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2
3 **MINUTES OF THE**
4 **PINOLE PLANNING COMMISSION**

5
6 **November 16, 2015**
7

8
9 **A. CALL TO ORDER:** 7:09 P.M.
10

11 **B. PLEDGE OF ALLEGIANCE AND ROLL CALL:**
12

13 Commissioners Present: Kurrent, Tave, Thompson, Chair Toms
14

15 Commissioners Absent: Bender, Brooks, Martinez-Rubin
16

17 Staff Present: Winston Rhodes, Planning Manager
18 Mike Moore, MIG Incorporated
19 Nick Pappani, Raney Planning and Management
20 Kit Fabion, City Attorney's Office
21

22 **C. CITIZENS TO BE HEARD:**
23

24 There were no citizens to be heard.
25

26 **D. CONSENT CALENDAR:**
27

28 There was no Consent Calendar items.
29

30 **E. PUBLIC HEARINGS:**
31

32 **1. Conditional Use Permit (CUP 14-13) and Design Review (DR 14-26):**
33 **Pinole Verizon Wireless Communications Facility**
34

35 **Request:** Consideration of a conditional use permit (CUP) and design
36 review request to construct a new wireless communications
37 facility including the installation of nine panel antennas
38 mounted within a 34-foot tall faux water tank on a concrete
39 pad foundation and an approximately 653 square foot fenced
40 equipment area, located below a faux water tank. The project
41 includes a stand-by 30 kilowatt (kW) diesel generator with UL
42 142 fire-rated 132-gallon diesel fuel tank and underground
43 utility lines leading up to the proposed facility from Pfeiffer
44 Lane.
45

1 Grapevine plantings would be included on the north, west,
2 and south sides of the fenced equipment area for partial
3 screening purposes. The total disturbed area for the project
4 would be approximately 4,483 square feet which includes the
5 driveway modifications, utility trenches, and equipment area.
6

7 **Environmental**

8 **Review:** The City prepared a Draft Mitigated Negative Declaration
9 (MND) to identify the potential environmental impacts of the
10 project. The Planning Commission will consider adoption of
11 an Initial Study/MND and Mitigation Monitoring and Reporting
12 Program (MMRP) in conjunction with consideration of the
13 request.
14

15 **Applicant:** Pamela Nobel
16 Verizon Wireless
17 2010 Crow Canyon Place, Suite 355
18 San Ramon, CA 94583
19

20 **Location:** 2518 Pfeiffer Lane
21 Pinole, CA 94564
22 APN: 360-131-036
23

24 **Project Planner:** Mike Moore, Contract Planner
25

26 Planning Manager Winston Rhodes introduced Contract Planner Mike Moore, with
27 MIG Incorporated; Nick Pappani, Raney Planning and Management; and Kit
28 Faubion, representing the City Attorney's Office. PowerPoint presentations from
29 both the applicant and staff had been made available at the dais. Another
30 comment letter submitted by David Rupert, Pinole resident, had been received
31 during the comment letter period but had not been included in the response to
32 comments section of the environmental reports. Comments in the letter were
33 related to biological resources, geology and soils very similar to comments for
34 which written responses were prepared, therefore staff stated the responses to
35 other comment letters had adequately addressed the concerns raised by Mr.
36 Rupert. A copy of the letter had been provided to the Planning Commission and
37 made available to the public.
38

39 Mike Moore, MIG Incorporated presented a PowerPoint presentation on the
40 request by Verizon Wireless to construct a new wireless communications facility at
41 2518 Pfeiffer Lane.
42

43 Nick Pappani, Raney Planning and Management, outlined the California
44 Environmental Quality Act (CEQA) documents that had been prepared for the
45 project, summarized their contents, and reported the City had received 12 written

1 comments and e-mails during the public review period for the environmental
2 documents.

3
4 There had been responses to all comments received and the responses had been
5 included as an attachment to the staff report dated November 16, 2015. Mr.
6 Pappani clarified the CEQA requirements and the definition of the Federal
7 Communications Commission (FCC) "shot clock," which was the reasonable
8 period of time when local governments were to review wireless
9 telecommunications facilities; 150 days from the application submittal for new
10 facilities.

