SUBJECT: Mathew Yergovich for AT&T [Applicant] Aircoa Equity Interests, Inc [Owner]: Application for a Special Development Permit to allow an existing temporary wireless telecommunications tower to remain on the site for an additional 10 months, through December 2011. The property is located at 1250 Lakeside Drive (near Oakmead Pkwy) in the LSP (Lakeside Specific Plan) Zoning District.

Motion 2010-7808: Special Development Permit to allow the existing cell-on-wheels (COW) to remain on site through December 2011 (10 months). The existing COW is 58’6” in height and has three antennas and associated equipment.

REPORT IN BRIEF:

Existing Site Conditions
Vacant lot; multi-use hotel redevelopment project proposed for the property, but not yet constructed.

Surrounding Land Uses
- North: US Highway 101 (Residential north of US 101)
- South: Office uses and a restaurant (Faultline Brewery)
- East: Extended Stay Hotel (Residence Inn – 88 rooms)
- West: High Density Residential (Avalon Apartment Community – 709 units)

Issues
Neighborhood Compatibility

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

Staff Recommendation
Approve with conditions
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>Lakeside Specific Plan</td>
<td>Same</td>
<td>Lakeside Specific Plan</td>
</tr>
<tr>
<td>Zoning District</td>
<td>Lakeside Specific Plan</td>
<td>Same</td>
<td>Lakeside Specific Plan</td>
</tr>
<tr>
<td>Lot Size (sf)</td>
<td>8.83 acres</td>
<td>Same</td>
<td>No min.</td>
</tr>
<tr>
<td>Gross Floor Area (sf)</td>
<td>Approx. 420 sq ft.</td>
<td>Same</td>
<td>No max.</td>
</tr>
<tr>
<td>Height of Existing Antenna Pole</td>
<td>58’6”</td>
<td>Same</td>
<td>By SDP Permit</td>
</tr>
</tbody>
</table>

Antenna Setbacks
- **Front**: 5’10” Same 25’ min.
- **Left Side**: 450’± Same 25’ min.
- **Right Side**: 240’± Same 25’ min.
- **Rear**: More than 500’ Same 25’ min.

Starred items indicate deviations from Sunnyvale Municipal Code requirements.

**DISCUSSION:**

**Background**
The proposed project is a request to allow the temporary existing cell-on-wheels (COW) to remain at the site for an additional 10 months (through December 2011). The previous extension of time expired on December 8, 2010. The applicant submitted a request for a new facility at 1217 Wildwood Ave (2010-7670) in September 2010; however, the proposed design had numerous Zoning Code issues requiring redesign. The applicant submitted the request for additional time for the Lakeside Drive site on January 11, 2011. This project and the related 1217 Wildwood project (permanent facility) will be considered on March 28, 2011. This item and the proposed project on Wildwood were continued from February 28, 2011 to March 28, 2011, at the request of the applicant.

**Previous Actions on the Site**
The following table summarizes previous planning applications related to the project site.
## Neighborhood Preservation Actions

The property owner has been cited on numerous occasions due to graffiti on the construction fence and/or equipment enclosure. Each case was resolved typically within 30 days.

## Requested Permit(s)

The applicant is requesting a Special Development Permit to allow the existing temporary facility (COW) to remain at the site for an additional 10 months (through December 2011).

- **Special Development Permit**

  A Special Development Permit (SDP) is required for any wireless telecommunications facility (temporary or permanent) within the Lakeside Specific Plan area. Each of the previous SDPs were conditioned with an expiration date. This SDP would allow AT&T to continue to provide service to the immediate area, including the US Highway 101 and Lawrence Expressway interchange. Wireless communication uses are common in the City and this facility meets the requirements of the Federal Communications Commission for radio frequency emissions. This proposal is a temporary solution until the new facility located at 1217 Wildwood receives approval and construction is completed. The applicant has indicated that the actual construction of the Wildwood facility will take approximately 120 days.

