



Staff Report

MOTION TO REVIEW PLANNING COMMISSION ACTION – CONDITIONAL USE PERMIT AND DESIGN REVIEW – T-MOBILE WIRELESS COMMUNICATIONS FACILITY – 1906 LYON AVENUE

Honorable Mayor and Council Members:

Summary/Background

On February 3, 2009, the Planning Commission approved a Conditional Use Permit (CUP) and Design Review (DR) to install a wireless communication facility at the Mid Peninsula Water District property at 1906 Lyon Avenue (See Adopted Commission Resolution 2009-0004 & Conditions of Approval – Attachment 2). The approved CUP and DR would allow installation of six panel antennas to be flush mounted to an existing 44-foot high water tank, and also allow for construction of a 20-foot by 12-foot pre-fabricated, fully enclosed equipment shelter. There are presently no wireless communications facilities installed on this property.

Section 1-11 of the Belmont Municipal Code requires that upon receipt of a *Request to Review*, the City Council may initiate proceedings to review the Planning Commission decision on motion by any member of the Council. Such a request for review was submitted on 02/10/09 by Councilmembers Lieberman and Feierbach (See Attachment 1).

At tonight's meeting, the Council will determine whether or not it wishes to review this matter as requested by Councilmembers Lieberman and Feierbach. This action requires three votes to sustain. If this request is carried forward, staff recommends that the hearing be scheduled for March 10, 2009. At that fully-noticed public hearing, a detailed staff report and background information will be provided.

General Plan/Vision Statement

Not applicable at this time.

Fiscal Impact

None at this time. Approximately 20 hours of staff time is anticipated to support a full review.

Public Contact

This matter was placed on the agenda and posted as required by the California Government Code.

Recommendation

Should the Council determine that it wishes to review the 02/03/09 Planning Commission action regarding the Conditional Use Permit and Design Review for the T-Mobile Wireless Communications Facility at 1906 Lyon Avenue, staff recommends the Council schedule the public hearing for the 03/10/09 Council meeting.

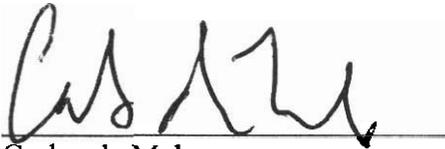
Alternatives

1. Discontinue pursuit of Council review of 02/03/09 Planning Commission action regarding the T-Mobile Conditional Use Permit and Design Review.
2. Provide alternative direction to staff.

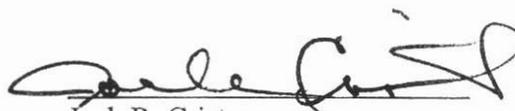
Attachments

1. Request to Review Planning Commission Action – 02/10/09
2. February 3, 2009 Planning Commission Staff Report, Resolution No. 2009-0004 & Conditions of Approval (No Attachments)

Respectfully submitted,



Carlos de Melo
Community Development Director



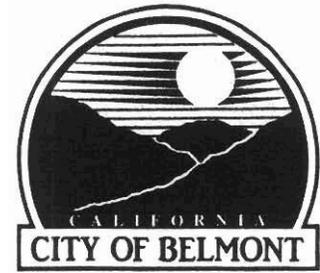
Jack R. Crist
City Manager

Staff Contact:

Jennifer Walker, Associate Planner
(650) 595-7453
jwalker@belmont.gov

Attachment 1

RECEIVED
FEB 10 2009
BELMONT CITY CLERK



**Notice per Belmont Municipal Code Section 1-11
To Review Planning Commission Action**

Pursuant to Belmont Municipal Code Section 1-11, request is made to review Planning Commission Item 5A approved on February 3, 2009.

Item 5-A. PUBLIC HEARING – 1906 Lyon Avenue

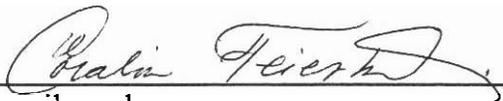
To consider a Conditional Use Permit and Design Review to install a T-Mobile Wireless Telecommunications facility, consisting of six (6) panel antennas attached to the existing Mid Peninsula Water District water tank, and four detached equipment cabinets. Application Number: PA2007-0006;

APN: 044-051-140; Zoned: R-1B (Single Family Residential)

CEQA Status: Recommended Categorical Exemption per Section 15303 (e)

APPLICANT: Ben Davies on behalf of T-Mobile

OWNER: Mid Peninsula Water District



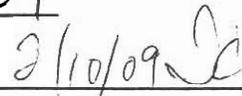
Councilmember

Dated: Feb 10 - 2009



Councilmember

Dated: 2-10-09

Received by City Clerk: 2/10/09 

cc: Planning Department
City Attorney
City Manager
Applicant

Attachment 2

**CITY OF BELMONT
MEMORANDUM**



TO: Planning Commission

FROM: Jennifer Walker, Associate Planner

VIA: Carlos de Melo, Community Development Director

SUBJECT: January 3, 2009 Planning Commission Meeting -- Agenda Item 5A
Application No. 2007-0006 - 1906 Lyon Avenue
Conditional Use Permit and Design Review

SUMMARY

The applicant requests approval of a Conditional Use Permit and Design Review application to install a wireless communication facility at the Mid Peninsula Water District property at 1906 Lyon Avenue.

The proposed facility includes the installation of six panel antennas to be flush mounted to an existing 44-foot high water tank. The maximum height of the antennas will be 43 feet (approximately one foot below the top of the tank). The associated equipment will be located in a detached 20-foot by 12-foot pre-fabricated, fully enclosed equipment shelter.

RECOMMENDATION

Staff recommends that the Planning Commission **approve** the Conditional Use Permit and Design Review subject to the findings and conditions of approval contained in the attached draft resolution¹.

BACKGROUND

The Planning Commission reviewed this project at the 09/18/07 meeting and continued the project to allow staff to work with the applicant in addressing several issues including the proposed antenna height, the equipment shelter location, site landscaping, and neighborhood outreach.

The applicant returned to the Planning Commission on 03/18/08 with a revised project design that addressed each of the concerns raised at the 09/18/07 meeting. After reviewing the revised project design, several Planning Commissioners expressed concerns about making each of the required project findings in the affirmative.

