



# City of La Habra Heights AGENDA REPORT

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To: Planning Commission For Meeting of: June 23, 2009  
From: Kenneth Phung, City Planner Agenda Item:  
Subject: Conditional Use Permit 2009-04 to allow an existing communication tower to operate in perpetuity at 16700 Skyline Drive.

**Project Applicant:** Richard Patterson  
Coast Community College District  
1370 Adams Avenue  
Costa Mesa, CA 92626

**Owner:** Same as above

**Location:** 16700 Skyline Drive

**Request:** Conditional Use Permit to allow an existing communication tower owned by the "Coast Community College District" (CCCD) to operate in perpetuity with its existing antennas consisting of the following:

- 1) Two (2) microwave dishes by the CCCD to provide back-up service for voice and data communications for its three college campuses.
- 2) Two (2) microwave antennas for Sempra Energy.
- 3) Two (2) cross arm antennas for the California Highway Patrol.
- 4) One (1) radio antenna for Suburban Water.

**Information:**

Assessor's Parcel No.: 8239-045-900  
Zoning: PF (Public Facilities)  
General Plan: PF (Public Facilities)  
Acreage: 0.6 acre (26,140 square feet)

BACKGROUND:

The property for the communication tower was purchased by the “Coast Community College District” (CCCD)/KOCE in 1971 prior to the incorporation of the City. The CCCD at that time obtained a Conditional Use Permit (2174) approval by the County of Los Angeles on November 23, 1971 to construct a 254-foot tower for KOCE public television transmission purposes. The proposal has undergone several renewals and amendments since its original approval as summarized below:

| <b>PROJECT HISTORY</b>   |  |                        |
|--|--|------------------------|
| <b>Request</b>   | <b>Approval Date</b>                                 | <b>Expiration Date</b> |
| <b>Conditional Use Permit</b> to allow the construction of a 254-foot communication tower for KOCE public television transmission purposes in the Residential Zone.  | <b>County of LA Approval</b><br>November 23, 1971 by | November 23, 1981      |
| <b>Conditional Use Permit and Variance</b> ( <i>due to substandard lot size</i> ) for continued use of communication tower for KOCE public television transmission purposes in the Residential Zone.   | <b>City Council Approval</b><br>January 28, 1982     | February 21, 1992      |
| <b>Conditional Use Permit</b> for continued use of communication tower for KOCE public television transmission purposes to include a 2,000 sq. ft. single-story building in the Residential Zone.  | <b>City Council Approval</b><br>February 10, 1994    | February 28, 2004      |
| <b>Conditional Use Permit</b> for continued use of communication tower for KOCE public television transmission purposes and associated buildings along with increasing intensity of tower to include two microwave antennas for Sempra Energy, Two cross arms antennas for CHP and one radio antenna for Suburban Water in the Public Facilities Zone. | <b>City Council Approval</b><br>July 8, 2004         | June 22, 2009          |
| <b>Conditional Use Permit</b> to include two (2) additional 6-foot microwave dishes to the transmission tower by the CCCD to provide back-up service for voice and data communications for its three college campuses in the Public Facilities Zone.   | <b>City Council Approval</b><br>March 13, 2008       | June 22, 2009          |

The property now no longer includes the KOCE antennas as of 2008, and at the present time only includes the following antennas approved by the City Council on July 8, 2004 and as amended by the City Council on March 13, 2008:

- 1) Two (2) microwave dishes by CCCD to provide back-up service for voice and data communications for its three college campuses.
- 2) Two (2) microwave antennas for Sempra Energy.
- 3) Two (2) cross arm antennas for the California Highway Patrol.
- 4) One (1) radio antenna for Suburban Water.

As noted in the “Project History” table above the General Plan and Zoning designations at one time for the property was designated Residential for the site along with the surrounding properties, but the General Plan update of March 2004 and the Municipal Code update of November 9, 2006 have revised those designations. The table on the following page identifies the current site and the surrounding properties General Plan and Zoning designations:

| <b>SURROUNDING LAND USES</b>    |   |
|---------------------------------|---|
| <b>General Plan Designation</b> | <b>Site:</b> Public Facilities<br><b>North:</b> Open Space – Conservation<br><b>South:</b> Open Space – Conservation<br><b>West:</b> Open Space – Conservation<br><b>East:</b> Open Space – Conservation  |
| <b>Zoning Designation</b>       | <b>Site:</b> Public Facilities<br><b>North:</b> Open Space – Conservation<br><b>South:</b> Open Space – Conservation<br><b>West:</b> Public Facilities<br><b>East:</b> Open Space – Conservation  |
| <b>Land Uses</b>                | <b>Site:</b> Communication Tower and 2,000 sq. ft. associated building<br><b>North:</b> Vacant – Habitat Authority<br><b>South:</b> Vacant – Habitat Authority<br><b>West:</b> Water Tank – Suburban Water<br><b>East:</b> Vacant – Habitat Authority |

As noted above the property now is designated Public Facilities zone and surrounded by predominately Open Space – Conservation land designations.

**DEVELOPMENT PROPOSAL AND ANALYSIS:**

The proposed Conditional Use Permit is to request the existing communication tower to operate in perpetuity with its existing antennas consisting of the following:

- 1) Two (2) 6-foot microwave dishes by CCCD to provide back-up service for voice and data communications for its three college campuses.
- 2) Two (2) microwave antennas for Sempra Energy.
- 3) Two (2) cross arm antennas for the California Highway Patrol.
- 4) One (1) radio antenna for Suburban Water.

No additional antennas are proposed beyond what was conditional approved in July 8, 2004 by City Council or as amended on March 13, 2008 by the City Council.

The proposed Conditional Use Permit (CUP) for the communication tower is the only identified CUP use allowed with a CUP application. The other permitted uses subject to a Site Plan review include City Hall, civic uses, government uses, public uses, and public health and safety uses. The viable uses for the site are very limited as approximately half of the 26,140 square feet site is too steep to be practically developed and is at a remote location. The property is accessible through a criss-crossing paved private road that terminates at Gotera Drive which located in the unincorporated community of Hacienda Heights. The proposed communication tower use fits the limitation of the site as it's an unmanned facility that does not require on-site parking and requires very limited utilities.

The proposed communication tower is also now more compatible with its surroundings as the General Plan and Zoning updates of recent years has designated the site Public Facilities with the surrounding land designated Open Space. Historically the surrounding land uses were designated for Residential development.

The applicant is requesting the communication tower to operate in perpetuity. Staff however only supports a CUP extension of 10-years. This provides staff an opportunity to revisit the project site at later time to determine if technology exists that no longer requires a communication tower or to reduce the size of the antennas or etc.

It should be noted in previous Conditional Use Permit Applications, the applicant has granted to the City the right to put three antennas on the site if and when the City determines there is a need.

FINDINGS:

In reviewing the proposed development, the Planning Commission is guided by the following Conditional Use Permit findings listed below:

1. The proposed use is one conditionally permitted within the subject Zone District.

Special communication facilities are Conditionally Permitted within the Public Facilities Zone.

2. The proposed use would not impair the integrity and character of the Zone in which it is located and will adhere to all applicable performance standards.

The communication tower has been in existence since 1971 and in a zoning designation that permits the proposed use. The proposal is to only allow an extension of 10-years from what was previously approved, therefore will not impair the integrity and character of the zone in which it is located.

3. The subject site is physically suitable for the type of land use being proposed.

The site is physically suitable for the type of land use being proposed as it has been in existence since 1971 with no record of any health and safety issues in regards to the operation.

4. The proposed use is compatible with land uses adjacent to the subject property.

The surrounding land uses consisting of Open Space – Conservation and Public Facilities are compatible with the proposed use particularly in light of the fact that the tower has been in existence since 1971, and no additional antennas are being proposed beyond what has already been conditionally approved.

5. The proposed use would be compatible with future land uses within the Zone District and the general area in which the proposed use is to be located.

The proposed use would not change the compatibility with the future land uses. The updated General Plan and Zoning designations of recent years have made the proposed use more compatible with its surrounding land uses than historically, as it's now surrounded by Open Space – Conservation and Public Facilities designations. Historically the surrounding land uses were designated for Residential development.

