Los Angeles County
Department of Regional Planning

Planning for the Challenges Ahead

Richard J. Bruckner
Director

September 1, 2010

TO: Gina Natoli, Hearing Officer

FROM: Mark Child
Section Head, Zoning Permits 1

SUBJECT: ADDITIONAL MATERIALS FOR HEARING
PROJECT NUMBER R2005-03084-(5)
CONDITIONAL USE PERMIT 200900132
HEARING DATE: September 7, 2010
AGENDA ITEM 6

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

- Revised Findings. Finding 16 added.
- Revised conditions. Conditions 18, 29 and 36 revised. Condition 22 deleted.

MC:de

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

PROJECT NUMBER R2005-03084-(5)
CONDITIONAL USE PERMIT 200900132

REQUEST
The applicant, Royal Street Communications is requesting a conditional use permit to authorize the construction, operation and maintenance of a wireless telecommunications facility (WTF), a use that is subject to permit.

HEARING DATE: September 7, 2010

FINDINGS

1. The proposed project consists of the construction of a WTF with a 65-foot-pole disguised as a pine tree, six panel antennas mounted to the pole and a microwave antenna. Four equipment cabinets and other related equipment will be located in a 216-square-foot lease area secured by a seven-foot-high cement block wall and gate.
2. The subject property is located at 2733 South Tenth Avenue in the unincorporated community of South Monrovia Islands and South Arcadia Zoned District.
3. The 1.5 acre subject property is developed with a church, a basketball court, a 55 space parking lot and a WTF located in the steeple. The WTF lease area for the related equipment is located south of the basketball court. The site is relatively flat and landscaped. Vehicle access is off East Longden Drive and South Tenth Avenue.
4. The Countywide General Plan land use designation of the subject property is Low Density Residential. There are no policies in the Plan that specifically prohibit, discourage or limit the use of WTFs. The proposed project is consistent with the Countywide General Plan.
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. No comments from the pubic were received.
7. The applicant determined that co-location on the existing WTF is not feasible due to structural issues.
8. With a conditional use permit, the height of the proposed facility complies with Zoning Ordinance.
9. The subject property is surrounded by single-family residences.
10. The subject property is not near a significant ridgeline or scenic highway.
11. The Santa Anita Wash Trail is located approximately 762 feet west of the subject property. The proposed facility should not be substantially visible from the trail.
12. Because the proposed facility will be disguised as a pine tree and a condition requires that the equipment area be screened by landscaping, the facility should not have a significant adverse visual impact on the surrounding neighborhood.
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. 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.

15. 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.

16. An existing WTF (different carrier) is located on the subject property. The alternative site analysis identifies six other WTFs located within 1.38 miles of the subject property.

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.

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 fact and conclusions presented above, conditional use permit 200900132 is **APPROVED,** subject to the attached conditions.

c: Hearing Officer, Zoning Enforcement, Building and Safety

MC:de

September 1, 2010

This grant authorizes the construction, operation and maintenance of a wireless telecommunications facility, 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 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 6 and until all required monies have been paid pursuant to Condition 9. The recorded affidavit shall be filed and the required monies shall be paid by **November 6, 2010**.

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 cooperate reasonably 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. 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.

   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 according to Los Angeles County Code Section 2.170.010.

5. If any 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 September 7, 2025**. 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 application shall be filed with the

Department of 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.

8. This grant shall expire unless used within two years from the date of final approval by the County. The date of final approval is the date of the approval action plus any applicable appeal period. A single one-year time extension may be requested in writing and with the payment of the applicable fee prior to such expiration date.

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. 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. Inspections shall be made to ensure compliance with the conditions of this grant as well as adherence to development in accordance with the approved site plan on file. The amount charged for additional inspections shall be $200.00 per inspection, or the current recovery cost, 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 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.

11. Upon receipt of this letter, the permittee shall contact the Fire Prevention Bureau of the Los Angeles County Fire Department to determine what facilities may be necessary to protect the property from fire hazard. Any necessary facilities shall be provided as may be required by said Department.

12. 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.

13. All structures, walls and fences open to public view shall remain free of extraneous markings, drawings or signage that was not approved by the Department of 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.

14. 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.

15. 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, a Revised Exhibit "A" shall be submitted to the Department of Regional Planning within sixty (60) days of the date of approval for the conditional use permit.
16. The facility shall be operated in accordance with regulations of the State Public Utilities Commission.
17. Said facility shall be removed if in disuse for more than six months.
18. 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 conditional use permit.
19. 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.
20. Any proposed wireless telecommunications facility 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.
21. 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.
22. Condition deleted.
23. 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.
24. Construction and maintenance of the facility shall take place between the hours of 9:00 AM to 5:00 PM, Monday through Friday only. Emergency repairs of the facility may occur at any time.
25. 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 to be in substantial conformance with that shown on said Exhibit "A". All revised plot plans must be accompanied by the written authorization of the property owner.
26. The facility must be built as depicted in the photo simulations, as presented at the public hearing and as part of the Exhibit A.
27. The operator shall provide one parking space for maintenance vehicles that shall not block access to driveways or garages and shall obey all applicable on-street parking regulations.
28. The maximum height of the facility shall not exceed 65 feet above finished grade.

29. 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.
30. All structures, including the antenna and equipment cabinets, shall be a neutral, earth-tone color or camouflaging color to blend in and harmonize with the surroundings. The colors and materials of the surface shall not be glossy or reflective in appearance and shall be maintained in good condition at all times.
31. Said facility, including any lighting, fences, shields, cabinets, and poles shall be maintained by the operator in good repair, free from trash, debris, litter and graffiti and other forms of vandalism. Any damage from any cause shall be repaired within 30 days of discovery to prevent occurrences of dangerous conditions or visual blight.
32. 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.
33. Equipment area fencing shall conform to Zoning Ordinance requirements.
34. The cement block wall enclosing the equipment area shall be painted to match the church buildings and screened by landscaping to the satisfaction of Zoning Enforcement staff.
35. Landscaping screening the equipment area wall shall be maintained to ensure that it thrives.
36. New equipment added to the facility shall be disguised and not compromise the stealth design of the facility.
37. Disguised facilities shall be maintained. Weathered, faded or missing disguised parts/material must be maintained and/or replaced within 30 days of notice.

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9/1/2010

Attachments: Photo Simulation(s)