

MINUTES  
REGULAR PLANNING COMMISSION MEETING  
CITY COUNCIL CHAMBERS  
1 CIVIC CENTER DRIVE  
SAN MARCOS, CALIFORNIA  
TUESDAY, SEPTEMBER 3, 2013 - 6:30 PM

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CALL TO ORDER

At 6:34 p.m. Chairman Nelson called the meeting to order.

PLEDGE OF ALLEGIANCE

Commissioner Kildoo led the Pledge of Allegiance to the Flag.

ROLL CALL

The Secretary called the roll:

PRESENT: COMMISSIONERS: FLODINE, JONES, KILDOO, MAAS, NELSON,  
NORRIS, SCHAIBLE

ALTERNATE COMMISSIONERS IN AUDIENCE: CHINN

ABSENT: MINNERY

Also present were: Planning Division Director, Jerry Backoff; Principal City Engineer, Peter Kuey; Deputy City Attorney, Avneet Sidhu; Office Specialist III, Lisa Kiss, City Telecom Consultant, Jonathan Kramer

ORAL AND WRITTEN COMMUNICATIONS

Michael Hunsaker, resident: Discussed recent branding operation for North County & the Hwy. 78 corridor cities. Indicated he is very concerned about inclusion of Indian casinos as being something we want the City branded with, directly or indirectly.

Nelson: Commented that he was involved with one of the meetings and didn't hear anything about an Indian Casino.

Hunsaker: Looked at EDC website and it mentions coordination and part of the Northstar work would be with the Indian Casinos.

Kildoo: EDC has no more control of the process than he or Commissioner Nelson does. They're just a participant for input as everyone else is. The process is being done by a branding organization at the request of the five cities. They're bringing in individuals with different backgrounds from up/down the 78 corridor to establish what branding might be and how it can be effective to bring in business. Indicated while he was there the Indian Casino's never came up.

Hunsaker: Northstar was looking into it. Want to make sure it is not seriously considered as part of what we want in San Marcos.

## CONSENT CALENDAR

### 1. APPROVAL OF MINUTES, 6/3/13

#### Action:

COMMISSIONER KILDOO MOVED TO APPROVE CONSENT CALENDAR AS PRESENTED; SECONDED BY COMMISSIONER JONES AND CARRIED BY A UNANIMOUS VOTE.

## PUBLIC HEARINGS

### 2. **Case No:** CUP 12-004 / ND 13-006 (P12-0023) *(continued from 8/19/13)*

**Application of:** AT&T Mobility, LLC

**Request:** A Conditional Use Permit to allow the installation and operation of a wireless antenna facility including ground-mounted equipment inside a new 240 square foot equipment building and a 35-foot tall mono-tree with 12 panel antennas (designed to resemble a pine tree) at an existing single-family residence within the Agricultural (A-1) Zone.

**Location of Property:** 2080 Golden Eagle Trail, more particularly described as: The West 417.42 feet of the South 1/3 of the Southeast quarter of the Northeast quarter and the West 417.42 feet of the North 626.13 feet of the Northeast quarter of the Southeast quarter, all in Section 27, Township 12 South, Range 3 West, San Bernardino Meridian, in the County of San Diego, State of California, according to Official Plat thereof. Assessor's Parcel No.: 679-040-01.

Backoff: Indicated it would be a two-part presentation. Introduced Mr. Kramer of the Kramer Firm, the City's expert on wireless communications. Mr. Kramer is a telecommunications engineer, with over 35 years of radio frequency engineering experience. Works for jurisdictions around the country. He holds multiple Federal Communication Commission (FCC) Radio Engineering licenses and co-authored & edited the FCC's National Radio Frequency Safety Guide for local governments. He's presently revising & expanding the Guide for release early next year. He's also a practicing Attorney in CA. He advises City's on telecom/wireless legal matters. He'll add to Staff's presentation regarding the details of radio frequency safety considerations according to law, duties of the City and facts specific to the project.

#### Staff Presentation (Sean del Solar):

Described request and location. PowerPoint presentation shown. Requesting CUP to allow a 35' tall faux tree wireless telecommunications facility at a residential Agricultural A-1 property, south of San Elijo Road in the Questhaven La Costa neighborhood. To the north and west is San Elijo Hills SP area, and to the south is unincorporated County. Discussed background: In Nov. '08, AT&T submitted an application for installation at

