

# AGENDA NO. 4

## PLANNING DIVISION

### MEMORANDUM

DATE: August 10, 2009

TO: Chairperson and Members of the Planning Commission

FROM: Jerry Hittleman, City Planner 

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.

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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

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

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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.

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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.

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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.

- 1 16. Unless expressly waived, all current zoning standards and  
2 City ordinances and policies in effect at the time building  
3 permits are issued are required to be met by this project.  
4 The approval of this project constitutes the applicant's  
5 agreement with all statements in the Description and  
6 Justification and other materials and information submitted  
7 with this application, unless specifically waived by an  
8 adopted condition of approval.
- 9 17. A covenant or other recordable document approved by the  
10 City Attorney shall be prepared by the applicant and  
11 recorded prior to the issuance of building permits. The  
12 covenant shall provide that the property is subject to this  
13 Resolution, and shall generally list the conditions of  
14 approval.
- 15 18. Prior to the issuance of building permits, compliance with  
16 the applicable provisions of the City's anti-graffiti  
17 (Ordinance No. 93-19/Section 20.25 of the City Code) shall  
18 be reviewed and approved by the Planning Department. These  
19 requirements, including the obligation to remove all  
20 graffiti within 24 hours, shall be noted on the Landscape  
21 Plan (if applicable) and shall be recorded in the form of  
22 a covenant affecting the subject property.
- 23 19. The number of dish-type antennas shall be limited to three  
24 and their individual diameters shall be limited to 6 feet.
- 25 20. The maximum height of the antenna structure, including  
26 antenna mounts, is limited to 60 feet above the existing  
27 finished grade of site.
- 28 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 22. The permittee shall exercise a good faith effort to  
23 incorporate the best available equipment technology to  
24 effect a reduction in the visual obtrusiveness of the  
25 approved antenna equipment. The change-out and retrofit of  
26 antenna equipment shall be conducted within a reasonable  
27 amount of time after such equipment becomes available and  
28 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

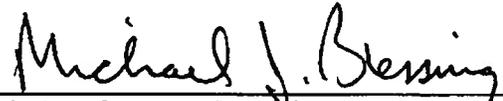
NAYES: None

ABSENT Caballero, Messinger

ABSTAIN: None

  
\_\_\_\_\_  
Reinaldo J. Altamirano, Chairman

ATTEST:

  
\_\_\_\_\_  
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

LEGAL DESCRIPTION

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 No. 272, filed in the office of the County Recorder, September 20, 1886.



**CITY OF OCEANSIDE  
PLANNING DEPARTMENT**

Revised April 1992

**NEGATIVE DECLARATION**

TO:      OFFICE OF PLANNING AND RESEARCH  
1400 TENTH STREET, ROOM 121  
SACRAMENTO, CA 95814

     RECORDER / COUNTY CLERK  
COUNTY OF SAN DIEGO  
P.O. BOX 1750  
SAN DIEGO, CA 92112-4147

**PROJECT TITLE AND FILE NUMBER:**

**AIRTOUCH CELLULAR, SELBY RIDGE SITE (C-17-95)**

**PROJECT LOCATION:**

1606 Missouri Street

**PROJECT DESCRIPTION:**

Construction and operation of a 56 foot tall freestanding cellular antenna facility and a 360 square foot equipment building.

**FINDING:** Pursuant to the provisions of Ordinance No. 88-31 pertaining to procedures and guidelines to implement the California Environmental Quality Act (Public Resources Code Section 21000 et. al.), the proposed project has been reviewed by the Environmental Review Committee established by ordinance to be responsible for evaluating the information. The Environmental Review Committee, after study of the facts and findings, has on August 18, 1995 determined that the project will not have a significant effect on the environment.

