

DECISION NO. 1541

A DECISION OF THE ZONING ADMINISTRATOR OF THE CITY OF GARDEN GROVE APPROVING CONDITIONAL USE PERMIT NO. CUP-224-08.

BE IT RESOLVED that the Zoning Administrator of the City of Garden Grove does hereby approve Conditional Use Permit No. CUP-224-08, for a parcel of land located on the west side of Magnolia Street, north of Lampson Avenue at 12301 Magnolia Street, Parcel No. 133-201-45.

BE IT FURTHER RESOLVED in the matter of Conditional Use Permit No. CUP-224-08, the Zoning Administrator of the City of Garden Grove does hereby report as follows:

1. The subject case was initiated by Royal Street Communications.
2. The applicant is requesting Conditional Use Permit approval to allow the construction and operation of a 60-foot tall wireless telecommunication facility disguised as a tree, as well as a 540 square foot equipment enclosure.
3. The City of Garden Grove has determined that this project is exempt pursuant to Article 19, Section 15303, New Construction or Conversion of Small Structures, of the California Environmental Quality Act.
4. The property has a General Plan Land Use designation of Low Density Residential and is zoned R-1 (Single Family Residential). The site is improved with a church.
5. Existing land use, zoning, and General Plan designation of property within the vicinity of the subject property have been reviewed.
6. Report submitted by City Staff was reviewed.
7. Pursuant to a legal notice, a public hearing was held on April 24, 2008, and all interested persons were given an opportunity to be heard.
8. The Zoning Administrator gave due and careful consideration to the matter during its meeting of April 24, 2008; and

BE IT FURTHER RESOLVED, FOUND AND DETERMINED that the facts and reasons supporting the conclusion of the Zoning Administrator, as required under Municipal Code Section 9.24.030, are as follows:

FACTS:

The property is located on the west side of Magnolia Street, north of Lampson Avenue.

The site is improved with a church.

The property has a General Plan designation of Low Density Residential.

The site is zoned R-1 (Single Family Residential).

The applicant is requesting Conditional Use Permit approval in order to construct and operate a 60-foot tall wireless telecommunication facility disguised as a tree, as well as a 540 square foot equipment enclosure.

New stealthed wireless telecommunications facilities are conditionally permitted uses in this zoning designation.

FINDINGS AND REASONS:

1. The use is consistent with the City of Garden Grove's adopted General Plan.

The site has a General Plan Land Use Designation of Low Density Residential.. The site is R-1 (Single Family Residential). Telecommunication facilities are conditionally permitted uses in this zoning designation. The use is consistent with the General Plan if the operation of the facility complies with the conditions of approval.

2. The use will not adversely affect the health, peace, comfort or welfare of persons residing or working in the surrounding area.

The use will not adversely affect the health, peace, comfort or welfare of persons residing or working in the surrounding area. The conditions of approval will minimize potential impacts to the adjoining area. Provided the conditions of approval are adhered to for the life of the project, the use will be harmonious with the persons who work and live in the area.

3. The use will not unreasonably interfere with the use, enjoyment or valuation of property of other persons located in the vicinity of the site.

The use will not unreasonably interfere with the use, enjoyment or valuation of the property of other persons located within the vicinity of the site, provided the conditions of approval are adhered to for the life of the project. Telecommunication facilities are conditionally permitted in this zoning designation.

In addition, the antenna structure will be designed as a tree and will have a natural appearance in order to mitigate any potential aesthetic impacts.

4. The use will not jeopardize, endanger or otherwise constitute a menace to public health, safety or general welfare.

The use will not jeopardize, endanger, or otherwise constitute a menace to public health, safety, or general welfare. The conditions of approval will ensure the public health, safety, and welfare. The antennas and equipment are required to adhere to all FCC regulations prohibiting such facilities from interfering with public safety. Therefore the project will not create a menace to the public health, safety, or welfare.

INCORPORATION OF FACTS AND REASONS SET FORTH IN STAFF REPORT

In addition to the foregoing, the Zoning Administrator incorporates herein by this reference, the facts and reasons set forth in the staff report.

