

CORRESPONDENCE

- a. October 2010
- b. ARROW Letter 10.26.10
- c. Correspondence 01.10.12
- d. Correspondence Received 02.24.12
- e. Correspondence Received 02.28.12
& later
- f. Correspondence 4.24.12
- g. Correspondence 5.8.12

Jeff Bond

From: Laura Peck [lpeck@clarosconsulting.com]
Sent: Tuesday, October 19, 2010 2:48 PM
To: Jeff Bond
Subject: please improve att coverage

for safety, satisfaction, and ease, Please improve cell phone coverage!!

Laura Peck

Claros Group

510.524.3150

lpeck@clarosconsulting.com

<http://www.linkedin.com/pub/laura-peck/1/3/807>

Follow effective action with quiet reflection. From the quiet reflection will come even more effective action.

Peter Drucker

Jeff Bond

From: Alan Stein [alanrstein@yahoo.com]
Sent: Tuesday, October 19, 2010 2:47 PM
To: Jeff Bond
Subject: AT&T wireless

I am writing as a long time resident of Albany (we bought our house at 969 Kains in 1983) and our children attended AUSD.

My wife and I are both independent consultants. The quality of reception we receive on our technology at our home ranges from abhorrent to nonexistent.

I FULLY SUPPORT AND EXPECT THE PLANNING COMMISSIONS EXPEDITIOUS APPROVAL FOR ATT'S PERMIT.

sincerely

Alan Stein, MPH, MS, LMFT

Sent from my iPhone

Alan R. Stein, MPH, MS, LMFT

Jeff Bond

From: Thor and Julie [thorandjulie@sbcglobal.net]
Sent: Tuesday, October 19, 2010 9:31 AM
To: Jeff Bond
Subject: Approve AT&T cell site

yes coverage would be a good idea! Requesting that City of Albany Planning Commissioners approve AT&T's proposed cell site at 1035 San Pablo Ave.

Thank you,

Julie Durkee

Jeff Bond

From: Thorston Tichenor [thorston@sbcglobal.net]
Sent: Tuesday, October 19, 2010 9:30 AM
To: Jeff Bond
Subject: Approve AT&T cell site

yes coverage would be a good idea! Requesting that City of Albany Planning Commissioners approve AT&T's proposed cell site at 1035 San Pablo Ave.

Thank you,

Thorston Tichenor

Jeff Bond

From: Cass Gulden [cguldens@yahoo.com]
Sent: Monday, October 18, 2010 9:16 PM
To: Jeff Bond
Subject: New Cell Tower

Jeff--

As a long time Albany resident I'm asking you do everything you can to approve (fast track!) the proposed cell tower in Albany on San Pablo. We desperately need it and it would certainly add to the quality of life here in our lovely little town!

Thank You!

~Cass Gulden

1055 Evelyn Ave

Jeff Bond

From: Uli Elser [ulielser@mac.com]
Sent: Monday, October 18, 2010 12:31 PM
To: Jeff Bond
Subject: please allow AT&T cell tower

Hi

Could you please allow for AT&T to erect a cell tower on San Pablo?

Thanks'

Uli

Uli Elser

ulielser@mac.com

IM: ulielser@mac.com

cell (510) 282 6316

Jeff Bond

From: PIROTH, INGO D (ATTCINW) [IP7030@att.com]
Sent: Monday, October 18, 2010 9:07 AM
To: Jeff Bond
Subject: Albany Cell Coverage,

Hi Jeff,

I am an Albany resident living at 1061 Evelyn Ave and a current AT&T subscriber. I understand there may finally be some relief coming in terms of more cell coverage in Albany specifically near our house on San Pablo –

For what it's worth I would like to strongly advocate in favor of installing the cell site as coverage is absolutely awful in Albany.

Many thanks for your consideration.....

Ingo Piroth

Ingo Piroth
Director - Mobility Applications Consulting
Western Region - Signature Client Group

Oct. 26, 2010

RE: Wireless permit applications on Oct. 26, 2010 Planning and Zoning Commission Agenda

Dear Chair Gardener and Members of the Planning and Zoning Commission:

I am writing with regard to the three cellular antennas permits on the commission's agenda for tomorrow, Oct. 26. Please excuse me for submitting a lengthy letter on the day of the meeting. Unfortunately, some information on these applications was not available until last night (and some key questions still remain unanswered). The gist of my letter is to ask you to do the following, consistent with the goals and requirements of Albany's Wireless Communications Facilities Ordinance:

1) continue the permit request for 423 San Pablo Avenue until current information about what is apparently a new, revised proposal from the carrier is received and provided to the public (all of the documentation in the public packet is for the April 2010 request for 6 antennas; however, the staff report says the applicant is requesting 4 antennas)

2) continue the application at 1035 San Pablo until the applicant (AT&T) performs a thorough analysis of alternatives in higher-preferred districts for antenna sites as well as the preferable alternative of locating the new antennas in the Town Center shopping center sign in the third-choice district.

3) approve a permit for antennas at Golden Gate Fields if this will not set a precedent that would require also approving upgrades at 423 San Pablo, and subject to specific conditions about site safety, permit duration, and the as-yet unexplained microwave dish that is included in the application.

This letter explains the above recommendations for each permit applications in detail below.

423 San Pablo Avenue Monopole

The current staff report for the proposed antenna upgrades at the monopole at 423 San Pablo states that the applicant is apparently now proposing to remove the 4 existing antennas and install 4 new antennas. However, the supporting documentation attached to the staff report, including the professional engineer's report, all describes the applicant's prior proposal from April, 2010 to upgrade the 4 existing antennas and add two more, for a total of 6 antennas. There is no information in the public packet explaining what models of antennas are now proposed for the monopole or what the applicant's purpose is in installing the new antennas, nor is there an engineer's report detailing their power output, the number of channels in each, etc.

Without this information, neither the commission nor the public can make a meaningful determination about whether the proposed project meets the requirements of the wireless ordinance. For example, we do not know whether the 4 antennas now proposed would in fact have the capacity provide the same upgraded and enhanced service that the previously proposed 6 antennas would have provided. This application should be continued until complete information is provided to the commission and the public, as required by the wireless ordinance and wireless application checklist, specifying the technical details of the antennas.

With regard to Verizon's original application in April, 2010, the key issue was whether Verizon's application for new antennas to provide new "long-term evolution" (LTE) service could be approved under the terms of our ordinance, which allows only "routine maintenance" on legal non-conforming sites (Section I3, Existing Uses). Section F1 of the ordinance makes clear that the following activities require a major or minor use permit, design review, and a building permit and therefore would, logically, not constitute "routine maintenance": "all wireless communication facilities and facility modifications that involve any change in the specifications or conditions stipulated in the approved permit, including but not limited to changes in power input or output, number of antennas, antenna type or model, number of channels per antenna above the maximum specified in a use permit, repositioning of antennas, increase in proposed dimensions of tower or support structure, or any other facility upgrades." Verizon's original application stated that the proposed work was an upgrade.

1035 San Pablo

There are a number of problems with AT&T's proposal to locate 9 new antennas:

- It requests a location in the last-preference district for antenna sites under our ordinance, San Pablo/Solano commercial (SPC/SC) but fails to adequately demonstrate that a more preferable location cannot be found in the higher-preference districts or even within the third-preference district.
- It fails to meet the ordinance's stated goal of maximizing setback of antennas from residential uses.
- AT&T has not provided key pieces of information: a map of the coverage that would be achieved if its application for a site at 1760 Solano in Berkeley is approved (that site, if approved, would very likely overlap coverage with the proposed site at 1035 San Pablo and eliminate the need for the San Pablo site) and a clear explanation of whether the new site would close a coverage gap for all customers or only customers who purchase new equipment to take advantage of the new services the site would offer.
- The new antennas would create areas on the rooftop where the Federal Communications Commission (FCC) limits for radiofrequency (RF) radiation exposure would be exceeded, posing a danger to workers and emergency personnel such as firefighters.
- Adding the antennas and equipment cabinets to the rooftop would violate the zoning ordinance's limits on the total percentage of space that rooftop structures can occupy.
- The Code of Federal Regulations (CFR) limits PCS base station radiated emissions to a value that is lower than this installation would emit.

Priority order of zoning districts for antennas; this application does not meet key elements of the ordinance's purpose and intent

The "Purpose and Intent" section of the wireless ordinance emphasizes that three goals of the ordinance are to locate wireless facilities according to a preferential order of zoning districts, to encourage the leasing of municipally owned properties. In addition, Section D3 of the ordinance states as follows (emphasis added):

3. In all districts where wireless communication facilities are permitted, any such facility shall be located on a site that provides for, in order of priority,
 - a. the maximum achievable setback from any permitted child care facility or school; and
 - b. **the maximum achievable setback from any property line abutting a residential district.**

The proposed AT&T site does not meet any of the above goals and criteria. It has not thoroughly examined the options for locating in the first-choice district, commercial mixed-use (CMX) or the second-choice district, public facilities (PF), and the city has also not encouraged leasing of municipally owned properties for this site (City Hall, one block from the currently proposed site, has not even been considered as a site). Within the SPC district, AT&T did not propose to co-locate at the existing site it previously owned at the Town Center shopping center, which provides a significantly greater setback from residential property lines. (This site is, however, discussed in AT&T's alternatives analysis and appears to be acceptable to the carrier).

With regard to CMX, the city should request that its consultant or another independent wireless telecommunications engineer determine what type of facility would be needed in CMX (i.e., what height would be required) to reach AT&T's target coverage area. No information is given in the current consultant's report regarding the assumptions made about height or other details of the hypothetical CMX site that AT&T analyzed. The consultant's report states only that "AT&T provided a coverage map for an alternative site located in the CMX zone" and that the consultant determined that the coverage map did not provide service to the target area AT&T wishes to reach. No independent analysis was performed regarding whether it would be technically feasible for a site in CMX to reach the target area, and what the characteristics of that site would have to be.

With regard to the public facilities district, AT&T investigated locating the site at the fire station but not City Hall next door to the fire station, and also did not consider the USDA research facility on Buchanan Street, which is less than 0.5 miles from the fire station, four stories tall (taller than 1035 San Pablo), with antennas already on the roof and a large buffer of green space from Ocean View Park. In addition, if the city wishes to "encourage" wireless sites on municipal property, as stated in the ordinance, the city should make a thorough assessment of the feasibility of locating the site at the City Hall/fire station complex. Given the city's anticipated deficit next year, the

significant income – potentially \$25,000 or more per year – from leasing space for a cell site should be taken into account in this assessment.

Preferable location in SPC – Town Center. Finally, if after a more thorough analysis by AT&T and an independent consultant, it is determined that coverage to fill a demonstrated coverage gap is only feasible from within the SPC/SC district, AT&T should propose to co-locate at the Town Center shopping center sign. That location fulfills the ordinance's requirement to find a site that provides the maximum achievable setback from residential. Moreover, the original permit for that site was issued to Cingular, which is now AT&T. Cingular/AT&T divested those antennas to T-Mobile and is now seeking a replacement site; it seems only logical that AT&T should "relocate" to the site where its antennas were originally approved. This would require either an exemption to allow the sign height to increase, or redesign of the sign as a more aesthetically pleasing and taller architectural feature to house both the AT&T and T-Mobile antennas; the shopping center could, in this case, be permitted to construct an alternative sign on the property. This location would also satisfy the ordinance's preference for co-location of antennas.

Information is (still) missing from this application

Before elaborating on the points listed in the previous paragraph, I would like to note that there are some important pieces of information missing from AT&T's application. First, AT&T should provide a map showing what coverage would be if their proposed site at 1760 Solano Ave., Berkeley were approved. And, second, as noted in the staff report, AT&T says this site is necessary to fill a coverage gap, but it is not clear whether all existing customers would receive improved coverage from this site or whether customers would have to purchase new technology in order to benefit from the service that would be provided by this site.

This application violates rooftop coverage limits

With regard to the AT&T site violating the zoning ordinance's limits on percentage of rooftop that can be occupied by structures such as elevator penthouses and similar structures, I cannot take credit for this point, which will be explained at the meeting by resident Maureen Crowley.

This application appears to violate Code of Federal Regulations limits on PCS base station radiated power

The Code of Federal Regulations (47CFR24.232) says, for broadband PCS: "Base stations are limited to 1,640 watts peak equivalent isotropically radiated power (EIRP)...." The proposed AT&T PCS power of 1,440W ERP exceeds that value. $EIRP = 1.64 \times ERP$. Multiplying the AT&T PC stated ERP of 1,440W by 1.64 = 2,361.6, which exceeds the limit of 1,640. Therefore, this federal regulation, if it applies to this site, would prevent the installation of the AT&T antennas. The city needs to determine whether and how this federal regulation applies to this application.

The fact that AT&T may have poor coverage does not mean they should put antennas at a poorly chosen site

There is much anecdotal evidence that AT&T's coverage is poor in some areas of Albany and has been so for many years. However, if one compares the coverage maps submitted in support of this application with the ones on AT&T's website for prospective customers, one sees two very different pictures. The on-line coverage maps for prospective purchasers indicate much better coverage, including in the area that is the subject of this application. With regard to Albany customers' experience of poor coverage, one could argue that AT&T has made some poor business decisions, contracting to provide service that it did not have the network to provide, and divesting itself of large parts of the former Cingular network to T-Mobile. As a result, the company is now coming back asking for new antennas to replace those that it gave away. The fact that AT&T may well have poor coverage in some areas does not mean the company should be given a permit for a poor location for antennas.

We need to ensure RF exposure protection for workers and emergency personnel

If the 1035 San Pablo installation ends up being approved, an emergency shutoff such as is required at all gas stations for gas pumps should be required as a condition of the antennas permit, so that firefighters who might have to access the roof in an emergency can shut off the antennas to protect themselves from RF radiation exposure exceeding the FCC limit.

A few notes on the 1035 San Pablo staff report

The staff report says the city is preempted from regulating health implications of RF emissions. This is not strictly true. The city is only preempted, under federal law, from regulating health effects of RF emissions beyond what the FCC RF exposure limits require. The city is free to require that a site meet the FCC limits for protection of public and worker health.

The staff report says that exemption from CEQA is recommended because this is an alteration to an existing facility. However, this application is for a new facility.

Golden Gate Fields

The Golden Gate Fields (GGF) location where Verizon proposes new antennas and a microwave dish is a very suitable location for cell antennas in the city, similar in location and land use to the highest-preference CMX zone and very effectively meeting the ordinance's requirements for maximum setback from residential and school sites. For these reasons, I believe the commission should approve the antennas (but not the microwave dish until more information is provided about it) at this site, subject to the following caveats and conditions:

- This application should not be approved if doing so would set a precedent requiring approval of the abovementioned application at 423 San Pablo as the 423 San Pablo tower also predates our wireless ordinance (but does not meet any of the ordinance's criteria for antenna sites).
- The permit duration for the GGF antenna site should be tied to the land use; that is, the right to operate a wireless facility at this location should terminate when the current commercial use (the racetrack) ends or changes.
- Verizon or an independent consultant must demonstrate that persons climbing or occupying the tower are not subject to RF radiation exposures exceeding the FCC's limits for the general public. The tower appears to have an observation box at the top, and anyone accessing that box (including a curious teenager) would pass very close to the antennas. It is therefore imperative that the safety of persons accessing this location be verified.
- The microwave dish proposed at the GGF location should not be approved until its purpose is clarified and it is determined to meet the wireless ordinance's requirements. In particular, because this application is submitted by the property owner, Pacific Racing, it is not clear whether the microwave is for Verizon's use or GGF's use. If it is for Verizon's use, we need to understand its purpose and confirm that it meets the requirements of our ordinance, including serving Albany residents.

A Note about the Consultants' Report

I would like to underscore the importance of the city obtaining the services of an independent engineer, as provided for in our wireless ordinance, to evaluate cell antenna applications in a thorough and meaningful way with the city's interest as the primary focus. The word "independent" in the ordinance is critical; it means a consultant who does not work for the industry, who will proactively analyze the application with the city's concerns foremost, and whose task is to ask the technical questions that the city staff and commissioners cannot reasonably be expected to have the background to pose.

I am concerned that the RCC report on the 1035 San Pablo Ave. application does not achieve what the wireless ordinance intends by independent review. Among the ways that the RCC report falls short:

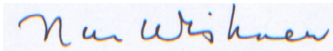
RCC states up front that its analysis is based on "wireless industry standards" not on the city's requirements or what is in the best interest of the city. RCC did not conduct independent testing or analysis but simply observed AT&T's drive-by coverage test and examined AT&T's coverage maps against AT&T's own stated objectives without questioning any of AT&T's assumptions. An independent coverage test would have used the consultant's own calibrated equipment and compared the results with AT&T's, for example, to ensure that AT&T's results were accurate. RCC did not analyze or question AT&T's objectives from either an engineering perspective or from the perspective of the ordinance's requirements. In addition, RCC did not perform proactive analysis in the city's interest, such as modeling what characteristics a site in CMX would need to have to provide coverage to AT&T's target area.

I urge the city staff to do further research to identify consultants who work for municipalities and similar clients and do not also work for industry. The number of such consultants is small, so this likely will mean retaining consultants who are located elsewhere, possibly out of state. I urge the city to choose the best consultant to represent the city's interests even if the consultant is not local and the wireless applicant might prefer another choice.

Conclusion

Thank you for your thoughtful consideration of these issues and for rigorously enforcing our wireless ordinance to honor the community's wishes for an orderly, aesthetically acceptable deployment of wireless facilities that meets the residents' desire for wireless service and limits their impact by maintaining a maximum setback from residences and schools.

Sincerely,

A handwritten signature in blue ink that reads "Nan Wishner". The signature is written in a cursive style and is placed on a light blue rectangular background.

504 San Carlos Ave., Albany
510-524-5185

Anne Hersch

To: Jeff Bond
Subject: RE: Update on AT&T cell phone coverage for Albany ?

From: davidsanger@gmail.com [<mailto:davidsanger@gmail.com>] **On Behalf Of** David Sanger
Sent: Tuesday, September 13, 2011 4:38 PM
To: Jeff Bond
Cc: albanychamber@albanychamber.org
Subject: Update on AT&T cell phone coverage for Albany ?

Hello Jeff.

Could you please give me an update on any AT&T wireless applications that are underway in the Albany area, when or whether they might be approved and when they might be operational.

At the recent Solano Stroll, which is very important to Albany and North Berkley merchants, there was almost no coverage for AT&T customers because of lack of service.

Thanks

David Sanger

--

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updates at www.davidsanger.com
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HOWARD F. MCNENNY, AIA

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January 3, 2012

Ms. Anne Hersch
City Planner, City of Albany
1000 San Pablo Avenue
Albany, CA 94707

Re: ATT Transmitter

Dear Ms. Hersch:

This letter is in support of ATT's application for a transmitter in the City of Albany, which I understand is up for consideration at the upcoming Planning and Zoning meeting. This is a city that has billed itself as business-friendly, but one of the most difficult aspects of trying to do business in Albany is the almost total lack of cell phone coverage. I have dropped more calls than I can possibly recount, and reception when I do have a connection is typically very poor. Most frustratingly, I cannot even retrieve my cell phone messages on a regular basis. There are actually times when I have had to get in my car and drive to the freeway, or to Berkeley in order to get my messages.

It is my hope that the city acts as quickly as possible to rectify this horrible situation.

Sincerely,

Howard McNenny, AIA

Anne Hersch

From: Jeff Bond
Sent: Wednesday, January 04, 2012 1:52 PM
To: Anne Hersch
Subject: FW: 1035 San Pablo and other cell antenna issues

Jeff Bond, Community Development Director City of Albany
1000 San Pablo Avenue
Albany, CA 94706
510-528-5769

-----Original Message-----

From: Nan Wishner - Undoing Yoga [<mailto:nan@undoingyoga.com>]
Sent: Wednesday, January 04, 2012 1:31 PM
To: Jeff Bond
Subject: 1035 San Pablo and other cell antenna issues

Hi Jeff
Happy new year!

I just heard from a resident of the neighborhood that there is a P&Z study session on Jan 10 re a new design for AT&T antennas at 1035 San Pablo. Is the design available electronically yet, and can you tell me the high points of how it differs from the last ones?

Have we ever gotten an independent analysis (vs the one RMC - not sure i have the initials right - did where they just followed the AT&T engineer around and did not question any of the engineer's assumptions) showing that AT&T really cannot provide the required coverage from CMX, given that 1035 SP is in the last-choice district for antennas in the city?

Id like to circle back with you about the idea of establishing one or more municipal or preferred antenna sites in the city where carriers are given some kind of incentive to go, before we go down the road of fighting over 1035 SPA again, as well as the other two applications that you said in the Patch article a few weeks ago are in the hopper. Has there been any further consideration given to the idea of establishing such a preferred site or sites and if not what can ARROW do to help move that discussion along?

Warm wishes,
Nan

Anne Hersch

From: Jeff Bond
Sent: Wednesday, January 04, 2012 3:40 PM
To: Anne Hersch
Subject: FW: AT&T Tower

Jeff Bond, Community Development Director City of Albany
1000 San Pablo Avenue
Albany, CA 94706
510-528-5769

-----Original Message-----

From: Jonathan Leavitt [<mailto:doublesquids@mac.com>]
Sent: Wednesday, January 04, 2012 2:48 PM
To: Jeff Bond
Subject: AT&T Tower

I heard from a fellow Albany resident that erection of a cellphone tower in Albany has been blocked by a bunch of Luddite NIMBYs. I hope it's not true.

Meanwhile my Albany AT&T voice service in the flats is terrible. I would expect better service in Timbuktu!

Can you explain what is going on?

Sent from my iPhone

Anne Hersch

From: Jeff Bond
Sent: Friday, January 06, 2012 11:33 AM
To: Anne Hersch
Subject: FW: Agenda Item For Jan 10 P&Z Meeting - Cellular Study

Jeff Bond, Community Development Director City of Albany
1000 San Pablo Avenue
Albany, CA 94706
510-528-5769

-----Original Message-----

From: Bernard Knapp [<mailto:bernardknapp@gmail.com>]
Sent: Friday, January 06, 2012 11:00 AM
To: Jeff Bond
Subject: Agenda Item For Jan 10 P&Z Meeting - Cellular Study

Hello Mr. Bond,

I'm writing to express my support for any measure that would improve ATT cellular service in Albany. It seems from the poll on the Patch and my personal experience that ATT service in our city is execrable. I'd support any reasonable development that would improve service, and I would like the P&Z commission to take this problem very seriously, and not allow its deliberations to be influenced by the volume level from a few of our residents who irrationally fear electromagnetic radiation from cell towers will give them cancer, and for that reason will oppose any improvement in cell service by any means they can find. In this as in other areas in City politics, it is time for our city officials to stop taking their directions from the few and dedicated who are idle enough or motivated enough to show up for interminable meetings to vociferously air their minority views, and begin to pay a little attention to what will benefit the majority of our residents. A quick review of the comments on this issue in the Albany Patch will confirm how many of us are hoping the Commission will take the need to improve cell service in Albany seriously.

Please convey these thoughts to the commissioners, if, as I expect, I am unable to personally attend the meeting on January 10.

Thanks,

Bernard Knapp

Anne Hersch

From: lauramargie@sbcglobal.net
Sent: Saturday, January 07, 2012 11:51 AM
To: david@arkintilt.com; pcmaass@pacbell.net; pmoss@sbcglobal.net; leo.panian@gmail.com; eisenmann.arch@me.com; Anne Hersch
Subject: cell phone towers

Dear Planning and Zoning Commissioners:

Thank you for holding a study session on AT&T's proposal for a total of 21 new cell antennas (9 enclosures each housing multiple antennas) on the roof of 1035 San Pablo Ave., which already hosts a Sprint/Nextel cell antenna array. I am opposed to the addition of these antennas in such close proximity to a residential area. I encourage the City of Albany to engage in an active process of determining acceptable locations for cell antennas to avoid the current site-by-site controversies, as it is clear that these large cell phone companies have more money to waste on such legal battles than the City of Albany or its residents.

Sincerely,

Margie Groeninger
1072 Evelyn Avenue

Anne Hersch

From: Jim Sanetra [jsanetra@sungevity.com]
Sent: Monday, January 09, 2012 9:22 AM
To: David Arkin; Peter Maass; Phillip Moss; Leo Panian; Stacy Eisenmann; Anne Hersch
Subject: AT&T's proposal for a total of 21 new cell antennas (9 enclosures each housing multiple antennas) on the roof of 1035 San Pablo Ave

Dear Planning and Zoning Commissioners:

Thank you for holding a study session on AT&T's proposal for a total of 21 new cell antennas (9 enclosures each housing multiple antennas) on the roof of 1035 San Pablo Ave., which already hosts a Sprint/Nextel cell antenna array.

While I support improved coverage for AT&T customers in Albany, the current proposed design does not meet the requirements of Albany's general zoning code, for the same reasons as were true of the last set of plans that AT&T proposed for this location. The equipment cabinets and other structures AT&T would add to the existing Sprint/Nextel and other roof-mounted equipment would exceed the zoning code's limit on percent of roof area that can be covered by rooftop structures. The new installation might also exceed zoning code height limits.

In addition, this site is in the San Pablo commercial district, which is the *last-preference* zoning district for antennas as specified in Albany's wireless ordinance, and AT&T has not met the burden of proving that coverage cannot be achieved from the first-choice district, CMX, or the second-choice district, PF.

AT&T's alternative site analysis looks at only 1 location in CMX and dismisses it based on height considerations.

A site in CMX would be the least intrusive solution to AT&T's stated need and would fulfill the primary requirement of our ordinance for preferred location. What about the roof of Target or the Toyota service center?

I request that the city retain an independent RF expert knowledgeable about siting issues to determine whether there are, in fact, feasible locations in CMX from which AT&T could cover its target area, and how high a cell site would need to be to accomplish this coverage from CMX. This should be a truly independent analysis that does not simply accept AT&T's assertions and propagation maps at face value.

In addition, the roof of the USDA building, which is zoned PF [public facilities], the second-preference zoning district for antennas, would be a much less intrusive site. According to AT&T's maps, antennas at this location would cover most of the target area. This site should be actively pursued until a definitive response is received from USDA. AT&T's alternatives analysis is inconclusive regarding this location, stating only that the applicant has not been able to speak with the appropriate party at USDA who could address leasing negotiations.

