



# City of Santa Barbara California

## CITY OF SANTA BARBARA PLANNING COMMISSION

### RESOLUTION NO. 019-08 730 MIRAMONTE DRIVE CONDITIONAL USE PERMIT AMENDMENT MAY 22, 2008

**APPLICATION OF VADIM M. HSU, ARCHITECT, FOR KATHERINE DRISCOLL-ROCHE AND KEYT, 730 MIRAMONTE DRIVE, 035-050-060,A-1/E-1, SINGLE FAMILY, ZONES, GENERAL PLAN DESIGNATION: RESIDENTIAL 3 UNITS/ACRE (MST2006-00234)**

The project consists of the abatement and permitting of the following as-built conditions: two ground-mounted satellite dishes, removal of vinyl fencing surrounding existing satellite dish farm, two air conditioner units used for the approved Verizon equipment building, the replacement HVAC rooftop equipment, removal of two pole lights, removal of a ramp, and security lighting. In addition, the project includes the installation of a wooden fence surrounding the satellite dish farm and changes to the existing landscape plan, which is in compliance with all Zoning and Fire Code requirements. The applicant is also requesting permission for periodic small-scale events.

The discretionary application required for this project is a Conditional Use Permit Amendment to allow the as-built installation of two additional satellite dishes (SBMC§28.94.20).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Guidelines Section 15301.

**WHEREAS**, the Planning Commission has held the required public hearing on the above application, and the Applicant was present.

**WHEREAS**, no one appeared to speak in favor of the application, and no one appeared to speak in opposition thereto, and the following exhibits were presented for the record:

1. Staff Report with Attachments, May 19, 2008
2. Site Plans

**NOW, THEREFORE BE IT RESOLVED** that the City Planning Commission:

- I. Approved the subject application making the following findings and determinations:
  - A. Conditional Use Permit Findings (SBMC § 28.94.20)
    1. The use is deemed essential or desirable to the public convenience or welfare and is in harmony with the various elements or objectives of the Comprehensive General Plan;
    2. The use will not be materially detrimental to the public peace, health, safety, comfort and general welfare and will not materially affect property values in the particular neighborhood involved;

3. The total area of the site and the setbacks of all facilities from property and street lines are of sufficient magnitude in view of the character of the land and of the proposed development that significant detrimental impact on surrounding properties is avoided.
  4. Adequate access and off-street parking including parking for guests is provided in a manner and amount so that the demands of the development for such facilities are adequately met without altering the character of the public streets in the area at any time, as demonstrated in the parking demand study.
  5. The appearance of the developed site in terms of the arrangement, height, scale and architectural style of the buildings, location of parking areas, landscaping and other features is compatible with the character of the area.
  6. The project complies with the additional specific requirements for a conditional use permit for Radio or Television Antenna below.
- B. Conditional Use Permit Findings Specific for Radio or Television Antenna (SBMC28.94.030(DD)(2)):
1. Shared Use of Support Structure. The applicant had made a good faith effort to demonstrate that no existing or planned support structure, including an antenna tower, is available to accommodate the proposed antenna.
  2. Site Size. The site is of a size and shape sufficient to provide an adequate setback from the base of the antenna support structure to any property line abutting a residential use.
  3. Visual Impact. The project has been reviewed by the Architectural Board of Review which has evaluated the location of the antenna(s) on the site, including the color and size so as to minimize any adverse visual impacts by requiring that the antenna and its supporting structure be designed and placed so as to be as visually unobtrusive as feasible, taking into consideration technical engineering and other pertinent factors.
  4. Non-ionizing Electromagnetic Radiation (NIER) Emissions. Any new transmitters and/or antennas, when combined with existing sources of NIER emissions on or adjacent to the site and when operating as designed and licensed, will not expose the general public to ambient radiation emissions which exceed American National Standards Institute (ANSI) C95.1-1992 standard (if the Federal Communications Commission (FCC) rulemaking committee adopts a revised standard, said standard shall apply).

