



Los Angeles County
Department of Regional Planning



Planning for the Challenges Ahead

Richard J. Bruckner
Director

November 21, 2011

Westover Communication
6850 Lincoln Avenue
Buena Park, CA 90620
Attn: Marilyn Warren

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

**REGARDING: PROJECT NO. 96187 – (2)
CONDITIONAL USE PERMIT NO. 200700145
2105 E 90th Street**

Dear Applicant:

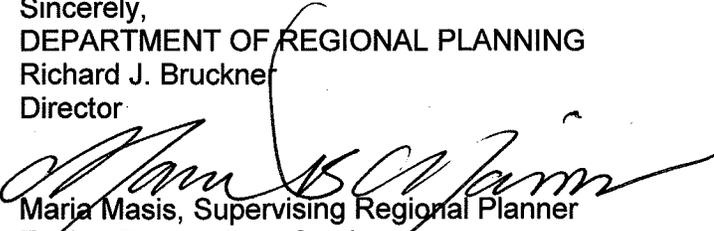
Hearing Officer Alex Garcia, by his action of November 15, 2011 **APPROVED** the above described project and entitlements. The attached documents contain the Hearing Officer's findings and conditions relating to the approval. Please carefully review each condition. Condition No. 2 requires that the permittee file an affidavit accepting the conditions before the grants becomes effective.

The applicant or and 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 the 5:00 p.m. on 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.

Upon completion of the appeal period, **hand deliver** a notarized affidavit of acceptance form, a certified copy of the recorded findings and conditions of approval, and any other required fees or materials to the planner assigned to your case (see attached instructions for more information). Please **make an appointment** with the case planner to ensure that processing will be completed expeditiously. If the required documents and fees are not received within 60 days of this final letter's date, this permit will be transferred to Zoning Enforcement for further action.

For further information on appeal procedures or any other matter pertaining to these approvals, please contact Jeanine Nazar of the Zoning Permits East section at (213) 974-6435 or e-mail at jnazar@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,
DEPARTMENT OF REGIONAL PLANNING
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, Owner
MM: JN

FINDINGS AND ORDER OF THE HEARING OFFICER COUNTY OF LOS ANGELES

**PROJECT NUMBER 96187 – (2)
CONDITIONAL USE PERMIT 200700145**

REQUEST:

The applicant is requesting a conditional use permit to continue the operation and maintenance of a wireless telecommunication facility.

**PROCEEDINGS BEFORE THE HEARING OFFICER: 11/15/11, 10/4/11, 1/20/09,
7/15/08,**

November 15, 2011 Public Hearing

A duly noticed public hearing was held on November 15, 2011 before the Hearing Officer, Alex Garcia. The applicant's representative, Warren Marilyn, presented testimony in favor of the request and answered questions presented by the Hearing Officer.

There being no further testimony, the Hearing Officer closed the public hearing and approved the permit with changes to the findings and conditions as agreed to by the applicant.

October 4, 2011 Public Hearing

A duly noticed public hearing was held on October 4, 2011 before the Hearing Officer, Alex Garcia. The applicant's representative, Warren Marilyn, presented testimony in favor of the request and answered questions presented by the Hearing Officer.

The Hearing Officer requested changes to condition numbers 8, 9 and 23. In addition, the Hearing Officer continued the hearing to November 15, 2011 to allow time to post the property as the property has not been posted.

July 15, 2008, January 20, 2009 Public Hearings

A duly noticed public hearing was held on July 15, 2008 and January 20, 2009 before the Hearing Officer, Alex Garcia. The applicant's representative, presented testimony in favor of the request and answered questions presented by the Hearing Officer.

The Hearing Officer addressed zoning violations associated with the pallet yard operations on the site. There being no further testimony, the Hearing Officer, continued the hearing until those violations would be cleared.

Findings

1. The subject property is located at 2105 East 90th Street in the unincorporated Los Angeles County in the Florence Firestone Community Standards District (CSD) and Florence Firestone Zoned District.

