



PLANNING COMMISSION MINUTES

05 SEPTEMBER 2013

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Regular Action Items

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Present: Leslie Larson, Rob Smith, Clair Ellis, Phil Olsen, Jason Watterson, Jon White, Josh Runhaar, Chris Harrild, Stephanie Nelson, Denise Ciebien, Megan Izatt

Start Time: 5:46:00

Larson welcomed and gave opening remarks/pledge.

5:49:00

Agenda

Agenda items 2 and 3 were switched. The order will now be 1, 3, and then 2.

Minutes

The minutes from July 18, 2013 and August 1, 2013 were discussed and reviewed and passed with the change to include Jason Watterson's name for August attendance.

05:50:00

Regular Agenda Items

#1 Public Hearing – 5:40 p.m.: Sprint-Crow Mountain Rezone (Connie Misket)

Nelson reviewed Ms. Connie Misket's request for a rezone of 475 square feet of a 183 acre property currently in the Agricultural (A10) Zone to include the Public Infrastructure (PI) Overlay Zone located at approximately 7603 North 1000 East, north of Smithfield. Access is from of Highway 91 and is currently adequate for this type of use. There are four towers currently located at this site. Some public comment has been received regarding access to the site.

Staff and commission discussed access to the property. There was a fire in this area earlier this year and the fire crews could not see the access and did not follow this road because they couldn't find it. There is an easement from the Highway to the site of 16' wide. The fire district has requested that signage to clearly mark the road be required and a better drivable surface. This application was received in February and the applicant tried to work with the landowners to rezone the entire parcel at one time but was not able to reach an agreement with the lessees of the other facilities.

Olsen motioned to open the public hearing for the Sprint-Crow Mountain Rezone; **Smith** seconded; **Passed 4, 0.**

Richard Lee I am representing Sprint Wireless for this application. It sounds like the problem with access isn't in regards to our application. We aren't increasing the height of the tower or adding a tower or anything. So at whose expense would the improvements have to be done?

Runhaar typically it is at the developer's expense.

Mr. Lee then I think we need to get all the carriers that have towers up there included with that because Sprint is not going to like that. We are trying to replace the old equipment with new equipment. That wouldn't increase the height or anything like that. That site has been in place since 2000.

Larson would there be an additional requirements for maintenance or anything along those lines?

Mr. Lee no, it would just be an improvement for Sprint users.

Smith so is this application just mainly to bring the tower into conformance with the zoning code?

Mr. Lee the application is to bring it into compliance with current cell phone technology and for that to happen we have to go through your process of conformation and that requires a rezone. I work for a company that does work with most of the major cell phone providers and we tried to do this all at once but couldn't wait for the other companies; we need to move the Sprint piece forward.

Ellis what is it that triggers the need for a conditional use permit (CUP) for this application?

Runhaar any change to a cell tower right now requires an amendment to the CUP. We are looking at how to change the process for amendments for cell towers, but even with an administrative clearance it would be required to come back here because it isn't in the right zone.

Ellis if they were to just maintain their existing antenna it would be fine?

Runhaar if it was a straight swap out it would remain the same but where they are adding equipment that requires an amendment to the CUP.

Mr. Lee so in our case to address what we are doing is we have an interim period where we are adding the new equipment and decommissioning the old equipment to make sure everything is functional. During that interim period we will do structural analyses to make sure the tower will support what is there currently and what we are adding before we will removed that decommissioned equipment.

6:02:00

Watterson arrives.

Ellis I'm guessing in regards to the road requirement, I think the first carrier to replace their equipment would be required to carry the burden of the road improvement. Maybe the others could be encouraged to participate, but we don't have a process to require them to.

Runhaar it's the same thing with a subdivision. If there are three homes and six more want to be build then those six homes are responsible for the road improvements.

White how often do you travel that road? Once a week, once a month?

Mr. Lee once a year maybe.

White you just go up there to spray weeds?

Mr. Lee possibly, but we have sites that I haven't traveled to in a few years because they are basically self-sufficient.

Staff and commission discussed the road. The detail that has been discussed is more than what is necessary for a rezone. But currently this is non-conforming currently or otherwise there wouldn't be a multi-step process. Staff flagged it for the Commission as a concern and to start the discussion now on the road but staff is still recommending approval. Most of the road issues will be handled at the next step.

Curtis Dent I own the adjoining property to this. Jon, in answer to your question, how many CUPs are there on that site?

Harrild at least 4.

