

ALPINE CITY PLANNING COMMISSION MEETING
Alpine City Hall, 20 North Main, Alpine, UT
June 18, 2019

I. GENERAL BUSINESS

A. Welcome and Roll Call: The meeting was called to order at 7:00 pm by Chairman David Fotheringham. The following were present and constituted a quorum:

Chairman: David Fotheringham

Commission Members: Alan MacDonald, John MacKay, Jane Griener, Jessica Smuin, Sylvia Christiansen

Excused: Bryce Higbee

Staff: Jed Muhlestein, Austin Roy, Marla Fox

Others: Adam Peterson, Kiersten Belnap, Randy Austin, Hal Hughes, Daryl Hughes, Brian Cropper, Leslie Austin, Troy Benson, Amy Thacheray, Shelley Ruiz, Olivia Helms, Lon Helms, Daniel Thurgood, Bradley Reneer, Glen Judd, Will Jones, Eric Palsson, Cheri Palsson, Sarah Kendig, Michael Kendig, Paul Anderson, Marci Anderson, Kathy Bailey, Laura Hackey, Marti Reneer

B. Prayer/Opening Comments: Sylvia Christiansen

C. Pledge of Allegiance: Randy Austin

II. PUBLIC COMMENT

There were no public comments.

III. ACTION ITEMS

A. Public Hearing – Site Plan – Proposed Wireless Tower at Burgess Park – Verizon Wireless

Austin Roy stated that the petitioner had submitted a site plan for a new wireless telecommunications tower. The proposed tower was an 80-foot tall monopole tower designed to look like a pine tree (the so-called “Monopine” design). The proposed site was located at the south end of Burgess Park, north of the Southern baseball diamond. Austin Roy explained that the City ordinance allowed wireless telecommunications within the City. The Act had been passed in 1996 and stated that the City could not prohibit these structures nor could there be discrimination between providers or functionality of these equipment services. He added that the decision to add a tower could not be based on environmental effects such as radio frequency emissions to the extent that the facility complied with the Federal Communications regulations. When such a structure was to come to the City, the Staff looked at it and determined whether the plans met the City’s development code. He continued that in the code, there was a criterium stating that these facilities were allowed, though regulated. He continued that there were specific locations where these towers could be placed: a new tower could be built where an existing tower had been. He continued that each tower added in the City had to have the capacity to hold up to three providers. Another location, he added, was on City owned property. The third

location was a property in conjunction with a quasi-public use, such as a school. Business and Commercial zones could also be used. These were the only places where cell towers were allowed. He continued that the City allowed these structures because it was in the best interest of the City to do so: a quality personal cell service was important, he continued. He added that another part of the ordinance stipulated that the City had to balance the interests and desires of the telecommunication industry with its customer to provide competitive and effective telecommunication systems. These interests could sometimes be at odds with the need for health, safety, welfare, aesthetics, and orderly planning. He explained that Staff had studied the development code, understanding that towers were allowed in the City, as long as they met certain criteria. He continued that the location and the type of tower had been studied and stipulated that the maximum height was 80 feet. He continued that the tower had to have to capacity to hold three different carriers. Each tower had to meet a number of safety regulations stipulated by the FCC and FAA. The tower also had to be protected against unauthorized climbing. Fencing was typically required around such structure as was lighting. In case of an emergency, the City had the right to move or alter the facility. He continued that landscaping had to be provided when these structures were built. He also mentioned that there were regulations for the type of accessory structures allowed. Finally, the fencing material and color was selected by the City. He explained that this issue had been taken to the City Council when the tower was proposed and added the Council had asked the City about the type of tower it wished to have. The Council had opted for a pine tree look. An alternative, he continued, would be to paint the tower a neutral color. Austin Roy added that facility signs were required to publish emergency and public safety warnings. He stated that all utility lines had to be buried and that the cell provider had to receive a business license to operate within the City. When the tower was on City-owned property, the City leased the land to the carrier which provided the City with a monetary benefit for having a carrier in town.

Austin Roy showed the Commission the proposed site plan. He reiterated the exact location and added that the ordinance required that anyone living within 500 feet of the tower be notified. He believed that many of the attendees were present to discuss this issue. Austin Roy added that Staff had reviewed the proposed site plan and found that it met the requirements set forth in the Development Code for a new tower. New wireless communications towers shall meet the following requirements found in Article 3.27 of the Alpine City Development Code:

- a) Location
 - i. The proposed site is on City owned property, which is an approved location. Tower is also to be located away from other towers (1/4 mile) and can be no closer than two times the height of the tower to a residence and the proposed tower meets these requirements.
- b) Type of Tower
 - i. The proposed tower is a monopole type tower, which is a permitted type of tower, and does not exceed the 80-foot height limit.
- c) Co-Location
 - i. Towers shall be large enough to “accommodate at least two (2) additional wireless telecommunications providers”. The tower is a 3-carrier tower.
- d) Safety