Please do not approve an antenna site that does not conform to our code and that would disproportionately affect the residents of the adjoining neighborhood.

Finally, I urge the Commission to support a proactive solution to wireless siting in the city that would avoid continued site-by-site controversies. I support the proposal of Albany Residents for Responsible Oversight of Wireless (ARROW) that the city establish one or more preferred, municipally owned antenna sites away from residences where carriers would be encouraged to locate and from which coverage could be provided to most or all of the city. This solution would benefit everyone: city residents, carriers, and the city itself.

Sincerely,

Jim Sanetra
 1037 Kains Ave
 Albany CA 94706

Senior Project Manager | Sungevity Solar Home Specialists
 66 Franklin Street, Oakland, CA 94607 | 866-SUN-4ALL | 510-496-5585
 510 333 8412 mobile | 510 496 5502 fax | jsanetra@sungevity.com
 Have you gotten an iQuote yet? www.sungevity.com

Dear Planning and Zoning Commissioners:

We write on behalf of Albany Residents for Responsible Oversight of Wireless (ARROW) regarding Planning Application 08-038, which is scheduled for a study session (item 6B) on your Jan. 10, 2012 agenda.

Background

This application is for new AT&T cellular antennas on the rooftop of 1035 San Pablo Ave. The application specifies 9 antenna enclosures, each housing multiple antennas, for a total of either 21 or 24 antennas. The discrepancy is a result of different antenna models being specified on AT&T's plans (which would total 24 antennas), and in the radio frequency (RF) exposure report prepared by Hammett and Edison (which would total 21 antennas).¹

The rooftop at 1035 San Pablo Ave. already hosts a Sprint/Nextel cellular antenna array.

Summary of Concerns

ARROW's concerns regarding the AT&T application fall into two categories: the elements of the application that do not conform to our zoning code, and the technical elements of the application that are inconsistent, missing, or questionable.

Our concerns are summarized here and explained in detail in the following sections of this letter.

Zoning concerns:

1. The installation as described on the current plans exceeds the percentage rooftop coverage (and possibly also height limits) specified in Albany's general zoning code.
2. This site is in the third- and last-preference zone for antennas as specified in Albany's wireless regulations [Section 20.20.100 (D)] and is significantly more intrusive than other options in the first- and second-preference zones that have not been adequately explored in AT&T's alternative site analysis.

Technical Concerns:

1. As noted above, there is confusion regarding the models and total numbers of antennas that would be installed, and therefore regarding the accuracy of the emissions calculations for the proposed site.
2. A number of technical details about the antennas are not disclosed, including down-tilt and the basis for the assumed maximum power at which the antennas could or would be operated, which affects the accuracy of the exposure calculations.
3. The exposures calculated for the proposed antennas, though still within Federal Communications Commission (FCC) limits, are the highest we have ever seen in a cellular antenna application, roughly 7 times greater than the usual percentage of the FCC limits. According to the Hammett and Edison RF exposure report, exposures at nearby

¹ AT&T's plans show two triple-band (three antennas in one) 7780.00 models and one dual-band (two antennas in one) P65 model per sector. The Hammett and Edison RF exposure analysis is based on two P65 dual-band models and one 7780.00 triple-band model per sector.

buildings would be equivalent to standing 6 inches away from a new, operating microwave oven.

4. The report by the city's independent wireless communications consultant, Jonathan Kramer, relies on data apparently supplied by AT&T and not independently verified, including the power at which the antennas would be operated and AT&T's conclusions regarding the feasibility of providing coverage from sites in higher-preference districts.

The concerns summarized above, which are explained in detail below, are for the most part the same concerns ARROW raised when this application was presented to the Commission previously.

Although we appreciate that the applicant has made an effort to meet code setback requirements and to prepare an alternatives analysis, both of which were also problems in previous iterations of the application, the fundamental problems with this proposal have still not been addressed, and the alternatives analysis is still incomplete.

Summary of Recommendations

ARROW requests that :

1. The city retain an independent wireless engineer and siting consultant to evaluate the feasibility and technical requirements for alternative sites for the proposed AT&T antennas in the first- and second-choice districts where antennas are to be located according to the city's wireless ordinance.
2. AT&T actively pursue to a definitive conclusion the option of locating antennas at the USDA building. This building is in a higher-preference antenna district than 1035 San Pablo Ave, and AT&T's propagation maps show that antennas at this site could provide coverage to almost all of the target area.
3. The Commission join us in supporting accelerated exploration, and, if feasible, implementation of one or more municipally owned antenna sites that meet the requirements of our zoning code, would be available to carriers with a streamlined application process, would allow carriers to provide coverage to most or all of the city, and would eliminate the type of controversy that has arisen over this and another recent wireless antenna applications.
4. RF emissions monitoring of all antenna base stations in the city, as specified in the city's wireless ordinance, be implemented immediately, and permit conditions for wireless facility approved by the city include the requirement that the carrier cooperate with the city's monitoring program, including depositing the required funds with the city.

Detailed Explanation of Concerns and Recommendations

A. Zoning concerns

- 1. This application does not meet zoning code requirements regarding allowable percentage of rooftop coverage and likely also exceeds height limits.***

Albany zoning code section 20.24.080, Height Limits and Exceptions, specifies the percentage of roof area that can be covered by rooftop structures as well as maximum height and screening requirements for these structures.

As we expressed to the Commission in 2010 when this application was last discussed and as specified in code section 20.20.100 (E) (2) (h), cellular antennas and associated equipment fall under code section 20.24.080 (B), which applies to penthouses, towers, and other similar structures that do not house mechanical equipment that directly serves the building on which it is located.

Section 20.24.080 (B) specifies that the aggregate of such rooftop structures may not exceed 10% of the total roof area and may also not exceed 10 feet above the height limit for the zoning district.

Existing penthouses and other structures that exceed the maximum building height must be counted under 20.24.080 (B). The rooftop structures associated with the AT&T antennas would, in aggregate with other existing rooftop structures that exceed the maximum building height (the Sprint/Nextel equipment cabinets and existing penthouses), cover more than 10% of the roof area, as explained at the Oct. 26, P&Z 2010 meeting by Albany resident Maureen Crowley.

The total roof area shown on AT&T's plans is 4,354 square feet. Based on the plans submitted by AT&T, it appears the existing penthouse area is in excess of 600 square feet, and the Sprint/Nextel equipment area is 265 square feet. In combination with the proposed AT&T equipment, which totals 151.55 square feet, the total roof area covered by the Sprint/Nextel equipment, the existing penthouses, and the proposed AT&T equipment is approximately 1,016 square feet or is 23% of the total roof area. This is more than double than the 10% coverage allowed in section 20.24.080 (B).

In addition, the report prepared by the city's independent consultant, Jonathan Kramer, states that the south antenna enclosure proposed by AT&T would be 10 feet above the roof line. If this is correct, then that antenna enclosure would exceed the permissible limit of no more than 10 feet above the maximum height for the zoning district, which is specified in 20.24.080 (B). The roof of the building is 40 feet, according to the staff report for this application, which is 2 feet higher than the current height limit for the district; this leaves only 8 feet for only roof-top structures if they are to conform to the maximum 10-foot height exceedance under 20.24.080 (B).

Thus, the proposed AT&T installation still exceeds the zoning code limits and potentially the height limit for roof-mounted equipment, as we objected at the last P&Z meeting where this application was discussed. Therefore, the Commission cannot approve this application.

The staff report for this application indicates that the proposed AT&T installation was evaluated for rooftop coverage and height limits under code section 20.24.080 (C) rather than (B) as required by section 20.20.100 (E) (2) (h). Section 20.24.080 (C) applies to "mechanical appurtenances," which usually refers to heating, ventilation, and air conditioning (HVAC) and similar mechanical equipment that directly serves the building on which it is located. Appurtenances are secondary and necessary to the function of the building; wireless communication equipment is not. Given the explicit direction in 20.20.100 (E) (2) (h) to use 20.24.080 (B) as well as the function of the wireless equipment, the AT&T equipment cannot

reasonably be considered to be mechanical appurtenances.

Even if the AT&T equipment could be considered to fit the definition of mechanical appurtenances in section 20.24.080 (C), it would not meet the requirements of that section. The calculations of total roof area covered would have to include the building's existing mechanical appurtenances (HVAC equipment, etc.). Moreover, the AT&T equipment would have to meet the height limits and screening requirements section 20.24.080 (C), which specifies that mechanical appurtenances may exceed the height limit for the district by no more than 6 feet and must be "screened in accordance with subsection 20.24.110, and further provided that no screening is located within ten (10) feet of the perimeter of the plate line of the top story."

Given that the building itself exceeds the height limit for the district by 2 feet, the AT&T equipment including the antennas, if evaluated under this code section, could be no more than 4 feet above the roof. As noted above, the Kramer report states that the south antenna enclosure proposed by AT&T would be 10 feet above the roof line, which would exceed the permissible height 20.24.080 (C).

In addition, based on AT&T's drawings, it appears both the equipment cabinets and other antennas would exceed the height limit in this code section. The cabinets are 69.5 inches tall, and the antennas range from 51 inches to 61.5 inches tall. The staff report for this application indicates that the maximum height of the facility would be 47 feet 4 inches, which would exceed the maximum allowed under 20.24.080 (C). Furthermore, the footprint of the equipment area, screened as required by 20.24.080 (C) (the application appears to assume the equipment would be left unscreened) would have to be added to the existing footprint of mechanical appurtenances on the roof, including the HVAC equipment as well as the Sprint/Nextel antenna equipment, which would have to be considered under the same code section for consistency.

2. The application does not meet wireless ordinance requirements regarding priority order of zones for locating antennas.

The staff report and Mr. Kramer's report both cite the fact that this application is for a co-location with existing antennas as a reason for its desirability. However, co-location is not a requirement of the city's regulations but rather a preference (when "feasible and aesthetically desirable"). The preference for co-location does not supersede the wireless ordinance's fundamental requirement that antennas be located in the city according to a priority order of zoning districts, with applicants being required to justify any request to locate in a lower-priority district. The priority order of districts is Commercial mixed use (CMX), Public Facilities (PF), and San Pablo/Solano Commercial, with CMX being the first-choice district and Solano/San Pablo Commercial, where the antenna site proposed in this application is located, being the last choice.

The Sprint/Nextel antennas already located at 1035 San Pablo Ave. were installed before our wireless ordinance was passed in 2005; therefore, that installation was not subject to the priority order of zones requirement for antennas. The presence of the Sprint/Nextel antennas at this location is therefore not a valid argument for co-location unless the applicant has demonstrated that it cannot provide coverage from a site in a higher-priority zone. ARROW made this point in our letter to the Commission dated Oct. 26, 2010 (included as a separate attachment because it was omitted from the Oct. 2010 previous correspondence that was part of the Commission's packet for the Jan. 10, 2012 meeting).

AT&T has not demonstrated that coverage to the target area is not possible from the first- or second-choice zones.

AT&T's alternatives analysis looked at only 1 site in the first-choice CMX district and dismissed that site based on height considerations. A wireless siting expert with whom ARROW consulted in 2010 stated that, based on the terrain and nature of the buildings in the area, it should be quite possible to cover AT&T's target area from a CMX location. Several potentially feasible alternatives in CMX, such as the roofs of Target and the Toyota service center on the frontage road, were not considered in AT&T's alternatives analysis.

AT&T's own propagation maps indicate that most or all of the target area could be covered from antennas on the USDA building, which is in the second-choice district for antennas, PF.

2. Both of the above issues were raised previously about this application, and AT&T has had multiple opportunities to address these problems.

While we sympathize with AT&T subscribers who might have substandard coverage in Albany, AT&T has been apprised since it first sought to locate at 1035 San Pablo of the problems with its application vis a vis the zoning code as well as the neighbors' strong objections to locating additional antennas at the site, and the need to explore alternative sites. The fact that a more desirable alternate choice in the third-preference antenna district (Town Centre) is not available does not relieve AT&T of the need to adequately investigate sites in the zoning districts where the city's ordinance makes very clear antennas are preferred to be located.

Furthermore, it is important to consider that the lack of AT&T sites in Albany is directly attributable to AT&T's own decision to divest itself of the Cingular network at the time of the Cingular-AT&T merger in 2005 (what is now called AT&T is the former Cingular, which purchased AT&T in 2005 and changed the company's name to AT&T). Cingular had two cellular sites in Albany in 2005, at the Town Centre shopping center and at St. Mary's High School. Those sites were among those sold to T-Mobile. The city had no say in this change of ownership in the sites it had permitted to Cingular (AT&T). It is not reasonable to expect the city to make exceptions to its ordinance to give AT&T new sites in the least-desirable location in the city because AT&T gave away that sites it previously owned and thereby compromised its own ability to provide service.

B. Technical Concerns

1. We do not know how many of which antenna models would be installed.

As noted earlier, there is a discrepancy between AT&T's drawings and the Hammett and Edison RF exposure report regarding which antenna models would be installed. As a result, we do not know how many total antennas would be installed or whether the exposure calculations provided in the Hammett and Edison RF exposure report included with the application are correct. Because the Hammett and Edison exposure report is based on fewer antennas (21) than shown on AT&T's plans (24), if the plans are correct, then the Hammett and Edison report underestimates the actual exposures and thus potentially the area of the roof (or beyond) where those exposures would be exceeded. The fact that this discrepancy regarding a fundamental fact exists between AT&T's plans and their consultant engineer's analysis leaves us to wonder what other errors or omissions the application might contain that are less obvious but potentially significant.

2. The RF exposure report and independent consultant's evaluation are both based on information supplied by AT&T, which has not been independently verified.

The RF exposure analysis provided by Hammett and Edison is apparently based on information supplied by AT&T, which, in turn, the city's independent consultant, Mr. Kramer, simply accepts. The antennas specified are all rated to handle at least a maximum of 250 Watts per input. Although the Hammett and Edison report assumes correctly that the antennas not be operated at the maximum input, we do not have any way of knowing whether the lower power input assumed by Hammett and Edison is correct or of monitoring the actual power at which the antennas would be operated. The power input to an antenna is directly related to its emissions and therefore to the safety zones that must be maintained around antennas as well as the maximum exposures that would be experienced by those living in the adjacent neighborhood.

3. This application is for some of the highest RF power emissions we have seen for a base station in such close proximity to residences.

AT&T proposes to operate at a maximum effective radiated power (ERP) in any direction of 5,920 watts; this is in addition to the estimated maximum ERP of 1,500 watts from the existing Sprint/Nextel antennas. In order to calculate continuous exposure levels for the general public, we multiply these power levels by 1.64, as Hammett and Edison do in their analysis, to get what is called Effective Isotropic Radiated Power, which would be in excess of 12,000 Watts for all the antennas, although we have to take into account the Sprint Nextel antennas are 50 feet away (and closer to homes) at the eastern edge of the building.

According to Hammett and Edison, the FCC's occupational exposure limits for RF radiation could be exceeded for a distance of more than 19 feet in front of the proposed AT&T antennas. The occupational exposure limit is 5 times greater than the exposure limit for the general public. The general public exposure limit would be exceeded up to 42 feet in front of the antennas. What about exposure of people who might be working in the roof penthouse areas? What about the calculation for the 5% or 10% of the radiated power of the antennas that is directed downward at a 30-degree angle toward the building roof, and the resulting exposure of occupants of the building at 1035 San Pablo Avenue?

These exposure questions must be answered with certainty, based on the correct number and down-tilt of antennas, before this application can be considered complete.

4. No information is supplied in the application regarding antenna down-tilt or other technical issues.

The down-tilt of all of the antennas proposed is at least manually adjustable at time of installation or maintenance, in the range of 10 to 12 to 15 degrees for the different antennas and elements within them. It is not clear whether the down-tilt is remotely adjustable once the antennas are in operation, nor is it clear what down-tilt of the antennas was assumed for the propagation maps provided by AT&T for the proposed site as well as for the analysis of alternative sites. Down-tilt affects the area an antenna can cover as well as the emissions within the antenna's coverage area.

There has also been no mention in any of the analyses included with the application of possible interference from the four existing HVAC units on the roof directly east of the antenna sector that is proposed at 70 degrees. This potential significance of this issue is that the antennas would need to be relocated to avoid the obstruction of the AC equipment; under the code, the antennas could not be located higher than the equipment to avoid the interference.

5. AT&T's maps show that AT&T has outdoor coverage throughout most of Albany, and the application asserts that the proposed new antennas are needed to provide in-building coverage. Federal law only specifies that cities cannot prohibit wireless carriers from providing coverage; it does not establish the level of coverage that carriers are entitled to provide. It remains an open question whether carriers are entitled under the law to build whatever facilities are needed to provide in-building coverage. Given that Albany already has 7 antenna sites (which host 11 individual installations of different carriers) within 1 square mile, which is vastly more per land area than in neighboring cities, and given that AT&T's "search ring" map implies AT&T will soon be proposing 3 more sites in Albany to provide "in-building coverage," this is an important question for the Commission to consider before setting a precedent allowing in-building coverage as a justification for a new site. For comparison, consider that the city of Berkeley, at 18 square miles, has only 26 cell antenna sites. At Albany's current ratio of 7 sites per square mile, Berkeley would have **126** sites.

Conclusions and Recommendations

ARROW opposes this application proceeding in its current form or, if the application does proceed to a hearing, we recommend that the Commission deny it for the reasons explained in this letter.

We recommend the following steps:

1. **An independent study of sites for the proposed AT&T antennas in CMX, the first-choice zoning district specified in the city's wireless ordinance**, to determine whether coverage can in fact be provided from this zone, what height facility would be required to provide the coverage, and what feasible sites are available for locating the antennas in CMX.
2. **That AT&T, with the assistance of the city if necessary, actively pursue negotiations for the USDA site**, which is in PF, the second-choice zone for antennas and which would, according to AT&T's maps, cover most or all of the target area.
3. **Immediate development by the city of one or more municipally owned antenna sites** where carriers would be given preference to locate, and from which it would be technically feasible to provide wireless coverage to most or all of the city. This proactive solution would benefit everyone: it would avoid site-by-site controversies and objections from neighborhood residents, it would avoid delays for carriers in obtaining permits to build necessary facilities, and it would provide income for the city.

Given the other three "search rings" identified on AT&T's site map, two of which appear to be in residential neighborhoods, it appears likely that AT&T could be back soon requesting three more sites in Albany. Developing a preferred, city-owned site or sites from which AT&T and other carriers could have the height and other technical advantages needed to provide coverage without having to establish multiple sites would proactively solve what will likely otherwise be a series of controversies with concerned neighbors.

4. Immediate implementation of independent monitoring of emissions from all base stations in the city, as required by our ordinance and as we have repeatedly requested since the ordinance was passed in 2005. We note that comments by P&Z commissioners from the October, 2010 meeting regarding this very application emphasize the need for this monitoring as well. The monitoring requirement was adopted in the city code 7 years ago and has never been implemented. The residents of Albany have a right to know the

emissions of the wireless facilities already operating in the city, and any new installations must be subject to monitoring within a short time after they begin operating, to ensure that they meet FCC requirements.

4. Finally, as mentioned above, should this application be considered for approval, we strongly recommend that cooperation with required RF emissions monitoring be included in the permit conditions, along with a requirement for a “kill” switch such as is required for fuel pumps at gas stations. This is for the protection fire and medical emergency personnel who might need to access the roof of this building. The switch enables emergency personnel to turn power off to the base station before entering the roof in an emergency, so that fire and rescue teams will not be subject to exposures that exceed the FCC occupational exposure limits.

Thank you for your thoughtful consideration of our concerns. Please feel free to contact us if you have any questions about the issues raised in this letter.

Sincerely,
Nan Wishner
San Carlos Ave, Albany

Ed Fields
Kains Ave., Albany

Julie Beck
Kains Ave., Albany

Anne Hersch

From: Soula Culver [soculver@gmail.com]
Sent: Monday, January 09, 2012 3:14 PM
To: David Arkin; Peter Maass; Phillip Moss; Leo Panian; Stacy Eisenmann
Cc: Anne Hersch; Cell Tower Info
Subject: Jan. 10 item re new cell antennas at 1035 SP Ave.

Dear Planning and Zoning Commissioners:

I am sending this to you also in memory of Marti Kheel, who died in December 2011. Marti had spoken eloquently at a meeting on this same subject, attending in person with me a year or so ago. I am sure she would do it again were she still with us.

Here we are, going through this again and again...

I shop in Albany and my chiropractor's and doctor's offices are in Albany.

Thank you for holding a study session on AT&T's proposal for a total of 21 new cell antennas (9 enclosures each housing multiple antennas) on the roof of 1035 San Pablo Ave., which already hosts a Sprint/Nextel cell antenna array.

While I support improved coverage for AT&T customers in Albany, the current proposed design does not meet the requirements of Albany's general zoning code, for the same reasons as were true of the last set of plans that AT&T proposed for this location. The equipment cabinets and other structures AT&T would add to the existing Sprint/Nextel and other roof-mounted equipment would exceed the zoning code's limit on percent of roof area that can be covered by rooftop structures. The new installation might also exceed zoning code height limits.

In addition, this site is in the San Pablo commercial district, which is the last-preference zoning district for antennas as specified in Albany's wireless ordinance, and AT&T has not met the burden of proving that coverage cannot be achieved from the first-choice district, CMX, or the second-choice district, PF.

AT&T's alternative site analysis looks at only 1 location in CMX and dismisses it based on height considerations.

A site in CMX would be the least intrusive solution to AT&T's stated need and would fulfill the primary requirement of our ordinance for preferred location. What about the roof of Target or the Toyota service center?

I request that the city retain an independent RF expert knowledgeable about siting issues to determine whether there are, in fact, feasible locations in CMX from which AT&T could cover its target area, and how high a cell site would need to be to accomplish this coverage from CMX. This should be a truly independent analysis that does not simply accept AT&T's assertions and propagation maps at face value.

In addition, the roof of the USDA building, which is zoned PF [public facilities], the second-preference zoning district for antennas, would be a much less intrusive site. According to AT&T's maps, antennas at this location would cover most of the target area. This site should be actively pursued until a definitive response is received from USDA. AT&T's alternatives analysis is inconclusive regarding this location, stating only that the applicant has not been able to speak with the appropriate party at USDA who could address leasing negotiations.

Please do not approve an antenna site that does not conform to our code and that would disproportionately

affect the residents of the adjoining neighborhood.

Finally, I urge the Commission to support a proactive solution to wireless siting in the city that would avoid continued site-by-site controversies. I support the proposal of Albany Residents for Responsible Oversight of Wireless (ARROW) that the city establish one or more preferred, municipally owned antenna sites away from residences where carriers would be encouraged to locate and from which coverage could be provided to most or all of the city. This solution would benefit everyone: city residents, carriers, and the city itself.

Sincerely,
Soula Culver
Berkeley

Anne Hersch

From: Eileen Harrington
Sent: Monday, January 09, 2012 6:33 PM
To: Jeff Bond; Anne Hersch
Subject: FW: Cell Antennas

For your commissioners.

Thanks,
Eileen

Eileen A. Harrington
Secretary to the City Manager
CITY OF ALBANY
1000 San Pablo Avenue
Albany, CA 94706
510.528.5710
FAX 510.528.5797

From: sun yung kim [<mailto:kimsunnyus@yahoo.com>]
Sent: Monday, January 09, 2012 6:31 PM
To: City General Email Box
Subject: Cell Antennas

Dear Planning and Zoning Commissioners:

Thank you for holding a study session on AT&T's proposal for a total of 21 new cell antennas (9 enclosures each housing multiple antennas) on the roof of 1035 San Pablo Ave., which already hosts a Sprint/Nextel cell antenna array.

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In addition, the roof of the USDA building, which is zoned PF [public facilities], the second-preference zoning district for antennas, would be a much less intrusive site. According to AT&T's maps, antennas at this location would cover most of the target area. This site should be actively pursued until a definitive response is received from USDA. AT&T's alternatives analysis is inconclusive regarding this location, stating only that the applicant has not been able to speak with the appropriate party at USDA who could address leasing negotiations.

Please do not approve an antenna site that does not conform to our code and that would disproportionately affect the residents of the adjoining neighborhood.

Finally, I urge the Commission to support a proactive solution to wireless siting in the city that would avoid continued site-by-site controversies. We support the proposal of Albany Residents for Responsible Oversight of Wireless (ARROW) that the city establish one or more preferred, municipally owned antenna sites away from residences where carriers would be encouraged to locate and from which coverage could be provided to most or all of the city. This solution would benefit everyone: city residents, carriers, and the city itself.

Sincerely,

Sunny and Yongyop Kim
412 Kains Ave.
Albany, CA 94706

60

Anne Hersch

From: efields@berkeley.edu
Sent: Monday, January 09, 2012 8:20 PM
To: Leo Panian; Phillip Moss; Peter Maass; Eisenmann Architecture; David Arkin
Cc: Anne Hersch
Subject: Letter re: AT&T antenna application/study session at Jan. 10 P&Z meeting

Dear Planning and Zoning Commissioners:

Thank you for holding a study session on AT&T's proposal for a total of 21 new cell antennas (9 enclosures each housing multiple antennas) on the roof of 1035 San Pablo Ave., which already hosts a Sprint/Nextel cell antenna array.

While I support improved coverage for AT&T customers in Albany, the current proposed design does not meet the requirements of Albany's general zoning code, for the same reasons as were true of the last set of plans that AT&T proposed for this location. The equipment cabinets and other structures AT&T would add to the existing Sprint/Nextel and other roof-mounted equipment would exceed the zoning code's limit on percent of roof area that can be covered by rooftop structures which exceed the height limit for buildings in the zoning district. The new installation might also exceed zoning code height limits.

In addition, this site is in the San Pablo commercial district, which is the last-preference zoning district for antennas as specified in Albany's wireless ordinance, and AT&T has not met the burden of proving that coverage cannot be achieved from the first-choice district, CMX, or the second-choice district, PF.

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In addition, the roof of the USDA building, which is zoned PF [public facilities], the second-preference zoning district for antennas, would be a much less intrusive site. According to AT&T's maps, antennas at this location would cover most of the target area. This site should be actively pursued until a definitive response is received from USDA. AT&T's alternatives analysis is inconclusive regarding this location, stating only that the applicant has not been able to speak with the appropriate party at USDA who could address leasing negotiations.

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Finally, I urge the Commission to support a proactive solution to wireless siting in the city that would avoid continued site-by-site controversies.

