

PLANNING & DEVELOPMENT SERVICES DEPARTMENT REPORT

**DATE:** June 1, 2006

**TO:** Orange County Zoning Administrator

**FROM:** P&DSD/Land Use Services Division

**SUBJECT:** Public Hearing for Planning Application PA06-0011 for Use Permit (and accompanying Changed Plan to PA030101)

**PROPOSAL:** Use Permit request to allow an 8.5' tall shelter around cellular communications equipment and air conditioners for same to be located 6" from a side property line, where structures not exceeding 8' are permitted. This is in connection with a Changed Plan to PA030101 which would allow Nextel to also install 15 additional antennae behind screening on the roof on a 35 foot tall SBC (Pacific Bell) switching station and office building (present in the neighborhood since 1955).

**LOCATION:** In the east Tustin unincorporated area at 1971 Irvine Blvd., Third Supervisorial District.

**APPLICANT:** Nextel Communications, Lessee  
SBC (originally Pacific Telephone and Telegraph Company), Owner  
Parsons, Agent

**SYNOPSIS:** Land Use Services Division recommends Zoning Administrator approval subject to receipt of adequate noise information and findings and conditions.

**STAFF PLANNER/CONTACT:** Jim Swanek, Project Manager  
Phone: (714) 796-0140, 834-2079, 834-2626; FAX: (714) 834-4772  
E-Mail: [Jim.Swanek@pdsd.ocgov.com](mailto:Jim.Swanek@pdsd.ocgov.com)

**BACKGROUND:**

The proposed project is a principal use (unrelated to the original principal use of the property as a telephone switching station) and would be permitted subject to approval of a Site Development Permit in the E4 "Small Estates" District zoning. Such a permit was approved under PA030101 before the merger of Sprint and Nextel. [The other cellular communications user on this site is Cingular (formerly AT&T Wireless and Pacific Bell Wireless), established via CP980047 and PA030024.]

Communications antennae are permitted with a height limit of 45' (10' more than the District height limitation). However, the Orange County Zoning Code is silent on whether screens to hide the bare antennae may also exceed the District height limit. Since such screens' sole purpose is to hide otherwise unconditionally permitted electronic antennae, they should be permitted to exceed the District height limit to the same degree as the antennae themselves.

The height of building modifications for the sole purpose of screening the new antennae would be to a maximum of 43 feet, 9 inches. Other screen structures on the roof by other approvals are as high as 45 feet, 6 inches, although it is believed they were only approved to be 45 feet tall.

Under these conditions, a Changed Plan to PA030101 which would allow Nextel to also install 15 additional antennae behind screening on the roof would be the normal course of action. However, in this instance, an accessory structure to the use involves an 8.5’ tall shelter around cellular communications equipment and air conditioners to be located 6” from a side property line, where structures not exceeding 8’ are permitted. This triggers the need for a use permit under Zoning Code Section 7-9-137(e), with no additional special findings beyond compatibility.

**SITE ZONING AND SURROUNDING LAND USE:**

The site is located along the northeast side of Irvine Boulevard at its intersection with Browning Avenue. Single-family residential neighborhoods in the “Tustin unincorporated areas” are to the north, west, and east. Diagonally across the broad intersection of Irvine and Browning is a similarly designed single-family residential neighborhood in the City of Tustin.

The County’s General Plan shows a land use designation of “Suburban Residential”, suggesting the long-term intended use of property in the area. The existing telephone switching building was established in 1955 by a Conditional Permit issued by the Orange County Planning Commission, within the E4 Small Estates zoning, as a necessary use adjunct to the residential development of the larger area.

<b>Direction</b>	<b>Land Use Designation</b>	<b>Existing Land Use</b>
Project Site	E4 “Small Estates”	Telephone switching station
North	E4 “Small Estates”	Single family dwellings
South	City of Tustin Single Family Resid.	Single family dwellings
East	80-E4 “Small Estates”	Single family dwellings
West	R1 “Single Family Residential”	Single family dwellings

**CEQA COMPLIANCE:**

The proposed project was found to be Categorically Exempt from the provisions of CEQA as a “minor modification to an existing structure”, or “Class 1”. Prior to project approval, the decision-maker must make a finding to this effect (recommended in Attachment A) for the proposed project.

**PUBLIC NOTICES, DISTRIBUTION FOR REVIEW, AND COMMENTS RECEIVED:**

A Notice of Hearing was mailed to all owners of record within 300 feet of the subject site. Additionally, notice was posted at the site, at the 300 N. Flower Building and as required by established public hearing posting procedures. A copy of the planning application and a copy of the proposed site plan were previously distributed for review and comment to the North Tustin Advisory Committee, the Foothill Communities Association, and various County departments. On April 19, 2006, the North Tustin

Advisory Committee recommended denial of the request. The minutes of that meeting are attached as Exhibit 3. Members of the Committee were concerned the air conditioning units would be noisy to the yards of homes on the other side of the nine foot tall wall separating this utility property from those homes, and they requested noise generation specifications. The applicant did not realize until after the meeting that the compressor motors were entirely within the shelter, and only air from the exhaust blowers could be heard outside, and that through louvers (see attached photo of similar unit). The applicant will present at the hearing measurements for generated noise to a person standing immediately outside and next to these louvers, that being the worst case scenario.

Technical comments received have been incorporated into recommended Conditions of Approval. No comments arising from posting or mailing of the public notice have been received to date.

