



DATE: May 4, 2009

TO: Chairperson and Members of the Planning Commission

FROM: Development Services Department/Planning Division

SUBJECT: **CONSIDERATION OF AN APPEAL OF THE CITY PLANNER'S DECISION TO APPROVE AN ADMINISTRATIVE CONDITIONAL USE PERMIT (ACUP-8-08) AND ADMINISTRATIVE COASTAL PERMIT (ACP-2-08) TO CONTINUE THE OPERATION OF AN EXISTING TELECOMMUNICATIONS FACILITY ATTACHED TO EXISTING BUILDING LOCATED AT 1909 SOUTH COAST HIGHWAY — SPRINT/NEXTEL @ SURFRIDE — APPLICANT: SPRINT COMMUNICATION**

RECOMMENDATION

Staff recommends that the Planning Commission by motion:

- (1) Confirm issuance of a Class 1, Categorical Exemption "Existing Structures"; and,
- (2) Adopt Planning Commission Resolution No. 2009-P25 denying the appeal and affirming the City Planner's action to approve Administrative Conditional Use Permit (ACUP-8-08) and Administrative Coastal Permit (ACP-2-08) with findings and conditions of approval attached herein.

PROJECT DESCRIPTION AND BACKGROUND

Background: The Sprint Nextel facility was given approval of an Administrative Conditional Use Permit (ACUP-7-01) and Administrative Coastal Permit (ACP-1-07) by the Planning Director on December 14, 2001. This approval permitted the operation and construction of two penthouse cupolas with three panel antennas and associated equipment attached to the roof of an existing building located at 1909 South Coast Highway. The Administrative Conditional Use Permit (ACUP-7-01) was limited to no more than five years, and since the time of approval the Conditional Use Permit has expired and a new permit is required.

On March, 28 2008 Sprint Nextel submitted an Administrative Conditional Use Permit (ACUP-8-08) and Administrative Coastal Permit (ACP-2-08) to continue operating the existing facility at 1909 South Coast Highway.

On March 1, 2009 a Record of Administrative Approval for the new Administrative Conditional Use Permit (ACUP-8-08) and Administrative Coastal Permit (ACP-2-08) was approved to allow the use of this existing telecommunication facility at 1909 South Coast Highway.

During the required 10-day public appeal period the project was appealed on March 10, 2009. The appellant obtained more than the required 25 signatures from the notified adjacent property owners within the required 1,500-foot radius from the site. A letter of appeal describing reasons for denial was submitted to the Oceanside Planning Division with this appeal.

Site Review: The subject site is in the Limited Commercial (CL) zone. Surrounding zoning includes High Density Residential (RH) to the west, and Limited Commercial (CL) uses to the east, north, and south of the site. Surrounding land uses include single-family residences to the west, commercial retail uses to the east, the Beach Club Bar and Grill to the north, and a commercial florist to the south.

Project Description: The application has two components an Administrative Conditional Use Permit and Administrative Coastal Permit:

Administrative Conditional Use Permit (ACUP-8-08): represents a request for the following:

- (a) To permit the use of three existing telecommunication antennas with associated equipment within three penthouse cupolas attached to the roof of an existing commercial building, pursuant to Section 3025.D.2 of the Oceanside Zoning Ordinance.

Sprint Nextel is proposing to operate and maintain an existing telecommunication facility at the property located at 1909 South Coast Highway. The existing facility consists of two 144-square foot cupolas that house three panel antennas, and a second story equipment area for the communication facility. Each cupola exists at a height of 9'-0" and sits at a maximum height of 34.3 feet when measured from the existing grade of the building. The cupolas that house the three panel antennas are located on top of the existing commercial building at the northeast and the southeast corners of the roof. Each cupola exists with similar designs and colors as the existing building that enhances the building's appearance from the street view. An equipment area is located below each cupola at the second floor of the building with access by the roof ladder from the exterior of the building. Each of the two equipment areas exists with a single equipment cabinet and PTC cabinet with radios and a back-up battery unit. No modifications are proposed to operate the existing telecommunication facility and the applicant wishes to use the facility as is.

Administrative Coastal Permit (ACP-2-08): represents a request for the following:

- (a) A Coastal Permit is required because the project is situated within the Coastal Zone. The Regular Coastal Permit will permit Sprint to continue to operate the existing telecommunication facility while complying with the Coastal Zone requirements.

The project is subject to the following Ordinances, City policies, and the State of California Government Code:

1. General Plan
2. Zoning Ordinance
3. State of California Government Code 65850

ANALYSIS – KEY PLANNING ISSUES

1. General Plan conformance

The General Plan Land Use Map designation on the subject property is Commercial. The proposed project is consistent with this designation and the goals and objectives of the City's General Plan as follows:

A. Land Use Element

Goal 2.726: Communication Systems

Objective: To provide for the efficient and aesthetic functioning of communication systems within the City.

Policies:

- A. The City shall encourage planning for the future communication system needs of individual land developments or uses and the City in general.
- B. Communication facilities shall be required to conform visually to surrounding land uses and/or natural features.
- C. The City shall require the consolidation and joint-use of communication facilities and structures whenever possible.

The use of the existing communication facility is incorporate within the existing building design and is completely screened from public view, which effectively mitigates view impacts from the primary view corridors and near view perspectives. As such, the project

site is consistent with the objectives of the General Plan policies for visual conformity to surrounding land uses and features while still providing communication, broadcast, and subscription services to the public.

2. Zoning Ordinance Compliance

Article 11, Commercial District

This project is located in the Limited Commercial District and meets all the applicable development regulations for telecommunication facilities and additions to commercial structures. The existing penthouse cupolas that house the existing telecommunication antennas does not exceed the required 36-foot height requirement for structures located within the commercial zone and within the Coastal Zone.

Article 30, Section 3025

3025(A)(3) – To regulate the siting of telecommunications facilities so as to comply with the limitations, constraints and policies set forth in relevant federal and state telecommunications law. The project has been designed and further conditioned to comply with relevant state laws (See Key Planning Issue below), as well as the Oceanside Zoning Ordinance.

3. Local Coastal Program Compliance

The proposed project is within the non-appeal jurisdiction of the Local Coastal Program (LCP) and complies with all provision of this zone. Projects within the Coastal Zone are required to meet the provisions of the adopted Local Coastal Program and the underlying CL zone. Such projects must provide for sensitive development in order to promote and achieve compatibility with surrounding development.

The site is located at least 500 feet east of any Public Beach or Public Park, where pedestrian beach access is easily available, and this project would not alter any beach or park access.

4. State of California Government Code 65850

California State Government Code 65850.6(b) states that a city shall not unreasonably limit the duration of any permit for a communication facility. Limits of less than 10 years are presumed to be unreasonable absent public safety reasons or substantial land use reasons. The proposed site has been given a 10-year limit with conditions that assure the City of Oceanside has the ability to request technology and aesthetic analyses of the site if they are found to be necessary.

DISCUSSION

Issue: The project has been out of compliance since November 30, 2008 and the applicant has not made a good faith effort in response to Staff's request.

Recommendation: The existing communication facility has been in existence since its approval date of December 14, 2001. The original Administrative Conditional Use Permit (ACUP-7-01) allowed the facility to operate for a term of five years. However, the ACUP was permitted to renew before the five-year term expires, but this was never done. The ACUP expired on December 14, 2006, and was in operation without proper permits for two years. A submittal for a new Administrative Conditional Use Permit and Administrative Coastal Permit was submitted on March 28, 2008 to permit the usage of the existing telecommunication facility.

Staff is aware that the existing telecommunication facility was operating without the proper permits once the application for a new Administrative Conditional Use Permit was received. The facility was permitted to operate since it received prior approval, but Staff informed the applicant that if the project were to be denied the telecommunication facility would have to be removed from the site. During the project review period, Staff received information from a neighboring property owner regarding the issues and opposition to the project. Staff reacted to the public's comments and asked the applicant to make a good faith effort in contacting the property owner to address the issues. The applicant sent an e-mail out to the concerned property owner and made a good faith effort in reacting to the comments, therefore Staff moved forward with approval to permit the use of an existing telecommunication facility.

Issue: The project is affecting property values for resales and rental market, due to the know health risks.

Recommendation: When reviewing telecommunication applications local municipalities are not permitted to deny an application solely on health risk pertaining to radio frequencies. An FCC licensed communication facility, such as this one to be operated by AT&T, has demonstrated that they will abide by federal communication laws and provide communication services without injury to the public health.

ENVIRONMENTAL DETERMINATION

Planning Division staff has completed a preliminary review of this project in accordance with the California Environmental Quality Act (CEQA), 1970. Based on that review staff finds the proposed project constitutes the use of an existing facility of both investor and publicly-owned utilities uses to provide electric power and other public utility services, and the project is categorically exempt pursuant to Article 19 Categorical Exemptions, Section 15301 Existing Facilities, of the California Environmental Quality Act.

PUBLIC NOTIFICATION

Pursuant to Article 41 of the Oceanside Zoning Ordinance, a Legal notice was published in the North County Times and notices were sent to property owners of record within a 1,500-foot radius of the subject property, individuals and or organizations requesting notification, applicant and other interested parties. Copies of this agenda item have been mailed to the applicant and their representatives.

SUMMARY

The proposed Administrative Conditional Use Permit and Administrative Coastal Permit, as conditioned, are consistent with the requirements of the land use policies of the General Plan and the Zoning Ordinance. The project has been designed and conditioned to meet or exceed all applicable development standards. As such, staff recommends that the Planning Commission approve the project based on the findings and subject to the conditions contained in the attached Resolution. Staff recommends that the Planning Commission:

- Adopt Planning Commission Resolution No. 2009-P25 denying the appeal and approving Administrative Conditional Use Permit (ACUP-8-08) and Administrative Coastal Permit (ACP-2-08) with findings and conditions of approval attached herein.

