



PLANNING COMMISSION

December 8, 2020

MINUTES

I. CALL TO ORDER

Chair Judi Roland called the meeting to order at 7:00 p.m. via Zoom due to Governor Inslee's "Stay Home, Stay Healthy" initiative due to the Covid-19 Pandemic and City Ordinance No. 5533 which establishes the official meeting place, as virtual.

a.) ROLL CALL/ESTABLISHMENT OF QUORUM

Commissioners present: Chair Judi Roland, Vice-Chair Lee, Commissioner Mason, Commissioner Moutzouris, Commissioner Khanal, and Commissioner Stephens.

Staff present: Jeff Dixon, Planning Services Manager; Ingrid Gaub, Public Works Director; Kendra Comeau, City Attorney; Doug Ruth, Assistant City Attorney; Jennifer Oliver, Administrative Assistant.

Members of the public present: Kim Allen, Vice President Wireless Policy Group, LLC on behalf of Verizon; Meridee Pabst, Vice President Wireless Policy Group LLC on behalf of AT&T.

b.) PLEDGE OF ALLEGIANCE

II. APPROVAL OF MINUTES

A. November 17, 2020 – Special Planning Commission Meeting Minutes

Commissioner Khanal moved and Commissioner Stephens seconded to approve the minutes from the November 17, 2020 meeting as written.

MOTION CARRIED UNANIMOUSLY. 5-0

Vice Chair Lee did not vote as he was not present at the November 17, 2020 meeting.

III. PUBLIC HEARING

- A. Continued Public Hearing for Code Amendments for Wireless Communication Facilities, ZOA20-0005. Changing Title 17, 'Land Divisions and Adjustments' & Title 18, 'Zoning'.

Chair Roland opened the Continued Public Hearing for Code Amendments for Wireless Communication Facilities, ZOA20-0005 regarding changing Title 17, 'Land Divisions and Adjustments' & Title 18, 'Zoning', at 7:06 p.m.

Commissioner Khanal excused himself from this portion of the meeting due to a conflict of interest with his employer.

Planning Services Manager, Jeff Dixon gave a brief recap to the Planning Commission.

The City is systematically initiating changes to various city code sections to address consistency with changes in state & federal law requirements and to reflect changes in wireless communication technology among other minor changes. Due to the highly technical and litigious nature of the subject, the City hired a legal consultant specializing in the subjects of wireless communication and ROW permitting of franchises and that is familiar with the results of court decisions. The City Legal Dept., Public Works Dept., and Community Development Dept. staff has been working with this consultant over the last year on drafting code changes.

As part of this, the city is proposing to amend city code section, Title 17 'Land Adjustment and Divisions' (the subdivision code) and Title 18 'Zoning' which are subject to review and recommendation by the Planning Commission.

Brief history of recent actions

At the Planning Commission's October 20, 2020 special meeting, staff introduced, described, and presented these code changes that were shown in writing by ~~strikeout~~ (deletions) and underline (additions).

Subsequently, the code changes were scheduled for a public hearing on November 4, 2020. Prior to this hearing, the City received two sets of comments and associated cover letters from representatives of wireless carriers, Verizon, and AT&T. These cover letters and sets of markups were e-mailed to the commission members in advance of the public hearing. At the conclusion of the public hearing, the Planning Commission voted to close the record and continue the public hearing to their November 17, special meeting.

Again, due to the large number of comments, the highly technical nature of the comments, the need to research and coordinate with other departments, the city staff did not have time to fully consider the significance and evaluate all the comments prior to the November 17, 2020 meeting. At the November 17, 2020 staff requested and the Planning Commission continued the public hearing to the December 8, 2020 regular meeting held virtually starting at 7:00 pm.

Staff subsequently held a teleconference with representatives of wireless carriers: Verizon, AT&T, and T Mobile on November 19, 2020. The discussion focused on the carrier's key areas of concern by these industry representatives. The City reiterated that the city-proposed changes were mainly for the purpose of consistency with federal law and that other requested changes may be outside this scope of the city's current project. The representatives can always initiate separate applications to the city for changes. Based on this discussion, staff has affected a handful of additional changes shown in a different color in the attached Exhibit 1, and summarized, below.

