Los Angeles County
Department of Regional Planning

Planning for the Challenges Ahead

Richard J. Bruckner
Director

February 19, 2013

Deborah Leinart
971 Borden Road, #133
San Marcos, CA 92069

REGARDING: **PROJECT NO. R2012-00954-(4)**
CONDITIONAL USE PERMIT NO. 201200064
4560 ADMIRALTY WAY (MARINA LEASE PARCEL 75)

Hearing Officer Mitch Glaser, by his action on **February 19, 2013,** has **APPROVED** the above-referenced project. Enclosed are the Hearing Officer's Findings and Conditions of Approval. Please carefully review each condition. This approval is not effective until the appeal period has ended and the required documents and applicable fees are submitted to the Regional Planning Department (see enclosed Affidavit of Acceptance Instructions).

The applicant or any other interested persons may appeal the Hearing Officer's decision. The appeal period for this project will end at 5:00 p.m. on **March 5, 2013. Appeals must be delivered in person.**

Appeals: **To file an appeal, please contact:**
Regional Planning Commission, Attn: Commission Secretary
Room 1350, Hall of Records
320 West Temple Street, Los Angeles, CA 90012
(213) 974-6409

Upon completion of the appeal period, the notarized Affidavit of Acceptance and any applicable fees must be submitted to the planner assigned to your case. Please make an appointment to ensure that processing will be completed in a timely manner. Failure to submit these documents and applicable fees within 60 days will result in a referral to Zoning Enforcement for further action.

For questions or for additional information, please contact Anita Gutierrez of the Special Projects Section at (213) 974-4813, or by email at agutierrez@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

Sam Z. Dea, Supervising Regional Planner
Special Projects Section

Enclosures: Findings, Conditions of Approval, Affidavit of Acceptance (Permittee's Completion)
c: DPW (Building and Safety); Zoning Enforcement;

SZD:ADG

CC.060412

CONDITIONS OF APPROVAL
COUNTY OF LOS ANGELES
PROJECT NO. R2012-00954-(4)
CONDITIONAL USE PERMIT NO. 201200064

PROJECT DESCRIPTION

The project is request for a Conditional Use Permit ("CUP") for the continued operation and maintenance of an existing unmanned wireless telecommunications facility ("WTF"), consisting of six façade mounted panel antennas and two equipment cabinets within a 270 square foot lease area. Changes to the existing facility include removing six panel antennas and replacing with three new panel antennas, 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 until all required monies have been paid pursuant to Condition No. 10. Notwithstanding the foregoing, this Condition No. 2 and Condition Nos. 4 and 5 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. 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 February 19, 2028**. 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, Parking 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 telecommunications 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 **$1,400.00**. 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 to the satisfaction of said department.

13. All development pursuant to this grant shall conform with the requirements of the County Department of Public Works to the satisfaction of said department.

14. All development pursuant to this grant 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 of Regional Planning ("Director").

15. The permittee shall maintain the subject property in a neat and orderly fashion. The permittee shall maintain free of litter all areas of the premises over which the permittee has control.

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, **three (3) copies of** a modified Exhibit "A" shall be submitted to Regional Planning within sixty (60) days of the date of final approval.

17. 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.

PERMIT SPECIFIC CONDITIONS – WTF CONDITIONS

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

19. Upon completion of construction of the facility, 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.

20. 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.

21. 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.

22. 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.

23. 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.

24. 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.

25. 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.

26. 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.

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 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. New equipment added to the facility shall not compromise the stealth design of the facility.

FINDINGS AND ORDER OF THE HEARING OFFICER
COUNTY OF LOS ANGELES
PROJECT NO. R2012-00954-(4)
CONDITIONAL USE PERMIT NO. 201200064

1. **ENTITLEMENT REQUESTED.** The applicant, Sprint PCS, is requesting a Conditional Use Permit (CUP) to authorize the continued operation and maintenance of a co-located roof mounted wireless telecommunications facility (WTF) pursuant to County Code Section 22.28.210 in the Marina Del Rey, Specific Plan Zone, Visitor-Serving/Convenience Commercial. A WTF is not a specified use in the Zoning code, however they are deemed similar to radio and television towers and therefore is subject to a conditional use permit.

2. **HEARING DATES.** January 15, 2013 and February 19, 2013.

3. **PROCEEDINGS BEFORE THE HEARING OFFICER.** A duly noticed public hearing was held on February 19, 2013 before the Hearing Officer, Mitch Glaser. Staff noted two conflicting conditions related to length of time the applicant has to remove any graffiti on the site in the draft conditions of approvals. Staff clarified the standard for a wireless telecommunication facility is to have any and all graffiti removed by the operator or property owner within 48 hours. The Hearing Officer agreed to change. No other comments were received. The Hearing Officer closed the public hearing and approved the project with the revised conditions.

4. **PROJECT DESCRIPTION.** The project includes approval of a CUP for the continued operation and maintenance of an existing unmanned WTF (Sprint), consisting of six façade mounted panel antennas and two equipment cabinets within a 270 square foot lease area. Changes to the existing facility include removing six panel antennas and replacing with three new panel antennas. One additional equipment cabinet and panel antennas exist within lease area, permitted under separate permit (Clearwire).

5. **LOCATION.** 4560 Admiralty Way (Marina Lease Parcel 75)

6. **EXISTING ZONING.** The subject property is zoned Specific Plan, Visitor-Serving/Convenience Commercial, in the Playa del Rey Zoned District.

