

**CITY OF UNION CITY
MINUTES FOR THE REGULAR PLANNING COMMISSION MEETING
OF JULY 15, 2004, 7:00 P.M.
IN THE COUNCIL CHAMBERS OF CITY HALL
34009 ALVARADO-NILES ROAD, UNION CITY, CALIFORNIA**

- I. ROLL CALL: Commissioners Anderson, Kelley, Lew and Chairperson Savage
ABSENT: Commissioner Sweeney**

STAFF PRESENT: Joan Malloy (Planning Manager); Tina Gallegos (Assistant Planner); Kris Fitzgerald (Administrative Assistant).

- II. APPROVAL OF MINUTES:** The minutes of the Regular Planning Commission of July 1, 2004 were approved as submitted.

- III. ORAL COMMUNICATIONS:** None.

- IV. WRITTEN COMMUNICATIONS:** None.

- V. PUBLIC HEARINGS:**

- A. CONTINUED HEARINGS:**

- 1. DRY CREEK COTTAGE AND GARDENS, MAY ROAD, Site Development Review SD-07-04;** The East Bay Regional Park District is requesting approval of Site Development Review to construct a 50 car parking area and to allow limited public access to the property gardens through May Road. The East Bay Regional Park District, as lead agency has prepared a Mitigated Negative Declaration on the project and has determined there will be no significant effect on the environment with the incorporation of mitigation measures. **(CONTINUED TO AUGUST 19, 2004)**

- B. NEW HEARINGS:**

- 1. AT& T WIRELESS, 1510 PACIFIC AVENUE, Use Permit UP-06-04, Variance V-03-04 and Administrative Site Development Review ASD-28-04;** The applicant is requesting Use Permit approval to allow a 70 foot tall wireless antenna monopole and a Variance for the 70 foot height of the pole. The project is located at 1510 Pacific Avenue (APN: 475-0100-030-00). The project is categorically exempt under Section 15311 of the California Environmental Quality Act (CEQA) Guidelines.

Tina Gallegos, Assistant Planner, presented the staff report.

Chairperson Savage asked if there is any proposed use for the empty property in front of where the pole will be installed.

Ms. Gallegos stated that there were no plans at this time.

Commissioner Lew asked how will power be brought to the site.

Joan Malloy, Planning Manager, referred the question to the applicant.

Commissioner Lew asked if any trees or vegetation will be removed.

Ms. Gallegos stated that some overgrown vegetation will be removed.

Commissioner Lew questioned why there are no conditions for landscaping.

Ms. Gallegos stated that they were not added because the site is not visible from the street.

Commissioner Lew asked why there are no conditions for lighting the area.

Ms. Malloy stated that if it was an occupied structure then the Police Department would have their standard conditions for site lighting. Ms. Malloy stated that the site is already lit by the existing business.

Commissioner Lew stated her concerns about going into the lot after dark and asked if the pole has to be lit for safety reasons.

Ms. Malloy stated that the pole is well under the height limit.

Commissioner Lew asked if the existing tenant of the site has been made aware of this project.

Ms. Malloy stated that they have been informed and a representative is here tonight.

Commissioner Lew asked what colors will be used to camouflage the pole.

Ms. Gallegos stated that the City was looking for a blueish/greyish color to blend with the sky.

Commissioner Kelley asked about findings #2 and #3 for the Variance and how they apply to this project.

Ms. Malloy stated that the City has a precedence of approving monopoles, so it is not a special privilege. Ms. Malloy stated that the staff interpretation is not to exclude monopoles and utility structures.

Commissioner Kelley asked why not use a Zoning Text Amendment instead of a Variance.

Ms. Malloy stated that it is on the list for the next Zoning Text revision.

Commissioner Anderson asked if there was an environmental assessment done when the original antenna was built.

Ms. Malloy stated that there may be one on file for the original antenna located on Western Avenue.

Commissioner Anderson stated that he does not believe that this project is categorically exempt from CEQA Guidelines based on the stated chapter and section. Commissioner Anderson would like to see the original exemption document from the Western Avenue location. Commissioner Anderson stated that he would not be able to make the finding that this project is exempt for the Use Permit because he does not believe that it is.

Chairperson Savage opened the public hearing.

Joanne Gundermann, AT&T Wireless, 2603 Camino Ramon, Suite #170, San Ramon, CA stated that all the utility lines will be brought in underground to the new facility. Ms. Gundermann stated that they have done a Phase I environmental report on their site because the FCC requires it. Ms. Gundermann would be willing to provide a copy to staff that would be a condition of approval and submit it with the building permit request. Ms. Gundermann stated that in the past making the poles blue in color made these poles stand out more than a brown colored pole. Ms. Gundermann stated she is willing to make the pole any color.

Commissioner Lew asked if the applicant had any pictures that show the difference between a light blue pole and a darker color.

Ms. Gundermann stated that she did not have any with her.

Commissioner Lew asked how long the applicant has been located at the existing site on Western Avenue.

Ms. Gundermann stated that it is around 15 years.

Commissioner Lew asked if the facility on Western Avenue is a shared facility.

Ms. Gundermann stated that there are other facilities on the tower. Ms. Gundermann stated that their use was terminated by the landlord.

Commissioner Lew asked if they could provide a 10-foot setback.

Ms. Gundermann stated that was not a problem.

Commissioner Lew asked if they planned to do any landscaping on the site.

Ms. Gundermann stated that since the site is at the back of the lot the only one who would benefit would be the landlord.

Commissioner Lew stated that she would like the applicant to put in some landscaping, however, there could be a problem getting water to the site.

