



**Planning Commission Minutes
Community Chambers
Wednesday, January 25, 2012, 7:00 p.m.**

Commissioners Present: Mark Braly, Lucas Frerichs (Chairperson), Ananya Choudhuri, Marilee Hanson, Rob Hofmann (Vice-Chair); Paul Philley, Terry Whittier; Herman Boschken (alternate)

Commissioners Absent: None

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

1. Call to Order

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

2. Approval of Agenda

Commissioner Braly moved approval and Vice-Chair Hofmann seconded the motion. The agenda was approved by consensus.

3. Staff and Commissioner Comments (No action).

Commissioner Whittier said the District Construction Superintendent of Meritage Homes said that the inspectors in Davis are extremely good and never miss anything. He also went out to Willowbank Park subdivision and noticed the low-cost housing wasn't built yet. Mike Webb, Principal Planner, explained the building schedule per the Development Agreement and that the project was on schedule.

Mike Webb, Principal Planner, gave an update on the Davis Diamonds CUP at the City Council meeting last night. The hearing was continued to February 7th and the applicants requested the hearing be continued to February 21st.

4. Public Communications

There were no public communications.

5. Consent Items

- A. Planning Commission Minutes of January 11, 2012**
- B. Planning Commission Minutes of August 3, 2011**

Action: Vice-Chair Hofmann moved approval of the August 3, 2011 minutes and Commissioner Choudhuri seconded the motion.

AYES: Braly, Frerichs, Choudhuri, Hofmann, Philley, Boschken
Abstain: Whittier, Hanson
The motion passed 6-0-2.

Commissioner Choudhuri moved approval of the January 11, 2012 minutes and Commissioner Hanson seconded the motion.

AYES: Braly, Frerichs, Choudhuri, Hofmann, Philley, Whittier, Hanson
The motion carried 7 to 0.

6. 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 a Conditional Use Permit for a proposed city-wide Distributed Antenna System (DAS) network for cellular antennas located at 25 sites throughout the city. The 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. Several alternative designs have been proposed for consideration. Specific designs and heights vary by location. Accessory equipment would be located on the poles or adjacent to the facility. The project also includes a Zoning Ordinance Amendment for updates to the city's Telecommunication Ordinance (Article 40.29).

This hearing is a continuation of two prior hearings held on this matter on August 3, 2011 and October 12, 2011. It was continued in order to allow the applicant to make project modifications and provide additional information in response to the Planning Commission's comments. It includes additional pole design options, supplemental reports, and additional alternative site locations for sites #4, 15, 16, 18, 19 and 21.

Additionally, three demonstration poles with alternative designs 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 – Site #05: Burr Street west of Arthur Street (Omni Whip Antenna Alternative)
- South Davis – Site #22: Mace Blvd. south of Redbud Drive (Tri-Sector Pipe Alternative)
- East Davis – Site #24: 8th Street east of J Street (Original Radome Alternative)

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. He pointed out a correction in the staff report on page 24, the table which references site #4, the column which states "View from Second Story" should say "Yes" and not "no." Neighbors had submitted pictures of their views from their second story window.

Chairperson Frerichs opened the public hearing.

Jill Theg, of east Davis, asked the Planning Commission to say no to this project. She used a cell phone but wanted parameters for wireless facilities. The proposal would bring facilities within a few feet of homes and would be intrusive to neighborhoods. The facilities are unsightly, ugly, and the cabinets are bulky and unsightly. The technology is changing so rapidly that there may be new and better technology that will be more attractive and compatible before this project is installed. If the Ordinance is changed now, it wouldn't be able to exclude other carriers from coming in and installing their own system.

Till Angermann, west Davis resident, said Federal regulations aren't in the best interest of the local people. The City ordinance does yield some protection with the 500 foot buffer and the Commission should fight for keeping this buffer.

Steve Hayes, resident, did not want this project and did not want a lawsuit. Do not make this issue demand driven; we should preserve the 500 foot radius for the citizens. Cell phone coverage in Davis is adequate therefore we do not need to increase everyone's electronic footprint. Protect the 500 foot setback from people's property.

Bob Leland, west Davis, said the 500 foot setback is critical. The refrigerator boxes that come with the project are ugly. The 500 foot setback is a reasonable compromise. If this is approved, the flood gates will be open and we won't be able to stop the onslaught of additional carriers. We need to stop this now.

Louise Walker, south Davis, said the 500 foot setback is crucial. Once you let one company in, you can't discriminate and stop others. Do not compromise the zoning ordinance. There will be no revenue coming to the City from this project; it is unacceptable.

