

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. 01/26/05 Item: 3.a.

File Number  
CP04-084

Application Type  
Conditional Use Permit

Council District  
4

Planning Area  
Berryessa

Assessor's Parcel Number(s)  
244-14-017

## STAFF REPORT

### PROJECT DESCRIPTION

Completed by: Suparna Saha

Location: Northeast corner of Lundy Avenue and Hostetter Road

Gross Acreage: 12.50

Net Acreage: 12.50

Net Density: n/a

Existing Zoning: A Agriculture

Existing Use: Post Office (United States Postal Service)

Proposed Zoning: No change

Proposed Use: Conditional Use Permit to install 3 wireless communication antennas, one (1) 60-foot tall monopole, and a 230 square feet equipment shelter on a 12.50-acre site.

### GENERAL PLAN

Completed by: SS

Land Use/Transportation Diagram Designation  
Public/Quasi-Public

Project Conformance:  
 Yes  No  
 See Analysis and Recommendations

### SURROUNDING LAND USES AND ZONING

Completed by: SS

North: Industrial Park

IP Industrial Park Zoning District

East: Industrial Park

IP Industrial Park Zoning District

South: Neighborhood/Community Commercial

A(PD) Planned Development Zoning District

West: Industrial Park, Medium High Density Residential, No Underlying Designation

A-Agriculture, IP- Industrial Park, A(PD)-Planned Development (12-25 DU/AC), A(PD) Planned Development Zoning Districts

### ENVIRONMENTAL STATUS

Completed by: SS

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

Exempt  
 Environmental Review Incomplete

### FILE HISTORY

Completed by: SS

Annexation Title: Orchard No. 117

Date: August 08, 1983

### PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

Approval  
 Approval with Conditions  
 Denial  
 Uphold Director's Decision

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

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

CONTACT	APPLICANT/OWNER	
TT Wireless Attn: Evan J. Shepherd. 1255 Treat Boulevard, Ste # 220 Walnut Creek, CA 94596	United States Postal Service Attn: Chris Ortega 1750 Lundy Avenue San Jose, CA 95101-8050	

## PUBLIC AGENCY COMMENTS RECEIVED

Memorandum Attached

Completed by: SS

Fire Department

Memorandum Attached

Other Departments and Agencies

None.

## GENERAL CORRESPONDENCE

None.

## ANALYSIS AND RECOMMENDATIONS

**BACKGROUND**

The applicant, Nextel Communications is requesting a Conditional Use Permit to install a 60-foot tall, freestanding monopole with three (3) flush mounted panel antennas and a 230 square feet ancillary equipment shelter on a 12.50 gross acre site in the A Agriculture Zoning District. The site is located at the northeast corner of Lundy Avenue and Hostetter Road.

The site is currently developed as a Post Office (United States Postal Service) compound. Pursuant to Table 20-30 of the San Jose Municipal Code issuance of a Conditional Use Permit is required for the installation of a wireless communication antennas in the A Agriculture Zoning District.

In 1996, San José 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 monopole is considered a “slim line” design with a diameter of 29 inches, and tapering towards the top. Nextel proposes to install 3 panel flush mounted antennas in the upper six feet of the monopole. Each antenna panel measures 72”x12”x7” (LxBxW). The base of the monopole is anchored to a concrete base surrounded by a fence enclosure 11.5 x 20 feet. Coaxial cables, routed down the monopole to an underground conduit will connect the antennas to the equipment within the shelter.

The subject site is flat and generally rectangular in shape. The location of the proposed monopole is in the south central portion of the property. The project lease area is located 227 feet to the eastern property line, 1,254 feet to McKay Drive to the north, 393 feet to Lundy Avenue to the west and 823 feet to Hostetter Road to the south. The site is generally located at the northeast corner of Lundy Avenue and Hostetter Road. Surrounding uses include industrial park to the north and east, commercial to the south and a mix of commercial, industrial and high-density residential to the west and northwest. The ancillary equipment shelter is 11.5' x 20', enclosed by a chain-link fence with vinyl slats, is also located in the central portion of the site.

