

APPROVED MINUTES OF SPECIAL PLANNING COMMISSION MEETING
SEPTEMBER 19, 2001

1 **ROLL CALL**

2
3 Time: The meeting was called to order at 7:10 p.m.

4
5 Location: North Berkeley Senior Center.

6
7 Commissioners Present: Bronstein, Curl, Hicks, Howerton, McCamant, Poschman, Tabb,
8 Wrenn.

9
10 Commissioners Absent: Wengraf.

11
12 Staff Present: Cederborg, Haney-Owens, Kahn.

13
14 **PUBLIC COMMENT PERIOD**

15
16 Resident Merri Mitchell thanked the Commission for requesting an extension to the
17 NEQSS Draft EIR comment period.

18
19 **ORDER OF AGENDA**

20
21 No change.

22
23 **CHAIRPERSON'S REPORT**

24
25 No report.

26
27 **CITY COUNCIL ACTIONS**

28
29 No report.

30
31 **FUTURE AGENDAS**

32
33 It was noted that the MULI public hearing will be held at the October 10th meeting.

34
35 It was also noted that the Southside Plan is currently pending, and the schedule for
36 Commission review has not yet been set.

37
38 **APPROVAL OF MINUTES FROM JULY 11, 2001 MEETING**

39
40 M/S/C to approve July 11, 2001 minutes (Poschman/Curl). Ayes: Wrenn, McCamant,
41 Howerton, Tabb, Hicks, Bronstein, Curl, Poschman. Noes: None. Abstentions: None.
42 Absent: Wengraf.

43
44 **ZONING ORDINANCE AMENDMENT: WIRELESS**
45 **TELECOMMUNICATIONS FACILITIES**
46

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47 Commissioner Bronstein proposed to recuse herself due to her role as President of the
48 Thousand Oaks Neighborhood Association. Staff Kahn stated the City Attorney has
49 determined that it is not necessary for Commissioner Bronstein to remove herself due to
50 the nature of the decision.

51
52 Staff Kahn presented background regarding the Zoning Amendment regulating the
53 installation of wireless telecommunication facilities on privately owned land. The
54 Planning Commission Subcommittee meetings were held on June 18, 2001 and August
55 19, 2001. Staff Kahn recommended that the Commission open the public hearing, hold a
56 discussion on the issue after hearing from the public, provide direction to Staff, and
57 continue the discussion in October.

58
59 Staff Kahn noted that currently there is a moratorium on the installation of
60 telecommunication antennas which will expire at the end of 2001. Staff Kahn noted her
61 intention to forward the Commission's recommendation to Council by the end of October
62 or early November in order to have the Zoning Amendment in place before the expiration
63 of the moratorium.

64
65 Commissioner McCamant asked for information regarding locations where antennas
66 would be affected under the proposed Amendment.

67
68 Staff Kahn explained that antennas would be prohibited in residentially zoned districts or
69 those that are readily visible from a residential use within 300 feet, or a non-residential
70 district where readily visible from the nearest surrounding residential use within 100 feet.
71 She noted that antennas are regulated as a commercial use.

72
73 Commissioner Bronstein questioned the use of the words "nearest surrounding".

74
75 Staff Kahn agreed to omit the word "surrounding" to read "the nearest residential use
76 within 100 feet".

77
78 Commissioner Curl stated that it is easy to camouflage these antennas, therefore, the
79 proposed regulations don't really address the City's concerns with regard to antennas.

80
81 Staff Kahn noted that the City of Berkeley can only regulate antennas on the basis of land
82 use impact, not perceived health impacts.

83

84 M/S/C to open the public hearing (Poschman/McCamant). Ayes: McCamant, Wrenn, 85 Tabb, Hicks, Bronstein, Curl, Poschman, Howerton. Noes: None. Abstentions: None. 86 Absent: Wengraf.

87

88 Resident Kate Bernier expressed her opposition to new telecommunications antennas
89 because of health concerns. She urged the Commission to consider the radiation
90 emissions and stated that the proposed 300 feet buffer is not enough. She stated that she
91 does not trust the Zoning Adjustments Board (ZAB) to make decisions on antenna

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92 locations and added that she does not want antennas disguised because she prefers to
93 know where they are located.

94
95 Resident Constance Sutton urged the Commission to delay the vote to approve an
96 Amendment regarding telecommunication towers due to the flawed construction of the
97 proposed regulations. She stated there are too many loopholes and exceptions. She also
98 stated that Berkeley currently has excellent coverage, thereby reducing the need for
99 additional antennas.

100
101 Resident Kevin Sutton stated the term “readily visible” has no meaning because all
102 antennas are “stealthed”. He strongly supported the use of buffer zones which he said are
103 used all over the country. He stated that neighborhood character not health is the issue of
104 concern. He reiterated that Berkeley already has excellent coverage, and expressed his
105 concern with the Nextel letter because of numerous inaccuracies.

