Los Angeles County
Department of Regional Planning

Planning for the Challenges Ahead

Richard J. Bruckner
Director

September 3, 2013

TO: Pat Hachiya, Hearing Officer

FROM: Rudy Silvas
Principal Regional Planning Assistant
Zoning Permits West

SUBJECT: Project Number R2011-01053-(3)
Conditional Use Permit No. 201100102
HO Meeting: September 17, 2013
Agenda Item: 2

Request for a single one-year time extension, in accordance with condition number six of the CUP, to allow use of the CUP from December 20, 2013, to December 20, 2014. A copy of the written request for the extension from the applicant is attached, along with the original conditions of approval. Should you have any questions on this project please feel free to contact me at (213) 974-6462.

MKK:RS

320 West Temple Street ▪ Los Angeles, CA 90012 ▪ 213-974-6411 ▪ Fax: 213-626-0434 ▪ TDD: 213-617-2292

Date:	**7-15-13**
Jurisdiction:	**County of Los Angeles** **Department of Regional Planning** **320 West Temple Street** **Los Angeles, CA 90012**
Application:	**Conditional Use Permit No. 201100102** **LA County Project # R2011-01-53-(3)**
Applicant:	**Black &Veatch** **12750 Center Court Dr., Ste. 600** **Cerritos, CA 90703**
Site Name:	**LAM549-01 Node 1**
Address:	**4536U Kanan Rd.** **Agoura Hills, CA 91301**
Representative:	**Paul Smolarski** **Cable Engineering Services** **10640 Sepulveda Blvd.** **Mission Hills, CA 91345** **(818) 898-2352** **paul.smolarski@cableeng.com**

Re: Request for Zoning Permit Extension - CUP No. 201100102

Black & Veatch, on behalf of AT&T Mobility, respectfully requests a one-year extension of Conditional Use Permit No. 201100102 for LA County Project # R2011-01-53-(3), an AT&T Mobility Wireless Telecommunications Facility located in the Public Right of Way at 4536U Kanan Rd., Agoura Hills, CA 90703.

If you have questions regarding this request, please contact the Project Representative, Paul Smolarski (Cable Engineering Services) at 818-898-2352 or by email at paul.smolarski@cableeng.com.

Enclosures:

Extension Fee - $1,140

CUP Approval No. 201100102
Approved Project Plans

Acceptance of Conditions of Approval
Related CES transmittal and County of LA receipt documentation

HEARING OFFICER'S FINDINGS AND ORDER:
PROJECT NO. R2011-01053-(3)
CONDITIONAL USE PERMIT NO. 201100102

REQUEST: Pursuant to Part 1 of Chapter 22.56 of the County Code, the applicant is requesting a conditional use permit ("CUP") to authorize the construction, operation, and maintenance of a wireless telecommunications facility on an existing utility pole in the public right-of-way.

PROCEEDINGS BEFORE THE HEARING OFFICER:

December 6, 2011 Public Hearing

A duly noticed public hearing was held before the Hearing Officer, Ms. Gina Natoli, on December 6, 2011. Regional Planning staff made a brief presentation recommending approval of the project. The applicant's representative, Mr. Rob Searcy, was sworn in and testified in favor of the project. In response to questions from the Hearing Officer, Mr. Searcy explained that no other potential facilities for co-location were located within 500 feet and that the proposed equipment cabinet would be located 20 feet from the utility pole in order to allow adequate clearance for the parking of maintenance vehicles. He also explained that the facility's extension arm would be perpendicular, rather than parallel, to the public right-of-way in order to better emit a signal up and down Kanan Road. The Hearing Officer subsequently closed the public hearing and approved the project.

Findings

1. The project site is located on the eastern side of the Kanan Road public right-of-way, near 4536 Kanan Road, in The Malibu Zoned District of unincorporated Los Angeles County.

2. The project site is unclassified in terms of zone as it is located within the public right-of-way.

3. The project site is adjacent to Kanan Road, a paved two-lane thoroughfare, and will incorporate an existing wooden utility pole 34 feet in height. Unpaved land within the right-of-way is level and consists of dirt and some small shrubs. An oak tree is located on the adjacent property to the east, although the proposed project is outside its protected zone.

4. Surrounding properties within 500 feet are zoned as follows:
   North: RPD-2-0.5U (Residential Planned Development—Two Acre Minimum Required Lot Area, 0.5 Dwelling Units per Acre Maximum Density); City of Agoura Hills
   South: RPD-2-0.5U
   East: RPD-2-0.5U
   West: RPD-2-0.5U

5. The surrounding land uses within 500 feet consist of vacant land.

6. This project has been determined to be categorically exempt under the environmental reporting procedures and guidelines of the California Environmental Quality Act (CEQA). The facility qualifies for a Class 3, Small Structures, categorical exemption, as the proposed structures are small in scale.

7. 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, property posting, library posting and DRP website posting. No public comments were received regarding the project.

8. A wireless telecommunications facility is not a defined use in the Zoning Ordinance; however, staff has traditionally utilized the defined use of "radio and television stations and towers" as a comparable use. Radio and television stations and towers are uses subject to conditional use permits in all zones.

