

**RESOLUTION NO. 2018-010**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF PACIFICA APPROVING USE PERMIT UP-105-18 (FILE NO. 2018-019), SUBJECT TO CONDITIONS, FOR A WIRELESS COMMUNICATIONS FACILITY ON AN EXISTING UTILITY POLE IN THE PUBLIC RIGHT-OF-WAY OF ODDSTAD BOULEVARD, APPROXIMATELY 575 FEET NORTHEAST OF LINDA MAR BOULEVARD, IN THE VICINITY OF 720 ODDSTAD BOULEVARD (APN 023-591-090), WITHIN THE O (PROFESSIONAL OFFICE) ZONING DISTRICT, AND FINDING THE PROJECT EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA).**

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Initiated by: Modus Inc. ("Applicant") for AT&T Mobility

**WHEREAS**, an application has been submitted to Install a new wireless communications facility consisting of a 2'-0" tall by 0'-10" wide canister antenna mounted atop a 6'-6" extension attached above an existing utility pole and associated pole-mounted equipment within the public right-of-way of Oddstad Boulevard, approximately 575 feet northeast of Linda Mar Boulevard, in the vicinity of 720 Oddstad Boulevard (APN 023-591-090); and

**WHEREAS**, installation of the proposed wireless communications facility requires approval of a use permit prior to the issuance of a building permit because the project site is within the public right-of-way pursuant to section 9-4.2606(c)(5) of the Pacifica Municipal Code ("PMC"); and

**WHEREAS**, the Planning Commission of the City of Pacifica did hold a duly noticed public hearing on September 17, 2018, at which time it continued the matter to October 15, 2018; and

**WHEREAS**, the Planning Commission on October 15, 2018, again continued the matter to November 5, 2018; and

**WHEREAS**, the Planning Commission of the City of Pacifica did hold a duly noticed public hearing on November 5, 2018, at which time it considered all oral and documentary evidence presented, and incorporated all testimony and documents into the record by reference.

**NOW, THEREFORE, BE IT RESOLVED**, by the Planning Commission of the City of Pacifica as follows:

1. The above recitals are true and correct and material to this Resolution.
2. In making its findings, the Planning Commission relied upon and hereby incorporates by reference all correspondence, staff reports, and other related materials.

**BE IT FURTHER RESOLVED**, that the Planning Commission of the City of Pacifica does hereby make the finding that the project qualifies for Class 3 exemption provided in Section 15303 'New Construction or Conversion of Small Structures' of the CEQA Guidelines, respectively, as described below:

An analysis of the proposed project supports a Planning Commission finding that it qualifies for a categorical exemption from the California Environmental Quality Act (CEQA). The project qualifies as a Class 3 exemption provided in Section 15303 of the CEQA Guidelines (New Construction or Conversion of Small Structures). Section 15303 states in part:

Class 3 consists of 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.

The subject proposal to construct a WCF on an existing utility pole fits within the scope of a Class 3 categorical exemption. Specifically, the project includes installation of a 2'-0" tall by 0'-10" wide canister antenna, which, as conditioned, would result in a maximum of 8'-3" extension (inclusive of the antenna) attached to the top of the 39'-5" existing utility pole. In addition, the project includes associated pole mounted equipment projecting a maximum of 2'-0" from the face of the pole. For purposes of the Class 3 exemption, the antenna, vertical extension, and equipment are all small new equipment attached to a small structure (the existing pole), and constitute only minor modifications to the exterior of the structure.

