

**PLANNING COMMISSION RESOLUTION NO. 24-010**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BRENTWOOD APPROVING CONDITIONAL USE PERMIT NO. 23-009 (CUP 23-009) TO ALLOW NEW CINGULAR WIRELESS/AT&T TO LOCATE AND OPERATE A WIRELESS TELECOMMUNICATIONS FACILITY ON AND BENEATH AN EXISTING PG&E LATTICE TOWER, INCLUDING TWELVE NEW ANTENNAS, REMOTE RADIO HEADS/REMOTE RADIO UNITS, AND A GROUND-BASED EQUIPMENT ENCLOSURE, ALONG WITH OTHER ANCILLARY EQUIPMENT, TO BE LOCATED EAST OF THE TRILOGY COMMUNITY, ADJACENT TO THE PG&E SUBSTATION AND WEST OF STATE ROUTE 4 (APN 010-050-002).**

**WHEREAS**, Complete Wireless Consulting Inc., on behalf of AT&T (the "Applicant"), submitted an application to the City of Brentwood, requesting approval of a conditional use permit application (CUP 23-009) to allow a wireless telecommunications facility to be located on an existing PG&E transmission tower on APN 010-050-002; and

**WHEREAS**, CUP 23-009 constitutes the "Project;" and

**WHEREAS**, the City referred the Project to various departments and agencies for review and recommendations; and

**WHEREAS**, the City distributed a Notice of Public Hearing to all property owners of record within 300 feet of the Project Site and published it in the Brentwood Press on March 8, 2024 in accordance with City policies and Government Code Section 65090, and a public hearing notice sign was posted on the site during this same timeframe; and

**WHEREAS**, the project qualifies for a categorical exemption under Section 15301 of the CEQA Guidelines (found at 14 CCR 15000, *et seq.*) in that it consists of the construction of a new small facility or structure and only minor modifications are being made to an existing facilities or structures; therefore, no additional environmental review documentation is necessary; and

**WHEREAS**, the Planning Commission held a public hearing on March 19, 2024, reviewed said conditional use permit request, studied the compatibility of this request with adjacent land uses, and considered this request in accordance with the conditional use permit criteria established in Section 17.830.005 of the Brentwood Municipal Code (BMC), as well as the criteria set forth in BMC Section 17.795.060.

**NOW, THEREFORE, BE IT RESOLVED** that the Planning Commission of the City of Brentwood:

- A. With respect to the conditional use permit findings pursuant to Brentwood Municipal Code Section 17.830.005, hereby finds that:

- i. *The location, size, design and operating characteristics of the proposed development must be compatible with and must not adversely affect the livability of appropriate development of abutting properties and the surrounding neighborhood. Consideration shall be given, but shall not be limited to:*

1. *The harmony in scale, bulk, coverage, and density.*

One of the primary concerns in reviewing a conditional use permit application is the effect of the proposed use on surrounding properties, such as compatibility with the scale, bulk, coverage, and density of both existing and proposed land uses on surrounding lots. The Project is designed in a manner that is sensitive to nearby developments in that the antennas are located on an existing PG&E tower and other all other ground-mounted equipment is screened from view within a CMU enclosure underneath the PG&E tower; access is provided via John Muir Parkway and not through any residential neighborhood or commercial development; and the wireless facility is positioned approximately 545 feet away from the closest residential receptors measured from the PG&E tower to the adjacent residential property line. The scale of the antennas is minor in proportion to the overall tower structure. PG&E towers are a preferred location due to the height dependent nature of wireless facilities, and the design and concealment of the facility offers the least intrusive means to provide wireless service.

2. *The availability of public facilities and utilities.*

The site is served by the appropriate existing public facilities and utilities including potable and non-potable water, sewer services, storm drain improvements, electricity, communication cables, and solid waste facilities.

3. *The harmful effect, if any, upon desirable neighborhood character or the planned specialization of retail, commercial, or community service areas.*

The proposed use will be located on a site designated and zoned for public utility use and will be co-located on an existing PG&E tower; therefore, there would be no harmful effect upon the desirable neighborhood character. The facility is proposed to be located approximately 545 feet from the nearest residential use providing an adequate

buffer for nearby homes. The PG&E tower is also located in between the PG&E substation and State Route 4. The proposed antenna/equipment being added is consistent with the existing utility facilities in the direct vicinity.