   Surrounding properties are zoned as follows:
   North: City of Los Angeles
   South: Parking
   East: Office
   West: Parking

7. **EXISTING LAND USES.** The subject property is developed with an urgent care medical facility.

   Surrounding properties are developed as follows:
   North: Commercial shopping center (City of Los Angeles)
   South: Public parking lot
   East: Commercial shopping center
   West: Public parking lot

8. **PREVIOUS CASES/ZONING HISTORY.**

   - PP16520 - Request to establish two office buildings totaling 14.837 square feet of floor area was approved in 1968. An addition of 18,680 for medical offices was subsequently approved in 1972.

   - CUP 00-125 - Allowed for the construction, operation and maintenance of an unmanned wireless telecommunications facility mounted on the rooftop of an existing medical office building (Sprint). Approved on May 15, 2001 and expired on May 15, 2011.

   - RCUP200400024 - Allowed for the installation, operation and maintenance of a co-located wireless telecommunications facility (Cingular now known as Clearwire).

9. **GENERAL PLAN / COMMUNITY PLAN CONSISTENCY.** The project site is located within the Marina del Rey Local Coastal Program. The project site is designated as Visitor-Serving/Convenience Commercial, which is intended as a service-oriented category providing dining facilities, retail sales, and personal services for visitors, residents and employees of Marina del Rey. The existing medical office building is consistent with a convenience commercial use and is therefore consistent with the permitted uses of the underlying land use category.

   The project is not considered "development in the coastal zone, as it is proposed on the roof of an existing building and would not affect public access or recreation and therefore there are no policies in the LCP that apply to the project.

10. **ZONING ORDINANCE AND DEVELOPMENT STANDARDS COMPLIANCE.** Pursuant to Section of the County Code, establishments in the Visitor-Serving/ Convenience Commercial Zone are subject to the following development standards:

    - Building height is limited to a maximum of 45 feet;
    - Front, rear and side yard setbacks shall be a minimum of 10 feet in addition to the required highway setback. View corridors, public open space areas and/or accessways or emergency accessways required in this Specific Plan may be designed and integrated with the required front, side and rear yard setbacks or

located elsewhere on the property if such design will enhance visual and physical access to the shoreline;

- Visitor-Serving/Convenience Commercial uses shall not reduce the amount of land area devoted to existing visitor-serving, boating, or coastal-dependent marine commercial uses, and visitor-serving uses may be integrated vertically with recreational boating uses where possible:

The development standards for this zone are not applicable as the WTF is located on the rooftop of an existing building.

11. **NEIGHBORHOOD IMPACT/LAND USE COMPATIBILITY.** The project site is surrounded by a mixture of commercial uses. The proposed project should not have an adverse visual impact on the surrounding neighborhood because all of the telecommunications equipment will be concealed within existing equipment cabinets painted to match existing structure.

    The minor modification to the rooftop wireless facility does not constitute "development" in the coastal zone; therefore, a Coastal Development Permit is not required.

12. **LEGAL NOTIFICATION AND PUBLIC OUTREACH.** 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. **PUBLIC COMMENTS.**

CONDITIONAL USE PERMIT SPECIFIC FINDINGS

14. The project site is designated as Visitor-Serving/Convenience Commercial within the Marina del Rey Local Coastal Program. This category is intended for service-oriented category providing dining facilities, retail sales, and personal services for visitors, residents and employees of Marina del Rey.

    Therefore, the proposed use will be consistent with the adopted general plan for the area.

15. The WTF has existed on the project site of ten years and no expansion is proposed.

    Therefore, the requested use at the location proposed 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.

16. The WTF is mounted on the roof of an existing building and screened with material matching the building façade.

    Therefore, 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, of as is otherwise required in order to integrate said use with the uses in the surrounding area.

17. The project is located to the South of Lincoln Boulevard (Highway) and to the North of Admiralty Way (Secondary Highway). The surrounding area is developed with commercial uses. Access to the site is from Admiralty Way.

    Therefore, 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.

ENVIRONMENTAL DETERMINATION

18. The project is only providing a minor alteration to the existing facility and does not expand the use.

    Therefore, the project qualifies for a Categorical Exemption (Class 1 Exemption, Existing Facilities) under the California Environmental Quality Act (CEQA) and the County environmental guidelines and is consistent with the finding by the State Secretary for Resources or by local guidelines that this class of projects does not have a significant effect on the environment.

19. **TERM LIMIT.** 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.

20. **RECORD OF PROCEEDINGS.** 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 Special Projects Section, Los Angeles County Department of Regional Planning.

BASED ON THE FOREGOING, THE HEARING OFFICER CONCLUDES:

A. That the proposed use will be consistent with the adopted general plan for the area; and

B. That the requested use at the location proposed 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 yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this Title 22, of 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.

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 Section 22.28.10 of the Los Angeles County Code (Zoning Ordinance).

HEARING OFFICER ACTION:

1. The Hearing Officer has considered the Categorical Exemption for this project and certifies that it is consistent with the finding by the State Secretary for Resources or by 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, Project no. R2012-00954-(4) with Conditional Use Permit No. 201200064 is **approved** subject to the attached conditions.

SD:ADG
02/20/13

c: Hearing Officer, Zoning Enforcement, Building and Safety