

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. 02-23-05 Item.

File Number  
CP04-106

Application Type  
Conditional Use Permit

Council District  
8

Planning Area  
Evergreen

Assessor's Parcel Number(s)  
660-21-023

## STAFF REPORT

### PROJECT DESCRIPTION

Completed by: Reena Mathew

Location: North side of Yerba Buena Road 2000 feet of San Felipe Road (Evergreen College Campus)

Gross Acreage: 100

Net Acreage: N/A

Net Density: N/A

Existing Zoning: R-1-5

Existing Use: Community college campus

Proposed Zoning: No change

Proposed Use: Existing use plus nine (9) roof-mounted wireless communications antennas

### GENERAL PLAN

Completed by: RM

Land Use/Transportation Diagram Designation  
Public/Quasi-Public

Project Conformance:  
 Yes  No  
 See Analysis and Recommendations

### SURROUNDING LAND USES AND ZONING

Completed by: RM

North: Open Space

R-1-5 Residence

East: Open Space

R-1-5 Residence

South: Single-family detached residential

R-1-5 Residence

West: Retail commercial

(A)PD Planned Development

### ENVIRONMENTAL STATUS

Completed by: RM

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

Exempt  
 Environmental Review Incomplete

### FILE HISTORY

Completed by: RM

Annexation Title: Evergreen No. 1-B

Date: 4-22-1960

### PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

Approval  
 Approval with Conditions  
 Denial  
 Uphold Director's Decision

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

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

### OWNER

San Jose Community College District  
4750 San Felipe Road  
San Jose, CA 95135

### APPLICANT

Verizon Wireless  
2785 Mitchell Drive  
Walnut Creek, CA 94598

### CONTACT

Jason Smith  
2001 Omega Road #100  
San Ramon, CA 94583

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**PUBLIC AGENCY COMMENTS RECEIVED**

Completed by: Reena Mathew

Department of Public Works

No comments

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**Other Departments and Agencies**

N/A

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**GENERAL CORRESPONDENCE**

None received

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

The developer, Verizon Wireless, is requesting a Conditional Use Permit to allow the location of nine (9) wireless communication antennas and an associated 272 square foot equipment enclosure on the roof of an existing building at Evergreen Valley Community College. The proposal also includes the installation of a 30kw (56hp) Generac emergency back-up diesel generator within a 188 square foot concrete walled enclosure. The Zoning Ordinance requires a Conditional Use Permit for wireless communication antennas located in the R-1-5 Residence Zoning District. The campus site is 100 gross acres in size and across the street from single-family residences to the south. There is a shopping center to the west of the campus with open space the north and east.

In 1996, staff explored the issues of electromagnetic radiation to determine if emissions from antennas of the proposed type 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 that the reported interference resulted from cordless telephones and not from the antennas.

**Project Description**

The proposed project consists of the installation of nine (9) wireless communication antennas on the roof of the three story existing 45-foot-tall Sequoia Building which contains several classrooms. The proposed antennas would be installed behind a reinforced fiberglass panel screen projecting approximately 5 feet above the height of the roof. The associated 272 square foot equipment cabinets are mounted on the a two-story roof element of the same building and are located in the center of the roof within an existing equipment well.

The project also proposes the installation of a 30 kW 56hp Generac diesel emergency back-up generator within a concrete walled enclosure to be placed on ground level north of the adjacent Acacia Building.

## ENVIRONMENTAL REVIEW

The Director of Planning has determined that this project is exempt from environmental review under the provisions of Section 15303 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA). This section of the guidelines provides an exemption for the construction and location of limited numbers of new, small facilities or structures such as those included in this proposal. The proposed use is for the addition of nine (9) wireless communication antennas mounted on top of an existing building and ground mounted 272 square foot equipment enclosure, and emergency back up diesel generator on an existing community college campus site. It is staff's opinion that the proposal conforms to the intent of this section of the CEQA Guidelines.

## GENERAL PLAN CONFORMANCE

The proposed use is consistent with the San José 2020 General Plan Land Use/Transportation Diagram designation of Public/Quasi-Public in that the collocation of building mounted wireless communication antennas behind a new wall screen on the roof of the existing classroom building does not impair the use of the existing community college.

