

AGENDA NO. 3

PLANNING COMMISSION



CITY OF OCEANSIDE

DATE: November 2, 2009

TO: Chairperson and Members of the Planning Commission

FROM: Development Services Department/Planning Division

SUBJECT: **CONSIDERATION OF A REVOCATION OR MODIFICATION OF CONDITIONAL USE PERMITS (C-17-95 REV04, C-45-04), VARIANCE (V-21-04) AND ASSOCIATED RESOLUTIONS (95-P46, 2002-P21, 2007-P16) ON PROPERTY LOCATED AT 1606 MISSOURI STREET DUE TO NON-COMPLIANCE WITH CONDITIONS OF APPROVAL – MISSION SUMMIT COMMUNICATIONS CELL SITE – APPLICANT: AMERICAN TOWER CORPORATION**

RECOMMENDATION

Staff recommends that the Planning Commission by motion:

- (1) Revoke Conditional Use Permit (C-17-95 REV04), Conditional Use Permit (C-45-04) and Variance (V-21-04); Planning Commission Resolution No. 95-P46; Planning Commission Resolution No. 2002-P21; and Planning Commission Resolution No. 2007-P16; and
- (2) Adopt Planning Commission Resolution No. 2009-P40 with findings attached herein.

PROJECT BACKGROUND

On October 9, 1995, the Planning Commission considered a request for a communication facility (Conditional Use Permit C-17-95) and adopted Resolution No. 95-P46 approving the subject use for a five-year period.

On August 24, 2000, Verizon Wireless applied for a time extension of C-17-95. On April 22, 2002, the Planning Commission considered Verizon Wireless's application and adopted Resolution No. 2002-P21 granting a four-year time extension effective October 9, 2000.

On September 9, 2004, American Tower Corporation applied for a time extension of C-17-95. On October 31, 2006, the applicant submitted material in response to staff's 2004 review of the initial application submittal. In accordance with the California Permit

Streamlining Act, the application was deemed complete on February 5, 2007. The applicant and staff agreed upon the March 26, 2007 hearing date in compliance with the Zoning Ordinance. The Planning Commission approved the project March 26, 2007 for a 10-year operating time period from the previous approval date of October 9, 2004 (Permits would need to be extended again October 9, 2014).

That proposal was to remove the existing 50-foot monopole and its ancillary structures and to install a new 63-foot forked structure, replace the previous triangular-shaped support structure and install 15 four-foot long panel antennas. The applicant also proposes to clad the new installation with material that provides an appearance similar to a eucalyptus tree. The proposed height of the new steel structure was to be 63 feet above existing grade. The overall height of the disguise was diagrammatically taller than 63 feet and it is shown with a naturally shaped eucalyptus canopy extending above the steel "trunk" structure. There were associated landscape improvements included with the permits.

Due to a failure by the applicant to comply with the Conditions of Approval as verified by staff, and in response to complaints by the public for the same, the applicant was informed on August 3, 2009 that the Planning Commission would hear the City Planner Report on this issue at the August 10, 2009 hearing. On August 10, 2009, the Planning Commission heard the report and by a 6-0 vote set September 28, 2009 as the date to hear the Revocation of the subject permits and resolutions.

Prior to the Planning Commission hearing on September 28, 2009, the Planning Department received a substantial amount of material from the applicant documenting the amount of work that had been completed to that point in time. Based on a field visit and the amount of evidence presented by the applicant, staff recommended the Planning Commission grant a 30 day extension so that the remaining work could be completed. A new hearing date of November, 2, 2009 was set by the Planning Commission to reconsider the revocation or modification. Should the Planning Commission find the applicant in compliance with their permits, the permits will expire on October 9, 2014 per Planning Commission Resolution NO. 2007-P16, Condition of Approval NO. 14.

Site Review: The site is located at the intersection of Missouri and Vine Streets and is the current location of the Woman's Club of Oceanside. Existing site improvements include a 2,487-square foot building, a shed, a communication facility equipment shelter, and a monopole with 15 panel antennas.

ANALYSIS

Since the March 2007 approval date, the applicant has had 30 months to implement the project including the new pole to simulate a eucalyptus tree and associated landscaping. Although the applicant has made some progress to implement the

approvals, staff has deemed the work to date insufficient given the time they've had to do so from both the original approval date, and the August 10, 2009 hearing date.

ENVIRONMENTAL DETERMINATION

A Revocation does not constitute a project under CEQA, therefore, this action does not require CEQA review.

PUBLIC NOTIFICATION

Legal notice was published in the North County Times on Friday September 18, 2009 and notices were sent to property owners of record, individuals and or organizations requesting notification, the applicant and other interested parties as per Zoning Code Section 4704 B. As of September 21, 2009, no communication from the general public supporting or opposing the Revocation has been received.

RECOMMENDATION

Pursuant to Section 4108.E Revocation of the Zoning Ordinance, a use permit or variance that is exercised in violation of a condition of approval or a provision of the Zoning Ordinance may be revoked, as provided in Section 4704.

Pursuant to Section 4704.A Duties of the City Planner, upon determination by the City Planner that there are reasonable grounds for considering revocation or modification of a use permit or variance ... a revocation hearing shall be set by the Planning Commission. This hearing was duly held on August 10, 2009 and the Revocation Hearing date of September 28, 2009 was set.

The City Planner recommends the Planning Commission revoke Conditional Use Permit C-17-95 REV04, Conditional Use Permit C-45-04, Variance V-21-04, and the associated Planning Commission Resolutions 95-P46, 2002-P21 and 2007-P-16. The City Planner makes this recommendation, because of considerable public input and the applicant's demonstrated lack of compliance with specific conditions of approval. On August 3, 2009 the applicant was given notice of the City Planners Report to the Planning Commission for consideration of setting a hearing date to consider this revocation. On August 10, 2009, the Planning Commission established September 28, 2009 as the date to hear the Revocation. To date, the applicant remains non-compliant with the subject approvals.

Examples of public input and noncompliance with conditions of approval include:

- 1) Resolution No. 2007 P-16 was approved by the Planning Commission on March 26, 2007 with specific requirements to be satisfied within 60 and 120 days of

approval. On November 15, 2007 and on April 21, 2008 staff contacted the applicants' representative to ascertain why Condition 17 had not been completed by June 28, 2007 and why Condition 22 had not been complied with by July 28, 2007. Staff found that the applicants' efforts to satisfy these conditions of approval began about April 15, 2008 with the initial submittal of final landscape plans for review by Engineering. These two conditions of approval have still not been fully complied with.

- 2) When the Planning Commission considered the renewal of Conditional Use Permits C-17-95 and C-45-04, and Variance V-21-04, they included Conditions 11, 17, and 22 in Resolution No. 2007 P-16 because of the applicants neglect to satisfy previous requirements, including Conditions 7, 13, 14, and 17 of Resolution No. 2002-P21 and Conditions 24 and 25 of Resolution No. 95-P46.
- 3) Oceanside Residents have contacted the City Planner expressing their concern about the applicants' lack of compliance with the adopted Resolutions.
- 4) City Staff has been to the site several times between the August 10, 2009 hearing and this hearing to monitor the status of the work and have found the applicants effort to achieve compliance less than earnest.

SUMMARY

The proposed Revocation is duly warranted per the Zoning Code and is a direct result of the applicants' failure to perform as required by the subject permits and Resolutions of Approval. As such, staff recommends that the Planning Commission revoke the project based on the findings and subject to the conditions contained in the attached Resolution. Staff recommends that the Planning Commission:

- (1) Revoke Conditional Use Permit (C-17-95 REV04), Conditional Use Permit (C-45-04) and Variance (V-21-04); Planning Commission Resolution No. 95-P46; Planning Commission Resolution No. 2002-P21; and Planning Commission Resolution No. 2007-P16; and
- (2) Adopt Planning Commission Resolution No. 2009-P40 with findings attached herein.

PREPARED BY:



Richard Greenbauer
Senior Planner

SUBMITTED BY:


Jerry Hittleman
City Planner

Attachments:

1. Planning Commission Resolution No. 2009-P40
2. Planning Division Memorandum dated August 10, 2009
3. Letter to Applicants Representative (Mr. Jamie Hall) dated August 3,2009
4. Planning Commission Resolution No. 2007-P16
5. Planning Commission Resolution No. 2002-P21
6. Planning Commission Resolution No. No. 95-P46
7. E-Mail from Jamie T. Hall on behalf of American Tower Corporation dated 9/21/09 and associated photographs
8. E-Mail & Letter from Jamie T. Hall on behalf of American Tower Corporation dated 9/22/09 with associated attachments.

1 PLANNING COMMISSION
2 RESOLUTION NO. 2009-P40

3 A RESOLUTION OF THE PLANNING COMMISSION OF THE
4 CITY OF OCEANSIDE, CALIFORNIA REVOKING TWO
5 CONDITIONAL USE PERMITS, A VARIANCE AND THREE
6 RESOLUTIONS OF APPROVAL FOR A CERTAIN REAL
7 PROPERTY IN THE CITY OF OCEANSIDE

8 APPLICATION NO: C-17-95REV04, C-45-04, V-21-04
9 APPLICANT: American Tower Corporation
10 LOCATION: 1606 Missouri Street

11 THE PLANNING COMMISSION OF THE CITY OF OCEANSIDE, CALIFORNIA DOES
12 RESOLVE AS FOLLOWS:

13 WHEREAS, there was a duly noticed and held Public Hearing by this Commission on
14 August 10, 2009 setting a hearing date for the Revocation of the subject Permits and Resolutions
15 of Approval under the provisions of Article 4704 of the Zoning Ordinance of the City of
16 Oceanside.

17 WHEREAS, the Planning Commission, after giving the required notice, did on the 28th
18 day of September, 2009 grant the applicant a 30 extension in time to come into compliance their
19 permits.

20 WHEREAS, the Planning Commission, after giving the required notice, did on the 2nd day
21 of November, 2009 conduct a duly advertised public hearing as prescribed by law to consider said
22 action.

23 WHEREAS, the Planning Commission finds that the proposed Revocation action is not a
24 project as defined by the California Environmental Quality Act and therefore is exempt from the
25 requirements of environmental review pursuant to the provisions of the California Environmental
Quality Act.

26 WHEREAS, studies and investigations made by this Commission and in its behalf reveal
27 the following facts:

28 For the Revocation of (2) Conditional Use Permits, (1) Variance and Resolutions Approving:

- 29 1. That the terms and conditions of approval of the permits have been violated due to a lack
30 of performance and failure to meet conditioned time frames for implementing the
31 approvals.

1 2. That there has been a discontinuance of the exercise of the entitlement granted by the
2 permit for six consecutive months as evidenced by the fact the new cell tower and
3 associated landscape improvements have not been installed since the approval 30 months
4 ago.

5 3. That the permits granted are being exercised contrary to the terms and conditions of the
6 approval because the applicant has failed to implement the Permits per the Conditions of
7 approval.

8 NOW, THEREFORE, BE IT RESOLVED that the Planning Commission does hereby
9 revoke Conditional Use Permits and Variance (C-17-95Rev04, C-45-04), Variance (V-21-04),
10 Planning Commission Resolution 2007-P16, (C-17-95Revision), Planning Commission
11 Resolution 2002-P21, and Conditional Use Permit (C-17-95), Planning Commission Resolution
12 95-P46, and further resolves as follows:

13 1. All telecommunication facilities at 1606 Missouri Street shall cease all operations
14 immediately until all the proper permits have been obtained.

15 2. The existing facilities shall be removed from the premises prior to April 28, 2010, subject
16 to all local, state, and federal regulations regarding telecommunication facilities.

17 3. A new application is required to be submitted to the City for review and approval by the
18 Planning Commission prior to installation of any new telecommunication facilities on this
19 site.

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1 4. Pursuant to Oceanside Zoning Ordinance §4603 and §4704, this resolution becomes
2 final 10 days from the date of its adoption in the absence of the filing of an appeal or call
3 for review;

4 PASSED and ADOPTED Resolution No. 2009-P40 on November 2, 2009 by the
following vote, to wit:

5 AYES:

6 NAYES:

7 ABSENT:

8 ABSTAIN:

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10 _____
11 Claudia Troisi, Chairperson
12 Oceanside Planning Commission

13
14 ATTEST:

15 _____
16 Jerry Hittleman, Secretary

17 I, JERRY HITTLEMAN, Secretary of the Oceanside Planning Commission, hereby certify that
18 this is a true and correct copy of Resolution No. 2009-P40.

19 Dated: November 2, 2009
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AGENDA NO. 4

PLANNING DIVISION

MEMORANDUM

6-0
motion

DATE: August 10, 2009

TO: Chairperson and Members of the Planning Commission

FROM: Jerry Hittleman, City Planner *Jerry*

SUBJECT: **RECOMMENDATION TO SET A HEARING DATE FOR THE REVOCATION OR MODIFICATION OF CONDITIONAL USE PERMITS C-17-95, C-45-04 AND VARIANCE V-21-04 AND ASSOCIATED RESOLUTIONS 95-P46, 2002-P21, AND 2007-P16.**

Pursuant to Section 4108.E Revocation of the Zoning Ordinance, a use permit or variance that is exercised in violation of a condition of approval or a provision of the Zoning Ordinance may be revoked, as provided in [Section 4704].

Pursuant to Section 4704.A Duties of the [City Planner], upon determination by the [City Planner] that there are reasonable grounds for considering revocation or modification of a use permit [or] variance ... a revocation hearing shall be set by the ... Planning Commission.

The City Planner recommends that the Planning Commission set September 28, 2009 as a hearing date for the revocation or modification of Conditional Use Permits C-17-95, C-45-04, and Variance V-21-04, and Resolutions No. 95-P46, 2002-P21, and 2007-P16 (attached). Public notice of the hearing is required by Section 4704.B.

The City Planner makes this recommendation, because of considerable public input and the applicant's demonstrated lack of compliance with specific conditions of approval. On August 3, 2009, the applicant was given notice of the City Planner's Report to the Planning Commission.

Examples of public input and noncompliance with conditions of approval include:

1. Resolution No. 2007-P16 was approved by the Planning Commission on March 26, 2007 with specific requirements to be satisfied within 60 and 120-days of approval. On November 15, 2007 and on April 21, 2008 staff contacted the applicant's representative to ascertain why Condition 17 had not been completed by June 28, 2007 and why Condition 22 had not been completed by July 28, 2007. Staff found that the applicant's efforts to satisfy these conditions of approval began about April 15, 2008 with the initial submittal of final landscape plans for review by Engineering.

2. When the Planning Commission considered the renewal of Conditional Use Permit C-17-95, and C-45-04 and V-21-04, they included Conditions 11, 17, and 22 in Resolution No. 2007-P16 because of the applicant's neglect to satisfy previous requirements, including Conditions 7, 13, 14, and 17 of Resolution No. 2002-P21 and Conditions 24 and 25 of Resolution No. 95-P46.
3. Oceanside residents have contacted the City Planner expressing their concern about the applicant's lack of compliance with the adopted Resolutions.



CITY OF OCEANSIDE

DEVELOPMENT SERVICES DEPARTMENT / PLANNING DIVISION

August 3, 2009

Mr. Jamie Hall
Law Office of Robert Jystad
100 Oceangate #1400
Long Beach, CA 90802

VIA FACSIMILE 562-216-5090

Dear Mr. Hall,

RE: C-17-95 REVO4 AMERICAN TOWER reference SELBY RIDGE CA-0084

Please know that on August 10, 2009, the City Planner will report to the Planning Commission a recommendation to set a hearing date for the revocation or modification of Conditional Use Permits C-17-95, C-45-04, and V-21-04 and Resolutions No. 95-P46, 2002-P21, and 2007-P16.

As my previous correspondence has indicated, staff has received complaints about the lack of compliance with the conditions of approval at 1606 Missouri Avenue for the operation of a communication facility. Correspondence has identified the lapse of deadlines established by resolution and that the applicant has not satisfied or completed requirements adopted for the establishment of a communication facility land use.

Please contact me at 760-435-3521 with your questions.

Sincerely,

Juliana von Hacht
Associate Planner

cc: Application file C-17-95REV04, C-45-04, V-21-04 American Tower Corporation
David Manley, Neighborhood Services Division Manager
Leslie Gallagher, Deputy City Attorney II
Oceanside Women's Club

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PLANNING COMMISSION
RESOLUTION NO. 2007-P16

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF OCEANSIDE, CALIFORNIA APPROVING A REVISION TO A CONDITIONAL USE PERMIT FOR A WIRELESS COMMUNICATIONS FACILITY, A CONDITIONAL USE PERMIT TO EXCEED THE HEIGHT LIMITATION, AND A VARIANCE FROM THE YARD REQUIREMENTS FOR CERTAIN REAL PROPERTY IN THE CITY OF OCEANSIDE

APPLICATION NO: C-17-95REV04, C-45-04, V-21-04
APPLICANT: American Tower Corporation
LOCATION: 1606 Missouri Avenue

THE PLANNING COMMISSION OF THE CITY OF OCEANSIDE, CALIFORNIA DOES RESOLVE AS FOLLOWS:

WHEREAS, there was filed with this Commission a verified petition on the forms prescribed by the Commission requesting a revision to a Conditional Use Permit, a new Conditional Use Permit and a Variance under the provisions of Articles 10, 30, and 41 of the Zoning Ordinance of the City of Oceanside to permit the following:

a 10-year time extension of the conditional use permit allowing a wireless communication facility, a conditional use permit to exceed the height limitations, and a variance to construct a structure within a required yard;

on certain real property described in the project description.

WHEREAS, the Planning Commission, after giving the required notice, did on the 26th day of March, 2007 conduct a duly advertised public hearing as prescribed by law to consider said application.

WHEREAS, the Planning Commission finds that the establishment of the proposed communication facility is exempt from the requirements of environmental review pursuant to the provisions of the California Environmental Quality Act.

WHEREAS, pursuant to Oceanside Zoning Ordinance §4603, this resolution becomes effective 10 days from the date of its adoption in the absence of the filing of an appeal or call for review;

1 WHEREAS, studies and investigations made by this Commission and in its behalf reveal
2 the following facts:

3 For the Revision to Conditional Use Permit (C-17-95):

- 4 1. The proposed location of the communication facility is in accord with the objectives of this
5 ordinance, including the adopted siting criteria of Section 3025 and the purposes of the
6 single-family residential district.
- 7 2. The proposed location and conditions under which the communication facility will be
8 operated and maintained is consistent with the General Plan; will not be detrimental to the
9 public health and safety of persons residing or working in or adjacent to such use; and will
10 not be detrimental to the general welfare of the City.
- 11 3. Due to substantive land use concerns, it is reasonable to extend the communication facility
12 land use for a period of 5 years from the previous expiration date of October 9, 2004. Land
13 use concerns include the eminent change in the character of the neighborhood (removal of
14 *Eucalyptus* trees), the vandalism at the site, the proximity to multi-family land use, and
15 noise created by cooling systems and a generator.

16 For the Conditional Use Permit (C-45-04):

- 17 1. This proposal is suitable to the objectives and purposes of the single-family residential
18 district, because the 63-foot tall monopole will be disguised as a eucalyptus tree and will
19 be situated at the greatest possible distance from Missouri Avenue. The additional height is
20 buffered by several *Eucalyptus* trees planted within the adjacent CalTrans right-of-way.
- 21 2. Since the 63-foot tall monopole will be constructed near *Eucalyptus* trees of similar
22 appearance, the proposed location of the monopole, its disguise, and the maintenance of
23 this structure is consistent with the General Plan. It will not be detrimental to the public
24 health and safety of persons residing or working in or adjacent to the neighborhood of such
25 use; and will not be detrimental to the general welfare of the City.
- 26 3. The proposed 63-foot tall monopole will comply with the provisions of the Zoning
27 Ordinance, as set forth by the adopted conditions of approval.

28 For the Variance (V-21-04):

- 29 1. The lot's location and shape deprive the property of privileges enjoyed by other property in
30 the vicinity and within the subject single-family residential district.

1 2. Granting of the variance will not be detrimental or injurious to the property or
2 improvements in the vicinity of the monopole, or to the public health and safety.

3 3. Granting of the variance will not grant a special privilege, inconsistent with limitations on
4 other properties in the vicinity and in the single-family residential district.

5 NOW, THEREFORE, BE IT RESOLVED that the Planning Commission does hereby
6 approve of a revision to Conditional Use Permit (C-17-95), C-45-04, and V-21-04 subject to the
7 following conditions:

8 1. The conditions of Planning Commission Resolution No. 95-P46 and Resolution No. 2002-
9 P21 shall remain in effect as applicable, provided that the following conditions shall also
10 apply and override in any matters pertaining to the existence and operation of the facility.

Building:

11 2. Applicable Building Codes and Ordinances shall be based on the date of submittal for
12 Building Division plan check (Currently the 2001 California Building Code, and 2004
13 California Electrical Code).

14 3. The granting of approval under this action shall in no way relieve the applicant and or
15 project from compliance with all State and Local building codes.

16 4. Prior to submittal for building plan review, the plans for this project shall be prepared by a
17 licensed architect or engineer.

18 5. All electrical, communication, CATV, etc. service lines within the exterior lines of the
19 property shall be underground (City Code Sec. 6.30).

20 6. All outdoor lighting must comply with Chapter 39 of the City Code (Light Pollution
21 Ordinance). Where color rendition is important, high-pressure sodium, metal halide or
22 other such lights may be utilized and shall be shown on building and electrical plans.

23 7. Compliance with the Federal Clean Water Act (BMP's) shall be demonstrated on the
24 plans.

