



Los Angeles County Department of Regional Planning



Planning for the Challenges Ahead

Richard J. Bruckner
Director

November 16, 2011

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Michelle Felten – Core Development Services
2903-H Saturn Street
Brea, CA 92821

**REGARDING: PROJECT NUMBER 01-040-(4)
CUP 201100053
10078 Mills Avenue, Whittier, CA 90604**

Dear Applicant:

Hearing Officer, Mitchell Glaser by his action of Tuesday, November 15, 2011, **APPROVED** the above described application (**CUP 201100053**). The applicant and/or other interested person may appeal the Hearing Officer's decision to the Regional Planning Commission at the office of the Commission secretary, Room 1350, Hall of Records, 320 West Temple Street, Los Angeles, California 90012. Please contact the Commission Secretary for the appeal procedures and fee at (213) 974-6409. **The appeal period for this project will end at 5:00 p.m. on Tuesday, November 29, 2011.** Any appeal must be delivered in person to the Commission Secretary by this time. If no appeal is filed during the specified period, the Hearing Officer's action is final.

The attached documents contain the Hearing Officer's findings and conditions relating to the approval. Please carefully review each condition. A Condition requires that the permittee records an affidavit accepting the conditions before the grant becomes effective.

Upon completion of the appeal period, please notarize the attached acceptance forms and **hand deliver** these forms and any other required fees or materials to the planner assigned to your case. Please **make an appointment** with the case planner to assure that processing will be completed expeditiously.

For further information on appeal procedures or any other matter pertaining to these approvals, please contact Michele Bush of the Zoning Permits East Section at (213) 974-6435 or e-mail at mbush@planning.lacounty.gov. Our office hours are Monday through Thursday, 7:30 a.m. to 5:30 p.m. We are closed on Fridays.

Sincerely,

Richard J. Bruckner
Director



Maria Masis, Supervising Regional Planner
Zoning Permits East Section

Enclosures: Findings and Conditions, Affidavit (Permittee's Completion)

c: DPW (Building and Safety); Zoning Enforcement
Mills Palm Plaza LLC, 535 26th Street, Santa Monica, CA 90402
TowerCo 5000 Valleystone Drive, Suite 200, Cary, NC 27519

MM:mrh

FINDINGS AND ORDER OF THE HEARING OFFICER COUNTY OF LOS ANGELES

**PROJECT NUMBER 01-040-(4)
CONDITIONAL USE PERMIT 201100053**

REQUEST

The applicant, TowerCo, is requesting a Renewal of Conditional Use Permit 01-040-(4) for an existing wireless telecommunication facility (WTF) with no proposed expansions or modifications.

HEARING DATE: 11/15/2011

PROCEEDINGS

A duly noticed public hearing was held on November 15, 2011 before Hearing Officer Mitch Glaser. The applicant's representative, Michelle Felten, presented testimony in favor of the request. There being no further testimony, the Hearing Office closed the public hearing and approved the permit with findings and conditions as agreed to by the applicant.

FINDINGS

1. The proposed project consists of a request for a Conditional Use Permit (CUP) for the continued operation of a previously approved unmanned wireless telecommunications facility consisting of a 62-foot high monopalm mounted by three sectors of antennas and a 10'x20' equipment shelter housing radio equipment cabinets. There are three (3) carriers on the existing monopalm (Sprint, Verizon and Clearwire).
2. The subject property is located at 10078 Mills Avenue, in the unincorporated community of South Whittier-Sunshine Acres in the Southeast Whittier Zoned District.
3. The project site is an existing shopping center. The existing unmanned wireless telecommunications facility and appurtenant equipment are located at the southeast corner of the property. The 1.26 acre parcel is accessed by Mills Avenue. One parking space is provided to serve the wireless facility.
4. The proposed project is consistent with the Countywide Land Use Policy. The land use designation of the subject property is 1-Low Density Residential (1 to 6 du/ac). There are no policies in the Plan that specifically prohibit, discourage or limit the use of WTFs.
5. Title 22 of the Los Angeles County Code (Zoning Ordinance) does not specify WTF as a use. Similar uses, such as radio/television stations/towers, are subject to permit.
6. The height of the monopalm is 62-feet. The height of structures in the C-1 zone is restricted to 35 feet. The subject monopalm exceeds the limit, as approved by the Hearing Officer as a part of the original Conditional Use Permit approval.
7. The 1.26 acre subject property is adequate in size and shape to accommodate the existing monopalm. One parking space is provided for site visits done on a monthly basis by maintenance personnel.
8. The subject property is adequately served by public and private service facilities as necessary. A WTF does not require sewer or water service.
9. The subject property is adequately served by highways and streets of sufficient width and improved as necessary to carry the kind and quantity of traffic associated with this project. The facility will generate approximately one maintenance vehicle trip a month.
10. The subject property is surrounded by commercial and multi-family residential uses to the north, south and east; and single and multi-family residential uses to the west.

