

**PINOLE CITY COUNCIL
SPECIAL MEETING
MINUTES
FEBRUARY 9, 2016**

1. CALL TO ORDER & PLEDGE OF ALLEGIANCE IN HONOR OF THE US MILITARY TROOPS

The Special Pinole City Council Meeting was held in the Pinole Council Chambers, 2131 Pear Street, Pinole, California. Mayor Swearingen called the meeting to order at 6:10 PM and led the Pledge of Allegiance.

2. ROLL CALL, CITY CLERK'S REPORT & STATEMENT OF CONFLICT

A. COUNCIL MEMBERS PRESENT

Mayor Roy Swearingen
Mayor Pro Tem Debbie Long
Council Member Tim Banuelos
Council Member Peter Murray
Council Member Maureen Toms

B. STAFF PRESENT

Michelle Fitzer, City Manager
Hector De La Rosa, Assistant City Manager
Benjamin T. Reyes, City Attorney
Winston Rhodes, Planning Manager
Patricia Athenour, City Clerk

City Clerk Athenour announced the Agenda was posted on February 4, 2016 at 4:00 P.M. All legally required notice was provided. City Clerk Athenour asked if there were any conflicts with any items on the agenda this evening.

Council Member Toms stated she would recuse herself from hearing the appeal on advice of the City Attorney. She was the Chair of the Planning Commission at the time that the original application for the Pfeiffer Lane project had been submitted to the Planning Commission.

City Clerk Athenour was directed by the Mayor, that he would allow time at the beginning of the Public Hearing to formally enter the following items into the record.

1. City Rules of Appeal,
2. Project Exhibits by Winston Rhodes,
3. Pfeiffer Lane Project PowerPoint by the Applicant
4. Verizon. Project drawings from Option 2 and 3.

And, Public comments submitted following the February 3rd 4:30 p.m.:

1. Email from Soon-Young-Namgoong – writing in opposition to the cell tower at 2518 Pfeiffer Lane

2. Letter from MacKenzie & Albritton, attorney for Verizon, regarding citizen support for a wireless facility
3. Email from Amy Thomsen commenting on the proposed chimney design and asking that the hearing be continued.
4. Email from Julie Meier stating opposition and asking that her concerns in her prior comment letter included in the submittal, be addressed.
5. Email from Anthony Gutierrez, dated February 8, 2016 regarding another option to the cell tower placement.
6. Email correspondence from David Ruport to the Council and the City Attorney dated today, which he just handed to me.
7. A statement from a speaker that is unable to stay this evening, who is opposed

3. CONVENE TO A CLOSED SESSION (6-7 PM)

At 6:12 p.m., Mayor Swearingen convened the Noticed Closed Session in the Council Caucus / community Room.

A. CONFERENCE WITH LEGAL COUNSEL—ANTICIPATED LITIGATION

Gov. Code § 54956.9(d)(2)

Number of Potential Cases: One Matter

4. RECONVENE IN OPEN SESSION TO ANNOUNCE RESULTS OF CLOSED SESSION

At 7:10 pm, Mayor Swearingen reconvened the meeting in open session. He announced there were no reportable actions from Closed Session.

5. PUBLIC HEARINGS

Mayor Swearingen made opening remarks. He noted that Council Member Toms was recusing herself from these proceedings as Chair of the Planning Commission but would be able to be present in the Chamber during the hearing.

Council Member Toms stated she was recusing herself from hearing the appeal on advice of the City Attorney, as she was the Chair of the Planning Commission at the time that the original application for the Pfeiffer Lane project had been submitted to the Planning Commission, in order to avoid any appearance of impropriety. Since this was not a Political Reform Act recusal and does not have any effect on her economic interests, the City Attorney advised that she would not be required to leave the Chamber and would observe the meeting as a member of the public.

Mayor Swearingen read a statement into the record regarding the Council's role and the Appeal Hearing Rules and procedures.

City Attorney entered the Rules of Appeal into the record and referred to the copies distributed in the Council Chamber.

Council Member Toms stepped down from the dais and was seated in the Chamber audience.

