



**STATEMENT OF OFFICIAL ACTION
FINDINGS AND DETERMINATION OF THE
ZONING ADMINISTRATOR**

PROJECT INFORMATION	
Zoning Administrator Meeting: May 12, 2020	Agenda Item: 3-A
Permit: 18ENT-0250 (Minor Use Permit – Antenna)	
Address: 1610 Broadway	
Applicant: Jim Phit, Verizon Wireless	
Property Owner: Asad Investment Group LLC	
Case Planner: Ross Fehrman, AICP, Associate Planner	
REQUEST:	The applicant requests approval of a Minor Use Permit (MUP) to allow a new wireless telecommunications facility on the roof of an existing three-story residential building within the Mixed-Use Boulevard Low (MUBL) zoning district. The project consists of installing nine (9) panel antennas and twelve (12) remote radio units divided between three sectors. The proposed antennas and associated support equipment will be arranged behind new screen walls designed to match the appearance of the existing building. Based on when the subject MUP application was deemed complete, the request is subject to the zoning regulations in place prior to the adoption of the revised Wireless Communications Ordinance (Ordinance 2583 CCS) in August 2018. As proposed, the project does not comply with the requirements for non-parabolic commercial antennas contained in Santa Monica Municipal Code (SMMC) Section 9.32.060(A). Pursuant to Santa Monica Municipal Code Section 9.32.060(B), the Zoning Administrator may approve modifications to the requirements for non-parabolic commercial antennas through the approval of an MUP.
CEQA STATUS:	The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15305, Class 3 of the State Implementation Guidelines in that the project involves the construction of a small structure, specifically the installation of a wireless telecommunications facility.

PROPERTY INFORMATION	
Zoning District:	Mixed-Use Boulevard Low (MUBL)
Parcel Area (SF)/Dimensions:	7,500 SF / 50' W x 150' D
Rent Control Status:	N/A
Relevant Prior Permits:	None

ZONING ADMINISTRATOR ACTION	
APPROVED as requested based on findings and subject to conditions.	June 16, 2020

Effective Date Of Action If Not Appealed:	July 1, 2020
Expiration Date: <small>(2 years pursuant to SMMC 9.37.090 + 2 years pursuant to the Eighteenth Supplement to the Executive Order of the Director of Emergency Services Declaring the Existence of a Local Emergency adopted on May 29, 2020)</small>	July 1, 2024
Length Of Any Possible Extension:	Six months

MINOR USE PERMIT FINDINGS

1. The proposed use is consistent with the General Plan and any applicable specific plan. LUCE Goal E5 encourages the support of a diversified and sustainable community and identifies the need to create a local, business-friendly environment. The installation of a new wireless telecommunications facility will ensure that residents, businesses, and visitors will be provided with improved, up-to-date reliable telecommunications services. Additionally, LUCE Goal B6 encourages an enhanced pedestrian-oriented boulevard along Broadway, and the proposed wireless facility on the building rooftop ensures that the proposed project will remain ancillary to the residential operations of the building.
2. The physical location or placement of the use on the site is compatible with and relates harmoniously to the surrounding neighborhood. Specifically, the proposed use is located on the roof of a three-story residential building and is screened on all sides. The surrounding uses are primarily composed of residential and commercial uses. The wireless telecommunications facility is an ancillary use which will primarily occupy a portion of the rooftop area and provide wireless telecommunications and data coverage to the city's residents, businesses, and visitors. As conditioned, the telecommunications facility will be designed in a manner that is compatible to the context of the existing structure and harmoniously screens the equipment from public view.
3. The proposed personal wireless service facility complies with all development standards described in Santa Monica Municipal Code Section 9.32.080. Specifically, the proposal complies with the overall height, setbacks, noise limitations, backup power sources, signage, utilities, and exterior lighting standards. The project will incorporate two screening areas that will conceal the proposed and existing equipment, and required security measures and sign requirements have been incorporated.
4. The applicant has demonstrated that its proposed facility shall be in compliance with all applicable FCC rules and regulations for human exposure to RF emissions. Specifically, the applicant submitted a *Radio Frequency (RF) Electromagnetic Energy Jurisdictional Report* conducted by EBI Consulting dated February 12, 2020 (EBI RF Report). This EBI RF Report contained the necessary information to allow the City's Consultant (Telecom Law Firm) to conduct an independent RF analysis to determine whether the project as proposed will comply with the FCC's Rules. The City Consultant's review of the EBI RF Report concurs with the need to upgrade the roof area around all sectors to restrict access to the accessible controlled access zones. In order for the antennas to operate in complete compliance with all Federal Communication Commission (FCC) guidelines and regulations to safeguard the public health, safety, or general welfare from radio frequency radiation, special Conditions No. 16 - 29 have been included as conditions of project approval.