11. The proposed design is appropriate for the site and area because it is designed and conditioned to be visually unobstructive.
12. There was no opposition to the project.
13. Pursuant to the provisions of Sections 22.60.174 and 22.60.175 of the County Code, the community was appropriately notified of the public hearing by mail, newspaper and property posting.
14. This project was determined to be categorically exempted (Class 1, Existing Facilities) under the environmental reporting procedures and guidelines of the California Environmental Quality Act (CEQA).
15. To assure continued compatibility between the use of the subject property allowed by this grant and surrounding land uses, the Hearing Officer determines that it is necessary to limit the term of the grant to 15 years and require eight inspections.
16. The location of the documents and other materials constituting the record of proceedings upon which the Hearing Officer's decision is based in this matter is at the Los Angeles County Department of Regional Planning, 13th Floor, Hall of Records, 320 West Temple Street, Los Angeles, CA 90012. The custodian of such documents and materials shall be the Section Head of the Zoning Permits 1 Section, Los Angeles County Department of Regional Planning.

BASED ON THE FOREGOING, THE HEARING OFFICER CONCLUDES:

- A. That the proposed use is consistent with the adopted general plan for the area; and
- B. That the requested use at the proposed location will not adversely affect the health, peace, comfort, or welfare of persons residing or working in the surrounding area, will not be materially detrimental to the use, enjoyment, or valuation of property of other persons located in the vicinity of the site, and will not jeopardize, endanger, or otherwise constitute a menace to the public health, safety or general welfare; and
- C. That the proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate said use with the uses in the surrounding area; and
- D. That the proposed site is adequately served by highways or streets of sufficient width and improved as necessary to carry the kind and quantity of traffic such use would generate, and by other public or private service facilities as are required.

Therefore, the information submitted by the applicant and presented at the public hearing substantiates the required findings and burden of proof for a conditional use permit as set forth in Section 22.56.040 of the Los Angeles County Code.

HEARING OFFICER ACTION

1. I have considered the Class 1 Categorical Exemption for this project and certify that it is consistent with the finding by the State Secretary for Resources or by local guidelines that this class of projects does not have a significant effect on the environment.
2. In view of the findings of fact and conclusions presented above, Conditional Use Permit 201100053 is **APPROVED**, subject to the attached conditions.

c: Hearing Officer, Building and Safety

MM:mb

**CONDITIONS OF APPROVAL
DEPARTMENT OF REGIONAL PLANNING
PROJECT NO. 01-040-(4)
CONDITIONAL USE PERMIT NO. 201100053**

GENERAL CONDITIONS

1. Unless otherwise apparent from the context, the term "permittee" shall include the applicant, owner of the property, and any other person, corporation, or other entity making use of this grant.
2. This grant shall not be effective for any purpose until the permittee, and the owner of the subject property if other than the permittee, have filed at the office of the Los Angeles County ("County") Department of Regional Planning ("Regional Planning") their affidavit stating that they are aware of and agree to accept all of the conditions of this grant, and that the conditions of the grant have been recorded as required by Condition No. 7, and until all required monies have been paid pursuant to Condition No. 10. Notwithstanding the foregoing, this Condition No. 2 and Condition Nos. 4, 5, and 9 shall be effective immediately upon the date of final approval of this grant by the County.
3. Unless otherwise apparent from the context, the term "date of final approval" shall mean the date the County's action becomes effective pursuant to Section 22.60.260 of the County Code.
4. The permittee shall defend, indemnify, and hold harmless the County, its agents, officers, and employees from any claim, action, or proceeding against the County or its agents, officers, or employees to attack, set aside, void, or annul this permit approval, which action is brought within the applicable time period of Government Code Section 65009 or any other applicable limitations period. The County shall promptly notify the permittee of any claim, action, or proceeding and the County shall fully cooperate in the defense. If the County fails to promptly notify the permittee of any claim action or proceeding, or if the County fails to cooperate fully in the defense, the permittee shall not thereafter be responsible to defend, indemnify, or hold harmless the County.
5. In the event that any claim, action, or proceeding as described above is filed against the County, the permittee shall within ten days of the filing make an initial deposit with Regional Planning in the amount of up to \$5,000.00, from which actual costs and expenses shall be billed and deducted for the purpose of defraying the costs or expenses involved in Regional Planning's cooperation in the defense, including but not limited to, depositions, testimony, and other assistance provided to permittee or permittee's counsel.

