

**TOWN OF MORAGA
PLANNING COMMISSION MEETING**

Council Chambers & Community Meeting Room
335 Rheem Boulevard
Moraga, CA 94556

April 20, 2020

7:00 P.M.

MINUTES

THIS MEETING WAS CONDUCTED PURSUANT TO THE PROVISIONS OF THE GOVERNOR'S EXECUTIVE ORDERS N-25-20 AND N-29-20, WHICH SUSPENDED CERTAIN REQUIREMENTS OF THE BROWN ACT, AND PURSUANT TO THE MARCH 31, 2020 ORDER OF THE HEALTH OFFICER OF CONTRA COSTA COUNTY, WHICH PERMITTED THE TOWN TO CONDUCT ESSENTIAL BUSINESS UNDER THE ORDER AS AN ESSENTIAL GOVERNMENTAL FUNCTION.

Consistent with Executive Orders Nos. N-25-20 and N-29-20 from Governor Gavin Newsom and the Contra Costa County Health Officer dated March 31, 2020 Shelter in Place Order, the April 20, 2020 Special Meeting was not physically open to the public. Planning Commissioners and essential Town staff teleconferenced into the meeting.

1. CALL TO ORDER

Chairperson Stromberg called the Special Meeting of the Planning Commission to order at 7:00 P.M.

A. ROLL CALL

Present: Commissioners D'Arcy, Helber, Hillis, Lueder, Luster, Thiel, Chairperson Stromberg

Absent: None

Staff: Cynthia Battenberg, Town Manager
Steve Kowalski, Senior Planner
Brian Horn, Associate Planner
Mio Mendez, Assistant Planner

**Planning Commissioners, Town staff and the applicant for Agenda Item 5b participated via Teleconference.*

At this time, the Planning Commission welcomed new Planning Commissioner Graham Thiel and Town Manager Cynthia Battenberg.

B. Conflict of Interest

There was no reported conflict of interest.

C. Contact with Applicant(s)

There was no reported contact with applicant(s).

2. **PUBLIC COMMENTS**

Associate Planner Brian Horn reported no public comment had been received for this item.

3. **ADOPTION OF CONSENT AGENDA**

A. **February 18, 2020 Minutes**

Commissioner Luster requested an amendment to the first sentence of the second paragraph under Reports as shown on Page 21, to read:

Commissioner Luster also briefed the Planning Commission on the Town Council's deliberations during its February 12 meeting noting that equal parts of the argument were based on hypotheticals of what if Commissioners abused their right to appeal.

On motion by Commissioner Helber, seconded by Commissioner Luster to approve the February 18, 2020 Minutes, as amended. The motion carried by the following Roll Call vote:

Ayes: D'Arcy, Helber, Hillis, Lueder, Luster, Thiel, Stromberg
Noes: None
Abstain: None
Absent: None

4. **ADOPTION OF MEETING AGENDA**

On motion by Commissioner Helber, seconded by Commissioner Luster to adopt the Meeting Agenda, as shown. The motion carried by the following Roll Call vote:

Ayes: D'Arcy, Helber, Hillis, Lueder, Luster, Thiel, Stromberg
Noes: None
Abstain: None
Absent: None

5. **PUBLIC HEARING**

A. Conduct a Public Hearing and Consider Planning Commission Resolution ___-2020 Recommending Town Council Adopt an Ordinance Amending Section 8.04.020 Definitions, of Title 8, Planning and Zoning, of the Town of Moraga Municipal Code to Include Definitions for "Short-Term Rental," "Hosted Short-Term Rental" and "Non-Hosted Short Term-Rental" and Establishing Chapter 8.114 – Short-Term Rentals, to Regulate Short-Term Rental Units within the Town.

Assistant Planner Mio Mendez provided a PowerPoint presentation of the staff report dated April 20, 2020, and recommended the Planning Commission find the proposed Moraga Municipal Code (MMC) amendments to be exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3), and adopt the resolution contained in Attachment A to the staff report, subject to any modification by the Planning Commission.

Chairperson Stromberg reported he had prepared redline edits of the ordinance in cooperation with the Town Manager, which he asked the Planning Commission to consider during its deliberations.

