

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50

PLANNING  **COMMISSION**

MEETING MINUTES

DATE: April 2, 2013

CALLED TO ORDER: 6:00 P.M.

MEETING LOCATION: City Council Chambers
450 East Latham Avenue
Hemet, CA 92543

1. CALL TO ORDER:

PRESENT: Chairman John Gifford, Vice Chairman Vince Overmyer, and Commissioners Michael Perciful and Greg Vasquez

ABSENT: Newly-Appointed Commissioner Rick Crimeni absent with prior notice

Invocation and Flag Salute: Commissioner Vasquez

2. CERTIFICATE OF RECOGNITION FOR COMMISSIONER NASSER MOGHADAM - Presented by Chairman Gifford

Chairman Gifford expressed his appreciation for the contributions of Commissioner Moghadam, especially as an architect, to the understanding of the Commission on issues dealing with design, and presented him with a Certificate of Appreciation from the City and the Planning Commission

Nasser Moghadam thanked his fellow commissioners and the City staff for making his year with the Planning Commission a privilege and for showing their care for the City of Hemet.

3. APPROVAL OF MINUTES:

A. Minutes for the Planning Commission Meeting of March 5, 2013

It was **MOVED** by Vice Chairman Overmyer and **SECONDED** by Commissioner Vasquez to **APPROVE** the March 5th, 2013 Meeting Minutes, as presented.

The **MOTION** was carried by the following vote:

AYES: Chairman Gifford, Vice Chairman Overmyer, and Commissioner Greg Vasquez

NOES: None

ABSTAIN: Commissioner Perciful due to his absence at the March 5, 2013 meeting

ABSENT: Commissioner Crimeni

1 **4. PUBLIC COMMENTS:**

2
3 There were no members of the public who wished to address the Commission
4 regarding items not on the agenda.
5

6
7 **PUBLIC HEARING ITEMS**
8

9 **5. CONDITIONAL USE PERMIT NO. 12-007 (HEMET JEWELRY & LOAN)**

10
11 **APPLICANT:** Hemet Jewelry and Loan – Eduardo Salas
12 **LOCATION:** 2355 E. Florida Avenue
13 **PLANNER:** Emery Papp
14

15 **DESCRIPTION:** Consideration of Resolution Bill No. 13-007 affirming the
16 Planning Commission's denial of a Conditional Use Permit for the operation of a
17 collateral loan business (secondhand store/pawn shop) located at 2355 E. Florida
18 Avenue.
19

20 The staff report was presented by Community Development Director (CDD) Deanna
21 Elliano who asked for a formal action by the Commission to adopt the proposed
22 findings for denial.
23

24 Chairman Gifford opened the public hearing and then closed it, seeing no public
25 participants. He asked for further comments from the Commission, and hearing none,
26 asked for a motion.
27

28 It was **MOVED** by Commissioner Vasquez and **SECONDED** by Commissioner Perciful
29 to adopt Planning Commission Resolution Bill 13-007, **DENYING** Conditional Use
30 Permit No. 12-007.
31

32 The **MOTION** was carried by the following vote:
33

34 **AYES:** Chairman Gifford, Vice Chairman Overmyer, and Commissioners Perciful
35 and Vasquez
36 **NOES:** None
37 **ABSTAIN:** None
38 **ABSENT:** Commissioner Crimeni
39

40 *(Adopted Planning Commission Resolution No. 13-003.)*
41

42 **6. CONDITIONAL USE PERMIT NO. 13-001 (AT&T @ BEREAN CHURCH)**

43
44 **APPLICANT:** Mitchell Bryant – Coastal Business Group for AT&T Mobility
45 **LOCATION:** 375 North Sanderson Avenue
46 **PLANNER:** Carole L. Kendrick – (951)765-2375
47

48 **DESCRIPTION:** A request for Planning Commission review and approval of a
49 Conditional Use Permit allowing the construction and operation of a major ground
50 mounted telecommunication facility and associated equipment consisting of a 65'
pole camouflaged as a monopine located on the west side of Sanderson Avenue,
51

1 north of Devonshire Avenue and south of Menlo Avenue, with consideration of an
2 environmental exemption pursuant to CEQA Guidelines Section 15332.

