

# AGENDA NO. 8

*PLANNING COMMISSION*



*CITY OF OCEANSIDE*

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DATE: June 24, 2013

TO: Chairperson and Members of the Planning Commission

FROM: Development Services Department/Planning Division

SUBJECT: **CONDITIONAL USE PERMIT (CUP12-00019) TO PERMIT EQUIPMENT UPGRADES AND OPERATION OF AN EXISTING WIRELESS COMMUNICATION FACILITY AT 805 COLLEGE BOULEVARD – SPRINT @ 805 COLLEGE BLVD. – APPLICANT: SPRINT NEXTEL C/O ALCATEL LUCENT**

## **RECOMMENDATION**

Staff recommends that the Planning Commission by motion:

- (1) Repeal the June 10, 2013 Planning Commission action denying Conditional Use Permit CUP12-00019;
- (2) Confirm issuance of a Class One (1), Categorical Exemption "Existing Facilities"; and,
- (3) Adopt Planning Commission Resolution No. 2013-P28 approving Conditional Use Permit CUP12-00019 with findings and conditions of approval attached herein.

## **BACKGROUND**

On June 10, 2013, the Planning Commission considered a conditional use permit request (CUP12-00019) to allow equipment upgrades and the continued operation of a wireless communication facility on an existing commercial retail building at 805 College Boulevard. The property has a General Plan land use designation of Rancho Del Oro Specific Plan (S-1-84) and a zoning designation of Planned Development – 1 (PD-1). Surrounding land uses include retail buildings to the north, east and west, and open space to the south.

Responses to inquiries regarding content and quality of the submitted radiofrequency (RF) report were not sufficient to gain Commission support, and may have caused confusion during the public hearing. As a result, a motion was made by Commissioner Ross to deny the project without prejudice. The motion passed with a 4-1 vote, with

Chairman Neal voting against the motion. No specific findings for denial were incorporated in the Planning Commission's motion.

## **DISCUSSION**

Conditional Use Permit CUP12-00019 represents a request to allow:

- *Equipment upgrades necessary to accommodate fourth generation (4G) wireless technologies and the continued operation of a wireless communications facility on an existing retail building. Specific project upgrades consist of the removal of six (6) existing antennas and the installation of three (3) new antennas divided into three (3) sectors.*

### 1. Project Compliance with applicable City standards:

Article 39 of the City's Zoning Ordinance (Wireless Communications Facility, Satellite Dish and Antenna Standards) allows the establishment and operation of single provider, building-mounted communications facilities subject to approval of a Conditional Use Permit and contingent upon compliance with standards, findings, and conditions articulated in Article 39 and Article 41 (Use Permits and Variances) of the City's Zoning Ordinance. Staff has determined that the subject proposal will be in compliance with applicable zoning ordinance standards and land use policies of the City of Oceanside. (Attachment 1 – June 10, 2013 Planning Commission Staff Report).

### 2. Project Compliance with FCC standards:

The Telecommunications Act of 1996 restricts local jurisdictions from regulating wireless communications facilities based on radiofrequency (RF) emissions as long as the facility complies with FCC standards. Article 39 of the City's Zoning Ordinance, authorizes staff to hire an independent, qualified consultant to evaluate technical aspect(s) of a proposed wireless communications facility.

The City of Oceanside has entered into a professional services contract with Mestre Greve Associates and has relied upon their RF engineering expertise for evaluation of RF reports submitted by telecommunications facility proponents. Since submittal of RF reports are not mandated by City Ordinance, the City's practice and policy has been to place conditions on projects, based on Mestre Greve's recommendations, to ensure project compliance with FCC standards. Revision and resubmittal of updated RF reports prior to a project's consideration by the Planning Commission is not required.

The subject project's RF report was prepared by a licensed engineer and indicates that the project's RF emissions will be within the allowable FCC limits. Mestre Greve evaluated the report and recommended conditions for project approval. All project conditions were included in the draft resolution which was presented to the Commission on June 10, 2013.

