



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Planning Commission

**SUBJECT:** SEE BELOW

**DATE:** May 11, 2021

---

**COUNCIL DISTRICT:** 7

**SUBJECT: FILE NO. C20-014: CONFORMING REZONING ZONING FROM THE A AGRICULTURE ZONING DISTRICT (A) TO THE PQP PUBLIC/QUASI-PUBLIC ZONING DISTRICT (PQP) ON AN APPROXIMATELY 3.49-GROSS ACRE SITE ON THE EAST SIDE OF SENTER ROAD APPROXIMATELY 415 FEET SOUTHERLY OF EAST CAPITAL EXPRESSWAY (3195 SENTER ROAD).**

**FILE NO. CP20-012: CONDITIONAL USE PERMIT TO ALLOW THE RE-PERMITTING OF AN EXPIRED PERMIT FOR AN EXISTING 63-FOOT HIGH MONOPOLE WITH NINE (9) PANEL ANTENNAS, (9) RADIOS, AN EQUIPMENT ENCLOSURE, ASSOCIATED EQUIPMENT, AND THE CONTINUATION OF THE ASSEMBLY (CHURCH) USE ON A PORTION OF AN APPROXIMATELY 3.49-GROSS ACRE SITE.**

## **RECOMMENDATION**

The Planning Commission voted 5-1-1 (Commissioner Garcia abstain and Commissioner Bonilla absent) to recommend that the City Council:

- a. Consider the Exemption in accordance with the California Environmental Quality Act (CEQA) Guidelines Section 15301 for existing facilities; and
- b. Adopt an ordinance of the City of San José rezoning certain real property of approximately 3.49 acres on the east side of Senter Road approximately 415 feet southerly of East Capital Expressway (3195 Senter Road) from the A Agriculture Zoning District (A) to the PQP Public/Quasi-Public Zoning District (PQP).
- c. Adopt a resolution approving a Conditional Use Permit to allow the re-permitting of an expired permit for an existing 63-foot high monopole with nine (9) panel antennas, (9) radios, an equipment enclosure, associated equipment, and the continuation of the assembly (church) use on a portion of an approximately 3.49-gross acre site.

## **OUTCOME**

Should the City Council approve the project, the site would be rezoned to PQP Public/Quasi-Public Zoning District and uses allowed in this designation such as the wireless facility and assembly uses (church) would be allowed to continue on the subject site.

## **BACKGROUND**

On April 28, 2021, the Planning Commission held a public hearing to consider the proposed Conforming Rezoning and Conditional Use Permit applications which appeared on the Consent Calendar of the Agenda. No members of the public spoke on the proposed project and there was no discussion by the Commission.

The Planning Commission voted 5-0-1-1 (Commissioner Garcia abstain; Commissioner Bonilla absent) to recommend approval, as was recommended by staff, to the City Council as part of the consent calendar with no separate discussion.

## **ANALYSIS**

A complete analysis of the issues regarding the proposed Conforming Rezoning and Conditional Use Permit, including General Plan conformance, is contained in the attached Planning Commission Staff Report.

## **CONCLUSION**

Should the City Council approve the project, the uses allowed in the PQP Public/Quasi-Public Zoning District would be allowed and the wireless facility and assembly uses (church) would be allowed to continue on the subject site.

## **EVALUATION AND FOLLOW-UP**

As noted above, if the project is approved by the City Council the site would be rezoned to the PQP Public/Quasi-Public Zoning District and the wireless facility and assembly uses (church) would be permitted

## **CLIMATE SMART SAN JOSE**

The recommendation in this memorandum has no effect on Climate Smart San José energy, water, or mobility goals.

### **POLICY ALTERNATIVES**

Should the City Council approve the project, the existing wireless facility and assembly uses would be permitted, and the site would be rezoned to PQP Public/Quasi-Public Zoning District.

Should the City Council deny the project, the uses allowed in the A Agriculture Zoning District would be allowed, and the site would not meet the minimum 20-acre lot development standard of the applicable zoning district. Additionally, the project for the existing wireless facility would not meet the site's 300-foot setback from residential property standard and would be an unpermitted non-conforming use. The assembly use (church) would be allowed to continue on the subject site.

