



COUNTY OF LOS ANGELES  
OFFICE OF THE COUNTY COUNSEL

648 KENNETH HAHN HALL OF ADMINISTRATION  
500 WEST TEMPLE STREET  
LOS ANGELES, CALIFORNIA 90012-2713

TELEPHONE  
(213) 974-1930  
FACSIMILE  
(213) 613-4751  
TDD  
(213) 633-0901

ANDREA SHERIDAN ORDIN  
County Counsel

July 5, 2011

**ADOPTED**

BOARD OF SUPERVISORS  
COUNTY OF LOS ANGELES

#20 OF JULY 5, 2011

Agenda No. 3  
05/24/11

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

*Sachi A. Hamai*  
SACHI A. HAMAI  
EXECUTIVE OFFICER

**Re: PROJECT NUMBER R2007-02104-(4)  
CONDITIONAL USE PERMIT NUMBER 2007-00149-(4)  
FOURTH SUPERVISORIAL DISTRICT/THREE-VOTE MATTER**

Dear Supervisors:

Your Board recently conducted a duly-noticed public hearing regarding the above-referenced permit pursuant to a settlement agreement with T-Mobile USA, Inc. The permit proposes the construction, operation, and maintenance of a wireless telecommunications facility on a Southern California Edison lattice tower located on a parcel between South Frame Avenue and South Holmes Circle in the Hacienda Heights Zoned District. This proposed facility is a modified and smaller-scaled version of the project previously denied by your Board in 2010. At the conclusion of the hearing, you instructed us to prepare findings and conditions for approval of this revised project. Enclosed are the findings and conditions 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:

*John F. Krattli*  
JOHN F. KRATTLI  
Senior Assistant County Counsel

EML:vn  
Enclosures

**FINDINGS OF THE BOARD OF SUPERVISORS  
AND ORDER  
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 Number R2007-02104-(4), consisting of Conditional Use Permit Case No. 2007-00149-(4) ("CUP") on May 24, 2011.
2. The permittee, T-Mobile USA, Inc. ("T-Mobile"), requested a CUP to authorize the construction, operation, and maintenance of an unmanned wireless telecommunications facility consisting of six panel antennas mounted 40 and 50 feet high on the riser legs of an existing Southern California Edison ("SCE") lattice tower, four associated equipment cabinets, and a new parabolic antenna to be located on a concrete pad within a 12-foot by 25-foot-leased area under the lattice tower. The cabinets would be enclosed within a six-foot-high cinder block wall.
3. The subject lattice tower is located on Parcel Lot No. 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 15-acre parcel on relatively level land.
4. The subject property is located within the Open Space classification of the Hacienda Heights Community Plan ("Community Plan"), which is a portion of the 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. There are no specific policies related to unmanned wireless telecommunications facilities in the Community Plan.
5. The subject property is zoned A-2-1 (Heavy Agricultural-one-acre minimum lot size).
6. The 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); and
  - West: A-2-1; City of Whittier zoned properties.
7. The surrounding land uses consist of residential properties, the closest of which are approximately 150 feet away from the involved SCE lattice tower, as well as vacant land and open space.