- i. Towers must comply with FCC and FAA regulations. The petitioner has submitted documentation to support this.
 - ii. Tower must be protected against unauthorized climbing. Plans show no climbing pegs on the lower portion of the tower.
 - iii. Fencing. Tower must be enclosed by a minimum 6-foot high fence. Plans show 6-foot chain-link with barb wire.
 - iv. Lighting. Must meet FAA regulations. Petitioner has submitted site plan data to FAA for review.
 - v. Emergency. City holds the right to move or alter the facility in case of an emergency.
- e) Additional Requirements
- i. Accessory Structures. Any structure on site cannot exceed 450 square feet. Plans show no structures that exceed the requirement.
 - ii. Parking. If no parking is present it must be provided. Burgess Park has plenty of parking.
 - iii. Maintenance. Site will be visited once per month by certified tech.
 - iv. Landscaping. A landscaping plan is required, which has been provided as part of the site plan. To be reviewed and recommended by Planning Commission and approved by City Council.
 - v. Fencing. City can determine the type of fencing if needed.
 - vi. Color and materials. City typically makes an administrative decision as to the look of the tower; however, the City Council reviewed the proposal for color and materials and selected the Monopine design.
 - vii. Facility Signs. Facility shall only have signs for emergency contact info, public safety, warnings, certification, and other required seals.
 - viii. Utility Lines. Line shall be buried. The proposed plans show the utilities located underground.
 - ix. Business License. Annual business license shall be required for each facility.

Austin Roy stated the carrier would rent the land from the City so the City would receive monetary value from having the tower on City property.

Alan Macdonald asked whether other sites had been looked at. Austin Roy explained that Verizon had proposed a couple other sites. Staff had provided its feedback and had then discussed the best location with the City Council. Burgess Park was chosen because it was the least impactful since the location wasn't as close to homes. He continued that the City did not control where the carrier wished to place its tower: this decision was made based on where coverage was needed. Alan MacDonald asked whether the other proposed sites were as close to schools and parks as this one was. Austin Roy stated that the other sites were not as close to schools. The other locations, however, were parks and open spaces. He explained Verizon was limited on where it could place its towers.

Alan MacDonald asked why Verizon couldn't add its new tower to an existing one. Austin Roy stated the reason Verizon chose this site was because there was limited coverage on the West side of town with no cell towers. He added that the service was needed in that specific area. He

mentioned that the representative could clarify this, but that he was under the impression that more coverage was needed in this specific area.

Sylvia Christiansen asked whether the Staff could unequivocally state that the tower complied with the FAA regulations. Austin Roy stated that the burden of proof was placed on the carrier which would have to provide documentation and proof of compliance. Sylvia Christiansen stated that if the motion were made it would be made as per ordinances.

David Fotheringham invited Troy Benson from Technology Assoc., representing Verizon, to come answer questions. David Fotheringham asked about the distances from the current towers to the closest schools or homes. Troy Benson said he did not know the exact distances in Alpine but added that throughout the State, Verizon had sites located on school property. Austin Roy stated it was actually very common for such towers to be placed on school property. He continued they could also be placed on quasi-public property. David Fotheringham asked whether the history of school districts was that they approved such structures on school property. Austin Roy explained that there was a precedent for this.

Sylvia Christiansen asked why the pole had to be 80 feet tall. Troy Benson stated that the higher the pole was, the greater the reception. He added that Verizon utilized 10 feet of space. The remainder of the height was used by additional carriers and having a shorter tower did not allow for additional co-locators. He continued that the additional height allowed Verizon to have the proper line of sight to provide the needed coverage.

Alan Macdonald asked what the other options existed if the City denied this particular site. Troy Benson stated that with the City code as it was, there were limitations. He mentioned that there were no existing towers in the area. He added that there was better service on the East side of town, which was about one mile away from the proposed location. Another option was for Verizon to be on City owned property. He explained that he suggested having the structure built on a City owned property. He continued having worked with the City to find a potential location. He had proposed Creekside Park as well as Peterson Park. The City, he continued, had voiced that Burgess Park would be the preferred location. He explained that there were trees around the tower which would aesthetically minimize the impact.

Jane Griener asked whether a public open space would be an approved location. Austin Roy stated that it would. He added that the City's ordinance did allow further towers in Lambert Park. Jane Griener asked whether there were any other public open spaces that would not be as maintained as a park: an undeveloped open space. Austin Roy stated as long as the space was owned by the City and was public land, it could be a location where the City would permit a tower. Jane Griener asked whether any such location existed within the stipulated area. Troy Benson stated that in his search for the area, the only option had been to go at a park: there was no other City owned open space available.

