

MINUTES

Independence Planning Commission

Independence Board of Zoning Appeals

Tuesday, July 2, 2019

Veterans Room

Memorial Hall

5:30 p.m.

Call to Order

The Planning Commission meeting was called to order by Chair Mary Jo Meier. She expressed her appreciation to the City staff for the preparation in advance of each meeting.

Planning Commissioner Present

Mary Jo Meier, Steve McBride, Philipp Umlauf, Barb Emert, Michelle Anderson, Tony Royse, and Andy McLenon (outside).

Planning Commissioners Absent

Brian Beecham and Brent Littleton (outside)

Staff Present

Kelly Passauer, Assistant City Manager/Zoning Administrator

Jeff Chubb, City Attorney

Visitors

None.

Minutes

- a. Consider approving minutes from the June 4, 2019 meeting.

Tony Royse made a motion to approve the minutes of the June 4, 2019 meeting, Michelle Anderson seconded the motion. The motion carried 7-0.

Planning Commission

- b. Reconsider text amendments to Appendix B-Zoning of the City Code relating to:
 1. Article IV. Rules and Definitions.
 2. Article VI. Supplementary District Regulations
 3. Article X. Special provisions applying to miscellaneous conditional uses; and
 4. Appendix A. "Listing of Permitted and Conditional Uses" including, but not limited to "Communication Towers".

- c. Public hearings to consider a request to rezone tracts of land from County P-1 and Agricultural districts to M-2, Heavy Industrial district at the following locations:
 1. Tract #1: Southwest corner of County Road 3300-Russ Meyer Boulevard/Freedom Drive (Estimated 8.5 acre tract in the Airport Industrial Park)
 2. Tract #2: 730 North Peter Pan Road (Estimated 39-acre tract in the West Laurel Industrial Park)

Chair Meier opened the hearing and stated, "On April 11, 2019 the City Commission initiated a public hearing at the request of City Staff. City staff had been in contact with a representative of a tower company requesting to place a communication tower at the Westar location at 1101 E. Main Street which is zoned C-2. Therefore, the options to resolve this included a text amendment to allow communication towers as a conditional use in C-2 zone, or the applicant could request rezoning to M-2 with a conditional use permit. A public hearing was led by the Planning Commission on May 7, 2019 for Case Number 2019/ZA/02. (See the notice attached in your packet)."

"After the public hearing was concluded, the following motion was made as included in the approved Planning Commission minutes:

Andy McLenon moved to recommend modifying 'Communication Towers' in the permitted and conditional use table to add C-2 and C-4 as permitted zoning districts for this use with a conditional use permit. The motion was seconded by Barb Emert. The motion carried 8-0."

"This recommendation was forwarded to the City Commission for action at their June 13, 2019 meeting. At that meeting Lisa Richards appeared and indicated that she did not feel information provided in the staff report and the motion met the requirements of the Section 1604.1 and 1604.2 which state:

1604.1. Recommendations: Upon the conclusion of the public hearing the planning commission shall prepare and adopt its recommendations and shall submit the same, together with a record of the hearing thereon, to the governing body. Said recommendation may be for approval, disapproval or approval in part and reasons for the recommendations shall be included as appropriate.

1604.2. Amendments to text: When a proposed amendment would result in a change in the text of these regulations but would not result in a change of zoning classification of any specific property, the recommendation of the planning commission shall contain a statement as to the nature and effect of such proposed amendment and determinations as to the following items:

- a. Whether such change is consistent with the intent and purpose of these regulations;
- b. The areas which are most likely to be directly affected by such change and in what way they will be affected; and

- c. Whether the proposed amendment is made necessary because of changed or changing social values, new planning concepts or other social economic conditions in the areas and zoning districts affected.”

Chair Meier further stated that the City Commission tabled action and sent this back to the Planning Commission for reconsideration. The following definitions were reviewed:

Communication antenna: An antenna or array of antennas at one location intended to broadcast and receive signals as part of a wide-area, communication system such as cellular telephone systems, pager systems or wireless computer networks, but excluding short-wave radio antennas operated primarily as a hobby.

Communication tower: A ground mounted or self-supported, guyed, lattice or monopole tower, constructed as a free-standing structure or in association with a building, other permanent structure or equipment, constructed to support one or more antennas; provided that, for purposes of this ordinance, the term "communication tower" shall not include any tower that is under 70 feet in height and is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive only antennas.

