

**CITY OF ANTIOCH  
PLANNING COMMISSION**

**Regular Meeting  
6:30 p.m.**

**May 15, 2019  
City Council Chambers**

Chair Turnage called the meeting to order at 6:30 P.M. on Wednesday, May 15, 2019 in the City Council Chambers. He stated that all items that can be appealed under 9-5.2509 of the Antioch Municipal Code must be appealed within five (5) working days of the date of the decision. The final appeal date of decisions made at this meeting is 5:00 P.M. on Wednesday, May 22, 2019.

**ROLL CALL**

Present: Commissioners Motts, Martin, Zacharatos, Soliz, Vice Chair  
Schneiderman and Chair Turnage  
Absent: Commissioner Parsons  
Staff: Director of Community Development, Forrest Ebbs  
Senior Civil Engineer, Ken Warren  
Planning Manager, Alexis Morris  
Associate Planner, Kevin Scudero  
Associate Planner, Zoe Merideth  
City Attorney, Thomas Smith  
Minutes Clerk, Kitty Eiden

**PLEDGE OF ALLEGIANCE**

**PUBLIC COMMENTS**

None.

**CONSENT CALENDAR**

1. Approval of Minutes: April 17, 2019

*On motion by Commissioner Zacharatos, seconded by Commissioner Martin, the Planning Commission approved the minutes of April 17, 2019, as presented. The motion carried the following vote:*

**AYES:** Motts, Schneiderman, Martin, Zacharatos, Soliz, and Turnage  
**NOES:** None  
**ABSTAIN:** None  
**ABSENT:** Parsons

**CONTINUED PUBLIC HEARING**

2. **PD-18-02, UP-18-09, AR-18-09, PW-357-301-19 – Acorn Business Park**– Jim Moita, requests approval of an Initial Study / Mitigated Negative Declaration and Mitigation Monitoring and Report Program for the Project, a rezone to Planned Development District (PD), Use Permit, Design Review, and Minor Subdivision approval of a business park consisting of commercial, self-storage and light industrial uses. The project site is located at the Northwest corner of East Eighteenth Street and Drive-In Way (APNs 051-052-112 and 051-052-113).

Associate Planner Scudero presented the staff report dated May 10, 2019 recommending the Planning Commission 1) Approve the resolution recommending that the City Council approve the Acorn Business Park Initial Study/Mitigation Negative Declaration, Mitigation Monitoring and Reporting Program and Errata; 2) Approve the resolution recommending that the City Council approve an ordinance rezoning the project site from Planned Business Center (PBC) and Regional Commercial (C-3) to Planned Development District (PD-18-02); 3) Approve a resolution recommending that the City Council approve a Vesting Tentative Map/Final Development Plan, Use Permit for Subsection B, and Design Review subject to conditions of approval (UP-18-09), AR-18-09, PW-357-301-19).

In response to Commissioner Martin, Associate Planner Scudero explained that if the wireless ordinance is adopted within the current timeframes, any application coming forward would be subject to the ordinance. He noted staff recommended establishing the cell tower height for this project at 50-feet.

In response to Commissioner Motts, Associate Planner Scudero stated this project as well as the apartment project directly across the street would be required to contribute toward the traffic signal and whoever developed first would construct it, with reimbursement conditions. He noted this site would contribute and it would be up to the developer to determine how to distribute those costs to future developers.

In response to Vice Chair Schneiderman, Associate Planner Scudero stated the applicant would develop and operate the self-storage facility, and market the other sections, to future developers. He noted the sites were designed to function independently of each other.

In response to Commissioner Zacharatos, Associate Engineer Warren explained that the costs of traffic lights were divided based on the traffic study.

Planning Manager Morris added that both traffic studies conducted a signal warrant analysis based on project trips and the traffic analysis determined that this project on the north side was large enough to warrant 50% of the signal.

Commissioner Soliz questioned why the applicant requested a cell tower at the height proposed.

Associate Planner Kevin Scudero deferred to the applicant.

Chair Turnage opened the public hearing.

George Cardinale, provided a history of his business transactions in Antioch and his involvement in marketing the project. He gave a PowerPoint presentation which included the current condition of property, vision and layout, planned development, design review, elevations, roof solar and letter in support of the project from Pittsburg's Police Chief.

Vince Moita thanked staff for their support during the application process. He explained that a cell tower at the storage facility would be 150-feet behind the street and their goal was to put it high enough to service a larger area. He noted their goal was to find a hotel user in the front and maintain the sight line between the cell tower and across the street, to service a larger area.

