

Oroville Planning Commission  
Wednesday, July 17, 2013

Meeting called to order at 4:32 pm by Chairman Steve Shimmel.

Present: Commissioners Marc Egerton, Judy Dunston, Suzi Seger and Steve Shimmel.

Absent: Luis Perez.

Staff present: Chris Branch and JoAnn Denney.

Others present: Aileen Zavales.

Approval of the minutes from the June 5<sup>th</sup> regular meeting. Motion by Judy Dunston to approve the minutes as written, second by Marc Egerton; motion carried.

Public comment period / Planning Commission inquiries / Staff updates.

No public in attendance.

Steve requested that hearing packets be mailed to the commissioners prior to the meeting. Staff stated that it had previously been discussed that information for this meeting would be e-mail only; apologized for any inconvenience this has caused.

Judy commented that the septic trucks have been moved again; discussion.

Judy commented on the appearance of Dale's gas station and the Blossom & Briar building; discussion on nuisance issues and clean up notices.

Steve would like to compliment the City on the alley improvements behind Betta's Services; the gravel is greatly appreciated.

Judy questioned mosquito spraying for this year; will not be happening. Chris stated that there is a group of citizens looking into creating a mosquito control district within the County.

Judy commented that America's Family Grill is open; discussed improvements to the location.

Discussion on the removal of the trees at the school; discussion on street/sidewalk/tree ordinance.

**Public Hearing ~ Zoning Code Amendment / Septic Service Businesses. Note: These minutes are a summary and not a verbatim record of the hearing. The hearing was recorded and available for a detailed record.**

Public hearing opened by Chairman Steve Shimmel. Staff report read by Chris Branch; staff report included:

- x Background
- x Comp Plan
- x Zoning
- x Findings of Fact
- x Recommendation
- x SEPA Actions

At this time, Chris would like to recommend that the Planning Commission approve the definition, conduct a new hearing and make a clarification on the interpretation section. Review of amendments made to the interpretation section. Marc would like to have a copy of the amendment prior to making a recommendation.

Public testimony portion of the hearing was closed.

Chris to e-mail staff report, interpretation section amendments and draft ordinance to the Planning Commissioners.

Hearing to be tabled to the next meeting, which will be held August 7<sup>th</sup>.

**Public Hearing ~ ORO CUP 13-2 / Verizon Wireless WA2 Oroville.**

Chairman Shimmel opened the hearing by stating that the purpose of this hearing is to take testimony relevant to the Planning Commission making a recommendation to the City Council on an application for a zoning conditional use permit to install a 4' diameter dish antenna on the exterior of the existing telecommunication tower at the 48' elevation in order to have direct line of site communication with the Pickens Mountain facility. The project site is 2019 1/2 Highland Drive. File identification number ORO CUP 13-2.

Chairman asked if there are any challenges to the Planning Commission's jurisdiction in this matter; none.

Chairman asked if any member of the Commission wished to excuse themselves for potential conflict of interest or appearance of fairness issues, or to disclose any information that may raise such issues. Marc Egerton stated that he is on the board of directors for the OTID and Verizon leases land from OTID for the tower. Discussed that the district manager and district attorney deal with Verizon on the lease and Marc has not been involved in the lease. Marc felt that he could judge the application in a fair and equitable manner. Determined that Marc does not have a conflict of interest.

Chairman asked if any member of the Commission wished to disclose any communications they may have had in the community regarding this project that may be seen as affecting their ability to judge this application in a fair and equitable manner; none.

Chairman asked if there is anyone present who wished to challenge any of the Planning Commission membership, or himself as Chairman, for conflicts of interest or appearance of fairness issues in conducting this hearing; none.

Chairman opened the testimony portion of the hearing.

Chris Branch presented the hearing packet to be entered into the audio recording of the record including the following:

- x Background
- x The Proposal
- x The Process
- x Designations
- x SEPA
- x Actions on other relevant permits
- x Findings of Fact
- x Conclusions
- x Recommendation
- x Attachment clarifying why the dish is needed at 48' (pathloss graphic & tables)

Chairman provided the applicant the opportunity to make a presentation. Aileen Zavales, representing Lynx Consulting, stated that she did not need to make a presentation; she was present to answer any questions that the Commission may have.