850 Deadwood Drive. At the 3/1/10 Planning Commission meeting, the item was continued so the City could conduct a public workshop. The workshop was held on 5/12/10. A subsequent hearing was held 6/7/10 and the project was again continued so the applicant could explore alternative sites. Five alternative sites were considered by the applicant and reviewed by Mr. Kramer. The Golden Eagle Trail site was included, as well as Fire Station #4, two residences on Bella Vita Way and a location on Frank's Peak. In April '11, the Deadwood Drive application was withdrawn. On 12/18/12, AT&T submitted a new application for Golden Eagle Trail. Displayed AT&T coverage maps, existing & proposed (prepared and submitted by applicant). The proposed 35' monopole will be disguised as a pine tree and constructed 25' south of an existing T Mobile monotree, along with a 240 s.f. equipment enclosure similar to other agricultural buildings in vicinity. Photo simulations shown. Wireless facilities are allowed in Agricultural A-1 zone with approval of a CUP. It's not located within the Ridgeline Overlay Zone. There is a Sprint facility southeast of the site at 21247 Questhaven Road in unincorporated area. Access is provided by private roads. Applicant would repair any impacts to the road during construction. Any post construction impacts to the road would be mitigated through on-going maintenance by property owners. Applicant has agreed to participate in future private road maintenance by residents. Discussed public notice mail out dates to the 500' radius area. Comments received were general information inquiries with the exception of the Walton letter regarding road maintenance on Attebury Drive. In response to a second notice, the City received inquiries from Golden Eagle Trail residents and met with them on 8/28/13. The meeting included the applicant, staff and Mr. Kramer. Residents expressed concerns with visual impacts associated with 2070 Golden Eagle Trail and radio frequency emissions. The applicant prepared a photo simulation from the resident's second-story balcony. (Photo simulation shown).

Mr. Kramer: Indicated his background is radio frequency/telecommunications engineer. Has been working for the City as a technical advisor for over a decade reviewing wireless projects to make sure they are designed to operate within FCC rules. Congress delegated sole national authority to the FCC to create a standard body of rules and set RF emissions safety standards (Telecom Act of 1996). It's applicable throughout the U.S. FCC set standards based on input from various government agencies and private entities that included health experts. They also developed a guideline on how to interpret their rules from an engineering standpoint. That is what is applied when reviewing City projects. FCC is presently reviewing its RF emissions standards. If changed, all licensees must comply as required by the Commission. It's an area of federal preemption. Explained FCC rules. Trying to protect by point of measureable physiological change (temperature rise). Cell phones operate on frequencies that are close to those used by microwave ovens. Discussed 50% margin. Cell phone towers operate at a fraction of the level. As power travels, it spreads out and gets lower. You must look at cumulative power within proximity of area. Also took into account the co-located T-Mobile site because it has the greatest potential to contribute for a cumulative purpose. The residents at the meeting raised issue of a Sprint site on Attebury & Questhaven. That site was then reviewed as well. There's over 1,000 feet difference and it is 98 feet lower in height, so it's not an issue. The conclusion is that the site complies fully as proposed with the FCC rules. Because of the preemption issue, that cannot be a part of the Commission's consideration of the project. To do so would jeopardize the City's position under Federal law.

Nelson: Asked why the cell antenna items go to Planning Commission if they're not able to do anything about them?

Kramer: There are always aesthetic issues. Some projects require special conditions to comply, such as those located on top of occupied buildings. This one area is cut off from the Commission's review. Indicated he cut it off because as the City's expert, it was determined it complies. There are other areas that can be reviewed, aesthetics & code compliance, so it serves an important public purpose.

Nelson: Inquired if there's a RF frequency difference between cell and data?

Kramer: There used to be a frequency difference. Under 4G and beyond, a packet of information can carry a part of a phone call or part of an internet page. There's a merger that has happened under 4G of data and voice. It used to be separate.

Flodine: Asked the estimated schedule for new FCC report?

Kramer: Comments are closing this week on the first round from the public. Estimate the FCC will act in early Spring.

Flodine: Asked if Public draft has been released?

Kramer: Yes. The draft focused more on handsets/cell phones. As point sources of radio frequency, it's much higher. It's closer to the body and has a higher impact on humans because of proximity.

Flodine: Asked if he's read the report and are there any proposed changes regarding changes to RF level?

Kramer: Indicated he has read it. The FCC is not proposing changes to occupational standards. They've invited the public to provide technical information. The FCC thinks the standards are correct now, however, if given scientific data and could support, they'd consider it.

Nelson: Inquired if there are any clearer tower photos?

Del Solar: Will show later.

Nelson: How close to Ridgeline Overlay Zone?

Del Solar: The hill was not identified as ROZ. Additional public comment was received and those letters & e-mails were supplied to Commission tonight. Applicant must plant five trees around site to enhance the camouflage, mitigate biological impacts prior to construction, mitigate impacts to private road after construction and submit RF analysis report within 6 months of final inspection. Term would be 10 years. Staff recommends approval of Mitigated NegDec and CUP based on compliance with the Federal Telecommunications Regulations.

Schaible: Asked if lack of the tower would result in absence of emergency personnel?

Del Solar: The service area could potentially be interrupted.

Backoff: Emergency services don't rely on this particular carrier specifically. The big tower on top of ridgeline has a lot of County emergency facilities and antennae's.

Schaible: Asked if an AT&T customer with a 911 call could get through?

