

RECORDING REQUESTED BY
CITY OF SAN DIEGO
DEVELOPMENT SERVICES
PERMIT INTAKE, MAIL STATION 501

WHEN RECORDED MAIL TO
PROJECT MANAGEMENT
PERMIT CLERK
MAIL STATION 501

SPACE ABOVE THIS LINE FOR RECORDER'S USE

JOB ORDER NUMBER: 42-8189

CONDITIONAL USE PERMIT NO.474370
PLANNED DEVELOPMENT PERMIT NO. 587336
VERIZON – KENSINGTON
PROJECT NO. 136385
PLANNING COMMISSION
DRAFT

This Conditional Use Permit No. 474370 and Site Development Permit No. 587336 is granted by the Planning Commission of the City of San Diego to City Of San Diego, Owner (public right-of-way), and Venus Hafford Webber, Owner (4718 Bonnie Court), and Verizon Wireless, Permittee, pursuant to San Diego Municipal Code [SDMC] section 141.0420 and Chapter 14, Article 3, Division 4. The pole is located on the east side of Bonnie Court just north of Adams Avenue and the equipment shelter is located at 4718 Bonnie Court in the RS-1-7 zone of the Mid City Community Plan. The equipment shelter project site is legally described as all that portion of Villa Lot 195 of Normal Heights, in the City of San Diego, State of California, according to Map thereof No. 095, filed in the Office of the County Recorder of San Diego County.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner and Permittee for a wireless communication facility, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated October 9, 2008, on file in the Development Services Department.

The project shall include:

- a. An existing 55 foot high wooden utility pole supporting nine panel (two rows of four foot long antennas for a total of six antennas and one row of two foot long antennas for a total of three) painted to match the pole;
- b. An existing 572 square foot equipment shelter located behind the existing garage at 4718 Bonnie Court;

- c. Landscaping (planting, irrigation and landscape related improvements) as illustrated in Exhibit A; and
- d. Accessory improvements determined by the Development Services Department to be consistent with the land use and development standards in effect for this site per the adopted community plan, California Environmental Quality Act Guidelines, public and private improvement requirements of the City Engineer, the underlying zone(s), conditions of this Permit, and any other applicable regulations of the SDMC in effect for this site.

STANDARD REQUIREMENTS:

1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. Failure to utilize and maintain utilization of this permit as described in the SDMC will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker.
2. This Conditional Use Permit and corresponding use of this site shall **expire on October 9, 2018**. Upon expiration of this Permit, the facilities and improvements described herein shall be removed from this site and the property shall be restored to its original condition preceding approval of this Permit unless the applicant of record files a new application for a facility which will be subject to compliance with all regulations in effect at the time.
3. No later than ninety (90) days prior to the expiration of this permit, the Owner/Permittee may submit a new **PERMIT** application to the City Manager for consideration with review and a decision by the appropriate decision maker at that time. Failure to submit prior to the deadline will be cause for non-compliance, which may include penalties and fines.
4. Under no circumstances, does approval of this permit authorize (insert applicant name) or their tenants to utilize this site for wireless communication purposes beyond the permit expiration date. Implicit use of this permit beyond the effective date of this permit is prohibited.
5. Within 90 days of approval of this permit:
 - a. The Owner/Permittee signs and returns the Permit to the Development Services Department; and
 - b. The Permit is recorded in the Office of the San Diego County Recorder.
6. Unless this Permit has been revoked by the City of San Diego the property included by reference within this Permit shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the Development Services Department.

7. This Permit is a covenant running with the subject property and shall be binding upon the Owner/Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this Permit and all referenced documents.
8. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
9. Issuance of this Permit by the City of San Diego does not authorize the Owner/Permittee for this permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).
10. No changes, modifications or alterations shall be made unless appropriate application(s) or amendment(s) to this Permit have been granted.
11. All of the conditions contained in this Permit have been considered and have been determined to be necessary in order to make the findings required for this Permit. It is the intent of the City that the holder of this Permit be required to comply with each and every condition in order to be afforded the special rights which the holder of the Permit is entitled as a result of obtaining this Permit.

In the event that any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable, or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" condition(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.

12. The applicant shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney's fees, against the City or its agents, officers, or employees, in connection with this development approval including, but not limited to, any action to attack, set aside, void, challenge, or annul this development approval and any environmental document or decision related thereto. The City will promptly notify applicant of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, the applicant shall not thereafter be responsible to defend, indemnify, and hold harmless the City or its agents, officers, and employees. The City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, applicant shall pay all of the costs related thereto, including without limitation reasonable attorney's fees and costs. In the event of a disagreement between the City and applicant regarding litigation issues, the City shall have the authority to control the litigation and make litigation related decisions, including, but not limited to, settlement or other disposition

of the matter. However, the applicant shall not be required to pay or perform any settlement unless such settlement is approved by applicant.

