

**CALIFORNIA COASTAL COMMISSION**

SAN DIEGO AREA  
7575 METROPOLITAN DRIVE, SUITE 103  
SAN DIEGO, CA 92108-4421  
(619) 767-2370



# Th 12d

Filed: December 15, 2008  
49th Day: February 2, 2009  
Staff: DL-SD  
Staff Report: December 18, 2008  
Hearing Date: January 7-9, 2008

**STAFF REPORT AND RECOMMENDATION ON APPEAL**  
**SUBSTANTIAL ISSUE**

LOCAL GOVERNMENT: City of Imperial Beach

DECISION: Approved with Conditions

APPEAL NO.: A-6-IMB-08-121

APPLICANT: T-Mobile (Jim Kennedy, Parsons Group)

PROJECT DESCRIPTION: Installation of a 53 foot high telecommunications facility consisting of six panel antennae mounted on a faux palm tree installed inside of a concrete walled area on the southeast corner of a mixed use/multi-family residential complex. Base station equipment will be installed next to the faux palm. The new structure will replace an existing landscaped area and palm tree.

PROJECT LOCATION: 933 Seacoast Drive, Imperial Beach, San Diego County.  
APN 625-352-27.

APPELLANTS: Leslie McCollum & Richard Emilson

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**SUMMARY OF STAFF RECOMMENDATION:**

The staff recommends that the Commission, after public hearing, determine that no substantial issue exists with respect to the grounds on which the appeal has been filed. Consistent with the certified LCP, the telecommunication facility will be located inland of the first coastal roadway (Seacoast Drive) approximately 150 feet, will be disguised as a palm tree, and will not block any public views. An extensive alternative analysis determined that the subject site will not have any adverse impacts on coastal resources while obtaining the project objective of increasing cell phone coverage. The project does not raise any concerns of state wide significance.

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SUBSTANTIVE FILE DOCUMENTS: Certified Imperial Beach Community Plan and Local Coastal Land Use Plan; Appeal Forms; and, City of Imperial Beach Resolution No. 2008-6692.

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I. Appellants Contend That:

The proposed development is inconsistent with the policies of the certified LCP which pertain to minimizing visual impacts and examining alternatives to telecommunication facilities (ref. Exhibit #2).

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II. Local Government Action:

The coastal development permit was approved by the City Council on November 19, 2008. The conditions of approval include conditions requiring the antennas to be concealed from view, water quality BMPs, and noise baffling.

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III. Appeal Procedures/Substantial Issue Analysis.

After certification of a Local Coastal Program (LCP), the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permits. Projects within cities and counties may be appealed if they are located within mapped appealable areas.

Section 30603(b)(1) of the Coastal Act states:

*The grounds for an appeal pursuant to subdivision (a) shall be limited to an allegation that the development does not conform to the standards set forth in the certified local coastal program or the public access policies set forth in this division.*

Coastal Act Section 30625(b) states that the Commission shall hear an appeal unless it determines:

*With respect to appeals to the commission after certification of a local coastal program, that no substantial issue exists with respect to the grounds on which an appeal has been filed pursuant to Section 30603.*

If the staff recommends "substantial issue" and no Commissioner objects, the Commission will proceed directly to the de novo portion of the hearing on the merits of the project then, or at a later date. If the staff recommends "no substantial issue" or the Commission decides to hear arguments and vote on the substantial issue question, certain proponents and opponents (as indicated below) will have 3 minutes per side to address whether the appeal raises a substantial issue. It takes a majority of Commissioners present to find that no substantial issue is raised. If substantial issue is found, the Commission will proceed to a full public hearing on the merits of the project then, or at a later date. If the Commission conducts the de novo portion of the hearing on the permit

application, the applicable test for the Commission to consider is whether the proposed development is in conformity with the certified Local Coastal Program.

In addition, for projects located between the sea and the first public road paralleling the sea, Section 30604(c) of the Act requires that a finding must be made by the approving agency, whether the local government or the Coastal Commission on appeal, that the development is in conformity with the public access and public recreation policies of Chapter 3.

The only persons qualified to testify before the Commission at the "substantial issue" stage of the appeal process are the applicant, persons who opposed the application before the local government (or their representatives), and the local government. Testimony from other persons must be submitted in writing. At the time of the de novo portion of the hearing, any person may testify.

The term "substantial issue" is not defined in the Coastal Act or its implementing regulations. The Commission's regulations indicate simply that the Commission will hear an appeal unless it "finds that the appeal raises no significant question" (Cal. Code Regs. title. 14 section 13155(b)). In previous decisions on appeals, the Commission has been guided by the following factors:

1. The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the certified LCP;
2. The extent and scope of the development as approved or denied by the local government;
3. The significance of the coastal resources affected by the decision;
4. The precedential value of the local government's decision for future interpretations of its LCP; and
5. Whether the appeal raises only local issues, or those of regional or statewide significance.

Even when the Commission chooses not to hear an appeal, appellants nevertheless may obtain judicial review of the local government's coastal permit decision by filing petition for a writ of mandate pursuant to the Code of Civil Procedure, section 1094.5.

In this case, for the reasons discussed further below, the Commission exercises its discretion and determines that the development approved by the City of Imperial Beach does not raise a substantial issue with regard to the appellants' contentions regarding coastal resources.

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#### IV. Staff Recommendation on Substantial Issue.

The staff recommends the Commission adopt the following resolution:

**MOTION:**     *I move that the Commission determine that Appeal No. A-6-IMB-08-121 raises NO substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.*

#### **STAFF RECOMMENDATION OF NO SUBSTANTIAL ISSUE:**

Staff recommends a **YES** vote. Passage of this motion will result in a finding of No Substantial Issue and adoption of the following resolution and findings. If the Commission finds No Substantial Issue, the Commission will not hear the application de novo and the local action will become final and effective. The motion passes only by an affirmative vote by a majority of the Commissioners present.

#### **RESOLUTION TO FIND NO SUBSTANTIAL ISSUE:**

The Commission finds that Appeal No. A-6-IMB-08-121 does not present a substantial issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Plan and/or the public access and recreation policies of the Coastal Act.

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#### V. Findings and Declarations.

The Commission finds and declares as follows:

1. Project History/Detailed Project Description. The proposed project is construction a 53 foot high telecommunications facility consisting of six panel antennae mounted on a faux palm tree installed inside of a concrete walled area directly on the southeast corner of a mixed use commercial/multi-family residential complex. Base station equipment will be installed next to the faux palm. The new structure will replace an existing landscaped area and palm tree.

The mixed used commercial/multi-family residential building is located on the southeast corner of Seacoast Drive and Evergreen Avenue in the City of Imperial Beach. The faux palm will be located on the alley side of the building, approximately 150 feet inland of Seacoast Drive. The site is across the street from Pier Plaza, a large oceanfront public plaza and park.

The subject site is located within the City of Imperial Beach's permit jurisdiction and the Coastal Commission's appeal jurisdiction, because it is located within 300 feet of the inland extent of the beach. It is not between the sea and the first coastal road, which in this location is Seacoast Drive. The policies of the certified LCP are the standard of review.

2. Consistency with the Certified LCP and Public Access and Recreation Policies of the Coastal Act. The following policies of the certified City of Imperial Beach apply to the proposed project:

**Goal 4 Visual quality is important**

The visual quality of the City's environment shall be preserved and enhanced for the aesthetic enjoyment of both residents and visitors and the economic well-being of the community. Development of neighborhoods, streets and individual properties should be pleasing to the eye, rich in variety, and harmonious with existing development. The feeling of being near the ocean and bay should be emphasized even when the water is not visible. Designs reflective of a traditional California seaside community should be encouraged.

**Chapter 19.27. C-2 SEACOAST COMMERCIAL ZONE**

**19.27.010. Purpose of zone.**

The purpose of the C-2 zone is to provide land to meet the demand for goods and services required primarily by the tourist population, as well as local residents who use the beach area. It is intended that the dominant type of commercial activity in the C-2 zone will be visitor-serving retail such as specialty stores, surf shops, restaurant, hotels and motels. The development standards of the C-2 zone encourage pedestrian activity through the design and location of building frontages and parking provisions.

**19.27.020. Permitted uses.**

A. The following commercial uses shall be permitted subject to subsections B, C, and D of this section as appropriate:

1. Beach equipment rental;
2. Bed and breakfast;
3. Bookstores;
4. Boutiques;
5. Financial institutions:
  - a. On first floor, subject to subsection B of this section,
  - b. All floors when located on Palm Avenue, Silver Strand Boulevard and/or Third Street.
6. Fishing supply;
7. Hotels and motels;
8. Personal services;
9. Professional offices:
  - a. On first floor, subject to subsection B of this section,
  - b. All floors when located on a Palm Avenue, Silver Strand Boulevard and/or Third Street.
10. Public parks;

11. Resident inns;
12. Real estate offices;
13. Private postal services;
14. Restaurants;
15. Retail shops;
16. Specialty shops;
17. Surf shops;
18. Any other retail business or service establishment which the City Council finds to be consistent with the purposes of this chapter and which will not impair the present or potential use of adjacent properties, excluding those listed under subsection B of this section;
19. Residential dwelling units may be permitted above the first floor at a maximum density of one unit per every one thousand five hundred square feet of lot area, subject to approval of a CUP and subject to subsections B and C of this section as appropriate...

B. The uses listed below are permitted subject to the approval of a conditional use permit. Conditional use permits for financial institutions and professional offices shall be considered, provided these uses do not exceed thirty percent of the existing commercial square footage on Seacoast Drive and intersecting residential streets. Upper floor professional offices and financial institutions are not subject to this section.

[...]

14. Wireless communications facilities.

## **Chapter 19.90. WIRELESS COMMUNICATIONS FACILITIES**

### **19.90.010. Intent and purpose.**

The purpose of this chapter is to establish standards for the siting, development, and maintenance of wireless communications facilities and antennae throughout the City. This chapter is intended to protect and promote the public health, safety and welfare, as well as the aesthetic quality of the City as set forth in the goals, objectives and policies of the General Plan. This chapter is also intended to allow for the efficient development of a wireless communications infrastructure in accordance with the guidelines and intent of the Federal Telecommunications Act of 1996. Because the wireless communications industry utilizes unique technologies that are in a constant state of change, this chapter is intended to be appropriate for the analysis of various siting and facility circumstances.

