



# City of Santa Barbara California

## CITY OF SANTA BARBARA PLANNING COMMISSION

RESOLUTION NO. 003-16  
1 N. CALLE CESAR CHAVEZ  
CONDITIONAL USE PERMIT  
FEBRUARY 4, 2016

**APPLICATION OF JOHN CUYKENDALL, APPLICANT FOR JACQUES INVESTMENTS LP, 1 NORTH CALLE CESAR CHAVEZ, APN 017-113-012, OM-1/SD-3 ZONE, GENERAL PLAN DESIGNATION: OCEAN ORIENTED INDUSTRIAL (MST2015-00570)**

The proposed project consists of the installation of an FM radio antenna on the roof of the existing Vercal Building over the Calvary Chapel leasehold space. The purpose of the antenna is for the church to receive a signal from another location and transmit it locally in the Santa Barbara area. The radio station will be ancillary to the use of the property as a church and used to broadcast services, etc. The height of the antenna will be approximately 20 feet above the roof line. The overall height of the antenna from grade will be approximately 50 feet. The proposed translator antenna operation does not involve any onsite personnel.

The discretionary application required for this project is:

1. A Conditional Use Permit (CUP) to allow the installation of a radio antenna (SBMC §28.94.030.DD).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Act Guidelines Section 15303.

**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 or in opposition thereto, and the following exhibits were presented for the record:

1. Staff Report with Attachments, January 28, 2016
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. **General Findings for the Conditional Use Permit (SBMC §28.94.020)**

1. *Any such 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.*

The antenna installation is essential and desirable to the public convenience or welfare and, as discussed in Section VI.B, is consistent with applicable policies of the Santa Barbara General Plan.

2. *Such uses 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.*

As discussed in Section VI.B, and Section VII above, the project will not be materially detrimental or effect property values; the equipment will be located inside the building and will not emit significant noise. The antenna will not emit radio frequency radiation above levels established by the Federal Communications Commission.

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.*

The project is buffered adequately to avoid significant detrimental impacts on surrounding properties by the location of the small antenna on the building's high roof. The location of the antenna on the 7.44 acre site is nearly 200 feet from the nearest property line.

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.*

The antenna is an FM "translator" antenna which receives a signal from another location and transmits it locally. It does not involve any on site personnel, therefore does not generate any on-site parking demand.

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. The Planning Commission shall have the authority to approve the design of open space. Design shall mean size, shape, location and usability for proposed private, public, or quasi-public purposes and development. Approval of such open spaces may be expressly conditioned upon an offer of conveyance by the owner to the City of Santa Barbara of the development rights, the right to prohibit the construction of additional buildings, or other property rights, necessary to achieve the purposes set forth in this title.*

The project has no significant effect on the appearance of the developed site. The size of the proposed antenna mounted on the roof of the Vercal Building is insignificant in proportion to the existing building. The project is compatible with the industrial character of the area, and has no effect on open space.

6. *Compliance with any additional specific requirements for a conditional use permit. The Planning Commission may impose such other conditions and restrictions upon the proposed use consistent with the Comprehensive General Plan and may require security to assure satisfactory performance of all conditions and restrictions.*

Staff has no recommended additional specific requirements.

**B. Additional Specific Findings for Antennas (SBMC §28.94.030.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.*

The proposal is using an existing rooftop mechanical platform to attach the four inch pole for the support structure.

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.*

The subject property has no property line abutting a residential use, and there is no residential use in proximity to the project.

3. *Visual Impact. The project has been reviewed by the Architectural Board of Review. The Board may take action on the location of the antenna(s) on the site, 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.*

As discussed in Section VIII, the ABR found that the antenna and supporting structure is approvable as submitted.

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, shall 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).*

As discussed in Section VII of this report and as evaluated in the Study by Preiser Consulting dated November 30, 2015, the antenna will not expose the general public to ambient radiation emissions in excess of applicable FCC standards. Appropriate signage will be included to warn maintenance personnel working at an elevated position of the antenna.

