



## PLANNING COMMISSION (PC) MINUTES

**Date:** February 25, 2016  
**Time:** 6:30 PM  
**Location:** Council Chambers

**Present:** Chair, Sharon Mann; Vice Chair, Miguel Maestas - arrived at 6:40; Commissioners, Mike Hansen, Louise Strander, Brooke Alford and Nhan Nguyen

**Staff:** Nora Gierloff, Deputy Director; and Wynetta Bivens, Planning Commission Secretary

**Mayor Ekberg** presented a certificate to former Planning Commissioner McLeod, who has been appointed to the Tukwila City Council. The Mayor said that it was a pleasure to have Mr. McLeod serve on the Planning Commission and he thanked Mr. McLeod for his 6 years of service on the Board. The Mayor said that Councilmember McLeod's help on the City Council is already being recognized. The Mayor also expressed his appreciation to the other six Commissioners for their service on the Planning Commission Board.

**Mr. McLeod** said he appreciated his six years on the Commission. He said he enjoyed collaborating with the Commissioners who are wonderful, talented, professional and intellectual people, and beyond that he appreciates the friends he made.

**Chair Mann** said on behalf of the Commission they appreciated working with Mr. McLeod. Commissioner Mann also said that Mr. McLeod had great insight on the cases that came before the Commission and she thanked him for his time and efforts.

**Chair Mann** called the public hearing to order.

**Motion:** Commissioner Strander made a motion to adopt the 08/27/15 minutes. Commissioner Hansen seconded the motion and all were in favor.

**Chair Mann** opened the public hearing and swore in those wishing to provide testimony.

**CASE NUMBER:** L15-0014  
**TITLE:** Update to TMC 18.58 Wireless Facilities  
**TOPIC:** Amendments to Tukwila's wireless communications facilities regulations to comply with the Spectrum Act and streamline technology updates by wireless carriers.  
**LOCATION:** Citywide

**Nora Gierloff**, Deputy Director, Department of Community Development gave the presentation. She said the wireless regulations were originally adopted in 2006 and there have been considerable changes to technology since that time. After the passage of the Spectrum Act the Federal Communications Commission (FCC) created new rules for how the City can regulate telecommunication carriers and sets certain parameters for existed permitted sites. Carriers are allowed to update their facilities if they meet the parameters, which the City must approve within 60 days. The City currently has three types of permits in the code, and these eligible facilities modifications fall under the least regulated Type I permit. The City wants to encourage carriers and make it easier for them to make the best use of existing sites instead of moving on to new monopoles or new sites. Therefore, the attempt to streamline the process for previously approved sites works well with the existing code. The proposal does not change the general scheme, and the Spectrum Act does not change the concept of how wireless facilities are regulated. Additionally, some housekeeping clarifications were proposed to streamline the process, as well as changes to come into compliance with current case law.

The Port raised the issue of exclusionary devices to discourage birds from nesting on the cell antennas, which is dangerous for the birds and the public. In order to encourage the bird nesting exclusionary devices staff is proposing to exempt them from the tower height limits so carriers are not penalized.

There was a walkthrough of the proposed language. Following are the additional proposed changes:

Page 12, section 2, 1c, suggested language – “changing or adding additional antennas within a previously permitted concealed building mounted installation...”

Page 13, Table A, add footnote 4 to “Non-concealed building attached” in the residential district column.

Page 14, replace footnote 4 to read, “Multi-family zones only.”

Page 14, paragraph B, revise – delete “co-location” and insert the word, “replacement” following the word “pole” in the last sentence.

Page 15, 2e - A question was raised on whether a facility would be allowed to be located within a residential zone, and if there are particular standards. Other questions also raised: Will there be an opportunity for citizen input; would the facilities be located on City owned property; would the neighborhood be notified if the facilities are located in a residential neighborhood; would there be a limit to the number of facilities located in a proximity; could there be multiple towers in an area? There was extensive discussion and several clarifying questions asked. The Commission had an interest for further discussion regarding this issue, as well as an interest in some proposed language

Staff said the regulations have been in place since 2006 and there has been pretty good success in keeping the facilities in the commercial and industrial zones.

**Chair Mann** proposed if a new tower is constructed in a residential zone that it automatically trigger SEPA. She said it would give citizens in the community an opportunity to provide input on how the tower will look and where it would be located. Staff said residents would be notified independently of SEPA if a new tower is constructed.

