

CITY OF CUPERTINO
10300 Torre Avenue
Cupertino, California 95014

RESOLUTION NO. 6674

OF THE PLANNING COMMISSION OF THE CITY OF CUPERTINO
APPROVING A USE PERMIT TO DEMOLISH AN EXISTING LATTICE TOWER & ALLOW
THE CONSTRUCTION OF A PERSONAL WIRELESS SERVICE FACILITY, CONSISTING OF
SIX PANEL ANTENNAS MOUNTED ON A 70-FOOT TALL COLLOCATABLE MONOPINE
WITH AN ASSOCIATED BASE EQUIPMENT ENCLOSURE NEXT TO 22475 RANCHO DEEP
CLIFF DRIVE

SECTION I: FINDINGS

WHEREAS, the Planning Commission of the City of Cupertino received an application for a Use Permit, as described in Section II. of this Resolution; and

WHEREAS, the necessary public notices have been given in accordance with the Procedural Ordinance of the City of Cupertino, and the Planning Commission has held one or more public hearings on this matter; and

WHEREAS, the applicant has met the burden of proof required to support said application; and has satisfied the following requirements:

- 1) The proposed use, at the proposed location, will not be detrimental or injurious to property or improvements in the vicinity, and will not be detrimental to the public health, safety, general welfare, or convenience;
- 2) The proposed use will be located and conducted in a manner in accord with the Cupertino Comprehensive General Plan, the Wireless Facilities Master Plan, the Wireless Communications Facilities Ordinance and the purpose of this title.
- 3) That the operation of the facility will comply with federal safety standards for radio frequency energy emissions.

NOW, THEREFORE, BE IT RESOLVED:

That after careful consideration of maps, facts, exhibits, testimony and other evidence submitted in this matter, the application for Use Permit is hereby approved, subject to the conditions which are enumerated in this Resolution beginning on Page 2 thereof; and

That the subconclusions upon which the findings and conditions specified in this resolution are based and contained in the public hearing record concerning Application No. U-2011-07 as set forth in the Minutes of the Planning Commission Meeting of October 25, 2011 and are incorporated by reference as though fully set forth herein.

SECTION II: PROJECT DESCRIPTION

Application No.: U-2011-07
Applicant: Chip Griffin, Ridge Communications (for Verizon Wireless)
Property Owner: Rancho Deep Cliff Homeowners Association
Location: Common area next to 22475 Rancho Deep Cliff Drive

SECTION III: CONDITIONS ADMINISTERED BY THE COMMUNITY DEVELOPMENT DEPT.

1. APPROVED EXHIBITS

Approval is based on Exhibits titled: "verizonwireless/West Cupertino/ Adjacent to 22475 Rancho Deep Cliff Drive/Cupertino, CA 95014 SITE No. 193868" prepared by L.D. Strobel Co. Inc./Design/Construction dated 06/03/11 and consisting of eight sheets labeled T-1, C-1 (2 sheets), A-1, A-1.1, A-2, A-3 and L-1, except as may be amended by the conditions contained in this resolution.

2. USE PERMIT ALLOWANCE

The applicant is authorize to apply for building permits to demolish the existing television lattice tower and construct a personal wireless service facility that includes a 70-foot tall monopine and associated equipment enclosure.

3. NOTICE OF FEES, DEDICATIONS, RESERVATIONS OR OTHER EXACTIONS

The Conditions of Project Approval set forth herein may include certain fees, dedication requirements, reservation requirements, and other exactions. Pursuant to Government Code Section 66020(d) (1), these Conditions constitute written notice of a statement of the amount of such fees, and a description of the dedications, reservations, and other exactions. You are hereby further notified that the 90-day approval period in which you may protest these fees, dedications, reservations, and other exactions, pursuant to Government Code Section 66020(a), has begun. If you fail to file a protest within this 90-day period complying with all of the requirements of Section 66020, you will be legally barred from later challenging such exactions.

4. COLOCATION OF ANTENNAE

The monopine shall be structurally designed to accommodate the collocation of additional antennae from other wireless carriers. The co-location agreement shall be at market rates with reasonable compensation to the mast owner.

5. ABANDONMENT

If after installation, the aerial is not used for its permitted purpose for a continuous period of 18 months, said aerial and associated facilities shall be removed. The applicant shall bear the entire cost of demolition.

6. EXPIRATION DATE

This use permit shall expire ten (10) years after the effective date of the permit. The applicant may apply for a renewal of the use permit at which time the Planning Commission may review the state of wireless communication technologies, camouflage techniques and maintenance to determine if the visual impact of the aerial facility can be reduced.

7. POST-CONSTRUCTION TESTING OF RADIO FREQUENCY (RF) LEVELS

The applicant shall monitor and report on cumulative RF energy emissions and compare exposures to the Federal safety standards in mW/cm² when both personal wireless service facilities are operational. If the operation of the second wireless facility is delayed by more than six months from the operation of the applicant's wireless facility, then the applicant shall report on only his facility. Emissions testing shall include measurements at sites next to 22395, 22415, 22435, 22455 and 22456 Rancho Deep Cliff Drive and the second story of the adjacent apartment building. The results of these tests will be made available to the Planning Department and Rancho Deep Cliff Homeowners' Association for review. The City reserves the right to perform code enforcement actions and/or revoke this use permit if the results show RF exposure levels in excess of the applicable federal standards.

8. POST-CONSTRUCTION TESTING OF NOISE LEVELS

The applicant shall monitor and report on cumulative noise levels and compare them to City daytime and nighttime noise standards when both personal wireless service facilities are operational. If the operation of the second wireless facility is delayed by more than six months from the operation of the applicant's wireless facility, then the applicant shall report on only his facility. Noise testing shall include measurements at sites next to 22395, 22415, 22435, 22455 and 22456 Rancho Deep Cliff Drive and the property line abutting the adjacent apartment building. The results of these tests will be made available to the Planning Department and Rancho Deep Cliff Homeowners' Association for review. The City reserves the right to perform code enforcement actions and require noise mitigations if the results show noise levels in excess of the applicable city standards.

9. ADDITIONAL GEOTECHNICAL REVIEW

At the building permit stage, the applicant shall comply with the geotechnical recommendations of the City Geologist, Cotton, Shires and Associates, in its letter dated May 19, 2011.

10. CONSTRUCTION MANAGEMENT PLAN

Applicant shall submit a construction management plan sheet with the building permit submittal.

PASSED AND ADOPTED this 25th day of October 2011, at a Regular Meeting of the Planning Commission of the City of Cupertino by the following roll call vote:

AYES:	COMMISSIONERS: Chair Lee, Vice Chair Miller, Brophy, Brownley, Sun
NOES:	COMMISSIONERS: none
ABSTAIN:	COMMISSIONERS: none
ABSENT:	COMMISSIONERS: none

ATTEST:

APPROVED:

/s/ Aarti Shrivastava
Aarti Shrivastava
Community Development Director

/s/ Winnie Lee
Winnie Lee, Chair
Planning Commission