

SPECIAL USE PERMIT

FILE NO. SP11-039

LOCATION OF PROPERTY East side of San Felipe Road, approximately 730 feet northerly of Delta Road (3880 San Felipe Road)

ASSESSOR'S PARCEL NUMBER 660-23-003

ZONING DISTRICT A – Agricultural

GENERAL PLAN DESIGNATION Residential Neighborhood

PROPOSED USE Special Use Permit for the installation of a new 60 foot tall wireless communications antenna slimline monopole and associated equipment on a 2.5 gross acre site.

ENVIRONMENTAL STATUS Exempt

OWNER Alan Campbell
AT&T Corporate Real Estate
2600 Camino Ramon, 3E300C
San Ramon, CA 94583

APPLICANT James Singleton
NSA Wireless, Inc.
2000 Crown Canyon Place, Suite 400
San Ramon, CA 94583

FACTS

The Director of Planning finds that the following are the relevant facts regarding this proposed project:

1. This site has a designation of Residential Neighborhood on the adopted Envision San José 2040 General Plan Land Use/Transportation Diagram.
2. The site is located in the A – Agricultural Zoning District.
3. The subject site is 2.5 gross acres in size.
4. The site is surrounded by existing single-family residential development to the north, south, and east. To the west is a vacant parcel. Evergreen Elementary School is located to the northwest of the site.
5. This Special Use Permit request is to allow installation of a new wireless communications antenna slimline monopole and associated equipment within an enclosure.
6. Under the provisions of Section 20.20.100 of the San José Municipal Code, a Special Use Permit is required for the installation of a slimline monopole.
7. The diameter of the monopole is 18 inches, and is 60 feet in height; the radome enclosing the antennas has a diameter of 30 inches.

8. Under the provisions of Section 20.20.230 of the San José Municipal Code, the Director of Planning may grant a reduction in the minimum required setback of 300 feet from an abutting property zoned or used for residential purposes for new structures on a lot in the A-Agriculture Zoning District.
9. The subject site is located adjacent to residentially zoned properties with residential uses.
10. There is an existing approximately 18,000 square foot building located at the subject site.
11. The size of the proposed equipment enclosure for the wireless communications antenna slimline monopole and associated equipment is approximately 294 square feet or approximately 1.6 percent of the square footage of the existing structures on the subject site.
12. The aggregate total square footage of the proposed equipment enclosure for the monopole and associated equipment to be added to the subject site is approximately 1.6 percent of the square footage of the existing structures on the subject site.
13. The proposed monopole and associated equipment to be added to the subject site do not significantly diminish the existing, legal nonconforming setback, and, in any event do not reduce a setback to less than fifty feet. The proposed monopole is approximately 103 feet from the nearest residential property line to the east.
14. The proposed 60-foot tall monopole structure exceeds the height of existing structures located on the subject site and the maximum 35-foot height allowance established pursuant to the Zoning Code for properties in the A-Agriculture Zoning District. Section 20.80.1900 of the San José Municipal Code allows the maximum height of a wireless communications antenna to be increased over the required maximum height of the zoning district in which it is located up to a maximum of sixty feet provided that the antenna is a wireless communications antenna slimline monopole.
15. The proposal includes planting of 16 pine trees along the north, east, and south perimeter of the site.
16. The Director of Planning, Building, and Code Enforcement found the proposed project to be exempt pursuant to Section 15303 of the California Environmental Quality Act (CEQA).

FINDINGS

Pursuant to Section 20.20.230 of the San José Municipal Code the Director of Planning finds, based on the analysis of the above facts, that:

1. The subject site or lot:
 - a. Is located adjacent to a residentially zoned property or is located next to a residential use; and
 - b. Has substantial existing development on the subject site; and
2. The sizes of any and all additions or structures to be added to the subject site or lot do not exceed fifty percent of the square footage of the existing structures on the subject site or lot and for which development permits were obtained prior to February 19, 2001; and
3. The aggregate total square footage of all additions or new structures to be added to the subject site or lot do not exceed fifty percent of the square footage of the existing structures on the subject site or lot as of February 19, 2001; and

4. Any addition or structure to be added to the subject site or lot do not significantly diminish the existing, legal nonconforming setback, and, in any event no addition or structure to be added to the subject site or lot reduces a setback to less than fifty feet; and
5. The proposed monopole structure exceeds the height of existing structures located on the subject site or lot, and the maximum height allowance established pursuant to this title for the Zoning District; however, Section 20.80.1900 of the San José Municipal Code allows the maximum height of a wireless communications antenna to be increased over the required maximum height of the zoning district in which it is located up to a maximum of sixty feet provided that the antenna is a wireless communications antenna, slimline monopole.