¹ Please note: This recommendation is made in advance of completion of all public testimony or Commission discussion of the project. At the public hearing, these two factors, in conjunction with the staff analysis, will be considered by the Commission in rendering a decision on the project.

PLANNING COMMISSION STAFF MEMO

RE: 1906 Lyon Avenue, #PA2007-0006

February 3, 2009

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Subsequent to the 03/18/08 meeting the applicant modified the project design by fully eliminating the variance request that would have allowed the antennas to exceed the maximum allowable height of 43-feet for this property. No portion of the antennas would extend above the water tank structure.

The project was scheduled for the November 18, 2008 Planning Commission meeting. Prior to opening the Public Hearing the Planning Commission voted unanimously to continue the item, noting that the applicant had not provided an alternative site analysis as requested at the 03/18/08 meeting.

Since the 11/18/08 meeting, the applicant has submitted an alternative site analysis study that evaluates three alternative potential locations and provides detailed coverage maps for each location. The applicant has also included various coverage maps showing average daily call date, dropped call data, and 911 call data for existing antennas within the City borders.

Complete staff reports were prepared for the 09/18/07, 03/18/08 and 11/18/08 Planning Commission public hearings (see Attachments G, H and I).

The Discussion and Analysis section of this report continues to include analysis of information that was provided for the 11/18/08 meeting but not discussed by the Planning Commission in a public hearing format.

DISCUSSION AND PROJECT ANALYSIS

Alternative Site Selection

At the 03/18/08 and 11/18/08 meetings the Planning Commission requested that the applicant provide additional information related to site selection. Specifically the Planning Commission was interested in determining what, if any, alternative locations were considered for this facility.

Attachment K, Candidates Comparison, is an alternative site analysis that examines the proposed location as well as three other sites that were evaluated as part of this project. The three alternative sites include: 1) Joint Powers Authority (JPA) pole located at 1802 Bayview Avenue; 2) Grace Mission Evangelical Church on Alameda de las Pulgas; and 3) JPA pole located adjacent to 1999 Notre Dame Avenue that currently houses a Cingular Wireless facility.

The Candidates Comparison packet includes a synopsis explaining reasons why the alternative locations were not selected over the proposed water tank installation at 1906 Lyon Avenue. The synopsis notes that alternative sites were not selected due to less favorable elevations, structural inadequacies, and the inability to obtain three clear directional sectors. The packet includes an existing coverage map with the location of each alternative site clearly marked. Proposed coverage maps for each of the alternative locations indicate that the proposed location on the existing water tank at 1906 Lyon provides the best coverage throughout the City.

Staff believes the provided alternative site analysis information indicates that the proposed installation at 1906 Lyon avenue, with panel antennas flush mounted onto the side of the existing water tank, is the most appropriate location for this type of facility and achieves the best coverage within the City.

Coverage Maps

The applicant has provided revised coverage maps based on the alternative project design placing the flush mounted antennas with a maximum height of 43 feet. The coverage maps show a significant area with poor wireless service stretching from Mezes Avenue in Belmont up into San Mateo and also extending out to the El Camino corridor. The proposed coverage maps show that a significant portion of the poor service areas in the City of Belmont would be improved to either fair or good service after installation of the fully complying antennas.

In response to questions raised by several commissioners at previous public hearings, the applicant has provided regional maps that show the average number of daily calls per antenna, the average number of daily dropped calls per antenna, and the total number of 911 calls received per antenna during a 30 day period.

This packet also includes existing and proposed coverage maps that have only service within the City of Belmont boundaries shown.

Elimination of the Variance Request

As noted above, the applicant has modified the project request so as to eliminate the need for any variance related to the maximum height of the antennas. The maximum allowable height for any signal receiving antenna in the R-1B zone is 15 feet above the maximum permitted structure height (28 feet), or 43 feet. The top of the water tank is 44 feet above grade at the front of the tank (Lyon Avenue frontage) and thus the applicant has located the antennas a foot below the top of the tank in order to fully comply with this zoning ordinance requirement.

Equipment Shelter and Ambient Noise

As was proposed at the 03/18/08 Planning Commission meeting, the equipment shelter would be located ten feet from the vehicular access driveway and would be accessed by a short stairway. The shelter would be located approximately 30 feet from the adjacent residential property (including the City stairway right of way). To mitigate potential increased ambient noise levels, the applicant is proposing a pre-fabricated fully-enclosed equipment shelter; the equipment shelter is required to comply with the City's Noise Ordinance. With a fully enclosed shelter, the noise levels should be significantly lower than permitted maximums.

1996 Federal Telecommunications Act

At the 03/18/08 meeting, the acting City Attorney provided some guidance related to the 1996 Federal Telecommunications Act and its impacts on a Public Agency's authority to regulate wireless communications facilities (meeting minutes are included as Attachment I). Staff has compiled a list of five guidelines from the Federal Telecommunications Act that help define local agency review of a wireless telecommunications facility (Attachment D).

The City has the authority to regulate approval of the required Conditional Use Permit and Design Review. To approve a Conditional Use Permit there are four required findings that the Planning Commission must make in the affirmative related to land use compatibility and the appropriateness of the site. Additionally, BZO Section 25 provides five additional findings

related to site placement and project aesthetics that must be made in the affirmative prior to approval of a Conditional Use Permit for a signal receiving antenna. And lastly, there are seven Design Review principles with which the proposed facility must comply. In total there are 16 applicable findings and principles that shall guide either approval or denial of a wireless communications facility. Staff has fully analyzed each of these findings and principles in the permit review section of this report.

NEIGHBORHOOD OUTREACH STRATEGY

The applicant held a community meeting prior to the 09/18/07 meeting which four neighbors were able to attend. A second community meeting was held on 02/26/08 which eight neighbors were able to attend. The applicant has recently made an effort to inform neighbors about the revised project proposal. As detailed in Attachment E, the applicant hand-delivered and mailed a detailed letter to all property owners within 300 feet of the subject site. The applicant received feedback from seven neighbors, two of which were opposed to the project. Prior to the 11/18/08 meeting staff received two responses to the Notice of Hearing from neighbors who are very strongly opposed to the project. One of the neighbors stated that the primary reason for her objection is the potential health impacts from RF emissions. Numerous neighbors attended the 11/18/08 Planning Commission meeting to express their opposition to the project and their desire to see an alternative site analysis provided by the project applicant.

