CITY OF SUNNYVALE
REPORT
Planning Commission

January 25, 2010


Motion Special Development Permit to allow a fourth wireless telecommunications carrier including three panel antennas and three microwave dishes within an approximate 13’ tall cupola (Friendship Inn).

REPORT IN BRIEF

Existing Site Conditions

Hotel (Friendship Inn)

Surrounding Land Uses

North Apartment Complex and Mixed Commercial Uses
South Single Family Homes
East Mixed Commercial Uses
West Mixed Commercial Uses

Issues Aesthetics

Environmental Status A Class 1 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines.

Staff Recommendation Approve with Conditions

Revised 1/21/2010
PROJECT DATA TABLE

<table>
<thead>
<tr>
<th></th>
<th>EXISTING</th>
<th>PROPOSED</th>
<th>REQUIRED/PERMITTED</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Plan</td>
<td>Highway Business / Planned Development</td>
<td>Same</td>
<td>Highway Business / Planned Development</td>
</tr>
<tr>
<td>Zoning District</td>
<td>C-2/ECR</td>
<td>Same</td>
<td>C-2/ECR</td>
</tr>
<tr>
<td>Lot Size (s.f.)</td>
<td>20,875</td>
<td>Same</td>
<td>No min.</td>
</tr>
<tr>
<td>No. of Buildings On-Site</td>
<td>1</td>
<td>Same</td>
<td>---</td>
</tr>
<tr>
<td>Building Height (ft.)</td>
<td>44' / 48' to existing faux chimney (Metro PCS)</td>
<td>44' / New cupola projects to approximately 44'. (approx. 13’ above screen wall at back portion of building)</td>
<td>75’ max.</td>
</tr>
<tr>
<td>No. of Stories</td>
<td>3</td>
<td>3</td>
<td>8 max.</td>
</tr>
</tbody>
</table>

ANALYSIS

Description of Proposed Project

The applicant proposes to co-locate a telecommunication facility consisting of three panel antennas, six RF heads, and three microwave dishes, within an approximate 13-foot tall cupola on top of an existing hotel building. The three panel antennas and six RF heads are to be located behind and existing screen wall on the rooftop while the three microwave dishes are to be mounted within a new cupola structure that is painted to match the building. An additional radio cabinet will be contained in an equipment room on the second floor of the three-story building. A generator is not proposed with this project. The site already contains three other telecommunications carriers within the building including AT&T, Metro PCS, and Sprint/Nextel.

Background

Previous Actions on the Site: The following table summarizes previous planning applications related to the subject site.
<table>
<thead>
<tr>
<th>File Number</th>
<th>Brief Description</th>
<th>Hearing/Decision</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>2004-0920</td>
<td>SDP to co-locate a telecommunication facility on the third floor and roof of an existing hotel (AT&amp;T Wireless)</td>
<td>Planning Commission / Approved</td>
<td>2/14/05</td>
</tr>
<tr>
<td>2004-0340</td>
<td>SDP to co-locate a telecommunication facility on roof of building (Metro PCS)</td>
<td>Planning Commission / Approved</td>
<td>6/14/04</td>
</tr>
<tr>
<td>1998-0916</td>
<td>SDP to co-locate a telecommunication facility (Nextel)</td>
<td>Planning Commission / Approved</td>
<td>9/8/97</td>
</tr>
<tr>
<td>1997-0385</td>
<td>Plan modification and new telecommunication facility (PCS)</td>
<td>Miscellaneous Plan Permit/ Approved</td>
<td>4/4/97</td>
</tr>
</tbody>
</table>

**Environmental Review**

A Class 1 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines. Class 1 Categorical Exemptions include minor additions to existing facilities.