Sylvia Christiansen asked whether Mr. Benson could prove, unequivocally, that the tower would comply with FCC regulations. Troy Benson stated that Verizon held a license with the FCC, and that their sites operated at a level that was well below the maximum power emissions these sites were allowed. He continued that anyone could at any time test the power levels and report them

to the FCC. He added that Verizon had to operate these sites below the maximum limits. Sylvia Christiansen asked how the trench would be dug in order to put the fiber optics in. Jed Muhlestein said that the trench was on the plans and that it would be bored underground.

Alan MacDonald asked about Verizon's position on the health and safety risks of a cell tower to young adults and children. He mentioned that he was concerned about the tower being quite close to a junior high school. Troy Benson stated the FCC allowed these towers and continued to do studies. He added that they had not found anything significantly dangerous to people who lived close to a tower.

Jessica Smuin asked why the tower could not be pushed further back into the park, away from the school. She added that the site was a main thoroughfare, visible to everyone and those other sites might be more discreet. Troy Benson stated Verizon required good access to the site and added that this site provided this ideal access. Further north, the tower would be closer to residents. He continued that the tower should be located as far away from residents as possible: they didn't have to see the tower from their window.

Alan MacDonald acknowledged that Mr. Benson was in a tough position with a hostile crowd in attendance. He continued that Mr. Benson was not an expert on the health aspects of these towers. He added that it was not merely fringe groups which had expressed concerns: the American Academy of Pediatrics had too. He continued that there were legitimate Harvard and Columbia studies showing the effects of these microwaves on a human brain, human cells, and DNA, in particular in young adults and children. Mr. Benson stated that while these studies existed, the FCC's position on the locations of these sites and the levels of operation had not changed. He added that there were studies showing that the cell phones we carry emitted a stronger signal than cell towers did. He continued that more exposure took place with cell phones than did standing underneath a tower.

David Fotheringham opened the Public Hearing.

Brian Cropper stated that his house was the closest home to the pole. He added that there were many children who played sports at Burgess Park and listed several sports. He added he felt that many balls would end up behind the tower's fence and continued that other areas, including other areas within Burgess Park, should be considered. He mentioned that he understood that no one wanted to see the tower from their front window, but that the selected location was the closest to houses of any location in Burgess Park. He added that he did not find this location to be a logical one if the only issue was that the building crew would have to drive over some grass. He asked that Verizon consider other locations. With respect to safety, he continued, this location was the most ill-advised. David Fotheringham clarified what locations Mr. Cropper referred to. Mr. Cropper stated he was referring to other locations both inside the park and outside. He pointed to the top of a building where the tower might be placed. He continued that all other possible options had to be considered and that he felt that Burgess Park was the park used to dump all such projects.

Bradley Reneer stated that FCC regulations allowed such towers. He added there always was a lag between health studies about health risks and legislation. He explained knowing someone

who had died of thyroid cancer at a young age. He explained that the individual had been radiated for his acne and explained that, at the time, there were no known health risks for radiating a child who had acne. He continued that when searching for “Dangers of EMF” on the web, one of the first things that would come up was cancer.gov. He explained this site gave a false sense of security as it stated that there was no known mechanism by which non ionized EMF could cause cancer. However, on the same site, the government discussed brain tumors and leukemia in children living close to high power lines. Most of the studies, he added, had found that a correlation with children living in homes with high levels of magnetic fields. He reiterated that there would be a lag between technologies’ development and our understanding of their true health risks. He added that it was unwise for the City to put cell towers in their neighborhood knowing they emitted large amounts of radiation and that it was even more unwise to do so next to schools. He continued that, as Alan MacDonald had explained, there were reputable sources showing that these towers presented health risks. He stated it was unwise to allow a tower to be put in so close to a school and concluded that individuals who had been radiated for acne did not have any signs of cancer for nine to forty years after radiations. He asked whether ten to thirty years from now, the children of Alpine would be pointing their finger to this group, asking why the citizens had allowed this to happen.

Daryl Hughes stated she had lived in Alpine for 27 years. She explained that she had information to give the commission. She continued that it was important to not let an industry representative say there were no health consequences from cell towers and that they were safe. She pointed that the safety standard had been set in 1996 and continued that in the twenty years since, there had been over 20,000 studies done, which showed the mechanism by which towers were damaging to health. She pointed to the information she had provided in the handouts. Mrs. Hughes explained that there would be a loss of property value between 5% and 20%. She added that buyer perception would be an issue as nobody wanted to live next to a cell tower. She asked who would compensate homeowners for the loss of their property value. She inquired about which individuals in the audience would be willing to buy a home next to a cell tower to raise their hand. No hand was raised. She mentioned that the City had to recognize the hazards that came with cell towers. She further stated that cell towers failed because they were affected by weather: lightning, fire, wind, and snow. She concluded that towers were not aesthetically pleasing and damaged the living trees that surrounded them.

