth in the staff report, minutes, and recordings of the two Council hearings held on the project. Conditions of approval:
  - 1. that the conditional use permit to install a new wireless communication facility on an existing PG&E wood utility pole, located within the right-of-way adjacent to 701 Winchester Drive, consisting of a cylindrical antenna, extension on top of the utility pole, one (1) smartpole meter, two (2) radio remote units, two (2) twin diplexers, one (1) ground bar, and one (1) electric load center, shall be valid for ten (10) years from the date of approval. At least one hundred twenty (120) days prior to the expiration of the initial ten (10) year term, the applicant shall complete and submit a renewal application to the Community Development Director;
  - 2. that the project shall be built as shown on the plans submitted to the Planning Division date stamped November 27, 2018, sheets T-1, GN-1, C1, A-1 through A-4, E-1 and E-2;
  - 3. that the equipment mounted on the side of the utility pole shall be concealed with solar shrouding as suggested by the applicant at the January 22, 2019 hearing; that prior to issuance of an encroachment permit for installation of the new wireless communication facility, the City shall work with the abutting property owner(s) to select one of two options for the solar shrouding, Option 1 or Option 2, as shown on the attached Exhibit A, provided by the applicant to Council;
  - 4. that the conditions of the Engineering Division's November 3, 2017 and January 8, 2018 memos shall be met;
  - 5. that prior to commencing any work at the site, the contractor commissioned by the applicant to perform the work shall obtain all required permits, such as a construction Encroachment Permit and Stormwater Pollution Prevention Permit from the Department of Public Works – Engineering Division;
  - 6. that all units must be at least seven (7) feet clear and above the highest adjacent finished grade, no exceptions shall be allowed;

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7. that the wireless communication facility shall operate in conformance with all applicable provisions of Chapter 25.77 of the Burlingame Municipal Code (Wireless Communications); where any conflicts exist between the applicable provisions of that chapter and this approval, the more restrictive provision shall apply;
8. that the facility shall meet or exceed current standards and regulations of the FCC, the FAA, and any other agency of the state or federal government with the authority to regulate wireless communication facilities. If such standards and regulations are changed and are made applicable to existing facilities, the owners of the facilities governed by this chapter shall bring such facilities into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring the facility into compliance with such revised standards and regulations shall constitute grounds for the removal of the facilities at the owner's expense, revocation of any permit or imposition of any other applicable penalty;
9. that the facility shall be constructed of graffiti-resistant materials and shall be painted with non-reflective material consistent with the color scheme on the utility pole;
10. that signage in, on or near the facility shall be prohibited with the exception of warning and informational signs, which shall be designed with minimal aesthetic impact;
11. that within forty-five (45) days of commencement of the facility operation, the applicant shall conduct a post-installation field test to confirm that the radio frequency (RF) exposure levels comply with FCC Rules and Regulations and with City noise regulations, shall submit the comprehensive report to the City, and if necessary, agree to promptly correct any noncompliance;
12. that the applicant shall report to the City every five (5) years from the date of commencement of the facility operation, a review of the condition of the facility, of the facility's compliance with federal and state regulations and of the facility's compliance with the provisions of this chapter and the conditions of approval. The applicant shall also provide updated contact information for the owner and the applicant and verifiable confirmation information as to what carrier(s) are using the facility;
13. that the applicant shall procure and maintain a City business license, contact information for the applicant, for the agent responsible for maintenance of the facility and for emergency contact;
14. that the applicant shall either secure a bond, letter of credit or other similar financial assurance, in a form acceptable to the City, for the removal of the facility in the event that its use is abandoned, its operation is ceased or the approval is terminated;

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15. that maintenance and repairs to facility shall be permitted provided that such maintenance and repair does not enlarge or extend the facility structure or equipment enclosures or change the number, type, dimensions, of the antenna or related equipment;
16. that if the applicant intends to substitute the equipment installed pursuant to this permit with subsequently-developed technology, such as “5G” equipment, the applicant or responsible party shall provide sixty (60) days prior notice to the City and secure any necessary permits before commencing such work;
17. that current contact information of the person or entity responsible for maintaining and repairing the facility shall be provided to and maintained by the Community Development Department;
18. that the facility shall be kept clean and free of graffiti, litter and debris. Lighting, walls, fences, shields, cabinets, and poles, shall be maintained in good repair and free of graffiti and other forms of vandalism, and any damage from any cause, including degradation from wind and weather, shall be repaired as soon as reasonably possible to minimize occurrences of dangerous conditions or visual blight. Graffiti shall be removed from any facility as soon as practicable, and in no instance more than two (2) business days from the time of notification by any person or entity;
19. that except for emergency repairs, testing and maintenance activities that will be audible beyond the property line shall only occur between the hours of 8:00 a.m. and 6:00 p.m. on Monday through Friday, excluding holidays;
20. that the service provider shall notify the Community Development Director of the intent to vacate a site at least thirty (30) days prior to the vacation;
21. that if the facility site is not operated for a continuous period of twelve (12) months, the Conditional Use Permit shall be deemed terminated unless before the end of the twelve (12) month period:
  - (1) The Community Development Director has determined that the same operator resumed operation; or
  - (2) The City has received an application to transfer the permit to another service provider.

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22. that no later than ninety (90) days from the date the facility is determined to have ceased operation or the Provider has notified the Community Development Director of the intent to vacate the site, the owner of the wireless communication facilities or the owner of the property on which the facility is sited shall remove all equipment and improvements associated with the use and shall restore the site to its original condition as required by the Community Development Director. The provider or owner may use any bond or other assurances provided by the operator to do so. The owner or his or her agent shall provide written verification of the removal of the facility within thirty (30) days of the date the removal is completed.

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Donna Colson, Mayor

I, Meaghan Hassel-Shearer, City Clerk of the City of Burlingame, certify that the foregoing resolution was adopted at a regular meeting of the City Council held on the 4<sup>th</sup> day of February, 2019 by the following vote:

AYES:

NOES:

ABSENT:

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Meaghan Hassel-Shearer, City Clerk