LANDSCAPE REQUIREMENTS: (See Condition No. 17)

13. The Owner of Assessors Parcel Number 440-520-18 (also noted as VL 195 DOC90-029617 IN) shall maintain all existing landscape in a disease, weed and litter free condition at all times. Severe pruning or “topping” of trees is not permitted. The trees shall be maintained in a safe manner to allow trees to continue growing to mature height and spread.

14. The Owner of Assessors Parcel Number 440-520-18 (also noted as VL 195 DOC90-029617 IN) shall be responsible for all landscape improvements to be consistent with the Land Development Manual; Landscape Standards unless long-term maintenance of said landscaping will be the responsibility of a Landscape Maintenance District or other approved entity. In this case, a Landscape Maintenance Agreement shall be submitted for review by a Landscape Planner.

15. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved construction document plans is pruned or removed or damaged during the life of this permit, the Permittee or Subsequent Owner is responsible to coordinate with the property to replace any landscape in kind and equivalent size per the approved documents to the satisfaction of the Development Services Department within 30 days of damage.

16. Any plant material required by this permit that dies, is “topped,” or improperly pruned during the life of this permit shall be replaced within 30 calendar days of plant death with the same size and species of plant material shown on Exhibit “A” or this permit. Required shrubs that die or are improperly maintained 3 years or more after installation shall be replaced with 15 gallon size, and required trees that die, are “topped,” or improperly pruned 3 years or more after the date of this permit shall be replaced with 60-inch box size material. The Development Services Department may authorize adjustment of the size and quantity of replacement material where material replacement would occur in inaccessible areas or where the existing plant being replaced is larger than a 15 gallon shrub or 60-inch box tree.

PLANNING/DESIGN REQUIREMENTS:

17. By signing this document, Verizon acknowledges that the validity of this permit depends on the existing landscape located on Assessors Parcel Number 440-520-18 (also noted as VL 195 DOC90-029617 IN) and identified on Exhibit “A”. All existing landscape serves as screening for the Verizon Kensington slim line pole. Removal or severe pruning of this landscape shall be cause for revocation of this permit.

18. There shall be compliance with the regulations of the underlying zone(s) unless a deviation or variance to a specific regulation(s) is approved or granted as a condition of approval of this Permit. Where there is a conflict (including exhibits) of this Permit and a regulation of the

underlying zone, the regulation shall prevail unless the condition provides for a deviation or variance from the regulations. Where a condition (including exhibits) for this Permit establishes a provision which is more restrictive than the corresponding regulation of the underlying zone, then the condition shall prevail.

19. Any future requested amendments to this Permit shall be reviewed for compliance with the regulations of the underlying zone(s) which are in effect on the date of the submittal of the requested amendment.

20. Any change in size of antennas will require an amendment to this permit.

21. The applicant of record is responsible for notifying the city prior to the sale or takeover of this site to any other provider.

22. This wireless communication facility shall be removed or replaced if it is determined that the facility or components of the facility are obsolete.

23. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located and in accordance with the applicable regulations in the SDMC.

24. All equipment, including transformers, emergency generators and air conditioners shall be designed and operated consistent with the City noise ordinance. Ventilation openings shall be baffled and directed away from residential areas. Vibration resonance of operating equipment in the equipment enclosures shall be eliminated.

PERFORMANCE MEASURES:

25. Within six months (April 9, 2009) of approval of this permit, the telecommunication provider shall provide certification describing evidence that the cumulative field measurements of radio frequency power densities for all antennas installed on the premises are below the federal standards.

INFORMATION ONLY:

- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this development permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code §66020.
- This development may be subject to impact fees at the time of construction permit issuance.

APPROVED by the Planning Commission of the City of San Diego on October 9, 2008 by Resolution No. XXXXX.

Permit Type/PTS Approval No.: CUP No. 474370/SDP No. 587336

Date of Approval: October 9, 2008

AUTHENTICATED BY THE DEVELOPMENT SERVICES DEPARTMENT

Karen Lynch-Ashcraft
Development Project Manager

**NOTE: Notary acknowledgment
must be attached per Civil Code
section 1189 et seq.**

The undersigned Owner/Permittee, by execution hereof, agrees to each and every condition of
this Permit and promises to perform each and every obligation of Owner/Permittee hereunder.