Randy Austin explained he was very close to Burgess Park. He stated that he had brought some information and passed out some pamphlets. He continued by saying that he was grateful for the work the Commission did. He mentioned that everyone had cell phones in their pocket and in their homes. He added being aware that they emitted waves. He mentioned that, unlike a tower, a cell phone could be turned off and kept away from the person. The cell tower, he continued, would be turned on at all times and expose all those around it to radiation. He explained that studies had been done in other countries to gauge the effects on population. These studies, he continued, showed there were effects to such towers and added that children were more vulnerable. Mr. Austin stated that the FCC was basing its decisions on 1986 studies which were out of date. He added that the studies focused on thermal effects, which, he continued, were not the primary concern with such towers. He mentioned that he was a lawyer and that essentially, the City was on notice concerning the risks of such towers. He continued that because towers were revenue producing, he wasn’t sure whether this fell into governmental functions. He

continued by saying that he was not sure the City was immune. He further asked whether Verizon had agreed to indemnify the City from any possible claim that might eventually come.

Amy Thackery explained she had lived in her home for 13 years. She added she had Crohn's disease and Hashimoto's disease. She pointed that these were incurable auto immune diseases. One disease, she continued, had to do with her thyroid, while the other had to do with her gastrointestinal system. She further stated that there were some forms of treatments available for Hashimoto but added that currently there were few medical procedures. She explained that the City had talked about children, and pointed to enrollment numbers: Timberline had 1,400 students while Westfield had 600. She continued that between both schools, there were 2,000 students and mentioned that there were many children in the area also due to the multiple sports programs. Mrs. Thackery continued that with her auto immune diseases and compromised health, she would be negatively affected by the tower. She explained that beyond the children, adults would also suffer consequences. She added that there was information on the topic in the packets that had been passed to the Commission. She explained that page six of the pamphlet showed a 900% increase in cancer in women. Having Crohn's disease, she continued, she had a 25% increase in the risk of a cancer. She stated that she wanted to be there for her children and wanted to have her neighbors raise their children in safety. She explained that Alpine was a great city and continued that while she was no longer a child, she would like to be considered in this decision as she would suffer health consequences.

Sylvia Christiansen asked Austin Roy how many letters had been sent to residents. He explained that he did not have the figure with him but added that the City had all of the names of the different households that he believed the number was around 100.

Marty Reneer explained she had lived in Alpine for 25 years. She mentioned that she found the City to be a beautiful place to live. She added wanting to second what had been said and stated that she had brought a petition from residents in the area. Mrs. Reneer explained that she found some irony in the fact that there had been a meeting in Timberline for parents and students to discuss addiction to cell phones. Children had been encouraged to go outside and do things in nature. She mentioned that it might be a blessing to have holes in coverage to force people to disconnect.

Laura Hackey stated that Burgess Park was a very special area. She mentioned that it was populated by many children. She further asked whether the look of the tower was more important than the safety issues. Mrs. Hackey added she was going through Stage 3 breast cancer. She mentioned that she was wearing a wig and that she had been through chemo, surgery, radiations, and would continue taking medications for five to ten years. She concluded she was lucky as she would survive cancer but continued that she didn't want any child to go through what she had been through.

Shelley Ruiz stated that her family had moved to Alpine six months prior. She explained that she was thrilled by the beauty of the area and added she had spent a lot of time riding her bike in the park and enjoying nature. She continued that she could not imagine having to look at something like the cell tower in the park. She mentioned her long history of health problems and stated she became vegan a few months prior to try to curb some of these issues. She added that

there were not enough antioxidants in the world to counteract the toxicity of a nearby cell tower. She pointed that her house was quite close to the proposed tower and continued that she would never have purchased her home if she had known this cell tower would be in her back yard. She also stated she used Verizon and had no problem with her service. She mentioned that if service were the only issue at hand, the tower was not needed.

Glen Judd stated there were no health problems caused by non-ionizing radiations. He explained that there were connotations between ionizing and non-ionizing. Mr. Judd had brought a radio with him and he turned it on. He explained that the radio had 800 billion times the power that a student in the nearby schools would receive from the towers. He continued there was evidence to support that these towers did not pose dangers. He added that in his lifetime, cell phone use had increased exponentially while cancer rates had not increased. He continued that if cell phones were a cause of cancer, there would have been a more drastic increase in cancer. Mr. Judd explained that if the goal was to decrease the exposure, the tower would be helpful as the exposure did not come from the tower but rather from phones. He explained that radio strength decreased in inverse R squared, therefore, as one got away from the tower, the radiation increased. He explained that when phones had poor signal, they searched for signal strength at a greater rate, which made them more dangerous. Having the tower closer to the kids at the school, he continued, would be safer for the kids as their phones would not have to work so hard to find a tower. Mr. Judd stated that he had a PhD in Computer Science.