PREPARED BY:

 FOR:

Scott Nightingale
Planner II

SUBMITTED BY:



Jerry Hittleman
City Planner

JH/SN/fil

Attachments:

1. Site Plan and Elevation
2. Planning Commission Resolution No. 2009-P25
3. Original Administrative Conditional Use Permit and Administrative Coastal Permit Approval dated December 14, 2001
4. New Administrative Conditional Use Permit and Administrative Coastal Permit Approval dated March 1, 2009
5. Appeal letter with signatures

PROPOSED PROJECT: KELLY STREET
 OWNER: TETRA TECH
 DATE: 03/14/2001

Legal Description

LOT 19, BLK 19, MAP NO. 522, COAST COUNTY, CALIFORNIA, BEING THE UNDIVIDED INTEREST OF SAID COAST COUNTY, TRACT 1, MAP NO. 127, AS SHOWN ON THE OFFICIAL RECORDS OF SAID COUNTY, TRACT 1, MAP NO. 127.

Assessor's Parcel No.:

03-01-01-00-01-01

Exemptions

NO EXEMPTIONS

Utility Easements

NO UTILITY EASEMENTS ARE SHOWN ON THIS PLAN. THE CLIENT HAS BEEN ADVISED THAT THE UTILITY COMPANIES HAVE BEEN NOTIFIED OF THIS PROJECT AND THAT THEY WILL BE CONTACTED BY THE CLIENT TO OBTAIN ANY NECESSARY EASEMENTS.

Lease Area Easements

NO LEASE AREA EASEMENTS ARE SHOWN ON THIS PLAN. THE CLIENT HAS BEEN ADVISED THAT THE LEASEE HAS BEEN NOTIFIED OF THIS PROJECT AND THAT THEY WILL BE CONTACTED BY THE CLIENT TO OBTAIN ANY NECESSARY EASEMENTS.

Geographic Coordinates as Shown

THE COORDINATES OF THE CORNERS OF THIS LOT ARE AS SHOWN ON THIS PLAN. THE CLIENT HAS BEEN ADVISED THAT THE SURVEYOR HAS BEEN NOTIFIED OF THIS PROJECT AND THAT THEY WILL BE CONTACTED BY THE CLIENT TO OBTAIN ANY NECESSARY EASEMENTS.

Date of Survey

03/14/2001

Books of Records

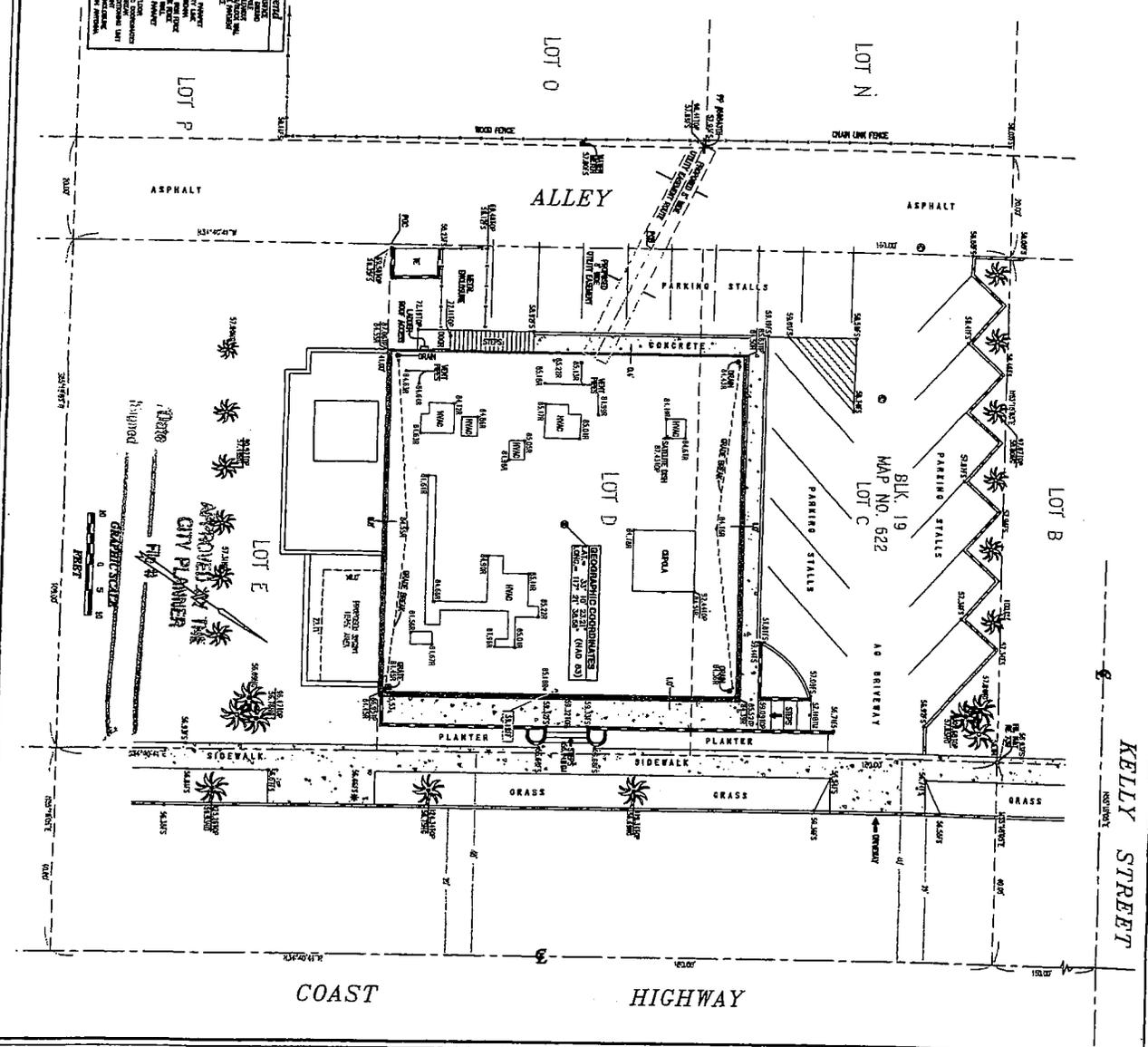
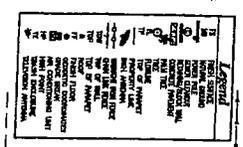
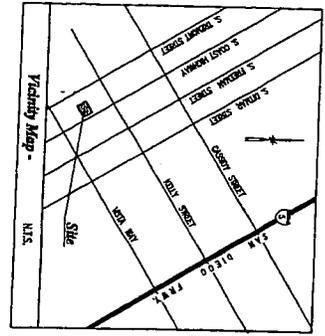
THE CURRENT RECORDS OF SAID COUNTY

Branch Mark

NO BRANCH MARKS ARE SHOWN ON THIS PLAN.

Flood Zone Information

NO FLOOD ZONE INFORMATION IS SHOWN ON THIS PLAN.



KELLY STREET

COAST HIGHWAY

Sprint.
 Sprint PCS
 4853 CHAMBER DRIVE, SUITE 100
 PLEASANTON, CA 94588

PROJECT INFORMATION
 SURF FIDE
 SD&M/C798-H
 1809 S. COAST HIGHWAY
 OCEANSIDE, CA 92064
 SAN DIEGO COUNTY

ISSUE DATE:
 03/14/2001

DESIGN
 1 04-05-01 NEW TITLE REPORT 144

TETRA TECH
 1770 Commercial Road, Suite 500
 Vista, CA 92084
 (619) 594-9700, FAX (619) 594-0779

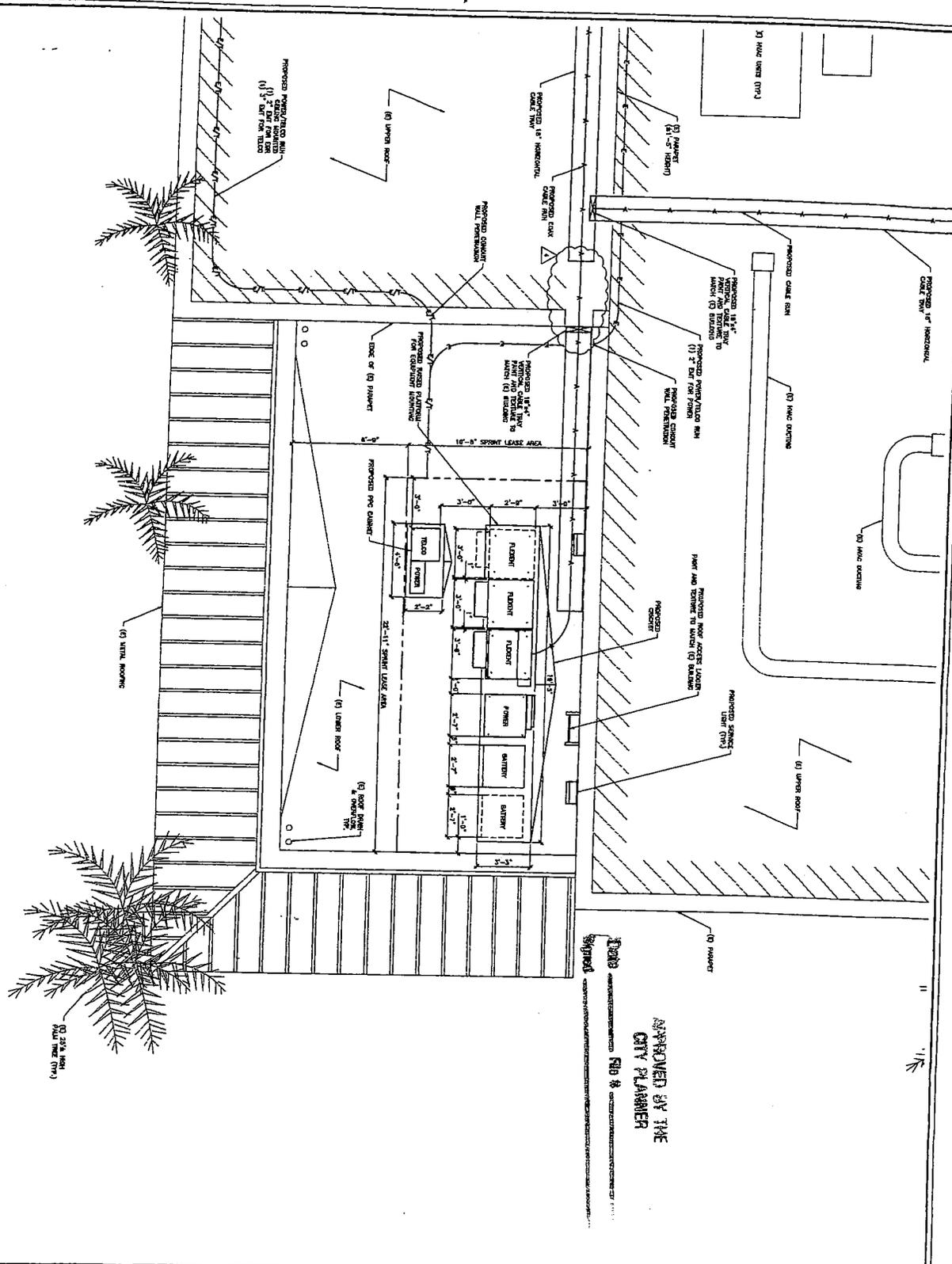
Sun Surveying
 1000 S. COAST HIGHWAY
 OCEANSIDE, CA 92064
 (760) 431-1111