II. Said approval is subject to the following conditions:

- A. **Recorded Agreement.** Prior to the issuance of any Public Works permit or Building permit for the project on the Real Property, the Owner shall execute a written instrument, which shall be reviewed as to form and content by the City Attorney, Community Development Director and Public Works Director, recorded in the Office of the County Recorder, and shall include the following:
1. **Uninterrupted Water Flow.** The Owner shall provide for the uninterrupted flow of water through the Real Property including, but not limited to, swales, natural watercourses, conduits and any access road, as appropriate.
  2. **Landscape Plan Compliance.** The Owner shall comply with the Landscape Plan approved by the Architectural Board of Review (ABR) and the City's Wildland Fire Specialist. Such plan shall not be modified unless prior written approval is obtained from the ABR and the City's Wildland Fire Specialist. The landscaping on the Real Property shall be provided and maintained in accordance with said landscape plan. If said landscaping is removed for any reason without approval by the ABR, the owner is responsible for its immediate replacement.
  3. **Approved Development.** The development of the Real Property approved by the Planning Commission on May 22, 2008 is limited to a Conditional Use Permit for the use of an existing 8,000 square foot building as a television studio and related offices, a 240 square foot wireless equipment trailer, and 6 send/receive satellite dishes. Up to six (6) events attended by up to 50 guests to be held after 6:30 p.m. providing parking for all guests on site. Up to two (2) special events a year that would be attended by up to 100 guests to be held after 6:30 p.m. providing parking both on-site and at an offsite location subject to condition A.6. below. All events are subject to the Noise Ordinance (SBMC§9.16).
  4. **Required Private Covenants.** The Owners shall record in the official records of Santa Barbara County either private covenants, a reciprocal easement agreement, or a similar agreement which, among other things, shall provide for all of the following:
    - a. **Landscape Maintenance.** A covenant that provides that the landscaping shown on the approved Landscaping Plan shall be maintained and preserved at all times in accordance with the Plan.
    - b. **Trash and Recycling.** Trash holding areas shall include recycling containers with at least equal capacity as the trash containers, and trash/recycling areas shall be easily accessed by the consumer and the trash hauler. Green waste shall either have containers adequate for the landscaping or be hauled off site by the landscaping maintenance company. If no green waste containers are provided for common interest

developments, include an item in the CC&Rs stating that the green waste will be hauled off site.

5. **Use Limitations.** Due to potential traffic and parking impacts, uses other than general office and television studio are not permitted without further environmental and/or Planning Commission review and approval. Prior to initiating a change of use, the Owner shall submit a letter to the Community Development Director detailing the proposal, and the Director shall determine the appropriate review procedure and notify the Applicant.
  6. **Special Event Parking Agreement.** The Owner shall provide off-site parking to meet the generated parking demand for periodic special events to be attended by more than 50 and up to 100 guests, as determined by the Public Works Director. A plan for special event parking must be provided for review by the Public Works Director a minimum of 30 days prior to the event date for review and approval. If the parking demand is not met or a plan is not submitted in a timely matter, the project shall be returned to the Planning Commission for further review and consideration. The plan shall identify a location which has excess parking available during the special event.
  7. **Water Rights Assignment Agreement.** The Owner shall assign to the City of Santa Barbara the exclusive right to extract ground water from under the Real Property in an "Agreement Assigning Water Extraction Rights." Engineering Division Staff will prepare said agreement for the Owner's signature.
- B. **Design Review.** The following items are subject to the review and approval of the Architectural Board of Review (ABR). ABR shall not grant preliminary approval of the project until the following conditions have been satisfied.
1. **Tree Protection Measures.** The landscape plan shall include the following tree protection measures:
    - a. **Landscaping Under Trees.** Landscaping under the tree(s) shall be compatible with the preservation of the tree(s).
    - b. **Oak Tree Protection Measures.** The following provisions shall apply to existing oak trees on site:

Landscaping provided under the oak tree(s) shall be compatible with preservation of the trees as determined by the ABR. No irrigation system shall be installed under the dripline of any oak tree.
  2. **Landscape Screening.** Landscaping with low water use plants and/or a solid screen wall or fence shall be provided to buffer the parking area from adjacent neighbors.
  3. **"Doghouse".** The large box structure on the roof, identified as the 'doghouse,' shall be included in the improved screening of rooftop mechanical equipment, with the purpose of reducing its visibility and improving its appearance.

4. **ADA Compliant Improvements.** Provide an accessible entry ramp from the parking lot into the main entry adjacent to the proposed accessible parking spaces. Said improvements shall be reviewed for compliance with accessibility requirements and Title 24 .
5. **Removal of Unnecessary Rooftop Structures.** The pole and guide wires, used for installing seasonal decorations above the studio portion of the building, as well as any other unnecessary structure shall be removed from the rooftop.

C. **Building Permit Plan Requirements.** The following requirements/notes shall be incorporated into the construction plans submitted to the Building and Safety Division for Building permits.