25 8. The developer shall monitor, supervise and control all building construction and
26 supporting activities so as to prevent these activities from causing a public nuisance,
27 including, but not limited to, strict adherence to the following:

28 a) Building construction work hours shall be limited to between 7:00 a.m. and 6:00
29 p.m. Monday through Friday, and on Saturday from 7:00 .am. to 6:00 p.m. for

1 work that is not inherently noise-producing. Examples of work not permitted on
2 Saturday are concrete and grout pours, roof nailing and activities of similar noise-
3 producing nature. No work shall be permitted on Sundays and Federal Holidays
4 (New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day, and
5 Christmas Day) except as allowed for emergency work under the provisions of the
6 Oceanside City Code Chapter 38 (Noise Ordinance).

7 b) The construction site shall be kept reasonably free of construction debris as
8 specified in Section 13.17 of the Oceanside City Code. Storage of debris in
9 approved solid waste containers shall be considered compliance with this
10 requirement. Small amounts of construction debris may be stored on-site in a neat,
11 safe manner for short periods of time pending disposal.

12 9. Separate unique addresses shall be required to facilitate utility releases. Verification that
13 the address has been properly assigned by the Planning Division shall accompany the
14 Building Permit application.

15 10. A complete Soils Report, structural and energy calculations and or such documentation
16 shall be required at time of plans submittal to the Building Division for plan check.

17 **Engineering:**

18 11. Landscape plans, meeting the criteria of the City's Landscape Guidelines and Water
19 Conservation Ordinance No. 91-15, including the maintenance of such landscaping, shall
20 be reviewed and approved by the City Engineer prior to the issuance of building permits.
21 Landscaping shall not be installed until bonds have been posted, fees paid, and plans
22 signed for final approval. The following special landscaping requirements shall be met:

23 a) To mitigate the loss of landmark and or mature existing trees on-site the
24 determination of replacement shall be based on tree number, type, and caliper
25 (caliper measured 2 1/2 feet from the base of the tree at existing grade). The total
26 number of tree caliper lost shall be equal to the total number of caliper replaced.
27 Replacement trees shall be a minimum of 15-gallon container stock. A field survey
28 shall be performed under the supervision of the City's Landscaping Section to
29 evaluate the existing tree population and the replacement requirements. The
30 existing trees to remain or proposed for removal shall be identified on the

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Landscape Plan. The existing tree type, location, and caliper shall be shown on the above plans. Replacement trees shall be identified and shown on the Landscape Plan and shall be subject to review and approval by the City Engineer.

- b) The Oleander shrubs shall be replaced with a native or naturalized shrub of an overall like size at maturity, which blends with the existing landscape and shall be of a drought tolerant, self sustaining nature. Ground cover or bark mulch shall be provided in shrub areas. Original Planning Commission Resolution No. 2002-P21 shall be complied with excluding: Nerium oleander shrubs added to the site, Queen Palms provided in the right-of-way on Missouri and item #14, lines one through 4. The items excluded shall be supplanted by 24-inch box drought tolerant and native trees to be planted within the required front yard. One of which shall be a canopy tree.
- c) Shrubs trained as trees, (tree standards), minimum 30'-0" on center meeting City of Oceanside requirements shall be provided in the Missouri Avenue right-of-way and be of a drought tolerant and self sustaining nature; shrubs at maturity shall not grow to a height reaching the overhead lines.
- d) Vines provided to screen the fencing shall be installed with minimum 15-gallon container size on site. Specific spacing of vines shall be determined by species to provide maximum screening at the plant's maturity. Drought tolerant, self sustaining vines are recommended.
- e) Existing irrigation in the right-of-way and on-site shall be protected in place; repaired, updated and replaced as necessary to meet the current City of Oceanside requirements and be completed to the satisfaction of the City Engineer. Irrigation for planted areas in the right-of-way and on-site shall meet the current City of Oceanside requirements.

12. All landscaping, fences, walls, etc. on the site, in medians in the public right-of-way and in any adjoining public parkways shall be permanently maintained by the owner, their assigns or any successors-in-interest in the property. The maintenance program shall include normal care and irrigation of the landscaping; repair and replacement of plant materials; irrigation systems as necessary; and general cleanup of the landscaped and open areas,

1 parking lots and walkways, walls, fences, etc. Failure to maintain landscaping shall result
2 in the City taking all appropriate enforcement actions by all acceptable means including
3 but not limited to citations and or actual work with costs charged to or recorded against the
4 owner. This condition shall be recorded with the covenant required by this resolution.

- 5 13. Approval from the City of Oceanside Water Department shall be obtained to tie into the
6 existing water meter for the purpose of irrigating proposed landscape improvements, prior
7 to landscape plan approval. Trees shall not be located in utility easements and shall be spot
8 located by a Landscape Architect during a pre-construction meeting complying with the
9 current City of Oceanside requirements.

9 **Planning:**

- 10 14. Conditional Use Permit (C-17-95) shall be extended for a period of 10 years from the
11 previous expiration date of October 9, 2004. The Conditional Use Permit (C-17-95) may
12 be renewed in accordance with the provisions of the Zoning Ordinance. At the end of the
13 term, the applicant may apply for a time extension. The Conditional Use Permit may be
14 revised and or changed to affect a renewal in accordance with the provisions of the Zoning
15 Ordinance. The application for Conditional Use Permit time extension and or revision
16 shall also be evaluated against the existing land use policies and any site area and
17 neighborhood changes.
- 18 15. Conditional Use Permit (C-45-04) to exceed the allowed maximum height by 36 feet
19 (thereby allowing a total of 63 feet measured from existing grade); and a Variance (V-21-
20 04) for locating a structure within a required yard shall become effective on the date of
21 adoption of the Planning Commission Resolution, unless appealed, as provided by Article
22 46. Conditional Use Permit (C-45-04) and Variance (V-21-04) shall lapse two years after
23 the effective date of approval, unless they are established in accordance with Section 4108
24 of the Zoning Ordinance.
- 25 16. This resolution grants Conditional Use Permit (C-17-95), Conditional Use Permit (C-45-
04), and Variance (V-21-04) with the following limitations:
- a) A 63 feet tall antenna pole disguised as a eucalyptus tree with the faux canopy
extending above the top of the structure; and

- 1 b) Three (3) antenna arrays with five 4-foot long panel antennas per array and placed
- 2 at a maximum elevation of 50 feet measured from existing grade; and
- 3 c) One (1) dish antenna that shall, at its zenith, be less than 37 feet from the existing
- 4 grade; and
- 5 d) Support equipment contained within a 360-square foot, 10-foot tall, unmanned
- 6 equipment room; and
- 7 e) The eucalyptus disguise shall represent, to the satisfaction of the City Planner, real
- 8 aspects of the eucalyptus trees located adjacent to the project site (color, shape,
- 9 massing, and structure). The antenna pole disguise shall be clad to achieve an
- 10 appearance of eucalyptus bark, have additional branches, and have a sufficient
- 11 number of faux leaves. The antennas shall be covered and disguised to have the
- 12 appearance of eucalyptus tree leaves. The faux leaves shall be massed in a fashion
- 13 that mimics the adjacent eucalyptus leaves and their massing; and
- 14 f) The maximum elevation for the I.C.E. bridge is 8 feet. The area surrounding the
- 15 antenna pole will be enclosed by a 6-foot tall screened fence.

16 17. The following improvements as described on the plans and project description and

17 justification are required to be installed within 90 days of the adoption of this resolution:

- 18 a) Plant 2 new drought tolerant and native 24" box trees and 2 new drought tolerant
- 19 24" box canopy tree within the required front yard of 1606 Missouri Avenue;
- 20 b) Replant 6 feet on-center drought tolerant and native vines along the perimeter
- 21 fencing;
- 22 c) Replant 3 large drought tolerant and native shrubs in front of the lease area block
- 23 walls so that the shrubs can be seen from the street;
- 24 d) Repair and/or replace irrigation system for the entire property;
- 25 e) Replace the slats in the chain link fencing and repair and or replace the chain link
- fence as deemed necessary by the City Engineer;
- f) Underground existing power lines on-site serving the antenna facility;

 18. The approved facility is represented by the plans, information, and any additional materials

 presented to the Planning Commission.

- 1 19. A covenant or other recordable document approved by the City Attorney shall be prepared
2 by the applicant and recorded prior to the issuance of building permits and or landscape
3 plans. The covenant shall provide that the property is subject to this resolution, and shall
4 generally list the conditions of approval.
- 5 20. This project is subject to the provisions of Chapter 20 of the City Code (Section 20.25 et
6 seq.) pertaining to obligations for the removal of graffiti at the approved facility.
- 7 21. The approved communication facility shall be subject to, and governed by, any and all
8 licensing authority by any governmental agency having jurisdiction. The City's local
9 approval of a communication facility shall not exempt the permittee(s) from any such pre-
10 emptive regulations.
- 11 22. The final locations and species type of the two (2) supplemental drought tolerant and
12 native 24" box trees and one (1) drought tolerant 24" box canopy tree shall be reviewed
13 and approved by the City Planner and City Engineer prior to their installation. The
14 supplemental trees shall be installed within 120 days of this approval.
- 15 23. A landscape plan for supplemental queen palm and canopy tree installation, replaced
16 landscaping and irrigation shall be prepared by a landscape architect and shall be reviewed
17 and approved by the City Engineer and the City Planner prior to installation. Payment for
18 the City Engineer's courtesy plan check and inspection of the trees and irrigation shall be
19 required in accordance with the effective fee schedule for those services.
- 20 24. A building permit shall be required for the undergrounding of the electrical lines within the
21 property serving the antenna facility.
- 22 25. Any apparent inconsistency in the implementation and maintenance of the approved
23 facility shall be a basis for a call for the review of the Conditional Use Permit.
- 24 26. The existing and new supplemental trees as visual mitigation for the facility shall be
25 maintained in perpetuity for the life of the approved communication land use. These trees
shall be maintained in at least their existing number and allowed to reach full mature
heights, provided such mature growth does not unduly inhibit the operation of the
approved facility. The property owner and any successors in property ownership shall
ultimately be responsible for the maintenance of the visual mitigation for the life of the

1 facility. Any lack of maintenance of visual mitigation depicted and represented within the
2 application materials shall be a basis for a call for review of the Conditional Use Permit.

3 27. Upon termination of the approved communication facility land use, the permittee shall be
4 responsible to remove the entire facility from the premises.

5 28. The applicant shall prepare a Management Plan. The Management Plan is subject to the
6 review and approval of the City Planner prior to the issuance of a Building Permit, and
7 shall be recorded as CC&R's against the property. The Management Plan shall cover the
8 following:

9 a) Security - The Management Plan, at a minimum, shall address on-site management,
10 hours-of-operation and measures for providing appropriate security for the project
11 site. A 24-hour contact shall be provided.

12 b) Maintenance - The Management Plan shall cover, but not be limited to anti-graffiti
13 and site and exterior building, landscaping, and overall site maintenance measures
14 and shall ensure that a high standard of maintenance at this site exists at all times.
15 The maintenance portion of the management plan shall include a commitment for
16 regular landscape maintenance. Wastewater, sediment, trash or other pollutants
17 shall be collected on-site and properly disposed of and shall not be discharged off
18 the property or into the City's storm drain system. A landscape maintenance
19 schedule shall be provided.

20 c) Any graffiti on-site shall be removed by the applicant or its designated
21 representative within 24 hours of occurrence. Any new paint used to cover graffiti
22 shall match the existing color scheme.

23 29. The operation of one emergency generator is permitted at 1606 Missouri Avenue. Once a
24 week, a 15-minute test of the generator is permitted on either Tuesday, Wednesday or
25 Thursday (the test is not permitted on Mondays, Fridays, Saturdays, or Sundays) during
peak-period southbound traffic on Interstate-5 (preferably between 8:00 a.m. and 8:30
a.m.). The emergency generator shall not be located as shown on the approved plans.
Rather the generator shall be situated within the northeast corner of the lot and within the
lease area. The lease area shall have a 6-foot block wall perimeter fence.

- 1 30. The installation of one temporary mobile antenna unit, otherwise known as a C.O.W. (Cell
2 on Wheels), with three antennas shall be permitted until June 24, 2007 or a maximum of
3 90 days after issuance of building permits, which ever is less. No generators shall be
4 permitted with the operation of the C.O.W. A building permit shall be required for the
5 installation of the C.O.W.
- 6 31. Prior to the installation of the C.O.W., a Management Plan shall be approved by the City
7 Planner and be recorded as a covenant, or other recordable document, approved by the City
8 Attorney. The Management Plan shall cover the following: site location; C.O.W. design;
9 height, which shall not exceed 50 feet from grade; noise; security; maintenance; property
10 owner's approval; hours of operation; and any other aspects requested by the City Planner.
- 11 32. The C.O.W. shall be removed at the applicant's expense on or before June 24, 2007.
12 Failure to do so shall result in Code Enforcement action and the C.O.W. will be removed
13 by the City. This requirement shall be recorded in the form of a covenant affecting the
14 subject property.
- 15 33. Co-user facilities shall be limited to the following:
- 16 a) Antenna Type: Permitted antennas are limited to pole and monitoring antennas.
 - 17 b) Maximum Number: Pole antennas - are limited to 5 antenna; Monitoring antennas -
18 one per every permitted communication facility.
 - 19 c) Maximum Height: Pole antennas - 50 feet maximum elevation; Monitoring
20 antennas - 1-foot above height of a co-user facility
 - 21 d) Maximum Antenna Size: Pole antenna - 4 inches diameter; monitoring antennas - 1
22 cubic foot.
 - 23 e) Appearance: Antennas must be colored or painted to blend with the predominant
24 background features (e.g., building, landscape, sky). The antennas shall be clad
25 with material to diminish its visual impact, blend its appearance with the existing
Stand-Alone Facility; and match the disguise of the Stand-Alone Facility.
 - f) Co-user equipment shall conform to Zoning Ordinance regulations and the
conditions adopted herein.
 - g) Co-user equipment shall be stored and operate within the existing 360 square-foot,
10-foot tall unmanned equipment room.

1 **Water Utilities:**

2 34. No trees, structures or building overhang shall be located within any water or wastewater
3 utility easement.

4 35. The developer will be responsible for developing all water and sewer utilities necessary to
5 develop the property. Any relocation of water and or sewer utilities is the responsibility of
6 the developer and shall be done by an approved licensed contractor at the developer's
7 expense.

8 36. A separate water meter shall be installed for landscape irrigation.

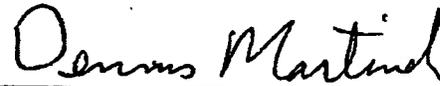
9 PASSED and ADOPTED Resolution No. 2007-P16 on March 26, 2007 by the following vote, to
10 wit:

11 AYES: Martinek, Parker, Horton, Blom, Balma, McLeod and Troisi

12 NAYES: None

13 ABSENT: None

14 ABSTAIN: None

15 

16

Dennis Martinek, Chairman
17 Oceanside Planning Commission

18 ATTEST:

19 
20

Jerry Hittleman, Secretary

21 I, JERRY HITTLEMAN, Secretary of the Oceanside Planning Commission, hereby certify that
22 this is a true and correct copy of Resolution No. 2007-P16.

23 Dated: March 26, 2007

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PLANNING COMMISSION
RESOLUTION NO. 2002-P21

A RESOLUTION OF THE PLANNING
COMMISSION OF THE CITY OF OCEANSIDE,
CALIFORNIA APROVING A REVISION TO A
CONDITIONAL USE PERMIT FOR CERTAIN
REAL PROPERTY IN THE CITY OF OCEANSIDE

APPLICATION NO: C-17-95 Revision
APPLICANT: SpectraSite Communications, Inc.
LOCATION: 1606 Missouri Street

THE PLANNING COMMISSION OF THE CITY OF OCEANSIDE, CALIFORNIA DOES
RESOLVE AS FOLLOWS:

WHEREAS, there was filed with this¹ Commission a verified petition on the forms
prescribed by the Commission requesting a Revision to a Conditional Use Permit under the
provisions of Article 30 and 41 of the Zoning Ordinance of the City of Oceanside to permit the
following:

a 4-year time extension for a communications facility tower, approximately 60 feet in
overall height, with interim improvements for visual impact mitigation;
on certain real property described in the project description.

WHEREAS, the Planning Commission, after giving the required notice, did on the 22nd
day of April, 2002 conduct a duly advertised public hearing as prescribed by law to consider said
application.

WHEREAS, the Planning Commission finds that the establishment of the proposed
communication facility is exempt from the requirements of environmental review pursuant to the
provisions of the California Environmental Quality Act.

WHEREAS, pursuant to Oceanside Zoning Ordinance §4603, this resolution becomes
effective 10 days from the date of its adoption in the absence of the filing of an appeal or call for
review;

1 WHEREAS, studies and investigations made by this Commission and in its behalf reveal
2 the following facts:

3 For the Revision to Conditional Use Permit:

- 4 1. The facility is affected by the presence of certain property conditions and especially
5 significant structures and landscaping existing on-site and at the neighboring properties.
6 These physical features extend acceptable levels near perspective and distant perspective
7 visual conformation, visual impact mitigation, and land use compatibility to the facility.
8 As such, the project is consistent with the objectives of the effective zoning regulations.
9 2. The proposed location and operation of the communication facility, under the applied land
10 use conditions, are consistent with the effective land use policies and would not be
11 detrimental the public health or general welfare of persons residing or working in the area.
12 3. The approved project is conditioned to comply with specific requirements pertaining to its
13 appearance and maintenance of its visual impact mitigation for sustained conformation
14 with the surrounding landforms.

15 NOW, THEREFORE, BE IT RESOLVED that the Planning Commission does hereby
16 approve of a Revision to Conditional Use Permit (C-17-95) subject to the following conditions:

- 17 1. The conditions of Planning Commission Resolution No. 95-P46 shall remain in effect as
18 applicable, provided the following conditions shall also apply and override in any matters
19 pertaining to the existence and operation of the facility.

20 Building:

- 21 2. All electrical, communication, CATV, etc. service lines within the exterior lines of the
22 property shall be underground (City Code Sec. 6.30).
23 3. All outdoor lighting must comply with Chapter 39 of the City Code (Light Pollution
24 Ordinance). Where color rendition is important, high-pressure sodium, metal halide or
25 other such lights may be utilized and shall be shown on building and electrical plans.
26 4. The developer shall monitor, supervise and control all building construction and
27 supporting activities so as to prevent these activities from causing a public nuisance,
28 including, but not limited to, strict adherence to the following:
29 a) Building construction work hours shall be limited to between 7 a.m. and 6 p.m.
30 Monday through Friday, and on Saturday from 7 a.m. to 6 p.m. for work that is not

1 inherently noise-producing. Examples of work not permitted on Saturday are
2 concrete and grout pours, roof nailing and activities of similar noise-producing
3 nature. No work shall be permitted on Sundays and Federal Holidays (New Year's
4 Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day, Christmas Day)
5 except as allowed for emergency work under the provisions of the Oceanside City
Code Chapter 38 (Noise Ordinance).

6 b) The construction site shall be kept reasonably free of construction debris as
7 specified in Section 13.17 of the Oceanside City Code. Storage of debris in
8 approved solid waste containers shall be considered compliance with this
9 requirement. Small Amounts of construction debris may be stored on site in a neat,
safe manner for short periods of time pending disposal.

10 Engineering:

11 5. A construction certificate will be required for any irrigation placed within the public right-
12 of-way.

13 Planning:

14 6. This Conditional Use Permit is granted for the following use only: a four (4) year time
15 extension effective from October 9, 2000 for the operation of an existing communication
16 facility. The existing and approved facility consists of the following equipment and
features:

- 17 a) A 60 feet in overall height monopole.
- 18 b) Three (3) antenna arrays consisting of up to a maximum of thirty (30) panel
antennas.
- 19 c) Three (3) dish antennas.
- 20 d) Support equipment contained within a 360 square-foot, 10-foot tall, unmanned
21 equipment room.

22 7. The following interim improvements as described on the plan materials and the project
23 description and justification are required to be installed within 90 days of the adoption of
this resolution:

- 24 a) Plant 2 new queen palms in the Missouri Street right-of-way.
- 25 b) Replant Star Jasmine along equipment area fencing.

- 1 c) Replant three large Oleander bushes in the rear of the lease area.
- 2 d) Repair or replace irrigation system.
- 3 e) Repair slats in the chain link fencing surrounding the equipment area.
- 4 f) Underground existing power lines on site serving the antenna facility.
- 5 g) Paint the monopole green or other color to match predominant background color
6 from public views.
- 7 8. The approved facility is represented by the plans, information, and any additional materials
8 presented to the Planning Commission. Any expansion or intensification in the scope or
9 scale of the approved facility will require a revision to the Conditional Use Permit or a new
10 Conditional Use Permit.
- 11 9. The Conditional Use Permit shall be limited to a term of 4 years effective from October 9,
12 2000. At the end of the 4-year time extension, the existing facility will be removed and
13 considered for a stealth design with collocation capability. However, the CUP may be
14 revised (changed) to affect a renewal in accordance with the provisions of the Zoning
15 Ordinance. The application for CUP revision shall also be evaluated against the existing
16 land use policies and any site area and neighborhood changes.
- 17 10. A covenant or other recordable document approved by the City Attorney shall be prepared
18 by the applicant and recorded prior to the issuance of building permits and/or landscape
19 plans. The covenant shall provide that the property is subject to this Resolution, and shall
20 generally list the conditions of approval.
- 21 11. This project is subject to the provisions of Chapter 20 of the City Code (Section 20.25 et
22 seq.) pertaining to obligations for the removal of graffiti at the approved facility.
- 23 12. The approved communication facility shall be subject to, and governed by, any and all
24 licensing authority by any governmental agency having jurisdiction. The City's local
25 approval of a communication facility shall not exempt the permittee(s) from any such pre-
emptive regulations.
13. The final locations and species type of the two (2) supplemental queen palm trees and one
(1) canopy tree shall be reviewed and approved by the Planning Director prior to their
installation. The palm trees shall be installed at an initial overall height of not less than 20
feet. The supplemental trees shall be installed within 90 days of this approval.