8. There are no previous zoning violations involving the subject property.
9. Section 22.52.1220 of Title 22 of the County Code ("County Code") (Zoning Ordinance) establishes parking requirements for uses not otherwise specified in the Zoning Ordinance. The proposed project is subject to the provision of one parking space for the purpose of maintenance visits. There are no parking spaces on site, but South Frame Avenue has sufficient space to allow for the temporary parking of a maintenance vehicle. Access to the subject property is from South Frame Avenue via a secured locked entrance with advanced permission from SCE. Pursuant to Section 22.52.1220, the Department of Regional Planning ("Regional Planning") Director determined that such parking provision is sufficient for the project.
10. Regional Planning determined that the project, both as originally proposed and as modified herein, qualifies for a Class 3 Exemption (New Construction or Conversion of Small Structures) under the California Environmental Quality Act ("CEQA") pursuant to the CEQA Guidelines, 14 California Code of Regulations section 15303.
11. A duly-noticed hearing was held by a Regional Planning Hearing Officer ("Hearing Officer") on the originally proposed CUP on May 20, 2008, June 3, 2008, and September 8, 2008. As originally proposed, the project consisted of an antenna array consisting of 12 antenna panels mounted at elevations of approximately 40 feet and 50 feet on the involved SCE lattice tower, along with the associated equipment cabinets and appurtenant equipment described in Finding 2, above. After closing the public hearing, the Hearing Officer approved the CUP, subject to various conditions. The Hearing Officer's approval of the CUP was appealed to the County Regional Planning Commission ("Commission"). The Commission conducted a duly-noticed public hearing on the originally requested CUP on February 4, 2009. After closing the public hearing, the Commission also approved the application with certain additional conditions regarding the material to be used to screen the enclosure area for the appurtenant equipment and measures intended to prevent disruption of nesting patterns of native bird species. The Commission's decision to uphold the Hearing Officer's approval was then appealed to the Board.
12. As a result of the appeal of the Commission's decision, the Board conducted a duly-noticed public hearing on the originally proposed CUP on October 27, 2009. Seven people testified at the Board hearing, five opposed the project disputing T-Mobile's claim of a coverage gap, raising aesthetic concerns, and questioning the efforts of T-Mobile to find alternative locations. After closing the public hearing, the Board upheld the appeal of the Commission's approval and thereby denied the originally proposed CUP on March 9, 2010. The Board found that there were aesthetic impacts and that T-Mobile had not sufficiently demonstrated that there was a significant gap in its coverage area.

13. On April 7, 2010, T-Mobile filed a lawsuit in the United States District Court, Central District of California, against the County challenging the denial of the CUP and seeking injunctive relief to require the County to issue the CUP. The County filed its answer in the case, *T-Mobile West v. County of Los Angeles*, denying all allegations and denying that T-Mobile was entitled to any relief.
14. Thereafter, T-Mobile and the County entered into settlement discussions. A settlement agreement was reached and approved by the Board on February 15, 2011. Under the settlement agreement, T-Mobile agreed to reduce the number of antenna panels from 12 to 6, and in turn, the Board agreed to hold a public hearing to consider the revised CUP application. Under the settlement agreement, the Board was required to conduct a public hearing, but it retained discretion to approve, modify, or deny the project.
15. Pursuant to the settlement agreement, the Board held a duly-noticed public hearing on May 24, 2011, to consider the CUP as revised. Regional Planning staff outlined the project history and explained how it was revised from the previously denied project. Staff reported on, among other things, the reduced number of antennas, which would be of the same size as originally proposed, thus resulting in a 50 percent reduction in number and size.
16. At the hearing, testimony was received from four members of the public opposing the project. Concerns expressed included the potential health impacts associated with the wireless facility, perceived negative aesthetic impacts of the facility, potential negative impacts on nearby home values, potential impacts to nesting red-tailed hawks, and doubts regarding T-Mobile's claim that the facility was necessary to address a significant gap in its service coverage. Testimony was received from three T-Mobile representatives in favor of the project with two other T-Mobile representatives available to answer questions. The County's expert also provided testimony about the project and his review of the process.
17. As Regional Planning staff indicated during the hearing, federal law prohibits local governments from considering the health and environmental effects of radio frequency emissions with respect to the placement, construction, and modification of personal wireless service facilities, as long as such facilities comply with Federal Communications Commission ("FCC") regulations and emissions standards. The project conditions will require that the permittee provide written verification that the facility meets adopted FCC standards for safe human exposure when operating at full strength and capacity for the duration of the CUP.
18. The proposed antennas will be placed upon an existing 151-foot SCE lattice tower at approximate elevations of 40 and 50 feet, and will be required to be painted a neutral color to blend with the surroundings. Additionally, the overall surface area of the proposed antennas has been reduced approximately 50 percent from the original proposal, through the reduction in antennas from 12 to 6. Further, the ground equipment will be required to be screened by a six-foot

high concrete block wall. Accordingly, the Board concludes that the proposed facilities will have less than significant aesthetic impacts and impacts on property values.

