



**PLANNING COMMISSION MINUTES**

**05 JUNE 2014**

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**Present:** Chris Harrild, Josh Runhaar, Phillip Olsen, Jason Watterson, Rob Smith, Lane Parker, Brady Christensen, Denise Ciebien, Megan Izatt

**Start Time:** 05:32:00

**Smith** welcomed and **Christensen** gave opening remarks

### Agenda

***Watterson** motioned to move item #1 from the consent agenda to the regular agenda and to swap the order of items #2 and #3; **Parker** seconded; **Passed 5, 0.***

### Minutes

***Parker** motioned to approve the minutes from May 8, 2014; **Watterson** seconded; **Passed 5, 0.***

**05:35:00**

### #1 CV Wireless Conditional Use Permit (Ferris Jorgensen)

**Harrild** reviewed Mr. Ferris Jorgensen's request for a conditional use permit (CUP) to allow 2-20' tall towers, 5 short pole mount antennas, and an equipment cabinet for broadcasting wireless internet, located on a portion of 183 acres of property in the Public Infrastructure (PI) Overlay Zone on Crow Mountain at approximately 7530 North Highway 91, Smithfield. The antennas and towers are already in place and currently are in violation of the county ordinance. The towers are not noticeable in context of the entire site. There is a portion of the road that may extend onto the Meikle's property and they have requested that an agreement be indentified and recorded between the property owners before any improvements or changes are made to the site.

**Ferris Jorgensen** I am the representative for CV wireless. I've been up there roughly around 4 years doing internet. I have contacted a couple of people asking if I was in compliance and thought I was. I've been working with Chris and the Davis's to be in compliance.

**Smith** you were not aware of the ordinance requirements?

**Mr. Jorgensen** I was not aware until Jay and also Paul told me that I needed to be identifying the sites that I was actually using, prior to that they asked if I was in compliance and I responded that as far as I know I was. I talked to two council people and they stated that I was, so of course that is where I dropped it until it was brought to my attention.

**Parker** are we asking that CV Wireless or Davis' get this into compliance?

**Mr. Jorgensen** I actually lease from the Davis' so they needed my stuff to be in compliance with the county.

**Parker** the part about the road is up to Davis'?

**Mr. Jorgensen** I was not aware that the right-of-way to the property was not completely controlled by the Davis'.

**Harrild** there also appears to be some question regarding if the fence line was the actual property line and the property owner's will need to get together to resolve that.

**Smith** normally the county does not get involved in that aspect of this process other than that in order for there to be a permit issued the right-of-way has to be in place. Beyond that the property owners have to figure that out.

**Mr. Jorgensen** if I understand this right, the approval could be given contingent upon the property owner's agreement.

**Christensen** Sprint Wireless is already approved contingent upon this approval. So what happens where there is a problem with the right-of-way?

**Mr. Jorgensen** what we're talking about there would affect every user up there.

**Christensen** well if the potential right-of-way is approved, Sprint is already approved. It is you and then Sprint's approval that is contingent on the road right-of-way.

**Mr. Jorgensen** this was just for the approval of the use.

**Smith** thank you for the information.

**Travis Meikle** I am here representing Ted. We have no problem with the road or anything but we would like some understanding with the Davis' about the use of the road. Our big objective is to get together with Davis and figure something out so that these people don't need to come through our road to access this.

**Steve Crain** I am representing Sprint. We've had a permit request in for over a year now and have been held up by this. We have new technology that we would like to go in but can't at this time, we hope there is nothing else that holds this up so we may go ahead and make our improvements.

**Staff and Commission** discussed the conditional use permit for Ferris Jorgensen. Some sort of agreement between the two private parties regarding the right-of-way is needed.

**Paul Davis** My parents own the property where the towers are located. I of course can't speak for my parents but the road was created probably close to 40 years ago. I was never aware the road was not considered on our property. The road was created 40 years ago by Don Meikle to replace a right-of-way that my parents traded to the Don Meikle. Our opinion is the road is where it is because the Meikle's did not want us to cross their property with the right-of-way that was there when they bought the property. We will certainly try to reach an agreement with them and not hold these people up.

*Christensen motioned to approve the CV Wireless Conditional Use Permit with the conditions and findings of facts as noted; Watterson seconded; Passed 5, 0.*

**05:56:00**

### **Training: Conditional Use Permits**

**Runhaar** presented training on conditional use permits. Permitted uses are uses allowed by right. They still require approval from a land use authority. The use is permitted if the basic standards of the zoning regulations are met such as setbacks, height requirements, access, etc. A conditional use permit is a use that, because of their unique characteristics or potential impact on the municipality, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts. A conditional use shall

be approved if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards. Reasonable conditions must truly mitigate the impact and be roughly proportional to the use. Conditions must be based on standards contained in our local ordinance or from accurate public record. Conditions are based on current issues and future land use plans to help with any anticipated detrimental effects. If the reasonably anticipated detrimental effects of the proposed conditional use cannot be substantially mitigated by the proposal or imposition of reasonable conditions to achieve compliance with applicable standards, the conditional use may be denied.

**Runhaar** reviewed case law for zoning and conditional use permits. The cases reviewed were the Village of Euclid v. Ambler Realty Co. (1926), Nollan v. California Coastal Commission (1987), Dolan v. City of Tigard (1994), Lucas v. South Carolina Coastal Council (1992), Harmon's v. Draper, and Wadsworth v. West Jordan.

### **Discussion – Title 17.08 – Uses**

**Harrild** reviewed Title 17.08 – Uses. The main changes proposed throughout are the removal of “Temporary Use” and “Small Business” from the ordinance language. “Zoning Administrator” has been replaced with “Director”. The code will be reformatted for organization of uses and their standards as necessary. There will also be some clean up of the language and reference directing code sections. 17.06.070 needs to be rewritten for clarification due to broad and somewhat vague language in the standards and criteria as has been noted by the Planning Commission in the past. In 17.06.080 the expiration for CUP's needs to be changed from 18 mos. to 12 mos. and the word nuisance may need to be better defined or the intent addressed in a different manner. 17.06.100 needs to be deleted as temporary uses are no longer permitted.

**06:54:00**

**Adjourned**