### **19.90.050. Application requirements.**

In addition to meeting the standard requirements for conditional use permits under Chapter 19.82 or site development plans under Chapter 19.81, all applications must include the following:

- A. A description of the services that the applicant proposes to offer or provide at the proposed site;
- B. Documentation certifying that the applicant has obtained all licenses and other approvals required by the Federal Communications Commission and, if applicable, the California Public Utilities Commission, to provide the proposed services;
- C. A visual impact analysis consisting of photo simulations, photo montages, elevations or other visual or graphic illustrations of the proposed wireless communications facilities, which include proper coloration and blending of the facility with the proposed site and surrounding area;
- D. Identification of the geographic service area for the proposed site, including a map showing the site and the associated next cell sites within the network and a description of how the proposed site fits into and is necessary for the applicant's service network;
- E. A written assessment of all potential alternative sites, as well as an analysis indicating the feasibility of co-location at another site; and
- F. A copy of any field tests ("drive tests") reflecting the strength of signals at each of the proposed and alternative sites.

**19.90.070. Development and design standards.**

Every proposed wireless communication facility must meet all of the following development and design standards:

- A. The installation of wireless communications facilities may not reduce the number of required parking spaces on a proposed site;
- B. Wireless communications facilities and accessory equipment must meet the required setbacks of the underlying zone, except that in a residential zone, the minimum setback for an antennae or equipment building from any property line is twenty feet;
- C. Wireless communications facilities must meet the height requirement of the underlying zone, unless a greater height is approved through the conditional use permit;
- D. A service provider with a wireless communications facility in the City must obtain a City business license;
- E. The visual impact of wireless communications facilities must be minimized to the maximum extent feasible, taking into consideration technological requirements, through the use of placement, screening, camouflage and landscaping, so that the

facility is compatible with adjacent uses, existing architectural elements, topography, neighborhood landscaping, building materials and other site characteristics;

F. The colors and materials of wireless communications facilities must blend into their backgrounds;

G. Facade-mounted antennae must be integrated architecturally into the style and character of the structure to which they are attached; they must be painted and textured to match the existing structure; and they may not project more than eighteen inches from the face of the building or other support structure unless approved by a conditional use permit;

H. Roof-mounted antennae may not exceed the minimum height necessary to serve the operator's service area, while complying with the building height requirements of this title; they must be designed to minimize their visibility from surrounding areas; and they must be painted and textured to match the existing structure or building;

I. Freestanding facilities, including towers, lattice towers and monopoles, are discouraged unless no reasonable alternative is possible. If a freestanding facility is necessary, it may not exceed the minimum functional height and width required to support the proposed wireless facility;

J. Proposed freestanding facilities must be stealth facilities; they must be painted and designed to blend in with the surrounding area; and they must be landscaped, if necessary, to minimize visual impacts;

K. Wireless facility support structures, such as equipment buildings, cabinets, cables, air conditioning units and fencing, must be painted and textured to match the surrounding physical area and screened with landscaping in order to minimize visual impacts;

L. No advertising signs may be placed on any facility or equipment;

M. Wireless communications facilities located between the first public roadway and the ocean, San Diego Bay, or the Tijuana Estuary must be visually undetectable from Seacoast Drive, Imperial Beach Boulevard, public paths, bikeways, beaches and public recreational facilities, and must not require the construction of shoreline protective devices. If there is no feasible alternative that can comply with this requirement without resulting in a significant gap in communication coverage, then the alternative that would result in the fewest or least significant impacts to public views, public access and recreation, and shoreline processes shall be selected.



**19.90.080. Operation and maintenance standards.**

Wireless communications facilities must meet all of the following operational and maintenance standards:

- A. Air conditioning units and noise-generating equipment must comply with the noise standards in Chapter 19.32;
- B. In residential zones, security lighting must be operated with a timing device and shielded to limit light exposure on neighboring properties;
- C. Wireless communications facilities and related equipment must be maintained in good condition, free from trash, debris, graffiti and all other forms of vandalism. Any damaged wireless communications facilities or equipment must be repaired as soon as reasonably possible, so as to minimize dangerous conditions and visual blight;
- D. Landscaping elements of a wireless communications facility must be maintained in good condition. Damaged, dead or decaying landscaping must be replaced as promptly as possible;
- E. In residential zones, routine equipment maintenance may only be conducted between eight a.m. and five p.m., Monday through Friday. In all other zones, routine maintenance may be conducted at any time;
- F. Emergency maintenance may only be conducted during power outages or equipment failure;
- G. In residential zones, non-emergency visits for scheduled upgrades, other than as described in subsection E of this section, require seventy-two-hour notice to the City and adjacent neighbors. No more than one scheduled upgrade is permitted every twelve months;
- H. A statement that the wireless communications facility conforms with the current FCC safe-exposure standards must be submitted annually to the director of community development.

**19.90.100. Discontinuance of wireless communications facilities.**

A service provider that discontinues the operation of a wireless communications facility for an uninterrupted period of six months, must promptly remove the abandoned or discontinued facility, unless the service provider notifies the City in writing of its intent to maintain the facility. The City will consider the written request in determining the status of the facility. The service provider must remove or cause the removal of the facility, including all antennae, cables, cabinets, equipment buildings, poles and support equipment, within thirty calendar days after

the facility's operations are terminated. If the service provider fails to remove the facility, the property owner must have the facility removed.

In November 2002, the Commission approved an LCP amendment for the City of Imperial Beach adding regulations governing the use, placement and design of wireless communication facilities. The amendment added wireless communication facilities as a permitted use, subject to issuance of a Conditional Use Permit. As cited above, a new chapter added to the zoning code established standards for the siting, development, design and maintenance of wireless communication facilities, including the need to assess (and minimize) the visual impact of such facility through placement, color, screening, landscaping, etc. Freestanding facilities, such as the one proposed, must be stealth facilities designed to blend into the surrounding environment. Noise and lighting associated with the facilities must also be controlled.

The appellants contend that the project is inconsistent with the visual protection and telecommunications provisions in the certified LCP, particularly the requirement that an alternative analysis be performed.

The proposed facility will be located in the Seacoast Commercial (C-2) District a densely developed commercial/residential area which allows a variety of tourist-oriented commercial activity, and residential uses above the first floor. The height limit in the area is 30 feet, with an allowable deviation above 30 feet through the CUP process. Thus, the proposed 53 foot high structure is consistent with the LCP.

As required by the LCP, a visual impact analysis consisting of photo simulations of the proposed wireless communications facility was performed. The proposed facility has been designed as a faux palm tree, consistent with the LCP requirements that all free-standing telecommunication facilities be "stealth" facilities painted and designed to blend in with the surrounding area. Several alternatives to the proposed design were looked at, including a 58-foot high internal antenna monopalm structure and a nine-antenna structure with antennas further away from the trunk than the proposed structure.

The building adjacent to the proposed facility is 56'5" high, 3 ½ feet higher than the proposed faux palm. Because the faux palm will be set back 150 feet from Seacoast Drive, and the site is surrounded by various two and three story high structures, at the most, only the very top of the faux palm will be visible from most of the surrounding streets and public areas, including Pier Plaza.

The facility will be visible from Seacoast Drive and Pier Plaza, but only in those locations directly across from the facility. However, because the structure will be 150 feet away from Seacoast Drive and disguised as a palm tree, the structure is not expected to have any adverse impacts on the visual character of the area. Palm trees are a common landscape feature throughout Imperial Beach and around this particular site (including an existing palm tree that will be removed to accommodate the proposed faux palm), and the brief and distant views of the faux tree from surrounding public areas are expected to be consistent with the character of the community. The permit issued by the City requires

that the colors and materials for the monopalm faux tree structure match the photo simulations and that the antennas be hidden.

The facility will be located entirely on private property, and no public view corridors will be blocked by it. There are views to the beach and the public park from the alley adjacent to the facility, but the faux palm will not impact these views, and the alley is not a designated view corridor in the certified LCP. Thus, as required by the LCP, the visual impact of the wireless communications facility has been minimized to the maximum extent feasible, taking into consideration screening, camouflage and landscaping, so that the facility is compatible with adjacent uses, existing architectural elements, topography, neighborhood landscaping, building materials and other site characteristics.

Although in this particular case, the proposed facility is not expected to have any adverse impacts on public views or other coastal resources, the LCP requires that a written assessment of all potential alternative sites, as well as an analysis indicating the feasibility of co-location at another site be performed.

Exhibit #4 is the City of Imperial Beach staff report for the proposed project. As described on pages 2-5 of the City staff report, a wide range of alternatives to the proposed project were looked at. As noted, alternative designs at the proposed site were considered, including analyzing the feasibility of a shorter structure or antennas attached to the building. Locating the structure at alternative sites including 714 Seacoast Drive, co-locating at a potential Verizon telecom light standard at 911 Seacoast Drive, Reama Park, Elder Seacoast Condominiums (southwest corner of Elder Avenue and 2<sup>nd</sup> Street), co-locating at an existing wireless facility at Sports park, Dempsey Center Safety Center, and the Elkwood parking were all analyzed. As detailed in the City staff report, each of these alternatives were rejected as technologically infeasible or ineffective, or because they would result in access impacts or greater visual impacts than the proposed project.

The applicant has suggested that the alternatives analysis is inadequate because "the studies submitted by the Applicant was for coverage areas based on only 30-33 foot towers at other sites yet the proposed site is for a tower nearly twice that height." However, siting a 53 foot tower (the height of the proposed facility) at the other sites considered would have no less, and in some cases, a greater visual impact on public views and other coastal resources than the facility in the approved location. Thus, the alternatives analysis achieves the goal of the certified LCP to site telecommunication facilities in a manner that minimizes impacts on public coastal resources.

