



**CITY OF NEWPORT BEACH
COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION ACTION REPORT**

TO: CITY COUNCIL, CITY MANAGER AND PLANNING COMMISSION

FROM: Kimberly Brandt, Community Development Director
Brenda Wisneski, Deputy Community Development Director

SUBJECT: Report of actions taken by the Zoning Administrator, and/or Planning Division staff for the week ending September 11, 2015

**ZONING ADMINISTRATOR ACTIONS
SEPTEMBER 10, 2015**

- Item 1: Phoenix Multisport Studio MUP– Activity No. UP2015-023 (PA2015-091)
Site Location: 901 West 16th Street
- Action: Approved by Resolution No. ZA2015-052 Council District 2
- Item 2: Verizon Wireless Right-of-Way Telecom MUP – Activity No. UP2015-024 (PA2015-094)
Site Location: 1(CS) Narbonne (Northeast Corner of Spyglass Hill Road and El Capitan Drive)
- Action: Approved by Resolution No. ZA2015-053 Council District 7

APPEAL PERIOD: An appeal may be filed with the Director of Community Development or City Clerk, as applicable, within fourteen (14) days following the date the action or decision was rendered unless a different period of time is specified by the Municipal Code (e.g., Title 19 allows ten (10) day appeal period for tentative parcel and tract maps, lot line adjustments, or lot mergers). For additional information on filing an appeal, contact the Planning Division at 949 644-3200.

Lt. Dennis Birch, NBPD (*Telecom Permit*)

RESOLUTION NO. ZA2015-052

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING MINOR USE PERMIT NO. UP2015-023 FOR A LARGE HEALTH AND FITNESS FACILITY LOCATED AT 901 WEST 16TH STREET (PA2015-091)

THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Phoenix Multisport Studio, with respect to property located at 901 West 16th Street, and legally described as the East 270 feet of Lot 1013 of the First Addition to Newport Mesa Tract, as per map recorded in Book 8, Page 61 of Miscellaneous Maps, Records of Orange County, California, requesting approval of a minor use permit.
2. The applicant proposes to establish a large health and fitness facility (over 2,000 square feet) in a vacant tenant space located in a multi-tenant light industrial building.
3. The subject property is located within the Industrial (IG) Zoning District and the General Plan Land Use Element category is Industrial General (IG).
4. The subject property is not located within the coastal zone.
5. A public hearing was held on September 10, 2015, in the Corona del Mar Conference Room (Bay E-1st Floor) at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this meeting.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project has been determined to be categorically exempt pursuant to Title 14 of the California Code of Regulations (Section 15301, Article 19 of Chapter 3, Guidelines for Implementation of the California Environmental Quality Act) under Class 1 (Existing Facilities).
2. The Class 1 exemption authorizes minor alterations to existing structures involving negligible or no expansion of use. The proposed project involves the conversion of an existing light industrial space to a large health and fitness facility and involves minor alterations to the existing floor plan.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 20.52.020 (Conditional Use Permits and Minor Use Permits) of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Finding:

- A. *The use is consistent with the General Plan and any applicable specific plan.*

Facts in Support of Finding:

1. The property is designated Industrial (IG) within the Land Use Element of the General Plan which is intended to provide for a wide range of moderate to low intensity industrial uses, such as light manufacturing and research and development, and limited ancillary commercial and office uses. The proposed health and fitness facility use will be located within an existing multi-tenant light industrial center as an ancillary commercial use and will not compromise the character of the area as industrial.