- 1 14. A landscape plan for supplemental queen palm and canopy tree installation, replaced
- 2 landscaping and irrigation shall be prepared by a qualified professional and shall be
- 3 reviewed and approved by the City Engineer and the Planning Director prior to installation.
- 4 Payment for the City Engineer's "courtesy plan check and inspection" for the trees and
- 5 irrigation shall be required in accordance with the effective fee schedule for those services.
- 6 15. A building permit shall be required for the undergrounding of the electrical lines within the
- 7 property serving the antenna facility.
- 8 16. Any apparent inconsistency in the implementation and maintenance of the approved
- 9 facility shall be a basis for a call for the review of the CUP.
- 10 17. The existing and new supplemental trees as visual mitigation for the facility shall be
- 11 maintained in perpetuity for the life of the approved facility. These trees shall be
- 12 maintained in at least their existing number and allowed to reach full mature heights,
- 13 provided such mature growth does not unduly inhibit the operation of the approved facility.
- 14 The property owner and any successors in property ownership shall ultimately be
- 15 responsible for the maintenance of the visual mitigation for the life of the facility. Any
- 16 lack of maintenance of visual mitigation depicted and represented within the application
- 17 materials shall be a basis for a call for review of the CUP.
- 18 18. Upon termination of the approved facility use, the permittee shall be responsible to remove
- 19 the entire facility from the premises.
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1 Water Utilities:

2 19. No trees, structures or building overhang shall be located within any water or wastewater
3 utility easement.

4 PASSED and ADOPTED Resolution No. 2002-P21 on April 22, 2002 by the following
5 vote, to wit:

6 AYES: Miller, Parker, Todd and Hartley

7 NAYES: Chadwick

8 ABSENT: Barrante, and Schaffer

9 ABSTAIN: None

10 
George Barrante, Chairman

11 ATTEST:

12 

13

Gerald S. Gilbert, Secretary

14 I, GERALD S. GILBERT, Secretary of the Oceanside Planning Commission, hereby certify that
15 this is true and correct copy of Resolution No. 2002-P21.

16 Dated: April 22, 2002

17 Gerald Gilbert, Secretary
18 OCEANSIDE PLANNING COMMISSION

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PLANNING COMMISSION
RESOLUTION NO. 95-P46

A RESOLUTION OF THE PLANNING COMMISSION OF
THE CITY OF OCEANSIDE, CALIFORNIA APPROVING
A CONDITIONAL USE PERMIT ON CERTAIN REAL
PROPERTY IN THE CITY OF OCEANSIDE

APPLICATION NO: C-17-95
APPLICANT: AirTouch Cellular
LOCATION: 1606 Missouri Street

THE PLANNING COMMISSION OF THE CITY OF OCEANSIDE, CALIFORNIA
DOES RESOLVE AS FOLLOWS:

WHEREAS, there was filed with this Commission a verified
petition on the forms prescribed by the Commission requesting a
Conditional Use Permit under the provisions of Articles 30 and
41 of the Zoning Ordinance of the City of Oceanside to permit
the following:

a communications facility consisting of an 60-foot tall
cellular antenna tower and an ancillary equipment room;
on certain real property legally described as shown on EXHIBIT
"A" attached hereto and incorporated herein by reference
thereto.

WHEREAS, the Planning Commission, after giving the required
notice, did on the 9th day of October, 1995 conduct a duly
advertised public hearing as prescribed by law to consider said
application.

WHEREAS, studies and investigations made by this Commission
and in its behalf reveal the following facts:

For the Conditional Use Permit:

1. The proposed location of the antenna facility adjacent to
view blocking landscape and structures is consistent with
the objectives of the Zoning Ordinance.
2. The siting and operation of the communications facility
under the recommended conditions are consistent with the
General Plan Land Use Element policies and would not be
detrimental the public health, safety, and welfare of
persons residing or working in the area.

Planning Commission
Resolution No. 95-P46

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3. The project will be required to comply with specific conditions which are intended to mitigate view and public safety impacts over the term of the use. The project is required to implement new available technologies in order to insure against any health risks and to further reduce its visual impact.

WHEREAS, the Planning Commission finds that there is no substantial evidence, in light of the whole public record considered by the Commission, that the project, as conditioned, may have a significant effect on the environment, and a Negative Declaration is hereby adopted.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission does hereby APPROVE Conditional Use Permit C-17-95 subject to the following conditions:

Building:

1. Applicable Building Codes and Ordinances shall be based on the date of submittal for Building Department plan check.
2. The granting of approval under this action shall in no way relieve the applicant/project from compliance with all State and local building codes.
3. Site development, parking, access into buildings and building interiors shall comply with C.A.C. Title 24, Part 2 (Handicapped Access - Nonresidential buildings - O.S.A.).
4. Application for Building Permit will not be accepted for this project until plans indicate that they have been prepared by a licensed design professional (Architect or Engineer). The design professional's name, address, phone number, State license number and expiration date shall be printed in the title block of the plans.
5. All new outdoor lighting shall comply with all City codes and ordinances in effect at the time of building permit issuance including light pollution control measures.

Engineering:

6. Design and construction of all improvements shall be in accordance with standard plans, specifications of the City of Oceanside and subject to approval by the City Engineer.

Fire:

7. Plans shall be submitted to the Fire Prevention Bureau for plan check review and approval prior to the issuance of building permits.

Planning Commission
Resolution No. 95-P46

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8. Fire extinguishers shall be shown on the plans submitted for plan check.

Planning:

9. This Conditional Use Permit is granted for the following use only: a cellular communication facility consisting of an 60-foot tall antenna pole tower and a 360 square foot equipment building. Any change in the use or expansion of the activities beyond what has been approved by the Planning Commission will require a revision to the Conditional Use Permit or a new Conditional Use Permit.

The implemented Conditional Use Permit is valid for five years, beginning on the date of approval, and is subject to possible extension pursuant to the provisions of the Zoning Ordinance. The Conditional Use Permit is subject to review by the Planning Commission from the date of commencement of operations to determine the project's compatibility with surrounding land uses. The Commission may add new conditions and/or delete and/or modify existing conditions as it deems necessary to protect the general health, safety and welfare of residents in the area or surrounding land uses.

10. This Conditional Use Permit shall be called for review by the Planning Commission if complaints are filed and verified as valid by the Planning Director or the Code Enforcement Officer concerning the violation of any of the approved conditions or assumptions made by the application.

11. This Conditional Use Permit shall expire on October 9, 1997 unless implemented as required by the Zoning Ordinance.

12. If required, a letter of clearance from the affected school district in which the property is located shall be provided as required by City policy at the time building permits are issued.

13. If required, a public facilities fee shall be paid as required by City policy at the time building permits are issued.

14. Prior to the transfer of ownership and/or operation of the use, the owner shall provide a written copy of the application, staff report, and resolution for the project to the new owner and or operator. This notification's provision shall run with the life of the project.

15. Failure to meet any conditions of approval for this development shall constitute a violation of the Conditional Use Permit.

Planning Commission
Resolution No. 95-P46

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16. Unless expressly waived, all current zoning standards and City ordinances and policies in effect at the time building permits are issued are required to be met by this project. The approval of this project constitutes the applicant's agreement with all statements in the Description and Justification and other materials and information submitted with this application, unless specifically waived by an adopted condition of approval.
17. A covenant or other recordable document approved by the City Attorney shall be prepared by the applicant and recorded prior to the issuance of building permits. The covenant shall provide that the property is subject to this Resolution, and shall generally list the conditions of approval.
18. Prior to the issuance of building permits, compliance with the applicable provisions of the City's anti-graffiti (Ordinance No. 93-19/Section 20.25 of the City Code) shall be reviewed and approved by the Planning Department. These requirements, including the obligation to remove all graffiti within 24 hours, shall be noted on the Landscape Plan (if applicable) and shall be recorded in the form of a covenant affecting the subject property.
19. The number of dish-type antennas shall be limited to three and their individual diameters shall be limited to 6 feet.
20. The maximum height of the antenna structure, including antenna mounts, is limited to 60 feet above the existing finished grade of site.
21. The permittee shall be required to cooperate with other communications companies in co-locating additional antenna equipment on the antenna tower. The permittee shall exercise good faith in sharing the permitted facility, provided such shared use does not impair the operations of the permitted use. The City may require an independent technical study, to be prepared at the expense of the permittee, to determine if any technical difficulties exist as an impairment to the shared use of the facility.
22. The permittee shall exercise a good faith effort to incorporate the best available equipment technology to effect a reduction in the visual obtrusiveness of the approved antenna equipment. The change-out and retrofit of antenna equipment shall be conducted within a reasonable amount of time after such equipment becomes available and achieves common use at similar facilities. At the request of the City, the permittee shall provide an independent technical analysis to determine the permittee's diligence in exercising this condition.

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Water Utilities:

26. The developer shall be responsible for developing all water and sewer facilities necessary to this property. Any relocation of water or sewer lines are the responsibility of the developer.

PASSED and ADOPTED on October 9, 1995 by the following vote, to wit:

AYES: Altamirano, Bockman, Frazier, Price, Schaffer

NAYES: None

ABSENT Caballero, Messinger

ABSTAIN: None

Reinaldo V. Altamirano
Reinaldo V. Altamirano, Chairman

ATTEST:

Michael J. Blessing
Michael J. Blessing, Secretary

I, MICHAEL J. BLESSING, Secretary of the Oceanside Planning Commission, hereby certify that this is a true and correct copy of Resolution No. 95-P46.

Dated: 9 Oct '95

MICHAEL J. BLESSING, Secretary
OCEANSIDE PLANNING COMMISSION

Chris Harrison

From: Jamie T. Hall [jamie.hall@channellawgroup.com]
Sent: Monday, September 21, 2009 3:57 PM
To: Jerry Hittleman
Cc: Leslie M. Gallagher; Richard Greenbauer; Chris Harrison; 'James Kelly'; 'Robert Jystad'
Subject: Revocation of C-17-95, C-C-45-04, & V-21-04, et. all
Attachments: Footing for New Stealth Pole.pdf; Installed Block Wall.pdf; Utility Undergrouding.pdf; New Stealth Pole and Landscaping.pdf; Landscaping.pdf

Dear Mr. Hittleman:

American Tower Corporation ("ATC") has made great strides implementing this redevelopment project. I am drafting this e-mail to give you a quick update on these efforts and to respectfully ask for staff's support of a one month continuance on the revocation hearing. The following is a summary of where ATC is to-date in regards to construction activity:

- The utility undergrounding work has been completed and the existing wooden utility pole has been converted into a bollard (see attached picture).
- Landscaping has been installed at the site (see attached picture). At the City's request, ATC met with the City's Landscape Engineer, Delia Juncal, this past Friday, September 18th to discuss changing the landscaping in the ROW. ATC agreed to change the tree species that will be installed in the ROW and will be filing a revised landscape plan with the City to formalize this change.
- The block wall for the facility compound has been constructed and the footing for the new stealth pole has been completed (see attached pictures).
- The stealth, custom-fabricated mono-eucalyptus pole has arrived on site (see attached picture). ATC had projected that the stealth tree would be erected prior to the September 28th hearing. However, ATC learned that an updated FCC/FAA regulatory review would need to be conducted once again because the extra 'foliage' for the stealth tree increases the uppermost height of the structure. In other words, the reports commissioned in 1995 for the existing monopole are no longer adequate. As a result, ATC has responded by commissioning an expedited National Historic Preservation Act report (a so-called "SHPO" report mandated by 47 CFR Subpart 1, § 1.1307). As part of this process, ATC must notify federally recognized tribes and state and local preservation officers of the project to confirm that there are no negative impacts on historic and/or cultural assets. ATC is required to give these parties a reasonable time period to respond. ATC expects this process to be completed by October 9th. After this, FCC clearance can be obtained for the new structure. Additionally, ATC is awaiting an AM study, which is required by the FCC. The Federal Communications Commission requires that at the time of construction, operators demonstrate that their site(s) do not adversely affect the patterns of nearby AM stations. This is expected to be completed by September 29th.

In sum, ATC and Verizon Wireless are making substantive progress on this site and continue to implement site improvements as rapidly as possible. ATC fully expected the redevelopment to be completed prior to the September 28th hearing, however, the new stealth design has triggered the need for additional review as required by the FCC/FAA. ATC was only recently alerted to this fact and has rapidly moved to commission expedited reports. ATC expects this process to be completed by October 9th and the redevelopment to be completed by Friday, October 25th. ATC respectfully suggests that under the circumstances that a one month continuance makes sense and asks for staff's support on this request.

I am available to answer any questions you may have or to provide further documentation.

I look forward to hearing from you at your earliest convenience.

Regards,

Please note new address effective September 14, 2009

Jamie T. Hall

Channel Law Group, LLP
207 E. Broadway, Suite 201
Long Beach, CA 90802
Direct: (310) 982-1760
Fax: (562) 216-5090
Email: jamie.hall@channellawgroup.com
Website: www.channellawgroup.com

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Please consider the environment before printing this email

From: Chris Harrison [mailto:CHarrison@ci.oceanside.ca.us]
Sent: Monday, September 21, 2009 11:27 AM
To: jamie.hall@channellawgroup.com
Cc: Leslie M. Gallagher; Jerry Hittleman; Richard Greenbauer
Subject: Revocation of C-17-95, C-C-45-04, & V-21-04, et. all

Mr. Hall: The purpose of this e-mail is to remind you that on Monday, September 28, 2009 the City of Oceanside Planning Commission will consider the revocation of the above referenced applications due to non-compliance with the Conditions of Approval and associated Planning Commission Resolutions of Approval as established at the August 10, 2009 Planning Commission hearing.

Leslie M. Gallagher, Deputy City Attorney II, asked me to forward the following information to you regarding meeting procedures for Monday, September 28, 2009:

- 1) The Applicant has the right and ability to submit written arguments with any evidence they want considered; but
- 2) The written submittals and evidence must be received by Tuesday, September 22, 2009, and, unless they can show it wasn't previously available, nothing new will be accepted at the hearing;
- 3) The hearing will only be to allow oral summary of their already submitted written statements (which needs to be provided to the full decision making body far enough in advance to say they've fully read it), and to cross-examine any witnesses they wish;
- 4) The applicant will be allowed 20 minutes to summarize their positions as an outer limit on direct presentation (exclusive of cross, if asked for); And,
- 5) If there are any members of the public wishing to comment on the matter, the public comments are not evidence, and will not be treated as such, but viewed more as policy statements or requests by non-parties.

If you have any questions, please do not hesitate to contact us.

Chris Harrison
Planning Consultant



Wooden Utility Pole providing electrical service has been converted into a bollard and the utility line to the site has been undergrounded.

Landscaping has been installed. At the request of the City's Landscape Engineer, ATC met with the City on site on Friday, September 18th to discuss changing the species of landscaping in the ROW. ATC agreed to these changes and will be filling a revised landscape plan with the City to formalize this change.



The block wall for the facility compound has been constructed.



The footing for the new stealth pole has been installed.



New Stealth Pole on site and awaiting to be installed pending completion of required FCC/FAA regulatory review



Chris Harrison

From: Jamie T. Hall [jamie.hall@channellawgroup.com]
Sent: Tuesday, September 22, 2009 6:59 PM
To: Chris Harrison
Cc: Leslie M. Gallagher; John Mullen; Richard Greenbauer; 'Karmen Rajamani'; 'James Kelly'; 'Robert Jystad'; Jerry Hittleman
Subject: RE: Revocation of C-17-95, C-C-45-04, & V-21-04, et. all
Attachments: FINAL Harrison Letter re Revocation, 9.22.09.pdf

Dear Mr. Harrison:

Attached please find American Tower Corporation's written evidence associated with the revocation hearing scheduled for Monday, September 28th. As detailed in the attached letter, ATC reserves the right to supplement this evidence up to and during the Planning Commission hearing.

Please note that ATC is working diligently to complete the site improvements by September 28th. Indeed, upon further regulatory analysis, it appears that we may be able to move forward with the tower erection after all. We will be updating the Planning Commission on the status of this project later in the week. Please don't hesitate to contact me with questions or comments.

Regards,

Please note new address effective September 14, 2009

Jamie T. Hall
Channel Law Group, LLP
207 E. Broadway, Suite 201
Long Beach, CA 90802
Direct: (310) 982-1760
Fax: (562) 216-5090
Email: jamie.hall@channellawgroup.com
Website: www.channellawgroup.com

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Please consider the environment before printing this email

From: Jamie T. Hall [mailto:jamie.hall@channellawgroup.com]
Sent: Tuesday, September 22, 2009 10:45 AM
To: 'Jerry Hittleman'
Cc: 'Leslie M. Gallagher'; 'John Mullen'; 'Richard Greenbauer'; 'Chris Harrison'
Subject: RE: Revocation of C-17-95, C-C-45-04, & V-21-04, et. all

Dear Mr. Hittleman:

This is unfortunate news. ATC will be providing additional documentation to the City later today via e-mail and/or fax.

Please note new address effective September 14, 2009

Jamie T. Hall
Channel Law Group, LLP
207 E. Broadway, Suite 201
Long Beach, CA 90802
Direct: (310) 982-1760
Fax: (562) 216-5090
Email: jamie.hall@channellawgroup.com
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Please consider the environment before printing this email

From: Jerry Hittleman [<mailto:JHittleman@ci.oceanside.ca.us>]
Sent: Tuesday, September 22, 2009 9:32 AM
To: jamie.hall@channellawgroup.com
Cc: Leslie M. Gallagher; John Mullen; Richard Greenbauer; Chris Harrison; James Kelly; Robert Jystad
Subject: RE: Revocation of C-17-95, C-C-45-04, & V-21-04, et. all

Dear Mr. Hall,

Thank you for your response and update on the progress of the work at the site. However, we will proceed with the Revocation Hearing and the information below will be attached to the staff report. In addition, you may present this information to the Planning Commission at their September 28th Hearing along with pictures and any supporting documentation. The Planning Commission will make their decision based on this information as well as any public testimony presented at the hearing.

Please let me know if you have any additional questions.

Sincerely,

Jerry Hittleman, City Planner

City of Oceanside
Development Services Department
Planning Division
300 North Coast Highway
Oceanside, CA 92054
(760) 435-3535 phone
(760) 754-2958 fax
jhittleman@ci.oceanside.ca.us

From: Jamie T. Hall [<mailto:jamie.hall@channellawgroup.com>]
Sent: Monday, September 21, 2009 3:57 PM
To: Jerry Hittleman
Cc: Leslie M. Gallagher; Richard Greenbauer; Chris Harrison; 'James Kelly'; 'Robert Jystad'
Subject: Revocation of C-17-95, C-C-45-04, & V-21-04, et. all

Dear Mr. Hittleman:

American Tower Corporation ("ATC") has made great strides implementing this redevelopment project. I am drafting this e-mail to give you a quick update on these efforts and to respectfully ask for staff's support of a one month continuance on the revocation hearing. The following is a summary of where ATC is to-date in regards to construction activity:

- The utility undergrounding work has been completed and the existing wooden utility pole has been converted into a bollard (see attached picture).
- Landscaping has been installed at the site (see attached picture). At the City's request, ATC met with the City's Landscape Engineer, Delia Juncal, this past Friday, September 18th to discuss changing the landscaping in the ROW. ATC agreed to change the tree species that will be installed in the ROW and will be filing a revised landscape plan with the City to formalize this change.
- The block wall for the facility compound has been constructed and the footing for the new stealth pole has been completed (see attached pictures).
- The stealth, custom-fabricated mono-eucalyptus pole has arrived on site (see attached picture). ATC had projected that the stealth tree would be erected prior to the September 28th hearing. However, ATC learned that an updated FCC/FAA regulatory review would need to be conducted once again because the extra 'foliage' for the stealth tree increases the uppermost height of the structure. In other words, the reports commissioned in 1995 for the existing monopole are no longer adequate. As a result, ATC has responded by commissioning an expedited National Historic Preservation Act report (a so-called "SHPO" report mandated by 47 CFR Subpart 1, § 1.1307). As part of this process, ATC must notify federally recognized tribes and state and local preservation officers of the project to confirm that there are no negative impacts on historic and/or cultural assets. ATC is required to give these parties a reasonable time period to respond. ATC expects this process to be completed by October 9th. After this, FCC clearance can be obtained for the new structure. Additionally, ATC is awaiting an AM study, which is required by the FCC. The Federal Communications Commission requires that at the time of construction, operators demonstrate that their site(s) do not adversely affect the patterns of nearby AM stations. This is expected to be completed by September 29th.

In sum, ATC and Verizon Wireless are making substantive progress on this site and continue to implement site improvements as rapidly as possible. ATC fully expected the redevelopment to be completed prior to the September 28th hearing, however, the new stealth design has triggered the need for additional review as required by the FCC/FAA. ATC was only recently alerted to this fact and has rapidly moved to commission expedited reports. ATC expects this process to be completed by October 9th and the redevelopment to be completed by Friday, October 25th. ATC respectfully suggests that under the circumstances that a one month continuance makes sense and asks for staff's support on this request.

I am available to answer any questions you may have or to provide further documentation.

I look forward to hearing from you at your earliest convenience.

Regards,

Please note new address effective September 14, 2009

Jamie T. Hall
Channel Law Group, LLP
207 E. Broadway, Suite 201
Long Beach, CA 90802
Direct: (310) 982-1760
Fax: (562) 216-5090

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- 5) If there are any members of the public wishing to comment on the matter, the public comments are not evidence, and will not be treated as such, but viewed more as policy statements or requests by non-parties.

If you have any questions, please do not hesitate to contact us.