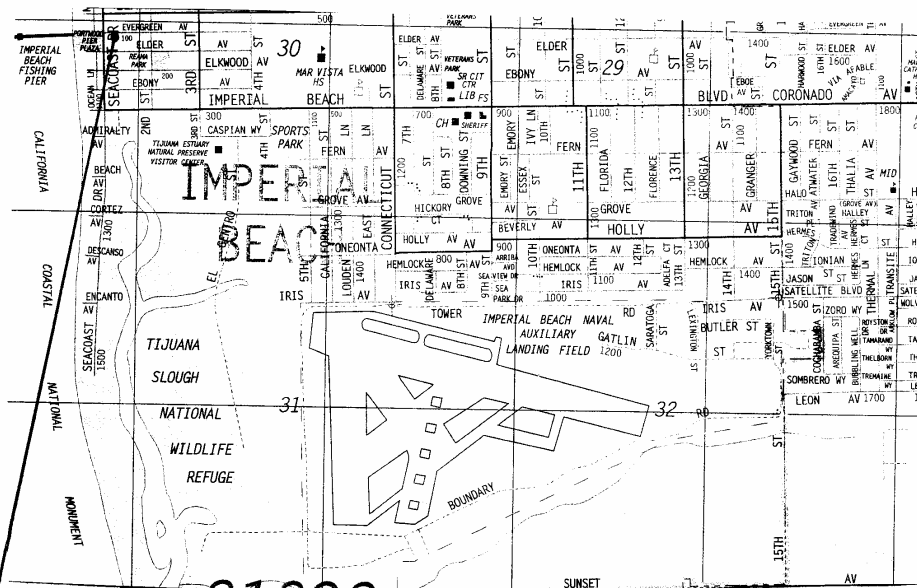
## **Conclusions**

In summary, the proposed 53-foot high telecommunications facility will be set back 150 feet inland of Seacoast Drive, on private property adjacent to a 56' 5" foot high building, and disguised as a palm tree. The project is not located between the sea and the first public roadway, and no impacts to visual quality or community character are anticipated. As required by the LCP, an alternatives analysis was performed by the applicants that determined that there are no feasible alternatives to the proposed site that would have fewer impacts on coastal resources.

Therefore, the Commission finds there is no substantial issue with regard to the project's consistency with the certified LCP.

### 3. Substantial Issue Factors

As discussed above, there is strong factual and legal support for the City's determination that the proposed development is consistent with the certified LCP. The other factors that the Commission normally considers when evaluating whether a local government's action raises a substantial issue also support a finding of no substantial issue. The proposed telecommunication facility is typical in size and scale with other telecommunication facilities, and is not of unusual extent or scope. The development is consistent with the intent of the LCP to avoid locating telecommunication facilities between the sea and the first public roadway, and to ensure that no visual impacts occur. The decision of the City may have a positive precedential value for future interpretations of the LCP because the project is consistent with the certified LCP and no impacts to coastal resources will occur. The objections to the project do not raise any substantial issues of regional or statewide significance.



SITE

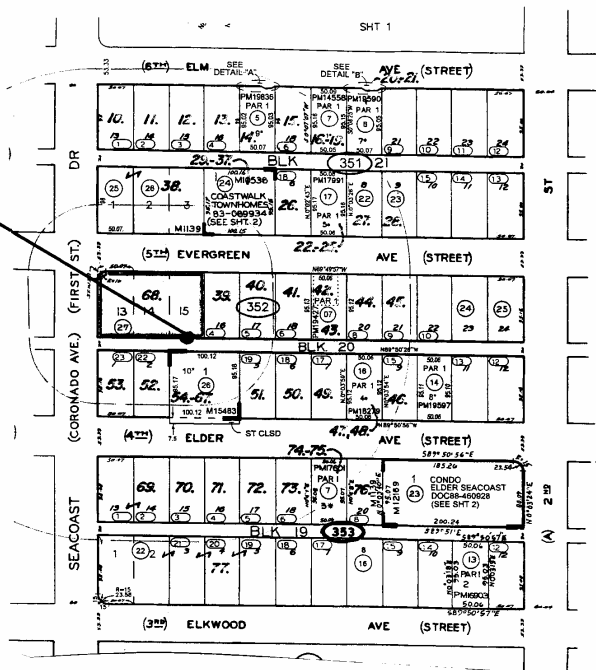


EXHIBIT NO. 1  
APPLICATION NO.  
**A-6-IMB-08-121**  
Location Map

California Coastal Commission

**RECEIVED**

STATE OF CALIFORNIA - THE RESOURCES AGENCY

**CALIFORNIA COASTAL COMMISSION**

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 7575 METROPOLITAN DRIVE, SUITE 103  
 SAN DIEGO, CA 92108-4421  
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DEC 15 2008

CALIFORNIA  
 COASTAL COMMISSION  
 SAN DIEGO COAST DISTRICT

ARNOLD SCHWARZENEGGER, Governor



# **APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT**

**Please Review Attached Appeal Information Sheet Prior To Completing This Form.**

**SECTION I. Appellant(s)**

Name: Leslie McCollum & Richard Emilson  
 Mailing Address: 933-L Seacoast Dr.  
 City: Imperial Beach Zip Code: CA 91932 Phone: 619-9340911

**SECTION II. Decision Being Appealed**

1. Name of local/port government: Imperial Beach, CA
2. Brief description of development being appealed: Proposed cell phone tower at 933 Seacoast Drive, Imperial Beach, CA 91932; File No. MF974; Applicant: T-Mobile (Jim Kennedy, Parsons Group)
3. Development's location (street address, assessor's parcel no., cross street, etc.):  
 Location: In alley by residences at 933 Seacoast Drive, Imperial Beach, CA 91932
4. Description of decision being appealed (check one.):  
☐ Approval; no special conditions  
☒ Approval with special conditions:  
☐ Denial

**Note:** For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

**TO BE COMPLETED BY COMMISSION:**

APPEAL NO: A-6-IMB-08-121  
 DATE FILED: 12/15/08  
 DISTRICT: San Diego

EXHIBIT NO. 2  
 APPLICATION NO.  
**A-6-IMB-08-121**  
 Appeal Forms

**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)**

5. Decision being appealed was made by (check one):

- ☐ Planning Director/Zoning Administrator  
☒ City Council/Board of Supervisors  
☐ Planning Commission  
☐ Other

6. Date of local government's decision: Nov. 17, 2008 Council Meeting, Notice of Final Action mailed to CCC on 11/25/08

7. Local government's file number (if any): MF-974

**SECTION III. Identification of Other Interested Persons**

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

Jim Kennedy, Parsons Corp. for T-Mobile, 110 W. "A" St., Ste. 1050,  
San Diego, CA 92101.

Torrey Pines Merziotis Props (Owners), P. O. Box 2306, La Jolla, CA  
93037

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

- (1) Sen. Denise Moreno Ducheny, via Jonathan Hardy, Chula Vista District  
Office, 637 Third Ave., Ste. A-1, Chula Vista, CA 91910

Names of other interested parties and those who testified will be  
provided when minutes of council meeting are transcribed.

- (2) All residents within 100 feet of the tower are interested parties.

(3)

(4)

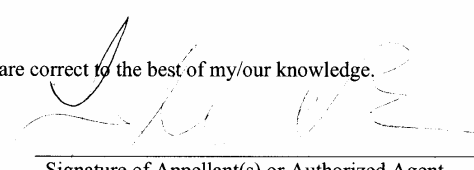
**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)****SECTION IV. Reasons Supporting This Appeal** Per Attachment IV hereto.**PLEASE NOTE:**

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal**. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.



**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)****SECTION V. Certification**

The information and facts stated above are correct to the best of my/our knowledge.

  
\_\_\_\_\_  
Signature of Appellant(s) or Authorized AgentDate: 12/11/08

**Note:** If signed by agent, appellant(s) must also sign below.

**Section VI. Agent Authorization**

I/We hereby  
authorize \_\_\_\_\_  
to act as my/our representative and to bind me/us in all matters concerning this appeal.

\_\_\_\_\_  
Signature of Appellant(s)

Date: \_\_\_\_\_

**Attachment IV Reasons Supporting This Appeal**

Attachment to Appeal From Coastal Permit Decision of Local Government

This appeal is based on the fact that the Applicant's review and analysis of proposed alternate sites was incomplete, inadequate and flawed. The Applicant's representative, as well as an engineer on behalf of the Applicant, admitted to this on the record at the City Council meeting on November 17, 2008. The engineer admitted that studies were inconsistent and inaccurate as the studies were not based on the same height of cell tower. The height limit for towers per the Muni. Code is 30 feet, however, the cell tower that was approved at the residential site (across the street from Pier Plaza and the lifeguard tower on Seacoast Drive) is between 54 and 58 feet. The studies submitted by the Applicant was for coverage areas based on only 30-33 foot towers at other sites yet the proposed site is for a tower nearly twice that height.

In addition, there was no update from the first proposal to the final proposal. The Applicant had ample time to do appropriate alternate site studies but didn't do so; the application was made in February of 2008.

Mayor Janney scolded the Applicant that he had not provided sufficient information yet the vote in favor of the tower was 3 to 2.

Portions of the record confirming these statements will be transcribed and presented to supplement this appeal, along with

names of additional appellants.

**A consistent, thorough and accurate detailed alternate analysis must be required before plans to erect this behemoth his tower goes forward. This did not occur.**

The flawed studies have not proven that the tower is necessary and most certainly have not proven that the excessive height of the tower is required, given that so many other locations were not adequately examined.

The Applicant made excuses when the issue of co-location was raised and did not explore several alternate sites. We in the community urge the Coastal Commission to investigate the issue of adequate alternative analysis as it was not properly or correctly done. There are other appropriate sites in the community.

In addition, the hideous tower will stand out like a sore thumb from a public place along the ocean - that being Pier Plaza park and the lifeguard tower in Imperial Beach. It is within 300 feet of the beach and directly across the street from the pride of Imperial Beach and its center - Pier Plaza. How many more towers will be erected in coastal zones if this one is permitted based on flawed studies?

Landscaping is being removed (violation of Muni.Code) to erect the fake tree cell tower and there is nothing for it to blend in with. It is also not setback from homes.

The visual impacts along the coast are substantial as well given the fact that the height of the proposed tower is nearly

...

twice the 30 foot height mandated in the Municipal Code.