### 3. Procedure for project denial

Section 4.9 of the Planning Commission Bylaws sets forth meeting procedures as follows:

*“Final action on all public hearing items shall be by adoption of a resolution prepared at the Commission’s direction. Unless otherwise specified in these Bylaws, the procedure leading to the adoption of a resolution shall be as follows:*

1. *At the close of the hearing and after discussion by the Commissioners, a motion to approve or deny the application or otherwise forward it to City Council shall be made, incorporating the Commission’s findings, conditions and recommendations. This motion shall be construed as a preliminary action.”*

The Planning Commission motion to deny the project on June 10, 2013, did not incorporate the requisite findings. In addition, the City Attorney has consulted with Development Services Department staff and has recommended that the Commission consider repealing their prior action based on the fact that the proposal is in compliance with City ordinances, policies and FCC standards. However, should the Planning Commission decide to move forward with project denial, appropriate findings should be provided.

### **ENVIRONMENTAL DETERMINATION**

Planning Division staff has completed a preliminary review of this project in accordance with the California Environmental Quality Act. Based on that review, staff finds that the proposed project constitutes operations within existing facilities that will not involve expansion beyond what exists onsite at this time, and the project is categorically exempt, Class 1, “Existing Facilities” (Section 15301) (Attachment 2).

### **SUMMARY**

The proposed project will be in compliance with FCC standards and applicable zoning ordinance standards and land use policies of the City of Oceanside, Therefore staff recommends that the Planning Commission:

- Repeal the June 10, 2013 Planning Commission action denying Conditional Use Permit CUP12-00019;
- Confirm issuance of a Class One (1), Categorical Exemption “Existing Facilities”; and,

- Adopt Planning Commission Resolution No. 2013-P28 approving Conditional Use Permits CUP12-00019 with findings and conditions of approval attached herein (Attachment 3).

PREPARED BY:

  
Sally Schifman  
Project Planner

SUBMITTED BY:

  
Marisa Lundstedt  
City Planner

ML/SS/fil

Attachments:

1. June 10, 2013 Planning Commission Staff Report for CUP12-00019
2. Environmental Determination
3. Planning Commission Resolution No. 2013-P28



DATE: June 10, 2013

TO: Chairperson and Members of the Planning Commission

FROM: Development Services Department/Planning Division

SUBJECT: **CONSIDERATION OF CONDITIONAL USE PERMIT (CUP12-00019) FOR THE CONSTRUCTION AND OPERATION OF A WIRELESS COMMUNICATIONS FACILITY LOCATED AT 805 COLLEGE BOULEVARD – SPRINT @ 805 COLLEGE BOULEVARD – APPLICANT: SPRINT/NEXTEL C/O ALCATEL LUCENT**

### **RECOMMENDATION**

Staff recommends that the Planning Commission by motion:

- (1) Confirm issuance of a Class One (1), Categorical Exemption "Existing Facilities"; and,
- (2) Adopt Planning Commission Resolution No. 2013-P28 approving Conditional Use Permit CUP12-00019 with findings and conditions of approval attached herein.

### **PROJECT DESCRIPTION AND BACKGROUND**

**Site Review:** The project site is located at 805 College Boulevard on an existing commercial retail building. The property has a land use designation of Rancho Del Oro Specific Plan (S-1-84) on the General Plan Land Use Map and is zoned Planned Development – 1 (PD-1) on the official zoning map.

Surrounding land uses include a mix of retail buildings to the north, east and west, and open space to the south.

**Project Background:** This project site was initially approved for a wireless communications facility on August 12, 1996. The original Conditional Use Permit (CUP-11-96) granted Cox California PCS entitlements for nine (9) antennas. The antennas were to be mounted behind radiofrequency (RF) transparent material on an existing rooftop cupola.

Entitlements granted by Conditional Use Permit (CUP-11-96) expired on August 12, 2001.

The City has no record of when Sprint/Nextel began operating their equipment at this location. However, according to the submitted existing conditions drawings, there are currently six (6) operating Sprint antennas located within the cupola.