Chris Harrison
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*ALSO Admitted in Colorado
**ALSO Admitted in Texas
***ALSO Admitted in New York and New Jersey

September 22, 2009

VIA FACSIMILE (760) 754-2958 AND ELECTRONIC MAIL

Chris Harrison
City of Oceanside
Planning Department
300 North Coast Highway
Oceanside, CA 92054

Re: C-17-95 REV04, C-45-04, V-21-04 AMERICAN TOWER reference Selby Ridge CA-0084

Dear Mr. Harrison:

Pursuant to your email sent to me on September 21, 2009 at 11:27 a.m., the following are the written arguments American Tower Corporation ("ATC") intends on introducing at the September 28, 2009 Planning Commission hearing. Initially ATC would like to note for the record that we dispute the legality of the City's attempt to compel ATC to provide all arguments it intends on introducing at the September 28th hearing to you by September 22nd, or waive said arguments at the hearing. ATC reserves its right to respond to any information that may be included in the staff report prepared for this project and respectfully contends that the City does not have the legal right to impose such a deadline.¹ That said, ATC would like to initially update staff and the Planning Commission on the current state of the redevelopment project. Thereafter, ATC will outline the legal reasons why the revocation of ATC's permits is unlawful under both the City's Zoning Ordinance and applicable state law.²

¹ See, e.g., Section 2.1.39 of the City's Municipal Code, which outlines the evidentiary standards adopted by the City of Oceanside. Moreover, §54957.5(b)(1), (c) of the Government Code (the Brown Act) clearly contemplates evidence received up to and including the time of the hearing to be included in the public record.

² These arguments are in addition to the rationale outlined in ATC's letter to Juliana von Hacht dated August 5, 2009 (attached as Exhibit 1).

Current Status of Redevelopment Project

ATC is pleased to report that great strides have been made in implementing the Selby Ridge redevelopment project since the last Planning Commission meeting held on August 10, 2009. The following is a summary of where ATC is to-date in regards to construction activity:

- Pursuant to Condition No. 17(f) in Resolution No. 2007-P16, the utility undergrounding work has been completed and the existing wooden utility pole has been converted into a bollard (see pictures attached as Exhibit 6).
- Landscaping has been installed at the site (see Exhibit 6). At the City's request, ATC met with the City's Landscape Engineer, Delia Juncal, this past Friday, September 18th to discuss last minute changes to the landscaping in the public right-of-way ("PROW"). ATC agreed to change the tree species that will be installed in the PROW and expects to file revised landscape plans with the City on Wednesday, September 23, 2009. Pending a prompt approval by the City, ATC expects to complete the remaining landscape work by Friday, September 26, 2009.
- The block wall for the facility compound has been constructed (see Exhibit 6).
- The footing for the new stealth pole has been completed (see Exhibit 6). The stealth, custom-fabricated mono-eucalyptus pole has arrived on site (see Exhibit 6). ATC is hopeful that the pole will be erected before the upcoming hearing on Monday, September 28, 2009. As noted in ATC's letter dated August 5, 2009, ATC expected the project to be fully completed by September 21, 2009. However, a number of last minute issues came up that created a three week delay, including, for example, the drilling for the new pole footing. ATC's vendor had to call in no less than two additional drills to complete the job. Additionally, ATC was asked to revise the landscape plans for the site by the City's Landscape Engineer to ensure that all planting in the PROW conformed with applicable SDG&E standards.

In sum, ATC and Verizon Wireless have made significant progress on this site and continue to diligently pursue completion of the site improvements as rapidly as possible. ATC expects to be at or near completion of the redevelopment by the upcoming hearing before the Commission on September 28th.

Procedural Due Process

For the record, ATC would like to express its position that the restrictions placed upon presenting written evidence to the Planning Commission is unreasonable and violative of ATC's rights; including, but not limited to, its due process rights protected under the United States and California constitutions. "[D]ue process is flexible and calls for such procedural protections as the particular situation demands." *Morrissey v. Brewer* (1972) 408 U.S. 471, 481 [33 L. Ed. 2d 484, 92 S. Ct. 2593].

"[I]dentification of the specific dictates of due process generally requires consideration of

three distinct factors: First, the private interest that will be affected by the official action; second, the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and finally, the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *Mathews v. Eldridge* (1976) 424 U.S. 319, 335 [47 L. Ed. 2d 18, 96 S. Ct. 893]. In the instant matter, we believe that the factors identified in *Mathews v. Eldridge* favor ATC. First, the potential revocation of a CUP wherein much work has been done is an important private interest. Once a CUP has been acquired, a municipality's power to revoke it is limited. *Korean American Legal Advocacy Foundation v. City of Los Angeles* (1994) 23 Cal.App.4th 376, 391-392, fn. 5. Also, when a property owner incurs material expense in operating or preparing to operate a business as permitted under a conditional use permit, he or she is vested with a constitutionally protected property right. *O'Hagen v. Board of Zoning Adjustment* (1971) 19 Cal. App. 3d 151, 164-165, 96 Cal. Rptr. 484 (*O'Hagen*).

Second, in addition to other arguments presented herein, informing ATC that "written submittals and evidence must be received by Tuesday, September 22, 2009, and, unless they can show it wasn't previously available, nothing new will be accepted at the hearing" places an enormous burden on ATC to get everything to the City – particularly in light of the fact there was only one-day notice and hearing is not until September 28th. Having to prematurely articulate, gather, and forward *all* arguments to the City six days before the actual hearing on one day's notice, could deprive ATC of its due process rights. Further, giving ATC more time to get the information over to the City and/or allowing arguments to be made that were not provided in today's correspondence, would be an adequate safeguard to ATC's procedural due process rights, especially considering the fact the redevelopment work at the site is ongoing.

Finally, there is no compelling reason for the City, on such short notice, to acquire this information well before the hearing, without any regard for ATC's ability to obtain this information on one-day notice. Even assuming, *arguendo*, that there is a compelling reason for the City to acquire this information early, giving ATC more time to get the information over to the City, granting a brief continuance and/or allowing arguments to be made that were not provided in today's email, appears quite reasonable to insure its due process rights.

ATC Has Been in Close Communication with the City Throughout the Redevelopment and Has Experienced Delays Beyond its Control

ATC would like to elaborate on the circumstances leading to the delay in the implementation of this project. Staff previously prepared and submitted an outline of events at the public hearing held on August 10, 2009. However, this outline does not clearly detail all of the events that ultimately led to the delay. ATC's current Conditional Use Permit ("CUP") was granted on March 26, 2007. ATC received the fully executed permit via facsimile on April 18, 2007. ATC responded by asking for revisions to the document to accurately reflect the Planning Commission's decision. After this issue was resolved, ATC commissioned new construction drawings for this project to reflect the changes to the site plan requested by the Planning Commission on March 26, 2007. Among other things, the Planning Commission asked that the block wall be altered and that the proposed generator be moved to another location within the equipment compound area. As the

redevelopment of the site required the coordination of numerous parties, including SDG&E, Verizon Wireless, and specialized pole manufacturers, ATC sent a letter to Ms. Juliana von Hacht at the City via e-mail on June 20, 2007 notifying the City that additional time was needed to complete the redevelopment of the site and asking for clarification for the proper procedure (e.g. substantial conformance application) to grant an extension (see letter dated June 20, 2007 attached as Exhibit 2.) Ms. Von Hacht responded via e-mail stating that ATC should “suggest an alternative commitment date at this juncture.” (see e-mail dated June 26, 2007 attached as Exhibit 3). ATC responded with a letter explaining the hurdles associated with the redevelopment, citing “delays in the bidding process, re-design of th[e] site to incorporate features requested by the Commission (e.g. relocating the emergency generator, construction of a block wall, new landscaping features, etc.), and budgetary constraints.” (see letter dated June 26, 2007 attached as Exhibit 4). ATC explained why installation of landscaping after the pole replacement was warranted due to the use of large equipment during the construction process. *Id.* ATC also noted that the utility undergrounding needed to be done concurrently with the pole replacement work. *Id.* ATC projected that the project would be completed in the first quarter of 2008. *Id.*

In order to implement a rent increase for the property owner tied to the construction of a generator on site, ATC agreed to pursue a building permit for the generator while construction drawings for the site were being finalized and redevelopment details finalized for the overall pole change out. This decision was made at the urgent request of the property owner, the Oceanside Woman’s Club. As such, ATC’s agent, John Bitterly with Planning Consortium, attempted to file a building permit for the generator on or about the second week of November 2007. However, this application was not accepted for review by City staff and Ms. von Hacht subsequently issued a letter dated November 15, 2007 responding to ATC’s June letters saying, among other things, that a Management Plan needed be drafted and Landscape Plans needed to be approved “prior to the issuance of a building permit.” Pursuant to Ms. von Hacht’s letter, ATC began to fulfill these conditions with the understanding that the overall site redevelopment was being postponed for a short time while the project specific deployment constraints outlined in ATC’s June 26, 2007 letter could be ironed out. As such, Landscape Plans were submitted to the City on April 15, 2008 and after several rounds of revisions, landscape plans were finally approved on July 7, 2008. The building permit for the generator was issued on June 5, 2008.

However, as the rest of the redevelopment work (e.g. utility undergrounding, mono-eucalyptus erection, landscaping) was put into action, additional roadblocks surfaced. ATC experienced substantial difficulties in obtaining the signature of the underlying property owner on the CC&Rs, as they could not agree to the language in the City’s standard form. The property owner sought revisions to the form and their attorney began to negotiate with the City attorney on this matter. However, these modification requests were rejected by the City Attorney. On or about June 2008, ATC filed for electrical permits and building permits from the City to implement the required redevelopment. However, these applications were not processed to completion because the CC&Rs had not been recorded due to the aforementioned dispute with the property owner as to the language in the CC&Rs. This dispute created a significant delay at a time when ATC had already expended substantial resources in both time and money on the project. For example, the mono-eucalyptus tree cost ATC over \$86,000. *See* Purchase Order attached as Exhibit 5. However, ATC could not erect the structure because a building permit was not issued. Finally, only after the property owner

realized that the City was unwilling to change the CC&Rs, the property owner signed the document (but only after ATC signed a ground lease addendum between the parties which was finalized and executed on February 25, 2009). The CC&Rs were recorded on March 16, 2009 and the building permit for the redevelopment project was issued on March 25, 2009. ATC thereafter began to coordinate with the tenant at the site, Verizon Wireless, to ensure a seamless transition. ATC also had to coordinate with the applicable electric utility, SDG&E, as the redevelopment required the undergrounding of the existing electrical line serving the site. The site redevelopment work then began.

Applicable Findings for Revocation Cannot be Met

Pursuant to section 4704(D)(1-5) of the City's Zoning Ordinance, one or more of the following findings must be made before a CUP can be revoked. It is ATC's contention that none of these findings can be made, or in the alternative, if they can be made state law precludes the City from revoking ATC's CUP.

Finding #1. That the permit was issued on the basis of erroneous or misleading information or misrepresentation.

This finding clearly cannot be made as this site has been in existence for over 10 years and ATC was simply renewing the permit. There was no erroneous or misleading information nor was there any misrepresentation on the part of ATC.

Finding #2. That the terms or conditions of approval of the permit have been violated or that other laws or regulations have been violated.

The City contends that certain deadlines contained in the permit's Conditions of Approval have not been met. However, as discussed above, there were factors completely outside of the control of ATC which contributed to the deadlines being missed, not the least of which are the length of time it took to receive approval of landscape plans (nearly 3 months) and the time it took to conclude drafting of the Covenants, Conditions and Restrictions and the accompanying Management Plan (nearly a year, with the CC&Rs being recorded in March 2009). It is important to note again that the City would not issue a building permit until the CC&Rs were recorded. It seems unjust for the City to hold ATC to deadlines it could not possibly meet due to factors outside of its control, some of which were within the control of the City.

In addition, it is arguable that the City is estopped from revoking ATC's CUP because ATC has a vested right in the CUP and the City does not have good cause to revoke the permit. *Goat Hill Tavern v. City of Costa Mesa*, 6 Cal. App. 4th 1519, 1530 (Cal. App. 4th Dist. 1992) ("Interference with the right to continue an established business is far more serious than the interference a property owner experiences when denied a conditional use permit in the first instance. Certainly, this right is sufficiently personal, vested and important to preclude its extinction by a non-judicial body.")

ATC's CUP is vested because ATC has expended considerable sums of money and has completed a substantial amount of the work needed to complete the project in reliance on the CUP.

O'Hagen v. Board of Zoning Adjustment, 19 Cal. App. 3d 151, 158 (Cal. App. 1st Dist. 1971) ("Where a permit has been properly obtained and in reliance thereon the permittee has incurred material expense, he acquires a vested property right to the protection of which he is entitled." Internal citations omitted.). *Trans-Oceanic Oil Corp. v. Santa Barbara*, 85 Cal. App. 2d 776, 784 (Cal. App. 1948) ("If a permittee has acquired a vested property right under a permit, the permit cannot be revoked. The principle is stated in 9 American Jurisprudence, section 8, page 204: "By the weight of authority, a municipal building permit or license may not arbitrarily be revoked by municipal authorities, particularly where, on the faith of it, the owner has incurred material expense. Such a permit has been declared to be more than a mere license revocable at the will of the licensor. When, in reliance thereon, work upon the building is actually commenced and liabilities are incurred for work and material, the owner acquires a vested property right to the protection of which he is entitled." Internal citations omitted.).

To date, ATC has expended nearly \$200,000 to comply with the terms and conditions of the CUP. *See Exhibit 5*. In addition untold numbers of man-hours have been expended by ATC to move this project forward.

Once a permit is vested, the City may only revoke the permit if the permittee fails to comply with the terms and conditions in the permit or there is a "compelling public necessity." *Goat Hill Tavern v. City of Costa Mesa*, 6 Cal. App. 4th 1519, 1531 (Cal. App. 4th Dist. 1992) ("When a permittee has acquired such a vested right it may be revoked if the permittee fails to comply with reasonable terms or conditions expressed in the permit granted [citations] or if there is a compelling public necessity. A compelling public necessity warranting the revocation of a use permit for a lawful business may exist where the conduct of that business constitutes a nuisance." Internal citations omitted.). In addition, since this site has existed for over 10 years, the City must tread carefully in deciding to revoke a permit for alleged violation of minor deadlines the cure of which has been diligently pursued by ATC. *Bauer v. City of San Diego*, 75 Cal. App. 4th 1281, 1295 (Cal. App. 4th Dist. 1999) ("However, in order to justify the interference with the constitutional right to carry on a lawful business it must be clear the public interests require such interference and that the means employed are reasonably necessary to accomplish the purpose and are not unduly oppressive on individuals.")

As discussed above, certain factors which led to ATC's failure to comply with certain deadlines imposed in the CUP were not within ATC's control and therefore ATC should not be held culpable for violations of those terms and conditions.

Finding #3. That there has been a discontinuance of the exercise of the entitlement granted by the permit for six consecutive months.

This finding cannot be made again because the site has been in continuous use for over 10 years and therefore there has been no discontinuance of the exercise of the entitlement.

Finding #4. That the permit granted is being, or recently has been exercised contrary to the terms or conditions of such approval, or in violation of any statute, ordinance, law or regulation.

This finding cannot be made because the site has been operating pursuant to the terms and conditions of the prior permit for over 10 years and to the best of ATC's knowledge, is not in violation of any statute, ordinance law or regulation.

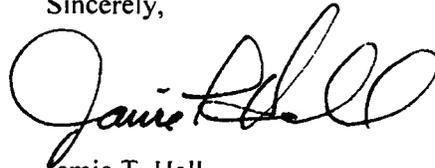
Finding #5. That the use for which the approval was granted was so exercised as to be detrimental to the public health or safety, or so as to constitute a nuisance.

This finding cannot be made because ATC's use of the site as a telecommunications facility is not detrimental to the public health or safety, nor does it constitute a nuisance. Quite the contrary, the site provides critical telecommunications services to the residents, businesses and visitors of the City. In fact, the FCC states "Public safety personnel estimate that about 50 percent of the millions of 911 calls they receive daily are placed from wireless phones, and that percentage is growing."³

Conclusion

For the reasons outlined above, ATC respectfully contends that sufficient grounds do not exist to revoke ATC's discretionary permits. ATC provides the information contained herein without waiving its rights under applicable federal and state laws. ATC reserves the right to supplement this letter with additional evidence to be presented at or prior to the hearing in this matter and expects to update the Planning Commission on the current state of the redevelopment. Should you have any questions, comments or concerns in the meantime, please feel free to contact me at 310-982-1760 or jamie.hall@channellawgroup.com.

Sincerely,



Jamie T. Hall

Attorney for American Tower Corporation

cc: Oceanside Planning Commission
James Kelly, American Tower Corporation
Karnen Rajamani, American Tower Corporation

³ FCC Consumer Facts retrieved on September 22, 2009 from <http://www.fcc.gov/egb/consumerfacts/wireless911srvc.html>.

EXHIBIT 1

Channel Law Group, LLP

100 OCEANGATE
SUITE 1400
LONG BEACH, CA 90802-4323

Phone: (310) 982-7197
Fax: (562) 216-5090
www.channellawgroup.com

ROBERT JYSTAD
JULIAN K. QUATTLEBAUM, III *
JAMIE T. HALL **
MARTHA HUDAK ***

Writer's Direct Line: (310) 209-8515
rjystad@channellawgroup.com

*ALSO Admitted in Colorado
**ALSO Admitted in Texas
***ALSO Admitted in New York and New Jersey

August 5, 2009

VIA FACSIMILE (760) 754-2958 AND ELECTRONIC MAIL

Juliana von Hacht
City of Oceanside
Planning Department
300 North Coast Highway
Oceanside, CA 92054

**Re: C-17-95 REV04, C-45-04, V-21-04 AMERICAN TOWER reference Selby Ridge
CA-0084**

Dear Ms. Von Hacht:

I am in receipt of your letter dated August 3, 2009 ("Notice") in which you notified my colleague, Jamie Hall, that the City Planner is reporting to the Planning Commission next Monday, August 10, on a recommendation to set a hearing date for revocation or modification of the permits applicable to the above-referenced wireless communications facility ("Facility"). We appreciate being informed of this item and hope to communicate to you and to the Planning Commission that the threat of revocation/modification is both unnecessary and contrary to the express terms of the building permit. American Tower has begun construction and, to that end, has been in regular discussions this summer with City building inspector David Sturgill and code enforcement agent Tom Courier. These City representatives are both aware of the status of the project and are consulting with American Tower as it moves to complete the project in short order.

It would appear from the Notice that your office has not been apprised of those developments, details of which are included in this letter. If you were aware of how close American Tower is to completing the project, you would realize that the Notice is unnecessary. The building permit itself gives us twelve months to start the project and we have been able to begin construction in less than five months with the hope of completing construction the next few weeks.

I. Selby Ridge: Construction Status

American Tower has hired a general contractor for this project who is already on site. In late June, the contractor, SAC Wireless, commenced construction of the Facility by preparing the footing for the new wall being installed on the lot. The contractor then requested a footing inspection and Mr. Sturgill informed SAC that the location of the caisson proposed to hold the new Facility needed to be slightly shifted to ensure sufficient room for the footing. SAC and Mr. Sturgill were in touch as recently as yesterday and Mr. Sturgill has authorized the construction of the caisson.

In the meantime, Tom Courier from Code Enforcement had spoken in June both to American Tower and to Verizon inquiring about the status of the project. He then contacted SAC and has been in touch regularly with the contractor about the status of the build. He is aware of the issues surrounding the caisson and gave no indication, verbally or in writing, the City would be moving forward with revocation/modification proceedings.

SAC is targeting August 24 as the date to complete their part of the project, that is, construction of the compound wall, erection of the new mono-eucalyptus and removal of the existing monopole, installation of antennas and lines and cutover to the new Facility.

Since obtaining the building permit on March 25, American Tower has expended close to \$100,000 on this project and is accruing more expenses as construction moves forward. (See invoices attached as Exhibit A.) The new mono-eucalyptus pole has been fabricated and is in storage waiting delivery. The landscape plan has been finalized and is projected for completion by September 21. Undergrounding exposed lines is being handled by Verizon and will be completed by cutover.

In summary, the project will be completed in its entirety by the time of the current proposed hearing date, which is identified as September 28, 2009 in the Staff Report (attached as Exhibit B).

II. Selby Ridge: Permit Status

The construction of the new Facility at Selby Ridge is proceeding in a timely manner under the terms of the resolutions and permits issued for the Facility. According to P.C. Res. No 2007-P16, par. 15, CUP No. C-45-04 and Var. No. V-21-04 "shall lapse two years after the effective date of approval, unless they are established in accordance with Sec. 4108 of the Zoning Ordinance." A building permit was issued to Verizon to install the back-up generator pursuant to V-21-04 on June 5, 2008 and it has been installed. See attached Exhibit C. CUP Nos. C-17-95Rev04 and C-45-04 were issued to American Tower as authorization to replace the existing facility with a new Facility and to exceed the height limit established in the zone. These permits were issued on March 26, 2007 and on March 25, 2009 the City issued a building permit to American Tower to remove the existing monopole and replace with a mono-eucalyptus, new wall and steel gate. See attached Exhibit D.

According to Oceanside Zoning Ordinance § 4108, a use permit or variance shall lapse two

years after the effective date of the approval unless “a building permit has been issued, and construction diligently pursued.” There is no dispute that ATC obtained the required building permit for construction of the site and, as described above, has not only diligently pursued construction, but anticipates completion of construction even before a revocation/modification hearing is proposed to be held. Even if the City attempted to argue that ATC has not “diligently” pursued construction, the express terms of the building permit issued to ATC prove otherwise:

“EXPIRATION – This permit will expire if the work has not *started* within one calendar year from the issuance date, or if the work starts and then stops for a period of six months...
COMPLETION – All work authorized by this permit must be completed within 3 years from the issuance date. A one year extension may be granted by City Council action.”