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DEC 01 2008

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT**RESOLUTION NO. 2008-6692**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF IMPERIAL BEACH, CALIFORNIA, APPROVING A REGULAR COASTAL PERMIT (CP 080015), CONDITIONAL USE PERMIT (CUP 080016), DESIGN REVIEW CASE (DRC 080017), AND SITE PLAN REVIEW (SPR 080018) TO INSTALL A TELECOMMUNICATIONS FACILITY ON A MONOPALM FAUX TREE STRUCTURE LOCATED AT 933 SEACOAST DRIVE IN THE C-2 (SEACOAST COMMERCIAL) ZONE. MF 974.**

**APPLICANT: OMNIPOINT INC., A SUBSIDIARY OF T-MOBILE USA, INC.**

**WHEREAS**, on September 17, 2008, October 15, 2008, and November 19, 2008, the City Council of the City of Imperial Beach held a duly noticed public meeting to consider the merits of approving or denying an application for a Regular Coastal Permit (CP 080015), Conditional Use Permit (CUP 080016), Design Review Case (DRC 080017), and Site Plan Review (SPR 080018) to install a telecommunications facility on a monopalm faux tree structure located at 933 Seacoast Drive (APN 625-352-27-00) in the C-2 (Seacoast Commercial) Zone, a site legally described as follows:

Lots 13 thru 15, Block 20, of Parcel Map No. 1139, in the City of Imperial Beach, County of San Diego, State of California, filed in the Office of the County Recorder of San Diego County; and

**WHEREAS**, on July 17, 2008, the Design Review Board adopted DRB Resolution No. 2008-04 recommending conditional approval of the project design; and


**WHEREAS**, the project design of a telecommunications facility on a monopalm faux tree structure is compatible in use and appearance with other structures in the vicinity because it would be hidden; and, therefore, would be consistent with Policy D-8 of the Design Element of the General Plan and with Ordinance Nos. 2002-983 and 2003-997; and

**WHEREAS**, this project consisting of one stealth antennae structure complies with the Application Requirements of Section 19.90.050, the Development and Design Standards of Section 19.90.070 and will be required to comply with the Operations and Maintenance Standards of Section 19.90.080 of Chapter 19.90 "Wireless Communication Facilities" of the zoning ordinance; and

**WHEREAS**, the City Council of the City Of Imperial Beach hereby finds that necessity compels placement of this facility in this location to avoid a significant gap in wireless communications coverage; and

**WHEREAS**, the City Council of the City Of Imperial Beach hereby finds that the proposed conditions are consistent with the Federal Telecommunications Act of 1996; and

**WHEREAS**, this project complies with the requirements of the California Environmental Quality Act (CEQA) as this project shall be categorically exempt from the California Environmental Quality Act (CEQA) Guidelines Section 15300 (Replacement of reconstruction of existing utility systems and/or facilities of negligible or no expansion of capacity); and

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**WHEREAS**, the City Council further offers the following findings in support of its decision to conditionally approve the project:

**CONDITIONAL USE PERMIT FINDINGS:**

1. **The proposed use at the particular location is necessary or desirable to provide a service or facility, which will contribute to the general well being of the neighborhood or community.**

The proposed wireless telecommunication facility at 933 Seacoast Drive will provide expanded communication services to the City of Imperial Beach commercial and residential development, avoiding gaps in wireless communications coverage and therefore contribute to the general well being of the neighborhood or community. The structure will be disguised as a monopalm faux tree structure. The project is subject to Chapter 19.90, "Wireless Communications Facilities," Ordinance No. 2002-983 and Ordinance No. 2003-997, which establishes the standards for siting, development and maintenance of wireless communications facilities and antenna throughout the city.

2. **The proposed use will not, under any circumstances, of the particular use, be detrimental to the health, safety or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity.**

The proposed development, installation of a telecommunications facility concealed on a monopalm faux tree structure and equipment vault in an existing landscaped area at 933 Seacoast Drive, will not be detrimental to the health, safety or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity as it will be required to comply with Chapter 19.90, "Wireless Communications Facilities," which is to provide for the public safety, health and welfare, as well as for the aesthetic quality as set forth in the goals, objectives and policies of the General Plan. In the Conditions of Approval, specific conditions have been set forth by the Community Development Department and the Public Works Department to mitigate the concerns such a development project may create. The 1996 Federal Telecommunications Act preempts local jurisdictions from addressing any health effects of the facilities.

3. **The proposed use will comply with the regulations and conditions specified in the title for such use and for other permitted uses in the same zone.**

The proposed use will comply with the regulations and conditions specified in the title for such use and for other permitted uses for wireless communication facilities (Chapter 19.90). Compliance is demonstrated by the following:

Standards	Provided/Proposed
The installation of wireless communications facilities may not reduce the number of required parking spaces on a proposed site.	No parking demand to be generated and the facility will not reduce existing parking.

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Standards	Provided/Proposed
Wireless communications facilities and accessory equipment must meet the required setbacks of the underlying zone, except that in a residential zone, the minimum setback for an antenna or equipment building from any property line is twenty feet.	There are no setbacks for the C-2 Zone.
Wireless communications facilities must meet the height requirement of the underlying zone, unless a greater height is approved through the conditional use permit.	There is a 30 foot height limit in the C-2 zone. The applicant has requested and will receive a deviation through the CUP process to allow for the antennas to exceed no taller than 53' above surrounding grade, 57' from underground garage grade.
A service provider with a wireless communications facility in the city must obtain a city business license.	This will be a condition of approval for the CUP.
The visual impact of wireless communications facilities must be minimized to the maximum extent feasible, taking into consideration technological requirements, through the use of placement, screening, camouflage, and landscaping, so that the facility is compatible with adjacent uses, existing architectural elements, topography, neighborhood landscaping, building materials, and other site characteristics.	The proposed antennae will be concealed on a faux palm tree stealth structure, not discernable as antennae. The vault will be concealed in a pre-existing, concrete walled area.
The colors and materials of wireless communications facilities must blend into their backgrounds.	The housing for the antennae will be concealed on a faux palm tree stealth structure. The color and materials used for the monopalm structure will match the existing palm tree.
Facade-mounted antennae must be integrated architecturally into the style and character of the structure to which they are attached; they must be painted and textured to match the existing structure; and they may not project more than eighteen inches from the face of the building or other support structure unless approved by a conditional use permit.	There are no proposed façade-mounted facilities.

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Standards	Provided/Proposed
Roof-mounted antennae may not exceed the minimum height necessary to serve the operator's service area, while complying with the building height requirements of this title; they must be designed to minimize their visibility from surrounding areas; and they must be painted and textured to match the existing structure or building.	There are no proposed roof-mounted facilities.
Freestanding facilities, including towers, lattice towers, and monopoles, are discouraged unless no reasonable alternative is possible. If a freestanding facility is necessary, it may not exceed the minimum functional height and width required to support the proposed wireless facility.	The freestanding antenna will be concealed on a faux palm tree structure designed to blend in with the surrounding area. The proposed 53' faux palm tree is the desired functional height for the transmitting antennae.
Proposed freestanding facilities must be stealth facilities; they must be painted and designed to blend in with the surrounding area; and they must be landscaped, if necessary, to minimize visual impacts.	The freestanding antenna will be concealed on a faux palm tree structure designed to blend in with the surrounding area.
Wireless facility support structures, such as equipment buildings, cabinets, cables, air conditioning units, and fencing, must be painted and textured to match the surrounding physical area and screened with landscaping in order to minimize visual impacts	The base station equipment will be concealed next to the faux tree within an existing concrete walled area where an existing palm tree is located. Electric and telephone services are required to be extended to the project area via underground conduits.
No advertising signs may be placed on any facility or equipment.	There are no proposed advertising signs.

**4. The granting of such conditional use permit will be in harmony with the purpose and intent of this code, the adopted general plan and the adopted local coastal program.**

The granting of the conditional use permit to install one telecommunication antennae concealed on a stealth structure at 933 Seacoast Drive, will be in harmony with the purpose and intent of the zoning code (Chapter 19.90) and with the adopted general plan as the potential visual impacts of the proposal have been mitigated by design; i.e., the antennae shall be mounted to a new monopalm faux-tree structure, and the proposed equipment vault will be located in an existing walled area.



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**COASTAL PERMIT FINDINGS:**

5. **The proposed development conforms to the Certified Local Coastal Plan including Coastal Land Use Policies.**

**Shore Processes and Shore Protection**

This finding does not apply since the project site is not adjacent to the oceanfront that would require shore protection.

**Public Access**

The subject site is not located between the ocean and the first public road, which, in most cases, is Seacoast Drive. No issue regarding public access to the beach is identified for this project.

**Coastal/Scenic View**

The proposed antennae shall be mounted to a new 53' broadleaf faux tree structure and equipment vault in a walled landscaped area. The potential visual impacts of the proposal have been mitigated by design; no scenic or coastal view impacts are identified.

6. **For all development seaward of the nearest public highway to the shoreline, the proposed development meets standards for public access and recreation of Chapter Three of the 1976 Coastal Act and regulations promulgated thereunder.**

The subject site is not located between the ocean and the first public road, which, in most cases, is Seacoast Drive. No issue regarding public access to the beach is identified for this project.

7. **The proposed development meets the minimum relevant criteria set forth in Title 19, Zoning.**

The project has complied with the application requirements for telecommunications facilities pursuant to Section 19.90.050, with the development and design standards of Section 19.90.070, and will be required to comply with the operations and maintenance standards of Section 19.90.080 of the City's Wireless Communication Facilities Ordinance. Additionally, this project is consistent with the certification order of the Coastal Commission regarding the City's Wireless Communication Facilities Ordinances (Nos. 2002-983 and 2003-997) in that this project proposes to blend in with the existing development.

8. **For all development involving the construction of a shoreline protective device, a mitigation fee shall be collected which shall be used for beach sand replenishment purposes. The mitigation fee shall be deposited in an interest bearing account designated by the Executive Director of the California Coastal Commission and the City Manager of Imperial Beach in lieu of providing sand to replace the sand and beach area that would be lost due to the impacts of any protective structures.**

This finding does not apply since the project site is not adjacent to the oceanfront that would require shore protection.