A neighborhood petition was submitted to Planning staff prior to the 11/18/08 meeting. The 32 neighbors who signed the petition are strongly opposed to the project. The petition outlines five issues (A through E) that the community wishes to see addressed prior to any Planning Commission action. Staff has prepared a written response to this petition which is included as Attachment F to this staff memorandum.

Prior to this public hearing, the applicant mailed the Candidates Comparison information packet and each of the various coverage and call data maps to all property owners within 300 feet of the project site. The applicant notified them of the scheduled Public Hearing date and provided contact information for any feedback.

As of the writing of this report, staff has not received any additional feedback from the neighborhood. The applicant appears to have achieved the outreach strategy tasks.

ENVIRONMENTAL CLEARANCE (CEQA)

The proposed wireless telecommunications facility is categorically exempt from the provisions of the California Environmental Quality Act as it qualifies under Section 15303, Class 3(e):

"Construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures... accessory structures..."

The proposed tank mounted antennas and equipment enclosure comply with this designation and are exempt per CEQA.

PERMIT REVIEW

The applicant's proposal for a wireless facility requires a Conditional Use Permit and Design Review. The following is a discussion for each requested entitlement.

SIGNAL RECEIVING OR TRANSMITTING ANTENNAS ANALYSIS

Section 25 of the Belmont Zoning Ordinance establishes that all wireless communications facilities in the City of Belmont secure approval of a Conditional Use Permit. Thus, in order to make findings of approval for the Conditional Use Permit, the Planning Commission must determine that the telecommunication facility meets standards and requirements of the Wireless Communication Ordinance.

Section 25.7.1 - Definitions

The Ordinance defines a Building Mounted Antenna as "a device, mounted to a building or rooftop equipment screen, that transmits or receives electromagnetic signals". Conversely, a Monopole Antenna is considered a freestanding device that transmits or receives electromagnetic signals. The proposed T-mobile antennas will be attached to the existing water tank. The proposed panel antennas would be flush mounted onto the water tank surface and thus are considered to be building mounted antennas.

Section 25.7.2. - Standards

General Standards

A. Building mounted antennae are encouraged.

Since the flush mounted antennas will be attached to an existing water tank, the proposed facility is considered a building-mounted antenna.

B. Where building-mounting is not possible, an attempt should be made to screen new monopoles from public view and to co-locate new antennas on existing monopoles on the site.

Co-location on an existing monopole is not an option as there are no other wireless facilities on this property. The proposed antennas are considered building-mounted as they would be attached to the existing water tank.

C. In order to minimize overall visual impacts, wireless communication facilities should be designed to promote facility and site sharing.

The proposed T-mobile facility would be the first wireless communications facility on the subject site. The subject property is the most appropriate location in the general vicinity for a wireless communications facility as it is the only property that does not have a residential General Plan designation.

D. Wireless communication facilities should avoid any unreasonable views from neighboring properties.

The project site contains several mature trees as well as several recently planted 8-foot tall saplings that will help to screen the antennas from off-site uses. The applicant has indicated that additional trees and/or shrubs will be installed on the west side of the tank to provide the adjacent residential property with more privacy. There will still be some properties in the vicinity from which the proposed antennas would be visible. The attached photo simulation shows that the proposed antennas would be almost entirely screened by the height of existing mature vegetation on the site. The antennas will be painted to match the water tank.

E. No facility should be installed on an exposed ridgeline, in or at a location readily visible from a public trail or other recreation area or scenic area unless it is screened to appear as a natural environmental feature.

The new antennas will not be visible from a public trail or other recreation area. The existing vegetation, including the new tree sapling plantings, will generally screen the site from public view. Additionally, the antenna and equipment shelter will be painted to match the existing environment; the equipment enclosure will match the existing structure on the property while the antennas would be painted white to blend with the water tank.

I. Site Location Standards:

A. Wireless communications facilities may be considered at the following locations, provided that other City requirements are satisfied:

2. Public Land:

Wireless communication facilities may be installed on sites with a Public Facilities General Plan land use designation and on land owned by a political subdivision of the State of California, such as the City of Belmont and Belmont Water District.

The project site is designated P – Public Facilities in the City General Plan and is owned by the Mid Peninsula Water District. Barrett Elementary School and Cipriani Elementary School are the two closest *Public Facilities* General Plan designated properties, both of which are located well over a half mile from the subject property. This site is appropriate for installation of a wireless communications facility.

B. Wireless communication facilities are not permitted on any property with a residential General Plan land use designation unless a variance pursuant to Section 14 to this standard is granted.

The property does not have a residential land use designation and thus no variance to this standard is required.

2. Standards for Building-Mounted Antennas:

- A. Building-mounted antennae and any ancillary equipment shall be in scale and architecturally integrated with the building design in such a manner as to be visually unobtrusive.*

The water tank mounted antennas would be painted white to match the color of the existing water tank, consistent with other wireless communication facilities in the City. The block wall equipment enclosure will be painted tan so as to match the natural landscape. There are existing mature trees, as well as several new tree saplings, that will adequately screen the proposed facility. New landscaping will be installed on the west side of the equipment shelter to provide additional screening from the adjacent residential property.

- B. When feasible, colors and materials shall match the existing building.*

The new antennas will be appropriately painted to blend with the existing tank, consistent with other wireless facility approvals in the City. The equipment enclosure will be painted tan to blend with the surrounding hillside.

- C. Any ancillary equipment shall be adequately screened from public view.*

The equipment enclosure will be screened by the mature landscaping on the site. Additionally, new tree saplings have been planted that will further help to screen the facility in the future.

- D. Building-mounted antennae and any ancillary equipment shall not extend more than 15 feet above the main structure's height limit of the zoning district within which the facility is located.*

The R-1B zoning district maximum building height is 28 feet. Thus the maximum height for an antenna is 43 feet. The existing water tank is approximately 44 feet high; the applicant is proposing to mount the antennas such that the top of the antennas is one foot below the top of the water tank, thus complying with this BZO standard.