**Project Description:** The project application is comprised of the following required entitlement:

Conditional Use Permit CUP12-00019 represents a request for the following:

- (a) Equipment upgrades necessary to accommodate fourth generation (4G) wireless technologies and the continued operation of a wireless communications facility on an existing fast food restaurant. Project upgrades consist of the removal of six (6) existing antennas and the installation of three (3) new antennas divided into three (3) sectors. There are no proposed changes to the existing equipment cabinets. (See Attachment 1)

Article 39 of the City's Zoning Ordinance (Wireless Communications Facility, Satellite Dish and Antenna Standards) allows the establishment and operation of single provider, building-mounted communications facilities subject to approval of a Conditional Use Permit and is contingent upon standards, findings, and conditions articulated in Article 39 and Article 41 (Use Permits and Variances) of the City's Zoning Ordinance.

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
4. California Environmental Quality Act (CEQA)

## **ANALYSIS**

### **KEY PLANNING ISSUES**

#### **1. General Plan conformance**

The General Plan Land Use Map designation for the subject property is Rancho Del Oro Specific Plan (S-1-84). The proposed project is consistent with this designation and the goals and objectives of the City's General Plan as follows:

## 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.

Sprint seeks to upgrade equipment necessary to accommodate 4G wireless technologies and continue operating a wireless communications facility on an existing commercial retail building in order to provide the residents of Oceanside the latest in wireless technology by improving call quality, data transmission and speed. Signal coverage maps are attached to this staff report (Attachment 2).

The project site is located in a developed area within a cupola structure of an existing commercial retail building. Commercial properties have proven to be ideal locations for wireless communications facilities because the antenna use can easily be integrated into the operation of the building without impacting on-site or surrounding land uses. The proposed antenna upgrades would be completely concealed from public view behind RF transparent screening within a rooftop cupola.

The Planning Division finds that the proposed project is consistent with General Plan policies pertaining to the efficient operation and aesthetics of communication systems within the City.

## **2. Zoning Ordinance Compliance**

As noted above, the project is subject to Article 39 of the City's Zoning Ordinance, which lists operation and maintenance standards, wireless communication facility standards, locational and site development standards, and safety and monitoring standards.

The proposed facility would be unmanned, requiring approximately one (1) maintenance visit per month. Standard conditions of approval will ensure that the proposed facility remains in good repair and free of debris, litter, and graffiti, and that any damage or blight shall be corrected upon written notice by the City.

Among facility design standards is the requirement to employ camouflage design techniques in order to minimize visual impacts. As noted earlier, the proposed project would be in an existing rooftop cupola mounted behind RF transparent screening. The screening feature has been designed to match in color, size, proportion, style, texture, and quality the exterior design and architectural character of the existing building.

Locational and siting standards establish an order of preference for properties on which wireless communications facilities are proposed. The most preferred locations for such facilities are City-owned sites and the least preferred locations are those within residential districts. The proposed project would be located within a commercial district, which is the third most desirable location out of seven. There are no residential districts near the project site. The location of the antennas behind screening would mitigate any potentially adverse visual impacts surrounding environment.

The zoning ordinance permits wireless communications facilities to exceed the maximum building height of the underlying zoning district by 10 feet. In the PD-1 commercial zone, the maximum allowed building height is 52 feet. The cupola upon which the antennas will be mounted is 43 feet in height and is the tallest feature of the building. As designed and conditioned, the proposed antennas will not extend beyond the height of the cupola.

At all times, wireless communications facilities are required to comply with the most current regulatory and operational standards including RF radiation exposure standards adopted by the Federal Communications Commission (FCC). As proposed, the project would be in compliance with FCC standards.

### **3. 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 technological enhancements and aesthetic analyses of the site if they are found to be necessary.

## **DISCUSSION**

*Issue: Compliance with Federal Communications Commission (FCC) rules and regulations*

FCC guidelines establish separate maximum permissible exposure (MPE) limits for "general population/uncontrolled exposure" and for "occupational/controlled exposure." The general population/uncontrolled limits set the maximum exposure to which most people may be subjected. People in this group include the general public not associated with the installation and maintenance of the transmitting equipment. Higher

exposure limits are permitted under the "occupational/controlled exposure" category, but only for persons who are exposed as a consequence of their employment (e.g., wireless radio engineers, technicians). To qualify for the occupational/controlled exposure category, exposed persons must be made fully aware of the potential for exposure (e.g., through training), and they must be able to exercise control over their exposure. In addition, people passing through a location, who are made aware of the potential for exposure, may be exposed under the occupational/controlled criteria. The MPE limits adopted by the FCC for occupational/controlled and general population/uncontrolled exposure incorporate a substantial margin of safety and have been established to be well below levels generally accepted as having the potential to cause adverse health effects.