2. The case was scheduled for a denial due to inactivity on January 18, 2011 and June 21, 2011. The violations cleared in May of 2011 and the case was re-scheduled for a public hearing.
3. The project consists of an existing 60-foot monopole with a total of 18 panel antennas, this includes 12 panel antennae mounted a height of at 60 feet and six antennas mounted at 50 feet. The equipment shelter, approximately 336 square-feet, lodges equipment cabinets, telephone lines, GPS and cables and is enclosed with a 6-foot-high chain link fence. The lease area is 1,355 square feet in area and lodges the monopole, equipment shelter, a generator, and equipment cabinets mounted on a concrete pad. The applicant is proposing to replace the existing 4-foot-high antennas with twelve 8-foot-high antennas at 60 feet high, add equipments cabinets and 12 RRU's (17" amplifiers) behind the antennas.
4. The subject site is a pan-handle shaped parcel, 22,818 square feet in size. The site is located at the intersection of E. 90th Street to the south and Miner Street to the east and takes access from E. 90th Street.
5. The subject property is zoned M-1 (Light Manufacturing) – and is surrounded by M-1 zoning on all directions. The project is also within the Florence-Firestone Community Standards District.
6. The subject property is vacant and contains only the wireless facility on the south-east corner of the lot. Surrounding land uses are as follows:
North:Pallet Storage Yard/Residential
East:Automobile dismantling and storage yard
West:Pallet Storage Yard
South:Los Angeles County Public Works equipment yard
7. The site plan marked Exhibit "A" depicts the wireless telecommunications facility on the southeast corner of the lot. The project consists of a 60 foot high monopole with 12 panel antennas mounted at a height of 60 feet, four in each arm and six antennas mounted at a height of 50 feet and equipment shelters enclosed with a 6 feet high chain link fence.
8. Conditional Use Permit 96187: Cingular Wireless requested a conditional use permit (approved on April 8, 1997) for the construction, operation and maintenance of an unmanned wireless telecommunication facility consisting of a 60-foot high monopole with appurtenant panel antennas mounted at the top and a microwave dish and with additional lease area for an equipment shelter.

A Revised Exhibit "A" was approved for Royal Street Communications (now Metro PCS) consisting of six additional panel antennas with four additional equipment

cabinets mounted on a concrete pad. The Revised Exhibit "A" expired on April 8, 2007 along with CUP 96187.

9. The existing site is vacant at this time with the exception of the wireless facility on the south-east corner of the lot.
10. The subject property is classified as I- (Major Industrial) in the Countywide General Plan. The intent of this classification is to assure that sufficient land is allocated for a wide range of industry and industry-related activities serving the domestic and export markets." Since the equipment of the proposed wireless facility will be located within the existing structure and will not adversely impact the viability of surrounding areas for the maintenance or expansion of industrial activities, the Hearing Officer finds that the project is consistent with the General Plan.
11. The following goal and policy applies to the subject property and the development project:
Give priority to upgrading existing facilities and services in areas needing or undergoing revitalization or lacking adequate facilities.
The existing wireless communication facility will improve the wireless communication in the area and provide adequate service coverage.
12. A wireless telecommunications facility is not a defined use in the Zoning Ordinance; however, staff has traditionally utilized the defined use of "radio and television stations and towers" as a comparable use. Radio and television stations and towers are uses subject to a conditional use permit as per Sections 22.32.070, 22.24.100 and 22.28.260.
13. Section 22.52.1220 of the County Code determines parking requirements for uses that are not specified. The director may impose an amount of parking spaces that he finds to be adequate to prevent traffic congestion and excessive on-street parking. The proposed wireless telecommunications facility will be unmanned and will require periodic maintenance visits only. The previous approval includes a parking space within the leased area. The applicant is requesting to remove the existing parking space and to use 90th street to park the maintenance vehicles. The Hearing Officer finds that street parking would be appropriate for periodical visits, scheduled once per month.
14. The project site is within the Florence-Firestone Community Standards District (Code Section 22.44.138). The CSD establishes standards to improve the compatibility between industrial and neighboring residential uses. The subject property is surrounded by concrete block wall and chain link fencing and thereby sufficiently buffered.
15. Staff visited the site in May of 2011. Staff noticed lattice towers on the adjacent lots. The height of the monopole is uniform with towers located on the adjacent site and it does not appear to have any significant visual effect in the area.

