

DATE ISSUED: March 28, 2001

REPORT NO. 01-052

ATTENTION: Honorable Mayor and City Council
Docket of April 3, 2001

SUBJECT: AT&T WIRELESS: THE GRAY RESIDENCE, CONDITIONAL USE PERMIT NO. 99-0464-54, Appeal of the Planning Commission decision to deny the installation of a wireless telecommunication facility located at 13003 Avenida Grande. Council District One, Process Four.

REFERENCE: Planning Commission Report No. P-01-019, Planning Commission Agenda of January 25, 2001.

OWNER: JOHN T. GRAY AND AE SUK GRAY
APPLICANT: AT&T WIRELESS

SUMMARY

Issues - Should the City Council APPROVE the appeal and REVERSE the decision of the Planning Commission and APPROVE Conditional Use Permit No. 99-0464-54 to install and operate a telecommunication facility?

Manager's Recommendation - APPROVE the appeal and APPROVE Conditional Use Permit no. 99-0464-54.

Community Planning Group Recommendation - The Rancho Penasquitos Planning Board met on January 3, 2001, and voted 13 to 0 with no abstentions to recommend the project be denied.

Environmental Impact - Negative Declaration No. 99-0464-54 has been prepared for this project in accordance with Article 19, Section 15302 of the California Environmental Quality Act (CEQA) and concluded that implementation of the facility would not result in any adverse impacts upon the surrounding environment. No mitigation measures will be required.

Fiscal Impact - All costs associated with the processing of this application are paid for by the applicant.

Code Enforcement Impact - None.

Housing Affordability Impact - None.

BACKGROUND

The proposed project was heard by the Planning Commission on January 25, 2001. Opposition to the project provided testimony on a variety of issues that are further outlined below. The Planning Commission considered the testimony and determined to deny the project based primarily on three issues, 1) Neighborhood Compatibility; 2) Noise; and 3) Traffic. A motion was approved to continue the hearing to February 1, 2001, so that staff could prepare a draft

Resolution denying the project based on those issues. The Resolution to deny the project was returned to the Planning Commission the following week and approved by a vote of 6 to 0 with Commissioner Skorepa absent (see Planning Commission Report No P-01-019)). The applicant, AT&T, has appealed the Planning Commission decision to the City Council (Attachment 5).

PROJECT DESCRIPTION

The project proposes to install and operate a wireless telecommunication facility on a 0.22 acre site located at 13003 Avenida Grande (Attachment 1). The Rancho Penasquitos Community Plan designates the site for low density residential land use. The property is zoned RS -1-7 (formally R-1-5,000). The property is developed with a single-family residence and surrounded by similar single-family development to the north, east and west. The site is adjacent to Open Space to the south and overlooks State Route 15 to the southeast. The rear portion of the site is identified on City Zoning Maps as containing steep hillsides (formerly Hillside Review Overlay), however, analysis of the site has determined that the slopes are manmade and are comprised of fill material created with the grading and development of the subdivision. These slopes contain no sensitive environmental resources.

The project proposes six, pole-mounted directional panel antennas on four sixteen foot high poles and an accessory equipment area (Attachment 2). The original project submittal proposed a thirty foot tall mono-palm design. Subsequent design variations included discussions with area neighbors and city staff of a mono-"pine" and a faux-chimney. All of these design alternatives, including the recent proposal, have been met with opposition from the surrounding neighborhood.

The proposed facility would consist of four, sixteen foot high poles with either one or two antennas attached at the top (the sixteen feet includes the antennas). Each of the four poles is approximately 12-inches in diameter. The six panel antennas have an approximate dimension of 16-inches wide by 60-inches tall by 4-inches deep. The facility includes an equipment area that is proposed to be located on the slope adjacent to the antennas. The equipment area consists of a 220 square-foot concrete pad surrounded by a block wall and a wood fence. The equipment enclosure would contain the associated electronic cabinets and power supply for the facility.

DISCUSSION OF ISSUES

The project proposes the installation and operation of a wireless communication facility on a property developed with a single-family home. The proposed use is permitted within the single-family zone with an approved Process Four CUP. The project complies with the City of San Diego Communication Antenna Regulations. With the exception of a requested deviation from the required rear yard setback, the project complies with the development regulations of the underlying zone. Development Services staff supports the proposed project redesign and considers the low profile pole mounts on the slope an appropriate location considering the residential nature of the site. There is however, considerable organized opposition to the project. The opposition, made up primarily by surrounding property owners, have identified a number of issues that they feel have not been addressed during the review of the project (Attachment 6). These issues include:

- 1) That the facility constitutes a commercial use in a residential zone;
- 2) that the facility creates an adverse visual impact;
- 3) health and safety concerns from RF emissions;
- 4) that the facility would violate the CC&R's of the subdivision which prohibit any radio or television antennas;
- 5) that if the AT&T facility is approved, other providers would want to locate on or around the site; and
- 6) that the facility could be colocated on an existing monopole or SDG&E utility pole.