5. The applicant has demonstrated a good-faith effort to identify and evaluate more-preferred locations and potentially less-intrusive designs. Specifically, the applicant identified six other sites (1717, 1710, and 1726 Santa Monica Boulevard; 1350 and 1453 15th Street; and 1327 16th Street) in the immediate vicinity of 1610 Broadway. However, certain conditions, such as building height, safety/liability issues, and lease terms, made these options infeasible. Additionally, the subject site was selected for co-location opportunities because there is already an existing rooftop wireless facility on site.
6. The applicant has provided the approval authority with a meaningful comparative analysis that shows all less-intrusive alternative locations and designs identified in the administrative record are either technically infeasible or not potentially available. Specifically, alternative designs were considered with placement of the proposed antennas further from the roof edge of the existing building; however, such placement would require the antennas to be elevated higher and the screening to be enlarged in order to achieve maximum coverage. Therefore, the proposed design was determined to be the least impactful to the existing building and surrounding area.

CONDITIONS OF APPROVAL

Standard Conditions

1. This determination shall not become effective for a period of fourteen days from the determination date or, if appealed, until a final determination has been made on the appeal.
2. This approval applies only to the request to allow a new wireless telecommunications facility on the roof of an existing residential building within the Mixed-Use Boulevard Low zoning district, as shown on the plans dated February 25, 2020, and subject to any special conditions. Minor amendments to the plans shall be subject to approval by the Zoning Administrator.
3. Except for allowances granted by this entitlement, the applicant shall comply with all other applicable provisions of Article 9 of the Santa Monica Municipal Code and all other pertinent ordinances and General Plan policies of the City of Santa Monica.
4. This approval shall expire forty-eight (48) months from the effective date, unless, in the case of a new development, a building permit has been obtained, or in the case of a change of use, a business license has been issued and the use is in operation prior to the expiration date. This approval shall also expire if the building permit expires or if the rights granted under this approval are not exercised within one year of the earliest to occur of the following: issuance of a Certificate of Occupancy or, if no Certificate of Occupancy is required, the last required final inspection for new construction. Upon the written request from the

applicant, prior to expiration, the Zoning Administrator may extend this period up to an additional six (6) months. Applicant is on notice that extensions may not be granted if development standards, the development process, or other requirements relevant to the project have changed since project approval.

5. As required by California Government Code Section 66020, the project applicant is hereby notified that the 90-day period has begun as of the date of the approval of this application, in which the applicant may protest any fees, dedications, reservations, or other exactions imposed by the City as part of the approval or as a condition of approval of this development. The fees, dedications, reservations, or other exactions are described in the approved plans, conditions of approval, and/or adopted city fee schedule.
6. **Approved Plans.** Before the permittee submits any applications to the Building and Safety Division, the permittee must incorporate the permit, all conditions associated with the permit and the approved photo simulations into the project plans (the "Approved Plans"). The permittee must construct, install and operate the facility in strict compliance with the Approved Plans. Any alterations, modifications or other changes to the Approved Plans, whether requested by the permittee or required by other departments or public agencies with jurisdiction over the facility, must be submitted in a written request subject to the Planning Director's prior review and approval, who may refer the request to the original approval authority if the Planning Director finds that the requested alteration, modification or other change implicates a significant or substantial land-use concern.
7. **Build-Out Period.** In accordance with SMMC Section 9.37.090 Expiration and Extension and the Eighteenth Supplement to the Executive Order of the Director of Emergency Services Declaring the Existence of a Local Emergency adopted on May 29, 2020, the permit shall automatically expire 44 years from the issuance date unless the permittee obtains all other permits and approvals required to install, construct and/or operate the approved facility, which includes, without limitation, any permits or approvals required by the any Federal, State or local public agencies with jurisdiction over the subject property, the facility or its use. The Planning Director may grant one written extension to a date certain when the permittee shows good cause to extend the limitations period in a written request for an extension received by the City prior to the automatic expiration date in this condition.
8. **Maintenance Obligations; Vandalism.** The permittee shall at all times keep the site, which includes, without limitation, any and all improvements, equipment, structures, access routes, fences and landscape features, in a neat, clean and safe condition in accordance with the Approved Plans and all conditions in the permit. The permittee shall keep the site area free from all litter and debris at all times. The permittee, at no cost to the City, shall remove and remediate any graffiti or other vandalism at the site within 48 hours after the permittee receives

notice or otherwise becomes aware through its own staff including contractors that such graffiti or other vandalism occurred.