Responding to the Planning Commission, Mr. Mendez and Ms. Battenberg clarified the following:

- At the time of the preparation of the staff report the Town of Moraga had one Non-Hosted Rental, two guest houses, nine Short-Term Rental (STR) room shares, and six rooms for rent.
- STRs had not been an issue in Moraga although they had been an issue in Orinda, and many other jurisdictions were also considering the establishment of a similar policy. The Town Council had directed staff to prepare the amendments to the Town's ordinance and to work with the Planning Commission to have protections in place should an issue occur in the future.
- Contra Costa County's Ordinance had considered excluding children in the occupancy count. Given the limited data for the Town of Moraga, staff found that dictating the exclusion of children from the occupancy count was not needed.
- All STRs shall be limited to ninety (90) days per single parcel during each permit period (one year) at the homeowners' disposal.
- Staff had decided not to make a distinction of allowing an STR only in the primary or Accessory Dwelling Unit (ADU). The operator/owner would have to make the determination whether the STR would be in the primary residence or an ADU.
- The ordinance would require one listing per unit to prevent the leasing out of multiple rooms of a single-family residence at the same time. Given that STRs had not been an issue in Moraga, staff had opted for a less restrictive ordinance than some jurisdictions, although Moraga's ordinance could be modified in the future, as needed.
- Transit Occupancy Taxes (TOT) for STRs would have to be considered by the voters.
- Staff had reviewed Contra Costa County's Ordinance before and after its finalization and had decided not to include the same provisions for discretionary permits given that STRs were currently not an issue in Moraga. The ordinance had also been amended with input from the Moraga Police Department.

- Contra Costa County's Ordinance applied to the unincorporated areas of the County and did not cover the Town of Moraga.
- Staff had reviewed similar ordinances in other jurisdictions including the cities of Lafayette, Orinda, San Leandro, Pleasant Hill and the Town of Danville. The common factors/issues in the ordinances included such things as multiple listings for one room and parties, as detailed in the staff report. Staff had also reviewed situations surrounding incidents with STRs in the cities of Hayward and Orinda, both of which involved Airbnb or one-day parties, ostensibly rented for a family reunion or gathering, but had turned into a major party that had gotten out of hand. Moraga's ordinance included language to prevent such a scenario. After the incident in Orinda, that city had strengthened its ordinance. Some of the restrictions in Orinda's ordinance had also been included in Moraga's ordinance.
- Of the communities staff had reviewed, most were rural and suburban like Moraga. As an example, the City of South Lake Tahoe's ordinance included strict policies limiting STRs in some of its neighborhoods. Similarly, the City of San Francisco had limited the number of nights for STRs due to the housing crisis.
- The amendments to the MMC would regulate where STRs were located, when, and how many, and addressed some of the impacts from STRs as detailed in the staff report and in Attachment A.
- By allowing only Hosted STR listings would ensure that someone would be onsite and be held accountable if nuisances occurred in a neighborhood.
- Standard rentals had not been defined in the MMC since the proposed regulations only applied to STRs as defined (anything less than 30 consecutive days).
- Standard rentals were not regulated and would continue to be permitted. Staff did not see an issue not defining standard rentals in the ordinance given the cap on size and number of days, as proposed in the amended ordinance.
- Section 8.114.020 Permit Process C, Permit Application (5), could be revised to include a reference to subsection (B) of Section 8.114.020.
- Section 8.114.020 Permit Process C, Permit Application (7), was a requirement as part of the local background check by the Moraga Police Department.
- An annual fee to be based on the Town's costs for processing an initial application/permit would be considered and had been estimated at \$500 for an initial fee and \$300 for a renewal. The City of Orinda's fee was around \$80 and would likely be increased to cover costs. The Town could only recover its costs and staff would speak with other jurisdictions prior to forwarding any recommendations to the Town Council in order to get a better idea about potential costs.

- Section 8.114.050 Enforcement and Violations B, and the reference to the “hearing officer” in the text referred to the Planning Commission, which in this instance would act as the hearing officer. Staff acknowledged a recommendation to revise the term of “hearing officer” to “*Planning Commission*.”
- Definitions of Owner and Operator were clarified as defined in Attachment A as: “Operator,” an individual who operates a Short-Term Rental. This individual can be the owner or a lessee and/or outside representative, hosting the Short-Term Rental. “Owner,” the individual who owned the property on which a Short-Term Rental is located; and “Hosted Short-Term Rental” is a Short-Term Rental with an Owner or Operator who resides onsite, in either the primary or accessory dwelling unit throughout the entire duration of the Short-Term Rental. “Non-Hosted Short-Term Rental” is a Short-Term Rental without an Owner or Operator who resides onsite throughout the entire duration of the Short-Term Rental.

