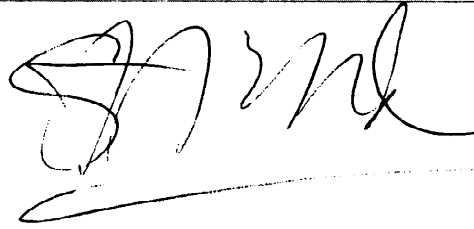


**Rodriguez, Jane**

**From:** Madison, Steve  
**Sent:** Monday, October 23, 2006 4:24 PM  
**To:** Rodriguez, Jane  
**Cc:** Suzuki, Takako  
**Subject:** FW: Call for Review



I wish to agendize a call for review for:

- CUP #4657
- 940 Avenue 64
- Council District #6
- Conditional Use Permit: For the installation, operation, and maintenance of unmanned telecommunication equipment for Cingular Wireless. A 35-foot tall broadleaf faux tree antenna with a subterranean equipment vault is proposed to be located on a hill where there is a flat area.



PLANNING & DEVELOPMENT DEPARTMENT  
PLANNING DIVISION

October 20, 2006

Jennifer Moser  
Moser Consulting  
14144 Central Avenue Suite A  
Chino, CA 91710

**RE: Conditional Use Permit #4657  
940 Avenue 64  
Council District #6**

Dear Ms. Moser:

Your appeal application for a **Conditional Use Permit** at **940 Avenue 64** was considered by the **Board of Zoning Appeals** on **October 18, 2006**.

**CONDITIONAL USE PERMIT: For the installation, operation, and maintenance of unmanned telecommunication equipments for Cingular Wireless. A 35-foot tall broadleaf faux tree antenna with a subterranean equipment vault is proposed to be located on a hill where there is flat area.**

After careful consideration of this application, and with full knowledge of the property and vicinity, the Board of Zoning Appeals made the findings as shown on Attachment A to this letter.

Based upon the findings, the Board of Zoning Appeals decided to **overturn** the decision of the Hearing Officer and **approve** the Conditional Use Permit with the conditions listed in Attachment B and C and in accordance with submitted plans stamped **October 18, 2006**.

In accordance with Section 17.64.040 of the Pasadena Municipal Code, the exercise of the right granted under this application must be commenced within two years of the effective date of the approval, unless otherwise specified in the conditions of approval. The Zoning Administrator can grant a one-year extension of your approval. Such a request and the appropriate fee must be received before the expiration date. The right granted by this approval may be revoked if the entitlement is exercised contrary to the conditions of approval or if it is exercised in violation of the Zoning Code.

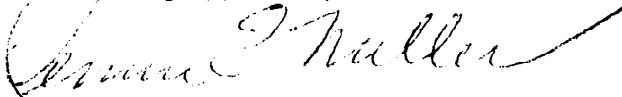
You are advised that an application for a building permit is not sufficient to vest the rights granted by this approval. The building permit must be issued and construction diligently pursued prior to the expiration of this approval. It should be noted that the time frame within which judicial review of the decision must be sought is governed by California Code of Civil Procedures, Section 1094.6.

You are hereby notified that the decision of the Board of Zoning Appeals is not subject to further appeal. This decision becomes effective on the eleventh day from the date of the decision. The effective date for this case is **October 31, 2006**. However, prior to the effective date, a member of the City Council may stay the decision and request that it be called for review to the City Council.

This project has been determined to be exempt from environmental review pursuant to the guidelines of the California Environmental Quality Act (Public Resources Code §21080(b)(9); Administrative Code, Title 14, Chapter 3, Class 3 §15303, New Construction or Conversion of Small Structures). This exemption allows installation of small new equipment and facilities in small structures.

For further information regarding this case please contact **Jacqueline Ellis** at **(626) 744-6709**.

Board of Zoning Appeals, by



DENVER E. MILLER  
Zoning Administrator

DEM:ac

Enclosures: Attachment A, Attachment B, Attachment C

xc: City Clerk, City Council, Building Division, Public Works, Power Division, Water Division, Design and Historic Preservation, Hearing Officer, Betty Anderson, Code Enforcement-Ellen Clark, Case File, Decision Letter File, Planning Commission (9).