### **PUBLIC OUTREACH/INTEREST**

Staff followed Council Policy 6-30: Public Outreach Policy. A notice of the public hearing was distributed to the owners and tenants of all properties located within 500-feet of the project site and posted on the City's website. The rezoning and conditional use permit was also published in a local newspaper, the Post Record. This staff report is also posted on the City's website. Staff has been available to respond to questions from the public.

### **COORDINATION**

Preparation of this memorandum has been coordinated with the City Attorney's Office.

HONORABLE MAYOR AND CITY COUNCIL

May 11, 2021

**Subject: File No. C20-014 & CP20-012**

Page 4

## **CEQA**

Under the provisions of Section 15301 for Existing Facilities of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), the Conditional Use Permit, Special Use Permit, and Rezoning are found to be 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. CEQA Guidelines Section 15301, Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. A complete analysis is contained in the attached staff report.

/s/

CHU CHANG, Secretary  
Planning Commission

For questions please contact Robert Manford, Planning Official, at (408) 535-7900.

Attachment: Planning Commission Staff Report



# Memorandum

**TO:** PLANNING COMMISSION  
**SUBJECT:** C20-014 and CP20-012

**FROM:** Chu Chang  
**DATE:** April 28, 2021

**COUNCIL DISTRICT: 7**

<b>Type of Permit</b>	Conforming Rezoning (File No. C20-014) Conditional Use Permit (File No. CP20-012)
<b>Demolition</b>	N/A
<b>Existing Land Use</b>	Wireless Communications Antenna and Assembly
<b>New Residential Units</b>	0
<b>New Square Footage</b>	0
<b>City Council Policy Review Items</b>	City Council Policy 6-20: Wireless Communication Facilities
<b>Tree Removals</b>	None
<b>Project Planner</b>	Rhonda Buss
<b>CEQA Clearance</b>	Exempt per CEQA Guidelines 15301 Existing Facilities

## RECOMMENDATION

Staff recommends that the Planning Commission recommend to the City Council to take all of the following actions:

1. Consider the Exemption in accordance with the California Environmental Quality Act (CEQA) Guidelines Section 15301 for existing facilities; and
2. Adopt an ordinance of the City of San José rezoning certain real property of approximately 3.49 acres on the east side of Senter Road approximately 415 feet southerly of East Capital Expressway (3195 Senter Road) from the A Agriculture Zoning District (A) to the PQP Public/Quasi-Public Zoning District (PQP).
3. Adopt a resolution approving a Conditional Use Permit to allow the re-permitting of an expired permit for an existing 63-foot high monopole with nine (9) panel antennas, (9) radios, an equipment enclosure, and associated equipment on a portion of an approximately 3.49-gross acre site.

**PROPERTY INFORMATION**

<b>Location</b>	East side of Senter Road approximately 415 feet southerly of East Capital Expressway (3195 Senter Road)
<b>Assessor Parcel No.</b>	494-01-017
<b>General Plan</b>	Public/Quasi-Public
<b>Growth Area</b>	N/A
<b>Zoning District</b>	A Agriculture
<b>Historic Resource</b>	N/A
<b>Annexation Date</b>	October 20, 1970 (Tully No. 9-A)
<b>Council District</b>	7
<b>Acreage</b>	Approximately 3.49 acres

**PROJECT SETTING AND BACKGROUND**

As shown on the attached Aerial Map ([Exhibit A](#)), the proposed project is located on an approximately 3.49-gross acre site located on the east side of Senter Road approximately 415 feet southerly of East Capital Expressway.

Access to the site is from two (2) driveways off of Senter Road. The site is developed with an existing religious building and accessory buildings, and an existing 63-foot high monopole with nine (9) panel antennas, nine (9) radios, an equipment enclosure, and associated equipment.

The project site is surrounded by schools to the north and east, and residential uses to the south and commercial uses to the west.