I support the proposal of Albany Residents for Responsible Oversight of Wireless (ARROW) that the city establish one or more preferred, municipally owned antenna sites away from residences where carriers would be encouraged to locate and from which coverage could be provided to most or all of the city. This solution would benefit everyone: city residents, carriers, and the city itself.

Sincerely,

Ed Fields
Kains Avenue, Albany



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post office box 6100
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Stacy Eisenmann <eisenmann.arch@me.com>,
Anne Hersch <ahersch@albanyca.org>,
Jeff Bond <jbond@albanyca.org>

Albany Planning and Zoning Commission
1000 San Pablo Ave.,
Albany, CA 94706

Dear Planning and Zoning Commissioners and Staff:

I am writing in support of the **pending application of AT&T for a Wireless Facility at 1035 San Pablo Ave** and offer the following items for your consideration:

- 1. The Albany City charter exercises its powers for “the general welfare of its inhabitants”.** Responsible public policy of necessity means balancing the various needs and concerns of all citizens and businesses in the city. In this case the public good of access to wireless communication by many Albany citizens has to be balanced against the concerns a few people have expressed about visual, noise, and other impacts, taking into account the costs, benefit and overall public good.
- 2. Wireless communication is increasingly essential for everyday life.** For some citizens wireless is the only telephone and communications access they have. For small businesses like mine it can be the primary means of communicating with clients and vendors. For many retail businesses it is an essential adjunct of their service providing customers with location maps, menus, reservations and reviews. Providing adequate wireless coverage for all citizens with the carrier of their choice ought to be a high public priority. The availability of wireless service is a net public benefit for a community. Lack of such service diminishes the attractiveness of a municipality.
- 3. ATT coverage in much of Albany at present is terrible to non-existent.** The company is being overly generous in their coverage map (Appendix 5, Alternative Analysis, p. 3) when they show complete “outdoor” 3G coverage in the center of Albany. My own experience and that of friends and neighbors is that 3G coverage on Solano Avenue is rarely available. During the recent Solano Stroll I found no coverage at all (cell, Edge or 3G) for the entire length of Solano Avenue. AT&T’s own drive test map (p. 5) clearly shows red dots of NO coverage in the center of town. AT&T is reluctant to admit it for obvious marketing and competitive reasons but their coverage in Albany is actually considerably worse than their coverage maps show.

4. **Lack of wireless coverage effects public safety** and the general welfare of many citizens who may not come forward to protest. In my own experience dropped calls or lack of service often prevent my contacting my home or office while out of the house in Albany. During a recent family medical emergency, AT&T repeatedly dropped my calls to arrange urgent same day air travel back to the East coast. A recent comment in Albany Patch quotes an Albany Police officer describing a citizen unable to make an emergency wireless call after being robbed. Any hypothetical long-term, low percentage health risks associated with cell phone base stations must be balanced against very real and immediate safety risks imposed by the lack of service,

5. Albany has adopted a very stringent wireless ordinance that makes it difficult for any carrier to upgrade their service. **The recent federal lawsuit by Verizon Wireless against the City of Albany** charges the city with violating the Federal Communications Act by "effectively prohibiting" their ability to provide personal wireless service. The City of Albany would be better served by avoiding such lawsuits and **making it a priority to actually find ways for carriers to provide service** rather than thwart their efforts.

6. I have read entire AT&T application and history as well the Wireless Ordinance 20.20.100. **For a carrier to reliably invest in municipal infrastructure they must have clear and predictable guidelines.** In the October 26, 2010 meeting, where staff recommended approval of the conditional use permit and design review, commission members made specific requests for additional input from AT&T on alternate sites, coverage maps, height, setback etc. These concerns have been addressed in the present updated application. There was no mention at the time that 1035 San Pablo would not be a permissible location. In fact the ordinance clearly says that "Wireless communication facilities **may be located** within the following Districts, subject to approval of a use permit, with the findings required by subsection 20.20.100.F.5 " P&Z staff has submitted these findings and recommends approval of the application. For the City to add yet more requirements at this late date certainly would seem obstructionist.

7. Looking at maps it appears that for all of the alternatives the "in building" 3G coverage extends only 10 to 15 blocks from the Wireless Facility itself. Opponents argue in favor of a preferred location in the CMX region, yet this is as far as possible from the area of intended coverage as is possible within the city limits (excluding the Bay itself!). It is disingenuous to expect that a tower well outside the desired area of coverage, at a lower elevation above sea level, could provide adequate coverage in the desired area (roughly bounded by Solano, San Pablo Marin and Masonic. Like it or not **to provide wireless coverage to Albany citizens with current technology requires having a transmitter actually in the center of Albany not in the outermost periphery.** Suggestions for yet another "independent" outside review are unwarranted and would merely add additional cost and delay.

8. **The notion that specific districts are "preferred" locations is ambiguous.** If the San Pablo Corridor is a permitted location for wireless facilities, then it is not a forbidden location. The city may "prefer" that my house be painted white, but unless it is forbidden by ordinance to paint it pink, then it is allowed to be pink, subject to the guidelines. To show that there is no possible site in the PF or CMX districts which could

possibly meet the coverage objectives (and with no consideration of the possible costs or delay) is to be forced to prove a negative.

9, **Changing the rules mid-stream is unfair.** Proposals by opponents for evaluation of a new city-run tower or for a city-wide moratorium on cell-towers are a transparent and unfair attempt to change the game. They may be ideas worth pursuing in the future but should have nothing to do with current applications prepared in good faith under the existing ordinance,

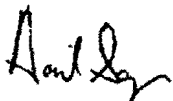
10. Another example of trying to change the rules is the suggestion that nearby residents would be disproportionately affected. **The ordinance already rules out installations in a residential district** and requires a setback of 50' from an adjacent residential property line in the San Pablo Corridor. 50 feet is 50 feet. To suggest after the fact that the ordinance didn't really mean 50 feet but some unspecified other larger distance is again problematical.

11. The purpose of wireless ordinance is to enact regulations to “[provide for] **personal wireless service facilities for the benefit of the Albany community.**” (20.20.100.A.1) The Albany community is not well served when opponents consistently use the ordinance in a blatant attempt to block all installations and deprive the community of adequate wireless service. The Planning and Zoning Commission represents all citizens including the majority of us who urgently desire better wireless service.

12. Looking forward I certainly agree that there are concerns among some citizens about the placement and impact of wireless facilities. In the interests of transparency and public education it might be worthwhile for the City to explore with the State of California options to provide the public with full online disclosure of the location and power density output of all wireless facilities in the region. The province of Tuscany in Italy has done this very successfully (ref <http://j.mp/AvksNd>)

13. In conclusion I urge you to approve the AT&T application for 1035 San Pablo so that improved wireless service can be expedited for the citizens and business of Albany.

Thank you for your consideration,



David Sanger,
David Sanger Photography LLC
Albany CA

Anne Hersch

From: Eric Bergman [erbergman@yahoo.com]
Sent: Monday, January 09, 2012 11:06 PM
To: David Arkin; Peter Maass; Phillip Moss; Leo Panian; Stacy Eisenmann
Cc: Anne Hersch
Subject: Please do not approve Cell towers above our homes!

Dear Planning and Zoning Commissioners:

We have a new baby in our home and do not want to raise our family directly under additional clusters of cell antennas. Please adhere to your guidelines and insist that the cell phone towers be placed in the industrial areas away from our homes.

Thank you for holding a study session on AT&T's proposal for a total of 21 new cell antennas (9 enclosures each housing multiple antennas) on the roof of 1035 San Pablo Ave., which already hosts a Sprint/Nextel cell antenna array.

While I support improved coverage for AT&T customers in Albany, the current proposed design does not meet the requirements of Albany's general zoning code, for the same reasons as were true of the last set of plans that AT&T proposed for this location. The equipment cabinets and other structures AT&T would add to the existing Sprint/Nextel and other roof-mounted equipment would exceed the zoning code's limit on percent of roof area that can be covered by rooftop structures. The new installation might also exceed zoning code height limits.

In addition, this site is in the San Pablo commercial district, which is the *last-preference* zoning district for antennas as specified in Albany's wireless ordinance, and AT&T has not met the burden of proving that coverage cannot be achieved from the first-choice district, CMX, or the second-choice district, PF.

AT&T's alternative site analysis looks at only 1 location in CMX and dismisses it based on height considerations.

A site in CMX would be the least intrusive solution to AT&T's stated need and would fulfill the primary requirement of our ordinance for preferred location. What about the roof of Target or the Toyota service center?

I request that the city retain an independent RF expert knowledgeable about siting issues to determine whether there are, in fact, feasible locations in CMX from which AT&T could cover its target area, and how high a cell site would need to be to accomplish this coverage from CMX. This should be a truly independent analysis that does not simply accept AT&T's assertions and propagation maps at face value.

In addition, the roof of the USDA building, which is zoned PF [public facilities], the second-preference zoning district for antennas, would be a much less intrusive site. According to AT&T's maps, antennas at this location would cover most of the target area. This site should be actively pursued until a definitive response is received from USDA. AT&T's alternatives analysis is inconclusive regarding this location, stating only that the applicant has not been able to speak with the appropriate party at USDA who could address leasing negotiations.

Please do not approve an antenna site that does not conform to our code and that would disproportionately affect the residents of the adjoining neighborhood.

Finally, I urge the Commission to support a proactive solution to wireless siting in the city that would avoid continued site-by-site controversies. I support the proposal of Albany Residents for Responsible Oversight of Wireless (ARROW) that the city establish one or more preferred, municipally owned antenna sites away from residences where carriers would be encouraged to locate and from which coverage could be provided to most or all of the city. This solution would benefit everyone: city residents, carriers, and the city itself.

Sincerely,
Eric Bergman
1041 Kains ave.
Albany, CA 94706

Anne Hersch

From: Lee Foster [lee@fostertravel.com]
Sent: Tuesday, January 10, 2012 9:06 AM
To: David Arkin; Peter Maass; Phillip Moss; Leo Panian; Stacy Eisenmann; Anne Hersch; Jeff Bond
Cc: David Sanger
Subject: Lee Foster supports all ATT upgrades

Dear All,

I am a travel journalist working from my home in Berkeley and writing about Berkeley frequently, as in my travel app titled Berkeley Essential Guide (http://sutromedia.com/apps/Berkeley_Essential_Guide).

We desperately need better ATT coverage in Berkeley and Albany. I need this for my own work. I even had to invest one one of those mini cell tower units to get passable coverage for my condo near MLK and Cedar.

Also, the more than hundred businesses that I covered in my travel app mentioned to me often, as I did the app, that our poor phone coverage damages their businesses. People can't make reservations at restaurants etc without getting dropped.

Please authorize all phone upgrades requested for Berkeley and Albany. We need this for our businesses. Please keep me informed of your progress on this issue.

Kind regards,
Lee Foster

--
Lee Foster
Foster Travel Publishing
PO Box 5715
Berkeley, CA 94705
(510) 549-2202
lee@fostertravel.com
<http://www.fostertravel.com>

Travel writing/photos on 200 destinations for consumers and content buyers at <http://www.fostertravel.com>
5,000 hi-res photos searchable and downloadable at <http://stockphotos.fostertravel.com>
Two new photo travel guidebooks at <http://www.fostertravel.com/book.html>
Latest thoughts on travel at <http://blog.fostertravel.com>
Travel photo guide app on San Francisco at <http://www.sutromedia.com/apps/sfphotoguide>
Travel photo guide app on Washington DC at http://sutromedia.com/apps/DC_Travel_Photo_Guide
Travel guide app on Berkeley, CA at http://sutromedia.com/apps/Berkeley_Essential_Guide

Anne Hersch

From: Julie Beck [julie.beck@csueastbay.edu]
Sent: Tuesday, January 10, 2012 10:38 AM
To: David Arkin; Peter Maass; Phillip Moss; Leo Panian; Stacy Eisenmann
Cc: Anne Hersch
Subject: Re: Reminder: Tomorrow, Planning Commission Discusses New Cell Antennas Proposed at 1035 San Pablo Ave.

Dear Planning and Zoning Commissioners:

I live on the 1000 block of Kains Avenue, directly across the street from the proposed 21 new wireless Antennas: this is a very residential neighborhood with babies and young children, single family homes, and a child care center located right below the Antenna site. While I support wireless technology, I am strongly opposed to locating it near (and practically in) residential neighborhoods. This location is the LAST priority zone listed on our city wireless ordinance. Because this is an important topic for citizens to debate, I thank you for holding a study session on AT&T's proposal for a total of 21 new cell antennas (9 enclosures each housing multiple antennas) on the roof of 1035 San Pablo Ave., which already hosts a Sprint/Nextel cell antenna array.

While I support improved coverage for AT&T customers in Albany, the current proposed design does not meet the requirements of Albany's general zoning code, for the same reasons as were true of the last set of plans that AT&T proposed for this location. The equipment cabinets and other structures AT&T would add to the existing Sprint/Nextel and other roof-mounted equipment would exceed the zoning code's limit on percent of roof area that can be covered by rooftop structures. The new installation might also exceed zoning code height limits.

In addition, this site is in the San Pablo commercial district, which is the *last-preference* zoning district for antennas as specified in Albany's wireless ordinance, and AT&T has not met the burden of proving that coverage cannot be achieved from the first-choice district, CMX, or the second-choice district, PF.

AT&T's alternative site analysis looks at only 1 location in CMX and dismisses it based on height considerations.

A site in CMX would be the least intrusive solution to AT&T's stated need and would fulfill the primary requirement of our ordinance for preferred location. What about the roof of Target or the Toyota service center?

I request that the city retain an independent RF expert knowledgeable about siting issues to determine whether there are, in fact, feasible locations in CMX from which AT&T could cover its target area, and how high a cell site would need to be to accomplish this coverage from CMX. This should be a truly independent analysis that does not simply accept AT&T's assertions and propagation maps at face value.

In addition, the roof of the USDA building, which is zoned PF [public facilities], the second-preference zoning district for antennas, would be a much less intrusive site. According to AT&T's maps, antennas at this location would cover most of the target area. This site should be actively pursued until a definitive response is received from USDA. AT&T's alternatives analysis is inconclusive regarding this location, stating only that the applicant has not been able to speak with the appropriate party at USDA who could address leasing negotiations.

Please do not approve an antenna site that does not conform to our code and that would disproportionately affect the residents of the adjoining neighborhood.

Finally, I urge the Commission to support a proactive solution to wireless siting in the city that would avoid continued site-by-site controversies. I support the proposal of Albany Residents for Responsible Oversight of Wireless (ARROW) that the city establish one or more preferred, municipally owned antenna sites away from residences where carriers would be encouraged to locate and from which coverage could be provided to most or all of the city. This solution would benefit everyone: city residents, carriers, and the city itself.

Sincerely,

Julie Beck
 1039 Kains Avenue
 Albany, CA 94706

ARROW - Albany Residents for Responsible Oversight of Wireless
www.albanycellinfo.blogspot.com

Anne Hersch

From: Kelley Bullard [tarheeldoc@sbcglobal.net]
Sent: Tuesday, January 10, 2012 11:21 AM
To: david@arkintilt.com; pcmaass@pacbell.net; pmoss@sbcglobal.net; leo.panian@gmail.com; eisenmann.arch@me.com
Cc: Anne Hersch
Subject: AT and T wireless proposals

Dear Planning and Zoning Commissioners:

Thank you for holding a study session on AT&T's proposal for a total of 21 new cell antennas (9 enclosures each housing multiple antennas) on the roof of 1035 San Pablo Ave., which already hosts a Sprint/Nextel cell antenna array.

While I support improved coverage for AT&T customers in Albany, the current proposed design does not meet the requirements of Albany's general zoning code, for the same reasons as were true of the last set of plans that AT&T proposed for this location. The equipment cabinets and other structures AT&T would add to the existing Sprint/Nextel and other roof-mounted equipment would exceed the zoning code's limit on percent of roof area that can be covered by rooftop structures. The new installation might also exceed zoning code height limits.

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Sincerely,
Kelley Bullard, M.D.
1039 Kains Avenue
Albany, Ca 94706

Anne Hersch

From: Allen Cain / Solano Avenue Association [info@solanoavenue.org]
Sent: Tuesday, January 10, 2012 12:28 PM
To: ds@davidsanger.com; David Arkin; Peter Maass; Phillip Moss; Leo Panian; Stacy Eisenmann; Anne Hersch; Jeff Bond
Cc: Farid Javandel; Marge Atkinson; Joanne Wile; Robert Lieber; Peggy Thomsen; Beth Pollard; info@solanoavenue.org; albanychamber@albanychamber.org
Subject: Re: Pending Application of AT&T for a Wireless Facility at 1035 San Pablo Ave

What an absolutely wonderful idea! The needs of the many outweigh the needs of the few – usually.

Allen Cain / SAA
 510-527-5358

From: David Sanger
Sent: Monday, January 09, 2012 9:52 PM
To: David Arkin ; Peter Maass ; Phillip Moss ; Leo Panian ; Stacy Eisenmann ; Anne Hersch ; Jeff Bond
Cc: Farid Javandel ; Marge Atkinson ; Joanne Wile ; Robert Lieber ; Peggy Thomsen ; Beth Pollard ; info@solanoavenue.org ; albanychamber@albanychamber.org
Subject: Pending Application of AT&T for a Wireless Facility at 1035 San Pablo Ave

Albany Planning and Zoning Commission

1000 San Pablo Ave.,

Albany, CA 94706

Dear Planning and Zoning Commissioners and Staff:

I am writing in support of the **pending application of AT&T for a Wireless Facility at 1035 San Pablo Ave** and offer the following items for your consideration:

1. **The Albany City charter exercises its powers for “the general welfare of its inhabitants”**. Responsible public policy of necessity means balancing the various needs and concerns of all citizens and businesses in the city. In this case the public good of access to wireless communication by many Albany citizens has to be balanced against the concerns a few people have expressed about visual, noise, and other impacts, taking into account the costs, benefit and overall public good.

2. **Wireless communication is increasingly essential for everyday life.** For some citizens wireless is the only telephone and communications access they have. For small businesses like mine it can be the primary means of communicating with clients and vendors. For many retail businesses it is an essential adjunct of their service providing customers with location maps, menus, reservations and reviews. Providing adequate wireless coverage for all citizens with the carrier of their choice ought to be a high public priority. The availability of wireless service is a net public benefit for a community. Lack of such service diminishes the attractiveness of a municipality.

3. **ATT coverage in much of Albany at present is terrible to non-existent.** The company is being overly generous in their coverage map (Appendix 5, Alternative Analysis, p. 3) when they show complete “outdoor” 3G coverage in the center of Albany. My own experience and that of friends and neighbors is that 3G coverage on Solano Avenue is rarely available. During the recent Solano Stroll I found no coverage at all (cell, Edge or 3G) for the entire length of Solano Avenue. AT&T’s own drive test map (p. 5) clearly shows red dots of NO coverage in the center of town. AT&T is reluctant to admit it for obvious marketing and competitive reasons but their coverage in Albany is actually considerably worse than their coverage maps show.

4. **Lack of wireless coverage effects public safety** and the general welfare of many citizens who may not come forward to protest. In my own experience dropped calls or lack of service often prevent my contacting my home or office while out of the house in Albany. During a recent family medical emergency, AT&T repeatedly dropped my calls to arrange urgent same day air travel back to the East coast. A recent comment in Albany Patch quotes an Albany Police officer describing a citizen unable to make an emergency wireless call after being robbed. Any hypothetical long-term, low percentage health risks associated with cell phone base stations must be balanced against very real and immediate safety risks imposed by the lack of service,

5. Albany has adopted a very stringent wireless ordinance that makes it difficult for any carrier to upgrade their service. **The recent federal lawsuit by Verizon Wireless against the City of Albany** charges the city with violating the Federal Communications Act by “effectively prohibiting” their ability to provide personal wireless service. The City of Albany would be better served by avoiding such lawsuits and **making it a priority to actually find ways for carriers to provide service** rather than thwart their efforts.

6. I have read entire AT&T application and history as well the Wireless Ordinance 20.20.100. **For a carrier to reliably invest in municipal infrastructure they must have clear and predictable guidelines.** In the October 26, 2010 meeting, where staff recommended approval of the conditional use permit and design review, commission members made specific requests for additional input from AT&T on alternate sites, coverage maps, height, setback etc. These concerns have been addressed in the present updated application. There was no mention at the time that 1035 San Pablo would not be a permissible location. In fact the ordinance clearly says that “Wireless communication facilities **may be located** within the following Districts, subject to approval of a use permit, with the findings required by subsection 20.20.100.F.5 “ P&Z staff has submitted these findings and recommends approval of the application. For the City to add yet more requirements at this late date certainly would seem obstructionist.

7. Looking at maps it appears that for all of the alternatives the “in building” 3G coverage extends only 10 to 15 blocks from the Wireless Facility itself. Opponents argue in favor of a preferred location in the CMX region, yet this is as far as possible from the area of intended coverage as is possible within the city limits (excluding the Bay itself!). It is disingenuous to expect that a tower well outside the desired area of coverage, at a lower elevation above sea level, could provide adequate coverage in the desired area (roughly bounded by Solano, San Pablo Marin and Masonic. **Like it or not to provide wireless coverage to Albany citizens with current technology requires having a transmitter actually in the center of Albany not in the outermost periphery.** Suggestions for yet another “independent” outside review are unwarranted and would merely add additional cost and delay.

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10. Another example of trying to change the rules is the suggestion that nearby residents would be disproportionately affected. **The ordinance already rules out installations in a residential district** and requires a setback of 50’ from an adjacent residential property line in the San Pablo Corridor. 50 feet is 50 feet. To suggest after the fact that the ordinance didn’t really mean 50 feet but some unspecified other larger distance is again problematical.

11. The purpose of wireless ordinance is to enact regulations to **“[provide for] personal wireless service facilities for the benefit of the Albany community.”** (20.20.100.A.1) The Albany community is not well served when opponents consistently use the ordinance in a blatant attempt to block all installations and deprive the community of adequate wireless service. The Planning and Zoning Commission represents all citizens including the majority of us who urgently desire better wireless service.

12. Looking forward I certainly agree that there are concerns among some citizens about the placement and impact of wireless facilities. In the interests of transparency and public education it might be worthwhile for the City to explore with the State of California options to provide the public with full online disclosure of the location and power density output of all wireless facilities in the region. The province of Tuscany in Italy has done this very successfully (ref <http://j.mp/AvksNd>)

13. In conclusion I urge you to approve the AT&T application for 1035 San Pablo so that improved wireless service can be expedited for the citizens and business of Albany.

Thank you for your consideration,

David Sanger,

David Sanger Photography LLC
post office box 6100

albany ca 94706 usa

voice 510 526 0800

mobile 510 526 2800

david@davidsanger.com

www.davidsanger.com

pdf attached.

Anne Hersch

From: Tod Abbott [tod@almost-everything.com]
Sent: Tuesday, January 10, 2012 6:18 PM
To: AIA David Arkin; pcmaass@pacbell.net; pmoss@sbcglobal.net; leo.panian@gmail.com; Anne Hersch
Cc: Robert Lieber; Beth Pollard; Peggy Thomsen; Jeff Bond; Farid Javandel; Anne Hersch; Joanne Wile; Marge Atkinson
Subject: AT&T Application for Antenna at 1035 San Pablo Ave.

Greetings Commissioners.

I'm writing because I was planning to attend and speak at the meeting this evening, but I've got the bug that's been going around and need to stay at home.

On behalf of the Chamber of Commerce Board and members, I strongly support AT&T's application for a new wireless facility at 1035 San Pablo Ave.

Poor cell phone reception is more than an inconvenience for customers and business people, it is an impediment to the businesses that drive Albany's economy. Of all the issues we've had before us over the past few years, this is the item about which the Chamber of Commerce has received the most feedback (most of it unsolicited). Many business owners have contacted us to ask us what can be done to improve the cell phone reception in Albany, specifically along Solano Avenue. They report that the poor reception makes it difficult for themselves, for their employees, and their customers -- who sometimes walk out of the business to get a good signal and may or may not come back.

Poor data reception also makes it difficult for merchants to take full advantage of various online and mobile services that can connect them with customers. To illustrate, here is some detail on one such program:

We have been evaluating an online service called Local Gemz that provides reward points to customers who do business with local merchants. This is all handled via smartphones. When a participant makes a purchase from a member business, they scan a barcode with their smartphone and receive credits for that purchase. Credits can be traded in at participating businesses for discounts. The poor data connection on the street turns this simple operation into a significant inconvenience.

What's more, one of the nicest features of the program is an interactive map that can display offers available from businesses right around you. A member finishing up a purchase at one merchant might check the map and see that there is another member business just a block away with an offer of interest to them, leading to another sale for local business. This is virtually impossible with the current data speeds that are normally available on Solano Avenue. It can take minutes for the map and data to download, and by that time the customer is back in the car, or blocks away.

The point is that this sort of connectivity is becoming more important in many different ways, and will continue to do so. Poor connectivity is hampering business right now, both directly and indirectly -- and we're only at the very start of the mobile data revolution. The problem will only become worse unless something is done to improve connection speeds in the area.

I appreciate the difficulty of this decision and the time and effort you are putting into deciding what is best for our city. I ask that as you make your decision, you keep in mind the ever-increasing importance of wireless voice and data connectivity to the small businesses in Albany.

Sincerely,

Tod Abbott
President
Albany Chamber of Commerce

Anne Hersch

From: Treve Johnson [treve@treve.com]
Sent: Tuesday, January 10, 2012 7:16 PM
To: David Arkin; Peter Maass; Phillip Moss; Leo Panian; Stacy Eisenmann; Anne Hersch; Jeff Bond
Subject: In support of cell phone service in Albany

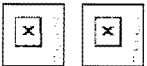
Dear Concerned Communicators:

I am writing in support AT&T's proposal to place a cell tower in Albany. I am a business person that lives and works in Albany. My business is highly mobile, and I find it quite perplexing that it's harder to manage mobile communications in Albany that just about any other place in the Bay Area. Just last week, I left my house for an important meeting, and was not able to call my client to confirm the meeting, nor could I pull up the directions to his facility on my iPhone. I had to drive out of Albany to a location I could trust, park and then conduct my business. I have on occasion had important calls drop out. I have family members that often need urgent assistance as well as business client, and I have opted to give up my land to cut down my communications expenses and to eliminate the confusion of having two numbers. I urge you to give your support for AT&T's proposal. It's time Albany joined the modern era.