106
107 Resident Leonard Schwartzburd stated his strong opposition to the Nextel letter and his
108 concern is that there will be an exponential increase in antennas once this ordinance is
109 approved. He stated that the City has a legal right to consider the growth of wireless
110 facilities and the total radiation that will be created in the future by these antennas. He
111 showed the Commission a map of current stations and also stated there is sufficient
112 existing coverage.

113
114 Commissioner McCamant asked if his main concern is one of health, aesthetics, or the
115 ability to regulate antennas.

116
117 Leonard Schwartzburd stated that his concern is primarily to control the total number.

118
119 Nextel representative Kristin Jacobson stated that it is untrue that the industry wants to
120 locate antennas all over the City or that existing coverage is adequate. She also stated her
121 opposition to buffer zones.

122
123 Commissioner McCamant asked if the coverage issue affects customers now.

124
125 Commissioner Bronstein added a request to define “adequate coverage”.

126
127 Kristin Jacobson explained that Nextel antennas do not produce adequate coverage now.
128 She stated that sites are overloaded and that customers can not make calls or keep
129 connections in parts of Berkeley. She stated that the term “adequate coverage” means
130 being able to accommodate the number of calls without dropping coverage.

131
132 Commissioner Bronstein asked if there will be ever increasing sites since that is the
133 nature of business.

134
135 Kristin Jacobson added that the telecommunication industry is moving towards becoming
136 a utility.

137

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138 Commissioner Tabb asked Kristin Jacobson if she believes the 200 foot buffer would be
139 adequate.

140
141 Kristin Jacobson replied that a 200 foot buffer would not allow for adequate service.

142
143 Nextel attorney Nick Selby stated that in light of the recent New York City events,
144 wireless services are seen as more important than ever as a personal and community
145 health and safety aid. He stated his opposition to the regulations proposed by Staff.

146
147 Nextel consultant Dane Ericksen stated that whether telecommunication towers meet
148 Federal exposure standards is not a real issue. Projected radiation levels from
149 telecommunication towers are 1000 times below what the FCC has identified as
150 hazardous levels. He stated that using the cell phone itself generates more radiation than
151 a base station.

152
153 Commissioner McCamant asked about the difference between 200 and 300 feet.

154
155 Dane Ericksen answered that the power density would increase.

156
157 Commissioner McCamant asked if radiation is dispersed when it meets solid objects.

158
159 Dane Ericksen replied that intervening obstacles, such as buildings will attenuate or
160 disperse the signal.

161
162 Commissioner Bronstein asked how the topography affects coverage.

163
164 Kristin Jacobsen replied that it depends on how powerful the transmitter is and where it is
165 located.

166
167 Cingular Wireless representative Ben Lyon stated that there needs to be more work done
168 on the proposed Ordinance. He objected to the classification of antennas as a business
169 use, and noted his opposition to the use of buffers.

170
171 Commissioner Bronstein asked how antennas are classified in other cities.

172
173 Ben Lyon answered that in most cases, antennas are either not given a classification or
174 are classified as a quasi-utility.

175
176 Sprint PCS attorney Brian Kisling also expressed his dissatisfaction with the proposed
177 Ordinance stating it provides grossly inadequate coverage. He stated his opposition to
178 the neighborhood proposals, given that in his view, an exclusive buffer would violate
179 federal law.

180
181 Resident Marilee Mitchell stated that the loopholes created in the ordinance allows the
182 City to place antennas where ever it wants. She addressed the potential impact these

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183 antennas may have on wildlife and people. She then asked when the Ordinance would go
184 into effect.

185

186 Staff Kahn stated that the notice was not correct and that the Ordinance would not go into
187 effect until the Council acts. She added that the Ordinance places more stringent
188 requirements on the regulation of antennas than the existing regulations, however, if the
189 Council does not act before the moratorium does expire, the existing administrative
190 permit requirement will be reinstated.

191

192 Nextel representative Kristin Hulsey stated that 200 feet would not be enough to provide
193 the needed coverage.

194

195 M/S/C to close the public hearing (Bronstein/Poschman). Ayes: McCamant, Wrenn,
196 Tabb, Hicks, Bronstein, Curl, Poschman Howerton. Noes: None. Abstentions: None.
197 Absent: Wengraf.

198

199 Commissioner Wrenn requested information regarding how other communities similar to
200 the size, and density of Berkeley have regulated antennas. He also requested information
201 regarding other cities' classification of this industry.

202

203 Commissioner McCamant asked if antennas were concentrated instead of spread out,
204 whether this would provide more wattage. She also inquired about the maximum
205 wattage.

206

207 Dane Ericksen stated that concentration is unlikely because of federal regulations, but the
208 stations are low powered and there are limits on the power they can use and radiate. He
209 also stated that there is a maximum wattage, but did not have that information available at
210 that time.

211

212 Commissioner McCamant asked Staff if there is a justification for limiting antenna
213 density in relationship to land use.

214

215 Staff Kahn replied that the perceived health effects could not be one of the reasons for
216 denial of these antennas; they could be limited, however, due to aesthetic effects or
217 findings related to land use impacts such as traffic or noise.

