

January 17, 2024

Matt Vigil  
Qualtek Wireless  
10 Pasteur, Suite 100  
Irvine, CA 92618

**SUBJECT: CUP 2022-0008 (DEV2022-0093) – DISH WIRELESS SDSAN00135B** – Request for approval of a Minor Conditional Use Permit (CUP 2022-0008) to allow the installation of six (6) panel antennas, six (6) radio heads, one (1) GPS antenna, one (1) equipment cabinet, and associated support/electrical equipment within an existing self-storage facility. The storage building has an existing 40-foot-tall architectural tower at the front building face, which will be extended to 44-foot-tall to house panel antennas, radio heads, and GPS unit. The antennas will be mounted to the interior walls of the tower and three, 32-square-foot cement boards will be installed beneath the antennas to prevent RF signals from traveling down into the floor below. Three FRP screens will be installed to shield the antenna and four 24-square-foot decorative windows will be installed. The project also includes a 100 square foot lease area within two existing storage units on the third floor of the public storage building which will be used as an equipment room. All proposed equipment will be housed within the equipment room. No equipment will be visible to the public. The project is located at 3235 Tyler Street (APN 204-070-28-00), within the Pine-Tyler Mixed-Use (PT) District of the Village and Barrio Master Plan and Local Facilities Management Zone 1.

Dear Matt Vigil,

The city planner has completed a review of your application for Minor Conditional Use Permit, CUP 2022-0008, as described above. A notice was sent to property owners within a 300-foot radius of the subject property requesting comments regarding the above request. No comments were received within the ten-day notice period (ending on September 25, 2023). After careful consideration of the circumstances surrounding this request, the City Planner has determined that the findings required for granting a Minor Conditional Use Permit can be made and therefore, **APPROVES** this request based on the following findings and conditions.

**Findings:**

1. That the requested use is necessary or desirable for the development of the community and is in harmony with the various elements and objectives of the general plan, including, if applicable, the certified local coastal program, specific plan or master plan in that **the use provides a benefit by increasing the capacity for digital communications and data transmissions for businesses, individuals, public agencies, and emergency service systems in this area of the city. The use is consistent with the General Plan in that the Pine-Tyler Mixed-Use (PT) District of the Village and Barrio Master Plan does not preclude Wireless Communication Facility (WCF) uses. The WCF has been found to be consistent with City Council Policy No. 64, Wireless Communication Facilities,**

**because it will remain in a preferred location, and will provide a stealth design with antenna screening that matches the existing building facade. The project's location and stealth design complies with General Plan objectives that seek to maintain and enhance Carlsbad's appearance.**

2. That the requested use is not detrimental to existing uses or to uses specifically permitted in the zone in which the proposed use is to be located in that **the Wireless Communication Facility (WCF) is located within an existing building, which is a preferred location pursuant to Location Guideline A.1 of City Council Policy No. 64. The antenna installation will utilize a stealth design with screening and faux windows that matches the existing architectural tower. The WCF use is not precluded by the project site's Pine-Tyler Mixed Use (PT) District of the Village and Barrio Master Plan and Village and Barrio (V-B) General Plan Land Use designation. Furthermore, the project has been conditioned to comply with Federal Communications Commission (FCC) Radiofrequency Exposure Guidelines.**
3. That the site for the proposed conditional use is adequate in size and shape to accommodate the yards, setbacks, walls, fences, parking, loading facilities, buffer areas, landscaping and other development features prescribed in this code and required by the City Planner in order to integrate the use with other uses in the neighborhood in that **the Wireless Communication Facility (WCF) is proposed to be located within the architectural tower of an existing self-storage facility. The site is adequate for the WCF because it is located on a lot developed with a commercial use, and the existing building is a preferred location pursuant to Location Guideline A.1 of City Council Policy No. 64. The exterior appearance of the structure will not be negatively affected as the only change to the exterior proposed is an increase in height of the existing architectural tower from 40 feet to 44 feet to house the panel antennas. The associated equipment will be fully screened from view and located within the storage facility in existing storage units on the third floor. Therefore, the antennas and equipment are in compliance with applicable development standards.**
4. That the street system serving the proposed use is adequate to properly handle all traffic generated by the proposed use in that **the unstaffed Wireless Communication Facility will not generate traffic other than during periodic maintenance. Access to the project site will be provided from Tyler Street, which is adequate to serve the facility.**
5. That the proposed wireless communication facility is consistent with Council Policy No. 64, in that **the existing commercial building is considered a preferred location as listed in Location Guideline A.1 of City Council Policy No. 64. The proposed Wireless Communication Facility (WCF) will be located in an extension of the existing architectural tower textured and painted to match the existing tower, ensuring that the WCF remains in a stealth design which is consistent with the design guidelines contained within City Council Policy No. 64.**

