

RESOLUTION NO. 17-03-27-XX

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF DANA POINT, CALIFORNIA, APPROVING ANTENNA USE PERMIT AND CONDITIONAL USE PERMIT AUP16-0001 AND CUP17-0001 TO ALLOW THE INSTALLATION OF A COMMERCIAL WIRELESS TELECOMMUNICATION ANTENNA FACILITY ON THE EXTERIOR OF AN EXISTING BUILDING LOCATED AT 24661 DEL PRADO.

The Planning Commission for the City of Dana Point does hereby resolve as follows:

WHEREAS, Patrick and Rebecca L. Prendiville, (the “Applicant”) are the owners of real property commonly referred to as 24661 Del Prado Avenue (APN 682-323-16) (the “Property”); and

WHEREAS, the Applicant has made an application to allow the installation of a commercial wireless telecommunication antenna facility (attached as exhibit A to this resolution) on a multi-tenant commercial building located at 24661 Del Prado Avenue; and

WHEREAS, said verified application constitutes a request as provided by Title 9 of the Dana Point Municipal Code; and

WHEREAS, pursuant to the California Environmental Quality Act (CEQA), the project is Categorical Exempt per Sections 15301 (e) (Class 1 – Existing Facilities) of the CEQA Guidelines in that the project proposes minor exterior improvements to an existing commercial building and site; and

WHEREAS, the Planning Commission did, on the 27th day of March, 2017, reviewed the Antenna Use Permit and Conditional Use Permit as prescribed by law; and

WHEREAS, at said Planning Commission Review, upon considering all testimony and arguments, if any, of all persons desiring to be heard, said Commission considered all factors relating to Antenna Use Permit (AUP) and Conditional Use Permit (CUP).

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Planning Commission of the City of Dana Point as follows:

- A) The above recitations are true and correct and incorporated herein by this reference.
- B) Based on the evidence presented, the Planning Commission adopts the following findings and approves Antenna Use Permit AUP16-0001 and Conditional Use Permit CUP17-0001, subject to conditions:

Findings:

Antenna Use Permit AUP16-0001

1. That the proposed antenna facility will not create any significant or meaningful blockage to public views **in that the subject roof screens and alternative cap screens will be set back five (5) feet from the interior side property line (exterior wall of the building) and will increase total building height from 24 feet to 33' - 3" and 33'-6", respectively. Both proposals provide an increased height which is less than the maximum allowed building height within the DPTC of 40 feet. Therefore, the proposed antenna facility will create any significant or meaningful blockage of public views.**
2. That the proposed antenna facility will be an enhancement to the City due to its ability to provide additional communication capabilities **in that it will be a relocation and upgrade of Sprint's current DPTC antenna facility which will provide continued cellular and data transfer services for private, commercial and emergency users. Therefore, the new facility will be an enhancement to the City due to its ability to provide additional communication capabilities.**
3. That the proposed antenna facility will be aesthetically integrated into its surrounding environment **in that the two (2) proposed antenna screens are designed to appear as compatible elements of the existing building incorporating sand-tone siding and clay tile roof-caps matching the existing finish materials. Additionally, the at-grade equipment enclosure will be finished with wood fence pickets to match the existing trash enclosure located on site.**
4. That the proposed antenna facility will not interfere with the reception or transmission of other wireless telecommunication signals within the surrounding community **in that the proposed antennas are designed to work on a standalone radio frequency which is designated for the subject carrier. The facility must also conform to 2017 radio frequency emission standards, as well as Federal Communication Commission (FCC) regulations regarding non-interference.**
5. That the proposed antenna facility will operate in compliance with all applicable Federal safety regulations for such facilities **in that the subject wireless antenna facility installation will be tested to demonstrate that the facility complies with all current government safety standards prior to signing off on a building final.**

6. That the public need for the use of the antenna facility has been documented in that the proposed commercial wireless antenna facility is necessary to replace existing coverage slated to be lost due to the demolition of the building and existing Sprint facilities located at 34177 Pacific Coast Highway. This fact coupled with the coverage maps provided by the applicant demonstrating a significant loss in coverage without relocation of the existing site provide evidence of the public need for the use of the proposed antenna facility. Additionally, the coverage maps indicate a resulting improvement in coverage to private, commercial and/or emergency cellular users with implementation of the proposed antenna facility.

