

**CITY OF UNION CITY
MINUTES FOR THE REGULAR PLANNING COMMISSION MEETING
OF SEPTEMBER 17, 2009, 7:00 P.M.
IN THE COUNCIL CHAMBERS OF CITY HALL
34009 ALVARADO-NILES ROAD, UNION CITY, CALIFORNIA**

I. ROLL CALL: Commissioners Raymond Gonzales Jr., Jo Ann Lew, Froilan (Roy) Panlilio, Gurnam (Gary) Singh, and Chairperson Tikisa Anderson

STAFF: Joan Malloy, (Economic and Community Development Director); Avalon Schultz (Associate Planner); Christine Friday (Economic Development Coordinator); Farooq Azim (Principle Civil Engineer); Kit Faubion (Assistant City Attorney); Kris Fitzgerald (Administrative Assistant).

II. APPROVAL OF MINUTES: The regular Planning Commission Minutes of August 20, 2009 were approved as submitted.

III. ORAL COMMUNICATIONS:

John Haley, 328 Monte Carlo Ave., Union City, thanked the City for cleaning up the vacant lots at the corner of Veneto and Appian Way. Mr. Haley noted that these properties appear to be abandoned because they are unbuildable. Mr. Haley suggested that the property owners should consider donating the land to the City for a prospective tot lot or other use.

IV. WRITTEN COMMUNICATIONS: None.

V. PUBLIC HEARINGS:

A. CONTINUED HEARINGS: None.

B. NEW HEARINGS:

- 1. NSA WIRELESS, 34860 MISSION BOULEVARD, Variance V-02-09 and Administrative Site Development Review ASD-07-09; the applicant, NSA Wireless, is seeking Administrative Site Development Review approval to co-locate nine Verizon Wireless antennas on top of an existing PG &E tower located on Mission Boulevard near Appian Way. The application also includes the installation of associated ground equipment in a 14 foot by 40 foot enclosure. The application will result in a 12 foot height extension of the existing 89 foot tall tower. The proposed height extension requires Variance approval to exceed the 30 foot height limit in the CN, Neighborhood Commercial, zoning district. The project is located at 34860 Mission Boulevard (APN: 507-0124-013-00). This project is considered categorically exempt under Section 15031, Class 1, Existing Facilities, of the California Environmental Quality Act.**

Avalon Schultz, Associate Planner, presented the staff report.

Commissioner Gonzales asked if the solid enclosure would be for holding Verizon's equipment on the property.

Ms. Schultz replied that it is for equipment to support the antennas.

Commissioner Gonzales asked if the equipment enclosure would be four feet taller than the wooden fence enclosing the property.

Ms. Schultz replied that is correct because the equipment is seven feet tall and it will sit on a two foot concrete pad. Ms. Schultz stated that the applicant proposed to build the enclosure taller than the equipment so it would function as a screen. Ms. Schultz stated that the two foot pad is required in case of flooding. Ms. Schultz stated that the enclosure will measure 10 feet tall from the ground and the fence in front is six feet tall, so there would be a four foot portion of the enclosure visible behind the wall.

Commissioner Gonzales asked if the enclosure will be visible from the street.

Ms. Schultz replied that the top of the enclosure would be visible from the street but the equipment would be screened by the enclosure wall.

Commissioner Gonzales asked if the enclosure will be required to be consistent with the next building with regards to color and texture.

Ms. Schultz replied that it is should be required to match the stucco building next door.

Commissioner Gonzales asked why the mesh fence is proposed.

Ms. Schultz replied that there is a chain link fence that runs along the front of the property that the mesh fence would replace.

Commissioner Gonzales asked if this is where the vines are proposed to be planted.

Ms. Schultz replied that is correct.

Commissioner Gonzales noted that it would be difficult to graffiti that type of fence.

Commissioner Gonzales asked about the requirement for a solid wall along the frontage.

Ms. Schultz replied that the commission's decision on a past application to co-locate by Cingular Wireless was to require a solid wall without an opening, which was never built. Ms. Schultz stated that the wall was required by the commission to unify the frontage along Mission Boulevard and that the commission did not support a redwood fence because it would introduce a new material.

Commissioner Gonzales stated that he thought it would be important to have an additional emergency route in addition to the one off Appian Way.

Ms. Schultz replied that the current application does include a fence and a gate that would allow for emergency access. Ms. Schultz stated that the metal mesh has been pre-approved by the Public Utilities Commission for use on any PG&E site.

Joan Malloy, Economic and Community Director, stated that she understood that PG&E uses the metal mesh or wooden fences because they are easily removable if they need emergency access to their sites.

Commissioner Gonzales clarified that the wire mesh fence and wooden fence types are easily removable for emergency access.

Ms. Schultz agreed and stated that a precast concrete wall cannot be easily removed in an emergency. Ms. Schultz stated that PG&E would have to get a separate review by the Public Utilities Commission, which could be denied.

Commissioner Lew asked if the equipment base will sit two feet above the ground level.

Ms. Schultz replied that it would.

Commissioner Lew asked why it needs to be two feet above ground level.

Ms. Schultz replied that it was her understanding that the type of equipment that would be placed there needs to be kept out of standing water in case of heavy rains. Ms. Schultz stated that she is not sure if that is a Verizon requirement or a PG&E requirement.

Commissioner Lew asked if the equipment shelter would have walls, doors and a roof.

Ms. Schultz replied that it is not roofed and would have an access gate.

Commissioner Lew clarified that it is open to the weather at the top.

Ms. Schultz replied that is correct.

Commissioner Lew asked why the equipment would be exposed to the weather.

Ms. Schultz referred the question to the applicant and added that it is typical for equipment enclosures to be uncovered.

Commissioner Lew referred to conditions #11 and #12 and asked why the staff report section on the fence refers to those conditions when they do not say anything about the fence.

Ms. Schultz replied that if the commission approves the application it is for the proposed metal mesh fence, unless otherwise conditioned. Ms. Schultz stated that there is no condition for the fence and recommended a condition that specifies that it will be a vinyl-coated metal mesh fence.

Commissioner Lew asked if the drawing indicates the type of fencing.

Ms. Schultz replied that it states chain link fence.

Ms. Malloy stated that if the commission would prefer that material they should add a condition specifying it.

Commissioner Singh asked how far the garden is from the tower.

Ms. Schultz replied that it is about 60 feet from the tower.

Commissioner Singh asked if the community garden users had been notified about this application.

Ms. Schultz replied that the applicant conferred with John Haley, who is the unofficial community garden representative.

Commissioner Singh noted that the commission will likely review many applications for co-locating antennas that require variances and recommended that the zoning code be changed to address these applications.

Commissioner Singh asked if there is access from the liquor store to the tower area.

Ms. Schultz replied there is not and noted that there is a solid wall around the store property.

Commissioner Singh asked if there were any concerns by the community gardeners about this application.

Ms. Schultz replied that the City is working with PG&E to continue to be able to use this site as a community garden.

Commissioner Panlilio stated that he has safety concerns about how sturdy the antennas are going to be in extreme weather conditions. Commissioner Panlilio stated that he favors the continuation of the fencing and that it should be mesh fencing. Commissioner Panlilio asked how high the antennas need to be for their use. Commissioner Panlilio stated that a uniform system for approving of these antennas should be developed.