Dent KIX96 is also up there and they go up more than once a year. I don't know how many buildings are up there currently and I believe the fire was started by a downed power line leading to this. The fire guys couldn't find the road to fight the fire and so they tore my place apart to get up there. I don't have a problem with these types of sites, but I do have a problem with them tearing my place apart. I do believe they should go to UDOT and get a commercial access and have a gate about 100 feet of the road so that they can get a trailer and truck off the highway. They need to have it signed so that people can find it and they need a hard surface so that they don't have to go up my road, cut my fences and drive through my hay field like they did in July. I got a call telling me something was going on so I go up there and all my gates are open and my cattle are right there; the gates are open clear to the highway. The locks and fences have been cut and if my cattle got out, it would have been on me. I did finally get a call from Rod Hammer and I asked them who was going to fix the fence and pay for it and he didn't know and said he would get back to me and I haven't heard a word since. I don't want this to happen again and something needs to be done about the access. I spent \$20,000 for my road and it was not meant for access to the towers. The road is wider at the highway for trucks and trailers to safely pull off the road and UDOT required that on my road. They need to apply for a commercial access to UDOT. You're dealing with one landowner and one lease, that shouldn't be that hard to require. I bet if the commission went out there you wouldn't be able to find it without some help. The last time the power lines went down it was the middle of winter and didn't cause the fire but the fire guys need to be able to access this.

White in their defense, the fire people get to the fire as fast as they can, it's not like they did damage to your property on purpose and no the county doesn't pay for it to be fixed.

Mr. Dent I know they didn't do it to be malicious, but it needs to be taken care of. If they could have found the road they would have used the road.

6:16:00

Olsen motioned to close the public hearing; Watterson seconded; Passed 5, 0.

The commission discussed the rezone. At this time the rezone simply allows the applicant to continue the process and apply for a CUP. The road review is just a cursory review for the rezone but a more in depth review will happen for the CUP process and that might require road work and an application to UDOT for a commercial access.

Mr. Lee I don't disagree with that. We do work with other cell carriers and we have tried to get all the carriers on the parcel to go forward together. At some point in time the other people are going to be here for this same process and I would suggest that once someone makes the application that it would encompass all the towers at once. I would think that should be applied for the carriers.

Larson if it's in the same spot.

Mr. Lee ok, but do you want to see me back in here in 6 months for another company doing this same thing? I think a way for you to streamline the process is the first one in opens the door and everyone else follows through and that might require permits.

Runhaar I would agree with that but for this area we are actually on two parcels and that requires us to address further legal details.

Larson I also agree with that but with the other factors for this particular application, that it is appropriate to deal with it one tower at a time.

Staff and commission discussed the road; there might be some requirements for road improvements further along in the CUP process. Some commissioners discussed the possibility of including the other towers in the area with this application. But where there are two parcels that would bring issues with noticing and also the county does not initiate rezones.

Smith motioned to recommend approval for the Sprint Crow Mountain Rezone and the rezone of the property encompassing the other towers located in the vicinity on the top of Crow Mountain; Olsen seconded; Passed 5, 0.

6:29:00

#2 Discussion – Amendment of Cherry Peak Ski Area Conditional Use Permit – Roadway Improvements

Runhaar based on recommendations from the county engineer, staff would like to amend the way the CUP is enforced. Typically all improvements are required to be completed before issuance of the CUP. The engineer has actually recommended that we wait a year on the double-chip seal requirement to give the road one year to settle. Staff is recommending that the county enters into a development agreement or a bond for the improvement but the ski resort would be

allowed to open this season on the gravel road and then next year they would be required to come in and finish that double-chip seal requirement. The road will settle a lot this year and chip-seal doesn't hold well through settling and the county would get a much better road if the double chip-seal was held until next year. Safety wise it should be fine as long as the snow removal is handled correctly. The applicant will be keeping the section of road beyond the county road open and will be responsible for snow removal. Staff is not proposing any augmentation to the CUP; all parts of the CUP will be enforced but the county engineer is recommending waiting for one year on the chip-seal portion of the road. The road has been completely re-graded and the areas that needed to be widened have been done.

Mary Gilbert Palmer I am one of the residents that look out over this. There is now a big gash across our view up there now so we know it is moving along. I know that we discussed concerns of people like me who have a ground water source, is there likely to be pollution from exhaust from cars? I just don't want that to get into my water system. I thought the idea was that this hard surface would be a protection against pollution and if they are allowed to run for one year without that I feel very vulnerable. I have an approved subdivision which will be my only resource of income in coming years. So this is a very personal issue and for my financial future it is important. I don't know if this will affect it or not but I thought that paved road would help with the runoff from automobile exhaust and runoff which I'm very concerned about.

Runhaar exhaust wouldn't be an issue, it would be oil and gas spills. Typically what you will find is that an oil road wouldn't prevent that kind of pollution. But anything you would see up there in terms of spills, as they go through construction, they have a plan in place.

Ms. Palmer there was a discussion of the parking lot and there were some professional opinions that this could be an issue for those of us who have our water supply up there. If you're saying that it is not an issue, then

Runhaar I'm not an expert but I can't see there being enough material coming off cars.

Larson the parking lot isn't going to be paved; it's going to be like Beaver Mountain's?

Harrild I think the concern was more if there was a storm water incident.

Runhaar their storm water prevention plan is still going to have to remain in place because their construction isn't going to be completely done so if there is sediment coming off there. The fences are still going to be in place and all those controls will have to remain there and only when they are finished with the road will those be taking done. So if there is erosion, things coming off, snow melt that should still be contained according to their state permitting.

Ms. Palmer well if that is still in place it sounds like it has been taken care of.

