



Los Angeles County
Department of Regional Planning



Planning for the Challenges Ahead

Richard J. Bruckner
Director

December 19, 2012

Norman MacLeod
3185-C Airway Ave.
Costa Mesa, CA 92626

**REGARDING: PROJECT NOS. R2012-02163; R2012-02164; R2012-02165; R2012-02167
CONDITIONAL USE PERMIT NOS. 201200120; 201200119; 201200118;
201200116
WIRELESS FACILITIES IN THE PUBLIC RIGHT-OF-WAY FOR KANAN
ROAD AND CORNELL ROAD, SANTA MONICA MOUNTAINS**

Hearing Officer Patricia Hachiya, by her action of **December 18, 2012**, has **APPROVED** the above-referenced projects. Enclosed are the Hearing Officer's Findings and Conditions of Approval. Please carefully review each condition. These approvals are 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).

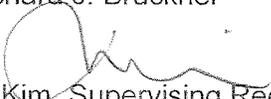
The applicant or any other interested persons may appeal the Hearing Officer's decision. The appeal period for this project will end at 5:00 p.m. on **January 2, 2013**. **Appeals must be delivered in person.**

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 **four (4)** notarized Affidavits 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 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.

Sincerely,
DEPARTMENT OF REGIONAL PLANNING
Richard J. Bruckner


Mi Kim, Supervising Regional Planner
Zoning Permits West Section

CC 060412

Enclosures: Findings, Conditions of Approval, Four (4) Affidavits of Acceptance (Permittee's Completion)

c: DPW (Building and Safety); Zoning Enforcement

MK:TM

**FINDINGS AND ORDER OF THE HEARING OFFICER
COUNTY OF LOS ANGELES**

**PROJECT NOS. R2012-02163; R2012-02164; R2012-02165; R2012-02167
CONDITIONAL USE PERMIT NOS. 201200120; 201200119; 201200118; 201200116**

1. **ENTITLEMENT REQUESTED.** Pursuant to County Code Part 1 of Chapter 22.56, the applicant, Sprint PCS, is requesting conditional use permits (“CUPs”) to authorize the continued operation and maintenance of four (4) wireless telecommunications facilities. 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.** December 18, 2012.
3. **PROCEEDINGS BEFORE THE HEARING OFFICER.** A duly noticed public hearing was held before the Hearing Officer on December 18, 2012. Regional Planning staff gave a brief presentation recommending approval of the four wireless telecommunications facilities. The applicant’s representative, Mr. Norman MacLeod, was sworn in and testified in favor of the projects. He stated that the applicant agreed to abide by the proposed conditions of approval. The Hearing Officer, Ms. Patricia Hachiya, subsequently closed the public hearing and approved the CUPs.
4. **PROJECT DESCRIPTION.** The applicant seeks a CUP to authorize the continued operation and maintenance of four (4) separate, existing wireless telecommunications facility in the public right-of-way, consisting of panel antennas mounted on existing utility poles.
5. **LOCATION.**
The facility authorized by CUP 201200120 is located on the west side of Kanan Road, approximately 900 feet north of Hidden Highland Road and adjacent to APN 2058-011-015.

The facility authorized by CUP 201200119 is located on the west side of Kanan Road, approximately 0.85 mile north of Hidden Highland Road and adjacent to APN 2058-011-017.

The facility authorized by CUP 201200118 is located on the north side of Kanan Road, approximately 0.35 miles west of Triunfo Canyon Road and adjacent to 2401 Kanan Road.

Finally, the facility authorized by CUP 201200116 is located on the west side of Cornell Road, approximately 400 feet south of Wagon Road and adjacent to APN 2063-020-906. All sites are located 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 for CUP 201200120 depicts four panel antennas measuring 24 inches in length mounted on an extension arm of a 36-foot-tall wooden utility pole. The wireless antennas have a maximum height of 18 feet, 7 inches above grade. There are also pole-mounted equipment cabinets with a maximum height of 9 feet, 4 inches above grade. A five-foot-tall ground-mounted equipment cabinet is also located on a concrete pad 12 feet south of the pole.

The site plan for CUP 201200119 depicts four panel antennas measuring 24 inches in length mounted on extension arm of a 36-foot-tall wooden utility pole. The wireless antennas have a maximum height of 24 feet, 8 inches above grade. There are also pole-mounted equipment cabinets with a maximum height of 9 feet, 8 inches above grade. A five-foot-tall ground-mounted equipment cabinet is also located on a 15-square-foot concrete pad approximately 25 feet south of the pole.