<b>SURROUNDING USES</b>			
	<b>General Plan</b>	<b>Zoning District</b>	<b>Existing Use</b>
<b>North</b>	Public/Quasi-Public	PQP Public/Quasi-Public	School (Rocketship Rising Stars Academy)
<b>South</b>	Mixed-Use Neighborhood	A(PD) Planned Development	Multi-Family Residential
<b>East</b>	Residential Neighborhood	R-1-8	School (Andrew P. Hill High School)
<b>West</b>	Public/Quasi-Public	R-1-8 (PD) Planned Development	Capitol Expressway Commercial

On April 01, 2020, the applicant’s representative, Jacob Hamilton, on behalf of Crown Castle GT Company LLC, submitted a Conditional Use Permit application, File No. CP20-012 to allow the re-permitting of an expired permit for an existing 63-foot high monopole with nine (9) panel antennas, (9) radios, an equipment enclosure, and associated equipment on the approximately 3.49-gross acre site.

On Sep 21, 2020, the applicant’s representative, Jacob Hamilton, on behalf of Seven Trees Baptist Church LLC, submitted a rezoning application, File No. C20-014 to allow a conforming rezoning from the A Agricultural Zoning District to the to PQP Public/Quasi Public Zoning District on the approximately 3.49-gross acre site.

The rezoning is requested so that the minimum lot size, monopole height, and setbacks will be consistent with the zoning district. With this rezoning to the PQP Public/Quasi Public Zoning District, the project also requires a special use permit for the Assembly use (i.e., church) on the site.

The existing monopole was originally approved under File Nos. CP96-052 and V96-032 on May 7, 1997 and expired on May 7, 2000. Subsequent File Nos. CP01-025 and V02-012 allowed for colocation and a reduced setback, which were approved on June 12, 2002 and expired on June 12, 2007. File Nos. CPA01-025-01 and V02-012 were approved to allow for the continued use of the wireless facility on June 11, 2007 and expired on June 11, 2017. Subsequently, Permit Adjustments AD09-444, AD09-1015, AD12-1049, AD12-1083, and AD15-871 were approved between 2009 and 2015 to allow for equipment upgrades. Due to the expiration of the original permits, a new Conditional Use Permit is required.

## ANALYSIS

The proposed Rezoning and Conditional Use Permit are analyzed with respect to conformance with:

1. Envision San José 2040 General Plan
2. San José Municipal Code
3. City Council Policy 6-20: Land Use Policy for Wireless Communications
4. California Environmental Quality Act (CEQA)

### Envision San José 2040 General Plan Conformance

#### *Land Use Designation*

As shown in the attached General Plan Map ([Exhibit B](#)), the subject site is designated **Public-Quasi/Public** on the Land Use/Transportation Diagram of the Envision San José 2040 General Plan.

Density: FAR N/A

This category is used to designate public land uses, including schools, colleges, corporation yards, homeless shelters, supportive housing for the homeless, libraries, fire stations, water treatment facilities, convention centers and auditoriums, museums, governmental offices and airports. Joint development projects which include public and private participation - such as a jointly administered public/private research institute or an integrated convention center/hotel/restaurant complex - are allowed. This category is also used to designate lands used by some private entities, including private schools, daycare centers, hospitals, public utilities, and the facilities of any organization involved in the provision of public services such as gas, water, electricity, and telecommunications facilities that are consistent in character with established public land uses. Private community gathering facilities, including those used for religious assembly or other comparable assembly activity, are also appropriate on lands with this designation. The appropriate intensity of development can vary considerably depending on potential impacts on surrounding uses and the particular Public/Quasi-Public use developed on the site.

*Analysis: The proposed conditional use permit for the wireless communication facility is consistent with the General Plan Designation of Public-Quasi/Public. The project is for a rezoning to P/QP and a conditional use permit. There is no FAR requirement in the P/QP General Plan designation, so FAR is not applicable to the monopole and also does not apply to the existing assembly use. The assembly building and wireless facility are both existing and there is no change to the square footage, building footprint, or height of the building. Since no FAR standard applies, the project is consistent with the General Plan Designation.*

The proposed project may be found to be consistent with the following goals and policies of the Envision San Jose 2040 General Plan:

- a. Goal IN-6 - Support the provision of state-of-the-art telecommunication services for households, businesses, institutions, and public agencies throughout the city to foster fiscal sustainability, an innovative economy, support environmental leadership, meet the needs of quality neighborhoods and advance other Envision General Plan goals.