PUBLIC HEARING OPENED

Associate Planner Horn reported that no public comment had been received for this item.

PUBLIC HEARING CLOSED

Commissioner Hillis recommended the ordinance be consistent with Contra Costa County’s Ordinance and require a 300-foot noticing requirement.

Chairperson Stromberg suggested that requirement would be intrusive to the rights of property owners. A property owner with an STR would be required to comply with the subject ordinance and the Town’s Noise Ordinance. A noticing requirement would require advance notice in a geographic perimeter if a property owner wanted to take advantage of an STR.

Commissioner Hillis noted that Contra Costa County’s 300-foot noticing requirement was not a pre-notification but occurred after application approval. He suggested there was a difference between residences having been rented out as a dwelling versus a hotel space. The language in Contra Costa County’s Ordinance required noticing upon issuance of a permit for the STR. He strongly advocated that neighbors be notified of a potential STR in their neighborhood given the potential for negative impacts such as noise.

Senior Planner Steve Kowalski suggested a courtesy notice could be sent to the neighbors within 300 feet of a specific property, advising of the submittal of an application for an STR, which could include contact information for Town staff.

Planning Commissioners expressed concern regarding privacy issues related to a noticing requirement of an STR application.

Assistant Planner Mio Mendez clarified that a permit for an STR application would be over the counter with compliance from the Moraga Police Department and would not require Planning Commission or Town Council review and approval.

Mr. Mendez explained that Contra Costa County’s Ordinance included a post notice of an approved STR and its regulations dictated the number of days and allowed for the

application of a discretionary permit if an individual wanted additional days. At that point, the notification would be preemptive rather than post, only when there was an exceedance of the number of days permitted by the permit. Noticing of certain projects occurred in Moraga, including administrative design review with notification to neighboring properties. Additionally, as part of the Contra Costa County Ordinance, courtesy notices were included which had not been part of other ordinances in the jurisdictions staff had reviewed.

Mr. Kowalski noted that courtesy notices were mailed to neighbors in Moraga when an ADU had been proposed and courtesy notices could be considered in this case for STRs if the Planning Commission so decided, although he expressed concern if the owner/operator of an Airbnb did anything to disturb a neighbor, Town staff could become bombarded with complaints which could impact staff.

Ms. Battenberg referenced the February 12, 2020 staff report from Contra Costa County for its STR policy, which included no public notification for the discretionary portion of the regular permit.

Commissioner Hillis also referenced the February 12, 2020 staff report from the Contra Costa County Ordinance and noted that STRs may be permitted after the issue of an STR permit. Once issued, all property owners within 300 feet of the subject property would receive a notice including contact information of the responsible party associated with the permit and the County Code Enforcement Division. The STR permit would be approved administratively.

Commissioner D'Arcy suggested that noticing was not an issue for STRs because the Town of Moraga had a Noise Ordinance and the STR policy would require Moraga Police Department compliance. Also, the NextDoor website allowed a place for the community to express concerns.

Commissioner Helber understood the reason for the ordinance and the challenges based on what had occurred in other jurisdictions, although he expressed concern the Town was creating restrictions for a use that did not exist much in the Town. He was hesitant to support some of the regulations that had been proposed. He recommended the duration of the permit should be extended to two years so that an applicant would not have to go through the entire process each time, less staff time would be required, and citizens who wanted to take advantage of an STR could consider that option. He recognized there were provisions in the ordinance whereby if a problem occurred there could be a suspension or revocation of the permit.

Commissioner Helber also suggested that by disallowing or precluding Non-Hosted STRs, the Town would be restricting a certain part of the market with many people on vacation recouping costs by renting out their homes, but which would be precluded by the language in the ordinance. He understood the restriction had been included because of the incident in Orinda but suspected the Town may be going too far with that restriction. He recommended that portion of the ordinance be removed.

Commissioner Helber emphasized again that given the direction of the market and the need to be cash conscious, he was confident residents would be comfortable with the

removal of the language in the ordinance disallowing or precluding Non-Hosted STRs in Moraga.