**Special Development Permit**

**Site Layout:** The site consists of a three-story hotel building. The proposed panel antennas are to be located within a transparent screen wall that wraps around the building and already contains two other facilities (AT&T and Sprint/Nextel). The existing Metro PCS antennas are located within a chimney structure that is centrally located on top of the building. The proposed cupola element that will contain the microwave dishes is to be located within the center of the rear portion of the building (See site plan in Attachment C). The cupola, or faux chimney structure as described by the applicant, is approximately a 16 square feet (4 feet by 4 feet) and projects approximately 8 feet above the existing screen wall at the back of the building. The proposed cupola structure would be at approximately 44 feet and located at the back of the building. The existing faux chimney for the Metro PCS antennas is located at the middle of the building on the taller portion of the building with a peak of approximately 48 feet. The proposed cupola will be approximately 4 feet lower than the Metro PCS element. The structure will be painted to match the existing building.

Staff explored the possibility of combining dishes within the screen wall to eliminate the need for a separate location or structure; however, the applicant has noted that the dish antennas require line of sight to other dish antennas...
within the city. The added clearance is needed to ensure optimal performance of the facility.

The equipment cabinets are located on the second floor of the building within a 30 s.f. area. The room also contains equipment cabinets for Sprint/Nextel cabinets.

**Radio Frequency (RF) Emissions Exposure:** The Federal Communications Commission (FCC) is the final authority on safety of telecommunications facilities. If the facility meets FCC standards, the City is not permitted to make additional judgments on health and safety issues. The applicant submitted a radio frequency (RF) exposure study conducted by Hammett & Edison, Inc. The study includes a cumulative calculation of exposure that includes all existing carriers on the site. The study indicates that a maximum RF exposure would be at .096% of the limit for general public exposure for the Clearwire antennas by itself and 4.2% for all carriers on-site. The maximum cumulative exposure at the second floor elevation of any nearby residence is 9.3%.

**Compliance with Development Standards/Guidelines:** The project complies with Federal requirements for RF exposure. The project is also subject to the Sunnyvale wireless telecommunications regulations contained in SMC Section 19.54. Sunnyvale Municipal Code also requires that the facility be designed with sensitivity to the surrounding area. The following design standards apply to this project:

19.54.40 (b) - *All facilities shall be designed to minimize the visual impact to the greatest extent feasible, considering technological requirements, by means of placement, screening, and camouflage, to be compatible with existing architectural elements and building materials, and other site characteristics. The applicant shall use the smallest and least visible antennas possible to accomplish the owner/operator's coverage objectives.*

- The proposed antennas and microwave dishes would be mounted within the building and the new cupola structure. Although, the building addition will be visible, it will not be discernible that antennas are contained within. The project includes additional equipment within the building that is not visible to the outside.

19.54.40 (c) - *SMC 19.54.040 - Colors and materials for facilities shall be chosen to minimize visibility. Facilities shall be painted or textured using colors to match or blend with the primary background*

- As proposed, all new antennas and microwave dishes will be screened within the building addition. The cupola will match the color of the building.
19.54.40 (l) - In order of preference, ancillary support equipment for facilities shall be located either within a building, in a rear yard or on a screened rooftop area. Support equipment pads, cabinets, shelters and buildings require architectural, landscape, color, or other camouflage treatment for minimal visual impact.

- All proposed equipment will be located within the building within the second floor or screened on top of the building.

**Fiscal Impact**

No fiscal impacts other than normal fees and taxes are expected.

**Public Contact**

<table>
<thead>
<tr>
<th>Notice of Negative Declaration and Public Hearing</th>
<th>Staff Report</th>
<th>Agenda</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Published in the <em>Sun</em> newspaper</td>
<td>• Posted on the City of Sunnyvale's Website</td>
<td>• Posted on the City's official notice bulletin board</td>
</tr>
<tr>
<td>• Posted on the site</td>
<td>• Provided at the Reference Section of the City of Sunnyvale's Public Library</td>
<td>• City of Sunnyvale's Website</td>
</tr>
<tr>
<td>• 48 notices mailed to the property owners and residents within 300 ft. of the project site</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Conclusion**

**Findings and General Plan Goals:** Staff was able to make the required Findings based on the justifications for Special Development Permit. Recommended Findings and General Plan Goals are located in Attachment A.