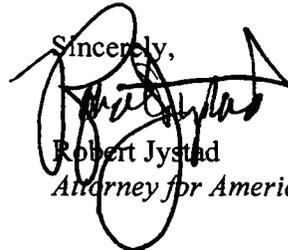
In other words, excluding permissible extensions, the length of time permitted to START work after a City issues a building permit is one year and the length of time to COMPLETE a project after a City issues a building permit is three years. Given these timeframes, the City’s threat to revoke/modify ATC’s CUPs and variance after holding the building permit for only five months is patently unreasonable.

P.C. Res. No 2007-P16 did include deadlines for undergrounding of electrical and for installing landscaping, but, despite ATC’s efforts to meet these deadlines, these deadlines did not consider the detrimental impacts of construction and the efforts would have been wasted. Moreover, much of the delay was beyond ATC’s control. A building permit was not issued sooner because the City insisted that other zoning items be completed prior to the issuance of a building permit, including, among other items, the recording of a document that required the signature of the property owners. That said, ATC is still within the permitted time frames. In addition, as outlined above, substantial resources have already been expended and actual construction has commenced and will be completed shortly.

III. Conclusion

For the reasons outlined above, ATC respectfully requests that the City permit ATC to complete the project. ATC can assure the City that the project will be completed in the next few weeks notwithstanding the deadlines enumerated in the permits. Should you have any questions, comments or concerns in the meantime, please feel free to contact me at 310-209-8515 or, my colleague, Jamie Hall, at 310-982-1760 or jamie.hall@channellawgroup.com.

Sincerely,



Robert Jystad

Attorney for American Tower Corporation

cc: Oceanside Planning Commission
James Kelly, American Tower Corporation
Karmen Rajamani, American Tower Corporation

Exhibit A



AMERICAN TOWER®
 American Tower Corporation
 116 Huntington Avenue, 11th Floor
 Boston, MA 02116
 PH: 617.375.7500 FAX: 617.375.7575

VENDOR:
 SOLAR COMMUNICATIONS INT'L INC
 8885 RIO SAN DIEGO DRIVE
 SUITE 207
 SAN DIEGO, CA 92108
 United States

PURCHASE ORDER # 158310	REVISION 0	PAGE 1 of 1
This Purchase Order Number must appear on all order acknowledgements, packing lists, cartons, and correspondence.		
SHIP TO:	American Tower Corp. 900 Circle 75 Pkwy. Suite 300 Atlanta, GA 30339 United States	
BILL TO:	PO BOX 2009 Woburn, MA 01801 United States	
FED ID#:	33-0811450	

SUPPLIER NO. 32308	PROJECT # 28630	DATE OF ORDER/BUYER 21-JUL-09 Maxwell, L	REVISED DATE/BUYER
PAYMENT TERMS Net 45	FREIGHT TERMS	SHIP METHOD	F.O.B FOB DESTINATION
REQUISITION PREPARER Hawkins, Lemuel D	DEPT USE ONLY - REQ # 263288	REQUESTOR/DELIVERY Hawkins, Lemuel D	CONFIRM TO/TELEPHONE

1	Item # 28630 - Verizon @ Selby Ridge Rebuild CA, CA 310948 - Per you quote for monopole fabrication. o SHIP TO: Address at top of page	22-JUL-09	1.00	EA	86,979.73	86,979.73	Y
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For questions regarding this PO, please contact your Project Manager					TOTAL	86,979.73
					_____ AUTHORIZED SIGNATURE	
This is a fully authorized Purchase Order which has been through the automated ATC approval Process.						
Please Refer to the following page for the Terms and Conditions of this Purchase Order						

1. **AGREEMENT.** This Purchase Order (Order), including the terms and conditions on the face and reverse side hereof and any attachments hereto, contains the complete agreement between American Tower, Inc. (ATC) and the Seller and supersedes all prior agreements.
2. **TIME.** Time is of the essence of this Order.
3. **ACCEPTANCE.** This Order shall be acknowledged and becomes a binding contract subject to the terms set forth herein when acknowledged in writing or upon commencement of performance by Seller. No change in the Order shall be valid unless agreed to in writing and signed by an authorized representative of ATC.
4. **DEFINITIONS.** As used herein, the term "contract" shall mean this Order, and the term "goods" shall mean and include all supplies, materials, work, services, equipment or other items whatsoever to be furnished by Seller under this Order.
5. **INSPECTION.** Notwithstanding any prior inspection or test, payment or receiving document, goods are subject to final inspection and acceptance at the destination for delivery stated herein. Payment for goods shall not constitute acceptance.
6. **WARRANTIES.** (a) Notwithstanding inspection and acceptance by ATC of goods furnished under this Order or any provision of this Order concerning the conclusiveness thereof, Seller warrants that all goods furnished will be merchantable quality, will be fit for the purpose intended, and will be free from defects in material, workmanship and design, and conform in all aspects with the specifications and requirements of this Order.
(b) Seller further warrants that all material and equipment furnished will be of the highest workmanlike quality and acceptable to ATC.
(c) All Warranties hereunder shall be for a period of one (1) year from the date of delivery or the placement in service of the goods, whichever is later, and shall be warranties of future performance for each warranty year.
(e) In the event of a breach of warranty hereunder, ATC may, at no increase in Order price or other cost to ATC, either: (1) require the prompt correction or replacement of defective or otherwise nonconforming goods or parts thereof, along with such new or revised data as is associated with the corrective action taken; or (2) retain such goods, whereupon the price thereof shall be reduced by an amount equitable under the circumstances; or (3) correct or replace such goods with similar goods, by contract or otherwise, and charge to Seller for all additional costs caused thereby to ATC.
(f) Any goods or parts thereof corrected or furnished in replacement pursuant to this clause shall be subject to all the provisions of this clause to the same extent as goods initially delivered. The warranty with respect to such goods or parts thereof shall be equal in duration to the initial warranty period and shall run from the date of delivery or placement in service of such corrected or replaced goods, whichever is later.
(g) ATC approval of Seller-generated designs, drawings or other technical documents shall in no way relieve Seller of its obligations under this or any other clause of this Order.
7. **UNDERTAKINGS.** In all cases wherein ATC is a prime or subcontractor to an Owner and the items hereunder are required by the Prime Contract, then Seller undertakes to ATC all obligations with respect to the items as ATC as subcontractor or as prime contractor, as the case may be, undertakes to the prime contractor or the Owner signed by an authorized representative of ATC.
8. **SCHEDULE & EXPEDITING.** Seller shall keep ATC informed as to the status of the items hereunder and Seller's schedule of activities to assure delivery by the time required herein. Without any responsibility to do so, ATC reserves the right to take steps to expedite acquisition, production and/or shipment of the items, if, in ATC's sole judgment, delivery of the completed items by the date required becomes doubtful. Seller shall reimburse ATC for all costs it may incur in expediting acquisition, production or shipment of the items.
9. **CHANGES.** ATC reserves the right at any time prior to delivery, by written order, to cancel, suspend, revise or change the goods or quantity of goods to be furnished by Seller hereunder, and in no event shall ATC be responsible for loss of anticipated profits or consequential damages. In the event of a revision to this Order by ATC, ATC shall be responsible only for the price of the goods accepted. Any increase in the price of the goods resulting from a revision is subject to the approval of ATC. Failure to agree to any adjustment shall be a dispute within the meaning of the "Disputes" clause hereof. Pending resolution of the dispute, the Seller shall not be excused from proceeding with the order as changed.
10. **BANKRUPTCY.** ATC may terminate this Purchase Order in whole or in part by written notice: (a) if the Seller shall become insolvent or make a general assignment for the benefit of creditors; or (b) if a petition under any bankruptcy act or similar statute is filed by or against the Seller and is not vacated within ten (10) days after it is filed.
11. **PRICES.** Seller warrants that the prices of the items covered by this Order are not in excess of Seller's lowest prices in effect on the date of this Order for comparable quantities of similar items or services, and are not in excess of prices charged by Seller for similar items to Seller's most favored customers.
12. **INVOICING AND PAYMENT.** A separate invoice shall be issued for each shipment. Unless otherwise specified, an invoice shall not be issued prior to shipment of items and payment will not be made prior to receipt and acceptance of the items and a correct invoice. Credit and discount periods shall be computed from the date of receipt of the correct invoice to the date ATC's check is mailed. Unless freight and other charges are separately itemized, discount shall be taken on full amount of invoice.
13. **ASSIGNMENT.** Neither this Order nor any interest herein nor claim thereunder shall be assigned or transferred by Seller, except as expressly authorized in writing by ATC.
14. **ADVERTISING AND PUBLICITY.** Seller shall not, without written consent of ATC, publish the fact that ATC has placed this order with Seller, or release any information relative thereto. Seller shall not use the name of ATC or its parent organization, American Tower, Inc., or affiliates in any advertising or promotional literature.
15. **PATENT INFRINGEMENT.** Seller agrees to indemnify, defend and hold harmless ATC, its officers, agents, employees, successors and assigns against loss, damage or liability, including costs, expenses and attorney's fees on account of any suit, claim, judgment or demand involving the alleged infringement of any patent rights in the manufacture, delivery, use or disposition of any item or material supplied hereunder.
16. **INDEMNITY.** The Seller shall defend, save and hold ATC harmless from and against all suits or claims arising out of or relating to manuals, writings or the design of the goods furnished hereunder whether based upon any alleged injury to or death of any persons or damage to property that may occur, or that may be alleged to have occurred in the course of the performance of the work or thereafter, whether such claims shall be made by an employee of the Seller, or by any other person. The Seller shall, at its own cost and expense, pay all costs incurred by ATC in connection therewith. If any judgment shall be rendered against ATC in any such action, the Seller shall satisfy and discharge the same without cost or expense to ATC.
17. **CONSEQUENTIAL DAMAGES.** Notwithstanding any other provision herein, ATC shall under no circumstances be responsible to Seller for any consequential, indirect or special damages.
18. **DELIVERY.** Delivery shall be to the project site Free on Board (F.O.B.) unless otherwise designated in this Order.
19. **TITLE AND RISK OF LOSS.** Title to and risk of loss on all goods shipped by Seller to ATC shall not pass to ATC until ATC inspects and accepts such goods at the location designated by ATC.
20. **TAXES.** Except as otherwise provided in this Order, the prices herein include all federal, state and local taxes applicable to the goods purchased herein. All taxes shall be listed separately on Seller's invoice. If not listed, Seller assumes responsibility for their payment and shall indemnify and hold ATC harmless from all tax liability arising out of or related to the Order.
21. **DISPUTES.** Either party may litigate any dispute arising under or related to this Order or the breach thereof in a court of competent jurisdiction. Pending settlement of any such dispute by agreement or a final judgment, Seller shall proceed diligently with the performance hereof according to ATC's direction.
22. **COMPLIANCE WITH LAWS.** Seller agrees to comply with all applicable local, state and federal laws and executive orders and regulations issued pursuant thereto and agrees to indemnify ATC against any liability, loss, cost, damage or expense by reason of Seller's violation of this provision.
23. **GOVERNING LAW.** This Order shall be governed by the laws of the Commonwealth of Massachusetts.
24. **SEVERABILITY.** If any provision of this Order, or any part thereof, shall be invalid or unenforceable, such provision or part shall be deemed severed, and the remainder hereof shall be given full force and effect.
25. **GOVERNMENT WORK.** Seller agrees that any part of the articles or work hereby ordered which is intended for use on Government work shall, at all times, be subject to such changes, suspensions, terminations, and cancellation of the uncompleted portion as the Government requires. Seller shall not be entitled to any additional compensation for complying with such acts by the Government unless compensation is paid by the Government to the prime contractor for Seller's additional costs, and only to the extent compensation is so paid. Seller agrees to comply with all applicable statutes and valid governmental rules, regulations, requirements, provisions and conditions required by law to be included in this order, which are expressly incorporated herein.
26. **MISCELLANEOUS PROVISIONS.** A Seller shall comply with the Fair Labor Standards Act, particularly sections 6, 7 and 12 thereof, and all other applicable Federal, state and local laws, regulations and orders and shall, upon request, furnish to Buyer a certificate to such effect. The Equal Opportunity clause in Title 41, Part 60-1.4 of the Code of Federal Regulations (Paragraphs 1 through 7 of President's Executive Order 11246), the Employment of the Handicapped clause in Title 20, Part 741.3 of the Code of Federal Regulations, listing of Employment Openings for Veterans clause in Title 41, Part 50-250.2, of the code of Federal Regulations and Disabled Veterans and Veterans of the Vietnam Era Clause in Title 41, Part 60-250, of the Code of Federal Regulations are incorporated herein by reference if and to the extent applicable. When applicable, Seller shall not discriminate against any employee or applicant for employment because of physical or mental handicap; and shall establish an affirmative action program applicable thereto, all as set forth in Part 741, Subchapter C, Chapter VI, Title 20 of the Code of Federal Regulations.
27. **ACCEPTANCE OF ORDER.** By accepting this Order, Seller accepts all terms and conditions printed on both the face and reverse side hereof, and to all riders and attachments hereto issued by ATC, notwithstanding any proposal of the Seller for additional or different terms which shall not become part of this Order unless expressly agreed to in writing by ATC.



AMERICAN TOWER
 American Tower Corporation
 116 Huntington Avenue, 11th Floor
 Boston, MA 02116
 PH: 617.375.7500 FAX: 617.375.7575

VENDOR:
 BOOTH & SUAREZ ARCHITECTURE AND PLANNING
 PO Box 4651
 Carlsbad, CA 92018
 United States

PURCHASE ORDER # 133847	REVISION 1	PAGE 1 of 1
This Purchase Order Number must appear on all order acknowledgements, packing lists, cartons, and correspondence.		
SHIP TO:	American Tower Corp. 900 Circle 75 Pkwy. Suite 300 Atlanta, GA 30339 United States	
BILL TO:	PO BOX 724267 Atlanta, GA 31139 United States	
FED ID#:	330336085	

SUPPLIER NO. 55072	PROJECT # 28630	DATE OF ORDER/BUYER 09-JUN-08 Cole, T	REVISED DATE/BUYER 04-DEC-08
PAYMENT TERMS Net 45	FREIGHT TERMS	SHIP METHOD	F.O.B FOB DESTINATION
REQUISITION PREPARER Hawkins, Lemuel D	DEPT USE ONLY - REQ #	REQUESTOR/DELIVERY Hawkins, Lemuel D	CONFIRM TO/TELEPHONE

1	Item # 28630 - Verizon @ Selby Ridge Rebuild CA, CA 310948 Per your quote for A&E services. o SHIP TO: Address at top of page	10-JUN-08		USD		7,750.00	Y
2	Item # 28630 - Verizon @ Selby Ridge Rebuild CA, CA 310948 Per your quote for A&E services. o SHIP TO: Address at top of page	05-DEC-08		USD		694.78	Y

For questions regarding this PO, please contact your Project Manager	TOTAL 8,444.78
---	-----------------------

	_____ AUTHORIZED SIGNATURE
--	-------------------------------

This is a fully authorized Purchase Order which has been through the automated ATC approval Process.
 Please Refer to the following page for the Terms and Conditions of this Purchase Order

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4. **DEFINITIONS.** As used herein, the term "contract" shall mean this Order, and the term "goods" shall mean and include all supplies, materials, work, services, equipment or other items whatsoever to be furnished by Seller under this Order.
5. **INSPECTION.** Notwithstanding any prior inspection or test, payment or receiving document, goods are subject to final inspection and acceptance at the destination for delivery stated herein. Payment for goods shall not constitute acceptance.
6. **WARRANTIES.** (a) Notwithstanding inspection and acceptance by ATC of goods furnished under this Order or any provision of this Order concerning the conclusiveness thereof, Seller warrants that all goods furnished will be merchantable quality, will be fit for the purpose intended, and will be free from defects in material, workmanship and design, and conform in all aspects with the specifications and requirements of this Order.
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(f) Any goods or parts thereof corrected or furnished in replacement pursuant to this clause shall be subject to all the provisions of this clause to the same extent as goods initially delivered. The warranty with respect to such goods or parts thereof shall be equal in duration to the initial warranty period and shall run from the date of delivery or placement in service of such corrected or replaced goods, whichever is later.
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22. **COMPLIANCE WITH LAWS.** Seller agrees to comply with all applicable local, state and federal laws and executive orders and regulations issued pursuant thereto and agrees to indemnify ATC against any liability, loss, cost, damage or expense by reason of Seller's violation of this provision.
23. **GOVERNING LAW.** This Order shall be governed by the laws of the Commonwealth of Massachusetts.
24. **SEVERABILITY.** If any provision of this Order, or any part thereof, shall be invalid or unenforceable, such provision or part shall be deemed severed, and the remainder hereof shall be given full force and effect.
25. **GOVERNMENT WORK.** Seller agrees that any part of the articles or work hereby ordered which is intended for use on Government work shall, at all times, be subject to such changes, suspensions, terminations, and cancellation of the uncompleted portion as the Government requires. Seller shall not be entitled to any additional compensation for complying with such acts by the Government unless compensation is paid by the Government to the prime contractor for Seller's additional costs, and only to the extent compensation is so paid. Seller agrees to comply with all applicable statutes and valid governmental rules, regulations, requirements, provisions and conditions required by law to be included in this order, which are expressly incorporated herein.
26. **MISCELLANEOUS PROVISIONS.** A Seller shall comply with the Fair Labor Standards Act, particularly sections 6, 7 and 12 thereof, and all other applicable Federal, state and local laws, regulations and orders and shall, upon request, furnish to Buyer a certificate to such effect. The Equal Opportunity clause in Title 41, Part 60-1.4 of the Code of Federal Regulations (Paragraphs 1 through 7 of President's Executive Order 11246), the Employment of the Handicapped clause in Title 20, Part 741.3 of the Code of Federal Regulations, listing of Employment Openings for Veterans clause in Title 41, Part 50-250.2, of the code of Federal Regulations and Disabled Veterans and Veterans of the Vietnam Era Clause in Title 41, Part 60-250, of the Code of Federal Regulations are incorporated herein by reference if and to the extent applicable. When applicable, Seller shall not discriminate against any employee or applicant for employment because of physical or mental handicap; and shall establish an affirmative action program applicable thereto, all as set forth in Part 741, Subchapter C, Chapter VI, Title 20 of the Code of Federal Regulations.
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Exhibit B

Exhibit C

Exhibit D

PLUMBING PERMIT	ELECTRICAL PERMIT	MECHANICAL PERMIT	
ALL INCLUSIVE PER PLAN	ALL INCLUSIVE PER PLAN	ALL INCLUSIVE PER PLAN	MECHANICAL
INCLUDED (ITEMIZED PER PLAN)	INCLUDED (ITEMIZED PER PLAN)	INCLUDED (ITEMIZED PER PLAN)	ENERGY PLAN CHECK
NOT INCLUDED (NO PERMIT)	NOT INCLUDED (NO PERMIT)	NOT INCLUDED (NO PERMIT)	ENERGY PERMIT
OTHER	OTHER	OTHER	DISABLED ACCESS PC
OSHA PERMIT - Required when excavations exceed 5 ft deep and/or for construction or demolition of structures over 3 stories			DISABLED ACCESS PERMIT
			MICROFICHE/SCANNING
			SMIP (RESIDENTIAL)
			SMIP (COMMERCIAL)
			SIGN PERMIT

274630.4222.00003	\$
274620.4502.00003	\$
274630.4222.00010	\$
274620.4502.00002	\$
274630.4222.00009	\$
274610.4501.00003	\$
101.2510.22005	\$
101.2510.22006	\$
274630.4222.00011	\$

EXPIRATION - This permit will expire if the work has not started within one calendar year from the issuance date, or if the work starts and then stops for a period of six months. One extension of up to six months may be granted if requested in writing.

COMPLETION - All work authorized by this permit must be completed within 3 years from the issuance date. A one year extension may be granted by City Council action.

TOTAL FEES DUE refers to Building Division fees, only. All other fees (i.e. traffic, drainage, water meter, school, inclusionary housing, etc.) are paid separately, prior to permit issuance.

I certify that I have read this application and state that the information hereon is correct. I agree to comply with all city, county, and state laws relating to building construction, and hereby authorize representatives of the City of Oceanside and County of San Diego to enter upon the above mentioned property for inspection purposes.

APPLICANT SIGNATURE
 APPLICANT PRINT NAME

PROPERTY OWNER
 CONTRACTOR
 AGENT
 BY PHONE/FAX

PLAN CHECK BALANCE INCLUDED ABOVE
 INVESTIGATION FEE INCLUDED ABOVE

PARK FEE	5980.4810.00005	\$
PUBLIC FACILITIES FEE	5030.4810.00001	\$
TOTAL FEES DUE		\$ 76

COMPLETED BY
 APPROVED BY

DOUGLAS JOSEPH
 [Signature]

EXHIBIT 2

Channel Law Group, LLP

100 OCEANGATE
SUITE 1400
LONG BEACH, CA 90802-4323

Fax: (562) 216-5090
www.channellawgroup.com

ROBERT JYSTAD
JULIAN K. QUATTLEBAUM, III *
JAMIE T. HALL **
MARTHA HUDAK, Special Counsel ***

Writer's Direct Line: (310) 982-1760
jamie.hall@channellawgroup.com

*ALSO Admitted in Colorado
**ALSO Admitted in Texas
***ALSO Admitted in New York and New Jersey

June 20, 2007

BY CERTIFIED MAIL AND FACSIMILE
(760) 754-2958

City of Oceanside
Planning Department
300 North Coast Highway
Oceanside, CA 92054

Re: C-17-95 REV04, C-45-04, V-21-04 – Mission Summit
Communications Site; Location: 1606 Missouri Avenue / APN
150-160-18, 29

TO WHOM IT MAY CONCERN:

The Planning Commission adopted Resolution No. 2007-P16 on March 26, 2007 for the continued operation of an unmanned wireless communications facility ("WCF") located at 1606 Missouri Avenue by American Tower Corporation ("ATC"). The resolution approved the replacement of the existing monopole with a "mono-eucalyptus." The resolution also approved the use of an emergency generator at the site and outlined the installation of new landscaping and improvements to the property. Conditions 17 and 22 require landscaping installation and property improvements to be completed within 90 and 120 days of approval respectively.

