



Los Angeles County Department of Regional Planning



Planning for the Challenges Ahead

Jon Sanabria
Acting Director of Planning

September 15, 2009

Douglas Kearney
2361 Campus #240
Irvine, CA 92841

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

**REGARDING: PROJECT NUMBER 95-048-(1)
CONDITIONAL USE PERMIT CASE NO. 200900052
950 SOUTH EASTERN AVENUE (APN No. 5236-012-035)**

Dear Applicant:

Hearing Officer, Paul McCarthy, by his action on September 15, 2009, **APPROVED** the above described Conditional Use Permit for a Wireless Telecommunications Facility.

The applicant or **ANY 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 September 29, 2009.** 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** this form 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 **Gunnar Hand, AICP**, of the Land Divisions Section at (213) 974-6433 or e-mail at gchand@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
Jon Sanabria
Acting Director of Planning

Susan Tae, AICP, Supervising Regional Planner
Land Divisions Section

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

c: DPW (Building and Safety); Zoning Enforcement;
American Tower

INSTRUCTIONS

Please read carefully. Failure to follow these instructions may result in the delay of your approved site plan and building permits.

After the termination of the appeal period (14 days after the hearing date), proceed with the following instructions if you have not been notified that an appeal has been received.

1. Sign **both** attached "Affidavit of Acceptance" forms in the presence of a notary and have the notary attach an acknowledgement. Both the applicant and owner lines must be signed on the form, even if they are the same person.
2. Record the conditions of approval. Submit **in person (do not mail)** one original "Affidavit of Acceptance" form (with wet signature) and a copy of the Conditions of the grant to:

The Los Angeles County Recorder
12400 Imperial Highway
Norwalk, CA 90650

The "Affidavit of Acceptance" serves as proof to the Registrar Recorder of your acceptance of conditions associated with this grant. Both the County Recorder Office and the Department of Regional Planning need an original Affidavit of Acceptance form with (wet signature).

3. Obtain a certified copy of the recorded conditions from the County Recorder for submittal to the Department of Regional Planning.
4. Make an appointment with the assigned case planner to submit the following items:
 - Second original "Affidavit of Acceptance" form (with wet signature).
 - Certified copy of the recorded documents from the County Recorder.
 - Four copies of the site plan. **Plans must be folded** to fit into an 8 ½" X 14" folder.
 - One check for the inspection fees (see conditions for fee amount). Make the check payable to: County of Los Angeles.
 - A second check for the Fish and Game fees may be required (if indicated below). Make the check payable to: Los Angeles County in the amount of:
 - \$2,843.25 (includes \$75.00 processing fee) for the required Environmental Impact Report
 - \$2,068.00 (includes \$75.00 processing fee) for the issued Negative Declaration or Mitigated Negative Declaration

Please write project number on the check(s).

5. Submit the aforementioned items **in person (do not mail)** at:

Hall of Records
Department of Regional Planning, Room 1348
320 West Temple Street
Los Angeles, CA 90012

You will receive a copy of the approved site plan. A copy of the approved site plan and conditions will be sent to the Department of Public Works' Division of Building and Safety office that will issue you building permits.

If you have any questions regarding these instructions, please contact Gunnar Hand, AICP at (213) 974-6433, from 7:30 a.m. to 5:30 p.m., Monday through Thursday or via email at ghand@planning.lacounty.gov. Our offices are closed on Fridays.



Please complete this form and return to:

The Department of Regional Planning
320 West Temple Street
Los Angeles, California 90012

AFFIDAVIT OF ACCEPTANCE

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

}SS

REGARDING: PROJECT NUMBER 95-048-(1)
CONDITIONAL USE PERMIT CASE NO. 200900052
950 SOUTH EASTERN AVENUE

I/We the undersigned state:

I am/We are the owner of the real property described in the above-numbered case and the permittee in said case: I am/We are aware of, and accept, all the stated conditions in said grant.

I/We have enclosed a check in the amount of **\$750.00** payable to the County of Los Angeles as required by the conditions of approval to ensure regular inspections for compliance: I/We also acknowledge that I/We and my/our successors in interest may be required to reimburse the Department of Regional Planning for any additional enforcement efforts necessary to bring the subject property into compliance.

Executed this _____ day of _____, 20_____

I/We declare under the penalty of perjury that the foregoing is true and correct.

(Where the owner and permittee are not the same, both must sign.)

