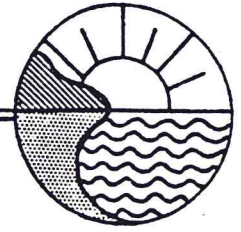


AGENDA



Planning Commission – City of Pacifica

DATE: December 5, 2011
LOCATION: Council Chambers, 2212 Beach Boulevard
TIME: 7:00 PM
ROLL CALL:
SALUTE TO FLAG:
ADMINISTRATIVE BUSINESS:

Approval of Order of Agenda
Approval of Minutes: November 21, 2011
Designation of Liaison to City Council Meeting of: December 12, 2011

CONSENT ITEMS:

1. UP-978-07 PSD-763-07 EXTENSION OF PERMITS for the construction of one single-family residence with a second residential unit south of Fassler Avenue and east of Roberts Road (APN: 022-150-030) Proposed Action: Grant extension request.

PUBLIC HEARINGS:

2. UP-020-11 USE PERMIT, filed by the agent, Chris Coones, on behalf of the applicant, AT&T, to install four wireless antennas at 685 Manor (APN 009-360-040). CEQA status: Exempt. Proposed Action: Approve as conditioned.
3. APPEAL OF ZONING ADMINISTRATOR DECISION APPEAL OF DENIAL OF ADMINISTRATIVE APPROVAL, filed by the appellant/applicant, Jeff Greathouse, to allow outdoor seating at Gorilla BBQ, 2145 Coast Highway (APN 018-041-010). Proposed Action: Deny appeal and uphold Zoning Administrator decision.

OTHER AGENDA ITEMS:

COMMUNICATIONS:

Commission Communications:
Staff Communications:
Oral Communications:

This portion of the agenda is available to the public to address the Planning Commission on any issue within the subject matter jurisdiction of the Commission that is not on the agenda. The time allowed for any speaker will be three minutes.

ADJOURNMENT

Anyone aggrieved by the action of the Planning Commission has 10 calendar days to appeal the decision in writing to the City Council. If any of the above actions are challenged in court, issues which may be raised are limited to those raised at the public hearing or in written correspondence delivered to the City at, or prior to, the public hearing. Judicial review of any City administrative decision may be had only if a petition is filed with the court not later than the 90th day following the date upon which the decision becomes final. Judicial review of environmental determinations may be subject to a shorter time period for litigation, in certain cases 30 days following the date of final decision.

The City of Pacifica will provide special assistance for disabled citizens upon at least 24-hour advance notice to the City Manager's office (738-7301). If you need sign language assistance or written material printed in a larger font or taped, advance notice is necessary. All meeting rooms are accessible to the disabled.

NOTE: Off-street parking is allowed by permit for attendance at official public meetings. Vehicles parked without permits are subject to citation. You should obtain a permit from the rack in the lobby and place it on the dashboard of your vehicle in such a manner as is visible to law enforcement personnel.

CITY OF PACIFICA

AGENDA MEMO

DATE: December 5, 2011

TO: Planning Commission

FROM: Lee Diaz, Associate Planner

SUBJECT: Agenda Item No. 1: Extension of Use Permit and Site Development Permit for the construction of one single-family residence with a second residential unit south of Fassler Avenue and east of Roberts Road (APN: 022-150-030)

On October 15, 2007, the Planning Commission conditionally approved a Use Permit and Site Development Permit for the development of one-single family home with a second residential unit on the south side of Fassler Avenue east of Roberts Road. The project was part of the Harmony @ One 14 lot subdivision that was also approved by the Planning Commission and City Council. Details of the proposal are contained in the attached staff report dated October 15, 2007. Also attached are the minutes of the Planning Commission meeting.

The subject permits were due to expire on November 26, 2008. At the request of the applicant, the Planning Commission granted a one (1) year extension of the permits on October 6, 2008. The road that would provide access to the subject property had not been constructed. On November 16, 2009 the Commission approved a second extension of the permits because the access road had yet not been constructed. On December 6, 2010 the Planning Commission approved a third extension request because the access road had not been constructed.

The Use Permit and Site Development Permit were due to expire on November 26, 2011. On October 15, 2011 staff received the attached extension request. This is the applicant's fourth extension request. The applicant is requesting the permit extension because the road that would provide access to their subject property has still not been constructed.

