

DECISION NO. 1730-15

A DECISION OF THE ZONING ADMINISTRATOR OF THE CITY OF GARDEN GROVE APPROVING CONDITIONAL USE PERMIT NO. CUP-054-2015.

BE IT RESOLVED that the Zoning Administrator of the City of Garden Grove does hereby approve Conditional Use Permit No. CUP-054-2015, for a parcel of land located on the north side of Patterson Drive, east of Knott Street, at 7071 Patterson Drive, Assessor's Parcel No. 131-021-16.

BE IT FURTHER RESOLVED in the matter of Conditional Use Permit No. CUP-054-2015, the Zoning Administrator of the City of Garden Grove does hereby report as follows:

1. The subject case was initiated by Verizon Wireless.
2. The applicant is requesting Conditional Use Permit approval to construct and operate a new 60'-0" tall wireless telecommunications facility disguised as a pine tree (mono-pine) along with related ground-mounted equipment.
3. The City of Garden Grove has determined that this project is exempt pursuant to Article 19, Section 15303, New Construction or Conversion of Small Structures, of the California Environmental Quality Act.
4. The property has a General Plan Land Use designation of Industrial, and is zoned PUD-103-76 Rev. 92 (Planned Unit Development). The subject site is an approximately 1-acre site, located on the north side of Patterson Drive, east of Knott Street, and is improved with an existing approximately 18,326 square foot industrial building.
5. Existing land use, zoning, and General Plan designation of property within the vicinity of the subject property have been reviewed.
6. Report submitted by City Staff was reviewed.
7. Pursuant to a legal notice, a public hearing was held on December 10, 2015, and all interested persons were given an opportunity to be heard.
8. The Zoning Administrator gave due and careful consideration to the matter during its meeting of December 10, 2015; and

BE IT FURTHER RESOLVED, FOUND AND DETERMINED that the facts and reasons supporting the conclusion of the Zoning Administrator, as required under Municipal Code Section 9.32.30, are as follows:

FACTS:

The subject site is an approximately 1-acre site, located on the north side of Patterson Drive, east of Knott Street, and is improved with an existing approximately 18,326 square foot industrial building. Based on business license records, the building is currently occupied by one tenant, an office cabinet manufacturer, Color Concepts.

The subject site is zoned PUD-103-76 Rev. 92 (Planned Unit Development) with a Land Use Designation of Industrial. The subject site abuts PUD-103-76 zoned properties to the west, east, and across Patterson Drive to the south, and a multiple-family residential townhouse complex, located in the City of Stanton, to the north.

The specific area the applicant is proposing to construct the new mono-pine is located at the northeast corner of the development, within the parking lot area behind the existing industrial building.

FINDINGS AND REASONS:

1. That the proposed use will be consistent with the City's adopted General Plan and redevelopment plan.

The property has a General Plan Land Use designation of Industrial, and is zoned PUD-103-76 Rev. 92 (Planned Unit Development). Wireless telecommunication facilities are conditionally permitted uses in the PUD-103-76 Rev. 92 zone. The use is consistent with the General Plan provided that the operation of the facility complies with the conditions of approval.

2. That the requested use at the location proposed will not: adversely affect the health, peace, comfort, or welfare of the persons residing or working in the surrounding area, or unreasonably interfere with the use, enjoyment, or valuation of the property of other persons located in the vicinity of the site, or jeopardize, endanger, or otherwise constitute a menace to public health, safety, or general welfare.

The use will not adversely affect the health, peace, comfort or welfare of persons residing or working in the surrounding area. The conditions of approval will minimize potential impacts to the adjoining area. Provided the conditions of approval are adhered to for the life of the project, the use will be harmonious with the persons who work and live in the area.

Additionally, the use will not unreasonably interfere with the use, enjoyment or valuation of the property of other persons located within the vicinity of the site, provided the conditions of approval are adhered to for the life of the

project. The mono-pine will be designed to have a natural appearance in order to mitigate any potential aesthetic impacts. Telecommunication facilities are conditionally permitted in the PUD-103-76 Rev. 92 (Planned Unit Development) zone.

Finally, the use will not jeopardize, endanger, or otherwise constitute a menace to public health, safety, or general welfare. The conditions of approval will ensure the public health, safety, and welfare. The antennas and equipment are required to adhere to all FCC regulations prohibiting such facilities from interfering with public safety. Therefore, the project will not create a menace to the public health, safety, or welfare.