19. Although opponents provided anecdotal evidence that T-Mobile reception is adequate within the vicinity of the proposed project location based upon their own experiences, the permittee presented propagation maps, coverage maps, and the results of drive tests which indicate that there is a significant gap in coverage. The County's independent wireless communications consultant reviewed this evidence and concluded that the evidence regarding a gap in service was credible. Although he did not do his own independent drive tests, he indicated that T-Mobile's drive testing results provided a sufficient basis for him to cross-check and verify the coverage maps and the conclusion regarding the existence of a significant gap in coverage. Additionally, the County's consultant reviewed the alternative sites identified by T-Mobile and a site identified by members of the community and concurred that such alternative sites were not feasible replacement sites for the proposed facility.
20. Based upon testimony that red-tailed hawks nest on the SCE tower or in the area, prior to any construction, the conditions of approval will require T-Mobile to contact the Audubon Society to ensure that installation of the wireless facility will not disrupt the nesting patterns of native bird species.
21. The Board finds that the installation of this facility is necessary to close a significant gap in T-Mobile's coverage in that area.
22. The Board further finds that alternative locations for the antennas are either not available or would not eliminate the significant gap in T-Mobile's coverage.
23. With the exception of SCE authorized personnel, access to the project site will be limited to T-Mobile's installation and maintenance workers, who must first acquire permission for access from SCE, which protects public safety.
24. The Project was reviewed by the County under CEQA, the State CEQA Guidelines, and the Environmental Document Reporting Procedures and Guidelines for the County. Based on that review, and on all evidence in the record, the Board finds that substantial evidence supports the conclusion that a Class 3 Categorical Exemption is appropriate for the project and adopts that determination.
25. Approval of the CUP is conditioned on T-Mobile's compliance with the attached conditions of approval.
26. The Board finds that T-Mobile has demonstrated the suitability of the subject property for the proposed use. Establishment of the proposed use at such location is in conformity with good zoning practice. Compliance with the conditions of approval will ensure compatibility with surrounding land uses and consistency with all applicable General Plan policies.

27. The location of the documents and other materials constituting the record of proceedings upon which the Board's decision is based in this matter is 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 Section, Los Angeles County Department of Regional Planning.

**BASED ON THE FOREGOING, THE BOARD OF SUPERVISORS CONCLUDES:**

- A. That the proposed use with the attached conditions and restrictions will be consistent with the adopted Countywide General Plan;
- B. That with the attached conditions and restrictions, the requested use at the proposed location 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. 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 Title 22 of the County Code, 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 adequately served by other public or private service facilities as are required.

**THEREFORE, THE BOARD OF SUPERVISORS:**

- 1. Finds that the project is categorically exempt under Class 3 of the State CEQA Guidelines; and
- 2. Approves Conditional Use Permit No. 2007-00149-(4), subject to the attached conditions.

**CONDITIONS OF APPROVAL**  
**CONDITIONAL USE PERMIT NUMBER 2007-00149-(4)**

1. This grant authorizes the permittee, T-Mobile, USA, Inc. ("permittee"), the use of the subject property for the construction, operation, and maintenance of an unmanned wireless telecommunications facility consisting of six panel antennas mounted 40 and 50 feet high on the riser legs of an existing Southern California Edison ("SCE") lattice tower, four associated equipment cabinets, and a new parabolic antenna to be located on a concrete pad within a 12-foot by 25-foot leased area under the lattice tower located in a 300-square-foot area within the unincorporated Hacienda Heights Zoned District. All facilities shall be maintained as depicted on the approved revised Exhibit "A," on file at the Department of Regional Planning ("Regional Planning"), and subject to all of the following conditions of approval:
  - a. Any and all graffiti on the proposed wall and the facility shall be removed within 24 hours of notice of the graffiti application;
  - b. The facility shall be operated in accordance with the regulations of the State Public Utilities Commission;
  - c. The facility shall be removed if not in use for more than six months;
  - d. 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;
  - e. All structures shall conform with the requirements of the County Department of Public Works, Building and Safety Division;
  - f. All equipment shall be a neutral color, excluding black, to blend with its surroundings and shall be maintained in good condition at all times;
  - g. The permittee shall provide written verification that the proposed facility's radio-frequency radiation and electromagnetic field emissions will fall within the adopted Federal Communication Commission ("FCC") standards for safe human exposure to such forms of non-ionizing electromagnetic radiation when operating at full strength and capacity for the lifetime of this conditional use permit. The permittee shall submit a copy of the initial report on said facility's radio-frequency emissions level, as required by the FCC requirements, to Regional Planning;
  - h. Any proposed wireless telecommunications facility that will be co-locating on the proposed facility will be required to submit the same written verification and include the cumulative radiation and emissions of all such facilities;

