

CITY OF SAN JOSÉ, CALIFORNIA  
Department of Planning, Building and Code Enforcement  
801 North First Street, Room 400  
San José, California 95110-1795

Hearing Date/Agenda Number  
P.C. 06/26/02 Item: 3.e.

File Number  
CP01-08-076

Application Type  
Conditional Use Permit

Council District  
6

Planning Area  
West Valley

Assessor's Parcel Number(s)  
23022007

# STAFF REPORT

## PROJECT DESCRIPTION

Completed by: Elena Lee

Location: Northeast corner of Elm and Hamline Streets

Gross Acreage: 0.34

Net Acreage: 0.34

Net Density: n/a

Existing Zoning: Light Industrial

Existing Use: Industrial

Proposed Zoning: No change

Proposed Use: One 75-foot tall telecommunications monopole and associated equipment.

## GENERAL PLAN

Completed by: EL

Land Use/Transportation Diagram Designation  
Light Industrial

Project Conformance:  
 Yes  No  
 See Analysis and Recommendations

## SURROUNDING LAND USES AND ZONING

Completed by: EL

North: Industrial and Southern Pacific Railroad tracks

HI Heavy Industrial

East: Industrial

Unincorporated and HI Heavy Industrial

South: Interstate Highway 880/Industrial

LI Light Industrial

West: Industrial

LI Light Industrial

## ENVIRONMENTAL STATUS

Completed by: EL

Environmental Impact Report found complete  
 Negative Declaration circulated on  
 Negative Declaration adopted on

Exempt  
 Environmental Review Incomplete

## FILE HISTORY

Completed by: EL

Annexation Title: College Park/Burbank Sunol

Date: December 8, 1925

## PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

Approval  
 Approval with Conditions  
 Denial  
 Uphold Director's Decision

Date: \_\_\_\_\_

Approved by: \_\_\_\_\_  
 Action  
 Recommendation

## APPLICANT

Crown Castle U.S.A., Inc.  
Attn: Clarence Chavis  
Pacific Region  
6620 Owens Drive  
Pleasanton CA 94588

## OWNER

Ciari Plumbing and Heating  
Attn: Steve Ciari  
1363 Turlock Lane  
San Jose, CA 95132

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**PUBLIC AGENCY COMMENTS RECEIVED**

Completed by: EL

Department of Public Works

See attached memorandum.

Other Departments and Agencies

See attached memo from the Fire Department

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**GENERAL CORRESPONDENCE**

None received.

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**ANALYSIS AND RECOMMENDATIONS****BACKGROUND**

The applicant, Crown Castle, is requesting a Conditional Use Permit to (1) continue use of an existing 75 foot tall telecommunications monopole, (2) replace eight existing whip/panel antennas with flush mounted panel antennas and (3) modify associated equipment cabinets and enclosure adjacent to the monopole. The Zoning Ordinance requires a Conditional Use Permit for installation of wireless communications antennas in the LI Light Industrial Zoning District.

The antenna facility is located at the rear of a site containing four one-story industrial buildings. The site is bounded by industrial uses to the north, a Southern Pacific Railway line to the east, and Interstate 880 to the south. Two single-family residences, one of which has been converted to an office, a warehouse and a manufacturing facility are located across Elm Street to the west of the site.

The Planning Commission first approved a Conditional Use Permit (File No. CP90-05-030) on September 12, 1990, permitting a wireless communications facility on this site for five years. A Development Variance was approved on August 30, 1990 to allow the monopole to exceed the 45-foot maximum height. The original Conditional Use Permit lapsed on September 12, 1995. The applicant filed a new Conditional Use Permit on September 1995 to legalize the monopole and to add new panel antennas. The Planning Commission approved a second Conditional Use Permit with another five-year time limit on December 13, 1995. The second permit lapsed on December 13, 2000. Because of changes to the City's Zoning Ordinance, a variance for height is no longer required.

In 1996, Planning staff explored the issues of electromagnetic radiation to determine if emissions from the proposed antennas posed a public health hazard. Staff found that the low-frequency, low energy, non-ionizing emission associated with wireless communications antennas were well below the recognized safety standards set by the American National Standards Institute (ANSI). Staff concluded there was no evidence that such transmission would result in adverse health effects to people living or working in the vicinity of the antennas. Further, Staff investigated reports that wireless communication transmission interfered with hearing aids, pace makers, and other electronic devices. Staff determined the reported interference resulted from cordless telephones and not from antennas.