Backoff: The map has indicated there's a gap in coverage.

Maas: Once towers are installed, can they be modified if FCC changes the rules?

Kramer: Equipment is remotely monitored and controlled by a network operations center. They can and often do lower power. As more cell sites come on line, they lower average power so as to avoid interference.

Norris: Commission has asked before for something other than pine trees. They really don't fit into SoCal. Maybe a rock or windmill? Asked if anything else was considered?

Backoff: There are different options and types of trees. There was pine trees planted on the west side of San Elijo Hills. A windmill or water tank would fit better in an agricultural area. Staff thought the pine faux tree would be most desirable.

Flodine: Asked if there are zones where they're permitted by right?

Backoff: Yes, City right-of-ways, Commercial/Industrial as long as they're disguised or concealed. They're approved through an Administrative process.

Flodine: Asked if there are more conditions placed on this project than if located in a zone allowed by right?

Backoff: More scrutiny because any residential application must go through Planning Commission.

Nelson: Inquired if any in the City has had to be shut down for non-compliance?

Kramer: No.

Nelson: Commented that he was looking at a Real Estate site where you can view various positive/negative things in a community. He entered the site address and found 25 FCC towers within 10 miles. Asked if it includes emergency and ham radio?

Kramer: Immediate area has antennae's for water system and includes amateur radio licenses. It speaks of licenses not structures.

Nelson: It said not all towers must be registered in the FCC data base.

Kramer: Correct. Cell phone towers are only registered if they are near each other and operate under same frequency. That is for interference complaint issues. Majority of cell sites are not registered with the FCC. The State of CA requires notice be given to

the Public Utilities Commission of cell sites. Last he checked, they were about 5 years behind in updating of the map. State record is available but it's not reliable.

Nelson: FCC monitors but doesn't know how many there are?

Kramer: FCC monitors the sites that are on the edges of networks. They require registration but don't actually monitor them. The purpose is so that if there's a problem with interference between two companies on same frequency they can more rapidly resolve it.

Nelson: The agency that says we can't ask questions doesn't know where they are?

Kramer: The agency that regulates it basically says, this is the national rule, you must comply and if we determine you don't, you're subjecting your license to enforcement action.

Nelson: So they don't know how many there are?

Kramer: No, they don't.

Jones: Asked why the other sites were not chosen?

Backoff: Applicant can answer.

## **OPEN PUBLIC HEARING**

Ted Marioncelli, PlanCom Inc., Applicant's representative, not a resident: They believe this is a good project, in the right place, well designed and landscaping will mitigate visual impact. They like the mono-pine design because they last the longest, weather well, are easy to maintain and look better longer. The antennae socks add to the foliage and look fuller. From a distance they look real. If an AT&T subscriber had to call 911 in this area, they probably wouldn't get through. There's a significant gap in coverage here. Coverage objective is Twin Oaks Valley Road and surrounding community. To the west in San Elijo Hills, is probably without AT&T cell coverage. AT&T looked at alternate sites three years ago for another site proposed at 850 Deadwood Drive. There were three to four times the numbers of residents in the audience against that project. They asked us to look at this site and it seemed to fit the coverage needs. AT&T engineers preferred the Deadwood site. There was a neighbor right next door in that case. Have to do what is realistic. The neighbor's here are a significant distance away, over 300-600 feet, and it's a safer location.

Nelson: Inquired why this is a safer location?

Marioncelli: If they're concerned with RF frequency, it's much safer. As long as AT&T builds a site that complies with FCC rules & regulations, they've met their licensing requirement. They're also concerned with public opinion. It's as safe a site as you're going to get. It's probably further away from any house than many others in the City that are already approved. Some of those are on public property.

Nelson: Asked about road maintenance participation and if it's long-term?

Marioncelli: AT&T will participate in road maintenance through their landlord. Offered to have written in the lease.

Backoff: AT&T is conditioned to repair the damages created by heavy equipment coming in to establish the site, but not long term.

Mr. Michael Hunsaker, resident: Member of Twin Oaks Valley Property Owner's Association and regularly attends the Twin Oaks Sponsor Group meetings. Indicated they've gone through about four cell tower applications. As far as RF frequency goes, this is probably the best antennae and power analysis he's seen. Impressed with the safe guards, if the FCC changes their minds, they'd reevaluate the operating conditions. Concern they have is that the two closest neighbors to the I-15/Deer Springs cell towers both have rare cancers, so there is heightened sensitivity. The tree design should be less symmetrical. It looks like a telephone pole with branches. CFD fees look low. Asked why no congestion management fee? Discussed Katrina and rule changes as a result of it. Cell tower operation when dependent on utilities was badly disrupted. It greatly impacted citizens & local efforts for relief. The FCC made a regulation requiring backup generators for cell towers. Zoning & operation conditions complicate that. There's no power backup for this site. Almost all generators are diesel, noisy; require bi-monthly maintenance and rotation of diesel fuel. Asked if there is power back up, or, do they go blank during an earthquake?