Commissioner Lew asked if the chain link fence across the driveway on Pacific Avenue will be locked during non business hours.

Ms. Gundermann stated that she does not know.

Ms. Gundermann stated that their facility has a shelter and will be locked.

Commissioner Lew asked how they will gain access to the facility after hours.

Ms. Gundermann stated that access will be worked out with the landlord.

Commissioner Lew asked if they plan to share the facilities.

Ms. Gundermann stated that if another carrier is interested they will share.

Commissioner Lew asked what is the service area of the antennas.

Ms. Gundermann stated that this is a line of sight antenna that will cover about a 2 – 3 mile radius.

Commissioner Lew asked how deep the pole will be installed in the ground.

Ms. Gundermann stated that she believes it is about 10 – 20 feet deep.

Commissioner Lew stated her concerns for the root systems of nearby trees.

Ms. Gundermann stated that it will not close to any of the trees.

Commissioner Lew asked if the cable tray will be above ground or below ground.

Ms. Gundermann stated that it will be above ground.

Commissioner Lew asked what color will the cable tray be painted.

Ms. Gundermann stated that it will be painted to match the shelter.

Commissioner Kelley asked what is the height of the existing tower.

Ms. Gundermann stated that it is between 90 – 100 feet tall.

Chairperson Savage closed the public hearing.

Commissioner Anderson stated that he cannot make the finding that this project is categorically exempt. Commissioner Anderson asked staff what can be done to correct this issue.

Ms. Malloy asked for clarification of Commissioner Anderson's concern.

Commissioner Anderson stated that he couldn't find that this project will not be detrimental to the site because no environmental study was done.

Ms. Malloy stated that the project must first be permitted by the FCC and that the finding for the Use Permit does not necessarily require a Negative Declaration.

Commissioner Anderson agreed that the Use Permit is not tied to CEQA but it is tied to public health and safety.

Ms. Malloy restated that there are limitations on local governments regarding cellular facilities permitting and stated that she believes that the Planning Commission can make the determination of whether this is an appropriate location for this use based on the information received this evening.

Commissioner Anderson stated that he believes that the citation for the CEQA finding is incorrect and would like to see supporting documentation.

Ms. Malloy asked for a short recess while she retrieved the relevant material.

Chairperson Savage recessed the meeting at 7:45 pm

Chairperson Savage reconvened the meeting at 7:50 pm.

Ms. Malloy stated that a more appropriate exemption would be Section 15303, New Construction or Conversion of Small Structures, Section C, that allows construction of small structures that do not exceed 10,000 square feet in urbanized areas.

Commissioner Anderson asked how do we modify the recommendation in the staff report.

Ms. Malloy stated that Findings Number 1 should be modified to "Section 15303 class 3 (c)".

Commissioner Anderson confirmed that Section 15304 will be removed.

Ms. Malloy asked if the Planning Commission would like to add a condition of approval that states "the applicant shall provide staff with the EMF report that clarifies that there are no health or safety impacts associated with the proposed project".

Commissioner Lew asked about the area identified as "weed and grass area".

Ms. Gallegos stated that it is wild grasses growing at the rear of the property.

Commissioner Lew asked if the shrubs are also wild and if there is access to water there.

Ms. Gallegos stated that she did not know if water is available there.

Commissioner Lew stated that she wants to add a condition of approval for landscaping around the building. Commissioner Lew stated that "the area will be landscaped with drought tolerant plants".

Commissioner Lew asked to have the City oversee construction to see that the health of trees is not impacted by construction and would like to add that as a condition of approval.

Ms. Malloy suggested that applicant provide a tree survey and that the trees be fenced off during construction.

Commissioner Kelley stated that he is still not sure he can vote for granting a Variance for this project.

Commissioner Lew stated that monopoles should have been a part of the last Zoning Text Amendment but she does not have a problem with this project.

Ms. Malloy suggested that since they are an existing facility that is being displaced from current location and that monopoles cannot operate unless they are of a height to clear the buildings in the area. Ms. Malloy stated that the height limit is traditionally used to regulate building heights.

Commissioner Lew asked if a Variance would still be needed if the pole were installed on the roof of a building.

Ms. Malloy stated that as long as the pole is under 50 feet there would be no need for a Variance.

Commissioner Anderson stated that he believes an exception can be made because they are being forced to leave their existing location.

Commissioner Lew made a motion to approve Use Permit UP-06-04 and Variance V-03-04 and Administrative Site Development Review ASD-28-04 making findings 1 – 6 and with the modified conditions of approval and recommending the Planning Commission adopt resolutions confirming these actions.

Commissioner Anderson seconded the motion.

AYES	4 (Anderson, Kelley, Lew, Savage)
NOES	0
ABSTAIN	0
ABSENT	1 (Sweeney)

VI. SUPPLEMENTAL STAFF REPORTS:

A. CONTINUED REPORTS: None.

B. NEW REPORTS: None.

VII. COMMISSION MATTERS:

A. Follow-up on Planning Commission referrals to the City Council.

B. Upcoming applications for the Regular Planning Commission meeting of August 5, 2004.

VIII. GOOD OF THE ORDER:

Commissioner Anderson thanked Commissioner Kelley for his service to the Planning Commission.

Chairperson Savage thanked Commissioner Kelley for his service to the commission.

Commissioner Lew thanked Commissioner Kelley for his service and wished him luck with law school.

Commissioner Kelley stated that he has enjoyed serving on the Planning Commission and hopes that he can serve again in the future.

IX. ADJOURNMENT: 8:09 pm.

APPROVED:

ROSEMARY SAVAGE, CHAIRPERSON

ATTEST:

MARK LEONARD, SECRETARY