

**SPECIAL USE PERMIT**

**FILE NO.** SP12-037

**LOCATION OF PROPERTY** At the northerly terminus of Dow Drive (3001 Dow Drive).

**ZONING DISTRICT** A-Agricultural

**GENERAL PLAN DESIGNATION** Public/Quasi-Public

**PROPOSED USE** To remove existing telecommunication antennas from the face of an existing water tank and replace these on a new 38-foot tall slim-line pole.

**ENVIRONMENTAL STATUS** Exempt

**OWNER** San Jose Water Company  
Attn: Colby Sneed  
1221 S Bascom Ave  
San Jose, CA 95128

**APPLICANT** Verizon Wireless  
Attn: Sam Parsons  
2000 Crow Canyon Place, Ste 400  
San Ramon, CA 94583

**FACTS**

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

1. The subject site has a designation of Public/Quasi-Public in the adopted Envision San José 2040 General Plan Land Use/Transportation Diagram.
2. The subject site is located in the A-Agricultural Zoning District.
3. The subject site is 9 gross acres in size.
4. The subject site is occupied by two existing water tanks, and associated equipment, owned by the San Jose Water Company.
5. This Special Use Permit request is to allow the removal of existing telecommunication antennas from the face of an existing water tank, and replacing these on a new slim-line monopole.
6. The diameter of the monopole is 18 inches, and is 38 feet in height; the radome enclosing the antennas has a diameter of 36 inches.
7. The proposed slim-line monopole is proposed within 39-feet and 9-inches from the northernmost water tank, and is proposed at the same height as the existing tank.

8. There is an existing equipment shelter located to the northeast of the northernmost water tank. The enclosure is screened by a solid masonry enclosure, surrounded by trees and shrubs. The applicant has not proposed any changes to the size or location of the existing equipment shelter.
9. The applicant has stated that the proposed slim-line monopole cannot be increased in height, but can accommodate a maximum of two additional antennas at a lower elevation on the monopole.
10. This Special Use Permit does not include approval of a standby generator.
11. Under the provisions of Section 20.30.100 of the San Jose Municipal Code, a Special Use Permit is required for the installation of a slim-line monopole.
12. The proposed installation is adjacent to residentially zoned properties to the south and north. The nearest residential unit is approximately 90-feet to the south.
13. The Director of Planning, Building and Code Enforcement found the proposed project to be exempt, pursuant to Section 15303 of the California Environmental Quality Act (CEQA).

## **FINDINGS**

The Director of Planning concludes and finds, based on the analysis of the above facts, that:

1. The interrelationship between the orientation, location, and elevations of the proposed monopole and related equipment and other uses onsite are mutually compatible and aesthetically harmonious in that:
  - a. The equipment enclosure is screened from view within an existing open area to the northeast of the northernmost water tank, surrounded on all sides by trees and shrubs. The proposed slim-line monopole is proposed at the same height as the existing water tank resulting in no net increase in height for the proposed relocation of the antennas, and is proposed within 39-feet, and 9-inches from the existing water tank.
  - b. Parking spaces will not be displaced, and circulation aisles are not affected by this proposal.
  - c. The proposed project conforms in all respects to the provisions of Title 20 of the San Jose Municipal Code.
2. The orientation, location and elevation of the proposed building(s), structure(s) and other uses on the site are compatible with and are aesthetically harmonious with adjacent development of the character of the neighborhood, in that:
  - a. The proposed development does not unreasonably interfere with the light and air available to adjacent sites.
  - b. The proposed project substantially complies with the applicable criteria of City Council Policy 6-20, Land Use Policy for Wireless Communication Facilities.
3. The environmental impacts of the project will not have an unacceptable negative effect on adjacent property or properties, in that:
  - a. Under the provisions of Section 15303 of the State Guidelines for the Implementation of the California Environmental Quality Act (CEQA), this project is exempt from the environmental review requirements of Title 21 of the San Jose Municipal Code, implementing the California Environmental Quality Act of 1970, as amended. The project will not have a significant adverse effect on the environment.

- b. The proposed project will not individually or cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the California Department of Fish and Game Code.
4. Landscaping, irrigation systems, walls and fences, features to conceal outdoor activities, exterior heating, ventilating, plumbing, utility and trash facilities are sufficient to maintain the appearance of the neighborhood.
5. Traffic access, pedestrian access and parking are adequate, in that:
  - a. The proposal does not affect existing vehicular or pedestrian access to the site and around the perimeter of the existing water tanks.
6. This permit, as issued, furthers the policies of the General Plan, in that the project conforms to the General Plan Land Use/Transportation Diagram designation of Public/Quasi-Public.

