

PLANNING COMMISSION MINUTES OF March 10, 2008

2007-0721 - T-Mobile [Applicant] City of Sunnyvale [Owner]: Application for a Use Permit on a 9.1 acre site to allow six antennas on a 69-foot tall tree pole and ancillary ground equipment within a 240 square foot equipment enclosure at Ponderosa Park. The property is located at **811 Henderson Avenue** (near Iris Ave.) in a P-F (Public Facility) Zoning District. (Negative Declaration)(APN: 213-27-002) SB

Surachita Bose, Project Planner, stated that the project proposal includes the construction of a new telecommunication facility (T-Mobile) on a 69' tall monopine, i.e. a "faux tree pole", in Ponderosa Park and the installation of six panel antennas near the top of the pole. The proposal also includes ancillary equipment associated with the antennas to be located in a newly constructed, 240 sq. ft. equipment enclosure immediately adjacent to the existing Parks' maintenance building on the property. The project site is located at 811 Henderson Avenue.

The proposed T-Mobile monopine has a tapered design with a 36-inch trunk diameter at the base and a 24-inch trunk diameter at the top. The proposed faux tree pole utilizes a camouflage design and is an artificial pine tree, used to disguise its role as a cell phone tower.

The subject site currently has a 180 sq. ft. park maintenance building, owned by the City, near the south property line of Ponderosa Park. The applicant proposes to demolish the existing building and rebuild a 420 sq. ft. equipment enclosure at the same location. Approximately 240 sq. ft. of the newly constructed building would be used by T-Mobile to store BTS cabinets, battery packs, air conditioning units and other ancillary equipment while the remaining area would continue to be used for park maintenance purposes. The monopine is proposed to be located approximately 180 ft. from the equipment pad. The coax cables that connect the equipment cabinets to the antennas would be placed inside the new tree pole and run underground to the equipment shelter.

Ms. Bose stated that staff would like to make some edits to the staff report in regards to the data table. The distance of the tree pole to Henderson Avenue is approximately 380 ft. and the distance of the tree pole from Iris Avenue is 450 ft. approximately. The distance of the tree pole to the closest residence is 500 ft. approximately. Staff would also like to add Conditions of Approval (COA) 1.T. prior to applying for building permits for the Director of Community Development to review and approve the make and model of the emergency back up generators. 1.U. that T-Mobile shall agree to allow future providers to co-locate subject to Use Permit approval by the City. 2.G. requiring that the base of the

purposed tree pole be landscaped using shrubs and small plants to screen any exterior cables and wires.

Comm. Babcock had a question regarding Parks and Rec's annual inflation factor included in the rental agreement. **Ms. Bose** stated that the rental agreement is not something that the Use Permit would monitor, it is an agreement that the City enters with the provider.

Comm. Klein wanted to know if there was a chain link fence and if so, where its located on the plans. **Ms. Bose** stated that there is a chain link fence at the back of the existing equipment enclosure and along the sides and front there is a wooden fence. **Comm. Klein** wanted to know how far the monopole would be from the tennis courts. **Ms. Bose** stated that on attachment D page 5 of 9, the tennis courts are approximately the same distance from the equipment enclosure as the proposed location of the monopine which is 180 feet.

Vice Chair Rowe wanted to know if this monopine would create a duplication of coverage. **Ms. Bose** stated that the applicant provided existing and future coverage maps for the Ponderosa Park neighborhood which is attachment J in the report and currently there is low coverage. **Vice Chair Rowe** wanted to know if the purposed tree pole is illustrated at sixty nine feet in attachment F page 2 of 6. **Ms. Bose** confirmed that it is illustrated at sixty nine feet. **Vice Chair Rowe** stated that in attachment K page 1, letters from Ms. Chang, she is worried about the fact that the monopine is too close to a location designated for student evacuation. **Ms. Bose** stated that the distance from the monopine and the closest school distance is 220 ft. and that the equipment enclosure is even farther away.

