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## **CITY COUNCIL STAFF REPORT**

Meeting: May 7, 2019

### Subject

Study Session for an application by AT&T to locate a personal wireless service facility consisting of 16 panel antennas mounted on an 80-foot tall treepole, a base equipment station, and an emergency power generator at the Cupertino Sports Center located at 21113 Stevens Creek Boulevard.

### Recommended Action

Provide comments on AT&T's proposed personal wireless facility, and, during the Study Session, facilitate a community engagement forum where residents can comment and receive additional information on the project.

### Background

Over the past decade, the City has consistently made expanding cellular coverage a part of the Council Work Program. The City, through its *Wireless Facilities Master Plan*, also identifies various public buildings, structures and properties around the community as acceptable locations for personal wireless service facilities, including the Cupertino Sports Center. AT&T's objective in locating a facility at this site is to provide improved in-building and in-transit wireless coverage to close a significant service coverage gap in personal wireless service and provide improved coverage in an area along near Stelling Road and Stevens Creek Blvd. The Proposed Facility will improve coverage to the surrounding residential areas and support De Anza Community College.

During the City Council Study session, Staff seeks to accomplish the following:

- Facilitation of a significant opportunity to engage the community, in coordination with the City Council, to address any issues and answer questions from the public related to AT&T's proposed facility, prior to the May 28, 2019 Planning Commission Hearing.
- Receive City Council feedback on the proposed design and location of AT&T's proposed wireless facility.

## Discussion

### *Timeline for City Review of AT&T's Proposed Wireless Facility*

The Federal Communications Commission (FCC) has mandated that local governments review and act on most wireless facility applications within a 150-day period. This time limit for review is referred to as a “shot clock.” The shot clock begins to run on the date a wireless facility application is filed with a local government. The shot clock can be paused in certain circumstances and also extended by mutual agreement of the local government and the applicant. The FCC’s goal in setting this time limit is to speed up deployment of wireless service around the country, including of a national public safety broadband network to improve communications interoperability among first responders. While the shot clock sets a time limit for local government review of a wireless facility application and related permits, it does not limit a local government’s time to negotiate a lease of its property for a wireless facility.

AT&T’s application for this project was submitted on November 6, 2014. On December 4, 2014, the City notified AT&T that its application was incomplete, pausing the 150-day shot clock for several years, until December 2018, when AT&T provided the needed information. Although the shot clock set to expire in March 2019, City Staff and AT&T agreed to extend it until May 31, 2019. On May 28, 2019—before the shot clock expires—the Planning Commission is scheduled to consider the following permits and approvals at a public hearing on the project:

- Height Exception (EXC-2014-14) to allow a personal wireless service facility consisting of 16 panel antennas mounted on an 80-foot-tall treepole wireless cell tower, a base equipment station, and an emergency power generator, where a 55-foot tower is allowed.
- Development Permit (DP-2014-09) and Architectural and Site Approval (ASA-2014-14) to evaluate the location and aesthetics of a personal wireless service facility consisting of 16 panel antennas mounted on an 80-foot-tall treepole, a base equipment station, and an emergency power generator at the Cupertino Sports Center.

The City Manager’s negotiation of a draft lease agreement of the facility, for subsequent City Council review and consideration, is not subject to the May 31, 2019 shot clock deadline.

### *Location and Aesthetics*

As mentioned earlier in this report, the City’s *Wireless Facilities Master Plan* identifies various public buildings, structures and properties around the community as acceptable locations for personal wireless service facilities, including the Cupertino Sports Center.

The overall goal is to locate and design facilities to be as unobtrusive as possible. In general, non-residential locations (such as the Sports Center) are preferable to residential locations because such facilities are less noticeable in non-residential locations and may be more accepted by the public.

AT&T chooses locations for its wireless facilities that meet the technical objectives of radio frequency (RF) engineering and that support other key criteria including, but not limited to, accessibility, utility connections, zoning compatibility, minimal or no visual impact, liability and risk assessment, site acquisition, maintenance and construction costs.

For this project, two alternative sites in the immediate area were considered: De Anza College and Union Church of Cupertino at 20900 Stevens Creek Blvd. Both were ultimately considered unviable. De Anza College appears to lack interest in hosting a wireless facility, and the Union Church site had insufficient residential setbacks. Please review the Project Description (Attachment A). The applicant provided a Coverage Map (Attachment F) to demonstrate the gap in coverage in the area to further justify the placement of the facility in this area.