Ms. Schultz replied that the City has received the EMF report for this site and the report shows that the emissions are well under acceptable levels. Ms. Schultz stated that in regards to the antennas falling off, if the application is approved, the applicant will have to apply for a building permit and the Building Official will review the plans to make sure that the project meets the Building Code. Ms. Schultz noted that although Verizon is the one asking to place the antennas on the tower, it will be PG&E who does all the work as they do not allow anyone else to work on their towers. Ms. Schultz stated that antenna height varies according to the terrain that they are trying to cover and are generally site specific. Ms. Schultz noted that the lower height on the tower is already leased to another vendor.

Commissioner Panlilio stated that in this case if someone already has a lease on it then it means that later on there are going to be applications that we won't be able to put a limit to the height because someone already has leased a particular site.

Ms. Schultz asked for clarification from the commission, with regards to these types of applications, if somebody wants to do a co-location on top of a PG&E tower and they need to increase an 88 foot tall tower to 100 feet, should staff always apply the regular height limit in that zone or because it is a transmission tower, would an exemption to the height limit for certain projects be appropriate. Ms. Schultz stated that for residential districts, certain type of equipment is allowed above the height limit. Additionally, flag poles are commonly exempted from height limits.

Chairperson Anderson noted that there was no resolution included with the staff report.

Ms. Schultz replied that typically resolutions are only included for complicated, multi-approval projects. Ms. Schultz stated that to prepare a resolution after the meeting, she copies the findings and conditions from the staff report and makes any changes that the Planning Commission voted to approve.

Ms. Malloy noted that this is the typical format that has been used in the past unless applications are particularly complicated or are legislative actions, such as ordinances or General Plan amendments.

Chairperson Anderson opened the public hearing.

Charnel James, NSA Wireless, 12647 Alcosta Blvd., STE 110, San Ramon, CA, stated that she represents Verizon Wireless. Ms. James referred to Commissioner Gonzales' question about the solid wall and the

radio cabinets and the texture of the walls. Ms. James provided a sample of the material that would be used for the walls around the equipment cabinet. Ms. James noted that because there is flooding in the area they will use a cell block base, which means rather than going deeper in the ground they will use a type of construction that is drainable and will allow for installation of the utilities and gives access for the cable runs. Ms. James stated that the cable runs will go from the enclosure up the tower itself.

Commissioner Gonzales asked why the enclosure has to be at that height.

Ms. James replied that they want the eight foot height for screening. Ms. James noted that while the equipment is set fairly far to the back of the site it will still be slightly visible above the fence line when viewed from the street.

Commissioner Panlilio asked why if the equipment can get wet it needs to be on a raised platform.

Ms. James replied that if they enclosed the structure it would be 14 feet tall. Ms. James stated that the base will allow for drainage so that there will be no standing water around the equipment. Ms. James stated that standing water is a problem.

Commissioner Panlilio stated his concerns about someone going in through the open top to get to the equipment.

Ms. James stated that the wall itself will be eight feet without the base so it will be very difficult for someone to get up and over the wall.

Commissioner Panlilio asked about the height needed for transmitting signals.

Ms. James used the propagation map and showed where there are current antennas and explained that each antenna may be at a different height depending on what is in the adjacent area and depending on the next tower that it talks to. Ms. James stated that all of the antennas have some type of line of sight unless they are bouncing off buildings. Ms. James stated that it also depends on the height of everything else in the area. Ms. James stated that they also take into account terrain, elevation between sea level and height, and weather patterns. Ms. James stated that because of all those factors they cannot say that all Verizon antennas will be at one height and other wireless carriers at a different height.

Ms. James replied in response to Commissioner Panlilio's question that the top hat is wind rated between 135 mph and 200 mph winds. Ms. James stated that the brackets are rated for that wind speed.

Ms. James replied in response to Commissioner Singh's question regarding the community garden and stated that the community gardens are there as a guest of PG&E and they have been there quite some time. Ms. James stated that the property belongs to PG&E and they are working to continue the community garden.

Ms. James stated that this is why they have requested some changes to the conditions of approval because PG&E have put restrictions on what NSA Wireless is allowed to do regardless of what the Planning Commission or City Council approves. Ms. James stated that PG&E is planning on replacing the fence and putting in a gate whether the application is approved or not. Ms. James stated that PG&E will replace the fence without coming before the commission regardless of whether this application is approved or not because they are a State entity. Ms. James stated that wire mesh fence is a compromise with PG&E and it has a coating and a grounding ring around it. Ms. James stated that PG&E's big concern is fire hazard. Ms. James stated that if the power lines fall, they are incredibly flammable and very dangerous and if they fall on something that contains metal it will conduct. Ms. James stated that they have to have a very specific grounding pattern for their site, which is why they proposed wood frame and hardy board for the

enclosure. Ms. James stated that PG&E is adamant against any landscaping, which is why she has asked for a minimization of the landscaping requirement. Ms. James stated that they are adamant that they have fast security access in the event of emergency.

Commissioner Singh asked if PG&E is going to repair the road.

Ms. James replied that they will leave it the way it is.

Commissioner Singh noted that they need more gravel there.

Ms. James replied that she would suggest it to PG&E. Ms. James stated that there will probably be some additional gravel put in there because we are undergrounding our utilities so we will be filling that in and may be adding more gravel.

Ms. James stated that PG&E is concerned that the fence has to be readily removable and so a tremendous amount of landscaping makes it a hassle for them to remove the fence. Ms. James stated that they are requesting that ivy not be installed in that area specifically for that reason. Ms. James noted that ivy can be very flammable. Ms. James stated that the area has fairly mature landscaping as far as trees go, which is different than across the street. Ms. James noted that because of the size of the existing trees, landscaping may not thrive in the area without adequate sunlight. Ms. James stated that what Verizon is requesting and what PG&E has given permission to do is to put in 12 to 15 oleander type plants along the 52 foot line. Ms. James stated that they are hardy plants which will grow quickly and cover up a lot of the area. Ms. James stated that having ground cover encourages the gathering of litter. Ms. James stated that since the area is not attended to regularly, this change to the landscaping should help keep it looking neater. Ms. James noted that she was told by PG&E that as part of the agreement for the community gardens there will be some issues as to who maintains certain things and because of that she asks to change the condition regarding who will maintain the property.

Ms. James referred to condition #27 and stated that it has to do with Federal Communication regulations. Ms. James stated that they are highly regulated by the FCC and are assigned specific frequencies to use. Ms. James stated that Metro PCS frequency range was very close to the emergency response frequencies and Metro PCS was overpowering their sites which cause them to interfere with emergency communications. Ms. James stated that they have been censured by the FCC and are no longer causing this problem. Ms. James stated that Verizon is reluctant to sign an agreement that if there is interference that Verizon will cover the cost of that. Ms. James stated if the police station violates their FCC regulation and infringes on Verizon's frequency, the agreement as worded would require them to pay to change their frequencies and yet it was the police in violation of the frequency position. Ms. James stated that the FCC would come in and adjust frequencies if there was a problem. Ms. James stated that there is already a procedure in place and having condition #27 is duplicative and attempts to usurp Federal regulations.

Chairperson Anderson referred to condition #27 and suggested changing it to state that if the interference comes from the Police Department then Verizon wouldn't have a problem with it.

Ms. James replied that they would not have a problem if it read that if the interference is because of Verizon's activity with their frequency then they will fix the problem.

Chairperson Anderson asked if she would be comfortable with change to condition #27 to indicate where the interference is coming from.

