



BENICIA PLANNING COMMISSION REGULAR MEETING MINUTES

**City Hall Council Chambers
Thursday, January 9, 2014
7:00 P.M.**

I. OPENING OF MEETING

- A. Pledge of Allegiance**
- B. Roll Call of Commissioners**

Present: Commissioners Cohen-Grossman, Oakes, Smith, Sprague,
Young, and Chair Sherry

Absent: Commissioner Dean (excused)

Staff Present: Amy Million, Principal Planner
Kat Wellman, Contract City Attorney
Mario Giuliani, Economic Development Manager
Gina Eleccion, Management Analyst

- C. Reference to Fundamental Rights of Public**

II. ADOPTION OF AGENDA

On motion of Commissioner Young, seconded by Commissioner Oakes, the agenda was adopted, switching the order of Items VB and VC, by the following vote:

Ayes: Commissioners Cohen-Grossman, Oakes, Smith, Sprague, Young, and
Chair Sherry

Noes: None

Absent: Commissioner Dean (excused)

Abstain: None

III. OPPORTUNITY FOR PUBLIC COMMENT

- A. WRITTEN – None.**

B. PUBLIC COMMENT - None

IV. CONSENT CALENDAR

On motion of Commissioner Cohen-Grossman, seconded by Commissioner Young, the Consent Calendar was adopted by the following vote:

Ayes: Commissioners Cohen-Grossman, Oakes, Smith, Sprague, Young and Chair Sherry
Noes: None
Absent: Commissioner Dean
Abstain: None

A. APPROVAL OF MINUTES OF NOVEMBER 14, 2013 REGULAR MEETING

V. REGULAR AGENDA ITEMS

A. USE PERMIT FOR A NEW AT&T WIRELESS TELECOMMUNICATION FACILITY AT 800-890 SOUTHAMPTON IN THE SOUTHAMPTON SHOPPING CENTER; AFTER DETERMINATION THAT THE PROJECT IS CATEGORICALLY EXEMPT FROM CEQA

12PLN-00058 Use Permit
800-890 Southampton Road; APN: 0086-151-110

Amy Million, Principal Planner, gave an overview of the project. She noted that a letter was received from Gene Pedrotti.

Commissioners questioned the location of the facility and surrounding parking and required parking for the shopping center in general. The cumulative impact of radio waves, in addition to the two existing telecommunications facilities, were questioned.

Applicant – Renette Allens, gave an overview of the proposal. She noted that Broadband is an issue in Benicia. She has met with City staff and businesses to discuss wireless and broadband expansion.

Steve Graham, Project Manager – Gave a presentation and history on the project. Elevations were shown in relation to Raley's. Design was based on Bank of America kiosk for consistency. Coverage vs. Capacity and 4G LTE was discussed. It was noted that there are two facilities already located at the shopping center and that was factored into the Radio Frequency Study. This works on line-of-sight technology. This will be a long-term facility at a reasonable cost.

Question was asked regarding School District leasing sites. Mario Giuliani, Economic Development Manager, noted that there is a long-term lease for three towers at the Benicia Middle School.

Co-location was discussed, however, the topography of the area is difficult and not suitable to co-locate. It was noted that the elimination of a Martinez site (which is currently serving too large of an area) will reduce the service to Benicia. Radio Frequency emissions were discussed related to other facilities in the shopping center and it was noted that the study includes the cumulative emissions from the proposed ATT facility.

A question was raised regarding future expansion. It was noted that there is always potential for the need to expand based on new technology. Technology is constantly expanding and growing. Antennas are intended to be below the roofline. There is no exterior lighting for the facility. It is the desire of the applicant to be in construction during Q2.

In response to questions about signage, Amy Million noted that the property owner expressed interest in increasing signage in the shopping center. The condition of the use permit allows for signage on the tower. Any future signage would be specific to the Southampton Shopping Center.

Regarding Condition #5, Amy Million noted that this allows Southampton Shopping Center to retain facility and signage. Add "If tower structure is utilized for the placement of signage for the Southampton Shopping Center, the removal of the wireless facility shall be limited to antennas and related equipment. The tower structure may remain and be subject to maintenance by the property owner. "

The public hearing was opened.

