

(R-99-1358)

RESOLUTION NUMBER R-291374

ADOPTED ON MARCH 23, 1999

WHEREAS, on November 19, 1998, by Resolution No. 2727-PC, the Planning Commission of The City of San Diego [Planning Commission] denied Conditional Use Permit [CUP] No. 91-0303-62 submitted by GTE Mobilnet, Permittee, for an existing 135-foot tall monopole and associated equipment shelter on a 5.33 acre site, approved previously under CUP No. 87-0453, located at the end of Statton Court, and legally described as all that portion of quarter Sections 53 and 54 of Rancho de la Nacion, in the City of San Diego, County of San Diego, State of California, according to map thereof No. 166, filed in the office of the San Diego County Recorder, in the Skyline-Paradise Hills Community Plan area, in the R-1-5000 zone; and

WHEREAS, the Planning Commission denied the permit because they felt that the applicant had not demonstrated that the alternatives were not feasible and had not exhausted all of the design alternatives which could reduce the visual impacts to the surrounding community; and

WHEREAS, Larry Doherty for GTE Mobilnet appealed the decision of the Planning Commission in denying CUP No. 91-0303-62; and

WHEREAS, on February 2, 1999, the matter was scheduled as an appeal to the City Council; however, at the request of Council Member Stevens and the Permittee, it was continued to allow for further review; and

WHEREAS, the Permittee worked City staff and the Skyline-Paradise Hills Planning Committee on alternatives for a redesigned telecommunications facility in the Skyline-Paradise Hills Plan area that would reduce the visual impacts to the surrounding community; and

WHEREAS, the matter was set for public hearing on March 23, 1999, 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 No. 91-0303-62:

A. The proposed use will fulfill an individual and/or community need and will not adversely affect the City's Progress Guide and General Plan or the adopted community plan.

The project complies with the City of San Diego's Telecommunication Policy (Council Policy 600-43) criteria, which states that Major Telecommunication Facilities shall utilize the smallest and least visually intrusive antennas and components that meet the requirements of the facility, and that a Conditional Use Permit shall be modified through the Substantial Conformance Review process when technological improvements enable a substantial reduction in visual impacts without reducing the level of service and that facilities shall be designed to be minimally visible through the use of architecture, landscape architecture and siting solutions. The project proposes to construct a 67-foot monopole containing four microwave dish antennas and install fifteen facade mounted panel antennas on the existing stand pipe. By facade mounting on the existing stand pipe, the project is using a siting solution to minimize the visual impacts to the surrounding community. The addition of a minimum of 23 eucalyptus trees will reduce the visual impact of the 67-foot monopole.

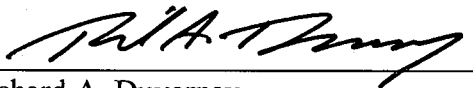
B. The proposed use will comply with the relevant regulations in the San Diego Municipal Code in effect for this site.

The proposed project is designed to be 67-feet tall and is located in the R1-5000 zone, which has a height limit of 30 feet. Although the project is proposing to exceed the 30-foot height limit, it is designed to be sensitive to the surrounding neighborhood by painting the pole a non-reflective green and by providing a grove of 23 eucalyptus trees to screen the facility. The proposed height and location is essential to maintaining GTE's communication network. The proposed use complies with all other relevant regulations in the Municipal Code in effect for this site.

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 appeal of Larry Doherty for GTE Mobilnet is denied and that Conditional Use Permit No. 91-0303-62, as modified subsequent to the Planning Commission hearing, is granted to GTE Mobilnet, under the terms and conditions set forth in the permit attached hereto and made a part hereof.

