



MINUTES

RICHLAND PLANNING COMMISSION MEETING No. 6-2014

Richland City Hall – 550 Swift Boulevard – Council Chamber

WEDNESDAY, June 25, 2014

7:00 PM

Call to Order:

Chairman Utz called the meeting to order at 7:00 PM

Attendance:

Present: Commissioners Berkowitz, Boring, Jones, Madsen, Wallner, Wise, Vice-Chair Moser and Chairman Utz. Also present were City Council Liaison Phil Lemley, Development Services Manager Rick Simon, Senior Planner Aaron Lambert and Recorder Pam Bykonen. Commissioner Clark's absence was excused.

Approval of Agenda:

Chairman Utz presented the June 25, 2014 meeting agenda for approval.

The agenda was approved as presented.

Approval of Minutes

Chairman Utz presented the meeting minutes of the May 28, 2014 regular meeting for approval.

A motion was made by Commissioner Jones and seconded by Commissioner Boring to approve the meeting minutes of the May 28, 2014 regular meeting as written.

Commissioner Berkowitz requested several amendments to the minutes.

Chairman Utz reminded all that the video of the meeting was available for review.

After additional discussion, the minutes were tabled to allow for further review.

A revised set of minutes will be provided at the July meeting.

Public Comment

Chairman Utz opened the public comment period at 7:12 PM. With not one wishing to speak, he closed the public comment at 7:12 PM.

PUBLIC HEARING

Public Hearing Explanation: **Ms. Bykonen** explained the public hearing notice and appeal process and asked Commissioners to identify any conflicts of interest, ex-parte contact or any other appearance of fairness issues.

Commissioner Boring disclosed her association with the wireless industry with no objections.

New Business

**1. APPLICANT: AMERICAN TOWER CORPORATION (SUP2014-101)
APPROVAL OF A SPECIAL USE PERMIT TO AUTHORIZE CONSTRUCTION
OF A 100 FOOT TALL WIRELESS COMMUNICATIONS FACILITY WITH
ASSOCIATED GROUND EQUIPMENT AT 2373 JERICHO ROAD**

Mr. Lambert presented the staff report and showed several aerial photographs to illustrate the location of the proposed tower at 2373 Jericho Road. The property was annexed in 2012 and zoned commercial with a variety of other zones surrounding the proposed site. A Special Use Permit is required due to the height of the proposed tower which exceeds the limit by twenty feet. **Mr. Lambert** discussed the difference in coverage and level of service as related to the height of the tower which was designed to allow for future co-location of antennas with other cell providers. The generator and other necessary equipment would be contained in a building so screening of the ground equipment would not be needed. The Federal Aviation Administration did not require a strobe and City criteria were met.

Chairman Utz opened the public hearing at 7:25 PM.

The following people spoke in support of the American Tower Corporation Special Use Permit (SUP2014-101):

Applicant, Derrick Budig, 2607 S. Southeast Blvd, Spokane

Generally, stating that:

- An eighty foot tower was allowable in Zone C-3, Commercial.
- AT&T customer complaints and system performance issues triggered the need for better coverage and to maximize data services.
- The benefit of the 100' tower would be to eliminate several shorter towers.
- A site outside the city would not provide the needed service.

The following people spoke against the American Tower Corporation Special Use Permit (SUP2014-101):

Alan Joseph, P.O. Box 6848P/P.O. Box 257, Olympia
Martin Pitney, 1131 Appaloosa Way
Debra Schulz, 1119 Appaloosa Way
Patricia L. Johnson, 2621 Quarter Horse Way
Richard Bond, M.D., 2621 Quarter Horse Way
David Ashley, 2450 Saddle Way
Linda Estes, 2500 Saddle Way
Mary Billings, 1116 Country Ridge Drive
Susan Goetz, Saddle Way
Don Volkman, 2612 Saddle Way

Generally, the individuals who spoke against the American Tower Corporation Special Use Permit (SUP2014-101) cited the following reasons:

- Negative impact on neighboring communities and quality of life.
- Depreciation of property values, specifically residential properties.
- Concern over possible health hazards of electromagnetic radiation for nearby residents and walking/bike path users of all ages.
- The tower could be located on Badger Mountain or outside of the city.
- Poor aesthetics and obstruction of views in a residential area.
- Inadequate notification of the associated property owners.
- There was concern that additional equipment would be added to the monopole and/or a strobe might be required in the future.
- Degradation of the visual and auditory environment.

Chairman Utz closed the public hearing at 7:54 PM.

Discussion:

Vice-Chair Moser asked how public notice was determined. **Mr. Lambert** explained the notification requirements that were followed which included Benton County parcel records within a 300' radius from the site and a legal ad in the Tri-City Herald. Notification was sent to the Country Ridge Homeowner's Association.

