

City of Albany

1000 San Pablo Avenue • Albany, California 94706
(510) 528-5710 • www.albanyca.org

February 18, 2011

Gary Gochberg
Crown Castle
5820 Stoneridge Mall Rd, #300
Pleasanton, CA 94588

Subject: Application at 423 San Pablo for Use Permit for Wireless Antenna Installation

Dear Gary,

Thank you for submitting your application on January 20, 2011.

As discussed at the December 13, 2010 City Council meeting, Section 20.20.100F5.a.(3) of the Planning and Zoning Code allows Crown Castle to seek an exception to the height limitation that otherwise makes an upgrade to the wireless facility at 423 San Pablo nonconforming. In order for the Commission to take such action, information in the record is required to support the finding that no feasible alternative solutions that to meet the city's standards.

In particular, we will need Crown Castle and Verizon's cooperation to evaluate whether alternatives exist to the upgrade of the nonconforming facility that would allow Verizon to obtain adequate radio frequency signal reception. I would like to confirm that the City will be utilizing the consultant services of the Center for Municipal Solutions (CMS) to assist staff in the evaluation of this information. I know that Rusty has been in touch with you and your cooperation in this analysis with Rusty Monroe of CMS will be appreciated.

In addition, last year a structural analysis of the pole was provided to the City. In order to evaluate the analysis, we will need to confirm that the engineer is aware of local soil conditions and that the existing facility is not plumb. The most expedient way to resolve these questions would be to provide us the contact information for the registered California engineer that reviewed the structural analysis of the pole so that we can contact them directly.

Until the required information is provided to the City, we will consider your application incomplete.

Regards,

Jeff Bond

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CITY OF ALBANY

MAR 01 2011

COMMUNITY DEVELOPMENT
DEPARTMENT

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February 28, 2011

VIA OVERNIGHT MAIL

Jeff Bond, Planning and Building Manager
City of Albany Community Development
1000 San Pablo Avenue
Albany, CA 94706

Rusty Monroe
The Center for Municipal Solutions
3113 Billiard Ct.
Wake Forest, NC 27587

Re: ***Crown Castle***
Albany - BUN 814025

Gentlemen:

On behalf of my client, Crown Castle, this letter shall confirm that more than 30 days have passed since Crown Castle's submission of the application to the City of Albany on January 20, 2011. The application has therefore been deemed "complete" by operation of law pursuant to the Permit Streamlining Act (California Government Code §65920 et. seq). Pursuant to the Act, upon receipt of a project application containing a statement identifying the application as being for a "development permit," an agency has **30 calendar days** to notify the applicant, in writing, of whether or not the project application is complete enough for processing. If the agency fails to notify the applicant of completeness within the 30-day period, the application is deemed to be complete (§65943, *Orsi v City Council* (1990) 219 Cal. App. 3d 1576). This letter shall also serve as formal demand that the City comply with its obligation to process the application to hearing within 90 days of the filing of the application pursuant to the FCC "Shot Clock Doctrine."

If you have any questions, please give me a call

Very truly yours,



Joseph M. Parker

Jeff Bond and Rusty Monroe
February 28, 2011
Page 2 of 2

cc. Jon Dohm, Zoning Manager, West Area,
Gary Gochberg, Zoning Specialist;
Cynthia Qualtre, District Manager, SFO (all are Crown employees)



<http://www.crowncastle.com>

Gary Gochberg (Contractor)
Zoning Specialist
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CITY OF ALBANY

APR 11 2011

COMMUNITY DEVELOPMENT
DEPARTMENT

April 11, 2011

Jeff Bond, Planning and Building Manager
City of Albany Community Development Department
1000 San Pablo Avenue
Albany, CA 94706

Subject: Application at 423 San Pablo for Use Permit for Wireless Antenna Replacement

Dear Mr. Bond,

In your letter of February 18, 2011, you asked us to address three issues: 1) feasible alternative solutions relating to the height standard; 2) confirmation that the structural engineer deployed by Crown is aware of local soil conditions; and 3) confirmation of the engineer's awareness that the monopole is not plumb. We respond as follows:

1. Feasible Alternative Solutions: On December 13, 2010, Crown Castle was directed by City Council to apply for the CUP requested in this application. This directive occurred in connection with City Council's granting of its own appeal of the Planning and Zoning Commission's (the "Commission") unanimous approval of the proposed activity which was heard by the Commission on October 26, 2010. Similar to the Commission, Crown Castle disagrees that a CUP is required for the proposed activity. Crown Castle is also of the opinion that the CPUC has original and primary jurisdiction over this project, and such original approval includes authorization to perform the proposed activity. Nevertheless, in the spirit of cooperation, Crown Castle filed the requested application, but did so under protest for this reason, and for reasons related to jurisdictional issues germane to the PUC's original approval of this project.