The compliance documentation submitted by Sprint indicates that based on worst-case predictive modeling there are no areas at ground level or on any accessible rooftop level working/walking surface that exceed MPE limits. At ground-level, the maximum power density generated by the antennas is 4.10 percent of the FCC's general population limit (0.82 percent of the occupational limit). On the rooftop, the maximum power density generated by the antennas is 41.20 percent of the general population limit (8.24 percent of the occupational limit).

Recommendation: Signs are the primary means for control of access to areas where RF exposure levels may potentially exceed the general population and/or occupational MPE. Therefore, the project has been conditioned to incorporate signage to notify the public of the location of the antennas.

Issue: *Compatibility with surrounding land uses*

Recommendation: In evaluating the compatibility of the proposed project with the surrounding environment, staff has considered the visual impacts of the proposed antennas and ancillary facilities. Staff finds that the proposed project would not have adverse visual impacts on adjacent commercial buildings and roadways due to the proposed camouflage design and height of the facility. The facility has been in existence for more than 10 years and no complaints have been filed with the City in regards to visual impacts. Therefore, it has been determined that the proposed wireless communications facility would be compatible with the surrounding land uses and would not diminish the aesthetic value of the surrounding area.

## **ENVIRONMENTAL DETERMINATION**

Planning Division staff has completed a preliminary review of this project in accordance with the California Environmental Quality Act (CEQA). Based on that review, staff finds that the proposed project constitutes operations within existing facilities that will not involve expansion beyond what exist on-site at this time, and the project is categorically exempt, Class 1, "Existing Facilities" (Section 15301) (Attachment 3).

## PUBLIC NOTIFICATION

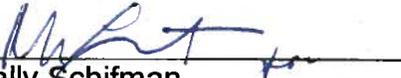
Legal notice was published in the newspaper and notices were sent to property owners of record within a 300-foot radius of the subject property, individuals and/or organizations requesting notification, the applicant and other interested parties.

## SUMMARY

The request for approval of the Conditional Use Permit to allow for equipment upgrades necessary to accommodate 4G wireless technologies and the continued operation of a wireless communications facility on an existing commercial retail building is consistent with the requirements of the Zoning Ordinance and the land use policies of the General Plan. The project meets all applicable development standards and will not impact existing land uses in the immediate area. 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:

- Confirm issuance of a Class One (1), Categorical Exemption "Existing Facilities"; and,
- Adopt Planning Commission Resolution No. 2013-P28 approving Conditional Use Permits CUP12-00019 with findings and conditions of approval attached herein (Attachment 4).

PREPARED BY:

  
Sally Schifman  
Project Planner

SUBMITTED BY:

  
Marisa Lundstedt  
City Planner

ML/SS/fil

### Attachments:

1. Plans dated November 29, 2012
2. Signal Coverage Maps
3. Environmental Determination
4. Planning Commission Resolution No. 2013-P28
5. Other Attachments (Application Page, Description and Justification, Legal Description)

# ATTACHMENT 2



## NOTICE OF EXEMPTION City of Oceanside, California

Post Date: 06/25/2013  
Removal: 12/25/2013  
(180 days)

1. **APPLICANT:** Sprint Nextel c/o Alcatel
2. **ADDRESS:** 9605 Scranton Road #400, San Diego, CA 92121
3. **PHONE NUMBER:** (619) 417-6295
4. **LEAD AGENCY:** City of Oceanside
5. **PROJECT MGR.:** Sally Schifman
6. **PROJECT TITLE:** Sprint @ 805 College Boulevard (CUP12-00019)
7. **DESCRIPTION:** Consideration of a Conditional Use Permit (CUP12-00019) for equipment upgrades necessary to accommodate fourth generation wireless technologies (4G) and the continued operation of a wireless communications facility. Project upgrades consist of the removal of six (6) existing antennas and the installation of three (3) new antennas divided into three (3) sectors. There are no proposed changes to the existing equipment cabinets.

