

REPORT TO THE PLANNING COMMISSION



DATE: February 11, 2020

TITLE: Conditional Use Permit No. 02-19. A Proposed Cell Tower Within a Commercial Property Located at 22755 Palm Drive (Applicant: J5 Infrastructure Partners, LLC (AT&T))

Prepared by: Patricia M. Villagomez, Assistant Planner

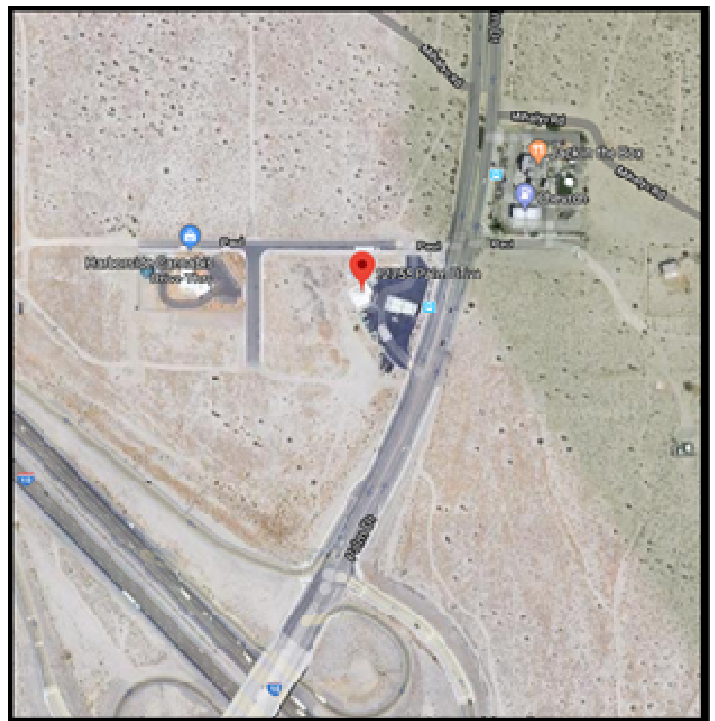
Reviewed by: Rebecca Deming, Community Development Director

RECOMMENDATION

- 1) Staff Report;
- 2) Entertain Questions of Staff from Planning Commission;
- 3) Open the Public Hearing;
- 4) Take testimony from the Applicant(s);
- 5) Take public testimony from those favor;
- 6) Take public testimony from those opposed;
- 7) Take public testimony from those in a neutral position;
- 8) Opportunity for Applicant rebuttal;
- 9) Close the Public Hearing;
- 10) Planning Commission discussion and questions to Staff; and
- 11) Approve: A) An exemption to CEQA based on the finding that the project qualifies as a Class 3 Categorical Exemption; and B) Conditional Use Permit No. 02-19 for the consideration of a 75-foot faux water tank design cell tower located at 22755 Palm Drive within the C-C (Community Commercial) zoning district.

EXECUTIVE SUMMARY

Pursuant to Section 17.76.040 of the Desert Hot Springs Municipal Code, the Planning Commission has the authority to approve Conditional Use Permits for development projects. The Applicant, J5 Infrastructure Partners, filed a Conditional Use Permit (CUP) application (CUP No. 02-19) to construct a 75-foot tall cellular communication facility designed as a water tank. The project site is located at 22755 Palm Drive within the Community Commercial zoning district. The proposed cell tower is located on the west side of an existing commercial business. The cell tower and equipment screening will be enclosed by an off-white precision block wall that will match the existing surrounding area and a wrought iron gate for maintenance purposes. The proposed cell tower will expand coverage/service throughout the I-10 freeway and surrounding areas. The property is approximately 3.72 acres and the proposed leased area is 1,008 square feet. The proposed site currently has a fully operational convenience store/gas station.



PRIOR ACTIONS

- On March 28th, 2019, the applicant J5 Infrastructure Partners, LLC submitted an application for a proposed Cell Tower.
- On August 13th, 2019, the Planning Commission recommended a continuance to a date certain of September 10, 2019.
- On September 10, 2019, the Planning Commission recommended a continuance of a date certain of October 08, 2019.
- On October 08th, 2019 the Planning Commission recommended a continuance of a date uncertain.