Comm. Simons wanted to know if there would be any impact as far as co-location is concerned due to the height of the monopine. **Ms. Bose** stated that they did review other sites that had co-location where the maximum height was 65 ft. and she does not believe this height would restrict co-location. **Ms. Bose** stated that they can have up to three providers on one pole. **Comm. Simons** wanted to know if staff would be okay with a requirement that all wiring be internal for future co-location service providers, **Ms. Bose** agreed.

Comm. Hungerford asked if the equipment shed was going to be located 15 ft. from the south property line, **Ms. Bose** stated that the existing enclosure is approximately 12 ft. and staff recommends that it be moved further away. **Comm. Hungerford** wanted to know how staff would verify that the noise limits would meet City standards. **Andrew Miner** stated that this is the same method as for the Radio Frequency (RF) Emissions, staff is asking that they take a reading before the project is built and then take a reading after to make sure it does not exceed the City's ordinance noise standards. **Comm. Hungerford** wanted to know if this monopine would be bigger or smaller than the one located next to the tennis courts at Fremont High School. **Mr. Miner** stated that it's a

larger facility and it has a larger air conditioning unit but regardless they have to meet our noise requirements.

Comm. Klein asked how staff plans to measure "near capacity". **Mr. Miner** stated that we will require that the applicant use a qualified engineer to prepare the RF report and when they create their report to say what the theoretical RF Emissions are they use the at or near capacity as their guideline.

Chair Susler wanted to know why there is currently a chain link and wooden fence used instead of using just one fence. **Ms. Bose** stated that those are the existing conditions and that the equipment enclosure will be removed and reconstructed and the fences will be removed and rebuilt, staff only included a condition that additional landscaping be planted to soften the visual impact of the fence.

Sandra Steele, Applicant, stated that she has an engineer from the firm that issued the RF report and he can answer any health or EMF emission questions. The site was selected due to the excellent location from the stand point of land use, compatibility, aesthetics, meeting RF coverage objectives and the ability to lease space. The proposed location of the site is in a city owned park and on October 10, 2006 the Sunnyvale City Council approved a report that directed staff to review city parks as favorable locations for commercial uses such as cellular antenna facilities. The proposed project is categorically exempt from environmental review and complies with all federal communications commission safety standards and regulations, in addition, on April 11, 2007 it was determined by the Parks and Recreation commission that T-Mobiles proposal was in keeping the policies and goals of the Parks Department and the commission recommended that the Planning Commission approve the proposal. On November 16, 2007 T-mobile met at Ponderosa Park with representatives from both the Planning and Parks & Rec. department, after careful consideration by staff the city officials unanimously selected the location where T-mobile shall place the tree pole and the equipment shelter. T-mobile held two community outreach meetings on March 8 and March 10, 2007 neighbors within a radius of 500 ft. were noticed as well as the Ponderosa Park Neighborhood Association and flyers were put up around the parking lot announcing the meeting, only twelve neighbors attended. In a report prepared by Curtis Black, Superintendent of Parks & Rec. on April 11, 2007 to the Parks & Rec. Commission stated that "a general consensus of support was shared amongst the neighbors who generally found the project to be acceptable with the monopine and changes to provide a larger building rather than a chain link enclosure and reasonable as it would improve cellular services for the neighborhood". Ms. Steele stated that T-mobile is willing to reduce the height of the monopine from 69 ft. to 65 ft. and agrees to the condition of approval. She also mentioned that T-mobile is willing to make the proper changes due to the new conditions added by staff. Ms. Steele stated that this site falls seven hundred times below the FCC RF Emission Safety standards at ground level and all wiring will be located within the monopine. This

site will also provide emergency 911 services and enhance the ability to communicate in the event of a natural disaster when traditional land lines may be rendered inoperable. Ms. Steele noted that to further mitigate noise, staff has included a COA that T-mobile move the air conditioning unit as far along the easterly wall of the equipment shelter. Ms. Steele stated that there will not be a permanent generator on site and there is a generator plug that will be used during an emergency scenario. **Vice Chair Rowe** wanted to know if there was a permanent solution to absorb more of the noise created by the generator. Ms. Steele stated that the generator would only be onsite during an emergency situation and that it will not be a permanent location for the generator.