*4. Generation of traffic and the capacity of surrounding streets.*

The proposed project will be located within the confines of an existing PG&E tower footprint, and the use itself generates minimal to zero traffic to the site, except as necessary for installation of new equipment and necessary periodic maintenance. The project site is adequately served by John Muir Parkway and not through any residential neighborhood.

*5. Any other relevant impact of the development.*

The wireless facility would not have any other relevant impacts as the use would be contained within the footprint of an existing facility on the site and is not expected to generate any noise, lighting glare, or other negative impacts to the surrounding developments.

*ii. The location, design, landscaping and screening, and overall site planning of the proposed development will provide an attractive, useful and convenient living, working, shopping or community-service area.*

The Project, as conditioned, is of integrated and harmonious design and is designed to be a part of or blend with the PG&E tower and adjacent substation environment, in that the new equipment would be contained within a solid enclosure and the antennas are of non-reflective material and conditioned to be painted to match the existing PG&E transmission tower. The Project is designed with particular attention to location, design, landscaping and screening, and overall site planning.

- B. With respect to the conditional wireless facilities permit findings pursuant to Brentwood Municipal Code Section 17.795.060, hereby finds that:

*1. Public hearing notice has been duly given in accordance with Section 17.800.009.*

The City has distributed a Notice of Public Hearing to all property owners of record within 300 feet of the Project Site and published it in the Brentwood Press on March 8, 2024 in accordance with

City policies, including BMC Section 17.800.009, and Government Code Section 65090, and a public hearing notice sign was posted on the site during the same timeframe.

2. *No more than thirty days before the applicable timeframe for review expires, the applicant must provide written notice to all persons entitled to notice in accordance with Section 17.800.009, as modified in this section.*

The Federal Communication's Commission (FCC) has established timeframes ("shot clocks") for state and local governments to act on any request for authorization to place, construct, or modify personal wireless services. The proposed application falls under a 90-day shot clock, as the new facility is proposed to be built on an existing PG&E tower, which begins when an application is filed but can be tolled ("paused") by a timely incomplete notice and can be extended by a mutual agreement, known as a tolling agreement, between the applicant and the approving agency. In this case, the application is scheduled before the Planning Commission on March 19, 2024 which is 75 days after the submittal of the application and well within the 90-day shot clock. The applicant provided City staff with notice within a timely fashion.

3. *The proposed wireless facility conforms to all the criteria for a conditional use permit in accordance with Section 17.830.005, which may include conformance with the criteria for design and site development review in accordance with Chapter 17.820 when applicable.*

See Finding 'A' above, which is incorporated here by reference.

4. *The proposed wireless facility conforms to all the applicable criteria set out in BMC Chapter 17.795, unless the applicant demonstrates that its proposal qualifies for the exception contained in Section 17.795.160(A).*

The proposed wireless facility conforms to all the applicable criteria set out in BMC Chapter 17.795. As identified in the Project Support Statement prepared by AT&T, rather than proposing several freestanding facilities, the existing PG&E tower provides an effective approach to allow the facility to blend in with the surrounding environment. The wireless facility is proposed adjacent to a PG&E substation, and the facility is located

approximately 545 feet from the nearest residence. Strict compliance with the maximum height of two stories would preclude an effective design solution, as the range of the equipment would be severely reduced and additional cellular locations would be required throughout Brentwood to fill gaps in the network created by the decreased range. In accordance with Chapter 17.795.160 (A) of the Municipal Code, the proposed location of the facility is the least intrusive means for the carrier to achieve its coverage and capacity goals.

5. *The applicant provided factual evidence and a meaningful comparative analysis to show that all alternative locations and designs identified in the application review process (either by the applicant, city staff or the Planning Commission) were technically infeasible or not potentially available.*

AT&T's support statement includes an Environmental Noise Assessment, Radio Frequency Compliance Report, and Coverage and Capacity Data. As conditioned, the ground-based equipment would be enclosed within a secured eight-foot-tall concrete masonry unit (CMU) wall. The twelve antennas would be non-reflective and painted to match the existing PG&E transmission tower. In accordance with Chapter 17.795 of the Municipal Code, the proposed location of the facility is the least intrusive means for the carrier to achieve its coverage and capacity goals. This analysis demonstrates that alternative locations identified were technically infeasible or not potentially available. Rather than proposing several freestanding facilities, AT&T would collocate the wireless facility within an existing PG&E tower to achieve the required height for service and provide an appropriate design that will blend in into the surrounding environment.

