

**SAN ANSELMO PLANNING COMMISSION
MINUTES OF OCTOBER 15, 2001**

6:35 p.m.

Announced adjournment to closed session with Town Attorney regarding antennas, pursuant to Government Code Section 54956.8.

6:40 p.m.

Closed session with Town Attorney regarding antennas, pursuant to Government Code Section 54956.8.

7:00 p.m.

CALL TO ORDER

Commissioners present: Chair House, Commissioners Harris, Morita, Wittenkeller and Zwick and Jochum

Staff present: Interim Planning Director Wight, Planning Technician Chambers and Town Attorney Roth

OPEN TIME FOR PUBLIC EXPRESSION

CONTINUED ITEMS (to November 5, 2001)

1. **SR-0101 – Bob Chapman and John Marchant, 780 Sir Francis Drake Boulevard, APN 6-091-41**, sign review of a freestanding sign and planter to be erected on subject property at the intersection of Loma Robles Drive and Sir Francis Drake Boulevard, and a sign on the building, located within the C-1 Zoning District.

2. **MINUTES – October 1, 2001.**

3. **V-0140/DR-0136 – Steven Atwater, 24 Knoll Road, APN 6-115-05**, design review; floor area ratio variance for a new, two-story single family dwelling to have a floor area of 3,048 square feet, which has a floor area ratio of 31.75% (Code: 2,960 sq ft = 30.83% FAR); and a setback variance for the approach ramp to be up to 4' above grade within 3' of the front property line; on property located within the R-1 zoning district above 150 MSL.

4. **V-0142/DR-0141 – Karen Meadows, 132 Humboldt Avenue, APN 7-024-21**, setback variance and design review to construct a three-car parking deck and uncovered stairs encroaching over the front property line (encroachment permit will be required); and a setback variance and design review of a home office to be within 0' of the front property line on property within the R-1 Zoning District above 150 MSL.

WITHDRAWN ITEM

1. **DR-0134 – Ram and Billie Bergman, 17 White Way, APN 70141-09**, design review of a two story addition, which includes a 552 square foot garage and 120 square foot living space on the second story and 672 square foot addition on the first level. The proposal also includes a 345 square foot deck addition, on property located with the R-1 Zoning District above 150 MSL.

PUBLIC HEARING ITEMS

CONSENT AGENDA

1. **DR- 0030 Amendment – Bruce and Kelly Krill, 1640 San Anselmo Avenue, APN 5-191-23**, setback variance to construct an additional 16 square foot first story addition within 6' of the side property line on property within the R-1 Zoning District. (Staff person: Wight)

M/s Zwick/Jochum, and unanimously passed (5-0) to approve the Consent Agenda

Chair House advised all parties of interest of the ten day appeal period to the Town Council.

REGULAR AGENDA

1. **U-0109 – Metro PCS, 330 Sir Francis Drake Boulevard, APN 6-251-04**, use permit to install three antennas on the building, located within the C-3 Zoning District.

Ms. Wight presented the staff report.

Steven Garcia, representative of Metro PCS, provided an overview of the project, noting that they want to install 16 sites from Sausalito to Novato, one of which is in San Anselmo. They have also spoken to Cindy Goeff of 51 Austin Avenue regarding her issues. Ms. Goeff did not think the Hammett & Edison report was thorough so they hired another individual to perform additional testing. They took measurements from Bank Street, Greenfield Avenue, Sir Francis Drake, the

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Art Alley, 634 San Anselmo, and at the parking lot behind 525 San Anselmo to measure emissions. Mr. Garcia explained that 41 feet height is required. Alternative locations have been researched for a potential site, such as San Anselmo Auto Body on Greenfield Avenue but the antennas would have to be extended from the building because of the setback from Red Hill Avenue. There has been discussion about the 820 Sir Francis Drake site but they know nothing about that, it is outside of their search area. Right now their target is Sir Francis Drake and Red Hill. In summary, the other areas were not chosen because they did not offer the same opportunities to mitigate the visual impacts of the antennas that this proposed location did.