Changes based on staff and wireless industry teleconference

1. Page 34, ACC 18.31.100, WCF Siting Standards, Subsection B. 1.c, "Separation between facilities" and Page 40, ACC 18.31.100, WCF Siting Standards, Subsection G.7.a. ii, regarding criteria for an administrative waiver from concealment techniques

In response to wireless industry comments, a change is made in both places to add language to recognize that an exception to either new tower minimum separation distance, or to WCF concealment techniques may be authorized by the City based not only on technological feasibility, but also based on the availability of sites and ability to secure leases for new wireless facility locations upon submittal of specific evidence of attempts to secure locations that is determined to be satisfactory by the City.

Summary Excerpt -----

- c. The Community Development director may exempt an applicant from these separation requirements if (1) the applicant demonstrates to the City's satisfaction that despite diligent efforts, other options are neither available to lease nor technologically feasible to address a service provider's demonstrated gap in coverage or demonstrated lack of system capacity. Documentation regarding inability to lease shall include names and addresses of owners contacted, date of contact, method of contact and owner responses and failure to approve the exemption would be an effective prohibition of the applicant being able to provide wireless communications, or (2) the director determines, when considering the surrounding topography; the nature of adjacent uses and nearby properties; and, the height of existing structures in the vicinity, that placement of a tower at a distance less than the minimum separation from another tower will reduce visibility and reduce visual clutter to a greater extent.

Summary Excerpt -----

- ii. The applicant demonstrates to the City's satisfaction that despite diligent efforts, other options are neither available to lease nor technologically feasible to address a service provider's demonstrated gap in coverage or demonstrated lack of system capacity. Documentation regarding inability to lease shall include names and addresses of owners contacted, date of contact, method of contact and owner responses. There is no existing nearby alternate structure for co-location or attachment that will provide the technological functionality and which otherwise meets the design standard requested to be waived; and

2. Page 34-35, ACC 18.31.100, WCF Siting Standards, Subsection C.3, "Co-location Requirements".

Add language to clarify that city's requirements for co-location (sharing of facility by more than one carrier/company) are based on a total of two wireless communication carriers and not two (2) carriers in addition to the original carrier applying for and installing the facility.

Summary Excerpt -----

3. Towers shall be designed and constructed to allow the tower to accommodate WCFs from at least two (2) carriers on the same tower; one in addition to the original. No property owner or carrier shall unreasonably exclude another carrier from using the same facility or location. Design and construction for co-location shall not be required when it would materially compromise the camouflage design intent of the tower, or when, in the reasonable discretion of the Community Development director, such construction is not technically feasible based upon construction, engineering and design standards of the industry, or based upon evidence provided, a tower designed for co-location will not be commercially viable. An applicant, owner, or operator seeking Community Development director approval to waive the co-location requirements described herein shall provide evidence explaining why co-location is not possible at a particular tower.

The Commission brought forth a grammar correction on Page 27 of 87 of the packet under Item E. The section states, "with the intent" and also states in the same sentence "intended to make". Planning Services Manager Dixon stated the grammar would be corrected.

The Planning Commission asked why it was in the public's interest to eliminate the concealment requirements or to create a "backdoor" not to require it? Planning Services Manager, Jeff Dixon explained that the City would continue to have the ability to require those concealment techniques and the code language the city is proposing is to require these concealment techniques along designated view corridors which are the major roadways mentioned. The change talked about in the meeting tonight is related to instances where the city we might grant some relief from those concealment techniques. The concept is that there might be instances where its not possible to provide those concealment techniques and to avoid the City effectively prohibiting the facility, options are needed to meet and maintain consistency with federal requirements. The City wants to insure that it can observe the concealment techniques, but want to allow an opportunity for limited exceptions where warranted, like we do for many land use processes with a variance; where if they can demonstrate that there isa technical

feasibility that would prevent them from observing the concealment techniques or that the unavailability of sites in to get an exemption. This is necessary so the City doesn't have an effective prohibition of the wireless communication facility that puts us contrary to Federal Law.

Vice Chair Lee asked if, since there will be a new federal government administration starting in 2021, is there a likelihood that the City and Planning Commission could be meeting again on the same topic with different or new federal regulations coming through? Planning Services Manager Dixon informed the Commission that many of the regulations were established back in 2012 or 2014 by previous federal administrations and thus it seems that the changes are more longterm. He continued saying that it doesn't seem that a change in administration would make a large difference. However, topics and technology continue to evolve and could drive future changes.