SETTING

The Zoning, General Plan land-use designations, and current land uses for surrounding properties are as follows:

Table 1: Surrounding Land Uses (to the proposed 29 homes)

	<u>Zoning Designation</u>	<u>General Plan Designations</u>	<u>Current Land-Use</u>
North	(C-C) Community Commercial	C-R (Commercial Retail)	Adjacent Gas Station / Vacant
West	(C-C) Community Commercial	C-R (Commercial Retail)	Vacant Land/ I-10 / Harborside Dispensary
South (Palm Springs)	M-1-P (Planned Research & Development Zone)	Regional Business Center	Vacant Land / I-10 Freeway
East (Cathedral City)	MU-U (Mixed-Use Urban)	MU-U (Mixed-Use Urban)	Vacant Land

CONDITONAL USE PERMIT ANALYSIS

CONFORMANCE WITH THE ZONING CODE

Site Coverage: The project site consists of one lot totaling 3.72 gross acres. The proposed location of the cell tower is on the southwest side of the already existing structure and will be surrounded with a block wall stucco and painted off-white with a wrought iron gate for maintenance access.

Building Height: The proposed height of 75 feet is consistent with the City's zoning Code and is in compliant with the City's Code.

Building Setbacks: The minimum setbacks in the City's Community Commercial (C-C) Zone is 25 feet in front, zero feet in the rear (except 10 feet adjacent to a street and 20 feet adjacent to residential), and zero feet on the sides (except 10 feet adjacent to a street and 20 feet adjacent to residential). The proposed water tank is approximately 170 feet from the front property line, at least 70 feet from the side property lines, and about 200 feet from the rear property line. Therefore, the project meets minimum setback standards.

Elevations, Colors and Materials: The applicant is proposing a 75-foot-tall cell tower disguised as a water tank. The proposed exterior finish of the faux water tank will utilize a composite material resembling a medium brown natural wood finish. The applicant has indicated an open roof/top of water tank shall be an open roof with a mesh cover. The faux water tank will appear

to be supported by post and will utilize the same composite natural wood finish. The applicant is also proposing a 42' high guard rail to finish the water tank design.

The project site will be surrounded by a CMU wall painted off white to match other existing structures, the applicant has proposed a 9' foot high wall but staff has added a condition that the applicant shall submit revised plans for the wall for review (COA No. 3).

CUP ANALYSIS & CONSISTENCY WITH THE GENERAL PLAN:

The property was annexed into the City as part of Annexation No. 36 and Annexation No. 37 (commonly referred to as the I-10 annexation). It is staff's understanding that as part of the annexation the City was conditioned to keep the County's General Plan land use designation of C-R (Commercial Retail) for a minimum of two years as part of the annexation. That being said, the City was able to annex the land with its own zoning designation of C-C (Community Commercial), which the City aligned to correspond closely to the County's General Plan Designation.

Staff has also reviewed the project against the goals, policies and programs of the adopted City's General Plan and found it to be consistent with each of the following applicable goals and policies.

GENERAL LAND USE GOALS, POLICIES & PROGRAMS

GOAL 1

A balanced mix of functionally integrated land uses meeting general social and economic needs of the community through simplified, compatible and consistent land use and zoning designations.

Policy 6

All land use development proposals shall be consistent with all applicable land use policies and standards contained in the General Plan.

COMMERCIAL LAND USE GOALS, POLICIES & PROGRAMS

GOAL

A responsive range of commercial land uses conveniently and appropriately distributed throughout the City, meeting the community's needs and taking full advantage of emerging development and economic opportunities.

Policy 1

Sufficient lands shall be designated to provide a full range of commercial services to the community and surrounding areas for present and future years.

Policy 2

Development standards for commercial land uses shall include setbacks, pad elevations, massing and height limitations, and other requirements, which provide adequate visibility and TN/City of Desert Hot Springs General Plan/Land Use Element III-20 accessibility, while preserving the scenic viewsheds from adjoining properties and public rights-of-ways.

PUBLIC FACILITIES POLICIES AND PROGRAMS

GOAL

Public facilities which are located to efficiently serve the community and are compatible with surrounding land uses.