## **Project Description**

The proposed project will continue the use of a 75-foot tall monopole and include some minor modifications. The existing monopole contains two whip antennas and six non-flush-mounted antennas. The new proposal will replace the existing antennas with flush-mounted antennas, giving it a slimmer design. In addition, the proposal will replace the existing chainlink fence enclosing the associated equipment with a solid metal gate and concrete block enclosure.

## **ENVIRONMENTAL REVIEW**

The proposed project is exempt from environmental review under Section 15301 of the California Quality Act Guidelines concerning minor alterations of existing public or private structures.

## **GENERAL PLAN CONFORMANCE**

The proposed use is consistent with the San José 2020 General Plan Land Use/Transportation Diagram designation of LI Light Industrial in that wireless communication antennae are an allowed use in industrial zoning districts. The proposed 75 foot high monopole conforms to the General height limit because the San Jose 2020 General Plan Urban Design Policy states that for communications structures located outside the Downtown Core Area and regulated by the Public Utilities Commission, the maximum height may be 100 feet on sites with non-residential land use designations, if all the following criteria are met:

1. The site and structure are located to minimize public visibility.
2. The project provides visual amenities, such as landscaping, to offset the potential visual impacts associated with the project.
3. There is adequate evidence that technical necessity requires greater height and, in the case of cellular facilities, the increase in height will result in a reduction in the number of future freestanding monopoles.

The proposed project meets the above-stated criteria as discussed below and therefore conforms to the General Plan.

## **ANALYSIS**

### **City Council Policy for Wireless Communications Antennas**

The key issue analyzed for the proposed project is consistency with the City Council Land Use Policy for Wireless Communication Facilities. The City of San Jose may allow installation of wireless communications antennas with a Conditional Use Permit to ensure such projects conform to City requirements and are compatible with the surrounding neighborhood.

The proposal is consistent with the Council policy in that:

1. The proposed monopole is located and designed to minimize public visibility. The proposed modifications will decrease the visual impact of a previously-approved monopole by changing the existing pole to a “slim” pole design. The proposed modifications utilize flush-mounted antennas.
2. The structure-mounted antennas are located a minimum of 250 feet horizontally from residential uses
3. The overall height of the monopole does not exceed 75 feet. The HI Heavy Industrial Zoning District has a basic height maximum of 45 feet. However, the Zoning Ordinance was revised to allow maximum heights that are consistent with the General Plan as an alternative.
4. The City of San Jose General Plan allows for the height of structures, other than buildings, where the substantial height is intrinsic to the functions of the structures, to be 100 feet on sites with non-residential or non-urban designations.
5. New wireless communication antennas should be sited so as to minimize visual impacts. The monopole is located at the rear of a 0.34 gross acre industrial site and will be screened by four existing one-story warehouses. The new “slim pole” design will not create additional visual clutter in the area, which will minimize visual impacts. The proposal includes replacing chainlink fencing with a solid masonry enclosure. The masonry enclosure will be painted to match the building and the project will not eliminate any required parking.

## **PUBLIC OUTREACH**

A notice of the public hearing was distributed to the owners and tenants of all properties located within 500 feet of the project site.

## **RECOMMENDATION**

The Planning staff recommends that the Planning Commission approve the requested Conditional Use Permit and include the following findings and conditions in its Resolution:

The Planning Commission finds that the following are the relevant facts regarding this proposed project:

1. This site has a designation of Light Industrial on the adopted San José 2020 General Plan Land Use/Transportation Diagram.
2. The project site is located in the LI Light Industrial Zoning District.
3. Under the provisions of Section 15301 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), this project is exempt from environmental review requirements.
4. Industrial uses generally surround the subject site to the north, east and west. The closest residential building, which is located to the east of the site, is at least 250 feet horizontally from the monopole. The subject site is adjacent to Interstate 880 to the south and the Southern Pacific Railway to the north.

