

**PLANNING COMMISSION REGULAR MEETING
COUNCIL CHAMBERS, RICHMOND CITY HALL**
450 Civic Center Drive, Richmond, CA
June 29, 2017
6:30 p.m.

COMMISSION MEMBERS

Sheryl Lane, Chair	Marilyn Langlois, Vice Chair
Nancy Baer	Andrew Butt
Claudia Garcia	Jen Loy
Vacancy	

The regular meeting was called to order by Chair Lane at 6:30 p.m.

Chair Lane led in the Pledge of Allegiance.

ROLL CALL

Present: Chair Sheryl Lane; Commissioner Nancy Baer, Andrew Butt, Claudia Garcia and Jen Loy

Absent: Vice Chair Marilyn Langlois and Commissioner Yu-Hsiang (Michael) Huang

INTRODUCTIONS

Staff Present: Planning Staff: Lina Velasco, Jonelyn Whales, Director of Planning Services Richard Mitchell and Attorney James Atencio

Also Present: Mayor Tom Butt

MINUTES: None

Chair Lane re-arranged the agenda to move up the Brown Act-Public Forum.

BROWN ACT – Public Forum

Mayor Tom Butt presented Chair Lane with a Distinguished Service Award, stating she has served 8 years on the Planning Commission, and he spoke of her extraordinary service as a Planning Commissioner.

Chair Lane voiced words of thanks, and applause and photographs followed.

CORDELL HINDLER, Richmond, spoke of his submission and request to develop a teen club at the March meeting and asked that the City consider development of such a center.

AGENDA

Chair Lane provided an overview of meeting procedures for speaker registration, public comment and public hearing functions. She said items approved by the Commission may be

appealed in writing to the City Clerk by Monday, July 10, 2017 by 5:00 p.m. and she announced the appeal process after each affected item, as needed.

CONSENT CALENDAR

Chair Lane stated the Consent Calendar consists of Item 1. She asked whether staff, Commissioners or the public wished to remove this item from the Consent Calendar, and there were no requests.

Items Approved on the Consent Calendar:

CC1. PLN17-124: ABM Manufacturing Facility - PUBLIC HEARING to consider a Conditional Use Permit to allow the operation of a marijuana product manufacturing facility within an approximate 6,900 square foot building located at 432 South 1st Street, (APN: 550-090-026). IL, Industrial Light District; Hans Bernwall, Helmsman LLC, owner; Andrew Mack, applicant; Planner: Jonelyn Whales; Tentative Recommendation: Conditional Approval.

ACTION: It was M/S/C (Butt/Baer) to approve Consent Calendar Item 1; which carried by the following vote: 5-0-2 (Ayes: Baer, Butt, Garcia, Loy and Lane; Noes: None; Absent: Langlois and Huang).

NEW ITEM

2. PLN16-658, PLN16-682, PLN16-683, PLN16-684, PLN16-685, PLN16-686, PLN16-687, PLN16-688, PLN16-689, PLN16-695, PLN16-696, PLN16-697, PLN16-698, PLN16-699, PLN16-701: Conditional Use Permits for 15 Small Cell Site Nodes - PUBLIC HEARING to consider requests for 15 Conditional Use Permits to install a small cell site on existing PG&E poles located within the public right-of-way, adjacent to the properties located at 600 Chanslor Avenue (PLN16-658), 330 Chanslor Avenue (PLN16-6821), 112 Chanslor Avenue (PLN16-683), 145 6th Street (PLN16-684), 520 Bissell Avenue (PLN16-685), 310 Bissell Avenue (PLN16-686), 336 Bissell Avenue (PLN16-687), 156 2nd Street (PLN16-688), 110 Bissell Avenue (PLN16-689), 438 S 26th Street (PLN16-695), 2404 Cutting Blvd. (PLN16-696), 370 S 24th Street (PLN16-697), 708 Chanslor Avenue (PLN16-698), 1000 Chanslor Avenue (PLN16-699), and 401 S 28th Street (PLN16-701). Generally the project consists of the Applicant adding antennas, pole arms, radio transmission and powering equipment, as well as cables and wires on and attached to the existing PG&E pole to benefit T-Mobile. All sites except PLN-685, -696, and -699 are located within the RL-2, Single Family Low Density Residential Zoning District. PLN16-685 is located in the CM-5, Commercial Mixed-Use Activity Center Zoning District, PLN16-696 is in the CM-1, Commercial Mixed-Use, Residential/ IS-1, Form-Based Code Study Area Zoning Districts, and PLN16-699 is in the CM-3, Commercial Mixed-Use, Commercial Zoning District. PG&E, owner of utility Poles; City of Richmond Right-of-way; Extenet Systems (California) LLC, applicant; Planner: Lina Velasco. Tentative Recommendation: Conditional Approval.

