

**TOWN OF MORAGA
PLANNING COMMISSION MEETING**

Moraga Library Meeting Room
1500 St. Mary's Road
Moraga, CA 94556

February 22, 2011

7:30 P.M.

MINUTES

I. CALL TO ORDER

Chairman Driver called the Special Meeting of the Planning Commission to order at 7:30 P.M.

ROLL CALL

Present: Commissioners Levenfeld, Obsitnik, Socolich, Whitley, Wykle,
Chairman Driver

Absent: Commissioner Richards

Staff: Richard Chamberlain, Senior Planner

B. Conflict of Interest

There was no reported conflict of interest.

II. ADOPTION OF MEETING AGENDA

On motion by Commissioner Levenfeld, seconded by Commissioner Socolich and carried unanimously to adopt the meeting agenda, as shown.

III. ANNOUNCEMENTS

There were no announcements.

IV. PUBLIC COMMENTS

There were no comments from the public.

V. ADOPTION OF THE CONSENT CALENDAR

There were no items on the Consent Calendar.

VI. PUBLIC HEARINGS

- A. CUP 13-10 - AT&T Wireless Transmitter Facility / Velocitel (Applicant) for AT&T, Saint Mary's College of California (Property Owner):** A public hearing to consider a conditional use permit to install a temporary AT&T *Cell Site on Wheels* (COW) on a gravel area between the tennis courts and a softball field at the Saint Mary's College Campus located at 1928 St. Mary's Road. The 7-foot by 20-foot COW will have two 55-foot tall telescoping poles with antennas and a private use microwave transmitter. The 55-foot height for the antennas is necessary in order to overcome the height of the campus buildings and to provide coverage to the entire college as well as the surrounding area. The location was selected to be more than 300 feet away from any residences and for the most part screened from view by existing trees. Depending on when AT&T gets approval for a permanent site at Saint Mary's College, the COW is proposed for a six to 12-month period. The property is zoned College. APN 258-150-004.

Senior Planner Richard Chamberlain presented the staff report for consideration of a conditional use permit (CUP) to install a temporary AT&T *Cell Site on Wheels* (COW) on a gravel area between the tennis courts and a softball field at the Saint Mary's College Campus located at 1928 St. Mary's Road. The 7-foot by 20-foot COW would have two 55-foot tall telescoping poles with antennas and a private use microwave transmitter. The 55-foot height for the antennas is necessary in order to overcome the height of the campus buildings and to provide coverage to the entire college as well as the surrounding area. The location was selected to be more than 300 feet away from any residences and for the most part screened from view by existing trees. Depending on when AT&T gets approval for a permanent site at Saint Mary's College, the COW is proposed for a period of six months to one year. Public notification had been mailed on February 11, 2011. No response had been received from the public either through written correspondence or by telephone.

Mr. Chamberlain reported that after the latest Gubernatorial Debate, AT&T had installed a COW which had been very successful and which had been missed by the student population when removed. AT&T was in the process of locating a permanent facility at the college campus but must comply with the Town's Wireless Ordinance. The temporary facility is to be placed near the previous location although there was a residence located within 300 feet. The proposed location would be between the tennis courts and the softball field in a depressed area with a hill on one side which would hide the trailer from the playing fields. The telescoping antennas would be visible but not clearly visible through the trees. The facility would be on site for six months to a year while AT&T worked on a permanent facility on the campus.

Mr. Chamberlain explained that staff had drafted findings for the approval of the CUP. He recommended that the Planning Commission approve the application.

Dave Brasmer, Velocitel Site Acquisition Specialist, introduced several members of AT&T, Velocitel, and Saint Mary's College to answer questions from the Commission. He reiterated the proposal to install a temporary COW site in the location identified by staff. He identified the telescoping antennas which would only be approximately 55-feet in height while the maximum height capability was 85 feet. The equipment would be located on a platform trailer with the ability to telescope out and provide balance to the facility. The equipment would be located on a gravel area between the tennis courts and the softball field at Saint Mary's College, hidden in a low-lying area behind existing trees as depicted in a slide presentation to the Commission. The antennas would be painted green to match the foliage and be wrapped with a moss wrapping material. The equipment would be approximately 450 feet from St. Mary's Road and approximately 600 feet to the nearest residence. The location would not be easily visible to the public. The COW would provide coverage to the college and the St. Mary's Road corridor.

A photo simulation of the facility from St. Mary's Road was presented. Views back from the entrance on St. Mary's Road were also provided as well as views as one traveled east near the tennis courts.

