

**MINUTES
PLANNING COMMISSION REGULAR MEETING
OCTOBER 16, 2012**

1.0 CALL TO ORDER

The Regular Meeting of the Planning Commission of the City of Highland was called to order at 6:00p.m. by Chairman Hamerly, in the Donahue Council Chambers, 27215 Base Line, Highland, California.

Present: Chairman Randall Hamerly
 Vice Chairman Trang Huynh
 Commissioners John Gamboa
 Milton Sparks
 Michael Willhite

Absent: Commissioner Richard Haller
 Commissioner Michael Stoffel

Staff Present: John Jaquess, Community Development Director
 Lawrence Mainez, City Planner
 Sean Kelleher, Assistant Planner
 Linda McKeough, Administrative Assistant III

The Pledge of Allegiance was led by Chairman Hamerly.

2.0 COMMUNITY INPUT

There was none.

3.0 CONSENT CALENDAR

3.1 Minutes of October 2, 2012, Regular Meeting.

On Page 2, Eighth Paragraph, Second Sentence was amended to read as follows: "She stated that they are still arguing over whether the Roof..."

On Page 4, Fifth Paragraph, First Sentence was amended to read as follows: "...then the Appellant could keep the Roof because it was part of the Permit and just eliminate the wall and they would still have a Covered Patio."

A Motion was made by Commissioner Gamboa and seconded by Commissioner Sparks to approve the Minutes of October 2, 2012, Regular Meeting, as submitted.

Motion carried on a 3 – 0 – 2 vote with the abstention of Commissioner Willhite and Vice Chairman Huynh and Commissioners Haller and Stoffel.

10-16-12.PC

4.0 OLD BUSINESS

There was none.

5.0 NEW BUSINESS

(Note: prior to the Meeting, Staff distributed a Color Revised Site Area showing both the MetroPCS and Verizon Lease Areas plus an e-mail from Mr. James Rogers, who is the Applicant's Representative, is requesting Amendments for Planning Conditions of Approval Nos. 28 and 38 for Item 5.1)

- 5.1 A Conditional Use Permit Application (CUP 012-004) and Design Review Application (DRA-012-005) for the construction of an eighty foot (80') tall, Unmanned Co-locatable Wireless Telecommunication Facility (Baseball Field Light), and associated Equipment. The Project is located at the "Highland Community Park" on southeast corner of Central Avenue and Hibiscus Street. The address is 7793 Central Avenue, Highland CA 92346. APNs: 1192-571-47 and 48. Representative: James A. Rogers, RealCom Associates, LLC

Commissioner Sparks excused himself and indicated there was a conflict of interest due to being a stockholder and then stepped down from the Dais and was escorted by City Planner Mainez from the Chamber at 6:03pm.

Chairman Hamerly identified the Item and asked for Staff's presentation.

Assistant Planner Kelleher explained the distributed documents inclusive of the Revised Site Area showing both the MetroPCS and Verizon Lease Areas and the e-mail received this afternoon from Mr. James Rogers requesting Amendments for Conditions of Approval (COAs) Nos. 28 and 38. He then gave the presentation from the Staff Report and PowerPoint presentation and explained the design layout to the Commission.

(Note: City Planner Mainez returned at 6:05pm)

Assistant Planner Kelleher continued his presentation and explained there is an existing tower that is within 1,000 feet of the proposed Tower and the Commission may allow flexibility for the CUP Application for the separation between Towers and provided an example with two (2) Cellular Towers are approximately eighty feet (80') apart and are located within the Highland Village Plaza behind Albertsons. The existing Tower and the Applicant's proposed Tower is separated by approximately 170 feet of co-locate separation. He indicated how both proposed Towers are designed to be co-locatable, but due to

