CITY OF NEWPORT BEACH STAFF ACTION REPORT

TO: CITY COUNCIL, CITY MANAGER AND PLANNING COMMISSION

- FROM: Planning Department Russell Bunim, Assistant Planner rbunim@city.newport-beach.ca.us
- SUBJECT: Report of actions taken by Planning Department Staff for the week ending August 28, 2008
- Item 1: Royal Street Communications LLC Telecom Permit No. TP2008-001 (PA2008-014) 3100 Pacific View Drive

The Planning Director approved the applicants request to co-locate with two existing wireless telecommunications facilities on an existing building. The project involves the installation of a microwave dish, a Global Positioning System (GPS) antenna, six (6) panel antennas and four (4) equipment cabinets.

Approved – August 25, 2008

Council District 7

On behalf of David Lepo, Planning Director

Russell Bunim, Assistant Planner

APPEAL:

The decision of the Planning may be appealed to the Planning Commission within 14 days of the action date. A \$600.00 filing fee shall accompany any appeal filed. No building permits may be issued until the appeal period has expired.

c: David Lepo, Planning Director (e-mail) Sharon Wood, Assistant City Manager (e-mail) David Keely, Public Works Senior Civil Engineer (e-mail) Sgt. Ron Vallercamp, Vice/Narcotics (e-mail) Lt. Tom Gazsi, NBPD (e-mail) Code Enforcement Division (e-mail) Iris Lee, Public Works (e-mail) Evelyn Tseng, Revenue (e-mail)

TELECOM PERMIT NO. TP2008-001 (PA2008-014)



Planning Department 3300 Newport Boulevard Newport Beach, CA 92663 (949) 644-3200; FAX (949) 644-3229

Staff Person: Russell Bunim (949) 644-3233 rbunim@city.newport-beach.ca.us

APPLICATION:	Telecom Permit No. TP2008-001 (PA2008-014)
APPLICANT:	Royal Street Communications, LLC (dba MetroPCS)
LOCATION:	3100 Pacific View Drive
LEGAL DESCRIPTION:	Portion of Block 96 of Irvine's Subdivision

PROJECT DESCRIPTION AND REQUEST

Royal Street Communications LLC (dba MetroPCS) has submitted an application requesting to co-locate with two existing wireless telecommunications facilities on the existing Christian Science Church located at 3100 Pacific View Drive.

The project involves the installation of a microwave dish, a Global Positioning System (GPS) antenna, six (6) panel antennas and four (4) equipment cabinets. All six panel antennas and the microwave dish will be mounted on the walls of the existing building and screened from public view behind faux building columns. The GPS antenna and four equipment cabinets will be located in a new solid block wall equipment enclosure. The property is located in the GEIF (Governmental, Educational and Institutional Facilities) District.

DIRECTOR'S ACTION: APPROVED WITH CONDITIONS – AUGUST 25, 2008

In approving this application, the Planning Director analyzed issues regarding compliance with Chapter 15.70 of the Newport Beach Municipal Code. This approval is based on the findings and subject to the following conditions attached to this report.

The Planning Director determined in this case that the proposed wireless telecommunications facility ("telecom facility") meets the provisions of Chapter 15.70. The panel antennas and microwave dish will be installed in a stealth-like manner by adding faux columns to the building. The antennas will be mounted within the faux columns behind radio frequency-friendly screen materials. The faux columns (with screens) will be incorporated into the building design, and will be painted and textured to match the appearance of existing building façade. The four equipment cabinets and the GPS antenna will be screened from view within new landscaping and a solid block wall equipment enclosure, which will be located on grade between an existing equipment enclosure and a parking lot.

Consistent with Section 15.70.050 C (Co-Location Requirements) of the Wireless Telecommunication Facilities Ordinance, the approval of this telecom permit allows three carriers to co-locate on the site.