The proposed use furthers the General Plan Urban Design Policy in that the use of building mounted antennas reduces the need for freestanding monopoles. The proposed building mounted antennas are to be sited and concealed behind a screen wall with color to match the stucco building on which it is mounted, therefore minimizing public visibility.

## ANALYSIS

The primary issues analyzed for the project include; 1) conformance to the Zoning Ordinance, 2) conformance to Council Policy 6-20, *Land Use Policy for Wireless Communications Antennas*, and 3) issues associated with the back-up generator.

### Conformance to the Zoning Ordinance Requirements

The maximum building height for structures in the R-1-5 Residence Zoning District, which includes most building-mounted structures and appurtenances, is 35 feet. The proposed project would exceed this height limit by 15 feet. However, the Zoning Ordinance provides an exception to the normal maximum height requirement for building mounted wireless communication antennas on buildings or structures sixty (60) feet in height or less, provided that increase in height of the building or structure, including antennas, does not exceed 60 feet or 35% of the existing height of the building or structure. The proposed antenna design satisfies this requirement.

The existing building is 45.6 feet in height. The Zoning Ordinance allows an increase of 15.96 feet (35% of the current building height). The top of the proposed screen wall is 50.6 feet, 10.96 feet below the maximum height allowed.

In addition, the ordinance requires that building-mounted antennas be architecturally integrated into the building, and that all ancillary equipment be adequately screened or avoid additional visual clutter. The placement of the antennas behind a screened wall significantly reduces their visibility from the building's main entrance on its southwest side. The proposed mechanical equipment will be placed in the center of the second story roof within an equipment well, approximately 25 feet from the parapet of the roof, thus eliminating its visibility from the

ground level.

The proposed 56hp diesel emergency back up generator will be located on the ground level on the north side of the adjacent Acacia building. The generator will be enclosed by a concrete walled fencing, which will serve to screen it from public view.

#### Conformance to the Council Policy 6-20 for Wireless Communications Facilities

The proposed project conforms to key applicable elements of the Council policy, including the general antenna placement as well as height and setback recommendations from adjacent residential uses.

The Council Policy requires building-mounted antennas to be located as to minimize visual impacts and to be architecturally integrated into the structure. It also requires ancillary equipment to be screened. Though visible from some areas off-site, the antennas' roof screen enclosure will be similar in color to blend with the building on which it will be mounted. The roof screen will conceal all existing and proposed antennas in order to avoid visual clutter. A photo-simulation of the proposed wall screen atop the existing building has been provided to demonstrate the appearance of the proposal from off the site.

The proposed antenna conforms to the policy guidelines for height in that the subject antenna and roof screen conform to the San José 2020 General Plan and Zoning Ordinance height restrictions.

As part of its criteria for siting Wireless Communication Antennas, the Land Use Policy for Wireless Communication Facilities requires that new wireless communications antenna (monopoles) should be located no closer than 35 feet from any property with a residential use or one foot for every foot in height of the proposed structure. The applicant's proposal is consistent with the Council Policy in that the proposed wireless communication antennas would be located approximately of 1,600 feet from the nearest residential uses. The equipment cabinets' enclosure would be blocked from off-site view by other school buildings on the site.

#### Emergency Backup Generator

The City of San Jose Zoning Ordinance allows stand-by/backup generators that meet the City's noise standards in the R-1-5 Residence District with the issuance of a discretionary permit. The applicant has provided information to staff that the proposed 56hp emergency backup generator will have an average decibel level of 10 dBA from the center of the generator to the property line, easily within the maximum allowed level of 55 dBA at a property line.

The proposed generator located within the proposed wireless communications antenna's concrete wall enclosure will be screened from public view. Conditions are included as part of this permit to allow operation of the proposed generator only during interruptions of electrical service from the distribution system or transmission grid due to circumstances beyond the operator's control, with the exception of limited testing hours.

#### **PUBLIC OUTREACH**

Notices of the public hearing were distributed to the owners and tenants of all properties located within 500 feet of the subject site as well as published in the San Jose Post Record. The Planning Commission and City Council agendas are posted on the City of San Jose website with copies of the staff report and City Council memo.