6. There would be adequate provisions for water, sanitation, circulation, and public utilities and other services.

The proposed use would not necessitate a change to the current conditions of the unmanned site.

7. There would be adequate provisions for public access to serve the use.

The applicant enters the site through a private road from Gotera in unincorporated Hacienda Heights. The applicant does not proposed any change to the existing access to serve this site.

8. The proposed use is consistent with the goals, policies and general land uses of the City of La Habra Heights General Plan.

The proposed use is a permitted use identified in the General Plan under the Public Facilities section. The applicant has also been working with the City throughout the years with its CUP renewal to comply with Land Use Element Policy 42 stating that "The City of La Habra Heights shall work with property owners and operators of public facilities in the design, landscaping, and locating of facilities." All of these policies have been implemented throughout the years when the CUP was renewed.

9. The proposed use would not be detrimental to the public interest, health, safety, convenience, or welfare.

The proposal is allow an extension of 10-years for an existing communication tower, therefore will not be detrimental to the public interest, health, safety, convenience, or welfare. The tower serves an important safety function in that it transmits CHP communications and complies with all FCC requirements.

10. The proposed use is not in conflict with the neighborhood and community character and will maintain views and privacy.

The proposal is allow an extension of 10-years for an existing communication tower, therefore is not in conflict with the neighborhood or community character and the views and privacy will be preserved. The tower has been in existence since 1971 and will not be expanded, therefore will not encroach onto any protected views.

### **Environmental Assessment**

The proposed project has been reviewed environmentally and has been determined to be Categorically Exempt pursuant to Section 15301 of the California Environmental Quality Act (CEQA) in that the proposed project is to allow an extension of an existing operation.

**RECOMMENDATIONS:**

The Planning Commission approve Conditional Use Permit 2009-04 to allow an extension of 10-years to an existing Communication Tower at 16700 Skyline Drive, subject to the findings contained in the staff report, and make findings in support thereof.

Attachments: Resolution 2009-08

July 8, 2004 City Council Report and Minutes

March 13, 2008 City Council Report and Minutes

Aerial

Plan

CITY OF LA HABRA HEIGHTS  
PLANNING COMMISSION  
RESOLUTION NO. 2009-08

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LA HABRA HEIGHTS APPROVING CONDITIONAL USE PERMIT 2009-04 TO ALLOW THE CONTINUED USE OF AN EXISTING COMMUNICATION TOWER LOCATED AT 16700 SKYLINE DRIVE FOR AN ADDITIONAL 10 YEARS

THE PLANNING COMMISSION OF THE CITY OF LA HABRA HEIGHTS HEREBY FINDS ORDERS, AND RESOLVES AS FOLLOWS:

Section 1. The applicant, Coast Community College, duly filed an application for a Conditional Use Permit (CUP 2009-04) to allow for an additional 10 years the continued use of an existing Communication Tower located at 16700 Skyline Drive within the Public Facilities Zone.

Section 2. The proposal has been reviewed environmentally and has been determined to be Categorically Exempt pursuant to Section 15301 of the California Environmental Quality Act (CEQA) in that the proposed project is to allow the continued operation of an existing facility. This facility will not be expanded by this proposal.

Section 3. On June 23, 2009 pursuant to the provisions of the La Habra Heights Municipal Code and at the duly noticed public hearing, the Planning Commission held a public hearing to consider the application. Evidence, both written and oral was presented at the hearing.

Section 4. Based upon the evidence presented, and all of the materials and information contained in the record, including the agenda report and oral testimony, the Planning Commission hereby finds:

1. The proposed use is one conditionally permitted within the subject Zone District.

Special communication facilities are Conditionally Permitted within the Public Facilities Zone.

2. The proposed use would not impair the integrity and character of the Zone in which it is located and will adhere to all applicable performance standards.

The communication tower has been in existence since 1971 and in a zoning designation that permits the proposed use. The proposal is to only allow an extension of 10-years from what was previously approved, therefore will not impair the integrity and character of the zone in which it is located.

3. The subject site is physically suitable for the type of land use being proposed.

The site is physically suitable for the type of land use being proposed as it has been in existence since 1971 with no record of any health and safety issues in regards to the operation.

4. The proposed use is compatible with land uses adjacent to the subject property.

The surrounding land uses consisting of Open Space – Conservation and Public Facilities are compatible with the proposed use particularly in light of the fact that the tower has been in existence since 1971, and no additional antennas are being proposed beyond what has already been conditionally approved.

5. The proposed use would be compatible with future land uses within the Zone District and the general area in which the proposed use is to be located.

The proposed use would not change the compatibility with the future land uses. The updated General Plan and Zoning designations of recent years have made the proposed use more compatible with its surrounding land uses than historically, as it's now surrounded by Open Space – Conservation and Public Facilities designations. Historically the surrounding land uses were designated for Residential development.

6. There would be adequate provisions for water, sanitation, circulation, and public utilities and other services.

The proposed use would not necessitate a change to the current conditions of the unmanned site.

7. There would be adequate provisions for public access to serve the use.

The applicant enters the site through a private road from Gotera in unincorporated Hacienda Heights. The applicant does not proposed any change to the existing access to serve this site.

8. The proposed use is consistent with the goals, policies and general land uses of the City of La Habra Heights General Plan.

The proposed use is a permitted use identified in the General Plan under the Public Facilities section. The applicant has also been working with the City throughout the years with its CUP renewal to comply with Land Use Element Policy 42 stating that "The City of La Habra Heights shall work with property owners and operators of public facilities in the design, landscaping, and locating of facilities." All of these policies have been implemented throughout the years when the CUP was renewed.

9. The proposed use would not be detrimental to the public interest, health, safety, convenience, or welfare.

The proposal is allow an extension of 10-years for an existing communication tower, therefore will not be detrimental to the public interest, health, safety, convenience, or welfare. The tower serves an important safety function in that it transmits CHP communications and complies with all FCC requirements.

10. The proposed use is not in conflict with the neighborhood and community character and will maintain views and privacy.

The proposal is allow an extension of 10-years for an existing communication tower, therefore is not in conflict with the neighborhood or community character and the views and privacy will be preserved. The tower has been in existence since 1971 and will not be expanded, therefore will not encroach onto any protected views.

Section 5. Based upon the foregoing, the Planning Commission hereby approves Conditional Use Permit 2009-04 subject to the following conditions:

1. Except as set forth in subsequent conditions, the development and operation of the subject property shall take place substantially as set forth in the submitted documents.

2. If any condition of this permit is violated, or if any law, statute, or ordinance is violated, the permit shall be suspended and the privileges granted hereunder shall lapse; provided that the applicant has been given written notice to cease such violation and has failed to do so for a period of thirty (30) days.

3. The proposed development shall be maintained in conformance with the plans submitted to the City on February 26, 2009.

4. All conditions or requirements of the Federal Communications Commission shall be complied with.

5. This permit shall automatically expire on June 23, 2019.

6. It is noted that the applicant has consented uncompensated use of the tower for three (3) transmitting receiving systems to the City of La Habra Heights and, accordingly, it is a condition of this approval that the applicant allow that use provided, however, that no use by the City shall interfere with the operation of the applicant's transceiver.

7. The applicant and the property owner agree that City, its employees, agents and officials should, to the fullest extent permitted by law, be fully protected from any loss, injury, damage, claim, lawsuit, expense, attorneys' fees, litigation expenses, court costs or any other costs arising out of or in any way related to the issuance of this approval, or the activities conducted pursuant to this approval. Accordingly, to the fullest extent permitted by law, the applicant and property owner shall defend, indemnify and hold harmless City, its employees, agents and officials, from and against any liability, claims, suits, actions, arbitration proceedings, regulatory proceedings, losses, expenses or costs

of any kind, whether actual, alleged or threatened, including, but not limited to, actual attorneys' fees, litigation expenses and court costs of any kind without restriction or limitation, incurred in relation to, as a consequence of, arising out of or in any way attributable to, actually, allegedly or impliedly, in whole or in part, the issuance of this approval, or the activities conducted pursuant to this approval. Applicant and property owner shall pay such obligations as they are incurred by City, its employees, agents and officials, and in the event of any claim or lawsuit, shall submit a deposit in such amount as the City reasonably determines necessary to protect the City from exposure to fees, costs or liability with respect to such claim or lawsuit.

