

**HEARING OFFICER
STAFF REPORT
February 1, 2012**

SUBJECT: Conditional Use Permit & Variance #5715

LOCATION: 600 South Lake Avenue

APPLICANT: Edwin Kim for AT&T Mobility

ZONING DESIGNATION: CD-5, RM-32 (Central District Specific Plan, Lake Avenue, Residential Multi-Family 32 units/acre)

GENERAL PLAN DESIGNATION: SP, MHDR (Central District Specific Plan, Medium High Density Residential)

CASE PLANNER: Kent Lin

STAFF RECOMMENDATION: Adopt the Environmental Determination and the Specific Findings in Attachment A to **approve** the Conditional Use Permit and Variance applications with the conditions in Attachment B.

PROJECT PROPOSAL: Minor Conditional Use Permit – To allow the upgrade and replacement of wireless telecommunication equipment on a co-located site.
Variance - To allow the new wireless telecommunication equipment to exceed the 25 percent roof top appurtenance requirement.

ENVIRONMENTAL DETERMINATION: This project was found to be categorically 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, §15303, Class 3, New Construction or Conversion of Small Structures. This class exemption specifically exempts the limited numbers of new, small facilities and the installation of small new equipment. The project consists of the removal of existing wireless telecommunication equipment and replacing them with new wireless telecommunication equipment mounted on the rooftop of an existing 83 foot tall commercial office building.

BACKGROUND:

Site characteristics: The subject site is located on the southeast corner of Lake Avenue and California Boulevard. The lot is approximately 45,276 square feet in size. The property is developed with an existing eight story office building.

- Adjacent Uses:** North – Commercial Retail
 South – Office, Residential
 East – Commercial Retail
 West – Residential
- Adjacent Zoning:** North – CD-5 (Central District Specific Plan, Lake Avenue)
 South – CD-5, RS-6 (Central District Specific Plan, Lake Avenue, Residential Single-Family 0-6 units per acre)
 East – RM-32 (Residential Multi-Family 0-32 units per acre)
 West – CD-5 (Central District Specific Plan, Lake Avenue)
- Previous Cases:** CUP#3840 – To allow the installation of wireless telecommunication facility and Variance to exceed rooftop appurtenance requirement. Disapproved October 17, 2001.
 MCUP#4553 – To allow the co-location and installation of wireless telecommunication equipment. Approved August 17, 2005.
 MCUP#5222 – To allow the co-location and installation of wireless telecommunication equipment. Approved March 16, 2011.
 MCUP#5313 - To allow the co-location and installation of wireless telecommunication equipment. Approved September 15, 2010.

PROJECT DESCRIPTION:

The applicant, Edwin Kim, on behalf of AT&T Mobility has submitted a 1) Minor Conditional Use Permit to allow the upgrade of an existing wireless telecommunication facility on an existing building. The project consists of the removal of 12 existing panel antennas and replacing them with 12 new panel antennas at the same locations. The new antennas will be screened from view with panels designed to match the exterior of the existing 83 foot tall office building. A Conditional Use Permit is required for the replacement of co-located wireless telecommunication equipment within the Central District Specific Plan (CD-5) zoning district. 2) A Variance is also requested to allow the new wireless telecommunication equipment to exceed the 25 percent roof top appurtenance requirement. Currently, the site already exceeds this requirement. The current proposal will not increase the nonconformity.

ANALYSIS:

Minor Conditional Use Permit – To allow the replacement and upgrade of wireless telecommunication equipment on a co-located site.

The Zoning Code defines a Minor Wireless Telecommunications Antenna Facilities use as a wireless telecommunications antenna facility that is co-located on an existing structure with other wireless communications service providers. In this case, there are existing wireless telecommunication antennas and equipment within the rooftop of the 83 foot tall office building structure. As mentioned above, the application is proposing to upgrade to newer wireless service by replacing the existing panel antennas and installing modern antennas as part of an existing AT&T wireless telecommunication facility. The Zoning Code encourages co-location of antenna on a single structure with other providers.

For this project, the applicant is proposing to remove 12 existing panel antennas and replacing them with 12 new fourth generation Long Term Evolution (LTE) panel antennas in the same location. The project also involves the installation of 12 Remote Radio Units (RRU) and six DC surge suppressors. The new antennas will be screened from public right-of-way views. The new wireless telecommunication equipment will be mounted on three sectors with four antennas in each sector. Each sector will be mounted on the penthouse wall behind new RF transparent screen wall to be painted and textured to match the existing building structure. The new antennas are six feet in length compared to the existing antennas at four feet in length. The existing antennas are not screened and are visible from the public right-of-way. The new telecommunication equipment will be screened from public views with screen walls painted and textured to match the penthouse wall to which each sector is mounted on.