**THE PROJECT WAS DETERMINED TO HAVE NO MAJOR SIGNIFICANT ADVERSE EFFECTS UPON THE ENVIRONMENT.**

**THE PROJECT WAS DETERMINED TO HAVE NO MAJOR SIGNIFICANT ADVERSE EFFECTS UPON THE ENVIRONMENT PER COMPLIANCE WITH THE FOLLOWING CONDITIONS:**

Initial Study prepared by:  
Elizabeth J. Graff

Contact Person:  
Tim Cox, Environmental Planner

The Initial Study is available for public review and may be examined at:

City of Oceanside  
Planning Department  
300 North Hill Street  
Oceanside, CA 92054

*Elizabeth J. Graff* August 18, 1995  
SIGNATURE DATE  
For: Michael Blessing, Planning Director

CITY OF OCEANSIDE

INITIAL STUDY

I. PROJECT DESCRIPTION AND SETTING

1. Name of Proponent AirTouch Cellular
2. Address and Phone Number of Proponent:  
5355 Mira Sorrento Place, Suite 500, San Diego, California 92121
3. Name of Proposal, if applicable Selby Ridge Communications Site
4. APN(s) 150-100-04, 08 5. Application(s)# C-17-95, V-5-95
6. Have previous EIR's been prepared in area? No Proximity: \_\_\_\_\_  
For which project? \_\_\_\_\_
7. Project Description: Construction and operation of a 56' (+) cellular communication tower and a 360 square foot equipment building.
8. Environmental Setting: Urban residential area consisting of a mixture of multi-dwelling and single dwelling units. The project site consists of a non residential unit upon property which is bordered by Interstate 5 on one side.

II. ENVIRONMENTAL IMPACTS - IS THERE SUBSTANTIAL EVIDENCE IN THE RECORD WHICH INDICATES THE POTENTIAL FOR SIGNIFICANT ENVIRONMENTAL IMPACTS ASSOCIATED WITH THE FOLLOWING ISSUES? PLEASE REFER TO SECTION V OF THIS INITIAL STUDY FOR A DISCUSSION OF ALL "NO" RESPONSES.

1. EARTH. Will the proposal result in:	YES	MAYBE	NO	MAJOR
a. Unstable earth conditions or in changes in geologic substructures?	_____	_____	_____X_____	_____
[ ] Geologic site survey for subsurface conditions is recommended.				
[ ] Effect of Excavation needs verification.				
[ ] Slope stability is questioned.				
[ ] Soil sample tests and special foundation design are recommended.				
[ ] Other				
b. Disruptions, displacements, compaction or over-covering of the soil?	_____	_____	_____X_____	_____
c. Change in topography or ground surface relief features?	_____	_____	_____X_____	_____
d. The destruction, covering or modification of any unique geologic or physical features?	_____	_____	_____X_____	_____
[ ] Geologic site survey for subsurface conditions is recommended.				
[ ] Effect of excavation needs verification.				
[ ] Other				
e. Any increase in wind or water erosion of soils on or off the site?	_____	_____	_____X_____	_____
f. Changes in deposition or erosion of beach sands, or changes in siltation, deposition or erosion which may modify the channel of a river or stream or the bed of the ocean or any bay, inlet or lake?	_____	_____	_____X_____	_____
[ ] Tsunami hazard is expected, storm conditions, sand supply and movement needs verification.				

	YES	MAYBE	NO	MAJOR
g. Exposure of people or property to geologic hazards such as earthquakes, landslides, mudslides, ground failure or similar hazards?	_____	_____	<u>  X  </u>	_____
[ ] Seismic shaking is expected.				
[ ] Slope stability is questioned.				
[ ] Soil sample tests and special foundation design are recommended.				
[ ] Geologic site survey for subsurface conditions is recommended.				
[ ] Effect of excavation is questioned.				
2. AIR. Will the proposal result in:				
a. Substantial air emissions or deterioration of ambient air quality?	_____	_____	<u>  X  </u>	_____
b. The creation of objectionable odors?	_____	_____	<u>  X  </u>	_____
c. Alteration of air movement, moisture or temperature, or any change in climate, either locally or regionally?	_____	_____	<u>  X  </u>	_____
3. WATER. Will the proposal result in:				
a. Changes in currents or the course or direction of water movements, in either marine or fresh waters?	_____	_____	<u>  X  </u>	_____
b. Changes in absorption rates, drainage patterns or the rate and amount of surface water runoff?	_____	_____	<u>  X  </u>	_____
c. Alterations to the course or flow of flood waters?	_____	_____	<u>  X  </u>	_____
d. Change in the amount of surface water in any water body?	_____	_____	<u>  X  </u>	_____
e. Discharge into surface waters, or in any alteration of surface water quality, including but not limited to temperature, dissolved oxygen or turbidity?	_____	_____	<u>  X  </u>	_____
f. Alteration of the direction or rate of flow of ground waters?	_____	_____	<u>  X  </u>	_____
g. Change in the quantity of ground waters, either through direct additions or withdrawals, or through interception of any aquifer by cuts or excavations?	_____	_____	<u>  X  </u>	_____