Chairperson Stromberg suggested that Moraga citizens may not be comfortable with the Planning Commission approving an ordinance that did not include the Non-Hosted STR language due to the incident in Orinda.

Commissioner D'Arcy disagreed with the need to remove the language in the ordinance disallowing or precluding Non-Hosted STRs given the potential impacts and the importance of having the property owner on the premises. She suggested it would be better to have an invested watchdog on the property.

Commissioner Luster agreed with Commissioner Helber's comments. In her opinion, there were more potential issues with parents going away and children throwing parties than an Airbnb rental having a problem in terms of the situation that had occurred in Orinda. She disagreed with the need to police every household all the time. She also noted that people who typically rented an Airbnb did so not to party, but to have a destination vacation in mind. She disagreed creating a policy to address a one-off, one party that went array, and include a restriction when there had not been an identified problem.

Commissioner Lueder supported the ordinance as drafted and applauded the Town Council and staff for benchmarking against other ordinances in other communities. He pointed out the Town Council had directed the ordinance be brought forward and reviewed by the Planning Commission to thereafter be forwarded to the Town Council for consideration. He suggested the Planning Commission must follow that direction whether or not Planning Commissioners were of the opinion such an ordinance was needed.

Commissioner Thiel characterized the ordinance as thoughtful and well put together and agreed the Planning Commission should move forward, although he had similar concerns ensuring an owner/operator was onsite and he opposed a corporate housing entity being identified as the owner/operator. He suggested there should be some allowance for the STR to be rented as a vacation rental and allow the property owner the ability to obtain income when traveling and not onsite. He was not opposed to extending the duration of the permit to two years but would also be comfortable with the one-year period as proposed. He suggested the requirement that the owner/operator be onsite during the STR would be difficult for the Town to enforce and he opposed that requirement.

As to who would enforce an onsite requirement, Ms. Battenberg explained that it would be handled in the event the Town received complaints and if the owner/operator was not present to deal with the complaint, at which time there would then be a reason for permit revocation.

Ms. Battenberg explained that Town staff would not monitor STRs unless they became a problem. The Town would not hire companies that identified the number of STRs in a community, collected TOTs, and ensured the STRs were complying with the rules. The intent of the ordinance was that rules would be in place in the event there were problems. Ms. Battenberg noted the Town could not distinguish between different types of ownership, and suggested the Town could not prevent a corporation from owning a

residence in Moraga and preclude that corporation from leasing the residence when an individual would be allowed to do so.

Commissioner Thiel understood the City of San Francisco had been able to circumvent that issue by limiting the number of parcels that an individual property owner may consider for STRs thereby limiting the profit motive, and Ms. Battenberg confirmed such a provision could be added to the Town's ordinance.

Commissioner Hillis opposed the removal of regulations for Non-Hosted STRs given the situation in the City of Orinda, whose ordinance included such regulations. He understood that the City of Lafayette and Town of Danville were considering banning Airbnb entirely. He found the regulations to be permissive in not going to that extent, ensuring a property owner had a revenue generating ability, and that the Town's ordinance would not be enforced unless there was a problem. He supported the current language in the ordinance, still preferred that noticing be included, and would support additional language that limited the number of parcels an individual property owner may consider for an STR.

Responding to the recommendation to extend the time of the permit from one to two years, Commissioner Hillis clarified with Ms. Battenberg that the time period in the ordinance was a consistent period for the issuance of business licenses or any permit and would not be as cumbersome when renewals occurred. It would also allow staff the opportunity to check whether there were any calls or complaints during the permit period. Annual renewal would be beneficial to staff given the cumbersome process to revoke a permit or consider an appeals process.

Commissioner Luster suggested Town policy should not be made based on two incidents. She suggested that proper analysis would require more data in terms of specific areas where issues occurred and how restrictions and enforcement would actually be effective in remedying the identified issue. She understood the tendency to establish ordinances to curb potential issues, but more data was needed to do that properly. She suggested more data on actual problems arising from STRs should have been considered, not basing the ordinance on the outcome of one incident that had not been an issue in Moraga.

