



Los Angeles County
Department of Regional Planning

Planning for the Challenges Ahead



Richard J. Bruckner
Director

December 21, 2011

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Kevin Moe
SureSite Consulting
5955 De Soto Avenue, Suite 142
Woodland Hills, CA 91367

**REGARDING: PROJECT NO. R2010-01709-(4)
CONDITIONAL USE PERMIT NO. 201000162
19433 San Jose Avenue, City of Industry, CA 91748**

Dear Applicant:

Hearing Officer, Alex Garcia, by his action on December 20, 2011, **APPROVED** the above-described project and entitlements. 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 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 the 5:00 p.m. on January 3, 2012.** 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 Anthony Curzi of the Zoning Permits North Section at (213) 974-6461 or e-mail at acurzi@planning.lacounty.gov. Our office hours are Monday through Thursday, 7:30 a.m. to 5:30 p.m. We are closed on Fridays.

Sincerely,

DEPARTMENT OF REGIONAL PLANNING
Richard J. Bruckner
Director

For Susan Tæe, AICP, Supervising Regional Planner
Zoning Permits North Section

Enclosures: Findings and Conditions, Affidavit (Permittee's Completion)
c: DPW (Building and Safety)

ST/amc

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

**PROJECT NO. R2010-01709-(4)
CONDITIONAL USE PERMIT NO. 201000162**

REQUEST:

A conditional use permit (CUP) to continue the maintenance and operation of a wireless telecommunications facility in the M-1.5-BE (Restricted Heavy Manufacturing – Billboard Exclusion) zone.

HEARING DATE: December 20, 2011

PROCEEDINGS BEFORE THE HEARING OFFICER:

A duly noticed public hearing was held on December 20, 2011 before the Hearing Officer. After staff's presentation, the Hearing Officer requested changes to Condition Numbers 8 and 10. Condition number 8 was changed to contain a 15-year grant term rather than the 20-year requested by the applicant. Condition Number 10 was changed to reflect eight zoning enforcement inspections rather than 10, and the corresponding fee was changed from \$2,000.00 to \$1,600.00.

Findings

1. The Project is located at 19433 San Jose Avenue, City of Industry, CA 91748.
2. The applicant, T-Mobile West Corporation, is requesting a conditional use permit to authorize the continued maintenance and operation of a 75-foot-tall, ground-mounted wireless telecommunication facility (WTF) monopole with six panel antennas. Ancillary facilities are located in a ground-mounted compound. The compound is not visible from the street.
3. The Rowland Heights Community General Plan designation of the subject property is "I" (Industrial) and the proposed use is consistent with this designation.
4. The subject site is zoned M-1.5-BE (Restricted Heavy Manufacturing – Billboard Exclusion Zone) and the proposed use is consistent with the zoning.
5. CUP Case No. 96-021-(1) was approved on March 23, 1996 for the construction and operation of an unmanned wireless telecommunication facility, which currently exists on the property. The grant terminated on March 23, 2011. The applicant filed for a new CUP to continue the existing use on November 10, 2010.
6. Ordinance No. 6651 established the M-1.5 Zone on March 15, 1955.
7. Staff has determined that a Class 1 Categorical Exemption – Existing Facilities is the appropriate environmental documentation under the California Environmental

Quality Act (CEQA) and the Los Angeles County Environmental Document Reporting Guidelines, since this project is for the continued operation of an existing unmanned wireless telecommunication facility without any improvements.

8. The existing site is adequately served by highways or streets of sufficient widths and improvements as necessary to carry the kind and quality of traffic such use would generate, and by other public or private service facilities as are required. Access to the site is via a 26-foot-wide driveway located west of the existing warehouse located on site. The driveway accesses San Jose Avenue, a 40-foot-wide public street. The site will generate a once-monthly maintenance visit, and there is sufficient parking on the subject site's parking lot for this visit. No other public infrastructure is required.
9. The existing WTF is consistent with the applicable land use compatibility goals and policies of the Rowland Heights Community General Plan and the Los Angeles County General Plan (General Plan). The following policy of the General Plan is applicable to the subject property and serves as a guideline for the continued operation and maintenance of such facility:
Public Services Policy 58: "*Maintain high quality emergency response services.*"
 - The existing WTF provides cellular service to this neighborhood and such service is often used to make emergency calls. The existing facility will continue to ensure that such service is readily available.
10. Title 22 of the Los Angeles County Code (County Code) does not specify WTF as a use. The most closely matching use specified in the County Code is radio and television station towers. Pursuant to Subdivision & Zoning Ordinance Policy No. 01-1010 dated July 26, 2010, a conditional use permit is required for the construction and operation of WTFs in all zones.
11. The project will not adversely affect the health, peace, comfort, or welfare of persons residing and working in the surrounding area and will not jeopardize, endanger, or otherwise constitute a menace to public health, safety, or general welfare. Allowing the WTF to continue operating will ensure that cellular service will remain readily available. Cellular service is often used to make emergency calls and it is important to maintain for the health and safety of surrounding residents and visitors. The facility has been operating in a manner that is consistent and compatible with the surrounding area, evidenced by the fact that there have been no problems reported or complaints from the community for the 15 years the facility has been in operation. The monopole is not visible from nearby residential areas to the north. Therefore, allowing the continued operation of the facility will not be materially detrimental to the use, enjoyment, or valuation of property of other persons located in the vicinity of the site.
12. 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.

