

RESOLUTION NUMBER R-286390

ADOPTED ON OCTOBER 3, 1995

WHEREAS, on September 15, 1994, SAN YSIDRO SCHOOL DISTRICT, Owner, and NEXTEL COMMUNICATIONS, INC., Permittee, filed an application for a conditional use permit to construct and operate an 800-square-foot unmanned dispatch mobile radio communication facility located at 4350 Otay Mesa Road, also described as a portion of Section 36, Township 18 South, Range 2 West, San Bernardino Meridian, in the City of San Diego, County of San Diego, State of California, in the R1-5000 zone; and

WHEREAS, on June 1, 1995, Phillip D. Taylor and Bruce Tabb filed an appeal of the Planning Commission's decision for reasons cited as inadequate environmental review and visual impacts; and

WHEREAS, on October 3, 1995, the Council of The City of San Diego considered the appeal of Philip D. Taylor and Bruce Tabb and considered Conditional Use Permit No. 94-0548, pursuant to Section 101.0510 of the Municipal Code of the City of San Diego; and 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 No. 94-0548:

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

The project site is designated for low density residential development by the General Plan and the San Ysidro Community

Plan. Nevertheless, particular uses which fulfill individual and community needs are permitted in residential and other zones by Conditional Use Permit. This project will not adversely impact the General Plan nor the San Ysidro Community Plan. Perimeter landscaping and neutral colors on exterior surfaces will effectively screen the facility and allow the fence, equipment building and monopole to blend with surrounding vistas.

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.

Radio frequency energy transmission from the proposed whip antennas and panels would not result in significant health and safety risks to the surrounding area. The transmissions would have a maximum of 6.50 microwatts per square centimeter, well below the accepted safety standard of 567 microwatts per square centimeter established by the American National Standards Institute and the National Council on Radiation Protection.

3. The proposed use will comply with the relevant regulations in the Municipal Code.

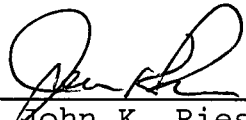
The proposed facility and the existing school district facility comply with the relevant regulations in the Municipal Code. Landscape screening will be provided. One of the existing parking spaces will be designated for use by Nextel and will meet the parking requirement for this project.

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 Council hereby grants the appeal of Bruce Tabb and Philip Taylor from the decision of the Planning Commission in approving Conditional Use Permit No. 94-0548 for the NEXTEL-San Diego Border Communication Facility.

BE IT FURTHER RESOLVED, that the Council does hereby amend the terms of the subject conditional use permit as follows: that after one year staff is to return to Council with a report on the status of the negotiations for a different site and. In all other aspects the actions of the Planning Commission were and are sustained and Conditional Use Permit No. 94-0548 is hereby granted to SAN YSIDRO SCHOOL DISTRICT, Owner, NEXTEL COMMUNICATIONS, INC., Permittee, under the terms and conditions set forth in the permit attached hereto and made a part hereof.

APPROVED: JOHN W. WITT, City Attorney

By 

John K. Riess
Senior Deputy City Attorney

JKR:pev
10/11/95
Or.Dept:Clerk
R-96-381
Form=r.permit

RECORDING REQUESTED BY
CITY OF SAN DIEGO
DEVELOPMENT SERVICES DEPARTMENT

AND WHEN RECORDED MAIL TO
PERMIT INTAKE
MAIL STATION 501

SPACE ABOVE THIS LINE FOR RECORDER'S USE

CONDITIONAL USE PERMIT NO. 94-0548
NEXTEL - SAN DIEGO BORDER COMMUNICATIONS FACILITY

CITY COUNCIL

This conditional use permit is granted by the City Council of the City of San Diego to SAN YSIDRO SCHOOL DISTRICT, Owner, NEXTEL COMMUNICATIONS, INC., Permittee, pursuant to Section 101.0510 of the Municipal Code of the City of San Diego.

1. Permission is granted to Owner/Permittee to construct an 800-square-foot unmanned dispatch mobile radio communication facility, located on San Ysidro School District property at 4350 Otay Mesa Road, also described as a portion of Section 36, Township 18 South, Range 2 West, San Bernardino Meridian, in the City of San Diego, County of San Diego, State of California, in the R1-5000 zone.
2. The facility shall consist of the following:
 - a. A 90-foot-high monopole with up to 12 vertical panel antennas and three 16-foot-high whip antennas mounted on the monopole, not to exceed a maximum height of 106 feet;
 - b. An 800-square-foot chainlink fence enclosure;
 - c. A two hundred-square-foot equipment shelter;
 - d. Off-street parking to be located outside the fence on the existing paved parking lot that services the school district maintenance facility;
 - e. Landscaping around the perimeter of the fenced enclosure;
 - f. Accessory uses as may be determined incidental and approved by the Planning Commission.
3. One parking space shall be provided at the maintenance yard facility.