Ms. Battenberg advised there had been a lot of data based on other jurisdictions which had shown a housing crisis in the Bay Area, and there was a lot of State regulations on the horizon taking away land use controls from local jurisdictions due to the limit of available units, with many units being used as hotels. One of the interesting impacts from COVID-19 was that units being used for STRs were now being rented out and she would be curious to see the impacts to the housing crisis and skyrocketing rental rates. The other issue were activities in residential neighborhoods which could be bothersome to neighbors and those were the types of issues that currently existed.

Commissioner Luster pointed out that had not been presented to the Planning Commission in terms of data and information in the staff report.

Commissioner Luster suggested they were dealing with health and public safety issues in terms of partying and people dying and they were not discussing how to solve the housing crisis. If so, they should be considering a ban on STRs. She suggested they

were trying to deal with too many issues beyond the current item of discussion at this time.

Mr. Mendez reiterated that staff had reviewed STR issues with the two major issues having occurred in multiple scenarios including the reduction in the housing stock and one-off rental parties. Those situations continued to occur worldwide with a lack of mitigation measures in place to hinder them. Staff had not detailed every incident taking place in California or in the United States but the issues with STRs continued to grow.

Commissioner D’Arcy suggested Moraga could be preemptive rather than reactive. She did not want to see an incident that had occurred in Orinda occur in Moraga, recognized there was a housing crisis and people had the right to make money off of their mortgages, and stated the staff report had been well done with the research nicely written.

Chairperson Stromberg stated the ordinance was not only reactive to the incident in Orinda but had a more expansive nature than just a knee jerk reaction as the City of Lafayette and the Town of Danville were contemplating with an outright prohibition of STRs. The Town’s ordinance would allow property owners to set reasonable parameters, generate revenue, while also ensuring as best as possible precautions to avoid a situation similar to what had occurred in Orinda.

Commissioner D’Arcy offered a motion to adopt the Draft Resolution as contained in Attachment A to the April 20, 2020 staff report including the latest changes to the resolution as proposed by the Chair.

Given the Planning Commission had not been provided copies of his redline edits to the ordinance prior to the meeting, Chairperson Stromberg asked the Planning Commission to consider the redline edits to the ordinance at this time. The Planning Commission walked through each of the Chair’s redline edits and reviewed Attachment A page-by-page, with the following revisions made to Attachment A based on the discussion:

- Section 8.114.020, Permit Process B, Permit Requirements (3) revised to read:

The Owner or Operator of a Short-Term Rental is limited to one (1) rental listing in the Town of Moraga at any given time;

- Section 3, 8.04.020 – Definitions, revise the definition of “Owner” to read:

“Owner” the individual, trustee, or managing member of an LLC that is on the title of the property on which a Short-Term Rental is located.

- Section 8.114.020 Permit Process A revised to read:

A. *Permit Required. Hosted Short-Term Rentals are permitted in all residential zones within the Town of Moraga with a Short-Term Rental permit, provided however, that persons owning or operating any Short-Term Rental(s) within the Town upon adoption of this ordinance shall have sixty (60) days after the effective date of this ordinance to apply for a Short-Term Rental permit as described in subsection 3 of this section.*

- Add a new Definition for “Bedroom” to be defined as a *Room with a door, a closet, and an egress window.*
- Section 8.114.020, Permit Process C, Permit Application, revise the first paragraph to read:

Permit Application. The Owner or Operator applying for a Short-Term Rental permit must complete an application on a form provided by the Town and submit requested documentation to provide relevant information, including but not limited to, the following:

- Section 8.114.020 Permit Process C, Permit Application 5, revised to read:

Acknowledgement that the Short-Term Rental complies with all requirements set forth in subsection B of this section;

On motion by Commissioner D’Arcy, seconded by Commissioner Hillis to adopt Resolution next in number Recommending the Town Council Adopt an Ordinance Amending Section 8.04.020 – Definitions, of Title 8, Planning and Zoning, of the Town of Moraga Municipal Code to Include a Definition of “Short-Term Rental,” “Hosted Short-Term Rental,” “Non-Hosted Short-Term Rental” and Establishing Chapter 8.114 – Short-Term Rentals to Regulate Short-Term Rental Units Within the Town. (CEQA Determination: Exempt Pursuant to CEQA Guidelines Section 15061(b)(3) General Rule Exemption, subject to the revisions as indicated herewith. The motion carried by the following Roll Call vote:

Ayes:	D’Arcy, Hillis, Lueder, Thiel, Stromberg
Noes:	Luster, Helber
Abstain:	None
Absent:	None

Chairperson Stromberg identified the 10-day appeal process to the Town Council in writing to the Town Clerk.

