

**TOWN OF MORAGA
PLANNING COMMISSION MEETING**

Hacienda de las Flores, La Sala Building
2100 Donald Drive
Moraga, CA 94556

October 21, 2014

6:00 P.M.

MINUTES

1. CALL TO ORDER

Chair Kuckuk called the Special Meeting of the Planning Commission to order at 6:00 P.M.

A. ROLL CALL

Present: Commissioners Babcock, Comprelli, Marnane, Onoda, Woehleke, Chair Kuckuk

Absent: Commissioner Levenfeld

Staff: Ellen Clark, Planning Director
Brian Horn, Associate Planner

B. Conflict of Interest

There was no reported conflict of interest.

C. Contact with Applicant(s)

There was no reported contract with applicant(s).

2. PUBLIC COMMENTS

There were no comments from the public.

3. ADOPTION OF CONSENT AGENDA

A. June 2, 2014 Minutes, Redline

B. September 18, 2014 Minutes

On motion by Chair Kuckuk, seconded by Commissioner Marnane, to move the Adoption of the Consent Agenda to Item 5. Public Hearing as Item B. The motion carried by the following vote:

Ayes: Babcock, Comprelli, Marnane, Onoda, Woehleke, Kuckuk
Noes: None
Abstain: None
Absent: Levenfeld

4. ADOPTION OF MEETING AGENDA

On motion by Commissioner Woehleke, seconded by Commissioner Marnane to adopt the meeting agenda as modified by moving Item 3 to Item 5, as shown. The motion carried by the following vote:

Ayes: Babcock, Comprelli, Marnane, Onoda, Woehleke, Kuckuk
Noes: None
Abstain: None
Absent: Levenfeld

5. PUBLIC HEARING

- A. **370 Park Street: Consider Resolution __-2014 for Conditional Use Permit and Design Review to Modify an Existing Wireless Communications Facility to add 3 new Roof-mounted Panel Antennas and 3 new Remote Radio Heads and Install 1 Baseband Unit Kit within an Existing Equipment Shelter Located Adjacent to the Building at 370 Park Street. CC (Community Commercial)**

Associate Planner Brian Horn presented the staff report dated October 21, 2014, for consideration of a resolution for a Conditional Use Permit and Design Review to modify an existing wireless communications facility to add three (3) new roof-mounted panel antennas and three (3) new remote radio heads and install one (1) baseband unit kit within an existing equipment shelter located adjacent to the building at 370 Park Street in the Community Commercial (CC) Zoning District.

Mr. Horn explained that the proposed modification to the existing Sprint Wireless Communication Facility located at 370 Park Street would be consistent with the Town's Wireless Communications Ordinance and policies in the General Plan. He recommended that the Planning Commission approve the Conditional Use Permit and Design Review, with conditions, pursuant to the draft resolution prepared by staff.

Planning Director Ellen Clark clarified that no changes had been proposed to the exterior of the existing equipment shelter other than the updated equipment and batteries.

In response to Commissioner Comprelli regarding the total number of antennas, Mr. Horn stated there were a total of eleven antennas between three providers on the top of the building at 370 Park Street. If the subject project was approved, a total of 14 antennas would be located on the top of the building, and include T-Mobile (originally approved as Pacific Bell) Metro PCS, and Sprint.

Pursuant to the Moraga Municipal Code (MMC), wireless telecommunication providers had been encouraged to co-locate their antennas and the project was consistent with that direction.

Commissioner Onoda asked whether the technology for the existing equipment was outdated and if that was the case, she recommended the removal of the outdated equipment prior to the installation of the new equipment.

PUBLIC COMMENTS OPENED

Liz Johnson, Jeffry Rome & Associates, 44632 Highway 49, Ahwahnee, CA, representing Sprint Wireless, explained that the three existing antennas at the site were not outdated. When obsolete, the equipment would be replaced or removed. The new equipment would enhance the existing system, add to the data network, and provide users with better Internet services.

Commissioner Woehleke asked whether the building was up to current code for earthquake resistance, particularly given the placement of equipment at the top of the building.

Ms. Johnson advised that Sprint would apply for a building permit through Contra Costa County, and would have to comply with all provisions of the building permit including any Town requirements. A structural analysis had been completed and would be submitted with the project drawings along with the building permit application. As a result, the structural integrity of the building would be considered in the permit process.

Ms. Clark clarified that there was a limit to what the County may require for entire building upgrades. She reported that Town staff had recently completed Emergency Operations Center (EOC) training as part of the Great Shake Out event, and recognized there would be a demand for cell phone service in the event of an emergency. She understood some cell providers often brought in a mobile communications unit to a community in the event of a disaster to increase reception to its customers.

Commissioner Comprelli clarified with Ms. Johnson that the Sprint facility already existed, the equipment would enhance the existing facility, technology was always changing, and she was unaware of any future immediate Sprint project beyond the subject application.

