



Agenda Report

24-1256

Agenda Date: 1/15/2025

REPORT TO PLANNING COMMISSION

SUBJECT

Public Hearing Continuance: Action on Conditional Use Permit (PLN23-00148) for a New Unmanned AT&T Telecommunication Facility with the Installation of a 60-Foot-Tall Monotree or an Alternative Design with Three 42'-6" Monopoles Located in the Parking Lot at 3111 Benton Street

REPORT IN BRIEF

File No.: PLN23-00148

Project: Conditional Use Permit for a new unmanned AT&T telecommunication facility with the installation of 60-foot-tall monotree or an alternative design with three 42'-6" monopoles located in the parking lot.

Applicant: Steve Proo, Complete Wireless Consulting

Owner: Santa Clara First Baptist Church

General Plan: Public / Quasi Public

Zoning: Public / Quasi Public (PQP)

Site Area: 3.15 acres

Existing Site Conditions: The project site is built with an existing church and a paved parking lot. There is an existing cell site located on the roof of the church.

Surrounding Land Uses:

North: Single-family uses

East: Multi-family and single-family uses

South: Single-family and public uses (Santa Clara High School)

West: Multi-family uses

Issues: Consistency with the City's General Plan and Zoning Ordinance

Staff Recommendation: Adopt a resolution approving the Conditional Use Permit for a new unmanned AT&T telecommunication facility with the installation of a 60-foot-tall monotree, subject to findings and conditions of approval.

BACKGROUND

On March 23, 2023, Complete Wireless Consulting, applicant, filed an application requesting a Conditional Use Permit (File No. PLN23-00148) for a new unmanned telecommunication facility for AT&T at 3111 Benton Street.

The subject property has a General Plan land use designation of Public / Quasi Public and is zoned PQP (Public / Quasi Public) and has a General Plan land use designation of Very Low Density Residential. The project site is located to the northeast of Benton Street and Pomeroy Avenue. The property is about 3.15 acres and is currently built with an existing church, paved parking lot, and an

existing cell site on the roof of the church. According to Santa Clara City Code (SCCC) Section 18.66.040.A, Conditional Use Permit approval is required for all new wireless telecommunication facilities.

This project was heard by the Planning Commission at their hearing on August 21, 2024, where staff provided a presentation on the project followed by a presentation from the applicant. The staff report is included as Attachment 1. There were three public speakers that spoke in opposition of the project with concerns related to the proposed diesel generator, health risks, and the location of the new telecommunication facility on the site close to residences. After the public discussion, the applicant requested a continuance of this item to the September 11, 2024, Planning Commission meeting to allow additional time for research and review of comments received during testimony.

At the September 11, 2024, Planning Commission meeting, the applicant requested a further continuance as they were not ready to provide the additional information to address the comments. Since wireless telecommunications facility requests are subject to shot clock time limits specified by the Federal Communications Commission, the City and the applicant entered into a tolling agreement expiring November 15, 2024 to allow for the additional continuance. Shot clock time limits under California Government Code Section 65964.1 provides that an application for a wireless telecommunications facility is "deemed approved" if the local government has not approved or disapproved it within the applicable time period under the FCC Shot Clock ruling.

This project was noticed again for the October 23, 2024 Planning Commission hearing. The staff report is included as Attachment 2. For the October 23rd Planning Commission hearing, the applicant made one change to the project in that the diesel backup generator was removed and replaced by a battery cabinet. There were three public speakers that spoke in opposition of the project. The Commission then deliberated on the project, including questioning staff and the applicant on an alternative design for the site. The Commission then voted to continue the item with re-noticing for the applicant to present the alternative three monopole design. The City and the applicant entered into a second tolling agreement, expiring January 15, 2025, to facilitate this additional consideration.

The project was noticed for the December 4, 2024 Planning Commission Hearing. The City and the applicant entered into a third tolling agreement, expiring February 15, 2025, to facilitate this additional consideration.