Mr. Kramer: The FCC rule on standby power was one of the very few rules that were never permitted to go into effect. The Office of Management & Budget determined the FCC's process didn't comply with Federal Procedures Act, so there are no standby power rules. Cell tower sites are automatically equipped now with battery backup that runs for 4-8 hours. Any longer or planned outages can be powered up through an external generator. This site has standby battery power.

Nelson: Asked reason for that?

Kramer: Most outages don't last very long. AT&T is employing fuel cells now which are silent and use hydrogen. They're looking for quieter solutions.

Norris: Generators have to go through Air Pollution Control District. It would change the NegDec.

Kramer: Don't know.

Constance Signorino, resident on Golden Eagle Trail: Indicated she has many questions: 1). When the City's RF expert, Mr. Kramer, was asked at a meeting they all attended, to confirm that this cell tower is safe, he didn't respond. 2). Why is the proposed AT&T cell tower already on the approved, active cell tower list for San Marcos? 3). Didn't City Planners tell residents of Questhaven Hills that they're in the process of determining where the active cell towers are in San Marcos? 4). How can they recommend adding this cell tower when they don't have an accurate listing of existing cell towers? 5). Why didn't the City conduct a public hearing prior to recommending the second cell tower be approved? 6). How many times did the City meet with AT&T, their representative and the property owner? 7). How many times did

City meet with the residents? 8). Is it fair to have not provided residents most negatively impacted the same meeting opportunities? 9). Isn't the proposed second tower just the beginning of more to come? 10). Is it true that Verizon is in talks to also be at this site? 11). Aren't there plans for the maximum allowable cell towers at this site? 12). Why hasn't the City provided residents the complete picture? 13). How many other City's allow multiple cell towers just 300-400 feet from a neighborhood with families and children? 14). Does Carlsbad or Rancho Santa Fe do this? 15). Will the City measure RF emissions at each of the locations when both cell towers are operating? The existing T Mobile site is pointing at homes on various streets. 16). Will the City provide the residents quarterly updates on RF emissions? 17). Will the City provide how the cumulative measurements compare against U.S. and international standards, including Italy, Russia, China and India? 18). Will City prepare a comparison chart of national and international safe residential distance recommendations? 19). Why did City only send notices to homes within 500 feet?

Nelson: Appreciate all the questions, but it may be impossible to answer every one. Don't know what other Cities, India or China do.

Signorino: Can provide the questions in writing, to be answered.

Nelson: Many questions were answered in the Staff Report. Don't know if Verizon is coming to the site.

Signorino: Indicated they were told the 8/19 meeting was delayed because the property owner was in talks with Verizon to also locate at the site. The bigger picture is what are the plans at that site?

Mr. Kramer: Indicated that Ms. Signorino did ask him if he could guarantee safety. Any competent health physicists or attorney are not going to guarantee, because we don't know what causes things. The "Is it safe" question is answered for us because the site complies with FCC rules and beyond that we don't get into the question. The Public Records Act request provided by her asked for all cell sites in the City. The City over-included, giving all approved, pending and current applications. It was clarified to her at the meeting. It was clear that the site was not approved and was subject to Planning Commission approval, and if appealed, would go to City Council for approval. Regarding the 8/19 delay, Verizon indicated some interest in the property. There is no application, they asked about combining sites, that's one of the reasons why it was postponed. As recommended by City Attorney's office, City wanted to make sure AT&T had its rights (Federal and State) protected, so they recommended the hearing occur now because it's a live application and Verizon's is not. If Verizon submits an application, it would also go to Planning Commission. Evaluation would occur. Carlsbad has permitted cell sites on top of private homes. There was an AT&T site that was subject to litigation which they won. Rancho Santa Fe allows them adjacent to homes and much closer than this one.

Signorino: Asked why notification only went out 500 feet?

Nelson: It's common practice in the City.

Signorino: Asked if the list included active applications?

Kramer: The list provided to the speaker included all, even those not yet approved. City is guilty of over-inclusion.

Nelson: She was concerned because it was already on the list.

Backoff: Ordinance requires cell sites in residential zone be approved by Planning Commission.

Del Solar: It was a clerical error.

Kildoo: Inquired if there's a cumulative RF effect when there's more than one antenna at one location?

Kramer: Yes and it's taken into consideration. When the speaker informed us of the County cell site, that we wouldn't normally have a record of, an additional analysis was done. It's important to us.

Kildoo: Verizon site would be looked at as well as these?

Kramer: Yes, including the Sprint site in the County.

Nelson: Commented that it's frustrating that there isn't a list showing all cell sites in the City and even within 20 miles in the County.

Kramer: From RF standpoint, the normal maximum cumulative for high powered sites, and these are not, is about 75 feet of overlap. Two sites within 75 feet, operating at very high power levels, you could have some cumulative. As it spreads out, average power decreases rapidly. That's why they can be located close to each other.