Asking three times and with no other public testimony, Chair Roland closed the public hearing at 7:30 PM.

With no other questions from the Commission, the Commission deliberated.

Vice Chair Lee moved, and Commissioner Stephens seconded to recommend approval of the Revised Code Changes to Titles 17 & 18 as shown in Exhibit 1 to the Planning Commission.

IV. COMMUNITY DEVELOPMENT REPORT

Planning Services Manager, Jeff Dixon reported to the Commission that on December 7, 2020 at the Regular City Council Meeting, the Council adopted the following Ordinances in relation to the 2020 Annual Comprehensive Plan Amendments that the Planning Commission recently made recommendations on:

- Ordinance No. 6803, the slate of 2020 Annual Comprehensive Plan Amendments.
- Ordinance No. 6804 related to the School Impact fees as a result of the adoption of the Capital Facilities Plans for the four school districts within Auburn.
- Ordinance No. 6807 related to the rezone for Westport Capital LLC. This had to be broken into a separate Ordinance for Council adoption, since it is a contract rezone which requires separate recording with the County, so the conditions of approval appear on the title of the property.

Planning Services Manager Dixon stated that Council was complimentary of the Planning Commission's work on the 2020 Annual Comprehensive Plan Amendments.

Also, of note, Governor Inslee extended the Open Public Meetings Act requirements through January 19th, 2021. This will keep us in the format of virtual meetings until then.

Staff presented a recent project that was developed for Valley Cities Counseling and Consultation located at 26th St and I Street NE. Valley Cities is a non-profit that provides counseling and resources for individuals, families, and youth. They have a couple of facilities on parcels nearby and this was the latest consisting of the Phoenix Rising Project Phase 2 that consists of 12 dwelling units of communal living quarters at this facility. What is unique about this project is that they partnered with a company called Blokables that makes pre-assembled modular building units that are highly efficient and they assemble these together to create the living quarters. Staff provided a photo of the project and of the manufacturing of the units. Staff worked with the company on a design review to dress up the building, so they didn't look just like blocks but more unified housing structure.

Planning Services Manager Dixon shared with the Commission that the City has signed a contract to be part of mybuilderpermit.com, an on-line permitting portal. Many eastside cities and now southend cities have joined. On this site, an applicant can submit permit applications and pay fees. The advantage of participating is that it allows for there to be commonalities between all of the cities that are involved with the program. A developer does not need to learn a separate routine of each city. It works with one password and login for the customer and allows for each city to customize it to what their jurisdiction requires. There are 12-14 cities that are involved with it all being in King County. It is not functional yet as the City is still working how it interfaces with our financial and permitting software systems and development of the application forms. The Commission inquired if there is cost to join the organization. Staff could not answer that question.

The proposed January 5, 2021 Planning Commission Meeting topics will consist of a review of the Commission's Rules of Procedure and to make any changes or adjustments the Commission requests. Another topic to come forth to the Commission is regarding how Community Development is working with a consultant that is assisting the department with a development of a Housing Action Plan (HAP). As the Commission is aware, housing is a hot topic. The Washington State legislature made available grants for jurisdictions to study housing issues in their municipality and also to come up with a housing action plan that includes recommendations on how the city can assist with provision of additional housing and to look at the housing needs for different income levels in the jurisdiction. The City was successful in securing the grant. Staff would like the city's consultant to come before the Commission and share a presentation on what they are finding out on housing needs and to report on progress of development of this Plan.

Commissioner Mason inquired about the former Heritage Building site and the progress on new development. Staff confirmed that the owners have secured their civil improvements and building permits from the City. There is a possibility they are still waiting on securing an easement for vehicle driveway access near the Safeway parking lot to the parking proposed within the new building. Also, this time of year is not ideal for construction so there is a chance that there could be a delay or they are in the process of lining up contractors to begin sitework.

Planning Services Manager Jeff Dixon confirmed that at the City Council Meeting on December 7, 2020, Commissioner Khanal and Chair Roland were reappointed for the next 3 years for their Planning Commission seats.

V. ADJOURNMENT

There being no further business to come before the Planning Commission, Chair Roland adjourned the meeting at 7:55 p.m.