



Los Angeles County
Department of Regional Planning



Planning for the Challenges Ahead

October 21, 2014

Richard J. Bruckner
Director

Norm MacLeod
28205 Bluebell Drive
Laguna Niguel, CA 92677

**REGARDING: PROJECT NO. R2014-02327-(3)
CONDITIONAL USE PERMIT NO. 201400107
Adjacent to 29256 Mulholland Highway (public ROW)**

Hearing Officer John Calas, by his action of **October 21, 2014**, 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 **November 4, 2014. 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. In addition, any applicable CEQA fees for the Department of Fish and Wildlife shall be paid, and a Notice of Determination, if applicable, must be filed with the County Clerk according to the instructions with the enclosed Affidavit of Acceptance. 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 Travis Seawards of the Zoning Permits West Section at (213) 974-6462, or by email at TravisSeawards@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: DPW (Building and Safety); Zoning Enforcement;
MKK:TSS

CC.060412

**FINDINGS OF THE HEARING OFFICER
AND ORDER
COUNTY OF LOS ANGELES
PROJECT NO. R2014-02327-(3)
CONDITIONAL USE PERMIT NO. 201400107**

1. The Los Angeles County ("County") Hearing Officer conducted a duly-noticed public hearing in the matter of Conditional Use Permit No. 201400107 ("CUP") on October 21, 2014.
2. The permittee, Sprint Nextel ("permittee"), requests the Project Permit to authorize the continued operation of a wireless telecommunications facility ("Project") on a property located in the public right-of-way along Mulholland Highway adjacent to 29256 Mulholland Highway in the unincorporated community of the Santa Monica Mountains North Area ("Project Site") in The Malibu Zoned District pursuant to Los Angeles County Code ("County Code") section 22.20.100.
3. The Project Site, which consists of the lease area in the public right-of-way, is 10 square feet in size, and is developed with an existing utility pole with a previously approved wireless facility.
4. The Project Site is located in the Malibu Zoned District and is currently zoned R-1-1 (Single Family Residence – One Acre Minimum Lot Area Required).
5. The Project Site is located within the N1 (Rural Residential 1) land use category of the Santa Monica Mountains North Area Plan Land Use Policy Map.
6. Surrounding Zoning within a 500-foot radius includes:
 - North: R-1-20 (Single Family Residence – 20 Acre Minimum Lot Area Required)
 - South: R-1
 - East: R-1
 - West: R-1
7. Surrounding land uses within a 500-foot radius include:
 - North: Undeveloped, single-family residential rural land.
 - South: Low density single-family residential development and Malibu Lake
 - East: Low density single-family residential development
 - West: Low density single-family residential development
8. CUP No. 03-101-(3) approved the existing wireless facility on September 16, 2003. The CUP expired on September 16, 2013.
9. The site plan for the Project depicts the project location in the public right-of-way on the western side of Mulholland Highway. The two omni antennas are located 26-feet above grade on the exiting 42-foot, 4-inch tall utility pole. The existing pole mounted RFU is located 8-feet above grade level, and the replacement radio frequency unit

(RFU) will be sited at the same height. Approximately 10 feet south of the utility pole is an underground equipment cabinet, and 15 feet south of the utility pole are two ventilation stacks.

10. The Project Site is accessible via Mulholland Highway as it is located in the Mulholland Highway public right-of-way.
11. The project does not provide any parking. Section 22.52.1220 determines parking requirements for uses that are not specific in Title 22, and states that the Director may impose an amount of parking spaces he finds adequate to prevent traffic congestion and excessive on-street parking. As the proposed project is an unmanned wireless facility that will only require periodic maintenance, the Director finds that periodic on-road parking for maintenance is adequate and no parking spaces are required for the project.
12. The project is a request to continue the use of a wireless facility in the public right-of-way with no changes to the project except for the swapping out of the RFU. Therefore, County departments were not consulted on this project.
13. Prior to the Hearing Officer's public hearing on the Project, Regional Planning staff determined that the Project qualified for a Class 1, Existing Facilities categorical exemption from the California Environmental Quality Act (Public Resources Code Section 21000, et seq.) ("CEQA"), the State CEQA Guidelines, and the Environmental Document Reporting Procedures and Guidelines for the County, because the Project site is not located in a designated environmentally sensitive area and involves only the continuation of an existing wireless facility with the replacement of one RFU unit at the same height on the existing utility pole.
14. Pursuant to the provisions of sections 22.60.174 and 22.60.175 of the Zoning Code, the community was appropriately notified of the Project's public hearings by mail, newspaper, and property posting.
15. No correspondence has been received from the public.
16. A duly noticed public hearing was held on October 21, 2014 before the Hearing Officer. The applicant's representative, Norm MacLeod, presented testimony in favor of the request and answered questions presented by the Hearing Officer. There being no further testimony, the Hearing Officer closed the public hearing and adopted the recommended conditions of approval by staff and agreed to by the applicant.
17. The Hearing Officer finds that the Project is consistent with the N1 (Rural Residential 1) land use category of the Santa Monica Mountains North Area Plan, which is intended for low density, single-family detached housing in a setting consistent with the North Area Plan's definition of a rural area. Other uses that may be appropriate include: agriculture, equestrian uses, retreats, monasteries, private campgrounds, bed-and-breakfast lodging, low intensity conference centers, public and private schools, and telecommunications facilities and other local serving public facilities.

