

Town of Tiburon

STAFF REPORT

AGENDA ITEM _____



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TO: **PLANNING COMMISSION**

FROM: **DANIEL M. WATROUS, PLANNING MANAGER**

SUBJECT: **FILE #10409: CONDITIONAL USE PERMIT TO INSTALL AND OPERATE
A WIRELESS COMMUNICATIONS FACILITY; 1505 TIBURON
BOULEVARD; TOWN OF TIBURON, OWNER; CINGULAR WIRELESS,
APPLICANT; ASSESSOR'S PARCEL NO. 058-171-90**

MEETING DATE: **JULY 27, 2005** _____

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PROJECT DATA

Address:	1505 Tiburon Boulevard
Assessor's Parcel Number:	058-171-90
File Number:	10409
Lot Size:	12,500 square feet
General Plan:	Public/Quasi-Public
Zoning:	P (Public/Quasi-Public)
Current Use:	Tiburon Town Hall
Owners:	Town of Tiburon
Applicant:	Cingular Wireless

PROJECT DESCRIPTION

The applicant, Cingular Wireless, proposes to co-locate a wireless communications facility (WCF) on property located at 1505 Tiburon Boulevard (Tiburon Town Hall). An existing WCF operated by Sprint is currently situated at this location. The facility would include six (6) panel antennas installed on the corners of the clock tower of Town Hall and three (3) equipment cabinets installed within the building. The WCF would be used for the transmission of Personal Communications Services (PCS) signals, which allow the transmission of voice messages which are received by a variety of communications devices. Coverage maps submitted by the applicant indicate that the facility is intended to improve signal coverage in portions of Tiburon, Belvedere and Sausalito.

BACKGROUND

On May 14, 1997, the Planning Commission adopted Resolution No. 97-10 (Exhibit 2) permitting Sprint to operate a WCF at Tiburon Town Hall. The antennas for that facility are installed within the supports of the clock tower, with the equipment cabinets installed within an upstairs room of the Town Hall. Extensions to this permit were granted on September 9, 1998, for five additional years and on April 23, 2003 for another five years. The Sprint facility is currently permitted through May 14, 2008.

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Since the approval of the Sprint permit in 1993, Town Staff has no complaints, and has received no complaints from the public, regarding the facility. The panel and global positioning antennas are barely visible, and likely go unnoticed by most passersby.

ANALYSIS

Site Conditions

The antennas would be attached to the sides of the clock tower, below the location of the existing antennas on the support beams of the tower. The antennas and panels would be painted to blend in with the clock tower and the remainder of the building. The equipment cabinet for the antennas would be installed within an existing equipment room located on the second floor of the building. The facility would use an existing generator that has been installed behind the building and enclosed with redwood fencing to match several other accessory portions of Town Hall.

Wireless Communications Facilities Standards and Criteria

On July 2, 1997, the Town Council adopted Interim Standards and Criteria for Wireless Communications Facilities (Exhibit 1). This document covers a variety of areas to be addressed in the review of applications for WCFs. The review centers on the following areas:

Standard Agreements

Applicants for WCFs are required to enter into a standard performance agreement with the Town which stipulates proper maintenance of the facility and posting of a financial security. The security is to be utilized for potential removal of an abandoned facility or to pay for the cost of preparing health reports on the conformance of the facility with Federal Communications Commission (FCC) standards for electromagnetic frequency radiation. The agreement would also include a hold harmless statement indemnifying the Town in any legitimate actions to void the permit for the facility. The requirement to enter into such an agreement would be made as a condition of approval of the project.

This section of the Interim Standards and Criteria also includes a provision for the applicant to fund a peer review of the technical information provided in the application and/or a study to be performed by an independent consultant to measure electromagnetic radiation from the facility. Although these studies do not appear to be necessary at this time for the evaluation of this application, the Planning Commission may decide to require the preparation of such studies as a condition of approval of the project.

Permit Duration

Approvals for WCF applications shall be valid for one year from date of approval, and may be renewed prior to expiration for up to five (5) additional years. This requirement should be made as a condition of approval of the project.

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Location of Wireless Communications Facilities - General Standards

Section IV.A. of the Town's Interim Standards and Criteria includes the following:

Location preference for wireless communications facilities should be given to publicly used structures, co-location and shared-location sites, and industrial or commercial sites. Applications for new wireless communications facilities should avoid sites located within or near residential areas... unless the applications include information sufficient to demonstrate: the location and type of preferred sites which exist within the proposed or technically feasible coverage area; that good faith efforts and measures were taken by the carrier to secure the preferred location sites; specific reasons why such efforts and measures were unsuccessful; and specific reasons why the location of the proposed facility site is essential to meet the service demands of the carrier. When site application is within or near residential areas... an alternate site plan, to achieve similar coverage, avoiding these sites shall be submitted.