Gene Pedrotti, Ace Hardware – He commented on the public notice. He noted that the tenants are not aware of this project. There are issues with electro-magnetic frequency. He noted that there is a cell tower on the gym at Benicia High School. No formal proposal was made to Benicia Unified School District. The owners of Southampton Shopping Center prefer to have the facility located in the current sign. Parking is an issue in the shopping center.

The public hearing was closed.

Commissioners commented on noticing requirements. The design review requirement was mentioned. Staff noted that the design is consistent with the findings for design review. Use Permit requirements are in BMC

Chapter 17.70.250, which require all wireless telecommunications facilities to have a Use Permit and Design Review.

Kat Wellman, Contract Attorney, noted there is an entire chapter of the Benicia Municipal Code that addresses wireless. She noted that generally if a facility vacates, they lease to another carrier. She also advised that Federal Telecommunications Act restricts what local agencies can do.

There was a question regarding who residents call if there is interference, and how you can determine which facility is causing interference. Parking reductions are an issue. Site Safe Study was referred to. Fencing and maintenance of site were mentioned. There were concerns with graffiti.

Condition No. 9 – Graffiti to be removed within a specific timeframe. Add permanent contact to tenants and property owner.

Amy Million noted that sites that require fencing are typically lower and can be easily accessed from the ground. Signs are required at access of facility. There is no requirement to fence as there is no ground-level exposure. Interference has never been an issue.

Add Condition #12 - "Any lease or assignment of facility by Applicant requires prior notification to the City. Any Assignee or Lessee shall be required to abide by all the terms and conditions of approval of this Use Permit."

Kat Wellman noted that the Commission can't deny the project based on their concerns over EMF as that issue is preempted by Federal Law.

Staff noted that parking should be looked at in the shopping center, but not as part of this application.

The current location for the facility was selected to provide service taking into consideration the topography.

Mario Giuliani noted that there is an opportunity to increase signage for the shopping center. There were concerns with signage on the facility.

Kat Wellman noted that there are timing parameters for making a decision on this application. Postponing a decision this will violate these parameters. AT&T would have to waive their "shot-clock" right if the Commission desired to continue the item. Regarding noticing, the City is being consistent in applying their regulations.

Steve Graham indicated that he did not have the authority to waive ATT's "shot-clock" right. AT&T's legal department must agree to extend the shot-clock.

Changes to conditions of approval in resolution noted below:

#5 – Addition of sentence - If tower structure is utilized for the placement of signage for the Southampton Shopping Center, the removal of the wireless facility shall be limited to antennas and related equipment. The tower structure may remain and be subject to maintenance by the property owner.

#7 – 2nd sentence read "Does Not" create interference. Any signage shall be reviewed by PC.

#9 – Contact information provided. Add timeframe no later than 2 weeks after notification.

Add Condition #12 - Any lease or assignment of facility by Applicant requires prior notification to the City. Any Assignee or Lessee shall be required to abide by all the terms and conditions of approval of this Use Permit.

Add Condition #13 – Staff will analyze the feasibility of adding two spaces through restriping in the parking area adjacent to the tower. Applicant shall work with Property Owner to re-stripe parking adjacent to the wireless facility to provide two parking spaces, if staff analysis finds that this is feasible.

RESOLUTION NO. 14-1 (PC) - A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BENICIA APPROVING A WIRELESS TELECOMMUNICATION FACILITY (AT&T) AT 800-890 SOUTHAMPTON ROAD (12PLN-00058)

On motion of Chair Sherry, seconded by Commissioner Cohen-Grossman, the above Resolution was adopted, with amendments noted, by the following vote:

Ayes:	Commissioners Cohen-Grossman, Oakes, Smith, Sprague, and Chair Sherry
Noes:	Commissioner Young
Absent:	Commissioner Dean
Abstain:	None

A recess was called at 9:21 p.m. The meeting was reconvened at 9:30 p.m.

B. USE PERMIT TO OPERATE A VEHICLE STORAGE FACILITY WITH ACCESSORY RETAIL SALES (AUCTIONS) AT THE EXISTING INDUSTRIAL BUILDING AT 4457 PARK ROAD; AFTER THE DETERMINATION IS MADE THAT THE PROJECT IS EXEMPT FROM CEQA

13PLN-00058 Use Permit
4459 Park Road; APNs: 0080-060-070

Amy Million gave an overview of the project.

Commissioners questioned if sales tax would be collected. Mario Giuliani noted that there would be financial benefit to the City.