Hal Hughes stated he was one half of the architecture review board. He stated that he was a former assistant United States Attorney as well as a Special Assistant United States Attorney in Utah. He continued that he had appeared before as well as represented the FCC. He explained that he was speaking before the Commission on behalf of his mother in law who was 90 years old, blind, and who lived within 500 feet of the cell tower. He pointed that his mother in law had received the notice for this hearing one business day before it was scheduled to take place. He mentioned that this site would be surrounded by a six-foot chain-link fence topped by barbed wire. He reminded the Commission that the City had control over the fence and its aesthetics and pointed that a chain-link fence would not be compatible with park ordinances. He explained that the razor wire confirmed that the site was dangerous. In addition, he continued, Verizon had stated that there would be a thirty-kilowatt diesel generator. He pointed that the site plan did not show how the fuel would be delivered and added it would require a pipeline or a storage tank. Mr. Hughes pointed that such a tank would have to be underground and provide at least a double wall with other protection to avoid diesel fuel leaks. He explained that the fuel could leak in the ground water or the adjoining creek. The cleanup, he continued would be costly and difficult. He added that Verizon was requiring the City to give them six easements. This included the walkway being expanded from four feet to eight feet with a twelve-foot easement. He explained that Verizon also wanted to build a new thirty foot asphalt drive up to the barbed wire gate with a ten-foot-wide and fifty-foot-long separate additional power easement as well as a ten foot wide power easement running eighty feet from the pickle ball courts to the site. He pointed to another twelve-foot easement on Parkway Drive. He pointed that Parkway Drive was public, and he did not understand why Verizon needed that much space on a public street in addition to the easement running through the Park. He added that the City had to look out for the health and welfare of the community. He added that the FCC was not a health and safety agency and stated they had based their conclusion on 1986 studies that looked at thermal information. Mr. Hughes

stated that if the City approved the tower, it needed to get insurance, indemnification, or bonding.

Kathy Bailey stated that a public park was for families and recreations and that was not a commercial business. She read the purpose of a park. She explained that she saw hundreds of individuals using the park each day and explained that the structure being proposed would go against the functionality of the park. She asked the Commission to not forget why the park had been created in the first place.

Kiersten Hadley stated that she switched her cell service from Verizon to T-Mobil. The reason for doing so, she continued was because the service was poor in some areas. She pointed to specific areas in Lehi where the coverage was next to nonexistent. She added that the price was high. She mentioned, however, that she did have good coverage in Alpine and that the tower should go where the coverage is poor.

David Fotheringham closed the Public Hearing.

Jane Griener asked whether the Planning Commission's role was merely to ensure that the tower met code. David Fotheringham explained that this was correct. Jane Griener further asked whether the final decision would be made by the City Council. She added that the Council might want to have a specialist come in to analyze the data that had been presented during the meeting. She continued that there already were cell phone towers in Alpine.

Jessica Smuin stated that she had some concerns about location. Looking at the City boundaries she continued, there was City property near Sight Drive. She asked whether this would be a better location. She added that Verizon had come to the Staff to find the best location. Austin Roy explained that this was the case and that the Staff had given three potential locations. Mrs. Smuin explained that it would be possible to look at locations that were not parks. Jane Griener stated that she would approve one such motion. She wanted to know if this tower benefited the residents or was this just a business opportunity for Verizon. She asked whether the project benefitted the community in a significant way. While she understood that the City was under the obligation to assist these companies, the Commission should consider the true benefit to residents.

MOTION: Jane Griener moved to recommend denial of the proposed wireless tower at Burgess Park and to request other sites be considered that are not in the vicinity of schools, parks, or homes. Alan Macdonald seconded the motion. This motion was withdrawn.

David Fotheringham explained that a study had to take place to find the best location.

MOTION: Alan MacDonald moved to recommend the denial of the current proposal and recommendation that Verizon consider additional alternative sites for the proposed cell tower that would be less impactful to residents and schools. John MacKay seconded. This motion was withdrawn.

Troy Benson asked to table the motion to give the Commission time to look for another location. He said this location was chosen because the usage was going up, and Verizon wanted to stay ahead of the demand in order to provide better coverage. David Fotheringham asked whether there were a lot of complaints regarding poor coverage. Mr. Benson explained that technicians had driven through the area and ran tests to gauge coverage. With the increase in usage, he continued, the site would need to handle the added traffic. This particular search could be expanded to other potential sites. Mr. Benson stated that he had looked to the area thoroughly to find a better location. He continued that the Burgess Park was the best he had found. He added that he would try to identify other location. Jane Griener asked how far west Verizon was looking at servicing customers. Mr. Benson stated that it would cover one mile west.