3
4 The staff report was presented by Assistant Planner Carole Kendrick who also gave a
5 detailed PowerPoint presentation.

6
7 Vice Chairman Overmyer asked Planner Kendrick if the location of the monopine was
8 such that additional development of the church site could be accomplished.

9
10 Assistant Planner Kendrick assured him that the applicant worked with the church to
11 find a location that would work for both of them if they developed in the future.

12
13 Vice Chairman Overmyer also asked if the telecommunication facility 2,500 feet away
14 at the Prince of Peace was an AT&T facility.

15
16 Assistant Planner Kendrick advised that the adjacent facility was not an AT&T facility,
17 but noted that it did include several other carriers.

18
19 Commissioner Vasquez asked who usually requests these leases – the applicant or
20 the property owner.

21
22 Planner Kendrick indicated that it could be either. Some carriers have offers on their
23 websites for potential cell site hosts to contact them. There are other carriers who look
24 at desirable properties and then contact the property owners.

25
26 Commission Vasquez asked about the situation in this case and what makes this a
27 major telecommunications facility.

28
29 Assistant Planner Kendrick indicated her understanding that AT&T had contacted the
30 property owner directly. The original proposal had several concerns, so staff
31 recommended that they contact property owners that fell within the requirements of the
32 wireless code. As part of the alternative site analysis, there were five alternative sites
33 that were analyzed, and this was the preferred choice. Usually major sites are defined
34 as ground-mounted facilities, and minor sites are roof-mounted.

35
36 CDD Elliano further stated that the terminology is in the definitions of the wireless
37 telecommunications code. The major facilities are the ground towers which require
38 Commission approval, and the minor are those that can be approved by an
39 administrative use permit, more of a staff level approval, and can be mounted on a
40 building or some other existing structure or co-located on an existing facility.

41
42 Commission Vasquez asked if this site would radiate any kind of emission, regardless
43 of whether they are major or minor.

44
45 CDD Elliano advised that the FCC has looked at various cases, and has ruled that they
46 do not discharge significant or harmful emissions.

47
48 Chairman Gifford further explained that they had been thoroughly educated on this
49 topic a couple of years ago when several sites were being explored, and it was a
50 federal determination that they do, in fact, emit electromagnetic radiation because
that's how wireless telephones work. Some have microwave transmitters, which the

1 FCC has determined are not harmful, do not cause any harmful type of condition, and,
2 therefore, are not to be considered in a decision regarding whether or not to approve a
3 site.
4

5 Chairman Gifford went on to outline the city's guideline requiring 200 feet from
6 residential uses primarily because of the public perception of the possibility of problems
7 and nuisance lawsuits. There are also some aesthetic reasons for that. Usually the
8 applicants will be asked to do research and see what is the best location, both
9 technologically and aesthetically, with consideration for future development in the area.
10

11 CDD Elliano also added that the companies are restricted by the search ring
12 established by their telecommunications engineers, which causes them to be
13 somewhat geographically limited. They are also limited by the interest of the property
14 owner, and the city cannot compel unwilling property owners to consent to a cell tower
15 location if they are unwilling to do so.
16

17 The church is a willing property owner who will get paid for the lease and it becomes a
18 win-win scenario because there is a steady income stream for the operation of the
19 church. Only if a tower is located on city property does the city receive compensation.
20

21 Commissioner Perciful suggested that having a tower at the City Corp Yard might be
22 beneficial.
23

24 Assistant Planner Kendrick gave further background regarding the present application,
25 adding that although the height of existing trees at this location were lower than the
26 100-foot tower, they were similar in type and blended into the background.
27

28 Commissioner Vasquez asked several more questions about numbers, height and
29 aesthetics, with Assistant Planner Kendrick responding that there are about 20 cell
30 towers in the City, with some higher than this proposed tower, and most citizens don't
31 notice them unless they're told about them.
32

33 City Attorney McEwen interpreted the Municipal Code Section 90-1621(b) as requiring
34 that a major facility should not be located – taking a straight line from the facility to the
35 residential property – within 200 feet of any property containing a residential structure.
36

