

1 BEFORE THE BOARD OF SUPERVISORS
2 OF THE
3 COUNTY OF FRESNO, STATE OF CALIFORNIA
4

5 APPROVAL OF UNCLASSIFIED CONDITIONAL USE)
6 PERMIT NO. 3648 FOR A WIRELESS) RESOLUTION
7 TELECOMMUNICATIONS FACILITY,)
8 WITH CONDITIONS OF APPROVAL)

9 WHEREAS, the Crown Castle (Applicant/Appellant) made an application to the Fresno
10 County Planning Commission (Planning Commission) for approval of Unclassified Conditional Use
11 Permit (UCUP) No. 3648, and adoption of Mitigated Negative Declaration prepared for Initial Study
12 No. 7611 in relation to a new wireless telecommunications facility; and

13 WHEREAS, the wireless telecommunications facility will provide service to the rural area
14 southeast of the unincorporated community of Caruthers on property located at 16629 S. Elm
15 Avenue, Caruthers, on the west side of South Elm Avenue, approximately 1,764 feet north of its
16 nearest intersection with East Elkhorn Avenue (the Site); and

17 WHEREAS, the Site, is located in the AE-20 (Exclusive Agricultural, 20-acre minimum parcel
18 size) Zone District; and

19 WHEREAS, on October 10, 2019, the Planning Commission denied UCUP No. 3648; and

20 WHEREAS, Applicant/Appellant made a timely appeal to the Board of Supervisors (Board) of
21 the County, pursuant to County Zoning Ordinance Section 873(G); and

22 WHEREAS, County Zoning Ordinance Section 873(H) requires that the Board hold a *de*
23 *novo* public hearing on the Planning Commission's denial of an unclassified conditional use permit;
24 and

25 WHEREAS, Pursuant to County Zoning Ordinance Section 873(F), in order for the Board to
26 approve UCUP No. 3629, the Board must make the following findings:

- 27 1. That the Site for the proposed use is adequate in size and shape to accommodate
28 said use and all yards, spaces, walls and fences, parking, loading, landscaping and

1 other features required by this Division to adjust said use with land and uses in the
2 neighborhood.

- 3 2. That the Site for the proposed use relates to streets and highways adequate in width
4 and pavement type to carry the quantity and kind of traffic generated by the proposed
5 use.
- 6 3. That the proposed use will have no adverse impact on abutting property and
7 surrounding neighborhood or permitted use thereof.
- 8 4. That the proposed development is consistent with the General Plan.
- 9 5. That the conditions stated in the resolution are deemed necessary to protect the
10 public health, safety, and general welfare.

11 WHEREAS, on January 7, 2020, the Board held a public hearing with respect to the
12 proposed wireless telecommunications facility, as described herein; and

13 WHEREAS, after duly giving all required public notices, and an opportunity for the public to
14 speak and present evidence for and against the proposed Regional ECC, as described herein, and
15 having complied with all applicable requirements of the law, including the County Zoning Ordinance,
16 the Board hereby resolves and takes the following actions, including making the following findings.

17 NOW, THEREFORE, Section 873(F) of the County Zoning Ordinance requires that the Site
18 for the proposed use is adequate in size and shape to accommodate said use and all yards, spaces,
19 walls and fences, parking, loading, landscaping and other features required by this Division, to
20 adjust said use with land and uses in the neighborhood (Finding 1), and, in light of such requirement,
21 the Board hereby makes the following findings:

- 22 • The proposed project exceeds the minimum building setback requirements of the
23 County of Fresno AE-20 Zone District.
- 24 • The proposed facility will be set back approximately 347 feet from the front property
25 line, 30 feet from the south side property line, and 20 feet from the rear property line.
- 26 • Based the foregoing facts, which this Board has found, the Applicant/Appellant has
27 satisfied Finding 1.

1 NOW, THEREFORE, Section 873(F) of the County Zoning Ordinance requires that the Site
2 for the proposed use relates to streets and highways adequate in width and pavement type to carry
3 the quantity and kind of traffic generated by the proposed use (Finding 2), and, in light of such
4 requirement, the Board hereby makes the following findings:

- 5 • Site access will be from Elm Avenue and ample area is available on the Site for
6 circulation and parking.
- 7 • Elm Avenue has sufficient width and capacity to serve the Site
- 8 • Based the foregoing facts, which this Board has found, the Applicant/Appellant has
9 satisfied Finding 2.

