



MILPITAS PLANNING COMMISSION AGENDA REPORT

PUBLIC HEARING

Meeting Date: August 12, 2009

APPLICATION: **CONDITIONAL USE PERMIT NO. UP09-0029, GENERAL DYNAMICS**

APPLICATION SUMMARY:

A request to locate a 50-foot tall receive only satellite dish, temporary office trailer, and perimeter fencing on an existing industrial site located for the purpose of test tracking technology for deep space satellites for a period of 12 months.

LOCATION:
APPLICANT:

1 Hanson Court (APN: 022-31-020)
General Dynamics A.I.S. 2305 Mission College Blvd., Santa Clara, CA 95050

OWNER:

MCM Hanson Court, LLC, 777 N. First St., San Jose, CA 95112

RECOMMENDATION:

Staff recommends that the Planning Commission:

- 1. Close the public hearing; and**
- 2. Adopt Resolution No. 09-034 approving the project subject to conditions of approval.**

PROJECT DATA:

General Plan/
Zoning Designation:
Overlay District:
Specific Plan:

Manufacturing and Warehousing (MW)/Heavy Industrial (M2)
Site and Architectural Overlay
N/A

Site Area:
Parking Spaces:

4.27
14

CEQA Determination:

The project is categorically exempt under the California Environmental Quality Control Act (CEQA) under Section 153303, Class 3 (New Construction or Conversion of Small Structures)

PLANNER:

Cindy Hom, Assistant Planner

PJ:

3229

ATTACHMENTS:

- A. Resolution No. 09-034
- B. Project Plans
- C. Photos

- D. Telecommunication Questionnaire
- E. Telecommunication Commission Meeting Minutes
- F. Public Comment

LOCATION MAP



No scale

BACKGROUND

On February 28, 1996, the Planning Commission approved a Site Development Permit Amendment to allow for a 2,700 square foot office and warehouse building and a ground mounted A/C unit with screening at the northeast corner to the parcel.

On May 19, 2009, Kevin Niedzielski of General Dynamics submitted an application to locate a 50-foot tall receive only 11-meter wide satellite dish, a 20-foot by 64-foot temporary office trailer, and perimeter fencing within the Hanson Concrete Product facility located at 1 Hanson Court. The proposed satellite and office trailer would be centrally located on the parcel adjacent to an existing single story metal building. The application is submitted pursuant to Milpitas Municipal Code XI-10-57.04(C)(2)(a), for Industrial Park (MP) districts when the a project proposes a building or structure height over 35 feet.

PROJECT DESCRIPTION

The project entails installation of a new 35-foot tall receive only satellite dish that is 11 meters wide and mounted on top of a concrete pedestal for a total height of 50 feet. The project also proposes locating a 20-foot by 64-foot temporary office trailer and perimeter fencing that will enclose the temporary satellite facility. The purpose of proposed facility is to test tracking technology for deep space satellites for a period of twelve months. As such staff recommends as a condition of approval that any modifications such as but not limited to additional structures and/or further extensions beyond the twelve month period be brought back to the Planning Commission as subsequent permit request.

The location was selected primarily for its view of Mount Allison which is where the applicant's targeting position will be located. According the applicant's telecommunication questionnaire form, the satellite dish will have no transmission modulation and has zero watts of effective radiated power when all of channels are radiating.

The project is located on a 4.27 acre site bounded between the Union Pacific Railroad tracks and Hanson Court. The project site is currently zoned Heavy Industrial and used as a concrete product manufacturing facility. The project site is developed with two office/warehouse buildings approximately 4,908 square feet, 7,200 square foot storage and maintenance building, and a 1,696 square foot fabrication shed. The majority of the site is paved and used as open air storage. Adjacent land uses includes single family homes located across the railroad tracks and Berryessa Creek approximately 446 feet to the west; light industrial tenant to the south and east, and Milpitas Materials to the north. A vicinity map of the subject site location is included on the previous page.

Parking/Site Circulation

The site currently provides twelve parking spaces that include one handicapped parking space for the existing buildings and uses. The existing parking lot area is located at the northeast corner of the project site. With the addition of the temporary office trailer that will be staffed, an additional six parking spaces are required. As a condition of approval, the applicant shall be required to provide six on-site parking spaces where possible and appropriate prior to building permit issuance. The parking spaces shall conform to the Milpitas Parking development standards.

Site access is provided by two driveways located off of Hanson Court. Internal circulation includes unmarked meandering drive aisles. To ensure adequate fire and emergency access, staff recommends

as a condition of approval that the applicant shall demonstrate compliance with fire code requirements for fire access roads and fire protection prior to building permit issuance.

