

ON OCTOBER 13, 2016 AT 6:00 P.M., THE HURRICANE CITY PLANNING COMMISSION MET IN THE CITY COUNCIL CHAMBERS LOCATED AT 147 N 870 WEST HURRICANE, UT.

Members Present: Ken Bradshaw, Ryan Cashin, Bob Petersen, Paul Farthing, Yovonda Hall, and Ralph Ballard

Members Excused: John Johnson and Bill Wilkey

Staff Present: Planning Director Toni Foran, Planning Assistant Cindy Beteag, City Council Representative Pam Humphries, and City Attorney Fay Reber

Chairman Cashin called the meeting to order at 6:00 p.m. The Pledge of Allegiance was led by scout member Zeb Hirschi and Ryan Cashin offered the prayer. Roll call was taken.

Approval of agenda: Ryan Cashin stated the Public Hearing will be moved in between the new and old business and applications 2016-CUP-13 and 2016-CUP-14 will be moved to first on the agenda. *Bob Petersen motioned to approve the October 13, 2016 agenda with the mentioned changes. Yovonda Hall seconded the motion. Motion carried with all Commissioners voting aye.*

2016-CUP-13 Consideration and possible approval of a conditional use permit for construction of a 100' monopole communications tower at 2417 West 350 North – Verizon Wireless applicant, Jared White agent

Jared White stated Verizon Wireless is proposing to construct a cell tower at the Industrial Park to increase the coverage and capacity. The existing towers cannot handle the volume of traffic that goes to them. He explained this tower will increase the coverage for the area and it offloads to other towers to help them function better. He stated the land owner ask them to move the site thirty feet to the south from where it is shown on the plan. Toni Foran said the Commissioners can approve the thirty foot move. Mr. White explained where they would be putting the site on the map. It was clarified there is nothing developed on the parcel so they feel it fits better for the use of the existing parcel and gives more space on the other parcel. Bob Petersen asked if the same owner owned both parcels. Mr. White stated yes. Chairman Cashin asked if there was a power source. Mr. White stated yes, the power lines are on both sides of the property and they can stay within the existing easement. Yovonda Hall asked if anything else was the same height in the surrounding area. Ms. Foran stated the IHC building is probably the tallest. Mr. Petersen asked how tall the power poles are. Ms. Foran estimated close to sixty feet. Mr. White stated people used to oppose these towers but now people are wanting better service so they are ok with them. *Paul Farthing motioned to approve application 2016-CUP-13 with the change that the facility will be moved thirty feet to the south of the submitted location. Approval is based on the findings that this is a good fit within the Industrial Park. Yovonda Hall seconded the motion. The vote was as follows; Ken Bradshaw-Aye, Ryan Cashin-Aye, Bob Petersen-Aye, Paul Farthing-Aye, Yovonda Hall-Aye, and Ralph Ballard-Aye. Motion Carried.*

2016-CUP-14 Consideration and possible approval of a conditional use permit for construction of a 100' monopole tower combined with ball field lights at about 560 West at the High School ball fields – Verizon Wireless applicant, Jared White agent

Jared White stated this tower would be located on the Hurricane High School baseball field. He explained this area was picked to minimize the visual impact in the residential areas. He explained the residential areas are where the highest demand of usage comes from. He stated his understanding that this is a legal gray area because the Washington County School District doesn't feel that Hurricane City has jurisdiction over their property. They only wanted Verizon to apply as a courtesy to the City but they argue that they can do what they want on their land. He stated staff is recommending the tower is moved from that location because it is a monopole, however, they feel it is a co-location because they don't own the pole

and it is already existing. He stated they feel it meets the purpose of the code better as a co-location. He stated if it is not approved in this location then they would have to move South to a soccer field that is surrounded by residential use. He stated they would purpose a tower that meets the three hundred requirement but would defeat the purpose of the code to minimize the number of wireless facilities. He stated they would argue that they would be meeting the code and the City pressed them away from a colocation and a better location. He argued interpreting this pole as a monopole means it doesn't meet the setback requirement but Verizon could make the argument that going on an existing structure then it is a colocation. Mr. White said based on the staff recommendation to put the pole somewhere else on the school property, they would work with the school to find a different location on their property but if the school doesn't want it anywhere else then the school could invoke their legal right as a State Entity and say the City can't dictate what is put on their property. If that happens, it then becomes a legal issue between the City and the School District.

