



**Planning Commission Minutes
Community Chambers
Wednesday, August 3, 2011, 7:00 p.m.**

Commissioners Present: Mark Braly, Ananya Choudhuri (Chairperson), Lucas Frerichs (Vice-Chair), Rob Hofmann, Justin Kudo, Paul Philley

Commissioners Absent: Terry Whittier, Marilee Hanson

Staff Present: Mike Webb, Principal Planner; Lynanne Mehlhaff, Planning Technician

1. Call to Order

Chairperson Choudhuri called the meeting to order at 7:03 p.m.

2. Approval of Agenda

The agenda was approved by consensus.

3. Staff and Commissioner Comments (No action).

There were no staff or Commissioner comments.

4. Public Communications

There were no public communications.

5. Public Hearings

- A. PA #52-10, Crown Castle City-wide DAS Network, Conditional Use Permit #10-10, Zoning Ordinance Amendment #01-10; (Mike Webb, Principal Planner)**

Public Hearing to consider recommending to City Council to approve a Conditional Use Permit for a proposed city-wide Distributed Antenna System (DAS) network for cellular antennas located at 25 sites throughout the city. As opposed to the placement of cellular/wireless service antennas on large monopoles or lattice tower structures in and around the city, the DAS network creates a grid of smaller scale antennas distributed more evenly throughout the city. DAS networks can typically provide service for up to six cellular companies with antennas collocated at each site. The advantages to such a network can include better distribution and consistency of cellular coverage and signal strength throughout the community, with smaller scale and less powerful, but more frequently occurring equipment. The necessary antennas would be located on existing street light poles, on joint utility poles (PG&E) or on stand-alone poles within the city right-of-way. The antennas would generally be placed at a height of 35 to 40 feet depending upon topography. Specific designs and heights vary by location. The project also includes a Zoning Ordinance Amendment for updates to the city's Telecommunication Ordinance (Article 40.29).

Additionally, three demonstration poles with mock antennas have been installed as part of the City's review of the proposed project. The demonstration poles are located at the following sites:

- West Davis - south side of Burr St. approximately 136 feet west of Arthur St. near 812 Burr Street
- South Davis - west side of Mace Blvd. South of Redbud Dr. near 4608 Redbud Drive
- East Davis – south side of 8th Street within the median just east of J Street

Project information, photosimulations and details for each site are available on the City's website at : <http://cityofdavis.org/cmo/newpath.cfm>

Mike Webb, Principal Planner, presented the staff report.

Harriet Steiner, City Attorney, summarized federal and state laws in relation to wireless and DAS network telecommunications permits. She explained the City's purview on time, place, manner and aesthetics and how the facility relates to the built environment. Cities are not allowed per the Federal government to deny a permit on the basis of RF (radio-frequency).

Chairperson Choudhuri opened the public hearing.

Stephen Garcia, representative for Crown Castle, went over the revocation letter they received from City Manager Bill Emlen and said they had gone out of their way to address people's comments. He said they have done six open houses to answer questions to the public. They have also done seven in-home RF tests in residences for people who requested it. He described the Crown castle company history and business plan.

Planning Commission recessed at 8:40 p.m.
Planning Commission reconvened at 8:51 p.m.

Steve Hayes, a 37 year resident, said just because the demand is up doesn't mean the City is obligated to meet it. Why don't we consider reducing our electronic footprint, similar to the carbon footprint? He lived near a pump house and didn't want the setbacks reduced less than 500 feet. There is growing medical evidence in literature about EMF radiation causing increases in certain types of cancers. The jury is still out on the health consequences from wireless electronic transmission and we are inundated by these demands.

Chimaya Say, west Davis resident, is near several of the proposed sites and finds it unacceptable. She read off several studies from the University of Santa Clara on health effects. She said we are already inundated by the effects of the load of all these wireless facilities. The Council should do all they can to protect their population.

Christy Skibbons, resident near site #19, said no tower should be erected within 500 feet of residential areas. She suggested that the City should either deny the conditional use permit for the 25 proposed sites or make modifications to the current ordinance to allow more macro locations and provide more opportunities for collocation in appropriate areas and preserve the intent of the ordinance by not allowing facilities in residential neighborhoods.

Kim and Katherina said they believe in cell towers as macros but don't believe in a DAS System for Davis. She said Crown Castle was coming to Davis for money because it was so easy to locate in the right-of-way and not follow the zoning ordinance. She suggested opening up more areas around commercial areas for cell towers and also allowing towers on Fire Stations.

Chris found the light standards proposed were not attractive and would like to see the acorn lights. He opposed the application.

Susan Monheit lived within 16 feet of one of the proposed sites. She said this is a proposal by a private company who is out to make money at the community's expense. These things on top of light poles are not aesthetically pleasing and should not be installed.

Diane Kramer, resident, said that site #18 is in her front yard where her organic garden is, not her side yard. She felt the timing of this was under-handed, people are gone at this time.

Louis Walker, south Davis resident, said her issue was that people don't understand what these devices are about and the potential health effects that they may cause.