Finding:

- B. *The use is allowed within the applicable zoning district and complies with all other applicable provisions of this Zoning Code and the Municipal Code.*

Facts in Support of Finding:

1. The property is located within the Industrial (IG) Zoning District which is intended to provide for areas appropriate for a wide range of moderate to low intensity industrial uses (e.g., light manufacturing and research and development) and limited accessory commercial and office uses. The proposed health and fitness facility use will be located within an existing multi-tenant light industrial center as an accessory commercial use and will not compromise the character of the area as primarily industrial.
2. The proposed health and fitness facility will occupy an approximately 4,140-square-foot tenant space thereby making it a large health and fitness facility pursuant to Zoning Code Chapter 20.70 (Definitions) of the Zoning Code. Large health and fitness facilities (over 2,000 square feet) are permitted within the IG Zoning District subject to the approval of a minor use permit.
3. Nearly 82 percent, or 26,000 square feet, of the total gross floor area (approximately 32,246 square feet) in the center is occupied by a light industrial use (e.g., manufacturing, distribution, repairs, and research and development). The parking requirements for uses of those types are generally one parking space per each 500 square feet of gross floor area or less pursuant to Zoning Code Section 20.40.040 (Off-Street Parking Spaces Required). The parking requirement for a large health and fitness facility is one parking space per each 200 square feet of gross floor area.

Analysis of the proposed use with regard to the existing 80 parking spaces on-site to serve the center demonstrated sufficient parking would be provided with a surplus of three spaces remaining.

4. The proposed use is required to comply with all other applicable provisions of the Zoning Code and Municipal Code.

Finding:

- C. *The design, location, size, and operating characteristics of the use are compatible with the allowed uses in the vicinity.*

Facts in Support of Finding:

1. The proposed project involves minor improvements within an existing light industrial tenant space to operate a large health and fitness facility.
2. As conditioned, a maximum of five (5) uniquely occurring classes can occur in any one day with a maximum of 20 participants each.
3. The proposed use will remain accessory to the other uses in the light industrial center, which include manufacturing, distribution, research and development, and other industrial uses.
4. The conditions of approval placed on hours of operation as well as classes and number of participants will help to ensure the use is compatible with the existing and allowed uses in the vicinity

Finding:

- D. *The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities.*

Facts in Support of Finding:

1. The proposed use will be located in an existing tenant space within a multi-tenant light industrial building and will involve minor improvements of the space to operate a large health and fitness facility. There are no proposed changes to the site or the exterior façade of the building.
2. Adequate public and emergency vehicle access, public services, and utilities are provided on-site and are accessed from existing driveway approaches on West 16th Street and Monrovia Avenue.
3. All tenant improvement work will comply with all Building, Public Works, and Fire Codes.

Finding:

- E. *Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City, nor endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed use.*

Facts in Support of Finding:

1. The project has been reviewed and this approval includes conditions to ensure that potential conflicts with the surrounding land uses are minimized to the greatest extent possible. The operator is required to take reasonable steps to discourage and correct objectionable conditions that constitute a nuisance in parking areas, sidewalks, and areas surrounding the subject property and adjacent properties during business hours, if directly related to the persons using the establishment.
2. The proposed use will remain accessory to the existing industrial uses within the center as well as the surrounding area.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Minor Use Permit No. UP2015-023, subject to the conditions set forth in Exhibit "A", which is attached hereto and incorporated by reference.
2. This action shall become final and effective 14 days following the date this Resolution was adopted unless within such time an appeal is filed with the Community Development Director in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.

PASSED, APPROVED, AND ADOPTED THIS 10TH DAY OF SEPTEMBER, 2015.

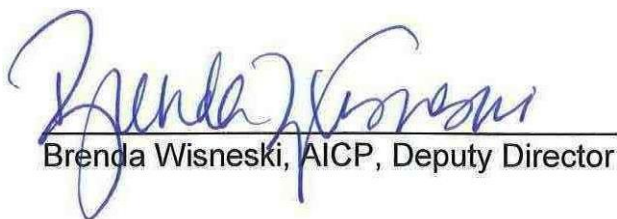

Brenda Wisneski, AICP, Deputy Director

EXHIBIT "A"