Lina Velasco gave a summary of the request for Conditional Use Permits (CUPs) to install small cell site nodes within the public right-of-way on utility poles owned by PG&E. She introduced Jonathan Kramer and Laurie Kanderanji, Senior Paralegal, who presented at the last meeting, as well as Charles Lindsey, Extenet Small Cell Wireless Network, the applicant.

She stated the application will undergo design review at the July 12th DRB meeting and an additional 16 sites are proposed as part of their current network which will come to the Commission at a later date.

Charles Lindsey, Extenet Small Cell Wireless Network, applicant, gave a brief overview of the request and presented slides showing installations. He discussed design, capacity, and similar installations.

Chair Lane asked and confirmed that canisters and boxes are smaller for the installations.

Commissioner Baer asked if those proposed have a 3 foot extension from the pole, and Mr. Lindsey said this is a 2 foot extension which is required per state law.

Chair Lane opened the public comment period.

Public Comments:

CORDELL HINDLER, Richmond, said he spoke with some neighborhood councils regarding the request for CUPs and supported the request.

LUIS SMID asked if research has been conducted regarding health impacts, particularly radiation on the human brain, and he voiced opposition to the installations in populated residential areas, schools and parks.

VICTORIA VOLZHELINA voiced objection to the cell site installation at 1000 Chanslor Avenue, and said research states there is not enough evidence that the cell sites cause cancer but there is other research and evidence that it does cause cancer.

Mr. Lindsey said they worked with the City and outside counsel, visited every location and he discussed factors to build relating to coverage, constructability, and whether it can be approved by the jurisdiction. Two other nearby candidate locations were discounted because of line of sight and coverage needed and constructability. He said representatives from Hammett & Edison were present provide comments as needed on RF health.

Rajat Mathur, Hammett & Edison, Sonoma, discussed evaluation of proposed nodes and found they will comply with FCC limits. The subject node at Chanslor Avenue's maximum RF exposure level to any nearby homes or to the ground is 1.7% of the FCC limit which is 50 times below the FCC limit. Additionally, the facilities are very low power and the power drops exponentially from the antenna site.

Commissioner Loy said her understanding is that with one carrier coming in it is likely that all major carriers could come in and use the same poles with similar antennas. She asked what the installation would look like in the future when 4-5 carriers places antennas on poles and questioned the amount and whether radiation would still be below FCC limits.

Mr. Mathur speculated AT&T, Verizon, Sprint and T-Mobile were the four major carriers and if they put up identical facilities, as a worst case number, this would add up to about 8% of the FCC and still very well below the limit.

Jonathan Kramer, Head of Telecom Law Firm, said their firm has worked as a legal advisor for the City of Richmond and is responsible for the last two wireless ordinances. He referred to future installations and said FCC rules completely pre-empt the concern, given it is the law if limits are met. The low power sites are meant to cover small areas so moving them elsewhere would not be feasible or occur. Ms. Kanderanji added that the pole at the Chanslor location is brand new and very structurally sound. Mr. Kramer concluded that courts have said the City cannot make a decision regarding a project today based on what might occur in the future. The City is expecting more, but this is not a basis the Commission should use when considering the 15 projects tonight.

In response to Commissioner Butt, Mr. Kramer explained a hearing was held in the California Assembly and where a pole has wireless facilities and an applicant wants to add, remove or modify the equipment, the City has limited authority and does have discretionary review as to whether it complies with FCC limits.

Commissioner Baer referred to undergrounding the utilities from the previous study session. If Richmond chose to underground utilities and there were no poles, she asked whether new equipment would need to be erected and asked who would pay for this. Mr. Kramer said Extenet would remove equipment from their poles if this occurred, which would be a condition of approval in the CUPs should the requests be approved.

