

DATE ISSUED: October 14, 2004

REPORT NO. PC-04-173

ATTENTION: **Planning Commission, Agenda of October 21, 2004**

SUBJECT: CINGULAR – ST. DAVID’S - PROJECT NO. 19148. PROCESS TWO

OWNER/ Rector Wardens and Vestry Saint David’s Parish

APPLICANT: WFI, Inc. for Cingular Wireless

SUMMARY

Issue(s): Should the Planning Commission approve or deny an appeal of the City Manager’s decision to approve Neighborhood Use Permit No. 132695 to install and operate a wireless communication facility on a church property in the Clairemont Mesa Community?

Staff Recommendation:

1. **Certify** Negative Declaration Project No. 19148; and
2. **Deny** the appeal; and
3. **Approve** Neighborhood Use Permit No. 132695.

Community Planning Group Recommendation: The Clairemont Mesa Planning Committee considered the project on November 18, 2003 and a motion to approve the project passed by a vote of 9-4-0. Subsequently, the Committee decided to consider the project upon completion of the Negative Declaration. The project was re-considered on May 15, 2004 and a motion to deny the project was passed by a vote of 13-0-1 (Attachment 11).

Environmental Review: Negative Declaration, No. 19148 has been prepared for the project in accordance with State of California Environmental Quality Act (CEQA) Guidelines.

Fiscal Impact: None. The applicant bears all costs of processing this project.

Code Enforcement Impact: None.

Housing Impact Statement: None.

BACKGROUND

On July 9, 2004, the City Manager approved Neighborhood Use Permit (NUP) No. 132695 authorizing Cingular Wireless to install and operate a wireless communication facility on a portion of St. David's Episcopal Church located at 5050 Milton Street (Attachment 1). The site is zoned RS-1-7 (single-unit residential). The project site is surrounded by residential development (Attachment 3). The site is designated 'School Site' and "Low Density Residential" within the Clairemont Mesa Community Plan (Attachment 2). The existing church complex was approved through a Conditional Use Permit (CUP) in 1995, which permitted a sanctuary, a library, a chapel, a parish hall and a youth center.

Pursuant to the City's Communication Antenna regulations, a wireless communication facility located on a residentially zoned property containing a non-residential use may be permitted with an NUP, Process Two decision level. Staff approved the NUP on July 9, 2004.

On July 21, 2004, an appeal was filed by Linda Rotert-Garduño and several of her neighbors citing among other issues, aesthetics, noise and property values. An additional appeal was filed on July 23, 2004, by Christopher Gramlich and two other neighbors citing noise, inappropriate use, design, health and inconsistency with previous decisions on the church CUP. A summary of the issues is included in this report.

DISCUSSION

PROJECT DESCRIPTION:

The project consists of the construction of a new four (4)-foot square, thirty (30)-foot high monument structure to be located on the church property adjacent to the library, approximately 85-feet from the nearest residential property line (Attachment 5). The monument is proposed on the west side of the existing twenty-one (21)-foot high Library/Administration building and will be constructed of the same materials, which includes stucco on the bottom half with the upper portion constructed of fiberglass. The appearance of the metal framed smoked glass windows on the front and rear of the Library/Administration building will be replicated on the monument through the use of plexiglass inserts with a grey opaque backing that will reflect the images of the surrounding trees, sky and clouds (Attachment 6). The three proposed panel antennas will be located behind the fiberglass inserts. At 30-feet in height, the monument complies with the Clairemont Mesa Height Limit Overlay Zone. There are other prominent high points on the church property including an existing 48.6-foot tall steeple, which was approved with the church CUP in 1995.

The equipment enclosure, approximately 162-square-feet in size, is proposed to be located on the eastern edge of the property adjoining the existing sanctuary. It will be painted and textured to

match the adjacent buildings. Additionally, landscape is proposed to be planted around the enclosure to help integrate and screen the structure from the public right-of-way. There are no homes immediately adjacent to the enclosure as it is near the intersection of Burgener Boulevard and July Street.

Community Plan Analysis:

The subject property is designated as “School Site” and “Low Density Residential (5-10 du/ac) in the Clairemont Mesa Community Plan (CMCP). While the CMCP does not include specific policies regarding the placement or design of telecommunications facilities, the Community Facilities Element of the plan recommends that above-ground utility fixtures be screened from the public right-of-way through the use of landscaping. The project places landscaping around the proposed equipment shelter and at the base of the proposed steeple in order to visually soften these features. In addition, the proposed antennas and TMA units would be concealed within the new steeple. By utilizing these features, the project meets the intent of the CMCP to screen above-ground utility fixtures from the public right-of-way.