Verizon Wireless
Owner/Permittee

By _____
Bill D'Agostino
Network Manager

Owner/Permittee

By _____
Venus Hafford Webber
Owner

**NOTE: Notary acknowledgments
must be attached per Civil Code
section 1189 et seq.**

DECISION MAKER HEARING OFFICER
RESOLUTION NO. XXXXX
CONDITIONAL USE PERMIT NO. 474370
PLANNED DEVELOPMENT PERMIT NO. 587336
VERIZON -- KENSINGTON
PROJECT NO. 136385
DRAFT

WHEREAS, Venus Hafford Webber, Owner and Verizon Wireless, Permittee, filed an application with the City of San Diego for a permit for a wireless communication facility (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Permits No. 474370 and 587336);

WHEREAS, the project site being two components, the pole is located on the east side of the 4700 block of Bonnie Court and the equipment, which is located at 4718 Bonnie Court, both in the RS-1-7 zone of the Mid City Community Planning area;

WHEREAS, the equipment shelter component of the project site is legally described as as all that portion of Villa Lot 195 of Normal Heights, in the City of San Diego, State of California, according to Map thereof No. 095, filed in the Office of the County Recorder of San Diego County.

WHEREAS, on September 18, 2008, the Planning Commission of the City of San Diego considered Conditional Use Permit No. 474370 and Planned Development Permit No. 587336 pursuant to the Land Development Code of the City of San Diego;

BE IT RESOLVED by the Planning Commission of the City of San Diego as follows:

That the Planning Commission adopts the following written Findings, dated September 18, 2008.

FINDINGS:

Conditional Use Permit - Section 126.0305

1. The proposed development will not adversely affect the applicable land use plan;

The Mid City Community Plan addresses communication facilities with regard to visibility and land use impacts. The first recommendation is to use all available means to conceal communication antennas from view. Although the pole is visible, the existing mature trees serve to blend the pole into the surroundings and obscure most views. The view from the west is less obscured, but the color and design of the pole reduce the overall visibility from that angle. The second recommendation is to consider the impact of the facility on adjacent land uses. This pole is located in the public right-of-way adjacent to a commercial business on one side and Interstate-15 on the other.

Additionally, the City's General Plan requires that wireless facilities be minimally visible and visually respectful and compatible with the community. It has been determined that the location of the pole set back approximately 62 feet from Adams Avenue, directly adjacent to a remnant

Caltrans parcel above Interstate-15 and surrounded by mature trees, meets the intent of the City's General Plan and the Utilities section of the Mid City Community Plan.

2. The proposed development will not be detrimental to the public health, safety, and welfare;

The Telecommunication Act of 1996 preempts local governments from regulating the "placement, construction and modification of wireless communication facilities on the basis of the environmental effects of Radio Frequency (RF) emission to the extent that such facilities comply with the Federal Communication Commission's (FCC) standards for such emissions." If the decision maker approves the existing facility, a condition will be included within the permit to require Verizon Wireless to perform a cumulative model RF test and submit the finding in a report to the City of San Diego within 90 days of approval of the CUP.

3. The proposed development will comply to the maximum extent feasible with the regulations of the Land Development Code; and

The facility was originally approved by the Planning Commission on July 24, 1997. The Conditional Use Permit (CUP) included a ten year expiration. At the time of approval, the City did not have applicable regulations for these types of facilities so the Planning Commission imposed a ten year limit in order to re-evaluate the project in light of new regulations and or policies that may be in effect. The project exists as it did after initial construction and Verizon Wireless is now seeking to obtain another CUP to maintain the facility. There is a significant amount of landscape existing on site, which aids in blending the facility into the surroundings and minimizes the visibility from public vantage points.

The project complies with the development regulations of the RS-1-7 zone with the exception of height. The maximum structure height in the RS-1-7 zone is 30 feet. The existing pole is 55 feet, however because the surrounding area around the pole is heavily landscaped with mature trees, views of the facility are obscured, minimizing the visual impact. The Wireless Communication Facility regulations limit the number of antennas installed on a pole in the right-of-way to three. This facility maintains a total of nine. This pole and the location is not a typical right-of-way installation. The regulation was developed for standard light poles and utility poles to minimize the visibility of the appurtenances. In this case, Verizon is using six 4-foot long antennas (stacked in two rows) and three 2-foot antennas beneath. They are flush mounted on the upper portion of the pole, which creates an overall slim pole design appearance. Due to the manner in which the antennas are attached to the pole, there is no greater visual impact with the pole supporting the additional antennas.