There is no maximum number of vehicles. There is ample parking to meet the requirements of the Zoning Ordinance. Vehicles are all stored inside when auction is not occurring.

Armando Camarena, Applicant – He noted that the auction is run on a monthly basis and there is an influx of vehicles. The vehicles that are stored are federally seized vehicles. He indicated a correction in the staff report that there will be vehicles stored outside, but they can't be viewed from the street.

The public hearing was opened and closed.

Commissioner Young questioned the timing of the Use Permit. Amy Million confirmed that this relates to obtaining a business license.

A condition will be added that any signs will comply with Sign Ordinance.

Regarding stormwater runoff, applicant stated he is required to have absorbent material on-hand. Condition could be added.

Changes to findings and conditions of approval in resolution noted below:

Finding #4 – Change “store” to “storage”.

Condition #3 – add auction hours from 8:00 am – 2:00 pm.

Condition #5 - All signs must comply with the Sign Ordinance.

Condition #6 - A spill prevention and control plan shall be in place and followed.

RESOLUTION NO. 14-2 (PC) - A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BENICIA APPROVING A CONDITIONAL USE PERMIT FOR VEHICLE STORAGE WITH MONTHLY LIVE AUCTIONS AT 4457 PARK ROAD (13PLN-00058)

On motion of Commissioner Oakes, seconded by Commissioner Smith, the above Resolution was adopted, with amendments noted, by the following vote:

Ayes: Commissioners Cohen-Grossman, Oakes, Smith, Sprague, Young and Chair Sherry
Noes: None
Absent: Commissioners Dean
Abstain: None

C. RECOMMENDATION TO CITY COUNCIL TO APPROVE A ZONING MAP AMENDMENT TO THE DOWNTOWN MIXED USE MASTER PLAN TO CHANGE THE ZONING DESIGNATION FROM NEIGHBORHOOD GENERAL-OPEN TO TOWN CORE FOR 117, 141, AND 145 EAST D STREET, AFTER DETERMINING THAT THE PROJECT IS EXEMPT FROM CEQA

13ZON-00002 Rezone

117, 141, 145 East D Street; APNs: 0089-372-180; -170; -250

Commissioner Sprague recused herself as the applicant is a client of her law firm.

Commissioner Oakes recused himself as he has a business located within 500' of the project.

Amy Million gave an overview of the project. No changes in use or density are proposed at this time. Email was received from a neighbor. Town Core allows larger development footprint than Neighborhood General Open.

Steve McKee, Architect – Didn't think variance findings could be made. He noted there are issues with setbacks in the Downtown Mixed Use Master Plan. He noted that there is desire to expand the kitchen and enclosing the back deck to create a dining space to 145 East D Street, which was the impetus for the zoning change request.

Stephen David, Applicant – He noted that there is an existing bar on the property at 145 East D Street. It is currently a Bed & Breakfast, restaurant and bar (beer and wine).

The public hearing was opened.

Chuck Maddux, 126 East D Street – He is concerned that this is “spot zoning”. He commented on the neighbor’s concerns. There are parking issues on the street. He would rather see a variance granted.

The public hearing was closed.

Stephen David stated that he will not have loud music and that there is adequate parking in the rear.

Staff noted that the Use Permit for the B&B, restaurant/bar goes with the property. It was also noted that there is a rear yard setback in the Town Core zoning. The prior Downtown Commercial zoning had no setback requirements. Staff noted that a variance is not an option as there is no demonstrated hardship.

Commissioner Smith noted she will not support this as the Downtown Mixed Use Master Plan was a well-thought out document with much public input. Its intent is to focus retail/commercial businesses on First Street. Changes to this will erode its intent. The historic integrity must be maintained.

Commissioner Smith made a motion, seconded by Commissioner Young, to deny the application. Commissioners Smith and Young voted in favor of this motion. Commissioner Cohen-Grossman and Chair Sherry voted against this motion. The motion did not pass. This item will be forwarded to the City Council with no recommendation from the Planning Commission.

VI. COMMUNICATIONS FROM STAFF

None.

VII. COMMUNICATIONS FROM COMMISSIONERS

Commissioners questioned a letter that was submitted regarding West K Street. Amy Million noted that there are applications on file for a lot line adjustment, and a demolition permit has been issued.

VIII. ADJOURNMENT

Chair Sherry adjourned the meeting at 10:58 p.m.