Potential Visual Impacts

Due to the size, height and temporary use of the proposed a 35-foot tall (50-feet with pedestal), 11 meter wide satellite dish antenna, screening or utilizing a stealth design would be infeasible. Accordingly, the structure would be partially visible from adjacent properties; however, the potential visual impact is for a temporary period of one year only. It is staff’s position that the site is suitable and appropriate given it is located on the valley floor within an existing industrial site (concrete batching plant) and is not near any designated scenic resources, vistas, or corridors. To ensure that the night-time visual impacts are minimized, staff is recommending as a condition as approval, that the structure shall provide minimal illumination for safety. Any lighting shall not produce any unwanted glares or spill over onto adjacent properties. Prior to building permit issuance, the applicant shall provide an iso-illumination plan or demonstrate that no additional lights associated with the operation of the facility will be used.

Development Standards

Table 1
Development Standards

| Standard | Zoning Ordinance | Proposed |
|-----------------------------------|--------------------------|-------------------------------------|
| <u>Setbacks</u> (Minimum) | | |
| Front to Primary Structure | 35’ | Approximately 150’ |
| Interior/Street Side | 10’ | Approximate 250’ |
| Rear | 20’ | Approximately 30’ |
| <u>Floor Area Ratio</u> (Maximum) | 0.50 | 0.8 |
| <u>Structure Height</u> (Maximum) | 35’* | 35’ (50’ from ground with pedestal) |
| <u>Parking</u> (Minimum) may be | 18 | 12 |
| <u>Landscaping</u> (Minimum) | Front and/or Street Side | Existing Landscaping |

To allow for the requested height above 35 feet, the Planning Commission must make the following finding (Section 57.04(C)(2)(a)(i), of the Zoning Ordinance, in addition to the required findings for a Conditional Use Permit:

The excess height will not be detrimental to the light, air or privacy of any other structure or use currently existing or anticipated.

The additional 15 feet above the 35-foot height limit will not be detrimental to light, air or privacy of any other structure or use existing or anticipated because the proposed satellite antenna is located within an open storage area and is less than 100’ away from nearest office building. According to the applicant, the proposed facility will be temporary and operated for a period of 12 months only.

Afterwards, the structure and associated equipment are disassembled and removed off the site. The proposal cannot be considered under the provisions of Temporary Buildings and Uses, because the proposed duration would exceed the limits of the Zoning Ordinance. Therefore, the Conditional Use Permit would run with the land, however, any modifications to the original request would be considered on a case by case basis.

ADOPTED PLANS AND ORDINANCES CONSISTENCY

General Plan

The table below outlines the project’s consistency with applicable General Plan Guiding Principles and Implementing Policies:

Table 2
General Plan Consistency

| Policy | Consistency Finding |
|--|---|
| <p>2.a-I-7 <i>Provide opportunities to expand employment, participate in partnerships with local businesses to facilitate communication, and promote business retention.</i></p> | <p>Consistent. The project assists with research and development of satellite technology and encourages economic pursuits.</p> |

Zoning Ordinance

The project is conforms with the Milpitas Zoning Ordinance in the proposed temporary satellite telecommunication facility is a permitted use and its proposed height is conditionally permitted in the Industrial Park Zone and complies with the development standards in terms of height (with the additional finding) and setbacks. As conditioned the project will not be injurious and detrimental to property, improvements, or public health, safety and general welfare with the addition of six parking spaces, compliance with fire codes for adequate fire and emergency access, and implementation of iso illumination plan that provides for safe lighting and preserving night time views.

Telecommunications Commission Review

The City of Milpitas Telecommunication Commission conducted a technical review of this project at its June 15, 2009 meeting. The unapproved Telecommunication meeting minutes are attached to this report.

ENVIRONMENTAL REVIEW

The Planning Division conducted an initial environmental assessment of the project in accordance with the California Environmental Quality Act (CEQA). Staff determined that the project is exempt under the California Environmental Quality Control Act (CEQA) under Section 153303, New Construction or Conversion of Small Structures, Class 3 in that the proposed facility consists of accessory structures to an existing industrial facility. The temporary use of the land will have a negligible effect on the environment considering it is an existing developed site surrounded by urban uses. The project site has no value as habitat for endangered, rare or threatened species. As condition, the project would not result in any significant effects relating to aesthetics, hazards, traffic, noise, air quality, or water quality.

PUBLIC COMMENT/OUTREACH

Staff publicly noticed the application in accordance with City and State law. As of the time of writing this report, there has been one inquiry from the public. A copy of the public comment is attached with the staff report.

CONCLUSION

The project is consistent with the General Plan in that it encourages economic pursuits and furthers the research and development of satellite technology. The project also conforms to the Milpitas Zoning Ordinance in that the project complies with the development standards and set back requirements. The proposed location for the temporary satellite facility is suitable and appropriate because it is within the valley floor on an existing industrial site. As conditioned, the project will not be injurious or detrimental to property, improvements, and public safety and general welfare.