- A. Consideration Of An Appeal of the November 16, 2015 Planning Commission Denial of Design Review (DR 14-26) and Conditional Use Permit (CUP14-13), Filed by Verizon Wireless (Applicant) for a Wireless Communications Facility Located On Property Located At 2518 Pfeiffer Lane, APN: 360-131-036

Consideration Of A Conditional Use Permit And Design Review Request To Construct A New Wireless Communications Facility. The Application Considered By The Planning Commission Included The Installation Of Nine Panel Antennas Mounted Within A 34-Foot Tall Faux Water Tank On A Concrete Pad Foundation And An Approximately 653 Square Foot Fenced Equipment Area. The Applicant Has Submitted A Modified Design For Consideration At The Appeal Hearing, Which Includes The Antennas Mounted On The Existing Detached Garage, Fully Screened Within A Faux Chimney, With A Maximum Height Of 25 Feet. The Ground Equipment Will Be Adjacent To The Garage And Enclosed Behind A Wood Fence With Lattice With Accompanying Landscaping For Partial Screening Purposes [**Council Report No. 2016-19; Action: Council Discretion To Adopt A Resolution Regarding The Appeal of the Decision of the Planning Decision (Rhodes)**]

Winston Rhodes, introduced the consultants, Mike Moore, MIG and Nick Pappaini, Raney Planning & Management, and read into the record the three options provide to Council. He entered the appeal documents into the record, stated the project location and vicinity, and summarized the project chronology and timeline.

Mike Moore, MIG, discussed the November 16, 2015 Planning Commission Public Hearing where the application was denied based on seven findings contained in the record, generally based on aesthetics and incompatibility with the neighborhood, the incompatibility of a diesel generator, inadequate vegetation and screening, concern with slope of the hillside property and the location to the creek. Moore reiterated the options available to Council this evening, as follows:

- Option 1 – Uphold the decision of the Planning commission
- Option 2 – Uphold the appeal and approve the Water Tower description
- Option 3 – Uphold the appeal and approve the chimney project description

Option 2 and 3 were described in detail using the site plan details and drawings showing all four elevations.

Mr. Moore discussed General Plan compliance consistent with the General Plan findings. The zoning is (R-1) Suburban Residential; wireless facilities require a conditional use permit and approval of four findings. Three of four are relevant in this case and there are a number of applicable wireless communication development standards that are highlighted in the respective resolutions. Four criteria in order to approve the design review are spelled out in details in the draft resolutions.

Nick Pappaini, Raney Planning & Management, addressed Council on the environmental review components. His firm prepared an Initial study and concluded a Mitigated Negative Declaration of Environmental Significance was appropriate for the project. He discussed the five environmental factors: biological resources, cultural resources, geology and soils, hydrology and water quality and noise. An appendix analysis was prepared which reviewed the adequacy of the original IS/MND with respect to whether it sufficiently addressed the potential impacts of the proposed alternative design. Photos were displayed showing both the water tower and chimney design simulations. Pappaini said there was no change in the visual quality with either

the original design or the alternative design. The original design was found to have no substantial degradation and the alternative design provided even further mitigation. A site specific geotechnical report was prepared. The project is not within a landslide hazard zone. The anchoring system on the alternative design would not be required. 10 cubic yards would be disturbed to install the 25.2 sq. ft. concrete equipment pad.

The RF Emissions exposure must comply with the FCC rules and the environmental document shows compliance with those provisions. Hammett and Edison determined the maximum emission for Option 2 was .08.88% of the applicable allowed limit and for Option 3, the maximum emission at ground was .06 or 16% of the exposure limits. At nearest residence, it would be 13% of FCC public exposure limit and the alternative design would be 25% of FCC public exposure limit at the subject property residence. As the distance increases the exposure lessens.

Addressing hydrology and drainage, Option 3, the chimney design, results in 252 sq. ft of new impervious surface vs. 567 sq. ft. on Option 2, the water tower option. As such recirculation is not required pursuant to CDQA Guidelines.