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**NOW, THEREFORE, BE IT RESOLVED** that Regular Coastal Permit (CP 080015), Conditional Use Permit (CUP 080016), Design Review Case (DRC 080017), and Site Plan Review (SPR 080018) to install a telecommunications facility on a monopalm faux tree structure located at 933 Seacoast Drive (APN 625-352-27-00) in the C-2 (Seacoast Commercial) Zone is hereby **approved** by the City Council of the City of Imperial Beach subject to the following:

**CONDITIONS OF APPROVAL**

**PLANNING**

1. Final building plans and project development shall be in substantial accordance with the revised approved conceptual plans dated November 7, 2008 on file in the Community Development Department and with the conditions required herein.
2. Provide a landscape plan at building permit submittal showing that replacement landscaping will be provided on the property to mitigate for any landscaping that is being removed.
3. Colors and materials for the monopalm faux tree structure are subject to staff review upon building permit submittal, and shall match the photosimulations.
4. Antennas shall be hidden.
5. Appropriate BMP's shall be in place during any maintenance of base station equipment to prevent any materials to enter storm drain conveyance system.
6. Drainage shall be maintained in the project location.
7. Noise from the equipment shall not have a negative effect on the existing neighborhood. If the facility receives any noise complaints, the applicant shall investigate said complaint and mitigate any issues to meet Imperial Beach Municipal Code noise requirements. Noise baffling shall be placed on the base station equipment to limit noise emissions to the satisfaction of the Community Development Director.
8. Any electric and telephone services shall be connected via underground conduits extended to the project area.
9. Applicant must annually submit a statement that the wireless communications facility conforms with the current FCC safe-exposure standards to the director of community development.
10. Applicant shall obtain a city business license prior to issuance of building permit.
11. Approval of this request shall not waive compliance with any portion of the International Building Code and Municipal Code in effect at the time a building permit is issued.
12. All negative balances in the project account (080015) shall be paid prior to building permit issuance and final inspection.
13. Approval of Regular Coastal Permit (CP 080015), Conditional Use Permit (CUP 080016), Design Review Case (DRC 080017), and Site Plan Review (SPR 080018) for this project is valid for a one-year **vesting** period from the date of approval, to

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**expire on November 19, 2009.** Conditions of approval must be satisfied, building permits issued, and substantial construction must have commenced prior to this date, or a time extension is granted by the City prior to expiration. This expiration date is separate from the sunset expiration date of 10 years for the life of the conditional use permit.

14. The applicant or applicant's representative shall read, understand, and accept the conditions listed herein and shall, within 30 days, return a signed statement accepting said conditions.
15. Conditional use permits for wireless communication facilities have a maximum term of ten (10) years, with an automatic review in five (5) years at a public hearing (BMC 19.90.090). The applicant will be required to renew the Conditional Use Permit (060382) prior to the **expiration date, November 19, 2018**, in accordance with Chapter 19.82.

#### **PUBLIC WORKS**

16. No building roof or landscape water drains may be piped to the street or onto impervious surfaces that lead to the street. A design that has these water discharges directly into the storm drain conveyance system (onto an impervious surface that flows to the street) is in violation of the Municipal Storm Water Permit - Order 2001-01.
17. If it is necessary to cut into the alley pavement as part of this project, all concrete cuts in the alley must be replaced with #4 rebar dowels positioned every 1 foot on center. Concrete specification must be 560-C-3250. Concrete cuts must also comply with Item 6 above and cuts parallel to the alley drainage must be at least 1 foot from the alley drain line.
18. Curb sections that have been replaced shall be painted (red, green, etc.) to match existing conditions.
19. For alley, sidewalk or curb & gutter replacement ensure compliance with San Diego Regional Standard Drawing G-11 in that the "Area to be removed [must be] 5' or from joint to joint in panel, whichever is less." The distance between joints or score marks must be a minimum of 5-feet. Where the distance from "Area to be removed", to existing joint, edge or score mark is less than the minimum shown, "Area to be removed" shall be extended to that joint, edge or score mark.
20. For any work to be performed in the street or alley, submit a traffic control plan for approval by Public Works Director a minimum of 5 working days in advance of street work. Traffic control plan is to be per Regional Standard Drawings or Caltrans Traffic Control Manual.
21. All street work construction requires a Class A contractor to perform the work. Street repairs must achieve 95% sub soil compaction. Asphalt repair must be a minimum of four (4) inches thick asphalt placed in the street trench. Asphalt shall be AR4000 ½ mix (hot).
22. For any project that proposes work within the public right-of-way (i.e., driveway removal/construction, sidewalk removal/construction, street or alley

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demolition/reconstruction, landscaping and irrigation, fences, walls within the public right-of-way, etc.), a Temporary Encroachment Permit (TEP) shall be applied for and approved either prior to or concurrent with issuance of the building permit required for the project. Application for a Temporary Encroachment Permit shall be made on forms available at the Community Development Department Counter.

23. All street work construction requires a Class A contractor to perform the work. All pavement transitions shall be free of tripping hazards.
24. Any disposal/transportation of solid waste/construction waste in roll-off containers must be contracted through the City's waste removal and recycling provider unless the hauling capability exists integral to the prime contractor performing the work.
25. The existing parcel impervious surfaces are required to not increase beyond the current impervious services as a post-conversion condition in order to maximize the water runoff infiltration area on the parcel in compliance with Municipal Storm Water Permit – Order 2001-01. All landscape areas, including grass and mulch areas, must be improved to consist of at least 12-inches of loamy soil in order to maximize the water absorption during wet weather condition and minimize irrigation runoff.
26. Preserve existing or install new survey monuments on southwest and southeast property lines in alley. Record same with county office of records.
27. In accordance with I.B.M.C. 12.32.120, applicant must place and maintain warning lights and barriers at each end of the work, and at no more than 50 feet apart along the side thereof from sunset of each day until sunrise of the following day, until the work is entirely completed. Barriers shall be placed and maintained not less than three feet high.
28. Require applicant to provide verification of post construction Best Management Practice (BMP) maintenance provisions through a legal agreement, covenant, CEQA mitigation requirement, and/or Conditional Use Permit. Agreement is provided through the Community Development Department.
29. Property owner must institute "Best Management Practices" to prevent contamination of storm drains, ground water and receiving waters during both construction and post construction. The property owner or applicant BMP practices shall include but are not limited to:
  - Contain all construction water used in conjunction with the construction. Contained construction water is to be properly disposed in accordance with Federal, State, and City statutes, regulations and ordinances.
  - All recyclable construction waste must be properly recycled and not disposed in the landfill.
  - Water used on site must be prevented from entering the storm drain conveyance system (i.e., streets, gutters, alley, storm drain ditches, storm drain pipes).
  - All wastewater resulting from cleaning construction tools and equipment must be contained on site and properly disposed in accordance with Federal, State, and City statutes, regulations, and ordinances.

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- Erosion control - All sediment on the construction site must be contained on the construction site and not permitted to enter the storm drain conveyance system. Applicant is to cover disturbed and exposed soil areas of the project with plastic-like material (or equivalent product) to prevent sediment removal into the storm drain system.
30. Applicant must underground all utilities in accordance with I.B.M.C. Title 13.08. This project is within the Seacoast Drive Utility Underground District, thus no new above ground utilities are permitted therein either on Seacoast Drive or the alley.

**APPEAL PROCESS UNDER THE CALIFORNIA CODE OF CIVIL PROCEDURE (CCP):** The time within which judicial review of a City Council decision must be sought is governed by Section 1094.6 of the CCP. A right to appeal a City Council decision is governed by CCP Section 1094.5 and Chapter 1.18 of the Imperial Beach Municipal Code.

**PROTEST PROVISION:** The 90-day period in which any party may file a protest, pursuant to Government Code Section 66020, of the fees, dedications or exactions imposed on this development project begins on the date of the final decision.

**PASSED, APPROVED, AND ADOPTED** by the City Council of the City of Imperial Beach at its regular meeting held on the 19<sup>th</sup> day of November 2008, by the following roll call vote:

<b>AYES:</b>	<b>COUNCILMEMBERS:</b>	<b>MCLEAN, BRAGG, JANNEY</b>
<b>NOES:</b>	<b>COUNCILMEMBERS:</b>	<b>WINTER, MCCOY</b>
<b>ABSENT:</b>	<b>COUNCILMEMBERS:</b>	<b>NONE</b>

James C. Janney  
**JAMES C. JANNEY, MAYOR**

**ATTEST:**

Jacqueline M. Hald  
**JACQUELINE M. HALD, CMC**  
**CITY CLERK**

I, City Clerk of the City of Imperial Beach, do hereby certify the foregoing to be a true and correct copy of Resolution No. 2008-6692 - A Resolution of the City Council of the City of Imperial Beach, California, APPROVING A REGULAR COASTAL PERMIT (CP 080015), CONDITIONAL USE PERMIT (CUP 080016), DESIGN REVIEW CASE (DRC 080017), AND SITE PLAN REVIEW (SPR 080018) TO INSTALL A TELECOMMUNICATIONS FACILITY ON A MONOPALM FAUX TREE STRUCTURE LOCATED AT 933 SEACOAST DRIVE IN THE C-2 (SEACOAST COMMERCIAL) ZONE. MF 974.

Jacqueline M. Hald  
CITY CLERK

11/20/08  
DATE

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AGENDA ITEM NO. \_\_\_\_

**STAFF REPORT  
CITY OF IMPERIAL BEACH**

**RECEIVED**

DEC 01 2008

CALIFORNIA  
COASTAL COMMISSION  
SAN DIEGO COAST DISTRICT

**TO:** HONORABLE MAYOR AND CITY COUNCIL

**FROM:** GARY BROWN, CITY MANAGER

**MEETING DATE:** NOVEMBER 19, 2008

**ORIGINATING DEPT.:** COMMUNITY DEVELOPMENT DEPARTMENT  
GREG WADE, COMMUNITY DEVELOPMENT DIRECTOR  
JIM NAKAGAWA, AICP, CITY PLANNER  
TYLER FOLTZ, ASSOCIATE PLANNER

**SUBJECT:** PUBLIC HEARING: JIM KENNEDY, PARSONS CORP. FOR OMNIPOINT/T-MOBILE (APPLICANT)/ TORREY PINE MERZOTIS PROPS. (OWNER); REGULAR COASTAL PERMIT (CP 080015), CONDITIONAL USE PERMIT (CUP 080016), DESIGN REVIEW CASE (DRC 080017), AND SITE PLAN REVIEW (SPR 080018) TO INSTALL A TELECOMMUNICATIONS FACILITY ON A MONOPALM FAUX TREE STRUCTURE LOCATED AT 933 SEACOAST DRIVE IN THE C-2 (SEACOAST COMMERCIAL) ZONE. MF 974.

