

CITY OF DUNDEE

Meeting: Planning Commission Meeting

Location: Fire Hall Community Room
801 N. Highway 99W
Dundee, Oregon 97115

Date: July 18, 2018

Time: 7:00 p.m.

I. Meeting called to order.

Chairman Howland called the meeting to order. Commissioners present, which consisted of quorum, were Shannon Howland, Eugene Gilden, Charlotte Ormonde, Rebecca Minifie, and Don Webb. City Administrator Rob Daykin, City Attorney Tim Ramis, and Planner Cheryl Caines were also present.

Audience members included Michael Robinson, Ryan Harris, Evan Karp, David Ford, John and Cynthia Stevenson, Kim Doades, and Curtis Floyd.

Commissioners Dustin Swenson and Sara Whitfield had excused absences.

II. Public Comment

There was no public comment.

III. Approval of Minutes from Previous Meeting(s)

It was moved and seconded to approve the June 20, 2018 minutes. Motion passes, unanimously.

IV. Public Hearing - CU/SDR 17-27, Verizon Wireless (Communications Tower)

1. Objections to Notice

Chairman Howland began reading the opening statement by asking for objections to notice and jurisdiction. There were no objections.

2. Declarations of Ex-Parte, Bias, or Conflict of Interest

Chairman Howland asked if there were any declarations of ex-parte, bias, or conflict of interest. Commissioner Minifie asked for clarification on bias. Attorney Tim Ramis explained that bias means that a commissioner is unable to determine the case based on the criteria and facts submitted. If, due to personal feelings, someone felt that they could not judge a case based on those, then a person should declare bias. However, if a person felt they could judge based on criteria and fact then they could continue.

Chairman Howland read the script into record.

Chairman Howland asked again if there were any declarations of bias, abstentions, or ex-parte contact. She also asked for the record if everyone had driven by the property. All Commissioners stated that they had driving by the property.

Commissioner Minifie stated that she would abstain based on bias and excused herself to sit in the audience.

Chairman Howland stated that she had a working relationship with a couple of the opponents, but did not feel that it would affect her ability to make a decision based on criteria. She also declared ex-parte contact by having driven past the property, hearing opposing views, and having seen the protest signs.

Attorney Ramis asked if anyone in the audience planning to participate in the case had objection to the participation of any of the remaining members of the Planning Commission; or if there were any objections to the jurisdiction of the body to hear the case. There were none.

4. Staff Report

Planner Caines read the staff report in to record.

Commissioner Webb questioned the reference to loss of adequate coverage if colocation was used; he wondered what the definition of "adequate coverage" might mean. Planner Caines answered that the City did not have a definition of "coverage"; the staff report was based on data Verizon had provided, but coverage was not part of criteria. It was acknowledged that the question should be asked of the applicant.

Commissioner Gilden questioned whether the installation of the fence would truly mitigate the visual impacts since the fence was only 6-feet high, which would leave approximately 68-feet uncovered. Planner Caines explained that visual impacts and mitigation were subjective in this instance depending upon visual perspective. She also noted that if there was something that the Commission felt was not addressed they could make a condition to help with the visual minimization such as trees or the color of the pole.

Commissioner Gilden noted that in the staff report there was a list of items to be considered (page 7); however, in DMC 17.404.030 under "Use Criteria) and additional item that was missing from the report, "Aesthetic Considerations". He believed that this term was subjective and played in to his concerns about the unobstructed view of the pole. Attorney Ramis stated that this term was known as a "delegated term", meaning it is delegated to the commission to make a determination about whether the criteria is adequately addressed or not.

Commissioner Ormonde asked why the downtown was chosen for the location. She expressed concern over the visual impact to adjacent properties. She felt there were other places to put it and wondered if coverage was the only factor. Planner Caines stated this would be a better question of the applicant.

Commissioner Webb asked, based on the previous application, the Fire Chief had expressed a need for communication and he wondered if that was still a consideration. Planner Caines stated it wasn't a factor in her determination. CA Daykin answered for the Fire Chief and stated that there were discussions with the Sheriff's department about having colocation on the tower.

Chairman Howland opened the public testimony portion of the hearing beginning with the applicant. Planner Caines read the state language into record prior to the testimony.