	YES	MAYBE	NO	MAJOR
h. Substantial reduction in the amount of water otherwise available for public water supplies?	_____	_____	<u>  X  </u>	_____
i. Exposure of people or property to water related hazards such as flooding or tidal waves?	_____	_____	<u>  X  </u>	_____
4. <b>PLANT LIFE.</b> Will the proposal result in:				
a. Change in the diversity of species, or number of any species of plants (including trees, shrubs, grass, crops, and aquatic plants)?	_____	_____	<u>  X  </u>	_____
b. Reduction of the numbers of any unique, rare or endangered of plants?	_____	_____	<u>  X  </u>	_____
c. Introduction of new species of plants into an area, or in a barrier to the normal replenishment of existing species?	_____	_____	<u>  X  </u>	_____
d. Reduction in acreage of any agricultural crop?	_____	_____	<u>  X  </u>	_____
5. <b>ANIMAL LIFE.</b> Will the proposal result in:				
a. Change in the diversity of species, or numbers of any species of animals (birds, land animals including reptiles, fish and shellfish, benthic organisms or insects)?	_____	_____	<u>  X  </u>	_____
b. Reduction of the numbers of any unique, rare or endangered species of animals?	_____	_____	<u>  X  </u>	_____
c. Introduction of new species of animals into an area, or result in a barrier to the migration or movement of animals?	_____	_____	<u>  X  </u>	_____
d. Deterioration to existing fish or wildlife habitat?	_____	_____	<u>  X  </u>	_____
6. <b>NOISE.</b> Will the proposal result in:				
a. Increases in existing noise levels?	_____	_____	<u>  X  </u>	_____
b. Exposure of people to severe noise levels?	_____	_____	<u>  X  </u>	_____
7. <b>LIGHT AND GLARE.</b> Will the proposal produce new light and glare?	_____	_____	<u>  X  </u>	_____
8. <b>LAND USE.</b> Will the proposal result in a substantial alteration of the present or planned land use of an area?	_____	_____	<u>  X  </u>	_____