The proposed facility would be installed on the clock tower of an existing publicly used structure. The presence of the existing Sprint WCF mounted on this same building would make this a co-location site. No residential neighborhoods are contiguous to the site, with the nearest homes located in Belvedere behind commercial property along Tiburon Boulevard and in the western end of the Point Tiburon Marsh condominium complex. The nearest dwelling units are 350 and 400 feet away from the proposed WCF, respectively.

The proposed facility should not produce significant increases in noise around the site. The equipment which will be functioning on a regular basis will be inside an existing equipment room on the second floor of the building. Routine maintenance of the facility would result only in the noise associated with a single passenger car or light truck entering and exiting the site.

Co-location and Shared-location of Wireless Communications Facilities

The Interim Standards and Criteria require the examination of co-location (a single structure supporting multiple antennas) and shared-location (more than one facility located within close proximity to each other) for all proposed facilities, and discourage shared location sites in residential areas. Town Hall is a co-location site that is not located in a residential area.

Electromagnetic Frequency Radiation

The Interim Standards and Criteria state that WCFs shall not generate electromagnetic frequency (EMF) radiation in excess of the human exposure standards adopted by the FCC. All WCF applications are required to submit an EMF report which predicts the levels of radiation generated by the facility and how these levels compare to the human exposure standards.

The applicant has submitted such a health study for the proposed facility (Exhibit 4), combined with the radiation generated by the existing WCF in the building. In summary, the maximum power levels for the existing and proposed antennas would be less than 2.8% of the public exposure limit on the second floor of Town Hall, and 2.5% at ground level. The proposed facility

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would therefore not generate EMF radiation in excess of the human exposure standards adopted by the FCC. Due to the location of the proposed facility within a heavily trafficked building and the presence of another WCF within the same building, Staff recommends that annual radiation frequency reports be prepared for the duration of the permit for this facility.

Lighting

All lighting of the facility is required to be manually operated, low wattage, hooded and downward directed exterior lighting for safety purposes only. The applicant does not anticipate any lighting of the antennas or any exterior equipment.

Roads and Accessways

All WCFs are required to be served by the minimum roads and parking areas necessary. The proposed facility would utilize Tiburon Boulevard for access by maintenance personnel. No new roads or parking areas are proposed.

Vegetation

Existing vegetation on all WCF sites is to be maintained or enhanced as a result of the development of the facility. The Interim Standards and Criteria also call for submission of a Tree Protection Plan, replanting of any disturbed vegetation, prohibition of any vegetation removal subsequent to project completion, and a landscape performance agreement. No trees or other significant mature landscaping are proposed to be removed as part of this project, and landscape screening of the facility is not appropriate at this location.

Noise and Traffic

Noise and traffic impacts for all WCFs are to be minimized for nearby residents and the public. The projected noise and traffic from the facility, as mentioned above, would be minimal due to the location of most of the equipment within an enclosed structure and the minimal traffic necessary to maintain the facility.

Visual Compatibility and Facility Site Design

The Interim Standards and Criteria state that all WCF structures and equipment shall be sited, designed, and screened to blend with the surrounding natural or built environment in order to reduce visual impacts to the maximum extent feasible. @

The proposed antennas would be mounted on the exterior of the clock tower structure, below the clock faces. The antennas would be flush-mounted to the sides of the structure, and painted to match the building exterior. Equipment for the facility would be installed within an existing equipment room on the second floor of the building, and would not be visible from the exterior. The applicant has submitted photo simulations (Exhibit 6) to illustrate visual character of the proposed facility, which indicates that the installation would be only marginally visible, and would not result in any unwanted visual impacts on the surrounding area.

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Updated Wireless Communications Facilities Standards and Criteria

The Town of Tiburon is currently updating the Interim Standards and Criteria for wireless communications facilities. A draft of these updated standards has been prepared, and is scheduled to be reviewed by the Planning Commission and the Town Council in the coming months. An ordinance regulating WCFs has also been drafted.

The draft revised standards state that WCF's should **be located in commercial areas**; on **publicly-owned sites or structures**; avoid locations within or near residential areas, hospitals, child care centers, or schools; and use existing structures. The draft standards also recommend co-location when reasonably feasible and aesthetically desirable; with antennas sited and designed to appear as an integral part of the **building or** structure or otherwise minimize their appearance. Although the subject application cannot legally be held to these as yet unapproved revised standards, it appears that the proposed facility would be consistent with the direction of the draft revised standards.

