

RESOLUTION NUMBER R-_____

ADOPTED ON _____

WHEREAS, Title 21 of the Public Utilities Code, Section 5023 requires a program of noise monitoring to validate the location of the noise impact boundary when this boundary extends into incompatible land uses; and

WHEREAS, the San Diego Regional Airport Authority requested a Public Right of Way Use Permit to install and maintain the required noise monitoring stations; and

WHEREAS, on August 25, 2005, the Planning Commission of the City of San Diego approved Public Right-of-Way Use Permit No. 249359 pursuant to the Land Development Code of the City of San Diego; NOW, THEREFORE,

BE IT RESOLVED by the Council of the City of San Diego, that it adopts the following findings with respect to the Public Right of Way Use Permit No. 249359:

Section 126.0905 Findings for a Public Right-of-Way Use Permit

1. The proposed encroachment is reasonably related to public travel, or benefits a public purpose, or all record owners have given the applicant permission to maintain the encroachment on their property. The project benefits a public purpose by monitoring aircraft noise from San Diego International Airport (SDIA) at Lindbergh Field in compliance with Title 21 of the California Noise Standards which mandates aircraft noise monitoring of SDIA operations. In addition, the monitoring sites assist Airport staff in responding to noise complaints, enforcing departure curfews and determining eligibility for its Quieter Home Program, a residential sound attenuation program in the highest noise-impacted neighborhoods surrounding SDIA.

2. The proposed encroachment does not interfere with the free and unobstructed use of the public right-of-way for public travel. The proposed encroachment would not interfere with the free and unobstructed use of the public right-of-way for public travel due to the design. All improvements are designed so as to preclude conflict with vehicular or pedestrian traffic. The equipment boxes are designed and location so as to avoid conflict with public use of the sidewalk and roadway.

3. The proposed encroachment is not detrimental to the public health, safety or welfare. The proposed encroachment would not pose any danger to pedestrians using the right-of-way or vehicular travel through the right-of-way. Public Right-of-Way Use Permit No. 249359 includes specific conditions that would ensure the poles are maintained in a safe manner including a traffic control plan for installation and maintenance activities.

4. The proposed encroachment does not interfere with the record owners' use or enjoyment of their property. The proposed encroachment is limited to a 20-foot pole in the public right-of-way. Each location was selected on a site-by-site case evaluation in order to avoid any conflict of use impacts. Adjacent property owners will continue to have full benefits of their properties and its access.

5. The proposed encroachment does not adversely affect the land use plan. The poles are located between the curb and the road right-of-way. Therefore, the roadway land use per City Circulation Element of the General Plan will not be affected or altered. Adjacent property owners will continue to have full benefits of their properties and its access. Installation of utilities in the public right of way is compatible with the underlying zones of the selected locations. These utilities cannot be undergrounded because the noise monitoring equipment must be able to record aircraft overflights. The equipment cannot be mounted on existing buildings or other utilities due to data quality objective as specified in Title 21, 5080.3, "Performance Specifications" and 5080.5, "Environmental Precautions and Requirements" regarding vibration, acoustic noise, and electrostatic / magnetic interference. Monitoring station locations were selected to facilitate locating the maximum extent of the noise impact boundary. Noise monitoring data will be used to help determine the noise contours which are used to help determine noise compatible land uses.

6. The proposed encroachment is not harmful to the aesthetic character of the community. The aesthetic character of the community will not be affected by the installation of the noise monitoring poles. The poles were carefully selected to blend with the colors of the surrounding urban environment. The location of the poles were selected to minimize such impact. The poles will be powered by solar energy and communications will be transmitted via wireless data modems, thereby eliminating addition of overhead utilities to each location.

7. The proposed encroachment does not violate any other Municipal Code provisions or other local, state or federal law. The proposed encroachment is permitted within the public right-of-way with an approved Public Right-of-way Use Permit. The proposed encroachment would not violate any other Municipal Code provisions or any other local, state or federal laws. The project allows the Airport Authority to comply with State Law - Title 21 of California Noise Standards.

BE IT FURTHER RESOLVED, as follows:

1. That the City Clerk shall cause a certify copy of this resolution, with attached exhibits, attested by him under seal, to be recorded in the Office of the County Recorder.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By _____

Douglas K. Humphreys
Deputy City Attorney

DKH:pev
09/26/05
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