Exceptions to the exemption, as set forth in Section 15300.2 of the CEQA Guidelines, would not apply:

- Sec. 15300.2(a): There is no evidence in the record that the project would impact an environmental resource of hazardous or critical concern in an area designated, precisely mapped, and officially adopted pursuant to law by federal, State, or local agencies. The proposed WCF installation is on an existing utility pole in the public right-of-way immediately adjacent to a city street.
- Sec. 15300.2(b): There is no evidence in the record that successive projects of the same type in the area would have a significant cumulative impact. The project is an independent project under CEQA and its impacts are not cumulative. According to information provided by the Applicant, the WCF can operate independently of the other WCFs proposed in the City and provides coverage to a small area surrounding the facility. Furthermore, it is connected to existing electrical and telecommunications lines on an existing utility pole and does not propose direct site-to-site communication between this facility and other WCFs in the area.
- Sec. 15300.2(c): There is no evidence in the record of any possibility that the project would have a significant effect on the environment due to unusual circumstances. It would be of a small scale such that no identifiable significant impacts to the environment would occur.
- Sec. 15300.2(d) through (f): The project is not proposed near a scenic highway, does not involve a current or former hazardous waste site, and, does not affect any historical resources. Therefore, the provisions of subsections (d) through (f) are not applicable to this project.

Because the project is consistent with the requirements for a Class 3 exemption and none of the exceptions to applying an exemption in Section 15300.2 apply; there is substantial evidence in the record to support a finding that the project is categorically exempt from CEQA.

**BE IT FURTHER RESOLVED** that the Planning Commission of the City of Pacifica does hereby make the following findings pertaining to Use Permit UP-105-18:

*A. That the establishment, maintenance, or operation of the use or building applied for will not, under the circumstances of the particular case, be detrimental to the health, safety, and welfare of the persons residing or working in the neighborhood or to the general welfare of the City.*

Potential impacts to public health, safety, and welfare from this project would likely arise from an unsafe electrical or mechanical installation; from radio frequency (RF) emissions from the antennas; from noise from facility equipment; or, from adverse aesthetic design of the site.

The proposed project will require a building permit prior to construction. The building permit process includes a detailed plan review for building and electrical code compliance, as well as field inspections of the work prescribed in the approved project plans to verify proper performance of the work. This will ensure safe installation of the proposed WCF. The Planning Commission has included a condition of approval which requires the Applicant to obtain a building permit prior to installation of the WCF.

The City cannot regulate the topic of RF emissions beyond requesting reasonable information to substantiate a project's compliance with FCC standards. The Applicant has demonstrated its facility will comply with RF emissions standards established by the Federal Communications Commission (FCC). Since the Applicant has provided relevant information prepared by a qualified professional engineer to demonstrate compliance with FCC RF emissions standards, the project must be considered safe for the public.

The proposed WCF will not produce noise as its components do not include noise producing elements. Therefore, the WCF will be safe for the public.

The proposed WCF will incorporate all reasonable measures into its design to minimize visual impacts to the surrounding neighborhood. These include the aforementioned canister to conceal the antennas, wooden bayonet to match the material of the existing pole, and brown paint on antennas and equipment to mimic the color tone of the existing pole. Therefore, the proposed facility will not result in adverse visual impacts on the basis of the antennas and equipment proposed.

Based on the information provided by the Applicant, project analysis and the conditions of approval proposed for this project, the project will not be detrimental to the health, safety, and welfare of the persons residing or working in the neighborhood or to the general welfare of the City.

*B. That the use or building applied for is consistent with the applicable provisions of the General Plan and other applicable laws of the City and, where applicable, the local Coastal Plan.*

The proposed project is consistent with the following provisions of the General Plan and other laws of the City. Since the project is not within the Coastal Zone, the provisions of the Local Coastal Plan do not apply.

i. Noise Element, Policy No. 2: *Establish and enforce noise emission standards for Pacifica which are consistent with the residential character of the City and environmental, health, and safety needs of the residents.*

The project has been designed to eliminate noise. It does not include large equipment cabinets with air conditioners or backup generators, which can often generate noise in the immediate vicinity. The equipment associated with the facility does not contain fans and will not produce noise.

ii. Community Design Element, Policy No. 1: *Preserve the unique qualities of the City's neighborhoods.*

The project area contains a mix of uses interspersed with open space and mature trees. Electrical and telecommunications utilities are provided via above-ground utility poles throughout the neighborhood. The Applicant proposes to construct the WCF on an existing utility pole, which does not require ground-mounted equipment or removal of trees. As such the WCF would be unobtrusive in the sightlines of persons on the ground except from afar where its prominence would be diminished. Additionally, it will be painted to match the color of the existing pole on which it will be mounted that will diminish it visually.

