

**RECOMMENDED
CONDITIONS OF APPROVAL AND
STANDARD DEVELOPMENT REQUIREMENTS
4/13/15**

Planning Application **2014-8023**
787 N. Mary Ave.

Use Permit to allow a new 54-foot tall wireless facility (mono-eucalyptus)
in the parking lot of an industrial site

The following Conditions of Approval [COA] and Standard Development Requirements [SDR] apply to the project referenced above. The COAs are specific conditions applicable to the proposed project. The SDRs are items which are codified or adopted by resolution and have been included for ease of reference, they may not be appealed or changed. The COAs and SDRs are grouped under specific headings that relate to the timing of required compliance. Additional language within a condition may further define the timing of required compliance. Applicable mitigation measures are noted with "Mitigation Measure" and placed in the applicable phase of the project.

In addition to complying with all applicable City, County, State and Federal Statutes, Codes, Ordinances, Resolutions and Regulations, Permittee expressly accepts and agrees to comply with the following Conditions of Approval and Standard Development Requirements of this Permit:

GC: THE FOLLOWING GENERAL CONDITIONS AND STANDARD DEVELOPMENT REQUIREMENTS SHALL APPLY TO THE APPROVED PROJECT.

GC-1. CONFORMANCE WITH APPROVED PLANNING APPLICATION:

All building permit drawings and subsequent construction and operation shall substantially conform with the approved planning application, including: drawings/plans, materials samples, building colors, and other items submitted as part of the approved application. Any proposed amendments to the approved plans or Conditions of Approval are subject to review and approval by the City. The Director of Community Development shall determine whether revisions are considered major or minor. Minor changes are subject to review and approval by the Director of Community Development. Major changes are subject to review at a public hearing. [COA] [PLANNING]

GC-2. COMPLY WITH APPLICABLE REGULATIONS:

The facility must comply with any and all applicable regulations and standards promulgated or imposed by any state or federal agency, including but not limited to the Federal Communications Commission and Federal Aviation Agency.[SDR] [PLANNING]

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GC-3. PERMIT EXPIRATION:

The permit shall be null and void two years from the date of approval by the final review authority at a public hearing if the approval is not exercised, unless a written request for an extension is received prior to expiration date and is approved by the Director of Community Development. [SDR] (PLANNING)

GC-4. TESTING WITHIN 15 DAYS:

The applicant shall test any wireless telecommunications site installed in the City of Sunnyvale within 15 days of operating the tower. The test shall confirm that any Emergency 911 wireless call made through the wireless telecommunications site shall provide Enhanced 911 capability (including phase 2 information when available from the caller's device) and direct the call to the City of Sunnyvale Department of Public Safety dispatcher, ensuring phase 2 information is transferred. If the call is to be directed elsewhere pursuant to State and Federal law the applicant shall ensure that the Enhanced 911 information transfers to that dispatch center. This capability shall be routinely tested to ensure compliance as long as the approved wireless telecommunications site is in service. [SDR] [PLANNING]

GC-5. HOLD HARMLESS:

The wireless telecommunication facility provider shall defend, indemnify, and hold harmless the city or any of its boards, commissions, agents, officers, and employees from any claim, action or proceeding against the city, its boards, commission, agents, officers, or employees to attack, set aside, void, or annul, the approval of the project when such claim or action is brought within the time period provided for in applicable state and/or local statutes. The city shall promptly notify the provider(s) of any such claim, action or proceeding. The city shall have the option of coordinating in the defense. Nothing contained in this stipulation shall prohibit the city from participating in a defense of any claim, action, or proceeding if the city bears its own attorney's fees and costs, and the city defends the action in good faith. [SDR] [PLANNING]

GC-6. LIABILITY:

Facility lessors shall be strictly liable for any and all sudden and accidental pollution and gradual pollution resulting from their use within the city. This liability shall include cleanup, intentional injury or damage to persons or property. Additionally, lessors shall be responsible for any sanctions, fines, or other monetary costs imposed as a result of the release of pollutants from their operations. Pollutants include any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals, and waste. Waste includes materials to be recycled, reconditioned or reclaimed. [SDR] [PLANNING]

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GC-7. NO THREAT TO PUBLIC HEALTH:

The facility shall not be sited or operated in such a manner that it poses, either by itself or in combination with other such facilities, a potential threat to public health. To that end, the subject facility and the combination of on-site facilities shall not produce at any time power densities in any inhabited area that exceed the FCC's Maximum Permissible Exposure (MPE) limits for electric and magnetic field strength and power density for transmitters or any more restrictive standard subsequently adopted or promulgated by the federal government. [SDR] [PLANNING]

GC-8. CONFORMANCE WITH PREVIOUS PLANNING PERMIT:

The subject site shall comply with all conditions of approval and requirements of planning application (INSERT PLANNING APPLICATION NUMBER). [PLANNING] [COA]

PS: THE FOLLOWING CONDITIONS SHALL BE MET PRIOR TO SUBMITTAL OF BUILDING PERMIT, AND/OR GRADING PERMIT.

