

RESOLUTION NUMBER R-297157

ADOPTED ON OCTOBER 8, 2002

WHEREAS, the International Church of the Foursquare Gospel, Owner and Nextel, Permittee, filed an application with the City of San Diego for a conditional use permit/planned development permit to install and operate a wireless communication facility disguised as a 35-foot high palm tree and an associated 300-square foot equipment shelter situated on the perimeter of the existing parking lot of the International Church of the Foursquare Gospel known as the Nextel Murray Ridge project, on a 2.67 acre site located at 2285 Murray Ridge Road, and legally described as a portion of parcel 'B' of the Princess Park Estates, Unit PNo. 7, Map No. 4621, in the Serra Mesa Community Plan area, in the RS-1-7 zone; and

WHEREAS, on May 16, 2002, the Planning Commission of the City of San Diego considered and approved Conditional Use Permit [CUP]/Planned Development Permit [PDP] No. 94-0330-87; and

WHEREAS, Brian P. Welch and Robert D. Sisemore appealed the Planning Commission decision to the Council of the City of San Diego; and

WHEREAS, the matter was set for public hearing on October 8, 2002, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it adopts the following findings with respect to CUP/PDP Permit No. 94-0330-87:

A. PLANNED DEVELOPMENT PERMIT:

1. The proposed development will adversely affect the applicable land use plan. The Serra Mesa Community Plan designates this site for low-density residential development. The Community Plan does not specifically address wireless communication facilities, however, one of the objectives in the Environmental Management element states that preservation and enhancement of the physical environment, visual appearance, safety, identity and character of the community is encouraged through aesthetic improvement and careful urban design. The plan specifically encourages the removal of television and other outdoor antennas for purposes of reducing visual and aesthetic impacts.

The proposed facility will compromise the integrity of the Environmental Management element of the land use plan's efforts to reduce visual and aesthetic impacts by placing an above ground antenna (faux palm) on the property, therefore, the facility will adversely affect the Serra Mesa Community Plan.

2. The proposed development will be detrimental to the public health, safety and welfare. The wireless communication facility consists of a 35-foot high faux palm containing twelve panel antennas and an associated 300-square-foot equipment shelter. The project requests deviation from the underlying zone to encroach into the side yard setback and exceed the 30-foot height limitation by 5-feet. The community strongly opposed the siting of a communication facility on visual and aesthetic grounds. The community further voiced concern that the non-residential nature of the use would compromise the character of the neighborhood.

3. The proposed development will not comply with the regulations of the San Diego Municipal Code [SDMC]/Land Development Code [LDC]. The wireless communication facility does not comply to the maximum extent possible with all of the applicable regulations of the SDMC/LDC including Section 141.0405, Communication Antenna regulations and Section 143.0402, Planned Development Permit regulations. The project requests a deviation to the side yard setback requirements, as well as, the height limitation. Deviations to minimum development regulations should not be used as the basis for mitigating visual impacts when alternative non-residentially zoned properties in the vicinity could be developed with a similar project that would not require deviations to the underlying zone regulations. In this case, Nextel indicated that there were other non-residential sites that could be utilized to provide the same coverage.

Additionally, the Communication Antenna regulations require that wireless communication facilities be designed to integrate into the premises upon which they are located. This project has not been designed nor sited to integrate well with the residential character of the neighborhood. Rather than constructing an additional structure, to wit: the faux palm, the project applicant could integrate the facilities onto existing structures on the property.

4. The proposed development, when considered as a whole, will not be beneficial to the community. The project site is located at 2285 Murray Ridge Road in the Serra Mesa Community Plan area. The site is designated for low density residential development and is zoned

RS-1-7. The property is currently developed with a church and is bounded by the I-805 Murray Ridge Road off-ramp to the west, single-unit residential uses to the south and east and Murray Ridge Road to the north. The Serra Mesa community is overwhelmingly residential in character and one of the goals of the community plan is to maintain the residential character of the community. As stated above, the proposed facility would affect the residential character of the neighborhood. Moreover, since the community does not support the proposed development it is not considered to be a benefit to the community.

Alternative non-residential sites are available. The site across the freeway on the existing SDG&E tower at Phyllis Place is a preferred site identified by the community. When asked about the viability of this location, Nextel indicated on the record that this site would meet their objective of covering the I-805 freeway corridor.