The two existing telecommunication facilities located at this site, currently operated by Cingular Wireless and Nextel, are not included in this approval. Future modifications to any of these existing facilities will be subject to compliance with Chapter 15.70 of the Newport Beach Municipal Code (NBMC) and will require approval of a Telecommunication Permit.

APPEAL PERIOD

The applicant may appeal any denial of the application or any conditions of approval to the City Council within 14 days of the date of written notification of action by the Planning Director. The City Council's action on appeals shall be final. Any appeal filed shall be accompanied by a filing fee of \$340.00.

On behalf of David Lepo, Planning Director

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Russell Bunim Assistant Planner

Attachments: Vicinity Map Findings and Conditions of Approval Site Plan & Elevations

VICINITY MAP

3100 Pacific View Drive



TP2008-001 (PA2008-014)

FINDINGS AND CONDITIONS OF APPROVAL TP2008-001 (PA2008-014)

FINDINGS

- 1. The telecommunications facility as proposed meets the intent of Chapter 15.70 of the Newport Beach Municipal Code (NBMC), while ensuring public safety, reducing the visual effects of telecom equipment on public streetscapes, protecting scenic ocean and coastal views, and otherwise mitigating the impacts of such facilities for the following reasons:
 - The proposed telecom facility will not be detrimental to public health or safety because it is required to comply with the applicable rules, regulations and standards of the Federal Communications Commission (FCC) and the California Public Utilities Commission (CPUC).
 - The proposed telecom facility will be located on an existing structure where other telecom facilities by different carriers exist, thereby limiting the adverse visual effects of proliferation of facilities in the City.
 - Due to the design of the facility, there is no impact to public views.
- 2. The telecommunications facility as proposed conforms to the technology, height, location and design standards for the following reasons:
 - The telecom facility approved under this permit utilizes the most efficient available technology in order to reduce the visual impact.
 - The telecom facility approved by this permit does not exceed the maximum building height limit of 32 feet allowed in the GEIF Zoning District and the 32/50 Height Limitation Zone, as specified in the Zoning Code.
 - All antennas will be screened from public view. The panel antennas and microwave dish will be wall-mounted on the existing building and installed in a stealth-like manner within faux columns behind radio frequency-friendly screen materials. The faux columns (with screens) will be incorporated into the design of the building, and will be painted and textured to match the existing building façade. The GPS antenna will be installed behind and below the wall surrounding the equipment cabinets.
 - The equipment for the telecom facility will be ground-mounted and located in a solid block wall equipment enclosure that will be consistent with the architectural style, color and materials of the building. The new equipment enclosure will be located between an existing equipment enclosure and a parking lot, and will be screened with new landscaping.
- 3. This project has been reviewed, and it has been determined that it is categorically exempt from the requirements of the California Environmental Quality Act under Class 1 (Existing Facilities).

CONDITIONS

- 1. The development shall be in substantial conformance with the approved plot plan, antenna and equipment plans, and elevations, except as noted in the following conditions.
- 2. Anything not specifically approved by this Telecom Permit is not permitted and must be addressed in a separate and subsequent Telecom Permit review.
- 3. The telecom facility approved by this permit shall comply with all applicable rules, regulations and standards of the Federal Communications Commission (FCC) and the California Public Utilities Commission (CPUC).
- 4. The telecom facility shall comply with all regulations and requirements of the Uniform Building Code, Uniform Fire Code, Uniform Mechanical Code and National Electrical Code. All required permits shall be obtained prior to commencement of the construction.
- 5. Prior to the issuance of any building, mechanical and/or electrical permits, architectural drawings and structural design plans shall be submitted to the City of Newport Beach for review and approval by the applicable departments. <u>A copy of this approval letter shall be incorporated into the drawings approved for the issuance of permits.</u>
- 6. The six (6) panel antennas and microwave dish shall be wall mounted on the existing building. The antennas shall be screened from view within faux columns behind radio frequency-friendly screen material, as depicted on the plans approved by this telecom permit. The faux columns shall be incorporated into the design of the building, and shall be painted and textured to match the façade of the existing building. In no case shall the antennas, faux columns or screen materials exceed 32 feet in height measured from grade below.
- 7. The four (4) equipment cabinets shall be ground-mounted within a new solid block wall equipment enclosure, as depicted on the plans approved by this telecom permit. The new equipment enclosure shall be constructed of material that matches the color, texture and brick size of the existing church building.
- 8. Landscaping shall be installed for screening purposes around the equipment enclosure. The landscaping shall include vines or climbing ivy on the front and side of the enclosure, and shrubs and trees to match existing landscaping on the site.
- 9. The Global Positioning System (GPS) antenna shall be mounted below the top of wall of the new equipment enclosure.
- 10. Appropriate information and/or warning signs or plates shall be posted at the access locations and each transmitting antenna. In addition, contact information (e.g. a telephone number) shall be provided on the signs or plates to arrange for access to the roof top area. The location of the signs or plates shall be depicted on the plans submitted for construction permits.

