



## MILPITAS PLANNING COMMISSION STAFF REPORT

October 28, 2015

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**APPLICATION:** **T-Mobile – UP15-0011 – 990 Ames Ave:** A request for a Conditional Use Permit to add three new wall mounted panel antennas and associated equipment to an existing wireless telecommunication facility.

**RECOMMENDATION:** **Staff recommends that the Planning Commission adopt Resolution No. 15-033 approving Conditional Use Permit No. UP15-0011 to add three new wall mounted panel antennas and associated equipment to an existing wireless telecommunication facility subject to the conditions of approval.**

**LOCATION:**  
Address/APN: 990 Ames Ave. (APN 86-31-050)  
Area of City: S. Milpitas Blvd. and Ames Ave.

**PEOPLE:**  
Project Applicant: T-Mobile  
Consultant(s): Mackenzie Gutkin  
Property/Business Owner: BMI Product of Northern California, Inc.  
Project Planner: Cindy Hom, Assistant Planner

**LAND USE:**  
General Plan Designation: Manufacturing and Warehousing  
Zoning District: Heavy Industrial (M2)  
Overlay District: Site and Architectural Overlay (-S)

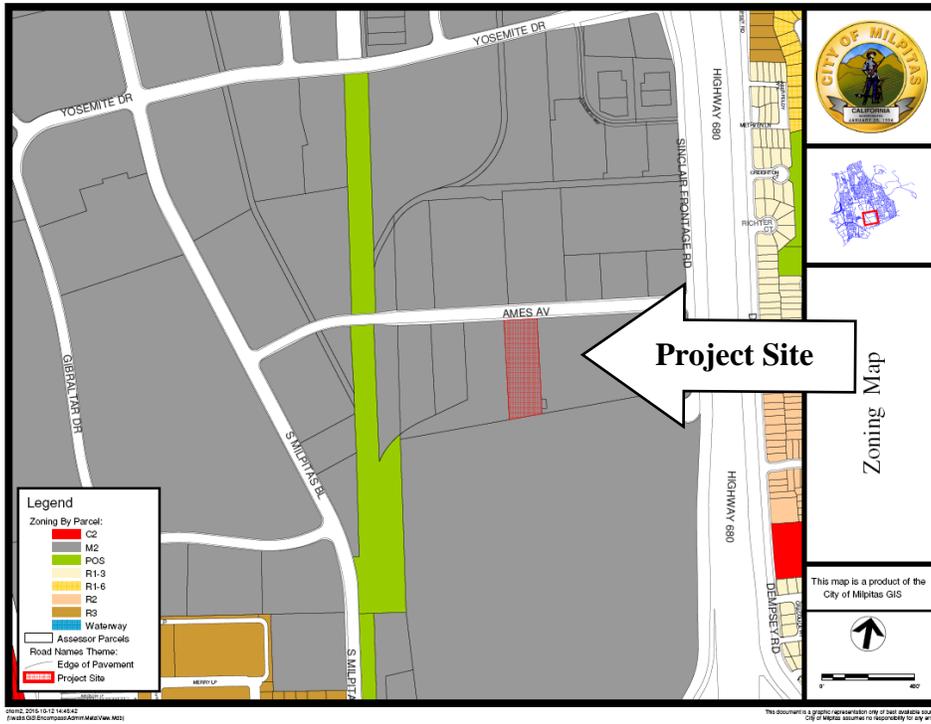
**ENVIRONMENTAL:** Categorically Exempt from further environmental review pursuant to Section 15301 (Existing Facilities) of the California Environmental Quality Act (CEQA).