5. Proponents

Applicant Sharon Gretch with Acom Consulting, representing Verizon, began her presentation using a PowerPoint presentation attached to these minutes as "Exhibit A". She stated that this was the second time Verizon had applied; they withdrew the first application as they wanted to address some of the public comments prior to reapplying.

Commissioner Webb asked what Dundee would be getting in terms of coverage improvement. Ms. Gretch used the current coverage slide and explained that the closest tower in Newberg was over capacity and there was a concern that in an emergency people may not have coverage.

Chairman Howland asked what would happen if the tower were built in different locations. Ms. Gretch used slides in the PowerPoint to answer the question.

Commissioner Webb asked if Verizon customers were having a measurable problem using their cell phones in Dundee. Ms. Gretch responded affirmatively. There was discussion regarding how much coverage would improve if placed at the proposed location.

Commissioner Ormonde asked if the applicant was able to look at the water tower on the hill. Ms. Gretch responded that they were told the proposed site was the only one that would work based on a technological standpoint.

Commissioner Webb asked a question about the previous proposal of a 95-foot tower and whether talkability had diminished. Ms. Gretch stated that they had lost some, but the current technical engineers had stated the proposed height would be sufficient to cover the area.

There was conversation regarding noise buffering and the decibels, additional equipment and technology upgrades, and the possibility of a taller antenna. Commissioner Gilden asked where the sound test was performed; noting that the sound test report referenced traffic noise from Taylors Ferry. The applicant, upon seeing the same reference, asked for a continuance in order to get corrected information.

Chairman Howland asked about continuing and whether they should do so now. Attorney Ramis stated that anyone could ask for a continuance but it was recommended to finish gathering testimony.

Chairman Howland asked where the black matte color choice originated from; Rob stated it was a choice of City Council.

Chairman Howland opened the floor to proponents.

Curtis Floyd stated that he was speaking on behalf of the fire department. He noted that he did not have a personal stake in the tower being built. He talked about the money the lease would generate for the Fire Station, which might be as much as one million over the 30 year lifespan. He also stated that YCSO had also expressed interest in the tower being there due to their coverage capacities in the area. He also stated that, through a government contract, the Fire Department used a Verizon air card, however they find many coverage gaps when responding to areas outside of the city. With the tower being in Dundee it would increase the reliability of the coverage. Further, the money generated by the lease would release the volunteers from having to fund some of their equipment themselves.

Mr. Floyd stated that he had worked in the communications industry for 16 years and knew that if the antenna height were to be increased, he knew from experience that it could not be without going through the permitting process again. He also stated that installing a cell tower at 74-feet wouldn't have any more visual impact than the power poles going through town that are 75-feet. He did feel that black color would be an eyesore and recommended that it be painted the same brown color as the power poles. He also spoke about the decibels generated and gave some air conditioner numbers as comparison, concluding that it would be unlikely the noise would be heard in the summer.

Commissioner Webb asked about the statement regarding funding and whether it would fund the Fire Department. CA Daykin responded that the discussion at the city council was that the money from the lease would go to the fire department either in a fund for equipment or for more personnel.

Chairman Howland asked the commission if they had been able to read the letter from David Harrelson. The Commissioners responded affirmatively. The letter was entered as "Exhibit B".

6. Opponents

Evan Karp introduced himself and read a statement in to record. The statement highlighted several points, including: the property their business owned in Dundee, which totaled approximately 5-acres; the reason they were attracted to the area; the belief that the installation of a cell tower would be a step backward with regard to the beautification progress the city had made; the possible impact to property values and lost tax revenue.

Commissioner Webb challenged the statement about aggregate lost tax revenue. Mr. Karp clarified that the comment had to do with their interest in developing in the area and the lost revenue from them deciding to go elsewhere.

Ryan Harris stated that he was the co-founder of Wine Country Legacy Partners. He stated that the company was established because of their interest in developing in Dundee. He stated that they owned 15% of the Central Business District, confirming Mr. Karp's statement that it was 5-acres. Mr. Harris stated that he had spoken with people that were opposed to the project but felt that there were not more people in attendance based on his belief that they were the only people notified and the notification period was minimal. He spoke about the master plan process that they were currently going through to craft their development proposal to the City. He noted several reasons that people were against the proposal—health concerns, visual impacts, monetary impacts. He stated that they would be happy to kick in \$10 a year to not be able to see the “eyesore”. He also stated that they were prepared to go to LUBA if the proposal was approved.