*Analysis: While there are no new antennas with this application, as noted above, there have been upgrades to the facility. Permit Adjustments AD09-444, AD09-1015, AD12-1049, AD12-1083, and AD15-871 were approved between 2009 and 2015 to allow for equipment upgrades.*

- b. Goal IN-6.1 - Work with service providers to ensure access to and availability of a wide range of state-of-the-art telecommunication systems and services for households, businesses, institutions, and public agencies throughout the city.
- c. Policy CD-4.9 – Ensure the design of new structures is consistent or complementary with the surrounding neighborhood fabric (including but not limited to the prevalent scale and materials).
- d. Policy CD-4.12 - Visual amenities should be incorporated when structures such as wireless communication antennae are constructed. This includes landscaping measures to offset potential adverse visual impacts.

*Analysis: The wireless facility already exists on the site. The wireless facility allows for wireless communications coverage for residents, businesses, and commuters. A new tree is proposed for screening. Additionally, there is a radome on the slimline for screening. Both the pole and radome are required to be painted light grey.*

- e. Policy IP-8.2 Use the City's conventional zoning districts, contained in its Zoning Ordinance, to implement the Envision General Plan Land Use / Transportation Diagram.

*Analysis: Rezoning of the site from Agriculture zoning district PQP Public/Quasi-Public zoning district would allow the site to consistent with the minimum lot size, and the existing monopole to be consistent with the height and setbacks of the development standards of the zoning district.*

Wireless communication facilities requires a Conditional Use Permit, and Assembly uses require a Special Use Permit in the PQP Zoning District pursuant to [Section 20.40.100](#). Conformance with the development standards for the issuance of the CUP and SUP are discussed below.

## **Zoning Ordinance Conformance**

### **Land Use**

The subject site is zoned A Agriculture Zoning District and the project includes a rezoning to the PQP Public/Quasi-Public Zoning District.

The site was originally zoned A Agriculture for which Assembly was a permitted use. The site includes an Assembly use (church).

The wireless communications facility was a conditionally permitted use under A Agriculture. The site is to be rezoned to PQP to accommodate the existing monopole and bring into conformance with the new permit. Wireless facility use requires a conditional use permit in the PQP.

Assembly use requires a special use permit in the PQP zoning district.



**Development Standards**

**PQP Public Quasi-Public Zoning District– Minimum Setbacks and Height**

	<b>A Required</b>	<b>PQP Required</b>	<b>Existing/Proposed Monopole</b>	<b>Existing/Proposed Enclosure</b>	<b>Assembly Building</b>	<b>Accessory Buildings</b>
Minimum lot size	20 acres minimum	6,000 SF minimum	---	---	---	---
Maximum Height	35 or established in <a href="#">Chapter 20.85</a>	65 feet minimum	63 feet	6 feet	30 feet	12 feet
<b>PQP Setbacks</b>						
Front (E. Capitol Expressway)	---	10 feet minimum	68.46 feet	71.5 feet	420.23 feet	Varies 104.33 feet- 302.45 feet
Front (Senter Road)			637.5 feet	604.28 feet	163.58 feet	Varies 338.80 feet - 522.40 feet
Left, side interior (South)	---	None	145.42 feet	123.68 feet	89.21 feet	Varies 119 feet- 183.86 feet
Right, side interior (North)	---	None	61.26 feet	51.22 feet	35.11 feet	Varies 1.05 feet - 15.33 feet

*Analysis: As discussed above, the use, minimum lot size setbacks, and height are consistent with the PQP zoning development standards of both the assembly use and the wireless facility. By rezoning to PQP, the need for a variance for the wireless facility would be eliminated and the site would be consistent with the required minimum lot size providing for consistency with the zoning district.*

- a. Parking: Pursuant to San José Municipal Code [Section 20.90.060](#), one vehicle parking space and one bicycle parking space are required for the wireless facility, and assembly requires 1 vehicle parking space per 4 fixed seats, or 1 per 6 linear feet of seating, or 1 per 30 sq. ft. of area designed for assembly, used together or separately for worship. One bicycle parking space is required for the wireless facility.

