

PLANNING COMMISSION MINUTES OF JANUARY 12, 2009

2008-1119 – Resurrection Parish Church [Applicant] Roman Catholic Welfare Corp of San Jose [Owner]: Application for a Use Permit for a new tree pole with six panel antennas, two future microwave dish antennas and ancillary ground equipment. The property is located at **1399 Hollenbeck Avenue** (near Cascade Dr.) in a P-F (Public Facility) Zoning District. (Negative Declaration)(APN: 323-06-005) RK

Ryan Kuchenig, Associate Planner, presented the staff report. He said staff is able to make the findings subject to the conditions. He noted that a letter was received from a member of the public following the completion of the report which has been presented on the dais to the Commission this evening.

Vice Chair Chang asked staff what color the pole is below ten feet. Mr. Kuchenig said the pole all the way down to the ground would have a full bark appearance.

Comm. Klein asked staff about the look of the ground structure. Mr. Kuchenig said the enclosure is directly behind a chain link fence which will have vinyl slats and will be to the left of the pole structure.

Comm. Hungerford asked where the equipment shed is on site plan. Mr. Kuchenig referred to Attachment D, page 2 and discussed the location.

Chair Rowe referred to page 3 of report, and asked how wide the microwave dish antennas are. Mr. Kuchenig said the applicant may want to comment on that. Chair Rowe said the proposed pole is next door to a site that already has a pole and asked why not co-locate these antennas. Mr. Kuchenig said that there is a pole on the proposed site already but there is not ample space to co-locate and not enough area in terms of the design.

Chair Rowe opened the public hearing.

Jennifer Walker, representing AT&T wireless, said the microwave dish antennas are about three feet in diameter and would be for future use. She said she is available to answer questions.

Comm. Klein said the equipment space seems large and asked Ms. Walker why the fence seems to be about 12-feet out from the cabinets. Ms. Walker said the space is allowed for door swing clearance. Ms. Walker said the additional cabinets are for additional capacity in the future.

Comm. Hungerford confirmed with Ms. Walker that the additional cabinets would be for additional capacity. He discussed with Ms. Walker that the additional

cabinets would be for the existing six panels and if additional antennas are needed in the future that AT&T would need to submit another application. Comm. Hungerford confirmed with Ms. Walker that the six panels on the tree would need seven boxes to serve it.

Comm. McKenna said she is trying to understand how the microwave dishes are placed so they do not look like dishes on the tree. Ms. Walker said that the aesthetic of the dishes would have to be submitted to the Director of Community Development for approval. She said there would be foliage and paint and that they would be mounted close to the pole.

Chair Rowe further discussed the look of the microwave dishes with Ms. Walker. Chair Rowe said that this is the first time the Commission has considered microwave dishes on a monopine.

Comm. McKenna asked Ms. Walker if any other sites were considered for this tower. Ms. Walker said this is a tight area and discussed several areas they had considered. She said they are trying to provide additional coverage to residential users.

Srinivasan Kumar, a resident of Sunnyvale, commented that these antennas are too close to the residential neighborhoods. He said he was concerned about the aesthetics, the effects of the pole on his property value, and radiation from the antennas possibly being a health risk to people. He requested the Commission deny this request or at least relocate the pole further away from residential areas.

Comm. Sulser commented that he recognizes Mr. Kumar's concerns adding that the Commission is unfortunately preempted by Congress and cannot make decisions regarding cell phones and health, and can only base the decision on aesthetics. Mr. Kumar said he understands, but wanted his concerns on record in case there are problems in the future.

Ronen Sigura, a resident of Sunnyvale, said he thinks this monopine will lower the property value of his home. He said he did not get a notice of this hearing and neither did many of his neighbors. He asked the Commissioners if they would want this pole in their yard. He said there are plenty of transmitters on the church site already and more should not be put on the same site.

Comm. Sulser asked Mr. Sigura if he is unhappy about the proposed aesthetics. Mr. Sigura said the monopines are an eyesore as there are no other trees in this area and the monopines are ugly.

Chair Rowe referred to page 6 of the report and read a section of federal standards that indicate the Planning Commission can review this type of

application for design and the location criteria. She said those are the guidelines the Planning Commission has to use.

Andy Anderson, a resident of Sunnyvale, said he may be the closest neighbor to where the antenna is proposed. He added his comments about possible health concerns. He said according to the California Public Utility Commission that cell phone towers should not be located near homes schools or hospitals and that they should err on the conservative side. He further discussed his concerns including the affect on his property value. He said he did not realize there are antennas in the steeple of the church. He asked the Commission not allow the tower be placed where proposed and possibly move it further away.

Trudi Ryan, Planning Officer, referred to the map on page 2 of the report and noted that the star on the map is not showing the location of the pole, just the proposed site.