Policy 1

The City of Desert Hot Springs shall encourage the development of public facilities in a manner which assures adequate levels of service, while remaining compatible with existing and future land uses.

Program 1 B

The City shall evaluate all development proposals and identify their impact upon and compatibility with designated open space and conservation lands.

COMMUNITY DESIGN GOALS, POLICIES & PROGRAMS

Goal 1

City-wide design and development which enhances the community's distinctive character as a desert-oriented resort residential community and preserves and enhances the natural scenic resources in harmony with the built environment.

Goal 2

Variety of community design, architecture and landscaping compatible with the City's desert setting and surrounding development.

Policy 1

Private and public sector development projects shall equally apply City community design standards, thereby protecting the community's scenic viewsheds, providing community cohesion and enhancing the image of Desert Hot Springs as a resort residential community.

Program 2 A

Encourage the use of site-sensitive planning in new development, varying setbacks with adequate minimums, and varying designs, elevations and facade articulations.

Policy 4

Commercial development and mixed-use projects shall consist of integrated designs that incorporate safe and convenient vehicular and pedestrian-oriented circulation, safe and convenient ingress and egress, shared parking, screened outdoor storage/loading and other noisy or unsightly areas, and protected outdoor seating areas, lighting, signage and the planting of mature landscaping to provide an immediate effect of permanency and quality.

Policy 7

Integrate native and other appropriate desert landscape materials and site-sensitive architectural designs into all public and private building projects to enhance the community's cohesion between the built and natural environment.

Policy 11

Incorporate the City image/logo or other appropriate City identification into entry features, street signage, public buildings, planters and median islands, benches and other streetscape furnishings, City vehicles and other similar applications.

Policy 12

Development proposed along designated scenic highways, roadways and corridors shall be reviewed for compatibility with the natural and built environments to assure maximize viewshed protection and pedestrian and vehicular safety.

Program 12 B

Architectural review within scenic corridors shall include review of building massing and design, heights and setbacks, and exterior colors and materials for compatibility with the natural environments. The use of natural materials and appropriate colors shall be encouraged, with materials such as reflective surfaces to be discouraged.

Policy 15

Development projects located at sites identified for major and minor City entry and focal features shall dedicate the required land for the development of these landmark features.

Policy 16

All grading and development proposed within scenic highway viewsheds, including hillsides, entry and focal points, shall be regulated to minimize adverse impacts to these viewsheds.

ECONOMIC DEVELOPMENT GOALS & POLICIES & PROGRAMS

Policy 3

Encourage and facilitate the development of the tourist/traveler commercial potential of the U.S. Interstate-10, State Highway 62 and Indian Avenue corridors, the California Desert Conservation Area, Joshua Tree National Park and the Greater Coachella Valley area.

Policy 5

Assure sufficient infrastructure and capital facilities in order to maintain existing economic activities and attract new resort, commercial businesses and industries to the City.

CULTURAL RESOURCES GOALS, POLICIES & PROGRAMS

GOAL

Preservation and maintenance of cultural heritage and resources, including historic and prehistoric cultural artifacts and traditions.

Policy 2

Development or land use proposals, which have the potential to disturb or destroy sensitive cultural resources, shall be evaluated by a qualified professional and, if necessary, appropriate mitigation measures shall be incorporated into project approvals.

As stated above, Planning Department staff has evaluated the proposed project against the City's General Plan and found that, as conditioned, the project is consistent with the goals, policies, and program of the adopted General Plan.

CONDITIONAL USE PERMIT FINDINGS

Conditional Use Permits are regulated under Section 17.76 of the Desert Hot Springs Municipal Code and require that certain findings be made by the Planning Commission before granting a CUP request. Staff has developed recommendations for each finding, as follows:

1. *That the proposed use is conditionally permitted within the subject land use district and complies with all of the applicable provisions of this Zoning Ordinance.*

The application for the proposed cell tower is in compliance with the City's Zoning Code in that the code requires that this type of project obtain a conditional use permit. The application has been submitted and reviewed by staff, and the Planning Commission has the discretion to approve the proposed cell tower. Staff recommends this finding.