1. **Design Review Requirements.** Plans shall show all design, landscape and tree protection elements, as approved by the Architectural Board of Review, outlined in Section B above.
2. **Conditions on Plans/Signatures.** The final Planning Commission Resolution shall be provided on a full size drawing sheet as part of the drawing sets. Each condition shall have a sheet and/or note reference to verify condition compliance. If the condition relates to a document submittal, indicate the status of the submittal (e.g., Final Map submitted to Public Works Department for review). A statement shall also be placed on the above sheet as follows: The undersigned have read and understand the above conditions, and agree to abide by any and all conditions which is their usual and customary responsibility to perform, and which are within their authority to perform.

Signed:

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| Property Owner | Date |
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| Contractor | Date | License No. |
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| Architect | Date | License No. |
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| Engineer | Date | License No. |
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D. **Construction Implementation Requirements.** All of these construction requirements shall be carried out in the field by the Owner and/or Contractor for the duration of the project construction.

1. **Construction Hours.** Construction (including preparation for construction work) is prohibited Monday through Friday before 7:00 a.m. and after 5:00 p.m., and all day on Saturdays, Sundays and holidays observed by the City of Santa Barbara, as shown below:

|                               |                                   |
|-------------------------------|-----------------------------------|
| New Year's Day                | January 1st*                      |
| Martin Luther King's Birthday | 3rd Monday in January             |
| Presidents' Day               | 3rd Monday in February            |
| Memorial Day                  | Last Monday in May                |
| Independence Day              | July 4th*                         |
| Labor Day                     | 1st Monday in September           |
| Thanksgiving Day              | 4th Thursday in November          |
| Following Thanksgiving Day    | Friday following Thanksgiving Day |
| Christmas Day                 | December 25th*                    |

\*When a holiday falls on a Saturday or Sunday, the preceding Friday or following Monday, respectively, shall be observed as a legal holiday.

When, based on required construction type or other appropriate reasons, it is necessary to do work outside the allowed construction hours, contractor shall contact the Chief of Building and Safety to request a waiver from the above construction hours, using the procedure outlined in Santa Barbara Municipal Code §9.16.015 Construction Work at Night. Contractor shall notify all residents within 300 feet of the parcel of intent to carry out night construction a minimum of 48 hours prior to said construction. Said notification shall include what the work includes, the reason for the work, the duration of the proposed work and a contact number.

2. **Construction Parking/Storage/Staging.** Construction parking and storage shall be provided as follows:
  - a. During construction, free parking spaces for construction workers and construction shall be provided on-site or off-site in a location subject to the approval of the Public Works Director. Construction workers are prohibited from parking within the public right-of-way, except as outlined in subparagraph b. below.
  - b. Parking in the public right of way is permitted as posted by Municipal Code, as reasonably allowed for in the 2006 Greenbook (or latest reference), and with a Public Works permit in restricted parking zones. No more than three (3) individual parking permits *without extensions* may be issued for the life of the project.
  - c. Storage or staging of construction materials and equipment within the public right-of-way shall not be permitted, unless approved by the Transportation Manager.
  - d. **Oak Tree Protection Measures.** The following provisions shall apply to existing oak trees on site:
    - (a) During construction, fencing or protective barriers shall be placed around and three feet outside of the dripline of all oak trees located within 25 feet of development.

- (b) No grading shall occur under any oak tree dripline, except as indicated on the site plan for construction of the fencing for the satellite dish farm. Grading within the dripline during construction of this area shall be minimized and shall be done with light (one ton or less) rubber-tired equipment or by hand. If use of larger equipment is necessary within the dripline of any oak, it shall only be operated under the supervision and direction of a qualified Arborist.
  - (c) A qualified Arborist shall be present during any grading or excavation adjacent to or beneath the dripline of any oak tree. Any roots encountered shall be cleanly cut and sealed with a tree-seal compound. Any thinning or root pruning and trimming shall be done under the direction of a qualified Arborist.
  - (d) No storage of heavy equipment or materials, or parking shall take place within five (5) feet of the dripline of any oak tree.
  - (e) Oak seedlings and saplings less than four inches (4") at four feet (4') above the ground that are removed during construction shall be transplanted where feasible. If transplantation is not feasible, replacement trees shall be planted at a minimum one to one (1:1) ratio. Replacement trees shall be a minimum of one (1) gallon size derived from South Coastal Santa Barbara County stock.
3. **Existing Tree Preservation.** The existing tree(s) shown on the approved Landscape to be saved shall be preserved and protected and fenced three feet outside the dripline during construction.
4. **Construction Equipment Maintenance.** All construction equipment, including trucks, shall be professionally maintained and fitted with standard manufacturers' muffler and silencing devices.
5. **Unanticipated Archaeological Resources Contractor Notification.** Prior to the start of any vegetation or paving removal, demolition, trenching or grading, contractors and construction personnel shall be alerted to the possibility of uncovering unanticipated subsurface archaeological features or artifacts associated with past human occupation of the parcel. If such archaeological resources are encountered or suspected, work shall be halted immediately, the City Environmental Analyst shall be notified and the applicant shall retain an archaeologist from the most current City Qualified Archaeologists List. The latter shall be employed to assess the nature, extent and significance of any discoveries and to develop appropriate management recommendations for archaeological resource treatment, which may include, but are not limited to, redirection of grading and/or excavation activities, consultation and/or monitoring with a Barbareño Chumash representative from the most current City qualified Barbareño Chumash Site Monitors List, etc.