Regards,



treve johnson photography
treve.com
[510-841-0905](tel:510-841-0905)



Statement to the Albany Planning and Zoning Commission
January 10, 2012

Good evening. My name is Michael Barnes. I am an Albany resident.

The City of Albany charges a 6.5 percent utility user tax on cell phone bills. According to the City Council staff report dated May 17, 2010:

“As an increasing number of telephone users gravitate away from land lines towards wireless communications, it becomes increasingly important to have an ordinance that can accommodate the changing technology in order to retain the City’s revenue base.”

I recently asked the city clerk how much the city earns from taxing cell phones. According to the attached analysis, the city collects more than \$300,000 annually from taxing cell phone subscribers.

Although the city is interested in accommodating changing technology in order to tax our cell phones, the city seems less interested in accommodating changing technology in order to allow our cell phones to work in the first place.

The result is that the city finds itself in the strange position of taxing a service that does not exist. For me, this is a violation of the principles of ethical government.

To remedy the situation, the city should expedite the approval of the cell site at 1035 San Pablo so that AT&T customers can actually use the phones they are paying taxes on.

In the future, when it comes to accommodating changing technology, the city should place at least as much emphasis on allowing cell phone services as it does on taxing them.

Thank you.

Memo

To: Beth Pollard
From: Charlie Adams
CC:
Date: 1/4/2012
Re: UUT Cell Phone Revenue

In order to respond to the request from Michael Barnes as to how much the City "is making on the UUT on cell phones," we performed an analysis of the City's UUT – Telephone revenue for the first quarter of fiscal year 2011-12. We do not record cell phone UUT revenue separately, so it is not feasible to produce a simple direct response.

The results of our analysis follows:

1. Total cell phone UUT revenue for the three months July, August and September 2011 was \$206,247.36.
2. For the quarter, nine vendors provided revenue of \$197,504.38, which was 96% of the total revenue collected.
3. Three of the nine vendors provide cell phone service, the other six vendors provide wire or cable service.
4. The total cell phone UUT for the three vendors was \$87,581.26, which was 44.3% of the total revenue from the nine vendors analyzed.
5. Total phone UUT revenue for fiscal year 2010-11 was \$699,490.
6. Applying the ratio of 44.3% to the total revenue of \$699,490 produces an estimate of cell phone UUT revenue for the year of \$309,874.

Jeff Bond

From: Rhasaan Fernandez [boffocart@gmail.com]
Sent: Tuesday, January 10, 2012 12:51 PM
To: Jeff Bond
Subject: AT&T service in Albany

Hello Mr. Bond,

I am a business owner in Albany (Sam's Log Cabin on San Pablo). My cell phone carrier is AT&T and the service has been sketchy at best - I can almost count on not having service when I get to the restaurant.

I wanted to write to show my support of updated cell service. I take and make calls, as well as email frequently for my business and better service would help ensure the we can keep up the lines of communication with people and vendors who contact us. Looking forward to this greatly.

Thank you,
Rhasaan Fernandez

Anne Hersch

From: Jeff Bond
Sent: Thursday, January 12, 2012 9:12 AM
To: Anne Hersch
Subject: FW: Another reason to approve the AT&T tower
Attachments: PastedGraphic-3.tiff; ATT00001.txt

Jeff Bond, Community Development Director City of Albany
1000 San Pablo Avenue
Albany, CA 94706
510-528-5769

-----Original Message-----

From: Paul Cruce [<mailto:packard5687@mac.com>]
Sent: Thursday, January 12, 2012 5:33 AM
To: Jeff Bond
Subject: Another reason to approve the AT&T tower

Jeff -

Here is another reason I encourage the approval of the new AT&T tower: I use the Square iPhone app for credit/debit payments at the farmers markets where I sell our coffees and teas. At the Albany market, I rarely could get the app to work because of the poor AT&T reception on my iPhone. I often had to take the customers' card info and process it manually when I got to a place with better reception. The manual processing costs me 1% +.15¢ more per transaction than swiping the card.

Thank you for your consideration of this.

Anne Hersch

From: Jeff Bond
Sent: Thursday, January 12, 2012 9:12 AM
To: Anne Hersch
Subject: FW: Another reason to approve the AT&T tower

Jeff Bond, Community Development Director City of Albany
1000 San Pablo Avenue
Albany, CA 94706
510-528-5769

-----Original Message-----

From: Allen Cain / Solano Avenue Association [<mailto:info@solanoavenue.org>]
Sent: Thursday, January 12, 2012 6:51 AM
To: Paul Cruce; Jeff Bond
Subject: Re: Another reason to approve the AT&T tower

Isn't debating cell phone towers something we used to do in the 1980s? I'm confused - it is the year 2012 correct?

Allen Cain / SAA - 510.527.5358

-----Original Message-----

From: Paul Cruce
Sent: Thursday, January 12, 2012 5:32 AM
To: jbond@albanyca.org
Subject: Another reason to approve the AT&T tower

Jeff -

Here is another reason I encourage the approval of the new AT&T tower: I use the Square iPhone app for credit/debit payments at the farmers markets where I sell our coffees and teas. At the Albany market, I rarely could get the app to work because of the poor AT&T reception on my iPhone. I often had to take the customers' card info and process it manually when I got to a place with better reception. The manual processing costs me 1% +.15¢ more per transaction than swiping the card.

Thank you for your consideration of this.

Anne Hersch

From: Jeff Bond
Sent: Thursday, January 12, 2012 9:12 AM
To: Anne Hersch
Subject: FW: Another reason to approve the AT&T tower (PS)

Jeff Bond, Community Development Director City of Albany
1000 San Pablo Avenue
Albany, CA 94706
510-528-5769

-----Original Message-----

From: Allen Cain / Solano Avenue Association [<mailto:info@solanoavenue.org>]
Sent: Thursday, January 12, 2012 6:52 AM
To: Paul Cruce; Jeff Bond
Subject: Re: Another reason to approve the AT&T tower (PS)

Statistically speaking, there are more deaths related to the Earth's sun than related to cell phones; maybe we should think about living in caves?

Allen Cain / SAA - 510.527.5358

-----Original Message-----

From: Paul Cruce
Sent: Thursday, January 12, 2012 5:32 AM
To: jbond@albanyca.org
Subject: Another reason to approve the AT&T tower

Jeff -

Here is another reason I encourage the approval of the new AT&T tower: I use the Square iPhone app for credit/debit payments at the farmers markets where I sell our coffees and teas. At the Albany market, I rarely could get the app to work because of the poor AT&T reception on my iPhone. I often had to take the customers' card info and process it manually when I got to a place with better reception. The manual processing costs me 1% +.15¢ more per transaction than swiping the card.

Thank you for your consideration of this.

Anne Hersch

From: Jeff Bond
Sent: Friday, January 13, 2012 11:57 AM
To: Anne Hersch
Subject: Fwd: Proposed new AT&T tower

Begin forwarded message:

From: <dakitthehs@comcast.net>
Date: January 13, 2012 10:11:29 AM PST
To: <jbond@albanyca.org>
Subject: Proposed new AT&T tower

Please support this new tower -- it would be so nice to have really good cell reception in Albany! It should be clear to everyone now that this "cellular thing" isn't going to go away, so let's keep Albany's reputation for doing it right intact.

Janna Patee

1035 San Pablo Ave. AT&T Proposed Cell Site

*Albany Residents for Responsible Oversight of Wireless
(ARROW)*

Presentation to Albany Planning & Zoning Commission

Jan. 10, 2012

OVERVIEW

- What is proposed?
- What does city zoning code say?
 - rooftop coverage
 - priority order of zones for antennas
- How many antennas, which models?
 - exposure calculations & protected zones
- What should we do?

Existing Conditions

- Majority of building rooftop 40' tall per staff report (height limit for district is 38')
- Sprint/Nextel cell antenna array on roof, installed prior to adoption of city's 2005 wireless facilities ordinance

Concerns

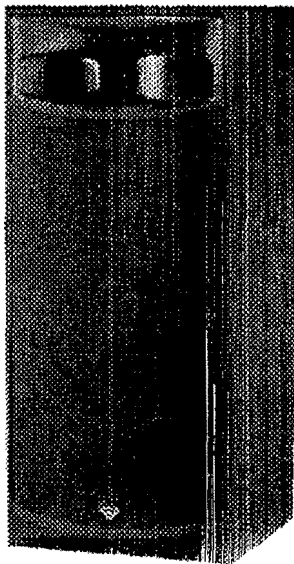
- Proposed antennas and equipment exceed rooftop coverage limits and likely also height limits [20.20.100 (E) (2) (h) and 20.24.080 (B)]
- Site is in last-preference zone for antennas [20.20.100 (D)]
- Application not complete; missing information and discrepancies

What is proposed?

- A new cell site with 9 antenna enclosures, each housing 2-3 antennas for a total of 21-24 antennas + equipment cabinets

How many antennas?

Analogy with a 3-way speaker



"Tweeter"
1900-2170 MHz

"Mid-range"
1710-1880 MHz

"Woofers"
824-960 MHz



Powerwave technologies RA31.7780
Triple Broadband Antenna

6 inputs/cables, 2 per band

Power Handling,
Average per input 250 W or 300 W

Antenna Gain >20 (approx. 14 dBi)

What code sections apply?

20.20.100 (E) (2) (h):

“The height of a wireless communication facility (building or ground mounted) shall not exceed ten (10) feet above the basic maximum building height prescribed by the regulations for the district in which the site is located, as provided by subsection 20.24.080.B, and shall be subject to applicable daylight plane restrictions”

What code sections apply?

20.24.080 (B)

“General Exceptions. Subject to approval of a use permit, towers, spires, cupolas, chimneys, elevator penthouses, water tanks, monuments, flagpoles, theatre scenery storage structures, fire towers, and similar structures may be erected to a height not more than ten (10) feet above the height limit prescribed by the regulations for the district in which the site is located, provided that no such structure shall be used for habitable space or advertising purposes, and provided that the aggregate of such structures does not cover more than ten (10%) percent of the roof area of the top floor of the structure to which they are attached. All structures that exceed the height limit shall be subject to design review. “

(NOTE: staff report based on 20.24.080 (C), not (B))

Does proposal meet 10% roof coverage limit?

- Total roof area = 4,354 sq. ft.
- Existing penthouses 600+ sq. ft.
- Sprint/Nextel equip. 265 sq. ft.
- Proposed AT&T equip. 151 sq. ft.
- Total roof covered incl. proposed AT&T = 1,016 sq. ft., approx. 23% of roof area

Does proposal meet 10' height limit?

- Existing roof height exceeds district height limit by 2', so rooftop structures limited to 8' tall to stay within 10' total limit
- Kramer report: south antenna enclosure would be 10' above roof line

Site is in last-preference district

20.20.100 (D) (2)

“Wireless communication facilities may be located within the following Districts, subject to approval of a use permit, with the findings required by subsection 20.20.100.F.5 of this Chapter. The following permitted Districts are listed in a descending order of preference for the location of wireless communication facilities, with the CMX District being the most preferred location:

- a. Commercial Mixed Use District (CMX).
- b. Public Facilities District (PF), except on sites occupied by schools and parks.
- c. San Pablo Commercial District (SPC) or Solano Commercial District (SC).”

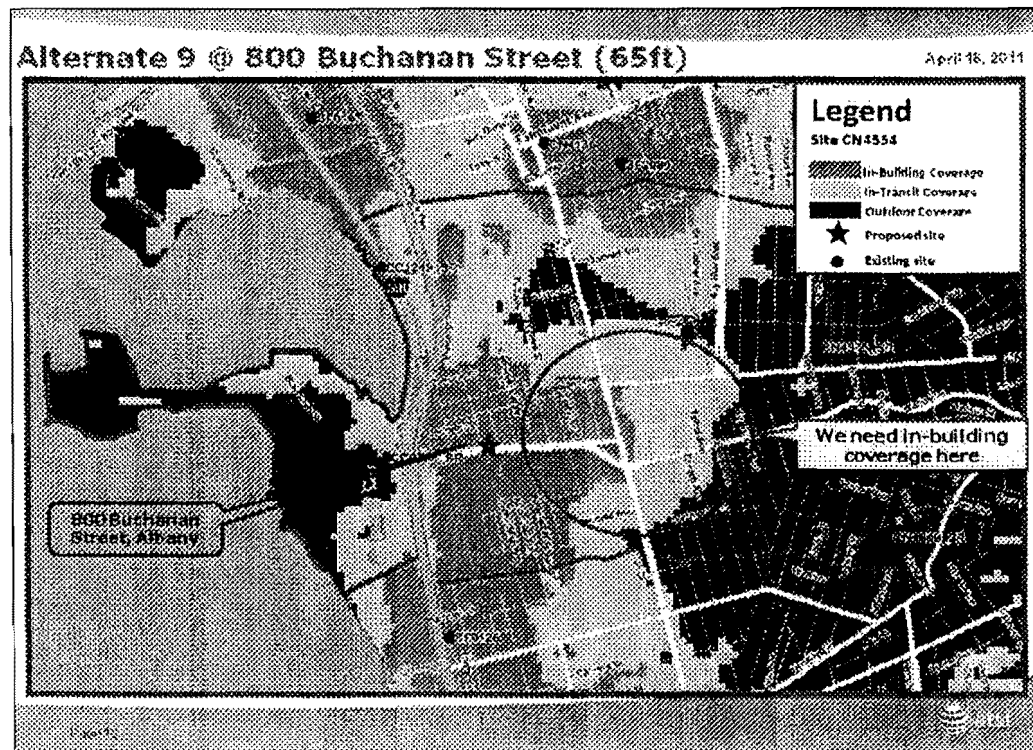
Co-location

Co-location does not supersede priority order of zoning districts for antenna locations

Sprint/Nextel antennas w/ which AT&T would co-locate were installed before wireless code including priority of districts was adopted, so co-location with S/N antennas not consistent with current code requirements

Is coverage possible from higher-preference districts?

- Only 1 CMX site considered
- Maps shows coverage possible from PF (USDA)



What difference does the number of antennas make?

- Exposure calculations and exceedance zones

History of Application

ARROW letter and public testimony in Oct. 2010 raised the priority order of zones and rooftop coverage and height issues

AT&T has waited more than 1 year after each appearance at the Commission, before proposing a “new” set of plans.

Recommendations

Application should not be approved as is; it is not in compliance with Zoning Code and analysis is not complete

Independent consultant to determine feasible sites in CMX and PF – locations, height requirements

USDA building in PF should be pursued until definite answer from bldg. owner

More Recommendations

- City creates 1 or more city-owned sites away from homes & schools, designed to host multiple carriers and serve most or all of city
- City implements RF monitoring requirements and makes compliance a permit condition for any wireless facility in future
- City requires “kill” switches at any site where emergency crews could be exposed beyond FCC limits

Anne Hersch

From: Brendan Pritikin [brendan.pritikin@gmail.com]
Sent: Wednesday, February 22, 2012 2:04 PM
To: Anne Hersch
Subject: Voicing my support for AT&T infrastructure in Albany

Hello,

I'd like to stand behind AT&T and neighbors in the community to support the proposal for AT&T to be allowed to build cellular phone towers in Albany.

I am a North Berkeley/Kensington resident and I often avoid driving through Albany as a whole due to the drop in cell phone coverage. It is important to me to be constantly connected to my digital world for safety and convenience and normalcy and I currently avoid as best as possible from stepping into "the dead zone" (which currently is a majority of the city of Albany), as my phone literally does not work in much of the city (i.e. San Pablo at Solano Ave.) Please allow this push to add infrastructure in the city.

Thank you.
-Brendan Pritikin
College student

Anne Hersch

From: Dan Augustine [dan@edintl.com]
Sent: Wednesday, February 22, 2012 1:18 PM
To: Anne Hersch
Subject: AT&T

Dear Mr. Hersch,

I would like to support an expanded AT&T cell infrastructure in Albany. I own a small business here and the poor cell service directly effects my communication with my clients.

Dan Augustine
President

Educational Development International
841 San Pablo Ave.
Albany, CA 94706
415-837-0723; fax: 415-223-3440
www.edintl.com

Anne Hersch

From: Kelley Bullard [tarheeldoc@sbcglobal.net]
Sent: Sunday, February 26, 2012 7:38 AM
To: pmoss@sbcglobal.net; leo.panian@gmail.com; david@akintilt.com; Eisenmann;
pcmaass@pacbell.net
Cc: Anne Hersch; Jeff Bond
Subject: Opposition to new cellular antennas at 1035 San Pablo Ave., item 6A on the Commission's
2/28/12 agend

Dear Planning and Zoning Commissioners:

The city codes exist to protect and respect the rights of all citizens of Albany. Please fulfill your committee's responsibility for responsible planning and zoning by voting down this item once and for all.

As an resident living adjacent to the proposed new AT&T cell antennas at 1035 San Pablo Avenue, I ask you not to create a new cell tower in our neighborhood. Please deny AT&T's application for these antennas because they do not meet requirements of the city's zoning code for the following reasons:

1. Adding AT&T's new antennas and equipment would result in the rooftop structures and equipment at this building substantially exceeding the zoning code's 10% limit.

Although the staff report for this application concludes that the new equipment would, by a fraction, fall short of the 10% limit, that calculation excludes the existing eastern rooftop penthouse. The reason given is that the eastern penthouse is "habitable space" even though the code section is clear that rooftop structures that exceed the height limit for a district cannot be used as habitable space. The commission should not approve a permit that violates basic zoning code requirements, nor should the city manipulate the measurements to try to get around a code requirement.

2. This site is in the last-preference district of the three zoning districts where antennas are allowed in Albany, and AT&T has not satisfactorily demonstrated that coverage of the target area is infeasible from the first-preference zone, CMX, or the second-preference zone, PF. In particular, it remains unclear whether the roof of the USDA building on Buchanan St. is potentially available as a site because it has never been publicly confirmed whether AT&T or the city obtained a definitive refusal from USDA or whether AT&T has simply not contacted the appropriate party at USDA, as was stated in AT&T's alternative sites analysis.

Although the above points have been raised repeatedly in previous hearings, AT&T has persisted in seeking this particular site rather than an alternative that would be consistent with the city's code. The delays in reconsidering AT&T's application result from long intervals between submissions by AT&T, not from any city action.

3. In addition to the above points, I am deeply concerned about the 42-foot zone in front of the antennas where Federal Communications Commission public exposure limits would be exceeded, and about the possibility that residential or work space could in the future be constructed within this zone. The size and location of this exclusion zone make clear the risks that this site poses to the neighborhood.

AT&T's attorney claims that denial of this application would violate federal law by prohibiting AT&T from offering service in Albany because AT&T currently has no sites in the city. However, the city is not responsible for the fact that AT&T sold off the two sites that Cingular-AT&T previously owned in Albany. Moreover, denial of a permit for this site does not prevent AT&T from applying to place antennas at a site that meets city code requirements.

I understand that AT&T customers have complained of poor coverage in some areas of the city, so I urge the commission to invite AT&T to take an alternative course of action that would allow the company to resolve customer complaints more quickly than would be possible by constructing this site. Specifically, AT&T should be encouraged to withdraw this application and apply instead for a temporary permit for a mobile site, which could be placed at a less controversial location than this building and could remain until the city can complete its the process of identifying one or more municipal sites where wireless companies would be preferentially encouraged to locate. If it is technologically feasible to locate the first new AT&T site in the city at one of the city's preferred locations once those are established, doing so would be highly desirable. AT&T could then structure its permanent network in Albany around the city's preferred location. If AT&T constructs a new site at 1035 San Pablo now, the company will have no incentive to accommodate the city's preferred siting in future development of their network.

The fact that AT&T needs to improve its coverage does not mean that the city should allow AT&T to place its antennas at a location that violates city codes. Please deny this application.

Sincerely,

M. Kelley Bullard, M.D.

Anne Hersch

From: julie beck [beckinovsky@sbcglobal.net]
Sent: Sunday, February 26, 2012 10:44 PM
To: pmoss@sbcglobal.net; leo.panian@gmail.com; david@arkintilt.com; eisenmann.arch@me.com; pcmaass@pacbell.net
Cc: Anne Hersch; Jeff Bond
Subject: Stop New Cellular Antennas at 1035 San Pablo

Dear Planning and Zoning Commissioners:

As a homeowner and Albany resident living adjacent to the proposed new AT&T cell antennas at 1035 San Pablo Avenue, I ask you not to create a new cell tower in our neighborhood. Please deny AT&T's application for these antennas because they do not meet requirements of the city's zoning code for the following reasons:

1. Adding AT&T's new antennas and equipment would result in the rooftop structures and equipment at this building substantially exceeding the zoning code's 10% limit. Although the staff report for this application concludes that the new equipment would, by a fraction, fall short of the 10% limit, that calculation excludes the existing eastern rooftop penthouse. The reason given is that the eastern penthouse is "habitable space" even though the code section is clear that rooftop structures that exceed the height limit for a district cannot be used as habitable space. The commission should not approve a permit that violates basic zoning code requirements, nor should the city manipulate the measurements to try to get around a code requirement.
2. This site is in the last-preference district of the three zoning districts where antennas are allowed in Albany, and AT&T has not satisfactorily demonstrated that coverage of the target area is infeasible from the first-preference zone, CMX, or the second-preference zone, PF. In particular, it remains unclear whether the roof of the USDA building on Buchanan St. is potentially available as a site because it has never been publicly confirmed whether AT&T or the city obtained a definitive refusal from USDA or whether AT&T has simply not contacted the appropriate party at USDA, as was stated in AT&T's alternative sites analysis.

Although the above points have been raised repeatedly in previous hearings, AT&T has persisted in seeking this particular site rather than an alternative that would be consistent with the city's code. The delays in reconsidering AT&T's application result from long intervals between submissions by AT&T, not from any city action.

3. In addition to the above points, I am deeply concerned about the 42-foot zone in front of the antennas where Federal Communications Commission public exposure limits would be exceeded, and about the possibility that residential or work space could in the future be constructed within this zone. The size and location of this exclusion zone make clear the risks that this site poses to the neighborhood. AT&T's attorney claims that denial of this application would violate federal law by prohibiting AT&T from offering service in Albany because AT&T currently has no sites in the city. However, the city is not responsible for the fact that AT&T sold off the two sites that Cingular-AT&T previously owned in Albany. Moreover, denial of a permit for this site does not prevent AT&T from applying to place antennas at a site that meets city code requirements.

I understand that AT&T customers have complained of poor coverage in some areas of the city, so I urge the commission to invite AT&T to take an alternative course of action that would allow the company to resolve customer complaints more quickly than would be possible by constructing this site. Specifically, AT&T should be encouraged to withdraw this application and apply instead for a temporary permit for a mobile site, which could be placed at a less controversial location than this building and could remain until the city can complete its the process of identifying one or more municipal sites where wireless companies would be preferentially encouraged to locate.

If it is technologically feasible to locate the first new AT&T site in the city at one of the city's preferred locations once those are established, doing so would be highly desirable. AT&T could then structure its permanent network in Albany around

the city's preferred location. If AT&T constructs a new site at 1035 San Pablo now, the company will have no incentive to accommodate the city's preferred siting in future development of their network.

The fact that AT&T needs to improve its coverage does not mean that the city should allow AT&T to place its antennas at a location that violates city codes. I urge you to deny this application.

Sincerely,

Julie Beck,

1039 Kains Avenue,

Albany CA 94706

Anne Hersch

From: Clay Larson [clayl@comcast.net]
Sent: Monday, February 27, 2012 11:22 AM
To: Anne Hersch
Cc: Jeff Bond
Subject: CUP for Wireless Facility at 1035 San Pablo Ave.

Ann;

I would like to comment on the application for a conditional use permit for the wireless facility at 1035 San Pablo Ave. scheduled for consideration at Tuesday's meeting of the Planning and Zoning Commission. In an interesting exercise in reverse logic, the staff report found that the "break room/penthouse" did not fall under any of the structures that are subject to the general exception to the height rules of the zoning ordinance, since it is now used as occupied, commercially leased space. Based on this, you excluded the area of the break room/penthouse from the aggregate total area of covered by structures built on the roof. Staff's analysis here failed to consider why the ancillary penthouse structure was approved at the time of construction. The zoning ordinance in 1984 set the maximum height for the C2 district at 45'. The break room/penthouse is apparently at least 47.5' in height and consequently must have required an exception to the height limit. The exceptions to the height limit in the 1984 ZO were similar to those found in current Section 20.24.080 (B). The 1984 exceptions specifically did not apply to structures used for "dwelling or commercial purposes." Accordingly, it does not appear that the break room/penthouse ancillary structure would have been granted a height exception for use as occupied, commercially leased space and rather suggests that the structure was repurposed after construction.

It also appears that staff's interpretation of the structures subject to exception from the height limits was too literal. In addition to listing 10 exemplar structures, Section 20.24.080 (B) adds the words, "and similar structures." It is common to see structures that enclose roof-top stairwell access on the roofs of tall buildings. The heights of these structures often exceed the ZO maximums, yet they are obviously permitted. It would appear that permission here is based on the General Exception provision of the ZO. As noted in the staff report, the break room/penthouse ancillary structure provides roof access for the building at 1035 SPA. Unless the records from 1984 indicate some other basis for granting an exception for the penthouse ancillary structure, it seems reasonable to conclude that the exception was based on the General Exception provisions of the ZO. Accordingly, it is not appropriate to now exclude this area from the aggregate total of rooftop structures. It would seem that the best and simplest solution here, is to require the applicant to collocate the necessary support equipment within the structure(s) used by the other wireless operator as was suggested by the Commission at the January 10 study session.

Clay Larson

Anne Hersch

4

From: Jim Sanetra [jsanetra@sungevity.com]
Sent: Monday, February 27, 2012 12:44 PM
To: Phillip Moss; Leo Panian; David Arkin; Eisenmann Architecture; Peter Maass
Cc: Anne Hersch; Jeff Bond
Subject: Oppose New Cell Antennas at 1035 San Pablo Ave.

Dear Planning and Zoning Commissioners:

As an resident living adjacent to the proposed new AT&T cell antennas at 1035 San Pablo Avenue, I ask you not to create a new cell tower in our neighborhood. Please deny AT&T's application for these antennas because they do not meet requirements of the city's zoning code for the following reasons:

1. Adding AT&T's new antennas and equipment would result in the rooftop structures and equipment at this building substantially exceeding the zoning code's 10% limit.