BE IT FURTHER RESOLVED that the Zoning Administrator does conclude:

1. The Conditional Use Permit does possess characteristics that would indicate justification of the request in accordance with Municipal Code Section 9.24.030 (Conditional Use Permits).
2. In order to fulfill the purpose and intent of the Municipal Code and thereby promote the health, safety, and general welfare, the following Conditions of Approval, attached as Exhibit "A", shall apply to Conditional Use Permit No. CUP-224-08.

Dated: April 24, 2008



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SUSAN EMERY  
ZONING ADMINISTRATOR

## **EXHIBIT "A"**

### **Conditional Use Permit No. CUP-224-08**

12301 Magnolia Street

#### **CONDITIONS OF APPROVAL**

##### **GENERAL CONDITIONS**

1. The property owner shall record a "Notice of Agreement with Conditions of Approval and Discretionary Permit," as prepared by the City Attorney's Office. Proof of such recordation is required prior to the issuance of building permits. All conditions of approval are required to be adhered to for the life of the project, regardless of property ownership. Any changes of the conditions of approval require approval of the Hearing Body.
2. Approval of this Conditional Use Permit shall not be construed to mean any waiver of applicable and appropriate zoning regulations or any Federal, State, County and City laws and regulations. Unless otherwise expressly specified, all other requirements of the Garden Grove Municipal Code shall apply. The applicant shall obtain, and abide by, any necessary permits or licenses required to conduct the use in compliance with applicable laws.
3. All modifications shall be approved by the Community Development Department. If other than minor changes are proposed, the appropriate entitlements shall be submitted containing all proposed revisions, shall be required.
4. Any and all correction notice(s) generated through the plan check and/or inspection process is/are hereby incorporated by reference as conditions of approval and shall be fully complied with by the owner, applicant and all agents thereof.

##### **Police Department Conditions**

5. In order to facilitate the City's rules of the regulation, placement, and construction of and its interaction with the City's Public Safety Communications Equipment Operation of the Wireless Communications Facilities ("WCF"), the applicant and all successors shall agree as follows:
  - a. The applicant recognizes that the frequencies used by the WCF located at 12301 Magnolia Street be close to the frequencies used by the City of Garden Grove for public safety. This proximity will require extraordinary "comprehensive advanced planning and frequency coordination" engineering measures to prevent interference, especially in the choice of frequencies and radio ancillary hardware. This is encouraged in the "Best Practices Guide" published by the Association of Public-Safety Communications Officials-International, Inc. (APCO)

and as endorsed by the Federal Communications Commission (FCC). Applicant shall comply with such Good Engineering Practices as may be amended from time to time by the FCC in its Rules and Regulations and shall comply with all FCC regulations regarding susceptibility to radio frequency interference, frequency coordination requirements, general technical standards for power, antenna, bandwidth limitations, frequency stability, transmitter measurements, operating requirements, and any and all other federal statutory and regulatory requirements relating to radio frequency interference (RFI).

- b. In the event the WCF is identified as causing radio frequency interference with the City's Public Safety Communications Equipment, the following steps shall be taken:
  - i. Upon notification by the City of interference with Public Safety Communications equipment, the applicant shall utilize the hierarchy and procedures set forth in the Best Practices Guide. If the applicant fails to cooperate with the City in applying the procedures set forth in the Best Practices Guide in order to eliminate the interference, then the City may take such steps under law, including the initiation of appropriate proceedings with the FCC, to eliminate the interference.
  - ii. If there is a determination of radio frequency interference with the City's Public Safety Communications Equipment, the party which caused the interference shall be responsible for reimbursing the City for all costs associated with ascertaining and resolving the interference, including but not limited to any engineering studies obtained by the City to determine the source of the interference.
6. The applicant shall provide a 24-hour phone number to which interference problems can be reported. This condition will also apply to all existing facilities operated by the provider in the City of Garden Grove.
7. The applicant shall provide a "single point of contact" in its Engineering and Maintenance Departments to ensure continuity on all interference issues. The name, telephone number, fax number, and e-mail address of that person shall be provided to the City's designated representative upon activation of the facility.
8. The applicant shall ensure that any lessee or other users of the WCF shall comply with the terms and conditions of this permit and the applicant shall be responsible for the failure of any lessee or other users under the control of the applicant to comply.