Finally, based upon the above-stated findings, and subject to the conditions set forth below, the Director of Planning finds and concludes, pursuant to Section 20.100.820 of the San Jose Municipal Code:

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;
  - b. Impair the utility or value of property of other persons located in the vicinity of the site;
  - c. Be detrimental to public health, safety, or general welfare; and
2. The proposed site is adequately served:
  - a. By highways or streets of sufficient width and improved as necessary to carry the kind and quantity of traffic such use would generate; or by other forms of transit adequate to carry the kind and quantity of individuals such use would generate; and
  - b. By other public or private facilities, as are required.

Based on the above-stated findings, and subject to the condition set forth below, the Director of Planning approves, pursuant to Part 7 of Chapter 20.100 of the San Jose Municipal Code, the subject proposal to allow the installation of a wireless communications antenna slim-line monopole.

**APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:**

1. **Acceptance of Permit.** Per Section 20.100.290(B), should the applicant fail to file a timely and valid appeal of this Permit within the applicable appeal period, such inaction by the applicant shall be deemed to constitute all of the following on behalf of the applicant:
  - a. Acceptance of the Permit by the applicant; and
  - b. Agreement of the applicant to be bound by, to comply with, and do all things required of or by the applicant pursuant to all of the terms, provisions, and conditions of this permit or other approval and the provisions of Title 20 applicable to such permit.

2. **Permit Expiration.** This Special Use Permit shall automatically expire four years from and after the date of approval by the Director of Planning, or by the Planning Commission on appeal, granting this Permit, if within such four-year period, the proposed construction of the addition has not commenced, pursuant to and in accordance with the provisions of this Special Use Permit. The Director of Planning may approve a Permit Adjustment/Amendment to extend the validity of this Permit in accordance with Title 20. The Permit Adjustment/Amendment must be approved prior to the expiration of this Permit.
3. **Building Permit.** If applicable, procurement of a Building Permit and/or Certificate of Occupancy from the Building Official for the structures described or contemplated under this permit shall be deemed acceptance of all conditions specified in this permit and the applicant's agreement to fully comply with all of said conditions. No change in the character of occupancy or change to a different group of occupancies as described by the Building Code shall be made without first obtaining a Certificate of Occupancy from the Building Official, as required under San Jose Municipal Code Section 24.02.610, and any such change in occupancy must comply with all other applicable local and state laws.
4. **Conformance with Municipal Code.** No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code.
5. **Conformance with Plans.** Construction and development shall conform to approved Site Development plans entitled, "Verizon Wireless, Highway 87 / Capitol, PS#117356, PROJ. # 2012720172, 3001 Dow Drive, San Jose, CA 95136," dated September 17, 2012, on file with the Department of Planning, Building, and Code Enforcement.
6. **Nuisance.** As required by Title 20 of the San Jose Municipal Code, construction on this site shall be conducted in a manner, which does not create a public or private nuisance. The City must abate any such nuisance immediately upon notice.
7. **Wires.** All wires shall be located either within the pole, or otherwise enclose as to not be visible outside of the equipment enclosure.
8. **Building Clearance for Issuing Permits.** Prior to the issuance of a Building Permit/Demolition Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
  - a. **Construction Plans.** This permit file number, SP12-037, shall be printed on all plans submitted to the Building Division.
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, and related equipment/enclosures associated with this permit within 30 days.
11. **Revocation.** This Special Use Permit is subject to revocation for violation of any of its provisions or conditions.
12. **Co-location.** The owner(s) and operators of the proposed antenna support structure shall fully cooperate and all the co-location of antennas for other providers, without increasing the overall height of the monopole. Other wireless providers shall also be allowed to add on to existing, at-grade equipment enclosures.

13. **Landscaping.** Planting and irrigation are to be provided as indicated on the approved Permit Adjustment plans. Landscaped areas shall be maintained and watered and all dead plant material is to be removed and replaced.

**APPROVED and issued this 22<sup>nd</sup> day of February, 2013.**

JOSEPH HORWEDEL, DIRECTOR

Planning, Building and Code Enforcement

---

Deputy

DRAFT