11
12 Mr. Moore recommended that the Planning Commission approve draft Resolution
13 15-15, a Resolution approving a Mitigated Negative Declaration (MND) and a
14 related Mitigation Monitoring and Reporting Program (MMRP), approving the
15 related Conditional Use Permit Request (CUP 14-13) and a the Design Review
16 Request (DR 14-26) for a Wireless Communications Facility at 2518 Pfeiffer Lane
17 with all applicable conditions, as contained in Exhibit A to the staff report.

18
19 Mr. Rhodes added that the color board / material sample of the proposed water
20 tank had been provided to the Planning Commission at the dais along with visual
21 simulations of the tank from four different vantage points.

22
23 Planning Commissioners clarified with staff the repercussions to the City in the
24 event the project was not approved pursuant to the shot clock requirements; failure
25 to comply with the Permit Streamlining Act which could result in an automatic
26 approval if no action was taken; and the City's appeal process within 10 days of a
27 decision subject to an applicable appeal fee. Given there were only four
28 Commissioners present, staff clarified that a quorum of four Commissioners would
29 require three votes to take action. Staff also advised that denial of the application
30 based on health concerns would be an invalid means to deny a project subject to
31 recorded court cases.

32
33 Mr. Rhodes also clarified for the Planning Commission that if a wireless
34 communication facility was not associated with the project, a water tower would
35 have been processed to be treated consistent with the requirements of the Pinole
36 Municipal Code (PMC) as an accessory structure, to be reviewed administratively
37 although staff had the discretion to elevate the application to the Commission
38 level. An accessory structure less than 120 square feet in size would not require a
39 building permit, but would require plan check to ensure compliance with required
40 setbacks and development standards.

41
42 In addition, the radio frequency (RF) percentages of the maximum public exposure
43 threshold were compliant with FCC requirements; the highest exposure level would
44 be to the residents on the project site closest to the facility at 13 percent of the
45 maximum public exposure standard; there were approximately 15 wireless

1 telecommunication facility locations in Pinole, one was currently located in a
2 residentially zoned area and several were located immediately abutting residential
3 areas; the demand for data drove the number of facilities and equipment placed on
4 each facility; the 2010 General Plan recognized that cell sites were an important
5 communication infrastructure technology necessary to transmit information; and
6 alternative locations had been considered for the facility and a list of potential sites
7 had been identified in the staff report.

8
9 Planning Commissioners also understood that Verizon could only consider
10 locations outside Pinole Valley Park property, given grant restrictions placed by the
11 state on use of Pinole Valley Park property for recreational purposes.

12 PUBLIC HEARING OPENED

13
14
15 PAMELA NOBEL, Independent Consultant, NSA Wireless, 12893 Alcosta
16 Boulevard, #G, San Ramon, representing Verizon Wireless, advised that Verizon
17 was willing to accept the mitigations and assured the public and the City that
18 Verizon would be compliance with all applicable rules and regulations.

19
20 PREET SINGH, 2785 Mitchell Drive, Walnut Creek, RF Engineer for Verizon
21 Wireless, explained in detail why the site on Pfeiffer Lane was important to Verizon
22 given the need to improve coverage gaps and call quality as illustrated by existing
23 and proposed coverage maps presented to the Commission. The Pfeiffer Lane
24 location included a lower elevation and better line of sight assisting Verizon in
25 meeting needed coverage objectives and addressing the data capacity needs of
26 the area.

27
28 PAUL ALBRITTON, 220 Sansome Street, 14th Floor, San Francisco, Legal
29 Counsel for Verizon Wireless, reported that Verizon was one of the two largest
30 wireless telecommunication companies in the nation; there were more cell phones
31 than people in the United States; and about 40 percent of cell phone owners in the
32 United States were Verizon Wireless customers. With the proposal, there would
33 be new in-building coverage for approximately 1,200 people, with in-building
34 service being the service received in a home. The site would also vastly increase
35 in-vehicle coverage, particularly along Pinole Valley Road in an area where there
36 was no coverage.