Extension requests are not unusual and are generally granted unless there have been significant changes in conditions or circumstances affecting the project or area. There have not been any changes that would indicate that the extension should not be granted. Because this is the applicant's fourth extension request, this item is presented as a consideration item.

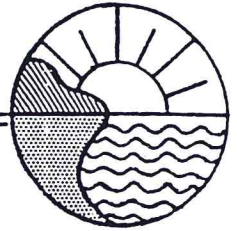
COMMISSION ACTION REQUESTED

Move that the Planning Commission **EXTEND** UP-978-07 and PSD-763-07 to November 26, 2012.

Attachments:

1. Letter from Applicant, 10/15/11
2. Planning Commission Staff Report, 10/15/07 (without attachments)
3. Planning Commission Minutes, 10/15/07
4. Land Use and Zoning Exhibit

STAFF REPORT



PLANNING COMMISSION-CITY OF PACIFICA

DATE: December 5, 2011

ITEM: 2

PROJECT SUMMARY/RECOMMENDATION AND FINDINGS

Notice of Public Hearing was published in The Pacifica Tribune on November 9, 2011 and 70 surrounding property owners were notified by mail.

FILE: Use Permit UP-020-11

APPLICANT: AT&T

4430 Rosewood Drive
Pleasanton, CA 94588

OWNER: Ziadeh Shamieh

140 El Bonito Way
Millbrae, CA 94030

AGENT:

Chris Coones
1330 N. Broadway, Ste 202
Walnut Creek, CA 94596

LOCATION: 685 Manor (APN:009-360-040)

PROJECT DESCRIPTION: Relocate two unscreened antennas from an existing site at 2480 Skyline to 685 Manor. Screen the two relocated antennas and two new antennas at 685 Manor. Install new wireless communications equipment at existing facility at 2480 Skyline.

GENERAL PLAN: Commercial

ZONING: C-1 (Neighborhood Commercial)

RECOMMENDED

CEQA STATUS: Exempt Section 15303 (d)

**ADDITIONAL
REQUIRED
APPROVALS:**

None

RECOMMENDED

ACTION: Approval as conditioned

PREPARED BY: Christina Horrisberger, Assistant Planner

ZONING STANDARDS CONFORMANCE:

Standards	Min./Max.	Existing	Proposed
Height:	35' max.	27'	28'11"

PROJECT SUMMARY

A. STAFF NOTES:

1. Background: There are two properties associated with this project. The first subject site is 2480 Skyline. This site has been developed with a single story commercial building. On the roof of the structure are two antenna panels mounted to a 7 foot tall tripod. The antennas are not screened, but are surrounded by a short chain link fence. At the exterior of the building, at ground level, there is an equipment enclosure connected to the garbage enclosure. The enclosure is fully screened by a gate and a wall painted to match the building. The Use Permit for this facility was granted in 2000. The second subject site, located west of and adjacent to 2480 Skyline, is 685 Manor. This property is developed with a two story mixed use building that includes 5 (five) commercial units at ground level and 4 (four) apartments above. The building is approximately 27 feet high. Another wireless facility was approved at this location in 1995, but it was removed over 12 months ago.

2. Project Description: The proposed project would remove all antennas and the roof-mounted chain link fence from 2480 Skyline, but the equipment enclosure would remain in place and be reconfigured. The use permit for the two antennas would no longer be needed. A use permit is not needed for the equipment enclosure. The overall size of the enclosure would remain the same. The proposed project consists of the construction of a new roof mounted antenna enclosure at 685 Manor. This enclosure extends the building height to 28 feet and 11 inches, increasing the height of the overall building by 1 foot and 11 inches. The enclosure would be painted to match the color of 685 Manor. This will accommodate two new antennas, the two relocated antennas from 2480 Skyline and two “dummy” antennas. According to the applicant, the “dummy” antennas are not functional and are meant to be place holders only. If working antennas were to replace the “dummy” antennas in the future, the applicant must go through the process of amending the Use Permit.