	YES	MAYBE	NO	MAJOR
9. <b>NATURAL RESOURCES.</b> Will the proposal result in:				
a. Increase in the rate of use of any natural resources?	_____	_____	<u>  X  </u>	_____
b. Depletion of any non renewable resource such as fuel for energy generation or mineral extractions?	_____	_____	<u>  X  </u>	_____
10. <b>RISK OF UPSET.</b> Does the proposal involve a risk of an explosion or the release of hazardous substances (including, but not limited to oil, pesticides, chemicals or radiation) in the event of an accident or upset conditions?	_____	_____	<u>  X  </u>	_____
11. <b>POPULATION.</b> Will the proposal alter the location, distribution, density, or growth rate of the human population of an area?	_____	_____	<u>  X  </u>	_____
12. <b>HOUSING.</b> Will the proposal affect existing housing, create a demand for additional housing?	_____	_____	<u>  X  </u>	_____
13. <b>TRANSPORTATION/CIRCULATION.</b> Will the proposal result in:				
a. Generation of substantial additional vehicular movement?	_____	_____	<u>  X  </u>	_____
b. Effects on existing parking facilities, or demand for new parking?	_____	_____	<u>  X  </u>	_____
c. Substantial impact upon existing transportation systems?	_____	_____	<u>  X  </u>	_____
d. Alterations to present patterns of circulation or movement of people and/or goods?	_____	_____	<u>  X  </u>	_____
e. Alterations to waterborne, rail or air traffic?	_____	_____	<u>  X  </u>	_____
f. Increase in traffic hazards to motor vehicles, bicyclists or pedestrians?	_____	_____	<u>  X  </u>	_____
14. <b>PUBLIC SERVICES.</b> Will the proposal have a negative effect upon, or result in a need for new or altered governmental services in any of the following areas:				
a. Fire protection?	_____	_____	<u>  X  </u>	_____
b. Police protection?	_____	_____	<u>  X  </u>	_____
c. Schools?	_____	_____	<u>  X  </u>	_____
d. Parks or other recreational facilities?	_____	_____	<u>  X  </u>	_____
e. Maintenance of public facilities, including roads?	_____	_____	<u>  X  </u>	_____
f. Other governmental services?	_____	_____	<u>  X  </u>	_____

	YES	MAYBE	NO	MAJO
15. ENERGY. Will the proposal result in:				
a. Use of substantial amounts of fuel or energy?	_____	_____	<u>  X  </u>	_____
b. Substantial increase in demand upon existing sources of energy, or require the development of new sources of energy?	_____	_____	<u>  X  </u>	_____
16. UTILITIES. Will the proposal result in a need for new systems, or substantial alterations to the following utilities:				
a. Power or natural gas?	_____	_____	<u>  X  </u>	_____
b. Communications systems?	_____	_____	<u>  X  </u>	_____
c. Water?	_____	_____	<u>  X  </u>	_____
d. Sewer or septic tanks?	_____	_____	<u>  X  </u>	_____
e. Storm water drainage?	_____	_____	<u>  X  </u>	_____
f. Solid waste and disposal?	_____	_____	<u>  X  </u>	_____
17. HUMAN HEALTH. Will the proposal result in:				
a. Creation of any health hazard or potential health hazard (excluding mental health)?	_____	_____	<u>  X  </u>	_____
18. AESTHETICS. Will the proposal result in the obstruction of any scenic vista or view open to the public, or will the proposal result in the creation of an aesthetically offensive site open to public view?	_____	<u>  X  </u>	_____	_____
19. RECREATION. Will the proposal result in an impact upon the quality or quantity of existing recreational opportunities?	_____	_____	<u>  X  </u>	_____
20. ARCHAEOLOGICAL/HISTORICAL. Will the proposal result in an alteration of a significant archaeological or historical site, structure, object or building?	_____	_____	<u>  X  </u>	_____
21. PUBLIC INTEREST. Is there known public controversy concerning the environmental effects of the project?	<u>  X  </u>	_____	_____	_____

III. MANDATORY FINDINGS OF SIGNIFICANCE

A. Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or pre-history?	_____	_____	<u>  X  </u>	_____
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	YES	MAYBE	NO	MAJOR
B. Does the project have the potential to achieve short-term, to the disadvantage of long-term, environmental goals? (A short-term impact on the environment is one which occurs in a relatively brief, definitive period of time while long-term impacts will endure well into the future.)	_____	_____	X	_____
C. Does the project have impacts which are individually limited, but cumulatively considerable? (A project may impact on two or more separate resources where the impact on each resource is relatively small, but where the effect of the total of those impacts on the environment is significant.)	_____	_____	X	_____
D. Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	_____	_____	X	_____

IV. MITIGATION MEASURES

ASETHETICS: The project will be conditioned 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 with the best available equipment will be required to be completed after such equipment achieves common use within the communication industry. The conditions will also specify possible revocation of the permit upon the permittee's failure to diligently incorporate the best available technology.

