



Community Development Department
111 North 100 East
Washington City, UT 84780
Phone (435) 656-6325
Fax (435) 656-6371
www.washingtoncity.org

Minutes
WASHINGTON CITY PLANNING COMMISSION
March 18, 2009

Present: Commissioner Burnette, Commissioner Kinder, Commissioner Gren, Commissioner Smith, Commissioner Howell, Councilman Heaton, Drew Ellerman, Kathy Spring, Mike Shaw, Steve Whittikend, Paul Bradley, David McBride, Gina Merrell.

Meeting called to order: 5:30 PM
Commissioner Burnette excuses Commissioner Schofield.

Invocation: Commissioner Gren
Pledge of Allegiance: Commissioner Smith

1. APPROVAL OF AGENDA

A. Approval of Agenda for March 18, 2009.

Commissioner Howell motioned to approve the agenda for March 18, 2009.
Commissioner Kinder seconded the motion.
Motion passed unanimously.

2. APPROVAL OF MINUTES

A. Consideration of approval of minutes from March 4, 2009.

Commissioner Kinder motioned to approve the minutes for March 4, 2009 with corrections made.
Commissioner Gren seconded the motion.
Motion passed unanimously.

3. DECLARATION OF ABSTENTIONS & CONFLICTS
NONE

4. CONDITIONAL USE PERMIT

A. Public Hearing and consideration for C-09-02 requesting Conditional Use Permit for a Satellite for Sky Wire Communications located at Grapevine by the city water tank. Applicant: David McBride, Sky Wire Communications

Background

Mr. Ellerman stated:

The applicant is requesting approval of a conditional use permit to install a satellite communications tower in the southwest corner of the City water tank yard located just south of I-15 between Sienna Hills PCD and Coral Canyon PCD. The tower will be one of a series of towers for satellite transmissions between St. George and Hurricane Cities. The hill that this water tank sits on is in line to link all three communities together for this communications provider. The City of Washington will be able to receive benefits from the installation of this tower including a security camera for our water tower and associated fenced yard. The parcel is zoned Open Space, the Open Space zone allow for public utility sites, and transmissions towers are under Conditional Use Permits approvals. Staff is very encouraging of the proposal for the benefits it will bring the City facility.

Recommendation

Staff recommends that the Planning Commission approval C-09-01 based on the findings and subject to the following conditions:

Mr. Ellerman stated this is a benefit to the City for Home Land Security reasons as well as being beneficial to some uses the City may have in the future.

Commissioner Burnette asked if the Public Safety would use communications.

Commissioner Gren asked in other areas they make it look like a tree would this look like a tree.

Drew Ellerman stated no because this is only about 20 some feet high, some times like in Vegas they make them look like trees and are about 50 to 100 feet high but because of the height of this tower it would not look like a tree.

Commissioner Burnette asked what is the function of Sky Wire and what does it provide.

David McBride from Sky Wire Communications stated they are an Internet and telecommunications provider. They provide services referred as triple play provider, Internet phone and TV. They provide from Central Utah to Las Vegas. They have talked to Washington County Fair to offer Internet services for them. It repeats to Hurricane, Laverkin and Toquerville, the only fiber optic in Washington County is in St George. The Roush machine has the same tower and it is a repeater to Hurricane Hill and into Panguitch.

Commissioner Howell asked other than security camera is there any consideration to Washington City, is there a lease payment with Washington City.

Mr. McBride stated there are two hot spots for Washington City that they will pay to maintain. If Washington City provides the materials there are available hot spots.

Commissioner Howell asked about the 20 x 20 foot fence with razor wire.

Mr. McBride stated the fence would be as it is now. They are adding a man gate. It will be exactly the type of fencing that exists now, which is chain link fencing.

Commissioner Howell asked about Sienna Hills and Coral Canyon would this improve the triple play access.

Mr. McBride stated Sienna Hill just got their license revoked today for all TV and this will give service in that area for TV, Internet and phone in that area. They are not going to use this as a main transmission point but will use this to help with no line of service customers.

Commissioner Howell stated he lives in Coral Canyon and that is why he has specific questions.

Mr. McBride stated they would be covering most of Coral Canyon.

Commissioner Howell asked if they are a source of their own Internet or do they resell Qwest.