APPROVED: CASEY GWINN, City Attorney

By 
Richard A. Duvernay
Deputy City Attorney

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05/20/99
Or.Dept:Clerk
R-99-1358
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Reviewed by Karen Lynch-Ashcraft

**RECORDING REQUESTED BY
CITY OF SAN DIEGO
DEVELOPMENT SERVICES**

**AND WHEN RECORDED MAIL TO
PERMIT INTAKE
MAIL STATION 501**

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**CONDITIONAL USE PERMIT NO. 91-0303-62
GTE MOBILNET-STATTON COURT SITE
CITY COUNCIL**

This Conditional Use Permit is granted by the Council of The City of San Diego to the CITY OF SAN DIEGO'S REAL ESTATE ASSETS DEPARTMENT, Owner, and GTE MOBILNET, Permittee, pursuant to San Diego Municipal Code section 101.0510. The 5.33 acre site is located at Statton Court in the R-1-5000 zone. The project site is legally described as all that portion of quarter Sections 53 and 54 of Rancho de la Nacion, in the City of San Diego, County of San Diego, State of California, according to map thereof No. 166, filed in the office of the San Diego County Recorder.

Subject to the terms and conditions set forth in this permit, permission is granted to the Permittee, GTE Mobilnet, to approve a Conditional Use Permit for a telecommunication facility consisting of 15 facade mounted panel antennas and a Cellnet omni-directional antenna to be located on the existing stand pipe and a 67-foot monopole containing a maximum of 4 microwave dish antennas and an associated equipment cabinet, approved originally by Conditional Use Permit 87-0453. This facility, approved by the City Council, shall be identified on signed and dated Exhibits "A," dated March 23, 1999, on file in the Office of Planning and Development Review. The facility shall include:

- a. The maintenance and operation of a 67-foot tall monopole containing no more than four microwave dish antennas and 15 facade mounted panel antennas and a Cellnet omni-directional antenna to be located on the existing stand pipe and an existing associated equipment building;
- b. The addition of a minimum of twelve 24-inch box eucalyptus trees and a minimum of eleven 15-gallon eucalyptus trees;
- c. Accessory improvements determined by the City Manger to be consistent with the land use and development standards in effect for this site per the adopted Community Plan, California Environmental Quality Act guidelines, public and private improvement requirements of the City Engineer, the underlying zone(s), conditions of this permit, and any other applicable regulations of the Municipal code in effect for this site.

1: No permit for the construction, occupancy or operation of any facility or improvement described herein 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 Planning and Development Review; and
 - b. The Permit is recorded in the office of the San Diego County Recorder.
2. Unless this permit has been revoked by The City of San Diego the property included by reference within this permit shall be used only for the purposes and under the terms and conditions set forth in this permit unless otherwise authorized by the City Manager.
 3. This 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.
 4. The utilization and continued use of this permit shall be subject to the regulations of this and any other applicable governmental agencies.
 5. 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. § 1531 et seq.)
 6. 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 the 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 an 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(s) 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 new 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.
 7. This Conditional Use Permit and corresponding use of this site shall expire on March 23, 2009. Upon expiration of this permit, the facilities and improvements described herein shall be removed from this site and the property shall be restored to its original condition preceding approval of this permit.

8. Prior to the expiration date of this Conditional Use Permit, the Permittee may submit a new Conditional Use Permit application to the City Manager for consideration and review and a decision by the appropriate decision maker at that time.
9. The Permittee shall cooperate in good faith to allow other telecommunication providers to locate at this site, provided the additional facility does not give rise to a substantial technical level or quality level of service impairment of the existing telecommunication facility.
10. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located.
11. The subject property and associated common areas on site shall be maintained in a neat and orderly fashion at all times.
12. Any future requested amendment to this permit shall be reviewed for compliance with the regulations of the underlying zone(s) which are in effect on the date of the submittal of the requested amendment.
13. The monopole shall not exceed a height of 67-feet.
14. The monopole and microwave dish antennas shall be painted a non-reflective green to blend with the adjacent eucalyptus trees.
15. The panel antennas and associated co-axial cable shall be painted to match the existing stand pipe.
16. GTE is responsible for irrigating and maintaining the new eucalyptus trees for the life of the Conditional Use Permit.

APPROVED by the Council of The City of San Diego on March 23, 1999, by Resolution No. R-291374.

05/14/99

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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.

THE CITY OF SAN DIEGO
Owner

By _____

GTE MOBILNET
Permittee

By _____

**NOTE: Notary acknowledgments
must be attached per Civil Code
section 1180 et seq.**

5/20/99

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