Nelson: Would like to see a map with all cell towers & carriers in City and County. Years ago, they wanted to co-locate on same pole.

Kramer: It's happening more now. There was a change in Federal Law as part of the middle class tax relief act that the President signed into law. It took away powers at the City to deny co-locations on existing sites. Cell companies are incentivized to co-locate because they get more rapid approval.

Charles Brischler, resident: Original owner of home located in the cul-de-sac near the tower. He's concerned about health issues and property values. There are lots of small children outside playing. Not sure if they're required to disclose tower to potential buyer. It may affect value just because of perception. Asked how disclosure affects property values?

Kramer: The City and City Attorney's office cannot give legal advice to residents about what has to be disclosed and not. It's typically done through forms by selling real estate agents. It's common to provide information because there is interest in it. Property value questions come up frequently at hearings. Some courts say real estate experts can provide expert testimony and some say you need to have a certified appraiser

experienced in the area. It's an issue outside of the purview here, because the City doesn't have a property value protection ordinance.

Brischler: When you're selling, it's all perception.

Nelson: Asked if the tower was there when they bought?

Brischler: No, was not told about it or this one. They're probably 501 feet away.

Nelson: Asked if there was a reason why the radius area/list wasn't expanded?

Backoff: Code requirement is 500'. Used same distance previously used on T-Mobile and didn't have a lot of residents show up.

John Signorino (in audience): Commented that there is a form and you must declare nuisances.

Brenda Christmas, resident on Deadwood Drive: Despite mounting evidence from the scientific community that microwave energy emitted from cell towers is harmful to humans and wildlife, telecom companies are increasing the number of towers to be built throughout the nation. The internet has a vast amount of information describing health & environmental hazards incurred due to electromagnetic radiation. To this day, the Telecom Act of 1996 stifles the power of local government agencies to reject the construction of towers based on environmental issues. Communities are forced to find reasons other than health-related issues in order to prevent the high-frequency radiation from the towers. It's especially relevant when constructed near homes, schools, park and wildlife preserves. Asked if the City posted the notice where residents most impacted would see it? Indicated it was posted near their mailboxes where there are 12 residences. No one in San Elijo saw it and was not aware the tower was being constructed. It was unfair and sneaky to put it there and not notify all those people. Asked why it wasn't posted on a public road near those residences where everyone could see it? Italy, China and Russia have safe RF exposure limits, substantially less than the U.S. Asked if City will send cumulative RF rating to the residents of San Elijo Hills and Questhaven Hills for the three towers in the area vs. the U.S./International standards? She's also worried about electrical power towers. Are those figured in with other RF's? Is concerned about another Verizon tower. She believes AT&T tower is already operating. Indicated she has an AT&T cell phone and can drive over the mountain and it works now, where it didn't two months ago. Asked if the big power stations emit electromagnetic fields?

Nelson: Commented that everyone is probably part of the problem of why we need more cell towers because we all have cell phones.

Kramer: The FCC has authority to establish standards for power lines, but has chosen not to because of the very low frequencies. FCC is most stringent on that band of frequencies that are most easily absorbed by the human bodies. The power towers are at the lowest end of the frequency. They don't feel regulation is necessary. Because they have preemptive authority, the City cannot create its own rules in that regard.

Nelson: Asked if they're cumulative?

Kramer: When doing the evaluation, you look at all possible transmitters that can have a cumulative effect, no matter the frequency they operate on. It goes into a formula that the FCC generated long ago, to determine whether the site complies. The power towers are not included because there's no regulation of them.

John Signorino (in audience): Commented that they found the CA Real Estate form.

Kramer: The Association of Realtors form requires disclosure of cell towers. They are concerned about not disclosing as much as possible so they aren't set upon a claim of failure to disclose. They choose to call it a "nuisance." The fact that the question appears on a form, as a private contract which is what it is, it's not subject to City's purview and is outside the City's authority to consider.

Nelson: Asked if it's a state regulated form, or realtor's?

Kramer: It's a standard form used in real estate transactions. Indicated he is not giving legal advice other than just talking about general principals of law. A property owner must disclose known nuisances. Normally a nuisance is talked about in a different way.

Flodine: Asked if there's a certain distance noted on the Seller's Disclosure form?

Kramer: It's open-ended. What is the perception of the buyer? The form is used to protect the seller and seller's agent from the claim that something wasn't disclosed.

Del Solar: There is no distance noted.