William Scott, a Sunnyvale resident, said he just received the notice of this meeting this morning. He asked the Commission to postpone the decision on this item. Staff said that the noticing was done about a month ago and that a neighbor may have delivered this notice to Mr. Scott.

Comm. Susler confirmed with staff that the requirement is that neighbors within a 300-foot radius be notified.

Mike Marcellini, a Sunnyvale resident, said his fence is 180 feet from the tower. He said that he feels the monopine tree will stick out like a sore thumb as there are no pines on the church property. He said he is strongly opposed to the aesthetics of the proposed monopine. He said he feels this will negatively affect his property value.

Chair Rowe confirmed with staff that illustrations were provided by the applicant and discussed the other trees on the site.

Comm. Sulser discussed with staff what design options the Commission might have, with not many options available.

Chair Rowe discussed with staff about additional providers.

Comm. Hungerford discussed with staff the range in height of cell phone towers.

Chair Rowe asked staff if 65 feet is required for this tower to work. Ms. Ryan said this is what the applicant is requesting for their needs.

Judi Nickey, a Sunnyvale resident, said she opposes having cell phone towers near homes and would like to see cell phone towers in trees in parks, possibly Serra Park, or on City property where City can have the revenue and the towers are away from homes.

Ms. Walker addressed the questions from the public. She discussed the reasoning for the location selected including locating the monopine near an existing grove of trees. She said they have submitted a radio frequency study to the City as required and at the ground level they are less than 1% of what is allowed by the FCC (Federal Communications Commission). She said they met the maximum height limitation of 65 feet to allow a crown on the monopine tree top to look more natural. She said that the newer monopines look much better than they used to. She said the tree they are proposing should have a better aesthetic impact than previous styles.

Comm. McKenna discussed with Ms. Walker the types of locations where cell phone towers are placed and some of the criteria used for selecting a site when doing their initial survey.

Comm. Travis asked the applicant if Serra Park was examined as a possible site. Ms. Walker said yes, but said it is too close to an existing facility and did not provide what was needed. Ms. Walker said Serra Park is also near residential.

Comm. Hungerford discussed with Ms. Walker a coverage area map that she provided that shows before and after coverage. She said they are trying to infill areas where additional coverage is needed.

Chair Rowe closed the public hearing.

Comm. Klein said that this is the first time that the Commission has considered the microwave antennas. He asked how the look of microwave antenna would be reviewed. Ms. Ryan in the past staff has gone out and inspected the monopines, and would require modifications if needed before the building permit would be signed off for approval. She said staff could exercise the review of the final design. Comm. Klein asked if the microwave antennas would come back as a second approval. Ms. Ryan said a condition could be required to assure that the appropriate aesthetic review occurs.

Comm. Sulser moved to adopt the Negative Declaration and approved the Use Permit with attached conditions. Comm. Klein seconded the motion. Comm. Klein asked for a Friendly Amendment to modify condition 3.B to include if at the time of the approval of the monopole the microwave antennas are not being installed that before the microwave antennas can be installed that they have to be reviewed by staff or the Director of Community

Development for the design aesthetic. The maker of the motion accepted the Friendly Amendment.

Comm. Sulser said the Commission is only allowed to make decisions based on the design of the application. He said this application does make an attempt to somewhat hide the cell phone tower. He said since he has been on the Commission the design of the monopine has improved.

Chair Rowe said the Commission has had the cell phone tower discussion before. She explained a situation when a monopine was being installed on Carlisle and said she thought she would be able to pick out the monopine tree from the real trees. She said she was not sure which tree was which. She said she will be supporting the motion and will rely on the Planning Division to do a good job in overseeing the design of the tree to make it as realistic looking as the one on Carlisle.

Comm. McKenna said she would not be supporting the motion. She said she did not know that there was a cell tower in the cross at this church site. She said she does not think a squirrel could be fooled with this monopine and she thinks it will be obvious that this is a faux tree. She said she would like the applicant to look at some other sites.

Comm. Travis said he would not be supporting the motion. He said he looked at the coverage maps and he is in support of adequate cell phone coverage. He said he would like to see a different design for this tree that would look better.

ACTION: Comm. Sulser made a motion on 2008-1119 to adopt the Negative Declaration and approve the use permit with modified conditions: to modify condition 3.B to include that if the microwave dish antennas are proposed to be installed at a later date from the monopole structure, additional design review for such antennas at that time is required for approval by the Director of Community Development prior to installation. Comm. Klein seconded. Motion carried, 5-2, with Comm. McKenna and Comm. Travis dissenting.

APPEAL OPTIONS: This action is final unless appealed to the City Council no later than January 27, 2009.