PUBLIC INTEREST: At a specified intervals the project will be required to provide an independently prepared radio frequency (RF) power density report to the Planning Director. The report shall be based upon on-site and off-site measurements, and shall quantify the measured RF emission against the currently acceptable ANSI standards. The City may revoke the permit or require a revision to the operations at such time that the testing results do not achieve the acceptable standards.

V. DISCUSSION OF ALL "NO" RESPONSES ON THE INITIAL STUDY CHECKLIST

Based on review of the City's Environmental Data Base, relevant background studies, previous environmental documentation and staff input, it has been determined that no substantial evidence exists in the public record which indicates the potential for significant environmental impacts associated with the project as proposed including conditions of approval imposed by the City.

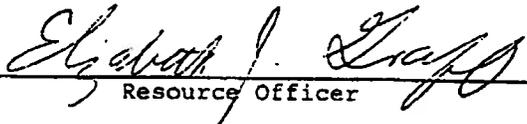
Initial Study Prepared By: Elizabeth J. Graff and accepted as to content by the City Environmental Review Committee.

VI. DETERMINATION

On the basis of this initial evaluation, the City Environmental Review Committee finds:

- [x] The proposed project **COULD NOT** have a significant effect on the environment, and a **NEGATIVE DECLARATION** will be prepared.
- [ ] The proposed project **COULD** have a significant effect on the environment, but there will not be a significant effect in this case because the mitigation measures described on an attached sheet have been added to the project. A **NEGATIVE DECLARATION** will be prepared.
- [ ] The proposed project **MAY** have a significant effect on the environment, and an **ENVIRONMENTAL IMPACT REPORT** is required.

DATE: August 18, 1995

  
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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

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

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

WHEREAS, there was filed with this<sup>l</sup> 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 22<sup>nd</sup> 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 4<sup>th</sup>, 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  
19 antennas.  
20 c) Three (3) dish antennas.  
21 d) Support equipment contained within a 360 square-foot, 10-foot tall, unmanned  
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  
              from public views.
- 6   8.     The approved facility is represented by the plans, information, and any additional materials  
7           presented to the Planning Commission. Any expansion or intensification in the scope or  
8           scale of the approved facility will require a revision to the Conditional Use Permit or a new  
              Conditional Use Permit.
- 9   9.     The Conditional Use Permit shall be limited to a term of 4 years effective from October 9,  
10           2000. At the end of the 4-year time extension, the existing facility will be removed and  
11           considered for a stealth design with collocation capability. However, the CUP may be  
12           revised (changed) to affect a renewal in accordance with the provisions of the Zoning  
13           Ordinance. The application for CUP revision shall also be evaluated against the existing  
              land use policies and any site area and neighborhood changes.
- 14   10.    A covenant or other recordable document approved by the City Attorney shall be prepared  
15           by the applicant and recorded prior to the issuance of building permits and/or landscape  
16           plans. The covenant shall provide that the property is subject to this Resolution, and shall  
17           generally list the conditions of approval.
- 18   11.    This project is subject to the provisions of Chapter 20 of the City Code (Section 20.25 et  
              seq.) pertaining to obligations for the removal of graffiti at the approved facility.
- 19   12.    The approved communication facility shall be subject to, and governed by, any and all  
20           licensing authority by any governmental agency having jurisdiction. The City's local  
21           approval of a communication facility shall not exempt the permittee(s) from any such pre-  
22           emptive regulations.
- 23   13.    The final locations and species type of the two (2) supplemental queen palm trees and one  
24           (1) canopy tree shall be reviewed and approved by the Planning Director prior to their  
25           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  
irrigation shall be required in accordance with the effective fee schedule for those services.

5 15. A building permit shall be required for the undergrounding of the electrical lines within the  
6 property serving the antenna facility.

7 16. Any apparent inconsistency in the implementation and maintenance of the approved  
8 facility shall be a basis for a call for the review of the CUP.

