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March 9, 2010

ADOPTED

BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

Agenda No. 2
10/27/09

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

#10 MARCH 9, 2010

Sachi A. Hamai
SACHI A. HAMAI
EXECUTIVE OFFICER

**Re: PROJECT NO. R2007-02104-(4)
CONDITIONAL USE PERMIT NO. 2007-00149-(4)
FOURTH SUPERVISORIAL DISTRICT/THREE-VOTE MATTER**

Dear Supervisors:

Your Board previously conducted a hearing regarding the above-referenced permit which sought to authorize the installation, operation, and maintenance of a wireless telecommunications facility. At the completion of the hearing you indicated an intent to deny the permit and instructed us to prepare findings for denial. Enclosed are findings for your consideration.

Very truly yours,

ANDREA SHERIDAN ORDIN
County Counsel

By *Elaine M. Lemke*

ELAINE M. LEMKE
Principal Deputy County Counsel
Property Division

APPROVED AND RELEASED:

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EML:vn

Enclosure

HOA.679147.1

**FINDINGS OF THE BOARD OF SUPERVISORS
AND ORDER
PROJECT NUMBER R2007-02104-(4)
CONDITIONAL USE PERMIT NUMBER 2007-00149-(4)**

1. The Los Angeles County ("County") Board of Supervisors ("Board") conducted a duly-noticed public hearing in the matter of Project No. R2007-02104-(4), consisting of Conditional Use Permit No. 2007-00149-(4) ("CUP") on October 27, 2009. The County Regional Planning Commission ("Commission") previously conducted a duly-noticed public hearing on the CUP on February 4, 2009.
2. The applicant, T-Mobile, USA, Inc. ("T-Mobile"), requested a CUP to authorize construction, operation, and maintenance of an unmanned wireless telecommunications facility consisting of 12 panel antennas mounted 40 and 50 feet high on the riser legs of an existing Southern California Edison ("SCE") lattice tower and four associated equipment cabinets and a new GPS antenna to be located on a concrete pad within a 12-foot by 25-foot leased area under the tower. The cabinets would be enclosed within a six-foot-high cinder block wall.
3. The subject lattice tower is located on parcel lot APN-8289-019-803 on an SCE easement between South Frame Avenue and South Holmes Circle in the unincorporated Hacienda Heights Zoned District. The lattice tower is located on an approximate 300-foot-wide rectangular-shaped undeveloped parcel on relatively level land approximately 150 feet from homes on both the north and south sides of the parcel.
4. The subject property is located within the Open Space classification of the Hacienda Heights Community Plan ("Community Plan"), Los Angeles County General Plan ("General Plan"). The intent of this land use classification is for the conservation of open space for parks, riding and hiking trails, passive recreation, scientific study, sanitary landfills, and utility easements.
5. There are no specific policies related to unmanned wireless telecommunications facilities in the Community Plan. The Land Use element of the General Plan, however, identifies among its goals, the maintenance and enhancement of existing residential neighborhoods and encouragement of high quality design in projects to be compatible with, and sensitive to, the natural and manmade environment.
6. The subject property is zoned A-2-1 (Heavy Agricultural-one-acre minimum lot size.)

7. Surrounding properties are zoned as follows:
 - North: R-A-12,000 (Residential Agricultural-12,000 square-foot minimum lot size)
 - South: R-1-15,000 (Single Family Residential-15,000 square-foot lot size)
 - East: RPD-15,000 (Residential Planned Development-15,000 square-foot minimum lot size)
 - West: A-2-1; City of Whittier zoned properties
8. Surrounding uses include residential properties and open space, which includes a hiking and horse trail and the Puente Hills landfill native habitat preservation area.
9. Title 22 (Zoning Ordinance) of the Los Angeles County Code ("County Code") does not specify "wireless telecommunications facility" as a use. Therefore, the Department of Regional Planning ("Regional Planning") has determined that the most similar use specified in the Zoning Ordinance is "radio or television tower," which may be allowed in the A-2 zone with a conditional use permit. Accordingly, a conditional use permit is likewise required for all wireless telecommunication facilities in the A-2 zone.
10. Prior to the above-referenced Board and Commission hearings, an initial hearing was held by a hearing officer on September 8, 2008, who approved the project, and the case was then timely appealed to the Commission. After closing its public hearing, the Commission approved the CUP. The Commission's approval of the CUP was timely appealed to the Board by more than 85 residents in the area of the proposed project.
11. Proper legal notice was provided by the County for all of the public hearings held regarding the CUP.
12. At the Commission hearing, a representative of T-Mobile testified in favor of the CUP and upholding the hearing officer's prior approval. T-Mobile testified, among other things, that it examined alternative sites and that there was a significant gap in its coverage. Five residents testified in opposition to the CUP. Opposition testimony centered on: aesthetic impacts, that adequate wireless coverage existed in the proposed coverage area, impact of the proposal on the surrounding trails and wildlife in the area, and that inadequate consideration was given to alternative sites.
13. More specifically as to the opposition testimony at the Commission hearing regarding compatibility of the project with the surrounding area, testimony was given about the native habitat preservation area, the variety of wildlife in the area, including a red-tailed hawk that utilized the lattice tower for nesting, and the incompatibility of cellular antennas on the tower with residential uses.