Section 6. The Secretary of the Planning Commission shall certify the adoption of this Resolution. The Secretary of the Planning Commission shall mail a copy of this resolution to the applicant along with proof of mailing. Section 1094.6 of the Civil Procedure governs the time in which judicial review of this decision may be sought.

APPROVED THIS 23<sup>rd</sup> DAY OF JUNE 2009

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Larry Black, Chairman

ATTEST:

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Kenneth Phung, Secretary

AYES:

NOES:

ABSENT:

ABSTAIN:

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Kenneth Phung, City Planner



# City of La Habra Heights AGENDA REPORT

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To: Mayor and City Council For Meeting of: March 13, 2008  
From: Barbara Feeler, Planner Agenda Item:  
Subject: Call for Review - PROJECT 2007-50 Conditional Use Permit, Coast Community College, 16700 Skyline Drive (**NEW MUNICIPAL CODE**)

On January 22, 2008 the above referenced project came before the Planning Commission. The Commission approved the project. On February 4, 2008 Councilmembers Millsap and Baroldi called this project up for review by the City Council.

## SITE LOCATION AND DESCRIPTION:

This rectangular-shaped property of 26,140 square feet in size, has had an existing antenna tower and building on site for many years and is in the Public Facilities Zone.

## REQUEST:

The applicant, David Moss and Associates requests approval of the following:

### Conditional Use Permit:

Request for a Conditional Use Permit, to expire on June 22, 2009, to install two 6-foot microwave dishes to the Tower, for exclusive use by Coast Community College and KOCE. The addition of the two dishes near the base of the tower, at heights below 35-ft and partially screened from view by the existing topography and mature trees.

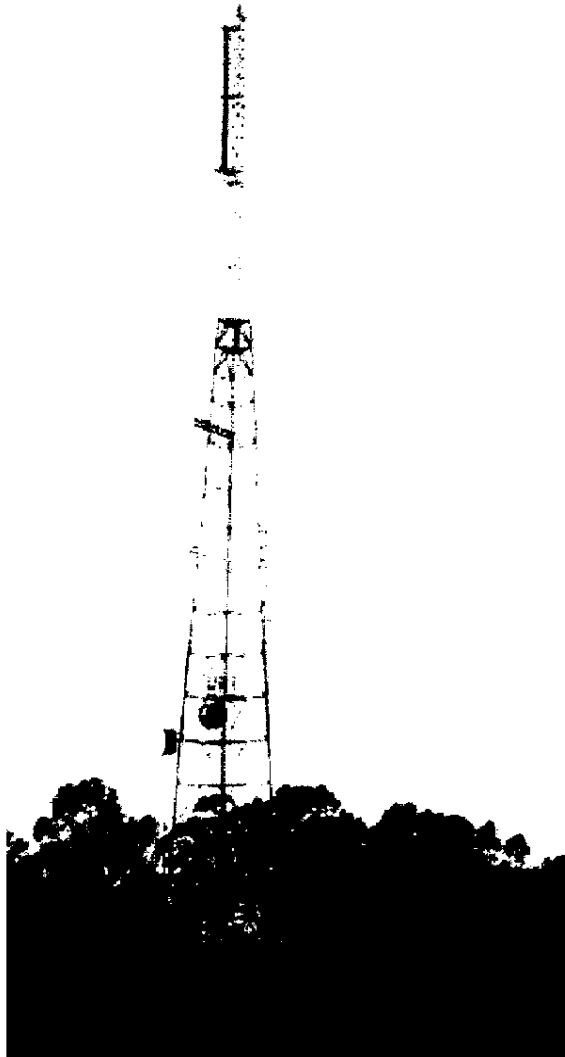
### SECTION NO. 7.19.60

Certain land uses, due to the use, intensity, or size, may require special review to determine if the use is compatible with surrounding uses or whether the use can be made compatible through the imposition of certain conditions of approval. The Conditional Use Permit is provided for this purpose.

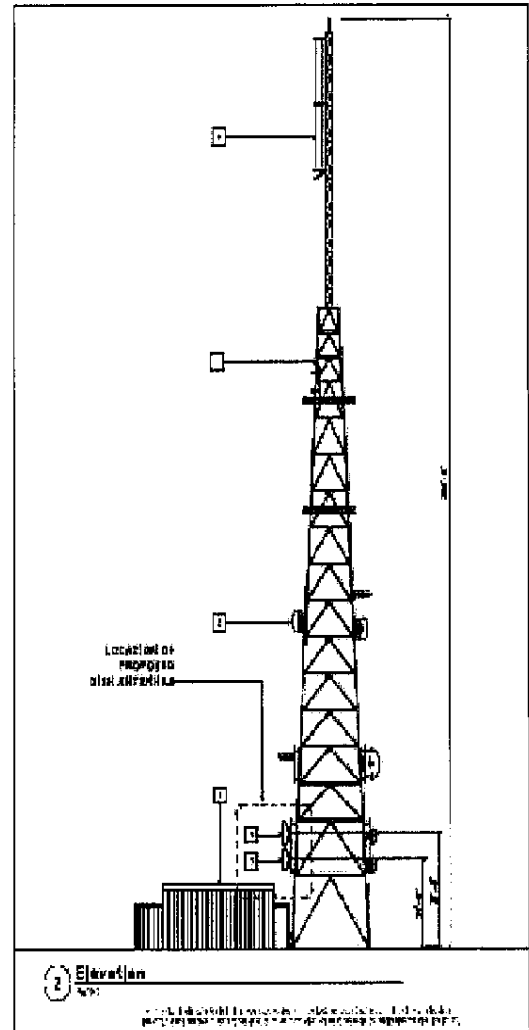
BACKGROUND:

The subject property is located on the undeveloped ridge of the City along the northerly boundary at 16700 Skyline Drive. The property is reached via a paved private access road that terminates at Gotera Drive which is located in the unincorporated community of Hacienda Heights. Semi improved fire lanes crisscross the unimproved area providing access for fire fighting equipment. The property was purchased by KOCE in 1971 prior to the incorporation of the City. The County of Los Angeles granted the applicant a Conditional Special Permit (2174) on November 23, 1971 to construct a television transmission facilities. This property is currently developed with an antenna tower and a building within the Public Facilities Zone. The property is designated for Public Facility land use in the La Habra Heights General Plan.

Former Plan



New Plan



## DEVELOPMENT PROPOSAL:

The Applicant requests a Conditional Use Permit ("CUP") to add two microwave dishes for exclusive use by Coast Community College (CCCD) to the Facility. The proposed modifications uses the existing 254-ft tall lattice tower, and all existing antennas, cabling, lighting, and ancillary equipment; install one 6-ft. diameter microwave dish at 24-ft above ground level on the west tower leg; install one 6-ft. diameter microwave dish at 31-ft above ground level on the west tower leg; install one equipment cabinet inside the existing building to connect the two proposed dish antennas.

## ANALYSIS:

There are currently four entities (in addition to KOCE) with antennas on the site. Coast Community College District has a radio transmitter and receiver that it uses for its busses. Sempra Energy has two microwave antennas on the tower. The California Highway Patrol has a radio transmitter and receiver and two cross arm antennas on the tower. Surburban Water has 1 2-way radio antenna on the tower. In previous Conditional Use Permit Applications, the applicant has granted to the City the right to put two antennas on the site if and when the City determines we have a need. In addition with this application, Coast Community College has agreed to allow the City the right to increase the allowed antennas from 2 to 3 in the event the City needs an additional antenna location.

## Conditional Use

Section 7.19.60 Certain land uses, due to the use, intensity, or size, may require special review to determine if the use is compatible with surrounding uses or whether the use can be made compatible through the imposition of certain conditions of approval. The Conditional Use Permit is provided for this purpose.

A. Providing Proof of Vested Interest. Any person that is able to demonstrate a legal vested interest in the proposed application may initiate an application for a Conditional Use Permit. Proof of ownership or authorization to apply and a notarized signature shall be included as part of any application. Proof of ownership or authorization to apply shall be included as part of any application along with a notarized signature.