Ms. James replied that if it were Verizon interfering they would be censured by the FCC.

Chairperson Anderson referred to condition #18 and asked if she wants it to start before the 12 foot length of aerial cable.

Ms. James replied that is correct.

Chairperson Anderson stated that the City has said that they cannot have aerial cables and asked what her solution is.

Ms. James explained that PG&E has said that they are not able to put another riser on the connector pole in order to run the power down into the ground. Ms. James noted that they are proposing to install another pole that is parallel to the first one. Ms. James stated that the Joint Pole Authority, the organization that oversees all wooden poles in the State of California, requires a certain climb space and limits the number of tubes on a pole. Ms. James stated that this pole is maxed out to what it can handle for PG&E. Ms. James stated that the only way they can get power is to have PG&E put in a duplicate pole, in line with that pole, to run the cabling down that pole and underground so they can connect from that point. Ms. James stated that there are only two poles available to connect to, the one they are proposing to use and one that is farther away from the project site. Ms. James stated that the problem with the pole farther away is that to get to the site they would have to cross a water drainage easement, sewer easement and other easements that make it difficult to locate a conduit that they can run power through. Ms. James stated that they cannot use the farther away pole. Ms. James stated that they are going to run the fiber cable from the vault at the front of the property and along the side to the equipment. Ms. James stated that PG&E is dictating how they can connect to them. Ms. James stated that from the point of connection to their site will be underground and they have no problem with that. Ms. James stated that they have no say as to how PG&E gets their power to our point of connect. Ms. James stated that for those reasons they have stated that they cannot underground it. Ms. James stated that they might be able to put that pole closer to the fence line, which would shorten the distance from 12 feet to six feet.

Chairperson Anderson asked why they couldn't get the duplicate pole.

Ms. James replied it is because of the requirement for no overhead lines, which is included as part of their project even though they have nothing to do with it.

Chairperson Anderson asked why they couldn't get the second pole next to the first and then they wouldn't have to have 12 foot lines and would satisfy the condition.

Ms. James replied that is what PG&E is proposing is to install a second pole. Ms. James pointed out that the pole cannot be seen from the street view.

Chairperson Anderson stated that he doesn't think the opposition to the pole is visual but it has to do with the ordinance.

Chairperson Anderson asked if they are in violation of the ordinance because the lines are overhead.

Ms. Schultz replied that the ordinance for undergrounding is for poles that are in the public right-of-way and the real issue is the General Plan policy that states that utilities should be undergrounded unless it is demonstrated to be infeasible and that it will be up to the Planning Commission to determine if the information provided by the applicant is sufficient to determine that undergrounding is infeasible.

Chairperson Anderson asked if shortening the distance from 12 feet to six feet would make any difference.

Ms. Schultz stated that if the Planning Commission is inclined to allow any sort of overhead utilities, which would be a big departure from what we have seen in the past, then staff would want them to be as short as possible.

Chairperson Anderson referred to condition #12 and noted that staff would not choose oleanders for the landscaping and that staff normally approves the new landscaping. Chairperson Anderson asked if that was the condition that she wanted removed.

Ms. James replied that she wants to limit the scope. Ms. James stated that she prefers that the Planning Commission decide how they want to see the landscaping so Verizon can be given direction. Ms. James stated that it takes time and money to determine a landscape plan. Ms. James stated that she would prefer being directed to provide 15 – 17 hardy plants that can handle the shade, which significantly narrows down what Verizon needs to do. Ms. James stated that where they are being asked to screen is almost 100 feet away from their installation and there does not appear to be a causal effect other than the fact that it would make that area prettier. Ms. James stated that we have met the code as far as screening and keeping the equipment not visible to the public. Ms. James stated that they will be assisting PG&E in paying for the replacement of the fence. Ms. James stated that with the smaller mesh it will limit the visual impact. Ms. James stated that if you put too much screening and landscaping in that area then there will be a safety hazard for the people that work in the community gardens, since then no one can see into the area.

Chairperson Anderson asked how staff would modify condition #12.

Ms. Schultz stated that they could try to tailor the condition for what the landscape condition needs to achieve but staff would still want final review of the plan.

Ms. James agreed to that.

Chairperson Anderson asked staff to modify #12.

Ms. Schultz replied that it is condition #11.

Ms. Malloy stated that the condition is fairly clear but maybe “the purpose of the landscaping is for screening” could be added.

Ms. Schultz stated that staff’s job is to review the plans, not design the landscaping.

Chairperson Anderson stated that he did not want them to choose plant species.

Ms. Schultz stated that screening is the most important reason for the landscaping and that staff wants vines as stated in the condition because that is for the purpose of screening. Ms. Schultz stated that staff wouldn’t normally recommend approval of a chain link fence, but they would support the metal mesh if it were used as a backdrop for the vines which would then be more consistent with the landscaping across the street.

Ms. Schultz stated that all landscaping is supposed to be three tiered, not just shrubs, but a combination of shrubs, ground cover and trees.

Chairperson Anderson asked if a sentence could be added that said “The primary purpose is to accomplish screening”.

Ms. Malloy agreed with “The applicant shall prepare a final landscape and irrigation plan for the Mission Boulevard street frontage to screen the area subject to review and approval by the Economic and Community Development Director.”

Ms. James commented that PG&E will not allow vines to climb on the fences and they will remove them. Ms. James stated that is why they recommended the bushes in front of the fence.

Ms. Schultz stated that when staff spoke to PG&E it was not clear that landscaping would be a major issue. Ms. Schultz stated that we are making a huge concession from the original staff recommendation for a solid pre-cast wall and trying to be flexible, but there is a degree where allowing the metal mesh fence with no vines growing on it isn't necessarily keeping with the City's standards.

Chairperson Anderson stated that he would like to see the condition satisfy staff and the applicant as much as possible because that would allow the commission to rule on the application.

Ms. Malloy suggested adding at the end of the first sentence “for the purpose of screening the utility site.”

Ms. James asked if PG&E can be included in how this is designed because if PG&E denies their landscaping plan then they will not be able to build the site.

Ms. Schultz stated that it could be added to the Economic and Community Director approval.

Chairperson Anderson referred to condition #12 and asked why the applicant wants to add that phrase.

Ms. James replied that it would excuse Verizon from liability in the event that PG&E and the City come to an agreement as to the status of the community gardens and their ability to continue to be there and how that will happen.

Ms. Schultz stated that if we added the words “unless otherwise agreed to by the City” then staff would be satisfied.

Ms. James agreed.

Chairperson Anderson referred to condition #10 and asked for clarification.

Ms. James stated that the condition as it is written is vague on how Verizon would be notified and they would want written notification. Ms. James stated that a telephone call will not necessarily get the response needed therefore they would prefer written notification which they would get in three or four days and then they would get someone out within 48 hours. Ms. James stated that they are asking for a little longer window for notification.

Chairperson Anderson asked if it would accommodate them if the City just took care of the problem and billed them later.

Ms. James stated that Verizon would not have a problem as long as the prices were reasonable.

Richard Sealana, Superintendent, Public Works, stated that the City has a graffiti abatement program and have agreements throughout the City. Mr. Sealana stated that the City uses both methodologies although the preference is for the responsible party to take care of it.

Chairperson Anderson asked if they send out notices.

