

RESOLUTION NO. 1756-17

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF GARDEN GROVE APPROVING CONDITIONAL USE PERMIT NO. CUP-098-2017.

BE IT RESOLVED that the Zoning Administrator of the City of Garden Grove does hereby approve Conditional Use Permit No. CUP-098-2017, for a parcel of land located on the west side of Corporate Drive, between Forbes Avenue and Capital Avenue at 14271 Corporate Drive, Assessor's Parcel No. 099-182-29.

BE IT FURTHER RESOLVED in the matter of Conditional Use Permit No. CUP-098-2017, 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 (CUP) approval to construct and operate a 60'-0" tall wireless telecommunication facility designed as a mono-pole along with related ground-mounted equipment within a 247.5 square foot equipment enclosure.
3. Pursuant to the California Environmental Quality Act ("CEQA"), the City of Garden Grove has determined that the proposed project is categorically exempt from CEQA pursuant to Section 15303(c) (New Construction or Conversion of Small Structures) of the CEQA Guidelines (14 Cal. Code Reg., Section 15303).
4. The property has a General Plan Land Use designation of Industrial/ Commercial Mixed Use, and is zoned Planned Unit Development No. PUD-104-81. The site is improved with an existing 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 March 23, 2017, 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 March 23, 2017; 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 9.32.030, are as follows:

FACTS:

The property is a 2.5-acre lot located on the west side of Corporate Drive, between Forbes Avenue and Capital Avenue, within an industrial/commercial/office park in Planned Unit Development No. PUD-104-81. The property is located in Area IV of the PUD, which allows for industrial uses. The property is improved with a 51,000 square foot industrial building that is occupied by two (2) tenants, Marine Depot and Cali Chem, Inc.

Verizon Wireless proposes to lease approximately 247.5 square feet of ground space at the rear of the property in order to install a new telecommunication facility designed as a mono-pole along related ground-mounted equipment. The mono-pole will be 60'-0" tall and will consist of twelve, 8'-0" tall antennas (three sectors with four antennas per sector). The mono-pole will be painted to match the color of the building. Two (2) parking spaces will be eliminated to accommodate the wireless facility and ground-mounted equipment; however, sufficient parking will continue to remain on the property to accommodate the existing uses.

A Conditional Use Permit (CUP) is required to allow the construction and operation of the new mono-pole and related ground-mounted equipment.

FINDINGS AND REASONS:

1. The proposed use will be consistent with the City's adopted General Plan.

The property has a General Plan Land Use designation of Industrial/Commercial Mixed Use, and is zoned Planned Unit Development No. PUD-104-81. The Industrial/Commercial Mixed Use is intended to provide a mix of industrial and commercial uses. The property is located in Area IV of Planned Unit Development No. PUD-104-81, which allows for industrial and research and development uses. New non-stealth wireless telecommunication facilities are permitted in industrial zones with a Conditional Use Permit. The use is consistent with the General Plan provided the wireless 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 proposed mono-pole will have a height of 60'-0," and will be painted to match the color of the existing building. The non-stealth design of the mono-pole is consistent with the industrial nature of the surrounding area and is permitted in industrial zones with a Conditional Use Permit.

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.

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 two (2) existing driveways from Corporate Drive. 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-098-2017.

Dated: March 23, 2017



LISA L. KIM
ZONING ADMINISTRATOR

EXHIBIT "A"

Conditional Use Permit No. CUP-098-2017 14271 Corporate Drive

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 and Economic Development Director.
4. If major modifications are made to the approved floor plan, site plan, 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 14271 Corporate Drive 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 to the Police Department. The 24-hour phone number shall also be posted outside of the equipment enclosure in an area that is fully visible. 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 and Economic Development Department

10. The applicant shall be responsible for maintenance and up-keep of the telecommunication facility.
11. The applicant 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 mono-pole. The height of the mono-pole shall not exceed 60'-0" as measured to the top of the antennas and the wireless communication pole. The mono-pole will consist of twelve (12) eight-foot (8'-0") tall antennas (three sectors with four antennas per sector). Each sector will be attached to the pole of the mono-pole by a T-arm antenna mount. Two (2) surge suppressor raycap units will be attached to two (2) of the T-arm antenna mounts. The mono-pole shall be painted to match the color of the existing building.
13. The Conditional Use Permit (CUP) grants the right to the applicant to construct and use a telecommunication 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 and Economic Development Director or his/her designee.
14. 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.
15. Prior to the end of the fifth year, there will be an administrative review for compliance with the conditions of approval.

16. 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, 2019, and each January 1st thereafter, the operator shall file with the City of Garden Grove Community and Economic Development Department for approval, a certification of compliance prepared by an independent third party, qualified to measure radio frequency emissions.
17. The applicant shall make the antenna structure available for co-location for other service providers, and shall comply with the requirements of Chapter 9.24 of Title 9 of the Municipal Code.
18. 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.
19. In the event that the communication facility is abandoned or its use is discontinued, the applicant shall remove all improvements within sixty days of abandonment or discontinuance of the use, whichever occurs first.
20. The existing trash bins shall be maintained within the required trash enclosure at all times, except during times of trash pick-up. If no trash enclosure is available to accommodate the trash bins as determined by the Planning Services Division, the applicant shall construct the required trash enclosure prior to issuance of building permits for the mono-pole.
21. The applicant shall restripe the parking spaces located along the south side, and rear side, of the building prior to receiving a building final for the mono-pole.
22. 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.
23. The applicant shall submit signed letters acknowledging receipt of the decision approving Conditional Use Permit No. CUP-098-2017, and their agreement with all conditions of the approval.
24. There shall be no other antennas or mechanical equipment installed on the mono-pole without obtaining approval from the Planning Services Division.

25. 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 CUP-098-2017. 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

26. New utilities shall have a minimum 5'-0" horizontal and a minimum 1'-0" vertical clearance from water main and appurtenances.
27. The property owner(s) shall be notified by the City of Garden Grove about the existing substandard building issues affecting the property. The property owner (s) shall demonstrate reasonable effort to resolve the substandard building issues affecting the property through progressive compliance, including, but not limited to, filing a land use entitlement application or obtaining building permits, that must be demonstrated prior to issuance of building permits for the proposed wireless telecommunication facility.