Mei-Ling Stefan, Neighbor stated that there is a monopine located in her neighborhood and in the summer of 2006 Sprint violated the COA by using a generator as their power source for over a month. She mentioned that a neighbor that lived directly next to the site came down with bronchidias due to the diesel fuel from the generator. When the city was informed they had the generator turned off on August 9. No one thought to question diesel emissions caused by a generator because no one knew such a thing could happen. She also stated that the contact information at the cellular site was useless, when her neighbor called regarding the generator she was transferred to India and she was given a ticket number. It took several calls to finally be connected with a manager who was not the site manager. She hopes that a critical examination and revision in the granting of Use Permits will be made before these types of structures are granted in residential areas. **Vice Chair Rowe** asked if the city corrected the problem once they were informed of the problem. Ms. Stefan stated that they were corrected. **Comm. Simons** asked if Ms. Stefan is a cell phone user and if she would prefer a monopine or just a pole. Ms. Stefan said that the question is irrelevant and Comm. Simons stated that he is asking questions that will help him in determining the type of structure the community would want to see if approved.

Lawrence Murdter, Neighbor, stated that he truly enjoys that the neighborhood has no exposed utilities and that there isn't enough information regarding the generator. He also mentioned that he does not believe the monopine would fit in with the neighborhood no matter how much it is disguised. He also feels that this structure will decrease the value of his home.

Melissa Lee, Neighborhood, stated that she is opposed to this project due to noise and aesthetic reasons. Today there is a small shed that houses yard equipment and as of now there is no noise being emitted from that location and stated that they purchased the house knowing the shed is there. She stated that she is here because they do not want that type structure so close to their property. Ms. Lee also mentioned that three feet is extremely close and she purposes that T-mobile look at other locations. She asked the Planning Commission for compassion and for them to put themselves in her shoes.

Michelle Fastenau, Neighbor, stated that this structure will not provide her and her family any benefits. Her family has concerns about the noise, location and the design of the equipment shed. Ms. Fastenau wanted to know what the impact would be once co-location takes place. She also wanted to know if the shed could be placed partially underground to help prevent noise and assist in temperature control. Ms. Fastenau mentioned that she has personally witnessed that these types of structures provide additional privacy for various illegal and lewd activity such as drinking, drug use and sexual activity. She also asked if the commission can add a condition requiring the applicant to plant shrubs around the shed to assist in noise reduction. Ms. Fastenau also added that her neighborhood suffers from power outages anywhere from five to fifteen times a day and lasts from minutes to days.

David Fastenau, Neighbor, is opposing this project and agrees with Ms. Fastenau's comments. He stated that currently the shed is visible only from his second floor and once the new structure is constructed it will be visible from his first floor. Mr. Fastenau stated that when he spoke to city park workers they informed him that the location of the current shed is very inconvenient for them. Vice Chair Rowe wanted to know if there was anything in writing from the Parks workers stating that the location of the shed is inconvenient. Mr. Fastenau stated that there is nothing in writing and everything was through verbal conversation.

Ling Sun, Neighbor, stated that she agrees with her neighbors comments. Ms. Sun mentioned that she does have a cell phone and that during a natural disaster everyone will be trying to use their cell phones and feels that an overload of calls will cause the system to crash. Ms. Sun wanted to know if co-location would create double the noise.

Peter Dahl, Neighbor, stated that he has a generator and he knows first hand how loud these things are. He fears that the generator T-mobile provides at the site for emergency purposes will become a permanent location for the generator due to the number of outages in that area. Comm. Simons asked if Mr. Dahl prefers to have a monopine or a monopole. Mr. Dahl stated that he is a cell phone user and he feels that the best thing to do is attach the cell towers on existing poles.

Larry Alba, Neighbor, provided to the commission and staff copies of four letters from neighbors who were not present but wished to express their opposition of the project. Mr. Alba read each letter and had the same issues as his neighbors regarding the project. Mr. Alba stated that the T-mobile store gave him a hand out showing that there is currently excellent coverage in the ponderosa park neighborhood and feels there is no need for this structure.