B. Scope of Application. Applications for Conditional Use Permits may be submitted only for those uses specified as allowable conditional uses in the applicable Zone District. A Conditional Use Permit is not a substitute for a change of Zoning Map or Zoning Ordinance Text.

C. Review of Application by Community Development Director. The Community Development Director shall review the application and proposal, including the analysis of precedent cases as appropriate, and shall prepare a report outlining facts and providing a recommendation. The report shall be provided to the Planning Commission and the applicant prior to any scheduled public hearing.

D. Planning Commission Public Hearing. A public hearing before the Planning Commission shall be noticed and conducted pursuant to the provisions of Articles 2 and 8. At the public hearing, the Planning Commission shall review the application and proposal and receive evidence concerning the proposed use and the proposed conditions under which it would be operated or maintained, particularly with respect to the findings required by this Article.

E. Planning Commission Action. The Planning Commission shall act to approve, conditionally approve, or deny the application. The decision of the Planning Commission approval shall become effective immediately upon the conclusion of the *appeal period*. Planning Commission decisions may be appealed to the City Council pursuant to the requirements of Article 8.

#### FINDINGS:

The Planning Commission (and the City Council upon appeal) may approve or modify a Conditional Use Permit in whole or in part, with or without conditions, provided that all of the following findings are made:

1. The proposed use is one conditionally permitted within the subject Zone District.

Section 7.3.60 established the uses that are permitted within the Public Facilities Zone (PF Zone). Section 7.3.60 C establishes that Special communications systems are Conditionally Permitted within this Zone.

2. The proposed use would not impair the integrity and character of the Zone in which it is located and will adhere to all applicable performance standards.

The Public Facilities Zone conditionally allows Special communication systems and the proposed addition of two microwave dishes will not impair the integrity and character of the Zone. The applicant will adhere to all applicable performance standards.

3. The subject site is physically suitable for the type of land use being proposed.

The existing communication system is physically suitable for the type of land use being proposed. The addition of two additional microwave dishes still meet the suitability for the type of lands use.

4. The proposed use is compatible with land uses adjacent to the subject property.

The adjoining land use is Zoned Open Space – Recreation. The impact on this surrounding land use will be minimal. The applicant does not proposed additional trips per month to the site. Other than the installation the impact will not change from the current condition.

5. The proposed use would be compatible with future land uses within the Zone District and the general area in which the proposed use is to be located.

The proposed use would not change the compatibility with the existing land uses within these zones.

6. There would be adequate provisions for water, sanitation, circulation, and public utilities and other services.

The proposed use would not necessitate a change to the current conditions of the unmanned site.

7. There would be adequate provisions for public access to serve the use.

The applicant enters the site through a private road from Gotera in unincorporated Hacienda Heights. The applicant does not proposed any change to the existing access to serve this site.

8. The proposed use is consistent with the goals, policies and general land uses of the City of La Habra Heights General Plan.

Land Use Element Policy 42 states "The City of La Habra Heights shall work with property owners and operators of public facilities in the design, landscaping, and locating of facilities. The City shall regulate these facilities to the extent provided by law.

9. The proposed use would not be detrimental to the public interest, health, safety, convenience, or welfare.

The proposed use will be at the bottom 35 feet of the tower and will not be detrimental to the public interest, health, safety, convenience, or welfare.

10. The proposed use is not in conflict with the neighborhood and community character and will maintain views and privacy.

The addition to the existing tower is not in conflict with the neighborhood or community character and the views and privacy will be preserved.

#### RECOMMENDATIONS:

- (1) Pending testimony at the public hearing and the deliberations of the City Council, it is recommended that the City Council approve Project 2007-50 for a Conditional Use Permit to allow two 6-foot microwave dishes at a maximum of 31 feet subject to the conditions of approval. Staff recommends that this permit shall automatically expire on June 22, 2009, consistent with expiration date of the Conditional Use Permit for the existing tower.
- (2) The proposed project has been reviewed environmentally and a Categorical Exemption has been issued in accordance with the requirements of the California Environmental Quality Act (CEQA) and the City's Environmental Guidelines.

## ATTACHMENTS

1. Resolution
2. Map
3. Comments from Mr. Blagden
4. Comments from Fire Chief John Nielsen

Council Member Vipperman stated that since his wife is on the Board of Directors of the Fire Watch, he needs to recuse himself from Item 21.

21. **CALL FOR REVIEW – PROJECT 2007-50 CONDITIONAL USE PERMIT, COAST COMMUNITY COLLEGE (KOCE), 16700 SKYLINE DRIVE (NEW MUNICIPAL CODE)**

RECOMMENDATION

- A. Pending testimony at the public hearing and the deliberations of the City Council adopt Resolution 2007-05 approving Project 2007-50 for a Conditional Use Permit to allow two 6-foot microwave dishes at a maximum of 31 feet subject to the conditions of approval and find that this permit shall automatically expire on June 22, 2009, consistent with the expiration date of the Conditional Use Permit for the existing tower.
- B. Find that the proposed project has been reviewed environmentally and a Categorical Exemption has been issued in accordance with the requirements of the California Environment Quality Act (CEQA) and the City's Environmental Guidelines.

City Planner Feeler stated that this Item came before the Planning Commission at a Public Hearing on January 22, 2008 and the project was approved at that time. The New Municipal Code allows a Call for Review if the Council wants to review the project. There was a Call for Review. Ms. Feeler commented that this is a CUP to add two 6-foot microwave dishes to the tower at 16700 Skyline Drive. The property owner is Coast Community College District and the applicant is David Moss and Associates. She showed a site plan of the existing site. There is one existing building on the site to house the equipment and next to the building is the tower. She stated that the facility supports Public Broadcasting by KOCE and Coast Community College related operations. Ms. Feeler presented the background of the permits issued for these facilities. The present use has three non-profit users, KOCE's backup transmitter and Sempra Energy (quasi-public). Coast Community College has agreed to dedicate 3 antenna spaces to the City if needed. She showed a picture of what the tower looked like in 1994 and a drawing of what it would look like if the CUP is approved.

Council Member Millsap stated that she had called for this review and Council Member Baroldi seconded because she was concerned with the process, not to stop the process.

City Attorney Levin stated that an Appeal means that there is an opinion one way or another, while a Call for Review expresses no opinion.

Mayor Bergman stated that there are Public Comments on this Item.

**George Edwardz** commented that the tower is already there and is licensed for television transmission which will soon not be used at all. The main concern is what will the future use of the tower be? He stated that he would like to see Coast Community College expand their offer to allow EPC, CERT, or even the Fire Safe Council to place a repeater

antenna there free of charge. These would all serve La Habra Heights well for Community Service.

**Stephen Blagden**, Citron Road, presented a power point on process issues. He noted that City legal agreements have not been followed; CEQA calls for an EIR; long term policy implications not considered; the 2004 CUP says "no additional transmitter" and needs to be modified or voided before an application for a new transmitter can be considered; the 1982 variance says "the lot cannot be used for any purpose other than a television transmitter unless brought to conforming size". He stated that the proposed antenna is not a television transmitter so the lot would have to be increased for a variance to the variance granted; the 1986 Settlement Agreement calls for placement of the antennas at the 1518 Skyline site, not the CCCD site. The CCCD testified that we should no longer consider it a television tower, but as a Community Services tower. He showed a picture of the tower in 1994 with a lot of bootleg antennas. Were they just interested in collecting cash? They had one antenna approved in 2002. CEQA says one cannot piecemeal a project in order to avoid the applicability of CEQA; if we do not know how many antennas are planned in the future we will not have any idea of the radiation involved unless they complete an EIR; there is now a nature and hiking trail adjacent to the tower; one of the considerations is the nearby water company sites; CEQA requires cumulative effect of all planned or expected uses; he was of the opinion that this tower does not have any public benefit; he recommended that the tower be dismantled at the end of its present use.

**Jeff Arthur**, Coast Community College District, deferred his time to David Moss and Associates.

**David Moss** from Moss and Associates stated that for the past 25 years they have had particular focus on environmental land use and zoning entitlements in both broadcast and telecommunications. He stated that he would defer his presentation until after any questions you have.

**Rob McMullen** with Moss and Associates stated that he does not have a presentation, but will be glad to answer any questions from the Council or staff.

