

MINUTES OF PLANNING COMMISSION MEETING – November 19, 2013

Call to Order at 7:01 p.m.

Roll Call: The following Planning Commission members answered the roll call: Chair Tamara Stempel, Michele Kremers, Pat McMahon, Craig Seghers, Kim Sieckmann, and Kirk Stempel.

Staff: David Doughman, City Attorney; City Planner Clay Glasgow; and Jolene Morishita, Assistant City Administrator.

Chair Tamara Stempel lead the flag salute.

CONSENT AGENDA

1. Draft minutes of the July 16, 2013, September 17, 2013, and October 15, 2013.

Commissioner Kim Sieckmann moved and Commissioner Pat McMahon seconded a motion to approve the minutes of July 16, September 17, and October 15, 2013 as revised tonight.

Motion carried unanimously.

Regular Agenda:

Chair Tamara Stempel opened the hearing at 7:07 p.m. She explained the hearing format and asked if there were any ex-parte contacts or conflicts of interest to declare. Commissioner Kim Sieckmann reported he received and read an article from the World Health Organization on magnetic fields and public health. Commissioner Kim Sieckmann also received and read the email.

Chair Tamara Stempel reported she works for Adept Engineering which currently works for AT&T and Cascadia PM which are involved in this project. They are sole source to do AT&T's environmental consulting, regulatory compliance, and engineering for the Pacific Northwest. They are not particularly working on this tower right now; however they have in the past. She is not sure they won't work on this tower in the future. City Attorney David Doughman explained a conflict of interest has to do with whether your role in tonight's hearing would be a financial benefit or detriment to you as a person or a member of your immediate family. If this project was approved or denied will there be an effect on your position with your company. Chair Tamara Stempel noted her company is not currently doing anything on this project. City Attorney Doughman feels this is a potential conflict of interest and as such it is the commissioner's choice to continue to serve. Other commissioners may question the chair and can challenge whether it is something that is appropriate. Bias is a separate issue that deals with your intimate knowledge or relationship with your employer and the applicant that you feel you can review the application without favoritism. Chair Tamara Stempel stated 90% of the work she does is related to telecommunication towers. She could not be objective on this one. City Attorney Doughman stated it would be appropriate for her to step down from this meeting and take a seat in the audience.

Chair Tamara Stempel stepped down and Vice Chair Sieckmann assumed control of the meeting.

The State law does not extend this bias to family members so Commissioner Kirk Stempel can continue to serve. Ex parte contacts are not unlawful; it is unlawful to not declare them. Commissioner Seghers voiced his concerns about the commissioners receiving an email from Chair Tamara Stempel regarding cell towers.

Chair Tamara Stempel recused herself from this issue and turned over the Chair to Vice Chair Kim Sieckmann. Vice Chair Sieckmann asked if any commissioners visited the site. Commissioners Patrick McMahon visited the site; opened the email but not the attachment; Michele Kremers read the email and attachment and visited the site; Kirk Stempel visited the site and did not receive an email; Craig Seghers visited the site and read the email and attachment.

It was noted Chair Tamara Stempel sent the email and attachment on November 14 to Tami Bannick only; Ms. Bannick then distributed the email to the Planning Commissioners, City Administrator, and Assistant City Administrator. A copy of the email and attachment was entered into the record.

Vice Chair Sieckmann stated he visited the site, he did not receive the mass communication. He asked if any member of the audience wished to challenge the right for any commission member to hear this matter. A person in the audience asked if any commission member was associated with the water commission. None of the commissioners responded.

Staff Report: City Planner Clay Glasgow submitted a staff report for Commission review. He stated he has no conflict in this case. This is a request to replace an existing tower; either replace with a 10' under tower or if possible add 10' to the existing tower. The extension will be 4' above the height of the tower. Additional mount is included in this application expanding the size from 600 sqft to approximately 1300 sqft. The zone is R7.2, Single Family Residential. A large portion, besides the water facilities and the subject tower, of the site is undeveloped.

The way the code is written City Planner Glasgow is calling this a co-location facility. He finds that this proposal to extend its height by 10' either by replacement or adding 10' could meet applicable criteria.

