

ATTACHMENT 3
MEETING MINUTES FROM SEPTEMBER 8, 2008 PLANNING COMMISSION
HEARING

F. PUBLIC HEARINGS:

1. **CUP 08-02, AT&T Wireless Conditional Use Permit:** Consideration of a Conditional Use Permit for a “tree” monopole at 1106 San Pablo Avenue. *Continued from August 11, 2008 Commission hearing.*

Associate Planner Anne Hersch presented the staff report dated September 8, 2008. She noted that the application had been presented to the Commission on August 11, 2008 for a monopole in the shape of a tree. Staff had been directed by the Commission to do additional research into code enforcement issues and specific project conditions.

Ms. Hersch reported that there were four code enforcement cases related to the property since 2001; two related to clean-up, one regarding the parking of inoperable vehicles, and the last the replacement of a dilapidated fence. She stated that the owner had been contacted and informed of the Planning Commission’s determination during the previous hearing and had been asked to attend the meeting.

In discussions with the City Attorney and in consideration of the Commission’s concerns, Ms. Hersch noted that four additional conditions had been added to the project, which conditions had been outlined in the staff report. She reported that a memorandum had also been presented to identify changes to some of the conditions.

Ms. Hersch advised that Special Condition No. 8 was intended to respond to prior concerns raised by the Commission. That condition stipulated that *Subsequent facility modifications may be reviewed and approved administratively. Planning Manager shall review plans and determine if an amendment to the Use Permit is required.* Special Condition No. 9 stipulated that *The Conditional Use Permit is valid for ten (10) years from the date of approval. At the time of expiration, the applicant may apply for renewal of the Conditional Use Permit which shall be reviewed by the Planning Commission.*

Ms. Hersch explained that the Conditional Use Permit shall be reevaluated two years from the date of approval to ensure compliance with the conditions as well as physical site maintenance. The Planning Manager shall determine if additional Planning Commission review is necessary and reserves the right to revoke the conditional use permit for non-compliance with conditions. The permit will remain valid for ten years from the date of approval. At the time of expiration, the applicant may apply for renewal of the use permit which shall be reviewed by the Planning

Commission.

Ms. Hersch noted that the condition had been proposed to address the Commission's concern of ensuring compliance and to ensure that the use permit was being used as approved. The project was also tied to the site conditions to ensure on-going monitoring. Any debris or other code enforcement issues may result in the revocation of the use permit.

Ms. Hersch commented that Special Condition 1 required that both property owners shall submit written verification authorizing AT&T to work on-site prior to building permit issuance. She noted that there were two owners of the site and only one had consented to the application. Further, the project site shall be cleaned up prior to the issuance of the building permit, particularly the boats on the southeast portion of the property most visible from the San Pablo right-of-way.

Ms. Hersch recommended that the Commission approve the project, as conditioned and as modified.

Commissioner Brooks asked whether or not staff had a plan in place to monitor the conditions, reported by Ms. Hersch that with sites that had ongoing issues staff would conduct field monitoring. For the specific site in question, she stated that staff would monitor the site on an ongoing basis. She added that there had been recent upgrades to the City's internal monitoring system. Electronic monitoring and site visits would be conducted. To address site concerns, the Code Enforcement Officer would monitor the site.

Commissioner Brooks liked the language being proposed and asked that it be included for all City projects.

Commissioner Banuelos noted that the original version of the conditions talked about cleaning the debris out of the right-of-way. One of the new conditions spoke to boats and he wanted to make sure that the debris was also cleaned up.

Ms. Hersch advised that language could be included to ensure that both the boats and the debris would be cleaned up.

Chair Toms referred to the fence and asked if that had been addressed, reported by Ms. Hersch that the fence had been replaced. The code enforcement officer had requested the replacement of the fence and vinyl slats had been added.

Chair Toms wanted to ensure that the site would be both cleaned up and maintained and to ensure, if needed, that the use permit could be revoked if required.

Ms. Hersch referred to Condition No. 9 where the site would have to be subject to on-going maintenance or be subject to revocation.

Commissioner Brooks asked how the boats would be screened. He urged some consistency for future applications.

Ms. Hersch stated that the City did not have specific restrictions as to the type of materials to be used for screening with the use of a wood fence, as an example, in place of a chain link fence.

PUBLIC HEARING REOPENED

SHANNON McDOUGALL, 1023 Eagle Avenue, Alameda representing AT&T, stated that AT&T was in agreement with the revised conditions. With respect to the boats, she asked staff whether or not it was legal to store a boat on the parcel.

