

**CITY OF NEWPORT BEACH
PLANNING DEPARTMENT ACTION REPORT**

TO: CITY COUNCIL, CITY MANAGER AND PLANNING COMMISSION

FROM: David Lepo, Planning Director

SUBJECT: Report of actions taken by the Zoning Administrator, Planning Director and/or Planning Department staff for the week ending April 2, 2010.

ACTIONS TAKEN BY THE PLANNING DIRECTOR OR PLANNING DEPARTMENT STAFF

Item 1: Omnipoint Communications for T-Mobile USA – An Amendment to Telecommunications Permit No. TP2009-001 (PA2010-035)
5140 Birch Street

Approved – April 1, 2010

Council District 4

On behalf of David Lepo, Planning Director:



Patrick J. Alford, Planning Manager

The applicant or any interested party may appeal the decision of the Planning Director to the City Council by a written request to the City Council within 14 days of the action date. A \$2,800.00 filing fee shall accompany any appeal filed. The City Council's action on appeals shall be final.

Email City Council
Planning Commission
David Lepo, Planning Director
Sharon Wood, Assistant City Manager
David Keely, Public Works Senior Civil Engineer
Code Enforcement Division
Lt. Bill Hartford, NBPD *if for a Telecom Permit*
Kim Dominguez, NBPD *if for a Massage Therapy*
Bryan Moore, NBPD *if for an ABC License*
Sgt. John Freeman, NBPD *Vice/Narcotics send with Massage & ABC*



TELECOMMUNICATIONS PERMIT ACTION LETTER

PLANNING DEPARTMENT
3300 NEWPORT BOULEVARD
NEWPORT BEACH, CA 92663
(949) 644-3200 FAX (949) 644-3229

Application No. **An Amendment to Telecommunications Permit No. TP2009-001 (PA2010-035)**

Applicant **Omnipoint Communications for T-Mobile USA**

Site Address **5140 Birch Street**

Legal Description **Parcel 1 of Parcel Map No. 79-720, in Book 142 of Parcel Maps, Pages 31-33**

On **April 1, 2010**, the Planning Director approved the following: An amendment to Telecommunication Permit No. TP2009-001 to allow the change of equipment storage location from within the existing building to an underground PCC vault located outside of the existing building. No changes to the type, size and location of the antennas are proposed. The property is located in the PC-15 (Koll Center) District. The approval is based on the following findings and subject to the following conditions..

FINDINGS

1. On July 2, 2009, the Planning Director approved the following: Telecommunication Permit to allow installation of 12 panel antennas and 1 GPS antenna on rooftop and behind new RF transparent screen wall of the existing building, and 6 BTS cabinets, 2 BBU cabinets and associated equipment to be located within the first floor of existing building.
2. This project qualifies for an exemption from environmental review pursuant to Section 15303 (Class 3 New Construction or Conversion of Small Structures) of the Implementing Guidelines of the California Environmental Quality Act (CEQA). Class 3 exempts the installation of small new equipment and facilities in small structures. The proposed equipment will be small structures that are mounted on existing structures.
3. 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 based on the following:
 - 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 and the California Public Utilities Commission.

- The telecom facility is located on the roof of an existing building, and any future facility proposed to be located within 1,000 feet of the existing facility shall be required to co-locate on the same site to limit the adverse visual effects of proliferation of facilities in the City.
 - Due to the location or design of the facility, there is no impact to public views.
4. The telecommunications facility as proposed conforms to the technology, height, location and design standards based on the following:
- The telecom facility approved under this permit utilizes the most efficient available technology in order to minimize the number of facility components and reduce the visual impact.
 - The telecom facility approved by the permit does not exceed the maximum building height limit of High-rise 375 feet, as specified in the Zoning Code.
 - The antennas for the telecom facility approved by this permit will be roof-mounted and will be screened from public view in a manner consistent with the architectural style, color and materials of the building to avoid adverse impacts to views from land or buildings at higher elevations.
 - The support equipment for the telecom facility will be located in an underground vault and will be screened from public view in a manner consistent with the architectural style, color and materials of the building.

CONDITIONS

1. The conditions of approval of this Amendment shall supersede those stated in Telecommunication Permit No. TP2009-001. 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. A total of twelve panel antennas and one GPS antenna may be roof-mounted behind new RF transparent screen wall of the existing building. The antennas shall be screened from public view. All screen walls shall be painted and textured to match the existing building. In the event that the replacement screen walls are taller than the existing screen walls, vertical and lateral loads shall be investigated and mitigated.
3. Six BTS cabinets, two BBU cabinets and associated equipment may be located within the underground PCC vault, outside of the existing building. They shall be screened from public view. Access to the underground vault shall be secured and only available to authorized T-Mobile service personnel.
4. Disabled access path of travel to the building entrance shall comply with the 2007 California Building Code.

5. Anything not specifically approved by this Telecom Permit is not permitted and must be addressed in a separate and subsequent Telecom Permit review.
6. 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).
7. Any future facilities proposed by other carriers to be located within 1,000 feet from the subject property shall be approved to co-locate at the same site by the property owner or authorized agent, unless otherwise approved by the Planning Director.
8. 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.
9. 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. A copy of this approval letter shall be incorporated into the drawings approved for the issuance of permits.
10. Appropriate information 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 warning signs or plates to arrange for access to the roof top area. The location of the information warning 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. A detail of the information plates depicting the language on the plate shall be included in the plans submitted for issuance of building permits.
12. The facility shall transmit at a frequency range of 1970 to 1979.6 MHz, and shall receive at a frequency range of 2145 to 2155 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 the Planning Department with documentation from the OCSCD that the meeting has taken place.

The applicant recognizes that the frequencies used by the cellular facility located at the subject property 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 as 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 activation of the facility, the applicant shall submit to a post-installation 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 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 Planning Director 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 by the Planning Department 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 name, telephone number, fax number and e-mail address of that person shall be provided to the Planning Department and Newport Beach Police Department's Support Services Commander prior to activation of the facility.

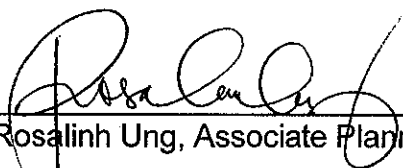
20. Should interference with the City's Public Safety radio equipment occur, use of the facility shall be suspended until the radio frequency is corrected and verification of the compliance is reported.
21. The applicant shall insure that lessee or other user(s) shall comply with the terms and conditions 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 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. 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.
27. 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.
28. 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.

29. 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 shall 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.
30. T-Mobile service vehicle(s) shall not block any traveling aisle within the parking lot during the maintenance of the underground storage facility/vault.
31. T-Mobile 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.
32. The structural calculations shall be revised to meet the 2007 California Building Code.
33. The topographic survey shall be update to show all existing public and private easements on the subject property.
34. The storage of all project related equipment shall be on-site to minimize impact within the public right-of-way.
35. A Temporary Street Closure Permit and/or Encroachment Permit shall be required for all work activities within the public right-of-way.

APPEAL PERIOD

The applicant or any interested party may appeal the decision of the Planning Director to the City Council within 14 days of the action date. The City Council's action on appeals shall be final. A \$2,800.00 filing fee shall accompany any appeal filed. For additional information on filing an appeal, contact the City Clerk at 949 644-3005.

On behalf of David Lepo, Planning Director

By: 
Rosalinh Ung, Associate Planner

Attachment: Vicinity Map

VICINITY MAP



An Amendment to Telecommunications Permit No.
TP2009-001 (PA2010-035)

5140 Birch Street