4. The proposed use is appropriate at the proposed location.

This project is an existing wireless communication facility permitted in 1997 under previous San Diego Municipal Code regulations. There were no regulations or adopted guidelines specific to wireless communication facilities at that time. The project was processed as a Conditional Use Permit and was approved by the Planning Commission with a condition allowing the facility to operate for a period of ten years.

New regulations and policies have been in effect for the last eight years which guide the location and aesthetics of these types of facilities. A wireless communication facility proposed in a residential area would be required to justify why other less sensitive land uses were not explored. In this case, it can reasonably be concluded that the location of the pole, between Interstate-15 and a commercial property and set back 62 feet from a busy main street, is preferable to other nearby low scale commercial locations.

The pole, at 55 feet in height, is higher than any other structure in the neighborhood, but because of the slim line design, the color and the surrounding mature trees, the facility fades into the landscape. Since the existing landscape is on a separate property, removal or severe pruning would jeopardize this permit by increasing the visibility of the pole. Approval of this permit is dependent on the existing landscape being maintained. Conditions have been added to the permit to ensure that the existing landscape is maintained and that no modifications to the existing vegetation may occur.

Planned Development Permit - Section 126.0604

A. Findings for all Planned Development Permits

1. The proposed development will not adversely affect the applicable land use plan;

The Mid City Community Plan addresses communication facilities with regard to visibility and land use impacts. The first recommendation is to use all available means to conceal communication antennas from view. Although the pole is visible, the existing mature trees serve to blend the pole into the surroundings and obscure most views. The view from the west is less obscured, but the color and design of the pole reduce the overall visibility from that angle. The second recommendation is to consider the impact of the facility on adjacent land uses. This pole is located in the public right-of-way adjacent to a commercial business on one side and Interstate-15 on the other.

Additionally, the City's General Plan requires that wireless facilities be minimally visible and visually respectful and compatible with the community. It has been determined that the location of the pole set back approximately 62 feet from Adams Avenue, directly adjacent to a remnant Caltrans parcel above Interstate-15 and surrounded by mature trees, meets the intent of the City's General Plan and the Utilities section of the Mid City Community Plan.

2. The proposed development will not be detrimental to the public health, safety, and welfare;

The Telecommunication Act of 1996 preempts local governments from regulating the "placement, construction and modification of wireless communication facilities on the basis of the environmental effects of Radio Frequency (RF) emission to the extent that such facilities comply with the Federal Communication Commission's (FCC) standards for such emissions." If the decision maker approves the existing facility, a condition will be included within the permit to require Verizon Wireless to perform a cumulative model RF test and submit the finding in a report to the City of San Diego within 90 days of approval of the CUP.

3. The proposed development will comply with the regulations of the Land Development Code;

The facility was originally approved by the Planning Commission on July 24, 1997. The Conditional Use Permit (CUP) included a ten year expiration. At the time of approval, the City did not have applicable regulations for these types of facilities so the Planning Commission imposed a ten year limit in order to re-evaluate the project in light of new regulations and or policies that may be in effect. The project exists as it did after initial construction and Verizon Wireless is now seeking to obtain another CUP to maintain the facility. There is a significant amount of landscape existing on site, which aids in blending the facility into the surroundings and minimizes the visibility from public vantage points.

The project complies with the development regulations of the RS-1-7 zone with the exception of height. The maximum structure height in the RS-1-7 zone is 30 feet. The existing pole is 55 feet, however because the surrounding area around the pole is heavily landscaped with mature trees, views of the facility are obscured, minimizing the visual impact. The Wireless Communication Facility regulations limit the number of antennas installed on a pole in the right-of-way to three. This facility maintains a total of nine. This pole and the location is not a typical right-of-way installation. The regulation was developed for standard light poles and utility poles to minimize the visibility of the appurtenances. In this case, Verizon is using six 4-foot long antennas (stacked in two rows) and three 2-foot antennas beneath. They are flush mounted on the upper portion of the pole, which creates an overall slim pole design appearance. Due to the manner in which the antennas are attached to the pole, there is no greater visual impact with the pole supporting the additional antennas.