Comm. Simons stated that he greatly appreciates that the public take time out of their schedule to attend these hearings but he would like to request that everyone be respectful. He also stated that he makes decisions based on the

city guidelines and it never serves any good for the public or applicant to come with a bad attitude or show disrespect to the Chair and/or commission.

Kai Zhang, Neighbor, stated that the commission needs to remember that kids do play at this park and that there have been no long term affects documented regarding the radiation.

Nida Malmstrom, Neighbor, stated that she feels that people become emotional because this comes from the heart and she hopes that the commission can understand the feelings that her neighbors have. She also mentioned that she has raised six children of her own and really enjoys the park and does not like knowing that it will become the norm for her grandchildren to see technology in the park.

Feng Xu, Neighbor, is opposing the project and feels that the pole is too close to the school.

Xiaoke Wang, Neighbor, mentioned that he worked for Motorola testing mobile phones and is very concerned with the radio frequency in the area. He stated that when the body is exposed to radio frequency it does get absorbed by the body and becomes thermal energy that will eventually heat the body. One impact will be to the reproductive organs and when human bodies are exposed for long periods of time the outcome is still unknown.

Xuelin Lu, Neighbor, expressed the same concerns as the other neighbors and is opposing this project.

Basem Kandah, Neighbor, stated that he is opposing this project and he feels that T-mobile has a bad reputation and he is concerned that they will give the city a bad reputation as well.

Michael Duiki, Neighbor, has the same concerns as his neighbors and is opposed to this project.

Larry Naughton, has the same concerns as his neighbors and is opposed to this project.

Susan Poljavit, stated that she has never received anything alerting her to this project and feels there is a lack of communication between the city and its residents. She is opposed to this project.

Sandra Steele, Applicant, stated that there is no evidence that a cell tower can devalue anyone's property and that great cell phone service is something that people look for when purchasing a home. Ms. Steele stated that T-mobile is below the allowable levels per the city noise ordinance.

Vice Chair Rowe wanted to know what would happen during a power outage. Ms. Steele stated that there is a four hour back up battery that will be used and once that is low a generator would be brought out to the site. Vice Chair Rowe asked about a comment that was made in regards to great service already in that area. Ms. Steele stated that to deploy a site like this costs hundreds of thousands of dollars and T-mobile would not do such a thing unless it was necessary.

Comm. Simons stated that there were plenty of proposals that were brought to light by the neighborhood and wanted to know if they considered changing the location of the proposed monopine. Ms. Steele stated that the location of the proposed monopine was specifically chosen by the Parks & Rec. Department and supported by the Parks & Rec. Commission.

Comm. Babcock wanted to know if T-mobile would be opposed to relocation of the pole if equal or less distance to the equipment shed. Ms. Steele stated that they can accept it as a condition of approval and wanted to know if they can add something into the conditions stating that the coax run equal or shorter distance. Ms. Steele stated that if they were to relocate closer to the tennis courts they will have complaints regarding that location and T-mobile is in compliance with the noise standard and ordinance. Comm. Babcock wanted to know why T-mobile never proposes to put the equipment under ground. Ms. Steele stated that she can look into that option with staff.

Chair Sulser closed the hearing.

Comm. Klein wanted staff to clarify questions that were brought by the neighbors such as: if at a later date T-mobile did not meet the requirements in regards to noise, what would the process be to handle that at a staff level. Ms. Bose stated that it would then be a code compliance issue that would be followed up by the Neighborhood Preservation Division. Comm. Klein also wanted to know if co-location occurs what would be done as far as the Use Permit and noise requirement. Ms. Bose stated that they would have to go through the same process and provide RF reports as well as noise studies. Comm. Klein wanted to know if there were any restrictions on how long the generator may be left on. Mr. Miner stated that on a previous project staff required the applicant to get prior approval from the Director of Community Development before they put a generator on site so that we can get better knowledge as to how long the generator would be on site.