Mr. Eric Clifton, resident on Golden Eagle Trail: Has worked in land development for last 18 years, sat on the National board for U.S. Green Build Council, helped write the LEED for Homes Guidelines and helped establish LEED for neighborhood communities. His house has been 10 years in planning, 8 years in build and probably has 5 years to go before completed because it's a series of experiments to try to understand the health impacts on the occupants, but also looking at building types and technologies that can enable a sustainable house. His work as Vice President of Sustainable Business Development for Newland Communities was to look at impacts in neighborhoods and sustainable technologies that could profit the developer and the community for years to come. The house they've built has everything, from RF shielding, clay walls, no forced air or paint. Have done everything they could to minimize impacts of the environment because of health issues/auto immune that he has suffered for 13 years. House foundation was laid when the T Mobile site went in. Indicated he came to the City then and was asked if it was in their sight line or if noisy? If not, they basically had no say. He was traveling at that time, not home a lot so had to let it go. Asked Commission why we're here and even doing this? The reality is because of FCC rules we can go pound sand. The City Council can't take into consideration property values or anything else. In a meeting last week, he was told view and sight line has no relevance either. He asked Mr. Kramer to understand the cumulative effects on their property. They are in the middle, 500' from proposed tower and the Sprint/County tower. Mr. Kramer cited the cumulative effect at the Brandon's house at 2080, not theirs, so his assessment is skewed. Asked if anyone from City Council is present?

Nelson: No. This is Planning Commission and Council should not be here.

Kildoo: Because it could go to them later.

Mr. Clifton: Rancho Santa Fe has an ordinance and put a moratorium on any cell towers on & near homes. It's not okay there, maybe the outlying areas but not the covenant proper. The sign was posted on a private road in a corner. Only three of us saw it. Sign should have been more visible. We're setting precedence that it's okay to put these within 500 feet of someone's home. When the Deadwood site was denied, it was proposed that there'd be a governing ordinance in San Marcos about what's proper and what is not. He's proposing putting a moratorium on them near residential homes until that decision can come to a head. They requested a different meeting date. There are a lot of people who couldn't be here because it's a holiday week.

Nelson: Deadwood wasn't denied. It never came back to Commission.

Clifton: AT&T withdrew it because of residents concerns.

Elliott Herman, resident on Antila Way: Currently there is one cell site. Asked if the new tower provides service all through San Elijo and down Questhaven? How many pods on the T Mobile site?

Kramer: Don't have that information

Herman: It appears the new tower will be larger with more pods. Power is going to be triple now. Think it will run at full power because there's no other AT&T tower nearby. We'll be fried because we're closer. They move everything around to keep the public from voicing opinions. The Commission is our only help.

Nelson: You can appeal to City Council.

Herman: Planning Commission is our first line of defense and should say this is not the place to have it. It should be at fire station, which is a better location and the City would benefit from money involved. Asked what City does in terms of on-going monitoring of the RF that local residents are exposed to? Is there any? Understand that when it's set up it's supposed to work, but it could need adjustments. This whole process is unfortunately a charade. There isn't much you can do about it. There should be a rule that they're 1,000 feet away from anyone's house. They need to be up and away from everyone. They'll still work. He has a cell repeater in his house that goes through the internet because he has Verizon who has no nearby towers. His cell phone works in the house. There are solutions. To put up something that will fry us is not the answer.

Nelson: Asked why he thought it would fry him?

Herman: All the indications, other countries have much lower standards. It's a bought deal. Asked if he'd want to buy a house that has two possibly three towers within 300 feet?

Nora Logan, resident on Deadwood Drive: Was originally going to discuss health issues, and that the World Health Organization reverses position in 2011 about that cell phones

are carcinogenic, but health issues have been discussed earlier. 1). When City sent the Notice of Intent to Adopt a Mitigated NegDec, how many responses were received? 2). How many were sent out? 3). What percentage knew what this document was? 4). Isn't this prepared when there is no substantial evidence that the project or any of its aspects can result in significant adverse impacts? 5). Why did City tell them this? 6). Does City believe that residents believe there are no adverse impacts to their health, children's health or property values? 7). Why is it that only the Brandon's benefit from cell tower payments and everyone else stands to lose, health concerns, property values and future disclosure if they sale? 8). How many Commissioner's would buy a home near towers? 9). If approached by a cell company, would you okay a cell tower next to your home? 10). At the previous Deadwood Drive application that was withdrawn, the resident most impacted had AT&T service and he drove up/down San Elijo & Twin Oaks Valley Road, over the hill and had 4 bars. The argument that it's needed for emergency calls is hogwash. 11). The notice was on a private road, clearly marked no trespassing, private road. That is why San Elijo residents didn't know about it. It should have been posted on San Elijo Road.

Nelson: Asked if they typically put just one sign up?

Backoff: Yes, they try to put it in the most visible place. Notices did include approximately 60 San Elijo residents within 500 feet.