Ms. Hersch stated that while there was no legal restriction to storing boats on the property, in this case given the scenic corridor, there was a desire to keep the boats out of view. She referred to the northwestern portion of the parcel as a likely place for that storage.

For the record, it was noted that the property owner was not present.

PUBLIC HEARING CLOSED

Commissioner Bender asked whether or not the property owner had been cited for the replacement of the fence. He commented that the fence and slats were haphazard, damaged, or slats were missing.

Ms. Hersch stated that the Code Enforcement Officer had required the replacement of the fence with vinyl slats in the chain link to ensure no visibility of the site. She added that a condition could be added to ensure that the fence and slats were in a well-maintained condition. She also suggested that another code enforcement case could be opened to address that concern.

Commissioner Sekins described the situation as a good example of staff and the applicant working together, although he was concerned that the property owner did not appear to be doing his part. He was concerned whether or not staff would be able to maintain the monitoring requirement given the problems with the fence and the debris on the property.

Chair Toms reiterated a comment earlier expressed that the site was blighted and she saw no part of the application that would upgrade that situation as part of the application. She recognized that there would be some nexus issues related to the requirement for landscaping. Given the blighted parcel and the City's efforts with respect to the Specific Plan and the General Plan, she remained concerned with

that situation.

Commissioner Kurrent reiterated that he had viewed the monopole tree located in the City of Pleasant Hill. Since that tree was not a standalone facility, he suggested it would be nice if the subject tree monopole did not stand alone. He suggested that some landscaping around the area where the tree would be placed might make some sense. He asked for a condition to require some landscaping around the installation area.

Commissioner Banuelos asked whether or not there was to be a fence with slats around the previous submittal.

Ms. Hersch explained that there was an existing fence around the parcel although no fence had been planned as part of the installation. She agreed with the need for a condition for staff approved landscaping and fencing upgrades with a fence to be installed immediately around the installation.

When asked, Ms. McDougall stated that AT&T was not opposed to landscaping or fencing but asked if the entire fence on the property was to be replaced or just a fence around the enclosure. She clarified that the equipment enclosure would not be visible and there would be no visual impact.

Commissioner Brooks noted two separate issues related to the applicant's proposal and the property owner's responsibility to eliminate blight. He did not see it would be fair to hold the applicant accountable for the blighted lot.

Chair Toms disagreed and stated that since the property owner would have income generated by the proposal, the use permit would show how it would benefit the community. She did not see how a blighted site would benefit the community based on the condition of the property.

Commissioner Brooks suggested that the project could be approved subject to conditions related to the clean-up of the site. He suggested that AT&T should only be responsible for its portion of the site.

Ms. Hersch suggested that the condition about blight being cleaned up prior to issuance of a building permit could be modified with the fence to be replaced from its dilapidated state and with the slats to be cleaned up, with that portion to be resolved prior to the issuance of a building permit and with a code enforcement case to be opened.

The Commission supported such a condition to ensure that AT&T would not be responsible for the entire site but that the property owner would be required to conduct the clean-up prior to the issuance of a building permit for the AT&T monopole tree.

Ms. McDougall asked if such a condition would impose the replacement of the vinyl

slats or a replacement of the cyclone fence itself.

Ms. Hersch acknowledged that half of the fence was wood and half was vinyl slats. She recognized that one consistent fence was desired.

Commissioner Kurrent noted the desire to ensure that the site would be cleaned up.

Ms. McDougall verified that the replacement of the fence with one consistent fence was desired.

Commissioner Kurrent commented that the type of fence should be at the staff discretion.

Ms. Hersch recommended that the property owner submit a fencing plan for administrative review and approval with the Planning Manager to review and approve the fence administratively. She again recognized the desire for a consistently screened mechanism.

MOTION to approve CUP 08-02, AT&T Wireless Conditional Use Permit, subject to:

- Attachment 1, Findings of Fact, Resolution 08-16, Planning Commission Findings CUP 08-02, Findings and Determination of the Planning Commission of the City of Pinole Approving Use Permit 08-02, A Request to Install a Tree Monopole on the Property Located at 1106 San Pablo Avenue in a C-2 (Central Business) Zoning District;
- Attachment 2, Location Map, 1106 San Pablo Ave., Pinole, CA 94564;
- Attachment 3, Conditions of Approval, as modified; and
- Additional conditions:
 - Landscaping shall be provided around the AT&T equipment and the portion of the AT&T lease area on site;
 - The property owner shall remove blight including the relocation of the boats and appropriate screening; and
 - Submit a fence plan to staff for review and administrative approval.

MOTION: Kurrent

SECONDED: Banuelos

APPROVED: 6-1

NOES: Toms