9. **Compliance with Laws.** The permittee shall maintain compliance at all times with all Federal, State and local statutes, regulations, orders or other rules that carry the force of law ("Laws") applicable to the permittee, the subject property, the facility or any use or activities in connection with the use authorized in the permit. The permittee expressly acknowledges and agrees that this obligation is intended to be broadly construed and that no other specific requirements in these conditions are intended to reduce, relieve or otherwise lessen the permittee's obligations to maintain compliance with all Laws.
10. **Inspections; Emergencies.** The permittee expressly acknowledges and agrees that the City or its designee may enter onto the site and inspect the improvements and equipment upon reasonable prior notice to the permittee; provided, however, that the City or its designee may, but shall not be obligated to, enter onto the site area without prior notice to support, repair, disable or remove any improvements or equipment in emergencies or when such improvements or equipment threatens actual, imminent harm to property or persons. The permittee shall be permitted to supervise the City or its designee while such inspection or emergency access occurs.
11. **Contact Information.** The permittee shall furnish the City Planning Division with accurate and up-to-date contact information for a person responsible for the facility, which includes, without limitation, such person's full name, title, direct telephone number, facsimile number, mailing address and email address. The permittee shall keep such contact information up-to-date at all times.
12. **Indemnification.** Applicant shall defend, indemnify, and hold harmless the City and its boards, commissions, agents, officers, and employees (collectively, "City") from any claims, actions, or proceedings (individually referenced as "Claim" and collectively referenced as "Claims") against the City to attack, set aside, void, or annul, the approval of this Minor Use Permit concerning the Applicant's proposed project, or any Claims brought against the City due to the acts or omissions in any connected to the Applicant's project. City shall promptly notify the applicant of any Claim and shall cooperate fully in the defense. Nothing contained in this paragraph prohibits the City from participating in the defense of any Claims, if both of the following occur: (1) The City bears its own attorney's fees and costs. (2) The City defends the action in good faith. Applicant shall not be required to pay or perform any settlement unless the settlement is approved by the Applicant. In the event any such action is commenced to attack, set aside, void or annul all, or any, provisions of any approvals granted for the Project, or is commenced for any other reason against the City for the act or omissions relating to the Applicant's project, within fourteen (14) days following notice of such action from the City, the Applicant shall file with the City a performance bond or irrevocable letter of credit, or other form of security satisfactory to the

City ("the Security") in a form satisfactory to the City, and in the amount of \$100,000 to ensure applicant's performance of its defense, indemnity and hold harmless obligations to City. The Security amount shall not limit the Applicant's obligations to the City hereunder. The failure of the Applicant to provide the Security shall be deemed an express acknowledgment and agreement by the Applicant that the City shall have the authority and right, without consent of the Applicant, to revoke the approvals granted hereunder.

13. **Revocation/Modification of Permit.** The original approval authority may revoke or modify the permit at any time based upon noncompliance with the Santa Monica Municipal Code or any approval conditions. In accordance with Section 9.37.120 Revocation/Modification of Permits, the approval authority may revoke the permit or amend these conditions as the approval authority deems necessary or appropriate to correct any such noncompliance.
14. **Duty to Retain Records.** The permittee must maintain complete and accurate copies of all permits and other regulatory approvals (the records) issued in connection with the personal wireless service facility, which includes, without limitation, this approval, the approved plans and photo simulations incorporated into this approval, all conditions associated with this approval and any ministerial permits or approvals issued in connection with this approval. In the event that the permittee does not maintain such records as required in this condition or fails to produce true and complete copies of such records within a reasonable time after a written request from the City, any ambiguities or uncertainties that would be resolved through an inspection of the missing records shall be construed against the permittee.

Special Conditions

15. **Installation and Periodic Safety Monitoring.** After installation of the facility, but prior to final inspection approval, and annually thereafter, the Permittee shall submit to the Zoning Administrator a certification attested to by a qualified professional engineer or other technical expert approved by the City, that the facility is and will be operated within the applicable FCC standards for RF/EMF emissions taking into account other existing and new RF emitters, and other relevant data required by the City. All technical analysis used to determine FCC compliance shall be provided with the certification. Such periodic reports shall be on a form and format acceptable to the City. The City may request, and the Permittee shall promptly provide, further information or clarification in connection with such periodic reports.
16. **Community Liaison Officer.** Within 10 days of the effective date of this authorization, the Permittee shall appoint a Community Liaison Officer to resolve issues of concern to neighbors and residents relating to the construction and operation of the facility. Upon appointment, the Permittee shall report in writing the name, address and telephone number of this officer to the Zoning

Administrator. The Community Liaison Officer shall report to the Zoning Administrator the issues, if any, that are of concern to the community and how they have been resolved by the Permittee, and those issues have not been resolved by the Permittee. This report shall be submitting in writing upon receiving a request for information or complaint.