## 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 Public/Quasi-Public on the adopted San José 2020 General Plan Land Use/Transportation Diagram.
2. The project site is located in the R-1-5 Residence Zoning District.
3. The City Council Land Use Policy for Wireless Communications Facilities is applicable to this application.
4. The proposed project installs a total of nine (9) wireless communication antennas behind an approximately 5 foot tall screen on the roof of an existing community college building.
5. The proposed antennas will be located a minimum of 1600 feet from residential uses.
6. The proposed antennas and roof screen would have a maximum height of 50.6 feet and extend five feet above the height of the existing roof.
7. The proposed project will exceed the standard height limit of 35 feet in the R-1-5 Residence Zoning District, however, the Zoning Ordinance provides an exception to the normal maximum height requirement to facilitate wireless communication antennas.
8. The proposed roof screen will also conceal other existing wireless communications antennas.
9. Under the provisions of Section 15303 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 project will not have a significant effect on the environment.
10. The subject site is developed with an existing community college.
11. Single-family detached residential uses, commercial center and open space surround the subject site.
12. The project includes installation of up to nine (9) additional wireless communications antennas on the third story roof of a building behind a new roof screening.
13. The project will allow an equipment enclosure with a generator that is approximately 272 square feet in size.
14. The proposed back-up generator for the wireless communication antennas will have an average noise decibel level of 10 dBA at the closest residential property line from the generating source, well within the maximum

allowed per the General Plan policy at the property line.

15. The proposed equipment shelter will be effectively screened from off-site by other buildings on the campus site.
16. The proposed project will not eliminate required parking.

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

1. The proposed project conforms to the City's General Plan.
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 in that the proposed wireless antennas are in conformance with all of the requirements of the Zoning Ordinance (San Jose Municipal Code section 20.80.1900) and will be concealed behind a roof screen that is architecturally integrated into the building.
5. The proposed antenna facility is compatible with the surrounding neighborhood.

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 Evergreen College, 2750 San Felipe Road, San José, CA 95135 " dated February 9, 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.
4. **Lighting.** This permit allows no new 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, CP04-106 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.
  - c. *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 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.
10. **Hazardous Materials.** Use or storage of hazardous materials, liquids, gases and/or chemicals will be subject to meeting the requirements of the Hazardous Materials Storage Ordinance, the Toxic Gas Ordinance, the applicable sections of the San Jose Fire Code, and the National Fire Codes. Submit names and amount of any hazardous materials, if they are to be stored or used, to the Bureau of Fire Prevention for review and approval.
  11. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement.
  12. **Co-location.** The owner(s) of the proposed antenna facility shall facilitate and encourage permits the co-location of other cellular antennas by unrelated operators within on the project site to the satisfaction of the Director of Planning, Building and Code Enforcement.
  13. **Discontinuation of Use.** Upon discontinuation of the use of the subject antennas, the applicant shall remove all antennas associated with this permit within 30 days.
  14. **Standby/Backup Generator Operation.**
    - a. *Generator Specifications.* The project shall use a new 30Kw 56 Hz stand-by/backup electrical power generation facility and associated equipment.
    - b. *Disturbance Coordinator.* Applicant shall post on the site the name and phone number for a disturbance coordinator who shall be available to answer questions and respond to complaints from the neighborhood.
    - c. *Emergency Power.* Testing of emergency power equipment shall be limited to two (2) hours per month.
    - d. *Record of Operation.* The generator shall include a non-resettable totalizing counter to record all hours of operation. The applicant shall maintain an accurate record of the operation of the standby/back-up generator to the satisfaction of the Director of Planning of the City of San José and appropriate local, State, and Federal agencies. These records shall cover at least the following items:

1. Hours of operation for testing and maintenance.
2. Dates and hours of operation for discretionary use in the event of a power failure.
3. Operational problems, complaints, and difficulties.
4. A log of Special Occurrences to include the following: fires, earthquakes, unusual and sudden settlement, injury and property damage accidents, explosions, discharge of hazardous or other wastes not permitted in the class of the site involved, citizen complaints received, flooding, unscheduled shutdowns, and other unusual occurrences.
5. Dust and litter control efforts and results.
6. Description of materials received, identified by source and material.

The records shall be open to inspection by the City of San José and other duly authorized regulatory and enforcement agencies during normal business hours.

#### **CONDITIONS SUBSEQUENT**

1. **Permit Expiration.** This Conditional Use Permit shall automatically expire two 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 two-year period, the proposed use of this site has not commenced, pursuant to and in accordance with the provisions of this Conditional 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.
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.