

CITY OF SAN DIEGO
M E M O R A N D U M

Date: August 2, 2007

To: Planning Commission Chair and Members of the Planning Commission

From: Karen Lynch-Ashcraft, Development Project Manager, Development Services

Subject: Report No. PC07-079 American Tower Corporation
Agenda of August 9, 2007
Kearny Villa - Project No. 90486 (Process 3 on Appeal)
Mini Storage - Project No. 107501 (Process 3 on Appeal)
Aviation – Project No. 92076 (Process 4)

On June 28, 2007, the Planning Commission reviewed eight American Tower telecommunication projects, including five Process 3 appeals, two Process 4 Conditional Use Permits/Planned Development Permit's and one Process 5 Conditional Use Permit/Site Development Permit (Attachment 1). Three of those projects were continued to August 9, 2007 in order to explore either design, landscape or policy issues. A brief description and update on each of the three projects follows:

Kearny Villa – CUP No. 290030. Kearny Villa is an existing 120 foot high monopole located on an IL-2-1 zoned City property at 5571 Kearny Villa Road. The Planning Commission directed American Tower to reduce the height of the monopole and to evaluate design and landscape strategies that would help to integrate the facility into the landscape and aid in camouflaging it from public view. American Tower submitted concept drawings illustrating the existing monopole wrapped in a structure similar in appearance to a steel lattice tower (Attachment 2).

American Tower submits the concept design with some caveats. First, the engineering has not been completed to verify that the lease area can accommodate the structure and the analysis will not be conducted until after they receive approval from the Planning Commission on the design concept. Secondly, American Tower will agree to the design concept if the tower is permitted to remain at the 120 foot height. The upper 40 feet or so of the existing monopole does not support any antennas and has not for several years. The existing monopole is visible from Highway 52, Highway 163, Kearny Villa Road and many other points around the Kearny Mesa community. Reducing the height by 40 feet would still provide collocation opportunities for American Tower. Staff does not support the current height of the tower and does not support this caveat. Finally, American Tower is requesting that with the proposed changes the CUP/PDP be granted in perpetuity. Staff does not support this request. In practice, all wireless communication

facilities receive a ten year expiration, however, in an effort to provide incentives to the industry to provide more architecturally integrated designs, the policy was revised in February of this year. If a project completely conceals all components of the wireless facility, it will not be subject to an expiration date. A 120 foot or even an 80 foot tower with visually prominent racks of antennas does not meet the criteria to waive the expiration date.

Although staff acknowledges the effort by American Tower to attempt to comply with the Planning Commission directive, the recommendation to deny this facility still stands.

Mini Storage – CUP No. 357727. The Mini Storage project is an existing 60 foot high monopole located on an IL-2-1 zoned property at 1529 38th Street. The Planning Commission directed American Tower to evaluate, in addition to landscape, different measures to visually mitigate the appearance of the 60 foot monopole. American Tower submitted a landscape concept plan illustrating the addition of eight 24-inch box Eucalyptus Citriodora trees on the southwestern side of the monopole, which would provide eventual buffering to the properties below and 28th and Ash Streets and Highway 94. Shrubs (1- and 5-gallon) are proposed to be planted on the south and southeastern side of the monopole, which would not provide any screening to Home Avenue (Attachment 3). Staff does not believe that the addition of eucalyptus trees and shrubs will address the requirement that the facility be designed to be minimally visible through the use of architecture, landscape architecture and/or siting solutions. If anything, the trees will buffer the pole, but will not provide adequate screening. Additionally, it is staff's experience that when trees are used in and around these types of facilities, oftentimes, they are topped when they begin interfering with the line of site of the antennas. At that point, the tree could die and either way the visual impact increases significantly. In addition to the proposed landscape, American Tower is also proposing to paint the monopole an olive green.

Again, staff acknowledges the effort by American Tower to attempt to comply with the Planning Commission directive, the recommendation to deny this facility still stands.

Aviation – CUP No. 296155/PDP No. 296156. The Aviation project consists of an existing 130 foot high monopole located in an RS-1-7 zoned Water Department property (previous site of a water tank) at 6770 Aviation Drive. This project is located on the same property as two other monopoles. Sprint Nextel currently has a 90 foot high monopole that they are proposing to replace with a 50 foot high faux tree. The third monopole is the City's, which is 105 feet high. Previous discussion surrounding this project focused on the fact that the City maintains their monopole while staff is recommending denial of the American Tower monopole. The Planning Commission directed staff to provide answers to the following three questions:

1. Why are we in this position?
2. What has been done to solve it?
3. Provide recommendations as to what the solution is.

Before these questions can be answered, it is important to provide additional background information which must be considered in the review of this complicated issue. First, it should be pointed out that there are distinct differences between the City's monopole and American Tower's. The City's monopole supports antennas that provide emergency communications for public safety, which are managed by the Communications, Information and Technology Department. T-Mobile is collocated on the monopole and aside from the revenue generated by those antennas (which goes to the Water Department); the facility is not a huge revenue producer for the city. American Tower's antennas provide wireless services to their tenant's customers. Both American Tower and in this case, Verizon, generate hundreds of thousands of dollars in revenue from this site. American Tower and Verizon have the resources and the technology to redevelop the project so that it complies with the Communication Antenna regulations.

In researching the issue of the City complying with its own regulations, previous case law from 1950, the Kubach vs. McGuire case, allowed cities to be immune from their own land use regulations. Additions to the Government Code have since been enacted to accommodate this legal decision and local authorities throughout California do not have to comply with their own building and zoning regulations when engaged in traditional governmental functions. Providing emergency communications for public safety is a traditional governmental function.

Another difference between the City's emergency communications system and wireless communication companies is that the City typically utilizes 100 foot high poles in order to provide larger areas of coverage. The City has approximately 20 towers around the city and county that provide emergency communications. Wireless carriers, on the other hand, typically use lower sites to cover smaller areas and in this case, Verizon's San Diego network consists of approximately 200 sites throughout the City.

The issue of collocation on a single very tall tower versus stealthed or integrated facilities at this project site was also discussed at the previous Planning Commission hearing. The three existing monopoles (ranging in height from 90-130 feet) are very obvious, creating a considerable visual impact on the neighboring residential community. The project site is one of the highest points in the community overlooking much of Southeastern San Diego. Monopoles have not been permitted in the City for the past eleven years due to the significant visual impact they create. They are usually taller than anything else in the area and they utilize a tri-sectorized platform or rack for the antennas generating a very bulky appearance. Sprint Nextel is in the review process working toward a hearing for the proposed replacement of their monopole with a faux tree. American Tower is requesting to maintain their 130 foot monopole and the City has no plans or funds to replace their monopole at this point. If funding were available for the City to replace their monopole, they would more than likely replace it with a lattice tower due to the stringent design constraints placed on them. Just as Sprint Nextel is doing, American Tower should also comply with the wireless regulations. Both companies will be required to add several trees to help blend the faux trees. This will also help buffer the visual impact of the City monopole.

Staff has reviewed the new information and plans and maintains that the projects do not comply with the Communication Antenna regulations. Staff recommends that the Planning Commission uphold the decision of the Hearing Officer and deny CUP No. 290030 (Kearny Villa) and CUP No. 357727 (Mini Storage), and deny CUP No. 296155 and PDP No. 296156 (Aviation).

Attachments:

1. Updated Project Status List
2. Kearny Villa Concept Plan
3. Mini Storage Landscape Plan