

**Draft
Resolution**

RESOLUTION NUMBER 2010-

A RESOLUTION OF THE KEY WEST PLANNING BOARD GRANTING A CONDITIONAL USE APPROVAL PER SECTION 122-62 AND 122-63 OF THE CODE OF ORDINANCES FOR A WIRELESS TELECOMMUNICATIONS FACILITY AS A PRIVATE UTILITY TO BE LOCATED AT 1010 KENNEDY DRIVE (RE# 00065650-000500), IN THE GENERAL COMMERCIAL (CG) ZONING DISTRICT, UNDER THE LAND DEVELOPMENT REGULATIONS OF THE CITY OF KEY WEST, FLORIDA, PURSUANT TO SECTION 122-418(9) OF THE CODE OF ORDINANCES; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 122-418(9) of the Code of Ordinances provides that public and private utilities are allowed as a conditional use within the Commercial General (CG) zoning district; and

WHEREAS, Section 86-9 of the Code of Ordinances defines public and private utilities as “use of land which is customary and necessary to the maintenance and operation of essential public services, such as electricity and gas transmissions systems; water distribution, collection and disposal; communication; and similar services and facilities”; and

WHEREAS, wireless telecommunication facilities are considered essential public communications services in the community; and

WHEREAS, the subject property is located in the Commercial General (CG) zoning district; and

WHEREAS, the applicant filed a Conditional Use Application for a wireless telecommunications facility and provided an amended application on May 7, 2010; and

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_____ Chairman

_____ Planning Director

WHEREAS, this matter came before the Planning Board at a duly noticed public hearing on July 15, 2010; and

WHEREAS, the Planning Board found that the proposed development complies with the criteria in Section 122-62; and

WHEREAS, the Planning Board determined that granting of the Conditional Use will be in harmony with the general purpose and intent of the Land Development Regulations, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare; now therefore,

BE IT RESOLVED by the Planning Board of the City of Key West, Florida:

Section 1. That the above recitals are incorporated by reference as if fully set forth herein.

Section 2. That a Conditional Use Application, under the Code of Ordinances of the City of Key West, Florida, is hereby granted as follows: ALLOWING A WIRELESS TELECOMMUNICATIONS FACILITY BE CONSTRUCTED AT 1010 KENNEDY DRIVE (RE# 00065650-000500), KEY WEST FLORIDA, PER THE ATTACHED PLANS with the following conditions:

1. The applicant must receive a height variance from the City of Key West Board of Adjustment.
2. The site plan package, including general notes, equipment shelter notes, and tower notes are fully incorporated into this approval and constitute conditions of approval.
3. Pending Federal Aviation Association and National Historic Preservation Act approvals as required for the facility will be obtained.

4. The applicant will provide revised plans which consistently show the proposed tower height as 105'.

Section 3. Full, complete, and final application for all permits required for which this resolution is wholly or partly necessary, shall be submitted in its entirety within 12 months after the date hereof.

Section 4. This Conditional Use Permit does not constitute a finding as to ownership or right to possession of the property, and assumes, without finding, the correctness of applicant's assertion of legal authority respecting the property.

Section 5. This Resolution shall go into effect immediately upon its passage and adoption and authentication by the signatures of the presiding officer and the Clerk of the Commission.

Section 6. This resolution is subject to appeal periods as provided by the City of Key West Code of Ordinances (including the Land Development Regulations). After the City appeal period has expired, this permit or development order will be rendered to the Florida Department of Community Affairs. Pursuant to Chapter 9J-1, F.A.C., this permit or development order is not effective for forty five (45) days after it has been properly rendered to the DCA with all exhibits and applications attached to or incorporated by reference in this approval; that within the forty five (45) day review period the DCA can appeal the permit or development order to the Florida Land and Water Adjudicatory Commission; and that such an appeal stays the effectiveness of the permit until the appeal is resolved by agreement or order.

Read and passed on first reading at a regularly scheduled meeting held July 15, 2010.

_____ Chairman

_____ Planning Director

Authenticated by the Chairman of the Planning Board and the Planning Director.

Richard Klitenick, Chairman
Key West Planning Board

Date

Attest:

Amy Kimball-Murley, AICP
Planning Director

Date

Filed with the Clerk:

Cheryl Smith, City Clerk

Date

_____ Chairman

_____ Planning Director