RECOMMENDATION

STAFF RECOMMENDS THAT the Planning Commission adopt Resolution No. 09-034 approving **Conditional Use Permit No. UP09-0029, General Dynamics Antenna**, subject to the attached Conditions of Approval.

Attachments:

- A. Resolution No. 09-034
- B. Plans
- C. Photos
- D. Telecommunication Questionnaire
- E. Telecommunication Commission Meeting Minutes
- F. Public Comment

RESOLUTION NO. 09-034

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILPITAS, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT NO. UP09-0029, GENERAL DYNAMICS TO LOCATE A 50-FOOT TALL RECEIVE ONLY SATELLITE DISH AND ASSOCIATED STRUCTURES AT 1 HANSON COURT.

WHEREAS, on May 19, 2009, an application was submitted by Kevin Niedzielski of General Dynamics, 2305 Mission College Blvd., Santa Clara, CA 95050, to locate a 50-foot tall receive only satellite dish, temporary office trailer, and perimeter fencing on an existing industrial site located for the purpose of test tracking technology for deep space satellites for a period of 12 months. The property is located at 1 Hanson Court within the Industrial Park Zoning District (022-31-020); and

WHEREAS, the Planning Division completed an environmental assessment for the project in accordance with the California Environmental Quality Act (CEQA), and recommends that the Planning Commission determine this project is exempt under the California Environmental Quality Control Act (CEQA) under Section 15303, New Construction or Conversion of Small Structures, Class 3 in that the proposed facility consists of placing accessory structures in addition to an existing industrial facility (concrete batching); and

WHEREAS, on July 22, 2009 the Planning Commission held a duly noticed public hearing on the subject application, and upon recommendation from staff continued the hearing of the item to August 12, 2009; and

WHEREAS, on August 12, 2009 the Planning Commission held a duly noticed public hearing on the subject application, and considered evidence presented by City staff, the applicant, and other interested parties.

NOW THEREFORE, the Planning Commission of the City of Milpitas hereby finds, determines and resolves as follows:

Section 1: The recitals set forth above are true and correct and incorporated herein by reference.

Section 2: The Planning Division completed an environmental assessment for the project in accordance with the California Environmental Quality Act (CEQA), and determine this project is exempt under the California Environmental Quality Control Act (CEQA) under Section 15303, New Construction or Conversion of Small Structures, Class 3 in that the proposed facility consists of placing accessory structures in addition to an existing industrial facility (concrete batching). Furthermore, the temporary use of the land will have a negligible effect on the environment considering it is an existing developed site surrounded by urban uses. The project site has no value as habitat for endangered, rare or threatened species and as condition, the project would not result in any significant effects relating to aesthetics, traffic, noise, hazards, air quality, or water quality.

COMMISSIONER

Aslam Ali

Mark Tiernan

| AYES | NOES | OTHER |
|-------------|-------------|--------------|
| | | |
| | | |

EXHIBIT 1

**CONDITIONS OF APPROVAL
CONDITIONAL USE PERMIT NO. UP09-0029**

General Conditions

1. The owner or designee shall develop the approved project in conformance with the approved plans approved by the Planning Commission on August 12, 2009, in accordance with these Conditions of Approval.

Any deviation from the approved site plan, floor plans, elevations, materials, colors, landscape plan, or other approved submittal shall require that, prior to the issuance of building permits, the owner or designee shall submit modified plans and any other applicable materials as required by the City for review and obtain the approval of the Planning Director or Designee. If the Planning Director or designee determines that the deviation is significant, the owner or designee shall be required to apply for review and obtain approval of the Planning Commission, in accordance with the Zoning Ordinance. (P)

2. Conditional Use Permit No. UP09-0029 shall become null and void if the project is not commenced within 18 months from the date of approval. Pursuant to Section 64.06(2) of the Zoning Ordinance of the City of Milpitas. If the project requires the issuance of a building permit, the project shall be deemed to have commenced when the date of the building permit is issued and/or a foundation is completed, if a foundation is a part of the project.

Pursuant to Section 64.06(1), the owner or designee shall have the right to request an extension of UP09-0029 if said request is made, filed and approved by the Planning Commission prior to expiration dates set forth herein. (P)

Specific Conditions

3. Prior to building permit issuance, the applicant shall be required to provide six on-site parking spaces where possible and appropriate. Parking spaces shall conform to the Milpitas Parking development standards and requirements. (P)
4. Prior to building permit issuance, the applicant shall demonstrate compliance with fire code requirements for fire access roads and fire protection to ensure adequate fire and emergency access. (F)
5. Prior to building permit issuance, the applicant shall provide an site plan which shall indicates the location of minimal lighting for safety, that preserves night time views, and ensures that any lighting shall not produce any unwanted glares or spill over onto adjacent properties. (P)
6. Upon cessation of operation of the facility, the antenna and ancillary facilities shall be removed. (P)

