

**LAYTON CITY PLANNING COMMISSION WORK MEETING MINUTES
JULY 22, 2014**

MEMBERS PRESENT: Brian Bodily, Dawn Fitzpatrick, Gerald Gilbert, Wynn Hansen, Brett Nilsson, Randy Pulham, Robert Van Drunen, Dave Weaver, L.T. Weese

MEMBERS ABSENT:

OTHERS PRESENT: Staff Members: Bill Wright, Andrew King, Tyson Willis, Julie Matthews, Councilmember Joy Petro

PUBLIC REVIEW:

1. AT&T WIRELESS – CONDITIONAL USE REQUEST FOR A TELECOMMUNICATIONS FACILITY AT A COMMUNITY USE

This property is located at 52 West Golden Avenue in an R-1-8 (Single Family Residential) zoning district. The property owner is the Davis County School District represented by the applicant, Kris Martinez, from NSA Wireless.

Planner I, Andrew King, introduced Kris Martinez from AT&T who explained how coverage areas were determined and how a site was selected. The proposed area on the back lot of Central Davis Junior High would take care of 88 percent of the coverage needed for AT&T clients, in particular, indoor strength and coverage. A radio frequency engineer had run tests on other towers in the areas and found they did not meet coverage requirements. Paul Barnes from Davis School District selected the area on the school property where the tower would be built. He explained why other areas of the school property were not acceptable to the school district and why other locations proposed by the Planning Commission would not meet coverage requirements.

The Commissioners expressed their concerns about the tower being in the location proposed with regard to the safety of children, diesel storage, and the blocking of the view of spectators at the sports fields. Commissioner Fitzpatrick expressed a concern that Mr. Martinez had referred to the size of the compound at 2,500 square feet rather than the 1,000 square foot site specified in the Staff report.

Mr. King asked if the compound could be smaller. Mr. Martinez said additional carriers would need to expand the compound. He said the School District has control of size and location of the compound area.

There was a discussion on the possible revenue the cell tower would bring to the school.

Commissioner Nilsson asked if the towers would be insured, and Mr. Martinez responded in the affirmative. He said the tower would be 50 feet below ground and 60 feet above ground.

Commissioner Hansen asked about areas with trees that are not 60 feet tall. Mr. Martinez said that Layton City requires co-location and the trees would block co-location possibilities.

The UTOPIA site on Gordon Avenue and Fort Lane was discussed, and Mr. Martinez said the power lines would be an issue.

Chairman Gilbert suggested putting the tower in an area with trees and waive co-location. Community and Economic Development Director, Bill Wright, said the applicant could end up with a site where the City would not allow the trees to be trimmed or taken down and there would be no guarantee that co-location would be waived.

Commissioner Fitzpatrick mentioned a site across Golden Avenue from the school, which Mr. Wright said was zoned residential and rezoning is not done for cell towers.

Councilmember, Joy Petro, suggested a higher tower. Mr. Wright said a higher tower would be more expensive, and if all they need is a 60-foot clearance, then it would be worth exploring the waiving of the co-location.

There was a discussion of ways to mitigate the tower at the proposed site. Commissioner Fitzpatrick recommended a smaller footprint with no way for balls to get into the compound. Commissioners Fitzpatrick and Hansen said that if the site has to be expanded with each co-location, then that site is not approvable. Commissioner Van Drunen said he would rather have the tower site at the school rather than in the parking lot.

Co-location on another tower was proposed. Assistant City Attorney, Tyson Willis, said ordinance requires an independent consultant to state that co-location on another tower would provide an unreasonable hardship.

Mr. Martinez said that if AT&T has to start all over again on a different scenario, then the site would be disregarded since it is a six to eight-month process to do the research.

Councilmember Petro suggested the LDS Seminary building across the street. Mr. Martinez said the LDS Church will not work with any carriers.

Commissioner Hansen said the Commission understands the importance of having cell towers. He suggested that in the future it helps everyone concerned if a carrier comes with two or three locations so those locations can be evaluated.

Mr. Martinez said he presents AT&T with three to four options. The engineer will choose a location and that is the one proposed to the municipality.