*Analysis: All vehicle parking is existing, and no change is proposed for either the church or the wireless facility. There is one existing vehicle parking space provided for the wireless facility. Additionally, one bicycle parking space is shown within the equipment enclosure. Therefore, the project meets the required parking requirements.*

- b. Performance Standards: The performance standards for PQP are identified in Municipal Code [Section 20.40.600](#).
- i. Air Pollution. Total emissions from any use or combination of uses on a site shall not exceed the emissions and health risk thresholds as established by the director of planning.
- ii. Noise. The sound pressure level generated by any use or combination of uses on a property shall not exceed the decibel levels indicated in Table 20-105 at any property line, except upon issuance and in compliance with a special use permit as provided in [Chapter 20.100](#).

	Maximum Noise Level in Decibels at Property Line
Commercial or PQP use adjacent to a property used or zoned for residential purposes	55
Commercial or PQP use adjacent to a property used or zoned for commercial or other non-residential purposes	60

*Analysis: The acoustical report for the wireless facility dated August 14, 2020 prepared by Aspectus, Inc. (see attached Exhibit I) indicates that the noise level at the nearest residential property line would be 34 dBA, and the noise levels would be reduced to 37 dBA or lower at the commercial property line. The noise levels are below the allowed decibel levels and the project is consistent with the performance standards of the PQP district.*

*Additionally, the project will be compliant with the FCC Rules and Regulations, as described in OET Bulletin 65, upon implementation of the proposed remediation as stated in the Radio Frequency (RF) Site Compliance Report dated March 6, 2020, submitted by the applicant, on file with the Planning Division. A project condition of the wireless communication facility is to comply with all applicable FCC standards, including the Telecommunications Act of 1996 with regards to the emission of electromagnetic frequency radiation.*

## Council Policies

### Wireless Communications Facilities Policy

As stated in the [City Council's Land Use Policy for Wireless Communication Facilities](#) (Council Policy 6-20), San José has a strong interest in achieving and maintaining a high level of wireless communication service availability for businesses and residents. However, visual impacts and residential interface concerns can result from the development of wireless communication facilities. The purpose of the policy is to identify criteria to minimize and appropriately locate wireless communications antenna facilities.

#### 1. Criteria for Siting Wireless Communication Antennas

##### a. Visual Impacts.

Alternatives Analysis: Prior to the construction of a new wireless communication facility, an alternative analysis should be prepared to identify alternatives that reduce visual impacts.



Figure 1 –  
The existing monopole and radome.



Figure 2 – Existing monopole and radome with a proposed live oak tree for screening.

*Analysis: The monopole already exists and is shrouded by a radome. A tree is conditioned to be planted and maintained to screen the wireless facility from public views. Therefore, the project is consistent with the policy.*

Collocation of Facilities on a Single Monopole and Utility Structure Mounted Antennas: Sharing of a single monopole by two or more communication companies or placement of new antenna on existing utility structures within or outside of the public right-of-way or on a Joint Pole Authority (JPA) structure (including 60kV power line poles) can reduce the overall visual impact of the development of wireless antenna networks.

*Analysis: Pursuant to a letter dated 3/17/20 from the applicant to the City, there are three carriers who are co-located on the same monopole. Consistent with the policy, the co-location improves site aesthetics as less monopoles are needed.*

Equipment Enclosures: Equipment areas should be screened as appropriate based upon site conditions by new or existing landscape materials or built structures.

*Analysis: The existing equipment area is enclosed and is located at an area behind the assembly building and is not be visible from Senter Road. Additionally, the enclosure is screened from public views by existing landscaping along Capitol Expressway.*

Lighting: No lighting of antennas is allowed except during maintenance activities or as required for safety by the FAA or other regulatory agency.

*Analysis: No lighting would be installed; therefore, the project is consistent with the policy.*

Landscaping: New landscaping or other visual amenities should be considered to offset the overall visual impact of new freestanding monopole and collocation projects.