Mr. Sealana replied that the preference is to remove graffiti within 24 – 48 hours to prevent it from attracting more graffiti. Mr. Sealana stated that the typical approach is to notify the responsible party as soon as the City is aware of the graffiti. Mr. Sealana stated that if there has not been a positive response within a very short period of time, then the City will go out and abate the graffiti and charge the responsible party.

Commissioner Singh asked if 48 hours is in the ordinance.

Mr. Sealana replied that the intent is to remove all graffiti within 48 hours.

Commissioner Singh stated that the applicant is asking for more time than 48 hours.

Mr. Sealana replied that would be inconsistent.

Ms. James stated that they are requesting written notification because there is no wording in the condition about how the responsible party is notified.

Commissioner Singh asked if they needed more than 48 hours.

Ms. James replied that once they receive written notice they will remove the graffiti within 48 hours. Ms. James stated that their preferred method for contact is by written notice.

Farooq Azim, Principle Engineer, stated that if the intent is to gain more time then we should give them more time but getting a letter written will take time. Mr. Azim stated that normally the applicant will provide an 800 number and the City would then call that number and the applicant would come out and take care of the problem. Mr. Azim stated that the City does not want to be writing letters.

Ms. James stated that would be fine for a normal equipment enclosure but their enclosure will not be subject to graffiti unless someone climbs over the anti-climb fence. Ms. James stated that this is about graffiti appearing on the mesh fence that belongs to PG&E not Verizon.

Chairperson Anderson clarified the issue as to the procedure for contacting them.

Ms. James replied that a NOC number is typically a contact number that goes to a larger center before being routed back to the local area. Ms. James stated that if a written notice were mailed to the Walnut Creek office then it will be responded to within 48 hours or better.

Ms. Schultz stated that it is in the City's best interest to take down the graffiti and charge the applicant.

Chairperson Anderson asked if that would change the condition at all.

Ms. Schultz replied that the word "discovery" could be changed to "notification". Ms. Schultz stated that staff time in writing letters would be prohibitive.

Ms. Malloy agreed with this change.

Ms. James asked to change "48 hours" to what is in the ordinance which is "a reasonable time frame."

Mr. Sealana stated that their policy is 48 hours.

Ms. Malloy stated that this is the standard condition that is applied to all commercial and industrial projects.

Commissioner Panlilio suggested an email notification.

Ms. James replied that she would be fine with email notification. Ms. James stated that she needs written notification so they can track it.

Ms. Malloy stated that the system is not set-up for email or written notification. Ms. Malloy stated that to set up a special notification for Verizon would be a departure and fairly hard to track.

Chairperson Anderson referred to condition #8 and asked why if it does not affect the applicant if there is a problem.

Ms. James replied that the way it is worded they could be required to provide some kind of finish on the galvanized top hat that will be going on the top of the PG&E tower. Ms. James stated that if the condition would exclude anything provided by PG&E that would be fine. Ms. James stated her concerns that the condition would require them to put a baked enamel finish on the brackets that go behind the antennas.

Chairperson Anderson asked if PG&E was providing the top hat.

Ms. James replied yes.

Chairperson Anderson asked if the exposed metal was provided by PG&E.

Ms. James replied that she believes that Verizon provides the antennas and brackets which are approved by PG&E prior to use.

Chairperson Anderson asked staff if could provide relief on this condition.

Ms. Schultz replied that "installed by Verizon" could be added at the end of the condition to clarify.

Chairperson Anderson asked if after this discussion there are any conditions in the desk item or the staff report that the applicant finds intolerable.

Ms. James replied no, these would all be acceptable to Verizon.

John Haley, 328 Monte Carlo, Union City, CA, thanked Ms. Schultz for the presentation. Mr. Haley asked if the pad will be a 14 foot by 14 foot concrete pad on which equipment that is self contained and weatherproof will be mounted.

Ms. Schultz replied that the concrete pad will be 14 feet by 40 feet and there is no requirement for a roof.

Mr. Haley noted that he works in the garden three or four times a week and since the garden is under the electrical lines he hopes that the radiation level is safe. Mr. Haley hopes that there is no radiation coming from the new equipment.

Ms. Schultz replied that the City has received the report for the site and the levels are well under the threshold levels.

Mr. Haley stated that he hopes that everyone is aware of the water conditions at the site. Mr. Haley stated that with a heavy rain there is more than two feet of water standing on Mission Boulevard and since the garden site is lower than Mission Boulevard there could be up to three feet of water when there are heavy rains, which take a while to drain. Mr. Haley stated that kids do climb over the fence into the garden area

and he hopes that the proposed 10 foot fence will be sufficient to deter the kids. Mr. Haley stated that he would like to see regular reports on the progress of the site.

Chairperson Anderson closed the public hearing.

Commissioner Lew stated that she doesn't like the way that some of the conditions were changed and that they are letting the applicant off the hook and we are watering down conditions for one particular party without maintaining consistency across the board and maintaining our policies.

Commissioner Lew stated that she has a problem with taking a standard condition and altering it for one applicant without justification. Commissioner Lew stated that the commission has to make findings for a Variance and an Administrative Site Development Review and when conditions are changed then there is no support for the Variance.

Commissioner Lew stated that there is no condition that requires the applicant or the owner to maintain the site. Commissioner Lew stated that if something starts to rust or break there is nothing to require the applicant or owner to fix it.

Chairperson Anderson asked if condition #6 would cover that.

Commissioner Lew stated that condition #6 only covers the equipment enclosure and does not cover the tower, the antennas or the brackets. Commissioner Lew noted that the baked enamel provision was removed from the condition.

Ms. Schultz clarified that the tower belongs to PG&E and the equipment enclosure will be the responsibility of the applicant. Ms. Schultz stated that there was discussion about adding a condition for the fence but specific wording has not been discussed.

Ms. Malloy stated that she believes that the antennas at the top of the tower will be well maintained for safety reasons. Ms. Malloy stated that PG&E is quite familiar with building things to withstand weather and the equipment enclosure is the responsibility of the applicant.

Commissioner Lew stated that what is being added to the tower will be highly visible and there is nothing to require that anyone maintain it.

Ms. Schultz suggested amending condition #5 to add "and shall maintain antennas in good repair". Ms. Schultz stated that then the maintenance of the antennas, equipment enclosure, and landscaping would be covered. Ms. Schultz stated that the last item to consider would be the fence and who would maintain it.

Commissioner Lew stated that everything should be kept in good repair because of the visibility and someone should be responsible and not the City.

Ms. Malloy stated that "and shall maintain the antennas in good repair" could be added to condition #5.

Commissioner Lew asked for clarification about condition #11.

Ms. Schultz replied that it should reference screening the site. Ms. Schultz noted that the requirements for fast-growing vines was still in the condition.

Commissioner Lew stated that this is where the conflict is because PG&E does not want vines on their fence.

Commissioner Lew stated that she would remove the fast growing vines and add Bay-Friendly landscaping.

Ms. Malloy pointed out that PG&E did not tell City staff that vines were not allowed. Ms. Malloy suggested leaving it in and letting PG&E review the plan per the condition.

Commissioner Lew stated that she would prefer something that hides the fence and if PG&E doesn't object to it then we should keep it.

Commissioner Lew referred to condition #18 and stated that she does not understand what the objection is to undergrounding anything when that is what the City requires.