Conditional Use Permit CUP17-0001

1. That the proposed conditional use is consistent with the General Plan in that, the proposed relocation of the wireless facility will help maintain, improve and expand communication within the City and is therefore consistent with Goal Six (6) of the Public Facilities/ Growth Management Element of the City's General Plan.
2. That the nature, condition, and development of adjacent uses, buildings, and structures have been considered, and the proposed conditional use will not adversely affect or be materially detrimental to the adjacent uses, buildings, or structures in that, the proposed screens are architecturally compatible with the building incorporating sand-tone siding and clay tile roof-caps matching the existing finish materials. The applicant has also prepared an alternative design, which includes a spark arrestor roof-cap, whereby the antenna screens resemble a chimney.
3. That the proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping, and other land use development features prescribed in this Code and required by the Commission or Council in order to integrate the use with existing and planned uses in the vicinity in that the six (6) proposed antennas, accessory equipment, and all screens and enclosures have been designed under the prescribed development standards of the Dana Point Town Center Plan (DPTCP) and will be erected within the existing building envelope. The at-grade parking lot equipment enclosure will not alter the number of stalls or access requirements onsite which are prescribed by the DPZC. Therefore, there would be no impact with placement of proposed facilities to existing parking,

surrounding uses or structures, or to use of the subject building by the public.

Conditions:

A. General:

1. Approval of this application permits six panel antennas with ancillary equipment to be housed inside two (2), separate fire-rated-panel (FRP) screen structures that extend 7' – 6" above the height of the existing parapet. The subject roof screens and alternative cap screens will be set back five (5) feet from the interior side property line (exterior wall of the building) and will increase total building height from 24 feet to 33' - 3" and 33' - 6", respectively. Additionally, the application permits the construction of an equipment enclosure near the northwest corner of the site. The enclosure will be designed to house two (2) equipment cabinets and one (1) battery cabinet which service the roof-mounted antennas. Subsequent submittals for this project shall be in substantial compliance with the plans presented to the Planning Commission, and in compliance with the applicable provisions of the Dana Point General Plan, Municipal Code and LCP (as applicable).
2. Project "Conditions of Approval" shall appear on the submitted drawings.
3. Approval of this application is valid for a period of 24 months (two years and March 27, 2019) from the date of determination. If the development approved by this action is not established, or a building permit for the project is not issued within such period of time, the approval shall expire and shall thereafter be null and void.
4. The application is approved as a plan for the location and design of the uses, structures, features, and materials, shown on the approved plans. Any relocation, alteration, or addition to any use, structure, feature, or material, not specifically approved by this application, will nullify this approving action. If any changes are proposed regarding the location or alteration to the appearance or use of any structure, an amendment to this permit shall be submitted for approval by the Director of Community Development. If the Director of Community Development determines that the proposed change complies with the provisions and the spirit and intent of this approval action, and that the action would have been the same for the amendment as for the approved plot plan, he may

approve the amendment without requiring a new public hearing.

5. Failure to abide by and faithfully comply with any and all conditions attached to the granting of this permit shall constitute grounds for revocation of said permit.
6. The applicant or any successor-in-interest shall defend, indemnify, and hold harmless the City of Dana Point ("CITY"), its agents, officers, or employees from any claim, action, or proceeding against the CITY, its agents, officers, or employees to attack, set aside, void, or annul an approval or any other action of the CITY, its advisory agencies, appeal boards, or legislative body concerning the project. Applicant's duty to defend, indemnify, and hold harmless the City shall include paying the City's attorney's fees, costs and expenses incurred concerning the claim, action, or proceeding.

The applicant or any successor-in-interest shall further protect, defend, indemnify and hold harmless the City, its officers, employees, and agents from any and all claims, actions, or proceedings against the City, its officers, employees, or agents arising out of or resulting from the negligence of the applicant or the applicant's agents, employees, or contractors. Applicant's duty to defend, indemnify, and hold harmless the City shall include paying the City's attorney's fees, costs and expenses incurred concerning the claim, action, or proceeding.