MOTION: Alan MacDonald moved to table the current proposal and recommend and request that Verizon consider additional alternative sites for the proposed cell tower that would be less impactful to nearby residents, schools, and school children. Jane Griener seconded.

When asked whether the tower could be denied altogether, David Fotheringham explained that the tower would not be denied.

Ayes:

Alan MacDonald
John MacKay
David Fotheringham
Jane Griener
Jessica Smuin
Sylvia Christiansen

Nays:

None

Jane Griener stated that the Staff and the Council needed to know that more studying of the location was required. Property values were then discussed. It was noted that a market analysis on the nearest house would not require including the tower in the considerations. A small percentage of people might not be interested in the property as a result of the tower, but this would not make the house sell for less. It was easy to find buyers in Alpine but the poor cell service might prompt people not to buy a house. The Planning Commission's role was to decide whether the tower fell within the development code. The Commission had to balance the interests and desires of the telecommunication industry and its customers with those of the residents.

B. Public Hearing – Site Plan – Antenna Upgrade at Beck's Hill – T-Mobile

Austin Roy stated that T-Mobile was seeking to upgrade three antennas, three Remote Radio Heads, and install one hybrid cable. He added that the proposed upgrade was on an existing wireless telecommunications facility at Beck's Hill. Unlike a new cell tower, he continued there were less requirements and restrictions. Article 3.27.030 states:

State or local government may not deny, and shall approve, any eligible facilities request for a modification of an existing wireless tower or base station that does not substantially change the physical dimensions of such tower or base station. For purposes of this Part, the term "eligible

facilities request'' means any request for modification of an existing wireless tower or base station that involves:

- *collocation of new transmission equipment;*
- *removal of transmission equipment; or*
- *replacement of transmission equipment.*

Proposed upgrades do not substantially change the physical dimensions of the tower or base station. Austin Roy stated that Staff had looked at this application and didn't think it proposed any substantial change.

David Fotheringham opened the Public Hearing.

Rick Clark mentioned he lived across the street of the antenna being discussed. He asked whether these new antennae generated more microwaves than the old antenna. Since there was no representative at the meeting, his questions could not be answered. David Fotheringham stated a single cable sounded better than several, but that he too wanted to know about the emissions.

Olivia Helms asked about the aesthetics and the height of the tower and whether the new towers would be located in the same places. She asked whether the towers could be combined. According to the ordinance, she continued, landscaping was required around the towers. She explained that she would like more information because she was a two-time cancer survivor. She continued having been her home for 19 years and stated she would like to know more about the output.

Austin Roy showed pictures of what the changes would be. He explained the pictures were part of the packet that had been distributed prior to the meeting. He described the images to the attendees. The Commission discussed the width of the towers, and it was pointed out that a T-Mobile representative would have been needed. Jane Griener stated she was not able to make a vote unless she could ask questions to a representative. She added that there were concerns about color as well.

David Fotheringham closed the Public Hearing

Austin Roy explained that some of the answers were in the engineering drawing and that the Commission could review them if they wished. Alan MacDonald studied Article 3.2.7.030 and explained that what was being requested was not in alignment. While the government could not deny some requests, part of the proposal went beyond, he added. He explained he also had questions about emissions. He continued that T-Mobile, like Verizon, should have sent a representative to answer questions. He mentioned that he wasn't sure if these upgrades fell under the ordinance and added he did not want to make a recommendation without questions being answered by a representative.

MOTION: Sylvia Christiansen moved to table the proposed Antenna Upgrade at Beck's Hill until we can have a T-Mobile representative here to answer questions. Jane Griener seconded the motion.

David Fotheringham explained he agreed with this motion. Alan MacDonald stated that the task was to determine whether the change to the tower was substantial. He added that while the Commission had the plan, it was hard to determine. The discrepancy between the plan and scale of the images were pointed out. David Fotheringham stated that he did not see a substantial difference but agreed there might be discrepancy. Austin Roy stipulated what the definition of “substantial” was and added it was federally provided by the FCC in the Spectrum Act.

Jane Griener stated that when telecommunication companies requested changes, it gave the City a chance to ask them to clean up the area, beautify, etc. She added that the City did not have any way to request these changes otherwise. Austin Roy stated that the issue had been brought up in City Council before. He continued that the argument was that the Federal Government’s intention, through the FCC, was that no government could restrict the upgrade of a tower as required. He continued that the Commission needed to take this fact into consideration as they prepared their motion. Alan MacDonald stated that he wanted to take that fact into consideration but needed to be fully informed. He continued that he had two basic questions, but that since no T-Mobile representative was there to answer them, he could not make a decision. Sylvia Christiansen stated that T-Mobile needed to represent itself to the Commission.

There were 6 Ayes and 0 Nays (recorded below). The motion passed.