On behalf of Verizon Wireless, Crown Castle has concluded that there are no feasible alternative solutions that satisfy the specific goal of Verizon's project request and achieves conformance with the existing height standard. This project is not a request to construct a new site but is a simple "like for like antenna swap" on the existing monopole. The specific "project" is a request to replace existing antennas at this site, as opposed to the search for a new service location in the immediate area. The project has been found to be exempt from CEQA and consists of routine replacement of existing antennas, which involves no negative visual impact to the surrounding neighborhood. The height cannot be reduced without substantially impairing or negating the existing coverage provided by both Verizon and Metro who operate at this facility. If the height was reduced to the current standard, additional facilities for both carriers would have to be constructed in the neighborhood to replace the coverage currently being provided. We have also determined that there are no additional Verizon sites located within the vicinity of this monopole which would accommodate the installation of additional antennas to replace this loss of coverage. Accordingly,

constructing additional infrastructure for two carriers to accommodate this simple "like for like" replacement of Verizon's existing antennas is not practical, nor a feasible alternative solution for the proposed activity.

2. Confirmation Regarding Knowledge of Local Soil Conditions: Per your request, we have confirmed that the engineer is aware of the local soil conditions. The Geotechnical Report referenced in the Structural Analysis (see #3, Analysis Procedure) is attached for your review.

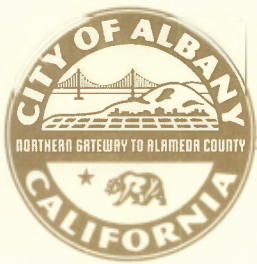
3. Confirmation Regarding Knowledge that the Facility is not plumb: Per your request, we have confirmed that the engineer is aware that the facility is not plumb. For your convenience, we have attached a revised structural analysis addressing your inquiry. Please refer to assumption #6 on page 4 and the p-delta comment on page 10. We also note that Joe Parker, the attorney representing the applicant, stated at the October 26, 2010 Commission hearing and at the December 13, 2010 appeal hearing that Crown Castle would be willing to re-design the monopole, which would not only improve its current appearance but also address the plumb issue for the city.

We trust this resolves your questions and that the city can deem the application complete for processing and set the matter for hearing.

Thank you,


Gary Gochberg

cc: Cynthia Qualtire (District Manager)
Jon Dohm (Zoning Manager)
Joseph M. Parker, Esq. (Crown Castle Counsel)
Peter Maushardt (Verizon)



City of Albany

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May 10, 2011

Gary Gochberg
Crown Castle
5820 Stoneridge Mall Rd, #300
Pleasanton, CA 94588

Subject: Application at 423 San Pablo for Use Permit for Wireless Antenna Installation

Dear Gary,

Thank you for submitting your correspondence dated April 11, 2011.

In order for the City to take action on your application, the contents of your application need to be complete. In particular, as mentioned in my previous letter dated February 18, 2011, for the Commission to consider approval of your project, factual information needs to be in the administrative record in order to support a finding that no feasible alternative solutions meet the city's standards. Specifically, an analysis of the area around the existing facility should be prepared evaluating whether or not a feasible alternative exists. In addition, an analysis should be prepared showing whether or not the desired coverage can be achieved by placing the antenna installation lower on the existing pole.

I would recommend that our technical consultant, Center for Municipal Solutions (CMS), be consulted in advance of preparing a response to this request. This approach will help ensure that the information provided addresses our needs and allows us to process your application in the most timely manner possible.

Regarding the structural report, there is a minor issue in that the structural report refers to the 2009 California Build Code. There has never been a 2009 California Building Code, and the engineer should be applying the 2010 California Building code to reach their conclusions.

Until we have information, we will need to continue to consider your application incomplete. I would be happy to discuss this in more detail at your convenience.

