# CITY OF NEWPORT BEACH PLANNING DEPARTMENT ACTION REPORT 

TO: CITY COUNCIL, CITY MANAGER AND PLANNING COMMISSION
FROM: James W. Campbell, Acting Planning Director
SUBJECT: Report of actions taken by the Zoning Administrator, Planning Director and/or Planning Department staff for the week ending October 22, 2010

## ACTIONS TAKEN BY THE PLANNING DIRECTOR OR PLANNING DEPARTMENT STAFF

Item 1: Sequoia Deployment Services, Inc.- Telecommunications Permit No. TP2010017 (PA2010-119)
5140 Birch Street
This item was approved on October 22, 2010
Council District
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On behalf of James W. Campbell, Acting Planning Director:

Patrick J. Alford, Planning Manager
TELECOM APPEAL:
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 $\$ 4,010.00$ filing fee shall accompany any appeal filed. The City Council's action on appeals shall be final.

Email Dana Smith, Assistant City Manager Leonie Mulvihill, Assistant City Attorney David Keely, Public Works Senior Civil Engineer Code Enforcement Division Jon Lewis, Support Services Lt., NBPD



## PLANNING DIRECTOR ACTION LETTER

Planning Department
3300 Newpori Boulevard
Newport Beach, CA 92663
(949) 644-3200; FAX (949) 644-3229
www.newportbeachca.gov

## APPLICATION:

APPLICANT:
LOCATION:

LEGAL DESCRIPTION:

Telecommunications Permit No. TP2010-017 (PA2010-119)
Sequoia Deployment Services, Inc.
5140 Birch Street

Parcel 1 of Parcel Map No. 79-720, in Block 142 of Parcel Maps, Pages 31-33

## PROJECT REQUEST AND DESCRIPTION

Sequoia Deployment Services, Inc. has submitted a Telecommunication Permit to allow the installation of 12 panel antennas, 1 GPS, and 12 micro equipment cabinets to be located on the rooftop, behind new screen wall of the existing building. The second phase of the project is to remove the rooftop equipment cabinets, and replace them with 2 BBU and 4 BTS equipment cabinets and associated equipment. These will be stored in an underground PCC vault located outside of the existing building. The underground vault lease area will be approximately 204 square feet ( $12 \mathrm{ft} \times 17 \mathrm{ft}$ ) in size. The second phase will take place in approximately 3 to 5 years timeframe. The property is located in the PC15 (Koll Center) District.

## DIRECTOR'S ACTION:

## Approved with Conditions - October 22, 2010

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.

## BACKGROUND

On July 2, 2009, the Planning Director approved the following: Telecommunication Permit No. TP2009-001 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.

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.

On August 18, 2010, the applicant submitted a new Telecommunication Permit application to allow the installation of 12 panel antennas, 1 GPS, and 12 micro equipment cabinets to be located in the rooftop of the existing building as Phase 1 implementation. Phase 2 of the project is the relocation of the rooftop equipment cabinets to an underground PCC vault located outside of the existing building.

On September 24, 2010 the submitted new Telecommunication Permit application was deemed completed.

## 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 $\$ 4,010.00$.

On behalf of James W. Campbell, Acting Planning Director


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

## VICINITY MAP

5140 Birch Street


Telecommunications Permit No. TP2010-017
(PA2010-119)

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## FINDINGS AND CONDITIONS OF APPROVAL TELECOMMUNICATIONS PERMIT NO. TP2010-017 <br> (PA2010-119)

## 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 telecom facility is located on an existing building, and any future proposed facility 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.

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 and diminutive available technology in order to minimize the number of facilities 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 allowed in the PC-15 (Koll Center) Zoning District.
- The antennas for the telecom facility approved by this permit will be roofmounted and will be blended or 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.
- For Phase 1 implementation, the support equipment cabinets for the telecom facility 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. The roof-mounted equipment will comply with the height limit applicable to the building in PC-15 (Koll Center) Zoning District.
- For Phase 2 implementation, the support equipment cabinets shall be located within an underground PCC vault located outside of the existing building. The cabinet and PCC vault will be screened from public view in a manner consistent with the architectural style, color and materials of the building.

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 Section 15303 Class 3 (New Construction or Conversion of Small Structures) for the following reason(s): Class 3 exempts the installation of small new equipment and facilities in small structures. The proposed panel and GPS antennas and their supported cabinet equipments are small structures which will be screened from public view.

## 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. Phase 1 improvement shall consist of the installation of 12 panel antennas, 1 GPS, and 12 micro equipment cabinets to be located on the rooftop, behind new screen wall of the existing building. Each of the proposed microcell cabinets is to be approximately 17 in $\times 14.6$ in $\times 7$ in in size.
3. Phase 2 improvement shall consist of 2 BBU and 4 BTS equipment cabinets and associated equipment in an underground PCC vault located outside of the existing building. The underground vault lease area shall be approximately 204 square feet ( $12 \mathrm{ft} \times 17 \mathrm{ft}$ ) in size. The second phase may take place in approximately 3 to 5 years timeframe.
4. Prior to the installation and/or operation of Phase 2 improvement, the 12 micro equipment cabinets located on the rooftop and associated equipment shall be disconnected and removed from the premises.
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. 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.
8. 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.
9. 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
10. 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.
11. 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.
12. 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.
13. 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.
14. According to the Statement of Compliance with FCC/FAA, T-Mobile has obtained a broadcast license in Block C and Block F, with a range of frequency of 1970.4 to $1979.6 \mathrm{MHz}, 1710$ to 1735 MHz , and 1745 to 1755 MHz for transmitting and 1890.4 to $1899.6 \mathrm{MHz}, 2110$ to 2135 MHZ , and 2145 to 2155 MHz for receiving. Any change or alteration to the frequency ranges shall require the prior review and approval of the Planning Director.
15. The applicant recognizes that the frequencies used by the cellular facility located at 5140 Birch Street 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).
16. 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.
17. 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.
18. 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.
19. 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.
20. 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.
21. The operator of the telecom facility shall maintain the facility in a manner consistent with the original approval of the facility.
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 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.
24. 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.
25. 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.
26. 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.
27. This approval shall expire unless exercised within 24 months from the date of approval.
28. 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.
29. T-Mobile service vehicle(s) shall not block any traveling aisle within the parking lot during the maintenance of the underground storage facility/vault.
30. 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.
31. The topographic survey shall be updated to show all existing public and private easements on the subject property.
32. The storage of all project related equipment shall be on-site to minimize impact within the public right-of-way.
33. A Temporary Street Closure Permit and/or Encroachment Permit shall be required for all work activities within the public right-of-way.
34. The screen wall and its support shall not encroach into the required clearance for service to the existing roof equipment.
35. The stair shaft's fire rated construction shall be maintained.
36. T-Mobile shall obtain a combination building permit and construction and the project must comply with the California Building Code.
37. The approval of TP2010-017 shall supersede TP2009-001 and the Amendment to T2009-001.

# T. $\cdot$ Mobile 

## SITE NUMBER: LA03864E SITE NAME: CP ASSOCIATES SITE TYPE: ROOFTOP

## CITY: <br> COUNTY: JURISDICTION: NEWPORT BEACH


T. - Mobile.

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CP ASSOCIATES
LA03864E


RECEIVED BY
PLANNING DEPARTMENT
OCT 152010

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