**ATTACHMENT A**  
**SPECIFIC FINDINGS FOR CONDITIONAL USE PERMIT #4657**

Conditional Use Permit: Installation, Operation and Maintenance of Telecommunications Equipment

1. *The proposed use is allowed with a Conditional Use Permit within the applicable zoning district and complies with all applicable provisions of the PS (Public Space) zoning district. Specifically, the proposal meets the minimum development standards as specified in Section 17.50.310 (Telecommunication Facilities) of the Zoning Code.*
2. *The location of the proposed use complies with the special purposes of this Zoning Code and the purposes of the applicable zoning district in that the proposal involves the installation one unmanned wireless telecommunications installation which includes a mono-tree antenna with four antennas per sector (three sectors are proposed), and a subterranean vault. The use is permitted in the PS zoning district with a Conditional Use Permit.*
3. *The proposed use is in conformance with the goals, policies, and objectives of the General Plan and the purpose and intent of any applicable specific plan. An objective of the General Plan Land Use Element is to assure that new and/or incidental development is consistent and compatible with the surrounding institutional and residential districts. In this case, the synthetic tree antennae will be finished to match the existing trees.*
4. *The proposed use is in conformance with the goals, policies, and objectives of the General Plan and the purpose and intent of any applicable specific plan in that an objective of the General Plan Land Use Element is to assure that new and/or incidental development is consistent and compatible with the surrounding institutional and residential districts. The project is consistent with the existing land uses in the PS zoning district and the existing buildings in that there is negligible impact to surrounding uses from this installation.*
5. *The establishment, maintenance, or operation of the use would not, under the circumstances of the particular case, be detrimental to the health, safety, or general welfare of persons residing or working in the neighborhood of the proposed use in that the proposed telecommunication facilities must comply with the federally adopted health and safety thresholds established in the Federal Communications Act of 1996. The proposed communications facility will operate in full compliance with the U.S. standards for radio frequency emissions as published by the American National Standards Institute (ANSI). Similar telecommunication facilities such as this have been documented to operate and transmit at levels far below the federal standards. No significant impacts are anticipated as a result of this project.*
6. *The use, as described and conditionally approved, would not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City in that the project applicant, Cingular Wireless, is strictly regulated by the Federal Communications Commission (FCC) and that the telecommunication facilities will operate at or below the threshold of significance as regulated by the FCC that is deemed safe for human exposure to radio frequency and electromagnetic fields.*
7. *The design location, operating characteristics, and size of the proposed use would be compatible with the existing and future land uses in the vicinity in terms of aesthetic values, character, scale, and view protection in that antennae will be installed on a faux broadleaf tree. This will help screen the antennae from view. The proposed equipment vault will be located below grade, mitigating any potential visual impacts that could arise because of this application.*

8. *There are no existing buildings or support structures are located within the geographic area proposed to be served by the applicant's facility at the top of the hillside, therefore, the applicant is unable to co-locate the proposed equipment on an existing structure and therefore proposes the new structure.*
9. *There are no buildings or support structures of sufficient height to meet the applicant's operational or engineering requirements; or because the hill does not have any suitable structures for installation of wireless telecommunications equipment on.*
10. *The applicant's proposed facility would not create electromagnetic interference with an existing structure, or the existing antenna array on an existing building or support structure would create interference with the applicant's proposed antenna array. The applicant has submitted a technical statement stating that there proposed equipment will not create interference with any existing structures near the proposed site.*

**ATTACHMENT B**  
**CONDITIONS OF APPROVAL FOR CONDITIONAL USE PERMIT #4657**

The applicant or successor in interest shall meet the following conditions:

1. The site plan and elevations submitted for building permits shall substantially conform to the plans, elevations, and photo-simulations submitted with this application and stamped "Received at Hearing October 18, 2006", except as modified herein.
2. The applicant shall comply with Section 17.50.310 of the Zoning Code, which relates to the establishment of Telecommunications Facilities.
3. The use of chain-link fencing or razor wire in the design of a facility or related support facilities is prohibited.
4. Building-mounted facilities and support structures may not be illuminated unless specifically required by the Federal Aviation Administration or other governmental agencies.
5. No off-premise or on-premise signs may be placed by a wireless telecommunication service provider on a building or support structure to which a facility is attached.
6. The site of the facilities shall be maintained in a condition free of debris, refuse, and trash. All graffiti shall be removed within 72 hours.
7. If a support structure, or an antenna array affixed to a building or support structure, becomes inoperable or ceases to be used for a period of 180 consecutive days, the permittee shall give written notice of inoperability or nonuse to the Zoning Administrator and the inoperable equipment or structure shall be removed within 90 days. If other equipment is affixed to the same support structure, then only the equipment that has become inoperable or has ceased to be used is required to be removed and the support structure may remain in place until all service providers cease to use it. If removal does not occur, the City may remove the inoperable equipment or structure at the permittee's expense.
8. The height of the mono-tree shall not exceed at height of 20'-0".
9. The mono-tree may not be located at an elevation on the site greater than 805 feet above sea level.
10. The mono-tree antenna (broadleaf style) is required to be of a heavy limb count and foliage only and shall be subject to review to the satisfaction of the Zoning Administrator.
11. A copy of the decision letter along with the "Final Conditions of Approval" shall be incorporated into the construction plans prior to the plans being submitted for Plan Check.
12. The applicant or successor in interest shall meet the applicable code requirements of all other City Departments.
13. The project shall comply with the Tree Protection Ordinance and Arborist Report prepared by *Sims Tree Health Specialist* on May 1, 2006. The approval of a Tree Removal Application shall be obtained prior to the issuance of building permits if any protected trees, as specified in the Tree Ordinance, are removed.
14. A construction parking and staging plan shall be submitted to and approved by the Zoning Administrator and the Department of Public Works and Transportation prior to issuance of any permits. The construction parking and staging plan shall include information on the

removal of demolished materials as well as the on-site storage of new construction materials. A copy of the approved construction parking and staging plan shall be furnished to the Current Planning Section for inclusion into the case file on this project. The plan shall be available for review by surrounding property owners.