The upgrade of telecommunication equipment is intended to improve wireless telecommunication services in the area with a minimal visual impact to the vicinity given the equipment will be screened from public right-of-way views. The proposed telecommunication equipment upgrade will allow AT&T wireless to switch service from third generation to fourth generation wireless technology and improve wireless telecommunication coverage in the area. It is staff's determination that the required findings

The project is in compliance with Section 17.50.310 (Telecommunication Facilities) of the Zoning Code and the use is permitted through this Minor Conditional Use Permit process. The project meets the objective of the General Plan Land Use Element that new and/or incidental development is consistent and compatible with the surrounding zoning districts. Co-location is encouraged to reduce the number of telecommunication wireless facilities in the City by utilizing existing sites. The upgrade of telecommunication equipment would upgrade wireless service from third generation to fourth generation wireless technology and improve wireless telecommunication coverage in the area. The primary use will remain as a commercial office building. Based on the fact, that the proposal seeks to provide a service to the immediate area, staff is of the opinion that the findings for the Minor Conditional Use Permit to allow the upgrade and co-location of wireless telecommunication can be made.

Variance – To allow the new wireless telecommunication equipment to exceed the 25 percent roof top appurtenance requirement.

The Zoning Code limits maximum rooftop appurtenance to 25 percent of the roof area. An appurtenance is defined as a tower, spire, cupola, chimney, penthouse, water tank, flagpole, theater scenery loft, radio or television antenna, transmission tower, fire equipment, or other similar structure that is attached to a structure and not intended for human occupancy. The existing commercial office building was built in 1980 with a nonconforming height limit of 83 feet tall. The building exceeds the current maximum height limit of 35 feet. As a result, the maximum rooftop coverage with an appurtenance structure is limited to 25 percent of the roof area. The total rooftop area is 10,605 square feet. The present rooftop appurtenance coverage is at 30.36 percent or 3,220 square feet. The rooftop appurtenance consists of a large penthouse along with several other wireless telecommunication equipment from other carriers.

Wireless technology is constantly evolving and the proposed project is necessary to upgraded wireless telecommunication capabilities and coverage with new fourth generation wireless equipment. The proposal calls for the replacement and enhancement of a wireless telecommunication facility at an existing location. The new wireless equipment will not contribute to the nonconforming rooftop appurtenance coverage and will remain at 30.36

percent since this is a change out of existing antennas. The new wireless equipment will be screened to match and aesthetically blend in with the existing building and penthouse structure, which is a significant improvement over existing conditions for the exiting panel antennas are not screened from public right-of-way views. Based on this information, it is staff's determination that the required findings to approve the Variance request to exceed the 25 percent rooftop coverage requirement can be made.

REVIEW BY OTHER CITY DEPARTMENTS:

The proposal was reviewed by the Department of Transportation, Fire Department, Department of Public Works, Building and Safety Division, and Design and Historic Preservation (DHP) Section. Transportation, Building and Safety, Fire Public Works and DHP had no comments and will review the project during the Building Permit plan check process to ensure compliance with applicable code requirements.

CONCLUSION:

It is staff's determination that the required findings for the Minor Conditional Use Permit to allow the upgrade of an existing wireless telecommunication facility and Variance request to deviate from the percentage of rooftop appurtenance can be made. The proposed project is substantially consistent with the development standards of the Zoning Code. The project seeks to modernize and improve the wireless service in the City. Therefore, staff recommends that the project be approved subject to the Findings in Attachment A and recommended conditions of approval in Attachment B of this staff report.

ATTACHMENT A
SPECIFIC FINDINGS FOR MINOR CONDITIONAL USE PERMIT & VARIANCE #5715

Minor Conditional Use Permit – To allow the replacement and upgrade of an existing wireless telecommunication facility on a co-located site.

