

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. 02/13/02 Item. 3.c

File Number  
CP 01-11-101

Application Type  
Conditional Use Permit

Council District  
4

Planning Area  
North San Jose

Assessor's Parcel Number(s)  
237-22-081

## STAFF REPORT

### PROJECT DESCRIPTION

Completed by: Caleb Gretton

Location: Northwest corner of Zanker Road and Component Drive

Gross Acreage: 7.94

Net Acreage: 7.94

Net Density: N/A

Existing Zoning: Industrial Park

Existing Use: Industrial Warehouse

Proposed Zoning: No change

Proposed Use: Existing use to remain with the addition of three roof top mounted wireless antennae concealed within two cylinders and associated equipment

### GENERAL PLAN

Completed by: Caleb Gretton

Land Use/Transportation Diagram Designation  
Industrial Park

Project Conformance:  
 Yes  No  
 See Analysis and Recommendations

### SURROUNDING LAND USES AND ZONING

Completed by: Caleb Gretton

North: Industrial

Industrial Park

East: Industrial / Heavy Industrial

Industrial Park / Heavy industrial

South: Industrial

Industrial Park

West: Industrial

A(PD) Planned Development Zoning

### ENVIRONMENTAL STATUS

Completed by: Caleb Gretton

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

Exempt  
 Environmental Review Incomplete

### FILE HISTORY

Completed by: Caleb Gretton

Annexation Title: Orchard No. 22

Date: 01/06/1969

### PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

Approval  
 Approval with Conditions  
 Denial  
 Uphold Director's Decision

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

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

### APPLICANT

Sprint PCS  
4683 Chabot Drive, Suite 100  
Pleasanton, Ca. 94588

### OWNER

AMB Properties II, L.P.  
60 State Street, Suite 3700  
Boston MA 02109

### DEVELOPER

Eric Waldspurger, Sprint PCS  
4683 Chabot Drive, Suite 100  
Pleasanton, Ca. 94588

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**PUBLIC AGENCY COMMENTS RECEIVED**

Completed by: Caleb Gretton

Department of Public Works

None received.

Other Departments and Agencies

See attached memorandum from Police Department

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**GENERAL CORRESPONDENCE**

None received.

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

The developer, Sprint PCS, is requesting a Conditional Use Permit to allow the installation of three wireless communication antennas and associated equipment mounted on the roof of an existing warehouse building in the IP Zoning District. The Zoning Ordinance requires a Conditional Use Permit for roof-mounted wireless communication antennas that extend above the height of the existing building surface by more than seven feet.

The site is occupied by an industrial warehouse building and two Commercial/Industrial buildings. It is bounded by Industrial uses on the north, south, east and west.

In 1996, staff explored the issues of electromagnetic radiation to determine if emissions from the proposed antennas posed a public health concern. 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 the antennas.

**Project Description**

The proposed project consists of the installation of three six-foot tall wireless communication antennas concealed within two cylinders on an existing warehouse building rooftop approximately 29 feet in height. The proposed antennas would be installed on two 19-foot poles located on the north and south ends of the building roof, extending 16 feet above the existing building parapet and would not exceed 45 feet in total height. A 10' x 24'6" equipment shelter within a 10-foot tall enclosure will be located in the center of the roof and constructed to match the existing warehouse facade. Six street trees will be planted along the frontage of Component Drive in coordination with the City Arborist.

## **ENVIRONMENTAL REVIEW**

The Director of Planning has determined that this project is exempt from further environmental review under the provisions of the California Environmental Quality Act. The Environmental Quality Act Section 15303 class 3 exemption consists of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. The numbers of structures described in this section are the maximum allowable on any legal parcel.

## **GENERAL PLAN CONFORMANCE**

The proposed use is consistent with the San Jose 2020 General Plan Land Use/Transportation Diagram designation of Industrial Park in that wireless communication antenna may be allowed with a Conditional Use Permit in IP zoning districts which conform to the designation.

## **ANALYSIS**

The primary issue analyzed is conformance to Council Policy 6-20, Land Use Policy for Wireless Communications Antennas, which provides criteria for siting such facilities including location, setbacks from residential uses, and parking.