(P) Planning Division

1 Hanson Ct. General Dynamics

ATTACHMENT B



Scale 1:7880



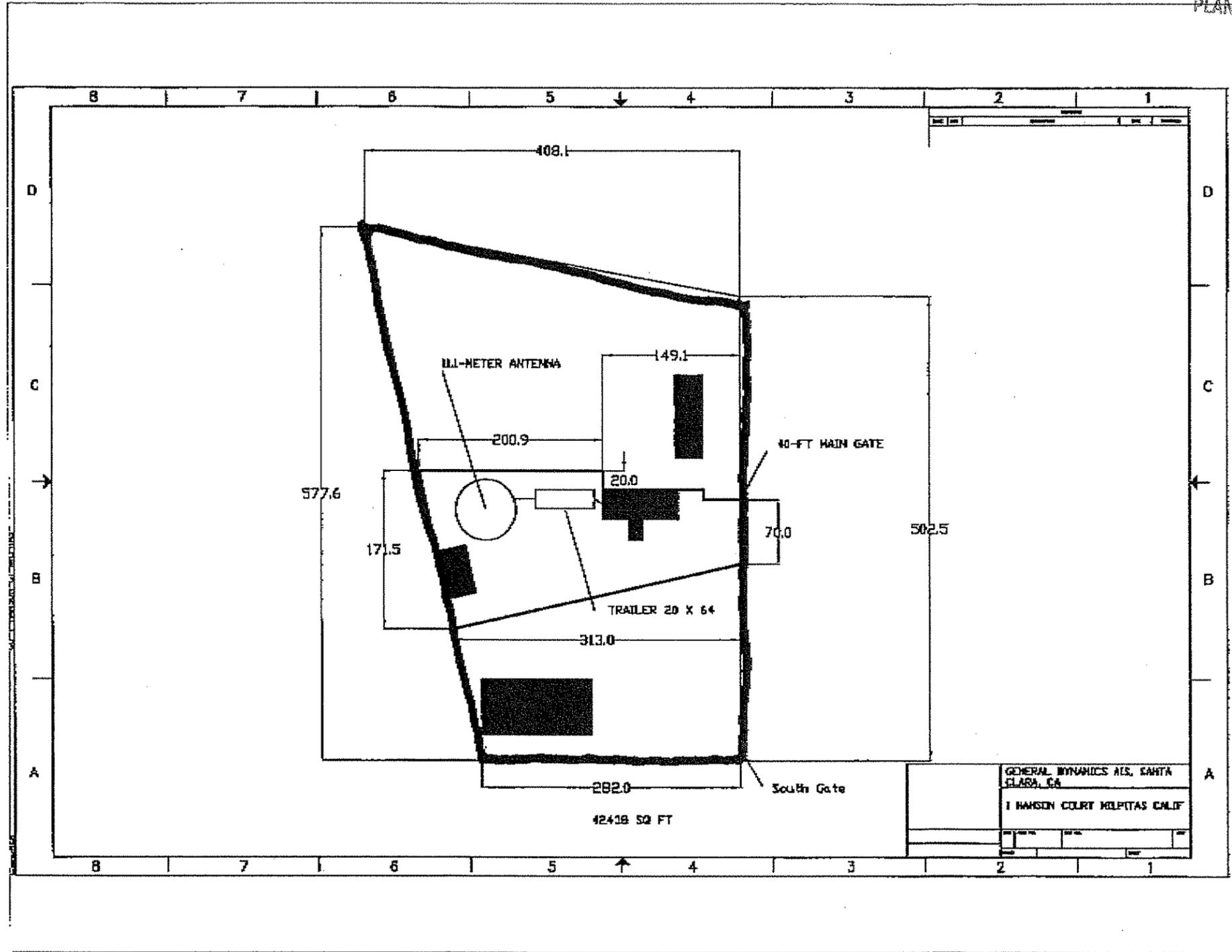
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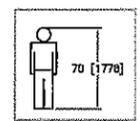
