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DEPARTMENT OF PLANNING AND LAND USE

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April 22, 2003

Eugene and Rosemary Carl
652 North Thompson Road
Nipomo, California 93444

FINAL DECISION OF THE ZONING ADMINISTRATOR Minor Use Permit

APPLICATION NUMBER: ZAP 02-025 APN: 222-041-11

WN NUMBER: 6695

NAME OF APPLICANT: Project Design Consultants for Sprint PCS

LOCATION OF PROPERTY:

The site is located at 1690 Via Cancion in the southeast corner of the property, in the North County Metropolitan Subregional Plan, RR2 Rural Residential Use Regulation.

DECISION:

GRANT, per replacement plot plans and elevations, dated December 20, 2002 and February 3, 2003, consisting of seven sheets, a Minor Use Permit pursuant to Sections 1355, 2184b, and 7350 et seq. of The Zoning Ordinance, to construct an unmanned telecommunications facility consisting of nine antennas mounted within the branches of a faux broad-leaf tree. The associated equipment will be located on the ground under the tree surrounded by a solid concrete wall.

Compliance with other applicable San Diego County codes, ordinances, and requirements is required unless otherwise noted.

CONDITIONS:

The following conditions are imposed with the granting of this Minor Use Permit:

Building permit plans must conform in detail to this approved design. Failure to conform can cause delay to or denial of building permits and require formal amendment of this approved design. No waiver of the Uniform Building Code standards or any other code or ordinance is intended or implied.

- A. Prior to obtaining any building or other permit pursuant to this Minor Use Permit, and prior to commencement of construction or use of the property in reliance on this Minor Use Permit, the applicant shall:
1. Pay off all existing deficit accounts associated with processing this application to the satisfaction of the Department of Planning and Land Use. [DPLU]
 2. Obtain a Construction Permit for any work within the County road right-of-way. The Department of Public Works (DPW) Construction/Road right-of-way Permits Services Section should be contacted at (858) 694-3275 to coordinate departmental requirements. Also, before trimming, removing or planting trees or shrubs in the County Road right-of-way, the applicant must first obtain a permit to remove, plant or trim shrubs or trees from the Permit Services Section. [DPW]
 3. Obtain an excavation permit from the County DPW for any undergrounding and/or relocation of utilities within the County right-of-way. [DPW]
 4. Comply with all applicable stormwater regulations at all times. The activities proposed under this application are subject to enforcement under permits from the San Diego Regional Water Quality Control Board (RWQCB) and the County of San Diego Watershed Protection, Stormwater Management, and Discharge Control Ordinance (Ordinance No. 9424 and Ordinance No. 9426) and all other applicable ordinances and standards. This includes requirements for materials and wastes control, erosion control, and sediment control on the project site. Projects that involve areas greater than 5 acres require that the property owner keep additional and updated information onsite concerning stormwater runoff. This requirement shall be to the satisfaction of the Director of Public Works. [DPW]

5. A grading permit will be required prior to commencing of the grading where quantities exceed 200 cubic yards of material and/or cuts or fills are five feet (5') or more in height per criteria of Section 87.201 of the County Zoning and Land Use Regulations. [DPW]
 6. Provide a flood-free building site for the proposed facility to the satisfaction of the Director of Public Works. [DPW]
 7. Furnish the Director of Planning and Land Use, along with their request for final inspection, a letter from the Director of Public Works, stating Conditions A2 through A6 have been completed to that department's satisfaction. [DPW]
 8. The property owner shall execute an Irrevocable Offer to Annex (IOA) the property to the San Marcos Fire Protection District, Community Facilities District for the provision of fire services (District CFD), immediately upon formation of such District CFD. The owner's execution of the IOA shall further constitute the owner's approval of and its affirmative vote to annex the property to the City of San Marcos' Community Facilities District 98-01 for the provision of police and fire services (CFD 98-01) if and when the property annexes to the City. Annexation to CFD 98-01 shall automatically terminate the property's inclusion in the District CFD. [FIRE]
- B. Prior to any occupancy or use of the premises pursuant to this Minor Use Permit, the applicant shall:
1. Comply with street lighting requirements as follows: [DPW]
 - a. Transfer the property subject to ZAP 02-025 into Zone A of the San Diego County Street Lighting District without notice or hearing, and pay the cost to process such transfer.
 2. Furnish the Director of Planning and Land Use, along with their request for final inspection, a letter from the Director of Public Works, stating Condition B1 has been completed to that department's satisfaction. [DPW]
 3. Submit a letter to the satisfaction of the Director of the Department of Planning and Land Use from the San Marcos Fire Department that states all fire requirements have been satisfied including the following: [DPLU]