iii. Community Design Element, Policy No. 2: *Encourage the upgrading and maintenance of existing neighborhoods.*

The Applicant proposes to install the WCF to improve signal quality in the area, which will increase data rates for customers to consistently be able to stream videos. Improving service quality will allow residents to improve their quality of life in access to information that is an important part of modern home life and commerce for home-based and mobile businesses. For these reasons, the project would be an upgrade to the existing neighborhood.

iv. Community Facilities Element, Policy No. 4: *Meet basic social needs of City residents, such as transportation, housing, health, information and referral services, and safety, consistent with financial constraints.*

The Applicant proposes to install the WCF to improve signal quality in the area, which will increase data rates for customers to consistently be able to stream videos. Improving service quality will allow residents to obtain information on City services and emergency services more expeditiously, which modernizes the process and is increasingly essential to meeting residents' basic social needs, including safety.

v. Land Use Element, Policy No. 4: *Continue to cooperate with other public agencies and utilities in applying compatible uses for their lands, rights-of-way and easements.*

The proposed project will occur within the public right-of-way. The City has cooperated with AT&T Mobility, a communications service provider, through its agent Modus, Inc. in processing this application for the subject WCF. The coordination between the City and AT&T Mobility has resulted in a proposed project which is a compatible use for the public right-of-way in the Park Pacifica neighborhood. This is evidenced by its installation on an existing utility pole, thus reducing the need for additional structures within the public right-of-way, the stealth design of the antenna, and a revision made to the height of the extension for the antenna and associated equipment design in an earlier version of the plans, which have yielded a 1'-0" reduction in the height of the installation above the pole from the height initially proposed.

C. *Where applicable, that the use or building applied for is consistent with the City's adopted Design Guidelines.*

The Design Guidelines are drafted primarily to address construction of residential and commercial buildings and do not directly address the construction of utility poles in rights-of-way. The following text

presents a discussion of project consistency with the Design Guidelines that could be indirectly applied to this project.

## BUILDING DESIGN

- i. Design. *The style and design of new buildings should be in character with that of the surrounding neighborhood. This does not mean that new buildings should be identical to existing buildings on neighboring lots, but that new buildings should complement, enhance, and reinforce the positive characteristics of surrounding development ...[the remainder of this policy pertains to features of buildings, which are part of the subject project].*

*Additions to an existing structure should also retain and/or be consistent with the positive architectural features of the original structure.*

Electrical and telecommunications utilities in the area of the project site are provided via above-ground utility poles and associated wires. The Applicant proposes to install the WCF on an existing utility pole, which would not require ground-mounted equipment or tree removal. Electricity and telecommunications connections will be made from existing wires on the utility pole. The proposed antenna will be mounted above an extension attached to the existing utility pole that would increase the height of the pole, by approximately 22 percent. However, the antenna assembly would be unobtrusive from the ground as a result of its and the associated equipment's height above ground level and is not likely to impact the character of the neighborhood.

- ii. Scale. *An important aspect of design compatibility is scale. Scale is the measure of the relationship of the relative overall size of one structure with one or more other structures. Scale is also used to refer to a group of buildings, a neighborhood, or an entire city. A development can be "out of scale" with its surroundings due to its relative height, bulk, mass, or density.[...]*

The proposed project, as shown on the plans on file, would increase the height of a 39'-5" tall existing utility pole significantly with the location of an approximately 2'-0" tall canister antenna above a 6'-6" extension attached to the top of the pole. This addition would further emphasize the verticality of the subject utility pole in the midst of low lying buildings in the surrounding area. However, mature trees in the area would serve to scale down the increase in the existing utility pole height. Furthermore, the small mass of the proposed antenna, the bayonet extension, and associated equipment would not on their own contribute to an out-of-scale development on the existing pole which would be noticeably out of scale for the surrounding neighborhood.