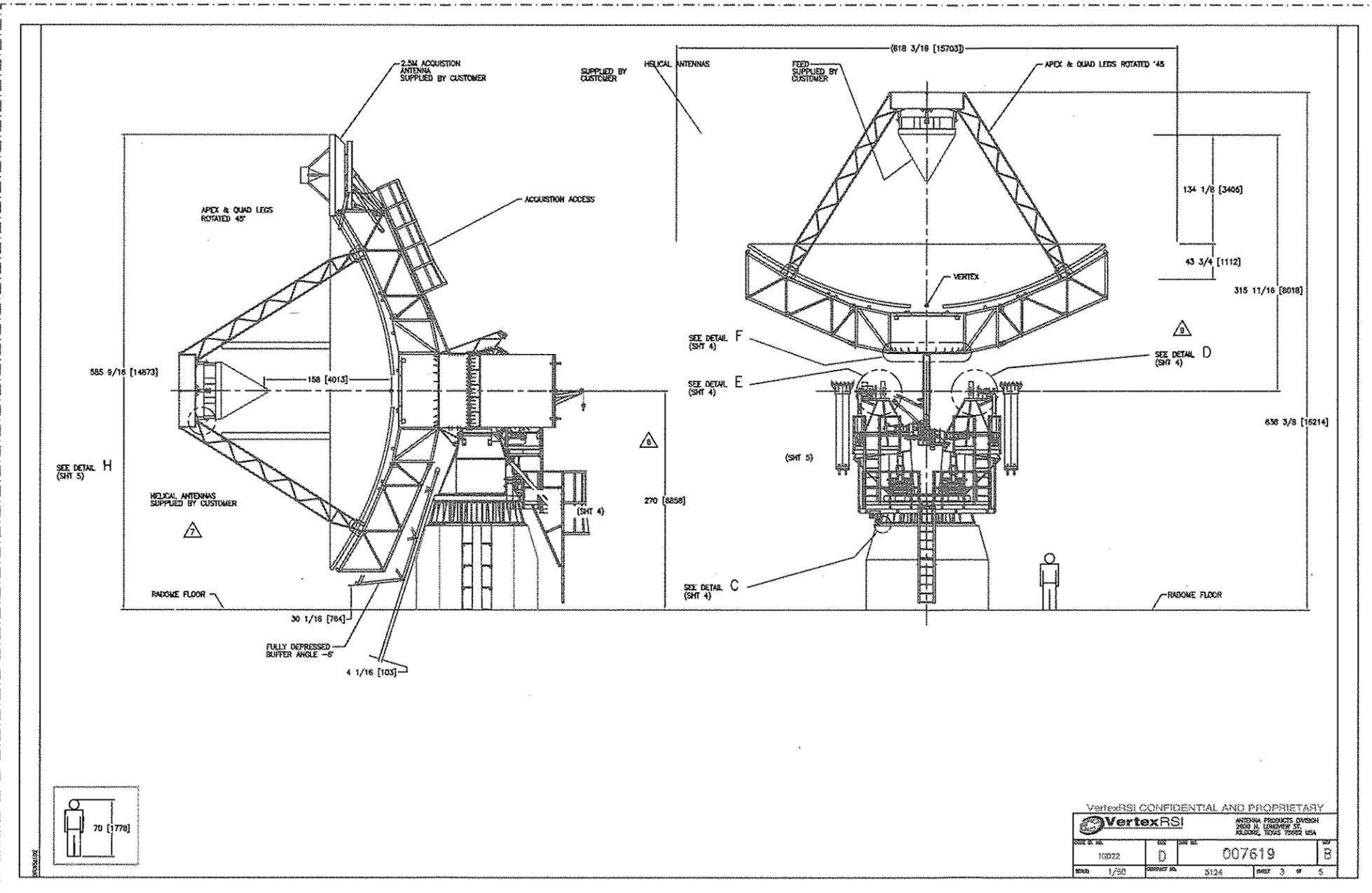
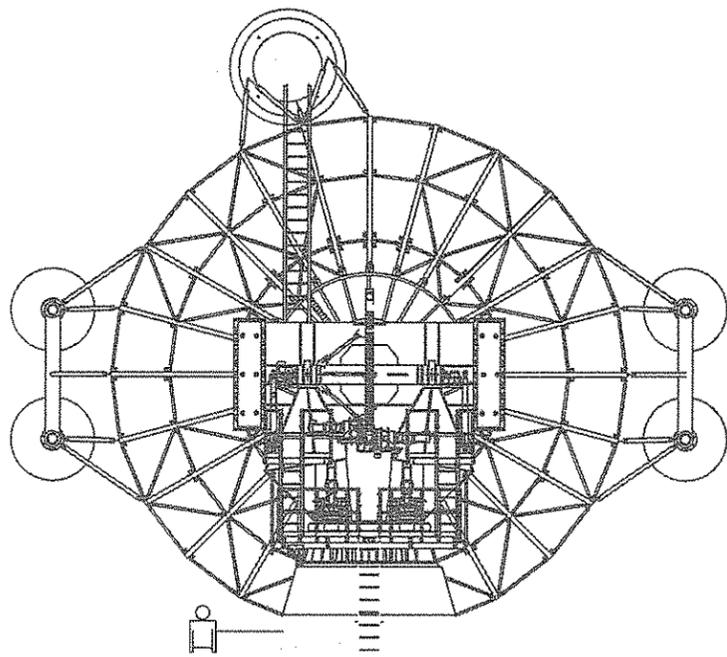
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CITY OF MILPITAS
PLANNING DIVISION

