CITY OF
CHULA VISTA

ZONING ADMINISTRATOR
NOTICE OF DECISION

Date:	**August 21, 2019**
Applicant:	**Shane Villhen, Mobilitie DAS**
Case No.:	**CUP19-0009**
Address:	**2015 Birch Road**
Assessor's Parcel No.:	**643-061-08-00, 643-061-02-00**
Project Planner:	**Oscar Romero**

Notice is hereby given that on August 21, 2019 the Zoning Administrator considered Conditional Use Permit (CUP) application CUP19-0009, filed by Mobilitie DAS ("Applicant"). The Applicant requests a CUP to add wireless antennas and equipment to an existing wireless telecommunications facility ("Project") located at 2015 Birch Road ("Project Site"). The Project Site is owned by Steve Isaacson, Brookfield Properties Retail Operations Manager ("Property Owner") and is zoned (FC1) Freeway Commercial and designated FWC (Freeway Commercial) by the General Plan. The Project is more specifically described as follows:

Mobilitie DAS, requests a CUP to add additional wireless antennas to an existing wireless telecommunications facility and upgrade equipment within existing equipment rooms located at the Otay Ranch Town Center. The request includes the installation of 16 wireless antennas to support the Distributed Antenna System (DAS), 60 new RRU's and an upgrade of radio equipment within two electrical rooms and one ladder room. Each antenna will be located on top of various existing buildings with a design matching the exterior façade of the buildings.

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 Existing Structures) of the State CEQA Guidelines. No further environmental review is required.

The Zoning Administrator, under the provisions of Sections 19.14.030.A and 19.89 of the Chula Vista Municipal Code (CVMC)and Otay Ranch Freeway Commercial SPA, has been able to make the findings for approval of this Conditional Use Permit as required by CVMC Section 19.14.080 as follows:

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 telecommunications facility will continue to improve wireless communication, as a public convenience, by providing essential communication and improved service in the surrounding area of its location. 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 wireless 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 telecommunication facility will benefit the general health, safety and welfare of the citizens of Chula Vista because it will continue to provide a choice in wireless communication reliability in the use's coverage area. In addition, in the event of an emergency or natural disaster, the use will be able to continue to function during emergencies. The use will not be detrimental to persons residing or working in the vicinity as said antennas are mounted on the structures within the lot and built with a stealth design.

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

The 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 (CVMC 19.89) for the telecommunications facility use. The use will be built in compliance with the City's Wireless Ordinance development criteria and all other City zoning and building regulations. The conditions of this Conditional Use Permit are 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 this Conditional Use Permit.

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 wireless facilities with existing uses helps to achieve General Plan Public Facilities and Services Element, including Policy PFS 24.1 regarding installing state-of-the-art wireless facilities, and Policy PFS 24.2, regarding reviewing new telecommunications facilities and requesting siting and design techniques that minimize community impacts.

BASED ON THE FINDINGS ABOVE, THE ZONING ADMINISTRATOR hereby approves Conditional Use Permit CUP19-0009, 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

_____
Print

_____ _____
Signature of Property Owner/representative Date

_____
Print

Building Condition:

2. The Applicant shall comply with the 2016 California Building Code (CBC), California Mechanical Code (CMC), California Plumbing Code (CPC), California Electrical Code (CEC), California Fire Code (CFC), California Green Building Standards and all other locally adopted City and state requirements.

Planning Conditions:

4. 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.

5. 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.

II. **Ongoing Conditions**

6. Within 90 days of cessation of the business operations and use of the antennas, the Applicant shall identify 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.

7. The Applicant/Representative and Property Owner shall and does hereby agree to indemnify, protect, defend and hold harmless the 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 above. 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.

8. Any violations of the terms and conditions of this Conditional Use Permit may result in the imposition of civil or criminal penalties and/or the revocation or modifications.

9. 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.

10. This Conditional Use Permit shall expire on August 21, 2029, 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 21st day of August 2019.

Michael W. Walker
Zoning Administrator