## **ENVIRONMENTAL REVIEW**

Under the provisions of Section 15301 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA) this project is exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended. The project involves the leasing of a portion of the site for a minor alteration to install a 60-foot monopole and ancillary equipment in that the project consists of a minor alteration to an existing facility and expansion of use.

## **GENERAL PLAN CONFORMANCE**

The proposed use is consistent with the San Jose 2020 General Plan Land Use/Transportation Diagram designation of Public/Quasi Public in that wireless communication antennas are considered to be in conformance with the General Plan Policies provided that the proposal conforms to City Council Policy 6-20, Land Use Policy for Wireless Communication Facilities. The aforementioned policy indicates that wireless communication antennas are appropriate in Public/Quasi- Public lands. The subject site, used as a postal facility is deemed to be a Public/Quasi Public use.

## **ANALYSIS**

The primary issues analyzed for the proposed project are conformance with the following: 1) the City of San Jose Zoning Ordinance and 2) City Council Policy 6-20, *Land Use Policy* for Wireless Communications Antennas, which provides criteria for siting such facilities including location, and setbacks from residential uses.

### **Conformance to the Zoning Ordinance**

The Zoning Ordinance indicates that the setback for all structures within the A Agriculture Zoning District must be a minimum setback of 300 feet from abutting property zoned or used for residential purposes. The nearest residential property, a high-density residential development across Lundy Avenue to the northwest of the subject area, is located more than 300 feet from the proposed monopole location, (approximately 530 feet). The Zoning Ordinance also calls for minimum setbacks for 50 feet from abutting streets and highways and 50 feet from abutting property used or zoned for other than residential purposes. The location of the proposed monopole and equipment cabinets is over 227 feet, 393 feet, 823 feet and 1,254 feet from the nearest property lines to the east, west, south and north respectively that have non-residential uses. The proposed monopole location also meets the required setbacks from abutting

streets, Lundy Avenue and Hostetter Road.

Section 20.80.1900 of the Municipal Code regulates height of wireless communication antennas. Section 20.80.1900(A) states that “ the maximum height of a wireless communication antennas may be increased over the required maximum height of the zoning district in which it is located up to a maximum of sixty (60) feet provided that the design of the antenna is a ‘slim’ pole design”. The proposed monopole and associated antenna design is considered a “slim” pole design because it has a maximum diameter of 29 inches at the base and tapers to below 20 inches toward the top. Therefore, the proposed maximum height of 60 feet does conform to the maximum limitation specialized in the Zoning Ordinance.

### **City Council Policy (6-20): Land Use Policy for Wireless Communication Facilities**

The proposed monopole will be located in an area designated Public/Quasi-Public on the General Plan land Use/Transportation Diagram. Therefore, because wireless facilities can be considered as quasi-public uses, the proposal conforms with the Policy with respect to the General Plan Designation. Furthermore, the site is owned by the United States Postal Service and developed as a Post Office. Given the ownership and the current use, staff does not anticipate that the site will be redeveloped with new uses; therefore, approval of this Conditional Use Permit is not be expected to have an impact on the future redevelopment of the area. In addition, staff feels that the proposal is compatible with the existing use of the site, as the monopole will be located far away from residential uses, on a centrally-located portion of a large site and is being placed in the midst of a group of established tall trees. These types of antennae installations are identified as a way to reduce the overall visual impact of the development of the wireless antenna networks in San José.

### **Alternative Analysis**

The applicant explored various alternatives to the proposed monopole. Generally, the scarce number of existing buildings or suitable structures of sufficient height within the geographic service area reduced options, and the reluctance of owners of suitable sites to allow antenna installation eliminated the feasible options. The applicant considered six (6) other alternative sites, but none worked as an antenna location for the applicant.

