

(R-90-1935)

RESOLUTION NUMBER R-275675

ADOPTED ON MAY 8, 1990

WHEREAS, on February 1, 1990, MIDWEST TELEVISION, a California corporation, Owner, filed an application for Conditional Use Permit and Resource Protection Ordinance Permit Case No. 89-1173, to relocate two existing transmission towers and equipment building to make way for the construction of State Highway 52 and to add an additional radio tower to increase the station's frequency; said site is located on the west side of Mast Boulevard north of Mission Gorge Road, and is further described as portions of Tracts "C" and "T" of Rancho El Cajon, in the East Elliott Community Plan area, in the R1-40,000 zone; and

WHEREAS, the matter was set for public hearing on May 8, 1990, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED, by the Council of The City of San Diego, that this Council adopts the following findings with respect to Conditional Use Permit and Resource Protection Ordinance Permit Case No. 89-1173:

**CONDITIONAL USE PERMIT**

1. The proposed use will fulfill an individual and/or community need and will not adversely affect the General Plan or

the community plan. There is an existing radio transmission facility on site. The relocation is required to accommodate the realignment of SR-52 which is designated in the circulation element of the East Elliott Community Plan.

2. The proposed use, because of conditions that have been applied to it, will not be detrimental to the health, safety and general welfare of persons residing or working in the area and will not adversely affect other property in the vicinity. The towers have operated since 1961 with no adverse effects to the general public.

3. The proposed use will comply with the relevant regulations in the Municipal Code. The project will meet all building code requirements and FCC regulations.

**RESOURCE PROTECTION ORDINANCE PERMIT**

4. The proposed development will be sited, designed, and constructed to minimize, if not preclude, adverse impacts upon sensitive natural resources and environmentally sensitive areas. The transmission tower will be situated on an existing flat area and be enclosed by a 7'-1/2" high fence which will allow the natural flow of a 100-year flood.

5. The proposed development will be sited and designed to prevent adverse impacts to environmentally sensitive habitats and resources located in adjacent parks and recreation areas and will provide adequate buffer areas to protect such resources. The proposed tower is approximately 450 feet from the San Diego River Bank.

6. The proposed development will minimize the alterations of natural landforms and will not result in undue risks from

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geological and erosional forces and/or flood and fire hazards. Minimal grading if any will be necessary to install the radio tower.

7. The proposed development will be visually compatible with the character of surrounding areas, and where feasible, will restore and enhance visual quality in visually degraded areas. There is already an existing transmission facility on the site. The addition of an extra tower will not cause a visual impact.

8. The proposed development will conform with the City of San Diego's Progress Guide and General Plan, the Community Plan, the Local Coastal Program, or any other applicable adopted plans and programs. The use is not specifically addressed in the East Elliott Community Plan. SR-52 is a designated freeway on the circulation element.

The above findings are supported by the minutes, maps and exhibits, all of which are herein incorporated by reference.

BE IT FURTHER RESOLVED, that the decision of the Planning Commission is sustained, and Conditional Use Permit and Resource Protection Ordinance Permit Case No. 89-1173 is hereby granted to Midwest Television, Inc., under the terms and conditions set forth in the permit attached hereto and made a part hereof.

APPROVED: JOHN W. WITT, City Attorney

By



Frederick C. Conrad  
Chief Deputy City Attorney

FCC:lc  
05/17/90  
Or.Dept:Clerk  
R-90-1935  
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CONDITIONAL USE PERMIT NO. 89-1173  
RESOURCE PROTECTION ORDINANCE PERMIT NO. 89-1173

CITY COUNCIL

This Conditional Use and Resource Protection Ordinance Permit is granted by the Council of The City of San Diego to MIDWEST TELEVISION, INC., a California corporation, Owner/Permittee, pursuant to Section 101.0510 of the Municipal Code of The City of San Diego.

1. Permission is granted to Owner/Permittee to relocate two existing radio towers, transmission building and the addition of one additional tower. The project is located on the west side of Mast Boulevard, north of Mission Gorge Road, described as portions of Tracts "C" and "T" of Rancho El Cajon, in the R1-40000 Zone.
2. The facility shall consist of the following:
  - a. Three 300'-325' high radio transmission towers;
  - b. One 2,400-square-foot equipment building; and
  - c. Accessory uses as may be determined incidental and approved by the Planning Commission.
3. No permit for construction of any facility shall be granted nor shall any activity authorized by this permit be conducted on the premises until:
  - a. The Permittee signs and returns the permit to the Planning Department;
  - b. The Conditional Use and Resource Protection Ordinance Permit is recorded in the office of the County Recorder;
  - c. A parcel map or lot line adjustment establishing the site as a legal lot shall be submitted to the satisfaction of the Planning Director.
  - d. The fallen transmission tower is removed.
4. Before issuance of any building permits, complete grading and building plans shall be submitted to the Planning Director for approval. Plans shall be in substantial conformity to Exhibit "A," dated May 8, 1990, on file in the office of the Planning Department. No change, modifications or alterations shall be made unless appropriate applications, findings of substantial conformance or amendment of this permit shall have been granted.