- E. Building-mounted antennae and any ancillary equipment shall avoid any interference with public views, unless the applicant demonstrates that no other feasible location within the City is available.*

The subject site has existing mature trees that would generally screen the site from public views. The water tank and proposed tank mounted antenna would be set back more than 40 feet from Lyon Avenue. As discussed above, there is a row of eight-foot tall tree saplings that will provide additional screening in the future.

Other conditions:

Section 25.7.5 provides authority to impose additional appropriate conditions on a project by project basis to ensure land use compatibility. The following additional conditions apply to this project and would be added to the permit:

1. The applicant may be required to correct any and all future interference problems experienced by neighbors with respect to reception problems caused by this facility.
2. The applicant shall agree to adjust, correct or remove the antennas to the satisfaction of the City of Belmont should the transmission from the antennas interfere with Belmont emergency transmission or communication facilities.
3. If the facility is abandoned in the future, the applicant will be required to remove the wireless communication antennae and equipment from the site.

SECTION 25 – SIGNAL RECEIVING OR TRANSMITTING ANTENNAS FINDINGS

Prior to approval of a Conditional Use Permit required by this chapter the hearing body shall, in addition to the required findings of Section 11.5.1, find as follows:

- (a) *There is no other location on the site for the proposed antenna which would result in a less conspicuous or more aesthetically pleasing installation while still providing reasonable signal access.*

The applicant has selected the subject property that is designated P – Public Facilities in the General Plan, but is surrounded by residentially designated properties. There are currently no other wireless communications facilities located on this property. The City of Belmont has approved four wireless communications facilities located on another Mid Peninsula Water District tank property within the City; however, these other locations have been determined to be at maximum capacity (maximum number of facilities) and would not enable T-mobile to achieve their desired service coverage. The applicant has provided a series of colored coverage maps showing existing T-mobile coverage in the City of Belmont as well as the coverage that would be achieved at the desired 43-foot height. The tanks are well screened by mature trees that make the antennae less conspicuous yet still provide reasonable signal access. The tank mounted antennas would be less visible from surrounding properties than a free standing monopole structure. This finding can be made in the affirmative.

- (b) *The antenna is the smallest possible while still allowing reasonable signal access*

The proposed six panel antennas are each mounted onto the water tank. The antennas would have a maximum height of 43 feet which is one foot below the top of the 44 foot high water tank. This proposal is 16 feet below the applicant's original proposal. The applicant has provided coverage maps showing existing coverage in the City as well as the anticipated coverage with the antennas located one foot below the top of the water tank. The proposed height does not require any variance to be granted and allows the

applicant to achieve their objective to provide reasonable signal access for current and future needs. This finding can be made in the affirmative.

- (c) *The proposed use will not result in an aesthetically offensive installation, open to public view, due to its location, design, height, color, or method of screening.*

The proposed antenna and equipment enclosure have both been designed to have a minimal impact on neighborhood aesthetics with the use of natural and existing colors. There is adequate mature landscaping on the site as well as new tree plantings that will generally screen the wireless facility from surrounding residential properties as well as improve the landscape aesthetics and screening of the entire site. This finding can be made in the affirmative.

- (d) *Based upon a review of the submitted information by the Building Inspection Department, the proposed use will not create a safety hazard.*

The proposed wireless facility has been reviewed by the Building Department and has not been found to generate any safety hazards. The site is enclosed with a security fence and locked to prevent public access. Additionally, Section 25.7.5 provides authority to impose additional appropriate conditions on a project by project basis to ensure land use compatibility. The following additional conditions apply to this project and would be added to the permit:

1. The applicant may be required to correct any and all future interference problems experienced by neighbors with respect to reception problems caused by this facility.
2. The applicant shall agree to adjust, correct or remove the antennas to the satisfaction of the City of Belmont should the transmission from the roof-mounted antennas interfere with Belmont emergency transmission or communication facilities.
3. If the facility is abandoned in the future, the applicant will be required to remove the wireless communication antennae and equipment from the site.

This finding can be made in the affirmative

- (e) *Emplacement standards of section 25.5 are met or a variance has been approved for any standard not met.*

The proposed antenna will not be placed within the front yard setback or within 5 feet of any property line and no dish-type will be included in the use permit. This finding can be made in the affirmative.

CONDITIONAL USE PERMIT ANALYSIS

Section 11.5.1 of the Zoning Ordinance requires the following findings be made prior to the issuance of a conditional use permit:

- a) *The location of the proposed use is compatible to other land uses in the general neighborhood and does not place an undue burden on existing transportation, utilities and services of the vicinity.*

The wireless communication facility, as proposed, is compatible with other uses in the neighborhood. The proposed antennas will be mounted onto existing water tank. A photo-simulation (see Attachment M) shows that the proposed antennas would be adequately screened by the large trees on site. Adjacent residential uses would be screened by existing and proposed vegetation, including recently planted trees (currently eight feet tall). In addition, the equipment shelter will be screened from Lyon Avenue by existing shrubs and the existing slatted fence. The ambient noise levels emitted from the equipment enclosure are governed by the City Noise ordinance and are anticipated to be significantly lower than the permitted maximum.

Construction of the proposed wireless communication facility will not place an undue burden on existing transportation, utilities and services in the vicinity since the project only requires on-site visits by T-mobile personnel for regular monthly maintenance of the facility. This finding can be made in the affirmative.

- b) *The site is of sufficient size to accommodate the proposed use together with all yards, open spaces, walls and fences, parking and loading facilities, landscaping and such other provisions required by this Ordinance.*

The site allows the proposed use to conform to conditions of development as required by the Belmont Zoning Ordinance (BZO). The proposed wireless facility will not infringe upon required setbacks, open space, walls and fences, parking and loading facilities, landscaping and other provisions required by the BZO. The existing landscape, including mature trees as well as new tree saplings, serve as adequate screening materials for the new equipment enclosure, as well as a screening enhancement of the entire site. This finding can be made in the affirmative.

- c) *The site will be served by streets of capacity to carry the traffic generated by the proposed use.*

The proposed use will generate minimal additional traffic in that it will generally involve only limited visits by maintenance personnel. The site is served by Lyon Avenue, which can accommodate the traffic generated by the proposed use. This finding can be made in the affirmative.

