

November 2, 2010

7:00 p.m.

Planning Division
Council Chambers

MEMBERS PRESENT: Vice Chair Kurt Karst, Commissioners Michelle Mallard, Gary Mills, Leslie Polson, and George Swaney. Jake Cordova attended via teleconference.

MEMBERS ABSENT: Chair Jared Peterson and Commissioners Donna Cosgrove, Brent Dixon, Paul Savidis and Margaret Wimborne.

ALSO PRESENT: Planning Director Renée Magee, Assistant Planning Director Brad Cramer, and approximately seven interested citizens.

CALL TO ORDER: Chair Karst called the meeting to order at 7:15 p.m. and reviewed the hearing procedures for the public.

MINUTES: September 7, 2010. Polson moved to approve the minutes of September 7, 2010, as presented. Motion seconded by Commissioner Cordova. Motion passed.

Public Hearings:

Annexation and Initial Zoning of I&M-1 (Industrial & Manufacturing): 11.604 Acres, Portion of Section 8, T2N, R38E, Targhee Partners/Gokey Properties. Magee reviewed the staff report, a part of the record. She stated the annexation request is driven by the need for fiber optic cable which is generally not extended outside the City.

The hearing was opened to the public.

Daryl Kofoed – 1020 Lincoln Road. Mr. Kofoed is the representative for Tim Jenkins. Kofoed stated there will be a development agreement. Mills inquired about accesses. Magee replied there is one driveway located on the southeastern corner of the site. Karst clarified Wright Road extends to the property but is not improved to the site.

There were no further comments and the hearing was closed to the public. Mills recalled the decision for the City to offer fiber optic. This request confirms that decision. Polson said the site is in an area designated for industrial on the future land use map, and annexation of industrial lands are allowed prior to platting. **Polson moved to recommend to the Mayor and City Council annexation prior to platting of Targhee Partners/Gokey properties with initial zoning of I&M-1. Motion seconded by Commission Swaney. Motion passed.**

Material Change to Site Plan, PT-2 Zone: W 110' Lot 4, Block 7, Lynhaven, Division No.

2. Cramer reviewed the staff report, a part of the record. Cramer stated the radio station recently contacted him and requested placement of a dish. Cramer recalls consenting to dish placement on the northwest corner of the building based upon the approved site plan. Cramer informed the applicant of the need to check with the building department to make sure permits are not required. Cramer understands a second location was discussed with the building department and the dish was installed in the northeast corner of the lot. As noted in the staff report, there was controversy at the previous hearing. Staff believes the dish is a material change to the approved site plan. Cramer noted at least one mature tree west of the building will have to be removed for a dish to operate properly at the northwest corner of the building.

A letter from the applicant dated October 8, 2010, addresses completing landscaping as originally approved. As stated in the letter, the radio station engineer believes the dish is a complete passive receiver and will not cause any interference.

If the application is approved, staff recommends there be no further increase to the number of broadcasting or receiving devices on the property. Staff also recommends mandating the installation of landscaping as previously required.

Polson confirmed radio stations are allowed in PT-2. Cramer said the site plan was approved with the tower located at the northwest corner of the building. A tower also needs to be placed the same distance from residential property lines as the height of the tower. The site plan was approved with a tower and two dishes on the tower. A free-standing dish is not part of the existing site plan. Currently the site has a tower with one dish and a dish on the ground. Cramer indicated the seventeen foot dish is closer than seventeen feet to the property line. Ownership of this property has changed twice since approval of the site plan. Cramer believes there was some miscommunication, although the applicant tried to place the dish properly.

The hearing was opened to the public.