9 17. The existing and new supplemental trees as visual mitigation for the facility shall be  
10 maintained in perpetuity for the life of the approved facility. These trees shall be  
11 maintained in at least their existing number and allowed to reach full mature heights,  
12 provided such mature growth does not unduly inhibit the operation of the approved facility.  
13 The property owner and any successors in property ownership shall ultimately be  
14 responsible for the maintenance of the visual mitigation for the life of the facility. Any  
15 lack of maintenance of visual mitigation depicted and represented within the application  
16 materials shall be a basis for a call for review of the CUP.

17 18. Upon termination of the approved facility use, the permittee shall be responsible to remove  
18 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 \_\_\_\_\_  
14 Gerald S. Gilbert, Secretary

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

18 Dated: April 22, 2002

19 Gerald Gilbert, Secretary  
OCEANSIDE PLANNING COMMISSION

LEGAL DESCRIPTION

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 No. 272, filed in the office of the County Recorder, September 20, 1886.



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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 26<sup>th</sup> 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.

11 **Building:**

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

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

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

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

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

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

26 8. 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 7:00 a.m. and 6:00  
30 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  
number of tree caliper lost shall be equal to the total number of caliper replaced.  
Replacement trees shall be a minimum of 15-gallon container stock. A field survey  
shall be performed under the supervision of the City's Landscaping Section to  
evaluate the existing tree population and the replacement requirements. The  
existing trees to remain or proposed for removal shall be identified on the

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

4 b) The Oleander shrubs shall be replaced with a native or naturalized shrub of an  
5 overall like size at maturity, which blends with the existing landscape and shall be  
6 of a drought tolerant, self sustaining nature. Ground cover or bark mulch shall be  
7 provided in shrub areas. Original Planning Commission Resolution No. 2002-P21  
8 shall be complied with excluding: Nerium oleander shrubs added to the site, Queen  
9 Palms provided in the right-of-way on Missouri and item #14, lines one through 4.  
10 The items excluded shall be supplanted by 24-inch box drought tolerant and native  
11 trees to be planted within the required front yard. One of which shall be a canopy  
12 tree.

13 c) Shrubs trained as trees, (tree standards), minimum 30'-0" on center meeting City of  
14 Oceanside requirements shall be provided in the Missouri Avenue right-of-way and  
15 be of a drought tolerant and self sustaining nature; shrubs at maturity shall not grow  
16 to a height reaching the overhead lines.

17 d) Vines provided to screen the fencing shall be installed with minimum 15-gallon  
18 container size on site. Specific spacing of vines shall be determined by species to  
19 provide maximum screening at the plant's maturity. Drought tolerant, self  
20 sustaining vines are recommended.

21 e) Existing irrigation in the right-of-way and on-site shall be protected in place;  
22 repaired, updated and replaced as necessary to meet the current City of Oceanside  
23 requirements and be completed to the satisfaction of the City Engineer. Irrigation  
24 for planted areas in the right-of-way and on-site shall meet the current City of  
25 Oceanside requirements.

26 12. All landscaping, fences, walls, etc. on the site, in medians in the public right-of-way and in  
27 any adjoining public parkways shall be permanently maintained by the owner, their assigns  
28 or any successors-in-interest in the property. The maintenance program shall include  
29 normal care and irrigation of the landscaping; repair and replacement of plant materials;  
30 irrigation systems as necessary; and general cleanup of the landscaped and open areas,  
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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  
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
- 26                     fence as deemed necessary by the City Engineer;
- 27           f)     Underground existing power lines on-site serving the antenna facility;