Staff and commission discussed dust control. The county doesn't have dust control requirements during the winter but can require the applicant to put a protectant down this fall and again in the spring to help with dust control. Also dust control is regulated by the state.

6:45:00

#3 Public Hearing – 5:45 p.m.: Amendments to Title 12 – Manual of Roadway Design and Construction Standards, Title 16, and Title 17.

Watterson motioned to open the public hearing, *Smith* seconded; **Passed 5, 0.**

Olsen motioned to close the public hearing; *Ellis* seconded; **Passed 5, 0.**

Runhaar reviewed the edits to Titles 12, 16, and 17 and the Manual of Roadway Design and Construction Standards.

The following changes applicable and typical to all sections: Capitalization errors and/or grammar and inconsistent language were corrected. References to state and county codes were updated and section numeration was updated as necessary to reflect the changes. All instances of Zoning Administrator were replaced with Director of Development Services or Director; office of the Zoning Administrator was replaced with Development Services Department.

More substantive and/or specific changes were discussed as follows:

Title 16 Subdivision Ordinance

16.01 General Provisions and Administration

- Now points to definitions found in Title 17
- The word “subdivider” removed and the word “developer” added throughout
- 16.01.090 Effective Period of a Subdivision Plat removed. Effective periods of approvals moved to Title 17.02.070

16.02 Type and Process

- Language regarding legal parcels updated
- Added 16.02.080 Single Lot Subdivisions

16.03 Requirements

- No substantive revision; capitalization and grammar corrections, and code reference updates only

16.04 General Requirements for All Subdivisions

- The word “subdivider” removed and the word “developer” added throughout
- 16.04.110 Completion of Subdivision Improvements amended to Completion of Development Improvements and section largely revised
- 16.04.120 Improvement Security amended to Financial Surety and section largely revised

Title 17 Zoning Ordinance

17.01 General Provisions

- The word “building” was deleted from the title of 17.01.050 Building Permits Required and section largely revised
- Section 17.01.060 Certificates of Occupancy removed

17.02 Administration

- Benson Planning Commission creation removed

- Section of 17.02.060 Establishment of Authority regarding noticing moved to 17.02.040 Notice of Meetings.
- Single Lot Subdivisions placed under the authority of the Development Services Director
- Appeal process revised and clarified
- 17.02.070 Effective Period of a Land Use Authority Approval added

17.03 Review of Constitutional Taking Issues

- No substantive revision; capitalization and grammar corrections, and code updates only.

17.04 Enforcement

- Enforcement requirements specified as applicable to both Titles 16 and 17
- Violations reflect State Code as Class B instead of Class C misdemeanors
- Notice of enforcement updated to provide an initial written notice (warning) prior to a final notice served by the Sheriff
- Warning period changed from 28 to 10 days following final notice
- Remedies added to Civil Penalties section 17.04.070.
- Civil penalties increased from \$50 to \$100 per day

17.07 Definitions

- 1100 Single Family Dwelling definition amended to include “Only one dwelling unit is allowed per legal lot/parcel.”
- Definition for “Agricultural Remainder” added
- Definition for “Development Agreement” added
- Definition for “Dry Lot” added
- Definition of “Frontage” added
- Definition of “Lot/Parcel, Legal” amended
- Definition of “Lot/Parcel, Restricted” amended
- Definition for “Mobile Home” clarified – no substantive change.
- Definition of “Setback – Front” amended
- Definition of “Use, Primary” amended

17.08 Zoning Districts

- Purpose of overlay zones amended

17.10 Development Standards

- Legal parcel policy updated to include FR40 Zone parcels
- Portion of 17.10.050(A)(5)(a) regarding number of dwelling units per legal lot/parcel revised and moved to definitions, 1100 “Single Family Dwelling” definition
- Section 17.10.060 Development Agreements created

17.13 ME Overlay Zone

- No substantive revision; capitalization and grammar corrections, and code updates only.

17.14 RR Zone

- No substantive revision; only amendments related to Zoning Administrator changing to Director of Development Services

17.16 Group Living Facilities

- No substantive revision; capitalization and grammar corrections, and code updates only.

17.18 Sensitive Areas

- No substantive revision; capitalization and grammar corrections, Zoning Administrator/Director, and code updates only.

17.19 PI Overlay Zone

- No substantive revision; capitalization and grammar corrections, Zoning Administrator/Director, and code updates only.

Title 12

12.02 Roadway Standards

- Violations of standard addressed
- Table 12.02.010 Typical Roadway Sections updated

Manual of Roadway Design and Construction Standards

- The term “County Engineer” was replaced with “County” throughout
- Section 1.8 amended to address authority and enforcement
- Table 2.2 amended
- Section 2.4 Improvements to County Roadways amended to address the applicability of the road standard policy as approved by the County Executive and Attorney.
- Table 5.2 Cache County
- Section 6.0 Signage and Roadside Hazards added

Runhaar noted that Titles 10 and 12 were a priority and were going to County Council but that 12.02 would have to be held until a recommendation from the Planning Commission is issued.

8:03:00

Adjourned