Los Angeles County
Department of Regional Planning

Planning for the Challenges Ahead

Richard J. Bruckner
Director

April 11, 2011

TO: Gina Natoli, Hearing Officer

FROM: Mark Child for MARK CHILD
Zoning Permits North Section

SUBJECT: ADDITIONAL MATERIALS FOR HEARING
PROJECT NUMBER 99210-(5)
CONDITIONAL USE PERMIT 201000072
HEARING DATE: April 19, 2011
AGENDA ITEM 2

Please find attached the following documents for the above referenced project:

- Revised Findings. The number of proposed antennas depicted on the site plan distributed to the Hearing Officer is correct. Finding 3 has been revised to: *The proposed project includes the installation of eight panel antennas.* Finding 18, identifying the termination date of the previous grant, was added.
- Revised Conditions. Condition 1 was revised to reflect the proposed facility upgrade. Condition 8 has been revised to reflect a grant term based on the termination date of the previous grant.

MC:de

REVISED DRAFT FINDINGS AND ORDER OF THE HEARING OFFICER
COUNTY OF LOS ANGELES

PROJECT NUMBER 99210-(5)
CONDITIONAL USE PERMIT 201000072

REQUEST
The applicant, RealCom Associates, is requesting a conditional use permit to authorize the continued operation and maintenance of a wireless telecommunications facility (WTF), a use that is subject to permit.

HEARING DATE: April 19, 2011

FINDINGS

1. The subject property is located at 18348 West Avenue D in the unincorporated area of the Antelope Valley, Antelope Valley West Zoned District and A-2-5 (Heavy Agricultural) Zone.

2. The 9.62 acre subject property is developed with a mobile home park on the south side of the property and a market with a parking lot and a 71-foot-high WTF with equipment for two carriers on the north side of the property. A shelter and water tank are located on the east side of the property. There are several unpaved roads on the property.

   The WTF includes a 65-foot-high undisguised pole with a 10 panel antennas, a microwave dish and lighting rod mounted to it. An equipment cabinet, battery and power/telco meter are located within Nextel's 624-square-foot lease area that is secured by a six-foot-high chain-link fence with slats. A power/telco meter and four equipment cabinets are located within Verizon's 360-square-foot secured lease area.

3. The proposed project includes the installation of eight panel antennas.

4. The continued operation of the WTF is consistent with the Antelope Valley Area Plan. The land use designation of the subject property is Non-Urban 1. 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 WTF is 71 feet high (as measured to the top of the lightening rod). Conditional Use Permit 99-210 authorized a 68-foot-high facility. The previously approved site plans do not include the lightening rod.

7. The 9.62-acre subject property is adequate in size and shape to accommodate the development. No new construction or installation of equipment is proposed in the setback areas. One undedicated parking space for maintenance vehicles is required. The market parking lot can accommodate maintenance vehicle parking.

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 site is served by West Avenue D. The facility will generate approximately one maintenance vehicle trip every two months which the aforementioned street should be able to accommodate.

10. The subject property is surrounded by the following land uses:
    North: Vacant
    East: Vacant
    South: Single-family Residence
    West: Vacant

11. The proposed design is appropriate for the site and area because the facility is existing and located in a rural and relatively undeveloped area.
12. Zoning Enforcement staff submitted an inspection report on November 24, 2010 stating that no violations were discovered on the subject property.
13. No public comments for this case were received.
14. 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.
15. The proposed project is exempt from the California Environmental Quality Act under Class 1 because it is an existing facility.
16. 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.
17. 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 North Section, Los Angeles County Department of Regional Planning.
18. The previous grant, Conditional Use Permit 99-210, terminated on February 7, 2010.

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 201000072 is **APPROVED,** subject to the attached conditions.

c: Hearing Officer, Building and Safety
MC:de
April 11, 2011

1. This grant authorizes the continued operation and maintenance of a wireless telecommunications facility (WTF) that includes a 65-foot high undisguised pole; 18 panel antennas, a microwave dish; lighting rod; equipment cabinets; a battery; and power/telco meters.

2. 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.

3. 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 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 7, and until all required monies have been paid pursuant to Condition 10. The recorded affidavit shall be filed and the required monies shall be paid by **June 18, 2011**. Notwithstanding the foregoing, these conditions 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.

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 other applicable statute of limitations. 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 pay the Department of Regional Planning an initial deposit of $5,000, from which actual costs or expenses shall be billed and deducted for the purpose of defraying the costs and 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 or expenses 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.

   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 shall be paid by the permittee according to Los Angeles 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 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 Recorder. In addition, upon any transfer or lease of the property during the term of this grant, permittee or 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 February 7, 2025**. 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 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 by the County. A single one-year time extension may be requested in writing and with the payment of the applicable fee prior to such expiration date.

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 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 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.

11. 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.

12. 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.

13. All requirements of the Zoning Ordinance and of the specific zoning of the subject property must be complied with unless otherwise set forth in these conditions or shown on the approved plans.

14. The facility shall be operated in accordance with all applicable regulations of the State Public Utilities Commission and the Federal Communications Commission.

15. The permittee shall submit to the Zoning Enforcement Section of the Department of Regional Planning written certification that the radio frequency electromagnetic emissions levels comply with adopted Federal Communications Commission (FCC) limitations for general population/uncontrolled exposure to such emissions when operating at full strength and capacity. If other WTFs are located on the subject property or on adjacent parcels, the aforementioned report shall include the radio frequency electromagnetic emissions of said WTFs.
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 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.
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. Construction and maintenance of the facility shall be limited to the hours of 9:00 AM to 5:00 PM, Monday through Friday. Emergency repairs of the facility may occur at any time.
21. The project shall be developed and maintained in substantial compliance with the approved plans marked Exhibit "A". Placement and height of all pole-mounted equipment shall be in substantial conformance with that shown on said Exhibit "A". The facility shall be built as depicted in the photo simulations presented at the public hearing.
22. One existing parking space for the convenience market shall be made available for maintenance vehicle parking.
23. The maximum height of the pole and with antennas shall not exceed 65 feet above finished grade. The existing six-foot high lightning rod may extend beyond said height.
24. 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.
25. The exterior color for the monopole and top-mounted equipment antennae shall be sky-white.
26. 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 the permittee receiving notice. Any and all graffiti shall be removed by the operator or property owner within 48 hours permittee receiving notice.

27. 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.
28. 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.
29. The permittee shall remove the WTF if in disuse for more than six months.

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4/11/2011