Los Angeles County
Department of Regional Planning

Planning for the Challenges Ahead

Richard J. Bruckner
Director

March 6, 2012

Certified Mail – Return Receipt Requested

Mr. Rob Searcy
CES/Prescott Communications
10640 Sepulveda Blvd., #1
Mission Hill, CA 91345

Project No. R2011-01056-(3): Conditional Use Permit No. 201100105
Public Right-of-Way Adjacent To 221 Malibu Canyon Road, The Malibu Zoned District

Dear Agent:

The Hearing Officer **APPROVED** the above-described project. The enclosed documents contain the Hearing Officer's Findings and Conditions of Approval. Please review each condition. Condition No. 2 requires that the permittee file an Affidavit of Acceptance before the grant is effective.

The appeal period ends at 5:00 p.m. on March 20, 2012. The applicant or any other interested person may appeal this decision to the Regional Planning Commission. If an appeal is not received, this action is final. For appeal instructions and fees, contact the Regional Planning Commission Secretary, 320 W. Temple St., Los Angeles, CA 90012, (213) 974-6409. Appeals must be delivered in person.

After the appeal period ends, hand deliver a notarized Affidavit of Acceptance form and other applicable fees or materials to the case planner (see enclosed). To ensure timely processing, please schedule an appointment. If the required documents and fees are not received within 60 days of this letter's date, the permit is not effective and may be referred to Zoning Enforcement for possible action.

For additional information, please contact Phillip Estes at (213) 974-6443 or pestes@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

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

Enclosures: Instructions, Affidavits (Permittee's Completion), Findings, Conditions
CC: Zoning Enforcement

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FINDINGS AND ORDER THE HEARING OFFICER
COUNTY OF LOS ANGELES

PROJECT NO.: R2011-01056-(3)

CONDITIONAL USE PERMIT NO.: 201100105

REQUEST: To authorize a conditional use permit (CUP) for the construction, operation, and maintenance of a wireless telecommunications facility (WTF) consisting of an 38.5 foot wood monopole, antenna, and equipment cabinet, located in the public-right-of-way and the A-2-5 Zone (Heavy Agricultural – Five Acre Minimum Required Lot Area) in the Malibu Zoned District.

HEARING DATE: March 6, 2012 at 9:00 a.m.

PROCEEDINGS BEFORE THE HEARING OFFICER:
March 6, 2012 Public Hearing
A duly noticed public hearing was held on March 6, 2012 and was conducted by Hearing Officer Alex Garcia.

Phillip Estes, Principal Regional Planner, gave a brief presentation of the applicant's request. Staff's analysis concluded that the applicant had satisfied the required burden of proof and approval of the conditional use permit was recommended.

The applicant's representative was present and testified in favor of the project. The representative agreed to the proposed conditions, with the following requested amendments: Condition No. 2 (strike the requirement to record documents with the County Registrar-Recorder), Condition No. 6 (strike the condition), Condition No. 8 (amend to read "This grant shall expire unless used within two years from the date of approval..."), and Condition No. 20 (clarify that building permits are required only as applicable), Condition No. 25 (amend to allow routine maintenance during off-peak hours). The Hearing Officer concurred and directed staff to amend the conditions of approval.

Hearing no further testimony, the Hearing Officer closed the public hearing and approved Conditional Use Permit No. 201100105, subject to the revised conditions. Staff advised that the appeal period will end on March 20 2012.

Findings

1. The project is a request for a conditional use permit (CUP) to authorize the construction, operation, and maintenance of a wireless telecommunications facility (WTF) consisting of antennas mounted to an existing 38.5 foot wood utility pole and equipment cabinet ("Project").

2. The Project is located in the public right-of-way, adjacent to 221 S. Malibu Canyon Road in The Malibu Zoned District.

3. The adjacent Assessor's parcel number is 4456-034-901.

4. Access to the subject property is provided by Malibu Canyon Road, a fully-improved 80 foot major highway.

5. CUP No. 03-383 approved the existing WTF indicated as "Sprint" on the applicant's plans. CUP No. 03-383 will expire on July 21, 2014.