Vice-Chair Moser requested additional information on health risks. **Mr. Lambert** stated that, since 1996, a federal regulation precluded local jurisdictions from using health risks as a reason to deny this type of application.

Commissioner Jones asked about distance from the proposed site to the nearest residential property. **Mr. Lambert** reported a distance of 200 feet.

Commissioner Madsen inquired about elevations of the tower and nearby residences in regards to the line of sight. **Mr. Lambert** explained that a visual analysis was not required at this time and the height was measured from the pole location.

Commissioner Wise asked the applicant if the tower was built to withstand high winds. **Mr. Budig** informed all that the proposed tower structure and foundation was engineered to accommodate local wind and ice.

Commissioner Wise cited his experience and addressed the concern of radiation by stating his understanding that the distance from the emitting source allowed any radiation to burn off to the point of no concern. He also discussed the visual aspect of the proposed tower and since it would not block the view, considered it to be minimal.

Commissioner Boring felt the issue boiled down to choosing between a single 100' multi-user tower and three or more 80' towers.

Commissioner Jones stressed that moving the tower probably wasn't feasible due to the need for a line of sight with transmissions.

Commissioner Berkowitz asked if the single tower would fill all of the needs in this area. **Mr. Budig** pointed out that the growth of data was ongoing and the need was driven by capacity. Some areas, such as the location near Home Depot, have covenants that further restrict tower heights.

Commissioner Berkowitz shared her sympathy with residents whose views might be disrupted, but views were not protected by code.

Commissioner Wallner inquired about the capacity of a 100' tower for future use and if there might still be a need to add towers in the future. **Mr. Budig** reported that the number of carriers dictated the equipment requirements. He reported that there were three to four main carriers and the proposed tower could accommodate at least three of them.

Chairman Utz clarified that the Badger Mountain location was not feasible and there was no need for a light on a 100' tower regardless of the number of antennas. **Mr. Budig** confirmed that the tower installation was required where the people and developments were in order to serve their needs. The Federal Aviation Administration did not require a light for a 100' tower, so unless the tower was extended, no light was necessary.

Chairman Utz asked if the more streamlined 'flagpole' style tower might be an option as opposed to the triangular tower structure in the proposal. **Mr. Budig** stated that the canister type of tower had additional restrictions that would not best serve their need. He also reminded those in attendance that they had considered several locations and were following the current code.

Chairman Utz discussed the need for continued work on the notification process and reminded all that the code stood as it was. The Planning Commission was not authorized to change the code and suggested that staff review this topic.

Vice-Chair Moser requested information on the agricultural zone near the site. **Mr. Lambert** explained the background of the zones surrounding the site. He reported that the tower would still be allowed even if the property currently zoned Agricultural had been zoned as Residential.

Vice-Chair Moser asked for clarification on the code regarding the allowance of an additional 15 foot antenna with an 80 foot tower. **Commissioner Boring** pointed out page two of the Supplemental Report and stated that the code allowed antennas to protrude above the allowed eighty foot parent structure by fifteen feet, so the request is for an exception of five feet.

Commissioner Wise asked for additional visual analysis. **Mr. Budig** stated they could provide the visuals if necessary.

A motion was made by Commissioner Madsen and seconded by Commissioner Jones to concur with the findings and conclusions set forth in Staff Report (SUP2014-101) and approve the request for special use permit to allow for construction of a 100 foot tall monopole wireless communications support structure in a C-3 zoning district subject to conditions 1-8.

Discuss the motion:

Commissioner Wise commented that the decision came down to the visual impacts of the proposed structure, which he believed would not be offensive.

Commissioner Wise proposed an amendment to the motion to request that the applicant create a visual simulation of the appearance of the tower from selected points in the Country Ridge neighborhood to demonstrate its view impact.

The motion died for lack of a second.

Vice-Chair Moser commented that the Country Ridge neighborhood was fortunate to have a great view, but the permission was already in place for an 80 foot tower, plus an additional 15 foot antenna without a special use permit. Since the difference was only 5 feet and her preference was for a single structure rather than multiples, she supported the motion.

Chairman Utz agreed with Vice-Chair Moser and although there was a desire for an improved process for tower structures in residential areas, this single tower still seemed a better choice to multiple towers.

THE MOTION CARRIED 8-0.

**2. APPLICANT: NOR AM INVESTMENTS, LLC (BSP2014-100)
APPROVAL OF A BINDING SITE PLAN TO DIVIDE 73.5 ACRES INTO 40
COMMERCIAL LOTS, TOGETHER WITH PRIVATE ROADWAYS AND COMMON
PARKING AREAS WITHIN THE BADGER MOUNTAIN SOUTH MASTER PLANNED
COMMUNITY, SOUTH OF AVA WAY AND EAST OF DALLAS ROAD**

Mr. Simon presented the staff report for a binding site plan for the Veneto Villaggio development in the Badger Mountain South planned community. The proposal included a variety of lot sizes in a commercial mixed use area with parking areas, wineries, vineyards and an outdoor amphitheater. Binding site plans are a method of property division reserved for commercial/industrial properties that provides the developer with a higher level of flexibility.