#### **Public Testimony:**

**Kimberly Allen**, Bush Law Firm, industry representative thanked staff for working with them on the code amendments. Ms. Allen said that the majority of the changes are being driven by the new Federal law, the Spectrum Act. She provided some background on the requirement as stipulated by law and responded to questions raised by the Commission. Ms. Allen went over a document, which was handed out at the public hearing requesting additional code modifications. She said that it deals with a code section that was previously called a height waiver. Changes she recommended are as follows:

18.58.170. ~~Height Waivers~~ Adjustment to Height Standards

Where the Hearing Examiner finds that extraordinary hardships, practical difficulties, or unnecessary and unreasonable expense would result from strict compliance with the height limitations of the Zoning Code, or the purpose of these regulations may be served to a greater extent by an alternative proposal, it may approve an adjustment height waiver to these regulations; provided that the applicant demonstrates that the ~~waiver(s) will substantially secure adjustments are consistent with~~ the values, objectives, standards, and requirements of this Chapter, TMC Title 18, and the Comprehensive Land Use Plan, and demonstrate the following:

~~1. The granting of the height waiver will not be detrimental to the public safety, health or welfare, or injurious to other property, and will promote the public interest; and~~

21. A particular and identifiable hardship exists or a specific circumstance warrants the granting of an adjustment. ~~waiver~~. Factors to be considered in determining the existence of a hardship shall include, but not be limited to:

- a. Topography and other site features;
- b. Availability of alternative site locations;
- c. Geographic location of property; and
- d. Size/magnitude of project being evaluated and availability of co-location.

2. In approving the ~~waiver adjustment~~ request, the Hearing Examiner may impose such conditions as it deems appropriate to ~~substantially secure the assure consistency with the~~ objectives of the values, objectives, standards and requirements of this Chapter, TMC Title 18, and the Comprehensive Land Use Plan.

3. A petition for any such ~~waiver adjustment~~ shall be submitted, in writing, by the applicant with the application for Hearing Examiner review. The petition shall state fully the grounds for the ~~adjustment waiver~~ and all of the facts relied upon by the applicant. (Ord. 2251 §72, 2009; Ord. 2135 §1 (part), 2006)

Staff said that the City Attorney has reviewed the proposed language and after some minor changes was comfortable with the language. It is up to the Commission whether they approve these policy changes.

Ms. Allen answered several questions from the Commission.

In response to a question raised by Commissioner Alford Ms. Allen rescinded her request to delete the following language from paragraph 1, “of the Zoning Code.”

There was no further testimony.

The public hearing was closed.

The Planning Commission deliberated.

**Commissioner Mann** was opposed to deleting the following language “the granting of the height waiver, will not be detrimental to the public...” from the first paragraph as requested by the applicant. She said that it gives direction to the Hearing Examiner on what the City is looking for. The Commissioners were in consensus (note: Commissioner Alford was not in the Court Room at present.) Ms. Allen proposed that the paragraph be moved from paragraph one to paragraph two so it could be a Hearing Examiner’s decision.

**Chair Mann** asked for a motion accepting the green line document received from the applicant with the following exceptions:

1. The proposal to delete “of the Zoning Code”– denied, language will remain

2. The proposal to delete paragraph 1 was approved, but the language inserted instead at the end of the sentence at 2 “and to ensure that the granting of the height waiver will not be detrimental to the public safety, health or welfare, or injurious to other property, and will promote the public interest.”

**Commissioner Maestas** made a motion to approve the applicant’s green line document as revised, as noted by Chair Mann. Commissioner Hansen seconded the motion. All were in favor.

**Commissioner Hansen** made a motion to forward the recommendations for Case Number L15-0014 to the City Council for their approval with staff’s findings, conclusions, and the approved noted revisions. Commissioner Strander seconded the motion. All were in favor.

Director’s Report:

- Upcoming agenda item - A Design Review for a hotel on West Valley
- Upcoming agenda item - Housekeeping amendments, changes to the SEPA Ordinance, and additional updates to the Zoning Code
- The City Council approved Phase I of the Osterly Park Townhomes
- The City Council has put the Regional Fire Authority on hold – they were unable to complete research in time to make the November ballot date.
- The Tree and National Environment Committee is going to reconvene to work on the policies to make changes to the Zoning Code this summer. The intent is for this item to come to the Planning Commission in October and go to City Council early 2017.
- Interviews for the vacant Planning Commission position are wrapping up, hopefully someone will be selected and start by the March.

**Adjourned:** 8:05 PM

**Submitted by:** Wynetta Bivens  
Planning Commission Secretary