14. Opponents of the project also testified that they performed a coverage field test using T-Mobile phones that revealed that T-Mobile has adequate coverage in the area, including testifying that they were able to make and receive calls in areas where T-Mobile claimed a gap in service. Written documentation from the test was submitted. Opponents also testified that T-Mobile's own website showed coverage in areas where T-Mobile's propagation map showed no coverage. Opposition testimony also asserted that T-Mobile undertook only a superficial review of the alternative sites it did consider, and failed to consider all possible alternatives.
15. After the Commission's approval of the CUP was appealed to the Board, a de novo hearing was held by the Board on October 27, 2009. At that hearing, Regional Planning staff briefly outlined the proposed facility and explained the procedural status of the case. Seven people testified, five in opposition. Two individuals testified on behalf of, and in support of, T-Mobile's application.
16. Opposition testimony focused upon: (1) T-Mobile's claim of a coverage gap, which opponents disputed; (2) view and other aesthetic impacts; and (3) complaints that T-Mobile did not prove its claims of efforts to locate elsewhere, co-locate, or that other locations would not provide adequate coverage.
17. Project opponents testified that specific proposed alternative sites were not investigated by T-Mobile. There are other SCE towers in the vicinity. One member of the Board stated that his staff had checked with SCE and was advised that T-Mobile had only inquired about two of the towers as possible alternatives.
18. Testimony was also received by the Board about the incompatibility of the antennas and equipment cabinets with the open space area and trail.
19. As they had done at the Commission hearing, area residents again testified that their field tests revealed that T-Mobile had coverage in the relevant area.
20. T-Mobile submitted cards from residents in support of the project. Review of the addresses of those cards, compared with T-Mobile's identified intended coverage area, reveal that many of the signatories appear to reside outside of the proposed project's intended coverage area.
21. While T-Mobile testified at the Board and Commission that there was a "significant gap" in its coverage in its "burden of proof" submittal to Regional Planning, T-Mobile described its service in the area as "substandard" and that the purpose of the proposed facility was to provide "improved coverage and capacity" to those who not only live in the area, but travel through it.
22. Another T-Mobile document indicated the facility was "necessary to meet customer demand as customers are demanding excellent wireless phone coverage in their homes..." [Underline added.] It also stated that the site

objective was to "improve the in-building coverage in the residential area" and that there were problems with "signal strength and call quality."

23. Testimony at the Board hearing pointed out that T-Mobile's goal of "improving" service reflected an absence of a significant gap and that service did exist.
24. Regarding aesthetic and view impacts, it was pointed out at the Board hearing that the antenna arrays are nine feet wide with a three-foot separation between the antennas and that the 12-panel antennas will each extend about three to five feet from the side of the tower rather than be flush mounted, and that the six-foot-high cinder block wall would be 12 by 25 feet in dimension. Further, as reflected by photos submitted, the antennas would be highly visible from South Frame Avenue and adjacent properties, including homes and the habitat preservation area.
25. The Board finds that the proposed project as a whole is out of character with the surrounding neighborhood, is not compatible with the natural or manmade environment, will result in adverse aesthetic impacts, and will create visual blight for the surrounding community.
26. Based upon the evidence presented, the Board finds that T-Mobile failed to present adequate evidence of a significant gap in its coverage in the area surrounding the site and that the contrary evidence submitted by project opponents, which showed no significant gap, was credible. The Board also finds that T-Mobile's own website showed the area to have adequate coverage.
27. The Board finds that T-Mobile failed to conduct a meaningful comparison of alternative sites, and that T-Mobile did not examine feasible alternative sites that could have provided additional coverage while being less intrusive in terms of visual and aesthetic impacts on the community.
28. The Board finds that the proposed project is inconsistent with the following goals of the General Plan, Land Use Element: maintenance and enhancement of existing residential neighborhoods and encouragement of high quality design in projects to be compatible with, and sensitive to, the natural and manmade environment.

BASED ON THE FOREGOING, THE BOARD OF SUPERVISORS CONCLUDES:

1. The proposed use is not consistent with the adopted general plan for the area;
2. That the requested use at the proposed location will adversely affect the health, peace, comfort, or welfare of persons residing or working in the surrounding area; and
3. That the requested use will be materially detrimental to the use, enjoyment, or valuation of property of other persons located in the vicinity of the site.

THEREFORE, THE BOARD OF SUPERVISORS:

1. Denies Project No. R2007-02104-(4), consisting of Conditional Use Permit No. 2007-00149-(4).