Further, the Director of Planning concludes and finds, based on the analysis of the above facts, that:

1. The interrelationship between the orientation, location and elevations of the proposed monopole and related equipment and other uses on-site are mutually compatible and aesthetically harmonious in that:
 - a. The proposed monopole and equipment enclosure is located near the southeast corner of an existing 1-story stucco building adjacent to an existing equipment enclosure. The proposal meets the Zoning Code wireless communications antenna, slimline monopole design standard with a pole diameter not exceeding 18 inches and antennas screened by an enclosure that does not exceed 36 inches in diameter.
 - b. Parking spaces are not being displaced and circulation aisles are not affected by this proposal.
 - c. The proposed project conforms in all respects to the provisions of Title 20 of the San José Municipal Code.
2. The orientation, location and elevation of the proposed building(s), structure(s) and other uses on the site are compatible with and are aesthetically harmonious with adjacent development or the character of the neighborhood in that:
 - a. The proposed development does not unreasonably interfere with the light and air available to adjacent sites.
 - b. The proposal meets the Zoning Code wireless communications antenna, slimline monopole design standard with a pole diameter not exceeding 18 inches and antennas screened by an enclosure that does not exceed 36 inches in diameter.
 - c. The proposed project complies with the applicable criteria of City Council Policy 6-20, Land Use Policy for Wireless Communication Facilities. The guideline for minimum setback of a 60-foot tall monopole from a residential property line is 60-feet. The proposed monopole is approximately 103-feet from the nearest residential property line. The project includes planting of 16 new pine trees along the north, east and south property lines.
 - d. The proposed monopole and associated equipment meet the criteria described in section 20.20.230 of the Zoning Code for a reduction in the minimum required setback from an abutting property zoned or used for residential purposes.
3. The environmental impacts of the project will not have an unacceptable negative effect on adjacent property or properties in that:
 - a. 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. The project

will not have a significant adverse effect on the environment.

- b. The proposed project will not individually or cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the California Department of Fish and Game Code.
4. Landscaping, irrigation systems, walls and fences, features to conceal outdoor activities, exterior heating, ventilating, plumbing, utility and trash facilities are sufficient to maintain the appearance of the neighborhood.
5. Traffic access, pedestrian access and parking are adequate in that:
 - a. The proposed number, size and access of parking spaces comply with the requirements of the Zoning Ordinance.
 - b. The proposal does not affect existing vehicular or pedestrian access on the site and around the perimeter of the existing buildings.
6. This permit, as issued, furthers the policies of the General Plan, in that the project conforms to the General Plan Land Use/Transportation Diagram designation of Heavy Industrial.

Finally, based upon the above-stated findings and subject to the conditions set forth below, the Director of Planning finds and concludes pursuant to the Special Use Permit Finding (Section 20.100.820) of the San José Municipal Code:

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;
 - 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 development features prescribed in this Title, or as is otherwise required in order to integrate the use with existing and planned uses in the surrounding area; 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 quantity of traffic such use would generate; or by other forms of transit adequate to carry the kind and quantity of individuals such use would generate; and
 - b. By other public or private service facilities as are required.

Based upon the above-stated findings and subject to the conditions set forth below, the Director of Planning approves, pursuant to Part 7 of Chapter 20.100 of the San José Municipal Code, the subject proposal to allow the installation of a wireless communications antenna slimline monopole on the subject property.

APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. **Acceptance of Permit.** Per Section 20.100.290(B), should the applicant fail to file a timely and valid appeal of this Permit within the applicable appeal period, such inaction by the applicant shall be deemed to constitute all of the following on behalf of the applicant:
 - a. Acceptance of the Permit by the applicant; and