Ayes:

Alan MacDonald
John MacKay
David Fotheringham
Jane Griener
Jessica Smuin
Sylvia Christiansen

Nays:

None

C. Public Hearing – Amendment to Development Code – Uses Within Buildings in Business/Commercial Zone

Austin Roy stated that Staff had reviewed an amendment to the Development Code concerning the Business/Commercial section of said Code. He continued that the change had been discussed in City Council. One of the Council Members had recommended that the language be modified to make it more restrictive. The article in question was Article 3.07.080.1, and the proposed change sought to simplify and clean up the language regarding uses permitted within buildings in the Business/Commercial Zone. Staff had taken out the word *etc.* and the phrase, *but not limited to*, which meant the same thing as *etc.* then add the word *and* in between the word repair and temporary.

David Fotheringham opened the Public Hearing. There were no comments and David Fotheringham closed the Public Hearing.

MOTION: Alan MacDonald moved to recommend approval of the proposed Amendment to Development Code Article 3.07.080, Uses Within Buildings in Business/Commercial Zone. John MacKay seconded the motion.

Jane Griener stated that she used to own a company where she was tasked to write the policies. She explained that every new employee hired created a new challenge. Therefore, she continued, she liked having “etc.” in the text. She asked whether it could be changed to something that would not limit the City. Alan MacDonald explained that this portion of the text limited the things that were customarily done outside of a building. He added that the code stated that all retail sales had to be conducted indoors. The change limited what kinds of things could be done outdoors. He continued that the intention was to close a loophole.

David Fotheringham explained that someone with a property and a lawn could do activities there and asked if closing the loophole would prevent simple activities from taking place. Austin Roy stated that the ordinance was still open to some interpretation. David Fotheringham disagreed. Alan MacDonald sided with Austin Roy. David Fotheringham pointed to food trucks which were not entirely outside. Jane Griener stated that food trucks were not permanent fixtures. Sylvia Christiansen explained that the language was the same as saying “etc.”: the decision was up to the City. Austin Roy stated that the language was not changing what was being said: it merely tightened it. Jane Griener stated that she wanted the motion to be redone so the word “entirely” was struck.

MOTION: Sylvia Christiansen moved to amend the motion to strike the word *entirely* from Article 3.07.080.0.1

John MacKay seconded the motion. There were 6 Ayes and 0 Nays (recorded below). The motion passed.

Ayes:

Alan MacDonald
John MacKay
David Fotheringham
Jane Griener
Jessica Smuin
Sylvia Christiansen

Nays

None

D. Setback Exception – Proposed Site Plan in Business/Commercial Zone – Paul Anderson

Austin Roy stated that the petitioner was seeking an exception to the setback requirements for a commercial structure in the Business/Commercial Zone. He added that there was a potential new buyer for the property who had requested a change. The plan was for a physical therapy/fitness center. He explained that the property was an odd shaped lot adjacent to Dry Creek and the Main Street Bridge. He continued that the potential buyer wished to build a structure and was asking for an exception on the setbacks, particularly when it came to the 15 fifteen-foot front setbacks. The petitioner, he continued was seeking two different setback exceptions: first, a

front-setback of 15 feet from the front property line on Main Street and second, a zero side-setback for the north property boundary bordering Dry Creek. He added that the petitioner had stated that without the exceptions it would be difficult to place a building on the odd shaped lot. He pointed to the screen with the initial concept.

Austin Roy stated that the ordinance granted the Planning Commission with the power to recommend exceptions to the setback requirements. He added having examples in town. He pointed to the State Farm building example, which, he explained had a setback of 15 feet. He continued that the zero foot setbacks (due to the dry creek and the parking lot) would impact the neighboring properties to the North.

Sylvia Christiansen asked if there was a trail through the area. Austin Roy responded that there was one such trail as part of the Master Plan. He pointed that the school district owned the dry creek bed. Sylvia Christiansen asked whether there was an easement for the trail. Austin Roy added the City did not, but that this was the proposed trail. Sylvia Christiansen asked whether the neighbors have any say in this decision. Austin Roy stated that they did not as this was not a public hearing. He pointed that there were other buildings around the town that had received exceptions. Sylvia Christiansen stated that the purpose of the setback was to create cohesion amongst structures and to create space between them. Austin Roy stated that there was a significant amount of space even with the exception.