Steve Grecko, resident on A Street, was concerned about the health effects. He said the fixtures are ugly and they look like giant blow torches in the sky. Please don't allow them.

Steve Bryant of J Street said the poles that Crown Castle just put up are hideous and ugly. We don't need them and we don't want these poles going up all around town.

Jill Theg, resident, said she would never buy a house that had a pole in front of their house. This will have impacts on property values. The World Health Organization has said they are concerned about health effects from these facilities. These antennas are not appropriate for residential areas as well as they are not aesthetic. The city should exhaust every effort and avenue to keep this from happening and save our Telecommunications Ordinance.

Ann Filmer of Oak Avenue said these are abhorrent structures. There are two bus stops in their neighborhood and now have two speed tables. Her husband has metastatic cancer and has health concerns. The aesthetic appearance of the poles puts Davis into the dark ages.

David Balgobin, east Davis, said his daughter's bedroom is 15 feet away from one of the poles. Cancer runs in his family and he had health concerns. By allowing these poles, it is making the neighborhood an industrial area.

Steve Williams, Wildhorse Development, spoke in support of the amendment to the Telecommunications Ordinance. He supported the DAS system because it was a lower intensity system than the higher monopole system. He said cell phone reception was erratic in his area and wanted better reception. He thought the proposal was unobtrusive.

Peggy Hayes said we don't know the effects of these things and we should be looking at the long term effects of these things.

Lisa Erskine thought all the sites were very ugly. There is the possibility of cancer and the ordinance shouldn't be amended. The cell sites should be outside the city.

Dorothy Keppner, a resident, said we already have 25 cell phone towers and now this proposal is for 25 more cell sites. She suggested the City should do a coverage study and see where the gaps are in Davis first. We should do the groundwork on what cell phone companies cover which areas and where the coverage is needed.

Linda Kowolzkowski, resident in Village Homes and representing the 100 plus people who signed a petition against Crown Castle, opposed site #4. She explained how site #4 affected her property. She asked the Planning Commission to recommend denial of site #4 from the Crown Castle project to the City Council. She also said the proposed nodes were extremely ugly.

Ian Kennedy, read a letter from William Langewiesche, stating there was no cell phone coverage problems in the vicinity of site #4 as proposed; putting in a new light pole at site #4 would cause light pollution, a waste of electric energy and expense and is visual eyesore; the use of Metro PCS has little public interest in this area; the petition from 135 people in this area has been ignored; the stated benefits to the neighborhood are false and the motives are for profit.

Richard Hastings said the proposed equipment is ugly; they should hire an industrial designer to design it right. He staffed the Sacramento Planning Commission for 20 years and there shouldn't be a time limit on the public who wishes to address local concerns.

Chairperson Choudhuri closed the public hearing.

Commissioner comments (and not necessarily with consensus):

- Concerned with multiple DAS systems in the same place.
- Concerned with the language on how the City makes the determination to require something to be undergrounded at the applicant's expense if it can be feasibly done, irrespective of cost. We need to have a condition that backs up the decision that it has to be undergrounded, no matter the expense to an applicant.
- Newpath/Crown Castle has failed to prove that there are no reasonable alternative locations. There are definitely at least 10 of these sites out of 25 that there are reasonable alternatives. Site #2 is near a macro site which is in the clock tower at the commercial shopping center. Site #4 should be moved to the City's well site at Arlington and Shasta Drive. Site #9 is right by city owned property and it could be re-located on to the baseball field lighting or on or around City Hall and not on that proposed light pole. Site #11 is almost next to the shopping center by the Dollar Store; it is a reasonable alternative to put a macro site there rather than a light pole on the street. Site #13 is near the corner of Pole Line and Covell Blvd. which has a macro site at Oak Tree Shopping Center or at the offices across the street on the corner. Site #17 is on some sort of city land already which demonstrates that precedent and that there are reasonable alternatives throughout the city. Site #23 is within 100 feet of a City water tower which already has antennas on it, we put the DAS equipment on this site instead of the light pole.
- Feels presumptuous to do these amendments to the Telecom Ordinance at this point.
- Agreed with the public; these fixtures are not aesthetically pleasing. There needs to be better brackets and boxes. Fiber underground is ok but the City needs to look at minimizing the poles. If the macro sites work, the City should use those instead of a new light pole.
- There is some necessity to upgrade the wireless service here in Davis. Even though population growth is slow, data use is increasing because of the increase in people's use of cell phones, email, movies, etc. We do need scrutiny over these for aesthetics. We do need to re-examine the ordinance for the standards but didn't think most of the poles were bad. Concerned with some of the sites and the applicant needs to make changes.
- We should try to meet the existing ordinance with all these proposed sites as much as possible.

Mike Kavanagh, President of Crown Castle DAS Network, explained that they needed this network because it is a data network and they need the fiber optic connections.

Commissioner Philley asked if Crown Castle had to pay the City or PG&E to be on the light pole? Harriet Steiner said if they go on the City lightpole, they have to pay a fee to be on a city lightpole or in City conduit but not on the right-of-way itself.

Michael Schonafeldt, legal counsel for Crown Castle, explained the legal status of the public right-of-way and how they want to work with the community with their proposed project.