American Tower Corporation would like to file an application for substantial conformity or seek a similar administrative remedy for the above mentioned Conditions because the process is taking longer than ATC reasonably expected. As stated at the public hearing and represented to staff, the mono-eucalyptus is particularly appropriate for the subject property. However, it is important to note that this is a new design for the wireless industry and delays have been encountered in the bidding process that were not reasonably foreseen by ATC. While ATC is diligently pursuing bids for the removal and replacement of the subject facility, it does not make sense to install the landscaping and make the property improvements before the subject facility is removed and replaced by the new mono-eucalyptus. Cranes, backhoes and other large equipment will be required to complete the project and deconstruct the existing monopole resulting in the newly installed landscaping being trampled and/or severely damaged in the

Letter to: City of Oceanside

Date: June 20, 2007

Page 2

process. Furthermore, since the under-grounding of the existing power lines will need to take place concurrently with the installation of the new mono-eucalyptus the required excavation of the property to accomplish the under-grounding will result in further damage to any new landscaping or property improvements that had been made. Therefore, ATC respectfully requests to be allowed to comply with Conditions 17 and 22 at the time the existing facility is removed and the mono-eucalyptus is installed. ATC believes that this is appropriate under the circumstances and reasonable. ATC and the City staff worked for several months to come to a resolution with regard to reasonable landscaping features and ATC remains committed to following through with Conditions 17 and 22. However, since the bidding process for this project is taking longer than reasonably expected and installing landscaping and making other property improvements before the actual construction of the new facility would prove to be counterproductive, ATC would like to file an application for substantial conformity or seek a similar administrative process to remedy this situation.

I look forward to hearing from you at your earliest convenience. I may be contacted at 310-982-1760 or jamie.hall@channellawgroup.com.

Sincerely,



Jamie T. Hall

Attorney for American Tower Corporation

cc: Mr. James Kelly
Zoning Specialist- Western Region
American Tower Corporation
2201 Dupont Drive #340
Irvine, CA 92612

EXHIBIT 3

Jamie T. Hall

From: Juliana Von Hacht [JVonHacht@ci.oceanside.ca.us]
Sent: Tuesday, June 26, 2007 11:29 AM
To: Jamie T. Hall
Subject: C-17-95 REV04 at 1505 Missouri Avenue Conditions of Approval
Attachments: C-17-95 REV04 American Tower at 1606 Missouri (2.55 KB); C-17-95 REV04 American Tower at 1606 Missouri (3.14 KB)

Jamie,

In response to your letter, I inquired whether the applicant has applied for a building permit with Building or a landscape plan with Engineering. Please note that the applicant has not filed for a building permit nor have they filed their landscape plans with Engineering.

I do appreciate your requesting a method to extend commitment dates stated in the Resolution adopted by the Planning Commission. Perhaps the applicant could suggest an alternative commitment date at this juncture. Please forward to me the applicant's recommendation on remedies since the requirements have thus far not been met.

Thank you, J.

PS. Please just send me a letter. There is *absolutely* no need to fax, e-mail, and mail the letter. An original letter is sufficient. -- J.

Juliana von Hacht, Associate Planner
Reception 760-435-3520

City of Oceanside, Community Development Department
300 North Coast Hwy
Oceanside, CA 92054

Sent: Wednesday, June 20, 2007 2:47 PM
Subject: Selby Ridge Letter
Dear Juliana:

As we discussed, I drafted a letter addressed to the file regarding American Tower's extension request for the installation of landscaping for the Selby Ridge Facility (see attached). Thanks again for speaking with me regarding this issue. I look forward to working with you.

Very truly yours,

Jamie T. Hall
Channel Law Group, LLP
100 Oceangate, Suite 1400
Long Beach, CA 90802-4323
(310) 982-1760 (office)
(512) 619-4645 (mobile)
(562) 216-5090 (fax)
jamie.hall@channellawgroup.com

EXHIBIT 4

Channel Law Group, LLP

100 OCEANGATE
SUITE 1400
LONG BEACH, CA 90802-4323

Fax: (562) 216-5090
www.channellawgroup.com

ROBERT JYSTAD
JULIAN K. QUATTLEBAUM, III *
JAMIE T. HALL **
MARTHA HUDAK, Special Counsel ***

Writer's Direct Line: (310) 982-1760
jamie.hall@channellawgroup.com

*ALSO Admitted in Colorado
**ALSO Admitted in Texas
***ALSO Admitted in New York and New Jersey

June 26, 2007

BY CERTIFIED MAIL

Juliana von Hacht
City of Oceanside
Planning Department
300 North Coast Highway
Oceanside, CA 92054

Re: **C-17-95 REV04, C-45-04, V-21-04 – Mission Summit
Communications Site; Location: 1606 Missouri Avenue / APN
150-160-18, 29**

Dear Juliana:

This letter is a follow-up to American Tower Corporation's ("ATC") correspondence dated June 20, 2007 regarding Resolution No. 2007-P16. Thank you for your follow-up phone call and e-mail correspondence. As we discussed, Conditions 17 and 22 require landscaping installation and property improvements to be completed within 90 and 120 days of approval respectively. Per your request, ATC is proposing a new date for completing the landscaping installation and property improvements to coincide with the anticipated time frame for the removal and replacement of the existing wireless communication facility.

ATC outlined the rationale for the delay in the installations in the June 20, 2007 letter. However, to briefly summarize, the process is taking longer than ATC reasonably expected due to, in part, delays in the bidding process, the re-design of this site to incorporate features requested by the Commission (e.g. relocating the emergency generator, construction of a block wall, new landscaping features, etc.), and budgetary constraints. While ATC is diligently pursuing bids/design plans for the removal and replacement of the subject facility, it does not make sense to install the landscaping and make the property improvements *before* the subject facility is removed and replaced by the new mono-eucalyptus. As previously mentioned, cranes, backhoes and other large equipment will be required to complete the project and deconstruct the existing monopole resulting in the newly installed landscaping being trampled and/or severely damaged in the process. Furthermore, since the under-grounding of the existing power lines will

Letter to: City of Oceanside
Date: June 26, 2007
Page 2

need to take place concurrently with the installation of the new mono-eucalyptus the required excavation of the property to accomplish the undergrounding will result in further damage to any new landscaping or property improvements that had been made.

Per your request, ATC proposes that the completion of the landscaping and property improvements be completed in the first quarter of 2008. ATC believes that this is appropriate under the circumstances and reasonable. ATC and the City staff worked for several months to come to a resolution with regard to reasonable landscaping features and ATC remains committed to following through with Conditions 17 and 22. However, since the process is taking longer than reasonably expected and installing landscaping and making other property improvements before the actual construction of the new facility would prove to be counterproductive. ATC believes that the offered completion date is reasonable.

I may be contacted at 310-982-1760 or jamie.hall@channellawgroup.com should you have any questions, comments or concerns.

Sincerely,



Jamie T. Hall
Attorney for American Tower Corporation

cc: Mr. James Kelly
Zoning Specialist- Western Region
American Tower Corporation
2201 Dupont Drive #340
Irvine, CA 92612

U.S. Postal Service
CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com
OCEANSIDE CA 92054

7006 2150 0001 8767 7669

Postage	\$0.41	0017
Registration Fee	\$2.65	02
Postage and Fees	\$2.15	0007
Postage and Fees	\$0.00	26
Postage and Fees	\$5.21	NOV



Siliana van Hacht, City of Oceanside
300 North Coast Highway
Oceanside CA 92054

EXHIBIT 5



AMERICANTOWER®
 American Tower Corporation
 116 Huntington Avenue, 11th Floor
 Boston, MA 02116
 PH: 617.375.7500 FAX: 617.375.7575

VENDOR:
 HATFIELD & DAWSON CONSULTING ENGINEERS
 9500 GREENWOOD AVENUE N
 SEATTLE, WA 98103
 United States

PURCHASE ORDER # 162027	REVISION 0	PAGE 1 of 1
This Purchase Order Number must appear on all order acknowledgements, packing lists, cartons, and correspondence.		
SHIP TO:	American Tower Corp. 900 Circle 75 Pkwy. Suite 300 Atlanta, GA 30339 United States	
BILL TO:	PO BOX 2009 Woburn, MA 01801 United States	
FED ID#:	911905250	

SUPPLIER NO. 54573	PROJECT # 28630	DATE OF ORDER/BUYER 17-SEP-09 Cole, T	REVISED DATE/BUYER
PAYMENT TERMS Net 30	FREIGHT TERMS	SHIP METHOD	F.O.B FOB DESTINATION
REQUISITION PREPARER Hawkins, Lemuel D	DEPT USE ONLY - REQ # 267128	REQUESTOR/DELIVERY Hawkins, Lemuel D	CONFIRM TO/TELEPHONE

1	Item # 28630 - Verizon @ Selby Ridge Rebuild CA, CA 310948, 300665 - Per you quote to perform a Pre and Post AM study. o SHIP TO: Address at top of page	17-SEP-09		USD		4,000.00	Y
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For questions regarding this PO, please contact your Project Manager						TOTAL	4,000.00
						_____ AUTHORIZED SIGNATURE	
This is a fully authorized Purchase Order which has been through the automated ATC approval Process.							
Please Refer to the following page for the Terms and Conditions of this Purchase Order							

1. **AGREEMENT.** This Purchase Order (Order), including the terms and conditions on the face and reverse side hereof and any attachments hereto, contains the complete agreement between American Tower, Inc. (ATC) and the Seller and supersedes all prior agreements.
2. **TIME.** Time is of the essence of this Order.
3. **ACCEPTANCE.** This Order shall be acknowledged and becomes a binding contract subject to the terms set forth herein when acknowledged in writing or upon commencement of performance by Seller. No change in the Order shall be valid unless agreed to in writing and signed by an authorized representative of ATC.
4. **DEFINITIONS.** As used herein, the term "contract" shall mean this Order, and the term "goods" shall mean and include all supplies, materials, work, services, equipment or other items whatsoever to be furnished by Seller under this Order.
5. **INSPECTION.** Notwithstanding any prior inspection or test, payment or receiving document, goods are subject to final inspection and acceptance at the destination for delivery stated herein. Payment for goods shall not constitute acceptance.
6. **WARRANTIES.** (a) Notwithstanding inspection and acceptance by ATC of goods furnished under this Order or any provision of this Order concerning the conclusiveness thereof, Seller warrants that all goods furnished will be merchantable quality, will be fit for the purpose intended, and will be free from defects in material, workmanship and design, and conform in all aspects with the specifications and requirements of this Order.
(b) Seller further warrants that all material and equipment furnished will be of the highest workmanlike quality and acceptable to ATC.
(c) All Warranties hereunder shall be for a period of one (1) year from the date of delivery or the placement in service of the goods, whichever is later, and shall be warranties of future performance for each warranty year.
(e) In the event of a breach of warranty hereunder, ATC may, at no increase in Order price or other cost to ATC, either: (1) require the prompt correction or replacement of defective or otherwise nonconforming goods or parts thereof, along with such new or revised data as is associated with the corrective action taken; or (2) retain such goods, whereupon the price thereof shall be reduced by an amount equitable under the circumstances; or (3) correct or replace such goods with similar goods, by contract or otherwise, and charge to Seller for all additional costs caused thereby to ATC.
(f) Any goods or parts thereof corrected or furnished in replacement pursuant to this clause shall be subject to all the provisions of this clause to the same extent as goods initially delivered. The warranty with respect to such goods or parts thereof shall be equal in duration to the initial warranty period and shall run from the date of delivery or placement in service of such corrected or replaced goods, whichever is later.
(g) ATC approval of Seller-generated designs, drawings or other technical documents shall in no way relieve Seller of its obligations under this or any other clause of this Order.
7. **UNDERTAKINGS.** In all cases wherein ATC is a prime or subcontractor to an Owner and the items hereunder are required by the Prime Contract, then Seller undertakes to ATC all obligations with respect to the items as ATC as subcontractor or as prime contractor, as the case may be, undertakes to the prime contractor or the Owner, signed by an authorized representative of ATC.
8. **SCHEDULE & EXPEDITING.** Seller shall keep ATC informed as to the status of the items hereunder and Seller's schedule of activities to assure delivery by the time required herein. Without any responsibility to do so, ATC reserves the right to take steps to expedite acquisition, production and/or shipment of the items, if, in ATC's sole judgment, delivery of the completed items by the date required becomes doubtful. Seller shall reimburse ATC for all costs it may incur in expediting acquisition, production or shipment of the items.
9. **CHANGES.** ATC reserves the right at any time prior to delivery, by written order, to cancel, suspend, revise or change the goods or quantity of goods to be furnished by Seller hereunder, and in no event shall ATC be responsible for loss of anticipated profits or consequential damages. In the event of a revision to this Order by ATC, ATC shall be responsible only for the price of the goods accepted. Any increase in the price of the goods resulting from a revision is subject to the approval of ATC. Failure to agree to any adjustment shall be a dispute within the meaning of the "Disputes" clause hereof. Pending resolution of the dispute, the Seller shall not be excused from proceeding with the order as changed.
10. **BANKRUPTCY.** ATC may terminate this Purchase Order in whole or in part by written notice: (a) if the Seller shall become insolvent or make a general assignment for the benefit of creditors; or (b) if a petition under any bankruptcy act or similar statute is filed by or against the Seller and is not vacated within ten (10) days after it is filed.
11. **PRICES.** Seller warrants that the prices of the items covered by this Order are not in excess of Seller's lowest prices in effect on the date of this Order for comparable quantities of similar items or services, and are not in excess of prices charged by Seller for similar items to Seller's most favored customers.
12. **INVOICING AND PAYMENT.** A separate invoice shall be issued for each shipment. Unless otherwise specified, an invoice shall not be issued prior to shipment of items and payment will not be made prior to receipt and acceptance of the items and a correct invoice. Credit and discount periods shall be computed from the date of receipt of the correct invoice to the date ATC's check is mailed. Unless freight and other charges are separately itemized, discount shall be taken on full amount of invoice.
13. **ASSIGNMENT.** Neither this Order nor any interest herein nor claim thereunder shall be assigned or transferred by Seller, except as expressly authorized in writing by ATC.
14. **ADVERTISING AND PUBLICITY.** Seller shall not, without written consent of ATC, publish the fact that ATC has placed this order with Seller, or release any information relative thereto. Seller shall not use the name of ATC or its parent organization, American Tower, Inc., or affiliates in any advertising or promotional literature.
15. **PATENT INFRINGEMENT.** Seller agrees to indemnify, defend and hold harmless ATC, its officers, agents, employees, successors and assigns against loss, damage or liability, including costs, expenses and attorney's fees on account of any suit, claim, judgment or demand involving the alleged infringement of any patent rights in the manufacture, delivery, use or disposition of any item or material supplied hereunder.
16. **INDEMNITY.** The Seller shall defend, save and hold ATC harmless from and against all suits or claims arising out of or relating to manuals, writings or the design of the goods furnished hereunder whether based upon any alleged injury to or death of any persons or damage to property that may occur, or that may be alleged to have occurred in the course of the performance of the work or thereafter, whether such claims shall be made by an employee of the Seller, or by any other person. The Seller shall, at its own cost and expense, pay all costs incurred by ATC in connection therewith. If any judgment shall be rendered against ATC in any such action, the Seller shall satisfy and discharge the same without cost or expense to ATC.
17. **CONSEQUENTIAL DAMAGES.** Notwithstanding any other provision herein, ATC shall under no circumstances be responsible to Seller for any consequential, indirect or special damages.
18. **DELIVERY.** Delivery shall be to the project site Free on Board (F.O.B.) unless otherwise designated in this Order.
19. **TITLE AND RISK OF LOSS.** Title to and risk of loss on all goods shipped by Seller to ATC shall not pass to ATC until ATC inspects and accepts such goods at the location designated by ATC.
20. **TAXES.** Except as otherwise provided in this Order, the prices herein include all federal, state and local taxes applicable to the goods purchased herein. All taxes shall be listed separately on Seller's invoice. If not listed, Seller assumes responsibility for their payment and shall indemnify and hold ATC harmless from all tax liability arising out of or related to the Order.
21. **DISPUTES.** Either party may litigate any dispute arising under or related to this Order or the breach thereof in a court of competent jurisdiction. Pending settlement of any such dispute by agreement or a final judgment, Seller shall proceed diligently with the performance hereof according to ATC's direction.
22. **COMPLIANCE WITH LAWS.** Seller agrees to comply with all applicable local, state and federal laws and executive orders and regulations issued pursuant thereto and agrees to indemnify ATC against any liability, loss, cost, damage or expense by reason of Seller's violation of this provision.
23. **GOVERNING LAW.** This Order shall be governed by the laws of the Commonwealth of Massachusetts.
24. **SEVERABILITY.** If any provision of this Order, or any part thereof, shall be invalid or unenforceable, such provision or part shall be deemed severed, and the remainder hereof shall be given full force and effect.
25. **GOVERNMENT WORK.** Seller agrees that any part of the articles or work hereby ordered which is intended for use on Government work shall, at all times, be subject to such changes, suspensions, terminations, and cancellation of the uncompleted portion as the Government requires. Seller shall not be entitled to any additional compensation for complying with such acts by the Government unless compensation is paid by the Government to the prime contractor for Seller's additional costs, and only to the extent compensation is so paid. Seller agrees to comply with all applicable statutes and valid governmental rules, regulations, requirements, provisions and conditions required by law to be included in this order, which are expressly incorporated herein.
26. **MISCELLANEOUS PROVISIONS.** A Seller shall comply with the Fair Labor Standards Act, particularly sections 6, 7 and 12 thereof, and all other applicable Federal, state and local laws, regulations and orders and shall, upon request, furnish to Buyer a certificate to such effect. The Equal Opportunity clause in Title 41, Part 60-1.4 of the Code of Federal Regulations (Paragraphs 1 through 7 of President's Executive Order 11246), the Employment of the Handicapped clause in Title 20, Part 741.3 of the Code of Federal Regulations, listing of Employment Openings for Veterans clause in Title 41, Part 50-250.2, of the code of Federal Regulations and Disabled Veterans and Veterans of the Vietnam Era Clause in Title 41, Part 60-250, of the Code of Federal Regulations are incorporated herein by reference if and to the extent applicable. When applicable, Seller shall not discriminate against any employee or applicant for employment because of physical or mental handicap; and shall establish an affirmative action program applicable thereto, all as set forth in Part 741, Subchapter C, Chapter VI, Title 20 of the Code of Federal Regulations.
27. **ACCEPTANCE OF ORDER.** By accepting this Order, Seller accepts all terms and conditions printed on both the face and reverse side hereof, and to all riders and attachments hereto issued by ATC, notwithstanding any proposal of the Seller for additional or different terms which shall not become part of this Order unless expressly agreed to in writing by ATC.



AMERICAN TOWER

American Tower Corporation
116 Huntington Avenue, 11th Floor
Boston, MA 02116
PH: 617.375.7500 FAX: 617.375.7575

VENDOR:

SOLAR COMMUNICATIONS INT'L INC
8885 RIO SAN DIEGO DRIVE
SUITE 207
SAN DIEGO, CA 92108
United States

PURCHASE ORDER # 158310	REVISION 0	PAGE 1 of 1
This Purchase Order Number must appear on all order acknowledgements, packing lists, cartons, and correspondence.		
SHIP TO:	American Tower Corp. 900 Circle 75 Pkwy. Suite 300 Atlanta, GA 30339 United States	
BILL TO:	PO BOX 2009 Woburn, MA 01801 United States	
FED ID#:	33-0811450	

SUPPLIER NO. 32308	PROJECT # 28630	DATE OF ORDER/BUYER 21-JUL-09 Maxwell, L	REVISED DATE/BUYER
PAYMENT TERMS Net 45	FREIGHT TERMS	SHIP METHOD	F.O.B FOB DESTINATION
REQUISITION PREPARER Hawkins, Lemuel D	DEPT USE ONLY - REQ # 263288	REQUESTOR/DELIVERY Hawkins, Lemuel D	CONFIRM TO/TELEPHONE

1	Item # 28630 - Verizon @ Selby Ridge Rebuild CA, CA 310948 - Per you quote for monopole fabrication. o SHIP TO: Address at top of page	22-JUL-09	1.00	EA	86,979.73	86,979.73	Y
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For questions regarding this PO, please contact your Project Manager					TOTAL	86,979.73
					_____ AUTHORIZED SIGNATURE	

This is a fully authorized Purchase Order which has been through the automated ATC approval Process.