Environmental Analysis:

The City of San Diego conducted an Initial Study, which determined that the project will not have a significant environmental effect. The environmental analysis identified health and safety, land use, visual quality, and noise as potential environmental issues.

Health and safety from radio frequency (RF) energy is regulated by the federal government and is therefore addressed in the document for public disclosure purposes. Land use is identified as a potential impact because wireless communication facilities are not permitted by right in residential zones. The project complies with all of the development regulations of the underlying zone as well as the Communication Antenna regulations. The proposed monument feature is not considered a significant visual impact as the church property has varied roof heights and there is an existing 48.6-foot tall steeple that is part of the church sanctuary.

Cingular was required to conduct a noise analysis for the project due to the proximity of the single family homes in the adjacent neighborhood. The conclusion of the report indicates that the facility will comply with the noise ordinance at each of the property lines; therefore no additional noise mitigation will be required.

PROJECT RELATED ISSUES

Project Objective/Alternative Sites

Cingular has determined that a wireless communication facility at this location is necessary to provide coverage to the areas east of Interstate-5 along Milton Street and Clairemont Drive. It is also anticipated that this site will relieve capacity problems in and around this area of Clairemont, where the quality of the network diminishes during peak hour usage. The search

ring Cingular submitted included a primarily residential area. Other sites considered, but not chosen included the San Diego International School, a private school, located to the northwest of the project site and St. Mary Magdalene Church, located to the southwest of the project site. The San Diego International School was rejected due to its proximity to another Cingular facility at Clairemont Drive and Burgener Boulevard and St. Mary Magdalene is at a substantially lower elevation rendering the site ineffective. Additionally, the Catholic Diocese, as a matter of policy, does not entertain leases for wireless communication facilities. Besides Longfellow Elementary directly across the street, there are no other non-residential sites within the search ring area. Cingular has a policy of not pursuing public elementary schools as lease options and the San Diego Unified School District, similar to the Catholic Diocese, does not entertain leases on their elementary school sites.

Appeal Discussion

The decision of the City Manager was appealed by several of the neighbors on the basis of factual error, conflict with other matters and new information (Attachment 9). Specific issues identified by the appellants include: **1)** the aesthetics (design, bulk, scale) of the monument structure are not in character with the neighborhood, **2)** noise from the equipment will create a public nuisance, **3)** approval of this permit will create conflict with St. David's previously approved CUP, **4)** the facility will decrease property values in the neighborhood, **5)** the facility is an inappropriate use in a residential zone and will create a negative stigma, **6)** the removal of mature trees for the church expansion will make the monument structure more visible, **7)** the potential health risks need to be determined and disclosed.

1) Aesthetics: The monument structure was designed to utilize materials similar to those used on the existing library building. The library is stucco and glass with metal trim. The monument will be stucco on the lower portion with smoke gray plexiglass inserts with metal trim that will simulate the windows on the library. The antennas will be concealed within the monument behind the plexiglass. The library has a peaked roof design and is 21.8-feet high, but in order to accommodate the antennas at 30-feet, the top of the monument could not be peaked and instead the monument will be squared off similar to other lower scaled buildings in the complex (Attachments 4 and 5). In terms of height, the church sanctuary is 33.3-feet high and the adjacent steeple measures 48.6-feet to the top of the cross. Although Clairemont has a 30-foot height limitation; these structures were approved as part of the church CUP in 1995. Additionally, there are several mature eucalyptus trees adjacent to the proposed monument that will soften the appearance.

2) Noise: The equipment will be located in a 160-square-foot, fully enclosed shelter on the eastern side of the church building near the intersection of Burgener Boulevard and July Street. The exterior of the shelter will be painted and textured to match the adjacent church building. Air conditioning units that will keep the equipment cool will be located on the rooftop of the shelter. A noise analysis was conducted analyzing the proposed facility utilizing a worst case scenario, assuming the air conditioning units would be operating 24 hours per day. It was determined that the facility will comply with the City's Noise Ordinance and that no additional

noise mitigation would be required.