**Conditions of Approval:** Recommended Conditions of Approval are located in Attachment B.

**Alternatives**

1. Approve the Special Development Permit with attached conditions.
2. Approve the Special Development Permit with modified conditions.
3. Deny the Special Development Permit.
Recommendation

Recommend Alternative 1.

Prepared by:

Ryan M. Kuchenig
Project Planner

Reviewed by:

Shaunn Mendrin
Senior Planner

Attachments:

A. Recommended Findings
B. Recommended Conditions of Approval
C. Site and Architectural Plans
D. Project Description from the Applicant
E. Photosimulations
Recommended Findings - Special Development Permit

Goals and Policies that relate to this project are:

**Telecommunications Policy Goal B:** Promote universal access to telecommunications services for all Sunnyvale citizens.

**Land Use and Transportation Element Action Statement N1.1** – Limit the intrusion of incompatible uses and inappropriate development into city neighborhoods.

**Land Use and Transportation Element Policy N1.3** – Support a full spectrum of conveniently located commercial public and quasi-public uses that add to the positive image of the city.

1. The proposed use attains the objectives and purposes of the General Plan of the City of Sunnyvale as the project. *(Finding Met)*

   The additional telecommunications facility increases coverage of the community while meeting the federal emissions requirements. The project is co-located on a site that contains multiple facilities which reduces the need for an additional location elsewhere.

2. The proposed use ensures that the general appearance of proposed structures, or the uses to be made of the property to which the application refers, will not impair either the orderly development of, or the existing uses being made of, adjacent properties. *(Finding Met)*

   The proposed project has been designed to blend in with the existing structure with minor changes to the building that should not cause a visual impact to the surrounding area. Additional equipments supporting the facility will also be contained within the building and therefore not visible. Noise levels are expected to be maintained below the allowed maximum limit.
Standard Requirements

The following is a list of standard requirements. This list is intended to assist the applicant and public in understanding basic related requirements, and is not intended as an exhaustive list. These requirements cannot be waived or modified.

A. **Testing Within 15 Days:** The applicant shall test any wireless telecommunications site installed in the City of Sunnyvale within 15 days of operating the tower. The test shall confirm that any Emergency 911 wireless call made through the wireless telecommunications site shall provide Enhanced 911 capability (including phase 2 information when available from the caller’s device) and direct the call to the City of Sunnyvale Department of Public Safety dispatcher, ensuring phase 2 information is transferred. If the call is to be directed elsewhere pursuant to State and Federal law the applicant shall ensure that the Enhanced 911 information transfers to that dispatch center. This capability shall be routinely tested to ensure compliance as long as the approved wireless telecommunications site is in service.

B. **Permit Expiration:** The Use Permit for the use shall expire if the use is discontinued for a period of one year or more.

C. **Permit Lapse if not Exercised (Ordinance 2895-09):** The Use Permit shall be valid for three (3) years from the date of approval by the final review authority (as adopted by City Council on April 21, 2009, RTC 09-094). Extensions of time may be considered, for a maximum of two one year extensions, if applied for and approved prior to the expiration of the permit approval. If the approval is not exercised within this time frame, the permit is null and void.

D. **Building Permits:** Obtain Building Permits.

E. **Certification:** Before January 31 of each even numbered year following the issuance of any authorizing establishment of a wireless telecommunication facility, an authorized representative for each wireless carrier providing service in the City of Sunnyvale shall provide written certification to the City executed under penalty of perjury that (i) each facility is being operated in accordance with the approved local and federal permits and includes test results that confirm the facility meets city noise requirements and federal RF emissions standards; (ii) each facility complies with the then-current general and design standards and is in compliance with the approved plans; (iii) whether the facility is currently being used by the owner or operator; and (iv) the basic contact and site information supplied by the owner or operator is current.