In closing City Planner Rhodes presented the staff recommendation for Council to approve one of three options this evening:

1. Deny the appeal;
2. Approve the appeal, Option 2 – proposed water tower; or
3. Approve the appeal; Option 3 – proposed chimney

Staff responded to questions raised by Council.

Council Member Banuelos asked:

1. Size of the service trucks that would be using the driveway?
2. Other scenarios for camouflaging using landscaping?
3. Would there be periodic inspection of the bio-swales?

Mr. Rhodes said question 1 was best covered by the applicant. Faux trees were looked at originally but since there were few trees on the site, they looked for a structure found in a semi-rural area. The applicant can discuss other sites/options considered but not submitted for City review. Regarding the inspection of the swales, Rhodes said an agreement could be entered into between city and property owner for inspections. Mr. Pappaini said it could be inspected at each rainy season.

Mayor Pro Tem Long asked:

1. What is the RF emission to someone is in the garage?
2. What is the appropriate mediation action for damaged trees?

Mr. Pappaini said the RF emissions were 25% and 13% of the limit, in the residence, but not sure how it differs in the garage. He said the mediation action for damaged trees relates to only those near trenching, and the contractor shall immediately notify the City of any damage, and could include replacement, as agreed upon by the City.

Mayor Pro Tem Long asked staff to review the condition, as it seemed vague.

Council Member Murray asked:

- 1 Was a geotechnical report available to the Planning Commission?
- 2 Were the RF exposure levels greater for the smaller project?

Mr. Rhodes confirmed the geotechnical report was in the record. Mr. Pappaini said the RF exposure level was a function of height of the chimney structure.

Mayor Swearingen raised questions about the bio swales and how the area was calculated. Mr. Pappaini said it would be designed on the impervious surface area; 252 sq. ft. for Option 2 and 567 sq. ft. for Option 3.

At 8:20 p.m., Mayor Swearingen opened the Public Hearing.

Rahda Sharma, Verizon Real Estate Manager, presented the exhibit materials entered into the record, and addressed current wireless industry trends, based on increased demands, and continual increase to their network. She submitted maps to denote the seven alternative sites reviewed after the Pinole Valley Park location was denied, and discussed the ones that were determined not to be viable options. The one viable candidate remaining was 2518 Pfeiffer Lane. Verizon submitted an application in December 2014 for nine antennas enclosed in a water tank design. The Planning Commission denied the application on November 16, 2015 and she addressed the Planning Commission concerns. Verizon believes at this point they worked to address all seven points and produced a modified design to eliminate the Planning Commission concerns and also provided a compromise design in Option 3.

Ms. Sharma responded to an earlier question raised by Council Member Banuelos and said that Verizon would visit the site once per month when the facility was operable.

Bill Hammett, Hammett & Edison, professional independent third party engineer, prepared the modified report for the radio frequency on this site and addressed Council. He said the original design and the proposed alternative meet the FCC standards. He read a sentence about the threshold condition regarding the City's limitation from the Telecommunication Act. Mr. Hammett was available for questions after stating both designs meet the FCC standards. The explanation to Council's earlier questions related to the antenna designs explaining that it is because of the mounting, levels are going out, not down. At ground level, the 16% includes the garage.

Mayor Pro Tem Long asked if the RF was cumulative and he said it was not and there was no different rating for adults vs. children.

Ms. Sharma said Verizon would be agreeable to doing testing after the installation.

Chris Durand, Construction Manager for Verizon Project, responded to the earlier question regarding service truck, stating that either small trucks or small SUVs would check the equipment on a monthly basis. He also reported the type of construction equipment that would be used for installation, and said the driveway improvements would be consistent with the original design, most of driveway is paved and last part is gravel and he asked that the remainder be paved also. Durand addressed questions related to erosion and stated that erosion control would be addressed as required in the Mitigated Negative Declaration. He described the design of the footings would require a haunch slab abutting the west wall of the garage, also confirmed there were no existing gutters on the garage or main house, and said the bioswale was a carryover from the original water tank design. In keeping with the rural nation, they proposed very basic landscaping to break up the fencing.

