



Los Angeles County
Department of Regional Planning

Planning for the Challenges Ahead



Richard J. Bruckner
Director

April 17, 2012

Arvin Norouzi, FMHC Corp.
4060 Campus Dr., Ste. 200
Newport Beach, CA 92660

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

**REGARDING: PROJECT NO. R2011-00314-(4) / CONDITIONAL USE PERMIT NO. 201100031
19755 COLIMA ROAD, ROWLAND HEIGHTS, CA 91748**

Dear Applicant:

Hearing Officer Mitch Glaser, by his action of April 17, 2012, **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 5:00 p.m. on May 1, 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, **hand deliver** a notarized affidavit of acceptance form, a certified copy of the recorded findings and conditions of approval, and any other required fees or materials to the planner assigned to your case (see attached instructions for more information). Please **make an appointment** with the case planner to ensure that processing will be completed expeditiously. If the required documents and fees are not received within 60 days of this final letter's date, this permit will be transferred to Zoning Enforcement for further action.

For further information on appeal procedures or any other matter pertaining to these approvals, please contact Steve Mar of the Zoning Permits East Section at (213) 974-6435 or e-mail at smar@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


Maria Masis, Supervising Regional Planner
Zoning Permits East Section

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

c: DPW (Building and Safety), Zoning Enforcement, Owner
MM:SM

HEARING OFFICER'S FINDINGS AND ORDER:

PROJECT NUMBER R2011-00314 - (4)

CONDITIONAL USE PERMIT NO. 201100031

HEARING DATE: April 17, 2012

SYNOPSIS: The applicant, Los Angeles SMSA Limited Partnership, is requesting a conditional use permit (CUP) for the continued operation of an existing 52' tall monopole wireless telecommunications facility (WTF) with appurtenant equipment in an existing 600 sq. ft. lease area and the construction of a new backup diesel generator located in the rear parking lot of an existing shopping center (Canyon Point Marketplace) in the C-2-BE (Neighborhood Business – Billboard Exclusion) zone pursuant to Los Angeles County Code Section 22.28.160. WTF is not a use recognized by Title 22 but a similar use of radio/television tower is a use subject to permit in the C-2-BE zone.

PROCEEDINGS BEFORE THE HEARING OFFICER:

A duly noticed public hearing was held on April 17, 2012 before the Hearing Officer. Hearing Officer Mitch Glaser was in attendance for the public hearing. The applicant's representative, Arvin Norouzi, testified in favor of the proposed project. There being no further testimony, the Hearing Officer closed the public hearing, indicating his intent to approve project R2011-00314 with conditions.

Findings

1. The subject property is located at 19755 Colima Road in Rowland Heights and in the San Jose Zoned District.
2. The subject property is zoned C-2-BE (Neighborhood Business – Billboard Exclusion). The existing zoning for the surrounding properties are as follows:
 - North: R-A-10000 (Residential Agricultural – 10,000 sq. ft. Minimum Required Area) zone.
 - East: C-2 (Neighborhood Business) and CPD (Commercial Planned Development) zones.
 - South: C-1 (Restricted Business) zone.
 - West: R-A-10000 (Residential Agricultural – 10,000 sq. ft. Minimum Required Area) zone.
3. The existing land use for the subject property contains an existing shopping center with appurtenant parking. The existing land use for the surrounding properties are as follows:
 - North: Single-family Residences, Shopping Center, Church
 - East: Office, Commercial
 - South: Single-family Residences, Shopping Center
 - West: Single-family Residences
4. This approval is for the continued operation of an existing 52' tall wireless telecommunications facility (WTF) with appurtenant equipment in an existing 600 sq. ft. lease area and the construction of a new backup diesel generator located in the rear parking lot of an existing shopping center (Canyon Point Marketplace) in the C-2-BE (Neighborhood

Business – Billboard Exclusion) zone pursuant to Los Angeles County Code Section 22.28.160. The installation of the new 4' x 8'-3" backup generator will remove one existing parking space and be surrounded by eight (8) 4' tall concrete bollards. Total footprint of the new generator and bollards will be 84 sq. ft.

