



Los Angeles County
Department of Regional Planning

Planning for the Challenges Ahead



Bruce W. McClendon, FAICP
Director of Planning

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Jason Kozora- Trillium Consulting, INC.
5912 Bolsa Avenue, Ste. 202
Huntington Beach, CA 92649

**Regarding: Project Number R2007-02104-(4)
Conditional Use Permit 200700149-(4)
Between S. Frame Avenue and S. Holmes Circle Hacienda Heights, CA, APN-8289-019-803**

Dear Applicant:

Hearing Officer John Gutwein, by his action of September 8, 2008, **APPROVED** the above described Conditional Use Permit. The attached documents contain the Hearing Officer's findings and conditions relating to the approval. Please carefully review each condition. Condition No. 3 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 5:00 p.m. on September 22, 2008.** 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, 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 Diane Aranda in the Zoning Permits Section II at (213) 974-6435.

Sincerely,

DEPARTMENT OF REGIONAL PLANNING

Bruce W. McClendon, FAICP

Director of Planning


Maria Masis, Supervising Regional Planner
Zoning Permits II Section

Enclosures: Findings and Conditions, Affidavit (Permittee's Completion)
c: Zoning Enforcement, Testifiers

HEARING OFFICER'S FINDINGS AND ORDER:

REQUEST: The applicant, T-Mobile, is requesting authorization for the construction, operation and maintenance of a wireless telecommunication facility consisting of (12) panel antennas mounted on the riser legs of an existing 151-ft lattice tower with associated equipment situated at the base located in a 300 sq ft lease area surrounded by a 6-ft high chain link fence within the Hacienda Heights Zoned District.

PROCEEDINGS BEFORE THE HEARING OFFICER:

September 8, 2008 Public Hearing

A duly noticed public hearing was held on September 8, 2008 at the Steinmetz Senior Center in Hacienda Heights. The applicants' representative, Tim Miller, was sworn in and testified in favor of the project. They confirmed that he had reviewed the staff report and conditions recommended by staff and concurred with all conditions of approval. Two area residents were sworn in and testified in opposition to the project, citing concerns such as aesthetic impacts on the neighborhood, diminishment of property values, potential health concerns, and dust created by the once a month maintenance visit. There being no further testimony, the hearing officer closed the public hearing and approved the permit with changes to the findings and conditions of approval as agreed to by the applicants.

PREVIOUS HEARINGS

The case was first heard at the hearing officer meeting on May 20, 2008 and was continued to June 3, 2008 to allow time for a community meeting held on June 2, 2008 at the Steinmetz Center within the community of Hacienda Heights. The hearing officer meeting held on June 3, 2008 was closed to the public and continued to Monday, September 8, 2008 to hold the meeting within the community of Hacienda Heights to encourage community involvement and to allow for maximum attendance.

Findings

1. T-Mobile requests authorization for the construction, operation and maintenance of a wireless telecommunication facility consisting of (12) panel antennas (4 per sector, 3 sectors total) to be mounted on the riser legs of a 151-ft existing Southern California Edison lattice tower with (4) associated equipment cabinets within the 12'x25' lease area surrounded by a 6-ft high chain link fence.
2. The subject property is located at parcel lot APN-8289-019-803 between S. Frame Avenue & S. Holmes Circle in the Hacienda Heights Zoned District.
3. The subject property is a 15 acre narrow rectangular-shaped parcel on relatively level land.
4. The project site is zoned A-2-1 (Heavy Agricultural—1-acre minimum lot size).
5. Surrounding properties are all zoned as follows:
North: R-A-12,000 (Residential Agricultural—12,000 sq ft minimum lot size)
South: R-1-15,000 (Single-Family—15,000 sq ft minimum lot size)
East: RPD-15,000 (Residential Planned Development—15,000 sq ft minimum lot size)
West: A-2-1 (Heavy Agricultural—1-acre minimum lot size), city of Whittier
6. Surrounding land uses consist of vacant land with the closest residential use being 150-ft from the subject property.