The applicant shall also reimburse the City for City Attorney fees and costs associated with the review of the proposed project and any other related documentation.

7. The applicant and applicant's successors in interest shall be fully responsible for knowing and complying with all conditions of approval, including making known the conditions to City staff for future governmental permits or actions on the project site.
8. The applicant and applicant's successors in interest shall be responsible for payment of all applicable fees along with reimbursement for all City expense in ensuring compliance with these conditions.
9. The construction site shall be posted with signage indicating that construction may not commence before 7:00 AM and must cease by 8:00 PM, Monday through Saturday, with no construction activity permitted on Sundays or Federal holidays.

10. The applicant, property owner or successor in interest shall submit a Waste Management Plan to the City's C&D Official per the Dana Point Municipal Code. A deposit will be required upon approval of the Waste Management Plan to ensure compliance.
11. During construction, the project shall implement and maintain all applicable minimum construction Best Management Practices (BMPs), assigned by priority level and/or as required by the Director of Public Works or designee. Applicable minimum BMPs, for the project's priority as determined by the Urban Runoff Threat Assessment Form may be found in the City's Construction Urban Runoff Best Management Practices (BMPs) Requirements Manuals.
12. During the construction phase, all construction materials, wastes, grading or demolition debris, and stockpiles of soil, aggregates, soil amendments, etc. shall be properly covered, stored, managed, secured and disposed to prevent transport into the streets, gutters, storm drains, creeks and/or coastal waters by wind, rain, tracking, tidal erosion or dispersion.
13. The approved antenna equipment and application shall be subject to review by the City every two years from the date of approval to determine if technology has changed to the point where an installation can be reduced in size or redesigned in a more "stealth" manner and to evaluate Radio-Frequency emissions. Should this review be deemed required/appropriate, the applicant shall submit technology upgrade and Radio-Frequency emission testing reports for review by the Planning Division. Said report shall not be required more than once within a 24 month (two year) period.
14. At all times, other than during a 24-hour "cure period," the applicant shall not prevent the City of Dana Point from having adequate spectrum capacity on the City's 800 MHz radio frequency; should any interruptions or interference to this frequency occur, operation of the facility shall cease and until the cause of interference or interruption is eliminated.
15. The applicant shall provide a 24-hour contact phone number to which interference problems may be reported.

A. Prior to Building Plan Check Submittal

16. Building plan check submittal shall include the following construction documents:

- Building Plans (4 sets)
- Trade plans (i.e. Electrical/Plumbing/Mechanical plans) by a Registered Design Professional
- Structural Calculations (2 sets)

All documents prepared by a registered-design-professional shall be wet-stamped & signed.

17. Fire Department review maybe required. Submit plans directly to the Orange County Fire Authority for their review.
18. Provide building code analysis showing conformance to CBC Chapter 3 and 5. Specify occupancy group(s), type(s) of construction, including fire sprinklers, location on property, building height and allowable height, number of stories, and conforming exiting.
19. Minimum roofing classification is Class "A".
20. Fire-rated Construction: Plans should clearly identify and detail the fire-rated construction for any construction due to close proximity to the property line.
21. Separate review, approval, and permits are required for separate structures.

C. Prior to final inspection or release on certain related inspections including final inspection.

22. A radio-frequency testing report shall be provided upon initial installation and an additional report shall be submitted within 45 days to demonstrate that the facility is in compliance with government safety standards.
23. The applicant shall provide a "single point of contact" in its Engineering and Maintenance Departments to ensure continuity on all interference issues. The name, telephone number, fax number, and e-mail address of that person shall be provided to the Communications Division of the Orange County Sheriff's Department.
24. A height certification shall be required upon completion of the screen cap (roof or faux spark arrestor) and prior to the Planning Division final.

25. Verification of all conditions of approval is required by all City Departments.
26. All approvals from outside Departments and Agencies (i.e. Fire Department) is/are required.
27. All applicable supplemental/development impact fees shall be paid prior to building permit issuance.

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PASSED, APPROVED, AND ADOPTED at a regular meeting of the Planning Commission of the City of Dana Point, California, held on this 27th day of March 2017, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Eric Nelson, Chairman
Planning Commission

ATTEST:

Ursula Luna-Reynosa, Director
Community Development Department