In response to a question by staff, Mr. Garcia stated that the top of existing roofline is 41'7" and the bottom of the antenna will be 35'11" from ground level. He added that they have revised their plan so that the top of the antennas will not exceed the top of the parapet of the building.

Commissioner Jochum commented that the plans and the photos do not match up as to the location of the antennas.

Jerry Bushberg, representing PCS, stated that he evaluated cumulative emissions from the facility and his results are very similar to Hammett & Edison. The results represent 1/10th of 1 percent. He stated that there has been some comment about 33'. The radiation at the center of the antennas is 36' or so. Whether the antennas are mounted at 12' or 33', based on the power they plan to use, will not cause excessive public exposure. He concurs with the Hammett & Edison report that there be signage and markings on the building to prevent people from standing in front of the antennas within 5'.

In response to Commission questions, Mr. Bushberg explained that the lowest level tested was 100th of a microwave and could vary by 100 times. (Variation is caused by line of sight). Testing was not done at horizontal levels because the housing on Red Hill Avenue was so far away and intensity falls off – it has a very rapid decrease; if 500' away, you are very far below the standard. They will require markings on the roof for the 5' distance from the antennas. With regard to what the public is being protected against, it would be any potential health hazard. The only established findings are temporary behavioral disruptions in animals. There is no reliable information that the radio waves can cause cancer. RF levels do change during use, it is usually heavier in the afternoon. However, it is still very low. The study performed by Hammett & Edison was based on all the antennas transmitting. He stated that it would make no difference with the two antennas having a distance of 5'. The separation requirement has nothing to do with protecting people from exposure it is to make sure there is no interference from one carrier to another that is operating at a similar, but separate frequency. The issue of cross fire is as antennas move closer together they would have a greater contribution they would have to each other. They have continued to monitor the standards and there is no evidence to change the standards.

Mr. Garcia stated that as a condition of approval they would offer to prepare a report after construction of the facility and would prepare future reports on the emissions every two years after that. They would be willing to have this peer reviewed.

Mr. Bushberg added that they would take measurements on the roof as well as at ground level.

In response to Mr. Roth's question about the Federal standard requirement of being 10 meters above the ground, Mr. Bushberg responded that if lower than 10 meters to the ground and greater than 10 watts, then you must do a study to meet the federal stands.

In response to Mr. Roth's question about the f' vertical or horizontal separation, Mr. Bushberg responded that the FCC states the vertical separation is 33 feet and 30 watts. Hammett & Edison stated the highest exposure if you are directly in front of the antennas is 5.'

In response to a question by the Commission, Mr. Garcia stated there were samplings done in 1998 for the same building and the results were negligible. They would be willing to prepare a similar report.

In response to a question by the Commission, Jim Hurd, counselor for PCS, stated that he would discuss the idea of indemnify with his client. If the Commission is talking about a denial of the project simply on the basis that there are other carriers in place, as he understood the tentative analysis from the Town Attorney was based on a case called Omnipoint. He would argue that that analysis violates the barrier to entry standard; it would also violate unreasonable discrimination provision. The Commission has no grounds for denial on health as long as the facility meets FCC standards and they are also willing to prove that over time. Regarding the question of limiting the number of antennas being applied for, he will confer with his client but that is a very unusual and unreasonable consideration. With regard to non-assignability, it typically comes from landlords and he is not aware that a Town, City or County ever imposed a condition like that and he would not recommend this to the client.

Ms. Wight stated that they would also need a height variance for the antenna, which means no action can be taken tonight.

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Mr. Roth stated that the Town could require an indemnity as a condition of approval. With regard to assignment – each new entity would have to come in with the use permit but the Commission would have to make a determination as to whether the new entity is worthy.