3. General Plan, Zoning, and Surrounding Land Use: The General Plan designation for the subject sites is Commercial and the zoning classification is C-1 (Neighborhood Commercial). The properties are bordered on the west and north by multifamily residential units, the south by a single-family residential neighborhood and Highway 35 to the east, with a vacant parcel on the opposite side of the highway. The single family residential neighborhood is zoned R-1, the multifamily structure to the west and vacant property to the east is zoned P-D and the multifamily structure to the north is zoned R-3-G.

4. Municipal Code and Regulatory Standards: Pursuant to the Pacifica Municipal Code, a Use Permit is required for all wireless communications facilities that include roof-mounted major antennas. Major antennas are antennas that exceed a cumulative site total of 8 square feet. The applicant is proposing to install over 18 square feet of antenna surface area (This does not count the “dummy” antennas). In addition, the facility must satisfy the minimum setbacks for the zoning district in which the facility would be located. In this case, there is no setback requirement because the property is zoned for commercial use. In addition, the facility must be screened to the maximum extent possible and meet the City’s 35 foot height limit. The proposed project would reach a height of 28 feet and 11 inches and would be completely screened from view.

5. Use Permit: The Planning Commission shall grant approval of a Use Permit for a wireless communications facility only when all of the following findings are satisfied:

- a. That the establishment, maintenance, or operation of the use or building applied for will not, under the circumstances of the particular case, be detrimental to the health, safety, and welfare of the persons residing or working in the neighborhood or to the general welfare of the City;
- b. That the use or building applied for is consistent with the applicable provisions of the General plan and other applicable laws of the City and, where applicable, the Local Coastal Plan; and
- c. Where applicable, that the use or building applied for is consistent with the City’s adopted Design Guidelines.
- d. That the project will not cause localized interference with reception of area television or radio broadcasts or other signal transmission or reception.
- e. That the information submitted proves that a feasible alternate site that would result in fewer visual impacts does not provide reasonable signal coverage.
- f. That the application meets all applicable requirements of Section 9.4.2608 of the Pacifica Municipal Code.

7. California Environmental Quality Act: The Planning Commission may find a project is exempt from CEQA pursuant to the following section of the California Environmental Quality Act:

15303. New Construction or Conversion of Small Structures: Class 3 consists of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. The numbers of structures described in this section are the maximum allowable on any legal parcel.

Examples include but are not limited to:

(d) Water main, sewage, electrical, gas, and other utility extensions, including street improvements, of reasonable length to serve such construction.

8. Analysis:

Use Permit: According to the Radio Frequency (RF) Report submitted by the applicant, the RF maximum exposure level at 685 Manor would be compliant with the FCC exposure limit rules and regulations for public safety. The applicant is proposing to locate a facility that meets the City's site development and design standards on a developed property that has previously accommodated wireless antennas. With approval of the requested Use Permit, all applicable provisions of the General Plan and other applicable laws of the City would be met. The applicant has provided a statement indicating that the proposed antennas will not cause localized interference with television reception or radio broadcasts or other signal transmission or reception. Initially the applicant proposed to upgrade the antenna facility at 2480 Skyline, but screening adequate to meet PMC standards was not possible at that location. Consequently, the project was revised to relocate the antenna facility to a less visually conspicuous location where it could be completely screened from view. In staff's opinion, the applicant has proposed to place the facility in the location that best suits their needs and also results in the fewest visual impacts. Project design will be discussed in the following section of this report.

Design-Related Standards: The Design-Related Standards specify that "all wireless communications facilities shall be screened to the fullest extent possible and located to minimize visibility from surrounding areas and right-of ways." Further, "the use of colors and facility designs shall be compatible with surrounding buildings and/or uses in the area or those likely to exist in the area and shall prevent the facility from dominating the surrounding area." The proposed antenna location will blend into the existing building at 685 Manor. The proposed antennas and equipment would be completely screened from view by an enclosure mounted on the top of 685 Manor. The new screening and the proposed wall mounted conduits would be painted to match the building. The screening would add 1 foot and 11 inches to the overall height of the structure, for a total height of 28 feet and 11 inches. This project would also decrease the visibility of wireless facilities at 2480 Skyline because the currently unscreened antennas and chain link enclosure on the site are to be removed. Staff has included a condition of approval requiring that all wall-mounted equipment be painted to match the building to ensure that all of the City's Design-Related Standards are met.