7. The only previous case on the subject property is for Plot Plan 200400323 for the installation of two lattice towers were approved on October 5, 2004.
8. There are no previous zoning violations involving the subject property.
9. The subject property is located within the O (Open Space) classification of the Hacienda Heights Community Plan. The intent of this land use classification is for the conservation of open space for parks, riding and hiking trails, passive recreation, scientific study, sanitary landfills, and utility easements. There are no specific policies related to the proposed type of use in the Community Plan.
10. The site plan depicts a 151-ft existing lattice tower on a 15 acre lot. The proposed project is composed of (12) panel antennas (4 per sector, 3 sectors total) to be mounted on the riser legs of an existing lattice tower. Two sectors of the panel antennas are at 42-ft. and the third sector is at 50-ft. The plans illustrate (4) new BTS cabinets with a new GPS antenna located at the northern portion adjacent to the existing lattice tower surrounded by a new 6-ft high chain link fence with 5-ft wide access gates at the northwestern portion of a concrete slab within the leasehold area. The proposed project site dimension is approximately 300 sq. ft. Access to the subject property is from South Frame Avenue.
11. Title 22 of the Los Angeles County Code (Zoning Ordinance) does not specify a wireless telecommunications facility as a use. The use most closely matching a wireless telecommunications facility specified in the Zoning Ordinance is a radio or television tower. Under Section 22.32.190 of the Zoning Ordinance, radio or television towers are permitted uses in A-2 (Heavy – Agricultural) zone, with an approved CUP.
12. Section 22.52.1220 determines parking requirements for uses not specified. The proposed project is subject to provision of one parking space for the purpose of maintenance visits.

The site plan does not illustrate any parking spaces. South Frame Avenue has sufficient space to allow for the temporary parking of a maintenance vehicle. Access to the facility is with advance permission via a locked gate.
13. This project was determined to be Class 3 Categorical Exemption which exempts the installation of small new equipment in small structures from the California Environmental Quality Act.
14. Access to the subject property is via a secured entrance from South Frame Avenue.
15. A total of (123) public hearing notices were mailed out to property owners located within the 500-foot radius of the subject property on April 9, 2008 regarding the subject proposal. The notice was published in *La Opinion* and the San Gabriel Valley Tribune on April 10, 2008. Case-related materials were sent on April 12, 2008, to the Hacienda Heights Library at 16010 La Monde Street, Hacienda Heights, CA 91745. The public hearing notice was posted at the project site on April 18, 2008.
16. Since May 15th, staff has received four phone calls and thirty-two letters of opposition in form of a petition from the area's residents.
17. A community meeting was held on June 2, 2008 at the Steinmetz Senior Center to discuss possible options to the proposed wireless telecommunication facility. There was no decision

that was agreed upon by the applicant and the opposed group.

18. The proposed project should not have an adverse visual impact on the surrounding neighborhood because the proposed wireless facility will utilize the existing Southern California lattice tower. The project size is approximately 300 sq. ft. on a 15 acre parcel lot within an open space area which is of adequate size to accommodate the proposed use while not impacting the current use of the property.
19. The Wireless Telecommunication Facility will serve the basic needs of the community for both personal and business providing coverage for personal use, business uses and during emergency situations where traditional telephone service is not available or becomes disrupted.
20. Applicant submitted coverage maps (Exhibit A and Exhibit B) illustrating that the coverage area is substandard without the installation of the proposed Wireless Telecommunication Facility. Exhibit A shows that the alternate site proposed by the community residents will not provide coverage for the intended area. Exhibit B depicts the intended area without the proposed project as having "marginal" coverage and with the proposed project as having "good" coverage.
21. Access to the project site will be limited to the maintenance crew by first acquiring permission from Southern California Edison to encourage public safety.