Todd Stone – 2622 Cavan Circle. Mr. Stone manages property directly east of the site. There is one orthodontist, two dentists, an audiologist, an ophthalmologist, a hospice office, a physician, various insurance agents and a title company in the area. The offices have a professional appearance and are landscaped and maintained. Mr. Stone distributed a sheet with five pictures, included in the record. The first picture shows the dish as seen from across 17th Street. Mr. Stone stated the dish is highly visible. The sheet also shows a close-up of the dish as well as a picture of a property with four dishes. Mr. Stone is concerned allowing this dish will open the door to more dishes, but it appears that is not the case. The fourth and fifth pictures on the handout show dishes buffered from view by fences or walls. If the dish remains in its current location, Mr. Stone is concerned about the area becoming less desirable for professionals due to the industrial look. He is concerned about rents and property values going down. Arborvitae is a good shield

for people with homes on the north side but does not do anything to hide the dish from view of 17th Street. Polson asked if Mr. Stone prefers a large white fence as a buffer. Mr. Stone answered a fence looks less industrial than a dish. Locating the dish further to the west behind the building will make the dish less noticeable.

Bob Bacon – 1055 Yellow Pine. Mr. Bacon represents the applicant, Chaparral Broadcasting. Mills noted past requirements such as landscaping have not taken place. The Commission is being asked to trust statements currently being made regarding landscaping and no interference resulting from the dish. Mr. Bacon responded he wants to do the right thing. He made every effort to put the dish in the right place. Landscapers have been contacted, and Mr. Bacon reiterated the dish cannot cause interference. Mr. Bacon suggested a vinyl wrap to minimize the appearance of a white mass. He is willing to do what it takes to be a good neighbor. Mr. Bacon explained a vinyl wrap is a graphic that can be applied to the dish and provide a means to blend in better with the surroundings.

Polson asked if Mr. Bacon is amenable to a vinyl fence. Polson believes a wrap still looks like a dish. She also asked about moving the dish behind the building. Mr. Bacon said a vinyl fence is a viable option. He is not certain about line of sight to the satellite if the dish is moved and will need to check with his engineer. Being able to clear snow is also a concern. Polson asked if there is enough space behind the dish to plant arborvitae. Mr. Bacon will contact Sunnyside Gardens and get their opinion. Polson said arborvitae is required for the rear and a fence is being suggested in front of the dish. Mr. Bacon wants to be a good neighbor and he does not have a problem with the recommendation of a fence. It may be necessary to wait until spring to plant.

Polson asked about alleged interference. Mr. Bacon said he has not received any complaints. The dish has been up since the first part of September. Mallard asked if the applicant is willing and able to complete landscaping and fencing requirements. Mr. Bacon said he is able to complete the requirements. If this dish location is the only place he can get a clean signal, there is no choice but to implement the requirements in order to maintain revenue flow. He will check with his engineer to see if he can get a signal with the dish behind the building. If the dish remains in the same location and he needs buffers to be in compliance, he will deal with the requirements. Mr. Bacon will make the owners aware no further broadcasting or receiving devices will be allowed on the property.

Miriam Rohde – 1346 E. 16th Street. Ms. Rohde had spoken with Cramer about interference when she was talking with staff about another issue. Her concerns have been allayed and she has not contacted the station directly. Ms. Rohde is the only person present from the neighborhood. She said some of the neighbors do not believe their involvement will make a difference. The dish is very prominent from 16th Street, and the arborvitae will be a nice buffer. The location was apparently approved and she is not asking the dish be moved. A vinyl wrap would be helpful. The 2005 hearing was controversial. She was very frustrated because no planting took place for at least three years. Ms. Rohde did not report any issues and did not realize ownership changed.

She has been to six or seven public hearings and believes follow-through is lacking. Ms. Rohde does not have a problem with the dish location if arborvitae is planted and no more dishes or towers are allowed. She has noticed some interference but is not certain of the cause. She will talk directly with the radio station if she has concerns.

Todd Stone – 2622 Cavan Circle. Mr. Stone was asked to comment about buffering for the dish. His main emphasis is visibility of the dish, and the wrap may be an appropriate solution. The combination of arborvitae and a wrap may blend better than a white vinyl fence. This is an acceptable solution.

Bob Bacon – 1055 Yellow Pine. Mallard indicated the letter is not from the engineer and there are questions that cannot be answered. Mallard is concerned about the miscommunication that led to the dish placement. Mr. Bacon said he did not deal directly with staff. His assistant used a map and understood two locations were possible.