CEQA: The proposed project is for a single, small, new, utility facility. Such development meets the criteria for the previously cited CEQA exemption. Further, no significant negative impacts are expected to occur as a result of the project.

9. Conclusion: Staff believes that the project is consistent with the City's wireless ordinance, including its design related standards. Specifically, the proposal would relocate unscreened wireless antennas at 2480 Skyline to a fully screened location at 685 Manor; thereby reducing the overall visual impact of the facility. The appearance of the screened equipment enclosure would be unchanged. It appears that the findings can be made to grant the requested use permit for the antennas at 685 Manor Drive. Lastly, it appears that the project can be found exempt from the CEQA requirement for environmental review.

RECOMMENDATION AND FINDINGS

B. RECOMMENDATION:

Staff recommends that the Planning Commission find the project is exempt from CEQA and approve Use Permit UP-020-11, to construct a wireless communications facility at 685 Manor Drive, subject to the following conditions:

Planning Department:

1. Development shall be substantially in accord with the plans entitled "CNU3352/CCL03352 HWY 35 - Manor," consisting of seven (7) sheets, received by the City on September 7, 2011, except as modified by the following conditions.
2. Prior to building permit issuance, the owner shall work with staff to record conditions of project approval on the title of the property.
3. All wall-mounted equipment shall be painted to match the building exterior.
4. All outstanding and applicable fees associated with the processing of this project shall be paid prior to the issuance of a building permit.
5. Prior to issuance of a building permit, the plans shall be revised to reflect the project location associated with the antenna facility: 685 Manor Drive.
6. The dummy antennas shall neither be made functional, nor be replaced by functional antennas, unless an amendment to use permit is granted.
7. The applicant shall hereby agree to indemnify, defend and hold harmless the City, its Council, Planning Commission, advisory boards, officers, employees, consultants and agents (hereinafter "City") from any claim, action or proceeding (hereinafter "Proceeding") brought against the City to attack, set aside, void or annul the City's actions regarding any development or land use permit, application, license, denial, approval or authorization, including, but not limited to, variances, use permits, developments plans, specific plans, general plan amendments, zoning amendments, approvals and certifications pursuant to the California Environmental Quality Act, and /or any mitigation monitoring program, or brought against the City due to actions or omissions in any way connected to the applicant's project. This indemnification shall include, but not be limited to, damages, fees and/or costs awarded against the City, if any, and costs of suit, attorneys fees and other costs, liabilities and expenses incurred in connection with such proceeding whether incurred by the applicant, City, and /or parties initiating or bringing such Proceeding. If the applicant is required to defend the City as set forth above, the City shall retain the right to select the counsel who shall defend the City.
8. The applicant shall clearly indicate compliance with all conditions of approval on the

plans and/or provide written explanations to the Planning Director's satisfaction prior to approval of a building permit.

C. FINDINGS:

Findings for Approval of:

Use Permit: The Planning Commission finds that the proposed wireless facility at 685 Manor Drive will not, under the circumstances of this particular case, be detrimental to the health safety, and welfare of the persons residing or working in the City. The proposed project is consistent with the General Plan and all other applicable laws of the City, including Section 9.4.2608 of the Pacifica Municipal Code. The proposed design is consistent with City regulations and the new antennas will not interfere with the reception of television, radio broadcasts, or other signal transmission and reception in the area. The applicant has proposed to place the antennas in the location that results in the fewest visual impacts.

COMMISSION ACTION

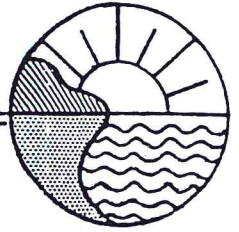
D. MOTION FOR APPROVAL:

Move that the Planning Commission find the project exempt from CEQA and **APPROVE**, UP-020-11, subject to conditions 1 through 8 and adopt findings contained in the December 5, 2011 staff report, and incorporate all maps and testimony into the record by reference.

