



TOWN OF TIBURON
1505 Tiburon Boulevard
Tiburon, CA 94920

Planning Commission Meeting
May 9, 2007
Agenda Item:

STAFF REPORT

To: Members of the Planning Commission

From: Community Development Department

Subject: Conditional Use Permit #19710; Time Extension for a Conditional Use Permit To Operate a Wireless Communications Facility; 1 Blackfield Drive; Michael Lee, Owner; Sprint Nextel, Applicant; Assessor's Parcel No. 034-212-18

PROJECT DATA

Address: 1 Blackfield Drive
Assessor's Parcel Number: 034-212-18
File Number: 19710
Lot Size: 3.9 acres
General Plan: NC (Neighborhood Commercial)
Zoning: NC (Neighborhood Commercial)
Current Use: Shopping Center
Owner: Michael Lee
Applicant: Sprint Nextel/NSA Wireless, Inc.

PROJECT DESCRIPTION

A wireless communications facility has been established on property located at 1 Blackfield Drive. The facility includes three panel antennas within a false chimney constructed on top of the Blockbuster Video store within the Cove Shopping Center. Four equipment cabinets have been installed within a screened area next to this building. The facility is used for the transmission of Personal Communications Services (PCS) signals, which are utilized by a variety of digital communications devices, including telephones, pagers, modems and fax machines.

On October 8, 1997, the Planning Commission adopted Resolution No. 97-23 (Exhibit 2) permitting this facility for a period of one year. The Planning Commission granted a five year time extension on January 12, 2000 by adopting Resolution No. 2000-02 (Exhibit 3), which expired October 8, 2003. The applicant has now requested a further time extension for this permit.

ANALYSIS

Site Conditions

The antennas are mounted on the western end of the building at the southwest corner of the site. The antennas are concealed behind a false chimney mounted on the roof of the building. The chimney is 5 feet wide and 4 feet deep, and extends 6 feet above the ridge of the existing building. The chimney is faced with a painted brick veneer.

The equipment cabinets have been installed adjacent to the building. The screened area is 13 feet wide and 10 feet deep, and is situated at the southwest corner of the building. The equipment area is screened with board and batten fencing matching the southern wall of the building.

Since the approval of this permit, Staff has received no complaints regarding this wireless communications facility. The antennas are invisible within the false chimney, and likely go unnoticed by most passersby.

As part of the original approval of this permit, the applicant was required to post financial securities for maintenance and future dismantling of the facility, and to pay for the cost of preparing electromagnetic frequency radiation reports evaluating the conformance of the facility with applicable health standards adopted by the Federal Communications Commission (FCC). The applicant was also required to enter into a standard performance agreement with the Town. The applicant has posted the required securities and entered into this agreement.

The applicant submitted a radiation report for the facility during the review of the original application. That report summarized that the worst case scenario for EMF radiation exposure would be 0.035 mW/cm² which is 3.5% of the public limit exposure standard set by the FCC for PCS facilities. The study noted, however, that access to the roof of the building, presumably by authorized personnel performing routine repair work, could expose these people to higher risk. An exclusion area within 22 feet of the antennas was required to be marked on the roof; if work is necessary in this area, the WCF facility should be turned off while work is completed.

During the review of the time extension approved in 2000, a radiofrequency power density report was submitted for the facility. The report observed radiation exposure on the roof of the building which was 6.5% of the occupational exposure limit established by the FCC, with one operating channel for the facility. At ground level, the maximum radio frequency levels measured were 0.01% of the applicable public exposure limit established by the FCC.

The applicant has submitted a new radiation report for the facility (Exhibit 8). This report states that the worst case scenario for EMF radiation exposure measured at ground level is 0.0016 mW/cm², which is 0.80% of the public limit exposure standard set by the FCC for PCS facilities.

Wireless Communications Facilities Standards and Criteria

On July 2, 1997, the Town Council adopted Interim Standards and Criteria for Wireless Communications Facilities. This document covers a variety of areas to be addressed in the review of applications for wireless communications facilities (WCF's). Updated WCF Standards (Exhibit 1)

were adopted by the Town Council in 2005, including a new Municipal Code Section (16-4.13.00, Antennas and Wireless Communications Facilities) which became effective December 2, 2005.

Section 16-4.13.050 of the Municipal Code states that after a conditional use permit is first approved for a WCF "the permit may be extended for a period no longer than five (5) years after the holding of a public hearing for the purposes of verifying continued compliance with the findings and conditions of approval under which the application was originally approved, as well as compliance with any other applicable provisions provided for in the Municipal Code. Additional reviews are required every five (5) years, unless a longer time period is approved by the acting body."

As noted above, the original use permit for this facility was approved on October 8, 1997, with a five year time extension granted on January 12, 2000 extending the use permit until October 8, 2003. A five year time extension from this previous date would extend the use permit only until October 8, 2008, which would force the applicant to apply for another extension in only 17 months. The Planning Commission has the authority to grant a longer extension, particularly in instances such as this one where the facility is located in a stealth enclosure on a commercial property and continues to comply with FCC requirements for electromagnetic frequency radiation levels. A five year extension from this meeting date would extend to May 9, 2012.

As noted above, the radiation reports indicate that the facility is operating in compliance with FCC regulations. The facility is also in compliance with the other requirements of the conditional use permit established in 1997 and 2000.

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.

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 granting a time extension for this conditional use permit until May 9, 2012.

EXHIBITS

1. Wireless Communications Facilities Standards
2. Planning Commission Resolution No. 97-23
3. Planning Commission Resolution No. 2000-02
4. Planning Commission Staff report dated October 8, 1997
5. Planning Commission Staff report dated January 12, 2000
6. Minutes of the October 8, 1997 Planning Commission meeting
7. Minutes of the January 12, 2000 Planning Commission meeting
8. Health study prepared by Hammett & Edison, Inc., dated April 9, 2007

9. Draft resolution
10. Site plan and elevations

Prepared by: **Daniel M. Watrous, Planning Manager**

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