10-16-12.PC

the types of technology that are used between the two (2) Towers, the Carriers are unable to be located on the same proposed Tower and that is why the second Tower is proposed on this Site. In the future with the Co-location on the proposed Tower, the Applicant will be required to go through a Minor Design Review Process for the Equipment Shelter to be located on the property and for the location on the Pole itself. He further explained that the proposed Pole is Conditioned to be the same type of pole that exists today, but only a larger diameter to withstand the additional antennae weight and will be painted or be constructed to match the existing antennae out in the field. The consideration for the Commission is the overall height. The Applicant is proposing the Tower to be eighty feet (80') in height and the existing Tower is also approved at eighty feet (80') in height. In terms of noise generation, the Project has been Conditioned to have a battery backup system and meets that requirement. In addition, Assistant Planner Kelleher explained the City will be processing a Lease Agreement between the City and the Applicant. He further explained the Applicant's request for the proposed revised COA No. 28 regarding the revised Performance Standards verbiage in the event if the Tower's equipment would interfere with radio communication for emergency vehicles and that there is a process the Carrier has to go through in order to resolve those conflicts which would result in the Tower being shut down for a period of time while they work to resolve that. Staff does not have documentation specifically on the Association of Public Safety Communications Officials (APCO) and Performance Standards. The proposed verbiage could be included / addressed in the Lease Agreement and Staff would recommend to leave Planning COA No. 28 as is and then address the Applicant's request in the Lease Agreement. With regards to Planning COA No. 38, the Applicant's request to reduce the size of the Chinese Pistache Trees from a 48" Box to a 36" Box and the Indian Hawthorn Shrubs from 15 gallon to 5 gallon due to the cost. Assistant Planner Kelleher indicated that the Applicant's reduction request for the reduction for the proposed landscaping would be consistent with the previous approved MetroPCS telecommunication facility landscaping. There was no discrepancy over the Daylilies species that is required to be installed. He had spoken with the City's Landscape Architect and indicated the desire is to get the most mature plants that the City can get. He indicated that the Applicant's Representative is in the audience for any questions the Commission may have and then concluded his presentation.

A question was asked by Chairman Hamerly if the Applicant's proposal for the number of Daylilies would remain the same and the Applicant is not proposing to delete them and asked for clarification and Assistant Planner Kelleher responded the Applicant is requesting the revision is to the size of the Trees and Shrubs and that the number of Daylilies would stay the same.

10-16-12.PC

Another question was asked by Chairman Hamerly if Staff included that the increase in size with the new installed planting materials to look comparable to the existing landscaping. Assistant Planner Kelleher responded that the Trees would be closer and that the existing landscaping has been there for a number of years and would exceed the 48" Box sized Trees, at this point. After Staff had talked with the City's Landscape Architect, the City's Landscape Architect indicated that it would be okay with the 36" Box Trees instead of the 48" Box Trees and if fertilized / irrigated well, the proposed Trees could potentially catch up with the existing Trees on-site if treated special as to letting them grow over the years.

A question was asked by Chairman Hamerly what is the expectation if that would happen at that location since it is out in the middle of the Ballfield and if the Pistache Trees will be different in landscaping maintenance and if the Maintenance Landscape Crew have special tasks treat these Pistache Trees differently so that they grow better. Assistant Planner Kelleher responded no, and that the City Maintenance crews will be maintaining the Trees since they will be on City property and probably will not be treated differently. It would be a suggestion from Planning Staff to Public Works Staff whether or not if it was physically implemented in the field, but hoped so about the maintenance of the Pistache Trees.

A question was asked by Commissioner Willhite what is the cost difference and Assistant Planner Kelleher responded could potentially be \$1,000 - \$2,000, but would defer to the Applicant.

Chairman Hamerly asked if the Commission had any further questions of Staff. Hearing none, he then opened the Public Hearing and asked if the Applicant would like to make a presentation.