**REVIEW AND ANALYSIS:**

The ground placement of equipment cabinets will not eliminate any parking spaces nor significantly interfere with any thru-driveway. Although the structure is 6 inches too tall to be located where it is proposed, the wall behind it is that tall as well (actually 9 feet). Staff believes the finding of compatibility under Sec. 7-9-150.3 (e) (1) d. can be made that: “The location, size, design and operating characteristics of the proposed use will not create conditions or situations that may be incompatible with other permitted uses in the vicinity.”

**RECOMMENDATION**

Land Use Services Division recommends the Zoning Administrator:

- a. Receive staff presentation and public testimony as appropriate; and,
- b. Approve Application PA 06-0011 subject to receipt of adequate noise information and the attached Findings and Conditions of Approval.

Respectfully submitted,

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Charles Shoemaker, Chief  
LUSD/Site Planning Section

**APPEAL PROCEDURE**

Any interested person may appeal the decision of the Zoning Administrator on this permit to the Orange County Planning Commission within 15 calendar days of the decision, upon submittal of required documents and a fee of \$760.00 at the Development Processing Center, 300 N. Flower St., Santa Ana.

Attachments:

- A. Recommended Findings
- B. Recommended Conditions of Approval

Exhibits: (Zoning Administrator package only)

1. Applicant's Letter of Explanation
2. Site Plans
- 3. North Tustin Advisory Committee Meeting Minutes**
- 4. Photos**



## Appendix A Findings PA060011

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- 1                                    **GENERAL PLAN**                                    **PA060011**  
That the use or project proposed is consistent with the objectives, policies, and general land uses and programs specified in the General Plan adopted pursuant to the State Planning and Zoning Law.
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- 2                                    **ZONING**                                    **PA060011**  
That the use, activity or improvement(s) proposed, subject to the specified conditions, is consistent with the provisions of the Zoning Code, or specific plan regulations applicable to the property.
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- 3                                    **COMPATIBILITY**                                    **PA060011**  
That the location, size, design and operating characteristics of the proposed use will not create unusual conditions or situations that may be incompatible with other permitted uses in the vicinity.
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- 4                                    **GENERAL WELFARE**                                    **PA060011**  
That the application will not result in conditions or circumstances contrary to the public health and safety and the general welfare.
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- 5                                    **PUBLIC FACILITIES**                                    **PA060011**  
That the approval of the permit application is in compliance with Codified Ordinance Section 7-9-711 regarding public facilities (fire station, library, sheriff, etc.).
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- 6                                    **CATEGORICALLY EXEMPT**                                    **PA060011 (Custom)**  
That the proposed project is Categorically Exempt (Class 1) from the provisions of CEQA.



## Appendix B Conditions of Approval PA060011

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**1 CP CP NA BASIC/ZONING REG PA060011**

This approval constitutes approval of the proposed project only to the extent that the project complies with the Orange County Zoning Code and any other applicable zoning regulations. Approval does not include any action or finding as to compliance of approval of the project regarding any other applicable ordinance, regulation or requirement.

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**2 CP CP NA BASIC/TIME LIMIT PA060011**

This approval is valid for a period of 36 months from the date of final determination. If the use approved by this action is not established within such period of time, this approval shall be terminated and shall thereafter be null and void.

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**3 CP CP NA BASIC/PRECISE PLAN PA060011**

Except as otherwise provided herein, this permit is approved as a precise plan. If the applicant proposes changes regarding the location or alteration of any use or structure, the applicant shall submit a changed plan to the Director, PDS, for approval. If the Director, PDS, determines that the proposed change complies with the provisions and the spirit and intent of the approval action, and that the action would have been the same for the changed plan as for the approved plot plan, he may approve the changed plan without requiring a new public hearing.

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**4 CP CP NA BASIC/COMPLIANCE PA060011**

Failure to abide by and faithfully comply with any and all conditions attached to this approving action shall constitute grounds for the revocation of said action by the Orange County Planning Commission.

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**5 CP CP NA BASIC/OBLIGATIONS PA060011**

Applicant shall defend at his/her sole expense any action brought against the County because of issuance of this permit. Applicant shall reimburse the County for any court costs and attorneys fees that the County may be required to pay as a result of such action. The County may, at its sole discretion, participate in the defense of any action, but such participation shall not relieve applicant of his/her obligations under this condition.

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**6 CP CP NA BASIC/APPEAL EXACTIONS PA060011**

Pursuant to Government Code Section 66020, the applicant is hereby informed that the 90-day approval period in which the applicant may protest the fees, dedications, reservations or other exactions imposed on this project through the conditions of approval has begun.

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**7 BP BP G CONSTRUCTION NOISE PA060011 (Custom)**

A. Prior to the issuance of any construction permits, the project proponent shall produce evidence acceptable to the Manager, Building Permit s Services, that:

- (1) All construction vehicles or equipment, fixed or mobile, operated within 1,000' of a dwelling shall be equipped with properly operating and maintained mufflers.
- (2) All operations shall comply with Orange County Codified Ordinance Division 6 (Noise Control).
- (3) Stockpiling and/or vehicle staging areas shall be located as far as practicable from dwellings.

B. Notations in the above format, appropriately numbered and included with other notations on the front sheet of the project's permitted construction plans, will be considered as adequate evidence of compliance with this condition.