Type or Print
Applicant:

Name _____

Applicant _____

City, State _____

Signature _____

Owner:

Name _____

Address _____

City, State _____

Signature _____

*This signature must be
Acknowledged
By a notary public. Attach
Appropriate
Acknowledgements.*



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Acknowledged
By a notary public. Attach
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Acknowledgements.*

Owner:

Name _____

Address _____

City, State _____

Signature _____

FINDINGS AND ORDER OF THE HEARING OFFICER COUNTY OF LOS ANGELES

**PROJECT NUMBER 95-048-(1)
CONDITIONAL USE PERMIT CASE NO. 200900052**

950 South Eastern Avenue

HEARING DATE: 9/15/2009

SYNOPSIS:

The Conditional Use Permit ("CUP") would allow for the continued use of an existing wireless telecommunications facility approved by Project Number 95-048, which expired on September 7, 2005. The facility is located on a parcel developed with a commercial medical clinic and two (2) parking lots. The project consists of an existing 45 foot monopole with 21 panel antennas, two (2) air conditioning units, and a generator contained within a 338 square foot outdoor lease area enclosed by an eight (8) feet high chain link fence topped with barbed wire. Two (2) control boxes and a GPS antenna are affixed to the wall of the existing clinic within the outdoor lease area. A second lease area of 484 square feet located within the medical clinic includes the facility's equipment cabinets.

PROCEEDINGS BEFORE THE HEARING OFFICER:

A duly noticed public hearing was held on September 15, 2009 before Hearing Officer Paul McCarthy. The applicant's representative, Mr. Douglas Kearney presented testimony in favor of the request and answered questions presented by the Hearing Officer.

The Hearing Officer confirmed all the conditions with the applicant. The applicant accepted the amended conditions provided by staff to Condition #17 to more accurately reflect Federal Communication Commission ("FCC") guidelines. Condition #24 was changed to read: "No unauthorized equipment shall be placed directly on the ground". The Hearing Officer agreed to the changes.

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

Findings

1. The subject property is located at 950 South Eastern Avenue in the unincorporated community of East Los Angeles within the Eastside Unit No. 1 Zoned District and Assessor Parcel Number 5236-012-035. The project site is a 0.02 acre (338 square foot outdoor and 484 square foot indoor) rectangular shaped lease area located along the southeastern portion of the existing building with GPS

coordinates of 118° 10' 24.73' W, 34° 1' 20.75' N.

2. The applicant is requesting a CUP for the continued operation and maintenance of an unmanned wireless telecommunications facility located within the C-2 (Neighborhood Business) zone. The request will retroactively approve the addition of a GPS antenna affixed to the adjacent building, which is contained within the outdoor lease area. The original CUP was approved on September 7, 1995. The grant authorized by this approval, CP 95-048, terminated on September 7, 2005. This is the first request for renewal.
3. The applicant, American Tower, requests a renewal for CP 95-048 for an existing wireless telecommunication facility with the addition of a GPS antenna affixed to the adjacent building, which is contained within the outdoor lease area and existing today.
4. A CUP is required for a wireless telecommunications facility in the C-2 zone as per Section 22.28.160 of the Los Angeles Zoning Code ("County Code").
5. The subject property is currently designated CC (Community Commercial) on the Land Use Policy Map of the East Los Angeles Community Plan ("Plan"). The Community Commercial land use category is intended for small businesses in centers or along strips that serve the needs of surrounding neighborhoods and have little regional attraction.
6. The subject property is currently zoned C-2 (Neighborhood Business) and R-3-P (Limited Multiple Residence-Parking).
7. The subject property is located within the East Los Angeles Community Standards District ("CSD"). The CSD (22.44.118.C.2) allows "devices or apparatus essential to industrial processes or communications related to public health and safety may be 50 feet in height".
8. The surrounding properties are zoned as follows:
North: R-3-P, C-3 (Unlimited Commercial), O-S (Open Space)
South: O-S, R-3 (Limited Multiple Residence)
East: R-3, R-3-P, C-3
West: O-S
9. The project is located within a parcel that fronts South Eastern Avenue, and it is across the street from a Cemetery.
10. The site is accessed from South Eastern Avenue to the west via the site's southern parking lot.
11. Surrounding land uses within 500 feet include:
North: Fire Station, Retail, Cemetery

East: Multi-family Residential, Retail
South: Cemetery, Multi-family Residential
West: Cemetery