- i. Said facility, including any lighting, fences, shields, cabinets, and poles shall be maintained by the permittee in good condition, free from trash, debris, litter, graffiti, and other forms of vandalism. Any damage from any cause shall be repaired as soon as reasonably possible to minimize occurrences of dangerous conditions or visual blight;
  - j. The subject property shall be developed and maintained in substantial compliance with the plans marked Exhibit "A." All revised plot plans must be accompanied by written authorization of the property owner;
  - k. The permittee shall provide satisfactory safeguards to prevent unauthorized access to the leased area enclosure;
  - l. The 300-square-foot leased area shall be surrounded by a six-foot high concrete block wall to buffer the associated equipment cabinets from the surrounding residential community and shall be painted a neutral color, excluding black, to blend with the surrounding environment;
  - m. All development, with the exception of equipment installed on the lattice tower, shall take place within the area confined by the concrete block wall; and
  - n. Prior to construction, the permittee shall contact the Audubon Society to ensure installation will not disrupt the "nesting patterns" of native bird species.
2. Unless otherwise apparent from the context, the term "permittee" shall include the applicant and any other person, corporation, or other entity making use of this grant.
  3. This grant shall not be effective for any purpose until the permittee, and the owner of the tower if other than the permittee, have filed at the office of 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. 9.
  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. The County shall promptly notify the permittee of any claim, action, or proceeding and the County shall cooperate fully 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. The permittee shall be responsible for all expenses involved in the County's cooperation in the defense, including but not limited to, collection and

duplication of records, depositions, testimony, and other assistance to the permittee or permittee's counsel.

5. This grant will expire unless used within two years from the date of approval. A one-year time extension may be requested in writing six months prior to the expiration date.
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 property owner or permittee shall record the terms and conditions of this 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 property owner or permittee shall promptly provide a copy of the grant and its conditions to the transferee or lessee of the subject property.
8. This grant will terminate 10 years after this permit approval. Entitlement to use of the property thereafter shall be subject to the regulations then in effect. At least six months prior to the expiration of this permit, and in the event that the permittee intends to continue operations after such date, permittee shall make an application for continuance of the use permitted under this grant, whether permittee is or is not proposing modification to the use at that time.
9. 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. The permittee shall deposit with the County the sum of \$750. 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 deposit provides for five biennial inspections. Inspections shall be unannounced.

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. Inspections shall be made to ensure compliance with the conditions of this grant as well as adherence to the development in accordance with the approved site plan on file. The amount charged for additional inspections shall be \$150 per inspection, or the current recovery cost, whichever is greater.

10. The permittee is reminded of the consequences of any violation or any provision of this grant. Notice is further given that the Regional Planning Commission ("Commission") or a hearing officer may, after conducting a public hearing, take any action authorized by the County Code, 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.
11. Upon receipt of this letter, the permittee shall contact the Fire Prevention Bureau of the County Fire Department to determine what facilities may be necessary to protect the property from fire hazard. Any necessary facilities shall be provided as required by said department.
12. All requirements of the County Code (zoning ordinance) and of the specific zoning of the subject property must be complied with unless otherwise set forth in these conditions or shown on the approved plans.
13. All structures, walls, and fences open to public view shall remain free of extraneous markings, drawings, or signage. These shall include any of the above that do not directly relate to the facility being operated on the premises or that do not provide pertinent information about said premises.
14. In the event of such extraneous markings occurring, the permittee shall remove or cover said markings, drawings, or signage within 24 hours of notice 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. The only exceptions shall be seasonal decorations or signage provided under the auspices of a civic or non-profit organization.
15. General maintenance (once a month maintenance visit) by the maintenance crew will be serviced by walking onto the subject property only. Vehicular access will not be permitted within the site to reduce dust particles.
16. Parking of the maintenance vehicle will be permitted along Frame Avenue and Holmes Circle.