



Los Angeles County Department of Regional Planning



Planning for the Challenges Ahead

Richard J. Bruckner
Director of Planning

August 16, 2011

Mr. Anthony Serpa
Sure Site
1607 Terra Bella
Irvine, CA 92602

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

**PROJECT NO. R2010-01707-(1), CONDITIONAL USE PERMIT NO. 2010 00161
5161 Pomona Blvd., East Los Angeles, Eastside Unit No. 4 Zoned District**

Dear Applicant/Agent:

On August 16, 2011, the Hearing Officer **APPROVED** the above-described application. 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's secretary, Room 1350, Hall of Records, 320 W. Temple St., Los Angeles, CA 90012. Please contact the commission's 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 August 30, 2011.** Appeals must be delivered by this date. If an appeal is not filed, the Hearing Officer's action is final.

The enclosed documents contain the Hearing Officer's findings and conditions of approval. Please carefully review each condition. The conditions require that the permittee record the affidavit of acceptance and conditions. Please make an appointment to hand deliver the recorded affidavit, conditions, and fees to the assigned planner.

For further information, please contact Phillip Estes at (213) 974-6435 or by e-mail at pestes@planning.lacounty.gov. Office hours are Monday through Thursday, 7:30 AM to 5:30 PM. The Department of Regional Planning is closed on Fridays.

Sincerely,

DEPARTMENT OF REGIONAL PLANNING

Richard J. Bruckner
Director of Planning

Susan M. Tae, AICP
Supervising Regional Planner
Zoning Permits North

Enclosures: Findings and Conditions, Affidavit (Permittee's Completion)
CC: Zoning Enforcement, RPC

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

PROJECT NO.: R2010-01707-(1)

CONDITIONAL USE PERMIT NO.: 2010 00161

REQUEST: A conditional use permit (CUP) for the continued operation and expansion of a wireless telecommunications facility (WTF) located in the C-3 (Unlimited Commercial) zone, East Los Angeles Community Standards District, Eastside Unit No. 4 Zoned District.

HEARING DATE: August 16, 2011

PROCEEDINGS BEFORE THE HEARING OFFICER:

August 16, 2011 Public Hearing

A duly noticed continued public hearing was held on August 16, 2011 and was conducted by Hearing Officer Pat Hachiya.

Phillip Estes, Principal Planner, gave a brief presentation of the proposed project and applicant's request. Staff's analysis concluded that the applicant satisfied the required burden of proof.

Mr. Anthony Serpa, the applicant's agent, was present and testified in favor of the request. Mr. Serpa agreed to the recommended conditions of approval, as presented by staff.

The Hearing Officer, hearing no further testimony, closed the public hearing and approved Conditional Use Permit 2010 00161, subject to the conditions presented by staff and as agreed to by the applicant. Staff advised that the appeal period will end on August 30, 2011.

Findings

1. The applicant requested a conditional use permit to authorize the continued operation and expansion of a wireless telecommunications facility ("Project").
2. The Project is located at 5161 Pomona Boulevard, East Los Angeles, Eastside Unit No. 4 Zoned District.
3. The Assessor's parcel number is 5250-009-037.
4. Plot Plan No. 35692 approved the existing two-story commercial building, parking, and landscaping on March 11, 1987.
5. CUP No. 99-172 approved the existing wireless telecommunications facility in March 8, 2000. This permit expired on March 8, 2010.
6. The property is located in the C-3 (Unlimited Commercial) zone.
7. The property is located in category CC – Community Commercial of the East Los Angeles Community Plan.
8. The Project does not conflict with surrounding land uses, as the Project has successfully operated for 10 years without a conflict with surrounding residential land uses.

9. The existing monopole is 60 feet tall. There is no proposed increase in the height of the monopole.
10. The existing and proposed equipment cabinets are located on the roof of the building.
11. The expansion consists of three, flush-mounted canister antennas placed on the existing monopole and one equipment cabinet placed on the roof of the building.
12. In order for the Project to be compatible with surrounding land uses, the monopole, antenna, and cables shall be painted to match either the sky (dull matte grey). Roof-mounted equipment cabinets and cable run tray shall be painted to match the exterior building color, or placed behind a parapet or other architectural treatment that is consistent with the building architecture.
13. There are no known zoning violation cases.
14. Surrounding properties are located in the following zones:
 - North: R-3-P (Limited Multiple Residence – Parking), R-1 (Single-Family Residence)
 - East: C-2 (Neighborhood Business), C-3
 - South: C-3
 - West: C-3
15. Surrounding land uses within 500 feet are:
 - North: Parking, single-family residential
 - East: Parking, medical building, gas station, retail, Pomona Freeway (CA 60)
 - South: Gold Line Atlantic Station, retail, restaurants, parking, auto repair
 - West: Parking, medical building
16. The requested use at the proposed location is sufficiently buffered in relation to any residential area within the immediate vicinity so as not to adversely affect said area.
17. The requested use at the proposed location will not adversely affect the economic welfare of the nearby community.
18. The Project, with design conditions, is compatible with the exterior appearance of existing structures located within the adjacent area. For this reason, the project will not cause blight, deterioration, or substantially diminish or impair property values within the area.
19. The project is Categorically Exempt Class 3 (New Construction or Conversion of Small Structures) under the California Environmental Quality Act (CEQA) reporting requirements.
20. Pursuant to Sections 22.60.174 and 22.60.175 of County Code, the community was adequately notified of the public hearing by mail, newspaper advertisement, hearing notice sign, library package, and published on the Los Angeles County Department of Regional Planning (“Regional Planning”) website.

