

**PLANNING COMMISSION MINUTES OF AUGUST 23, 2010**

**2010-7108 - Verizon Wireless [Applicant] Pacific Gas and Electric Co. [Owner]:** Use Permit to allow colocation of a fourth wireless telecommunications carrier to add nine antennas on an existing lattice tower and associated ground equipment, including an emergency back-up generator on a site located at **757 Lois Ave.** (Negative Declaration) (APN: 198-25-010) NC

**Shaunn Mendrin**, Senior Planner, presented the staff report. He said staff recommends the Commission adopt the Negative Declaration and approve the Use Permit subject to the conditions in Attachment B.

**Comm. Chang** discussed with staff condition 26 regarding maintenance of the site and whether that includes landscaping. **Trudi Ryan**, Planning Officer, explained that landscaping associated with a telecommunications facility needs to be maintained, that the carriers would be responsible for maintaining what screens their equipment, and that ultimately the property owner is responsible to make sure the site is kept in good condition. Comm. Chang discussed with staff the enforcement of the maintenance requirement, and the exposed cables on the telecommunication tower. Staff discussed possible options for cables.

**Comm. Sulser** commented that nine antennas seem like a lot. He discussed the equipment enclosure. Staff said the Commission has much discretion on the appearance of the enclosure as long as the noise requirements are still met.

**Comm. Hungerford** referred to condition 17 regarding noise and the noise analysis. Staff confirmed that the noise studies must be submitted prior to the signing off of the finalized building permit. Comm. Hungerford discussed with staff the style of the antenna and whether some are wider or narrower.

**Vice Chair Hendricks** discussed with staff the maintenance of the site with the current users, and the purview of the Commission regarding the overall look and maintenance of the site. Vice Chair Hendricks said the tower in the nearby park looks much better than the tower site being considered tonight. Staff said that PG&E maintains the property on the proposed site and the City maintains the property at the nearby park.

**Comm. Dohadwala** discussed with staff that the applicant would lease space from PG & E, the owner, asked if the application is considered development of the property, and discussed what might make the area look better. Ms. Ryan discussed options for improving the look of the area.

**Kathryn Berry**, Senior Assistant City Attorney, discussed what legal discretion the Commission has in regard to cell towers. She said carriers are encouraged to co-locate on towers. She said cell service is a nationwide need and for a long time, cities had no discretion because this is an important communication activity. She said now, cities do have discretion regarding the aesthetics as long as the city does not attempt to ban the cell towers. She said cell towers are a federal issue and cities cannot impose conditions that address radio frequency (RF) emissions. Ms. Berry said, with this site, there are still aesthetic concerns with the neighbors and encouraged the Commission to probe the aesthetics with the applicant.

**Chair Travis opened the public hearing.**

**Karen McPherson**, representing the applicant Verizon Wireless, said the application is for nine panel antennas, which includes two that are smaller GPS (Global Positioning System) antennas, as Verizon operates in several different frequencies. She said the site is designed to be in an area with other wireless carriers and the application is similar to a project previously approved for this site. She said Verizon Wireless does a good job to keep graffiti off of their equipment and enclosures, and confirmed that the cables do run down the side of the legs of the PG & E towers, as are the other carriers. Ms. McPherson discussed her concerns with the Conditions of Approval (COAs). She asked about condition 3 with staff clarifying that the condition should state that the use permit shall be valid for three years if not exercised. She asked about condition 10 and staff clarified that the "Project Restrictions" are the same as the COAs and the condition would be modified to reflect that. Ms. McPherson asked about condition 11 regarding "Blueprint for a Clean Bay" with staff saying that information on that would be provided with the building permit. She discussed condition 18 regarding the due date of the written certification for noise and RF emissions. Ms. Berry said that the requirement is in the City codes and all Verizon Wireless sites would be reporting under the same requirement and eventually on the same due dates. Ms. Ryan clarified that the condition means that written certification is due every two years starting in 2012.

**Comm.Sulser** discussed the antennas with Ms. McPherson.

**Vice Chair Hendricks** asked Ms. McPherson about Verizon Wireless' relationship with PG & E and about visually improving the look of the site. Ms. McPherson said they would be leasing from PG&E along with three other carriers, and would not want Verizon Wireless to be the only carrier responsible for the look of the site. She said Verizon would clean up the site after construction and keep their equipment clear of graffiti. She said there is no water on the site which would make it difficult to landscape.