Although the staff report for this application concludes that the new equipment would, by a fraction, fall short of the 10% limit, that calculation excludes the existing eastern rooftop penthouse. The reason given is that the eastern penthouse is "habitable space" even though the code section is clear that rooftop structures that exceed the height limit for a district cannot be used as habitable space. The commission should not approve a permit that violates basic zoning code requirements, nor should the city manipulate the measurements to try to get around a code requirement.

2. This site is in the last-preference district of the three zoning districts where antennas are allowed in Albany, and AT&T has not satisfactorily demonstrated that coverage of the target area is infeasible from the first-preference zone, CMX, or the second-preference zone, PF. In particular, it remains unclear whether the roof of the USDA building on Buchanan St. is potentially available as a site because it has never been publicly confirmed whether AT&T or the city obtained a definitive refusal from USDA or whether AT&T has simply not contacted the appropriate party at USDA, as was stated in AT&T's alternative sites analysis.

Although the above points have been raised repeatedly in previous hearings, AT&T has persisted in seeking this particular site rather than an alternative that would be consistent with the city's code. The delays in reconsidering AT&T's application result from long intervals between submissions by AT&T, not from any city action.

3. In addition to the above points, I am deeply concerned about the 42-foot zone in front of the antennas where Federal Communications Commission public exposure limits would be exceeded, and about the possibility that residential or work space could in the future be constructed within this zone. The size and location of this exclusion zone make clear the risks that this site poses to the neighborhood.

AT&T's attorney claims that denial of this application would violate federal law by prohibiting AT&T from offering service in Albany because AT&T currently has no sites in the city. However, the city is not responsible for the fact that AT&T sold off the two sites that Cingular-AT&T previously owned in Albany. Moreover, denial of a permit for this site does not prevent AT&T from applying to place antennas at a site that meets city code requirements.

I understand that AT&T customers have complained of poor coverage in some areas of the city, so I urge the commission to invite AT&T to take an alternative course of action that would allow the company to resolve customer complaints more quickly than would be possible by constructing this site. Specifically, AT&T should be encouraged to withdraw this application and apply instead for a temporary permit for a mobile site, which could be placed at a less controversial location than this building and could remain until the city can complete its the process of identifying one or more municipal sites where wireless companies would be preferentially encouraged to locate. If it is technologically feasible to locate the first new AT&T site in the city at one of the

city's preferred locations once those are established, doing so would be highly desirable. AT&T could then structure its permanent network in Albany around the city's preferred location. If AT&T constructs a new site at 1035 San Pablo now, the company will have no incentive to accommodate the city's preferred siting in future development of their network.

The fact that AT&T needs to improve its coverage does not mean that the city should allow AT&T to place its antennas at a location that violates city codes. Please deny this application.

Sincerely,

Jim Sanetra | Customer Care Senior Project Manager | Sungevity Solar Home Specialists

66 Franklin Street, Oakland, CA 94607 | 866-SUN-4ALL | 510-496-5585

510 333 8412 mobile | 510 496 5502 fax | jsanetra@sungevity.com

Have you gotten an iQuote yet? www.sungevity.com

5

Anne Hersch

From: Catherine Riley [cate.riley@gmail.com]
Sent: Monday, February 27, 2012 4:28 PM
To: Anne Hersch
Subject: Support for wireless

I support wireless for Albany. I'm so tired of dropped and missed calls.

Cate Riley
967 Kains
Albany, CA

Thank You!

Sent from my iPad

Anne Hersch

From: Mike Skinner [michaelskinner984@yahoo.com]
Sent: Monday, February 27, 2012 4:52 PM
To: Anne Hersch
Subject: I fully support improved cell service in Albany

I run an investment advisory service out of my house (Albany licensed of course). My wife also uses her cell phone for her volunteer work with Friends of the Albany Library, Historical Society, and Education Foundation. This is in addition to talking to our 3 grown kids who are living all over the country via cell package.

It is a big irritation that we get dropped calls or have to walk outside on our back deck to do business and family stuff via cell.

Who are we as a City anyway? Do not we want tech connected businesses and people to live here? Please move us out of the backwaters just because some ill informed about the dangers of cell radiation are organized and vocal.

- Mike Skinner
Albany resident on Peralta Ave. since 1978

Anne Hersch

From: sun yung kim [kimsunnyus@yahoo.com]
Sent: Monday, February 27, 2012 7:52 PM
To: pmoss@sbcglobal.net
Cc: Anne Hersch; jbond@albany.ca.org
Subject: Oppose New Cell Antennas at 1035 San Pablo Ave.

RE: Opposition to new cellular antennas at 1035 San Pablo Ave., item 6A on the Commission’s 2/28/12 agenda

Dear Planning and Zoning Commissioners:

As an resident living adjacent to the proposed new AT&T cell antennas at 1035 San Pablo Avenue, I ask you not to create a new cell tower in our neighborhood. Please deny AT&T’s application for these antennas because they do not meet requirements of the city’s zoning code for the following reasons:

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AT&T’s attorney claims that denial of this application would violate federal law by prohibiting AT&T from offering service in Albany because AT&T currently has no sites in the city. However, the city is not responsible for the fact that AT&T sold off the two sites that Cingular-AT&T previously owned in Albany. Moreover, denial of a permit for this site does not prevent AT&T from applying to place antennas at a site that meets city code requirements.

I understand that AT&T customers have complained of poor coverage in some areas of the city, so I urge the commission to invite AT&T to take an alternative course of action that would allow the company to resolve customer complaints more quickly than would be possible by constructing this site. Specifically, AT&T should be encouraged to withdraw this application and apply instead for a temporary permit for a mobile site, which could be placed at a less controversial location than this building and could remain until the city can complete its the process of identifying one or more municipal sites where wireless companies would be preferentially encouraged to locate. If it is technologically feasible to locate the first new AT&T site in the city at one of the city's preferred locations once those are established, doing so would be highly desirable. AT&T could then structure its permanent network in Albany around the city's preferred location. If AT&T constructs a new site at 1035 San Pablo now, the company will have no incentive to accommodate the city's preferred siting in future development of their network.

The fact that AT&T needs to improve its coverage does not mean that the city should allow AT&T to place its antennas at a location that violates city codes. Please deny this application.

Sincerely

Sunny Kim and Yongyop Kim
412 Kains Ave.
Albany, CA 9470

Anne Hersch

From: Eric Bergman [erbergman@yahoo.com]
Sent: Monday, February 27, 2012 8:56 PM
To: pmoss@sbcglobal.net; leo.panian@gmail.com; david@arkintilt.com; eisenmann.arch@me.com; pcmaass@pacbell.net
Cc: Anne Hersch; Jeff Bond
Subject: RE: Opposition to new cellular antennas at 1035 San Pablo Ave., item 6A on the Commission's 2/28/12 agenda

Dear Planning and Zoning Commissioners:

As an resident living directly across the street from the proposed new AT&T cell antennas at 1035 San Pablo Avenue, I ask you not to create a new cell tower in our neighborhood. Please deny AT&T's application for these antennas because they do not meet requirements of the city's zoning code for the following reasons:

1. Adding AT&T's new antennas and equipment would result in the rooftop structures and equipment at this building substantially exceeding the zoning code's 10% limit.

Although the staff report for this application concludes that the new equipment would, by a fraction, fall short of the 10% limit, that calculation excludes the existing eastern rooftop penthouse. The reason given is that the eastern penthouse is "habitable space" even though the code section is clear that rooftop structures that exceed the height limit for a district cannot be used as habitable space. The commission should not approve a permit that violates basic zoning code requirements, nor should the city manipulate the measurements to try to get around a code requirement.

2. This site is in the last-preference district of the three zoning districts where antennas are allowed in Albany, and AT&T has not satisfactorily demonstrated that coverage of the target area is infeasible from the first-preference zone, CMX, or the second-preference zone, PF. In particular, it remains unclear whether the roof of the USDA building on Buchanan St. is potentially available as a site because it has never been publicly confirmed whether AT&T or the city obtained a definitive refusal from USDA or whether AT&T has simply not contacted the appropriate party at USDA, as was stated in AT&T's alternative sites analysis.

Although the above points have been raised repeatedly in previous hearings, AT&T has persisted in seeking this particular site rather than an alternative that would be consistent with the city's code. The delays in reconsidering AT&T's application result from long intervals between submissions by AT&T, not from any city action.

3. In addition to the above points, I am deeply concerned about the 42-foot zone in front of the antennas where Federal Communications Commission public exposure limits would be exceeded, and about the possibility that residential or work space could in the future be constructed within this zone. The size and location of this exclusion zone make clear the risks that this site poses to the neighborhood.

AT&T's attorney claims that denial of this application would violate federal law by prohibiting AT&T from offering service in Albany because AT&T currently has no sites in the city. However, the city is not responsible for the fact that AT&T sold off the two sites that Cingular-AT&T previously owned in Albany. Moreover, denial of a permit for this site does not prevent AT&T from applying to place antennas at a site that meets city code requirements.

I understand that AT&T customers have complained of poor coverage in some areas of the city, so I urge the commission to invite AT&T to take an alternative course of action that would allow the company to resolve customer complaints more quickly than would be possible by constructing this site. Specifically, AT&T should be encouraged to withdraw this application and apply instead for a temporary permit for a mobile site, which could be placed at a less controversial location than this building and could remain until the city can complete its the process of identifying one or more municipal sites where wireless companies would be preferentially encouraged to locate. If it is technologically feasible to locate the first new AT&T site in the city at one of the city's preferred locations once those are established, doing so would be highly desirable. AT&T could then structure its permanent network in Albany around the city's preferred location. If AT&T constructs a new site at 1035 San Pablo now, the company will have no incentive to accommodate the city's preferred siting in future development of their network.

The fact that AT&T needs to improve its coverage does not mean that the city should allow AT&T to place its antennas at a location that violates city codes. Please deny this application.

Sincerely,
 Eric Bergman
 1041 Kains ave.
 Albany, CA 94706

Feb. 27, 2012

RE: Concerns regarding basis for findings for a permit for new cellular antenna site at 1035 San Pablo Ave.

Dear Planning and Zoning Commissioners:

This letter is in reference to AT&T's application for a new cellular antenna site at 1035 San Pablo Ave., which is on the agenda for the commission's Feb. 28, 2012 meeting.

ARROW has several concerns about the staff recommendation to approve the application, two of which we have previously expressed but which remain unaddressed:

First, the measurements and calculations regarding rooftop coverage in the staff report confirm, as we have stated at previous hearings, that with the new AT&T site, nearly 20% of the roof would be covered by rooftop structures, in violation of the zoning code Section 20.24.080 (B) limit of 10%. We have serious concerns with how the code has been "interpreted" in the staff report so that a portion of the rooftop structures is omitted from the calculations.

Second, AT&T has not shown that they are unable provide coverage to their target area from the higher-preference zoning districts for antennas specified in the city code, i.e., Commercial Mixed Use (CMX) or Public Facilities (PF). Therefore, it is not appropriate to approve a site in the last-preference district.

Third, the city is moving in a timely manner toward developing one or more preferred antenna sites where carriers would be encouraged and/or given incentives to locate. For the community to obtain maximum benefit from establishing those sites, AT&T should have an opportunity to locate its first new site in Albany at one of those sites and thus build out its Albany network around those locations, rather than establishing a site at another location now.

Fourth, we are extremely concerned about the handling of the zone in front of the antennas where Federal Communications Commission (FCC) public exposure limits would be exceeded.

Finally, if a permit is approved for these antennas, two important safety issues should be addressed in conditions of approval: independent RF emissions monitoring should be performed in the building directly below the antennas as well as in the habitable penthouse on the rooftop within 60 days of the site becoming operational, to confirm that there are no exposures exceeding FCC regulations. Compliance with the city's monitoring requirements, including a commitment from AT&T to pay their share of the costs, should be a condition of the permit. A shut-off switch for the antennas should also be required, for fire and personnel who might need to access the roof in an emergency.

Each of these concerns is explained in detail below as the basis for our recommendation that the Commission deny this application because it exceeds rooftop coverage provisions and urge AT&T to seek a temporary permit for a mobile site to solve coverage complaints from Albany residents in the short term, and to reapply for a permanent site after the city establishes preferred antenna locations, in the hope that one of those locations will meet AT&T's needs.

1. Rooftop Coverage

We appreciate staff obtaining measurements at the building, but we believe the meaning of the zoning code has been distorted to exclude the eastern rooftop penthouse and adjacent roofed stairwell penthouse from the rooftop coverage calculations.

When the eastern penthouse is included, the result is that, if the AT&T site were built, nearly 20% of the rooftop would be covered by structures that exceed the height limit for the zoning district. This greatly exceeds the code limit of 10%.

The staff report argues that the eastern penthouse can be excluded from the calculations because it is "habitable space." However, code section 20.24.080 (B) states clearly that rooftop structures that exceed the height limit for the district may not be used as habitable space: "*no such structure shall be used for habitable space or advertising purposes.*"

The staff report is silent on the height of the eastern penthouse, but it appears to be at least 48 feet, which exceeds both the current height limit for the district (38 feet) as well as the height limit at the time the building was approved (which would have been 45 feet). (The roofline of the building itself exceeds the current height limit in most areas.) Therefore, use of the penthouse as habitable space – a break room -- is a violation of the code provision cited above, not a reason to treat it as an exception and omit it from the aggregate total of all the rooftop structures.

As the supplemental staff memo dated Feb. 28, 2012 indicates, the original drawings from 1984 identify the eastern penthouse as a mechanical penthouse. It is not known when the space was converted to a break room, but plans associated with the installation of the Sprint antennas in 1997 identify the space simply as a penthouse, as do the first two sets of AT&T plans for the current proposed antenna installation.

The staff report carefully enumerates that the penthouse is not a tower, spire, cupola, or any of the specific types of structures listed in code section 20.24.080 (B) but omits to mention that the code section says "and similar structures." The eastern penthouse might not be an elevator penthouse, but it is clearly a penthouse atop a three-story building (not a fourth story).

The staff report gives a measurement of 432 square feet for the eastern penthouse and treats the square footage as a "habitable" break room. However, approximately 100 square feet of that space is the sloped-roof portion of the penthouse that faces northwest and that the AT&T plans identify as an elevator or stairwell penthouse. This portion of

the square footage is definitely not habitable space. So even if the Commission were to accept what we believe is an erroneous reading of the zoning code to justify omitting the habitable (break room) portion of the penthouse from the calculations of rooftop coverage, there is no justification for omitting 100 square feet of the penthouse that is the roofed stairwell. Including that 100 square feet brings the total area of the roof that would be covered by rooftop structures, including the proposed AT&T equipment, to 517 square feet, which exceeds the 10% rooftop coverage limit under either assumption about the total square footage of the roof as outlined in the table at the top of p. 6 of the staff report.

Because there does not appear to be any justification for treating the eastern penthouse as anything other than a rooftop structure as specified in code section 20.24.080 (B), ARROW concludes, as we have previously stated, that the eastern penthouse must be counted as part of the rooftop coverage calculation, and that, therefore, the AT&T site would cause the roof to substantially exceed the code's rooftop coverage limits.

2. Alternatives Analysis and Priority Order of Districts for Antennas

The city's wireless ordinance establishes a priority order of the zoning districts where antennas may be sited. San Pablo Commercial (SPC) where 1035 San Pablo Ave. is located is in the third- and last-priority district [Sections 20.20.100 (D) and 20.20.100 (F) (4) (a) (8)] Before a carrier can locate in a lower-priority district, the carrier must demonstrate that it is not feasible to provide coverage from a higher-priority district.

We understand that the Commission might feel more comfortable making decisions based on familiar and traditional zoning criteria such as rooftop coverage limits, rather than questions of technical feasibility of wireless siting. However, to accept AT&T's unsubstantiated assertion that a 65' pole would be required to provide coverage from the first-priority zone, CMX, and that such a pole could not be built because of height limits, undermines the city's authority to require a meaningful analysis of potentially preferable alternative sites.

In this case, if indeed it is true that a 65' height would be required to provide coverage from CMX and that no building-mounted options exist (is this accurate? what about the roof of the Target building, for example?), then it is in the city's interest to have the option to examine whether an exemption from the CMX height limits might be preferable to having to grant an exemption to rooftop coverage limits for this 1035 San Pablo location where the antennas would have a much greater impact on a residential neighborhood.

Furthermore, as we noted in our last letter to the Commission regarding this application, AT&T's alternatives analysis dismissed the USDA building site, which is in the second-preference zone (PF) on the basis that AT&T had not been able to speak with the person in charge of leasing. AT&T's own coverage maps showed that a majority of the target area could be covered from the USDA building, so for the alternatives analysis to meet minimum criteria for completeness, the potential availability of the USDA site should be definitively determined. Given the ambiguity about the building's status, ARROW recommends that this determination be made by city staff contacting the USDA.

With regard to the Commission's reluctance to tackle questions such as the sufficiency of an alternatives analysis or the accuracy of claims about why a certain site is or is not technically feasible : this is the reason that the wireless portion of the zoning code provides for the city to hire an independent consultant to advise the city. Neither the Commission nor staff can be reasonably expected to know whether a carrier's technical claims are accurate. However, carriers often claim that they have to have a certain height or location only to manage to provide service from a lower height or different location when a municipality limits their options. Although the city has made good-faith efforts to have third-party consultants review carriers' claims about radio frequency emissions, the city has not yet hired a full-service consultant who can analyze, on the city's behalf, carriers' claims about coverage areas, heights, etc. We urge the city to use the independent review provision of the ordinance to obtain expertise that will allow the staff and Commission to feel that they can, with confidence, assess the quality and completeness of the information that wireless carriers provide.

3. Conflict Between Approving a First AT&T Site While City Council Simultaneously Explores Establishing Preferred Antenna Sites in the City

At its Feb. 21, 2012 meeting, the City Council directed staff to start the process of hiring a consultant to advise the city regarding the feasibility of and requirements related to establishing one or more preferred antenna sites in the city where carriers would be encouraged to locate. As noted above, for those sites to be of maximum benefit in terms of preventing unnecessary proliferation of sites throughout the community and avoiding the types of controversy and neighborhood outcry that the 1035 San Pablo site has generated, it does not make sense to grant AT&T a permit now to locate its first new site in the city elsewhere. Once one site is located, the remainder of AT&T's Albany network would be planned around that site. It would be much preferable for all concerned if that first AT&T site could, if technologically feasible, be located at one of the new preferred sites.

For this reason, we support Commissioner Eisenmann's suggestion at the last meeting to invite AT&T to seek a temporary permit for a mobile site that could be put into service rapidly to solve customer service complaints and allow AT&T to provide coverage until a permanent site can be erected. We recognize that this would require AT&T to file a new application and that there is no explicit provision for a temporary site in the city's code. However, the City Council could as a matter of policy consider a request for a use that is not specified in the zoning code.

4. Treatment of Area where Antenna Emissions Would Exceed FCC Exposure Limits

The staff report notes that radio frequency emissions from the proposed antennas at 1035 San Pablo would exceed FCC limits in a 42'-area in front of the antennas and proposes that a permit condition be imposed that the antennas would have to be moved if a residential building were to be built within that 42' area.

ARROW has several concerns and questions about this issue.

First, is it not a taking of the rights of the owner of the adjacent property to knowingly approve a condition that would create a hazard to human health if that owner decided to develop the property such that habitable space were built within the zone where emissions would exceed federal limits? Is the owner of that property aware of the specific impact on his or her property of the decision the Commission is about to make regarding these antennas?

Second, why does the staff report recommend that the permit condition be applicable only if a residential building is built in the exclusion zone? Workers in an adjacent commercial building would fall under the public exposure limits as well and should equally be protected from exposures that exceed these limits.

Third, by what mechanism would such a permit condition be reliably enforced in the future? how can the city reliably guarantee that if a proposal is made to develop the neighboring site, the antenna relocation requirement would, without fail, be enforced?

Fourth, what about emergency fire and rescue personnel who might have to access the roof? How will they be protected from emissions exceeding FCC occupational exposure limits in the exclusion zone? We reiterate our recommendation that this site, if approved, and any site where fire and rescue personnel might be exposed to emissions beyond FCC limits, should have a shutoff switch similar to those installed at gas stations to allow emergency personnel to turn off fuel pumps in case of fire.

Finally, conflicting information has been presented in AT&T's application documents about the models and numbers of antennas proposed. How can we know with certainty whether the exclusion zone is in fact 42' when the engineering firm that prepared the RF emissions study, Hammett and Edison, based their study on different antenna models and numbers of antennas than AT&T's application specifies? Given the size of the zone and its location, approving a permit if there is an error in this calculation could have serious consequences.

Therefore, RF emissions monitoring should be performed in the building directly below the antennas as well as in the habitable penthouse on the rooftop within 60 days of the site becoming operational, to confirm that there are no exposure that exceed FCC regulations, in areas accessible to the public. Compliance with the city's monitoring requirements, including a commitment from AT&T to pay their share of the costs, should be a condition of the permit. A shut-off switch for the antennas should also be required, for fire and personnel who might need to access the roof in an emergency.

Conclusion

We note that points 1 and 2 above have been stated repeatedly in correspondence and at prior hearings on this application, and AT&T has had more than ample time and opportunity to seek an alternative resolution. The fact that this application has been pending for a long period of time is not the result of the city's action but is, rather, attributable to long delays between submissions of materials by AT&T.

A letter from AT&T's attorney states that denial of this application would violate the federal Telecommunications Act of 1996 by prohibiting AT&T from offering service in Albany because AT&T currently has no sites in the city. AT&T-Cingular had two sites in the city in 2005, one of which was a block away from the proposed site. However, AT&T divested those two sites to T-Mobile. It is not an action of the city government but AT&T's own relinquishing of those two sites that is the reason that AT&T is providing inadequate service in Albany.

We recognize the pressure AT&T is attempting to exert on the city and we are, frankly, tired of carriers using lawyers to bully the city into giving the carriers what they doggedly insist on despite being told over and over that what they are asking for is not acceptable to city residents. The fact that AT&T might have poor coverage and dissatisfied customers does not obligate the city to approve antennas that violate the city zoning code.

We respectfully urge you to deny this application.

On behalf of ARROW,

Nan Wishner, San Carlos Ave., Albany

Anne Hersch

From: Knoticalisa [knoticalisa@gmail.com]
Sent: Tuesday, February 28, 2012 8:05 AM
To: Anne Hersch
Subject: Albany needs better wireless service

Importance: Low

Please help AT&T give Albany better wireless service. It is a huge problem for us all.

Alisa Cassero
Albany resident

Sent from my Samsung smartphone on AT&T

Anne Hersch

From: Eileen Harrington
Sent: Tuesday, February 28, 2012 9:18 AM
To: Anne Hersch; Jeff Bond; Beth Pollard; Craig Labadie; Nicole Almaguer; Councilmember Joanne Wile (jwile46@gmail.com); Councilmember Robert Lieber (Hon.Lieber@comcast.net); fjavandel@ci.berkeley.ca.us; marge.atkinson@mac.com; peggy.thomsen@gmail.com; peggy_thomsen@heald.edu
Subject: FW: AT&T cell phone antennas

Eileen A. Harrington
Secretary to the City Manager
CITY OF ALBANY
1000 San Pablo Avenue
Albany, CA 94706
510.528.5710
FAX 510.528.5797

-----Original Message-----

From: V Brothers [<mailto:vabros1011@gmail.com>]
Sent: Tuesday, February 28, 2012 9:16 AM
To: City General Email Box
Subject: AT&T cell phone antennas

To the Planning and Zoning Commissioners and City Council members:

Vote YES to new antennas for AT&T and Verizon for cell phone reception! Why can I use my cell phone anywhere in the country BUT Albany? For better or worse, cell phones are a necessity of modern life. I need to be able to contact people and businesses and vice versa on my cell phone.

Virginia Brothers
988 Peralta Avenue
Albany, CA 94706

Sent from my iPad

Anne Hersch

From: John Cassero [metakeys@gmail.com]
Sent: Tuesday, February 28, 2012 9:36 AM
To: Anne Hersch
Subject: In Support of AT&T's wireless application

Hello!

We are an AT&T family and wireless connectivity is very important to us; especially since our daughter is in Albany schools and we need to be able to communicate with her.

As such, we are in support of AT&T improving their service in Albany.

Thank-you and let us know if you have any questions for us.

Cassero family
1107 Talbot Ave
Albany, CA 94706
510.621.3131

Anne Hersch

From: Francis Cebulski [cebulski@pacbell.net]
Sent: Tuesday, February 28, 2012 9:43 AM
To: David Arkin; Phillip Moss; Leo Panian; Stacy Eisenmann; Peter Maass
Cc: Anne Hersch; Jeff Bond
Subject: RE: Opposition to new cellular antennas at 1035 San Pablo Ave., item 6A on the Commission's 2/28/12 agenda

Planning and Zoning Commissioners:

As a longtime resident of Albany, where I have lived since 1974, I respectfully request that you not approve the proposed new AT&T cell antennas at 1035 San Pablo Avenue. Please deny AT&T's application for these antennas because they do not meet requirements of the city's zoning code for the following reasons:

1. Adding AT&T's new antennas and equipment would result in the rooftop structures and equipment at this building substantially exceeding the zoning code's 10% limit.

Although the staff report for this application concludes that the new equipment would, by a fraction, fall short of the 10% limit, that calculation excludes the existing eastern rooftop penthouse. The reason given is that the eastern penthouse is "habitable space" even though the code section is clear that rooftop structures that exceed the height limit for a district cannot be used as habitable space. The commission should not approve a permit that violates basic zoning code requirements, nor should the city manipulate the measurements to try to get around a code requirement.

2. This site is in the last-preference district of the three zoning districts where antennas are allowed in Albany, and AT&T has not satisfactorily demonstrated that coverage of the target area is infeasible from the first-preference zone, CMX, or the second-preference zone, PF. In particular, it remains unclear whether the roof of the USDA building on Buchanan St. is potentially available as a site because it has never been publicly confirmed whether AT&T or the city obtained a definitive refusal from USDA or whether AT&T has simply not contacted the appropriate party at USDA, as was stated in AT&T's alternative sites analysis.

Although the above points have been raised repeatedly in previous hearings, AT&T has persisted in seeking this particular site rather than an alternative that would be consistent with the city's code. The delays in reconsidering AT&T's application result from long intervals between submissions by AT&T, not from any city action.