In response to Commissioner Motts, Vince Moita confirmed that their request for the cell tower was 110-feet.

Jim Moita, applicant, reported that they reached out to Crown Castle who is the largest cell operator in the United States and they had explained that the mass of a hotel building would block line of sight for 5G. He noted they were looking at nesting the carriers together so they would be located at 85, 75, 65 and 55 feet. He further noted the higher the tower the more they could project.

Chair Turnage stated that it was his understanding that the cell tower was for each carrier and it needed a line of sight for projection over the mass of the hotel building.

Mr. Moita added that each carrier wanted to be at least 10-feet above the mass of the hotel building.

Chair Turnage closed the public hearing.

In response to Commissioner Motts, Planning Manager Morris stated it was common for cell towers to be located on top of buildings or on facades. She noted they could put architectural features on the hotel to accommodate cell installations.

Commissioner Motts stated there was no guarantee of a hotel and 110-feet was double what the City had proposed.

Planning Manager Morris stated if the wireless ordinance was approved and this ordinance was adopted with a different standard, this ordinance would apply and be unique to this project.

**RESOLUTION NO. 2019-12**

***On motion by Commissioner Martin, seconded by Commissioner Zacharatos, the Planning Commission unanimously approved the resolution recommending that the City Council approve the Acorn Business Park Initial Study/Mitigation Negative Declaration, Mitigation Monitoring and Reporting Program and Errata. The motion carried the following vote:***

**AYES:** Motts, Schneiderman, Martin, Zacharatos, Soliz, and Turnage  
**NOES:** None  
**ABSTAIN:** None  
**ABSENT:** Parsons

**RESOLUTION NO. 2019-13**

***On motion by Commissioner Martin, seconded by Commissioner Motts, the Planning Commission unanimously approved the resolution recommending that the City Council approve an ordinance rezoning the project site from Planned Business Center (PBC) and Regional Commercial (C-3) to Planned Development District (PD-18-02). The motion carried the following vote:***

**AYES:** Motts, Schneiderman, Martin, Zacharatos, Soliz, and Turnage  
**NOES:** None  
**ABSTAIN:** None  
**ABSENT:** Parsons

**RESOLUTION NO. 2019-14**

***On motion by Commissioner Martin, seconded by Commissioner Zacharatos, the Planning Commission unanimously approved a resolution recommending that the City Council approve a Vesting Tentative Map/Final Development Plan, Use Permit for Subsection B, and Design Review subject to conditions of approval (UP-18-09, AR-18-09, PW-357-301-19). The motion carried the following vote:***

**AYES:** Motts, Schneiderman, Martin, Zacharatos, Soliz, and Turnage  
**NOES:** None  
**ABSTAIN:** None  
**ABSENT:** Parsons

### **NEW PUBLIC HEARING**

- 3. Z-18-07 – Establishing Regulations for Wireless Communications Facilities**  
– The City of Antioch is proposing amendments to Chapter 5 of Title 9 of the Antioch Municipal Code to establish regulations for wireless communications facilities. The ordinance would regulate the deployment, construction, installation collocation, modification, operation, relocation, and removal of wireless communication facilities within the City, consistent with and to the extent permitted under federal and California state law. The proposed ordinance would be applicable city-wide. This ordinance has been determined to not be subject to the California Environmental Quality Act (CEQA).

Associate Planner Merideth and Michael Johnston, Telecom Law Firm, presented the staff report and PowerPoint presentation dated May 10, 2019 recommending the Planning Commission approve the resolution recommending that the City Council adopt the ordinance amending chapter 5 of title 9 of the Antioch Municipal Code establishing regulations for wireless communications facilities (WCFs).

In response to Commissioner Motts, Mr. Johnston explained that there was a new set of regulations that applied to small wireless facilities in the public right-of-way and those regulations stated that all the esthetic regulations had to be objective, reasonable, and no more burdensome than those imposed on other infrastructure deployments and published in advanced. He noted it had been in effect for one-month and was currently under challenge in the 9<sup>th</sup> Circuit Court of Appeals. He stated they had proposed objective standards that were reasonable and carriers had consistently deployed facilities in accordance with those standards.

Commissioner Martin questioned if the City would need to amend the ordinance if some other type of cell facility came online that was not defined by those listed in the ordinance.