12. The subject property is an irregularly shaped 0.67 acre lot developed with a commercial medical clinic and one (1) parking lot to the north and one (1) parking lot to the south of the building. As depicted on the site plan dated October 31, 2008, the project consists of a 338 square feet outdoor lease area and a 484 square feet indoor lease area. The outdoor lease area contains an existing wireless telecommunications facility consisting of a 45 foot monopole with 21 panel antennas, two (2) air conditioning units, and a generator; and two (2) control boxes and a GPS antenna affixed to the adjacent building enclosed by an eight (8) feet high chain link fence topped with barbed wire located at the southeastern portion of the lot and adjacent to the southeastern portion of the existing medical clinic. A second lease area of 484 square feet located within the medical clinic includes the facility's equipment cabinets.
11. A site visit conducted on July 9, 2009 confirmed the accuracy of the site plan. The property appears to be well maintained.
12. For uses where parking requirements are not specific in the County Code, Section 22.56.1220 authorizes the Director to impose an amount of parking space that he or she finds adequate to prevent traffic congestion and excessive on-street parking. The existing wireless telecommunication facility will be unmanned and will require periodic maintenance visits, approximately once per month. There is adequate space on the 0.67 acre subject property to accommodate parking for a maintenance vehicle.
13. The existing monopole and antennae are 10 feet higher than the maximum height of 35 feet permitted in the C-2 zone.
14. There are visual compatibility concerns to the adjacent properties caused by the existing monopole and antennae. To be more compatible with the neighborhood and the adjacent cemetery, the project applicant has agreed to a condition to voluntarily paint the monopole and antennae a light grey color.
15. The existing and primary use of the property is a commercial medical clinic, which was approved on July 13, 2004 by Plot Plan Case Number 49165 ("PP 49165"). Tenant improvements to add additional floor space for the clinic's existing dialysis center was approved on March 2, 2005 by Plot Plan Number 200500071 ("RPP 200500071"). A Revised Exhibit "A" was approved on April 2, 2008 to amend the site plan of the existing wireless telecommunications facility to include a backup generator within the outdoor lease area ("CP 95-048").
16. There are no open zoning violation cases on the subject property.

17. The Los Angeles County Department of Regional Planning ("Regional Planning") has determined this project to be categorically exempt under Class 3 (New Construction or Conversion of Small Structures) under the California Environmental Quality Act (CEQA) and Los Angeles County environmental guidelines.
18. 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, property posting, library posting and Regional Planning website posting.
19. No public comment has been received related to this request.
20. A public hearing for CUP 200900052 was conducted by Mr. Paul McCarthy on Tuesday, September 15, 2009 at 9:00 a.m. in Room 150, Hall of Records, 320 West Temple Street, Los Angeles, California 90012.
21. 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 10 years.
22. 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 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 I Section, Regional Planning.

BASED ON THE FOREGOING, THE HEARING OFFICER CONCLUDES:

As required by Section 22.56.040 of the County Code, in addition to the information required in the permit application, the applicant shall substantiate to the satisfaction of the Hearing Officer, the following facts:

- A. That the requested use at the location proposed will not:
 1. Adversely affect the health, peace, comfort or welfare of persons residing or working in the surrounding area, or
 2. Be materially detrimental to the use, enjoyment or valuation of property of other persons located in the vicinity of the site, or
 3. Jeopardize, endanger or otherwise constitute a menace to the public health, safety or general welfare.
- B. 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 22, of as is otherwise required in order to integrate said use with the uses in the surrounding area.
- C. That the proposed site is adequately served:

1. 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.

HEARING OFFICER ACTION:

1. I have considered the Categorical Exemption for this project and find 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 presented above, Conditional Use Permit Case No. 200900052 Project Number 95-048-(1) is APPROVED, subject to the attached conditions.

c: Hearing Officer, Zoning Enforcement, Building and Safety

SMT:GHH

Tuesday, September 15, 2009

This grant authorizes the continued operation and maintenance of an unmanned wireless telecommunications facility and equipment enclosure located within the C-2 (Neighborhood Business) zone, and is subject to the following conditions of approval:

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 and cannot be used 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 Department of Regional Planning ("Regional Planning") their affidavit stating that they are aware of, and agree to accept, all conditions of this grant and that the conditions have been recorded as required by Condition No. 7, and until all required fees have been paid pursuant to Condition No. 9. Notwithstanding the foregoing, this condition No. 2, and Condition Nos. 3, 4, and 5 shall be effective immediately upon final approval of this grant by the County;
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. The County shall promptly notify the permittee of any claim, action, or proceeding and the County shall reasonably cooperate in the defense;
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 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. The permittee shall also pay the following supplemental deposits, from which actual costs shall be billed and deducted:
 - a) 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; and,
 - b) At the sole discretion of the permittee, the amount of an initial or supplemental deposit may exceed the minimum amounts defined herein.