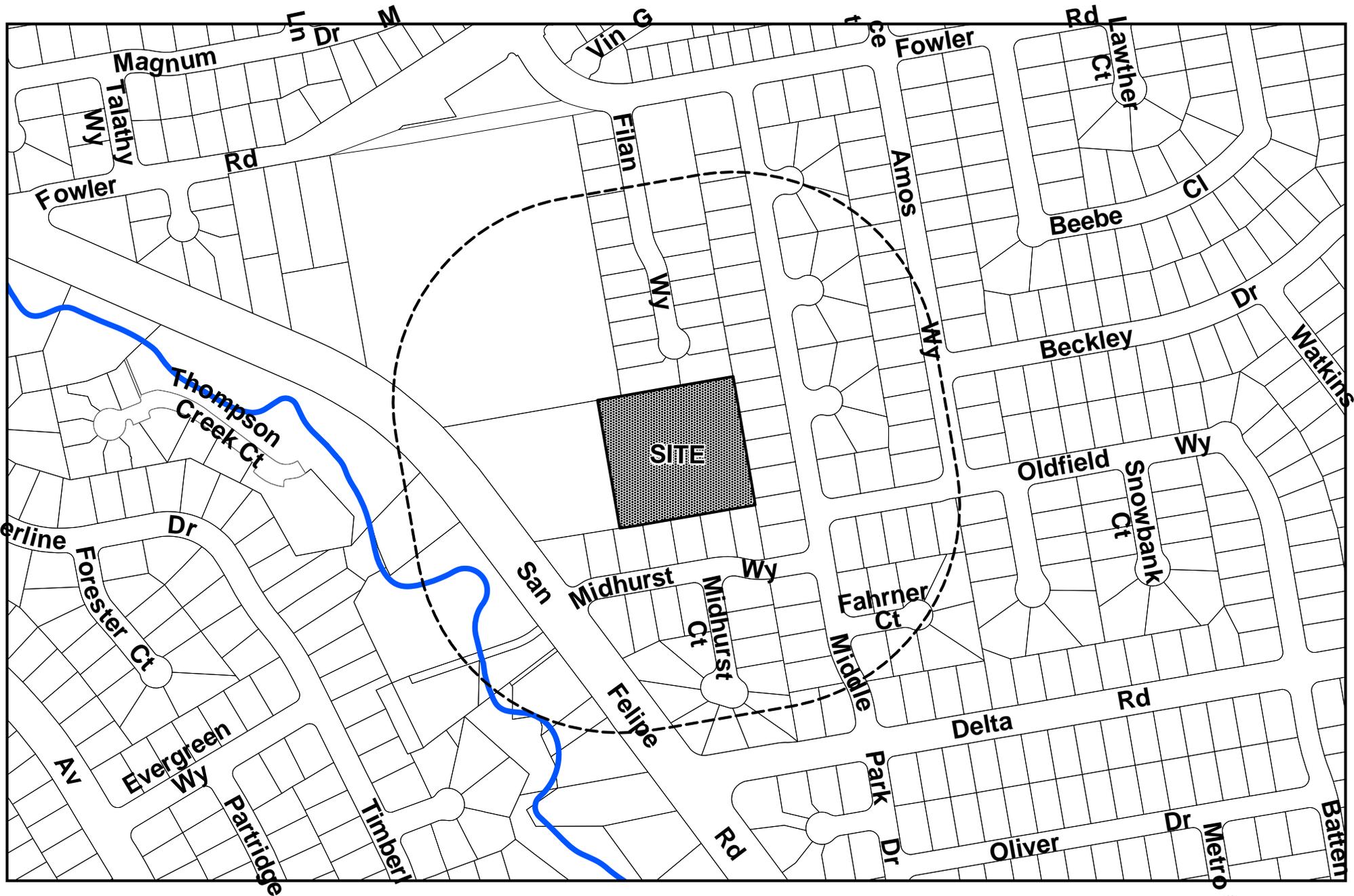
- b. Agreement by the applicant to be bound by, to comply with, and to do all things required of or by the applicant pursuant to all of the terms, provisions, and conditions of this permit or other approval and the provisions of Title 20 applicable to such Permit.
2. **Permit Expiration.** This Special Use Permit shall automatically expire four years from and after the date of issuance hereof by said Director, if within such four-year period, the proposed use of this site or the construction of buildings has not commenced, pursuant to and in accordance with the provision of this Planned Development Permit. The date of issuance is the date this Permit is approved by the Director of Planning. However, The Director of Planning may approve a Permit Adjustment/Amendment to extend the validity of this Permit in accordance with Title 20.
3. **Building Permit/Certificate of Occupancy.** If applicable, procurement of a Building Permit and/or Certificate of Occupancy from the Building Official for the structures described or contemplated under this permit shall be deemed acceptance of all conditions specified in this permit and the applicant's agreement to fully comply with all of said conditions. No change in the character of occupancy or change to a different group of occupancies as described by the Building Code shall be made without first obtaining a Certificate of Occupancy from the Building Official, as required under San Jose Municipal Code Section 24.02.610, and any such change in occupancy must comply with all other applicable local and state laws.
4. **Conformance with Plans.** Construction and development shall conform to the approved development plans entitled, "Verizon Wireless, San Felipe & Thompson, 193825, 3880 San Felipe Road, San Jose, CA 95135", last revised November 30, 2011, on file with the Department of Planning, Building and Code Enforcement.
5. **Nuisance.** As required by Title 20 of the San Jose Municipal Code, construction on this site shall be conducted in a manner, which does not create a public or private nuisance. The City must abate any such nuisance immediately upon notice.
6. **Wires.** All wires shall be located either within the pole or otherwise enclosed as to not be visible outside the equipment enclosure.
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, SP11-039, shall be printed on all construction plans submitted to the Building Division.
8. **Anti-Graffiti.** The applicant shall remove all graffiti from buildings, structures, fencing, and wall surfaces within 48 hours of defacement.
9. **Discontinuation of Use.** Upon discontinuation of the use of the subject antennas, the applicant shall remove all antenna improvements and related equipment/enclosures associated with this permit within 30 days.
10. **Co-location.** The owner(s) and operators of the proposed antenna support structure shall fully cooperate and allow the co-location of antennas for other providers. Other wireless providers shall also be allowed to add on to existing at grade equipment enclosures.
11. **Revocation.** This Special Use Permit is subject to revocation for violation of any of its provisions or conditions.

APPROVED and issued on this 3rd day of February 2012.

Joseph Horwedel, Director
Planning, Building, and Code Enforcement

Deputy

DRAFT



File No: SP11-039

District: 8

Noticing Radius: 500 Feet