The opposition and issues identified by the surrounding home owners are supported by the Rancho Penasquitos Community Planning Board. The Board unanimously recommends that the project be denied.

In addition to these issues, the Planning Commission determined that the design and location of

the proposed facility would not be compatible with the character of the single-family neighborhood, and that the facility would generate significant noise and traffic impacts to the surrounding area. These issues, as well as the previous issues that were identified during project review are outlined below:

Neighborhood Compatibility

The Planning Commission determined that the proposed facility would have an adverse affect on the Rancho Penasquitos Community Plan and that the proposed facility was not an appropriate use at the proposed location. The Planning Commission concluded that the design and location of the facility could not be adequately integrated into the residential neighborhood and that the pole-mounted antennas and the equipment enclosure would be highly visible from both adjacent properties and the freeway (I-15) Right-of-Way. The Planning Commission also determined that the proposed facility did not comply with the regulations of the City of San Diego Municipal Code due to the fact that the project was requesting deviations from the minimum side and rear yard setbacks. The Commissioners concluded that the facility could be located at several alternative (nonresidential) sites that would not require deviations from the development regulations.

Staff believes the project is compatible with the residential neighborhood. Staff has determined that the facility would not have any significant affect on the Community Plan and that the proposed facility is an appropriate use at the proposed location. This determination is based on the City of San Diego Communication Regulations that allow for this type of use in single-family residential zones, and the Rancho Penasquitos Community Plan that does not address telecommunication facilities. Staff has concluded that the design and location of the proposed facility are consistent with the regulations and that the facility is well integrated into the surrounding area (Attachment 7). The requested deviations allow the facility to be effectively removed from the view of the adjacent properties. Additionally, the design and location of the facility on the slope allows the hillside and proposed landscaping to act as a natural screening element such that the project will be minimally visible from the freeway. The applicant has sufficiently demonstrated that alternative, nonresidential sites in the area are not available either because they could not secure a lease or they do not meet the project requirements for adequate coverage. Staff contends that the availability of alternative sites should not indicate that the facility is inappropriate at the proposed location.

Noise and Traffic

The Planning Commission also determined that the proposed facility would be detrimental to public health, safety and welfare of people residing in the area. The Commission concluded that the proposed project would generate a significant increase in the level of traffic in the area due to service vehicles performing routine and emergency maintenance on the facility. Additionally, the Commissioners concluded that the associated equipment could cause significant noise impacts due to the proximity of the equipment to the adjacent property. The Planning Commission considered these issues and determined that the proposed facility could have an overall adverse affect on the quality of life for the residents of the neighborhood.

Staff considers the issues of noise and traffic to be effectively mitigated to levels below significant via permit conditions. The traffic engineering standard for a single-family residence is ten Average Daily Trips (ADT) or, approximately 3,650 trips per year. The proposed facility would generate an estimated four additional trips per month for routine maintenance which is an increase of less than one percent of the annual traffic of a single home in the neighborhood. Additionally, CUP 99-0464-54 includes a permit condition that restricts the hours of routine maintenance to regular business hours between 8:00 AM and 5:00 PM, Monday through Friday, so that any increase in traffic would occur at the least disruptive time of day.

Furthermore, the requested deviations to the side and rear yard setbacks and the location of the equipment (down the slope rather than the back yard area) effectively removes the facility as far

away from the adjacent property as possible, thereby diminishing potential adverse effects the facility might cause. Additionally, the facility would be subject to the City's Noise Ordinance that regulates the maximum allowable decibel levels from any mechanical source (such as air conditioning units and pool equipment) as measured at the property line. Therefore, the proposed facility would not pose a significant noise impact that would be detrimental to the public health, safety and welfare.

Commercial Use

Those individuals opposed to the project consider the wireless antenna facility to be a commercial use in a residential zone. Wireless facilities of this kind, including the antennas, poles and associated equipment are defined, classified and regulated by the California Public Utilities Commission as a public utility. Public utilities are not considered a commercial use. Further, the City of San Diego Communication Regulations could allow these types of facilities in any zone with the appropriate permit approvals. Permit conditions shall insure that the routine scheduled maintenance of the facility will occur during the daytime business hours of 8:00 AM to 5:00 PM, Monday through Friday, so as not to disturb the surrounding residential area.

Visual Impact

Parties against this project contend that the proposed facility will have a significant visual impact on the surrounding area. AT&T attempted to address this concern by offering several design alternatives to better conceal the facility. The facility has been redesigned from the original monopalm to the current three pole configuration to better integrate with the surrounding area. Integration would be achieved by relocating the antennas down the slope, utilizing individual pole mounts, and painting the antennas appropriate earth tones to match the terrain. Landscape screening material is also proposed to further conceal the facility and accessory equipment enclosure.

