

RESOLUTION NO. 7860

**CITY OF SOUTH GATE
LOS ANGELES COUNTY, CALIFORNIA**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOUTH
GATE, CALIFORNIA, APPROVING AND MODIFYING CONDITIONAL
USE PERMIT NO. 833 TO ALLOW AN UNMANNED
TELECOMMUNICATIONS FACILITY AT 8912 MADISON AVENUE**

WHEREAS, J5 Infrastructure Partners (“J5”), on behalf of Verizon Wireless (“Verizon”), applied for Conditional Use Permit No. 833 (“CUP No. 833”) to install and operate at 8912 Madison Avenue a telecommunications facility which would including a 60-foot tall monopole antenna camouflaged to resemble a palm tree; and

WHEREAS, on February 21, 2019, the South Gate Planning Commission denied the request to issue CUP No. 833; and

WHEREAS, J5 has appealed that Planning Commission decision to the City Council, requesting that CUP No. 833 be granted and that the proposed conditions thereof be modified; and

WHEREAS, during the regularly scheduled City Council meeting of March 26, 2019, the City Council conducted a duly noticed public hearing on that appeal, at which the City Council heard testimony from representatives of Verizon, J5, and members of the community, and the City Council directed staff to work with the applicant to consider optional locations and conditions; and

WHEREAS, the City Council has also reviewed letters, pictures and other documents submitted by and on behalf of Verizon and J5 in support of issuance of CUP No. 833; and

WHEREAS, the City council has also heard statements from, and reviewed documents submitted by, City staff members regarding the issuance or denial of CUP No. 833; and

WHEREAS, the City Council has considered all of the foregoing testimony, statements and documents and has reached a decision as to the issuance or denial of CUP No. 833; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SOUTH GATE DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The above recitals are all true and correct and incorporated herein by this reference.

SECTION 2. The City Council hereby approves and modifies the application for Conditional

Use Permit No. 833 and shall be issued with the approved alternate location of the mono-pole.

SECTION 3. When issuing CUP No. 833, the conditions thereto modified in the manner as re-submitted or as directed by the City Council and attached hereto as Exhibit A.

SECTION 4. The Director of Community Development is hereby authorized and directed to prepare a document setting forth the conditions to CUP No. 833, modified pursuant to Section 3 above, and to deliver that document to the City Clerk for attachment to this Resolution.

SECTION 5. The Director of Community Development is hereby authorized and directed to take all actions which he deems necessary or appropriate to issue without delay CUP No. 833 as directed in this Resolution.

SECTION 6. The City Manager, the Director of Community Development, and their designees are hereby authorized and directed to take all other actions which they deem necessary or appropriate to implement and enforce this Resolution.

SECTION 7. The City Clerk shall certify to the adoption of this Resolution, which shall be effective upon its adoption, and shall attach to her certified copy of this Resolution the document identified in Section 4 above.


PASSED, APPROVED and ADOPTED this 23rd day of April, 2019.

CITY OF SOUTH GATE:



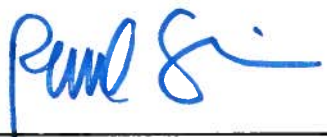
Jorge Morales, Mayor

ATTEST:



Carmen Avalos, City Clerk
(SEAL)

APPROVED AS TO FORM:



Raul F. Salinas, City Attorney

RESOLUTION CERTIFICATION PAGE

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS
CITY OF SOUTH GATE)

I, Carmen Avalos, City Clerk of the City of South Gate, California, hereby certify that the whole number of Members of the City Council of said City is five; that Resolution No. 7860 was adopted by the City Council at their Regular Meeting held on April 23, 2019, by the following vote:

Ayes: Council Members: Bernal, Davila, Diaz, Morales, and Rios
Noes: Council Members: None
Absent: Council Members: None
Abstain: Council Members: None

Witness my hand and the seal of said City on April 24, 2019.