### **EXECUTIVE SUMMARY**

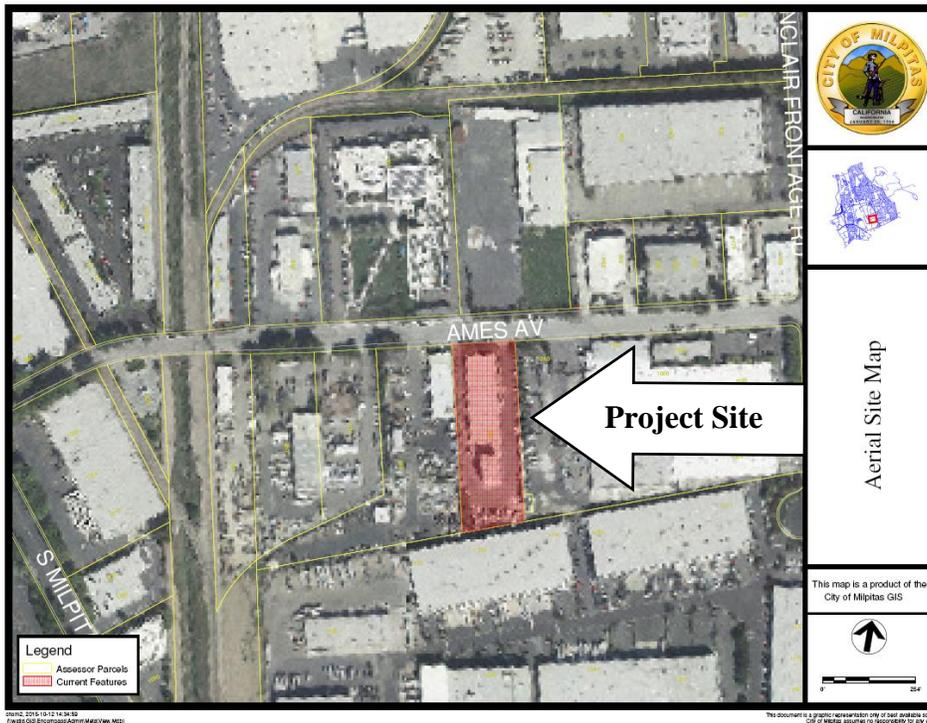
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The applicant is requesting a Conditional Use Permit to co-locate three new wall mounted panel antennas and associated equipment on an existing wireless telecommunication facility.

## Map 1 Project Location



## Map 2 Project Site



## **BACKGROUND**

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### ***History***

In January 1998, the Planning Commission approved installation of a wireless communication facility for Nextel Communications on the facade of an existing 73-foot tall mixing silo. The wireless telecommunication facility consisted of 12 panel antennas mounted on the east, west, and south sides of the building and a 200 square foot equipment enclosure located at the rear of the lot.

In October 2010, the Planning Commission approved a conditional use permit and site development permit amendment application to install three new panel antennas, six microwave satellite dishes, and one GPS antenna for Clear Wireless on an existing building, and installation of a new equipment cabinet within an existing enclosure.

### ***The Application***

On June 25, 2015, T-Mobile submitted a Conditional Use Permit application for the co-location of three new panel antennas, six Dual Tower Mounted Amplifiers (DTMA), three radio return units (RRUs) and six diplexers on an existing wireless telecommunication facility and installation of a new equipment cabinet within an existing enclosure. The application is submitted pursuant to Section 57 of the Milpitas Zoning Code that requires Planning Commission review and approval.

## **PROJECT DESCRIPTION**

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### ***Overview***

The project proposes installation of three additional panel antennas and associated equipment within an existing equipment enclosure located between the main building and mixing silo. The purpose of the proposed modification is to improve capacity within the existing coverage area.

### ***Location and Context***

The project site is a 2-acre parcel improved with a 2-story, 28,000 square foot industrial building with a 73-foot tall mixing silo, 37 parking spaces, landscaped frontage, and perimeter fencing. The project site is bounded by Ames Avenue to the north and industrial buildings to the east, south, and west. Surrounding land uses consist of industrial uses on all sides and the Humane Society animal facility to the north. A vicinity map of the subject site location is included on the previous page.

## **PROJECT ANALYSIS**

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### ***General Plan Conformance***

This project is consistent with the intent of the implementing policies and principles of the Land Use Element in the General Plan in that the proposed project improves the overall capacity within the existing service area and supports surrounding businesses, residents, and facilitates communication with reliable service and coverage.

### ***Zoning Conformance***

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.

The proposed project complies with the City's Zoning Ordinance in that wireless telecommunication facilities are conditional uses in all zoning districts. 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 is not anticipated to impact the visual aesthetics of the area because it is located in the rear of the property and abuts other industrial buildings and complies with the development standards in the Heavy Industrial Zoning District.

### ***Radio Frequency Emissions***

The FCC has established guidelines that place limits on human exposure to radio frequency 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. A Radio Frequency Site Compliance Report prepared by Site Safe dated June 23, 2015 was submitted with this application. This report addresses exposure to radio frequency electromagnetic fields in accordance with FCC Rules and Regulations for all individuals, classified in two groups: "Occupation or Controlled" and "General Public and Uncontrolled." Although the emissions from the proposed facility will be at a level of 100 to 1,000 times below the most conservative standard for such radio frequency emissions, the site is not in compliance with the mandatory safety signage. Staff recommends as a condition all required RF alert signage at the site access location shall be installed prior to building permit finalizing.

### ***Development Standards***

The project proposes no changes to the existing setbacks and internal floor area or lot coverage. There is no height restriction in the industrial zone, however, any structure exceeding three stories or 35-feet in height must obtain Planning Commission approval. The proposed antenna panels would be installed at a height of 72-feet measured from finished grade to top of the panels. The project would be consistent with the height standard with approval of this conditional use permit.