PS-1. REQUIRED REVISIONS TO PROJECT PLANS:

The plans shall be revised to address comments from the Administrative Hearing Officer, Planning Commission or City Council including the following:

- a) The wireless facility must be disguised to appear as a eucalyptus tree;
- b) The lowest elevation of simulated foliage must be 15 feet above ground level;
- c) The simulated trunk of the wireless facility must be covered completely in faux tree bark;
- d) Exterior materials shall be consistent in color and pattern with existing adjacent trees located on the project site;
- e) Tree pole design and specifications, including branch design and density of foliage exhibited by material samples, must be provided, and are subject to review by the Director of Community Development;
- f) The wireless facility and antennas must be painted to match surrounding vegetation located on the property.
- g) ***Added by Planning Commission at April 13, 2015 public hearing:
A more durable and visually appealing enclosure must surround the equipment shelter associated with the proposed wireless facility. [COA] [PLANNING]***

PS-2. EXTERIOR MATERIALS REVIEW:

Final exterior building materials and color scheme are subject to review and approval by the Planning Commission/Director of Community Development prior to submittal of a building permit. [COA] [PLANNING]

BP: THE FOLLOWING CONDITIONS SHALL BE ADDRESSED ON THE CONSTRUCTION PLANS SUBMITTED FOR ANY DEMOLITION PERMIT, BUILDING PERMIT, GRADING PERMIT, AND/OR ENCROACHMENT PERMIT AND SHALL BE MET PRIOR TO THE ISSUANCE OF SAID PERMIT(S).

BP-1. CONDITIONS OF APPROVAL:

Final plans shall include all Conditions of Approval included as part of the approved application starting on sheet 2 of the plans. [COA] [PLANNING]

BP-2. RESPONSE TO CONDITIONS OF APPROVAL:

A written response indicating how each condition has or will be addressed shall accompany the building permit set of plans. [COA] [PLANNING]

BP-3. NOTICE OF CONDITIONS OF APPROVAL:

A Notice of Conditions of Approval shall be filed in the official records of the County of Santa Clara and provide proof of such recordation to the City prior to issuance of any City permit, allowed use of the property, or Final Map, as applicable. The Notice of Conditions of Approval shall be prepared by the Planning Division and shall include a description of the subject property, the Planning Application number, attached conditions of approval and any accompanying subdivision or parcel map, including book and page and recorded document number, if any, and be signed and notarized by each property owner of record.

For purposes of determining the record owner of the property, the applicant shall provide the City with evidence in the form of a report from a title insurance company indicating that the record owner(s) are the person(s) who have signed the Notice of Conditions of Approval. [COA] [PLANNING]

BP-4. BLUEPRINT FOR A CLEAN BAY:

The building permit plans shall include a "Blueprint for a Clean Bay" on one full sized sheet of the plans. [SDR] [PLANNING]

BP-5. TREE PROTECTION PLAN:

Prior to issuance of a Demolition Permit, a Grading Permit or a Building Permit, whichever occurs first, obtain approval of a tree protection plan from the Director of Community Development. Two copies are required to be submitted for review. The tree protection plan shall include measures noted in Title 19 of the Sunnyvale Municipal Code and at a minimum:

- a) An inventory shall be taken of all existing trees on the plan including the valuation of all 'protected trees' by a certified arborist, using the latest version of the "Guide for Plant Appraisal" published by the International Society of Arboriculture (ISA).

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- b) All existing (non-orchard) trees on the plans, showing size and varieties, and clearly specify which are to be retained.
- c) Provide fencing around the drip line of the trees that are to be saved and ensure that no construction debris or equipment is stored within the fenced area during the course of demolition and construction.
- d) The tree protection plan shall be installed prior to issuance of any Building or Grading Permits, subject to the on-site inspection and approval by the City Arborist and shall be maintained in place during the duration of construction and shall be added to any subsequent building permit plans. [COA] [PLANNING/CITY ARBORIST]

PF: THE FOLLOWING CONDITIONS SHALL BE ADDRESSED ON THE CONSTRUCTION PLANS AND/OR SHALL BE MET PRIOR TO RELEASE OF UTILITIES OR ISSUANCE OF A CERTIFICATE OF OCCUPANCY.

PF-1. RF EMISSIONS STUDIES:

The applicant shall submit to the Director of Community Development Radio Frequency Emissions at least two reports of field measurements showing: 1.) The ambient level of RF emissions before construction of the facility and 2.) The actual level of emissions after the facility is in place and operating at or near full capacity. [COA] [PLANING]

PF-2. NOISE STUDIES:

The applicant shall submit to the Director of Community Development Noise Analysis with at least two reports of field measurements showing: 1.) The noise measurement before construction of the facility and 2.) The actual noise measurement after the facility is in place and operating at or near full capacity. [COA] [PLANING]

DC: THE FOLLOWING CONDITIONS SHALL BE COMPLIED WITH AT ALL TIMES DURING THE CONSTRUCTION PHASE OF THE PROJECT.