Mr. Brasmer understood, when asked, that the existing tennis court lights were 25 feet in height and the surrounding trees were 30 to 35 feet in height. The area of the proposed facility was currently a bit bare due to the winter period. He suggested that as the foliage increased in the spring, the facility would not be clearly visible. He emphasized that the antennas would be painted to match the foliage and would be moss wrapped. He added that the request was for the approval of the facility for six months up to a one-year maximum period. The coverage would be provided to the college and to the St. Mary's Road corridor. The facility would provide the coverage necessary for high data usage and would provide increased emergency call coverage while a permanent site was found, expected to take a year.

Mr. Brasmer described the current coverage without the proposed facility and explained that an existing cell site covered a portion of the area. He emphasized that the COW would greatly improve and provide more intensive coverage of the college campus, the residential area, and the St. Mary's Road corridor. He added that once a permanent site was selected, the coverage would likely be the same as the coverage provided by the COW.

A Commissioner asked for clarification on the use of the moss wrap material, to which Mr. Brasmer identified a camouflage fabric that would be wrapped around the mast which consisted of stainless steel aluminum and which would be visible from the road. The use of the moss wrap would make the mast blend in better with the tree line.

In response to Commissioner Whitley as to whether or not a permanent location had been identified, Mr. Brasmer advised that a permanent location had not been decided at this time although several different locations had been proposed.

Dennis Rice, Telecommunications Director for Saint Mary's College, explained that there had been an issue with coverage in the upper canyon area where half of the college residents lived. The cell tower was located west of the north part of the campus due to an existing hill that shadowed that area. The permanent site must be on that side of the campus. Due to the 300-foot setback requirement from residences and due to the heavy concentration of residences in that area, discussions with the Planning Department on a preferred alternate location were ongoing. He explained that future building on the college campus was planned in the area of the baseball park and it was possible to work something in that area while still realizing good radio frequency (RF) coverage in the canyon area.

Mr. Rice noted that months before the Gubernatorial Debate, students had spoken with the college trustees regarding wireless in the dorms, the need for a cell site for AT&T on campus, and the need for better coverage, which had led to the proposed COW. The college had been working on that issue for the past several months. During the Gubernatorial Debate, the prior COW site had offered better coverage for the students leading to the urgency to find a permanent solution during the use of the interim COW facility.

Commissioner Obsitnik asked whether or not there would be any noise impacts associated with the proposed equipment.

Mr. Brasmer explained that a temporary whisper generator would be used for a minimum of 60 days, which generator would generate 60 dBA in order to provide electricity. He stated that the dBA level was well below the Environmental Protection Agency (EPA) rating for noise pollution.

Mr. Chamberlain identified an existing transformer near the COW where the power would be provided.

Mr. Rice added that during the Gubernatorial Debate, a whisper generator had also been used and had been located behind the Brothers' living quarters. There had been no noise complaints at that time.

Tim Farley, Director of Community and Government Relations for Saint Mary's College, reiterated that the students wanted the improved coverage particularly after it had disappeared after the Gubernatorial Debate. He added that Saint Mary's College was seriously working to secure a Presidential Debate in 2012, which was another reason for desiring the improved state-of-the-art technology which would also improve the entire Moraga community.

Commissioner Whitley referenced the coverage map and asked if the facility identified at Rheem Boulevard was a previously approved antenna facility.

Mr. Chamberlain affirmed that the wireless facility located on Rheem Boulevard was operational and had previously been approved.

Mr. Brasmer noted that the hill on the upper campus still shadowed that location, and Mr. Farley added that was where the dorms were located.

PUBLIC COMMENTS OPENED

John Burnite, Jr., 1693 Del Monte Way, Moraga, expressed concern with what he characterized as several irregularities with the application. He stated that the proposal avoided the encouragement of a public lease with the Town, which was one of the requirements of the Wireless Ordinance. It had also avoided a broader public debate on the issue, competition with AT&T, and had avoided the tower height limits as proposed by the Town code.

Mr. Burnite suggested that the applicant had not shown a burden of proof for a temporary facility as necessary pending a potential permanent site. The staff report had also omitted Section 8.144.030B, Ground Mounted Equipment, whereby if the equipment were ground mounted the functional height of the towers could not be above 20 feet. He stated that the COW towers, which would be considered a building, would exceed the maximum height of any campus building and the maximum height requirements. The antennas were also to be located as far away as feasible and be as aesthetic as possible from the outer edge of a building, which was not the case. The antennas were also required to avoid being mounted on peaks of roofs. The COW telescoping poles would violate that section of the code. In addition, publicly-owned property negotiation had not been analyzed. Further, there was also to be a site selection process undertaken with no reference as to why public land was not available, feasible, or compliant with an alternative site.

