

**RESOLUTION PC2015-11**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF IMPERIAL  
APPROVING CONDITIONAL USE PERMIT # 15C06 ALLOWING THE CONSTRUCTION  
OF A 90' TALL MONOPOLE (FLAG POLE) WIRELESS/CELLULAR TOWER AT 467 ATEN  
BOULEVARD**

**WHEREAS**, an application for a Conditional Use Permit was submitted by Clear Talk Wireless; and

**WHEREAS**, said application consists of a request to construct a wireless/cellular tower at 467 Aten Boulevard; and

**WHEREAS**, a duly notified public hearing was held by the Planning Commission on December 9, 2015; and

**WHEREAS**, upon hearing and considering all testimony and arguments, examining the Initial Environmental Study, analyzing the information submitted by staff and considering any written comment received, the Planning Commission considered all facts relating to the Conditional Use Permit.

**NOW THEREFORE, BE IT RESOLVED** by the Planning Commission of the City of Imperial as follows:

- A) That the foregoing recitations are true and correct; and
- B) That based on the evidence presented at the public hearing, the Planning Commission hereby certifies that the project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA); and
- C) That based on the evidence presented at the public hearing, the Planning Commission hereby **APPROVES** Conditional Use Permit #15C06 allowing the construction of a 90' tall wireless/cellular tower camouflaged as a flag pole at 467 Aten Boulevard subject to the conditions outlined in Exhibit A based on the following findings:
  - 1. That the proposed location, size, design, and operating characteristics of the proposed use is in accord with the Title and Purpose of this Ordinance, the Purpose of the zone in which the site is located, the Imperial General Plan, and the development policies and standard of the City.
  - 2. That the location, size, design, and operating characteristics of the proposed use will be compatible with and will not adversely affect or be materially detrimental to adjacent uses, residents, buildings, structures, or natural resources with consideration given to those items listed in Section 24.19.340.B of the Imperial Zoning Ordinance.

3. That the proposed location, size, design, and operating characteristics of the proposed use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.
4. That the proposed Conditional Use will comply with each of the applicable provisions of the Zoning Ordinance, except for an approved Variance.

PASSED, ADOPTED AND APPROVED by the Planning Commission of the City of Imperial, this 9<sup>th</sup> day of December 2015.

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Planning Commission Chairman

ATTEST:

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Planning Secretary

**RESOLUTION PC2015-11  
EXHIBIT A**

**CONDITIONS OF APPROVAL**

**Conditional Use Permit #15C06**

**Clear Talk Cellular Tower (Flag Pole)  
463 Aten Road**

1. The project is approved as shown on the "Planning Exhibit" dated March 3, 2015, described as Exhibit "B," except as modified by the following conditions. Minor changes to the plans may be allowed subject to the approval of the Planning Director if found to be in substantial conformance to this development plan.
2. Conditional Use Permit #15C06 is valid for the installation of a wireless/cellular tower constructed as a flag pole as shown on Exhibit B. All its antennae shall be concealed and the exterior of the pole shall be painted in non-reflective materials and colors.
3. The height of the tower shall be limited to 90'-0".
4. The tower shall be designed to support/colocate antennae for additional carriers and shall be made available for lease to other carriers.
5. The tower shall install any markings and lighting required by FAR Part 77.
6. An American Flag shall be flown at all times in accordance with the Flag Code. The Developer/Applicant shall maintain a deposit with the City of Imperial for the equivalent cost of three (3) flags to ensure that a flag is always available.
7. Landscaping shall be installed along the Aten Road frontage and shall be irrigated with an automatic system. Landscaping shall consist of a minimum of five (5) 24-inch box trees. Landscaping shall be installed prior to the issuance of a building permit for the wireless/cellular tower.
8. Prior to the issuance of a building permit, the property owner shall pay the City of Imperial \$8,066.75 for the installation of curb-and-gutter in connection to requirements for a previously approved Conditional Use Permit on the property (CUP#404-392-2001).
9. All drive aisles, vehicular access ways, and interior roadways for the existing and proposed use shall be improved and maintained with Class II road base as a minimum. These interior roadways and unimproved areas shall be watered from time to time to suppress any dust generated from the site.
10. All outdoor storage areas and appurtenant structures shall be screened from public view.
11. A frequency evaluation shall be submitted to the Planning and Building Departments prior to the establishment of service to demonstrate the frequencies will not interfere with the City's emergency broadcast services. The Developer/Applicant shall provide

radio coverage documentation to the Fire Department indicating that this facility will not interfere with public safety amplification signals.

12. The Developer/Applicant shall comply with all local, State and Federal laws, regulations, rules, ordinances, and standards as they pertain to this project, whether specified herein or not. Where conflicts occur, the most stringent shall apply.
13. The Developer/Applicant shall pay all applicable impact and capacity fees.
14. The Conditional Use Permit shall not constitute the waiver of any requirement of the City's Ordinances or regulations, except where a condition set forth herein specifically provides for a waiver.
15. The Applicant shall agree to defend, indemnify and hold harmless the City of Imperial and its agents, including consultants, officers and employees from any claim, action or proceeding against the City or its agents, including consultants, officers and employees to attack, set aside, void, or annul the approval of Tentative Tract Map and associated Zone Change, General Plan Amendment and Mitigated Negative Declaration. This indemnification obligation shall include, but not be limited to, damages, costs, expenses, attorneys fees, or expert witness costs that may be asserted by any person or entity, including the Developer/Applicant arising out of or in connection with the approval of the Tentative Tract Map and associated Zone Change, General Plan Amendment and Mitigated Negative Declaration, including any claim for private attorney general fees claimed by or awarded to any party from the City.
16. All conditions of approval for this Tentative Map shall be reprinted and included as a plan sheet(s) with the building permit plan check sets submitted for review and approval. These conditions of approval shall be on, at all times, all grading, landscaping, and construction plans kept on the project site. It is the responsibility of the applicant to ensure that the project contractor is aware of, and abides by, all conditions of approval. It is the responsibility of the applicant to ensure that the project landscape contractor is aware of, and adheres to, the approved landscape and irrigation plans. Prior approval from the Planning Department must be received before any changes are constituted in site design, grading, building design, building colors or materials, landscape material, etc.
17. The provisions of the permit are to run with the land/project and shall bind the current and future owner(s) successor(s) in interest, assignee(s) and/or transferor(s) of said project.
18. If the Community Development Department finds and determines that the Permittee or successor-in-interest has not complied or cannot comply with the terms and conditions of the CUP, or the Planning/Building Department determines that the permitted activities constitute a nuisance, the City shall provide Permittee with notice and opportunity to comply with the enforcement or abatement order. If after receipt of the order (1) Permittee fails to comply, and/or (2) Permittee cannot comply with the conditions set forth in the CUP, then the matter shall be referred to the Planning Commission for permit modification, suspension, or termination, or to the appropriate enforcement authority.
19. As between the City and the Permittee, any violation of this permit may be a "nuisance per se". The City may enforce the terms and conditions of this permit in

accordance with its Codified Ordinances and/or State law. The provisions of this paragraph shall not apply to any claim of nuisance per se brought by a third party.

20. Permittee shall not be permitted to maintain a "nuisance", which is anything which:  
(1) is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, and/or (2) affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal, and/or (3) occurs during or as a result of the re-located business.