

The next hearing could not be heard until at least the stated notice time of 7:25 pm. Therefore, the AT&T request by Trevor Miller was taken next.

Non controversial Items Added to the Agenda:

1. Trevor Miller – representing AT&T, regarding temporary cell towers

Trevor Miller, Black & Veatch, Salt Lake City, Utah, is requesting permission to have 2 temporary telecommunication towers. One would be located at 164 W.1st N., the Steiner Grain Elevators building. The antenna would be placed on the existing grain elevator. He stated that administrative approval by the Planning & Zoning Commission is needed. The other location would be at 120 W. 4th S., the old Craigo’s pizza location, to be in the building parking lot. This would be a “Cell on Wheels” – a tower on a trailer. to provide service to buildings west of the Brigham Young University - Idaho campus. They are asking for these two temporary tower facilities to be in place for as long as it takes to go through the formal City process for permanent towers.

Currently telecommunications facilities are not allowed by ordinance on multi-family dwellings.

Chairman Dyer asked what exactly was being requested of the Commission.

Mr. Miller said he is asking for official approval to put up these two temporary sites. It is felt that the situation is urgent to provide services to their customers without lapse in coverage - they are asking for permission to move forward

Val Christensen said staff recommended that Trevor Miller come before this body with AT&T’s proposal, as there is no ordinance that covers this type of request for temporary telecommunications facilities.

An A&T representative presented a map on the overhead screen showing tower location/possible location. The lease between AT&T and the University (telecommunication facility located at the BYU-I football stadium) is expiring this month, and the existing site will be decommissioned - they will be losing this tower facility. AT& T would like to provide uninterrupted service for their customers in this high density area. They currently have another tower near the City’s water tower.

A map was projected on the overhead screen to show the requested temporary locations. The BYU-I tower was a strong signal tower on top of the hill (umbrella site). AT&T scouted around for something that would work. The grain elevator location has wireless carriers already in existence.

For the buildings at the south end of campus, AT&T set out to keep the signal restored in this area and found the old Craigo’s location to be a good one. The signal strength required would be restored.

Stephen Zollinger stated this issue is a change of use question - staff is recommending a temporary bridge to a permanent answer.

In answer to **Chairman Dyer's** statement that his cell phone works while he is on campus, the representative stated that low frequencies sometimes penetrate better than the higher frequencies. It would likely depend on a person's cell phone carrier as to the phone reception while on campus.

Mary Ann Mounts asked if AT&T had looked at other locations.

Trevor Miller stated that AT&T had originally proposed a telecommunication tower to be on a flagpole in Porter Park, but this proposal was found by the City to not be feasible. They are asking for temporary towers while working through formal zoning approval of a cell tower, and for a Conditional Use Permit for the second site.

Chairman Dyer stated that the written request handout provided to the Commissioners and from Mr. Miller states that the lease between AT&T expires on August 14, 2009, and they are here tonight, August 6, 2009 presenting this requested proposal. This expiration date would have been known well in advance of tonight's request.

Trevor Miller stated things happened quickly. They worked through negotiations with the University to keep their current equipment in place until the next carrier took over, and Sprint, the new carrier, gave the University four weeks' notice. The University gave AT&T three weeks' notice.

Mary Ann Mounts expressed that she had no problem with granting permission for the two temporary telecommunication facilities.

Chairman Dyer asked what time element AT&T meant by "temporary".

Trevor Miller said four to six months would allow them to go through necessary City processes for permanent telecommunications facilities.

Richie Webb asked about the visibility of the telecommunication facility at the former Craigo's site and its location.

Trevor Miller stated the tower would be in the back parking lot as a "C.O.W.", a "Cell on Wheels".

Thaine Robinson recused himself due to direct conflict of interest through his position with the University.

The Commissioners discussed the request.

Chairman Dyer stated he has a serious concern with the request, in its setting a precedent; he is concerned with how citizens may feel about having temporary telecommunication facilities in their neighborhoods.

Dan Hanna agreed with **Mrs. Mounts** in that he had no problem granting this permission request. The requestors have made their objectives known.

Chairman Dyer wondered where the planning was in this issue regarding the businesses involved, without the opportunity for input from citizens in the community.

Stephen Zollinger stated that the Commission has before them an action item to approve temporarily - to allow or not allow. The Commission, if allowing this request, would need to set a time limit regarding the temporary approval.

Discussion continued.

Mary Ann Mounts motioned to allow AT&T temporary tower placement at the specified two (2) sites (164 W. 1st N. and 120 W. 4th S.), for four (4) months from AT&T's lease expiration with BYU-I, until December 15, 2009. **Dan Hanna** seconded the motion.