He stated the only other option would be to build a monopole in the South field that would be far more intrusive. He explained they can't move any more north. They need to go South. He stated they want to build them as least intrusive as possible and this seemed like the best place. Ralph Ballard asked if they would mount the towers to the light poles. Mr. White stated they would do a structural analysis to see if the pole could hold them. If it could not, they would replace it with a new structure.. They raise the pole away from the lights, making it about twenty feet higher. Mr. Ballard stated it would only change the existing structure by twenty feet and that is what needs to be considered. Yovonda Hall stated the lights are already high so it shouldn't be that big of difference. She said the creativeness of putting it on an existing pole is a better option. Paul Farthing agreed. Bob Petersen questioned if they can give a variance to the Land Use Code. City Attorney Fay Reber stated the Commissioners cannot issue a variance. Mr. White asked if it could be interpreted as a colocation because it is going on an existing structure and asked if the City feels they have jurisdiction over the school property.

Toni Foran read the definition of collocation; *the location of an antenna on an existing structure, tower or building that is already being used for telecommunication service facilities*. She stated she can't interpret this as a facility that is already being used for telecommunication because it is light pole. She stated she did agree it was a good location until she measured how far it was from existing residential. Mr. White stated someone has to be the first to collocate on a roof to turn it into a telecommunication facility. Ms. Foran stated roof towers are a separate thing and they permitted in more areas than a monopole.

Mr. White stated the School District asked them to apply as a courtesy but they told them that they have jurisdiction over their property because they are a State Entity. Mr. Reber clarified they are exempt from certain things but only for educational purposes. Mr. White stated he has had that conversation with many Districts and it is argued both ways. Mr. Reber stated that is something that will have to be worked out when that time comes. Mr. Farthing asked if this could go to Board of Adjustment. Mr. Reber stated he isn't sure if this qualifies as a variance but there is some language in the code that states a person can appeal to the Board of Adjustments a decision made by the Zoning Administer. He stated he hasn't reviewed the code or spoken with staff so he isn't able to give his input tonight but he is willing to meet with them and look at it more closely. Mr. Farthing asked if they could table it in order to review the code. Mr. White stated Verizon will feel tabling will only delay the process if the City interprets this as a monopole. He stated if it could be approved as presented and then they can work with the City Attorney to see if it fits as a variance as well as work with the School District and their attorneys to see if they have jurisdiction over their property or the possibility of moving it to another location on their property. He stated if all else fails, they will be back to propose a new monopole in a different location. Ms. Hall stated they don't have the authority to approve this without following the code. Mr. White stated the code is conflicting itself because it is forcing them to build another tower when the purpose of the code is to limit the number of towers.

Mr. Ballard asked if they could put them on the roof top. Mr. White stated there is not enough height on the rooftops and the high school doesn't want them up there because Verizon would have to access them through the school. Resident Rich Murrset asked if the school could put a communications antennae on the light and then Verizon could add another one, making it a colocation. Mr. White stated the school couldn't

either because it doesn't meet the 300 foot requirement. Ms. Foran stated the Commissioners have the option to approve with the condition they find a location that meets the 300' requirement. Mr. White stated there is one football stadium light that might work but the School District doesn't want them to use the tower at the entrance of the parking lot for safety reasons. Mr. Ballard asked how far the proposed tower is from residential. Mr. White stated 107'. Ms. Hall asked if they could put another pole somewhere else on the property. Mr. White argued another pole defeats the purpose of trying to put it on an existing pole. Mr. Reber suggested if the Planning Commission is comfortable approving this then they could grant permission to construct a monopole that meets the ordinance. He will then meet with Ms. Foran to interpret the ordinance. He explained if there is way to interpret the ordinance in a way that benefits the community without making people jump through hoops that is what the City tries to do but it has to be consist with how they have interpreted the ordinance in the past. If they are not able to interpret it as a colocation then they will have to talk to the School District about it being on their property. Mr. White stated that approval would work. Mr. Reber stated the Commissioners can only approve a monopole because that is what was proposed. Mr. White asked if they Commissioners could approve a cellular facility. *Yovonda Hall motioned to approve application 2016-CUP-14 for a cellular facility located on the school property that meets the legal requirements of the code after consultation and approval by staff. Bob Petersen seconded the motion. The vote was as follows; Ken Bradshaw-Aye, Ryan Cashin-Aye, Bob Petersen-Aye, Paul Farthing-Aye, Yovonda Hall-Aye, and Ralph Ballard-Aye. Motion Carried.*