**Community Development Department Conditions**

9. The applicant shall be responsible for maintenance and up-keep of the telecommunication facility.
10. The applicant and the property owner shall be responsible for maintaining free from graffiti, debris, and litter, those areas of the site that are adjacent to the premises over which he/she has control. Graffiti shall be removed within 120 hours of notification/application.
11. The antenna structure shall be designed as a tree. The antennas and tree branches shall not exceed 60-feet in height. The antennas shall not exceed the height of the wireless communications pole. In order to maintain a natural appearance, the following conditions shall apply:
  - a. The structure shall have a high branch count. Branches shall be spaced and designed to hide the antennas.
  - b. Branch lengths shall vary to maintain a natural appearance.
  - c. The trunk shall be covered in textured rubber to look like real bark.
  - d. The panel antennas shall be painted green to match the leaves of the tree.
  - e. There shall be no climbing pegs on the antenna structure below a height of 15-feet, except when temporarily installed to service the antennas.
  - f. No antennas or other equipment mounted on the structure shall extend below the bottom of the branches.
12. The applicant shall submit a material sample of the bark and the branch and leaf material to the Planning Services Division to review and approval as part of the plan check submittal application.
13. The equipment shall not extend above the top of the equipment enclosure.
14. To minimize any negative aesthetic impacts that the antenna structure may have on the property, at least two additional trees of a height of 20-25 feet, a minimum of 36-inch box, and of a species that will grow to a height similar to the disguised antenna structure, shall be planted adjacent to the enclosure on the site. A detailed landscaping plan shall be submitted and approved by the City of Garden Grove Community Development Department. The applicant shall be responsible for maintaining the additional landscaping pertaining to the telecommunications facility.

15. The Conditional Use Permit (CUP) grants the right to the applicant to construct and use a communication facility on the premises. The City, however, has concerns about the potential adverse aesthetic and other health and safety impacts of the antennas, and utility and/or mechanical equipment on the surrounding community. It is possible that future technological improvements may make the proposed telecommunication facility unnecessary or obsolete or outdated aesthetically, therefore, the particular antenna and related equipment shall be reviewed ten years from the date of this approval. At that time, the cellular provider operating the site shall agree to and update the facility as may be required by the Community Development Director or his/her designee.
16. The City reserves the right to periodically reevaluate the antennas, and utility and/or mechanical equipment in terms of the continued need for these structures in their current size, height, and configuration, and the actual impacts on the neighborhood, community, and environment.
17. Prior to the end of the fifth year, there will be an administrative review for compliance with the conditions of approval.
18. In order to address concerns regarding radio emissions, the following conditions shall be complied with:
  - a. Radio frequency emissions shall not exceed the radio frequency emission guidelines of the Federal Communication Commission (FCC); as such guidelines may be amended from time to time.
  - b. Prior to January 1, 2009, and each January 1<sup>st</sup> thereafter, the operator shall file with the City of Garden Grove Community Development Department for approval, a certification of compliance prepared by an independent third party, qualified to measure radio frequency emissions.
19. The operator/property owner shall make the antenna structure available for co-location for other service providers.
20. In the case of co-location of telecommunication facilities, the co-location applicant, together with the owner of the subject site, shall provide a composite analysis of all users of the site to determine that the applicant's proposed facilities will not cause radio frequency interference with the City's Public Safety Communications Equipment.
21. In the event that the communication facility is abandoned or its use is discontinued, the property owner shall remove all improvements within sixty days of abandonment or discontinuance of the use, whichever occurs first.

22. All property maintenance deficiencies subject to sections 9.16.180, 9.16.240(I), and Article VI of Chapter 9.24 of the Municipal Code shall be corrected by the property owner to the satisfaction of the Neighborhood Improvement Manager prior to the final City clearance that all work has been completed in compliance with building permits for the installation of any telecommunication equipment.
23. Hours and days of construction shall be as set forth in the City of Garden Grove's Municipal Code Section 8.47.010, referred to as the Noise Control Ordinance.
24. The applicant and the property owner shall submit signed letters acknowledging receipt of the decision approving Conditional Use Permit No. CUP-224-08, and their agreement with all conditions of the approval.
25. The equipment shelter shall be designed to match the existing buildings on site. The finish materials shall match the same color and texture of the existing buildings. The applicant shall submit samples of the proposed exterior materials to the Planning Services Division for review and approval as part of the plan check application.
26. There shall be no other antennas or mechanical equipment installed on the antenna structure without obtaining approval from the Planning Services Division.

