

Minutes of the Planning and Zoning Commission/Board of Zoning Appeals's July 11, 2023 Meeting

I. Call to Order

Present: Tim Haynes, Brent Littleton, Rachel Lyon, Andy McLenon, Lisa Richard, Anthony (Tony) Royse, Scott Smith, Michelle Anderson

Absent: Mary Jo Meier

Guests: Jesse Lazzers; Mary Bottenberg; David Schwenker; Jessica Jaimes; Stephanie Harris; Jennifer Christensen; Janet Mayes; Melody Kikkert; Ken Brown; Chere Parker; Judi Harris; Lori Kelley

Tim Haynes, Chairperson, called the meeting to order.

II. Minutes

- a. Consider approving minutes of the June 6, 2023 Planning Commission/Board of Zoning Appeals Meeting.

Motion:

On the motion of Tim Haynes, seconded by Rachel Lyon the Commission approved the minutes of the June 6, 2023 Planning Commission/Board of Zoning Appeals meeting.

Aye: Michelle Anderson, Tim Haynes, Brent Littleton, Rachel Lyon, Andy McLenon, Lisa Richard, Anthony (Tony) Royse, Scott Smith

Nay: None

III. Board of Zoning Appeals (Does not include outside City appointments)

- a. Public Hearing to receive comments on a variance request to reduce setbacks in an R-2 single-family dwelling district at 1013 North 10th Street.

Jessica Jaimes explained her request for a carport in her backyard and the setback variances she requested.

Lisa Richard asked if the neighbors had any problem with the request.

Jessica Jaimes stated that the neighbors had no issue with the variance request.

Motion:

On the motion of Scott Smith, seconded by Rachel Lyon the Commission approved a variance to reduce the setback on the north from 8' to 2' and a variance to reduce the setback at the rear of the property from 10' to 2'.

Aye: Michelle Anderson, Tim Haynes, Rachel Lyon, Lisa Richard, Anthony

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(Tony) Royse, Scott Smith

Nay: None

IV. Planning Commission

- a. Public Hearing to receive comments on a request for a conditional use permit for "utility substations not elsewhere listed" in an R-4, medium density multifamily dwelling district at 401 North 10th Street.

Megan Bottenberg, Director of Government Affairs for Cox Communications, presented an overview of Cox Business's plan for building a fiber network. This would require a utility substation built in a central location and Cox is looking at 401 N. 10th Street. Megan stated that Cox believes in doing the right thing and in conservation and working with the community. Concerns were raised about how this will look and the company is going to work with a local nursery to make

Lisa Richard asked about landscaping around the substation and whether the plants would be tall enough to cover the fence.

Megan Bottenberg said the plants would be self-sustaining and the company would work with a local nursery, but she wasn't sure how tall they would be.

Andy McClenon asked who actually owns the property at 401 N. 10th Street.

Kelly Passauer said the City owns the property and is leasing it to Cox through an Agreement signed by the City Commissioners.

Rachel Lyon asked what the proposed fencing would be made of.

Jesse Lazzers said it is a metal fence with a decorative screening that is hard vinyl.

Lisa Richard asked about how close the houses are and whether the sound would be heard by the property owners.

Megan Bottenberg explained that the on-site generator is required to meet FCC compliance of 95% reliability. Powered by natural gas, it is at a decibel rating of 66.5 dba at 24 inches. At 24 inches you would have to put your ear to the fence in order to hear it and it would be at a conversational level. The noise from the generator cycles. It is not constant unless there is a power interruption.

Tony Royse asked if the city-owned property is used for parking and why the extra parking spaces were necessary.

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Kelly Passauer explained that the City has been asked about putting in additional parking.

Jennifer Christensen, 308 E Maple St, not within the 200-foot notification, wanted to know how the sight was chosen. She felt like if it would benefit businesses, it should be in the business area. She asked what the footprint is, why the taxpayers were not allowed to be involved and how it would affect property taxes.

Lisa Richard said that the committee has the opportunity to set conditions on the conditional use permit and could factor in the concerns of the neighbors.

Janet Mayes, 1219 N 5th St, not within the 200-foot notification, asked if the substation would only benefit businesses, why it could not be placed closer to the business district.

Megan Bottenberg said it will benefit residents by having the business function when they are there. The fiber must be centrally located. Cox is currently running the numbers on whether to bring fiber to residences.

Janet Mayes said the City would benefit from this service, so what kind of additional construction would be needed to expand.

Megan Bottenberg said that Cox has looked to see how the company could expand but there are no plans right now.

Stephanie Harris, 317 N 10th St, within the 200-foot notification area, lives across the street from the lot where the substation is being proposed. She opposed the substation going in at 401 N 10th St and also opposed four parking spaces being put in. She felt the substation would devalue her house and was upset at not being consulted about the project and not being given enough time for researching her rights. She asked what a conditional use is. Stephanie also sent an email to Kelly Passauer, objecting to the substation being located in the middle of town in a residential section. She felt it would be an unsightly eyesore and would affect surrounding property values and desirability.

Kelly Passauer explained a conditional use permit.

Chere L Parker, 1117 N 11th St, not within the 200-foot notification, said that Stephanie posted on Facebook that she was vehemently opposed to the substation. Chere stated that her husband was also opposed and she felt that

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the substation would create a driver's blind spot.