15. For projects subject to a Building Permit, all construction vehicles or trucks including trailers with lengths over 30 feet or widths over 8 and a half feet shall require a lead pilot vehicle and flag person to enter the streets within the Hillside District. The flag person will stop opposing traffic as necessary when trucks are negotiating tight curves. Operation of construction vehicles or trucks with lengths over 35 feet shall require approval from the Department of Transportation and Department of Public Works, subject to demonstration that the vehicles can maneuver around specific tight curves in the Hillside District. Operation of construction trucks with lengths over 30 feet shall be prohibited before 9:00 a.m. and after 3:00 p.m. Monday through Friday and all day during weekends and holidays\*. On refuse collection days, the operation of construction trucks with lengths over 30 feet shall be prohibited before 10:00 a.m. and after 3:00 p.m.

\* Holidays are defined as the following: New Years Day (Day of the Rose Parade), Martin Luther King's Birthday (Third Monday in January), President's Day (Third Monday in February), Memorial Day (Last Monday in May), Independence Day (July 4), Labor Day (First Monday in September), Veterans Day (November 11), Thanksgiving Day (Fourth Thursday in November), Christmas Day (December 25).

16. Prior to the issuance of a building permit, the applicant must obtain approval from the Design and Historic Preservation Section through the Design Review and/or plan check process (unless waived by Design and Historic Preservation staff).
17. The proposed project, Case Number **PLN2006-00004**, shall meet the conditions of approval and is subject to a final Zoning Inspection prior to the issuance of a Certificate of Occupancy. Please contact the Code Compliance Staff at (626) 744-4633 to schedule an inspection appointment time once the building permit has been issued and the project complete.

## ATTACHMENT C

### MEMORANDUM - CITY OF PASADENA Department Of Public Works

**DATE:** May 24, 2006

**TO:** Denver Miller, Zoning Administrator  
Planning and Development Department

**FROM:** City Engineer  
Department of Public Works

**RE:** Conditional Use Permit No. 4657  
940 Avenue 64

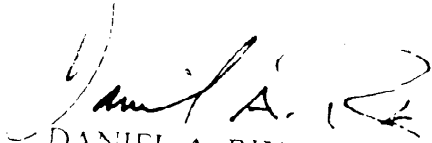
The Department of Public Works has reviewed the application for Conditional Use Permit No. 4657 at 940 Avenue 64. The applicant is proposing to install, operate and maintain unmanned telecommunication equipment for Cingular Wireless. A 35-foot tall broadleaf faux tree antenna with a subterranean equipment vault is proposed to be located on a hill where there is flat area. If this conditional use permit is approved, the following conditions are recommended:

1. In accordance with Section 12.04.031, entitled "Abandoned Driveways" of the PMC, the applicant shall close any unused drive approach with standard concrete curb, gutter and sidewalk. In addition, the applicant shall repair any existing or newly damaged sidewalk along the Avenue 64 frontage prior to the issuance of a Certificate of Occupancy or any building permit for work in excess of \$5,000 pertaining to occupancy or construction on the property in accordance with Section 12.04.035, entitled "Inspection required for Permit Clearance" of the PMC. Existing street trees shall be protected using the City's Tree Protection Standards available from the Parks and Natural Resources Division (744-4514).
2. Church Street was resurfaced in November 2004 and is a moratorium street. If the street is excavated prior to November 2009, cold-milling and repaving will be required for the full width of the pavement for the length of the excavation.



3. All costs associated with these conditions shall be the applicant's responsibility. Unless otherwise noted in this memo, all costs are based on the General Fee Schedule that is in effect at the time these conditions are met. A processing fee will be charged against all deposits.

If you have questions regarding the above conditions and requirements of the ordinances, please contact Sean Singletary, of this office, at (626) 744-4273.



DANIEL A. RIX  
City Engineer

DAR:10

**BOARD OF ZONING APPEALS  
STAFF REPORT  
October 18, 2006**

**SUBJECT:** Conditional Use Permit #4657  
**LOCATION:** 940 Avenue 64  
**ZONING DESIGNATION:** PS (Public Space)  
**GENERAL PLAN DESIGNATION:** Institutional  
**CASE PLANNER:** Jacqueline Ellis  
**APPLICANT:** Moser Consulting, for Cingular Wireless

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**ZONING ADMINISTRATOR RECOMMENDATION:** Acknowledge the Environmental Determination and the Specific Findings in Attachment A and **approve** the application for Conditional Use Permit for a telecommunications use.