### **Visual Impacts**

In conformance with the policy, the proposed monopole is a “stealth” design, the three (3) antennas will be flush mounted on the upper section of the monopole and the monopole and equipment cabinets are proposed to be located in the midst of tall, established, mature trees and are thus effectively partially screened from view. Moreover, the location of the monopole in the center of a large site of more than 12 acres, with mature trees, forms a visual barrier from both Lundy Avenue and Hostetter Road. The monopole will be painted metallic light grey. The policy also requires ancillary equipment cabinets to be screened from view. An 8-foot chain link with vinyl slats will enclose the 230 square feet area. The enclosure fence will be painted green to match the surrounding vegetation (trees). To aid the screening of the enclosure, a grouping of shrubs is proposed to be planted around the perimeter of the chain link fence. While chain link fence with slats is not typically preferred for screening, staff is supportive in this instance because of the central location of the antenna on a large property in the midst of tall trees, because chain link fencing already exists on the site, and due to the proposed

enhanced landscaping that will aid in the screening of the fence.

## **PUBLIC OUTREACH**

Notices of the public hearing were distributed to the owners and tenants of all properties located within 500 feet of the project site. Staff has been available to answer questions on the project from the public.

## **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:

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

1. This site has a designation of Public/Quasi-Public on the adopted San José 2020 General Plan Land Use/Transportation Diagram.
2. The project site is located in the A Agriculture Zoning District.
3. The project proposes to install a 60-foot tall, freestanding monopole and a 230 square-foot ancillary equipment shelter on a 12.5 gross acre site. The proposed monopole is circular in shape with a base diameter of 29 inches, and Nextel proposes to install 3 panel antennas in the upper six feet of the monopole. The base of the monopole is surrounded by a fence enclosure measuring 11 feet 5 inches by 20 feet. Associated equipment cabinets and electrical panels would occupy the remainder of the enclosure area.
4. The closest residential properties (the high density residential homes across Lundy Avenue) are located over 300 feet to the north west of the subject development.
5. The proposed project will maintain all existing parking spaces on site.
6. The Zoning Ordinance allows wireless antennas to exceed the maximum height allowed in a particular zoning district, up to a maximum of 60 feet, provided that the antennas are of a “slim” design. The proposed monopole and associated antennas design is considered a “slim” pole design.
7. The antennas and monopole will be painted light grey, and the equipment enclosure will be painted to match the surroundings to minimize the visual impact created by this project. Additional landscaping is proposed to screen the visibility of the equipment enclosure from rest of the site.
8. The proposed antennas will have adequate horizontal separation, more than 300 feet, from the nearest residential property line.
9. Under the provisions of Section 15301 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), this project is exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California

Environmental Quality Act of 1970, as amended.

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 designation and relevant urban design policies.
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.

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, "Nextel of California Inc, Lundy, No. CA-2250B," dated July 16, 2004 and last revised on January 06, 2005, 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 allows no on-site lighting.
5. **Tree Removals.** No tree larger than 56 inches in circumference, at a height 24 inches above the natural grade slope, may be removed without a Tree Removal Permit issued by the Director of Planning.
6. **Outside Storage.** No outside storage is permitted for the project except in areas designated on the approved plan set.
7. **Sign Approval.** No signs are approved at this time. All proposed signs shall be subject to approval by the Director of Planning.
8. **Colors and Materials.** All structure colors and materials are to be those specified on the approved plan set.

9. **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 of Building Official:
  - a. **Construction Plans.** This permit file number, CP 04-084, shall be printed on all construction plans submitted to the Building Division.
  - b. **Construction Conformance.** A project construction conformance review by Planning Division is required. Planning Division review for project conformance will begin with the initial plan check submitted 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 to 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 week prior to the final Building Division inspection date.
10. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement.
11. **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.
12. **Co-location.** The owner(s) and operators of the proposed antenna support structure shall allow the co-location of PSC antennas for other providers.
13. **Generators.** This permit does not include approval of emergency back-up generator on the subject site.
14. **Landscaping.** Provide landscaping, around the perimeter of the enclosure as shown on the approved Plans.

## 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.

1. Evan J. Shepherd, 1255 Treat Blvd. Suite # 220, Walnut Creek, CA 94596.
2. United States Postal Service, Attn: Chris Ortega, 1750 Lundy Avenue, San Jose, CA 95101-8050

Attachments