21. To assure continued compatibility between the use of the subject property allowed by this grant and surrounding land uses, the Hearing Officer determined that it is necessary to limit the term of the grant to fifteen (15) years with seven (7) periodic inspections.
22. The location of the documents and other materials constituting the record of proceedings upon which the decision is based is located at Regional Planning, 320 W. Temple St., Los Angeles, CA 90012.

BASED ON THE FOREGOING, THE HEARING OFFICER CONCLUDES:

CONDITIONAL USE PERMIT – Burden of Proof

1. The proposed use is consistent with the adopted general plan for the area;
2. 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 areas, 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;
3. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking, landscaping and other development features; and
4. The proposed site is adequately served by highways of sufficient width, and improved as necessary to carry the kind of traffic such use 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 22.56.040, 22.56.090, Title 22, of the County Code.

HEARING OFFICER ACTION:

1. I have considered the Categorical Exemption Class 3 for this project and certify that it is consistent with the finding by the State Secretary for Resources and 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 No. 2010 00161 is **APPROVED** for a fifteen (15) year term, subject to the attached conditions.

CC: Zoning Enforcement

SMT:PE
8/16/11

This grant authorizes the continued operation and expansion of a wireless telecommunications facility (WTF), 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 Los Angeles County ("County") Department of Regional Planning ("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 6, and until all required monies have been paid pursuant to Condition Number 9.

Notwithstanding the foregoing, this Condition No. 2, and Condition Nos. 3, 4, and 8 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 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.
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 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 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 shall terminate on August 16, 2026.** 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 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 will expire unless used within six months from the date of approval. A single, one-year time extension may be requested in writing and with payment of the applicable fee prior to such expiration date. Submittal of the recorded affidavit and payment of all required fees shall constitute use of the permit. Submitting the recorded Affidavit of Acceptance and applicable fees shall constitute using the grant and permit.
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 the sum of **\$1,400.00**. 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 **seven (7) periodic inspections**. Inspections may 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 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. 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.
11. Notice is hereby given that any person violating a provision of this grant is guilty of a misdemeanor. Notice is given that the Regional Planning Commission ("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 ("Zoning Ordinance") shall be complied with unless otherwise set forth in these conditions or shown on the approved plan.
13. All structures shall conform to the requirements of the County Fire Department, as applicable.
14. All structures shall conform to the requirements of the County Department of Public Works, as applicable.
15. All structures, walls and fences open to public view shall remain free of extraneous markings, drawings or signage that was not approved by 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.
16. 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.
17. The permittee shall maintain the subject property in a neat and orderly fashion. The permittee shall maintain all areas free of litter and debris on the premises over which the permittee has control.
18. 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 Regional Planning within sixty (60) days of the date of approval for the Conditional Use Permit, or as modified by the Director of Regional Planning.
19. All litter and trash shall be regularly collected from the premises and the adjacent sidewalks or right-of-way.
20. The facility shall operate in accordance with regulations of the California Public Utilities Commission, as applicable.
21. The facility shall be removed, to the satisfaction of the Director of Regional Planning, if in disuse for more than six months.

22. Insofar as feasible, the operator shall cooperate with subsequent applicants for a co-located facility. Subsequent co-located antenna(s), with no increase in the monopole height, may be permitted, subject to an approved Revised Exhibit "A".
23. The monopole, antenna, and cables shall be painted to match either the sky (dull matte grey) or other camouflage system, as approved by the Director of Planning.
24. Roof-mounted equipment cabinets and cable run tray shall be painted to match the exterior building color or placed behind a parapet or other architectural treatment that is consistent with the building architecture, as approved by the Director of Planning.
25. One parking space shall be made available for periodic maintenance vehicle parking.

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