17. **Emissions Compliance.** Full initial and ongoing compliance with all FCC RF safety rules in OET Bulletin 65 (as may be amended or superseded or replaced) is a continuing material requirement and condition of this permit.
18. **Out of Service.** If operation of the wireless communication facility is abandoned for a continuous period of six months or more, all components of the facility shall be removed. Portions of the building damaged or discolored by removal of the equipment shall be repaired in a manner that restores the building to its prior condition, subject to approval by the Director of Planning and Community Development. Re-installation of a new wireless communication facility shall necessitate the filing of a new Use Permit application.
19. **Implementation and Monitoring Costs.** The Permittee or its successors shall be responsible for the prompt reimbursement to the City of all reasonable costs associate with the monitoring of the conditions of approval contained in this determination, including costs incurred by the City. The Department of Planning and Community Development shall collect such costs on behalf of the City. The Permittee shall be responsible for the payment of all fees associated with the installation and removal of the subject facility.
20. After transmitter and antenna system optimization, but prior to unattended operations of this project, the permittee or its representative must conduct on-site post-installation RF emissions testing to demonstrate actual compliance with the FCC OET Bulletin 65 RF emissions safety rules for General Population/Uncontrolled RF exposure in all sectors. For this testing, the transmitter shall be operating at maximum operating power, and the testing shall occur outwards to a distance where the RF emissions no longer exceed the Uncontrolled/General Population limit.
21. Based on the observations of the testing conducted pursuant to the above conditions, prior to unattended operations of this site, the permittee shall adjust the location of the permanent barriers to comply with the conditions above.
22. The testing in the condition above must be coordinated with and may be observed by the City or its representative. The test measurement observations shall be recorded in a written report prepared by the permittee or its contractor and shall specify the location of the measurement, the peak measured signal strength in units of mW/cm^2 , and shall be correlated to the plan view of the project plans at page A-1. The report shall also provide full measurement

equipment identification, current calibration certificate(s) for all equipment, and the qualifications of the person(s) conducting the tests.

23. The permittee shall tender its written report documenting the testing and observations as in the above conditions to the City for review prior to unattended operations of its project. The City shall within three business days notify Verizon by writing whether the testing demonstrates compliance with FCC OET Bulletin 65 RF emissions safety standards under the General Population/Uncontrolled standard, and such notification shall not be unreasonably withheld. Upon the City's notification, the permittee may commence unattended operation of its project.
24. The permittee shall promptly reimburse the City for all of the City's actual costs in observing the testing and reviewing the report for compliance with the FCC OET Bulletin 65 RF safety requirements, and if necessary for verifying any subsequent remedial measures required to secure areas on the roof as required in these conditions.
25. Once each calendar year at 12 month intervals, commencing between twelve and thirteen months after the date of testing required in Condition 21, an authorized officer of the permittee shall certify in writing to the City under penalty of perjury that the facility's emissions continue in full compliance with the FCC OET Bulletin 65 RF safety requirements and all of the conditions in this permit, and all physical barriers and signage are in place and in good condition.
26. Permittee shall always keep the access hatches or doors of the rooftop locked, except when active maintenance is performed on the rooftop or equipment.
27. Permittee shall ensure that all required radio frequency signage be installed and maintained at all times in good condition. All such radio frequency signage shall be constructed of hard materials and be UV stabilized. All radio frequency signage must comply with the sign colors, sign sized, sign symbols, and sign panel layouts in conformance with ANSI Z535.1, ANSI Z535.2, and ANSI C95.2-2007 standards. All such radio frequency signage, or additional signage immediately adjacent to the radio frequency signage, shall provide a working local or toll-free telephone number to its network operations center that reaches a live person who can exert transmitter power-down control over this site as required by the FCC.
28. In the event that the FCC changes any radio frequency signage requirements that are applicable to the project site or ANSI Z535.1, ANSI Z535.2, and ANSI C95.2-2007 standards that are applicable to the project site are change, within 30 days of such change the Permittee at its own cost and expense shall replace the signage at the project site to comply with the then-current signage standards.

APPLICANT NOTICE

- This decision of the Zoning Administrator may be appealed to the Planning Commission during a 14 calendar day appeal period following the decision date. Such an appeal may be made by filing an official appeal form with the City Planning Division, 1685 Main Street, Room 212, Santa Monica, CA 90401, accompanied by the required filing fee.
- Commencement of operations on the premises under this exemption shall constitute Permit Holder's acknowledgement and acceptance: 1) of all conditions contained herein; and 2) that failure to comply with any and all conditions shall constitute grounds for potential revocation of the exemption approval.

Jing Yeo

Jing Yeo, AICP
Zoning Administrator

06.16.2020

Date