David Fotheringham asked how tall the structure would be. The petitioner, Paul Anderson, came before the Commission to explain his project. He stated living on 255 Main Street. He continued stating that this property had had significant issues. The previous property owner had lost \$90,000 when the market went down. He explained that his wife and he had bought the house. He added that an easement went through the property. He stated that there was a gas line going through the property as well. Nobody wanted this property and stated that he was hoping to present a good project to the Commission to make the property a beautiful one. He pointed to the easement that went through the property by using images. He explained that he had worked on the lot to remove all the weeds and trash that had accumulated over time. He discussed the purpose of the code and added that he had talked about the situation with neighbors who seemed to approve of his plan. He went on to describe the adjacent properties. Paul Anderson explained that the easement would always pose a problem as would the gas line. He explained that he had cut the trees that were falling over the creek. He continued there had been complaints from the neighbors regarding the creek and added that the school had had to spray the area. He explained that the portion of land he was describing could possibly be donated to him. He explained that he wanted his property to look nice and mentioned that he had spent \$10,000 to clean up the creek. He pointed to the next property owner who was making the trail part of his landscaping and explained that the City had also received grants to take care of the trail. He explained that the property in the back of the trail was high. He continued that he was invested in the property and wanted to make sure it was safe for everyone. He further explained the different projects he had undertaken or was planning to undertake as part of the landscaping. He stated that a beautiful building could now be added. Jane Griener explained that the trail was a goodwill gesture as the property belonged to the school. She added that the City could not just say it was part of the Alpine Trail system without some agreement. Paul Anderson explained he had gone before the School Board who had allowed him to work on the property. He explained he had

used an Eagle Scout project to clean up the land and that the School Board would give him the land, if it could. Alan MacDonald asked if the School Board had been able to grant an easement for the trail system. David Fotheringham stated that to complete what the petitioner was asking for, an easement would have to be granted. Paul Anderson stated that he did not see a reason why the School Board would not want to forgo the expense of the land. He explained that the easements would be necessary. He added that the gas line would not be an issue as long as he did not do a basement. Jane Griener stated she was concerned the gas line would have to be removed to have a structure there. Paul Anderson stated he had already discussed this and had been told it would not need to be the case. He pointed to the current nearby structures and the current property line and explained that his project would make his neighbors happy.

Jane Griener asked about one of the easements. Paul Anderson explained this had been built into the property as it was supposed to be a different kind of development. The owner however, had started selling the land in pieces which had created issues. All the parcels were separately owned. Austin Roy stated that the easement was meant to allow access to the public road. Eventually another access was created. Jane Griener asked whether the easement would be removed. She was told that it would not be unless the petitioner asked for a plat amendment. Paul Anderson explained that the properties set up made it unlikely. Sylvia Christiansen asked what usage the petitioner was considering. Austin Roy answered that the usage was physical therapy which was permitted in the Business/Commercial zone. Sylvia Christiansen asked about the motion. Austin Roy stated that the motion would allow for the exception on the setback to be granted if the petitioner bought the property.

The Development Code stated that the Planning Commission may grant exceptions to the setback requirements for the Business/Commercial and Gateway Historic Zones.

Article 3.07.050.2

In commercial developments adjacent to other commercial areas, the side yard and rear yard setbacks will be not less than 20 feet unless recommended by the Planning Commission and approved by the City Council where circumstances justify.

Article 3.11.040.3.e

The Planning Commission may recommend exceptions to the Business Commercial Zone requirements regarding parking, building height, signage, setbacks and use if it finds that the plans proposed better implement the design guidelines to the City Council for approval.

MOTION: Sylvia Christiansen moved to recommend approval of the proposed setback exceptions. Alan MacDonald seconded the motion.

David Fotheringham asked whether, once the motion was passed, the petitioner could build a two-story building. Austin Roy stated that it was possible, as long as the building complied with the code. Jane Griener stated that there might be other options than to change the setback. She explained that she was not sure what use was the ordinance since so many exceptions were granted. The petitioner mentioned that for the particular property, the setback exception was the only way. Sylvia Christiansen explained that while she agreed with Jane Greiner, she also felt that the new building would be a nice addition.

There were 6 Ayes and 0 Nays (recorded below). The motion passed.

Ayes:

Alan MacDonald
John MacKay
David Fotheringham
Jane Griener
Jessica Smuin
Sylvia Christiansen

Nays:

None

IV. Communications

David Fotheringham asked about weeds on the lot on the corner of Healy and Canyon Crest. He inquired about whether there was an ordinance planning to clean this lot. Austin Roy said the code enforcer was in the process of sending out letters to property owners to stipulate that unless the weeds were removed, the City would cut them down and bill the owner.

Jessica Smuin stated the City was working with Draper City and MAG on connecting the Alpine Trail and the Bonneville Shoreline Trail. She explained that she would meet the group in the following week to delineate the trails.

V. APPROVAL OF PLANNING COMMISSION MINUTES: June 4, 2019

MOTION: Jessica Smuin moved to approve the minutes for June 4, 2019, as written. Alan Macdonald seconded the motion. There were 6 Ayes and 0 Nays (recorded below). The motion passed.

Ayes:

Alan MacDonald
John MacKay
David Fotheringham
Jane Griener
Jessica Smuin
Sylvia Christiansen

Nays:

None

The meeting was adjourned at 9:15 pm.