18. The Hearing Officer finds that the Project is consistent with Policy VI-31 of the Santa Monica Mountains North Area Plan, which states "Wireless telecommunication facilities 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 telecommunications facilities shall be encouraged, wherever possible, to help avert unnecessary proliferation of such facilities in public and private property." The project is a request to continue the operation of a previously approved wireless facility in the public right-of-way that was carefully designed and located to minimize aesthetic impacts. The facility is co-located on a utility pole, the RFU is mounted to the utility pole, and an associated equipment cabinet was located underground, all of which minimize visual impacts of the project.
19. The Hearing Officer finds that the Project is consistent with the Department's wireless development standards for height. The Department's development guidelines state that a wireless facility in the public right-of-way shall not exceed 50-feet in height. The existing utility pole is 42-feet, 4-inches tall and the wireless antennas are located 26 feet above grade level.
20. The Hearing Officer finds that the Project is consistent with the Department's wireless development standards for placement of wireless facilities. The Department's development guidelines for wireless facilities state that a WTF in the public right-of-way shall not interfere with the public's unobstructed use of highways, sidewalks, or trails. As approved and developed, the wireless facility antennas and RFU were located on an existing utility pole. The associated equipment cabinet is located underground. There are no sidewalks and trails on or near the project site, and therefore the project does not result in any impact to the roadway.
21. The Hearing Officer finds that the Project is consistent with the Department's aesthetic standards for wireless facilities. The Department's development guidelines for wireless facilities state that ground-mounted facilities shall be integrated through design and/or colors that are consistent with the existing sidewalks or locally existing natural materials. The existing WTF design is appropriate for the site and area and is compatible with the development of the surrounding area. There are currently additional utility poles on the same ROW, and the project camouflages equipment by mounting it flush with the pole and locating equipment underground.
22. The Hearing Officer finds that the Project does not adversely affect the surrounding area. The project was originally approved ten years ago and has provided valuable telecommunications infrastructure, including emergency response communications, to the surrounding area, which is very rural and sparsely developed.
23. The Hearing Officer finds that the Project is consistent with the Department's development standards for wireless facilities in the public right-of-way and as such is well-integrated into the existing development pattern for the area.

24. The Hearing Officer finds that the Project, which is an existing wireless facility in the public right-of-way, has not caused any adverse effect on the surrounding area and has not resulted in the need for additional public services or caused an additional increase in traffic.
25. The Hearing Officer finds that to ensure continued compatibility between the Project and the surrounding land uses, it is necessary to limit the Conditional Use Permit to fifteen (15) years.
26. The Hearing Officer finds that pursuant to sections 22.60.174 and 22.60.175 of the County Code, the community was properly notified of the public hearing by mail, newspaper, and property posting. Additionally, the Project was noticed and case materials were available on Regional Planning's website and at libraries located in the vicinity of Agoura Hills. On August 26, 2014, a total of twelve (12) Notices of Public Hearing were mailed to all property owners as identified on the County Assessor's record within a 500-foot radius from the Project Site, as well as one (1) notices to those on the courtesy mailing list for the Malibu Zoned District and to any additional interested parties.
27. 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, California 90012. The custodian of such documents and materials shall be the Section Head of the Zoning Permits West Section, Department of Regional Planning.

BASED ON THE FOREGOING, THE HEARING OFFICER CONCLUDES THAT:

- A. The proposed use with the attached conditions will be consistent with the adopted General Plan.
- B. The proposed use at the site 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.
- C. 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.
- D. 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 HEARING OFFICER:

1. Finds that the Project is exempt from the California Environmental Quality Act pursuant to Section 15301 of the State CEQA Guidelines (Class 1, Existing Facilities categorical exemption); and
2. Approves Conditional Use Permit No. 201400107, subject to the attached conditions.

ACTION DATE: October 21, 2014

MKK:TSS
9/3/14

c: Hearing Officer, Zoning Enforcement, Building and Safety

**CONDITIONS OF APPROVAL
COUNTY OF LOS ANGELES
PROJECT NO. R2014-02327-(3)
CONDITIONAL USE PERMIT NO. 201400107**

PROJECT DESCRIPTION

The project is a request for a conditional use permit (CUP) to allow the continued operation of a wireless telecommunications facility in the public right-of-way (ROW) along Mulholland Highway in the Santa Monica Mountains North Area, 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, 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 reasonably 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 reasonably 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 October 21, 2029.** 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 wireless 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 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 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 conformance with the plans marked Exhibit "A." If changes to any of the plans marked Exhibit "A" 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 **December 21, 2014**.
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 substantially conform to the originally approved Exhibit "A". All revised plans must be accompanied by the written authorization of the property owner(s) and applicable fee for such revision.

PERMIT SPECIFIC CONDITIONS

19. The facility shall be operated in accordance with regulations of the State Public Utilities Commission.
20. Upon request, the permittee shall provide upon request to the Zoning Enforcement Section 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.
21. Insofar as is feasible, the permittee 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 provide upon request 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. 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.

25. 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.
26. 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.
27. The permittee shall maintain current contact information with the Zoning Enforcement Section of Regional Planning.
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. Provided landscaping shall be maintained at all times and shall be promptly replaced if needed.
30. Upon request, the permittee shall submit annual reports to the Zoning Enforcement Section of Regional Planning to show compliance with the maintenance and removal conditions.
31. The 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 permittee shall obtain an encroachment permit from Public Works and provide a copy of the permit to the Zoning Enforcement Section of Regional Planning as required.
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 permittee 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 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.
35. The placement of the facility shall continue to 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.
36. If 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 or permittee of the wireless facilities involved.
37. Maintain standard Americans with Disabilities Act clearances around all above ground wireless telecommunication equipment including poles within the public right of way to the satisfaction of Public Works, where applicable.

PROJECT SITE SPECIFIC CONDITIONS

38. This grant shall authorize the continued operation of a wireless telecommunications facility.