## ANALYSIS:

### Development Standards
The proposed project complies with the applicable Development Standards as set forth in the Sunnyvale Municipal Code. The following items are those in which the applicant is requesting a deviation from the requirements of the code or have been identified as items for clarification by the Planning Commission:

- **Site Layout**
  The COW is currently located in the landscape setback area along Lakeside Drive. This setback area is approximately 25 feet wide and contains a berm and a line of existing, mature trees. As part of the 2006 SDP, the applicant was directed by staff to utilize this space in order to mitigate any potential visual impact to the Avalon Apartment Community and the Residence Inn Hotel. The temporary facility has remained in this location since the original SDP.

- **Timeframe**
  The proposed facility is intended to be used as temporary measure to accommodate redevelopment of the site. Due to the economy and lack of a structure to locate the facility on, the applicant requested an additional two years, which expired in December 2010. The applicant has been attempting to find alternative locations, which has proven difficult due to the predominance of residential uses in proximity to the US Highway 101 and Lawrence Expressway interchange and low profile buildings in the area. The applicant has proposed a permanent wireless telecommunication facility at 1217 Wildwood (2010-7670), which it is anticipated to take approximately 120 days to construct.

  The applicant has requested an SDP to allow the existing COW site to remain through December 2011. Since the existing temporary facility has remained well beyond its intention, staff recommends that this SDP expire on August 1, 2011. This will allow ample time for the applicant to finalized plans and construct the new facility. This has been added into the Recommended Conditions of Approval (see Attachment B).

- **Parking/Circulation**
  No parking is proposed to be removed as a result of this application.

- **Landscaping and Tree Preservation**
  The equipment cabinets are located on the ground adjacent to the antenna structure. The existing construction fencing on site was extended around the project area to partially screen the COW, with a portion of the equipment cabinets and antenna pole visible above the fence. No landscaping will be removed as part of this project as the facility has already been constructed.

- **Wireless Telecommunications Ordinance**
The following sections of the Wireless Telecommunication Ordinances of the Sunnyvale Municipal Code apply to the proposed project:

19.54.140(a) – Wherever technically feasible, wireless telecommunication service providers are encouraged to co-locate telecommunication facilities in order to reduce adverse visual impacts; however; the city discourages the development of “antenna farms” or the clustering of multiple antennas on a single monopole, tower or other elevation, unless the site is determined to be suitable based on the following factors:

1. Compliance with all FCC RF emission standards;
   - This project meets all FCC RF emissions standards.

2. Visibility from residentially zoned property;
   - This COW facility is substantially screened from view of residentially zoned properties.

3. Visibility from El Camino Real or the right of way of a freeway, expressway or other major arterial street;
   - This project is substantially screened from the above listed corridors. In addition, the facility is temporary and will be removed in the near future.

4. Visibility from the Downtown Specific Plan area or other areas declared by the Director of Community Development to be visually sensitive; and
   - This project is not visible from the Downtown Specific Plan area or other areas identified in the Telecommunications code as being sensitive.

5. Lack of aesthetically preferable feasible alternatives.
   - The proposed use is only for a maximum of ten months. Once the new permanent facility located at 1217 Wildwood Avenue is completed, the temporary COW AT&T array will be removed.

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.

FISCAL IMPACT

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

At the time of this staff report, Staff has not received any comments from members of the public regarding this application.

<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>• 314 notices mailed to the property owners and residents within 300 ft. of the project site</td>
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CONCLUSION

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

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

ALTERNATIVES

1. Approve the Special Development Permit with the Recommended Conditions of Approval found in Attachment B.

2. Approve the Special Development Permit with modified Conditions of Approval.

3. Deny the Special Development Permit.

RECOMMENDATION

Recommend Alternative 1 to the Planning Commission.
Prepared by:

Shaunn Mendrin, AICP
Project Planner

Reviewed by:

Steve Lynch, AICP
Senior Planner

Reviewed by:

Trudi Ryan
Planning Officer

Attachments:

A. Recommended Findings
B. Recommended Conditions of Approval
C. Site and Architectural Plans
RECOMMENDED FINDINGS

Findings - Special Development Permit

1. The proposed use attains the objectives and purposes of the General Plan of the City of Sunnyvale as SMC requires that the location of such facilities be designed with sensitivity to the surrounding areas. The proposed facility utilizes an existing line of trees and does not create a significant negative visual impact to nearby sensitive areas. Staff considers the application for the proposed facility to be consistent with the goals and policies of the Telecommunication Policy adopted by the City of Sunnyvale in June of 1996.