Chairman provided for public testimony to be received by any person present who would like to provide testimony; no public in attendance.

Chairman provided an opportunity for the Commission to ask direct questions.

Marc questioned the determination to place the dish at 48' and wondered what obstructed the line of sight if it were to be placed lower. Aileen stated that 48' was the optimum location determined by the engineers; review of the pathloss information included in the staff report.

Marc questioned the height of the existing other unit up there wanting to understand whether this height was the minimum height necessary for unobstructed transmission. Branch stated 35'.

Steve stated that there is contradicting sizes on the actual size of the dish; wondered if the dish was 4' or 4'10". Aileen stated that the dish is 4' in diameter.

Chris asked if the building plans submitted with the application were included in the Planning Commission packets; entered a few drawings into the record as reviewed for clarification -

- \* **Exhibit A-2** - proposed elevation; drawing of the dish on the pole.

Marc questioned if the technology existed for the equipment to be placed inside the pole. Aileen stated that to her knowledge, the microwave dish is required, stating that Pickens Mountain does not have direct fiber and this microwave serves that need. Chris restated the question as *Does the technology exist to include the microwave inside the existing stealth pole?*

- \* **Exhibit RF-1** - hardware illustration.

Marc questioned that if the diameter of the dish is 4', what is the depth of the dish.

Aileen stated that the dimensions were included on the hardware illustration.

- \* **Exhibit C-2** - overhead view of site plan.

Steve had a question on the permit application, supplemental questionnaire, question #3 *Identify the likely positive and negative impacts the proposed project will have on adjacent and nearby properties.* Answer to question was *positive - increase in Verizon cellular service, better service for customers and emergency situations; negative - the 4' proposed antenna will be visible from surrounding areas.* Steve is concerned about the positive response, as this will provide improved service outside the community, but will be located within the city limits.

Judy Dunston pointed out the value for emergency services, which providers are in Oroville. Chris added to the importance of cell service outside of the city limits for residents of the city (i.e., travelers, residents of Oroville that desire to contact people in the vicinity of Pickens Mountain south of town). Steve asked Chris to convince him how the service benefited residents of the City. Discussed communication needed between this site and the tower on Pickens Mountain.

Marc questioned if the current tower communicates with the Pickens Mountain tower. Aileen stated that it does. Marc questioned if the improvements being made would increase data and speed service. Aileen stated yes. Marc pointed out that this isn't a cell service need, it is really data, so it is different.

Marc pointed out that all this has been referenced to cell phones not data. Chris wanted to clarify that cell service is no longer strictly for talking on a cell phone, many phones are used for the data provided, pointing out that communication is in different forms these days. The nature of these systems are global like the electrical power system.

Marc returned to the earlier Verizon CUP and how it is connected the new proposal, pointed out the next step in terms of expansion.

Marc inquired further regarding the depth of the dish since he could not read the bad copy of the plans. Aileen looked at the plans further to determine the depth, unable to find the depth and needed to call the construction manager to get the depth. Chris could not read the depth on the plans; Aileen needed to inquire via cell phone to get clarification regarding the distances on the drawing, which were blurred in the copying process.

5 minute recess; Chris reminded all to avoid conducting business during the recess. Meeting reconvened.

Aileen talked with the construction manager and he suggested that Mr Branch Google the model number of the dish. Chris googled the plans and reviewed them for the distances where he was able to zoom in on the distance on the plans. He drew the disc on the board and showed the thickness, calculated the total protrusion from a side angle and shared the total distance graphically on the white board. He used an overhead view to show the protrusion from the pole pointing out that the protrusion is different from any given angle on a side view. Dish depth is 32", which would make protrude approximately 50" from the pole with the 18" extension arm combined with the mounting brackets.

Marc is concerned about the visibility of the dish; feels that being placed at 48' would make it eye level with Highland Drive (higher in elevation than Deerpath). He noted that from Summit Drive the trees, etc. would probably block the dish.