CONDITIONS OF APPROVAL

1. The development shall be in substantial conformance with the approved floor plan stamped and dated with the date of this approval. (Except as modified by applicable conditions of approval.)
2. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
3. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Use Permit.
4. This Minor Use Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
5. Prior to implementation of this use permit, all revisions for the shell of the commercial building regarding the subject tenant space shall be permitted and completed.
6. Parking shall be provided at one (1) space per 200 square feet of gross floor area.
7. The hours of operation shall be from 8:00 a.m. to 9:00 p.m., daily.
8. The maximum number of classes occurring in any one day shall be five (5). Classes shall not overlap and shall not occur simultaneously.
9. The maximum number of participants for each class and/or group event shall be twenty (20).
10. No classes shall be conducted outside of the tenant space nor shall they be conducted within the parking lot area.
11. Any change in operational characteristics, expansion in area, or other modification to the approved plans, shall require subsequent review by the Planning Division and may require an amendment to this Minor Use Permit or the processing of a new use permit.
12. A copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans prior to issuance of the building permits.
13. Prior to issuance of building permits, the applicant shall submit to the Planning Division an additional copy of the approved architectural plans for inclusion in the Minor Use

Permit file. The plans shall be identical to those approved by all City departments for building permit issuance. The approved copy shall include architectural sheets only and shall be reduced in size to 11 inches by 17 inches. The plans shall accurately depict the elements approved by this Minor Use Permit and shall highlight the approved elements such that they are readily discernible from other elements of the plans.

14. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 and other applicable noise control requirements of the Newport Beach Municipal Code. The maximum noise shall be limited to no more than depicted below for the specified time periods unless the ambient noise level is higher:

Location	Between the hours of 7:00AM and 10:00PM		Between the hours of 10:00PM and 7:00AM	
	Interior	Exterior	Interior	Exterior
Residential Property	45dBA	55dBA	40dBA	50dBA
Residential Property located within 100 feet of a commercial property	45dBA	60dBA	45dBA	50dBA
Mixed Use Property	45dBA	60dBA	45dBA	50dBA
Commercial Property	N/A	65dBA	N/A	60dBA

15. No outside sound emitting equipment (e.g., stereo or loudspeaker) shall be utilized in conjunction with this establishment.
16. Storage outside of the building in the front or at the rear of the property shall be prohibited, with the exception of the required trash container enclosure.
17. A Special Events Permit is required for any event or promotional activity outside the normal operational characteristics of the approved use, as conditioned, or that would attract large crowds, involve the sale of alcoholic beverages, include any form of on-site media broadcast, or any other activities as specified in the Newport Beach Municipal Code to require such permits.
18. 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 current business owner, property owner or the leasing agent.
19. This approval shall expire and become void unless exercised within 24 months from the actual date of review authority approval, except where an extension of time is approved in compliance with the provisions of Title 20 Planning and Zoning of the Newport Beach Municipal Code.
20. The applicant is required to obtain all applicable permits from the City's Building Division and Fire Department. The construction plans must comply with the most recent, City-adopted version of the California Building Code. The construction plans must meet all applicable State Disabilities Access requirements.

21. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the Phoenix Multisport Studio Minor Use Permit including, but not limited to, the Minor Use Permit No. UP2015-023 (PA2015-091). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

RESOLUTION NO. ZA2015-053

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING MINOR USE PERMIT NO. UP2015-024 FOR A WIRELESS TELECOMMUNICATIONS FACILITY WITHIN THE PUBLIC RIGHT-OF-WAY LOCATED AT 1 (CS) NARBONNE (PA2015-094)

THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Verizon Wireless with respect to public right-of-way area located at 1 (CS) Narbonne requesting approval of a minor use permit.
2. The applicant proposes to construct a new Class 3 (Public Right-of-Way) wireless telecommunications facility installation at the northeastern corner of Spyglass Hill Road and El Capitan Drive. The project will include the replacement of an existing light standard with a new 35-foot-high stealth light standard with a 30-inch radome screening three panel antennas and a GPS antenna. All support equipment will be installed within a new underground vault approximately 90 feet southeast of the stealth light standard within the public right-of-way.
3. The site is within the public right-of-way and is, therefore, not designated within the Land Use Element of the General Plan nor is it located within a zoning district.
4. The site is not located within the Coastal Zone boundary.
5. A public hearing was held on September 10, 2015, in the Corona del Mar Conference Room (Bay E-1st Floor) at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this meeting.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project has been determined to be categorically exempt pursuant to Title 14 of the California Code of Regulations (Section 15303, Article 19 of Chapter 3, Guidelines for Implementation of the California Environmental Quality Act) under Class 3 (New Construction or Conversion of Small Structures).
2. The Class 3 exemption covers the installation of small new equipment and facilities in small structures. The proposed project will include replacement of an existing light standard with a new stealth light standard that has been modified to contain screened antennas. The support equipment will be housed in a small vault below ground approximately 90 feet southeast of the light standard.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 20.52.020 (Conditional Use Permits and Minor Use Permits) of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Finding:

A. *The use is consistent with the General Plan and any applicable specific plan.*

Facts in Support of Finding:

1. The site is not designated within the Land Use Element of the General Plan as it is located within the public right-of-way.
2. The site is not in a specific plan area.

Finding:

B. *The use is allowed within the applicable zoning district and complies with all other applicable provisions of this Zoning Code and the Municipal Code.*

Facts in Support of Finding:

1. The site is not located within a zoning district as it is located within the public right-of-way.
2. Zoning Code Chapter 20.49 (Wireless Telecommunications Facilities) identifies wireless telecommunications facilities within the public right-of-way as a Class 3 Installation which is permissible subject to the approval of a minor use permit. Section 20.49.040 (Telecom Facility Preferences and Prohibited Locations) lists certain prohibited locations and the proposed facility is not a prohibited location.
3. Section 20.49.040(A) prioritizes wireless telecommunication facilities as follows: 1) collocation of a new facility at an existing facility; 2) Class 1 (Stealth/Screened); 3) Class 2 (Visible Antennas) and Class 3 (Public Right-of-Way); and Class 4 (Freestanding Structure). Although lower on the listing of priority facilities, the proposed facility is designed such that it will not visually dominate the surrounding area and is intended to blend seamlessly into the infrastructure of the neighborhood.
4. Support equipment will be installed in an underground vault located southeast of the site. As conditioned, the existing landscaping will be protected and replaced as necessary such that the streetscape and access along the street is unaffected by the facility.
5. With construction as shown on the plans and visual simulations with the implementation of the conditions of approval, the proposed facility will comply with applicable requirements of the Zoning Code.

Finding:

- C. *The design, location, size, and operating characteristics of the use are compatible with the allowed uses in the vicinity.*

Facts in Support of Finding:

1. The proposed design will replicate that of a street light standard which will help to blend in with the existing development of the residential neighborhood.
2. The support equipment for the site will be placed in an underground vault such that the facility will not hinder use of the existing sidewalk or public right-of-way along Spyglass Hill Road or El Capitan Drive.
3. The proposed telecom facility will be unmanned, have no impact on the circulation system, and, as conditioned, should not generate noise, odor, smoke, or any other adverse impacts to adjacent land uses.
4. The proposed facility will enhance coverage and capacity for visitors and to residents of the area by providing wireless access to voice and data transmission services. The proposed facility will not result in any material changes to the character of the local community.

Finding:

- D. *The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities.*

Facts in Support of Finding:

1. Adequate public and emergency vehicle access, public services, and utilities are provided to and around the subject site and the proposed use will not change this.
2. The proposed telecom facility will be unmanned, have no impact on the circulation system, and, as conditioned, should not generate noise, odor, smoke, or any other adverse impacts to adjacent land uses.
3. The Public Works Department, Building Division, Police Department, and Fire Department have reviewed the project proposal and do not have any concerns regarding access, public services, or utilities provided to the existing neighborhood and surrounding area.