- C. Hereby approves Conditional Use Permit No. 23-009 (CUP 23-009), subject to the conditions of approval listed in Exhibit "A," attached hereto and made a part of this resolution, and all City standards applicable to this project, including those set forth in Brentwood Municipal Code Section 17.795.100 (except as may be modified by Exhibit "A").

This permit shall terminate on March 19, 2025, unless actual construction or alteration under valid permits begins prior to that date. However, such period of time may be extended by the Planning Commission upon the filing of an extension request at any time before said period expires.

The above actions are final unless an appeal is filed pursuant to Chapter 17.880 of the Brentwood Municipal Code within ten (10) calendar days following Planning Commission action.

**ADOPTED** by the Planning Commission of the City of Brentwood at its regular meeting on March 19, 2024 by the following vote:

AYES:

NOES:

ABSENT:

RECUSE:

APPROVED:

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Anita Roberts  
Planning Commission Chairperson

ATTEST:

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Erik Nolthenius  
Planning Manager

**EXHIBIT "A" TO  
PLANNING COMMISSION RESOLUTION NO. 24-010  
CONDITIONS OF APPROVAL FOR  
CONDITIONAL USE PERMIT NO. 23-009**

1. The Permittee and Applicant, including all successors in interest (collectively, "Permittee") shall comply with each and every condition set forth in the Permit. Conditional Use Permit No. 23-009 (the "Permit") shall have no force or effect and no building permit shall be issued unless and until all things required by the below-enumerated precedent conditions have been performed. The Permittee shall develop the site in accordance with the approved attachments and as modified by these Conditions of Approval.
2. The project shall be constructed and the use shall be operated in substantial conformance with the project plans submitted by the Permittee dated "Received February 2, 2024," unless otherwise amended by the Planning Commission or the conditions of approval contained herein. Minor changes to plans and operation may be allowed subject to the approval of the Community Development Director, if found to be in substantial conformance with the approved exhibits.
3. All applicable Standard Conditions of Approval for Commercial and Industrial Projects, dated May 2005, are hereby incorporated by reference and shall be complied with, unless modified by any of the conditions below.
4. Permit Duration. The permit will automatically expire ten years from the issuance date, except when California Government Code Section 65964(b), as may be amended, authorizes the city to issue a permit with a shorter term.
5. Compliance with All Applicable Laws. The Permittee shall at all times maintain compliance with all applicable federal, state and local laws, regulations, ordinances, or other rules.
6. Inspections; Emergencies. The City or its designee may enter onto the facility area to inspect the facility upon reasonable notice to the Permittee. The Permittee shall cooperate with all inspections. The City reserves the right to enter or direct its designee the facility and support, repair, disable or remove any elements of the facility in emergencies or when the facility threatens imminent harm to persons or property.
7. Contact Information for Responsible Parties. The Permittee shall at all times maintain accurate contact information for all parties responsible for the facility, which shall include a phone number, street mailing address and email address for at least one natural person. All such contact information for responsible parties shall be provided to the Community Development Director within one business day of Permittee's receipt of the Director's written request.

