



MILPITAS PLANNING COMMISSION AGENDA REPORT

PUBLIC HEARING

Meeting Date: April 11, 2011

APPLICATION: Conditional Use Permit Amendment No. UA12-0003, Black Dot Wireless

APPLICATION SUMMARY: A request to modify an existing wireless telecommunication facility to allow for the removal of three existing panel antennas and installation of three new panel antennas and associated ground mounted equipment. The project would also provide co-location for three future panel antennas.

LOCATION: 1220 Pecten Court (APN 92-08-018)
APPLICANT: Liz Johnson, Black Dot Wireless, 44632 Hwy 49 Ahwahnee, CA 943601
OWNER: San Jose Water Works, Care of: Accounting Department, 374 W. Santa Clara St., San Jose, CA 95113

RECOMMENDATION: **Staff recommends that the Planning Commission: Adopt Resolution No. 12-017 approving the project subject to conditions of approval.**

PROJECT DATA:
General Plan/
Zoning Designation: Manufacturing and Warehousing (MW)/Heavy Industrial (M2)
Overlay District: Site and Architectural Overlay
Specific Plan: N/A

Site Area: 1.00 Acre
Existing Structure Height: 50-feet
Existing Number of Antennas: 6
Proposed Number of Antennas: 9

CEQA Determination: Categorical Exempt Pursuant to Class 1, Section 15301 (Existing Facilities) of the California Environmental Quality Act.

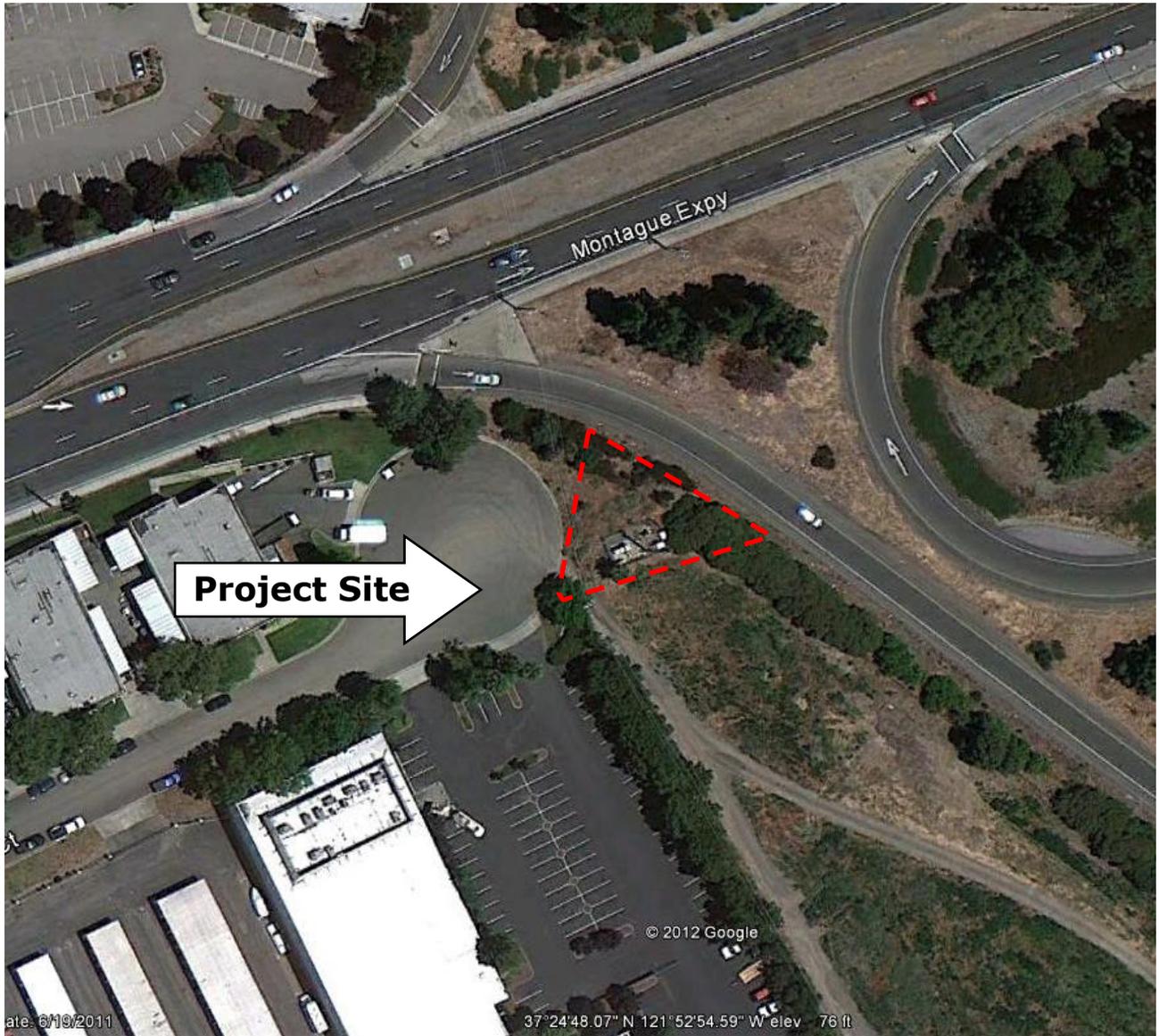
PLANNER: Cindy Hom, Assistant Planner

PJ: PJ 2803

ATTACHMENTS: A. Resolution/Conditions of Approval

- B. Project Plans
- C. Power Density Study
- D. Photo Simulations
- E. Telecommunication Questionnaire

LOCATION MAP



No scale

BACKGROUND

In December 1996, the Planning Commission approved the installation of a monopole wireless telecommunication facility on a vacant undeveloped parcel. The wireless telecommunication facility consisted of nine panel antennas and a 560 square foot equipment enclosure.