If during the litigation process, actual costs or expenses incurred reach 80 percent of the amount on deposit, the permittee shall deposit additional funds sufficient to bring the balance up to the amount of \$5,000.00. There is no limit to the number of supplemental deposits that may be required prior to completion of the litigation.

At the sole discretion of the permittee, the amount of an initial or any supplemental deposit may exceed the minimum amounts defined herein. Additionally, the cost for collection and duplication of records and other related documents shall be paid by the permittee according to County Code Section 2.170.010.

6. If any material provision of this grant is held or declared to be invalid by a court of competent jurisdiction, the permit shall be void and the privileges granted hereunder shall lapse.

7. Prior to the use of this grant, the permittee, or the owner of the subject property if other than the permittee, shall **record the terms and conditions** of the grant in the office of the County Registrar-Recorder/County Clerk ("Recorder"). In addition, upon any transfer or lease of the property during the term of this grant, the permittee, or the owner of the subject property if other than the permittee, shall promptly provide a copy of the grant and its conditions to the transferee or lessee of the subject property.
8. **This grant shall terminate on 11/15/2026.** Entitlement to use of the property thereafter shall be subject to the regulations then in effect. If the permittee intends to continue operations after such date, whether or not the permittee proposes any modifications to the use at that time, the permittee shall file a new Conditional Use Permit application with Regional Planning, or shall otherwise comply with the applicable requirements at that time. Such application shall be filed at least six (6) months prior to the expiration date of this grant and shall be accompanied by the required fee. In the event that the permittee seeks to discontinue or otherwise change the use, notice is hereby given that the use of such property may require additional or different permits and would be subject to the then-applicable regulations.
9. This grant shall expire unless used within two years from the date of final approval of the grant. A single thirty (30) day time extension may be requested in writing and with the payment of the applicable fee prior to such expiration date. For the purposes of this provision, continued operation of the 32,250 square foot commercial building and satisfaction of Condition No. 2 shall be considered use of this grant.
10. The subject property shall be maintained and operated in full compliance with the conditions of this grant and any law, statute, ordinance, or other regulation applicable to any development or activity on the subject property. Failure of the permittee to cease any development or activity not in full compliance shall be a violation of these conditions. Inspections shall be made to ensure compliance with the conditions of this grant as well as to ensure that any development undertaken on the subject property is in accordance with the approved site plan on file. The permittee shall deposit with the County the sum of **\$1,600.00**. The deposit shall be placed in a performance fund, which shall be used exclusively to compensate Regional Planning for all expenses incurred while inspecting the premises to determine the permittee's compliance with the conditions of approval. The fund provides for 8 biennial inspections. Inspections shall be unannounced.

If additional inspections are required to ensure compliance with the conditions of this grant, or if any inspection discloses that the subject property is being used in violation of any one of the conditions of this grant, the permittee shall be financially responsible and shall reimburse Regional Planning for all additional enforcement efforts necessary to bring the subject property into compliance. The amount charged for additional inspections shall be \$200.00 per inspection, or the current recovery cost at the time any additional inspections are required, whichever is greater.

11. Notice is hereby given that any person violating a provision of this grant is guilty of a misdemeanor. Notice is further given that the Regional Planning Commission ("Commission") or a Hearing Officer may, after conducting a public hearing, revoke or modify this grant, if the Commission or Hearing Officer finds that these conditions have been violated or that this grant has been exercised so as to be detrimental to the public's

health or safety or so as to be a nuisance, or as otherwise authorized pursuant to Chapter 22.56, Part 13 of the County Code.

