



Los Angeles County
Department of Regional Planning



Planning for the Challenges Ahead

Richard J. Bruckner
Director

August 6, 2013

Norm MacLeod
28205 Bluebell Drive
Laguna Niguel, CA 92677

**REGARDING: PROJECT NO. R2012-02300-(3)
CONDITIONAL USE PERMIT NO. 201200131
ADJACENT TO 2750 KANAN ROAD, THE MALIBU ZONED DISTRICT
(APN 2063-018-039)**

Hearing Officer Gina Natoli, by her action of **August 6, 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 **August 20, 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 Iris Chi of the Zoning Permits North Section at (213) 974-6443, or by email at ichi@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

 (Richard Claghorn, PRPA for Susan Tae)
Susan Tae, AICP, Supervising Regional Planner
Zoning Permits North Section

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

ST:IC

CC.060412

**FINDINGS AND ORDER OF THE HEARING OFFICER
COUNTY OF LOS ANGELES
PROJECT NO. R2012-02300-(3)
CONDITIONAL USE PERMIT NO. 201200131**

1. **ENTITLEMENT REQUESTED.** The applicant, Sprint Nextel, is requesting a conditional use permit ("CUP") to authorize the continued operation and maintenance of an existing unmanned wireless telecommunications facility ("WTF") pursuant to Los Angeles County ("County") Code Section 22.24.100 in the A-1 (Light Agricultural) Zone.
2. **HEARING DATE.** August 6, 2013.
3. **PROCEEDINGS BEFORE THE HEARING OFFICER.** *To be inserted after public hearing(s) to reflect hearing proceedings.*
4. **PROJECT DESCRIPTION.** The applicant, Sprint Nextel, is requesting a CUP to authorize the continued operation and maintenance of an existing unmanned WTF in the A-1-20 (Light Agricultural – 20 Acres Minimum Required Lot Area) Zone. The existing WTF consists of four existing antennas mounted on an existing 34-foot six-inch tall wooden utility pole with appurtenant equipment consisting of an existing above-ground electric meter pedestal. The project is proposing to maintain the WTF as it currently exists, with no proposed changes or improvements. The lease area for the project is 63 square feet. The existing WTF and appurtenant equipment are located in the public right-of-way ("ROW") adjacent to Assessor's Parcel Number 2063-018-039. The use was previously established through CUP No. 02-150.
5. **LOCATION.** Near 2750 Kanan Road, Malibu (approximately 1,350 feet northeast of intersection of Kanan Road and Troutdale Drive).
6. **EXISTING ZONING.** The subject property is zoned A-1-20.

Surrounding properties are zoned as follows:

North: A-1-20

South: A-1-2 (Light Agricultural – Two Acres Minimum Required Lot Area), R-R-2 (Resort and Recreation – Two Acres Minimum Required Lot Area)

East: A-1-20

West: A-1-20, R-R-20 (Resort and Recreation – 20 Acres Minimum Required Lot Area)

7. **EXISTING LAND USES.** The subject property is in the public ROW.

Surrounding properties are developed as follows:

North: Open mountain area

South: Open mountain area, Single-family residences

East: Open mountain area

West: Open mountain area, Single-family residences

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

- CUP No. 02-150-(3)
 - Authorized the construction, operation and maintenance of a WTF.
 - This CUP was approved on December 4, 2002 and has since expired.

9. **GENERAL PLAN / COMMUNITY PLAN CONSISTENCY.** The project site is located within the N20 (Mountain Lands 20) land use category of the Santa Monica Mountains North Area Plan ("SMMNA Plan"). This designation is intended for low-intensity uses due to the physical limitations of the land. Lands designated Mountain Lands within the Santa Monica Mountains North Area consist of those rolling hillside areas, steep slopes, and isolated remote mountain lands with difficult or no access. The existing WTF is consistent with the N20 land use designation as a telecommunications facility is a permitted use in the underlying land use designation.

The following policies of the General Plan are applicable to the proposed project:

- *General Plan Public Services Policy 58: "Maintain high quality emergency response services."*

Cellular service is often used to make emergency calls. The proposed facility will ensure that such service is readily available, and useable in the case of an emergency.

The following policies of the Community Plan are applicable to the proposed project:

- *SMMNA Plan, Development Goal VI-3: "A well regulated telecommunications network that serves the needs of the general public, limits damage to the environment, and avoids contributing to visual and unsightly blight."*

This development goal seeks to balance the need of a well-regulated telecommunications network and the preservation of the environment.

- *SMMNA Plan, Land Use Policy VI-31: "Wireless telecommunication facility sites shall preserve the character and aesthetics of areas chosen for such uses by limiting the visual and safety impacts of such facilities through careful design, screening, and mitigation requirements. The co-location and clustering of wireless telecommunication facilities and structures shall be encouraged, wherever possible, to help avert unnecessary proliferation of such facilities in public and private property."*

This policy, derived from Development Goal VI-3, stresses preservation of the character and aesthetics of locations of future WTFs. The choice of using a brown wooden utility pole, rather than a metal finish monopole, allows for the project to be compatible with the surrounding environment, as the existing utility poles in the Santa Monica Mountains are also brown and wooden.

10. **ZONING ORDINANCE AND DEVELOPMENT STANDARDS COMPLIANCE.** Title 22 of the County Code does not explicitly specify 'WTF' as a use. The use most consistent with a WTF specified in the County Code is 'radio or television stations and towers.' Pursuant to Section 22.24.100 of the County Code, development of radio and television stations and towers is a permitted use of property in Zone A-1, provided that a CUP is first obtained.

In addition, the project complies with applicable development standards of Subdivision & Zoning Policy No. 01-2010 (Wireless Telecommunications Facilities) in highways and public ROW by placing all appurtenant equipment underground and complying with the maximum height requirement of 50 feet.