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ZONING COMPLIANCE AND GENERAL PLAN CONSISTENCY

The Tiburon Zoning Ordinance allows commercial facilities as a conditionally permitted use within the Public/Quasi-Public zone. This same designation within the Land Use Element of the Tiburon General Plan allows similar facilities.

The purposes of the review of a conditional use permit application are described as follows in within Section 4.04.02 of the Tiburon Zoning Ordinance:

- a. *Determine whether the location proposed for the Conditional Use applied for is properly related to the development of the neighborhood as a whole.*

The location of the antennas and equipment cabinet within existing and proposed extensions of the Town Hall building provide an appropriate location which would be properly related to the surrounding commercial area.

- b. *Determine whether the location proposed for the particular Conditional Use applied for would be reasonably compatible with the types and uses normally permitted in the surrounding area.*

The proposed facility location within Town Hall is similar to several other facilities located in Downtown Tiburon, and would be reasonably compatible with the surrounding commercial land uses.

- c. *Evaluate whether or not adequate facilities and services required for such use exist or can be provided.*

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The proposed facility is intended to provide an integral part of the applicant's service area, which is not currently served by its present facilities elsewhere in southern Marin County.

- d. *Stipulate such conditions and requirements as would reasonably assure that the basic purposes of this Ordinance and the objectives of the General Plan would be served.*

If the Planning Commission wishes to approve this application, the Commission should stipulate any conditions of approval or other mitigation measures necessary for the proposed project which could be included within a resolution of approval for this application.

- e. *Determine whether the Town is adequately served by similar uses presently existing or recently approved by the Town.*

The applicant has presented coverage maps (Exhibit 7) indicating gaps and lower levels of coverage in their service areas in Tiburon, Belvedere and Sausalito that would be improved by the proposed facility.

Section 4.04.03 of the Tiburon Zoning Ordinance states that the following factors shall be considered in determining whether or not any conditional use should be permitted in a specific location:

- a. *The relationship of the location proposed to:*

1. *The service or market area of the use or facility proposed.*

The location of the proposed facility is part of an interconnected network of antenna locations needed to provide adequate signal transmission coverage for the applicant within this portion of southern Marin County.

2. *Transportation, utilities, and other facilities required to serve it.*

The subject site is adequately served by public streets and facilities necessary to support the construction and operation of a wireless communications facility.

3. *Other uses of land in the vicinity.*

The proposed wireless communications facility is reasonably related to the other commercial activities within Downtown Tiburon, including several other wireless facilities which have been approved and installed on other nearby buildings.

- b. *Probable effects on persons, land uses, adjoining properties, and the general*

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vicinity, including:

1. *Probable inconvenience, damage, or nuisance from noise, smoke, odor, dust, vibration, radiation, or similar causes.*

The potential noise and radiation impacts of the proposed facility have been previously addressed within this report. Dust and vibration resulting from construction of the proposed facility would be limited by the use of existing structures and building locations on the site. No smoke or odors are anticipated to result from the proposed project.

2. *Probable hazard from explosion, contamination, or fire.*

No hazardous materials are proposed to be stored on the site as part of the proposed project.

3. *Probable inconveniences, economic loss, or hazard occasioned by unusual volume or character of traffic or the congregating of a large number of people.*

The construction of the proposed facility should generate a relatively small amount of construction and maintenance traffic. The unmanned nature of the facility should result in minimal traffic impacts on the surrounding area from the operation of the facility.

4. *The number of such uses presently existing or recently approved within the area.*

As noted previously, the Town has approved other requests for WCFs in the Downtown area, including one for the town Hall building. However, the proposed antennas are intended to improve upon gaps and lower levels of coverage for the applicant's service network.

- c. *The need of the community for additional numbers of such uses, paying particular heed to whether the neighborhood is already served by similar uses.*

As noted above, the proposed antennas are intended to improve upon gaps and lower levels of coverage for the applicant's service network.

ENVIRONMENTAL STATUS

Staff has made a preliminary determination that the subject application is categorically exempt from the requirements of CEQA per Section 15303 of the CEQA Guidelines.

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PUBLIC COMMENT

No comments have been received regarding the subject application.

RECOMMENDATION

Staff recommends that the Planning Commission take public testimony on this item, close the public hearing, deliberate upon the project merits, and adopt the attached resolution conditionally approving this conditional use permit.

EXHIBITS

1. Interim Standards and Criteria for Wireless Communications Facilities, adopted by the Tiburon Town Council on July 2, 1997
2. Planning Commission Resolution No. 97-10
3. Application form and supplemental materials
4. Radiation frequency study prepared by Hammett & Edison, Inc., dated June 22, 2005
5. Draft resolution
6. Photo simulations of proposed facility
7. Service area coverage maps
8. Site plan and elevations

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