- iii. Color. *Building color should be compatible with the neighborhood and should reinforce and complement the visual character of the building's environment. Multiple colors applied to a single building should relate to changes of material or form.*

The existing utility pole on which the Applicant proposes to locate the subject WCF is made of wood. The Applicant has proposed to paint the antennas and equipment brown to achieve a similar color to the utility pole which will result in an installation that blends

into the utility pole. Painting the WCF brown will be compatible with other utility poles in the neighborhood.

*D. That the project will not cause localized interference with reception of area television or radio broadcasts or other signal transmission or reception.*

The WCF will not cause localized interference with the reception of television and radio broadcasts or other signal transmission or reception as AT&T has a license from the FCC to operate the WCF on specific frequencies that are not utilized by television or radio, based upon a statement provided by the Applicant, prepared by a qualified engineer.

*E. That the information submitted proves that a feasible alternate site that would result in fewer visual impacts does not provide reasonable signal coverage.*

The Applicant assessed several alternative sites to the subject site. The Applicant presumed that construction of a new support structure (i.e. pole) would result in greater visual impacts than locating on an existing support structure. Based on this presumption that new support structure construction would be undesirable, the Applicant considered other existing utility poles in the vicinity of the proposed site. The other utility poles examined appear to be equally visually prominent and impactful; but were unavailable for installation as a result of non-compliance with California Public Utilities Commission (CPUC) General Order (GO) 95 regulation, location on private property, and/or, did not meet the Applicant's coverage objectives.

*F. That the application meets all applicable requirements of Section 9-4.2608 of the Pacifica Municipal Code.*

Article 26 of the Zoning Regulations sets the standards for WCFs. Subsections (a), (b), and (e) of section 9-4.2808 include the development standards applicable to the subject facility. The Planning Commission has assessed that the proposed project meets or exceeds all applicable requirements of Section 9-4.2608 except for height as further discussed below.

Section 9-4.2608(e)(1) of the PMC limits the vertical height increase of a WCF attached to an existing utility, streetlight, or traffic signal pole to 2'-0" above the top of the respective support structure. Two exceptions are provided: when necessary to comply with regulatory requirements; or, when necessary for health and safety reasons. The Applicant has cited a regulatory requirement of CPUC GO 95 as justifying the proposed height increase and has not separately cited any specific health and safety reasons.

The minimum vertical separation for "antennas and associated elements on the same support structure" are indicated in Case No. 21 of Table 2 of GO 95 (Attachment H). The 72-inch (e.g., 6'-0") minimum height increase requested by the Applicant corresponds to an antenna installation above power supply conductors ranging in voltage from 750 volts to 35,000 volts (Columns E through G of Table 2 of GO 95). It is not in dispute that the Applicant has proposed to locate its facility above power lines carrying voltages from 750 volts to 35,000 volts. However, the Commission has determined the Applicant is seeking a height increase in excess of that allowed by section 9-4.2608(e)(1).

As demonstrated on Sheet A-3.2 of Attachment D of the staff report, the Applicant proposed a height increase of 6'-6" above the top of the power line. This is greater than the 6'-0" increase above a high voltage power line to the bottom of an antenna required by GO 95 and, therefore, exceeds the height

increase "necessary to comply with regulatory requirements" as limited by section 9-4.2608(e)(1). Sheet A-3.2 demonstrates the top of the power line is at 39'-8" which yields a maximum vertical separation to the bottom of the antenna at 45'-8" based on the GO 95 vertical separation requirement and the standard in section 9-4.2608(e)(1) of the PMC. Adding the 2'-0" antenna atop the vertical extension will result in a maximum facility height of 47'-8", or an increase above the top of the existing pole of 8'-3". A condition of approval will require the reduction in height described in this section. As conditioned, the proposed project would comply with all other applicable PMC requirements pertaining to a WCF installation in the public right-of-way.

**NOW, THEREFORE, BE IT FURTHER RESOLVED** that the Planning Commission of the City of Pacifica does hereby approve Use Permit UP-105-18 for installation of a new wireless communications facility consisting of consisting of a 2'-0" tall by 0'-10" wide canister antenna mounted on a 6'-6" extension attached above an existing utility pole and associated pole-mounted equipment within the public right-of-way of Oddstad Boulevard, approximately 575 feet northeast of Linda Mar Boulevard, subject to conditions of approval included as Exhibit A to this resolution.