2. PRECISION ASPHALT MAINTENANCE INC. – CONDITIONAL USE FOR A OUTDOOR STORAGE/CONTRACTOR'S YARD

This property is located at 201 East 2150 North in an M-1 (Light Manufacturing/Industrial) zoning district. The applicants, Aaron Martinez and Jayce Schneider from Precision Asphalt Maintenance, are representing the owner, Chris Loock.

Mr. King said that the intent of Precision Asphalt coming to the meeting is because they have alternate proposals. Commissioner Hansen asked why the proposals had not been pitched to Staff. Mr. King said he had asked the applicant for his proposal. Commissioner Nilsson felt the applicant should have presented his options in work meeting.

Chairman Gilbert said that based on the original conditions, the owner felt he did not want to spend the amount it would cost to meet the conditions. Chairman Gilbert felt the original conditions should be enhanced, not lessened.

There was a discussion about the fuel tanks and why they were not removed as required as well as a discussion regarding the safety of the tanks.

Commissioner Bodily felt the applicant continued to add to the site. Commissioner Fitzpatrick said the applicant had been given notice there should be a KNOX box and a masonry wall all the way around the complex. She said the tanks were supposed to have been disassembled, but she witnessed them being filled.

Mr. King said he had communicated with the applicant and owner both by telephone and e-mail.

There was a discussion on how to mitigate the issues. Commissioner Van Drunen said the applicant is not following the conditional use requirements. Community and Economic Development Director, Bill Wright, said the applicant does not have a business license. When the third building is built, the outside storage use would be eliminated.

Mr. Wright said that the Commission should be aware that if they decide to motion to deny the conditional use, that State Law states that conditional uses are effectively permitted but may have more mitigations to make them approvable. If the conditional use is denied, it must be with reasons as to why the conditional use cannot be mitigated such as the safety issues cannot be mitigated by another method. An appeal to the denial based on the reasons not being founded should be avoided. Any conditions added must be defensible. A finding must be made that the use is incompatible and cannot be mitigated.

3. VAUGHN VERNON – CONDITIONAL USE FOR AN ACCESSORY DWELLING UNIT

This property is located at 1578 East Gentile Street in an R-1-10 (Residential Single Family) zoning district. The property owner, Vaughn Vernon is being represented by the contractor, Jason Gates.

Chairman Gilbert said the owner has agreed to a fire suppression system for the accessory dwelling unit. Commissioner Nilsson said the property owner to the east of the owner seems to be in agreement with the applicant with the regard to the granting of a utility easement for the accessory dwelling unit.

Mr. Wright said Andrescapes has made major improvements. Chairman Gilbert mentioned the signages belonging to other entities, but said he liked the waterfall. He felt the Commission should not have had to work with the owner on this conditional use since 2009. He mentioned the ice shacks and how the tables are now back in the landscape strip.



Julie K. Matthews, Planning Commission Secretary

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Chairman Gilbert called the meeting to order at 7:05 p.m. The Pledge of Allegiance was recited and an invocation given by Commissioner Bodily.

New Planning Commissioners, Brett Nilsson and Randy Pulham, and re-appointed Commissioner, Brian Bodily were given the Oath of Office by Planning Commission Secretary, Julie Matthews.

Chairman Gilbert called for a motion to approve the June 24, 2014, Planning Commission Meeting minutes. Commissioner Hansen mentioned that he was shown as absent on the June 26, 2014, Meeting but was present. Commissioner Fitzpatrick moved to approve the minutes with the correction. Commissioner Bodily seconded the motion and the voting was unanimous.

Chairman Gilbert called for a motion to open Public Review. Commissioner Bodily moved to open Public Review. Commissioner Nilsson seconded the motion and the voting was unanimous.

PUBLIC REVIEW:

1. AT&T WIRELESS – CONDITIONAL USE REQUEST FOR A TELECOMMUNICATIONS FACILITY AT A COMMUNITY USE

This property is located at 52 West Golden Avenue in an R-1-8 (Single Family Residential) zoning district. The property owner is the Davis County School District represented by the applicant, Kris Martinez, from NSA Wireless.