37
38 Ms. Noble referenced a report from the FCC dated March 25, 2015, which stated
39 that almost 70 percent of 911 calls were now made from wireless phones. She
40 detailed the alternative locations that had been considered for the facility, as listed
41 in the staff report, and the reasons why those sites had not been viable to meet
42 Verizon's needs. The proposed site on Pfeiffer Lane had the elevation, provided
43 the coverage area, and Verizon would be able to provide something that was
44 under the 35-foot residential height limit.

1 Mr. Rhodes clarified in response to the Commission that when the McKay property
2 on Pinole Valley Road had been explored as an alternative site, an issue had
3 arisen as to how to access to the proposed equipment area would be provided,
4 given the steep hillside and the trees. Access to the property would have come
5 from an existing fire road, which provided emergency access to the park from
6 Adobe Road. In order for a private entity to install equipment on the property and
7 obtain access, the City Council would have to grant an access easement within
8 Pinole Valley Park. Ultimately, given the restrictions on access into the park for
9 non-recreation purposes the site had not been explored further.

10
11 CHRIS DURAND, NSA Wireless Inc., 12893 Alcosta Boulevard #6, San Ramon,
12 responded to a recommendation that the site be moved to the base of a grove of
13 existing trees on the site, which might provide screening from the homes downhill
14 and to the west and south. He explained the proposed placement had been
15 required to comply with the PMC's 100-foot setback from a residential use for the
16 actual tower (water tank and antenna facilities), and moving the facility more to the
17 northwest among the trees would place it on a steep slope. He described the
18 details of the facility placement, the use of a retaining wall to support the existing
19 detached garage, the dimensions of the faux water tank, and access to the facility
20 from a private driveway. The site had been designed to blend in with the
21 residential use and not appear to be industrial in appearance.

22
23 Further responding to the Commission, Mr. Rhodes identified the existing water
24 tanks in Pinole. He stated that fire access to the subject property would have to be
25 maintained as would four covered parking spaces; two at the main home, two in
26 the detached garage, and an area on one side of the existing main home where
27 vehicles could also be parked without affecting the turnaround area.

28
29 STEVE and BLANCA VINJE, 2508 Pfeiffer Way, Pinole, presented the Planning
30 Commission with photographs of the project site from their rear yard. Their
31 property was located immediately north of the proposed site and written comments
32 had previously been submitted to the City from their attorney. Concerns had been
33 raised with respect to noise during and following construction; impacts to the
34 environment and soils; the storage of diesel fuel on the property; the potential for
35 fire hazards; inadequate accessibility for fire trucks; potential for interference with
36 existing wireless and Internet services; visual impacts; and potential impacts to the
37 fair market value of their property.

38
39 DANA DEAN, 283 East H Street, Benicia, Attorney representing the Vinje family,
40 referred to written comments that had been provided to the Commission and
41 suggested those comments had not been addressed in the staff report. She noted
42 the application involved an accessory use and accessory structures were restricted
43 to 15 feet in height. She understood a 3.5 foot high retaining wall would be built
44 along with a 6-foot high fence with another two feet of lattice in violation of the
45 PMC. She also noted the property was located in a Suburban Residential Zoning

1 District and there were no water towers in that zoning district. She also spoke to
2 the CEQA requirements, and suggested the application did not meet the City's
3 PMC, zoning, or the General Plan Land Use policies regarding land use
4 consistency; the Permit Streamlining Act did not require the City to act within 150
5 days of a submittal; and the cumulative concerns regarding the placement of ever
6 growing numbers of cell towers had not been properly addressed in the CEQA
7 documentation.

8
9 Given all the concerns, Ms. Dean recommended the preparation of an
10 Environmental Impact Report (EIR).