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Passed and adopted at a regular meeting of the Planning Commission of the City of Pacifica, California, held on the 5th day of November 2018.

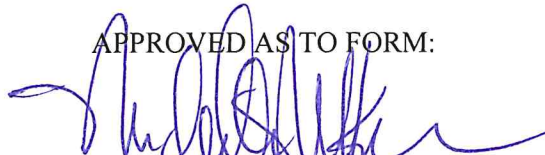
AYES, Commissioner: CLIFFORD, KRASKE, RUBINSTEIN, STEGINK  
NOES, Commissioner: N/A  
ABSENT, Commissioner: CAMPBELL, GORDON  
ABSTAIN, Commissioner: NIBBELIN

  
\_\_\_\_\_  
Tom Clifford, Vice Chair

ATTEST:

  
\_\_\_\_\_  
Tina Wehrmeister, Planning Director

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Michelle Kenyon, City Attorney

## Exhibit A

**Conditions of Approval: File No. 2018-019 for Use Permit UP-105-18, for installation of a new wireless communications facility consisting of a 2'-0" tall by 0'-10" wide canister antenna mounted on a vertical extension attached above an existing utility pole and associated pole-mounted equipment within the public right-of-way of Oddstad Boulevard, approximately 575 feet northeast of Linda Mar Boulevard, adjacent to 720 Oddstad Boulevard (APN 023-591-090)**

**Planning Commission Meeting of November 5, 2018**

### **Planning Division of the Planning Department**

1. Development shall be substantially in accord with the plans entitled "Site Number: PAC11\_003" stamped received by the City of Pacifica on October 2, 2018, except as modified by the following conditions.
2. The approval letter issued by the City and all conditions of approval attached thereto shall be included as plan sheets within all plan sets submitted to the City as part of any building permit application.
3. That the approval or approvals is/are valid for a period of two years from the date of final determination. If the use or uses approved is/are not established within such period of time, the approval(s) shall expire unless Applicant submits a written request for an extension and applicable fee prior to the expiration date, and the Planning Director or Planning Commission approves the extension request as provided below. The Planning Director may administratively grant a single, one year extension provided, in the Planning Director's sole discretion, the circumstances considered during the initial project approval have not materially changed. Otherwise, the Planning Commission shall consider a request for a single, one year extension.
4. Prior to issuance of a building permit, Applicant shall submit samples of exterior finishes, including colors and materials, subject to approval by the Planning Director.
5. Prior to final inspection, all equipment, conduit, antenna, and other appurtenances of the facility shall be painted to match and blend in with the utility pole and minimize visual obtrusiveness using a color and/or texture reviewed and approved by the Planning Director. Painted surfaces shall be maintained in a uniform condition substantially free of peeling, chipping or other paint defects, to the satisfaction of the Planning Director.
6. Prior to issuance of a building permit, Applicant shall revise its plans to reflect a maximum 6'-0" vertical separation between the power line and the bottom of the antenna in accordance with section 9-4.2608(e)(1) of the PMC. The applicable regulatory requirement which justifies a height increase greater than 2'-0" above the existing support structure is found in Columns E through G of Table 2 of General Order 95 of the California Public Utilities Commission ("GO 95") pertaining to Case No. 21, which establishes a minimum vertical separation of 6'-0" for power supply conductors between 750 volts and 35,000 volts. Inclusive of the 2'-0" tall antenna, the maximum facility height shall be 47'-8".