3. In addition to the above points, I am deeply concerned about the 42-foot zone in front of the antennas where Federal Communications Commission public exposure limits would be exceeded, and about the possibility that

residential or work space could in the future be constructed within this zone. The size and location of this exclusion zone make clear the risks that this site poses to the neighborhood.

AT&T's attorney claims that denial of this application would violate federal law by prohibiting AT&T from offering service in Albany because AT&T currently has no sites in the city. However, the city is not responsible for the fact that AT&T sold off the two sites that Cingular-AT&T previously owned in Albany. Moreover, denial of a permit for this site does not prevent AT&T from applying to place antennas at a site that meets city code requirements.

I understand that AT&T customers have complained of poor coverage in some areas of the city, so I urge the commission to invite AT&T to take an alternative course of action that would allow the company to resolve customer complaints more quickly than would be possible by constructing this site. Specifically, AT&T should be encouraged to withdraw this application and apply instead for a temporary permit for a mobile site, which could be placed at a less controversial location than this building and could remain until the city can complete the process of identifying one or more municipal sites where wireless companies would be preferentially encouraged to locate. If it is technologically feasible to locate the first new AT&T site in the city at one of the city's preferred locations once those are established, doing so would be highly desirable. AT&T could then structure its permanent network in Albany around the city's preferred location. If AT&T constructs a new site at 1035 San Pablo now, the company will have no incentive to accommodate the city's preferred siting in future development of their network.

The fact that AT&T needs to improve its coverage does not mean that the city should allow AT&T to place its antennas at a location that violates city codes. Please deny this application.

Sincerely,

Frank Cebulski

627 Talbot Avenue

Albany, CA 94706

510.526.6061 home

510.334.3105 mobile (AT&T)

cebulski@pacbell.net

19

Anne Hersch

From: LESLIE, BARBARA [bl4981@att.com]
Sent: Monday, February 27, 2012 9:49 AM
To: Anne Hersch
Subject: FW: Cell tower

forwarding

-----Original Message-----

From: Dale.Greene@att.net [mailto:dale.greene@att.net]
Sent: Sunday, February 26, 2012 9:10 AM
To: ELA-PA Wireless4Albany
Subject: Cell tower

Absolutely allow AT&T to put up a cell tower. It is a matter of safety for those of us confined with the cell phone as our key to the outside world. If you are concerned about radio waves, you expose yourself every time you put the cell phone by your face. Everyone I know in Albany uses a cell phone. Let's face reality and improve our inadequate service.

Dale Greene
Norman Greene

Sent from my iPad

Anne Hersch

From: Lee Foster [lee@fostertravel.com]
Sent: Tuesday, February 28, 2012 12:23 PM
To: Anne Hersch
Cc: David Sanger
Subject: Lee Foster supports all wireless upgrades for Albany/Berkeley

Dear Anne,

Please record my citizen vote in favor of all possible wireless upgrades that may apply to our Albany/Berkeley region. Please alert all the decision makers to my vote.

David Sanger in his note makes the case with eloquence and completeness.

We need to move Albany and Berkeley into the 21st Century and not allow businesses in our region to fall behind because the cell service is inadequate.

I am in a special position to observe how poor cell service damages businesses in the Albany/Berkeley region.

I am a travel journalist and have a travel product known as an app in the Apple iTunes App Store titled "Berkeley Essential Guide" (Sutro Media, \$2.99). The app celebrates all the attractions and businesses in Berkeley, and includes Albany entities on Solano as well as many in Berkeley.

Consumers have complained to me that the app doesn't always work in the Albany/Berkeley area at times because connectivity is bad. For example, they try to click on the link to learn about the Gathering Tribes shop in Albany of Solano. The click does not go through because connectivity is poor. Gathering Tribes loses a potential customer for their excellent Southwest Indian art products.

Please do everything you can to improve connectivity in Albany/Berkeley to help make Albany businesses competitive in this age where connectivity counts for so much.

If you or other decision makers have any questions, please contact me at Lee Foster, 510-549-2202, lee@fostertravel.com, website www.fostertravel.com.

Kind regards,
Lee Foster

--

Lee Foster
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[\(510\) 549-2202](tel:(510)549-2202)
lee@fostertravel.com
<http://www.fostertravel.com>

Travel writing/photos on 200 destinations for consumers and content buyers at <http://www.fostertravel.com>
5,000 hi-res photos searchable and downloadable at <http://stockphotos.fostertravel.com>
Two new photo travel guidebooks at <http://www.fostertravel.com/book.html>
Latest thoughts on travel at <http://blog.fostertravel.com>

Travel photo guide app on San Francisco at <http://www.sutromedia.com/apps/sfphotoguide>

Travel photo guide app on Washington DC at http://sutromedia.com/apps/DC_Travel_Photo_Guide

Travel guide app on Berkeley, CA at http://sutromedia.com/apps/Berkeley_Essential_Guide

Anne Hersch

From: Janice Hitchcock [jan@hitchrealty.com]
Sent: Tuesday, February 28, 2012 3:45 PM
To: Anne Hersch
Subject: Tonight's cell tower discussion (1035 San Pablo)

Dear Ms. Hersch,

I have sent the following to the commissioners:

Please do not cave in to AT&T threats and allow any more antennas at this location. Members of the commission have always had the good of the people of Albany in mind as they do their work, and it would be a tragedy to give in to corporate bullying. Since when do corporations dictate the details of our zoning codes? If the zoning code regarding cellular equipment is reasonable and in line with other codes of similar cities, then please stick to it. To let corporations have the final say on our zoning regs would make them pointless.

I completely agree with the proposal being circulated by the Albany Residents for Responsible oversight of Wireless, and I'm sure you have several copies so I won't include it in this email.

Thank you for attention,

Jan Hitchcock
Steve Hitchcock
1102 Stannage Ave, Albany

Anne Hersch

From: Dmitri Belser [dbelser@cforat.org]
Sent: Tuesday, February 28, 2012 3:47 PM
To: Anne Hersch
Subject: AT&T Wireless Application for San Pablo Avenue

Ann Hersch, Planning Director
City of Albany

Ms. Hersch,

I am unfortunately unable to attend the Planning Commission Meeting tonight, but I wanted to give some input. I'd appreciate it if you will share this with the Commissioners.

I spoke last on this in October 2010 at another meeting in Albany. I know that AT&T has been trying for four years to get approval to put additional wireless towers on San Pablo Avenue, to improve wireless coverage in the City of Albany.

For people with disabilities, this is a critical issue. Although cell phones are a convenience for everyone, many people with disabilities rely on cell phones as a lifeline. For example, if a person who uses a wheelchair has their chair break down while they are out, a cell phone may be the only way they can get assistance. For myself, I use my cell phone constantly, as a way of orienting myself. Because I am blind, I use the cell phone a lot when I am traveling in unfamiliar areas, and will often call the person I am meeting to have them tell me how to find them. I do not have enough usable vision to read street signs, so if I become lost, my cell phone is often the ONLY way I have of identifying where I am going.

But the City of Albany is notorious for having poor cellphone reception. It is incredible to me that an affluent community like Albany would still be digitally living in the 20th century. This issue has now been debated for four years - it is time to move forward and enable AT&T to plug a major hole in cell phone coverage in the Bay Area.

I recognize that there are those who will argue that cell towers may have side effects that impact health. But I have never been anywhere in Albany where I could not look at my phone or computer and find at least 4 or 5 wireless networks. Wireless networks are ubiquitous in Albany, and I don't personally believe additional cell phone towers are going to add significantly to that concern.

I support anything that would increase the availability of wireless service within the City of Albany. If this application is approved, the residents of Albany will enjoy the benefits of reliable wireless service, and people with disabilities living, working or traveling in Albany will be able to do so with confidence, knowing that they can depend on their wireless devices.

Thank you for your review of this input.

Dmitri

Dmitri Belser, Executive Director
Center for Accessible Technology
3075 Adeline, Suite 220
Berkeley, California 94703

510/841-3224 ext. 2012 - phone

510/841-7956 - fax

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David Arkin <david@arkintilt.com>, Peter Maass <pcmaass@pacbell.net>,
Phillip Moss <pmoss@sbcglobal.net>, Leo Panian <leo.panian@gmail.com>,
Stacy Eisenmann <eisenmann.arch@me.com>, Anne Hersch <ahersch@albanyca.org>,
Jeff Bond <jbond@albanyca.org>

Albany Planning and Zoning Commission
1000 San Pablo Ave.,
Albany, CA 94706
Feb 28, 2012

Dear Planning and Zoning Commissioners and Staff:

I am writing to urge you to approve the **pending application #08-038 by AT&T for a Wireless Facility at 1035 San Pablo Ave**

Providing quality wireless service to all citizens should be a **clearly identified public policy goal** for the City of Albany. Residents, small businesses, retail outlets, shoppers and visitors all rely on a working wireless system in their everyday lives. Lack of such service is a major impediment that affects the quality of life in Albany

As I discussed in my previous letter of Jan 9, the lack of AT&T wireless coverage in Albany is a **public health and safety issue**. Without access to basic telephone service while away from their own homes, AT&T customers cannot call police or doctors in case of emergencies. This is an everyday worry for many Albany citizens and has an immediate impact on our safety,

This application was initially submitted in 2008. Albany customers who use AT&T have now had poor to non-existent coverage for over four years while the application has been repeatedly delayed and obstructed. The City is required by the FCC to process wireless applications in a timely manner

City Owned Facility. ARROW states in its letter of Feb 27th that *"the city is moving in a timely manner toward developing one or more preferred antenna sites where carriers would be encouraged and/or given incentives to locate."* and tries to introduce this as another diversion and delaying tactic. Their claim is quite a misrepresentation to say the least. The city has not yet even issued an RFQ to find an RF engineering consultant to educate staff and to evaluate whether such a project is feasible. It will be a very long time indeed before studies are completed, alternatives evaluated, investors solicited and evaluated, the zoning laws changed, environmental impact studies are completed and any potential city-owned site is constructed. This long-term project has nothing to do with the current application and should not be considered at all in reviewing the current project at 1035 San Pablo. Furthermore, even if such a city-owned site is eventually installed the applicant could not be required to locate their facilities there (ref California Government Code 65964 (c))

As a condition of approval of an application for a permit for construction or reconstruction for a development project for a wireless telecommunications facility, as defined in Section 65850.6, a city or county shall not do any of the following: (c) Require that all wireless telecommunications facilities be limited to sites owned by particular parties within the jurisdiction of the city or county.

Preference for Colocation. The Wireless Ordinance is very explicit in stating the City's preference for colocation, listing as one of its purposes and intents:

(to) encourage the use of existing facilities, including colocation by multiple companies; encourage the placement of antennas on existing structures **20.20.100 (A) (5)**

Colocation is listed as first of the General Development Standards

New wireless communication facilities shall be colocated with existing facilities and with other planned new facilities whenever feasible and aesthetically desirable to minimize overall visual impact. Service providers are encouraged to co-locate antennas with other facilities such as water tanks, light standards, and other utility structures where the colocation is found to minimize the overall visual impact; **20.20.100 (E) (2) (a)**

In fact if the applicant does not propose a colocation facility they must go to great lengths to explain why they did not do so:

If co-location is not proposed and sites available for colocation exist, the applicant shall provide information pertaining to the feasibility of joint-use antennas facilities, and discuss the reasons why such joint use is not a viable option or alternative to a new facility site. Such information shall include:

- a) Whether it is feasible to locate proposed sites where facilities currently exist;*
- b) Information on the existing structure that is closest to the site of the applicant's proposed facility relative to the existing structure's structural capacity, radio frequency interface, or incompatibility of different technologies, which would include mechanical or electrical incompatibilities; and*
- c) Written notification of refusal of the existing structure owner to lease space on the structure.* **20.20.100 (F) (4) (a) (10)**

Furthermore, if AT&T were to have proposed a facility that was not colocated, then the Committee would have had to make written finding based on substantial evidence in the record that

- a) Co-location is not feasible;*
- b) Co-location would have more significant adverse effects on views or other environmental consideration;*
- c) Co-location is not permitted by the property owner;*
- d) Co-location would impair the quality of service to the existing facility;*
- e) Co-location would require existing facilities at the same location to go offline for a significant period of time* **20.20.100 (F) (5) (b) (2)**

Clearly none of these hold. The applicant has found a colocation with SPRINT that is technically feasible and has a found willing property owner. It should be approved.

Preferred Locations. The Wireless Ordinance clearly says that wireless facilities are permitted in San Pablo Commercial District (SPC). They may be preferred elsewhere but they are not prohibited in SPC.

In the October 26, 2010 meeting you asked AT&T for additional study of alternatives including site maps. The initial application had a 14 page Alternatives Analysis. The revised analysis submitted with this application is 22 pages with considerable more detail, exactly as you requested, including propagation maps for 10 sites.

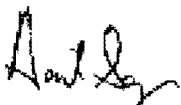
In order to serve wireless customers AT&T facilities need to be close to where their customers are. The CMX zone is about as far away from where wireless customers are as you can get and still remain in Albany. It is also at a considerably lower elevation. The Target store proposed by ARROW is approximately 3 meters above sea level, whereas the 1035 San Pablo site is at 15 meters. It doesn't take a sophisticated engineering analysis to understand that a very tall tower and powerful transmitter would be needed to cover Albany from such an outlying location.

Height restrictions. In my opinion the arguments presented by ARROW disputing the percentage roof coverage of mechanical structures which might fall within a height exception under Section 20.24.080 (B) are a diversion from the real issue. Their interpretation of the provision to retroactively include a penthouse room built long before the zoning ordinance was ever written, is a crude attempt to block any equipment at all from being installed on the roof, and thereby further delay the project. The issue is providing wireless service to Albany residents, not nitpicking small percentages of roof coverage.

Project Approval. The Albany City staff have prepared detailed staff reports addressing these issues and others and recommending approval of this project. They are to be commended for their diligent work.

In conclusion I urge you to approve the AT&T application for 1035 San Pablo so that improved wireless service can be expedited for the citizens and business of Albany.

Thank you for your consideration,



David Sanger,
David Sanger Photography LLC
Albany CA

Anne Hersch

From: Eileen Harrington
Sent: Wednesday, February 29, 2012 8:52 AM
To: Anne Hersch; Jeff Bond; Beth Pollard; Craig Labadie; Nicole Almaguer; Councilmember Joanne Wile (jwile46@gmail.com); Councilmember Robert Lieber (Hon.Lieber@comcast.net); fjavandel@ci.berkeley.ca.us; marge.atkinson@mac.com; peggy.thomsen@gmail.com; peggy_thomsen@heald.edu
Subject: FW: AT&T Application

Eileen A. Harrington

Secretary to the City Manager
CITY OF ALBANY
1000 San Pablo Avenue
Albany, CA 94706
510.528.5710
FAX 510.528.5797

From: Gary Kritikos [<mailto:kritiga@pacbell.net>]
Sent: Tuesday, February 28, 2012 8:14 PM
To: City General Email Box
Subject: AT&T Application

Dear Planning Commission,

As a resident of Albany for 15 years and an AT&T customer I strongly recommend that the City move forward with approval of AT&T's application for a new cell phone antenna site on San Pablo Avenue. I think it is of utmost importance to community safety that cell reception overall be improved. People in our community use their cell phones on a daily basis and at times in emergency situations. The inability to connect to the network obviously creates a hazardous situation. Speaking from my own experience with AT&T, while I have found coverage to be generally good across the state and country, I have found coverage in the Albany area to be very poor. This situation truly needs to be corrected.

Best Regards,

Gary Kritikos

Anne Hersch

From: Eileen Harrington
Sent: Wednesday, February 29, 2012 11:57 AM
To: Anne Hersch; Jeff Bond; Beth Pollard; Craig Labadie; Nicole Almaguer; Councilmember Joanne Wile (jwile46@gmail.com); Councilmember Robert Lieber (Hon.Lieber@comcast.net); fjavandel@ci.berkeley.ca.us; marge.atkinson@mac.com; peggy.thomsen@gmail.com; peggy_thomsen@heald.edu
Subject: FW: Proposed ATT Cell Phone Tower

Eileen A. Harrington

Secretary to the City Manager
CITY OF ALBANY
1000 San Pablo Avenue
Albany, CA 94706
510.528.5710
FAX 510.528.5797

From: Benjamin Hensler [<mailto:benhensler@yahoo.com>]
Sent: Wednesday, February 29, 2012 11:15 AM
To: City General Email Box
Subject: Proposed ATT Cell Phone Tower

To Whom It May Concern:

My ATT cell reception on Solano between Cerrito and Jackson is TERRIBLE. There is no access at all in most of my house. I also find dead-zones throughout town. If this tower would improve the situation I would heartily support it.

Thanks for listening!

Ben Hensler

Anne Hersch

From: Montgomery Kosma [monty@fandor.com]
Sent: Wednesday, March 07, 2012 3:17 PM
To: Anne Hersch; Jeff Bond
Subject: AT&T mobile coverage

Dear Anne and Jeff:

I'm an Albany resident since January 2010 and an AT&T customer with 5 mobile phone lines (me, my wife, and three kids). Please do whatever it takes - including granting a variance - to allow AT&T immediately to improve its service in Albany. It is simply not safe that my kids cannot reach me as needed during the day when I am in the city. And it is frustrating day-in / day-out that we cannot make phone calls, or that they drop as soon as we enter our new home town.

Montgomery Kosma
1141 Marin Ave
Albany, CA 94706

Montgomery Kosma

Chief Operations Officer
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Anne Hersch

From: DillonTree@aol.com
Sent: Friday, March 09, 2012 11:24 AM
To: Anne Hersch
Subject: 1035 san pablo

Dear Ms. Hersch, I recently was informed about the proposed co-location for a AT&T cell site @ 1035 San Pablo, via AOL local news. I live in the 1200 block on Stannage. I stopped by the building and spoke to the staff (5 women) in the office on the 3rd floor who had no knowledge of the proposed cell site. I also spoke to a business tenant who knew nothing about the matter. When a cell site was proposed for St. Ambrose church @ Stannage and Gilman, all parties within 2000 ft. were given a written notice by the city of Berkeley. That site was defeated by the neighborhood, the pastor of the church, and the city. Are you performing you due diligence to your community? Thankyou in advance for a response.
Sincerely, Terry Dillon

Anne Hersch

From: Eileen Harrington
Sent: Thursday, April 12, 2012 9:38 AM
To: Anne Hersch; Anne Hsu; Jeff Bond; Beth Pollard; Craig Labadie; Nicole Almaguer; Councilmember Joanne Wile (jwile46@gmail.com); fjavandel@ci.berkeley.ca.us; marge.atkinson@mac.com; peggy.thomsen@gmail.com; peggy_thomsen@heald.edu; Robert Lieber (Hon.Lieber@comcast.net)
Subject: FW: AT&T cell phone antenna

Eileen A. Harrington
Secretary to the City Manager
CITY OF ALBANY
1000 San Pablo Avenue
Albany, CA 94706
510.528.5710
FAX 510.528.5797

-----Original Message-----

From: Wendy Stephens [<mailto:wendy.stephens@sbcglobal.net>]
Sent: Thursday, April 12, 2012 9:18 AM
To: City General Email Box
Subject: AT&T cell phone antenna

Dear Councilors:

I have owned my own home in Albany for more than 30 years and voted for every parcel and other self-tax to keep Albany great.

What is not great is anything that increases our 'bio load' meaning our total exposure to possible carcinogens and toxins.

Please do not allow a cell phone tower anywhere in Albany, as it would increase our bio load and I live only five blocks up from San Pablo. Do not treat those of us west of the dreadful overhead BART tracks (which should have been placed underground) as a segregated community, able to be literally dumped on.

The San Pablo corridor is not just a pass through from Berkeley-Oakland to El Cerrito-Richmond and points north. It is not just a business corridor. It is a street that spews carbon-based pollution to all who live near it, which is virtually everyone in Albany. Do not add to the poisons, take an active position to reduce the bio load of all Albany citizens.

If you want to work on something good, work on preventing Albany from being inundated with rising salt water fifty years from now. Work on fixing our roads.

Evelyn has not had its street repaved while all streets around us have over the past three years.

Who cares about cell phone coverage if it gives us cancer? I have enough to worry about with breast cancer (possibly clusters) all around my neighborhood and one in eight women getting breast cancer.

Give health a chance; take the right stance! Albany: a city whose officials encourage rather than prevent good health!

Wendy Stephens, MJ, CIP

Anne Hersch

From: Al Chen [ac538@msn.com]
Sent: Monday, April 23, 2012 8:37 AM
To: pmoss@sbcglobal.net; david@arkintilt.com; leo.panian@gmail.com; eisenmann.arch@me.com; pcmaass@pacbell.net
Cc: Jeff Bond; Anne Hersch
Subject: Please Deny Permit for New AT&T Wireless Antennas at 1035 San Pablo Avenue
Importance: High

Dear Planning and Zoning Commissioners:

Please **deny** the proposed permit from AT&T for new wireless antennas at 1035 San Pablo Avenue.

AT&T has not justified the need to locate in this district, as required by our code. Furthermore, this site is in the last-preference zoning district where antennas are allowed in the city,

Sprint already has many antennas that exceed the zoning code's 10% rooftop coverage limits. AT&T is fully aware that the proposed installation will exceed the zoning code's rooftop coverage limits, but still tries to railroad us over and locate on this rooftop rather than finding a site that conforms to the code and is more acceptable to the neighbors.

We strongly oppose the staff suggestions to wave the 50-foot setback required from the residential property lines and move the equipment to the eastern penthouse on the rooftop of 1035 San Pablo Avenue. We also oppose their outright suggestions to trash the code requirement to apply the 10% coverage limit to antennas.

Albany does NOT need more antennas, nor more hazard. Unhappy AT&T cell phone subscribers should switch inferior carriers, upgrade outdated phones, and/or live their unhealthy lifestyles elsewhere that they are happier with unlimited antennas on their own rooftops or yards.

Yours respectfully,
Albert Chen and Family
908 Peralta Avenue
Albany, CA 94706

Anne Hersch

From: Susan Adamé [susanadameart@gmail.com]
Sent: Monday, April 23, 2012 10:29 AM
To: Phillip Moss; David Arkin; Leo Panian; Eisenmann Architecture; Peter Maass
Cc: Anne Hersch; Jeff Bond
Subject: Please Deny Permit for New AT&T Wireless Antennas at 1035 San Pablo Ave

Dear Planning and Zoning Commissioners:

Please deny the proposed permit for new wireless antennas at 1035 San Pablo Ave.

Adding more wireless antennas to this rooftop where Sprint already has antennas would exceed the zoning code's 10% rooftop coverage limits, as has been amply demonstrated in prior hearings on this application.

In addition, this site is in the last-preference zoning district where antennas are allowed in the city, and AT&T has not justified the need to locate in this district, as required by our code.

AT&T is well aware that their proposed installation will exceed the zoning code's rooftop coverage limits but has unfortunately chosen to persist in trying to locate on this rooftop rather than finding a site that conforms to the code and is more acceptable to the neighbors.

I am strongly opposed to the staff recommendation to waive the 50-foot required setback from residential property lines and move the AT&T equipment into the eastern penthouse on the rooftop of 1035 San Pablo Ave. in order to get around the rooftop coverage restrictions. I am also opposed to the recommendation to ignore the explicit code requirement to apply the 10% coverage limit to antennas.

The Albany City Council is working to identify and develop city-owned preferred antenna sites that are away from neighborhoods. If AT&T could provide coverage from a mobile site located away from homes until the city-owned site is available, this would be much preferable. Then, AT&T could locate their first new site in the city at the preferred city-owned site and subsequently plan the development of any additional Albany sites around that location.

The lawyer for AT&T claims that denying this application would constitute discrimination. That is not true. AT&T is welcome to locate their antennas at any site that conforms to code requirements. In addition, if the Commission were to approve an exception to the rooftop coverage limits to allow AT&T to locate at this site, what is to stop other wireless companies from claiming discrimination if they are not also exempted from "inconvenient" code requirements and allowed to locate wherever they please?

I do not live close to the location, but feel that it essential for all cell phone companies to conform to requirements that are established. These requirements are in place to protect us.

Thank you.

Sincerely,
Susan Adamé

www.SusanAdameArt.com

Anne Hersch

From: Anna Weinstein [awein13@yahoo.com]
Sent: Monday, April 23, 2012 3:23 PM
To: Phillip Moss; David Arkin; Leo Panian; Eisenmann Architecture; Jeff Bond; Anne Hersch; pcmaass@pacbell.net
Subject: Re: Please Deny Permit for New AT&T Wireless Antennas at 1035 San Pablo Ave.

Re: Please Deny Permit for New AT&T Wireless Antennas at 1035 San Pablo Ave.

Dear Planning and Zoning Commissioners:

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In addition, this site is in the last-preference zoning district where antennas are allowed in the city, and AT&T has not justified the need to locate in this district, as required by our code.

AT&T is well aware that their proposed installation will exceed the zoning code's rooftop coverage limits but has unfortunately chosen to persist in trying to locate on this rooftop rather than finding a site that conforms to the code and is more acceptable to the neighbors.

I am strongly opposed to the staff recommendation to waive the 50-foot required setback from residential property lines and move the AT&T equipment into the eastern penthouse on the rooftop of 1035 San Pablo Ave. in order to get around the rooftop coverage restrictions. I am also opposed to the recommendation to ignore the explicit code requirement to apply the 10% coverage limit to antennas.

The Albany City Council is working to identify and develop city-owned preferred antenna sites that are away from neighborhoods. If AT&T could provide coverage from a mobile site located away from homes until the city-owned site is available, this would be much preferable. Then, AT&T could locate their first new site in the city at the preferred city-owned site and subsequently plan the development of any additional Albany sites around that location.

Thank you!

Anna M Weinstein

1045 Ordway Street, Albany

The lawyer for AT&T claims that denying this application would constitute discrimination. That is not true. AT&T is welcome to locate their antennas at any site that conforms to code requirements. In addition, if the Commission were to approve an exception to the rooftop coverage limits to allow AT&T to locate at this site, what is to stop other wireless companies from claiming discrimination if they are not also exempted from "inconvenient" code requirements and allowed to locate wherever they please?

Sincerely,
 YOUR NAME AND ADDRESS

ARROW → Albany Residents for Responsible Oversight of Wireless

April 23, 2012

Re: Opposition to Permit for New AT&T Roof-mounted Cellular Antennas at 1035 San Pablo Ave.

