



City of Tualatin

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OFFICIAL

TUALATIN PLANNING COMMISSION -

MINUTES OF November 16, 2017

TPC MEMBERS PRESENT:

Bill Beers
Alan Aplin
Janelle Thompson
Mona St. Clair
Angela DeMeo
Travis Stout

STAFF PRESENT

Aquilla Hurd-Ravich
Charles H. Benson III
Lynette Sanford

TPC MEMBER ABSENT: Kenneth Ball

GUESTS:

1. CALL TO ORDER AND ROLL CALL:

Bill Beers, Chair, called the meeting to order at 6:31 pm and reviewed the agenda. Roll call was taken.

2. APPROVAL OF MINUTES:

Mr. Beers asked for review and approval of the September 21, 2017 TPC minutes. MOTION by Thompson SECONDED by Beers to approve the minutes as written. MOTION PASSED 6-0.

3. COMMUNICATION FROM THE PUBLIC (NOT ON THE AGENDA):

None

4. ACTION ITEMS:

A. Consideration of a Variance to the Wireless Communication Facility (WCF) Separation Requirement for the POR Durham project in the Light Manufacturing (ML) Planning District at 10290 SW Tualatin Rd (Tax Map/Lot 2S1 23B 000800) (VAR-17-0001) (RESO TDC 609-17).

Mr. Beers, Chair, read the script for quasi-judicial hearings. Mr. Beers asked the Commission members if they had a conflict of interest, bias, or ex parte contact with the applicant.

These minutes are not verbatim. The meeting was recorded, and copies of the recording are retained for a period of one year from the date of the meeting and are available upon request.

Mr. Beers stated that he is familiar with the site and drives by daily.

Ms. St. Clair stated that she has a family member who works for Velocitel but is not involved with this project. She also lives near the tower.

Mr. Stout noted he frequents the area and drives by the site.

Ms. DeMeo stated that her employer is located behind the current WCF tower and she works in the building.

Charles Benson, III, Associate Planner, presented the staff report for consideration of a Variance (VAR17-0001) to allow a new wireless communication facility (WCF) within 1,500 feet of an existing WCF. A separate Architectural Review decision will review the construction of a new 100-foot-tall monopole with antennas mounted at the top and opportunities for ancillary ground equipment if the variance is granted. The proposed location is 10290 SW Tualatin Rd. The existing WCF is located at 10699 SW Herman Road.

Mr. Benson went through the PowerPoint presentation that showed a map of the proposed site of the tower, the existing monopole, and the existing and proposed coverage of the new WCF tower. Mr. Benson noted that the applicant states that modification to the existing WCF tower would result in greater impacts than those of construction of an entirely new monopole structure, namely increasing the height of the 146-foot-tall existing WCF (which required a variance to permit its construction in year 2000) or the topping or removal of trees that were preserved as a condition of that Variance (VAR-99-02).

Mr. Benson stated that staff has confirmed via study area field observation that no available structures exist in the immediate area on which antennas may be located since the maximum structure height in ML planning districts (outside of flagpoles and WCFs) is 50 feet.

Mr. Benson stated that the Planning Commission has three options:

- Approve the proposed Variance (VAR-17-0001);
- Deny the proposed Variance with findings that state which criteria in Tualatin Development Code (TDC) 33.025(1) the applicant fails to meet; or
- Continue the discussion of the proposed variance and return to the matter at a later date.

Reid Stewart, Acom Consulting, 4015 SW Battaglia Ave, Gresham, OR 97080

Reid Stewart, indicated that he represents the applicant and agrees with staff findings. Mr. Reid noted that the existing WCF facility is surrounded by trees and in order to make that a viable option, the trees will need to be removed or the tower height will need to be extended by 30 feet.

Mr. Reed acknowledged that the owner/operator of the existing tower has provided information before this meeting regarding hypothetical frequencies and he disputes these. Mr. Stewart believes that removing the trees and extending the existing tower will create more of a visual impact than building a new tower. He added that the equipment on the tower has been abandoned.

Mr. Stewart noted that Verizon and T-Mobile both have evaluated the American Tower Corp. (ATC) site and declared it is not a viable option for them and it will be more expensive to use or demolish the existing tower.

Mr. Aplin asked who owns the existing tower. Mr. Stewart replied that it's American Tower Corporation (ATC) – they lease space on the tower and are a financial competitor with the applicant.

Mr. Stewart added that the Tualatin Police Department has stated that cell coverage is lacking in the area and they rely on it for communication.

Ms. DeMeo inquired about the search radius and if there are viable options. Mr. Stewart replied that there are no existing structures within the radius that have adequate height due to zoning restrictions.

Alan Sorem, Saalfeld Griggs PC, 250 Church Street SE, Salem, OR

Mr. Sorem stated that he is a Land Use Attorney representing American Tower Corp. who is the existing tower owner. He noted that he provided the City with additional evidence earlier in the day.

Nick Caezza, American Tower Corp, Boston MA

Mr. Caezza stated that he's an attorney for American Tower Corp. He stated that American Tower owns and manages approximately 41,000 towers – some of which have Verizon on them.

Mr. Sorem stated the tower can be modified to accommodate another provider. The tall trees causing the interference are owned by the City and can be removed to eliminate the interference. American Tower Corp. is currently in negotiations with the City to renew the lease. Mr. Sorem indicated that the current tower is 146 feet. If they added 4 feet to the tower, it would be high enough to accommodate T-Mobile and Sprint. Mr. Sorem added that in the 1999 Variance decision for this existing tower, the protection of trees was not a condition of approval. Mr. Sorem added that the existing site is not visible from the road and if the trees were eliminated, the visual impact will be minimal.