F. **Renewal:** Every owner or operator of a wireless telecommunication facility shall renew the facility permit at least every ten (10) years from the date of initial approval. If a permit or other entitlement for use is not
renewed, it shall automatically become null and void without notice or hearing ten (10) years after it is issued, or upon cessation of use for more than a year and a day, whichever comes first. Unless a new use permit or entitlement of use is issued, within one hundred twenty (120) days after a permit becomes null and void all improvements, including foundations and appurtenant ground wires, shall be removed from the property and the site restored to its original pre-installation condition within one hundred eighty (180) days of non-renewal or abandonment.

G. **Comply with Applicable Regulations:** The facility must comply with any and all applicable regulations and standards promulgated or imposed by any state or federal agency, including but not limited to the Federal Communications Commission and Federal Aviation Agency.

H. **RF Emissions:** Certification must be provided that the proposed facility will at all times comply with all applicable health requirements and standards pertaining to RF emissions.

I. **RF Emissions Studies:** The applicant shall submit to the Director of Community Development Radio Frequency Emissions at least two reports of field measurements showing: 1.) The ambient level of RF emissions before construction of the facility and 2.) The actual level of emissions after the facility is in place and operating at or near full capacity.

J. **Business License:** The owner or operator of the facility shall obtain and maintain current at all times a business license as issued by the city.

K. **Maintain Current Information:** The owner or operator shall maintain, at all times, a sign mounted on the outside fence showing the operator name, site number and emergency contact telephone number. The owner or operator of the facility shall also submit and maintain current at all times basic contact and site information on a form to be supplied by the city. The applicant shall notify city of any changes to the information submitted within thirty (30) days of any change, including change of the name or legal status of the owner or operator. This information shall include, but is not limited to the following:

i. Identity, including name, address and telephone number, and legal status of the owner of the facility including official identification numbers and FCC certification, and if different from the owner, the identity and legal status of the person or entity responsible for operating the facility.

ii. Name, address and telephone number of a local contact person for emergencies.

iii. Type of service provided.
L. **Good Repair:** All facilities and related equipment, including lighting, fences, shields, cabinets, and poles, shall be maintained in good repair, free from trash, debris, litter and graffiti and other forms of vandalism, and any damage from any cause shall be repaired as soon as reasonably possible so as to minimize occurrences of dangerous conditions or visual blight. Graffiti shall be removed from any facility or equipment as soon as practicable, and in no instance more than forty-eight (48) hours from the time of notification by the city.

M. **Minimize Noise:** The facility shall be operated in such a manner so as to minimize any possible disruption caused by noise. A permanent generator is not approved as part of this project.

N. **Responsibility to Maintain:** The owner or operator of the facility shall routinely and regularly inspect each site to ensure compliance with the standards set forth in the Telecommunications Ordinance.

O. **Hold Harmless:** The wireless telecommunication facility provider shall defend, indemnify, and hold harmless the city or any of its boards, commissions, agents, officers, and employees from any claim, action or proceeding against the city, its boards, commission, agents, officers, or employees to attack, set aside, void, or annul, the approval of the project when such claim or action is brought within the time period provided for in applicable state and/or local statutes. The city shall promptly notify the provider(s) of any such claim, action or proceeding. The city shall have the option of coordinating in the defense. Nothing contained in this stipulation shall prohibit the city from participating in a defense of any claim, action, or proceeding if the city bears its own attorney's fees and costs, and the city defends the action in good faith.

P. **Liability:** Facility lessors shall be strictly liable for any and all sudden and accidental pollution and gradual pollution resulting from their use within the city. This liability shall include cleanup, intentional injury or damage to persons or property. Additionally, lessors shall be responsible for any sanctions, fines, or other monetary costs imposed as a result of the release of pollutants from their operations. Pollutants include any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals, and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

Q. **No Interference with City Communication Systems:** The facility operator shall be strictly liable for interference caused by the facility with city communication systems. The operator shall be responsible for all labor and equipment costs for determining the source of the interference, all costs associated with eliminating the interference, (including but not limited to filtering, installing cavities, installing directional antennas, powering down systems, and engineering analysis), and all costs arising from third party claims against the city attributable to the interference.
R. **No Threat to Public Health:** The facility shall not be sited or operated in such a manner that is poses, either by itself or in combination with other such facilities, a potential threat to public health. To that end, the subject facility and the combination of on-site facilities shall not produce at any time power densities in any inhabited area that exceed the FCC’s Maximum Permissible Exposure (MPE) limits for electric and magnetic field strength and power density for transmitters or any more restrictive standard subsequently adopted or promulgated by the federal government.