RECEIVED
 SEP 20 2001

SITE SURVEY

LST1
 SHEET 1 OF 1 SHEETS

EQUIPMENT AREA PLAN @ ROOF



APPROVED BY THE
CITY PLANNER

DATE: 9/19/01
DRAWN BY: [Signature]

NOTES:
1. SEE M. L. [Signature]
2. SEE [Signature]
3. SEE [Signature]

<p>Sprint 4424 CHURCH DRIVE, SUITE 100 ROCKFORD, IL 61108</p>		<p>SURE RIDE SDDJAC/7/8H 1808 S. COAST HWY. OAK BROOK, IL 60454 SON MKD. CHRYSLER</p>		<p>ISSUED DATE: 9/19/01</p>									
<p>PROJECT DESCRIPTION:</p>		<p>ISSUED FOR: ZONING</p>		<p>REVISIONS:</p> <table border="1"> <thead> <tr> <th>NO.</th> <th>DATE</th> <th>DESCRIPTION</th> <th>BY</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>9/19/01</td> <td>ISSUE FOR ZONING</td> <td>[Signature]</td> </tr> </tbody> </table>		NO.	DATE	DESCRIPTION	BY	1	9/19/01	ISSUE FOR ZONING	[Signature]
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1	9/19/01	ISSUE FOR ZONING	[Signature]										
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<p>PROJECT NUMBER: [Blank]</p>		<p>SHEET NUMBER: 4</p>		<p>PROJECT TITLE: EQUIPMENT AREA PLAN</p>									

APPROVED BY THE
CITY PLANNER

Project: **FILE #**
SIGNED: _____



4800 QUAKER DRIVE, SUITE 100
ROSELAND, CA 94668

SPUR RIDE
S03A/CX/30H
10501 S. CANTERWAY,
OAKLAND, CA 94614
SMA DESIGN COUNTRY

ISSUED DATE: **9/19/01**

ISSUED FOR: **ZONING**

NO.	DATE	DESCRIPTION
1	7/19/01	PERMIT
2	7/19/01	PERMIT
3	8/31/01	PLAN CHK. COMMENTS 2001
4	9/19/01	CONV./BOX REL. PFC
5	7/19/01	CONSTRUCTION/ISSUE DOCS
6	7/12/01	CONSTRUCTION (0)

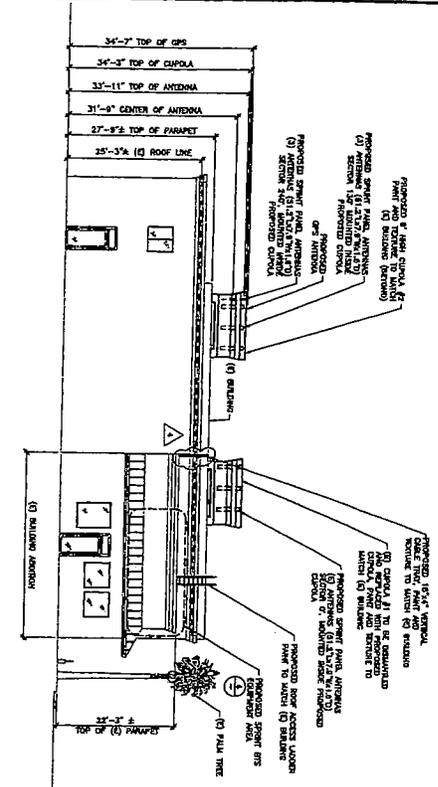
Tetra Tech
7770 Central Express Suite 500
Oakland, CA 94621
(415) 250-2100, FAX (415) 250-2776

RECEIVED
SEP 20 2001

DRAWN BY: **SCJ**
CHECKED BY: **PAK**
DATE: **09/19/01**

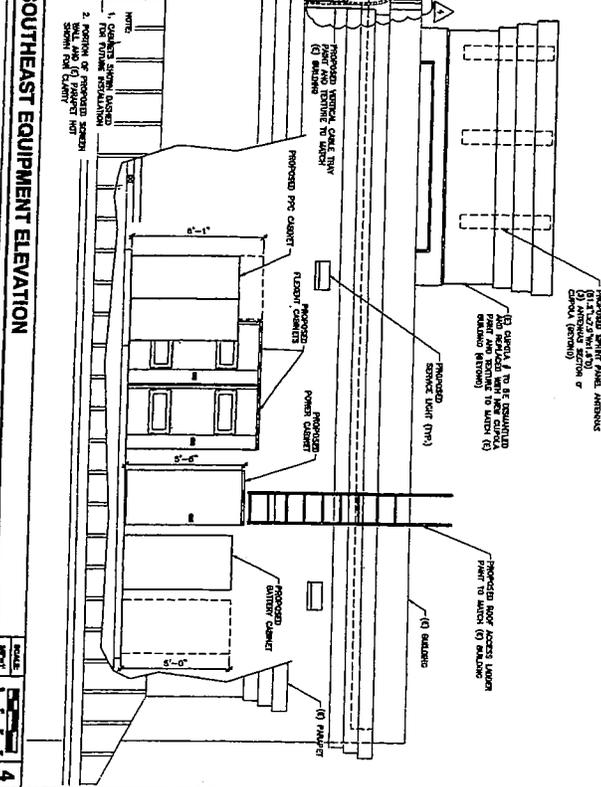
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SHEET NUMBER: **C4**
4



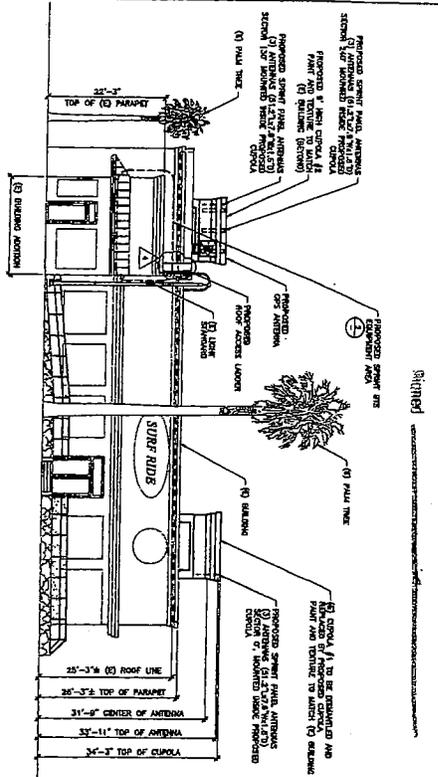
SOUTHEAST ELEVATION

SCALE: 1/8" = 1'-0"



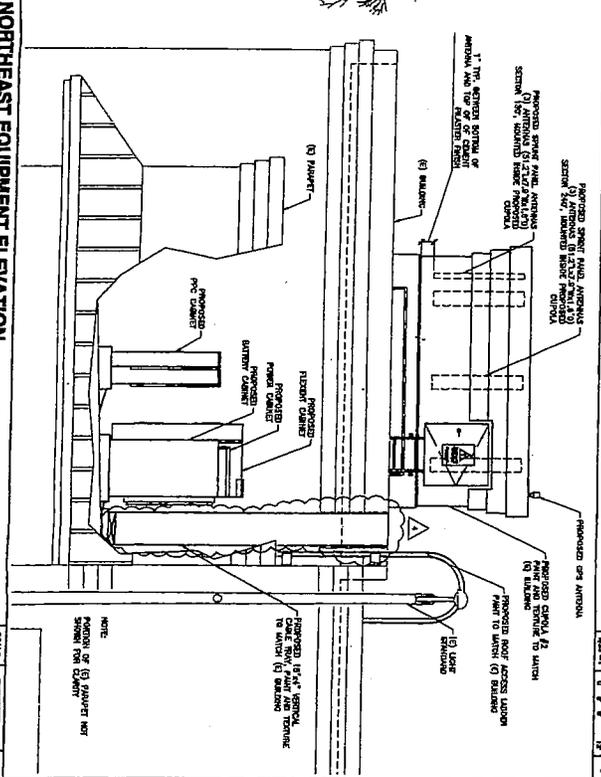
SOUTHEAST ELEVATION

SCALE: 1/8" = 1'-0"



NORTHEAST ELEVATION

SCALE: 1/8" = 1'-0"



NORTHEAST ELEVATION

SCALE: 1/8" = 1'-0"

1 PLANNING COMMISSION
2 RESOLUTION NO. 2009-P25

3 A RESOLUTION OF THE PLANNING COMMISSION OF THE
4 CITY OF OCEANSIDE, CALIFORNIA DENYING AN APPEAL
5 AND AFFIRMING THE CITY PLANNER'S ACTION
6 APPROVING AN ADMINISTRATIVE CONDITIONAL USE
PERMIT AND ADMINISTRATIVE COASTAL PERMIT FOR
CERTAIN REAL PROPERTY IN THE CITY OF OCEANSIDE

7 APPLICATION NO: ACUP-8-08, ACP-2-08
8 APPLICANT: Sprint Nextel
9 LOCATION: 1909 South Coast Highway

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

12 WHEREAS, there was filed with this Commission a verified petition on the forms
13 prescribed by the Commission requesting an Administrative Conditional Use Permit and
14 Administrative Coastal Permit under the provisions of Articles 30, 41 and 43 of the Zoning
Ordinance of the City of Oceanside to permit the following:

15 to operate an existing and telecommunication facility consisting of three antennas attached
16 to penthouse cupola on the roof of an existing building located at 1909 south Coast
17 Highway;

18 on certain real property described in the project description.