Planner I, Andrew King, presented the request for conditional use for a telecommunications facility at a community use. He said the Planning Commission first reviewed this item on July 8, 2014, and it was tabled for more information. The applicant brought that information to Work Meeting to explain their review process and site selection. The consensus was that this item would be tabled to the August 12, 2014, agenda to gather more information and possibly consider a different site.

Commissioner Fitzpatrick asked about documentation from an independent consultant on the location. Staff will provide that documentation.

Commissioner Weaver asked about the diesel fuel that is to be in a secondary containment and if that would be inside or outside of the compound.

The AT&T representative, Kris Martinez said the gas is stored in the engine 1-2 times a week for 20-30 minutes. Additional gas is not stored inside of the building. A technician comes out to refill the engine when needed. The City selects the time the generator will run, and the generator automatically turns on at this time.

The Commission had no other questions.

Fred Murray, 138 West Golden, Layton, said the proposed location is protruding into the middle of the park area. He suggested locations by the nearby elementary school where there is open ground.

Chairman Gilbert said the location had been discussed with Davis School District, and their representative said the proposed area is the choice of placement by the District. He said AT&T has agreed to look at other site locations to build the proposed tower off the school property all together.

Mr. Murray suggested another site at 234 East Golden Avenue, a City site he felt needed some work.

Chairman Gilbert called for a motion on the item.

Commissioner Nilsson moved that the conditional use permit request be tabled to the August 12, 2014, Planning Commission Meeting. Commissioner Weaver seconded the motion, and the voting was unanimous.

2. PRECISION ASPHALT MAINTENANCE INC. – CONDITIONAL USE FOR A OUTDOOR STORAGE/CONTRACTOR'S STORAGE YARD

This property is located at 201 East 2150 North in an M-1 (Light Manufacturing/Industrial) zoning district. The applicants, Aaron Martinez and Jace Schneider from Precision Asphalt Maintenance, are representing the owner, Chris Loock.

Mr. King presented the conditional use request for outdoor storage and said the request had been tabled from the June 24, 2014, meeting. He said the applicant had information they wanted to discuss with the Commission.

Chris Loock, the property owner, 8150 South 2567 East, South Weber, apologized for putting up the fence without getting the conditional use permit in place first. He said he had done an analysis based on the requirements of the conditional use as to what they could afford to do to accommodate the Precision Asphalt Company. He said he had met with the neighbors and knew their concerns.

Mr. Loock proposed that they install a 15-foot wide landscape along the property frontage on 2150 North. He said their goal was to build two additional buildings and he does not want to spend a lot of money on things that would have to be ripped out in two to three years. He said the neighbors had concerns about the aesthetics of the property and he would be okay with planting trees in the rear and doing the minor landscaping.

Mr. Loock said the Engineering Division was requiring a grease trap, which he thought was excessive, but since he is not an engineer, he will install it. He said he did not want to install asphalt, but he would put in millings or gravel for the storage surface.

Mr. Loock said he would slat the fence like the building across the street had done. With regard to the gas tanks, he said Precision Asphalt would like to keep them there, but they will remove them if required. He said the lights on the back of the building that are shining into the yard will be replaced. He also said he had hired someone to mow weeds but will need to wait until that person's tractor has been repaired.

Mr. Loock said the masonry fence is financially unrealistic and Precision Asphalt will have to move from the site if that is a requirement.

Chairman Gilbert said that Mr. Loock was supposed to evaluate if he could meet the conditions, however, there are other enhancements that would need to be done to be consistent with the existing site plan

Mr. Loock said he wanted to do something to keep mud from tracking on the road. He said if the original conditions needed to be met, then Precision Asphalt will need to leave the site because Mr. Loock could not afford those conditions.

Commissioner Hansen asked Mr. Loock if he was the property owner. Mr. Loock replied in the affirmative and said he owned the property and two buildings.