*Analysis: As identified above, the already existing monopole has a radome for shrouding. Additionally, a tree is to be planted on the southwest side of the monopole and maintained for screening, showing consistency with the policy.*

- b. **Height.** Antenna installations should conform to the San José 2020 General Plan and Zoning Ordinance height restrictions.

*Analysis: As referenced above, the maximum height is 65 feet within the PQP district. The monopole is a maximum of 63 feet and the height is consistent with the policy.*

- c. **Setbacks from Residential Uses.** Freestanding monopoles should be located no closer to a parcel developed for use as a single-family or multi-family residence than 35 feet or a distance equal to 1 foot for every 1 foot of structure height, whichever is greater.

*Analysis: The monopole is located approximately 145.2 feet north of the nearest residential use. Because the monopole is a maximum of 63 feet tall, the monopole is consistent with the distance from the adjacent residential use.*

- d. **Performance Standards.** Antenna installations should conform to the performance standards of the underlying zoning district. In particular, associated equipment, including power-generating equipment, will need to meet the pertaining noise and air-quality standards and permitting requirements established within the City's Zoning Ordinance.

*Analysis: The acoustical report dated August 14, 2020 (see attached Exhibit I) indicates that the noise level at the nearest residential property line would be 34 dBA, and the noise levels would be reduced to 37 dBA or lower at the commercial property line. The noise levels are below the allowed decibel levels and the project is consistent with the performance standards of the district. Additionally, there are no generators on site. Given that there will only be one maintenance vehicle there are minimal emissions for the wireless facility.*

- e. **Parking.** Wireless communication facilities should not reduce existing parking on the site unless the zoning district parking requirements can still be met.

*Analysis: There is one existing vehicle and one existing bicycle parking space. There is no change to the existing on-site parking; the project is consistent with the policy.*

- f. **Vacant Sites.** Monopoles developed on vacant sites should be removed and where possible should be replaced with building-mounted antennas when the site is developed provided that the new development would allow relocation of the existing antennas at a similar height and disposition.

*Analysis: This is not applicable because the site is not vacant. The site is developed with an already existing assembly, accessory buildings, and a wireless facility.*

- g. **Environmental Review an Application for Environmental Clearance**

An Application for Environmental Clearance is required for wireless communication antennas that are determined not to be exempt from environmental review.

*Analysis: As stated above, the monopole already exists and is not new. The project has been found to be exempt from CEQA pursuant to the state CEQA Guidelines Section 15301 for Existing Facilities since the project involves negligible or no expansion of the existing use.*

- h. **Permit Expirations:** The City may include a time limit condition in use Permits to provide for the future review of the subject antenna installation. The typical time limit duration is for a five-year period. An extended permit duration of up to ten years can be considered appropriate for smooth taper monopoles placed in light or heavy industrial areas.

*Analysis: If approved, the subject site would be rezoned to PQP. Consistent with the policy, the project condition of approval includes a five-year time limit to allow for future review.*

Based on the above analysis, the existing wireless facility conforms to the Council Policy 6-20 requirements.

## **Public Outreach Policy**

### **City Council Policy 6-30: Public Outreach Policy for Pending Land Use Development Proposals**

Under City Council Policy 6-30, the project is considered a standard development proposal. Following City Council Policy 6-30, the applicant has posted the on-site sign to inform the neighborhood of the proposed project. No public comments have been received. The staff report is also posted on the City's website. Staff has been available to respond to questions from the public.

### **Required Findings for Conditional Use Permit**

In order for this request to be approved, the Planning Commission must be able to make all required findings for a Conditional Use Permit. [Section 20.100.720](#) of the Zoning Ordinance specifies the required findings for approval of a Conditional Use Permit. These findings are made for the project based on the analysis related to General Plan, Zoning Ordinance, and CEQA conformance and subject to the conditions set forth in the Permit:

1. The Conditional Use Permit, as approved, is consistent with and will further the policies of the General Plan, applicable specific plans and area development policies; and

*Analysis: As described above in the General Plan Conformance section, the wireless facility use project is consistent with the site's PQP Land Use designation, as well as Telecommunication Goal IN-6 and Policy IN-6.1, and the subject site is not located within an Urban Village. Additionally, the existing Assembly use is also consistent the with Public/Quasi-Public Designation as private community gathering facilities are appropriate for this designation.*



