

RECORD OF PROCEEDINGS

Minutes of the
Planning and Zoning Commission of the City of Cherry Hills Village, Colorado
Held on Tuesday, November 22, 2011 at 6:30 p.m.
At the Village Center

CALL TO ORDER

Chairman Ira Plotkin called the meeting to order at 6:39 p.m.

ROLL CALL

Present at the meeting were the following Planning and Zoning Commissioners: Chairman Ira Plotkin, Commissioner Joe Poche, Commissioner Peter Savoie and Commissioner Steve Szymanski.

Present at the meeting were the following staff members: Robert Zuccaro, Community Development Director; David Foster, Deputy City Attorney; and Emily Kropf, Community Development Clerk.

Absent were Vice Chair Christman, Commissioner Kerr and Commissioner Rubin.

APPROVAL OF MINUTES

Commissioner Savoie made a motion, which was seconded by Commissioner Szymanski, to accept the November 8, 2011 minutes as written. The motion passed unanimously.

AGENDA ITEMS

Request by Crown Castle for a Conditional Use Permit to Locate Wireless Communication Facilities in the Colorado Department of Transportation Right of Way on the North Side of East Belleview Avenue Approximately 180 Feet West of Glenmoor Drive (Continued from November 8, 2011 Meeting)

Request by Crown Castle for a Conditional Use Permit to Locate Wireless Communication Facilities in the Colorado Department of Transportation Right of Way Drive and on the West Side of South University Boulevard Approximately 500 Feet North of East Belleview Avenue (Continued from November 8, 2011 Meeting)

Chairman Plotkin stated that the first and second items on the agenda had been continued from the November 8, 2011 meeting. He asked that the applicant and any residents in attendance who wish to speak refrain from repeating any comments that were addressed during a previous meeting.

Mr. Zuccaro stated that the applicant has requested a Conditional Use Permit to locate two wireless communication facilities in the Colorado Department of Transportation (CDOT) right of way. "Node 8" is proposed to be located on East Belleview Avenue near Glenmoor and Cherry Hills Farm, and "Node 17" is proposed to be located on South University Boulevard between Cherry Hills Farm and Cherry Hills Farm West. Since the November 8, 2011 meeting, the applicant and staff have had several conversations with CDOT in regards to the placement of poles in traffic islands. CDOT has confirmed that no pole can be placed in the traffic island at the South University Boulevard and East Belleview Avenue intersection except for traffic poles due to safety reasons.

Mr. Zuccaro continued that there has been some progress made in regards to placing the poles closer to the roadway. CDOT has agreed to allow breakaway poles in other right of

way locations closer to the roadway, giving the applicant more leeway on where to locate the poles. As a result, alternative locations are now being proposed for both "Node 8" and "Node 17" that are intended to provide more landscape screening to the adjacent residences. Mr. Zuccaro added that a new pole that is between 10 and 11 inches in diameter is being proposed, which would allow equipment to be attached directly to the pole.

Mr. Zuccaro stated that staff still recommends approval of the Conditional Use Permit for both wireless communication facilities with two conditions. First, prior to review by the City Council, the applicant shall provide an existing landscape plan designating which trees are used for landscape mitigation, detailing the species, height and spread of the trees. The existing landscape plan shall include a note stating that the wireless facility owner shall be responsible for replacing a designated tree with a tree of similar height and spread if the tree becomes unhealthy, sustains significant damage or dies. Second, prior to installing the facilities, the applicant shall provide the City with a utility permit from CDOT for the alternative locations.

Chairman Plotkin stated that the public hearing was open.

Mr. Tom Foster, Project Manager for Crown Castle, stated that he had several new photo simulations and site plans showing the alternative locations being proposed. Mr. Foster added that he had met with the homeowner adjacent to the proposed site for "Node 17". He and the homeowner had agreed that the pole could be moved to the north in order to screen the pole with existing landscaping. Mr. Foster continued that there are several trees at the alternative site that are approximately 38 to 40 feet tall. Mr. Foster added that a 10 and $\frac{3}{4}$ inch pole was being proposed in order to eliminate the need for a separate meter pedestal. Mr. Foster stated that staff had attempted to contact the homeowner to the north of the proposed site but had not received a response yet.

Mr. Foster stated that the alternative location for "Node 8" had been moved to the east where there is a small rectangular piece of land that is in the right of way. Mr. Foster continued that he had met with Mr. Zuccaro on site and the alternative location had been agreed upon due to the existing landscape screening of the site. He added that a 10 and $\frac{3}{4}$ inch pole was also being proposed for "Node 8". He added that the color of the pole and equipment had not been finalized yet. Conversely, the neighbors of the proposed site for "Node 17" had decided that they would like the pole to be painted brown rather than green.

Chairman Plotkin asked if the structure 1 and $\frac{1}{2}$ feet from the base of the pole shown in the photo simulation of "Node 17" is the meter pedestal.

Mr. Foster responded yes. He added that the pedestal will no longer be placed next to the pole. It will be attached directly to the back of the pole.

Commissioner Savoie asked if there would still be two vaults next to the pole.

Mr. Foster responded yes but that they would be located underground. The applicant wanted to attach the meter pedestal to the pole in order to lessen the footprint of the wireless facilities.

Chairman Plotkin asked if any residents in attendance wish to address the Commission.

Ms. Cathy Shannon, resident of the Glenmoor subdivision, stated that she had previously lived in a community with high powered lines, which resulted in health issues. She continued that the applicant has tried to place the proposed facilities in the area several times. Ms. Shannon added that she had contacted the president of the Glenmoor

homeowner's association, and he claimed that he had not been made aware of the placement of the proposed facilities.