Those in Favor:

Nephi Allen
Mary Ann Mounts
Ted Hill
Dan Hanna
Gil Shirley

Those Opposed:

Winston Dyer

Richie Webb abstained.

Motion carried.

Stephen Zollinger clarified that AT&T tower location requests should not be taking place at the last minute. He stated that AT&T assumed that the flagpole location for a tower would be approved. This approval did not occur. It is not good business form to make such requests like tonight's request a week before their lease expires with the University.

Chairman Dyer said, for the record, that this last minute issue is why he voted nay on this request. It is not incumbent on this body to solve business problems.

7:25 pm – Conditional Use Permit – L.D.S. Seminary

Johnny Watson 1152 Bond Ave. JRW & Associates, representing the L.D.S. Church. He pointed out on the site plan shown on the overhead screen the location of the planned L.D.S. Seminary near the new Madison High School. Due to the City's regulations of a 300-foot separation between driveways on University Blvd., the location of the proposed seminary has been moved to the west of where it was originally shown on the site plan of the Conditional Use Permit (07 00561) for the Madison High School. The facility is a 6-room classroom seminary building, with construction typical of a ward building or stake center – masonry exterior, shingled roof, with just enough parking for the instructors and office personnel. It is assumed that students will park at the high school, and there will be pedestrian access to the seminary. The facility will be just under 10,000 square feet and a single story building, with a mechanical mezzanine that is not noticeable from the exterior. There will be a screened trash enclosure and storage building, screened as per ordinance. Parking that is visible from University Blvd. will be screened by landscaping. Mr. Watson stated that the zoning is Transitional Agriculture One, which requires a conditional use permit for a school or church facility. The Comprehensive Plan Map/Preferred Land Use Map shows the area as Public Facility designation. The surrounding area is single family residential. The seminary is relatively small. They do not see it creating a nuisance, safety hazard or excess noise problems. Sanitary sewer has been

extended all the way to the west property line of the high school. It will be the owner's responsibility for curb and gutter, boulevard strip and the sidewalk development. The seminary is an obvious addition to the high school facility.

Gil Shirley arrived at 7:45 pm.

Chairman Dyer asked about accessing the parking lot on the north.

Johnny Watson stated the original proposal showed access, but the L.D.S. Church and the Madison School District determined they could not show any preferential treatment to L.D.S. students by providing access to only L.D.S. students. Church and school needed to be separate.

Stephen Zollinger said that issue was specifically addressed in a proposed condition requested by the City Engineer, to have access from the parking lot be directly onto the street right-of-way as on the submitted plan without going through the rear of the property. The parking lot of the Seminary should not be accessible from the high school parking lot.

The City has to allow the parcel access to the road per its own ordinance.

Chairman Dyer asked the width of the sidewalk.

Johnny Watson stated there will be a 7-foot boulevard strip and 5-foot wide sidewalk.

Richie Webb asked if there are sidewalks coming into the school area.

Johnny Watson pointed the sidewalks out on the site plan projected on the overhead screen.

The question before the Commission is this hearing on whether or not to allow this seminary facility, which requires a conditional use permit in this zone.

Johnny Watson stated they are asking for a 30-foot front yard setback rather than the currently required 50-foot front setback required in this zone.

Dan Hanna asked about snow storage.

Johnny Watson pointed out the low-backed curb on the west.

Stephen Zollinger stated that staff is recommending that future expansion of parking lots not be allowed without going through another approval process.

Ted Hill asked about water runoff.

Johnny Watson said it will be maintained on site with underground infiltrators.

Chairman Dyer asked Val Christensen if there was anything to help the Commissioners understand the proposal.

Val Christensen said the main concern is not to allow access from the Seminary parking lot through the rear of the property. Access must be directly onto the street right-of-way. He stated the proposal is consistent with the school use and the residential development around it.

Chairman Dyer opened the public input portion of the hearing.

In Favor: None

Neutral: None

Opposed: None

Written Input: None

Chairman Dyer closed the public input portion of the hearing.

The Commissioners discussed the proposal.

Chairman Dyer was apprehensive about the driveway accessing on to the right of-way.

Stephen Zollinger stated that an independently owned parcel cannot be landlocked.

Chairman Dyer asked Val Christensen to go over his staff report.

Val Christensen said the proposed conditions of approval in his staff report are basically what Development Code 926 requires for a conditional use permit. Proposed condition #6 regarding access was requested by the City Engineer.