Kim, Davis resident, said Crown Castle still has not proven the need for this project. They can work within our Ordinance but they can make more money with this proposal. The project doesn't fit with the City's goals, policies and the character of our neighborhoods. Deny this project and keep our Ordinance in tact.

Susan Monheit, east Davis and 20 feet from site #16, said please preserve the 500 foot setback in the ordinance. Elimination of the setback would open the door to multiple projects and eliminate the city's ability to deny additional carriers and projects. Federal statutes were written in 2000 and already are outdated and inadequate. She noted that the proposed revisions to the Ordinance crossed out the 500 foot setback and put a minimum of a 5' setback. She objected to the project that the City was being exploited.

Matt Williams from El Macero said ditto to everything said prior. He did not like the bait and switch going on with this applicant. He couldn't understand what the Planning Commission will be approving, so many different designs. We need the citizens to send messages to the carriers that want to go on this project that we won't support them on this project. He urged denial of the project.

Joe Valiente from east Davis didn't support the project and said there was sufficient cell phone coverage. There is no benefit from this project other than an ugly poles.

Paul Zinn, resident near site #16, said stand up for the citizens of Davis and protect the 500 ft. setback. The technology is rapidly changing and there could be better proposals in the future. Also, we would be opening the door to proliferation of mass ugliness to come.

Paul Brand, near pole #16, opposed pole #16 and requested help on stopping the project.

Steve Kowalczykowski, near pole #4, was against the project. We don't need more poles. We have enough vertical pollution and the antennas are ugly. The alternative with the pipes above the street lights look like sewer pipes. The whip antennas are ok but this will be a bait and switch and as soon as they are approved, Crown Castle will add more carriers. He was opposed to changing the ordinance because it would be industrializing residential neighborhoods.

Kathy Lifam, west Davis, agreed with others. We don't want this in our backyards and residents make a community. We need to stop this before it starts. Please standby and keep our ordinance and our community the way we like it.

Margherita Heyer-Caput, west Davis, opposed the project and all the alternatives particularly to site #4. Why does the City have a fatalistic approach to the Crown Castle project and revise the Telecommunications ordinance?

Eric Zilbert does not want one of these on his street or in the city. He paid a city lighting ordinance fee and he did not want these on his poles as a taxpayer.

Holly Osano, resident near site #24, opposed the project. If Crown Castle gets this approved, how many people will change carriers to Metro PCS? She thanked the Commission for representing the citizens and not the Corporation.

Anne Marie Largarisse, west Davis resident, opposed the project; there are other alternatives. Other companies have abided by the current ordinance and Crown Castle should also. She vehemently opposed Site #4 since it was so close to her house; it is unacceptable. We should not give up our ordinance due to threats of lawsuits.

Ed Hiatt, corner lot in Davis, said there are power poles by his house and he doesn't want the ugly things by his house. They should put them on the water towers, public buildings and the schools. His cell phone worked fine; please deny this.

Mark Sarans, a resident, was against the project and didn't see the need or benefit.

Sunny, resident in College Park said she lived in a beautiful place and everyone should have that and be able to see trees and the sky. We don't want more poles to clutter the skyline. Please respect what others have said tonight.

Debra Whitman, Davis resident and President of Davis Environmental Voices, supported what people have said tonight. She was concerned for peoples health and said she receives many calls from all over town regarding this subject.

Peggy Hayes agreed with what people have said. She was appalled with what is happening to our Constitution. If we let this happen, we are going to regret it.

Kim Glaser was concerned this would open up Pandora's box and will set a precedent of allowing others to come in and shape Davis's future by undermining the Ordinance with the 500 foot setback. Please uphold the 500 foot setback as per the zoning ordinance.

Teresa Leonard, Davis resident, said the project should be denied out right. If the project is not denied out right, then she preferred the omni whip antennas at Sites 10 and 24 which are close to her house as the lesser of the evils.

Dean Johanson, Davis resident, agreed with everyone tonight. He said he would be glad to volunteer for any lawsuit against this company as an experienced trial attorney to keep Davis a safe community.

Linda Kowalczykowski, resident near site #4, said don't approve permits near homes. Even though the whip antenna is least offensive, if it is installed, we would have to trust that no larger or ugly antennas could be installed there in the future.

Lana Shear from Verizon Wireless wanted to lodge her objections with the proposed amendments to the Telecommunications Ordinance. She requested that Verizon and the other carriers could be involved in the discussions of revisions to the ordinance.

Diane Cramer, near Site #18, thanked the Planning Commission for "sticking to it" and said you know what you need to do.

