

PLANNING COMMISSION MINUTES OF OCTOBER 12, 2009

2009-0599: Clearwire LLC [Applicant] J J and W CO [Owner] - Application for a project located at **1175 Aster Avenue** in an M-3/ITR/R-3/PD (General Industrial/Industrial to Residential/Medium Density Residential/Planned Development) Zoning District. Special Development Permit to allow installation of three panels and three microwave dishes on an existing 65' tall telecommunications monopole and associated ground equipment. (APN:213-01-034) NC

Gerri Caruso, Principal Planner, presented the staff report. She commented that an e-mail received from a neighbor, after the completion of the report, has been provided on the dais this evening. She said staff is recommending approval of the project subject to the conditions of approval (COAs).

Comm. Hungerford discussed with staff, generators. He said though a generator is not proposed at this time that there could be a possible noise problem with multiple generators. Staff said the applicant may comment further about generators. Comm. Hungerford had staff clarify what the proposed pole would look like.

Comm. Klein asked if any other poles in the City have microwave dishes. **Trudi Ryan**, Planning Officer, said there are a few. Comm. Klein asked about laws in place as far as emissions for microwave dishes. **Kathryn Berry**, Senior Assistant City Attorney, said she is not aware of any limitations that the City can impose at the local level and she believes the waves are measured similar to RFs (Radio Frequency) of EMFs (Electric and Magnetic Field). Ms. Ryan said that staff has been treating this data service application the same as a cell service application. Comm. Klein asked where the three microwaves would point with staff commenting that the applicant could possibly answer.

Chair Chang opened the public hearing.

Gordon Bell, representing the applicant, Clearwire, said Clearwire is an affiliate of Sprint Nextel. He described that Clearwire would bring high speed internet services. He said they are proposing to co-locate with Sprint Nextel on the same pole. He said they would have a separate lease agreement with the pole owner. He said they would not propose a generator as they are sharing power with Sprint Nextel. He said all cumulative RF emissions are taken into account when measuring the poles and that the microwaves are point-to-point with Clearwire "talking" to another Clearwire site. He said they would eventually apply for 26 sites in Sunnyvale. He said microwaves have low power emissions and further explained how the microwave dishes work. He said they are proposing to co-

locate on an existing pole in the rear of an industrial facility. He commented that microwave dishes cannot be put on poles vertically at this time as the brackets are not available. He said they agree to COA 6 regarding the relocation of the RF heads.

Comm. Hungerford discussed with Mr. Bell the 26 applications that Clearwire would eventually be proposing. Mr. Bell said they are trying to co-locate on as many different poles as possible and possibly a few new land sites.

Vice Chair Travis discussed with Mr. Bell when vertical mounting brackets might be available. Mr. Bell said the manufacturers have not gotten back to him yet and further discussed the visual profile of the poles.

Comm. Klein discussed with the applicant Attachment C, page 3 and the definition of a microwave dish and other equipment. The applicant provided further explanation regarding the design of the poles and antennas and why it would be difficult to reconfigure the poles.

Chair Chang discussed with the applicant how the microwave is powered, and if the line of sight were lost whether power would remain on. Mr. Bell explained that poles are structurally rated to 100-120 miles per hour and that the central command would know if the line of sight was lost.

Mr. Bell said he appreciates the Commission's consideration and asked that the COA 5 be eliminated, which requires the new microwave dishes be redesigned to be snug against the pole.

Chair Chang closed the public hearing.

Comm. Sulser moved for Alternative 1 to approve the Special Development Permit with attached conditions. Comm. Klein seconded the motion.

Comm. Sulser said that cell phone towers are tricky business for Planning Commissioners as the Commission is limited as to what can be regulated. He said he does not think this proposal visually degrades the site and favors approval of this application.

Comm. Klein said he would be supporting the motion. He said the public letters express concerns about RF emission exposure which is outside of the Commission's purveyance. He said the applicant will need to be in compliance with the federal regulations. He said the requirement to have the microwave dishes as snug to the pole as possible is important, as this is one of many poles this applicant is applying for and affects how a pole aesthetically looks. Comm.

Klein said he understands this will be a bit of a challenge for the applicant to achieve, however, as soon as a solution is found, the better off the City will be with additional applications moving forward.

Comm. Hungerford said he would be supporting the motion. He said he thinks this application is precedent setting in nature and it is important to establish the COAs that the City is comfortable with.

ACTION: Comm. Sulser made a motion on 2009-0599 to approve the Special Development Permit with attached conditions. Comm. Klein seconded. Motion carried, 5-0, with Comm. McKenna and Comm. Rowe absent.

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

Ms. Ryan commented that all 26 applications from Clearwire will not be heard by the Planning Commission as some of them would qualify for an Administrative Hearing or even a staff level permit. She said it is helpful for staff to know the concerns of the Commission regarding the aesthetics of the pole.