19 WHEREAS, on December 14, 2001 the Planning Director approved an Administrative
20 Conditional Use Permit (ACUP-7-01) and Administrative Coastal Permit (ACP-1-01) to construct
21 two 144-square foot cupolas that house three panel antennas, and a second story equipment area
22 for the communication facility at 1909 South Coast Highway. This previously approved
23 Administrative Conditional Use Permit (ACUP-7-01) and Administrative Coastal Permit (ACP-1-
24 01) expired on December 14, 2001 and the facility has been in operation without the proper
Administrative Conditional Use permit approvals.

25 WHEREAS, on March 1, 2009, the City Planner approved an Administrative Conditional
26 Use Permit (ACUP-8-08) and Administrative Coastal Permit (ACP-2-08) for the operation of an
27 existing telecommunication facility at 1909 South Coast Highway.

1 WHEREAS, on March 10, 2009 the Administrative Conditional Use Permit and
2 Administrative Coastal Permit were appealed for health reasons by the appellant, who obtained
3 more than the required 25 signatures from the notified adjacent property owners within the
4 required 1,500-foot radius from the site and a letter of appeal describing reasons for denial was
5 submitted to the Oceanside Planning Division with this appeal.

6 WHEREAS, the Planning Commission, after giving the required notice, did on the 4^h day
7 of May, 2009 conduct a duly advertised public hearing as prescribed by law to consider said
8 application.

9 WHEREAS, pursuant to the California Environmental Quality Act of 1970, and State
10 Guidelines thereto; this project is categorically exempt from CEQA per Article 19, Section
11 15301 Existing Facilities;

12 WHEREAS, the documents or other material which constitutes the record of
13 proceedings upon which the decision is based will be maintained by the City of Oceanside
14 Planning Division, 300 North Coast Highway, Oceanside, California 92054.

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

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

20 FINDINGS:

21 For the Administrative Conditional Use Permit (ACUP-8-08) and Administrative Coastal Permit
22 (ACP-2-08):

- 23 1. The existing location of the communication facility incorporates a stealth design that is
24 designed into the existing building, which effectively mitigates view impacts from the
25 primary view corridors and near view perspectives. As such, the project site is consistent
26 with the General Plan policies for visual conformity to surrounding land uses and features
27 while still providing communication, broadcast, and subscription services to the public.
- 28 2. The existing telecommunication facility design enhances the existing building and is
29 consistent with the development regulations for the site. The proposed project is consistent
and compatible with the subject property and surrounding neighborhood. The location of

1 the antennas and the existing penthouse cupola is out of the public view and would not
2 physically impact the community, in terms of aesthetics and architecture design. The
3 project is conditioned to comply with specific requirements pertaining to its appearance and
4 maintenance. These conditions will ensure the project maintains certain aesthetic values
5 and land use compatibility.

6 3. The location and operation of the existing communication facility, under the applied land
7 use conditions, are consistent with the effective land use policies and will not be
8 detrimental to the public health or general welfare of persons residing or working in the
9 area.

10 4. The approved telecommunication facility is consistent with the applicable land use
11 policies of the California Coastal Act and the City's Local Coastal Program (LCP).
12 Specifically, the approved facility and operation is consistent with certain Coastal Act
13 policies for Visual Resources and Special Communities, which call for the protection of
14 the visual qualities of the Coastal Zone through measures of land use compatibility for
15 new development. In addition, the approved business is consistent with the City's LCP
16 policies by virtue of its non-obtrusive and non-deleterious effects upon the surrounding
17 coastal resource area represented by the Buena Vista Lagoon environment.

18 5. The approved telecommunication facility and operations will not obstruct any existing
19 or planned public beach access; therefore, the project is in conformance with the
20 policies of Chapter 3 of the Coastal Act.

21 NOW, THEREFORE, BE IT RESOLVED that the Planning Commission does hereby
22 approve Administrative Conditional Use Permit (ACUP-8-08) and Administrative Coastal Permit
(ACP-2-08) subject to the following conditions:

23 **Building:**

- 24 1. Applicable Building Codes and Ordinances shall be based on the date of submittal for
25 Building Division plan check.
26 2. All outdoor lighting must comply with Chapter 39 of the City Code (Light Pollution
27 Ordinance). Where color rendition is important, high-pressure sodium, metal halide or
28 other such lights may be utilized and shall be shown on building and electrical plans.
29

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

4 a) Building construction work hours shall be limited to between 7:00 a.m. and 6:00
5 p.m. Monday through Friday, and on Saturday from 7:00 a.m. to 6:00 p.m. for work
6 that is not inherently noise-producing. Examples of work not permitted on
7 Saturday are concrete and grout pours, roof nailing and activities of similar noise-
8 producing nature. No work shall be permitted on Sundays and Federal Holidays
9 (New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day,
10 Christmas Day) except as allowed for emergency work under the provisions of the
11 Oceanside City Code Chapter 38 (Noise Ordinance).

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

17 **Fire:**

18 4. Cell sites shall have a final inspection by the Fire Department.

19 5. Quantities of lead acid batteries and volume of electrolyte solution shall be indicated on the
20 plans.

21 **Planning:**

22 6. This Administrative Conditional Use Permit and Administrative Coastal Permit is
23 granted for the following use only: three panel antennas mounted within two separate
24 cupolas on top of the roof of an existing building for a total of six panel antennas,
25 located at 1909 South Coast Highway. Any change in the use or expansion of the
26 activities beyond that which is approved by the City Planner, will require a revision to
27 the Administrative Conditional Use Permit or a new Administrative Conditional Use
28 Permit.

29 7. This Administrative Conditional Use Permit and Administrative Coastal Permit shall be
called for review if complaints are filed and verified as valid by the City Planner or the

1 Code Enforcement Officer concerning the violation of any of the approved conditions or
2 the project assumptions demonstrated under the application approval.

3 8. Prior to the transfer of ownership and/or operation of the use, the owner shall provide a
4 written copy of the application, staff report, and resolution for the project to the new
5 owner and or operator. The notification requirement shall run with the life of the
6 project.

7 9. The Administrative Conditional Use Permit and Administrative Coastal Permit shall be
8 limited to a term of 10 years. However, the Administrative Conditional Use Permit may
9 be revised or renewed in accordance with the provisions of the Zoning Ordinance. The
10 application for an Administrative Conditional Use Permit revision shall also be
11 evaluated against the existing land use policies and any site area and neighborhood
12 changes.

13 10. Failure to meet any conditions of approval for this development shall constitute a
14 violation of the Administrative Conditional Use Permit.

15 11. Unless expressly waived, all current zoning standards and City ordinances and policies
16 in effect at the time building permits are issued are required to be met by this project.
17 The approval of this project constitutes the applicant's agreement with all statements in
18 the project Description and Justification and other materials and information submitted
19 with this application, unless specifically waived by an adopted condition of approval.

20 12. A covenant or other recordable document approved by the City Attorney shall be
21 prepared by the applicant and recorded prior to the issuance of building permits. The
22 covenant shall provide that the property is subject to this resolution, and shall generally
23 list the conditions of approval.

24 13. Upon one year of facility operation, and upon any change-out of facility equipment, the
25 permittee(s) shall provide to the City Planner a statement of radio-frequency radiation
26 output and output compliance with the limitations of governing licensing authorities.

27 14. The permittee(s) shall exercise a good-faith effort to incorporate the best available
28 equipment technology to effect a reduction in the visual presence of the approved
29 antenna and facility equipment. The change-out and retrofit of equipment shall be
conducted by the permittee(s) after such equipment becomes available and exhibits

1 common use at similar facilities. Upon the City's request and discretion, the
2 permittee(s) shall be required to provide an independently prepared technical analysis
3 demonstrating compliance with this condition. The permittee(s) inability to demonstrate
4 the use of current technologies may be grounds for the revocation of the Conditional Use
5 Permit.

6 15. The permittee(s) shall exercise a good-faith effort to cooperate with other
7 communication providers and services in the operation of a co-user facility, provided
8 such shared usage does not impair the operation of the approved facility. Upon the
9 City's request and discretion, the permittee(s) shall provide an independently prepared
10 technical analysis to substantiate the existence of any practical technical prohibitions
11 against the operation of a co-use facility. The permittee(s) non-compliance with this
12 requirement may be grounds for the revocation of the Conditional Use Permit.

13 16. The approved communication facility shall be subject to, and governed by, any and all
14 licensing authority by any governmental agency having jurisdiction. The City's local
15 approval of a communication facility shall not exempt the permittee(s) from any such
16 pre-emptive regulations.

17 17. The final design, aesthetic devices, and construction of the facility shall be in accordance
18 with the plans representing the approved project and the conditions of approval. In
19 addition, the final construction plans shall demonstrate consistency with the plans and
20 other exhibit materials approved by the City Planner. These requirements shall be
21 shown and demonstrated on the plans submitted for building permits and shall be
22 reviewed and approved by the City Planner prior to the issuance of building permits.

23 18. Any apparent inconsistency resulting from the construction of the approved facility shall
24 be a basis for a call for the review of the Administrative Conditional Use Permit and
25 Administrative Coastal Permit.

26 19. Upon termination of the approved facility use, the permittee shall be responsible to
27 remove all antennas and equipment, approved through this Administrative Conditional
28 Use Permit, from the premises.

29 20. 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

1 reviewed and approved by the Planning Division. These requirements, including the
2 obligation to remove or cover with matching paint all graffiti within 24 hours, shall be
3 recorded in the form of a covenant affecting the subject property.

4 21. No metallic and/or reflective paints or surfaces shall be permitted.

5 **Water Utilities:**

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

10 23. No trees, structures, or building overhang shall be located within any water or wastewater
11 utility easement.

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2 24. If landscaping is required as part of this development and the property does not have a
3 separate irrigation system, then a separate irrigation meter and connection is required.
4 If, on the contrary, the property were to have an existing separate irrigation system and
5 the intent is to connect to this system, then an agreement letter between the developer
6 and the property owner shall be provided to the Water Utilities Department indicating
7 the property owner's permission for an irrigation service tie-in.

8 PASSED AND ADOPTED Resolution No. 2009-P25 on May 4, 2009 by the following

9 vote, to wit:

10 AYES:

11 NAYS:

12 ABSENT:

13 ABSTAIN:

14
15 _____
16 Claudia Troisi, Chairperson
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. 2009-P25.