- a. Install a Knox padlock on the gate in accordance with the County of San Diego's Fire Policy (FP 2) to allow fire crews onto the property and a 2A10BC fire extinguisher shall be installed with the equipment.
 4. Submit a letter to the satisfaction of the Director of the Department of Planning and Land Use from the Vallecitos Water District that states all District requirements have been satisfied. The District will not allow any grading or crossing of existing sewer facilities, or the installation of any new facilities within the District easements without prior consent. [DPLU]
 5. Submit a letter to the satisfaction of the Director of the Department of Planning and Land Use from the City of San Marcos that states that the equipment area is setback a sufficient distance from the easement. [DPLU]
 6. Submit evidence (such as photos) to the satisfaction of the Director of Planning and Land Use to show proof that the faux broad-leaf tree has been constructed and painted to match the photo simulation dated September 19, 2003 in the file. The antennas shall be hidden completely within the branches and painted the same color as the foliage of the tree. [DPLU]
 7. Design and adjust all light fixtures to reflect light downward, away from any road or street, and away from any adjoining premises, and shall otherwise conform to Sections 6324 and 6326 of The Zoning Ordinance. [DPLU]
- C. The following conditions shall apply during the term of the Minor Use Permit.
1. The color and condition of the faux broad-leaf tree as shown on the photo simulation dated September 19, 2002 in the file shall be well maintained at all times.
 2. Keep a minimum of 20 potted wholesale trees within 50 feet of the proposed facility at all times.
 3. If at any time the antennas and equipment are no longer operational, the antennas and the associated equipment shall be removed from the site within 60 days.
 4. DEFENSE OF LAWSUITS AND INDEMNITY: The applicant shall: (1) defend, indemnify and hold harmless the County, its agents, officers and employees from any claim, action or proceeding against the County, its

agents, officers and employees to attack, set aside, void or annul this approval or any of the proceedings, acts or determinations taken, done or made prior to this approval; and (2) reimburse the County, its agents, officers or employees for any court costs and attorney's fees which the County, its agents, officers or employees may be required by a court to pay as a result of such approval. At its sole discretion, the County may participate at its own expense in the defense of any such action, but such participation shall not relieve the applicant of any obligation imposed by this condition. The County shall notify the applicant promptly of any claim or action and cooperate fully in the defense.

- D. The Minor Use Permit expires on April 22, 2005, unless construction and/or use in reliance has started, or unless an extension has been granted previously by the Zoning Administrator.

FINDINGS:

CEQA FINDING:

It is hereby found that the proposed project is exempt from the California Environmental Quality Act as specified under Section 15303 of the State CEQA Guidelines for the reasons detailed in the Notice of Exemption Form dated April 22, 2003 on file with DPLU as Environmental Review Number 02-08-014.

STORMWATER FINDING:

It is hereby found that the project proposed by the application has prepared plans and documentation demonstrating compliance with the provisions of the County of San Diego Watershed Protection, Stormwater Management, and Discharge Control Ordinance.

MINOR USE PERMIT FINDINGS:

- a. That the location, size, design, and operating characteristics of the proposed use will be compatible with adjacent uses, residents, buildings, or structures, with consideration given to:
1. Harmony in scale, bulk, coverage and density;
- The proposal is to mount nine panel antennas within a 35-foot tall faux broad-leaf tree. The associated equipment will be located on the ground, under the tree, and inside an 8-foot high concrete wall.

Bulk/Scale: The vacant property is 3.13 acres and is located just to the west of South Rancho Santa Fe Road, in between Via Cancion and Paradise Glen Way, and operates as a nursery. The faux broad-leaf tree will be located in the far southwest corner of the property near the street. The grade of the facility will be approximately the same in elevation as the road. The surrounding properties are mostly residential, vacant, and agricultural. The nursery on the project site is agricultural and vacant properties immediately surround the site. There are residential homes developed in every direction in the distance. The nearest structure is the trailer and gazebo on the nursery property. There are no immediately adjacent developed residential properties. There are several tall, full trees along South Rancho Santa Fe Road that appear similar to the proposed facility.

The bulk and scale of the facility will be reduced due to the tree's stealthed design and that the design complements the semi-rural area. The nine antennas will be completely hidden within the tree. The equipment structures will be hidden behind a solid concrete wall. The bulk and scale of the faux tree structure is also reduced because the visibility of the structure from passing motorists will occur only for a short period of time. Traffic on this portion of South Santa Fe Road travels at a high rate of speed and the road bends if traveling southbound. The walled equipment area will appear very similar to a typical shed or accessory building commonly found in the area. The bulk and scale of the faux tree and the equipment area will not significantly change the characteristics of the area.