**Comm. Dohadwala** said she does not like the look of the chain link fence, that it is too close to the sidewalk, and something needs to be done to make the site look more suitable for a residential neighborhood. Ms. McPherson said she agrees the site looks like a utility corridor rather than a site in a residential neighborhood commenting that she thinks the chain link fence is a safety feature. Ms. McPherson said adding water to the site would be expensive, and that possibly the chain link fence could be moved some, taking into consideration that the fence cannot be too close to the transmission lines.

**Comm. Hungerford** discussed the size of the panels of the antennas with Ms. McPherson saying that most antennas are one to two feet wide and four to six feet long. Comm. Hungerford discussed with Ms. McPherson the location of the equipment structure.

**Vice Chair Hendricks** discussed with Ms. McPherson the changing out antennas when new technology is available and retrofitting.

**Mary and Lee Perkins**, Sunnyvale residents, confirmed with Ms. Berry that the City does not have the authority to regulate emissions if the federal emission requirements are met, however the public can make comments about their concerns. Ms. Perkins said the facility is an eyesore and does not think it should be in a residential neighborhood. **Mr. Perkins** asked why they are just being notified and will all the combined antennas possibly create a radiation problem. He said the maintenance trucks leave dirt and mud and no one cleans the area which needs to be corrected.

**Kim Chi Tyler Chen**, a Sunnyvale resident, spoke against the project and said this area is an eyesore, not maintained, and the area is like a dumping ground. She said she does not think more carriers should be approved to co-locate if the site is not currently maintained as it brings down the nearby property values.

**Michelle Hornberger**, a Sunnyvale resident, spoke against the project. She said the chain link fence is not necessary for security, and provided pictures to the Commission of what this site looks like now and pictures of a similar site a few blocks away that has proper maintenance. She said neighbors have complained about the lack of maintenance of the site, without success, and she would like improvements made. She said four carriers on this site are too many, and she disagrees with the findings as the project imposes a burden on their neighborhood.

**Terry Short**, a Sunnyvale resident, said this location has been and probably will continue to be targeted for increased commercial use. Mr. Short said further development of the site will limit improvement of the grounds and he would like to see open space landscaping or a park pocket added. He said the current site makes

the neighborhood less desirable and the businesses associated with this facility and site have a responsibility to be good neighbors.

**Yontao Lu**, a Sunnyvale resident, said he previously sent a letter of concern about this tower and he understands the City does not have the authority if the RF emissions are met, however is concerned about long term effects. Mr. Lu said that Verizon Wireless already has good signal coverage in his neighborhood. He referred to Attachment G and said he has serious doubts about the numbers in the RF report. He said he is also concerned about loss of the property value of his home as more antennas are added.

**Jerry Stong**, a Sunnyvale resident, said he feels the parts of the project are being evaluated and not the big picture. He said he is concerned about the total RF emissions for the 44 antennas, and the four generators and said that he would like to see the applicants combine their generators and antennas. He asked about limits and guidelines on how much can be added to a tower.

**Mae Decair**, a Sunnyvale resident, said the neighborhood has had a problem with the Girl Scout house, and this tower seems to be a replay of the same problem of trying to get the City or PG & E to do something about this site. She said she feels like she is living in a slum area, as no one maintains this site. She said aesthetically it is unpleasing and attracts the wrong element. She asked about the Commissioners' responsibilities to the citizens. She said Verizon Wireless is not going to do anything with the landscaping as the other carriers did not have to. Ms. Decair requested the Commission deny the project and have the City take a stand requiring upgrading and maintenance for the site.

**Norine Runyan**, a Sunnyvale resident, spoke against the project. She said there is already too much equipment on the site and the combined risks of the equipment. Ms. Runyan said she is concerned about property values as the site is very industrial looking, not maintained satisfactorily, and is an eyesore to the neighborhood. She said PG& E should be forced to clean up, maintain and landscape the site similar to Braly Park, and said the City should prepare a long-term vision for this site to serve as guidance for future applications.

**Ms. McPherson** said it is clear the neighbors have concerns about the site. She said Verizon Wireless wants to have the same business rights and advantages as the other carriers. She said when it comes time for the other carriers' reviews that Verizon Wireless would be willing to share in improvements on the site, and could probably do a onetime clean up of the site for now.

**Vice Chair Hendricks** discussed with Ms. McPherson whether the equipment enclosure could be moved closer to the tower to limit the footprint with Ms.

McPherson saying the location proposed is based on PG & E rules and PG & E would have to approve any change in location.

**Chair Travis closed the public hearing.**

**Comm. Sulser** discussed with staff the scope the Commission has with requesting PG & E to do something with the site.

**Comm. Dohadwala** asked staff about the responsibilities of PG & E in regard to this application. Ms. Ryan said there is no requirement that the owner be at this meeting, that items have been continued to request the owner be available for questions, that the permit goes with the land, and the property owner has a level responsibility for what happens on their property.