The Commissioners discussed the proposal.

Val Christensen stated the proposal is consistent with Development Code 926 and the coming 926 revisions, including the zoning, and the Comprehensive Plan.

Mary Ann Mounts motioned to approve a Conditional Use Permit for an L.D.S. Seminary adjacent to the new Madison High School, located off 12th West and University, to include the six (6) proposed conditions of approval in the Staff Report, and one (1) additional condition of approval – the future parking shown on tonight’s presented seminary site plan is part of this CUP approval; for any additional parking, the applicant shall come back before the P&Z Commission for approval.

Dan Hanna seconded the motion.

None opposed. **Motion carried.**

Conditions of Approval

- 1. Trash receptacles shall be fully screened from the public right-of-way and should not be visible from residential property.*
- 2. A site plan reflecting all conditions of approval and incorporating all City standards, e.g. landscaping, parking, etc. shall be submitted and approved by the City prior to the issuance of a building permit.*
- 3. Commercial lighting standards per the City’s development code shall be adhered to.*
- 4. One way to ensure that the development incorporates what the City has established as good architectural and site design, the proposed building and site shall adhere to the*

City's design standards or as negotiated with the established Design Review Committee (DRC).

5. *A landscape plan shall be submitted as part of site plan review.*
6. *The City Engineer has requested that as a condition, access from the parking lot must never be allowed through the rear of the property or in any manner except as currently identified on the submitted plan. Access must be directly onto the street right-of-way.*
7. *Additional parking, other than what is shown on the presented future site plan, shall not be added without first coming back to the P&Z Commission for approval.*

7:45 pm – Comprehensive Plan Map Amendments (Area 1, Area 2, Area 3)

Chairman Dyer explained that Comprehensive Plan Map (Preferred Land Use Map) change requests by applicants can only be considered once every 6 months. The P&Z Commission hears the matter first and then makes a recommendation to City Council, which then hears the requests, using the P&Z Commission recommendation as input into their hearing process.

Tonight, the Commission will hear 3 applications requesting to change land use designations.

Chairman Dyer asked Val Christensen for an overview of the 3 applications to be heard tonight (3 areas).

Val Christensen referred to his staff report and described each area. The areas were pointed out on the projected map.

Chairman Dyer expressed that the Commission wants to look at and work with neighborhoods rather than individual parcels when changing land use designation. He said this is a land use (what is going to happen use-wise to the ground) decision tonight for these 3 Comprehensive Plan Map Amendment applications.

The Commission decided to look at each area separately, one at a time.

Area 1: Richard Smith – North of Poleline Road and west of 12th West

Parcel 1 – from Low Density Residential to Highway Commercial (east piece)

Parcel 2 – from Low Density Residential to Medium Density Residential (west piece)

Rod Jones, 3720 West Mountain View Drive, representing applicant Richard Smith, explained the proposal. The land use designation request to change from Low Density Residential to Medium Density Residential for Parcel 2 is to allow townhomes and smaller lots, which would be a better buffer to the Highway Commercial designation that is being requested for Parcel 1. He stated Richard Smith wished to do this land use map change because there is a real need for the smaller lots that would be allowed in a Medium Density Residential land use designation.

Chairman Dyer opened the public input portion of the hearing.

In Favor: None

Neutral: None

Opposed: None

Written Input:

Letter (electronic) from Greg Fullmer, neutral to the proposal - read by **Chairman Dyer**.

Chairman Dyer closed the public input portion of the hearing.

There was discussion.

Mary Ann Mounts stated she felt the land use designation change would be good for the area due to the new high school.

Chairman Dyer thought her view was a point well taken.

Thaine Robinson wondered about no other Medium Density Residential land use designation in the area.

Gil Shirley asked if the land on the north and the south of Poleline Road is included.

The land on the south side of Poleline Road is not included in tonight's request..

Chairman Dyer reminded the Commission that the land use designation on the Comprehensive Plan Map opens the doorway for future zoning requests. Their decisions are very important and foundational.

Chairman Dyer said the question before them is if it is the right land use. Look to the future of the City.

Thaine Robinson motioned to recommend approval to City Council of a Comprehensive Plan Map land use change designation for **Area 1**- Richard Smith, at approximately North of Poleline Road and West of 12th West (parcel numbers on file), for Parcel 1: from Low Density Residential to Highway Commercial, and for Parcel 2: from Low Density Residential to Medium Density Residential . **Dan Hanna** seconded the motion.