Therefore, based on Nextel's own admission that the alternative preferred non-residential sites were viable and could provide coverage for the service gap they were seeking to close, as well as, the goals of the community plan, the wireless communication facility is not considered appropriate at this location.

5. Any proposed deviations pursuant to SDMC section 126.0602(b)(1) are appropriate for this location and could result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone. In order to obtain coverage for the I-805 corridor, Nextel searched for a location that would be able to "see" up and down the freeway. The site identified was the International Church of the Four Square Gospel Church located at 2285 Murray Ridge Road. The proximity of the freeway and the layout of the existing church facility dictated that the faux palm be located as close as possible to the property line in order to utilize the shortest support structure possible. The location of the faux palm in the side yard setback at a height greater than other structures in the neighborhood achieves Nextel's objective, but does not accomplish integration of the facility into the neighborhood nor does it preserve the community character. Relocating the facility anywhere on the premises beyond the required side yard setback would necessitate that the faux palm increase significantly in height in order to cover the freeway corridor.

B. CONDITIONAL USE PERMIT - SDMC SECTION 126.0305:

1. The proposed development will adversely affect the applicable land use plans. The Serra Mesa Community Plan designates this site for low-density residential development. The Community Plan does not specifically address wireless communication facilities, however, one of the objectives in the Environmental Management element states that preservation and enhancement of the physical environment, visual appearance, safety, identity and character of the community is encouraged through aesthetic improvement and careful urban design. The plan specifically encourages the removal of television and other outdoor antennas for purposes of reducing visual and aesthetic impacts. The proposed facility will compromise the integrity of the Environmental Management element of the land use plan's efforts to reduce visual and aesthetic impacts by placing an above ground antenna (faux palm) on the property. Therefore, the facility will adversely affect the Serra Mesa Community Plan.

2. The proposed development will be detrimental to the public health, safety, and welfare. The wireless communication facility consists of a 35-foot high faux palm containing twelve panel antennas and an associated 300-square-foot equipment shelter. The project requests deviations from the underlying zone to encroach into the side yard setback and exceed the 30-foot height limitation by 5-feet. The community strongly opposed the siting of a communication facility on visual and aesthetic grounds. The community further voiced concern that the non-residential nature of the use would compromise the character of the neighborhood.

3. The proposed development will not comply to the maximum extent feasible with the regulations of the SDMC/LDC. The faux palm and associated equipment enclosure do not comply with the zoning regulations for RS-1-7 where this facility is located. The facility violates the side yard setback requirement, which varies depending on the width of the lot. In this case, the lot is 255-feet wide and would require a combined side yard setback of 20 percent or 51-feet. The northern side yard setback is currently fixed at 24-feet, which would require that the southern side yard setback be 27-feet. The faux palm is located 6-feet, 2-inches from the side yard property line and the equipment enclosure is 11-feet, 8-inches from the side yard property line, clearly encroaching into the setback. The facility also violates the height limit for the RS-1-7 zone, which maintains a maximum 30-foot height limit. The faux palm is 35-feet high causing the facility to be much more visible to the surrounding neighborhood and adding to the visual blight, which is directly in conflict with the Serra Mesa Community Plan. All other land use regulations are in compliance with the proposed project.

4. The proposed use is not appropriate at this location. When considering the issue as a whole, a wireless communication facility at this location would not be beneficial to the Serra Mesa community. The requested deviations from the zoning regulations compromise the integrity of the older, well-established single unit neighborhood and does not preserve the community character. The 35-foot high faux palm and the associated 300-square foot equipment enclosure creates visual impacts to the community and the addition of live palms to the site serves to call attention to the faux palm and associated antennas. Nextel admitted on the record that there are other nearby non-residential sites that could achieve their objective of covering the I-805 corridor. Based on the availability of other preferred sites in the area that observe the hierarchy of preferred land uses, the wireless communication facility is not appropriate at this location. Moreover, the community itself voiced strong opposition to the appropriateness of a communication facility within a residential zone and in such close proximity to residential uses.

The above findings are supported by the minutes, maps and exhibits, all of which are herein incorporated by reference.

BE IT FURTHER RESOLVED, that the appeal of Brian P. Welch and Robert D. Sisemore is granted; the decision of the Planning Commission is overruled; and Conditional Use Permit/Planned Development Permit No. 94-0330-87 is denied.

APPROVED: CASEY GWINN, City Attorney

By



Mary Jo Lanzafame
Deputy City Attorney

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Or.Dept:Clerk
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Reviewed by William Zounes