Mr. Johnston stated that the ordinance and policy may potentially need to be amended; however, it was currently drafted to cover all of the regulatory classifications that the FCC had defined. He noted if the FCC created a new regulatory classification or technology developed a new facility, the standards in the policy could be amended for future use through a City Council resolution.

Commissioner Martin expressed concern that engineering studies regarding the maximum load capacity for street light/utility poles had not been required.

Mr. Johnston responded that the policy was not drafted to require a structural analysis as part of the discretionary review because the expectation was that it would occur through the encroachment permit process. He noted the CPUC regulated in this field and required applicants show that the new facility would not overload the pole. He further noted to address Commissioner Martin's concern; it could be added to the policy as part of the application process.

Commissioner Martin commented that he felt it would be appropriate to add the requirement.

In response to Vice Chair Schneiderman, Associate Planner Merideth explained that the current cell towers were regulated through Planning for private property and Engineering for public property.

Mr. Johnston added that cell facilities were subject to Use Permit and their firm helped evaluate some projects for compliance with Use Permit standards. He noted the policy before the Planning Commission provided specific standards for wireless facilities to help guide applicants and staff.

Commissioner Soliz stated that he appreciated the attempt to standardize the camouflaging of the antennas. He questioned how many small cell sites were located in Antioch.

Mr. Johnston responded that the majority of wireless deployment was occurring in the public right-of-way and small cells. He noted the engineering department had two existing agreements for deployment of these facilities on City owned street lights. He further noted the FCC restricted the amount of money the City could charge for access to that infrastructure.

Associate Engineer Warren added that there were four existing and four more approved facilities, on City owned street lights.

Chair Turnage opened the public hearing.

Cris Villegas, Global Network and Technology Verizon Wireless, thanked staff for their development of the ordinance and reported that their outside legal counsel had reviewed the document and provided comments. He gave a PowerPoint presentation which highlighted the discrepancies they found between the document and Federal as well as State law. He requested the Planning Commission make the following revisions to the ordinance:

- At most, notice should be provided to neighboring property owners for informational purposes only.
- That the right-of-way structure preferences simply favor the existing structures in the proposed list over new poles.
- That the City should permit up to five cubic feet of accessory equipment on the side of city owned assets and up to nine cubic feet on wood utility poles.
- That the City must allow new poles with antennas and small radio boxes mounted onto the pole, or, at a minimum, consult with Verizon Wireless regarding the integrated pole dimensions.
- That the cumulative volume limit be stricken.

- That they encourage the City to adopt a small cell permit fee that complies with the FCC's standards.

Mr. Villegas also provided examples of their small cell wireless facilities and the benefits of 5G technology. He requested the Planning Commission direct City staff to incorporate the proposed changes highlighted in the letter from Mackenzie & Albritton LLP on behalf of Verizon Wireless, provided to the Commission in the Memorandum dated May 14, 2019. He stated he looked forward to continuing to negotiate with the City, to enter into a master license agreement that will allow them to attach to their facilities.

In response to Commissioner Soliz, Mr. Villegas clarified that soliciting public comment would open the process up to subjectivity. Speaking to the examples of wireless facilities, he explained that they would be interested in attaching their equipment onto existing poles.

Commissioner Soliz questioned if it would be appropriate for the cell carriers to install street poles.

Mr. Villegas responded that they would like to have that conversation with staff so they could determine the exact dimensions for a street pole. Speaking to 5G service, he noted the first step would be to enter into a Master License Agreement with the City and then they would notify their engineers and it would be placed on a priority list.

In response to Commissioner Zacharatos, Mr. Villegas explained that they were launching 4G and 5G technology throughout California; however, there was more opposition in the western states.

In response to Chair Turnage, Mr. Johnston stated that Verizon was a regulated telephone corporation under State law and they would have the same rights as other carriers.

Chair Turnage closed the public hearing.

In response to Commissioner Motts, Mr. Johnston stated that requests from Verizon were not necessarily in the best interest of the City as the City was looking for a long-term plan to regulate esthetics. He noted the reason the ordinance was presented was that if limitations were insufficient, they could make changes almost immediately. He stated that Verizon was more actively engaged than other carriers at this stage of the process and they raised legal questions that had a different interpretation of the law than local governments. Speaking to whether the City could require Verizon to install a new street light, he explained that City's had esthetic discretion and in the absence of any state preemption that specifically said that they could not require them to deploy a street light facility; they assume they have the authority. Additionally, a standard was present in the event there was no other existing infrastructure to deploy; however, there was an exception that if a street light was inappropriate for the location, they could install an

integrated pole specifically designed as a standalone small cell. He concluded it was an esthetic regulation of last resort that would very rarely come into play and it was a questionable legal argument Verizon raised with respect to this standard. He noted there was an exception that they could install their own style of pole if it was more consistent with the surrounding area.