Please Refer to the following page for the Terms and Conditions of this Purchase Order

1. **AGREEMENT.** This Purchase Order (Order), including the terms and conditions on the face and reverse side hereof and any attachments hereto, contains the complete agreement between American Tower, Inc. (ATC) and the Seller and supersedes all prior agreements.
2. **TIME.** Time is of the essence of this Order.
3. **ACCEPTANCE.** This Order shall be acknowledged and becomes a binding contract subject to the terms set forth herein when acknowledged in writing or upon commencement of performance by Seller. No change in the Order shall be valid unless agreed to in writing and signed by an authorized representative of ATC.
4. **DEFINITIONS.** As used herein, the term "contract" shall mean this Order, and the term "goods" shall mean and include all supplies, materials, work, services, equipment or other items whatsoever to be furnished by Seller under this Order.
5. **INSPECTION.** Notwithstanding any prior inspection or test, payment or receiving document, goods are subject to final inspection and acceptance at the destination for delivery stated herein. Payment for goods shall not constitute acceptance.
6. **WARRANTIES.** (a) Notwithstanding inspection and acceptance by ATC of goods furnished under this Order or any provision of this Order concerning the conclusiveness thereof, Seller warrants that all goods furnished will be merchantable quality, will be fit for the purpose intended, and will be free from defects in material, workmanship and design, and conform in all aspects with the specifications and requirements of this Order.
(b) Seller further warrants that all material and equipment furnished will be of the highest workmanlike quality and acceptable to ATC.
(c) All Warranties hereunder shall be for a period of one (1) year from the date of delivery or the placement in service of the goods, whichever is later, and shall be warranties of future performance for each warranty year.
(e) In the event of a breach of warranty hereunder, ATC may, at no increase in Order price or other cost to ATC, either: (1) require the prompt correction or replacement of defective or otherwise nonconforming goods or parts thereof, along with such new or revised data as is associated with the corrective action taken; or (2) retain such goods, whereupon the price thereof shall be reduced by an amount equitable under the circumstances; or (3) correct or replace such goods with similar goods, by contract or otherwise, and charge to Seller for all additional costs caused thereby to ATC.
(f) Any goods or parts thereof corrected or furnished in replacement pursuant to this clause shall be subject to all the provisions of this clause to the same extent as goods initially delivered. The warranty with respect to such goods or parts thereof shall be equal in duration to the initial warranty period and shall run from the date of delivery or placement in service of such corrected or replaced goods, whichever is later.
(g) ATC approval of Seller-generated designs, drawings or other technical documents shall in no way relieve Seller of its obligations under this or any other clause of this Order.
7. **UNDERTAKINGS.** In all cases wherein ATC is a prime or subcontractor to an Owner and the items hereunder are required by the Prime Contract, then Seller undertakes to ATC all obligations with respect to the items as ATC as subcontractor or as prime contractor, as the case may be, undertakes to the prime contractor or the Owner signed by an authorized representative of ATC.
8. **SCHEDULE & EXPEDITING.** Seller shall keep ATC informed as to the status of the items hereunder and Seller's schedule of activities to assure delivery by the time required herein. Without any responsibility to do so, ATC reserves the right to take steps to expedite acquisition, production and/or shipment of the items, if, in ATC's sole judgment, delivery of the completed items by the date required becomes doubtful. Seller shall reimburse ATC for all costs it may incur in expediting acquisition, production or shipment of the items.
9. **CHANGES.** ATC reserves the right at any time prior to delivery, by written order, to cancel, suspend, revise or change the goods or quantity of goods to be furnished by Seller hereunder, and in no event shall ATC be responsible for loss of anticipated profits or consequential damages. In the event of a revision to this Order by ATC, ATC shall be responsible only for the price of the goods accepted. Any increase in the price of the goods resulting from a revision is subject to the approval of ATC. Failure to agree to any adjustment shall be a dispute within the meaning of the "Disputes" clause hereof. Pending resolution of the dispute, the Seller shall not be excused from proceeding with the order as changed.
10. **BANKRUPTCY.** ATC may terminate this Purchase Order in whole or in part by written notice: (a) if the Seller shall become insolvent or make a general assignment for the benefit of creditors; or (b) if a petition under any bankruptcy act or similar statute is filed by or against the Seller and is not vacated within ten (10) days after it is filed.
11. **PRICES.** Seller warrants that the prices of the items covered by this Order are not in excess of Seller's lowest prices in effect on the date of this Order for comparable quantities of similar items or services, and are not in excess of prices charged by Seller for similar items to Seller's most favored customers.
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13. **ASSIGNMENT.** Neither this Order nor any interest herein nor claim thereunder shall be assigned or transferred by Seller, except as expressly authorized in writing by ATC.
14. **ADVERTISING AND PUBLICITY.** Seller shall not, without written consent of ATC, publish the fact that ATC has placed this order with Seller, or release any information relative thereto. Seller shall not use the name of ATC or its parent organization, American Tower, Inc., or affiliates in any advertising or promotional literature.
15. **PATENT INFRINGEMENT.** Seller agrees to indemnify, defend and hold harmless ATC, its officers, agents, employees, successors and assigns against loss, damage or liability, including costs, expenses and attorney's fees on account of any suit, claim, judgment or demand involving the alleged infringement of any patent rights in the manufacture, delivery, use or disposition of any item or material supplied hereunder.
16. **INDEMNITY.** The Seller shall defend, save and hold ATC harmless from and against all suits or claims arising out of or relating to manuals, writings or the design of the goods furnished hereunder whether based upon any alleged injury to or death of any persons or damage to property that may occur, or that may be alleged to have occurred in the course of the performance of the work or thereafter, whether such claims shall be made by an employee of the Seller, or by any other person. The Seller shall, at its own cost and expense, pay all costs incurred by ATC in connection therewith. If any judgment shall be rendered against ATC in any such action, the Seller shall satisfy and discharge the same without cost or expense to ATC.
17. **CONSEQUENTIAL DAMAGES.** Notwithstanding any other provision herein, ATC shall under no circumstances be responsible to Seller for any consequential, indirect or special damages.
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27. **ACCEPTANCE OF ORDER.** By accepting this Order, Seller accepts all terms and conditions printed on both the face and reverse side hereof, and to all riders and attachments hereto issued by ATC, notwithstanding any proposal of the Seller for additional or different terms which shall not become part of this Order unless expressly agreed to in writing by ATC.



AMERICAN TOWER

American Tower Corporation
116 Huntington Avenue, 11th Floor
Boston, MA 02116
PH: 617.375.7500 FAX: 617.375.7575

VENDOR:

SOLAR COMMUNICATIONS INT'L INC
8885 RIO SAN DIEGO DRIVE
SUITE 207
SAN DIEGO, CA 92108
United States

PURCHASE ORDER # 158310	REVISION 0	PAGE 1 of 1
This Purchase Order Number must appear on all order acknowledgements, packing lists, cartons, and correspondence.		
SHIP TO:	American Tower Corp. 900 Circle 75 Pkwy. Suite 300 Atlanta, GA 30339 United States	
BILL TO:	PO BOX 2009 Woburn, MA 01801 United States	
FED ID#:	33-0811450	

SUPPLIER NO. 32308	PROJECT # 28630	DATE OF ORDER/BUYER 21-JUL-09 Maxwell, L	REVISED DATE/BUYER
PAYMENT TERMS Net 45	FREIGHT TERMS	SHIP METHOD	F.O.B FOB DESTINATION
REQUISITION PREPARER Hawkins, Lemuel D	DEPT USE ONLY - REQ # 263288	REQUESTOR/DELIVERY Hawkins, Lemuel D	CONFIRM TO/TELEPHONE

1	Item # 28630 - Verizon @ Selby Ridge Rebuild CA, CA 310948 - Per you quote for monopole fabrication. o SHIP TO: Address at top of page	22-JUL-09	1.00	EA	86,979.73	86,979.73	Y
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For questions regarding this PO, please contact your Project Manager	TOTAL 86,979.73
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<hr/>	AUTHORIZED SIGNATURE
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This is a fully authorized Purchase Order which has been through the automated ATC approval Process.
Please Refer to the following page for the Terms and Conditions of this Purchase Order

1. **AGREEMENT.** This Purchase Order (Order), including the terms and conditions on the face and reverse side hereof and any attachments hereto, contains the complete agreement between American Tower, Inc. (ATC) and the Seller and supersedes all prior agreements.
2. **TIME.** Time is of the essence of this Order.
3. **ACCEPTANCE.** This Order shall be acknowledged and becomes a binding contract subject to the terms set forth herein when acknowledged in writing or upon commencement of performance by Seller. No change in the Order shall be valid unless agreed to in writing and signed by an authorized representative of ATC.
4. **DEFINITIONS.** As used herein, the term "contract" shall mean this Order, and the term "goods" shall mean and include all supplies, materials, work, services, equipment or other items whatsoever to be furnished by Seller under this Order.
5. **INSPECTION.** Notwithstanding any prior inspection or test, payment or receiving document, goods are subject to final inspection and acceptance at the destination for delivery stated herein. Payment for goods shall not constitute acceptance.
6. **WARRANTIES.** (a) Notwithstanding inspection and acceptance by ATC of goods furnished under this Order or any provision of this Order concerning the conclusiveness thereof, Seller warrants that all goods furnished will be merchantable quality, will be fit for the purpose intended, and will be free from defects in material, workmanship and design, and conform in all aspects with the specifications and requirements of this Order.
(b) Seller further warrants that all material and equipment furnished will be of the highest workmanlike quality and acceptable to ATC.
(c) All Warranties hereunder shall be for a period of one (1) year from the date of delivery or the placement in service of the goods, whichever is later, and shall be warranties of future performance for each warranty year.
(e) In the event of a breach of warranty hereunder, ATC may, at no increase in Order price or other cost to ATC, either: (1) require the prompt correction or replacement of defective or otherwise nonconforming goods or parts thereof, along with such new or revised data as is associated with the corrective action taken; or (2) retain such goods, whereupon the price thereof shall be reduced by an amount equitable under the circumstances; or (3) correct or replace such goods with similar goods, by contract or otherwise, and charge to Seller for all additional costs caused thereby to ATC.
(f) Any goods or parts thereof corrected or furnished in replacement pursuant to this clause shall be subject to all the provisions of this clause to the same extent as goods initially delivered. The warranty with respect to such goods or parts thereof shall be equal in duration to the initial warranty period and shall run from the date of delivery or placement in service of such corrected or replaced goods, whichever is later.
(g) ATC approval of Seller-generated designs, drawings or other technical documents shall in no way relieve Seller of its obligations under this or any other clause of this Order.
7. **UNDERTAKINGS.** In all cases wherein ATC is a prime or subcontractor to an Owner and the items hereunder are required by the Prime Contract, then Seller undertakes to ATC all obligations with respect to the items as ATC as subcontractor or as prime contractor, as the case may be, undertakes to the prime contractor or the Owner, signed by an authorized representative of ATC.
8. **SCHEDULE & EXPEDITING.** Seller shall keep ATC informed as to the status of the items hereunder and Seller's schedule of activities to assure delivery by the time required herein. Without any responsibility to do so, ATC reserves the right to take steps to expedite acquisition, production and/or shipment of the items, if, in ATC's sole judgment, delivery of the completed items by the date required becomes doubtful. Seller shall reimburse ATC for all costs it may incur in expediting acquisition, production or shipment of the items.
9. **CHANGES.** ATC reserves the right at any time prior to delivery, by written order, to cancel, suspend, revise or change the goods or quantity of goods to be furnished by Seller hereunder, and in no event shall ATC be responsible for loss of anticipated profits or consequential damages. In the event of a revision to this Order by ATC, ATC shall be responsible only for the price of the goods accepted. Any increase in the price of the goods resulting from a revision is subject to the approval of ATC. Failure to agree to any adjustment shall be a dispute within the meaning of the "Disputes" clause hereof. Pending resolution of the dispute, the Seller shall not be excused from proceeding with the order as changed.
10. **BANKRUPTCY.** ATC may terminate this Purchase Order in whole or in part by written notice: (a) if the Seller shall become insolvent or make a general assignment for the benefit of creditors; or (b) if a petition under any bankruptcy act or similar statute is filed by or against the Seller and is not vacated within ten (10) days after it is filed.
11. **PRICES.** Seller warrants that the prices of the items covered by this Order are not in excess of Seller's lowest prices in effect on the date of this Order for comparable quantities of similar items or services, and are not in excess of prices charged by Seller for similar items to Seller's most favored customers.
12. **INVOICING AND PAYMENT.** A separate invoice shall be issued for each shipment. Unless otherwise specified, an invoice shall not be issued prior to shipment of items and payment will not be made prior to receipt and acceptance of the items and a correct invoice. Credit and discount periods shall be computed from the date of receipt of the correct invoice to the date ATC's check is mailed. Unless freight and other charges are separately itemized, discount shall be taken on full amount of invoice.
13. **ASSIGNMENT.** Neither this Order nor any interest herein nor claim thereunder shall be assigned or transferred by Seller, except as expressly authorized in writing by ATC.
14. **ADVERTISING AND PUBLICITY.** Seller shall not, without written consent of ATC, publish the fact that ATC has placed this order with Seller, or release any information relative thereto. Seller shall not use the name of ATC or its parent organization, American Tower, Inc., or affiliates in any advertising or promotional literature.
15. **PATENT INFRINGEMENT.** Seller agrees to indemnify, defend and hold harmless ATC, its officers, agents, employees, successors and assigns against loss, damage or liability, including costs, expenses and attorney's fees on account of any suit, claim, judgment or demand involving the alleged infringement of any patent rights in the manufacture, delivery, use or disposition of any item or material supplied hereunder.
16. **INDEMNITY.** The Seller shall defend, save and hold ATC harmless from and against all suits or claims arising out of or relating to manuals, writings or the design of the goods furnished hereunder whether based upon any alleged injury to or death of any persons or damage to property that may occur, or that may be alleged to have occurred in the course of the performance of the work or thereafter, whether such claims shall be made by an employee of the Seller, or by any other person. The Seller shall, at its own cost and expense, pay all costs incurred by ATC in connection therewith. If any judgment shall be rendered against ATC in any such action, the Seller shall satisfy and discharge the same without cost or expense to ATC.
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AMERICAN TOWER

American Tower Corporation
116 Huntington Avenue, 11th Floor
Boston, MA 02116
PH: 617.375.7500 FAX: 617.375.7575

VENDOR:

CIK POWER DISTRIBUTORS LLC
2279 EAGLE GLEN PKWY
#112 pmb 328
CORONA, CA 92883
United States

PURCHASE ORDER # 159448	REVISION 0	PAGE 1 of 1
This Purchase Order Number must appear on all order acknowledgements, packing lists, cartons, and correspondence.		
SHIP TO:	American Tower Corp. 900 Circle 75 Pkwy. Suite 300 Atlanta, GA 30339 United States	
BILL TO:	PO BOX 2009 Woburn, MA 01801 United States	
FED ID#:	830425399	

SUPPLIER NO. 74448	PROJECT # 28630	DATE OF ORDER/BUYER 07-AUG-09 Maxwell, L	REVISED DATE/BUYER
PAYMENT TERMS Net 45	FREIGHT TERMS	SHIP METHOD	F.O.B FOB DESTINATION
REQUISITION PREPARER Holcomb-Knowles, Cathleen E	DEPT USE ONLY - REQ # 264452	REQUESTOR/DELIVERY Rayl, David	CONFIRM TO/TELEPHONE

1	Item # Site #310948; Selby Ridge Rebuild CA; Provide Labor and Materials to deploy Verizon COW (Cellular on Wheels) for ATC monopole drop and swap. o SHIP TO: Address at top of page			USD		3,000.00	Y
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For questions regarding this PO, please contact your Project Manager						TOTAL	3,000.00
						_____ AUTHORIZED SIGNATURE	
This is a fully authorized Purchase Order which has been through the automated ATC approval Process.							
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**AMERICAN TOWER**

American Tower Corporation
 116 Huntington Avenue, 11th Floor
 Boston, MA 02116
 PH: 617.375.7500 FAX: 617.375.7575

VENDOR:

SAC WIRELESS LLC
 635 E REMINGTON RD, STE A
 SCHAUMBURG, IL 60173-4576
 United States

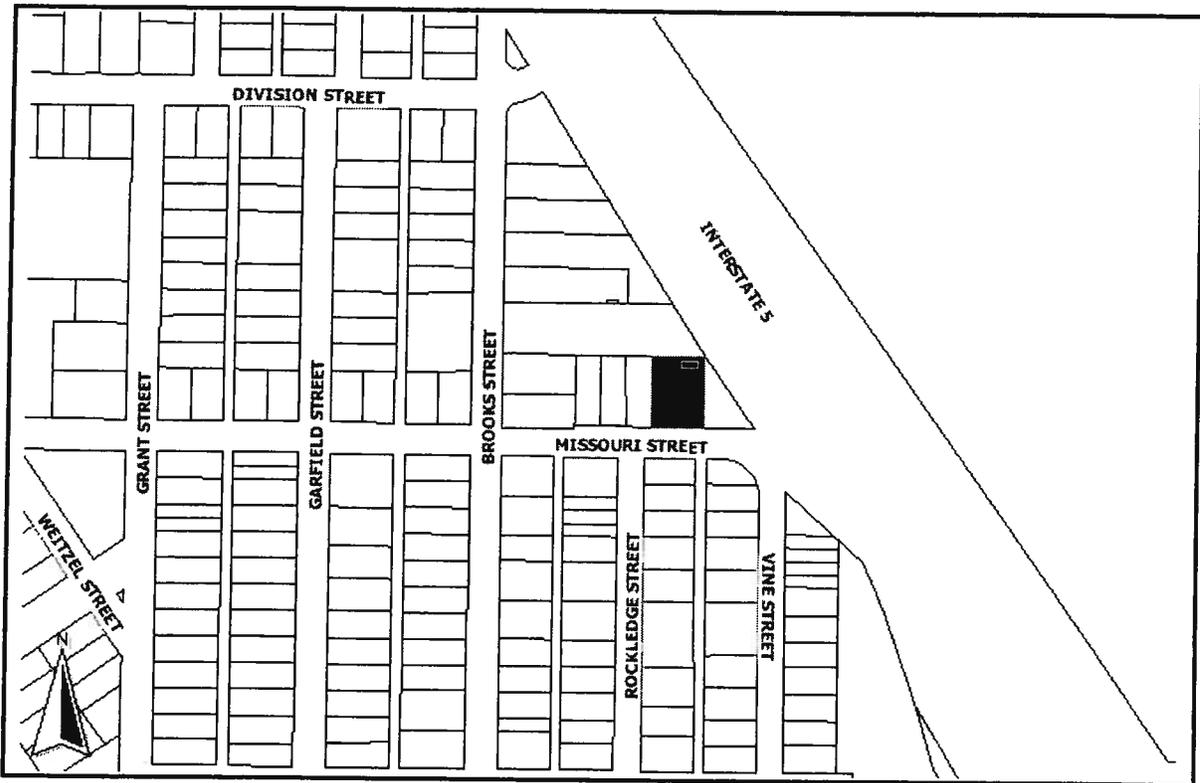
PURCHASE ORDER # 158256	REVISION 1	PAGE 1 of 1
This Purchase Order Number must appear on all order acknowledgements, packing lists, cartons, and correspondence.		
SHIP TO:	American Tower Corp. 900 Circle 75 Pkwy. Suite 300 Atlanta, GA 30339 United States	
BILL TO:	PO BOX 2009 Woburn, MA 01801 United States	
FED ID#:	263080207	

SUPPLIER NO. 74352	PROJECT # 28630	DATE OF ORDER/BUYER 21-JUL-09 Cole, T	REVISED DATE/BUYER 28-JUL-09
PAYMENT TERMS Net 45	FREIGHT TERMS	SHIP METHOD	F.O.B FOB DESTINATION
REQUISITION PREPARER Hawkins, Lemuel D	DEPT USE ONLY - REQ #	REQUESTOR/DELIVERY Hawkins, Lemuel D	CONFIRM TO/TELEPHONE