16. 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.
17. 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.
18. 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 East 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 development features prescribed in Title 22 of the County Code, 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.

AND, 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 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 facts and conclusions presented above, Conditional Use Permit 200700145, is **APPROVED** subject to the attached conditions.

c:Hearing Officer, Zoning Enforcement, Building and Safety

MM: JN
11/21/2011

PROJECT DESCRIPTION

This grant authorizes the alterations and continued operation and maintenance of a wireless telecommunications facility (WTF). The project is approved as depicted on the approved Exhibit "A", subject to all the following conditions:

CONDITIONS

1. Unless otherwise apparent from the context, the term "permittee" shall include the applicant 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 Department of 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. 6, and until all required monies have been paid pursuant to Condition No. 9. The recorded affidavit shall be filed and the required monies shall be paid by **January 15, 2011**. Notwithstanding the foregoing; Condition 3, and Conditions 4, 5 shall be effective immediately upon final approval of this grant by the County. The date of final approval is the date the County's action becomes effective pursuant to Section 22.60.260 of the County Code.
3. 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 other claim, action, or proceeding and the County shall cooperate fully 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.
4. 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 pay the Department of Regional Planning an initial deposit of \$5,000, from which actual costs shall be billed and deducted for the purpose of defraying the expenses involved in the department's cooperation in the defense, including but not limited to, depositions, testimony, and other assistance to permittee or permittee's counsel.

If during the litigation process, actual costs 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 the initial deposit. 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 supplemental deposit may exceed the minimum amounts defined herein. Additionally, the cost for collection and duplication of records and other related documents will be paid by the permittee according to Los Angeles County Code Section 2.170.010.

5. If any material provision of this grant is held or declared to be invalid, the permit shall be void and the privileges granted hereunder shall lapse.

6. Prior to the use of this grant, the property owner or permittee shall **record the terms and conditions** of the grant in the office of the County Recorder. In addition, upon any transfer or lease of the property during the term of this grant, the property owner or permittee shall promptly provide a copy of the grant and its conditions to the transferee or lessee of the subject property.
7. **This grant will terminate on November 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 modification to the use at that time, the permittee shall file a new permit application with Regional planning, or shall otherwise comply with the applicable expiration date of this grant and shall be accompanied by the required fee. In the event given 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.
8. This grant shall expire unless used before February 27, 2012 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 purpose of this provision, continued operation of the wireless telecommunication facility and satisfaction of Condition No 2 shall be considered use of this grant.
9. 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 of Los Angeles the sum of **\$1,600.00**. The deposit shall be placed in a performance fund, which shall be used exclusively to compensate the Department of Regional Planning for all expenses incurred while inspecting the premises to determine the permittee's compliance with the conditions of approval. The deposit provides for **eight (8) biennial (one every other year)** 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 the Department of 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.

10. Notice is hereby given that any person violating a provision of this grant is guilty of a misdemeanor. Notice is further given that the hearing officer may, after conducting a public hearing, revoke or modify this grant, if the 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.

11. All development pursuant to this grant must be kept in full compliance with the County Fire Code.
12. 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.
13. 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.
14. The subject property shall be developed and maintained in substantial compliance with the plans marked Exhibit "A." Placement and height of all pole mounted equipment shall be in substantial conformance with that shown on said Exhibit "A".
15. The facility shall be operated in accordance with regulations of the State Public Utilities Commission and Federal Communications Commission.
16. 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.
17. Any proposed WTF that will be co-locating on the proposed facility will be required to submit 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.
18. 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.
19. 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.
20. The maximum height of the facility shall not exceed 60 feet above finished grade.
21. 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 service provider.
22. 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.

23. 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. Any and all graffiti shall be removed by the operator or property owner within 48 hours of being notified.
24. 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.
25. 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.
26. 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.

MM: JN
11/22/2011