Mr. Burnite understood that the proposal had initially been rejected given that it had not complied with an appropriate site. He disagreed that the facility would increase property values with no data referenced therein. There had been no analysis related to the use of the generator, the potential nuisance factor, or the 65 dBA in the event the generator was running for a 24/7 period, particularly since sound would be more obtrusive at night. He asked the Commission to deny the application for failure to satisfy the requirements of the code.

Mr. Brasmer stated that the generator would only be in place for the time it would take to connect the wiring to the power correctly. The 65 dBA had been the certified dBA noise pollution level and the generator would be at 63 dBA at 80 feet, with the EPA allowing 65 dBA at 100 feet.

Mr. Brasmer advised that the generator would be running at an idle since it was oversized for the site, keeping it at a lower dBA. The whisper generator had also been selected since it would run 24 hours a day and could be a nuisance, if noisy, although it would be well under the permitted noise levels. He again reiterated that the facility was temporary for six months to one year until all factors could be resolved to locate a permanent site.

Paula Lawton, Velocitel Site Acquisition Consultant, noted that the facility was 600 feet from the nearest residence and that the noise level would dissipate as it traveled.

Mr. Burnite pointed out that the noise would travel.

Mr. Brasmer emphasized that all efforts had been made to limit the noise levels, to preserve the scenic corridor, and to comply with all regulations and distance requirements.

Mr. Chamberlain clarified, when asked, that staff had been directed by the Planning Manager to consider a global mounted antenna. Ground-mounted antennas were used when sitting on the ground and were ground mounted. There were other situations where there was building equipment on the buildings. The building-mounted criteria had been used in this case. There were other antennas in the Town that were located on equipment above buildings. He noted that both Verizon and Sprint had facilities at the college located inside cupolas consisting of fiberglass to appear like stucco on the buildings, with the equipment hidden in the eaves, which was something that may occur with the permanent facility when located.

In response to the concerns with respect to seeking Town properties, Mr. Chamberlain acknowledged that issue had come up with other wireless facilities. He noted that while the Town would like to have the income to lease such facilities on Town property, most Town-owned property was located in open space zones where such facilities would be prohibited in a high area since those areas would be within 500 feet of a major ridgeline. He also acknowledged that there was Town-owned property along St. Mary's Road, although it would be far more visible along the scenic corridor given the limited trees to screen the views. There could also be impacts to nearby residents.

Mr. Brasmer stated that the temporary site had been analyzed and had the least impact on the community.

Paul Cohune, 1685 Del Monte Way, Moraga, understood that the location of the facility was a temporary solution although he questioned what assurance the adjacent residents had that the temporary site would be removed after six to 12 months. He asked that assurance be clarified in any approval.

Mr. Chamberlain identified the condition of approval where the use permit would be valid for up to one year and may be extended by the Planning Commission upon a public hearing and verification of compliance with the conditions of approval. After that period, the equipment was to be removed within 30 days of the expiration, including all equipment associated with the wireless telecommunication facility.

As to whether or not other areas out of the scenic corridor had been considered, Mr. Rice commented that those areas had a lack of power or blockages. All efforts had been made to consider a location that met all of the criteria and still had the least impact on the environment.

Mr. Brasmer reiterated that several locations had been considered and the proposed location had the best setbacks given the residences all around that area. He noted that the property line to the left was close to residences as well and they were essentially blocked into the proposed location.

PUBLIC COMMENTS CLOSED

Chairman Driver suggested that the proposal would not be suitable for a permanent location based on his concern with its temporary nature. He was encouraged with the quick way the other AT&T line had come on line and which had shown that AT&T could produce a permanent solution. He was also pleased to see staff's recommended conditions of approval where approval would sunset in one year. He found that the view impacts had been mitigated and the facility was far from the view corridor.

Commissioner Socolich agreed with the Chair's comments.

Commissioner Wykle commented that the site was the only site on campus that met all of the requirements and could potentially be a permanent site.

Mr. Brasmer suggested that the proposed location would not be a suitable permanent site given the environmental impacts associated with the area and given the future expansion of the college in a number of areas. He commented that anything permanent would likely be a light fixture and not a tower facility.