13. 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 fifteen (15) years.
14. The location of the documents and other materials constituting the record of proceedings upon which the Commission'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.

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.

AND, 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. The Project is exempt from the California Environmental Quality Act under Class 1 – Existing Facilities.
 2. In view of the findings of fact and conclusions presented above, Conditional Use Permit 201000162 is APPROVED subject to the attached conditions.
- c: Hearing Officer, Zoning Enforcement, Building and Safety

**CONDITIONS OF APPROVAL
DEPARTMENT OF REGIONAL PLANNING
PROJECT NO. R2010-01709-(4)
CONDITIONAL USE PERMIT NO. 201000162**

PROJECT DESCRIPTION

The project is for the continued maintenance and operation of an existing 75-foot-tall monopole wireless telecommunication facility (WTF) in an industrial park in the Restricted Heavy Manufacturing – Billboard Exclusion (M-1.5-BE) zone subject to the following conditions of approval:

1. Unless otherwise apparent from the context, the term “permittee” shall include the applicant, owner of the property, 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 No. 7, and until all required monies have been paid pursuant to Condition No. 10. Notwithstanding the foregoing, this Condition No. 2 and Condition Nos. 4, 5, 9, shall be effective immediately upon the date of final approval of this grant by the County.
3. Unless otherwise apparent from the context, the term “date of final approval” shall mean 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 any other applicable limitations period. 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 make an initial deposit with Regional Planning in the amount of up to \$5,000.00, from which actual costs and expenses shall be billed and deducted for the purpose of defraying the costs or expenses involved in Regional Planning's cooperation in the defense, including but not limited to, depositions, testimony, and other assistance provided to permittee or permittee's counsel.

If during the litigation process, actual costs or expenses 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 \$5,000.00. There is no limit to the number of supplemental deposits that may be required prior to completion of the litigation.

At the sole discretion of the permittee, the amount of an initial or any supplemental deposit may exceed the minimum amounts defined herein. Additionally, the cost for collection and duplication of records and other related documents shall be paid by the permittee according to 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 the 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 Registrar-Recorder/County Clerk ("Recorder"). In addition, upon any transfer or lease of the property during the term of this grant, the permittee, or the 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 December 20, 2026.** 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 (6) 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 ninety (90) days from the date of final approval of the grant. A single thirty (30) day time extension may be requested in writing and with the payment of the applicable fee prior to such expiration date. For the purposes of this provision, continued operation of the wireless telecommunication facility and satisfaction of Condition No. 2 shall be considered use of this grant.
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 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 fund 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 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.

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 ("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, or as otherwise authorized pursuant to Chapter 22.56, Part 13 of the County Code.

12. All development pursuant to this grant must be kept in full compliance with the County Fire Code.
13. All requirements of Title 22 of the County Zoning Ordinance and of the specific zoning of the subject property must be complied with unless otherwise modified as set forth in these conditions or as shown on the approved plans.
14. All development pursuant to this grant shall conform with the requirements of County Department of Public Works ("Public Works").
15. All structures, walls and fences open to public view shall remain free of graffiti or other 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. The only exceptions shall be seasonal decorations or signage provided under the auspices of a civic or non-profit organization.

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 notification 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.

16. 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, **four (4) copies** of a modified Exhibit "A" shall be submitted to Regional Planning within sixty (60) days of the date of final approval.
17. The facility shall be operated in accordance with regulations of the State Public Utilities Commission.
18. Upon completion of construction of the facility, the permittee shall submit to the Zoning Enforcement Section 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.
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 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 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. 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.

23. If the subject property is adjacent to residences, 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.
24. 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.
25. One parking space for maintenance vehicles shall be provided. The space does not have to be dedicated solely to maintenance vehicles. Maintenance vehicles shall not block access to driveways or garages.
26. The maximum height of the facility shall not exceed 75 feet above finished grade.
27. Within 30 days of change in service provider ownership, the permittee shall provide the Zoning Enforcement Section of Regional Planning the name and contact information of the new property owner.
28. The finished surface of the facility shall not be glossy or reflective in nature unless such finish is necessary to blend into existing design features. The finish shall be graffiti-resistant and shall have a color that blends in with the immediately surrounding environment.
29. 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 notice. Any and all graffiti shall be removed by the operator or property owner within 48 hours. Provided landscaping shall be maintained at all times and shall be promptly replaced if needed.
30. Upon request, the permittee/operator shall submit annual reports to the Zoning Enforcement Section of Regional Planning to show compliance with the maintenance and removal conditions.
31. The 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.
32. The facility shall be secured by fencing, gates and/or locks. If the facility's fences or walls are visible from the public right-of-way, landscaping, in a minimum planter width of five feet, shall be provided to screen the fence or wall from the street.
33. Appurtenant equipment boxes shall be screened or camouflaged.
34. The name, address and telephone number of the service provider shall be displayed on the subject property.