10 NOW, THEREFORE, Section 873(F) of the County Zoning Ordinance requires that the
11 proposed use will have no adverse impact on abutting property and surrounding neighborhood or
12 permitted use thereof (Finding 3), and, in light of such requirement, the Board hereby makes the
13 following findings:

- 14 • The unmanned wireless telecommunications facility will not have an adverse effect on
15 abutting property because it is replacing a current wireless telecommunications facility
16 of similar height and design, located approximately 1,660 feet to the south.
- 17 • The Mitigation Measure for aesthetics requires that all outdoor lighting shall be
18 hooded and directed so as not to shine toward adjacent properties and public streets.
- 19 • The idling of on-site vehicles and equipment will be avoided to the most possible
20 extent to avoid wasteful or inefficient energy consumption during the construction of
21 the project.
- 22 • The Mitigation Measure for cultural resources requires that in the event that cultural
23 resources are unearthed during ground-disturbing activities, all work shall be halted in
24 the area of the find. An Archeologist shall be called to evaluate the findings and make
25 any necessary mitigation recommendations. If human remains are unearthed during
26 ground-disturbing activities, no further disturbance is to occur until the Fresno County
27 Sheriff-Coroner has made the necessary findings as to origin and disposition. All
28 normal evidence procedures shall be followed by photos, reports, video, etc. If such

1 remains are determined to be Native-American, the Sheriff-Coroner must notify the
2 Native American Commission within 24 hours.

- 3 • Based the foregoing facts, which this Board has found, the Applicant/Appellant has
4 satisfied Finding 3.

5 NOW, THEREFORE, Section 873(F) of the County Zoning Ordinance requires that the
6 proposed development is consistent with the General Plan (Finding 4), and, in light of such
7 requirement, the Board hereby makes the following findings:

- 8 • The Site is located within an agricultural area, which is compatible with wireless
9 telecommunication facilities.
- 10 • The proposed tower will maintain existing cellular service coverage for the rural area.
- 11 • Through the Mitigation Measures included in the Initial Study, and Conditions of
12 Approval, potential environmental impacts on existing land uses in the area will be
13 reduced to a less than significant level.
- 14 • Based the foregoing facts, which this Board has found, the Applicant/Appellant has
15 satisfied Finding 4.

16 NOW, THEREFORE, Section 873(F) of the County Zoning Ordinance requires that the
17 conditions stated in the resolution are deemed necessary to protect the public health, safety, and
18 general welfare (Finding 5), and, in light of such requirement, the Board hereby finds that the
19 following conditions are deemed necessary to protect the public health, safety, and general welfare:

- 20 • Development of the Site shall be in accordance with the Site Plan, Floor Plans,
21 Elevations, and Operational Statement approved by the Board.
- 22 • The approval shall expire in the event that use of the tower ceases for a period in
23 excess of two years. At such time, the tower and related facilities shall be removed,
24 and the lease area shall be restored as nearly as practical to its original condition.
25 This stipulation shall be recorded as an Agreement.
- 26 • The Applicant must apply for and receive a demolition permit and acquire final
27 inspection of the demolition of the existing tower located on APN: 042-200-35S prior
28

1 to finalization of the building permits associated with the proposed unmanned
2 wireless telecommunications facility.

- 3 • Prior to the issuance of permits, evidence shall be submitted showing provisions have
4 been made to accommodate colocation, such as provision for colocation in a signed
5 lease agreement and additional area within the lease area for colocation of
6 equipment, or other information that demonstrates the facility shall make itself
7 available for colocation.
- 8 • Prior to the issuance of a building permit, the Applicant shall obtain Federal Aviation
9 Administration (FAA) approval of the tower.
- 10 • Prior to the issuance of a building permit, the Applicant shall enter into a Covenant
11 acknowledging the Fresno County Right-to-Farm Notice. Fresno County Right-to-
12 Farm Notice: "It is the declared policy of Fresno County to preserve, protect, and
13 encourage development of its agricultural land and industries for the production of
14 food and other agricultural products. Residents of property in or near agricultural
15 district should be prepared to accept the inconveniences and discomfort associated
16 with normal farm activities." Consistent with this policy, California Civil Code 3482.5
17 (right-to-farm law) provides that an agricultural pursuit, as defined, maintained for
18 commercial uses shall not become a nuisance due to a changed condition in a
19 locality after such agricultural pursuit has been in operation for three years.
- 20 • Based the foregoing conditions, which this Board has deemed necessary to protect
21 the public health, safety, and general welfare, the Applicant/Appellant has satisfied
22 Finding 5.

23 NOW, THEREFORE, IT IS ORDERED AND RESOLVED that Unclassified Conditional Use
24 Permit No. 3648, for the wireless communications facility, is hereby approved subject to the
25 conditions of approval in Finding 5, above.

26 BE IT FURTHER RESOLVED, that this Resolution shall take effect immediately upon its
27 adoption by the Board.

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THE FOREGOING was passed and adopted by the following vote of the Board of Supervisors of the County of Fresno this _____ day of _____, 2020, to wit:

- AYES:
- NOES:
- ABSENT:
- ABSTAINED:

Ernest Buddy Mendes, Chairman of the Board of Supervisors of the County of Fresno

ATTEST:
Bernice E. Seidel
Clerk of the Board of Supervisors
County of Fresno, State of California

By: _____
Deputy