11
12 MIKE WILKIE, 2325 Hoytt Court, Pinole, questioned the advisability of permitting
13 fuel trucks along Wright Avenue on a regular basis to access the site given the
14 existing traffic conditions. He also suggested the sheet flow drainage into Pinole
15 Creek had not been addressed given that nearby properties had experienced
16 drainage problems; the noise level from the diesel generator would be
17 approximately 85 dBA during the test period; installation of the generator would
18 likely require a large crane to place it on the site with a concern as to the weight of
19 such equipment and damage to City streets; how runoff from the slab would be
20 addressed; and containment from the fuel tank had not been addressed.

21
22 VANESSA WILKIE, 2325 Hoytt Court, Pinole, explained that her home backed up
23 to the creek; her property had been damaged by the hillside in the past which
24 required assistance through the Federal Emergency Management Agency
25 (FEMA); written comments detailing the damage to her property had been
26 provided to the City; water impacts during El Niño rains impacted the creek; there
27 was a broken drain in the creek and the creek was in need of maintenance; there
28 could be a potential for landslides; and the impacts of installing the facility could
29 potentially impact the land.

30
31 NELSON and MARIA LEW, 2506 Pfeiffer Way, Pinole, noted the application
32 included no photographs of the potential impacts of the views from their property
33 other than photographs of the driveway at the beginning of the court and below
34 their property. They expressed concern with the potential impact to resale values;
35 if construction moved forward there could be at least 120 light weight, and 30
36 heavy weight trucks traveling to the site; questioned the adequacy of fire truck
37 access to the site; concern with the potential impacts to emergency access to
38 surrounding residents if a truck to the site were to block access; and while the
39 property owner would be compensated for the project nearby residents would not.

40
41 LEE WUGOFSKI, 4066 Marcas Street, Pinole, expressed concern with the overall
42 array of potential health risks from diesel exhaust and suggested if the project was
43 approved, there be some analysis of safer alternatives than a diesel generator that
44 would not be as polluting and carry the same health impacts.
45

1 SUSAN VARELA, 2330 Martinez Court, Pinole, expressed concern for those who
2 had sensitivities to RF frequencies; the potential impacts to residents, wildlife, and
3 parks; suggested the cell tower was a commercial use and the unattractive faux
4 water tower would be awkward since there were no water towers in the
5 surrounding area; questioned the use of grapevines which would likely not survive;
6 questioned the need for additional coverage; suggested a cell tower 100 feet from
7 residents and wildlife would be damaging to humans and pets; and the facility may
8 impact the embryos of steelhead fish. Ms. Varela also suggested there was the
9 potential for mudslides given the limited trees and vegetation to prevent erosion;
10 and concerns with the potential for a fire on the property and impacts to response
11 times given the closure of the fire station in Pinole Valley.
12

13 ELAINE JAYMOT, 2350 Martinez Court, Pinole, referenced her correspondence to
14 the Commission dated October 30, 2015, which outlined her concerns and
15 opposed the cell tower given the environmental and physical impacts to the
16 community as a result of the RF frequencies, and in particular her allergies and
17 symptoms as a result of electro-sensitivity to anything with an electro-magnetic
18 field (EMF). She urged that the City's ordinance on wireless telecommunication
19 facilities be rewritten, particularly as it related to the 100-foot distance from
20 residences and recommended something in excess of 1,500 feet as more
21 appropriate. She suggested the City already had too many cell towers.
22

23 SAL SPATARO, 2450 Stoke Avenue, Pinole, opposed the cell tower
24 communications facility application for the same reasons he had been opposed to
25 Verizon Wireless' previous application for a cell tower in the park given that it
26 would be too close to residences. He questioned the adequacy of the 1996
27 Telecommunications Act which was out of date since technology had advanced
28 since that time, expressed concern with the potential RF frequencies, was not
29 opposed to cell towers but opposed their location near residences, recommended
30 an alternative location, and questioned the presence of only four Planning
31 Commissioners to consider such an important application.
32