23 Dated: May 4, 2009



CITY OF OCEANSIDE

PLANNING DEPARTMENT

December 14, 2001

RECEIVED
MAR 28 2008
Planning Department

Sprint PCS
c/o Gianni & Associates, Inc.
4683 Chabot Drive, Suite 100
Pleasanton, CA 94588

Re: **ADMINISTRATIVE DETERMINATION ON AN ADMINISTRATIVE CONDITIONAL USE PERMIT (ACUP-7-01) AND ADMINISTRATIVE COASTAL PERMIT (ACP-1-01)**

Dear Sir:

In accordance with the provisions of the City of Oceanside, Zoning Ordinance, Section 4104(A), the City Planning Director has approved of an Administrative Conditional Use Permit (ACUP-7-01) and Administrative Coastal Permit (ACP-1-01).

PROJECT DESCRIPTION AND LOCATION: Operation of a telecommunication facility from an existing commercial building located at 1909 South Coast Highway. The telecommunication facility consists of three (3) arrays and of three (3) communication antennas that will be concealed within an existing skylight penthouse and a new skylight penthouse.

The project site is zoned CL (Commercial Limited). The neighboring land uses consist of commercial businesses to the north, south and east and residential to the west.

The following findings are made in support of this approval:

RECEIVED

For Administrative Conditional Use Permit (ACUP-7-01):

MAR 28 2008

Planning Department

1. That the proposed location of the use is in accord with the objectives of this ordinance and the purposes of the district in which the site is located.
 - The proposed communication antennas will be effectively screened within an existing skylight penthouse and a new proposed skylight penthouse to the building rooftop. The new skylight penthouse will be consistent and compatible with the appearance of the existing building skylight penthouse.

As such, the project conforms to the zoning regulations for telecom facilities.

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, 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.
 - The location of the project and the conditions under which it operates is consistent with General Plan and it's implementation under the city zoning regulations. The approved project with conditions will not have any detrimental effects to the surrounding areas.
3. That the proposed conditional use will comply with the provisions of the Zoning Ordinance, including any specific condition required for the proposed conditional use in the district in which it would be located.
 - The project, as conditioned, complies with the provisions of the Zoning Ordinance.

For the Administrative Coastal Permit:

1. That the project conforms to the Local Coastal Plan, including the policies of that plan.
 - The proposed addition is consistent with the policies of the Local Coastal Plan (LCP), in addition to the development standards, which are tied to the LCP by zoning association. The addition is consistent with the architectural design theme utilized.

ENVIRONMENTAL DETERMINATION: The project is determined to be exempt from the provisions of the California Environmental Quality Act (CEQA). In accordance with the CEQA provisions, a Notice of Exemption has been prepared and filed to cover this determination.

The approved plans and certain related file materials within the file record for ACUP-7-01 and ACP-1-01 represent this administrative approval. The approved project is also subject to specific performance requirements and other conditions of approval as follows:

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. All electrical, communication, CATV, etc. service lines, within the exterior lines of the property shall be underground (City Code Sec. 6.30).
4. All outdoor lighting shall meet Chapter 39 of the City Code (Light Pollution Ordinance) and shall be shielded appropriately. Where color rendition is important high-pressure sodium, metal halide or other such lights may be utilized and shall be shown on final building and electrical plans. In addition, all lighting showcasing building architecture shall be shown on the above noted plans.

Planning:

5. This Administrative Conditional Use Permit and Administrative Coastal Permit shall expire on December 14, 2003 unless implemented as required by the Zoning Ordinance.
6. This Administrative Conditional Use Permit and Administrative Coastal Permit approves only the following: the operation of a telecommunication facility from an existing commercial building consisting of three (3) arrays and of three (3) communication antennas mounted within two skylight penthouses and concealed from view with materials that match the appearance of the existing building. Any substantial modification in the design or layout shall require a revision to the Administrative Conditional Use Permit or a new Administrative Conditional Use Permit.
7. Prior to the transfer of ownership and/or operation of the site the owner shall provide a written copy of the applications, staff report and resolutions for the project to the new owner and or operator. This notification's provision shall run with the life of the project.
8. Failure to meet any conditions of approval for this development shall constitute a violation of the Administrative Conditional Use Permit.

9. 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 their submission of all informational materials. These materials and information shall be binding upon the use and operation of the facility, unless specifically waived by an adopted condition of approval.
10. The method of antenna concealment for the new skylight penthouse shall match the exterior appearance of the existing skylight penthouse including color, window placement and area, exterior wall texture, enhanced trim cap and continuation of articulated planes. The final building plans shall include section drawings, section details, etc., as deemed necessary by the Planning Director, to demonstrate accurate implementation of the approved project.
11. The existing skylight penthouse shall be finish treated, if necessary, to match the new skylight penthouse
12. The physical aspects of telecommunication facility, as pertains to location, size, height, and general appearance shall replicate the information shown on the approved plans, photo-simulations, and all other material submitted for the approval of the project by the Planning Director and shall be represented on the plans submitted for building permits.
13. The Administrative Conditional Use Permit shall be limited to a term of 5 years. However, the ACUP may be renewed in accordance with the provisions of the Zoning Ordinance.
14. Upon one year of facility operation, and upon any change-out of facility equipment, the permittee shall provide to the Planning Director a statement of radio-frequency radiation output and output compliance with the limitations of governing licensing authorities.
15. The permittee shall exercise a good-faith effort to incorporate the best available equipment technology to effect a reduction in the visual presence of the approved antennas and facility equipment. The change-out and retrofit of equipment shall be conducted by the permittee after such equipment becomes available and exhibits common use at similar facilities. Upon the City's request and discretion, the permittee shall be required to provide an independently prepared technical analysis demonstrating compliance with this condition. The permittee's inability to demonstrate the use of current technologies may be grounds for the revocation of the ACUP.

16. The permittee shall exercise a good-faith effort to cooperate with other communication providers and services in the operation of a co-user facility, provided such shared usage does not impair the operation of the approved use. Upon the City's request and discretion, the permittee shall provide an independently prepared technical analysis to substantiate the existence of any practical technical prohibitions against the operation of a co-use facility. The permittee's non-compliance with this requirement may be grounds for the revocation of the CUP.
17. The approved communication facility shall be subject to, and governed by, any and all licensing authority by any governmental agency having jurisdiction. The City's local approval of a communication facility shall not exempt the permittee from any such pre-emptive regulations.
18. The approved facility shall address the appearance of the existing building at its points of interface. Such measures shall include, but shall not be limited to, surface finish treatments, architectural cornice features, windows, painting, and other necessary work for the replication of the project shown on the approved plans, photo-simulations and application materials.
19. A covenant 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 approval and the conditions of approval.

Thank you for your interest in Oceanside. If you have any questions you may contact Iain Holt, Planner II, at (760) 435-3520.



Iain Holt, Planner II



Gerald S. Gilbert, Planning Director

GSG/IH/vnm

Attachment: Notice of Administrative Action

cc: Mark Berlin
Gianni & Associates
10180 Telesis Court, Suite 165
San Diego, CA 92121

Date: December 4, 2001

NOTICE OF ADMINISTRATIVE ACTION
ON AN ADMINISTRATIVE CONDITIONAL USE PERMIT
AND ADMINISTRATIVE COASTAL PERMIT

This is a notice to you as an interested party that the City of Oceanside Planning Department has completed a review of an application for an Administrative Conditional Use Permit (ACUP-7-01) and Administrative Coastal Permit (ACP-1-01) from:

Sprint PCS

The application is described as follows:

Operation of a telecommunication facility from an existing commercial-use building located at 1909 South Coast Highway. The telecommunication facility consists of three (3) arrays of three (3) communication antennas mounted within the two building skylight penthouses and concealed from view with materials that match the existing building surfaces. The property is situated within the South Oceanside Neighborhood and within the Coastal Zone.

Pursuant to the provisions of the applicable zoning regulations, a public hearing is not required for permit action on this project. As such, the application has been reviewed and processed administratively by the Planning Director.

In accordance with the provisions of the California Environmental Quality Act (CEQA), the project is determined to be exempt from environmental review and a Notice of Exemption has been prepared to cover the environmental determination. The project plan material and the environmental documentation are available at the Planning Department, 300 North Coast Hwy, during regular business hours - 8:00 a.m. to 4:30 p.m., weekdays.

You are listed on the latest available County tax assessor's roll as the owner of property within 300 feet of the exterior boundary of the project site. You are being notified of this pending administrative action as required by local ordinance.

Based upon the project's conformance with the applicable zoning regulations and a determination of land use compatibility, the Planning Director has determined an approval for the Administrative Conditional Use Permit (ACUP-7-01) and Administrative Coastal Permit (ACP-1-01). The project approval includes certain development requirements and use limitations pursuant to the City's applicable zoning regulations. The effective date of the Planning Director's administrative approval is December 14, 2001 (ten days from the date of this notice).

If you have any questions regarding this application or the administrative decision, please contact Iain Holt, Assistant Planner, at (760) 435-3520. The Planning Director's administrative decision may be appealed to the City Planning Commission. A written appeal and filing fee must be filed with the Planning Department, 300 North Coast Hwy., Oceanside, CA 92054, no later than 4:30 p.m. on December 24, 2001 (10 days after date of decision). Please contact the Planning Department for further details on filing a formal appeal.