**Recommended Conditions of Approval**

In addition to complying with all applicable City, County, State and Federal Statutes, Codes, Ordinances, Resolutions and Regulations, Permittee expressly accepts and agrees to comply with the following conditions of approval of this Permit:

1. **Project Conformance:** Project shall be in conformance with the plans approved at the public hearing(s) including the representation in the photosimulations. Minor changes may be approved by the Director of Community Development, major changes may be approved at a public hearing.

2. **Execute Permit Document:** Execute a Use Permit document prior to issuance of the building permit.

3. **Conditions of Approval on Plans:** The Conditions of Approval shall be reproduced on a page of the plans submitted for a Building permit for this project.

4. **Design:** The cupola/faux chimney structure shall be painted to match the existing building.

5. **Tree Removal:** No trees shall be removed as part of this application.
October 29, 2009

City of Sunnyvale
Planning Division
456 W. Olive Avenue
Sunnyvale, CA 94088

RE: ClearWire Site CA-SJC061: Application for a Major Use Permit for a Wireless Communications Facility at 958 E. El Camino Real, Sunnyvale, CA, APN 313-02-034

This letter is hereby submitted in conjunction with an application for a use permit for an unmanned wireless communications facility located on the rooftop of a commercial building and within an existing mechanical room at a property located at 958 E. El Camino Real in the City of Sunnyvale. The proposed facility is part of a wireless communications network for ClearWire Technologies.

I. Applicant Information

Lessee/Applicant
ClearWire Technologies
2999 Oak Road, Ste. 110
Walnut Creek, CA 94597
Attn: Tom Derkas
Phone: (925) 202-3333

Agent for Applicant
Bell + Associates (Attn: Gordon Bell)
4020 Sierra Springs Drive
Pollock Pines, CA 95726
Phone: (530) 647-1932
Fax: (805) 456-3958
Email: gbell61639@aol.com

Property Owner
C P K Family L.P.
958 E. El Camino Real
Sunnyvale, CA 94087
Phone: 408.733.8800

II. Project Description

Project Location

The proposed project is located at 958 E. El Camino Real in the City of Sunnyvale. The proposed communications facility will be located the rooftop and on a small lease space in an existing equipment room. The project site is located on Assessor’s Parcel 313-02-034.
Geographic coordinates (NAD 83) for the proposed facility are Latitude: 37°27' 06.18"; Longitude: -122° 00' 39.14", at an elevation of approximately 126' AMSL (above mean sea level). The aerial photo below shows project location and surrounding land uses.

**Fig. 1. Aerial Photo Showing Project Location and Surrounding Land Uses**

**Project Components**

The proposed project would consist of the installation of antennas and radio equipment on the rooftop of the building and within an existing equipment room as shown on the attached plans. The proposed project components would consist of the following elements to be contained within a 30.0 (5' x 6') square foot lease area:

- Indoor radio cabinet approximately 30" x 30" x 54"(H) to be installed in the existing Sprint/Nextel equipment room on the second floor of the building.
- Three (3) panel antennas and six (6) RF heads to be mounted behind an existing screen wall on the rooftop of the existing building.
- Three (3) microwave dishes to be mounted within a faux chimney designed and painted to match existing building architecture.
- Associated fiber cable to be run from the radio cabinets to the antennas on the rooftop inside conduit/cable tray. Power would be pulled from existing electrical service to the building.
- A generator is not associated with the project.