**HEARING OFFICER RECOMMENDATION:** **Disapprove** the application for Conditional Use Permit for the telecommunications use.

**ENVIRONMENTAL DETERMINATION:** This project has been determined to be exempt from environmental review pursuant to the guidelines of the California Environmental Quality Act (Public Resources Code §21080(b)(9); Administrative Code, Title 14, Chapter 3, Class 3 §15303, New Construction or Conversion of Small Structures). This exemption allows installation of small new equipment and facilities in small structures.

**STAFF ADDENDUM:**

On June 7, 2006, the Hearing Officer disapproved Conditional Use Permit #4657 to allow the installation, operation and maintenance of a telecommunications facility at the subject site. The applicant, Moser Consulting, on behalf of Cingular Wireless, had filed an application for a Conditional Use Permit to allow the construction of a 35-foot tall, wireless antenna designed to look like a broadleaf tree. The equipment associated with the telecommunications facility was proposed to be located in an underground vault. The proposed facility is located on Hillside Home for Children located at the southwest corner of the City and adjacent to the City of Los Angeles. The property is zoned PS (Public, Semi-Public) which is an institutional district that accommodates a variety of different institutional uses in the City. The site is a large, irregular-shaped, multi-acre site. Much of the site is undeveloped and residential uses (in the City of Pasadena) adjoin the site on the north while residential uses (in the City of Los Angeles) adjoin on the south.

At the Hearing Officer public hearing, staff recommended approval of the application. The proposed use is allowed on this property with a Conditional Use Permit provided that it can be shown that the use and other components of the plan combine to provide activities compatible

with surrounding uses. Staff recommended approval because the new telecommunications equipment would have minimum visual impact and is compatible with surrounding residential development. The proposed mono-tree and vault would be within scale, character and color of surrounding trees and compatible with residential development.

Several persons in the audience provided testimony. Issues raised by opponents of the project included: incompatibility of the use with existing uses in the neighborhood; visual impact of the antenna; property devaluation and the negative health impacts of the antenna. The Hearing Officer denied the application because the proposed telecommunications use is not in conformance with the intent of the General Plan and design and location of the use is not compatible with the existing and future uses in the vicinity.

The applicant appealed the Hearing Officer's decision and was scheduled for a public hearing before the Board of Zoning Appeals on August 16, 2006. At the hearing of August 16, 2006, the applicant requested a continuance to respond to the concerns raised by the neighbors. Since the postponed hearing, the applicant has revised the proposal to respond to the neighbor's concerns which will be discussed below. The Zoning Code allows an applicant to modify their project without having to go back to the Hearing Officer if the changes are intended to address issues raised by the Hearing Officer or public speakers.

Revisions to the Proposal

The telecommunications installation has had been revised in response to neighborhood concerns, and includes the following: 1) increasing the distance between the subterranean vault and interior property line from 24 feet to 39 feet; 2) relocating the mono-tree to a lower elevation (a decrease of 20 feet) on the site which drops the tree from an elevation of 825 above sea level to 805 feet above sea level; 3) reducing the height of the mono-tree from 35 feet to 20 feet which is a 15 foot reduction; and 4) moving the antenna approximately 180 feet away from the nearest residential neighbor whereas before the antenna was approximately 150 feet away from the closest residential structure.

The Federal Telecommunications Act states that potential health issues with regard to Radiofrequency (RF) emission shall not be a reason for denial of a project. While not required, the applicant has provided a report regarding the RF emissions for the subject site. The report indicates that the maximum RF exposure at the site is less than 1 percent of the FCC allowable exposures.

Below is a summary table of the site revisions from the previous proposal.

Telecommunications Installation	Revised Proposal October 18, 2006	Previous Proposal June 7, 2006
Antenna Location	180 from nearest residence	150 from nearest residence
Antenna Elevation	805 above sea level	825 above sea level
Antenna Height	20 Feet	35 Feet
Subterranean location	39 Feet to the property line	24 Feet to the property line

Compatibility and Proximity to Neighboring Uses

The existing neighborhood uses (residential) and the telecommunications installation use are compatible. The telecommunications installation is unmanned and therefore will have a minimal impact on neighboring uses. This use does not have the characteristics of a typical commercial

use in that the facility will not generate significant or long term noise, traffic, vibration or other impacts associated with commercial uses. Once installed, the facility will require periodic maintenance by the operator. Because the installation is unmanned, potential impacts to the surrounding residential neighborhood are negligible. No new roads will be created and no new grading will occur as a result of this proposal. From a distance the facility will blend in with the hillside landscaping.