Commissioner Hansen asked if any other locations had been pursued for the storage lot. Mr. Loock said the applicant wants to be closer to I-15 and Salt Lake City. They have struggled to find a place to have their office and storage yard. He asked, since it was Precision Asphalt's busy season, if they could have a few months to find a new place.

Commissioner Bodily asked if they had a business license to do what they were doing. Mr. King said that they did not.

Jace Schneider, representing Precision Asphalt, said that it is a new, young company. It was presented to them as an area for a shop and a place to store things. He said he did not receive a license because it was on hold while the conditional use was being reviewed. He said they were a young company and did not do their due diligence. He said he had applied for the license and was under the impression it would go through smoothly.

Chairman Gilbert said that Staff had informed him that they had asked Mr. Loock to come to the office and discuss the issue even before the fence went up, but Mr. Loock had not responded promptly.

Chairman Gilbert asked why the tanks had not been removed as required by the Commission on June 24. Mr. Schneider said their work had been non-stop. He said he had talked with the operations manager and as soon as they had time to take them down, they would. It was hard to get the manpower to do it.

Residents in the area, Carol and Brent Barney and Tom Koford expressed concerns regarding lights in their backyards, noise from the asphalt trucks at 5:30 a.m., debris on the sidewalks and broken sidewalks, weeds, fuel tank hazards, ladders left on the back of the building causing a hazard to children, unsightly and unsafe dumpsters, businesses operating without conditional use requirements being met, vinyl slats versus a block wall with regard to screening, and balancing having businesses in this area with the integrity of the area.

Chairman Gilbert asked Mr. Loock and Staff to get involved in the sidewalk issues. He directed the residents to call Code Compliance regarding the other issues.

Mr. Loock asked the neighbors to call him with issues using the phone number (801) 631-0606 on the flyers he had sent out. He said he had already purchased the lights and hired a neighbor to mow the weeds. He said he was not the original owner and had inherited the lighting issue.

Chairman Gilbert said if he was not the original owner, he should consult with Staff on codes and regulations regarding dumpster enclosures and get to know everything he needed to adhere to as part of owning a building.

Commissioner Hansen said that when a building is approved the lighting plan must show the lighting to be contained on the property. He asked how the lights were installed in this manner.

Mr. King said the photometric plan that is submitted shows how much light is emitted. This is part of the approval process. At some point it must have been submitted and must have looked good at that time. Possibly something different was installed.

Commissioner Hansen wants to make sure the neighbors know that Staff reviews the lighting. He said it is commendable to Mr. Loock that it has been pointed out and he is trying to make it right.

Commissioner Nilsson asked considering the issue of the additional yard, if the fence met the guidelines. Mr. Loock said it did not. He said it was exactly like the business fence across the street but six-foot high rather than eight-foot. The business also has outdoor storage.

Mr. Wright explained that usually a business will come in and discuss their development plans, learn of the conditional use permit and then do not wait to open the business until all requirements are met. He said this business didn't fall into this process and entered into a lease arrangement. The office use is compliant, but the outdoor storage is not compliant. If the conditional use is not approved at this meeting, they will be asked to cease operation. If approved, they will be asked to cease operation until compliant.

Chair Gilbert called for a motion on the item. Commissioner Fitzpatrick moved that the conditional use be approved with the following conditions:

1. The business shall comply with all Fire Department, Building, Planning and Engineering Division requirements. *Add compliance with EPA regulations, install a KNOX padlock and not just a master lock, and remove fuel tanks. In discussion with the Fire Department, if the fuel tanks are to remain, they must be put in a ground level concrete containment with an electric pump and no gravity fed tanks to offer projectile crash protection in the APZ. The tanks must have all necessary labeling required by the Fire Department.*
2. All improvements to the landscape buffer, landscape strip, and pavement for driveways shall be installed consistent with the approved site plan and landscape plan.
3. The outdoor storage area shall be enclosed with an eight foot masonry fence along the southern and eastern boundaries of the storage area. All other fencing used to enclose the storage area shall minimally be eight foot slated chain link fencing. Fence slats for chain link fencing shall be a dark color. *Install an eight-foot masonry fence along all borders and install a KNOX lock.*
4. An additional landscape buffer shall be installed along the southern portion of the outdoor storage. This area shall be at least ten feet wide and planted with shrubs, bushes and no less than one tree per 25 feet of fencing. Trees shall be a deciduous variety with a mature height of 20 feet or more. Trees shall be planted 25 feet on-center. The landscape buffer and all associated plantings shall be shown on a landscape plan. *Combine with #2 and suggest that no operating machinery be unattended.*
5. All truck and construction equipment traffic associated with the outdoor storage on this site shall be provided from Fort Lane to and from 2150 North Street. No traffic shall travel through the residential neighborhoods to the west.
6. No construction equipment that emits noise that can be heard from any residentially zoned property shall operate between the hours of 10:30pm and 7:00am. *Combine 5 and 6.*
7. Add condition that shed on the property be properly built to Building Code standards.
8. Add that efforts be made to mitigate asphalt smell.
9. Add that hard surface within and without the fenced area be maintained weed free.
10. Add that no construction is considered temporary and should be looked at as being permanent.
11. Driveways must be consistent with approved site plan including paving on to the site. If vehicles temporarily drive over the sideway, asphalt needs to be in place to protect the concrete.

Commissioner Nilsson asked Associate City Attorney, Tyson Willis, if the employees should report to work if the company has no business license. Mr. Willis said all items must be completed in 30 days and the business shouldn't operate until the business license is in place.

Mr. King said there were two processes involved -- the business licensing and conditional use process and the site plan approval process. Staff will review the site plan approval. To change the existing site plan, a site plan amendment would be required and landscaping would be addressed. He said it would be unreasonable to complete the site plan process in 30 days.

Chairman Gilbert asked how the conditional use could be tied to the site plan. He said the Commission must address how the conditional use would impact the front, side and back of the business as well as the surrounding areas. He didn't think 30 days was out of line to expect site plan completion.

Mr. Willis said the conditional use should be dealt with prior to site plan approval. Commissioner Fitzpatrick asked if landscaping and entrance paving could be added to the conditional use.

Mr. Loock, the property owner, asked to withdraw the request for conditional use and said the applicant would move their business to Slaterville.

The time frame for moving the business was discussed.

Mr. Wright advised the Planning Commission to acknowledge that the conditional use application has been withdrawn. He said that under the Business Licensing Code, a provisional order could be issued that the business could no longer be on the site in five (5) days.

Commissioner Fitzpatrick said the Commission is not anti-business, but the proposed location is not the right location for this business.

The applicant, Jace Schneider, asked if they could work until the end of five (5) days and then take down the yard. Mr. Wright said that by the end of five days, the applicant would have to be compliant, file an appeal, and then have a hearing to present reasons why they are not compliant.

Commissioner Fitzpatrick withdrew the first motion and moved that the Planning Commission accept the the withdrawal of the conditional use, directing Staff to move forward with the Business License five-day notification and stated the property owner had agreed to remove the fence and restore the property to its original condition. Mr. Willis said the motion was correctly stated. Commissioner Weaver seconded the motion.

Mr. Loock asked if he had to remove the fence. Mr. Wright said Staff would address the fencing issue.

Commissioner Hansen asked to modify the motion so that there is full clarity that the fence requirement and existence be subject to review with Staff by the property owner to approve its status.

Commissioner Fitzpatrick accepted the modification. Commissioner Weaver seconded the motion.

Chairman Gilbert asked with regard to the motion what would address the truck and weed problem. Commissioner Hansen said the weed maintenance would be a Code Compliance issue and that the Code Compliance Officer had been on site when he visited the site.

Chairman Gilbert asked Staff to take into consideration that the fence is an eyesore and that the trucks from Energy Savers are not parked on a hard surface.

Jennifer Koror, 2114 North 5 east, asked if there was a code for the type of fence allowed. She mentioned that a business adjacent to the residential area, Got Storage, was required to put up a vinyl fence.

Commissioner Nilsson said Staff would review the fencing requirements based on City ordinance.

Chairman Gilbert said he felt the fence should be removed and the property restored to its condition prior to any of the unauthorized improvements.