33 DAVID RUPORT, Jr. 2646 Appian Way, #29, Pinole, suggested the
34 correspondence from Dana Dean had set forth many of the arguments he had
35 been prepared to discuss but urged the Commission to read his correspondence
36 carefully, particularly information on a case regarding the County of Mendocino
37 which set out the standards on which to base a decision. He submitted
38 correspondence to the Planning Commission and staff at this time, detailed the
39 concerns expressed in his correspondence, and commented that the City had
40 made mistakes regarding Verizon Wireless in the past and alternative locations
41 should be considered for the facility.
42

43 SHEILA GRIST, Pinole, referenced the coverage maps for the areas to the west
44 and east; opposed commercial development on the subject property; understood
45 the City was planning to convert the use of the former fire station; and urged that

1 there be no consideration of commercial uses in the valley.
2

3 IRMA RUPT, 1131 Marionola Way, Pinole, spoke to the history of the former
4 Verizon Wireless application, City Council action, and ultimate decision that
5 Verizon consider an alternative site or the City be faced with a lawsuit. She
6 suggested the application should go back to the City Council.
7

8 Ms. Rupt objected to a cell tower in a residential area; questioned the applicant's
9 testimony for dropped calls as justification for the facility; suggested the
10 neighborhood and City would suffer if the facility was approved; and urged further
11 studies and consideration of alternative locations.
12

13 JULIE MAIER, 2456 Delarosa Court, Pinole, suggested neither City staff nor
14 Verizon Wireless had adequately addressed the comments and concerns from the
15 public. She urged the Commission to deny or postpone the application until further
16 information could be gathered and the potential impacts to the neighborhood
17 identified; suggested the City's existing Wireless Telecommunications Ordinance
18 be reviewed; referenced the past history of Verizon Wireless' plans to build a cell
19 tower in Pinole Valley Park; noted that FCC regulations had been forced onto
20 municipalities which had little ability to protect the health and safety of residents;
21 and urged the Commission to work with Verizon to find a more suitable location to
22 avoid impacting the health and safety of adjacent residents.
23

24 THOMAS JOHNSTONE, 2456 Delarosa Court, Pinole, supported the preparation
25 of a full EIR for the site and consideration of an alternative site.
26

27 ANTHONY GUTIERREZ, 3805 Pinole Valley Road, Pinole, understood the City
28 was bound by a Settlement Agreement given the outcome of prior plans from
29 Verizon Wireless to locate a cell tower in the park; spoke to the City's inability to
30 reject cell tower placement on the grounds of health concerns; cited research and
31 reports on the potential health risks from cell towers; suggested the Commission
32 could deny the CUP based on the City's zoning laws; and urged the Commission
33 to reject the CUP on the grounds that the property was not zoned Commercial. He
34 suggested an EIR was the most prudent way to proceed other than an outright
35 denial of the CUP.
36

37 JAMES TILLMAN, Pinole, identified himself as a former member of the Planning
38 Commission who had been involved in the creation of the City's original Wireless
39 Telecommunications Ordinance. He cited property located at 1407 Montecito
40 Lane, where a diesel generator had been proposed on the hill, downslope from the
41 creek, at which time a group of citizens raised similar concerns with impacts to the
42 environment, and the potential for fire and safety hazards. He urged consideration
43 of a solar system with backup battery units which would be highly efficient, could
44 be operated weekly or monthly, and would not require refueling. He urged the
45 Commission to postpone action on the item until an EIR had been prepared.

1
2 RAJAT MATHUR, Hammett & Edison, a Licensed Professional Electrical
3 Engineer, had evaluated sites with respect to RF frequency standards. The
4 evaluation had been completed for the site and the maximum RF exposure level
5 had been measured at ground or at any of the nearby homes at 13 percent of the
6 FCC limits, seven times below the FCC limit.
7

8 Mr. Mathur noted that RF impacts from cell phones were higher than RF
9 frequencies from a base station; exposure from the site would be 150 times lower
10 than the exposure from a cell phone; there was no evidence of DNA breaks at cell
11 phone frequencies, studies from Germany and Israel related to residences near
12 cell phone towers was acknowledged and no incidents related to an increase in
13 cancer near television stations or cell phone towers had been reported; and the
14 database of studies included both thermal and non-thermal studies, with the
15 federal standard based on both.
16