Mr. James Rogers, of James Rogers Consulting, 31097 Via Sonora, San Juan Capistrano, California, who is the Applicant's Representative (Verizon Wireless), addressed the Commission. He stated having the items were clarified with any questions that the Applicant had and for Verizon to accept those. Unfortunately, the Project Manager who he was waiting for approval had been out of town due to a family issue, had just returned and had e-mailed Mr. Rogers with her comments and that is the reason for the proposed Revised COAs. He further explained that the Project Manager is the person that can accept the proposed Project / COAs. With regards to the Revised Planning COA No. 28, he explained how the Performance Standards with the Association of Public Safety Communications Officials (APCO) and Standards and Best Practices handles the interference issues generated by emergencies / notification process. The language in the COA in the Staff Report lists Federal Law and FCC and the FCC

10-16-12.PC

does not have a process and references APCO. Verizon likes APCO Standards that Verizon / MetroPCS have and further explained if had to shut down the system, adjust the equipment, if an antennae is out of alignment, etc. would utilize the APCO and Standards for Best Practices.

A question was asked by Chairman Hamerly if the proposed APCO Revised language for COA No. 28 would be in lieu of the Federal Law / FCC Regulations and that the FCC would be using in clarifying the procedure and Mr. Rogers responded affirmatively. Chairman Hamerly said he was concerned when he read COA No. 28, and if there was an interference that is making it impossible for emergency communication to occur, it is an immediate threat to public health, safety and welfare, how long would it take both MetroPCS and Verizon to review their checklist to correct to whatever interference may or may not be occurring at the Tower locations. Mr. Rogers responded that he was unable to answer that. It's in the Carriers' interest to get it done as quickly as possible to see if it is them or maybe a third party or something else and part of this is making sure of the notification process of the interference issues and that APCO and Standards for Best Practices does address that.

Another question was asked by Chairman Hamerly if the APCO and Standards for Best Practices notification be in writing and does e-mail constitute in writing and Mr. Rogers responded typically, in writing and that e-mail is acceptable for in writing and starts whatever process / clock it is.

A comment was made by Chairman Hamerly there is a Public Health, Safety and Welfare issue and if there is an emergency signal that is unable to get through, it needs to be fixed immediately. He is not hearing anything that reassures him that this would be a quick resolution and to take care of the issue and provided an example and would personally wanted to err on the side of ensuring that emergency personnel can communicate effectively and he would rather be inconvenienced for a few hours of not being able to use his cell phone for a few hours rather than inconveniencing emergency personnel. Mr. Rogers responded the emergency communications and that has to take precedence and indicated that he understands that and is part of the emergency communications network. If the COA is left as written, Verizon internally will follow the APCO process.

Another comment was made by Chairman Hamerly if APCO is the Standard that is governed by, he does not have a problem with inserting the Revised language, but proposing in lieu of, or addition to, the referenced Federal / FCC language. But reading the Applicant's Revised Paragraph and proposing to insert in lieu of the last sentence, he felt more comfortable with the language that is in the last sentence of the COA as written, because it errs on the side of caution and provided an example.

10-16-12.PC

A comment was made by Commissioner Gamboa that he agreed with Chairman Hamerly's comment.

A comment was made by Commissioner Willhite that Verizon is an emergency communication provider and Chairman Hamerly responded that he wants to ensure that things would happen very rapidly. Mr. Rogers added rather than replacing the last sentence that references temporarily ceasing operations, replaces the second sentence which references that "...the City shall follow the notification process by Federal Law..." or add it in addition to the authority.

A question was asked by Commissioner Willhite if the hang up is cease operations portion of the last sentence and Mr. Rogers responded that Carriers do not like to hear cease operations temporarily and fixing the problem is one thing, but reiterated how Carriers do not like to hear about ceasing operations, even temporarily and Carrier's hear that often enough. Assistant Planner Kelleher stated that language is out of the Municipal Code and is a Standard Condition of Approval that has been applied to everybody else, including Verizon Wireless in the past.