**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. Therefore, the Environmental Coordinator has determined that further environmental evaluation is not required because:

- The project is categorically exempt, Class 1, Existing Facility (Section 15301); or,
- 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 does not constitute a "project" as defined by CEQA (Section 15378).

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Sally Schifman, Consulting Assistant

Date: June 25, 2013

cc:  Project file  Counter file  Library  
Posting:  County Clerk \$50.00 Admin. Fee

# ATTACHMENT 3

PLANNING COMMISSION  
RESOLUTION NO. 2013-P28

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

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APPLICATION NO: CUP12-00019  
APPLICANT: Sprint Nextel c/o Alcatel Lucent  
LOCATION: 805 College Boulevard

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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 39 and 41 of the Zoning Ordinance of the City of Oceanside to permit the following:

equipment upgrades necessary to accommodate fourth generation (4G) wireless technologies as described in the Description and Justification and shown on plans dated November 29, 2012 and the operation of a wireless communications facility on an existing commercial retail building;

on certain real property described in the project description.

WHEREAS, the Planning Commission, after giving the required notice, did on the 24<sup>th</sup> day of June, 2013 conduct a duly advertised public hearing as prescribed by law to consider said application.

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

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

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 **FINDINGS:**

4 **For the Conditional Use Permit (CUP12-00019):**

- 5 1.       The placement, construction, or modification of the wireless communications facility in the  
6 proposed location is necessary for the provision of wireless services to City residents,  
7 businesses, and their owners, customers, guests or other persons traveling in or about the  
8 city. The upgraded equipment will accommodate necessary fourth generation (4G)  
9 wireless technologies and facilitates the continued operation of a wireless communications  
10 facility on an existing commercial retail building.
- 11 2.       The proposal demonstrates a reasonable attempt to minimize stand-alone facilities, is  
12 designed to protect the visual quality of the City, and will not have an undue adverse  
13 impact on historic resources, scenic views, or other natural or man-made resources. The  
14 project site is in a developed area on the rooftop of an existing commercial retail building.  
15 The proposed antenna upgrades would be completely concealed from public view behind  
16 radiofrequency (RF) transparent screening.
- 17 3.       Alternative site locations were not analyzed as the proposed project is intended to allow for  
18 equipment upgrades and continued operation of a wireless communications facility.  
19 However, coverage maps were provided by the applicant demonstrating the need to  
20 maintain the existing facility on the service grid.
- 21 4.       All applicable requirements and standards of Article 39 will be met by the proposed project  
22 either as designed or as implemented in accordance with the Conditions of Approval.

23       NOW, THEREFORE, BE IT RESOLVED that the Planning Commission does hereby  
24 approve Conditional Use Permit (CUP12-00019) subject to the following conditions:

25 **Building:**

- 26 1.       Applicable Building Codes and Ordinances shall be based on the date of submittal for  
27 Building Division plan check.
- 28 2.       The granting of approval under this action shall in no way relieve the applicant/project  
29 from compliance with all State and Local building codes.