**PROJECT DESCRIPTION/BACKGROUND:**

This is an application (MF 974) originally submitted on February 28, 2008, and shown to Council on September 17, 2008, and October 15, 2008, for a Regular Coastal Permit (CP 080015), Conditional Use Permit (CUP 080016), Design Review Case (DRC 080017), and Site Plan Review (SPR 080018) to install a telecommunications facility on a monopalm faux tree structure located at 933 Seacoast Drive (Argus Village; APN 625-352-27-00) in the C-2 (Seacoast Commercial) Zone. Council requested to continue the project to November 19, 2008. Installation and/or modification of wireless facilities per

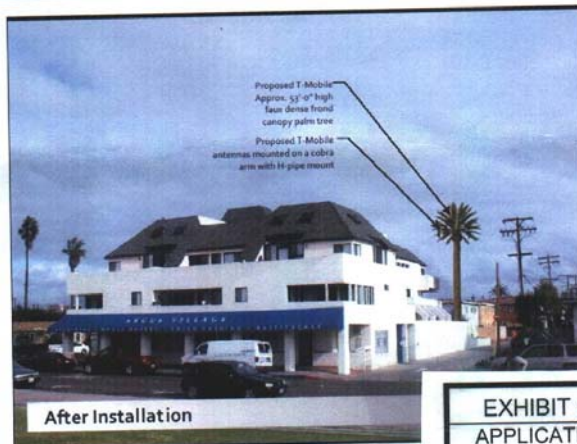


EXHIBIT NO. 4  
APPLICATION NO.  
**A-6-IMB-08-121**  
City Staff Report

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California Coastal Commission



983 are subject to approval of a conditional use permit (I.B.M.C.19.90.040). Per the Development and Design Standards, installation and/or modification of wireless facilities must meet specific design criteria as outlined in Chapter 19.90. The project was subject to design review by the Design Review Board because the project is located along one of the eight design corridors in the City, Seacoast Drive, and because the project requires a conditional use permit.

#### **PROJECT EVALUATION/DISCUSSION:**

##### **Visual Quality Issues:**

The proposed telecommunications facility will consist of six panel antennae mounted on a proposed 53' faux palm tree (measured from surrounding grade; it is approximately 57' from underground garage grade) installed inside of a concrete walled area directly on the southeast corner of the building. In addition, base station equipment will be installed next to the faux palm tree structure. The faux tree and equipment will replace an existing landscaped area with a palm tree. Electric and telephone services are required and will be extended to the project area via underground conduits.



The original design shown to Council on September 17, 2008 was a 48'-5" monopalm structure with nine external antennas. An alternate monopalm design providing internal antennas at a height of 52'-6" was also shown to Council.

At the October 15, 2008 Council meeting the proposed and recommended design was for the 52'-6" internal antenna monopalm structure because it provided better aesthetic appeal, although it was at a greater height than the originally proposed 48'-5" external antenna monopalm design.

Since the October 15, 2008 Council meeting, it was determined by the applicant that a monopalm with internal antennas could not function properly with the 52'-6" height, and would have to be taller. A monopalm with internal antennas would have to be approximately 58' for the intended coverage. The applicant has also revised the external antenna design to a 53' tall monopalm that includes six antennas, down from nine, that will be closer to the trunk and will provide a fuller, more realistic canopy. The 53' external antenna monopalm design is proposed and recommended primarily because it is a lower height and does not surpass the existing height of the building, which is 56'-5". A 58' tall internal antenna monopalm design is provided as an alternate. The original 48'-5" external antenna design is also an alternate.

MF 974 T-Mobile-Merziotis

- 3 -

November 19, 2008



The 53' faux palm tree structure concealing the antennae would be the most conspicuous aspect of this proposal. The structure would be built in a concrete walled area in a landscaped area where a palm tree is located (the palm tree will be removed). Wireless facilities use transmitting antennae to communicate with mobile handsets and other wireless devices. The applicant states that the height of the antenna is critical to the facilities performance because the signal must be elevated above ground level at a height that provides a clear line-of-sight to clear any topographical barriers and existing natural and building environment. According to the applicant, the antennas would not be functional at a lower height because the signal would be significantly reduced to an inadequate level. Imperial Beach Municipal Code (IBMC) 19.90.070.C states that wireless facilities must meet the height requirement of the underlying zone (C-2), which requires a maximum height limit of 30 feet. However, the code also states that a greater height may be permitted through the conditional use permit; the applicant is requesting such a deviation. A 30 foot tall monopalm would equate to an antenna centerline of 25 feet, and would be infeasible because it would not provide for sufficient radio frequency (RF) coverage, and because antennas would be completely blocked to the north and partially blocked to the south. The faux palm tree structure would conceal the antennae and would blend in with the surrounding area because it is replacing an existing tree, and there are palm trees in the area.

Staff initially requested that the antennas be located on the building. However, the applicant claims that placing the antenna on the building is not feasible because of the building's irregular shape, lack of flat plains for the conduit and antenna sectors, and owner objection to additional conduits on the building. Per the applicant, there would have to be three clear wall planes, with north, south, and east orientations available. The only flat plain on the building is located on the north façade, and is already utilized by a cell provider. Even if the north façade were vacant, there would be no other flat planes for the east and south antennas. Also, a total of 24 coaxial cables would have to be routed from the three antenna sectors to a unified point, and channeled down the building to the base station equipment. Per the applicant, there are no straight or reasonable paths available for antennas on this building, especially because of the irregular and unique architecture of the building. In addition, if antennas were able to locate on the building, the one location identified by the applicant to locate the base equipment would be the concrete walled area at the south-east corner of the site (location where the project is currently proposed), which is too far removed from the taller portions of the building and could not serve for an equipment area for a building design since the equipment needs to be within a closer distance of the antennas.



The applicant was also directed to locate the antennas on the roof of the existing building. However, the applicant determined this was not a feasible option because the issue of conduit routing would remain. In addition, the building is in a finished condition, and adding structurally would provide an intrusive impact upon the existing commercial and residential tenants. Because the base equipment would have to be located in the south-east corner of the site, only one roof location may be possible, which would be the roof of the existing residential unit (south east unit) directly to the north of the base equipment location. Per the applicant, this is not a viable design alternative, and not one which the landlord would support.

Another criterion that was examined was the location of the telecommunication facility. Other locations were explored: 714 Seacoast Drive, co-locating at a potential Verizon telecom light standard at 911 Seacoast Drive (still in staff review), Reama Park, Elder Seacoast Condominiums (southwest corner of Elder Avenue and 2<sup>nd</sup> Street), co-locating at an existing wireless facility at Sports Park, Dempsey Center Safety Center, and the Elkwood parking lot.

714 Seacoast Drive: The applicant's RF Engineer conducted a site assessment for 714 Seacoast Drive and found it would not be acceptable because of the building's location near the north edge of the project search ring. The location would not provide adequate coverage to the south and east. The building's southern building element would block signal and provide an inferior coverage.

Co-locating with Verizon at 911 Seacoast Drive: Co-locating would not be possible because the smaller size and height of the proposed Verizon facility (30-foot tall light standard). A vertical separation of at least 5-7 feet would be required between the two carriers' antennas, which is not feasible/optimal for design quality standards. In addition, there would not be adequate space for base station equipment for both providers. Staff also requested that the proposed monopalm provide for co-location; however, this would not be feasible because there is no space for another provider's base equipment, the additional antennas would not be stealth, and the height of the monopalm would significantly increase to provide for the 5-7 feet vertical separation of carrier antennas, losing the ability to remain stealth.

Reama Park: Per the applicant's engineer, this site would provide a significant portion of the intended coverage to the seacoast area; however, poor coverage would still be provided at the north and south corners of Seacoast Drive. In addition, a facility on this site would require an approximately 150 sq. ft. equipment enclosure and 100 sq. ft. for a new freestanding structure. The addition of a freestanding telecommunications facility may be more prominent in this location than the proposed site, which has an existing palm tree next to the existing Argus Village building.

Elder Seacoast Condominiums: Per the applicant, this site provides few siting opportunities, with no clear wall planes to allow for a full facility. In addition, there was a lack of landlord interest. Also, it is located in a residential zone, which is not allowed if other alternatives exist that would provide similar or better coverage in commercial or public facility zones.

Sports Park: Per the applicant's engineer, co-locating with the existing monopalm facility in Sports Park would not provide sufficient coverage to the seacoast area, and to the north. A significant coverage gap would remain, requiring an additional facility, thus promoting proliferation of wireless facilities since a reasonable alternative exists at the proposed project site.

Dempsey Holder Safety Center: Per the applicant, the site is 100% developed and has no space for a wireless facility.

Elkwood Parking Lot along Seacoast Drive: Per the applicant's engineer, this site would provide a significant portion of the intended coverage of the seacoast area; however, poor coverage would still be provided at the north and south corners of Seacoast Drive. This location may lose some of its ability to remain stealth due to it being a flat lot with no buildings. Also, the base equipment and freestanding structure may remove existing parking spaces, which would conflict with IBMC 19.90.070.A (may not reduce existing parking). The addition of a freestanding telecommunications facility may be more prominent in this location than the proposed site.

All locations west of Seacoast Drive are not optimal because IBMC 19.90.070.M states that all wireless facilities between the first public street and the beach must be visually undetectable, which would likely require a design that would not provide the necessary coverage. The intent is to place wireless facilities east of Seacoast Drive when possible.

The applicant was asked to explore the possibility of splitting the project into two separate sites. Per the applicant, splitting the project into two sites is not a logical or efficient way to conduct site-development. The goal is to address the needs of the network with the fewest possible sites, which following the intent of the municipal code, providing a stealth design.