Meredith Herman, west Davis, said we don't need to cave to Crown Castle. We run the City and do not need to bow to Crown Castle, it is our City.

Planning Commission recessed at 8:38 p.m.

Planning Commission reconvened at 8:47 p.m.

Michael Shonafelt, Attorney for Crown Castle, said there have been numerous neighborhood meetings, design changes, and three public hearings. They wanted their first design that would allow collocation of more carriers. The designs shown tonight are the least intrusive. Davis does deserve a top tiered network like Crown Castle. We respectfully ask this be approved tonight and move forward to the City Council.

Mr. Shonafelt explained it was primarily the gaps in coverage and also future demand for why they are proposing the project. He explained the gaps in coverage shown on a map. The DAS System is a smaller and less powerful system than large cell towers so it needs to be closer together to houses. He explained that the system was for their client Metro PCS who wants the coverage.

Carolyn Devolder, Engineer for Crown Castle, explained the gaps in the coverage map.

Stephen Garcia, representative of Crown Castle, pointed out the Declaration on page 3 of Exhibit A, paragraph 9 which points out a significant gap in coverage in Davis and read the complaint against the City of Davis and the Telecommunications Ordinance.

Chairperson Frerichs closed the public hearing.

Harriet Steiner explained that the draft revision of the Telecommunications Ordinance right now was only to address the DAS system request, it was not a "wholesale" revision of the ordinance.

Commissioner comments:

- Not convinced that Crown Castle can't co-locate along with other existing carriers that are on existing cell towers in Davis.

- Concerned tonight that if we don't collocate on these proposed sites then in the future it could create a proliferation with more sites in the ROW which could be worse.
- What are the obligations of the applicant to demonstrate their need here? Can we demand a better demonstration of the need? There has not been a satisfactory proof of need here.

- We are conceding and not looking at noise concerns and loss of property values. We should look at evaluating or studying that aspect first.
- Concerned with whether we have to make specific comments on design and on specific sites even if we deny the project outright because it doesn't conform with the ordinance.
- Concerned if the CUP was approved because of the interpretation of the law and if we found out later that was incorrect, could we condition it so that we could stop the permit then and make the applicant remove the equipment.
- If we are going to be making changes to the ordinance, we should bring all the carriers to the table immediately so we can take a look at all the issues in a global manner.
- The sense from the community is to have the use be on macro towers. In the areas where there are macro towers and collocation opportunities, suggest we require they be placed on the macro towers in that neighborhood. For the neighborhoods that macro towers do not provide sufficient coverage, then we allow a DAS with very strict aesthetic considerations and rules/regulations so we get the coverage that is needed met. And we respect our existing ordinance and uphold what we heard tonight, which is preference for macro rather than DAS.
- The poles that are within view of second story windows are problematic.
- It is not clear why more of the equipment can be put underground other than the reason of cost.

Action: Commissioner Philley moved that the Commission recommends that the Telecommunications Ordinance be drafted in such a way that the highest preference for any telecom or telephone provider for any above ground vertical elements be collocated on existing macro facilities. Thereafter placed upon city property as determined by City Council that are appropriate for wireless telecommunication facilities; thereafter on joint utility poles; thereafter on light standards or other vertical elements in the public right-of-way. In order to have a wireless telecommunication facility approved by this Commission on one of the lower desirable levels, it must be proved technically infeasible (not financially infeasible) to have the wireless telecommunication facility placed on the higher priority locations. For example, in west Davis a MetroPCS facility would have to first be placed in the existing shopping center to see if it handled the coverage issue. Commissioner Braly seconded the motion.

Vice-Chair Hofmann didn't feel it should be based on the coverage gap because there are a lot of other opportunities where Crown Castle/MetroPCS could go but they aren't choosing that because it would be free for them to go in to the public right-of-way. We need to do what is defensible and there are reasonable options for them. Our ordinance is defensible and putting things in the right-of-way is problematic. Commissioner Boschken agreed.

Chairperson Frerichs substituted the motion to recommend to City Council to deny the project in its entirety. The Crown Castle proposal is not the least intrusive means of providing wireless facilities in Davis and it is inconsistent with the aesthetic standards of this community including the joint utility pole proposal. He also said the findings for denial are in the packet for the October 12th meeting. Vice-Chairperson Hofmann seconded the motion.

Chairperson Frerichs respectfully disagreed that there was any preference for a DAS system at all from what he had heard from the community. The preference is for macro facilities.

Commissioner Braly pointed out that the Telecommunications Commission supported DAS, and suggested that there is a different constituency out there that we have not heard from.