8. Permittee's indemnification, defense, and hold harmless obligations shall be as set forth in Brentwood Municipal Code Section 17.795.100(E). The Permittee and, if applicable, the non-government owner of the private property upon which the tower/and or base station is installed shall defend, indemnify and hold harmless the City, its agents, officers, officials and employees: (1) from any and all damages, liabilities, injuries, losses, costs and expenses and from any and all claims, demands, law suits, writs of mandamus and other actions or proceedings brought against the City or its agents, officers, officials or employees to challenge, attack, seek to modify, set aside, void or annul the City's approval of the permit; and (2) from any and all damages, liabilities, injuries, losses, costs and expenses and any and all claims, demands, law suits or causes of action and other actions or proceedings of any kind or form, whether for personal injury, death or property damage, arising out of or in connection with the activities or performance of the Permittee or, if applicable, the private property owner or any of each one's agents, employees, licensees, contractors, subcontractors or independent contractors. The Permittee shall be responsible for costs of determining the source of the interference, all costs associated with eliminating the interference, and all costs arising from third party claims against the City attributable to the interference. In the event the City becomes aware of any such actions or claims, the City shall promptly notify the Permittee and the private property owner and shall reasonably cooperate in the defense. It is expressly agreed that the City shall have the right to approve, which approval shall not be unreasonably withheld, the legal counsel providing the City's defense, and the property owner and/or Permittee (as applicable) shall reimburse the City for any costs and expenses directly and necessarily incurred by the City in the course of the defense.
9. Adverse Impacts on Adjacent Properties. The Permittee shall undertake all reasonable efforts to avoid undue adverse impacts to adjacent properties and/or uses that may arise from the construction, operation, maintenance, modification and removal of the facility.
10. General Maintenance. The site and the facility, including, but not limited to, all landscaping, fencing and related transmission equipment, must be maintained in a neat and clean manner and in accordance with all approved plans and conditions of approval.
11. Graffiti Abatement. The Permittee shall remove any graffiti on the wireless facility at permittee sole expense subject to the provisions of Brentwood Municipal Code Chapter [9.90](#).
12. If operation of this use results in conflicts pertaining to parking, noise, traffic, or other impacts, at the discretion of the Community Development Director, this conditional use permit may be referred to the Planning Commission for subsequent review at a public hearing. If necessary, the Commission may modify or add conditions of approval to mitigate such impacts, or may revoke said conditional use permit.



13. Unless otherwise required pursuant to FAA or FCC regulations, Permittee may only install timed or motion-sensitive light controllers and lights, and must install such light so as to avoid illumination impacts to adjacent properties to the maximum extent feasible. All aircraft warning lighting must use lighting enclosures that avoid illumination impacts to properties in the city to the maximum extent feasible.
14. All wireless facilities and all equipment associated with a wireless facility must be compliant with, and will be subject to the provisions in BMC Section 9.32.020, et seq.
15. The Permittee shall implement site specific control measures to ensure that the facility will be in compliance with the Federal Communication Commission's radio frequency exposure regulations. The measures shall be designed to protect anyone authorized to work adjacent to the facility. Prior to the issuance of a building permit, the Permittee shall revise the plans to include these measures and shall submit documentation from an engineer licensed by the State of California verifying that the site will be in compliance with the FCC requirements.
16. Prior to issuance of a building permit, the Director may not approve any fossil fuel powered backup power sources or generators unless the applicant demonstrates that it cannot feasibly achieve its power needs with batteries, natural gas powered generators, fuel cells, or other similarly non-polluting, low noise level means.
17. The Permittee shall hire a qualified engineer licensed by the State of California to measure the actual radio frequency radiation of the wireless facility and determine if it meets the Federal Communication Commission's standards. A report of all calculations, required measurements, and the engineer's findings with respect to compliance with radio frequency standards, shall be submitted to the Community Development Department immediately upon initiation of service at the site and immediately following any future modification to the site.
18. Prior to the issuance of a building permit, the property owner or authorized agent for the Project shall provide a written guarantee for the removal of the facility in the event that the use is abandoned, or its approval terminated. This written guarantee shall be subject to the review and approval by the Community Development Director, in consultation with the City Attorney.
19. The Building plan submittal shall indicate that all tower-mounted equipment shall be non-reflective and painted to match the existing tower to the satisfaction of the Community Development Director.
20. The Permittee shall install an eight-foot-tall concrete masonry unit (CMU) wall enclosure to screen the ground-based equipment area. This CMU wall enclosure shall include a roof that is architecturally compatible with the

adjacent development, subject to review and approval of the Community Development Director.

21. Any landscaping removed from the Project site in order to construct the equipment enclosure shall be replaced prior to final building permit approval to the satisfaction of the Community Development Director.
22. Should any changes be proposed to the cellular antennas or the equipment belonging to Permittee, this permit must be amended. Additionally, should another carrier desire to co-locate at this site, a new conditional use permit application must be submitted and approved by the City.
23. The Permittee shall undertake all reasonable efforts to avoid undue adverse impacts to adjacent properties and/or uses that may arise from the construction, operation, maintenance, modification, and removal of the facility.
24. The Permittee shall ensure that the facility, including, but not limited to, all landscaping, walls, and related transmission equipment, must be maintained in a neat and clean manner and in accordance with all approved plans and conditions of approval to the satisfaction of the Community Development Director.