RECORD OF ADMINISTRATIVE APPROVAL

City of Oceanside, California

1. **APPLICANT:** Sprint Nextel
2. **APPLICANT ADDRESS:** 5761 Copely Dr., San Diego, CA. 92111
3. **REP./PHONE NUMBER:** Glori James-Suarez, Sprint Site Development Manager, (760) 250-7544
4. **PROJECT MANAGER:** Scott Nightingale, Planner II
5. **APPLICATION ID NO. & NAME:** (ACUP-8-08 & ACP-2-08) 2nd Sprint @ Surfride
6. **LOCATION/ADDRESS:** 1909 South Coast Hwy., Oceanside, CA 92054
7. **DESCRIPTION:** Sprint Nextel telecommunications proposes to continue to operate an existing wireless telecommunications facility consisting of two cupolas, with three panel antennas within each cupola with associated equipment within an existing building located at 1909 South Coast Highway. The existing communication facility was approved on December 14, 2001 by the Planning Director, to construct two 144 square foot cupolas that house three panel antennas, and a second story equipment area for the communication facility. Each cupola exists at a height of 9'-0" and sits at a maximum height of 34.3 feet when measured from the existing grade of the building. The cupolas that house the three panel antennas are located on top of the existing commercial building at the northeast and the south east corners of the roof. Each cupola exists with similar designs and colors as the existing building that enhances the building's appearance from the street view. An equipment area that is directly located below each cupola at the second floor of the building, and can be accessed by the roof ladder from the exterior of the building. Each of the two equipment areas exists with a single equipment cabinet and PTC cabinet with radios and a back-up battery unit. No modifications are proposed to operate the existing telecommunication facility and the applicant wishes to use the facility as is.

FINDINGS

For Administrative Conditional Use Permit (ACUP-8-08):

1. The existing location of the use is in accord with the objectives of the Zoning Ordinance and the purposes of the district in which the site is located.
 - The telecommunication facility complies with the objectives of the Zoning Ordinance and will not have a negative impact on the environment or further development of other future communications facilities, structures, or land uses. This site meets all development standards, height, set backs, etc. The project facilities are concealed from public view, and the proposed colors and material would be consistent with the existing tower. As such, the project site is consistent with the objectives of the effective zoning regulations while still providing the public access to communication,

broadcast, and subscription services that are transmitted through the global atmospheric radio-frequency spectrum

2. The proposed conditional use will comply with the provisions of the Zoning Ordinance, including any specific condition required for the proposed conditional use in the district in which it would be located.
 - The project is conditioned to comply with specific requirements pertaining to its appearance and maintenance. This will ensure the project maintains certain aesthetic values and land use compatibility.
3. 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, 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.
 - The location of the project and the conditions under which it operates is consistent with General Plan and its implementation under the City zoning regulations. The approved project will not have any detrimental effects to the surrounding areas.

For the Administrative Coastal Permit (ACP-2-08):

1. That the project conforms to the Local Coastal Plan, including the policies of that plan.
 - The proposed addition is consistent with the policies of the Local Coastal Plan (LCP), in addition to the development standards, which are applicable to the LCP by zoning association. The addition is consistent with the architectural design theme utilized.

ADMINISTRATIVE DETERMINATION: Article 41 "Use Permits and Variances", Section 4102 of the Oceanside Zoning Ordinance grants the City Planner express authority to administratively approve certain types of Use Permits. Staff has determined that the proposed project qualifies for administrative approval under Section 3025.D.2. Furthermore, staff has reviewed the project for consistency with applicable provisions of the General Plan, Oceanside Zoning Ordinance, and the California Environmental Quality Act (CEQA). Based on that review, the City Planner finds and determines that the proposed project is consistent with the General Plan, Oceanside Zoning Ordinance, and Record of Administrative Approval dated March 1, 2009, subject to the following condition(s):

Building:

1. Applicable Building Codes and Ordinances shall be based on the date of submittal for Building Division plan check.
2. All outdoor lighting must comply with Chapter 39 of the City Code (Light Pollution Ordinance). Where color rendition is important, high-pressure sodium, metal halide or other such lights may be utilized and shall be shown on building and electrical plans.
3. The developer shall monitor, supervise, and control all building construction and supporting activities so as to prevent these activities from causing a public nuisance, including, but not limited to, strict adherence to the following:
 - a. Building construction work hours shall be limited to between 7:00 a.m. and 6:00 p.m. Monday through Friday, and on Saturday from 7:00 a.m. to 6:00 p.m. for work that is not inherently noise-producing. Examples of work not permitted on Saturday are concrete and grout pours, roof nailing and activities of similar noise-producing nature. No work shall be permitted on Sundays and Federal Holidays (New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day, Christmas Day) except as allowed for emergency work under the provisions of the Oceanside City Code Chapter 38 (Noise Ordinance).
 - b. The construction site shall be kept reasonably free of construction debris as specified in Section 13.17 of the Oceanside City Code. Storage of debris in approved solid waste containers shall be considered compliance with this requirement. Small amounts of construction debris may be stored on-site in a neat, safe manner for short periods of time pending disposal.

Fire Prevention:

4. Cell sites shall have a final inspection by the Fire Department.
5. Quantities of lead acid batteries and volume of electrolyte solution shall be indicated on plans.

Planning:

6. This Administrative Conditional Use Permit and Administrative Coastal Permit shall expire 24 months from the date of approval unless implemented as required by the Zoning Ordinance.
7. This Administrative Conditional Use Permit and Administrative Coastal Permit is granted for the following use only: three panel antennas mounted within two separate cupolas on top of the roof of an existing building for a total of six panel antennas, located at 1909n South Coast Highway. Any change in the use or expansion of the activities beyond that which is approved by the City Planner, will require a revision to the Administrative Conditional Use Permit or a new Administrative Conditional Use Permit.

8. This Administrative Conditional Use Permit and Administrative Coastal Permit shall be called for review if complaints are filed and verified as valid by the City Planner or the Code Enforcement Officer concerning the violation of any of the approved conditions or the project assumptions demonstrated under the application approval.
9. 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. The notification requirement shall run with the life of the project.
10. The Administrative Conditional Use Permit and Administrative Coastal Permit shall be limited to a term of ten (10) years. However, the Administrative Conditional Use Permit may be revised or renewed in accordance with the provisions of the Zoning Ordinance. The application for an Administrative Conditional Use Permit revision shall also be evaluated against the existing land use policies and any site area and neighborhood changes.
11. Failure to meet any conditions of approval for this development shall constitute a violation of the Administrative Conditional Use Permit.
12. 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 project Description and Justification and other materials and information submitted with this application, unless specifically waived by an adopted condition of approval.
13. 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.
14. Upon one year of facility operation, and upon any change-out of facility equipment, the permittee(s) shall provide to the City Planner a statement of radio-frequency radiation output and output compliance with the limitations of governing licensing authorities.
15. The permittee(s) shall exercise a good-faith effort to incorporate the best available equipment technology to effect a reduction in the visual presence of the approved antenna and facility equipment. The change-out and retrofit of equipment shall be conducted by the permittee(s) after such equipment becomes available and exhibits common use at similar facilities. Upon the City's request and discretion, the permittee(s) shall be required to provide an independently prepared technical analysis demonstrating compliance with this condition. The permittee(s) inability to demonstrate the use of current technologies may be grounds for the revocation of the Conditional Use Permit.

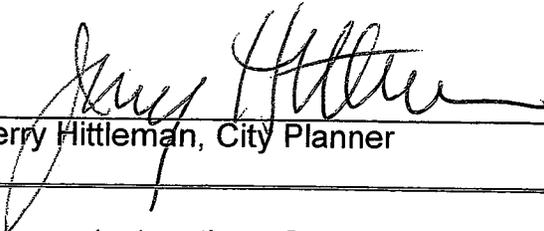
16. The permittee(s) shall exercise a good-faith effort to cooperate with other communication providers and services in the operation of a co-user facility, provided such shared usage does not impair the operation of the approved facility. Upon the City's request and discretion, the permittee(s) shall provide an independently prepared technical analysis to substantiate the existence of any practical technical prohibitions against the operation of a co-use facility. The permittee(s) non-compliance with this requirement may be grounds for the revocation of the Conditional Use Permit.
17. The approved communication facility shall be subject to, and governed by, any and all licensing authority by any governmental agency having jurisdiction. The City's local approval of a communication facility shall not exempt the permittee(s) from any such pre-emptive regulations.
18. The final design, aesthetic devices, and construction of the facility shall be in accordance with the plans representing the approved project and the conditions of approval. In addition, the final construction plans shall demonstrate consistency with the plans and other exhibit materials approved by the City Planner. These requirements shall be shown and demonstrated on the plans submitted for building permits and shall be reviewed and approved by the City Planner prior to the issuance of building permits.
19. Any apparent inconsistency resulting from the construction of the approved facility shall be a basis for a call for the review of the Administrative Conditional Use Permit and Administrative Coastal Permit.
20. Upon termination of the approved facility use, the permittee shall be responsible to remove all antennas and equipment, approved through this Administrative Conditional Use Permit, from the premises.
21. 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 Division. These requirements, including the obligation to remove or cover with matching paint all graffiti within 24 hours, shall be recorded in the form of a covenant affecting the subject property.
22. No metallic and/or reflective paints or surfaces shall be permitted.

Water Utilities:

23. The developer will be responsible for developing all water and sewer utilities necessary to develop the property. Any relocation of water and/or sewer utilities is the responsibility of the developer and shall be done by an approved licensed contractor at the developer's expense.
24. No trees, structures, or building overhang shall be located within any water or wastewater utility easement.

25. If landscaping is required as part of this development and the property does not have a separate irrigation system, then a separate irrigation meter and connection is required. If, on the contrary, the property were to have an existing separate irrigation system and the intent is to connect to this system, then an agreement letter between the developer and the property owner shall be provided to the Water Utilities Department indicating the property owner's permission for an irrigation service tie-in.

APPROVED AND ADOPTED this 1st day of March, 2009:



Jerry Hittleman, City Planner

Pursuant to the Oceanside Zoning Ordinance Article 41 Section 4104(A.), Administrative Decision, the City Council has delegated administrative approval authority to the City Planner for certain types of Use Permit Applications. Any aggrieved person may file an appeal of the City Planner's administrative approval. Pursuant to Article 46, Section 4603 "Time Limits for Appeals and Calls for Review," and 4604, "Initiation of Appeals and Calls for Review" of City Planner Decisions, any appeal of the City Planner's decision must be filed in writing with the Planning Division within ten (10) days of the March 1, 2009 date. The appeal period for this administrative approval shall end on March 11, 2009 at 5:00 p.m. The filing of an appeal stays the administrative approval until Planning Commission determination on the appeal.

Attachments:

1. Notice of Administrative Approval
2. Site Maps/Floor Plans
3. Notice of Exemption

cc: Record of Administrative Approval file (Administrative Secretary)
Project file

Date: February 19, 2009

NOTICE OF ADMINISTRATIVE ACTION
ON AN ADMINISTRATIVE CONDITIONAL USE PERMIT

This is a notice to you as an interested party that the City of Oceanside Planning Division has completed a review of an application for an Administrative Conditional Use Permit (ACUP-8-08) and Administrative Coastal Permit (ACP-2-08) from:

2nd Sprint @ Surfride.