On February 15, 2012, Liz Johnson with Black Dot Wireless submitted a conditional use permit amendment application to remove and replace three existing Sprint panels and with three new panels that allow for 4th Generation (4G) technology and co-location for three future panels. The proposed 4G Technology has more bandwidth and services that allows for transmission of data such as high quality audio/video streaming over end to end Internet. The project proposal also includes replacement of ground mounted equipment cabinet within an existing chain-link equipment enclosure. The application is submitted pursuant to Milpitas Municipal Code (MMC) XI-10-13.09 (Wireless Communication Facilities). Wireless communication facilities and structures exceeding three stories or 35-feet in the industrial zones that are not considered stealth by definition require Planning Commission review and approval

PROJECT DESCRIPTION

The project site is a 1-acre vacant undeveloped parcel. The site is located at the southerly terminus of Pecten Court, adjacent to the Interstate 680 on-ramp. Surrounding land uses include industrial buildings and uses to the west and north, I-680 to the east and the remaining San Jose Water Company continues on to the south. A vicinity map of the subject site location is included on the previous page.

Development Standards

The project proposes no changes to the existing height of the existing 50-foot tall monopole, setbacks, and or lot coverage. There is no height restriction in the Heavy Industrial zone, however, any structure exceeding three stories or 35-feet in height must obtain Planning Commission approval. The proposed antenna panels would remain at the same antenna RAD height of 40-feet as the existing Sprint antennas. The project would be consistent with the height standard with approval of this conditional use permit.

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 1
General Plan Consistency

Policy	Consistency Finding
<i>Implementing Policies 2.a-I-7 Provide opportunities to expand employment, participate in partnerships with local business to facilitate communication, and</i>	The proposed project provides 4G technology that improves wireless service that supports surrounding businesses, residents, and facilitates communication.

<i>promote business retention.</i>	
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Zoning Ordinance

Federal law preserves the City's authority to regulate the placement, construction, and modification of personal wireless service facilities, so long as such regulations do not impose a blanket prohibition on the construction of such facilities or intrude into the regulation of radio frequency emissions, which are the sole province of the Federal Communications Commission and certain state regulations. Thus, the City has the power to conduct a limited review of wireless communication facilities for compliance with zoning and land use requirements. (47 U.S.C. 332((c)(7)(A).) Here, the proposed project complies with the City's Zoning Ordinance. Wireless telecommunications facilities are conditional uses in all zoning districts. The project is also consistent with the development standards for the Heavy Industrial zone.

The project is not anticipated to create any negative impacts to surrounding land uses in terms of noise, odors, or radio frequency emissions. The proposed facility will not minimize visual impacts in that the facility would be painted to will blend with the surrounding landscaping and that the equipment will be screened behind slatted fencing.

Radio Frequency Emissions

The City is prohibited by federal law from regulating the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of RF emissions to the extent the facilities comply with the Federal Communications Commission's (FCC) regulations concerning such emissions. (47 U.S.C. 332(c)(7)(B)(iv).

The FCC has established guidelines that place limits on human exposure to RF fields generated by personal wireless service facilities. These guidelines have been endorsed by the U.S. Environmental Protection Agency and the Food and Drug Administration. The FCC requires all personal wireless facilities to comply with these guidelines.

Sprint is licensed by the FCC to operate specifically within the 800 MHz to 1900 MHz frequency bands. The effective radiate power (ERP) for various frequency bands are as follows:

- 800 MHz transmitter combined on site is 662 watts,
- 1600 MHz transmitter combined on site is 895 watts
- 1900 MHz transmitter combined on site it 6,929 watts

The emission from the proposed facility including other existing carriers is 6.30 % of the FCC's general public limit (1.12 percent of the FCC's occupational limit). The project fall below the most conservative standard for such radio frequency emissions and therefore complies with current FCC regulations. As a condition of approval, the applicant shall install signs to make people aware of the presence and locations of antennas and their associated fields.

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 categorically exempt from further environmental review pursuant to Section 15301 (Existing Facilities) of the

California Environmental Quality Act in that the project is a negligible expansion beyond the existing use. The project would also be categorically exempt under Section 15303 (New Construction or Conversion of Small Structures). The project entails the removal three existing antennas and replacement of six panel antennas and associated ground mounted equipment at an existing wireless telecommunication facility.

Conclusion

The proposed facility will help provides for a reliable high speed wireless network that will enable businesses and individuals to access to the internet. The project will not be detrimental to public health or safety of persons working or residing in the neighborhood or materially injurious to public improvements and private properties in that it does not generate traffic, objectionable levels of noise, odors, or dust. The facility falls significantly below all state and federal regulations for emission of non-ionizing radiation. In addition, the general public will not able to access since the access is gated. As conditioned, appropriate signage will be displayed to inform workers and the general public about the presence and location of antennas and their associated fields.

RECOMMENDATION

STAFF RECOMMENDS THAT the Planning Commission adopt Resolution No. 12-017 approving Conditional Use Permit Amendment No. UA12-0003, subject to the attached Conditions of Approval.

Attachments:

- A. Resolution No. 12-017
- B. Project Plans
- C. Power Density Study
- D. Photo Simulations
- E. Telecommunication Questionnaire