If the discovery consists of possible human remains, the Santa Barbara County Coroner shall be contacted immediately. If the Coroner determines that the remains are Native American, the Coroner shall contact the California Native American Heritage Commission. A Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Environmental Analyst grants authorization.

If the discovery consists of possible prehistoric or Native American artifacts or materials, a Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Environmental Analyst grants authorization.

- E. **Prior to Certificate of Occupancy.** Prior to issuance of the Certificate of Occupancy, the Owner of the Real Property shall complete the following:
1. **Repair Damaged Public Improvements.** Repair any damaged public improvements *caused by construction* (curbs, gutters, sidewalks, roadways, etc.) subject to the review and approval of the Public Works Department per SBMC §22.60.090. Where tree roots are the cause of the damage, the roots shall be pruned under the direction of a qualified arborist.
  2. **Complete Public Improvements.** Public improvements, as shown in the building plans, including utility service undergrounding and installation of street trees.
  3. **Evidence of Private CC&Rs Recordation.** Evidence shall be provided that the private CC&Rs required in Section A have been recorded.
- F. **Litigation Indemnification Agreement.** In the event the Planning Commission approval of the Project is appealed to the City Council, Applicant/Owner hereby agrees to defend the City, its officers, employees, agents, consultants and independent contractors ("City's Agents") from any third party legal challenge to the City Council's denial of the appeal and approval of the Project, including, but not limited to, challenges filed pursuant to the California Environmental Quality Act (collectively "Claims"). Applicant/Owner further agrees to indemnify and hold harmless the City and the City's Agents from any award of attorney fees or court costs made in connection with any Claim.

Applicant/Owner shall execute a written agreement, in a form approved by the City Attorney, evidencing the foregoing commitments of defense and indemnification within thirty (30) days of the City Council denial of the appeal and approval of the Project. These commitments of defense and indemnification are material conditions of the approval of the Project. If Applicant/Owner fails to execute the required defense and indemnification agreement within the time allotted, the Project approval shall become null and void absent subsequent acceptance of the agreement by the City, which

acceptance shall be within the City's sole and absolute discretion. Nothing contained in this condition shall prevent the City or the City's Agents from independently defending any Claim. If the City or the City's Agents decide to independently defend a Claim, the City and the City's Agents shall bear their own attorney fees, expenses, and costs of that independent defense.

**NOTICE OF APPROVAL TIME LIMITS:**

The Planning Commission's action approving the Conditional Use Permit, Modification, Performance Standard Permit, or Variance shall terminate two (2) years from the date of the approval, per Santa Barbara Municipal Code §28.87.360, unless:

1. An extension is granted by the Community Development Director prior to the expiration of the approval; or
2. A Building permit for the use authorized by the approval is issued within and the construction authorized by the permit is being diligently pursued to completion and issuance of a Certificate of Occupancy.
3. The approval has not been discontinued, abandoned or unused for a period of six months following the earlier of (a) an Issuance of a Certificate of Occupancy for the use, or (b) two (2) years from granting the approval.

If multiple discretionary applications are approved for the same project, the expiration date of all discretionary approvals shall correspond with the longest expiration date specified by any of the discretionary applications, unless such extension would conflict with state or federal law. The expiration date of all approvals shall be measured from date of the final action of the City on the application, unless otherwise specified by state or federal law.

This motion was passed and adopted on the 22nd day of May, 2008 by the Planning Commission of the City of Santa Barbara, by the following vote:

AYES: 6 NOES: 0 ABSTAIN: 0 ABSENT: 1 (Jostes)

I hereby certify that this Resolution correctly reflects the action taken by the City of Santa Barbara Planning Commission at its meeting of the above date.

  
\_\_\_\_\_  
Julie Rodriguez, Planning Commission Secretary

  
\_\_\_\_\_  
Date

THIS ACTION OF THE PLANNING COMMISSION CAN BE APPEALED TO THE CITY COUNCIL WITHIN TEN (10) DAYS AFTER THE DATE THE ACTION WAS TAKEN BY THE PLANNING COMMISSION.