7. Prior to issuance of a building permit, Applicant shall submit for review and approval by the Planning Director a revised analysis of facility emissions reflected the reduced facility height in order to demonstrate compliance with Federal Communications Commission (FCC) standards related to the health effects of radio frequency (RF) emissions. The revised analysis shall precisely indicate the location of all structures identified in the analysis.
8. The project shall not include any ground mounted equipment or trenching.
9. Applicant shall maintain its site in a fashion that does not constitute a public nuisance and that does not violate any provision of the Pacifica Municipal Code.
10. All outstanding and applicable fees associated with the processing of this project shall be paid prior to the issuance of a building permit.
11. Prior to issuance of a building permit, Applicant shall clearly indicate compliance with all conditions of approval on the plans and/or provide written explanations to the Planning Director's satisfaction.
12. The Applicant shall indemnify, defend and hold harmless the City, its Council, Planning Commission, advisory boards, officers, employees, consultants and agents (hereinafter "City") from any claim, action or proceeding (hereinafter "Proceeding") brought against the City to attack, set aside, void or annul the City's actions regarding any development or land use permit, application, license, denial, approval or authorization, including, but not limited to, variances, use permits, developments plans, specific plans, general plan amendments, zoning amendments, approvals and certifications pursuant to the California Environmental Quality Act, and/or any mitigation monitoring program, or brought against the City due to actions or omissions in any way connected to the Applicant's project, but excluding any approvals governed by California Government Code Section 66474.9. This indemnification shall include, but not be limited to, damages, fees and/or costs awarded against the City, if any, and costs of suit, attorney fees and other costs, liabilities and expenses incurred in connection with such proceeding whether incurred by the Applicant, City, and/or parties initiating or bringing such Proceeding. If the Applicant is required to defend the City as set forth above, the City shall retain the right to select the counsel who shall defend the City.

**Building Division of the Planning Department**

13. The project requires review and approval of a building permit by the Building Official. Applicant shall apply for and receive approval of a building permit prior to commencing any construction activity.
14. Prior to issuance of building permit, Applicant shall provide evidence that PG&E has approved the work for the antenna installation at the subject pole.
15. All mounting hardware shall be made of corrosion resistance materials, to the satisfaction of the Building Official and City Engineer.

**Engineering Division of Public Works Department**

16. Construction shall be in conformance with the City of Pacifica Storm Water Management and Discharge Control Ordinance and San Mateo Countywide Storm Water Pollution Prevention Program. Best Management Practices shall be implemented and the construction BMPs plan sheet from the Countywide program shall be included in the project plans.
17. Roadways shall be maintained clear of construction materials, equipment, storage, and debris, especially mud and dirt tracked onto Oddstad Blvd. Dust control and daily road cleanup will be strictly enforced. A properly signed no-parking zone may be established during normal working hours only.
18. Add a note on the Site Plan that says, "Existing curb, sidewalk or other street improvements adjacent to the property frontage that are damaged or displaced shall be repaired or replaced as determined by the City Engineer even if damage or displacement occurred prior to any work performed for this project."
19. Applicant shall locate all equipment to the greatest extent possible so that the meter cabinets are not directly over sidewalks in order to reduce the future possibility of deteriorated equipment falling on a person.
20. Prior to issuance of a building permit, Applicant shall apply for and receive approval of a City of Pacifica Encroachment Permit for all work undertaken in the public right of way. All work shall be performed in accordance with City Standards, Standard Specifications for Public Works Construction (Green Book) or Caltrans Standard Specifications, Pacifica Municipal Code, Administrative Policies and to the satisfaction of the City Engineer or his designee. A traffic control plan may be required as a condition for the encroachment permit. Permit fees shall be determined per the current adopted fee schedule.
21. Applicant shall locate the Ground Rod in the landscape area.
22. Applicant shall agree that, if the poles are ever no longer needed for carrying electrical power or communications wires, the owner shall apply to the City for alternate options for providing cellular service to their customers.
23. All recorded survey points, monuments, railroad spikes, pins, cross cuts on top of sidewalks and tags on top of culvert headwalls or end walls whether within private property or public right-of-way shall be protected and preserved. If survey point/s are altered, removed or destroyed, the Applicant shall be responsible for obtaining the services of a licensed surveyor or qualified Civil Engineer to restore or replace the survey points and record the required map prior to occupancy of the first unit.

\*\*\* END OF CONDITIONS \*\*\*