Mayor Pro Tem Long said she thought gutters were required in order to receive a final inspection on a residence. Mr. Rhodes said when this house was built in 2003, C-3 requirements were different than today.

Mayor Pro Tem Long asked the applicant to provide more information on the amount of paving proposed around the garage. Durand said portions would remain gravel. Due to her concern for the lack of gutters, Council Member Long asked how much and how often the gravel would be replaced, and whether vehicle parking would be excluded in that area. She supported wrapping the pavers further to meet a requirement for service vehicles to park on paved surfaces and excluded from off site view, and to mitigate muddy areas from runoff.

Mayor Swearingen sought further clarification on the run of the electrical lines which was explained by Mr. Durand.

At 8:50 p.m., Mayor opened the hearing to members of the public. The following speakers addressed the Council:

Irma Rupert, Pinole citizen, spoke in opposition to the project in a residential area. She urged Council to listen to the people they represent.

Sal Spataro, Pinole citizen, spoke in opposition to the project and implored the Council to vote for Option 1, rejecting the cell tower. He referenced a recent proposal for a cell tower that was rejected in Danville. He said the original cell tower ordinance that maintained 1,000 feet from residential should be reinstated, as citizens do not want towers next to their homes.

Nelson Lew, Pinole citizen, spoke in opposition to the project and agreed with the prior speakers. He said there was a balance was needed between those who benefits and those who pay. Lew said his exposure would increase 25% from the prior option.

Julie Meier, Pinole citizen, spoke in opposition to the project on Pfeiffer Lane and urged adoption of Option 1. She said Verizon failed to work with the citizens, listen or read the public comments opposing a cell tower next to homes. She said the cell antenna is proposed at 80 feet from the existing residence, and said to find another place for it.

Anthony Gutierrez, Pinole citizen, spoke in opposition to the project and supported Option 1 to deny the project. He said a full RF study was not completed on Option 3 by February 3rd. He argued the garage was a residential use and CEQA was not re-circulated, and in his opinion, that was a requirement. Gutierrez said co-location sites were not properly considered.

Tom Johnstone, Pinole citizen, spoke in opposition to the project, referred to the coverage maps and asked to exhibit them. He asked for further information on Site 7 on Verizon's exhibit and another site on Silvercrest Drive, brought to the attention by citizens.

Steven Vinge, Pinole citizen, said his wife was opposed to approval of the site due to the way the process was handled. He expressed concerns with fire danger, noise, potential interference with internet, and visual appearance. Regarding Option 2, he asked whether existing trees would be removed.

David Rupert, Pinole citizen, spoke in opposition to the project. He said no one in the Council Chambers was opposed to a cell tower in Pinole, but opposed to the location. He said he did not believe they exhausted all viable locations, and referred to the existing Verizon tower on Silvercrest as an option. He referred to his January 26th letter, asking if there was a substantial gap in coverage. Rupert said that Verizon was interested in their economic pocket, and there was nothing to prove there was a lack of coverage in this community.

Michael Wilke, Pinole citizen, spoke in opposition to the project because it does not address the drainage problem. He also asked when the community would see the Verizon site proposed at the CVS location.

Vanessa Wilke, Pinole citizen, spoke in opposition to the project. She described the major slides on their property in 1998 and urged the Council to find another site.

Denise Root, Pinole citizen, spoke in opposition to the project. She said there was mention of irrigation, asked who would do that and if they don't, what are the consequences.

Ed Root, Pinole citizen, spoke in opposition to the project.

Amy Thomsen, Pinole citizen, spoke in opposition to the project and urged approval of Option 1. The intent of the ordinance was to maintain a 100 foot separation from a residence, and said Option 3 should be eliminated.

Devy Tan-Wojtczyk, Pinole citizen, presented a speaker card in opposition to the cell tower, but was not present to speak when called.

Mary Horton, Pinole citizen, spoke in support of the cell tower. She said she performed research, and found that the American Cancer Society addressed the health risks from cell towers and stated at this time there is very little evidence to support that position.