Carmen Avalos, City Clerk
City of South Gate, California

Exhibit A
CUP NO. 833 – CONDITIONS OF APPROVAL
8912 Madison Ave

General Requirements:

1. Code Compliance
Unless otherwise waived, the permittee shall comply with all applicable codes, laws, rules and regulations including the Building and Safety, Public Works, and Zoning Codes of the City of South Gate and the Health and Fire Codes of the County of Los Angeles.
2. Approved Plans
The property shall be developed substantially in accordance with the approved plans and Site Plan included as Attachment C. Unless otherwise approved in writing by the Director of Community Development.
3. Future Construction
All future construction or additions to the installation shall be subject to review and approval of the Planning Commission, as determined appropriate by the Director of Community Development.
4. Compliance with Conditions
Unless otherwise noted, all conditions are to be complied with as of the effective date of the conditional use permit.
5. Citation
Any violation of the code requirements and/or conditions of approval may be subject to the issuance of a citation that could result in a fine as set by the Planning Commission, after notice, at which time the applicant may address the Commission.
6. Intensification of Use
Permittee shall not expand the facility beyond the perimeter authorized by this permit and shall not materially increase the size or number of antennas and other equipment at the permit site
7. Revocation
Violations of the conditions of this conditional use permit can result in the revocation or modification of this application by the issuing body at a regularly scheduled meeting, notice of which will be given to the applicant by first class mail, postage prepaid, or by posting notice of said hearing at two prominent locations on the premises to which the permit refers.
8. Reimbursement
The City Planning Commission may impose, as a condition of continuation, reinstatement or re-issuance of any permit, a requirement that the Permittee reimburse the City for all costs and expenses reasonably incurred in the investigating, identifying, and documenting the violation and in processing information concerning the violation for presentation to the City Planning Commission, and upon appeal, to the City Council.

9. Expiration of Conditional Use Permit/Unclassified Use Permit

Unless the conditional use permit is exercised within one year from the date of approval, the conditional use permit shall be directed to the Planning Commission for due process to determine reasonability for possible extension.

10. Fish and Game Fee

If the Department of Fish and Game determines that this project is not exempt from the filing fees imposed pursuant to the Fish and Game Code Section 711.4, approval of this project shall be conditioned on the permittee paying to the Department of Fish and Game such fees and any fine which the Department of Fish and Game determines to be owed.

11. Maintenance of Property Free of Graffiti

Applicant acknowledges and agrees that the permit is expressly conditioned on the permittee maintaining the subject equipment in a well-maintained condition, and free from graffiti. In the event of graffiti markings, Applicant agrees to eliminate all such graffiti within 24 hours, with or without notice from the City, as a condition of the permit.

Suspension or Revocation:

1. A public hearing consistent with Chapter 11.50 (Administration) shall be held for the consideration of a permit revocation. A permit or any associated conditions may be revoked or modified by the Planning Commission subject to any of the following grounds:
 - a. The permit or approval was obtained by fraud.
 - b. The property is not being used for the purpose which is the subject of the permit.
 - c. The use for which the approval was granted has ceased or has been suspended for 1 year or more.
 - d. The permit or conditions of the approval have been violated; exercised contrary to the terms of approval; or in violation of any statute, ordinance, law or regulation.
 - e. The use for which the approval was granted was exercised in a manner detrimental to the public health or safety, or as to constitute a public nuisance.
2. Any approval or permit granted by the City becomes null and void if the property is not being used for the approved or permitted purpose within one (1) year from the date the approval or permit was issued, consistent with the provisions identified within Section 11.55 Nonconforming Uses and Buildings.
3. Any approval or permit granted within one year preceding the effective date of the Zoning Code that has not made progress to fulfill the entitlements and bring the project to completion shall be considered null and void.
4. If the application or any conditions of the CUP violate the Zoning Code or do not fulfill the intent of the Code, the Planning Commission shall, following a public hearing, be authorized to take the following actions:
 - a. Revoke the CUP, revoke and reissue the CUP with new or modified conditions, or modify the conditions of the existing CUP as may be appropriate under the

