

City of Brisbane

Planning Commission Agenda Report

TO: Planning Commission For the Meeting of 2/23/12

FROM: Ken Johnson, Associate Planner, via John A. Swiecki, Community Development Director OKS

SUBJECT: **1 West Hill Drive;** Telecommunications Permit TC-4-11 to replace one 1 existing panel antenna with 2 new antennas, mounted on an existing 48 ft high pole, with no change in height of the antennas, and replace 3 existing equipment cabinets with two 2 new cabinets and related equipment; Kevin Bowyer/Sprint, applicant; Janet Epstein, owner; APN 005-290-010.

Request: The applicant proposes to replace one 1 existing panel antenna with 2 new antennas, which are mounted on an existing 48 ft high pole. There would be no change in height of the antennas. Also, replace 3 existing equipment cabinets with two 2 new cabinets and related equipment with no increase in the equipment yard area.

Background: The existing tower was originally approved administratively as a building permit in 1997, prior to Brisbane's telecommunications ordinance, Brisbane Municipal Code Section 17.32.032.C, which was adopted in 2007. Although the ordinance prohibits construction of new telecommunications facilities within 600 feet of a residential or open space district and this facility is approximately 140 ft. +/- from the nearest boundaries of both residential and open space boundaries, it also allows that a lawfully constructed facility within 600 feet may be allowed to continue and "shall not be classified as nonconforming", per BMC 17.32.032.C.3. The ordinance also allows for administrative approval of telecommunications facilities that meet one of several different criteria, including co-location of equipment on an existing support structure. Since this application is for co-location of equipment to an existing approved support structure it was scheduled for hearing by the Zoning Administrator in November 2011 (see the attached Zoning Administrator memorandum dated November 4th, 2011). However, due to concerns raised by residents of the Northeast Ridge development (see the two attached letters) the Zoning Administrator determined that there were special circumstances that warranted this matter being referred to the Planning Commission, per BMC Section 17.32.032.D.3.

Recommendation: Conditionally approve Telecommunications Permit TC-4-11 per the agenda report via adoption of Resolution TC-4-11, with Exhibit A containing the findings and conditions of approval.

Environmental Determination: Minor alteration of existing facilities is categorically exempt from the provisions of the California Environmental Quality Act per Section 15301 of the State CEQA Guidelines. The exceptions to the use of this categorical exemption referenced in Section 15300.2 do not apply.

Applicable Code Sections: As indicated above, Brisbane Municipal Code Section 17.32.032.C prohibits wireless telecommunication facilities within residential districts, 600 ft. from the nearest boundary of a residential district and open space districts, except that a facility that was lawfully constructed within 600 feet of a residential district boundary, prior to the ordinance (in 2007), are allowed to continue and “shall not be classified as nonconforming”, per BMC 17.32.032.C.3. BMC Section 17.32.032.D allows administrative approval of wireless telecommunication facilities that are mounted on other existing or similar replacement structures (water tanks, utility poles, light poles, etc.), or that would require expansion of an existing support structure up to a maximum height of 70 ft., but per BMC Section 17.32.032.D.3 the Zoning Administrator has referred this matter to the Planning Commission.

Per BMC Section 17.32.032.G, telecommunications facilities shall comply with a number of the development and operational standards (see the findings included with the draft Resolution, attached). Also, per BMC Section 17.32.035.G.7, the proposed facilities are required to comply with applicable American National Standards Institute and FCC standards.

Analysis and Findings: Concerns have been raised by residential neighbors regarding the potential increase in electromagnetic waves that might be generated by the facility. As indicated above, per BMC Section 17.32.035.G.7, the proposed facilities are required to comply with applicable American National Standards Institute and FCC standards. The Federal Communications Commission (FCC) has exclusive jurisdiction over radio frequency (RF) emissions under the Telecommunications Act of 1996. In accordance with FCC requirements, a Radio Frequency – Electromagnetic Energy (RF-EME) Compliance Report was prepared by EBI Consulting (see attached), which included analyses results based on a combination of theoretical modeling and onsite monitoring. The report has indicated that the facility would comply with the FCC exposure limits at this site. Federal law does not allow cities to prohibit wireless communications facilities on the basis of potential environmental effects of radio frequency emissions if the facility complies with FCC regulations.

Concerns have also been raised by residential neighbors regarding noise emanating from the building rooftop vents at 1 West Hill Drive. Although the noise issue is not in connection with the telecommunications equipment, the applicant has provided a noise study that was undertaken in January 2012 in an effort to address these concerns. Also, although the proposal is to reduce the number of telecommunications equipment cabinets by one, staff has added a condition of approval that, “Prior to obtaining a building permit, the applicant shall adequately demonstrate to the Planning Director that the modifications will result in no increase in noise above ambient to any off-site receptor.”

Finally, the proposal is for modification of an existing telecommunications facility and would not substantially change the appearance of the existing installation. The height will remain unchanged since the proposal is for co-location on the existing structure and work on the ground with equipment cabinet replacement. The facility is partially screened along the perimeter of the site by trees and the equipment will not be readily visible from off-site locations.

Based on the project description, plans, photos and reports, the required findings would be met to grant this permit, as detailed in the draft resolution.

Attachments:

- Draft Resolution TC-4-11 with recommended Findings and Conditions of Approval
- Project Vicinity Aerial Photo
- Applicant's project description, photos, and plans
- Correspondence from Neighbors
- Frequency–Electromagnetic Energy (RF-EME) Compliance Report, Oct. 26, 2011
- Environmental Noise Assessment Report, January 30, 2012 (Note: The text is included in the paper packet. Appendices to the report are available at City Hall or by linking to this agenda report online from the Planning Commission meetings webpage.)

draft
RESOLUTION TC-4-11

A RESOLUTION OF THE PLANNING COMMISSION OF BRISBANE
CONDITIONALLY APPROVING TELECOMMUNICATIONS PERMIT TC-4-11
TO PERMIT MODIFICATION OF TELECOMMUNICATIONS FACILITIES
AT 1 WEST HILL DRIVE

WHEREAS, Kevin Bowyer, the applicant, applied to the City of Brisbane for Telecommunications Permit approval to modify the existing telecommunications tower by replacement of one 1 existing panel antenna with 2 new antennas, mounted on a 48 ft high pole, with no change in height of the antennas, and replace 3 existing equipment cabinets with two 2 new cabinets and related equipment, such application being identified as TC-4-11; and

WHEREAS, on February 23, 2012, the Planning Commission conducted a hearing of the application, at which time any person interested in the matter was given an opportunity to be heard; and

WHEREAS, the Planning Commission reviewed and considered the staff memorandum relating to said application, the plans, photographs and reports, the written and oral evidence presented to the Planning Commission in support of and in opposition to the application; and

WHEREAS, the Planning Commission finds that the proposed project is categorically exempt from the provisions of the California Environmental Quality Act; and

WHEREAS, the Planning Commission of the City of Brisbane hereby makes the findings attached herein as Exhibit A in connection with the Telecommunications Permit.

NOW THEREFORE, based upon the findings set forth hereinabove, the Planning Commission of the City of Brisbane, at its meeting of February 23, 2012, did resolve as follows:

Use Permit Application TC-4-11 is approved per the conditions of approval attached herein as Exhibit A.

ADOPTED this twenty-third day of February, 2012, by the following vote:

AYES:
NOES:
ABSENT:

JAMEEL MUNIR
Chairperson

ATTEST:

JOHN A. SWIECKI, Community Development Director

G-1-9