Chairperson Stromberg declared a recess at 8:43 P.M. The Planning Commission meeting reconvened at 8:50 P.M. with all Planning Commissioners and Town staff as earlier identified as being present via teleconference.

- B.** Conduct a Public Hearing and Consider Planning Commission Resolution ___-2020 Approving Conditional Use Permit UP-01-20 to Allow the Continued Operation of an Existing Wireless Communications Facility Located at 1199 Alta Mesa Drive for Five Years (APN 258-160-062).

Associate Planner Brian Horn provided a PowerPoint presentation of the staff report dated April 20, 2020.

Mr. Horn advised that the T-Mobile Wireless communications facility was consistent with the provisions of the Wireless Communications Ordinance, as noted in the staff report, as well as the General Plan, and the criteria for renewal of the Conditional Use Permit (CUP)

as it had been established in CUP UP-09-15. He recommended the Planning Commission adopt the Draft Resolution of approval approving CUP UP-01-20, based on the findings and subject to the conditions of approval as contained in Attachment A to the staff report.

Responding to the Commission, Mr. Horn reiterated as part of the PowerPoint presentation that off-site views from Hetfield Place, Viader Drive, Moraga Way and the end of Country Club Drive were public locations where the existing wireless facility was visible. He also clarified that plantings that had been planted in 2000 had consisted of toyon and live oaks. The toyon species had not survived and had been replaced with oleanders and multi-trunk live oaks in the mid-2000s. As part of the renewal application for Verizon¹ Wireless a year and a half ago, an audit of the plants in the area had been conducted with Verizon Wireless having been required to replant some of the live oaks, which also had not survived. The original intent had been to make the hillside busier as opposed to complete screening given the need to be careful that the plant material did not grow too tall impeding the antenna signals. The original conditions of approval regarding the planting had been between Verizon Wireless and T-Mobile at the time, and when the application had been renewed by Verizon Wireless it had been tasked with renewing the landscaping.

Verizon Wireless had been in the process of doing that work with a progress report to be provided to Town staff on the status of the landscaping from the original plan, but the work had now been delayed due to the COVID-19, Shelter-in-Place Health Order restrictions.

Mr. Horn clarified that a wireless antenna facility located in Bella Vista over Fayhill Road involved a separate application not part of the subject application. He identified the location of AT&T and Sprint wireless antenna facilities visible in the same photographs for the subject application. Once applications for the other providers came up for renewal, staff may have to consider potential screening of the antennas themselves.

Mr. Horn further clarified in response to recommendations from the Planning Commission to extend the CUP to ten years rather than five, that the Town of Moraga had set five-year terms in its Wireless Communications Ordinance. Pursuant to State law, if the Town were to permit anything new (new application) a ten-year term would be permitted regardless. In 2006, there had been an attempt to extend the permit for the subject application for ten years, although the Planning Commission at that time had desired to keep the permit period to five years, with five-year renewals possible after that initial five-year period. He acknowledged the Town had other permits that had been extended for ten years but in those cases, they had originally been set up that way.

Ms. Battenberg advised she was attempting to contact the Assistant Town Attorney to determine whether the CUP could be extended for a ten-year period.

Mr. Horn again noted, when asked, that the last renewal for Verizon Wireless had been for a five-year period. The Planning Commission discussed the possibility of the CUP being extended for ten years as opposed to five-year increments, but there were also

¹ References to shared landscaping should have been Sprint, but Verizon was incorrectly referenced during the meeting.

concerns with the potential for a lack of compliance during that time period including concerns with adequate maintenance of the landscaping.

Mr. Horn reiterated the Town had conducted several renewals over the years. He could not recall any concerns being expressed by residents of the visibility of the facilities raising concerns with no input from the public during those times when meetings had been held by the Planning Commission.