- d) *The proposed use, if it complies with all conditions upon which approval is made contingent, will not adversely affect other property in the vicinity or the general welfare of the City.*

The conditions of approval of this permit include standards in accordance with the Wireless Communication Ordinance to ensure land use compatibility. Specifically, the facility must comply with the Belmont Noise Ordinance and must continue to comply with the RF emissions guidelines provided by the Federal Communications Commission. A condition stating that appropriate warning signs be posted at the base of the tank access ladder has been included as recommended in the RF report to prevent occupational exposures in excess of FCC guidelines. The proposed wireless communication facility, as conditioned by this permit, will not adversely affect other properties in the vicinity or the general welfare of the City. This finding can be made in the affirmative.

DESIGN REVIEW

The proposed building mounted antennas are required to meet the Design Review Principles in Section 13.5.3 of the City of Belmont Zoning Ordinance. The following is an analysis of the applicable standards for the proposed application:

- a) *Review of buildings or structures for scale, mass, proportion, use of materials, relationship to adjacent elements and relationship to the community as a whole.*

The proposed equipment enclosure would be seven feet in height and is considered an accessory structure. The enclosure would be screened by the existing landscaping and property line fencing. The panel antenna would be painted white to match the color of the water tank. The antennas will be located a foot lower than the top of the tank and will have a negligible visual impact on surrounding properties in comparison to the existing water tank. The project complies with this design review principle.

- b) *Review of proposed exterior color and material application with relationship to adjacent architectural or natural elements. The intent with respect to review of color is to avoid the use of extreme color.*

The applicant proposes to paint the antennae white so as to minimize the visibility from adjacent residential properties. The equipment enclosure would be finished in earth tones (matching the existing equipment shelter for the water tank) so as to blend with the natural environment of the site. Neither of these colors is generally considered to be extreme. The project complies with this design review principle.

- c) *Review of the proposed location, height, and materials of walls, fences, hedges and screen plantings to insure harmony with adjacent development or to conceal storage areas, utility installations or other surfacing to prevent dust erosion.*

Landscaping on the project site, including shrubs and tall trees, and existing property line fencing, would effectively insure harmony with adjacent residential development and would adequately conceal the proposed T-mobile installation on the site. The project complies with this design review principle.

- d) *Review of location, size, height, lighting and landscaping of signs as specified in the Sign Ordinance, in relation to traffic hazards and the appearance of harmony with the*

environment. The intent with respect to review of color is to avoid the use of extreme color.

A warning sign at the base of the tank access ladder is a requirement for this project and will not be visible to the general public. The project complies with this design review principle.

- e) Review of site layout considering the orientation and location of buildings and open spaces in relation to the physical characteristics of the site, the character of the neighborhood, the appearance and harmony of the buildings with adjacent development and the surrounding landscape.*

No buildings are proposed for this project. A small equipment enclosure is proposed for an area on the site that is of adequate size and is compatible with other improvements on the site. The equipment enclosure is set back from the front property line a sufficient distance such that it would be minimally visible from Lyon Avenue. The project complies with this design review principle.

- f) Review of the layout of the site with respect to locations and dimension of vehicular and pedestrian entrances, exits, drives and walkways.*

The entire site is secured from general public access by a locked chain-link fence. The only access is one entrance along Lyon Avenue which has a locked gate. There is adequate space within the secured area for parking of employee vehicles. The project complies with this design review principle.

- g) Review of site landscaping including adequacy of irrigation plans, size and location of plant materials, and protection of existing plant materials.*

No new landscaping is proposed on the site in conjunction with this application. However, staff has reviewed the existing vegetation which includes tall mature trees and a row of recently planted trees (currently 8-foot tall) that will provide adequate screening of all facility equipment in the future. The project complies with this design review principle.

Staff has considered the applicant's request for Design Review and finds it generally consistent with the Design Review Ordinance Principles (Section 13.5.3). Staff reviewed the proposed wireless facility installations and landscaping and believes the proposal (as conditioned) conforms to all required standards and is generally compatible with neighboring properties.

CONCLUSION AND RECOMMENDATIONS

Based on the foregoing analysis, staff recommends approval of the Conditional Use Permit and Design Review applications with the conditions of approval as specified in Attachment B of this report.

ACTION ALTERNATIVES

1. Continue the project and direct staff to work with the applicant to redesign the wireless telecommunications facility.
2. Deny the Conditional Use Permit and Design Review applications.

ATTACHMENTS

- A. Resolution approving the Conditional Use Permit and Design Review
- B. Conditions of Approval
- C. RF Frequency Analysis by Hammett & Edison, August 28, 2007
- D. FCC Guidelines for Local Agency Review of a Wireless Facility
- E. Neighborhood Outreach Strategy, summary
- F. Neighborhood Petition dated 11/16/08 and Staff Response Memorandum
- G. Planning Commission Staff Report and Meeting Minutes, dated 09/18/07
- H. Planning Commission Staff Report and Meeting Minutes, dated 03/18/08
- I. Planning Commission Staff Report and Meeting Minutes, dated 11/18/08
- J. Letter from Paul B. Albritton, MacKenzie & Abbritton LLP, dated January 29, 2008
- K. Candidates Comparison (Commission Only)
- L. Coverage Maps (Commission Only)
- M. Applicant's plans and submittal materials (Commission only)

Respectfully Submitted,



Jennifer Walker
Associate Planner



Carlos deMelo
Community Development Director

RESOLUTION NO. 2009-__ __

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BELMONT
APPROVING A CONDITIONAL USE AND DESIGN REVIEW
AT 1906 LYON AVENUE (APPL.NO. PA2007-0006)

WHEREAS, T-mobile requests a Conditional Use Permit to allow the installation of six flush mounted wireless communication panel antennas and an associated equipment enclosure and Design Review approval to allow the addition of an accessory equipment enclosure for the site at 1906 Lyon Avenue; and,

WHEREAS, on September 18, 2007, March 18, 2008, November 18, 2008, and February 3, 2009 the Planning Commission, following notification in the prescribed manner, conducted public hearings, at which hearings the Commission considered public testimony and staff reports on the aforementioned requested entitlements; and,