17 REBUTTAL:

18

19 Mr. Durand advised that the diesel generator was the most preferable since the
20 fuel was readily available; the diesel generator proposed would be 30 kilowatt,
21 weigh 2,700 pounds with an empty fuel tank; was double walled, and included
22 monitors and alarms to notify network operations in the event of a leak at which
23 time a technician would be dispatched to address the problem. Additional
24 measures such as curbing around the diesel generator pad could be considered
25 and would provide a third layer of protection. The run rate for the diesel generator
26 with a full tank at 132 gallons would have approximately a 48-hour run time at full
27 load equating to .23 gallon usage for the 15-minute weekly run time to exercise the
28 generator; cut and fill on the site would be a total of 18.5 cubic yards, all of which
29 would come from the site; the construction period for the site would be 60 to 90
30 days; utilities would be installed first through directional boring without extensive
31 trenching; the foundation work would include a concrete truck and concrete pump;
32 and a medium duty crane would be required to lift the generator in place. The tank
33 would be assembled in pieces, brought to the site on a flatbed truck, and final
34 paving work would be done with impervious paving in front of the detached garage
35 to maintain the weight of a fire truck. Additional information had been provided to
36 staff on the construction equipment used to build the site which would not be any
37 heavier than equipment used to build single-family homes.
38

39 Mr. Albritton commented on the five-year period in which Verizon Wireless had
40 been working with the City of Pinole in order to find an approvable location to serve
41 this area of Pinole, and be acceptable to the community to provide wireless
42 services. He commented on the amount of drilling to determine the depth of
43 sandstone on the property, and the depth of piers and the like to accommodate
44 concerns with respect to erosion and other issues. The MND and Initial Study had
45 gone far beyond dwellings and homes which were frequently exempt, with small

1 structures or additions to structures exempt from CEQA requirements. Storm
2 water control would be reviewed during the building permit plan check phase to
3 ensure adequate storm water runoff protection measures; the aesthetics had been
4 addressed in the MND, which had confirmed there would be no significant impact;
5 the facility would need to be visible given the line of sight technology requirements
6 and could not be hidden behind trees and still provide the needed coverage. He
7 noted if a second unit was built on the property, which would be permitted, it would
8 also be visible to the public.
9

10 Mr. Albritton cited federal law in response to concerns with property values based
11 on proximity to a cell tower with respect to RF emissions, advised it had been
12 determined by the courts and federal law to be tantamount to denial based on RF
13 emissions, and federal law stated that regulation could not be based on
14 environmental effects or RF emissions. There had been many studies about the
15 importance of wireless services which could actually increase property values.
16 With respect to CEQA law, he suggested it would be extraordinary to have an EIR
17 prepared for a cell tower, which were usually exempt from CEQA. Also, there was
18 no evidence that there would be significant impacts required to be analyzed.
19

20 Mr. Albritton also emphasized that the project complied with the General Plan
21 polices and zoning; the facility was allowed by the Public Utility Commission (PUC)
22 in the subject zoning district; and issues with respect to coverage, the number of
23 Verizon customers, and the like were not within the scope of Planning Commission
24 review. The Planning Commission must determine whether the project met the
25 required findings for approval as detailed in the staff report. He suggested all
26 findings could be made. He added that he had walked alternative sites with City
27 Councilmembers; Verizon had been trying to find an alternative location that
28 worked in the community for years to avoid any type of legal solutions that would
29 cause hardship to Verizon Wireless or to the community; and the intent was to
30 build a facility that provided service with minimal impacts to the community.
31

32 Mr. Singh again clarified the alternative sites that had been evaluated, the reasons
33 why those sites had not been viable, and the need for a clear line of sight for the
34 equipment to work as needed.
35