Lori Kelley, Broadband Enhancement Committee Chairperson, not within the 200-foot notification area, explained the need for broadband and for creating competition to help drive down prices for services. The need to support entities that partner with the City to provide services is very important.

Ken Brown, 500 E Maple St, not within the 200-foot notification, said that the location is threatening to historic homes. He stated he would be furious if he lived where Stephanie lives with this proposal. If this would be the best benefit of the downtown it ought to be downtown.

Randy Beeman, 1201 N Park Blvd, not within the 200-foot notification, sent an email to Kelly Passauer that said he would not want a substation in his residential neighborhood and that it should be established in an industrial part of town already zoned as commercial.

Nancy Smith, 316 N 11th St, within the 200-foot notification, sent an email to Kelly Passauer stating her concerns about the noise, upkeep of the area and house and property value. She is not in favor of the substation going in at 401 N 10th St and felt that it should be placed somewhere not so close to residential and school zone areas.

Lois Loomer Williams, formerly an Independence resident, sent an email to Kelly Passauer to say that a substation should not be placed in a residential area.

James Schaid, no address given, not within the 200-foot notification, sent an email to Kelly Passauer stating that this project will have a negative impact on property values of the adjacent and nearby home owners. He stated that the screen fence is like what you might see in an industrial district and is the cheapest solution.

Lisa Richard wants a detailed explanation of why the site was chosen.

Jesse Lazzers said that when these substations are built we have to ascertain where power can be tied in.

Megan Bottenberg said this plan had been routinely evaluated and revised over a three-year period.

Andy McLenon said the company has to hook into a fiber and the fiber runs

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down 10th Street.

Tony Royse asked if the meeting could be adjourned to the August meeting so that these questions could be answered.

Lisa Richard said the board can recommend conditions to the City Commission so the vote would not have to be postponed. She did not agree with adjourning the meeting.

Scott Smith wants to know exactly how the substation will sound and what kind of shrubs will be considered.

Tim Haynes wants to know the other areas that were considered and details about the sound levels.

Rachel Lyon wanted to know if it had to be open air.

Jesse Lazzers said that there is a cooling fan.

Rachel asked if a structure could be built around the substation to blend in better.

Motion:

On the motion of Anthony (Tony) Royse, seconded by Brent Littleton the Commission moved to adjourn the public hearing on a request for a conditional use permit for "utility substations not elsewhere listed" in an R-4, medium density multifamily dwelling district at 401 North 10th Street to August 8, 2023 at 5:30 p.m. to allow Cox to visit with property owners within 200 feet, to take into our considerations on the landscaping, noise concern, site plan and give them the opportunity to present that to us.

Aye: Michelle Anderson, Tim Haynes, Brent Littleton, Rachel Lyon, Andy McLenon, Lisa Richard, Anthony (Tony) Royse, Scott Smith

Nay: None

- b. Public hearing to consider a text amendment to the zoning code regarding cargo shipping containers, also known as "Conex containers" or "portable steel storage containers."

Kelly Passauer explained that City staff needs time to work with the City Attorney on the proposed text amendment language and recommended that the hearing be adjourned.

Motion:

On the motion of Tim Haynes, seconded by Rachel Lyon the Commission

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adjourned the public hearing to consider a text amendment to Article B;--
Zoning regarding cargo shipping containers to August 8, 2023 at 5:30 p.m.

Aye: Michelle Anderson, Tim Haynes, Brent Littleton, Rachel Lyon, Andy
McLenon, Lisa Richard, Anthony (Tony) Royse, Scott Smith
Nay: None

- c. Public Hearing to consider a text amendment to off-street parking in residential areas.

Kelly Passauer explained that the City had not had the opportunity to put together the text amendment concerning off-street parking in residential areas and recommended that the hearing be adjourned.

Motion:

On the motion of Tim Haynes, seconded by Brent Littleton the Commission adjourned the public hearing to consider a text amendment to Article B.--
Zoning regarding off-street parking in residential areas to August 8, 2023 at 5:30 p.m.

Aye: Michelle Anderson, Tim Haynes, Brent Littleton, Rachel Lyon, Andy
McLenon, Lisa Richard, Anthony (Tony) Royse, Scott Smith
Nay: None

V. Discussion

Kelly Passauer let the Commission know that the Comprehensive Plan is out for proposal.

VI. Adjournment

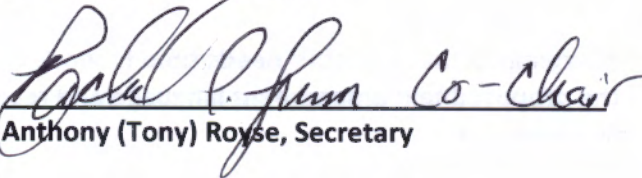
Motion:

On the motion of Anthony (Tony) Royse, seconded by Tim Haynes the Commission adjourned the meeting.

Aye: Michelle Anderson, Tim Haynes, Brent Littleton, Rachel Lyon, Andy
McLenon, Lisa Richard, Anthony (Tony) Royse, Scott Smith
Nay: None



Tim Haynes, Chairperson



Anthony (Tony) Royse, Secretary