218

219 Commissioner Tabb asked how an antenna generates traffic.

220

221 Staff Kahn stated that traffic is generated, for example, when they are being serviced.

222

223 Commissioner Hicks asked specifically about the proposals from these companies and
224 what they intend to build.

225

226 Staff Kahn stated that future antenna site development is likely to be similar to the
227 existing sites which are located on top of large buildings. Using a map, she pointed to the
228 existing, antenna locations.

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229

230 Commissioner Wrenn asked about the boundaries of the Metropolitan Transit Area
231 (MTA).

232

233 Nick Selby responded that the MTA is within the San Francisco Area and covers a very
234 broad region.

235

236 Commissioner Wrenn asked how many companies operate in Berkeley.

237

238 Nick Selby replied there are five and more may be authorized by the FCC, but that these
239 types of antennas are extremely low powered and the frequencies are carried by adjacent
240 cells. He stated that the antennas will probably not be co-located, given that a particular
241 site will not necessarily be appropriate for all carriers.

242

243 Kristin Jacobson stated that the antennas will generate only 150 –180 watts per sector,
244 and that each sector is composed of four antennas. She stated that even if more antennas
245 are added, the power would be low.

246

247 Kevin Sutton disagreed with these findings and stated that the wattage of the 12 antennas
248 proposed for the Thousand Oaks Theater was 500 watts apiece.

249

250 Kristin Jacobson replied that 400 watts per sector will be the maximum installed.

251

252 Commissioner Tabb asked if Berkeley receives any coverage from nearby sites in other
253 cities.

254

255 Kristin Jacobson replied that the signals only travel one-half mile.

256

257 Commissioner Hicks stated that Berkeley is already built out, and asked if there is a need
258 for many more transmitters.

259

260 Kristin Jacobson stated that with increasing density, it will continue to be difficult to
261 accommodate all users.

262

263 Commissioner Bronstein asked Constance Sutton why she had referred to the Pleasanton
264 Ordinance as a model when there are so many differences between the two cities.

265

266 Constance Sutton stated that in Pleasanton, their buffers are appropriate and their
267 ordinance was well written.

268

269 Commissioner Tabb requested more information regarding what communities similar to
270 Berkeley's density have in place regarding telecommunication antennas.

271

272 Commissioner Poschman referred to attachment B on page 14, item 100117. He stated
273 there are too many exceptions which create loopholes. He asked how the

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274 telecommunications industry judges the quality of service, and if the “spill-over” service
275 from overlapping cities is included in this measurement.
276
277 Nick Selby stated that the quality of service is assessed within the proposed coverage area
278 of that site and crossover coverage is not desirable.
279
280 Commissioner Tabb stated he could not get coverage in North Berkeley.
281
282 Commissioner Poschman stated that as the quality of the level of service improves, the
283 lower end of the service level is entitled to improve as well.
284
285 Staff Kahn described the process proposed for issuing a use permit for a
286 telecommunications antenna. Before issuing a use permit, the Zoning Adjustments Board
287 (ZAB) would assess issues related to detriment related to land use. The City would not
288 be able to deny a use permit on the basis of health concerns.
289
290 Commissioner Poschman asked if the Zoning Board will act on cases other than appeals.
291
292 Staff Kahn replied that the applications that would require ZAB review are mentioned in
293 the Ordinance, such as in those proposed in a residential area. She noted that the
294 proposed Ordinance is more stringent than the current practice.
295
296 Commissioner Bronstein stated that stealth antennas would qualify for an Administrative
297 Use Permit (AUP) and would not go to the ZAB unless appealed.
298
299 Constance Sutton asked how neighborhood groups know what goes to the ZAB.
300
301 Staff Kahn replied that any neighborhood group that registers with the Current Planning
302 Division will be notified.
303
304 Commissioner Poschman requested information regarding how antennas are handled on
305 public land as opposed to private property.
306
307 Staff Kahn stated that the use of City owned property is not regulated by the ZAB but the
308 Public Works Department.
309
310 Commissioner Poschman asked if decisions made by Public Works regarding the use of
311 City property go City Council.
312
313 Staff Kahn stated that this issue has not yet been resolved.
314
315 Commissioner Bronstein proposed that the telecommunications antenna item be
316 continued on October 24th Planning Commission meeting.
317
318 Staff Kahn stated that this would work as long as there is a one month lead time to get the
319 decision to City Council.

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320

321 Leonard Schwartzburd stated that he is concerned about antennas as an attractive
322 nuisance.

323

324 Commissioner Tabb announced that this was Commissioner McCamant's last evening on
325 the Planning Commission.

326

327 The Commissioners recognized Commissioner McCamant's long tenure on the
328 Commission and her contributions to various planning efforts.

329

330 **COMMITTEE REPORTS**

331

332 No report.

333

334 **ADJOURNMENT**

335

336 The meeting was adjourned at 9:35.