4. 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 Development Services Department, Development and Environmental Planning (DEP) Division;
 - b. The conditional use permit is recorded by the Development Services Department in the office of the County Recorder.
5. Before issuance of any building permits, complete grading and building plans shall be submitted to the Development Services Director for approval. Plans shall be in substantial conformance to Exhibit "A," dated October 3, 1995, on file in the office of the Development Services Department, DEP Division. No change, modifications or alterations shall be made unless substantial conformance review or amendment of this permit shall have been granted.
6. Prior to the issuance of any building permits, the applicant shall:
 - a. Ensure that building address numbers are visible and legible from the street (Uniform Fire Code ("UFC") § 10.208).
 - b. Show the location of all fire hydrants on the plot plan (UFC § 10.301).
7. Before issuance of any grading or building permits, a complete landscape plan, including a temporary irrigation system, shall be submitted to the Development Services Director for approval. The plans shall be in substantial conformance to Exhibit "A," dated October 3, 1995, on file in the office of the Development Services Department. Approved planting shall be installed before issuance of any occupancy permit on any building. Such planting shall not be modified or altered unless this permit has been amended and is to be maintained in a disease, weed and litter free condition at all times.
8. If and/or when Otay Mesa Road is improved, Nextel Communications, Inc. shall be responsible for providing street trees along the project's street frontage as shown on Exhibit "A," dated October 3, 1995. Seven 36-inch box trees or eighteen 24-inch box trees shall be provided. The type of tree shall be to the satisfaction of the Development Services Director. The trees shall be permanently irrigated in accordance with the City of San Diego *Landscape Technical Manual*.

9. If any work is proposed within the Caltrans right-of-way, an encroachment permit will be required from the Caltrans Permit Office.
10. This conditional use permit 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 111.1122 of the Municipal Code. Any extension of time shall be subject to all standards and criteria in effect at the time the extension is applied for.
11. Construction and operation of the approved use shall comply at all times with the regulations of this or any other governmental agencies.
12. After establishment of the project, the property shall not be used for any other purposes unless:
 - a. Authorized by the Planning Commission; 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.
13. This conditional use permit shall expire ten years from the effective date of the approved permit, unless a new application for a conditional use permit is submitted to the Development Services Department, DEP Division 90 days in advance of the expiration date.
14. Should the new permit application be denied by the Planning Commission, this permit will automatically expire 90 days from the date of action by the approving authority; and
 - a. The permittee shall cease and desist all activity on the site within that 90 days; and
 - b. The permittee shall return the site to original condition within 90 days from the date of action by the approving authority.
15. This conditional use permit may be revoked by the City if there is a material breach or default in any of the conditions of this permit.
16. This conditional use 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.
17. All of the conditions contained in this permit have been considered and have been determined to be necessary in order

to make the findings required for this discretionary permit. It is the intent of the City that the holder of this permit be required to comply with each and every condition in order to be afforded special rights which the holder of the permit is obtaining as a result of this permit. It is the intent of the City that the owner of the property which is the subject of this permit either utilize the property for any use allowed under the zoning and other restrictions which apply to the property or, in the alternative, that the owner of the property be allowed the special and extraordinary rights conveyed by this permit, but only if the owner complies with all the conditions of this permit.

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 a court of competent jurisdiction to be invalid, unenforceable or unreasonable, this permit shall be void. However, in such event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" condition back to the discretionary body which approved the permit for a determination by that body as to whether all of the findings necessary for the issuance of the permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo and the discretionary body shall have the absolute right to approve, disapprove or modify the proposed permit and the condition(s) contained therein.

18. The issuance of this permit by the City of San Diego does not authorize the applicant for said permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Federal Endangered Species Act of 1973 and any amendments thereto (16 U.S.C. Section 1531 et seq.).

Passed and adopted by the City Council on October 3, 1995 by Resolution No. R-286390.

AUTHENTICATED BY THE CITY MANAGER

By _____

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.

San Ysidro School District
Owner

By _____

NEXTEL COMMUNICATIONS, INC.
Permittee

By _____

**NOTE: Notary acknowledgments must be attached per Civil Code Section 1180, et seq.
Form=p.ack**

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