**Building Services Division Conditions**

27. All new construction shall comply with the California Uniform Building Code as adopted by the City of Garden Grove, and all other applicable codes such as the U.P.C, Mechanical Code, U.F.C., and Electrical Code.
28. The applicant shall submit state approval for the foundation and electrical systems as part of the plan check application.
29. Due to the proximity of the pool, the applicant shall obtain approval from the Orange County Health Department for the location of the antenna structure and the equipment shelter.



# COMMUNITY DEVELOPMENT DEPARTMENT PLANNING STAFF REPORT

<b>AGENDA ITEM NO.:</b> 1.a.	<b>SITE LOCATION:</b> W/S Magnolia St. N/O Lampson Ave. @ 12301 Magnolia Street
<b>HEARING DATE:</b> April 24, 2008	<b>GENERAL PLAN:</b> Low Density Residential
<b>CASE NO.:</b> Conditional Use Permit No. CUP-224-08	<b>ZONE:</b> R-1 (Single Family Residential)
<b>APPLICANT:</b> Royal Street Communications	<b>APN:</b> 133-201-45
<b>OWNER:</b> Our Redeemer Lutheran Church	<b>CEQA DETERMINATION:</b> Exempt

## **REQUEST:**

The applicant is requesting Conditional Use Permit approval in order to construct and operate a 60-foot tall wireless telecommunication facility disguised as a tree as well as an approximately 540 square foot equipment enclosure.

## **BACKGROUND:**

The site is 2.99 acres in size and is improved with a church and accessory structures. The site was originally developed in 1961. The property is located on the west side of Magnolia Street north of Lampson Avenue.

## **DISCUSSION:**

Royal Street Communications is proposing to lease a portion of the south side of the site in order to install and operate a telecommunication facility, and a 540 square foot equipment shelter. The 60-foot tall antenna structure and the equipment shelter will be located in a landscaped area between a swimming pool and the main assembly hall.

The antenna structure will consist of twelve mounted antennas (three sectors with four antennas per sector) at a height of 60-feet. In order for the structure to maintain a natural appearance, staff is recommending the following conditions:

1. The structure shall have a high branch count. Branches shall be spaced and designed to hide the antennas.
2. Branch lengths shall vary to maintain a natural appearance.
3. The trunk shall be covered in textured rubber to look like real bark.

4. The antennas are required to be painted green to match the color of the leaves.
5. There shall be no climbing pegs on the antenna structure below a height of 15-feet except when temporarily installed to service the antennas.
6. No antennas or other equipment mounted on the antenna structure shall extend below the fronds.

The proposed equipment will be located in a block enclosure. The enclosure will be approximately 13-feet wide by 43-feet long, and approximately 7-feet tall. The antenna structure and all of the associated equipment will be located inside of the enclosure. The equipment shelter is conditioned to match the structures in color and building materials.

The location and configuration of the antennas on the facility have been selected to achieve the functional requirements set by Royal Street Communications. The telecommunication facility will help expand the service provider's coverage area within the City and help fill some minor gaps that currently exist in their network. The increased coverage will help the service provider's customers make and maintain calls as they travel through the city, and the calls are transferred from one facility to another. Situating this facility at this location will also help reduce the burden on the provider's network and accommodate an increase in customer demand.