Old Business:

2016-ZC-12 Consideration and possible recommendation to the City Council on a zoning map change request for lots 2-14, Old Farm Subdivision, as recorded in 1994, from the current R-1-6, Single Family Residential 6,000 square foot lots, to R-1-8, Single Family Residential 8,000 square foot lots-Hurricane City applicants

Toni Foran stated staff was directed to research if this subdivision had CCR's recorded. She stated they were not able to find any. Also at the last meeting the Commissioners asked one of the property owners to get signatures of anyone within the subdivision that was opposed to the zone change. She stated it would be beneficial to see how many signatures they received. Resident Angela Pozernick stated she went around and got signatures from almost all property owners in the subdivision. She stated lot 14 that originally wanted the zone change sold today and the new owners signed the petition saying they do not want the zone change. Ralph Ballard asked to read the petition. Paul Farthing asked if the petition had all the property owners' signatures. Ms. Pozernick stated some signatures are renters and she couldn't contact some owners. Mr. Ballard clarified the lot that wanted this change sold. He asked who initiated the zone change. Ms. Foran stated the City Council directed staff to initiate the zone change. Chairman Cashin asked if there was specific reason all the owners object to the zone change. Ms. Pozernick stated yes, none of them want vacation rentals in the neighborhood. Yovonda Hall asked if there was any other reason the City Council would want it. Ms. Foran stated the reason the City Council directed staff to initiate this is because a property owner came to the City Council asking for a variance to the ordinance to license a vacation rental. The Council told them the only thing they could do was change the zone so they asked staff to look at it. Council members felt they were giving more property rights by changing the zone. *Bob Petersen motioned to recommend denial of application 2016-ZC-12 to the City council. Yovonda Hall seconded the motion. The vote was as follows; Ken Bradshaw-Aye, Ryan Cashin-Aye, Bob Petersen-Aye, Paul Farthing-Aye, Yovonda Hall-Aye, and Ralph Ballard-Aye. Motion Carried.*

CUP – Amendment Consideration and possible approval of amendments to the conditions set previously for a conditional use permit for a small engine repair shop at 117 W State Street.

Mike Hirschi stated he is applying for an amendment to his existing conditional use permit so he is able to do repair work and store equipment outside. Mr. Hirschi presented a letter from the property owner which states he has three parking spaces and he can use two of them for storage as long as he keeps it neat. The handicap parking must be kept accessible. He read the letter, available in the Planning Commission book.

Yovonda Hall stated she doesn't know how only testing machines inside ever got approved the first time. Ralph Ballard asked if he had talked to the landowner about fencing off the storage. Mr. Hirschi stated he has talked to him about it before but they haven't finalized it. Paul Farthing stated some outdoor cafes put some sort of barrier or landscaping between them and the sidewalk. He suggested something like that might work to separate the stored equipment on the East side from the sidewalk. Mr. Ballard stated that would help with theft and make it look nicer. Chairman Cashin agreed some sort of privacy would eliminate a lot of the problems. *Paul Farthing motioned to approve the amendment to the conditional use permit to allow outdoor storage and repairs in the two parking spaces and the east side of the building but not on the sidewalk. Yovonda Hall seconded the motion. The vote was as follows; Ken Bradshaw-Aye, Ryan Cashin-Aye, Bob Petersen-Aye, Paul Farthing-Aye, Yovonda Hall-Aye, and Ralph Ballard-Aye. Motion Carried.*

Chairman Cashin opened the Public Hearing at 6:48 p.m. to take comments on the following Zoning Map change requests:

- 1. A zone change from R-1-6, Single Family Residential 6,000 sq ft. lots, to RM-2, Multiple Family Residential maximum 10 per acre, for a 1.18 acre parcel located at 118 N. State Street in Hurricane – parcel H-179**

Pam Humphries stated she understands this is just a zone change and the submitted plan is just a concept plan but it looks like some garages are accessed off of SR-9. Roger McDonald stated they will all be accessed by a driveway off 100 North.