George Corey, Pinole citizen, spoke in opposition to the project and agrees with all the prior speakers who spoke in opposition. His concern was reduction in property values.

Elaine Jaymot, Pinole citizen, spoke in opposition to the project due to the location and referred to a 1999 geologic study on Hoytt, which identifies the area as a landslide area. He said the project was ugly, would affect her life style, and was concerned with the height.

Susan Varela, Pinole citizen, spoke in opposition to the project because of past landslides and erosion.

Lee Wugofski, Pinole citizen, spoke in opposition to the project and agreed with the prior speakers. He said the benefit clearly lies with Verizon. He cited examples where there have been risks associated with new products that were not identified until later.

Soon-Young Namgoong, Pinole citizen, spoke in opposition to the project and asked Council to deny the cell tower application. She cited a cancer web site has recently classified a non-ionized as a possible cancer risk and needs to be investigated further.

Stephanie Forbes, Pinole citizen, spoke in opposition to the project and agreed with the prior speakers and urged adoption of Option 1. She thought the tower would be a detriment to their quality of life and would reduce property values. She said she was a Verizon customer and has great coverage, and was not sure it is necessary for emergency purposes but rather, aids in Verizon's growth. She asked Council to find an alternate site.

Michael Grow, Pinole citizen, spoke in opposition to the project and also oppose any site near residences. He spoke to a growing concern from the population and negative impact on home values. .

Maureen Toms, Pinole citizen, addressed Council as an individual, said she was the former Chair of the Planning Commissions and the staff report contained seven reasons for denial and

acknowledged that the alternative option addresses all the issues raised by the Planning Commission. She said she was aware of a number of citizens on top of Wright and Doidge who now have dropped service. As far as the consideration of the use permit, the Council cannot consider health issues, and stated it was important to take a look at Option 3 which does address the design issues and meets the FCC requirements and the zoning.

Mayor Swearingen provided Verizon with rebuttal time, as stated in the Rules.

Jim Heard, Mackenzie Albritton said the project was well designed with no significant impacts, met all requirements of the Code and urged approval. He responded to the following points:

- Alternative Site No. 7 is City owned and was deemed not available.
- The other sites can be addressed by the experts. Alternative sites are only relevant if they reduce the number or size of environmental impacts. In this case, none of those issues are present and alternative sites are not material to this decision.
- The RF is preempted and will meet the FCC standards. He said if this was just a chimney with a patio and redwood fence, no one would be here discussing these issues.
- Discussed the differences in the site vs. Danville, citing a different city, different rules, and a faux tree that would have been the highest structure in that entire area.
- To Mayor Pro Tem Long's statement, the drainage was a preexisting condition but would be agreeable to extend pavers around the garage.
- Nearest house is over 200 feet away
- Stated the RF engineer was present to address questions
- Regarding coverage, Heard said it as an absurd suggestion that there was no need for this facility.
- The geotechnical engineer saw no such danger of landslides.

Mr. Heard submitted that Verizon had gone the extra mile and had tried to mitigate every legitimate concern of the community. He asked Council to follow the law, the facts and their common sense and all will dictate to approve this project. Mr. Heard was available for questions.

At 9:55 p.m., Mayor Swearingen closed the Public Hearing and brought the matter back before Council for discussion.

Council Member Murray commented on reduced property value and said the geotechnical engineer found no risk of landslides and they are the experts. Consumer reports discuss cell phones are more dangerous than anything else. That must be taken into consideration as well. He discussed the necessity to overlap coverage. Trying to provide more service and there is a value to the community. RF factor is outside the City's purview. The Planning Commission based their decision on seven points and it appears the majority of these points were mitigated in Option 3. He did not support Option 2 due to the aesthetics and the generator.