All other sites were not considered feasible because they could not provide for sufficient coverage.

T-Mobile is working to install wireless communication facilities in three areas in Imperial Beach that lack sufficient coverage. The other locations are near 15th Street and Grove Avenue and along Seacoast Drive (both were approved by City Council on August 20, 2008).

**General Plan/Zoning Consistency:** The proposed development is subject to Chapter 19.90, "Wireless Communications Facilities," Ordinance 2002-983 and Ordinance 2003-997. The purpose of the chapter is to establish standards for the siting, development and maintenance of wireless communications facilities and antenna throughout the city. The chapter is also intended to protect and promote the public health, safety and welfare, as well as the aesthetic quality of the city as set forth in the goals, objectives and policies of the General Plan. The proposed development meets the Development and Design Standards as outlined in Chapter 19.90. The project is located in the C-2 (Seacoast Commercial) Zone. The purpose of the C-2 Zone is to meet the demand for goods and services required by the tourist population and local residents who use the beach area. Providing a telecommunication services to an area providing insufficient service would be consistent with the General Plan and Zoning.

Imperial Beach Municipal Code 19.90.070 requires all wireless facilities to meet the following development and design standards (followed by the project's compliance):

- A. The installation of wireless communications facilities may not reduce the number of required spaces on a proposed site.

Project meets the code. No parking spaces will be removed.

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- B. Wireless communications facilities and accessory equipment must meet the required setbacks of the underlying zone, except that in a residential zone, the minimum setback for an antennae or equipment building from any property line is twenty feet.

Project meets the code. The project is located in the Seacoast Commercial zone, where there are no setbacks. No portion of the project site is located in a residential zone.

- C. Wireless communications facilities must meet the height requirement of the underlying zone, unless a greater height is approved through the conditional use permit.

Project meets the code. The height limit in the Seacoast Commercial zone is 30 feet. A greater height may be permitted through the conditional use permit. The applicant is requesting greater height so that the entire seacoast area, and area to the east, is adequately covered.

- D. A service provider with a wireless communications facility in the City must obtain a City business license.

Project meets the code. This is a condition of approval.

- E. The visual impact of wireless communications facilities must be minimized to the maximum extent feasible, taking into consideration technological requirements, through the use of placement, screening, camouflage and landscaping, so that the facility is compatible with adjacent uses, existing architectural elements, topography, neighborhood landscaping, building materials and other site characteristics.

Project meets the code. The project is located on an alley at the most easterly area of the proposed site. The project proposes a monopalm that will replace an existing palm tree. The monopalm's height will be compatible with the existing building, nearby palm trees, and utility poles. All other equipment will be screened by an existing wall and will not be seen.

- F. The colors and materials of wireless communications facilities must blend into their backgrounds.

Project meets the code. There are many palm trees in the area. All colors and materials would be required to blend in with other palm trees, and will be subject to staff review.

- G. Facade-mounted antennae must be integrated architecturally into the style and character of the structure to which they are attached; they must be painted and textured to match the existing structure; and they may not project more than eighteen inches from the face of the building or other support structure unless approved by a conditional use permit.

Project meets the code. Per the applicant, the facility cannot be located on the building. There are no open flat plains to locate the antennas and conduit. The building has many architectural pop-outs that do not allow for the facility to be located on the building. In addition, the exterior façade design would likely be compromised if the conduit were located on the building. Locating the facility on the building would require the base equipment to be located in the south-east concrete walled area, which would be too far from any building antennas. The base equipment could not be located in the

underground garage because it would likely remove parking spaces, which would not comply with IBMC 19.90.070.A (no existing parking spaces may be removed).

- H. Roof-mounted antennae may not exceed the minimum height necessary to serve the operator's service area, while complying with the building height requirements of this title; they must be designed to minimize their visibility from surrounding areas; and they must be painted and textured to match the existing structure or building.

Project meets the code. Per the applicant, there are no reasonable locations to place the facility on the roof. Because the base equipment would have to be located in the existing south-east concrete walled area, only one location for antennas may be possible, and would require rebuilding the roof of an existing residential unit. This would not be considered a viable design, and would not be allowed by the landlord. In addition, conduit would have to be added to the building façade, which would compromise the existing building design. The base equipment could not be located in the underground garage because it would likely remove parking spaces, which would not comply with IBMC 19.90.070.A (no existing parking spaces may be removed).

- I. Freestanding facilities, including towers, lattice towers and monopoles, are discouraged unless no reasonable alternative is possible. If a freestanding facility is necessary, it may not exceed the minimum functional height and width required to support the proposed wireless facility.

Project meets the code. The applicant claims that there are no reasonable alternatives. Staff requested that all efforts to locate the facility on the building façade or roof be exhausted prior to moving forward with a freestanding design. The proposed coverage area is to support the entire seacoast area and areas to the east. The proposed height provides for the minimum functional height required to support the proposed service.

- J. Proposed freestanding facilities must be stealth facilities; they must be painted and designed to blend in with the surrounding area; and they must be landscaped, if necessary, to minimize visual impacts.

Project meets the code. The project proposes a monopole that would blend in with nearby palm trees. The height would be shorter than the existing building, nearby palm trees, and nearby utility poles. The proposed site is approximately 150 feet east of Seacoast Drive.

- K. Wireless facility support structures, such as equipment buildings, cabinets, cables, air conditioning units and fencing, must be painted and textured to match the surrounding physical area and screened with landscaping in order to minimize visual impacts.

Project meets the code. All support equipment will be located within an existing walled area and would not provide any visual impacts.

- L. No advertising signs may be placed on any facility or equipment.

Project meets the code. No signs are proposed, and none would be allowed.

M. Wireless communications facilities located between the first public roadway and the ocean, San Diego Bay, or the Tijuana Estuary must be visually undetectable from Seacoast Drive, Imperial Beach Boulevard, public paths, bikeways, beaches and public recreational facilities, and must not require the construction of shoreline protective devices. If there is no feasible alternative that can comply with this requirement without resulting in a significant gap in communication coverage, then the alternative that would result in the fewest or least significant impacts to public views, public access and recreation, and shoreline processes shall be selected. (Ord. 2003-997 § 2 (part), 2003: Ord. 2002-983 § 30 (part), 2002).

Project meets the code. The proposed facility would be located approximately 150 feet east of the first public roadway (Seacoast Drive).

However, the proposed development would be removing existing landscaping from the site, which is not allowed for new developments at existing commercial properties. Typically landscaping is used to provide aesthetic appeal and drainage relief. The only aspect that can be viewed from ground-level is the palm tree, which will be replaced with a faux palm tree; all other landscaping proposed for removal is ground cover, and can only be viewed from the underground garage or aerial view. A landscape plan shall be provided at building permit submittal showing that replacement landscaping will be provided to mitigate for any landscaping that is being removed. The drainage would remain un-affected and contained by the proposed development.

#### **Design Review Standards**

	<b>Provided/Proposed</b>
The installation of wireless communications facilities may not reduce the number of required parking spaces on a proposed site.	No parking demand to be generated and the facility will not reduce existing parking.
Wireless communications facilities and accessory equipment must meet the required setbacks of the underlying zone, except that in a residential zone, the minimum setback for an antenna or equipment building from any property line is twenty feet.	There are no setbacks for the C-2 Zone.
Wireless communications facilities must meet the height requirement of the underlying zone, unless a greater height is approved through the conditional use permit.	There is a 30 foot height limit in the C-2 zone. The applicant has requested a deviation through the CUP process to allow for the antennas to exceed no taller than 53' above surrounding grade, 57' from underground garage grade.
A service provider with a wireless communications facility in the city must obtain a city business license.	This will be a condition of approval for the CUP.
The visual impact of wireless communications facilities must be minimized to the maximum extent feasible, taking into consideration technological requirements, through the use of placement, screening, camouflage, and landscaping, so that the facility is compatible with adjacent uses, existing architectural elements, topography, neighborhood landscaping, building materials, and other site characteristics.	The proposed antennae will be concealed in a faux palm tree stealth structure, not discernable as antennae. The vault will be concealed in a pre-existing, concrete walled area.

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The colors and materials of wireless communications facilities must blend into their backgrounds.	The housing for the antennae will be concealed on a faux palm tree stealth structure. The color and materials used for the monopalm structure will match the existing palm tree.
Facade-mounted antennae must be integrated architecturally into the style and character of the structure to which they are attached; they must be painted and textured to match the existing structure; and they may not project more than eighteen inches from the face of the building or other support structure unless approved by a conditional use permit.	There are no proposed façade-mounted facilities.
Roof-mounted antennae may not exceed the minimum height necessary to serve the operator's service area, while complying with the building height requirements of this title; they must be designed to minimize their visibility from surrounding areas; and they must be painted and textured to match the existing structure or building.	There are no proposed roof-mounted facilities.
Freestanding facilities, including towers, lattice towers, and monopoles, are discouraged unless no reasonable alternative is possible. If a freestanding facility is necessary, it may not exceed the minimum functional height and width required to support the proposed wireless facility.	The freestanding antenna will be concealed in a faux palm tree structure designed to blend in with the surrounding area. The proposed 53' faux palm tree is the desired functional height for the transmitting antennae.
Proposed freestanding facilities must be stealth facilities; they must be painted and designed to blend in with the surrounding area; and they must be landscaped, if necessary, to minimize visual impacts.	The freestanding antenna will be concealed on a faux palm tree structure designed to blend in with the surrounding area.
Wireless facility support structures, such as equipment buildings, cabinets, cables, air conditioning units, and fencing, must be painted and textured to match the surrounding physical area and screened with landscaping in order to minimize visual impacts	The base station equipment will be concealed next to the faux tree within an existing concrete walled area where an existing palm tree is located. Electric and telephone services are required to be extended to the project area via underground conduits.
No advertising signs may be placed on any facility or equipment.	There are no proposed advertising signs.

#### Surrounding Zoning and Land Use

North:	C-2	Commercial
South:	C-2	Commercial
East:	R-2000	Residential
West:	PF	Public Facility (Pier Plaza)

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**ENVIRONMENTAL STATUS:** This project may be categorically exempt pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15302(c) (Replacement or reconstruction of existing utility systems and/or facilities involving negligible or no expansion of capacity).