5. This Conditional Use Permit and Resource Protection Ordinance must be used within 36 months after the date of City approval or the permit shall be void. An Extension of Time may be granted as set forth in Section 101.0510.k. of the Municipal Code. Any extension of time shall be subject to all standards and criteria in effect at the time that extension is applied for.
6. Construction and operation of the approved use shall comply at all times with the regulations of this or any other governmental agencies.
7. After establishment of the project, the property shall not be used for any other purposes unless:
  - a. Authorized by the City Council; or
  - b. The proposed use meets every requirement of the zone existing for the property at the time of conversion; or
  - c. The permit has been revoked by the City.
8. This Conditional Use and Resource Protection Ordinance Permit may be revoked by the City if there is a material breach or default in any of the conditions of this permit.
9. This Conditional Use and Resource Protection Ordinance Permit is a covenant running with the subject property and shall be binding upon the Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this permit and all referenced documents.
10. Prior to the issuance of any building permits, the applicant shall assure additional dedication on Mast Boulevard to allow for a 102-foot right-of-way, satisfactory to the City Engineer.
11. A portion of this project has been identified as being within a floodway and floodplain fringe area. In connection with Council approval of the future parcel map or lot line adjustment as required by Condition 3;
  - a. The applicant shall grant flowage easement over the property within the floodway, satisfactory to the City Engineer.
  - b. The applicant shall grant a drainage easement, satisfactory to the City Engineer.
  - c. The applicant shall enter into an agreement with the City, waiving the right to oppose a special assessment initiated for the construction of flood control facilities.
  - d. The applicant shall denote on the improvement plans as "Subject to Inundation" for those areas at an elevation lower than the 100-year frequency flood elevation plus one-foot.

- e. Permits or exemptions must be obtained from the California Department of Fish and Game and the U.S. Army Corps of Engineers before City permits will be issued for work within the floodplain fringe areas.
  - f. Show the City of San Diego limits on the project site plan.
  - g. No building will be allowed in the floodway.
12. Groundwires to be installed in the riparian wetlands/least Bell's vireo habitat in conjunction with the westerly tower shall be installed with the use of hand trenching installation of the groundwires shall take place only between October 1, and March 15. The installation of the groundwires shall be supervised by a qualified biologist.
13. Prior to the installation of groundwires referenced in Condition 12, the applicant shall notify, in writing, the Development and Environmental Services Division of the Planning Department. This notification shall occur at least 15 days prior to the beginning of hand trenching for the westernmost tower.
14. This project is subject to the review and approval of City Council pursuant to Section 101.0510.F. of the Municipal Code.
15. In the event that any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by court of competent jurisdiction to be invalid, unenforceable or unreasonable, this Permit shall be void.

Passed and adopted by the Council of The City of San Diego on May 8, 1990.

FCC:lc  
05/17/90  
r-90-1935-p



AUTHENTICATED BY:

MAUREEN O'CONNOR, Mayor  
The City of San Diego

CHARLES G. ABDELNOUR, City Clerk  
The City of San Diego

STATE OF CALIFORNIA )  
                              ) ss.  
COUNTY OF SAN DIEGO )

On this \_\_\_\_\_ day of \_\_\_\_\_, before me, the undersigned, a notary public in and for said County and State, residing therein, duly commissioned and sworn, personally appeared CHARLES G. ABDELNOUR, known to me to be the City Clerk of The City of San Diego, the municipal corporation that executed the within instrument, and known to me to be the person whose name is subscribed to the within instrument, as a witness thereto, who being by me duly sworn, deposes and says that he was present and saw MAUREEN O'CONNOR, known to him to be the Mayor of The City of San Diego, and known to him to be the person who executed the within instrument on behalf of the municipal corporation therein named, and acknowledged to me that such municipal corporation executed the same, and that said affiant subscribed his name to the within instrument as a witness.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal in the County of San Diego, State of California, the day and year in this certificate first above written.

\_\_\_\_\_  
Notary Public in and for the County  
of San Diego, State of California

The undersigned Permittee, by execution hereof, agrees to each and every condition of this permit and promises to perform each and every obligation of Permittee hereunder.

MIDWEST TELEVISION, INC.  
Permittee

By \_\_\_\_\_

By \_\_\_\_\_

By \_\_\_\_\_

By \_\_\_\_\_

NOTE: Notary acknowledgments must be attached per Civil Code Section 1180, et seq.  
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MAY 08 1990

Passed and adopted by the Council of The City of San Diego on.....  
by the following vote:

Council Members	Yeas	Nays	Not Present	Ineligible
Abbe Wolfsheimer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ron Roberts	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
John Hartley	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
H. Wes Pratt	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Linda Bernhardt	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
J. Bruce Henderson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Judy McCarty	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bob Filner	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Maureen O'Connor	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

MAUREEN O'CONNOR  
Mayor of The City of San Diego, California.

(Seal)

CHARLES G. ABDELNOUR  
City Clerk of The City of San Diego, California.

By *Charles G. Abdelnour* Deputy.

Office of the City Clerk, San Diego, California

Resolution *R-275675* MAY 08 1990  
Number ..... Adopted.....

RECEIVED  
CITY CLERK'S OFFICE  
90 MAY 22 PM 3:57  
SAN DIEGO, CALIF.

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