Doug Logan, resident on Deadwood: Moved in about 9 years ago when the T Mobile tower went up on the Brandon's property, the same people who are putting the second tower up. Mrs. Brandon is experiencing a lot of health issues right now. Maybe it's a coincidence, don't know? Indicated he is a Civil Engineer and likes to look at what is actually happening. Many other cities/counties don't allow towers within 500 feet. Curious why fire station wasn't an alternative? How much coverage difference between the two? Have heard they don't want them on fire stations because they disrupt sleep patterns. The structure doesn't look like an agricultural building. It stands out. Asked Commissioner's if they'd buy home near cell tower? There's negativity and perceptions out there. It will definitely affect property values. The private road is in constant need of repair. Two recent single family homes had to do significant road improvements. He can't understand why cell companies don't have to improve the road. Fire wants 24 feet of access. Let City Council decide this. There's opposition, missing information and it should be noticed again.

Nelson: Asked if it would be noticed again if appealed to Council?

Backoff: Yes.

Nelson: 500 ft?

Backoff: Would probably go further out now.

Logan: It needs better signage also.

Kramer: Fire Station #4 is the backup emergency operations center for City. City has been approached to lease it, but have not been able to come up with a plan that protects the EOC function and meets the needs of the wireless carriers. City can't compromise

the backup EOC and needs to protect the community. Each proposal that has come in has in some way diminished the security.

Nelson: Where is school district looking to build new school?

Backoff: South side of San Elijo Road.

John Signorino, Jr.: Declined to speak.

Carl Wong, resident in cul-de-sac: He is concerned about property values. Want to ask about coverage. Just checked internet and it shows moderate voice coverage, and 4G & 4G LTE coverage? Asked what the additional tower is supposed to help? Asked about 911 calls? Can't you get through with a roaming partner? T Mobile site is already there. Think their service bands are compatible. Asked if tower is really necessary? Is it solving a gap?

Kramer: Indicated he has served as expert witness in case after case, and has learned that the personal coverage check maps/on-line maps, are not accurate. They always have a footnote that says "this is not guaranteed." Can't tell you how they are produced because he is subject to court orders as to method, but the carrier's maps are general and do not guarantee coverage. Those maps don't talk about the band of service. AT&T has licenses to operate on four bands. They have license right to operate on all bands in the licensed areas. If cell phone isn't registered to a particular company, it can activate 911 on any network it hears. It's more difficult for a registered phone in a low signal situation and much easier for an un-registered phone. T Mobile and AT&T have had agreements to allow roaming. You're not aware because it won't say on the phone. They trade minutes between each other. Not sure if it's the case here, but it's commonly done to allow service until they can build their own site.

Mr. Wong: Asked what bands aren't being serviced? Is there a minimum service coverage requirement? Is this particular area already meeting that? How big is the gap?

Nelson: Commented that he has AT&T and doesn't get service over the hill.

Wong: It happens on any mountainous area.

John Signorino, resident: Documents/pictures shown: 1). A local physician's position on health issues. 2). The City Notice. He was told the City only received four responses. Feels that people didn't know what Notice was, some didn't get it and that's why they aren't at the meeting. 3). A picture of where the notice is posted vs. the cell tower. 4). The private road with "No Trespassing" sign. This is the road you'd have to go on to see the sign. Three homes are on the street and no one in subdivision would ever go down the road. 5). Three cell sites shown. Asked if Mr. Kramer took readings between those homes? 6). Direction of where it's going. 7). Cell tower list that the City provided. The City advised they would not have an updated, accurate list today, didn't know where all the cell towers are and they're asking Commission to make decision today. Asked for an updated, accurate list? 8). Asked why the original site was rejected? It's a better site, not around a development and less people. Read the City's Mission Statement. Asked if it provides a safe family atmosphere? Will this enhance your property values? Did

City do a good job of informing people that multiple towers are going in 400 feet away from their homes? Did City inform residents that they'd have to disclose if they sell their home? Should City have a cell tower ordinance, this one included, prohibiting cell towers within 1,200 feet of people's homes? Did City Planning Division and Commission properly do its due diligence? Was City open, honest, fair and as transparent as they should have been? Were residents being treated fairly? Indicated they will appeal.

Norris: Asked him to point out his residence.

Signorino: Pointed out, about 470 feet from tower.

Nelson: Asked if they were approached by a company for their land?

Signorino: Yes, and they turned them down based on health issues plus they knew the neighbors were talking to Verizon.

**~ 10 MINUTE BREAK ~**

## **REOPEN PUBLIC HEARING**

Ted Marioncelli, Applicant's representative: There's an 8-hour battery backup, with the ability to hook up a standby generator. Apologize for the sign. Thought it was in an obvious spot. Will re-sign it at any location requested if it's appealed. Discussed coverage map. Three years ago, when trying to locate, AT&T had a specific roaming agreement with T Mobile to cover the area. That is why there is coverage in that area. That map may have been based on the roaming agreement. The agreement no longer exists.

Wong: Not true (from audience).

Marioncelli: The roaming agreement doesn't exist. Not sure what the map shows on internet.

Nelson: Asked if website needs updating?

Marioncelli: Yes. AT&T also has a site at the ball field on Schoolhouse Way.

Nelson: Where located?

Marioncelli: 3<sup>rd</sup> base line, a light standard.

