TO: HONORABLE CITY COUNCIL
FROM: CITY MANAGER DEPARTMENT: PLANNING AND COMMUNITY ENVIRONMENT
DATE: APRIL 25, 2005 CMR: 229:05
SUBJECT: 3990 EL CAMINO REAL [04-CUP-11]: REQUEST BY T-MOBILE ON BEHALF OF TOUFIC JISSER FOR A CONDITIONAL USE PERMIT TO ALLOW THE INSTALLATION OF A TELECOMMUNICATIONS FACILITY. ZONE DISTRICT: CN. ENVIRONMENTAL ASSESSMENT: EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

RECOMMENDATION
Staff and the Planning and Transportation Commission (Commission) recommend that the City Council uphold the Director of Planning and Community Environment’s decision to approve Conditional Use Permit 04-CUP-11 based upon the findings and conditions in the Record of Land Use Action (Attachment A) for the installation of a telecommunications facility comprised of a 40-foot faux tree-pole with six panel antennas concealed within the top region of the tree and associated equipment cabinets.

BACKGROUND
On December 21, 2004, the Director of Planning and Community Environment tentatively approved a request for a Conditional Use Permit (CUP) to allow the installation of a new telecommunications facility (see Attachment K for the approval letter). Within the prescribed timeframe, one request for a public hearing was received for the CUP application. The associated Architectural Review and Design Enhancement Exception applications were approved with conditions on December 21, 2004 and March 16, 2005, respectively.

It should be noted that the approved plans (Attachment N) do not reflect the changes required through the conditions of approval. It should be noted that both the CUP and Architectural Review approvals include a number of conditions to insure that the constructed project will be high quality aesthetically. A significant condition of approval, to be reviewed at the building permit phase, is that the revised building permit plans show a natural tree shape that mimics an evergreen broad leaf tree (the plans do not accurately represent the shape of the finished project).
A photo-simulation is provided as Attachment D that shows an approximation of what the project can look like. The final landscape plans and fence detail will also be reviewed at the building permit phase. The complete list of the conditions of approval is in Attachment A, Section 6.

A common issue raised by concerned citizens regarding telecommunications sites is that they are a potential health risk. As mandated by the Telecommunications Act of 1996 (see page 2 of Attachment I for more details) the City cannot deny a project based on potential environmental or health risks due to the radio frequency emissions as long as the facility complies with the Federal Communications Commission regulations regarding such emissions. This project would meet these regulations.

The City’s codes and regulations are in compliance with the Telecommunications Act of 1996 and any subsequent cases that have been decided pursuant to that Act. An informational report updating the City Council regarding a City telecommunications policy will be provided in early May.

**COMMISSION REVIEW AND RECOMMENDATIONS**

On March 9, 2005, this project was reviewed by the Commission, who recommended that the City Council uphold the Director of Planning and Community Environment’s decision to approve Conditional Use Permit 04-CUP-11 (4-2-0-1).

The Commissioners discussed several aspects of the proposed project:

- Potential health risks were discussed by several Commissioners with the understanding that these potential health related issues could not be considered in making the Commission’s recommendation.
- Alternative placements of the faux tree-pole were discussed within the project site and within street right-of-ways adjacent to or near the project site.
- Existing site conditions regarding the landscaping were discussed; as a result, a condition was added to the project to prohibit issuance of a building permit for the proposed project until the existing landscaping is brought up to compliance with the prior Architectural Review approval.

Other than the applicant, there were four members of the public who spoke. Three speakers were not in support of the project, citing potential health risks as their concern. Additional comments were made by one of these speakers about the poor upkeep of the existing landscaping of the project site. There was one speaker in support of the project, citing her concern about the importance of basic communications service in her neighborhood.

The Commission staff report and minutes are attached to this report (Attachments I and J).

**ENVIRONMENTAL REVIEW**

This project is exempt from the provisions of the California Environmental Quality Act per Section 15303.