Attachments:

- a. Land Use and Zoning Exhibit
- b. Photo simulations
- c. RF report
- d. Narrative submitted by the applicant
- e. Coverage map
- f. Pacifica's "Wireless Sites" map
- g. Photos of equipment area
- h. Plans and Elevations

STAFF REPORT



PLANNING COMMISSION-CITY OF PACIFICA

DATE: December 5, 2011

ITEM: 3

PROJECT SUMMARY/RECOMMENDATION AND FINDINGS

Notice of Public Hearing was published in the Pacifica Tribune on November 23, 2011 and 30 surrounding property owners were notified by mail.

APPLICANTS: Rich Bacchi & Jeff Greathouse
Gorilla BBQ
2145 Coast Highway
Pacifica, CA 94044

OWNER: Elsie M Pereira Tr
16 Ortega Ct,
Pacifica, CA,
94044--3400

APPELANT: Jeff Greathouse
Gorilla BBQ
2145 Coast Highway
Pacifica, CA 94044

LOCATION: 2145 Coast Highway (APN 018-041-010)

PROJECT DESCRIPTION: Appeal of Zoning Administrator decision to deny request for approval of an existing unpermitted outdoor customer seating area.

GENERAL PLAN: Commercial

ZONING: C-1 (Neighborhood Commercial District)

**RECOMMENDED
CEQA STATUS:** NA

**ADDITIONAL
REQUIRED
APPROVALS:** None

**RECOMMENDED
ACTION:** Deny appeal and uphold Zoning Administrator decision

PREPARED BY: Christina Horrisberger, Assistant Planner

PROJECT SUMMARY

A. STAFF NOTES:

1. Background: In February 2010 the City received notice that the proprietors of Gorilla BBQ, Rich Bacchi and Jeff Greathouse, had established an outdoor customer seating area without first obtaining the necessary approval from the City. The nature of the complaints was related to Gorilla BBQ's lack of restroom facilities. The proprietors were made aware that City approval was needed if the seating area was to remain in place and they were advised of the process for obtaining the necessary approval. It was indicated to staff by Mr. Bacchi that it was preferable for Gorilla BBQ to keep the seating area and that approval would be requested. In February, March and July staff left voice mail messages to follow up on the outstanding complaint and attempt to facilitate the approval process. In July 2010 staff met with Mr. Bacchi and clarified the process and materials needed to submit and process the request for approval. Throughout August and September the proprietors indicated that they were renegotiating their lease and were unsure of their plans moving forward. In December 2010, after 10 months working with the proprietors, a letter formally notifying Mr. Bacchi and Mr. Greathouse that their business was in violation of City regulations was sent via US mail. The materials needed by the City to process a request for approval of the seating area were described in the letter. After receiving no response from the proprietors, follow up letters were sent in February, March and July 2011. The July letter was also sent to the landlord and included information about the potential for the City to impose a financial penalty for unresolved Code violations.

In July 2011, 17 months after the City first notified them of the violation, the proprietors of Gorilla BBQ submitted some of the materials needed to process a request for approval of the outdoor seating area. However; several of the necessary items were deficient or missing from the submittal. Within a week Mr. Bacchi and Mr. Greathouse were advised of the most obviously missing items and approximately 2 weeks later, after other departments had the opportunity to review the submitted materials, a letter detailing outstanding informational needs was mailed to them. Throughout September 2011 the proprietors were advised, via letter and email, that failure to submit the necessary materials in a timely fashion would result in denial of their request and resumed enforcement action. At the end of September the City circulated a public notice to neighboring property owners letting them know of the pending request associated with Gorilla BBQ. The notices were sent at the City's expense since no postage or mailing labels were submitted by the applicant. On October 3, 2011 the City received a copy of Gorilla BBQ's tax statement in the mail. Staff emailed Mr. Bacchi and Mr. Greathouse to determine the purpose of the document but received no response. On October 11th the City sent another public notice, this time informing surrounding property owners that the permit for Gorilla BBQ was denied due to insufficient information. On October 20th Mr. Greathouse, on behalf of Gorilla BBQ, submitted an appeal of staff's decision.

A chronology of events (attachment b) and copies of the above mentioned correspondence (attachment c) are attached for the Commission's review.

