



## Development Services Department

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### ZONING ADMINISTRATOR NOTICE OF DECISION

NOTICE IS HEREBY GIVEN THAT THE ZONING ADMINISTRATOR FOR THE CITY OF CHULA VISTA considered a Conditional Use Permit (“CUP”) application for the installation of a roof-mounted wireless telecommunications facility on an existing commercial building as further described below:

<b>Date:</b>	<b>October 4, 2023</b>
<b>Applicant:</b>	<b>Dish Wireless, LLC</b>
<b>Project Number:</b>	<b>CUP23-0009</b>
<b>Project Location:</b>	<b>1120 Third Avenue (APN: 619-110-24)</b>
<b>Project Planner:</b>	<b>Mathew Sterling</b>

The Applicant proposes to install three (3) panel antennas, six (6) remote head units, two (2) surge suppressors, one (1) small GPS receive-only antenna, and associated ancillary equipment within two (2) screened enclosures on the rooftop of an existing commercial building (“Project”). The Project will be located in the northeastern area of the rooftop near Third Avenue. The proposed antennas will be fully enclosed and screened behind the enclosures, which will also be painted to match the colors of the existing building.

The subject property is owned by Haber Clara Family Trust (02-06-06) (“Property Owner”) and is zoned Central Commercial - Precise Plan (CCP), with a designation of Mixed Use Residential (MUR) in the Chula Vista General Plan.

The Director of Development Services has reviewed the proposed Project for compliance with the California Environmental Quality Act (“CEQA”) and determined that the Project qualifies for a Class 1 Categorical Exemption pursuant to Section 15301 (Existing Facilities) of the CEQA Guidelines. No further environmental review is required.

The Zoning Administrator, under the provisions of Chula Vista Municipal Code (“CVMC”) Section 19.14.030(A) , makes the following findings as required by CVMC Section 19.14.080:

***The proposed use at this location is necessary or desirable to provide a service or facility that will contribute to the general wellbeing of the neighborhood or the community.***

The use will continue to provide public convenience by providing essential communication and increased wireless service in the area. The facility will be roof-mounted and will have minimal visual impacts, as the proposed equipment will be fully screened behind enclosures painted to match the colors of the existing building. It will not interfere with any existing activities or conveniences of the public and will continue to aid in the general wellbeing of the community by providing uninterrupted wireless service for nearby communities.

***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, nor will it be injurious to property or improvements in the vicinity.***

The use will ensure continued access to clear and reliable wireless 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 Chula Vista.

***The proposed use will comply with the regulations and conditions specified in the CVMC for such use.***

Issuance of this permit will require the Applicant and/or Property Owner to fulfill conditions of approval, including compliance with all applicable regulations and standards specified in the City's Wireless Telecommunications Facilities Ordinance (CVMC Chapter 19.89) for the use. The use will be implemented in compliance with the associated development criteria and all other City zoning and building regulations.

***Granting of this conditional use will not adversely affect the General Plan of the City or the adopted plan of any governmental agency.***

Integration of cellular facilities with existing uses helps to achieve General Plan Objective PFS 24.2, which encourages siting and design techniques that minimize community impacts, such as using architectural features or details that blend with the surrounding area.

BASED ON THE FINDINGS ABOVE, THE ZONING ADMINISTRATOR hereby approves Conditional Use Permit CUP23-0009 as described above, subject to the following conditions:

1. The Applicant shall maintain the Project in accordance with the approved plans for CUP23-0009, which include a site plan, equipment plan, elevations, and photo simulations on file in the Development Services Department. The Project shall also maintain compliance with the conditions contained herein and Title 19 of the CVMC.
2. This permit shall be reviewed 10 years from the date of approval (October 4, 2033), at which time the Zoning Administrator shall review this use for compliance with the conditions of approval and any applicable codes and regulations and shall determine, in consultation with the Applicant, whether the Project shall be modified from its original approval or revoked, or whether another review shall be necessary for the Project. If such review is required, the Zoning Administrator shall determine the timeline for review.
3. Approval of this permit shall not waive the Applicant's responsibility to comply with all applicable provisions of Title 19 of the CVMC and other applicable City ordinances in effect at the time of building permit issuance or the approval of this permit.
4. The Applicant and Property Owner shall execute this permit acknowledging that the approved use is the only use that has been approved under this permit. Any new use or modification/expansion of uses shall be subject to review and approval by the Zoning Administrator.
5. The Applicant shall cooperate with telecommunications companies in co-locating additional antennas on the subject property, provided said co-locators have received a CUP from the City for such use. The 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 the Applicant has exercised good faith in accommodating other users, the City may require a third-party technical study at the expense of the Applicant.
6. 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 Director of Development Services or their designee and/or remove the Project and all associated equipment from the Project Site. If the facility is removed, the Applicant shall

restore the Project Site to its original condition. Any changes to this permit shall require a modification to be reviewed by the Zoning Administrator.

7. The Applicant and Property Owner shall and do hereby agree to timely 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 fees (collectively, "liabilities") incurred by the City arising, directly or indirectly, from (a) the City's approval and issuance of this permit and (b) the City's approval or issuance of any other permit or action, whether discretionary or non-discretionary, in connection with the use contemplated herein, and the Applicant shall acknowledge their agreement to this provision by executing a copy of this permit where indicated below. The Applicant and Property Owner's compliance with this provision is an express condition of this permit and shall be binding on any and all of the Applicant/operator's successors and assigns.
8. 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.
9. If any of the foregoing conditions fail to be met, 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. Neither the Applicant nor a successor in interest gains any vested rights from the City's approval of this permit.
10. The Applicant and Property Owner shall execute this document by making a true copy and signing this original Notice of Decision and the copy on the lines provided below. Said execution indicates that the Applicant and Property Owner have each read, understood, and agree 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 shall indicate the Applicant's and Property Owner's desire that the Project and corresponding application(s) for building permits and/or business license(s) be held in abeyance without approval.

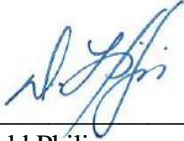
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Franklin Orozco  
for Dish Wireless, LLC (Applicant)

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Date

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Clara Haber  
for Haber Clara Family Trust (02-06-06)  
(Property Owner)

\_\_\_\_\_  
Date

APPROVED BY THE ZONING ADMINISTRATOR OF THE CITY OF CHULA VISTA, CALIFORNIA, this 4th day of October 2023.



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D. Todd Philips  
Zoning Administrator