Commissioner Weaver said the responsibility should be put on Staff to make those requirements happen.

Mr. Willis said if the owner didn't need a permit to install the fence and it meets zoning requirements, he should not be required to remove the fence.

Commissioner Hansen said Staff should be allowed to review the ordinance and make the decision.

Chairman Gilbert accepted Commissioner Hansen's modification to the motion that the fence requirement and existence be subject to review with Staff and the property owner.

Mr. King said Staff will consider the business license if the applicant is going to stay in the office suite

The voting was unanimous.

3. VAUGHN VERNON – CONDITIONAL USE FOR AN ACCESSORY DWELLING UNIT

This property is located at 1578 East Gentile Street in an R-1-10 (Residential Single Family) zoning district. The property owner, Vaughn Vernon is being represented by the contractor, Jason Gates.

Mr. King presented the request for an accessory dwelling unit. Jason Gates was present representing the property owner, Vaughn Vernon. He said the applicant has submitted a site plan meeting all setback requirements and footprint requirements at or below 1000 square feet. The applicant will also be required to include a letter of agreement upon application for a building permit not to rent out the facility.

He said the applicant has agreed to put in a fire suppression system and adhere to all Fire Department requirements. All conditions must be met prior to the home receiving occupancy.

Mr. King said Staff recommends conditional use be granted subject to meeting the following Staff requirements:

1. The applicant / owner shall sign a letter of agreement stating that only blood relatives are to occupy the accessory dwelling and that it cannot be rented out to a non-related person. The letter of agreement shall also be recorded against the lot in case the property owner decides to sell the home so that future homeowners become aware of the use of the accessory residential dwelling unit.
2. The accessory residential dwelling shall not exceed 1,000 square feet in living space and not have more than two (2) bedrooms.
3. All Building Division and Fire Department requirements shall be met before occupancy.
4. The applicant must complete all of the conditions prior to receiving the Final Inspection.

There was a discussion about the occupant or owner of the accessory dwelling unit using the unit for something other than a residential use such as a daycare. Mr. King said Staff would review the daycare requirements

Chairman Gilbert recommended a condition that the property couldn't be an income property. Commissioner Van Drunen asked if something like a mail order business would be allowed.

Mr. King said he would check the ordinance to see if a daycare had to be in the primary structure. Otherwise, a daycare requires a certain amount of interior and exterior space. Technically the City could approve if it met the requirements. He said a condition could be added that a daycare not be allowed.

Commissioner Hansen asked about the easements being received for the dwelling unit.

Jason Gates, 2200 North 300 East, Kaysville, UT, and the homebuilder, said the easement is coming from Gentile Street. He is working with the City to determine what type of hydrant needed, and he obtained a private easement from neighbors.

Commissioner Nilsson asked about the 1000 square foot maximum footprint. Mr. King said the building would have a loft but no basement.

Chairman Gilbert asked Mr. Gates if he was familiar with the conditions, and Mr. Gates replied in the affirmative and said they would pursue the fire suppression system option. He said he had talked with Planner, Brandon Rypien and City Engineer, Debi Richards to work through requirements and will increase the easement to a 10-foot easement.

Chairman Gilbert called for a motion on the item. Commissioner Bodily moved that the Planning Commission approve the conditional use for the accessory residential dwelling unit subject to the applicant meeting all conditions with the addition of a daycare not being allowed to be operated out of the accessory dwelling unit. Commissioner Van Drunen seconded the motion, and the voting was unanimous.

Mr. Gates asked the time frame for when they could receive a building permit. Mr. King said all conditions must be met before occupancy and the easement needs to be acquired before any utilities are installed.

A resident, Keith McKenzie, 1588 East Gentile, asked if only blood relatives of the primary residence would occupy the accessory dwelling unit. He received an affirmative answer.

Chairman Gilbert called for a motion to close Public Review. Commissioner Hansen moved to close Public Review. Commissioner Fitzpatrick seconded the motion, and the voting was unanimous.

The meeting adjourned at 8:45 p.m.



Julie K. Matthews, Planning Commission Secretary