Mr. McBride stated they are a triple redundant fiber provider. They trunk into Las Vegas and Salt Lake, they are a Level three which is bigger than Qwest when Qwest gets cut they are down. They use level three 3-60 and Quest and 3-60 is 100 times bigger than Qwest, they connect state to state. They pier just as the other providers. They do not resell to anyone. They use interlink and they do use Qwest in case Interlink gets cut. There are only two providers that are multi home and most only have one way out but they have three ways out.

Commissioner Burnette opened the Public Hearing.

No response.

Commissioner Burnette closed the Public Hearing

Commissioner Howell asked Mr. Ellerman if the City has studied to see if the City wants to do their own tower?

Steve Whittikend IT Director stated they have not. Mr. McBride is putting this in on City property and the City does not want anyone on that property and He will lease this.

Commissioner Howell asked who would own the asset.

Mr. Whittikend stated Sky Wire would lease the land and own the asset. The initial term is five years. The info west is on the billboard and on building on Highland Park.

Mr. McBride stated on the contact the City can use the tower and they will be doing the maintenance and will maintain the tower free of charge.

Commissioner Howell stated for the record that he would suggest the City do the study on owning the asset.

Commissioner Kinder stated it would be hard for the City to determine if one is required.

Mr. McBride stated that most City's want to stay out of the business because they get to use it and Sky Wire maintains it. There isn't money to be made just on data on point A to point B.

Commissioner Burnette asked Mr. Ellerman if an additional conditional use permit is needed or does the City approve the contract.

Mr. Ellerman stated the city does have to approve the contract.

Commissioner Gren motioned to approve with the findings and conditions of staff.

Commissioner Smith seconded the motion.

Motion passed unanimously.

5. AMENDMENT TO CITY CODIFIED CODES

- A. Continuation of Public Hearing and consideration for an Amendment of City Codified Codes to add section 9-14-24, Residential Treatment Center. Applicant: Washington City, Drew Ellerman

ORDINANCE NO. 2009-__

**ORDINANCE AMENDING SECTION 24 OF CHAPTER 14 OF TITLE 9, THE
WASHINGTON CITY ZONING REGULATIONS**

WHEREAS, Title 9 of the Washington City Code, sets forth the provisions for the Zoning Regulations within the City; and

WHEREAS, the City desires to amend a certain section of Title 9, which more specifically is 9-14-24, for the purpose of providing for the public safety, health and general welfare of the citizens of Washington City; and

WHEREAS, the Planning Commission of Washington City, Utah recommended that the amended section of the Zoning Ordinance be adopted; and

WHEREAS, a public hearing was held by the Washington City Council after appropriate notice to consider the amendment;

THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF WASHINGTON CITY AS FOLLOWS:

I. Section 9-14-24 of the Washington City Zoning Ordinance is hereby added and shall read as follows:

9-14-24 RESIDENTIAL FACILITIES FOR PERSONS WITH A DISABILITY:

A. The purpose for this section is to comply with Section 10-9a-520 of the Utah Code, and to avoid discrimination in housing against persons with disabilities as provided in the Utah Fair Housing Act and the Fair Housing Amendments Act as interpreted by courts having jurisdiction in Utah. If any facility, residence, or other circumstance meets the definition of a residential facility for persons with a disability as set forth in this Section; the requirements of the Section shall govern the same notwithstanding any other provision of the Washington City Zoning Ordinance.

B. Definitions, the words and phrases defined below shall be used in interpreting and construing this Section.

BUILDING: A permanently located structure, including but not limited to dwelling units, designed, intended or used for occupancy by any person or for storage of property of any kind.

DISABILITY: A physical or mental impairment which substantially limits one or more of a person's major life activities, including a person having a record of such an impairment, or being regarded as having such an impairment. "Disability" does not include current illegal use of, or addiction to, any federally controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U/S.C. 802, or successor law. As used in this definition:

(a) "Physical or mental impairment" includes:

1. Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems; neurological; musculoskeletal; special sense organs; respiratory, including speech organ; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin and endocrine; or

2. Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term physical or mental impairment includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, Human Immunodeficiency Virus infection, mental retardation, emotional illness, drug addiction (other than addiction caused by current, illegal use of a controlled substance) and alcoholism.