Mr. Aplin asked if the existing tower is structurally built to be 150 feet high. Mr. Sorem answered affirmatively and has a letter from a structural engineer.

Mr. Sorem requested that the hearing remain open for 21 days. Ms. Hurd-Ravich stated that is it up to the Commission but is concerned about the 120-day limit on the variance application. If we leave it open, it does not leave enough time for the Council hearings. Ms. Hurd-Ravich added that 7 days is the statutory minimum.

Mr. Aplin asked how many trees were proposed to be removed. Mr. Sorem replied that there will be more than 20 but less than 100. Mr. Aplin asked if is the City's decision whether or not to remove the trees. Mr. Sorem answered affirmatively and added if the trees are not removed the tower will need to be increased to 150 feet, which will need a variance.

Mr. Caezza noted that another viable option is cutting the trees down to 90 feet and to plant trees at the bottom for future growth.

Ms. St. Clair asked if the City was in agreement to remove the trees, would ATC absorb the cost. Mr. Sorem answered affirmatively and noted that the proceeds of the cut trees will be split between ATC and the City.

Mr. Aplin asked if Verizon is under lease to use the existing tower. Mr. Sorem replied that there is no lease with Verizon and that Sprint is on the current lease.

Mr. Sorem reiterated that the criterion relating to modifying the existing tower has not been met and the only option is to deny the variance request.

Mr. Stewart stated that ATC has made assumptions about Verizon and T-Mobile. Mr. Stewart has a letter from T-Mobile and Verizon stating that they have evaluated the tower and the modifications will be unsatisfactory. Mr. Stewart also has documentation from a licensed engineer familiar with the particulars of this site who has stated that it will have to be increased more than 4 feet above the 146 foot height to be beneficial.

Ms. DeMeo asked if the rebuttal comments from Verizon and T-Mobile are included in the packet. Mr. Stewart replied that the letters are in the packet. Mr. Stout asked how much more than 4 feet would be a satisfactory level. Mr. Stewart responded that it would have to increase 30 feet to be satisfactory.

Mr. Beers asked if the existing tower was increased 15 feet and the trees were removed, would both carriers have coverage. Mr. Stewart responded that if they were to increase the existing tower 30 feet it would be satisfactory.

Mr. Sorem stated that T-Mobile has stated that the existing tower is their first choice without the trees. Furthermore, extending the tower 30 feet is not consistent with what their engineers provided.

Ms. Hurd-Ravich stated that since Mr. Sorem has requested that the record be left open, the Planning Commission has to grant a minimum of 7 days. The Commission

members can choose to close the public hearing, gather additional evidence, and reconvene and deliberate with that evidence. Ms. Hurd-Ravich added that 7 days from tonight is Thanksgiving Day but the City is closed. Furthermore, the room is not available until December 4, 5, or 7th, which will keep us within the 120 day limit.

Mr. Aplin asked about the practical modification of the tower and if the applicant has to provide evidence to meet the criteria. Ms. Hurd-Ravich responded that the applicant has to provide the evidence but it's up to the deciding body if the evidence is meeting the criteria.

Mr. Beers stated that he would like a couple documents from the tower owners. He would like to see what it would look like at 146 feet, and documentation from T-Mobile that they would like to be on their tower. In regards to the applicant, he would like to see what the coverage map looks like with a 146 foot tower and no trees and an appropriate antennae space between Sprint, Verizon and T Mobile. Ms. Thompson would like to see the existing lease for the existing tower. Mr. Sorem said the lease is set to expire in 2020 and the new lease will provide the City with revenue share.

Mr. Aplin asked if the City is eager to remove 20-100 trees. Ms. Hurd-Ravich replied that it hasn't been negotiated but she has posed the question casually and it will be met with some resistance. It is not a Council decision, it's up to Facilities who manage the property along with the City Manager. The second piece is what land use process will be required to remove the trees. There was an Architectural Review completed in 1999. We are in the process of retrieving the file to see what conditions were attached regarding tree preservation.

Ms. Thompson asked if the existing tower will be required to have a 50 percent screening. Ms. Hurd-Ravich answered affirmatively.

The Commission members agreed that they will reconvene on December 7th at 6:30 pm. Ms. Hurd-Ravich stated that we are required to post the agenda 7 days in advance and would like the additional evidence at that time. Mr. Sorem and the applicant both stated that they will have the additional material available within 7 days.

5. COMMUNICATION FROM CITY STAFF:

None

6. FUTURE ACTION ITEMS

Ms. Hurd-Ravich stated that the TPC meeting scheduled for December 21st will be canceled due to lack of agenda items, but we will continue this hearing on December 7th. In January, we will accept nominations for a Chair and Vice Chair for the Commission.

Ms. Hurd-Ravich announced that Charles Benson III will be leaving the City of Tualatin and moving to Seattle. This will be his last Planning Commission meeting.

7. **ANNOUNCEMENTS/PLANNING COMMISSION COMMUNICATION**

None.

8. **ADJOURNMENT**

MOTION by DeMeo SECONDED by Thompson to adjourn the meeting at 7:58 pm.



____ Lynette Sanford, Office Coordinator