Ms. Johnson commented that Sprint had also submitted a five-year plan for new facilities in the Town and she imagined there would be no major changes during the next five years.

PUBLIC COMMENTS CLOSED

In response to Commissioner Comprelli as to how much of the roof would be taken up by antenna-related equipment, Mr. Horn identified the penthouse on the top of the building. The antennas would be approximately 20 feet back from the edge of the building, perched around the edge of the penthouse, with the remote radio heads tucked behind to provide faster data processing. Most of the equipment would be within the penthouse area.

Chair Kuckuk understood that the penthouse was not visible from the street, and she clarified with staff that it housed mechanical equipment.

Commissioner Woehleke commented that he had been a member of the Design Review Board (DRB) in 1989 when the first cell tower had been proposed in Moraga at Alta

Mesa. In that case, the project ultimately approved had involved eight-foot high panels. He recommended an additional condition of approval requiring the applicant to reference the earthquake standard the building had been designed to meet to ensure that information was provided in writing and to ensure that the applicant was aware of those standards.

Ms. Clark explained that such a condition would be part of the structural plans which must reference the applicable building codes.

Commissioner Woehleke understood that Sprint would provide the structural design for the building. He was not confident as part of that analysis that the entire building would be analyzed, and he preferred something in writing to document the earthquake standard in place at the time the building had been designed.

Commissioner Marnane commented that the building was more important than it had been years ago, and it was important to know as a Town that all communications had been placed on something other than a story pole building. He agreed with Commissioner Woehleke as to the need to determine whether the condition of the building was satisfactory to place Town communications. He suggested if the building was not seismically sound, it would be important to have a future discussion as to whether it was wise to have Town communications on the building at 370 Park Street.

To address the concerns related to the seismic condition of the building, Ms. Clark recommended on behalf of the applicant that staff make inquiries with the County Building Division for the permit history and include that in the final plans.

Commissioner Woehleke asked that Sprint, not staff, conduct the inquiries, emphasizing that Sprint needed to know the code the building had been designed to meet.

Ms. Johnson advised that she would have to review the structural analysis.

Commissioner Woehleke asked that a new condition be imposed to read: *The applicant will provide documentation to the Town on the specific structural codes that supporting building was designed to.*

Commissioner Babcock recommended that the condition be modified to read: *The applicant shall provide their knowledge to the specific structural codes the support building was designed to.*

Ms. Clark expressed concern that the condition, as modified, could open the applicant to some liability related to the certification of the structural integrity of a building which was above and beyond anything the current State Building Code required. She was reluctant to require the applicant to provide certification or warranty that the building was structurally sound.

Commissioner Woehleke reiterated his concern and the fact that he wanted the applicant to know specifically what code the building had been designed to meet and for the applicant to be aware of that information.

Chair Kuckuk recommended that the new condition, Condition 11, be revised to read: *The applicant shall provide documentation to the Town on their specific knowledge of the structural codes the supporting building is designed for.*

On motion by Commissioner Marnane, seconded by Commissioner Onoda to adopt Resolution No. __-2014, an Approval of a Conditional Use Permit and Design Review for an expansion of a Sprint Wireless Communication Facility to add three (3) roof mounted panel antennas, three (3) roof mounted remote radio heads and install one (1) baseband unit kit within an existing ground level equipment shelter located at 370 Park Street, with the addition of Condition 11, to read:

The applicant shall provide documentation to the Town on their specific knowledge of the structural codes the supporting building is designed for.

The motion carried by the following vote:

Ayes: Babcock, Comprelli, Marnane, Onoda, Woehleke, Kuckuk
Noes: None
Abstain: None
Absent: Levenfeld

B. ADOPTION OF CONSENT AGENDA

1. **June 2, 2014 Minutes, Redline**
2. **September 18, 2014 Minutes**

Chair Kuckuk requested an amendment to the fourth paragraph on Page 9 of the September 18, 2014 minutes, as follows:

In response to Chair Kuckuk, Ms. Clark recalled a prior discussion with respect to adding such a condition to the project although there had been no consensus, and it could have been because there would be a DA in place.

To the second to last paragraph on Page 16:

Chair Kuckuk expressed concern with the process and understood the adoption and certification of a CAP was voluntary. She agreed the Town should set an example, but expressed concern the effort could snowball. She did not support forwarding the document outside the Town in its current form. If the Town was unwilling to implement policy or strategy due to cost effectiveness it should not be on the list for submittal. She also understood the purpose of creating a CAP was to streamline the CEQA process for new business and development in Moraga, but indicated this was a limited benefit and might not warrant taking on a liability of implementing the complete CAP which contained unknown costs to the Town.

To eliminate the last sentence of the first paragraph on Page 17.

Chair Kuckuk stated that she had a copy of her redline edits that she would provide to staff to reflect her changes.

