

ATTACHMENT A

RESOLUTION NO. 12-017**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILPITAS, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT NO. UA12-0003, BLACK DOT WIRELESS, A REQUEST TO REMOVE AND REPLACE PANEL ANTENNAS AND ASSOCIATED GROUND-MOUNTED EQUIPMENT FOR AN EXISTING WIRELESS TELECOMMUNICATION FACILITY LOCATED AT 1220 PECTEN COURT.**

WHEREAS, on February 15, 2012, a conditional use permit amendment application was submitted by Liz Johnson with Black Dot Wireless Inc., to remove and replace existing panel antennas and associated ground mounted equipment located at 1220 Pecten Court (APN 9208-018). The property is located within the Heavy Industrial Zoning District; and

WHEREAS, the Planning Division completed an environmental assessment for the project in accordance with the California Environmental Quality Act (CEQA), and recommends that the Planning Commission determine this project is categorically exempt; and

WHEREAS, on April 11, 2012, the Planning Commission held a duly noticed public hearing on the subject application, and considered evidence presented by City staff, the applicant, and other interested parties.

NOW THEREFORE, the Planning Commission of the City of Milpitas hereby finds, determines and resolves as follows:

Section 1: The recitals set forth above are true and correct and incorporated herein by reference.

Section 2: The project is categorically exempt from further environmental review pursuant to Class 1, Section 15301 (Existing Facilities) and Class 3, Section 15303 (New Construction) in that the project entails the removal of three existing panel antennas and installation of three new panel antennas and associated ground mounted equipment. The project also proposes co-location for three future panel antennas that would be installed at a later date.

Section 3: The project is consistent with the Milpitas General Plan in that the project provides updated technology that improves wireless service that supports surrounding businesses, residents, and facilitates communication.

Section 4: The project conforms to the Milpitas Zoning Ordinance in that the project is permitted in the Heavy Industrial Zoning District with a conditional use permit. The project complies with the development standards in terms setbacks, lot coverage, and height. No additional parking is required considering the facility will be unmanned.

Section 5: The project will not be injurious or detrimental to property, improvements or to public health and safety in that it will not generate noise, odors, and will be within the

allowable radio frequency emissions threshold under federal law. As conditioned, the proposed facility will not create a negative visual impact or detract from the existing architecture in that the proposed wireless telecommunication facility will be painted to blend with surrounding landscaping. Associated equipment will be completed screen by a slatted chain line fence. .

Section 6: The Planning Commission of the City of Milpitas hereby approves Conditional Use Permit No. UA12-0003, Black Dot Wireless Inc., subject to the above Findings, and Conditions of Approval attached hereto as Exhibit 1.

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the City of Milpitas on April 11, 2012.

Chair

TO WIT:

I HEREBY CERTIFY that the following resolution was duly adopted at a regular meeting of the Planning Commission of the City of Milpitas on April 11, 2012, and carried by the following roll call vote:

COMMISSIONER	AYES	NOES	ABSENT	ABSTAIN
Lawrence Ciardella				
John Luk				
Rajeev Madnawat				
Sudhir Mandal				
Zeya Mohsin				
Gurdev Sandhu				
Steve Tao				
Garry Barbadillo				

EXHIBIT 1

CONDITIONS OF APPROVAL
CONDITIONAL USE PERMIT AMENDMENT NO. UA12-0003, Black Dot Wireless Inc.
1220 PECTEN COURT (APN 92-08-018)
(Restated and revised original conditions)

Planning Division

1. The owner or designee shall develop the approved project in conformance with the plans approved by the Planning Commission on April 11, 2012, in accordance with these Conditions of Approval.

Any deviation from the approved site plan, floor plans, elevations, materials, colors, landscape plan, or other approved submittal shall require that, prior to the issuance of building permits, the owner or designee shall submit modified plans and any other applicable materials as required by the City for review and obtain the approval of the Planning Director or Designee. If the Planning Director or designee determines that the deviation is significant, the owner or designee shall be required to apply for review and obtain approval of the Planning Commission, in accordance with the Zoning Ordinance. **(P)**

2. Conditional Use Permit No. UA12-0003 shall become null and void if the project is not commenced within 18 months from the date of approval, pursuant to Section 64.06(2) of the Zoning Ordinance of the City of Milpitas. If the project requires the issuance of a building permit, the project shall be deemed to have commenced when the date of the building permit is issued and/or a foundation is completed, if a foundation is a part of the project. If the project does not require the issuance of a building permit, the project shall be deemed to have commenced when dedication of any land or easement is required or complies with all legal requirements necessary to commence the use, or obtains an occupancy permit, whichever is sooner. **(P)**

Pursuant to Section 64.06(1), the owner or designee shall have the right to request an extension of Conditional Use Permit No. UA12-0003 if said request is made, filed and approved by the Planning Commission prior to expiration dates set forth herein. **(P)**

3. The project shall be operated in accordance with all appropriate local, state and federal regulations and in conformance with the approved plans. **(P)**
4. The fencing of the equipment area shall include brown slats.
5. The color of the monopole and all existing and proposed antennas shall be painted a dark brown color. Paint colors shall be reviewed and approved by the Planning Division prior to installation of the structures, or prior to repainting of the structures. **(P)**

6. Prior to building permit issuance, the applicant/developer shall provide a landscaping and irrigation plan to allow for two trees and shrubbery to be planted around the equipment enclosure. **(P)**
7. The applicant shall perform annual inspections and perform necessary maintenance to ensure that the project maintains an aesthetic appearance in perpetuity. **(P)**
8. The applicant shall install appropriate signage or placard to inform workers and the general public about the presence and location of antennas and their associated fields. **(P)**
9. Private Job Account - If at the time of application for building permit there is a project job account balance due to the City for recovery of review fees, the review of permits will not be initiated until the balance is paid in full and there is at least 25% of the initial account balance maintained. **(P)**

Planning = (P)

Engineering = (E)

Fire = (F)

Building = (B)