Renae Thompson asked if the pictures that were mailed with the letter is what will be there. Mr. McDonald stated they are close to what will be there but they are not the finished plans. Ms. Thompson asked if they will be individually owned. Mr. McDonald stated yes. Ms. Thompson stated she liked the idea and the larger units. She asked if they could be vacation rentals. Toni Foran stated not under the current ordinance. Ms. Thompson asked if the City has any influence to put a stop light on 100 North with all the extra traffic this would add. She stated the sight distance is horrible there and she is concerned. She asked if they could petition the State to add a light. Chairman Cashin stated UDOT does their own studies and the City is subject to what they do. Ms. Thompson asked if there could be a time frame on the approval so it can't be changed to something else. Her concern is that if the project is approved but isn't built then they will sell off the property into smaller pieces. Chairman Cashin explained this is the zone change only. They are not approving the project. Ms. Thompson clarified the zone change is permanent but the project could be changed. Paul Farthing explained it would still have to be multifamily 10 units per acre.

Colleen Harris, who currently lives on the property, stated she has enjoyed her "HI" house and she doesn't want it to go.

- 2. A zone change from A-5, Agricultural five acre, to RA-1, Residential Agricultural 1 acre, for those properties located south of 2300 South between 1500 West and 1100 West that were rezoned in error during an annexation**

Toni Foran stated a meeting was held with the property owners. The City has done a lot of research and are now trying to correct an error. She stated she has talked to a lot of the property owners and she hasn't had any objections.

No comments from public.

Chairman Cashin closed the Public Hearing at 6:58 p.m. and returned to the Public Meeting.

New Business:

2016-ZC-14 Consideration and possible recommendation to the City Council on a zoning map change request from R-1-6, Single Family Residential 6,000 sq ft. lots, to RM-2, Multiple Family Residential

maximum 10 per acre, for a 1.18 acre parcel located at 118 N. State Street in Hurricane – parcel H-179 – Iota LLC applicant – Roger McDonald agent

Bob Petersen asked if the current home on the corner would be torn down. Roger McDonald stated yes. Paul Farthing stated it reminds him of a very nice project at 200 North and Main. Chairman Cashin commented the Commissioners have seen a lot proposals for this property but this fits the best. Yovonda Hall stated the zone change doesn't guarantee this project. She stated there is one owner that is excited for the plan but they can't dictate that is what is built. She stated she wants the surrounding owners to know that if it is changed it can be any multifamily and could be rented out instead of individually owned. She stated she likes the buffer between commercial and residential but asked if this was the best fit. Ralph Ballard stated his understanding is the next stop light planned is on 600 North. He stated the visibility is scary at this location but people have the option to turn right. Mr. Petersen stated the current zone allows six buildings so this is only adding three more homes. *Bob Petersen motioned to recommend approval of application 2016-ZC-14 to the City Council based on the following findings; 1. The proposed amendment is compatible with the goals and policies of the general plan by creating opportunity for infill development and creating higher density uses near an arterial street and as a buffer between R-1-10 and Highway Commercial zoning. 2. Public facilities and services are adequate to serve the subject property. 3. The proposed change will affect other properties in the area but not necessarily any more than development under the existing zoning would affect them. Ken Bradshaw seconded the motion. The vote was as follows; Ken Bradshaw-Aye, Ryan Cashin-Aye, Bob Petersen-Aye, Paul Farthing-Aye, Yovonda Hall-Aye, and Ralph Ballard-Aye. Motion Carried.*

2016-ZC-15 Consideration and possible recommendation to the City Council on a zoning map change from A-5, Agricultural five acre, to RA-1, Residential Agricultural 1 acre, for those properties located south of 2300 South between 1500 West and 1100 West that were rezoned in error during an annexation – Hurricane City applicant

Ralph Ballard motioned to recommend approval of application 2016-ZC-15 to the City Council. Paul Farthing seconded the motion. The vote was as follows; Ken Bradshaw-Aye, Ryan Cashin-Aye, Bob Petersen-Aye, Paul Farthing-Aye, Yovonda Hall-Aye, and Ralph Ballard-Aye. Motion Carried.