1. *The proposed use is allowed with a Minor Conditional Use Permit within the applicable zoning district and complies with all applicable provisions of this Zoning Code in that the existing telecommunication facilities use is permitted within the CD-5 (Central District Specific Plan, Lake Avenue) zoning district subject to the approval of a Minor Conditional Use Permit. The project seeks to replace and upgrade an existing facility at the subject site with new and more technological advanced telecommunication equipment. Co-location of new wireless antennas on the rooftop of an existing office building is encouraged by the Zoning Code. The height of the office building structure will remain unchanged as a result of this project.*
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 CD-5 (Central District Specific Plan, Lake Avenue) zoning district allows and encourages co-location of wireless carriers. This site is already an existing wireless facility utilized by multiple carriers. The project seeks to replace and upgrade wireless technology while also providing seamless coverage throughout its network in the City of Pasadena. The need for signal and coverage upgrade on the network increases over time as both the wireless technology and community needs continue to evolve. In the years since the original permit was granted for the existing facilities site originally designed for traditional voice and texting have increasingly faced user demands for internet features such as browsing, email and video streaming. The main objective of the new antennas will be to cover the major thoroughfares in the region. The project would improve wireless telecommunication services in the area with a minimal visual impact to the vicinity. As conditioned in this report, the project is in compliance with Section 17.50.310 Telecommunication Facilities of the Zoning Code.*
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 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 zoning districts. Co-location of antennas is encouraged to reduce the number of telecommunication wireless facilities in the City by utilizing existing sites. The upgrade of telecommunication equipment would upgrade wireless service from third generation to fourth generation wireless technology and improve wireless telecommunication coverage in the area. The primary use of the building will remain unchanged and will continue to be a commercial office use.*
4. *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 Wireless Telecommunication Facilities, Minor use shall comply with the federally adopted health and safety thresholds established in the Federal Communications Act of 1996. The proposed telecommunications facilities will operate in full compliance with the U.S. standards for radio frequency emissions as published by the American National Standards Institute (ANSI). Similar telecommunications facilities such as this have been documented to operate and transmit at levels far below the federal standards. As conditioned, the*

application must demonstrate compliance with all applicable Federal Standards. No significant impacts are anticipated as a result of this project.

5. *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 co-location of wireless telecommunications facilities are strictly regulated by the Federal Communications Commission (FCC) and the facilities must 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. A condition of approval is included that will require documentation of the frequency emission prior to the final building permit issuance. The antenna and required equipment meet all standards of the Zoning Code and will meet all FCC emission compliance regulations.*
6. *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 co-location is encouraged to reduce the number of telecommunication wireless facilities in the City and thereby reducing the potential aesthetic impact to surrounding neighborhoods. The co-location will allow an existing building to be utilized and eliminates the installation of a new telecommunication wireless facility elsewhere in the City that may be less desirable. The upgrade of telecommunication equipment would improve wireless telecommunication services in the area with a minimal visual impact to the vicinity given the equipment will be housed on top of the 83 foot tall office building and will be screened from public right-of-way views. The height of the existing 83-foot tall office building will not change and the site will continue to operate as a commercial office use.*

Variance – To allow the new wireless telecommunication facility to exceed the 25 percent roof top appurtenances.

7. *There are exceptional or extraordinary circumstances or conditions applicable to the subject site that do not apply to sites in the same zone district. The existing office building built in 1981 has a nonconforming height limit of 83 feet, which is unique compared to surrounding uses within the area. The current rooftop appurtenance coverage of 30.36 percent is a preexisting and nonconforming condition. The project consists of direct replacement of panel antennas and will not contribute to the nonconforming appurtenance coverage percentage requirement. Furthermore, the new wireless telecommunication equipment will be screened from public right-of-way views.*
8. *Granting the application is necessary for the preservation and enjoyment of a substantial property right of the applicant and to prevent unreasonable property loss or unnecessary hardship in that wireless telecommunication facilities are constantly being upgraded due to improvements in wireless technology. It is unreasonable to allow previously entitled wireless equipment to be upgraded due to technological advancements for it will result in substantial hardship and property rights to utilize the site as telecommunication facilities without contributing to the nonconforming rooftop appurtenance condition.*
9. *Granting the application will not be detrimental or injurious to property or improvements in the vicinity of the subject site, or to the public health, safety or general welfare in that the proposed Wireless Telecommunication Facilities, Minor use shall comply with the federally adopted health and safety thresholds established in the Federal Communications Act of 1996. The proposed telecommunications facilities will operate in full compliance with the*

U.S. standards for radio frequency emissions as published by the American National Standards Institute (ANSI). Similar telecommunications facilities such as this have been documented to operate and transmit at levels far below the federal standards. As conditioned, the application must demonstrate compliance with all applicable Federal Standards. No significant impacts are anticipated as a result of this project.