Chairman Plotkin responded that during the first hearing for the proposed facilities, the applicant had submitted a letter which detailed the RF frequency of the nodes. The applicant concluded that the nodes did not pose a potential health risk.

Mr. Zuccaro stated that there are federal regulations that limit RF emissions, and the City cannot oppose the proposed facilities based on RF emissions if the applicant has met the standards set forth by the federal regulations. The City can require documentation that shows that the standards have been met, as well as annual reports that continue to show that the emissions are within federal limits.

Ms. Shannon asked what the objections were of the residents who had attended previous meetings.

Chairman Plotkin responded that the residents had concerns regarding the close proximity of the nodes to the backyards of the adjacent neighbors. The issue of screening had also been raised, but it seems as though the issue has been resolved at this time.

Ms. Shannon stated that she was less concerned about the visual impact of the nodes.

Chairman Plotkin responded that he felt that the Commission had received sufficient documentation that the applicant has met the federal standards for RF emissions.

Mr. Greg Cleveland, resident of 2290 East Grand Avenue, thanked the Commission and staff for going the extra mile in order to resolve the concerns expressed by neighbors regarding the proposed sites for the facilities.

Commissioner Savoie asked why the applicant had not proposed the alternative sites during the first public hearing.

Mr. Foster responded that CDOT has changed its position regarding the placement of poles in the right of way, which allowed the applicant to place the nodes in alternative locations.

Chairman Plotkin stated that the public hearing was closed and would entertain a motion.

Deputy City Attorney Foster stated that the Commission would have to make two separate motions in order to approve both facilities.

Commissioner Poche made a motion to approve the request by Crown Castle for a Conditional Use Permit to locate a wireless communication facility located on the west side of South University Boulevard approximately 500 feet north of East Belleview Avenue as proposed with the two conditions recommended by staff.

Commissioner Szymanski seconded the motion, which was unanimously approved.

Commissioner Poche made a motion to approve the request by Crown Castle for a Conditional Use Permit to locate a wireless communication facility located on the north side of East Belleview Avenue approximately 180 feet west of Glenmoor Drive as proposed with the two conditions recommended by staff.

Commissioner Szymanski seconded the motion, which was unanimously approved.

Review of Amendment to Municipal Code 16-11-40 Clarifying the Area and Dimensional Requirements for the O-1, Open Space, Parks and Recreation Area District

Mr. Zuccaro stated that staff is presenting for recommendation to the City Council an amendment to the Municipal Code to clarify that any structure, including accessory structures, in the O-1 zone district are subject to the same height, lot area, setback, bulk plane and floor area ratio (FAR) requirements as a principal structure in the R-1 zone district. Reference to the R-1 accessory structure setbacks and bulk plane requirements are intentionally excluded.

Mr. Zuccaro continued that when the City updated its wireless communication facilities regulations in 2007, an amendment in the ordinance included an O-1 zone district setback requirement that in effect extended all R-1 zoning regulations to the O-1 zone district but contradicted a clause in the same sentence that limited the setback standards for all structures, including accessory structures, to the height and setback standards used for R-1 zone district principal structures. Mr. Zuccaro added that staff wanted to clarify that only the primary structure setbacks are meant apply to the O-1 zone district. Staff has also included reference to the newly adopted bulk plane and FAR standards in order to apply the regulations to the O-1 zone district, as well.

Chairman Plotkin asked if the Commission had any questions.

Commissioner Poche made a motion to recommend to City Council approval of the proposed amendment clarifying and updating the area and dimensional requirements for the O-1 zone district.

Commissioner Szymanski seconded the motion, which was unanimously approved.

Review of Amendment to Municipal Code Section 16-17-60(f) Clarifying the Application Requirements Related to Compliance with Applicable Water Law when Dredging Ponds within the Floodplain

Mr. Zuccaro stated that last year the City Council adopted an ordinance creating special administrative review procedures for floodplain development permits that were exclusively to dredge an existing pond for maintenance purposes. Included in the application requirements for such permits was documentation from the Office of the State Engineer demonstrating that the dredging activities were in compliance with all applicable water rights. Staff has since learned that the Office of the State Engineer is unable to provide such written verification.

Mr. Zuccaro continued that as a result staff is proposing an amendment to the application requirements that broadens the requirements to allow "documentation satisfactory to the City that evidences that the dredging activities are consistent with all of the requirements of Colorado water law." The new language will give broader discretion and flexibility in determining what documentation is necessary for each application.

Commissioner Szymanski commended Mr. Zuccaro for the recommended changes to the Municipal Code.

Commissioner Savoie made a motion to recommend to the City Council approval of the proposed amendment clarifying the application requirements related to compliance with applicable water law when dredging ponds within the floodplain.

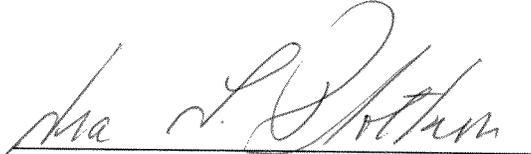
Commissioner Poche seconded the motion, which was unanimously approved.

REPORTS

Mr. Zuccaro stated that there were no reports at this time but that there is a special meeting on Tuesday, December 6, 2011, in which there are two public hearings scheduled. He added that City Council will be meeting on Tuesday, December 13, 2011.

ADJOURNMENT

The meeting adjourned at 7:06 p.m.



Ira Plotkin, Chairman



Emily Kropf, Community Development Clerk