2016-PP-09 Consideration and possible recommendation to the City Council on Mulberry Estates Subdivision, a preliminary plat for a 14 lots subdivision located south of 900 South at approximately 990 and 1100 West – Kevin DeMille applicant

Ryan Cashin asked if he had seen the staff and JUC comments and if he had any issues. Karl Rasmussen, representing the applicant, stated yes and they are ok with them all. Chairman Cashin asked staff if they should require a recorded restriction against each lot stating they are in an area with collapsible soil. Toni Foran stated that is not required for Preliminary Plat so that can be done at Final Plat if the soil report shows it is necessary. She stated the City has a form that can be used at building permit. Paul Farthing stated his concern is the access off of 1100 West. Mr. Rasmussen stated there will access off of 1100 West and 990 West. Mr. Farthing stated 1100 West is a one lane road and shouldn't be an access. Chairman Cashin stated it needs to be wider but that is a City issue. Ralph Ballard stated when this application came for the zone change the Commissioners recommended denial but the City Council approved it so they must have something in mind for the problem. Mr. Rasmussen stated he thought this would help the traffic on 1100 West by giving an alternate route to 920 West. *Ken Bradshaw motioned to recommend approval of application 2016-PP-09 subject to staff and JUC comments; 1. The tentative plan for storm water drainage is not clear from information provided. Full drainage plan will be required with construction drawings after preliminary plat is approved. 2. A dry irrigation system will be required in the subdivision for eventual connection to a pressurized irrigation system. 3. The City Engineer does not feels the proposed plan shows inadequate access for the subdivision. 4. The "temporary cul-de-sac" at the end of each street is not located on the applicant's property. Subdivider should provide evidence of an easement for the use of this property. 5. Ash Creek Sewer District prefers the sewer be run from 650 South down 990 West and through an*

easement to this project. 6. The applicant has provided a note on the plat describing the soils as "Consisting of sandy loam soil with voids that characterize the site as a collapsible soil, but the site has been irrigated for years, reducing the probability of such collapse." A preliminary geotechnical review of the readily available maps on the City's website indicates this property is subject to liquefaction hazard as well as possible adverse construction conditions including collapsible soil, expansive soil, gypsiferous soil and rock, and shallow groundwater. A detailed geotechnical engineer's report must be obtained by the developer addressing these possible hazards and included with construction drawings for the site. 7. Will serve letters for culinary water and sewer have been provided. Copies are included with this staff report for Commissioner's review. Bob Petersen seconded the motion. The vote was as follows; Ken Bradshaw-Aye, Ryan Cashin-Aye, Bob Petersen-Aye, Paul Farthing-Aye, Yovonda Hall-Aye, and Ralph Ballard-Aye. Motion Carried.

Planning Commission business:

1. **Final review of conditional use permit changes in land use charts.** Toni stated she thought she had what the Commissioners would like to see in the ordinance and she will hand it out to them at the next meeting.
2. **Final review of lot frontage standards in RA zones.** Toni stated it was her understanding they were approving 100' frontages and requiring ten and twenty foot side setbacks. Commissioners agreed. She will advertise for a public hearing.
3. Reports from ULCT and Utah APA conferences from those who attended. Bob, Paul, Cindy and Toni reported on the conferences.

Approval of minutes: Yovonda Hall motioned to continue the September 28, 2016 minutes for further review. Paul Farthing seconded the motion. *The vote was as follows; Ken Bradshaw-Aye, Ryan Cashin-Aye, Bob Petersen-Aye, Paul Farthing-Aye, Yovonda Hall-Aye, and Ralph Ballard-Aye. Motion Carried.*

Meeting adjourned at 7:23 p.m.