9. Section 22.52.1220 of the County Code determines parking requirements for uses that are not specified. The Director may impose an amount of parking spaces that he finds to be adequate to prevent traffic congestion and excessive on-street parking. The proposed wireless telecommunications facility will be unmanned and will require periodic maintenance visits only. Maintenance vehicles access the facility via Kanan Road, the shoulder of which would provide adequate parking space for one vehicle. The appropriate parking for such a use would be one space, and that parking would be satisfied by the existing road shoulder.

10. The subject property is located within the N2 (Rural Residential 2) classification of the Santa Monica Mountains North Area Plan. The primary intent of this classification is to allow residential development of densities equal or less than 0.5 dwelling units per acre. However, utility and infrastructure uses are also allowed. Therefore, the wireless telecommunications facility is consistent with this classification.

11. The site plan depicts two four-foot, three-inch–tall panel antennas mounted on a six-foot extension arm on an existing 34-foot-tall wooden utility pole within the Kanan Road right-of-way. The antennas would have a maximum height of 27 feet, six inches above ground. A small equipment box would be mounted on the pole at a level of seven feet, six inches above ground. A four-foot-tall equipment cabinet would also be mounted within the right-of-way, approximately 20 feet to the south. While an oak tree is located immediately to the east of the right-of-way, the proposed structures would not encroach within its protected zone.

12. The operation of the wireless telecommunications facility is unlikely to adversely affect the health, peace, comfort or welfare of surrounding residents, be detrimental to surrounding properties, or create a hazard to public health, safety, or general

welfare. The facility will be required to operate within safety standards of the Federal Communications Commission (FCC), and any sounds generated would be minimal. The proposed structures are relatively small in nature, and the photo simulations provided by the applicant indicate that they would be aesthetically unobtrusive. In addition, Kanan Road is not a designated scenic highway, the project site is surrounded by vacant land in all directions, and staff has received no objections to the project from the public.

13. The proposed facility would comply with all applicable development standards for unclassified land. The project would also be adequately served by Kanan Road, a two-lane thoroughfare without level-of-service issues. The existing road shoulder would also be adequate to accommodate one parking space for periodic maintenance visits.

14. The proposed facility would provide a public benefit, as it would provide wireless signal coverage along Kanan Road, a well-traveled corridor which currently has inadequate wireless service.

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 West Section, Los Angeles County Department of Regional Planning.

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 areas, 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 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 conditional use permits as set forth in Section 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 15303 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, Conditional Use Permit No. 201100102 is **APPROVED**, subject to the attached conditions.

Attachments: Conditions
Affidavit of Acceptance

c: Commission Services, Zoning Enforcement, Building and Safety

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CONDITIONS OF APPROVAL
DEPARTMENT OF REGIONAL PLANNING
PROJECT NO. R2011-01053-(3)
CONDITIONAL USE PERMIT NO. 201100102

PROJECT DESCRIPTION

This grant authorizes the construction, operation, and maintenance of a wireless telecommunications facility consisting of panel antennas mounted on existing utility pole and ancillary facilities. The project is approved as depicted on the approved Exhibit "A", subject to all of 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 and cannot be used 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 conditions of this grant, and until all required fees have been paid pursuant to Condition No. 10. Notwithstanding the foregoing, this condition (No. 2), and Conditions No. 4, 5, and 6 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 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 $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 in accordance with to Los Angeles County Code Section 2.170.010.

6. This grant shall expire unless used within two (2) years from the date of final approval of the grant by the County. A single, one-year time extension may be requested, in writing and with payment of the applicable fee, before the expiration date.

7. 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.

8. Upon any transfer or lease of the subject 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.

9. **This grant shall terminate on December 6, 2026**. Entitlement to the use of the property thereafter shall be subject to the regulations then in effect. If the permittee intends to continue the operations after such date, whether or not the permittee proposes any modifications to the use at that time, the permittee shall file a new permit application with Regional Planning prior to the expiration of this permit, or shall otherwise comply with the applicable requirements at that time. Such application shall be filed at least six months prior to the expiration date for 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.

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 than 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. This 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 condition 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, 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 requirements of the 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.

13. All development pursuant to this grant shall conform to the requirements of the County Department of Public Works, the County Fire Department and Fire Warden, and the County Department of Public Health.

14. The subject property shall be developed and maintained in substantial compliance with the plans on file 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 60 days of the date of final approval of the CUP. In the event that subsequent plans are submitted, the written authorization of the service provider is necessary.

PROJECT-SPECIFIC CONDITIONS

15. The facility shall be operated in accordance with regulations of the State Public Utilities Commission.

16. If requested, the permittee shall submit to the Zoning Enforcement Section of the Department 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.

17. 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.

18. 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.

19. 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 the permittee shall obtain an encroachment permit if deemed necessary.

20. 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.

21. Construction and maintenance on 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.

22. 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.

23. One parking space for maintenance vehicles shall be provided. The space need not be delineated or dedicated solely to maintenance vehicles. Maintenance vehicles shall not block access to driveways or garages.

24. The maximum height of the facility shall not exceed 34 feet above natural grade.

25. 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 service provider.

26. 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. Panel antennas and other equipment mounted on the pole shall be painted in a color or colors to match said pole.

27. 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; and visible rust or corrosion on any unpainted metal areas. Any damage from any cause shall be repaired by the permittee 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 within 48 hours of notification. A sign shall be posted on the project site with a contact phone number for reporting any graffiti or maintenance issues at the facility.

28. 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.

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