

**Perry City Planning Commission Meeting
3005 South 1200 West
7:00 PM December 1, 2016**

Members Present: Chairman Blake Ostler, Vice Chairman Travis Coburn, Commissioner Vicki Call, and Commissioner Devin Miles.

Members Excused: Commissioner Lawrence Gunderson and Commissioner Stuart Grover.

Others Present: Greg Westfall, Perry City Administrator; Susan K. Obray, Minutes Clerk; Daniel Thurgood, Verizon Representative.

1. 7:00 p.m.- Call to Order and Opening Ceremonies

Chairman Ostler welcomed and called the December 1, 2016 meeting to order.

A. Invocation- Vicki Call

The Invocation was given by Commissioner Call.

B. Pledge Allegiance to the U.S. Flag- Blake Ostler

The Pledge of Allegiance was led by Chairman Ostler.

C. Declare Conflicts of Interest, If any

Conflicts of interest will be addressed on each item. None noted.

D. Review and Adopt the Agenda

MOTION: Vice Chairman Coburn moved to adopt the agenda for the December 1, 2016 Planning Commission meeting. Commissioner Call seconded the motion. Roll call vote.

Commissioner Call Yes

Chairman Ostler Yes

Commissioner Miles Yes

Vice Chairman Coburn Yes

Motion Approved: 4 Yes 0 No

E. Approval of the November 3, 2016 Minutes

Chairman Ostler stated that the minutes will be reviewed and approved at the January meeting.

F. Make Assignments for Representatives to attend City Council Meeting(s) (December 8, 2016)

Commissioner Miles stated that he would be able to attend the December 8, 2016 City Council Meeting.

G. Elect a Vice Chairman for the 2017 year and recognize Travis Coburn as the incoming Chairman for 2017

Commissioner Call nominated Commissioner Miles for Vice Chairman.

Commissioner Miles nominated Chairman Ostler. Chairman Ostler nominated Commissioner Miles. Chairman Ostler asked Commissioner Miles if he was willing to serve as the for the two-year term, Vice Chairman for one year and Chairman for one year. Commissioner Miles stated that he would be willing.

MOTION: Commissioner Call moved to submit Commissioner Miles name for recommendation to the City Council for Vice Chairman of the Planning Commission. Commissioner Coburn seconded the motion. Roll call vote.

Commissioner Call Yes

Commissioner Miles Yes

Vice Chairman Coburn Yes

Chairman Ostler Yes

Motion Approved: 4 Yes 0 No

is that the application now contains information required to satisfy City our ordinances and Nefi presented at a previous commission meeting to get the feel of the commission.

Greg Westfall stated that there was another Applicant that has not put their tower up that had a non- compete to put up a tower for three years at the time they got their award that ends this February. Greg Westfall stated that the Verizon tower site stayed the same, information is the same. Commissioner Call stated that two of the items that were specifically asked for one of the requirements was that the applicant submit a survey of all other existing towers in the city and justification for why they would not work.

Mr. Thurgood stated that Nefi attempted to answer that question with the map in your packet. He said Verizon looked at seven different sites in Perry. Mr. Thurgood stated that Nefi went through each of these site on the map and tried to explain why each alternative site could not work for Verizon. He said one of the main reasons is that the bend on Hwy 89 is really where we are trying to hit. Mr. Thurgood stated that as soon as we start going north or south we can no longer hit that bend. He said the closer we can be to that bend the better because we don't want to come back next year asking for other towers because we are not able to see that particular area. Mr. Thurgood explained that is why Nefi is proposing to go on City property. He said that the city code states to primarily go on city property first. Mr. Thurgood stated that the only other tower that would have potentially worked was the AT&T tower. He explained that there is a dispute with the property owner and AT&T and nothing came of the negotiation and we couldn't get anything to work with both parties. He said we do need service in this area and it has been a long time coming and we can no longer fight with AT&T.

Commissioner Call stated that she understands the desire to be as close to the bend as possible. She said what she was looking for was technical verification that any of these other towers especially the one that is adjacent to here would not work. She said even though the desire is to be as close to the bend as possible.

Greg Westfall stated that it's a private tower (2950 South) on private property, it has separate agreements and has nothing to do with the city. He said that they have made an effort to be on that tower and are not able to. They cannot force it and we cannot force it.

Commissioner Call stated that the words in the report say that this one won't work because it is too far around the bend that way and this one won't work because it is too far around the bend that way. She said those were the two questions that she asked last time. She asked that it pointed out that the tower will be located 168 feet from the closest resident, because this is in a residential zone. She asked is that 168 feet is from the center line of the tower or from the closest edge of the chain link fence. Mr. Thurgood stated that it is from the center line of the tower to the existing structure. Commissioner Call asked how far it was from the chain link fence to the nearest residence. Greg Westfall said it is 148 feet to the existing city fence. Mr. Thurgood said that because the proposed facility is located within 300 feet if a residential zone they are seeking conditional use. Greg Westfall stated that they also are required to have a public hearing. Chairman Ostler asked if letters were sent out. Greg Westfall stated that the public hearing was noticed in the paper the residents in within 300 feet were