2. The Conditional Use Permit, as approved, conforms with the Zoning Code and all other Provisions of the San José Municipal Code applicable to the project; and

*Analysis: As described above in the Zoning section, both the wireless facility and the Assembly uses are consistent with the setback, height, and parking development standards of the Public/Quasi-Public zoning district.*

3. The Conditional Use Permit, as approved, is consistent with applicable City Council policies, or counterbalancing considerations justify the inconsistency; and

*Analysis: As identified above, the project includes a re-permitting of an existing wireless facility and assembly use. There is no new equipment or construction with the project, and the project is consistent with the City Council's Land Use Policy for Wireless Communication Facilities (Council Policy 6-20).*

4. 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; or
- 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

*Analysis: As noted above, File No. CP01-025 and File No. V02-012 for the already existing wireless facility expired on June 12, 2017. The monopole is located approximately 145.42 feet north of the nearest residential use, and a tree is to be planted and maintained for screening of the facility from public views. The tree is a project condition of approval.*

*The project would operate within the allowed maximum RF limits per the FCC standards as stated in the Radio Frequency (RF) Site Compliance Report (see attached Exhibit K), dated March 6, 2020, submitted by the applicant, on file with the Planning Division. The wireless communication facility would be required to comply with all applicable Federal Communication Commission (FCC) standards, including the Telecommunications Act of 1996 with regards to the emission of electromagnetic frequency radiation, and the project is consistent with the health and safety finding.*

5. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate said use with the uses in the surrounding area; and

*Analysis: The wireless facility and assembly uses already exists. The wireless facility, including the enclosure, monopole, parking, are towards the northwest portion of the property and the church building is located towards the eastern portion of the approximately 3.49-gross acre site. Therefore, the site is adequate in size and shape to accommodate the facilities.*

6. 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.

*Analysis: The site is accessible from two driveways off Senter Road. The monopole, equipment enclosure, and assembly buildings already exist on the site, which is currently served by all necessary private and public facilities.*

7. The environmental impacts of the project, including but not limited to noise, vibration, dust, drainage, erosion, storm water runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative effect on adjacent property or properties.

*Analysis: Both the wireless facility and the assembly use are existing and there are no physical changes proposed. The antennas would not have an unacceptable negative effect from vibration, dust, drainage, erosion, stormwater runoff and odor on adjacent property or properties.*

*The Telecommunications Act of 1996 contains provisions concerning the placement of antenna structures and other facilities for use in providing personal wireless services. As required by this law, the Federal Communications Commission (FCC) adopted guidelines for environmental RF emissions. These guidelines apply to all transmitters licensed or authorized by the FCC, including antennas licensed to wireless service providers and the cellular telephones used by subscribers to the service. The guidelines are based upon recommendations of federal agencies with expertise in health and safety issues. The FCC has created guidelines for human exposure to RF fields. Specifically, the Act states, "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."*

*In summary, the wireless communication facility would comply with all applicable FCC standards, including the Telecommunications Act of 1996 with regards to the emission of electromagnetic frequency radiation.*

### **Required Findings for Special Use Permit**

**Special Use Permit Findings.** Chapter 20.100 of Title 20 of the San José Municipal Code establishes required findings for issuance of a Special Use Permit, which findings are made for the project based on the above-stated findings related to General Plan, Zoning and CEQA conformance and for the reasons stated below, and subject to the conditions set forth in this Permit. Pursuant to the City's Municipal Code [Section 20.40.100](#) a Special Use Permit is required for Assembly use in the Public/Quasi-Public Zoning District.