BASED ON THE FOREGOING, THE HEARING OFFICER CONCLUDES:

- A. The proposed use is consistent with the adopted general plan for the area;
- B. The requested use at the proposed location will not adversely affect the health, peace, comfort, or welfare of persons residing and working in the surrounding area, and 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 and general welfare;
- C. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking, landscaping and other development features;
- D. The proposed site is adequately served by highways of sufficient width, and improved as necessary to carry the kind of traffic such uses would generate and by other public or private facilities as are required.

THEREFORE, the information submitted by the applicant and presented at the public hearing substantiates the required findings for a conditional use permit as set forth in Sections 22.56.090, Title 22, of the Los Angeles County Code (Zoning Ordinance).

HEARING OFFICER ACTION:

1. The Hearing Officer finds that the project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA). The project is within a class of projects, which have been determined not to have a significant effect on the environment in that it meets the criteria set forth in section 15301 of the State CEQA Guidelines and Class 3 of the County Environmental Document Reporting Procedures and Guidelines, Appendix G.

2. In view of the findings of facts presented above, Project No. 2007-02104-(4) / Conditional Use Permit Case No. 200700149 is **APPROVED**, subject to the attached conditions.

Attachments: Conditions
Affidavit

cc: Zoning Enforcement, Building and Safety

1. This grant authorizes T-Mobile the use of the subject property for the construction, operation and maintenance of a wireless telecommunication facility consisting of (12) panel antennas mounted on the legs of an existing 151-ft lattice tower with associated equipment situated at the base located in a 300 sq ft lease area within the Hacienda Heights Zoned District. All facilities shall be maintained as depicted on the approved Exhibit "A" and subject to all of the following conditions of approval:
 - a. Any and all graffiti on the proposed wall and the facility shall be removed within 24 hours of its application;
 - b. The facility shall be operated in accordance with regulations of the State Public Utilities Commission;
 - c. Said facility shall be removed if in disuse for more than six months;
 - d. 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;
 - e. All structures shall conform with the requirements of the Building and Safety Division of the Department of Public Works;
 - f. All equipment shall be a neutral color excluding black to blend with its surroundings and shall be maintained in good condition at all times;
 - g. The permittee shall provide written verification that the proposed facility's radio-frequency radiation and electromagnetic field emissions will fall within the adopted 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. The permittee/operator shall submit a copy of the initial report on the said facility's radio frequency emissions level, as required by the Federal Communications Commission requirements, to the Department of Regional Planning;
 - h. 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;
 - i. 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 as soon as reasonably possible to minimize occurrences of dangerous conditions or visual blight;
 - j. The operators shall submit an annual maintenance report to the Department of Regional Planning by January 1, 2009 verifying the continued operation and maintenance of the said facility;

- k. The subject property shall be developed and maintained in substantial compliance with the plans marked Exhibit "A." All revised plot plans must be accompanied by the written authorization of the property owner; and
 - l. The operator shall provide satisfactory safeguards to prevent unauthorized access to the lease area enclosure;
 - m. All development shall take place within the area confined by the chain link fence due to the environmentally sensitive surrounding.
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 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. 8, and until all required monies have been paid pursuant to Condition No. 10.
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. The County shall promptly notify the permittee of any 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.
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 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.

6. This grant will expire unless used within 2 years from the date of approval. A one-year time extension may be requested in writing before the expiration date.
7. 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.
8. 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.
9. **This grant will terminate on September 8, 2018.** 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.
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. The permittee shall deposit with the County of Los Angeles the sum of **\$750.00**. 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 **5 (five) biennial** inspections. Inspections shall be unannounced.

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 \$150.00 per inspection, or the current recovery cost, 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 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. 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.

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. 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 facility being operated on the premises or that do not provide pertinent information about said premises.
15. In the event of such 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.
16. General maintenance (once a month maintenance visit) by the maintenance crew will be serviced by walking onto the subject property only. Vehicular access will not be permitted within the site to reduce dust particles.
17. Parking of the maintenance vehicle will be permitted along Frame Avenue and Holmes Circle.

MM:DA
9/8/08