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CALIFORNIA COASTAL COMMISSION

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Staff Report: 06-11-97
Hearing Date: July 8-11, 1997
Commission Action:



STAFF REPORT: CONSENT CALENDAR

APPLICATION NO.: 5-97-130

APPLICANT: Los Angeles Cellular

AGENT: Leslie Daigle

PROJECT LOCATION: 2801 La Salud, Newport Beach, Orange County

PROJECT DESCRIPTION: Installation of an unmanned radio telecommunications facility in Bonita Park, consisting of a 60 foot high pole and separate underground equipment shelter. The proposed monopole, with 12 antennas, a microwave antenna and field lights, will replace an existing park light pole. The height of the monopole is the same as the previous light pole.

Lot area:	NA
Building coverage:	NA
Pavement coverage:	NA
Landscape coverage:	NA
Parking spaces:	NA
Zoning:	NA
Plan designation:	Recreation & Environmental Open Space
Project density:	NA
Ht abv fin grade:	60 feet

LOCAL APPROVALS RECEIVED: Approval in concept from the City of Newport Beach

SUBSTANTIVE FILE DOCUMENTS: City of Newport Beach certified land use plan, Report from Jerrold Bushberg, Ph.D., Coastal Development Permit 6-97-20

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends the Commission approve the proposed development with a special condition regarding the future redesign or removal of the telecommunications facility. There are no issues of controversy associated with this project and no known objections.

STAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions.

The Commission hereby grants a permit, subject to the conditions below, for the proposed development on the grounds that the development will be in conformity with the provisions of Chapter 3 of the California Coastal Act of 1976, will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

II. Standard Conditions.

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date this permit is reported to the Commission. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Compliance. All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the project during its development, subject to 24-hour advance notice.
6. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

III. Special Conditions.

1. Future Redesign

Prior to the issuance of the coastal development permit, the applicant shall agree in writing that where future technological advances would allow for reduced visual impacts resulting from the proposed telecommunication facility, the applicant agrees to make those modifications which would reduce the visual impact of the proposed facility.

If, in the future, the facility is no longer needed, the applicant agrees to abandon the facility and be responsible for removal of all permanent structures, and restoration of the site as needed to re-establish the area consistent with the character of the surrounding vegetation. Before performing any work in response to the requirements of this condition, the applicant shall contact the Executive Director of the California Coastal Commission to determine if an amendment to this coastal development permit is necessary.

IV. Findings and Declarations.

The Commission hereby finds and declares:

A. Project Description

The applicants are proposing to replace an existing 60 foot high field light pole at the Bonita Creek multi-purpose recreational community park and replace it with a new pole of the same height with field lights and antenna arrays for telecommunication purposes. There will be three antenna arrays with four antennas per each array for a total of 12 antennas, plus a proposed four foot in diameter microwave antenna. Associated with the pole is an unmanned 25 foot by 11 foot equipment vault. Minimal grading of five cubic yards is required resulting in the removal of some grass. A parking space for maintenance purposes will be provided.

Exhibit 1 shows the location of the proposed development. Exhibit 2 shows the layout of the park and the location of the proposed pole. Exhibit 3 shows the location of the underground, unmanned facility. Exhibit 4 shows how the pole will look.

The proposed development is located at the northeastern corner of Bonita Creek Park, a multi-use recreational community facility. The park is bounded on the north by University Drive, on the west by La Vida, on the south by La Salud, and on the east by Bonita Creek. Located nearby, north of University Drive, is the Upper Newport Bay Ecological Reserve. To the east is the San Joaquin Hills Transportation Corridor and MacArthur Boulevard. To the south and west are residential communities. There is a maintenance road on the east separating the park from Bonita Creek.

Bonita Park consists of a parking lot, recreational building, general park open area, and a baseball field. The telecommunications pole is proposed to be located in the far right field of the baseball field, close to University Drive.

At the public hearing for CDP 6-97-20 the Commission expressed concern relative to this type of project about controversy regarding whether radio frequency emissions produced by these facilities pose a health risk to the public. Given the ongoing controversy, the Commission considered whether it should require the applicant to indemnify the Commission in the event that emissions from this project are the basis for a lawsuit against the Commission. At the public hearing for CDP 6-97-20 the Commission decided not to require indemnification because, in the case of wireless communication facilities, federal law precludes the Commission from regulating placement, construction, and modification of such facilities based upon environmental effects of radio frequency emissions if a facility complies with federal standards.