Ms. Schultz stated that the difference is that this is a power pole on private property that will be providing power to PG&E owned property. Ms. Schultz stated that in most projects that the commission reviews, the applicant is getting power from a pole that is on the street and so they are required to underground from the pole to the new building. Ms. Schultz noted that on private property when someone develops a secondary dwelling unit behind their house, they are required to underground the connection. Ms. Schultz stated that there is a General Plan policy that states that all utilities need to be undergrounded regardless of whether it is public or private, property as long as it is feasible. Ms. Schultz stated that the applicant has presented the commission with an argument regarding the pole and not having additional room to underground from that pole. Ms. Schultz stated that the commission will have to decide if undergrounding is infeasible consistent with the General Plan.

Commissioner Lew stated that it still creates a condition of being unattractive, which is the whole reason for undergrounding.

Ms. Malloy stated that an alternative that has not been explored with the applicant is replacing the existing pole to make it able to accommodate the undergrounding.

Chairperson Anderson stated that there is one piece of information that has not been presented, which is that the General Plan talks about how things should be undergrounded unless it is infeasible and that is an issue that the applicant has brought up. Chairperson Anderson stated that there is more to consider than just the ordinances and the General Plan says that it has to be feasible.

Ms. Schultz replied that the General Plan requirement is based on financial or technical feasibility. Ms. Schultz stated that one way around the problem would be to upgrade the pole, which then might result in a financial infeasibility. Ms. Schultz stated that the question is whether or not the commission has sufficient information to make that decision tonight.

Chairperson Anderson polled the commission about condition #18.

Commissioner Panlilio stated that it still falls to PG&E and the commission cannot impose anything on PG&E.

Commissioner Singh stated that the applicant explained it very well and he doesn't have any problem with condition #18.

Commissioner Gonzales asked if there were going to be multiple easements from different agencies that would conflict with the undergrounding.

Chairperson Anderson stated that was for a different pole.

Commissioner Gonzales stated that would create the infeasibility factor because of unusual circumstances.

Chairperson Anderson asked if he thinks that condition #18 should be left in.

Commissioner Gonzales replied that it would be difficult to adhere 100 percent to that.

Commissioner Lew stated that the only exception to condition #18 would be to add the language “unless it is economically or technically unfeasible.”

Ms. Schultz stated that in discussion with the City Attorney it was recommended that the commission make the decision as part of the public hearing and part of the public record and that they should consider the requirement in taking action and making findings rather than defer it to staff. Ms. Schultz stated that it is up to the commission to decide if they have enough information tonight or would like to wait for the applicant to provide more information.

Chairperson Anderson stated that the question was not deferring it but rather adding a phrase to the condition that would allow for an alternative.

Ms. Schultz replied that solution would put it on staff to determine infeasibility.

Ms. Malloy stated that the commission would be asking staff to make an interpretation and staff believes that there is some feasibility and without other direction would hold this condition. Ms. Malloy stated that if the commission believes undergrounding is infeasible, then this is the time to amend the condition.

Chairperson Anderson stated that he would have the commission vote separately on condition #18 and then have a motion on the entire application.

Ms. Schultz read back the changes to the conditions:

- Change condition #5 to read “the applicant shall paint the antennas to match the existing PG&E tower and shall maintain the antennas in good repair.”
- Change condition #8 to add “installed by Verizon” at the end.
- Change condition #10 to read “Any graffiti appearing on the site shall be removed by the applicant or owner within 48 hours after notification.”

Commissioner Lew asked what kind of notification they will be given.

Ms. Schultz replied they will be giving standard notification, which is generally a phone call.

Commissioner Lew asked if we are going to change it to a written notification.

Ms. Schultz replied that staff wouldn't recommend changing it and did not think that feedback had been given by the commission.

Commissioner Lew stated that she does not think anyone should be an exception to the City's policies. Commissioner Lew stated that we are going to enforce our policies and keep our City looking as best as

we can and clean up the graffiti as soon as we can. Commissioner Lew stated that she doesn't like the idea that we are watering down our policies and making exceptions.

Ms. Schultz suggested "notification by the City" which is standard practice and then if that doesn't happen then the City removes it, which is also standard practice.

Ms. Schultz continued with the changes:

- Change condition #11 to read "the applicant shall prepare a final landscape and irrigation plan for the Mission Boulevard street frontage to screen the site,. . ." and add at the end of the sentence "review and approval by the ECD Director and City Arborist and PG&E."
- Change condition #12 to read "wireless carrier, property owner, unless otherwise agreed to by the City."

Ms. Schultz suggested adding a new condition for the fence which reads "The applicant shall be responsible for installing a wire mesh fence with vinyl coating, which the applicant shall be responsible for maintaining.

Chairperson Anderson stated that it needs to be discussed.

Ms. Schultz continued with the changes:

- With regard to condition #18, the commission will vote and give staff direction.
- Change condition #27 to read "Additionally the applicant shall submit a written agreement stating that if Verizon's equipment results in interference with emergency communication they will be corrected at the sole cost of Verizon Wireless."

Commissioner Lew referred to condition #14 and asked what will be sub-surfaced.

Ms. Schultz stated that condition #14 is a standard condition that could be deleted in this instance because all the equipment will be in the enclosure and nothing will be sub-surfaced.

Chairperson Anderson agreed that the condition could be deleted.

Commissioner Lew disagreed and stated that something needs to be said because if normally something is sub-surfaced and we are making an exception then it should be stated that the equipment will be in the equipment enclosure.

Chairperson Anderson suggested adding at the end of the condition "or it goes into the equipment enclosure."

Ms. Schultz suggested it read "the applicant shall locate all new transformer switching boxes and similar appurtenances in the equipment enclosure."

Ms. Schultz noted that of the duplicate conditions #7 and #17, #17 will be deleted.

Chairperson Anderson asked Ms. Schultz to re-state the fence agreement.

Ms. Schultz replied that the application, as proposed, is for the six-foot high metal mesh fence and staff is recommending approval of that with the requirement for landscaping. Ms. Schultz read, "The applicant

shall be responsible for installing a wire mesh fence with vinyl coating, which the applicant shall be responsible for maintaining.” Ms. Schultz stated that would address Commissioner Lew’s concerns about maintenance and also clarifies the material choice for the fence.

Commissioner Gonzales stated that he would like to see the vines added to the fence.

Ms. Schultz stated that the vines are taken care of with the change to condition #11. Ms. Schultz clarified that there would be a vinyl coating on the fence, which PG&E requires for grounding purposes.

Chairperson Anderson stated that the fence condition could be added.

Chairperson Anderson asked for a show of hands for approval of condition #18 as it is written in the staff report.

Commissioner Lew stated that there is nothing in writing that it is not feasible.

Chairperson Anderson asked if that meant she would vote for condition #18 as it is written.

Commissioner Lew state that she would.

Commissioner Lew made a motion to approve Variance V-02-09 and Administrative Site Development Review ASD-07-09, making findings 1 – 10, with the modified conditions of approval and adopt a resolution confirming this action.

Ms. Schultz asked for clarification of condition #18.

Commissioner Singh seconded.

Kit Faubion, City Attorney, stated that with regards to condition #18 because it does have the General Plan language that states “underground unless it is not feasible” and the Planning Commission heard testimony from staff and the applicant and in sustaining the condition you are basically are finding that you don’t think that adequate evidence was provided to find this infeasible. Ms. Faubion suggested adding a finding to the motion to convey that intent. Ms. Faubion suggested “Consistent with General Plan policy CD81.12, the project is required to underground a proposed twelve foot or less overhead power line, the Planning Commission finds that no adequate evidence was presented showing that the undergrounding requirement would prohibit the ability to provide telecommunication service. More specifically, there is no adequate evidence that the undergrounding requirement would make the project financially or operationally infeasible based on the record.”