Commissioner Webb asked if the aesthetics were the drive behind the passion Mr. Harris expressed. Mr. Harris stated that aesthetics and health concerns were made up the majority of his opposition. He also noted a question he had about why Verizon stated that 75-feet was necessary for coverage but the ability existed to lease space underneath.

Commissioner Ormonde asked about the master plan for the development and wondered if the Commission would be able to see it. Mr. Harris responded that they were in the process of finalizing it and that the plan should be available soon.

Michael Robinson, attorney for Wine Country Legacy Partners, submitted a letter, attached as “Exhibit C”. He stated that he did not feel that the prior application had any bearing on the current application, however he wanted to point out that in the previous application Verizon stated that 95-feet was the necessary height but now it is only 74-feet. He questioned which one was true and stated that he did not feel the Commission had the evidence before them to make that determination. He further stated that the additional evidence missing was the coverage loss data. Mr. Robinson also noted that coverage was not a criterion of approval. He also stated that there was no data about visual mitigation with regard to the paint color of the tower. In conclusion, he noted specific points in the letter and ended by asking the Commission to deny the application.

David Ford stated that he had volunteered on the redevelopment committee and was there to oppose the application. He believed that it was inconsistent with the beautification plan to build a cell tower. He also stated he was not convinced by Verizon's evidence that the grid where the tower was proposed was the only location that the tower would work for coverage.

There was no additional public comment.

Commissioner Webb asked if the coverage concern was outside the criteria that needed to be considered. Planner Caines responded that it was not part of the decision-making criteria. The coverage issue was simply information to consider as background for why Verizon was applying.

Chairman Howland asked the Commission about continuing the meeting. She stated she was in favor of the request. Attorney Ramis stated that the Commission should decide if they wanted to continue oral testimony or if they wanted to simply continue for written submission. Chairman Howland responded that given the need for additional information she would prefer to continue oral argument.

Commissioner Webb stated that the continuance made sense, but he wanted substantiated evidence of residences that can and cannot use their cell phones. He requested granular detail about what the residents would gain. Ms. Gretch asked for clarification as she believed the information had been provided. Commissioner Webb stated that he wanted more detailed information about both the percentage of gain across the various Verizon services and the breakout nature of those services.

It was moved and seconded to continue the hearing to August 15, 2018. Motion approved unanimously.

V. Planning Issues from Commission Members.

Commissioner Gilden questioned Dundee's mission statement. He felt the last couple of hearings had direct implications with regard to Dundee's vision, but did not feel the Vision Statement was reflected in the code requirements. He wondered what the process might be in attempting to incorporate the values in the Vision Statement into the Development Code. CA Daykin responded that the Vision Statement was created in 2000 as part of a periodic review and was now out of date. City Council had discussed updating it, but the cost of doing so was prohibitive. Further, when the periodic review was abandoned the City Council incorporated the Vision Statement as part of the introductory statement of the Comprehensive Plan and made it clear it was to guide future changes to the Comprehensive Plan, not to guide the Development Code. He stated that the City could revisit the idea of revising, but it would take a significant amount of resources to do so.

Chairman Howland asked if the Light Industrial Amendment went to City Council and what the decision was. Planner Caines stated that it was approved and adopted, but City Council took out the part regarding adding additional setbacks from residential properties; they also added outdoor welding to allowed uses.

CA Daykin asked if the absent members of the Commission would be able to participate in the continued hearing for Verizon. Attorney Ramis responded that yes, but they would need to listen to the recorded version of the meeting in order to bring themselves fully up to speed on the discussion.

There was a question about the city limits boundary by the Bypass and whether the abandon RV was inside or outside the City's jurisdiction. There was a question about the remaining traffic cones on the sidewalks down the highway. There was a question regarding crosswalks; it was noted new crosswalks would be added at 7th, 9th, and 11th Streets.

VI. Adjournment

The meeting was adjourned.


Shannon Howland, Chairman

ATTEST:


Melody Osborne, Planning Secretary