Commissioner Whitley suggested that the viewshed from the public corridor was minimized, although he was concerned with the application being treated as a building antenna, with the antenna higher than the building by 40 feet. He stated that the Town's ordinance had not anticipated a temporary site but ground-mounted and building-mounted antennas, not those stuck on trailers. Since the ordinance did not preclude antennas jutting above buildings, he suggested that the ordinance allowed the Commission discretion in that case.

Commissioner Whitley recognized that the antennas would be viewed from the scenic corridor, dramatically in certain locations, but would be camouflaged by paint and a moss covering. He agreed that the facility would be mitigated by the fact that it was not a permanent site. He expressed concern with the approval of an application for a permanent cell tower jutting 50 feet in the air although since the current application was for a temporary situation, he saw no concern with the proposal as presented.

A Commissioner disagreed that approval of the temporary facility would become a permanent site given that the applicant must go through a process of approval and must comply with the Town's Wireless Ordinance.

Chairman Driver stated that when a permanent site was proposed more thorough documentation should be provided.

Commissioner Levenfeld was not certain the temporary site would be suitable for a permanent site although she suggested that during the six to 12-month period; the potential impacts would be identified offering the opportunity for the applicant to return to the Commission to suggest an alternate site.

Mr. Chamberlain reported that the applicant had made an initial application that was within 300 feet of the Brothers' residence, which had been denied by staff. He clarified that when the facility had been installed for the Gubernatorial Debate, it had been for a short period of time with no approval process from the Town.

Commissioner Socolich emphasized that when a location for a permanent facility was determined it would have to be acceptable to the Planning Commission given the concerns that had been expressed.

A Commissioner expressed concern with the views from the scenic corridor. He asked whether or not there should be a condition where the antennas would be painted to match the foliage and wrapped with the moss material.

Mr. Chamberlain suggested that Condition 2 could be amended, if necessary, to require Design Review Board (DRB) review of the application, or the condition could be amended to require the moss wrapping and that the antennas be painted to match the foliage.

Commissioner Socolich preferred that the application require DRB review and that Condition 2 be amended accordingly.

Commissioner Levenfeld disagreed with a DRB review requirement given the temporary nature of the facility. She suggested that Condition 2 be amended to require the painting and camouflaging of the antennas.

Mr. Chamberlain recommended that Condition 2 be amended to read:

The applicant shall paint the antennas to match the surrounding foliage and be camouflaged with moss wrap.

On motion by Commissioner Socolich, seconded by Commissioner Wykle to adopt Resolution next in number to approve CUP-13-2010 for AT&T Wireless Transmitter Facility / Velocitel at Saint Mary's College of California, subject to the findings and conditions as shown, and subject to the amendment to Condition 2, as follows: The applicant shall paint the antennas to match the surrounding foliage and be camouflaged with moss wrap. The motion carried by the following vote:

Ayes:	Commissioners Levenfeld, Obsitnik, Socolich, Whitley, Wykle, Driver
Noes:	None
Abstain:	None
Absent:	Commissioner Richards

Mr. Chamberlain identified the 10-day right of appeal of a decision of the Planning Commission in writing to the Planning Department subject to an applicable appeal fee.

VII. PUBLIC MEETING

A. None

VIII. ROUTINE & OTHER MATTERS

A. None

IX. COMMUNICATIONS

A. None

X. REPORTS

A. Planning Commission

Commissioner Socolich reported that he had attended the Moraga-Orinda Fire District (MOFD) Liaison Meeting in which the Mayor, Moraga Police and Fire Departments, and the Park and Recreation Department had highlighted their work. He had also highlighted the Planning Commission's efforts with respect to the Medical Marijuana Ordinance.

B. Staff

1. Update on Town Council actions and future agenda items.

Mr. Chamberlain reported that the DRB would meet on February 28 to discuss the application for property located at 120 Moraga Road. The MOFD had required a 16-foot roadway which required some modifications to the site plan. The property owner had recommended a modification that the DRB would consider at its next meeting.

As to the fencing around the AT&T site on Rheem Boulevard, Mr. Chamberlain understood that the fence material would be chain link. The applicant had also submitted landscape plans which would be activated if the facility was found to be visible.

XII. ADJOURNMENT

On motion by Commissioner Whitley, seconded by Commissioner Socolich to adjourn the Planning Commission meeting at 8:36 P.M. to a regular meeting of the Planning Commission on Monday, March 7, 2011 at 7:30 P.M. at the Moraga Library Meeting Room, 1500 St. Mary's Road, Moraga, California.

A Certified Correct Minutes Copy

Secretary of the Planning Commission