12. All development pursuant to this grant must be kept in full compliance with the County Fire Code.
13. All requirements of Title 22 of the County Zoning Ordinance and of the specific zoning of the subject property must be complied with unless otherwise modified as set forth in these conditions or as shown on the approved plans.
14. All development pursuant to this grant shall conform with the requirements of the County Department of Public Works.
15. All structures, walls and fences open to public view shall remain free of graffiti or other extraneous markings, drawings, or signage that was not approved by Regional Planning. These shall include any of the above that do not directly relate to the business being operated on the premises or that do not provide pertinent information about said premises. The only exceptions shall be seasonal decorations or signage provided under the auspices of a civic or non-profit organization.

In the event of graffiti or other extraneous markings occurring, the permittee shall remove or cover said markings, drawings, or signage within 24 hours of notification of such occurrence, weather permitting. Paint utilized in covering such markings shall be of a color that matches, as closely as possible, the color of the adjacent surfaces.

16. The subject property shall be developed and maintained in substantial compliance with the plans marked Exhibit "A." If changes to the site plan are required as a result of instruction given at the public hearing, **three copies** of a modified Exhibit "A" shall be submitted to Regional Planning within sixty (60) days of the date of final approval.

CASE SPECIFIC CONDITIONS

17. The facility shall be operated in accordance with regulations of the State Public Utilities Commission.
18. Insofar as is feasible, the operator shall cooperate with any subsequent applicants for wireless communications facilities in the vicinity with regard to possible co-location. Such subsequent applicants will be subject to the regulations in effect at that time.
19. Any proposed WTF that will be co-locating on the proposed facility will be required to submit the same written verification of emissions and include the cumulative radiation and emissions of all such facilities to the Zoning Enforcement Section of the Department of Regional Planning.
20. All structures shall conform to the requirements of the Division of Building and Safety of the Department of Public Works or other appropriate agency and obtain an encroachment permit if deemed necessary.
21. External lighting, including security lighting, shall be on motion sensors, be of low intensity, fully shielded and directed away from any adjacent residences. Pole mounted lighting is

- prohibited on the leasehold unless the facility is disguised as a light pole. Antenna lighting is prohibited. Beacon lights are prohibited unless required by the FAA.
22. One parking space for maintenance vehicles shall be provided. The space does not have to be dedicated solely to maintenance vehicles. Maintenance vehicles shall not block access to driveways or garages.
 23. Within 30 days of change in service provider ownership, the permittee shall provide the Zoning Enforcement Section of the Department of Regional Planning the name and contact information of the new property owner.
 24. The finished surface of the facility shall not be glossy or reflective in nature unless such finish is necessary to blend into existing design features. The finish shall be graffiti-resistant and shall have a color that blends in with the immediately surrounding environment.
 25. The facility shall be maintained in good condition and repair, and shall remain free of: general dirt and grease; chipped, faded, peeling or cracked paint; trash, debris, litter, graffiti and other forms of vandalism; cracks, dents, blemishes and discolorations; visible rust or corrosion on any unpainted metal areas. Any damage from any cause shall be repaired within 30 days of notice. Weathered, faded or missing parts/materials used to disguise/camouflage the facility shall be maintained and/or replaced within 30 days of notice. Any and all graffiti shall be removed by the operator or property owner within 48 hours. Provided landscaping shall be maintained at all times and shall be promptly replaced if needed.
 26. Upon request, the permittee/operator shall submit annual reports to the Zoning Enforcement Section of the Department of Regional Planning to show compliance with the maintenance and removal conditions.
 27. The Department of Regional Planning project number, conditional use permit number and lease holder contact information shall be prominently displayed on the facility where it can be easily viewed at or near eye level.
 28. The facility shall be secured by fencing, gates and/or locks. All fencing or walls used for screening or securing the facility shall be composed of wood, vinyl, stone, concrete, stucco or wrought iron. Chain links, chain link with slats, barbed and other types of wire fencing are prohibited. If the facility's fences or walls are visible from the public right-of-way, landscaping, in a minimum planter width of five feet, shall be provided to screen the fence or wall from the street.
 29. The facilities shall be removed if in disuse for more than six months.
 30. New equipment added to the facility shall not compromise the stealth design of the facility.
 31. Antennas shall be painted or covered to match their background (branches or trunk). Artificial palm leaves are allowed to exceed the height of the basic pole by not more than six feet. The monopalm should not have more than three sectors of antennas mounted on the pole.

32. The area occupied by the monopalm and appurtenant equipment shall be enclosed by a perimeter fence or a block wall and shall not exceed an area of 25'x40'.

11/15/11