Item #	Description	DATE	CURRENCY	AMOUNT	STATUS
1	Item # 28630 - Verizon @ Selby Ridge Rebuild CA, CA 310948 - Per your quote for labor to perform drop and swap of monopole. o SHIP TO: Address at top of page	26-JUN-09	USD	38,838.76	Y
2	Item # 28630 - Verizon @ Selby Ridge Rebuild CA, CA 310948 - Monopole foundation construction. o SHIP TO: Address at top of page	22-JUL-09	USD	21,144.00	Y
3	Item # 28630 - Verizon @ Selby Ridge Rebuild CA, CA 310948 - Verizon equipment transfer to new monopole. o SHIP TO: Address at top of page	22-JUL-09	USD	36,369.43	Y
For questions regarding this PO, please contact your Project Manager				TOTAL	96,352.19
				_____ AUTHORIZED SIGNATURE	
This is a fully authorized Purchase Order which has been through the automated ATC approval Process.					
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2. **TIME.** Time is of the essence of this Order.
3. **ACCEPTANCE.** This Order shall be acknowledged and becomes a binding contract subject to the terms set forth herein when acknowledged in writing or upon commencement of performance by Seller. No change in the Order shall be valid unless agreed to in writing and signed by an authorized representative of ATC.
4. **DEFINITIONS.** As used herein, the term "contract" shall mean this Order, and the term "goods" shall mean and include all supplies, materials, work, services, equipment or other items whatsoever to be furnished by Seller under this Order.
5. **INSPECTION.** Notwithstanding any prior inspection or test, payment or receiving document, goods are subject to final inspection and acceptance at the destination for delivery stated herein. Payment for goods shall not constitute acceptance.
6. **WARRANTIES.** (a) Notwithstanding inspection and acceptance by ATC of goods furnished under this Order or any provision of this Order concerning the conclusiveness thereof, Seller warrants that all goods furnished will be merchantable quality, will be fit for the purpose intended, and will be free from defects in material, workmanship and design, and conform in all aspects with the specifications and requirements of this Order.
(b) Seller further warrants that all material and equipment furnished will be of the highest workmanlike quality and acceptable to ATC.
(c) All Warranties hereunder shall be for a period of one (1) year from the date of delivery or the placement in service of the goods, whichever is later, and shall be warranties of future performance for each warranty year.
(e) In the event of a breach of warranty hereunder, ATC may, at no increase in Order price or other cost to ATC, either: (1) require the prompt correction or replacement of defective or otherwise nonconforming goods or parts thereof, along with such new or revised data as is associated with the corrective action taken; or (2) retain such goods, whereupon the price thereof shall be reduced by an amount equitable under the circumstances; or (3) correct or replace such goods with similar goods, by contract or otherwise, and charge to Seller for all additional costs caused thereby to ATC.
(f) Any goods or parts thereof corrected or furnished in replacement pursuant to this clause shall be subject to all the provisions of this clause to the same extent as goods initially delivered. The warranty with respect to such goods or parts thereof shall be equal in duration to the initial warranty period and shall run from the date of delivery or placement in service of such corrected or replaced goods, whichever is later.
(g) ATC approval of Seller-generated designs, drawings or other technical documents shall in no way relieve Seller of its obligations under this or any other clause of this Order.
7. **UNDERTAKINGS.** In all cases wherein ATC is a prime or subcontractor to an Owner and the items hereunder are required by the Prime Contract, then Seller undertakes to ATC all obligations with respect to the items as ATC as subcontractor or as prime contractor, as the case may be, undertakes to the prime contractor or the Owner signed by an authorized representative of ATC.
8. **SCHEDULE & EXPEDITING.** Seller shall keep ATC informed as to the status of the items hereunder and Seller's schedule of activities to assure delivery by the time required herein. Without any responsibility to do so, ATC reserves the right to take steps to expedite acquisition, production and/or shipment of the items, if, in ATC's sole judgment, delivery of the completed items by the date required becomes doubtful. Seller shall reimburse ATC for all costs it may incur in expediting acquisition, production or shipment of the items.
9. **CHANGES.** ATC reserves the right at any time prior to delivery, by written order, to cancel, suspend, revise or change the goods or quantity of goods to be furnished by Seller hereunder, and in no event shall ATC be responsible for loss of anticipated profits or consequential damages. In the event of a revision to this Order by ATC, ATC shall be responsible only for the price of the goods accepted. Any increase in the price of the goods resulting from a revision is subject to the approval of ATC. Failure to agree to any adjustment shall be a dispute within the meaning of the "Disputes" clause hereof. Pending resolution of the dispute, the Seller shall not be excused from proceeding with the order as changed.
10. **BANKRUPTCY.** ATC may terminate this Purchase Order in whole or in part by written notice: (a) if the Seller shall become insolvent or make a general assignment for the benefit of creditors; or (b) if a petition under any bankruptcy act or similar statute is filed by or against the Seller and is not vacated within ten (10) days after it is filed.
11. **PRICES.** Seller warrants that the prices of the items covered by this Order are not in excess of Seller's lowest prices in effect on the date of this Order for comparable quantities of similar items or services, and are not in excess of prices charged by Seller for similar items to Seller's most favored customers.
12. **INVOICING AND PAYMENT.** A separate invoice shall be issued for each shipment. Unless otherwise specified, an invoice shall not be issued prior to shipment of items and payment will not be made prior to receipt and acceptance of the items and a correct invoice. Credit and discount periods shall be computed from the date of receipt of the correct invoice to the date ATC's check is mailed. Unless freight and other charges are separately itemized, discount shall be taken on full amount of invoice.
13. **ASSIGNMENT.** Neither this Order nor any interest herein nor claim thereunder shall be assigned or transferred by Seller, except as expressly authorized in writing by ATC.
14. **ADVERTISING AND PUBLICITY.** Seller shall not, without written consent of ATC, publish the fact that ATC has placed this order with Seller, or release any information relative thereto. Seller shall not use the name of ATC or its parent organization, American Tower, Inc., or affiliates in any advertising or promotional literature.
15. **PATENT INFRINGEMENT.** Seller agrees to indemnify, defend and hold harmless ATC, its officers, agents, employees, successors and assigns against loss, damage or liability, including costs, expenses and attorney's fees on account of any suit, claim, judgment or demand involving the alleged infringement of any patent rights in the manufacture, delivery, use or disposition of any item or material supplied hereunder.
16. **INDEMNITY.** The Seller shall defend, save and hold ATC harmless from and against all suits or claims arising out of or relating to manuals, writings or the design of the goods furnished hereunder whether based upon any alleged injury to or death of any persons or damage to property that may occur, or that may be alleged to have occurred in the course of the performance of the work or thereafter, whether such claims shall be made by an employee of the Seller, or by any other person. The Seller shall, at its own cost and expense; pay all costs incurred by ATC in connection therewith. If any judgment shall be rendered against ATC in any such action, the Seller shall satisfy and discharge the same without cost or expense to ATC.
17. **CONSEQUENTIAL DAMAGES.** Notwithstanding any other provision herein, ATC shall under no circumstances be responsible to Seller for any consequential, indirect or special damages.
18. **DELIVERY.** Delivery shall be to the project site Free on Board (F.O.B.) unless otherwise designated in this Order.
19. **TITLE AND RISK OF LOSS.** Title to and risk of loss on all goods shipped by Seller to ATC shall not pass to ATC until ATC inspects and accepts such goods at the location designated by ATC.
20. **TAXES.** Except as otherwise provided in this Order, the prices herein include all federal, state and local taxes applicable to the goods purchased herein. All taxes shall be listed separately on Seller's invoice. If not listed, Seller assumes responsibility for their payment and shall indemnify and hold ATC harmless from all tax liability arising out of or related to the Order.
21. **DISPUTES.** Either party may litigate any dispute arising under or related to this Order or the breach thereof in a court of competent jurisdiction. Pending settlement of any such dispute by agreement or a final judgment, Seller shall proceed diligently with the performance hereof according to ATC's direction.
22. **COMPLIANCE WITH LAWS.** Seller agrees to comply with all applicable local, state and federal laws and executive orders and regulations issued pursuant thereto and agrees to indemnify ATC against any liability, loss, cost, damage or expense by reason of Seller's violation of this provision.
23. **GOVERNING LAW.** This Order shall be governed by the laws of the Commonwealth of Massachusetts.
24. **SEVERABILITY.** If any provision of this Order, or any part thereof, shall be invalid or unenforceable, such provision or part shall be deemed severed, and the remainder hereof shall be given full force and effect.
25. **GOVERNMENT WORK.** Seller agrees that any part of the articles or work hereby ordered which is intended for use on Government work shall, at all times, be subject to such changes, suspensions, terminations, and cancellation of the uncompleted portion as the Government requires. Seller shall not be entitled to any additional compensation for complying with such acts by the Government unless compensation is paid by the Government to the prime contractor for Seller's additional costs, and only to the extent compensation is so paid. Seller agrees to comply with all applicable statutes and valid governmental rules, regulations, requirements, provisions and conditions required by law to be included in this order, which are expressly incorporated herein.
26. **MISCELLANEOUS PROVISIONS.** A Seller shall comply with the Fair Labor Standards Act, particularly sections 6, 7 and 12 thereof, and all other applicable Federal, state and local laws, regulations and orders and shall, upon request, furnish to Buyer a certificate to such effect. The Equal Opportunity clause in Title 41, Part 60-1.4 of the Code of Federal Regulations (Paragraphs 1 through 7 of President's Executive Order 11246), the Employment of the Handicapped clause in Title 20, Part 741.3 of the Code of Federal Regulations, listing of Employment Openings for Veterans clause in Title 41, Part 50-250.2, of the code of Federal Regulations and Disabled Veterans and Veterans of the Vietnam Era Clause in Title 41, Part 60-250, of the Code of Federal Regulations are incorporated herein by reference if and to the extent applicable. When applicable, Seller shall not discriminate against any employee or applicant for employment because of physical or mental handicap; and shall establish an affirmative action program applicable thereto, all as set forth in Part 741, Subchapter C, Chapter VI, Title 20 of the Code of Federal Regulations.
27. **ACCEPTANCE OF ORDER.** By accepting this Order, Seller accepts all terms and conditions printed on both the face and reverse side hereof, and to all riders and attachments hereto issued by ATC, notwithstanding any proposal of the Seller for additional or different terms which shall not become part of this Order unless expressly agreed to in writing by ATC.

EXHIBIT 6



File Number: C-17-95 REV 04, C-45-04, V-21-04

Applicant: American Tower Corporation

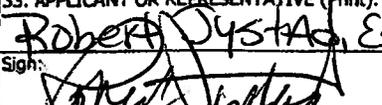
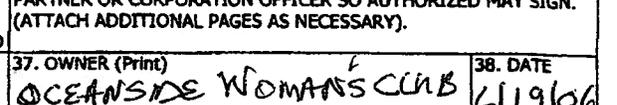
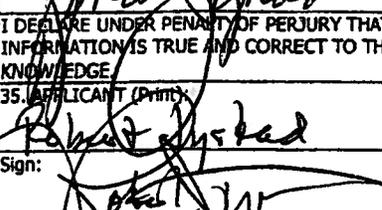
Description:

Revocation to CONDITIONAL USE PERMIT (C-17-95REV04), CONDITIONAL USE PERMIT (C-45-04) and VARIANCE (V-21-04) for failure to comply with Conditions of Approval in the established time frames. The project site is zoned RS (Single-Family Residential) and is situated within the Townsite Neighborhood. **MISSION SUMMIT COMMUNICATIONS CELL SITE**

Environmental Determination:

The project is exempt from the California Environmental Quality Act.

City of Oceanside, Planning Department
300 N. Coast Highway
Oceanside, CA 92054 (760) 435-3520

Application For Planning Commission Hearing				STAFF USE ONLY	
Planning Department (760) 435-3520 Oceanside Civic Center 300 North Coast Highway Oceanside, California 92054-2885 Please Print or Type All Information				ACCEPTED	BY
				HEARING	
PART I - APPLICANT INFORMATION					
1. APPLICANT American Tower Corp (Formerly Spectrasite Communications)		2. STATUS Lessee		GPA	
3. ADDRESS 2201 Dupont Drive #340 Irvine, CA 92612		4. PHONE/FAX 949-442-6400 949-474-7260		MASTER/SP.PLAN	
5. APPLICANT'S REPRESENTATIVE (or person to be contacted for information during processing) Law Office of Robert Jystad				ZONE CH.	
6. ADDRESS 100 Oceanside, 1400 Long Beach, CA 90802		7. PHONE/FAX 310-209-8515 562-316-5090		TENT. MAP	
				PAR. MAP	
				DEV. PL.	
				C.U.P. C-17-95 REV 04	
				VARIANCE	
				COASTAL	
				O.H.P.A.C.	
PART II - PROPERTY DESCRIPTION					
8. LOCATION Westside of I-5 Between 1606 Missouri Ave (Mission & Oceanside Ave)			9. SIZE 20,000 SF		
10. GENERAL PLAN	11. ZONING RS	12. LAND USE Residential single family detached		13. ASSESSOR'S PARCEL NUMBER 150-160-29 150-160-18	
PART III - PROJECT DESCRIPTION REV-10/31/06					
14. GENERAL PROJECT DESCRIPTION Renewal of Conditional Use Permit C-17-95 For an existing wireless communications facility including the stealth tree pole replacement of the steel monopole and the addition of a Verizon permanent power generator					
15. PROPOSED GENERAL PLAN	16. PROPOSED ZONING	17. PROPOSED LAND USE	18. NO. UNITS	19. DENSITY	
20. BUILDING SIZE	21. PARKING SPACES	22. % LANDSCAPE	23. % LOT COVERAGE		
PART IV - ATTACHMENTS					
ALL APPLICATIONS			DEV. PLANS, C.U.P.s & TENT. MAPS		
24. DESCRIPTION/JUSTIFICATION		25. LEGAL DESCRIPTION		30. FLOOR PLANS AND ELEVATIONS	
26. 300-FT. RADIUS MAP		27. PROPERTY OWNERS' LIST		31. CONSTRUCTION SCHEDULE	
28. ENVIRONMENTAL ASSESSMENT		29. PLOT PLANS		32. OTHER	
PART V - SIGNATURES					
THE APPLICANT OR HIS/HER REPRESENTATIVE MUST BE PRESENT AT THE HEARING. FAILURE TO BE PRESENT MAY RESULT IN DENIAL OF THE APPLICATION.			SIGNATURES OF ALL OWNERS OF THE SUBJECT PROPERTY ARE NECESSARY BEFORE THE APPLICATION CAN BE ACCEPTED. IN THE CASE OF PARTNERSHIPS OR CORPORATIONS, THE GENERAL PARTNER OR CORPORATION OFFICER SO AUTHORIZED MAY SIGN. (ATTACH ADDITIONAL PAGES AS NECESSARY).		
33. APPLICANT OR REPRESENTATIVE (Print): Robert Jystad, Esq.		34. DATE 9/11/06		37. OWNER (Print) OCEANSIDE WOMAN'S CLUB	
Sign: 		Sign: 		38. DATE 6/19/06	
I DECLARE UNDER PENALTY OF PERJURY THAT THE ABOVE INFORMATION IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.					
35. APPLICANT (Print): Robert Jystad		36. DATE 9/30/06		39. OWNER (Print):	
Sign: 		Sign:		40. DATE	

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24. Revised General Project Description and Justification

American Tower Corporation, ("ATC"), successor in leasehold interest to Spectrasite Communications, Inc. and Verizon Wireless (formerly AirTouch Cellular) proposes a ten (10) year renewal of Conditional Use Permit C-17-95 REV for an existing wireless communications facility located at 1606 Missouri Street, within the Townsite Neighborhood. ATC also seeks a variance from the City's regulations regarding required yards, and an additional conditional use permit to exceed the height limitations for the applicable base district. Applicant proposes to replace the existing steel monopole, approximately 60 feet in overall height, with a stealth designed, mono-eucalyptus tree pole with collocation capability and the installation of a Verizon Wireless permanent power generator.

The subject facility provides wireless voice and data communication services for residents, businesses and visitors in the city of Oceanside. The existing Verizon Wireless service also includes coverage along a portion of Interstate - 5. Continuity of the Verizon Wireless regional and nationwide network relies on the subject facility, and consequently renewal of Conditional Use Permit C-17-95 REV and the approval of the variance and additional conditional use permit will allow continued wireless service to this area. The proposed addition of a permanent power generator ensures operational functionality of the facility during emergency situations.

The existing wireless communications facility consists of the following features:

- A steel monopole, approximately 60 feet in overall height;
- A triangular antenna array with directional wireless panel antennas, and
- A 12'-0" x 30'" prefabricated, Verizon equipment shelter.

Conditional Use Permit C-17-95 REV permits expansion of the subject wireless facility beyond those constructed that include provisions for an additional three-sector, panel antenna array and additional omni-directional, whip and digital data, microwave dish antennas. As proposed, the stealth designed eucalyptus tree pole and related structures will mitigate the visual impact of the subject facility and create a viable possibility for future collocation.

Collocation Capability

As the revised drawings indicate, there is ample room on the proposed eucalyptus structure for at least two additional sets of antennas, each set consisting of as many as three arrays of four antennas per array. The exact RAD centers for these additional arrays cannot be identified because RAD centers are determined by the network configuration requirements of the collocating carrier. However, as long as there is at least a 10-foot clearance between the RAD centers of Verizon's antennas and the RAD centers of any new sets of antennas, the new antennas can be mounted on the proposed eucalyptus structure. Verizon's antennas are mounted at a RAD center of 50' 5". Additional carriers can mount new antenna arrays with RAD centers of 40' 5" or below or 60' 5" or above.

Findings for Conditional Use Permits

ATC seeks a renewal of C-17-95 REV and an additional conditional use permit to exceed the height limitations for the applicable base district. Pursuant to Sections 4105(A) of the Oceanside Zoning Ordinance, the following evidence is submitted as proof in support of the following statements for conditional use permits:

(1) That the proposed location of the use is in accordance with the objectives of this ordinance and the purposes of the district in which the site is located.

Section 3025 D. of the Oceanside Zoning Ordinance specifies that a communications facilities use may be installed and operated within any zoning district subject to applicable categorical standards and processes. In accordance with Section 3025 D. 3., this proposal, as a stand alone communications facility, may be approved by the Planning Commission through a public hearing conditional use permit process.

(2) That the proposed location of the conditional use and the proposed conditions under which it would be operated or maintained will be consistent with the General Plan; will not be detrimental to the public health, safety or welfare of persons residing or working in or adjacent to the neighborhood of such use; and will not be detrimental to properties or improvements in the vicinity or to the general welfare of the City.

Safety of telecommunications facilities is ensured by the Federal Communications Commission, who regulate wireless antenna radio signals. In 1996, the FCC adopted wireless antenna guidelines that set safe human exposure limits for radio-frequency energy that must not be exceeded and compliance with these standards ensures public safety.

The subject wireless facility is located just west of the Interstate - 5 freeway right of way and adjacent to residential developments, bounded on the north by a commercial manufacturing facility, on the south by a multi-family apartment building and on the west by single family dwellings. The elements of the site will include a 12' x 30', prefabricated Verizon Wireless equipment shelter, a monoecalyptus with approximately sixty five feet of height supporting three Verizon Wireless panel antenna arrays, and a permanent Verizon Wireless power generator for emergency situations. The additional conditional use permit would permit the proposed monoecalyptus to exceed the height limitations of the applicable base district. The existing tall eucalyptus trees along the east property boundary offer significant visual screening of the facility to the traveling public and provide an effective visual background as viewed from within the immediate neighborhood. The proposed replacement of the existing steel monopole, with a stealth eucalyptus tree pole, will effectively camouflage the structure from public view. Proposed landscaping features provide further screening of the structure from the immediate neighborhood. As the subject facility has a high level of integration into the existing environment, it does not represent a detriment to properties or improvements in the vicinity, or the general welfare of the city, and the proposed use permits are not inconsistent with the General Plan.

(3) That the proposed conditional use will comply with the provisions of this ordinance, including any specific condition required for the proposed conditional use in the district in which it will be located.

The existing wireless communication facility is subject to review through the conditional use permit process, and by the Oceanside Planning Commission's approval to renew CUP C-17-95 REV, and any conditions attached, the subject facility will comply with the City of Oceanside's Zoning Ordinance.

Findings for Variance

ATC seeks a variance from the City's regulation regarding required yards. Pursuant to Sections 4105(B) of the Oceanside Zoning Ordinance, the following evidence is submitted as proof in support of the following statements for variances:

(1) That because of special circumstances or conditions applicable to the development site – including size, shape, topography, location or surroundings -- strict application of the requirements of this ordinance deprive such property of privileges enjoyed by other property in the vicinity and under identical zoning classification;

The subject wireless facility is located just west of the Interstate - 5 freeway right of way and adjacent to residential developments, bounded on the north by a commercial manufacturing facility, on the south by a multi-family apartment building and on the west by single family dwellings. The elements of the site will include a 12' x 30', prefabricated Verizon Wireless equipment shelter, a mono-eucalyptus with approximately sixty five feet of height supporting three Verizon Wireless panel antenna arrays, and a permanent Verizon Wireless power generator for emergency situations. The facility is located on property owned by the Women's Club of Oceanside. The Club meets regularly and requires necessary parking to accommodate members. To facilitate the redesign and stealthing of the existing facility the proposed structures must be placed in a slightly different location (and inside a required yard). In sum, because of the aforementioned special circumstances and conditions applicable to the property, strict application of the zoning ordinance would deprive the property of the privileges enjoyed by other properties in the vicinity.

(2) That granting the application will not be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety or general welfare; and

The existing tall eucalyptus trees along the east property boundary offer significant visual screening of the proposed mono-eucalyptus facility to the traveling public and provide an effective visual background as viewed from within the immediate neighborhood. The proposed replacement of the existing steel monopole, with a stealth eucalyptus tree pole, will effectively camouflage the structure from public view. Proposed landscaping features provide further screening of the structure from the immediate neighborhood. As the subject facility has a high level of integration into the existing environment, it does not represent a detriment to properties or improvements in the vicinity, or the general welfare of the city, and the proposed permits are not inconsistent with the General Plan.

The proposed generator will be screened by proposed landscaping features and located behind an existing equipment shelter. As a result, the generator will be largely out-of-view. Further, the generator will be surrounded by a six foot wall painted and textured to match the Women's Club building. The proposed generator will aid the public health, safety and general welfare of the property or improvements as it will provide communications for residents and travelers in the City

of Oceanside during emergencies (e.g. power outage). As the subject facility has a high level of integration into the existing environment, it does not represent a detriment to properties or improvements in the vicinity, or the general welfare of the city, and the proposed permits are not inconsistent with the General Plan.

(3) That granting the application is consistent with the purposes of this ordinance and will not constitute a grant of special privilege inconsistent with limitations on other properties in the vicinity and, if applicable,

Section 3025 D. of the Oceanside Zoning Ordinance specifies that a communications facilities use may be installed and operated within any zoning district subject to applicable categorical standards and processes. In accordance with the Zoning Ordinance, this proposal may be approved by the Planning Commission through a public hearing variance process. As the subject facility will have a high level of integration into the existing environment, it does not represent a detriment to properties or improvements in the vicinity, or the general welfare of the city, and the proposed variance permits are not inconsistent with the General Plan.

LEGAL DESCRIPTION

ORDER NO.: 197116-02

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SCHEDULE A (continued)

That portion of Tract "G" of H. Brooks Addition to Oceanside, in the City of Oceanside, County of San Diego, State of California, according to Map thereof No. 272, filed in the Office of the County Recorder of San Diego County, on September 20, 1886, described as follows:

Beginning at the intersection of the Westerly line of the Easterly 350.86 feet of said Lot "G" with the Southerly line of said Lot "G"; thence Easterly along said Southerly line of 230 feet, more or less, to an intersection with the Westerly line of the State Highway as described in deed to the State of California, as recorded May 14, 1951 under document No. 61835, in Book 4096, Page 218 of Official Records; thence along the Westerly line of said Highway North 35°47'28" West 79.18 feet more or less, to an angle point in said Westerly line of said State Highway; thence continuing along said Westerly line North 13°06'30" West 53.85 feet and North 34°54'35" West to an intersection with the Northerly line of the Southerly 165 feet of said Lot "G"; thence Westerly along said Northerly line of the Southerly 165 feet of said lot to an intersection with the Westerly line of said Easterly 350.86 feet; thence Southerly along said Westerly line of the Point of Beginning.

Excepting therefrom the Southerly 30 feet thereof.

Also excepting therefrom that portion of the above described property lying Westerly of the Southwesterly line of land described in deed to the State of California for freeway purposes (XI-SD-OCN), recorded July 1, 1960 as File/Page No. 109780 of Official Records.