### Council Policy for Wireless Communications Antennas

The City of San Jose may allow installation of wireless communication antenna with a Conditional Use Permit to ensure such projects conform to the City requirements and are compatible with the surrounding neighborhood.

The proposed project will install three wireless communication antennae. The three antennae will be concealed within two cylinders mounted on poles extending 16 feet above the building parapet at a maximum height of 45 feet, conforming to the zoning district height regulations and Council policy. The structure-mounted antennae are located at a minimum of 50 feet horizontally from single family residences, consistent with Council policy.

The project will provide amenities to offset the potential visual impacts associated with the project as recommended by Council policy. The associated equipment shelter will be located in the center of the roof and will be fully enclosed with material architecturally consistent with the existing warehouse building. The proposed project includes the addition of six new street trees to be located along the building frontage on Component Drive in coordination with the City Arborist.

The Council policy requires building-mounted antennas to be located to minimize visual impacts and to be architecturally integrated into the structure. It also requires ancillary equipment to be screened. Although visible, the antennas will be painted to match the existing color of the warehouse building and will not significantly add to the visual impacts existing in the neighborhood which is primarily industrial in character.

## **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 Industrial Park on the adopted San José 2020 General Plan Land Use/Transportation Diagram.
2. The project site is located in the IP (Industrial Park) Zoning District.
3. Under the provisions of Section 15303 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), this project is exempt from environmental review.
4. The project proposes the installation of three wireless communication antennae on two 19-foot poles on top of an existing warehouse structure and placement of associated equipment cabinet in a solid enclosure to match the warehouse facade. The warehouse is located on the northwest corner of Zanker Road and Component Drive. The warehouse building is located a minimum of 50 feet horizontally from adjacent single-family residences.
5. The top of the wireless communication antennae will be located at a height not to exceed 45 feet, consistent with zoning regulations for the IP district.
6. Two coaxial cables, routed down the poles to a roof top conduit, will connect the antennae to the new equipment cabinets located in a fenced enclosure at the center of the rooftop.
7. The antennae will be painted to match the existing structure to minimize the visual impacts.
8. The project does not reduce the existing on-site parking.
9. The project will provide six new street trees to provide further mitigation of visual impacts of the project.

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 Jose 2020 General Plan Land Use/Transportation Diagram of the City of San Jose.
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 is consistent with City Council Policy 6-20: Land Use Policy for Wireless Communication Facilities.
5. The proposed project contains adequate setbacks of 50 feet horizontally from residential uses.
6. The proposed project will not eliminate 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, "Verizon Wireless, Tower Line: Dixon Landing – Milpitas Swift Tower #: 2/19, Highway 680 / Capitol, San Jose, CA," dated November 02, 2001 on file with the Department of City Planning and Building and to the San Jose Building Code (San Jose 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 allows no on-site lighting.
5. **Outside Storage.** No outside storage is permitted for the project except in areas designated on the approved plan set.
6. **Colors and Materials.** All building colors and materials are to be those specified on the approved plan set.
7. **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, CP 01-11-101 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.
8. **Hazardous Materials.** Any hazardous materials regulated by Chapter 17.68 of the San José Municipal Code on the site must be used and stored within approved buildings and/or within areas specified on the approved plan set, if any, in full compliance with the City's Hazardous Material Ordinance and the Hazardous Materials Management Plan for the site approved by the San José Fire Prevention Bureau.
9. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement.

10. **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.
11. **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. To prevent delays in the issuance of Building Permits, please notify Planning Division staff at least one week prior to the final Building Division inspection date.
12. **Generators.** This permit does not include approval of emergency back-up generator on the subject site.
13. **Time Limit.** This permit shall expire five years after the date of approval. Renewal of the use through a subsequent Conditional Use Permit shall include a compliance review and an evaluation of the operation approved under the present permit.
14. **Landscaping.** The applicant shall provide six new street trees along the Component Drive frontage, location and type of tree shall be to the satisfaction of the City Arborist.

## 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. **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.

c: Building Division (2)  
Engineering Services

Benjamin Davies; Richard Connor Riley & Associates, L.L.C., 2420 Camino Ramon, Suite 380, San Ramon CA 94583