Chairperson Anderson asked if the maker of the motion would accept that statement.

Ms. Faubion clarified that would be a finding supporting the motion.

Commissioner Lew accepted the modification.

Chairperson Anderson asked if the seconder would accept the change.

Commissioner Singh accepted the change.

Chairperson Anderson stated that the motion stands with that statement added to it.

Commissioner Panlilio asked if PG&E puts it in there as a separate pole would it be Verizon or PG&E's problem.

Chairperson Anderson replied that it would come under the condition of whether it is feasible, technically or financially. Chairperson Anderson stated that is why the City Attorney added the statement so it is saying that if it isn't technically or financially feasible then...

Commissioner Panlilio stated that is not right.

Ms. Schultz stated that if the commission keeps condition #18 in and adds the finding as suggested by the City Attorney you are requiring undergrounding for this project, which the applicant has stated would make it infeasible. Ms. Schultz stated that staff understands the commission have made a determination that they don't think it is infeasible enough to waive the requirement for undergrounding.

Commissioner Panlilio stated that if PG&E is the one that puts that pole there, the City will have nothing to do with it and the applicant will have a problem because that pole belongs to PG&E. Commissioner Panlilio stated that the applicant will not be able to put anything there because PG&E won't be able to underground it because it is PG&E putting it there and the applicant will not be in compliance with the undergrounding.

Chairperson Anderson asked how he would resolve that.

Commissioner Panlilio suggested adding "subject to PG&E's approval." Commissioner Panlilio stated that if there is going to be a problem with the undergrounding because PG&E says they cannot do it, then the applicant should not be punished for that.

Chairperson Anderson asked how to change the findings to include a statement that relieves the applicant of the responsibility if PG&E insists.

Ms. Malloy stated that it depends on how you frame the question. Ms. Malloy stated if you ask "Can this pole accommodate an underground facility" then the answer is "No". Ms. Malloy stated that if you say "Is it feasible to replace the pole and to acquire the appropriate easements from the apartment building" the answer may be "Yes" but that question has not been asked.

Chairperson Anderson asked can we change the question to where the feasibility of it is reported to us by PG&E or reported to the applicant and would they follow the directions that they get from PG&E.

Chairperson Anderson asked if the motion can be rephrased so the onus is not on the applicant but on what they can get from PG&E.

Ms. Faubion stated that the concern is that it is the City that finds it feasible or not based on the evidence. Ms. Faubion stated that this commission is interpreting the City's General Plan and telecommunications is a complicated subject, but basically we are asking, has the commission heard tonight in the record sufficient evidence to say the undergrounding requirement is infeasible, financially or operationally. Ms. Faubion stated that the condition says "Install all new utility lines underground" and maybe there is more than one way to do that, maybe the second pole. Ms. Faubion stated that the question is whether the commission, as the decision maker tonight, has heard enough to convince you that undergrounding is financially or operationally infeasible.

Chairperson Anderson stated that we don't have enough information and would be making the decision based on our feelings. Chairperson Anderson asked what the commission can do to make the application approvable tonight and still be able to be built if PG&E will not do the undergrounding.

Commissioner Lew asked why you would want to because this is a project and there are parties involved that need to work out those details.

Commissioner Lew stated that she has not heard enough to make a finding that we should relieve the applicant or anyone involved in this project of the requirement to underground the utility lines.

Commissioner Lew stated that we are not making any money off of this project; it is not a revenue producing business for the City. Commissioner Lew stated that the City is losing something in terms of the view and risks and even the lack of landscaping at this time. Commissioner Lew stated that this has been an unsightly piece of property, if not for the new fencing installed by the grocery store on the corner.

Chairperson Anderson asked for other thoughts.

Commissioner Gonzales stated that he heard the applicant's argument regarding their proposed difficulty in this situation. Commissioner Gonzales stated that he did not see any evidence at this point.

Commissioner Gonzales stated that it was only a comment. Commissioner Gonzales stated that he sees a lack of evidence and it is difficult to make a decision in favor of the applicant because of lack of evidence. Commissioner Gonzales stated that there is no report of costs of undergrounding versus other options showing it is financially infeasible. Commissioner Gonzales stated that if the applicant could provide that information to the commission at this time, he would like to see it. Commissioner Gonzales stated that if the applicant has some evidence that would make this a hardship to them or to Verizon, please bring it forward now.

Commissioner Singh stated that they can appeal tonight's decision to the City Council.

Ms. Malloy agreed.

Chairperson Anderson stated that the motion that was made means that the lines should be undergrounded.

Commissioner Singh stated that there is no evidence and we don't want to bend the City ordinance.

Chairperson Anderson stated that the application can be rejected, continued or approved.

Ms. Malloy stated that the applicant may be bringing forward information that staff has not had an opportunity to review.

Ms. James stated that she does not have the third party report.

Chairperson Anderson stated that the commission should move forward and the applicant can appeal it to the City Council.

Chairperson Anderson stated that there is a motion with the statement added by the City Attorney and it was seconded and requested the commission to vote.

AYES	5 (Anderson, Gonzales, Lew, Panlilio, Singh)
NOES	0
ABSTAIN	0
ABSENT	0

2. **RIDGE COMMUNICATIONS, 32100 ALVARADO BOULEVARD, Modification of Site Development MOD SD-20-86;** the applicant, Ridge Communications, is seeking to modify the Site Development Review approvals for the Alvarado Place Shopping Center to allow the construction of two additional cupolas to accommodate and conceal nine Verizon Wireless panel antennas. The application also includes the installation of associated ground equipment in a 20 foot by 40 foot enclosure. The project is located at 32100 Alvarado Boulevard (APN: 483-0040-049-00). This project is considered categorically exempt under Section 15031, Class 1, Existing Facilities, of the California Environmental Quality Act.

Avalon Schultz, Associate Planner, presented the staff report.

Commissioner Panlilio asked why the proposed cupola is not symmetrical to the existing one.

Joan Malloy, Economic and Community Development Director, said that the proposed cupola fills out the existing roofline to match architecturally and they also may use that size to house some of their equipment.

Commissioner Singh asked if the parking spaces that would be taken away are in a loading/unloading zone.

Ms. Schultz said no, they are general parking spaces not used by patrons and there are still ample parking spaces for loading/unloading.

Commissioner Lew asked for clarification that the application doesn't require any undergrounding and asked if there will be any above ground cabling to the new antennas.

Ms. Schultz said all cables were proposed to be underground, but that the condition should be included to be clear.

Commissioner Lew asked how the conduits will be run from Dyer Street to the roof antennas.

Ms. Schultz said it was her understanding that they would come up the back of the building and that a condition was included requiring the applicant to build an architectural enclosure to hide the cable, which can be painted and finished to match the building.

Commissioner Lew stated that the last application had a map showing a lack of coverage and wondered if this was also the case for this application.

Ms. Schultz said she doesn't have a map for this project but generally the cause for these projects is because of lack of coverage and suggested the applicant address the coverage issues.

Commissioner Lew said she noticed there are already plants on the rear wall of this property and wanted to know if we have had any serious graffiti problems on the portion of the wall that is not covered by plants.