5. CUP 00-201 was approved on April 3, 2001. This CUP authorized the construction and operation of a wireless telecommunications facility with appurtenant equipment.
6. The subject property is designated C - Commercial in the Rowland Heights Community Plan. Currently, the area is being used as a shopping center with various retail and commercial uses and contains an existing wireless telecommunications facility. The proposed design of the backup generator is consistent with the land use compatibility goals and policies of the Rowland Heights Community Plan.
7. Pursuant to Section 22.28.160 of the County Code, development of wireless telecommunications facilities is not a recognized use but a similar use of radio/television towers is permitted in the C-2-BE (Neighborhood Business – Billboard Exclusion) zone, provided that a CUP is obtained.
8. Allowing the backup generator to be built will ensure that local cellular service will continue to remain readily available to the surrounding community in case of a power outage. The facility is located in the rear parking lot of an existing shopping center 690 feet north of the centerline of Colima Road and 95 ft. west of the centerline of Brea Canyon Cut Off Road. The backup generator will be installed immediately to the north and adjacent to the existing WTF and will take up one existing parking space. The current uses on the shopping center require 651 parking spaces and 674 spaces are provided. The project will be required to install a sound enclosure around the backup generator to minimize its operational noise level to no more than 71 decibels measured at 23 ft. from the facility. The subject property is surrounded by single-family residences, a shopping center, and a church to the north, single-family residences and a shopping center to the south, office and commercial uses to the east, and single-family residences to the west.
9. The Department of Regional Planning has determined that a Categorical Exemption, Class 3 Categorical Exemption - New Construction or Conversion of Small Structures, is the appropriate environmental documentation under California Environmental Quality Act (CEQA) and the Los Angeles County Environmental Document Reporting Guidelines, since the project will consist of construction, location, and installation of new, small facilities and structures.
10. 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.
11. 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 Zoning Permits Section, Los Angeles County Department of Regional Planning.

BASED ON THE FOREGOING, THE HEARING OFFICER CONCLUDES:

- A. That the existing use is consistent with the adopted general plan for the area;
- B. That the request for the construction, operation, and maintenance of the said backup generator and continued operation of the WTF, following the attached conditions of approval, will not adversely affect the health, peace, comfort, or welfare of persons residing and 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 existing site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities and other 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 existing 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.

The information submitted by the applicant and presented at the public hearing substantiate the required findings identified by Section 22.56.040 of the Los Angeles County Code.

HEARING OFFICER ACTION:

1. The Hearing Officer finds that this project is Categorically Exempt from the provisions of the California Environmental Quality Act (CEQA).
2. In view of the findings of fact and conclusions presented above, Conditional Use Permit 201100031 is **approved** subject to the attached conditions.

c: Hearing Officer, Zoning Enforcement, Building and Safety

MM:SM

**CONDITIONS OF APPROVAL
DEPARTMENT OF REGIONAL PLANNING
PROJECT NO. R2011-00314-(4)
CONDITIONAL USE PERMIT NO. 201100031**

PROJECT DESCRIPTION

The project is for the continued operation of an existing 52' tall monopole wireless telecommunications facility (WTF) with appurtenant equipment in a 600 sq. ft. lease area located in the rear parking lot of an existing shopping center (Canyon Point Marketplace) and the construction of a new backup diesel generator in the C-2-BE (Neighborhood Business – Billboard Exclusion) zone subject to the following conditions of approval:

GENERAL CONDITIONS

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, and 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 April 17, 2027.** 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 two (2) years from the date of final approval of the grant. A single one-year time extension may be requested in writing and with the payment of the applicable fee prior to such expiration date.
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 **\$1,400.00**. 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 fund provides for **seven (7) 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 development shall comply with the requirements of Title 22 of the County Code ("Zoning Ordinance") and of the specific zoning of the subject property, unless specifically modified by this grant, as set forth in these conditions, including the approved Exhibit "A," or a revised Exhibit "A" approved by the Director.
14. All development pursuant to this grant shall conform with the requirements of County Department of 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.
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 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.
17. 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, **three (3) copies** of a modified Exhibit "A" shall be submitted to Regional Planning within sixty (60) days of the date of final approval. The facility shall be operated in accordance with regulations of the State Public Utilities Commission.
18. In the event that subsequent revisions to the approved Exhibit "A" are submitted, the permittee shall submit **three (3) copies** of the proposed plans to the Director for review and approval. All revised plans must be accompanied by the written authorization of the property owner(s) and applicable fee for such revision.
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 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. 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 52 feet above finished grade.
27. 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 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 the Department of Regional Planning to show compliance with the maintenance and removal conditions.
31. 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.

32. The facility, excluding the diesel backup generator, shall be secured by fencing, gates and/or locks. All fencing or walls used for screening or securing the facility shall be composed of wood, vinyl, stone, concrete, stucco or wrought iron. Chain links, chain link with slats, barbed and other types of wire fencing are prohibited.
33. Appurtenant equipment boxes, excluding the diesel backup generator, shall be screened or camouflaged.
34. The diesel backup generator shall be enclosed by a sound enclosure capable of insulating noise levels to no more than 71 decibels measured at 23 ft. from the facility.