4. The proposed development, when considered as a whole, will be beneficial to the community; and

The facility currently provides wireless service for Verizon customers along Adams Avenue, Interstate-15 and the surrounding communities of Normal Heights and Kensington. The location of the pole in the public right-of-way adjacent to a commercial use and Interstate-15 is well screened by existing mature landscape. Views of the pole are minimal from all directions except from the west, where the existing Eucalyptus trees serve as a back drop to the slim line design brown pole. The associated equipment shelter is located across the street and behind a garage and cannot be viewed from any public vantage. The proposed project, which would maintain Verizon wireless service to the community and commuters, would be beneficial to the community.

5. Any proposed deviations pursuant to Section 126.0602(b)(1) are appropriate for this location and will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone.

There are three deviations being requested with this permit. The first and most obvious is the height. The RS-1-7 zone allows a maximum height of 30 feet. The pole is 55 feet high. The general vicinity is low scale in nature with the exception of other utility poles in the area that are approximately 35 feet in height and existing trees including a 36 foot high brown trunk height Mexican Fan Palm and several Eucalyptus trees in the 50 foot to 60 foot high range. These trees serve as screening for the slim line design pole and obscure views from most public vantage

points. The location of the facility is along a heavily traveled two lane road (Adams Avenue) in a primarily commercial setting. The pole itself is set back approximately 62 feet from Adams Avenue and because of the coloring, the slim line design and the surrounding mature vegetation; it harmonizes nicely into the setting.

If the pole were reduced to 30 feet in height, the Verizon coverage foot print would be reduced significantly. As a result, the pole would have to be relocated closer to Adams Avenue and Interstate-15 making it more visible to the communities of Kensington and Normal Heights as well as the commuters.

The second deviation is to allow nine antennas on the pole where the regulations permit three. The intent of the regulations was to limit the visual impacts of multiple appurtenances on a standard city light pole or SDG&E pole. Typically, light poles are between 27 and 33 feet high and are located within in the parkway areas of the public right-of-way. In this case, the pole is higher, it is setback from the main thoroughfare and the antennas are shorter and flush mounted around the upper portion of the pole. Due to the installation method, limiting the number of antennas to three or nine does not increase the visual impact.

The third deviation is to allow the antennas to be offset 12 inches from the pole rather than the required maximum of six inches. In this case, the antennas are shorter than typical newer installations and therefore do not create a visual impact. The antennas are mounted closely to one another and do not maintain a lot of open areas between therefore, it doesn't alter the appearance of the slim line pole design. Conditions have been included in the permit so that any modifications to the antennas will require an amendment to the permit.

Overall, the location and design of the pole and the existing mature landscaping make this project a well designed wireless communication facility.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Planning Commission, Conditional Use Permit NO.474370 and Planned Development Permit No. 587336 is hereby GRANTED by the Planning Commission to the referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Permit No.'s 474370 and 587336, copies of which is attached hereto and made a part hereof.

Karen Lynch-Ashcraft
Development Project Manager
Development Services

Adopted on: September 18, 2008

Job Order No. 42-8189

RECORDING REQUESTED BY
CITY OF SAN DIEGO
DEVELOPMENT SERVICES

AND WHEN RECORDED MAIL TO
PERMIT INTAKE
MAIL STATION 501

OFFICIAL RECORDS
SAN DIEGO COUNTY RECORDER'S OFFICE
GREGORY J. SMITH, COUNTY RECORDER
FEES: 26.00



SPACE ABOVE THIS LINE FOR RECORDER'S USE

CONDITIONAL USE PERMIT NO. 96-0656
WEBBER RESIDENCE - AIRTOUCH CELLULAR
PLANNING COMMISSION

This Permit is granted by the Planning Commission of the City of San Diego to GENE WEBBER and VEE WEBBER, Owner; and AIRTOUCH CELLULAR, a Corporation, Permittee, pursuant to Section 101.0510 of the Municipal Code of the City of San Diego to construct, operate and maintain a telecommunication facility on portions of a 0.78 acre site and City right-of-way. The project site is located at 4718 Bonnie Court, and within City right-of way between Interstate 15 and Bonnie Court in the R1-5000 zone of the Mid-City Community Plan area. The site located at 4718 Bonnie Court site is legally described as all that portion of Villa Lot 195 of Normal Heights, Map 983, in the City of San Diego.

1. Subject to the terms and conditions set forth in this permit, permission is granted to the Owner/Permittee to install a wireless communication facility on the subject property described herein as identified by size, dimension, quantity, type and location on the approved Exhibits "A", dated July 24, 1997 on file in the office of Development Services:

- a. One 55-foot tall wooden utility pole with a maximum of six flush-mounted panel antennas within City right-of-way; and
- b. One 312 square-foot telecommunication equipment room at 4718 Bonnie Court.