- 11. No advertising signage or identifying logos shall be displayed on the telecom facility, except for small identification, address, warning and similar information plates. <u>A detail of the information plates depicting the language on the plate shall be included in the plans submitted for issuance of building permits.</u>
- 12. The facility shall transmit at a frequency range of 1985 to 1990 MHz, and shall receive at a frequency range of 1905 to 1910 MHz. Any change or alteration to the frequency range shall require the prior review and approval of the Planning Director.
- 13. Prior to the issuance of any permits to install the facility, the applicant shall meet in good faith to coordinate the use of frequencies and equipment with the Communications Division of the Orange County Sheriff-Coroner Department to minimize, to the greatest extent possible, any interference with the Public Safety 800 MHz Countywide Coordinated Communications System (CCCS). Similar consideration shall be given to any other existing or proposed wireless communications facility that may be located on the subject property. The applicant shall provide to the Planning Department documentation from the OCSCD that the meeting has taken place.

The applicant recognizes that the frequencies used by the cellular facility located at **3100 Pacific View Drive** are extremely close to the frequencies used by the City of Newport Beach for public safety. This proximity will require extraordinary "comprehensive advanced planning and frequency coordination" engineering measures to prevent interference, especially in the choice of frequencies and radio ancillary hardware. This is encouraged in the "Best Practices Guide" published by the Association of Public-Safety Communications Officials-International, Inc. (APCO), and endorsed by the Federal Communications Commission (FCC).

- 14. The applicant shall not prevent the City of Newport Beach from having adequate spectrum capacity on the City's 800 MHz radio frequencies at any time.
- 15. Prior to activating the facility, the applicant shall submit for and complete a postinstallation test to confirm that "advanced planning and frequency coordination" of the facility was successful in not interfering with the City's Public Safety radio equipment. This test will be conducted by the Communications Division of the Orange County Sheriff-Coroner Department or a Division-approved contractor at the expense of the applicant. This post-installation testing process shall be repeated for every proposed frequency addition and/or change to confirm that the intent of the "frequency planning" process has been met.
- 16. Prior to activation of the facility, the applicant shall submit a letter to the Director of Planning prepared by the Orange County Sheriff-Coroner Department indicating that the OCSD has reviewed the results of the post-installation test and that the facility will not cause interference with the City's Public Safety radio equipment.