### ***Architecture***

The existing industrial building is a rectangle shaped building. The front portion of the building is a concrete building with a stucco exterior finish with a stone wainscot at the base of the building. The remainder of the building and mixing silo consist of corrugated metal panel walls. There are existing wireless communication antennae that are located on the façade of the walls enclosing the mixing silo.

The proposed 8-foot by 1-foot panels would be wall-mounted on a mounted frame that projects approximately 1-foot and ¾-inches. Site investigation revealed that a fully "stealth" facility was not possible because of the construction and materials of the silo. Furthermore, to incorporate a roof element to conceal proposed and existing antennas would create an awkward "top heavy"

condition. Staff recommends as a condition of approval that the proposed panel antennae be painted to match the building and other antennae. The proposed new equipment cabinet would be placed within the existing equipment enclosure and would not affect the visual aesthetics of the project site.

### **FINDINGS FOR APPROVAL**

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A finding is a statement of fact relating to the information that the Planning Commission has considered in making a decision. Findings shall identify the rationale behind the decision to take a certain action.

#### ***Conditional Use Permit (Section XI-10-57.04(F))***

- i. The proposed use, at the proposed location will not be detrimental or injurious to property or improvements in the vicinity nor to the public health, safety, and general welfare; and*

Based on staff's review, the project is consistent with this finding. The project shall be required to install Radio Frequency alert signs and provide the appropriate safeguards to reduce exposure to RF emissions. Furthermore, the RF Site Compliance Report provides that the maximum power density of the facility is within the FCC's Occupational limit and general public limit thresholds. As such, the wireless communication facility at the proposed location will not be detrimental or injurious to property or improvements in the vicinity nor to the public health, safety, and general welfare.

- ii. The project is consistent with the Milpitas General Plan.*

The project is consistent with the Milpitas General Plan in that the project improves the existing capacity for wireless service to the surrounding Milpitas area and facilitates communication and economic pursuits. The project proposed three new panel antennas and associated equipment that enhances the capacity for T-mobiles wireless services. The proposed co-location on an existing wireless facility allows customers to conduct commercial and personal business without creating aesthetic disharmony at the site, or adverse impacts on surrounding development. This project is consistent with the below General Plan policies:

- Policy 2.a-I-3: Encourage economic pursuits which will strengthen and promote development through stability and balance.
- Policy 2.a-I-7: Provide opportunities to expand employment, participate in partnerships with local businesses to facilitate communication, and promote business retention.
- Principle 2.d-G-1: Provide all possible community facilities and utilities of the highest standards commensurate with the present and anticipated needs of Milpitas, as well as any special needs of the region.

- iii. The project is consistent with the Milpitas Zoning Ordinance.*

The project is consistent with this finding because wireless communication facilities are conditionally permitted uses in all zoning districts and it conforms to all applicable standards set forth in Section XI-10-13.09 (Wireless Communications Facilities) of the Zoning Ordinance. The project is exempt from the maximum height allowed as per Section XI-10-55.02. Lastly, the screened equipment cabinet located at the base of the transmission tower is in compliance with the Zoning Ordinance.

## **ENVIRONMENTAL REVIEW**

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The Planning Division conducted an environmental assessment of the project in accordance with the California Environmental Quality Act (CEQA). The project is categorically exempt from further CEQA review under Section 15301 (Existing Facilities) of the CEQA Guidelines. This project is exempt on the basis that it is an existing facility that is used to provide a public utility service.

## **PUBLIC COMMENT/OUTREACH**

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Staff provided public notice the application in accordance with City and State public noticing requirements. At the time of writing this report, there have been no inquiries from the public. A notice was published in the Milpitas Post on October 16, 2015. In addition, 504 notices were sent to owners and occupants within 1,000 of the project site. A public notice was also provided on the project site, on the City's Website, [www.ci.milpitas.ca.gov](http://www.ci.milpitas.ca.gov), and posted at City Hall.

## **CONCLUSION**

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The proposed facility will help provide for a reliable high-speed wireless network that will enable businesses and individuals to access the internet. The project will not be detrimental to public health or safety of persons working or residing in the neighborhood or injurious to public improvements and private properties. The facility falls significantly below all State and federal regulations for emission of non-ionizing radiation.

## **RECOMMENDATION**

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STAFF RECOMMENDS THAT the Planning Commission:

1. Open and Close Public Hearing; and
2. **Adopt Resolution No. 15-033 approving Conditional Use Permit No. UP15-0011 to add three new wall mounted panel antennas and associated equipment to an existing wireless telecommunication facility subject to the conditions of approval.**

## **ATTACHMENTS**

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- A: Resolution No. 15-033
- B: Project Plans
- C: Site Compliance Report
- D: Photo Simulations
- E: Telecommunication Questionnaire Form
- F: FCC License
- G Environmental Information Form