2. *That the proposed use would not impair the integrity and character of the land use district in which it is to be located.*

The proposed cell tower would service the growing community of developments and business in the area and would improve service to the existing homes and future/existing commercial businesses, relieve some of the airwave traffic from the towers, and provide emergency coverage/911 coverage to areas that have poor coverage. The proposed use will not introduce any activities that would impair the integrity or character of the land use district in which it is to be located. The proposed cell tower will be disguised as a water tank. Staff recommends this finding.

3. *That the subject site is physically suitable for the type and intensity of land use being proposed.*

The proposed water tank cell tower is suitable to the Community Commercial zoning district and all equipment will be screened within a water tank design and will be compatible with surround commercial uses. Staff recommends this finding.

4. *That the proposed use is compatible with the land uses presently on the subject property.*

The proposed cell tower is in a Community Commercial zone and is on a site which is occupied by a convenience/gas station. The proposed cell tower is compatible with the existing uses on the site. Staff recommends this finding.

5. *That the proposed use would be compatible with existing and future land uses within the general area in which the proposed use is to be located.*

The proposed cell tower is in a location that needs additional service and carriers. The owner will service the entire area include, but not limited to the commercial developments. These businesses will be employing numerous workers in the future and will need reasonable cell service to aide in their business operation as well as providing better 911 coverage and coverage for broken down motorists. Staff recommends this finding.

6. *That the proposed use is compatible in scale, mass, coverage, density, and intensity with all adjacent land uses.*

The proposed cell tower will occupy very little of the site and will not increase lot coverage by any unreasonable amount. The placement is in a good location to serve the area and not interfere with the existing business already occupying the site. This tower will serve to reduce traffic and provide better coverage for 911 service, broken down motorists, and residents with poor coverage and the future developments and business that anticipate being occupy future buildings in the surrounding commercial district. Staff recommends this finding.

7. *That there are adequate provisions for water, sanitation, and public utilities and services to ensure that the proposed use would not be detrimental to public health and safety.*

The subject site already has utility service to service the existing business. The proposed use will not add an extraordinary demand for water, sanitation or other public utilities and services that would result in any detriment to public health and safety. Staff recommends this finding.

8. *That there will be adequate provisions for public access to serve the site.*

The subject site has sufficient on-site parking; No additional parking will be required for the proposed cell tower nor will it require any changes to the access provided already on-site. Staff recommends this finding.

9. *That there will not be an adverse effect upon desirable neighborhood characteristics.*

The proposed cell tower would service the growing community of developments and business in the area and would improve service to the existing commercial to the west, relieve some of the airwave traffic, and provide emergency coverage/911 coverage to area that have poor coverage. The proposed use will not introduce any activities that would impair the integrity or character of the land use district in which it is to be located. The proposed cell tower will be disguised as a water tank. Staff recommends this finding.

10. *That the proposed use is necessary and essential to the community.*

The proposed cell tower would service the growing community of developments and business in the area and would improve service to the existing commercial businesses, relieve some of the airwave traffic from the towers, and provide emergency coverage/911 coverage to area that have poor coverage. The proposed use will not introduce any activities that would impair the integrity or character of the land use district in which it is to be located. The proposed cell tower will be disguised as a large water tank. Staff recommends this finding.

11. *That the proposed use is consistent with applicable goals and policies of the General Plan.*

The proposed cell tower would service the growing community of developments and business in the area and would improve service to the existing commercial businesses to the west, relieve some of the airwave traffic from the towers, and provide emergency coverage/911 coverage to area that have poor coverage. The proposed use will not introduce any activities that would impair the integrity or character of the land use district in which it is to be locate, nor is it inconsistent. The proposed cell tower will be disguised as a water tank. Staff recommends this finding.

Staff has identified the following General Plan goals and policies applicable to the application and provides responses to each.

12. *That there will not be significant harmful effects upon environmental quality and natural resources.*

The proposed cell tower will occupy a small portion of the site within Community Commercial (C-C) zoning district and be operated in accordance with Federal, State, & City's regulations and conditions of approval. Consequently, no significant adverse or harmful effects on the environment or on any natural resources are anticipated. Staff recommends this finding.