1. Guyed tower: A communication tower that is supported, in whole or in part, by guy wires and ground anchors.
2. Lattice tower: A guyed or self-supporting three or four sided, open, steel frame communication tower.
3. Monopole tower: A communication tower consisting of a single pole, constructed without guy wires and ground anchors.

City Attorney Jeff Chubb gave an update on the City Commission meeting and possible concerns expressed by Lisa Richards. He further stated that he had reviewed City staff's modified motion and thought they did a good job. Zoning Administrator Kelly Passauer distributed an email from Lisa Richards expressing her concerns. Zoning Administrator Kelly Passauer provided the following documents in addition to the staff report:

- 1) Request for Commission Action (RCA) to the City Commission for their June 13, 2019 meeting in the packet.
- 2) Staff report to the Planning Commission for their May 7, 2019 meeting.
- 3) Minutes of the May 7, meeting
- 4) Section 1014 - Communication antenna or communication towers.
- 5) Related definitions for Section 403.0

The following portion of the staff report was read by Chair Meier:

If the Planning Commission wishes to resubmit approval of the previous motion to modify "Communication Towers" in the permitted and conditional use table to add C-2 and C-4 as permitted zoning districts for this use with a conditional use permit, then it is recommended that the following be added to the motion:

- a. That such change is consistent with the intent and purpose of these regulations;
- b. That the areas which are most likely to be directly affected by such change will include the C-2 and C-4 zones which will allow communication towers with a conditional use permit which does provide an opportunity for property owners within the notification area to voice any concerns to both the Planning Commission and City Commission prior to approval;
- c. The proposed amendment is made necessary because of changing technology relating to new planning concepts in the C-2 and C-4 zones.

While this text amendment was initiated due to a local utility needing to upgrade the technology of their communication system, this decision does affect all C-2 and C-4 zones. However, as noted in the original staff report *"...if this text amendment is ultimately approved by the Commission, it would still require Westar [or any other applicant] to go through the conditional use permit process, which is similar to the rezoning process. A public hearing would need to be held before the Planning Commission, and their recommendation would be forwarded to the City Commission for final consideration. The recommendation from the Planning Commission could include additional conditions. If the City Commission approved the conditional use permit, they could also modify the conditions recommended."* It should also be noted that there are also special provisions applying to miscellaneous conditional uses for "Communication antenna or communication towers" in Section 1014.0 of the zoning code that provide additional regulations.

In addition to the option of revising the original recommended as recommended above, the Planning Commission also has the option of modifying their original recommendation to not allow communication towers in a C-2 or C-4 with a conditional use permit. In which case, Westar or any other businesses within those zones would not be allowed to request a conditional use permit for a communication tower and would either have to request rezoning or relocate the tower to another location.

Steve McBride stated that he felt this issue was discussed quite thoroughly at the May 7, 2019 meeting. Philipp Umlauf stated that he had been a part of this board for several years and nothing leaves without having a thorough discussion. Tony Royse felt the reason this was sent back was because we needed the three bullets which were now included in the modified motion. It was also noted by Steve McBride that each conditional use permit request will be reviewed separately on a case by case basis.

With no further discussion, the public hearing was closed.

Philipp Umlauf moved to recommend modifying "Communication Towers" in the permitted and conditional use table to add C-2 and C-4 as permitted zoning districts for this use with a conditional use permit; based on the following:

- That such change is consistent with the intent and purpose of these regulations;

- That the areas which are most likely to be directly affected by such change will include the C-2 and C-4 zones which will allow communication towers with a conditional use permit which does provide an opportunity for property owners within the notification area to voice any concerns to both the Planning Commission and City Commission prior to approval;
- The proposed amendment is made necessary because of changing technology relating to new planning concepts in the C-2 and C-4 zones.

The motion was seconded by Barb Emert. The motion carried 7-0.

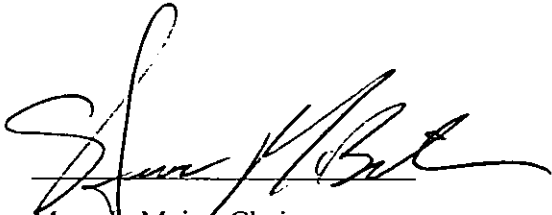
The Planning Commission portion of the meeting was closed.

Board of Zoning Appeals

There was no Board of Zoning Appeals business on the agenda.

Adjournment

The meeting was adjourned with a motion by Tony Royse, seconded by Philipp Umlauf. The motion carried 7-0.



Mary Jo Meier, Chair



Andy McLenon, Secretary