Dear Members of the Planning and Zoning Commission:

Albany Residents for Responsible Oversight of Wireless (ARROW) urges you to choose option #3 proposed in the staff report and deny AT&T’s application for 21 new cellular antennas housed in 9 antenna enclosures at 1035 San Pablo Ave.

We would like to share the thoughts below regarding the staff recommendations and AT&T attorney’s letter regarding this application, which is item 6A on the Commission’s April 24 agenda.

In summary, this application should be denied because it violates the zoning code’s rooftop coverage limits for structures that are not mechanical appurtenances – a fact the applicant has been aware of for more than a year -- and because the applicant has not meaningfully explored alternatives that both meet AT&T’s stated coverage objectives and are consistent with the requirements geographic location of antennas within the city.

ARROW’s recommendation is that, in addition to denying the application, the Commission encourage AT&T to diligently attempt to relocate the site to the USDA building or apply for a temporary permit for a mobile site, to provide service to AT&T’s vocal critics in Albany sooner rather than later while a more suitable location can be found in a collaborative effort with the city – ideally at the city’s preferred antenna site or sites that are under study.

The above issues are explained in detail in the subsections below.

Staff Recommendations

The staff report suggests 3 possible courses of action: 1) exempting the project from the minimum setback requirements and approving the application subject to a relocation of AT&T’s equipment to the eastern penthouse on the roof, 2) considering the application under zoning code section 20.24.080C which applies to “mechanical appurtenances” rather than 20.24.080B which is explicitly referenced in the wireless portion of the code as applicable to cellular equipment, or 3) denying the application.

Of these 3 proposed courses of action, only denial is consistent with both the letter and spirit of the zoning code.

Moving the proposed AT&T equipment to the penthouse would involve an exception to the required 50’ setback for antennas from residential property lines. Waiving the setback is not an appropriate solution both because of the impact the installation would have on

the neighborhood and because the Commission previously requested that AT&T redesign its original plans to respect the required setback. Moreover, several unknowns related to this recommendation are not clarified in the staff report:

- have the applicant and building owner both agreed that it would be feasible to locate the equipment in the eastern penthouse?
- would the penthouse no longer be used as habitable space, as required by the code?
- is staff proposing that the antennas themselves should be relocated to the penthouse (rather than just the cabinets housing supporting equipment, which account for the majority of the rooftop coverage from this installation)?

If the Commission were to choose to approve the application on condition that the equipment be moved into the eastern penthouse, the approval should also include a condition requiring that the penthouse cease being used as habitable space and explicitly state that the condition applies to the ground equipment cabinets, not to the antennas themselves.

With regard to the proposal to consider the application under zoning code section 20.24.080C, which applies to “mechanical appurtenances” and allows for greater rooftop coverage, even AT&T’s attorney, in his letter to the Commission dated April 18, 2012, deems this a “strained” interpretation of the code and states that wireless antennas are not “mechanical appurtenances.” Moreover, code section 20.20.100E2h specifically states that wireless antenna are to be considered under 20.24.080B, not C.

Denying the application on the basis that the antenna installation would exceed the 10% rooftop coverage limit in 20.24.080B respects the letter of the code regarding rooftop structures. It also respects the code requirement that antennas be preferentially located in either the CMX or PF zoning districts before the last-choice San Pablo commercial district where these antennas are proposed. AT&T has carefully selected from the code only the wording encouraging co-location and ignored the clear statement in the code of the community’s preferences for geographic locations of antennas.

In addition, we have never received a definitive response regarding the availability of the USDA building as an alternative, preferable, less intrusive location for these antennas. The USDA building is zoned PF, which is the second-preferred zone for antennas in the city.

With regard to the USDA location, AT&T’s alternatives analysis matrix initially stated that AT&T had been unable to reach the appropriate person at USDA to discuss the possibility of locating the antennas there. Later, an AT&T representative said the USDA building is not feasible because it is not accessible 24 hours a day, which AT&T requires for an antenna site. However, it is not clear that AT&T has ever discussed with USDA the availability of the site or the provision of the necessary access to the site. AT&T’s own coverage maps show that the majority of the target area could be covered by

antennas located on the USDA roof, and this site conforms to the requirements of our zoning code, so this site should be actively pursued as a reasonable alternative. In addition, a recently passed federal law on wireless siting (Middle Class Tax Relief and Job Creation Act of 2012, H.R. 3630, Sec. 6409. WIRELESS FACILITIES DEPLOYMENT, attached) explicitly provides for federal buildings to be made available for wireless antennas and for the speedy development by the General Services Administration of a master contract that would allow wireless sites to be located on federal buildings for the public benefit.

Correspondence from AT&T Attorney

AT&T's attorney, in his letter dated April 18, unfortunately misreads zoning code section 20.24.080B, stating that the rooftop coverage limits in that section only apply to structures that exceed 10' above the height limit for the district. In fact, the code says such structures cannot exceed 10' above the height limit and that structures that exceed the building height but fall within the 10' additional height limit also cannot exceed 10% of the roof area.

AT&T's attorney also argues that not allowing AT&T to locate on the rooftop at 1035 San Pablo Ave. where Sprint was allowed to locate a "non-stealth" facility constitutes discrimination under the Federal Telecommunications Act. This is not accurate. The federal act prohibits *unreasonable* discrimination among carriers but does not say that every wireless provider is entitled to an identical site. If that were the case, then all carriers would be entitled to build 65' towers such as the one Verizon occupies at 423 SPA even though that tower is non-conforming and exceeds current height limits. In this particular case, the Sprint site was built prior to the city's adoption of regulations governing wireless installations. It is not reasonable to argue that a company proposing a site now should be allowed to build it disregarding the current regulations because another company built a site prior to the regulations being enacted. The city is not refusing to allow AT&T to locate antennas in Albany; the city is simply enforcing its code; under that code, it is not acceptable to locate additional antennas at the one site for which AT&T has repeatedly tried to obtain a permit for despite being clearly informed that an additional cellular installation at that site would violate the code.

AT&T's attorney further claims that Albany's code makes it impossible to site wireless installations in the city. In fact, behavior such as AT&T's, cherry-picking code sections and ignoring basic provisions (such as the preferred order of zoning districts for siting antennas and the height and rooftop coverage limits of the general zoning code) as well as the persistent neighborhood opposition to the site are the reasons that this permit should be denied. If AT&T would work with the city to situate its site in a location that is acceptable to the community rather repeatedly asking for the same site that has already been demonstrated to violate the code and issuing veiled threats of legal action, their chances of success would be much greater.

Finally, the AT&T attorney's letter also ignores the fact that the long delay to which this application has been subject is the result of the extremely long periods of time AT&T has taken to respond to staff and commission requests. To imply that the city is at fault for

the delay misrepresents the history of this application.

If AT&T genuinely wishes to serve the customers it recruits to complain at Commission hearings about AT&T service, it would not disappear for months or years before returning to ask again for the same site but would work in good faith with the city to find a solution that is consistent with city code and acceptable to residents, such as the solutions that have been repeatedly suggested by ARROW.

Recommendations

ARROW's recommends that the Commission enforce the zoning code and deny this application and encourage AT&T to seek a site on the USDA building or to apply for a permit for a temporary mobile site at a location that conforms with our code.

Sincerely, on behalf of ARROW,

Nan Wishner, Albany

ATTACHMENT – Excerpt of New Federal Law - HR 3630

(b) Federal Easements and Rights-of-way-

(1) GRANT- If an executive agency, a State, a political subdivision or agency of a State, or a person, firm, or organization applies for the grant of an easement or right-of-way to, in, over, or on a building or other property owned by the Federal Government for the right to install, construct, and maintain wireless service antenna structures and equipment and backhaul transmission equipment, the executive agency having control of the building or other property may grant to the applicant, on behalf of the Federal Government, an easement or right-of-way to perform such installation, construction, and maintenance.

(2) APPLICATION- The Administrator of General Services shall develop a common form for applications for easements and rights-of-way under paragraph (1) for all executive agencies that shall be used by applicants with respect to the buildings or other property of each such agency.

(3) FEE-

(A) IN GENERAL- Notwithstanding any other provision of law, the Administrator of General Services shall establish a fee for the grant of an easement or right-of-way pursuant to paragraph (1) that is based on direct cost recovery.

(B) EXCEPTIONS- The Administrator of General Services may establish exceptions to the fee amount required under subparagraph (A)

(i) in consideration of the public benefit provided by a grant of an easement or right-of-way; and

(ii) in the interest of expanding wireless and broadband coverage.

(4) USE OF FEES COLLECTED- Any fee amounts collected by an executive agency pursuant to paragraph (3) may be made available, as provided in appropriations Acts, to such agency to cover the costs of granting the easement or right-of-way.

(c) Master Contracts for Wireless Facility Sitings.

(1) IN GENERAL- Notwithstanding section 704 of the Telecommunications Act of 1996 or any other provision of law, and not later than 60 days after the date of the enactment of this Act, the Administrator of General Services shall--

(A) develop 1 or more master contracts that shall govern the placement of wireless service antenna structures on buildings and other property owned by the Federal Government; and

(B) in developing the master contract or contracts, standardize the treatment of the placement of wireless service antenna structures on building rooftops or facades, the placement of wireless service antenna equipment on rooftops or inside buildings, the technology used in connection with wireless service antenna structures or equipment placed on Federal buildings and other property, and any other key issues the Administrator of General Services considers appropriate.

(2) APPLICABILITY- The master contract or contracts developed by the Administrator of General Services under paragraph (1) shall apply to all publicly accessible buildings and other property owned by the Federal Government, unless the Administrator of General Services decides that issues with respect to the siting of a wireless service antenna structure on a specific building or other property warrant nonstandard treatment of such building or other property.

(3) APPLICATION- The Administrator of General Services shall develop a common form or set of forms for wireless service antenna structure siting applications under this subsection for all executive agencies that shall be used by applicants with respect to the buildings and other property of each such agency.

(d) Executive Agency Defined- In this section, the term 'executive agency' has the meaning given such term in section 102 of title 40, United States Code.

Anne Hersch

From: Clay Larson [clayl@comcast.net]
Sent: Tuesday, April 24, 2012 8:02 AM
To: David Arkin; Leo Panian; Phillip Moss; Peter Maass; Eileen Harrington
Cc: Jeff Bond; Anne Hersch
Subject: Comment on Item 6A, Planning Application, Conditional Use Permit and Design Review for AT&T's Wireless Facility at 1035 San Pablo Avenue

Chair Arkin and fellow Commissioners;

I would like to comment on Item 6A, Planning Application, Conditional Use Permit and Design Review for AT&T's wireless facility at 1035 San Pablo Avenue, on tonight's agenda.

The Staff report recommends that the Commission take one of three possible actions on this item: 1) Approve the application based on the relocation of some rooftop equipment to the penthouse mechanical room; 2) Approve the application based on findings that some of the rooftop wireless equipment represents "mechanical appurtenances" subject to a maximum coverage requirement of 20% of the rooftop area; 3) Deny the application.

Neither Option 1) nor Option 2) appear to be feasible. Option 1) would move some of the roof top equipment to the penthouse mechanical room, but would leave other equipment (antennae and enclosures), which would cover 60 – 70 sq. ft., on the roof top. Including the penthouse, the current roof top coverage of generally excepted structures already greatly exceeds the 10% limit. It does not appear that the commission can approve the addition of any more structures on the roof, since this would increase the current level of nonconformity.

Option 2) would require the commission to consider the rooftop wireless equipment that was less than 6 ft. in height as mechanical appurtenances as defined under Section 20.24.80 C. This would still leave the equipment that exceeds 6 ft. on the roof, and as noted above, this would increase the current level of nonconformity. Moreover, the wireless ordinance does not appear to provide the commission with the latitude to do consider the wireless equipment as mechanical appurtenances. The section of the wireless zoning ordinance (Section 20.20.100 E.2.h.) that permits the installation roof top wireless equipment that exceeds the maximum building height for the district specifically and only references Section 20.24.80 B., which describes General Exceptions to building height limits, The ordinance does not reference Section 20.24.80 C, which again defines mechanical appurtenances. (FN#1)

At its February 28, 2012 meeting, the Commission briefly discussed the possibility of granting a variance that would permit the AT&T application to go forward. Albany's code requires the Commission to make several specific findings in support of a variance. Probably most importantly, the commission must find that there are, "Unique Site Characteristics. That there are exceptional or extraordinary circumstances applying to the property involved, including size, shape, topography, location or surroundings,...". Basically, the commission must make and support findings that there are specific physical circumstances that distinguish the project site from other sites subject to the requirements of the ordinance. The Commission must also find that "the strict application of this Chapter deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification..." At the same time, the Commission must find that the "variance will not constitute a grant of special privilege inconsistent with limitations imposed on similarly zoned properties." I think that it would be difficult for the Commission to make the required findings for the subject property.

Based on the above analysis, it does not appear that the Commission can approve AT&T's application under the current zoning ordinance, and Option 3) describes the appropriate commission action.

Clay Larson

FN#1 - In his April 18 letter to the Albany City Attorney, the attorney for AT&T concluded that the rooftop wireless equipment could not be classifieds as mechanical appurtenances.

Anne Hersch

From: julie beck [beckinovsky@sbcglobal.net]
Sent: Tuesday, April 24, 2012 9:08 AM
To: pmoss@sbcglobal.net; david@arkintilt.com; leo.panian@gmail.com;
eisenmann.arch@me.com; pcmaass@pacbell.net
Cc: Jeff Bond; Anne Hersch
Subject: Please Deny Permit for New AT&T Wireless Antennas at 1035 San Pablo Ave!

Dear Planning and Zoning Commissioners:

I strongly urge you to deny the proposed permit for 21 new wireless antennas at 1035 San Pablo Ave. As Albany residents we rely on you to uphold our city wireless ordinance and building codes for the safety and well-being of our families and selves.

Adding more wireless antennas to this rooftop where Sprint already has antennas would exceed the zoning code's 10% rooftop coverage limits, as has been amply demonstrated in prior hearings on this application.

In addition, this site is in the last-preference zoning district where antennas are allowed in the city, and AT&T has not justified the need to locate in this district, as required by our code.

AT&T is well aware that their proposed installation will exceed the zoning code's rooftop coverage limits but has unfortunately chosen to persist in trying to locate on this rooftop rather than finding a site that conforms to the code and is more acceptable to the neighbors.

I am strongly opposed to the staff recommendation to waive the 50-foot required setback from residential property lines and move the AT&T equipment into the eastern penthouse on the rooftop of 1035 San Pablo Ave. in order to get around the rooftop coverage restrictions. I am also opposed to the recommendation to ignore the explicit code requirement to apply the 10% coverage limit to antennas.

The Albany City Council is working to identify and develop city-owned preferred antenna sites that are away from neighborhoods. If AT&T could provide coverage from a mobile site located away from homes until the city-owned site is available, this would be much preferable. Then, AT&T could locate their first new site in the city at the preferred city-owned site and subsequently plan the development of any additional Albany sites around that location.

The lawyer for AT&T claims that denying this application would constitute discrimination. That is not true. AT&T is welcome to locate their antennas at any site that conforms to code requirements. In addition, if the Commission were to approve an exception to the rooftop coverage limits to allow AT&T to locate at this site, what is to stop other wireless companies from claiming discrimination if they are not also exempted from "inconvenient" code requirements and allowed to locate wherever they please?

Sincerely,

Julie A. Beck
1039 Kains Avenue
Albany, CA 94706

Anne Hersch

From: sun yung kim [kimsunnyus@yahoo.com]
Sent: Tuesday, April 24, 2012 9:48 AM
To: pmoss@sbcglobal.net
Subject: Opposition to Permit for New AT&T Cellular Antennas

ARROW → Albany Residents for Responsible Oversight of Wireless

April 23, 2012

Re: Opposition to Permit for New AT&T Roof-mounted Cellular Antennas at 1035 San Pablo Ave.

Dear Members of the Planning and Zoning Commission:

Albany Residents for Responsible Oversight of Wireless (ARROW) urges you to choose option #3 proposed in the staff report and deny AT&T's application for 21 new cellular antennas housed in 9 antenna enclosures at 1035 San Pablo Ave.

We would like to share the thoughts below regarding the staff recommendations and AT&T attorney's letter regarding this application, which is item 6A on the Commission's April 24 agenda.

In summary, this application should be denied because it violates the zoning code's rooftop coverage limits for structures that are not mechanical appurtenances – a fact the applicant has been aware of for more than a year -- and because the applicant has not meaningfully explored alternatives that both meet AT&T's stated coverage objectives and are consistent with the requirements geographic location of antennas within the city. ARROW's recommendation is that, in addition to denying the application, the Commission encourage AT&T to diligently attempt to relocate the site to the USDA building or apply for a temporary permit for a mobile site, to provide service to AT&T's vocal critics in Albany sooner rather than later while a more suitable location can be found in a collaborative effort with the city – ideally at the city's preferred antenna site or sites that are under study.

The above issues are explained in detail in the subsections below.

Staff Recommendations

The staff report suggests 3 possible courses of action: 1) exempting the project from the minimum setback requirements and approving the application subject to a relocation of AT&T's equipment to the eastern penthouse on the roof, 2) considering the application under zoning code section 20.24.080C which applies to "mechanical appurtenances" rather than 20.24.080B which is explicitly referenced in the wireless portion of the code as applicable to cellular equipment, or 3) denying the application.

Of these 3 proposed courses of action, only denial is consistent with both the letter and spirit of the zoning code.

Moving the proposed AT&T equipment to the penthouse would involve an exception to the required 50' setback for antennas from residential property lines. Waiving the setback is not an appropriate solution both because of the impact the installation would have on

2
the neighborhood and because the Commission previously requested that AT&T redesign its original plans to respect the required setback. Moreover, several unknowns related to this recommendation are not clarified in the staff report:

- have the applicant and building owner both agreed that it would be feasible to locate the equipment in the eastern penthouse?
- would the penthouse no longer be used as habitable space, as required by the code?

- is staff proposing that the antennas themselves should be relocated to the penthouse (rather than just the cabinets housing supporting equipment, which account for the majority of the rooftop coverage from this installation)?

If the Commission were to choose to approve the application on condition that the equipment be moved into the eastern penthouse, the approval should also include a condition requiring that the penthouse cease being used as habitable space and explicitly state that the condition applies to the ground equipment cabinets, not to the antennas themselves.

With regard to the proposal to consider the application under zoning code section 20.24.080C, which applies to “mechanical appurtenances” and allows for greater rooftop coverage, even AT&T’s attorney, in his letter to the Commission dated April 18, 2012, deems this a “strained” interpretation of the code and states that wireless antennas are not “mechanical appurtenances.” Moreover, code section 20.20.100E2h specifically states that wireless antenna are to be considered under 20.24.080B, not C.

Denying the application on the basis that the antenna installation would exceed the 10% rooftop coverage limit in 20.24.080B respects the letter of the code regarding rooftop structures. It also respects the code requirement that antennas be preferentially located in either the CMX or PF zoning districts before the last-choice San Pablo commercial district where these antennas are proposed. AT&T has carefully selected from the code only the wording encouraging co-location and ignored the clear statement in the code of the community’s preferences for geographic locations of antennas.

In addition, we have never received a definitive response regarding the availability of the USDA building as an alternative, preferable, less intrusive location for these antennas. The USDA building is zoned PF, which is the second-preferred zone for antennas in the city.

With regard to the USDA location, AT&T’s alternatives analysis matrix initially stated that AT&T had been unable to reach the appropriate person at USDA to discuss the possibility of locating the antennas there. Later, an AT&T representative said the USDA building is not feasible because it is not accessible 24 hours a day, which AT&T requires for an antenna site. However, it is not clear that AT&T has ever discussed with USDA the availability of the site or the provision of the necessary access to the site. AT&T’s own coverage maps show that the majority of the target area could be covered by

3
antennas located on the USDA roof, and this site conforms to the requirements of our zoning code, so this site should be actively pursued as a reasonable alternative. In addition, a recently passed federal law on wireless siting (Middle Class Tax Relief and Job Creation Act of 2012, H.R. 3630, Sec. 6409. WIRELESS FACILITIES DEPLOYMENT, attached) explicitly provides for federal buildings to be made available for wireless antennas and for the speedy development by the General Services Administration of a master contract that would allow wireless sites to be located on federal buildings for the public benefit.

Correspondence from AT&T Attorney

AT&T’s attorney, in his letter dated April 18, unfortunately misreads zoning code section 20.24.080B, stating that the rooftop coverage limits in that section only apply to structures that exceed 10’ above the height limit for the district. In fact, the code says such structures cannot exceed 10’ above the height limit and that structures that exceed the building height but fall within the 10’ additional height limit also cannot exceed 10% of the roof area.

AT&T’s attorney also argues that not allowing AT&T to locate on the rooftop at 1035 San Pablo Ave. where Sprint was allowed to locate a “non-stealth” facility constitutes discrimination under the Federal Telecommunications Act. This is not accurate. The

federal act prohibits *unreasonable* discrimination among carriers but does not say that every wireless provider is entitled to an identical site. If that were the case, then all carriers would be entitled to build 65' towers such as the one Verizon occupies at 423 SPA even though that tower is non-conforming and exceeds current height limits. In this particular case, the Sprint site was built prior to the city's adoption of regulations governing wireless installations. It is not reasonable to argue that a company proposing a site now should be allowed to build it disregarding the current regulations because another company built a site prior to the regulations being enacted. The city is not refusing to allow AT&T to locate antennas in Albany; the city is simply enforcing its code; under that code, it is not acceptable to locate additional antennas at the one site for which AT&T has repeatedly tried to obtain a permit for despite being clearly informed that an additional cellular installation at that site would violate the code.

AT&T's attorney further claims that Albany's code makes it impossible to site wireless installations in the city. In fact, behavior such as AT&T's, cherry-picking code sections and ignoring basic provisions (such as the preferred order of zoning districts for siting antennas and the height and rooftop coverage limits of the general zoning code) as well as the persistent neighborhood opposition to the site are the reasons that this permit should be denied. If AT&T would work with the city to situate its site in a location that is acceptable to the community rather repeatedly asking for the same site that has already been demonstrated to violate the code and issuing veiled threats of legal action, their chances of success would be much greater.

Finally, the AT&T attorney's letter also ignores the fact that the long delay to which this application has been subject is the result of the extremely long periods of time AT&T has taken to respond to staff and commission requests. To imply that the city is at fault for

4

the delay misrepresents the history of this application.

If AT&T genuinely wishes to serve the customers it recruits to complain at Commission hearings about AT&T service, it would not disappear for months or years before returning to ask again for the same site but would work in good faith with the city to find a solution that is consistent with city code and acceptable to residents, such as the solutions that have been repeatedly suggested by ARROW.

Recommendations

We recommend that the Commission enforce the zoning code and deny this application and encourage AT&T to seek a site on the USDA building or to apply for a permit for a temporary mobile site at a location that conforms with our code.

Sincerely,

Sun Yung Kim and Yongyop Kim
412 Kains, Albany, CA 94706



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David Arkin <david@arkintilt.com>,
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Leo Panian <leo.panian@gmail.com>,
Stacy Eisenmann <eisenmann.arch@me.com>,
Anne Hersch <ahersch@albanyca.org>,
Jeff Bond <jbond@albanyca.org>

Albany Planning and Zoning Commission
1000 San Pablo Ave.,
Albany, CA 94706

April 24, 2012

Dear Planning and Zoning Commissioners and Staff:

I am writing once again to urge you to approve the **pending application of AT&T for a Wireless Facility at 1035 San Pablo Ave** and offer the following items for your consideration:

1. **Approval of this project is long overdue** and the need for wireless service in Albany has increased considerably since this project was first proposed in 2008
2. **Lack of cell service is increasingly a public health concern.** This is evidenced by two recent items in Albany Patch. In January when a fire broke out in an outbuilding a resident had to leave her children and run into the street to get cell service and call the Fire Department. In March a resident could not get service to contact relatives when her father had a major seizure. Both of these situations could have been disastrous but thankfully were not. Yet lack of cell service clearly places some Albany citizenry at risk
3. **AT&T has repeatedly responded to P&Z requests** by changing their application to accommodate P&Z concerns
4. The final plans which you have before you have been changed based on your statements and **the equipment is now less than 6 feet above the maximum height.** This clearly places them under Subsection 20.24.080(C) . According to the staff report this covers less than 20% of the rooftop and so is allowable. To find out whether there is precedent in California for considering wireless equipment as mechanical appurtenances I did a quick Google search and readily found four municipalities (Gilroy, Santa Clara, Stockton and San Mateo) which use language including antennas with mechanical appurtenances. (see attachment). No doubt here are many more. Clearly it is reasonable and within


your purview to decide to apply Subsection 20.24.080(C) and approve the application.

5. P&Z also should consider **intent of the code**. Contrary to the protestations of Ms. Wishner, the Albany Wireless Ordinance explicitly lists colocation at the top of the list of General Development Standards 20.24.100(E)(e)(a) and this application clearly adheres to that priority, Also the clearly stated reason for Preferred Wireless Zoning Districts is to "reduce the noise, aesthetic and visual impact" (20.08.020). Since none of those are at issue, since the facility is completely stealthed, any argument about preferred districts is completely irrelevant.

6. **Public opinion is overwhelmingly in favor of this application.** To date I have counted 61 individuals addressing the P&Z by letter, email or public appearance. 41 of these, more than 2/3, have urged approval of the project. In addition 45 Albany merchants and an additional 100 Albany ATT subscribers signed petitions urging approval. Public opinion on Patch is also overwhelming in favor of approval but I have not included counts since comments may include non-Albany residents. Even so, Albany citizens are urging approval by a wide margin. Do not be misled by the organized complaints of a few.

7. **In conclusion I urge you to approve the AT&T application for 1035 San Pablo so that improved wireless service can be expedited for the citizens and business of Albany.**

Thank you for your consideration,



David Sanger,
David Sanger Photography LLC
Albany CA

Mechanical appurtenances: selected references in CA Municipal Codes based on Google search for appurtenances and antenna

City of Gilroy

"Provide elevations and identify heights of all **proposed telecommunication structures and appurtenances** and composite elevations from the street of all structures on site"

"**Appurtenant Equipment. The number of antennas and base transceiver stations, equipment cabinets and buildings** per site by your carrier and, if there are other installations on a site, list the number by each carrier."

http://www.cityofgilroy.org/cityofgilroy_files/city_hall/community_development/planning/zoning_ordinance/Sec35.pdf

City of Santa Clara

"(a) Subject to any other provision of law, the height limitations contained in the schedule of district regulations do not apply to spires, belfries, cupolas, **antennas**, water tanks, ventilators, chimneys, **or other mechanical appurtenances** usually required to be placed above the roof level and not intended for human occupancy or to be used for any commercial or advertising purposes.