5. The project proposes a monopole with a maximum height not to exceed 75 feet for wireless communication antennas, and 339 square feet of associated equipment cabinets.
6. The City Council Wireless Communications Facilities Policy permits free-standing monopoles in areas designated Light Industrial on the General Plan.
7. The cabinets will be screened by a solid metal gate and concrete masonry enclosure, painted to match the existing building.
8. The City Council Land Use Policy for Wireless Communications Facilities is applicable to this application.

This Planning Commission concludes and finds, based upon an analysis of the above facts that:

1. The proposed project is consistent with the adopted San José 2020 General Plan Land Use/Transportation Diagram of the City of San José.
2. The proposed project complies with all applicable provisions of the Zoning Ordinance.
3. The proposed project is in compliance with the California Environmental Quality Act.
4. The proposed project complies with the applicable criteria of the City Council Land Use Policy for Wireless Communications Facilities.
5. The proposed project contains adequate setbacks of at least 50 feet horizontally from residential uses.
6. The proposed project does not exceed the 100 foot height maximum for structures other than buildings with necessary intrinsic height as allowed by the General Plan.
7. The proposed project adequately screens ancillary equipment cabinets.
8. The proposed project will not eliminate required parking.

Finally, based upon the above-stated findings and subject to the conditions set forth below, the Planning Commission finds that:

1. The proposed use at the location requested will not
  - a. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or
  - b. Impair the utility or value of property of other persons located in the vicinity of the site; or
  - c. Be detrimental to public health, safety or general welfare; and

2. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate said use with the uses in the surrounding areas; and
3. The proposed site is adequately served:
  - a. By highways or streets of sufficient width and improved as necessary to carry the kind and quality of traffic such use would generate; and
  - b. By other public or private service facilities as are required.

In accordance with the findings set forth above, a Conditional Use Permit to use the subject property for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby granted. This Planning Commission expressly declares that it would not have granted this permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

#### **CONDITIONS PRECEDENT**

This Conditional Use Permit shall have no force or effect and the subject property shall not be used for the hereby permitted uses unless and until all things required by the below-enumerated precedent conditions shall have been performed or caused to be performed and this Resolution has been recorded with the County Recorder.

1. **Acceptance and Payment of Recording Fees.** The "Acceptance of Permit and Conditions" form shall be **signed, notarized, and returned** to the Department of City Planning within **60 days** from the date of issuance of the resolution granting the permit. *Failure to do so will result in this permit automatically expiring regardless of any other expiration date contained in this permit.* Fees for recording a Certificate of Permit with the Recorder for the County of Santa Clara must be submitted along with the Acceptance Form.

#### **CONCURRENT CONDITIONS**

The subject property shall be maintained and utilized in compliance with the below-enumerated conditions throughout the life of the permit:

1. **Conformance with Plans.** Construction and development shall conform to approved development plans entitled, "Newhall, 1070 Elm Street, San Jose, CA 95126," dated March 14, 2002 and last revised on March 26, 2002, on file with the Department of City Planning and Building and to the San José Building Code (San José Municipal Code, Title 24).
2. **Nuisance.** This use shall be operated in a manner which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
3. **Construction Hours.** Construction shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit.

4. **Lighting.** This permit does not allow any on-site lighting.
5. **Colors and Materials.** All wireless communications antennas colors and materials are to be those specified on the approved plan set.
6. **Outside Storage.** No outside storage is permitted for the project except in areas designated on the approved plan set.
7. **Refuse.** All trash areas shall be effectively screened from view and covered and maintained in an orderly state to prevent water from entering into the garbage container. No outdoor storage is allowed/permitted unless designated on the approved plan set. Trash areas shall be maintained in a manner to discourage illegal dumping.
8. **Utilities.** All on-site telephone, electrical and other overhead service facilities shall be placed underground.
9. **Fire Flow.** Required fire flow for the site is 2,000 gpm, or as otherwise approved in writing by the Fire Chief.
10. **Fire Hydrants.** Public (off-site) and private (on-site) fire hydrants shall be provided as approved and at the exact location specified by the Protection Engineering Section of the Fire Department to the satisfaction of the Fire Chief.
11. **Fire Hydrants and Driveways.** All fire hydrants shall be at least 10 feet from all driveways to the satisfaction of the Fire Chief.
15. **Fire Lanes.** Fire lanes, suitably designated "FIRE LANE - NO PARKING," shall be provided to the satisfaction of the Fire Chief.
16. **Lock Boxes.** The project development shall provide lock boxes to the satisfaction of the Chief Building Official and Fire Chief.
17. **Hazardous Materials.** Any hazardous materials regulated by Chapter 17.68 of the San Jose Municipal Code on the site must be used and stored in full compliance with the City's Hazardous Material Ordinance and the Hazardous Materials Management Plan for the site approved by the San Jose Fire Prevention Bureau.
18. **Enclosures/Screening.** Equipment shall be enclosed or screened to match existing walls, screening, or landscaping to the satisfaction of the Director of Planning.
19. **Construction Conformance.** A project construction conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan check submittal to the Building Division. Prior to final inspection approval by the Building Department, Developer shall obtain a written confirmation from the Planning Division that the project, as constructed, conforms with all applicable requirements of the subject Permit, including the plan sets.