The application is described as follows:

For the continued operation of an existing wireless telecommunications facility consisting of two cupolas, with three panel antennas within an existing building.

The property site is located at 1909 South Coast Highway. The property is zoned CL (Limited Commercial District) and is situated within the South Oceanside Neighborhood.

Pursuant to the provisions of the applicable zoning regulations, a public hearing is not required for permit action on this project. As such, the application has been reviewed and processed administratively by the Planning Division.

In accordance with the provisions of the California Environmental Quality Act (CEQA), the project is determined to be exempt. The project plan material and the other documentation are available at the Planning Division, 300 North Coast Highway, during regular business hours - 7:30 a.m. to 5:00 p.m., Monday through Thursday and 7:30 a.m. until 4:00 p.m. on alternate Fridays.

You are listed on the latest available County tax assessor's roll as the owner of property within 1,500 feet of the exterior boundary of the project site. You are being notified of this pending administrative action as required by local ordinance.

Based upon the project's conformance with the applicable zoning regulations and a determination of land use compatibility, the Planning Division has determined an approval of the Administrative Conditional Use Permit (ACUP-8-08) and Administrative Coastal Permit (ACP-2-08). The project approval includes certain development conditions and use limitations pursuant to the City's applicable zoning regulations. The effective date of the Planning Division's approval is March 1, 2009.

If you have any questions regarding this application or the administrative decision, please contact Scott Nightingale, Planner II, at (760) 435-3520. The Planning Division's administrative decision may be appealed to the Planning Commission. A written appeal and filing fee must be filed with the Planning Division, 300 North Coast Highway, Oceanside, CA 92054, on March 11, 2009 (10 days after date of decision), during regular weekday office hours of 7:30 a.m. to 5:00 p.m. (Monday - Thursday), and 7:30 a.m. to 4:00 p.m. (alternate Fridays). Please contact the Planning Division for further details on filing a formal appeal.

ACCEPTANCE OF ADMINISTRATIVE APPEAL

Development Services Department/Planning Division

Appeal of: ACUP-8-08 (2nd Sprint @ SURFRIDE)

Date of Final Action: March 1, 2009 Date Filed: March 10, 2009

Form of Appeal: \$844.00 Appeal Fee _____ Petition

Person Submitting Appeal: Nancy Gregory

Company/Developer Representative, Company name:

N/A.

Name of Person who Prepared the Appeal:

Nancy Gregory

Name of Spokesperson for the Appeal:

Address: Nancy Gregory 1928 S. Tremont St.

Phone number: 414-3515

E-mail and/or fax: Nancy.Gregory@EDD.ca.gov

Appeals must be filed within 10 days of the date of final action. **Section 4604:** To appeal by petition for a waiver of the appeal fee, the appeal must be accompanied by the signatures of 50% of the property owners within the noticed area or 25 signatures of the property owners or tenants within the noticed area, whichever is less.

I hereby certify that this appeal is being submitted in accordance with the Zoning Ordinance and meets the criteria specified in Section 4604 for an appeal by petition.

Signature: _____ Date: _____

2/17/2009

Petition to deny application for Administrative Conditional Use Permit (ACUP-8-08) also know as 2nd Sprint @ Surfride for continued operation of an existing wireless telecommunications facility consisting of two cupolas, with three panel antennas within an existing building.

Property is located at 1909 South Coast Highway. The property is zoned CL (Limited Commercial District) and is situated within the South Oceanside Neighborhood.

We would like the project denied on these grounds 1.) The project has been out of compliance since November 30, 2008 by your email communications which you will find attached stating on Oct. 23,2008 that if the applicant does no submit the required material either for compliance on obtaining a CUP or removal of the antennas and equipment. The project will be withdrawn.

Also emails from the applicant stating she will not be able to get the information needed to you on time but would get the information to you the next week Dec. 1, 2008 from applicant. Also your email on Oct, 21,2008 pertaining to the projects inactive status and a new application will be required. If it is withdrawn the owner will of the telecommunication facility will be issued a code violation for a cell site that is not compliant with the approved resolution if no ACUP is submitted for approval. Also emails from Scott Nightingale saying the project has been out waiting for comment since April 25, 2008. At that time were told they would have to withdraw the project in 30days. In an email dated Oct. 14, 2008 and also an email on Oct. 9th with no response from Sprint @ Surfride on Jan 27th 2009. These and other emails are submitted showing Sprint @ Surfride had more than enough time and notices to have the proper information and applications in since April 2008 and failed to do so over and over again.

2) The Sprint @ Surfride is also affecting property values for resale's and rental market due to know and perceived health risks. People do not want to take the chance to find out 20years from now of the horrible health affects. I myself was looking at a house on Nevada street it was the perfect house everything we needed and would allow us to get away from the current Cell towers at Surfride, but found out the high infiltration of cell towers in that area also so we did not put a bid in on the property. I am sure other people feel the same and this affects people's ability to sell their property in good conscious, and also at a fair market value.

I have also had some very bad health affects since the towers were put in behind our house and have been seeking medical help for this. I do not see how the city can renew a project that has not shown good faith and was out of compliance and also not to care about its citizen's adults and children living in the areas health and investments.

Please deny this on all of the above reasons stand up for your non compliance laws, citizens lives and properties values there are way too many cell towers in the area I think last count was soon to be over 30.

Received

MAR 10 2009

Would you want these things in your backyard around your kids?

Planning Division

I am asking that the city this one time do what is right for its residents.

Sign and Print Name

Name	Address	Phone
1 Stephanie Elan	3108 Seabury	760 678 4336
2 Deborah Hope	1933 S. Coast Hwy	760 721-3729
3 Jack Hope		
Jude Fowler	1938 TREMONT ST	760 686-4297
4		

1 of 2

2/17/2009

Petition to deny application for Administrative Conditional Use Permit (ACUP-8-08) also know as 2nd Sprint @ Surfride for continued operation of an existing wireless telecommunications facility consisting of two cupolas, with three panel antennas within an existing building.

Property is located at 1909 South Coast Highway. The property is zoned CL (Limited Commercial District) and is situated within the South Oceanside Neighborhood.

We would like the project denied on these grounds 1.) The project has been out of compliance since November 30, 2008 by your email communications which you will find attached stating on Oct. 23,2008 that if the applicant does no submit the required material either for compliance on obtaining a CUP or removal of the antennas and equipment. The project will be withdrawn.

Also emails from the applicant stating she will not be able to get the information. needed to you on time but would get the information to you the next week Dec. 1, 2008 from applicant. Also your email on Oct, 21,2008 pertaining to the projects inactive status and a new application will be required. If it is withdrawn the owner will of the telecommunication facility will be issued a code violation for a cell site that is not compliant with the approved resolution if no ACUP is submitted for approval. Also emails from Scott Nightingale saying the project has been out waiting for comment since April 25, 2008. At that time were told they would have to withdraw the project in 30days. In an email dated Oct. 14, 2008 and also an email on Oct. 9th with no response from Sprint @ Surfride on Jan 27th 2009. These and other emails are submitted showing Sprint @ Surfride had more than enough time and notice to have the proper information and applications in since April 2008 and failed to do so over and over again.

2) The Sprint @ Surfride is also affecting property values for resale's and rental market due to know and perceived health risks. People do not want to take the chance to find out 20years from now of the horrible health affects. I myself was looking at a house on Nevada street it was the perfect house everything we needed and would allow us to get away from the current Cell towers at Surfride, but found out the high infiltration of cell towers in that area also so we did not put a bid in on the property. I am sure other people feel the same and this affects people's ability to sell their property in good consciosus, and also at a fair market value.

I have also had some very bad health affects since the towers were put in behind our house and have been seeking medical help for this. I do not see how the city can renew a project that has not shown good faith and was out of compliance and also not to care about its citizen's adults and children living in the areas health and investments.

Please deny this on all of the above reasons stand up for your non compliance laws, citizens lives and properties values there are way too many cell towers in the area I think last count was soon to be over 30.

Would you want these things in your backyard around your kids?

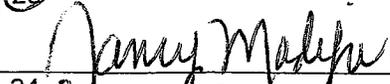
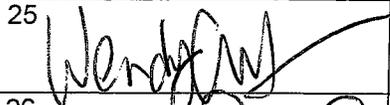
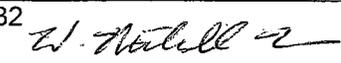
I am asking that the city this one time do what is right for its residents.

Sign and Print Name

Name	Address	Phone
1 Nancy Gregory Nancy Gregory	1928 S Tremont St, O'side Ca 92054	760 414 3515
2 Haylen Hyman Haylen Hyman	512 Kelly St O'side 92054	908-2998
3 Rose Flores Rose F.	512 Kelly St A O'side	521-7076
4		