The antenna and subterranean vault are proposed to be located towards the southern portion of the site and face residential uses to the south (in the City of Los Angeles) and to the east. The site is zoned PS and development standards are set through the Conditional Use Permit process. The required interior yard setback from the vault to the nearest property line is 20 feet. The subterranean vault has been located further to the interior of the site and is proposed at a distance of 39 feet to the interior property line, which is 19 feet greater than required by code. The plans show the vault located further away from the property line closer to the flat area near the bench. The mono-tree is located approximately 137 feet northeast of the vault. Therefore, the distance from the mono-tree is approximately 180 feet from the closest residential structure.

The applicant will lease an area that is 19 by 40 feet for the underground equipment vault. The size of the vault is approximately 12 feet by 25 feet with a height 12 feet, (all subterranean) plus 5-foot tall entryway which is also subterranean. Previously the proposal located the vault 24 feet from the interior property line, the revised the project locates the vault 39 feet from the interior property line. The closest single-family residence is located approximately 51 feet from the subterranean vault because this particular residence has a rear yard that is setback only 12 feet (approximately) away from the property line (25 feet is required in the City of Pasadena).

One of the reasons this portion of the site was chosen for the vault is because of the relative flatness of the area and the proximity to the mono-tree. To function, the antenna and the equipment vault must remain within close proximity of each other. Because the vault is proposed to be subterranean, the applicant requires a location on the site where the slope is minimized. However, because of concerns from neighbors the applicant has moved the proposed vault further away from the interior property line. The new location is the appropriate place for the vault to be located so that the wireless telecommunications installation will work. The vault is located more centrally on the parcel and further away from the neighboring uses.

Additionally, there is an existing access road/dirt pathway leading to this location on the site. By utilizing this location to situate the vault, access already exists; therefore, additional roadways/paths do not need to be constructed. This location minimizes impact on adjacent residences for road construction and grading. There will be no permanent roads built on the site to access the vault or mono-tree. This location and the underground design for the vault preserve existing landscaping on the site and does not impact protected trees. The site for the proposed vault does not required removal of trees and as such, the applicant will retain all existing trees as part of this project.

#### Visual Impact

The applicant has worked with staff to mitigate visual impacts that could result from the installation of the tree antenna and associated equipment. The applicant's original submittal included an above ground equipment cabinet of approximately the same size and height of the underground vault, (19-feet by 25-feet with a height of 10 feet). Based upon staff's recommendation the applicant proposed to place associated equipment in a subterranean vault to reduce potential visual impacts. Since the continuance of the public hearing of August 16,

2006, the applicant has lowered the height of the mono-tree and located it on a lower elevation on the hillside to be more inconspicuous.

The revised plans show that the height of the mono-tree has been lowered from 35 feet to 20 feet which is a 15 foot reduction in height. The mono-tree has been relocated at an elevation of 805 feet above sea level instead of 825 feet above sea level, as previously proposed, which is 20 feet lower than the previous submittal. Reducing the height by 15 feet and choosing a location that is 20 feet lower at sea level further reduces the mono-tree's visibility from the public right-of-way.

While the tree antenna is visible from the public right-of-way, it has been treated and designed to blend in with existing landscaping on site. To provide the required coverage range, the applicant has to choose a location with adequate height as well as have the ability to locate the associate equipment in close proximity. There are existing trees located near the site chosen for the mono-tree. At the hearing, the applicant expressed willingness to incorporate additional mature trees around the mono-tree antenna to assist with blending in with the site.

Staff's concludes that the proposed design for the antenna and the vault is an appropriate solution. The Design Guidelines adopted by the City Council encourage the design of tree antennas (Attachment A). Guiding Principle #2 of the General Plan Land Use Element states that physical change should be done in such manner as to not adversely impact the existing character and scale of the project's surroundings, and new development should blend with the existing neighborhood. In this case, the proposed tree antenna would blend with the existing natural setting trees in the least developed area of this large parcel. This structure would have negligible visual impact on the surrounding neighborhood. The 20 foot tall tree antenna would be within scale, character and color of surrounding trees and compatible with residential development.

#### Health Impacts

While the Hearing Officer did not deny this project based on its potential for health impacts, this was an issue raised by the adjacent residents at the Hearing Officer hearing. Under the Federal Telecommunications Act, no State or local government may regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Commission's regulations concerning emissions. One of the conditions of approval is the applicant meet all radio frequency requirements of the Federal Communications Commission.

To address the neighbor's concerns the applicant has submitted a report which addresses the radio frequency (RF) emissions. The report indicates that even under maximal exposure conditions RF field exposure for this mono-tree installation is below the FCC public exposure standards.

Therefore, staff recommend approvals of the modified application and modified conditions of approval to allow for the installation of the wireless telecommunications equipment.