20. **Building Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
  - a. *Construction Plans.* This permit file number, CP01-076, shall be printed on all construction plans submitted to the Building Division.
  - b. *Emergency Address Card.* The project developer shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.
21. **Anti-Graffiti.** The applicant shall remove all graffiti from structures and fence surfaces within 48 hours of defacement.
22. **Tree Removals.** No tree larger than 56 inches in circumference, at a height of 24 inches above the natural grade slope, shall be removed without a Tree Removal Permit issued by the Director of Planning
23. **Hazardous Materials.** Any hazardous materials regulated by Chapter 17.68 of the San Jose Municipal Code on the site must be used and stored in full compliance with the City's Hazardous Material Ordinance and the Hazardous Materials Management Plan for the site approved by the San Jose Fire Prevention Bureau.
24. **Discontinuation Of Use.** Upon discontinuation of the use of the subject antennas, the applicant shall remove all antenna improvements associated with this permit within 30 days.
25. **Co-location.** The applicant and wireless communication facility operator shall facilitate the future collocation of wireless communication antennas on this tower. The applicant and wireless communication facility operator shall notify the Director of Planning of any proposals by other wireless communication providers to collocate antennas on this tower. The notification shall occur within 30 days of receipt of the proposal, and shall include the file number of this Permit. The Director of Planning shall review any changes to the approved design necessary to accommodate other providers. The Director of Planning may approve the co-location of wireless antennas through a permit adjustment.

## CONDITIONS SUBSEQUENT

1. **Permit Expiration.** This Conditional Use Permit shall automatically expire two years from and after the date of adoption of the Resolution by the Planning Commission, or by the City Council on appeal, granting this Permit, if within such two-year period, the proposed use of this site or the construction of buildings has not commenced, pursuant to and in accordance with the provisions of this Conditional Use Permit. The date of adoption is the date the Resolution granting this Conditional Use Permit is approved by the Planning Commission. However, the Director of Planning may approve a Permit Adjustment to extend the validity of this Permit for a period of up to two years. The Permit Adjustment must be approved prior to the expiration of this Permit.
2. **Time Limit.** This Conditional Use Permit expires and has no further force or effect five (5) years from the date of this Permit.

3. **Renewal.** The permit holder may seek renewal of a time-conditioned Conditional Use Permit by filing a timely renewal application on the form provided by the Director of Planning. In order to be timely, an application for renewal must be filed more than 90 calendar days but less than 180 calendar days prior to the expiration of the Conditional Use Permit. Once a renewal application has been filed in a timely manner, the expiration date of the Conditional Use Permit is automatically extended until either the issuance or denial of the application for renewal has become final.
4. **Revocation, Suspension, Modification.** This Conditional Use Permit may be revoked, suspended or modified by the Planning Commission, or by the City Council on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 3, Chapter 20.44, Title 20 of the San José Municipal Code it finds:
  - a. A violation of any conditions of the Conditional Use Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
  - b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
  - c. The use as presently conducted creates a nuisance.

Please note that this Conditional Use Permit has been granted for a period of five years only. You are being specifically and separately advised of this time limitation so that you will consider this time limitation in your decision to accept this permit or as you make any investment decision related to this property.

- c: Building Division (2)  
Engineering Services  
Clarence Chavis, Crown Castle, 6620 Owens Drive, Pleasanton, CA. 94588