Section 704 of the Telecommunications Act of 1996 states, in part:

No State or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the [Federal Communications] Commission's regulations concerning such emissions.

In previous telecommunication projects such as this one, the issue of the safety of emissions has been an issue of controversy. Submitted with the application is a report by Jerrold Bushberg, Ph.D., a health and medical physics consultant. The report was prepared in accordance with the recommendations contained in the Federal Communications Commission, Office of Science and Technology Bulletin 65 (page 8, equation 3) entitled "Evaluating Compliance with FCC-Specified Guidelines for Human Exposure to Radiofrequency Radiation." The consultant prepared a worst case scenario of radiofrequency radiation exposure and compared these worst case results with the standards set by the Federal Communications Commission, the American National Standards Institute and the National Council on Radiation Protection and Measurement. The current agreed upon standard by these agencies is 579 uW/cm² for continuous exposure at 869 MHz. The consultant reports that in the worst case scenario the maximum exposure from the proposed facility will not result in power densities in excess of 4.2 uW/cm², well below the maximum emissions allowed by the federal standards.

Once the applicant gets Coastal Commission approval and local building permit approval, then the applicant sends a compliance package to the Federal Communications Commission for specific site approval.

B. Scenic and Visual Resources

Section 30251 of the Coastal Act states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.

The proposed development is located in a community park adjacent to the Upper Newport Bay Ecological Reserve to the north and Bonita Creek to the east. The surrounding land uses consist of residential, open space, roadways and the Upper Newport Bay Ecological Reserve. It is a highly scenic area, particularly for persons travelling on MacArthur Boulevard or the San Joaquin Hills Transportation Corridor. Further to the east is the University of California at Irvine campus. Additionally, many people hike, run and bicycle along the pathways adjacent to the Upper Newport Bay Ecological Reserve. Finally, the northern portion of the uplands adjacent to the Upper Newport Bay Ecological Reserve contains the Upper Newport Bay Regional Park which will include a major interpretive center. The park and monopole will be visible from the proposed interpretive center.

The perception of the visual appearance of telecommunication monopoles is a subjective experience. Generally speaking, however, it is safe to conclude that a 60 foot pole sprouting antennae can have a major visual impact, depending on its location and the nature of the surrounding development. Many of the existing monopoles are located next to highways. With the popularity of cellular technology has come a major increase in the number of requests for telecommunication monopoles.

Because of the perceived adverse visual impact of many of these telecommunication poles, many local government agencies, as well as the communication companies themselves, have begun to search for innovative approaches to monopole location and design. For instance, the Commission recently approved CDP 5-95-263 for the construction of a cupola, containing antennas, on top of an existing bathroom building in Crystal Cove State Park. It is completely unobtrusive and has virtually no visual impact. Another way to address the spread of monopoles is to cluster them.

In this case the telecommunications company has selected a siting option which takes advantage of existing development. At the perimeter of the baseball field at Bonita Creek Park are located a series of light poles for nighttime recreational use of the field. The applicants propose to remove one of the poles and replace it with a pole of their own of identical height, put a light array on it, and place the three antenna arrays and microwave array on the pole beneath the lights.

Blending the telecommunications pole in with the other field light poles will minimize any adverse visual impacts that installation of a stand-alone 60 foot high pole might have. Therefore, the Commission finds that the proposed development of the telecommunications pole and equipment vault is designed to be protective of the viewshed, is compatible with surrounding development, minimizes landform alteration, and conforms with Section 30251 of the Coastal Act.

However, because of the rapid pace of technology and advances in telecommunications equipment design, the proposed technology may become obsolete. Therefore, the Commission finds that when the proposed equipment becomes obsolete and is no longer viable, that it be removed and the Executive Director be queried as to whether a CDP or amendment would be required to restore the site to its original condition. Only as conditioned does the Commission find the proposed development conforms with the visual resource protection policies of Section 30251 of the Coastal Act.

C. Local Coastal Program

Section 30604(a) of the Coastal Act provides that the Commission shall issue a Coastal Development Permit only if the project will not prejudice the ability of the local government having jurisdiction to prepare a Local Coastal Program which conforms with the Chapter 3 policies of the Coastal Act.

The Newport Beach Land Use Plan was certified on May 19, 1982. As conditioned the proposed development is consistent with the policies contained in the certified Land Use Plan. Therefore, approval of the proposed development will not prejudice the City's ability to prepare a Local Coastal Program [Implementation Plan] for Newport Beach that is consistent with the Chapter 3 policies of the Coastal Act as required by Section 30604(a).