The site plan for CUP 201200118 depicts four panel antennas measuring 24 inches in length mounted on extension arm of a 36-foot-tall wooden utility pole. The wireless antennas have a maximum height of 27 feet, 8 inches above grade. There are also pole-mounted equipment cabinets with a maximum height of 10 feet above grade. A five-foot-tall ground-mounted equipment cabinet is also located on a 15-square-foot concrete pad 12 feet, 6 inches east of the utility pole.

The site plan for CUP 201200116 depicts two microcell omni antennas measuring 38 inches long mounted on extension arm of a 75-foot-tall wooden utility pole. The wireless antennas have a maximum height of 24 feet above grade. There are also pole-mounted equipment cabinets with a maximum height of 11 feet, 10 inches above grade. A five-foot-tall ground-mounted equipment cabinet is also located on a 15-square-foot concrete pad approximately 330 feet north of the utility pole.

7. **EXISTING ZONING.** The project sites are all located within the public right-of-way; however, per Section 22.16.020 of the County Code, the zone abutting a right-of-way extends to the centerline of that right-of-way. Therefore, the sites of CUPs 201200120, 201200119, and 201200118 are zoned A-1-20 (Light Agricultural—20 Acre Minimum Required Lot Area), and the site of CUP 201200116 is zoned A-1-10 (Light Agricultural—10 Acre Minimum Required Lot Area).
8. **EXISTING LAND USES.** The project sites are all developed with paved roads and utility poles. The wireless antennas are mounted on the existing utility poles.
9. **PREVIOUS CASES/ZONING HISTORY.** CUPs 00-239, 00-237, 00-238, and 00-236 authorized construction of the existing Sprint wireless telecommunications facilities mounted on utility poles. They were all approved on September 19, 2001 and expired on September 19, 2011. The current requests for CUPs seek to authorize the continued operation of each of these facilities.

10. **GENERAL PLAN / COMMUNITY PLAN CONSISTENCY.** The project sites of CUPs 201200120; 201200119; and 201200118 are located within the “N20—Mountain Lands 20” land use area of the Santa Monica Mountains North Area Plan (“Plan”). The Mountains Lands land use designation is intended for very low-intensity residential uses with densities no more than one dwelling unit per 20 acres. The project site of CUP 201200116 is located within the “N10—Mountain Lands 10” land use area of the plan, which allows for similar types of development with densities no more than one dwelling unit per 10 acres. Infrastructure uses are also permitted within this designation. The existing wireless telecommunications facilities are for communication and are, therefore, consistent with the permitted uses of the underlying land use categories.
11. **ZONING ORDINANCE AND DEVELOPMENT STANDARDS COMPLIANCE.** The sites on which the facilities are located are all zoned A-1. 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 the A-1 Zone (County Code Sec. 22.24.100). Because the facilities are located within the public right-of-way, there are no applicable development standards for the zone.

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 wireless telecommunications facilities are unmanned and require periodic maintenance visits only. Currently, maintenance workers park their vehicles on nearby road shoulders, each of which has adequate room for at least one maintenance vehicle. The appropriate parking for the periodic maintenance visits would be one space per facility, and such spaces are provided by the existing road shoulders.

Pursuant to Subdivision and Ordinance Policy Memo 01-2010, issued on July 26, 2010, all wireless telecommunications facilities seeking a new CUP must comply with certain development standards regarding height, design, and visual screening. This policy requires that wireless facilities in the public right-of-way not exceed a maximum height of 50 feet above grade. The existing panel antennas are mounted at heights that do not exceed 27 feet, 8 inches above grade.

As the applicant does not propose any expansion or modifications to structures on the site, there are no CSD standards applicable to the projects.

12. **NEIGHBORHOOD IMPACT/LAND USE COMPATIBILITY.** The continued operation of the wireless telecommunications facilities 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 facilities are required to operate within safety standards of the Federal Communications Commission (FCC), and any sounds generated are

minimal. The structures are relatively small in nature, and the photographs provided by the applicant indicate that they are relatively unobtrusive. The aesthetic impact of the existing panel antennas is lessened by its placement on existing utility poles in sparsely populated areas. In addition, staff has received no objections to the project from the public. The height limitations of Regional Planning's Subdivision and Zoning Ordinance Policy No. 01-2010 for wireless telecommunication facilities are also met by the facilities, as all of them are less than 50 feet in height.