Commissioner Onoda stated that the minute taker had done a good job with her comments for the minutes of the September 18, 2014 meeting.

Commissioner Woehleke stated that he would provide redline edits to staff in order to clarify the comments he made in the fourth paragraph on Page 7 of the September 18, 2014 minutes. He also requested an amendment to the last sentence of the sixth paragraph as shown on Page 15, to read:

He [Commissioner Woehleke] expressed concern with a recommendation that the CAP be forwarded to the Town Council for BAAQMD review and comment.

And to the first sentence of the seventh paragraph on Page 15:

Commissioner Woehleke suggested the Draft CAP could potentially at some point be forwarded to the BAAQMD for advisement, although he was uncertain of the benefit to the Town for streamlining the CEQA review as compared to the cost to the Town for implementing the CAP.

Commissioner Babcock requested an amendment to the second sentence of the fourth paragraph on Page 15:

She [Ms. Babcock] suggested the community was very educated as to how to reduce GHGs, and suggested that Moraga was a community that could afford to make changes, and that the CAP was enforceable, and be more of a model for other communities in the area.

Ms. Clark asked that Commissioner Babcock recuse herself from the vote on the approval of the meeting minutes since she had not been a member of the Planning Commission at the time of the September 18, 2014 meeting.

On motion by Chair Kuckuk, seconded by Commissioner Marnane to adopt the Consent Agenda, subject to the modifications to the minutes of the September 18, 2014 meeting, as shown. The motion carried by the following vote:

Ayes:	Comprelli, Marnane, Onoda, Woehleke, Kuckuk
Noes:	None
Abstain:	Babcock
Absent:	Levenfeld

6. ROUTINE AND OTHER MATTERS

There were no Routine and Other Matters.

7. REPORTS

A. Planning Commission

Commissioner Onoda reported on her attendance at the October 17, 2014 Liaison Meeting and stated that those comments would be emailed to Commissioners.

Commissioner Comprelli understood that staff planned to post the materials for Planning Commission meetings on the Town's website and not provide the hard copy materials to Commissioners, which he suggested would be insufficient.

Ms. Clark advised that it had always been staff's intent to deliver the Planning Commission packets to Commissioners. She noted that staff worked up to the meeting date, and if there was a single item staff had provided information through email. The information would otherwise be hand delivered to Commissioners as had been done in the past.

Chair Kuckuk reported on her attendance at the last Livable Moraga Road Project Advisory Committee meeting and recognized that the Planning Commission would receive a report during the Joint Planning Commission, Design Review Board, and Park and Recreation Commission meeting scheduled to commence at 7:00 P.M. after the current meeting had adjourned.

Commissioner Woehleke reported that he had met with the Town Manager and Ms. Clark on October 6, 2014 to discuss issues of concern including the Brown Act. He emphasized the need for the Planning Commission to have rules in writing on the Brown Act, and noted that the League of California Cities (LCC) had a guide on applications of the Brown Act, in which he would abide. Where the Town has requirements beyond that addressed by the LLC guide, that the Town provide written substantiation. He briefed the Commission on the information contained in the LCC guide and referenced the Commission's discussion during the September 18 meeting regarding the preparation of meeting minutes.

In the future, if the Commission were to have such a discussion on an item, Commissioner Woehleke suggested the Commission should agendaize the item for a future meeting to allow the discussion to be fully addressed.

Commissioner Onoda referenced the discussion in the September 18, 2014 minutes regarding Planning Commission attendance at Town Council meetings. She took exception to the statement made by staff that only up to three Planning Commissioners may speak as private individuals. She suggested that pursuant to Free Speech during public meetings, more than three Commissioners should be allowed to address the Town Council as long as Commissioners were not speaking as the Planning Commission but as private individuals.

Ms. Clark explained that if more than three Commissioners addressed the Town Council, there could be a risk that four Commissioners could express an opinion about a project or a matter, even as a private individual, that could be construed by an applicant or the public that a collective decision had already been made on a project. As reflected in the September 18 minutes, the then Planning Director did not prohibit but had advised against more than three Planning Commissioners addressing the Town Council, even as private individuals, in order to avoid the perception that the Planning

Commission as the decision making body had any prejudice on an item or matter. She emphasized that staff did not discourage Free Speech.

B. Staff

Ms. Clark reported that the Town Council would consider a recommendation for biannual training for all Town Commissions/Boards during its October 22, 2014 meeting, with training on the Brown Act, ethics, the Government Code, and the like. She took this opportunity to welcome new Planning Commissioner Alex Babcock and advised that her appointment would run through March 2015. She affirmed that staff still planned Commission training in November or December and would keep the Commission apprised of the schedule.

8. ADJOURNMENT

On motion by Commissioner Woehleke, seconded by Commissioner Marnane and carried unanimously to adjourn the Planning Commission meeting at 6:55 P.M.

A Certified Correct Minutes Copy



Secretary of the Planning Commission