Development Services staff has determined that locating the antennas down the slope effectively removes them from the line of site of the adjacent properties and allows the slope to act as a backdrop that further conceals the antennas from passing motorists below. Utilizing four pole mounts for the six antennas produces a narrower profile than could be achieved by using an individual pole to support all four antennas. Additionally, the combined use of appropriate earth tone color and landscape material will further conceal the facility from surrounding views.

Colocation

Individuals opposed to this facility believe that the project could be located on one of several existing structures in the area such as an existing monopole within a half a mile of the subject property or on any number of SDG&E's high tension lattice towers. The applicant has conducted field tests on several alternative sites, including those identified by the opposition, and has determined that they are either unsuitable to adequately meet their coverage needs or they were unable to secure a lease from the property owners (Attachment 8).

An additional issue regarding colocation that concerns the residents is the ability of other telecommunication providers to locate future facilities on the site if the AT&T project were to be permitted. The City of San Diego Communication Regulations allow, and at times encourage this type of colocation. However, any future proposal would have to integrate into the property which becomes exceedingly difficult on single-family sites because of the relatively low development intensity of a single-family zone. Development Services staff recently hosted and chaired a task force with concerned citizens and the telecommunication industry to discuss a variety of related issues including the proliferation of facilities on a single property. It was agreed that the underlying zone and existing development on a site would normally dictate the ability to integrate multiple facilities on one property and that these determinations would be made on a case by case basis. It is staff's opinion, regarding the 13003 Avenida Grande site, that an additional facility would not be able to adequately integrate on the property because there is

no suitable area left for additional equipment or the necessary separation of antennas using a different band width. In a case such as this, additional facilities or an expansion of an existing facility would not be supported by the Development Services Department.

Conditions, Covenants and Restrictions

Residents of the Penasquitos View subdivision contend that the proposed facility would constitute a direct violation of the Conditions, Covenants and Restrictions (CC&R) that were established when the subdivision was created. The City Attorney has opined that CC&R's are a private contract between the property owners within the housing development and are not considered a binding regulatory tool when considering land use issues. The resolution of any dispute involving CC&R's would be the responsibility of the associated parties.

Radio Frequency Emissions

The Telecommunications Act of 1996 preempts local governments from regulating the "placement, construction and modification of wireless communication facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Commission's (FCC) regulations concerning such emissions." The American National Standards Institute (ANSI) and the Institute of Electrical and Electronic Engineers (IEEE) have established the standard for safe exposure levels of RF energy for wireless facilities. .

CONCLUSION:

City staff continues to support the proposed facility and believes that the issues identified at the January 25, 2001, Planning Commission hearing and throughout the project review have been satisfied or substantially mitigated. The site is appropriately situated for the communication antenna use because of its relationship to Interstate-15 and the remote location of the site within the subdivision. The property is located on the southeastern edge of the Penasquitos View Subdivision and the facility is sited in a manner that the antennas and the equipment will have no significant visual impact on the adjacent properties. The antennas and equipment enclosure are located at the rear of the site on a manufactured slope that was created when the subdivision was mass graded in conjunction with the CalTrans right-of-way for the freeway below.

While staff agrees that the proposed facility will be somewhat visible from the adjacent properties and the freeway, the project will not have an adverse affect on the neighborhood nor a significant visual affect on the surrounding area. Staff believes that the issues raised by the neighbors, the Planning Group, and the Planning Commission have been adequately addressed and where possible, mitigated via design solutions and permit conditions.

The project has been designed and sited in conformance with the City of San Diego Communication Antenna Regulations and, to the extent possible, complies with the underlying RS-1-7 Development Regulations. Conditional Use Permit No. 99-0464-54 (Attachment 4) has been prepared and conditioned to ensure the installation and operation of the proposed facility will not adversely impact the surrounding area. Environmental Negative Declaration No. 99-0464-54 has been prepared in conformance with the California Environmental Quality Act (CEQA) and concludes that the proposed project will not have any significant environmental effects.

The City Manager, therefore, supports the project and believes the necessary findings can be made. (Attachment 3)

Respectfully submitted,

Tina P. Christiansen, A.I.A.
Development Services Director

Approved: George I. Loveland
Senior Deputy City Manager

CHRISTIANSEN:JPH

Note: Attachment Nos. 1, 2, 5, and 6 are not available in electronic format. A copy of the attachments is available for review in the Office of the City Clerk.

- Attachments:
1. Location Map
 2. Site Plan and Elevations
 3. Draft Resolution and Findings of Approval
 4. Draft Permit and Conditions
 5. Copy of Appeal
 6. Letters of Opposition