The facilities would comply with all applicable development standards for the A-1 Zone, the Santa Monica Mountains North Area CSD and the Santa Monica Mountains North Area Plan. The project sites are also adequately served by both Kanan Road (Projects 1-3) and Cornell Road (Project 4), which are both two-lane thoroughfares and would be adequate to accommodate periodic maintenance visits. One parking space is also provided at each site by nearby road shoulders.

13. **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.
14. **PUBLIC COMMENTS.** No public comments were received regarding the project.

CONDITIONAL USE PERMIT SPECIFIC FINDINGS

15. The primary intent of the Mountains Lands land use designation is for very low-intensity residential uses with densities no more than one dwelling unit per 10 to 20 acres. However, infrastructure uses are also permitted within this designation. Therefore, the proposed use will be consistent with the adopted general plan for the area.
16. The facilities 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 photographs provided by the applicant indicate that they are aesthetically unobtrusive. In addition, the project sites are surrounded by sparsely populated areas, and staff has received no objections to the project from the public. Therefore, the requested uses at the location proposed would not adversely affect persons or properties in the surrounding area.
17. The project site is located in an existing public right-of-way and therefore does not require yards, walls, or fences. The existing shoulders of Kanan Road and Cornell Road would also be adequate to accommodate one parking space for periodic maintenance visits. Therefore, the proposed sites are adequate in size and shape to integrate said uses with the uses in the surrounding area.

18. The project would also be adequately served by Kanan Road and Cornell Road, two-lane thoroughfares without level-of-service issues. Therefore, the roads is sufficient to carry the kind and quantify of traffic generated by the maintenance visits.

ENVIRONMENTAL DETERMINATION

19. The projects consist of authorizing the continued operation and maintenance of four existing wireless telecommunications facilities. Therefore, the projects qualify for Class 1—Existing Facilities—Categorical Exemptions and are 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.
20. **TERM LIMIT.** To assure continued compatibility between the use of the sites allowed by this grant and surrounding land uses, the Hearing Officer determines that it is necessary to limit the term of the grants to 15 years.
21. **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 uses will be consistent with the adopted general plan for the area; and
- B. That the requested uses at the locations proposed will not adversely affect the health, peace, comfort or welfare of persons residing or working in the surrounding areas, will not be materially detrimental to the use, enjoyment or valuation of property of other persons located in the vicinity of the sites, and will not jeopardize, endanger or otherwise constitute a menace to the public health, safety or general welfare; and
- C. That the proposed sites are 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 uses with the uses in the surrounding area]; and
- D. That the proposed sites are adequately served by highways or streets of sufficient width and improved as necessary to carry the kind and quantity of traffic such uses 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 these projects 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 Nos. 201200120; 201200119; 201200118; and 201200116 are APPROVED subject to the attached conditions.

Action Date:

MK:TM
12/19/12

c: Hearing Officer, Zoning Enforcement, Building and Safety

CONDITIONS OF APPROVAL
COUNTY OF LOS ANGELES
PROJECT NOS. R2012-02163; R2012-02164; R2012-02165; R2012-02167
CONDITIONAL USE PERMIT NOS. 201200120; 201200119; 201200118; 201200116

PROJECT DESCRIPTION

The project consists of the continued operation and maintenance of four (4) separate wireless telecommunications facilities consisting of panel antennas mounted on existing utility poles within the public right-of-way of Kanan Road and Cornell Road, 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 December 18, 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 \$6,400.00. 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 eight (8) biennial (one every other year) inspections for each of the four facilities. 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 to 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 project sites 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 February 18, 2013.

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 facilities shall be operated in accordance with regulations of the State Public Utilities Commission.
19. Upon final approval of the facilities, 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 facility shall 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. The projects 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".
24. Within 30 days of change in service provider ownership of any the facilities, the permittee shall provide the Zoning Enforcement Section of the Department of Regional Planning the name and contact information of the new owner.
25. The finished surface of the facilities shall not be glossy or reflective in nature. The finish shall be either white or brown and graffiti-resistant, and shall blend in with the surrounding area.

26. The facilities 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.
27. 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.
28. The Department of Regional Planning project number, conditional use permit number and lease holder contact information shall be prominently displayed on the facilities where it can be easily viewed at or near eye level.
32. Upon termination of this grant or if any of the facilities 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. 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.