3. That the proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title or as is otherwise required in order to integrate such use with the uses in the surrounding area.

The site, with the existing site improvements and modifications, is of adequate size to accommodate the proposed uses within the surrounding area. The mono-pine will be designed to have a natural appearance in order to mitigate any potential aesthetic impacts. Additionally, wireless telecommunications facilities are conditionally permitted in the PUD-103-76 Rev. 92 (Planned Unit Development) zone.

4. That the proposed site is adequately served: by highways or streets or sufficient width and improved as necessary to carry the kind and quantity of traffic such as to be generated, and by other public or private service facilities as required.

The site is adequately served by Patterson Drive with an accessible driveway providing both ingress and egress. The site is also adequately served by the public service facilities required such as public utilities: gas, electric, water, and sewer facilities.

#### INCORPORATION OF FACTS AND REASONS SET FORTH IN STAFF REPORT

In addition to the foregoing, the Zoning Administrator incorporates herein by this reference, the facts and reasons set forth in the staff report.

BE IT FURTHER RESOLVED that the Zoning Administrator does conclude:

1. The Conditional Use Permit does possess characteristics that would indicate justification of the request in accordance with Municipal Code Section 9.32.030 (Conditional Use Permits).

2. In order to fulfill the purpose and intent of the Municipal Code and thereby promote the health, safety, and general welfare, the following Conditions of Approval, attached as Exhibit "A", shall apply to Conditional Use Permit No. CUP-054-2015.

Dated: December 10, 2015

A handwritten signature in black ink, appearing to read "Karl Hill", written over a horizontal line.

KARL HILL  
ZONING ADMINISTRATOR

## **EXHIBIT "A"**

### **Conditional Use Permit No. CUP-054-2015**

7071 Patterson Drive  
Assessor's Parcel No. 131-021-16

#### **CONDITIONS OF APPROVAL**

##### **General Conditions**

1. Each owner of the property shall execute, and the applicant shall record, a "Notice of Discretionary Permit Approval and Agreement with Conditions of Approval," as prepared by the City Attorney's Office, on the property within 30 days of approval. This Conditional Use Permit runs with the land and is binding upon the property owner, his/her/its heirs, assigns, and successors in interest.
2. All Conditions of Approval set forth herein shall be binding on and enforceable against each of the following, and whenever used herein, the term "applicant" shall mean and refer to the project applicant, the owner(s) and tenant(s) of the property, and each of their respective successors and assigns, including all subsequent purchasers and/or tenants. The applicant and subsequent owner/operators of such business shall adhere to the conditions of approval for the life of the project, regardless of property ownership. Any changes of the conditions of approval require approval by the Planning Commission, except as otherwise provided herein.
3. Approval of this Conditional Use Permit shall not be construed to mean any waiver of applicable and appropriate zoning and other regulations; and wherein not otherwise specified, all requirements of the City of Garden Grove Municipal Code shall apply. Modifications, which do not change the intent of the project, may be approved by the Community Development Director.
4. If major modifications are made to the approved plans, or other related changes that result in the intensification of the project or create impacts that have not been previously addressed, the proper entitlements shall be obtained reflecting such changes.
5. All conditions of approval shall be implemented at the applicant's expense, except where specified in the individual condition.

##### **Police Department**

6. In order to facilitate the City's rules of the regulation, placement, and construction of and its interaction with the City's Public Safety Communications Equipment Operation of the Wireless Communications Facilities ("WCF"), the applicant and all successors shall agree as follows:

- a. The applicant recognizes that the frequencies used by the WCF located at 7071 Patterson Drive (Assessor's Parcel No. 131-021-16) may be close to the frequencies used by the City of Garden Grove for public safety. This proximity will require extraordinary "comprehensive advanced planning and frequency coordination" engineering measures to prevent interference, especially in the choice of frequencies and radio ancillary hardware. This is encouraged in the "Best Practices Guide" published by the Association of Public-Safety Communications Officials-International, Inc. (APCO) and as endorsed by the Federal Communications Commission (FCC). Applicant shall comply with such Good Engineering Practices as may be amended from time to time by the FCC in its Rules and Regulations and shall comply with all FCC regulations regarding susceptibility to radio frequency interference, frequency coordination requirements, general technical standards for power, antenna, bandwidth limitations, frequency stability, transmitter measurements, operating requirements, and any and all other federal statutory and regulatory requirements relating to radio frequency interference (RFI).
- b. In the event the WCF is identified as causing radio frequency interference with the City's Public Safety Communications Equipment, the following steps shall be taken:
  - i. Upon notification by the City of interference with Public Safety Communications equipment, the applicant (Verizon Wireless) shall utilize the hierarchy and procedures set forth in the Best Practices Guide. If the applicant (Verizon Wireless) fails to cooperate with the City in applying the procedures set forth in the Best Practices Guide in order to eliminate the interference, then the City may take such steps under law, including the initiation of appropriate proceedings with the FCC, to eliminate the interference.
  - ii. If there is a determination of radio frequency interference with the City's Public Safety Communications Equipment, the party which caused the interference shall be responsible for reimbursing the City for all costs associated with ascertaining and resolving the interference, including but not limited to any engineering studies obtained by the City to determine the source of the interference.
7. The applicant shall provide a 24-hour phone number to which interference problems can be reported. This condition will also apply to all existing facilities operated by the provider in the City of Garden Grove.
8. The applicant shall provide a "single point of contact" in its Engineering and Maintenance Departments to ensure continuity on all interference issues. The name, telephone number, fax number, and e-mail address of that person

shall be provided to the City's designated representative upon activation of the facility.

9. The applicant shall ensure that any lessee or other users of the WCF shall comply with the terms and conditions of this permit and the applicant shall be responsible for the failure of any lessee or other users under the control of the applicant to comply.

**Community Development Department**

10. The applicant shall be responsible for maintenance and up-keep of the wireless telecommunications facility.
11. The applicant and the property owner shall be responsible for maintaining free from graffiti, debris, and litter, those areas of the site that are adjacent to the premises over which he/she has control. Graffiti shall be removed within 120 hours of notification/application.
12. The antenna structure shall be designed as a pine tree (mono-pine). The overall height of the wireless telecommunication facility shall not exceed 60'-0" in height measured to the top of the foliage. The antennas shall not exceed 55'-0" in height, measured to the top of the antennas (51'-0" to the centerline of the antennas). The mono-pine will consist of twelve (12) 8'-0" tall mounted antennas (three sectors with four antennas per sector), twelve (12) RRU's (Remote Radio Units) (four per sector) installed behind the panel antennas, and two (2) power surge suppressors attached to two (2) arms of the arrays (and located close to the pole of the antenna supporting structure). Each antenna array is 9'-0" in width with 3'-0" spacing in between panel antennas. There will be a 12'-6" radius around the facility which represents the foliage drip line, which is entirely within the subject property. All attached equipment (i.e., antennas, T-arm antenna mounts, and other attached equipment) will be sufficiently screened and remain stealth by the foliage of the branches and leaves. The proposed ground-mounted equipment will be located at grade and within a chain-link fence enclosure, with wood slats to screen the equipment. The enclosure will be 20'-0" by 20'-0" and 6'-0" in height with a 4'-0" wide secured access gate. Both the mono-pine and the ground-mounted equipment will be located within the enclosure. In order to maintain a natural appearance, the following conditions shall apply:
  - a. The mono-pine is required to have a minimum branch count of 100 (minimum of 25 branches for every 10'-0") that is spaced and designed to hide the antennas and equipment.
  - b. Branches for the mono-pine shall begin at a height of 15'-0" above the ground.

- c. Vertical and horizontal spacing of the branches shall be such that the majority of the trunk of the mono-pine, above the lowest branch, shall not be visible.
  - d. The base of the spread shall be approximately 20'-0".
  - e. Branch lengths shall vary to maintain a natural appearance.
  - f. The branches of the mono-pine shall angle upwards 15 to 20 degrees.
  - g. Synthetic pine branch lengths shall vary to maintain a natural appearance.
  - h. The trunk shall be covered in textured rubber to look like real bark.
  - i. The antennas, dishes, and equipment are required to be painted green to match the color of the tree foliage.
  - j. There shall be no climbing pegs on the mono-pine below a height of 15'-0", except when temporarily installed to service the antennas.
  - k. Any proposed parabolic microwave dishes shall be painted green to match the color of the tree foliage.
  - l. Sleeves shall be installed to camouflage the antennas.
13. The applicant shall submit a material sample of the bark and the leaves to the Planning Services Division for review and approval as part of the plan check submittal application.
  14. As shown on the submitted and approved plans, the proposed ground-mounted equipment will be located at grade and within a chain-link fence enclosure, with wood slats to screen the equipment. The enclosure will be 20'-0" by 20'-0" and 6'-0" in height with a 4'-0" wide secured access gate. Both the mono-pine and the ground-mounted equipment will be located within the enclosure.
  15. The Conditional Use Permit (CUP) grants the right to the applicant to construct and use a wireless telecommunications facility on the premises. The City, however, has concerns about the potential adverse aesthetic and other health and safety impacts of the antennas, and utility and/or mechanical equipment on the surrounding community. It is possible that future technological improvements may make the proposed telecommunication facility unnecessary or obsolete or outdated aesthetically, therefore, the particular antenna and related equipment shall be reviewed ten years from the date of this approval. At that time, the cellular provider operating the site shall agree to and update the facility as may be required by the Community Development Director or his/her designee.