not notified. Greg Westfall stated that it depends on if it is design review or conditional use. He explained with the design review you wouldn't have the notices sent because design review is specifically called out in the ordinance. He stated with a conditional use permit you would have to send out notices. Commissioner Call asked if there will be another public hearing. Greg Westfall stated that there can be but not required. He said it will be up to the Mayor that is if she would like to put it on the City Council agenda for another public hearing. Greg Westfall stated the Planning Commission could also have another public hearing. Chairman Ostler stated that the Wireless Telecommunications Tower states the intent: "the intent of this chapter is to establish general guidelines for the siting of wireless communications towers and antennae. The goals of this chapter are to (1) protect residential areas and land uses from potential adverse impacts of towers and antennae". He felt that it is important for us to make sure that we are protect the residential areas.

Commissioner Call stated that Perry City ordinance states that the applicant needs to demonstrate that an alternate technology that does not require towers such as underground, would not be feasible.

Mr. Thurgood asked if this is something they would want in writing. Commissioner Call asked if he could speak to that. Mr. Thurgood stated that the technology that they are using is over the air technology only. He said there is no other way to feed a signal to a cell phone without having a tower with antennas. He stated that there is other types technology that is coming out now that we can do smaller facilities. However, they serve a very small number of people. He said it is very difficult to place small antennas throughout the entire city to give everyone network, where they can place one tower and potentially have enough space for another provider as well. He said you can have many users on that tower very few users on the smaller towers. Commissioner Call stated that they are on Verizon and they are able to get it from somewhere. Mr. Thurgood said what Verizon focused on years ago is coverage to make such everyone gets service of some quality. He said they are running into the areas that the towers that are located in Perry where there are a lot of new residents, new developments and so those sites are being overloaded by the users near those towers. So they are putting towers in where they need better capacity.

Vice Chairman Coburn stated that there are a lot of dead zones all through Perry. He said this has been a long time coming and would love for the tower to come. He stated that Verizon would not put a tower in if it didn't serve the best interest. He felt it was a good location. Vice Chairman Coburn felt that we should send the notice and invite the property owners adjacent to the tower site and let them at least come and voice their opinion. Chairman Ostler asked if they estimate build out of the city that this tower would be sufficient for 100% of the build out. What future needs would there be for another tower. Mr. Thurgood stated that they did a preliminary test at the location in hopes that they can serve the greatest number of people with one site. Chairman Ostler stated that the tower looks like it goes from the City Office to the Perry City limits to the north and to help get the east side around the bend. He asked what is the range of these towers and felt ideally the best place for these towers is along the freeway. Mr. Thurgood explained the way that these new antennas work with the new technology every time they come out with something new the signal does not carry as well as the old voice signal. He said that towers can cause interference with each other.

Chairman Ostler stated the site plan shows chain link and barbed wire. Mr. Thurgood stated yes. Chairman Ostler stated the ordinance states that it needs to be concrete or masonry 6 feet in height. He said it is proposed to be 6 feet but the type of fencing does not meet our ordinance. Chairman Ostler read from the ordinance: "Towers shall be enclosed by security fencing not less than six (6) feet in height and no more than eight (8) feet in height, which shall be constructed of cement block or masonry, and shall be equipped with an appropriate anti-climbing device." Chairman Ostler stated that should be noted for their consideration. He said the landscaping requirements are as follows "tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from residential property. The standard buffer shall consist of a landscaped strip at least four (4) feet wide outside the perimeter of the compound."

Mr. Thurgood stated that Verizon is proposing not to installing landscaping and especially if they put in the block wall. He said the wall itself will be blocking the compound. Mr. Thurgood stated that if they go and put trees and shrubs and they put the irrigation system in then if falls to the landowner to maintain because it does not fall within the lease area. He said because it is the public works yard they were hoping not to landscape. Chairman Ostler stated that the ordinance states "in locations where the visual impact of the tower would be minimal, the landscaping requirements may be reduced or waived." Commissioner Call stated that we are trying to buffer or effectively screen the view of the tower from residential property. Greg Westfall stated that the lease still has to be negotiated so that could be leave to the negotiation process. Mr. Thurgood stated that Verizon does maintain the inside of their compound. Mr. Thurgood felt the block wall would be an easy change and that could be a condition.

Commissioner Miles stated his two big concerns were landscaping and fencing. He felt that because the tower was going to be inside our public works yard the landscape seemed less important. Commissioner Miles felt that the block wall was crucial to be put up. Chairman Ostler stated currently the city fence and Verizon's proposed fence is all in RE1/2 zone. Currently being used otherwise. Greg Westfall stated that is correct. He said we are probably the only city that does it that way most cities call it a government use zone.

Commissioner Miles stated in the ordinance it talks about a neutral color do we try to blend. Mr. Thurgood stated that the color is a standard light grey which is a tower color and the least noticeable because there are so many utility poles that are that color.