Finding:

- E. Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City, nor endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed use.*

Facts in Support of Finding:

1. The proposed facility will comply with the applicable rules, regulations and standards of the Federal Communications Commission (FCC) and the California Public Utilities Commission (CPUC), thus ensuring public health and safety.
2. The proposed facility is not located in an area adjacent to a coastal view road or public coastal view point.
3. The proposed wireless telecommunications facility will be effectively screened based upon the design and location with the incorporation of the conditions of approval. As a result, the proposed telecommunication facility at this location will not result in conditions that are materially detrimental to nearby property owners, residents, and businesses, nor to public health or safety.
4. Although the proposed facility is adjacent to Spyglass Hill Park, it will be located within the public right-of-way and will not interfere with use of the park.
5. The proposal has been reviewed by the Building Division, Public Works, Fire, and Police Departments, and recommended conditions of approval have been included to limit any detriment to the City or general welfare of persons visiting or working in the surrounding neighborhood.

In accordance with Section 20.49.060 (Permit Review Procedures) of the Newport Beach Municipal Code, the following additional findings and facts in support of such findings are set forth:

Finding:

- a. The proposed telecom facility is visually compatible with the surrounding neighborhood.*

Facts in Support of Finding:

1. The proposed facility will include a new 35-foot-high stealth light standard with support equipment vaulted below ground. Installation of the new light standard will replace an existing light standard and will not appear out of character with the surrounding neighborhood as the facility will blend with existing infrastructure.

Finding:

- b. *The proposed telecom facility complies with height, location and design standards, as provided for in this chapter.*

Facts in Support of Finding:

1. The proposed telecom facility will be of similar height with the existing light standard and will not exceed 35 feet in height above existing grade as stipulated by the design standards.
2. The stealth light standard will utilize a radome to screen all antennas which will be treated with exterior coating to match the existing light standard thereby creating a more inconspicuous facility that blends with the existing development and the surrounding neighborhood.
3. As conditioned, the design of the stealth replacement light standard will be consistent with the design of the existing light standard.
4. The support equipment will be located within an underground vault that is completely below finished grade.

Finding:

- c. *An alternative site(s) located further from a residential district, public park or public facility cannot feasibly fulfill the coverage needs fulfilled by the installation at the proposed site.*

Facts in Support of Finding:

1. Alternative sites located further away from Spyglass Hill Park or nearby residential uses would limit the coverage objectives and would not fulfill the need demonstrated by Verizon Wireless to enhance coverage and capacity. The applicant has provided maps that demonstrate improved coverage within the immediate vicinity as a result of the proposed facility.
2. Alternative sites to serve the area are limited as the immediate vicinity is primarily residential.

Finding:

- d. *An alternative plan that would result in a higher preference facility class category for the proposed facility is not available or reasonably feasible and desirable under the circumstances.*

Facts in Support of Finding:

1. The opportunity to collocate or construct a facility on existing structures (Classes 1 or 2) is limited given the lack of viable nonresidential structures in the area that would provide similar service coverage.
2. The proposed stealth light standard (Class 3 – Public Right-of-Way Installation) will blend well with the existing residential development in the area and precedes Class 4 (Freestanding) Installation in order of priority.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Minor Use Permit No. UP2015-024 subject to the conditions set forth in Exhibit "A", which is attached hereto and incorporated by reference.
2. This action shall become final and effective 14 days following the date this Resolution was adopted unless within such time an appeal is filed with the Community Development Director in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.

PASSED, APPROVED, AND ADOPTED THIS 10TH DAY OF SEPTEMBER, 2015.