Commissioner Garcia said if another carrier came in with more cell sites she asked how appealing the poles would be to other carriers. Mr. Kramer said these poles may or may not become more congested should the Commission approve these projects, given each carrier has their own particular need.

Mr. Lindsey further explained that they would install the infrastructure and any other carriers would lease from them. Their client identified a need to provide broadband and cellular service in these pockets and neighborhoods. If they no longer need it, then other carriers would be allowed to lease from them and use the infrastructure without the need to change out all of the equipment. He said Extenet would be happy also to provide a post-reading for those speakers who voiced concerns regarding radiation at no cost. Mr. Mathur then explained how they measure total exposure.

Commissioner Butt said because of concerns from other communities, he read that they reviewed a visual simulation of this and after permitted and approved, the installation was quite a bit different. Therefore, they asked that a full-sized mockup be erected and approved based on that mockup.

Mr. Kramer said this is something jurisdictions do, but the Richmond code currently does not allow for such a process. The applicant's application is complete and in looking forward, this might be something to consider and require of the applicant. He discussed the shot clock issue which expires July 20th and voiced concerns in materially changing a process now that has been deemed complete.

Commissioner Butt said he would want to err on the side of not making a decision or voting no if there was some agreement with the applicant to be willing to set up one of the poles so he could see it.

Mr. Kramer said if it was the will of the Commission to continue the item and if the applicant was willing to put up a mockup, this could be done. Mr. Lindsey said he displayed a photo from one installed in San Francisco which he specifically included to address this question. It shows what one will look like, except smaller in Richmond, once installed. He said he could also provide addresses in other jurisdictions so Commissioners could visit them, but asked for the Commission's approval to move forward tonight.

Commissioner Loy said she was not present for the initial meeting, and questioned why T-Mobile was starting installations in the Iron Triangle and those blocks. Mr. Lindsey said this neighborhood has a need for coverage and capacity over others.

Chair Lane asked what the DRB will be asked to do. Ms. Velasco stated the City's ordinance requires that CUPs for these types of facilities go for a full review by the DRB. Staff scheduled this for July 12th to review all sites. Discussion will focus on aesthetics, review of alternative designs that were installed elsewhere, but the number of antennas will not change. For the July 20th, the Planning Commission will have the recommendations on the other 16 installations.

Chair Lane said the canister model is the proposed aesthetic for these sites and she asked if the DRB might choose another option as a recommendation. Ms. Velasco said they may have other camouflage techniques or recommendations but the amount of equipment will not change.

Commission discussion ensued with Mr. Kramer and Mr. Lindsey regarding the DRB process and design review, shot clock timeline, and confirmed that staff mailed notices within 300 feet of proposed locations and the majority of questions and concerns received related to aesthetics.

Chair Lane asked if the applicant wished to provide rebuttal and Mr. Lindsey waived his time.

Chair Lane called upon a speaker to represent rebuttal.

LUIS SMID asked T-Mobile to work harder to find an alternative location to the 1000 Chanslor Avenue site. He also said the majority of the population in Richmond is Spanish-speaking and noted that the City did not provide noticing in any alternative language, hence the reason for very few speakers present at this meeting.

Commissioner Baer pointed out a typographical error in materials regarding 520 Bissell node which states the "City of San Pablo" instead of the "City of Richmond" and asked that this be corrected.

Commissioner Butt referred to the alternative pole location slide displayed and confirmed that the 500 Chanslor Avenue location was originally on the sidewalk of Lincoln Elementary School and it was now proposed to be located across the street at 600 Chanslor Avenue.

The applicant then explained that B or C candidates were those moved based on recommendations, and that the A locations were the primary locations.

Chair Lane referred to the 1000 Chanslor Avenue location and said both A and B sites were the preferred locations. She clarified that T-Mobile made a determination that one of the poles were old and needed to be replaced and the other alternate location was in front of an apartment building and would not provide adequate coverage. Mr. Lindsey said they tried to identify locations not directly in front of people's front yards as well.

The public hearing was closed.

Commissioner Butt confirmed that tonight if the Commission moved forward it would be for siting and not specifically design. If the DRB decided on a significant deviation from what was being proposed he asked and confirmed with Ms. Velasco that the projects would return to the Commission. Ms. Velasco stated at the July 20th meeting the Commission will have the DRB's recommendation for the other 16 applications as well and, if there were any deviations, the Commission could also consider these at that time.