**Comm. Hungerford** confirmed with staff that if PG & E receives rent from the carriers on the tower, that the City should be able to require a condition regarding the upkeep of the property. Ms. Ryan commented about the applicant's concern that the proportionality of the upkeep and said when the City places a requirement in the conditions that it is the responsibility of the tenant and property owner to work out how the condition is met.

**Chair Travis** asked staff about a previous telecommunications project and the Commission requiring the owner bring the site up to the standard required. Ms. Ryan said this project is similar and the reason is different so the Commission would have to articulate why the requirement was being made. Ms. Ryan said the concern seems to be about how much the site is being used and yet not upgraded to best integrate into the residential neighborhood.

**Comm. Dohadwala** discussed with staff that the City does not have a comprehensive assessment of the telecommunication needs and that each provider does their own assessment. Comm. Dohadwala said she would like an assessment plan done to assess City needs and avoid sites looking cluttered. Ms. Ryan noted the discussion of study issues is on the agenda later tonight.

**Vice Chair Hendricks moved to adopt the Negative Declaration and approve the Use Permit with modified conditions. Modify condition 3 and modify condition 10 as discussed during the dialogue. He said he does not want to make a change regarding the certification on condition 18. He said he would like to add a condition that addresses the overall look of the environment that PG & E is providing. He said possibly a fence like structure with more cover, not seeing directly into the overall environment, maybe trees added, and that these be provided on both sides of the property. Comm. Chang seconded the motion and requested a friendly amendment to modify condition 22 to say "The owner and the**

**operator shall maintain...” instead of “or” regarding contact information. This was acceptable to the maker of the motion. Comm. Chang asked for a friendly amendment requiring a plan be submitted that shows upgrades and maintenance of the site that includes landscaping and fencing and applies to both Lois Avenue and Dona Avenues sides of the property subject to the approval of the Director of Community Development with the objective being to improve the appearance. The changes were acceptable to the maker and the seconder of the motion.**

**Comm. Hungerford** said he wants the area cleaned up of trash and weeds and that the area be periodically checked and checked again if there is a complaint. Comm. Hungerford said PG&E would only allow certain trees near the towers. Comm. Hungerford discussed pros and cons about fences and said staff could determine which is best for this site along with exploring options for upgrading and maintaining the site.

**Comm. Dohadwala** suggested other options including California native plants and landscape that might encourage butterflies, bees and wild life to the area.

**Vice Chair Hendricks** said he would like to **add to the conditions that the applicant review moving the location of enclosure to possibly the south side of the north tower to limit overall footprint going into the area.**

**Ms. Ryan** said staff could make the modifications and place the subject matter under the proper headings in the Conditions of Approval.

**Comm. Hungerford** said if the motion passes he would like staff to report back to the Planning Commission regarding the status of the project.

**Ms. Ryan** said the conditions in the motion regarding the plan for the site need to be satisfied prior to the issuing of the building permit and installation.

**Vice Chair Hendricks** thanked the public for their input and said with the modified conditions he can make the findings. He said collocation is good for the community and he thinks the conditions would help improve the look of the site.

**Comm. Chang** said he would be supporting the motion with the changes made. He said there are limitations on what the Commission can do, the public feedback is helpful, and hopefully the changes would make the site more workable. He said the Director of Community Development will also review the plan required in the conditions and hopefully the location will be better for the neighborhood.

**ACTION:** Vice Chair Hendricks made a motion on 2010-7108 to adopt the Negative Declaration and approve the Use Permit with modified conditions: to modify condition 3 to include the language “If not exercised,” the Use Permit shall be valid for three (3) years; to modify condition 10 replacing all references to the language “Project Restrictions” with the language “Conditions of Approval”; to add a condition that addresses the overall look of the environment that PG & E is providing; to modify condition 22 to say “The owner and the operator shall maintain...” instead of “or” regarding contact information; to require a plan be submitted that shows upgrades and maintenance of the site that includes landscaping and fencing and applies to both the Lois Avenue and Dona Avenue sides of the property subject to the approval of the Director of Community Development with the objective being to improve the appearance; and to add to the conditions that the applicant review moving the location of the equipment enclosure to possibly the south side of the north tower to limit the overall footprint of enclosure. Comm. Chang seconded. Motion carried 6-0, with Comm. Larsson recusing himself.

**APPEAL OPTIONS:** This action is final unless appealed to City Council no later than September 7, 2010.