

RESOLUTION NO. 2025-_____

**A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF MERCED, CALIFORNIA,
APPROVING THE APPEAL OF AT&T OF
THE MERCED PLANNING COMMISSION
APPROVAL OF CONDITIONAL USE PERMIT
#1277**

WHEREAS, AT&T Mobility (AT&T) on behalf of the Church of Nazarene, applied for Conditional Use Permit #1277 to construct a new 55 foot tall wireless communication tower in the form of a stealth mono-pine tree (“Wireless Communication Tower”) at 1717 E. Olive Avenue also known as Merced County Assessor’s parcel number 008-060-057; and

WHEREAS, the Wireless Communication Tower is proposed to be located within a Low Density Residential (R-1-6) Zone of the City; and

WHEREAS, pursuant to Merced Municipal Code Land Use Table 20.58-2, a site plan review is required for a stealth wireless communication facility to be located within a designated R-1 Zone that is over 140% of the maximum height allowed by the Merced Municipal Code, however since the City of Merced’s (“City”) Site Plan Review Committee declined to approve AT&T’s initial request administratively, a Conditional Use Permit was required to be issued by the Merced Planning Commission pursuant to Merced Municipal Code Section 20.58.050(C)(2); and

WHEREAS, Merced Municipal Code Chapter 20.58 Wireless Communication Facilities adopted by the Merced City Council by Ordinance Number 2465 in 2016, among other things, provides the objective requirements all new wireless communication towers must comply with and those requirements are consistent with applicable federal regulations; and

WHEREAS, the Merced Planning Commission initially considered Conditional Use Permit #1277 on July 3, 2024, but continued its final determination on Conditional Use Permit #1277 at the request of AT&T, who sought to explore alternative sites for the Wireless Communication Tower; and

WHEREAS, at the subsequent request of AT&T, the Merced Planning Commission continued its final determination of Conditional Use Permit #1277 on August 7, 2024 to provide AT&T will additional time to explore the feasibility of alternative sites for the Wireless Communication Tower; and

WHEREAS, on September 18, 2024, the Merced Planning Commission denied Conditional Use Permit #1277, finding that there was substantial evidence within the record of its proceedings for Conditional Use Permit #1277 that the Wireless Communication Tower did not meet the requisite findings under Finding K of the September 18, 2024 Staff Report (Merced Municipal Code Section 20.58.070), namely that the Wireless Communication Tower did not minimize its visibility from residentially zoned properties and did not minimize the obstruction of scenic views from residentially zoned properties; and

WHEREAS, the Merced Planning Commission in making its denial determination, considered all evidence contained in the record, including a report and presentation prepared by City Staff, City's Draft Environmental Review #24-10, proposed conditions of approvals, required Merced Municipal Code findings, Wireless Communication Tower site plan and elevations, photo simulations of the Wireless Communication Tower, AT&T coverage map, radio frequency emission compliance report, AT&T alternative site analysis, oral and written public comments, as well as testimony from AT&T's designated representative; and

WHEREAS, AT&T on October 8, 2024 appealed the Merced Planning Commission's final determination of Conditional Use Permit #1277; and

WHEREAS, on January 6, 2025 the Merced City Council held an appeal of Conditional Use Permit #1277 and considered all evidence

in the record of Conditional Use Permit #1277 and took additional testimony from all interested parties on Conditional Use Permit #1277 consistent with Merced Municipal Code Chapter 20.74 (“Appeal Record”); and

WHEREAS, the Merced City Council after thorough consideration and evaluation of the Appeal Record, finds that there is not substantial evidence in the Appeal Record to support the Merced Planning Commission’s denial of Conditional Use Permit #1277.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MERCED DOES HEREBY RESOLVE, DETERMINE, FIND, AND ORDER AS FOLLOWS:

SECTION 1. That the City Council of the City of Merced based on the Appeal Record overturns the Merced Planning Commission’s denial of Conditional Use Permit #1277 and approves Conditional Use Permit #1277 subject to the terms and conditions set forth in the attached Exhibit A.

SECTION 2. That the City Council of the City of Merced hereby adopts a Categorical Exemption regarding Environmental Review #24-10.

PASSED AND ADOPTED by the City Council of the City of Merced at a regular meeting held on the ____ day of _____ 202_, by the following vote:

AYES: Council Members:

NOES: Council Members:

ABSENT: Council Members:

ABSTAIN: Council Members:

APPROVED:
MATTHEW SERRATTO, MAYOR

Mayor

ATTEST:
D. SCOTT MCBRIDE, CITY CLERK

BY: _____
Assistant/Deputy City Clerk

(SEAL)

APPROVED AS TO FORM:
CRAIG J. CORNWELL, CITY ATTORNEY

Craig Cornwell 12/31/2024
City Attorney Date