Los Angeles County
Department of Regional Planning

Planning for the Challenges Ahead

Bruce W. McClendon, FAICP
Director of Planning

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

SRES Corporation
Attention: Ed Gala
2922 Daimler St. No. 200
Santa Ana, CA 92705

Regarding: **Project Number R2008-00523-(3)**
Conditional Use Permit Number RCUP 200800066-(3)
24255 Pacific Coast Highway, Malibu, CA 90263

Dear Applicant:

Hearing Officer Gina Natoli, by her action of January 20, 2009, **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. 2 requires that the permittee file an affidavit accepting the conditions before the grants becomes effective.

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 February 4, 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.

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 Mr. Kim Szalay in the Special Projects Section at (213) 974-4876.

Sincerely,

DEPARTMENT OF REGIONAL PLANNING
Jon Sanabria
Acting Director of Planning

Samuel Z. Dea, Supervising Regional Planner
Special Projects Section

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

C: BOS, Commission Services, DPW (Building and Safety), Zoning Enforcement, Testifiers

1/20/09
SZD:KKS

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 on February 4, 2009, 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: LA County Registrar-Recorder/County Clerk in the amount of:
     - ☐ $2,656.75 (includes $50.00 processing fee) for the required Environmental Impact Report
     - ☐ $1,926.75 (includes $50.00 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 1362
   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 Mr. Kim Szalay at (213) 974-4876, from 7:30 a.m. to 5:30 p.m., Monday through Thursday or via email at kszalay@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 }**SS**
COUNTY OF LOS ANGELES

Regarding: **PROJECT NUMBER: R2008-00523-(3)**
CONDITIONAL USE PERMIT NUMBER: RCUP 200800066-(3)
24255 PACIFIC COAST HIGHWAY

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 the same, sign both.) **Type or Print**

Applicant

Name_____

Applicant_____

These signatures must be Acknowledged By a notary public. Attach Appropriate Acknowledgements.

City, State_____

Signature_____

Owner:

Name_____

Address_____

City, State_____

Signature_____

Please complete this form and return to:

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

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Type or Print

Applicant

Name_____

Applicant_____

City, State_____

Signature_____

These signatures must be Acknowledged By a notary public. Attach Appropriate Acknowledgements.

Owner:

Name_____

Address_____

City, State_____

Signature_____

FINDINGS AND ORDER OF THE HEARING OFFICER
COUNTY OF LOS ANGELES

PROJECT N0. R2008-00523-(3)
CONDITIONAL USE PERMIT N0. RCUP 200800066-(3)

HEARING DATE: January 20, 2009

SYNOPSIS:
The applicant, AT & T, requests a conditional use permit to authorize construction, operation and maintenance of two unmanned wireless telecommunications facilities on two existing facilities within the campus of Pepperdine University.

PROCEEDINGS BEFORE THE HEARING OFFICER:

January 20, 2009 Public Hearing
A duly noticed public hearing was held on January 20, 2009 before the Hearing Officer. The applicant's representative was sworn in and testified in favor of the request. The applicant's representative confirmed that he had reviewed the staff report and conditions recommended by staff and concurred with all conditions of approval. There being no further testimony, the Hearing Officer closed the public hearing and approved the permit with findings and conditions as agreed to by the applicant.

Findings

1. The applicant, AT & T, requests authorization to construct, operate and maintain two wireless telecommunications facilities limited to construction located within the Pepperdine University campus. One facility includes the proposed installation of four (4) panel antennae, one (1) parabolic microwave antenna and five (5) equipment cabinets adjacent to existing water tanks (APN No. 4457004051) nearby co-located facilities; and the second facility includes proposed installation of eight (8) panel antennae and five (5) equipment cabinets co-located nearby other wireless facilities on the existing Keck-Appleby building (APN No. 4458038010) as depicted on Exhibit "A".

2. The project is located in two areas on the campus of Pepperdine University between Malibu Canyon Road to the east and John Tyler Drive to West and adjacent to the City of Malibu on 24255 Pacific Coast Highway, Malibu, CA 90263.

3. The Department of Regional Planning has determined that a Categorical Exemption, Class 1 – Existing Facilities, is the appropriate environmental documentation under California Environmental Quality Act (CEQA) and County of Los Angeles reporting requirements.

4. The proposed wireless telecommunication facilities create no environmental impacts to the neighborhood and provide additional telecommunications facilities for emergency and ordinary usage. Installation of the proposed equipment makes use of existing facilities and is hidden from view.

5. The subject property is currently zoned A-1-1-DP (Light Agricultural-one acre minimum required area-Development Program)

6. The subject property is designated 11 (Institution and Public Facilities) on the land use policy map of the Malibu Land Use Plan.