28 18. The approved facility is represented by the plans, information, and any additional materials  
29 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  
generally list the conditions of approval.
- 4 20. This project is subject to the provisions of Chapter 20 of the City Code (Section 20.25 et  
5 seq.) pertaining to obligations for the removal of graffiti at the approved facility.
- 6 21. The approved communication facility shall be subject to, and governed by, any and all  
7 licensing authority by any governmental agency having jurisdiction. The City's local  
8 approval of a communication facility shall not exempt the permittee(s) from any such pre-  
9 emptive regulations.
- 10 22. The final locations and species type of the two (2) supplemental drought tolerant and  
11 native 24" box trees and one (1) drought tolerant 24" box canopy tree shall be reviewed  
12 and approved by the City Planner and City Engineer prior to their installation. The  
supplemental trees shall be installed within 120 days of this approval.
- 13 23. A landscape plan for supplemental queen palm and canopy tree installation, replaced  
14 landscaping and irrigation shall be prepared by a landscape architect and shall be reviewed  
15 and approved by the City Engineer and the City Planner prior to installation. Payment for  
16 the City Engineer's courtesy plan check and inspection of the trees and irrigation shall be  
required in accordance with the effective fee schedule for those services.
- 17 24. A building permit shall be required for the undergrounding of the electrical lines within the  
18 property serving the antenna facility.
- 19 25. Any apparent inconsistency in the implementation and maintenance of the approved  
20 facility shall be a basis for a call for the review of the Conditional Use Permit.
- 21 26. The existing and new supplemental trees as visual mitigation for the facility shall be  
22 maintained in perpetuity for the life of the approved communication land use. These trees  
23 shall be maintained in at least their existing number and allowed to reach full mature  
24 heights, provided such mature growth does not unduly inhibit the operation of the  
25 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  
installation of the C.O.W.

5 31. Prior to the installation of the C.O.W., a Management Plan shall be approved by the City  
6 Planner and be recorded as a covenant, or other recordable document, approved by the City  
7 Attorney. The Management Plan shall cover the following: site location; C.O.W. design;  
8 height, which shall not exceed 50 feet from grade; noise; security; maintenance; property  
owner's approval; hours of operation; and any other aspects requested by the City Planner.

9 32. The C.O.W. shall be removed at the applicant's expense on or before June 24, 2007.  
10 Failure to do so shall result in Code Enforcement action and the C.O.W. will be removed  
11 by the City. This requirement shall be recorded in the form of a covenant affecting the  
12 subject property.

13 33. Co-user facilities shall be limited to the following:

- 14 a) Antenna Type: Permitted antennas are limited to pole and monitoring antennas.
- 15 b) Maximum Number: Pole antennas - are limited to 5 antenna; Monitoring antennas -  
16 one per every permitted communication facility.
- 17 c) Maximum Height: Pole antennas - 50 feet maximum elevation; Monitoring  
18 antennas - 1-foot above height of a co-user facility
- 19 d) Maximum Antenna Size: Pole antenna - 4 inches diameter; monitoring antennas - 1  
20 cubic foot.
- 21 e) Appearance: Antennas must be colored or painted to blend with the predominant  
22 background features (e.g., building, landscape, sky). The antennas shall be clad  
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.
- 23 f) Co-user equipment shall conform to Zoning Ordinance regulations and the  
24 conditions adopted herein.
- 25 g) Co-user equipment shall be stored and operate within the existing 360 square-foot,  
10-foot tall unmanned equipment room.

1 **Water Utilities:**

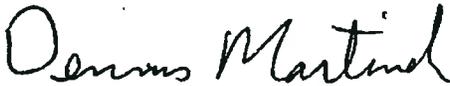
2 34. No trees, structures or building overhang shall be located within any water or wastewater  
3 utility easement.

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.

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

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

- 9 AYES: Martinek, Parker, Horton, Blom, Balma, McLeod and Troisi
- 10 NAYES: None
- 11 ABSENT: None
- 12 ABSTAIN: None

13 

14 Dennis Martinek, Chairman  
15 Oceanside Planning Commission

16 ATTEST:

17   
18 Jerry Hittleman, Secretary

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

21 Dated: March 26, 2007

LEGAL DESCRIPTION

ORDER NO.: 197116-02

RECEIVED  
SEP 09 2004  
Planning Department

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  $35^{\circ}47'28''$  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  $13^{\circ}06'30''$  West 53.85 feet and North  $34^{\circ}54'35''$  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 purpose (XI-SD-OCN), recorded July 1, 1960 as File/Page No. 109780 of Official Records.