**COASTAL JURISDICTION:** The project is located in the Coastal Zone and the City will need to consider evaluating the project with respect to conformity with coastal permit findings.

**FISCAL ANALYSIS:**

The applicant has deposited \$8,500.00 in Project Account Number 080015 to fund the processing of this application.

**DESIGN REVIEW BOARD (DRB) RECOMMENDATION:**

On July 17, 2008, the Design Review Board recommended approval of the 48'-5" freestanding monopalm facility. All alternate monopalm designs are in substantial compliance with the recommended approval.

**DEPARTMENT RECOMMENDATION:**

1. Open the public hearing and entertain testimony.
2. Close the public hearing.
3. Review alternate designs.
4. Adopt Resolution No. 2008-6692, approving Regular Coastal Permit (CP 080015), Conditional Use Permit (CUP 080016), Design Review Case (DRC 080017), and Site Plan Review (SPR 080018), which makes the necessary findings and provides conditions of approval in compliance with local and state requirements.
5. If alternate design is chosen, revise resolution.

**CITY MANAGER'S RECOMMENDATION:**

Approve Department recommendation.

\_\_\_\_\_  
Gary Brown  
City Manager

**Attachments:**

1. Resolution No. 2008-6692
2. Plans
3. FCC Compliance
4. Applicant Site Analysis and Design Justification
5. Citizen Opposition Letters

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November 19, 2008

c: file MF 974  
Jim Kennedy, Parsons Corp. for T-Mobile, 110 W. A Street, Ste. 1050, San Diego, CA  
92101  
Torrey Pines Merziotis Props., Attn. Andy Parashos, P.O. Box 2306, La Jolla, CA 92038  
Hank Levien, Public Works Director  
Ed Wilczak, Building Official  
Frank Sotelo, Public Safety  
California Coastal Commission, Diana Lilly, Coastal Program Analyst, 7575 Metropolitan  
Drive, Suite 103, San Diego, CA 92108-1735  
Senate District 40, Senator Ducheny via Johnathan Hardy, Chula Vista District Office,  
637 3<sup>rd</sup> Avenue, Suite A-1, Chula Vista, CA 91910

**Return to Agenda**



## Argus Village — View 1

933 Seacoast Drive, Imperial Beach, CA 91932  
T-Mobile Site ID: SD07447A

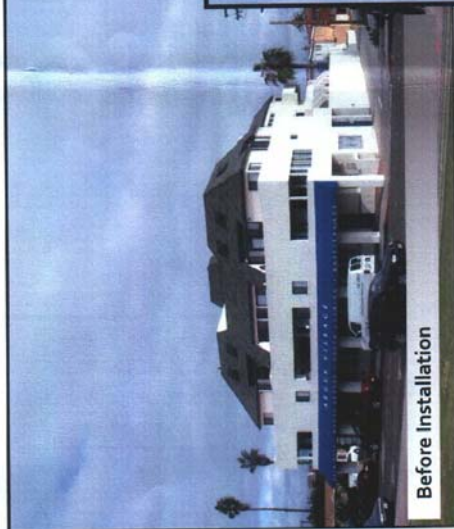


EXHIBIT NO. 5
APPLICATION NO.
<b>A-6-IMB-08-121</b>
Visual Analysis

California Coastal Commission

**PARSONS**  
110 West A Street  
Suite 1050  
San Diego, CA 92101

**MHI**  
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5994 W. Las Positas Blvd.  
Suite 123  
Pleasanton, CA 94588

Argus Village — View 2

933 Seacoast Drive, Imperial Beach, CA 91932  
T-Mobile Site ID: SD07447A



**T-Mobile**  
10180 Telesis Court  
Suite 333  
San Diego, CA 92121-2741

**PARSONS**  
110 West A Street  
Suite 1050  
San Diego, CA 92101

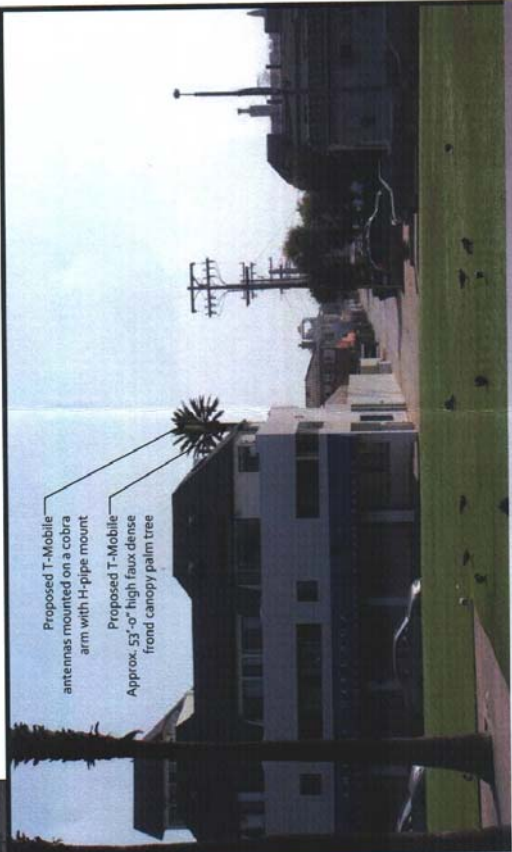
**MA**  
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Pleasanton, CA 94588

Argus Village — View 3

933 Seacoast Drive, Imperial Beach, CA 91932  
T-Mobile Site ID: SDO7447A



Before Installation



After Installation

**T-Mobile**  
10180 Telesis Court  
Suite 333  
San Diego, CA 92121-2741

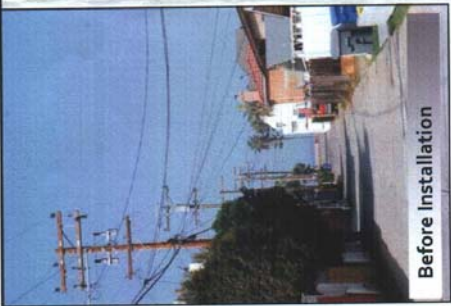
**PARSONS**  
110 West A Street  
Suite 1050  
San Diego, CA 92101

**M**  
MORRISON HERSHFELD  
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Suite 123  
Pleasanton, CA 94588

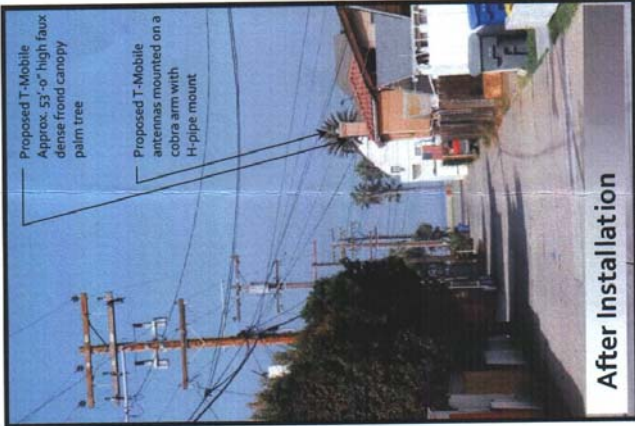


Argus Village — View 4

933 Seacoast Drive, Imperial Beach, CA 91932  
T-Mobile Site ID: SD07447A



Before Installation



After Installation

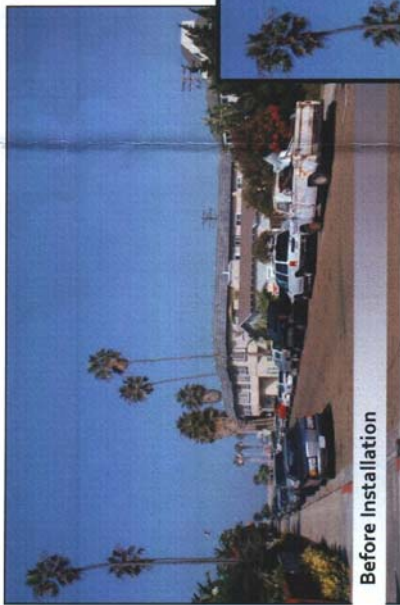
**T-Mobile**  
10180 Telesis Court  
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San Diego, CA 92121-2741

**PARSONS**  
110 West A Street  
Suite 1050  
San Diego, CA 92101

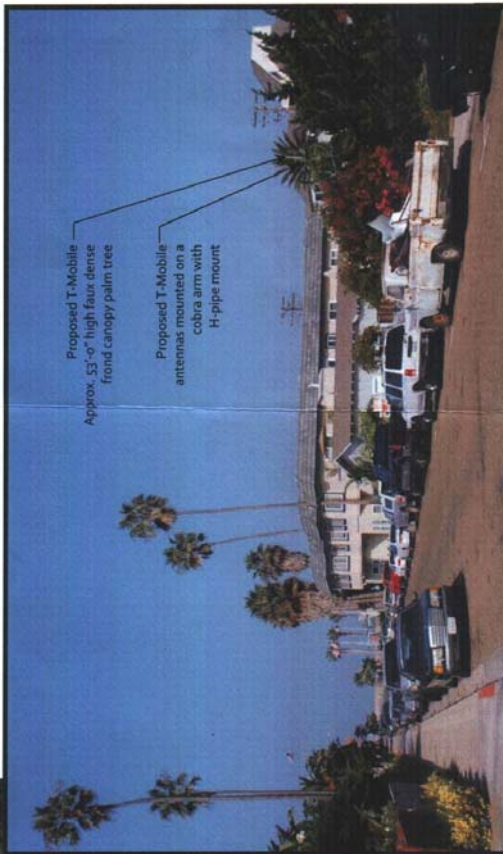
**MORRISON HERSHFELD**  
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Suite 123  
Pleasanton, CA 94588

## Argus Village — View 5

933 Seacoast Drive, Imperial Beach, CA 91932  
T-Mobile Site ID: SD0747A



Before Installation



After Installation



10180 Telesis Court  
Suite 333  
San Diego, CA 92121-2741



110 West A Street  
Suite 1050  
San Diego, CA 92101



MORRISON HERSHFIELD  
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