2. Project Description: On October 11, 2011 the City denied Gorilla BBQ's request for approval of an unpermitted outdoor customer seating area because the applicant (Gorilla BBQ or proprietors) had not submitted enough information for staff to process their request. On October 20, 2011 the

applicant/appellant, Jeff Greathouse, one of the applicants, submitted an appeal of that decision. The basis for the appeal follows:

“Gorilla Barbeque, LLC is appealing the decision to deny a permit for use of the outdoor seating area (APN 018-041-010). We have submitted all but (2) of the necessary items to proceed.

1. Gorilla Barbeque, LLC is waiting for a template from the planning department to model our request letter for a permit from the City of Pacifica. We have not received a template to date.
2. The second missing item is a letter from the landlord stating we have a right to use the seating area. The landlord has requested the City of Pacifica to contact him when the letter is required.

The Planning and economic development department has provided comments on the items previously submitted:

1. “Please provide a formal, legally binding agreement establishing restroom facilities for Gorilla Barbeque.” Gorilla BBQ was informed after submitting a hand-written letter that a notarized letter would be required, a new letter is currently being drafted.
2. “The plans submitted are outdated, illegible and do not show the outdoor seating area under review.” The plans show the seating area as requested by the planning and economic development department. Gorilla BBQ would be willing to schedule a meeting to review the plans and previously submitted documentation.

Gorilla Barbeque, LLC has been working toward the goal of obtaining a permit for use of the outdoor seating area as requested by the city of Pacifica. It is at this time that Gorilla Barbeque, LLC’s request for an appeal; of the decision to deny the use permit, be granted to review and proceed with the permit process.”

Staff’s response to the above appeal is contained in the analysis section of this report.

Application materials are insufficient for routing plans to the Commission. No project description was submitted by the applicant.

3. General Plan, Zoning, and Surrounding Land Use: The property is zoned C-1 (Neighborhood Commercial) and the General Plan designation is Commercial. The subject business is on a property developed with commercial uses to the north and south. There is a vacant commercial property on the adjacent property to the south. Highway 1 is to the west and residential land uses are located up the hillside to the east.

4. Municipal Code and Regulatory Standards: PMC Section 9-4.2308(a) requires Planning Commission approval of a use permit in order to conduct a commercial activity that is not entirely contained within an enclosed structure. In order to facilitate requests for approval of outdoor seating associated with service establishments, City Council has directed staff to utilize the temporary use permit procedure described in Section 9-4.2302(a) specifically for such requests.

Pursuant to Sec. 9--4.2302(a)(2), Applications made pursuant to subsection (a), where applicable, shall be accompanied by the following:

- (i) Evidence of legal interest in the property upon which such activities are proposed or written authorization for the activities proposed from the individual holding such interest;
- (ii) A plat map showing any property within 300 feet of the site, accompanied by a list of property owners and corresponding addresses of such property owners typed on mailing labels; and
- (iii) A detailed, complete description of all events directly related to the activity proposed accompanied by maps, plans or other appropriate graphic materials.

Moreover, prior to approving or denying any application, the Zoning Administrator must make written findings as follows: that the establishment, maintenance, or operation of the use or building applied for will not, under the circumstances of the particular case, be detrimental to the health, safety, morals, comfort, and general welfare of the persons residing or working in the neighborhood of such proposed use or be injurious or detrimental to property and improvements in the neighborhood or to the general welfare of the City (PMC 9-4.2302(4)).

This procedure allows permit decisions to be made by the Zoning Administrator and appealed to the Planning Commission. Use of this Code provision was intended to minimize permit processing time and, accordingly, the filing is \$150.00 (one hour of staff time) plus postage for mailings. Staff has spent over 15 hours on this particular application.

5. Analysis: Following are responses to each part of the appeal, the appeal language is in bold and staff's responses are in plain text:

“Gorilla Barbeque, LLC is appealing the decision to deny a permit for use of the outdoor seating area (APN 018-041-010). We have submitted all but (2) of the necessary items to proceed.”

Missing even one piece of critical information would result in staff's inability to evaluate the project's conformance with City regulations and how the project relates to the findings that must be made in order to grant approval. In this case several items, including a formal request for approval, project description and current and legible site plan, were missing from the submittal (See attachment c, letter dated August 8, 2011).

“Gorilla Barbeque, LLC is waiting for a template from the planning department to model our request letter for a permit from the City of Pacifica. We have not received a template to date.”