3) Conflicts With Church CUP: The CUP for St. David's Episcopal Church was approved on April 18, 1995 (Attachment 15). The CUP approved a sanctuary, library, chapel, parish hall, youth center and various parking areas. The application incorporated a request for three exceptions to the 30-foot Clairemont Mesa Height Limit Overlay Zone, all of which were approved. They included the 48.6-foot high (now existing) steeple, the 35-foot high (now existing) sanctuary and a 40-foot high (not yet built) chapel. Based on city records, other than the exceptions to the height limit, there were no requests for variances with the original church CUP.

Although the church CUP was considered in the review process, the NUP is a separate and distinct permit containing conditions specific to the wireless communication facility. These facilities are permitted within residential zones with the appropriate permits. In this case, a wireless facility on a church, which is a non-residential use, but located within a residential zone, requires an NUP. There is no conflict with the church CUP.

4) Property Devaluation: There is no evidence that wireless communication facilities affect residential property values according to an analysis of the issue performed by the City of San Diego Real Estate Assets Department, as well as other studies prepared by local real estate companies in the City of San Diego. Indications are that property value is not affected, however, in some cases; the potential pool of prospective buyers may be reduced. Other factors that may influence property values include property condition, traffic and associated noise.

5) Inappropriate Use in a Residential Zone: The NUP process is designed to determine if the proposed development complies with the development regulations of the applicable zone and to apply conditions that may be necessary to ensure compliance. Institutional uses such as wireless facilities are permitted in the RS-1-7 zone on properties containing non-residential uses through the NUP process. Staff has reviewed the application materials and the existing church CUP and has determined that the facility complies with the Communication Antenna ordinance and the residential development regulations. It has been the City's practice to encourage wireless facilities on non-residential properties in residential zones when there are no other land use options available. Cingular's search ring demonstrates that the coverage objective includes primarily residential uses with the exception of St. David's and the nearby elementary school. With regard to the community plan, the Clairemont Mesa Community Plan does not exclude wireless facilities.

6) Removal of Mature Trees: No trees are proposed to be removed with this installation, however, with the construction of the new multi-purpose building on the southeast side of the property, some of the mature trees in and around the construction area will have to be moved and/or replaced. In fact, the landscape concept plan for the church illustrates the addition of many more trees to the property. Conditions have been included in the permit requiring Cingular to take precautions during construction so as not to damage existing vegetation.

7) Health Risks: Pursuant to the Telecommunication Act of 1996, radio frequency exposure levels are regulated by the Federal Communication Commission (FCC). The Act specifically preempts local governments from regulating the “placement, construction and modification of wireless service facilities on the basis of the environmental effects of RF emissions to the extent that such facilities comply with FCC standards for such emission.” The wireless industry is licensed by the FCC and is required to comply with the FCC established standards for safe exposure to RF. The City requires the industry to provide RF model studies, for public disclosure purposes, prior to issuance of building permits. However, Cingular has already submitted a model RF study written by Jerrold T. Bushberg Ph.D., in which he provides his findings for the St. David’s project site. His calculations are based on a worst case scenario, assuming that all channels were operating at their maximum design radiated power. The conclusion was that the maximum exposure from this facility would be more than 160 times lower than the FCC public exposure standards (Attachment 14).

Conclusion:

Staff affirms that the project meets the purpose and intent of the Neighborhood Use Permit, the development regulations of the underlying zone, the Clairemont Mesa Height Limit Overlay Zone and the Communication Antenna regulations. The Clairemont Mesa Community Plan does not address wireless communication facilities as a specific land use. Pursuant to the City’s Communication Antenna regulations, a communication facility on a non-residential use within a residential zone is subject to approval of a Neighborhood Use Permit. Development Services believes the project will not have a detrimental effect on the neighborhood and the findings to support the project can be made. It is therefore staff’s recommendation to deny the appeal and approve Neighborhood Use Permit No.132695.

ALTERNATIVES

1. **Approve** the appeal and deny the proposed wireless communication facility or;
2. **Deny** the appeal and approve the NUP with modified conditions.

Respectfully submitted,

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Deputy Director, Land Development Review
Development Services Department

Karen Lynch-Ashcraft
Project Manager
Development Services Department

HALBERT/KLA

Attachments:

1. Aerial Photograph
2. Community Plan Land Use Map and Search Ring
3. Project Data Sheet
4. Project Plans
5. Photo Simulations
6. Draft Permit with Conditions
7. Draft Resolution with Findings
8. Copy of Appeals
9. Copy of Church CUP 93-0213
10. Community Planning Group Recommendation
11. Ownership Disclosure Statement
12. Project Chronology
13. RF Model Study