Mayor Pro Tem Long said regarding property values, one is not required to disclose a cell tower and the City cannot consider land values. She proved the following comments and recommendations:

- Landscaping had not been thoroughly addressed
- Asked the size of the battery proposed, tying it to a potential fire issue and suggested a need for interior and exterior fire sprinkler in the garage to insure safety
- Raised questions about the soil and the borings.
- Asked if a business license was required from the resident

- Wanted insurance if gutters were not required, there would be compliance with the landscaping plan and asked Council to require the pavers to be extended around the garage.
- All reference to the application should be the property owner.
- An RF study should be prepared annually and filed with City Hall.
- No further co-location on the site
- No further subdivision of the subject property

Chris Durand, Verizon representative said there is one battery cabinet for emergency back-up and there would be six 180 amp batteries in that cabinet. He said they would comply with all fire requirements but generally do not like support water spraying on an electrical system.

Mayor Pro Tem Long asked City Planner Rhodes to clarify “residential” and “residences.”

Mr. Heard responded that the cell tower lease would run with the property.

Regarding the lease, City Attorney Reyes said that it was typical that the applicant would record a Memorandum of Lease that goes with the land.

Mr. Rhodes responded and read into the record ...“at least 100 feet from a pre-existing residential unit.” Rhodes also confirmed the property owner would need a business license if they are deriving income.

Mr. Heard responded to a question about the soil report, and said it was a very site specific reading, precisely where the borings would be drilled.

Ms. Sharma said Verizon would perform an RF emission study after installation.

Mayor Pro Tem Long favored at least once every two years, to be file with the City and provided to the neighbors.

Mayor Swearingen asked staff whether the property could be subdivided. Mr. Rhodes said there was a 6,000 sq. ft. minimum lot size, however the topography was the issue on this property.

Council asked for further information on the construction timeline.

Mayor Pro Tem Long said if a work stoppage occurred for any time, they were to contact the Building Department. She also suggested there should be cameras on site

Verizon representatives estimated eight to twelve weeks, but were hesitant to specify a completion date.

Ms. Sharma responded that they were not sure cameras were ideal, but were willing to work with the Police and Fire Chiefs regarding the issue.

Mayor Pro Tem Long asked if there were regulations addressing modification of a cell site with discretion of the City.

Jim Heard said it was referenced in Section 6409 of the tax act commonly referred to as the Spectrum Act.

Mayor Pro Tem Long suggested that Verizon must agree to abandon any opportunity to increase the height by 20 percent, without City input. She raised the issue again to prohibit subdivision of the subject property.

Mr. Heard would not agree to that proposal.

Council Member Banuelos asked the type of security normally positioned on cell towers in residential neighborhood.

Ms. Sharma said they were not very concerned with security in Pinole and said they have many sites in residential areas have not had security issues.

Council Member Banuelos said this was a contested matter and that Council is limited to design issues. He feels the chimney is much more concealed and they must trust the soils engineer. He said Verizon made significant strides to make this project work with the community.

Julie Meier asked the Council to address the “80 foot loophole” referring to the separation from the residence.

Mayor Swearingen asked Verizon representatives to address that question.

Mr. Durand said it was one hundred feet away, but reduction in separation occurred with the roof redesign and proceed to provide a detailed explanation of the roof pitch.

Winston said originally the case law was not as well established and the 100’ separation was thought to be safer. He explained the difference in the Code that spoke to roof mounted or building mounted cellular facilities. A free-standing tower is the only one that has the 100’ distance from an existing residence.

Ms. Sharma spoke to the Silvercrest site and explained it did not provide the coverage they were seeking.

Mr. Durand addressed the question on existing landscape and plans to install additional landscaping along the fence and would maintain it until established.

Mayor Swearingen said he does not see any negative impact on property values and reported that he spoke to someone on Doidge who supported the cell tower but did not want to go on record with his name.

Bill Hammett, Hammett & Edison, addressed the RF emissions and said it was a factor of distance, and at the proposed distance, there was well below the allowable number.

ACTION: Motion by Council Members Banuelos / Long, The Council Extended the Meeting.

Vote: Passed 4-0.

AYES: Banuelos, Long, Murray Swearingen
NONES: None
ABSENT: Toms
ABSTAIN: None

Council Member Banuelos and Mayor Murray said they could support Option 3.