## HEARING OFFICER ADDENDUM:

The applicant's appeal indicates that "the Hearing Officer did not provide a reason for the denial." This is incorrect. I stated both verbally at the hearing (before announcing my decision), and in the written determination, that I did not feel that the findings could be made to grant the requested CUP.

Of primary consideration is Finding No. 7, which can not be made for several reasons:

- The proposed facility is located in a neighborhood composed almost entirely of single-family dwellings.
- The proposed facility is very close to existing homes.
- The location of the facility—at the highest point of a property that is the highest point in the neighborhood—makes the facility prominent and noticeable to surrounding residences.
- The prominence of the facility would adversely impact views from dozens of surrounding residences.

In the rebuttal period of the hearing, the applicant's representative stated something to the effect that "the site was chosen because everything else in the neighborhood is a single-family dwelling" (this may not be an exact quote, as I am recalling from memory). The essence of the representative's statement is entirely true, and additionally provides the justification for denying the request. Finding No. 7 simply can not be made, given the existing land-uses in this neighborhood, the prominence of the site, and the nearby adjacent single-family homes.

Although I have focused primarily on Finding No. 7, there are other findings that I believe are difficult to make given the subject property itself, the intended use, and the surrounding community. For example, objectives in the City's General Plan about compatibility issues present serious questions about whether Finding No. 3 can be made as well. The adverse viewshed impacts upon surrounding properties also calls into question whether Finding No. 6 ("detrimental or injurious to property and improvements in the neighborhood") can be made.

The applicant's appeal indicates that "no continuance was offered." The applicant is correct, but the statement in and of itself does not justify over-turning my decision. Given the property's prominence in the neighborhood, the predominantly single-family residences very close to the property, and the location within a neighborhood composed entirely of single-family dwellings, I did not think that a continuance would necessarily resolve the case. On other cases, where it appears that a reasonable compromise could be reached, or that there are relatively simple design changes or alternatives that address compatibility issues, I have granted continuance requests. In this instance I did not see a likely positive outcome and therefore chose not to grant a continuance.

The applicant's appeal indicates that the ZHO "didn't afford us any opportunity to provide alternative options." This statement is mis-leading. In the rebuttal period of the hearing, the applicant's representative did not explicitly offer any specific alternatives. She did ask "what would it take for you [ZHO] to approve this case," which is entirely different than offering alternative options. I believe that the request is inappropriate—this is a land-use case, where I am charged with determining whether to approve or deny the request, based on a set of findings—and not a negotiating session between the applicant and the ZHO. If I felt that some

*modest design changes, or even an alternative design, would have resulted in my being able to make the findings, I would have explored additional options with the applicant. In this case, the nature of the property and the surrounding uses are what preclude making Finding No. 7 and, to some degree, other findings necessary for approving the request.*

**Attachments:**

Attachment A-Resolution 7559 Wireless Telecommunication Antenna Facilities

Attachment B-Zoning Administrator Recommended Findings of Fact

Attachment C-Conditions for Conditional Use Permit #4657

Attachment D-Public Works Conditions

Attachment E-Hearing Officer Recommended Findings of Fact

Attachment F-Staff Report of June 7, 2006

Attachment G-Appeal Application

Attachment H-Report from Jerrold T. Bushberg, PhD., DABMP, DABSNM

Attachment I -Letter from Appellant's Attorney

**ATTACHMENT B  
ZONING ADMINISTRATOR  
SPECIFIC FINDINGS FOR CONDITIONAL USE PERMIT #4657**

Conditional Use Permit: Installation, Operation and Maintenance of Telecommunications Equipment

1. *The proposed use is allowed with a Conditional Use Permit within the applicable zoning district and complies with all applicable provisions of the PS (Public Space) zoning district. Specifically, the proposal meets the minimum development standards as specified in Section 17.50.310 (Telecommunication Facilities) of the Zoning Code.*
2. *The location of the proposed use complies with the special purposes of this Zoning Code and the purposes of the applicable zoning district in that the proposal involves the installation one unmanned wireless telecommunications installation which includes a mono-tree antenna with four antennas per sector (three sectors are proposed), and a subterranean vault. The use is permitted in the PS zoning district with a Conditional Use Permit.*
3. *The proposed use is in conformance with the goals, policies, and objectives of the General Plan and the purpose and intent of any applicable specific plan. An objective of the General Plan Land Use Element is to assure that new and/or incidental development is consistent and compatible with the surrounding institutional and residential districts. In this case, the synthetic tree antennae will be finished to match the existing trees.*
4. *The proposed use is in conformance with the goals, policies, and objectives of the General Plan and the purpose and intent of any applicable specific plan in that an objective of the General Plan Land Use Element is to assure that new and/or incidental development is consistent and compatible with the surrounding institutional and residential districts. The project is consistent with the existing land uses in the PS zoning district and the existing buildings in that there is negligible impact to surrounding uses from this installation.*
5. *The establishment, maintenance, or operation of the use would not, under the circumstances of the particular case, be detrimental to the health, safety, or general welfare of persons residing or working in the neighborhood of the proposed use in that the proposed telecommunication facilities must comply with the federally adopted health and safety thresholds established in the Federal Communications Act of 1996. The proposed communications facility will operate in full compliance with the U.S. standards for radio frequency emissions as published by the American National Standards Institute (ANSI). Similar telecommunication facilities such as this have been documented to operate and transmit at levels far below the federal standards. No significant impacts are anticipated as a result of this project.*
6. *The use, as described and conditionally approved, would not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City in that the project applicant, Cingular Wireless, is strictly regulated by the Federal Communications Commission (FCC) and that the telecommunication facilities will operate at or below the threshold of significance as regulated by the FCC that is deemed safe for human exposure to radio frequency and electromagnetic fields.*