Access is provided by an existing driveway on El Camino Real.
Collocation

The proposed building already supports an existing communications facilities including Sprint/Nextel, Metro PCS, and AT&T on the rooftop and may be capable of handling additional antennas should other wireless communications companies be interested in collocation on the rooftop.

Network Technology

Clearwire offers a robust suite of advanced voice, high-speed Internet services to consumers and businesses. The company is building the first Mobile WiMax 4G network in the San Francisco Bay area bringing together an unprecedented combination of speed and mobility. Clearwire is licensed by the FCC to operate the Mobile WiMax Network in the 2.5-2.7GHz frequency range in San Francisco market. Clearwire will be using microwave backhaul for the Mobile WiMax network.

The Clearwire network is designed upon utilization of microwave backhaul throughout the network of hundreds of sites in the Bay area. This is a 100 percent backhaul solution, with no hardline connections within the system. What this means is that the majority of the sites transport a signal to at least three other sites with "hubs" located at the center of some of the rings to transport an initial signal. Because sites are inextricably linked by these microwave connections, it is imperative that the MW dishes obtain maximum height over the surrounding clutter and topography to ensure a point-to-point connection with other sites in the system.

In terms of Clearwire's relationship to other carriers and their networks, it should be known that Clearwire is a subsidiary of Sprint/Nextel (Sprint owns 51%), but the systems are not integrated. Clearwire's network is an entirely new network. Eventually, Clearwire's subscribers may have roaming agreements with Sprint/Nextel where Clearwire is not present, but the systems are not integrated to support each other. Because of the ownership relationship, Clearwire's footprint is very similar to Sprint's in the Bay area because we know that it is possible to utilize Sprint/Nextel's shelters, mounting brackets, coax cable trays, etc. with the appropriate collocation agreement with Sprint/Nextel. We also know we're more likely to have willing landlords were Sprint/Nextel is already located.

Public Services

Public services such as fire and law enforcement are not required given that the facilities are designed to be vandalism resistant (fenced and located on the rooftop) and are uninhabitable. The project does not require school or transit facilities, as it is an unmanned wireless communications facility.
Operations

The site is an unmanned facility that will not generate any noise, dust, or odors. It is expected that a service technician may visit the site for routine maintenance once every month to two months if needed. Ample parking is available in the parking lot for this transient visit.

III. Land Use

Zoning

The project parcel is zoned C2, Commercial. The project site is bounded on the west, north, and east by similar commercial uses. Land south of the project site is zoned single-family residential and used for such at the current time.

Environmental Setting

The project is located on a commercially-zoned parcel that has been entirely developed with a motel, parking lot, and landscaping as well as an existing wireless communications facility. The project is located on the rooftop of the building and within a mechanical room inside the motel and will not have any environmental impacts on area resources. The site will not be visible from surrounding public viewsheds given proposed stealthing measures, and as such the project will not have an impact on any scenic resources.

IV. Conclusion

In conclusion, the proposed project is a compatible use with the surrounding land uses as proven by the fact that an existing facility is located on and behind the building. The proposed project will provide valuable communications services to area residents and businesses. Should you have any questions regarding this application, please feel free to call me at (530) 647-1932.

Sincerely,

Bell + Associates

Gordon J. Bell
Gordon J. Bell
Zoning Specialist

Encl.
FRIENDLY INN (CA-SJC0061A)
958 EAST EL CAMINO REAL, SUNNYVALE, CA 94087

EXISTING

PROPOSED

Proposed Clearwire Microwave Dishes (Typ. of 3) Enclosed Within a 36" Dia. Radome, Designed To Match Existing Chimney

Proposed Clearwire Panel Antenna Behind Existing RF Transparent Screenwall (Typ. of 3)
FRIENDLY INN (CA-SJC0061A)
958 EAST EL CAMINO REAL, SUNNYVALE, CA 94087

Proposed Clearwire Microwave
- Dishes (Typ. of 3) Enclosed Within a 36" Dia. Radome, Designed To Match Existing Chimney
- Proposed Clearwire Panel Antenna Behind Existing RF Transparent Screenwall (Typ. of 3)