37 Commissioner Vasquez asked if there was a difference between property with a
38 residential structure and vacant property that might be used for residential construction
39 in the future.
40

41 City Attorney McEwen clarified that the Code treats them differently.
42

43 Chairman Gifford explained that the code requires 200 feet from the property line on
44 which a residential unit is constructed. This had been considered by the Commission
45 and the City Council previously and was upheld by the court in a lawsuit.
46

47 Assistant Planner Kendrick explained that if there is vacant residential land and the cell
48 facility is installed, future residents are aware of the facility's presence when they
49 purchase the property.
50

1 CDD Elliano added that the property owners of surrounding residentially-zoned land
2 have been notified, and staff will look at the site design to try and minimize impacts so
3 there is enough separation for a future use, even though the code doesn't require that
4 we consider that.

5
6 Commissioner Perciful inquired about the plans for surrounding land.

7
8 Assistant Planner Kendrick and CDD Elliano pointed out the Villa Madrid townhomes
9 and a senior housing project to the west. They noted that some project applicants feel
10 that there will be better cell phone reception closer to the towers and use that as a
11 beneficial advantage.

12
13 Commissioner Vasquez wanted to know about the technology, whether it was the most
14 advanced available, and how it relates to the General Plan's proposals to utilize co-
15 location and/or stealth wireless communication and the provision of new technology to
16 minimize cell towers. He also wanted to know more about two other proposed
17 antennas which are closer to the ground.

18
19 Assistant Planner Kendrick noted that the two other antennas represent the GPS
20 systems. They are very small, eight to ten inches, and are mounted on the shelter.

21
22 Chairman Gifford opened the public hearing and invited Mitchell Bryant to the lectern.

23
24 Mitchell Bryant of Coastal Business Group for AT&T Mobility (no address given) first
25 commended Assistant Planner Kendrick for her accessibility and promptness in
26 handling matters. He felt she had answered most of the questions already asked
27 "almost to a T."

28
29 Chairman Gifford reiterated Commissioner Vasquez's question regarding technology
30 and wondered if there was other technology that could be applied to lessen the
31 footprint of the cell tower.

32
33 Mr. Bryant replied that while the LTE technology being utilized is the best currently
34 available, the footprint of the tower could not be reduced. He noted that the cell tower
35 technology and the development of the overall structure are slightly behind the fast-
36 paced advances in cell phone technology, and added that they are constantly trying to
37 modify the sites to keep up with technology. There is some new development
38 overseas of something called "*the cube*", which is a small distributed antenna. While
39 they do have this technology in the U.S. it is presently only utilized in large stadiums,
40 and is not available at this time for a cityscape. The towers are actually not getting
41 smaller, but not as many of them are needed because the LTE technology is more
42 efficient since it's able to propel the propagation of frequencies inside buildings,
43 therefore minimizing the dropping of calls inside buildings and vehicles.

44
45 Chairman Gifford asked if height is based on standardization or on the need and
46 application.

47
48 Mr. Bryant indicated that the height of a tower was typically the engineers'
49 determination, not necessarily based on standardization, but more on the vertical
50 separation of other carriers if there is co-location, so height is very important.

1 Commissioner Vasquez asked if other sites were considered.

2
3 Mr. Bryant compared the positioning of towers to engineering a sprinkler system. It is
4 an art of engineering project, but it's also an availability issue. Churches are
5 opportunistic in that the cell facility brings income to the church. And this location also
6 happens to fulfill the engineering requirements of AT&T.

7
8 Commissioner Vasquez also wanted to know about the emission of radiation, even if it
9 was deemed to be minor.

10
11 Mr. Bryant explained that all cell towers emit some sort of radiation, but at a frequency
12 similar to a baby monitor, or a cell phone itself. The height of the tower benefits the
13 public in that it shoots the emissions out into the horizon, and the further away you are
14 from the frequency, the less powerful it is. The public would get more radiation from a
15 ten-foot tower if people were walking by.

16
17 There being no other questions from the Commission or the public, Chairman Gifford
18 closed the public hearing. He expressed his feeling that once a tower is in, it becomes
19 somewhat invisible to the public unless it is infringing on someone's property rights. He
20 felt this site was one of the better locations he has seen, particularly because existing
21 pine trees do have a good camouflage effect, and the residential areas are not within
22 such proximity that the code considers them problematic. As far as denying cell towers
23 because they are not liked, he stated that the City does not have that prerogative since
24 it's a federal issue.