(b) "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

(c) "Has record of such an impairment" means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(d) "Is regarded as having an impairment" means:

1. Has a physical or mental impairment that does not substantially limit one or

more major life activities but that is treated by another person as constituting such a limitation;
or

2. Has a physical or mental impairment that substantially limits one or more major life activity only as a result of the attitudes of others toward such impairment; or

3. Has none of the impairments defined in paragraph (a) of this definition but is treated by another person as having such an impairment.

DWELLING: Any building or portion thereof containing one or more dwelling units occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building or portion thereof.

DWELLING UNIT: One or more rooms, designed, occupied, or intended as a residence for a single family with cooking, sleeping, and sanitary facilities provided within the dwelling unit.

FAMILY: One or more persons related by blood, marriage, adoption, or guardianship, or a group of not more than sixteen (16) unrelated persons living together as a single non-profit housekeeping unit, together with incidental domestic servants.

REASONABLE ACCOMMODATION: A change in a rule, policy, practice, or service necessary to afford a person with a disability equal opportunity to use and enjoy a dwelling. As used in this definition:

(a) "Reasonable" means a requested accommodation will not undermine the legitimate purposes of existing zoning regulations notwithstanding the benefit that the accommodation would provide to a person with a disability.

(b) "Necessary" means the applicant must show that, but for the accommodation, one or more persons with a disability likely will be denied an equal opportunity to enjoy housing of their choice.

(c) "Equal opportunity" means achieving equal results as between a person with a disability and a non-disabled person.

RESIDENCE: A dwelling unit where an individual is actually living at a given point in time and intends to remain, and not a place of temporary sojourn or transient visit.

RESIDENTIAL FACILITY for PERSONS with a DISABILITY: A residence in which more than one person with a disability resides and which is licensed or certified by the Department of Human Services under Title 62A, Chapter 2, of the Utah Code, Licensure of Programs and Facilities.

C. Permitted Use

1. Use Permitted, notwithstanding any contrary provisions of the Zoning Regulations, a residential facility for persons with a disability shall be a permitted use in any zoning district where residential dwellings are allowed.
2. Use Non-Transferable, the permitted use by this Section is non-transferable and shall terminate if:
 - (a) the facility is devoted to a use other than a residential facility for persons with a disability, or
 - (b) the license or certification issued by the Utah Department of Human Services for such facility terminates or is revoked, or
 - (c) the facility fails to comply with requirements set forth in this Section.

D. Development Requirements. Each residential facility for persons with a disability shall conform to the following requirements:

1. Applicable Regulations. The facility shall comply with building, safety, and health regulations applicable to similar structures.

- (a) Each facility shall be subject to the same property development standards applicable to similar structures located in the same zoning district in which the facility is located. *Each facility shall not change the character of the existing neighborhood in which it is located.*
- (b) Adequate off street parking spaces shall be provided.
- (c) Each facility shall be limited to no more than sixteen (16) residents.
- (d) Any residential facility for persons with a disability that are substance abuse facilities located within five hundred feet (500') of a school, *as measured in a straight line between the closest property lines of the lots or parcels on which they are located*, shall provide the following:
 - (i) A security plan satisfactory to local law enforcement authorities, and
 - (ii) twenty-four (24) hour supervision for residents, and
 - (iii) other twenty-four (24) hour security measures.

2. Separation Required. Each facility shall be at least five thousand, two hundred eighty feet (5,280') from any other such facility, as measured in a straight line between the closest property lines of the lots or parcels on which they are located.

3. No Dangerous Persons Permitted. No facility shall be made available to an

individual: whose tenancy would:

(a) whose tenancy would constitute a direct threat to the health or safety of other individuals, or

(b) whose tenancy would result in substantial physical damage to the property of others.

(c) *who currently under the illegal use of, or addicted to, any federally controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. 802, or successor law.*

4. License or Certification Required. Prior to the establishment of any facility, the person or entity licensed or certified by the Department of Human Services to establish and operate the facility shall:

(a) provide a copy of such license or certification to the City, and

(b) certify in a sworn affidavit to the city that no person will reside in the facility whose tenancy would:

(i) constitute a direct threat to the health or safety of other individuals, or

(ii) result in substantial physical damage to the property of others.