WHEREAS, the Planning Commission of the City of Belmont finds the project to be categorically exempt pursuant to the California Environmental Quality Act, Section 15303, Class 3(e); and,

WHEREAS, the Planning Commission hereby adopts the staff reports dated September 18, 2007, March 18, 2008, November 18, 2008, and February 3, 2009 and the facts contained therein as its own findings of facts; and,

WHEREAS, the Planning Commission has considered the applicant's request for a Conditional Use Permit to allow the installation and testing of wireless communication antennas and finds that it meets required findings as set forth in Section 25 of the Zoning Ordinance as follows:

- a) *There is no other location on the site for the proposed antenna which would result in a less conspicuous or more aesthetically pleasing installation while still providing reasonable signal access.*

The applicant has selected the subject property that is designated P- Public Facilities in the General Plan, but is surrounded by residentially designated properties. There are currently no other wireless communications facilities located on this property. The City of Belmont has approved four wireless communications facilities located on another Mid Peninsula Water District tank property within the City; however, these other locations have been determined to be at maximum capacity (maximum number of facilities) and would not enable T-mobile to achieve their desired service coverage. The applicant has provided a series of colored coverage maps showing existing T-mobile coverage in the City of Belmont as well as the coverage that would be achieved at the desired 43-foot height. The tanks are well screened by mature trees that make the antennae less conspicuous yet still provide reasonable signal access. The tank mounted antennas would be less visible from surrounding properties than a free standing monopole structure. This finding is affirmed.

b) The antenna is the smallest possible while still allowing reasonable signal access

The proposed six panel antennas are each mounted onto the water tank. The antennas would have a maximum height of 43 feet which is one foot below the top of the 44 foot high water tank. This proposal is 16 feet below the applicant's original proposal. The applicant has provided coverage maps showing existing coverage in the City as well as the anticipated coverage with the antennas located one foot below the top of the water tank. The proposed height does not require any variance to be granted and allows the applicant to achieve their objective to provide reasonable signal access for current and future needs. This finding is affirmed.

c) The proposed use will not result in an aesthetically offensive installation, open to public view, due to its location, design, height, color, or method of screening.

The proposed antenna and equipment enclosure have both been designed to have a minimal impact on neighborhood aesthetics with the use of natural and existing colors. There is adequate mature landscaping on the site as well as new tree plantings that will generally screen the wireless facility from surrounding residential properties as well as improve the landscape aesthetics and screening of the entire site. This finding is affirmed.

d) Based upon a review of the submitted information by the Building Inspection Department, the proposed use will not create a safety hazard.

The proposed wireless facility has been reviewed by the Building Department and has not been found to generate any safety hazards. The site is enclosed with a security fence and locked to prevent public access. Additionally, Section 25.7.5 provides authority to impose additional appropriate conditions on a project by project basis to ensure land use compatibility. The following additional conditions apply to this project and would be added to the permit:

1. The applicant may be required to correct any and all future interference problems experienced by neighbors with respect to reception problems caused by this facility.
2. The applicant shall agree to adjust, correct or remove the antennas to the satisfaction of the City of Belmont should the transmission from the roof-mounted antennas interfere with Belmont emergency transmission or communication facilities.
3. If the facility is abandoned in the future, the applicant will be required to remove the wireless communication antennae and equipment from the site.

This finding is affirmed

- e) *Emplacement standards of section 25.5 are met or a variance has been approved for any standard not met.*

The proposed antenna will not be placed within the front yard setback or within 5 feet of any property line and no dish-type will be included in the use permit. This finding is affirmed.

WHEREAS, the Planning Commission has considered the applicant's request for a Conditional Use Permit to allow the installation of four wireless communication antennas and associated equipment sheds and finds that it meets required findings as set forth in Sections 11.5.1 of the Zoning Ordinance as follows:

- a) *The location of the proposed use is compatible to other land uses in the general neighborhood and does not place an undue burden on existing transportation, utilities and services in the vicinity.*

The wireless communication facility, as proposed, is compatible with other uses in the neighborhood. The proposed antennas will be mounted onto existing water tank. A photo-simulation (see Attachment VIII) shows that the proposed antennas would be adequately screened by the large trees on site. Adjacent residential uses would be screened by existing and proposed vegetation, including recently planted trees (currently eight feet tall). In addition, the equipment shelter will be screened from Lyon Avenue by existing shrubs and the existing slatted fence. The ambient noise levels emitted from the equipment enclosure are governed by the City Noise ordinance and are anticipated to be significantly lower than the permitted maximum.

Construction of the proposed wireless communication facility will not place an undue burden on existing transportation, utilities and services in the vicinity since the project only requires on-site visits by T-mobile personnel for regular monthly maintenance of the facility. This finding is affirmed.

- b) *The site is of sufficient size to accommodate the proposed use together with all yards, open spaces, walls, fences, parking and loading facilities, landscaping and such other provisions as required by the Zoning Ordinance.*

The site allows the proposed use to conform to conditions of development as required by the Belmont Zoning Ordinance (BZO). The proposed wireless facility will not infringe upon required setbacks, open space, walls and fences, parking and loading facilities, landscaping and other provisions required by the BZO. The existing landscape, including mature trees as well as new tree saplings, serve as adequate screening materials for the new equipment enclosure, as well as a screening enhancement of the entire site. This finding is affirmed.

- c) *The site will be served by streets of capacity sufficient to carry the traffic generated by the proposed use.*

The proposed use will generate minimal additional traffic in that it will generally involve only limited visits by maintenance personnel. The site is served by Lyon Avenue, which can accommodate the traffic generated by the proposed use. This finding is affirmed.

- d) *The proposed use, if it complies with all conditions upon which approval is made contingent, will not adversely affect other property in the vicinity or the general welfare of the City.*

The conditions of approval of this permit include standards in accordance with the Wireless Communication Ordinance to ensure land use compatibility. Specifically, the facility must comply with the Belmont Noise Ordinance and must continue to comply with the RF emissions guidelines provided by the Federal Communications Commission. A condition stating that appropriate warning signs be posted at the base of the poles and tank access ladder has been included as recommended in the RF report to prevent occupational exposures in excess of FCC guidelines. The proposed wireless communication facility, as conditioned by this permit, will not adversely affect other properties in the vicinity or the general welfare of the City. This finding is affirmed.