Jan Newman, resident, said it was not clear to her the difference of why we need to put in a DAS system and not use the macro sites. Davis is not growing so we don't need this system because we don't need anymore bandwidth. Also, we should wait to see what the final decisions are in the courts.

Action: Commissioner Braly moved to adopt staff recommendation and was open for friendly amendments. Commissioner Kudo seconded the motion. Chairperson Choudhuri stated for the record that Commissioner Whittier had emailed her and stated he was in favor of the proposal. Commissioner Hofmann had a central concern over changing the character; he couldn't make the findings that this was not detrimental to the community.

Harriet Steiner said you had to have substantial evidence for denial and if the Planning Commission wanted to deny this, staff would come back with denial findings at a future meeting.

Commissioner Hofmann substituted the motion by denying the application. The findings would be that the community put together *The Telecommunications Ordinance* which has a 500 foot buffer. The proposal would be forcing on us something the community doesn't want and the equipment is not aesthetic. He didn't see any overriding considerations to trump the ordinance. Vice-Chair Frerichs seconded the substitute motion.

Ms. Steiner asked if the Planning Commission could give specific concerns on the individual sites that are before you. Vice-Chair Frerichs said there are other available sites that are reasonable alternatives that they could use for coverage. Regarding Site #21, there is an ability to re-locate it down to the west in the Oakshade Shopping Center or Playfields Park as a macro site.

Commissioner Hofmann noted that there are cumulative impacts from the addition of 25 sites of this project city-wide which should be addressed.

Commissioner Kudo suggested a continuance of this project to take the opportunity to discuss and try to get this fixed the way we want it now. He said there are sites that are ok, but there are other sites that need to have alternatives.

After Commissioners discussion, Commissioner Hofmann withdrew the motion of denial if the Commission agreed to continue the application. Commissioners were in consensus.

Commissioner Braly amended his motion to continue the application and for staff to work with the applicant on alternative locations particularly on those as pinpointed by Commissioners tonight.

Mr. Schonafeldt, Crown Castle attorney, said if the Commission wanted to continue this and provide specific needed changes to certain sites that would be acceptable.

Commissioner Kudo seconded the motion. He said Sites #4, 9, 16, 18 and 23 need alternatives. Vice-Chair Frerichs said he counted 9 total sites that needed additional work.

Commissioner Philley believed the desire of the Commission was that when possible the sites should be located on city property or on commercial property or existing macro sites. Otherwise, there would have to be a good reason with substantial evidence on why that couldn't be done. Also, the community isn't happy with using the light poles; we may need an industrial designer.

Commissioner Hofmann requested that the applicant have actual representative examples of what we are looking at with the equipment on it and adjacent to it.

Vice-Chair Frerichs said Site #19 is another site that needs an alternative since there is a park and a vacant city lot nearby. There are potential reasonable alternatives on many of these sites.

Commissioner Braly restated the motion to continue this item to September 14th with the direction to staff to look at alternatives to specific sites as noted. Commissioner Kudo seconded the motion.

Commissioners went through each site as follows:

Site #1 = no comments; Site #2 = re-locate to adjacent commercial center;

Site #3 = no comments; Site #4 = should be moved; Site #5 = needs new brackets or re-design;

Site #6 = no comments; Site #7 = no comments; Site #8 = relocate, look at water tower site;

Site #9 = look at alternatives, city parcels etc.; Site #10 = no comments;

Site #11 = look at reasonable alternatives at shopping center;

Site #12 = look at the cementary district for a location there;

Site #13 = suggested macro site at shopping center or Green Meadows offices;

Site #14 = no comments; Site #15 = Vice-Chair Frerichs said it didn't seem appropriate to put one in front of the Junior High per the Ordinance. Commissioner Kudo said there were no aesthetic impacts here.

Site #16 = concerns this evening/review this one; Site #17 = no comments;

Site #18 = needs an alternative site; Site #19 = needs an alternative site; Site 20 = no comments;

Site #21 = needs alternative site; Site #22 = needs brackets fixed & PG&E box fixed;

Site #23 = Needs alternative; could go on city water tower;

Site #24 = needs review; concerns by neighbor; Site #25 = no comments.

Vote on the motion to continue to September 14th with direction to staff and applicant as stated above:

AYES: Kudo, Philley, Braly, Hofmann, Frerichs, Choudhuri
The motion passed 6 to 0.

6. Business Items

A. Commission Work Plan

Chairperson Choudhuri said the City Council ratified the work plan and the sub-committees can now move forward.

8. Informational Items

A. Planning Commission Schedule

9. Staff and Commissioner Comments (continued).

Vice-Chair Frerichs thanked the public for coming in tonight for the public hearing.

10. Public Communications (continued).

There were no public communications.

Chairperson Choudhuri thanked Commissioner Kudo for his work on the Planning Commission.

11. Adjournment to the next Planning Commission meeting to be held on Wednesday, September 14, 2011 in the Community Chambers (23 Russell Boulevard) and 7:00 p.m.

The meeting was adjourned at approximately 11:45 p.m.