Ms. Schultz said not to her knowledge.

Commissioner Lew commented that the design of the cupola is a beautiful solution and agrees that concealing antennas should be part of our standards for wireless facilities.

Commissioner Gonzales agreed with Commissioner Lew about the attractiveness of the cupolas and asked if the box to encase the equipment would be in the parking lot.

Ms. Schultz said yes, it would be to the rear of the property and would result in the loss of two parking spaces. The proposal is for a chain-link fence with vinyl slats to provide screening and staff is recommending requiring a solid wall enclosure to be finished to match the building. Ms. Schultz stated a condition for a solid enclosure would be consistent with the previously reviewed wireless collocation application.

Commissioner Gonzales stated he wanted to make sure there is consistency and every applicant has to adhere to the same standards. He then asked if the antennas in the cupola will be visible to the public.

Ms. Schultz said they would not be visible.

Commissioner Gonzales wanted clarification that the city would be adding the condition that the applicant would be required to fill in landscaping for the whole lot.

Ms. Malloy answered that is correct and that Rick Sealana, Public Works Superintendent, will walk the site with the applicant to give specific instruction.

Commissioner Gonzales wanted to make sure they would have to have to adhere to Bay-Friendly landscaping.

Commissioner Anderson asked why the draft resolution was not included for this application.

Ms. Schultz answered that they tried to handle it by including Condition 1, which states all original conditions are carried forward and are still in effect. The original resolutions were included in the packet for the Commission to see what conditions were being carried forward.

Commissioner Panlilio asked if the property owner would be responsible for installing new landscaping.

Ms. Schultz said the applicant is Ridge Communications and they will be required to make the improvements to obtain building permits. The property owner signed off on the application.

Chairperson Anderson asked if there were any more questions.

Chairperson Anderson opened the public hearing.

Clarence Chavis, Ridge Communications 12667 Alcosta Blvd., STE 175, San Ramon, CA, stated that he is the applicant on behalf of Verizon Wireless and passed out 3 slides to assist in his presentation. Mr. Chavis said he has had a chance to review the 20+ conditions of approval and the recommendations as well, including the comments in regards to landscaping. Mr. Chavis stated that he accepts the conditions regarding the architectural features of the cupolas themselves, but would like to discuss two of the conditions of approval. The last sentence of Condition 5 states the applicant shall paint the cupolas to match the building and if, upon site inspection, a match has not been achieved, the applicant shall repaint the entire center. Mr. Chavis requested the last sentence be changed to say instead of being responsible to repaint the whole center, that it state they will have to repaint the cupolas until they match the building.

Mr. Chavis said the second question refers to Condition 6 which was to provide a more architectural solid wall. He stated that their equipment will not be seen along Alvarado Blvd or anywhere in the shopping area and that the only way you would be able to see the equipment would be if a) you are making deliveries or work in one of the buildings or b) you are walking across the 30 or so feet of driveway. He said a solid wall there will increase their cost by about \$40,000 to make an 8-9 feet concrete fence all the way around the equipment area and they would like to match the existing enclosure, which is a 10 ½ feet high chain-link fence with plastic slats. He stated that the site would not be visible from the railroad tracks or the residences just north of that.

Mr. Chavis requested Condition 22, which deals with Verizon interfering with emergency communications, be updated to reflect the wording approved in the previous application (a different Verizon application before him). He also requested that Condition 13 regarding notification of graffiti, be changed to the same language as in the previous application. Mr. Chavis stated he is in agreement to go out to the site to look at the particular areas in need of landscaping, but he wants to make sure Verizon would be willing to accept the condition. He would like new language to say that the responsibility of the irrigation and maintenance of the new groundcover would be that of the property owner instead of Verizon.

Barry Ferrier, 32212 Allison Way, Union City, CA, said that when you're traveling south on Dyer Street towards Alvarado Blvd. you can see the wall as Dyer Street curves at the railroad tracks and that the wall has been an eyesore for as long as he can remember. The fact that ivy is growing on part of the wall has gotten rid of some of the graffiti problems, but the part of the wall that's closer to Dyer Street is still barren. He stated that whatever can be done to improve that view would help.

Commissioner Anderson commented that in regards to the solid wall to the rear of the property, it's very important that we adhere to what we put in ordinances, such as requirements for having solid walls. He asked staff how to reduce graffiti while still requiring solid walls.

Ms. Schultz said that generally we would encourage the planting of vines in front of the walls to make it free from graffiti. Solid walls are generally required to improve aesthetics in visible locations and this wall will only be visible on one side and one corner, which the Commission may want to consider when discussing the applicant's request for relief from the solid wall condition.

Commissioner Anderson asked if Ms. Schultz meant having one wall solid and the rest non-solid.

Ms. Schultz answered yes, because three sides will not be visible for the most part.

Commissioner Anderson said the whole idea is to protect the visibility. The applicant mentioned an increase in cost, so he would probably suggest something like that to protect the integrity of the visibility and help the applicant with the cost.

Commissioner Lew asks how the existing chain-link enclosure got approved.

Ms. Schultz stated that she couldn't find the approval for the existing collocation and noted that the size of this enclosure is 800 square feet and it is closer to Dyer Street. Most likely, at the time the previous application was approved, the City's review process wasn't as refined.

Commissioner Lew stated that if you're going to construct something, you should probably make all sides the same but she doesn't have any preference either way. As far as the graffiti condition, she would recommend leaving it unchanged. She doesn't mind changing Condition 22, regarding interference by Verizon, because that would be consistent with the other application and would put the burden on Verizon if they cause the interference.

Commissioner Singh didn't have any comment.

Commissioner Panlilio asked about the debris in back of the building.

Ms. Schultz stated staff can advise our Neighborhood Preservation division to look into it.

Commissioner Anderson said it seems reasonable that we allow some flexibility for the enclosure to match the existing chain-link enclosure and that it bothers him that two enclosures 20 feet from apart would have completely different requirements.

Ms. Malloy said as time has passed and technology has evolved, we have indentified that we need to be more careful about the enclosures, how they're treated, and how they're maintained. We have more experience now and we can expect that we are going to get more and more of these requests for antennas and enclosures so we're trying to be more consistent and recognize that they need to be made of a durable material that is appropriate architecturally, especially if it will be visible.

Commissioner Anderson said the Commission already discussed the question of repainting the entire center or just the cupolas. He asked regarding the enclosures, if they look better, but are not visible, does it really matter.

Ms. Schultz commented that one issue that was brought to light during public comments was the bare patch of landscape area, which is part of the reason why this area is visible. One way to address this is to look for enhanced landscaping. The way the condition is worded is to just restore the landscaping to what was originally approved. Additional landscaping could screen more of this site from view. The other suggestion of having a solid wall where visible and chain-link in back would save the applicant the cost of paying for the material where it won't be seen.

Commissioner Anderson said that makes more sense to him and asked staff how to modify that condition to limit it to just one visible wall.

Ms. Schultz said Condition 6 addresses the equipment enclosure. We could say the applicant shall provide an equipment enclosure with a solid wall facing Dyer Street.

Commissioner Anderson asked what if we left it alone and said "subject to review," and then during staff's review period it could be addressed.

Ms. Schultz said staff would need the wording changed to have that flexibility.

Ms. Malloy suggested the conditions state, "the applicant shall provide a solid wall equipment enclosure to screen it from the Dyer Street frontage."