**Jeff Arthur** from Coast Community College District stated that he does not have a formal presentation. He commented that so far this has cost them \$53,000 to add two dishes.

Council Member Baroldi stated that he did not think an EIR was necessary and asked the Council if they are on good legal footing with the CUP process and the recommendations made by the Planning Commission.

City Attorney Levin explained that they are on solid legal ground and this CUP is intended to run concurrently with the pre-existing CUP until June of 2009. We would hope there would be a more comprehensive planning process engaged in between the City and the Applicant between now and June of 2009 to determine what the rules will be going forward. The issue brought up on health and safety by a public comment on the radiation emissions, the City has no authority to regulate those types of issues. All the City can do is require that they comply with those regulations.

Council Member Baroldi asked if Coast Community College District would be amenable to providing some type of communication abilities on the tower for the Fire Watch group.

Jeff Arthur stated that it has cost a lot of money to go through the present process. The tower does not bring in a lot of money. He stated that he could not give an answer about a space on the tower without consulting the board.

Mayor Pro Tem Carroll asked what the two dishes are going to be used for.

Jeff Arthur stated that they want to use the microwave dishes as back-up for our network and complete the circle for distance education. He stated that they have many people asking for space on the tower.

City Attorney Levin asked that the Council get back to the review they are working on. She stated that it is up to the applicant to apply for what they would like.

Council Member Millsap asked for assurance that the Attorney does not think the City is violating anything on the 2004 CUP by any option they are asking for.

City Attorney Levin stated that there is no problem with the CUP, whether they amend the 2004 CUP or take out a new CUP, it would be the same findings and process.

Mayor Pro Tem Carroll asked staff if an EIR is really needed as Blagden noted.

CDD Powers commented that an Environmental Review is limited in its scope because the CUP dovetails the previous CUP and in 2009 we will be looking at the purpose of the tower. He stated his opinion that this CUP does not change the use of the tower. When it goes to digital in 2009 we would need an EIR.

City Attorney Levin stated that according to our present Code we would have one set of instructions for what we would have to do in 2009 to continue the tower, but there are law cases that may be settled between now and then that could change the process.

Council Member Millsap noted that there are more antennas on the tower now than there are numbers of users. How many actual pieces of equipment are there?

David Moss explained that each user has a different number of antennas that they use for their particular wireless purpose and that can change over time. If it would be helpful we can provide to Planning and Council exactly what is there today and what is before the Council.

Council Member Baroldi asked if they are comfortable with security since the dishes will be going in much lower.

David Moss stated that he is comfortable. He stated that by 2009 they will have a future plan for the site and how long it should be continued. He explained that it would be hard for someone to use what is coming from the tower for their own purpose. All the frequencies are strictly controlled by the FCC.

**Council Member Baroldi** moved to adopt Resolution 2007-05 approving Project 2007-50 for a Conditional Use Permit to allow two 6-foot microwave dishes at a maximum of 31 feet subject to the conditions of approval and find that this permit shall automatically expire on June 22, 2009, consistent with the expiration date of the CUP for the existing tower and find that the proposed project has been reviewed environmentally and a Categorical Exemption has been issued in accordance with the requirements of CEQA and the City's Environmental Guidelines. The motion was seconded by **Council Member Millsap** and approved as follows:

AYES: Baroldi, Bergman, Carroll and Millsap  
NOES: None  
ABSENT: None  
RECUSED: Vipperman

22. **ORDINANCE 2008-02 AN ORDINANCE OF THE CITY OF LA HABRA HEIGHTS ADOPTING BY REFERENCE TITLE 26 OF THE LOS ANGELES COUNTY CODE, INCORPORATING THE 2007 CALIFORNIA BUILDING CODE; TITLE 27 OF THE LOS ANGELES COUNTY CODE, INCORPORATING THE 2007 CALIFORNIA ELECTRICAL CODE; TITLE 28 OF THE LOS ANGELES COUNTY CODE, INCORPORATING THE 2007 CALIFORNIA PLUMBING CODE; AND TITLE 29 OF THE LOS ANGELES COUNTY CODE, INCORPORATING THE 2007 CALIFORNIA MECHANICAL CODE; TOGETHER WITH CERTAIN AMENDMENTS, DELETION AND ADDITIONS, INCLUDING FINDINGS, FEES AND PENALTIES; AND AMENDING THE LA HABRA HEIGHTS MUNICIPAL CODE.**

RECOMMENDATION:

- A. That the first reading of proposed Ordinance 2008-02 to amend the La Habra Heights Municipal Code Chapter 5 & 7 and adopt Title 26, 27, 28 & 29 of the Los Angeles County Code, with local amendments, be waived and the ordinance be held over for second reading.
- B. Set a public hearing regarding adoption of Title 26, 27, 28 & 29 of the Los Angeles County Code and amendments of Municipal Code Chapters 5 & 7 to be held at the April 10, 2008 City Council Meeting.
- C. Direct staff to provide the Notice of Public Hearing as required by law.
- D. Direct staff to prepare and publish a summary of the Ordinance as required by law.

City Planner Feeler stated that they are asking for an upgrade of the Building, Electrical, Plumbing and Mechanical Code. The State has upgraded all the State Codes relating to building activity and adopted them in January 1, 2008. The County of Los Angeles also upgraded all of their Codes. Our Municipal Code adopts the County Codes by reference and in the Resolution on the last page there is an attachment which is exhibit A and where



# City of La Habra Heights AGENDA REPORT

To: City Council For Meeting of: July 8, 2004  
Through: John Hendrickson Agenda Item:  
From: Sandra Massa-Lavitt  
Community Development Director  
Subject: Conditional Use Permit 2004-14  
16700 Skyline Drive

**Applicant:** Coast Community College District  
1370 Adams Avenue  
Costa Mesa, CA 92626  
(714) 438-4611

**Owner:** Same

**Location:** 16700 Skyline Drive

This is a Conditional Use Permit application to extend authorization for existing KOCE television transmitter site. KOCE has used the site continuously since 1972 for the broadcast of public television. This application seeks no change in the nature or intensity of the use.

**Exhibits:**

1. 1994 Resolution, (CUP 93-05)
2. Vicinity Map,
3. Site Plan,
4. Topographical Plan,
5. Elevation Plan, and,
6. Air Photo
7. Planning Commission Resolution 2004-10

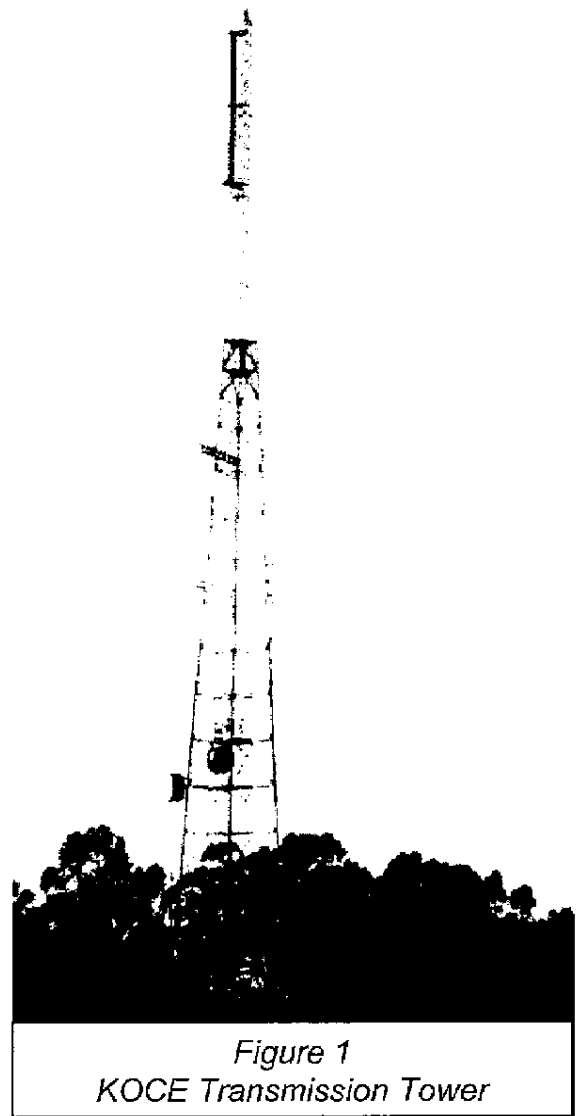


Figure 1  
KOCE Transmission Tower

### Summary Data

#### EXISTING GENERAL PLAN

LAND USE DESIGNATION: Open Space/ Public Facilities

#### EXISTING ZONING:

PRESENT LAND USE: Transmission Tower and Transmitter Building

LOCATION MAP: APN# 8239-045-900

PROPERTY SIZE: 26,135 square feet, (0.6 Acres)

TRANSMISSION TOWER: 254 feet in height, 390 sq. ft. base

TRANSMITTER BUILDING: 16 feet in height, 2000 sq. ft.

