

PLANNING & DEVELOPMENT SERVICES DEPARTMENT REPORT

DATE: June 1, 2006

TO: Orange County Zoning Administrator

FROM: P&DSD/Land Use Services Division

SUBJECT: Public Hearing for Planning Application PA06-0011 for Use Permit (and accompanying Changed Plan to PA030101)

PROPOSAL: Use Permit request to allow an 8.5' tall shelter around cellular communications equipment and air conditioners for same to be located 6" from a side property line, where structures not exceeding 8' are permitted. This is in connection with a Changed Plan to PA030101 which would allow Nextel to also install 15 additional antennae behind screening on the roof on a 35 foot tall SBC (Pacific Bell) switching station and office building (present in the neighborhood since 1955).

LOCATION: In the east Tustin unincorporated area at 1971 Irvine Blvd., Third Supervisorial District.

APPLICANT: Nextel Communications, Lessee
SBC (originally Pacific Telephone and Telegraph Company), Owner
Parsons, Agent

SYNOPSIS: Land Use Services Division recommends Zoning Administrator approval subject to receipt of adequate noise information and findings and conditions.

STAFF PLANNER/CONTACT: Jim Swanek, Project Manager
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BACKGROUND:

The proposed project is a principal use (unrelated to the original principal use of the property as a telephone switching station) and would be permitted subject to approval of a Site Development Permit in the E4 "Small Estates" District zoning. Such a permit was approved under PA030101 before the merger of Sprint and Nextel. [The other cellular communications user on this site is Cingular (formerly AT&T Wireless and Pacific Bell Wireless), established via CP980047 and PA030024.]

Communications antennae are permitted with a height limit of 45' (10' more than the District height limitation). However, the Orange County Zoning Code is silent on whether screens to hide the bare antennae may also exceed the District height limit. Since such screens' sole purpose is to hide otherwise unconditionally permitted electronic antennae, they should be permitted to exceed the District height limit to the same degree as the antennae themselves.

The height of building modifications for the sole purpose of screening the new antennae would be to a maximum of 43 feet, 9 inches. Other screen structures on the roof by other approvals are as high as 45 feet, 6 inches, although it is believed they were only approved to be 45 feet tall.

Under these conditions, a Changed Plan to PA030101 which would allow Nextel to also install 15 additional antennae behind screening on the roof would be the normal course of action. However, in this instance, an accessory structure to the use involves an 8.5’ tall shelter around cellular communications equipment and air conditioners to be located 6” from a side property line, where structures not exceeding 8’ are permitted. This triggers the need for a use permit under Zoning Code Section 7-9-137(e), with no additional special findings beyond compatibility.

SITE ZONING AND SURROUNDING LAND USE:

The site is located along the northeast side of Irvine Boulevard at its intersection with Browning Avenue. Single-family residential neighborhoods in the “Tustin unincorporated areas” are to the north, west, and east. Diagonally across the broad intersection of Irvine and Browning is a similarly designed single-family residential neighborhood in the City of Tustin.

The County’s General Plan shows a land use designation of “Suburban Residential”, suggesting the long-term intended use of property in the area. The existing telephone switching building was established in 1955 by a Conditional Permit issued by the Orange County Planning Commission, within the E4 Small Estates zoning, as a necessary use adjunct to the residential development of the larger area.

Direction	Land Use Designation	Existing Land Use
Project Site	E4 “Small Estates”	Telephone switching station
North	E4 “Small Estates”	Single family dwellings
South	City of Tustin Single Family Resid.	Single family dwellings
East	80-E4 “Small Estates”	Single family dwellings
West	R1 “Single Family Residential”	Single family dwellings

CEQA COMPLIANCE:

The proposed project was found to be Categorical Exempt from the provisions of CEQA as a “minor modification to an existing structure”, or “Class 1”. Prior to project approval, the decision-maker must make a finding to this effect (recommended in Attachment A) for the proposed project.

PUBLIC NOTICES, DISTRIBUTION FOR REVIEW, AND COMMENTS RECEIVED:

A Notice of Hearing was mailed to all owners of record within 300 feet of the subject site. Additionally, notice was posted at the site, at the 300 N. Flower Building and as required by established public hearing posting procedures. A copy of the planning application and a copy of the proposed site plan were previously distributed for review and comment to the North Tustin Advisory Committee, the Foothill Communities Association, and various County departments. On April 19, 2006, the North Tustin

Advisory Committee recommended denial of the request. The minutes of that meeting are attached as Exhibit 3. Members of the Committee were concerned the air conditioning units would be noisy to the yards of homes on the other side of the nine foot tall wall separating this utility property from those homes, and they requested noise generation specifications. The applicant did not realize until after the meeting that the compressor motors were entirely within the shelter, and only air from the exhaust blowers could be heard outside, and that through louvers (see attached photo of similar unit). The applicant will present at the hearing measurements for generated noise to a person standing immediately outside and next to these louvers, that being the worst case scenario.

Technical comments received have been incorporated into recommended Conditions of Approval. No comments arising from posting or mailing of the public notice have been received to date.

REVIEW AND ANALYSIS:

The ground placement of equipment cabinets will not eliminate any parking spaces nor significantly interfere with any thru-driveway. Although the structure is 6 inches too tall to be located where it is proposed, the wall behind it is that tall as well (actually 9 feet). Staff believes the finding of compatibility under Sec. 7-9-150.3 (e) (1) d. can be made that: “The location, size, design and operating characteristics of the proposed use will not create conditions or situations that may be incompatible with other permitted uses in the vicinity.”

RECOMMENDATION

Land Use Services Division recommends the Zoning Administrator:

- a. Receive staff presentation and public testimony as appropriate; and,
- b. Approve Application PA 06-0011 subject to receipt of adequate noise information and the attached Findings and Conditions of Approval.

Respectfully submitted,

Charles Shoemaker, Chief
LUSD/Site Planning Section

APPEAL PROCEDURE

Any interested person may appeal the decision of the Zoning Administrator on this permit to the Orange County Planning Commission within 15 calendar days of the decision, upon submittal of required documents and a fee of \$760.00 at the Development Processing Center, 300 N. Flower St., Santa Ana.

Attachments:

- A. Recommended Findings
- B. Recommended Conditions of Approval

Exhibits: (Zoning Administrator package only)

1. Applicant's Letter of Explanation
2. Site Plans
- 3. North Tustin Advisory Committee Meeting Minutes**
- 4. Photos**