11. **NEIGHBORHOOD IMPACT/LAND USE COMPATIBILITY.** The existing WTF design is appropriate for the site and area. The WTF's equipment is located in a ROW, and is only mainly visible from Kanan Road. The brown wooden pole and the minimal appurtenant equipment minimize visual intrusions and fit with the surrounding character of the neighborhood.

The WTF will not be detrimental to the surrounding community. A WTF provides valuable telecommunications infrastructure to the community and is consistent with the established use and zoning requirements for the subject property. This WTF has been in operation for the past 10 years with no violations. The ability to make emergency calls is important because the project area is located within a Very High Fire Hazard Severity Zone. The additional coverage will be beneficial for residents and emergency personnel, such as the County Fire and Sheriff's Departments.

12. **COUNTY DEPARTMENT COMMENTS AND RECOMMENDATIONS.**

County Department of Public Works

County Public Works recommends approval of this project.

County Department of Public Health

County Public Health recommends approval of this project.

County Fire Department

County Fire recommends approval of this project.

County Department of Parks and Recreation

County Parks and Recreation recommends approval of this project.

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 comments have been received at this time.

CONDITIONAL USE PERMIT-SPECIFIC FINDINGS

15. The project site is located within the N20 - Mountain Lands 20 land use category of the SMMNA Plan. This designation is intended for low-intensity uses due to the physical limitations of the land. The existing WTF is consistent with the N20 – Mountain Lands 20 land use designation as a telecommunications facility is a permitted use in the underlying land use designation.

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

16. The existing facility is installed on a wooden utility pole located at the edge of the public ROW and blends in with the rural characteristics of the area. The antenna is mounted on a wooden cross arm and painted to match the wooden utility pole. Therefore, the installation is not detrimental to the abutting and surrounding area or the enjoyment of the surrounding owners.

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.

17. Due to the rural nature and character of the area, the existing facility is similar in scope, color and design to other existing wooden utility poles in the community. The site is virtually unnoticeable as a wireless facility given its minimalist design, attachment to a wooden utility pole, and small existing electrical meter and transformer, all located on a site that is adequate in size in the public ROW.

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

18. The proposed location is adequately served by Kanan Road, which is classified as a major highway on the County Master Plan of Highways. Since the facility is located in the ROW of Kanan Road, it will not interfere with traffic patterns or create traffic hazards. Minimal electricity is needed for operating this site. No water, sewer, refuse, or additional services is required. The shoulder area of Kanan Road is wide enough to allow for temporary parking of maintenance vehicles for the maintenance of the WTF.

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.

19. **ENVIRONMENTAL DETERMINATION.** The project is an existing WTF and there are no proposed changes. Therefore, the project qualifies as 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.
20. **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.
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 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, or 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. 201200131 is Approved subject to the attached conditions.

SMT:IC
8/6/13

c: Zoning Enforcement, Building and Safety

**CONDITIONS OF APPROVAL
COUNTY OF LOS ANGELES
PROJECT NO. R2012-02300-(3)
CONDITIONAL USE PERMIT NO. 201200131**

PROJECT DESCRIPTION

The project is a conditional use permit ("CUP") for continued operation and maintenance of an existing unmanned wireless telecommunications facility ("WTF") with four existing antennas mounted on an existing 34-foot six-inch tall wooden utility pole with appurtenant equipment consisting of an existing above-ground electric meter pedestal within the public right-of-way in the A-1 (Light Agricultural) Zone 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 that the conditions of the grant have been recorded as required by Condition No. 7, 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 10 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. Prior to the use of this grant, the permittee, or the owner of the subject property if other than the permittee, shall **record the terms and conditions** of the grant in the office of the County Registrar-Recorder/County Clerk ("Recorder"). In addition, 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 6, 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 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 existing unmanned 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 \$1,600.00. 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 to the satisfaction of County Fire Department.
13. All development pursuant to this grant shall conform with the requirements of the County Department of Public Works ("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. 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.

17. 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.
18. 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.

PROJECT SITE-SPECIFIC CONDITIONS

19. This grant shall authorize the continued operation and maintenance of an existing unmanned WTF mounted on an existing 34-foot six-inch tall wooden utility pole.

PERMIT-SPECIFIC CONDITIONS - CONDITIONAL USE PERMIT (WTF)

20. The facility shall be operated in accordance with regulations of the State Public Utilities Commission.
21. 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.
22. 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 Regional Planning.
23. All structures shall conform to the requirements of the Division of Building and Safety of Public Works or other appropriate agency and obtain an encroachment permit if deemed necessary.
24. External lighting, including security lighting, shall be on motion sensors, be of low intensity, fully shielded and directed away from any adjacent residences and open space. 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 Federal Aviation Administration.

25. If the subject property is adjacent to residences, 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.
26. 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 maintained as depicted in the photos presented at the public hearing.
27. Within 30 days of change in service provider ownership, 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: 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 by the permittee within 30 days of notice. Weathered, faded or missing parts/materials used to disguise/camouflage the facility shall be maintained and/or replaced by the permittee within 30 days of notice.
30. Upon request, the permittee/operator shall submit annual reports to the Zoning Enforcement Section of Regional Planning to show compliance with the maintenance and removal conditions.
31. This grant entitles the permittee to maintain the WTFs 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.
32. Upon termination of this grant, or if 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 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.

33. The placement of the facility shall not interfere with the public's unobstructed use of highways, sidewalks or trails, or unobstructed access from private property to highways and other public access.
34. If Public Works requires the facility to relocate due to street improvement projects or 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.
35. Maintain standard Americans with Disabilities Act clearances around all above-ground wireless telecommunication equipment including poles to the satisfaction of Public Works, where applicable.