**RECOMMENDATION:**

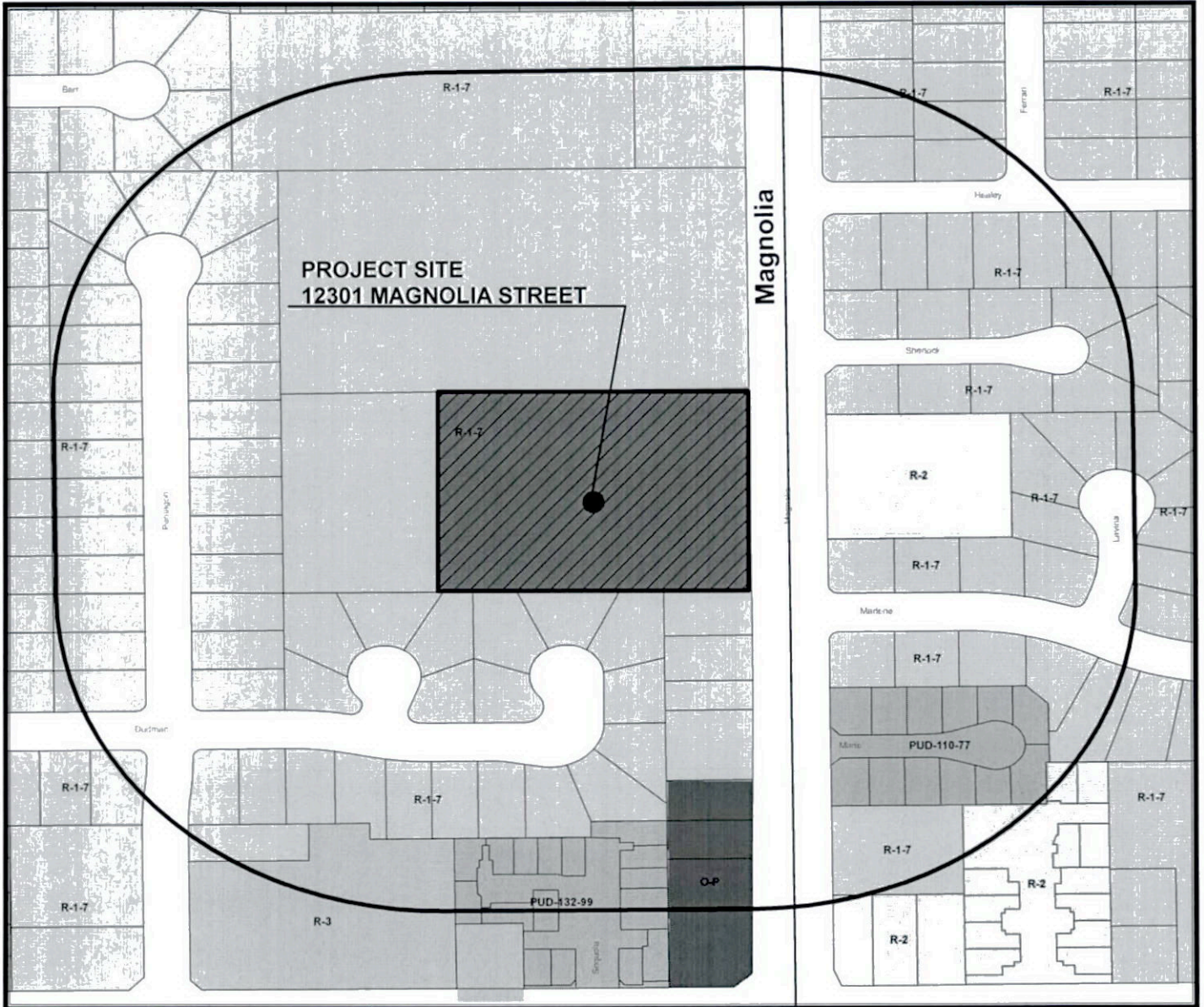
Staff is recommending that the Zoning Administrator approve Conditional Use Permit No. CUP-224-08, subject to the recommended conditions of approval.

  
By: Paul Wernquist  
Urban Planner



# CONDITINAL USE PERMIT NO. CUP-224-08

GARDEN GROVE

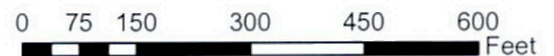


## LEGEND

-  PROJECT SITE- 12301 MAGNOLIA STREET
-  500 FEET RADIUS

## NOTES

1. GENERAL PLAN: LOW DENSITY RESIDENTIAL
2. ZONE: R-1 (SINGLE-FAMILY RESIDENTIAL)



**CITY OF GARDEN GROVE  
 COMMUNITY DEVELOPMENT DEPARTMENT  
 PLANNING DIVISION  
 GIS SYSTEM  
 MARCH 2008**