



Los Angeles County
Department of Regional Planning

Planning for the Challenges Ahead



Richard J. Bruckner
Director

August 21, 2012

Cable Engineering Services
Attn: Rob Searcy
10640 Sepulveda Blvd., Ste. 1
Mission Hills, CA 91345

**REGARDING: PROJECT NO. R2012-01016-(3)
CONDITIONAL USE PERMIT NO. 201200065
Public right-of-way near 3371 N. Topanga Canyon Blvd.**

Hearing Officer Alejandro Garcia, by his action of **August 21, 2012** 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 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 **September 4, 2012**. **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 Tyler Montgomery of the Zoning Permits West Section at (213) 974-6462, or by email at TMontgomery@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

Mi Kim, Supervising Regional Planner
Zoning Permits West Section

Enclosures: Findings, Conditions of Approval, Affidavit of Acceptance (Permittee's Completion)

c: Board of Supervisors; DPW (Building and Safety); Zoning Enforcement

MK:TM

**FINDINGS AND ORDER OF THE HEARING OFFICER
COUNTY OF LOS ANGELES
PROJECT NO. R2012-01016-(3)
CONDITIONAL USE PERMIT NO. 201200065**

1. **ENTITLEMENT REQUESTED.** Pursuant to County Code Part 1 of Chapter 22.56, the applicant, AT&T Mobility, is requesting a CUP to authorize the modification and expansion of a wireless telecommunications facility. A wireless telecommunications facility is not a defined use in the County Code; 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
2. **HEARING DATE.** August 21, 2012.
3. **PROCEEDINGS BEFORE THE HEARING OFFICER.** A duly noticed public hearing was held before the Hearing Officer on August 21, 2012. Regional Planning staff gave 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. The Hearing Officer, Mr. Alejandro Garcia, subsequently closed the public hearing and approved the project.
4. **PROJECT DESCRIPTION.** The applicant seeks a conditional use permit (“CUP”) to authorize the modification and expansion of a wireless telecommunications facility in the public right-of-way, consisting of panel antennas to be mounted at a height of 31 feet on an existing 39-foot-high utility pole.
5. **LOCATION.** The project site is located on the western side of the Topanga Canyon Boulevard (State Highway 27) public right-of-way, near 3371 North Topanga Canyon Boulevard, in The Malibu Zoned District of unincorporated Los Angeles County. The site is also within the Santa Monica Mountains North Area Community Standards District (“CSD”).
6. **SITE PLAN DESCRIPTION.** The site plan depicts the proposed modifications to the existing wireless facility. Six (6) panel antennas would be mounted on a new 10-foot-long cross arm on an existing utility pole. While the pole has a maximum height of 39 feet above grade, the new wireless facilities would be mounted at a maximum height of 31 feet above grade. The site also includes an existing pole-mounted equipment cabinet, a four-foot-tall ground-mounted meter pedestal immediately south of the utility pole, and an underground equipment vault approximately 30 feet to the southeast of the pole. The existing utility pole and all pole-mounted equipment would be painted brown to better match its surroundings. The facility would be located on an existing utility pole in the public right-of-way of Topanga Canyon Boulevard, approximately 20 feet west of its paved portion. It is located immediately northwest of its intersection of Summit to Summit Motorway, a paved private service road.

7. **EXISTING ZONING.** The project site is located within the public right-of-way; however, the O-S (Open Space) zone exists on the parcel to the west abutting the right-of-way, and therefore the site is within the O-S zone, which extends to the centerline of the right-of-way per County Code Section 22.16.020.
8. **EXISTING LAND USES.** The project site is developed with a paved road and utility poles.
9. **GENERAL PLAN / COMMUNITY PLAN CONSISTENCY.** The subject property is located within the OS (Open Space) classification of the Santa Monica Mountains North Area Plan. The primary intent of this classification is to allow for resource-dependent open space uses. However, the plan "ensures protection of public health and safety by maintaining communication services which may also be necessary to report emergencies or hazards." Therefore, the wireless telecommunications facility is consistent with this classification.
10. **ZONING ORDINANCE AND DEVELOPMENT STANDARDS COMPLIANCE.** The property on which the proposed facility is to be located is zoned OS. 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.

Section 22.52.1220 of the County Code determines parking requirements for uses that are not specified. The Director of Regional Planning may impose an amount of parking spaces that the Director 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 would access the facility from the adjacent service road, the shoulder of which would provide adequate parking space for one vehicle. Therefore, the appropriate parking for such a use would be one space, and that parking would be satisfied by the existing adjacent service road.