T-523 P.001/001 F-892

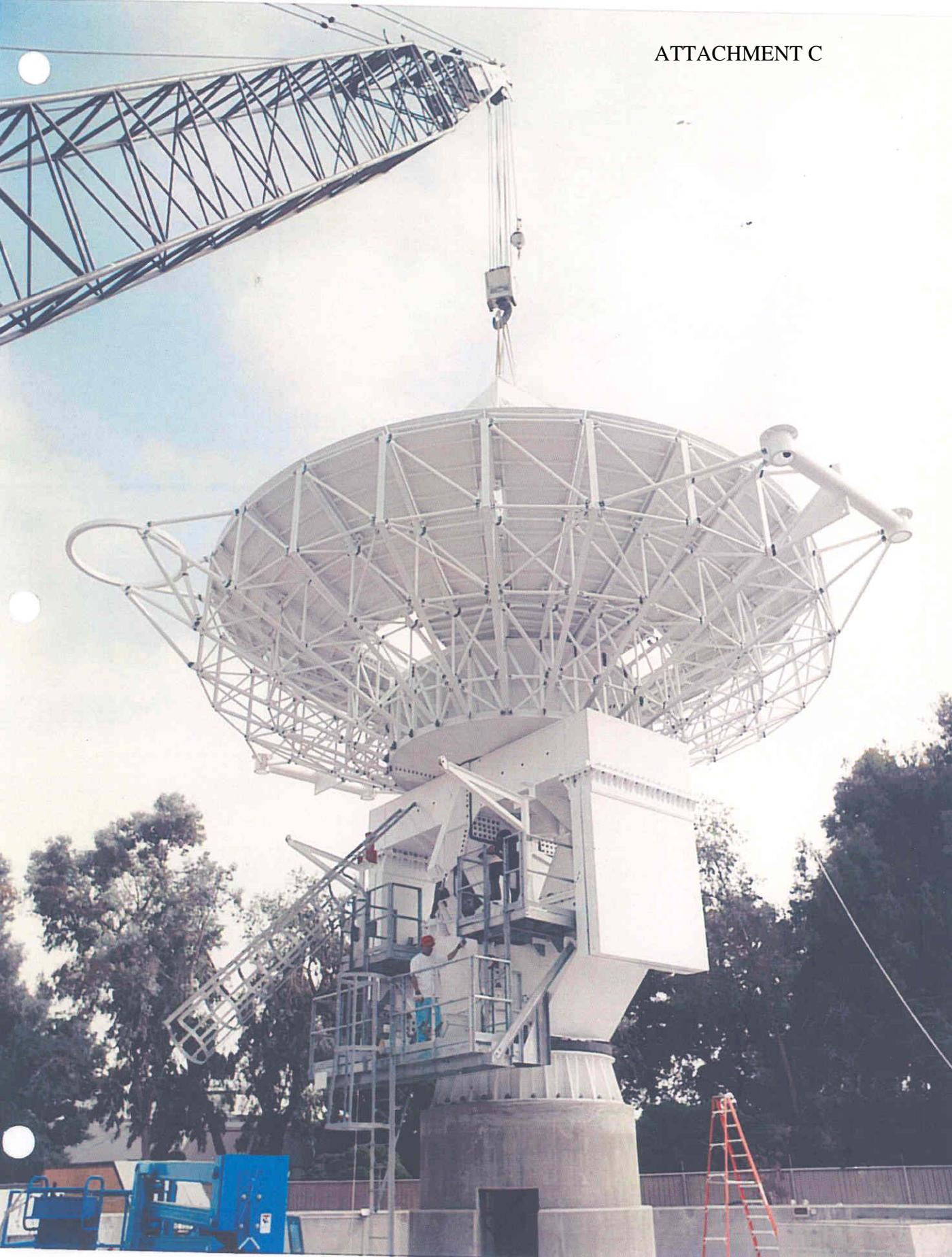
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| | | | |
|--|------|---------------------------|---|
| VertexRSI CONFIDENTIAL AND PROPRIETARY | | | |
| VertexRSI | | ANTENNA PRODUCTS DIVISION | |
| 2800 N. LOMBARD ST. | | ARLING, TEXAS 75002 USA | |
| 16022 | D | 007619 | B |
| 1/80 | 5124 | 3 of 5 | |





City of Milpitas
 Planning Division
 455 E. Calaveras Blvd.
 Milpitas, CA 95035
 (408) 586-3279

Questionnaire for Telecommunication Facility Providers

All applicants requesting to install telecommunications facilities within the City of Milpitas must complete this questionnaire as part of their use permit application submittal.

Applicant Name: General Dynamics AIS

Applicant Address: 2305 Mission College Blvd suite 101

Applicant Phone: 650 9662000 Applicant Fax: 650 9662551

Applicant e-mail address: Jon.Yap@gd-ais.com

Location of Project: 1 Hanson Court Milpitas, Ca

Is this an existing facility or a Co-Location? Yes No Previous Owner: Lease for 1 year

If yes, are you using the same technology? Yes No

Date previously approved by the Telecommunications Commission: n/a

Provide a brief description of project (Telecommunications Facility): Staging and test of an 11 meter receive only satellite tracking dish which receives from 100 MHz to 18 GHz.