Comm. Simons asked staff if the Planning Commission recommended some of the public's suggestions regarding location, would the project need to be re-reviewed by the Parks & Recreation Commission. Ms. Caruso stated that there was considerable concern regarding trenching around the bigger trees in the park and it is not as simple as it may sound to choose an alternate location. Mr. Miner stated that the Parks & Rec. Commission has approved a location from their stand point that allows them to operate as a park and do all the mandates

that they need to do. The Planning Commission is the deciding body on the project so if the action is to condition it a certain way it would have to go back to the Parks & Rec. Commission to see if that would be an acceptable change and if they did not agree they can come back or appeal the decision. Comm. Klein wanted to know if it can be left up to the Director of Community Development or would it have to go back to the Parks & Rec. Commission. Mr. Miner stated that Parks & Rec. is the only department that can make that decision since they are in charge of managing the parks.

Vice Chair Rowe stated that the Cupertino plan was mentioned and there was a question from the public wondering why the City Council/Planning Commission has not reapplied City of Cupertino's wireless facilities master plan approved in 2003 and wanted to know what this entailed. Mr. Miner stated that the Cupertino Master Plan is a set of guidelines that they created to help guide where the location of cellular facilities of all kind shall be located. Mr. Miner stated that Cupertino's Master Plan is not dissimilar from our own ordinance, we have the ability to see if these are appropriate locations but we cannot direct them to be at a certain location. Vice Chair Rowe asked what Findings they can use as a guideline for making this decision. Mr. Miner stated that the Commission can use noise and aesthetics.

Comm. Simons moved alternative 2, to adopt the Negative Declaration and approve the Use Permit with modified conditions; that the placement of the shed would remain but it would be vaulted, that all wiring shall be on the interior even if co-location occurs in the future, that there be asymmetry added to the monopine.

Comm. Babcock seconded and clarified with the maker that this recommendation includes staff additional Conditions of Approval that was given during their presentation of the project. Comm. Simons agreed and reiterated those conditions.

Comm. Klein added a friendly amendment that the Director of Community Development be notified of the request to install the generator. Comm. Simons and Comm. Babcock agreed to the amendment.

Comm. Hungerford added a friendly amendment that COA 1.H. also include a noise study be conducted while the generator and air conditioning compressor is in use. Comm. Simons agreed.

Comm. Simons stated that he greatly understands the public's concern with cell towers and stated that he fought over the years to make these towers more integrated and he feels there have been some positive aspects in the design of these towers. One of the Commission's restrictions have been that they do not get to review the safety and security and they cannot choose the aesthetics and things that inhibit the neighborhood such as noise. He also feels that since the City must be contacted prior to the installation of the generator that it will create a

shorter length of time that the generator will be on site. He is in support of this application.

Comm. Babcock stated that this is the first time that a condition was added that the equipment shed needed to be vaulted and feels that this is the perfect location to try this. She feels it will assist with noise reduction and that it's a good compromise.

Vice Chair Rowe stated that she will be supporting this motion and she wanted to thank Melissa Lee for sending the Commission the Cupertino guidelines and she discovered that even though it is not written the same way as Cupertino's our guidelines are not that different from theirs. She also stated that due to the process of elimination this site is what the city feels is the best location for this cell tower and when you have certain requirements to meet you just try and do your best.

ACTION: Comm. Simons made a motion on 2007-0721 to adopt the Negative Declaration and approve the Use Permit with modified Conditions of Approval (COA); that the placement of the shed remain but shall be vaulted; that all wiring, whether there is co-location in the future, shall be on the interior of the tree pole; That there be asymmetry added to the monopine; that the Director of Community Development will approve the type of generator that will be used on site; that T-Mobile shall agree to allow future providers to co-locate subject to Use Permit approval; that the base of the vault be landscaped. Comm. Babcock seconded. Comm. Klein added a friendly amendment that the Director of Community Development be notified of the request to install the generator. Comm. Simons accepted the amendment. Comm. Hungerford added a friendly amendment that COA 1.H. also include a noise study be conducted while the generator and air conditioning compressor are in use. Comm. Simons accepted. Motion carried 5-1 with Chair Sulser *dissenting* and Comm. Chang absent.

APPEAL OPTIONS: This action is final unless appealed to City Council no later than March 25, 2008.