DISCUSSION

At the December 4, 2024 Planning Commission hearing, staff provided a presentation on the project followed by a presentation from the applicant. The staff report is included as Attachment 3. Staff maintained its recommendation to approve a 60-foot-tall monotree on the subject site due to a monotree appearance fitting more contextually with the overall neighborhood. The applicant also presented information on the alternative design of three 42'-6" Monopoles located in the parking lot.

There were eight public speakers that spoke in opposition of the project with concerns related to aesthetics, neighborhood compatibility, devaluation of property, radio frequency emissions, and that alternative locations should be considered.

The Commission then deliberated on the project, including questioning the applicant on the alternative locations that were considered. The applicant responded that a number of sites in the

vicinity were considered and ruled out as unsuitable with the exception of the City's Central Park as no response was received from the City on the availability of the site for a wireless facility.

After deliberation, the Commission voted to continue the item to the January 15, 2025 Planning Commission hearing with direction to staff to follow up with the Parks Department on the Central Park site.

In response to the Commission request, the following is staff's response with follow up items listed below in bold, followed by staff comments in regular text:

1. The potential location of the Wireless Facility in Central Park:

City staff has reviewed the possibility of placing the proposed Wireless Facility in Central Park and has determined that Santa Clara City Charter § 714.1 would present a significant impediment to this proposal. Santa Clara City Charter § 714.1 requires any proposed sale, disposal, lease, or change in use of City owned parkland lasting 180 days or more to be approved by a two-thirds majority of voters. The provisions of the City Charter would apply here because the City would need to lease the underlying property to the applicant and such lease would have a term exceeding 180 days. Typically, lease agreements for the installation of telecommunications facilities have multi-year terms (10-15 years) with options to extend.

If the City decides to install the Wireless Facility in Central Park, the City would first need to submit the proposal to the voters at a general municipal election in accordance with the City Charter. This would significantly delay the Project, since elections must be held on specific dates fixed by the Elections Code; the soonest this question could be placed on the ballot would be a special election on November 4, 2025. There are also significant costs and expenses associated with placing a measure on the ballot. For the general election in November 2024, the cost to put a question on the ballot was approximately \$118,000. The cost of a special election would be significantly higher.

In addition, given the high two-thirds majority threshold needed to prevail, there is a strong likelihood that such a measure would not pass. In November 2024, approximately 44,000 residents voted in the election. If a comparable number voted on this proposal, it would take an affirmative vote of 29,334 persons to approve the lease.

In the event that such a ballot measure was successful, City staff would still need to negotiate terms for a lease agreement, which would then be subject to Council approval. The Parks Department reviewed the proposal and indicated that before they could consider such a proposal, they would first need input from the Parks and Recreation Commission and the City Council, and would need to conduct community outreach.

Additionally, the applicant and Parks Department staff did a thorough examination of the entirety of Central Park to identify any other potential locations including the five locations that were suggested by the public. Three of them had to be eliminated due to a planned parking entry construction project. Another site was ruled out based on park staff preference as it was near main walking paths. In addition, any area on the eastern side of the park, including the lights of the baseball field, did not meet the radio frequency needs of AT&T. Unfortunately, given the park's existing infrastructure, including the recreation center, veteran's memorial, new playground along with main park pathways,

as well as the two elementary schools located at the north and south of the park and future park entry construction, it was not possible to site a wireless facility at Central Park.

2. The need for the City to have an infrastructure plan that would include identified locations for new wireless facilities.

Based on staff's knowledge, wireless companies determine locations on a project-by-project basis based on the need for coverage and increased demand. The wireless companies then work with individual property owners and negotiate use of their property. While the City could identify permitted as of right locations for wireless facilities, this would not necessarily align with the needs or demands of the wireless carriers to provide the necessary coverage.

Resident Concerns:

Since the December 4 Planning Commission meeting, the surrounding neighborhood has provided additional written comments. In general, the issues raised are:

1. Radio Frequency (RF) emissions from cell towers.
2. Safety due to fire concerns on cell towers.
3. International Fire Fighters Association review of cell towers.
4. Other cities' distance requirements from residential neighborhoods.