Height and setback requirements normally required in the O-S zone do not apply for public utility structures within a public right-of-way. All other applicable development standards would be met by the facility.

11. **NEIGHBORHOOD IMPACT/LAND USE COMPATIBILITY.** 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 (attached) indicate that they would be aesthetically unobtrusive. The aesthetic impact of the existing utility pole would also be lessened, as the pole and equipment would be painted brown to better

match its surroundings. In addition, the project site is surrounded by vacant land in three directions, and staff has received no objections to the project from the public.

The 10-foot length of the facility's cross arms is necessary for the antennas to operate at different frequencies, and to provide climbing space requirements in accordance with Government Order 95, Rule 94. The height of the utility pole, as maintained, is consistent with Regional Planning's Subdivision and Zoning Ordinance Policy No. 01-2010 for wireless telecommunication facilities, as the pole is not taller than 50 feet above grade. Also consistent with the policy is the fact that appurtenant equipment is to be kept in a below-ground vault, and vegetation on site will continue to screen the power meter pedestal.

The proposed facility would comply with all applicable development standards for the O-S zone. The project would also be adequately served by Topanga Canyon Boulevard, a two-lane state highway without level-of-service issues. The existing paved service road, known as Summit to Summit Motorway, would also be adequate to accommodate one parking space for periodic maintenance visits.

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.** No public comments were received regarding the project.

CONDITIONAL USE PERMIT SPECIFIC FINDINGS

14. The primary intent of the O-S (Open Space) land use classification is to allow for resource-dependent open space uses. However, the plan "ensures protection of public health and safety by maintaining communication services which may also be necessary to report emergencies or hazards

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

15. 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. The aesthetic impact of the existing utility pole would also be lessened, as the pole and equipment would be painted brown to better match its surroundings. In addition, the project site is surrounded by vacant land in three directions, and staff has received no objections to the project from the public. Therefore, the requested use at the location proposed would not adversely affect persons or properties in the surrounding area.

16. The project site is located in an existing public right-of-way and therefore does not require yards, walls, or fences. The existing paved service road, known as Summit to Summit Motorway, would also be adequate to accommodate one parking space for periodic maintenance visits. Therefore, the proposed site is adequate in size and shape to integrate said use with the uses in the surrounding area.
17. The project would also be adequately served by Topanga Canyon Boulevard (State Route 27), a two-lane state highway without level-of-service issues. Therefore, Topanga Canyon Boulevard is sufficient to carry the kind and quantify of traffic generated by the maintenance visits.

ENVIRONMENTAL DETERMINATION

18. The project consists of modifications to an existing wireless telecommunications facility through the construction of small structures.

Therefore, the project qualifies for a Class 3—Small Structures—Categorical Exemption 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 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 Zoning Permits West 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 22.56.090 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, Conditional Use Permit No. 201200065 is APPROVED subject to the attached conditions.

Action Date: August 21, 2012

MK:TM
08/21/12

c: Hearing Officer, Zoning Enforcement, Building and Safety

**CONDITIONS OF APPROVAL
COUNTY OF LOS ANGELES
PROJECT NO. R2012-01016-(3)
CONDITIONAL USE PERMIT NO. 201200065**

PROJECT DESCRIPTION

The project consists of the modification and expansion of a wireless telecommunications facility in the public right-of-way, consisting of panel antennas to be mounted at a height of 31 feet on an existing 39-foot-high utility pole 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 has 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, 5, and 9 shall be effective immediately upon the date of final approval of this grant by the County.
3. Unless otherwise apparent from the context, the term "date of final approval" shall mean the date the County's action becomes effective pursuant to Section 22.60.260 of the County Code.
4. The permittee shall defend, indemnify, and hold harmless the County, its agents, officers, and employees from any claim, action, or proceeding against the County or its agents, officers, or employees to attack, set aside, void, or annul this permit approval, which action is brought within the applicable time period of Government Code Section 65009 or any other applicable limitations period. The County shall promptly notify the permittee of any claim, action, or proceeding and the County shall fully cooperate in the defense. If the County fails to promptly notify the permittee of any claim action or proceeding, or if the County fails to cooperate fully in the defense, the permittee shall not thereafter be responsible to defend, indemnify, or hold harmless the County.
5. In the event that any claim, action, or proceeding as described above is filed against the County, the permittee shall within ten days of the filing make an initial deposit with Regional Planning in the amount of up to \$5,000.00, from which actual costs and expenses shall be billed and deducted for the purpose of defraying the costs or expenses involved in Regional Planning's cooperation in the defense, including but not limited to, depositions, testimony, and other assistance provided to permittee or permittee's counsel.