None opposed. **Motion carried.**

Area 2 – Trent Birch – 357 and 371 West 4th South
from Neighborhood Commercial/Mixed Use to High Density Residential

Jon Gregory, 204 West 225 North, Blackfoot, representing applicant Trent Birch, stated that to the south of the property in this request there is High Density Residential and to the east is an assisted living complex.. A house will be removed. The property was shown on the overhead screen.

It is in the PEZ zone (Pedestrian Emphasis Zone area 2). The applicant feels High Density Residential would be a better land use for the property.

Val Christensen said 4th South is currently zoned commercial (Community Business Center) along both sides of the street.

Chairman Dyer said this designation was reached after much consideration by the P&Z Commission.

Val Christensen stated that a High Density Residential land use designation on the Comprehensive Map would allow dormitory housing.

Chairman Dyer opened the public input portion of the hearing.

In Favor:

Trent Birch, 4148 Homestead, owner and applicant. He stated that no one has expressed interest in this land as commercial over the past ten years. The college has expressed interest for this property to have student housing so that students could walk to campus. He feels his project would entice development along 4th South. Homes across the street have been for sale for quite some time.

Neutral: None

Opposed: None

Written Input: none

Chairman Dyer closed public input.

Chairman Dyer said Mr. Birch's information was very useful. This area was planned to be a commercial corridor into the city in the hopes that people might buy up properties for commercial development. That has not occurred. From his perspective, the decision tonight could determine what the rest of the area becomes. The Commission should think beyond this proposal to what would be best for the community, the University, and of course the individual property owners.

The Commission discussed the proposal.

Dan Hanna felt that the development of University Blvd. may have taken some of the commercial development. The PEZ Zone 2 designation gives room for a higher level of density with less parking.

Nephi Allen said that 4th South is still a main corridor into the City. In the future, if there is higher density, there will be more problems with people walking there.

Commercial designation across the street from this request was discussed

Ted Hill stated development has been slow in this area. He feels that multi-family housing or apartment use would be the best use for the south side of 4th South.

Richie Webb felt that the property would sit for a long time if left at its present commercial designation. More apartments would extend the corridor toward the University; given the University's expansion plans, this area might be the place to put good product.

Mary Ann Mounts agreed.

Gil Shirley felt that if the land remains designated as commercial, it will sit a long time.

Thaine Robinson stated that several months ago, on Jared Sommers' property, the north part of that property was left commercial. He wondered if this might be an option.

Chairman Dyer said that Mixed Use zones, two of them, that the City is currently working, may be a useful tool.

Val Christensen asked if the Commission would entertain a different potential density; he feels this is a concern of Mr. Birch's . He said that the latest discussion of the Mixed Use Zones being written by the City leaned toward medium density.

Chairman Dyer thought that they might have to re-craft the Mixed use zones to allow more density by conditional use.

Dan Hanna motioned to recommend approval to City Council for **Area 2** - Trent Birch for a Comprehensive Plan Map land use designation change for 357 and 371 West 4th South from Neighborhood Commercial/Mixed Use to High Density Residential. **Gil Shirley** seconded the motion.

The Commissioners discussed the motion.

Those in Favor:

Winston Dyer
Nephi Allen
Dan Hanna
Ted Hill
Mary Ann Mounts
Gil Shirley
Richie Webb

Those Opposed:

Thaine Robinson

Motion carried.

Area 3 – Jon Gregory – 595 and 625 Handcart Lane
from Business Park to Neighborhood Commercial/Mixed Use

Jon Gregory, 204 West 225 North, Blackfoot, the applicant – Currently the property is designated Business Park. Mr. Gregory said the dairy business across the street is designated as Neighborhood Commercial/ Mixed Use. He feels this requested land use designation change to Neighborhood Commercial/Mixed Use for his property would benefit the property and would allow for more positive development.

Chairman Dyer asked Val Christensen if he had any information to add to help the Commissioners understand the proposal.

Val Christensen stated that Jon Gregory had informed the City Council that he would provide access to the landlocked area to the east when it is eventually developed. The dairy parcel is a sort of Neighborhood Commercial/ Mixed Use island on the Comprehensive Plan/Preferred Land Use Map.

Chairman Dyer opened the public input portion of the hearing.

In Favor: None

Neutral: None

Opposed: None

Written Input: None

Chairman Dyer closed public input portion of the hearing and asked for the commissioners thoughts.

Mary Ann Mounts feels a neighborhood business designation is good in this area.

Thaine Robinson also thought this land use change request would be positive for the area.

Dan Hanna stated that Jon Gregory was very generous in his offer to provide access in the future to the parcel's landlocked area.