The cost for collection and duplication of records and other related documents will be paid by the permittee in accordance with Los Angeles County Zoning Code ("County Code") Section 2.170.010;

5. This grant shall expire unless used within two (2) years from the date of final

approval by the County. A single one-year time extension may be requested in writing and with the payment of the applicable fee;

6. 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;
7. 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 Los Angeles 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;
8. **This grant will terminate on September 15, 2019.** Entitlement to use of the property thereafter shall be subject to the regulations then in effect. At least six (6) months prior to the expiration of this permit and in the event that the permittee intends to continue operations after such date, a new Conditional Use Permit ("CUP") application shall be filed with Regional Planning. The application shall be a request for continuance of the use permitted under this grant, whether including or not including modification to the use at that time;
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. Prior to the use of this grant, the permittee shall deposit with the County of Los Angeles the sum of **\$750.00**. These monies 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, including adherence to development in accordance with the approved site plan on file. The fund provides for five (5) biennial (once every two years) inspections. Inspections shall be unannounced;
10. 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 condition of this grant, the permittee shall be financially responsible for and shall reimburse Regional Planning for all additional inspections and for any enforcement efforts necessary to bring the subject property into compliance. The amount charged for additional inspections shall be the amount equal to the recovery cost at the time of payment (currently **\$150.00** per inspection);
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 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;

12. All requirements of Title 22 of the County Code and of the specific zoning of the subject property must be complied with unless specifically modified by this grant, as set forth in these conditions or shown on the approved plans;
13. All structures shall conform to the requirements of the Division of Building and Safety of the Los Angeles County Department of Public Works or other appropriate agency and obtain an encroachment permit if deemed necessary;
14. The facility shall be operated in accordance with regulations of the State Public Utilities Commission;
15. Said facility shall be removed if in disuse for more than six (6) months;
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. The permittee shall provide written verification that the proposed facility's radio-frequency radiation and electromagnetic field emissions will fall within the adopted Federal Communications Commission ("FCC") standards for safe human exposure to such forms of non-ionizing electromagnetic radiation when operating at full strength and capacity for the lifetime of this CUP. The permittee/operator shall submit a copy of the initial report on the said facility's radio frequency emissions level, as required by the FCC requirements, upon request by Regional Planning. Any proposed wireless telecommunications facility that will be co-locating on the proposed facility will be required to submit the same written verification and include the cumulative radiation and emissions of all such facilities;
18. One (1) all-weather sign, limited to 18 inches in length and one (1) foot in height, shall be posted at the base of the tower; the sign shall include a notice of no trespassing, a warning of high voltage, and the phone number of the property owner to call in the event of an emergency;
19. The permittee shall post an all-weather sign on the subject property in English and the predominant second language of the neighborhood (Spanish) with a telephone number of whom to contact for property maintenance and Regional Planning Zoning Enforcement Section II (213-974-6483) for purposes of reporting any complaints related to the operation of the facility;
20. No signage, other than that which is specifically authorized by this grant, shall be placed on the project site;
21. As agreed to by the applicant, the monopole and antennae shall be painted a light

grey color to match the adjacent, existing medical clinic building within 60 days of approval of this grant on the subject parcel to the satisfaction of Regional Planning;

22. Security lighting shall be low intensity, energy efficient lighting and directed away from natural areas. Security lighting, if required, shall be on motion sensors, be of low intensity, and be directed away from residential areas. No pole-mounted lighting shall be permitted on the leasehold. Exterior lighting shall be a top-shielded or hooded design intended to direct light away from adjacent parcels and prevent off-site illumination;
23. The project shall be in substantial conformance with photo simulations approved as part of Exhibit "A" to the satisfaction of Regional Planning. If changes to the project are required as a result of instruction given at the public hearing, revised photo simulations shall be submitted to Regional Planning within sixty (60) days of the date of approval;
24. No unauthorized equipment shall be placed directly on the ground;
25. The maximum height of the monopole is to not exceed 45'-0";
26. The permittee shall maintain the subject property in a neat and orderly fashion. The permittee shall maintain free of litter all areas on the premises over which the permittee has control;
27. All structures, walls, and fences open to public view shall remain free of extraneous markings, drawings, or signage. 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;
28. 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 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. The only exceptions shall be seasonal decorations or signage provided under the auspices of a civic or non-profit organization;
29. The permittee shall maintain a current contact name, address, and phone number with Regional Planning at all times;
30. The operator shall have a maintenance report verifying the continued operation and maintenance of the said facility available upon request by Regional Planning; and,
31. The property shall be developed and maintained in substantial conformance with the approved Exhibit "A". In the event that subsequent revised plans are submitted,

the permittee shall submit four (4) copies of the proposed plans to the Director of Regional Planning for review and approval. All revised plans must be accompanied by the written authorization of the property owner.