

(R-96-1165)

RESOLUTION NUMBER R-287073

ADOPTED ON MARCH 19, 1996

WHEREAS, on October 26, 1995, PACIFIC BELL MOBILE SERVICES, Owner/Permittee, filed an application for a Conditional Use Permit to construct and operate an unmanned cellular facility (50-foot-high monopole including three directional antennas and two equipment storage boxes) located at 5160 Federal Boulevard, described as Lot 4 of the Metropolitan Shopping Center Unit No. 2 in the City of San Diego, Map No. 2794, in the CA-44 Zone; and

WHEREAS, on March 19, 1996, the City Council of The City of San Diego considered Conditional Use Permit No. 95-0350-53, 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. 95-0350-53:

- A. THE PROPOSED USE WILL FULFILL AN INDIVIDUAL AND/OR COMMUNITY NEED AND WILL NOT ADVERSELY AFFECT THE GENERAL PLAN OR THE COMMUNITY PLAN.**

The project will provide the surrounding community the opportunity to utilize wireless communication technologies at competitive consumer rates. The project equipment will be painted to minimize the visual impact from the surrounding area.

- B. 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 panel mounted antennas would not result in significant

health and safety risks to the surrounding area. The transmissions would have a maximum of 5.9 microwatts per square centimeter, well below the accepted safety standard of 580 microwatts per square centimeter established by the American National Standards Institute and the National Council on Radiation Protection.

C. THE PROPOSED USE WILL COMPLY WITH THE RELEVANT REGULATIONS IN THE MUNICIPAL CODE.

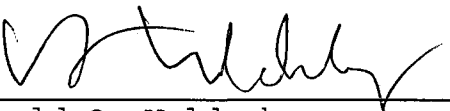
The proposed facility is permitted in any zone with a Conditional Use Permit and complies with the relevant regulations in the Municipal Code.

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

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the City Council, Conditional Use Permit No. 95-0350-53 is hereby granted to PACIFIC BELL MOBILE SERVICES, Owner/Permittee in the form and with the terms and conditions set forth in Conditional Use Permit No. 95-0350-53, a copy of which is attached hereto and made a part hereof.

APPROVED: JOHN W. WITT, City Attorney

By



Harold O. Valderhaug
Chief Deputy City Attorney

HOV:ps
05/20/96
Or.Dept:Clerk
CUP 95-0350-53
R-96-1165
Form=r-t

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. 95-0350-53
CITY COUNCIL
CHOLLAS CREEK

This Conditional Use Permit is granted by the City Council of the City of San Diego to PACIFIC BELL MOBILE SERVICES, 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 construct, operate and maintain an unmanned wireless communication facility (Personal Communication System [PCS]), located at 5160 Federal Boulevard, described as Lot 4 of Metropolitan Shopping Center Unit No. 2 in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 3794, filed in the office of the County Recorder of San Diego County, in the CA-RR Zone.

2. The facility shall consist of the following:

- a. A 50-foot high monopole including three directional antennas disguised as a typical light standard; and
- b. Two radio equipment storage cabinets;

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 Development Services Department;
- b. The Conditional Use Permit is recorded in the office of the County Recorder.

4. 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 March 19, 1996, on file in the office of the Development Services Department. No change, modifications or

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alterations shall be made unless appropriate applications, findings of substantial conformance or amendment of this permit shall have been granted.

5. All outdoor lighting shall be so shaded and adjusted that the light is directed to fall only on the same premises as light sources are located.

6. 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 101.0510.k. of the Municipal Code. Any extension of time shall be subject to all standards and criteria in effect at the time of extension is applied for.

7. 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.

8. 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.

9. If any existing hardscape or landscape indicated on the approved plans is damaged or removed during demolition or construction, it shall be repaired and/or replaced in kind per the approved plans.

10. All exterior equipment including the monopole, antennas and mechanical enclosures shall be painted to minimize the visual impact by blending in with the surrounding area. Paint colors must be identified on building permit plans and approved by the Director of the Development Services Department.

11. 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.

12. Within 30 days of discontinuing operation of this facility, the Owner/Permittee shall restore the site to its original condition which may include appropriate landscaping.

13. This Conditional Use Permit is granted for a period of ten (10) years from March 19, 1996, at which time it will become null and void unless a new application for a Conditional Use Permit is applied for and approved under the procedures in effect at that time. At such time as the Conditional Use Permit expires or ceases to be utilized, all antennas and equipment will be removed from the site by the last owner/permittee of the use and shall restore the site to its original condition which may include appropriate landscaping.

14. 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 the event that challenge pertaining to future growth management requirements is found by a court of competent jurisdiction to be invalid, unenforceable or unreasonable, the Development Services Director shall have the right, but not the obligation, to review this Permit to confirm that the purpose and intent of the original approval will be maintained.

15. 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.).

APPROVED by the City Council of The City of San Diego on March 19, 1996, by Resolution No. R-287073.

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.

PACIFIC BELL MOBILE SERVICES
Owner/Permittee

By _____

By _____

NOTE: Notary acknowledgments
must be attached per Civil
Code Section 1180, et seq.
05/20/96