Commissioner Anderson stated that the wording was satisfactory.

Commissioner Anderson, referenced Condition 13 regarding graffiti removal and asked the Commission about saying "after notification" instead of "after discovery."

Commissioner Lew said "after discover" would be appropriate in this case, because this shopping center was recently remodeled and she does not think we should let graffiti go unaddressed, and should make sure that graffiti is gone as quickly as possible.

Richard Sealana, Public Works Superintendent, stated that graffiti is problematic in the four corners area at all times, but specifically at the rear of this building. The graffiti has been worse on the railroad tracks side.

Commissioner Gonzales stated that we need to be more aggressive in our actions because this is a high priority problem.

Mr. Sealana stated that the existing vines have helped mitigate the graffiti.

Commissioner Gonzales stated that he would also like to see graffiti removed immediately.

Mr. Chavis requested clarification on the equipment enclosure and asked if the Commission was considering allowing the side that faces Dyer Street to be solid with the other three sides chain-link and slats. Mr. Chavis states that they could be more aggressive with landscaping on that corner if they were able to have chain-link all the way around.

Richard Sealana said he thinks the problem is that people walk there and that if you just put landscaping there, people will continue to walk there unless you do something like make a path there.

Commissioner Anderson asked staff if it's possible to alter the landscaping requirement to include fixing the corner area.

Ms. Schultz said it was staff's intention that the landscape condition would cover this corner, but the condition says to restore the landscaping to the approved condition. The commission may want to strengthen the landscaping condition to require additional screening. Ms. Schultz stated that staff would take direction from the Commission regarding the wall design.

Commissioner Anderson said there appear to be two issues. One deals with restoration and the other addresses the corner separately as a way of not having to have solid walls all the way around the enclosure.

Mr. Sealana said typically the two requirements are linked, so it is not screening in lieu of landscaping, but usually you require solid walls with graffiti coatings in addition to restored or upgraded landscaping so you have an aesthetically acceptable site. In this instance, you can achieve both by enhancing the landscaping and having some density on the corner and also recognizing there is a natural path and having the applicant put a path in. You can have some trees and ground cover that would improve the aesthetics as well as screen, but that wouldn't normally relieve the applicant of the need to put some kind of screening in front of the actual equipment.

Ms. Malloy said staff would suggest some element of screening of the equipment in the back, specifically on the side facing Dyer Street. Condition 6 could state "the applicant shall provide a solid wall equipment enclosure sufficient to screen the enclosure from view of the Dyer street frontage."

Mr. Chavis stated he would accept the condition for one solid wall and the rest chain-link, but that he is still concerned with graffiti on the solid wall.

Commissioner Gonzales stated that even if they were to put the landscaping in it would take time for it grow to the density necessary to screen the enclosure.

Commissioner Anderson requested staff read back the changes to the conditions of approval.

Ms. Malloy stated:

- There was a request to add the undergrounding of new utilities, our standard condition;
- Condition 5 has been revised to say the applicant shall repaint the cupolas to match the building since the building was recently repainted;
- Condition 6 shall be revised to say the applicant shall provide a solid wall equipment enclosure sufficient to screen the enclosure from view of the Dyer Street frontage, it shall be finished, etc.;
- Condition 13, regarding graffiti removal, was left unchanged;
- Condition 22 was changed to state “if Verizon equipment interferes with emergency communications”;
- A condition of approval was added to state that the applicant shall restore landscaping throughout the center to its approved standard, in addition providing screening at the corner at the Dyer Street property line at the railroad tracks.

Commissioner Anderson asked for a motion for approval with the modified conditions that we have.

Commissioner Lew made a motion to approve Modification of Site Development Review MOD-SD-20-86, making findings 1 – 4, with the modified conditions of approval and adopt a resolution confirming this action.

Commissioner Panlilio seconded.

AYES	5 (Anderson, Gonzales, Lew, Panlilio and Singh)
NOES	0
ABSTAIN	0
ABSENT	0

VI. SUPPLEMENTAL STAFF REPORTS:

A. CONTINUED REPORTS: None.

B. NEW REPORTS:

1. ECONOMIC DEVELOPMENT UPDATE

Christine Friday, Economic Development Coordinator, presented the staff report.

VII. REDEVELOPMENT AND ECONOMIC DEVELOPMENT REPORTS: None.

VIII. COMMISSION MATTERS:

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

B. Upcoming applications for the Planning Commission meeting for October 1, 2009.

IX. GOOD OF THE ORDER:

Chairperson Anderson asked if staff needed more feedback.

Ms. Malloy replied that she heard that Commissioner Gonzales requesting that the review and reconcile City policies and take another look at the Zoning Ordinance with regards to wireless carriers.

Ms. Malloy stated that we have been getting more and more wireless carrier applications, right now we have five pending.

Chairperson Anderson stated that staff will need to be very specific with the wireless technology because there is a need for it everywhere. Chairperson Anderson stated that there should be a picture of what the City should look like. Chairperson Anderson stated that the Zoning Ordinance should have a specific section just for wireless technology and antennas. Chairperson Anderson suggested there should be a section like the Housing Element or something like that. Chairperson Anderson stated that we should look over the whole city and see where we want that stuff and what we want it to look like and how it should be in those areas and it should be different almost every place it is. Chairperson Anderson asked do we want them in school yards, in busy shopping centers and if we do have them there, how high can they go. Chairperson Anderson stated that staff can get information from the FCC and other places about safety. Chairperson Anderson stated that instead of saying that they are completely allowed in CC and CN districts up to 100 feet, we can't really do that anymore.

Commissioner Singh suggested they should be in remote areas rather than in shopping malls.

Commissioner Panlilio stated that it depends on coverage and where it is needed.

Chairperson Anderson stated that you can get coverage in a lot of different ways.

Commissioner Lew stated that the technology is expanding. Commissioner Lew stated that there is a lot of equipment on the roof tops in San Francisco and they are running out of room. Commissioner Lew thinks that the policy that is in place now is a good start and we just need to build on it. Commissioner Lew stated that they should be approved on a case by case basis because each antenna installation is going to be a little different. Commissioner Lew stated her concerns that she doesn't like to see bare antennas and bare monopoles. Commissioner Lew stated that she like the monopole disguised as a tree at the Sports Center. Commissioner Lew stated that she liked the second application tonight where the antennas were hidden in the cupola. Commissioner Lew stated that we need to look at the benefits of having wireless technology where we need it versus how it impacts the views and the health and the community. Commissioner Lew stated that we should require the EMF report for every application, if we don't already. Commissioner Lew stated that it is important to document the environmental impact from a third-party, not from the applicant. Commissioner Lew stated her concerns about outages, what happens when antennas are damaged by weather or natural forces and how does that impact the community. Commissioner Lew stated that the structures need to be painted to blend in so they don't stick out like a sore thumb.

Commissioner Gonzales asked if there is anything that tells how many of these antennas can be stacked on top of each other. Commissioner Gonzales asked what is the limit to these. Commissioner Gonzales asked is there a point of saturation density and there needs to be a limit.

Commissioner Panlilio stated that as technology progresses the size of the equipment will get smaller and not need to be installed as high. Commissioner Panlilio stated that this will change over the next five years.

X. ADJOURNMENT: 11:00 p.m.

APPROVED:


TIKISA ANDERSON, CHAIRPERSON

ATTEST:


JOAN MALLOY, SECRETARY