- 1 3. The building plans for this project are required by State law to be prepared by a licensed  
2 architect or engineer and shall be in compliance with this requirement prior to submittal  
3 for building plan review.
- 4 4. Site development, parking, access into buildings and building interiors shall comply with  
5 the State's Disabled Accessibility Regulations. (2010 CBC Chapter 11B).
- 6 5. A separate/unique address shall be required to facilitate utility releases. Verification that  
7 the address has been properly assigned by the City's Planning Division shall accompany  
8 the Building Permit application.
- 9 6. The developer shall monitor, supervise and control all building construction and supporting  
10 activities so as to prevent these activities from causing a public nuisance, including, but not  
11 limited to, strict adherence to the following:
- 12 a) Building construction work hours shall be limited to between 7:00 a.m. and 6:00  
13 p.m. Monday through Friday, and on Saturday from 7:00 a.m. to 6:00 p.m. for work  
14 that is not inherently noise-producing. Examples of work not permitted on  
15 Saturday are concrete and grout pours, roof nailing and activities of similar noise-  
16 producing nature. No work shall be permitted on Sundays and Federal Holidays  
17 (New Year's Day, Memorial Day, July 4<sup>th</sup>, Labor Day, Thanksgiving Day,  
18 Christmas Day) except as allowed for emergency work under the provisions of the  
19 Oceanside City Code Chapter 38 (Noise Ordinance).
- 20 b) The construction site shall be kept reasonably free of construction debris as  
21 specified in Section 13.17 of the Oceanside City Code. Storage of debris in  
22 approved solid waste containers shall be considered in compliance with this  
23 requirement. Small amounts of construction debris may be stored on-site in a neat,  
24 safe manner for short periods of time pending disposal.

24 **Fire:**

- 25 7. The quantity of lead acid batteries and their electrolyte volume(s) shall be indicated on  
26 the construction plans.
- 27 8. Stationary Storage Battery Systems having an electrolyte capacity of more than 50  
28 gallons for flooded lead acid, nickel cadmium and valve regulated lead acid, or 1000  
29 pounds for lithium-ion, used for facility standby power, emergency power or

1           uninterrupted power supplies shall comply with Section 608 of the California Fire Code  
2           current edition, and Table 608.1. If the quantity of electrolyte solution is 10 gallons or  
3           greater, visible hazard identification signs, as specified in NFPA 704, shall be placed at  
4           the entrance to the battery storage room.

5           9.       Prior to activation, the facility shall have a final inspection by the Fire Department.

6           **Planning:**

7           10.       The Conditional Use Permit is granted for the following: equipment upgrades necessary to  
8           accommodate fourth generation (4G) wireless technologies and the continued operation of  
9           a wireless communications facility on an existing commercial retail building. Facility  
10          upgrades consist of the removal of six (6) existing antennas and the installation of three (3)  
11          new antennas divided into three (3) sectors concealed behind RF transparent screening;  
12          equipment upgrades would include the installation of six (6) remote radio units (RRU's).  
13          Any substantial change in the use or expansion of the wireless communications facility  
14          beyond that which is approved by the Planning Commission, shall require a revision to the  
15          Conditional Use Permit or new Conditional Use Permit.

16          11.       Conditional Use Permit (CUP12-00019) shall expire June 24, 2015 unless the applicant has  
17          obtained a Building Permit and has requested an initial building inspection.

18          12.       Entitlements granted for Conditional Use Permit (CUP12-00019) and approved by this  
19          resolution, shall be valid until June 24, 2023.

20          13.       Unless expressly waived, all current zoning standards and City ordinances and policies in  
21          effect at the time of building permit issuance shall be met by this project. The approval of  
22          this project constitutes the applicant's agreement with all statements in the project  
23          Description and Justification and other materials and information submitted with this  
24          application, unless specifically waived by an adopted condition of approval.

25          14.       The wireless communications facility permitted by this Resolution shall be erected,  
26          operated and maintained in compliance with Article 39.

27          15.       The installation of any wireless communications facility shall be in compliance with all  
28          applicable provisions of the State Building Standards Code and any applicable local  
29          amendments thereto.