The Federal Telecommunications Act of 1996 provides that local agencies can regulate location and aesthetics of wireless facilities, but cannot regulate based on health effects and cannot deny a provider a reasonable means to address an identified coverage gap within a certain area. More specifically, the Telecommunications Act preempts all municipal regulation of Radio Frequency (RF) emissions to the extent that wireless facilities comply with federal emissions standards. 47 U.S.C. § 332(c)(7)(B)(iv) ("No State or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Commission's regulations concerning such emissions."). As detailed in the December 4 staff report, the proposed facilities will not exceed federal emissions standards.

ENVIRONMENTAL REVIEW

The proposed project is categorically exempt from the California Environmental Quality Act (CEQA) per section 15303(d) of the CEQA Guidelines (New Construction of Utility Extensions).

FISCAL IMPACT

There is no impact to the City for processing the requested application other than administrative staff time and expense typically covered by processing fees paid by the applicant.

COORDINATION

This report has been coordinated with the City Attorney's Office and Parks & Recreation Department.

PUBLIC CONTACT

Public contact was made by posting the Planning Commission agenda on the City's official-notice bulletin board outside City Hall Council Chambers. A complete agenda packet is available on the City's website and in the City Clerk's Office at least 72 hours prior to a Regular Meeting and 24

hours prior to a Special Meeting. A hard copy of any agenda report may be requested by contacting the City Clerk's Office at (408) 615-2220, email clerk@santaclaraca.gov [<mailto:clerk@santaclaraca.gov>](mailto:clerk@santaclaraca.gov) or at the public information desk at any City of Santa Clara public library.

On November 21, 2024, a notice of public hearing on December 4, 2024 for this item was mailed to property owners within 500 feet of the project site. At that hearing this item was continued to date certain of January 15, 2025, therefore no additional noticing was sent. At the time of this staff report, Planning staff has received 16 public comments in opposition to the proposed project which have been compiled in Attachment 20 Correspondence.

ALTERNATIVES

1. **Adopt** a Resolution to approve a Conditional Use Permit for a new unmanned AT&T wireless telecommunication facility with the installation of a 60-foot-tall monotree at 3111 Benton Street, subject to findings and conditions of approval.
2. **Adopt** a Resolution to approve a Conditional Use Permit for a new unmanned AT&T wireless telecommunication facility with the installation of three, 42'-6" monopoles 3111 Benton Street, subject to findings and conditions of approval.
3. **Disapprove** the Conditional Use Permit and make specific findings as to the basis for disapproval.

RECOMMENDATION

1. **Determine** that the project is categorically exempt from formal environmental review per Section 15303(d), New Construction of Utility Extensions, of the CEQA Guidelines; and
2. **Adopt** a Resolution to approve a Conditional Use Permit for a new unmanned AT&T wireless telecommunication facility with the installation of a 60-foot-tall monotree at 3111 Benton Street, subject to findings and conditions of approval.

Reviewed by: Alexander Abbe, Assistant City Attorney

Approved by: Afshan Hamid, Community Development Department Director

ATTACHMENTS

1. August 21, 2024 Planning Commission Staff Report
2. October 23, 2024 Planning Commission Staff Report
3. December 4, 2024 Planning Commission Staff Report
4. Development Plans - Monotree
5. Visual Simulations - Monotree
6. Letter of Justification
7. Development Plans - 3 Monopoles
8. Visual Simulations - 3 Monopoles
9. Resolution to Approve the Conditional Use Permit - Monotree
10. Conditions of Approval - Monotree
11. Resolution to Approve the Conditional Use Permit - 3 Pole Design

12. Conditions of Approval - 3 Pole Design
13. Coverage Map
14. Property Value Study
15. Real Estate Study
16. Shade Report
17. Radio Frequency Study - Monotree
18. Radio Frequency Study - 3 Pole Design
19. Noise Study
20. Public Correspondence