6. The property is located in the A-2-5 Zone, which allows a radio or television tower with an authorized CUP. A WTF is deemed to be similar to a radio or television tower.

7. Surrounding properties are located in the following zones:

North:	A-1-1 (Light Agricultural – One Acre Minimum Required Lot Area)
East:	A-1-1, A-2-5
South:	A-1-1, A-2-5
West:	A-1-1, A-1-1-DP (Light Agricultural – One Acre Minimum Required Lot Area – Development Program)

8. Surrounding land uses within 500 feet are:

North:	Malibu Creek State Park
East:	Malibu Creek State Park
South:	Vacant
West:	Pepperdine University (vacant)

9. With an approved CUP, the Project satisfies the development standards of the A-2-5 Zone.

10. The property is located in category 18 (Parks) of the Los Angeles County ("County") Malibu Local Coastal Plan ("community plan"), which principally permits "public owned park and beach land." Pursuant to the community plan, permitted non-residential uses may include public and semi-public uses, such as utility and communication facilities. Therefore, the facility is compatible with the plan category and the community plan.

11. The Project will not adversely affect the health, peace, comfort or welfare of persons residing or working in the surrounding area because the Project will satisfy all building code requirements. The Project will replace an existing 38.5 foot tall wood utility pole at the same location. The new facility will have a maximum height of 38.5 feet. The facility will closely resemble the existing wood pole and therefore will not impact land uses located in the vicinity. The Project satisfies A-2-5 development standards, with an approved CUP.

12. The Project will not be materially detrimental to the use, enjoyment, or valuation of property of other persons located in the vicinity of the site because the Project is sufficiently located away from sensitive land uses. It incorporates the existing a wood monopole design and antennas will be painted to match and blend with the wood monopole. The existing WTF has not adversely affected the public welfare and has operated without any known incidence.

13. The Project will not jeopardize, endanger, or otherwise constitute a menace to the public health, safety and general welfare because the Project does not propose the use of hazardous materials. It is sufficiently located away from any sensitive land uses. The Project incorporates the exiting wood monopole design and is sufficiently incorporated with the surrounding development.

14. The subject property is adequate in size and shape to accommodate the Project and applicable development standards. With the approved CUP, the Project satisfies the development standards for the A-2-5 Zone.

15. The subject property is adequately served by highways of sufficient width, and improved as necessary to carry the kind of traffic the project would generate and by other public or private facilities as are required. Access to the subject property is provided by Malibu Canyon Road. Utilities are available to sufficiently to support the Project.

16. The Protect is a Class 3 (New Construction or Conversion of Small Structures) categorical exemption, pursuant the California Environmental Quality Act ("CEQA") reporting requirements.

17. Pursuant to Sections 22.60.174 and 22.60.175 of the Los Angeles County Code ("Zoning Ordinance"), the community was adequately notified of the public hearing by mail, newspaper advertisement, hearing notice sign, library package, and published on the County Department of Regional Planning ("Regional Planning") website.

18. No comments were received from the public.

19. To ensure continued compatibility between the use of Project and surrounding land uses, the Hearing Officer determined that it is necessary to limit the term of the grant to15 years with eight (8) periodic inspections.

20. The documents and other materials constituting the record of proceedings upon which the decision is based are located at Regional Planning, 320 W. Temple St., Los Angeles, CA 90012.

BASED ON THE FOREGOING, THE HEARING OFFICER CONCLUDES:

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

2. That the requested use at the location will not adversely affect the health, peace, comfort or welfare of persons residing or working in the surrounding area, or be materially detrimental to the use, enjoyment or valuation of property of other persons located in the vicinity of the site, or jeopardize, endanger or otherwise constitute a menace to the public health, safety or general welfare; and

3. That the proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this Title 22, or as is otherwise required in order to integrate said use with the uses in the surrounding area; and

4. 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 22.56.040 and 22.56.090 of the Los Angeles County Code.

HEARING OFFICER ACTION:

1. I have considered the Class 3 Categorical Exemption 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. 201100105 is **APPROVED** for a fifteen (15) year term, subject to the attached conditions.

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This grant authorizes the construction, operation, and maintenance of 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 until all required monies have been paid pursuant to Condition Number 8.