7. *The design location, operating characteristics, and size of the proposed use would be compatible with the existing and future land uses in the vicinity in terms of aesthetic values, character, scale, and view protection in that antennae will be installed on a faux broadleaf tree. This will help screen the antennae from view. The proposed equipment vault will be located below grade, mitigating any potential visual impacts that could arise because of this application.*

**REQUIRED FINDINGS FOR CONDITIONAL USE PERMIT #4657**

8. *There are no existing buildings or support structures are located within the geographic area proposed to be served by the applicant's facility at the top of the hillside, therefore, the applicant is unable to co-locate the proposed equipment on an existing structure and therefore proposes the new structure.*
9. *There are no buildings or support structures of sufficient height to meet the applicant's operational or engineering requirements; or because the hill does not have any suitable structures for installation of wireless telecommunications equipment on.*
10. *The applicant's proposed facility would not create electromagnetic interference with an existing structure, or the existing antenna array on an existing building or support structure would create interference with the applicant's proposed antenna array. The applicant has submitted a technical statement stating that there proposed equipment will not create interference with any existing structures near the proposed site.*

**ATTACHMENT C**  
**CONDITIONS OF APPROVAL FOR CONDITIONAL USE PERMIT #4657**

The applicant or successor in interest shall meet the following conditions:

1. The site plan and elevations submitted for building permits shall substantially conform to the plans, elevations, and photo-simulations submitted with this application and stamped "Received at Hearing October 18, 2006", except as modified herein.
2. The applicant shall comply with Section 17.50.310 of the Zoning Code, which relates to the establishment of Telecommunications Facilities.
3. The use of chain-link fencing or razor wire in the design of a facility or related support facilities is prohibited.
4. Building-mounted facilities and support structures may not be illuminated unless specifically required by the Federal Aviation Administration or other governmental agencies.
5. No off-premise or on-premise signs may be placed by a wireless telecommunication service provider on a building or support structure to which a facility is attached.
6. The site of the facilities shall be maintained in a condition free of debris, refuse, and trash. All graffiti shall be removed within 72 hours.
7. If a support structure, or an antenna array affixed to a building or support structure, becomes inoperable or ceases to be used for a period of 180 consecutive days, the permittee shall give written notice of inoperability or nonuse to the Zoning Administrator and the inoperable equipment or structure shall be removed within 90 days. If other equipment is affixed to the same support structure, then only the equipment that has become inoperable or has ceased to be used is required to be removed and the support structure may remain in place until all service providers cease to use it. If removal does not occur, the City may remove the inoperable equipment or structure at the permittee's expense.
8. The height of the mono-tree shall not exceed at height of 20'-0".
9. The mono-tree may not be located at an elevation on the site greater than 805 feet above sea level.
10. The mono-tree antenna (broadleaf style) is required to be of a heavy limb count and foliage only and shall be subject to review to the satisfaction of the Zoning Administrator.
11. A copy of the decision letter along with the "Final Conditions of Approval" shall be incorporated into the construction plans prior to the plans being submitted for Plan Check.
12. The applicant or successor in interest shall meet the applicable code requirements of all other City Departments.
13. The project shall comply with the Tree Protection Ordinance and Arborist Report prepared by *Sims Tree Health Specialist* on May 1, 2006. The approval of a Tree Removal Application

shall be obtained prior to the issuance of building permits if any protected trees, as specified in the Tree Ordinance, are removed.

14. A construction parking and staging plan shall be submitted to and approved by the Zoning Administrator and the Department of Public Works and Transportation prior to issuance of any permits. The construction parking and staging plan shall include information on the removal of demolished materials as well as the on-site storage of new construction materials. A copy of the approved construction parking and staging plan shall be furnished to the Current Planning Section for inclusion into the case file on this project. The plan shall be available for review by surrounding property owners.
15. For projects subject to a Building Permit, all construction vehicles or trucks including trailers with lengths over 30 feet or widths over 8 and a half feet shall require a lead pilot vehicle and flag person to enter the streets within the Hillside District. The flag person will stop opposing traffic as necessary when trucks are negotiating tight curves. Operation of construction vehicles or trucks with lengths over 35 feet shall require approval from the Department of Transportation and Department of Public Works, subject to demonstration that the vehicles can maneuver around specific tight curves in the Hillside District. Operation of construction trucks with lengths over 30 feet shall be prohibited before 9:00 a.m. and after 3:00 p.m. Monday through Friday and all day during weekends and holidays\*. On refuse collection days, the operation of construction trucks with lengths over 30 feet shall be prohibited before 10:00 a.m. and after 3:00 p.m.  
  