WHEREAS, the Planning Commission has considered the applicant's request for Design Review pursuant to the Design Review Ordinance Principles of Section 13.5.3 of the Belmont Zoning Ordinance as follows:

- a) *Review of buildings or structures for scale, mass, proportion, use of materials, relationship to adjacent elements and relationship to the community as a whole.*

The proposed equipment enclosure would be seven feet in height and is considered an accessory structure. The enclosure would be screened by the existing landscaping and property line fencing. The panel antenna would be painted white to match the color of the water tank. The antennas will be located a foot lower than the top of the tank and will have a negligible visual impact on surrounding properties in comparison to the existing water tank. The project complies with this design review principle.

- b) *Review of proposed exterior color and material application with relationship to adjacent architectural or natural elements. The intent with respect to review of color is to avoid the use of extreme color.*

The applicant proposes to paint the antennae white so as to minimize the visibility from adjacent residential properties. The equipment enclosure would be finished in earth tones (matching the existing equipment shelter for the water tank) so as to blend with the natural environment of the site. Neither of these colors is generally considered to be extreme. The project complies with this design review principle.

- c) *Review of the proposed location, height, and materials of walls, fences, hedges and screen plantings to insure harmony with adjacent development or to conceal storage areas, utility installations or other surfacing to prevent dust erosion.*

Landscaping on the project site, including shrubs and tall trees, and existing property line fencing, would effectively insure harmony with adjacent residential development and would adequately conceal the proposed T-mobile installation on the site. The project complies with this design review principle.

- d) *Review of location, size, height, lighting and landscaping of signs as specified in the Sign Ordinance, in relation to traffic hazards and the appearance of harmony with the environment. The intent with respect to review of color is to avoid the use of extreme color.*

Warning signs at the base of the pole mounts and tank access ladder are a requirement for this project and will not be visible to the general public. The project complies with this design review principle.

- e) *Review of site layout considering the orientation and location of buildings and open spaces in relation to the physical characteristics of the site, the character of the neighborhood, the appearance and harmony of the buildings with adjacent development and the surrounding landscape.*

No buildings are proposed for this project. A small equipment enclosure is proposed for an area on the site that is of adequate size and is compatible with other improvements on the site. The equipment enclosure is set back from the front property line a sufficient distance such that it would be minimally visible from Lyon Avenue. The project complies with this design review principle.

- f) *Review of the layout of the site with respect to locations and dimension of vehicular and pedestrian entrances, exits, drives and walkways.*

The entire site is secured from general public access by a locked chain-link fence. The only access is one entrance along Lyon Avenue which has a locked gate. There is adequate space within the secured area for parking of employee vehicles. The project complies with this design review principle.

- g) *Review of site landscaping including adequacy of irrigation plans, size and location of plant materials, and protection of existing plant materials.*

Existing vegetation on the site includes tall mature trees and a row of recently planted trees (currently 8-feet tall) that will provide adequate screening of all facility equipment in the future. The applicant proposes to install additional landscaping on the west side of the shelter to screen the facility from the adjacent residential property. The project complies with this design review principle.

WHEREAS, the Planning Commission finds the applicant's request for Conditional Use Permit is consistent with the required findings pursuant to Section 25 and Section 11.5.1 of the Belmont Zoning Ordinance (BZO) and request for Design Review approval is consistent with the

required principles pursuant to Section 13.5.3 of the BZO. The Planning Commission reviewed the proposed use, site modifications, and landscaping and believes the proposal (as conditioned) conforms to all required standards and is generally compatible with neighboring properties.

WHEREAS, the Planning Commission did hear and use their independent judgment and considered all said reports, recommendations and testimony herein above set forth.

NOW, THEREFORE, BE IT RESOLVED the Planning Commission approves the Conditional Use Permit to allow the installation of six wireless communication antennas and an associated equipment enclosure and Design Review approval to allow the addition of an accessory equipment enclosure on the site at 1906 Lyon Avenue, subject to the conditions attached as Exhibit "A".

* * * * *

Passed and adopted at a regular meeting of the Planning Commission of the City of Belmont held on February 3, 2009 by the following vote:

AYES,
COMMISSIONERS: _____
NOES,
COMMISSIONERS: _____
ABSENT,
COMMISSIONERS: _____
ABSTAIN,
COMMISSIONERS: _____
RECUSED,
COMMISSIONERS: _____

Carlos de Melo
Planning Commission Secretary

EXHIBIT "A"

CONDITIONS OF PROJECT APPROVAL
CONDITIONAL USE PERMIT AND DESIGN REVIEW
1906 LYON AVENUE (APPL. NO.PA2007-0006)

I. COMPLY WITH THE FOLLOWING CONDITIONS OF THE COMMUNITY DEVELOPMENT DEPARTMENT:

- A. The following conditions shall be shown on plans submitted for a building permit and/or site development permit or otherwise met prior to issuance of the first building permit (i.e., foundation permit) and shall be completed and/or installed prior to occupancy and remain in place at all times that the use occupies the premises except as otherwise specified in the conditions:

Planning Division

1. Construction shall conform to the plans on file in the Planning Division for Appl. No. 2007-0006 and date-stamped November 3, 2008. The Director of Community Development may approve minor modifications to the plans.
2. All construction and related activities which require a City building permit shall be allowed only during the hours of 8:00 a.m. to 5:00 p.m. Monday through Friday, and 10:00 a.m. to 5:00 p.m. on Saturdays. No construction activity or related activities shall be allowed outside of the aforementioned hours or on Sundays and the following holidays: New Year's Day, President's Day, Memorial Day, 4th of July, Labor Day, Thanksgiving Day and Christmas Day. All gasoline powered construction equipment shall be equipped with an operating muffler or baffling system as originally provided by the manufacturer, and no modification to these systems is permitted.
3. Signage: A sign shall be posted at the base of the tank access ladder instructing maintenance personnel to contact T-mobile prior to working near an antenna. RF warning signs shall be posted at the base of the tank access ladder.
4. The six panel antennas and all mounting equipment shall be painted white to match the water tank.
5. Prior to issuance of building permits, the property owner shall file with the Director of Community Development, on forms provided by the City, an acknowledgment that he/ she has read, understands and agrees to these conditions of approval.
6. In accordance with the Belmont Zoning Ordinance, the permit(s) granted by this approval shall expire one (1) year from the date of approval, with said approval date indicated on the accompanying Planning Commission resolution. Any

request for extension of the expiration date shall be made in accordance with the applicable provisions of the Belmont Zoning Ordinance.