A comment was made by Chairman Hamerly if the FCC / Federal Standard COA could be revised with the APCO Standards and reflect APCO's language. Assistant Planner Kelleher responded that Staff could look into that. City Planner Mainez added the Code was developed and added in 2001, and would take a Municipal Code Amendment (MCA) and is antiquated with the new technology. Chairman Hamerly said with 2001, that is one or two generations old in technology. City Planner Mainez responded back then, it was a huge issue if there would be interference with the Fire / Police emergencies and if the Applicant is stating that through the Applicant's experience, that the notification process could be approved or maybe there is another way of doing it, he suggested / recommended that this would be referred back to the City Attorney to review and get some language on that. Community Development Director Jaquess added or leave the proposed COA alone. Commissioner Gamboa responded to leave the proposed COA, as written, and send to the City Attorney for his thought and the adjustment for the City Code, make the change then, at that time.

Another comment was made by Chairman Hamerly if the better language is referencing the Applicant's Standard, because that is the default Standard for notification / process in case of interference, insert the Applicant's Revised language into the Contract (Lease Agreement) with the Carrier, if that is the most effective way of doing it without deviating from the Municipal Code if COA No. 28 is taken out of the Municipal Code, he does not want to run the risk of a conflict

10-16-12.PC

between the COAs or being inconsistent. He then directed Staff look at this item and try to make it internally consistent with current Standards and if the Standards are APCO, have the City Attorney review that and prepare a MCA.

A comment was made by Commissioner Willhite to his knowledge, that all the Cellular Towers located in Highland have not interfered with communications at all for law enforcement and could not speak for the Fire Department, but they both are on the same systems. If there is a problem, with their radio communications, then they would be using their Verizon cell phones. He stated to leave the COA language, as written, but it needs to be reviewed. Mr. Rogers responded that Verizon also does not want to hold up the Project and agreed to leave the COA, as written, by Staff and was unaware it would need a MCA. City Planner Mainez added that the proposed Lease Agreement and could be further discussed as part of the issues with the Lease Agreement and not hold up the Applicant with a MCA and the MCA would affect new Applications going forward.

A comment was made by Chairman Hamerly then Planning COA No. 28 is off the table pending being an item for discussion with the City Attorney and with a MCA and Community Development Director Jaquess added with the Contract.

Another comment was made by Chairman Hamerly regarding the proposed Applicant's Revised Planning COA No. 38. Mr. Rogers explained that 95% of the COAs were the same as what was on MetroPCS and was Conditioned for 36" Box Trees. He had researched and located / priced the Chinese Pistache Tree and was unable to find 48" Box Trees. The City's Landscape Architect said that they could be found in Arizona. He contacted Arizona and found out that they are more expensive than the 24" Box Trees / 36" Box Trees and that does not include shipping and why the Applicant's request was due to cost and for consistency with the other facility located in the Community Park and that the 36" Box Trees which are available in Southern California. With the Indian Hawthorn, it was also due to cost and for consistency between MetroPCS COAs and Verizon's proposed COAs. He indicated there is no issue regarding the Daylilies.

A question was asked by Chairman Hamerly regarding the price difference between the 36" – 48" Box Trees without shipping and Mr. Rogers responded for 36" Box Tree here is \$600 and includes delivery and from a nursery located in Phoenix, it's \$1,250 and the price would be doubled from 36" Box Trees to 48" Box Trees.

Another question was asked by Chairman Hamerly if the Applicant had checked with a local nursery and Mr. Rogers responded wholesale is Monrovia Nursery for Verizon and near Highland, a full retailer is with Armstrong. Chairman Hamerly responded how no one would have Chinese Pistache Trees in Southern California and Mr. Rogers responded nothing with 48" Box and can get 36" Box, but only with the Armstrong inventory.