36 Mr. Albritton clarified that Verizon would not be able to build on ridge tops. As to
37 whether antennas could be placed on the top of street lights, he noted that small
38 cells provided a great deal of capacity to a very small area. In this case, such an
39 option might create more immediate concerns to neighbors, and would not be
40 justified in the area because of the lack of density in terms of usage. He advised
41 the wireless services system in the country was intended to be competitive to
42 ensure the price of cell phones remained low, with high market penetration.
43 Verizon was a commercial enterprise that provided a public utility and was
44 regulated by the PUC.
45

1 PUBLIC HEARING CLOSED

2
3 The Planning Commission discussed the application and offered the following
4 comments, concerns and/or direction to staff:
5

- 6 • Recognized that Verizon Wireless had been working five years to find an
7 alternative location for the wireless communications facility;
8
- 9 • Recognized there would be views of the proposed wireless communications
10 facility; and there would be views of a second unit, which could be
11 constructed on the property;
12
- 13 • Concern was expressed that the application had not been adequately
14 studied;
15
- 16 • Concern with runoff from the property given the potential for an El Niño
17 winter, and testimony of collapsed pipes, and the placement of a structure
18 on a potentially unstable hillside;
19
- 20 • Recommendation for a hydrological study given the increase in water flow
21 and increase in impervious surfaces;
22
- 23 • Concern there was insufficient ground underneath to hold up the structure;
24
- 25 • Desire that the application should be sent directly to the City Council; with
26 the Chair advising the matter would go before the City Council in the event
27 of an appeal from a Planning Commission decision;
28
- 29 • Concern for the 100-foot distance from the (Evans) property;
30
- 31 • Concern the structure had been pushed too close to the bluff resulting in
32 the cell site having been sited to have more visual impacts to the
33 neighborhood;
34
- 35 • Lack of confidence the proposed grapevines would offer any visual
36 screening;
37
- 38 • Concern the introduction of irrigation on the property could degrade the
39 slope;
40
- 41 • Desire to place the structure on another part of the property, where there
42 were already existing trees which could help screen the lower portion of the
43 wireless communications facility structure and possibly address some of the
44 concerns raised by the public; and
45

- Desire for a battery backup for the diesel generator.

Commissioner Thompson offered a MOTION to deny the project request including Conditional Use Permit CUP 14-13 and DR 14-26.

On the motion, Mr. Rhodes clarified the motion and action should state how the environmental review document should be treated.

Commissioner Thompson found that the hydrological study on the hillside should be studied, and suggested the MND had not taken into consideration all factors related to the project.

Commissioner Toms seconded the motion and asked that the motion be modified to include the following reasons for denial:

- The proposed location of the tower was not compatible with the Single-Family Residential area;
- The diesel generator was not a compatible use within the Single-Family Residential area; and
- The proposed vegetation for screening was inadequate.

As the maker of the initial motion, Commissioner Thompson accepted the modifications and added the following:

- Geologically, the slope has not been studied for slide problems.

On the motion, Mr. Rhodes commented that findings would have to be made, and recommended that Commissioners expound on whether there was an alternative to the diesel generator, as an example, prior to making a recommendation for denial.

Chair Toms understood a decision was required to be made on the application by November 18, 2015, and by providing comments on the areas of concern, the applicant could bring those issues forward on appeal.

Commissioner Thompson reiterated her concerns with the adequacy of the geological study, and in response to the concerns of the downhill property owners requested consideration of the slope outside of the area of the structure.

Chair Toms found the project to be incompatible with the neighborhood and the aesthetics would create views inconsistent with that of a typical single-family neighborhood.