Commissioner Philley was concerned that this would look like CLAC's would be prohibited.

Commissioner Braly said he couldn't support the substitute motion because DAS systems are part of the telecommunications future. He supported Commissioner Philley's motion.

Commissioner Whittier believed that technology was changing and antennas on light poles were the way to go. He thought this was a perfectly viable system and couldn't support the substitute motion. He thought people would get used to the antennas on the poles and not notice them.

Chairperson Frerichs suggested that there are things in the ordinance that could be changed such as antennas on the lights at the baseball diamond in Civic Center Park and other allowable locations in parks or greenbelts.

Commissioner Hanson supported denial and would recommend to City Council to first revise the Telecommunications Ordinance completely and then bring projects forward. She said it is not clear which design is being proposed by Crown Castle tonight because every meeting there have been different options and locations proposed. The equipment and proposals are not aesthetically pleasing. The proposed ordinance places a lot of emphasis on locations needing to meet aesthetic standards of the community. It is clear tonight that the proposal doesn't meet the standards. The accumulative impacts of approving a project with a more aesthetic pole means that you will get more applications for more poles in the future. This conundrum is aesthetically displeasing. The project as proposed does not even meet the proposed revised ordinance because it is not aesthetically pleasing and there are no efforts made to stealthing.

Chairperson Frerichs said with the changing technology, we shouldn't approve this because the proposed project is obtrusive and ugly. The project works against the City's goal of undergrounding. We need to require the equipment to be undergrounded such as the equipment boxes. The proposed Site #19 would replace the existing nice aesthetic light pole with an ugly pole. The Telecommunications Ordinance needs overhaul and carriers need to comment. The proposal in front of us is disjointed with all the different antenna options and locations.

Commissioner Philley suggested that the application be denied without prejudice and recommend a moratorium on DAS systems until the Telecommunications Ordinance can be revised.

Chair Frerichs restated the motion to recommend denial of the project as it currently stands before us and direct staff to return February 8th with findings of denial such as the ones provided October 12th for formal action. Vice-Chair Hofmann re-seconded the motion.

AYES: Hanson, Choudhuri, Hofmann, Frerichs

NOES: Philley, Whittier, Braly

The substitute motion of denial passed 4 to 3.

Comments regarding all the sites: Chairperson Frerichs asked that comments made in the previous two hearings be passed on to the Council as still current comments on the sites, such as Site #2 which is not acceptable.

On design, Commissioner Braly favored the original design for all the sites because it allows for collocation. It may not be as aesthetically pleasing but in his opinion it is not that different. On location, he supported the alternative locations suggested by the applicant and would like to see on February 8th which sites would have the most public support.

Vice-Chairperson Hofmann said he had a concern with any pole extension.

Commissioner Philley said anything that could be collocated within 500 feet of an existing stealth facility which would be Site #2, Site #5, Site #6, Site #9, Site #11, and Site #24. Also Site #4, there should be no new light pole there because the neighborhood doesn't have a lot of them and it is not characteristic. So, the antennas should be put on an existing pole.

Commissioner Choudhuri said that the suggested alternative locations as listed in the August 3, 2011 minutes still stands as a recommendation. Commissioners agreed.

Commissioner Whittier preferred the "Tri-sector" antenna on the pole because it was less obtrusive.

Commissioner Hanson said the public stated that they preferred the Omni whip antenna so that should be noted. Also, she said in general from the comments tonight, the antenna poles within 500 feet of a house are aesthetically more objectionable as well as ones seen out second story windows.

Commissioner Braly supported the staff recommendation on undergrounding; careful siting of poles in parks and greenbelts and not adjacent to homes; the ten-year limit; prefer pole mounted electric meters instead of pedestal and LED lighting for street lighting.

7. Business Items

There were no business items.

8. Informational Items

A. Planning Commission Schedule

Chairperson Frerichs suggested tacking the workplan item on to the February 22nd meeting and receive an update from all the subcommittees at that time.

9. Staff and Commissioner Comments (continued).

Chairperson Frerichs presented a plaque to Commissioner Choudhuri from the Commissioners for being the Chair in 2011 as made by a local business, the 2nd Street Watchworks store.

10. Public Communications (continued).

There were no public communications.

11. Adjournment to the next Planning Commission meeting to be held on Wednesday, February 8, 2012 in the Community Chambers (23 Russell Boulevard) and 7:00 p.m.

Commissioner Braly moved to adjourn the meeting and Commissioner Philley seconded the motion. The meeting was adjourned at approximately 12:00 a.m.