Cramer explained a female representative of the radio station called him to express an interest in installing a large dish on the northwest corner of the building. Cramer said the dish was allowed in that location but the radio station also needed to talk with the building department. A radio station representative took a map to the building department with circles on the northwest corner of the building and on the northeast corner of the property. The building department was told both locations were being considered for permits. Karst said the role of the Commission is to make planning decisions. The history behind the existing location of the dish has no bearing on a planning decision. Mallard said her primary concern is enforcement and she asked what can be done to enforce any conditions. Conditions were placed five years ago that have not been fulfilled. Cramer said reminders are sent with a date for completion. If the requirements are not met, another notice is sent giving the owner one more week. Then a misdemeanor citation is issued, and the court process begins. The maximum fine is \$1,000 and thirty days in jail. Cramer said, in his experience, the judge waives fines if the requirements are met. The ordinance allows citing for every day there is a violation and penalties can add up.

Karst asked if the original placement of the tower was determined due to screening from 17th Street and surrounding properties. Cramer answered yes. The fall zone was also considered. Karst suggested the discussion should consider whether there is an acceptable way to screen the dish in its current location, and, if not, whether the dish should be moved.

The hearing was closed to the public.

Mills prefers allowing a six month window for completing action previously required. He believes a wrap could be innovative and allow the dish to blend with its surroundings. Swaney agrees with staff recommendation to limit any future increase in broadcasting or receiving devices on the property. He also wants to require vegetation be planted and a wrap be installed to

blend into surroundings. Swaney said the fence should be discussed as a possibility in addition to the other requirements.

Polson questioned if there is an interest among the Commissioners to require that the dish be moved. Mallard said requirements have clearly not been followed. She is not suggesting the current placement is intentional, but some trust issues have been created. Polson agreed the trees should be planted but is having a hard time visualizing a wrap camouflaging the dish. She prefers to see the proposed wrap or to trust Mr. Stone as a person with a vested interest in the area. Polson said her first choice is a fence, but a wrap is workable if others find that amenable. She wishes to see a wrap prior to approving it.

Magee said the original application in 2005 was handled by Pacific Empire Radio. She is not certain why staff did not notice the lack of arborvitae. The concern at that time was the design and location of the tower. The tower was placed according to requirements. Magee said this is a new applicant and new manager.

Mallard believes this is a difficult position. The tower is an eyesore from both sides and no one would have seen the tower from the location originally mentioned by staff. She has a lot of concerns no one can answer. It is the responsibility of the Commission that the dish not be an eyesore, but its reception may be a problem from the location northwest of the building. Polson said reception from another location has not been determined. Mallard said her preference is the dish be moved if reception is not a problem. Polson does not see a reason for the applicant to spend money moving the dish if the neighbors are amenable to the dish being camouflaged. Cordova agreed with Polson.

Commissioner Polson moved to recommend to the Mayor and City Council approval of the material change to a PT zone site, 1327 E. 17th Street, to allow an additional receiving dish with the conditions no further broadcasting or receiving devices be added to this property, the owner of this property honor the previous condition that arborvitae be planted along the north and west boundaries of the property, and a white vinyl fence be placed around the dish to screen the dish from 17th Street. Motion seconded by Commissioner Cordova. Motion failed, 2 to 3, with Commissioners Mallard, Mills and Swaney opposing.

Commissioner Mills moved to recommend to the Mayor and City Council approval of the material change to a PT zone site, 1327 E. 7th Street, as presented with the conditions landscaping be installed along the west and north borders of the property, no additional devices or towers be installed, the current installed dish remain in the northeast corner, a camouflage wrap be installed on the dish itself to represent mature landscaping, and the required improvements be completed six months from the decision of City Council. Motion seconded by Commissioner Swaney. Motion passed, 3 to 2, with Commissioners Mallard and Polson opposing.

The meeting adjourned at 8:35 p.m.

Donna Carlson, Recording Secretary