If during the litigation process, actual costs or expenses incurred reach 80 percent of the amount on deposit, the permittee shall deposit additional funds sufficient to bring the balance up to the amount of \$5,000.00. There is no limit to the number of supplemental deposits that may be required prior to completion of the litigation.

At the sole discretion of the permittee, the amount of an initial or any supplemental deposit may exceed the minimum amounts defined herein. Additionally, the cost for collection and duplication of records and other related documents shall be paid by the permittee according to County Code Section 2.170.010.

6. If any material provision of this grant is held or declared to be invalid by a court of competent jurisdiction, the permit shall be void and the privileges granted hereunder shall lapse.
7. 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 August 21, 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 **\$1,600.00**. The deposit shall be placed in a performance fund, which shall be used exclusively to compensate Regional Planning for all expenses incurred while inspecting the premises to determine the permittee's compliance with the conditions of approval. The fund provides for **eight (8) biennial (one every other year)** inspections. Inspections shall be unannounced.

If additional inspections are required to ensure compliance with the conditions of this grant, or if any inspection discloses that the subject property is being used in violation of any one of the conditions of this grant, the permittee shall be financially responsible and shall reimburse Regional Planning for all additional enforcement efforts necessary to bring the subject property into compliance. The amount charged for additional inspections shall be \$200.00 per inspection, or the current recovery cost at the time any additional inspections are required, whichever is greater.

11. Notice is hereby given that any person violating a provision of this grant is guilty of a misdemeanor. Notice is further given that the Regional Planning Commission ("Commission") or a Hearing Officer may, after conducting a public hearing, revoke or modify this grant, if the Commission or Hearing Officer finds that these conditions have been violated or that this grant has been exercised so as to be detrimental to the public's health or safety or so as to be a nuisance, or as otherwise authorized pursuant to Chapter 22.56, Part 13 of the County Code.
12. All development pursuant to this grant must be kept in full compliance with the County Fire Code.
13. All 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.

In the event of graffiti or other extraneous markings occurring, the permittee shall remove or cover said markings, drawings, or signage within 24 hours of notification of such occurrence, weather permitting. Paint utilized in covering such markings shall be of a color that matches, as closely as possible, the color of the adjacent surfaces.

16. The subject property shall be developed and maintained in substantial compliance with the plans marked Exhibit "A." If changes to the site plan are required as a result of instruction given at the public hearing, **three (3) copies** of a modified Exhibit "A" shall be submitted to Regional Planning by October 20, 2012.

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

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. 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 wireless telecommunication facility shall not exceed 39 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. Prior to the construction of the project, the permittee shall obtain an encroachment permit from the California Department of Transportation ("Caltrans") and provide a copy of the permit to the Zoning Enforcement Section of the Department of Regional Planning.
33. This grant entitles the permittee to install the wireless telecommunications facilities on the existing or a replacement utility pole but does not entitle the permittee to retain the pole for its sole use or to install a new pole for its facilities in the event the existing pole is removed, such as to accommodate the undergrounding of utilities. Notwithstanding the provision of Condition No. 8, if the existing pole is removed prior to the termination date of this grant, this grant shall thereupon terminate. The applicant will be required to either obtain a new conditional use permit to relocate its facilities or to install a new pole or poles and continue the use at the present location. Application for a conditional use permit at such time shall be subject to the regulations then in effect.

34. Upon termination of this grant or after the construction of this facility, the facility has ceased to operate; the permittee shall remove such facility and clear the site of all 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 subject facility. Failure to remove such facility as required herein shall constitute a public nuisance and be subject to appropriate enforcement actions by the Zoning Enforcement Section of the Department 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 the Department 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.
35. If the Department of Public Works requires the facility to relocate due to street improvement projects and undergrounding of utilities, the cost of relocation of wireless facilities due to such projects shall be fully borne by the owner, operator, or permittee of the wireless facilities involved.
36. If street parking is prohibited on the street where the facility is located and on nearby side streets, the permittee shall obtain an approved traffic plan for the parking of maintenance vehicles from the Department of Public Works.

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