Chairman Utz opened the public hearing at 8:35 PM.

Applicant, Todd Sawin, AHBL/Nor Am Investments: Mr. Sawin thanked the Planning Commission and staff for their work on the project. He expressed excitement over the progress being made with the construction of The Country Mercantile and The Vineyard underway.

Chairman Utz closed the public hearing at 8:36 PM.

Discussion:

Commissioner Boring pointed out a Lot 41 and Tract B in the provided reports and asked for correction. **Mr. Sawin** confirmed that Lot 41 should have been labeled 'Tract B' and noted the correction.

Commissioner Berkowitz asked about the land use districts regarding single-family structures and the neighborhood collector street. **Mr. Sawin** explained that the intent of the targets in the Land Use and Development Regulations were intended as maximums, rather than minimums. **Mr. Simon** displayed Section 2, explaining that multi-family usage would be permitted and single-family would not. The applicant called out single-family use, but since the Land Use and Development Regulations do not allow for single-family use, the applicant would need to return to the Planning Commission for that allowance. **Mr. Sawin** explained that they would prefer to keep the single-family dwelling lots in the proposal because they were expected to sell more easily, but they would strike them if it was necessary for the approval of the binding site plan.

Vice-Chair Moser asked how this situation would be handled if a hearings examiner were reviewing the request. **Mr. Simon** believed there would be a finding that single-family residential usage was not currently permitted by the Land Use and Development Regulations, but the other uses were. **Vice-Chair Moser** stated the need to remain consistent with the Land Use and Development Regulations.

Vice-Chair Moser inquired about Road A which was not designated by the Land Use and Development Regulations and asked if there were any conflicts. **Mr. Simon** referred to the overall conceptual master plan which allowed for minor amendments. Road A was not identified in the original plan, as the best location had not been determined; however, it needed to be included in the plan.

Chairman Utz asked if private roads were included in the Land Use and Development Regulations. **Mr. Simon** reported that it did include provisions for private roads.

A motion was made by Commissioner Madsen and seconded by Commissioner Boring to concur with the findings and conclusions set forth in Staff Report (BSP2014-100) and approve the binding site plan for Veneto Villagio subject to the conditions of approval set forth in the Technical Advisory Committee Report dated June 19, 2014.

Discuss the motion:

An amending motion was made by Commissioner Berkowitz and seconded by Vice-Chair Moser to request that the master agreement consistency recommendation remove the reference to single-family structures in this district.

Commissioner Wallner asked if the single-family reference was removed, would the applicant be able to accomplish their task. **Mr. Simon** apologized for the confusion and reported that, while copies were not currently available, the Land Use and Development Regulations were updated in April, 2014 to allow single-family use. The new amended version of the Land Use and Development Regulations would be available soon.

The amending motion was withdrawn.

THE MOTION CARRIED 8-0.

**3. APPLICANT: CITY OF RICHLAND (Z2014-101)
ZONING TEXT AMENDMENTS – REVISIONS TO SECTIONS 23.38.070, 23.18.040,
23.38.020, 24.04.030 AND 24.12.010 OF THE RICHLAND MUNICIPAL CODE
CONCERNING REQUIREMENTS ASSOCIATED WITH FENCING, ASSESSORY
BUILDING AND HOUSE SETBACKS, SUBDIVISION APPLICATION
REQUIREMENTS AND SIZE REQUIREMENTS FOR REQUIRED COMMERCIAL
LANDSCAPING TREES**

Mr. Lambert gave a PowerPoint presentation explaining the code amendments as outlined in the staff report.

Chairman Utz opened the public hearing at 9:05 PM.

Kaelynn Sant, 1668 April Loop: Ms. Sant displayed a map of her residence, explained how they would like to utilize their property, ensured that the vision triangle was not affected and requested approval of the proposed changes.

Chairman Utz closed the public hearing at 9:10 PM.

Discussion:

Commissioner Wise agreed that it made good sense to use the property in the manner described and asked if changing the code was necessary or could the Board of Adjustment handle such requests. **Mr. Lambert** stated the code amendment was the best way to handle these items and shared the difficulty and/or impossibility of writing a staff report that could support such a variance. **Commissioner Wise** expressed concern over a blanket code change as opposed to a case by case approach.

Chairman Utz reviewed his concern over fire safety when structures were allowed to occupy the space between the residence and the property line. **Mr. Lambert** did not have additional information from the fire department and agreed that a shed could be located next to the property line in neighborhoods without protective covenants. He offered to follow up with additional information.

Commissioner Berkowitz agreed with Commissioner Wise and suggested a ten foot rather than a five foot setback.