<http://www.codepublishing.com/ca/santaclara/frameless/index.pl?path=../html/SantaClara18/SantaClara1864.html>

City of Stockton

" Communication facilities, **including antennae (television, radio, cellular, etc.), poles, towers, and necessary mechanical appurtenances**, may be authorized to exceed the height limit established for the applicable zoning district, subject to the provisions of Chapter 16.44 (Communications Facilities).

http://qcode.us/codes/stockton/view.php?topic=16-3-16_36-16_36_090&frames=on

City of San Mateo

"However, Section 6405 (*Height: General Provisions and Exceptions*) allows for **towers and other mechanical appurtenances** to exceed the maximum permitted height of the underlying zoning district upon the granting of a use permit.

http://www.co.sanmateo.ca.us/bos.dir/BosAgendas/agendas2007/Agenda20070206/20070206_m_6.htm

April 24, 2012

Re: Please Deny Permit for New AT&T Wireless Antennas at 1035 San Pablo Ave.

Dear Planning and Zoning Commissioners:

Please deny the proposed permit for new wireless antennas at 1035 San Pablo Ave.

Adding more wireless antennas to this rooftop where Sprint already has antennas would exceed the zoning code's 10% rooftop coverage limits, as has been amply demonstrated in prior hearings on this application.

In addition, this site is in the last-preference zoning district where antennas are allowed in the city, and AT&T has not justified the need to locate in this district, as required by our code.

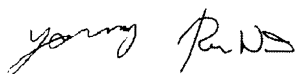
AT&T is well aware that their proposed installation will exceed the zoning code's rooftop coverage limits but has unfortunately chosen to persist in trying to locate on this rooftop rather than finding a site that conforms to the code and is more acceptable to the neighbors.

We are strongly opposed to the staff recommendation to waive the 50-foot required setback from residential property lines and move the AT&T equipment into the eastern penthouse on the rooftop of 1035 San Pablo Ave. in order to get around the rooftop coverage restrictions. We are also opposed to the recommendation to ignore the explicit code requirement to apply the 10% coverage limit to antennas.

The Albany City Council is working to identify and develop city-owned preferred antenna sites that are away from neighborhoods. If AT&T could provide coverage from a mobile site located away from homes until the city-owned site is available, this would be much preferable. Then, AT&T could locate their first new site in the city at the preferred city-owned site and subsequently plan the development of any additional Albany sites around that location.

The lawyer for AT&T claims that denying this application would constitute discrimination. That is not true. AT&T is welcome to locate their antennas at any site that conforms to code requirements. In addition, if the Commission were to approve an exception to the rooftop coverage limits to allow AT&T to locate at this site, what is to stop other wireless companies from claiming discrimination if they are not also exempted from "inconvenient" code requirements and allowed to locate wherever they please?

Sincerely,



Ms. Yin King Wong and Mr. Nian Ren
Residents on 1058 Kains Ave, Albany, CA 94706

Anne Hersch

From: Francis Cebulski [cebulski@pacbell.net]
Sent: Tuesday, April 24, 2012 4:20 PM
To: Phillip Moss; David Arkin; Leo Panian; Eisenmann Architecture; Peter Maass
Cc: Jeff Bond; Anne Hersch
Subject: Please Deny Permit for New AT&T Wireless Antennas at 1035 San Pablo Avenue

Dear Planning and Zoning Commissioners:

Please deny the proposed permit for new wireless antennas at 1035 San Pablo Ave.

Adding more wireless antennas to this rooftop where Sprint already has antennas would exceed the zoning code's 10% rooftop coverage limits, as has been amply demonstrated in prior hearings on this application.

In addition, this site is in the last-preference zoning district where antennas are allowed in the city, and AT&T has not justified the need to locate in this district, as required by our code.

AT&T is well aware that their proposed installation will exceed the zoning code's rooftop coverage limits but has unfortunately chosen to persist in trying to locate on this rooftop rather than finding a site that conforms to the code and is more acceptable to the neighbors.

I am strongly opposed to the staff recommendation to waive the 50-foot required setback from residential property lines and move the AT&T equipment into the eastern penthouse on the rooftop of 1035 San Pablo Avenue in order to get around the rooftop coverage restrictions. I am also opposed to the recommendation to ignore the explicit code requirement to apply the 10% coverage limit to antennas.

The Albany City Council is working to identify and develop city-owned preferred antenna sites that are away from neighborhoods. If AT&T could provide coverage from a mobile site located away from homes until the city-owned site is available, this would be much preferable. Then, AT&T could locate their first new site in the city at the preferred city-owned site and subsequently plan the development of any additional Albany sites around that location.

The lawyer for AT&T claims that denying this application would constitute discrimination. That is not true. AT&T is welcome to locate their antennas at any site that conforms to code requirements. In addition, if the Commission were to approve an exception to the rooftop coverage limits to allow AT&T to locate at this site, what is to stop other wireless companies from claiming discrimination if they are not also exempted from "inconvenient" code requirements and allowed to locate wherever they please?

My wife and I have been residents of Albany since 1982. We are both AT&T mobile phone users and have been for years. There may be a few places in Albany where coverage is not "great" but in all my years of using my cell phone in this City and adjoining neighborhoods and businesses, I have never had an occasion when my cell phone did not work. You can always move around a little and find a place within a few feet where the reception is good. We actually do not need new antennas for AT&T in this area. I also have AT&T WiFi in my home and it always works fine for my computers, laptops, and NetFlickTV and gaming connections.

Albany has an excellent ordinance for control of cell tower and antenna usage and deployment. Let's keep our community and children safe by not flooding the airways with more microwaves than are necessary. Let's also keep control of our own requirements and exercise the right of individual communities to control and administer their own rules and regulations. I commend the Board for supporting Albany's ordinance in the past. Please keep up the good work. Deny the AT&T application. They must conform to our regulations.

Sincerely,
Frank Cebulski
627 Talbot Avenue
Albany, CA 94706-1307

510.334.3195 AT&T mobile phone

Anne Hersch

From: Kelley Bullard [tarheeldoc@sbcglobal.net]
Sent: Tuesday, April 24, 2012 4:22 PM
To: pmoss@sbcglobal.net; david@arkintilt.com; leo.panian@gmail.com; eisenmann.arch@me.com; pcmaass@pacbell.net
Cc: Jeff Bond; Anne Hersch
Subject: Please deny new permit for AT and T antennaes

Dear Planning and Zoning Commissioners:

Please uphold our city ordinance and adhere to building codes!

I strongly urge you to deny the proposed permit for 21 new wireless antennas at 1035 San Pablo Ave. As Albany residents we rely on you to uphold our city wireless ordinance and building codes for the safety and well-being of our families and selves. Adding more wireless antennas to this rooftop where Sprint already has antennas would exceed the zoning code's 10% rooftop coverage limits, as has been amply demonstrated in prior hearings on this application.

In addition, this site is in the last-preference zoning district where antennas are allowed in the city, and AT&T has not justified the need to locate in this district, as required by our code.

AT&T is well aware that their proposed installation will exceed the zoning code's rooftop coverage limits but has unfortunately chosen to persist in trying to locate on this rooftop rather than finding a site that conforms to the code and is more acceptable to the neighbors.

I am strongly opposed to the staff recommendation to waive the 50-foot required setback from residential property lines and move the AT&T equipment into the eastern penthouse on the rooftop of 1035 San Pablo Ave. in order to get around the rooftop coverage restrictions. I am also opposed to the recommendation to ignore the explicit code requirement to apply the 10% coverage limit to antennas.

The Albany City Council is working to identify and develop city-owned preferred antenna sites that are away from neighborhoods. If AT&T could provide coverage from a mobile site located away from homes until the city-owned site is available, this would be much preferable. Then, AT&T could locate their first new site in the city at the preferred city-owned site and subsequently plan the development of any additional Albany sites around that location.

The lawyer for AT&T claims that denying this application would constitute discrimination. That is not true. AT&T is welcome to locate their antennas at any site that conforms to code requirements. In addition, if the Commission were to approve an exception to the rooftop coverage limits to allow AT&T to locate at this site, what is to stop other wireless companies from claiming discrimination if they are not also exempted from "inconvenient" code requirements and allowed to locate wherever they please?

Sincerely,

M. Kelley Bullard, M.D.
1039 Kains Avenue
Albany, CA 94706

Anne Hersch

From: Abeck, Heike [heike.abeck@novartis.com]
Sent: Tuesday, April 24, 2012 4:51 PM
To: Phillip Moss; David Arkin; Leo Panian; Eisenmann Architecture; Peter Maass
Cc: Jeff Bond; Anne Hersch
Subject: Please Deny Permit for New AT&T Wireless Antennas at 1035 San Pablo Ave.

Dear Planning and Zoning Commissioners:

Please deny the proposed permit for new wireless antennas at 1035 San Pablo Ave.

Adding more wireless antennas to this rooftop where Sprint already has antennas would exceed the zoning code's 10% rooftop coverage limits, as has been amply demonstrated in prior hearings on this application.

The 2 options for approval of antennas also do not follow the code based on set back criteria and applicable code applied should be 20.24.080B not C.

In addition, this site is in the last-preference zoning district where antennas are allowed in the city, and AT&T has not justified the need to locate in this district, as required by our code.

AT&T is well aware that their proposed installation will exceed the zoning code's rooftop coverage limits but has unfortunately chosen to persist in trying to locate on this rooftop rather than finding a site that conforms to the code and is more acceptable to the neighbors.

I am strongly opposed to the staff recommendation to waive the 50-foot required setback from residential property lines and move the AT&T equipment into the eastern penthouse on the rooftop of 1035 San Pablo Ave. in order to get around the rooftop coverage restrictions. I am also opposed to the recommendation to ignore the explicit code requirement to apply the 10% coverage limit to antennas.

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Sincerely,
Heike Abeck, Albany Resident at 1037 Kains Ave.

Heike Abeck, MS, PE, PMP
Novartis Diagnostics, TechOps
Associate Director, Project and Portfolio Management
6455 Christie Ave. B332
Emeryville, CA 94608
Phone: 510.923.3253
cell: 510 387 6034
heike.abeck@novartis.com

AT&T

Anne Hersch

From: sun yung kim [kimsunnyus@yahoo.com]
Sent: Monday, May 07, 2012 5:03 PM
To: pmoss@sbcglobal.net; pcmaass@pecbell.net; david@arkintilt.com;
eisenmann.arch@me.com; leo.panian@gmail.com
Cc: Anne Hersch; jbond@albany.ca.org
Subject: AT&T Cellular Antennas

Dear Planning and Zoning Commissioners:

I am writing to urge you to deny new AT&T cellular antennas at your May 8 meeting.

Although AT&T has submitted a new proposal, it does not solve the problem that you previously discussed, which is that there is no way to add more equipment to the rooftop without exceeding the 10% rooftop coverage limit specified by the city's general building code. Moving some equipment in to the eastern penthouse, eliminating a portion of the wall associated with the southernmost antenna enclosure (containing the proposed east- and south-facing antennas), and attaching one end of the enclosure to a steel pole does not reduce the total roof coverage to less than the 10% limit. In addition, the new drawings show multiple additional equipment (remote radio units) attached to the roof parapets.

At the end of the day, this proposal would increase and extend non-conforming uses on this rooftop. Please deny this application. We do appreciate very much for your consideration.

Sincerely,

Sun Yung Kim and Yongyop Kim
412 Kains Ave.
Albany, CA 94706

Anne Hersch

From: Darina Drapkin [lovedarina@hotmail.com]
Sent: Monday, May 07, 2012 5:25 PM
To: david@arkintilt.com; leo.panian@gmail.com; pmoss@sbcglobal.net;
eisenmann.arch@me.com; Jeff Bond; Anne Hersch
Subject: RE: opposition to new AT&T antennas at 1035 San Pablo Ave.

May 7, 2012

Dear Planning and Zoning Commissioners:

I am writing to urge you to deny new AT&T cellular antennas at your May 8 meeting.

Although AT&T has submitted a new proposal, it does not solve the problem that you previously discussed, which is that there is no way to add more equipment to the rooftop without exceeding the 10% rooftop coverage limit specified by the city's general building code. Moving some equipment in to the eastern penthouse, eliminating a portion of the wall associated with the southernmost antenna enclosure (containing the proposed east- and south-facing antennas), and attaching one end of the enclosure to a steel pole does not reduce the total roof coverage to less than the 10% limit. In addition, the new drawings show multiple additional equipment (remote radio units) attached to the roof parapets.

At the end of the day, this proposal would increase and extend non-conforming uses on this rooftop. Please deny this application.

Also, we are living directly beneath the towers already. We really don't want to look at them, and we don't want to look at any new ones.

Our infant son will hopefully have something worth staying here for, or coming back to, not a town that sells out and becomes a haven for corporations instead of the wonderful small businesses that make this town what it is.

Thank you.

Sincerely,

Darina Drapkin
1041 Kains Ave
Albany, CA 94706

Anne Hersch

From: Al Chen [ac538@msn.com]
Sent: Monday, May 07, 2012 12:55 PM
To: david@arkintilt.com; leo.panian@gmail.com; pmoss@sbcglobal.net; eisenmann.arch@me.com; pcmaass@pacbell.net
Cc: Jeff Bond; Anne Hersch
Subject: FW: Please send a letter to the Albany Planning Commission by Tuesday afternoon re: 1035 San Pablo antennas

Dear Planning and Zoning Commissioners:

We oppose the latest AT&T cellular antennas on your May 8 meeting agenda. The new AT&T proposal is not in compliance of 10% rooftop coverage limit in our general building code, and requires Although AT&T has submitted a new proposal, it does not solve the problem that you previously discussed, which is that there is no way to add more equipment to the rooftop without exceeding the 10% rooftop coverage limit specified by the city's general building code. Moving some equipment in to the eastern penthouse, eliminating a portion of the wall associated with the southernmost antenna enclosure (containing the proposed east- and south-facing antennas), and attaching one end of the enclosure to a steel pole does not reduce the total roof coverage to less than the 10% limit. In addition, the new drawings show multiple additional equipment (remote radio units) attached to the roof parapets.

At the end of the day, this proposal would increase and extend non-conforming uses on this rooftop. Please deny this application.

Sincerely,

YOUR NAME and ADDRESS

From: albanycellinfo@gmail.com
Date: Mon, 7 May 2012 11:18:09 -0700
Subject: Please send a letter to the Albany Planning Commission by Tuesday afternoon re: 1035 San Pablo antennas
To: albanycellinfo@gmail.com

Dear Friends,

As we wrote to you over the weekend, AT&T has submitted a new design for its proposed antenna site at 1035 San Pablo Ave., just a few days before the Planning and Zoning Commission is scheduled to vote to deny the antennas at their meeting **this coming Tuesday, May 8 at 7:30 PM at City Hall, 1000 San Pablo Ave.**

Please attend Tuesday's meeting to voice your opposition to these antennas and let the commission know that AT&T's new proposal does not solve the problems of the previous versions of their proposal.

In the meantime, please write to the commission asking them to stick by their decision to deny the antennas.

Below is a sample letter you can use to write to the commission prior to Tuesday night's meeting.

Nan & Julie

SEND TO:
Planning and Zoning Commissioners
David Arkin <david@arkintilt.com>,
Leo Panian <leo.panian@gmail.com>,
Phillip Moss <pmoss@sbcglobal.net>,
Stacy Eisenmann <eisenmann.arch@me.com>,
Peter Maass <pcmaass@pacbell.net>

with CC to staff:

Jeff Bond <jbond@albanyca.org>,
Anne Hersch <ahersch@albanyca.org>

Anne Hersch

From: G Netinho [geraldont@gmail.com]
Sent: Monday, May 07, 2012 12:52 PM
To: david@arkintilt.com; leo.panian@gmail.com; pmoss@sbcglobal.net; eisenmann.arch@me.com; pcmaass@pacbell.net
Cc: Jeff Bond; Anne Hersch
Subject: RE: opposition to new AT&T antennas at 1035 San Pablo Ave.

Dear Planning and Zoning Commissioners:

I am writing to urge you to deny new AT&T cellular antennas at your May 8 meeting.

Although AT&T has submitted a new proposal, it does not solve the problem that you previously discussed, which is that there is no way to add more equipment to the rooftop without exceeding the 10% rooftop coverage limit specified by the city's general building code. Moving some equipment in to the eastern penthouse, eliminating a portion of the wall associated with the southernmost antenna enclosure (containing the proposed east- and south-facing antennas), and attaching one end of the enclosure to a steel pole does not reduce the total roof coverage to less than the 10% limit. In addition, the new drawings show multiple additional equipment (remote radio units) attached to the roof parapets.

At the end of the day, this proposal would increase and extend non-conforming uses on this rooftop.

I still do not understand why this issue is still being discussed, the proposal by AT&T falls outside the required permits and city codes and all of this has been just a waste of time and money for the city. Please deny this application and put an end on this matter.

Sincerely,

Geraldo Santana
1034 Kains Ave, Albany, CA

Anne Hersch

From: Eric Bergman [erbergman@yahoo.com]
Sent: Monday, May 07, 2012 3:40 PM
To: David Arkin; Leo Panian; Phillip Moss; Stacy Eisenmann; Peter Maass
Cc: Jeff Bond; Anne Hersch
Subject: NO more attenae in residential neighborhood.

Dear Planning and Zoning Commissioners:

Please do not continue to industrialize the residential neighborhood behind San Pablo ave. Please NO MORE INDUSTRIAL INFRASTRUCTURE AND CELL ANTENNAE.

Please deny AT&T's application at the May 8 meeting.

Please enforce your codes thoroughly no matter how many times AT&T re-applies the same proposal.

Although AT&T has submitted a new proposal, it does not solve the problem that you previously discussed, which is that there is no way to add more equipment to the rooftop without exceeding the 10% rooftop coverage limit specified by the city's general building code. Moving some equipment in to the eastern penthouse, eliminating a portion of the wall associated with the southernmost antenna enclosure (containing the proposed east- and south-facing antennas), and attaching one end of the enclosure to a steel pole does not reduce the total roof coverage to less than the 10% limit. In addition, the new drawings show multiple additional equipment (remote radio units) attached to the roof parapets.

At the end of the day, this proposal would increase and extend non-conforming uses on this rooftop. Please deny this application.

Sincerely,

Eric Bergman

1041 Kains ave.

Albany, CA 94706

Anne Hersch

From: jwynberg@aol.com
Sent: Monday, May 07, 2012 7:16 PM
To: Anne Hersch

Hi Anne

I'm writing to voice my opposition to more cell towers at 1035 San Pablo. I forgot to get a letter in prior to the previous hearing, but was so glad the decision was negative. I now understand the final vote comes up tomorrow and would appreciate it if you could make sure the members get a copy of my letter.

My husband and I own a duplex at 1013-15 Kains. Both of our tenants are single mothers who have indicated their concern about the antennas. It would be a serious financial hardship on us if they decided to move because of this issue. The antennas should be located away from residential neighborhoods. The loss of revenue for us would be devastating given the current economic climate.

I strongly urge you to reject any further efforts by AT&T to use this location.

Thank you very much.

Juliana Wynberg
510-917-7247

Anne Hersch

From: Julie Beck [julie.beck@csueastbay.edu]
Sent: Tuesday, May 08, 2012 9:38 AM
To: david@arkintilt.com; leo.panian@gmail.com; pmoss@sbcglobal.net;
eisenmann.arch@me.com; pcmaass@pacbell.net
Cc: Jeff Bond; Anne Hersch
Subject: RE: opposition to new AT&T antennas at 1035 San Pablo Ave.

May 7, 2012

Dear Planning and Zoning Commissioners:

I am writing to urge you to deny new AT&T cellular antennas at your May 8 meeting.

Although AT&T has submitted a new proposal, it does not solve the problem that you previously discussed, which is that there is no way to add more equipment to the rooftop without exceeding the 10% rooftop coverage limit specified by the city's general building code. Moving some equipment in to the eastern penthouse, eliminating a portion of the wall associated with the southernmost antenna enclosure (containing the proposed east- and south-facing antennas), and attaching one end of the enclosure to a steel pole does not reduce the total roof coverage to less than the 10% limit. In addition, the new drawings show multiple additional equipment (remote radio units) attached to the roof parapets.

At the end of the day, this proposal would increase and extend non-conforming uses on this rooftop. Please deny this application.

Sincerely,

Julie Beck
1039 Kains Avenue
Albany, CA 94706

Anne Hersch

From: Kelley Bullard [tarheeldoc@sbcglobal.net]
Sent: Tuesday, May 08, 2012 12:01 PM
To: david@arkintilt.com; leo.panian@gmail.com; pmoss@sbcglobal.net;
eisenmann.arch@me.com; pcmaass@pacbell.net
Cc: Jeff Bond; Anne Hersch
Subject: A, T and T wireless proposal

May 7, 2012

Dear Planning and Zoning Commissioners:

I am writing to urge you to deny new AT&T cellular antennas at your May 8 meeting.

Although AT&T has submitted a new proposal, it does not solve the problem that you previously discussed, which is that there is no way to add more equipment to the rooftop without exceeding the 10% rooftop coverage limit specified by the city's general building code. It is also my understanding that the structures planned for the roof also continue to have 10 foot walls! Not subtle at all.

Moving some equipment in to the eastern penthouse, eliminating a portion of the wall associated with the southernmost antenna enclosure (containing the proposed east- and south-facing antennas), and attaching one end of the enclosure to a steel pole does not reduce the total roof coverage to less than the 10% limit. In addition, the new drawings show multiple additional equipment (remote radio units) attached to the roof parapets.

All in all, this proposal would increase and extend non-conforming uses on this rooftop. Despite the committee's clear concerns about the proposal, A,T and T continues to submit proposals that blatantly ignore the concerns and the ordinances.

Enough is enough already. Please deny this application.

Sincerely,

Anne Hersch

From: Abeck, Heike [heike.abeck@novartis.com]
Sent: Tuesday, May 08, 2012 2:34 PM
To: ;; ;; eisenmann.arch@me.com; pcmaass@pacbell.net
Cc: Anne Hersch; Jeff Bond
Subject: opposition to new AT&T antennas at 1035 San Pablo Ave.

May 7, 2012

Dear Planning and Zoning Commissioners:

I am writing to urge you to deny new AT&T cellular antennas at your May 8 meeting.

Although AT&T has submitted a new proposal, it does not solve the problem that you previously discussed such as:

- 10% rooftop coverage limit is exceeded with all the additional equipment on rooftop.
 - Moving some of the equipment into the penthouse
 - Eliminating part of the wall with the southern antenna enclosure and
 - Attaching one of the enclosures to a steel pole
- Does not reduce the roof top coverage below 10%.
- In addition, the new drawings show multiple additional equipment (remote radio units) attached to the roof parapets.

It seems that this last minute updated proposal has similar issues as before: it exceeds the 10% rooftop coverage allowed and also might have antennas above the height limit of 10'.

The point that AT&T tries to make regarding discrimination and colocation is weak since we have a zoning ordinance to enforce.

At the time Sprint located their antennas on the roof top these zoning ordinances were not in effect so it seems very unlikely that their argument of discrimination would stand up in court.

Thanks and I hope you enforce the zoning standards that were put in place to protect the residents of Albany and do not get pressured or swayed by AT&T's argumentation.

Sincerely,

Heike Abeck, Resident at 1037 Kains Ave. Albany, CA 94706

Heike Abeck, MS, PE, PMP

May 8, 2012

Re: Support for a Vote to Deny New AT&T Roof-mounted Cellular Antennas at 1035 San Pablo Ave.

Dear Members of the Planning and Zoning Commission:

Albany Residents for Responsible Oversight of Wireless (ARROW) writes to ask you to approve the findings for denial that staff has prepared for AT&T's application for new cellular antennas at 1035 San Pablo Ave.

The new drawings submitted by AT&T's attorney on Friday do not eliminate the problem of the project exceeding the 10% rooftop coverage limit specified in zoning code section 20.24.080B, which the city's wireless code requires be used for rooftop coverage and height determinations related to cellular antennas (20.20.100E2h). This rooftop coverage limit was the basis for your determination at your last meeting that you could not find a way to approve this application under the zoning code.

The proposal in AT&T's new drawings to eliminate a portion of the wall of the 10' antenna enclosure that was specified on the previous drawings for the site and to apparently "float" the equipment using a steel pole does not eliminate that enclosure's footprint on the roof. By the apparent logic AT&T is using, the entire roof could be covered by a platform that would "floating" except where it attached to four steel poles.

In addition, the new drawings lack detail; it is difficult to determine whether AT&T proposes to extend the heights of the parapet walls. Although it is clear that numerous "remote radio units" would be mounted on the parapets in addition to the antennas, it is not clear whether the parapets would need to be extended or reinforced to support this additional equipment.

We note that AT&T's latest drawings were submitted three days before the final Planning and Zoning Commission vote on this project even though, as AT&T representatives have repeatedly pointed out, AT&T has had 4 years to come up with a new plan to solve the problems that they have been repeatedly informed make installation of more equipment on this rooftop infeasible. Much of the delay during these four years has been while the city waited months or years for AT&T to respond to reasonable requests of the Planning and Zoning Commission or staff for more information. The new drawings are not analyzed in the staff report for tonight's meeting.

AT&T's attorney argues that refusing to allow AT&T to co-locate with Sprint on this rooftop constitutes discrimination among wireless providers. However, this argument ignores the fact that the Sprint site was built before the city's wireless code was adopted, and that the Telecommunications Act of 1996's anti-discrimination provision does not require cities to provide identical sites for different carriers or to violate current zoning

codes. Put simply, if there is too much stuff on this rooftop, there is now way to get around that problem and add more stuff.

We respectfully urge you not to consider yet another set of drawings that does not solve the problems with the proposed site but instead to vote to deny the application as you had determined to do at your last meeting.

Sincerely, on behalf of ARROW

Nan Wishner, Albany