Such a template does not exist and was neither requested by the applicant nor provided by the City. However, the applicant/appellant was advised on several occasions, verbally and in writing, of the City's materials and informational needs.

“The second missing item is a letter from the landlord stating we have a right to use the seating area. The landlord has requested the City of Pacifica to contact him when the letter is required.”

Other than the letter sent by the City to the landlord in July 2011, the City has not directly communicated with the landlord about Gorilla BBQ. Concerning obtaining written permission, the City has not been advised to contact the landlord and the landlord has not contacted the City. Generally, it is the applicant's duty to gather and submit application materials. All materials were due from the applicants when the request for approval was submitted. In addition, the July 27 and August 8, 2011 email and letter clearly request the above item. The landlord was copied on several letters to Gorilla BBQ, including the August 8, 2011 letter.

“Please provide a formal, legally binding agreement establishing restroom facilities for Gorilla Barbeque.” Gorilla BBQ was informed after submitting a hand-written letter that a notarized letter would be required, a new letter is currently being drafted.”

The level to which the agreement needed to be formalized was discussed in detail with Building Division staff once the applicant had submitted materials for review. Restroom services are needed in order to meet Building Code requirements. Establishment of a binding agreement for the provision of restrooms is necessary in order to ensure that Code requirements are met and that the public's concerns are addressed. The applicants did not advise staff that they were working on obtaining the necessary agreement.

“The plans submitted are outdated, illegible and do not show the outdoor seating area under review.” The plans show the seating area as requested by the planning and economic development department. Gorilla BBQ would be willing to schedule a meeting to review the plans and previously submitted documentation.”

That the plans were illegible and missing critical information, including information about the seating area, was pointed out by the Fire, Police, Building and Planning Departments. The plans and any other information related to the project must present a clear depiction of what is being requested and reviewed. Consequently, while person to person explanation of application materials may be helpful, it is insufficient to satisfy the City's informational needs. Rather, all application materials must clearly depict what is being proposed in such a way that any person could look at the file and understand what is under review.

“Gorilla Barbeque, LLC has been working toward the goal of obtaining a permit for use of the outdoor seating area as requested by the city of Pacifica. It is at this time that Gorilla Barbeque, LLC's request for an appeal; of the decision to deny the use permit, be granted to review and proceed with the permit process.”

Given the history and lack of any recent communication from Mr. Bacchi or Mr. Greathouse, staff was unaware that the applicants were working toward submittal of a revised application. However; at this time there is still insufficient information to process a request for approval of outdoor seating at Gorilla BBQ.

6. Conclusion: The appellant has not raised any issues that should result in reversal of the Zoning Administrator's decision to deny permission to retain the unpermitted outdoor seating at Gorilla BBQ. Informational/materials deficiencies have still not been addressed. Further, it has not been demonstrated that more time should be granted for gathering application materials. Given the length of time this issue has been under consideration, general history and lack of communication from the

applicant, it seems that allowing more time could simply result in more delays. In addition, Pacific Police Department has noted concerns that could hinder the City's ability to grant approval (See attachment c, letter dated August 8, 2011). Accordingly, staff believes that the Commission should deny the appeal and uphold the Zoning Administrator's decision. In order to meet Code requirements the seating will need to be removed; however, the applicants may reapply for approval once they have resolved outstanding issues and are able to submit the required application materials.

RECOMMENDATION AND FINDINGS

B. RECOMMENDATION:

Staff recommends that the Planning Commission **DENY** the appeal and uphold the Zoning Administrator's decision to deny the request for approval of outdoor customer seating at Gorilla BBQ and not allow more time for the applicants to submit additional information.

COMMISSION ACTION

C. MOTION FOR DENIAL:

Move that the Planning Commission **DENY** the appeal without prejudice (which would allow the applicant to reapply immediately) and uphold the Zoning Administrator's decision to deny the request for approval of outdoor customer seating at Gorilla BBQ, 2145 Coast Highway (APN 018-041-010).

Attachments:

- a. Land Use and Zoning Exhibit
- b. Chronology
- c. Written correspondence with applicant (in chronological order)
- d. Appeal
- e. Resolution