

RESOLUTION NO. 06-30

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS DECISION
TO UPHOLD THE APPEAL AND DENY THE CONDITIONAL USE PERMIT
APPLICATION 06-UP-02 (METRO PCS APPLICANT)**

WHEREAS, the City Council of the City of Los Altos ("City") adopted Los Altos Municipal Code ("LAMC") Chapter 11.12, which governs personal wireless services and facilities and requires a conditional use permit ("CUP") pursuant to LAMC Chapter 14.80; and

WHEREAS, Metro PCS applied for personal wireless services and facilities ("Metro PCS Project"), application 06-UP-02, to be located at 611 South El Monte Road in accordance with the City Code process and procedures; and

WHEREAS, said personal wireless facility consisted of a 10-foot tall cross to be located on top of the existing parish hall at the St. Williams Church; and

WHEREAS, the Planning Commission held a duly noticed public meetings on July 20, and August 17, 2006, and at such meetings reviewed and considered the written staff reports dated July, 13, and August 10, 2006, and other written and oral evidence concerning the Metro PCS Project; and

WHEREAS, the Planning Commission after reviewing and considering all of the written and oral evidence approved the Metro PCS Project on August 17, 2006, based on the findings and conditions contained in the staff report dated August 10, 2006; and

WHEREAS, on August 29, 2006, two City Council members timely appealed the Planning Commission decision to approve the Metro PCS Project; pursuant to LAMC Chapter 14.80.050(B); and

WHEREAS, at a duly noticed public meeting on August 29, 2006, the City Council considered the request to appeal the Metro PCS Project approval dated August 17, 2006, and without taking any oral or written evidence concerning the merits of the appeal, the City Council voted to hear the appeal at the September 26, 2006, City Council Meeting; and

WHEREAS, on September 26, 2006, the City Council conducted a duly noticed public hearing, at which the City Council reviewed the entire record of this matter, including the Planning Commission's findings, the staff report dated September 21, 2006, the City Council Memorandum dated September 20, 2006, and all evidence introduced at the hearing, heard the oral evidence and testimony, and reviewed the documentary evidence relating to the Metro PCS Project; and

WHEREAS, the location and custodian of the documents or other materials which constitute the record of the proceedings upon which this approval is based is the office of the City Clerk.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council hereby adopts findings and makes a decision in this matter as follows:

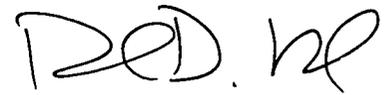
1. The City Council, after reviewing and considering the entire record of this matter, including the Planning Commission's findings, the staff reports dated July 13, August 10, September 20, 2006, and the City Council Memorandum dated September 21, 2006, which are attached hereto as Exhibit "A" and incorporated by this reference, and all evidence introduced at the hearing, heard the oral evidence and testimony, and reviewed the documentary evidence relating to the Metro PCS Project and therefore adopts the following findings as its own and it specifically finds that substantial evidence in the record supports each of the findings, and that the findings support its decision to uphold the appeal of the Metro PCS Project.
2. The City Council finds that the Metro PCS Project does not promote the purpose and intent of the LAMC to provide standards for the development, location, siting, and installation of personal wireless services and facilities, and to balance the needs of wireless communications providers, the regulatory functions of the City, the rights guaranteed by the federal government, and the potential impacts upon the community and neighboring property owners in the design and siting of personal wireless services and facilities.
3. The City Council further finds that the Metro PCS Project does not promote the public health, safety, community welfare, and the visual quality of the City as set forth within the goals, objectives, and policies of the City's General Plan and LAMC Chapters 11.12 and 14.80 because the Metro PCS Project does not comply with the City's general requirements contained in LAMC Chapter 11.12.040 as follows:
 - A. There was not sufficient evidence of a network design plan for all of the service provider's existing and planned sites and service coverage in the City and surrounding jurisdictions.
 - B. The Metro PCS Project did not provide sufficient evidence of its ability or inability to co-locate with other nearby facilities.
 - C. The Metro PCS Project did not provide sufficient evidence that this specific site was necessary, after a comparison of other sites, to fill its own service coverage
4. The City Council further finds that the Metro PCS Project does not promote the public health, safety, community welfare, and the visual quality of the City as set forth within the goals, objectives, and policies of the City's General Plan and LAMC Chapters 11.12 and 14.80 because the design of the Metro PCS Project does not comply with the City's design requirements contained in LAMC Chapter 11.12.030 as follows:
 - A. The 10-foot tall cross in which the building-mounted antenna is installed on top of the 35-foot tall parish hall is not compatible with the original parish hall building design because the original parish hall was designed to display only one

very large but unobtrusive cross on the north side of the building facing El Monte Avenue. The addition of this 10-foot high cross immediately above the existing cross was not included in the original parish hall building plans reviewed and approved by the City. Therefore, this 10-foot tall cross is not architecturally integrated with the original parish hall building complex; and

- B. The 10-foot tall cross negatively impacts the surrounding area because its unscreened silhouette against the sky will be extremely visible for a considerable distance in several directions. Further, the addition of this 10-foot cross will make the existing cross immediately below it more visible and such visibility will negatively impact the original parish hall building complex and the surrounding area; and
 - C. The 10-foot tall cross was not designed in such a manner as to be visually unobtrusive. Further, it does not mitigate the visual impact of the cell tower facility, either by being designed to be compatible with surrounding architecture or by appearing as a natural environmental feature.
5. This decision constitutes a final decision pursuant to the Code of Civil Procedure section 1094.6. Any petition for judicial review of this decision must be sought within the time limits and pursuant to the procedures established by the Code of Civil procedure section 1094.6.

I HEREBY CERTIFY that the foregoing is a true copy of a Resolution duly passed and adopted by the City Council of the city of Los Altos on the 10th day of October 2006 by the following roll call vote:

AYES: CARPENTER, COLE, CASAS, COLEHOWER, PACKARD
NOES: NONE
ABSENT: NONE



Ronald D. Packard, MAYOR



Susan Kitchens, CITY CLERK