The *Wireless Facilities Master Plan* provides specific siting and design guidance for wireless projects in Cupertino. In general, wireless facility equipment should be sited to blend in with its surroundings. Because this facility is proposed to be placed next to large, mature trees, the monopole is designed to be camouflaged as an artificial tree, in this case a pine. Its form is similar to the surrounding trees and it will be constructed of materials with a natural appearance. It is also designed to allow the colocation of other wireless providers. Please refer to the Plan Set (Attachment B) and Photo Simulations (Attachment C).

#### *Radio Frequency & Noise*

Under Federal law (the 1996 Telecommunications Act), the City is prohibited from denying permits to construct a wireless facility based on health concerns over RF emissions, as long as RF emissions from the facility meet FCC standards. This facility is designed to comply with FCC RF standards, according to the Electromagnetic Energy (EME) Exposure Report (Attachment F).

The proposed project includes a base station and a back-up generator. Most personal wireless service facilities have back-up battery powered generators, to run the base station for some number of hours in the event of a power outage. The biggest concern is the effect of the noise emanating from the generators onto neighboring properties, either during a power outage or routine maintenance of the equipment. Section

10.48.040 of the Cupertino Municipal Code (CMC) establishes “Daytime and Nighttime Maximum Noise Levels” of 60 dBA for daytime hours and 50 dBA for nighttime hours for residential uses, and 65 dBA for daytime hours and 55 dBA for nighttime hours for non-residential uses. According to the applicant’s noise study, the maximum calculated noise levels from the generator at the neighboring properties to the east and north, for the combined operation of all fans in all six cabinets, are 48.9 for daytime hours and 43.1 dBA for nighttime hours. The generator therefore would comply with the CMC noise limits. Please review the Noise Study (Attachment D) for further details.

#### *Technology Information Communication Commission*

On April 3, 2019, the Technology Information and Communication Commission (TICC) reviewed the application as required by CMC Chapter 19.136 *Wireless Communications Facilities*. Staff presented the project and the applicant was available to respond to questions. The TICC expressed support as long as all FCC regulations for safety were met and community outreach was completed.

#### Community Outreach

In an effort to solicit comments on the project from the community, City Staff has done the following:

- In early April 2019, Staff created a project webpage. The webpage describes the project in detail and contains links to the submitted materials as required for the application. The link to the webpage is: [www.cupertino.org/CupertinoSportsCenterCellTower](http://www.cupertino.org/CupertinoSportsCenterCellTower).
- Community Development Staff manned a booth at the Creekside Farmer’s Market on April 19, 2019. The purpose was to provide materials about the project and to answer any questions from the community.
- On April 22, 2019, Staff sent notices to neighboring property owners within a 500-foot radius of the project site. The notice contained a project description, the webpage address, dates of the City Council Study Session and Planning Commission hearing, as well as contacts for the staff project manager.
- Staff set up a “Pop-up table” at the Cupertino Sports Center on April 25, 2019. The City Engineer and Community Development Staff were on hand to answer questions about the project. Handouts were left behind in the lobby of the Sports Center.
- On April 29, 2019, Sports Center Staff sent an email to Sports Center members. The notice contained a project description, the webpage address, dates of the City Council Study Session and Planning Commission hearing, as well as contacts for the staff project manager.

As of the date of publishing this Report, Staff has received two emails from the public asking clarifying questions about the project in general, effects of existing cellular and cable service if and when the cellular antennae become live, and general impressions of the overall appearance of monopoles. Please see the Public Comment (Attachment H) for the emails.

#### Next Steps

At a noticed public hearing on May 28, 2019, the project will be presented to the Planning Commission for their review and consideration of the requested Height Exception, Development Permit, and Architectural and Site Approval.

The City Manager will negotiate a draft lease with AT&T for construction and operation of the wireless facility at the Sports Center, for subsequent review and consideration by the City Council.

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#### Attachments:

- A. Project Description
- B. Plan Set
- C. Photo Simulations
- D. Noise Study
- E. Coverage Map
- F. Electromagnetic Energy Exposure (EME) Report
- G. Arborist Memo Report
- H. Public Comment