Chairman Dyer also acknowledged Jon Gregory's generosity; he clarified that providing this access is not a part of this application request tonight. It will be addressed when subsequent development proposals come forward.

Dan Hanna motioned to recommend approval for **Area 3** – Jon Gregory, for a Comprehensive Plan Map land use designation change for 595 and 625 Handcart Lane from Business Park to Neighborhood Commercial/Mixed Use. **Nephi Allen** seconded the motion.

None opposed. **Motion carried.**

Unfinished/Old Business: None

New Business: None

Non controversial Items Added to the Agenda:

Dave Montgomery – owner, Cougar Apts., 697 Trejo. – Dumpster location

Mr. Montgomery is asking the Commission to approve the location of the dumpster enclosure at Cougar Court apartments – the dumpster is located within the 25 foot setback off of Mariah Ave (southwest location). He stated it is his responsibility as the property owner to make sure tenants

have a trash dumpster for their garbage. He provided the Commission with pictures of the property and dumpster locations

Occasionally, garbage would be put by tenants where the truck could not pick it up, so the owners built dumpster enclosures to try to solve the problem, but there was still a three foot gap that garbage fell in. Mr. Montgomery spoke with the City Engineer regarding the enclosures and also videotaped how the garbage truck picks up the dumpster. They had to be in locations where they could be accessed by the side- pick up the City garbage trucks use. He stated he had a conversation with Val Christensen when the site plan was reviewed. He also had a conversation with the Fire Department representative.

As the concrete pads for the dumpsters were being poured at the property Mr. Montgomery received a phone call a few weeks ago from the Compliance Officer, stating he would need a permit for the dumpster enclosure.

He had previously been told by the City that he did not need a permit.

(A permit is not needed for a dumpster enclosure, but it must meet City Code requirements).

Chairman Dyer asked how it happened that the dumpster is in the required 25 -foot setback off Mariah.

Dave Montgomery said he has been in communication with the City on this issue for the past 3 or 4 months. He is requesting that this dumpster enclosure be allowed to be in the 25-foot setback.

The issue was discussed by the Commissioners.

Dan Hanna asked if vegetation as a buffer could be planted to help.

Dave Montgomery said there currently was some vegetation, but more could be added.

Mary Ann Mounts asked for clarification of the issue.

Stephen Zollinger stated there was a misunderstanding in that Dave Montgomery was told by the City that he did not need a permit, but he was also told that the dumpster enclosures had to be built to spec, to meet City Code requirements. The dumpster in question is in the sight triangle right next to a driveway. This location of this dumpster enclosure is in violation of City safety standards.

Val Christensen clarified that his name on the building plans is not his handwriting. Mr. Montgomery said it was his writing to document his conversation with the City.

Discussion continued.

Chairman Dyer asked for the City's position on the issue.

Val Christensen met with Dave Montgomery about location of dumpsters after the fact. He explained that the City Planning and Zoning and Building Departments were unaware of the setback problem until recently. He feels there was a misunderstanding between the City and the property owner. Staff recommends this dumpster enclosure not be allowed at the present location; it would need to be removed.

It was suggested that the dumpster enclosure could be moved to the east.

Mr. Montgomery said if the location was not approved tonight, they would probably remove it and their tenants would suffer and have to go further to dump their trash.

Val Christensen said an option would be to increase garbage pickup at the property.

Mary Ann Mounts motioned that the dumpster enclosure that is in the 25-foot setback (southwest corner) at Cougar Court Apartments, 697 Trejo, would have to be removed from the setback.

Thaine Robinson seconded the motion.

The motion was discussed.

None opposed. **Motion carried.**

Dave Montgomery was directed to contact Val Christensen, who will be the City contact person who will help him to follow through on everything that will be needed for the dumpster enclosures.

Compliance:

Compliance officer Natalie Powell informed the Commission that Aaron Orr, of Ririe, will be planting grass at the Founders Square development within the next 30 days.

Report on Projects:

Tabled Requests:

Building Permit Application Report: None

Heads Up:

August 20th P&Z agenda:

- Conditional Use Permit - LDS Church Summerfield
- Conditional Use Permit - Teton Communications Cell Tower
- Preliminary Plat – Tamana Fields, Division 1
- Final Plat – Pioneer Village 1st Amended Plat.

Dan Hanna briefly reported on the Madison Library Design Review meeting held on August 4th. He and **Thaine Robinson** said that everyone was very agreeable. The library's architects complimented the City of Rexburg on how easy the City was to work with.

The meeting was adjourned at 10:09 pm.