Coverage: The coverages of the immediately adjacent properties are zero to approximately 10 percent. The coverages of the developed properties in the area are approximately 8-10 percent. The 3.13-acre subject property is currently vacant except for a small trailer and a gazebo. The existing coverage is approximately 1.4 percent. The addition of the faux tree and the equipment area will increase the coverage to approximately 1.8 percent. A less than 1 percent increase is not a significant increase and is less than the developed properties in the area.

Density: The density of the site will not change. The proposed facilities will not be used as dwelling units.

Therefore, the proposed project is compatible in bulk, scale, coverage, and density with the adjacent uses and structures.

2. The availability of public facilities, services and utilities;

The project was sent to the San Marcos Fire Department for review. The fire department determined that it is not necessary to provide a fire access roadway or a fire apparatus turn around per the County of San Diego's Fire Policy (FP 2). The shoulder of South Rancho Santa Fe Road will provide adequate access to the site. The fire department did include conditions requiring a Knox padlock and a fire extinguisher, which have been required in the draft decision. A letter is required from the fire department to verify that all of the fire department's conditions have been satisfied prior to the start of operating the facility. The Department of Environmental Health has approved the location of this facility. There is no conflict with facilities location and the location of leach fields. No bathrooms are proposed and no additional water service is required as a result of this facility. The facility will be located 24.5 feet from the edge of South Rancho Santa Fe Right-of-Way and just outside the 20-foot Vallecitos Water District easement. Even after the road is widened there will be enough room for a maintenance vehicle to safely pull along the side of the road and park. This facility will only require approximately one visit per month. All support services and utilities are available and will be provided concurrent with the need. Therefore, the proposal will have no impact on the availability of public facilities, services, or utilities.

3. The harmful effect, if any, upon desirable neighborhood character;

The proposal is to mount nine panel antennas within a 35-foot tall faux broad-leaf tree. The associated equipment will be located on the ground, under the tree, and inside an 8-foot high concrete wall.

Visibility from passing motorists on South Rancho Santa Fe Road was reviewed as a possible harmful effect, even though South Rancho Santa Fe Road is not classified as a scenic highway. Photo simulations were prepared by the applicant and reviewed by staff. The photo simulations show that the tree will be visible South Rancho Santa Fe Road, but the tree's stealthed design will complement the semi-rural location. The proposed project will have no demonstrable negative effect on the surrounding area and the project effects are below a level of significance, since tall, mature trees are typically found along the major roadways in this area of the County. The draft decision requires evidence prior to using the facility that the facility was constructed to appear identical to the photo simulation. This condition also requires the antennas to be hidden completely within the branches and painted the same color as the foliage of the tree.

Noise was also reviewed as a possible harmful effect. It was determined that the equipment will not create a significant environmental impact since the equipment will be located inside a concrete walled area, that any noise from air conditioners will be not be heard over the ambient noise from the adjacent South Rancho Santa Fe Road, and that loud noise will not travel beyond the nearby property lines. The proposal will meet the County's Noise Ordinance and no problems relating to noise are anticipated.

The facility will not detract from the resources in the area and will not have a harmful effect upon the desired neighborhood character as a result of this proposal.

4. The generation of traffic and the capacity and physical character of surrounding streets;

The location will be unmanned, and only periodic maintenance trips will be necessary, approximately one trip per month. Access will be taken directly from South Rancho Santa Fe Road. The shoulder of South Rancho Santa Fe Road provides adequate access to the site. Even after the road is widened there will be enough room for a maintenance vehicle to safely pull along the side of the road and park. The DPW has determined that the proposed project would not result in a degradation of the level of service (L.O.S) of affected roadways. Rancho Santa Fe Road (SF 1412) is designated as a Major Road on the San Diego County Circulation Element of the General Plan with the current L.O.S. "F" (28,000 ADT) (threshold is 16,200 ADT for L.O.S. "E", based upon existing two-lane road). The added traffic volume from the project (less than 2 ADT) would result in a total of 28,002 ADT, which is a less than 1 percent increase. This would not result in any impacts, degradation, or threshold increase on Rancho Santa Fe Road. The project will also not have any significant impacts on traffic safety. A private engineer certified that the facility has adequate sight distance. The applicant will be required to acquire adequate right-of-way for the designated specifications of Rancho Santa Fe Road (SF 1412), and design and construct all public and private roads per the County Public and Private Road Standards. The DPW has indicated that one trip per month is not a significant increase in traffic or on the L.O.S. of the surrounding roadways. No traffic problems are anticipated as a result of this facility.