7. The project is consistent with the County of Los Angeles Malibu Land Use Plan (MLUP). Policy No. P129 (MLUP, Page 33) requires that: "Structures should be designed and located so as to create an attractive appearance and harmonious relationship with the surrounding environment." The project is consistent with this requirement by proposing to install equipment located away from adjacent properties and hidden from view.

8. According to Section 30610 (b) of the California Coastal Act, the subject minor improvements to existing facilities are exempt from California Coastal Commission review.

9. The project is consistent with the California Coastal Commission approved Long Range Development Plan for Pepperdine University.

10. The project complies with the development standards of Title 22 County of Los Angeles Zoning Ordinance. Though Title 22 does not specifically call out wireless telecommunications facilities as a use, the uses most similar, communication equipment buildings and radio and television stations and towers require a conditional use permit in the A-1 zone.

11. No additional comments pertaining to the project were provided by other County departments.

12. If approved, fees identified in the attached project conditions will apply unless modified by the Hearing Officer.

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 posting on the property. A total of 137 and 109 public hearing notices were mailed to property owners within the required 500-foot radius of two different sites on the subject property on December 10, 2008 to notify surrounding residents of the proposals. The hearing notice was published in La Opinion and Malibu Times on December 13 and December 18 respectively. Case-related materials including the environmental documentation, hearing notice, factual, and burden of proof were sent on December 10, 2008 to the Malibu Public Library located at 23519 W. Civic Center Way, Malibu, CA 90265. The hearing notice has been posted on the property starting 30 days prior to the public hearing date.

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 10 years.

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 I Section, Los Angeles County Department of Regional Planning.

16. One phone call has been received from the public regarding this request.

BASED ON THE FOREGOING, THE HEARING OFFICER CONCLUDES:

A. That the proposed use is consistent with the adopted general plan for the area;

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;

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;

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 for a conditional use permit as set forth in Sections 22.56.090 of the Los Angeles County Code.

HEARING OFFICER ACTION:

1. The Hearing officer has considered the Categorical Exemption for this project and certifies 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, Project No. R2008-00523-(3)/Conditional Use Permit No. RCUP 200800066-(3) is **APPROVED** subject to the attached conditions.

c: Commission Secretary, Zoning Enforcement, Building and Safety

1/20/09
SZD: KKS

This grant authorizes Conditional Use Permit No. RCUP 200800066-(3) 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 Number 7, and until all required monies have been paid pursuant and Condition Number 9.

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. This grant will expire unless used within 2 years from the date of approval. A one-year time extension may be requested in writing and with payment of the applicable fee at least six (6) months prior to the expiration date.

6. 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.

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 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 January 20, 2019, ten years from the approval date.** 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.

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 **$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 **five (5)** inspections, one every other year for ten (10) years. 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 shall be equal to the recovery cost at the time of payment (currently $150 per inspections).

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. In the event that the County deems it necessary to initiate such proceedings pursuant to Part 13 of Chapter 22.56 of the County Code, the applicant shall compensate the County for all costs incurred in such proceedings.

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, including coastal policies, 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 shall conform with the requirements of the Division of Building and Safety of the Department of Public Works.

15. 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.

16. 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.

19. 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. All revised plot plans must be accompanied by the written authorization of the property owner.

20. The construction, operation and maintenance of the unmanned wireless telecommunications facility is further subject to all of the following conditions:

    a. Construction and routine maintenance of the facilities shall take place between the hours of 8:00 A.M. to 6:00 P.M., Monday through Friday;

    b. During construction, the permittee and its contractor shall comply with Sections 12.12.010 through 12.12.100 of the Los Angeles County Code regarding building construction noise;

    c. Access and one parking space shall be made available to the permittee for at least one maintenance vehicle as needed for construction and maintenance of the project;

    d. The facilities shall be operated in accordance with regulations of the State Public Utilities Commission and in accordance with the emission standards of the Federal Communications Commission (FCC);

    e. The permittee shall provide written verification that the proposed facilities' 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. Prior to operation of the facility, the permittee/operator shall submit to the Director of Planning a copy of the initial report on said facilities' radio frequency emissions level in compliance with the Federal Communications Commission requirements;

f. For proposed facilities which are co-located with existing wireless telecommunications facilities, prior to operation of the facility, the permittee/operator shall submit to the Director of Planning written verification of the cumulative radiation and emissions of all such co-located facilities demonstrating compliance with Federal Communications Commission requirements;

g. To the extent feasible, the operator shall cooperate with any subsequent applicants for wireless telecommunications facilities in the vicinity with regard to possible co-location. Such subsequent applicants will be subject to the regulations in effect at that time;

h. All equipment shall be screened or located away from public view; said equipment and screening shall match existing facilities or surroundings;

i. Said facilities, 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. Lighting shall be appropriately screened to prevent glare. Any damage from any cause shall be repaired as soon as reasonably possible to minimize occurrences of dangerous conditions or visual blight; and

j. Said facilities shall be removed if not in use for more than six months.

SZD:KKS
1-20-09