DC-1. BLUEPRINT FOR A CLEAN BAY:

The project shall be in compliance with stormwater best management practices for general construction activity until the project is completed and either final occupancy has been granted. [SDR] [PLANNING]

DC-2. TREE PROTECTION:

All tree protection shall be maintained, as indicated in the tree protection plan, until construction has been completed and the installation of landscaping has begun. [COA] [PLANNING]

AT: THE FOLLOWING CONDITIONS SHALL BE COMPLIED WITH AT ALL TIMES THAT THE USE PERMITTED BY THIS PLANNING APPLICATION OCCUPIES THE PREMISES.

AT-1. CERTIFICATION:

Before January 31 of each even numbered year following the issuance of any authorizing establishment of a wireless telecommunication facility, an authorized representative for each wireless carrier providing service in the City of Sunnyvale shall provide written certification to the City executed under penalty of perjury that (i) each facility is being operated in accordance with the approved local and federal permits and includes test results that confirm the facility meets city noise requirements and federal RF emissions standards; (ii) each facility complies with the then-current general and design standards and is in compliance with the approved plans; (iii) whether the facility is currently being used by the owner or operator; and (iv) the basic contact and site information supplied by the owner or operator is current.. [SDR] [PLANNING]

AT-2. 10 YEAR RENEWAL:

Every owner or operator of a wireless telecommunication facility shall renew the facility permit at least every ten (10) years from the date of initial approval. If a permit or other entitlement for use is not renewed, it shall automatically become null and void without notice or hearing ten (10) years after it is issued, or upon cessation of use for more than a year and a day, whichever comes first. Unless a new use permit or entitlement of use is issued, within one hundred twenty (120) days after a permit becomes null and void all improvements, including foundations and appurtenant ground wires, shall be removed from the property and the site restored to its original pre-installation condition within one hundred eighty (180) days of nonrenewal or abandonment. [SDR] [PLANNING]

AT-3. MINIMIZE NOISE:

The facility shall be operated in such a manner so as to minimize any possible disruption caused by noise. Backup generators shall only be operated during periods of power outages, and shall not be tested on weekends or holidays, or between the hours of 10:00 p.m. and 7:00 a.m. on weekday nights. At no time shall equipment noise from any source exceed an exterior noise level of 60 dB at the property line. [SDR] [PLANNING]

AT-4. RF EMISSIONS:

Certification must be provided that the proposed facility will at all times comply with all applicable health requirements and standards pertaining to RF emissions. [SDR] [PLANNING]

AT-5. MAINTAIN CURRENT INFORMATION:

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The owner or operator shall maintain, at all times, a sign mounted on the outside fence showing the operator name, site number and emergency contact telephone number. The owner or operator of the facility shall also submit and maintain current at all times basic contact and site information on a form to be supplied by the city. The applicant shall notify city of any changes to the information submitted within thirty (30) days of any change, including change of the name or legal status of the owner or operator. This information shall include, but is not limited to the following:

- a) Identity, including name, address and telephone number, and legal status of the owner of the facility including official identification numbers and FCC certification, and if different from the owner, the identity and legal status of the person or entity responsible for operating the facility.
- b) Name, address and telephone number of a local contact person for emergencies.
- c) Type of service provided. [SDR] [PLANNING]

AT-6. GOOD REPAIR:

All facilities and related equipment, including lighting, fences, shields, cabinets, and poles, shall be maintained in good repair, free from trash, debris, litter and graffiti and other forms of vandalism, and any damage from any cause shall be repaired as soon as reasonably possible so as to minimize occurrences of dangerous conditions or visual blight. Graffiti shall be removed from any facility or equipment as soon as practicable, and in no instance more than forty-eight (48) hours from the time of notification by the city. [SDR] [PLANNING]

AT-7. RESPONSIBILITY TO MAINTAIN:

The owner or operator of the facility shall routinely and regularly inspect each site to ensure compliance with the standards set forth in the Telecommunications Ordinance. [SDR] [PLANNING]

AT-8. NO INTERFERENCE WITH CITY COMMUNICATION SYSTEMS:

The facility operator shall be strictly liable for interference caused by the facility with city communication systems. The operator shall be responsible for all labor and equipment costs for determining the source of the interference, all costs associated with eliminating the interference, (including but not limited to filtering, installing cavities, installing directional antennas, powering down systems, and engineering analysis), and all costs arising from third party claims against the city attributable to the interference. [SDR] [PLANNING]