10-16-12.PC

A question was asked by Commissioner Willhite about the price difference for the Indian Hawthorn and Mr. Rogers responded that he did not look at the Indian Hawthorn in terms of the price, but Verizon is trying to look at it by having consistency with what is already exists onsite at the Park. Commissioner Willhite said that he was concerned in that the Community Park is a sports park and there is a lot of people / children there and that may be a too small of a tree to have the opportunity to take off and mature.

A comment was made by Commissioner Gamboa that he was concerned if the Commission had already approved with MetroPCS, he would hate to see another Carrier be right in the same location and asking the Applicant to double the cost of their landscaping materials versus somebody else the Commission had already approved.

A comment was made by Chairman Hamerly if the Equipment Shelter is blend in and look as though that it was all installed at the same time, increasing the plant size a bit because the landscaping will always be placing catch up and if the materials are small, doesn't want it to look like there was stunted growth on the plant materials. He then asked the about number of species. Mr. Rogers responded there are three (3) Pistache Trees and he believed to be four (4) for the Indian Hawthorn. Assistant Planner Kelleher added that the Daylilies will fill in the gaps.

A question was asked by Chairman Hamerly if the Commission would consider the size of 36" Box on the Chinese Pistache Trees and the size of the 15 gallon remain on the Indian Hawthorn and Mr. Rogers responded yes, definitely. Chairman Hamerly said the differential in price between those is approximately less than \$110 for the Shrub materials and that the Trees add up rather quickly and the shipping costs is not an insignificant thing coming from Arizona. Commissioners Gamboa, Willhite and Vice Chairman Huynh said that they had no problem with that.

Chairman Hamerly said for Planning Condition No. 38 to reduce the size of the Chinese Pistache Trees from a 48" Box size to a 36" Box size and that the Indian Hawthorn and Daylilies would remain as is. He then asked if the Applicant had any other issues and Mr. Rogers said no in that those were the only two issues and would be happy to answer any other questions the Commission may have.

Chairman Hamerly asked if the Commission had any further questions for the Applicant.

10-16-12.PC

A question was asked by Commissioner Gamboa to ensure the height / size would match the MetroPCS Pole and Mr. Rogers responded that it would be the same type / style and of Pole and height as the Light Standards.

A question was asked by Chairman Hamerly regarding the technology / conflict with the Carriers not being able to be co-locatable on the same Pole. Mr. Rogers responded that in this case, he would need a Radio Frequency Engineer and indicated the Carriers using similar frequencies have to ensure that there is a greater distance / range / separation rather than having two Carriers that are dissimilar frequencies can go closer together and indicated that both MetroPCS and Verizon have somewhat similar frequency.

Another question was asked by Chairman Hamerly if that is with all Providers or close frequency with MetroPCS and Verizon. Mr. Rogers responded how it used to be that Verizon had certain frequency range because those frequencies are what they bought from the FCC and could say the same thing for AT & T, T Mobile, Nextel, Sprint, etc. and how that doesn't work anymore. For various reasons, the FCC and the courts have required for competition to certain Carriers to swap off certain market areas so A T & T has swapped some for Verizon sites and they now own each others and the "big three" are more mixed on their frequencies now.

A comment was made by Chairman Hamerly so then the Carriers are not maintaining a consistent frequency from market to market and then asked if it then varies with the Tower. Mr. Rogers said no, it would be the same for the market, but from market to market it can change. Because of the evolution / growth of the technology, all of the Carriers with Verizon being up front with the Long Term Evolution (LTE) for the 4G system. Verizon using frequency / antennae 3G systems and the proposed Pole with the number of antennae that they will most likely have several different frequencies on it so that it could be used for the newest LTE, as well as the systems that a bit older now and is more convoluted now and gave examples with what is available with FCC frequencies.

(Note: City Planner left the Chambers at 6:40pm).

A comment was made by Chairman Hamerly that at this location, with two (2) eight foot (80') Co-locatable Towers that there are not any other foreseeable conflicts that would cancel each other out and would be compatible. Assistant Planner Kelleher responded how at the Highland Village Plaza behind Albertsons have two (2) Towers and six (6) Carriers out there and how there is an opportunity to co-locate.