## Conditional Use Permit No. CUP-054-2015

## Conditions of Approval

16. The City reserves the right to periodically reevaluate the antennas, and utility and/or mechanical equipment in terms of the continued need for these structures in their current size, height, and configuration, and the actual impacts on the neighborhood, community, and environment.
17. Prior to the end of the fifth year, there will be an administrative review for compliance with the conditions of approval.
18. In order to address concerns regarding radio emissions, the following conditions shall be complied with:
  - a. Radio frequency emissions shall not exceed the radio frequency emission guidelines of the Federal Communication Commission (FCC); as such guidelines may be amended from time to time.
  - b. Prior to January 1, 2017, and each January 1<sup>st</sup> thereafter, the operator shall file with the City of Garden Grove Community Development Department for approval, a certification of compliance prepared by an independent third party, qualified to measure radio frequency emissions.
19. The operator/property owner shall make the antenna structure available for co-location for other service providers.
20. In the case of collocation of telecommunication facilities, the applicant, together with the owner of the subject site, shall provide a composite analysis of all users of the site to determine that the applicant's proposed facilities will not cause radio frequency interference with the City's Public Safety Communications Equipment.
21. In the event that the communication facility is abandoned or its use is discontinued, the property owner shall remove all improvements within sixty days of abandonment or discontinuance of the use, whichever occurs first.
22. All property maintenance deficiencies subject to sections 9.16.180, 9.16.240(I), and Article VI of Chapter 9.24 of the Municipal Code shall be corrected by the property owner to the satisfaction of the Neighborhood Improvement Manager prior to the final City clearance that all work has been completed in compliance with building permits for the installation of any telecommunication equipment.
23. Hours and days of construction shall be as set forth in the City of Garden Grove's Municipal Code Section 8.47.010, referred to as the Noise Control Ordinance.
24. The use of the exclusive maintenance parking space (as shown on the submitted and approved plans), for the subject wireless telecommunications facility, shall be minimal in nature and solely for the purposes of

- maintenance, repair, the use of a temporary emergency generator, or other related activities.
25. The applicant and the property owner shall submit signed letters acknowledging receipt of the decision approving Conditional Use Permit No. CUP-054-2015, and their agreement with all conditions of the approval.
  26. There shall be no other antennas or mechanical equipment installed on the wireless telecommunications facility without obtaining approval from the Planning Services Division.
  27. The applicant shall, as a condition of project approval, at its sole expense, defend, indemnify and hold harmless the City, its officers, employees, agents and consultants from any claim, action, or proceeding against the City, its officers, agents, employees and/or consultants, which action seeks to set aside, void, annul or otherwise challenge any approval by the City Council, Planning Commission, or other City decision-making body, or City staff action concerning Conditional Use Permit No. CUP-054-2015. The applicant shall pay the City's defense costs, including attorney fees and all other litigation related expenses, and shall reimburse the City for court costs, which the City may be required to pay as a result of such defense. The applicant shall further pay any adverse financial award, which may issue against the City including but not limited to any award of attorney fees to a party challenging such project approval. The City shall retain the right to select its counsel of choice in any action referred to herein.

**Public Works Water Services Division**

28. All new underground utilities for this project to maintain a minimum 5'-0" horizontal and a 1'-0" vertical clearance from the City's sewer and water facilities.

**Public Works Engineering Division**

29. The applicant shall provide the City with documentation of an access agreement allowing the subject property owner to connect the proposed Verizon Wireless power and Telco conduit, routed underground, to the existing SCE (Southern California Edison) transformer and proposed power point of connection, which is located on the adjacent property to the west, at 7051 Patterson Drive (Assessor's Parcel No. 131-021-15). Should no agreement exist, the applicant shall enter into an agreement with the adjacent property owner and provide a copy of the agreement to the City prior to the issuance of any building permits.