Questions from the Commissioners: Question: Is it structurally feasible to add 10' to the existing pole. Answer: City Attorney Doughman explained cell towers and wireless communication facilities are regulated and Federal law governs a lot of placement. The Planning Commission may not consider any evidence with respect to RF issues as a base for denial.

Applicant Presentation: Noah Carlson, 5501 NE 109th Court, Suite 82, Vancouver, WA 98662 reported he has never worked with nor has he ever met Commissioner Tami Stempel prior to

this evening. He is surprised to hear about the email and attachment. They do work with Adapt Engineering but have never crossed paths with Commissioner Stempel. He submitted with this application as a response to code requirements, an RF engineering letter that states the facility would operate at the prescribed FCC standard levels and talks about distances from habitable structures and states that this facility intends to meet the FCC standards and not exceed them.

When they work on a proposal like this they don't just pick one spot. They looked at alternative locations in Gladstone, but there are no other existing cell towers like this in the area. This tower would provide coverage between Oatfield and Webster as well as beyond those boundaries. If they are unable to increase the structure by 10' they will replace the tower. The existing structure is not enclosed; if they replace the structure it will be enclosed.

Questions from the Commissioners: There were no further questions from the Commission.

Public Testimony in Favor: None.

Public Testimony in Opposition: Ken Yielding, 7000 Oakridge stated he lives about 150 yards from the existing tower. He asked if anyone else lived as close to the tower and what was the allowable distance between the tower and a residence. Answer: there is no specific distance set; however, the code does require there be a setback between the property lines adjoining a residential district no less than 2/3rds the height of the tower.

Mr. Yielding noted the existing tower is located on a residential piece of land and the public utility water source tank is located on the same piece of property. The code says there should not be any type of storage or anything above the utility. The applicant wants to expand the footprint of the cellular tower. Does that require they have a new permit issued for the tower. Answer: yes, whether they replace or add to the tower it will require a building permit.

If the Federal Government does not have any type of restriction on the amount or rate of frequency that residents are exposed to or electro-magnetic frequency, why aren't they located on houses? Telecommunication companies pay people that have cell towers thousands of dollars a month. He has small children and when he purchased his home he noticed the tower. Now the applicant wants to put a larger tower there with more far-reaching effect. He has pulled up studies on the internet that they have a three times more likelihood to develop cancer, just because of how close they live to the towers. Anything that is larger than 400 meters elevates the risk of cancer. There is a vigorous debate about frequencies that can be as small as a wireless router or the phones you carry in your pockets to communication towers. Answer: This body has no authority to say anything about RF frequencies as long as the applicant has evidence that say they are operating within government guidelines. He asked if someone could tell him how far the distance is from the existing tower to the closest property line. Answer: Two-thirds of the tower height would be 66 feet.

Mr. Yielding stated he signed a petition and he does have reservations about having this kind of a tower being even more prominent. He asked that the Commission look at the health implications of people that live in the area. Will other carriers be putting in additional rays on this tower? Answer: the Gladstone code requires the location be considered when applying for a new use or new tower. So if this was a blank site and someone wanted to put up a new cell tower, before it is approved the applicant would have to provide information indicating they have exhausted all evidence of potential co-location on other existing towers in the vicinity. This is to limit potential impacts.

Mr. Yielding asked what residential zone law that is being used by the public utility that allows storage on that lot. Answer: speaking to this application, no outside storage is allowed which means all storage associated with the new use needs to be fully enclosed in the building.

Mr. Yielding asked how much revenue is Oak Lodge Water District gaining by having this tower on their property. Answer: don't know there are other towers on this site as well.

Harry Todd, 16710 SE Valley View Road stated his property is about 30 feet from the curb on the other side of the street (about 150' from the tower). The tower overshadows the play park where children play every day. They are more vulnerable than they are. He has lived at this location for 20 years. The tower went up and he was not noticed; tonight they were informed there was going to be a hearing. He has concerns about health issues. A larger tower would increase the probability of health issues. He asked the Commission to consider the health issues.

Donna Todd, 16710 SE Valley View Road stated she too would like the Commission to look into the health issues. There are a lot of children in the neighborhood and a lot of kids going to the park. If the tower is raised 10 feet up is it going to be less invasive on people than if it is lower and goes straight into the houses? If this is not considered in Commissioners decision, it should be considered in their conscience. If there is any health risk at all, they are against the increase in size of the tower.