13. *That the negative impacts of the proposed use are mitigated and/or a mitigated negative declaration may be filed.*

The proposed cell tower will be operated as a commercial use. It will be operated in accordance with all applicable local, state and federal regulations and conditions of approval.

14. *That the proposed location, size, design, and operating characteristics of the proposed use would not be detrimental to the public interests, health, safety, convenience, or welfare of the City.*

The proposed cell tower has been reviewed by City departments and other public agencies for any potential detrimental effects on public interests, health, safety, convenience or welfare of the City. Any potential concerns have been addressed by recommended conditions of approval, and no unresolved concerns remain. Staff recommends this finding.

In reviewing this application, plans, documents and other supporting information, staff has determined that the Planning Commission can make these findings.

Administration

Goal: Comprehensive and integrated administration and implementation of all elements of the Desert Hot Springs General Plan through consistent and effective policies and programs.

The City has adopted a zoning ordinance to implement the General Plan and provide for review and approval of individual development projects. The proposed cell tower will be subject to all requirements of this Conditional Use Permit, as prescribed by the Zoning ordinance and the adopted conditions of approval.

Policy 1: Provide for the periodic revision and updating of the General Plan and ensure that associated City Ordinances including the Zoning and Subdivision Ordinances, are maintained in conformance with the General Plan.

The City has adopted a zoning ordinance to implement the General Plan and provide for review and approval of individual development projects. The proposed cell tower will be subject to all requirements of this Conditional Use Permit, as prescribed by the Zoning ordinance and the adopted conditions of approval.

Policy 5: The City shall assure that properly field development applications shall be processed in an expeditious and timely manner.

The Conditional Use Permit application was received on March 28, 2019 and was routed to departments and outside agencies for conditions in a timely manner. The applicant has been notified of Planning Commission hearing date and is satisfied with the results.

Policy 8: City shall provide opportunities for review and comment on development proposals through public hearing notices sent to owners of property located within 300 feet of development proposals sites.

Prior to Planning Commission review of the project application, notice of the proposed cell tower conditional use permit hearing was provided to property owners within 300 feet of the proposed site. In addition, a public hearing before the Planning Commission has in fact been held where persons were provided a meaningful opportunity to be heard.

Commercial Goals Policies and Programs

Goal: A responsive range of commercial land uses conveniently and appropriately disturbed throughout the City, meeting the community 's needs and taking full advantage of emerging development and economic opportunities.

The proposed cell tower would service the growing community of developments and business in the area and would improve service to the existing homes and future/existing commercial businesses, relieve some of the airwave traffic, and provide emergency coverage/911 coverage to area that have poor coverage. The proposed use will not introduce any activities that would impair the integrity or character of the land use district in which it is to be located. The proposed cell tower will be disguised as a water tank. Staff recommends this finding.

Policy 1: Sufficient lands shall be designed to provide a full range of commercial services to the community and surrounding areas for present and future years.

The proposed cell tower would service the growing community of developments and business in the area and would improve service to the existing homes and future/existing commercial businesses, relieve some of the airwave traffic, and provide emergency coverage/911 coverage to area that have poor coverage. The proposed use will not introduce any activities that would impair the integrity or character of the land use district in which it is to be located. The proposed cell tower will be disguised as a water tank. Staff recommends this finding.

Policy 1A: Maintain the Land Use map on an on-going basis to assure sufficient lands are designated for commercial uses to support the needs of the community and surrounding areas in a manner consistent with economic opportunities and the resort residential character of the community.

The proposed cell tower would service the growing community of developments and business in the area and would improve service to the existing homes and future/existing commercial businesses, relieve some of the airwave traffic, and provide emergency coverage/911 coverage to area that have poor coverage. The proposed use will not introduce any activities that would impair the integrity or character of the land use district in which it is to be located. The proposed cell tower will be disguised as a water tank. Staff recommends this finding.

Program 1B: Make available market information to developers and realtors, which identifies the City's service needs and potential sites suitable for those commercial good and services.

The proposed cell tower would service the growing community of developments and business in the area and would improve service to the existing homes and future/existing commercial businesses, relieve some of the airwave traffic, and provide emergency coverage/911 coverage to area that have poor coverage. The proposed use will not introduce any activities that would impair the integrity or character of the land use district in which it is to be located. The proposed cell tower will be disguised as a water tank. Staff recommends this finding.