- 17. Within 30 days after installation of the telecom facility, a radio frequency (RF) compliance and radiation report prepared by a qualified RF engineer acceptable to the City shall be submitted in order to demonstrate that the facility is operating at the approved frequency and complies with FCC standards for radiation. If the report shows that the facility does not so comply, the use of the facility shall be suspended until the facility is modified to comply and a new report has been submitted confirming such compliance.
- 18. Prior to issuance of building permits, a deposit of \$1,000 shall be paid to the City of Newport Beach. This deposit is required to ensure preparation and submittal of the RF Compliance and Radiation Report, referenced in the above Condition. The deposit will be used to defray any and all fees associated with review of the report by an independent technical consultant, pursuant to Section 15.70.070 B-10 of the Telecom Ordinance. Any unused deposit fees will be refunded to the applicant upon determination of compliance with the approved frequency and FCC standards.
- 19. The applicant shall provide a "single point of contact" in its Engineering and Maintenance Departments that is monitored 24 hours per day to insure continuity on all interference issues, and to which interference problems may be reported. The <u>name</u>, telephone number, fax number and e-mail address of that person shall be <u>provided to the Planning Department and Newport Beach Police Department's</u> <u>Support Services Commander prior to activation of the facility.</u>
- 20. Should interference with the City's Public Safety radio equipment occur, use of the facility shall be suspended until the radio frequency is corrected and verification of the compliance is reported.
- 21. The applicant shall insure that lessee or other user(s) shall comply with the terms and conditions of this permit, and shall be responsible for the failure of any lessee or other users under the control of the applicant to comply.
- 22. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the applicant, current property owner or leasing agent.
- 23. The telecom facility approved by the permit shall comply with any easements, covenants, conditions or restrictions on the underlying real property upon which the facility is located.
- 24. The telecom facility shall not be lighted except as deemed necessary by the Newport Beach Police Department for security lighting. The night lighting shall be at the lowest intensity necessary for that purpose and such lighting shall be shielded so that direct rays do not shine on nearby properties. Prior to the final of building permits, the applicant shall schedule an evening inspection by the Code Enforcement Division to confirm compliance with this condition.

- 25. The operator of the telecom facility shall maintain the facility in a manner consistent with the original approval of the facility.
- 26. The City reserves the right and jurisdiction to review and modify any telecom permit approved pursuant to Chapter 15.70 of the Newport Beach Municipal Code, including the conditions of approval, based on changed circumstances.
- 27. The operator shall notify the Planning Department of any proposal to change the height or size of the facility; increase the size, shape or number of antennas; change the facility's color or materials or location on the site; or increase the signal output above the maximum permissible exposure (MPE) limits imposed by the radio frequency emissions guidelines of the FCC. Any changed circumstance shall require the operator to apply for a modification of the original telecom permit and obtain the modified telecom permit prior to implementing any change.
- 28. This telecom permit may be modified or revoked by the City Council should they determine that the facility or operator has violated any law regulating the telecom facility or has failed to comply with the requirements of Chapter 15.70 of the NBMC or this telecom permit.
- 29. Any operator who intends to abandon or discontinue use of a telecom facility must notify the Planning Director by certified mail no less than 30 days prior to such action. The operator or property owner shall have 90 days from the date of abandonment or discontinuance to reactivate use of the facility, transfer the rights to use the facility to another operator, or remove the telecom facility and restore the site.
- 30. If any of the existing public improvements surrounding the site is damaged by the private work, new concrete sidewalk, curb and gutter, alley/street pavement, and other public improvements will be required by the City at the time of private construction completion. Said determination and the extent of the repair work shall be made at the discretion of the Public Works Inspector.
- 31. The existing street in front of the property is on the City's street/alley-cut moratorium list. Trenching into Pacific View Drive as a part of this project will require extensive street repair work. Details of such repair work may be obtained from the Public Works Department.
- 32. Royal Street Communication, LLC shall protect all City landscape, tree, and irrigation in place. If any damage should occur, the contractor will be required to repair as directed by the General Services Department and guarantee work for a minimum of one (1) year.
- 33. The proposed private 12 foot wide Royal Street Communication Access Easement shall begin at the right-of-way line and not the street centerline.
- 34. The storage of all project related equipment during construction shall be on-site and minimize impact to the public right-of-way.

35. A Temporary Street Closure Permit and/or Encroachment Permit is required for all work activities within the public right-of-way.

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