Kathy Lewis, 6785 Park Way Drive stated she lives the closest to the tower; it is in her back yard. The plantings do not meet the criteria for landscaping. For the past two years the landscaping has not blocked the view of the base. Now they are going to expand the base by more than double. She asked who is responsible for enforcing the code. Oak Lodge cleaned out the underbrush two years ago which she feels was a travesty. It allowed them to see the older motor home, a mosquito breeding ground pool, and un-kept property. It is better now but there are other problems with code violations in respect to the cell tower. They don't follow the noise ordinances of the City as they have a semi-mounted crane running all night long. When she called the police, they said it wasn't in their jurisdiction. There is an alarm fixed to the tower and last summer it was on day and night weeks at a time. She is concerned the applicant is already not complying with code and doesn't know what will happen with an increase of the structure. If the structure is more than six feet, they are required to have a 6-foot plus hedge around the fence. The structure is an eyesore and will decrease her property value.

A commissioner asked if there are ordinances that deal with noise and a phone number that can be called if there are issues. Answer: The noise ordinance issues can be addressed by the City Administrator.

Applicant Rebuttal: Noah Carlson, 5501 NE 109th Court, Suite 82, Vancouver, WA 98662 stated there is no distance requirement for habitable structures in the Gladstone Code. The only local code he knows of is in Portland there is a 10' separation from antenna to the closest habitable structure. He did submit a letter that states the antennas will meet FCC requirements for distances from habitable structures. He cited the Gladstone Municipal Code, Telecommunication Section that says a 10' extension is allowed for co-locations. They are meeting the minimum requirements of the code for extending the towers. The FCC does have standards and the letter states that this application would meet those standards. The letter also states these antennas will not cause interference with any other electro-magnetic devices whether it is on the tower or in the general vicinity of the area. There are two carriers on the tower and he is not representing those carriers tonight. They are not proposing to do anything with those carriers. There will be no change to the frequencies. These antennas will be higher and instead of shooting down into the houses, they are going to shoot more around the area. There will be no change to the existing conditions other than positioning.

In regards to landscaping, it was not required around the equipment due to the existing conditions which is a heavily treed area. This is a compound inside of a compound. The water tank property is fenced. The equipment compound is inside the water tank property. There is property enclosed with a fence and inside that is an enclosed equipment compound and all of this is surrounded by a significant amount of trees and natural vegetation. Landscaping probably was not required because they did not feel at that time that it was needed. He does not feel a contact number applies to their application; however the American Tower Corporation has a website with phone numbers.

Commission Discussion:

Question: Commissioner Michele Kremers asked where the existing equipment is currently located. Answer: Mr. Carlson stated the proposed tower is owned by AT&T; he pointed out the location on a photo. It cannot be placed with the other equipment because there is not enough room. It was suggested to add a condition that would require landscaping.

Councilor Pat McMahon moved and Commissioner Kirk Stempel seconded a motion to close the public hearing.

Motion carried unanimously.

City Planner Clay Glasgow stated his guess when this screening was allowed in 2006 it was considered adequate screening along west distance and existing vegetation. Consideration can be given to additional screening. The noise ordinance does come into play; however it is not administered through Title 17 (land use element). It is still in play, just in a different spot in the City Code and applies to everyone, not just this use. The Commission can consider

additional landscaping to buffer this use. The health impacts cannot be considered in this application.

Donna Todd asked where the noise is coming from. Answer: It is an unmanned cabinet (building) covering the equipment that vibrates.

Question: The fencing around the structure right now is coming down at the corners. Should there be a condition that they maintain the fencing around the structure at all times. Answer: City Planner Glasgow state the Commission has the authority to enforce a condition to bring the current buffering/screening fencing into compliance and additional conditions requiring fast-growing, dense vegetation. A sign with an emergency contact number can also be conditioned on the fence at the entrance.

Question: Can anyone else come in and put a tower on this property. Answer: City Planner Glasgow stated there is a limit. There is a requirement in the code to consider co-location before the City can consider putting in a new tower.

Question: Would any code violation on this property fall within the jurisdiction of Gladstone? Answer: City Planner Glasgow said yes, they administer the enforcement of code.

Question: Can there be a conditioned timeline to complete the project? City Planner Glasgow stated there can be specific timelines on the plantings with the intent that it be six feet high within 12 or 24 months. Included should be the maintenance issue.