Policy 2: Development standards for commercial land uses include setbacks, pad elevations, massing and height limitations, and other requirements, which provide adequate visibility and accessibility, while preserving the scenic viewsheds from adjoining properties and public rights-of-ways.

The proposed cell tower would service the growing community of developments and business in the area and would improve service to the existing homes and future/existing commercial businesses, relieve some of the airwave traffic, and provide emergency coverage/911 coverage to area that have poor coverage. The proposed use will not introduce any activities that would impair the integrity or character of the land use district in which it is to be located. The proposed cell tower will be disguised as a water tank. Staff recommends this finding.

Policy 6: The City shall require adherence to applicable development standards and guidelines to assure aesthetically acceptable industrial developments for all new industrial sites.

The project has been reviewed against applicable local development standards and guidelines. The proposal has been determined to meet these standards and guidelines or conditions have been imposed to assure that the project conforms.

Community Design

Policy 1: Private and public sector development projects shall equally apply City community design standards, thereby protecting the community's scenic viewsheds, providing community cohesion and enhancing the image of Desert Hot Springs as a resort residential community.

The proposed cell tower would service the growing community of developments and business in the area and would improve service to the existing homes and future/existing commercial businesses, relieve some of the airwave traffic from the towers, and provide emergency coverage / 911 coverage to areas that have poor coverage. The proposed use will not introduce any activities that would impair the integrity or character of the land use district in which it is to be located. The proposed cell tower will be disguised as a water tank. The cell tower will incorporate a water tank design which is suitable for the area and helps to reduce the impacts to the scenic viewshed and will look more natural. Staff recommends this finding.

Economic Development:

Goal 2: Continued growth, which assures the maintenance of a revenue base adequate to support present and future public services and facility's needs.

The proposed cell tower would service the growing community of developments and business in the area and would improve service to the existing homes and future/existing commercial businesses, relieve some of the airwave traffic, and provide emergency coverage / 911 coverage to areas that have poor coverage. The proposed use will not introduce any activities that would impair the integrity or character of the land use district in which it is to be located. The proposed cell tower will be disguised as a water tank. Staff recommends this finding.

Hazardous and Toxic Materials

Goal: The assured safety of City of Desert Hot Springs residents and visitors through the regulation of the manufacture, transport, use and disposal of toxic and hazardous materials.

Any hazardous or toxic materials associated with the proposed operation shall be regulated by the provisions of all applicable laws of the City, State and Federal Government.

Fire and Police Protection

Goal: A high level of police and fire protection and service.

The proposed cell tower would service the growing community of developments and business in the area and would improve service to the existing homes and future/existing commercial businesses, relieve some of the airwave traffic from the towers, and provide emergency coverage / 911 coverage to areas that have poor coverage. The proposed use

will not introduce any activities that would impair the integrity or character of the land use district in which it is to be located. Staff recommends this finding.

Policy 2

Enforce fire standards and regulations in the course of reviewing building plans and conducting building inspections.

All plans and improvements for the cell tower will be subject to review and enforcement under fire codes and regulations.

ENVIRONMENTAL REVIEW

In accordance with the provisions of the California Environmental Quality Act ("CEQA"), Public Resources Code Section 21000 *et seq.*, and the CEQA Guidelines, Title 14, Chapter 3 of California Code of Regulations, the project is found to be Categorically Exempt from further environmental review as a Class 3 (New Construction or Conversions of Small Structures) Categorical Exemption of Section 15303 of CEQA.

FISCAL IMPACT

The project will not generate any revenue and all City Development Fees will be paid.

RECOMMENDATION

Staff finds that the proposed project is substantially consistent with the General Plan and meets the development standards of the C-C (Commercial Community) zoning district. Staff recommends that the Planning Commission certify the CEQA exemption and approve Conditional Use Permit No. 02-19, subject to Findings listed and the attached Conditions of Approval (Exhibit 1).

EXHIBIT(S)

- 1) Draft Conditions of Approval
- 2) Full Set of Plans
- 3) Photo Sims
- 4) Sample Board