5. The suitability of the site for the type and intensity of use or development which is proposed;

The vacant property is 3.13 acres and is located just to the west of South Rancho Santa Fe Road, in between Via Cancion and Paradise Glen Way, and operates as a nursery. The faux broad-leaf tree will be located in the far southwest corner of the property near the street. The grade of the facility will be approximately the same in elevation as the road. Potted trees from the nursery will surround the tree and an 8-foot-high concrete block wall will screen all the associated equipment. It will be difficult to distinguish the faux broad leaf tree from a typical existing tree from the nearest residential properties or from passing motorists. There are no residences in the immediate area and the visibility of the structure from passing motorists will occur only for a short period of time. Traffic on this portion of South Rancho Santa Fe Road travels at a high rate of speed and the road bends if traveling southbound. Only minimal grading is proposed to flatten and recompact the pad for the facility. Only a minimal amount of vegetation will be removed. The proposed project will not significantly increase the amount of runoff. The project will have no adverse effect on drainage patterns or the rate or amount of runoff because it does not propose to impair, impede or accelerate flow in any watercourse. The site is suitable for the type and intensity of the use because of the design of the facility and that the property is large enough to accommodate such a facility without causing adverse problems to any surrounding property owners.

6. Any other relevant impact of the proposed use.

No other relevant impacts have been identified.

- b. That the impacts, as described in Paragraph "a" of this section and the location of the proposed use will be consistent with the San Diego County General Plan.

The project is located in the (1) Residential Land Use Designation, which promotes residential uses as the dominant uses. The zoning, RR2, Rural Residential, is consistent with the General Plan and allows a Minor Impact Utility Use with the approval of a Minor Use Permit. Furthermore, the Public Safety Element policies encourage the continual improvement of a countywide telephone communications system. The facility will improve the phone service capability for a consumer oriented communications company.

- c. That the requirements of the California Environmental Quality Act have been complied with.

The project has been found to be Categorically Exempt from the California Environmental Quality Act (CEQA) because the proposed use meets the criteria defined in CEQA Guidelines 15303, New Construction of Small Structures. The facility will not be in an environmentally sensitive location, has a small footprint,

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and will be visually stealthed in a manner that does not impact the surrounding environment or a scenic highway.

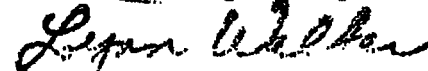
NOTICE: The 90 day period in which the applicant may file a protest of the fees, dedications or exactions required in all Conditions begins on April 22, 2003.

The decision of the Zoning Administrator becomes final on the eleventh day following the date on this permit unless prior to that date, you or a protestant files a written appeal to the Planning Commission accompanied by a fee of \$750.00. Filing of an appeal will stay the decision of the Zoning Administrator until a hearing on your application is held and action is taken by the Planning Commission.

The foregoing was a decision by the Zoning Administrator on April 22, 2003. A copy of this decision is on file in the office of the Zoning Administrator and a copy was mailed to the applicant at the address shown on the application.

GARY L. PRYOR, Director
Department of Planning and Land Use

By:



LYNN WALKER
Zoning Administrator

PL:DS:jcr

cc: Project Design Consultants, Attn: Kim Sheredy, 701 B Street, Suite 800, San Diego, CA 92101
Sprint PCS, Attn: Karen Mitchell, 2650 Camino Del Rio North, #100, San Diego, CA 92108
Eagle TCS, Inc., 7365 Mission Gorge Road, Suite F, San Diego, CA 92120
Vallecitos Water District, Attn: Cheryl Branstrom, 201 Vallecitos de Oro, San Marcos, CA 92069-1453
City of San Marcos, Attn: Susan Vandrew, Planning Division, 1 Civic Center Dr., San Marcos, CA 92069
San Marcos Fire Department, Attn: Matthew Ernau, 1 Civic Center Dr., San Marcos, CA 92069
Roger Taylor, 1661 Via Cancion, San Marcos, CA 92069
Mary Clarke, 1529 El Paseo Dr., San Marcos, CA 92069
Lee Shick, Project Manager, DPW, M.S. 0336
Greg Carlton, DPW, M.S. 0336
Pat Laybourne, Regional Planner, DPLU, M.S. 0650
Glenn Russell, CEQA Regulatory Manager, DPLU, M.S. 0650
Emery McCaffery, Project Analyst, DPLU, M.S. 0650
File

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