#### General

6. That the City Planner has determined that the project belongs to a class of projects that the State Secretary for Resources has found do not have a significant impact on the environment, and it is therefore categorically exempt from the requirement for the preparation of environmental documents pursuant to Section **15303 – New Construction or Conversion of Small Structures** of the

state CEQA Guidelines. In making this determination, the City Planner has found that the exceptions listed in Section 15300.2 of the state CEQA Guidelines do not apply to this project.

7. That the request for a Minor Conditional Use Permit was adequately noticed at least ten (10) calendar days before the date of this decision pursuant to Section 21.54.060 of the Carlsbad Municipal Code.
8. The City Planner has reviewed each of the exactions imposed on the Developer contained in this approval letter, and hereby finds, in this case, that the exactions are imposed to mitigate impacts caused by or reasonably related to the project, and the extent and the degree of the exaction is in rough proportionality to the impact caused by the project.

**Conditions:**

1. Approval is granted for **CUP 2022-0008** as shown on Exhibits “A” – “T” dated **January 17, 2024**, on file in the Planning Division and incorporated herein by reference. Development shall occur substantially as shown unless otherwise noted in these conditions.
2. If any of the following 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; record a notice of violation on the property title; institute and prosecute litigation to compel their compliance with said conditions or seek damages for their violation. No vested rights are gained by Developer or a successor in interest by the city’s approval of this **Minor Conditional Use Permit**.
3. Staff is authorized and directed to make, or require the Developer to make, all corrections and modifications to the **CUP 2022-0008** documents, as necessary to make them internally consistent and in conformity with the final action on the project. Development shall occur substantially as shown on the approved Exhibits. Any proposed development different from this approval shall require an amendment to this approval.
4. The Developer/Operator shall and does hereby agree to indemnify, protect, defend and hold harmless the City of Carlsbad, its Council members, officers, employees, agents, and representatives, from and against any and all liabilities, losses, damages, demands, claims and costs, including court costs and attorney’s fees incurred by the city arising, directly or indirectly, from (a) city’s approval and issuance of this **Minor Conditional Use Permit**, (b) City’s approval or issuance of any permit or action, whether discretionary or non-discretionary, in connection with the use contemplated herein, and (c) Developer/Operator’s installation and operation of the facility permitted hereby, including without limitation, any and all liabilities arising from the emission by the facility of electromagnetic fields or other energy waves or emissions. This obligation survives until all legal proceedings have been concluded and continues even if the city’s approval is not validated.

5. The Developer shall comply with all applicable provisions of federal, state, and local ordinances in effect at the time of building permit issuance.
6. If any condition for construction of any public improvements or facilities, or the payment of any fees in-lieu thereof, imposed by this approval or imposed by law on this Project are challenged, this approval shall be suspended as provided in Government Code Section 66020. If any such condition is determined to be invalid, this approval shall be invalid unless the City Council determines that the project without the condition complies with all requirements of law.
7. This project shall comply with all conditions and mitigation measures, which are required as part of the Zone1 Local Facilities Management Plan and any amendments made to that Plan prior to the issuance of building permits.
8. **CUP 2022-0008** shall be reviewed by the City Planner on a yearly basis to determine if all conditions of this permit have been met and that the use does not have a substantial negative effect on surrounding properties or the public health, safety and general welfare. If the City Planner determines that: 1) the conditional use permit was obtained by fraud or misrepresentation; or 2) the use for which such approval is granted is not being exercised; or 3) the conditions of approval have not been met; or 4) the conditional use permit is being or recently has been exercised contrary to any of the terms or conditions of approval; or 5) the use for which such approval was granted has ceased to exist or has been suspended for one year or more; or 6) the use is in violation of any statute, ordinance, law or regulation; or 7) the use permitted by the conditional use permit is being or has been so exercised as to be detrimental to the public health, safety or welfare or so as to constitute a nuisance, the city planner shall hold an informal public hearing and after providing the permittee the opportunity to be heard, the city planner may revoke and terminate the conditional use permit in whole or in part, reaffirm the minor conditional use permit, modify the conditions or impose new conditions.
9. This **Minor Conditional Use Permit** is granted for a period of **10** years from **January 17, 2024**, through **January 17, 2034**. This permit may be revoked at any time after a public hearing, if it is found that the use has a substantial detrimental effect on surrounding land uses and the public's health and welfare, or the conditions imposed herein have not been met. This permit may be extended for a reasonable period of time not to exceed **10** years, unless determined otherwise by the decision-maker per Carlsbad Municipal Code Section 21.42.110, upon written application of the permittee made no less than 90 days prior to the expiration date. The City Planner/Planning Commission may not grant such extension, unless it finds that there are no substantial negative effects on surrounding land uses or the public's health and welfare. If a substantial negative effect on surrounding land uses or the public's health and welfare is found, the extension shall be denied or granted with conditions which will eliminate or substantially reduce such effects. There is no limit to the number of extensions the City Planner/Planning Commission may grant.
10. Prior to the issuance of a **building permit**, owner/applicant shall submit to the city a Notice of Restriction to be filed in the office of the County Recorder, subject to the satisfaction of the city planner, notifying all interested parties and successors in interest that the City of Carlsbad has issued a **Minor Conditional Use Permit** on the real property owned by the owner/applicant. Said Notice of Restriction shall note the property description, location of the file containing complete project