- circumstances.
- b. Impose, as a condition of the continuation, reinstatement, or reissuance of the CUP, a requirement that the permittee reimburse the City for all costs and expenses reasonably incurred in investigating, identifying, and documenting the violation, and in processing information concerning the violation for presentation to the Planning Commission, and, upon any appeal, to the City Council.
 - c. A CUP shall be revocable if the exercises of rights granted by the CUP are discontinued for 6 consecutive months. The use subject to the CUP may not be resumed if the CUP is revoked; a new CUP, including processing and public notification, shall be required.
5. A prevailing party in any judicial action, administrative proceeding, or special proceeding to abate or to cause the abatement of a public nuisance, or in any appeal or other judicial action arising therefrom, may recover reasonable attorney's fees in accordance with the following subsections:
- a. Attorney's fees are not recoverable by any person as a prevailing party unless the city manager, or a designee thereof, or an attorney for and on behalf of the city, elects in writing to seek recovery of the city attorney's fees at the initiation of that individual action or proceeding. Failure to make such an election precludes any entitlement to, or award of, attorney's fees in favor of any person or the city.
 - b. The city is the prevailing party when an administrative or judicial determination is made or affirmed and a person is found to be responsible for one or more conditions or activities that constitute a public nuisance. A person is the prevailing party only when a final administrative or judicial determination completely absolves that person of responsibility for all conditions or activities that were alleged to constitute a public nuisance in that action or proceeding. An administrative or judicial determination that results in findings of responsibility or no responsibility on the part of a person for conditions or activities that were alleged in that action or proceeding to constitute a public nuisance shall, nevertheless, result in the city being the prevailing party.
 - c. Provided the city has made an election to seek attorney's fees, an award of attorney's fees to a person shall not exceed the amount of reasonable attorney's fees incurred by the person in that action or proceeding.

Planning Requirements:

1. The stealth "mono-palm" must be approved by the Director of Community Development.
2. Within thirty (30) days of approval of the Project, the Applicant shall certify his/her acceptance of the conditions placed on the approval by signing a notarized Affidavit of Acceptance stating that he/she accepts and shall be bound by all of the conditions.
3. Landscape planter along the perimeter of Firestone Boulevard shall be landscaped with irrigation.
4. Fencing along Firestone Boulevard and Madison Avenue must be repainted as follows: a) cinder block repainted to match the existing parish hall structure and b) the wrought iron portion shall be repainted black.
5. The interior cinder block wall along the south property line and east property line must be repainted to match the existing parish hall structure.

6. The storage containers located on the southeast corner of the property shall be removed.
7. The new storage equipment shelter must have decorative block wall (split face/slump stone) and solid metal doors and must be approved by the Community Development Director.
8. The Applicant shall defend, hold harmless and indemnify the City and its agents, officers and employees from any claim, action or proceeding against the City or its agents, officers or employees to attack, set aside, void or annul any approval by the City concerning the Project. The City shall promptly notify the Applicant of any filed claim, action or proceeding and shall cooperate fully in the defense of the action.
9. If lease is terminated antennas shall be removed within 90 days.
10. The applicant will repaint the monopole a neutral color and antenna arrays to match palm fronds.
11. No exterior structural alteration shall be permitted without the prior approval of the Director of Community Development.
12. No exterior structure alteration shall be permitted without the prior approval of the Director of Community Development.
13. The property shall be developed in accordance with the approved plans, unless otherwise approved in writing by the Director of Community Development.
14. Unless otherwise waived, the permittee shall comply with all applicable codes, laws, rules and regulations including the Building and Safety, Public Works, and Zoning Codes of the City of South Gate and the Health and Fire Codes of the County of Los Angeles.
15. All improvements associated with the telecommunications facility, including equipment shelters, antennas, and fencing shall be properly maintained at all times.
16. Building permits shall be obtained from the Building & Safety Division prior to the commencement of construction.
17. The property owner shall continually maintain the property clean so that is visually attractive and not dangerous to the health, safety and general welfare of the surrounding properties and residents.
18. The property owner and permittee shall ensure that all facets of the facility (including structural and electrical components) are regularly inspected, maintained and repaired in a timely fashion.
19. Annual maintenance and repair inspections shall be conducted for all structures, equipment and fencing/walls for structural and electrical safety.

20. Overgrown vegetation and weeds shall be removed and disposed of.
21. All Graffiti shall be removed.
22. The applicant/operator of the telecommunications facility shall operate the proposed equipment in strict conformance with the Federal Communications Commission (FCC) regulations at all times so as not to cause a Public Health and Safety Hazard or nuisance to the surrounding properties and residents.
23. All site signage required by the Federal Communications Commission, if any, shall be maintained in a clean condition at all times and graffiti and vandalism free.
24. The access gate to the telecommunications equipment shelter shall remain accessible for fire and emergency entrance.
25. All telecommunications power and electrical lines shall be placed underground.

Code Enforcement Requirements:

26. Maintain property free from graffiti at all times.
27. Maintain all vegetation cut and trimmed at all times.
28. Maintain property clean and free from debris at all times.
29. Maintain property free from any signs promoting services.
30. Keep property secured at all times.

Building and Safety Requirements:

31. Must slurry and re-stripe parking lot.