CITY OF
CHULA VISTA

ZONING ADMINISTRATOR
NOTICE OF DECISION

Date:	**October 12, 2010**
Applicant:	**Clearwire**
Case No.:	**PCC-10-037**
Address:	**70 Broadway**
Project Planner:	**Michael W. Walker**

Notice is hereby given that on October 12, 2010 the Zoning Administrator considered Conditional Use Permit (CUP) application PCC-10-037, filed by Clearwire ("Applicant"). The Applicant requests a CUP to modify a previously approved Sprint wireless telecommunications facility (PCC-05-064) ("Project"). The Project is located at 70 Broadway ("Project Site") and is owned by the Ramantal + Saritaben Patel Living Family Trust ("Property Owner"). The Project Site is zoned C-3 Broadway North by the Urban Core Specific Plan (UCSP) and designated Mixed-Use Residential (MUR) by the General Plan. The Project is more specifically described as follows:

Sprint requests a CUP modification to its existing wireless telecommunications facility located on the Highway Inn Motel. The modification consists of mounting four (4) panel antennas and three (3) directional antennas on the building façade at the roofline of each elevation, and adding the associated equipment in the existing equipment room located in the building. The Project is intended to be visually unobtrusive in the surrounding area as prescribed in Section 19.89, Wireless Telecommunications Facilities, of the Chula Vista Municipal Code (CVMC).

The Project has been reviewed for compliance with the California Environmental Quality Act (CEQA) and it has been determined that the Project qualifies for a Class 3 categorical exemption pursuant to Section 15303 (New Construction or Conversion of Small Structures) of the State CEQA Guidelines. No further environmental review is necessary.

The Zoning Administrator, under the provisions of Sections 19.14.030.A and 19.89 of the CVMC, and provisions in the UCSP, has been able to make the findings for approval of this conditional use permit as required by CVMC Section 19.14.080:

That the proposed use at this location is necessary or desirable and will contribute to the general well being of the neighborhood or the community.

The use will increase public convenience by providing essential communication and improved service in the area. It will not interfere with any existing activities or conveniences of the public, and will contribute to the general well being of the community by ensuring uninterrupted cellular service for the nearby communities.

That such use will not under the circumstances of the particular case be detrimental to the health, safety or general welfare of persons residing or working in the vicinity or injurious to property or improvements in the vicinity.

The use will improve internet communication while maintaining accessibility to clear and reliable communications, which can continue to function in the event of an emergency or natural disaster, and may help to enhance the general health, safety, and welfare of the citizens of the Chula Vista.

That the proposed use will comply with the regulations and conditions specified in the code for such use.

This conditional use permit requires the Applicant and Property Owner to fulfill conditions and to comply with all applicable regulations and standards specified in the City's Wireless Ordinance of the CVMC for such use. The use is built in compliance with the City's Wireless Ordinance development criteria and all other City zoning and building regulations. The conditions of this permit are approximately in proportion to the nature and extent of the impact created by the use in that the conditions imposed are directly related to, and of a nature and scope related to the size and impact of the use. The use complies with all regulations and conditions specified in the CVMC as established under Conditional Use Permit PCC-10-037.

That the granting of this Conditional Use Permit will not adversely affect the General Plan of the City or the adopted plan of any government agency.

The integration of cellular facilities with existing uses helps to achieve General Plan Objective, Public Facilities and Services Element (PFS) 24.2, of reviewing new telecommunications facilities and request siting and design techniques that minimize community impacts.

BASED ON THE FINDINGS ABOVE, THE ZONING ADMINISTRATOR hereby approves Conditional Use Permit PCC-10-037, as described above subject to the following conditions of approval:

I. Prior to the approval by the City of Chula Vista for the use of the subject property in reliance upon this approval, the Applicant shall satisfy the following requirement:

1. The Applicant/Representative and Property Owner shall execute this document by making a true copy and signing both this original Notice of Decision and the copy on the lines provided below, said execution indicating that the Applicant/Representative and Property Owner have each read, understood and agreed to the conditions contained herein, and will implement same. Upon execution, the true copy with original signatures shall be returned to the Development Services Department. Failure to return the signed true copy of this document within 30 Days of the effective date herein shall indicate the

Applicant/Representative and Property Owner's desire that the project, and corresponding application for building/grading permits and/or business license, be held in abeyance without approval.