1 Planning Commissioners expressed concern with the legal implications of
2 attempting to craft findings at this time, with a recommendation for continuance to
3 allow staff and legal counsel to prepare findings based on the issues identified.
4

5 Mr. Rhodes explained that denial findings were needed for the Planning
6 Commission action associated with the motion. He requested a brief recess at this
7 time.
8

9 Chair Toms declared a recess at 10:39 P.M. The Planning Commission meeting
10 reconvened at 10:57 P.M. with Commissioners Kurrent, Tave, Thompson and
11 Chair Toms present, and with Commissioners Bender, Brooks, and Martinez-
12 Rubin absent.
13

14 Chair Toms explained that the recess was necessary to clarify the motion and
15 findings.
16

17 **MOTION** to Deny the Mitigated Negative Declaration (MND), Conditional Use
18 Permit CUP 14-13, and Design Review DR 14-26, on the following basis:
19

- 20 • Concern with hydrology and drainage off of the site and towards the creek;
21
- 22 • Aesthetics of the tower were not compatible with the residential
23 neighborhood;
24
- 25 • Aesthetics of the location were not compatible with the single-family area;
26
- 27 • The proposed diesel generator was not compatible with the single-family
28 area;
29
- 30 • Concerns with respect to perching the tower at the edge of the bluff on the
31 property;
32
- 33 • The vegetation for screening the ground-based equipment area was
34 inadequate; and
35
- 36 • Concern about the proposed facility equipment load on the top hill and its
37 effect on the stability of the hillside.
38

39 Chair Toms seconded the motion.
40

41 Further discussing the motion, Mr. Rhodes clarified that if three out of four of the
42 Planning Commissioners present approved the motion, as stated, the project
43 would be denied and the applicant had the option to appeal the decision of the
44 Planning Commission to the City Council within 10 calendar days. Recognizing
45 concerns with a denial of the application, he reiterated the 150-day shot clock

1 deadline requirement through November 18, 2015, and stated the Commission
2 could ask the applicant whether it would be beneficial to continue the application to
3 the next Commission meeting to allow more time to address the concerns
4 expressed.

5
6 Mr. Albritton acknowledged there were options; noted a Subcommittee had
7 previously reviewed the water tank design, and others; there was the potential for
8 hydrogen fuel and natural gas generators; a potential for the diesel generator to be
9 removed entirely; and other design options that could be considered. He stated
10 that Verizon Wireless did not want to start all over again and would be willing to
11 add shot clock time to allow the opportunity to answer some of the questions and
12 possibly resolve some of the issues.

13
14 **MOTION: Thompson SECONDED: Toms APPROVED: 3-1-3**
15 **NOES: Kurrent**
16 **ABSENT: Bender, Brooks, Martinez-Rubin**

17
18
19 Chair Toms described the 10-day appeal process noting that an appeal must be
20 in writing to the City Clerk subject to payment of the applicable appeal fee.

21
22 Kit Favian, representing the City Attorney's Office, clarified for the record that the
23 approved motion had been the original motion to deny the project, which had been
24 clarified after the recess.

25
26 **F. OLD BUSINESS:** None

27
28 **G. NEW BUSINESS:** None

29
30 **H. CITY PLANNER'S / COMMISSIONERS' REPORT:**

31
32 Mr. Rhodes reported that the environmental document for CVS Pharmacy was
33 currently being circulated and the project would be considered at the next
34 Planning Commission meeting. He clarified the City's process for posting
35 signage informing the community of public hearings, such as the application for
36 Verizon Wireless, and expressed the willingness to review how other jurisdictions
37 handled the same issue. He acknowledged a standard sized sign could be
38 explored. The potential for delivering meeting packets sooner when large
39 projects are to be considered by the Planning Commission was discussed.
40 Commissioners discussed having environmental documents earlier. In response
41 to an inquiry about a Planning Commission previously approved cell site at the
42 Del Monte Shopping Center, he clarified that the cell tower in the Del Monte
43 Shopping Center was currently unfinished and would have an external surface
44 and architectural details matching the design of the shopping center buildings.

1 **I. COMMUNICATIONS:** None

2
3 **J. NEXT MEETING:**

4
5 The next meeting of the Planning Commission will be held on Monday,
6 December 14, 2015 at 7:00 P.M.

7
8 **K. ADJOURNMENT:** 11:16 P.M.

9
10 Transcribed by:

11
12
13 Anita L. Tucci-Smith
14 Transcriber
15