

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.: 8-13-03 Item: 3.i.

File Number
CP03-006

Application Type
Condition Use Permit

Council District
10

Planning Area
Cambrian/Pioneer

Assessor's Parcel Number(s)
567-27-007

STAFF REPORT

PROJECT DESCRIPTION

Completed by: Dipa Chundur

Location: South side of Singletree Way approximately 300 feet westerly of Park Manor Drive

Gross Acreage: .25

Net Acreage: .25

Net Density: n/a

Existing Zoning: R-1-8

Existing Use: P G & E Tower

Proposed Zoning: No Change

Proposed Use: 3 eight-foot panel wireless communications antennas to existing 105 foot tall PG&E utility pole, construction of 1,000 square foot equipment shelter, and installation of 94 HP generator within prefabricated enclosure.

GENERAL PLAN

Completed by: DC

Land Use/Transportation Diagram Designation
Medium Low Density Residential (8 DU/AC)

Project Conformance:
 Yes No
 See Analysis and Recommendations

SURROUNDING LAND USES AND ZONING

Completed by: DC

North: Utility Facility

R-1-8 Residence

East: Single-family detached residential

R-1-8 Residence

South: Utility Facility

R-1-8 Residence

West: PG & E Sub station

A Agriculture

ENVIRONMENTAL STATUS

Completed by: DC

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

Exempt
 Environmental Review Incomplete

FILE HISTORY

Completed by: DC

Annexation Title: Arroyo No_15

Date: 8/25/78

PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

Approval
 Approval with Conditions
 Denial

Date: _____

Approved by: _____
 Action
 Recommendation

OWNER

APPLICANT

CONTACT

Sam Holmes
PG&E
Mail Code B26L, PO Box 770000
San Francisco, CA 94177

Verizon Wireless
2785 Mitchell Drive
Walnut Creek CA 94598

Ashraf Rageh
Cal Com Systems
2001 Omega Road # 210
San Ramon CA 94583

PUBLIC AGENCY COMMENTS RECEIVED

Completed by:

Department of Public Works

None

Other Departments and Agencies

Fire Department

GENERAL CORRESPONDENCE

None

ANALYSIS AND RECOMMENDATIONS

BACKGROUND

The applicant, Verizon Wireless, is requesting a Conditional Use Permit to allow (1) 3 eight-foot panel antennas to existing 105 foot tall PG&E utility pole, (2) construction of 1,000 square foot prefabricated equipment shelter, and (3) installation of 94 HP (60-kW) generator within the prefabricated enclosure. The Zoning Ordinance requires a Conditional Use Permit for installation of a wireless communication antenna in the R-1-8 Residence District.

The site is vacant except for the existing PG&E tower and is accessed from Single Tree Way through the PG&E substation. It is surrounded by single-family residential use on the east, a PG&E substation on the west and utility facilities on the north and south.

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 install 3 eight-foot panel antennas to an existing 105 foot tall PG&E utility pole. The antennas will be located at the top of the PG&E tower. There are three sectors around the pole, with one antenna in each sector. Each antenna is 8 foot in height. Verizon Wireless has leased a 40x20feet area on the site from PG&E to house the equipment building. The 94 HP (60-kW) generator would be located in the pre fabricated equipment building. The generator would only be used for backup power during major power outage that lasts longer than 4 hours. The equipment building is screened by a 6-foot tall redwood fence and landscaping on the outside of the fence.

ENVIRONMENTAL REVIEW

The proposed project is exempt from environmental review under Section 15332(d) of the California Quality Act Guidelines concerning Infill Development Projects.

Air quality and noise reports were prepared for the project. The analysis in both the reports indicates that the project meets the required air and noise standards. The air quality report indicates that the project would not exceed the standards for health risk. The single-family residence is located on the east side of the project. The enclosed generator is about 65-70 feet from the residential property line. The noise report evaluated the noise levels that would be generated by the proposed generator. The report indicates that the dBA level at 60 feet would be 56 feet and at 70 would be 55 feet. The maximum noise levels in decibels at a property line is 55 per the Zoning Code. A difference of 3 decibel or less is not detectable by human ear.