_____ _____

Signature of Applicant/Authorized Representative Date

_____ _____

Signature of Property Owner/representative Date

Building Condition:

2. The Applicant shall comply with the 2007 California Building Code (CBC), California Mechanical Code (CMC), California Plumbing Code (CPC), California Electrical Code (CEC), California Fire Code (CFC), 2008 California Energy Code, the Green Building Ordinance (CVMC 15.12) and all other locally adopted City and state requirements.

II. Prior to final inspection:

Fire Condition:

3. The Applicant shall place a fire extinguisher in the equipment room.

III. The following on-going conditions shall apply to the Project as long as it relies upon this approval.

4. The Applicant shall maintain the Project in accordance with the approved plans for PCC-10-037, date stamped on October 12, 2010, which includes a site plan and architectural elevations on file in the Planning Division, the conditions contained herein, and Title 19.

5. Approval of this Project shall not waive the Applicant's responsibility to comply with all sections of Title 19 of the CVMC, and all other applicable City Ordinances in effect at the time of building permit issuance or the approval of this Conditional Use Permit.

6. The Applicant shall execute this Conditional Use Permit as the authorized use only. Any new use or modification/expansion of uses shall be subject to the review and approval of the Zoning Administrator.

7. The Applicant shall cooperate with telecommunications companies in co-locating additional antennas on subject property provided said co-locators have received a Conditional Use Permit for such use at said site from the City. Applicant shall exercise good faith in co-locating with other communications companies and

sharing the permitted site, provided such shared use does not give rise to a substantial technical level-or quality-of-service impairment of the permitted use (as opposed to a competitive conflict or financial burden). In the event a dispute arises as to whether Applicant has exercised good faith in accommodating other users, the City may require a third party technical study at the expense of the Applicant.

8. Within 90 days of cessation of the business operations and use of the antennas, the Applicant shall submit a substitute user to the satisfaction of the Development Services Director and/or remove the Project and all associated equipment from the Project Site. If the facility is removed, then the Applicant shall restore the Project Site to its original condition. Any changes on this Conditional Use Permit shall require a modification to be reviewed by the Zoning Administrator.

9. The Applicant/Representative and Property Owner shall and does hereby agree to indemnify, protect, defend and hold harmless City, its City Council members, officers, employees and representatives, from and against any and all liabilities, losses, damages, demands, claims and costs, including court costs and attorney's fees (collectively, liabilities) incurred by the City arising, directly or indirectly, from (a) City's approval and issuance of this Conditional Use Permit, (b) City's approval or issuance of any other permit or action, whether discretionary or non-discretionary, in connection with the use contemplated herein, and Applicant/operator shall acknowledge their agreement to this provision by executing a copy of this Conditional Use Permit where indicated below. The Applicant/Representative and Property Owner's compliance with this provision is an express condition of this Conditional Use Permit and shall be binding on any and all of Applicant/Operator's successors and assigns.

10. Any violations of the terms and conditions of this permit may result in the imposition of civil or criminal penalties and/or the revocation or modification of this permit.

11. If any of the foregoing conditions fail to occur, or if they are, by their terms, to be implemented and maintained over time, if any of such conditions fail to be so implemented and maintained according to their terms, the City shall have the right to revoke or modify all approvals herein granted, deny, or further condition issuance of all future building permits, deny, revoke, or further condition all certificates of occupancy issued under the authority of approvals herein granted, institute and prosecute litigation to compel their compliance with said conditions or seek damages for their violation. Applicant or a successor in interest gains no vested rights by the City's approval of this Conditional Use Permit.

12. This conditional use permit shall expire on October 12, 2020, ten (10) years from the date of this Zoning Administrator approval. The Applicant may request an extension 30 days prior to expiration date from this conditional use permit approval. The Zoning Administrator shall review this use for compliance with the

conditions of approval and any applicable codes and regulation, and shall determine, in consultation with the Applicant, whether the Project shall be modified from its original approval, denied or extended.

APPROVED BY ZONING ADMINISTRATOR OF THE CITY OF CHULA VISTA, CALIFORNIA, this 12th day of October 2010.

Mary Ladiana

Mary Ladiana
Zoning Administrator