- a. The Special Use Permit, as approved, is consistent with and will further the policies of the General Plan and applicable Specific Plans and area development policies; and
- b. The Special Use Permit, as approved, conforms with the Zoning code and all other provisions of the San José Municipal Code applicable to the project; and
- c. The Special Use Permit, as approved, is consistent with applicable City Council policies, or counterbalancing considerations justify the inconsistency; and

*Analysis: As discussed above, the project rezoned the subject site from A to PQP in order to re-permit the existing wireless facility. The rezoning of the site to PQP eliminated the need for a setback variance and the required minimum lot size standard was met. Additionally, assembly is a specially allowed use in PQP, and PQP is a conforming district to the Public/Quasi-Public General Plan Designation. Therefore, the project is consistent with the General Plan designations and conforms to the Zoning*

- d. The proposed use at the location requested will not:
- i. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or
  - ii. Impair the utility or value of property of other persons located in the vicinity of the site; or
  - iii. Be detrimental to public health, safety, or general welfare; and

*As noted above, the proposed project would not have a detrimental effect on the surrounding community as both uses are already existing, and no physical changes are proposed.*

- e. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other 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

*Analysis: As discussed above, the wireless facility and assembly buildings exist on the site, and the subject site is adequate in size to accommodate the project.*

- f. The proposed site is adequately served:

- i. 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
- ii. By other public or private service facilities as are required.

*Analysis: As discussed above, the wireless facility and assembly buildings exist on the site, and the subject site is adequate in size to accommodate the project.*

### **CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

Under the provisions of Section 15301 for Existing Facilities of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), the Conditional Use Permit, Special Use Permit, and Rezoning are found to be 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. CEQA Guidelines Section 15301, Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination..

The project is only to re-permit an existing wireless communication antenna without new construction. The operation of the use is consistent with the existing use and therefore would not result in new impacts. Furthermore, there will be no new construction on the site as part of this project and would not result in a detrimental to public health, safety or general welfare. Additionally, the project also includes a conforming rezoning. The project site is currently zoned A Agriculture. The project would bring the site into conformance with regard to lot size and eliminate the need for a setback variance to the existing monopole.



**PUBLIC OUTREACH**

To inform the public of the project, staff followed Council Policy 6-30: Public Outreach Policy. A notice of the public hearing was distributed to the owners and tenants of all properties located within 500 feet of the project site and posted on the City website. The staff report is also posted on the City's website. Staff has been available to respond to questions from the public. Additionally, an on-site sign was posted

There were no public comments received on this project.

**Project Manager:** Rhonda Buss

**Approved by:** /s/ \_\_\_\_\_, Deputy Director for Chu Chang, Acting Director

<b>ATTACHMENTS:</b>	
Exhibit A:	Aerial Map
Exhibit B:	General Plan Map
Exhibit C:	Existing Zoning District Map
Exhibit D:	Proposed Zoning District Map
Exhibit E:	CEQA Exemption
Exhibit F:	Alternative Site Analysis dated 3/15/20
Exhibit G:	Ordinance and Resolution (Rezoning and Conditional and Special Use Permit)
Exhibit H:	Conditional Use Permit Plan Set
Exhibit I:	Plat Map and Legal Description
Exhibit J:	Acoustical Report dated 8/14/20
Exhibit K:	Radio Frequency (RF) Site Compliance Report dated 3/6/20

<b>Owner/Tenant:</b>	<b>Applicant's Representative:</b>
Jerry Harris Seven Trees Baptist Church 3195 Senter Road, San Jose, CA 95111	Jacob Hamilton 1533 SE 33rd Avenue Portland, Oregon 97214
Jim Lee Crown Castle GT CO. LLC 200 Spectrum, Suite 1700 Irvine, CA 92618	

## **C20-014 & CP20-0012 List of Attachments**

- Exhibit A: [Aerial Map](#)
- Exhibit B: [General Plan Map](#)
- Exhibit C: [Existing Zoning District Map](#)
- Exhibit D: [Proposed Zoning District Map](#)
- Exhibit E: [CEQA Exemption](#)
- Exhibit F: [Alternative Site Analysis dated 3/15/20](#)
- Exhibit G: [Ordinance and Resolution \(Rezoning and Conditional and Special Use Permit\)](#)
- Exhibit H: [Conditional Use Permit Plan Set](#)
- Exhibit I: [Plat Map and Legal Description](#)
- Exhibit J: [Acoustical Report dated 8/14/20](#)
- Exhibit K: [Radio Frequency \(RF\) Site Compliance Report dated 3/6/20](#)