Jacob Hamilton, CCTMO, LLC, (“Crown Castle”), 1533 SE 33rd Avenue, Portland, OR, stated he had no further comments to add beyond what staff had identified for the subject site. He commented that the facility was located behind an existing facility that was visible, but he suggested the facility was not clearly visible from any location. He did acknowledge that staff was able to identify spots where the facility was visible although from an aesthetic perspective, he found the site about as good as it could be, on a low-lying south side with landscape screening. The facility had recently been painted a Cathedral Gray color as required, the facility was in perfect condition, and had been technologically upgraded offering the latest technology T-Mobile offered. He asked the Planning Commission to move forward with approval of the CUP for another five years.

Mr. Hamilton clarified, when asked, that he was uncertain whether the facility covered the Town’s overlying area including Sanders Ranch, although a propagation study had been provided as part of the application.

Ms. Battenberg was aware there were areas of Sanders Ranch that lacked wireless communication coverage at this time.

In response to the Chair as to whether T-Mobile had any plans for future technology to cover those areas of Sanders Ranch not currently covered, Mr. Hamilton advised the coverage was as shown and had been based on the height of the facility in terms of the coverage. Certain technologies would propagate further coverage depending on the technology used. He was not a professional Radio Frequency (RF) Engineer, but generally speaking T-Mobile would require another site that had line of sight to the area under discussion to increase the coverage.

Mr. Hamilton also responded to concerns for potential wildfires in the area and impacts to the T-Mobile facility commenting there was landscaping in the area of the facility which may be impacted by a brushfire. A larger major wildfire may destroy the facility although a wooden fence had recently been replaced with a cyclone fence pursuant to Fire Marshal requirements. He again walked through the location of the facility on the coverage maps contained in the staff report, the frequency that T-Mobile operated with good coverage up close, and the commercial, in-building, and residential in-car and outdoor coverage areas pursuant to the provided coverage maps. He suggested the site was beneficial to the numerous wireless antenna facilities and to emergency towers.

PUBLIC HEARING OPENED

Associate Planner Horn reported no public comment had been received for this item.

PUBLIC HEARING CLOSED

Commissioner Hillis recognized the sparse plantings in the area were not related to the subject application/facility but should be discussed with future applicants upon renewal. He found the area of concern was within Verizon Wireless' purview and he would not be comfortable requiring the subject application to address that planting.

On motion by Commissioner Luster, seconded by Commissioner D'Arcy to adopt Resolution next in number to approve Conditional Use Permit UP-01-20 to Allow the Continued Operation of an Existing Wireless Communications Facility Located at 1199 Alta Mesa Drive for Five Years, subject to the findings and conditions of approval as contained in Attachment A to the staff report dated April 20, 2020. The motion carried by the following Roll Call vote:

Ayes:	D'Arcy, Helber, Hillis, Lueder, Luster, Thiel, Stromberg
Noes:	None
Abstain:	None
Absent:	None

Chairperson Stromberg identified the 10-day appeal process to the Town Council in writing to the Town Clerk.

6. ROUTINE AND OTHER MATTERS

- A. Consider Nomination and Selection of Planning Commission Chair and Vice-Chair

Chairperson Stromberg reported he and the Vice Chair would be happy to remain in their current positions for another year to provide continuity for the Planning Commission and the Town.

Ms. Battenberg advised the Planning Commission had recently made revisions to the MMC which addressed the selection of Chair and Vice Chair of the Planning Commission. Consecutive terms for the Chair and Vice Chair would be permitted without Town Council approval.

On motion by Commissioner Hillis, seconded by Commissioner Helber to nominate David Stromberg as the Chair and Brenda Luster as the Vice-Chair of the Planning Commission for 2020. There were no other nominations and the nominations were closed. **David Stromberg** was selected as the Chair, and **Brenda Luster** was selected as the Vice-Chair of the Planning Commission for 2020 by the following Roll Call vote:

Ayes:	D'Arcy, Helber, Hillis, Lueder, Luster, Thiel, Stromberg
Noes:	None
Abstain:	None
Absent:	None

7. REPORTS

A. Planning Commission

There were no reports.

B. Staff

Ms. Battenberg reported that the Town was moving forward on the recruitment of the position of Planning Director and she hoped to bring someone on board soon.

8. ADJOURNMENT

On motion by Commissioner Luster, seconded by Commissioner D'Arcy to adjourn the Planning Commission meeting at 9:24 P.M.

A Certified Correct Minutes Copy



Secretary of the Planning Commission