Commissioner Pat McMahon moved and Commissioner Craig Seghers seconded a motion to approve File Z0465-13-C Proposal to Remove Existing Communication Tower (100') Feet tall and replace with new 10' Taller Tower (110') Feet Larger Equipment Cabinet at Base. The Subject Property is Located at 16711 SE Valley View Road and is the Site of Storage Tanks for Oak Lodge Water District including the two conditions as stated in the staff report with the following three additional conditions:

- *Fencing around the facility shall be maintained at all times*
- *Vegetation buffering to be installed around the new facility should be sufficient to create a solid 6-foot hedge-wall within 24 months of installation of the new tower and building and submit a 5-year maintenance agreement with the City.*
- *Signage for contact information for the tower owner is to be placed on the water tower property fence line somewhere around the main gate on Valley View Drive.*

Roll: Commissioner Michele Kremers, **Yes**; Commissioner Pat McMahon, **Yes**; Commissioner Craig Seghers, **Yes**; and Vice Chair Kim Sieckmann, **Yes**.

Motion carried unanimously.

Brief break. Vice Chair Sieckmann stepped down and Chair Tamara Stempel resumed responsibility.

Chair Tammy Stempel stated the article she sent was about EMF frequencies for cell towers. Nothing that was to be considered in this application had to do with radio frequencies. That is something that is regulated by the FDC; it cannot be changed. More antennas do not change that frequency. What

she sent was not intended to sway anyone one way or the other; it was simply information that was irrelevant to anything that was to be considered tonight. The reason she sent it would was when the City Planner first told the Commission this was coming before them she was concerned because she cannot walk within 50 feet of another tower without being shocked. She started researching and found so many articles but all of them tracked back to special interest parties. This was done because of something she was concerned about and she wanted peace of mind. She felt she had to disclose the fact that she had done all of this research even though it was irrelevant to this issue. The reason she recused herself was because she is in opposition to cell towers. The reason she was being shocked was because the towers are directly in line with the KEX Radio tower and it was grounding on this tower. The KEX tower has been repositioned and she is no longer affected.

Discussion followed on exparte contacts and how to address issues that may affect the outcome of an application.

WORKSESSION

Chair Tamara Stempel opened the worksession at 9:20 p.m. to discuss identifying areas which may require modification of the Gladstone Municipal Code at the request of the Gladstone City Council. She presented a possible list of areas that flow for discussion. Things to look at included:

- Code analysis done in January 2012. It is current and has been reviewed by the City Attorney. There is not a lot to decide on; hopefully the Commission can quickly look at it and decide if there is anything that needs to be address.
- Winterbrook did an analysis in 2009 on how Gladstone's codes are related to development. This might be something to look at to see if they have identified things the Commission could look at to see if there is anything that should be adopted moving forward.
- The clear-vision codes were specifically requested by Council so they should be looked at first.
- Review the commercial, residential and other (habitat conservation, open space) districts to see if there are any changes.
- Division 4, breaking up into other divisions, buildings, sittings and design and landscaping.
- Off street parking and loading and circulation.
- Signs and billboards –A-frames need to be addressed
- Drainage, draining and fill – progressive storm water management strategies
- Utilities, wireless communication facilities
- Special uses, design standards, property line adjustments

Suggestions for additional subjects:

- Title II, Administration and Personnel
- Code enforcement officer response on clear-vision laws
- Each commissioner read the codes and voiced their concerns
- Next meeting commissioners come with a list of things they would like to cover that are not included in this list.
- How does Council want this presented; in sections to review, recommendation or a complete document at the end.
- Have the attorney represented to answer questions.

Hopefully the Commission will be able to come up with a plan of action to submit to Council by January.

Other Business: None.

Upcoming Commission Considerations:

- A non-conforming use will be discussed at the next Commission meeting.

Business from the Commission: None.

Adjourn:

*Commissioner Kim Sieckmann moved to adjourn the Planning Commission meeting. Commissioner Pat McMahon seconded the motion.
Motion carried unanimously.*

Chair Tamara Stempel closed the Planning Commission meeting of November 19, 2013.

Minutes approved by the Planning Commission this 20th day of JANUARY 2014.


_____, Tamara Stempel, Chair