Cindy Goeff, 51 Austin Avenue, presented a chart indicating the 41 current cell sites in San Anselmo, noting that 17 are on Bay View Bank; 9 on Tam Building, 9 on Pavilion Building; 6 at 1509 Sir Francis Drake; 2 on the cleaners at Miracle Mile; 12 more sites are pending within the Planning Department. Sprint has identified over 500 sites in Marin County. She felt that this is a gross proliferation the Tam Theatre. Her concerns are about the health effects of the antennas. She presented data from the General Accounting Office from the Federal Government, stating that there should be more studies done and more testing done to determine health and safety concerns. She wants to have a standard that errors on the side of caution.

Helly Robertson, 38 Austin Avenue, would advise denying the application because the code of San Anselmo minimizes the use in each location. She has a signed petition of 61 signatures of citizens opposed to this application.

Lisa Pellman, 71 Lincoln Park, is concerned about the potential health affects and would like the Commission to error on the side of caution. Her house looks down on the roof of the Tam Theater and she wonders what kind of emissions she would have. She is also concerned about the long-term affects to her children.

Mr. Blumberg responded that they could measure the horizon levels but because of the distance, by the time they got to the distance of the houses, they would fall off rapidly. Even though it is higher in the p.m., it is an extremely low level of exposure. Regarding the report from France – it does not share the same frequencies as this type of facility. Regarding Ms. Goeff's comments, the General Accounting Office research and report and health concerns talk about the cell phones, not the base stations. Using the cell phone is far greater than the base stations.

In response to the Commission, Mr. Bushberg explained that they would add sites but would turn down the power on each site, noting that it would still be significantly less than the requirements.

Mr. Hurd stated that all the testing is done on the "maxed out" figures. They would be willing to prepare hold harmless indemnity regarding health and safety with the Town. He would not want to see condition of a non-assignability.

Commissioner Zwick stated that he is aware the community is against more cell sites. He feels the businesses need to find a way to share sites. Also, they should be made invisible using panels designed to match a portion of the building. In Fairfax they have placed cell and antennae inside of the theatre marquee.

Commissioner Jochum stated that many are all questioning the effects of RF's however, because of the Telecom Act this prohibits them from denying on health affects. The antenna facing the HUB is sitting in a position not shown on the drawings. It would not sit well on the building and has no architectural affect on the building. If what is being proposed is in the drawings he cannot deny because it is insignificant and does not see any reason to deny the application.

Commissioner Morita stated she would want an independent peer review, specifically to check at the property of 71 Lincoln Avenue. She would like an indemnity clause; and would want the non assignability clause; wants the one antenna removed that directs the radiation across in such a way that someone can walk in front of it; wants a limit on the output to the amount they are currently asking for. She has problems with the safety issue. There is currently no signage to limit access to the roof and wants a lock on the door and signage. She also wants more information on the cone of radiation on each of the models; both in front and behind.

Commissioner Wittenkeller stated it would be difficult to make required findings for approval; especially finding number 1, the use would be detrimental, to the general welfare. He would not be able to make design review, finding 4.1 in that it is not aesthetically compatible with the surroundings. 4.3 has not been completely addressed by the applicant.

Commissioner Harris said he would want to see conditions of approval that have been discussed and clarification of what the ongoing studies would entail. He wants the applicant to give further consideration on the non-assignment clause and would give him grater comfort if the applicant would limit itself in the number of cell sites.

Chair House said she would support the application with a peer review after construction, and two years after that; would require a lock on the door with adequate signage. She has no problem assigning this use to a new individual. Regarding the visual impact – she never noticed the antennas on the Tam Building until they were pointed out. The proposed antennas do not detract from the building. It would be great to hide them entirely but she would not require it.

M/s Harris/Zwick, and unanimously passed (5-0) to continue the application to November 5, 2001.

GENERAL DISCUSSION

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None

REPORT OF UPCOMING APPEALS TO TOWN COUNCIL

None

ADJOURNMENT

The meeting was adjourned at 9:15 p.m. to the meeting of November 5, 2001.

BARBARA CHAMBERS