details and all conditions of approval as well as any conditions or restrictions specified for inclusion in the Notice of Restriction. The city planner has the authority to execute and record an amendment to the notice, which modifies or terminates said notice upon a showing of good cause by the owner/applicant or successor in interest.

11. This approval shall become null and void if building permits are not issued for this project within 24 months from the date of project approval.
12. Developer shall report, in writing, to the City Planner within 30 days, any address change from that which is shown on the permit application.
13. Developer/Operator shall comply with the Federal Communication Commission's guidelines on limits for human exposure to radio frequency (RF) electromagnetic fields. Within six (6) months after the issuance of occupancy, and with any time extension or amendment request, the Developer/Operator shall submit to the city planner either (1) verification that the project is categorically excluded from having to determine compliance with the RF exposure guidelines per 47 CFR §1.1307(b)(1); or (2) a project implementation report which provides cumulative field measurements of RF emissions of all antennas installed at the subject site. The report shall quantify the RF emissions and compare the results with the exposure limits established by the FCC guidelines. Said report shall be subject to review and approval by the city planner for consistency with the Project's preliminary report on RF exposure submitted with the initial project application and for consistency with the FCC guidelines. If, on review, the city finds that the project does not meet the FCC guidelines, the city may revoke or modify this conditional use permit.

**Code Reminders:**

14. Approval of this request shall not excuse compliance with all applicable sections of the Zoning Ordinance and all other applicable city ordinances in effect at time of building permit issuance, except as otherwise specifically provided herein.

## NOTICE

Please take **NOTICE** that approval of your project includes the “imposition” of fees, dedications, reservations, or other exactions hereafter collectively referred to for convenience as “fees/exactions.”

You have 90 days from the date of final approval to protest imposition of these fees/exactions. If you protest them, you must follow the protest procedure set forth in Government Code Section 66020(a), and file the protest and any other required information with the city manager for processing in accordance with Carlsbad Municipal Code Section 3.32.030. Failure to timely follow that procedure will bar any subsequent legal action to attack, review, set aside, void, or annul their imposition.

You are hereby FURTHER NOTIFIED that your right to protest the specified fees/exactions DOES NOT APPLY to water and sewer connection fees and capacity charges, nor planning, zoning, grading or other similar application processing or service fees in connection with this project; NOR DOES IT APPLY to any fees/exactions of which you have previously been given a NOTICE similar to this, or as to which the statute of limitations has previously otherwise expired.

This decision may be appealed by you or any other member of the public to the Planning Commission within ten days of the date of this letter. Appeals must be submitted in writing to the Planning Division at 1635 Faraday Avenue in Carlsbad, along with a payment of \$900. The filing of such appeal within such time limit shall stay the effective date of the order of the City Planner until such time as a final decision on the appeal is reached. If you have any questions regarding this matter, please feel to contact Lauren Yzaguirre at 442-339-2634.

Sincerely,



**Eric Lardy**  
City Planner

CJ:LY:es

c: Public Storage of Carlsbad Inc., 701 Western Ave, Glendale, CA 91201  
Brannon Lehane, 4995 Murphy Canyon Road, San Diego, CA 92123  
Tim Carroll, Project Engineer  
Laserfiche/File Copy