Judy clarified that the original CUP ended up as a monopole, as the City did not want the antenna array as proposed at that time. There was more discussion about the earlier approval of the monopole. The microwave dish currently being proposed would be different than the antenna array proposed on the first application in 2009.

Steve is concerned about the proliferation of towers and setting precedence for additional towers to be placed based on our limited ability to discriminate among providers.

Chris stated that they need to address each proposal as they come. Discussed that technology is advancing, which requires change.

Steve is concerned about the dish being inside the city limits when improvements provide service to people outside of the city limits and not in a residential area.

Aileen explained how locations are selected; topography is a major factor and the existing stealth pole is located in a residential zone. They are seeking a new CUP to attach the microwave dish to the existing stealth tower, which is a significant enough change to trigger the CUP requirement. The current site is the best location to serve the entire area.

Clarification discussion on the microwave dish and the location. Chris discussed the geographical challenges, land availability and availability of power for placement of these towers.

Marc stated that he is concerned about the visible impact; feels that reasons are needed to justify height placement of the dish.

Suzi questioned original application discussion on leasing space to other providers, wondered if they could still lease space. Aileen stated that they could.

Judy stated that her feeling would be that additional providers would need to comply with CUP requirements.

Chris stated that any external equipment is what would require a CUP.

Judy stated that additional tower discussion is not relevant, that the application is for this dish only.

Discussion on impacts to neighbors.

Marc wanted to know what the minimum height would be to accomplish their goal. Aileen stated that the pathloss chart shows the optimum to achieve the goal. Aileen also commented this application is for a 1 time CUP and other carriers would need to have their own permit; also wanted to mention that the FCC encourages co-location.

Steve questioned if the ordinance requires them to co-locate. Chris stated that it does not; CUP is for height only and impact to neighborhood would be considered on additional applications, as it has been for this application.

Steve is concerned about the precedence being set by approving the application and how it will affect future decisions; statement in the staff report regarding the Federal Communication Act and the section stating *shall not unreasonably discriminate among providers of functionally*

*equivalent services.*

Planning Commission members are concerned about the visible impact on the neighborhood, however, no public comments were received from adjacent property owners.

Marc questioned if the application could be approved if modified to a lower height of 35', or if it would be best to extend the hearing to get more information regarding minimum height allowable to obtain objective of the new dish to minimize impact.

Chris recommended that the hearing be extended to get additional information.

Judy stated that she has no problem with continuing the hearing.

Steve is concerned about continuing the hearing at this time, would like to continue discussion.

Marc stated that he is only speculating, but feels that adding 13' feet in height to the current dish would create the dish to be directly parallel with visibility and he feels that is a concern.

Aileen stated that the engineers have designed it at 48' to provide for direct line of sight to Pickens Mountain.

Question if the dish were to be placed higher than 48', would it affect the line of sight.

Chris suggested requesting graphics showing visuals of the dish placed at 48'.

Aileen stated that a direct line of sight is needed.

Chris stated that the visual impact is the key factor.

Chairman provided an opportunity for both the applicant and staff to have closing rebuttals; none.

Chairman closed the testimony portion of the hearing; no new testimony will be taken.

Marc stated that the other providers issue is not important; the visual impact is the key factor.

Marc would like options on heights and visual graphics.

Steve restated his concern regarding the idea that we may be precluded from denying additional providers that propose new towers without unreasonably discriminating among providers. Chris responded reminding the Planning Commission regarding the concept of reasonableness. He feels that we would be within the law if we denied additional towers if we could see a visual impact by the proposal.

Discussion on extending the hearing.

Chris stated that if the Commissioners wanted to view the site, it would be best to do it as a group during the meeting, if a site visit is needed.

Motion by Marc Egerton to extend the public hearing to the August 7<sup>th</sup> meeting to get additional information regarding height options and visual graphics of the proposal, including an overhead profile showing depth dimensions, second by Judy Dunston. Motion carried.

As there being no further business, meeting adjourned at 7:25 pm.

Next meeting to be held Wednesday, August 7, 2013 at 4:30 pm.