2. This permit and corresponding use of this site shall expire on July 24, 2007. Upon expiration of this permit, the facilities and improvements described herein shall be removed from this site, unless a new application for a Conditional Use Permit is applied for and approved under the procedures in effect at that time.

3. If any existing or proposed landscape feature indicated on the approved plans (Exhibits "A") is damaged or removed during demolition, construction or at any time after issuance of any



permit or occupancy certificate, it shall be repaired and/or replaced (in kind and equivalent size per the approved plans) within 30 days by the permittee. The replacement size of plant material after three years shall be the equivalent size of that plant at the time of removal (the largest size commercially available and/or an increased number) to the satisfaction of the City Manager.

4. No permit for the construction, occupancy or operation of any facility or improvement described herein shall be granted nor shall any activity authorized by this permit be conducted on the premises until:

- a. The Owner/Permittee signs and returns the permit to Development Services; and
- b. The permit is recorded in the office of the San Diego County Recorder.

5. Prior to issuance of any building permits, complete building construction documents shall be submitted by the Permittee to the City Manager for approval. No change, modification or alteration of the approved plans for this project shall be made unless appropriate application for either Substantial Conformance Review to the approved Exhibits "A" for this project or an amendment of this permit shall have been granted by the appropriate decisionmaker.

6. The property included by reference within this permit shall be used only for the purposes and under the terms and conditions set forth in this permit unless otherwise authorized by the City Manager or if the permit has been revoked by the City of San Diego.

7. This permit is a covenant running with the subject property and shall be binding upon the Owner/Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this permit and all referenced documents.

8. Utilization and continued use of this permit shall be subject to the regulations of this or other applicable governmental agencies.

9. This permit must be utilized within 36 months after the effective date of final approval by the City, following all appeals. Failure to utilize the permit within 36 months will automatically void the Permit unless an extension of time has been granted. Any such extension of time must meet all Municipal Code requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decisionmaker.

10. The Permittee shall comply with all requirements of the Uniform Building Code (UBC) and secure all necessary building permits prior to construction.
11. Issuance of this permit by the City of San Diego does not authorize the applicant for said permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Federal Endangered Species Act of 1973 and any amendments thereto (16 U.S.C. Section 1531 et seq.)
12. The proposed antennas shall be colored to match the wooden utility pole, and the combined diameter of the antennas and wooden pole shall not exceed 3 feet. During the six month period commencing with completion of construction, the Permittee and Development Services shall maintain a record of comments regarding the color of the utility pole and antennas. At the end of the six month period the Permittee and Development Services shall meet to review the appropriateness of the color and, if necessary, identify and paint the facility an appropriate color that is agreed upon by the Permittee and Development Services.
13. Airtouch Cellular shall cooperate in good faith to allow other telecommunication providers to locate at this site, provided the additional facility does not give rise to a substantial technical level or quality level of service impairment to the existing telecommunication facility.
14. Within 90 days of discontinuing operation of the facility, the Permittee shall be responsible for removing all telecommunication equipment from the site.
15. Continued use of this permit shall be subject to the current and future regulations of the Federal Communications Commission and the California Public Utilities Commission. Construction and operation of the approved use shall comply at all times with the regulations of this or any other governmental agency.
16. Prior to issuance of any building permits, the applicant shall enter into an agreement for maintenance and liability with the City of San Diego for underground antenna cables in Bonnie Court.
17. Prior to issuance of any building permits, the applicant shall obtain a permit from the City Engineer for the work within Bonnie Court.
18. All conditions contained in this permit have been considered and have been determined to be necessary in order to make the findings required for this discretionary Permit. It is the

A red rectangular stamp with the word "ORIGINAL" in bold, uppercase letters.

intent of the City that the holder of this permit be required to comply with each and every condition in order to be afforded special rights which the holder of the Permit is obtaining as a result of this permit. It is the intent of the City that the Owner of the property which is the subject of this permit either utilize the property for any use allowed under the zoning and other restrictions which apply to the property or, in the alternative, that the Owner of the property be allowed the special and extraordinary rights conveyed by this permit, but only if the Owner complies with all the conditions of the Permit.

In the event that any condition of this permit, on a legal challenge by the Owner/Permittee of this permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable or unreasonable, this permit shall be void. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" condition(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the Permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo and the discretionary body shall have the absolute right to approve, disapprove or modify the proposed permit and the condition(s) contained therein.

APPROVED by the Planning Commission of the City of San Diego on July 24, 1997.