A motion was made by Commissioner Wallner and seconded by Commissioner Moser to concur with the findings and conclusions set forth in Staff Report (Z2014-101) and recommend to the City Council approval of the proposed zoning and subdivision code revisions as found in Exhibit 1.

Discuss the motion:

First Amending Motion:

An amending motion was made by Commissioner Wise and seconded by Commissioner Berkowitz to remove the setbacks from the motion to handle them separately.

Commissioner Boring suggested an amendment that would allow the five foot setback with a stipulation that there must be ten feet of right of way behind the curb since the property line and the curb were not the same boundary.

Commissioner Berkowitz stated her observation that twenty feet from the street side of the curb seemed sufficient.

Mr. Lambert pointed out that his initial draft was worded in a similar manner; however Chairman Utz mentioned the possibility of Low Impact Development improvements. The city average was 5-7 feet and property lines were considered a stable reference point.

The first amending motion failed 2-5, with Commissioner Madsen abstaining. Commissioners Boring, Jones, Wallner, Vice-Chair Moser and Chairman Utz voted against.

Second Amending Motion:

An amending motion was made by Chairman Utz and seconded by Commissioner Madsen to remove the item regarding the six foot reduction due to the access concern.

Commissioner Boring and Chairman Utz briefly discussed the permitting, fire safety and drainage requirements for a shed.

A motion was made by Commissioner Madsen and seconded by Commissioner Berkowitz to table the agenda item pending further review.

The motion to table passed 7-1 with Commissioner Wallner voting against.

Communications:

Mr. Simon

- Reminded the Commissioners that a workshop would be held on July 9th.

Commissioner Madsen

- Commented on the nice appearance and progress of the nearby hotel.
- Offered kudos to the City for Cool Desert Nights, a great event with 750 cars and 20,000 people in attendance.

Commissioner Boring

- Expressed disappointment for not looking to the upcoming agenda items and incorporating them into the City tour the previous week.

Vice-Chair Moser

- Thanked the City for the tour.

Commissioner Berkowitz

- Reported that the old Land Use and Development Regulations were still posted on the City website.
- Responded to a question previously raised by a Commissioner about whether the Tapteal greenway was under pressure when they signed the agreement with the city that included the road. The short answer was yes. She noted that Scott

Woodward was not allowed additional time to speak for Tapteal Greenway, which he requested to address the issue to Council. Tapteal worked for five years to raise funds and created a coalition with four state agencies to raise mitigation money to purchase part of Amon Basin for the community. Just as they were finishing up the details, they were told of a roadway across the basin which would be consistent with the Regional Transportation Plan (Center Boulevard). Due to the road, the project lost \$225,000 of \$300,000 wetlands mitigation funds. The project retained about \$1.3 million from another agency (EFSEC) and was only short \$225,000. Tapteal Greenway managed to raise \$40,000 in one month. The City presented them with six options. Time had run out to take their preferred option. To save the deal for Amon Basin, they took the only option they could which included the road and reluctantly accepting a debt to cover the deficit. Mr. Woodward indicated that they paid back far more to the city than they owed with their contributions of additional land, time and effort.

Commissioner Madsen

- Commented on the hotly debated Amon Preserve/Rachel Road issue and commended Mr. Woodward for the admirable job presenting and gaining support. He also expressed his personal feelings and value of the preserve to the City and appreciated all of the wonderful effort put into it by the Tapteal Greenway Association.
- Expressed surprise that a copy of the signed agreement was never provided and pointed out that individuals chose to spend their time talents and dollars on the preserve with full knowledge that a road was slated for that area. The Transportation Improvement Plan had been in place for years with the Rachel Road extension on it without comment from residents.
- Believed there should still be a way to bridge the issue without destroying the preserve. It was an uncomfortable process and situation, but coercion or not, the agreement was made.

Commissioner Jones

- Shared that he felt bullied by the volume and manner of the Tapteal Greenway discussion.

Commissioner Wise

- Suggested the need for a more proactive citizen involvement process.

Commissioner Wallner

- Appreciated the effort made to locate the cell tower in the requested location because there was a need for cell service in that area.

Chairman Utz

- Requested the updated Land Use Regulations.
- Agreed that a better process was needed for public input.

- Reminded all that the Transportation Improvement Plan is a planning document rather than a 'doing' document. He added the saying: If we fail to plan, we plan to fail.
- Requested that the Commissioners work the process to the best of their combined abilities.

ADJOURNMENT:

The June 25, 2014 Richland Planning Commission Regular Meeting 6-2014 was adjourned at 9:38 PM. The next regular meeting of the Planning Commission will be held on July 23, 2014.

PREPARED BY: Penny Howard, Recorder, Planning and Development

REVIEWED BY:

Rick Simon, Secretary
Richland Planning Commission