Regards,

Jeff Bond

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<http://www.crowncastle.com>

Gary Gochberg (Contractor)
Zoning Specialist
Crown Castle
5820 Stoneridge Mall Road Suite 300
Pleasanton, CA 94588

Attachment 2
Tel 707.330.8104
Fax 925.737.1234

gary.gochberg.contractor@crowncastle.com

CITY OF ALBANY

JUN 02 2011

COMMUNITY DEVELOPMENT
DEPARTMENT

June 2, 2011

Jeff Bond, Planning and Building Manager
City of Albany Community Development Department
1000 San Pablo Avenue
Albany, CA 94706

Subject: Application at 423 San Pablo for Use Permit for Wireless Antenna Replacement

Dear Mr. Bond,

In your second incomplete letter of May 10, 2011, you asked that we provide feasible alternative analysis around the existing facility and suggested that we contact the Center for Municipal Solutions ("CMS") for this purpose. You also asked that we supply a revised structural report applying the 2010 California Building code. We respond as follows:

Feasible Alternative Solutions around the existing facility: Conducting an alternative site analysis for this project is an unnecessary and impractical requirement for the application to be deemed complete. Nevertheless, we did provide a response to this question in our first response letter. This issue has been addressed. This project is not a request to construct a new site. It is merely a request to replace existing antennas with new antennas of a similar shape and size for Verizon Wireless, one of two carriers operating at the existing facility. The antennas cannot be installed at a different location without having to relocate the entire facility. Nonetheless, in the spirit of cooperation, Verizon did evaluate the three additional wireless facilities that it owns and operates within the vicinity of the Albany facility. None of these sites are in close proximity to the subject site, and relocating 4G antennas to these facilities is not a feasible option for either coverage or capacity purposes. These sites are too far away to fill the gap in 4G coverage that now exists at the Albany site. Moreover, any suggestion that relocating this wireless facility to another location also completely discounts the fact that MetroPCS is currently installed on this facility and is also not willing to relocate. Thus, requiring relocation of the entire facility to accommodate a "like for like" swap-out of antennas is simply not a "feasible alternative solution".

Further, please be advised that the height of the current facility cannot be reduced without substantially impairing or negating the existing coverage and capacity for Verizon. The same is also true for Metro, who is already operating at its minimum allowable height below the Verizon antennas. Thus, any change in the height of Verizon's antennas would require lowering of Metro's antennas which would negate Metro's coverage in its entirety.

Contact with the Center for Municipal Solutions (CMS): We appreciate your suggestion, but consulting with CMS for this simple "like for like" swap of antennas is unnecessary since relocation of the facility is not feasible. As noted above, the concept of alternative site analysis, while perhaps applicable to new sites, does not apply to the proposed project. Therefore, we see no need to expend additional time and money consulting with CMS.

Supply a revised structural report applying the 2010 California Building Code: We have attached a revised structural report applying the 2010 California Building code provided.

We trust our letter this adequately responds to your inquiry. We ask that you deem the application complete and set the matter for hearing without any further delay. Time is of the essence--the gap in coverage that currently exists is affecting the quality of service being provided to the residents and merchants of Albany, and therefore we wish to move to hearing as soon as possible.

Thank you for your anticipated cooperation. If you have any questions, please give me a call.



Gary Gochberg

cc: Cynthia Qualtire, Crown Castle
Jon Dohm, Crown Castle
Joseph M. Parker, Esq., Counsel for Crown Castle
Peter Maushardt, Verizon Wireless



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June 21, 2011

Gary Gochberg
Crown Castle
5820 Stoneridge Mall Rd, #300
Pleasanton, CA 94588

Subject: Application at 423 San Pablo for Use Permit for Wireless Antenna Installation

Dear Gary,

I have reviewed your letter, dated June 2, 2011, which was written in response to my letter of May 10, 2011 advising you that your application remained incomplete. In particular, I asked that a survey of the area around the existing facility be prepared evaluating whether or not a feasible alternative exists to the current legal nonconforming antenna site and that an analysis be prepared showing whether or not the desired coverage can be achieved by placing the antenna installation lower on the existing pole. Your letter makes it clear that Crown Castle is not willing to conduct these additional studies and instead will rely upon the information submitted to date.

In order for the Planning and Zoning Commission to grant an exception to the Development Standards, Crown Castle has the burden of showing that strict compliance with the development standards would not provide for adequate radio-frequency signal reception and that no other alternative solutions that would meet the Development Standards are feasible. Although I continue to believe that the additional requested information is necessary to fully address the criteria for the granting of an exception, pursuant to your request the City will accept the above-referenced application as complete as of today's date under the state Permit Streamlining Act and the FCC ruling regarding the time period for acting upon wireless siting applications. By the City accepting the application as complete, neither the Planning and Zoning Commission nor the City Council are waiving any rights they may have to determine that such studies are necessary in order to grant your application.

I will notify when a hearing date has been scheduled before the Planning Commission on the application.

Regards,

Jeff Bond
Planning and Building Manager

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