Mayor Pro Tem Long announced that due to concerns she could not support the action at this time, and also reported the following corrections to the resolution:

Page 4 Change Water tower to chimney
Page 5 & 6 First sentence, substitute “battery” instead of “fuel tank”
Page 6 In the sentence reading...”would not be detrimental to health” additional language should be added as follows “As Defined by Federal Guidelines.”
PAGE 8 Item 5 referencing rows of grapevines – thought it was to be modified so as not to be specific to grapevines.
Page 10 Item 3 – correction required to last sentence, requiring the addition of a missing word, “the antenna within the _____ is...”.

She requested clarification on page 7, Item D, last sentence. Mr. Rhodes provided clarification regarding compatibility. She asked that the sentence be deleted; City Attorney Reyes concurred with deleting the sentence.

City Manager Fitzer noted correction on page 5, where there was a reference to a fuel tank and generator and noted that staff would make that correction to reflect “battery.”

Mayor Swearingen asked for a motion.

ACTION: Motion by Council Member Banuelos / Murray To Approve Option 3 – Chimney Structure; Upholding the Appeal of Verizon and Approving a Mitigated Negative Declaration And Mitigation Monitoring and Reporting Program, A Conditional Use Permit (CUP 14-13) And Design Review (DR-14-26) For A Wireless Communications Facility Including Six Antennas Within A chimney Structure Attached To An Existing Garage and Ground Based Support Equipment at 2518 Pfeiffer Lane (APN: 360-131-036), With the Corrections to the Record As Noted Above.

Discussion followed.

Mayor Pro Tem Long said she would not support the motion because she felt there should be a condition that this piece of property cannot be subdivided and she took exception with the potential to modify the project up to 25 percent.

Mayor Swearingen advised Mayor Pro Tem Long that she could proposed an amendment to the original motion.

Amendment No. 1 to the Original Motion:

ACTION: Motion by Council Members Long / Banuelos to Amend the Existing Motion To Include The Following Conditions:

- 1. The property cannot be further subdivided.**
- 2. The Contract Runs With the Property.**

Vote: Passed 4-0.

AYES: Banuelos, Long, Murray Swearingen
NONES: None
ABSENT: Toms
ABSTAIN: None

The amendment was added to the original motion.

Mayor Pro Tem Long also suggested the following added conditions:

1. Add pavers to extend around the south side of the garage
2. Property owner and Verizon are equally responsible for adhering to the conditional use conditions.

City Planner Rhodes said it could be memorialized to insure that runoff from the existing roof falls on the pavers.

There was concurrence from the entire Council that both the property owner and Verizon shall be equally responsible to adhere to the conditions of approval.

Mr. Heard said Verizon would commit to extend the pavers around the garage.

Amendment No. 2 to the Original Motion

Action: Motion By Council Members Long/Banuelos, Both Property Owner And Operator (Verizon) Are Responsible For Maintenance of the Site And For Adhering To the CUP Conditions of Approval.

Vote: Passed 4-0
AYES: Banuelos, Long, Murray Swearingen
NONES: None
ABSENT: Toms
ABSTAIN: None

Mayor Swearingen announced the second amendment was added to the original motion.

Amendment No. 3 to the Original Motion

ACTION: Motion By Council Members Long / Banuelos For Approval Of Additional Permeable Pavers To Be Extended Around On The South Side Of The Garage.

Vote: Passed 4-0
AYES: Banuelos, Long, Murray Swearingen
NONES: None
ABSENT: Toms
ABSTAIN: None

Amendment No. 3 was added to the Original Motion

Mayor Swearingen called the vote on the original motion stated above, with the addition of the three amendments noted above.

Vote: Passed 4-0
AYES: Banuelos, Long, Murray Swearingen
NONES: None
ABSENT: Toms
ABSTAIN: None

6. ADJOURNMENT

At 11:28 p.m., Mayor Swearingen adjourned the Special meeting to the Regular City Council Meeting of February 16, 2016 In Remembrance of Amber Swartz.

Submitted by:

Patricia Athenour, MMC, City Clerk

Approved by City Council: March 1, 2016