Chair Turnage stated that it seemed that the requested changes were due to interpretation of law that has been on the books for about a month and there is still review occurring.

Mr. Johnston explained that there were hundreds of municipal governments currently appealing the order of the 9th circuit and they expected a decision in 2020. Once that was done, the City could make a change quickly to comply with new law or revert to old law.

**RESOLUTION NO. 2019-15**

***On motion by Commissioner Martin, seconded by Commissioner Motts, the Planning Commission approved the resolution recommending that the City Council adopt the ordinance amending chapter 5 of title 9 of the Antioch Municipal Code establishing regulations for wireless communications facilities (WCFS) including adding a requirement for an engineering study on the feasibility as to whether poles would handle the load . The motion carried the following vote:***

<b>AYES:</b>	<b><i>Motts, Schneiderman, Martin, Zacharatos, Soliz, and Turnage</i></b>
<b>NOES:</b>	<b><i>None</i></b>
<b>ABSTAIN:</b>	<b><i>None</i></b>
<b>ABSENT:</b>	<b><i>Parsons</i></b>

- 4. Z-19-02 – Ordinance Prohibiting the Conversion of Mobilehome Parks from Senior Only to All-Ages Housing** – The City of Antioch is proposing amendments to Chapter 5 of Title 9 of the Antioch Municipal Code to prohibit the conversion of mobilehome parks from senior-only housing to all-ages housing. A moratorium on such conversion has been in place since August 8, 2017. The proposed ordinance would be applicable city-wide. This ordinance has been determined to not be subject to the California Environmental Quality Act (CEQA).

City Attorney Smith presented the staff report dated May 10, 2019 recommending that the Planning Commission adopt the resolution recommending approval of an ordinance prohibiting the conversion of senior mobilehome parks.

Commissioner Martin questioned if an ordinance needed to be drafted that would protect seniors in townhouses and condominiums.



City Attorney Thomas responded that an ordinance regulating townhouses falls outside the scope of this agenda item; however, he would be happy to look into it. He noted mobilehomes and mobilehome parks are a distinct entity and they were covered under mobile home laws. He further noted this was a price sensitive population and seniors were often well represented among those who are residents of mobile home parks. He stated he would not expand the case for discrimination beyond mobile home parks. He noted the question of whether it would be valid in other settings would require research. He further noted the City had discretion under its police powers to make these types of decisions around mobilehome parks and in this case when looking at senior only parks, they were in the current status of serving this population. He noted the question this evening was whether they should continue to provide that service to the senior only population because if not, it was likely there would be a lot of seniors without housing.

Chair Turnage opened the closed the public hearing with no requests to speak.

**RESOLUTION NO. 2019-16**

***On motion by Commissioner Martin, seconded by Commissioner Soliz, the Planning Commission adopted the resolution recommending approval of an ordinance prohibiting the conversion of senior mobilehome parks. The motion carried the following vote:***

**AYES:** *Motts, Schneiderman, Martin, Zacharatos, Soliz, and Turnage*  
**NOES:** *None*  
**ABSTAIN:** *None*  
**ABSENT:** *Parsons*

- 5. PD-06-04, UP-06-21, AR-06-17 – Ted Liu of Bedrock Ventures, Inc.** requests an amendment to condition of approval number 3 from Resolution 2008/29. The amendment would extend the expiration date of the approvals for the Final Planned Development, Use Permit, and design review to March 20, 2021. The project consists of retail and offices, located at Hillcrest Avenue and East Tregallas Road (APN: 052-100-069 and -068).

Planning Manager Morris presented the staff report dated May 10, 2019 recommending the Planning Commission deny request to extend the approvals of the Final Development Plan, Use Permit and Design Review for the Hillcrest Summit project.

In response to Commissioner Martin, Planning Manager Morris explained that zoning would not expire.

Commissioner Motts stated that he was in agreement with the recommendation from staff.

Chair Turnage opened the Public Hearing.