25
26 Commissioner Vasquez asked if there had been more outpouring from the community
27 on prior presentations of sites, to which Chairman Gifford responded that if a tower is
28 proposed to be sited next to a residential area there may be more contention, but in
29 this case, there isn't anybody except for the church that's right next door.

30
31 CDD Elliano posited that the lack of objections was due to: 1) Assistant Planner
32 Kendrick's care in working with the applicant to make sure that the location was
33 aesthetically acceptable; 2) the fact that the use of monopines and monopalms helps to
34 camouflage the sites; and 3) the general understanding and desire within the
35 community that cell phone reception is of paramount importance.

36
37 Chairman Gifford requested a motion on the issue.

38
39 It was **MOVED** by Vice Chairman Overmyer and **SECONDED** by Commissioner
40 Perciful to adopt *Planning Commission Resolution Bill No. 13-006*, **APPROVING**
41 Conditional Use Permit No. 13-001, as presented.

42
43 The **MOTION** was carried by the following vote:

44
45 **AYES:** Chairman Gifford, Vice Chairman Overmyer, and Commissioners Perciful
46 and Vasquez
47 **NOES:** None
48 **ABSTAIN:** None
49 **ABSENT:** Commissioner Crimeni
50

(Adopted Planning Commission Resolution No. 13-004.)

1
2
3 **DEPARTMENT REPORTS**
4

5 **7. CITY ATTORNEY REPORT**
6

7 Assistant City Attorney Stephen McEwen reported on a Superior Court case involving
8 the City of San Jose, examining the issue of whether privately-owned electronic
9 devices (delivering text messages, e-mails, voice messages) rendered from non-city
10 issued equipment falls under the Public Records Act. The Superior Court decision was
11 that those records maintained by the Council Members and the Mayor on their private
12 electronic devices *do* fall within the Act, with some fairly decent written analysis. The
13 City Attorney's office will keep monitoring the decision, watching to see if it goes up to
14 the Court of Appeals. It is an issue that hasn't been previously addressed in court
15 decisions.
16

17 He added that just because one is a Commissioner or Councilman doesn't mean one's
18 entire life is open, but if one is conducting public business with personal devices, there
19 should be an awareness of that decision and the potential impact it might have on that
20 form of communication. This was not considered a Brown Act violation. The identity of
21 a public record does not depend on where it's being stored. The concern noted by the
22 court is that cities, counties, and other public agencies tend to think they can get
23 around the Public Records Act by simply storing messages on private devices, thereby
24 precluding the public from having access them. The Public Records Act is very broad
25 and favors disclosure. There is a broad interpretation of what a public record is and a
26 very narrow interpretation of exemptions. A verbal conversation that contains the
27 same information but is not written or transmitted is not a record.
28

29 After responding to several questions by Commissioners, Assistant City Attorney
30 McEwen said he would keep them abreast on the developments in this case so they
31 are aware of the implications for handling public records.
32

33
34 **8. COMMUNITY DEVELOPMENT DIRECTOR REPORTS:**
35

36 **A. Summary report regarding City Council Meeting of March 26, 2013**
37

38 CDD Elliano reported that at the March 26, 2013 City Council meeting, Council
39 Member Bonnie Wright had appointed Rick Crimeni to the Planning Commission, and
40 Mayor Pro Tem Larry Smith had reappointed Commissioner Vince Overmyer. She
41 clarified that Commissioner Gifford was reappointed at an earlier meeting.
42

43 The Council adopted the Hemet ROCS ordinance regarding loud and unruly
44 gatherings. There was a follow-up discussion regarding the possibility of contracting
45 with Cal Fire, but no decision was rendered other than continuation of the meet-and-
46 confer process with Hemet City Firefighters
47

48 **B. Election of Planning Commission Chair and Vice Chairman scheduled for the**
49 **May 7, 2013 Meeting**
50

CDD Elliano clarified that the election for Chairman and Vice Chairman would
commence at the May 7, 2013 meeting.