Nelson: Asked if they'd have objections to expanding notification to 1,000 feet and posting multiple signs if appealed?

Marioncelli: Would do whatever is required.

Nelson: Inquired about an agreement for maintenance of the roads?

Marioncelli: They don't have an organized road maintenance authority, but could work something out.

## **TERMINATE PUBLIC HEARING**

Flodine: Asked if the Notice goes on or near the project site?

Backoff: Yes.

Flodine: Commented that no one would have seen it if located on-site. Asked if the public notice that was mailed out went to the end of the cul-de-sac?

Backoff: Showed public notice radius area for San Elijo. It included 60 in that area.

Flodine: Looked at the Public Notice of Intent and it clearly shows it's for a CUP to operate cell tower. It's not in violation of City ordinance.

Sidhu: Noticing is by the Municipal Code. For any appeal, you'd have to follow the Noticing procedures in the Code as opposed to conditioning your approval or denial on this and requiring any specific noticing procedures.

Flodine: Understand there are multiple facilities on Twin Oaks Golf Course. Asked staff if there are any regulations regarding maximum number of cell towers on an individual parcel?

Backoff: There is no maximum number. Would defer to a cumulative analysis that Mr. Kramer would review.

Flodine: It would seem to fall within the City's purview. It's an aesthetic issue. We all have cell phones. He's concerned that as the use grows, someone could end up with five towers. The people around them have to live with the aesthetic and perceived RF. Recommended that the City consider some sort of standards, for future discussion, not tonight.

Nelson: Asked if a landowner could put four or five at their house? Would they have to stay in the house? Could they move somewhere else, maybe even knock down the house? It could be a cell phone tower farm.

Backoff: They aren't going to get an unlimited number. Twin Oaks Golf Course analysis showed it could accommodate 6 or 7. Any one site would have to go through a cumulative analysis.

Nelson: Commented that he saw a house with five towers in their backyard.

Kramer: Indicated it's in City of Encinitas. Under current code, you look at the zone, the use and whether it's permitted in the zone. Those are the considerations. Any changes would have to come from a code change through Council action. The question of whether they're living at the property is not the relevant question.

Nelson: Asked if any technology going to satellite?

Kramer: No, because of capacity. Cell sites get closer to the users because there are a finite number of frequencies. Satellite is limited capacity, high cost and doesn't work indoors. It's coming away from any possibility of satellite.

Norris: Commission can't say anything about RF's. There's the property values and mission statement. It's frustrating when there is no cell service and that could be a negative. If you expand radius to 1,000 feet, you may find people who want this. There is one letter in favor of. It's the second AT&T application in the area, so there must be a need.

Nelson: Can't say for sure whether he'd want to buy a home with a cell tower nearby.

Action:

COMMISSIONER KILDOO MOVED TO APPROVE CUP 12-004 (P12-0023) AS SET FORTH IN RESOLUTION PC 13-4359 WITH MODIFICATIONS: 1). ACCEPT THE ADDENDUM/ADDITIONAL INFORMATION HANDED OUT AS PART OF THE RESOLUTION; 2). ADD ADDITIONAL CONDITION REQUIRING THAT THE ROAD BE KEPT UP AND REPAIRED TO CONDITION AT LEAST EQUAL OR IMPROVED OVER WHAT THEY FOUND IT AT THE BEGINNING OF CONSTRUCTION, WITH STAFF MONITORING & OVERSIGHT.

Backoff: Asked for clarification on maintenance and if it's meant for long term?

Kildoo: Short term. Not sure how they'd do long term. They may choose to work with people who live on the road.

Backoff: Resolution currently calls for visual survey, pre and post-construction survey. That covers any repair work. They'd need a road maintenance agreement if going beyond that.

Nelson: Maybe the applicant should reach out to those residents.

Backoff: They're required to repair what they've damaged.

SECONDED BY COMMISSIONER JONES AND CARRIED BY THE FOLLOWING ELECTRONIC VOTE;

AYES: COMMISSIONERS: FLODINE, JONES, MAAS, KILDOO, SCHAIBLE

NOES: COMMISSIONERS: NELSON, NORRIS

ABSENT: COMMISSIONERS: NONE

ABSTAIN: COMMISSIONERS: NONE

PLANNING DIRECTOR COMMENTS

Backoff: Gave an overview of pending projects, Davia Village mixed-use, etc., but none are on the Agenda yet. Commission will get environmental review documents when they're out for public review. It will allow additional review time. There are pending projects in the Creekside District.

PLANNING COMMISSIONERS COMMENTS

Nelson: Was at the Branding meeting. Everyone asked where the City's downtown was.

ADJOURNMENT

At 9:09 p.m. Commissioner Nelson adjourned the meeting.

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Dean Nelson, Chairman  
SAN MARCOS PLANNING COMMISSION

ATTEST:

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Lisa Kiss, Office Specialist III  
SAN MARCOS PLANNING COMMISSION