1. Please indicate below the frequency range you plan to use?

- VHF Low-Band (30-50 Mhz or 72-76 Mhz)
 VHF High-Band (136-174 Mhz or 220-222 Mhz)
 UHF or T-Band (406-420 Mhz or 450-470 Mhz or 470-512 Mhz)
 800 or 900 Mhz Band (800-960 except 900 Mhz Spread Spectrum)
 900 Mhz Spread Spectrum (902-928 Mhz)
 Other than specified above (State frequency band in Mhz). Describe: 100 MHz to 18 GHz
Receive only

2. Please indicate below the channel/system proposed for use?

- A single channel
 Multiple channel
 A frequency agile system
 A spread spectrum system
 Other: _____

3. Please indicate below the frequency range you plan to use?

- Narrow band (± 5 KHz or less deviation)
 Broad band (greater than ± 5 KHz deviation)
 Spread Spectrum
 Other: No transmission modulation.

4. What will the effective radiated power (ERP) be when all channels at your proposed site are radiating?
0 watts

5. Will the site be in compliance with current ANSI radiation health standards? Yes No
6. What horizontal radiation pattern is planned for this project?
 Omnidirectional
 Sectored
 Directional (provide half power beam width) _____
7. What will the vertical radiation angle (half power beam width) be for your proposed antenna(s)?
n/a

8. How high above the local terrain (e.g., surrounding structures) will the center of radiation of your proposed antenna(s) be? n/a feet
9. How close to your proposed project is the nearest roadway 200 ft feet/miles and, if elevated, what is the roadway's height above the local terrain? 0 feet
10. How close to your proposed project is the nearest regularly occupied building and how high is the top floor above local terrain? 500 ft 15
11. What is the distance to the nearest existing radio communications or broadcast antenna(s) if less than 1/2 mile? n/a feet/miles. If known, identify owner/operator: _____

12. What is the status of your FCC license grant? n/a
 (Include a copy of the license with submittal of this questionnaire.)

NOTE: The below listed items are required by the applicant as part of this submittal if required to go to the Telecommunications Commission:

- a) Provider's build-out map* showing all sites anticipated within Milpitas (see question no. 2)
- b) Photo simulations** of antenna(s) as viewed from at least three surrounding view points. Show "worst case" vantage points.
- c) List of all sites that were investigated** for a particular search ring and the reasons why they were discarded. Include names and phone numbers of persons contacted regarding potential sites.
- d) Copy of applicants Power Density Study* (see item no. 4).

* 20 copies (Telecommunication Commission)
 ** 35 copies (Telecommunication Commission & Planning Commission)

Back of
Telecommunication Questionnaire

**City of Milpitas
Approved Minutes
Telecommunications Commission
June 15, 2009**

I. Call to Order & Roll Call:

Telecommunications Chair, Albert Alcorn called the meeting to order.

Members Present: N. Gupta, A. Alcorn, D. Gupta, I. Munir, K. Bohan, S. Ahuja, H. Tran

I.S. Staff: B. Marion, E. Pasion

Members Absent:
R. Shaw, W. Lam, S. Bansal (excused)

City Council: A. Gomez

II. Pledge of Allegiance:

The members of the Commission recited the Pledge of the Allegiance.

III. Announcements:

No announcements made for the record.

IV. Approval of the Agenda:

Motion to approve the agenda as submitted.

M/S N. Gupta / H. Tran Ayes: 7

V. Approval of the Minutes:

Motion to approve the minutes as submitted.

M/S N. Gupta / H. Tran Ayes: 7

VI. Citizen's Forum:

Rajeev Madnawat, with the Milpitas Community Advisory Commission, invited the commissioners to participate in the annual National Night Out neighborhood campaign scheduled for the August 6, 2009. Commissioner Madnawat provided information to all the telecom members on this event.

VII. New and Continued Business:

1. Satellite Dish 1Hanson Ct.

Cindy Hom, with the city's planning department, provided a summary for a request to install a 35 foot satellite dish at 1 Hanson Court for a period of 12 months. The vendor, General Dynamics AIS, reported that it would be leasing the property to install and test the satellite dish for a one year period. Once completed it would be disassembled and delivered to its client in Japan. The satellite dish will operate as a receive-only system. It will operate within a frequency range of 100 megahertz to 18

gigahertz. The vendor added that the Hanson court location provides optimal installation and testing of the equipment. It is also within close proximity to Mount Allison that houses remote testing equipment that will be used as part of the 12 month operation at Hanson court.

Motion to approve for final review by the Planning Commission.