5	<i>Michael Tili</i> MICHAEL TILI	815 Walecy ST. OCEANSIDE, CA. 92054
6	<i>Tom Tolauio</i> Tom Tolauio	11
Petition to deny application for Administrative Conditional Use Permit (ACUP-8-08) 03/2009		
7	<i>Kirk MDR #, Terry LEE</i> Kirk MDR # So. O.C.D.	(928) 380-3801
8	<i>Meridee Johnson Reynolds</i> Meridee Johnson Reynolds 1918-S. COAST. HWY side	1916 S. Coast Hwy 760-433-2828
9	<i>N. Parra</i> N. PARRA	(760) 439-3466
10	<i>Sing Ehang Chou</i> 1926 S. Coast Hwy SING EHHANG CHOU	760-439-7741
11	<i>Karen L. Durst</i> Karen L. Durst 1906 Greenmore Oceanside, CA	Karen L. Durst
12	<i>Head Arnold</i> Head Arnold 1917 Freeman St. Oceanside, CA	760-722-8726
13	<i>Andrew Herrera</i> ANDREW HERRERA 1913 S. FREEMAN ST. OCEANSIDE CA 92025	
14	<i>Steven Justison</i> STEVEN JUSTISON 1911 S. FREEMAN ST OCEANSIDE CA	949-842-9532
15	<i>Holly Trusiak</i> Holly Trusiak 2020 Via Esmeralda Apt. Oceanside, CA	
16	<i>Bronwyn Malloy</i> Bronwyn Malloy 1920 S. Tremont St Oceanside, CA 92054	760-497-2361
17	<i>Ryan Ucham</i> Ryan Ucham 1830 S. Tremont St. Oceanside CA 92054	760 722-0628
18	<i>Karen Pezeli</i> Karen Pezeli 1814 S. TREMONT Oceanside, CA 92054	
19	<i>J. Hosenkamp</i> J. Hosenkamp 1827 S. TREMONT Oceanside, CA, 92054	
20	<i>Emma Almandarez</i> Emma Almandarez 1811 S. Tremont St Oceanside, CA 92054	
21		

x

22		Travis Stoler	1837 S. Coast Hwy Oceanside CA 92054
23		Nancy Mudejra	1925 S. Coast Hwy Oceanside CA
24		CHARLES Arevalo	2001 S Coast Hwy Oceanside Ca
25		Wendy Custer	1913 S Freeman St OCEANSIDE CA 92054
26		Lindsay Smith	1902 Broadway Oceanside, CA 92054
27		Kenneth W. H. Alonk	1828 South Treadout OCEANSIDE CA 92054
28		Christine Williams	1610 Moreno St Oceanside CA 92054
29		SHAWN POHRBOUGH	1656 GRAND CARSBAD CA
30		Jen Frost	10116 Alvarado Oceanside CA
31		Vicki Krivoske	2072 S. Freeman St Oside 92054
Petition to deny application for Administrative Conditional Use Permit (ACUP-8-08) 3/2009			
32		W. Mitchell Parks	2034 S Freeman St Oceanside, CA
33		Ryan Driskill	2033 S. Freeman St Oceanside, Ca. 92054
34		Melinda McNeill	2034 S. Coast Hwy apt 1 Oceanside CA 92054
35		Jim Passarelli	2028 S COAST Hwy O.S. 92054
36		Lauren McCarthy	1504 Kelly St. OS CA 92054
37		Blake K. Sonke	1504 Kelly St. OS, CA 92054
38			

5	<i>Paul Cheatham</i>	<i>Paul Cheatham</i>
6		<i>1928 South Tremont Street Oceanside CA 92054</i>
	Petition to deny application for Administrative Conditional Use Permit (ACUP-8-08) 03/2009	
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File Number: ACUP-8-08, ACP-2-08

Applicant: Sprint Communication

Description:

ADMINISTRATIVE CONDITIONAL USE PERMIT (ACUP-8-08) and ADMINISTRATIVE COASTAL PERMIT (ACP-2-08) to operate three existing antennas concealed within a structure located at 1909 South Coast Highway. The project has been appealed and the decision is subject to a public hearing. The project site is zoned CL (Commercial Limited) and is situated within the South Oceanside Neighborhood and the Coastal Zone – **SPRINT/NEXTEL @ SURFRIDE**

Environmental Determination:

The project is exempt from the California Environmental Quality Act.

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

40117 -
Applicant & Rep.

5081

Sprint Nextel
 G Lori James - Suarez
 Sprint Site Development
 manager
 5761 Copley DR.
 Suite 100 cell: 250-7544
 SAN DIEGO, CA 92111

2nd Sprint @ Surfrite

Applicant
 Community Dev
 (760) 435-3526
 Oceanside Civic
 Oceanside, Calif

Please Print or

PART I - APPLICANT

1. APPLICANT
 SPRINT NEXTEL
 3. ADDRESS 5761 Copley Dr.
 SANDIEGO, CA 92111

4. PHONE/FAX/E-mail
 (760) 250-7544

5. APPLICANT'S REPRESENTATIVE (or person to be contacted for information during processing)
 CAROL McCUBBIN - GENERAL MANAGER ET

6. ADDRESS 707 Palomar Airport
 #300
 CARLSBAD, CA 92011

7. PHONE/FAX/E-mail
 760-445-7685

PART II - PROPERTY DESCRIPTION

8. LOCATION SURFRIDE SURFSHOP
 1909 S. COAST HWY, OCEANSIDE, CA

9. SIZE
 Bldg: 9048 sq ft / 0.2 AC.

10. GENERAL PLAN
 COMMERCIAL

11. ZONING
 CL

12. LAND USE
 Surf shop

13. ASSESSOR'S PARCEL NUMBER
 153-274-23-00

PART III - PROJECT DESCRIPTION

14. GENERAL PROJECT DESCRIPTION
 Application To EXTEND / RENEW EXPIRED PERMITS: ACUP-7-01 &
 ACP-1-01

15. PROPOSED GENERAL PLAN
 N/A

16. PROPOSED ZONING
 N/A

17. PROPOSED LAND USE
 Cell Site

18. NO. UNITS
 N/A

19. DENSITY
 N/A

20. BUILDING SIZE
 250 sq ft

21. PARKING SPACES
 N/A

22. % LANDSCAPE
 N/A

23. % LOT COVERAGE or FAR
 Eg. Bldg = 250 sq ft

PART IV - ATTACHMENTS

<input checked="" type="checkbox"/> 24. DESCRIPTION/JUSTIFICATION	<input checked="" type="checkbox"/> 25. LEGAL DESCRIPTION	<input checked="" type="checkbox"/> 26. TITLE REPORT
<input checked="" type="checkbox"/> 27. NOTIFICATION MAP & LABELS	<input checked="" type="checkbox"/> 28. ENVIRONMENTAL INFO FORM	<input checked="" type="checkbox"/> 29. PLOT PLANS
<input checked="" type="checkbox"/> 30. FLOOR PLANS AND ELEVATIONS	<input checked="" type="checkbox"/> 31. CERTIFICATION OF POSTING	<input type="checkbox"/> 32. OTHER (See attachment for required reports)

PART V - SIGNATURES

33. APPLICANT OR REPRESENTATIVE (Print):
 Carol McCubbin

34. DATE
 01/16/08
 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).

Sign:
 Carol McCubbin

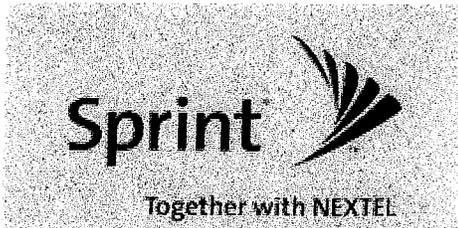
35. OWNER (Print)
 DUSTIN BERNARD

36. DATE
 1/16/08

I DECLARE UNDER PENALTY OF PERJURY THAT THE ABOVE INFORMATION IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.

Sign:
 [Signature]

STAFF USE ONLY	
ACCEPTED 3/28/08	BY SK
RECEIVED MAR 28 2008	
HEARING	
GPA	
MASTER/SP.PLAN	
ZONE CH.	
TENT. MAP	
PAR. MAP	
DEV. PL.	
C.U.P. ACUP-8	-08
VARIANCE	
COASTAL ACP-2	-08
O.H.P.A.C.	



RECEIVED
MAR 28 2008
Planning Department

Sprint Site Number: SD34XC795
Sprint Site Name: SURF RIDE / CLEMENTINE
Property Address: 1909 S. Coast Hwy.
Oceanside, Ca 92054
Assessor's Parcel Number: 153-274-23-00

PROJECT DESCRIPTION

This is an application for a renewal of an expired Administrative Conditional Use Permit [ACP-1-01] for an existing and operational unmanned telecommunication facility consisting of three [3] sectors of three [3] communication antennae each concealed within three [3] new RF transparent antenna roof screen enclosures painted and textured to match the existing surf shop building finishes. Access to the antennae are via a roof ladder

The equipment cabinets are placed on the second floor of the building and are architecturally integrated into the design of the building. The installation is completely stealthed.

No new construction is involved with this application for renewal.

EXHIBIT "A"

All that certain real property situated in the County of San Diego, State of California, described as follows:

Lots C and D in Block 19 of South Oceanside, in the City of Oceanside, County of San Diego, State of California, according to Map thereof No. 622, filed in the Office of the County Recorder of San Diego County, on February 7, 1890, as described in Certificate of Compliance recorded August 17, 2000 as File No. 2000-0439034 of Official Records.

Assessor's Parcel Number: **153-274-23-00**



NOTICE OF EXEMPTION

City of Oceanside, California

Post Date: 3/1/09
Removal: 8/29/09
(180 days)

1. **APPLICANT:** Sprint Nextel
2. **ADDRESS:** 5761 Copely Dr.
San Diego, CA. 92111
3. **PHONE NUMBER:** (619) 454-1839
4. **LEAD AGENCY:** City of Oceanside
5. **PROJECT MGR.:** Scott Nightingale
6. **PROJECT TITLE:** 2nd Sprint @ SURFRIDE (ACUP-8-08 & ACP-2-08)
7. **DESCRIPTION:** AN ADMINISTRATIVE CONDITIONAL USE PERMIT (ACUP-8-08) AND ADMINISTRATIVE CONDITIONAL USE PERMIT (ACP-2-08) FOR THE OPERATION AND MAINTENANCE OF AN EXISTING TELECOMMUNICATION FACILITY CONSISTING OF SIX (6) ANTENNAS ATTACHED AND WITHIN TWO EXISTING CUPOLAS LOCATED ON TOP OF THE ROOF OF AN EXISTING BUILDING LOCATED AT 1909 SOUTH COAST HIGHWAY.

ADMINISTRATIVE DETERMINATION: Planning Division staff has completed a preliminary review of this project in accordance with the City of Oceanside's Environmental Review Guidelines and the California Environmental Quality Act (CEQA), 1970. Based on that review, the Environmental Coordinator finds that the proposed project constitutes interior or exterior alterations involving such things as interior partitions, plumbing, and electrical conveyances. Therefore, the Environmental Coordinator has determined that further environmental evaluation is not required because:

- "The activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA" (Section 15061(b)(3)); or,
- The project is statutorily exempt, Section _____, <name> (Sections 15260-15277); or,
- The project is categorically exempt, Class 15301(a), Existing Facilities.
- The project does not constitute a "project" as defined by CEQA (Section 15378).



Scott Nightingale, Planner II

Date: March 1, 2009

cc: Project file Counter file Library

Posting: County Clerk \$50.00 Admin. Fee