   Notwithstanding the foregoing, this Condition No. 2, and Condition Nos. 3, 4, and 7 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 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. **This grant shall terminate on March 6, 2027.** 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.

7. This grant will expire unless used within two years 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.

8. 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 **$1,600.00**. 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 deposit provides for **eight (8) periodic inspections**. Inspections may be unannounced.

9. 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.

10. 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.

11. 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.

12. All structures shall conform to the requirements of the County Fire Department, as applicable.

13. 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.

14. 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.

15. 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.

16. The subject property shall be developed and maintained in substantial compliance with the **plans and photo simulations** marked Exhibit "A." If changes to the plans are required as a result of instruction given at the public hearing, an updated Exhibit "A" shall be submitted to Regional Planning within sixty (60) days of the date of approval or as modified by the Director of Regional Planning.

17. The facility shall operate in compliance with the 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 submit written certification that the facility complies with applicable Federal Communications Commission ("FCC") regulations, including a radio frequency report.

19. The Permittee or operator shall make the facility available for collocation, or provide a written explanation as to why future collocation is not technically feasible. Permits for future collocation are subject to Regional Planning review and building permits, as applicable. Such subsequent applicants are subject to the regulations or policies in effect at that time. Subsequent co-located antenna(s), with no increase in height of the facility, may be permitted at the discretion of the Director of Planning with an approved Revised Exhibit "A".

20. Prior to approval by Regional Planning, future collocation facilities shall submit written certification that the facility complies with applicable FCC regulations, including a radio frequency report.

21. Future equipment shall be visually integrated with the facility and the surrounding area. Antennas, mounts, and cables shall be painted to match the facility.

22. All structures shall conform to the Public Works Division of Building and Safety requirements and obtain an encroachment permit, as applicable.

23. External lighting, including security lighting, shall be on motion sensors, be of low intensity, and fully shielded and directed away from any adjacent residences. Lighting shall not spillover onto adjacent properties. Antenna and beacon lighting are prohibited, unless required by the FCC or the Federal Aviation Administration ("FAA").

24. If the facility is located adjacent to a residential or sensitive land use construction is limited to the hours of 9:00 a.m. to 5:00 p.m., Monday through Friday. Routine maintenance may occur during off-peak time periods from 8:00 p.m. to 5:00 a.m. Emergency repairs facility may occur as reasonably necessary.

25. The maximum height of the facility shall not exceed 38.5 feet above finished grade.

26. The use of air conditioners, diesel generators, or any other emergency backup energy source shall comply with the Los Angeles County Noise Control Ordinance.

27. Within 30 days of change in service provider, the permittee shall provide the Zoning Enforcement Section of Regional Planning the name and contact information of the new service provider.

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 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. Weathered, faded or missing parts or materials used to disguise or camouflage the facility shall be maintained and/or replaced within 30 days of notice or observance of deteriorated conditions.

30. Upon request, the permittee or operator shall submit a report to the Zoning Enforcement Section of Regional Planning to demonstrate compliance with facility maintenance or removal conditions.

31. The facility shall display a small facility identification sign that can be viewed at or near eye level. The identification sign shall display the conditional use permit number, contact name, address, and telephone number of the facility owner or service provider.

32. Chain linked, chain linked with slats, barbed wire, concertina wire, and other similar types of wire fencing are prohibited.

33. Upon termination of this grant or after the construction of this facility, the facility has ceased to operate; the permittee shall remove abandoned equipment within six months of the cease of operation date. The permittee shall restore the site as nearly as practicable to the condition prior to the installation of the facility. Failure to remove such facility as required herein shall constitute a public nuisance and shall be subject to appropriate action by the Zoning Enforcement Section of Regional Planning and any other government agency. Prior to installation of its facility, the permittee shall post a performance security, satisfactory to the Director of Public Works and provide a copy to the Zoning Enforcement Section of Regional Planning, in an amount to sufficiently cover the cost of removal of the facility as provided herein. In the event the facility is not so removed within 90 days after the permittee's receipt of notice requiring removal, the County may itself cause the facility to be removed at the permittee's expense.

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