2. The proposed use is desirable, and will not be materially detrimental to the public welfare or injurious to the property, improvements or uses within the immediate vicinity and within the Zoning District. As conditioned, the proposed location meets the visual standards established by the City of Sunnyvale for telecommunication facilities. The project also meets all FCC RF emissions standards.

Council Policy Manual: Telecommunications (7.2.16)

The City of Sunnyvale's Council Policy Manual (CPM) is a compendium of policies established by City Council resolution or motion which provide guidelines for current or future City action. Such policies, when implemented, assist in achieving General Plan goals.

- **Policy Statement 1.A.5** - Support retention of local zoning authority for cellular towers, satellite dish antennas, and other telecommunications equipment, facilities and structures.
- **Policy Statement 2** - Promote universal access to telecommunications services for all Sunnyvale residents.

The temporary facility provides cellular service to Sunnyvale residents in an area that under served by existing permanent facilities. The City retains zoning authority through the Special Development Permit approval and the Conditions of Approval approved as part of the permit. This temporary facility shall be removed no later than August 1, 2011.
Planning Application 2010-7808
1250 Lakeside Drive
Special Development Permit to allow the existing temporary cell-on-wheels (COW) to remain on the site through August 1, 2011.

The following Conditions of Approval [COA] and Standard Development Requirements [SDR] apply to the project referenced above. The COAs are specific conditions applicable to the proposed project. The SDRs are items which are codified or adopted by resolution and have been included for ease of reference, they may not be appealed or changed. The COAs and SDRs are grouped under specific headings that relate to the timing of required compliance. Additional language within a condition may further define the timing of required compliance. Applicable mitigation measures are noted with “Mitigation Measure” and placed in the applicable phase of the project.

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 and Standard Development Requirements of this Permit:

**GC: THE FOLLOWING GENERAL CONDITIONS AND STANDARD DEVELOPMENT REQUIREMENTS SHALL APPLY TO THE APPROVED PROJECT.**

**GC-1. CONFORMANCE WITH APPROVED PLANNING APPLICATION:**
All building permit drawings and subsequent construction and operation shall substantially conform with the approved planning application, including: drawings/plans, materials samples, building colors, and other items submitted as part of the approved application. Any proposed amendments to the approved plans or Conditions of Approval are subject to review and approval by the City. The Director of Community Development shall determine whether revisions are considered major or minor. Minor changes are subject to review and approval by the Director of Community Development. Major changes are subject to review at a public hearing. [COA] [PLANNING]

**GC-2. 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. [SDR] [PLANNING]

GC-3. PERMIT EXPIRATION:
The Permit shall expire on July 1, 2011 and the temporary cell-on-wheels shall be removed from the site no later than 5:00 p.m. on August 1, 2011. Failure to comply with the compliance deadline may result in additional code enforcement action, including administrative citations issued to wireless telecommunication provider and or the property owner until compliance is met. Pursuant to Sunnyvale Municipal Code 1.05.110, unpaid citations may be added to the property tax bill. [SDR] [PLANNING]

GC-4. 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. [SDR] [PLANNING]

GC-5. 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. [SDR] [PLANNING]

GC-6. 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. [SDR] [PLANNING]

AT: THE FOLLOWING CONDITIONS SHALL BE COMPLIED WITH AT ALL TIMES THAT THE USE PERMITTED BY THIS PLANNING APPLICATION OCCUPIES THE PREMISES.

AT-1. 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. [SDR] [PLANNING]

AT-2. MINIMIZE NOISE:  
The facility shall be operated in such a manner so as to minimize any possible disruption caused by noise. Backup generators shall only be operated during periods of power outages, and shall not be tested on weekends or holidays, or between the hours of 10:00 p.m. and 7:00 a.m. on weekday nights. At no time shall equipment noise from any source exceed an exterior noise level of 60 dB at the property line. [SDR] [PLANNING]

AT-3. 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. [SDR] [PLANNING]

AT-4. 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:

a) 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.

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

c) Type of service provided. [SDR] [PLANNING]

AT-5. 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. [SDR] [PLANNING]

AT-6. 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. [SDR] [PLANNING]

AT-7. 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. [SDR] [PLANNING]