M/S S. Ahuja / D. Gupta Ayes: 7

2. MCTV Corporation Group.

Commissioner D. Gupta the nonprofit status is a work in progress and the filing of the documents should be completed by the end of June. Funding for the MCTV26 Corporation has been approved. Insurance coverage will also be completed as well.

Commissioner Tran reported that the station programming is still being maintained for MCTV26. Programming requests have dropped slightly but there are still enough shows to keep the programming up to date.

Commission Bohan reported that he has taken on the roll of station access director for MCTV26. Commissioners Bohan has been providing staffing on Thursday's afternoon in getting the studio operations and use to the public. He did a real-time studio production shoot with the MCTV26 equipment and with Skype internet technology. He was successful in setting up a live video chat from the MCTV26 studios with a group in St. Petersburg, Russia. The video shoot was all done in real-time using the internet connection provided in the studio to complete the connection. A final edited program will be made for programming in MCTV26.

Chair Alcorn asked if the public domain programming was still being used. Staff noted that the public domain shows are still used for programming on MCTV26. The shows have been used to help expand or change the programming scheduled. Commissioner Bohan added that the studio editing computer needed to be repaired due to technical issues with the audio not operating correctly. Chair Alcorn requested staff to see if they can assist after the commission meeting to address the studio editing computer issues.

Motion to note, receipt and file.

M/S N. Gupta / H. Tran Ayes: 7

3. Master Plan Work Session.

The commission suggested that alternative meeting date be considered and recommended date of Saturday, August 1, 2009.

The commission agreed with the suggested meeting date to review the current telecommunications master plan document at a Saturday work session.

Motion to review the City's Telecom Master Plan on Saturday,
August 1, 2009.

M/S

N. Gupta / D. Gupta

Ayes: 7

4. May -'09 Information Services Report

Staff reported on the monthly highlights for May 2009.

Staff has been addressing the recent digital transition involving Comcast. On June 12th Comcast had implemented its new digital channel service to all its cable subscribers. The new changes brought in an improved transmission quality to the expanded cable channel tier. In doing so, all analog channels between 35 and up are no longer available. In order to receive those channels a digital converter box from Comcast must be used. A current inventory of Comcast cable connections in all city buildings and have been tabulated and staff is working on getting various locations reconnected with the new digital converter boxes. Staff is also addressing the issue of out dated hard wire cables that cannot carry the new digital signals in certain city buildings.

The new data network equipment is being configured and is prepared for delivery. Installation of the new network equipment is scheduled for July 18th and 19th.

Staff has been working with Silicon Valley Unwired Wi-Fi project for the city. An announcement will be made at the next council meeting that the Milpitas public Wi-Fi network will be in operation for public use.

Staff is reviewing software for the city's public works department to help address their operational and technology needs to help manage utility and facility maintenance work. Staff reported that the Gov Delivery feature of the website has over 300 subscribers. The new web notification feature has sent out over six thousand email notices and updates to public notices.

GIS work has extended to the hills of Milpitas document security gates codes, fire hydrants, valves and stand-pipes. This will provide update to date information to the city public safety.

Finally, staff reported that it has been impacted by the recent city wide staff layoffs that were recently implemented as part of the new budget. The department eliminated two positions as part of the budget for 2009-2010.

Motion to note, receipt and file.

M/S

N. Gupta / H. Tran

Ayes: 7

5. Roundtable Discussion

Chair Alcorn reported that he plans to meet with Councilmember Gomez to discuss the vacancy with the MUSD representative and to see what can be done to fill that commission seat.

Commissioner Ahuja asked staff if there were any issues with the June 12, FCC digital broadcast transition. Staff reported that the city had not received any calls regarding the FCC digital broadcast transition and reported that most of the cases were being reported out of San Francisco.

Commission N. Gupta asked if the city layoffs impacted all departments. Staff added that all departments lost a minimum of two positions to address the budget shortfall.

VIII. Adjournment of Meeting:

Meeting adjourned to July 20, 2009.

ATTACHMENT F

Cindy Hom

From: Dan Manassau [dmanassau@comcast.net]
Sent: Saturday, August 01, 2009 3:28 PM
To: Cindy Hom
Subject: 50 ft antenna

Hi

- 1) When the antenna is installed on Hanson Ct. What is the diameter of it. 3 ft or 50 ft.
- 2) Is there a chance it can be there more than 12 months. How do I know it won't be extended to many years.
- 3) Will there be any noise or other impact.
- 4) General Dynamics does a lot of defense work. How do we know what else will be going on? It is a large site for just a trailer and antenna

Please advise.

Dan Manassau
49 Sudbury Drive

PS: I attended a meeting sometime ago and asked when the billboard on the Milpitas Materials property will be removed. You or some other staffer told me she would get back to me but never did. Do I have to come to another planning meeting to get an answer to every question I have or what.