7. In the event that this approval is challenged by a third party, the property owner and all assignees will be responsible for defending against this challenge, and agrees to accept responsibility for defense at the request of the City. The property owner and all assignees agree to defend, indemnify and hold harmless the City of Belmont and all officials, staff, consultants and agents from any costs, claims or liabilities arising from the approval, including without limitation, any award of attorneys fees that might result from the third party challenge.
8. The applicant shall be required to correct any and all future interference problems experienced by neighbors with respect to reception problems caused by this facility.
9. The applicant shall agree to adjust, correct or remove the antennas to the satisfaction of the City of Belmont should the transmission from the antennas interfere with Belmont emergency transmission or communication facilities.
10. If the wireless communications facility ceases to be used by the current or future operators of the facility, such operators of the former facility shall be required to remove the wireless communication antennae, equipment structure, and all its contents from the site.
11. The applicant shall post these Conditions of Approval and the approved site plans for the approved wireless communications facility use such that it is permanently and clearly visible to all facility personnel.

Building Division

1. Prior to any construction, the applicant or a designated representative shall obtain all of the required building permits for the project. Plans shall conform to approved plans and shall show building materials and color scheme.
2. Post contact information and phone numbers for noise complaints.

II. COMPLY WITH THE FOLLOWING CONDITIONS OF THE PUBLIC WORKS DEPARTMENT:

- A. The following conditions shall be shown on plans submitted for a building permit and/or site development permit or otherwise met prior to issuance of the first building permit (i.e., foundation permit) and shall be completed and/or installed prior to occupancy and remain in place at all times that the use occupies the premises except as otherwise specified in the conditions.

1. Streets, sidewalks and curbs in need of repair within and bordering the project shall be repaired and/or removed and replaced in accordance with the Department of Public Works approved standards. Photographs or video of before condition are recommended.
2. New curb and gutter shall be installed in accordance with the Department of Public Works approved standards.
- B. The following conditions shall be met prior to the issuance of the first building permit (i.e., foundation permit) and/or site development permits except as otherwise specified in the conditions.
 1. Property owner/applicant shall apply for and obtain a grading permit from the Department of Public Works. The grading permit fee is based on the total amount of earth moved including cut and fill.
 2. Verify location of utility meters, valves, back flow preventers, and hydrants with appropriate utility company. Show relationship of each to site improvements, such as retaining walls.
 3. The property owner/applicant shall apply for and obtain temporary encroachment permits from the Department of Public Works for work in the City public right-of-way, easements or property in which the City holds an interest, including driveway, sidewalk, sewer connections, sewer clean-outs, curb drains, storm drain connections, placement of a debris box.
 4. The owner/applicant shall submit a grading plan prepared by a California-registered Civil Engineer in accordance with City Grading Ordinance, Chapter 9, Section 3 of the City Code, with a grading permit application, for approval by the Department of Public Works and Building Division prior to any grading or clearing being performed on-site.
 - a) The applicant should note that if the proposed grading meets one or more of the criteria outlined in Section 9-23 of the City Code, a Planning Commission review will be required. Caution: If the total grading quantity changes after Planning Commission approval, a new grading approval may be required. The applicant may choose to complete the grading plan and calculations early in the planning process to limit delays in scheduling this review. The plan shall incorporate the following restrictions:
 - b) All soils stockpiled on the site during construction shall be covered or otherwise protected from wind and water erosion.
 - c) During construction, erosion and sedimentation control plans shall be implemented in order to retain sediments on-site.
 - d) Site grading and finished construction shall be designed and executed in such a manner as to avoid diverting runoff onto other properties.

- c) Restrictions and recommendation of the Geologic and Soils report as approved by the City's Geologist.
- C. The following conditions shall be met prior to occupancy except as otherwise specified in the conditions.
1. After the City permits are approved but before beginning construction, the owner/applicant shall hold a preconstruction conference with Building and Public Works Department staff and other interested parties. The developer shall arrange for the attendance of the construction manager, contractor, and all subcontractors who are responsible for grading and erosion and sedimentation protection controls.
 2. Failure to comply with any permit condition may result in a "Stop Work" order or other penalty.
 3. Grading shall be performed in accordance with the City Grading Ordinance, Chapter 9 of the City Code. Soil or other construction materials shall not be stockpiled in the public right-of-way unless an encroachment permit is obtained from the Department of Public Works. Grading shall neither be initiated nor continued between November 15 and April 15. Grading shall be done between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday unless otherwise specifically authorized by the Director of Public Works. The Stormwater Pollution Prevention Program Best Management Practices (BMPs) for construction shall be implemented to protect water quality.
 4. The owner/applicant shall ensure that applicable Best Management Practices (BMPs) from the San Mateo Stormwater Pollution Prevention Program (STOPP) are followed to prevent discharge of soil or any construction material into the gutter, stormdrain system or creek.
- III. COMPLY WITH THE FOLLOWING CONDITIONS OF THE BELMONT-SAN CARLOS FIRE DEPARTMENT:
1. Maintain vegetation: cut and remove weeds, trim overgrown shrubs, and maintain tree limbs at least three feet from any equipment as well as power lines.
 2. New fire extinguisher required. Mount fire extinguisher near proposed Telco panel (Equipment Room). (3A:40B:C – rated)
- IV. COMPLY WITH THE FOLLOWING CONDITIONS OF THE POLICE DEPARTMENT:
1. All activities shall be subject to the requirements of the Belmont Noise Ordinance.
 2. No debris boxes or building materials shall be stored on the street

3. Flag persons shall be positioned at both ends of blocked traffic lanes.
4. 24-hour written notice to the Police Department is required before any lane closure.

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|---|------|
| Certification of Approved Final Conditions: | |
| | |
| Jennifer Walker, Associate Planner | Date |