Ted Liu of Bedrock Ventures, Inc., gave a history of his application process. He noted that due to the downturn in the economy he could not build the project. He further noted that the only interest he received was from a self-storage facility; however, the City discouraged that type of project, at this location. He stated once eBART was completed they actively marketed the property. He noted he was working with a broker and they were meeting with potential joint venture development partners who were seriously interested in building out the project. He further noted he was sensitive to staff's point of view and explained that his intent was to ask for one last extension and he was willing to impose that this would be the final. He stated he was grateful that the Planning Commission chose not to limit the amount of extensions the last time they came before the Commission.

In response to Commissioner Soliz, Mr. Liu explained a one-year extension would be difficult due to the amount of time it would take to pull a building permit.

Commissioner Martin expressed concern for allowing another extension without proper mitigation for pollution, traffic and an updated environmental study that addresses current requirements.

Mr. Liu stated that his understanding was that if there was a denial of the extension this evening, he would have to start from the beginning and he had already invested well over \$300k and 2-years. He noted when he bought the property in 2006; he addressed the neighbors concerns and worked cooperatively with staff; however, when completed it was around the downturn in the economy. He expressed concern that if he started the process over and he may run into another downturn in the economy. He stated that currently the economy was good and he had an opportunity. He noted he was unsure of the financial impact if the City needed to revisit CEQA or traffic studies.

Commissioner Motts stated that he had no concern with the project; however, he was concerned with how to accomplish the project and meet new requirements.

Planning Manager Morris stated if the Planning Commission directed staff to bring back a resolution to extend the approvals it is arguable that that action was subject to CEQA so there would have to be CEQA findings to exempt that continuance or do CEQA, on that action. She noted if they updated or amended the original MND, the challenge with the way the ordinance was drafted was that if those mitigations resulted in significant changes to the development plan, that in itself could trigger a rezone because the project was no longer consistent with the original approvals. She noted anything considered a significant revision to the original approved project would trigger a rezone per the municipal code.

Chair Turnage closed the Public Hearing.

In response to Commissioner Soliz, Planning Manager Morris explained that if the project was extended for two-years and they came back with something other than what was originally proposed it would be a new project and new environmental analysis would be required.

In response to Chair Turnage, Planning Manager Morris clarified that if the original approvals were extended, the Planning Commission could modify conditions; however, they were discretionary acts that may be subject to CEQA. She noted that her understanding of CEQA was that if the Planning Commission had discretion and it was a discretionary action as defined as a project, it would be subject to CEQA. She further noted if it was the Planning Commissions direction to continue the item and pursue and extension, they could come back with whether it would be subject to CEQA.

Chair Turnage stated that the City wanted to make sure that all new projects would meet today's requirements and they did not want to see someone who invested in the City lose \$300k so if there was a way to satisfy both sides it would be worth continuing to get the answers.

Planning Manager Morris cautioned that if the Planning Commission added a condition that the project comply with current storm water regulations, those would require so much space that they could change the site and landscape plan, as well as the underlining design of the project because of site constraints. She noted staff has looked at a solution and they were fairly confident the extension would be subject to CEQA but they could confirm that for the Planning Commission.

Commissioner Soliz stated he would like to allow additional time for staff to determine if bringing the project into compliance with current regulations would trigger CEQA.

***On motion by Commissioner Soliz, seconded by Vice Chair Schneiderman, the Planning Commission continued PD-06-04, UP-06-21, AR-06-17 – Ted Liu of Bedrock Ventures, Inc. The motion carried the following vote:***

<b>AYES:</b>	<b><i>Motts, Schneiderman, Martin, Zacharatos, Soliz, and Turnage</i></b>
<b>NOES:</b>	<b><i>None</i></b>
<b>ABSTAIN:</b>	<b><i>None</i></b>
<b>ABSENT:</b>	<b><i>Parsons</i></b>

### **ORAL COMMUNICATIONS**

Commissioner Motts and Chair Turnage announced that they would not be in attendance at the June 5, 2019 Planning Commission meeting.

### **WRITTEN COMMUNICATIONS**

None.

**COMMITTEE REPORTS**

Commissioner Motts reported on his attendance at the TRANSPLAN meeting.

**ADJOURNMENT**

***Chair Turnage adjourned the Planning Commission at 8:25 P.M. to the next regularly scheduled meeting to be held on June 5, 2019.***

Respectfully submitted:

KITTY EIDEN, Minutes Clerk