- 1 16. No wireless communications facility may, by itself or in conjunction with other wireless  
2 communications facilities, generate radio frequency (RF) emissions in excess of the  
3 standards for permissible human exposure, as provided by applicable federal regulations  
4 including 47 C.F.R. 1.1307 *et seq.*
- 5 17. Upon or prior to installation, and prior to activation, of the wireless communications  
6 facility, the applicant shall submit to the City certification in a form acceptable to the City  
7 that the facility will operate in compliance with all applicable Federal Communications  
8 Commission (FCC) regulations including, but not limited to RF emission limitations.  
9 Thereafter, upon any proposed increase of a least ten (10) percent in the effective radiated  
10 power or any proposed change in frequency use, the applicant shall submit updated  
11 certifications for review by the City. Both the initial and update certifications shall be  
12 subject to review and approval by the City Planner. At the City's sole discretion, a  
13 qualified independent RF engineer, selected by and under contract to the City, may be  
14 retained to review said certifications for compliance with FCC regulations. All costs  
15 associated with the City's review of these certifications shall be the responsibility of the  
16 applicant.
- 17 18. Within thirty (30) calendar days following the installation of this wireless  
18 communications facility, the applicant shall provide FCC documentation to the City  
19 Planner indicating that the unit has been inspected and tested in compliance with FCC  
20 standards. Such documentation shall include the make and model (or other identifying  
21 information) of the unit tested, the date and time of the inspection, the methodology used  
22 to make the determination, the name and title of the person(s) conducting the tests, and a  
23 certification that the unit is properly installed and working within applicable FCC  
24 standards.
- 25 19. The applicant shall maintain the most current information from the FCC regarding the  
26 allowable RF emissions and all other applicable regulations and standards. The  
27 applicant/operator shall file an annual report to the permit file advising the City of any  
28 regulatory changes that require modifications to the wireless communications facility and  
29 of the measures taken by the applicant to comply with such regulatory changes.

- 1 20. Absent any modifications to the wireless communications facility that would cause a  
2 change to the effective radiated power or frequency use, the applicant shall submit an  
3 annual letter to the City Planner certifying that no such changes have been made to the site  
4 and that the facility continues to operate within the range allowed by FCC regulations.
- 5 21. Any substantial change in the type of antenna and/or facility installed in a particular  
6 location shall require the prior approval of the City Planner or his designee. Failure to  
7 obtain the prior approval of the City Planner or his designee may be grounds for  
8 institution of revocation proceedings as well as grounds to institute any other  
9 enforcement action available under federal, state, or local law.
- 10 22. Public access to the subject wireless communications facility shall be restricted. In  
11 addition, RF advisory signage shall be installed at access point(s) or path(s) to the antennas  
12 and/or at each sector to establish awareness for potential exposure.
- 13 23. All required and proposed signage shall be shown on approved building plans.
- 14 24. The permittee(s) shall exercise a good-faith effort to incorporate the best available  
15 equipment technology to effect a reduction in the visual presence of the approved antennas  
16 and equipment. Any modifications requested to this facility shall permit the City Planner  
17 or his designee to review the existing facility to determine whether requiring new  
18 equipment or applying new screening techniques that reduce visual impacts is appropriate,  
19 if technically feasible. Upon the City's request and discretion, the permittee(s) shall be  
20 required to provide an independently prepared technical analysis demonstrating compliance  
21 with this condition. The permittee(s) inability to demonstrate the use of current  
22 technologies may be grounds for the institution of revocation proceedings of the  
23 Conditional Use Permit.
- 24 25. Co-location of wireless communications facilities pursuant to Article 39 shall be  
25 required whenever feasible. The permittee(s) shall exercise a good-faith effort to  
26 cooperate with other communication providers and services in the operation of a  
27 multiple-provider facility, provided such shared usage does not impair the operation of  
28 the approved facility. Upon the City's request and discretion, the permittee(s) shall  
29 provide an independently prepared technical analysis to substantiate the existence of any  
technical prohibitions against the operation of a co-use facility. The permittee(s)' non-

1 compliance with this requirement may be grounds for the institution of revocation  
2 proceedings of the Conditional Use Permit.

3 26. A Maintenance and Facility Removal Agreement shall be executed by the operator and  
4 the property owner. No permit shall become effective until such agreement has been  
5 executed. Said agreement shall bind the operator and property owner and their  
6 successors and assigns to the facility to the following:

- 7 a) Maintain the facility in good condition, which shall include but not be limited to  
8 regular cleaning, painting, and general upkeep and maintenance of the site;
- 9 b) Remove the facility when required by Article 39 or by any condition of approval,  
10 or when it is determined that the facility will not have been used during any  
11 current consecutive six-month period, or if the facility will be abandoned;
- 12 c) Pay all costs the City reasonably incurs to monitor a facility's compliance with  
13 conditions of approval and applicable law;
- 14 d) Reimburse the City for any and all costs incurred for work required by Article  
15 39, applicable law, or the conditions of a permit issued by the City for the facility  
16 which the operator and property owner fail to perform within 30 days after  
17 written notice from the City to do so or sooner if required by the City for good  
18 cause;
- 19 e) Where the City Planner or Planning Commission or City Council, as the case  
20 may be, determines that it is necessary to ensure compliance with the conditions  
21 of approval or otherwise provide for removal of the facility that is temporary in  
22 nature or upon its disuse, the operator or owner may be required to post a  
23 performance bond, cash or a letter of credit or other security acceptable to the  
24 City Planner in the amount of ten thousand dollars (\$10,000), or such higher  
25 amount as the City Planner reasonably determines is necessary to ensure  
26 compliance with the maintenance and facility removal agreement.

27 27. The wireless communications facility shall include signage approved by the City Planner  
28 identifying the name and phone number of a party to contact in the event of an emergency.  
29 Such signage shall comply with any applicable provisions of Article 39 and Article 33 (sign ordinance).

- 1 28. The wireless communications facilities and the site on which it is located shall be  
2 maintained in good repair, free from trash, debris, litter and graffiti and other forms of  
3 vandalism. Any damage from any cause shall be corrected within five (5) days of written  
4 notice by the City. Graffiti shall be removed as soon as practicable, and in no event longer  
5 than 48 hours after notice by the City.
- 6 29. The wireless communications facility shall be operated to minimize noise impacts to  
7 surrounding residents and persons using nearby facilities and recreation areas. All  
8 equipment that may emit noise in excess of the levels permitted by Article 38 of the City  
9 Municipal Code (noise ordinance) shall be enclosed. Backup generators shall only be used  
10 during periods of power outages or for testing.
- 11 30. Temporary power may be allowed during the initial construction or major repair of a  
12 Facility for the minimal amount of time necessary to complete the work. The operator shall  
13 provide a timeline to the City Planner and keep staff updated as to the time of completion.
- 14 31. The wireless communications facility shall be installed and maintained in compliance with  
15 the requirements of the Uniform Building Code, National Electrical Code, noise ordinance,  
16 and other applicable codes, as well as other restrictions specified in Article 39.
- 17 32. This Conditional Use Permit may be revised in accordance with the provisions of the  
18 Zoning Ordinance. Any application for a revision to Conditional Use Permit (CUP12-  
19 00019) shall be evaluated against the existing land use policies and any site area and  
20 neighborhood changes.
- 21 33. The Conditional Use Permit may be called for review by the Planning Commission if  
22 complaints are filed and verified as valid by the City Planner or Code Enforcement Officer  
23 concerning the violation of any of the approved conditions or the project assumptions  
24 demonstrated under the application approval.
- 25 34. All costs reasonably incurred by the City in verifying compliance and in extending or  
26 revoking an approval shall be borne by the applicant and/or permit holder.
- 27 35. Failure to meet any conditions of approval for this development shall constitute a violation  
28 of this Conditional Use Permit. Conditional Use Permit (CUP12-00019) may be revoked  
29 pursuant to Article 47 of the Zoning Ordinance.



1 41. 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. The covenant shall  
3 provide that the property is subject to this resolution, and shall generally list the conditions  
4 of approval.

5 PASSED AND ADOPTED Resolution No. 2013-P28 on June 24, 2013 by the following

6 vote, to wit:

7 AYES:

8 NAYS:

9 ABSENT:

10 ABSTAIN:

11  
12  
13 \_\_\_\_\_  
14 Robert Neal, Chairperson  
15 Oceanside Planning Commission

16 ATTEST:

17 \_\_\_\_\_  
18 Marisa Lundstedt, Secretary

19 I, MARISA LUNDSTEDT, Secretary of the Oceanside Planning Commission, hereby certify  
20 that this is a true and correct copy of Resolution No. 2013-P28.

21 Dated: June 24, 2013  
22 \_\_\_\_\_  
23  
24  
25  
26  
27  
28  
29