GENERAL PLAN CONFORMANCE

The proposed use is consistent with the San José 2020 General Plan Land Use/Transportation Diagram designation of Medium Low Density Residential (8 DU/AC) in that wireless communication antennas may be allowed with a Conditional Use Permit in R-1-8 Residence zoning districts which conform to the designation.

ANALYSIS

The key issues analyzed for the proposed project are conformance with the following: 1) the City of San José Zoning Ordinance, and 2) City Council Policy 6-20 for Wireless Communication Facilities.

Conformance to the Zoning Ordinance

This project conforms to all applicable zoning requirements with regard to placement, height and design. Wireless communications antennas are listed in the Zoning Ordinance as a “conditional uses” in all of the residential zoning districts.

City Council Policy 6-20 Land Use 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 proposed project will locate 3 eight feet antennas and associated equipment on an existing PG&E tower consistent with Council policy. The structure-mounted antennas will substantially exceed the policy requirements of 50 feet minimum horizontal separation between antennas and residential properties. The proposed antennas and the equipment building will be located approximately 110 feet and 65- 70 feet respectively from the nearest residential property line. The antennas will be located at the top of an existing PG&E tower approximately 105 feet in height. The antennas will be located at the top of the tower but will not increase the height of the existing PG&E tower.

The proposed 94 HP (60-kW) generator backup generator would be enclosed within the equipment building and used during major power outage only. The equipment building will be screened by a 6 feet tall redwood fence and landscaping to offset the potential visual impacts associated with the project as required by Council policy.

PUBLIC OUTREACH

A notice of the public hearing was distributed to the owners and tenants of all properties 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 Medium Low Density Residential (8 DU/AC) on the adopted San José 2020 General Plan Land Use/Transportation Diagram.
2. The project site is located in the R-1-8 Residence Zoning District.
3. Under the provisions of Section 15332(d) of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), this project is exempt from environmental review requirements.
4. It is surrounded by single-family residential use on the east, a PG&E substation on the west and utility facilities on the north and south.
5. The project proposes the installation of 3 eight feet wireless communications antennas on a PG&E tower and placement of associated equipment building with the Generator adjacent to the tower.
6. The PG&E tower and equipment building with the generator is located a minimum of 50 feet horizontally from adjacent single-family residences.
7. The proposed wireless communications antennas will be located on top of a PG&E tower approximately 105 feet in height.
8. The proposed antennas would be located at the top of the tower. The antennas would not increase the height of the existing tower.
9. The equipment cabinets will be completely enclosed by 6-foot high redwood fence to match the existing good neighbor fencing.
10. The project proposes landscaping around the redwood fence.
11. 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 PG&E tower and equipment building with the generator is located a minimum of 50 feet horizontally from adjacent single-family residences.
6. The proposed project adequately screens ancillary equipment cabinets from residential structures.

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, Camden & Hicks," dated 3/3/03, 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. **Utilities.** All new on-site telephone and electrical service facilities shall be placed underground.
7. **Outside Storage.** No outside storage is permitted for the project.
8. **Sign Approval.** No signs area approved at this time. All proposed signs shall be subject to approval by the Director of Planning.
9. **Colors and Materials.** All wireless communications antennas colors and materials are to be those specified on the approved plan set.
10. **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, CP03-006, 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.
11. **Archaeology.** Pursuant to Section 7050.5 of the Health and Safety Code, and Section 5097.94 of the Public Resources Code of the State of California in the event of the discovery of human

remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains. The Santa Clara County Coroner shall be notified and shall make a determination as to whether the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he shall notify the Native American Heritage Commission who shall attempt to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State law, then the land owner shall re-inter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.

12. **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.
13. **Co-location.** The applicant and wireless communication facility operator shall facilitate the future co-location 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.
14. **Fencing.** A redwood fence shall be provided along the perimeter as shown on the approved plan set to the satisfaction of the Director of Planning.
15. **Anti-Graffiti.** The applicant shall remove all graffiti from structures and fence surfaces within 48 hours of defacement.

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.

3. **Time Limit.** This Conditional Use Permit expires and has no further force or effect five years from the date this Permit. At that time, that applicant/owner shall provide information to the City to determine if the wireless communications antenna is still needed, based on improvements in technology or availability of alternative building-mounted opportunities in the vicinity.

Please note that this conditional use permit has been granted for a period of five (5) 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.

4. **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, Building and Code Enforcement. 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.