10-16-12.PC

A question was asked by Chairman Hamerly that there won't be a need for a third Tower because there is another Carrier out there that conflicts with these two (2) Carriers because another Carrier and their technology cancels out / interferes with the two (2) Carriers' technologies and the Commissioner would have to review a third site. Assistant Planner Kelleher responded that there is a potential there. When the Community Park was originally formed, there was a comment at City Council in that there was a desire to utilize the Baseball Field Lights as locations for Towers and Community Development Director Jaquess added that as a revenue source for the City. Chairman Hamerly said then that would solve the issues for additional Carriers / Providers.

A question was asked by Vice Chairman Huynh if local jurisdictions may adopt the APCO Standards as a Standard, or if the Applicant knew of any other Local or State Agency that Standards and Mr. Rogers responded as far as adoption, it is not usually done locally because APCO is a National Organization and the FCC has not adopted this, but is referenced by other bodies.

A question was asked by Chairman Hamerly if most universally recognized / referenced Standard for Communication Towers. Mr. Rogers responded that all the Carriers that he has worked with, has not had a problem with compliance with APCO and Best Standard Practices Standards.

A comment was made by Chairman Hamerly if a MCA would be able to conform to the latest technology and if there is another Standard that is more widely adopted, he would love to hear it so that the Commission can direct Staff accordingly to have the City Attorney work on that. Mr. Rogers said that would be a good research project for someone and Assistant Planner Kelleher responded that City Planner Mainez is not here so it would be with him.

Chairman Hamerly asked if the Commission had any further questions of the Applicant / Representative or Staff. Hearing none, he then asked if anyone in the audience would like to speak on the Item. Hearing none, he then closed the Public Hearing and there being no further questions of Staff, or discussion amongst the Commissioners, he then called for the question.

A Motion was made by Vice Chairman Huynh and seconded by Commissioner Gamboa to

1. Adopt a Negative Declaration and direct Staff to File a Notice of Determination with the San Bernardino County Clerk of the Board, and;
2. Adopt Resolution 12-017 approving Conditional Use Permit Application (CUP 012-004) and Design Review Application (DRA-012-005), subject to the recommended Conditions of Approval, as amended with the following:

10-16-12.PC

38. (NS) Plant material shown on the Lease Area Plan does not specify container sizes to be installed, nor spacing of groundcover. Based on standards held for recent, similar applications throughout the City, the following container sizes and spacing of groundcover shall be maintained:

- Chinese Pistache (*Pistacia chinensis*) Trees – 36” box; spacing as shown on Plan
- Indian Hawthorn (*Rhaphiolepis indica*) Shrubs – 15 gallon @ 5’ on-center against Building
- Daylilies (*Hemerocallis hybrids*) Perennials – 1 gallon @ 2’ on-center spacing within entirety of remaining non-turf planting areas

And;

the Findings of Fact.

Motion carried on a 4 – 0 vote with Commissioners Haller, Sparks and Stoffel absent.

(Note: Commissioner Sparks returned to the Dais at 6:50pm)

6.0 ANNOUNCEMENTS

Community Development Director Jaquess explained that on October 17, 2012, Discover Highland Night located at Lowe’s Parking Lot from 3:00pm to 7:00pm. On November 17, 2012, the City’s 25th Silver Jubilee, located at San Manuel Village Events Center starting at 5:30pm. He then further explained the Items scheduled for the Commission’s Regular Meeting for November 6, 2012, at 6:00pm.

10-16-12.PC

7.0 ADJOURN

There being no further business, Chairman Hamerly declared the Meeting adjourned at 6:52p.m.

Submitted by:

Approved by:

Linda McKeough, Community Development
Administrative Assistant III

Randall Hamerly, Chairman
Planning Commission