D. California Environmental Quality Act

Section 13096 of the California Code of Regulations requires Commission approval of Coastal Development Permit application to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(i) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment.

The proposed project has been conditioned in order to be found consistent with the Section 30251 visual and scenic policies of the Coastal Act. As conditioned, there are no feasible alternatives or feasible mitigation measures available, beyond those required, which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

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DETAIL

SEE 888 MAP

ORANGE CO.

889

SEE 869 MAP

SEE 890 MAP

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EXHIBIT NO. 1

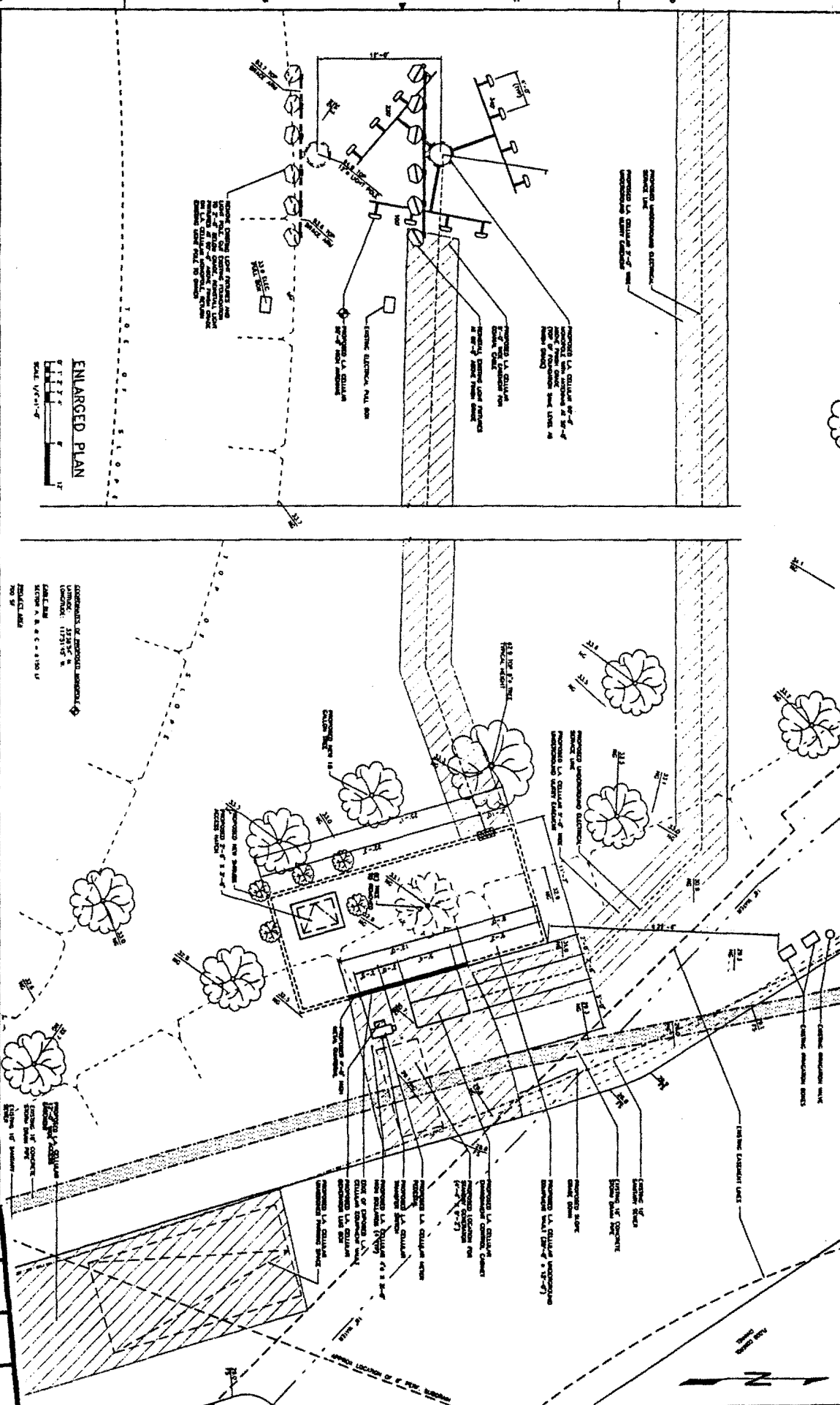
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VICINITY

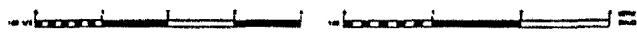


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