AVERAGE SLOPE: 30%

### Background

The site is located on the undeveloped ridge of the City along the northerly boundary at 16700 Skyline Drive. The property is reached via a paved private access road that terminates at Gotera Drive, which is located in the unincorporated community of Hacienda Heights. Semi-improved fire lanes crisscross the unimproved area providing access for fire fighting equipment.

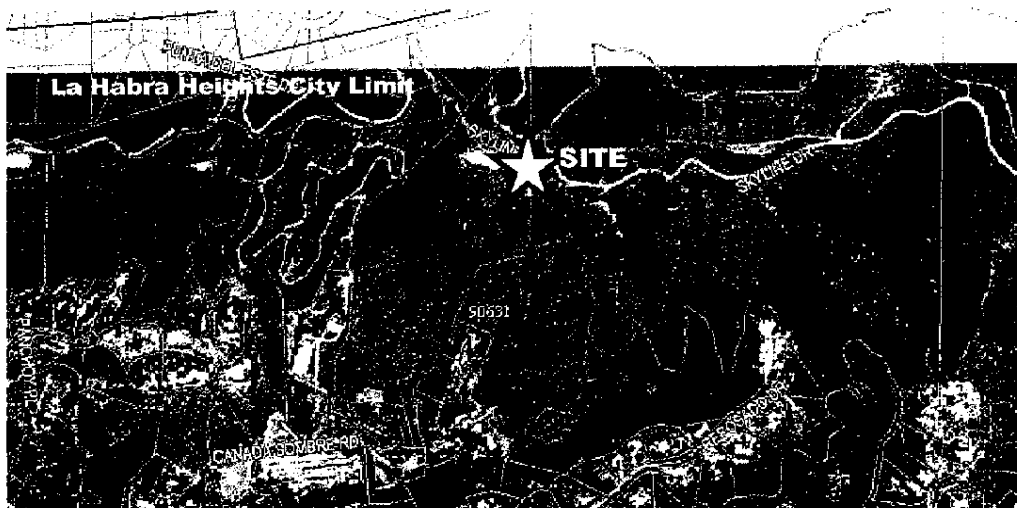


Figure 2  
KOCE Tower – Regional Location Map

This property was purchased by KOCE in 1971 before the City incorporated. The County of Los Angeles granted the applicant a conditional Special Permit (No. 2174) on November 23, 1971 to construct television transmission facilities. On January 28, 1982 the La Habra Heights City Council approved variance No. 7 to allow creation of the substandard size parcel of land to be used for the transmission facility. On January 28, 1982, the City Council also approved CUP No. 7 granting the applicant a 10-year permit to operate the television transmission facility. It was the Council's desire to review the Permit at the end of the ten-year period.

The first extension of the use permit, CUP NO. 93-05, (granting the continued operation of the TV Transmitter Tower and Transmitter Building), was approved for 10 years on February 10, 1994.

Sometime during the past 30+ years, KOCE has taken the liberty of co-locating other users to the tower. At one time, there were 11+ users on the tower; currently there are four including the College. The emphasis of the previous approvals was exclusively non-profit use. While currently there are multiple users of the tower, three (3) can be considered non-profit organizations; one user (Sempra Energy) could be considered quasi-public, though it is not a non-profit organization.

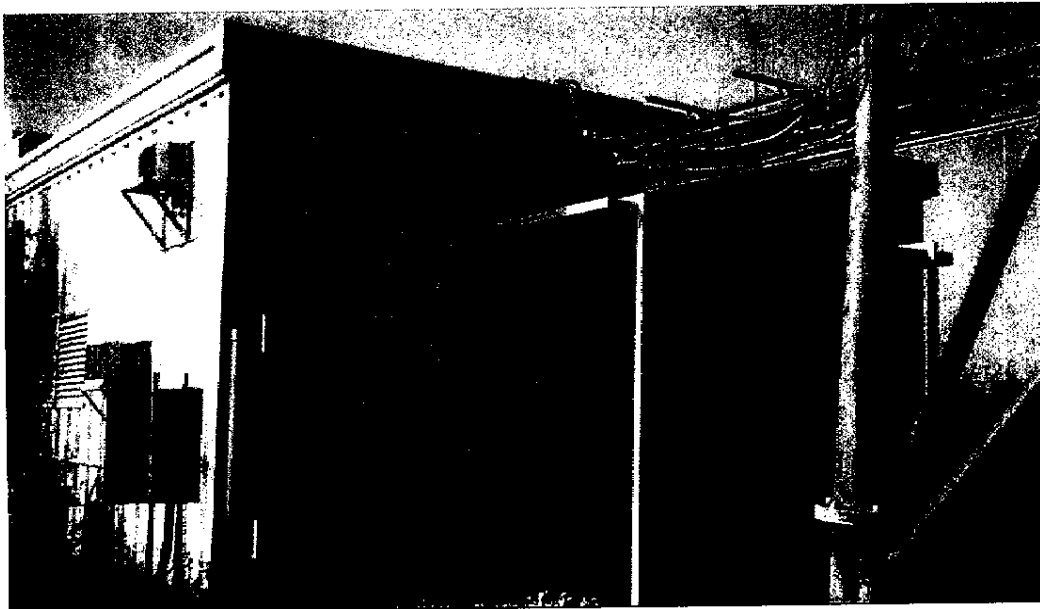


Figure 3  
The KOCE Transmitter Building is unmanned

## **CONDITIONAL USE PERMIT**

Coast Community College District has provided the following information in response to the eight (8) information requests specified in the City of La Habra Heights Conditional Use Permit Application.

**1. The proposed use is one conditionally permitted within the subject zone and complies with all of the applicable provisions of the La Habra Heights Municipal Code Article 9, Zoning**

The Coast Community College District owns the KOCE Channel 50 television transmitter site that includes and approximately 2000 square foot Butler-type steel transmitting building and a 254-foot high steel-transmitting tower. The station has been in operation since November 20, 1972 without incident, and with no apparent diverse effect on the surrounding properties.

The property is zoned R-A (1 acre) and is located in View Preservation District "A". The use is permitted in the R-A zone upon approval of a conditional use permit. In approving Conditional Use Permit 94-3 (the predecessor permit for the same site and same use extant in the instant application), the City Council of the City of La Habra Heights found that "[t]he proposed use is conditionally permitted within the subject zone and it complies with all applicable provisions of the Zoning Ordinance and Variance No. 7 (City Council Resolution No. 82-03) which permitted the creation of the substandard parcel of land for the herein stated use." Resolution 94-3, § 7(2).

**2. The proposed use would not impair the integrity and character of the zone in which it is located.**

The conditional use permit application seeks only to continue a use that has existed without interruption for over 31 years. Toward this end, in Granting the prior conditional use permit for the site (Conditional Use Permit No. 93-05), the City Council of the City of La Habra Heights found that "[t]he proposed use will not impair the integrity and character of the R-A (1 acre) zone classification as is evidenced by the existence of the subject use [since 1972] without objection from the general public." Resolution 94-3, § 7(3).

**3. The subject site is physically suitable for the type of land use being proposed.**

The site for this television transmitting station was selected to achieve the needed height above mean sea level and clear line of

sight into Orange County that is necessary to broadcast with a 30 KW direction signal. The location at the crest of the Puente Hills looking directly down into Orange County is ideal for transmitting a directional, clear television signal. The shape and topography of the site were largely a result of location and were considered secondary in importance to height and clear line of sight.