\* Holidays are defined as the following: New Years Day (Day of the Rose Parade), Martin Luther King's Birthday (Third Monday in January), President's Day (Third Monday in February), Memorial Day (Last Monday in May), Independence Day (July 4), Labor Day (First Monday in September), Veterans Day (November 11), Thanksgiving Day (Fourth Thursday in November), Christmas Day (December 25).
16. Prior to the issuance of a building permit, the applicant must obtain approval from the Design and Historic Preservation Section through the Design Review and/or plan check process (unless waived by Design and Historic Preservation staff).
17. The proposed project, Case Number **PLN2006-00004**, shall meet the conditions of approval and is subject to a final Zoning Inspection prior to the issuance of a Certificate of Occupancy. Please contact the Code Compliance Staff at (626) 744-4633 to schedule an inspection appointment time once the building permit has been issued and the project complete.

**ATTACHMENT D**

**MEMORANDUM - CITY OF PASADENA**  
**Department Of Public Works**

**DATE:** May 24, 2006

**TO:** Denver Miller, Zoning Administrator  
Planning and Development Department

**FROM:** City Engineer  
Department of Public Works

**RE:** Conditional Use Permit No. 4657  
940 Avenue 64

The Department of Public Works has reviewed the application for Conditional Use Permit No. 4657 at 940 Avenue 64. The applicant is proposing to install, operate and maintain unmanned telecommunication equipment for Cingular Wireless. A 35-foot tall broadleaf faux tree antenna with a subterranean equipment vault is proposed to be located on a hill where there is flat area. If this conditional use permit is approved, the following conditions are recommended:

1. In accordance with Section 12.04.031, entitled "Abandoned Driveways" of the PMC, the applicant shall close any unused drive approach with standard concrete curb, gutter and sidewalk. In addition, the applicant shall repair any existing or newly damaged sidewalk along the Avenue 64 frontage prior to the issuance of a Certificate of Occupancy or any building permit for work in excess of \$5,000 pertaining to occupancy or construction on the property in accordance with Section 12.04.035, entitled "Inspection required for Permit Clearance" of the PMC. Existing street trees shall be protected using the City's Tree Protection Standards available from the Parks and Natural Resources Division (744-4514).

2. Church Street was resurfaced in November 2004 and is a moratorium street. If the street is excavated prior to November 2009, cold-milling and repaving will be required for the full width of the pavement for the length of the excavation.
3. All costs associated with these conditions shall be the applicant's responsibility. Unless otherwise noted in this memo, all costs are based on the General Fee Schedule that is in effect at the time these conditions are met. A processing fee will be charged against all deposits.

If you have questions regarding the above conditions and requirements of the ordinances, please contact Sean Singletary, of this office, at (626) 744-4273.

DANIEL A. RIX  
City Engineer

DAR:ss

**ATTACHMENT E**

**HEARING OFFICER  
SPECIFIC FINDINGS FOR CONDITIONAL USE PERMIT #4657**

1. *The proposed use is not in conformance with the goals, policies, and objectives of the General Plan and the purpose and intent of any applicable specific plan. An objective of the General Plan Land Use Element is to assure that new and/or incidental development is compatible with the surrounding institutional and residential districts, and the proposed facility is not compatible with surrounding residential development. The proposed use is a commercial use in a neighborhood composed almost entirely of single-family dwellings and it is located very close to existing homes.*
  
2. *The design location, operating characteristics and size of the proposed use would not be compatible with the existing and future land uses in the vicinity in terms of aesthetic character, scale, and view protection in that the proposed telecommunication facility is located in a neighborhood composed almost entirely of single-family dwellings. The proposed facility is very close to existing homes and represents the intrusion of a commercial use into a residential neighborhood (even the school property, on which the facility is located, is a residential school where children live). The proposed location of the facility--on the highest point of a property that is the highest point in the neighborhood--would make the facility very prominent and noticeable to surrounding residences. In this regard the proposed facility is incompatible with the aesthetic character of the neighborhood and would adversely impact views from dozens of surrounding residences. Because the relatively small cross near this facility is very visible from the surrounding community, and despite the applicant's efforts to disguise this facility by designing a "tree-pole," the proposed facility would nevertheless stand out at this location given the prominence of the site itself and the existing surrounding uses.*