Vice Chairman Coburn stated that they came to us a couple of years ago and they have addressed all of our questions. Commissioner Call stated that towers are not allowed in the residential areas according to the land use chart they are only allowed in the industrial by use of the conditional use permit. She felt that the only way that these items make it on our agenda is because of this statement that opens the door that says we recommend it being put on city property. If that statement was not there it would not be on the agenda. She stated that we need to work on our ordinances and clean that statement out of here. Chairman Ostler stated that the ordinance says "antennae or towers located on property owned, leased, or otherwise controlled by Perry City that is a permitted use by right. He said that doesn't make it a conditional use it makes it a permitted use. He asked if a permitted use still has to fit a zone. Does the use still have to be permitted in the zone? He said do we need to have a re-zone

application from the city to M or M/I. Greg Westfall stated that the Planning Commission and City Council has approved a 100-foot tower on this same parcel. He said that the building permit is with the city right now. Greg Westfall stated that it is a permitted use if it is on City property. Chairman Ostler asked if we could ask for a legal opinion. Greg Westfall stated that he would talk with the Perry City Attorney.

MOTION: Vice Chairman Coburn moved to recommend to the City Council approval for the design review for the Verizon Wireless Tower located at 3005 South 1200 West. With the stipulation that they send out notices to the property owners within 300 feet of the tower and a public hearing held at the City Council level. That the fencing be changed to blocked fencing per code and to waive the landscaping requirements. No second motion failed.

Commissioner Call stated the reason she put forward was because the land use chart is very explicit in saying the use is not permitted in the RE1/2 zone for Telecommunication Towers. She stated the ordinance states the location whenever possible the preferred location for any tower or wireless communication devise shall be upon property owned by the City. Mr. Thurgood would like a written statement if the application is going to be denied. He said at a previous date a tower application came before the Planning Commission and the City Council for this property like the one we are submitting has been approved. Greg Westfall stated that is correct. Mr. Thurgood what would make this application different than the previous application for receive denial. Chairman Ostler stated he cannot speak to the legality that was done prior.

MOTION: Vice Chairman Coburn moved to recommend to the City Council the approval of the design review for Verizon 3005 South 1200 West with the following conditions that a notice be sent out to the surrounding property owners within 300 feet in writing and another public hearing is held before the City Council. The fencing be changed to block or cement and the landscaping be waived. And get a legal opinion from the City Attorney.

Commissioner Call said no matter what the motion says we are still making a recommendation.

Chairman Ostler asked if they could get an opinion from the City Attorney just like you get a review from an Engineer on a development. Commissioner Call stated isn't what we are saying is unless the attorney establishes that there is precedence which makes it such that we are obligated to approve this because of the precedence then we are denying it. She said our decision is going to be based on what the Attorney comes back with.

Commissioner Call stated that we need to request the response from the Attorney before we approve or disapprove.

The current motion there was no second the motion failed.

Mr. Thurgood stated that he suggested that the Planning Commission table it and notice a public hearing and have it on the next Planning Commission meeting. He said they would much rather have it continued then denied.

Greg Westfall stated that there was nothing asked from the applicant other than the fence changed from chain link to block fencing.

4. Land Use Applications

A. None

5. Discussion

A. Discussion Regarding the R-2 Zone

Commissioner Call stated that she was not at the Planning Commission meeting where there was an issue with the R2 re-zone for Randy Matthews. She stated that she was asked to put something together that might clean up our R2 zoning definition to reflect what is in the General Plan. She said page 1 is from the General Plan 3.1.c has the paragraph that was cited in the meeting that raised the controversy. Commissioner Call stated the second sentence in the paragraph states “The function of providing a more compact variety of housing is no longer to be provided by this land use.” She said it goes on to tell us in the following paragraphs to define what our land uses will be for residential. She said the second page the only change she is recommending is the red asterisk that would point you to below where we already have an asterisk that says *Notes-see 15.07.100.4 she is proposing that they add this note where #1 had been blank insert “Perry City General Plan, paragraph 3.1.c “R2: Medium/High Density Residential” states, “The function of providing a more compact variety of housing is no longer to be provided by this land use.” In accordance with the intent of this statement, there will be no further approval or designation of R2 zones.

Then she references section 15.07.020.8 at the top which defines what each of the land uses are for. She said she repeats that exact same thing so that it ties them together.

Commissioner Call stated to see section 15.07.100.4 for Additional information regarding the Land Use Chart. (1) Perry City General Plan, paragraph 3.1.c “R2: Medium/High Density Residential” states, “The function of providing a more compact variety of housing is no longer to be provided by this land use.” In accordance with the intent of this statement, there will be no further approval or designation of R2 zones. See Section 15.07.020.08.

Greg Westfall stated that we need to put it on the agenda for an action item next month.

6. Training

A. None

7. Review Next Agenda and Adjourn

- (1) Legal training on Land Use
- (2) Beehive Homes
- (3) Verizon Tower with Public Hearing
- (4) Action on the R2 Zone

MOTION: Vice Chairman Coburn moved to adjourn. Commissioner Miles seconded the Motion. All in favor.