The transmitting station is accessed via Gotera Drive on the Hacienda Heights side of the Puente Hills. Gotera Drive terminates and access from that point is over a rather steep asphalt paved road, which was constructed by the Southwest Suburban Water Company, over which the Coast Community College District has right-of-use in perpetuity. This road terminates at the Southwest Suburban Water Company reservoir site approximately one half mile above Gotera Drive. Such access is entirely adequate for the type of operation being carried on at the transmitter site. Traffic to the site consists of approximately one visit per week by a technician, driving either a pickup truck or equivalent vehicle.

Considering these factors, the La Habra Heights City Council found in Resolution 94-3 that "[t]he subject site is physically suitable for the type of land use being proposed as is evidenced by the existence of the subject use [since 1972] without objection from the general public." Resolution 94-3, § 7(4).

**4. The proposed use would be compatible with existing and future land uses within the zone and the general area in which the proposed use is to be located.**

As noted, the current application does not propose a change in the use of the site, which has been utilized as television transmitting location continuously since 1972. The extension of the existing use is compatible with existing and future land uses within the zone and the general area in which the use is located because the surrounding land uses consist of electrical transmission towers and vacant property. Development of the surrounding steep hillsides will consist of single-family dwellings on lots having a minimum net area of 40,000 square feet. If the average slope of the residential lots exceeds 40 percent, the minimum net lot area is five acres. While the use differs from the use of surrounding properties, in the opinion of the District, the continuation of the use is not in any way a detriment to the surrounding area.

**5. There would be adequate provisions for water, sanitation, and public utilities and services to ensure that the proposed use would not be detrimental to public health and safety.**

The access road is adequate for fire trucks. Electricity is provided via underground cable, as is telephone. There is no sewer connection. Sewage disposal is by septic tank and leach lines. At time of construction, percolation tests were performed and the system designed accordingly. Total affluent going to sewer system does not exceed 10 gallons in any one day. The existing facility has operated without incident for the past thirty-two years.

Considering these factors, the City Council of the City of La Habra Heights previously found that "[t]here are adequate provisions for water, sanitation and public utilities and services to ensure that the proposed use will not be detrimental to public health and safety." Resolution 94-3, § 7(6).

**6. There would be adequate provisions for public access to serve the subject proposal.**

There is adequate provision for public access to serve the site. The subject property is serviced by a paved access drive, which connects to Gotera Drive on the Hacienda Heights side of the Puente Hills. Semi-improved fire roads are located throughout the surrounding undeveloped area provides emergency access to the existing facility.

**7. The proposal is consistent with the objectives policies, general land uses and programs of the La Habra Heights General Plan.**

In Resolution 94-3, the City Council of the City of La Habra Heights found that "the proposed project is consistent with the goals and objectives of the City's adopted General Plan." Resolution 94-3, §§ 5, 7(8). The City Council further found that "[t]he subject public utility is conditionally permitted in the R-A (1 acre) zone pursuant to the provisions of the La Habra Heights Municipal Code which is consistent with the adopted General Plan." *Id.* at § 7(8). The nature of the use approved in Resolution 94-3 has not changed materially since the adoption of Resolution 94-3. Accordingly, the continuation of the existing use remains consistent with the La Habra Heights General Plan.

**8. The proposed use would not be detrimental to the public interest, peace, health, safety, convenience or welfare.**

The City Council of the City of La Habra Heights previously found that "the proposed use is not detrimental to the public interest, peace, health, safety, convenience or welfare as is evidenced by the existence of the subject use [since 1972] without objection from the General Public." Resolution 94-3, § 7(9).

The site is fenced, landscaped and improved with a sprinkler system. The tower, though 254 feet high does not constitute an aeronautical hazard and is in compliance with all applicable federal aviation standards. The operation is low key with no noise, literally no traffic generation, and utility use is confined almost entirely to electricity. The property is well maintained and will continue to be well maintained.

The use of the transmitting station is an asset to the community, as has and will continue to contribute materially to the well-being of the citizens of Orange County by broadcasting high quality, educational, recreational, public service television programs.

Therefore, it is believed by the District that the extension of the conditional use permit will not be detrimental to the public interest, peace, health, safety, convenience, or welfare of the community.

### **Analysis**

As to the intended use of the site, KOCE and the Coast Community College District are in the process of transitioning to the use of digital and analog broadcast signals. When that transition is complete, KOCE will be broadcast principally from the transmitter tower site on Mount Wilson. The Community College District will retain the La Habra Heights site, however, as a back-up transmitter site. There are no current plans to lease the site for the transmission of another station or signal.

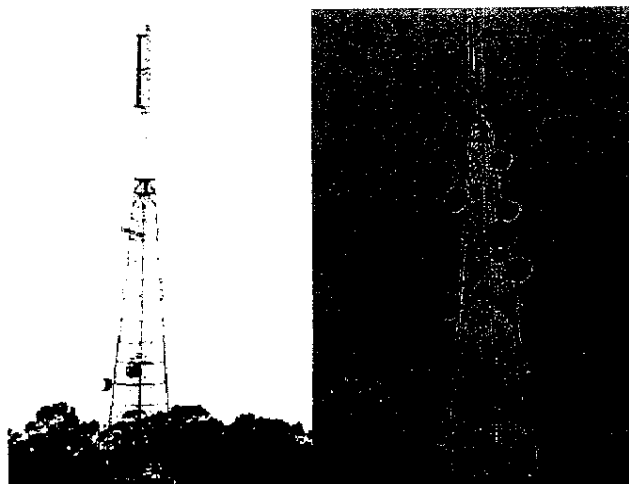


Figure 4  
KOCE Tower presently, (left) and in 1994, (right)

There are currently four entities (in addition to KOCE) with antennae on the site. First, Coast Community College District has a radio transmitter and receiver that it uses for its busses. Second, Sempra Energy has two microwave antennae on the tower. Third, the California Highway Patrol has a radio transmitter and receiver, and two cross arm antennae on the tower. Fourth, Suburban Water has 1 2-way radio antenna on the tower.

It should be noted that these facilities represent a significant reduction in the number of antennae on the tower since the CUP was last renewed in 1994. Specifically, since 1994, the District has reduced the number of microwave antennae on the site from *10 microwave antennae -- 9 10-foot diameter antennae and one six foot diameter antenna -- to 2 microwave antennae (both six foot diameter).*

For your reference, please note *Figure 4* depicting the tower, as it currently exists and when it was at or near its peak number of antennae.

#### **Planning Commission**

On May 25, 2004 and June 22, 2004, the Planning Commission held public hearings on this application. During public testimony, information was presented that related to the use of the tower, its need as a back-up system to the Mt. Wilson digital broadcasting facility, and the use of the pole space for other entities to lease space to the benefit of the College. Planning Commission adopted resolution 2004-10, which states the conditions under which this application was approved. This includes a sunset on the Conditional Use Permit. New conditions added referred to the removal of the tower at the conclusion of its use; should the site become a fully manned facility adequate parking will be provided; reduce the time frame of the Conditional Use Permit to 5 years (versus the 10 years that has been approved for the previous applications), and, shielding the light over the doorway of the equipment shed.

#### **Recommendation**

The recommendation to the City Council is for adoption of Resolution No. 04-34 approving Conditional Use Permit No. 2004-14 and extending the expiration of the Conditional Use Permit to June 22, 2009.

Mayor Borrowe noted that on Page 5 Deputy Engineer Lang stated that he had not received a report that the traffic lights at Hacienda and East Road and West Road had been adjusted. Mayor Borrowe asked Mr. Lang if he has received the report.

Deputy Engineer Lang answered in the affirmative.

Councilmember Millsap referred to page 10, the 5<sup>th</sup> line; "Sheriff Ault" should be changed to "Lieutenant Ault".

On page 17, second paragraph under PLANNING DIRECTOR'S REPORT, change "Mayor Pro Tem Borrowe" to "Mayor Pro Tem Douglas".

Councilmember Millsap stated that on page 17 under item 16. Add an "e" to Borrow. She also stated that on page 1, in the last paragraph, spell "Cassellero" with one "s" and one "l".

Mayor Borrowe asked if the City Manager had checked with the Sheriff's Department about the motorcycle noise on Hacienda.

City Manager Hendrickson stated that he had talked to the Deputy and he stated that they would pay more attention to the problem.