E. Reasonable Accommodation Required. None of the foregoing conditions shall be interpreted to limit any reasonable accommodation necessary to allow the establishment or occupancy of a residential facility for persons with a disability.

1. Application. Any person or entity who wishes to request a reasonable accommodation shall make application therefore to the Community Development Director and shall articulate in writing the basis for the requested accommodation.

2. Decision. Each application for a reasonable accommodation shall be decided within not more than thirty (30) working days. The decision shall be based on evidence of record demonstrating;

(a) the requested accommodation will not undermine the legitimate purposes of existing zoning regulations notwithstanding the benefit that the accommodation would provide to a person with a disability.

(b) that but for the accommodation, one or more persons with a disability likely will be denied an equal opportunity to enjoy housing of their choice, and

(c) that equal results will be achieved as between the person with a disability requesting the accommodation and a non-disabled person.

3. Appeal. If a request for a reasonable accommodation is denied, the decision may be appealed to the Board of Adjustment in the manner provided for appeals of administrative decisions as set forth in Chapter 4, Section 8, of the Zoning Regulations.

F. Proof of Licensure for Other Treatment Facilities. Prior to the establishment of any facility for which a state license or certification is required under the Utah Human Services Code (Title 62A, Utah Code), the person or entity which must obtain such a license or certification shall submit proof to the Community Development Director that the facility has been duly licensed or certified by the agency having regulatory jurisdiction over the facility.

II. If any provision or clause of this Ordinance or application thereof to any person or entity or circumstance is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other sections, provisions, clauses or applications hereof which can be implemented without the invalid provision(s), clause(s) or application(s) hereof, and to this end the provisions and clauses of this Ordinance are declared to be severable.

III. This Ordinance supersedes or repeals the provision(s) of any ordinance(s) or resolution(s) that is (are) inconsistent with the provisions of this Ordinance.

IV. This Ordinance shall take effect immediately upon publication or posting, as required by law.

Commissioner Burnette clarifies that Public Hearing was closed at the prior meeting.

Mr. Ellerman reviewed the changes. D-A&B and 2-C page 4 of 6, E-2 page 5 of 6 putting in working days.

Mr. Ellerman stated that Attorney Starkey would review this prior to City Council meeting.

Commissioner Gren motioned to recommend approval to City Council with the recommendation of staff.

Commissioner Kinder seconded the motion.

Motion passed unanimously.

6. PLAT AMENDMENT

- A. Public Hearing and recommendation for a Plat Amendment for Ridge Pointe Subdivision, to reconfigure lot 138 moving the lot lines about 5' of common area from the west side to the east side of the lot, located 1360 East Telegraph unit 138.
Applicant: Paul Bradley

Background

Mr. Ellerman stated:

The applicant is requesting approval of the final plat amendment for Ridge Pointe Subdivision Phase 4, Amended. Ridge Pointe Subdivision is located at 1360 East Telegraph. The purpose for the plat amendment is to adjust and relocate common space as it relates to lot #138 of the

subdivision. No other changes are being made at this time. Staff has reviewed the request and has no problem with common space and property associated with lot #138 adjustment.

Recommendation

Staff recommends that the Planning Commission recommend approval of the final plat amendment for Ridge Pointe Subdivision Phase 4, Amended, to the City Council, based on the following findings and subject to the following conditions:

Findings

1. That the final plat conforms to the approved preliminary plat.

Commissioner Burnette asked who would maintain it.

Mr. Ellerman stated they have HOA and usually the HOA takes care of the maintenance.

Commissioner Burnette asked Mr. Paul Bradley why the change.

Mr. Bradley stated it is for the purpose of a better view. The HOA will maintain it and they have signed off on this change.

Commissioner Howell asked about the landscaping and if the area was approved by the HOA.

Mr. Bradley stated the Desert landscape is there currently and that will remain.

Commissioner Burnette opened the Public Hearing

No response.

Commissioner Burnette closed the Public Hearing.

Commissioner Smith motioned to recommend approval to City Council with the recommendation and findings of staff.

Commissioner Howell seconded the motion.

Motion passed unanimously.

Meeting adjourned:

Minutes approved and signed 15th day of April 2009.

Attested by: Kathy Spring
Kathy Spring, Zoning Technician

Signed by: Barry Burnette
Barry Burnette, Chairman