10. *Granting the application is in conformance with the goals, policies, and objectives of the General Plan, and the purpose and intent of any applicable specific plan and the purposes of this Zoning Code and would not constitute a grant of special privilege inconsistent with limitations on other properties in the vicinity and in the same zone district 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 zoning districts. Co-location is encouraged to reduce the number of telecommunication wireless facilities in the City by utilizing existing sites. The upgrade of telecommunication equipment would upgrade wireless service from third generation to fourth generation wireless technology and improve wireless telecommunication coverage in the area. The primary use will remain as a commercial office use.*

11. *Cost to the applicant of strict compliance with a regulation shall not be the primary reason for granting the variance in that the cost to the applicant of complying with the City's development standards has not been considered a factor at any time throughout the review of this application.*

ATTACHMENT B
CONDITIONS OF APPROVAL FOR MINOR CONDITIONAL USE PERMIT & VARIANCE
#5715

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

General

1. The site plan, elevations, and building section drawings submitted for building permits shall substantially conform to plans submitted and stamped "Received at Hearing, February 1, 2012", except as modified herein.
2. The applicant or successor in interest shall meet the applicable code requirements of all City Departments.
3. The final decision letter and conditions of approval shall be incorporated in the submitted building plans as part of the building plan check process.
4. Final elevations, including material of construction, shall be submitted to and approved by the Zoning Administrator prior to issuance of any building permits.
5. The proposed project, Activity Number **PLN2011-00464**, is subject to the Inspection Program by the City. A Final Zoning Inspection is required for your project prior to the issuance of a Certificate of Occupancy or approval of the Final Building Inspection. In addition, the project requires Conditional Mitigation Monitoring. Contact the Planning Case Manager, Kent Lin at 626.744.6817 to schedule an inspection time

Planning Division

6. This approval is to allow the replacement of 12 existing panel antennas with 12 new fourth generation Long Term Evolution (LTE) panel antennas. The project also involves the installation of 12 Remote Radio Units (RRU) and six DC surge suppressors.
7. All equipment shall be housed on the rooftop of the existing 83 foot tall office building and shall be screened from public right-of-way views.
8. The screening material shall consist of transparent screen wall painted and textured to match the existing penthouse.
9. The use of chain-link fencing or razor wire in the design of a facility or related support facilities is prohibited.
10. No off-premises or on-premises signs may be placed by a wireless telecommunications service provider on a building or support structure to which a facility is attached.
11. The site of the facilities shall be maintained in a condition free of debris, refuse, and trash. All graffiti shall be removed within 48 hours.
12. Upon installation of the facility, the applicant shall demonstrate that the project will not result in levels of radio frequency emissions that exceed Federal Communications Commission standards, including FCC Office of Engineering Technology (OET) Bulletin 65, Evaluating

Compliance with FCC Guidelines for Human Exposure to Radiofrequency Electromagnetic Fields, as amended. Additionally, if the Director determines the wireless telecommunications facility, as constructed, may emit radio frequency emissions that are likely to exceed Federal Communications Commission uncontrolled/general population standards in the FCC Office of Engineering Technology (OET) Bulletin 65, Evaluating Compliance with FCC Guidelines for Human Exposure to Radiofrequency Electromagnetic Fields, as amended, in areas accessible by the general population, the Director may require post-installation testing to determine whether to require further mitigation of radio frequency emissions. The cost of any such testing and mitigation shall be borne by the applicant.

13. Before the issuance of any permit, the applicant shall post with the City a performance bond or other security in an amount rationally related to the cost of removal.
14. The Director of Planning may require the applicant to provide an authorization to permit the City to hire an independent, qualified consultant to evaluate any technical aspect of the proposed use, including issues involving radio frequency emissions, alternative designs, and alternative sites. Any authorization for this purpose shall include an agreement by the applicant to reimburse the City for all reasonable costs associated with the consultation. Any proprietary information disclosed to the City or the consultant is deemed not to be a public record, and shall remain confidential and not to be disclosed to any third party without the express consent of the applicant, unless otherwise required by law.
15. 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 antenna array and, if applicable, the support structure shall be removed within 90 days. If removal does not occur, the City may remove the antenna array and, if applicable, the support structure, at the permittee's expense; provided, however, that if other antenna arrays owned or operated by other service providers are affixed to the same support structure then only the antenna array 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.