1
2 She suggested, and the Commission concurred that the April 16, 2013 meeting be
3 canceled due to the lack of agenda items ready to move forward.
4

5 **9. HEMET ROCS CITIZEN ADVISORY COMMITTEE REPORT**

6
7 Chairman Gifford reported that at the last CAC meeting on March 28, 2013, CDD
8 Elliano had reviewed some of the actions that would be moving forward with the
9 Planning Commission and staff, in concert with ROCS and the City's agenda. He felt
10 the Planning Commission would benefit by hearing these reports as a regular part of
11 Commission meetings to help keep up on the progress of Code Enforcement.
12

13 CDD Elliano reported on the Alcoholic Beverage Ordinance, noting that Code officers
14 had visited each liquor store, as well as convenience stores and markets, to speak with
15 the managers and provide them with a packet including the new regulations imposed
16 by the ordinance, in an effort to educate them in advance of a follow-up inspection that
17 would take place within the subsequent 2 weeks. One of the items of concern was the
18 new Code's restriction for liquor advertisement to 25 percent of the inside window
19 space with no outside advertisement being permitted. Surprisingly, the reception of
20 these restrictions was positive, with many businesses believing that the Hemet ROCS
21 program was beneficial, as long as it was fair and equitable.
22

23 Another area, in which the City Attorney's office has been working with staff, is
24 regarding the substandard dwelling units, including apartments and motels. To date,
25 staff has inspected over 900 units since actively commencing the task force in
26 December.
27

28 The ROCS ordinance related to abandoned, vacant and foreclosed properties is
29 moving forward. To date, a city-wide inventory of these properties is being compiled
30 into a database for the City. Penalties will be imposed on the responsible property
31 owners rather than the property management companies. The goal is to tighten up the
32 rules so that the boarded-up properties cannot be in place for more than 180 days.
33 Hopefully this ordinance will help turn these properties around and make them viable in
34 the community again. Surprisingly, the majority of such structures are not bank-owned,
35 but privately owned.
36

37 Chairman Gifford noted that this is a mechanism to put property owners on notice that
38 something has to be done with these properties. It also gives the City the authority to
39 follow through and make something happen. We can't change the economy, but we
40 can require these property owners to maintain their properties in a presentable
41 manner.
42

43 Chairman Gifford also noted that Police Chief Brown had given a presentation
44 regarding changes in the police department relative to staffing, infrastructure and
45 technology. Chief Brown is running the office efficiently, and commendably utilizing
46 outside help and resources.
47

48 **10. PLANNING COMMISSIONER REPORTS:**

- 49
50
- A. Chairman Gifford (Nothing more to report)
 - B. Vice Chair Overmyer (Nothing to report)

- C. Commissioner Crimeni (Absent)
- D. Commissioner Perciful (Nothing to report)
- E. Commissioner Vasquez (Nothing to report)

11. FUTURE AGENDA ITEMS:

A. Zoning Ordinance Compliance Updates for the Housing Element

CDD Elliano reported that there is a group of ordinances under the Housing Element scheduled for the May 7th meeting. These are state mandates, and the next update is due in October 2013. Hemet wants to comply and have everything set because the new RHNA numbers are 640 as opposed to the former 12,000. This will be the primary focus of the May 7th meeting. A work study will also be held at a future meeting prior to the Housing Element coming back for a final recommendation during the summer.

- B. General Plan Consistency Zoning Updates
- C. General Plan Annual Report
- D. CUP 12-002 – Tractor Supply, Inc.
- E. SDR for Woodside Homes (McSweeny Farms SP)
- F. Workstudy for Proposed 2014-2021 Housing Element Update
- G. Workstudy for Proposed Ramona Creek Specific Plan

12. ADJOURNMENT: It was unanimously agreed to adjourn the meeting at 7:33 p.m. to the regular meeting of the City of Hemet Planning Commission scheduled for **May 7, 2013 at 6:00 p.m.** to be held at the City of Hemet Council Chambers located at 450 E. Latham Avenue, Hemet, California 92543



John Gifford, Chairman
Hemet Planning Commission

ATTEST:


Nancie Shaw, Records Secretary
Hemet Planning Commission