Mayor Borrowe commented on page 20 he had mentioned that they were going to try to put together an appreciation event for GPAC members, but they want to include all volunteers in the City. He stated that they were looking for volunteers to help put this event together.

**Councilmember Carroll** offered a motion to approve minutes of June 10, 2004 City Council minutes as amended. The motion was seconded by **Councilmember Millsap** and approved as follows:

AYES: Borrowe, Carroll, Douglas, Klein and Millsap

NOES: None

ABSENT: None

### **PUBLIC HEARINGS**

#### **8. CONDITIONAL USE PERMIT 2004-14, 16700 SKYLINE DRIVE**

The applicant, Coast Community College District, proposes to utilize the provisions of La Habra Heights Municipal Code 3 Section 9400 to request a continuation of a Conditional Use Permit for the operation of an existing television transmitter site for transmission of public television located at the above address within the RA zone.

RESOLUTION NO. 04-34 – A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LA HABRA HEIGHTS REGARDING CONDITIONAL USE PERMIT 2004-14.

Community Development Director Massa-Lavitt reported on CUP 2004-14 at 16700 Skyline Drive. The applicant is Coast Community College District. She stated that service vehicles access the site from the unincorporated community of Hacienda Heights. She noted that in 1971 the County of Los Angeles granted a CUP for the tower in its present location. After incorporation in 1982 the CUP had sunsetted and the City of La Habra Heights had the opportunity of determining whether or not it wanted to continue allowing the tower in its present location, and it did grant a 10-year CUP for this purpose. A 10-year extension was granted in 1994 and in 2004 the La Habra Heights Planning Commission recommended a 5-year CUP extension as one of the new conditions.

Ms. Massa-Lavitt stated that the emphasis has been that the tower remains non-profit. At present, there are 3 non-profit users, not counting KOCE. Sempra Energy is not a non-profit organization.

Ms. Massa-Lavitt noted that the CUP requires 8 findings be made. The findings are found in the Staff Report and the Resolution.

Ms. Massa-Lavitt stated that the Applicant intends to use this tower as a back-up in case their Mt. Wilson transmitter fails. She noted that in 1994 there was a condition added to save two locations at the facility for the La Habra Heights Fire Department and to benefit the community. The Planning Commission added the condition that the CUP would be for a five-year length. They also added a condition to shield the light source at the butler building (which has been done). Another condition was to stripe more parking places in case the building should be manned on a 24-hour or on an 8-hour basis.

RECOMMENDATION: Approve Resolution No. 04-34.

Councilmember Carroll stated that there was a condition left off of the Resolution that if there was any change of use the lot had to be brought up to the city standards including size.

City Attorney Colantuono stated that he did not think that could be legally enforced.

Councilmember Carroll also noted that Resolution number 13 mentions a change from unattended to attended operations. The Planning Commission meant it to be unattended only. Mr. Carroll also mentioned a correction on condition 10 where it mentions condition "12" which should be condition "11". There is a typo on condition 12, correct the word "removed" to read "remove".

Mayor Pro Tem Douglas asked if the District gets some revenue from even the non-profit users.

Ms. Massa-Lavitt explained that they do receive a monthly rental fee.

Mayor Pro Tem Douglas asked if we have the right to charge fees or require a business license.

The City Attorney stated that we may not tax the two government agencies, but he was not sure about the two utilities. He stated that the District was allowed to charge whatever the market will bear.

Mayor Borrowe asked Fire Chief Nielsen why the Fire Department has not taken advantage of the two antenna places on the tower.

Fire Chief Nielsen stated that he had been unaware of this provision. He has been researching it and it would be invaluable to the Fire Department as there are several dead spots in the city. The tower should give better transmission. The tower would protect better from lightning strikes and provide better contact within the Fire Department and with the Sheriff's Department.

Deputy Bickel stated that he thought it probably would help, but they would have to come out to test the situation.

Fire Chief Nielsen explained that he spoke to the CHP and the person he spoke to was not aware of the CUP renewal. The person from the CHP mentioned that the tower was on State property, so did not think the tower would go away.

Councilmember Millsap asked if they would pay the fire fee.

The City Attorney stated that they would not be on our tax rolls because they are a government agency.

The City Manager asked the City Attorney how far we can go to restrict the type of tenant the applicant has on the tower.

The City Attorney stated that with each addition we could add a condition that requires some type of approval.

Mayor Borrowe opened the meeting for Public Comment.

Jeff Melching, Attorney, represented Coast Community College and KOCE. He stated that they were committed to honoring their promise of space for the Fire Department.

Mr. Melching explained that they have a man at the site for about two hours a week for required maintenance. This is what unattended meant by the District and the Planning Commission when it was discussed. He also noted that there is no intention to add to the

array of antennas on the tower and would send anyone wanting a spot to the City Council for a CUP.

Mr. Arthur addressed what people pay for their spot on the tower. Mr. Arthur explained that Suburban Water does not pay anything, but we pay \$125 a month to have a water meter there. Sempra Energy pays \$3,000 a month. CHP pays \$785 per month.

Councilmember Carroll mentioned that he had heard they also had Intellisat.

Mr. Arthur explained that they are gone due to bankruptcy.

Mayor Borrowe noted that he had read that when they leave they would take down the tower at an expense of around \$300,000.

Mr. Arthur explained that they are estimating that it might be close to \$200,000.

Mayor Borrowe noted that KOCE is always looking for money, so how do we know that you can live up to that condition?

Mr. Arthur stated that they would be able to do that.

Mayor Borrowe asked when everything goes to digital, if the tower is still useable.

Mr. Arthur explained that the tower would still be useful if they replaced the analog transmitters with digital transmitters.

Mayor Borrowe asked if there is room on Mount Wilson for backup equipment.

Roger Yokum, KOCE Chief Engineer, answered that it is possible, but it would not be much of a backup on the same tower. He then explained some operational details.

Mr. Arthur stated that to provide backup facilities on Mount Wilson is possible but expensive.

Norm Zezula, stated that the condition that when the Applicant is through with the tower he tear it down, be changed to read "either tear it down or at the City's option give it to the City." He stated that his concern is that if the applicant does not want the expense to tear it down they might give it to another non-profit broadcaster. We might then be stuck with a less financially stable owner. If they know they have to tear it down in a few years, they may skimp on the maintenance. This should not cause the City to make a decision now, but give it options later.

Councilmember Carroll asked the City Attorney if there was any way to address this in the CUP.

The City Attorney stated that we can communicate to the District the City's willingness to be a donee. It actually is a very expensive asset. He stated that it was to the City's advantage to keep it in the hands of someone who needs your permits.

The City Attorney explained that we should check at each renewal of the CUP if the tower can be lowered.

Mayor Borrowe closed the Public Hearing.

Mayor Borrowe commented that on the second page item 7, of Resolution 04-34, that he did not agree with the statement that the proposal is consistent with the General Plan.

The City Attorney stated that it was a finding that had to be there and it can be agreed with or not. He stated that it could not be removed if they want to approve the Resolution. He noted that this use predates the City.

Mayor Pro Tem Douglas explained that they called Bob Henderson from Puente Hills Land Fill Native Habitat Preservation Authority and asked him what kind of neighbor this facility is. The reply was that there had been no problems and it did not seem to bother the animals.

Councilmember Carroll requested that item 10 in Section 8; change Condition "12" to read Condition "11". In item 12 change the word "removed" to "remove".

The City Attorney changed the wording on item 13 to read "The use may not be converted to a regularly staffed facility except by amendment to the CUP."

The City Attorney noted that on item 14 the word "except" should be added after "adjacent uses" and change "FCC" to "FAA"

Councilmember Millsap observed that on page one of the Resolution, Section 5, "duly notice" should be changed to "duly noticed".

Ms. Millsap asked for clarification of number 2 under Section 6.

The City Attorney stated that number 2 should start with "The proposed use will not impair".

**Councilmember Carroll** offered a motion to waive further reading and approve Resolution No. 04-34 as amended. The motion was seconded by **Mayor Pro Tem Douglas** and approved as follows:

AYES: Borrowe, Carroll, Douglas, Klein and Millsap

NOES: None

ABSENT: None



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