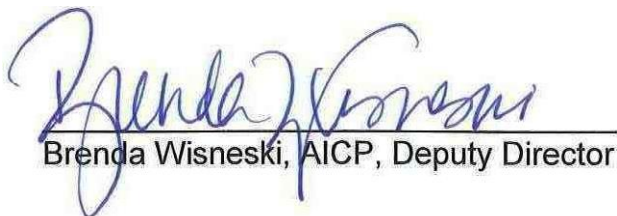

Brenda Wisneski, AICP, Deputy Director

EXHIBIT “A”

CONDITIONS OF APPROVAL

1. The development shall be in substantial conformance with the approved site plan, equipment plans and elevations stamped and dated with the date of this approval. (Except as modified by applicable conditions of approval.)
2. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
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. Prior to issuance of building permits, the applicant shall obtain an effective license agreement with the City regarding use of the public right-of-way for private purposes.
5. Prior to issuance of building permits, the applicant shall submit to the Planning Division an additional copy of the approved architectural plans for inclusion in the Minor Use Permit file. The plans shall be identical to those approved by all City departments for building permit issuance. The approved copy shall include architectural sheets only and shall be reduced in size to 11 inches by 17 inches. The plans shall accurately depict the elements approved by the Minor Use Permit and shall highlight the approved elements such that they are discernible from other elements of the plans.
6. Prior to issuance of building permits, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
7. The operator of the telecom facility shall maintain the facility in a manner consistent with the original approval of the facility and all conditions of approval. Anything not specifically approved by this permit is not permitted and must be addressed in a separate and subsequent review.
8. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 and other applicable noise control requirements of the Newport Beach Municipal Code. The maximum noise shall be limited to no more than depicted below for the specified time periods unless the ambient noise level is higher.

Location	Between the hours of 7:00AM and 10:00PM		Between the hours of 10:00PM and 7:00AM	
	Interior	Exterior	Interior	Exterior
Residential Property	45dBA	55dBA	40dBA	50dBA
Residential Property located within 100 feet of a commercial property	45dBA	60dBA	45dBA	50dBA
Mixed Use Property	45dBA	60dBA	45dBA	50dBA
Commercial Property	N/A	65dBA	N/A	60dBA

9. 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. Should interference with the City's Public Safety radio equipment occur, use of the telecom facility authorized by this permit may be suspended until the radio frequency interference is corrected and verification of the compliance is reported.
10. The facility shall transmit at the approved frequency ranges established by the FCC. The applicant shall inform the City, in writing, of any proposed changes to the frequency range in order to prevent interference with the City's Public Safety radio equipment.
11. The applicant recognizes that the frequencies used by the facility 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).
12. The applicant shall provide a "single point of contact" in its Engineering and Maintenance Departments that is monitored 24 hours per day to ensure 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 Community Development Department and Newport Beach Police Department's Support Services Commander prior to activation of the facility.
13. 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. The location of the information warning signs or plates shall be depicted on the plans submitted for construction permits.
14. 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.
15. 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 with the Code Enforcement Division to confirm compliance with this condition.
16. At all times, the operator shall ensure that its telecom facilities comply with the most current regulatory operations standards, and radio frequency emissions standards adopted by the FCC. The operator shall be responsible for obtaining and maintaining

the most current information from the FCC regarding allowable radio frequency emissions and all other applicable regulations and standards. Said information shall be made available by the operator upon request at the discretion of the Community Development Director.

17. The applicant shall ensure 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.
18. Any operator who intends to abandon or discontinue use of a telecom facility must notify the Planning Division by certified mail no less than thirty (30) days prior to such action. The operator or property owner shall have ninety (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.
19. The City reserves the right and jurisdiction to review and modify any telecom permit approved pursuant to Chapter 20.49 of the Newport Beach Municipal Code, including the conditions of approval, based on changed circumstances. The operator shall notify the Planning Division 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, 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 permit prior to implementing any change.
20. This Minor Use Permit may be modified or revoked by the City 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 20.49 of the NBMC, or this permit.
21. This approval shall expire and become void unless exercised within 24 months from the actual date of review authority approval, except where an extension of time is approved in compliance with the provisions of Title 20 Planning and Zoning of the Newport Beach Municipal Code.
22. A copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans prior to issuance of the building permits.
23. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the Spyglass Hill Right-of-Way Telecom including, but not limited to, the Minor Use Permit No. UP2015-024 (PA2015-094). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of

suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

BUILDING DIVISION

24. The applicant is required to obtain all applicable permits from the City's Building Division and Fire Department. The construction plans must comply with the most recent, City-adopted version of the California Building Code. The construction plans must meet all applicable State Disabilities Access requirements.
25. Prior to the issuance of grading permits, a Storm Water Pollution Prevention Plan (SWPPP) and Notice of Intent (NOI) to comply with the General Permit for Construction Activities shall be prepared, submitted to the State Water Quality Control Board for approval and made part of the construction program. The project applicant will provide the City with a copy of the NOI and their application check as proof of filing with the State Water Quality Control Board. This plan will detail measures and practices that will be in effect during construction to minimize the project's impact on water quality.

PUBLIC WORKS DEPARTMENT

26. If any of the existing public improvements surrounding the site are 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.
27. The storage of all project related equipment during construction shall not be within the public right-of-way, unless otherwise approved by the Public Works and Municipal Operations Departments.
28. Prior to the issuance of building permits, an approved Encroachment Permit is required for all work activities within the Spyglass Hill Road and El Capitan Drive rights-of-way. Any lane closures will require Traffic Control plans, which shall be prepared by a registered California Traffic Engineer, unless otherwise approved by the City Traffic Engineer.
29. All work in the public rights-of-way shall follow City's Municipal Code Chapter 13.20 (Public Rights-of-Way).
30. Although the proposed location is currently not within an Underground Assessment District, if or when there is an approved Underground Assessment District in the future,

the applicant shall relocate the facilities underground pursuant to Municipal Code Section 13.20.030 (City Policies Regarding Use of the PROW).

31. The construction plans shall satisfy NBMC Chapter 13.20.
32. The applicant shall assume 100 percent of all costs associated with any alterations to the existing improvements along Spyglass Hill Road and El Capitan Drive for development of the telecom facility.
33. The applicant shall be responsible for the repair and/or replacement of any curb and gutters, concrete sidewalk, alley/street pavement that may be damaged through the course of construction, as directed by the Public Works Department.
34. Appropriate informational RF warning signs or plates shall be posted at the access locations and each transmitting antenna. The location of the informational warning signs or plates shall be depicted on the plans submitted for construction permits.
35. The applicant is required to protect all City landscaping, trees, and irrigation in place. If any damage should occur, the contractor will be required to replant as directed by the City and guarantee work for a minimum of one (1) year.
36. The existing street light to be removed shall be salvaged and delivered to the City of Newport Beach Utilities Yard.
37. All exposed elements of the facilities including, but not limited to screening, coaxial cables and appurtenances attached to the reconstructed street light pole shall be color-matched or painted to match the pole to the satisfaction of the Community Development and Utilities Directors or their respective designees.
38. The replacement street light standard is subject to the review of the Public Works Department and shall match the design, style, color, height, and location of the existing street light standard to be removed. In no case shall any portion of the light standard exceed 35 feet above existing grade.
39. Prior to issuance of building permits, a letter shall be obtained from Southern California Edison acknowledging that a new single-meter pedestal will be installed as opposed to converting the existing single-meter pedestal to a double-meter pedestal. Said letter shall be documented within the building permit plan check set.
40. Stand pipe vents shall be per the City's 8-inch and 10-inch standard vents. Reference City Standards STD-537-L-A and STD-537-L-B.
41. A soils report shall be provided as part of the building permit plan check. If said document demonstrates that dewatering is required, a formal dewatering plan shall be provided.
42. A sound attenuation study shall be provided as part of the submittal for building permit plan check.