Commissioner Butt said he feels like the City's hands are tied here like similar cities and thinks there will be a flurry of many of the installations. It was difficult for him to support approval without seeing what the installations look like given concerns of aesthetics and asked to see one or more mockups or at least request the DRB to have this opportunity. He then suggested a condition be made to require this.

City Attorney Atencio said he thinks if there is a condition for the applicant to provide a mockup at the DRB meeting would be sufficient and legally allowable. Commissioner Butt said he would like to see a mockup in place on a street so it provides the context and actual equipment.

Mr. Kramer said he thinks the applicant can bring in the canister of the arm it is extended on and the actual pieces of radio equipment and moving forward, the Commission and DRB could discuss a process for mockups.

Chair Lane referred to SB 649 and asked how this bill would influence these types of installations of cell sites.

Mr. Kramer said under the current version of this bill, the City of Richmond would develop design standards for all future small cell sites and it would not include mockups.

Chair Lane voiced her confidence in the DRB's review and supported a mockup be presented to the DRB in order to provide a visual of what the sites would look like. She also researched health concerns of cell sites and while there were only two speakers, she valued the concerns of all residents and also cited the need for good cell and emergency coverage and service.

Commissioner Baer thanked the team for the information provide in the staff report, recognized comments by speakers and concerns regarding aesthetics of the poles. She thanked Commissioner Butt for requesting a mockup presentation to the DRB and she trusts their judgment to ensure aesthetics are within reason. She asked that these sentiments be expressed to the DRB regarding its concerns regarding the aesthetics of the poles.

Chair Lane asked that the applicant consider in the future the offering of low cost readings to residents if at all possible.

Commissioner Butt said for the benefit of Commissioner Baer's understanding, he was misreading the actual detail, stating the visual impact is 14 5/8" diameter by 3 feet tall. The narrower diameter element is inside that shield.

Mr. Kramer asked to re-open the public hearing to ask the applicant if they accept the condition.

The public hearing was re-opened, and the applicant agreed with the added condition.

The public hearing was closed.

Ms. Velasco stated there was agreement by the applicant to provide a post-installation reading for 1000 Chanslor Avenue and asked if the Commission wished to add this as a condition as well, and Commissioners confirmed.

ACTION: It was M/S/C (Butt/Garcia) to approve PLN16-658, PLN16-682, PLN16-683, PLN16-684, PLN16-685, PLN16-686, PLN16-687, PLN16-688, PLN16-689, PLN16-695, PLN16-696, PLN16-697, PLN16-698, PLN16-699, PLN16-701: Conditional Use Permits for 15 Small Cell Site Nodes, with staff's recommended conditions of approval with the additional condition that the applicant provide a full scale mockup of proposed equipment to the DRB, to add a post-installation reading of the 1000 Chanslor Avenue site, and that the Planning Commission, via staff, express to the DRB that the Commission has serious concerns about visual impact and asked that this be considered by the DRB; which carried by the following vote: 5-0-2 (Ayes: Baer, Butt, Garcia, Loy and Lane; Noes: None; Absent: Langlois and Huang).

COMMISSION BUSINESS

- 3. Reports of Officers, Commissioners and Staff** – Mr. Mitchell and all Commissioners thanked Chair Lane for her service.

Commissioner Baer reported she and Commissioner Garcia, serving as the Nominating Committee have met and unfortunately, they were not able to identify nominees within the 10 day period. Staff has recommended the Commission hold election of officers at the July 20, 2017 meeting. She suggested that she chair the meeting; that it start 15 minutes early and that she would pass the baton to the newly elected Commissioner. Ms. Velasco stated this can be agendized prior to the regular meeting.

Chair Lane said she will pass on her binder outlining the Chair's duties. She thanked and recognized the work of City staff, discussed events which occurred 8 years ago, the progress made over this time with various projects, and cited since her start on the Commission, they have approved a Housing Element, a General Plan, controversial projects, and applauded those she has served with on the Commission.

- 4. Adjournment** - The meeting was adjourned at 8:09 p.m. to the next regular meeting on July 20, 2017.