II. Said approval is subject to the following conditions:

- A. **Order of Development.** In order to accomplish the proposed development, the following steps shall occur in the order identified:

1. Obtain all required design review approvals.
2. Pay Land Development Team Recovery Fee (30% of all planning fees, as calculated by staff) at time of building permit application.
3. Record any required documents (see Recorded Conditions Agreement section).
4. Obtain a Building Permit.

Details on implementation of these steps are provided throughout the conditions of approval.

- B. **Recorded Conditions Agreement.** The Owner shall execute a *written instrument*, which shall be prepared by Planning staff, reviewed as to form and content by the City Attorney, and Community Development Director, recorded in the Office of the County Recorder, and shall include the following:

1. **Approved Development.** The development of the Real Property approved by the Planning Commission on February 4, 2016 is limited to the radio antenna and related improvements shown on the plans signed by the chairperson of the Planning Commission on said date and on file at the City of Santa Barbara.
2. The Planning Commission's approval of the Conditional Use Permit is dependent upon the project incorporating the following concealment methodologies as shown on the approved plans: the maximum height of the antenna and the supporting structure, scale and size of both the support and the antenna, the color scheme as approved by the Architectural Board of Review, and the fact that all equipment related to the antenna is located within the interior of the building rather than the roof or on the exterior elevations of the building.

3. Per the recommendation of the Radio Frequency Compliance Study prepared by Preiser Consulting, dated November 30, 2015, warning signage below the antenna on the antenna mounting structure shall be installed to prevent exposure within 3 feet of the antenna as may be encountered by maintenance personnel working at elevated positions.
4. The approval of this conditional use is individual to the Calvary Chapel Church. Upon the expiration or other termination of the Calvary Chapel Church's tenancy at 1 Calle Cesar Chavez, the conditional use shall cease and the antenna and supporting structure shall be removed from the building.

C. **Requirements Prior to Permit Issuance.** The Owner shall submit the following, or evidence of completion of the following, for review and approval by the Department listed below prior to the issuance of any permit for the project. Please note that these conditions are in addition to the standard submittal requirements for each department.

1. **Community Development Department.**

- a. **Recordation of Agreements.** The Owner shall provide evidence of recordation of the written instrument that includes all of the Recorded Conditions identified in condition B "Recorded Conditions Agreement" to the Community Development Department prior to issuance of any building permits.
- b. **Conditions on Plans/Signatures.** The final 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. A statement shall also be placed on the sheet as follows: The undersigned have read and understand the required conditions, and agree to abide by any and all conditions which are 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. \_\_\_\_\_

2. **Approval Limitations.**

- a. The conditions of this approval supersede all conflicting notations, specifications, dimensions, and the like which may be shown on submitted plans.
- b. The antenna and supports shall be located substantially as shown on the plans approved by the Planning Commission.

- c. Any deviations from the project description, approved plans or conditions must be reviewed and approved by the City, in accordance with the Planning Commission Guidelines. Deviations may require changes to the permit and/or further environmental review. Deviations without the above-described approval will constitute a violation of permit approval.
3. **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 being notified of a lawsuit regarding 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.

### III. NOTICE OF CONDITIONAL USE PERMIT APPROVAL TIME LIMITS:

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

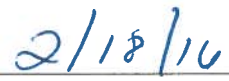
1. An extension is granted by the Community Development Director prior to the expiration of the approval; or
2. A Building permit for the use authorized by the approval is issued and the construction authorized by the permit is being diligently pursued to completion and issuance of a Certificate of Occupancy.

This motion was passed and adopted on the 4th day of February, 2016 by the Planning Commission of the City of Santa Barbara, by the following vote:

AYES: 7 NOES: 0 ABSTAIN: 0 ABSENT: 0

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

**PLEASE BE ADVISED:**

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